



HURRICANE CITY UTAH

City Council

Joseph Prete
Dave Sanders
David Hirschi
Kevin Thomas

Mayor

City Manager

Nanette Billings Kaden DeMille

Hurricane City Council Meeting Agenda

January 20, 2022
3:00 PM

City Council Chambers 147 N 870 W, Hurricane

Notice is hereby given that the City Council will hold a Regular Meeting in the City Council Chambers 147 N 870 W, Hurricane, UT. Meeting

link: <https://cityofhurricane.webex.com/cityofhurricane/j.php?MTID=m42b9c9ed9136292cefa6c0163f681ba6>. Meeting number: 2630 456 5376 Meeting password: HCCouncil Join from a video or application Dial 26304565376@cityofhurricane.webex.com. You can also dial 173.243.2.68 and enter your meeting number. Join by phone +1-415-655-0001 US Toll Access code:26304565376. Global call-in numbers

<https://cityofhurricane.webex.com/cityofhurricane/globalcallin.php?serviceType=MC&eventID=1460119032&tollFree=0>. A silent roll call will be taken, followed by the Pledge of Allegiance and prayer by invitation.

THOSE WISHING TO SPEAK DURING PUBLIC FORUM MUST SIGN IN WITH THE RECORDER BY 6:00 P.M.

3:00 p.m. Special Meeting

1. City Council Vacant Seat Interviews
2. Consideration to appoint a member to the City Council through the vacated term ending on the first Monday of January 2024

5:00 p.m. Pre-meeting

6:00 p.m. - Call to Order

Minutes of the Regular City Council Meeting for August 19, 2021

Public Forum – Comments from Public

Please Note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda, public comments will be limited to 2 minutes per person per item. A spokesperson representing a group to summarize their concerns will be allowed 5 minutes to speak. Repetitious commentary will not be allowed. If you need additional time, please request agenda time with Cindy Beteag in writing before 5:00 p.m. the Wednesday one week before the Council meeting.

Report from Planning regarding the Walkable Downtown Survey

OLD BUSINESS

1. Consideration and possible approval of a **Franchise Agreement between Hurricane City and Infowest**

2. Consideration and possible approval of a **Development Agreement with Southern Shores-** Stephen Nelson
3. Discussion and possible recommendation to the **Washington County Water Conservancy District** regarding extending limited water supplies

NEW BUSINESS

1. Consideration and possible approval to **appoint Susan Lytle to the Beautification Committee**
2. Discussion and possible **decision** regarding the **City Attorney and Prosecutor's positions**
3. Consideration and possible **award of bid for Dixie Springs well materials including low carbon steel well casing** - Ken Richins
4. Consideration and possible **award of bid for the Dixie Springs well materials including stainless steel screen**-Ken Richins
5. Consideration and possible **award of bid for Dixie Springs well materials including well filter gravel pack**-Ken Richins
6. Consideration and possible approval of a **Resolution appointing Nanette Billings as a representative on the Steering Committee** on The 5 County Board
7. Discussion regarding **headstone height at the Hurricane Cemetery- Nanette Billings**
8. Discussion and possible decision regarding **renewing the contract with Granicus-** Cindy Beteag
9. Consideration and possible approval of an **updated preliminary plat for Peregrine Point West Phase 1-4 Amended**, located at 600 N and 3100 W. Perry Development Applicant, Greg Sant Agent.

Adjournment

I hereby certify that the above notice was posted to the city website, (www.cityofhurricane.com) posted to the state public notice website, and at the following locations:

1. City office – 147 North 870 West, Hurricane, UT
 2. The Post Office – 1075 West 100 North, Hurricane, UT
 3. The library – 36 South 300 West, Hurricane, UT
- _____ for the City Recorder



Application for Vacant City Council Seat
Term will expire on the first Monday of January 2024
Application Deadline: 5:00 p.m. on Tuesday, January 18, 2022

APPLICANT INFORMATION:

Name: Van Douglas Heideman

Address: 375 SO. 800W. Hurricane UT 84737
Street City State Zip Code

Telephone Number: 435-862-6968

Email Address: dheideman64@gmail.com

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States.

☒ Yes ☐ No

I am a registered voter in the City of Hurricane.

☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months.

☒ Yes ☐ No

I have not been convicted of a felony. *

☒ Yes ☐ No

*Utah Code §20A-2-101.5 states: A person convicted of a felony loses the right to hold office until (1) all felony convictions have been expunged, OR (2) ten years have passed since the most recent felony conviction AND the person has paid all court-ordered restitution and fines AND the person has completed probation, been granted parole, or completed the term of incarceration associated with the felony.

CERTIFICATION OF APPLICANT:

PLEASE READ THE FOLLOWING PARAGRAPH CAREFULLY BEFORE SIGNING.

I certify that all statements made in this application are true and complete and understand that any misrepresentation of material fact in this document or during an interview may subject me to disqualification.

I understand that information provided on this application is a public record and authorize the City of Hurricane to release the information contained herein.

V. Douglas Heideman
Applicant's Signature

1-4-22
Date

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Application for the Hurricane City Council



Dear City of Hurricane Council,

I am applying for the vacancy that will be created when Nanette Billings moves from her council position into that of Hurricane's Mayor.

I was less than 1% behind Kevin Thomas in the election votes and feel that I ran an honorable campaign, doing all within my power to secure

the council position, however I didn't make the cut and feel that I can still serve the residents of Hurricane by filling the vacancy. Please consider me as a candidate and I would enjoy working with the fine men who were elected. I congratulate David and Kevin, as well as Nanette.

Sincerely,

Doug Heideman



Application for Vacant City Council Seat
Term will expire on the first Monday of January 2024
Application Deadline: 5:00 p.m. on Tuesday, January 18, 2022

APPLICANT INFORMATION:

Name: Lea Thompson

Address: 2012 Flora Tech Rd Hurricane, UT 84737
Street City State Zip Code

Telephone Number: (cell) 435-229-8428

Email Address: lea.thompson979@gmail.com

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States. ☒ Yes ☐ No

I am a registered voter in the City of Hurricane. ☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months. ☒ Yes ☐ No

I have not been convicted of a felony. * I have not been convicted of a felony. ☐ Yes ☐ No

*Utah Code §20A-2-101.5 states: A person convicted of a felony loses the right to hold office until (1) all felony convictions have been expunged, OR (2) ten years have passed since the most recent felony conviction AND the person has paid all court-ordered restitution and fines AND the person has completed probation, been granted parole, or completed the term of incarceration associated with the felony.

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Lea Thompson
Applicant's Signature

1-11-2022
Date

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Application for Vacant City Council Seat
Term will expire on the first Monday of January 2024
Application Deadline: 5:00 p.m. on Tuesday, January 18, 2022

APPLICANT INFORMATION:

Name: Penny R James-Garcia

Address: 2390 W 1050 N Hurricane UT 84737
Street City State Zip Code

Telephone Number: 435-632-6668

Email Address: pennyjamesgarcia25@gmail.com

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States. ☒ Yes ☐ No

I am a registered voter in the City of Hurricane. ☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months. ☒ Yes ☐ No

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Penny R James-Garcia
Applicant's Signature

1-7-22
Date

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APPLICANT INFORMATION:

Name: MARK E. SAMPSON

Address: 327 W 1300 S. HURRICANE, UT 84737
Street City State Zip Code

Telephone Number: 469.855.1461

Email Address: mark.sampson@Siemens.com mesampson@infowest.com

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States. ☒ Yes ☐ No

I am a registered voter in the City of Hurricane. ☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months. ☒ Yes ☐ No

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Mark E. Sampson
Applicant's Signature

Jan. 6. 2022
Date

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Application for Vacant City Council Seat
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APPLICANT INFORMATION:

Name: Clark Fawcett

Address: 357 West 300 South Hurricane, Ut 84737
Street City State Zip Code

Telephone Number: 435-668-5617

Email Address: Fawcett2417@msn.com

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States. ☒ Yes ☐ No

I am a registered voter in the City of Hurricane. ☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months. ☒ Yes ☐ No

I have not been convicted of a felony. * ☒ Yes ☐ No

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Clark Fawcett

Applicant's Signature

1/14/21

Date

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Application for Vacant City Council Seat
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APPLICANT INFORMATION:

Name: Danny Campbell
Address: 256 N. 200 W. Hurricane, UT 84737
Street City State Zip Code
Telephone Number: 435-632-0368
Email Address: danCamp1958@gmail.com

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States.

☒ Yes ☐ No

I am a registered voter in the City of Hurricane.

☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months.

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I have not been convicted of a felony. *

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Danny Campbell
Applicant's Signature

1/4/2022
Date

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APPLICANT INFORMATION:

Name: DREW ELLERMAN

Address: 236 W. 300 SO. HURRICANE, UT. 84737
Street City State Zip Code

Telephone Number: 435-632-2989

Email Address: drellerman@gmail.com

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States. ☒ Yes ☐ No

I am a registered voter in the City of Hurricane. ☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months. ☒ Yes ☐ No

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Drew Ellerman

Applicant's Signature

JAN. 14, 2022

Date

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Application for Vacant City Council Seat
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APPLICANT INFORMATION:

Name: APRIL PINKSTON

Address: 1234 N. MAIN HURRICANE UT 84737
Street City State Zip Code

Telephone Number: 760 907 8321

Email Address: Flowers, books, friends@gmail.com

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States.

☒ Yes ☐ No

I am a registered voter in the City of Hurricane.

☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months.

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April A. Pinkston
Applicant's Signature

1-18-22
Date

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Application for Vacant City Council Seat
Term will expire on the first Monday of January 2024
Application Deadline: 5:00 p.m. on Tuesday, January 18, 2022

APPLICANT INFORMATION:

Name: Chad M. Daugherty

Address: 4442 S. 1600 W HURRICANE UT 84737
Street City State Zip Code

Telephone Number: (801) 836-9242

Email Address: CHADDAUG@GMAIL.COM

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States.

☒ Yes ☐ No

I am a registered voter in the City of Hurricane.

☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months.

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Chad M. Daugherty
Applicant's Signature

1/18/2022
Date

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How I came to call Hurricane, Utah my home?

While I moved to Utah in 1988, attended UVU, and maintained a house in Utah since 1998, my work experience has mainly involved living abroad in Russia, Israel and Europe for over 25 years where I have dealt with people from very diverse backgrounds and interests. My experience has mainly been in the private sector and pioneering successful businesses abroad. As you can imagine, I have dealt with many different governments, policies, laws and oversaw a business that represented over 17 various countries and, at points, had over

500,000 distributors to train, motivate and govern. I made the companies I worked for over a billion dollars in sales during my time with them before I started my own company in 2008. I had 16 warehouses and over 50,000 distributors. Due to a supplier going out of business, I decided to merge my company with and Essential Oils company of doTERRA in 2015 and have since become a Wellness Advocate for them. To this day, I continue to provide logistical support to them in the regions of the former Soviet Union and receive overrides on the sales that I created there.

When COVID hit, my family and I were living and working out of Israel. We made the decision to move home to Utah and to make Hurricane our home as this is where my wife's parents lived. For the past two years, we have made many friends here and have seen the potential of the citizens in this town. We have fallen in love with Hurricane. We also see and hear what many of the citizens say, feel and what many of you want Hurricane to "remain to be" and what "you would like it to be in the future." It is with this "vision" that I want to provide my skills and talents to Hurricane City and its citizens. I am sure that I can navigate both Hurricane politics as well as merge the interests of its citizens to come up with policies that protect and align values to make Hurricane the type of city that we are all proud of.

Why am I the right person for the job?

I have always been a pioneer and entrepreneur through and through. I know how to govern, balance books, research, generate business, reduce taxes, work with people in all walks of life, negotiate, listen, ask questions, and most importantly – I know how to work hard to get things accomplished. I work extremely hard and will do what it takes to get things done for Hurricane. Armed with the constitution, conservative views, extensive international business background, great vision, intuition, the ability to work and listen to the citizens of Hurricane – I am the right person for the job.



Application for Vacant City Council Seat
Term will expire on the first Monday of January 2024
Application Deadline: 5:00 p.m. on Tuesday, January 18, 2022

APPLICANT INFORMATION:

Name: Christine Anderson
Address: 411 N 2780 W Hurricane UT 84737
Street City State Zip Code
Telephone Number: 435-632-2551
Email Address: CANDERSON4693@gmail.com

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States.

☒ Yes ☐ No

I am a registered voter in the City of Hurricane.

☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months.

☒ Yes ☐ No

I have not been convicted of a felony. *

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Christine Anderson
Applicant's Signature

1-18-2022
Date

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Christine Anderson



I am interested in serving our citizens by sitting on the City Council to ensure we don't lose the hometown charm of Hurricane. I believe we need to follow Hurricane's master plan and I support growth as long as it is responsible and sustainable. I think when making decisions we need to consider the rights of our existing residents as well as those who want to move here. The rights of property owners is very important to me, however I realize that good growth will be extremely important for our community.

I have worked in Management and in the Real Estate business for over 10 years with 5 of those being with a Developer/Builder. I have a good understanding of planning and zoning, along with developments and building. I have attended several meetings of the Planning Commission and City Council and have been discouraged on how many times the new master plan is changed. We need to follow the master plan for growth and not just change every zoning law that is requested. I love to see all of the effort and support of the UTV industry here and I am also a big supporter of expanding our trail systems to enhance the quality of life for everyone.

I have conservative values, and I believe every citizen has a right to be heard and a right to their opinion. We need to defend and uphold our constitution.

I am currently a real estate agent on a team with my husband. My job and experience give me the flexibility and time I would need to devote to the City Council. I have experience researching and discussing issues/concerns with clients and explaining the results/answers in a way they can understand.

My biggest concerns for the future of Hurricane are having future water and power for the growth that is coming. I believe we also need to address the housing market being un-affordable for young families and service workers and the impact of rentals and Airbnb. We also need to focus on the roads, businesses and schools that will be needed to support the growing population. I do not like the new public infrastructure district (PID) that is being used in Hurricane. I think there are certain situations where this might be beneficial, but they are few and far between.



Application for Vacant City Council Seat
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APPLICANT INFORMATION:

Name: Clint Lawton
Address: 565 S. 60 E. Hurricane, Utah 84737
Telephone Number: 928-965-3943
Email Address: clintlawton@gmail.com

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States. ☒ Yes ☐ No

I am a registered voter in the City of Hurricane. ☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months. ☒ Yes ☐ No

I have not been convicted of a felony. * ☒ Yes ☐ No

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I understand that information provided on this application is a public record and authorize the City of Hurricane to release the information contained herein.

Clint Lawton
Applicant's Signature

1-17-22
Date

All applicants shall submit, with the application, a picture, a resume, and a brief one (1) page written statement. This statement should explain why you are interested, how you are uniquely qualified to serve on the City Council, and any prior involvement in city or community organizations or activities. In addition, please identify any concerns you have about the city and priority matters you hope to help address. Also, explain your view on the Constitution and the role of local government, as well as your ability to put in the time to properly serve.

Clint Lawton 1





Application for Vacant City Council Seat
Term will expire on the first Monday of January 2024
Application Deadline: 5:00 p.m. on Tuesday, January 18, 2022

APPLICANT INFORMATION:

Name: Amanda S. Condie

Address: 2464 S. 725 W. Hurricane UT 84737
Street City State Zip Code

Telephone Number: (435) 703-3571

Email Address: accondie@hotmail.com

QUALIFICATIONS:

I certify that I meet the following Qualifications:

I am a citizen of the United States. ☒ Yes ☐ No

I am a registered voter in the City of Hurricane. ☒ Yes ☐ No

I have been a resident of the City of Hurricane or a resident of a recently annexed area of the City of Hurricane for the previous twelve (12) months. ☒ Yes ☐ No

I have not been convicted of a felony. * ☒ Yes ☐ No

*Utah Code §20A-2-101.5 states: A person convicted of a felony loses the right to hold office until (1) all felony convictions have been expunged, OR (2) ten years have passed since the most recent felony conviction AND the person has paid all court-ordered restitution and fines AND the person has completed probation, been granted parole, or completed the term of incarceration associated with the felony.

CERTIFICATION OF APPLICANT:

PLEASE READ THE FOLLOWING PARAGRAPH CAREFULLY BEFORE SIGNING.

I certify that all statements made in this application are true and complete and understand that any misrepresentation of material fact in this document or during an interview may subject me to disqualification.

I understand that information provided on this application is a public record and authorize the City of Hurricane to release the information contained herein.

Amanda Condie

Applicant's Signature

1/6/2022

Date

All applicants shall submit, with the application, a picture, a resume and a brief 1-2 page written statement explaining why you are interested and how you are uniquely qualified to serve on the City Council, and any prior involvement in City or community organizations or activities. In addition, please identify any concerns you have about the city and priority matters you hope to help address. Briefly explain your view on the constitution and the role of local government and your ability to put in the time to properly serve.



We will first start by randomly drawing the order of the New City Council applicants interviews from a Hurricane High baseball hat. There will be no public input or comments during the candidates interviews or the entirety of the meeting.

Hurricane City Council will conduct interviews with all 12 qualified applicants. 2 will be on Zoom. Each applicant will start with 2 minutes to introduce themselves and explain to the council who they are and why they are running for City Council. Followed by the Mayor and Councilmen to ask questions, with one minute for the applicant to answer the specific question asked.

As a council we would like the applicants to not be in the room when the other applicants are speaking. To hear their pure views not tainted by other applicant's answers. We ask that the applicants be in the break room when it is not their interview. But since this is an open meeting, you can choose. This will be recorded and available for future viewing.

When the interviews have concluded we will reunite.

The Recorder will send a ballot to each Council members city email. The mayor will not receive a ballot to vote in the first round.

A vote will be taken where each Councilmen can vote for 2 applicants in this round. The recorder will show results on the screen.

If more than two applicants receive equal votes in round one. Those receiving less votes are eliminated. And those applications with ties move on to round two.

If one candidate received more votes than those who tied that candidate moves to the final round. And those tied votes move to round two.

Utah Code 20A-1-510, section 1, paragraph C, roman numeral ii states:

"The two individuals having the highest number of votes of the municipal legislative body after a first vote is taken shall appear before the municipal legislative body and the municipal legislative body shall vote again."

The statute requires the two applicants with the highest votes to appear before the Council, before the final deciding vote, which we interpret to mean, "must be present to win." Zoom is considered present.

The recorder will read the two names of the applicants on the ballot, showing the public the ballots. Then hand each Councilmen and Mayor their ballot. Each of which will turn in their ballot into the recorder. The mayors vote will say Mayor on the ballot.

Utah Code 20A-1-510, section 1, paragraph C, roman numeral iii states: "If neither candidate receives a majority vote of the municipal legislative body at that time [meaning the final deciding vote], the vacancy shall be filled by the Mayor exercising the right to break the tie as set forth in Utah Code 10-3b-302

Following this vote, the City Recorder will project the results on the screen.

For clarification, a majority vote of the current members of the municipal legislative body is three (3) or more.

After the City Council confirms that votes were read properly Mayor Billings will ask for a formal motion and confirming a second on the motion, a vote by the City Council by roll call will corresponds with the results which ratify the election.

The winner will fill the remaining term of the vacant City Council seat created by Former Councilwoman Nanette Billings.

Minutes of the Hurricane City Council meeting held on August 19, 2021, in the Council Chambers at 147 North 870 West, Hurricane, Utah at 4 p.m.

Members Present: Mayor John Bramall and **Council Members:** Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders and Kevin Tervort.

Also Present: City Manager Kaden DeMille, City Attorney Fay Reber, Police Chief Lynn Excell, Power Superintendent Dave Imlay, Public Works Director Mike Vercimak, Planning Director Stephen Nelson, Recreation Director Kole Staheli, HR Director Beccie Williams, City Engineer Arthur LeBaron, City Recorder Cindy Beteag and Fire Chief Tom Kuhlmann

AGENDA

4:00 Work Meeting with Scott Stratton –

Scott Stratton started the discussion stating his preliminary plat with twenty eight lots for Cliff Shadow has expired. Since that time the City has purchased the intersection at 1300 South and 180 West and they want to work with Mr. Stratton to do the improvements there when he develops. Now he thinks seventeen lots would be a better fit. When he brought in the preliminary plat, the property owner next to him approached him wanting him to extend the road into their three-acre piece with a cul-de-sac. If he did that, he would lose a lot. Arthur LeBaron told him he wants the road to continue to 1000 South. Mr. Stratton doesn't think it is a good idea because it is along the cliff. He would lose a lot of money doing that. They have talked about giving the other property owner an easement between lots 9 and 10. The other owner will pay for utilities to get stubbed into their property. Another option is to get rid of lot 10 and punch the road through to the other property and in return Scott would get a lot from their property. Mr. LeBaron explained extending utilities to the next property is standard practice. If they create a flag lot, the flag portion would have to be twenty six feet and owned by the other owner. Council discussed the steep terrain on this property and the accesses to it. There is a storm drain line that was installed a long time ago stubbed to this property. Mr. LeBaron stated if they do a flag lot then it would be better to include it with this subdivision. Kelby Iverson asked if there was a canal easement there. The new transportation plan shows the trail starting at Three Falls.

The parcel on 100 South has been addressed with the change of the ordinance allowing mixed use if the property borders commercial. Before the change, they could have put eight units of short-term rentals but now it can be long or short term rentals. The ordinance change helped a lot of property owners in the downtown area.

Next for discussion is the property next to the Mayor's pivot where he wants to do 172 townhomes. They might not have to have as much detention as they thought so he is thinking of putting a lot where it was proposed. Nanette Billings mentioned this is not a zone change. It was annexed into the City with this zoning. She asked if the sensitive land issue had been addressed. Stephen Nelson stated anything in red has no issues. Mr. Stratton pointed out the blue areas are man made slopes. None of them are natural slopes. The code only applies to natural slopes. If there is more than two acres with 10% slope, then it requires a sensitive land application. The code doesn't reference multifamily. The City required other developments to show how the units will be incorporated to the slopes to ensure the sensitive lands would be maintained. Mr. Stratton stated this one might change but they are going to push forward with what is proposed right now. He mentioned Hurricane Ready Mix is currently cutting into his property. He would like to get it addressed right now so the elevations match in the future. 1100

West improvements would need to be completed along the frontage of his property. Corbin Wade is planning to install sewer lines down 1100 West. Mr. LeBaron mentioned the master transportation plan has a trail along the east side of 1100 West.

The Moses property is on the agenda tonight for a General Plan change. Mr. Nelson mentioned Sandy Cattoor came into the Planning Commission meeting opposing the application but now she is saying she is okay with it. The Planning Commission debated continuing the application until the legal issue was resolved; however, several of the Commissioners were opposed to it and stated their vote wouldn't change either way so they recommended denial. They now have a letter from Hurricane Ready Mix supporting half acre zoning. The zoning can change to half acre so he wouldn't need to change the General Plan if that is what he does. Mr. Stratton mentioned the General Plan changed after he had purchased the property. He was originally told it wouldn't affect his property, but it changed, and it affected his property. He agreed he should have followed up, but he moved forward in good faith. He has the blessing of every landowner that touches his property but not the ones that touch Cattoor's property. If it is detrimental to getting the zone change then he will not partner with the Cattoor's. This property will be challenging to develop because of the surrounding uses. Darin Larson pointed out if he does PDO then they could do some clustering and some open space.

5:00 p.m. Pre-meeting - Discussion of Agenda Items, Department Reports

Terry Kain and Adam Jasperson with Sand Hollow Resort were present. Ms. Kain has been working with a nonprofit organization called Road Runners who brings people into the area. She has joined forces with the Sand Hollow Open. They will be holding a Friendship Cup, University Cup, Charity Cup, and the World Class Open. They will bring people from all over the world to these events. They have a gala planned in September and invited the Council to the event. Mr. Jasperson stated this is the 7th year they have held this event. It has gotten bigger every year. The first year it paid out \$18,000. They want to get to \$100,000 for first place. It also provides an exemption spot to the Utah Championship. They plan on marketing this as golf week. It will go from September 6th to the 11th. They will not be hosting the Friendship Cup this year because of COVID. They have worked hard over the past few years as a nonprofit organization. This brings a lot of people into the community, which generates profit for the City. Ms. Kain stated she hopes the City helps them in the future with this event. Mayor Bramall mentioned the City needs to look at renewing the RPP lease of the property. Mr. Jasperson explained the current lease is making it difficult for them to get financing so they would like to extend the lease. They are adding more to the development. The bank wants to see a fifty year lease.

Dennis Leavitt with Balance of Nature explained they are the funding partner of a nonprofit called United We Pledge. They support all things patriotic. The surrounding cities are participating in a more robust way on constitution day. They want to do more than just a proclamation. They want to hold a bell ringing event on September 17th called Bells Across America. It will start at 1:40 p.m. with the bell ringing at 2:00 p.m. They will provide all the media content and any other support that is needed. They will link it with all the Cities in the County. Then they would love to take the bell to Dixie Roundup.

Stephen Nelson mentioned he didn't update the report for the Spendlove zone change with the Planning Commission's recommendation. They recommended a positive approval subject to a development agreement that states adequate services are there before they can get a building permit. There are multiple applications on the agenda for areas in the South part of town, but Commissioners have concerns with long term utilities in this area. There are short term concerns with not enough power in the area. Planning Commission's recommendation is to deny development. Mike Vercimak

mentioned they held a meeting with the developers, the water department, power department and street departments to discuss the possibility of a PID for this area. Dave Imlay stated if they can get a route, then they could bring a distribution circuit down. That would be a quick fix but not a permanent solution. Right now, there are only about 250 power connections available in this area. Mr. Nelson stated there are enhanced concerns because of the sheer amount of infrastructure that has to be done. We could be in legal trouble if property owners are treated differently than they have been in the past without being fully justified. He recommends that if they are denied because of this issue then everyone needs to be on the same page. He proposed a work meeting with Council, Planning Commission, and utility departments to discuss how to move forward. He would recommend tabling the applications until a work meeting has been held. He will send out dates to see what works best for everyone.

