AMERICAN FORK CITY COUNCIL
SEPTEMBER 22, 2020
PUBLIC HEARING AND REGULAR SESSION AGENDA

NOTICE OF ELECTRONIC MEETING

In accordance with Resolution No. 2020-07-20R, Mayor Frost has determined that conducting meetings of the City Council with an anchor location, such as the City Council Chambers or Administration Conference Room, presents a substantial risk to the health and safety of those who may be present there. The following are facts upon which this determination has been made:

- Utah has been in a declared state of emergency due to COVID-19 since March 6, 2020, a virus outbreak that has been recognized by the World Health Organization, federal, state and local leaders as a pandemic.
- The Centers for Disease Control and Prevention (CDC) has stated that COVID-19 is easily spread from person to person between people who are in close contact with one another through respiratory droplets when an infected person coughs, sneezes, or talks. This virus can also be spread by people who are non-symptomatic.
- As reported by the Utah Department of Health, reported COVID-19 cases in Utah County continue to rise at a rate higher than reported rates for the state.
- Federal, state, and local authorities recommend that individuals limit public gatherings, wear face masks, and follow social distancing guidelines.
- It is difficult to anticipate the number of attendees at any meeting in order to maintain social distancing to comply with State Phased guidelines. Further, regardless of the number of attendees, social distancing measures for Council, staff, and attendees will be difficult to maintain in the City Council Chambers and Administration Conference Room.
- COVID-19 continues to pose an immediate threat to the health, safety, and welfare of American Fork City residents.
- American Fork City can provide a way for the public to hear, or hear and view, open portions of City Council meetings and to provide a way to participate in public hearings.

For the next 30 days, all City Council meetings will be conducted via electronic means. The meetings are broadcast live-streamed, and available at a later time, at https://www.americanfork.gov/AgendaCenter. To make a public comment, email comments to zoompubliccomment@afcity.net prior to 5:00 p.m. the day of the meeting for the comment to be read into record. Please indicate in the subject line which item your comment refers to. You may also make public comment in person at City Hall (31 N. Church Street). No more than ten individuals will be allowed in City Hall at one time to ensure social distancing guidelines are capable of being followed. Masks shall be worn inside City Hall.

Notice is hereby given that the American Fork City Council will electronically hold a public hearing in conjunction with the regular session on Tuesday, September 22, 2020, commencing at 7:00 p.m. The agenda shall be as follows:

PUBLIC HEARING

- Receiving public comment on declaring real property to be surplus and disposed of. The property in question is located at 725 North 900 West.

REGULAR SESSION

1. Pledge of Allegiance; Invocation by Council Member Barnes; roll call.
2. Twenty-minute public comment period - limited to two minutes per person.
3. City Administrator's Report
4. Council Reports
5. Mayor's Report

COMMON CONSENT AGENDA

(*Common Consent* is that class of Council action that requires no further discussion or which is routine in nature. All items on the Common Consent Agenda are adopted by a single motion unless removed from the Common Consent Agenda.)

1. Approval of the August 25, 2020 city council minutes.
2. Approval of the September 1, 2020 work session minutes.
3. Approval of the authorization to release the Improvements Durability Retainer of $1250.52 for AFCC PLAT K BURLINGTON, located at 268 North 750 West.
4. Approval of the authorization to release the Improvements Construction Guarantee in the amount of $73,276.96 and issue a Notice of Acceptance for the MITCHELL FARMS PLAT B construction of public improvements located at 700 North 900 West.
5. Approval of the authorization to release the Improvements Durability Retainer of $49,815.28 for MITCHELL MEADOWS PLAT B, located at 900 West 1000 North.
6. Ratification of city payments (September 2, 2020 to September 15, 2020) and approval of purchase requests over $25,000.

ACTION ITEMS

1. Review and action on the Water Banking Agreement with Nathan and Donna Johnson Family Trust for the benefit of ABF Real Estate LLC.
2. Review and action on a resolution approving the Blackhurst Property Land Use Map Amendment from the Residential Medium Density to Residential High Density designation, located at 440 South 100 East.
3. Review and action on an ordinance approving the Blackhurst Property Zone Map Amendment from the R2-7,500 to R4-7,500 Residential zone, located at 440 South 100 East.
4. Review and action on the acceptance of the 1100 West and 620 South Road dedication plat.
5. Review and action on the acceptance of the 1100 West and 350 South Road dedication plat.
6. Review and action on a resolution declaring real property located at approximately 725 North 900 West as surplus and to be disposed of.

7. Review and action on the Stonecreek Annexation consisting of 25.31 acres located at approximately 300 West 1100 South including the ordinance of annexation, annexation agreement, and placement of the property in the PR 3.0 and PF (Public Facilities) zones.
8. Review and action on agreements between UTA and Union Pacific Rail Road (UPRR) for the Construction of a Water Line in 200 South.
9. Review and action on agreements between UTA and Union Pacific Rail Road (UPRR) for the Construction of a Water Line in Main Street.
10. Review and action on an agreement with UDOT for a Statewide Utility License Agreement.
11. Adjournment.

Dated this 17th day of September, 2020.

Terilyn Lurker
City Recorder

- In accordance with the Americans with Disabilities Act, the City of American Fork will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at 801-763-3000 at least 48 hours in advance of the meeting.
- The order of agenda items may be changed to accommodate the needs of the City Council, staff, and the public.

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Public Works **Director Approval** *Scott Sensanbaugher*

AGENDA ITEM Common consideration regarding authorization to release the Improvements Durability Retainer of $ 1250.52 for AFCC PLAT K BURLINGTON, located at 268 North 750 West.

SUMMARY RECOMMENDATION The City Engineer recommends that the Improvements Durability Retainer be released. The improvements were found in a condition meeting City standards for workmanship and performance after one (1) year of service.

BACKGROUND Pursuant to the terms of Sections 17.9.100 and 17.9.403 of the City Development Code, the City Council may authorize the release of the Improvements Durability Retainer following the one (1) year durability testing period. The release is based on a finding that the quality of construction and materials have endured without evidence of unusual depreciation, wear, non-conformance of City standards or need for remedial action.

BUDGET IMPACT Following the release of the Improvements Durability Retainer, the City is responsible for all future maintenance and replacement costs for any publicly-owned property or improvement. In developments with Home-Owners or Unit-Owners Associations, all common area maintenance and replacement responsibilities will then fall to the Association. All privately-owned improvements will be the responsibility of the owner of the given parcel.

SUGGESTED MOTION Move to authorize the City Engineer to issue documents and/or payments to release the Improvements Durability Retainer of $ 1250.52 for AFCC PLAT K BURLINGTON. Find that the quality of construction and materials have endured without evidence of unusual depreciation, wear, non-conformance of City standards, or need for remedial action.

SUPPORTING DOCUMENTS

Bond Release Request-Durability-AFCC Plat K Burlington (PDF)
Durability_Release_Authorization-AFCC Plat K Burlinton (PDF)
AFCC Plat K Amended & Extended FEES_updated 7-11-2018 (XLSX)

BOND RELEASE REQUEST

Development Name: AFCC Plat K - Burlington

Development Address: 268 N. 750 W, American Fork, Utah 84003

*All outstanding fees must be paid prior to any release.

☐ Partial Improvement Assurance Release ☐ Final Improvement Assurance Release ☒ Improvement Warranty Release (10% Durability Release)

Description of Item	Quantity	Units	Unit Price	Total	Inspector Use Only Complete? Yes/No
Durability Release	1	n/a	n/a	$1,250.52	
			Total	$1,250.52	

Bond Type: ☒ Cash Deposit ☐ Escrow Account ☐ Letter of Credit ☐ Surety Bond

Please send check/bank letter to:

Name: AFCC Limited c/o Woodbury Corporation

Bank (if applicable):

Address: 2733 East Parleys Way, Suite 300

City: Salt Lake City State: Utah Zip: 84109

Phone: 801-485-7770 Email: andy.spencer@woodburycorp.com

Signature: Andy Spencer Date: 9/2/2020

City Official Use Only

☐ Fees paid and current

Administrative Signature: _____ Date: _____

Inspector Signature: _____ Date: _____

Attachment: Bond Release Request-Durability-AFCC Plat K Burlington (Durability Release - AFCC PLAT K - BURLINGTON)

BOND RELEASE REQUEST

Development Name: _____

Development Address: _____

Description of Item	Quantity	Units	Unit Price	Total	Inspector Use Only Complete? Yes/No

Attachment: Bond Release Request-Durability-AFCC Plat K Burlington (Durability Release - AFCC PLAT K - BURLINGTON)

IMPROVEMENT WARRANTY RELEASE AUTHORIZATION

The City Council of American Fork City, a Municipal Corporation and Body Politic in the State of Utah, hereby authorizes the release of the Improvement Warranty for AFCC PLAT K – BURLINGTON pursuant to the terms of Section 17.9.100 and 17.9.403 of the City Development Code. The City Council finds that the quality of construction and materials have endured without evidence of unusual depreciation, wear, non-conformance to City standards, or need for remedial action.

The City Council hereby authorizes the City Engineer to issue a letter to the financial guarantee institution authorizing release of the Improvement Warranty or to issue an authorized City check as appropriate for the type of guarantee provided.

Amount Released: $ 1250.52

PASSED THIS DAY OF , 2020.

_____
City Representative, American Fork City

ATTEST:

_____
Terilyn Lurker, City Recorder

Attachment: Durability_Release_Authorization-AFCC Plat K Burlinton (Durability Release - AFCC PLAT K - BURLINGTON)

Name of Development: AFCC Plat K

Date		Date		Date		Date		Date		Date		
10/8/2019	Final Release											

	Description of Item	Quantity	Unit	Unit Price	Total	Release #1	Amount Requested	Release #2	Amount Requested	Release #3	Amount Requested	Release #4	Amount Requested	Release #5	Amount Requested	Release #6	Amount Requested	Balance
	CULINARY WATER																	
	Installation of Fire Hydrant	1	Each	$7,450.00	$7,450.00	1	$7,450.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Remove existing 8" stub	1	Each	$3,468.66	$3,468.66	1	$3,468.66		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Remove 2" service lateral	1	Each	$1,586.56	$1,586.56	1	$1,586.56		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
					$12,505.22		$12,505.22		$0.00		$0.00		$0.00		$0.00		$0.00	**$0.00** Available for Release

10% Durability - retained at ICG release $1,250.52 Released 9/22/20

$1,250.52 Durability Period

ICG Amount **$13,755.74**

Street Lights **$0.00**

Fees **$0.00**

Attachment: AFCC Plat K Amended & Extended FEES_updated 7-11-2018 (Durability Release - AFCC PLAT K - BURLINGTON)

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Public Works **Director Approval** *Scott Sensanbaugher*

AGENDA ITEM (Common Consent Agenda) - Consideration regarding authorization to release the Improvements Construction Guarantee in the amount of $ 73,276.96 and issue a Notice of Acceptance for the MITCHELL FARMS PLAT B construction of public improvements located at 700 North 900 West.

SUMMARY RECOMMENDATION The City Engineer recommends that the Improvements Construction Guarantee (ICG) be released. The improvements were found in a condition meeting City standards and specifications and in conformance with the approved project construction plans.

BACKGROUND Pursuant to the terms of Sections 17.9.100 and 17.9.304 of the City Development Code, the City Council may authorize the release of the ICG and issue a "Notice of Acceptance" of the project improvements. Following the issuance of the Notice of Acceptance, the City accepts ownership of the project improvements. The project will then enter the one (1) year Durability Testing Period as specified in section 17.9.400 of the City Development Code.

In issuing a Notice of Acceptance, the City Council finds that:

- The condition of the improvements are found to be satisfactory.
- All liens have been released, all outstanding fees paid, costs of administration paid, and reimbursement payments to prior developers (if any) have been made.
- The project clean-up is found to be satisfactory.

The City may request a current title report or other such measures or reports as deemed appropriate by the City as a means of determining the existence of any unreported liens or other claims upon the project. All financial information (if any) provided by the developer is attached. The Council may request additional information as deemed necessary.

BUDGET IMPACT Following the release of the ICG, there is a one (1) year Durability Testing Period wherein ten percent (10%) of the total ICG is held to ensure the durability of the constructed improvements.

SUGGESTED MOTION Move to accept the improvements and authorize the Mayor to execute the Notice of Acceptance for the MITCHELL FARMS PLAT B public improvements located at 700 North 900 West. To authorize the issuance of documents and/or payments to

release the Improvement Construction Guarantee (ICG). Commence the Durability Testing Period by retaining ten percent (10%) of the ICG. To find that the project improvements are in a condition meeting City ordinances, standards, and specifications and are in conformance with the approved project construction plans.

Note: With passage of the Common Consent Agenda items, the City Council will enact the motion and findings as noted in the "Suggested Motion" heading found above.

SUPPORTING DOCUMENTS

Bond Release Request-Mitchell Farms Plat B (PDF)
Notice of Completion-Mitchell Farms B (PDF)
Performance Guarantee - Mitchell Farms Plat B (XLSX)

AMERICAN FORK
— 1853 —

BOND RELEASE REQUEST

Development Name: Mitchell Farms B

Development Address: 850 W. 700 N.

*All outstanding fees must be paid prior to any release.

☐ Partial Improvement Assurance Release

☑ Final Improvement Assurance Release

☐ Improvement Warranty Release (10% Durability Release)

Description of Item	Quantity	Units	Unit Price	Total	Inspector Use Only Complete? Yes/No
Install + Maintain SWPPP	1	LS	4000.00	4000.00	
Sidewalk 4" thick	9010	SF	5.00	45050.00	
ADA Ramp	4	each	1881.74	7526.96	
Street Sign	2	each	300.00	600.00	
Traffic Sign	2	each	350.00	700.00	
As builts	1	LS	3500.00	3500.00	
testing, cleaning inspections	1	LS	6500.00	6500.00	
Subdivision monument	2	LS	900.00	1800.00	
Street trees	12	each	300.00	3600.00	
			Total	73,276.96	

Bond Type: ☐ Cash Deposit ☐ Escrow Account ☑ Letter of Credit ☐ Surety Bond

Please send check/bank letter to:

Name: Alta Bank

Bank (if applicable): Kelly Palmer

Address: 113 S. main St.

City: Alpine State: UT Zip: 84004

Phone: 801-756-2921 Email: kelly.palmer@alta-bank.com

Signature: [signature] Date: 5-21-20

City Official Use Only

☑ Fees paid and current

Administrative Signature: C. Lloyd Date: 9-8-20

Inspector Signature: [signature] Date: 9/8/20

Attachment: Bond Release Request-Mitchell Farms Plat B (Final Bond Release-MITCHELL FARMS PLAT B)

AMERICAN FORK
— 1853 —

NOTICE OF COMPLETION AND REQUEST FOR RELEASE

Projects and/or subdivisions completed within the corporate limits of American Fork City

Mayor of American Fork
51 East Main
American Fork, UT 84003

Re: Mitchell Farms B

Dear Mayor:

As the project and/or subdivision construction has now been completed in full, I request that the Improvement Construction Guarantee (ICG) be released in full up to one hundred percent (100%) of the initial construction costs. Following the release of the ICG, I understand that the one (1) year Durability Testing Period will commence wherein ten percent (10%) of the total ICG is held to ensure the durability of the constructed improvements per City Ordinance Section 17.9.

I, James K. Patterson, the owner, developer, and authorized representative of Mitchell Farms Plat B Subdivision/Project, do hereby request the release of the Improvement Construction Guarantee. I certify that all liens have been released, all outstanding fees paid, costs of administration paid, and reimbursement payments to prior developers (if any) have been made, and the project clean-up is complete.

Project: Mitchell Farms Plat B

Address: 700 N. 900 W.

Requested ICG Amount: $73,276.96

Owner/Developer

6-1-20
Date

Attachment: Notice of Completion-Mitchell Farms B (Final Bond Release-MITCHELL FARMS PLAT B)

Name of Development: Mitchell Farms Plat B

Date	
12/2/2019	

	Description of Item	Quantity	Unit	Unit Price	Total	Completed #1	Amount Requested	Balance
	GRADING & SWPPP							
	Install & Maintain SWPPP	1	LS	$4,000.00	$4,000.00		$0.00	$4,000.00
	SEWER							
	8" PVC Sewer Line	677	LF	$52.50	$35,542.50	677	$35,542.50	$0.00
	5' Sewer Manhole Precast	5	Each	$2,706.88	$13,534.40	5	$13,534.40	$0.00
	Sanitary Sewer Lateral Connection	12	Each	$813.86	$9,766.32	12	$9,766.32	$0.00
	CULINARY WATER							
	8" DI Culinary Water	967	LF	$33.38	$32,278.46	967	$32,278.46	$0.00
	8" Gate Valve	6	Each	$1,395.09	$8,370.54	6	$8,370.54	$0.00
	8" Water MJ Fittings	4	Each	$664.42	$2,657.68	4	$2,657.68	$0.00
	Fire Hydrant Assembly	2	Each	$4,770.30	$9,540.60	2	$9,540.60	$0.00
	1" Water Service Lateral	12	Each	$968.72	$11,624.64	12	$11,624.64	$0.00
	2" Blowoff	2	Each	$950.00	$1,900.00	2	$1,900.00	$0.00
	PRESSURIZED IRRIGATION							
	4" PI Service	12	Each	$753.00	$9,036.00	12	$9,036.00	$0.00
	6" PVC pipe	1010	LF	$29.00	$29,290.00	1010	$29,290.00	$0.00
	6" Gate Valve	6	Each	$1,212.00	$7,272.00	6	$7,272.00	$0.00
	2" Blowoff Pressurized Irrigation	2	Each	$950.00	$1,900.00	2	$1,900.00	$0.00
	STREETS							
	Asphalt 3" - Standard Road	33341	SF	$1.29	$43,009.89	33341	$43,009.89	$0.00
	1" Minus Road Base	39199	SF	$0.69	$27,047.31	39199	$27,047.31	$0.00
	Subgrade	39199	SF	$0.10	$3,919.90	39199	$3,919.90	$0.00
	24" Curb & Gutter (4" untreated base course included)	1802	LF	$20.46	$36,868.92	1802	$36,868.92	$0.00
	Sidewalk 4" Thick (4"untreated base course included)	9010	SF	$5.00	$45,050.00		$0.00	$45,050.00
	ADA Ramp (6" concrete 6" base course included)	4	Each	$1,881.74	$7,526.96		$0.00	$7,526.96
	Street Sign	2	Each	$300.00	$600.00		$0.00	$600.00
	Traffic Sign	2	Each	$350.00	$700.00		$0.00	$700.00
	STORM DRAINAGE							
	15" RCP Storm Drain	159	LF	$32.18	$5,116.62	159	$5,116.62	$0.00
	Storm Drain Catch Basin	9	Each	$2,725.00	$24,525.00	9	$24,525.00	$0.00
	Storm Drain Manhole	5	Each	$3,600.00	$18,000.00	5	$18,000.00	$0.00
	CONSTRUCTION MANAGEMENT/MISC.							
	As Builts	1	LS	$3,500.00	$3,500.00		$0.00	$3,500.00
	Testing, Cleaning, Inspections	1	LS	$6,500.00	$6,500.00		$0.00	$6,500.00
	Subdivision Monument	2	LS	$900.00	$1,800.00		$0.00	$1,800.00
	LANDSCAPING 10-2315-000							
	Street Trees	12	Each	$300.00	$3,600.00		$0.00	$3,600.00

	$404,477.74	$331,200.78	**$73,276.96**	Performance in Lieu
10% Durability - retained at ICG release	$40,447.77		$40,447.77	Durability Period
ICG Amount	##########			

Attachment: Performance Guarantee - Mitchell Farms Plat B (Final Bond Release-MITCHELL FARMS PLAT B)

Recording Fees	10-3470-500	
Plat (Base)	$30.00	$ -
Plus Per Lot	$1.00	$ -
First Page	$10.00	$ -
Each Additional Page	$2.00	$ -
	Subtotal	$ -

Street Lights	10-4410-276	
Street Lights		$ -

Total Fees $0.00

Total Bond & Fees ##########

Attachment: Performance Guarantee - Mitchell Farms Plat B (Final Bond Release-MITCHELL FARMS PLAT B)

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Public Works **Director Approval** *Scott Sensanbaugher*

AGENDA ITEM Common Consideration regarding authorization to release the Improvements Durability Retainer of $ 49,815.28 for MITCHELL MEADOWS PLAT B, located at 900 West 1000 North.

SUMMARY RECOMMENDATION The City Engineer recommends that the Improvements Durability Retainer be released. The improvements were found in a condition meeting City standards for workmanship and performance after one (1) year of service.

BACKGROUND Pursuant to the terms of Sections 17.9.100 and 17.9.403 of the City Development Code, the City Council may authorize the release of the Improvements Durability Retainer following the one (1) year durability testing period. The release is based on a finding that the quality of construction and materials have endured without evidence of unusual depreciation, wear, non-conformance of City standards or need for remedial action.

BUDGET IMPACT Following the release of the Improvements Durability Retainer, the City is responsible for all future maintenance and replacement costs for any publicly-owned property or improvement. In developments with Home-Owners or Unit-Owners Associations, all common area maintenance and replacement responsibilities will then fall to the Association. All privately-owned improvements will be the responsibility of the owner of the given parcel.

SUGGESTED MOTION Move to authorize the City Engineer to issue documents and/or payments to release the Improvements Durability Retainer of $ 49,815.28 for MITCHELL MEADOWS PLAT B. Find that the quality of construction and materials have endured without evidence of unusual depreciation, wear, non-conformance of City standards, or need for remedial action.

SUPPORTING DOCUMENTS

Bond Release Request-Mitchell Meadows Plat B (PDF)
Durability Bond Release Spreadsheet 9-22-20 (XLSX)
Durability_Release_Authorization-Mitchell Meadows Plat B (PDF)

BOND RELEASE REQUEST

Development Name: Mitchell Meadows Plat B

Development Address: 900 West 1000 North

*All outstanding fees must be paid prior to any release.

☐ Partial Improvement Assurance Release ☒ Final Improvement Assurance Release ☒ Improvement Warranty Release (10% Durability Release)

Description of Item	Quantity	Units	Unit Price	Total	Inspector Use Only Complete? Yes/No
final warranty release				$49,815.28	
+ durability					
			Total	$49,815.28	

Bond Type: ☐ Cash Deposit ☐ Escrow Account ☒ Letter of Credit ☐ Surety Bond

Please send check/bank letter to:

Name: MARK VANWAGONER

Bank (if applicable):

Address: 175 East Main Street text here

City: AMERICAN FORK State: UTAH Zip: 84003

Phone: 801-756-9900 Email: markvw@cbutah.com

Signature: dDaniel L. Richards Date: 8-19-2020

City Official Use Only

☒ Fees paid and current

Administrative Signature: C. Lloyd Date: 8-31-20

Inspector Signature: Dan Howard Date: 9/2/20

Attachment: Bond Release Request-Mitchell Meadows Plat B (Durability Release - MITCHELL MEADOWS PLAT B)

Name of Development: Mitchell Meadows Subdivision

Date		Date		Date		Date		Date		Date		
11/22/2016		2/14/2017		5/23/2017		8/8/2017						

	Description of Item	Quantity	Unit	Unit Price	Total	Release #1	Amount Requested	Release #2	Amount Requested	Release #3	Amount Requested	Release #4	Amount Requested	Release #5	Amount Requested	Release #6	Amount Requested	Balance
	SITE PREPARATION																	
	Mobilization	1	LS	$5,000.00	$5,000.00	1	$5,000.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	SWPPP																	
	SWPPP/Maintenance	1	LS	$10,000.00	$10,000.00		$0.00		$0.00		$0.00	1	$10,000.00		$0.00		$0.00	$0.00
	SEWER																	
	8" PVC Sewer Line	1244	LF	$28.00	$34,832.00	1244	$34,832.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	4' Sewer Manhole Precast	5	Each	$2,700.00	$13,500.00	5	$13,500.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	5' Sewer Manhole Precast	1	Each	$3,500.00	$3,500.00	1	$3,500.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	4" Service Lateral	13	Each	$900.00	$11,700.00	13	$11,700.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Connect to Existing	1	Each	$1,500.00	$1,500.00	1	$1,500.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	CULINARY WATER																	
	8" DI Culinary Water	1439	LF	$35.00	$50,365.00	1439	$50,365.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	8" Gate Valve	3	Each	$1,200.00	$3,600.00	3	$3,600.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Connect to Existing Water	2	Each	$3,500.00	$7,000.00	2	$7,000.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Fire Hydrant Assembly	3	Each	$4,200.00	$12,600.00	3	$12,600.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	1" Water Service Lateral	13	Each	$1,200.00	$15,600.00	13	$15,600.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Bends w/ Thrust Blocks (8")	4	Each	$650.00	$2,600.00	4	$2,600.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Tees w/ Thrust Blocks (8")	1	Each	$850.00	$850.00	1	$850.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	PRESSURIZED IRRIGATION																	
	4" C900 Purple PVC Pipe	1407	LF	$18.00	$25,326.00	1407	$25,326.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	2" Blowoff Pressurized Irrigation	1	Each	$1,300.00	$1,300.00	1	$1,300.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	1" Irrigation Service	13	Each	$1,100.00	$14,300.00	13	$14,300.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Connect to Existing PI	2	Each	$3,500.00	$7,000.00	2	$7,000.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Bends w/ Thrust Blocks (4")	4	Each	$650.00	$2,600.00	4	$2,600.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Tees w/ Thrust Blocks (4")	1	Each	$850.00	$850.00	1	$850.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	STREETS																	
	Asphalt 3" - Standard Road	34166	SF	$1.55	$52,957.30		$0.00		$0.00		$0.00	34166	$52,957.30		$0.00		$0.00	$0.00
	Roadbase 8" Hauled, Placed & Compacted	34166	SF	$0.47	$16,058.02		$0.00	34166	$16,058.02		$0.00		$0.00		$0.00		$0.00	$0.00
	24" Curb & Gutter (4" untreated base course included)	1763	LF	$16.00	$28,208.00		$0.00	1763	$28,208.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Sidewalk 4" Thick (4"untreated base course included)	8723	SF	$4.50	$39,253.50		$0.00		$0.00	8723	$39,253.50		$0.00		$0.00		$0.00	$0.00
	ADA Ramp (6" concrete 6" base course included)	2	Each	$800.00	$1,600.00		$0.00		$0.00	2	$1,600.00		$0.00		$0.00		$0.00	$0.00
	All Weather Access Road	18312	SF	$0.75	$13,734.00		$0.00		$0.00		$0.00	18312	$13,734.00		$0.00		$0.00	$0.00
	Driveway Apron (6" concrete over 6" untreated base course)	2444	SF	$6.00	$14,664.00		$0.00		$0.00		$0.00	2444	$14,664.00		$0.00		$0.00	$0.00
	STORM DRAINAGE																	
	18" RCP Storm Drain	34	LF	$42.00	$1,428.00	34	$1,428.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	15" RCP Storm Drain	574	LF	$36.00	$20,664.00	574	$20,664.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	12" RCP Storm Drain	34	LF	$32.00	$1,088.00	34	$1,088.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Curb Inlet 2' x 3' x 4'	5	Each	$1,800.00	$9,000.00	5	$9,000.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Connect to Existing	1	Each	$1,250.00	$1,250.00	1	$1,250.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	SD Cleanout	5	Each	$2,900.00	$14,500.00	5	$14,500.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	IRRIGATION																	
	18" HDPE Irrigation Pipe	940	LF	$20.00	$18,800.00	940	$18,800.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Flared End Section	1	Each	$600.00	$600.00	1	$600.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	Irrigation Box	6	Each	$1,000.00	$6,000.00	6	$6,000.00		$0.00		$0.00		$0.00		$0.00		$0.00	$0.00
	CONSTRUCTION MANAGEMENT/MISC.																	
	As Builts Mylar & Disks	1	Each	$250.00	$250.00		$0.00		$0.00		$0.00	1	$250.00		$0.00		$0.00	$0.00
	Testing, Cleaning, Inspections	1	LS	$2,500.00	$2,500.00		$0.00		$0.00		$0.00	1	$2,500.00		$0.00		$0.00	$0.00
	Street Sign	3	Each	$650.00	$1,950.00		$0.00		$0.00		$0.00	3	$1,950.00		$0.00		$0.00	$0.00
	Traffic Sign	1	Each	$300.00	$300.00		$0.00		$0.00		$0.00	1	$300.00		$0.00		$0.00	$0.00
	Precast Concrete Wall	391	LF	$75.00	$29,325.00		$0.00		$0.00		$0.00	391	$29,325.00		$0.00		$0.00	$0.00
					$498,152.82		$287,353.00		$44,266.02		$40,853.50		$125,680.30		$0.00		$0.00	$0.00
	10% Durability - retained at ICG release				$49,815.28	Released 9/22/20												
	ICG Amount				**$547,968.10**													

Attachment: Durability Bond Release Spreadsheet 9-22-20 (Durability Release - MITCHELL MEADOWS PLAT B)

IMPROVEMENT WARRANTY RELEASE AUTHORIZATION

The City Council of American Fork City, a Municipal Corporation and Body Politic in the State of Utah, hereby authorizes the release of the Improvement Warranty for _____MITCHELL MEADOWS PLAT B_____ pursuant to the terms of Section 17.9.100 and 17.9.403 of the City Development Code. The City Council finds that the quality of construction and materials have endured without evidence of unusual depreciation, wear, non-conformance to City standards, or need for remedial action.

The City Council hereby authorizes the City Engineer to issue a letter to the financial guarantee institution authorizing release of the Improvement Warranty or to issue an authorized City check as appropriate for the type of guarantee provided.

Amount Released: $__49,815.28_____

PASSED THIS _22_ DAY OF _SEPTEMBER_____, 2020.

_____
City Representative, American Fork City

ATTEST:

_____
Terilyn Lurker, City Recorder

Attachment: Durability_Release_Authorization-Mitchell Meadows Plat B (Durability Release - MITCHELL MEADOWS PLAT B)

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Public Works **Director Approval** *Scott Sensanbaugher*

AGENDA ITEM Review and action on the Water Banking Agreement with Nathan and Donna Johnson Family Trust for the benefit of ABF Real Estate LLC.

SUMMARY RECOMMENDATION The City Engineer recommends approval of the Water Banking Agreement with Nathan and Donna Johnson Family Trust for the benefit of ABF Real Estate, LLC for water rights as shown in the agreement.

BACKGROUND Water banking agreements are authorized by the American Fork municipal code to document and track water dedicated to the city in exchange for water credits that can be used or assigned to another person to be used to meet the city's water dedication requirements.

BUDGET IMPACT N/A

SUGGESTED MOTION I move to authorize the City to sign the Water Banking Agreement for Water Rights with ABF Real Estate, LLC.

SUPPORTING DOCUMENTS

ABF Real Estate LLC - Water Banking Agreement (2020.09.22) (PDF)

WATER BANKING AGREEMENT

This Water Banking Agreement ("**Agreement**") is entered into as of the 22 day of September, 2020 ("**Effective Date**"), by and between ABF Real Estate, LLC ("**Owner**"), and AMERICAN FORK CITY, a municipal corporation and political subdivision of the State of Utah ("**City**").

RECITALS

WHEREAS Water Right No. 55-13121 ("**Water Right**") has been or will be deeded by Nathan and Donna Johnson Family Trust for the benefit of ABF Real Estate, LLC to the City; and

WHEREAS Permanent Change Application a45709 ("**Change Application**"), which is associated with the Water Right and was approved by an Order of the State Engineer dated August 19, 2020, permits the diversion of 20.00 acre-feet from City's wells for municipal purposes within City's service area; and

WHEREAS Owner is transferring the Water Right and Change Application to City in order to meet City's water dedication requirements for Owner's development(s) and/or to bank the water with City for use by others to meet City's water dedication requirements for development; and

WHEREAS City is willing to accept the Water Right for use in its system in satisfaction of its water dedication requirements for present or future developments of Owner or Owner's assigns, to the extent provided by City Code section 17.1.400, or any successor provision.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and City, incorporating the recitals set forth above, agree as follows:

AGREEMENT

1. Transfer and Acceptance of the Water Right. Owner has conveyed and assigned, or will convey and assign, the Water Right to City by warranty deed, and City has accepted or will accept the conveyance and assignment of the Water Right. City agrees and acknowledges that the Water Right is an acceptable water right for purposes of satisfying City's water dedication requirements. Owner acknowledges that under the Article XI, Section 6 of the Utah Constitution, City is prohibited from returning to Owner any portion of the Water Right.

2. Title Insurance. City has obtained or will obtain, at Owner's expense, a water rights title insurance policy for the Water Right.

3. Water Credits. In exchange for the transfer of the Water Right, City hereby grants to Owner water dedication credits for 20.00 acre-feet of water ("**Credits**"). As provided herein, the Credits may be used by Owner to meet City's water dedication requirements for Owner's development(s) or may be assigned by Owner to others. The City Recorder shall maintain a credit log to keep track of any Credits that have not yet been dedicated to a specific development to meet City's water dedication requirements. Owner, or any assignee of all or a portion of the Credits, may request

Attachment: ABF Real Estate LLC - Water Banking Agreement (2020.09.22) (Water Banking Agreement with Johnson Family Trust for the

a copy of the credit log by making a written request to the City Recorder. Within ten business days of receiving the request, the City Recorder will provide a copy of the credit log.

4. Use of Credits for Owner's Developments. Owner may use the Credits in order to meet City's water dedication requirements as part of the development approval process. Prior to final plat approval, Owner shall send the City Recorder a written request to apply a portion of the Credits to a specific development. The number of acre-feet from the Credits required for dedication to a particular development shall be determined by City ordinances and policies existing at the time of the dedication. A decision to apply the Credits to a specific development is final, and any Credits so applied are no longer available for application to another project or assignment to a third party.

5. Assignment of Credits. Owner may assign any or all of the Credits to others using an Assignment of Water Credits form similar to Exhibit A ("**Assignment**"). An assignee shall present the Assignment, with original signatures, to the City Recorder, at which time the City Recorder shall update the credit log to account for the Assignment. The City Recorder shall also keep a copy of each Assignment in his/her records. An assignee may assign the Credits in the same manner outlined herein or may use the Credits in order to meet City's water dedication requirements. Any assignment of Credits that is not presented to the City Recorder as provided in this paragraph shall be void as against any subsequent purchaser, in good faith and for valuable consideration, of the same Credits, or any portion thereof, where the subsequent purchaser's assignment is first presented to the City Recorder.

6. Use of Credits by Assignees. An assignee may use the Credits in order to meet City's water dedication requirements as part of the development approval process. Prior to final plat approval, assignee shall send the City Recorder a written request to apply a portion of the Credits to a specific development. The number of acre-feet from the Credits required for dedication to a particular development shall be determined by City ordinances and policies existing at the time of the dedication. A decision to apply the Credits to a specific development is final, and any Credits so applied are no longer available for application to another project or assignment to a third party.

7. City's Use of Water Right. Upon execution of this Agreement, City shall have the full and unencumbered right to divert and beneficially use the water under the Water Right. City bears the responsibility to protect and maintain in good standing the Water Right, including placing the Water Right to beneficial use, filing proof documents on the Change Application, and filing other documentation with the Utah Division of Water Rights. Owner agrees to provide any information or other assistance, as requested by City, that is reasonably necessary to protect and maintain the Water Right. Owner's rights to Credits under this Agreement will not be affected if the Water Right is forfeited, abandoned, or otherwise lost due to City's nonuse.

8. Termination by Owner. Owner may, at any time and in its sole discretion, terminate this Agreement by filing written notice of termination with the City Recorder. Upon termination, any Credits that have not been dedicated to a specific development shall immediately and automatically pass to City.

9. Cessation of Owner's Use. Upon execution of this Agreement, Owner shall immediately cease any and all use of the Water Right.

Attachment: ABF Real Estate LLC - Water Banking Agreement (2020.09.22) (Water Banking Agreement with Johnson Family Trust for the

10. Successors and Assigns. Pursuant to the terms of this Agreement, Owner shall have the right to assign its rights, duties, and obligations. The parties acknowledge that the rights, duties, and obligations of Owner will also apply to any successor or assign of Owner, and that the use of the term "Owner" in this contract includes Owner's successors or assigns.

