



CITY COUNCIL MEETING

6:00 pm
Tuesday, February 3, 2004

I. PRELIMINARY ACTIVITIES

- A. Pledge of Allegiance
- B. Minutes
- C. New Employee Introduction - Guy Chang, *Meter Technician*
- D. [Agenda Request - Frank Santos](#)
- E. [Proclamation Declaring Marriage Week USA](#)

II. PUBLIC HEARINGS

- A. [Resolution No. 04-03](#) - A Resolution Adopting and Approving an Interlocal Agreement Between the Utah Transit Authority (UTA) and Spanish Fork City Expressly Authorizing a Waiver of Fees Pursuant to Section 10-8-2 U.C.A.
([Interlocal Agreement](#))

III. STAFF REPORTS

- A. Richard Heap - Engineering
 - 1. [Easement Agreement](#) - Thomas Property
 - 2. Bid Award - Storm Drain Project - I-15, 100 South to 100 North*
 - 3. [Bid Award - Volunteer Park Center Parking Lot Project](#)
 - 4. [Mapleton Interlocal Agreement](#) - Waste Water Treatment Facility
 - 5. [Cooperative Agreement with UDOT for Flags at Pedestrian Crossing](#)
 - 6. [Change Order](#) - STM Aerotor Basin Addition
- B. Junior Baker - Legal
 - 1. [Amendment to Water Contract with EsNet](#)
 - 2. [Acceptance of the Assignment of Water Contract with EsNet](#)

IV. OTHER BUSINESS

(*) 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.



State of Utah

OLENE S. WALKER
Governor

GAYLE McKEACHNIE
Lieutenant Governor

GOVERNOR'S FAMILY INITIATIVES

Governor's Commission on Marriage

Governor's Commission for Women and Families

Gift Conferences

January 26, 2004

Mayor Dale R Barney
40 S Main PO Box 358
Spanish Fork UT 84660

Dear Mayor:

Strong marriages and families are vital in every community. My husband, Myron, and I would like to invite the mayors of Utah, as community leaders and distinguished guests, to sign a joint declaration with us recognizing Marriage Week USA. This event will take place at the Governor's Mansion on February 6 at 5:00 p.m.

Enclosed you will find a copy of the declaration recognizing February 7-14, 2004, as Marriage Week USA in Utah. Please read over the declaration. You will be invited to sign on February 6. If you are unable to attend, but would like to add your signature to the document, please return the enclosed form or e-mail the information to mreese@utah.gov. Your name will be typed as a signatory. If you are interested, we have 30-foot street banners available on loan for Marriage Week in your community.

We honor you for your service and hope you will join us. You are cordially invited to bring your spouse. The Governor's Mansion is located at 603 East South Temple in Salt Lake City. Parking is just east of the mansion off "H" street. Please RSVP to 801-538-1533.

Sincerely,

Olene S. Walker
Governor

Enclosure



Olene Smith Walker
Governor

Declaration

Whereas, marriage is an essential aspect of human society because it creates new families, binds men and women together in a network of affection, mutual aid, and mutual obligation, commits fathers and mothers to their children, and connects children to a wider network of welcoming kin;

Whereas, a healthy, loving marriage deserves our special respect because it provides irreplaceable personal happiness and creates the safest place for children to flourish and to enjoy the full emotional, moral, educational, and financial benefits of both parents;

Whereas, research indicates that men and women who marry and stay married in mutually supportive relationships generally live longer, experience better health, and enjoy more satisfying lives;

Whereas, marriage breakdown takes a toll on the emotional, physical and financial well-being of all family members and communities and also increases the cost to taxpayers of many public human service programs;

Whereas, Utahns are committed to promoting enrichment opportunities and resources that strengthen marital relationships and enhance personal growth, mutual fulfillment, and family well-being;

Whereas, I wish to applaud and encourage efforts by Utah citizens, faith communities, businesses, organizations, and local government and community leaders to strengthen marriages in a variety of ways, including marriage education programs, conferences, enrichment seminars, and public policies that support marriage;

Now, Therefore, I, Olene S. Walker, Governor of the state of Utah, with First Gentleman, J. Myron Walker, and the Mayors of Utah, do hereby declare February 7-14, 2004, as

Marriage Week USA

in Utah, and urge each husband and wife to reflect upon their marriage and to commit to building and maintaining a healthy, loving marriage and family.

RESOLUTION NO. 04-03

ROLL CALL

VOTING	YES	NO
MAYOR DALE R. BARNEY <i>(votes only in case of tie)</i>		
MATTHEW D. BARBER <i>Councilmember</i>		
PAUL M. CHRISTENSEN <i>Councilmember</i>		
EVERETT KELEPOLO <i>Councilmember</i>		
SETH V. SORENSEN <i>Councilmember</i>		
CHRIS C. WADSWORTH <i>Councilmember</i>		

I MOVE this resolution be adopted: _____

I SECOND the foregoing motion: _____

RESOLUTION 04-03

A RESOLUTION ADOPTING AND APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE UTAH TRANSIT AUTHORITY (UTA) AND SPANISH FORK CITY EXPRESSLY AUTHORIZING A WAIVER OF FEES PURSUANT TO SECTION 10-8-2 U.C.A.

WHEREAS, the Utah Transit Authority (UTA) is a public transit district, which presently owns and operates a fixed guideway lightrail transportation system serving portions of the Salt Lake Valley; and

WHEREAS, UTA proposes to expand its existing fixed guideway service to include a larger geographic area along the urbanized Wasatch Front, extending generally from Brigham City in the North, to Payson in the South, through the construction and operation of both lightrail

and commuter rail facilities within a designated corridor (the “Corridor”); and

WHEREAS, communities along the prescribed Corridor will receive both benefits and impacts from the construction and maintenance of that Corridor; and

WHEREAS, while UTA recognizes the existence (but not necessarily the scope) of the communities planning, zoning, regulatory and police power authority to regulate within the Corridor, the communities recognize UTA’s assertion (but not necessarily the scope) of existing governing, state and federal laws, rules, and regulations relating to the construction and operation of a system within the Corridor; and

WHEREAS, in the interest of acting in mutual cooperation with each other, pursuant to the terms of the “Interlocal Cooperation Act” Title 11, Chapter 13, U.C.A. as amended, to be able to more accurately identify the system related costs; identify and establish the legal right of UTA to construct and operate the system within the communities; establish the parameters of the exercise by each community of its planning, zoning, regulatory authority; and establish the extent to which each community will participate in the planning, construction, and operation of the system, the parties desire to enter into an Interlocal Agreement; and

WHEREAS, the Agreement, which will span at least a period of **fifty** (50) years or more, is intended to identify and address potential conflicts that may arise between UTA and each community by establishing a dispute resolution mechanism and the rights and responsibilities of both UTA and the communities relative to the construction and operation of the system; and

WHEREAS, in accordance with the provisions of the Agreement, and pursuant to section 10-8-2 U.C.A., as amended, the City will be waiving fees that could otherwise be assessed to UTA,; and

WHEREAS, after first holding a public hearing on the matter, the City has determined

that, in light of the complementing waiver of fees by UTA, it will be in the best interest of the City to waive those fees pursuant to the Agreement; and

WHEREAS, this Agreement comports with the provisions of the Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended; and

WHEREAS, it is hereby determined to be in the best interest of the health, safety, and welfare of the citizens of this community to enter into this Interlocal Agreement.

NOW, THEREFORE, be it resolved by the Spanish Fork City Council of Utah:

1. That the agreement entitled Master Interlocal Agreement Regarding Fixed Guideway Systems located within a designated Corridor, Between UTA and Spanish Fork City, entered into pursuant to the “Interlocal Cooperation Act,” Title 11, Chapter 13, U.C.A. as amended, which is attached hereto and incorporated herein by this reference, be adopted and approved.

2. That the Mayor be authorized to execute the Agreement.

3. That the City expressly grant a waiver of fees to UTA in accordance with Section 10-8-2 U.C.A. as amended, pursuant to the terms of the Agreement.

PASSED AND ADOPTED this 3rd day of February, 2004.

DALE R. BARNEY, Mayor

ATTEST:

KENT R. CLARK, City Recorder

APPROVED AS TO FORM:

City Attorney
Assistant City Attorney

F:\ORDBOOK\RES\2004\04_03

SPANISH FORK CITY
PUBLIC WORKS DEPARTMENT

DATE: February 3, 2004

MEMO TO: Mayor and City council

FROM: Richard J. Heap, Public Works Director

Re: Easement for Storm Drain along I-15 at about Center Street

The Spanish Fork City Storm Drain Master Plan includes piping and detention basins in the west part of the city. Part of the West Fields Storm Drain plan was installed by the developers of Wild Flower subdivision. The Wild Flower section included a pipe from about 400 West along 100 South to I-15 then southerly along I-15 to the Spanish Fork River. Another portion of that drain system runs a pipe line from 100 South north along I-15 to 400 North then east to 300 West then north to 600 North. Part of this section of the line was required to be install by the LDS Church, they were to run the line from 100 South up to the north property line of their building on 920 West at about 100 North. There were some hold ups on the RR crossing and some easements which required the city to take over this project. The only remaining easement to take care of the project the Church was responsible for was the Jay and Leon Thomas property. The Church will still be fronting the money for this project and they will be reimbursed from impact fees.

