# MEMORANDUM

TO: File - Resolution 00-23

FROM: Gina Peterson, Deputy Recorder

DATE: January 2000

SUBJECT: Original Resolution

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The original copy of this resolution is in the bond book, custody of Kent Clark, City Recorder. Bond attorneys, Ballard, Spahr also have an original copy.

Spanish Fork, Utah

August 22, 2000

The City Council (the "Council") of Spanish Fork City, Utah County, Utah (the "City"), met in regular public session at the regular meeting place of the Council in Spanish Fork City, Utah, on August 22, 2000, at the hour of 5:00 p.m. with the following members of the Council being present:

| | |
|---|---|
| Dale R. Barney | Mayor |
| Sherman E. Huff | Councilmember |
| Glenn A. James | Councilmember |
| Roy L. Johns | Councilmember |
| Everett Kelepolo | Councilmember |
| Lillian J. Shepherd | Councilmember |

Also present:

| | |
|---|---|
| David A. Oyler | City Manager |
| S. Junior Baker | City Attorney |
| Kent R. Clark | City Recorder |

Absent:

After the meeting had been duly called to order and after other matters not pertinent to this resolution had been discussed, the City Recorder presented to the Council a Certificate of Compliance With Open Meeting Law with respect to this August 22, 2000 meeting, a copy of which is attached hereto as Exhibit "A".

The City Attorney then stated that the meeting was called for the purpose, among other things, of considering competitive bids received for the purchase of the City's $9,230,000 Electric Revenue Bonds, Series 2000, and authorizing the sale of the said Bonds.

The Council was then advised that, pursuant to public notice, electronic bids had been received on the Bloomberg Terminal Service on the date hereof, at the Salt Lake

office of Zions Bank Public Finance. Prior to the meeting of the Council the bids were examined to determine compliance with the Official Notice of Bond Sale.

The qualifying bids are described in Exhibit "G" attached hereto.

After due deliberation, it was determined that the bid of Zions First National Bank was the best and most advantageous bid submitted for the purchase of said Bonds, whereupon the following Resolution was considered, fully discussed and, pursuant to motion made by Sherman E. Huff, and seconded by Everett Kelepolo, was adopted by the following vote:

AYE: Dale R. Barney
Sherman E. Huff
Glenn A. James
Roy L. Johns
Everett Kelepolo
Lillian J. Shepherd

NAY: None

Thereupon, the following resolution was introduced in written form, discussed in full, and pursuant to motion made by Councilmember Sherman E. Huff and seconded by Councilmember Everett Kelepolo, adopted by the following vote:

AYE: Dale R. Barney
Sherman E. Huff
Glenn A. James
Roy L. Johns
Everett Kelepolo
Lillian J. Shepherd

NAY: None

A RESOLUTION OF THE CITY COUNCIL OF SPANISH FORK CITY, UTAH COUNTY, UTAH (THE "ISSUER") FINALIZING THE TERMS AND CONDITIONS OF THE ISSUANCE AND SALE BY THE ISSUER OF ITS ELECTRIC REVENUE BONDS, SERIES 2000 IN THE AGGREGATE PRINCIPAL AMOUNT OF $9,230,000; AWARDING AND CONFIRMING THE SALE OF SAID SERIES 2000 BONDS; AUTHORIZING THE EXECUTION BY THE ISSUER OF A GENERAL INDENTURE OF TRUST, A FIRST SUPPLEMENTAL INDENTURE OF TRUST, AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AUTHORIZING AND APPROVING AN OFFICIAL STATEMENT; RATIFYING AND APPROVING THE USE OF AN OFFICIAL NOTICE OF BOND SALE AND A PRELIMINARY OFFICIAL STATEMENT; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THIS RESOLUTION; PROVIDING A SEVERABILITY CLAUSE; REPEALING RESOLUTIONS AND ORDERS IN CONFLICT; PROVIDING AN EFFECTIVE DATE; AND RELATED MATTERS.

