



CITY COUNCIL MEETING

6:00 pm
Tuesday, June 15, 2004

I. PRELIMINARY ACTIVITIES

- A. Pledge of Allegiance
- B. Minutes
- C. City Youth Council Presentation and Introduction of New Members
- D. [Agenda Request](#) - Brad Tanner - City Brush Truck

II. PUBLIC HEARINGS

- 6:30 pm
- A. Budget FY 2004 Revision II Adoption
 - B. [Adjourn to Redevelopment Agency Meeting](#) - Budget FY 2004 Revision II Adoption - Public Hearing

III. STAFF REPORTS

- A. Emil Pierson - Planning
 - 1. [Sunny Ridge Preliminary Plat](#) - 400 North 1300 East
- B. S. Junior Baker - Legal
 - 1. [Olsen Well Property Exchange](#)
 - 2. [Storm Drain Agreement](#) - Spanish Vista Estates
 - 3. [Ordinance 09-04](#) - An Ordinance to Establish Telephone Tax
 - 4. [Interlocal Agreement](#) with the Tax Commission to Collect Telephone Tax
 - 5. [Ordinance 10-04](#) - An Ordinance Adopting Utah County's "EASY" Standard for Beer Handlers Permits
- C. Kent Clark - Finance
 - 1. [Aging Services Contract](#) with Mountainland Association of Governments
- D. Richard Heap - Engineering
 - 1. [Real Estate Purchase Agreement](#) - Hill (Airport)
 - 2. [Real Estate Purchase Agreement](#) - Hanson (Airport)
 - 3. [Bid Tabulation](#) - Oaks Water Tank Project
 - 4. [Boundary Line Agreement](#) - 300 West Right-of-Way
- E. David Oyler - Administration
 - 1. FY 2005 Budget Adoption

IV. OTHER BUSINESS

V. EXECUTIVE SESSION IF NEEDED - TO BE ANNOUNCED IN MOTION

(*) 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.

-----Original Message-----

From: Brad Tanner [mailto:btanner@sfcn.org]

Sent: Saturday, May 29, 2004 2:59 PM

To: contact@spanishfork.org

Subject: Request to be on city council agenda

Dear Mayor and City Council,

I would like to make a request to be on the agenda for the June 15th 2004 city council meeting.

Subject: The city brush truck in the fire department.

Detailed Information:

I understand the city will be purchasing a new rescue truck for our fire department and turning the old rescue truck into a brush truck. My request is to talk about a possible donation of the old brush truck that may be salvaged by the city. I have some information on a humanitarian effort that could help two cities in Mexico and bring some great PR to our city.

Thanks for your consideration to be on your agenda.

Brad Tanner

Triple T. Heating & Cooling

SPANISH FORK^{CITY}

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

REDEVELOPMENT AGENCY

Notice is hereby given that the Redevelopment Agency of Spanish Fork City will hold a meeting on **June 15, 2004 at 6:30 pm**, 40 South Main Street, Spanish Fork City, Utah. All interested citizens are invited to attend.

AGENDA

7:00 pm

- I. Roll Call**

- II. Disbursements**

- II. Minutes**

- III. Public Hearings**
 - A. FY 2004 Budget Revision

- IV. Staff Reports**
 - A. David Oyler Administration
 - 1. FY 2004 Budget Revision - Adoption
 - 2. FY 2005 Budget - Adoption

- V Other Business**

- VI. Adjournment**

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

Spanish Fork City Council Report

To:	City Council	ID# PRE	04-06
From:	Emil Pierson, City Planner	Zoning	R-1-12
Date:	June 15, 2004	Property Size	96.9 acre
Subject:	Sunny Ridge Preliminary Plat	# Lots/Units	183
Location:	400 North 1300 East	Units/Acre	1.90

Background

The applicant(s), Woodspring LLC (Dave Simpson), is requesting preliminary plat approval in order to develop a 183 unit subdivision. The property is shown in the General Plan as Residential 2.5 to 3.5 u/a and the developer is proposing 1.90 u/a and the project was zoned R-1-12 at the time of the annexation. The project (application) was submitted to staff on April 20, 2004 and was vested at that time. There is adequate water, sewer, power, and other utilities for this subdivision.



Analysis

The property is 96.9 acres in size and is currently vacant or has been farmed in the past. To the north is 400 North and property owned by Johnson's. To the east is property owned by the Grotegut's, Rodgers, and Kenneth Lewis all 5 acre properties in the County. To the west and south is the railroad tracks and Highway 6.

The proposed project is not considered a Master Planned Development (PUD) but is a straight up subdivision that means the subdivision must meet all of the requirements for that zoning designation. According to the plans the subdivision is meeting all of the requirements of the R-1-12 zone Title 17.20.020 Table 2.

The requirements as per the R-1-12 zoning include:

	Lot size	Lot width	Lot depth
Single family lots	12,000 square feet	100-feet	100-feet
Setbacks - 25' front, 25' rear, 10' side, 15-25' corner			

Access

The plans show two points of access onto 400 North; a collector road going on to Highway 6 (Center Street & Cut-bridge) there is also two other accesses points going south onto Center Street. A collector is also shown going east/west through the development.

Lot sizes

All lots are over the required 12,000 square feet.

Wall

A masonry wall with stamped concrete, tree wells with grates and 2" caliper trees are required on 400 North.

Trail

The developer is proposing to install a trail along the railroad that is 10-feet wide

Drainage basin

A proposed drainage basin is planned on the northwest corner of the project by the railroad track.

DEVELOPMENT REVIEW COMMITTEE

The DRC reviewed this request at their May 26th meeting and discussed the wall on 400 North, the trail system along the RR tracks, the bridge, and the drainage basin.

Minutes from May 26, 2004

Mr. Pierson made a **motion** to approve the Sunny Ridge Preliminary Plat A with the following conditions:

1. Construct a masonry wall along 400 North matching the wall at Valley Crest, including 2-inch caliper trees every 30 feet, tree grates, sprinkler system, and stamped concrete,
2. Relocate the detention basin onto lot 188,
3. Construct a trail, in accordance with the city trail standards, to lot 188 with access onto the street,
4. Meet all of the Construction and Development Standards,
5. Receive approval of the electrical design from Jeff Foster of the Electric Department,
6. Receive the ditch piping sign-off from the irrigation company,
7. Meet all of the zoning requirements for the R-1-12 Zone,

8. Meet all of the conditions of the Annexation Agreement,
9. North-south road be included as part of the first phase,
10. Find property owner for the trial piece north of the bridge,
11. Amend the preliminary plat to show the installation of a 1/2 of the road plus ten feet of the road to the bridge, to be included in the first phase of the development,
12. Clear up right of way lines for the cut bridge road.

Mr. Baker **seconded**, and the motion **passed** unanimously.

PLANNING COMMISSION

The Planning Commission discussed this request at their June 2nd meeting and recommended approval of the preliminary plat subject to the twelve conditions listed below.

RECOMMENDATION

APPROVE

Make the motion to **APPROVE** the **Sunny Ridge Preliminary Plat** located at 400 North 1300 East subject to the following condition(s):

1. **Construct a masonry wall along 400 North matching the wall at Valley Crest, including 2-inch caliper trees every 30 feet, tree grates, sprinkler system, and stamped concrete,**
2. **Relocate the detention basin onto lot 188,**
3. **Construct a trail, in accordance with the city trail standards, to lot 188 with access onto the street,**
4. **Meet all of the Construction and Development Standards,**
5. **Receive approval of the electrical design from Jeff Foster of the Electric Department,**
6. **Receive the ditch piping sign-off from the irrigation company,**
7. **Meet all of the zoning requirements for the R-1-12 Zone,**
8. **Meet all of the conditions of the Annexation Agreement,**
9. **North-south road be included as part of the first phase,**
10. **Identify the property owner for the trail along the northside of the bridge,**
11. **Amend the preliminary plat to show the installation of a 1/2 of the road plus ten feet of the road to the bridge, to be included in the first phase of the development,**
12. **Clear up the right-of-way lines for the cut-bridge road.**

DENY

Make the motion to **DENY** the **Sunny Ridge Preliminary Plat** located at 400 North 1300 East for the follow reason(s):

TABLE

Make the motion to **TABLE** the **Sunny Ridge Preliminary Plat** located at 400 North 1300 East East for the follow reason(s):



**MEMO
SPANISH FORK CITY
PUBLIC WORKS DEPARTMENT**

DATE: June 3, 2004

TO: Mayor Barney and City Council

FROM: Richard J. Nielson, Assistant Public Works Director

RE: Olsen Well Property Exchange

This item was before you as an agenda request on April 20. Perry Frandsen of Spanish Fork Associates is requesting that the City exchange property with him at the Olsen Well site. The well is not located within the City's deed at that location and the City owns a parcel of ground on the west side of the railroad tracks. Mr. Frandsen is proposing to exchange parcels of equal size, thus allowing the Olsen Well to be located on city owned property. He would like to ask the council to grant permission for a possible rail spur to cross the City property in the future. I feel that this is a good solution to resolve this property line discrepancy and I would recommend that the City Council accept this property exchange.