11. Ownership of Water Facilities. Nothing in this Agreement shall alter the ownership of any wells or other water facilities of Owner or City.

12. Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes all prior agreements and understandings concerning its subject matter. This Agreement shall not be amended or modified except by written instrument signed by both parties.

13. Construction and Enforcement. This Agreement shall be construed in accordance with and governed by the laws of the State of Utah. This Agreement may be specifically enforced.

14. Third Party Beneficiaries. Except for the assignees of Credits, this Agreement is not intended to and shall not create any rights in any person or entity not a party to this Agreement.

15. Attorney Fees. In any action arising out of this Agreement, the prevailing party shall be entitled to costs and reasonable attorney fees.

16. Further Assurances. After the execution of this Agreement, the parties agree to execute and deliver such documents, and to take or cause to be taken all such other actions, as either party may reasonably deem necessary or appropriate in order to carry out the intents and purposes of this Agreement.

17. Severability. If any term, covenant, or condition of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and the remainder of the Agreement shall remain in full force and effect.

18. Authority of Parties. The persons signing this Agreement represent and warrant that they have full authority to do so and that their corporation or entity has undertaken and obtained whatever formalities and approvals are necessary to enter into this Agreement.

Attachment: ABF Real Estate LLC - Water Banking Agreement (2020.09.22) (Water Banking Agreement with Johnson Family Trust for the

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

AMERICAN FORK CITY

_____ Attest: _____
Bradley J. Frost, Mayor Terilyn Lurker, City Recorder

STATE OF UTAH)
:ss
COUNTY OF _____)

On the _____ day of _____, 20__, personally appeared before me Bradley J. Frost and Terilyn Lurker, known to me to be the Mayor and City Recorder, respectively, of American Fork City, who acknowledged to me that they executed the within Water Banking Agreement pursuant to a resolution of the City Council adopted pursuant to notice at a regular meeting at which a quorum was in attendance.

_____
NOTARY PUBLIC

Nathan and Donna Johnson Family Trust Nathan and Donna Johnson Family Trust

_____ _____
By: Nathan Johnson, Trustee By: Donna Johnson, Trustee

STATE OF UTAH)
:ss
COUNTY OF _____)

On the _____ day of _____, 20__, Nathan Johnson & Donna Johnson personally appeared before me and duly acknowledged that they, acting in their authorized capacity as Trustees of Nathan and Donna Johnson Family Trust, executed this Water Banking Agreement for the purposes stated therein.

_____
NOTARY PUBLIC

Attachment: ABF Real Estate LLC - Water Banking Agreement (2020.09.22) (Water Banking Agreement with Johnson Family Trust for the

Approved as to form by City's attorney 6/9/2018

ABF REAL ESTATE, LLC

_____
By: Andrew Flamm, Manager

STATE OF UTAH)
:ss
COUNTY OF _____)

On the _____ day of _____, 20__, Andrew Flamm personally appeared before me and duly acknowledged that he, acting in his authorized capacity as Manager of ABF Real Estate, LLC, executed this Water Banking Agreement for the purposes stated therein.

_____
NOTARY PUBLIC

Attachment: ABF Real Estate LLC - Water Banking Agreement (2020.09.22) (Water Banking Agreement with Johnson Family Trust for the

Approved as to form by City's attorney 6/9/2018

EXHIBIT A

ASSIGNMENT OF WATER CREDITS

This Assignment of Water Credits ("Assignment") is entered into as of this _____ day of _____, 20___, by and between ABF Real Estate, LLC ("Assignor"), whose mailing address is 847 East Draper Meadow Lane, Draper, Utah 84020, and _____ ("Assignee"), whose mailing address is _____. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor transfers and assigns to Assignee _____ acre-feet of water credits that were banked with American Fork City pursuant to the Water Banking Agreement between American Fork City and ABF Real Estate, LLC, dated September 22, 2020.

In order to effectuate this Assignment, Assignee shall present this original signed and notarized Assignment to the American Fork City Recorder.

DATED this _____ day of _____, 20___.

_____
Andrew Flamm, Manager

State of _____)
:ss
County of _____)

On the _____ day of _____, 20___, personally appeared before me Andrew Flamm, personally known to me to be the person whose name is subscribed to this instrument, who acknowledged that he executed it.

_____
Notary Public

Attachment: ABF Real Estate LLC - Water Banking Agreement (2020.09.22) (Water Banking Agreement with Johnson Family Trust for the

Approved as to form by City's attorney 6/9/2018

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Planning **Director Approval** *Adam Olsen*

AGENDA ITEM Review and action on a resolution approving the Blackhurst Property Land Use Map Amendment from the Residential Medium Density to Residential High Density designation, located at 440 South 100 East.

SUMMARY RECOMMENDATION The planning commission recommended approval of the amendment to the land use element of the general plan with one opposing vote as stated in the attached minutes of the August 19, 2020 planning commission meeting.

BACKGROUND The applicant proposes a land use map amendment in order to develop the Blackhurst property with a multi-family project. For further analysis, please refer to the attached application, staff report and planning commission minutes.

BUDGET IMPACT No direct budgetary impact is anticipated as a result of this approval.

SUGGESTED MOTION I move to adopt the resolution approving the Blackhurst Property Land Use Map Amendment from the Residential Medium Density to Residential High Density designation, located at 440 South 100 East.

SUPPORTING DOCUMENTS

1. Res (PDF)
2. Application (PDF)
3. Staff Report (PDF)
4. Minutes (PDF)

RESOLUTION NO.

A RESOLUTION APPROVING AN AMENDMENT TO THE LAND USE ELEMENT OF THE GENERAL PLAN LOCATED IN THE VICINITY OF 440 SOUTH 100 EAST FROM THE RESIDENTIAL MEDIUM DENSITY TO THE RESIDENTIAL HIGH DENSITY DESIGNATION.

WHEREAS, Section 10-9a-401(1), Utah Code Annotated, 1953, as amended, requires each municipality in the State of Utah to prepare and adopt a comprehensive, long range general plan for: (1) present and future needs of the municipality; and (2) growth and development of the land within the municipality; and

WHEREAS, Section 10-9a-403, Utah Code Annotated, 1953, as amended, recommends and describes the general content of each of the major elements typically included within a general plan including, but not limited to, a Land Use Element that designates the long term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space and other categories of public and private uses of land; and

WHEREAS, Section 10-9a-403, Utah Code Annotated, 1953, as amended, anticipated that the Land Use Element will, from time to time, be amended and updated to reflect changes in condition or policy within the City; and

WHEREAS, the Planning Commission has reviewed the proposed amendment to the Land Use Element, advertised and held a public hearing thereon, duly considered the comments received at the hearing, and provided a positive recommendation regarding this request; and

WHEREAS, the City Council has received a positive recommendation from the Planning Commission, and has reviewed the request further, all in accordance with Utah State law.

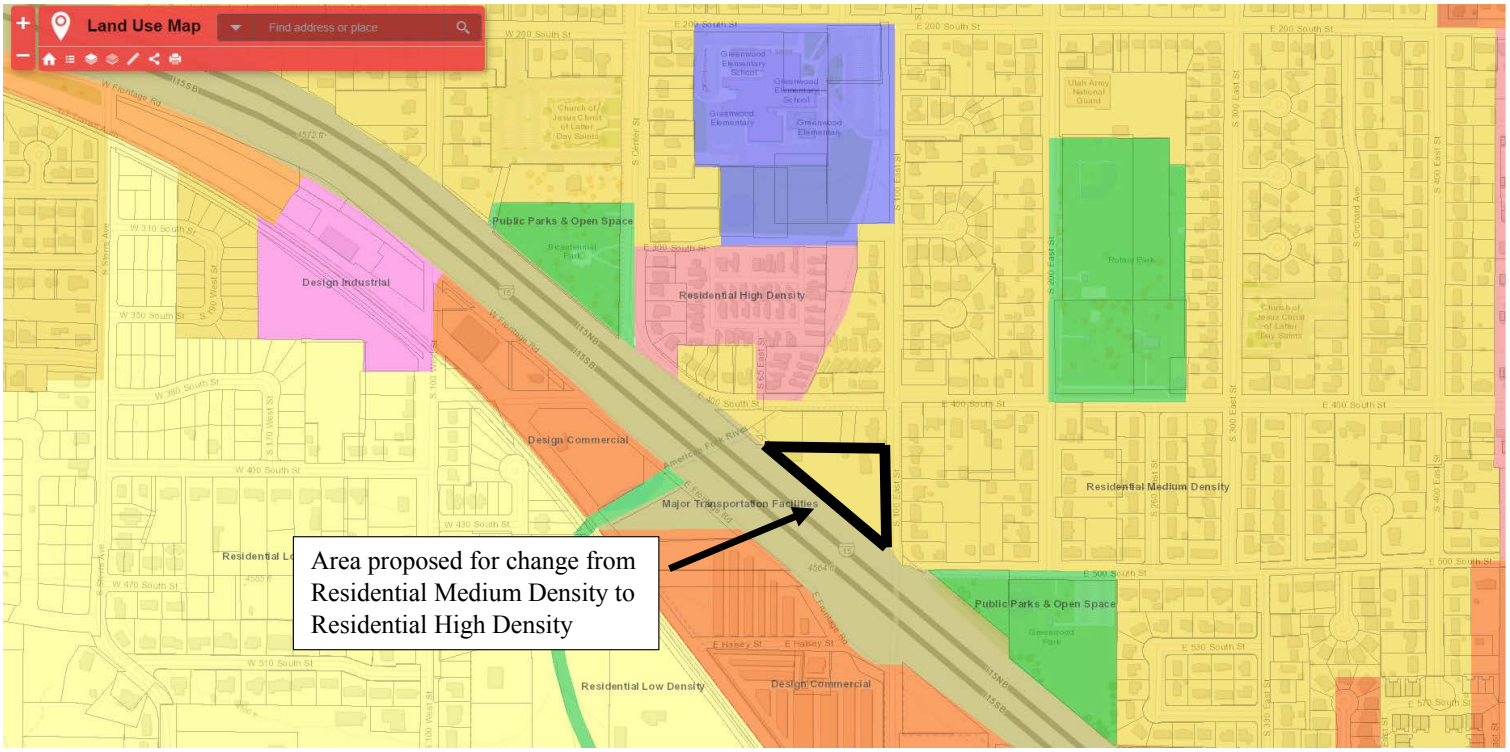
NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF AMERICAN FORK CITY, UTAH:

SECTION 1. That certain map entitled AMERICAN FORK CITY - LAND USE PLAN is hereby amended to show that the parcels located in the vicinity of 440 South 100 East be amended from the Residential Medium Density to the Residential High Density designation as shown in Exhibit A below. Said change in designation is hereby adopted as an amendment to the Land Use Element of the General Plan of American Fork, Utah.

SECTION 2. The City Council hereby directs that the American Fork Land Use Plan Map be modified to incorporate the changes approved by this Resolution.

Attachment: 1. Res (Blackhurst Land Use)

Exhibit A



SECTION 3. It is the express intent of the City Council that said plan be followed, complied with, and otherwise adhered to.

SECTION 4. The Planning Commission and City Staff are hereby directed to recommend such ordinances and policies as recommended under the plan and deemed essential for its implementation.

Attachment: 1. Res (Blackhurst Land Use)

PASSED AND ADOPTED THIS 8th DAY OF SEPTEMBER, 2020.

Brad Frost, Mayor

ATTEST:

Terilyn Lurker, Recorder

Attachment: 1. Res (Blackhurst Land Use)

07/20/20

To who it may concern,

We are asking that the property located at 440 south 100 East be changed from an R2-7500 residential medium density, to an R4-7500 residential high density zone. We feel this will better serve the community and the property, because of the current shape of the ground and the proximity to the free way. With the current shape of the ground the frontage serves better to larger lots because as the property goes back it goes into a triangular piece, and it would be difficult to put a road into the property with a cue-de-sac. It works better to use the current frontage and have more ground per lot. Being in close proximity to the free way it serves better as higher density residential for rental properties and having storage units on the south side of the free way, it works as a buffer zone between the residential and light industrial.

We are also requesting a general plan land use map amendment. With the current classification of residential medium density, which we will be changing to residential high density.

Sincerely,

Jared DeHart

Attachment: 2. Application (Blackhurst Land Use)

AMERICAN FORK CITY
PLANNING COMMISSION

MEETING DATE: August 19, 2020
STAFF PRESENTATION: Adam Olsen

AGENDA TOPICS: Hearing, review and action on the Blackhurst property land use map amendment, from the Residential Medium Density to the Residential High-Density designation, located at 440 S. 100 E.

Hearing, review and action on the Blackhurst property zone map amendment, from the R2-7,500 to R4-7,500 Residential zone, located at 440 S. 100 E.

ACTION REQUESTED: Recommendations of approval for land use and zone map amendments.

BACKGROUND INFORMATION					
Location:		440 S. 100 E.			
Applicants:		Mathew Blackhurst, Jared DeHart			
Existing Land Use:		Residential			
Proposed Land Use:		Residential			
Surrounding Land Use:	North	Residential			
	South	I-15			
	East	Residential			
	West	I-15			
Existing Zoning:		R2-7,500			
Proposed Zoning:		R4-7,500			
Surrounding Zoning:	North	R2-7,500			
	South	PF (Public Facilities)			
	East	R2-7,500			
	West	PF (Public Facilities)			
Land Use Plan Designation:		Medium Density Residential			
Zoning within Land Use Plan Designation?		x	Yes (current zone)		No

Attachment: 3. Staff Report (Blackhurst Land Use)

Background

The applicant proposes to amend the land use and zone map designations at 440 S. 100 E. from a residential medium density to a residential high-density designation. The property is located adjacent to I-15. If approved, the applicants wish to construct at least one 4-plex on the property; potentially more through a subdivision plat. Surrounding zoning consists of R2-7,500, which allows single-family and duplex uses.

POTENTIAL MOTIONS:

LAND USE MAP AMENDMENT

APPROVAL

Mr. Chairman, I move that we recommend approval of the land use map amendment.

DENIAL

Mr. Chairman, I move that we recommend denial of the land use map amendment.

TABLE

Mr. Chairman, I move that we table action on the land use map amendment.

ZONE MAP AMENDMENT

APPROVAL

Mr. Chairman, I move that we recommend approval of the zone map amendment.

DENIAL

Mr. Chairman, I move that we recommend denial of the zone map amendment.

TABLE

Mr. Chairman, I move that we table action on the zone map amendment.

Attachment: 3. Staff Report (Blackhurst Land Use)

2. Hearing, review and action on a land use map amendment from the General Commercial to the Public Facilities designation, located in the area of 1730 N. North County Blvd. (9826 North 4800 West)

Mr. Olsen told commissioners that the city-initiated land use map amendment proposes a change from commercial to public facilities, in anticipation of a future fire station. The amendment will bring into congruence the zoning and land use map designations of "Public Facilities" as the property annexes into the City. The "Public Facilities" designation encompasses institutional, school and public (City, County, State, Federal) uses.

Public Hearing Opened

No public comments received

Public Hearing Closed

Ms. Anderson moved to approve the land use amendment.

Mr. Ryan Hunter seconded the motion. Voting was as follows:

Chairman Woffinden	**Aye**
Chris Christiansen	**Aye**
Christine Anderson	**Aye**
Ryan Hunter	**Aye**
Harold Dudley	**Aye**
Rod Brocious	**Aye**

The motion passed.

Chairman Woffinden noted that items 3 and 4 will be discussed together and voted on separately.

3. Hearing, review and action on the Blackhurst Property Land Use Map Amendment from the Residential Medium Density to Residential High Density designation, located at 440 South 100 East

Mr. Olsen stated that the applicant proposes to amend the land use and zone map designations at 440 S. 100 E. from a residential medium density to a residential high-density designation. The property is located adjacent to I-15. If approved, the applicants wish to construct at least one 4-plex on the property; potentially more through a subdivision plat. Surrounding zoning consists of R2-7,500, which allows single-family and duplex uses.

Attachment: 4. Minutes (Blackhurst Land Use)

Ms. Anderson asked what the final density would be if approved.

Mr. Olsen said that the limiting factor would be the underlying property size, as it is under two acres. At most it could potentially could have 12 units per acre, but it would probably be closer to 8 units.

Ms. Anderson asked if there would be visibility from I-15, and Mr. Olsen replied that there would not be visibility as there is already a barrier.

Mr. Brocious asked what the purpose of the desired density change is, and he wondered if it would it be an enhancement of the neighborhood if approved.

Mr. Olsen indicated that there is a high-density parcel to the north in a mobile home park, and the property owner feels that it makes sense as a buffer since it is next to the freeway.

Ms. Anderson asked if it is possible to grant a high-density allowance with a limited number.

Mr. Olsen replied that there are self-limiting factors such as lot size, width and depth requirements for a 4-plex. The shape of the lots limits how many units they can fit and meet the requirements. Greenwood Elementary and the river and the trailer park are existing features in the area.

Public Hearing Opened

No public comments received

Public Hearing Closed

Mr. Dudley moved to approve the land use map amendment.

Ms. Anderson seconded the motion. Voting was as follows:

Chairman Woffinden	**Aye**
Chris Christiansen	**Nay**
Christine Anderson	**Aye**
Ryan Hunter	**Aye**
Harold Dudley	**Aye**
Rod Brocious	**Aye**

The motion passed.

Attachment: 4. Minutes (Blackhurst Land Use)

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Planning **Director Approval** *Adam Olsen*

AGENDA ITEM Review and action on an ordinance approving the Blackhurst Property Zone Map Amendment from the R2-7,500 to R4-7,500 Residential zone, located at 440 South 100 East.

SUMMARY RECOMMENDATION The planning commission recommended approval of the zone map amendment with one dissenting vote as stated in the attached minutes of the August 19, 2020 planning commission meeting.

BACKGROUND The applicant proposes a zone map amendment from the R2-7,500 Residential to the R4-7,500 Residential zone in order to develop the Blackhurst property with a multi-family project. For further analysis, please refer to the attached application, staff report and planning commission minutes.

BUDGET IMPACT No direct budgetary impact is anticipated as a result of this approval.

SUGGESTED MOTION I move to adopt the ordinance approving the Blackhurst Property Zone Map Amendment from the R2-7,500 to R4-7,500 Residential zone, located at 440 South 100 East.

SUPPORTING DOCUMENTS

1. Ord (PDF)
2. Application (PDF)
3. Staff Report (PDF)
4. Minutes (PDF)

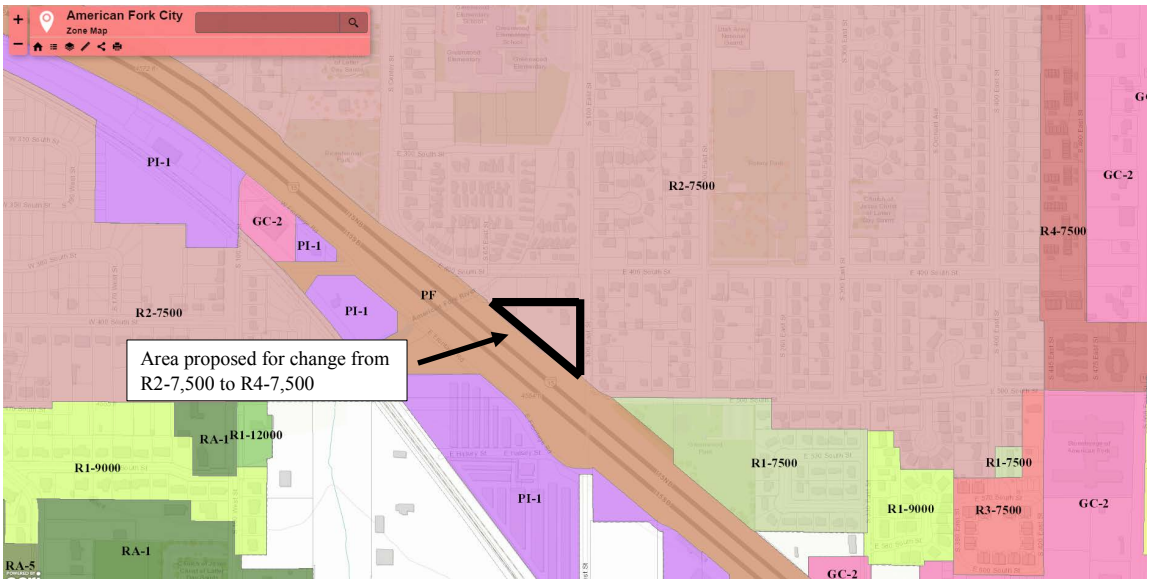
ORDINANCE NO.

AN ORDINANCE AMENDING THE OFFICIAL ZONE MAP OF AMERICAN FORK, UTAH. BE IT ORDAINED BY THE CITY COUNCIL OF AMERICAN FORK CITY, UTAH:

PART I

That the Official Zone Map of American Fork, Utah, is hereby amended from the R2-7,500 Residential to the R4-7,500 Residential zone located in the vicinity of 440 South 100 East as shown on the map below.

Zone Map



PART II

That said territory shall hereafter be subject to all requirements and conditions applicable with said zone.

Attachment: 1. Ord (Blackhurst Zoning)

PART III

That this Ordinance shall be in force and effect upon its passage and first publication.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF AMERICAN FORK, UTAH, THIS 8th DAY OF SEPTEMBER, 2020.

Brad Frost, Mayor

ATTEST:

Terilyn Lurker, Recorder

Attachment: 1. Ord (Blackhurst Zoning)

07/20/20

To who it may concern,

We are asking that the property located at 440 south 100 East be changed from an R2-7500 residential medium density, to an R4-7500 residential high density zone. We feel this will better serve the community and the property, because of the current shape of the ground and the proximity to the free way. With the current shape of the ground the frontage serves better to larger lots because as the property goes back it goes into a triangular piece, and it would be difficult to put a road into the property with a cue-de-sac. It works better to use the current frontage and have more ground per lot. Being in close proximity to the free way it serves better as higher density residential for rental properties and having storage units on the south side of the free way, it works as a buffer zone between the residential and light industrial.

We are also requesting a general plan land use map amendment. With the current classification of residential medium density, which we will be changing to residential high density.

Sincerely,

Jared DeHart

Attachment: 2. Application (Blackhurst Zoning)

AMERICAN FORK CITY
PLANNING COMMISSION

MEETING DATE: August 19, 2020
STAFF PRESENTATION: Adam Olsen

AGENDA TOPICS: Hearing, review and action on the Blackhurst property land use map amendment, from the Residential Medium Density to the Residential High-Density designation, located at 440 S. 100 E.

Hearing, review and action on the Blackhurst property zone map amendment, from the R2-7,500 to R4-7,500 Residential zone, located at 440 S. 100 E.

ACTION REQUESTED: Recommendations of approval for land use and zone map amendments.

BACKGROUND INFORMATION					
Location:		440 S. 100 E.			
Applicants:		Mathew Blackhurst, Jared DeHart			
Existing Land Use:		Residential			
Proposed Land Use:		Residential			
Surrounding Land Use:	North	Residential			
	South	I-15			
	East	Residential			
	West	I-15			
Existing Zoning:		R2-7,500			
Proposed Zoning:		R4-7,500			
Surrounding Zoning:	North	R2-7,500			
	South	PF (Public Facilities)			
	East	R2-7,500			
	West	PF (Public Facilities)			
Land Use Plan Designation:		Medium Density Residential			
Zoning within Land Use Plan Designation?		x	Yes (current zone)		No

Attachment: 3. Staff Report (Blackhurst Zoning)

Background

The applicant proposes to amend the land use and zone map designations at 440 S. 100 E. from a residential medium density to a residential high-density designation. The property is located adjacent to I-15. If approved, the applicants wish to construct at least one 4-plex on the property; potentially more through a subdivision plat. Surrounding zoning consists of R2-7,500, which allows single-family and duplex uses.

POTENTIAL MOTIONS:

LAND USE MAP AMENDMENT

APPROVAL

Mr. Chairman, I move that we recommend approval of the land use map amendment.

DENIAL

Mr. Chairman, I move that we recommend denial of the land use map amendment.

TABLE

Mr. Chairman, I move that we table action on the land use map amendment.

ZONE MAP AMENDMENT

APPROVAL

Mr. Chairman, I move that we recommend approval of the zone map amendment.

DENIAL

Mr. Chairman, I move that we recommend denial of the zone map amendment.

TABLE

Mr. Chairman, I move that we table action on the zone map amendment.

Attachment: 3. Staff Report (Blackhurst Zoning)

4. Hearing, review and action on the Blackhurst Property Zone Map Amendment from R2-7,500 to R4-7,500 Residential zone, located at 440 South 100 East

Public Hearing Opened

No public comments received

Public Hearing Closed

Mr. Dudley moved to approve the zone map amendment.

Ms. Anderson seconded the motion. Voting was as follows:

Chairman Woffinden	**Aye**
Chris Christiansen	**Nay**
Christine Anderson	**Aye**
Ryan Hunter	**Aye**
Harold Dudley	**Aye**
Rod Brocious	**Aye**

The motion passed.

5. Hearing, review and action on the Rawlings Zone Map Amendment from the R1-7,500 to R2-7,500 Residential zone located at 165 East 300 North

Mr. Olsen stated that the applicant proposes to change the zone on his property from R1-7,500 to R2-7,500. The underlying land use map designates the area as "medium-density residential" and a change to the R2-7,500 is supported by the underlying land use designation. Single-family and duplex uses are allowed in the R2-7,500 zone. The applicant would like the ability to convert his single-family use to a duplex use; provided his property meets the parameters for duplex use.

Mr. Dudley asked if the applicant should be encouraged to speak with their neighbor and square it off, so there is not an island left that is zoned R1.

Mr. Olsen indicated that the zone can't be changed without a property owner's consent. Changing the zone is not a guarantee that the applicant will put a duplex in, it is currently single-family.

Mr. Christiansen felt like the property owner should bring forward a plan when he has the need, not preemptively.

Ms. Anderson doesn't like the island being left over, but the owner's request seems fair.

Attachment: 4. Minutes (Blackhurst Zoning)

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Public Works **Director Approval** *Scott Sensanbaugher*

AGENDA ITEM Review and action on acceptance of the 1100 West and 620 South Road Dedication Plat

SUMMARY RECOMMENDATION The planning commission recommended approval of the 1100 West and 620 South Road Dedication Plat in the Transit Oriented Development zone as stated in the attached minutes of the July 8, 2020 planning commission meeting.

BACKGROUND The applicant has been working on approval in the TOD zones, these roads are on the master transportation plans.

BUDGET IMPACT No direct budgetary impact is anticipated as a result of this approval.

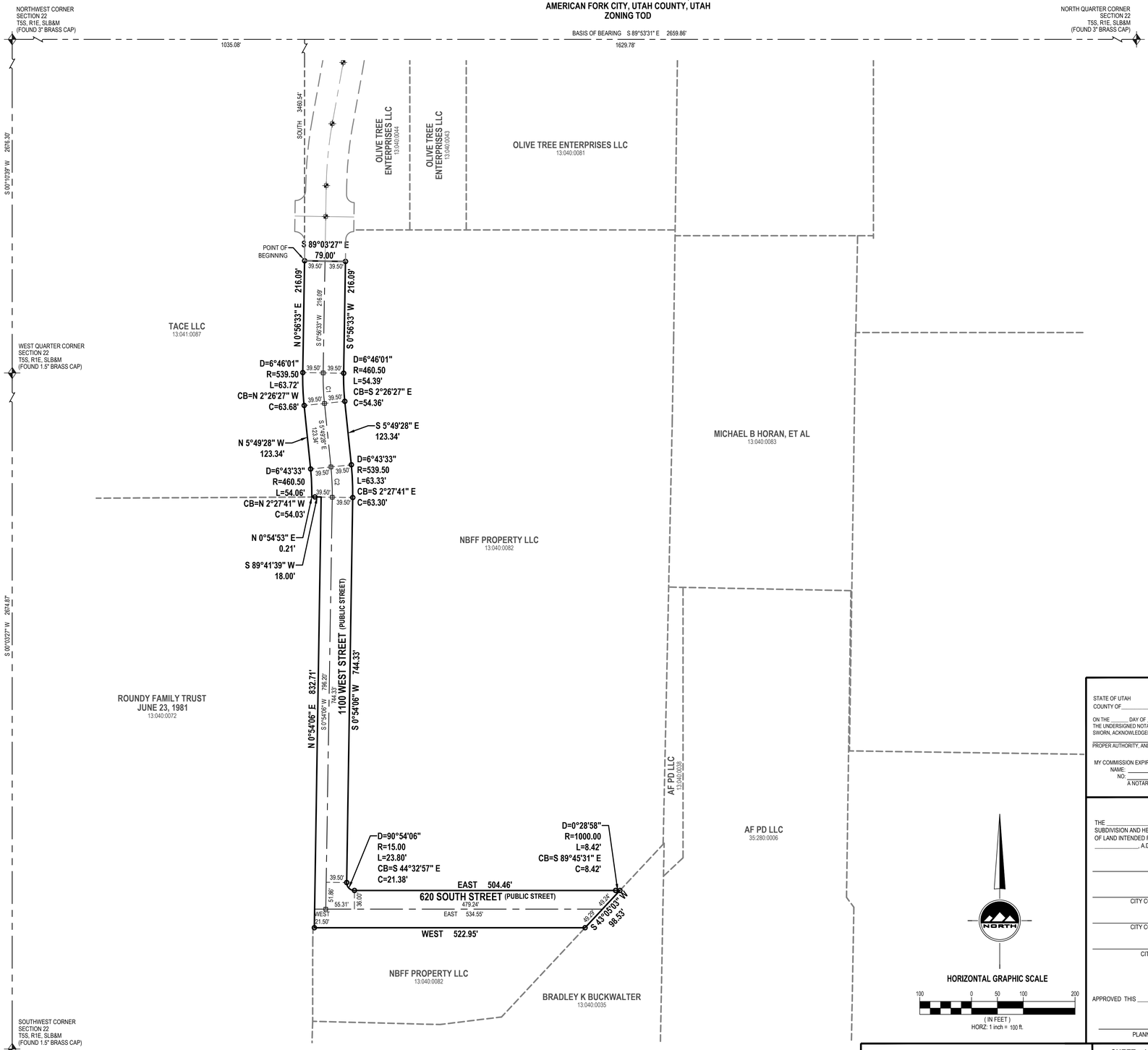
SUGGESTED MOTION Move to approve the 1100 West and 620 South Road Dedication Plat.

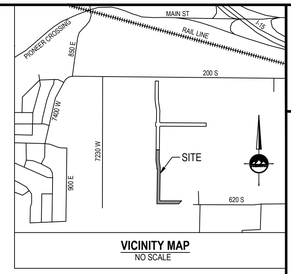
SUPPORTING DOCUMENTS

2020-04-28 1100 West 620 South Road Dedication Plat (PDF)
2020.07.08 PC Minutes Approved #3 (PDF)

1100 WEST AND 620 SOUTH ROAD DEDICATION PLAT

**LOCATED IN THE WEST HALF OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST,
SALT LAKE BASE AND MERIDIAN,
AMERICAN FORK CITY, UTAH COUNTY, UTAH
ZONING TOD**





VICINITY MAP
NO SCALE

LEGEND

- SECTION CORNER
- EXISTING STREET MONUMENT
- PROPOSED STREET MONUMENT
- SET 5/8" REBAR WITH YELLOW PLASTIC CAP, OR NAIL STAMPED "ENSIGN ENG. & LAND SURV."
- SECTION LINE
- CENTER LINE
- PROPERTY LINE
- ADJACENT PROPERTY LINE
- ADJACENT RIGHT OF WAY LINE

ENSIGN ENG. LAND SURV.

CURVE TABLE

CURVE	RADIUS	LENGTH	DELTA	BEARING	CHORD
C1	500.00'	59.05'	6°46'01"	S2°26'27"E	59.02'
C2	500.00'	58.69'	6°43'33"	S2°27'41"E	58.66'

HORIZONTAL GRAPHIC SCALE
100 0 50 100 200
(IN FEET)
HORZ: 1 inch = 100 ft.

SURVEYOR'S CERTIFICATE

I, PATRICK M. HARRIS, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD A LICENSE IN ACCORDANCE WITH TITLE 58, CHAPTER 22, PROFESSIONAL ENGINEERS AND LAND SURVEYORS LICENSING ACT, UTAH CODE ANNOTATED, 1953 AS AMENDED CERTIFICATE NUMBER 286882 I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW, HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS, STREETS, AND EASEMENTS, HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17, UTAH CODE ANNOTATED, 1953 AS AMENDED, HAVE VERIFIED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THE PLAT.

BOUNDARY DESCRIPTION

Beginning at a point being South 89°53'31" East 1,035.08 feet along section line and South 3,460.54 feet from the Northwest Corner of Section 22, Township 5 South, Range 1 East, Salt Lake Base and Meridian; and running

thence South 89°03'27" East 79.00 feet;
thence South 00°56'33" West 216.09 feet;
thence Southeasterly 54.39 feet along the arc of a 460.50 foot radius curve to the left (center bears South 89°03'27" East and the chord bears South 02°26'27" East 54.36 feet with a central angle of 06°46'01");
thence South 05°49'28" East 123.34 feet;
thence Southeasterly 63.33 feet along the arc of a 539.50 foot radius curve to the right (center bears South 84°10'32" West and the chord bears South 02°27'41" East 63.30 feet with a central angle of 06°43'33");
thence South 00°54'06" West 744.33 feet;
thence Southeasterly 23.80 feet along the arc of a 15.00 foot radius curve to the left (center bears South 89°05'54" East and the chord bears South 44°32'57" East 21.38 feet with a central angle of 90°54'06");
thence East 504.46 feet;
thence Southeasterly 8.42 feet along the arc of a 1,000.00 foot radius curve to the right (center bears South and the chord bears South 89°45'31" East 8.42 feet with a central angle of 00°28'58");
thence South 43°05'03" West 98.53 feet;
thence West 522.95 feet;
thence North 00°54'06" East 832.71 feet;
thence South 89°41'39" West 18.00 feet;
thence North 00°54'53" East 0.21 feet;
thence Northwesterly 54.06 feet along the arc of a 460.50 foot radius curve to the left (center bears North 89°05'54" West and the chord bears North 02°27'41" West 54.03 feet with a central angle of 06°43'33");
thence North 05°49'28" West 123.34 feet;
thence Northwesterly 63.72 feet along the arc of a 539.50 foot radius curve to the right (center bears North 84°10'32" East and the chord bears North 02°26'27" West 63.68 feet with a central angle of 06°46'01");
thence North 00°56'33" East 216.09 feet to the point of beginning.

Contains 122,567 Square Feet or 2.814 Acres

OWNER'S DEDICATION

KNOWN ALL MEN BY THESE PRESENT THAT WE, ALL OF THE UNDERSIGNED OWNERS OF ALL OF THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE HEREIN AND SHOWN ON THIS MAP, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO STREETS AND EASEMENTS AND DO HEREBY DEDICATE THE STREETS AND OTHER PUBLIC AREAS AS INDICATED HEREON FOR PERPETUAL USE OF THE PUBLIC.

IN WITNESS HEREOF WE HAVE HEREUNTO SET OUR HANDS THIS _____ DAY OF _____, A.D. 20____.

NAME / COMPANY
NAME / COMPANY
NAME / COMPANY
NAME / COMPANY

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF_____ } S.S.

ON THE _____ DAY OF _____, A.D. 20 ___, _____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY OF_____, IN SAID STATE OF UTAH, WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT HE/SHE IS THE _____ OF _____, A LIMITED LIABILITY COMPANY AND THAT HE/SHE SIGNED THE OWNER'S DEDICATION FREELY AND VOLUNTARILY FOR AND IN BEHALF OF SAID LIMITED LIABILITY COMPANY FOR THE PURPOSES THEREIN MENTIONED AND ACKNOWLEDGED TO ME THAT SAID LIMITED LIABILITY COMPANY EXECUTED THE SAME.

MY COMMISSION EXPIRES: _____
NAME: _____
NO: _____
A NOTARY PUBLIC COMMISSION IN UTAH
NOTARY PUBLIC RESIDING IN _____ COUNTY

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF_____ } S.S.