The city has been negotiating for the easements and the staff is proposing the attached agreement to try to finalize the easement with the Thomas Family. This contract has taken much time and effort and is what is needed to finalize the easement itself. What is shown in the agreement is what the Thomas family will require. They have already signed the agreement. We now need city approval for the Mayor to sign the agreement.

This bid includes tying into the existing drain at 100 South and I-15 installed by the developers of Wild Flower subdivision with a 36" pipe and then running it north for about 1600 feet. It includes one railroad crossing. This line will eventually continue north to 400 North then go east in 400 North to 300 West then north in 300 West to 600 North.

We will also be opening the bids for this project on Monday, February 2. Those bids will be presented to City Council at the meeting on February 3. We would need to approve the

agreement with Thomas' before we award the bid. When the city negotiated with the landowners for easements, one of the conditions requested by the landowners was that the construction be completed before the irrigation season. We recommend that the council award the bid on this project now so we can begin as soon as possible to complete it by the irrigation season. The engineering staff will email the bid tabulations to the City Council and post them on our web site as soon as they are available late Monday afternoon.

SPANISH FORK CITY
PUBLIC WORKS DEPARTMENT

DATE: February 3, 2004

MEMO TO: Mayor and City council

FROM: Richard J. Heap, Public Works Director

Re: Bids on Parking Lot at Volunteer Park

We are opening the bids for the new westerly parking lot in Volunteer Park on Thursday, January 29 at 3:00 pm. This parking area is between the existing 4-plex and the tennis courts. It provides over 450 additional parking stalls to the complex. It is part of the overall master plan for the sports complex. The existing parking is full much of the time and makes it difficult to use the pavilion when ball games are scheduled.

The city is hosting the 3A state championship baseball tournament May 10th through the 15th. There will be a need to have additional parking for buses and attendees at that time. If we can start this project now we anticipate having road base installed by this time. The road base would be an all weather surface good enough on which to park buses. The bid opening is later than when Connie needs them to post them on the internet. The engineering staff will email the bid tabulations to the City Council and post them on our web site as soon as they are available late Thursday afternoon

