

## **CITY COUNCIL MEETING**

### **ADDENDUM**

6:00 pm

Tuesday, February 15, 2005

#### **I. PRELIMINARY ACTIVITIES**

- A. Pledge of Allegiance
- B. Minutes
- C. *Envision Utah - Bob Terragno*
- D. Employee of the 4<sup>th</sup> Quarter 2004
- E. *Agenda Request - Trisha Christensen - Donation to Jr. Miss Program*

#### **III. STAFF REPORTS**

- A. Emil Pierson - Planning
  - 1. [Sunny Ridge Amended Preliminary Plat](#) - 400 North 1300 East
- B. Junior Baker - Legal
  - 1. [SUVPS Amended Interlocal Agreement](#)
  - 2. **Ordinance 02-05** - An Ordinance Amending the Provision of the Municipal Code Concerning Sidewalks
  - 3. *Lease Agreement - Rick Olsen*
- C. Richard Heap - Engineering/Public Works
  - 1. [Bid Tabulation - 2005 House Demolition](#) - 87 East 300 North
  - 2. [Bid Tabulation - Inspection and Testing](#)
  - 3. *Information Report - Drinking Water*

#### **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.**

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**From:** Contact [mailto:contact@spanishfork.org]  
**Sent:** Thursday, February 10, 2005 11:15 AM  
**To:** 'Connie Swain'  
**Subject:** Council agenda request

**From:**  
**Sent:** Thursday, February 10, 2005 10:20 AM  
**To:** contact@spanishfork.org  
**Subject:** Council agenda request

Date: February 15 council meeting

Subject: Jr Miss Program

Regarding: City donating funds to program

Name: Tricia Christensen

E-mail:

Address:  
Spanish Fork, UT 84660

Phone:

Thanks

# *Spanish Fork*

## *City Council Report*

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<b>To:</b>	City Council	<b>ID# PRE</b>	04-06
<b>From:</b>	Emil Pierson, City Planner	<b>Zoning</b>	R-1-12
<b>Date:</b>	February 15, 2005	<b>Property Size</b>	103 acre
<b>Subject:</b>	Sunny Ridge Amended Preliminary Plat	<b># Lots/Units</b>	195
<b>Location:</b>	400 North 1300 East	<b>Units/Acre</b>	1.97

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**Background**

The applicant(s), Woodspring LLC (Dave Simpson), is requesting to Amend the Sunny Ridge Preliminary Plat approval in order to develop a 195 lot subdivision. The property is shown in the General Plan as Residential 2.5 to 3.5 u/a and the developer is proposing 1.97 u/a and the project is zoned R-1-12. Dave Simpson is requesting to Amend the Preliminary Plat to include the Johnson property in to his project.

**Analysis**

The property will become 103 acres in size and is currently vacant or has been farmed in the past. To the north is 400 North and the 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:

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

*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. **The Amendment would not change the access points but the Johnson's are requesting to maintain the driveway they have onto 400 North.**

### *Lot sizes*

All lots are over the required 12,000 square feet. **The Amendment would not change the lot size requirements.**

### *Wall*

A masonry wall with stamped concrete, tree wells with grates and 2" caliper trees are required on 400 North. **The Amendment would not change this requirement but staff is recommending that 400 North have a 10' trail instead of the grates and trees.**

### *Trail*

The developer is proposing to install a trail along the railroad that is 10-feet wide. **The Amendment would take the trail all the way to 400 North from Center street.**

### *Drainage basin*

A proposed drainage basin is planned on the northwest corner of the project by the railroad track. **The Amendment will move the basin to the Northwest corner of the Johnson's property and the developer will sod the basin and put a 6-foot black vinyl coated chainlink fence around the basin area.**

## **DEVELOPMENT REVIEW COMMITTEE**

The DRC reviewed this request at their January 26, 2005 meeting and recommended approval.

### **Minutes from the January 26, 2005 DRC Meeting**

Mr. Simpson said Kelly, the property owner at the northwest corner of this development is now interested in selling his property. Mr. Simpson said they are now requesting to include this property in the subdivision. He presented amended drawings and said the sewer to service this section and possibly additional areas will be connected to the north. This amendment will increase the development by 9 lots and they will transfer building rights.

Mr. Baker asked if they have acquired the necessary sewer easement. Mr. Simpson said they are meeting with the property owner today to obtain the easement. Mr. Nielson said the amended plat is a more favorable plan for the property. Mr. Pierson said this design is more conducive to the area. There will be a 10-foot asphalt trail on the south side of the development.

Mr. Oyler asked concerning the pedestrian crossing at the railroad track. Mr. Simpson said they have just added an extension to the railroad crossing for pedestrians. He said they will join up there and extend the sidewalk along this development.