ON THE _____ DAY OF _____, A.D. 20 ___, _____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY OF_____, IN SAID STATE OF UTAH, WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT HE/SHE IS THE _____ OF _____, A LIMITED LIABILITY COMPANY AND THAT HE/SHE SIGNED THE OWNER'S DEDICATION FREELY AND VOLUNTARILY FOR AND IN BEHALF OF SAID LIMITED LIABILITY COMPANY FOR THE PURPOSES THEREIN MENTIONED AND ACKNOWLEDGED TO ME THAT SAID LIMITED LIABILITY COMPANY EXECUTED THE SAME.

MY COMMISSION EXPIRES: _____
NAME: _____
NO: _____
A NOTARY PUBLIC COMMISSION IN UTAH
NOTARY PUBLIC RESIDING IN _____ COUNTY

TRUST ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF_____ } S.S.

ON THE _____ DAY OF _____ A.D. 20 ___, _____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY OF_____ IN SAID STATE OF UTAH, WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT HE/SHE/THEY IS/ARE THE _____ OF _____, AND EXECUTED IT WITH LAWFUL AND PROPER AUTHORITY, AND THE EXECUTION WAS A VALID ACT BINDING BY SAID TRUST.

MY COMMISSION EXPIRES: _____
NAME: _____
NO: _____
A NOTARY PUBLIC COMMISSION IN UTAH
NOTARY PUBLIC RESIDING IN _____ COUNTY

APPROVAL BY LEGISLATIVE BODY

THE _____ OF _____ COUNTY OF UTAH, APPROVES THIS SUBDIVISION AND HEREBY ACCEPTS THE DEDICATION OF ALL THE STREETS, EASEMENTS, AND OTHER PARCELS OF LAND INTENDED FOR PUBLIC PURPOSES FOR THE PERPETUAL USE OF THE PUBLIC THIS _____ DAY OF _____, A.D. 20____

MAYOR
CITY COUNCIL MEMBER
CITY COUNCIL MEMBER
CITY COUNCIL MEMBER
CITY COUNCIL MEMBER
CITY COUNCIL MEMBER
CITY ENGINEER
ATTEST: CLERK - RECORDER (SEE SEAL BELOW)

PLANNING COMMISSION APPROVAL

APPROVED THIS _____ DAY OF _____ A.D. 20____. BY THE AMERICAN FORK CITY PLANNING COMMISSION.

PLANNER
PLANNING COMMISSION CHAIRMAN

DEVELOPER
WHITE HORSE DEVELOPERS
520 SOUTH 850 EAST, STE. A4
LEHI, UTAH 84043

ENSIGN
SALT LAKE CITY
45 W. 10000 S., Suite 500
Sandy, UT. 84070
Phone: 801.255.0529
Fax: 801.255.4449
WWW.ENSIGNENG.COM
LAYTON Phone:801.547.1100
TOOELE Phone: 435.843.3590
CEDAR CITY Phone: 435.865.1453
RICHFIELD Phone: 435.896.2983

SHEET 1 OF 1
PROJECT NUMBER : 8799C
MANAGER : JKF
DRAWN BY : JWJ
CHECKED BY : KFW
DATE : 4/3/20

BASIS OF BEARING

THE BASIS OF BEARING IS BETWEEN THE NORTHWEST CORNER AND THE NORTH QUARTER CORNER OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, WITH A BEARING OF SOUTH 89°53'31" EAST.

FLOOD ZONE DESIGNATION

SUBJECT PROPERTY FALLS WITHIN FLOOD ZONE _X_ AS DELINEATED BY F.E.M.A. FLOOD INSURANCE RATE MAP, COMMUNITY PANEL MAP 49557I0120B EFFECTIVE JULY 17, 2002 .

1100 WEST AND 620 SOUTH ROAD DEDICATION PLAT
LOCATED IN THE WEST HALF OF SECTION 22,
TOWNSHIP 5 SOUTH, RANGE 1 EAST,
SALT LAKE BASE AND MERIDIAN,
AMERICAN FORK CITY, UTAH COUNTY, UTAH

SURVEYORS SEAL
PROFESSIONAL LAND SURVEYOR
No. 286882
PATRICK M. HARRIS
STATE OF UTAH

NOTARY PUBLIC SEAL

CLERK-RECORDER SEAL
2.0"
2.5"

Attachment: 2020-04-28 1100 West 620 South Road Dedication Plat (1100 West and 620 South Road Dedication)

3. Hearing, review and action on the 1100 West 620 South Road Dedication Plat in the Transit Oriented Development zone

Public Hearing Opened

Public Hearing Closed

Mr. Ryan Hunter moved to approve the 1100 West 620 South Road Dedication Plat.

Ms. Anderson seconded the motion. Voting was as follows:

Chairman Woffinden	**Aye**
Chris Christiansen	**Aye**
Christine Anderson	**Aye**
Ryan Hunter	**Aye**
Rod Brocious	**Aye**
Harold Dudley	**Aye**

The motion passed.

4. Hearing, review and action on the Savage Apartments/Parc on 5th Phase 2, located in the area of 620 South 600 East in the Planned Community zone

Mr. Olsen explained that this area received concept plan approval in September 2015. The concept plan envisioned placement of apartments, townhomes, and a commercial area along 500 East; in an area known as the Savage Property. Since conceptual approval, the commercial area along 500 East (Osmond Retail Plaza) has been constructed, as has Phase I of the residential area (Parc on 5th). Phase II anticipates additional residential development, south of Phase I and east of the commercial development along 500 East. Access will be provided off 620 South, through an extension of 600 East. Development of Phase II will consist of additional apartment (142) and townhome (54) units. A clubhouse and pool will be constructed in Phase II, as was done in Phase I. Final project density is 13.8 du/ac; within the allowed ranges of the PC zone. Parking is provided at 2.35 spaces per unit; slightly above the required 2.25 spaces per unit required by the City.

Attachment: 2020.07.08 PC Minutes Approved #3 (1100 West and 620 South Road Dedication)

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Public Works **Director Approval** *Scott Sensanbaugher*

AGENDA ITEM Review and action on acceptance of the 1100 West and 350 South Road Dedication Plat

SUMMARY RECOMMENDATION The planning commission recommended approval of the 1100 West and 350 South Road Dedication Plat in the Transit Oriented Development zone as stated in the attached minutes of the July 8, 2020 planning commission meeting.

BACKGROUND The applicant has been working on approval in the TOD zones, these roads are on the master transportation plans.

BUDGET IMPACT No direct budgetary impact is anticipated as a result of this approval.

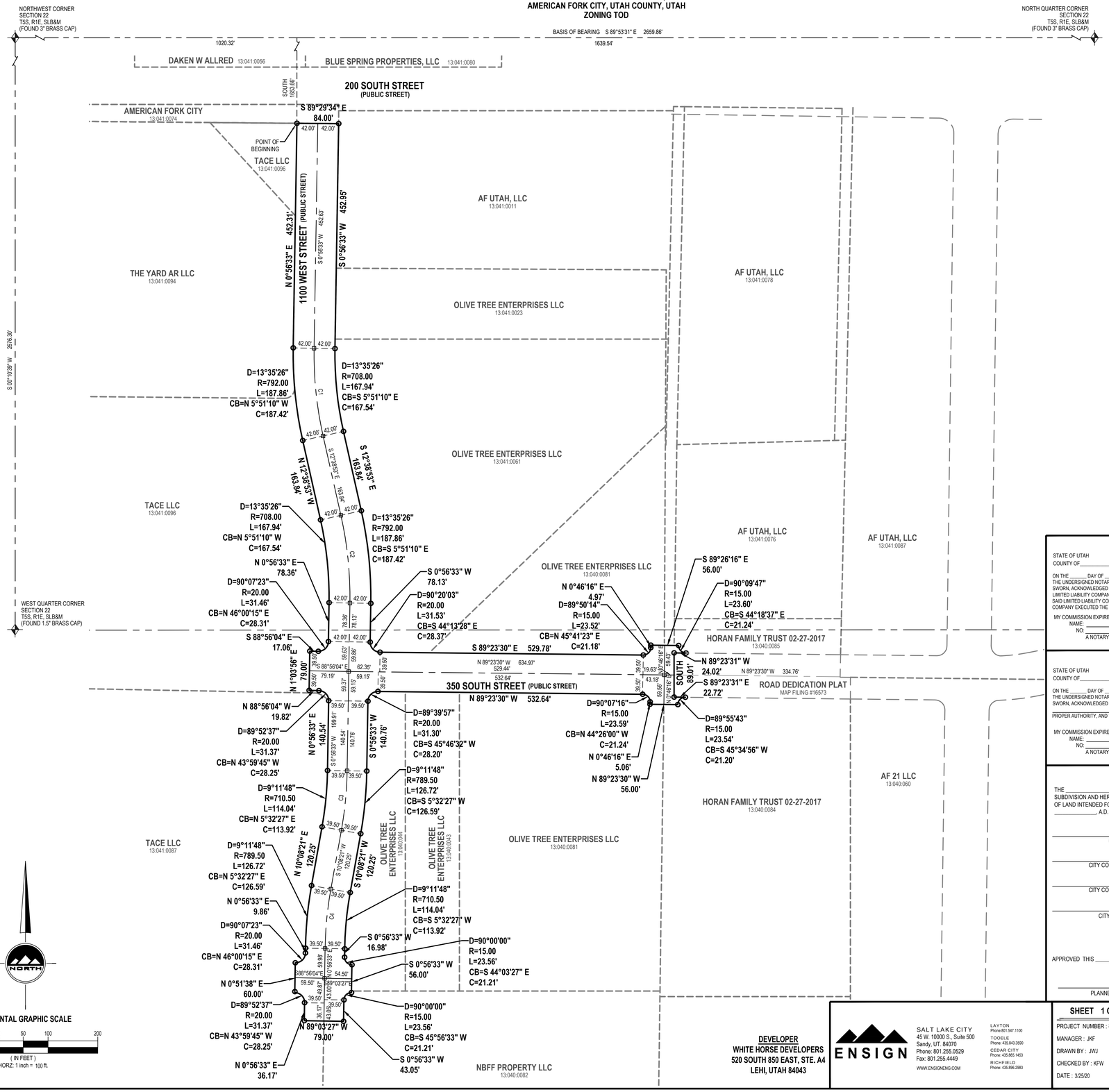
SUGGESTED MOTION Move to approve the 1100 West and 350 South Road Dedication Plat.

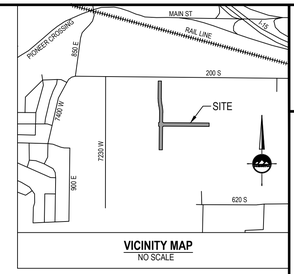
SUPPORTING DOCUMENTS

2020-03-25 1100 West 350 South Road Dedication Plat (PDF)
2020.07.08 PC Minutes Approved #2 (PDF)

1100 WEST AND 350 SOUTH ROAD DEDICATION PLAT

**LOCATED IN THE WEST HALF OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST,
SALT LAKE BASE AND MERIDIAN,
AMERICAN FORK CITY, UTAH COUNTY, UTAH
ZONING TOD**





VICINITY MAP
NO SCALE

LEGEND

- SECTION CORNER
- EXISTING STREET MONUMENT
- PROPOSED STREET MONUMENT
- SET 5/8" REBAR WITH YELLOW PLASTIC CAP, OR NAIL STAMPED "ENSIGN ENG. & LAND SURV."
- SECTION LINE
- CENTER LINE
- PROPERTY LINE
- ADJACENT PROPERTY LINE
- ADJACENT RIGHT OF WAY LINE

ENSIGN ENG. LAND SURV.

CURVE TABLE

CURVE	RADIUS	LENGTH	DELTA	BEARING	CHORD
C1	750.00'	177.90'	13°35'26"	S5°51'10"E	177.48'
C2	750.00'	177.90'	13°35'26"	N5°51'10"W	177.48'
C3	750.00'	120.38'	9°11'48"	N5°32'27"E	120.25'
C4	750.00'	120.38'	9°11'48"	S5°32'27"W	120.25'

SURVEYOR'S CERTIFICATE

I, PATRICK M. HARRIS, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, AND THAT I HOLD A LICENSE IN ACCORDANCE WITH TITLE 58, CHAPTER 22, PROFESSIONAL ENGINEERS AND LAND SURVEYORS LICENSING ACT, UTAH CODE ANNOTATED, 1953 AS AMENDED CERTIFICATE NUMBER 286882. I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS, I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW, HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS, STREETS, AND EASEMENTS, HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17, UTAH CODE ANNOTATED, 1953 AS AMENDED, HAVE VERIFIED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THE PLAT.

BOUNDARY DESCRIPTION

Beginning at a point being North 89°53'31" East 1,020.30 feet along section line and South 1,653.66 feet from the Northwest Corner of Section 22, Township 5 South, Range 1 East, Salt Lake Base and Meridian; and running

thence South 89°29'34" East 84.00 feet;
thence South 00°56'33" West 452.95 feet;
thence Southeasterly 167.94 feet along the arc of a 708.00 feet radius curve to the left (center bears South 89°03'27" East and the chord bears South 05°51'10" West 167.54 feet with a central angle of 13°35'26");
thence South 12°38'53" East 163.84 feet;
thence Southeasterly 187.86 feet along the arc of a 792.00 feet radius curve to the right (center bears South 77°21'07" West and the chord bears South 05°51'10" East 187.42 feet with a central angle of 13°35'26");
thence South 00°56'33" West 78.13 feet;
thence Southeasterly 31.53 feet along the arc of a 20.00 feet radius curve to the left (center bears South 89°03'27" East and the chord bears South 44°13'28" East 28.37 feet with a central angle of 90°20'03");
thence South 89°23'30" East 529.75 feet;
thence Northeasterly 23.52 feet along the arc of a 15.00 feet radius curve to the left (center bears North 00°36'30" East and the chord bears North 45°41'23" East 21.18 feet with a central angle of 89°50'14");
thence North 00°46'16" East 4.97 feet;
thence South 89°26'16" East 56.00 feet;
thence Southeasterly 23.60 feet along the arc of a 15.00 feet radius curve to the left (center bears South 89°13'44" East and the chord bears South 44°18'37" East 21.24 feet with a central angle of 90°09'47");
thence North 89°23'31" West 24.02 feet;
thence South 89.01 feet;
thence South 89°23'31" East 22.72 feet;
thence Southwesterly 23.54 feet along the arc of a 15.00 feet radius curve to the left (center bears South 00°32'47" West and the chord bears South 45°34'56" West 21.20 feet with a central angle of 89°55'43");
thence North 89°23'30" West 56.00 feet;
thence North 00°46'16" East 5.06 feet;
thence Northwesterly 23.59 feet along the arc of a 15.00 feet radius curve to the left (center bears North 89°22'22" West and the chord bears North 44°26'00" West 21.24 feet with a central angle of 90°07'16");
thence North 89°23'30" West 532.64 feet;
thence Southwesterly 31.30 feet along the arc of a 20.00 feet radius curve to the left (center bears South 00°36'30" West and the chord bears South 45°46'32" West 28.20 feet with a central angle of 89°39'57");
thence South 00°56'33" West 140.76 feet;
thence Southwesterly 126.72 feet along the arc of a 789.50 feet radius curve to the right (center bears North 89°03'27" West and the chord bears South 05°32'27" West 126.59 feet with a central angle of 09°11'48");
thence South 10°08'21" West 120.25 feet;
thence Southwesterly 114.04 feet along the arc of a 710.50 feet radius curve to the left (center bears North 79°51'39" East and the chord bears South 05°32'27" West 113.92 feet with a central angle of 09°11'48");
thence South 00°56'33" West 16.98 feet;
thence Southeasterly 23.56 feet along the arc of a 15.00 feet radius curve to the left (center bears South 89°03'27" East and the chord bears South 44°03'27" East 21.21 feet with a central angle of 90°00'00");
thence South 00°56'33" West 56.00 feet;
thence Southwesterly 23.56 feet along the arc of a 15.00 feet radius curve to the left (center bears South 00°56'33" West and the chord bears South 45°56'33" West 21.21 feet with a central angle of 90°00'00");
thence South 00°56'33" West 43.05 feet;
thence North 89°03'27" West 79.00 feet;
thence North 00°56'33" East 36.17 feet;
thence Northwesterly 31.37 feet along the arc of a 20.00 feet radius curve to the left (center bears North 89°03'27" West and the chord bears North 43°59'45" West 28.25 feet with a central angle of 89°52'37");
thence North 00°51'38" East 60.00 feet;
thence Northeasterly 31.46 feet along the arc of a 20.00 feet radius curve to the left (center bears North 01°03'56" East and the chord bears North 46°00'15" East 28.31 feet with a central angle of 90°07'23");
thence North 00°56'33" East 9.86 feet;
thence Northeasterly 126.72 feet along the arc of a 789.50 feet radius curve to the right (center bears South 89°03'27" East and the chord bears North 05°32'27" East 126.59 feet with a central angle of 09°11'48");
thence North 10°08'21" East 120.25 feet;
thence Northeasterly 114.04 feet along the arc of a 710.50 feet radius curve to the left (center bears North 79°51'39" West and the chord bears North 05°32'27" East 113.92 feet with a central angle of 09°11'48");
thence North 00°56'33" East 140.54 feet;
thence Northwesterly 31.37 feet along the arc of a 20.00 feet radius curve to the left (center bears North 89°03'27" West and the chord bears North 43°59'45" West 28.25 feet with a central angle of 89°52'37");
thence North 88°56'04" West 19.82 feet;
thence North 01°03'56" East 79.00 feet;
thence South 88°56'04" East 17.06 feet;
thence Northeasterly 31.45 feet along the arc of a 20.00 feet radius curve to the left (center bears North 01°03'56" East and the chord bears North 46°00'15" East 28.31 feet with a central angle of 90°07'23");
thence North 00°56'33" East 78.36 feet;
thence Northwesterly 187.94 feet along the arc of a 708.00 feet radius curve to the left (center bears North 89°03'27" West and the chord bears North 05°51'10" West 167.54 feet with a central angle of 13°35'26");
thence North 12°38'53" West 163.84 feet;
thence Northwesterly 187.86 feet along the arc of a 792.00 feet radius curve to the right (center bears North 77°21'07" East and the chord bears North 05°51'10" West 187.42 feet with a central angle of 13°35'26");
thence North 00°56'33" East 452.31 feet to the point of beginning.

Contains 205,645 Square Feet or 4.721 Acres

OWNER'S DEDICATION

KNOWN ALL MEN BY THESE PRESENT THAT WE, ALL OF THE UNDERSIGNED OWNERS OF ALL OF THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE HEREIN AND SHOWN ON THIS MAP, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO STREETS AND EASEMENTS AND DO HEREBY DEDICATE THE STREETS AND OTHER PUBLIC AREAS AS INDICATED HEREON FOR PERPETUAL USE OF THE PUBLIC.

IN WITNESS HEREOF WE HAVE HEREUNTO SET OUR HANDS THIS _____ DAY OF _____, A.D. 20____.

NAME / COMPANY
NAME / COMPANY
NAME / COMPANY
NAME / COMPANY

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF _____ } S.S.

ON THE _____ DAY OF _____ A.D. 20 ___, _____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY OF _____, IN SAID STATE OF UTAH, WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT HE/SHE IS THE _____ OF _____, A LIMITED LIABILITY COMPANY AND THAT HE/SHE SIGNED THE OWNER'S DEDICATION FREELY AND VOLUNTARILY FOR AND IN BEHALF OF SAID LIMITED LIABILITY COMPANY FOR THE PURPOSES THEREIN MENTIONED AND ACKNOWLEDGED TO ME THAT SAID LIMITED LIABILITY COMPANY EXECUTED THE SAME.

MY COMMISSION EXPIRES: _____
NAME: _____
NO: _____
A NOTARY PUBLIC COMMISSION IN UTAH
NOTARY PUBLIC RESIDING IN _____ COUNTY

TRUST ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF _____ } S.S.

ON THE _____ DAY OF _____ A.D. 20 ___, _____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY OF _____, IN SAID STATE OF UTAH, WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT HE/SHE/THEY IS/ARE THE _____ OF _____, AND EXECUTED IT WITH LAWFUL AND PROPER AUTHORITY, AND THE EXECUTION WAS A VALID ACT BINDING BY SAID TRUST.

MY COMMISSION EXPIRES: _____
NAME: _____
NO: _____
A NOTARY PUBLIC COMMISSION IN UTAH
NOTARY PUBLIC RESIDING IN _____ COUNTY

APPROVAL BY LEGISLATIVE BODY

THE _____ OF _____ COUNTY OF UTAH, APPROVES THIS SUBDIVISION AND HEREBY ACCEPTS THE DEDICATION OF ALL THE STREETS, EASEMENTS, AND OTHER PARCELS OF LAND INTENDED FOR PUBLIC PURPOSES FOR THE PERPETUAL USE OF THE PUBLIC THIS _____ DAY OF _____, A.D. 20____

MAYOR
CITY COUNCIL MEMBER
CITY COUNCIL MEMBER
CITY COUNCIL MEMBER
CITY COUNCIL MEMBER
CITY COUNCIL MEMBER
CITY COUNCIL MEMBER
CITY ENGINEER
ATTEST: _____
CLERK - RECORDER (SEE SEAL BELOW)

PLANNING COMMISSION APPROVAL

APPROVED THIS _____ DAY OF _____ A.D. 20____. BY THE AMERICAN FORK CITY PLANNING COMMISSION.

PLANNER
PLANNING COMMISSION CHAIRMAN

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF _____ } S.S.

ON THE _____ DAY OF _____, A.D. 20 ___, _____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY OF _____, IN SAID STATE OF UTAH, WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT HE/SHE IS THE _____ OF _____, A LIMITED LIABILITY COMPANY AND THAT HE/SHE SIGNED THE OWNER'S DEDICATION FREELY AND VOLUNTARILY FOR AND IN BEHALF OF SAID LIMITED LIABILITY COMPANY FOR THE PURPOSES THEREIN MENTIONED AND ACKNOWLEDGED TO ME THAT SAID LIMITED LIABILITY COMPANY EXECUTED THE SAME.

MY COMMISSION EXPIRES: _____
NAME: _____
NO: _____
A NOTARY PUBLIC COMMISSION IN UTAH
NOTARY PUBLIC RESIDING IN _____ COUNTY

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF _____ } S.S.

ON THE _____ DAY OF _____, A.D. 20 ___, _____ PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, IN AND FOR SAID COUNTY OF _____, IN SAID STATE OF UTAH, WHO AFTER BEING DULY SWORN, ACKNOWLEDGED TO ME THAT HE/SHE IS THE _____ OF _____, A LIMITED LIABILITY COMPANY AND THAT HE/SHE SIGNED THE OWNER'S DEDICATION FREELY AND VOLUNTARILY FOR AND IN BEHALF OF SAID LIMITED LIABILITY COMPANY FOR THE PURPOSES THEREIN MENTIONED AND ACKNOWLEDGED TO ME THAT SAID LIMITED LIABILITY COMPANY EXECUTED THE SAME.

MY COMMISSION EXPIRES: _____
NAME: _____
NO: _____
A NOTARY PUBLIC COMMISSION IN UTAH
NOTARY PUBLIC RESIDING IN _____ COUNTY

1100 WEST AND 350 SOUTH ROAD DEDICATION PLAT

**LOCATED IN THE WEST HALF OF SECTION 22,
TOWNSHIP 5 SOUTH, RANGE 1 EAST,
SALT LAKE BASE AND MERIDIAN,
AMERICAN FORK CITY, UTAH COUNTY, UTAH**

SURVEYORS SEAL
PROFESSIONAL LAND SURVEYOR — No. 286882 — PATRICK M. HARRIS — STATE OF UTAH
NOTARY PUBLIC SEAL
CLERK-RECORDER SEAL

DEVELOPER
WHITE HORSE DEVELOPERS
520 SOUTH 850 EAST, STE. A4
LEHI, UTAH 84043

ENSIGN
SALT LAKE CITY
45 W. 10000 S., Suite 500
Sandy, UT. 84070
Phone: 801.255.0529
Fax: 801.255.4449
WWW.ENSIGNENG.COM
LAYTON Phone:801.547.1100
TOOELE Phone: 435.843.3590
CEDAR CITY Phone: 435.865.1453
RICHFIELD Phone: 435.896.2983

SHEET 1 OF 1
PROJECT NUMBER : 8799C
MANAGER : JKF
DRAWN BY : JWJ
CHECKED BY : KFW
DATE : 3/25/20

BASIS OF BEARING
THE BASIS OF BEARING IS BETWEEN THE NORTHWEST CORNER AND THE NORTH QUARTER CORNER OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, WITH A BEARING OF SOUTH 89°53'31" EAST.

FLOOD ZONE DESIGNATION
SUBJECT PROPERTY FALLS WITHIN FLOOD ZONE X AS DELINEATED BY F.E.M.A. FLOOD INSURANCE RATE MAP, COMMUNITY PANEL MAP 49551701208 EFFECTIVE JULY 17, 2002.

Attachment: 2020-03-25 1100 West 350 South Road Dedication Plat (1100 West and 350 South Road Dedication)

Chairman Woffinden	**Aye**
Chris Christiansen	**Aye**
Christine Anderson	**Aye**
Ryan Hunter	**Aye**
Rod Brocious	**Aye**
Harold Dudley	**Aye**

The motion passed.

2. Hearing, review and action on the 1100 West 350 South Road Dedication Plat in the Transit Oriented Development zone

Chairman Woffinden stated that items 2 and 3 will be discussed together but voted on separately.

Mr. Ben Hunter said that the applicant has been working on approval in TOD zones, these roads are on the master transportation plans. There are no major issues, they are just dedicating the land to the city. The Engineering Division recommends approval.

Public Hearing Opened

Public Hearing Closed

Mr. Ryan Hunter moved to approve the 1100 West 350 South Road Dedication Plat.

Ms. Anderson seconded the motion. Voting was as follows:

Chairman Woffinden	**Aye**
Chris Christiansen	**Aye**
Christine Anderson	**Aye**
Ryan Hunter	**Aye**
Rod Brocious	**Aye**
Harold Dudley	**Aye**

The motion passed.

Attachment: 2020.07.08 PC Minutes Approved #2 (1100 West and 350 South Road Dedication)

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Recorder **Director Approval** *Terilyn Lurker*

AGENDA ITEM Review and action on a resolution declaring real property located at approximately 725 north 900 West as surplus and to be disposed of.

SUMMARY RECOMMENDATION
Staff would recommend approval.

BACKGROUND
Recently, the city has been looking at various small parcels of land in the city that are not being utilized. The proposal before the council is to declare one such small parcel of land as surplus and to be disposed of. This property is located at approximately 725 North 900 West (west side of the street). The resolution includes a description and an aerial showing the location of the parcel.

BUDGET IMPACT
Any proceeds will be deposited into the general fund.

SUGGESTED MOTION
Move to adopt the resolution declaring the real property at approximately 725 North 900 West to be surplus and disposed of.

SUPPORTING DOCUMENTS

09-22-202 Surplus Real Property Resolution - 725 N 900 W (PDF)

RESOLUTION NO. 2020-09-__R

A RESOLUTION DECLARING PROPERTY TO BE SURPLUS

WHEREAS, American Fork City provided published notice of a public hearing in the *Deseret News* on the 8 day of September 2020; and

WHEREAS, a public hearing was held on the 22 day of September 2020, regarding the proposed surplus of property, where public comment was entertained;

THEREFORE, BE IT RESOLVED by the City Council of American Fork, Utah as follows:

The following is hereby found to be surplus real property and to be disposed of by American Fork City:

Approximate Address:	725 North 900 West
Legal Description:	Beginning at a point that is South 34.49 feet and West 186.99 feet from the North ¼ corner of Section 15, Township 5 South, Range 1 East, Salt Lake Base & Meridian: Thence S05°16'56"W 240.23 feet; S83°50'17"E 17.03 feet; thence northeasterly along a 2542 foot curve to the right, said curve being 141.54 feet in length and the chord of which is N16°01'59"E 141.52 feet; thence N19°00'11"E 89.51 feet; thence N72°04'57"W 66.26 feet to the point of beginning (area = 9,299 sqft) *(See Exhibit A)*

This Resolution shall become effective upon its passage.

PASSED by the American Fork City Council this 22nd day of September, 2020.

Bradley J. Frost, Mayor

ATTEST:

Terilyn Lurker, Recorder

Attachment: 09-22-202 Surplus Real Property Resolution - 725 N 900 W (Surplus Real Property - 725 N 900 W)



Attachment: 09-22-202 Surplus Real Property Resolution - 725 N 900 W (Surplus Real Property - 725 N 900 W)

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Recorder **Director Approval** *Terilyn Lurker*

AGENDA ITEM Review and action on the Stonecreek Annexation consisting of 25.31 acres located at approximately 300 West 1100 South including the ordinance of annexation, annexation agreement, and placement of the property in the PR 3.0 and PF (Public Facilities) zones.

SUMMARY RECOMMENDATION
Staff would recommend approval of the annexation.

BACKGROUND
This annexation was started in 2017 with the adoption of the Notice of Intent to Annex. On November 28, 2017, the city council approved the annexation agreement.

This annexation consists of a 25.31-acre parcel located in an agricultural area southwest of the Harbor Village neighborhood and immediately west of the Stonecreek Plat A Conservation Subdivision Project. The annexation area is the southern portion of a large residential development that will stretch to 400. A portion of the southwestern quadrant of this property may be purchased by UDOT as right of way for the Vineyard Connector or American Fork City through development right transfers. As this annexation was started years ago, included is the staff report and planning commission minutes from that 2017.

BUDGET IMPACT
NA

SUGGESTED MOTION
Move to approve the Stonecreek Annexation consisting of 25.31 acres at approximately 300 West 1100 South including the Ordinance of Annexation, annexation agreement, and placement of the property in the PR-3.0 and PF (Public Facilities) zone.

SUPPORTING DOCUMENTS

Stonecreek Annexation Ordinance (PDF)
Staff Report - annexation agreement (PDF)
PC Minutes - Stonecreek annexation agreement (PDF)

AN ORDINANCE

AN ORDINANCE AMENDING SECTION 1.12.010 OF THE REVISED ORDINANCES OF AMERICAN FORK CITY 1985, AS AMENDED, ANNEXING CERTAIN PROPERTIES TO AMERICAN FORK CITY AND ESTABLISHING ZONING CLASSIFICATION FOR SAID PROPERTY.

BE IT ORDAINED BY THE CITY COUNCIL OF AMERICAN FORK CITY, UTAH:

SECTION I. That the following described real property be, and the same is hereby annexed to American Fork City, Utah, the corporate limits of said city are hereby extended to include said described property, and said property is hereby declared to be part of American Fork City and shall henceforth be subject to all of the ordinances and regulations thereof, and that the description of the boundaries of American Fork City as set forth in Section 1.12.010 of the revised ordinances be amended to include the following described property to-wit:

ORDINANCE NO. _____
STONECREEK ANNEXATION (300 WEST 1000 SOUTH)
SEE ATTACHMENT 'A'

SECTION II. That the territory annexed under Section 1 above is hereby classified into the PR 3.0 and PF (Public Facilities) zones and subject to the terms and conditions of the Stonecreek Annexation Agreement as provided in Attachment ‘B’.

SECTION III. This ordinance shall take effect upon its passage and first publication.

PASSED by the City Council of American Fork this 22 day of September 2020.

Bradley J. Frost, Mayor

ATTEST:

State of Utah
County of Utah

I, Terilyn Lurker, City Recorder of American Fork City, Utah, do hereby certify the above and foregoing to be a full, true and correct copy of an ordinance amending Section 1.12.010 of the revised ordinances of American Fork City 1985, Amended, annexing certain properties to American Fork and establishing zoning classification for said property. In witness whereof, I hereunto set my hand and affix the corporate seal of American Fork, Utah this 22 day of September 2020.

Terilyn Lurker, City Recorder

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

Attachment 'A'

SURVEYOR'S CERTIFICATE

I, Travis Trane, do hereby certify that I am a Professional Land Surveyor and that I hold licence No. 5152741 in accordance with title 58, chapter 22 of the Professional Engineers an Land Surveyors licensing act, Utah code annotated, 1953 amended, I further certify that this a true and accurate map of the tract of land to be annexed to American Fork City, Utah County, Utah.

ANNEXATION DESCRIPTION

Beginning at a point which is North 00°06'23" West 363.19 feet along the section line and South 89°59'52" East 273.01 feet from the West Quarter Corner of Section 26, Township 5 South, Range 1 East, Salt Lake Base and Meridian: thence North 00°14'55" East 798.58 feet along a Boundary Line Agreement Entry 103701:2010; thence along the Harbor Road Annexation Plat "B" the following four courses (1) South 89°48'45" East 331.25 feet; (2) thence South 89°15'06" East 568.69 feet; (3) thence South 88°50'41" East 490.96 feet; (4) thence South 00°00'08" West 780.21 feet; thence North 89°59'52" West 1394.18 feet to the point of beginning.

SURVEYOR

Nov 12, 2019

DATE

PROFESSIONAL LAND SURVEYOR
11-12-19
No. 5152741
TRAVIS TRANE
STATE OF UTAH

SURVEYOR'S SEAL

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

Attachment 'B'

ANNEXATION AGREEMENT
(Stonecreek Annexation)

This Agreement, made and entered into this 11 day of November 2019, by and between The City of American Fork, Utah, a Utah Municipal Corporation (hereafter referred to as "City") and Freedom 1625 Associates, LLC, hereafter collectively referred to as "Applicants", is based on the following:

RECITALS

WHEREAS, Applicants are the owners of a parcel of privately owned real property constituting the entirety of, the Stonecreek Annexation, which annexation is located within the unincorporated territory of Utah County and contiguous to the corporate boundary of the City. A "Request to Initiate Annexation of Land Within an Island or Peninsula" relating to the Stonecreek Annexation (Attachment 1), together with a map showing the area proposed for annexation (hereafter referred to as "Annexation Area´), has been submitted to the City (Attachment 2); and

WHEREAS, the Annexation Area constitutes a portion of an existing island as defined by Utah State Law; and

WHEREAS, in accordance with the provisions of UCA 10-2-418, the American Fork City Council has heretofore adopted Resolution No. 2017-08-28R indicating its intent to annex the entire Annexation Area. Further, notice of hearing regarding the proposed annexation has been published and the public hearing thereon held. No protests to the annexation have been received; and

WHEREAS, The City Council has determined that annexation of the real property described on Attachment 2 is in the best interest of City and has indicated an intent to: (1) enact an ordinance of annexation relating thereto, subsequent to the approval and execution of this Agreement, and (2) authorize the recording of the annexation plat and ordinance at the office of the Utah County Recorder, subject to those certain understandings as are more fully set forth in this Agreement and completion of all outstanding tasks identified herein or otherwise required prior to annexation.

TERMS AND CONDITIONS

NOW THEREFORE, based on the above recitals and in consideration of the annexation of the territory described in Attachment 2 to City, the parties covenant and agree as follows:

SECTION 1 - Applicability of Agreement. The real property to which the terms of this Agreement apply shall be the parcel of private property within the Annexation Area, identified on Attachment 2.

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

SECTION 2 - Annexation a benefit to Applicants. Applicants and City acknowledge that City is not required to approve the annexation and that the terms and conditions of annexation, as set forth herein, are reasonable and entered into freely and voluntarily. Further, Applicants hereby acknowledge and agree that the benefit received from annexation of the property is equal to or greater than the requirements and conditions of development as set forth in this Agreement and as required by the terms of City's Development Code, Impact Fee Ordinance and Sensitive Lands Ordinance and does not constitute a taking as defined pursuant to the terms of UCA 10-9a-103(6), 1953, as amended.

SECTION 3 - Authority of Applicants. Applicants hereby affirm that they are the current owners of the Parcels and have complete authority to enter into this Agreement and to bind the properties hereto.

