



**CITY COUNCIL MEETING
OF THE CITY OF CEDAR HILLS
Tuesday, October 20, 2020 6:00 p.m.
PLEASE NOTE EARLIER START TIME**

Notice is hereby given that the City Council of the City of Cedar Hills, Utah, will hold a **City Council Meeting on Tuesday, October 20, 2020, beginning at 6:00 p.m.** at the Community Recreation Center, 10640 N Clubhouse Drive, Cedar Hills, Utah. This is a public meeting, and anyone is invited to attend.

COUNCIL MEETING

1. Call to Order. Pledge led by C. Smith and Invocation given by Mayor Rees
2. Approval of Meeting's Agenda
3. Public Comment: Time has been set aside for the public to express their ideas, concerns, and comments (comments limited to 3 minutes per person with a total of 30 minutes for this item)

CONSENT AGENDA (Consent items are only those which require no further discussion or are routine in nature. All items on the Consent Agenda are adopted by a single motion)

5. Approval of the Minutes from the September 1 and September 15, 2020 Work Session and City Council Meetings

CITY REPORTS AND BUSINESS

6. City Manager
7. Mayor and Council

SCHEDULED ITEMS & PUBLIC HEARINGS

8. Review/Action on issuing a Request for Qualifications (RFQ) for a Citywide Fiber Project
9. Review/Action on a Resolution approving an Interlocal Cooperation Agreement with American Fork City, Highland City and Pleasant Grove City to facilitate the construction of the Mill Ditch Pipeline Project
10. Discussion on State Restrictions related to the Coronavirus

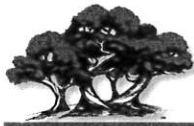
ADJOURNMENT

11. Adjourn

Posted this 16th day of October, 2020

Colleen A. Mulvey, City Recorder

- Supporting documentation for this agenda is posted on the city website at www.cedarhills.org.
- In accordance with the Americans with Disabilities Act, the City of Cedar Hills will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by contacting the City Recorder at 801-785-9668 at least 48 hours in advance of the meeting.
- A Closed Session may be called to order pursuant to Utah State Code 52-4-204 & 52-4-205.
- The order of agenda items may change to accommodate the needs of the City Council, the staff, and the public.
- This meeting may be held electronically to permit one or more of the council members or staff to participate.



CITY OF CEDAR HILLS

TO:	Mayor and City Council
FROM:	Chandler Goodwin, City Manager
DATE:	October 20, 2020

City Council Agenda Item

SUBJECT:	Review/Action on approving a request for qualifications (RFQ) for a Citywide fiber project
APPLICANT PRESENTATION:	N/A
STAFF PRESENTATION:	Chandler Goodwin, City Manager

BACKGROUND AND FINDINGS:

Staff has worked to provide the City Council with a request for qualifications (RFQ) for a citywide fiber project. Following the presentation by UTOPIA on findings from their informal survey conducted through the spring and summer of this year, the Council expressed interest in pursuing additional information on the possibility of Cedar Hills entering into an agreement to build a fiber to the premise (FTTP) project in the City. The RFQ requires the proposal to design a citywide fiber network that allows for open access to multiple ISP which will be owned by the City after construction. The design must allow for mirrored speeds and must utilize customer premise equipment. Staff is requesting that the City Council review the proposed RFQ and make any changes that they feel necessary, specifically as it relates to the requirements of the response, and the weighting given to each portion of a response. Staff has had legal review the document.

Additionally, staff is requesting that the City Council hold the RFQ for a while in order to evaluate all options available to the City as it relates to the construction of a fiber network. Some of the major questions relate to who owns the network upon completion of any debt service, how any financing occurs, what risks exist for failure to reach a required take rate, what benefits can the City obtain by exceeding the take rate. In addition to the fiber model that has been presented by UTOPIA, a private firm has presented interest in constructing the network. There exists pro's and con's related to every proposal, and in order to fully understand the implications of a decision, staff is recommending that the City Council listen to alternate proposals that may provide insight into completing a fiber project.

PREVIOUS LEGISLATIVE ACTION:

N/A

FISCAL IMPACT:

N/A

SUPPORTING DOCUMENTS:

Proposed RFQ for a Citywide fiber project

RECOMMENDATION:

To review the proposed RFQ and provide any feedback necessary for release. Staff recommends that the Council table the motion in order to hear presentations from alternate groups.

MOTION:

To direct staff to issue the request for qualifications as presented, with the following modifications: {LIST ANY CHANGES TO THE RFQ}.

Suggested Motion:

To table the proposed RFQ for future consideration

City of Cedar Hills, Utah

Request for Proposal

For

City-wide FTTP Partnership

1. Purpose

The purpose of this Request for Proposals (the "RFP") is to solicit proposals to enter into a contract for a potential public-private partnership between a qualified vendor and the City of Cedar Hills (the "City") for the design, engineering, construction, and operation of a Citywide fiber-to- the-premise network with gigabit capabilities (the "FTTP Network" or "Network"). The City will own the Network, but it seeks a qualified vendor to design and construct the Network, and, after development, to oversee the Network's continued operation through field service, maintenance, licensing, upgrades, repair, replacement, and customer service. The entities submitting proposals in response to this RFP will hereafter be referred to as "Vendors." The City may decide, after reviewing submitted proposals, not to enter into any agreement.

2. Mandatory Minimum Requirements

Each Vendor's proposal must address how it will meet the following mandatory requirements.

1. The proposal must offer to design and construct a city-wide, fiber Network that allows for open-access to multiple internet and data service providers which will be owned by the City after construction;
2. The Network must be capable of supporting a minimum symmetrical 1 Gigabit per second (Gbps) speeds for all customers;
3. Connection from the Network to individual premises must utilize Customer Premise Equipment (CPE);
4. Fiber strand capacity capable of providing direct homerun connections to businesses and residential users.