SPANISH FORK CITY

**Volunteer Park Center Parking Lot Project
Bid Tabulation**

NO.	ITEM	UNIT	QTY	Engineer's Estimate		Lowest Bid Staker & Parsons		2nd Lowest Bid H. E. Davis		3rd Lowest Bid Johnston & Phillips		4th Lowest Bid Dunn Construction		5th Lowest Bid K & P Plumbing		Average	
				UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1	Bituminous Surface Course	TON	3,126	\$ 34.00	\$ 106,284.00	\$ 29.90	\$ 93,467.40	\$ 37.50	\$ 117,225.00	\$ 34.76	\$ 108,659.76	\$ 43.75	\$ 136,762.50	\$ 39.00	\$ 121,914.00	\$ 36.98	\$ 115,605.73
2	Untreated Base Course	TON	9,510	\$ 8.50	\$ 80,835.00	\$ 9.45	\$ 89,869.50	\$ 7.00	\$ 66,570.00	\$ 10.00	\$ 95,100.00	\$ 15.37	\$ 146,168.70	\$ 13.00	\$ 123,630.00	\$ 10.96	\$ 104,267.64
3	Engineered Fill & Bedding Material	TON	5,405	\$ 7.00	\$ 37,835.00	\$ 4.38	\$ 23,673.90	\$ 7.75	\$ 41,888.75	\$ 8.30	\$ 44,861.50	\$ 13.11	\$ 70,859.55	\$ 9.00	\$ 48,645.00	\$ 8.51	\$ 45,985.74
4	Excavation	CU YD	18,202	\$ 2.50	\$ 45,505.00	\$ 1.86	\$ 33,855.72	\$ 2.25	\$ 40,954.50	\$ 1.75	\$ 31,853.50	\$ 0.83	\$ 15,107.66	\$ 4.00	\$ 72,808.00	\$ 2.14	\$ 38,915.88
5	24 inch Curb & Gutter	LN FT	1,915	\$ 13.00	\$ 24,895.00	\$ 6.85	\$ 13,117.75	\$ 9.00	\$ 17,235.00	\$ 8.35	\$ 15,990.25	\$ 7.33	\$ 14,036.95	\$ 12.00	\$ 22,980.00	\$ 8.71	\$ 16,671.99
6	Pedestrian Ramp	SQ FT	240	\$ 4.50	\$ 1,080.00	\$ 2.70	\$ 648.00	\$ 3.90	\$ 936.00	\$ 3.75	\$ 900.00	\$ 2.36	\$ 566.40	\$ 8.00	\$ 1,920.00	\$ 4.14	\$ 994.08
7	Sidewalk	SQ FT	7,975	\$ 3.50	\$ 27,912.50	\$ 2.10	\$ 16,747.50	\$ 2.60	\$ 20,735.00	\$ 2.50	\$ 19,937.50	\$ 2.13	\$ 16,986.75	\$ 6.00	\$ 47,850.00	\$ 3.07	\$ 24,451.35
8	Playground Curb Wall	LN FT	395	\$ 24.00	\$ 9,480.00	\$ 12.45	\$ 4,917.75	\$ 13.50	\$ 5,332.50	\$ 13.00	\$ 5,135.00	\$ 15.37	\$ 6,071.15	\$ 15.00	\$ 5,925.00	\$ 13.86	\$ 5,476.28
9	8 inch Rigid HDPE Storm Drain	LN FT	180	\$ 15.00	\$ 2,700.00	\$ 11.95	\$ 2,151.00	\$ 15.20	\$ 2,736.00	\$ 12.50	\$ 2,250.00	\$ 21.07	\$ 3,792.60	\$ 20.00	\$ 3,600.00	\$ 16.14	\$ 2,905.92
10	15 inch RCP Storm Drain Main	LN FT	800	\$ 23.00	\$ 18,400.00	\$ 16.00	\$ 12,800.00	\$ 19.10	\$ 15,280.00	\$ 23.50	\$ 18,800.00	\$ 19.21	\$ 15,368.00	\$ 25.00	\$ 20,000.00	\$ 20.56	\$ 16,449.60
11	24 inch RCP Storm Drain Main	LN FT	800	\$ 35.00	\$ 28,000.00	\$ 25.88	\$ 20,704.00	\$ 26.25	\$ 21,000.00	\$ 40.00	\$ 32,000.00	\$ 26.69	\$ 21,352.00	\$ 30.00	\$ 24,000.00	\$ 29.76	\$ 23,811.20
12	3'x3' Inside Dim. Storm Cleanout Box	EACH	5	\$ 1,400.00	\$ 7,000.00	\$ 1,055.00	\$ 5,275.00	\$ 1,300.00	\$ 6,500.00	\$ 1,050.00	\$ 5,250.00	\$ 1,098.50	\$ 5,492.50	\$ 1,600.00	\$ 8,000.00	\$ 1,220.70	\$ 6,103.50
13	5'x5' Inside Dim. Storm Cleanout Box w/ Sn	EACH	1	\$ 2,800.00	\$ 2,800.00	\$ 3,225.00	\$ 3,225.00	\$ 3,265.00	\$ 3,265.00	\$ 3,310.00	\$ 3,310.00	\$ 3,303.37	\$ 3,303.37	\$ 3,000.00	\$ 3,000.00	\$ 3,220.67	\$ 3,220.67
14	Storm Manhole	EACH	2	\$ 2,000.00	\$ 4,000.00	\$ 2,000.00	\$ 4,000.00	\$ 1,765.00	\$ 3,530.00	\$ 1,850.00	\$ 3,700.00	\$ 2,166.11	\$ 4,332.22	\$ 2,200.00	\$ 4,400.00	\$ 1,996.22	\$ 3,992.44
15	Plug Existing Culvert	EACH	2	\$ 300.00	\$ 600.00	\$ 155.00	\$ 310.00	\$ 325.00	\$ 650.00	\$ 250.00	\$ 500.00	\$ 1,862.83	\$ 3,725.66	\$ 200.00	\$ 400.00	\$ 558.57	\$ 1,117.13
16	8 inch Sewer Main	LN FT	215	\$ 22.00	\$ 4,730.00	\$ 14.45	\$ 3,106.75	\$ 19.00	\$ 4,085.00	\$ 22.25	\$ 4,783.75	\$ 24.19	\$ 5,200.85	\$ 20.00	\$ 4,300.00	\$ 19.98	\$ 4,295.27
17	4 inch PVC Sewer Lateral	LN FT	115	\$ 22.00	\$ 2,530.00	\$ 9.30	\$ 1,069.50	\$ 20.00	\$ 2,300.00	\$ 16.00	\$ 1,840.00	\$ 39.16	\$ 4,503.40	\$ 20.00	\$ 2,300.00	\$ 20.89	\$ 2,402.58
18	Sewer Lateral Clean-out	EACH	1	\$ 150.00	\$ 150.00	\$ 92.90	\$ 92.90	\$ 125.00	\$ 125.00	\$ 200.00	\$ 200.00	\$ 538.18	\$ 538.18	\$ 100.00	\$ 100.00	\$ 211.22	\$ 211.22
19	48 inch I.D. Sewer Manhole	EACH	1	\$ 2,000.00	\$ 2,000.00	\$ 1,700.00	\$ 1,700.00	\$ 1,750.00	\$ 1,750.00	\$ 1,650.00	\$ 1,650.00	\$ 1,681.78	\$ 1,681.78	\$ 2,500.00	\$ 2,500.00	\$ 1,856.36	\$ 1,856.36
20	Concrete Collar for Existing Manhole	EACH	1	\$ 250.00	\$ 250.00	\$ 206.50	\$ 206.50	\$ 1,050.00	\$ 1,050.00	\$ 500.00	\$ 500.00	\$ 437.85	\$ 437.85	\$ 250.00	\$ 250.00	\$ 488.87	\$ 488.87
21	1 inch Water Service	EACH	1	\$ 800.00	\$ 800.00	\$ 660.00	\$ 660.00	\$ 615.00	\$ 615.00	\$ 750.00	\$ 750.00	\$ 753.02	\$ 753.02	\$ 1,000.00	\$ 1,000.00	\$ 755.60	\$ 755.60
22	4 inch Pressurized Irrigation Main	LN FT	165	\$ 13.00	\$ 2,145.00	\$ 8.25	\$ 1,361.25	\$ 11.50	\$ 1,897.50	\$ 13.00	\$ 2,145.00	\$ 15.24	\$ 2,514.60	\$ 17.00	\$ 2,805.00	\$ 13.00	\$ 2,144.67
23	8 inch Pressurized Irrigation Main	LN FT	375	\$ 16.00	\$ 6,000.00	\$ 11.35	\$ 4,256.25	\$ 17.00	\$ 6,375.00	\$ 18.00	\$ 6,750.00	\$ 15.33	\$ 5,748.75	\$ 18.00	\$ 6,750.00	\$ 15.94	\$ 5,976.00
24	10 inch Pressurized Irrigation Main	LN FT	45	\$ 25.00	\$ 1,125.00	\$ 37.15	\$ 1,671.75	\$ 43.50	\$ 1,957.50	\$ 80.00	\$ 3,600.00	\$ 112.92	\$ 5,081.40	\$ 50.00	\$ 2,250.00	\$ 64.71	\$ 2,912.13
25	2 inch Pressurized Irrigation Drain to Ditch	LUMP	1	\$ 350.00	\$ 350.00	\$ 705.00	\$ 705.00	\$ 650.00	\$ 650.00	\$ 1,100.00	\$ 1,100.00	\$ 1,838.40	\$ 1,838.40	\$ 1,000.00	\$ 1,000.00	\$ 1,058.68	\$ 1,058.68
26	4 inch PVC Sleeves	LN FT	240	\$ 6.00	\$ 1,440.00	\$ 3.60	\$ 864.00	\$ 7.50	\$ 1,800.00	\$ 4.00	\$ 960.00	\$ 3.42	\$ 820.80	\$ 6.00	\$ 1,440.00	\$ 4.90	\$ 1,176.96
27	1 inch PVC Electrical Conduit	LN FT	920	\$ 3.00	\$ 2,760.00	\$ 3.75	\$ 3,450.00	\$ 3.15	\$ 2,898.00	\$ 3.25	\$ 2,990.00	\$ 2.17	\$ 1,996.40	\$ 6.25	\$ 5,750.00	\$ 3.71	\$ 3,416.88
28	2 inch PVC Electrical Conduit	LN FT	1,320	\$ 5.00	\$ 6,600.00	\$ 5.50	\$ 7,260.00	\$ 3.50	\$ 4,620.00	\$ 3.60	\$ 4,752.00	\$ 2.46	\$ 3,247.20	\$ 7.00	\$ 9,240.00	\$ 4.41	\$ 5,823.84
29	4 inch PVC Electrical Conduit	LN FT	150	\$ 8.00	\$ 1,200.00	\$ 6.15	\$ 922.50	\$ 4.75	\$ 712.50	\$ 5.10	\$ 765.00	\$ 3.61	\$ 541.50	\$ 7.50	\$ 1,125.00	\$ 5.42	\$ 813.30
30	5 inch PVC Electrical Conduit	LN FT	250	\$ 8.00	\$ 2,000.00	\$ 6.55	\$ 1,637.50	\$ 5.75	\$ 1,437.50	\$ 7.60	\$ 1,900.00	\$ 4.54	\$ 1,135.00	\$ 8.25	\$ 2,062.50	\$ 6.54	\$ 1,634.50
31	6 inch PVC Electrical Conduit	LN FT	1,605	\$ 10.00	\$ 16,050.00	\$ 9.25	\$ 14,846.25	\$ 6.75	\$ 10,833.75	\$ 9.10	\$ 14,605.50	\$ 4.81	\$ 7,720.05	\$ 8.50	\$ 13,642.50	\$ 7.68	\$ 12,329.61
32	Junction Boxes	EACH	4	\$ 250.00	\$ 1,000.00	\$ 177.00	\$ 708.00	\$ 290.00	\$ 1,160.00	\$ 400.00	\$ 1,600.00	\$ 478.88	\$ 1,915.52	\$ 400.00	\$ 1,600.00	\$ 349.18	\$ 1,396.70
33	Traffic Rated Junction Boxes	EACH	6	\$ 350.00	\$ 2,100.00	\$ 580.00	\$ 3,480.00	\$ 375.00	\$ 2,250.00	\$ 500.00	\$ 3,000.00	\$ 573.48	\$ 3,440.88	\$ 600.00	\$ 3,600.00	\$ 525.70	\$ 3,154.18
34	200 Amp Electric Sectionalizer	EACH	5	\$ 2,500.00	\$ 12,500.00	\$ 1,925.00	\$ 9,625.00	\$ 1,800.00	\$ 9,000.00	\$ 2,700.00	\$ 13,500.00	\$ 1,903.71	\$ 9,518.55	\$ 3,400.00	\$ 17,000.00	\$ 2,345.74	\$ 11,728.71
35	Blank Bid Item	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
36	1 inch PVC Communication Conduit	EACH	185	\$ 3.00	\$ 555.00	\$ 4.30	\$ 795.50	\$ 3.15	\$ 582.75	\$ 3.00	\$ 555.00	\$ 2.22	\$ 410.70	\$ 7.00	\$ 1,295.00	\$ 3.93	\$ 727.79
37	2 inch PVC Communication Conduit	LN FT	384	\$ 5.00	\$ 1,920.00	\$ 4.20	\$ 1,612.80	\$ 3.50	\$ 1,344.00	\$ 3.60	\$ 1,382.40	\$ 2.50	\$ 960.00	\$ 7.00	\$ 2,688.00	\$ 4.16	\$ 1,597.44
38	5 inch PVC Communication Conduit	LN FT	1,605	\$ 8.00	\$ 12,840.00	\$ 8.75	\$ 14,043.75	\$ 5.75	\$ 9,228.75	\$ 7.40	\$ 11,877.00	\$ 4.53	\$ 7,270.65	\$ 8.50	\$ 13,642.50	\$ 6.99	\$ 11,212.53
39	Dog House Type Communication Pedestal	EACH	5	\$ 300.00	\$ 1,500.00	\$ 305.00	\$ 1,525.00	\$ 575.00	\$ 2,875.00	\$ 650.00	\$ 3,250.00	\$ 1,146.96	\$ 5,734.80	\$ 600.00	\$ 3,000.00	\$ 655.39	\$ 3,276.96
40	Mirafi 140N Geotechnical Fabric	SQ YD	2,272	\$ 2.00	\$ 4,544.00	\$ 1.00	\$ 2,272.00	\$ 1.30	\$ 2,953.60	\$ 2.00	\$ 4,544.00	\$ 1.36	\$ 3,089.92	\$ 1.00	\$ 2,272.00	\$ 1.33	\$ 3,026.30
41	Parking Lot Light	EACH	8	\$ 2,000.00	\$ 16,000.00	\$ 2,765.00	\$ 22,120.00	\$ 3,225.00	\$ 25,800.00	\$ 2,800.00	\$ 22,400.00	\$ 3,180.74	\$ 25,445.92	\$ 3,500.00	\$ 28,000.00	\$ 3,094.15	\$ 24,753.18
42	Parking Lot Photocell Light	EACH	4	\$ 2,000.00	\$ 8,000.00	\$ 2,785.00	\$ 11,140.00	\$ 3,100.00	\$ 12,400.00	\$ 2,950.00	\$ 11,800.00	\$ 3,251.68	\$ 13,006.72	\$ 3,500.00	\$ 14,000.00	\$ 3,117.34	\$ 12,469.34
43	25 foot 250 Watt HPS Street Light	EACH	2	\$ 2,200.00	\$ 4,400.00	\$ 1,845.00	\$ 3,690.00	\$ 1,950.00	\$ 3,900.00	\$ 2,100.00	\$ 4,200.00	\$ 2,353.04	\$ 4,706.08	\$ 2,500.00	\$ 5,000.00	\$ 2,149.61	\$ 4,299.22
44	Handicap Parking Sign Base	EACH	4	\$ 200.00	\$ 800.00	\$ 52.90	\$ 211.60	\$ 100.00	\$ 400.00	\$ 150.00	\$ 600.00	\$ 76.86	\$ 307.44	\$ 200.00	\$ 800.00	\$ 115.95	\$ 463.81
45	Parking Lot Striping	LUMP	1	\$ 7,000.00	\$ 7,000.00	\$ 2,090.00	\$ 2,090.00	\$ 1,300.00	\$ 1,300.00	\$ 2,500.00	\$ 2,500.00	\$ 3,310.80	\$ 3,310.80	\$ 24,000.00	\$ 24,000.00	\$ 6,640.16	\$ 6,640.16
SUBTOTAL:				\$ 520,615.50	SUBTOTAL:	\$ 441,886.32	SUBTOTAL:	\$ 480,138.60	SUBTOTAL:	\$ 518,747.16	SUBTOTAL:	\$ 586,803.17	SUBTOTAL:	\$ 682,484.50	SUBTOTAL:	\$ 542,011.95	