SECTION 4 - Compatibility with Land Use Plan and Initial Zone Classification. The Land Use Element of the General Plan for the area shows the Parcel within the Low Density Residential designation. As such, it is proposed that the PR-3.0 zone (which zone district allows for a variety of lot sizes and development styles) apply to areas north of the Vineyard Connector corridor. A portion of the property is in a corridor for construction of the Vineyard Connector roadway, and is to be placed in the PF Public Facilities Zone. The initial zone designations applicable within the Annexation Area, to become effective at the time of annexation, are shown on Attachment 3, which is made a part of this Agreement

SECTION 5 – Annexation Concept Plan: City agrees that because of uncertainty in design, the impact from geotechnical studies, Vineyard Connector Corridor, sensitive lands evaluation and number of transfer of development rights, no annexation concept plan will be required as a condition of annexation. Applicants are made aware that all future submittals for development shall fully conform to the requirements of the PR-3.0 zone.

SECTION 6 - Vineyard Connector. UDOT has expressed an interest to acquire portions of the proposed Vineyard Connector right-of-way over land owned by Applicants. The location of lands to be acquired by UDOT are shown on Attachment 3, labeled "PF". City acknowledges that the Vineyard Connector is to be placed in the PF zone and constructed by UDOT and that no conveyance of right of-way is required as a condition of annexation. City acknowledges that it has been notified by UDOT that the Vineyard Connector is a priority corridor. This notification requires the City provide UDOT a 45-day written notice prior to formalizing any action within or affecting the intended right-of-way corridor. Applicants acknowledge that, all other conditions of this agreement being found acceptable to the City, this agreement will only be deemed approved by City following that 45-day notice and response from UDOT. This same notice period will occur prior to City action at each process in the development of the parcel, unless UDOT notifies City to the contrary. Attachment 3 labels the corridor as a TDR-S Zone (Transfer of Development Rights-Sending Zone). This TDR-S Zone designation is applicable only to the extent that UDOT does NOT purchase right-of-way. If UDOT does purchase right-of-way from the Applicant, this TDR-S Zone will not apply, as fair market value will be paid for the corridor, by UDOT. If UDOT does not purchase the right-of-way and the City requires the right-of-way at a later date, the TDR-S Zone will apply and density credits may be transferred. The number of development rights applicable to this TDR- S is

uncertain, but is to be determined at the time of the initial request for development based at the rate of three dwelling units per acre.

SECTION 7 - Conveyance of Water Right. City agrees to allow a delay in the actual conveyance of water rights until the time of development based upon a proposed concept plan and pursuant to City ordinances at the time of development. A Water Dedication Agreement shall be enacted by the Applicants, requiring water dedication at the time of development. This agreement is included as Attachment 4.

SECTION 8 - Geotechnical and Wetland Delineation required. City acknowledges that the purpose of the Annexation is to facilitate the subsequent development of the land as a residential project. Applicants acknowledge that portions of the Annexation Area may have significant physical limitations for development including, but not necessarily limited to, high water table, wetlands and the presence of historic open drains (sloughs) which require the need for a detailed geotechnical report and wetlands delineation to determine suitability of the area for development. Prior to any request for development approval, Applicants agree to provide a geotechnical study report and wetlands delineation covering the Annexation Area, identifying certain natural conditions, indicating any areas that may be unsuitable for development and providing recommendations for mitigation. City agrees to allow a delay in the time of preparation of the geotechnical study and wetlands delineation until the time of development plan submittal. All further submissions for development approval within the Annexation Area will incorporate impacts relating to natural conditions identified in the geotechnical report and as set forth in the criteria for development, as set forth in the Sensitive Lands Ordinance.

SECTION 9 - Impact Fees. No impact fees are required as a condition of annexation. However, nothing in this Agreement constitutes a waiver of any obligation that Applicants or any successor may have for the payment of impact fees required as a condition of development of the Annexation Area or any portion thereof. Applicants acknowledge that no development approval or building permit shall be issued until all applicable fees required by City ordinance have been paid at the amount then in effect.

SECTION 10 - Default. Should any of the parties default in the performance of any of the terms of this Agreement, the parties shall first seek mediation to resolve any defaulting performance. The defaulting party shall pay all costs and expenses, including mediation fees and/or reasonable attorney's fee, which may arise from enforcing this Agreement, whether such remedy is pursued by mediation and/or filing suit or otherwise.

SECTION 11 - Notice. Any Notice to be given hereunder shall be given by certified mail, return receipt requested, addressed as follows:

a. If to City, to the City of American Fork, 51 East Main Street, American Fork, Utah 84003.

b. If to Applicants, to Freedom 1625 Associates, LLC, Attn: Mike Carson, PO Box 971120, Orem Utah 84097.

SECTION 12 - Entire Agreement. This Agreement constitutes the entire agreement between the parties and may be changed only in writing signed by all parties, and this agreement shall bind the heirs, assigns and successors in interest of the respective parties. If any party shall breach this Agreement, the other party shall be entitled to recover their attorney's fees and court costs in addition to other lawful damages resulting therefrom.

IN WITNESS WHEREOF, the parties have signed this agreement on the date first mentioned above.

Freedom 1625 Associates, LLC

American Fork City

_____
Mayor

ATTEST:

_____
City Recorder

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

LIST OF ATTACHMENTS

Attachment 1	Copy of Request to Initiate Annexation
Attachment 2	Copy of Annexation Plat
Attachment 3	Map illustrating: 1) Zone Classifications, 2) Vineyard Connector Corridor
Attachment 4	Water Dedication Agreement (TO BE PROVIDED BY APPLICANTS)

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

Attachment 1

Exhibit 'A'

REQUEST TO INITIATE ANNEXATION
OF LAND WITHIN IN AN ISLAND OR PENINSULA

DATE: _____

We the undersigned, by virtue of our signatures affixed hereto, do hereby request the City of American Fork, Utah, to annex the parcel(s) identified on the attached map, in accordance with the procedures for "Annexation Without Petition" as set forth under Section 10-2-418(1)(a)(ii) of the Utah State Code.

We hereby further acknowledge and affirm as follows:

A. The area to be annexed is contiguous to the municipality and has fewer than 800 residents, and
B. The municipality has provided one or more municipal type services to the area for at least one year.

Tax I.D. No.	Name(s) of Owner	Signature of Owner(s)
13-065-0053	Freedom 1625 Associates, LLC	by

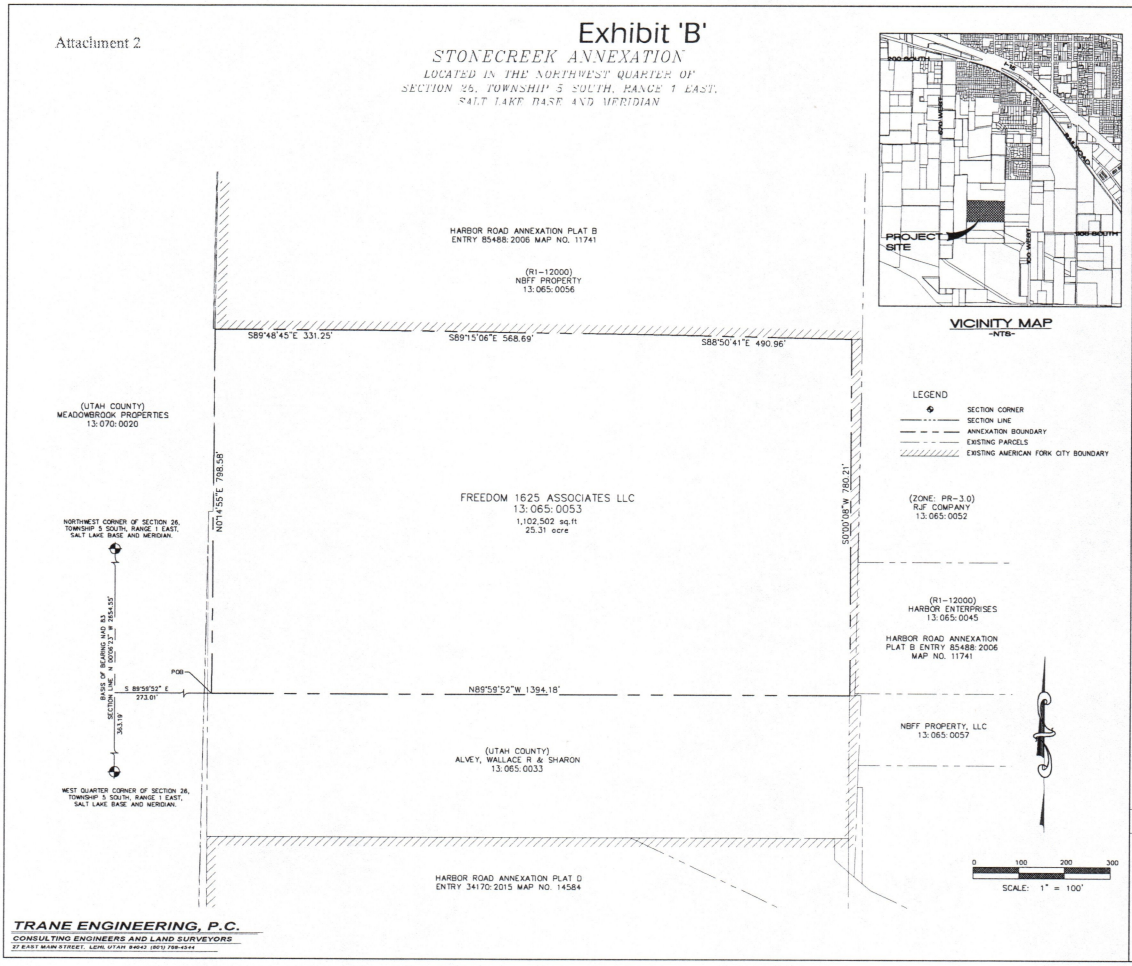
Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

Attachment 2

Exhibit 'B'

STONECREEK ANNEXATION

LOCATED IN THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN



VICINITY MAP
-NTS-

LEGEND
- SECTION CORNER
- SECTION LINE
- ANNEXATION BOUNDARY
- EXISTING PARCELS
- EXISTING AMERICAN FORK CITY BOUNDARY

SURVEYOR'S CERTIFICATE

I, Travis Trane, do hereby certify that I am a Professional Land Surveyor and that I hold licence No. 5152741 in accordance with title 58, chapter 22 of the Professional Engineers Land Surveyors licensing act, Utah code annotated, 1953 amended, I further certify that th a true and accurate map of the tract of land to be annexed to American Fork City, Utah County, Utah.

ANNEXATION DESCRIPTION

Beginning at a point which is North 00°06'23" West 363.19 feet along the section line and South 89°59'52" East 273.01 feet from the West Quarter Corner of Section 26, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence North 00°14'55" East 798.58 fe along a Boundary Line Agreement Entry 103701:2010; thence along the Harbor Road Annexation Plat "B" the following four courses (1) South 89°48'45" East 331.25 feet; (2) thence South 89°15'06" East 568.69 feet; (3) thence South 88°50'41" East 490.96 feet; thence South 00°00'08" West 780.21 feet; thence North 89°59'52" West 1394.18 feet to th point of beginning.

SURVEYOR

DATE

SURVEYOR'S SEAL

This plat has been reviewed by the County Surveyor and is hereby certified as a final local entity plat, pursuant to Utah Code Ann. 17-23-20 as amended

SURVEYOR

DATE

COUNTY SURVEYOR'S S

ACCEPTANCE BY LEGISLATIVE BODY

We, the duly elected Council of the City of American Fork, Utah, have received a request initiate procedures for the annexation of the tract of land shown heron, which tract constitutes a portion of an existing island or peninsula within or contiguous to the City, c do hereby certify: (1) the Council has adopted a resolution setting forth its intent to ann the tract, provided notice and conducted hearings on the matter, and adopted an ordinar providing for the annexation of the tract to the City; all in accordance with the provision of Section 10-2-418 Utah Code Annotated, as amended; and (2) that the Council does hereby approve and accept the annexation of the tract of land shown hereon as a part American Fork City, to be known here after as the STONECREEK Annexation.

DATED THIS _____ DAY OF _____, 2017.

RECORDER

RECORDER'S SEAL

AMERICAN FORK CITY PLAT

STONECREEK ANNEXATION

AMERICAN FORK CITY, UTAH COUNTY, UTAH

SCALE 1" = 100 FEET

RECORDING INFORMATION

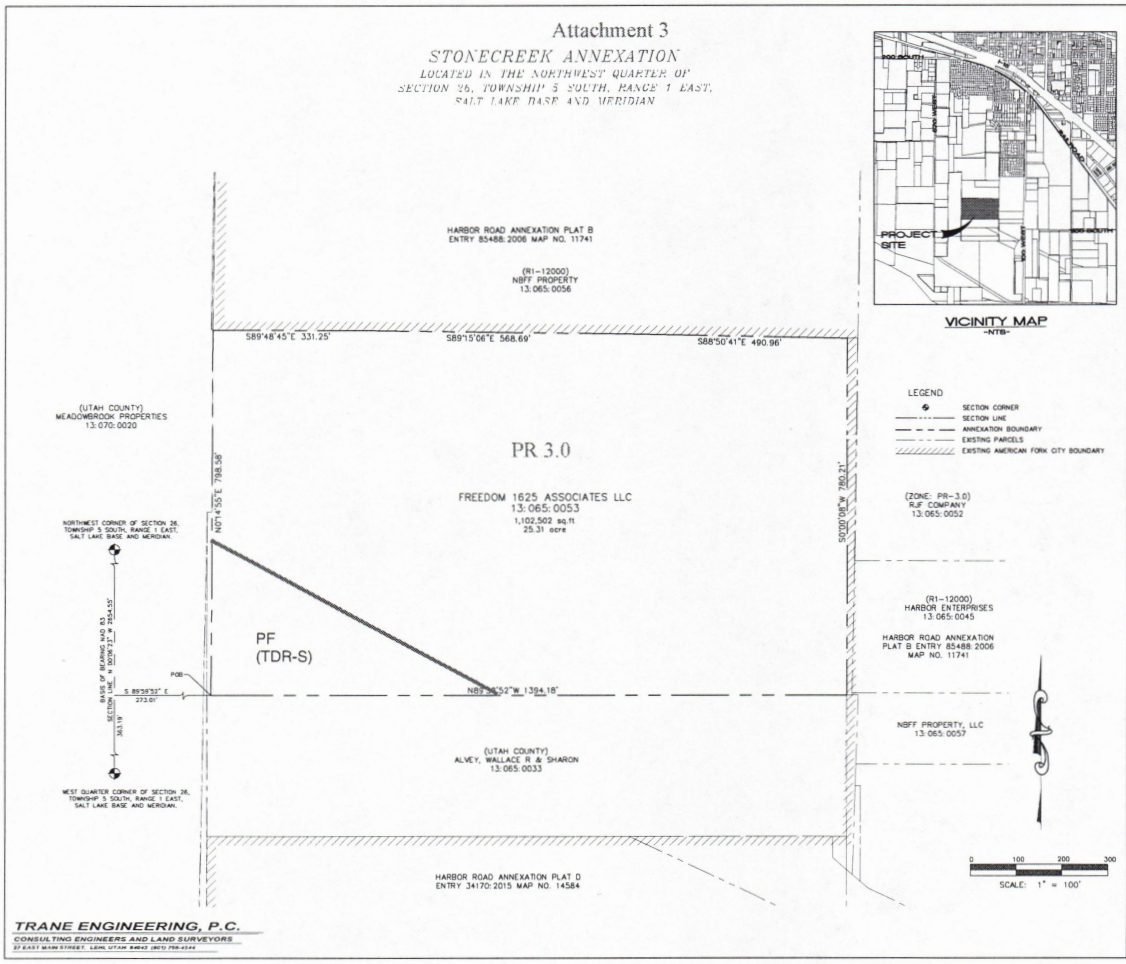
TRANE ENGINEERING, P.C.
CONSULTING ENGINEERS AND LAND SURVEYORS
37 EAST MAIN STREET, LEHI, UTAH 84043 (801) 768-4344

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

Attachment 3

STONECREEK ANNEXATION

LOCATED IN THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN



VICINITY MAP
-NTS-

LEGEND
- SECTION CORNER
- SECTION LINE
- ANNEXATION BOUNDARY
- EXISTING PARCELS
- EXISTING AMERICAN FORK CITY BOUNDARY

TRANE ENGINEERING, P.C.
CONSULTING ENGINEERS AND LAND SURVEYORS
37 EAST MAIN STREET, LEHI, UTAH 84043 (801) 768-4344

SURVEYOR'S CERTIFICATE

I, Travis Trane, do hereby certify that I am a Professional Land Surveyor and that I hold licence No. 5152741 in accordance with title 58, chapter 22 of the Professional Engineers Land Surveyors licensing act, Utah code annotated, 1953 amended. I further certify that I a true and accurate map of the tract of land to be annexed to American Fork City, Utah County, Utah

ANNEXATION DESCRIPTION

Beginning at a point which is North 00°06'23" West 363.19 feet along the section line and South 89°59'52" East 273.01 feet from the West Quarter Corner of Section 26, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence North 00°14'55" East 798.58 fe along a Boundary Line Agreement Entry 103701:2010; thence along the Harbor Road Annexation Plat "B" the following four courses (1) South 89°48'45" East 331.25 feet; (2) thence South 89°15'06" East 568.69 feet; (3) thence South 88°50'41" East 490.96 feet; thence South 00°00'08" West 780.21 feet; thence North 89°59'52" West 1394.18 feet to th point of beginning.

SURVEYOR

DATE

SURVEYOR'S SEAL

This plat has been reviewed by the County Surveyor and is hereby certified as a final local entity plat, pursuant to Utah Code Ann. 17-23-20 as amended

SURVEYOR

DATE

COUNTY SURVEYOR'S S

ACCEPTANCE BY LEGISLATIVE BODY

We, the duly elected Council of the City of American Fork, Utah, have received a request initiate procedures for the annexation of the tract of land shown heron, which tract constitutes a portion of an existing island or peninsula within or contiguous to the City, do hereby certify: (1) the Council has adopted a resolution setting forth its intent to an the tract, provided notice and conducted hearings on the matter, and adopted an ordina providing for the annexation of the tract to the City; all in accordance with the provisio of Section 10-2-418 Utah Code Annotated, as amended, and (2) that the Council does hereby approve and accept the annexation of the tract of land shown heron as a part American Fork City, to be Known here after as the STONECREEK Annexation.

DATED THIS _____ DAY OF _____, 2017

RECORDER

RECORDER'S SEAL

AMERICAN FORK CITY PLAT

STONECREEK ANNEXATION

AMERICAN FORK CITY, UTAH COUNTY, UTAH

SCALE 1" = 100 FEET

RECORDING INFORMATION

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

WATER DELAY AGREEMENT FOR ANNEXATION

This Water Delay Agreement for Annexation ("**Agreement**") is entered into as of the _____ day of _____, 20___ ("**Effective Date**"), by and between _____ ("**Owner**"), and AMERICAN FORK CITY, a municipal corporation and political subdivision of the State of Utah ("**City**").

RECITALS

WHEREAS Owner is the owner of Parcel Nos. 13065005 3 ("**Property**"), which are located outside of the City's current municipal boundaries; and

WHEREAS Owner has filed with the City a request to have the Property annexed into the City ("**Annexation Request**"); and

WHEREAS Section 17.1.400(C) of the City Code requires the conveyance of title to water rights concurrently with final action by the City Council on an annexation, except under pursuant to certain findings, terms, and conditions; and

WHEREAS City and Owner desire to enter into this Agreement as part of the findings, terms, and conditions required under Section 17.1.400(C) of the City Code.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and City, incorporating the recitals set forth above, agree as follows:

AGREEMENT

1. Determination of City Council. The City Council, with the recommendation of the City Planning Commission, has determined that there is good and sufficient reason to delay the time of conveyance of water rights and/or water shares beyond the time of the City Council's final action on the Annexation Request. This determination was made in the City Council meeting held on _____, 20___. The basis and reasoning for the City Council's determination are included within the recording, minutes, and other documentation from said City Council meeting.

2. Water Rights/Shares. The specific water rights and/or water shares that may be conveyed to the City, and that pursuant to the terms and conditions of this Agreement are hereby committed to the City, which commitment is irrevocable by Owner and may be released by the City only as provided in this Agreement ("**Committed Water**"), are identified in Exhibit A of this Agreement.

3. Conveyance of Committed Water. Prior to the City's approval of any development on the Property that will require the delivery of water, the City will determine the amount of water rights/shares required for dedication and conveyance to the City in order to meet the water requirements of the development. Owner will convey clear title to the required amount of the Committed Water to the City. If the amount of water necessary for the development is less than the

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

total amount of the Committed Water, the City will release the commitment (provided in paragraph 2 above) as to the unnecessary portion of the Committed Water. If the amount of water necessary for the development is more than the total amount of the Committed Water, Owner shall convey additional acceptable water rights/shares to the City to meet the dedication requirements. If the Committed Water consists of any water rights, the conveyance shall be by Warranty Deed and an accompanying Water Rights Deed Addendum. If the Committed Water consists of any water shares, the conveyance shall be by assignment, endorsement, and delivery of the appropriate share certificates. Owner acknowledges that under the Article XI, Section 6 of the Utah Constitution, City is prohibited from returning to Owner any portion of the Committed Water once it has been conveyed to the City.

4. Change Application. If any of the Committed Water consists of water rights, an express prerequisite for conveyance shall be the filing and approval of an Application for Permanent Change of Water ("**Change Application**") with the Utah Division of Water Rights ("**Division**") to convert the water rights to municipal use to be diverted from the City's wells. Prior to the filing of the Change Application, the water rights shall be reviewed by the City's water attorneys to ensure that the water rights are suitable for dedication. The City's water attorneys shall also prepare and prosecute the Change Application, with the full assistance and support of Owner. The water rights will be deemed acceptable for conveyance to the City under this paragraph upon the issuance of an Order approving the Change Application that is acceptable to the City and upon expiration of all applicable deadlines for requests for reconsideration and/or appeal of the Order. Owner shall be responsible for all costs associated with the Change Application, including but not limited to the City's attorney fees, application filing fees, and document fees.

5. Title to Committed Water. Owner shall convey unencumbered title to the Committed Water to the City. If the Committed Water consists of water rights, the City will obtain a water rights title insurance policy for the water rights. Owner shall be responsible for all costs associated with the water rights title insurance, including but not limited to the policy premium and recording fees. Owner shall be responsible for satisfying the requirements and conditions of the Title Commitment in order for the title company to issue a title insurance policy that is acceptable to the City. A water rights title insurance policy that is agreeable to the City is an express condition to the acceptability of the water rights for dedication and conveyance to the City. If the Committed Water consists of water shares, the City will obtain written confirmation of share ownership and current payment of all assessments from the respective water company/companies. Owner shall be responsible for all costs associated with obtaining the written confirmation. From the date of this Agreement until the Committed Water is conveyed to the City, Owner shall not sell or otherwise dispose of the Committed Water, nor shall Owner allow any liens or encumbrances upon the Committed Water that would prevent Owner from conveying unencumbered title to the Committed Water to the City.

6. Cessation of Owner's Use. Upon conveyance of the Committed Water to the City, Owner shall immediately cease any and all use of the Committed Water.

7. Successors and Assigns. Pursuant to the terms of this Agreement, Owner shall have the right to assign its rights, duties, and obligations. The parties acknowledge that the rights, duties, and obligations of Owner will also apply to any successor or assign of Owner, and that the use of the term "Owner" in this contract includes Owner's successors or assigns.

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

8. Ownership of Water Facilities. Nothing in this Agreement shall alter the ownership of any wells or other water facilities of Owner or City.

9. Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes all prior agreements and understandings concerning the commitment and conveyance of water rights for the Property. This Agreement shall not be amended, modified, or terminated except by written instrument signed by all parties.

10. Construction and Enforcement. This Agreement shall be construed in accordance with and governed by the laws of the State of Utah. This Agreement may be specifically enforced.

11. Third Party Beneficiaries. This Agreement is not intended to and shall not create any rights in any person or entity not a party to this Agreement.

12. Attorney Fees. In any action arising out of this Agreement, the prevailing party shall be entitled to costs and reasonable attorney fees.

13. Further Assurances. After the execution of this Agreement, the parties agree to execute and deliver such documents, and to take or cause to be taken all such other actions, as either party may reasonably deem necessary or appropriate in order to carry out the intents and purposes of this Agreement.

14. Severability. If any term, covenant, or condition of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and the remainder of the Agreement shall remain in full force and effect.

15. Authority of Parties. The persons signing this Agreement represent and warrant that they have full authority to do so and that their corporation or entity has undertaken and obtained whatever formalities and approvals are necessary to enter into this Agreement.

16. Counterparts. This Agreement may be executed in multiple counterparts, all of which taken together shall comprise one agreement.

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

Approved as to form by City's attorney 7/11/2018

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

AMERICAN FORK CITY

_____ Attest: _____
Bradley J. Frost, Mayor Terilyn Lurker, City Recorder

STATE OF UTAH)
:ss
COUNTY OF _____)

On the _____ day of _____, 20___, personally appeared before me Bradley J. Frost and Terilyn Lurker, known to me to be the Mayor and City Recorder, respectively, of American Fork City, who acknowledged to me that they executed the within Water Delay Agreement pursuant to the approval and authorization of the City Council at a regular meeting at which a quorum was in attendance.

_____
NOTARY PUBLIC

[OWNER]

_____

STATE OF UTAH)
:ss
COUNTY OF Utah)

On the 6 day of January, 2020, Robert Thomson personally appeared before me and duly acknowledged that he/she executed this Water Delay Agreement for the purposes stated therein.

Lisa Halversen
_____
NOTARY PUBLIC

LISA HALVERSEN
NOTARY PUBLIC - STATE OF UTAH
COMMISSION# 705891
COMM. EXP. 06-03-2023

Approved as to form by City's attorney 7/11/2018

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

EXHIBIT A

Description of Water Rights and/or Water Shares Committed to the City

Attachment: Stonecreek Annexation Ordinance (Stonecreek Annexation - Ordinance)

Approved as to form by City's attorney 7/11/2018

Review and action on an annexation agreement for the Stonecreek Annexation consisting of 25.31 acres, located in the area of 300 West 1100 South

The Stonecreek Annexation consists of 25.31 acres and is located at approximately 300 West 1100 South. Current use of the land is agriculture. The City's Land Use element of the General Plan designates the annexation area as "Low Density Residential", at 3 du/ac. The annexation constitutes a portion of a larger overall area, proposed as a contiguous development under one developer.

The area of the Vineyard Connector will be placed within the PF (Public Facilities) zone. Area within this PF zone will also act as a transfer of development rights sending zone, allowing units to be transferred out of the respective PF zoned area into other areas of the annexation; provided UDOT does not purchase the right-of-way and it is acquired by the City as dedication at the time of development. If UDOT purchases the right-of-way, the TDR-S (transfer of development rights sending zone) over the Vineyard Connector alignment will go away as the applicants will be fairly compensated. However, if the property is developed in the City and UDOT has not yet purchased the right-of-way, the City will require dedication in exchange for the transfer of development rights.

Potential Motions

Mr. Chairman, I move that we recommend approval of the Stonecreek Annexation Agreement to the City Council.

Mr. Chairman, I move that we recommend denial of the Stonecreek Annexation Agreement to the City Council.

Mr. Chairman, I move that we table the Stonecreek Annexation Agreement.

Attachment: Staff Report - annexation agreement (Stonecreek Annexation - Ordinance)

Findings, conditions and modifications:
Ms. Anderson seconded the motion. Voting was as follows:

John Woffinden	**Aye**
Eric Franson	**Aye**
Christine Anderson	**Aye**
Leonard Hight	**Aye**
Harold Dudley	**Aye**
Geoff Dupaix	**Aye**
	The motion carried.

5. Review and action on an agreement for the Stonecreek Annexation, consisting of 25.31 acres, located at approximately 300 West 1100 South.

Mr. Olsen stated that the Stonecreek Annexation consists of 25.31 acres and is located at approximately 300 West 1100 South. Current use of the land is agriculture. The City's Land Use element of the General Plan designates the annexation area as Low Density Residential at 3 units per acre. The annexation constitutes a portion of a larger overall area, proposed as a contiguous development under one developer. The area of the Vineyard Connector will be placed within the Public Facilities zone. Area within this PF zone will also act as a transfer of development rights sending zone, allowing units to be transferred out of the respective PF zoned area into other areas of the annexation; provided UDOT does not purchase the right-of-way and it is acquired by the City as dedication at the time of development. If UDOT purchases the right-of-way, the transfer of development rights sending zone over the Vineyard Connector alignment will go away as the applicants will be fairly compensated. However, if the property is developed in the City and UDOT has not yet purchased the right-of-way, the City will require dedication in exchange for the transfer of development rights.

Mr. Dupaix expressed concern with access to water. He has discussed this matter with the property owner and has asked if staff has addressed this concern.

Mr. Olsen stated that he is aware of the concern and this will be addressed throughout the process of the project.

Mr. Andrus had no comments at this time.
.

Ms. Anderson moved to recommend approval of the Stonecreek Annexation Agreement to the City Council.
Findings, conditions and modifications:
Mr. Dupaix seconded the motion. Voting was as follows:

John Woffinden	**Aye**
Eric Franson	**Aye**
Christine Anderson	**Aye**
Leonard Hight	**Aye**
Harold Dudley	**Aye**
Geoff Dupaix	**Aye**

Attachment: PC Minutes - Stonecreek annexation agreement (Stonecreek Annexation - Ordinance)

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Public Works **Director Approval** *Scott Sensanbaugher*

AGENDA ITEM Review and action on agreements between UTA and Union Pacific Rail Road (UPRR) for the Construction of a Water Line in 200 South

SUMMARY RECOMMENDATION Staff recommends approval of the agreements with UTA and UPRR.

BACKGROUND The Engineering Division has completed the design of the needed water line in 200 South from 300 West (North of I-15) to Mill Pond Road. Where the water line crosses the UTA and UPRR tracks on 200 South both UTA and UPRR require the City to enter into an agreement for the construction of the water line. The agreements have been reviewed by the City attorney.

BUDGET IMPACT The costs associated with this agreement will be part of the existing, approved, water capital projects budget.

SUGGESTED MOTION Mr. Mayor, I move that we approve the agreements with UTA and UPPR and authorize the City to enter into the agreements as presented.

SUPPORTING DOCUMENTS

UTA Agreement (PDF)
UPRR Agreement (PDF)

DocuSign Envelope ID: 2471FE64-0FF5-418C-B8BA-4186E67E72DE

PIPELINE CROSSING AGREEMENT
(Interlocal Municipal Pipeline Form)

UTA Contract # PE/U/6578/P
Mile Post: S 31.25
Latitude: 40.372700
Longitude: -111.810261
American Fork, Utah

THIS PIPELINE CROSSING AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, 2020 **(to be dated after the final executing signature by UTA)**, by and between UTAH TRANSIT AUTHORITY, a large public transit district organized pursuant to the laws of the State of Utah (hereinafter "UTA"), and American Fork City, a political subdivision of the state of Utah, with a principal address of 275 East 200 North, American Fork, UT 84003 (hereinafter "Licensee").

RECITALS

WHEREAS, UTA is the owner of a certain railroad corridor known as the Commuter Rail South (the "Right of Way") acquired by UTA for the development and expansion of its public transportation system;

WHEREAS, Adjacent to the UTA owned property is railroad corridor owned and operated by the Union Pacific Railroad Company;

WHEREAS, Licensee has an existing 6" ductile culinary waterline not previously licensed, and desires to cap and abandon this line in place and intends to install and maintain an additional 42" steel casing containing a 30" ductile iron culinary waterline (the "Pipeline") via jack and bore method located a minimum of 9.23 feet at its highest elevation and maintaining a minimum of 12.67 feet from top of rail to top of casing which will cross the Right of Way at approximately Mile Post S 31.25 (Latitude 40.372700, Longitude -111.810261) in American Fork, Utah; and

WHEREAS, Licensee desires a license for the construction, operation and maintenance of the Pipeline.

AGREEMENT

NOW THEREFORE, on the stated Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereinafter set forth, the mutual benefits to the Parties to be derived herefrom, and for other valuable consideration, the receipt and sufficiency of which the Parties acknowledge, it is hereby agreed as follows:

ARTICLE I
INCORPORATED TERMS AND DEFINITIONS

For purposes of this Agreement, the following definitions shall apply:

1.1 "Construct" and "Construction" mean the initial installation of the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way, as well as any subsequent reconstruction, relocation, restoration or rehabilitation of the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way.

Attachment: UTA Agreement (200 South Water Line Rail Road Agreements)

DocuSign Envelope ID: 2471FE64-0FF5-418C-B8BA-4186E67E72DE

1.2 "Emergency Access Manager" means the person or office responsible for controlling emergency Construction and Maintenance access to the Right of Way. The Emergency Access Manager as of the execution of this Agreement is (801) 287-5455. UTA may change the designated Emergency Access Manager from time to time by delivery of notice in accordance with Article XVI of this Agreement.

1.3 "Freight Operator" means any entity using the Right of Way, or any portion thereof, to provide common carrier freight operations.

1.4 "Governmental Authority" means any federal, state, municipal, local or other division of government, or any agency thereof, having or asserting jurisdiction with respect to any matter related to this Agreement.

1.5 "Hazardous Materials" mean any materials or substances: (i) which are present in quantities and in forms which require investigation, removal, cleanup, transportation, disposal, response or remedial action (as the terms "response" and "remedial action" are defined in Section 101 of the Comprehensive Environmental Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 (24) and (25)) under any applicable federal, state or local environmental law, regulation, ordinance, rule or bylaw, as such are amended from time to time, whether existing as of the date hereof, previously enforced or subsequently amended (each hereafter an "Environmental Law"); or (ii) which are defined as "hazardous wastes," "hazardous substances," "pollutants" or "contaminants" under any Environmental Law.

1.6 "Losses" mean any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs resulting from: (i) loss of or damage to the property of any Party or Third Person; (ii) death or personal injury to the agents of any Party or to any Third Person; or (iii) the cleanup or other requirements regarding any incident involving Hazardous Materials. The term "Losses" shall not include any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs excluded from Licensee's indemnification obligations and assumed by UTA pursuant to Sections 8.1 and 8.2 of this Agreement.

1.7 "Maintain" and "Maintenance" mean the performance of any repair, restoration, rehabilitation, refurbishment, retrofitting, inspection, monitoring, observation, testing, or similar work with respect to the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way.

1.8 "Master Interlocal Agreement" means that certain Master Interlocal Agreement Regarding Fixed Guideway Systems Located Within Railroad Corridors, effective February 13, 2004, entered by and among UTA and the various municipalities and counties within which UTA's rights of way are situated.

1.9 "Party" and "Parties" mean UTA or Licensee, and UTA and Licensee, respectively.

1.10 "Pipeline" means the existing 6" ductile waterline to be capped and abandoned in place, and the new 42" steel casing containing a 30" ductile iron culinary water line to be installed and maintained by Licensee via jack and bore method of installation, pursuant to this Agreement and located a minimum of 9.23 feet at its highest elevation and a minimum of 12.67 feet from top of rail to top of casing crossing below the surface of the Right of Way at Mile Post S 31.25 (Latitude 40.372700, Longitude -111.810261) on the Commuter Rail South in American Fork, Utah as described in Exhibit "A". The term "Pipeline" shall also apply to any and all rearrangements, modifications, reconstruction, relocations, removals and extensions or additions concerning the Pipeline that are authorized and approved by UTA pursuant to this Agreement (unless they are the subject of a separate agreement that does not incorporate the terms hereof).

Attachment: UTA Agreement (200 South Water Line Rail Road Agreements)

DocuSign Envelope ID: 2471FE64-0FF5-418C-B8BA-4186E67E72DE

1.11 "Third Person" means any individual, corporation or legal entity other than UTA and Licensee.

1.12 "Track Improvements" mean any and all tracks, rails, ties, switches, frogs, end of track barricades or bumpers and other barricades or bumpers, derail devices, tie plates, spikes, wires, fastenings and any other appurtenances related thereto, drainage structures, grading, ballast, subgrade stabilization, crossings, tunnels, bridges, trestles, culverts, structures, facilities, leads, spurs, turnouts, tails, sidings, signals, crossing protection devices, communications systems or facilities, catenary systems and wires, poles and all other operating and non-operating appurtenances located within the Right of Way.