2 RFP Details

a. City

The City of Cedar Hills is the conducting and issuing procurement unit. The head of the procurement unit is the city council of Cedar Hills. The contact information for the City is as follows:

Cedar Hills City Office
10246 North Canyon Road
Cedar Hills, UT 84062
801-785-9668

Note that all responses, proposals, and questions submitted in relation to this RFP must be submitted electronically to cmulvey@cedarhills.org

b. Multiple Stage Process

The City reserves the right to conduct the RFP in a multiple stage process and narrow the number of Vendors that will move on to subsequent stages.

c. Oral Presentation

The City may award a contract based on initial proposals received without discussion of such proposals with Vendors. However, the City may require oral presentations as a supplement to the written proposals. These presentations may be scheduled after proposals are received and prior to the award of the contract. After the oral presentations are complete, the city shall be allowed to re-score the technical criteria as needed to reflect the information provided in the presentations. The City reserves the right to reschedule or cancel oral presentations at any time at no cost to the City.

d. Award of Contract

Upon completion of the evaluation process, the City may award the contract to the highest scoring responsive and responsible Vendor. The award of this solicitation may result in multiple contracts. The City, pursuant to the scores given proposals by the evaluating committee and authorization by the City council, as head of the procurement unit, is the only entity authorized to award a contract for the proposed Network. Upon successful completion and award of this RFP as described above, the City will provide notice to other Vendors and the public.

e. Contract Period

The anticipated contract term will be for a period of one (1) year for the design and construction of the Network and five (5) to ten (10) years for the Network's continued maintenance and operation, subject to automatic renewal at the City's discretion.

3. Scope of Work

The City seeks a partner to design, construct, and operate a Network that allows for fast, affordable broadband Internet over fiber optics that reach each existing resident and business, while providing for future expansion, including public Wi-Fi and other area networks to support improved public services and infrastructure. The Network will allow every home, business, public facility, and private institution access to an open market of affordable, high-speed broadband connections to the Internet and offer non-discriminatory, open access to all users, service providers, content providers, and application providers connected to the citywide fiber network. The FTTP Network must deliver an unfettered data offering that does not impose caps or usage limits on one use of data over another (i.e., does not limit streaming).

a. Design and Construction

The following technical attributes are preferred:

- Fully fiber-based connectivity to residential and business customers alike
- Capacity and throughput capable of providing full-bandwidth connections to businesses and residential users (minimize bandwidth sharing)
- Fiber strand capacity and physical architecture (e.g., handhole placement, backbone routes, etc.) anticipating full deployment to all homes and businesses
- Low latency to the internet backbone
- Potential throughput to the Internet backbone in excess of 1 Gbps
- Multi-path topology (logical and physical) to facilitate high-availability service offerings
- Fiber in conduits/vaults (opposed to direct burial) to readily facilitate repairs and capacity upgrades
- Minimization of aerial fiber distribution
- Active components placed in environmentally hardened shelters and/or cabinets equipped with backup power source(s) capable of sustaining services in the event of extended power outages
- Underground communications conduit pathways that can be utilized by the City for future expansion
- Fiber routes that are aligned with existing conduit and coincide with planned City utility, roadway, and related capital improvement projects to reduce cost and minimize disruption where possible
- Construction methodologies that minimize trenching, sawing, or other techniques disruptive to the City.
- Available dark fiber from central hubs located in the city to the Internet
- Open access to multiple ISPs
- Unrestricted port forwarding

4. Continued Operation of the Network

After the construction of the Network, the Vendor is to provide continued operational support on behalf of the City, such as, but not limited to, the following services:

- Installation of Customer Premise Equipment (CPE)
- Maintenance, monitoring, and replacement of facilities, electronics, hardware, and other infrastructure
- Oversight of continued engineering needed to ensure reliable access to the Network through continued City expansion and population growth
- 24/7 Network performance, use, and reliability monitoring
- Customer Service, including minimum response times to be established via contract between the City and Vendor

- Minimum performance guarantees, with assurances that the Network will perform to certain standards with minimal interruptions enforceable via contractual remedies.
- Real-time network performance visibility by City personnel or authorized agents.
- Open access to users, service providers, content providers
- Unfettered access without usage caps or limits.

5. Proposal Requirements

a. Mandatory Minimum Requirements

Proposals that do not meet the Mandatory Minimum Requirements established by this RFP may be rejected by the City at any time.

b. Safety Plan

Each proposal must contain (1) a description of the Vendor's safety plan and (2) the Vendor's plans as to how to implement its safety plan particularly to the construction of the Network, including any subsequent construction required for maintenance or expansion of the Network or installation and connection to individual businesses and residences.

c. Statement of Qualifications

In regard to the design of the Network, each proposal must contain a statement of the Vendor's qualifications. If the Vendor intends to use its own employees and internal team to design the Network, the statement of qualifications should relate to the Vendor itself; if the Vendor intends to use a single or multiple subcontractors for the Network's design, the Vendor must name the intended subcontractor(s) and include a statement of each contractor's qualifications. The statement of qualifications must include the following information:

- the Network designer's professional work history and experience designing similar networks;
- performance ratings earned by the Network designer or references for similar work;
- quality assurance or quality control plan(s);
- the Network designer's financial solvency;
- any management plan, including key personnel and subconsultants for the project;
- ability to attract and ensure residents have unrestricted access to multiple service providers.

d. Statement of Costs

Each proposal must contain a separate exhibit attached to this RFP (entitled "Statement of Costs") that states the Vendor's costs for the procurement. Pursuant to Utah Code Annotated Section 63G-6a-707, the Statement of Costs shall not be submitted to the evaluating committee and must be submitted in a separate document, attached to the Vendor's proposal.

The Statement of Costs must clearly identify the following:

1. The cost for the design and construction of the network
2. The annual cost to operate and maintain the network

e. Cost Overruns

Each Vendor must include in their proposal a detailed procedure to address the approval and resolution of additional project costs that may occur during the design and construction phase. Without the approval of the City, all cost overruns shall be the sole responsibility of the Vendor and the City shall have no financial liability.

f. Milestones

Each Vendor must identify in their proposal a list of major milestones outlining critical steps in the project. Each milestone should include:

- a. Name
- b. Description
- c. Duration and Relative Start Date
- d. Accomplishments
- e. Assumptions
- f. Dependencies

g. Form Contracts

Each Vendor is strongly encouraged to provide a proposed form contract for the construction of the Network. The form contract may include the technical specifications the Vendor proposes for the Network, any general provisions, and proposed costs or fee structure.