Chief Excell stated 3000 South has collapsed. The new asphalt is gone. They are shutting it down now.

6:00 p.m. - Call to Order –

Pledge: Kevin Tervort Prayer: Darin Larson

Nanette Billings motioned to amend the agenda moving new business item 1 to first on the agenda before the public forum. Seconded by Joseph Prete. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

1. Canvassing of the Primary Election

Susan Lewis commented that in the 2019 Primary Election there were 8760 voters but this year there were 11,303 registered voters. There were only 3345 that voted which equals to 29.5%. That number is similar for all the cities in the County. There were 53 in person votes in 2019 but only 16 this year. She stated there were 26 ballots that the signatures didn't match, or they were unsigned. They called each of them to give the voter a chance to correct it. Seventy five envelopes were received too late to count. There were 652 that were undeliverable, mostly change of addresses. The final count is Travis Christiansen 791, Doug Heideman 1,034, Brian Hawkins 930, David Hirschi 1,523, Darin Larson 757, Kevin Thomas 1,192. There are two seats open so Doug Heideman, Brian Hawkins, David Hirschi, and Kevin Thomas will move onto the General Election.

Nanette Billings motioned to accept the canvassing of the 2021 Primary Election. Seconded by Joseph Prete. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

Public Forum – Comments From Public

Gwen Wadsworth has a note from Janice Reed to read. "They are opposed to the zone change on SR-9 and 600 North. This is commercial and shouldn't be high density. With only one entrance, it will cause traffic, drainage, and trash problems. They have horses and other animals next to the proposed property and she worries for their safety. There is a sewage right of way coming off SR-9 that can't be blocked off. Lots of strangers staying in the units could make it dangerous." Ms. Wadsworth voiced her concerns about water. We keep getting told to cut back on water usage. Our area was made for agriculture. She heard this week that Lake Mead is a problem. There is a new General Plan map. She asked the Council to follow it. She thinks we need to reserve the agriculture areas and take into consideration where utilities are coming from.

Jennifer Lester, representing two other families that are opposed to items 11 & 12. She read the vision from the General plan. They are asking the council to protect the residents and stick to the General Plan.

Stuart Stout is opposed to items 11 and 12 on the agenda but the Issues he has apply more to item 12. NRCS and Alpha Engineering show this area as a major flood plain. He has seen this area flooded many times. Citizens need to be protected from natural hazardous areas. He has property that adjoins this property that they run irrigation water and if by chance some water escapes and runs onto the proposed property, it will put a liability on him. He is concerned about the infrastructure. He is not antigrowth, but he feels it should be on the hillside and preserve the farmland.

Dave Imlay thanked the Council for giving him a chance to work for the City. Tonight is his last meeting as an employee and he is very thankful for the Council's support.

Kelby Iverson stated his letter fits perfectly with what Stephen Nelson said in the previous meeting regarding infrastructure. He stated Council needs to follow the General Plan, the zoning that is in place, and we the people. Those three items provide a safety net to council, citizens, and property owners. When an issue surfaces and goes against all these items then it should be a no brainer to not approve them. Citizens want the Council's protection. He asked them to be loyal to the General Plan. Developers know what they have when they buy it. The Planning Commission has recommended denial on all the items but one. He pleaded with the Council to be consistent. We need to be conscious of our water. He purchased land in the Bench Lake area and knew what he was buying. He hopes the City can grow moderately and balanced in time. This will protect everyone.

Kathy Iverson agreed with Kelby. She asked them to follow the Master Plan. Her great grandfather is the one that started the Hurricane Canal. This is the perfect place for agriculture. We need to look at being self-sufficient. This area already has the infrastructure for agriculture. Changing the zoning will affect all the agriculture use around them. If it is approved, it will push out agriculture. Please follow the Master Plan.

Paul Gooch stated he is an agriculture refugee from St. George. He is here to warn Hurricane to not make the same mistake St. George did. If there isn't agriculture zoning it will kill the agriculture in Hurricane. If it is killed, it will never come back. He agreed with previous comments. Agriculture is an important part of our culture.

LaRae Stout is speaking for a group of residents regarding items 11 and 13. They are all opposed to changing the zoning. She asked everyone to stand who is opposing the changes. She has seen firsthand how important and beneficial agriculture and farming is to a community. It helps balance out the other uses. She asked the Council to put aside acquaintances and look at the situation as representatives of the City. She asked them to please follow the General Plan. All residents, Council and Planning Commissioners agreed to it. The residents need them to defend the plan. They don't support applications that are requesting to change the zone. Watering infrastructure, farmers' knowledge, equipment, and the land itself are already in production. Take it away and we will never get it back. We need to plan for the future for the City to be self-sufficient. She asked them to direct developers to acquire land where it is already zoned for what they want to do. This is the last area that is zoned agriculture.

Mike Bird spoke on two principles of government. The City spent \$90,000 to update the General Plan to help the City grow consistent. The Council's role is to protect the residents. The balance of the majority and the rights of the individual sometimes conflict. Almost every exercise of lawmaking involves a judgment about the extent to which the laws should interfere with the freedom of one citizen in order to serve the larger good represented by the interest of a citizen as a whole. This is not an easy job but that is what they expect from the elected officials. He has noticed some of the Council has addressed a

lot of decisions based on compromise. While that is good in some cases, principals cannot be compromised. They should not change a zone to accommodate a developer. Developers are important but they are not planners. We need to listen to the planners. Farming needs to be preserved. Bench Lake represents the last hope of preserving our heritage. It was intentional that the planners zoned this area agriculture.

Howard Wood agreed with all the previous comments. He moved here because it was farm ground.

Jeff Child is here to oppose item 13. He is representing multiple homeowners in the area. They all agree with the Planning Commissioners recommendation to deny this request. Parking is a huge issue. The City should not be providing parking spaces for a recreational resort. He questioned why so many vacation rentals are being put in one spot. The current zoning for this property is for affordable housing. There are also garbage issues because there are no dumpsters. The pool is being drained on a regular basis because of the amount of use.

Renee Johnson is also opposed to item 13. She agreed with Mr. Child's comments. Her concern is the situation they are in will be repeated. It is not typical for a pool to be drained this much. It is not being maintained the way it should be. She has a lot of concerns with expanding the use.

Grant Layton commented all his neighbors hate the chip and seal that has been done in their community of Angel Heights. He passed out samples of what was on the road. It has changed the neighborhood. There is gravel piled up on the sides of the road that gets pushed out. Tires are full of rocks. He hasn't seen this on neighborhood roads. Their road is washboard now and they can't walk on it without shoes.

Sarah Nay works at the Health and Rehab center. She asked the Council to consider the elderly when they are looking at changing the zoning in the Bench Lake area. They love driving the fields and reminiscing.

OLD BUSINESS

1. Consideration and possible approval of a proposed **zone change amendment request on 327 acres from RA-1, residential agriculture one unit per acre, to R1-10, residential one unit per 10,000 square feet. Parcel ID's H-3402 and H-3401-A.** Silver Flats LLC/ Duane Fielding Applicant, Jon Jensen Agent.

Jon Jensen stated this property is currently zoned RA-1. The General Plan shows single family residence. They are requesting R1-10. Their map shows the surrounding approved developments. They received a positive recommendation from the Planning Commission with a split vote. These projects take a long time to start development, typically at least a year after the zone change. There are opportunities to shrink their development and they are open for suggestions. Stephen Nelson pointed out the plan that they are showing tonight is just conceptual. Mr. Jensen mentioned they are following the General Plan and the Transportation Plan. They understand power is a major issue, but they want to be able to discuss options. They are open to having approval subject to the infrastructure problems being worked out. Darin Larson commented it was discussed in the Planning Commission meeting. There are currently more units approved in this area than we can service. Nanette Billings voiced concern about public safety. There is nothing for fire or police in the area. She pointed out they could do one acre lots with no curb and gutter parcels without changing the zone. This would not be congruent with the surrounding property uses and the services are not there. Mr. Jensen commented there is room to accommodate future schools and public safety. They are asking for what is appropriate to the General Plan. Mayor Bramall voiced concerns on the availability of water. Mr. Jensen stated they have resources for water.

Mr. Larson suggested having a work meeting to discuss the options. He mentioned the area is zoned agriculture residential but that is the default zoning. This property has never been agriculture. Joseph Prete disagrees that it is default zoning. It needs to be considered very carefully before it is taken away.

Darin Larson motioned to continue the zone change request. Seconded by Nanette Billings. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

2. Consideration and possible approval on an **amended final plat application for Hurricane Storage Units Partial Amendment A (Lot 4), a 17 lot subdivision located at 130 N Old Highway 91**. Jeff Andrus/Jasco Ind. Park, Ryan Scholes Agent

Brett Beazer came two weeks ago with a different layout. They have rearranged the plat to encompass all the easements. The new drawing meets staff concerns. Arthur LeBaron stated the easements already exist. They used roadways to go over the easements. The northeast corner still has an easement under it. Mr. Beazer mentioned they have discussed donating that corner to the City.

Dave Sanders motioned to approve the amended final plat for Hurricane Storage Units. Seconded by Joseph Prete. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

3. Consideration and possible approval on a **zoning map amendment request located at 122 S 200 W from GC, general commercial, to RM-3, multifamily 15 units per acre**. Parcel H-92-A-1-A-1. Sunnie LLC Applicant, Scott Stratton Agent.

This item doesn't need to be voted on because an ordinance changed and addressed the applicant's concern.

4. Consideration and possible approval for a **preliminary plat, Bench Lake Townhomes, a 172-unit townhome development located on 1100 W and south of 3000 S**. Blue Mountain Property Enterprise LLC, Scott Stratton Agent

Scott Stratton stated they could put 220 units on it, but they are proposing 172. Karl Rasmussen passed out a report to address the sensitive lands. They plan on knocking hills down and use the material for surrounding properties so all the roads will be less than a 5% grade. Scott Stratton pointed out on page PP2 you can see the cut made by Hurricane Ready Mix. Some material will be used to reroute 1100 West. Stephen Nelson clarified the road in Corbin's project to the south will connect. Applicants stated they will work with staff to make sure that happens. They will have about hundred units on the west side and seventy two on the east side of 1100 West. Nanette Billings mentioned a staff comment about requiring a sprinkler system in each unit due to the distance from any fire station. Chief Kuhlman had left the meeting, but the applicant stated they will talk to him. Ms. Billings has concerns about adding these homes on 1100 West with no improvements. Mr. Nelson stated they would be required to do improvements on the frontage of their development. He pointed out they have the legal right to develop at this density. Darin Larson commented time is of essence to do some improvements to the roads. Dave Sanders encouraged staff to give Council direction on what needs to be done so they can get it done as soon as possible. Mr. Stratton stated they put in the storm drain to 1300 South. He has done everything he said he is going to do.

Nanette Billings motioned to approve the preliminary plat Bench Lake Townhomes subject to the JUC comments. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Dave Sanders, and Kevin Tervort voting aye. Joseph Prete voted nay.

5. Consideration and possible approval of a proposed **zone change amendment request located at approx. 160 W and 1200 S, parcel numbers H-L-1-2-B and H-L-1-D-1 to contain a PDO, planned development overlay.** Stormi LLC Applicant, Scott Stratton Agent.

This is currently zoned R1-15. They are asking for a PDO with an underlying of R1-15. He had it approved for 28 lots previously, but he didn't like the layout. PDO zoning allows some flexibility of smaller and bigger lots by clustering areas to accommodate the slopes. It is compatible with surrounding properties. It meets the four requirements when considering a zone change. The flag lot needs to be shown on the preliminary plat when it is brought back. A sensitive land application will have to be done with the preliminary plat.

Nanette Billings motioned to approve the zone change located at approximately 160 W 1200 South based on it is compatible with the General Plan, it is compatible to the surrounding uses, and the services are adequate. Approval is subject to a twenty-six foot easement between lots 9 & 10 for the flag lot. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

NEW BUSINESS

1. Consideration and possible approval of the **Active Transportation Master Plan**

Stephen Nelson stated the City was awarded a grant six months ago for the Active Transportation Plan. The group has been working on the plan and held an open house last month. The Planning Commission gave a positive recommendation subject to adding the rural road cross sections and convey the public comments from the open house. Emily with Avenue Consultants went over the process for an active transportation plan. The City needs to look towards the future to prepare for a walk-able and biking community. She went over the timeline and explained the process. They had over 2000 views to the website where residents could take a survey, leave comments, and drop pins on where they feel trails would be most beneficial. The biggest response they got from people is they feel safe walking but not biking. She showed a proposed map showing bike lanes along existing roads and future cross sections. The City should create a transportation committee to make this plan a reality.

Arthur LeBaron explained for the streets that are already developed they are proposing a separate bike path. Every road that is classified as major or minor arterial that isn't built yet shows a path along them. This plan is a framework for development and there are better funding opportunities. They have been seeking multiple funding mechanisms for trails. Hurricane is about 15-20% developed. There is a high demand for these types of shared paths. People are more comfortable biking/walking if they have safer options. Mr. Nelson feels this is the right step for the City. Mr. LeBaron explained the roads showing green on the proposed map will change widths to accommodate a bike path, but the existing roads are the same width as the current standards. There is a chapter in the proposed plan that shows the process and funding. It also lists the grants that are available. Joseph Prete asked what power this plan gives the City if it is approved. Mayor Bramall stated if you don't have a master plan you can't get grants. Mr. Nelson explained it also allows the City to set standards when new development is done. Future developments will have to dedicate a little more right of way and provide trail systems. Mr. Prete voiced concern with mixing old sections of the City with future developments.

Kevin Tervort motioned to approve the Active Transportation Master Plan. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

2. Consideration and possible approval of a proclamation designating September 17 through 23 as Constitution Week-Karen Shuman, Daughters of American Revolution

Mayor Bramall read the proclamation into the record. Nanette Billings mentioned an event at the Community Center on the 17th and the public is invited to attend.

Dave Sanders motioned to approve the proclamation designating September 17 through 23 as Constitution Week. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

3. Consideration and possible approval of local consent for Red Bull Rampage Reception-Pig's Ear American Bistro

LeAnn Dominguez thanked the Council for granting their liquor license at their restaurant two years ago. Their liquor license doesn't allow standing parties. They have Red Bull Rampage coming that wants the post wrap up party at their facility. They will be inside and outside. They have submitted a barricade plan. They have security in place. She has talked to police and fire.

Joseph Prete motioned to approve local consent for Red Bull Rampage Reception. Seconded by Nanette Billings. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

4. Consideration and possible approval to donate lot 38 In Falcon Ridge to Habitat for Humanity

Kayo Skandoras with Habitat for Humanity explained they have been in Washington County for twenty-eight years and have built twenty-five homes. Their homeowners fall between 30-80% of the area's median income. They produce mortgage products at 30% of the owner's income. The home will be funded by grants, donations, and volunteer hours. They are confident they can put a 1600 square foot home on this lot. One of their requirements is the home can't be resold for a profit and the owner must be a Washington County resident for at least a year. The lot was donated to the City because the developer didn't think it would be developable. The owner would be vested after 11 years if they move before that time, then Habitat gets home back to give to someone else that can live there. Kaden DeMille mentioned there have been other surrounding property owners that want to purchase this lot to keep it open space. He supports the Habitat for Humanity but questioned what the Council wants to do. Protect the view, put a park there, or donate it. Fay Reber stated the Council can't dispose of City property without it first being declared as surplus of property. Stephen Nelson mentioned Hurricane is about 750 units short for affordable housing. This home would fill one of those needs, but he feels there are legitimate reasons to consider donating the lot. The two lots to the east were donated to the City as well.

Joseph Prete motioned to continue this item to explore options of declaring this lot as surplus property and if it is significantly more than \$5000 a public hearing would need to be held. Seconded by Nanette

Billings. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

5. Consideration and possible approval to **combine parcels H-3-1-33-3311 and H-3-1-33-33123-**
Jared Higgins

Jared Higgins wants to combine his lots into one. He is trying to get flag lot status and he needs the additional property to meet the flag lot requirements. They have been to the joint utility committee. Darin Larson declared conflict of interest.

Nanette Billings motioned to approve the lot combination. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

6. Consideration and possible **approval of a Resolution appointing Scott Hughes as UAMPS Hurricane Representative**-Dave Imlay

Dave Imlay stated there are a couple of issues that need to be discussed before this is voted on, so he asked for it to be continued until the next meeting. There are no issues with Mr. Imlay staying on the board after he retires.

Joseph Prete motioned to continue the Resolution. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

7. Consideration and possible approval **of a preliminary plat, Dratter Estates**, located at 650 S and 840 W, containing 8 lots. Peter J Dratter Applicant, Colt D Stratton Agent.

Kyson Spendlove stated they are looking at doing RA-0.5 lots. They are proposing an eight lot subdivision. Planning Commission discussed a hammerhead turnaround and they will be addressing that with JUC. There is a tail water concern that they are still working out the details. They will have a system in place to control it when the homes are built. Nanette Billings asked if one of the lots needed to be a detention pond to address the tail water. Arthur LeBaron explained a detention pond wouldn't help with tail water. The developer will have to address it.

Kevin Tervort motioned to approve the preliminary plat for Dratter Estates subject to JUC and staff comments. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

Dave Sanders motioned to go into public hearing. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

8. **Public Hearing** to comments on the following:
 - a. **A Sensitive Land application for Copper Rock Estates** located at 1100 West and Copper Rock Parkway containing 30 lots

Robb Reeve stated they have addressed the issues in the sensitive land application.

Dave Sanders motioned to go out of a public hearing. Seconded by Darin Larson. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

- 381 **9. Consideration and possible approval of a preliminary plat, Copper Rock Estates, located at 1100**
382 **W and just north of Copper Rock Parkway,** for a 30-lot subdivision and a sensitive lands
383 application for hillside. DAF Development LLC Applicant, Rick Richardson Agent.
384

385 Stephen Nelson stated they are at 30 lots. They can't have more than 29 lots without a second access.
386 They will have to stub water and the road to the end of their property. Staff recommends connecting to
387 Copper Rock Parkway as soon as possible. They will have to phase the development. Nanette Billings
388 recommended not using Copper Rock as the name. Robb Reeve stated the owner feels they can name
389 the subdivision whatever he wants but they are discussing it. Mr. Nelson mentioned there are a couple
390 lots that are smaller than what is allowed for sensitive land. They have turned in a plan for grading and
391 walk out basements. Council can make an exception if they feel the standards are met. Arthur LeBaron
392 stated there are two issues: water looping and second access. The standard for water looping states
393 they can't have more than 600 feet or two fire hydrants out if there is a break. Since this project is
394 dependent on someone else developing, it is hard for him to recommend approval until Copper Rock
395 extends the road or they get a right of way. Mayor Bramall added another issue is water pressure. Mr.
396 Reeve stated they want to loop it, but they can't do it until they get access. Mr. LeBaron stated they
397 can't have a cul-de-sac longer than 600' so the first phase could only go to the second cul-de-sac.
398

399 Darin Larson motioned to approve the preliminary plat for Copper Rock Estates and sensitive land
400 application being done in 2 phases subject to water looping, fire access, and JUC comments. Seconded
401 by Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and
402 Kevin Tervort voting aye.
403

- 404 **10. Consideration and possible approval for a General Plan Map Amendment request located at**
405 **3071 S 1100 W on 57.5 acres from Rural Residential to Single Family Residential.** Parcel
406 numbers: H-3343-A-4, H-3343-A-1, H-3396-A, H-3396-C, H-3396-D, H-3396-E. Troy Catoor and
407 Diamond Edge Construction LLC and Moses Russ and Judy Applicants. Scott Stratton Agent.
408

409 Scott Stratton stated he still needs written approval from Sandy Catoor so he is okay with separating the
410 parcels to only look at the one he owns. Nanette Billings is not in favor of changing the land use. Smaller
411 density will change the use. If the use is changed, it will change other agriculture uses.
412

413 Nanette Billings motioned to deny the General Plan Amendment at 3071 S 1100 West based on the
414 Planning Commission's recommendation. Seconded by Joseph Prete. Motion failed with Nanette Billings
415 and Joseph voting aye. Dave Sanders, Kevin Tervort, and Darin Larson voted nay.
416

417 Stephen Nelson went over the history of the General Plan application and the Zone Change application
418 on this property. The Zone Change application has been tabled until after the request for the general
419 plan decision was made. This was changed on the General Plan in May. Fay Reber mentioned if this is
420 denied then he can still come back to change the zone to half acre which would be consistent with the
421 General Plan. Darin Larson feels the 3000 S road has been the barrier. He would be in favor of changing
422 3000 S south but north of that road half acre is more appropriate. Mr. Stratton asked the Council to just
423 consider his property, not the other owner's. Ms. Billings stated if they change one then the next
424 person wants to change theirs because this one was approved. Dave Sanders stated the applicant
425 started this process in January and the General Plan was changed in May. The General Plan recommends

not putting residential next to industrial without a buffer. Mr. Stratton stated there will be a buffer of about three acres.

Joseph Prete motioned to deny the General Plan Amendment at 3071 S 1100 West. Seconded by Nanette Billings. Motion carried with Nanette Billings, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye. Darin Larson voted nay.

- 11. Consideration and possible approval for a Zone Change and preliminary site plan request on 37 acres from RA-1, residential agriculture 1 unit per acre, to R1-8, residential 1 unit per 8,000 square feet, with a PDO, planned development overlay.** Parcel H-3386-B. Louise P Spendlove Applicant. Tyler Meyers Agent.

Tyler Meyers stated they are requesting a Zone Change that is consistent with the General Plan and the surrounding zoning. They are happy to acknowledge that power needs to be provided to the area before a building permit can be issued. They are proposing 78 single family homes and 51 townhomes lots. Planning Commission recommended approval subject to a development agreement being put in place. Mike Vercimak pointed out there is no water to this property either. Mr. Meyers explained they are at least a year away from requesting a building permit. They have a lot of time to work on the required utilities. Nanette Billings stated there are a lot of traffic problems in this area because the roads are not adequate. By changing the zone, they are changing the density. People move here because they don't want to live in St. George. If everything is changed to denser than we won't have the rural. Mr. Meyers mentioned the applicant donated four acres of land for the road with the anticipation they would be approved for this change. Darin Larson stated the proposed zoning matches the surrounding parcels better than one acre zoning.

Nanette Billings motioned to deny the zone change request and preliminary plat based on there are not adequate utilities in the area. Seconded by Joseph Prete. Motion failed with Nanette Billings and Joseph voting aye. Dave Sanders, Kevin Tervort, and Darin Larson voted nay.

Darin Larson motioned to approve the zone change and preliminary site plan with PDO as presented subject to a development agreement that they will not receive a building permit until facilities are to the development. Approval is based on it is compatible with adjacent properties. Seconded by Dave Sanders. Arthur LeBaron pointed out there is a second access issue and a water looping issue that needs to be solved. Stephen Nelson asked for staff comments to be included with the motion. Mr. Larson agreed. The motion failed with Darin Larson and David Sanders voting aye. Joseph Prete, Nanette Billings, and Kevin Tervort voted nay.

Darin Larson motioned to continue the zone change and preliminary site plan for further discussion. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

- 12. Consideration and possible approval for a General Plan Map Amendment request located at approx. 2100 W and 2500 S from agriculture to Rural Residential.** Parcels H-3345 and H-3346. Nielsen, Kristin L TR Applicant, Neil Walter Agent.

Neil Walter commented he supports agriculture. He understands the difficulty of growth. They are requesting a General Plan Amendment on fifty acres that is adjacent to Balance of Nature. The Balance of Nature parcel will be a mixed-use parcel. Today the conflict is how many homes will be in this area. They are only asking for half acres instead of one acre. Nanette Billings stated there is a long history of agriculture use on this property and once it is changed it will never come back. The room is full of people that want to keep it agriculture. Balance of Nature is mixed use. If they approve this it will set a precedent. Mr. Walter pointed out the current zoning isn't for agriculture either. Joseph Prete pointed out Balance of Nature isn't on farmable land. They have a plan to integrate gardens and agriculture type items. Chums came last year for a General Plan Amendment and was denied. He thinks the City is not ready to change this area at this time.

Joseph Prete motioned to deny the General Plan Amendment request based on it is not consistent with the goals and policies of the General Plan and it is not compatible with surrounding uses. Seconded by Nanette Billings. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

- 13. Consideration and possible approval of a proposed zone change amendment request located at approx. 2170 W and 600 N. with parcel numbers H-3-1-33-4401 and H-3-1-33-441 from R1-6, residential one unit per 6,000 square feet, to RR, recreation resort. While parcel number H-3-1-33-4420 is from R1-10, residential one unit per 10,000 square feet, to contain a split zoning of NC, neighborhood commercial, and RR, recreation resort.** Zion Village Resort LLC, Jay Rice Applicant, Alpha Engineering, Jared Madsen PE Agent.