Electrical:	\$ 29,991.00	\$ 25,012.19	\$ 22,397.00	\$ 30,078.40	\$ 22,715.82	\$ 32,309.50	\$ 26,502.58
SFCN:	\$ 18,281.00	\$ 18,034.69	\$ 16,467.00	\$ 19,799.90	\$ 20,386.38	\$ 21,709.50	\$ 19,279.49
Recreation:	\$ 472,343.50	\$ 398,839.44	\$ 441,274.60	\$ 468,868.86	\$ 543,700.97	\$ 628,465.50	\$ 496,229.87

**INTER-LOCAL AGREEMENT FOR CONSTRUCTION, USE,. AND MAINTENANCE
OF JOINT WASTEWATER FACILITY**

This Agreement is made and entered into this ____ day of February, 2004, by and between Spanish Fork City, and Mapleton City. The parties to this Agreement are sometimes referred to collectively herein as the "Cities" and separately as a "City".

WITNESSETH

WHEREAS, Spanish Fork presently owns a system for the collection and disposal of wastewater sewage (the "System"); and

WHEREAS, Mapleton is purchasing hydrological capacity in the System pursuant to an interlocal agreement entered into between the cities on the 5th day of April, 1995; and

WHEREAS, the State of Utah, Department of Environmental Quality, has changed the discharge requirements for the System, causing the System to reach its biologic capacity prior to its hydrological capacity; and

WHEREAS, the changes to the discharge requirements have caused Mapleton to already exceed its share of the biologic capacity; and

WHEREAS, certain expansions to the System need to take place in order to expand the biologic capacity and allow for each City to have growth; and

WHEREAS, in order to achieve operational economies, the Cities desire to enter into this Agreement to provide for the expansion, terms of use, operation and maintenance of the System and any other joint treatment plant or facilities that may be constructed in the future; and

WHEREAS, a cooperative effort from each City to provide for the sewage collection and treatment needs of the citizens is a basic underlying goal of the Cities to this Agreement;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I DEFINITIONS

For the purposes of this Agreement the following terms shall have the respective meanings set forth below except where the context indicates otherwise:

1. ACT means the Inter-Local Cooperation Act, Utah Code Annotated §1-13-1 et. seq. (1953 as amended).
2. AGREEMENT means this document.
3. ANNUAL BUDGET means the annual budget for the use, operation and maintenance for

the Facility for each fiscal year. The Annual Budget shall specify the projected operation and maintenance expenses for the Facility for the relevant fiscal year and any costs for repairs or improvements to the Facility to be accomplished during the fiscal year.

4. BILLING PERIOD means a monthly period commencing on the first day of each month during the term of this Agreement, to and including the last day of that month.

5. CAPITAL COSTS means future costs and expenses incurred in any expansion of the Facility including but not limited to all costs of construction, construction period interest costs, costs of architects and engineers, and other similar costs and expenses incurred by way of expansion to the Facility.

6. SPANISH FORK means Spanish Fork City, a municipal corporation and body politic located in Utah County, Utah.

7. CODE means the official compilation published and known as the Utah Code Annotated (1953 as amended).

8. COLLECTION SYSTEM means the wastewater collector and interceptor pipeline system of each City which is owned and operated, or will be owned and operated exclusively by that City, separate and apart from the Facility, including service laterals, manholes, pump stations, flow-measuring devices and related appurtenances, excluding the joint trunk line

9. CITY or CITIES means Spanish Fork City or Mapleton City respectively, or both of them in the plural.

10. MAPLETON means Mapleton City, a municipal corporation and body politic located in Utah County, State of Utah.

11. FACILITY means collectively the existing wastewater treatment plant owned and operated by Spanish Fork, including all screens, chambers, pumps, clarifiers, filters, digesters, basins, interconnecting pipes, outfall line, ~~joint trunk line~~, transfer structures, and other equipment and facilities.

12. FISCAL YEAR means a period of twelve (12) consecutive months commencing on July 1st and ending on June 30th of the following year.

13. GOVERNING BODY means the duly elected mayor and city council.

14. JOINT TRUNK LINE means that collection line running from the west side of the DRGW Railroad right of way to the connection with the existing Facility owned by Spanish Fork. Mapleton owns 56.18% of the joint trunk line and Spanish Fork owns 43.82% of the joint trunk line.

15. OPERATION AND MAINTENANCE EXPENSES means with, respect to the Facility and joint trunk line, all expenses reasonably incurred in connection with the operation and maintenance of the Facility and joint trunk line including:

a. Repairs and replacements of all existing equipment, buildings, and facilities necessary to keep the Facility in efficient operating condition;

b. Costs incurred in preparing operating reports and other reports as may be required herein;

c. Premiums on insurance for the Facility required herein;

d. Actual costs incurred by Spanish Fork in carrying out the duties and responsibilities specified in this Agreement, including all wages, overtime, third-party contract expenses for equipment and other special services, employee benefits, general office overhead, administrative

expenses and vehicle mileage, provided however that Spanish Fork costs to be included in Operation and Maintenance Expenses shall only be those fairly attributable to the operation of the Facility, and not include costs attributable to any Collection System.

e. Generally all expenses, exclusive of depreciation, which under generally accepted accounting principles are properly allocated to operation and maintenance of the Facility, but only such expenses as are reasonable and necessary to the efficient operation and maintenance of the Facility shall be included.

16. ORDINANCE means a legislative enactment by a Governing Body of the City.

17. JOINT TRUNK LINE means that collection line running from the west side of the DRGW Railroad to the connection with the existing facility owned by Spanish Fork City.

18. PLANT CAPACITY means the lesser of:

a. the total hydrologic volume of the Spanish Fork Treatment Plant, which the Facility is capable of processing, currently 5.0 million gallons per day, average daily flow; or

b. the total biological volume which the Facility is capable of processing, based on the regulations on contaminate discharges, as set forth in the Facility UPDES permit issued by the State of Utah.

19. JOINT TRUNK LINE CAPACITY means the total volume of sewage capable of being transported to the treatment facility through the joint trunk line.

20. PRIOR AGREEMENT means the Inter-local Agreement for Construction, Use, and Maintenance of Joint Wastewater Facility entered into between the Cities, dated April 5th, 1995.

ARTICLE II TERMINATION OF PRIOR AGREEMENT

2.1 Termination. In order to accomplish the purposes of the Cities, given the change in regulations affecting the biological capacity of the Facility, it is in the Cities' interests to terminate the Prior Agreement and replace it with this Agreement. The Prior Agreement shall be terminated upon the approval and execution of this Agreement by each City's Governing Body.

ARTICLE III JOINT TRUNK LINE

3.1 Joint Trunk Line. This Agreement does not affect the ownership interests of the Cities in the joint trunk line. Each City shall continue to own the percentage of the line as set forth in paragraph 14 of the definitions. Any O&M expenses incurred on the joint trunk line shall be paid for by the Cities in the same ratio as their ownership interest in the joint trunk line.

ARTICLE IV PURPOSE AND TERM OF AGREEMENT

4.1 Purpose. The purpose of this Agreement is to provide for: (i) the use, operation and maintenance of the Facility for the mutual benefit of the Cities; (ii) to provide for an Advisory Group to give recommendations regarding the operation and maintenance of the Facility, and to make recommendations regarding the expansion and replacement of the Facility; and (iii) the establishment of a system for sharing the costs and expenses related to the use, operation and maintenance of the Facility.

4.2 Term of Contract. This Contract shall be in full force and continue in effect for 50 years.

ARTICLE V OWNERSHIP OF FACILITIES AND PURCHASE OF CAPACITY

5.1 Ownership of Various Facilities. Subject to the provisions of paragraph 5.1(a), Spanish Fork will retain all ownership interests in its Collection System and land, which constitute the wastewater treatment plant. Mapleton will retain all ownership interest in its Collection System. Nothing herein shall be construed to grant to any City any ownership interest in property or assets of the other City.