Each Vendor is strongly encouraged to provide a proposed form contract for the ongoing maintenance and service of the Network post construction. The proposed contract should specify what ongoing services the Vendor will provide for the Network, including provisions providing specific guarantees as to ongoing customer support and field service through minimum response times and specific Network -performance guarantees. The proposed form contract should also include a fee structure for ongoing customer service, operations, security, and maintenance of the Network. The costs should be passed through to the users of the Network as a monthly service fee, and the contract should provide a mechanism for setting these fees including a calculation that will govern periodic increases.

Subsequent award of a contract to a Vendor does not communicate automatic acceptance of the provisions of the Vendor's proposed form contract; however, the form contract may serve as the starting point for negotiations between the City and the winning Vendor.

6 Proposal Evaluations

All proposals in response to this RFP will be evaluated in a manner consistent with the Utah Procurement Code and all applicable rules and policies.

All proposals that meet the mandatory minimum requirements and are not rejected by the procurement unit as a result, will be evaluated. Such proposals will be evaluated according to compliance with the RFP specifications and requirements. The criteria to be used to evaluate proposals, listed with their relative weight in points, are included in this section.

The City reserves the right to be the sole judge as to the overall acceptability of any proposal or to judge the individual merits of specific provisions within competing offers. Each Vendor bears sole responsibility for the items included or not included in the response submitted by that Vendor. The City reserves the right to disqualify any proposal that includes significant deviations or exceptions to the terms, conditions and/or specifications in this RFP.

a. Evaluation Criteria and Scoring

Each proposal will be given a score based on the following criteria:

Design and Construction

Criteria	Points
Alignment with the City's technical preferences	100
Demonstrated experience of the Vendor in designing and constructing similar networks	50
Financial solvency of the Vendor or, if applicable, the subcontractor to be engaged for the design and construction of the network;	50
Safety plan and demonstrated ability to enforce the safety plan in past work	50
Cost of design and construction	50

Operation and Maintenance Criteria

Criteria	Points
Ability to provide continued operational support on behalf of the City	100
Existing ability, as demonstrated by work on past similar networks, to provide ongoing engineering, maintenance, replacement, and repair of the network.	75
Assurance guaranteeing minimum standards for network performance enforceable by the City through corresponding contractual remedies	75
Financial solvency of the Vendor, or, if applicable, the subcontractor to provide long-term operational support and maintenance of the network	75
Demonstrated ability to attract and ensure residents have access to multiple Internet Service Providers (ISPs)	50
Demonstrated customer service in similar networks as shown through meeting or exceeding previous SLA agreements	50
Cost of continued operations and maintenance	25

b. Proposal Selection

The selection of the winning proposal will be based primarily on the scoring of each proposal. However, the City reserves the right to consider additional elements of each proposal that may indicate the Vendors ability and likelihood to deliver, operate, and maintain a network that will meet the overall purpose of this project.

7. General Provisions

This section contains standards relating to the RFP in general or standard contractual provisions the City may include in a subsequent contract with the winning Vendor.

a. Incurring Costs

The City will not be liable for any cost which Vendors may incur in connection with the preparation or presentation of their proposal(s).

b. Addendum to RFP

In the event that it becomes necessary to revise this RFP in whole or in part an addendum will be provided to all Vendors on record as having received this RFP.

c. Communications

During the RFP process (from the date of issue through the date of contract award or other final decision) the City is the sole source of official information regarding this RFP. All other communications, both spoken and written, which are received by any representative of the Vendor from other sources should be confirmed by the Vendor with the City through a question submitted via a question by the applicable deadline established in this RFP. All questions submitted to the City by any Vendor will be distributed, along with the City's Answer, to all Vendors to which the City has received a letter of intent.

d. Authorized Vendor Representatives

The City reserves the right to require a change in the individual assigned to represent Vendor if the assigned representative is not serving the needs of the City in an acceptable manner. This right shall carry forward through the response period and, with the successful Vendor, during the term of the contract.

e. Award of Subcontracts

For each subcontract, if any, which the Vendor proposes to award, the Vendor shall specify in writing the proposed subcontractor's name and address, and the purpose of each subcontract. Any Vendor proposing subcontracts as a part of a proposal must explicitly state

so in the proposal. Written approval by the City is required prior to the awarding of any subcontracts. Any Subcontractor shall be required to provide evidence to the City of the same insurance provisions and coverages as described in Section VII of this RFP.

f. Assignment

Vendor shall not assign or subcontract any portion of its obligations under the Contract without the prior written consent of the City. Assignment or subcontracting shall in no way relieve the Vendor of any of its obligations under the contract.

g. Remedies

The laws of the State of Utah shall apply in all disputes arising out of this RFP, without application of any principles of choice of laws.

h. Compliance

The Vendor hereby agrees to abide with all applicable federal, state, county, and city laws and regulations and to be responsible for obtaining and/or possessing any and all permits and licenses that may be required.

i. Cancellation

Inadequate delivery, unsatisfactory service, or failure to adhere to contract covenants may result in cancellation of the contract. The Vendor shall be responsible for reimbursing the City for expenses incurred as a result of unacceptable service. In the event that either party determines that a material breach has occurred that would be cause for cancellation of the contract, the party wishing to cancel shall notify the other party of the alleged breach in writing, and allow the other party thirty (30) days in which to cure the alleged breach. If the alleged breach is not cured or substantial steps to cure the alleged breach are not taken within this period, the non-defaulting party may cancel the contract at the end of said thirty (30) day period.

J. Acceptance of Services Rendered

The City, through its designated agents and representatives, will be the sole determining judge of whether services rendered under the contract satisfy the requirements as identified in the contract.

k. Inability to Deliver on Schedule

The City fully anticipates that the Vendor will meet (or beat) their proposed schedule. In the event that the Vendor is unable to provide network access to participating Cedar Hills residents in the time frame proposed there shall be a penalty for every day the service is delayed. The amount and conditions of the penalty shall be agreed upon in writing prior to the City's final selection of a Vendor. Inability to agree upon delivery penalties will disqualify the applicant from consideration for the project.

l. Anti -Collusion

The submission of a proposal constitutes agreement that the Vendor has not divulged its proposal to, or colluded with, any other offeror or party to a proposal whatsoever.