Stephen Nelson stated the applicant has changed his request to be all RR not NC. They want to expand Zion Village Resort zoning. Jay Rice stated they are proposing thirty units. It will be completely different from Zion Village. There will be no shared amenities other than two acres of parking. They promised additional parking to the already approved rentals, so they are trying to accommodate that promise. Planning Commission is currently reviewing the code to address the parking standards. Currently the code only requires two parking spaces per unit. It is treated like multifamily zoning. Nanette Billings stated she would like to see more parking required because of the problems we have seen. Mr. Rice explained the main issue is the big truck and trailers. He is proposing fifty-two parking spaces that are deeper to accommodate trailers. Ms. Billings commented we need commercial areas. We need to have places that people can work and commercial brings a different tax revenue. Mr. Rice pointed out there is commercial just to the south of this development that is expanding. He is not opposed to commercial, but he doesn't know if it can be supported right there. Mr. Nelson mentioned sales tax is collected for short term rentals and if they are not primary residential then the property is taxed at full market value. Mr. Rice there is more demand to have units with private pools rather than a central area for amenities. Kevin Tervort stated they might need to rethink the pools. Recreational use uses three to four times more water than residential use. Mr. Rice stated the pool has been open for three years and it has only been drained twice.

Planning Commission recommended denial based on problems and compatibility with surrounding development. Mr. Rice stated the garbage issue can be solved by getting more cans. He doesn't think anyone wants dumpsters there. Mr. Nelson explained the Planning Commission echoed the public comments from tonight and they didn't want to see it repeated with the property to the north. Mayor Bramall commented it would be good to put the parking lot in and solve the problem so there isn't so

much hesitation for approving more. Mr. Rice explained 500 North had to go in the designated place, so it made the parking lot smaller. Mr. Nelson stated the street parking isn't allowed right now but it is being reviewed. Mr. Rice stated it hurt them to take away the parking on 2170 West. Ms. Billings suggested doing the parking where it is proposed but keep the rest as commercial. Mr. Nelson it was his impression there would be a fee charged to park there. A resident stated they were under the impression there would be overflow parking. She pointed out the HOA only consists of Mr. Rice and his family. She stated there must be more parking.

Dave Sanders commented there is a big elevation change so commercial access would be difficult. He questioned what commercial would be beneficial in that area. A resident commented professional offices would be beneficial. The General Plan shows it as commercial and multifamily. 500 North is needed for Fire Rock. Joseph Prete stated there is a lot of recreational resort zoning already approved in the City. Darin Larson commented if they aren't being used as vacation rental, then they will turn into long term rentals. Ms. Billings asked if Mr. Nelson could research how much commercial is needed. Mr. Nelson stated every residential unit supports around two hundred feet of commercial use and sixty feet of that is retail. Retailers will count how many residents there are before they will open there. He pointed out more work is being done from home.

Nanette Billings motioned to deny the zone change request located at approximately 2170 W 600 North based on more commercial is needed. Seconded by Joseph Prete. Motion carried with Nanette Billings, Joseph Prete, and Dave Sanders voting aye. Kevin Tervort and Darin Larson voted nay.

14. Consideration and possible approval of a proposed zone change amendment request located at 475 N State St from HC, highway commercial, to RR, recreation resort. Parcel ID's H-286-A-1 and part of H-30252-A. Shamo Christen D and Charo S and Corporation of the Episcopal Church in Utah Applicant. Matt Lowe Agent.

Dusty Wright and Matt Lowe online and Karl Rasmussen and Chris Shamo were present. A lot of the neighbors are opposed to this. Mr. Rasmussen started the discussion by explaining the current zoning is highway commercial. He went over the surrounding uses. Neighboring property owner has concerns with parking and trash. They have added more parking stalls including trailer stalls, and with the way they setback the garages the larger vehicles can park on the driveway. They understand trash can be an issue. They have installed double the number of dumpsters that are required. They will do fencing around the property. They also left access to the property to the south for future connection. They feel like they have addressed concerns for everyone. It is currently zoned highway commercial and with any of the approved uses in that zone, they would have more traffic. He went over traffic for different uses. Chris Shamo commented the property has been in his family for 100 years. He has lived there for over twenty years. He has always been concerned of high traffic with commercial use. He stated the only neighbors are him and the Hepworth's. This will give the Hepworth's access to their property. The other issue is access off 600 North and that is why they needed his property. Dixie Hirschi stated drainage will be a problem. When the storage units were built, they had to install a detention pond. Mr. Shamo commented leaving it commercial won't solve those problems.

Nanette Billings stated there is already a lot of recreational resort zoning, and we need more commercial. Mr. Shamo pointed out all the recreational resort areas are located on the west side of the City. This is the only one on the east side. Stephen Nelson mentioned they could do vacation rentals in

the commercial zone, but they couldn't subdivide it. Recreational Resort has higher standards with parking and amenities. They could also build two hotels on the property, and it would be the same issue. Dave Sanders's concern is the drainage. Dusty Wright pointed out the applicant is only asking for half of the density that is allowed and he is proposing a restaurant. Mr. Larson stated what they want to build is compliant, but they are wanting to make it nicer. They would be sold individually. A lot of the owners will use their property as their second home as well as a vacation rental. Ms. Hirschi stated if this is approved then it is taking away from what commercial is intended for. Dave Hirschi stated the Hepworth's are very against this change. Joseph Prete commented he is puzzled about the opposition when they can have more building at the current zoning. All the same issues would be present. Mr. Shamo commented that change is coming. You have to out way the good and the bad. Matt Lowe stated they did an analysis and they could get more units, but that would have more black top and less grass. They feel this is the best use for the City. There are two accesses but there are some concerns with it's located. It may have to be a right in, right out. There will be a block wall between this project and the Hepworth's property. There will be a lot of landscaped areas. Each lot will have yards and areas around the clubhouse and restaurant. Mr. Larson likes this better because it will be a better layout with amenities. The block wall will be a good buffer. They are thinking of a fast casual restaurant.

Nanette Billings motioned to approve the zone change request located at 475 N State Street based on the following: they are providing amenities, there will be a restaurant, drainage will be addressed, it will be less dense than what they could do, the sewer right away is addressed, and the second access may have to be adjusted. Seconded by Darin Larson. Motion carried with Nanette Billings, Darin Larson, Dave Sanders, and Kevin Tervort voting aye. Joseph Prete voted nay.

15. Discussion regarding abandoning the eastern portion of 300 North-Stephen Nelson

This land has been used by Russ and Jennifer LeBaron and their family for years. Stephen Nelson explained Mr. LeBaron submitted a request for the City to abandon that portion of 300 North and divide the land between the surrounding property owners. The right of way goes to the top of the hill, but it hasn't been used as a road. They are only asking for the road to be abandoned that is beyond any other residents. Today is just a discussion item. If the Councils want to move forward, then it has to be noticed. A legal description of what is being abandoned is needed which is typically paid for by the applicant. A turn around is required if it is more than 150' for fire access so it wouldn't be needed here.

16. Consideration and possible approval to purchase historical markers for National Day of Service on September 11, 2021-Nanette Billings

17.

Historical committee wants to move forward for historical day. They are meeting with Sons of Pioneers to decide what to put on the markers. They are thinking it will be about \$1000 for the markers. \$2000 at the max. Council agreed to take money out of the contingency fund.

Joseph Prete motioned to approve up to \$2000 out of contingency fund for historical markers. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

18. Consideration and possible approval of a proclamation designating September 13 through 20 as Ironman Volunteer Week

There will be a meeting tomorrow to decide what all will take place.

Nanette Billings motioned to approve the proclamation. Seconded Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

19. Consideration and possible approval of electric golf car lease with DLL Finance LLC, in the amount of \$8,098.48-Kaden DeMille

Kent Abegglen explained they will go from 73 carts to 76. The new lease will be one year longer but at the same price. The old carts have lead acid batteries. The new carts have lithium batteries which require less maintenance. The golf carts are warranted for ten years. The old batteries would also give off gas at night. New ones will be safer.

Kevin Tervort motioned to approve the electric golf car lease with DLL Finance in the amount of \$8,098.48 per month. Seconded by Dave Sanders. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

20. Consideration and possible approval of a resolution adjusting building permit rates.

Stephen Nelson explained we are currently evaluating our building permits too low. The building permit cost is based on the valuation of the home. We need to raise the fees to help with the building department. Staff will bring more options to the next meeting. Proposed fees are based on IREC standards. Fees haven't been increased in over ten years.

Joseph Prete motioned to continue the resolution adjusting building permit rates. Seconded by Kevin Tervort. Motion carried with Nanette Billings, Darin Larson, Joseph Prete, Dave Sanders, and Kevin Tervort voting aye.

21. Mayor and Council reports

Mayor Bramall	Airport, Administration, Police, Animal Control, School Crossing Guards, Victim Services, Public Works, Engineering -
Nanette Billings	Parks & Cemetery, Appeals Board, Airport, Historical Preservation, Solid Waste District and Youth Council -
Darin Larson	Planning Commission, Economic Development, Planning Department, Power and Swimming Pool -
Joseph Prete	Court, Water, Recreation, Tree Board and Beautification Committee -
Dave Sanders	Emergency Management, Streets & Drainage, Prosecutor's Office, Code Enforcement and Building and Inspections -
Kevin Tervort	Ash Creek Special Service District, Golf Course, Industrial Park, Mosquito Abatement, Fire District -
Kaden DeMille	City Administration – Reported the rodeo grounds is moving forward on engineering. Pickle ball lights quote came back high. Only one bid was received because everyone is too busy. Council agreed to move forward without waiting for another quote. Tarzan has been going really well. Surrounding theaters are actively recruiting actors. Asked if Council would be okay with Jersey Boys in the Spring and next fall doing The Little Mermaid. Council okay with Jersey Boy if the foul language is left out.
Cindy Beteag	Mentioned the homes owners at Lava Bluff are still worried about the grading the business did to the east of them. The business is not responding to the letters from

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	Planning. Council agreed to put them back on the agenda. Stephen Nelson wants to talk to them first.
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627 **Adjournment: 12:22 AM**

**TELECOMMUNICATIONS FRANCHISE AGREEMENT
BETWEEN THE CITY OF HURRICANE UTAH
AND INFOWEST, INC**

THIS TELECOMMUNICATIONS FRANCHISE AGREEMENT (this “Agreement”) is entered into this _____ day of _____, 2022 (the “Effective Date”) by and between **Hurricane City**, a municipal corporation and political subdivision of the State of Utah, with principal offices at **147 N 870 W, Hurricane, Utah 84737** (the “City”) and **InfoWest Inc,** a telecommunications corporation with its principle offices at **435 E Tabernacle St, St. George, Utah 84770** (the “Provider”). The CITY and the PROVIDER may sometimes be referred to herein collectively as the “Parties”.

RECITALS

WHEREAS, the Provider desires to provide telecommunications services within the City and, in connection therewith, to establish a telecommunications network in, under, along, over and across present and future rights-of-way of the City which consists of telecommunication lines, cables, and all other necessary appurtenances (the “System”); and

WHEREAS, after extensive consideration, the City, in exercising its management of public rights-of-way, has determined that it is in the best interest of the public to provide the Provider a non-exclusive franchise agreement to operate a telecommunications network within the City; and

WHEREAS, the City and the Provider have negotiated an arrangement whereby the Provider may provide its services within the City pursuant to the terms and conditions outlined in the Agreement and all applicable City ordinances, and subject to the further reasonable regulation under the City’s police and other regulatory power.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the Parties contained herein, and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the City and the Provider hereby agree as follows:

ARTICLE I FRANCHISE AGREEMENT

1.1 Agreement. Upon approval by the City Council and execution by both Parties, this Agreement shall be deemed to constitute a binding contract by and between the City and the Provider.

1.2 Grant of Franchise. The City, through this Agreement, hereby grants to the Provider the non-exclusive right, privilege, and franchise to install, repair, maintain, remove and replace its telecommunications system on, in, under, over and across the present and future public rights-of-way in the City in order to provide services.

1.3 Licenses. The Provider hereby acknowledges that it has, or will, obtained any and all necessary approvals, licenses or permits required by federal, state and local law to provide telecommunication services consistent with the provisions of this Agreement.

1.4 Financial Capability. The Provider hereby warrants that it has the financial capability to construct, maintain, and operate a telecommunications network and to otherwise comply with the provisions of this Agreement.

1.5 Relationship of Parties. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the Parties, and neither Party is authorized to nor shall either Party act toward third persons or the public in a manner that would indicate any such relationship.

1.6 Pole Attachments. This franchise grants to the Provider the right to use City poles, conduit, or other facilities. Provider must work with the city for approval of such use.

ARTICLE II FRANCHISE FEE

2.1 Franchise Fee.

a. This agreement is subject to the Utah Municipal Telecommunications License Tax Act Title 10, Chapter 1, Sections 401 through 410, Utah Code Annotated, 1953 as amended, enrolled at the time this agreement is signed or as may be amended. Provider shall pay the City's municipal telecommunications license tax at the rate of **3.5%** of the gross receipts from telecommunications service attributed to the municipality. Said tax shall be paid through the Utah State Tax Commission.

b. All payments shall be made to the Utah State Tax Commission, whose current address is as follows:

Utah State Tax Commission
210 North 1950 West
Salt Lake City, Utah 84134

c. Payments are due to the Utah State Tax Commission within forty-five (45) days after receipt by the Provider. Interest shall accrue on late payments at the rate of 1 ½% per month until paid. Compliance by the Provider with the terms and provisions of the Municipal Telecommunications Tax Act, and any rules and regulations promulgated thereunder, shall satisfy all requirements of this Agreement with respect to the calculation and payment of the Franchise Fee.

d. The City and the Provider hereby agree to negotiate in good faith any amendments to this Agreement as shall be necessary to accommodate changes in the Franchise Fee including payment provisions; provided, however, such new or changed provisions shall substantially confirm with the provisions contained in any permits held by other similarly situated companies.

e. City shall have access to any and all of Provider's business records upon reasonable notice for the purpose of auditing compliance with the above tax provisions.

f. The Provider hereby represents to the City that one of the purposes for entering into this Agreement is to obtain authority to build a network within the City to provide telecommunication services to customers within the City.

2.2 Equal Treatment. The City hereby agrees that if any service forming part of the base for calculating the Franchise Fee under this Agreement is, or becomes, subject to competition from a third party, the City will either impose and collect from any such third party a fee or tax on gross revenues from such competing service in the same percentage identified herein, plus the percentage specified as a utility revenue tax or license fee in the then-current ordinances of the City, or to waive collection of the fee(s) provided for herein that are subject to such competition.

ARTICLE III TERM AND RENEWAL

3.1 Term and Renewal. The franchise granted to the Provider herein shall be for a period of twenty (20) years commencing on the Effective Date first set forth above in this Agreement unless this Agreement is terminated sooner as provided herein. At the end of the initial twenty (20) year term of this Agreement, the franchise granted herein may be renewed by the City and the Provider upon the same terms and conditions as contained in this Agreement for an additional ten (10) year term, by the Provider providing to the City's representative designated herein written notice of the Provider's intent to renew not less than ninety (90) calendar days before the expiration of the initial franchise term.

3.2 Rights of Provider upon Expiration or Revocation. Upon expiration of this Agreement, whether by lapse of time, by agreement between the Parties, or by revocation or forfeiture, the Provider shall have the right to remove from the City's rights-of-way any and all of its system; however, in such an event, it shall be the duty of the Provider, immediately upon such removal, to restore the rights-of-way for which such system is removed to as good a condition as the same was before the removal was affected.

3.3 Rights of City upon Expiration or Revocation. Upon expiration of the term of this Agreement, forfeiture, or lawful revocation of this Agreement, and if no renewal or extension thereof is agreed upon, the Provider may, at the discretion of the City Council, be required, in part or entirely, to remove all its wires, poles, fixtures, and other facilities or equipment installed or used in the enjoyment of the franchise. Alternatively, the removal or sale of such facilities and equipment may be directed, limited, or conditioned by the City by agreement between the Parties or through means of other lawful municipal power or right. The City may continue to invoke any or all provisions of this franchise Agreement against the Provider or any successor entity enjoying de facto franchise privileges after expiration or revocation. The City and the Provider shall work together to take all other actions deemed by the City as necessary and proper to accommodate the transition to any successor as may be in the best interest of the City or its inhabitants and the Provider.

ARTICLE IV USE AND RELOCATION OF FACILITIES IN THE PUBLIC RIGHTS-OF-WAY

4.1 Franchise Rights to Use the Public Rights-of-Way. The Provider shall have the right to use the public rights-of-way within the City to construct and maintain its network subject to the conditions set forth in this Agreement; provided, however, that the Provider shall not, pursuant to this Agreement, place any new poles, mains, cables, structures, pipes, conduits, or

wires on, in, under, along, over, across or within any right-of-way, City park, pleasure ground, or other recreational area currently existing or developed in the future without a permit from the City. Nothing contained herein shall preclude the City from granting a revocable permit for such purpose. In addition, the Provider shall have the right to utilize any easements across private property granted to the City for utility purposes; provided, however, that the Provider obtain the City's prior written permission in each case and the documents granting any such easements to the City to authorize such use. The Provider specifically understands and acknowledges that certain City easements and rights-of-way may be prescriptive in nature, and that nothing in this Agreement extends permission to use the easement or right-of-way beyond the extent that the City may have acquired, and such easements and rights-of-way may be subject to third party prior or after-acquired interests. The Provider is cautioned to examine each individual easement and right-of-way and the legal arrangement between the City and adjacent property owners. The City assumes no duty or obligation to defend any interest in any easement or right of-way, and the Provider remains solely responsible to make any arrangements required as a result of other persons claiming an interest in the City easement or right-of-way.

4.2 Provider Duty to Relocate; Subordination to City Use. Whenever the City, for any lawful public purpose, shall require the relocation or reinstallation of any property of the Provider or the Provider's successors in any of the streets, alleys, rights-of-way, or public property of the City, it shall be the obligation of the Provider, upon notice of such requirement and written demand made of the Provider, and within a reasonable time thereof, but not less than thirty (30) calendar days, to remove and relocate or reinstall such facilities as may be reasonably necessary to meet the requirements of the City. Such relocation, removal, or reinstallation by the Provider shall be at no cost to the City; provided, however, that the Provider and its successors and assigns may maintain and operate such facilities, with the necessary appurtenances, in the new location or locations without additional payment, if the new location is a public place. Notwithstanding the foregoing, the duty of the Provider to install or relocate its lines underground shall be subject to the provisions of Article IV, Paragraph 4.4 below. Any money and all rights to reimbursement from the State of Utah or the federal government to which the Provider may be entitled for work done by the Provider pursuant to this Paragraph shall be the property of the Provider. The City shall assign or otherwise transfer to the Provider all rights the City may have to recover costs for such work performed by the Provider and shall reasonably cooperate with the Provider's efforts to obtain reimbursement. In the event the City has required the Provider to relocate its facilities to accommodate a private third party, the City shall use good faith to require such third party to pay the costs of any such relocation. Notwithstanding anything to the contrary herein, the Provider's use of the right-of-way shall in all matters be subordinate to the City's use of the right-of-way for any public purpose. The City and the Provider shall coordinate the placement of their respective facilities and improvements in a manner which minimizes adverse impact on each other. Where placement is not otherwise regulated, the

facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvements.

4.3 Duty to Obtain Approval to Move Provider Property; Emergencies. Except as otherwise provided herein, the City, without the prior written approval of the Provider, shall not intentionally alter, remove, relocate, or otherwise interfere with any Provider facilities. Approval by Provider will not be unreasonable withheld. However, if it becomes necessary (in the judgment of the Mayor, City Council, City Engineer, Fire Chief, Police Chief, or their designees) to cut, move, remove, or damage any of the cables, appliances, or other fixtures of the Provider because of a fire, emergency, disaster, or other imminent threat thereof, these acts may be done without prior written approval of the Provider, and the repairs thereby rendered necessary shall be made by the Provider, without charge to the City. Should the City take actions pursuant to this section, the Provider shall indemnify, defend, and hold the City harmless from and against any and all claims, demands, liens, or liability for (a) loss or damage to the Provider's property; and/or (b) interruptions of telecommunications services provided by the use of or through the Provider's property (including telecommunications services provided by the Provider to the Provider's customers), whether such claims, demands, liens, or liability arise from or are brought by the Provider, its insurers, the Provider's customers, or third parties. If, however, the City requests emergency funding reimbursement from federal, state or other governmental sources, the City shall include in its request the costs incurred by the Provider to repair facilities damaged by the City in responding to the emergency. Any funds received by the City on behalf of the Provider shall be paid to the Provider within thirty (30) business days.

4.4 Location to Minimize Interference. All lines, poles, towers, pipes, conduits, equipment, property, structures, and assets of the Provider shall be located so as to minimize interference with the use of streets, alleys, rights-of-way, and open property by others and shall reasonably avoid interference with the rights of owners of property that abuts any of said streets, alleys, rights-of-way, or public property.

4.5 Repair of Damage. If, during the course of work on its facilities, the Provider causes damage to or alters any street, alley, right-of-way, sidewalk, utility, public improvement, or other public property, the Provider, at its own cost and expense and in a manner approved by the City, shall promptly and completely restore such street, alley, right-of-way, sidewalk, utility, public improvement, or other public property to its previous condition in accordance with applicable City ordinances, policies and regulations relating to repair work of similar character to the reasonable satisfaction of the City. Except in cases of emergency, the Provider, prior to commencing work in the public way, street or public property, shall make application for a permit to perform such work from the City Engineer or other department or division designated by the City. Provider shall also be required to obtain a road break permit from the Public Works

Department. Such permit shall not be unreasonably withheld. The Provider shall abide by all reasonable regulations and requirements of the City for such work.

4.6 Guarantee of Repairs. For a period of eighteen (18) months following the completion of the repair work performed pursuant to Paragraph 4.5 above, the provider shall maintain, repair, and keep in good condition those portions of said streets, alleys, rights-of-way, or public property restored, repaired or replaced to the satisfaction of the City. Provider will comply with all applicable City Ordinances related to the posting of bonds and guarantee of repairs.

4.7 Safety Standards. It shall be the Provider's responsibility to ensure that the Provider's work, while in progress, be properly protected at all times with suitable barricades, flags, lights, flares, or other devices as are reasonably required by applicable safety regulations or standards imposed by law including, but not limited to, signage in conformance with the Federal and State of Utah manuals on Uniform Traffic Control Devices.

4.8 City Supervision. The Provider shall construct, operate, and maintain its network within the City in strict compliance with all laws, ordinances, rules, and regulations of the City and any other agency having jurisdiction over the operations of the Provider. The Provider's network and all parts thereof within the City shall be subject to the right of periodic inspection by the City; provided, however, that such inspection shall be conducted at reasonable times and upon reasonable notice to the Provider.

4.9 Provider's Duty to Remove Network.

a. The Provider shall promptly remove, at its own cost and expense, from any public property within the City, all or any part of the network when one or more of the following conditions occur:

- i. This franchise grant is terminated or revoked pursuant to notice as provided herein; or
- ii. This franchise grant expires pursuant to the terms of this Agreement.

b. The removal of any or all of the network by the Provider that requires trenching or other opening of the City's streets shall be done only after the Provider complies with applicable City Ordinances related to opening City Streets.

c. The Provider shall receive notice in writing from the City setting forth one (1) or more of the occurrences specified in Subsection 4.9 (a) above and shall have ninety (90) calendar days from the date upon which said notice is received to remove or abandon such facilities.

4.10 Notice of Closure of Streets. Except in cases of emergency, the Provider shall notify the City not less than three (3) business days in advance of any construction, reconstruction, repair, or relocation of facilities which would require any street closure which reduces traffic flow to less than two (2) lanes of moving traffic. Except in the event of an emergency, as reasonably determined by the Provider, no such closure shall take place without prior authorization from the City. In addition, all work performed in the traveled way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected as required by Paragraph 4.7 above, and the City shall receive no less than 48 hours' notice of said closure.

4.11 Agreement to Abide by Construction and Technical Requirements. In addition to the provisions of this Article 4, the Provider expressly agrees to comply with all other provisions of City governing the construction and technical requirements of the Provider's network and system.

ARTICLE V POLICE POWERS

5.1 Police Powers. The City hereby expressly reserves, and the Provider hereby expressly recognizes, the City's right and duty to adopt, from time to time, in addition to provisions herein contained, such ordinances and rules and regulations as the City may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties.

ARTICLE VI SEVERABILITY

6.1 Severability. If any section, sentence, paragraph, term or provision of this Agreement is for any reason determined to be or rendered illegal, invalid or superseded by other lawful authority, including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof, or is determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision, all of which shall remain in full force and effect for the term of this Agreement or any renewal or renewals thereof. Provided that if the invalidated portion is considered a material consideration for entering into this Agreement, the Parties shall negotiate, in good faith, an amendment to this Agreement. As used herein, "material consideration" for the City is its ability to collect the Franchise Fee during the term of this

Agreement and its ability to manage its rights-of-way in a manner similar to that provided in this Agreement and the City's excavation ordinance. For the Provider, "material consideration" is its ability to use the rights-of-way for telecommunication purposes in a manner similar to that provided in this Agreement and the City's excavation ordinance.

