

When recorded, please return to:

Laurie Hellstrom, City Recorder
Pleasant View City
520 Elberta Dr.
Pleasant View, Utah 84414

WATER INFRASTRUCTURE ASSESSMENT AGREEMENT
For Area Commonly Known As Pole Patch No. 1 and No. 2 Subdivisions

This Water Infrastructure Assessment Agreement ("Agreement") regarding the culinary water infrastructure located within the boundaries of the area commonly known as Pole Patch No. 1 and Pole Patch No. 2 Subdivisions ("Development") is made and entered into this _____ day of July, 2021 ("Effective Date") by and between Pleasant View City, a municipal corporation of the State of Utah ("City"), and Pole Patch Homeowners Association, Pleasant View, Utah ("HOA"). City and HOA may be referred to individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS in or around 1979, the HOA had engineered and installed private utility infrastructure, to be owned, operated, and maintained by the HOA. Together and with more recent additions, the water infrastructure contains approximately 8,000 feet of transmission and distribution water line with valves and fire hydrants, one (1) pressure reducing valve station, one (1) booster pump station with master meter, one (1) 50,000 gallon water storage reservoir, one (1) 200,000 gallon water storage reservoir, and 35 service connections with customer meters ("Pole Patch Water System");

WHEREAS Pole Patch Water System is regulated by the Utah Division of Drinking Water and has the identification number UTAH29107;

WHEREAS Pole Patch Water System receives all of its water from Pleasant View's culinary water system, the delivery of which is governed by the sales agreement dated November 15, 1976 along with subsequent amendments and agreements on file with the City.

WHEREAS Development contains thirty-eight (38) lots, each individually owned, with thirty-five (35) as listed in Exhibit A plus the following three (3) lots;

16-012-0091	4600 N. Pole Patch Dr.	Pole Patch #1, Lot 1
16-012-0097	4680 N. Pole Patch Dr.	Pole Patch #1, Lot 2
16-012-0038	4675 N. Pole Patch Dr.	Pole Patch #1, Lot 3

WHEREAS the above listed three (3) properties receive water billings from the City and are not affected by this Agreement;

WHEREAS HOA desires to investigate the possibility of transferring ownership of Pole Patch Water System to City;

WHEREAS City sees the value in assuming ownership of Pole Patch Water System, including operation and maintenance, under certain conditions; and

WHEREAS this Agreement is intended to specify the steps to be taken in the investigation of the viability of incorporating Pole Patch Water System into the City's water system and the roles of each Party during the investigation.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and terms as more fully set forth below, the City and the HOA hereby agree as follows:

AGREEMENT

1. **Viability.** HOA and City agree that in order to determine the viability of incorporating the Pole Patch Water System into the City's culinary water system, certain studies must be performed and reviewed by the Parties. Based on the results of said studies, Parties will then determine whether proceeding with the incorporation is viable for each Party.
2. **HOA's Obligations.** The HOA agrees that:
 - 2.1. On or prior to the Effective Date of this Agreement, HOA shall deposit with the City a lump sum amount of \$24,000 to cover the cost of the tasks listed in Paragraph 3 ("Deposit);
 - 2.2. HOA may, at its option, have any and all studies performed by the City peer reviewed, at HOA's own cost;
 - 2.3. HOA shall cooperate in providing City any requested information related to the Pole Patch Water System, including financials recorded necessary for performing certain studies;
 - 2.4. HOA shall provide the following:
 - 2.4.1. All reservoir cleaning/inspection reports, current within past 3 years; and
 - 2.4.2. All fire hydrant and valve inspection reports, current within past 5 years.If the above listed inspections have not been performed with the specified time periods, HOA shall have inspections performed and provide resulting report to City upon completion. Reports must be provided prior to completion of the items listed in Paragraph 3.
3. **City's Obligations.** The City agrees that:
 - 3.1. City shall perform or cause to be performed:
 - 3.1.1. Development of this Agreement;
 - 3.1.2. Creation of a Capital Facilities Plan for the Pole Patch Water System (see Paragraph 4 for more information);
 - 3.1.3. Water Impact Fee Equivalency Analysis (see Paragraph 5 for more information);
 - 3.1.4. Water Rate Study (see Paragraph 6 for more information);
 - 3.1.5. Structural Review of facilities (see Paragraph 7 for more information); and
 - 3.1.6. Insurance Coverage Determination (see Paragraph 7 for more information).