WHEREAS, pursuant to the provisions of the Utah Municipal Bond Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended (the "Act"), the City Council (the "Council") of Spanish Fork City, Utah County, Utah (the "Issuer"), has authority to issue bonds for the municipal purposes set forth therein; and

WHEREAS, the Issuer owns and operates an existing electric utility system (the "System"), and desires to finance (i) the acquisition of an undivided interest in a new power substation for use in the System and (ii) the acquisition and installation of a hybrid fiber coaxial system (HFC) and necessary equipment and facilities to permit the use of said HFC system in connection with the System and for high speed internet access and information transfer and to provide cable TV service (collectively, the "Series 2000 Project") all in furtherance of the purposes of the Issuer's System and to facilitate the development and use of the System; and

WHEREAS, in order to accomplish the purposes set forth above, the Issuer desires to issue its Electric Revenue Bonds, Series 2000 (the "Series 2000 Bonds") in the aggregate principal amount of $9,230,000 pursuant to this Resolution, a General Indenture of Trust dated as of August 1, 2000 between the Issuer and Zions First National Bank as Trustee (the "Trustee"), in substantially the form presented to the meeting at which this Resolution was adopted and which is attached hereto as Exhibit "B" (the "General Indenture"), and the First Supplemental Indenture of Trust dated as of August 1, 2000 between the Issuer and the Trustee, in substantially the form presented to the meeting at which this Resolution was adopted and which is attached hereto as Exhibit "C" (the "First Supplemental Indenture"); and

WHEREAS, by Resolution adopted June 6, 2000 (the "Parameters Resolution"), the Council approved the preparation and use of a Preliminary Official Statement with respect to the Bonds and other offering material for the sale of the Series 2000 Bonds; and

WHEREAS, pursuant to the direction contained in the Parameters Resolution, the Issuer has distributed a Preliminary Official Statement dated August 9, 2000 (the "Preliminary Official Statement") and an Official Notice of Bond Sale dated August 9, 2000 (the "Notice of Bond Sale") with respect to the Series 2000 Bonds; and

WHEREAS, the Council desires to ratify the use and distribution of the Preliminary Official Statement and the Official Notice of Bond Sale copies of which are attached hereto as Exhibits "D" and "E", respectively; and

WHEREAS, the Council desires to approve a Final Official Statement with respect to the Series 2000 Bonds and other documents relating thereto; and

WHEREAS, competitive bids have been received by public sale for the purchase of the Series 2000 Bonds in accordance with the Notice of Bond Sale; and

WHEREAS, the Council has determined that of the qualifying bids received pursuant to the Notice of Bond Sale and attached hereto as Exhibit "G", the bid of Zions First National Bank (the "Purchaser") is the best and most advantageous bid for the purchase of the Series 2000 Bonds; and

WHEREAS, in the opinion of the Council, it is in the best interest of the Issuer that said bid be accepted and sale of the Bonds to the Purchaser be confirmed; and

WHEREAS, the Issuer desires to sell the Series 2000 Bonds to the Purchaser upon the terms set forth in the Notice of Bond Sale and the bid of the Purchaser; and

WHEREAS, the Series 2000 Bonds shall be payable solely from the Net Revenues and other moneys pledged therefor in the General Indenture and the First Supplemental Indenture (collectively, the "Indenture"), and shall not constitute or give rise to a general obligation or liability of the Issuer or constitute a charge against its general credit or taxing powers:

NOW THEREFORE, IT IS HEREBY RESOLVED by the City Council of Spanish Fork City, Utah County, Utah, as follows:

Section 1. The terms defined or described in the recitals hereto shall have the same meanings when used in the body of this Resolution.

Section 2. All actions heretofore taken (not inconsistent with the provisions of this Resolution), by the Issuer and by the officers of the Issuer directed toward the issuance and sale of the Series 2000 Bonds, are hereby ratified, approved and confirmed.

Section 3. The General Indenture attached hereto as Exhibit "B" and the First Supplemental Indenture attached hereto as Exhibit "C" are in all respects hereby authorized and approved, and the Mayor and City Recorder are hereby authorized and directed to execute and deliver the same on behalf of the Issuer.