**STORM DRAIN AGREEMENT
SPANISH VISTA ESTATES
SPANISH FORK CITY, UTAH**

This Storm Drain Agreement is entered into as of this ____ day of May, 2004, by and among E.S.A.D. Investments, L.C. (ESAD), as developer of certain real property located in Spanish Fork City, Utah, on which it proposes the development of a project known as Spanish Vista Estates, and the City of Spanish Fork, a municipality and political subdivision of the State of Utah, by and through its City Council (City).

RECITALS:

A. City has authorized the negotiation and adoption of storm drain agreements under appropriate circumstances where the proposed development contains outstanding features which advance the policies, goals and objectives of the Spanish Fork City Comprehensive General Plan, preserves and maintains the atmosphere desired by the citizens of the City, and contributes to capital improvements which substantially benefit the City.

B. City, acting pursuant to its authority under Utah Code Ann. §10-9-101, et seq., and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations, has made certain determinations with respect to the proposed development and, in the exercise of its legislative discretion, has elected to approve this Storm Drain Agreement.

Now, therefore, in consideration of the mutual covenants, conditions, and considerations as more fully set forth below, ESAD and Spanish Fork City hereby agree as follows:

1. Developer Contributions and Construction Obligation for Storm Drain

Improvements.

City's storm drain improvements for the Southeast Bench Area, the area shown in exhibit A, are at capacity until a storm drain outfall line is constructed from the bench to the Spanish Fork River. ESAD's project is in the Southeast Bench Area and cannot be constructed until the outfall line is in place. Therefore, the storm drain outfall line improvements and necessary easements will be paid initially by ESAD in accordance with the engineering prepared by a professional engineering firm approved by City, which meets the design criteria and Construction and Development Standards of City. The location shall be approximately as shown on exhibit B. The monies expended for these improvements shall be reimbursed to ESAD through collection of storm drain impact fees collected by the City from the properties in the Southeast Bench Area. The parties recognize that the City has other requirements for storm drain impact fees. Accordingly, for all storm drain impact fees collected on final plats within the Southeast Bench Area, ESAD will receive 31% of the amount of the impact fee to offset the costs of the improvements identified herein, until the cost of the storm drain outfall line is reimbursed (at an estimated cost of \$450,000.00, which figure will be supplemented by the actual cost, once construction is complete and the actual cost is known), or until no more impact fees are available for reimbursement within this drainage area. Reimbursement will come from both past and future developments for which impact fees have been or will be collected. Reimbursement payments shall be made thirty days after the end of each calendar quarter, but shall not commence until the improvements are installed and accepted by City.

2. Agreement if Impact Fees Repealed or Modified.

The parties understand that City's sole obligation to ESAD for reimbursement of the

storm drain outfall line, as described above, is through the collection of impact fees. Should legislation be enacted which repeals or modifies the collection of impact fees, and ESAD chooses to, in anyway, challenge those changes, ESAD will do so at its own cost, agreeing to defend and indemnify City for any costs of defense City may be exposed to from the ESAD challenge. If a third party challenges City's right, under this contract, to continue to collect impact fees to pay for the costs of the storm drain retention basin, ESAD agrees to indemnify and defend City in any such action. ESAD may relieve itself from such obligation by notifying City, in writing, it need not collect impact fees pursuant to this agreement. City agrees to act in good faith to cooperate with ESAD in any reasonable adjustment or amendment of the above agreement to coincide with any new legislation, whether the adjustment or amendment includes the enforcement of this agreement, other connector's agreements, proposing special improvement districts, etc., with the understanding that any associated costs for these adjustments or amendments would be paid by ESAD. Additionally, ESAD shall receive similar amounts as stipulated in this agreement should impact fees be repealed and substituted with other fees, which fees are assessed only against new growth. City shall not, of its own volition, enact any legislation which would repeal or adversely modify the collection of impact fees.

3. Reserved Legislative Powers

Nothing in this Agreement shall limit the future exercise of the police power by City in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement.

**4. Subdivision Plat Approval and Compliance with Spanish Fork City Design
and Construction Standards.**

ESAD expressly acknowledges and agrees that nothing in this agreement shall be deemed to relieve ESAD from the obligation to comply with all applicable requirements of City necessary for approval and recordation of subdivision plats and site plans for Spanish Vista Estates, including the payment of impact and other fees and to act in compliance with all other applicable ordinances, resolutions, regulations, policies, and procedures of City, including but not limited to, the Subdivision Ordinance and Design and Construction Standards, in effect at the time of any construction. ESAD acknowledges the storm drain outfall line will be bonded for prior to recording any final plat for the project, pursuant to City ordinances for subdivision offsite improvements.

5. No Joint Venture, Partnership or Third Party Rights.

This Storm Drain Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto, nor any rights or benefits to third parties.

6. Integration

This Storm Drain Agreement contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.

7. Attorney's Fees

If this agreement or any of the exhibits hereto are breached, the party at fault agrees to pay the attorney's fees and all costs of enforcement of the non-breaching party.

8. Assignability

This agreement is assignable by ESAD and it is contemplated that the agreement will be

assigned to Centex Homes, Inc. ESAD is responsible to notify City when and if such assignment takes place, and provide addresses where payments are to be forwarded.

SPANISH FORK CITY by:

DALE R. BARNEY, Mayor

ATTEST:

KENT CLARK
Spanish Fork City Recorder

ESAD Investments, L.C. by:

MIKE DUNN, Manager

ORDINANCE NO. 09-04

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 ordinance be adopted: _____

I SECOND the foregoing motion: _____

ORDINANCE NO. 09-04

AN ORDINANCE ESTABLISHING A TAX ON THE GROSS RECEIPTS OF TELECOMMUNICATIONS SERVICE PROVIDERS; SETTING THE RATE FOR SUCH TAX; AND ESTABLISHING THE EFFECTIVE DATE OF THE TAX

WHEREAS, Spanish Fork City has the authority under Utah Code Ann. §10-1-401 et seq. to levy a tax on the gross receipts of telecommunication service providers; and

WHEREAS, Spanish Fork City has determined the need for such a tax as a source of general fund revenue; and

WHEREAS, Spanish Fork City has previously raised general fund revenue from taxes or fees from certain telecommunication providers under the authority of Utah Code Ann. §§10-1-203 or 11-26-1 et seq. The Utah legislature has recently amended those sections of the Utah Code, making it necessary to repeal those taxes and/or fees and adopt a new ordinance in order to remain fiscally neutral;

NOW THEREFORE BE IT ORDAINED AND ENACTED by the Spanish Fork City

Council as follows:

I. Municipal Code

Chapter 36 of Title 3 of the Spanish Fork City Municipal Code is hereby enacted as follows:

3.36.010. Definitions.

As used in this chapter, the following terms shall be defined as follows:

- (1) "Commission" means the State Tax Commission.
- (2) (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.
 - (b) For purposes of this chapter, "customer" means:
 - (i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or
 - (ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.
 - (c) "Customer" does not include a reseller:
 - (i) of telecommunications service; or
 - (ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.
- 3(a) "End user" means the person who uses a telecommunications service.
 - (b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.
- (4) "Gross Receipts attributed to the municipality" means those gross receipts from a transaction for telecommunications services that is located within the municipality for the purposes of sales and use taxes under Utah Code Title 59, Chapter 12, Sales and Use Tax Act and determined in accordance with Utah Code section 59-12-207.
- (5) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for the amounts collected or paid as:
 - (a) a tax, fee, or charge:
 - (i) imposed by a governmental entity;
 - (ii) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and
 - (iii) imposed only on a telecommunications provider;
 - (b) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or
 - (c) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.
- (6) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(7) "Municipality" means Spanish Fork City.

(8) "Place of primary use";

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be;

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(9) Notwithstanding where a telephone call is billed or paid, "service address" means:

(a) if the location described in the Subsection (9)(a) is not known, the location of the telecommunications equipment:

(i) to which a call is charged; and

(ii) from which the call originates or terminates;

(b) if the location described in Subsection (9)(a) is not known but the location described in this Subsection (9)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:

(i) the telecommunications system of the telecommunications provider; or

(ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or

(c) if the locations described in Subsection (9)(a) or (b) are not known, the location of a customer's place of primary use.