1.13 "UTA System" means any light rail, commuter rail, trolley, guided busway, or similar public transportation system constructed by UTA in the Right of Way as contemplated in the Master Interlocal Agreement.

1.14 "Utility" and "Utilities" mean and include all properties, facilities, utilities, crossings, encroachments, lines and similar appurtenances located within the Right of Way by permissive or prescriptive authority including, but not limited to, pipelines, tubelines, water and gas lines or mains, electrical conduits, ditches and other drainage facilities, wires, fiber optics, communication lines, sewer pipes, overhead wiring and supporting structures and appurtenances, and all similar installations.

1.15 "Work Window" means the time period designated by UTA during which Construction, Maintenance and any other work with respect to the Pipeline within the Right of Way is permissible. UTA may, at any time and at UTA's sole discretion, determine that the Work Window shall not be concurrent with any passenger operations within the Right of Way.

ARTICLE II
GRANT OF LICENSE AND REAL ESTATE USAGE CHARGE

2.1 UTA customarily assesses a standard administrative fee reflecting the clerical, administrative and handling expense incurred in connection with the processing of this Agreement. The standard administrative fee has been waived consistent with the provisions of the Master Interlocal Agreement.

2.2 In consideration of the real estate usage charge to be paid by Licensee, and in further consideration of the covenants and agreements to be kept, observed and performed by Licensee hereunder, UTA hereby grants Licensee a license to Construct, Maintain and operate the Pipeline in the location shown and in conformity with the dimensions and specifications indicated on the attached print dated **August 25, 2020** and approved by UTA Engineer dated **August 11, 2020** marked Exhibit "A" (Exhibit "A" is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

2.3 Licensee agrees to pay UTA a one-time real estate usage charge of **$5,598.00** payable on or before the date of execution. Licensee also agrees to pay an upfront Flagging cost of **$1,576.00** and Special Inspection cost of **$304.00** (these fees are more clearly described in Section 5.1).

2.4 This license granted by this Agreement is conditioned on the provision that Licensee shall obtain all necessary permission from and comply with all the requirements of the Union Pacific Railroad Company.

Attachment: UTA Agreement (200 South Water Line Rail Road Agreements)

DocuSign Envelope ID: 2471FE64-0FF5-418C-B8BA-4186E67E72DE

ARTICLE III
ACCESS TO THE RIGHT OF WAY

3.1 Except in the event of an emergency (as provided in Section 3.2 below), Licensee shall request permission from UTA at least ten days (or such shorter period as may be approved by UTA) prior to performing any Construction or Maintenance in or otherwise materially affecting the Right of Way. Licensee's request to access the Right of Way shall be specific as to the time, date and activities for which Licensee seeks permission. The request shall also include a summary of the method and manner in which the Construction or Maintenance will be performed. As part of the application process, UTA may require Licensee (and its contractors or other agents seeking access to the Right of Way) to attend any track access coordination meetings, safety training or other instruction as may be deemed necessary by UTA. Once granted, UTA's permission to enter the Right of Way shall be formalized in writing and delivered to Licensee. After permission has been granted, Licensee shall comply with all conditions, instructions and requirements of such permit and with all instructions or directions given by UTA including, if required, daily telephone notification to the applicable rail dispatch center prior to each entry into the Right of Way. All contact with UTA shall be coordinated through the person designated by UTA from time to time as set forth in Article XVI of this Agreement. Provided that Licensee complies with the provisions of this Section, UTA agrees not to unreasonably withhold, condition, or delay its approval of Licensee's request.

3.2 Licensee shall have the right to enter the Right of Way in the event of an emergency to make repairs necessary to protect against imminent and serious injury or damage to persons or property. Licensee shall take all precautions necessary to ensure that such emergency entry does not compromise the safety of any operations conducted in the Right of Way by UTA or the Freight Operator. Licensee must notify the Emergency Access Manager of the emergency access and the work being performed prior to entering the Right of Way.

ARTICLE IV
CONSTRUCTION AND MAINTENANCE OF THE PIPELINE

4.1 All Construction and Maintenance with respect to the Pipeline shall be performed to the satisfaction of UTA and in accordance with the conceptual, engineering and/or design plans ("Design Plans") previously approved by UTA and attached hereto as Exhibit "A." All Construction and Maintenance with respect to the Pipeline shall be performed in a workmanlike manner, in compliance with all applicable industry standards and in compliance with the requirements of any applicable Governmental Authority. UTA may impose requirements in addition to or more stringent than industry or legal standards if UTA deems such requirements necessary for the safety of operations conducted in the Right of Way. UTA may also require additional fabrication methods, staging requirements or other precautions. All Construction and Maintenance with respect to the Pipeline shall be performed during the designated Work Window. UTA shall have the right, but not the obligation, to observe any and all work performed in or otherwise materially affecting the Right of Way in connection with the Pipeline to ensure that such work is performed in accordance with the requirements set forth in this Agreement. In its Construction or Maintenance of the Pipeline, Licensee shall not make any material deviation from the Design Plans without UTA's prior written approval. Licensee shall submit to UTA plans setting out the method and manner of handling all work to be performed under the Track Improvements including, without limitation, the shoring and cribbing, if any, required to protect the operations of UTA, the Freight Operator or the owner of any adjacent tracks. Licensee shall not proceed with any such work until Licensee's proposed methods have been approved by UTA. The Pipeline shall be placed at the depth acceptable to UTA and shall not interfere with any Track Improvements.

Attachment: UTA Agreement (200 South Water Line Rail Road Agreements)

DocuSign Envelope ID: 2471FE64-0FF5-418C-B8BA-4186E67E72DE

4.2 Various Utilities exist on, over and under the surface of the Right of Way. Prior to commencing any Construction or Maintenance with respect to the Pipeline, Licensee shall properly investigate and determine the location of all such Utilities. In addition to the required investigation, Licensee shall have all Utilities in the area of the Pipeline "blue-staked" and clearly marked prior to any excavation. Licensee shall make arrangements for the protection of all Utilities and shall commence no excavation, boring or other penetration in the Right of Way until all such protection has been accomplished.

4.3 Fiber optic cable systems may be buried in the Right of Way. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee shall be solely responsible for contacting UNION PACIFIC RAILROAD COMPANY during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) and for determining if fiber optic cable is buried near the location of the Pipeline. If so, Licensee will contact the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, make arrangements for relocation or other protection of the fiber optic cable. Licensee shall not commence any work until all such protection and/or relocation have been accomplished. Licensee shall be solely responsible for all coordination with Union Pacific and any telecommunications companies. In coordinating the relocation or protection of fiber optic cable, Licensee shall not rely on any statements, engineering drawings or other oral or written representations of UTA or its representatives. In addition to other indemnity provisions in this Agreement, Licensee shall indemnify, defend and hold the UTA Indemnitees (as defined in Section 8.1 of this Agreement) harmless from and against all Losses arising out of: (a) any damage to or destruction of any telecommunications system proximately caused by any Construction, Maintenance or other work performed by Licensee or its agents relative to the Pipeline; and/or (b) any injury to or death of any person employed by or on behalf of any telecommunications company proximately caused by any Construction, Maintenance or other work performed by Licensee or its agents relative to the Pipeline. Except to the extent that liability is assumed by UTA as set forth in Sections 8.1 and 8.2 of this Agreement, Licensee shall not have or seek recourse against UTA for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using UTA's Right of Way or a customer or user of services of the fiber optic cable on UTA's Right of Way.

4.4 Licensee shall be solely responsible for obtaining any property rights, easements, licenses, rights of way or other permission from Third Persons (collectively "Third Person Property Rights") as may be necessary to Construct, Maintain or operate the Pipeline including, without limitation, any needed permission from the owner of any adjacent railroad corridor. Licensee shall also be solely responsible for obtaining any necessary franchises, permits or other necessary approvals from Governmental Authorities (collectively "Approvals"). Licensee agrees to pay any and all costs and expenses relating to such Third Person Property Rights or Approvals, and to assume any and all liability therefor.

4.5 Except as authorized in this Agreement or as may be immediately required for (and only at the actual time of) performance of any Construction or Maintenance contemplated under this Agreement, and then only in full compliance with all clearance standards and other safety requirements, Licensee shall not place, permit to be placed, erect, pile, store, stack, park, suffer or permit any line, building, platform, fence, gate, vehicle, car, pole, or other structure, obstruction, or material of any kind within the Right of Way.

4.6 Licensee shall Construct, Maintain and operate the Pipeline in compliance with all requirements imposed by any Governmental Authority including, without limitation, the requirements of the Federal Railroad Administration, the Occupational Safety and Health Administration and the Utah Department of Transportation. Licensee shall also Construct, Maintain and operate the Pipeline in compliance with all applicable environmental laws. The Pipeline shall be encased. Licensee shall take all

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suitable precautions to prevent any leakage or other interference with the operation of the Track Improvements or any other UTA or Third Person installations or facilities. If for any reason the Construction of the Pipeline causes interference with the operation of Track Improvements or any other UTA or Third Person installations or facilities existing prior to the Construction of the Pipeline, Licensee shall, upon notification by UTA and at Licensee's sole cost and expense, take such action as is necessary to eliminate the interference.

4.7 If, in connection with the performance of any Construction or Maintenance work, Licensee or its Contractor damages any Track Improvements, Utilities, or any other facilities, Licensee shall repair or replace such facilities with the same or similar materials, if available, as reasonably required by the UTA, consistent with applicable Federal and State laws and regulations and to the satisfaction of UTA.

4.8 At the request of UTA, Licensee shall install markers identifying the location of the Pipeline and related appurtenances at the Right of Way boundaries (where the Pipeline enters and exits the Right of Way) or other locations where UTA may designate. Markers shall be installed in a form and size as may be determined by UTA and at the sole cost and expense of Licensee. UTA hereby expressly reserves the right to require Licensee to erect and maintain, at Licensee's sole cost and expense, any and all signs of any character and nature whatsoever (e.g. location of Pipeline, precautionary and/or warning signs, etc.) that UTA deems necessary or advisable in connection with the operation of the Pipeline. Licensee shall install and/or erect any marker or sign that may be required under this Section within thirty (30) days after receiving written instructions from UTA.

4.9 Upon completion of any Construction or Maintenance relating to the Pipeline, Licensee shall restore the surface of the Right of Way to its prior condition including, but not limited to, replacing any soil that was removed and thoroughly compacting it level with the adjacent surface of the ground and restoring any fences or other property that Licensee disturbed or removed from the Right of Way.

4.10 If a contractor is to perform any Construction or Maintenance contemplated in this Agreement, then the Licensee shall cause its contractor to comply with all applicable provisions of this Agreement. Additionally, Licensee shall require its contractor to execute UTA's form Contractor's Right of Entry Agreement (the "Contractor Agreement"). Any and all contractors used by Licensee in the Construction or Maintenance of the Pipeline are subject to the approval of UTA, which approval shall not be unreasonably withheld, conditioned or delayed.

4.11 If Licensee fails to notify UTA a minimum of 10 days before the initial installation of the Pipeline or if Licensee's Contractor fails to obtain a Contractor Agreement, Licensee agrees to pay UTA an additional three thousand dollars (**$3,000)** as a fee for the initial inspection of the Pipeline, together with any other additional fees incurred by UTA to verify that the Pipeline was installed as per the approved plans. Such review and verification could include exposing the line to verify the depth of and materials installed. If the Pipeline was not installed in the approved location, depth, and with the approved materials, as described in the approved plans, Licensee agrees to remove the Pipeline and reinstall it according to the approved plans at Licensee's sole cost and expense.

ARTICLE V
CONSTRUCTION OBSERVATION BY UTA – LICENSEE TO BEAR ALL COSTS

5.1 The current cost of flagging is $788/day for an eight (8)-hour day and $1,058/day for a twelve (12) - hour day. Flagging is charged in blocks, with a minimum billing of an eight (8) - hour period. The current cost for a special inspector is $76/hour with a two (2) -hour minimum charge per inspection/inspector. UTA has determined that two (2), eight (8)-hour day for Flagging and two (2), two (2)-hour day for a Special Inspection will be needed for the construction of this Pipeline. Licensee will pre-

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pay **$1,880.00** for Flagging and a Special Inspection at or before the execution of this agreement. If after the construction of the Pipeline extra days of Flagging or Special Inspection have been collected, Licensee may submit in writing for a refund from UTA. Submission for refund will need to be submitted to UTA within thirty (30) days of the date of completion of the Pipeline. Refunds will only be issued after confirmation from UTA operations that the flagging and special inspection days were not used.

5.2 In the event that UTA, in its sole discretion, determines that any other inspectors (technical or special), monitors, observers, safety personnel, additional flaggers or other persons are required given the nature of the Construction or Maintenance to be performed, UTA may, at its sole discretion, provide such personnel and Licensee shall, within thirty (30) days, reimburse UTA for the reasonable costs thereby incurred.

ARTICLE VI
LICENSEE TO BEAR ALL COSTS RELATED TO PIPELINE

Except as otherwise set forth in the Master Interlocal Agreement, or in Sections 7.2 and Article 8 of this Agreement, Licensee shall be solely responsible for any and all costs incurred with respect to any Construction, Maintenance or other work related to the Pipeline.

ARTICLE VII
SUBORDINATION OF RIGHTS GRANTED - RELOCATION OF PIPELINE

7.1 The rights granted pursuant to this Agreement shall be subject and subordinate to the prior and continuing right and obligation of UTA to fully use the Right of Way, including the right and power of UTA to construct, maintain, repair, renew, use, operate, modify, or relocate new or existing Track Improvements upon, along, above, or across any or all parts of the Right of Way and other UTA property, all or any of which may be freely done at any time or times by UTA. The grant of license for the Pipeline is made without covenants of title or quiet enjoyment. UTA makes no warranties, either express or implied, regarding the nature, extent or status of its title to the Right of Way or regarding the existence or nonexistence of Third Person rights which may be superior to the license granted pursuant to this Agreement.

7.2 Licensee shall, within sixty (60) days after receipt of written notice from UTA, modify or relocate (or, if agreed between the Parties, allow UTA to modify or relocate) all or any portion of the Pipeline as UTA may reasonably designate. To the extent that the modification or relocation of the Pipeline is necessitated by the construction, reconstruction, modification or relocation of any UTA System, UTA shall be responsible for the costs of such relocation. To the extent that the modification or relocation of the Pipeline is necessitated because the Pipeline is conflicting with or causing interference with any UTA or Third Person Track Improvements or Utilities existing prior to the Construction of the Pipeline, then Licensee shall be responsible for the costs of such relocation. All the terms, conditions and stipulations herein expressed with reference to the Pipeline in the location described herein shall, so far as the Pipeline remains on UTA property, apply to the Pipeline as modified or relocated pursuant to this Section.

7.3 The foregoing grant is also subject to the outstanding superior rights previously conveyed or granted to Third Persons by UTA, or its predecessors in interest, and the right of UTA to renew and extend the same.

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ARTICLE VIII
INDEMNITY AND RELEASE

8.1 Licensee agrees to protect, defend, release, indemnify and hold harmless UTA, and any successors, contractors, officers, directors, agents and employees of UTA (the "UTA Indemnitees"), from and against any and all Losses resulting from: (a) negligence on the part of Licensee, or any employees, principals, contractors or agents of Licensee, in conjunction with any Construction, Maintenance or other work performed by or on behalf of Licensee with respect to the Pipeline; (b) negligence on the part of Licensee, or any employees, principals, contractors or agents of Licensee, in the use or operation of the Pipeline; or (c) Licensee's breach of any provision of this Agreement. Notwithstanding the foregoing, Licensee shall not be required to indemnify UTA for, and UTA hereby assumes responsibility for, any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs that are proximately caused by the negligence, recklessness or willful misconduct of UTA with respect to the construction, maintenance or operation of any UTA System.

8.2 Licensee acknowledges that the Right of Way may be subject to prospective purchaser agreements and covenants not to sue that UTA has entered with the Utah Department of Environmental Quality and the United States Environmental Protection Agency. Pursuant to such agreements, UTA is required to characterize any excavated soil that appears to contain (or has the potential to contain) Hazardous Materials and to handle and dispose of any such soil in compliance with applicable state and federal laws. Under these agreements, UTA is not required to excavate any soil except as required for construction related to the installation of a UTA System. Accordingly, any excavation that Licensee performs with respect to the Pipeline exposes UTA to potential environmental liability that would not otherwise be present. As consideration for the rights granted to Licensee hereunder, Licensee agrees to assume all potential liability and responsibility for, and to indemnify and hold UTA harmless with respect to, any Losses related to the characterization and removal of any Hazardous Materials discovered during Construction or Maintenance. Licensee agrees to perform any such characterization and removal in full compliance with all applicable state and federal environmental laws. Notwithstanding the foregoing, Licensee shall not be required to indemnify UTA for, and UTA hereby assumes responsibility for, any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs related to any Hazardous Materials discovered as the result of modification or relocation work performed by or on behalf of Licensee in conjunction with the construction, reconstruction, modification or relocation of any UTA System. To the extent that either Party actually causes a release of Hazardous Materials into the Right of Way, such party shall be responsible for the characterization and removal of such Hazardous Materials and shall indemnify the other Party with respect to all losses resulting therefrom.

8.3 Licensee hereby releases UTA from, and agrees not to seek recourse against UTA with respect to, any claims, damages, fees, expenses or other losses proximately caused by Third Persons including, without limitation, Third Persons having licenses or other interests in the Right of Way. Nothing contained herein shall be construed or deemed to be a release of any Third Persons by Licensee.

8.4 The provisions of this Article shall survive the termination of this Agreement.

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ARTICLE IX
CLAIMS AND LIENS FOR LABOR AND MATERIALS; TAXES

9.1 Licensee shall fully pay for all materials joined or affixed to the Right of Way in connection with the Pipeline, and for all labor performed with respect to the Pipeline. Licensee shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee.

9.2 Licensee shall promptly pay or discharge all taxes, charges and assessments assessed or levied upon, in respect to, or on account of the Pipeline to prevent the same from becoming a charge or lien upon the Right of Way and so that any taxes, charges and assessments levied upon or with respect to such property shall not be increased because of the Pipeline or any improvements, appliances, or fixtures connected therewith.

ARTICLE X
TERMINATION

10.1 UTA may terminate this Agreement if: (a) Licensee ceases to use the Pipeline in an active and substantial way for any continuous period of one (1) year; (b) Licensee continues in default with respect to any provision of this Agreement for a period of thirty (30) days after UTA delivers written notice to Licensee identifying the nature of Licensee's breach of this Agreement; provided, however that if the nature of Licensee's breach is such that it cannot be cured within such thirty (30)-day period, Licensee shall not be deemed in default if Licensee commences to cure the breach within thirty (30) days and thereafter diligently continues to remedy the breach; or (c) Licensee removes the Pipeline from the Right of Way.

10.2 Termination of this Agreement for any reason shall not affect any of the rights, obligations or liabilities that have accrued prior to or concurrent with such termination.

ARTICLE XI
INSURANCE

11.1 During the life of this Agreement, Licensee shall, at its sole cost and expense, obtain and maintain the insurance described in Exhibit "B" (Exhibit "B" is attached hereto and hereby incorporated into and made a part of this Agreement by reference). Licensee will also provide to UTA a Certificate of Insurance, identifying UTA Contract Number PE/S/6578/P, issued by its insurance carrier confirming the existence of such insurance and indicating that the policy or policies contain the following endorsement:

"Utah Transit Authority is named as an additional insured with respect to all liabilities arising out of the existence, use or any work performed on or associated with the Pipeline Crossing Agreement PE/S/6578/P in the railroad right of way known as the Commuter Rail South at Mile Post S 31.25 in American Fork, Utah County, Utah"

11.2 Failure to maintain insurance as required shall entitle, but not require UTA to terminate the license granted hereby immediately.

11.3 If Licensee is a public entity subject to any applicable statutory governmental immunity laws, the limits of insurance described in Exhibit "B" shall be the limits the Licensee then has in effect or that are required by applicable current or subsequent law, whichever is greater, a portion of which may be self insured with the consent and approval of UTA. Licensee does not waive any of its rights of entitlements

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to governmental immunity and limitations on liability to Third Persons under the Utah Governmental Immunity Act.

11.4 Licensee hereby acknowledges that it has reviewed the requirements of Exhibit "B", including without limitation the requirement for Railroad Protective Liability Insurance during construction, maintenance, installation, repair or removal of the pipeline which is the subject of this Agreement.

ARTICLE XII
REMOVAL OF PIPELINE UPON TERMINATION OF AGREEMENT

Upon termination of this Agreement pursuant to Article X hereof, Licensee shall, if requested in writing by UTA and at Licensee's sole cost and expense, remove the Pipeline from the Right of Way and shall restore, to the satisfaction of UTA, such portions of the Right of Way to at least as good a condition as such were in at the time that Licensee first entered the Right of Way. If Licensee fails to do the foregoing within a reasonable time, UTA may, at its option, perform such removal and restoration work at the expense of Licensee. Licensee shall reimburse UTA for the costs incurred in any restoration or removal work performed under this Article within thirty (30) days after receipt of the bill therefor. In the event UTA removes the Pipeline pursuant to this Article, UTA shall in no manner be liable to the Licensee for any damage sustained by Licensee for or on account thereof, and such removal and restoration shall in no manner prejudice or impair any other right of action, including the recovery of damages, that UTA may have against the Licensee. The provisions of this Article shall survive the termination of this Agreement.

ARTICLE XIII
ASSIGNMENT

Licensee may not assign this Agreement, in whole or in part, or any rights herein granted, without UTA's written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Licensee may assign this Agreement and its rights hereunder as part of a consolidation with an entity that: (a) is a successor governmental entity to Licensee; (b) is annexed with, merged into or consolidated with Licensee; or (c) that acquires substantially all of the assets of Licensee provided, however, that in any of the above instances such entity seeking an assignment under this Article must, as a condition to such assignment, assume all terms and conditions of this Agreement without limitation.

ARTICLE XIV
SUCCESSORS AND ASSIGNS

Subject to the provisions of Article XIII, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, their officers, employees, representatives, successors and assigns.

ARTICLE XV
SEVERABILITY

This Agreement is executed by the Parties under current interpretation of any and all applicable federal, state, county, municipal, or other local statutes, ordinances, or laws. Furthermore, each and every separate division hereof shall have independent and severable status from each other division, or combination thereof, for the determination of legality, so that if any separate division herein is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, invalid or unenforceable for any reason, that separate division shall be treated as a nullity but such holding

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or determination shall have no effect upon the validity or enforceability of each and every other division, or other combination thereof.

ARTICLE XVI
NOTICES

Except as specifically provided elsewhere in this Agreement, all notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the addresses set forth herein. Addresses for notice may be changed by giving ten (10) days written notice of the change in the manner set forth herein.

If to UTA:

Utah Transit Authority
Attn: Property Management
669 West 200 South
Salt Lake City, UT 84101
PropertyManagement@rideuta.com

With a Copy to:

Utah Transit Authority
Attn: Legal Counsel
669 West 200 South
Salt Lake City, UT 84101

If to Licensee:

American Fork City
Attn: Public Works Director
275 East 200 North
American Fork, UT 84003

ARTICLE XVII
NO IMPLIED WAIVER

The waiver by UTA of the breach by Licensee of any condition, covenant or agreement herein contained shall not impair any future ability of UTA to avail itself of any remedy or right set forth in this Agreement. Neither the right of supervision by UTA, nor the exercise or failure to exercise such right, nor the approval or failure to disapprove, nor the election by UTA to repair or reconstruct all or any part of the work contemplated by this Agreement shall be deemed a waiver of any of the obligations of Licensee contained or set forth in this Agreement.

ARTICLE XVIII
ENTIRE AGREEMENT - COUNTERPARTS

This Agreement shall constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. Any amendment to this Agreement must be in writing and executed by an authorized representatives of each Party. This Agreement may be executed in any number of counterparts and by each of the Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Agreement may be detached from any counterpart and reattached to any other counterpart hereof. The facsimile transmission of a signed original of this Agreement or any counterpart hereof and the retransmission of any signed facsimile transmission hereof shall be the same as delivery of an original.

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ARTICLE XIX
FORUM SELECTION AND CHOICE OF LAW

This Agreement shall be construed and interpreted under the laws of the State of Utah and the parties agree that any action or proceeding brought concerning this Agreement may be brought only in the courts of Salt Lake County, Utah, and each party hereto hereby consents to the jurisdiction of such courts.

ARTICLE XX
SPECIAL PROVISIONS

Special provisions, if any, are included in the attached Exhibit "C" (Exhibit "C" is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date first herein written.

Reviewed and Approved as to Form for UTA

DocuSigned by:
Dane Cooley
UTA33C1D4DB2541B2...
UTA Engineering

DocuSigned by:
Tim Merrill
564C3BC74491482...
Tim Merrill
Assistant Attorney General

UTAH TRANSIT AUTHORITY

By: _____
Paul Drake
Director, Real Estate & TOD

By: _____
Spencer Burgoyne
Manager, Property Administration

By: _____
Shelley Nielsen
Sr. Property Administrator

LICENSEE

By: _____
Scott Sensanbaugher
Public Works Director
American Fork City

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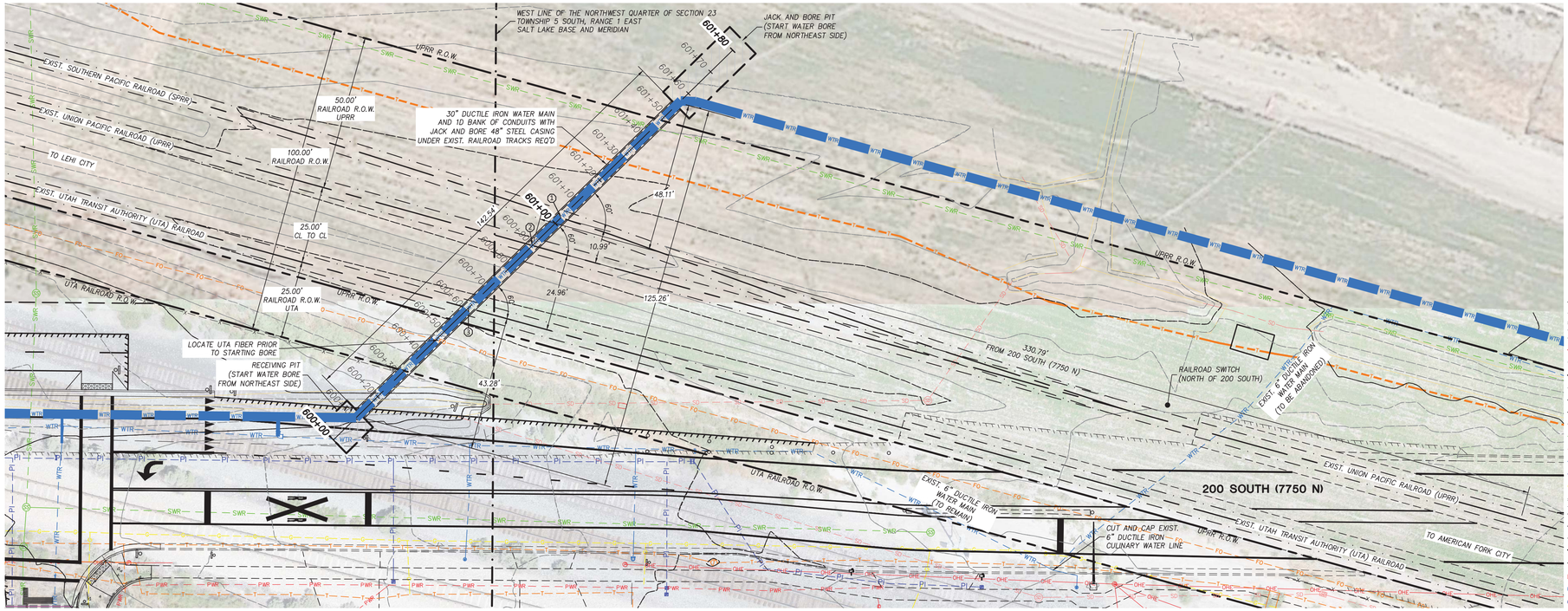
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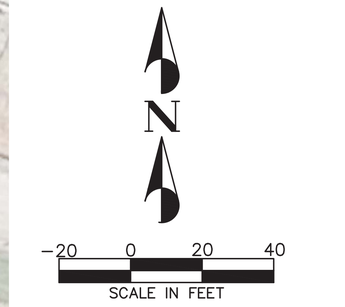
EXHIBIT "A"
DESIGN PLANS

[Insert engineering drawings showing the proposed crossing including proposed construction methods, shoring and cribbing requirements and mile post location]

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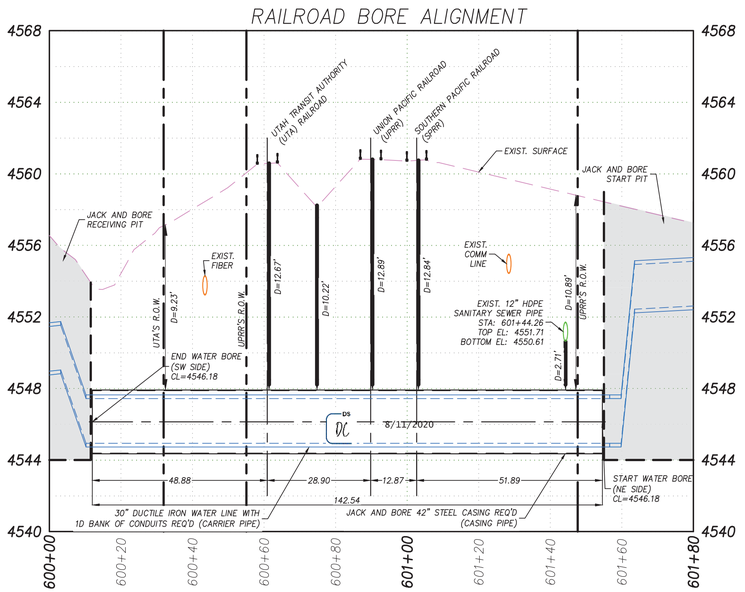
LEGEND

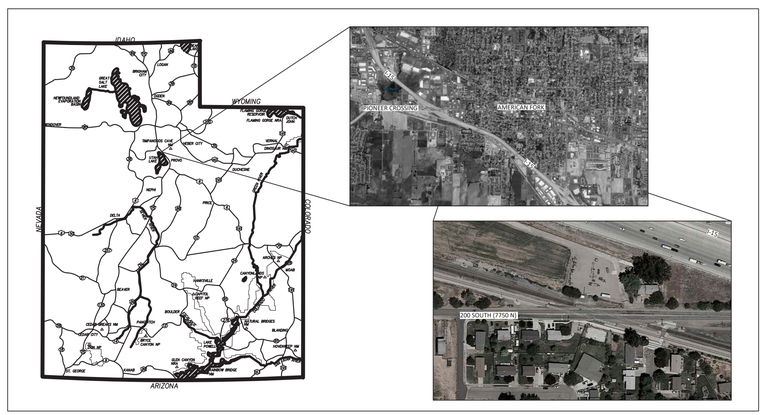
- EXISTING 5' CONTOUR
- EXISTING 1' CONTOUR
- EXISTING CURB & GUTTER
- EXISTING CONCRETE/SIDEWALK
- EXISTING EDGE OF ASPHALT
- EXISTING FENCE
- EXISTING BUILDING
- EXISTING RAILROAD TRACKS
- EXISTING RAILROAD CENTERLINE
- EXISTING RAILROAD RIGHT OF WAY
- EXISTING EDGE OF GRAVEL
- EXISTING SEWER LINE
- EXISTING STORM DRAIN LINE
- EXISTING WATER LINE
- EXISTING SECONDARY WATER LINE
- EXISTING GAS LINE
- PROPOSED CURB & GUTTER
- PROPOSED CONCRETE PAD
- PROPOSED CENTER LINE
- PROPOSED SIDEWALK
- PROPOSED EDGE OF ASPHALT
- PROPOSED FENCE
- PROPOSED STORM DRAIN LINE
- PROPOSED WATER LINE
- PROPOSED SECONDARY WATER LINE

① EXIST. SOUTHERN PACIFIC RAILROAD (SPRR)
LOCATED **20.25 FT EAST** OF WEST LINE OF THE NORTHWEST QUARTER OF SECTION 23 TOWNSHIP 5 SOUTH, RANGE 1 EAST SALT LAKE BASE AND MERIDIAN

② EXIST. UNION PACIFIC RAILROAD (UPRR)
LOCATED **10.50 FT EAST** OF WEST LINE OF THE NORTHWEST QUARTER OF SECTION 23 TOWNSHIP 5 SOUTH, RANGE 1 EAST SALT LAKE BASE AND MERIDIAN

③ EXIST. UTAH TRANSIT AUTHORITY RAILROAD (UTA)
LOCATED **6.25 FT WEST** OF WEST LINE OF THE NORTHWEST QUARTER OF SECTION 23 TOWNSHIP 5 SOUTH, RANGE 1 EAST SALT LAKE BASE AND MERIDIAN





ORIG. DATE:					
SURVEY BY:	PEPG CREW				
DRAWN BY:	RTD				
DESIGNED BY:	RTD				
CHECKED BY:	RLK				
SCALE:	1"=20'				
		NO.	DESCRIPTION	DATE	APP'D

PEPG CONSULTING L.L.C.
9270 SOUTH 300 WEST • SANDY, UT 84070
PHONE: (801) 562-2521 • FAX: (801) 562-2551
CIVIL ENGINEERING • LAND SURVEYING • PROJECT MANAGEMENT
GEOTECHNICAL • MATERIALS TESTING • INSPECTIONS

AMERICAN FORK 200 SOUTH WATER MAIN IMPROVEMENTS

ENCASED NON-FLAMMABLE PIPELINE CROSSING
UTAH TRANSIT AUTHORITY (UTA) PLAN

AUGUST 7, 2020	LAST REVISED	6.508.1810	PROJECT NUMBER
DWG\PAILROAD_CROSSING	DRAWING FILE		

AMERICAN FORK CITY

SHEET NO. **C1.0**

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EXHIBIT "B"
INSURANCE REQUIREMENTS

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. **Commercial General Liability Insurance:** Policy providing coverage for death, personal injury and property damage with a combined single limit of at least $2,000,000 each occurrence or claim and an aggregate limit of at least $4,000,000. The policy shall contain broad form contractual liability insurance covering the indemnity obligations assumed by Licensee in the Agreement. Exclusions for railroads (except where the Pipeline is in all places more than fifty (50) feet from any railroad tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed. Coverage provided on a "claims made" form shall provide for at least a two-year extended reporting and discovery period if (a) the coverage changes from a claims made form to an occurrence form, (b) there is a lapse/cancellation of coverage, or (c) the succeeding claims made policy retroactive date is different for the expiring policy.

   a. The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE: "Contractual Liability Railroads" ISO from CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Utah Transit Authority Property" as the Designated Job Site.

B. **Automobile Liability Insurance:** Policy providing bodily injury, property damage and uninsured vehicles coverage with a combined single limit of at least $2,000,000 each occurrence or claim. This insurance shall cover all motor vehicles including hired and non-owned, and mobile equipment if excluded from coverage under the commercial general liability insurance.

C. **Worker's Compensation and Employer's Liability Insurance:** Policy covering Licensee's statutory liability under the laws of the State of Utah. If Licensee is self-insured, evidence of State approval must be provided.

D. **Railroad Protective Liability Insurance (RRPLI):** During construction and maintenance within fifty (50) feet of an active railroad track, including but not limited to installation, repair or removal of facilities, equipment, services or materials, the Licensee and/or Licensee's Contractor must maintain "Railroad Protective Liability" insurance on behalf of UTA only as named insured, with a limit of not less than $2,000,000 per occurrence and an aggregate of $6,000,000.

   a. If the Licensee and/or Licensee's Contractor is not enrolling for this coverage under UTA's blanket RRPLI program, the policy provided must have the definition of "JOB LOCATION" AND "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this agreement.