m. Indemnification

The Vendor shall hold harmless, defend and indemnify the City and it's officers, employees, and agents from and against any and all claims, losses, causes of action, judgments, damages, and expenses including, but not limited to attorney's fees because of bodily injury, sickness, disease, death, injury to, or destruction of tangible property or any other injury or damage resulting from or arising out of (a) performance or breach of the contract by Vendor, or (b) Vendor's use of City premises, or (c) any act, error, or omission on the part of the Vendor, or its agents, employees, invitees, participants, or subcontractors except where such claims, losses, causes of action, judgments, damages, and expenses result solely from the negligent acts or omissions or willful misconduct of the City, its officers, employees, or agents.

n. Restrictions

All proposals must clearly set forth any restrictions or provisions deemed necessary by the Vendor to effectively service the proposed contract.

o. Right to Reject

The City reserves the right to reject any or all proposals and to waive any informality or technicality in any proposal in the interest of the City.

p. Record Keeping and Audit Rights

Any Vendor providing goods or services under any contract shall maintain accurate accounting records for all goods and services provided thereunder, and shall retain all such records for a period of at least ten (10) years, or longer if imposed as required by applicable law or statute, following termination of the contract. Upon reasonable notice and during normal business hours, the City, or any of its duly authorized representatives, shall have access to and the right to audit any records or other documents pertaining to the contract. The City's audit rights shall extend throughout the term of the contract and for a period of at least ten (10) years thereafter.

q. Management Reports

Upon request the Vendor must be able to summarize and concisely report pertinent information to the City in a timely manner, throughout the duration of any contract resulting from this RFP.

r. Further Agreements

In addition to a proposal, the City may from time to time require a Vendor to execute certain additional documents or agreements, including without limitation a contract, for

the purpose of clarifying the intention of the parties with respect to providing the goods or services hereunder.

s. Relationship of Parties

In assuming and performing the obligations of any contract, the City and any Vendor shall each be acting as independent parties, and neither shall be considered or represent itself as a joint venture, agent, or employee of the other. Vendor affirms that the Vendor or any employee in their organization does not have a conflict of interest or potential conflict of interest with the City.

t. Taxes

Vendors shall be responsible for and pay all taxes which may be levied or incurred against the Vendor in connection with the performance of any services under a contract, including taxes levied or incurred against Vendor's income, inventory, property, sales, or other taxes.

u. Liens

By submitting a proposal, the Vendor certifies that neither it nor its principals are presently subject to an outstanding tax lien in the State of Utah. If the Vendor cannot certify this statement, the Vendor will submit to the City a written explanation for the review of the City. If the Vendor is subject to any outstanding tax lien in the State of Utah, the City may reject the Vendor's quote, bid, offer, or proposal in response to the request pursuant to UCA 63G-6a-905.

v. Debarment Clause

Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (RFP and subsequent contract), by any governmental department or agency. If Vendor cannot certify this statement, attach a written explanation for review by the City. Vendor must notify the City within 30 days if debarred by any governmental entity during the contract period.

w. Insurance and Bonds

If applicable, Vendor shall maintain and provide evidence of an employee dishonesty (fidelity) bond or other form of surety in the minimum amount of \$300,000 which guarantees that the bond or surety will reimburse the City for any pecuniary loss that may be sustained by any act of fraud, dishonesty, forgery, theft, embezzlement, malfeasance, or misappropriation on the part of Vendor, or any of its employees, officers, directors, agents, contractors, or subcontractors directly or indirectly. This bond shall be issued by a responsible surety company authorized to do business within the State of Utah and shall be subject to the reasonable approval by the City as to form and content.

Vendor shall deliver to the City performance and payment bonds upon execution of a construction contract which shall be in amounts 100% of the price specified in the construction contract.

Vendor shall maintain all employee related insurances, in the statutory amounts, such as worker's compensation, and employer's liability, for its employees or volunteers involved in performing services pursuant to this contract. Vendor shall also maintain "special form " property insurance at replacement cost applicable to Vendor's property or its equipment and that contains a waiver of subrogation endorsement in favor of the City.

Vendor's insurance carriers and policy provisions must be acceptable to the City and remain in effect for the duration of the contract. The City shall be named as an additional insured on the Commercial General Liability, and if applicable, Aircraft Liability, and Liquor Liability insurance policy by endorsement. Vendor will cause any of its subcontractors, who provide materials or perform services relative to this contract, to also maintain the insurance coverages and provisions listed above.

If the coverage's described above are not in place at the time a proposal is submitted, Vendor should describe in detail what types and levels of coverage are in place currently, and clearly indicate Vendor's ability and willingness to obtain the above listed coverage's if required by the City.

Vendor shall submit certificates of insurance as evidence of the above required insurance to the City prior to the commencement of any contract. Such certificates shall indicate that the City will be given thirty (30) calendar days written notice prior to the cancellation of coverage.

Need clause for buildout

"Rock" clause, unforeseen expenses



CITY OF CEDAR HILLS

TO:	Mayor and City Council
FROM:	Chandler Goodwin, City Manager
DATE:	October 20, 2020

City Council Agenda Item

SUBJECT:	Review/Action on a Resolution approving an interlocal agreement with American Fork, Highland, and Pleasant Grove Cities, concerning the Pleasant Grove Irrigation Company Mill Ditch
APPLICANT PRESENTATION:	N/A
STAFF PRESENTATION:	Chandler Goodwin, City Manager
BACKGROUND AND FINDINGS: American Fork City is proceeding with phase two of their spring line replacement, through the Cedar Hills Golf Course. Also, American Fork, Cedar Hills, Highland, and Pleasant Grove are entering into an interlocal agreement regarding the Pleasant Grove Irrigation Company's (PGIC) Mill Ditch pipping project. Both the American Fork water line and the new Mill Ditch pipe will be located approximately where the current Mill Ditch runs. The Interlocal Agreement grants easement access to all entities to construct and maintain their respective infrastructure through the project area. The proposed Agreement has been reviewed by staff and the City Attorney, and any concerns have been resolved.	
PREVIOUS LEGISLATIVE ACTION: N/A	
FISCAL IMPACT: N/A	
SUPPORTING DOCUMENTS: Proposed Four City Interlocal Cooperation Agreement, Easement Map, proposed resolution	
RECOMMENDATION: To review the proposed agreement and approve the proposed resolution	
MOTION: To approve/not approve Resolution _____, authorizing the Mayor to sign an Interlocal Cooperation Agreement between the City of Cedar Hills, American Fork City, Highland City and Pleasant Grove City regarding the Mill Ditch Pipeline Project.	