(10) (a) Subject to Subsections (10)(b) and (10)(c), "telecommunications provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; or

(ii) engages in an activity described in Subsection (10)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (10)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(c) "Telecommunications provider" does not include an aggregator as defined in Utah Code Ann. §54-8b-2.

(11) "Telecommunications service" means:

(a) telephone service, as defined in Utah Code Ann. §59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state and

(b) mobile telecommunications service, as defined in Utah Code Ann. §59-12-102:

(i) that originates and terminates within the boundaries of one state; and

(ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. §116 et seq.

3.36.020. Levy of Tax.

There is hereby levied a municipal telecommunications license tax on the gross receipts from telecommunications service attributed to this municipality.

3.36.030. Rate

The rate of the tax levy shall be one-half of one percent (0.50%) of the telecommunication provider's gross receipts from telecommunications service that are attributed to the municipality. If the location of transaction is determined to be other than this municipality then the rate imposed on the gross receipts for telecommunications services shall be determined pursuant to the provisions of Utah Code Ann. §10-1-407.

3.36.040. Rate Limitation and Exemption Therefrom.

This rate of this levy shall not exceed four percent (4%) of the telecommunication provider's gross receipts from telecommunication service attributed to the municipality unless a higher rate is approved by a majority vote of the voters in the municipality that vote in:

- (a) a municipal general election;
- (b) a regular general election; or
- (c) a local special election.

3.36.050. Changes in Rate or Repeal of the Tax

This ordinance is subject to the requirements of Utah Code Ann. §10-1-403. If the tax rate is changed or the tax is repealed, then the appropriate notice shall be given as provided in section.

3.36.060. Procedures for Taxes Erroneously Recovered from Customers

Pursuant to the provisions of Utah Code Ann. §10-1-408, a customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider erroneously recovered from the customer the municipal telecommunication license tax, except as provided in §10-1-408.

**II.
Effective Date**

This tax shall be levied beginning July 1, 2004.

**III.
Interlocal Agreement for collection of the tax**

On or before the effective date of the ordinance, Spanish Fork City shall enter into a uniform interlocal agreement with the Commission as described in Utah Code Ann. §10-1-405 for the collection, enforcement, and administration of this municipal telecommunications license tax.

**IV.
Repeal of inconsistent taxes and fees.**

Any tax or fee previously enacted under authority of Utah Code Ann. §10-1-203 or Utah Code Title 11, Chapter 26, Local Taxation of Utilities Limitation is hereby repealed.

Nothing in this ordinance shall be interpreted to repeal any municipal ordinance or fee which

provides that Spanish Fork City may recover from a telecommunications provider in the rights-of-way of the municipality, if the fee is imposed in accordance with Utah Code Ann. §72-7-102 and is not related to the municipality's loss of use of a highway as a result of the activities of the telecommunications provider in a right of way, or increased deterioration of a highway as a result of the activities of the telecommunications provider in a right-of-way, nor does this ordinance limit Spanish Fork City's right to charge fees or taxes on persons that are not subject to the municipal telecommunications license tax under this ordinance and locate telecommunications facilities, as defined in Utah Code Ann. §72-7-108, in this municipality.

V.

Municipal Code

Sections II, III, IV, and V are not part of the Spanish Fork City Municipal Code.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK, UTAH, this _____ day of June, 2004.

DALE R. BARNEY, Mayor

ATTEST:

KENT R. CLARK, City Recorder

**A UNIFORM INTERLOCAL AGREEMENT BETWEEN
THE UTAH STATE TAX COMMISSION AND
A MUNICIPALITY THAT HAS IMPOSED
THE MUNICIPAL TELECOMMUNICATIONS LICENSE TAX**

This Uniform Interlocal Cooperation Agreement (hereinafter “Uniform Agreement”) is made by and between the Utah State Tax Commission (hereinafter “Commission”) and Spanish Fork City (hereinafter “Municipality”).

WHEREAS, Utah Code Ann. §10-1-404 requires a Municipality to enter into a Uniform Agreement with the Commission on or before the effective date of the Municipality’s ordinance imposing the municipal telecommunications license tax; and

WHEREAS, Title 11, Chapter 13, Interlocal Cooperation Act, authorizes the state and political subdivisions to enter into agreements with one another to permit local governmental units to make the most efficient use of their powers, and to provide the benefit of economy of scale;

NOW THEREFORE, Commission and Municipality do hereby agree as follows:

1. Municipality has adopted an ordinance to impose the municipal telecommunications license tax under Title 10, Chapter 1, Part 4, at a rate of 0.5%.
2. Commission shall transmit monies collected under the municipal telecommunications license tax monthly and by electronic funds transfer to municipality.
3. Commission shall conduct audits of the municipal telecommunications license tax.
4. Commission shall charge Municipality for the Commission’s services in an amount sufficient to reimburse Commission for Commission’s costs of administering, collecting, and enforcing the municipal telecommunications license tax. Commission’s charge to municipality’s may not exceed an amount equal to 1.5% of the municipal telecommunications license tax imposed by Municipality’s ordinance.
5. Commission shall collect, enforce, and administer the municipal telecommunications license tax pursuant to the same procedures used in the administration, collection, and enforcement of the state sales use tax as provided in Utah Code Ann. §10-1-405(1)(a).
6. There is no new entity created by this Uniform Agreement.

DATED this ____ day of June, 2004

UTAH STATE TAX COMMISSION by:

SPANISH FORK CITY by:

Approved as to form:

DALE R. BARNEY, Mayor

Attest:

Assistant Attorney General

KENT R. CLARK, Recorder

Approved as to form:

S. JUNIOR BAKER, City Attorney

ORDINANCE NO. 10-04

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 ordinance be adopted: _____

I SECOND the foregoing motion: _____

ORDINANCE NO. 10-04

AN ORDINANCE ADOPTING UTAH COUNTY'S "EASY" STANDARD FOR BEER HANDLERS PERMITS

WHEREAS, Spanish Fork City regulates the issuance of beer permits in accordance with the Utah Alcoholic Beverage Control Act; and

WHEREAS, Underage individuals continue to obtain alcoholic beverages; and

WHEREAS, A county wide requirement for employees of beer permit holders to be trained and licensed in the handling of beer sales would help curb underage individuals from obtaining alcoholic beverages; and

WHEREAS, minor modifications to the Spanish Fork Municipal Code can implement those desired effects;

NOW THEREFORE, be it ordained and enacted by the Spanish Fork City Council as follows:

I.

Spanish Fork Municipal Code §5.12.020 is hereby amended by adding the following paragraphs to the end thereof:

A permittee holding a Class A Permit (as defined in the next section) for off-premise consumption shall require any and all employees involved in the transaction of retail beer sales to obtain a Beer Handler's Permit from the Utah County Health Department, complying with all the ordinances, rules, and regulations promulgated by the Health Department for issuance of such permits. All employees of a permittee involved in the transaction of retail beer sales will be required to possess and wear a Beer Handler's Permit while on duty. This permit shall be worn in a conspicuous place such that the permit shall be clearly visible to any person.

New employees of a permittee shall obtain a Beer Handler's Permit within thirty (30) days of hire. During this thirty (30) day period, the employee may sell alcoholic beverages in accordance with the Utah Alcoholic Beverage Control Act, the regulations of the Alcoholic Beverage Control Commission, and the provisions of this Chapter.

The permittee is required to inform the Utah County Health Department of any employee possessing a Beer Handler's Permit whose employment is terminated for conduct that would be punishable under the statutes or ordinances regulating alcoholic beverages. Permittees shall permit law enforcement officers and Utah County Health Department employees to conduct random Beer Handler's Permit compliance checks on permittee's premises.

An employee possessing a Beer Handler's Permit who is convicted of any law involving the sale of an alcoholic beverage is not only subject to the penalties in section 5.12.090 of this chapter, but shall incur a suspension of the employee's Beer Handler's Permit in accordance with the ordinances, rules, and regulations adopted by the Utah County Health Department applicable to such permit.

II.

Spanish Fork Municipal Code §5.12.060(C)(3) and (4) are hereby amended to read as follows:

3. The permit holder shall have the permit revoked for a period of six months if the violation is a second violation within two years of the first violation and shall be subject to a civil penalty in the amount of \$250.00.
4. The permit holder shall have the permit revoked indefinitely if the violation is the third violation within two years of two prior violations and shall be subject to a civil penalty in the amount of \$500.00. The permit holder will not be allowed to reapply for a permit for a period of one year. The City is not required to grant a permit upon reapplication.

III.

This ordinance shall become effective on the 1st day of July, 2004.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH
FORK, UTAH, this _____ day of June, 2004.