Section 4. For the purpose of (i) financing the Project; and (ii) paying costs of issuance associated with the Series 2000 Bonds, the Issuer hereby authorizes the issuance of the Series 2000 Bonds which shall be designated "Spanish Fork City, Utah County, Utah Electric Revenue Bonds, Series 2000".

Section 5. The Issuer hereby authorizes the issuance of the Series 2000 Bonds in the aggregate principal amount of $9,230,000. The Series 2000 Bonds shall bear interest, shall be dated, shall be issued as fully registered Bonds, shall mature on the dates and in the amounts and be subject to redemption, all as provided in the General Indenture and the First Supplemental Indenture.

Section 6. The form, terms and provisions of the Series 2000 Bonds and the provisions for the signatures, authentication, payment, registration, transfer, exchange, redemption and number shall be as set forth in the Indenture. The Mayor and City Recorder are hereby authorized and directed to execute and seal the Series 2000 Bonds and to deliver said Bonds to the Trustee for authentication. The signatures of the Mayor and the City Recorder may be by facsimile or manual execution.

Section 7. The appropriate officials of the Issuer are hereby authorized and directed to execute and deliver to the Trustee the written order of the Issuer for authentication and delivery of the Series 2000 Bonds in accordance with the provisions of the Indenture.

Section 8. The Issuer hereby ratifies and reaffirms the utilization of the Preliminary Official Statement in the form attached hereto as Exhibit "D" and the Notice of Bond Sale in the form attached hereto as Exhibit "E" in the marketing of the Series 2000 Bonds and hereby approves the final Official Statement in the form attached hereto as Exhibit "F". The Mayor is hereby authorized to execute the final Official Statement evidencing its acceptance by the Issuer.

Section 9. The bid of the Purchaser for the purchase of the Series 2000 Bonds is hereby accepted, and the Series 2000 Bonds shall be sold to the Purchaser in accordance with the terms of the Notice of Bond Sale and the bid of the Purchaser presented to the Issuer. The bid of the Purchaser offers to purchase the Bonds at a price of $9,209,874.65 (being the par amount thereof, plus original issue premium of $16,610.05, less an

underwriter's discount of $36,735.40), plus accrued interest. It is hereby found, determined and declared, after public advertisement for bids for the purchase of said Bonds, that said bid is the best and most advantageous bid received and that the Series 2000 Bonds, when issued at the interest rates stated in the bid, will bear interest at the lowest rate now obtainable. The Bonds shall be delivered to Purchaser following the adoption of this Resolution, pursuant to due payment therefor in accordance with the terms of sale.

Section 10. Upon their issuance, the Series 2000 Bonds will constitute special limited obligations of the Issuer payable solely from and to the extent of the sources set forth in the Series 2000 Bonds and the Indenture. No provision of this Resolution, the Indenture, the Series 2000 Bonds, or any other instrument, shall be construed as creating a general obligation of the Issuer, or of creating a general obligation of the State of Utah or any political subdivision thereof, or as incurring or creating a charge upon the general credit of the Issuer or its taxing powers.

Section 11. The appropriate officials of the Issuer, and each of them, are hereby authorized and directed to execute and deliver for and on behalf of the Issuer any or all additional certificates, documents and other papers and to perform all other acts they may deem necessary or appropriate in order to implement and carry out the matters authorized in this Resolution and the documents authorized and approved herein, including, without limitation, a Guaranty Agreement relating to the provision of a reserve fund surety bond for the Series 2000 Bonds between the Issuer and Ambac Assurance Corporation.

Section 12. After the Series 2000 Bonds are delivered by the Trustee to the Purchaser, and upon receipt of payment therefor, this Resolution shall be and remain irrepealable until the principal of, premium, if any, and interest on the Series 2000 Bonds are deemed to have been duly discharged in accordance with the terms and provisions of the Indenture.