**INTERLOCAL COOPERATION AGREEMENT BETWEEN AMERICAN FORK CITY,
CEDAR HILLS CITY, HIGHLAND CITY, AND PLEASANT GROVE CITY
REGARDING THE MILL DITCH PIPELINE ENCLOSURE PROJECT.**

This Interlocal Agreement entered into this _____ Day of _____, 2020,
by and between American Fork City, a municipal corporation, hereinafter “American Fork”,
Cedar Hills City, a municipal corporation, hereinafter “Cedar Hills”, Highland City, a municipal
corporation, hereinafter “Highland”, Pleasant Grove City, a municipal corporation, hereinafter
“Pleasant Grove”, all of which are political subdivisions of the
State of Utah.

WITNESSETH:

WHEREAS, pursuant to the provisions of the Interlocal Cooperation Act (“Act”), Title
11, Chapter 13, Utah Code Annotated, 1953 as amended, public agencies, including political
subdivisions of the State of Utah as therein defined, are authorized to enter into written agreements
with one another for joint or cooperative action; and

WHEREAS, pursuant to the Act, the parties desire to work together through joint and
cooperative action that will benefit the residents of all Parties and,

WHEREAS, the parties to this Agreement are public agencies as defined in the Act; and

RECITALS

WHEREAS, Pleasant Grove Irrigation Company “PGIC” owns and operates a primarily open
irrigation ditch from the American Fork River diversion at the mouth of American Fork Canyon
down to an existing 30 - inch pipe near 4416 W Redwood Road in Cedar Hills (see attached
figure). The first approximately 3000 feet is unlined while the last approximately 3000 feet is
concrete lined. The ditch is within Highland and Cedar Hills municipal boundaries and on
property owned by Highland, Cedar Hills, PGIC, two private properties, and “The Highlands”
subdivision common space.

WHEREAS, Highland and Cedar Hills each have a turnout on the irrigation ditch in order to obtain water from PGIC based on their share of ownership in the company.

WHEREAS, easements for the access, operation and maintenance of the ditch have been a combination of written and prescriptive in nature.

WHEREAS, PGIC owns and maintains the water rights for the flow in the ditch.

WHEREAS, Pleasant Grove would like to pipe the PGIC ditch in agreement with PGIC to conserve irrigation water lost to seepage and evaporation

WHEREAS, PGIC cannot be a signatory to this interlocal agreements as a private company, PG and PGIC ~~will have entered~~ into an agreement whereby PG ~~will~~ ~~obtained~~ the funding to pipe the Mill Ditch and will receive certain benefits by so doing, but acknowledge such benefits will not diminish or negatively impact the water shares of other shareholders of PGIC, including Cedar Hills and American Fork, as well as Highland residents. Part of the project provided by PG for PGIC is obtaining the necessary easements and agreements for construction and ongoing maintenance of the project. Whiles PGIC is the primary entity responsible for owning and maintaining the piped ditch, PG has interest in, participates in, and supports PGIC as the majority shareholder in the company.

WHEREAS, American Fork owns and operates culinary water pipelines, tanks, and a chlorine station in the same area. The American Fork infrastructure is within Highland and Cedar Hills municipal boundaries and on property owned by Cedar Hills and Utah State Division of Natural Resources.

WHEREAS, easements for the access, operation and maintenance of the American Fork infrastructure have been a combination of written and prescriptive in nature.

WHEREAS, American Fork City would like to replace their culinary waterline from the mouth of American Fork Canyon to their concrete storage tanks which runs through a portion of the Cedar Hills golf course.

WHEREAS, Cedar Hills owns, operates, and maintains a golf course, culinary water, and pressurized irrigation infrastructure in the area. The Cedar Hills infrastructure is within Highland and Cedar Hills municipal boundaries and on property owned by Cedar Hills, PGIC, and Utah State Division of Natural Resources.

WHEREAS, easements for the access, operation and maintenance of the Cedar Hills infrastructure have been a combination of written and prescriptive in nature (see attached figure).

WHEREAS, Cedar Hills golf course would like to maintain an open ditch/water feature adjacent to their northeastern most green.

WHEREAS, Highland owns property over which Cedar Hills, American Fork, and PGIC have historically accessed their infrastructure and or property.

WHEREAS, Cedar Hills owns property over which Highland, American Fork, and PGIC have historically accessed their infrastructure and or property.

WHEREAS, **PGIC** owns property over and through which Cedar Hills operates water pipelines and golf course infrastructure.

WHEREAS, Cedar Hills, American Fork, and Highland jointly own and maintain the American Fork Debris Basin over which all parties have historically accessed their infrastructure and or property.

WHEREAS, American Fork and Cedar Hills have additional culinary and pressurized irrigation infrastructure in the area that are not the subject of this agreement and have their own easements and agreements in place for their operation and maintenance.

WHEREAS, Highland owns and operates a walking/biking trail through the area which is subject to its own easements and agreements.

WHEREAS, All easements and agreements between American Fork, Cedar Hills, and Utah State Division of Natural Resources, who is not a Party to this Agreement, are not subject to the terms of this Agreement.

NOW, THEREFORE, the parties do mutually agree, pursuant to the terms and provisions of the Act, as follows:

1. **Easements:** Cedar Hills agrees to ~~convey~~**dedicate** to American Fork, Pleasant Grove, and PGIC easements and rights-of-way through property over which Cedar Hills has the legal ability to grant an easement for the construction, operation and maintenance of a culinary water transmission pipeline with associated appurtenances (to American Fork) and an irrigation pipeline with associated appurtenances (to PGIC, and Pleasant Grove) from SR-92 to the American Fork Culinary Upper Tanks for the culinary line and through phase II for the irrigation pipeline. The easement, during the course of construction, shall be up to fifty (50) feet wide along the general pipe alignment shown in Exhibit A, attached or the maximum amount, up to fifty (50) feet, that Cedar Hills has the legal ability to grant an easement. The final easement shall be up to forty (40) feet wide for the purposes of operating and maintaining the pipelines. The easement shall be developed, approved and executed prior to construction. If necessary due to potential changes during construction, a final easement shall be modified after construction of the pipelines.