DALE R. BARNEY, Mayor

ATTEST:

KENT R. CLARK, City Recorder

1. **CONTRACTING PARTIES:** This contract is between Mountainland Association of Governments, 586 East 800 North, Orem, Utah 84097, referred to as MAG, and Spanish Fork City Corporation, 40 South Main, Spanish Fork, Utah 84660, referred to as CONTRACTOR.
2. **PURPOSE AND SCOPE OF CONTRACT:** To provide access and nutrition services to individuals who are 60 years of age and older (including spouses of any age of such individuals) as described in Part II.
3. **CONTRACT PERIOD:** This Contract is effective as of July 1, 2004 and terminates on June 30, 2005, unless terminated sooner in accordance with the terms and conditions of this Contract.
4. **PART I:** General Provisions
5. **PART II:** Description of Services
6. **PART III:** Contract Costs, Billing, and Payment Information
7. **CONTRACTOR HAS NOT ALTERED THIS CONTRACT:** By signing this Contract, the Contractor represents that neither it nor its employees or representatives have in any way altered the language or provisions in the Contract, and that this contract contains exactly the same provisions that appeared in this document and its attachments when MAG originally sent it to the Contractor.
8. **DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:**
 - A. All documents specified in this Contract and its attachments; MAG's Standard Operating Procedure;
 - B. All statutes, regulations, or governmental policies that apply to the Contractor or to the services performed under this contract, including any applicable laws relating to fair labor standards, the safety of the Contractor's employees and others, zoning, business permits, taxes, licenses, and incorporation or partnership. The Contractor acknowledges that it is responsible for familiarizing itself with these laws and procedures and complying with them.
9. **AUTHORITY OF PERSON SIGNING FOR THE CONTRACTOR:** The Contractor represents that the person who has signed this Contract on behalf of the Contractor has full legal authority to bind the Contractor and to execute this Contract.

PART I - GENERAL PROVISIONS

1. PROTECTION AGAINST LIABILITY- GOVERNMENTAL ENTITY

A. Contractor and the Utah Governmental Immunity Act: Consistent with the terms of the Governmental Immunity Act (Title 63, Chapter 30 of the Utah Code), the Contractor and DHS/MAG are each responsible and liable for any wrongful or negligent acts which that party itself commits or which are committed by its agents, officials, or employees. Neither party waives any defenses otherwise available under the Governmental Immunity Act. If the Contractor has a subcontractor, that subcontractor shall comply with the insurance and indemnification requirements of this Contract, unless the subcontractor is also a Utah governmental entity, in which case this paragraph (a) shall apply.

B. Indemnification: Regardless of the type of insurance required by this section, the Contractor and (where applicable, the Subcontractor) shall provide the following indemnification:

Indemnification by the Contractor and Sub-contractor: The Contractor and DHS/MAG shall defend, hold harmless and indemnify each other and their respective employees, agents, volunteers and invitees from and against all claims resulting from their negligent or wrongful conduct under this Contract, but in no event shall the indemnification obligation of either party exceed the amount set forth in Section 63-30-34 of the Utah Governmental Immunity Act or any similar statute in effect when a judgment is entered. Personal injury or property damage shall have the same meaning as defined in the Utah Governmental Immunity Act. This Contract shall not be construed with respect to third parties as a waiver of any governmental immunity to which a party to this Contract is otherwise entitled. If the Subcontractor is a governmental entity of the State of Utah, this paragraph shall apply.

The Contractor shall provide MAG with a copy of its liability insurance.

2. **WORKER'S COMPENSATION ACT:** The Contractor and its subcontractors shall comply with the Utah Workers' Compensation Act (Title 34A, Chapter 2 of the Utah Code) which requires employers to provide workers' compensation coverage for their employees. Contractor will provide MAG with a copy of the insurance and provide MAG with a copy of its sub-contractors' worker's compensation insurance.
3. **EMERGENCY MANAGEMENT AND BUSINESS CONTINUITY PLAN:** The Contractor shall use qualified personnel to perform all services in conformity with the requirements of this Contract and generally recognized standards. The Contractor represents that it has developed an emergency management and business continuity plan that allows the Contractor to continue to operate critical functions or processes during or following an emergency, and the Contractor acknowledges that DHS/MAG may rely upon this representation. The Contractor shall evaluate its emergency management and business continuity plan at least annually, and shall modify that plan as appropriate.
4. **COMPLIANCE WITH LICENSING STANDARDS AND OTHER LAWS:** The Contractor represents that it currently meets all applicable licensing standards and other requirements of federal and state law, and all applicable ordinances of the city or county in which services or care is provided. The Contractor shall continue to comply with all such applicable standards, requirements and ordinances during the term of this Contract, and if the Contractor fails to do so, MAG may terminate this Contract immediately.
5. **COMPLIANCE WITH DHS' PROVIDER CODE OF CONDUCT:** The Contractor shall follow and enforce DHS' Provider Code of Conduct. The DHS Provider Code of Conduct may be found at the following web site: <http://www.dhs.state.ut.us/policy.htm> (Select "Department Policy Manual"; then select "Section V -- Security/Risk Management/Liability"; then select "Provider Code of Conduct").
6. **RESTRICTIONS ON CONFLICTS OF INTEREST:** The purpose of this Section is to assure that the goods and services provided to MAG under this Contract afford MAG a commercially reasonable level of quality and cost. These provisions prohibit Contractors and anyone acting on their behalf from using their employment with

the State of Utah or MAG or their relationship with others, including potential subcontractors, to enter into any transaction or arrangement that is improper or gives the appearance of being improper because of that person's State or MAG's employment or relationship with a third party.

7. **MONITORING AND REPORTING REQUIREMENT FOR CONFLICT OF INTEREST:**

- A. Give MAG a Certificate of Compliance before entering into this Contract or a subcontract relating to this Contract.
- B. Give MAG a Disclosure Form that identifies any existing and new conflicts of interest that relate to this Contract and are worth \$2,000 or more, and then obtain prior approval from MAG before entering into transactions or decisions involving these conflicts of interest.

8. **RECORD-KEEPING AND REPORTING REQUIREMENTS:** The Contractor shall retain all records related to this Contract in accordance with the rules and regulations of the Utah Government Records Access and Management Act ("GRAMA": Title 63, Chapter 2 of the Utah Code). In addition, the Contractor shall comply with all reporting requirements of this Contract. The Contractor shall maintain or shall supervise the maintenance of all records necessary for the proper and efficient operation of the programs covered by this Contract, including records relating to applications, determination of clients' eligibility (if applicable), the provision of services and administrative costs, and any other records, such as statistical and fiscal records, necessary for complying with the reporting and accountability requirements of this Contract.

9. **RETENTION AND DESTRUCTION OF RECORDS RELATED TO THIS CONTRACT:** The Contractor shall retain all records related to this Contract for at least the following periods of time:

A. **Protecting DHS/MAG's Continuing Access Rights to Contract-Related Records:**

The Contractor acknowledges that DHS/MAG is entitled to have ready access to all records relating to this Contract, and the Contractor shall not do anything to limit or interfere with DHS/MAG's access rights, except as expressly provided by law. DHS/MAG and the Contractor acknowledge, however, that entities other than DHS/MAG may also have access rights to the records, especially if those entities provided part of the funding for the programs or services covered by this Contract.

B. **Permission for Early Destruction of Records:**

The Contractor shall not destroy or relocate any records relating to this Contract or the services provided under this Contract for the six-year period defined in subsections (a) and (b) of this Paragraph ("Retention and Destruction of Records Related to This Contract"), unless the Contractor gives MAG thirty days' written notice and obtains MAG's prior written consent to the proposed destruction or relocation of the records. (As used in this Paragraph, the term "relocate" means to move the records to a site which is not either the site where the Contractor provides the services under this Contract or a site operated by the Contractor in the geographic area covered by this Contract.) As a condition of consenting to the Contractor's the early destruction or relocation of the records, MAG may require the Contractor to provide MAG with photocopies of the records, and the Contractor shall pay for the costs of photocopying the records, or the Contractor shall deliver the originals to MAG at the Contractor's own expense.

C. **Method for Destruction of Client Records:** If the contractor maintains any client records under this Contract, and if this Contract or MAG retention schedule indicates that such client records are to be destroyed after a certain period of time, the Contractor shall shred or burn the records to protect client confidentiality. In the case of electronic records, the Contractor shall use a technique of destroying the records that adequately prevents unauthorized persons from reading or accessing the records. If the Contractor is unsure whether a particular technique will adequately destroy the electronic records, the Contractor shall consult with MAG and its technical specialists before using that technique.