E. **Umbrella or Excess Insurance:** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Attachment: UTA Agreement (200 South Water Line Rail Road Agreements)

DocuSign Envelope ID: 2471FE64-0FF5-418C-B8BA-4186E67E72DE

F. **Other Insurance Provisions:**

a. Licensee and their insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against UTA. Licensee's insurance shall be primary with respect to any insurance carried by UTA. Licensee will furnish UTA at least thirty (30) days advance written notice of any cancellation or non-renewal of any required coverage that is not replaced.

b. The required insurance policy(ies) shall be written by a reputable insurance company with a current AM Best's Insurance Guide Rate of A better, or as may otherwise be acceptable to UTA. Such insurance company shall be authorized to transact business in the State of Utah.

c. The fact that insurance is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by UTA shall not be limited by the amount of the required insurance coverage.

SUBMITTING REQUESTS FOR
RAILROAD PROTECTIVE LIABILITY INSURANCE
($2,000,000 per occurrence/ $6,000,000 aggregate)

Application forms for inclusion in Utah Transit Authority's Blanket Railroad Protective Liability Insurance Policy may be obtained from a Property Administrator.

If you have questions regarding railroad protective insurance (i.e. premium quotes, application) please contact David Pitcher at:

Phone: (801) 287-2371
Email: dcpitcher@rideuta.com

Send or hand deliver Checks and Applications to the following address:

Utah Transit Authority
Attn: David Pitcher
669 West 200 South
Salt Lake City, UT 84101

Attachment: UTA Agreement (200 South Water Line Rail Road Agreements)

DocuSign Envelope ID: 2471FE64-0FF5-418C-B8BA-4186E67E72DE

EXHIBIT "C"
SPECIAL PROVISIONS

1. Licensee or Licensee's contractor must first obtain a FrontRunner Track Access Permit from UTA before any access will be allowed on UTA property. The current contact person for obtaining a FrontRunner Track Access Permit is Michael Stidd 385-419-8401, or such other contact as shall be identified on UTA's website location noted below.

   A copy of the permit that shall be filled out and submitted can be found on UTA's website, under the Track Access Permit tab. http://www.rideuta.com/PropertyManagement

   Note: Access Permits will not be issued without first having an executed Contractor's Right of Entry Agreement, UTA having received proof of insurance as provided in the Right of Entry Agreement, and verification that the Contractor and all of the Contractor's Employees have gone through UTA's Roadway Worker Training, if applicable.

2. Licensee or Licensee's contractor shall provide a rail monitoring plan to be reviewed and approved by UTA prior to commencement of Work. The top of rail shall not deflect more than ¼ inch vertically or horizontally. Licensee or Licensee's contractor shall also provide an established contingency plan in the event of ground loss and/or the rail deviates ¼ inch vertical or horizontal, the contingency plan must be reviewed and approved by UTA prior to commencing the Work. In the event that the top of rail deflects more than ¼ inch, operations shall stop immediately and the UTA onsite representative notified. Work shall not continue until UTA's engineer has determined the appropriate action required to protect the safety, integrity and functionality of the railroad elements.

3. Licensee or Licensee's contractor shall pothole prior to bore to locate and protect in place all UTA fiber and utilities. UTA shall require evidence of locating, northing and easting for review approval prior to commencement of bore. In the event that UTA determines utility marking shall be performed by UTA prior to potholing, Licensee or Licensee's contractor shall pay $650.00 for UTA utility marking as part of potholing requirement.

4. Work to be performed during UTA non-operational hours of service.

Attachment: UTA Agreement (200 South Water Line Rail Road Agreements)

August 25, 2020
Folder: 03147-24

RYAN DUMMER
AMERICAN FORK CITY
275 EAST 200 NORTH
AMERICAN FORK UT 84003

Re: Proposed One (1) Forty Two Inch Steel Casing Containing a Thirty Inch Ductile Iron Pipeline Conveying Culinary Water and a 1D Bank of Conduits Pipeline Crossing of Railroad Property at Mile Post 714.21 on the Provo Subdivision at or near American Fork, Utah County, Utah

Ryan:

Attached is an original of the agreement covering your use of the Railroad Company's right of way. Please print two copies, execute on your behalf and return ALL DOCUMENTS with a check for any payments required, as shown below to 1400 Douglas Street, Omaha, NE 68179-1690 Attn: Jon Gargano.

An original copy of the fully-executed document will be returned to you, when approved and processed by the Railroad Company. Also, please provide a resolution or other authorization for the party executing the documents, *if signature authorization is required by your Entity.*

- Payment in the amount of **Nineteen Thousand Eight Hundred Seventy Dollars ($19,870.00)** is due and payable to Union Pacific Railroad Company upon your execution of the agreement. Please include your payment, **with Folder No. 03147-24 noted on that document.** If you require formal billing, you may consider this letter as a formal bill and that 94-6001323 is this Corporation's correct Federal Taxpayer Identification Number.

- Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed documents within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

If you have any questions, please contact me at (402) 544-8553.

Sincerely,

Jon Gargano
Manager – Real Estate

Attachment: UPRR Agreement (200 South Water Line Rail Road Agreements)

Pipeline Crossing 080808 Folder No. 03147-24
Last Modified: 06/05/18
Form Approved, AVP-Law

PIPELINE CROSSING AGREEMENT

Mile Post: 714.21, Provo Subdivision
Location: American Fork, Utah County, Utah

THIS AGREEMENT ("Agreement") is made and entered into as of August 25, 2020, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **AMERICAN FORK CITY**, to be addressed at 275 East 200 North, American Fork, Utah 84003 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate one (1) forty two inch (42") steel casing containing a thirty inch (30") ductile iron pipeline conveying culinary water and a 1D bank of conduits pipeline crossing only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in American Fork, Utah County, State of Utah ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated August 25, 2020, attached hereto as **Exhibit A-1 & A-2** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for one (1) forty two inch (42") steel casing containing a thirty inch (30") ductile iron pipeline conveying culinary water and a 1D bank of conduits only, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

D. Under no circumstances shall Licensee modify the Wireline or add additional wirelines to the conduit, or allow any third-parties to modify the Wireline or add additional wirelines to the conduit, without Licensor's prior review and approval, which may be withheld in Licensor's sole discretion. Any application to modify the Wireline or add additional wirelines to the conduit shall be made in accordance with Licensor's then-current wireline crossing application procedures.

Article 2. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Attachment: UPRR Agreement (200 South Water Line Rail Road Agreements)

Article 3. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as **Exhibit B** and made a part hereof.

Article 4. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licensor at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 5. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licensor herein.

Article 6. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licensor to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 7. WAIVER OF BREACH.

The waiver by Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licensor to avail itself of any remedy for any subsequent breach thereof.

Article 8. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licensor, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licensor's written consent, will be absolutely void and may result in Licensor's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B.**

B. Upon Licensor's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 9. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 10. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Folder No. 03147-24)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: AMERICAN FORK CITY
275 East 200 North
American Fork, Utah, 84003

Article 11. SPECIAL PROVISION – ONSITE OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and on-site observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

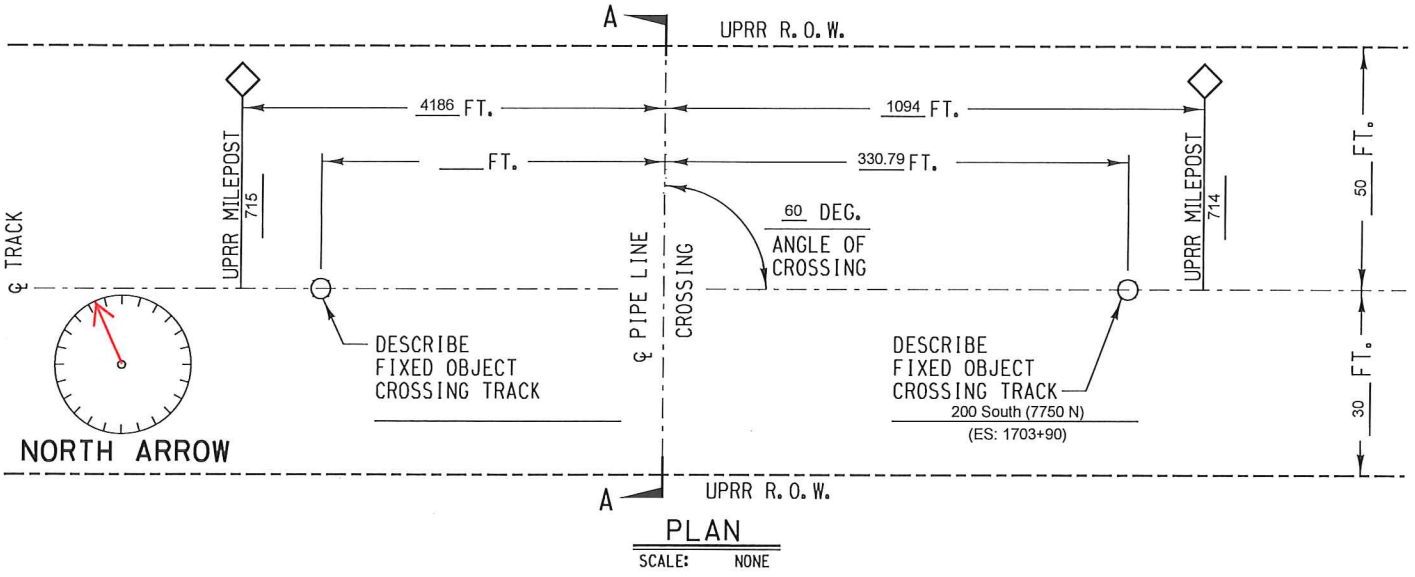
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY	**AMERICAN FORK CITY**
By: _____	By: _____
Greg Brigham Director – Real Estate Real Estate - Utilities	Name Printed: _____ Title: _____

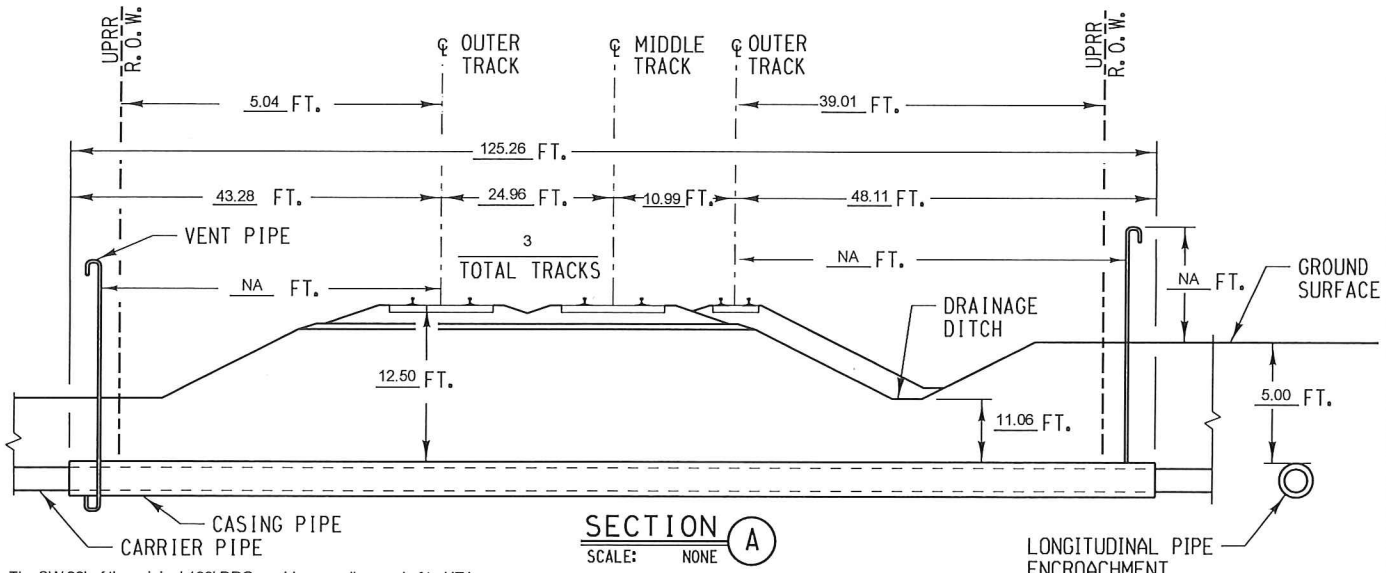
Attachment: UPRR Agreement (200 South Water Line Rail Road Agreements)

NON-FLAMMABLE LIQUID PIPELINE

☑ CROSSING
☐ ENCROACHMENT
☐ BOTH



PLAN
SCALE: NONE



SECTION (A)
SCALE: NONE

NOTES: The SW 20' of the original 100' DRG corridor was disposed of to UTA.
1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK.
2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.3.

A) METHOD OF INSTALLATION DRY JACK AND BORE
B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT 58.53.
C) SIGNS PROVIDED? ____.
D) CARRIER MATERIAL DUCTILE IRON. IF RCP, CLASS V? ____.
COMMODITY TO BE CONVEYED CULINARY WATER.
OPERATIONAL PRESSURE 140 PSI. MAOP 300 PSI.
WALL THICKNESS (INCH)/ SCHEDULE 1.00. DIAMETER 30 IN.
CATHODIC/COATING PROTECTION BIO POLYETHYLENE WRAP AND CASING SPACERS.
E) CASING MATERIAL STEEL. IF RCP, CLASS V? ____.
TOTAL LENGTH CASING PIPE: 142.54 FT.
WALL THICKNESS 0.625 IN. DIAMETER 42 IN.
CATHODIC/COATING PROTECTION N/A
CASING PIPE IS CAPPED AT THE ENDS.
F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES
53' (NE) FROM CL OF MAIN TRACK AND 65' (SW) FROM CL OF MAIN TRACK.

UNION PACIFIC
BUILDING AMERICA®

EXHIBIT "A"-1

SUBDIVISION: Provo Sub.	
TRACK TYPE: MAINLINE	
M.P.: 714.21	LAT.: 40.3729
E.S.M.: 1707+20.79	LONG.: -111.811003

NEAREST CITY:	COUNTY:	STATE:
AMERICAN FORK	UTAH	UT

APPLICANT: AMERICAN FORK CITY

FILE NO.: 3147-24 | DATE: 8 / 25 / 2020

Attachment: UPRR Agreement (200 South Water Line Rail Road Agreements)

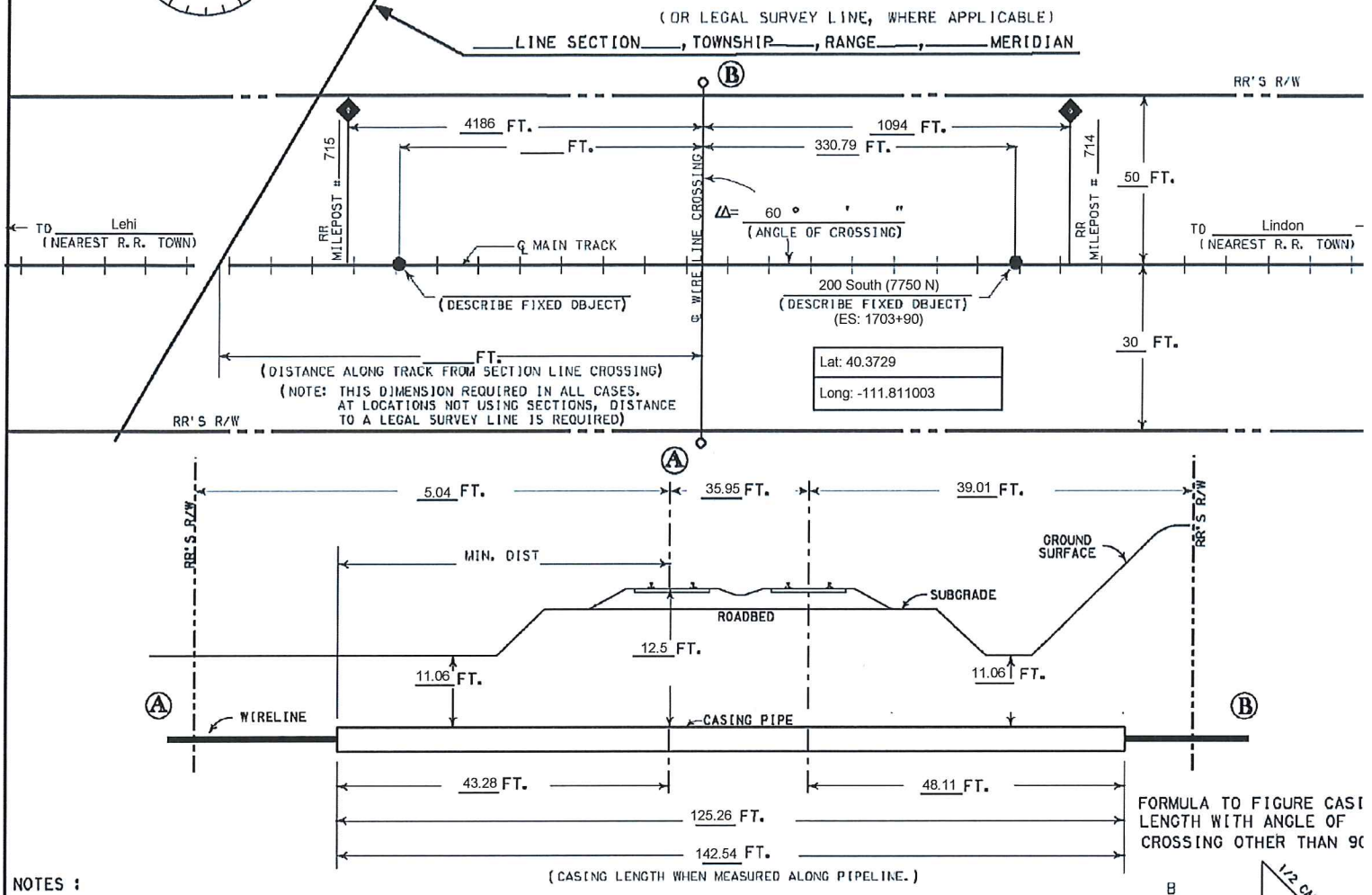
PLACE ARROW INDICATING NORTH DIRECTION RELATIVE TO CROSSING

UNDERGROUND WIRELINE CROSSING

750 VOLTS OR LESS

NOTE: ALL AVAILABLE DIMENSIONS MUST BE FILLED IN TO PROCESS THIS APPLICATION.

FORM DR-0404-F
REV 10-26-2007
www.uprr.com
NO SCALE



FORMULA TO FIGURE CASI LENGTH WITH ANGLE OF CROSSING OTHER THAN 9(

$\frac{B}{\sin \Delta}$

B MIN. DIST.

1/2 CASING LENGT

Δ TRACK

NOTES :
The SW 20' of the original 100' DRG corridor was disposed of to UTA.

A) TYPE WIRELINE CROSSING: _____

B) VOLTAGE TO BE CARRIED UNDER TRACK _____ NO. OF WIRES _____

C) CASING TYPE TO BE INSTALLED _____

D) METHOD OF INSTALLING CASING PIPE UNDER TRACK(S): (WET BORE NOT PERMITTED); 1D BANK OF CONDUITS TO BE CONTAINED WITHIN 42" STEEL CASING

E) DISTANCE FROM CENTER LINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES TO TRACK 53, 65 (30' MIN.)

F) DISTANCE TO NEAREST ROAD CROSSING WITH SIGNAL LIGHTS OR GATES (IF LESS THAN ONE MILE) _____

G) APPLICANT HAS CONTACTED 1-800-336-9193, U. P. COMMUNICATION DEPARTMENT, AND HAS DETERMINED FIBER OPTIC CABLE DOES NOT EXIST IN VICINTY OF WORK TO BE PERFORMED. TICKET NO. _____

EXHIBIT "A"-2

(FOR RAILROAD USE ONLY - DO NOT WRITE IN THIS BOX)

UNION PACIFIC RAILROAD CO.

Provo Sub.
(SUBDIVISION)

M. P. 714.21 E. S. 1707+20.79

UNDERGROUND WIRELINE CROSSING

American Fork	Utah	UT
(NEAREST RR STATION)	(COUNTY)	(STATE)

FOR American Fork City
(APPLICANT)

RR FILE NO. 3147-24 DATE 8/25/2020

WARNING

IN ALL OCCASIONS, U. P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC
PHONE : 1-800-336-9

Attachment: UPRR Agreement (200 South Water Line Rail Road Agreements)

Pipeline Crossing 06/05/18
Form Approved, AVP Law

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensor to use and maintain its entire property including the right and power of Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensor without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensor to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensor's satisfaction and in strict conformity with: (i) Licensor's current engineering standards and specifications, including those for shoring and cribbing to protect Licensor's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensor's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensor, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and it contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensor's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this **Exhibit B**. Upon Licensor's approval, Licensee shall contact both of Licensor's field representatives ("Licensor's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

Attachment: UPRR Agreement (200 South Water Line Rail Road Agreements)

B. Licensee shall not commence any work until: (1) Licensor has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensor's Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensor's Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensor shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensor will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensor, including but not limited to flagging, Licensor shall bill Licensee for such expenses incurred by Licensor, unless Licensor and a federal, state, or local governmental entity have agreed that Licensor is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensor and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensor performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensor and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensor will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensor is required to pay the flaggers and which could not reasonably be avoided by Licensor by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensor to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensor a minimum of

Attachment: UPRR Agreement (200 South Water Line Rail Road Agreements)

five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensor if flagging services are needed again after such five day cessation notice has been given to Licensor.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensor's then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

Union Pacific Current Safety Requirements

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensor's operations and work performed by Licensor’s personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit**

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Attachment: UPRR Agreement (200 South Water Line Rail Road Agreements)

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall telephone Licensor during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except for holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

Attachment: UPRR Agreement (200 South Water Line Rail Road Agreements)

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.

2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.

3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;

2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad

Attachment: UPRR Agreement (200 South Water Line Rail Road Agreements)

Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;

3. Removal of person(s) from Railroad Property;

4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith ;

5. Right(s) or interest(s) granted pursuant to this Agreement;

6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;

7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and

8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at this link for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment

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Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensor shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B)**, accrued or otherwise, which may have arisen prior to such termination.

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EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance**. Commercial general liability (CGL) with a limit of not less than $2,000,000 each occurrence and an aggregate limit of not less than $4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance**. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less $2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance**. Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.

- Employers' Liability (Part B) with limits of at least $500,000 each accident, $500,000 disease policy limit $500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance**. Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured,

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this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least $2,000,000 per loss, with an annual aggregate of at least $4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance**. Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensor only as named insured, with a limit of not less than $2,000,000 per occurrence and an aggregate of $6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensor's property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance**. If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensor as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensor as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensor and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensor from Licensee or any third party will not be limited by the amount of the required insurance coverage.

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Public Works **Director Approval** *Scott Sensanbaugher*

AGENDA ITEM Review and action on agreements between UTA and Union Pacific Rail Road (UPRR) for the Construction of a Water Line in Main Street

SUMMARY RECOMMENDATION Staff recommends approval of the agreements with UTA and UPRR.

BACKGROUND The Engineering Division has completed the design of the needed water line in Main Street from 200 East to 600 East and Up 600 East to 700 North. Where the water line crosses the UTA and UPRR tracks on Main Street at about 460 East both UTA and UPRR require the City to enter into an agreement for the construction of the water line. The agreements have been reviewed by the City attorney.

BUDGET IMPACT The costs associated with this agreement will be part of the existing, approved, water capital projects budget.

SUGGESTED MOTION Mr. Mayor, I move that we approve the agreements with UTA and UPPR and authorize the City to enter into the agreements as presented.

SUPPORTING DOCUMENTS

UTA agreement for Signature(PDF)
UPRR Agreement for Signature (PDF)

PIPELINE CROSSING AGREEMENT
(Interlocal Municipal Pipeline Form)

UTA Contract # PI/U/6591/P
Mile Post: MP 766.03
Latitude: 40.376756
Longitude: -111.756292
American Fork, Utah

THIS PIPELINE CROSSING AGREEMENT (the "Agreement") is made and entered into as of the _____ day of _____, 2019 **(to be dated after the final executing signature by UTA)**, by and between UTAH TRANSIT AUTHORITY, a large public transit district organized pursuant to the laws of the State of Utah (hereinafter "UTA"), and American Fork City, a political subdivision of the state of Utah, with a principal address of 51 East Main Street, American Fork, UT 84003 (hereinafter "Licensee").

RECITALS

WHEREAS, UTA is the owner of a certain railroad corridor known as the Provo Industrial Lead (the "Right of Way") acquired by UTA for the development and expansion of its public transportation system; and

WHEREAS, Licensee has an existing 22" corrugated metal casing containing a 12" cast iron pipeline that is to be abandoned is place, under separate UPRR License Agreement NO. 14568 dated on or about June 5, 1950; and

WHEREAS, Licensee intends to install and maintain a new 42" steel casing containing a 36" steel carrier pipe (the "Pipeline") via jack and bore located a minimum of 10 feet below the lowest point on the surface of the Right of Way which will cross at approximately Mile Post MP 766.03 (Latitude 40.376756, Longitude -111.756292) in American Fork, Utah; and

WHEREAS, Licensee desires a license for the construction, operation and maintenance of the Pipeline.

AGREEMENT

NOW THEREFORE, on the stated Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereinafter set forth, the mutual benefits to the Parties to be derived herefrom, and for other valuable consideration, the receipt and sufficiency of which the Parties acknowledge, it is hereby agreed as follows:

ARTICLE I
INCORPORATED TERMS AND DEFINITIONS

For purposes of this Agreement, the following definitions shall apply:

1.1 "Construct" and "Construction" mean the initial installation of the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way, as well as any subsequent reconstruction, relocation, restoration or rehabilitation of the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way.

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

1.2 "Emergency Access Manager" means the person or office responsible for controlling emergency Construction and Maintenance access to the Right of Way. The Emergency Access Manager as of the execution of this Agreement is (801) 287-3937. UTA may change the designated Emergency Access Manager from time to time by delivery of notice in accordance with Article XVI of this Agreement.

1.3 "Freight Operator" means any entity using the Right of Way, or any portion thereof, to provide common carrier freight operations.

1.4 "Governmental Authority" means any federal, state, municipal, local or other division of government, or any agency thereof, having or asserting jurisdiction with respect to any matter related to this Agreement.

1.5 "Hazardous Materials" mean any materials or substances: (i) which are present in quantities and in forms which require investigation, removal, cleanup, transportation, disposal, response or remedial action (as the terms "response" and "remedial action" are defined in Section 101 of the Comprehensive Environmental Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 (23) and (24)) under any applicable federal, state or local environmental law, regulation, ordinance, rule or bylaw, as such are amended from time to time, whether existing as of the date hereof, previously enforced or subsequently amended (each hereafter an "Environmental Law"); or (ii) which are defined as "hazardous wastes," "hazardous substances," "pollutants" or "contaminants" under any Environmental Law.

1.6 "Losses" mean any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs resulting from: (i) loss of or damage to the property of any Party or Third Person; (ii) death or personal injury to the agents of any Party or to any Third Person; or (iii) the cleanup or other requirements regarding any incident involving Hazardous Materials. The term "Losses" shall not include any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs excluded from Licensee's indemnification obligations and assumed by UTA pursuant to Sections 8.1 and 8.2 of this Agreement.

1.7 "Maintain" and "Maintenance" mean the performance of any repair, restoration, rehabilitation, refurbishment, retrofitting, inspection, monitoring, observation, testing, or similar work with respect to the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way.

1.8 "Master Interlocal Agreement" means that certain Master Interlocal Agreement Regarding Fixed Guideway Systems Located Within Railroad Corridors, effective February 13, 2004, entered by and among UTA and the various municipalities and counties within which UTA's rights of way are situated.

1.9 "Party" and "Parties" mean UTA or Licensee, and UTA and Licensee, respectively.

1.10 "Pipeline" means the existing 22" corrugated metal casing containing a 12" cast iron pipe to be flowable filled, capped and abandoned in place at a depth of approximately 3.6 feet below the surface and the new 42" steel casing containing a 36" steel carrier pipe line to be installed and maintained by Licensee via jack and bore method of installation, pursuant to this Agreement and located a minimum of 10 feet below the lowest point on the surface of the Right of Way at Mile Post MP 766.03 (Latitude 40.376756, Longitude -111.786292) on the Provo Industrial Lead in American Fork, Utah as described in Exhibit "A". The term "Pipeline" shall also apply to any and all rearrangements, modifications, reconstruction, relocations, removals and extensions or additions concerning the Pipeline that are

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

authorized and approved by UTA pursuant to this Agreement (unless they are the subject of a separate agreement that does not incorporate the terms hereof).

1.11 "Third Person" means any individual, corporation or legal entity other than UTA and Licensee.

1.12 "Track Improvements" mean any and all tracks, rails, ties, switches, frogs, end of track barricades or bumpers and other barricades or bumpers, derail devices, tie plates, spikes, wires, fastenings and any other appurtenances related thereto, drainage structures, grading, ballast, subgrade stabilization, crossings, tunnels, bridges, trestles, culverts, structures, facilities, leads, spurs, turnouts, tails, sidings, signals, crossing protection devices, communications systems or facilities, catenary systems and wires, poles and all other operating and non-operating appurtenances located within the Right of Way.

1.13 "UTA System" means any light rail, commuter rail, trolley, guided busway, or similar public transportation system constructed by UTA in the Right of Way as contemplated in the Master Interlocal Agreement.

1.14 "Utility" and "Utilities" mean and include all properties, facilities, utilities, crossings, encroachments, lines and similar appurtenances located within the Right of Way by permissive or prescriptive authority including, but not limited to, pipelines, tubelines, water and gas lines or mains, electrical conduits, ditches and other drainage facilities, wires, fiber optics, communication lines, sewer pipes, overhead wiring and supporting structures and appurtenances, and all similar installations.

1.15 "Work Window" means the time period designated by UTA during which Construction, Maintenance and any other work with respect to the Pipeline within the Right of Way is permissible. UTA may, at any time and at UTA's sole discretion, determine that the Work Window shall not be concurrent with any passenger operations within the Right of Way.

ARTICLE II
GRANT OF LICENSE AND REAL ESTATE USAGE CHARGE

2.1 UTA customarily assesses a standard administrative fee reflecting the clerical, administrative and handling expense incurred in connection with the processing of this Agreement. The standard administrative fee has been waived consistent with the provisions of the Master Interlocal Agreement.

2.2 In consideration of the real estate usage charge to be paid by Licensee, and in further consideration of the covenants and agreements to be kept, observed and performed by Licensee hereunder, UTA hereby grants Licensee a license to Construct, Maintain and operate the Pipeline in the location shown and in conformity with the dimensions and specifications indicated on the attached print dated **April 10, 2019** and approved by UTA Engineer on **April 17, 2019** marked Exhibit "A" (Exhibit "A" is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

2.3 Licensee agrees to pay UTA a one-time real estate usage charge of **$0** payable on or before the date of execution. Licensee also agrees to pay an upfront Flagging cost of **$0** and Special Inspection cost of **$152.00** (these fees are more clearly described in Section 5.1).

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

ARTICLE III
ACCESS TO THE RIGHT OF WAY

3.1 Except in the event of an emergency (as provided in Section 3.2 below), Licensee shall request permission from UTA at least ten days (or such shorter period as may be approved by UTA) prior to performing any Construction or Maintenance in or otherwise materially affecting the Right of Way. Licensee's request to access the Right of Way shall be specific as to the time, date and activities for which Licensee seeks permission. The request shall also include a summary of the method and manner in which the Construction or Maintenance will be performed. As part of the application process, UTA may require Licensee (and its contractors or other agents seeking access to the Right of Way) to attend any track access coordination meetings, safety training or other instruction as may be deemed necessary by UTA. Once granted, UTA's permission to enter the Right of Way shall be formalized in writing and delivered to Licensee. After permission has been granted, Licensee shall comply with all conditions, instructions and requirements of such permit and with all instructions or directions given by UTA including, if required, daily telephone notification to the applicable rail dispatch center prior to each entry into the Right of Way. All contact with UTA shall be coordinated through the person designated by UTA from time to time as set forth in Article XVI of this Agreement. Provided that Licensee complies with the provisions of this Section, UTA agrees not to unreasonably withhold, condition, or delay its approval of Licensee's request.

3.2 Licensee shall have the right to enter the Right of Way in the event of an emergency to make repairs necessary to protect against imminent and serious injury or damage to persons or property. Licensee shall take all precautions necessary to ensure that such emergency entry does not compromise the safety of any operations conducted in the Right of Way by UTA or the Freight Operator. Licensee must notify the Emergency Access Manager of the emergency access and the work being performed prior to entering the Right of Way.

ARTICLE IV
CONSTRUCTION AND MAINTENANCE OF THE PIPELINE

4.1 All Construction and Maintenance with respect to the Pipeline shall be performed to the satisfaction of UTA and in accordance with the conceptual, engineering and/or design plans ("Design Plans") previously approved by UTA and attached hereto as Exhibit "A." All Construction and Maintenance with respect to the Pipeline shall be performed in a workmanlike manner, in compliance with all applicable industry standards and in compliance with the requirements of any applicable Governmental Authority. UTA may impose requirements in addition to or more stringent than industry or legal standards if UTA deems such requirements necessary for the safety of operations conducted in the Right of Way. UTA may also require additional fabrication methods, staging requirements or other precautions. All Construction and Maintenance with respect to the Pipeline shall be performed during the designated Work Window. UTA shall have the right, but not the obligation, to observe any and all work performed in or otherwise materially affecting the Right of Way in connection with the Pipeline to ensure that such work is performed in accordance with the requirements set forth in this Agreement. In its Construction or Maintenance of the Pipeline, Licensee shall not make any material deviation from the Design Plans without UTA's prior written approval. Licensee shall submit to UTA plans setting out the method and manner of handling all work to be performed under the Track Improvements including, without limitation, the shoring and cribbing, if any, required to protect the operations of UTA, the Freight Operator or the owner of any adjacent tracks. Licensee shall not proceed with any such work until Licensee's proposed methods have been approved by UTA. The Pipeline shall be placed at the depth acceptable to UTA and shall not interfere with any Track Improvements.

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

4.2 Various Utilities exist on, over and under the surface of the Right of Way. Prior to commencing any Construction or Maintenance with respect to the Pipeline, Licensee shall properly investigate and determine the location of all such Utilities. In addition to the required investigation, Licensee shall have all Utilities in the area of the Pipeline "blue-staked" and clearly marked prior to any excavation. Licensee shall make arrangements for the protection of all Utilities and shall commence no excavation, boring or other penetration in the Right of Way until all such protection has been accomplished.

4.3 Fiber optic cable systems may be buried in the Right of Way. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee shall be solely responsible for contacting UNION PACIFIC RAILROAD COMPANY during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) and for determining if fiber optic cable is buried near the location of the Pipeline. If so, Licensee will contact the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, make arrangements for relocation or other protection of the fiber optic cable. Licensee shall not commence any work until all such protection and/or relocation have been accomplished. Licensee shall be solely responsible for all coordination with Union Pacific and any telecommunications companies. In coordinating the relocation or protection of fiber optic cable, Licensee shall not rely on any statements, engineering drawings or other oral or written representations of UTA or its representatives. In addition to other indemnity provisions in this Agreement, Licensee shall indemnify, defend and hold the UTA Indemnitees (as defined in Section 8.1 of this Agreement) harmless from and against all Losses arising out of: (a) any damage to or destruction of any telecommunications system proximately caused by any Construction, Maintenance or other work performed by Licensee or its agents relative to the Pipeline; and/or (b) any injury to or death of any person employed by or on behalf of any telecommunications company proximately caused by any Construction, Maintenance or other work performed by Licensee or its agents relative to the Pipeline. Except to the extent that liability is assumed by UTA as set forth in Sections 8.1 and 8.2 of this Agreement, Licensee shall not have or seek recourse against UTA for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using UTA's Right of Way or a customer or user of services of the fiber optic cable on UTA's Right of Way.

4.4 Licensee shall be solely responsible for obtaining any property rights, easements, licenses, rights of way or other permission from Third Persons (collectively "Third Person Property Rights") as may be necessary to Construct, Maintain or operate the Pipeline including, without limitation, any needed permission from the owner of any adjacent railroad corridor. Licensee shall also be solely responsible for obtaining any necessary franchises, permits or other necessary approvals from Governmental Authorities (collectively "Approvals"). Licensee agrees to pay any and all costs and expenses relating to such Third Person Property Rights or Approvals, and to assume any and all liability therefor.