Upon execution of the final easement detailed above, each Party and PGIC,¹ shall release,

¹ Understanding that PGIC is not a Party to this Agreement, PGIC agrees, however they have represented that they will, by separate agreement, ~~executed in conjunction with this Agreement, to release, vacate, and abandon all rights to and interest in any previously existing easement(s),~~

vacate, and abandon all rights to and interest in any previously existing easement, whether written or prescriptive in nature, related to the Mill Ditch and any prior Mill Ditch easement agreement. Further, American Fork will release, vacate, and abandon all rights to and interest in its existing culinary water line shown in Exhibit A and related easement(s) thereto. The final easement will replace these easements and facilities in their entirety. ~~Executing the easements shall include releasing any prior existing easements associated with facilities being replaced with this project, written or prescriptive in nature related to the new facilities and the existing facilities they replace.~~

If other utilities need to be placed within five (5) feet horizontal and one (1) foot vertical of the pipeline, Cedar Hills will first obtain approval from American Fork and Pleasant Grove to do so. Approval to place utilities within the designated area of the easement will not be unreasonably withheld. American Fork and Pleasant Grove agree to calendar/schedule with Cedar Hills and Highland when normal work needs to be performed within the easement and to meet Highland's trail, or Cedar Hills' golf course repair standards, as applicable. All parties shall give reasonable notice and provide reasonable access for emergency repairs and maintenance. All areas impacted by construction shall be returned to their pre-disturbance condition or a mutually agreeable condition. All effort will be taken to minimize disruption to the Highland trail and Cedar Hills golf course and associated facilities.

2. **Access Easements:** All parties agree to grant each other access rights to each other to construct, operate and maintain their respective infrastructure and or property within the area. Access routes shall follow those shown in the attached figure. All parties agree to

whether written or prescriptive in nature, related to the Mill Ditch and any prior Mill Ditch easement agreement.

protect and preserve other parties' infrastructure within the area when conducting operation and maintenance activities. Except in exigent or emergency circumstances, a party conducting operation and maintenance activities shall notify the party that owns the easement or other access right at least 48 hours prior to beginning work. In the event of exigent or emergency circumstances, or if the operation and maintenance activities cause damage to any existing conveyance, pipe, or other facility, the party conducting the work shall notify the proper party as soon as reasonably possible.

3. **Initial Construction:** Pleasant Grove and American Fork agree to limit initial installation construction activities to time periods that minimize disruptions to Cedar Hills Golf Course and Highland's trail. Construction shall be limited to between Nov 1, 2020 and March 15, 2021 for all critical areas unless special permission is obtained. Construction would be finalized prior to April 15, 2021, unless a mutually agreed upon extension is granted.

4. **Irrigation Share Access:** Pleasant Grove ~~and PGIC~~ agrees to install and maintain existing or equivalent irrigation turnouts to Highland and Cedar Hills for shares owned and maintained in PGIC unless agreements are reached to modify those turnouts. Pleasant Grove agrees to ~~cooperate with Cedar Hills to~~ allow other irrigation company shares to be delivered to their respective turnout(s) through Pleasant Grove and PGIC piping as long as capacity is available and others can be protected from damage as a result of extra water in the facilities. A separate agreement will be necessary in order to deliver other water through this facility establishing the terms of said delivery.

5. **Effective Date; Duration.** This Agreement shall become effective and shall enter into force, within the meaning of the Act, upon the submission of this Agreement to, and the approval and execution thereof by Resolution of the governing bodies of each of the parties

to this Agreement. The term of this Agreement shall be from the effective date hereof until
fifty~~ninety-nine~~ years from the date of execution. This Agreement shall not become effective
until it has been reviewed and approved as to form and compatibility with the laws of the
State of Utah by the attorneys representing the respective Parties.

6. Administration of Agreement. The parties to this Agreement do not contemplate nor
intend to establish a separate legal entity under the terms of this Interlocal Cooperation
Agreement. The parties hereto agree that, pursuant to Section 11-13-207, Utah Code
Annotated, 1953 as amended, Pleasant Grove City, shall act as the administrator responsible
for the administration of this Agreement. The parties further agree that this Agreement does
not anticipate nor provide for any organizational changes in the parties.

8. Indemnification.

The Parties are governmental entities and subject to the Governmental Immunity Act
of Utah, Utah Code Ann. § 63G-7-101, et seq. (“GIAU”). Subject to the provisions of the
GIAU, each Party agrees to indemnify and hold harmless the other party, its agents, officers
and employees from and against any and all actions, claims, lawsuits, proceedings, liability,
damages, losses and expenses (including attorney’s fees and costs) arising out of or resulting
from the performance of this Agreement to the extent the same are caused by any negligent
or wrongful act or omission of that party, its officers, agents or employees. Nothing in this
Agreement shall be deemed a waiver of any rights, statutory limitations on liability, or
defenses applicable to the Parties under the GIAU.

9. Filing of Interlocal Cooperation Agreement

Executed copies of this Agreement shall be placed on file with the official keeper of
records of the Parties, and shall remain on file for public inspection during the term of this
Agreement.

10. Adoption Requirements

This Agreement shall be (a) approved by Resolution of the governing body of each of the parties, (b) executed by a duly authorized official of each of the parties (c) submitted to and approved by an Authorized Attorney of each of the parties, as required by Section 11-13-202.5, Utah Code Annotated, 1953 as amended, and (d) filed in the official records of each party.

11. Amendments.

This Agreement may not be amended, changed, modified or altered except by an instrument in writing which shall be (a) approved by Resolution of the governing body of each of the parties, (b) executed by a duly authorized official of each of the parties, (c) submitted to and approved by an Authorized Attorney of each of the parties, as required by Section 11-13-205.5, Utah Code Annotated, 1953 as amended, and (d) filed in the official records of each party.

12. Severability.

If any term or provision of the Agreement or the application thereof shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and shall be enforced to the extent permitted by law. To the extent permitted by applicable law, the parties hereby waive any provision of law which would render any of the terms of this Agreement unenforceable.

13. No Presumption.

Should any provision of this Agreement require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against the party, by reason of the rule of construction that a

document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that each of the parties have participated in the preparation hereof.

14. Headings.

Headings herein are for convenience of reference only and shall not be considered any interpretation of the Agreement.

15. Binding Agreement.

This Agreement shall be binding upon the heirs, successors, administrators, and assigns of each of the parties hereto.