5.2 Right to Use. Mapleton shall have the right and power during the term of this Agreement to connect its Collection System to the joint trunk line and thereby cause the sewage and wastewater from its residents and customers to be transmitted to the Facility for treatment, pursuant to the terms of this agreement. Spanish Fork shall lease to Mapleton a 23% interest in the real estate where the Facility is located. The lease shall be effective during the term of the Agreement. Nothing herein shall be construed to grant to Mapleton an ownership interest in the land where the Facility is located. Consideration for the lease shall be the timely payment of the funds set forth in this Agreement, which the Cities acknowledge works to the benefit of each City by allowing an expansion of the Facility.

5.3 Purchase by Mapleton. Mapleton is purchasing from Spanish Fork twenty-three percent (23%) of the Facility (excluding land, but including capacity), for the purchase price of ~~\$1,096,144.00~~ \$1,038,404.00, which price represents the negotiated price agreed upon by both Cities representing the capital costs of Mapleton's purchase. ~~(Mapleton will receive a credit against that price in the amount of \$57,740.00, representing the payment made to Spanish Fork on May 2, 2003, leaving a balance of \$1,038,404.00).~~ Mapleton will also pay for twenty-three percent (23%) of the actual cost of increasing the biological Plant Capacity by adding filters and clarifiers to allow each City growth potential. (Mapleton's share is estimated to be \$437,000.00, for a total price of \$1,475,404.00). This increase in Plant Capacity will allow Spanish Fork to have a total of 9,472 residential hookups and will allow Mapleton to have a total of 2,418 residential hookups. It is anticipated that each city will have a number of commercial and/or industrial hookups in addition to the residential hookups allocated herein, based upon the existing proportion of commercial/industrial hookups to residential hookups. In the event that an unusually heavy user of sewer services desires to come into either city, the advisory committee shall review the user and determine if capacity exists and if so, how allowing that user to connect to the sewer may limit future industrial/commercial users.

5.4 Due date. The full price, including the estimated amounts, shall be paid to Spanish Fork within one hundred twenty (120) days of the date hereof. If the actual cost of the expansion of the Plant Capacity exceeds the estimate, Mapleton will pay its share of the excess to Spanish Fork within thirty (30) days of the completion of the project. If the actual cost of the expansion of the Plant Capacity is less than the estimate, Spanish Fork will refund Mapleton its share within thirty (30) days of the completion of the project.

ARTICLE VI EXCEEDING OR ADJUSTMENTS TO CAPACITIES

6.1 Adjustments to capacities. a. If Mapleton's wastewater needs require capacity beyond twenty-three percent (23%) at the Facility, the cost of expansion shall be paid solely by Mapleton and the additional capacity and infrastructure created will be owned by Mapleton. The

ownership interests will be adjusted to reflect the new capacity. Spanish Fork City, at its option, may participate with Mapleton in any expansion of capacity to the Facility at which time each City shall pay for the capital costs of such expansion on the same ratio of each city's capacity within the expanded portion of the plant. Mapleton shall have no financial obligation for expansion of the treatment facility, if such expansion is done based solely on Spanish Fork's need. In such event, the additional capacity created will be owned by Spanish Fork. The ownership interests will be adjusted to reflect the new capacity.

b. In the event expansion to the Facility is required by government regulation, each city shall pay for the capital costs of such expansion on the same ratio of each city's capacity to the total plant capacity. In the event an upgrade of the Facility is required by government regulation, each city shall pay for the upgrade costs on the same ratio as each city 's capacity to the total plant capacity. contributes for operation and maintenance. Any regulatory fines and/or penalties incurred shall be paid by the City causing the same. In the event the cause cannot be determined, the fines and/or penalties shall be paid based upon the same ratio of each city's capacity to the total plant capacity.

c. Any expansion to the facility shall be based on the Spanish Fork City 201 Facility Plan, dated November 1980, as updated from time to time, drawing number X- I.

6.2 Exceeding capacities. a. In the event Mapleton anticipates it will exceed its 23% capacity (as determined by the number of hookups approved, as set forth in paragraph 4.3), and Spanish Fork has available capacity, the parties may negotiate Mapleton's use of such excess capacity. If the capacity is exceeded without negotiating the use and price, Mapleton will be given thirty (30) days to reduce its flows so as not to exceed its capacity. If it fails to do so, liquidated damages in the amount of \$5,000.00 per month shall be awarded. In addition to liquidated damages, an injunction prohibiting the issuance of additional building permits and additional connections to the sewer system shall be granted.

b. In the event Mapleton exceeds its 23% capacity (as determined by the number of hookups approved, as set forth in paragraph 4.3), and Spanish Fork has no available capacity, Mapleton will be given thirty (30) days to reduce its flows so as not to exceed its capacity. If it fails to do so, a monetary penalty in the form of liquidated damages in the amount of \$5,000.00 per month shall be assessed. Each party acknowledges that exceeding Plant Capacity has far reaching and serious consequences, for which no monetary damages can readily be determined, nor which can be adequately compensated. In the event any regulatory fines and/or penalties are due as a result of Mapleton exceeding its capacities, it shall be responsible for all costs of remediation, including fines or penalties imposed, costs of labor and materials to correct the problem, and any attorneys fees incurred in defending any regulatory action.

c. Mapleton shall enjoy reciprocal rights against Spanish Fork, including liquidated damages and an injunction, as set forth in paragraphs 5.2(a) and (b), in the event Spanish Fork exceeds its 77% capacity (as determined by the number of hookups approved, as set forth in paragraph 4.3), or causes regulatory fines and/or penalties through no fault of Mapleton.

ARTICLE VII OPERATION AND MAINTENANCE OF THE FACILITY

7.1 Advisory Group. An advisory group shall be created for the purpose of monitoring the

number of hookups allowed, as set forth in paragraph 4.3, discussing problems, policies, revenues, expenditures, and any other matters affecting the operation of the Facility.

a. Number of Representatives. The Advisory Group shall consist of five members, three of which shall be representatives from Spanish Fork and two from Mapleton.

b. Selecting of Advisory Group Member. Each City's members shall be selected and approved by its Governing Body.

c. Removal or Disability. Each City may remove any of its members with or without cause. Upon such removal or in the event of resignation, a successor shall be appointed for the remainder of that term, by the City who had appointed the member who is no longer serving.

7.2 Duties of Advisory Group. The conclusions, recommendations, or information emanating from a meeting of the Advisory Group shall be presented to Spanish Fork for its consideration and use in operation, maintenance and/or improvement of the Facilities. It is understood, however, that the function of the group is to further the cooperation between the parties and to render advisory assistance, but in no way to limit the rights of ownership to the facilities set forth herein, nor to make binding recommendations, but only advisory.

7.3 Duties and Responsibilities of Spanish Fork City. Spanish Fork shall be the operator of the Facility.

a. Management. Spanish Fork shall have sole and exclusive responsibility for the day-to-day management of the Facility.

b. Operation and Maintenance. Spanish Fork shall be responsible for the operation and maintenance of the Facility and shall employ competent and experienced personnel or train such personnel for the Facility and shall use best efforts to operate and maintain the Facility at all times in good repair and condition, and in such a -manner that the operating efficiency thereof shall conform to the standards set by Federal, State and Local law.

c. Compliance with Laws. In operating and maintaining the Facility, Spanish Fork shall comply in every respect with each applicable Federal, State or Local law regulating the safe, sanitary, and healthful operation of the Facility, and Spanish Fork shall make every reasonable effort to prevent a shutdown or bypass of the Facility, or an imposition of penalty by any governmental authority because of a failure to meet or otherwise comply with applicable laws and regulations. If such reasonable effort has been made, but notwithstanding, there is a penalty or requirement imposed by any authorized government authority, the penalty or cost of compliance shall be considered as part of the operation and maintenance expense of the Facility.

d. Insurance. In operating and maintaining the Facility, Spanish Fork shall obtain and maintain insurance, including but not limited to worker's compensation insurance and public liability insurance in such amounts and to such extent it is customarily carried by other operating utilities of the same type. The cost of such insurance shall be considered an operations and maintenance expense of the Facility. In the event of any loss or damage to any part of the Facility, insurance proceeds shall be used for the purpose of restoring or replacing the property lost or damaged.

e. Expenditures. Spanish Fork shall use its best efforts to keep the Operation and Maintenance Expenses related to the Facility within the amounts established in the Annual Budget and shall make no expenditures or incur any obligation in excess of amounts established in the Annual Budget without revision of the budget.

f. Collections. Spanish Fork shall collect from Mapleton, on a monthly basis, Mapleton's

proportionate share of Operation and Maintenance Expenses relating to the Facility in accordance with this Agreement, and shall apply those payments against the budget.

g. **Maintain Records.** Spanish Fork shall maintain accurate detailed records relating to the Facility, including but not limited to flow-measuring records, materials, and supplies, and payroll records for personnel employed by Spanish Fork City. Spanish Fork City shall make those records available for inspection at reasonable times to the Advisory Group and the Governing Body of Mapleton.

h. **Budget Preparation.** Spanish Fork shall prepare and provide a proposed budget for the next fiscal year by April 1st of each year. Spanish Fork will make available, upon request, a copy of the monthly financial report for the Facility. The expenses incurred in compiling each report shall be regarded as an Operation and Maintenance expense of the Facility.