ARTICLE VII

EARLY TERMINATION; REVOCATION OF FRANCHISE; OTHER REMEDIES

7.1 Grounds for Termination. The City may terminate or revoke this Agreement and all rights and privileges herein provided for any of the following reasons:

a. The Provider fails to make timely payments of the Franchise Fee as required under Article II of this Agreement and does not correct such failure within sixty (60) calendar days after written notice by the City of such failure;

b. The Provider, by act or omission, materially violates a material duty herein set forth in any particular within the Provider's control, and with respect to which redress is not otherwise herein provided. In such event, the City, acting by or through its City Council, may determine, after a hearing, that such failure is of a material nature, and thereupon, after written notice giving the Provider notice of such determination, the Provider, within sixty (60) calendar days of such notice, shall commence efforts to remedy the conditions identified in the notice and shall have ninety (90) calendar days from the date it receives notice to remedy the conditions. After the expiration of such ninety (90) day period and failure to correct such conditions, the City may declare the franchise forfeited and this Agreement terminated, and thereupon, the Provider shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further, that in the event such failure is of such nature that it cannot be reasonably corrected within the ninety (90) day time period provided above, the City shall provide additional time for the reasonable correction of such alleged failure if the reason for the non-compliance was not the intentional or negligent act or omission of the Provider;

c. The Provider becomes insolvent, unable or unwilling to pay its debts; is adjudged bankrupt; or all or part of its facilities should be should under an instrument to secure a debt and is not redeemed by the Provider within sixty (60) calendar days; or

d. In furtherance of the Provider's policy or through acts or omissions done within the scope and course of employment, a director or officer of the Provider knowingly engages in conductor makes a material misrepresentation with or to the City that is fraudulent or in violation of a felony criminal statute of the State of Utah.

ARTICLE VIII NOTICES

8.1 City Designee and Address. The Mayor of the City or his/her designee(s) shall serve as the City's representative regarding administration of this Agreement. Unless otherwise specified herein, all notices from the Provider to the City pursuant to or concerning this Agreement shall be delivered to the City's representative at 147 N 870 W, Hurricane, Utah 84737, or other such officer and address as the City may designate by written notice to the Provider.

8.2 Provider Designee and Address. Unless otherwise specified herein, all notices from the City to the Provider pursuant to or concerning this Agreement shall be delivered to 435 E Tabernacle St, St. George Utah, 84770; with a copy to General Counsel at the same address.

8.3 Failure of Designee. The failure or omission of the City's or the Provider's representative to act shall not constitute any waiver or estoppel by the City or the Provider.

ARTICLE IX INSURANCE AND INDEMNIFICATION

9.1 No Liability. Except as otherwise specifically provided herein, the City shall in no way be liable or responsible for any loss or damage to property, including financial or business loss (whether direct, indirect, or consequential), or any injury to or death of any person(s) that may occur in the construction, operation, or maintenance by the Provider of any of its lines and appurtenances hereunder, except to the extent of the City's own negligence or willful misconduct. Notwithstanding any other provision of this Agreement, in no event shall either Party be liable for any consequential, special, incidental, punitive, indirect or similar damages.

9.2 Provider Indemnification of City. The Provider shall indemnify and, at the City's option, defend and hold the City, its elected and appointed officers, agents, and employees thereof, harmless from and against any and all claims, suits, actions, liability and judgments for damages or otherwise harmless from and against claims, demands, liens, and all liability or damage of whatsoever kind on account of or arising from the exercise by the Provider of the related rights, or from the operations of the Provider within the City, and shall pay the costs of defense plus reasonable attorneys' fees. Said indemnification shall include, but not be limited to, the Provider's negligent acts or omissions pursuant to its use of the rights and privileges of this Agreement including construction, operation and maintenance of telecommunications lines and

appurtenances, whether or not any such use, act or omission complained of is authorized, allowed, or prohibited by this Agreement.

9.3 Notice of Indemnification. The Provider shall give prompt written notice to the City of any claim, demand or lien that may result in a lawsuit against the City. The City shall (i) give prompt written notice to the Provider of any claim, demand or lien with respect to which the City seeks indemnification hereunder; and (ii) unless, in the City' s sole judgment, a conflict of interest may exist between the City and the Provider with respect to such claim, demand or lien, permit the Provider to assume the defense of such claim, demand or lien with counsel satisfactory to the City. If such defense is not assumed by the Provider, the Provider shall not be subject to any liability for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, the Provider shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand or lien arises out of or in connection with a breach by the City of any obligation under this Agreement or any negligent or otherwise tortious act or failure to act of the City or any of its elected or appointed officers, agents, or employees.

9.4 Insurance. The Provider shall file a Certificate of Insurance with the City prior to commencing any action pursuant to this Agreement, and shall at all times thereafter maintain in full force and effect, at its sole expense, an acceptably policy or policies which have one (1) of the three (3) highest or best rating from the Alfred M. Best Company of liability insurance, including comprehensive liability insurance. The policy(ies) shall name the City as an additional insured and in their capacity as such, also the City' s elected and appointed officers, agents, and employees. Policies of insurance shall be in the minimum single limit amount of three million dollars (\$2,000,000) per occurrence. The insurer(s) shall be authorized to write the required insurance in the State of Utah. The policy(ies) of insurance shall be maintained by the Provider in full force and effect during the full term of this franchise Agreement. Each policy of insurance shall contain a statement on its face that the insurer(s) will not cancel the policy or fail to renew the policy, whether for nonpayment of premium or otherwise, and whether at the request of the Provider or for other reasons, except after thirty (30) calendar days' advance written notice mailed by the insurer(s) to the City, and that such notice shall be transmitted postage prepaid.

9.5 City's Right to Intervene. In any suit in which the City is named as a party and which seeks indemnification from the Provider, and in which the City, in its own reasonable discretion, believes that a conflict of interest with the Provider exists, the City shall have the right to provide its own defense in connection with the same. In such event, in addition to being reimbursed for any judgment that may be rendered against the City which is subject to indemnification hereunder, together with all court costs incurred therein, the Provider shall reimburse the City for all reasonable attorneys' fees including those employed by the City in such case (s), as well as all reasonable expenses incurred by the City by reason of undertaking the defense of such suit(s),

whether such suit(s) are successfully defended, settled, compromised, or fully adjudicated against the City.

9.6 No Creation of Private Cause of Action. The provisions set forth herein are not intended to create liability for the benefit of third parties, but is solely for the benefit of the Provider and the City. In the event any claim is made against the City that falls under these indemnity provisions and a court of competent jurisdiction should adjudge, by final decree, that the City is liable therefore, the Provider shall indemnify and hold the City harmless of and from any such judgment or liability, including any court costs, expenses, and attorneys' fees incurred by the City in defense thereof. Nothing herein shall be deemed to prevent the Parties indemnified and held harmless herein from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not, under any circumstances, relieve the Provider from its duty of defense against liability or paying any judgment entered against such party.

9.7 Performance Bonds and/or Cash Bonds and other Surety. To ensure completion of the Provider's performance of its obligations hereunder, the Provider shall furnish to the City a performance bond and/or cash bond from an insurer or guarantor that is acceptable to the City prior to commencing any action pursuant to this Agreement. At the City's sole discretion, and based on the project, a performance bond and/or cash bond may be required.

ARTICLE X REMEDIES

10.1 Duty to Perform. The Provider and the City hereby agree to take all reasonable and necessary actions to assure that the terms of this Agreement are performed.

10.2 Remedies at Law. In the event the Provider or the City fail to fulfill any of their respective obligations under this Agreement, the City or the Provider, whichever the case may be, shall have a breach of contract claim and remedy against the other in addition to any other remedy provided by law, provided that no remedy that would have the effect of amending the specific provisions of this Agreement shall become effective without such action that would be necessary to formally amend the Agreement.

10.3 Third Party Beneficiaries. The benefits and protections provided by this Agreement shall inure solely to the benefit of the City and the Provider. This Agreement shall not be deemed to create any right in any person who is not a Party hereto and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a Party hereto.)

10.4 Reserved Rights. Nothing contained herein shall be deemed to preclude the Provider from pursuing any legal or equitable rights or remedies it may have to challenge the action of the City.

10.5 Force Majeure. The Provider shall not be held in default or non-compliance with the provisions of this Agreement, nor suffer any enforcement or penalty relating thereto, where such non-compliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond the Provider's ability to control; however, the Provider shall not be relieved of any of its obligations to comply promptly with any provision of this Agreement by reason of any failure of the City to enforce such prompt compliance.

10.6 No Waiver. Nothing herein shall be construed as to imply that the City waives any right, payment, or performance based on future legislation where said legislation impairs this Agreement in violation of the United States or Utah Constitutions.

ARTICLE XI TRANSFER OF FRANCHISE

11.1 Written Approval Required to Transfer. The Provider shall not transfer or assign any rights under this Agreement or the franchise granted herein to another entity unless the City first gives its approval in writing, which approval shall not be unreasonably withheld or delayed; provided, however, that the Provider may fully assign the franchise contained herein to its corporate parent, a corporate affiliate or a subsidiary, and also that inclusion of the franchise as property subject to the liens of the Provider's mortgages or other security interests shall not constitute a transfer or assignment. A lease of the Provider's system to a third party shall not constitute a transfer or assignment of the franchise for purposes of this Agreement. Any attempted assignment or transfer without such prior written consent shall constitute a default of the franchise and this Agreement. In the event of such a default, the City shall proceed according to the procedures set forth in this Agreement and any applicable state, federal or local law.

11.2 Procedure for Obtaining Approval for Transfer. At least ninety (90) calendar days before a proposed assignment or transfer of the Provider's franchise is scheduled to become effective, the Provider shall petition in writing for the City Councils written consent for such a proposed assignment or transfer. The City shall not unreasonably withhold its consent to such an assignment or transfer. However, in making such a determination, the City Council may consider the following:

a. Experience of the proposed assignee or transferee (including conducting an investigation of the proposed assignee or transferee's service record in other communities);

- b. Qualifications of the proposed assignee or transferee;
- c. Legal integrity of the proposed assignee or transferee;
- d. Financial ability and stability of the proposed assignee or transferee;
- e. The corporate connection, if any, between the Provider and the proposed assignee or transferee; and
- f. Any other aspect of the proposed assignee's or transferee's background which could affect the health, safety and welfare of the citizenry of the City as it relates to the operation of a telecommunication network.

11.3 Certification of Assignee. Before an assignment or transfer is approved by the City Council, the proposed assignee or transferee shall execute an affidavit acknowledging that it has read, understands, and intends to abide by this franchise Agreement.

11.4 Effect of Approval. In the event of any approved assignment or transfer, the assignee or transferee shall assume all obligations and liabilities of the Provider, except that an assignment or transfer shall not relieve the Provider of its liabilities under this franchise Agreement until the assignment actually takes place or unless specifically relieved by federal, state, or local law, or unless specifically relieved by the City Council at the time an assignment or transfer is approved.

11.5 Transfer upon Revocation by the City. The Provider and the City hereby agree that in the event of a lawful revocation of this franchise, at the Provider's request, which shall be made in the Provider's sole discretion, the Provider shall be given a reasonable opportunity to effectuate a transfer of its network to a qualified third party. The City further hereby agrees that during such a period of time, it shall authorize the Provider to operate pursuant to the terms of its prior franchise Agreement; however, in no event shall such authorization exceed a period greater than six (6) months from the effective date of such revocation. If, at the end of that six (6) month period, the Provider is unsuccessful in procuring a qualified transferee or assignee of its network which is reasonably acceptable to the City, the Provider and the City may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that the Provider's continued operation of its network during the six (6) month period shall not be deemed to be a waiver or extinguishment of any rights of either the City or the Provider. Notwithstanding anything to the contrary set forth herein, neither the City nor the Provider shall be required to violate federal or state law.

11.6 Abandonment of Facilities by the Provider. The Provider, with the consent of the City, may abandon any underground facilities in place, subject to the requirements of the City. In such an event, the abandoned network shall become the property of the City, and the Provider shall have no further responsibilities or obligations concerning those facilities.

ARTICLE XII GENERAL PROVISIONS

12.1 Binding Agreement. The Parties hereby represent that (i) when executed by their respective parties, this Agreement shall constitute all the legal and binding obligations of the Parties pertaining to the subject matter contained herein; and (ii) that each Party has complied with all relevant statutes, ordinances, resolutions, by-laws, and other legal requirements applicable to their operation in entering into this Agreement. This Agreement shall be binding upon the heirs and successors, administrators and assigns of each of the Parties.

12.2 Governing Law. This Agreement shall be construed, interpreted and governed in accordance with the laws of the State of Utah. All disputes resulting in legal action shall be governed by the laws of the State of Utah. Jurisdiction shall be vested in the District Courts in and for the State of Utah. Venue is vested in the 5th Judicial District Court in and for Washington County, State of Utah or in any other successor district court of competent jurisdiction.

12.3 Interpretation of Agreement. The invalidity of any portion of this Agreement shall not prevent the remainder of this agreement from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include any other and all genders. The paragraph and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

12.4 Entire Agreement and Amendments. This Agreement and all attachments hereto constitute and represent the entire agreement and understanding between the Parties hereto and replaces any previous agreement, understanding or negotiation between the Parties with respect to the subject matter hereof, and may be modified or amended, supplemented, or changed only by the written agreement of the Parties, including the formal approval of the City Council. No oral modifications or amendments shall be effective.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year set forth above.

HURRICANE CITY, UTAH

John Bramall, MAYOR
Hurricane City Corporation

Date: _____

ATTEST:

, CITY RECORDER

STATE OF UTAH)

: Ss.

COUNTY OF WASHINGTON)

This is to certify that on the ____ day of _____, 2022, before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared John Bramall, known to me to be the Mayor of Hurricane City Corporation, and _____ known to me to be the City Recorder of Hurricane City Corporation, and acknowledged to me that he the said John Bramall and She the said _____ executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

NOTARY PUBLIC

By: _____

Titles: _____

Date: _____

STATE OF _____)

: Ss.

COUNTY OF _____)

On this ____ day of _____, 2022, _____
personally appeared before me _____, and duly
acknowledged to me that he/she signed the above and foregoing document.

NOTARY PUBLIC

Title 13 - FRANCHISES

CHAPTER 1. - VIDEO SERVICES FRANCHISE

Sec. 13-1-1. - Title.

This chapter shall be known as the Video Services Franchise Ordinance.

Sec. 13-1-2. - Definitions.

For purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meanings set forth in this section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall have the same meanings as the terms used in title 7, chapters 8 and 11 of this Code, and if not defined there, their common and ordinary meaning.

Basic service means any service tier that includes the retransmission of local television broadcast signals.

Cable act means Title VI of the Communications Act of 1934, as amended, 47 USC section 151 et seq., and all other provisions of the Cable Communications Policy Act of 1984, codified at 47 USC section 521 et seq., and the Cable Television Consumer Protection and Competition Act of 1992 as codified at 47 USC section 543 et seq.

Cable service means:

- A. The one-way transmission to subscribers of:
 - 1. Video programming; or
 - 2. Other programming service; and
- B. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

Franchise agreement means a contract entered into in accordance with the provisions of this chapter between the City and a franchisee that sets forth the terms and conditions under which a franchise to provide video services will be exercised.

Grantee means any person, firm or corporation granted a franchise by the City.

Gross revenues means:

- A. All revenues derived by a grantee, or an affiliate of grantee in connection with its provision of video services in the City via a video service system including, but not limited to:
 - 1. Revenue from any video service which generates revenue of any type whatsoever and which is offered to the subscribers by means of a video services system, including, but not limited to, leased access fees and advertising revenues.
 - 2. Revenue from all charges for the installation, connection and reinstatement of equipment necessary for the utilization of the video services.
 - 3. Grantee's pro rata portion of any revenues derived from any other person or source and attributable to

grantee's provision of video services in the service area via a video services system, to which the City is authorized to apply a franchise fee under the cable act, state or local law as it may exist from time to time during the term of the franchise agreement.

- B. For the purpose of calculating franchise fees, the following shall not be included in the definition of gross revenue:
1. State or local taxes, such as sales taxes, imposed upon an end user where the grantee acts as a collection agent for the state or local taxing authority.
 2. Bad debt, to the extent it is not collected.
 3. Affiliate revenues are not counted as gross revenues of the grantee where that would result in a double count of the same revenues for purpose of calculating the franchise fee owed.

Service area means the geographic area in which a grantee is authorized to provide video services.

Subscriber means any person or entity lawfully receiving video service from grantee or an affiliate of grantee.

Transfer means any transaction subject to review under section 13-1-17 of this chapter.

Video service system means a communications system that is designed to be used, or is used to provide video services.

Sec. 13-1-3. - Application for franchise agreement.

- A. *Information required.* All initial franchise applications to construct, operate or maintain any communications system for the purpose of providing video services, or to provide video services via a communications system in this City shall be filed with the City Recorder-Clerk, and each such application shall set forth, contain or be accompanied by the following in addition to the information required by title 7, chapter 8 of this Code:
1. The name, address, and telephone number of the applicant.
 2. A detailed statement of the corporate or other business entity organization of the applicant, including, but not limited to, the following:
 - a. The names, residence addresses and business addresses of all officers, directors and partners or business associates of the applicant.
 - b. The names, residence addresses and business addresses of all persons and entities having controlling, or being entitled to have or control five percent or more of the ownership of the applicant, and the respective ownership share of each such person or entity.
 - c. The names and addresses of any parent of the applicant to the ultimate parent; and the names and addresses of each entity responsible in whole or in part for management or operation of the applicant or the video service system that will be used by applicant, along with a description of the nature of the responsibilities of such entity.
 - d. A description of the previous experience of the applicant in providing video services and constructing systems used to provide video services; and an identification of all communities in the state where applicant, or any affiliate, provides video services.
 - e. Information regarding the legal, financial, technical and character qualifications of the applicant.
 - f. Whether grantee is filing the application as a cable operator of a cable system within the meaning of the cable act.
 3. A detailed description of the proposed plan of operation of the applicant, which shall include, but not be

limited to, the following:

- a. A map or maps of a scale not less than one inch equaling one hundred feet (1" = 100') showing the precise geographic area for which applicant seeks a franchise agreement.
 - b. Plans showing any existing location of the communications system that will be used to provide video services; and, unless the communications system is fully constructed except for drops to subscribers, a plan for system construction, containing at least the information required by subsection 13-1-6C of this chapter.
4. A copy of the form of any agreement, undertaking or other instrument proposed to be entered into between the applicant and any subscriber.
- B. *Additional information.* The City may request such additional information as it deems necessary to determine whether or not the application should be granted. The failure to file a complete application, or to provide additional information requests, is grounds for rejecting an application.
- C. *Time for review.* An initial application for a franchise shall be reviewed promptly by the City. The City may grant or deny the application, or grant it subject to conditions. To the extent that the federal communications commission requires the City to take a final action on a completed application by a date certain, a completed application for a franchise shall be deemed denied by final action of the City if the City has not adopted an ordinance granting a franchise to the applicant prior to the deadline, unless the applicable deadline has been lawfully extended.
- D. *Time for denial.* Unless the FCC alters the deadlines, the date on which the application shall be deemed denied for purposes of subsection C of this section shall be:
1. Ninety days after the filing of a completed application by an entity for an initial cable franchise that already has a communications system in the rights of way;
 2. One hundred eighty days after the filing of a completed application by any other entity.
 3. Provided that, where an application is submitted in connection with a transfer, the deadlines in section 13-1-17 of this chapter shall apply.
- E. *Renewals.* Franchise renewals shall be according to applicable state and federal law. The City and grantee by mutual consent, may enter into renewal negotiations at any time during the term of the franchise.

Sec. 13-1-4. - Grant and acceptance of franchise.

- A. *Acceptance required.* No franchise agreement shall become effective for any purpose unless and until an ordinance is passed by the City approving the franchise agreement. No franchise shall be effective until accepted unconditionally by the grantee. Grantee shall be deemed to have unconditionally accepted a franchise by signing a franchise agreement countersigned by the City.
- B. *Subject to general ordinance provisions.* Any franchise agreement granted is hereby made subject to the general ordinance provisions of this chapter and title 7, chapters 4 and 8 of this Code.
- C. *Right of police power.* Grantee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. Grantee shall comply with all laws and ordinances enacted by the City pursuant to that power. No franchise shall be interpreted in a manner that limits a grantee's obligations under this section.

Sec. 13-1-5. - Additional conditions of street occupancy.

- A. *City use of pole and conduits in rights-of-way.* Subject to any applicable state or federal regulations or tariffs, the City, after giving written notice, have the right, without cost, to make use of any poles or conduits controlled or maintained by the grantee, that are located in any public way. Such use by the City shall not interfere with current or future use of the grantee, that are located in any public way. Such use by the City shall not interfere with current or future use by the grantee.
- B. *Use by others of poles.* In cases where access to a grantee's poles are not regulated by the Public Service Commission or by the Federal Communications Commission:
 - 1. If another public utility is denied the privilege of utilizing poles or wire holding structures constructed and installed by the grantee within streets; and
 - 2. The City finds that such use would enhance the public convenience and would not unduly interfere with the grantee's operations.

The City may require the parties to enter into a mutually agreeable joint pole use agreement with respect to the then unused capacity until such time as the poles and wire holding structures are needed by the owner thereof, so as to avoid proliferation of poles and wire holding structures, and may set the terms and conditions for access if the parties cannot agree, in a manner consistent with the manner in which rates are set for poles under 47 USC section 224, or under state law.

Sec. 13-1-6. - Extension of service; duty to serve.

- A. *Minimum service area.* Except as provided in this section, the City shall not approve any franchise that provides for a service area smaller than the City, as it existed as of the effective date of the franchise. The City may grant a franchise that permits a grantee to serve areas annexed after the effective date of the franchise. The foregoing does not apply:
 - 1. To an open video system;
 - 2. To a video service provider offering services via an infrastructure system, where infrastructure provider agrees to terms and conditions for system build out, or agrees to make payments to support build out of systems used by others to provide video services, that the City accepts in satisfaction of obligations of video service providers who use such infrastructure system; or
 - 3. Where an applicant shows that the service area is economically infeasible; that granting a franchise for a smaller area will not adversely affect the development of competition throughout the City; and that the proposed service area is such that granting a franchise for that area will not unfairly disadvantage any franchised video service provider.
- B. *Time to provide service.* A video service provider must complete construction of its system within a reasonable time, so that it passes by all dwelling units within its service area, which time shall be specified in the franchise and subject to the density requirements in subsection D of this section.
- C. *Sequence of construction.* As a condition of receiving a franchise, each video service provider must submit a plan for the sequence of construction that ensures it does not discriminate against residents of the City based on income. The plan must show the timing of construction by geographic area and the schedule for completion of construction by geographic area. A schedule for completion of construction may be tied to the success of the applicant in the marketplace. In determining whether the plan is acceptable, the City may take into account:
 - 1. The amount of time required to build out the video service system first franchised to serve the City; and
 - 2. The amount of construction required to serve the service area; and

3. The time required to provide the applicant reasonable opportunities to recover its investment.
- D. *Density requirements.* A grantee may, but is not required to serve any portion of its service area where the density is less than five dwelling units per linear quarter mile unless the potential subscriber agrees to pay extension charges as provided in this section. In extending service, the following requirements shall be met:
1. In any portion of the service area where the density is five dwelling units or more per linear quarter mile, a grantee shall provide video service to any person that requests it at its normal connection fee; provided, that grantee is able to reasonably obtain all easements or permissions, if any, which are necessary to extend service relating thereto. Provided that, where the distance from the curb to the demarcation point on the potential subscriber's premises is greater than 150 feet, a grantee may charge an additional fee to recover the costs of extending the system the additional distance.
 2. In areas with less than five residential units per linear quarter mile, a grantee shall offer a cost sharing arrangement with residents desiring video service wherein each will bear their proportionate share of construction costs. For example, if there are four dwelling units per linear quarter mile grantee must extend service if the potential subscribers are willing to pay one-fifth of the cost of extending the system to pass by the dwelling units, and the grantee must bear four-fifths of the construction cost. Should additional residents actually subscribe to video service in areas where subscribers have already paid a proportionate share under the extension cost sharing formula, subscribers who have previously paid a proportionate share shall be reimbursed pro rata for their contribution or proportional share thereof. In such case, the pro rata shares shall be recalculated and each new subscriber shall pay the new pro rata share, and all subscribers who previously paid a proportionate share shall receive pro rata refunds. However, one year after completion of a project, subscribers who have paid a share of line extension costs shall no longer be eligible for refunds, and the amounts paid in construction costs thereafter shall be credited to the plant account of grantee.
 3. The subscriber who must pay additional amounts for extended connections or for distribution cable construction, as provided in subsection D2 of this section, shall be given a written estimate of the additional amount payable by them prior to their subscription, and they shall in no event be required to pay more than five percent over this estimate.

Sec. 13-1-7. - Community access services.

A. *Requirement to provide access channels.*

1. For any franchise effective after the effective date hereof, each grantee shall at a minimum provide the greater of:
 - a. Two activated channels for public, educational, or government use; or
 - b. The greatest number of channels being provided under any video service franchise for the City.
2. For any franchise effective after the effective date hereof, the City may require activated additional channels for public, educational or government use as necessary to satisfy the needs and interests of the community as determined at the time an applicant seeks a renewal, extension or initial issuance of a franchise. Each franchise shall require the grantee to provide additional channels based on usage.
3. For any franchise granted prior to the effective date hereof, a grantee shall provide access channels and support for access channels as required by its franchise, and by this section as the same was in effect on January 1, 2009, until it ceases to operate under the terms and conditions of that franchise.
4. The City may designate itself or another entity to manage the channels, and may designate the purposes for

which the channels may be used, consistent with applicable law.