16. Notices.

All notices, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the parties at their addresses first above written, or at such other addresses as may be designated by notice given hereunder.

17. Assignment.

The parties to this Agreement shall not assign this Agreement, or any part hereof, without the prior written consent of all other parties to this Agreement. No assignment shall relieve the original parties from any liability hereunder.

18. Governing Law.

All questions with respect to the construction of this Agreement, and the rights and liability of the parties hereto, shall be governed by the laws of the State of Utah.

SIGNED AND DATED THIS _____ DAY OF _____, 2020.

CITY OF CEDAR HILLS

ATTEST: _____ MAYOR

CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

AMERICAN FORK CITY

ATTEST: _____ MAYOR

CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

SIGNED AND DATED THIS _____ DAY OF _____, 2020.

PLEASANT GROVE CITY

MAYOR

ATTEST:

CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

HIGHLAND CITY

MAYOR

ATTEST:

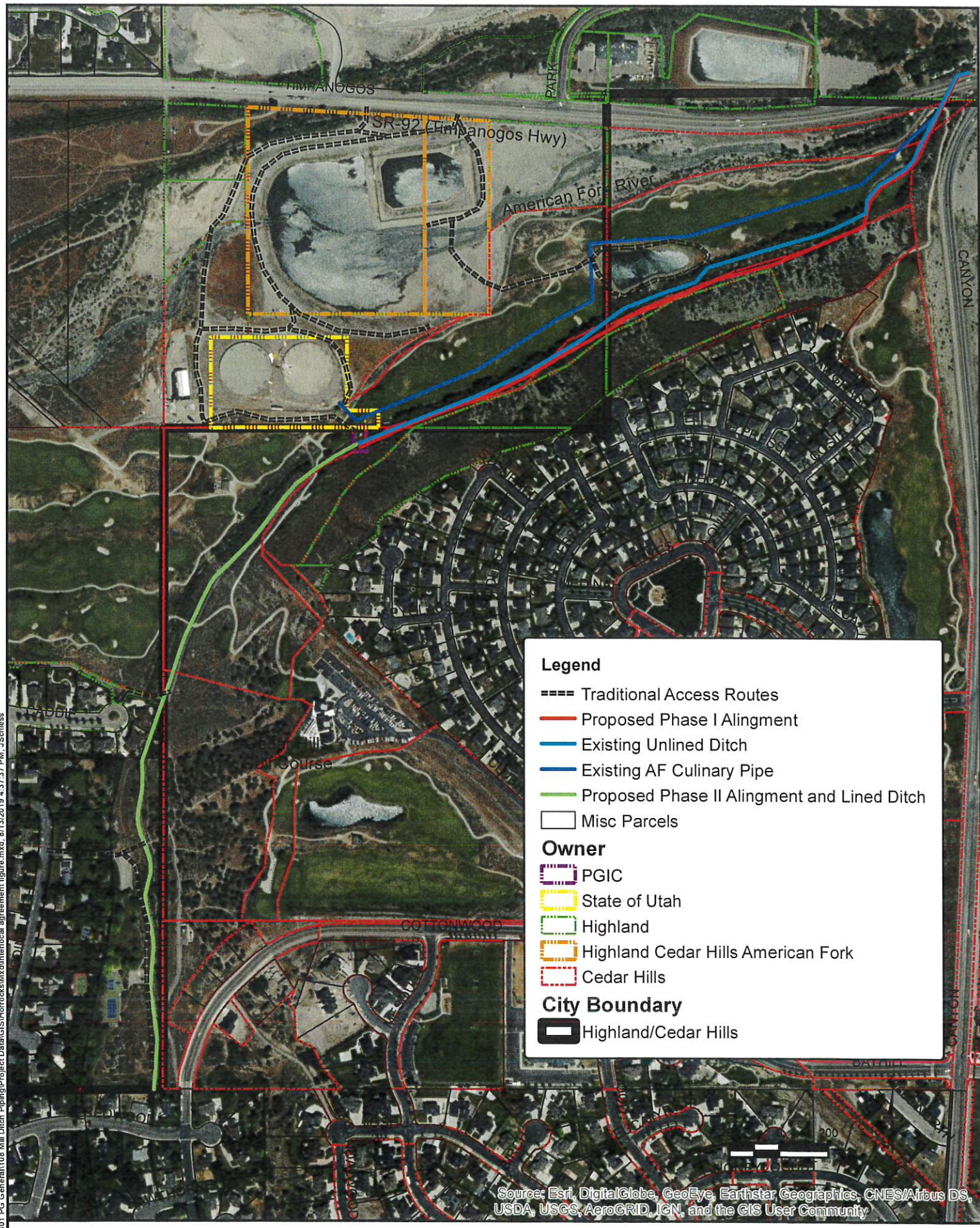
CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

SIGNED AND DATED THIS _____ **DAY OF** _____, 2020.

O:\2018\UT-0058-1801 PG General\105 Mill Ditch Piping\Project Data\GIS\Horrocks\Map\Interlocal agreement figure.mxd, 8/13/2019 4:37:37 PM, JSchless



RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL
COOPERATION AGREEMENT BETWEEN THE CITY OF CEDAR HILLS,
AMERICAN FORK CITY, HIGHLAND CITY, AND PLEASANT GROVE CITY
REGARDING THE MILL DITCH PIPELINE ENCLOSURE PROJECT**

WHEREAS, pursuant to the provisions of the Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated, 1953 as amended, public agencies, including political subdivisions of the State of Utah as therein defined, are authorized to enter into written agreements with one another for joint or cooperative action; and

WHEREAS, Pleasant Grove Irrigation Company ("PGIC") owns and operates a primarily open irrigation ditch from the American Fork River diversion at the mouth of American Fork Canyon down to an existing 30-inch pipe near 4416 W Redwood Road in Cedar Hill; and

WHEREAS, Highland and Cedar Hills each have a turnout on the irrigation ditch in order to obtain water from PGIC based on their share of ownership in the company; and

WHEREAS, easements for the access, operation and maintenance of the ditch have been a combination of written and prescriptive in nature between several entities; and

WHEREAS, Pleasant Grove would like to pipe the PGIC ditch in agreement with PGIC to conserve irrigation water lost to seepage and evaporation; and

WHEREAS, the City of Cedar Hills desires to enter into an Interlocal Cooperation Agreement by and between American Fork City, Highland City, and Pleasant Grove City for the purpose of clarifying easements and access on properties or related water infrastructure of each of the municipalities and for purpose of piping the ditch; and

WHEREAS, the City Council of Cedar Hills resolves to enter into an Interlocal Cooperation Agreement by and between American Fork City, Highland City, and Pleasant Grove City for the purpose of clarifying easements and access on properties and related water infrastructure and for the purpose of piping the ditch.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cedar Hills that the Mayor is authorized to execute the Interlocal Cooperation Agreement, attached as Exhibit "A."