- 3.2. City shall inform the Utah Division of Drinking Water (“DDW”) of the potential of merging the Pole Patch Water System into the City’s culinary system and share with HOA any feedback received from DDW.
- 3.3. City shall refund to HOA any portion of the Deposit not used for the above tasks. Upon request from HOA, City shall provide all invoices for the work related to the tasks above.
4. **Capital Facilities Plan.** A Capital Facilities Plan (“CFP”) will be created for the Pole Patch Water System. Tasks included the creation of the CFP will include:
 - 4.1. Determine current and build-out demands on the system;
 - 4.2. Evaluate the existing system’s source, storage, and distribution system based on the requirements in Utah Administrative Code R309;
 - 4.3. Identify deficiencies within the existing system, including any identified in the most current Sanitary Survey; and
 - 4.4. Identify projects and project costs required to bring Pole Patch Water System into compliance with current regulations.
5. **Water Impact Fee Equivalency Analysis.** Impact fees will apply to all future homes. Since no irrigation is available in this area, and the previous agreement allowed for a certain amount of irrigated landscape, this Analysis will evaluate the average current water usage per Pole Patch water system customer to determine the equitable number of equivalent residential connections (“ERC”) per the Pleasant View City 2017 Culinary Water Capital Facilities Plan. This equitable number of ERCs will become the multiplication factor used to calculate a new home’s water impact fee.
6. **Water Rate Study.** The Water Rate Study will use City’s operations and maintenance costs, the project costs identified in the CFP, and the current financials of the HOA to determine a water rate fee schedule specific to the Pole Patch Water System and its users. The water rate fee schedule will be an escalating-type in accordance with DDW guidance and the City’s Water Conservation Plan.
7. **Structural Review.** The City shall have the structures associated with the Pole Patch Water System evaluated to determine the structural integrity of the facilities and the implications of taking ownership of them.
8. **Insurance Coverage Determination.** The City shall have the Pole Patch Water System evaluated for insurance coverage under the City’s current policy and a determination will be made as to the feasibility of transferring ownership of the facilities under said policy.
9. **Next Steps.** Following the completion of the tasks described in paragraphs 2 through 7 above, findings will be presented to the HOA for consideration. If the HOA is agreeable to the findings and conclusions of the above studies, the City will present the HOA with a Water Infrastructure Transfer Agreement for its consideration.
10. **Existing Water Agreement and Water Utility Billing.** HOA currently receives and pays to City monthly wholesale water bill for all water delivered to the Pole Patch Water System. Nothing in this Agreement shall be deemed to alter the current billing or payment for wholesale water.

11. **Term of Agreement.** This Agreement shall be in full force and effect for 24 months following the Effective Date of this Agreement. Either party may terminate this Agreement with 30 days written notice to other party. HOA agrees to pay for all work performed up to the date of the request of termination, and City agrees to provide all information gathered and work performed up to the date of the request of termination.
12. **Default.**
 - 12.1. An "Event of Default" shall occur under the Agreement if any Party fails to perform its obligations hereunder where those obligations are due, and the defaulting Party has not performed the delinquent obligations within 30 days following delivery of written notice of such delinquency ("Notice of Default") to the delinquent Party. Notwithstanding the foregoing, if the default cannot be reasonably cured within that 30-day period, a Party shall not be in default so long as that Party commences to cure the default within that 30-day period and diligently continues such cure in good faith until complete.
 - 12.2. Parties herein each agree that should they default in any of the covenants or agreements contained herein, the defaulting Party shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing this Agreement, or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah, whether such remedy is pursued by filing suit or otherwise, whether such costs and expenses are incurred with or without suit or before or after judgment. The Parties agree to venue in Second District Court Weber County.
13. **Remedies.** Upon the occurrence of an Event of Default, the non-defaulting Party shall have the right to exercise all of the following rights and remedies:
 - 13.1. All rights and remedies available at law and in equity, including injunctive relief, specific performance, and/or damages.
 - 13.2. The right to withhold reasonably related approvals, licenses, permits, or other rights associated with the Water Infrastructure or any development described in this Agreement until such default has been cured.
 - 13.3. The right to draw upon any security posted or provided in connection with the Water Infrastructure.
14. **Notice and Cure.** Once an Event of Default has occurred, the noticing Party shall have the right to cure the default and seek reimbursement from the defaulting Party for the costs incurred in effecting such cure. Notwithstanding any provision herein to the contrary, the defaulting Party shall reimburse the curing Party for such costs of curing a default within fifteen (15) days following delivery to the defaulting Party of a written notice of such costs along with reasonable support documentation.
15. **Conflicts.** This Agreement is intended to be in harmony with all Federal and State laws, and City ordinances, codes, procedures, regulations, and rules "Laws." If any provision herein is contrary to or inconsistent with any Laws, the provisions of Laws shall govern. In the event of any conflict between

the terms of this Agreement and those of any document entered into prior to this Agreement, this Agreement shall govern.