5. The City may establish rules and procedures for the use of the channels, or authorize its designee to establish rules and procedures for the use of the channels.
- B. *Channel assignments.* Access channel assignments shall be made by a grantee in consultation with the City and shall be uniform on that grantee's system throughout the City. Unless it is technically infeasible to do so, a grantee shall place PEG channels at the same channel locations as are being used by a video service system in the City designated by the City. Each grantee's system shall, insofar as technically and economically feasible, be compatible with and able to tie into all other franchised video service systems providing video services within and adjacent to the City so as to enable each system to carry and cablecast the public, educational and governmental access programming of the other systems. The City may require a grantee to interconnect its system with other franchised video service providers.
- C. *Minimum requirements for channels.* Access channels shall be carried on the basic service tier, and shall be available to every subscriber without any additional charges for equipment beyond the charges for equipment the subscriber pays to receive the commercial services to which the subscriber subscribes. Access channels shall be of the same quality, have the same features and functionality as the primary broadcast signals carried by the grantee. The channels shall be selectable from the same menus used to access other commercial programming, shall be as prominently featured as other channels, and if the information is provided to grantee, shall contain the same type of information as is carried with respect to commercial programming. Each grantee must pass through the full PEG signal to subscribers, including information equivalent to that carried in the vertical blanking interval.
- D. *Extension of system.* Each grantee is responsible for extending its system to points from which it can pick up the access channels at no cost to the City or to the persons programming the channels, which extension may be direct, through an interconnection or by other reasonable technical means.

Sec. 13-1-8. - Rates.

- A. The City expressly reserves the right to regulate the rates which a grantee charges its subscribers for basic service and for such other services and equipment as the City is now, or may hereafter be, permitted to regulate consistent with applicable law. A grantee shall not deny, delay, interrupt or terminate cable service or the use of cable television system facilities to subscribers because of an action by the City related to its regulation of the rates; provided, however, that nothing herein shall be construed to limit a grantee's right to seek judicial review of such action. The City may from time to time adopt rules and procedures for the regulation of rates.
- B. Each video service provider shall provide notice of rate changes to the City and to subscribers as if it were a cable operator subject to the notice rules established by the Federal Communications Commission.

Sec. 13-1-9. - Customer service standards.

- A. *Minimum standards.* Each grantee under this chapter shall satisfy the customer service standards established by the FCC pursuant to 47 USC section 552 as if it were a cable operator, and such additional or stricter customer service or consumer protection requirements as are included in this Code, or as the City may adopt from time to time by resolution, or as may apply under applicable law.
- B. *Waiver of standards.* Customer service standards and reporting requirements may be waived by the City Manager where:

1. A grantee shows the standard as applied to it is too burdensome; and
 2. The grantee proposes an alternative standard that the City Manager determines will reasonably protect subscribers in light of the customer service record of the grantee requesting the waiver.
 3. The waiver shall expire in 90 days unless a longer period is approved by the City Council. The City Council may revoke a waiver at any time, upon 60 days' notice.
- C. *Opportunity for comment.* After the effective date hereof, before adopting any additional video service specific customer service standards, the City shall provide grantees an opportunity to comment on the proposed standards before they are adopted.
- D. *Billing practices.*
1. *Failure to pay.* The due date for a bill may be no earlier than 15 days after a bill is mailed. No penalty or late fee may be assessed until five days after the due date. A payment is made as of the earlier of the date it is received, or the date a payment by mail is postmarked.
 2. *Return of deposits.* If the grantee collects a deposit or advance charge on any service or equipment requested by a subscriber, the grantee shall provide such service or equipment within 30 days of the collection of the deposit or charge or it shall refund such deposit or charge by mail postmarked within seven working days thereafter. Nothing in this section shall be construed to limit the grantee's liability for damages because of its failure to provide the service for which the deposit or charge was made.
 3. *Pro rata refunds.* In the event that a subscriber terminates service prior to the end of a prepaid period, the pro rata portion of any prepaid subscriber fee which represents payment for services which are no longer to be rendered shall be refunded promptly, but in no case more than 30 days after receipt of the request of termination.
 4. *Security deposits.* Security deposits may not be levied on a discriminatory basis. A grantee shall not charge an equipment security deposit greater than the equipment's actual cost to the grantee. Any equipment security deposit collected by the grantee shall be returned to the subscriber no later than the earlier of:
 - a. Twelve months after its collection, if the deposit was collected from a person that is still a subscriber; or
 - b. Within 30 days of return of such equipment undamaged, with allowance for reasonable wear and tear, and payment of any outstanding balance due and payable for lease of the equipment.
- E. *Time for installation completion.*
1. Subject to subsection E2 of this section, standard subscriber installations shall be completed within seven business days (unless the subscriber requests a later date). A standard installation is an installation where distance from the curb to the demarcation point on the potential subscriber's premises is 150 feet or less. During normal operating conditions, this standard will be met 95 percent of the time, measured on a quarterly basis.
 2. Upgrades or reconnections of service by a grantee shall be performed and completed within seven working days of a subscriber requesting such upgrade or reconnection. During normal operating conditions, this standard will be met 95 percent of the time, measured on a quarterly basis.
 3. For nonstandard installations, or where a system extension is required, work must be completed promptly, and no later than 60 days after the extension request, unless the City grants an extension of the time. The City shall not unreasonably deny a request for an extension where proper engineering, planning and construction require more time.

- F. *Missing appointments.* If the grantee fails to meet an appointment, the grantee shall in the case of an installation, reconnection or upgrade, at a minimum, waive all charges for installation, reconnection or upgrade applicable to the customer whose appointment was missed. If the grantee fails to meet a service or repair appointment, the grantee at a minimum, waive all repair charges, if any are applicable to the customer whose appointment was missed, and credit the account of the customer whose appointment was missed an amount of no less than \$20.00, in addition to automatically providing credits for the period during which service was lost.
- G. *Credit for outage, interruption.* A grantee shall provide a subscriber with credit for a signal or service interruption exceeding four hours in duration. The credits provided herein need be given only upon request made by a subscriber. The request may be made at the time a subscriber calls to report a signal or service interruption, whether or not the four hours has elapsed at the time the call is made; and may be requested up to 60 days after the signal or service interruption occurs. A "signal or service interruption" refers to the loss of sound or picture on any channel, or the significant deterioration of the same on any channel.
- H. *Records maintained.* Grantee shall maintain a record or "log" of signal or service interruptions; and customer complaints describing the date and nature of the interruption or complaint, and the date and nature of the action taken by grantee. These records shall be kept at grantee's local office for a period of three years. Each grantee shall collect information, and shall maintain records to show its performance with respect to all applicable customer service standards.

Sec. 13-1-10. - Disconnections; voluntary and involuntary.

- A. *Involuntary disconnection.* Before an involuntary disconnection of a subscriber's service takes place, the following must occur:
 - 1. The subscriber shall in fact be delinquent in payment at least 45 days after the posting of the bill before notice of disconnection may be given;
 - 2. Notice shall be by separate written advice of impending disconnection that may be mailed or personally served upon the subscriber before disconnection;
 - 3. If notice is given by personal service, at least five days must elapse before disconnection after the subscriber has either signed for or refused to accept personally served written notice of impending disconnection;
 - 4. If notice is given by mail, at least ten days shall be elapsed after the date of mailing such notice before disconnection.
- B. *Notice of disconnection.* The written notice of disconnection must expressly and clearly state the amount that is owed by the subscriber to the grantee, the minimum amount required to be paid to avoid disconnection, and the date and place where such payment must be made. Disconnection of service and retrieval of equipment must occur both on a normal service day and within normal business hours of grantee. Receipt of a "bad check" from a subscriber, in response to a written notice of disconnection, does not constitute payment, and the affected grantee need not give the subscriber further notice prior to disconnection of service. A grantee may add a reasonable collection charge to a subscriber's bill.

Sec. 13-1-11. - Resolution of complaints.

- A. Each grantee shall maintain a comprehensive complaint resolution policy that is in writing, and such policy shall be provided to persons at the time of initial subscription and whenever amended; it shall be available, upon request, to any person.

- B. A grantee may not disconnect a subscriber if the subscriber files a complaint with a grantee prior to the scheduled disconnection, disputing charges owed, until the complaint is addressed in writing by the grantee.
- C. The City may adopt procedures for complaint resolution if it determines that the grantee's complaint resolution process is unfair to subscribers, or if a grantee fails to comply with its obligations under this section.

Sec. 13-1-12. - Books and records.

- A. *Right to access.* The City shall have the right to review and make copies of books and records relevant to its enforcement of a franchise agreement and applicable law. Books and records shall be produced at a convenient location in the City, or if books and records cannot be produced there, at a mutually agreeable location. To the extent the Utah Government Records and Management Act, Utah Code Annotated title 63G, chapter 2 (the "act"), and other applicable law permits, the City may agree in a franchise agreement that information contained within the books and records of grantee provided to the City shall be kept confidential by the City, and may agree to provide grantee reasonable notice of any request received by the City for disclosure of any books and records requested by grantee to remain confidential, so that the grantee may take appropriate action to protect confidential information from disclosure.
- B. *Prompt response required.* Grantee shall promptly respond to requests for information from the City related to a franchise agreement or grantee's compliance with applicable law. Provided that, nothing herein shall require a grantee to disclose personally identifiable information it is prohibited from disclosing under privacy laws; and provided that, a grantee shall redact any such information if it is contained in information requested by the City.
- C. *Audit.* In addition to its rights under subsection A of this section, for the purpose of verifying the correct amount of the franchise fee, the books and records of the provider pertaining thereto shall be open to inspection or audit by duly authorized representatives of the City at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and records; provided, that the City shall not audit the books and records of the provider more often than annually. The provider shall agree to reimburse the City the reasonable costs of an audit if the audit discloses that the provider has paid 95 percent or less of the compensation due the City for the period of such audit. In the event the accounting rendered to the city by the provider herein is found to be incorrect, then payment shall be made on the corrected amount within 30 calendar days of written notice, it being agreed that the City may accept any amount offered by the provider, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

Sec. 13-1-13. - Reporting requirements.

- A. Each grantee shall prepare reports as the City may reasonably request to monitor compliance with the terms hereof and of the grantee's franchise.
- B. By January 31 of each year, each grantee shall provide the City with a detailed statement of revenues derived in connection with the provision of video services in the City, sworn as accurate by an officer of the grantee, which statement shall identify:
 - 1. The number of subscribers, by category of service;
 - 2. Service revenues, by category of service;
 - 3. Equipment revenues, by category of equipment;
 - 4. Other revenues, identifying the source of the revenues;
 - 5. The amount of any deduction from gross revenues, identifying the reason for the deduction, and the manner

in which it was calculated;

6. If revenues are allocated among the City and other entities (as may be the case with regional advertising revenues), the total revenues, and the manner in which the revenues were allocated.
- C. The report shall be in a form the City prescribes, or if there is no form, in a form consistent with the manner in which grantee maintains its books and records.

Sec. 13-1-14. - Fines and penalties.

Subject to the provisions of section 7-8-8 of this Code, the City may impose a civil penalty on a grantee not to exceed the following amounts per day, or any part thereof, for the occurrence or continuation of any of the following violations:

- A. \$200.00 for any failure to complete system construction in accordance with a grantee's construction obligations contained in this chapter or grantee's franchise agreement.
- B. \$100.00 for any failure to provide data, documents, reports or information to the City.
- C. \$75.00 for any failure to comply with any of the provisions of this chapter for which penalty is not otherwise specifically provided, including customer service violations.

Each day that any of the above violations shall continue shall be considered a separate violation for which said penalties can be assessed.

Sec. 13-1-15. - Franchise fee.

- A. *Specified; terms of payment.* Each grantee shall pay a franchise fee in connection with provision of video services in an amount equal to five percent per year of the grantee's annual gross revenue. Said fees shall be paid quarterly, not later than 60 days after the end of the preceding three-month period ending, respectively, June 30, September 30, December 31 and March 31. Not later than the date of each payment, each grantee shall file with the City a written statement signed under penalty of perjury by an officer of the grantee during a quarter for which payment is made. Acceptance of payment shall not be construed as an accord that the amount paid is correct nor shall it be construed to release any claim which the City may have for any further sums payable under this section. Any franchise fees which remain unpaid after the dates specified herein shall be delinquent and shall thereafter accrue interest at the maximum legal rate until paid.
- B. *Increase.* If the FCC, congress or other governmental entity with authority over video service providers allow a franchising authority to increase the franchise fee beyond five percent, then the City may increase the franchise fee paid by grantees holding franchises to the maximum permitted amount, but no more than six percent of gross revenues prior to the scheduled expiration date of the franchise, or the date the franchise terminates, whichever is earlier; and the City may require any grantee issued a new or renewed franchise after such change to pay the maximum amount permitted by law as a condition of the grant of the franchise. Payment of a franchise fee pursuant to the provisions of this chapter shall be considered to be an addition to, and exclusive of, any and all authorized taxes, business license fees or other fees and assessments presently in effect or adopted subsequent hereto.

Sec. 13-1-16. - Term of franchise.

A franchise granted hereunder shall be for a term established in the franchise agreement. In no event shall any franchise term exceed 15 years.

- A. *Consent of City required.* Unless specifically provided in the franchise agreement, a franchise or video service system shall not be sold, assigned, leased, subleased, mortgaged, transferred or conveyed in any manner whatsoever, either in whole or in part, voluntarily or involuntarily, nor shall any right, title or interest therein, either legal or equitable, pass to or vest in any person or entity other than the person or entity named as the grantee in the franchise agreement without the prior written consent of the City, obtained in accordance with the provisions of this section. Any attempt by the grantee to sell, assign, transfer or convey any interest in the franchise without obtaining the prior written consent of the City shall constitute a default in the franchise agreement.
- B. *Changes of control included.* A "sale," "transfer" or "conveyance" of the franchise shall include any acquisition of the controlling interest of grantee, whether through purchase of stock, merger, consolidation or any other change of control. Without limiting the foregoing, a rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of 20 percent of the voting interest or management control of the grantee.
- C. *Considerations of City.* At least 120 days before a proposed sale, assignment, transfer or conveyance of a grantee's franchise is scheduled to become effective, such grantee shall petition in writing for the City's written consent to the proposed sale, assignment, transfer or conveyance. The City will not unreasonably withhold its consent, but without limitation, it may consider the technical ability, financial capability, legal qualifications and general character qualifications of the purchaser, assignee or transferee, including its experience and service record in other communities. A request for consent to the sale, assignment or transfer hereunder shall be made to the City in writing and the grantee and the proposed purchaser, assignee or transferee must cooperate with the City in its investigation of the transfer. A request for consent may be denied if the grantee or proposed purchaser, assignee or transferee fail to timely provide the City information the City requests in connection with its review of the transfer.
- D. *Approval without response.* The City shall be deemed to have approved a proposed sale, transfer or assignment in the event that its response is not communicated in writing to the grantee within 120 days following receipt of the petition for consent to the proposed sale, transfer or assignment, unless the City and grantee agree to an extension of this period, subject to the following conditions:
1. Transferee shall assume all obligations and liability of the former grantee, known and unknown.
 2. An approval without response is not a representation, express or implied, that the grantee is in compliance with the franchise.
 3. A sale, assignment or transfer shall not relieve the former grantee of its liabilities under this chapter until the sale, assignment or transfer actually takes place unless otherwise specifically relieved by the City.
- E. *Assignment for creditors.* Notwithstanding any other provision of this chapter or a franchise agreement:
1. A video services franchise shall automatically terminate by force of law 120 calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the grantee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding.
 2. However, the franchise may be reinstated if, within the 120-day period:
 - a. The assignment, receivership or trusteeship is vacated; or
 - b. The assignee, receiver, or trustee has fully complied with the terms and conditions of this chapter and the

video services franchise and has executed an agreement, approved by a court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of the video services franchise and this chapter.

F. *Foreclosure or judicial sale.* Notwithstanding any other provision of this chapter:

1. In the event of foreclosure or other judicial sale of any of the grantee's video system or associated property, the City may revoke the video services franchise at a public hearing before the City Council, by serving notice upon the grantee and the successful bidder at the sale.
2. The video services franchise shall terminate 30 calendar days after serving such notice, unless:
 - a. The City approves the transfer of the video services franchise to the successful bidder; and
 - b. The successful bidder agrees with the City to assume and be bound by the terms and conditions of the video services franchise and applicable law.

G. *Transfer limitation.* The provisions of this section are not in lieu of transfer approvals that may be required, including approvals required under title 7, chapters 10 and 11 of this Code.

Sec. 13-1-18. - Continuity upon termination or transfer.

In the event of a termination, revocation, or transfer of grantee's franchise for whatever reason, grantee shall ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances. At the City's request, grantee shall cooperate with the City to operate grantee's video service system for a temporary period following termination or transfer of the franchise as necessary to maintain and to ensure an orderly transition from one operator to another to avoid disruption of public streets and public property, and to ensure continuity of service to subscribers. During such period, the video service system shall be operated as if the terms and conditions of this chapter and franchise agreement continue to apply.

Sec. 13-1-19. - Application to persons holding franchise.

The revisions to this chapter adopted by the ordinance codified herein do not relieve a cable services franchisee of any obligations that were included in its franchise by reference. To the extent that the revisions establish additional obligations for such franchisee, they shall be enforceable against it to the maximum extent permitted by law.

Sec. 13-1-20. - Relation to infrastructure provider franchise.

In lieu of requiring a video services franchise for a video services provider offering services via an infrastructure system the City may choose to enter into agreements with the infrastructure provider and the video service provider with respect to the provision of video services, so long as the benefits that could be obtained through a franchise are obtained and enforceable through those agreements.



January 4, 2022

To whom it may concern:

My name is Cody Larkin and I am one of the partners of Desert Lakes LLC which is working towards the final approval and development agreement on the Southern Shores development in Hurricane City. My role in the partnership is primarily the engineering and construction aspect of the project and this is because of my experience in building reservoirs specifically with communities around them. I have built a number of dams and reservoirs in the state of Utah. My intent in this letter is to shed some light on the stringent safety precautions and backstops that have been put into the design of the Southern Shores project as well as those precautions that are required to by the State of Utah in order to construct such a reservoir. I would like to inform the Hurricane City Council of these precautions to allow a confident feeling of safety upon the citizens within its reach and city.

To begin with, the Utah State Dam Safety (USDS) is the governing agency that regulates all dams and reservoirs within the state of Utah. This agency's main concern is to protect the citizens and communities where any dam and/or reservoir is placed within the State of Utah as well as protect the water that is entering those reservoirs assuring it is using the appropriate water rights to do so. Any body of water that holds over 20-acre feet of water must be reviewed, approved, fully inspected during construction, and given a final approval by the USDS before being allowed to fill. In the design and preconstruction review process, the USDS will give each dam a rating of either a low, moderate, or high hazard rating. The rating is based solely on what kind of impact would happen if the dam on these reservoirs was to breach and ultimately indicates how robust and stringent the design criteria and construction process of the dam must be. The USDS has three ratings it uses to classify dams: Low, Moderate, and High Hazard. The Low Hazard rating indicates there would be insignificant or no property damage if the dam was breached. The Moderate Hazard rating means that there would be a possibility of significant property damage if the dam was breached. The High Hazard rating means there would be not only significant property damage but a potential loss of life if the dam was breached.

Desert Lakes LLC contracted two separate soils engineering firms to test the soils and investigate how difficult it would be to build a lake on the property where the Southern Shores project is proposed. Both firms found that the soils are so porous on the property that any water placed onto the soil will percolate down into the soils at such a staggering rate that a lake wouldn't be able to be built without a synthetic liner to keep the water inside the lake and not allow it to fall into the aquifer well below the ground surface. Southern Shores is designed with a highly expensive 40mil LDPE synthetic liner to assure that every drop of water that goes into the lake stays in the lake or evaporates into the air. Nothing will be lost because of seepage or leaking. The use of this liner is a rare way to line a lake of this size because



of the great expense but, it also is the surest way to assure that the water will not be lost. Southern Shores is also designed to protect this liner by adding 12"-18" of a cemented soil on top of the liner around all the perimeter shorelines as well as volcanic rip-rap on the island in the middle. The liner and the covering materials are not required of the USDS but a requirement and expense we as the owners wanted to spend to make sure water is never lost through seepage, percolation and/or a leak in the liner.

One more important fact about the Southern Shores project is that it is designed much differently than virtually all other reservoirs because the slopes on the dam shorelines on the inside of the lake are extremely flat, 16:1, so to allow the waves generated from motor boats to quickly dissipate as they crash on the shorelines. Also, behind the dam structure there would be a leveling course of structural fill placed to fill the lots around the lake at an elevation level even or higher than the dam crest. This would in a sense make the dam 2-3 times thicker than normal. Most dams have a 3:1 slope on the inside, a 12' crest on the top, and a 2:1 slope on the outside. Southern Shores will have around a 6-7:1 slope on the inside and between 50-150' crest.

With these important factors showing that the Southern Shores project would be built with a liner and strong cement-soil covering as well as thickened dam section as compared to regular dam standards, I asked the USDS to review the project and see if there was any way to rate it as a low hazard dam. I asked this because the need of installing a costly dam section that included a thick clay core and chimney drains was absolutely unnecessary because any water that actually was lost through the liner if there was any type of leak would just percolate straight down and not find its way to the downstream toe of the dam. Even with these factors, the USDS held the Southern Shores dam to the black-and-white regulation that if for some reason, regardless of how robust the dam or liner is designed and built, if the dam was to breach it had the potential to cause property damage because of the homes that would be placed around the lake. The USDS classified the Southern Shores dam as a Moderate Hazard dam.

With this classification, the dam has been engineered to an extremely robust design costing Desert Lakes an estimated \$9M more than a low hazard rating would have required. It also means that the testing and quality control the USDS will oversee during the construction of the dam will be much more stringent. And ultimately, the USDS will require an inspection of the dam on a yearly basis to verify it is safe-and-sound indefinitely. With all of these factors I can certify and assure you that this dam and reservoir are over-engineered and will be completely overseen for its entire life by an agency that's sole purpose is to protect the citizens and water-rights within the state of Utah.

If you have any questions, please feel free to contact me.

Sincerely,

Cody Larkin

cody@slgc.com

**DEVELOPMENT AGREEMENT
FOR
SOUTHERN SHORES SUBDIVISION**

This DEVELOPMENT AGREEMENT FOR SOUTHERN SHORES SUBDIVISION is made and entered into on this ____ day of _____, 2022 by and between the City of Hurricane, Utah, a municipal corporation of the State of Utah (hereinafter referred to as “City”), and Desert Lakes, LLC, a Utah limited liability company (hereinafter referred to as “Developer”), and BJ Christensen, Inc., a Utah corporation, and Jason Christensen and Brittany Christensen, individuals residing in St. George, Utah (hereinafter referred to as “Owners”), collectively referred to as “the Parties.”

RECITALS

- A. Developer is the entity created by Owners to develop the Southern Shores Subdivision in Hurricane, Utah, which is comprised of approximately 79.976 acres of land more particularly described in Exhibit A, a copy of which is attached hereto and incorporated herein by this reference (the “Property”).
- B. On _____ 20____, City approved an application for a zone change, as shown in Exhibit B attached hereto and incorporated herein, subject to and conditioned upon the terms and conditions of a Development Agreement for Southern Shores Subdivision.
- C. On _____ 20____, City approved the preliminary plat attached hereto as Exhibit C.
- D. On _____ 20____, City approved, a Preliminary Site Plan attached hereto and incorporated herein as Exhibit D, which includes a dam and reservoir (the Project).
- E. Developer is willing to design and construct the Project in accordance with the preliminary plat and preliminary site plan and in a manner that is in harmony with and intended to promote the long-range policies, goals, and objectives of the City’s general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.
- F. City, Developer and Owner desire to specify certain terms and conditions relating to construction of the dam and reservoir and the intentional or unintentional drainage or discharge of water from the reservoir.
- G. City has authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.
- H. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City ordinances.

I. This Agreement is generally consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City's General Plan, Zoning Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

J. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Parties with respect to development of the Property as expressed in this Agreement and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

K. The Parties understand and intend that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City, Developer and Owners hereby acknowledge, represent, covenant and agree as follows:

1. Incorporation of Recitals. The foregoing Recitals A-K are hereby incorporated herein as if fully set forth.

2. Development in Accordance with City Ordinances. Unless otherwise agreed by the Parties, the Project shall be developed in accordance with the preliminary plat, preliminary site plan and all City ordinances, procedures, rules and regulations.

3. Construction of Dam and Reservoir. The dam and reservoir to be constructed as part of the Project shall be designed, constructed, operated and maintained by Developer in accordance with all requirements of Utah Code Ann. Title 73, Chapter 5a, Parts 1-7 and Rule 655-10 of the Utah Administrative Rules.

4. Intentional Drainage or Discharge of Waters from Reservoir. Developer represents that it does not anticipate the intentional drainage or discharge of water from the reservoir onto adjoining lands or lands within the natural drainage area. In the event, however, that emergency or unforeseen circumstances require or result in such drainage or discharge, the following shall apply:

- a. Developer shall provide to all affected landowners, the City of Hurricane and the Utah State Water Engineer thirty (30) days prior written notice of its intent to drain or discharge, along with a drainage or discharge plan describing the flow, route and duration of the discharge, the storm drain or other facilities planned to

be used, and the method or means to insure that such drainage shall not cause damage to the land of any other owner.

b. Developer shall secure a drainage permit from the City Engineer prior to drainage or discharge of any waters.

c. Developer shall conduct all drainage or discharge operations in compliance with all Utah State laws, rules and regulations, including any rules or requirements of the Utah State Water Engineer.

5. Liability for Damages Caused by Drainage or Discharge of Waters from Reservoir. The Parties agree that Developer shall be solely responsible and liable for any damages which accrue to any adjoining land or lands within the natural drainage area as a result of:

a. the intentional drainage or discharge of water from the reservoir as described in paragraph 4 above, or

b. the unintentional drainage or discharge of water from the reservoir as a result of dam failure or any other reason.