PASSED AND APPROVED this _____ day of October, 2020.

CITY OF CEDAR HILLS COUNCIL

By: _____
Jenney Rees, Mayor

[SEAL]

VOTING:

Denise Andersen	Yea	_____	Nay	_____
Ben Ellsworth	Yea	_____	Nay	_____
Mike Geddes	Yea	_____	Nay	_____
Brian Miller	Yea	_____	Nay	_____
Kelly Smith	Yea	_____	Nay	_____

ATTEST:

Colleen Mulvey, MMC
City Recorder

DEPOSITED in the office of the City Recorder this __ day of October, 2020.

Health Guidance Levels | 10/14/2020

The COVID-19 Transmission Index is a balanced approach intended to protect communities. The goal of this model is for each county's citizens to work together at lowering their county's transmission index level, and for as many counties to be in the low level as possible.

Changes to a county's transmission index level will occur on a seven-day cycle with announcements made on Thursdays. Counties that meet at least two criteria for high, moderate, or low will be moved to that level. Changes from a lower transmission level to a higher transmission level may occur weekly. Changes from a higher transmission level to a lower transmission level may occur every 14 days at minimum, when thresholds are met.

The transmission levels in this model will be based primarily on the following metrics:

- Positivity rate
- Case count
- ICU utilization

COVID-19 Transmission Index	High	Moderate	Low
7-day average % positivity per county	$\geq 13\%$	6-12.9%	$\leq 5.9\%$
14-day case rate per 100k per county (If a county has ≤ 20 cases over the last 14 days, the recommendation will be listed as "Review." Counties with low case volume shouldn't be evaluated with strict criteria since a small change in cases can result in large swings in the measures, which may not represent the actual situation.)	$\geq 325/100k$	324-101/100k	$\leq 100/100k$
Statewide ICU utilization	Total utilization $\geq 72\%$ AND $\geq 15\%$ COVID-19 ICU Utilization	Total utilization 69-71.9% AND 6-14.9% COVID-19 ICU Utilization	Total utilization $\leq 68.9\%$ AND $\leq 5.9\%$ COVID-19 ICU Utilization

Actions for all individuals and businesses	High	Moderate	Low
Gathering Safely Casual social gatherings, such as family dinner, get togethers with friends, book club (<i>not including formal religious services or events with organizational oversight</i>)	Social gatherings of 10 or fewer are permitted.	Until 10/29: Social gatherings of 10 or fewer are permitted. After 10/29: Social gatherings of 25 or fewer are permitted. The size may exceed 25 if each individual wears a face mask.	Social gatherings of 50 or fewer are permitted. The size may exceed 50 if each individual wears a face mask.



Health Guidance Levels | 10/14/2020

Masks worn in public indoor settings, and outdoors, when physical distancing is not feasible; this includes both employees and patrons A business may require masks in areas of moderate or low transmission	Required	Until 10/29: Directed by public health After 10/29: Strongly recommended by public health; mask requirement is at the discretion of county executives in consultation with the local health officer	Strongly recommended by public health; mask requirement is at the discretion of county executives in consultation with the local health officer
Physical distancing between household groups where feasible, even at social gatherings	Strongly recommended	Strongly recommended	Strongly recommended
Hygiene practices	Strongly recommended	Strongly recommended	Strongly recommended
Stay home when sick	Required	Required	Required
Follow public health quarantine/isolation guidance	Required	Required	Required
BUSINESS			
All businesses	- Refer to Business Manual - Require 6' of distancing between household groups, unless masks are worn - Post signage listing COVID-19 symptoms, asking employees and customers with symptoms to stay home, and encouraging physical distancing - Offer alternative pickup options when possible (such as curbside pickups, delivery, takeout) - Ensure ventilation systems operate properly - Plexiglass barriers between staff and customers where feasible at cash registers and customer service counters when 6' distancing is difficult - Thoroughly clean and disinfect restrooms at least twice daily - Facilitate employees working from home when ill or if they are higher-risk individuals - Stay Safe to Stay Open Pledge (or a similar industry-approved pledge that increases health and safety measures to prevent the spread of COVID-19) is strongly encouraged - Exceptions for public gatherings and events may apply		
Physical distancing in restaurants (including buffets)	6' between parties at all times (including waiting areas and when seated)	6' distancing between parties strongly recommended when	6' distancing between parties strongly encouraged



Health Guidance Levels | 10/14/2020

		seated, required in waiting areas	
Bars	6' between parties at all times (including waiting areas and when seated)	6' distancing between parties strongly recommended; limit occupancy to 75% of capacity; patrons should wear a mask when intermingling with other parties	6' distancing between parties strongly encouraged
Any establishment that allows public gathering, such as live events, movie theatres, sporting events, weddings, recreation and entertainment	- Masks are required; performers are excluded - Completion of Event Management Template is required - Individual businesses will be expected to modify their operations based on individual outbreaks; LHD discretion on severity of modifications, supported by UDOH		
	- 6' physical distancing between household groups - Exception to 6' physical distancing between household groups can be requested through county executives in consultation with the local health officer. Exceptions may be reviewed every 14 days. Due to the high risk of transmission in this level, exceptions will be rare and are strongly discouraged.	- 6' physical distancing between household groups - Exception to 6' physical distancing between household groups can be requested through county executives in consultation with the local health officer. Exceptions may be reviewed every 14 days. Exceptions are discouraged, but may be more frequent than in high risk.	- 6' physical distancing between household groups is strongly encouraged, side by side seating without physical distance between household groups is allowed.
Schools	Refer to School Manual and Utah State Board of Education's School Reopening Planning Handbook K-12 mask mandate still applies		
Higher Education	Refer to USHE/individual university/college reopening plans		