16. **Severability.** If any portion of this Agreement is held to be unenforceable, any enforceable portion thereof and the remaining provisions shall continue in full force and effect. No rule of strict construction shall be applied against any Party. Any Party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision.
17. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties hereto relative to the subject matter hereof and shall not be modified or amended except by a written instrument executed by all the Parties.
18. **Contact Information.** Any notices, requests, or demands required or desired to be given hereunder shall be made to the Parties as follows:

For Property Owner:

Pole Patch Homeowners Association
c/o Utah HOA Management
Attn: John Sears
P.O. Box 618
Riverton, UT 84065
jsears@utahoa.com

For City:

Amy Mabey, City Administrator
Pleasant View City
520 W. Elberta Dr.
Pleasant View, UT 84414
amabey@pleasantviewcity.com

Any Party may change its address by giving written notice to the other parties in accordance with the provisions of this section.

19. **Exhibits to this Agreement.** Exhibits to this Agreement are enumerated as follows:
 - 19.1. Exhibit A – List of Affected Properties
 - 19.2. Exhibit B – Pole Patch Water System Depiction

(continued on next page)

FOR PLEASANT VIEW CITY:

By: Leonard Call

Its: Mayor

Attest:

City Recorder

Approved as to Form: _____
City Attorney

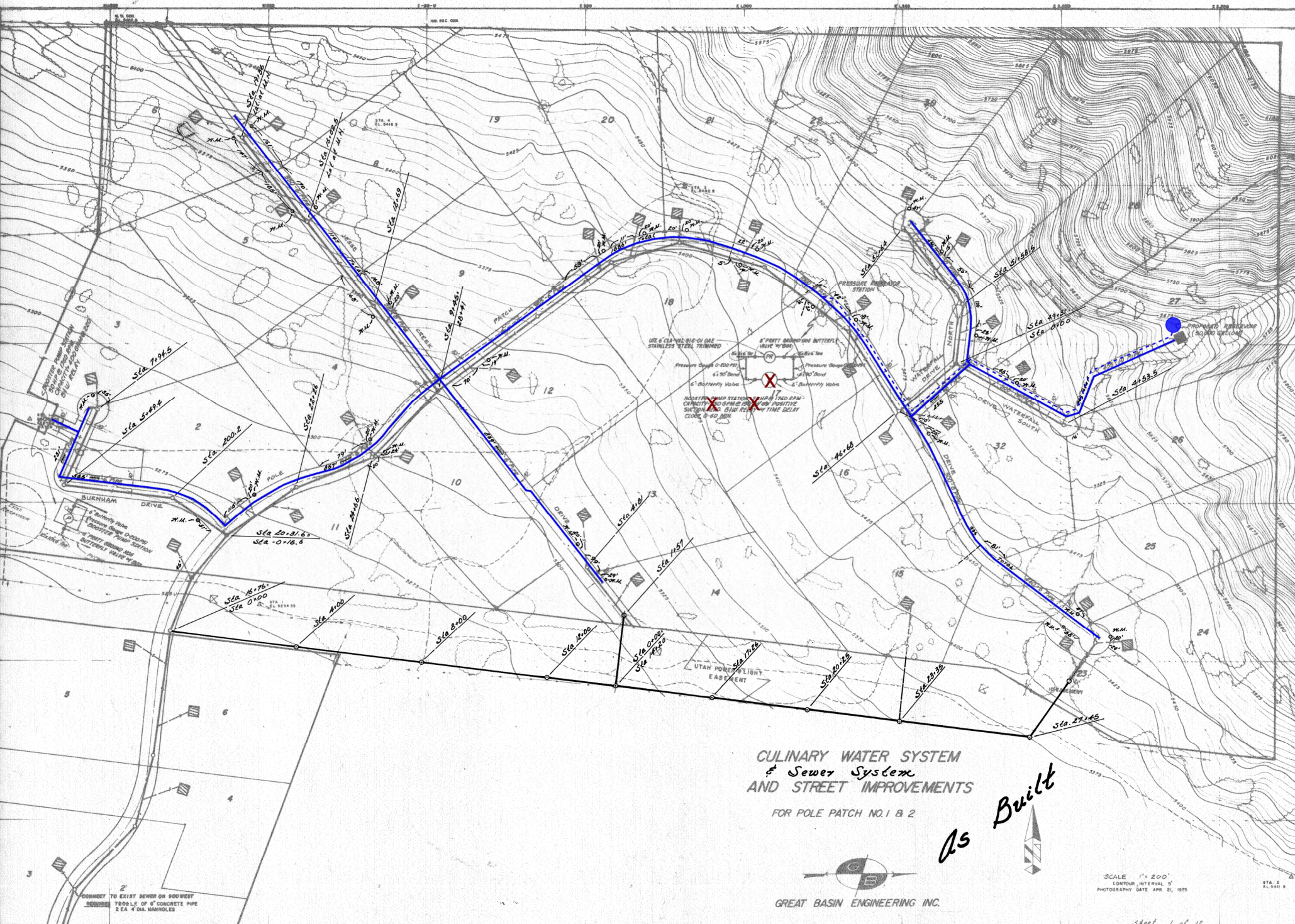
EXHIBIT A
LIST OF AFFECTED PROPERTIES

This Agreement pertains to the following properties as identified by their Weber County parcel numbers:

Parcel Number	Property Address	Unrecorded Subdivision ID
16-012-0045	Pole Patch Dr.	Pole Patch #1, Lot 4
16-012-0046	4785 N. Pole Patch Dr.	Pole Patch #1, Lot 5
16-012-0039	4780 N. Pole Patch Dr.	Pole Patch #1, Lot 6
16-012-0047	4860 N. Pole Patch Dr.	Pole Patch #2, Lot 1
16-012-0040	Pole Patch Dr.	Pole Patch #2, Lot 2