Section 13. For purposes of and in accordance with Section 265 of the Code, the Issuer hereby designates the Series 2000 Bonds, as an issue qualifying for the exception for certain qualified tax-exempt obligations to the rule denying banks and other financial institutions 100% of the deduction for interest expenses which is allocable to tax-exempt interest. The Issuer reasonably anticipates that the total amount of tax-exempt obligations (other than obligations described in Section 265(b)(3)(C) (ii) of the Code) which will be issued by the Issuer and by any aggregated issuer during calendar year 2000 will not exceed $10,000,000. For purposes of this Section, "aggregated issuer" means any entity which, (i) issues obligations on behalf of the Issuer, (ii) derives its issuing authority from the Issuer, or (iii) is directly or indirectly controlled by the Issuer within the meaning of Treasury Regulation Section 1.150-1(e). The Issuer hereby represents that (a) it has not created and does not intend to create and does not expect to benefit from any entity formed or availed of to avoid the purposes of Section 265(b)(3)(C) or (D) of the Code and (b) the

total amount of obligations so designated by the Issuer and all aggregated issuers for the calendar year 2000 does not exceed $10,000,000.

Section 14. The forms of General Indenture, First Supplemental Indenture and Official Statement and the other documents authorized and approved hereby are authorized and approved with such additions, modifications, deletions and changes thereto as may be deemed necessary or appropriate and approved by the Mayor, whose execution thereof on behalf of the Issuer shall conclusively establish such necessity, appropriateness and approval with respect to all such additions, modifications, deletions and changes incorporated therein.

Section 15. The Issuer hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Agreement, a copy of which is attached to the Official Statement. In the event the Issuer fails to comply with the Continuing Disclosure Agreement, any Bondholder may take the remedial actions set forth therein.

Section 16. In accordance with the provisions of Section 11-14-21 of the Act and the Parameters Resolution, the City Recorder has caused a "Notice of Bonds to be Issued" to be published one time in the Spanish Fork City Press, a newspaper having general circulation in the Issuer, and has caused a copy of the Resolution (and all exhibits thereto) to be kept on file in the office of the City Recorder for public examination during regular business hours at least thirty (30) days from and after the date of publication thereof. Such notice is hereby reaffirmed and approved.

Section 17. It is hereby declared that all parts of this Resolution are severable, and if any section, clause or provision of this Resolution shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, clause or provision shall not affect the remaining sections, clauses or provisions of this Resolution.

Section 18. All resolutions, orders and regulations or parts thereof heretofore adopted or passed which are in conflict herewith are, to the extent of such conflict, hereby repealed. This repealer shall not be construed so as to revive any resolution, order, regulation or part thereof heretofore repealed.

Section 19. This Resolution shall take effect immediately upon its approval and adoption.

PASSED, APPROVED AND ADOPTED this 22nd day of August, 2000.

Dale R. Barney
Mayor

ATTEST:

Kent R. Clark
City Recorder

(SEAL)

(Here follows business not pertinent to the above.)

Pursuant to motion duly made and seconded, the City Council adjourned.

Dale P. Barney
Mayor

ATTEST:

Kent R. Clark
City Recorder

(SEAL)

STATE OF UTAH )
: ss.
COUNTY OF UTAH )

I, Kent R. Clark, the duly qualified and acting City Recorder of Spanish Fork City, Utah County, Utah (the "Issuer"), do hereby certify according to the records of the Issuer's City Council (the "Council") in my possession that the foregoing constitutes a true, correct and complete copy of the minutes of the regular meeting of the Council held on August 22, 2000, as it pertains to a bond resolution (the "Resolution") adopted by the Council at said meeting, including the Resolution, as said minutes and Resolution are officially of record in my possession.

IN WITNESS WHEREOF, I have hereunto subscribed my signature and impressed hereon the official seal of the Issuer this 22nd day of August, 2000.

_____
City Recorder

(SEAL)

EXHIBIT "A"

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, Kent R. Clark, the duly qualified and acting City Recorder of Spanish Fork City, Utah County, Utah (the "Issuer"), do hereby certify, according to the records of the Issuer in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-6(2), Utah Code Annotated 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time, and place of the August 22, 2000 public meeting held by the Issuer as follows:

(a) By causing a Notice, in the form attached hereto as Schedule "1", to be posted at the Issuer's principal offices at least twenty-four (24) hours prior to the convening of the meeting, said Notice having continuously remained so posted and available for public inspection until the completion of the meeting; and

(b) By causing a copy of such Notice, in the form attached hereto as Schedule "1", to be delivered to the Spanish Fork City Press at least twenty-four (24) hours prior to the convening of the meeting.