6. Indemnification. Developer shall indemnify, defend and hold harmless the City of Hurricane, its officers, employees and agents from and against any and all demands, claims, or causes of action which may be asserted against the City of Hurricane for injury or damages which are caused by or resulting from the intentional or unintentional discharge or drainage of waters from the reservoir onto adjoining lands or lands within the natural drainage area.

7. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: Desert Lakes, LLC
c/o Jason Christensen
321 N. Mall Dr. T102
St. George, Utah 84790

To Owners: Jason Christensen
4061 South 2420 East
St. George, Utah 84790

To the City: City of Hurricane
Attention: Kaden DeMille, City Manager
147 North 870 West
Hurricane, UT 84737

8. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Assignment. Developer agrees that CC&R's creating a homeowners association for the subdivision shall be recorded at the office of the Washington County Recorder's office at the time of recording of the subdivision final plat, and that all of Developer's rights, duties and obligations under this agreement shall be assigned, transferred and delegated to said homeowners association which shall then become jointly and severally liable with Developer for compliance with all terms and conditions of this Agreement. Nevertheless, no such assignment, transfer or delegation shall relieve the Developer of any obligation under this Agreement except upon such terms and conditions as may be agreed to in writing by City. Except as provided herein, Developer or said homeowners association shall not assign, transfer or delegate any of its rights, duties and obligations under this Agreement to any other person or entity without the written consent of City.

c. Owners' Agreement. Owners shall be jointly responsible and liable for performance of all duties and obligations of Developer under this Agreement.

d. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

e. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

f. Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Washington County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

g. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

h. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

i. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

j. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

k. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

l. Merger. This Agreement contains the full and complete understanding and agreement of the Parties with respect to the subject matter contained herein, all prior discussions and negotiations having been merged into this Agreement.

m. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:
CITY OF HURRICANE

By: _____
Mayor

Attest:

City Recorder

DEVELOPER:
Desert Lakes, LLC

By: _____
Name: _____
Title: _____

STATE OF UTAH)
 :ss
COUNTY OF UTAH)

On the ____ day of _____, 202_, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of Desert Lakes, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

Notary Public
Residing at:

OWNERS:
BJ Christensen, Inc

By _____
Jason Christensen
President

STATE OF UTAH)
 :ss
COUNTY OF UTAH)

On the ____ day of _____, 202_, personally appeared before me Jason Christensen, who being by me duly sworn, did say that he is the President of BJ Christensen, Inc., a Utah corporation, and that the within and foregoing instrument was signed on behalf of said corporation with proper authority and duly acknowledged to me that he executed the same.

Notary Public
Residing at:

Jason Christensen

Jason Christensen, an individual

Brittany Christensen

Brittany Christensen, an individual

STATE OF UTAH)
 :ss
COUNTY OF UTAH)

On the ____ day of _____, 202_, personally appeared before me Jason Christensen and Brittany Christensen, who being by me duly sworn, did each say that he/she executed the within and foregoing instrument for the reasons stated therein.

Notary Public
Residing at:

EXHIBIT A
Legal Description Parcel and Preliminary Plat:

DRAFT

EXHIBIT B
Zoning Amendment

DRAFT

EXHIBIT C
Site Plan

DRAFT

From: Fay Reber <fayreber@infowest.com>
Sent: Wednesday, January 5, 2022 4:32 PM
To: Stephen Nelson
Cc: Nanette Billings; Joseph Prete; David Sanders; David Hirsch; Kevin Thomas; Cindy Beteag; Arthur Lebaron; Mike Vercimak
Subject: Southern Shores Development Agreement
Attachments: [Southern Shores Development Agreement \(Draft\).docx](#)

Stephen,

Attached please find the latest draft of the proposed development agreement for Southern Shores Subdivision.

The 2 main concerns are: (1) to prevent, to the extent possible, situations that might lead to damage to surrounding properties if the water in the reservoir was discharged or drained, either intentionally or unintentionally, onto adjoining lands, and (2) to ensure that the city would have no liability for any such damage if it were to occur.

As to the first concern, the agreement requires that all provisions of Utah law, including the Utah Dam Safety Act, are followed. And to that end, the developer has provided a letter further explaining the rigorous requirements imposed by the Utah State Dam Safety for this particular structure.

As to the second concern, the focus has been to put responsibility on the developer for all damages caused by such discharge or drainage, and requiring the developer to indemnify the city from all such liability for damages. This draft seeks to beef that up by requiring that the developer file CC&R's to create a Homeowner's Association that would assume that same responsibility jointly with the Developer. And then the agreement goes a step further by obligating the individual owners of the LLC formed to fulfill the development function, the idea being that if the individual owners are liable, perhaps more attention and care will be given to ensure that no such damage occurs.

Whether this will be sufficient for the City Council or acceptable to the developer and individual owners, I don't know. If you see the need to make other changes or additions to the agreement, please feel free to do so. When the agreement is at the point we can recommend it to the council and the developer, please send it the developer.

Thanks.

Fay

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Fay E. Reber
Attorney at Law

St. George Office: 435-628-7600
Hurricane Office: 435-635-0422

CONFIDENTIALITY NOTICE

This email transmission from Fay E. Reber contains information which may be confidential and/or legally privileged. The information is intended only for the use of the individual or entity named in this transmission. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this email is strictly prohibited, and that the email should be deleted immediately. If you have received this email in error, please notify me at fayreber@infowest.com. The unauthorized disclosure, use, or publication of confidential or privileged information inadvertently transmitted to you may result in criminal and/or civil liability.

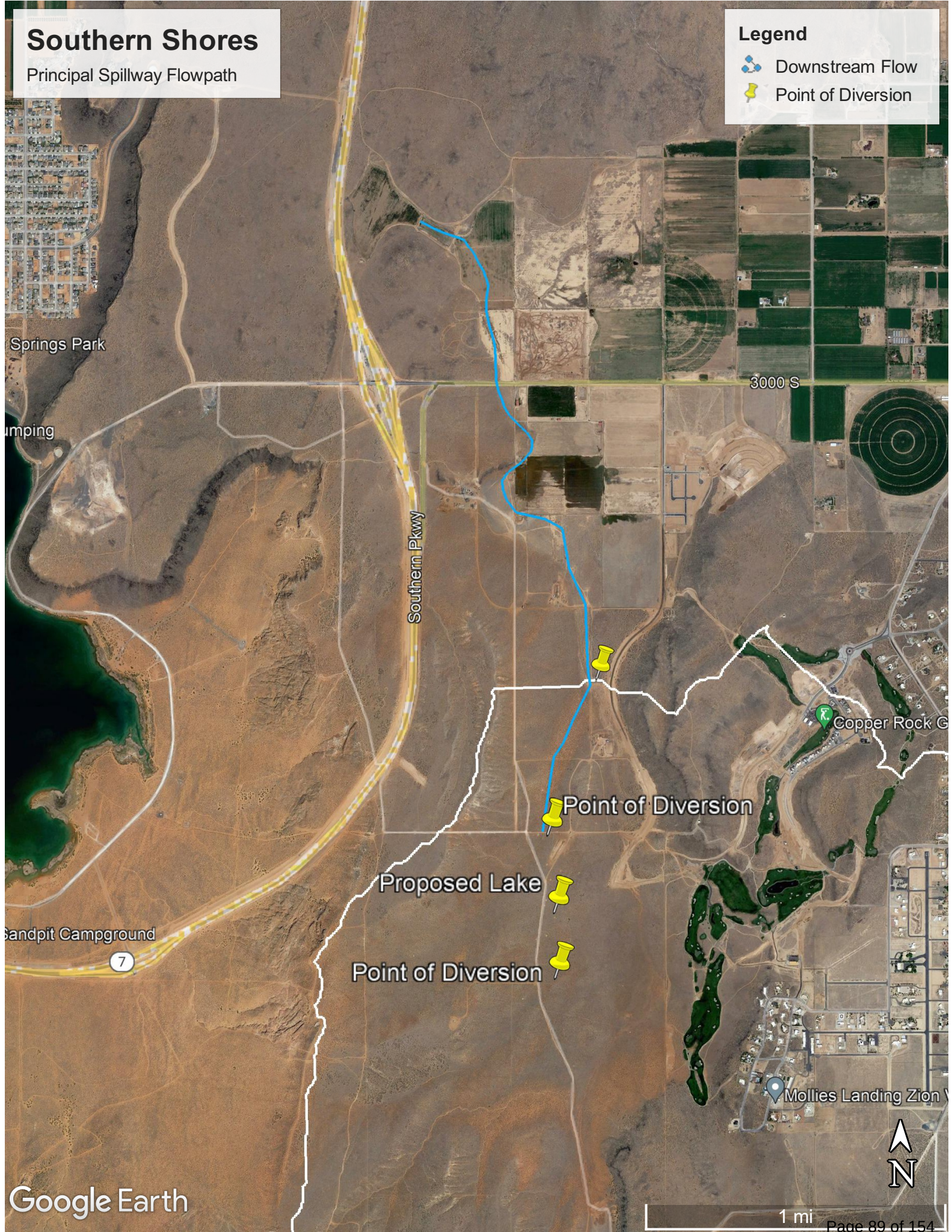
Lake Discharge	Outlet Dia.	12 inches
	Length	284 feet
	Invert In	3346.75
	Invert Out	3344.97
	Avg Slope	0.63%
	Avg. Discharge	4.19 cfs
Drain Time	Lake Volume	11,359,170 cu ft
	Time to Drain	2,711,019 seconds
		31 days
Infiltration	Infiltration	0.7 micrometers/second
		2.38 in/day
		72.39 ft/yr
	Total Infiltration	74.68 in
		6.22 feet
Flow Cross Section	Flowpath Length	12,778 ft
	Flowpath Elev Diff	68 ft
	Avg Slope	0.53%
	Depth of Flow	0.2 ft
		2.4 inches
Ponding without Infiltration	Ponding Length	6,178 ft
	X-Section Area	1,839 sq ft
	Channel Side Slopes	100 H:1V
	Width	857.6 ft
	Depth	4.3 ft

Southern Shores

Principal Spillway Flowpath

Legend

-  Downstream Flow
-  Point of Diversion



Chapter 5a Dam Safety

Part 1 General Provisions

73-5a-101 Power of state engineer to regulate dams.

- (1) The state engineer has the authority to regulate the safety of dams for the purpose of protecting public safety.
- (2) To protect life and property, the state engineer may make rules controlling the construction and operation of dams, including rules controlling:
 - (a) design;
 - (b) maintenance;
 - (c) repair;
 - (d) removal; and
 - (e) abandonment.
- (3) The state engineer may by rule exempt from this chapter any dam that:
 - (a) impounds less than 20 acre-feet of water and does not constitute a threat to human life if it fails; or
 - (b) does not constitute a threat to human life and would result in only minor damage to property of the owner if it fails.

Amended by Chapter 168, 2019 General Session

73-5a-102 Chapter does not apply to certain federal dams and reservoirs.

This chapter does not apply to works owned by the United States Bureau of Reclamation. However, the Bureau of Reclamation shall file plans, drawings, and specifications of its works with the state engineer.

Amended by Chapter 264, 1996 General Session

73-5a-103 Liability of owner or operator.

- (1) Nothing in this chapter shall be construed to relieve an owner or operator of a dam or reservoir of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam or reservoir.
- (2) The owner or operator of a dam or reservoir may not be held to be strictly liable for any act or omission incident to the construction, ownership, or operation of the dam or reservoir.

Amended by Chapter 264, 1996 General Session

73-5a-104 Qualifications of persons designing dams.

Each plan for the construction, enlargement, repair, alteration, or removal of any dam in this state shall be prepared by a qualified engineer who is:

- (1) licensed in Utah; and
- (2) experienced in dam design and construction.

Enacted by Chapter 319, 1990 General Session

73-5a-105 Independent consultants -- Owner to pay costs.

- (1) The state engineer may require the owner of a dam or proposed dam to obtain the services of an independent consultant or team of consultants approved by the state engineer to consult regarding the adequacy of the design, construction, or operation of the dam if safety considerations pertaining to the design, construction, or operation of the dam warrant an independent review.
- (2) The state engineer shall make rules specifying:
 - (a) the safety considerations that will be considered in determining if an independent review is required;
 - (b) the requisite qualifications and experience of the independent consultants; and
 - (c) the timing of the consultants' review so that their recommendations are made in a timely manner.
- (3)
 - (a) The independent consultants shall be considered to be the agents of the owner of the dam.
 - (b) The costs of the independent consultants' services shall be paid by the owner of the dam.
 - (c) The owner of the dam may require the independent consultants to consider other issues, in addition to safety considerations, such as:
 - (i) design selections or alternatives;
 - (ii) site selection;
 - (iii) cost effectiveness; or
 - (iv) other tasks as defined by the contract.

Enacted by Chapter 319, 1990 General Session

73-5a-106 Dams classified according to hazard and use.

- (1) Dams shall be classified according to hazard and use.
- (2) Hazard classifications are as follows:
 - (a) high hazard - those dams which, if they fail, have a high probability of causing loss of human life or extensive economic loss, including damage to critical public utilities;
 - (b) moderate hazard - those dams which, if they fail, have a low probability of causing loss of human life, but would cause appreciable property damage, including damage to public utilities; and
 - (c) low hazard - those dams which, if they fail, would cause minimal threat to human life, and economic losses would be minor or limited to damage sustained by the owner of the structure.
- (3) Use classifications are as follows:
 - (a) water storage - dams which impound water for prolonged periods, including those built for irrigation, power generation, water supply, aquatic culture, and recreation;
 - (b) flood control - dams constructed to operate only during significant runoff events and which impound water for a small percentage of time, including those built for flood control or sediment control and debris basins;
 - (c) tailings - dams in which a large component of the material impounded consists of saturated solids; and
 - (d) other - dams which impound a minimal amount of water or where the head behind the dam is minimal, including stock ponds, wash water ponds, recirculated process water ponds, regulating reservoirs, and diversion dams.

Amended by Chapter 264, 1996 General Session

Part 2

Procedures for the Approval of Dam Construction Plans

73-5a-201 Approval of state engineer necessary to construct, alter, or abandon dams.

No person may construct, enlarge, repair, alter, remove, or abandon any dam or reservoir without obtaining written approval from the state engineer. Routine maintenance of the structure does not require approval from the state engineer.

Enacted by Chapter 319, 1990 General Session

73-5a-202 Submission of plans.

- (1) Before a dam is constructed, enlarged, repaired, altered, removed, or abandoned, plans for the work shall be submitted to the state engineer for his approval, unless the dam:
 - (a) impounds less than 20 acre-feet of water; and
 - (b) is not classified as a high hazard structure under Section 73-5a-106.
- (2)
 - (a) The plans shall be submitted 90 days before:
 - (i) awarding the construction contract; or
 - (ii) the commencement of construction, if the owner constructs the dam.
 - (b) The state engineer may shorten the 90-day review period if the owner and the design engineer submit satisfactory preliminary plans and design reports for review.
- (3) The state engineer may waive the requirement of plans if it can be demonstrated that failure of the proposed dam:
 - (a) does not constitute a threat to human life; and
 - (b) may result in only minor property damage that would be limited to property held by the owner of the structure.

Amended by Chapter 177, 2009 General Session

73-5a-203 Review of plans.

- (1) The state engineer shall establish a formal written procedure for the review of plans submitted pursuant to Section 73-5a-202. Plans shall be reviewed according to:
 - (a) design criteria which the state engineer shall specify in rules; and
 - (b) data or criteria generally accepted by the general dam design community.
- (2) Upon review of the plans, the state engineer will:
 - (a) approve them with appropriate conditions;
 - (b) reject them; or
 - (c) return them for correction.
- (3) The state engineer shall document each review indicating:
 - (a) how the plans were reviewed; and
 - (b) his evaluation of the plans.

Enacted by Chapter 319, 1990 General Session

73-5a-204 Application for approval.

- (1) If the submission of plans is not required by Subsection 73-5a-202(1) or is waived pursuant to Subsection 73-5a-202(3), approval to construct, enlarge, repair, alter, remove, or abandon the dam must be obtained by submitting an application to the state engineer.
- (2) The application shall contain:
 - (a) the location of the dam;
 - (b) physical dimensions of the dam;
 - (c) water rights attached to the dam; and
 - (d) any other information or drawings as required by the state engineer to evaluate the application.
- (3) Upon review, the application will be approved, rejected, or approved with conditions.

Amended by Chapter 5, 1991 General Session

73-5a-205 Approvals void after one year if construction delayed -- Exceptions.

- (1) Any approval granted under Section 73-5a-203 is void one year after the date of approval if construction has not started.
- (2) The state engineer may extend the approval in one year increments:
 - (a) upon a showing of reasonable cause for delay; and
 - (b) provided state-of-the-art design criteria has not changed in the intervening period.

Enacted by Chapter 319, 1990 General Session

Part 3 Construction Inspections

73-5a-301 Inspections to insure compliance with plans -- Duties and costs of owners -- Weekly reports.

- (1) During construction, enlargement, repair, alteration, or removal of any dam:
 - (a) the state engineer, his staff, or an independent consultant shall make periodic inspections of the work for the purpose of ascertaining compliance with the approved plans and specifications; and
 - (b) the owner of the dam shall:
 - (i) conduct tests that the state engineer determines are necessary;
 - (ii) provide adequate supervision of the work by an engineer licensed by the state who has experience in dam design and construction; and
 - (iii) disclose information sufficient to enable the state engineer to determine that the work is being done in conformance with the approved plans and specifications.
- (2) Costs of any work or tests required by the state engineer shall be paid by the owner of the dam.
- (3) The engineer who is supervising the work pursuant to Subsection (1)(b)(ii) is required to submit a report weekly to the state engineer. Each report shall show the work accomplished during the previous week and summarize the results of any material testing.

Enacted by Chapter 319, 1990 General Session

73-5a-302 Failure to conform to plans.

- (1) If at any time during construction, enlargement, repair, alteration, or removal of any dam the state engineer finds that the work is not being done in accordance with the approved plans and specifications, he shall:
 - (a) notify the owner of the failure to comply;
 - (b) order the owner to effect compliance with the plans and specifications; or
 - (c) approve the modification to the approved plans and specifications.
- (2) The state engineer may order that no further work be done until compliance has been effected and approved by him.
- (3) A failure to comply with the approved plans and specifications shall render the approval subject to revocation by the state engineer. If compliance is not effected in a reasonable time, the state engineer may order the incomplete structure removed in order to eliminate any safety hazard to life or property.

Enacted by Chapter 319, 1990 General Session

73-5a-303 Circumstances under which the plan must be modified or the approval revoked.

- (1) If at any time during construction, enlargement, repair, alteration, or removal of a dam the state engineer finds that the conditions encountered differ appreciably from those assumed in the plan, he may require the plans to be modified.
- (2) If conditions are revealed which will not permit the construction of a safe dam, the state engineer shall revoke the approval.

Enacted by Chapter 319, 1990 General Session

73-5a-304 Final inspection.

- (1) Following construction and prior to impounding any water, the state engineer shall undertake a final inspection of the project.
- (2) A written final approval of the project shall be issued if:
 - (a) the state engineer determines that:
 - (i) the project was constructed in accordance with plans approved by the state engineer under Sections 73-5a-203 and 73-5a-303; and
 - (ii) during construction, inspections and tests were conducted as required by Section 73-5a-301; and
 - (b) the emergency action plan and standard operating plan meet the requirements set forth in rules adopted by the state engineer.
- (3)
 - (a) The state engineer may require the owner to:
 - (i) submit a formal operating plan for the initial filling of the reservoir; or
 - (ii) follow certain procedures during the initial filling of the reservoir.
 - (b) Failure to submit the operating plan or follow the specified procedures shall result in revocation of the final approval.

Enacted by Chapter 319, 1990 General Session

**Part 4
Operations**

73-5a-401 Records and reports.

The state engineer may make rules requiring the owner of any dam to:

- (1) maintain records pertaining to the construction, operation, or maintenance of the dam; or
- (2) submit:
 - (a) reports to the state engineer regarding maintenance, operation, or instrumentation readings;
or
 - (b) any other data considered necessary by the state engineer.

Enacted by Chapter 319, 1990 General Session

73-5a-402 Standard operating plans required.

The owner of each dam shall prepare a standard operating plan for the dam. In the case of a dam in operation prior to May 1, 1991, the standard operating plan shall be submitted to the state engineer for his approval by May 1, 1994. In the case of any dam beginning operations on or after May 1, 1991, the standard operating plan shall be submitted to the state engineer for his approval prior to the final inspection.

Enacted by Chapter 319, 1990 General Session

73-5a-403 State engineer to specify contents of standard operating plans.

By May 1, 1991, the state engineer shall adopt rules specifying the contents of standard operating plans.

Enacted by Chapter 319, 1990 General Session

Part 5 Inspection of Dams

73-5a-501 State engineer to inspect dams.

- (1) The state engineer shall inspect each dam that in the state engineer's opinion, if it failed:
 - (a) poses a threat to human life; or
 - (b) could cause significant property damage.
- (2) An inspection required by Subsection (1) shall occur:
 - (a) at increments commensurate with the relative risk to life and property; and
 - (b) not less than once every five years.
- (3) The state engineer may inspect a dam that is not exempt from regulation by this chapter.

Amended by Chapter 168, 2019 General Session

73-5a-502 Legislative findings -- Immunity from suit -- State engineer to set minimum standards for existing high hazard dams -- Exceptions -- Investigations and plans for compliance with minimum standards.

- (1) The Legislature finds that:
 - (a) it is in the interest of the people of the state to improve the safety of existing dams;

- (b) mutual irrigation companies and water users associations cannot afford to bring dams into conformance with the state's current minimum safety standards without financial assistance from the state;
 - (c) due to limited financial, physical, and human resources, it is necessary to establish priorities for the upgrade of dams; and
 - (d) the state and its officers and employees are immune from suit for any injury or damage resulting from the exercise or performance or the failure to exercise or perform any function pursuant to this chapter.
- (2) The state engineer shall establish minimum standards for existing high hazard dams by rule. The standards for existing high hazard dams may differ from the design criteria established for new construction.
- (3) No seismic standards shall be established for existing high hazard dams within the flood control use classification.
- (4)
- (a) In implementing this section, the state engineer will develop a priority list of high hazard dams. The list will be determined by calculating the relative anticipated breach flows in the event of a dam failure. The dams will be ranked from the largest breach flow to the smallest for all high hazard dams.
 - (b) The state engineer shall investigate annually 25 dams on the priority list in order of their ranking to determine in what areas they are deficient or do not meet minimum standards.
 - (c) Once a determination is made, the owner will be notified that the owner will be required to undertake investigations to determine requirements necessary to bring the dam into compliance with minimum standards.
 - (d) Once the owner has been informed of the deficiencies of the dam, the owner will be given 90 days to respond, in writing, as to what steps the owner is taking to investigate the deficiencies and the time required to complete the investigations.
 - (e) The state engineer will review the proposal, and if it appears reasonable, will approve it.
- (5) The state engineer may not require any mutual irrigation company or water users association to upgrade a dam in conformance with minimum standards, unless a grant to pay for 80% of the costs is made available from the Board of Water Resources.

Amended by Chapter 264, 1996 General Session

73-5a-503 Owners required to perform maintenance -- Orders to protect life and property.

- (1) Following an inspection, the state engineer shall specify what maintenance is necessary to keep the dam and appurtenant structures in satisfactory condition, and the owner of the dam shall be responsible for that maintenance.
- (2) Depending upon the severity of problems specified under Subsection (1), the state engineer may issue orders for:
 - (a) engineering studies;
 - (b) repairs;
 - (c) storage limitations;
 - (d) removal of the dam;
 - (e) breaching of the dam; or
 - (f) any other remedy the state engineer determines is appropriate to protect life and property.

Amended by Chapter 168, 2019 General Session

Part 6 Emergencies

73-5a-601 Emergency action plans required.

- (1) The owner of any dam which, in the state engineer's opinion, may pose a threat to life or cause significant damage to property if it fails shall prepare a plan of action to be implemented when an emergency involving the dam occurs.
- (2) In the case of a dam in operation prior to May 1, 1991, the emergency action plan shall be submitted to the state engineer for his approval by May 1, 1994.
- (3) In the case of a dam beginning operations on or after May 1, 1991, the emergency action plan shall be submitted to the state engineer prior to the date of the final inspection.

Enacted by Chapter 319, 1990 General Session

73-5a-602 State engineer to specify contents of emergency action plans.

By May 1, 1991, the state engineer shall adopt rules specifying the contents of an emergency action plan.

Enacted by Chapter 319, 1990 General Session

73-5a-603 Emergency power of state engineer.

- (1) The state engineer may intervene during dam emergencies if the owner of the dam cannot be found or is unwilling to take appropriate action. Intervention may occur only when, in the judgment of the state engineer, the condition of any dam is so dangerous to the safety of life or property as to not permit time for issuance and enforcement of any order.
- (2) Emergency actions may include:
 - (a) alerting appropriate public safety entities of the problem;
 - (b) draining the reservoir;
 - (c) hiring personnel or leasing equipment to undertake emergency operations; or
 - (d) taking other steps considered necessary to safeguard life and property.
- (3) Any expenses incurred in undertaking emergency operations shall be reimbursed by the owner of the dam.

Enacted by Chapter 319, 1990 General Session

Part 7 Enforcement and Penalties

73-5a-701 Notice of violation -- Order for corrective action.

- (1) If the state engineer determines that any person is violating any requirement of this chapter or the rules adopted under this chapter, the state engineer shall serve written notice upon the alleged violator which:
 - (a) specifies the violation; and
 - (b) alleges the facts constituting the violation.

- (2) After serving notice as required in Subsection (1), the state engineer may issue an order for necessary corrective action and file an action in the appropriate district court.