7.4 Duties and Responsibilities of Mapleton City.

a. **Sampling.** Mapleton shall be responsible for sampling all water entering the joint trunk line. Samples shall take place weekly. Mapleton shall provide to Spanish Fork City a copy of the test results of each sample.

ARTICLE VIII CHARGES FOR OPERATION AND MAINTENANCE EXPENSES

8.1 **Sharing of Expenses.** All actual operation and maintenance expenses related to the Facility shall be paid on a monthly basis by Mapleton in a ratio determined as follows:

a. A meter will be installed where the joint trunk line crosses the DRGW railroad tracks to measure total flow and contaminate strength from Mapleton's collection system. Mapleton will own and read this meter. Spanish Fork may check the readings for accuracy.

b. A meter has been installed at the intake to the treatment plant. Spanish Fork will own and read this meter. Mapleton may check the readings for accuracy.

c. Mapleton shall be responsible to pay to Spanish Fork for the operation of the treatment plant on the ratio of Mapleton's flow and contaminate strength as metered at the crossing of the DRGW tracks, to the total flow and contaminate strength, as measured at the plant intake.

8.2 **Payments to Spanish Fork City.** Mapleton shall pay to Spanish Fork the monthly service charge described in Section 7.1 of this Agreement within twenty (20) days after receiving the bill. Mapleton shall have the sole and exclusive right to determine a method of charging residents and customers of its own Collection System. The failure of Mapleton to collect sufficient amounts from its residents and customers shall not relieve Mapleton from its obligations to pay its proportionate share for the operation and maintenance expense of the Facility. If Mapleton fails to pay the full amount due and owing within ten (10) days after the due date thereof, the unpaid balance shall bear an interest rate of one percent (1.0%) per month until paid in full, and all subsequent payments received shall be applied first to interest and then to principal.

8.3 **Breach of Agreement.** In the event of a breach of this agreement, the non-breaching party shall be entitled to recover its costs and attorneys fees incurred in enforcing the terms hereof. In the event a dispute that the parties cannot amicably resolve, a court of competent jurisdiction in Utah County, or any alternative dispute resolution method agreed upon by the parties may be used to resolve the dispute.

ARTICLE IX BUY BACK PROVISIONS

- 9.1 Mapleton System. a. The parties acknowledge Mapleton's significant capital contributions towards Spanish Fork's sewer system, and that Mapleton may one day need to construct its own sewer system. If Mapleton decides to construct its own sewer system within the first five years from the date of this agreement, it may terminate this agreement and receive full reimbursement for its capital contributions, as set forth hereinafter. If Mapleton decides to construct its own sewer system beyond five years from the date of this agreement, it may terminate this agreement and negotiate with Spanish Fork the amount of reimbursement it will receive for its capital contributions, based upon the depreciation of the facilities, their condition, and value.
- b. If Mapleton decides to construct its own sewer system, it may phase out of the Spanish Fork plant, but must eventually take all of its sewerage into its own system. Any such phasing may not take longer than three years. As Mapleton phases out of the Spanish Fork plant, it may make additional capacity available to Spanish Fork. Once Mapleton is no longer using its allotted capacity, in whole or in part, Spanish Fork will begin to reimburse Mapleton its contributions towards capital facilities in proportion to the amount Mapleton has reduced its allotted capacity. For example, if Mapleton reduces its use of its allotted capacity by 10%, Spanish Fork will begin to reimburse Mapleton for 10% of its investment in capital facilities.
- c. Mapleton shall give one year written notice to Spanish Fork of its intent to construct its own sewer system and terminate this agreement.
- d. Unless otherwise agreed to by the parties, the reimbursement period shall be five years and shall commence 30 days from the date Mapleton makes additional capacity available. Spanish Fork will make a down payment of 50% and pay the balance in five annual installments. Upon reimbursement being made, Mapleton will relinquish its ownership interest in the Facility and Spanish Fork will become the owner of the Facility.
- e. No interest will accrue on any money owed to Mapleton by Spanish Fork during the reimbursement period.

ARTICLE X MISCELLANEOUS PROVISIONS

- 10.1 Adoption of Ordinances. Each City agrees to adopt and enforce such ordinances as are reasonably necessary to permit the purposes of this Agreement to be accomplished. Mapleton further agrees to maintain an ordinance in substantially the same format as Spanish Fork City Municipal Code section 13.32.010. et. seq. (Public Sewer System Regulations and Pretreatment Standards). Mapleton further agrees to be subject to the provisions of §13.32.010. et seq. (Public Sewer System Regulations and Pretreatment Standards). Mapleton further agrees to be subject to the provisions of §13.32.
- 10.2 Joint Cooperation. The Cities hereby agree to cooperate with each other in the planning for the future capital improvements to the Facility or the construction of new treatment facilities for the joint use of the Cities. The installation of such capital improvements or new treatment facilities and costs to be assumed by each city with respect thereto shall be subject to provisions of a separate written Agreement between the Cities.
- 10.3 Authorized Agreement. Each City hereby represents and warrants that its Governing Body has taken all action as required by law to approve this Agreement and to authorize

execution of this Agreement on behalf of that City.

10.4 Force Majeure. In case by reason of force majeure, either City shall be rendered unable wholly or in part to carry out its obligations under this Agreement, other than the obligation of each City to make the payments required under the terms hereof, then such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied on, and the obligations of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such party shall endeavor to remove and overcome such inability with reasonable dispatch. The term "force majeure" as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts or public enemy, an order from any kind of the government of the United States or the State of Utah, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, arrests, restraint of government and people, civil disturbance, explosions, breakage, accidents to machinery or collection line, or the partial or complete inability of Spanish Fork to treat and dispose of such wastewater on account of any other cause not reasonably within the control of Spanish Fork.

10.5 Miscellaneous Provisions. a. This Agreement shall be governed by and construed under the laws of the State of Utah, including but not limited to the Act.

b. The Cities shall not be deemed to be partners or joint venturers in any manner in the use or operation of the Facility.

c. Spanish Fork shall be responsible for ascertaining and overseeing compliance by the Facility with all government requirements, including in particular those of the Department of Environmental Quality and the United States Environmental Protection Agency.

d. This Agreement may be amended from time to time by mutual written Agreement between the Cities, provided that said amendment does not jeopardize or adversely affect any notes, bonds or other instruments relating to the financing of the construction of the Facility or the Collection System of either City, and that it does not invalidate or adversely affect the operation or use of the Facility.

e. If any provision of this Agreement is determined by a court of competent jurisdiction to be void, voidable, or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

f. No City may assign its rights or duties under this Agreement without the prior written consent of the other City.

g. Spanish Fork will maintain ownership of all treated waste water. In the event of sale or lease,

the proceeds shall be used to reduce the operation and maintenance expenses at the Facility.

IN WITNESS WHEREOF, the parties have set their hands on the date and the year above written.

SPANISH FORK CITY by:

DALE R. BARNEY, Mayor

Attest:

Kent R. Clark, City Recorder

Approval as to form and compliance with Utah law:

S. Junior Baker, City Attorney

MAPLETON CITY by:

DEAN ALLAN, Mayor

Attest:

Debbie Walser, City Recorder

Approval as to form and compliance with Utah law:

Gordon Duval, City Attorney

SPANISH FORK CITY
PUBLIC WORKS DEPARTMENT

DATE: February 3, 2004

MEMO TO: Mayor and City council

FROM: Richard J. Heap, Public Works Director

Re: Contract with UDOT for flags at pedestrian crossings

I have attached a proposed contract submitted to us by UDOT. This contract allows the city to use pedestrian flags at 100 North Main. If we wish to use flags at other locations on State Highways we will have to get additional agreements. It also requires us to remove them if requested by UDOT. Since Main Street is a State Highway we have to abide by their rules. Jr. Baker has reviewed this contract and gave his approval.

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT, made and entered into this _____ day of _____, 20_____, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as “**UDOT**”, and **SPANISH FORK CITY CORPORATION**, a Municipal Corporation of the State of Utah, hereinafter referred to as the “**CITY**”,

WITNESSETH:

WHEREAS, the **CITY** has requested **UDOT’s** concurrence to furnish and install pedestrian flags at certain crosswalk locations on State Route 156 in Spanish Fork City, Utah County, Utah; and

WHEREAS, although **UDOT** does not recommend the use of pedestrian flags, it supports the **CITY’s** concern for pedestrian safety; and

WHEREAS, **UDOT** will allow the **CITY** to install pedestrian flags at specified locations according to the terms and conditions set forth herein; and

WHEREAS, **UDOT** has determined by formal finding that payment of said work on public right-of-way is not in violation of the laws of the State of Utah or any legal contract with the **CITY**.