10. **GENERAL ACCESS TO THE CONTRACTOR'S RECORDS:** The Contractor shall provide DHS/MAG with ready access to any records produced or received by the Contractor in connection with the services or programs provided under this Contract, unless such access is expressly prohibited by state or federal law. The Contractor acknowledges that some of its records, including this Contract, may be available to the public and to

the Contractor's clients pursuant to GRAMA and other state and federal laws, including the federal "Protection and Advocacy for Individuals with Mental Illness Act," 42 U.S.C §§ 10801 *et seq.* Therefore, upon receiving a request for records or information from any individual or entity other than DHS/MAG, the Contractor shall immediately notify MAG about the request. Except as otherwise directed by DHS/MAG or authorized by this Paragraph (5), the Contractor's non-governmental subcontractors and any Contractor or governmental subcontractor that lacks expertise in responding to GRAMA requests shall consult with DHS/MAG before responding to a record request to determine the appropriate response under this Contract and federal and state laws, including GRAMA. In such circumstances, if the requested records come within the scope of GRAMA and if DHS/MAG so requests, the Contractor shall deliver copies of the requested records to DHS/MAG, and allow DHS/MAG to respond directly to the records-request.

11. **AUDITORS' AND MONITORS' ACCESS TO THE CONTRACTOR'S RECORDS:** Upon request, the Contractor shall allow independent, state and federal auditors or contract reviewers to have access to any records related to this Contract, including all financial records (such as accounting records and supporting documentation) for audit review and inspection.
12. **MONITORING OF CONTRACTOR'S PERFORMANCE:** MAG shall have the right to monitor the Contractor's performance of all services under this Contract. Monitoring of Contractor's performance shall be at the complete discretion of MAG, who will rely on the criteria set forth in this Contract. Performance monitoring may include both announced and unannounced visits.
13. **CONTRACT RENEGOTIATIONS OR MODIFICATIONS:** The parties may amend, modify or supplement this Contract only by a written amendment signed by the parties and approved by MAG. The amendment shall be attached to the original signed copy of this Contract. MAG shall not pay for any services provided by the Contractor unless such payments are specifically authorized by this Contract or an approved written amendment to this Contract.
14. **CONTRACT TERMINATION:**
 - A. **Right to Terminate Upon Thirty Days Notice.** Either party may terminate this Contract, with or without cause, in advance of the Contract's expiration date by giving the other party at least thirty (30) days written notice.
 - B. **Immediate Termination.** In addition, if the Contractor's violation of this Contract creates or is likely to create a risk of harm to the clients served under this Contract, or if any other provision of this Contract (including any provision in the attachments) allows MAG to terminate the Contract immediately for a violation of that provision, MAG may terminate this Contract immediately by notifying the Contractor in writing.
 - C. **Cooperative Efforts to Protect the Clients.** If either party elects to terminate this Contract, both parties will use their best efforts to provide for uninterrupted client services.
 - D. **Processing Payments and Records Access After Termination.** Upon termination of the Contract, the parties shall use the financial and accounting arrangements set forth in this Contract to process the accounts and payments for any services that the Contractor rendered before the termination. In addition, the Contractor shall comply with the provisions of this Contract relating to the Contractor's record-keeping responsibilities, and shall ensure that the Contractor's staff properly maintains all records (including financial records and any client treatment records).
 - E. **Attorneys' Fees and Costs.** If either party seeks to enforce this Contract upon a breach by the other party, or if one party seeks to defend itself against liability arising from the action or failure to act of the other party, the prevailing party shall receive from the unsuccessful party all court costs and its reasonable attorneys' fees, regardless of whether such fees are incurred in connection with litigation.

- F. **Remedies for Contractor's Violation.** The Contractor acknowledges that if the Contractor violates the terms of this Contract, MAG is entitled to avail itself of all available legal, equitable and statutory remedies, including money damages, injunctive relief and debarment as allowed by state and federal law.
15. **GRIEVANCE PROCEDURES:** The Contractor shall have a grievance procedure in place and shall notify MAG of any grievance submitted to the Contractor by any participant of the program covered by this Contract.
16. **REVIEW OF CONTRACTOR'S REPORTS AND BILLS:** All billings and reports submitted by the Contractor will be reviewed by MAG at MAG's discretion.
17. **STANDARD OPERATING PROCEDURE:** Contractor agrees to comply with MAG's Department of Aging and Family Services Standard Operating Procedure.
18. **LOBBYING:** If you are required to disclose lobbying activities and/or expenditures under 31 UCS Section 1352, complete a Disclosure of Lobbying Activities form, available upon request from MAG.
19. **CHANGE IN SENIOR CENTER DIRECTOR:** Contractor shall notify MAG of the vacancy in the Center Director's position.
20. **CITING MAG IN ADVERTISING:** In all written and oral discussions or advertising for the programs covered by this contract (including all brochures, flyers, informational materials, interviews and talk shows), the CONTRACTOR shall acknowledge that MAG and the Department of Human Services provided for the programs.

PART II: DESCRIPTION OF SERVICES AND ADDITIONAL CONDITIONS
UTAH COUNTY CENTER

1. **POPULATION TO BE SERVED:**
For Older Americans Act services: individuals 60 years of age and older (including spouses of any age of such individuals) with social and/or economic need, targeting low income minorities.
2. **METHODS OF PROVISION:**
Services shall be provided as specified below. A unit of service is described hereafter for each service, and shall form the basis for payment and evaluation by MAG.
3. **SPECIFIC SERVICES:**

SERVICE CODE	SERVICE NAME	DESCRIPTION	UNIT OF SERVICE
SAO	Outreach/Client Finding	Intervention initiated by CONTRACTOR to identify clients and encourage the use of existing services and benefits. Only applicable to a first-time contact with a new client who has not previously used aging services or who has not used any services for an extended period of time. CONTRACTOR will place special emphasis on rural elderly with greatest economic or social need, with particular attention to low-income minority individuals, and older individuals with severe disabilities, informing such persons of the availability of service.	1 UNIT = 1 CONTACT

SAI	Information/ Assistance	Includes the provision of concrete information to a client about available public and voluntary services/resources and linkage to ensure the service will be delivered to the client. Includes contact with the provider. Does <u>not</u> include mass media contacts, newsletters or other similar contact.	1 UNIT = 1 CONTACT
CMM	Congregate Meals Site Management	All activities that are connected to the overall management of the meals site, including, but not limited to, supervision of kitchen staff, preparation of meal site, and the serving of meals.	1 UNIT = 1 DAY
CMM	Congregate Meals Meal Preparation	Providing one hot or other appropriate meal per day, which assures a minimum of one-third USRDA, in a congregate setting.	1 UNIT = 1 MEAL SERVED

4. FOCAL POINT OBLIGATION: The Contractor agrees, whenever it has been designated by MAG in the approved area plan as a focal point as defined by the Older Americans Act or pursuant to Federal rules, that it will perform all focal point tasks for its designated community required by MAG, with special emphasis on establishing linkages with, and coordinating in behalf of, the older residents of its community, all services available for such older persons.
5. SPECIAL MEAL CONSIDERATIONS: The Contractor agrees, whenever it is under contract to provide meal service to eligible older persons, that it will offer meals on the same basis as they are provided to elderly recipients, to individuals providing volunteer services during the meal hours and to individuals with disabilities who reside at home with and accompany older individuals who are eligible under the Older Americans Act.
6. IMPOSITION OF FEES: The CONTRACTOR will not impose any fees upon client given services under this contract except as authorized by MAG.
7. CONTRACTOR will comply with all provisions of Public Law 89-73, Older Americans Act of 1965 with all amendments thereto that have been passed into law, and with responsibilities of service providers required by Public Law 100-175, Older Americans Act Amendments of 1987 and 1992, as specified hereafter, and shall:
 - (a) Provide the area agency, in a timely manner, with statistical and other information which the area agency requires in order to meet its planning coordination, evaluation and reporting requirements established by the State;
 - (b) Specify in the space immediately below how the provider intends to satisfy the service needs of older low income minority and older persons residing in rural areas:
 - (c) Provide recipients with an opportunity to contribute to the cost of the service;

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- (d) With the consent of the older person, or his or her representative, bring to the attention of appropriate officials for follow-up, conditions or circumstances which place the older person, or the household of the older person, in imminent danger;
 - (e) Where feasible and appropriate make arrangements for the availability of services to older persons in weather related emergencies;
 - (f) Assist participants in taking advantage of benefits under other programs;
 - (g) Assure that all services funded hereunder are coordinated with other appropriate services in the community and that these services do not constitute an unnecessary duplication of services provided by other sources; and

PART III: CONTRACT COSTS, BILLING AND PAYMENT INFORMATION

1. **CONTRACTOR'S SPECIFICS:**

- a. Billing name and address of the Contractor:

Spanish Fork City Corporation

40 S. Main

Spanish Fork Ut 84660

- b. Address/location where the services will be provided:

Spanish Fork Senior Center

167 W. Center

Spanish Fork Ut 84660

2. **CONTRACT PAYMENT:** MAG agrees to reimburse the Contractor in accordance with following table, upon receipt of itemized billing for approved service activities given and supported by information contained on reimbursement forms supplied by MAG. The line item allocations for services under this Contract are specified in the following table:

SERVICE CATEGORY	UNITS	RATE	MAG	LOCAL MATCH	TOTAL	PROJECT INCOME
Information & Assistance	50	.75	\$37.50	\$25.13	\$62.63	
Training	3	100.00	\$300.00	\$201.00	\$501.00	
Project Management	12,796	.85	\$10,876.60	\$7,287.32	\$18,163.92	
Meals Site Preparation	12,796	1.78	\$22,776.88	\$15,260.51	\$38,037.39	\$24,000.00
TOTAL			\$33,990.98	\$22,773.96	\$56,764.94	\$24,000.00

3. **METHOD AND SOURCE OF PAYMENTS TO THE CONTRACTOR:** To obtain payment for the services provided under this Contract, the Contractor shall submit to MAG, on a monthly basis, an itemized billing for its authorized services, together with supporting documentation. The Contractor shall bill MAG only for actual costs allowable under the federal and DHS cost principles referred to in Part IV ("Cost Accounting Principles and Financial Reports"), and the Contractor shall maintain records that adequately support the allowability of these costs.
4. **BILLING DEADLINES:** The Contractor shall submit all billings and claims for services rendered during a given billing period within TEN (10) days after the last date of that billing period. All final billings under a contract must be received within TEN (10) days of termination of the contract, regardless of the billing period. If the Contractor fails to meet these deadlines, MAG may deny payment for such delayed billings or claims for services.

MAG's Fiscal Year is from July 1 through June 30. The Contractor shall submit all billings for services performed on or before June 30th of a given fiscal year no later than July 10th of the following fiscal year, regardless of the termination date of the contract. MAG may delay or deny payment for services performed in a given fiscal year if it receives the Contractor's billing for those services later than July 10th of the following fiscal year.

5. **NON-FEDERAL MATCH:** For those contracts requiring a non-federal match, that match shall comply with the provisions of Title 45 of the Code of Federal Regulations, Part 74, Sub-part G.
6. **OVERPAYMENTS, AUDIT EXCEPTIONS AND DISALLOWANCES:** If an independent CPA audit or a fiscal review by DHS/MAG determines that MAG has over-paid the Contractor for services under this Contract because: (a) the Contractor's expenditures under this Contract are ineligible for reimbursement as they were not authorized by this Contract; or (b) the Contractor's expenditures are inadequately documented, the Contractor shall immediately refund such excess payments to MAG upon written request. Furthermore, MAG shall have the right to withhold any or all subsequent payments under this or other contracts with the Contractor until MAG fully recoups any overpayments made to the Contractor.
7. **PAYMENT WITHHOLDING:** MAG may withhold funds from the Contractor for contract non-compliance, failure to comply with MAG directives regarding the use of public funds, misuse of public funds or monies, or failure to comply with state and federal law or policy in the Contractor's subcontracts with private providers. If an audit finding or judicial determination is made that the Contractor or its subcontractor misused public funds, MAG may also withhold funds otherwise allocated to the Contractor to cover the costs of any audits, attorney's fees and other expenses associated with reviewing the Contractor's or the subcontractor's expenditure of public funds. MAG shall give the Contractor prior written notice that the payment(s) will be withheld. The notice shall specify the reasons for such withholding and the actions that the Contractor must take to bring about the release of any amounts withheld.

REAL ESTATE PURCHASE AGREEMENT

COME NOW the parties hereto, Spanish Fork City and Springville City (Cities) and the Gerald L. and Joy A. Hill Charitable Remainder Unitrust (Hill), and in consideration of the mutual promises made herein, hereby contract, covenant and agree as follows:

1. Hill owns three parcels of real property in Spanish Fork City, near the Spanish Fork/Springville Airport, more particularly described as follows:

Parcel #1 North of Runway (21.107 acres):

BEGINNING AT A POINT WHICH IS NORTH 2,255.96 FEET AND WEST 20.39 FEET FROM THE SOUTHWEST CORNER OF SECTION 1, TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE DUE NORTH 34.36 FEET; THENCE DUE EAST 361.50 FEET; THENCE DUE NORTH 7.42 FEET; THENCE SOUTH 47° 32'12" EAST 3,138.62 FEET; THENCE DUE SOUTH 178.80 FEET; THENCE DUE WEST 214.75 FEET; THENCE NORTH 47° 32'09" WEST 2,471.10 FEET; THENCE NORTH 45° 02'16" WEST 44.91 FEET; THENCE NORTH 47° 32'09" WEST 823.42 FEET TO THE POINT OF BEGINNING.

Parcel #2 South of Runway (2.873 acres):

BEGINNING AT A POINT WHICH IS NORTH 786.26 FEET AND EAST 511.50 FEET FROM THE SOUTHWEST CORNER OF SECTION 1, TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 0° 01' 21" EAST 135.64 FEET; THENCE SOUTH 47° 32' 09" EAST 1,353.14 FEET; THENCE NORTH 88° 41' 45" WEST 152.06 FEET; THENCE NORTH 47° 32' 12" WEST 1,147.12 FEET TO THE POINT OF BEGINNING.

Parcel #3 South of Runway (0.683 acres):

BEGINNING AT A POINT WHICH IS EAST 1,432.20 FEET FROM THE SOUTHWEST CORNER OF SECTION 1, TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE DUE EAST 7.78 FEET, THENCE DUE SOUTH 3.66 FEET; THENCE SOUTH 46° 00' 01" EAST 961.59 FEET; THENCE DUE SOUTH 24.83 FEET; THENCE NORTH 47° 32' 12" WEST 948.20 FEET; THENCE DUE NORTH 56.32 FEET TO THE POINT OF BEGINNING.

2. Cities are desirous of purchasing the property upon the terms and conditions set forth herein.
3. The purchase price for will be \$422,500 for parcel #1, \$57,500 for parcel #2, and \$11,000 for parcel #3, for a total of \$491,000. The full purchase price will be due in cash at closing.
4. The closing will take place upon receipt of a pending Airport Improvement Program grant. Possession shall be transferred at the time of closing.
5. The title to the property being conveyed shall be pursuant to a special warranty deed and shall be vested in the name of the cities of Spanish Fork and Springville.
6. Within 10 days of the date hereof, the parties agree to cooperate to locate a mutually acceptable title insurance company to provide a commitment for standard coverage title insurance on the parcels in the amount of the purchase price. The policy shall insure that Cities shall be the fee simple owner of good and marketable title free and clear of all liens and encumbrances and subject to the standard exceptions as shown on the title policy. Each party shall have 10 days after receipt of the commitment of title insurance and all relevant documents to notify the other in writing of any objections to the title. If no objection is made, all items shall be deemed permitted. If any exceptions to title are made, the other party shall have until closing to cure such exception. If exceptions are unable to be cured, the party so excepting may choose to void this agreement or to proceed with the exceptions. If voided, all obligations of the parties shall cease

and this agreement shall be void without further recourse to the parties hereto.

City shall be responsible for all closing costs, including title insurance. City agrees to pay any roll back taxes which may be imposed.

7. Cities has heretofore investigated the property and determined that it is suitable for its purposes. Cities therefore accept the property “as is.”
8. Hill warrants and represents as follows:
 - A. That no person or entity claiming under, by, or through Hill has any option or contract to purchase any or all of the property to be sold or any interest therein.
 - B. The property will be free and clear of any mechanics liens resulting from work performed on or with respect to the property prior to such conveyance.
 - C. Hill has not received written notice from any governmental body claiming any current violations of any hazardous material law, or requiring compliance with hazardous material law, or demanding payment or contribution for environmental damage or injury to natural resources. For this purpose, hazardous material law means any State or Federal statute applicable to the property relating to the installation, use, storage, release, generation, discharge, disposal, treatment, handling, or transportation of hazardous materials.
 - D. Hill, nor to its knowledge any previous owner, tenant, or occupant of the property, has engaged in or permitted operations or activities upon or allowed any use or occupancy of the property for the purpose or in any

way involving the handling manufacturing, treatment, storage, use, generation, release, discharge, refining, dumping, or disposal of any hazardous materials, except for agricultural fertilization.

E. In the event, at any time prior to closing, that any party learns that any of the aforesaid representations and warranties are no longer valid, such party shall immediately notify the other in writing. The party so notified shall then have the option to proceed with this agreement subject to the changed conditions, or to void this agreement and have no further obligation to the other party.

9. Cities agree to the following:

A. Hill will be granted continued access to the property for grazing purposes unless or until such activity creates a detrimental effect to the Airport.