Mr. Baker made a **motion** to approve the Sunny Ridge Amended Preliminary Plat subject to the following conditions:

1. Meet any previous conditions imposed including the installment of a wall separating existing homes as required,
2. The detention basin is to be contained by a vinyl coated chain link fence,
3. The trail is to extend to 400 North,
4. The development is to have the building rights for 183 lots,
5. Receive approval from the Engineering Department for the amended utility design,
6. Install sidewalks and receive approval of the railroad crossing from the Engineering Department.

Chief Rosenbaum asked if getting children safely to the school had been discussed. Mr. Pierson said a crossing guard will be necessary. Mr. Pierson **seconded** the motion. The motion **passed** with a unanimous vote.

### **PLANNING COMMISSION**

The Planning Commission discussed this item at their February 2<sup>nd</sup> meeting and recommended approval subject to the conditions listed below. They also discussed the trail location, the wall on 400 North, and what will be completed with the first plat.

### **RECOMMENDATION**

#### ***APPROVE***

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

1. **Meet any previous conditions imposed including the installment of a wall separating existing homes as required,**
2. **The detention basin is to be contained by a vinyl coated chain link fence,**
3. **The trail is to extend to 400 North,**
4. **The development is to have the building rights for 183 lots,**
5. **Receive approval from the Engineering Department for the amended utility design,**
6. **Install sidewalks and receive approval of the railroad crossing from the Engineering Department.**

#### **Original 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. 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 **Amended Sunny Ridge Preliminary Plat** located at 400 North 1300 East for the follow reason(s):

#### ***TABLE***

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





**SOUTHERN UTAH VALLEY POWER SYSTEMS AMENDED AND  
RESTATED AGREEMENT FOR JOINT AND COOPERATIVE ACTION**

THIS AMENDED AGREEMENT FOR JOINT AND COOPERATIVE ACTION (the "Agreement"), is made and entered into this \_\_\_ day of January, 2005 among the parties to this Agreement (the "Members") pursuant to the provisions of the Inter-local Cooperation Act, Utah Code Ann. §§ 11-13-1 to -37, as amended (the "Act").

RECITALS

- A. Southern Utah Valley Power Project ("SUVP") was created as a joint power board by the Inter-local Cooperation Agreement Establishing Southern Utah Valley Power Project dated as of April 15, 1977 (the "Original Agreement") pursuant to the provisions of the Act for the purpose of administering the joint and cooperative undertaking of the parties to the Original Agreement.
- B. The Board of Directors of SUVP adopted Bylaws on February 9, 1978 (the "Bylaws") and incorporated a nonprofit corporation known as Southern Utah Valley Power Corporation, a Utah nonprofit corporation on November 14, 1980 (the "Corporation").
- C. The Original Agreement has been amended and restated from time to time, including the Cooperation Agreement Establishing Southern Utah Valley Power Project To Provide For Termination Of Membership Of Two Parties dated as of February 1, 1987 and the Amended and Restated Agreement for Joint and Cooperative Action dated as of January 12, 2000 (collectively, the "Restated Agreement").
- D. In furtherance of the purposes of the Original Agreement and the Restated Agreement, SUVP has developed facilities and expertise that enable and allow SUVP to provide electric utility services to its Members. To promote the benefits of public electrical power and to achieve economies of scale, efficiencies, and other benefits, the Members desire to enter into this Agreement to provide, among other things, for the reorganization of SUVP as a separate legal entity and political subdivision of the State of Utah to better accomplish the purposes of their joint and cooperative action, pursuant to section 11-13-5.5 of the Act.
- E. The members of SUVP established Southern Utah Valley Power Systems (SUVPS), a separate legal entity and political subdivision of the State of Utah on January 1, 2001 by adopting Southern Utah Valley Power Systems Agreement For Joint And Cooperative Action (2001 Agreement). Said agreement allows amendments by a majority vote of the Board of Directors. The amendments shall become effective when at least three-fourths (3/4) of the Members have executed and approved the amendments agreed to by the Board.

- F. The Board of SUVPS has determined that there are adequate provisions in the 2001 Agreement to admit additional members to SUVPS and therefore has determined that the at-large director is no longer needed. The Board voted to amend the 2001 Agreement on January 27, 2005.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Members agree as follows:

**Section 1. Definitions.** The following terms used herein shall have the meanings ascribed to them in the recitals and the meanings set forth below:

(a) **Board** means the governing Board of Directors of SUVPS established pursuant to Section 7 of this Agreement.

(b) Bylaws mean that set of Bylaws adopted by the Board, as they may be amended or supplemented from time to time.

(c) Contract Member means any entity that enters into agreement(s) with SUVPS for the purchase or use of SUVPS' s facilities and/or services.