This **COOPERATIVE AGREEMENT** is made to set out the terms and conditions whereunder said work shall be performed.

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

Installation and Use of Pedestrian Flags on
State Routes
SPANISH FORK CITY CORPORATION
Federal ID No. 876000284

1. The **CITY**, at no cost **UDOT**, will furnish, install and maintain the condition, quantity, and distribution of the pedestrian flags at all times. Installation, maintenance, replacement and/or repair costs shall be borne entirely by the **CITY**.

2. The **CITY** desires, and **UDOT** approves, installing pedestrian flags at the following location(s):

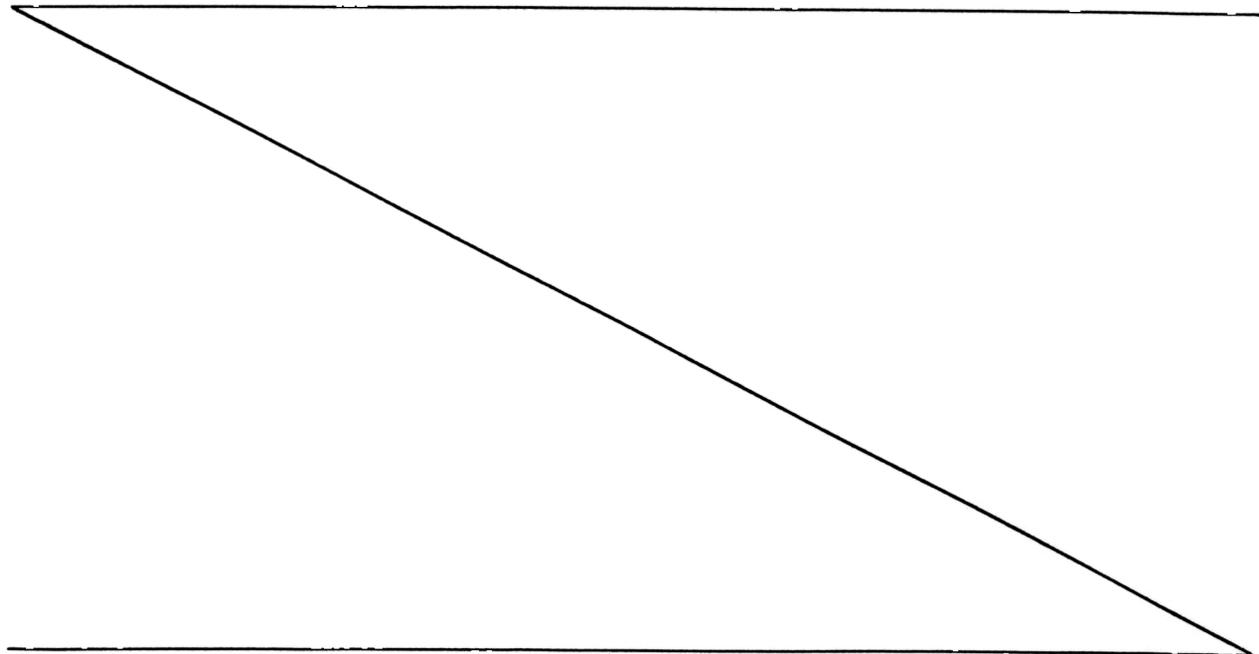
Intersection of Main Street (SR-156) and 100 North

Any future locations will require another agreement between the parties hereto.

3. The **CITY** shall only install or use pedestrian flags for marked crosswalks at unsignalized intersections. Pedestrian crossing flags shall not be used or installed at designated school crosswalks.

4. The **CITY**, at no cost **UDOT**, will remove the pedestrian flags from any or all of the above location(s) upon **UDOT**'s request. Grounds for removal include, but are not limited to: an increase in pedestrian accidents, or lack of maintenance of conditions outlined in paragraph one. All removal costs shall be borne entirely by the **CITY**.

5. The **CITY** hereby acknowledges that **UDOT** makes no claim or guarantee of the effectiveness of pedestrian flags. The **CITY** further agrees to indemnify **UDOT** from any liability or legal action resulting from the installation and use of pedestrian flags.



Installation and Use of Pedestrian Flags on
State Routes
SPANISH FORK CITY CORPORATION
Federal ID No. 876000284

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers as of the day and year first above written.

ATTEST:

SPANISH FORK CITY CORPORATION, a Municipal Corporation of the State of Utah

By: _____

Date: _____

By: _____
Title: _____
Date: _____

(IMPRESS SEAL)

RECOMMENDED FOR APPROVAL: UTAH DEPARTMENT OF TRANSPORTATION

By: _____
Utilities/Railroads Coordinator
Date: _____

By: _____
Region Director
Date: _____

APPROVED AS TO FORM:

This Form Agreement has been previously approved as to form by an Assistant to the Utah Attorney General.

COMPTROLLER OFFICE

By _____
Contract Administrator
Date: _____



CONTRACT CHANGE ORDER

CHANGE ORDER NO. 4

ISSUED TO : Absolute Constructors,

DATE: 12/12/03

PROJECT:

Spanish Fork Water Reclamation Facility - STM Aerotor Basin Addition

This Change Order covers changes to the subject contract as described herein. The Contractor shall contract, furnish and install all equipment and materials, and perform all work as necessary or required to complete the Change Order items for the price agreed upon.

Description of Changes:

- 1. Remove and Replace Clarifier Rake Arm Structural Pieces. The material to be replaced is corroded, and must be replaced to insure the integrity of the mechanism. The Conditions could not be discovered until the clarifier was drained and cleaned, and they were not known prior to the contract award. The work has been done to get the clarifier back into service in a timely manner. \$2,300.00

NET CHANGE IN CONTRACT PRICE
INCREASE (OR DECREASE):

\$2,300.00

FINANCIAL INFORMATION

1. AMOUNT OF THIS CHANGE ORDER	2. AMOUNT OF PRIOR CHANGE ORDERS	3. AMOUNT OF ORIGINAL CONTRACT	4. ADJUSTED CONTRACT AMOUNT (1,2,3)
\$2,300.00	\$17,420.00	\$1,291,360.00	\$1,311,080.00

ACCEPTANCE

We, the undersigned, have given careful consideration to the change proposed, and hereby agree; if this proposal is approved, that we will provide all equipment, furnish all material, except as may otherwise be noted above, and perform all services necessary for the work specified, and will accept as full payment therefor the fees or prices shown above. By reason of this proposed change, the contract time will be:

No Change
(increased or decreased)
_____ calendar days

Accepted: Absolute Constructors

SIGNATURE: *[Signature]*
TITLE: President
Date: 12/18/03

ENDORSEMENTS

Requested:	Date
By: _____	
Recommended: Aqua Engineering, Kevin Allcott	Date
By: <u><i>[Signature]</i></u>	<u>12/12/03</u>
Approved:	Date
By: <u><i>[Signature]</i></u>	<u>12/23/03</u>
Approved and Accepted:	Date
By: _____ Spanish Fork City	

FIRST AMENDMENT TO WATER SUPPLY AGREEMENT

THIS FIRST AMENDMENT TO WATER SUPPLY AGREEMENT (hereinafter the "First Amendment") is made and entered into effective as of the ___ day of January, 2004, by and between **SPANISH FORK CITY**, a municipal corporation of the State of Utah (hereinafter the "City") and **EsNET PROPERTIES, L.C.**, a Utah limited liability company (hereinafter "EsNet").

A. Pursuant to that certain Special Warranty Deed dated June 17, 1996, and recorded in the office of the County Recorder of Utah County, State of Utah on June 18, 1996, as Entry No. 50582, in Book 3997, at Pages 794, et seq., the City conveyed to EsNet certain real property located in Utah County, State of Utah and more particularly described on Exhibit A attached hereto and by this reference made a part hereof (hereinafter the "Crab Creek Property").

B. Pursuant to that certain Water Supply Agreement dated June 17, 1996, between the City and EsNet and recorded in the office of the County Recorder of Utah County, State of Utah on June 18, 1996, as Entry No. 50590, in Book 3998, at Pages 17, et seq. (hereinafter the "Water Supply Agreement"), the City agreed to provide EsNet with certain water, all as more particularly provided in the Water Supply Agreement.

C. Subject to the provisions of this Agreement, EsNet and the City desire to make certain amendments to the Water Supply Agreement.

NOW, THEREFORE, or Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties to this First Amendment, EsNet and the City do hereby agree as follows:

1. **Amendment of Paragraph 6 of Water Supply Agreement.** Paragraph 6 of the Water Supply Agreement is hereby amended by deleting said Paragraph 6 in its entirety and replacing it with the following Paragraph 6:

6. Assignment and Successors. This Agreement and EsNet's rights under this Agreement shall be freely assignable in one or more Assignments by EsNet and any successor of EsNet (a) to one or more persons or entities acquiring title to the Crab Creek Property, or any portion of the Crab Creek Property, and/or (b) one or more mutual water companies or homeowners' associations created to assume the water delivery responsibilities on all or some portion of the Crab Creek Property. Written notice and a copy of each such assignment shall be given to the City concurrently with the making of each such assignment. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties to this Agreement.