4.5 Except as authorized in this Agreement or as may be immediately required for (and only at the actual time of) performance of any Construction or Maintenance contemplated under this Agreement, and then only in full compliance with all clearance standards and other safety requirements, Licensee shall not place, permit to be placed, erect, pile, store, stack, park, suffer or permit any line, building, platform, fence, gate, vehicle, car, pole, or other structure, obstruction, or material of any kind within the Right of Way.

4.6 Licensee shall Construct, Maintain and operate the Pipeline in compliance with all requirements imposed by any Governmental Authority including, without limitation, the requirements of the Federal Railroad Administration, the Occupational Safety and Health Administration and the Utah Department of Transportation. Licensee shall also Construct, Maintain and operate the Pipeline in compliance with all applicable environmental laws. The Pipeline shall be encased. Licensee shall take all

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suitable precautions to prevent any leakage or other interference with the operation of the Track Improvements or any other UTA or Third Person installations or facilities. If for any reason the Construction of the Pipeline causes interference with the operation of Track Improvements or any other UTA or Third Person installations or facilities existing prior to the Construction of the Pipeline, Licensee shall, upon notification by UTA and at Licensee's sole cost and expense, take such action as is necessary to eliminate the interference.

4.7 If, in connection with the performance of any Construction or Maintenance work, Licensee or its Contractor damages any Track Improvements, Utilities, or any other facilities, Licensee shall repair or replace such facilities with the same or similar materials, if available, as reasonably required by the UTA, consistent with applicable Federal and State laws and regulations and to the satisfaction of UTA.

4.8 At the request of UTA, Licensee shall install markers identifying the location of the Pipeline and related appurtenances at the Right of Way boundaries (where the Pipeline enters and exits the Right of Way) or other locations where UTA may designate. Markers shall be installed in a form and size as may be determined by UTA and at the sole cost and expense of Licensee. UTA hereby expressly reserves the right to require Licensee to erect and maintain, at Licensee's sole cost and expense, any and all signs of any character and nature whatsoever (e.g. location of Pipeline, precautionary and/or warning signs, etc.) that UTA deems necessary or advisable in connection with the operation of the Pipeline. Licensee shall install and/or erect any marker or sign that may be required under this Section within thirty (30) days after receiving written instructions from UTA.

4.9 Upon completion of any Construction or Maintenance relating to the Pipeline, Licensee shall restore the surface of the Right of Way to its prior condition including, but not limited to, replacing any soil that was removed and thoroughly compacting it level with the adjacent surface of the ground and restoring any fences or other property that Licensee disturbed or removed from the Right of Way.

4.10 If a contractor is to perform any Construction or Maintenance contemplated in this Agreement, then the Licensee shall cause its contractor to comply with all applicable provisions of this Agreement. Additionally, Licensee shall require its contractor to execute UTA's form Contractor's Right of Entry Agreement (the "Contractor Agreement"). Any and all contractors used by Licensee in the Construction or Maintenance of the Pipeline are subject to the approval of UTA, which approval shall not be unreasonably withheld, conditioned or delayed.

4.11 If Licensee fails to notify UTA a minimum of ten (10) days before the initial installation of the Pipeline or if Licensee's Contractor fails to obtain a Contractor Agreement, Licensee agrees to pay UTA an additional three thousand dollars (**$3,000)** as a fee for the initial inspection of the Pipeline, together with any other additional fees incurred by UTA to verify that the Pipeline was installed as per the approved plans. Such review and verification could include exposing the line to verify the depth of and materials installed. If the Pipeline was not installed in the approved location, depth, and with the approved materials, as described in the approved plans, Licensee agrees to remove the Pipeline and reinstall it according to the approved plans at Licensee's sole cost and expense.

ARTICLE V
CONSTRUCTION OBSERVATION BY UTA – LICENSEE TO BEAR ALL COSTS

5.1 The current cost of flagging is $788/day for an eight (8)-hour day and $1,058/day for a twelve (12) - hour day. Flagging is charged in blocks, with a minimum billing of an eight (8) - hour period. The current cost for a special inspector is $76/hour with a two (2) -hour minimum charge per inspection/inspector. UTA has determined that zero (0), eight (8) -hour day for Flagging and one (1), two (2) -hour day for a Special Inspection will be needed for the construction of this Pipeline. Licensee will pre-

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pay **$152.00** for Flagging and a Special Inspection at or before the execution of this agreement. If after the construction of the Pipeline extra days of Flagging or Special Inspection have been collected, Licensee may submit in writing for a refund from UTA. Submission for refund will need to be submitted to UTA within thirty (30) days of the date of completion of the Pipeline. Refunds will only be issued after confirmation from UTA operations that the flagging and special inspection days were not used.

5.2 In the event that UTA, in its sole discretion, determines that any other inspectors (technical or special), monitors, observers, safety personnel, additional flaggers or other persons are required given the nature of the Construction or Maintenance to be performed, UTA may, at its sole discretion, provide such personnel and Licensee shall, within thirty (30) days, reimburse UTA for the reasonable costs thereby incurred.

ARTICLE VI
LICENSEE TO BEAR ALL COSTS RELATED TO PIPELINE

Except as otherwise set forth in the Master Interlocal Agreement, or in Sections 7.2 and Article 8 of this Agreement, Licensee shall be solely responsible for any and all costs incurred with respect to any Construction, Maintenance or other work related to the Pipeline.

ARTICLE VII
SUBORDINATION OF RIGHTS GRANTED - RELOCATION OF PIPELINE

7.1 The rights granted pursuant to this Agreement shall be subject and subordinate to the prior and continuing right and obligation of UTA to fully use the Right of Way, including the right and power of UTA to construct, maintain, repair, renew, use, operate, modify, or relocate new or existing Track Improvements upon, along, above, or across any or all parts of the Right of Way and other UTA property, all or any of which may be freely done at any time or times by UTA. The grant of license for the Pipeline is made without covenants of title or quiet enjoyment. UTA makes no warranties, either express or implied, regarding the nature, extent or status of its title to the Right of Way or regarding the existence or nonexistence of Third Person rights which may be superior to the license granted pursuant to this Agreement.

7.2 Licensee shall, within sixty (60) days after receipt of written notice from UTA, modify or relocate (or, if agreed between the Parties, allow UTA to modify or relocate) all or any portion of the Pipeline as UTA may reasonably designate. To the extent that the modification or relocation of the Pipeline is necessitated by the construction, reconstruction, modification or relocation of any UTA System, UTA shall be responsible for the costs of such relocation. To the extent that the modification or relocation of the Pipeline is necessitated because the Pipeline is conflicting with or causing interference with any UTA or Third Person Track Improvements or Utilities existing prior to the Construction of the Pipeline, then Licensee shall be responsible for the costs of such relocation. All the terms, conditions and stipulations herein expressed with reference to the Pipeline in the location described herein shall, so far as the Pipeline remains on UTA property, apply to the Pipeline as modified or relocated pursuant to this Section.

7.3 The foregoing grant is also subject to the outstanding superior rights previously conveyed or granted to Third Persons by UTA, or its predecessors in interest, and the right of UTA to renew and extend the same.

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

ARTICLE VIII
INDEMNITY AND RELEASE

8.1 Licensee agrees to protect, defend, release, indemnify and hold harmless UTA, and any successors, contractors, officers, directors, agents and employees of UTA (the "UTA Indemnitees"), from and against any and all Losses resulting from: (a) negligence on the part of Licensee, or any employees, principals, contractors or agents of Licensee, in conjunction with any Construction, Maintenance or other work performed by or on behalf of Licensee with respect to the Pipeline; (b) negligence on the part of Licensee, or any employees, principals, contractors or agents of Licensee, in the use or operation of the Pipeline; or (c) Licensee's breach of any provision of this Agreement. Notwithstanding the foregoing, Licensee shall not be required to indemnify UTA for, and UTA hereby assumes responsibility for, any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs that are proximately caused by the negligence, recklessness or willful misconduct of UTA with respect to the construction, maintenance or operation of any UTA System.

8.2 Licensee acknowledges that the Right of Way may be subject to prospective purchaser agreements and covenants not to sue that UTA has entered with the Utah Department of Environmental Quality and the United States Environmental Protection Agency. Pursuant to such agreements, UTA is required to characterize any excavated soil that appears to contain (or has the potential to contain) Hazardous Materials and to handle and dispose of any such soil in compliance with applicable state and federal laws. Under these agreements, UTA is not required to excavate any soil except as required for construction related to the installation of a UTA System. Accordingly, any excavation that Licensee performs with respect to the Pipeline exposes UTA to potential environmental liability that would not otherwise be present. As consideration for the rights granted to Licensee hereunder, Licensee agrees to assume all potential liability and responsibility for, and to indemnify and hold UTA harmless with respect to, any Losses related to the characterization and removal of any Hazardous Materials discovered during Construction or Maintenance. Licensee agrees to perform any such characterization and removal in full compliance with all applicable state and federal environmental laws. Notwithstanding the foregoing, Licensee shall not be required to indemnify UTA for, and UTA hereby assumes responsibility for, any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs related to any Hazardous Materials discovered as the result of modification or relocation work performed by or on behalf of Licensee in conjunction with the construction, reconstruction, modification or relocation of any UTA System. To the extent that either Party actually causes a release of Hazardous Materials into the Right of Way, such party shall be responsible for the characterization and removal of such Hazardous Materials and shall indemnify the other Party with respect to all losses resulting therefrom.

8.3 Licensee hereby releases UTA from, and agrees not to seek recourse against UTA with respect to, any claims, damages, fees, expenses or other losses proximately caused by Third Persons including, without limitation, Third Persons having licenses or other interests in the Right of Way. Nothing contained herein shall be construed or deemed to be a release of any Third Persons by Licensee.

8.4 The provisions of this Article shall survive the termination of this Agreement.

ARTICLE IX
CLAIMS AND LIENS FOR LABOR AND MATERIALS; TAXES

9.1 Licensee shall fully pay for all materials joined or affixed to the Right of Way in connection with the Pipeline, and for all labor performed with respect to the Pipeline. Licensee shall not permit or

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suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee.

9.2 Licensee shall promptly pay or discharge all taxes, charges and assessments assessed or levied upon, in respect to, or on account of the Pipeline to prevent the same from becoming a charge or lien upon the Right of Way and so that any taxes, charges and assessments levied upon or with respect to such property shall not be increased because of the Pipeline or any improvements, appliances, or fixtures connected therewith.

ARTICLE X
TERMINATION

10.1 UTA may terminate this Agreement if: (a) Licensee ceases to use the Pipeline in an active and substantial way for any continuous period of one (1) year; (b) Licensee continues in default with respect to any provision of this Agreement for a period of thirty (30) days after UTA delivers written notice to Licensee identifying the nature of Licensee's breach of this Agreement; provided, however that if the nature of Licensee's breach is such that it cannot be cured within such thirty (30)-day period, Licensee shall not be deemed in default if Licensee commences to cure the breach within thirty (30) days and thereafter diligently continues to remedy the breach; or (c) Licensee removes the Pipeline from the Right of Way.

10.2 Termination of this Agreement for any reason shall not affect any of the rights, obligations or liabilities that have accrued prior to or concurrent with such termination.

ARTICLE XI
INSURANCE

11.1 During the life of this Agreement, Licensee shall, at its sole cost and expense, obtain and maintain the insurance described in Exhibit "B" (Exhibit "B" is attached hereto and hereby incorporated into and made a part of this Agreement by reference). Licensee will also provide to UTA a Certificate of Insurance, identifying UTA Contract Number PI/U/6591/U, issued by its insurance carrier confirming the existence of such insurance and indicating that the policy or policies contain the following endorsement:

"Utah Transit Authority is named as an additional insured with respect to all liabilities arising out of the existence, use or any work performed on or associated with the Pipeline Crossing Agreement PI/U/6591/U in the railroad right of way known as the Provo Industrial Lead at approximately Mile Post MP 766.03 in American Fork, Utah County, Utah"

11.2 Failure to maintain insurance as required shall entitle, but not require UTA to terminate the license granted hereby immediately.

11.3 If Licensee is a public entity subject to any applicable statutory governmental immunity laws, the limits of insurance described in Exhibit "B" shall be the limits the Licensee then has in effect or that are required by applicable current or subsequent law, whichever is greater, a portion of which may be self insured with the consent and approval of UTA. Licensee does not waive any of its rights of entitlements to governmental immunity and limitations on liability to Third Persons under the Utah Governmental Immunity Act.

11.4 Licensee hereby acknowledges that it has reviewed the requirements of Exhibit "B", including without limitation the requirement for Railroad Protective Liability Insurance during construction, maintenance, installation, repair or removal of the pipeline which is the subject of this Agreement.

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

ARTICLE XII
REMOVAL OF PIPELINE UPON TERMINATION OF AGREEMENT

Upon termination of this Agreement pursuant to Article X hereof, Licensee shall, if requested in writing by UTA and at Licensee's sole cost and expense, remove the Pipeline from the Right of Way and shall restore, to the satisfaction of UTA, such portions of the Right of Way to at least as good a condition as such were in at the time that Licensee first entered the Right of Way. If Licensee fails to do the foregoing within a reasonable time, UTA may, at its option, perform such removal and restoration work at the expense of Licensee. Licensee shall reimburse UTA for the costs incurred in any restoration or removal work performed under this Article within thirty (30) days after receipt of the bill therefor. In the event UTA removes the Pipeline pursuant to this Article, UTA shall in no manner be liable to the Licensee for any damage sustained by Licensee for or on account thereof, and such removal and restoration shall in no manner prejudice or impair any other right of action, including the recovery of damages, that UTA may have against the Licensee. The provisions of this Article shall survive the termination of this Agreement.

ARTICLE XIII
ASSIGNMENT

Licensee may not assign this Agreement, in whole or in part, or any rights herein granted, without UTA's written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Licensee may assign this Agreement and its rights hereunder as part of a consolidation with an entity that: (a) is a successor governmental entity to Licensee; (b) is annexed with, merged into or consolidated with Licensee; or (c) that acquires substantially all of the assets of Licensee provided, however, that in any of the above instances such entity seeking an assignment under this Article must, as a condition to such assignment, assume all terms and conditions of this Agreement without limitation.

ARTICLE XIV
SUCCESSORS AND ASSIGNS

Subject to the provisions of Article XIII, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, their officers, employees, representatives, successors and assigns.

ARTICLE XV
SEVERABILITY

This Agreement is executed by the Parties under current interpretation of any and all applicable federal, state, county, municipal, or other local statutes, ordinances, or laws. Furthermore, each and every separate division hereof shall have independent and severable status from each other division, or combination thereof, for the determination of legality, so that if any separate division herein is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, invalid or unenforceable for any reason, that separate division shall be treated as a nullity but such holding or determination shall have no effect upon the validity or enforceability of each and every other division, or other combination thereof.

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

ARTICLE XVI
NOTICES

Except as specifically provided elsewhere in this Agreement, all notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the addresses set forth herein. Addresses for notice may be changed by giving ten (10) days written notice of the change in the manner set forth herein.

If to UTA:

Utah Transit Authority
Attn: Property Management
669 West 200 South
Salt Lake City, UT 84101
PropertyManagement@rideuta.com

With a Copy to:

Utah Transit Authority
Attn: Compliance Officer
669 West 200 South
Salt Lake City, UT 84101

If to Licensee:

American Fork City
Attn: City Engineer
51 East Main Street
American Fork, UT 84003

ARTICLE XVII
NO IMPLIED WAIVER

The waiver by UTA of the breach by Licensee of any condition, covenant or agreement herein contained shall not impair any future ability of UTA to avail itself of any remedy or right set forth in this Agreement. Neither the right of supervision by UTA, nor the exercise or failure to exercise such right, nor the approval or failure to disapprove, nor the election by UTA to repair or reconstruct all or any part of the work contemplated by this Agreement shall be deemed a waiver of any of the obligations of Licensee contained or set forth in this Agreement.

ARTICLE XVIII
ENTIRE AGREEMENT - COUNTERPARTS

This Agreement shall constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. Any amendment to this Agreement must be in writing and executed by an authorized representatives of each Party. This Agreement may be executed in any number of counterparts and by each of the Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Agreement may be detached from any counterpart and reattached to any other counterpart hereof. The facsimile transmission of a signed original of this Agreement or any counterpart hereof and the retransmission of any signed facsimile transmission hereof shall be the same as delivery of an original.

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

ARTICLE XIX
FORUM SELECTION AND CHOICE OF LAW

This Agreement shall be construed and interpreted under the laws of the State of Utah and the parties agree that any action or proceeding brought concerning this Agreement may be brought only in the courts of Salt Lake County, Utah, and each party hereto hereby consents to the jurisdiction of such courts.

ARTICLE XX
SPECIAL PROVISIONS

Special provisions, if any, are included in the attached Exhibit “C” (Exhibit “C” is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date first herein written.

UTAH TRANSIT AUTHORITY

Reviewed and Approved as to Form for UTA

UTA Engineering

UTA Compliance Officer

By: _____
Paul Drake
Senior Manager Real Estate & TOD

By: _____
Spencer Burgoyne
Manager, Property Administration

By: _____
Shelley Nielsen
Sr. Property Administrator

LICENSEE

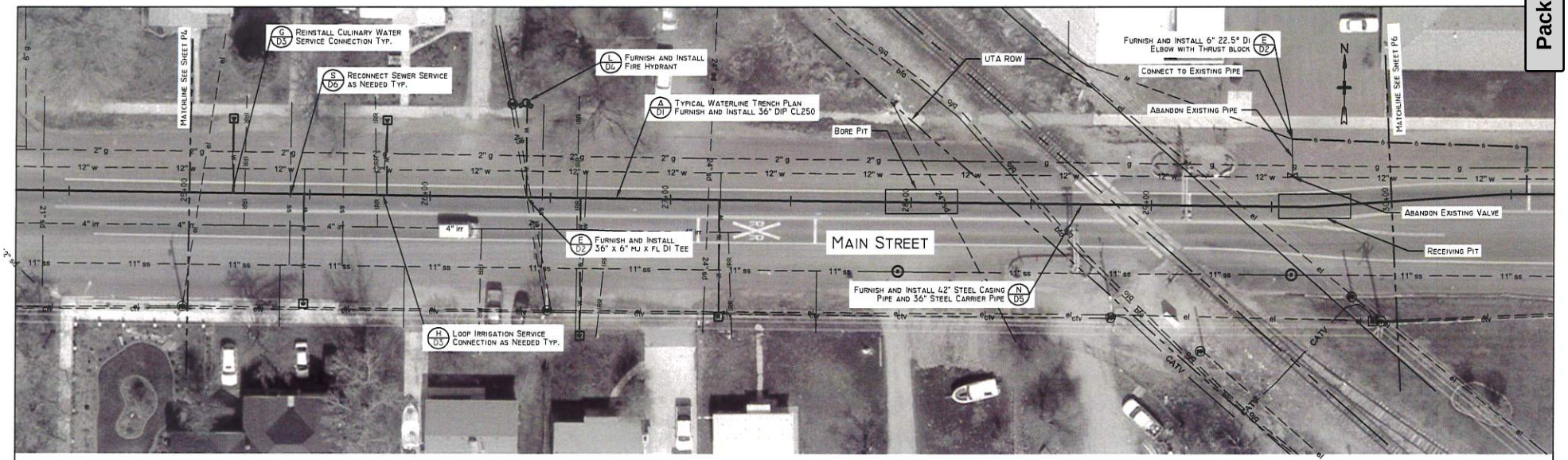
By: _____
AaronWilson/Project Engineer
American Fork City

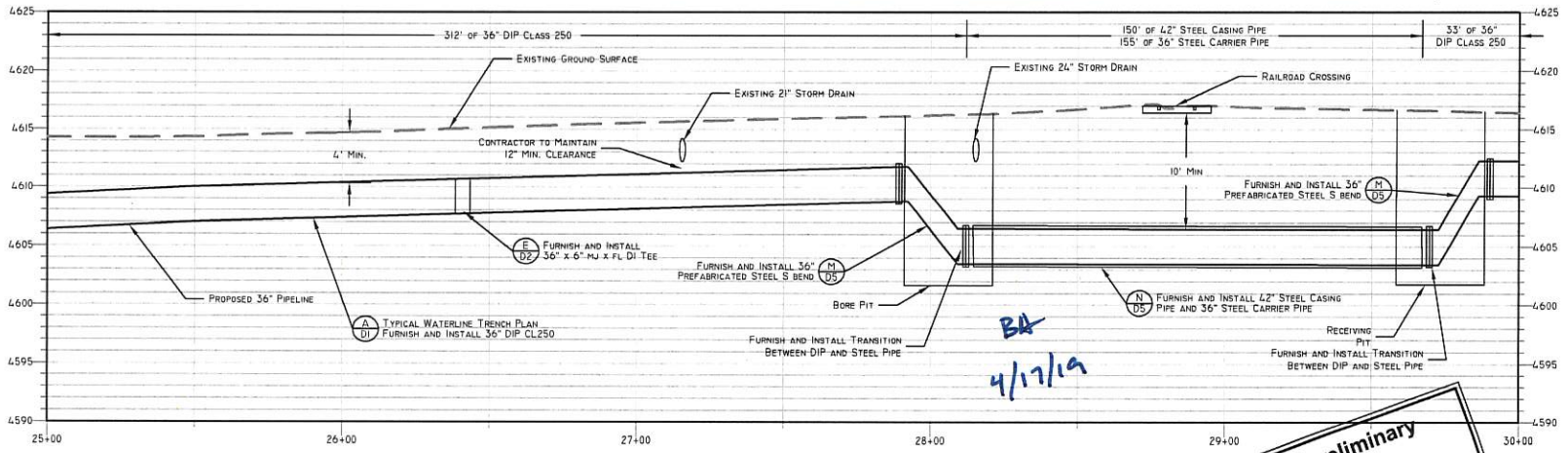
Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

EXHIBIT "A"
DESIGN PLANS

[Insert engineering drawings showing the proposed crossing including proposed construction methods, shoring and cribbing requirements and mile post location]

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))





BA
4/17/19

60% Preliminary Drawings
Plot Date: 4/10/2019

NOTES:
1. NEW METERS AND METER BOXES SHALL BE LOCATED IN PARK STRIPS UNLESS THERE IS NO CURB AND GUTTER. IF THERE IS NO CURB AND GUTTER THEN THE METER SHALL BE LOCATED BEHIND SIDEWALK.
2. UTILITY DEPTHS AND LOCATIONS ARE APPROXIMATE. CONTRACTOR IS TO POTHOLE UTILITIES AS NECESSARY TO PROPERLY PLACE 36" DIP AND TO DETERMINE WHICH UTILITIES WILL NEED TO BE LOOPED.

E PLAN AND PROFILE STA. 25+00 - 30+00

HORIZONTAL SCALE 0 10' 20' 40'

VERTICAL SCALE 0 2.5' 5' 10'

PRELIMINARY
NOT FOR CONSTRUCTION
REV DATE DESCRIPTION
REVISIONS

FRANSON CIVIL ENGINEERS

HORROCKS ENGINEERS

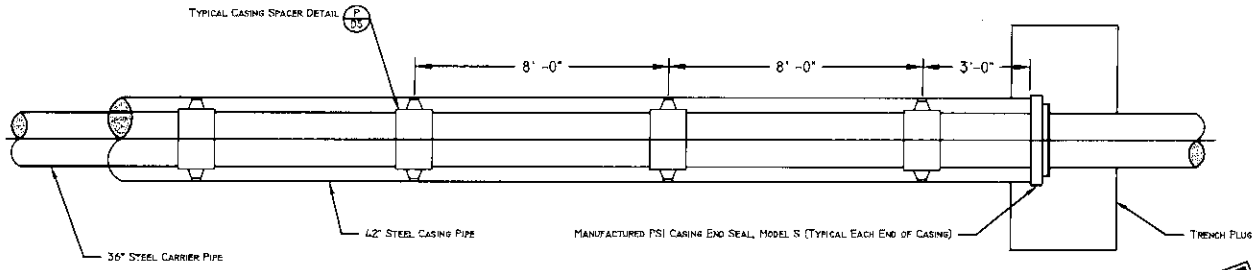
AMERICAN FORK 36-INCH PIPELINE

PLAN AND PROFILE STA. 25+00 - 30+00

DESIGNED LANE PEIRCE	DATE	PROJECT NO. CU.0169
DRAWN MATT GURR	DATE	SHEET NO. P5 OF P18
CHECKED CHECKED	DATE	DRAWING NO.

P:\UT\Cedar&American Fork\MAF 36 Pipeline\8-Drawings\Design Drawings\Plan and Profile.dwg - P5 25-30 - 4/10/2019 10:44 AM - mattgurr

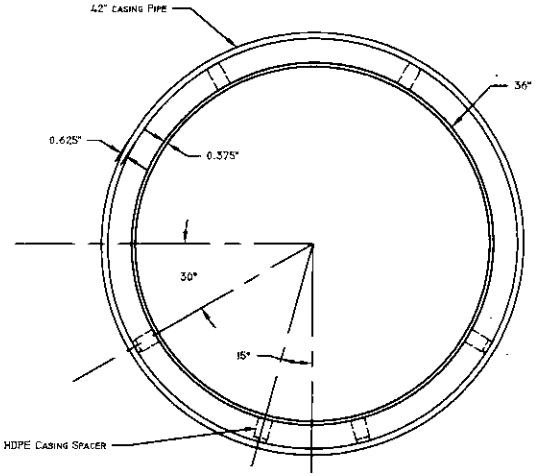
NO GREATER THAN 3-FEET FROM EACH SIDE OF CASING PIPE.



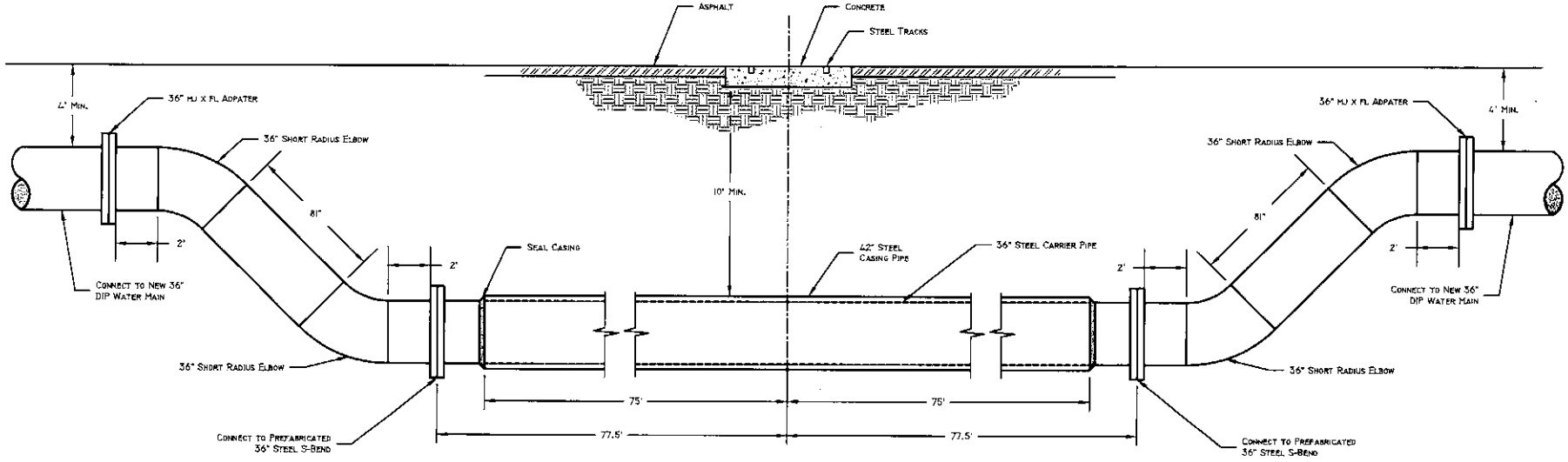
N RAIL ROAD CASING DETAIL
NTS

NOTES:
1. CARRIER PIPE IS TO BE 36" DIAMETER STEEL WITH 0.375" THICKNESS. THE YIELD STRENGTH MUST BE AT LEAST 35,000 PSI. THE PIPE IS A DISTRIBUTION LINE FOR CULINARY WATER AND THE OPERATING PRESSURE IS 90 PSI.
2. CASING PIPE IS TO BE 42" DIAMETER STEEL WITH 0.625" THICKNESS. THE YIELD STRENGTH MUST BE AT LEAST 35,000 PSI.
3. CASING PIPE IS TO BE INSTALLED BY THE JACK AND BORE METHOD
4. FIBER OPTIC CABLE DOES EXIST IN THE VICINITY OF THIS PROJECT. FOR MORE INFORMATION, REFER TO UNION PACIFIC'S TICKET NUMBER 20190212053.

60% Preliminary Drawings
Plot Date: 4/10/2019



P TYPICAL CASING SPACER DETAIL
NTS



M CASING PIPE IN STREET
NTS

PRELIMINARY
NOT FOR CONSTRUCTION
REVISIONS

FRANSON CIVIL ENGINEERS

HORROCKS ENGINEERS

AMERICAN FORK 36-INCH PIPELINE
BORING DETAILS

DESIGNED LANE PEIRCE	DATE	PROJECT NO. CU.0169
DRAWN MATT GURR	DATE	SHEET NO. D5 OF D7
CHECKED CHECKED	DATE	DRAWING NO.

P:\UTCentralAmerican ForkAF 36 Pipeline\06-Civil\Design\Design Drawings\TYPICALS.dwg - D5 Boring - 4/10/2019 11:58 AM - mattgurr

EXHIBIT "B"
INSURANCE REQUIREMENTS

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. **Commercial General Liability Insurance:** Policy providing coverage for death, personal injury and property damage with a combined single limit of at least $2,000,000 each occurrence or claim and an aggregate limit of at least $4,000,000. The policy shall contain broad form contractual liability insurance covering the indemnity obligations assumed by Licensee in the Agreement. Exclusions for railroads (except where the Pipeline is in all places more than fifty (50) feet from any railroad tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed. Coverage provided on a "claims made" form shall provide for at least a two-year extended reporting and discovery period if (a) the coverage changes from a claims made form to an occurrence form, (b) there is a lapse/cancellation of coverage, or (c) the succeeding claims made policy retroactive date is different for the expiring policy.

    a. The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE: "Contractual Liability Railroads" ISO from CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Utah Transit Authority Property" as the Designated Job Site.

B. **Automobile Liability Insurance:** Policy providing bodily injury, property damage and uninsured vehicles coverage with a combined single limit of at least $2,000,000 each occurrence or claim. This insurance shall cover all motor vehicles including hired and non-owned, and mobile equipment if excluded from coverage under the commercial general liability insurance.

C. **Worker's Compensation and Employer's Liability Insurance:** Policy covering Licensee's statutory liability under the laws of the State of Utah. If Licensee is self-insured, evidence of State approval must be provided.

D. **Railroad Protective Liability Insurance (RRPLI):** During construction and maintenance within fifty (50) feet of an active railroad track, including but not limited to installation, repair or removal of facilities, equipment, services or materials, the Licensee and/or Licensee's Contractor must maintain "Railroad Protective Liability" insurance on behalf of UTA only as named insured, with a limit of not less than $2,000,000 per occurrence and an aggregate of $6,000,000.

    a. If the Licensee and/or Licensee's Contractor is not enrolling for this coverage under UTA's blanket RRPLI program, the policy provided must have the definition of "JOB LOCATION" AND "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this agreement.

E. **Umbrella or Excess Insurance:** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

F. **Other Insurance Provisions:**

a. Licensee and their insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against UTA. Licensee's insurance shall be primary with respect to any insurance carried by UTA. Licensee will furnish UTA at least thirty (30) days advance written notice of any cancellation or non-renewal of any required coverage that is not replaced.

b. The required insurance policy(ies) shall be written by a reputable insurance company with a current AM Best's Insurance Guide Rate of A better, or as may otherwise be acceptable to UTA. Such insurance company shall be authorized to transact business in the State of Utah.

c. The fact that insurance is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by UTA shall not be limited by the amount of the required insurance coverage.

SUBMITTING REQUESTS FOR
RAILROAD PROTECTIVE LIABILITY INSURANCE
($2,000,000 per occurrence/ $6,000,000 aggregate)

Application forms for inclusion in Utah Transit Authority's Blanket Railroad Protective Liability Insurance Policy may be obtained from a Property Administrator.

If you have questions regarding railroad protective insurance (i.e. premium quotes, application) please contact David Pitcher at:

Phone: (801) 287-2371
Email: dcpitcher@rideuta.com

Send or hand deliver Checks and Applications to the following address:

Utah Transit Authority
Attn: David Pitcher
669 West 200 South
Salt Lake City, UT 84101

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

EXHIBIT "C"
SPECIAL PROVISIONS

Licensee or Licensee's contractor must first obtain a Right of Way Access Permit from UTA before any access will be allowed on UTA property. The current contact person for obtaining a Right of Way Access Permit is Brandon Heath, 801-237-1915 or such other contact as shall be identified on UTA's website location noted below.

A copy of the permit that shall be filled out and submitted can be found on UTA's website, under the Track Access Permit tab. http://www.rideuta.com/PropertyManagement

Note: Access Permits will not be issued without first having an executed Contractor's Right of Entry Agreement, UTA having received proof of insurance as provided in the Right of Entry Agreement, and verification that the Contractor and all of the Contractor's Employees have gone through UTA's Roadway Worker Training, if applicable.

Union Pacific Rail Road ("UPRR") coordination is required for this section of UTA owned Right of Way, Licensee or its Contractor shall obtain all necessary UPRR approvals, such approvals are subject to UTA review and acceptance prior to UTA final execution of this Agreement. Licensee or its Contractor shall be responsible to comply with all UPRR construction requirements and for payment of all invoices for flagging or other inspections required and invoiced by UPRR.

Attachment: UTA agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

June 12, 2019
Folder: 03053-38

LANE PEIRCE
AMERICAN FORK CITY
275 E 200 N AMERICAN FORK UT 84003

Re: Proposed One (1) Underground 36 Inch Steel Culinary Water Pipeline Encased In A 42 Inch Steel Casing, Pipeline Crossing of Railroad Property at Mile Post 766.93 on the Provo Industrial Lead Subdivision at or near American Fork, Utah County, Utah

Lane:

Attached is an original of the agreement covering your use of the Railroad Company's right of way. Please print two copies, execute on your behalf and return ALL DOCUMENTS with a check for any payments required, as shown below to 1400 Douglas Street, Omaha, NE 68137-1690 Attn: Casey Moore.

An original copy of the fully-executed document will be returned to you, when approved and processed by the Railroad Company. Also, please provide a resolution or other authorization for the party executing the documents, *if signature authorization is required by your Entity.*

- Payment in the amount of **Thirteen Thousand Nine Hundred Twenty Dollars ($13,920.00)** is due and payable to Union Pacific Railroad Company upon your execution of the agreement. Please include your payment, **with Folder No. 03053-38 noted on that document.** If you require formal billing, you may consider this letter as a formal bill and that 94-6001323 is this Corporation's correct Federal Taxpayer Identification Number.

- Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed documents within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

If you have any questions, please contact me at (402) 544-8553.

Sincerely,

Casey Moore
Sr Analyst RE Contracts

Union Pacific Railroad Real Estate 1400 Douglas Street Stop 1690 Omaha, Nebraska 68179-1690 fx. (402) 501-0340

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

Pipeline Crossing 080808
Last Modified: 06/05/18
Form Approved, AVP-Law

Folder No. 03053-38

PIPELINE CROSSING AGREEMENT

Mile Post: 766.93, Provo Industrial Lead Subdivision
Location: American Fork, Utah County, Utah

THIS AGREEMENT ("Agreement") is made and entered into as of September 17, 2020, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **AMERICAN FORK CITY**, to be addressed at 275 E 200 N, American Fork, Utah 84003 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate one (1) underground 36 inch steel culinary water pipeline encased in a 42 inch steel casing only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in American Fork, Utah County, State of Utah ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated April 23, 2019, attached hereto as **Exhibit A** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for one (1) underground 36 inch steel culinary water pipeline encased in a 42 inch steel casing, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of **Thirteen Thousand Nine Hundred Twenty Dollars ($13,920.00)**.