16-012-0072	4920 N. Burnham Dr.	Pole Patch #2, Lot 3
16-012-0043	Pole Patch Dr.	Pole Patch #2, Lot 4
16-012-0005	N. Jessie Creek Dr.	Pole Patch #2, Lot 5
16-012-0041	5051 N. Jessie Creek Dr.	Pole Patch #2, Lot 6
16-012-0042	5080 N. Jessie Creek Dr.	Pole Patch #2, Lot 7
16-012-0049	5010 N. Jessie Creek Dr.	Pole Patch #2, Lot 8
16-009-0037	4960 N. Pole Patch Dr.	Pole Patch #2, Lot 9
16-009-0056	Pole Patch Dr.	Pole Patch #2, Lot 10
16-012-0048	4853 N. Pole Patch Dr.	Pole Patch #2, Lot 11
16-009-0038	4935 N. Jessie Creek Dr.	Pole Patch #2, Lot 12
16-009-0039	4870 N. Jessie Creek Dr.	Pole Patch #2, Lot 13
16-009-0057	4832 N. Jessie Creek Dr.	Pole Patch #2, Lot 14
16-009-0047	4829 N. Pole Patch Dr.	Pole Patch #2, Lot 15
16-009-0048	Pole Patch Dr.	Pole Patch #2, Lot 16
16-009-0049	4949 N. Pole Patch Dr.	Pole Patch #2, Lot 17
16-009-0050	4975 N. Pole Patch Dr.	Pole Patch #2, Lot 18
16-009-0051	Pole Patch Dr.	Pole Patch #2, Lot 19
16-009-0052	5000 N. Pole Patch Dr.	Pole Patch #2, Lot 20
16-009-0053	5006 N. Pole Patch Dr.	Pole Patch #2, Lot 21
16-009-0004	4986 N. Pole Patch Dr.	Pole Patch #2, Lot 22
16-009-0012	4775 N. Pole Patch Dr.	Pole Patch #2, Lot 23
16-009-0055	4800 N. Pole Patch Dr.	Pole Patch #2, Lot 24
16-009-0054	4836 N. Pole Patch Dr.	Pole Patch #2, Lot 25
16-009-0040	5056 N. Ridge Canyon Rd.	Pole Patch #2, Lot 26
16-009-0041	5052 N. Ridge Canyon Rd.	Pole Patch #2, Lot 27
16-009-0042	Waterfall Dr.	Pole Patch #2, Lot 28
16-009-0043	Waterfall Dr.	Pole Patch #2, Lot 29

Parcel Number	Property Address	Unrecorded Subdivision ID
16-009-0044	Waterfall Dr.	Pole Patch #2, Lot 30
16-009-0045	5050 N. Waterfall Dr.	Pole Patch #2, Lot 31
16-009-0046	5055 N. Waterfall Dr.	Pole Patch #2, Lot 32

EXHIBIT B



CULINARY WATER SYSTEM
 & Sewer System
 AND STREET IMPROVEMENTS
 FOR POLE PATCH NO. 1 & 2

As Built



GREAT BASIN ENGINEERING INC.

SCALE 1" = 200'
 CONTOUR INTERVAL 5'
 PHOTOGRAPHY DATE APR. 21, 1975