Enacted by Chapter 319, 1990 General Session

73-5a-702 Civil penalties -- Costs -- Civil liability.

- (1) Any person who violates this chapter or any lawful notice or order issued pursuant to this chapter shall be assessed a penalty not to exceed \$5,000 per violation in a civil proceeding.
- (2) In the case of a continuing violation, each day that the violation continues constitutes a separate and distinct offense.
- (3) Any person who violates this chapter shall be liable for any expenses incurred by the state engineer in abating any violation of this chapter.
- (4) A penalty assessment under this chapter does not relieve the person assessed from civil liability for claims arising out of any act which was also a violation.

Enacted by Chapter 319, 1990 General Session

**DEVELOPMENT AGREEMENT
FOR
SOUTHERN SHORES SUBDIVISION**

This DEVELOPMENT AGREEMENT FOR SOUTHERN SHORES SUBDIVISION is made and entered into on this ____ day of _____, 2022 by and between the City of Hurricane, Utah, a municipal corporation of the State of Utah (hereinafter referred to as “City”), and Desert Lakes, LLC, a Utah limited liability company (hereinafter referred to as “Developer”), and Southern Shores Homeowners Association, a Utah corporation, Utah (hereinafter referred to as “Owners”), collectively referred to as “the Parties.”

RECITALS

The development, Southern Shores Subdivision in Hurricane, Utah, which is comprised of approximately 79.976 acres of land more particularly described in Exhibit A, a copy of which is attached hereto and incorporated herein by this reference (the “Property”).

A. On November 19, 2020, City approved an application for a zone change, as shown in Exhibit B attached hereto and incorporated herein, subject to and conditioned upon the terms and conditions of a Development Agreement for Southern Shores Subdivision.

B. On February 20, 2020, City approved the preliminary plat attached hereto as Exhibit C.

C. On February 20, 2020, City approved, a Preliminary Site Plan attached hereto and incorporated herein as Exhibit D, which includes a dam and reservoir (the Project).

D. The Developer is willing to design and construct the Project in accordance with the preliminary plat and preliminary site plan and in a manner that is in harmony with and intended to promote the long-range policies, goals, and objectives of the City’s general plan, zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.

E. City and Developer desire to specify certain terms and conditions relating to construction of the dam and reservoir and the intentional or unintentional drainage or discharge of water from the reservoir.

F. City has authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.

G. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City ordinances.

H. This Agreement is generally consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City’s General Plan, Zoning

Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

I. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Parties with respect to development of the Property as expressed in this Agreement and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

J. The Parties understand and intend that this Agreement is a “development agreement” within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Developer hereby acknowledge, represent, covenant and agree as follows:

1. Incorporation of Recitals. The foregoing Recitals A-K are hereby incorporated herein as if fully set forth.
2. Development in Accordance with City Ordinances. Unless otherwise agreed by the Parties, the Project shall be developed in accordance with the preliminary plat, preliminary site plan and all City ordinances, procedures, rules and regulations.
3. Construction of Dam and Reservoir. The dam and reservoir to be constructed as part of the Project shall be designed, constructed, operated and maintained in accordance with all requirements set forth by Utah State Dam Safety. All work, permits, inspections, approvals and maintenance will be performed according to all current and future requirements of Utah Code Ann. Title 73, Chapter 5a, Parts 1-7 and Rule 655-10 of the Utah Administrative Rules.
4. Intentional Drainage or Discharge of Waters from Reservoir. Developer represents that it does not anticipate the intentional drainage or discharge of water from the reservoir onto adjoining lands or lands within the natural drainage area. In the event, however, that emergency or unforeseen circumstances require or result in such drainage or discharge, the following shall apply:
 - a. Developer shall provide to all affected landowners, the City of Hurricane and the Utah State Water Engineer thirty (30) days prior written notice of its intent to drain or discharge, along with a drainage or discharge plan describing the flow, route and duration of the discharge, the storm drain or other facilities planned to be used, and the method or means to ensure that such drainage shall not cause damage to the land of any other owner.

b. Developer shall secure a drainage permit from the City Engineer prior to drainage or discharge of any waters.

c. Developer shall conduct all drainage or discharge operations in compliance with all Utah State laws, rules and regulations, including any rules or requirements of the Utah State Water Engineer.

5. Liability for Damages Caused by Drainage or Discharge of Waters from Reservoir. The Developer shall be responsible and liable for any damages which accrue to any adjoining land or lands within the natural drainage area as a result of:

a. the intentional drainage or discharge of water from the reservoir as described in paragraph 4 above, or

b. the unintentional drainage or discharge of water from the reservoir as a result of dam failure or any other reason.

6. Indemnification. Developer shall indemnify, defend and hold harmless the City of Hurricane, its officers, employees and agents from and against any and all demands, claims, or causes of action which may be asserted against the City of Hurricane for injury or damages which are caused by or resulting from the intentional or unintentional discharge or drainage of waters from the reservoir onto adjoining lands or lands within the natural drainage area.

7. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: Desert Lakes, LLC
c/o Jason Christensen
321 N. Mall Dr. T102
St. George, Utah 84790

To the Owners: Southern shores Homeowners Association
C/o Brittany Christensen
4061 South 2420 East
St. George, Utah 84790

To the City: City of Hurricane
Attention: Kaden DeMille, City Manager
147 North 870 West
Hurricane, UT 84737

8. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Assignment. Developer agrees that CC&R's for the subdivision shall be recorded at the office of the Washington County Recorder's office at the time of recording of the subdivision final plat, and that all of Developer's rights, duties and obligations under this agreement shall be assigned, transferred and delegated to said homeowners association (Owners) which shall then become jointly and severally liable for compliance with all terms and conditions of this Agreement. Except as provided herein, Developer or said Owners shall not assign, transfer or delegate any of its rights, duties and obligations under this Agreement to any other person or entity without the written consent of City.

b. Owners' Agreement. Developer and owners shall be jointly responsible and liable for performance of all duties and obligations of Developer under this Agreement.

c. Insurance. Owners will obtain a liability insurance policy to cover damage caused by a dam malfunction or failure. The insurance policy will be first line of coverage. Any damages in excess of the policy will be the responsibility of the Owners. The policy type and amount of coverage shall be determined by the Owners.

d. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

e. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

f. Agreement to Run with the Land. This Agreement shall be recorded in the Office of the Washington County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

g. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

h. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

i. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

j. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

k. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

l. Merger. This Agreement contains the full and complete understanding and agreement of the Parties with respect to the subject matter contained herein, all prior discussions and negotiations having been merged into this Agreement.

m. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:
CITY OF HURRICANE

By: _____
Mayor

Attest:

City Recorder

DEVELOPER:
Desert Lakes, LLC

By: _____
Name: Cody Larkin
Title: Manager

By: _____
Name: Jason Christensen
Title: Manager

STATE OF UTAH)
 :SS
COUNTY OF UTAH)

On the ____ day of _____, 202_, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of Desert Lakes, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

Notary Public
Residing at:

Owners:
Southern Shores Homeowners Association

By _____
Brittany Christensen
Director

By _____
Jason Christensen
Director

By _____
William Cody Larkin
Director

STATE OF UTAH)
 :SS
COUNTY OF UTAH)

On the ____ day of _____, 202_, personally appeared before me Jason Christensen, who being by me duly sworn, did say that he is the President of BJ Christensen, Inc., a Utah corporation, and

that the within and foregoing instrument was signed on behalf of said corporation with proper authority and duly acknowledged to me that he executed the same.

Notary Public
Residing at:

STATE OF UTAH)
 :SS
COUNTY OF UTAH)

On the ____ day of _____, 202_, personally appeared before me Jason Christensen and Brittany Christensen, who being by me duly sworn, did each say that he/she executed the within and foregoing instrument for the reasons stated therein.

Notary Public
Residing at:

EXHIBIT A
Legal Description Parcel and Preliminary Plat:

DRAFT

EXHIBIT B
Zoning Amendment

DRAFT

EXHIBIT C
Site Plan

DRAFT



Recommended Ordinances to Extend Limited Water Supplies

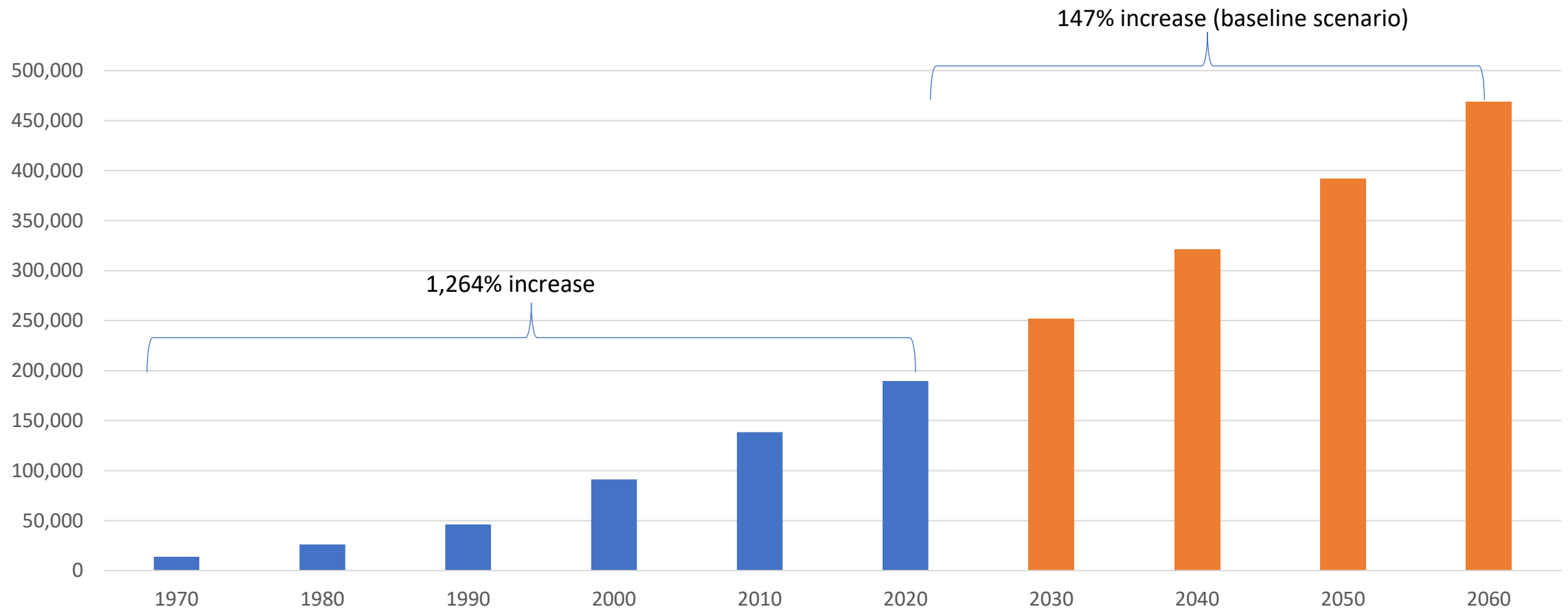
Zach Renstrom | City Council Meetings | September 2021

Water Supply

Washington County's major population centers are 100% dependent on the Virgin River basin, which is closed to further appropriations.



Population Growth





Water Conservation

- Washington County has decreased its water use by more than 30% since 2000
- First county to meet the statewide water conservation goal
- More than \$70 million invested in recent conservation efforts



District Recommendations

- Time-of-day watering ordinance
- Water waste ordinance
- Water efficiency standards for all new construction



Water Efficiency Standards

- Ongoing collaboration with all our municipal partners to ensure standards are consistent throughout the county
- Standards would apply to all **new** construction, including all homeowner association areas and those served by secondary irrigation water

Residential Standards

Applies to all new residential construction, including single and multi-family housing



Two options:

Traditional
Conservation

WaterSense
Certified

Residential Standards: Traditional

- Indoor requirements
 - Hot water recirculation system
 - WaterSense labeled fixtures
 - Energy Star appliances
 - Multi-family housing individually metered with the capability of tracking/reporting unit specific use





Residential Standards: Traditional

- Outdoor requirements
 - Limit irrigated landscape area to 2,500 square feet, lawn to 750 square feet
 - Pools, spas and other water features count toward 750 square feet unless covered
 - Install landscape specific meters at each property
 - Use a minimum number of approved water-efficient trees and shrubs; irrigate with a drip system
 - Install water-smart irrigation controllers
 - Avoid lawn on park strips, slopes greater than 25% and areas less than 8 ft wide
 - Require pool covers
 - Secure city verification

Residential Standards: Traditional Cost

Conservation Measure	Average Cost	Anticipated Water Savings (per gallon/year/home)
Hot water recirculation system	\$550	10,600
WaterSense toilet	\$0	1,900
WaterSense faucet	\$0	3,700
WaterSense showerhead	\$0	2,800
Energy Star dishwasher	\$100	400
Landscape modifications (separate meter, smart controller and more efficient landscape on 10,000 sq ft lot)	\$3,250	28,700
Pool cover	\$10,000	10,000

Residential Standards: Traditional Concept



Examples



10,300 sf lot



9,040 sf lot

Large Lot Examples



18,500 sq ft lot



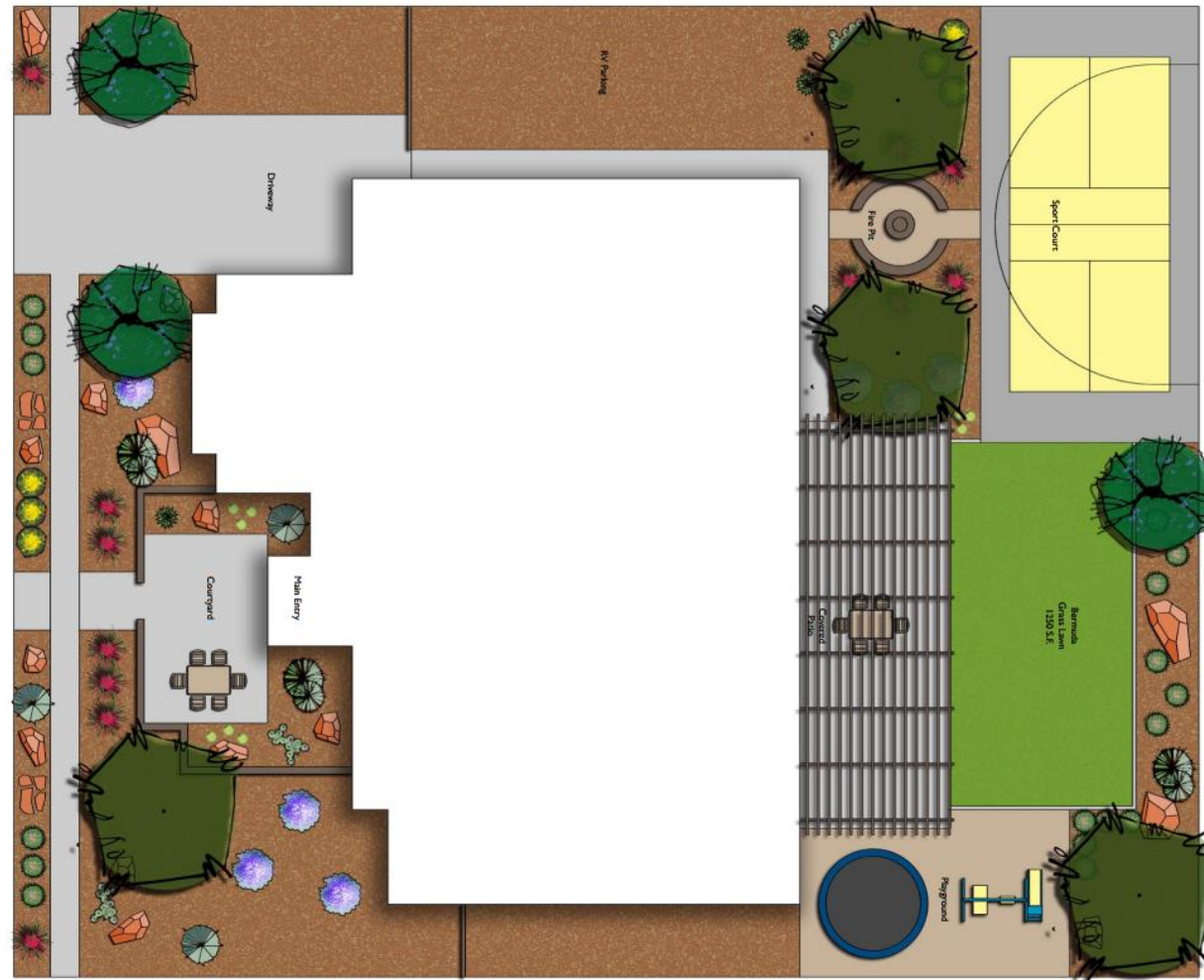
18,700 sq ft lot



Residential Standards: Certified

- Allows for greater flexibility
- Certification by approved verifier
- Additional costs

Residential Standards: Certified Concept



22,000 sq ft lot

Examples Requiring Certification



10,900 sq ft lot



18,200 sq ft lot



Commercial, Institutional and Industrial Standards

- Indoor requirements
 - Hot water recirculation system
 - WaterSense labeled fixtures
 - Energy Star appliances
 - Submeter all units
 - Recycle pumps at carwash facilities

Commercial, Institutional and Industrial Standards

- Outdoor requirements
 - Lawn prohibited unless a waiver is granted demonstrating a functional purpose
 - Install landscape specific meters at each property
 - Use only approved water-efficient trees and shrubs; irrigate via drip system
 - Install water-smart irrigation controllers
 - Enforce water budget and require use of secondary irrigation at golf courses
 - Prohibit decorative water features
 - Limit commercial misting systems for use from May – August
 - Secure city verification

Feedback, Q&A

wcwcd.org
info@wcwcd.org

Conservation Measure	Average Cost	Anticipated Water Savings (per gallon/year/home)
Hot water recirculation system	\$550	10,600
WaterSense toilet	\$0	1,900
WaterSense faucet	\$0	3,700
WaterSense showerhead	\$0	2,800
Energy Star dishwasher	\$100	400
Landscape modifications (separate meter, smart controller and more efficient landscape on 10,000 sq ft lot)	\$3,250	28,700
Pool cover	\$10,000	10,000



STAFF COMMENTS

Consideration and possible approval to **appoint Susan Lytle to the Beautification Committee**

Discussion:

Findings:

Recommendation:

Attachments:

None



STAFF COMMENTS

Discussion and possible **decision regarding the City Attorney and Prosecutor's positions**

Discussion:

Findings:

Recommendation:

Attachments:

None



STAFF COMMENTS

Consideration and possible **award of bid for Dixie Springs well materials including low carbon steel well casing** - Ken Richins

Discussion:

Earlier this fall, Hurricane City received bids for Dixie Springs well drilling and development. The apparent low bidder requested exceptions to the bid documents. As per our water engineer's recommendation, the City Council rejected all bids. Part of the issue with the original bids was material prices continually rising. To address the well driller's concerns the City received bids for materials including carbon steel well casing, stainless steel well screen, and gravel pack filler. By bidding the materials separately, the well drillers will not need to add extra for material inflation.

Findings:

The Water Department is asking the City Council to consider awarding the Dixie Springs Well material bids. Our intent is to bid the well drilling and development portion of this project next month.

Recommendation:

Attached is our Water Engineer's letter of recommendation.

Attachments:

1. Dixie Springs Well Materials Supply Bid Results Recommendation Signed
2. Dixie Springs Well Materials S Results Recommendation low carbon

January 14, 2022

Hurricane City Water Department
Attention: Ken Richins
646 West 600 North
Hurricane, Utah 84737

Re: Dixie Springs Well Materials Supply

Dear Ken:

Bids were received for the Dixie Springs Well Materials Supply project on January 7, 2022. Materials were bid in three categories, Gravel Pack, Low Carbon Steel Well Casing, and Stainless Steel Well Screen and Casing. Two materials bids were received for each category.

After reviewing the submitted bids we recommend the following:

Gravel Pack – Red Flint for a bid price of \$28,042.40

Stainless Steel Well Screen and Casing – Roscoe Moss for a bid price of \$97,565.00

Low Carbon Steel Casing – The low bid is Roscoe Moss for \$44,977.00, however Scholzen Products bid of \$46,491.15 is within 5% of the low bid. We understand the City Council may elect to award to a local supplier if their bid is within 5% of the low bid. If this is not the case, we recommend the Low Carbon Steel also be awarded to Roscoe Moss.

Enclosed are the bid tabulations for each material. We would note that due to the current market volatility it may be advisable to include some contingency for materials increases and shipping, depending on the timing of approval and ordering of the materials.

If you have any questions regarding this project, please call.

Sincerely,



Glen E. Carnahan, P.E.
ALPHA ENGINEERING COMPANY

Encl: Bid Tabulation Sheets

City of Hurricane
Dixie Springs Well - Materials Supply
Bid Tabulation - January 2022

BID SCHEDULE - Dixie Springs Well - Low Carbon Steel Well Casing

				Roscoe Moss		Scholzen		Western Hydro (Johnson Screen)	
Item	Description	Quantity	Units	Unit Price	Total	Unit Price	Total	Unit Price	Total
1	Furnish 26 Inch Diameter Carrier Casing	103	L.F.	\$219.00	\$22,557.00	\$163.05	\$16,794.15	\$0.00	\$0.00
2	Furnish 16 Inch Diameter Well Casing	380	L.F.	\$59.00	\$22,420.00	\$78.15	\$29,697.00	\$0.00	\$0.00
Total Bid Schedule					\$44,977.00		\$46,491.15		\$0.00



STAFF COMMENTS

Consideration and possible award of bid for the Dixie Springs well materials including stainless steel screen-Ken Richins

Discussion:

Earlier this fall, Hurricane City received bids for Dixie Springs well drilling and development. The apparent low bidder requested exceptions to the bid documents. As per our water engineer's recommendation, the City Council rejected all bids. Part of the issue with the original bids was material prices continually rising. To address the well driller's concerns, the City received bids for materials including carbon steel well casing, stainless steel well screen, and gravel pack filler. By bidding the materials separately, the well drillers will not need to add extra for material inflation.

Findings:

The Water Department is asking the City Council to consider awarding the Dixie Springs well material bids. Our intent is to bid the well drilling and development portion of this project next month.

Recommendation:

Attached is our Water Engineer's letter of recommendation.

Attachments:

1. Dixie Springs Well Materials S Results Recommendation stainless steel screen
2. Dixie Springs Well Materials Supply Bid Results Recommendation Signed

City of Hurricane
Dixie Springs Well - Materials Supply
Bid Tabulation - January 2022

BID SCHEDULE - Dixie Springs Well - Stainless Steel Well Screen and Casing

				Roscoe Moss		Western Hydro (Johnson Screen)	
Item	Description	Quantity	Units	Unit Price	Total	Unit Price	Total
1	Furnish 16 Inch Diameter Stainless Steel Well Screen	340	L.F.	\$188.00	\$63,920.00	\$245.47	\$83,461.16
2	Furnish 16 Inch Diameter Stainless Steel Blank Casing Spacers	80	L.F.	\$319.00	\$25,520.00	\$395.57	\$31,645.28
3	16" Stainless Steel End Cap	1	Each	\$730.00	\$730.00	\$180.00	\$180.00
4	Casing Guides, Low Carbon Steel	36	Each	\$14.00	\$504.00	\$0.00	\$0.00
5	Casing Guides, Stainless Steel	33	Each	\$27.00	\$891.00	\$0.00	\$0.00
6	Dielectric Coupler	1	Each	\$6,000.00	\$6,000.00	\$5,894.74	\$5,894.74
7	Casing Guides, Low Carbon Steel	160	Each	\$0.00	\$0.00	\$50.53	\$8,084.80
8	Casing Guides, Stainless Steel	160	Each	\$0.00	\$0.00	\$69.48	\$11,116.80
		Total Bid Schedule			\$97,565.00		\$140,382.78

January 14, 2022

Hurricane City Water Department
Attention: Ken Richins
646 West 600 North
Hurricane, Utah 84737

Re: Dixie Springs Well Materials Supply

Dear Ken:

Bids were received for the Dixie Springs Well Materials Supply project on January 7, 2022. Materials were bid in three categories, Gravel Pack, Low Carbon Steel Well Casing, and Stainless Steel Well Screen and Casing. Two materials bids were received for each category.

After reviewing the submitted bids we recommend the following:

Gravel Pack – Red Flint for a bid price of \$28,042.40

Stainless Steel Well Screen and Casing – Roscoe Moss for a bid price of \$97,565.00

Low Carbon Steel Casing – The low bid is Roscoe Moss for \$44,977.00, however Scholzen Products bid of \$46,491.15 is within 5% of the low bid. We understand the City Council may elect to award to a local supplier if their bid is within 5% of the low bid. If this is not the case, we recommend the Low Carbon Steel also be awarded to Roscoe Moss.

Enclosed are the bid tabulations for each material. We would note that due to the current market volatility it may be advisable to include some contingency for materials increases and shipping, depending on the timing of approval and ordering of the materials.

If you have any questions regarding this project, please call.

Sincerely,



Glen E. Carnahan, P.E.
ALPHA ENGINEERING COMPANY

Encl: Bid Tabulation Sheets



STAFF COMMENTS

Consideration and possible **award of bid for Dixie Springs well materials including well filter gravel pack**-Ken Richins

Discussion:

Earlier this fall, Hurricane City received bids for Dixie Springs well drilling and development. The apparent low bidder requested exceptions to the bid documents. As per our water engineer's recommendation, the City Council rejected all bids. Part of the issue with the original bids was material prices continually rising. To address the well driller's concerns, the City received bids for materials including carbon steel well casing, stainless steel well screen, and gravel pack filler. By bidding the materials separately, the well drillers will not need to add extra for material inflation.