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as **Exhibit B** and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licensor at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licensor herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licensor to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licensor to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licensor, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licensor's written consent, will be absolutely void and may result in Licensor's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B.**

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

B. Upon Licensor's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Folder No. 03053-38)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: AMERICAN FORK CITY
275 E 200 N
American Fork, Utah, 84003

Article 12. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

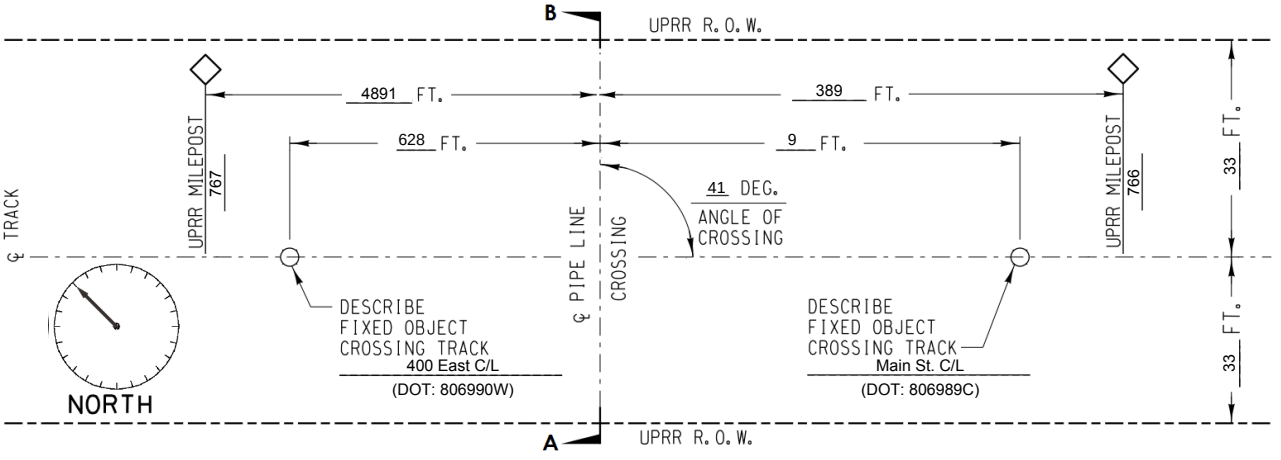
Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

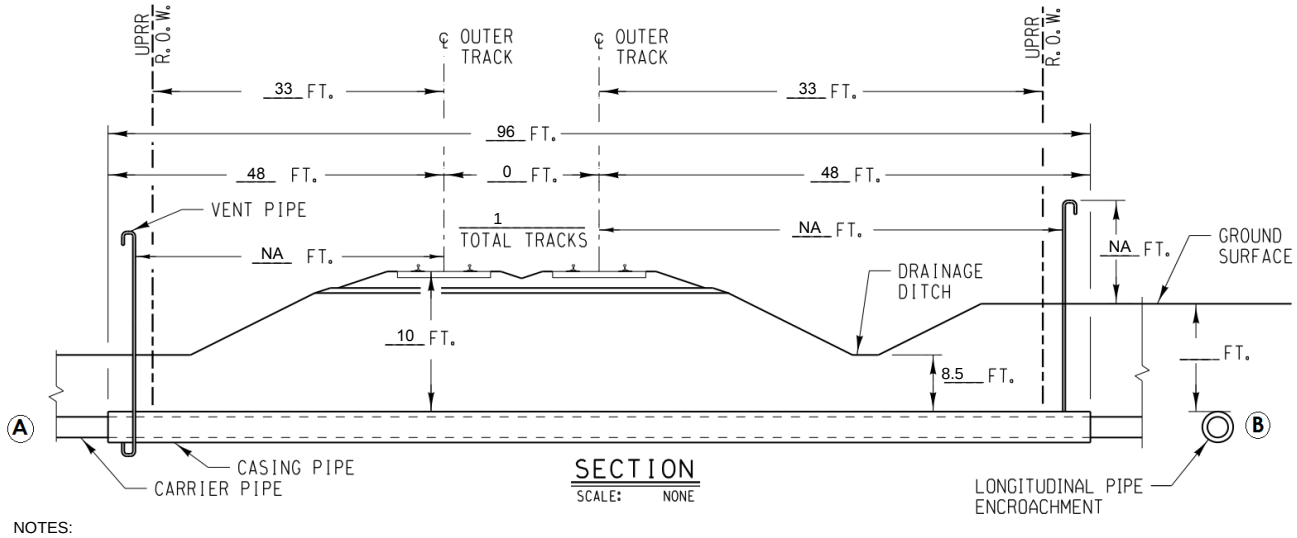
UNION PACIFIC RAILROAD COMPANY	**AMERICAN FORK CITY**
By: _____	By: _____
Casey Moore Union Pacific Railroad Real Estate - Utilities	Name Printed: _____ Title: _____

NON-FLAMMABLE LIQUID PIPELINE

☑ CROSSING
☐ ENCROACHMENT
☐ BOTH



PLAN
SCALE: NONE



SECTION
SCALE: NONE

NOTES:
1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK
2) REFER TO AREMA VOLUME 1. CHAPTER 1. PART 5. SECTION 5.1

A) METHOD OF INSTALLATION BORED AND JACKED
B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT _____.
C) SIGNS PROVIDED? AT MINIMUM SIGNS WILL BE PROVIDED AS STATED ABOVE
D) CARRIER MATERIAL STEEL. IF RCP, CLASS V? NA.
COMMODITY TO BE CONVEYED CULINARY WATER.
OPERATIONAL PRESSURE 510 PSI. MAOP 510 PSI.
WALL THICKNESS (INCH)/ SCHEDULE 0.375 . DIAMETER 36 IN.
CATHODIC/COATING PROTECTION NO
E) CASING MATERIAL STEEL PIPE. IF RCP, CLASS V? NA.
TOTAL LENGTH CASING PIPE: 150 FT.
WALL THICKNESS 0.625 IN. DIAMETER 42 IN.
CATHODIC/COATING PROTECTION NO
CASING PIPE IS SEALED AT THE ENDS.
F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES
43 AND 43.

UNION PACIFIC **BUILDING AMERICA®**

EXHIBIT "A"

SUBDIVISION: Provo Ind. Ld.	
TRACK TYPE: MAINLINE	
M.P.: 766.93	LAT.: 40.37666667
E.S.M.: 1791+43 ±	LONG.: -111.78638889
NEAREST CITY: AMERICAN FORK / COUNTY: UTAH / STATE: UT	
APPLICANT: AMERICAN FORK CITY	
FILE NO.: 0305338	DATE: 4/23/2019

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

Pipeline Crossing 06/05/18
Form Approved, AVP Law

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensor to use and maintain its entire property including the right and power of Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensor without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensor to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensor's satisfaction and in strict conformity with: (i) Licensor's current engineering standards and specifications, including those for shoring and cribbing to protect Licensor's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensor's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensor, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and it contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensor's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this **Exhibit B**. Upon Licensor's approval, Licensee shall contact both of

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

Licensor's field representatives ("Licensor's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licensor has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensor's Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensor's Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensor shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensor will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensor, including but not limited to flagging, Licensor shall bill Licensee for such expenses incurred by Licensor, unless Licensor and a federal, state, or local governmental entity have agreed that Licensor is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensor and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensor performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensor and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensor will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensor is required to pay the flaggers and which could not reasonably be avoided by Licensor by

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assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensor to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensor a minimum of five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensor if flagging services are needed again after such five day cessation notice has been given to Licensor.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensor's then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

Union Pacific Current Safety Requirements

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensor's operations and work performed by Licensor’s personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit**

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall telephone Licensor during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except for holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.

2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.

3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;

2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;

3. Removal of person(s) from Railroad Property;

4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith ;

5. Right(s) or interest(s) granted pursuant to this Agreement;

6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;

7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and

8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at this link for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensor shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B)**, accrued or otherwise, which may have arisen prior to such termination.

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance**. Commercial general liability (CGL) with a limit of not less than $2,000,000 each occurrence and an aggregate limit of not less than $4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance**. Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less $2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance**. Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.

- Employers' Liability (Part B) with limits of at least $500,000 each accident, $500,000 disease policy limit $500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance**. Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured,

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least $2,000,000 per loss, with an annual aggregate of at least $4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance**. Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensor only as named insured, with a limit of not less than $2,000,000 per occurrence and an aggregate of $6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensor's property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance**. If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensor as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensor as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensor and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensor from Licensee or any third party will not be limited by the amount of the required insurance coverage.

Attachment: UPRR Agreement for Signature (36" Water Line Rail Road Agreements (segment 2))

REQUEST FOR COUNCIL ACTION
CITY OF AMERICAN FORK
SEPTEMBER 22, 2020

Department Recorder **Director Approval** *Terilyn Lurker*

AGENDA ITEM Review and action an agreement with UDOT for a Statewide Utility License Agreement.

SUMMARY RECOMMENDATION
Staff would recommend approval.

BACKGROUND
On July 14, 2015, the city council approved a Statewide Utility License Agreement (SULA) with UDOT. This agreement aided in the streamlining process of obtaining permits. The city recently received a notice from UDOT that they were updating that agreement to conform with current rules.

Attached to the RCA is a letter from UDOT explaining the SULA, a copy of the old agreement, and the new agreement.

BUDGET IMPACT
NA

SUGGESTED MOTION
Move to approve the Statewide Utility License Agreement with UDOT.

SUPPORTING DOCUMENTS

UDOT Statewide Utility License Agreement (PDF)

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

DEPARTMENT OF TRANSPORTATION

CARLOS M. BRACERAS, P.E.
Executive Director

JASON E. DAVIS, P.E.
Deputy Director of Engineering and Operations

TERIANNE S. NEWELL, P.E.
Deputy Director of Planning and Investment

September 1, 2020

Ms. Angie Katoa
American Fork City
51 E. Main Street
American Fork, UT 84003

Dear Ms. Katoa,

Notice of Termination and Replacement – Statewide Utility License Agreement

The Utah Department of Transportation (UDOT) has a Statewide Utility License Agreement (SULA) with American Fork City (Company) on file dated September 1, 2015 (attached). UDOT is updating and replacing all SULAs that are more than 5 years old in order to bring them into conformance with current rules (R930-7) and form. This letter serves as UDOT's official 30-day written notice of termination, as required by paragraph 18 of the SULA. The Company's SULA will terminate on October 1, 2020.

As stated in the SULA, this notice of termination does not affect any permits issued and approved under the terms of SULA. However, if a new SULA is not executed prior to the termination date noted above, no new encroachment permits will be issued by our regional offices to the Company until the new SULA is in place.

Attached, for your records, is a copy of the current SULA that is up for termination along with a new, replacement SULA. Please review the company information on the replacement SULA for accuracy and completeness and notify UDOT if there are any corrections required. Upon receipt of any needed corrections, my office will prepare and send a final replacement SULA for signature.

Should you have any questions or concerns about this SULA or the termination/renewal process, please contact me, coreynelson@utah.gov.

Sincerely,

Corey Nelson, PE, PTOE
Statewide Utilities Director

Utilities • Work phone: (801) 965-4083 Cell: (385)-251-4134 • Facsimile (801) 955-9002 • www.udot.utah.gov
Calvin Rampton Complex • 4501 South 2700 West • Mailing Address P.O. Box 148460 • Salt Lake City, Utah 84114-8460

Attachment: UDOT Statewide Utility License Agreement (UDOT - Statewide Utility License Agreement)

American Fork City
51 E. Main Street
American Fork, UT 84003
Federal ID No. 87-6000209

STATEWIDE UTILITY LICENSE AGREEMENT

NON-INTERSTATE

This **AGREEMENT** is made by and between the **Utah Department of Transportation**, ("UDOT") and **American Fork City** ("City"), a political subdivision of the State of Utah. Each as party ("Party") and together as parties ("Parties").

RECITALS

WHEREAS, the Parties desire to assist in expediting the approval of UDOT permits for operating, constructing, and maintaining utility lines and related facilities ("Facilities") within state highway rights-of-way; and excluding longitudinal installations within the interstate highway rights-of-way; and

WHEREAS, the terms of this agreement shall apply to all issued encroachment permits; and

WHEREAS, this agreement shall apply to approved location and encroachment permits on state highway rights-of-way in the State of Utah which are within the responsibility and jurisdiction of UDOT; and

WHEREAS, the Parties desire that this agreement supersedes all previous utility license agreements executed between the Parties.

AGREEMENT

NOW THEREFORE, the Parties agree as follows:

1. **LICENSE**: UDOT grants a non-exclusive license to the City for Facilities that have been granted or will be granted an encroachment permit pursuant to Utah Administrative Code R930-7.

2. **UDOT AGREEMENT TO REVIEW APPLICATIONS**: This agreement is not an encroachment permit or a guarantee of an encroachment permit. However, UDOT agrees to promptly review any application for an encroachment permit that the City files pursuant to the procedures established in this agreement and Utah Administrative Code R930-7.

3. **APPROVAL**: Unless otherwise stated herein, or in any particular encroachment permit or agreement, all permits executed pursuant hereto will be deemed to be governed by the provisions of this agreement. Encroachment permit applications shall be presented to the appropriate UDOT Region/District Permits Office. UDOT may apply special limitations for any work within the right-of-way. The issuance and approval of an encroachment permit enables the City to proceed with the utility construction and permitted use in accordance with the terms of the encroachment permit.

4. **RESERVATION AND SPECIAL PROVISIONS**: UDOT has the right to require an agreement or specific

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encroachment permit for any particular location and construction. Special provisions, as particular circumstances may dictate and as required by UDOT may be incorporated into any encroachment permit issued after this agreement is executed.

5. **INSPECTION**: UDOT may perform routine inspection of utility construction to monitor compliance with this agreement, encroachment permit, and with state and federal laws and regulations. UDOT's inspection does not relieve the City of its responsibilities in meeting the encroachment permit conditions and UDOT's specifications. The City is responsible for UDOT's inspection costs.

6. **COSTS**: The City shall pay the entire cost of the Facilities installation.

7. **BEGINNING CONSTRUCTION:** The City shall not begin any utility construction on UDOT right-of-way until UDOT issues the encroachment permit. The City shall complete the utility construction in accordance with UDOT requirements and within the allowable time period.

8. **TRAFFIC CONTROL**: The City shall conduct its utility construction and maintenance operations in compliance with UDOT's current Utah MUTCD or UDOT TC Series Drawings, whichever is more restrictive. All utility construction and maintenance operations shall be planned to keep interference with traffic to an absolute minimum. On heavily traveled highways, utility operations interfering with traffic shall not be conducted during periods of peak traffic flow. This work shall be performed to minimize closures of intersecting streets, road approaches, or other access points. The City shall submit in advance traffic control plans showing detours and signing operations to allow UDOT reasonable time to review the plans. The City shall not perform full or partial lane closure without prior approval of the UDOT Region/District Director or authorized representative. The City shall conform to UDOT approved traffic control plans and encroachment permit conditions.

9. **EXCAVATION, BACKFILL, COMPACTION, AND SITE RESTORATION**: The City shall perform all utility construction on UDOT right-of-way in compliance with R930-7, UDOT's then current Standard Specifications for Highway and Bridge Construction, UDOT's Permit Excavation Handbook, and all applicable state and federal laws and regulations.

10. **EMERGENCY WORK**: Emergency work may be done without prior encroachment permit if imminent danger of loss of life or significant damage to property exists. In emergency work situations where traffic lanes will be partially or fully blocked, the City or its representative will contact the UDOT Traffic Operations Center at (801) 887-3710 prior to establishing traffic control. In all emergency work situations, the City or its representative shall immediately contact UDOT on the first business day after the emergency and complete a formal encroachment permit application. Failure to contact UDOT for an emergency work situation and obtain an encroachment permit within the stated time period is considered to be a violation of the terms and conditions of this agreement and R930-7. At the discretion of the City, emergency work may be performed by a bonded contractor, public agency, or a utility

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51 E. Main Street
American Fork, UT 84003
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company. In all cases the City shall comply with the state law requiring notification of all utility owners prior to excavation. None of the provisions of this agreement are waived for emergency work except for the requirement of a prior encroachment permit.

11. **RESTORATION OF TRAFFIC SIGNAL EQUIPMENT OR TRANSPORTATION FACILITIES**: Any traffic signal equipment or transportation facilities, which are disturbed or relocated as a result of the City's work, must be restored in accordance with plans approved by UDOT. Restoration of traffic signal equipment or transportation facilities must be done at the City's expense by a qualified electrical contractor experienced in signal installation or a qualified contractor experienced in restoring other transportation facilities, retained by the City and approved in advance by UDOT. Work shall be scheduled to ensure that disruption of any traffic signal or transportation facilities operation is kept to a minimum.

12. **ACCESS**: Access for Facilities installation on the UDOT right-of-way shall be allowed only by a permit issued by UDOT to the City. The City will obtain the permit and abide by all conditions for policing and other controls in conformance with Utah Administrative Codes R930-6 as amended.

13. **MAINTENANCE**: The City shall at all times maintain, repair, construct and operate its Facilities at its expense. The Facilities will be serviced without access from any interstate highway or ramp. If the City fails to maintain its Facilities, UDOT may notify the City of any required maintenance needs. If the City fails to comply with UDOT's notification and complete the needed maintenance, then UDOT reserves the right, without relieving the City of its obligations, to reconstruct or make repairs to the Facilities to protect the right-of-way, as it may consider necessary, and the City shall reimburse UDOT for its cost.

14. **LIABILITY**: The City is not required to post a continuous bond as long as the City is a current member of the Utah Local Governments Trust. If the City is not a current member, the City shall maintain continuous commercial general liability (CGL) insurance with UDOT as an additional insured, in the minimum amount of $1,000,000 per occurrence with a $2,000,000 general aggregate and $2,000,000 completed operations aggregate. The liability of the City shall not be limited to the amount of the insurance policy. The policy shall protect the City and UDOT from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from the City's operations in the right-of-way. The City shall notify UDOT immediately in writing at the address listed below if this insurance is planned to be terminated or is terminated.

Or the City shall be self-insured to the limits stated in the Governmental Immunity Act, Utah Code Section 63G-7-604(1). Evidence of self-insurance must be provided by a letter from the City's Attorney or Risk Department. The City shall require CGL insurance with the same limits as described above of all its contractors and subcontractors naming the City and UDOT as additional insureds. Such insurance shall protect the City and UDOT from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from

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work or operations performed in the right-of-way by itself, contractors, subcontractors or anyone directly or indirectly employed by any of them. Such insurance shall provide coverage for premises operations, acts of independent contractors, products, and completed operations. This insurance coverage shall be maintained for a continuous period until the City's Facilities are removed from UDOT's right-of-way.

Statewide Utilities Director
Utah Department of Transportation
4501 South 2700 West
Salt Lake City, Utah 84114-8460

UDOT may require a bond from the City for encroachment permits issued under this agreement. Utah Administrative Code R930-7-6(6)(b). The amount of the bond will be set according to the permitted scope of work but not less than $10,000. UDOT may proceed against the bond to recover all expenses incurred by UDOT, its employees or representatives to restore the sections of roadway not completed or damaged by the City to UDOT standards. The liability of the City shall not be limited to the amount of the bond.

The City will indemnify, defend, and hold harmless UDOT, its employees, and the State of Utah from responsibility for any damage or liability arising from City's construction, maintenance, repair, or any other related operation during the utility construction or as a result of the work pursuant to permits issued under this agreement.

15. **CANCELLATION OF ENCROACHMENT PERMITS AND LICENSE AGREEMENT**: UDOT may cancel the encroachment permit or this agreement for the following: a) any failure on the part of the City to comply with the terms and conditions set forth in the license agreement or the encroachment permit; and b) the failure of the City to pay any sum of money for costs incurred by UDOT in association with installation or construction review, inspection, reconstruction, repair, or maintenance of the Facilities. UDOT also may remove the Facilities and restore the highway and right-of-way at the sole expense of the City. Prior to any cancellation, UDOT shall notify the City in writing, setting forth the violations, and will provide the City a reasonable time to correct the violations to the satisfaction of UDOT. This agreement does not limit UDOT's authority under Utah Administrative Code R930-7.

16. **ASSIGNMENT**: Permits shall not be assigned without the prior written consent of UDOT. All assignees shall be required to execute a license agreement.

17. **SUCCESSORS AND ASSIGNS**: All obligations and agreements herein contained shall be binding upon the parties, their successors and assigns.

18. **FACILITIES CLEARANCE REQUIREMENT**: Facilities must be installed both above ground and buried to the proper vertical and horizontal clearances and minimum depth of bury according to the encroachment permit and Utah Administrative Code R930-7 to avoid conflict with UDOT's normal and routine maintenance activities. The City

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shall avoid such conflicts by placing its Facilities in compliance with the required horizontal and vertical clearances and minimum depth of bury. If a variance in horizontal or vertical clearances or minimum depth of bury occurs in the field during utility construction, the City will seek a deviation approval from UDOT and amend the original encroachment permit to reflect the variance and deviation approval. UDOT's normal and routine maintenance operations are those not requiring excavations in excess of the minimum horizontal and vertical clearances and depth of bury.

In all cases the City shall protect, indemnify and hold harmless UDOT, its employees, and the State of Utah for damages because of the failure of the Facilities to meet the required horizontal and vertical clearances and minimum depth of bury. Any noncompliance to the above requirements may result in cancellation of the City's encroachment permit or this agreement. If the noncompliant Facilities need to be moved due to a UDOT project and there was no deviation granted by UDOT for the variance in horizontal or vertical clearances or minimum depth of bury less than minimum standards, the City must pay 100% of the relocation costs for that portion of the Facilities that were installed in violation of UDOT's required clearances at the time the encroachment permit was issued. If the City was granted a deviation, the City must provide the permit describing the deviation.

19. **TERMINATION OF LICENSE AGREEMENT**: This agreement will terminate in five years unless both Parties agree in writing within the five years to renew the agreement for an additional five years. However, this agreement may be terminated at any time by either party upon 30 days advance written notice to the other. Active encroachment permits previously issued and approved under a terminated agreement are not affected and remain in effect on the same terms and conditions set forth in the agreement, permits and R930-7. The obligation to maintain the continuous commercial general liability (CGL) insurance as described in paragraph (14) above continues until City's Facilities are removed from UDOT's right-of-way. The indemnification obligations in this agreement shall survive termination of the agreement.

20. **MISCELLANEOUS:**

a. The permitted use and occupancy of right-of-way for non-highway purposes is subordinate to the primary and highest interest for transportation and safety of the traveling public.

b. The failure of either Party to insist upon strict compliance of any of the terms and conditions, or failure or delay by either Party to exercise any rights or remedies provided in this agreement, or by law, will not release either Party from any obligations arising under this agreement.

c. Each Party agrees to undertake and perform all further acts that are reasonably necessary to carry out the intent and purpose of the Agreement at the request of the other Party.

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d. This Agreement does not create any type of agency relationship, joint venture, or partnership between UDOT and City.

e. This Agreement shall be deemed to be made under and shall be governed by the laws of the State of Utah in all respects. Each person signing this Agreement warrants that the person has full legal capacity, power and authority to execute this Agreement for and on behalf of the respective Party and to bind such Party.

f. If any provision or part of a provision of this agreement is held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision. Each provision shall be deemed to be enforceable to the fullest extent under applicable law.

g. This Agreement may be executed in one or more counterparts, each of which shall be an original, with the same effect as if the signatures were made upon the same instrument. This Agreement may be delivered by facsimile or electronic mail.

h. This Agreement shall constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. Any amendment to this Agreement must be in writing and executed by authorized representatives of each Party.

i. The date of this agreement is the date this agreement is signed by the last Party.

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American Fork City
51 E. Main Street
American Fork, UT 84003
Federal ID No. 87-6000209

IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed by their duly authorized officers as of the day and year first above written.

Approved by American Fork City

By: _____ _____
Signature Date

_____ _____
Name: (printed) Title

FOR THE UTAH DEPARTMENT OF TRANSPORTATION

By: _____ _____
Corey D. Nelson, PE, PTOE Date
Statewide Utilities Director

UDOT COMPTROLLER'S OFFICE

By: _____ _____
Contract Administrator Date

APPROVED AS TO FORM: This Form Agreement has been previously approved as to form by the office of the Legal Counsel for the Utah Department of Transportation on March 5, 2019.

Attachment: UDOT Statewide Utility License Agreement (UDOT - Statewide Utility License Agreement)

168205

AMERICAN FORK CITY
51 E. MAIN STREET
AMERICAN FORK, UT 84003

E23610

Federal ID No. **87-6000209**

STATEWIDE UTILITY LICENSE AGREEMENT

NONINTERSTATE

THIS AGREEMENT made and entered into this 1 day of Sept, 2015, by and between the UTAH DEPARTMENT OF TRANSPORTATION, hereinafter referred to as "UDOT" and AMERICAN FORK CITY, a Political Subdivision in the State of Utah hereinafter referred to as the "CITY".

WITNESSETH:

WHEREAS, UDOT desires to assist in expediting the approval of permits issued by **UDOT** for locating, constructing and maintaining utility lines and related facilities ("facilities") within state highway rights of way; and excluding longitudinal installations within the interstate highway rights of way; and

WHEREAS, it is the desire of the parties hereto that the terms of this agreement shall apply to all permits issued to allow access onto state highway rights of way, hereafter approved in accordance with this agreement; and

WHEREAS, the parties desire that this agreement shall apply to approved location and construction permits on state highway rights of way in the State of Utah which are within the responsibility and jurisdiction of **UDOT**; and

WHEREAS, the parties desire that this agreement supersedes all previous Statewide Utility License Agreements executed between the two parties

NOW THEREFORE, In consideration of the promises and mutual covenants and agreements contained herein, said parties hereby covenant and agree as follows:

(1) UDOT AGREEMENT TO REVIEW APPLICATIONS: This agreement is not a permit or a guarantee of a permit. However, **UDOT** agrees to review any application for a permit that **CITY** files pursuant to the procedures established in this agreement promptly. **CITY** and **UDOT** agree to work together in good faith with the intent to reach a mutually beneficial decision on any permit application.

(2) APPROVAL: Unless otherwise stated herein, or in any particular permit or agreement, all

udot.utah.gov

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location, construction and maintenance permits executed pursuant hereto will be deemed to be governed by the provisions of this agreement. Permit applications shall be presented to the appropriate **UDOT** Region/District Director or an authorized representative who shall have the authority to issue and approve the permit as expeditiously as possible. All permits that may be issued will be subject to the requirements of Utah Admin. Code R930-7, Utility Accommodation. **UDOT** may apply special limitations to the permitted work. The issuance and approval of a permit will enable the **CITY** to proceed with the work and use under the permit in accordance with the terms thereof.

(3) RESERVATION AND SPECIAL PROVISIONS: Each party hereto reserves the right to require an agreement or specific permit for any particular location and construction. Special provisions, as particular circumstances may dictate and as agreed upon by the parties, may be incorporated into any permit issued hereunder.

(4) INSPECTION: **UDOT** may perform routine inspection of utility construction work to monitor compliance with the license agreement, encroachment permit and with state and federal regulations. Costs associated with the inspection are the responsibility of the **CITY**.

(5) COSTS: The entire cost of installation of the facilities shall be paid for by the **CITY**.

(6) BEGINNING CONSTRUCTION: The **CITY** shall not begin any work on **UDOT** right of way until the permit is issued and notice to proceed is given to the **CITY** by **UDOT**. After notice to proceed is received, the **CITY** shall complete construction in accordance with **UDOT** requirements.

(7) TRAFFIC CONTROL: The **CITY** shall conduct their operation so that traffic control for utility construction and maintenance operations conforms to **UDOT's** current Utah MUTCD or **UDOT** Traffic Control Plans, whichever is more restrictive. All utility construction and maintenance operations shall be planned to keep interference with traffic to an absolute minimum. On heavily traveled highways, utility operations interfering with traffic shall not be conducted during periods of peak traffic flow. This work shall be planned so that closures of intersecting streets, road approaches, or other access points are held to a minimum. The **CITY** shall submit traffic control plans showing detours and signing operations in advance, allowing **UDOT** reasonable time for review. No full or partial lane closure shall be made without prior approval of **UDOT** Region/District Director or authorized representative. The **CITY** shall conform to **UDOT** approved traffic control plan and such instructions of **UDOT** Region/District Director or an authorized representative as may be given.

(8) EXCAVATION, BACKFILL, COMPACTION, AND SITE RESTORATION: The **CITY** shall perform all work on **UDOT** right-of-way in compliance with Utah Admin. Code R930-7, Utility Accommodation, current **UDOT** Standard Specifications for Highway and Bridge Construction, **UDOT** Permit Excavation Handbook, and all applicable state and federal environmental laws and regulations.

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(9) **EMERGENCY WORK:** Emergency work may be done without prior permit if there is imminent danger of loss of life or significant damage to property. In all emergency work situations, the **CITY** or its representative shall contact **UDOT** immediately and on the first business day shall contact **UDOT** and complete a formal permit application. Failure to contact **UDOT** for an emergency work situation and obtain an encroachment permit within the stated time period is considered to be a violation of the terms and conditions of this agreement. At the discretion of the **CITY**, emergency work may be performed by a bonded contractor, public agency, or a utility company. In all cases the **CITY** shall comply with the State Law requiring notification of all utility owners prior to excavation. None of the provisions of this agreement are waived for emergency work except for the requirement of a prior permit.

(10) **RESTORATION OF TRAFFIC SIGNAL EQUIPMENT:** Any traffic signal equipment or facilities which are disturbed or relocated as a result of the **CITY's** work must be restored in accordance with plans approved by **UDOT**. Restoration of traffic signal equipment must be done at the **CITY's** expense by a qualified electrical contractor experienced in signal installation, retained by the **CITY** and approved in advance by **UDOT**. Work shall be scheduled to ensure that disruption of any traffic signal operation is kept to a minimum.

(11) **MAINTENANCE:** The facilities shall at all times be maintained, repaired, renewed and operated by and at the expense of the **CITY**. The facilities will be serviced without access from any interstate highway or ramp. If the **CITY** fails to maintain the facilities, **UDOT** may notify the **CITY** of any maintenance needs. If the **CITY** fails to comply with **UDOT's** notification and complete the needed maintenance, then **UDOT** reserves the right, without relieving the **CITY** of their obligation hereunder, to reconstruct or make repairs to the facilities, as it may consider necessary, and the **CITY** shall reimburse **UDOT** its cost.

(12) **LIABILITY:** Pursuant to R930-7-6(2)(c), the **CITY** is not required to post a continuous bond. **CITY** shall maintain continuous commercial general liability (CGL) insurance with the Utah Department of Transportation as an additional insured, in the minimum amount of $1,000,000 per occurrence with a $2,000,000 general aggregate and $2,000,000 products and completed operations aggregate. The liability of the **CITY** shall not be limited to the amount of the insurance policy. The policy shall protect **CITY**, the Utah Department of Transportation, **CITY's** contractors and subcontractors from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from the **CITY's** operations under this Permit, whether performed by themselves, a contractor, subcontractor, or anyone directly or indirectly employed by any of them. Such insurance shall provide coverage for premises operations, acts of independent contractors, products and completed operations. This insurance coverage shall be maintained for a continuous period until the **CITY's** facilities are removed from **UDOT's** right of way. The **CITY** shall notify **UDOT** immediately in writing at the following address if this insurance is planned to be terminated or is terminated:

Statewide Utilities Engineer
Utah Department of Transportation
4501 South 2700 West
PO Box 148380
Salt Lake City, Utah 84114-8380

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Failure to maintain the required insurance is cause for termination of this agreement and cancellation of any permits.

Pursuant to R930-7-6(6)(b) **UDOT** may require a bond from the **CITY** for permits issued under this agreement. The amount of the bond will be set according to the scope of work permitted but not less than $10,000. If a bond is required, **UDOT** may proceed against the bond to recover all expenses incurred by **UDOT**, their employees or representatives to restore to **UDOT** standards the sections of roadway interfered with by the **CITY**. These expenses refer to all expenses incurred in the repairing of portions of the state highway rights of way determined by **UDOT** inspectors to be inadequately restored or maintained by the **CITY**. The liability of the **CITY** shall not be limited to the amount of the bond.

The **CITY** will indemnify and hold harmless **UDOT**, its employees, and the State of Utah from responsibility for any damage or liability arising from their construction, maintenance, repair, or any other related operation during the work or as a result of the work pursuant to permits issued under this agreement.

(13) FUTURE HIGHWAY CONSTRUCTION: It is understood and agreed to by the parties and as part of the consideration for this agreement that **UDOT** has the right to cross said facilities line at any point necessary in future construction, expansion or improvement of the State Highway System provided that **UDOT** uses due care in the protection of the facilities line in making the crossing.

(14) CANCELLATION OF PERMITS: Any failure on the part of **CITY** to comply with the terms and conditions set forth in the license agreement or the encroachment permit may result in cancellation of the permit. Failure to pay any sum of money for costs incurred by **UDOT** in association with installation or construction review, inspection, reconstruction, repair, or maintenance of the utility facilities may also result in cancellation of the permit. **UDOT** also may remove the facilities and restore the highway and right of way at the sole expense of the **CITY**. Prior to any cancellation, **UDOT** shall notify the **CITY** in writing, setting forth the violations, and will provide the utility company a reasonable time to correct the violations to the satisfaction of **UDOT**.

(15) ASSIGNMENT: Permits shall not be assigned without the prior written consent of **UDOT**. All assignees shall be required to file a new permit application.

(16) SUCCESSORS AND ASSIGNS: All covenants and agreements herein contained shall be binding upon the parties, their successors and assigns.

(17) UDOT MAINTENANCE OPERATIONS: Underground facilities must be buried to the proper depth to avoid conflict with **UDOT's** normal and routine maintenance activities. In entering into this agreement with **UDOT** and obtaining a permit for the work, the **CITY** acknowledges this requirement and agrees to avoid such conflicts by placing its facilities to the required horizontal clearance and minimum depth of bury. Normal maintenance operations are those not requiring excavations in excess of the minimum horizontal clearance and depth of bury.

In all cases the **CITY** shall protect, indemnify and hold harmless **UDOT**, its employees, and the State of Utah for damages to lines within the horizontal or vertical clearances. Any

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noncompliance to the above may result in cancellation of the **CITY's** permit. If the **CITY** is found to be in violation of its permit with respect to vertical or horizontal location, such violation may also result in cancellation of its permit.

(18) TERMINATION OF LICENSE AGREEMENT: This agreement may be terminated at any time by either party upon 30 days advance written notice to the other. Active permits previously issued and approved under a terminated agreement are not affected and remain in effect on the same terms and conditions set forth in the agreement and permits. The obligation to maintain the continuous commercial general liability (CGL) insurance as described in paragraph (12) above continues until **CITY's** facilities are removed from **UDOT's** right-of-way.

udot.utah.gov

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Approved by **AMERICAN FORK CITY**, an ENTITY **in the State of Utah**

Notary: SUBSCRIBED AND SWORN TO BEFORE ME THIS 26 DAY OF August, 2015,

BY James H. Hadfield

Terilyn Lurke

NOTARY PUBLIC

TERILYN LURKE
NOTARY PUBLIC-STATE OF U
COMMISSION# 6516
COMM. EXP. 02-04-2(

By: _____ August 25, 2015

Signature Date

James H. Hadfield — Mayor

Name (printed) Title

K. M. Hall CITY RECORDER

FOR THE UTAH DEPARTMENT OF TRANSPORTATION

By: _____ 01 Sep 2015

Richard Manser, P.E. Date

UDOT Statewide Utilities Engineer

udot.utah.gov

COMPTROLLER'S OFFICE

By: _____ 9-4-15

Cherise Young Date

UDOT Contract Administrator

APPROVED AS TO FORM: This Form Agreement has been previously approved as to form by the office of the Legal Counsel for the Utah Department of Transportation.

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