B. Hill will be granted access to water on subject property during the summer months for benefit of adjacent property.

C. At such time that the Airport elects to extend the existing runway onto the subject property, Cities agree to provide adequate fencing so as to protect Hill's animals on adjacent property.

D. At such time that the subject property is fenced, Cities agree to provide appropriate maintenance of existing ditches.

10. This document represents the entire agreement between the parties. All prior negotiations, representations, commitments, or understandings are merged herein and superceded hereby. This agreement may only be amended by a written

agreement entered into between the parties.

- 11. Time is of the essence of this agreement. In case either party shall fail to perform the requirements of this agreement, at the time performance is required, the other party may, at its election, terminate the agreement.
- 12. The obligations of the parties to this agreement shall survive the closing and shall not be merged into or become a part of any of the documents executed and delivered at closing.
- 13. If any action, suit, or proceeding is brought by a party with respect to a matter governed by this agreement, all costs and expenses of the prevailing party in such action, suit, or proceeding, including reasonable attorneys fees, shall be paid by the non-prevailing party.
- 14. All risk of loss or damage to the property shall be borne by the possessor thereof until possession exchanges.

DATED this _____ day of May, 2004.

SPANISH FORK CITY by:

DALE R. BARNEY, Mayor

ATTEST:

KENT R. CLARK, Recorder

SPRINGVILLE CITY by:

E. FRITZ BOYER, Mayor

ATTEST:

JO EVANS, City Recorder

GERALD L. AND JOY A. HILL CHARITABLE REMAINDER UNITRUST

GERALD L. HILL, Trustee

ATTEST:

Secretary

REAL ESTATE PURCHASE AGREEMENT

COME NOW the parties hereto, Spanish Fork City and Springville City (Cities) and The Fern R. Hanson Family Limited Partnership (Hanson), and in consideration of the mutual promises made herein, hereby contract, covenant and agree as follows:

1. Hanson owns real property in Spanish Fork City, near the Spanish Fork/Springville Airport, more particularly described as follows:

BEGINNING AT A POINT WHICH IS NORTH 695.13 FEET AND WEST 709.50 FEET FROM THE EAST QUARTER CORNER OF SECTION 2, TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE MERIDIAN; THENCE DUE SOUTH 695.13 FEET; THENCE DUE WEST 709.50 FEET; THENCE DUE NORTH 403.67 FEET; THENCE NORTH 42 DEGREES 27'48" EAST 571.55 FEET; THENCE SOUTH 50 DEGREES 58'30" EAST 206.75 FEET; THENCE DUE EAST 163.02 FEET TO THE POINT OF BEGINNING. CONTAINING 10.848 ACRES. BASIS OF BEARING: UTAH STATE PLANE COORDINATE SYSTEM, UTAH CENTRAL ZONE.
2. Cities are desirous of purchasing the property upon the terms and conditions set forth herein.
3. The purchase price for will be \$13,000 per acre, for a total of \$150,900. Cities hereby tender \$1,000 earnest money for the property. The balance of the purchase price will be due in cash at closing.
4. The closing will take place upon receipt of a pending Airport Improvement Program grant. Possession shall be transferred at the time of closing.
5. The title to the property being conveyed shall be pursuant to a warranty deed and shall be vested in the name of the cities of Spanish Fork and Springville.
6. Within 10 days of the date hereof, the parties agree to cooperate to locate a

mutually acceptable title insurance company to provide a commitment for standard coverage title insurance on the parcels in the amount of the purchase price. The policy shall insure that Cities shall be the fee simple owner of good and marketable title free and clear of all liens and encumbrances and subject to the standard exceptions as shown on the title policy. Each party shall have 10 days after receipt of the commitment of title insurance and all relevant documents to notify the other in writing of any objections to the title. If no objection is made, all items shall be deemed permitted. If any exceptions to title are made, the other party shall have until closing to cure such exception. If exceptions are unable to be cured, the party so excepting may choose to void this agreement or to proceed with the exceptions. If voided, all obligations of the parties shall cease and this agreement shall be void without further recourse to the parties hereto.

7. Cities have heretofore investigated the property and determined that it is suitable for its purposes. Cities therefore accept the property “as is.”
8. Hanson warrants and represents as follows:
 - A. That no person or entity claiming under, by, or through Hanson has any option or contract to purchase any or all of the property to be sold or any interest therein.
 - B. The property will be free and clear of any mechanics liens resulting from work performed on or with respect to the property prior to such conveyance.
 - C. Hanson has not received written notice from any governmental body

claiming any current violations of any hazardous material law, or requiring compliance with hazardous material law, or demanding payment or contribution for environmental damage or injury to natural resources. For this purpose, hazardous material law means any State or Federal statute applicable to the property relating to the installation, use, storage, release, generation, discharge, disposal, treatment, handling, or transportation of hazardous materials.

- D. Hanson, nor to its knowledge any previous owner, tenant, or occupant of the property, has engaged in or permitted operations or activities upon or allowed any use or occupancy of the property for the purpose or in any way involving the handling, manufacturing, treatment, storage, use, generation, release, discharge, refining, dumping, or disposal of any hazardous materials, except for agricultural fertilization.
- E. In the event, at any time prior to closing, that any party learns that any of the aforesaid representations and warranties are no longer valid, such party shall immediately notify the other in writing. The party so notified shall then have the option to proceed with this agreement subject to the changed conditions, or to void this agreement and have no further obligation to the other party.
- F. Hanson's are retaining any water rights associated with the property and are not included in the sale. Hanson's are responsible to have any appurtenant water transferred to other property prior to closing.

- 9. Cities agree to the following:

- A. Access to Hanson's remaining parcel and shall be maintained across the south and east sides of the property purchased. An easement to accomplish that access shall be retained by Hanson.
 - B. Access to the existing irrigation ditch shall be maintained across the south side of the property purchased. A ditch easement shall be retained by Hanson.
 - C. Hanson retains a flood irrigation easement over the entire parcel. Cities shall not be required to pay for any irrigation benefit they may receive from the use of such easement.
 - D. Any growing crops shall be retained by seller through December 31, 2004.
 - E. The property will be leased back to Hansen on a year to year basis. Either party shall be required to give 90 days notice they will not renew the lease, otherwise it will automatically renew for an additional year.
 - F. The terms and conditions of all easements referenced herein by this agreement will be determined at or prior to the time of closing.
10. This document represents the entire agreement between the parties. All prior negotiations, representations, commitments, or understandings are merged herein and superceded hereby. This agreement may only be amended by a written agreement entered into between the parties.
11. Time is of the essence of this agreement. In case either party shall fail to perform the requirements of this agreement, at the time performance is required, the other party may, at its election, terminate the agreement.

12. The obligations of the parties to this agreement shall survive the closing and shall not be merged into or become a part of any of the documents executed and delivered at closing.
13. If any action, suit, or proceeding is brought by a party with respect to a matter governed by this agreement, all costs and expenses of the prevailing party in such action, suit, or proceeding, including reasonable attorneys fees, shall be paid by the non-prevailing party.
14. All risk of loss or damage to the property shall be borne by the possessor thereof until possession exchanges.

DATED this _____ day of May, 2004.

SPANISH FORK CITY by:

DALE R. BARNEY, Mayor

ATTEST:

KENT R. CLARK, City Recorder

SPRINGVILLE CITY by:

E. FRITZ BOYER, Mayor

ATTEST:

JO EVANS, City Recorder

FERN R. HANSON FAMILY LIMITED PARTNERSHIP

JANIS JOHNSON, Managing Partner



**MEMO
SPANISH FORK CITY
PUBLIC WORKS DEPARTMENT**

DATE: June 3, 2004

TO: Mayor Barney and City Council

FROM: Richard J. Nielson, Assistant Public Works Director

RE: Bid - Oaks Water Tank

The Engineering Department has requested bids for a 130,000 gallon water tank located near the gun club. This tank was required as part of the approval for the final 2 phases of the Oaks condominium area. The developer of that subdivision will be fronting the money for this project and will be paid back over time with impact fees. It was determined that this project would be best managed through the City. We received 7 bids for the project with the lowest bid being from Dale Cox Contracting, Inc. in the amount of \$136,462.00. I would recommend that the City Council approve this bid in the amount shown.