Findings:

The Water Department is asking the City Council to consider awarding the Dixie Springs well material bids. Our intent is to bid the well drilling and development portion of this project next month.

Recommendation:

Attached is our Water Engineer's letter of recommendation.

Attachments:

1. Dixie Springs Well Materials Supply Bid Results Recommendation Signed
2. Dixie Springs Well Materials Supply Bid Results Recommendation gravel pack

January 14, 2022

Hurricane City Water Department
Attention: Ken Richins
646 West 600 North
Hurricane, Utah 84737

Re: Dixie Springs Well Materials Supply

Dear Ken:

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If you have any questions regarding this project, please call.

Sincerely,



Glen E. Carnahan, P.E.
ALPHA ENGINEERING COMPANY

Encl: Bid Tabulation Sheets

City of Hurricane
Dixie Springs Well - Materials Supply
Bid Tabulation - January 2022

BID SCHEDULE - Dixie Springs Well - Gravel Pack

				Red Flint		PW Gillibrand	
Item	Description	Quantity	Units	Unit Price	Total	Unit Price	Total
1	8-12 Filter Pack	1	L.S.	\$28,042.40	\$28,042.40	\$49,824.00	\$49,824.00
Total Bid Schedule					\$28,042.40		\$49,824.00



STAFF COMMENTS

Consideration and possible approval of a **Resolution appointing Nanette Billings as a representative on the Steering Committee** on The 5 County Board

Discussion:

Findings:

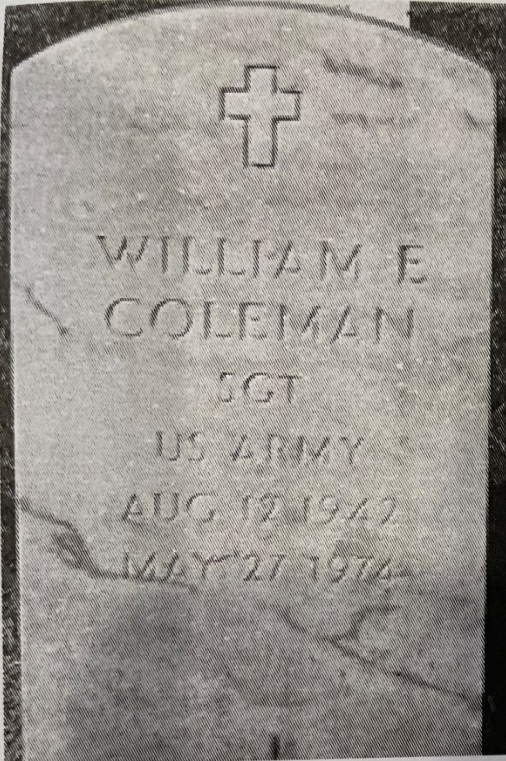
Recommendation:

Attachments:

None

ILLUSTRATIONS OF STANDARD GOVERNMENT

UPRIGHT HEADSTONE
WHITE MARBLE (U) OR
LIGHT GRAY GRANITE (V)



This headstone is 42 inches long, 13 inches wide and 4 inches thick. Weight is approximately 230 pounds. Variations may occur in stone color, and the marble may contain light to moderate veining.

BRONZE NICHE (Z)



This niche marker is 8-1/2 inches long, 5-1/2 inches wide, with 7/16 inch rise. Weight is approximately 3 pounds; mounting bolts and washers are furnished with the marker. Used for columbarium or mausoleum interment. Also provided to supplement a privately-purchased headstone or marker for eligible Veterans who died on or after November 1, 1990 and are buried in a private cemetery.

GOVERNMENT HEADSTONES AND MARKERS

FLAT MARKERS

E (Z)

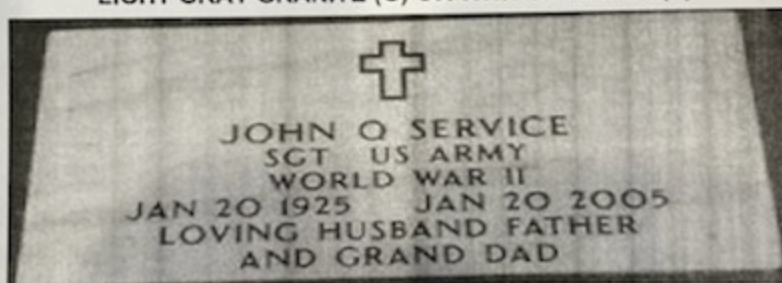
BRONZE (B)



2 inches long,
7/16 inch rise.
y 3 pounds;
washers are
er. Used for
um interment.
pplement a
eadstone or
rans who died
1990 and are
ery.

This grave marker is 24 inches long, 12 inches wide, with 3/4 inch rise. Weight is approximately 18 pounds. Anchor bolts, nuts and washers for fastening to a base are furnished with the marker. The base is not furnished by the Government.

LIGHT GRAY GRANITE (G) OR WHITE MARBLE (F)



This grave marker is 24 inches long, 12 inches wide, and 4 inches thick. Weight is approximately 130 pounds. Variations may occur in stone color; the marble may contain light to moderate veining.

SMALL FLAT GRANITE (L)



This grave marker is 18 inches long, 12 inches wide, and 3 inches thick. Weight is approximately 70 pounds. Variations may occur in stone color.

In addition to the headstone and markers pictured, two special styles of upright headstones are provided for those who served in the Spanish American War. Another style headstone is



STAFF COMMENTS

Discussion and possible decision regarding **renewing the contract with Granicus-Cindy Beteag**

Discussion:

Through Granicus Host Compliance, Hurricane City is currently able to track 502 short-term rentals around the city. Of these, 195 are compliant, 118 are non-compliant, and 197 are undetermined.

Granicus combs through Airbnb, VRBO, flipkey, and other sites to find postings of short-term rentals within Hurricane. Using the pictures provided on their profiles, Granicus will identify the property and property owners through the county database and allow city staff to automatically send letters to non-compliant properties. Granicus also tracks stays at properties using reviews left on their profiles.

City staff has sent out 241 warning letters through Granicus, which has produced at least 56 newly compliant properties.

Granicus also provides a 24/7 hotline and complaint portal on the city website to report nuisances occurring at short-term rentals throughout the city. The hotline has received 73 complaints about either illicit short-term rentals or nuisances at short-term rentals. Most of the nuisances have been handled by city staff to all parties' satisfaction.

Findings:

The City staff finds that Granicus is vital in code enforcement for short-term rentals throughout Hurricane City.

Recommendation:

Staff recommends continuing with Granicus. If not, we would need someone dedicated full-time just for vacation rentals.

Attachments:

1. Granicus Agreement

Granicus Proposal for Hurricane, UT

Granicus Contact

Name: Eric Brown

Phone: (415) 278-7449

Email: eric.brown@granicus.com

Proposal Details

Quote Number: Q-129376

Prepared On: 3/19/2021

Valid Through: 3/26/2021

Pricing

Payment Terms: Net 30 (Payments for subscriptions are due at the beginning of the period of performance.)

Currency: USD

Period of Performance: The term of the Agreement will commence on the date this document is signed and will continue for 12 months.

One-Time Fees

Solution	Billing Frequency	Quantity/Unit	One-Time Fee
Address Identification - Setup and Configuration	Up Front	1 Each	\$0.00
Address Identification - Online Training	Up Front	1 Each	\$0.00
24/7 Hotline - Setup and Configuration	Up Front	1 Each	\$0.00
24/7 Hotline - Online Training	Up Front	1 Each	\$0.00
Compliance Monitoring - Setup and Configuration	Up Front	1 Each	\$0.00
Compliance Monitoring - Online Training	Up Front	1 Each	\$0.00
Mobile Permitting & Registration - Setup and Configuration	Up Front	1 Each	\$0.00
Mobile Permitting & Registration - Online Training	Up Front	1 Each	\$0.00
Rental Activity Monitoring - Setup and Configuration	Up Front	1 Each	\$0.00
Rental Activity Monitoring - Online Training	Up Front	1 Each	\$0.00
SUBTOTAL:			\$0.00

Annual Fees for New Subscriptions

Solution	Billing Frequency	Quantity/Unit	Annual Fee
Address Identification	Annual	1,047 Rental Listings	\$23,557.50
24/7 Hotline	Annual	480 Rental Units	\$4,896.00
Compliance Monitoring	Annual	480 Rental Units	\$6,120.00
Mobile Permitting & Registration	Annual	1 Each	\$5,000.00
Rental Activity Monitoring	Annual	480 Rental Units	\$8,160.00
SUBTOTAL:			\$47,733.50

Product Descriptions

Name	Description
Address Identification	Service to systematically identify the addresses and owner's contact information for short-term rentals located in a specific local government's jurisdiction. Data provided in the form of a online software platform which makes it easy to access the complete property and owner address information and screenshots for all identifiable short-term rental units.
24/7 Hotline	Mobile-enabled online platform for neighbors to report, prove and get instant resolution to non-emergency short-term rental related problems. <i>Rental listings are defined as advertisements on short term rental sites (Airbnb, VRBO, etc.)</i> <i>Rental units and Rental listing quantities reflect a monthly average from the previous 10-12 months based on the availability of data.</i>
Compliance Monitoring	Ongoing monitoring of a specific jurisdiction's short-term rentals for compliance with the relevant registration/licensing/permitting requirements. In practice this involves the matching and cross-referencing of Host Compliance's always up-to-date database of actively listed short-term rentals, with the jurisdiction's database of properly registered/licensed/permited short-term rentals.
Mobile Permitting & Registration	Mobile-enabled online forms and back-end systems for streamlining the registration/licensing/permitting of individual short-term rental hosts and capturing and processing the associated signatures, payments and required documentation
Rental Activity Monitoring	Ongoing monitoring of Short-term Rental listings for signs of rental activity. Makes it easy to identify highly utilized properties, high-grossing short-term rental properties and other high value tax audit candidates

Product Descriptions

Name	Description
Address Identification - Setup and Configuration	Setup and configuration of the platform to facilitate the systematic identification of the addresses and owner's contact information for short-term rentals located in a specific local government's jurisdiction.
Address Identification - Online Training	Virtual training session with a Granicus professional services trainer.
24/7 Hotline - Setup and Configuration	Setup and configuration of the online platform to enable neighbors to report, prove and get instant resolution to non-emergency short-term rental related problems.
24/7 Hotline - Online Training	Virtual training session with a Granicus professional services trainer.
Compliance Monitoring - Setup and Configuration	Setup and configuration of the system to enable ongoing monitoring of a specific jurisdiction's short-term rentals for compliance with the relevant registration/licensing/permitting requirements.
Compliance Monitoring - Online Training	Virtual training session with a Granicus professional services trainer.
Mobile Permitting & Registration - Setup and Configuration	Setup and configuration of mobile-enabled online forms and back-end systems for streamlining the registration/licensing/permitting of individual short-term rental hosts and capturing and processing the associated signatures, payments and required documentation
Mobile Permitting & Registration - Online Training	Virtual training session with a Granicus professional services trainer.
Rental Activity Monitoring - Setup and Configuration	Setup and configuration of ongoing monitoring of Short-term Rental listings for signs of rental activity.
Rental Activity Monitoring - Online Training	Virtual training session with a Granicus professional services trainer.

Terms and Conditions

- Link to Terms: https://granicus.com/pdfs/Master_Subscription_Agreement.pdf
- This quote is exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is the responsibility of Hurricane, UT to provide applicable exemption certificate(s).
- Any lapse in payment may result in suspension of service and will require the payment of a setup fee to reinstate the subscription.
- If submitting a Purchase Order, please include the following language: All pricing, terms and conditions of quote Q-129376 dated 3/19/2021 are incorporated into this Purchase Order by reference.
- Granicus certifies that it will not sell, retain, use, or disclose any personal information provided by Client for any purpose other than the specific purpose of performing the services outlined within this Agreement.
- Notwithstanding anything to the contrary, Granicus reserves the right to adjust pricing at any renewal in which volume based pricing is used and the volume has changed from the prior term without regard to the prior term's per-unit pricing.

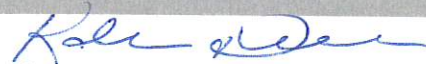
Agreement and Acceptance

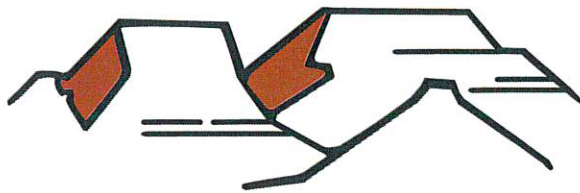
By signing this document, the undersigned certifies they have authority to enter the agreement. The undersigned also understands the services and terms.

Billing Information

Name: Hurricane City
Phone: 435-635-2811 x 102
Email: Kathy@CityofHurricane.com
Address: 147 N. 870 West
Hurricane, UT. 84737

Hurricane, UT

Signature: 
Name: KADEN DEMME
Title: CITY MANAGER
Date: 03/22/21



PLANNING & ZONING
HURRICANE CITY
UTAH

Amended Final Plat Application

Date: 01/03/2022 Permit #: 77

Applicant / Owner

Applicant Name: Greg Sant - Perry Development
LLC
Address: 2250 N Coral Canyon Blvd Ste
215
City, State, Zip: Washington
Phone: 4352519090
Email: greg.perryhomesutah@gmail.com

Owner Name: Perry Development LLC
Address: 2250 N Coral Canyon Blvd Ste
215
City, State, Zip: Washington
Phone: 4352519090
Email: greg.perryhomesutah@gmail.com

Property / Agent

Property Address:
City, State, Zip: ,
Tax ID: H-3-1-130-320
Number of Lots: 80
Subdivision:
Phase: Phases 3 and 4

Agent Name: Greg Sant
Address: 2250 N Coral Canyon Blvd Ste
215
City, State, Zip: Washington
Phone: 4352519090
Email: greg.perryhomesutah@gmail.com

I do hereby certify that the information contained herein is true and correct.

Greg Sant
Name

2022-01-03
Date

Agenda Date:	01/20/22
Application Number:	2022-PP-02
Type of Application:	Preliminary Plat Application
Action Type:	Administrative
Applicant:	Greg Sant- Perry Development LLC
Agent:	
Request:	Preliminary Plat Application
Location:	600 N and 3100 W
Zoning:	R1-6
General Plan Map:	Single Family Residential

Planning Commission Recommendation

The Planning Commission gave a positive recommendation on the preliminary plat with the following conditions:

- The plat complies with Staff comments including for transportation connection and active transportation.
- That the City and the applicant is able to reach an agreement about access to the power lines that run along the south of the property.

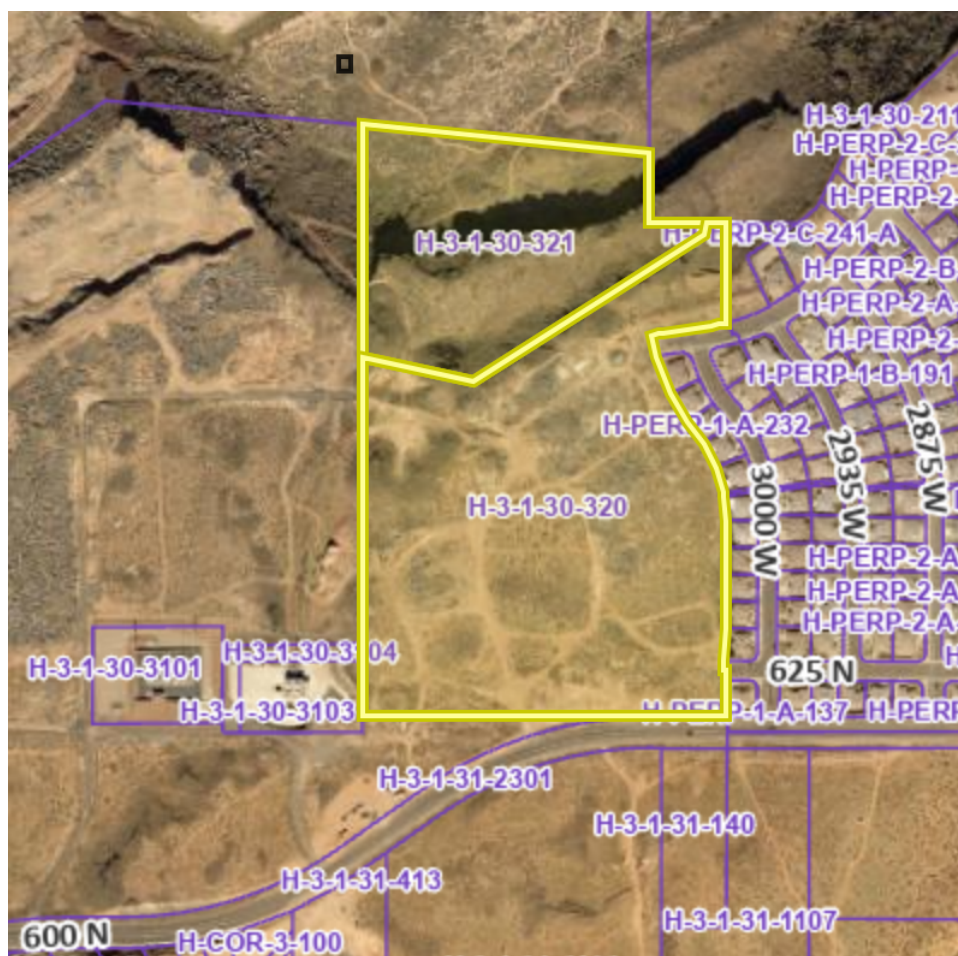
Discussion: The applicant is seeking a preliminary plat for an 18.24 acre 80 lot preliminary plat located just west of Peregrine Point. The applicant has received preliminary approval for the majority of the development and has begun construction. The applicant is seeking an update to allow for the following changes:

1. Adding a roadway and connection with an additional six lots on the southwest corner of the project.
2. Changing the hammerhead in the north to a cul-de-sac.
3. The phase lines have been changed, from four phases to three.

JUC Comments

Construction Drawings have been approved and construction has begun on the project. However, the JUC had the following comments on the updated layout:

1. **Power:** Overhead power in the area along the southern boundary. Not okay with Phase 3 cul-de-sac (now shown as a roadway stubbed to the south).
2. **Water:** Make sure looping is fine
3. **Streets:** Want to see it connect through Interstate Rock's property to the south
4. **Sewer:** No concerns
5. **Engineering:** Access to overhead power lines along the southern boundary is vital. There needs to be additional access to 600 N and through to the south.
6. **Fire:** No fire hydrants in the bulbs of cul-de-sacs. Needs to be on the flats
7. **Water Conservancy:** Line runs along the southern boundary. Lot 61 is placed on their box and thus cannot have structures there.



Staff Comments:

1. The minimum lot size in an R1-6 zone is 4,800 sq. ft. with an average of 6,000 sq. ft. The development meets these standards.
2. The applicant has shown the typical cross-sections for the roads on the plat except for a 58' section for Cliff Hanger Drive. On Cliff Hanger Drive, instead of providing a sidewalk on both sides of the roadway, is providing a 12' sidewalk (trail) on the south side of the road. This is to match Hurricane's Active Transportation Plan and will connect to other trails in the area.

3. The applicant has provided a tentative plan or method by which the subdivider proposes to handle the stormwater drainage for the subdivision.
4. **Roadway Connections:** The applicant is providing a direct connection to the development to the east. These roadway connections are sufficient for the development. One of the main reasons that the project left the southwest section off the original drawings was that the City recommended that the applicant work with Interstate Rock to the south to bend the road and align an intersection with Sky Valley Townhomes on 600 N. Staff would still make that recommendation with this application. The applicant updated the plat last week and presented that update to the Planning Commission including the section to the south. The updated plat addresses staff concerns, but staff is reviewing the alignment.
5. The project is in a tortoise take area. Therefore, the applicant will need to fill out an applicant with the Red Rock Reserve (attached for reference) and clear the property of any desert tortoises before any construction may begin. This has taken place.
6. The plat does not note a list of preliminary Geologic Hazard reports as required. However, the applicant has submitted a full geologic study that has been reviewed and approved by City staff.
7. **Power:** There is a major and historic power line that runs along the south of the boundary. Power has expressed concerns about long-term access to this line without a proper easement and access corridor. During the original review of the plat and construction drawings for this development, an easement was not required. However, since construction has begun, concerns have been raised by the power department. Power is currently performing a title search to see if there are any old easements and setbacks that have been recorded, but at the time of this report, none are known. Power and city staff recommend that the City and applicant come to an agreement about securing access to these lines as part of this amended preliminary plat. The powerline and the approved lot layout is shown below.



8. **Three Rivers Trail:** The City has planned a 12' wide trail in the area. Below is a picture of the main alignment and the alternative alignment (the alternative alignment approximate and exact layout has not been approved). Both trails are on the new Active Transportation Master Plan

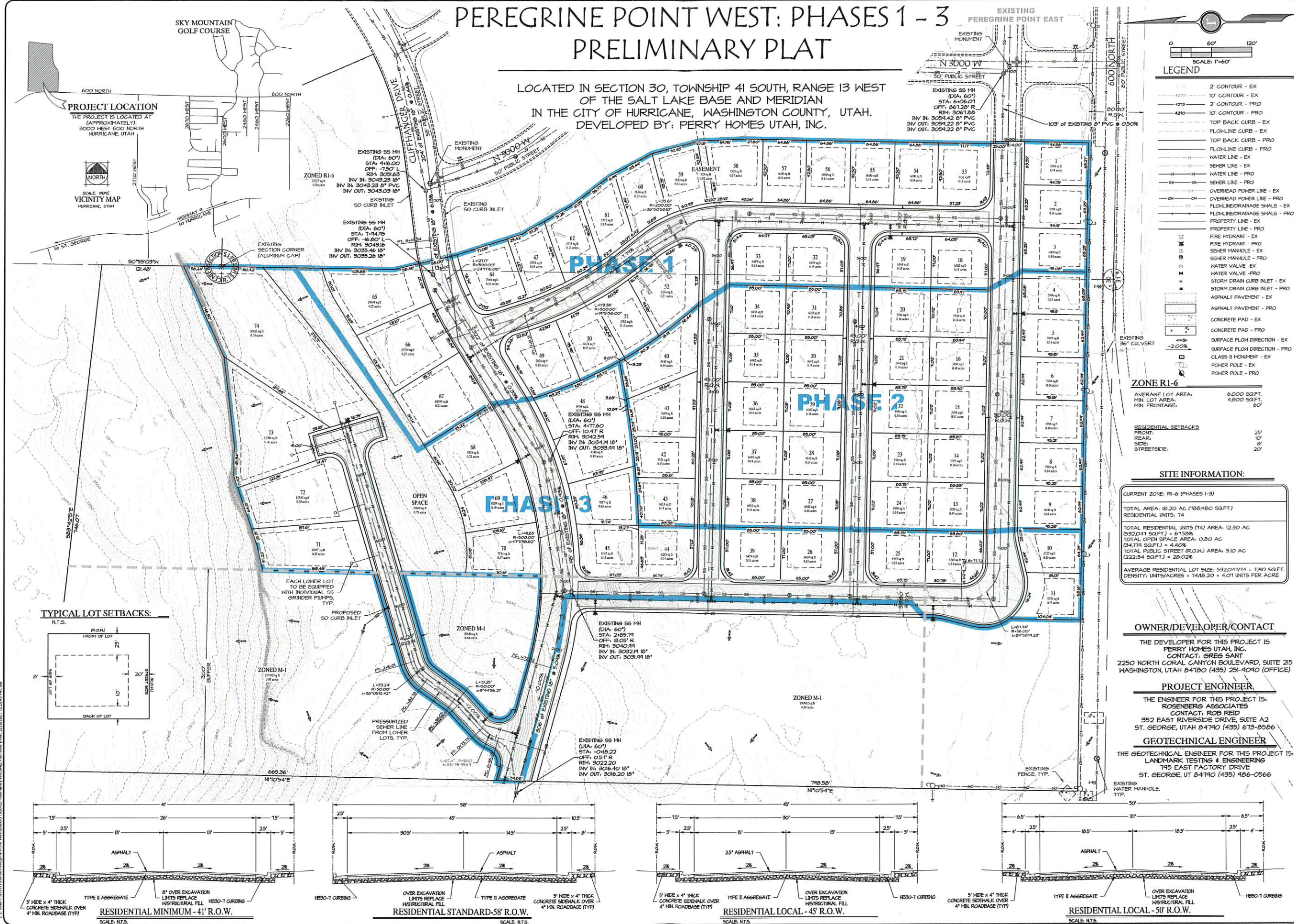


Recommendation: Staff recommends the City Council review this application based on standards with Hurricane City Code. Staff would recommend approval with the following conditions:

- That the updated Active Transportation Master Plan is followed
- That the applicant provides a roadway stub south to align with Sky Valley Townhomes
- That the applicant complies with other JUC and staff comments.
- That the City and the applicant resolve the concerns about access to the power line the runs along the south of the property.

EXISTING
PEREGRINE POINT EAST

EXISTING
PEREGRINE POINT EAST

[illegible]

LOCATED IN SECTION 30, TOWNSHIP 41 SOUTH, RANGE 13 WEST
OF THE SALT LAKE BASE AND MERIDIAN
IN THE CITY OF HURRICANE, WASHINGTON COUNTY, UTAH.
DEVELOPED BY: PERRY HOMES UTAH, INC.

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