In addition, the Notice of 2000 Annual Meeting Schedule for the City (attached hereto as Schedule "2") was given specifying the date, time and place of the regular meetings of the Council to be held during the year, by causing said Notice to be posted on January 4, 2000, at the principal office of the City Council and by causing a copy of said Notice to be provided to at least one newspaper of general circulation within the City on January 27, 2000.

IN WITNESS WHEREOF, I have hereunto subscribed my signature this 22nd day of August, 2000.

_____

City Recorder

(SEAL)

SCHEDULE "1"

NOTICE OF MEETING

# SPANISH FORK CITY

40 S. MAIN ST. • SPANISH FORK, UT 84660

## *CITY COUNCIL MEETING*

*:00 pm*
*Tuesday, August 22, 2000*

**PLEASE NOTE: THE MEETING WILL BEGIN AT 5:00 PM**

## I. PRELIMINARY ACTIVITIES

5:00 pm
- A. Pledge of Allegiance
- B. Minutes

## II. STAFF REPORTS

A. Kent R. Clark - Finance

1. Consideration for Adoption of **Resolution 00-23** of the City Council of Spanish Fork City, Utah County, Utah (the "Issuer") Finalizing the Terms and Conditions of the Issuance and Sale by the Issuer of Its Electric Revenue Bonds, Series 2000 in the Aggregate Principal Amount of $9,230,000; Awarding and Confirming the Sale of Said Series 2000 Bonds; Authorizing the Execution by the Issuer of Certain Documents Required in Connection Therewith; and Related Matters. *

B. David A. Oyler - Administration

1. Purchase of Property *

## III. COUNCIL TRAINING

(*) *indicates support information, if any, will follow at the Council meeting.*

**The public is invited to participate in all Spanish Fork City Council Meetings. If you need special accommodation to participate in the meeting, please contact the City Manager's Office at 798-5000.**

SCHEDULE "2"

NOTICE OF ANNUAL MEETING SCHEDULE

# Proof of Publication

I, Lane Henderson being first duly sworn according to law, disposes and says that he is the Publisher of THE SPANISH FORK PRESS, a weekly newspaper printed and published at Spanish Fork, Utah County, Utah and of general circulation therein; that the Notice, a copy of which is hereto attached, was printed and published in said paper.

PUBLIC NOTICE

The City of Spanish Fork will hold their City Council Meetings on the following days. Each meeting begins at 7:00 p.m. on the First, Second and Third TUESDAY of each month

2000

| | |
|---|---|
| January | 4, 11, 18 |
| February | 1, 8, 15 |
| March | 7, 14, 21 |
| April | 4, 11, 18 |
| May | 2, 9, 16 |
| June | 6, 13, 20 |
| July | 4, 11, 18 |
| August | 1, 8, 15 |
| Sept. | 5, 12, 19 |
| Oct. | 3, 10, 17 |
| Nov. | 7, 14, 21 |
| Dec. | 5, 12, 19 |

Spanish Fork City will make available for interested citizens to review copies of the audit report for Fiscal Year 1999. Contact the Finance Director's Office.

The public is invited to participate in all Spanish Fork City Council Meetings. If you need special accommodation to participate in the meeting, please contact the City Manager's Office, 798-5000.

Published in the Spanish Fork Press January 27, 2000.

for consecutive One weeks,

the first publication on the 27th day

of January 2000

and the last on the 27th day of

January 2000

Lane Henderson

Subscribed and sworn to before me this 27th day of January 2000

Sara Worthington

Notary Public

SARA WORTHINGTON
NOTARY PUBLIC • STATE of UTAH
6705 SOUTH 4000 WEST
SP. FORK, UT 84660
COMM. EXP. 3-14-2003