SPANISH FORK CITY

The Oaks Water Tank Project - 130,000 Gallons

Bid Tabulation

NO.	ITEM	UNIT	QTY	Lowest Bid		2nd Lowest Bid		3rd Lowest Bid		Average	
				UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
						Dale Cox Contracting, Inc.	Associated Brigham Contractors	Edward Kraemer & Sons			
1	130,000-gallon concrete storage reservoir. Includes all concrete, reinforcing, piping, connecting pipe and valve box and valve stem, vent pipes, access hatch, ladder with safety handrails, and all labor and materials required to complete the tank construction to within 5 feet outside the tank wall.	EACH	1	\$ 103,000.00	\$ 103,000.00	\$ 100,416.00	\$ 100,416.00	\$ 120,000.00	\$ 120,000.00	\$ 116,466.00	\$ 116,466.00
2	Clearing and grubbing of site	SQ YD	270	\$ 3.70	\$ 999.00	\$ 0.49	\$ 132.30	\$ 7.40	\$ 1,998.00	\$ 5.59	\$ 1,508.53
3	Excavation and backfill of on-site soil material	CU YD	1,050	\$ 6.00	\$ 6,300.00	\$ 12.27	\$ 12,883.50	\$ 6.00	\$ 6,300.00	\$ 10.09	\$ 10,591.50
4	8-inch overflow and drain pipe	LN FT	58	\$ 41.00	\$ 2,378.00	\$ 54.73	\$ 3,174.34	\$ 50.00	\$ 2,900.00	\$ 46.84	\$ 2,716.89
5	10-inch inlet-outlet pipe	LN FT	26	\$ 55.00	\$ 1,430.00	\$ 67.89	\$ 1,765.14	\$ 50.00	\$ 1,300.00	\$ 56.70	\$ 1,474.16
6	8-inch tee	EACH	2	\$ 450.00	\$ 900.00	\$ 413.50	\$ 827.00	\$ 450.00	\$ 900.00	\$ 526.64	\$ 1,053.29
7	8-inch valve	EACH	1	\$ 850.00	\$ 850.00	\$ 984.00	\$ 984.00	\$ 800.00	\$ 800.00	\$ 1,067.86	\$ 1,067.86
8	10-inch valve	EACH	2	\$ 1,200.00	\$ 2,400.00	\$ 1,103.00	\$ 2,206.00	\$ 975.00	\$ 1,950.00	\$ 1,382.71	\$ 2,765.43
9	10-inch tee	EACH	1	\$ 500.00	\$ 500.00	\$ 494.00	\$ 494.00	\$ 500.00	\$ 500.00	\$ 568.29	\$ 568.29
10	10-inch 90-degree elbow	EACH	1	\$ 450.00	\$ 450.00	\$ 431.00	\$ 431.00	\$ 500.00	\$ 500.00	\$ 562.86	\$ 562.86
11	8-inch wye	EACH	1	\$ 450.00	\$ 450.00	\$ 527.00	\$ 527.00	\$ 500.00	\$ 500.00	\$ 549.14	\$ 549.14
12	Misc. piping, Dresser couplings, pipe pieces, etc	EACH	1	\$ 2,000.00	\$ 2,000.00	\$ 15,688.00	\$ 15,688.00	\$ 3,525.00	\$ 3,525.00	\$ 5,304.57	\$ 5,304.57
13	Concrete manhole 48-inch diam. With steps cast inside	EACH	2	\$ 2,000.00	\$ 4,000.00	\$ 625.00	\$ 1,250.00	\$ 1,250.00	\$ 2,500.00	\$ 2,159.43	\$ 4,318.86
14	Chain link fence with 3 strands of barbed wire with angle supports on top. Remove existing fence north side.	LN FT	132	\$ 21.25	\$ 2,805.00	\$ 19.68	\$ 2,597.76	\$ 25.00	\$ 3,300.00	\$ 21.01	\$ 2,773.89
15	Mobilization and demobilization	EACH	1	\$ 8,000.00	\$ 8,000.00	\$ 16,604.00	\$ 16,604.00	\$ 16,500.00	\$ 16,500.00	\$ 17,556.29	\$ 17,556.29
				SUBTOTAL:	\$ 136,462.00	SUBTOTAL:	\$ 159,980.04	SUBTOTAL:	\$ 163,473.00	SUBTOTAL:	\$ 169,277.53

NO.	ITEM	UNIT	QTY	4th Lowest Bid		5th Lowest Bid		6th Lowest Bid		7th Lowest Bid	
				UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
						Gerber Construction Inc.	Vancon, Inc.	ABCO Construction		J & R Development, Inc.	
1	130,000-gallon concrete storage reservoir. Includes all concrete, reinforcing, piping, connecting pipe and valve box and valve stem, vent pipes, access hatch, ladder with safety handrails, and all labor and materials required to complete the tank construction to within 5 feet outside the tank wall.	EACH	1	\$ 112,735.00	\$ 112,735.00	\$ 124,000.00	\$ 124,000.00	\$ 137,811.00	\$ 137,811.00	\$ 117,300.00	\$ 117,300.00
2	Clearing and grubbing of site	SQ YD	270	\$ 6.00	\$ 1,620.00	\$ 5.00	\$ 1,350.00	\$ 1.52	\$ 410.40	\$ 15.00	\$ 4,050.00
3	Excavation and backfill of on-site soil material	CU YD	1,050	\$ 8.00	\$ 8,400.00	\$ 5.00	\$ 5,250.00	\$ 7.34	\$ 7,707.00	\$ 26.00	\$ 27,300.00
4	8-inch overflow and drain pipe	LN FT	58	\$ 45.00	\$ 2,610.00	\$ 40.00	\$ 2,320.00	\$ 14.17	\$ 821.86	\$ 83.00	\$ 4,814.00
5	10-inch inlet-outlet pipe	LN FT	26	\$ 45.00	\$ 1,170.00	\$ 48.00	\$ 1,248.00	\$ 23.00	\$ 598.00	\$ 108.00	\$ 2,808.00
6	8-inch tee	EACH	2	\$ 200.00	\$ 400.00	\$ 365.00	\$ 730.00	\$ 608.00	\$ 1,216.00	\$ 1,200.00	\$ 2,400.00
7	8-inch valve	EACH	1	\$ 700.00	\$ 700.00	\$ 800.00	\$ 800.00	\$ 941.00	\$ 941.00	\$ 2,400.00	\$ 2,400.00
8	10-inch valve	EACH	2	\$ 800.00	\$ 1,600.00	\$ 1,185.00	\$ 2,370.00	\$ 1,116.00	\$ 2,232.00	\$ 3,300.00	\$ 6,600.00
9	10-inch tee	EACH	1	\$ 200.00	\$ 200.00	\$ 575.00	\$ 575.00	\$ 809.00	\$ 809.00	\$ 900.00	\$ 900.00
10	10-inch 90-degree elbow	EACH	1	\$ 200.00	\$ 200.00	\$ 575.00	\$ 575.00	\$ 484.00	\$ 484.00	\$ 1,300.00	\$ 1,300.00
11	8-inch wye	EACH	1	\$ 200.00	\$ 200.00	\$ 400.00	\$ 400.00	\$ 467.00	\$ 467.00	\$ 1,300.00	\$ 1,300.00
12	Misc. piping, Dresser couplings, pipe pieces, etc	EACH	1	\$ 5,000.00	\$ 5,000.00	\$ 5,500.00	\$ 5,500.00	\$ 2,219.00	\$ 2,219.00	\$ 3,200.00	\$ 3,200.00
13	Concrete manhole 48-inch diam. With steps cast inside	EACH	2	\$ 2,600.00	\$ 5,200.00	\$ 2,225.00	\$ 4,450.00	\$ 2,816.00	\$ 5,632.00	\$ 3,600.00	\$ 7,200.00
14	Chain link fence with 3 strands of barbed wire with angle supports on top. Remove existing fence north side.	LN FT	132	\$ 20.00	\$ 2,640.00	\$ 17.50	\$ 2,310.00	\$ 21.17	\$ 2,794.44	\$ 22.50	\$ 2,970.00
15	Mobilization and demobilization	EACH	1	\$ 22,000.00	\$ 22,000.00	\$ 18,000.00	\$ 18,000.00	\$ 25,790.00	\$ 25,790.00	\$ 16,000.00	\$ 16,000.00
				SUBTOTAL:	\$ 164,675.00	SUBTOTAL:	\$ 169,878.00	SUBTOTAL:	\$ 189,932.70	SUBTOTAL:	\$ 200,542.00



**MEMO
SPANISH FORK CITY
PUBLIC WORKS DEPARTMENT**

DATE: June 3, 2004

TO: Mayor Barney and City Council

FROM: Richard J. Nielson, Assistant Public Works Director

RE: 300 West Right-of-Way

This item was brought to our attention by Donald Cole, surveyor, while working on the proposed preliminary plat on the Mitchell property between 300 West and 630 West. There is a discrepancy with the deeds and the right-of-way along 300 West. Mr. Cole has prepared a boundary line agreement for properties along 300 which would resolve the boundary issue along that street. I recommend that the City Council approve the boundary line agreements along 300 West.