2. **Ratification.** The parties to this First Amendment do hereby ratify and confirm the Water Supply Agreement and their respective rights and obligations under the Water Supply Agreement as the Water Supply Agreement has been modified by this First Amendment.

IN WITNESS WHEREOF, City and EsNet have signed this Agreement on the date first above written.

SPANISH FORK CITY, a municipal corporation of the State of Utah

ATTEST:

City Recorder

By: _____
Its: Mayor

EsNET PROPERTIES, L.C., a Utah limited liability company

By: _____
Name: _____
Title: Manager

STATE OF _____)
: ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of January, 2004,
by _____ and _____, respectively the Mayor and
City Recorder of **SPANISH FORK CITY**.

NOTARY PUBLIC

My Commission Expires:

Residing At:

STATE OF _____)
: ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of December,
2003, by _____, the Manager of **EsNET PROPERTIES, L.C.**.

NOTARY PUBLIC

My Commission Expires:

Residing At:

**CONDITIONAL ASSIGNMENT AND ASSUMPTION
OF WATER SUPPLY AGREEMENT**

THIS CONDITIONAL ASSIGNMENT AND ASSUMPTION OF WATER SUPPLY AGREEMENT (hereinafter the "Agreement"), is made and entered into on the ____ day of January, 2004, by, between, and among **EsNET PROPERTIES, L.C.**, a Utah limited liability company (hereinafter "Assignor") and **SOUTHERN CROSS RANCH, LLC**, a Georgia limited liability company (hereinafter "Assignee").

RECITALS:

A. Assignor is the owner of that certain real property located in Utah County, State of Utah and more particularly described on Exhibit A attached hereto and by this reference made a part hereof (hereinafter the "Property"). Assignor acquired the Property from Spanish Fork City, a municipal corporation of the State of Utah (hereinafter "City").

B. As part of the consideration for Assignor's acquisition of the Property from City, City and Assignor entered into that certain Water Supply Agreement dated June 17, 1996 relating to City's agreement to provide Assignor with certain water and to cooperate with Assignor in the development of certain irrigation water, all as more particularly set forth in the Water Supply Agreement. The Water Supply Agreement has been amended pursuant to that certain First Amendment to Water Supply Agreement dated effective as of _____, 2004, and signed by City and Assignor. For reference purposes, the Water Supply Agreement and the First Amendment to Water Supply Agreement are hereinafter collectively referred to as the "Water Supply Agreement."

C. Pursuant to that certain Real Estate Purchase and Option Contract dated December 15, 2003 between Assignor and Assignee (hereinafter the "Option Agreement"), Assignor granted Assignee an option to purchase the Property and Assignor's rights under the Water Supply Agreement. Pursuant to the Option Agreement, Assignor agreed to enter into an agreement with Assignee pursuant to which Assignor assigned to Assignee all of Assignor's rights under the Water Supply Agreement, with the effectiveness of such assignment being expressly conditioned upon Assignee's acquisition of the Property from Assignor in accordance with the Option Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, the parties to this Agreement do hereby agree as follows:

1. **Assignment.** Subject to and effective upon Assignee's acquisition of title to the Property from Assignor in accordance with the provisions of the Option Agreement, Assignor does hereby assign to Assignee all of Assignor's right, title, and interest in and to the Water Supply Agreement.

2. **Assumption and Indemnification by Assignee.** Subject to and effective upon Assignee's acquisition of title to the Property from Assignor, Assignee hereby assumes and agrees to perform all of the covenants, agreements and obligations under the Water Supply

Agreement which are binding on Assignor pursuant to the Water Supply Agreement (such covenants, agreements and obligations being herein collectively referred to as the "Contractual Obligations"), to the extent that such Contractual Obligations shall arise or accrue on or after the date on which Assignee acquires title to the Property from Assignor. Without limiting the generality of the preceding sentence, Assignee hereby agrees to indemnify, hold harmless and defend Assignor from and against any and all obligations, liabilities, costs and claims (including reasonable attorney's fees) arising as a result of or with respect to any of the Contractual Obligations that are attributable to the period of time on or after the date on which Assignee acquires title to the Property from Assignor.

3. **Indemnification by Assignor.** Assignor hereby agrees to indemnify, hold harmless and defend Assignee from and against any and all obligations, liabilities, costs and claims (including reasonable attorney's fees) arising as a result of or with respect to any of the Contractual Obligations that are attributable to the period of time prior to the date on which Assignee acquires title to the Property from Assignor.

4. **Effectiveness of Assignment.** This Agreement and the assignment of Assignor's rights under the Water Supply Agreement to Assignee pursuant to this Agreement shall be effective upon Assignee's acquisition of title to the Property from Assignor pursuant to the Option Agreement. For purposes of this Agreement, Assignee shall be deemed to have acquired title to the Property from Assignor upon the recordation in the office of the County Recorder of Utah County, State of Utah of one or more deeds pursuant to which Assignor conveys title to all of the Property to Assignee. This Agreement and the rights of Assignee under this Agreement shall automatically terminate, without notice from or further act by Assignor, upon the termination of Assignee's rights to acquire the Property under the Option Agreement.

5. **Recordation.** This Agreement may be recorded in the office of the County Recorder of Utah County, State of Utah concurrently with Assignee's acquisition of title to the Property from Assignor. Neither this Agreement nor any notice of this Agreement shall be recorded in the office of the County Recorder of Utah County, State of Utah prior to Assignee's acquisition of title to the Property from Assignor.

6. **Applicable Law.** This Agreement shall be construed under and enforced in accordance with the laws of the State of Utah.

7. **Incorporation of Exhibits.** All Exhibits and Schedules attached hereto are incorporated herein by this reference and made a part hereof for all purposes.

8. **Binding Effect.** This Agreement and all of its terms and provisions shall be binding upon and inure to the benefit of Assignor and its successors and assigns, and Assignee and its successors and assigns.

9. **Counterparts.** This instrument may be executed in any number of counterparts, each to be an original, but all of which shall constitute one instrument, and it shall be sufficient if any party hereto signs any such counterpart, so long as each of the parties hereto executes at least one such counterpart.

DATED the day and year first above written.

ASSIGNOR:

EsNET PROPERTIES, L.C., a Utah limited liability company

By: _____

Name: _____

Title: _____

ASSIGNEE:

SOUTHERN CROSS RANCH, LLC, a Georgia limited liability company

By: _____

Name: _____

Title: _____

STATE OF UTAH)
 : ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of January, 2004,
by _____, the Manager of EsNET PROPERTIES, L.C., a Utah limited liability
company.

NOTARY PUBLIC
Residing at: _____

My Commission Expires:

STATE OF _____)
 : ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of January, 2004,
by _____, the _____ of SOUTHERN CROSS RANCH,
LLC, a Georgia limited liability company.

NOTARY PUBLIC
Residing at: _____

My Commission Expires:

CONSENT OF SPANISH FORK CITY

THE UNDERSIGNED SPANISH FORK CITY, a municipal corporation of the State of Utah (hereinafter "City"), hereby consents to foregoing Conditional Assignment and Assumption of Water Supply Agreement (hereinafter the "Assignment") and agrees that at such time as the Assignment becomes effective (in accordance with the provisions of Paragraph 4 of the Assignment) City will recognize Assignee as the holder of all of Assignor's rights under the Water Supply Agreement. City hereby agrees with Assignee as follows:

1. City represents to Assignee that as of the date of this Consent of Spanish Fork City:

(a) The Water Supply Agreement is in full force and effect.

(b) No event of default by City has occurred under the Water Supply Agreement and, to City's knowledge, no event has occurred which with the giving of notice or lapse of time, or both, would constitute an event of default by City under the Water Supply Agreement.

(c) To City's knowledge, no event of default by Assignor has occurred under the Water Supply Agreement and, to City's knowledge, no event has occurred which with the giving of notice or lapse of time, or both, would constitute an event of default by Assignor under the Water Supply Agreement.

(d) With the exception of the First Amendment to Water Supply Agreement referred to in Recital Paragraph B above, the Water Supply Agreement has not been modified, changed, altered, or amended in any respect and is the entire agreement between Assignor and City relating to the City's agreement to provide water to or for the benefit of Assignor with respect to the Property.

2. City agrees that until either the termination of the Assignment in accordance with Paragraph 4 thereof or the Assignment becomes effective in accordance with Paragraph 4 thereof City will not agree to any modification, change, alteration, or amendment of the Water Supply Agreement without the prior consent of Assignee.

3. City agrees that until either the termination of the Conditional Assignment of Water Supply Agreement in accordance with Paragraph 4 thereof or the Assignment becomes effective in accordance with Paragraph 4 thereof, City will give Assignee written notice of any default by Assignor under the Water Supply Agreement concurrently with the giving of any such notice to Assignor.

4. Capitalized terms used in this Consent shall, unless otherwise defined in this Consent, have the same meaning as is given to those terms in the Assignment.

[SIGNATURES ON FOLLOWING PAGE]