(d) Director(s) means the representatives or alternate representatives of the Members to the Board .

(e) Electric System means a network of poles, wires, transformers, substations and appurtenant items which constitute the facilities necessary to provide retail electric service within a Member's service area.

(f) Member means (i) each of the public entities listed in Appendix A to this Agreement who are the founding Members of SUVPS; and (ii) public entities or agencies that become additional Members of SUVPS in accordance with the requirements of Section 6 of this Agreement.

(g) Project means facilities for generation, transformation, transmission, or distribution of electric power or energy and all rights, properties and improvements necessary therefor; all feasibility, environmental, or other studies, all surveys, estimates, licenses, permits, rights, approvals, and options associated with a Project; all contracts between SUVPS and other parties for the purchase, sale, transformation, transmission, distribution, or generation of electric power; and other facilities, improvements, and activities consistent with the purposes of SUVPS as set forth in Section 4 of this Agreement. To establish a Project at least two Members must agree to participate in such Project under contractual arrangements with SUVPS. Any Project may be situated in whole or in part within or without the State of Utah. Distribution facilities which provide electric service directly to consumers of electric power within the boundaries of a Member's service area shall not be included within the meaning of Project for purposes of this Agreement.

(h) Public Agency means a "public agency" as defined in the Act.

(i) SUVP means the joint power board created by the Original Agreement also known as Southern Utah Valley Power.

(j) SUVPS means Southern Utah Valley Power Systems; the name of the Utah political subdivision created by this Agreement.

**Section 2. Creation of SUVPS.** The Members create, pursuant to the Act, a separate legal entity known as SOUTHERN UTAH VALLEY POWER SYSTEMS ("SUVPS") to accomplish the purposes of the Members' joint and cooperative action as set forth in Section 4 of this Agreement. In addition to the powers conferred upon it under Section 8 of this Agreement, SUVPS shall exercise such rights and powers and shall have such duties and obligations as SUVP did under the terms of the Original Agreement and the Restated Agreement. While this Agreement supersedes and replaces the Original Agreement and the Restated Agreement, SUVPS shall be bound by all resolutions enacted by SUVP and shall assume the rights, duties, and obligations of SUVP under all contracts executed by SUVP before the effective date of this Agreement, including, without limitation, all resolutions, bond resolutions and indentures, ownership agreements, participation agreements, transmission service contracts, transmission purchase contracts, power sales contracts, and power purchase contracts. SUVP's rights and obligations under such resolutions, indentures, contracts, and agreements shall in no way be affected by this Agreement.

**Section 3. Duration.** The term of this Agreement shall be fifty (50) years, commencing upon the effective date of this Agreement, plus such additional or extended terms authorized by law and the Members. Unless otherwise specifically provided, any subsequent restatement, amendment, *or* supplement of this Agreement shall extend the term of this Agreement fifty (50) years from the effective date of such restatement, amendment, or supplement.

**Section 4. Purpose.** This Agreement and the creation of SUVPS as a separate legal entity is to provide for the following:

(a) promote the efficient, economic and reliable operation of the Members' respective local electric systems;

(b) develop facilities and improvements that will facilitate the coordinated operation of the Members' respective utilities;

(c) secure reliable, economic sources of electric power for Members;

(d) protect and foster the benefits of public power;

(e) assist Members to provide reliable, competitive, low-cost electric service to their consumers; and

(f) plan, finance, develop, acquire, construct, reconstruct, improve, enlarge, operate, and/or maintain one or more Projects pursuant to Section 11-13-5.5 of the Act for the benefit of all or some of the Members.

To accomplish these goals, Members may establish one or more Projects for the generation, transformation, transmission, or distribution of electrical energy. To establish a Project, at least two Members must participate in such Project pursuant to contractual arrangements with SUVPS. Once members establish a project, each Member shall have the option to opt into the Project. Members are under no obligation to participate in any Project. In connection with a Project and to provide the benefits of economies of scale, interconnected systems, acquisition of all or parts of existing electric facilities, and adaptation of a Project to the unique needs of the Members participating in that Project, SUVPS may acquire capacity, services, facilities, and/or resources in excess of those needed to meet the requirements of the Members.

**Section 5. Effective Date.** This Agreement shall be effective on and as of the date of the authorization and execution of this Agreement by all of the Members identified in Appendix A.

**Section 6. Qualification and Admission of Additional Members.**

6.1. Public Entities or Agencies may become additional Members of SUVPS upon request and upon satisfaction of the qualifications and procedures set forth in this Agreement.

6.2. To become a Member of SUVPS a Public Entity or Agency must (i) own and operate an Electric System for the provision of electric service at retail to the general public within its service area; (ii) be eligible for a preference contract from a federal power marketing agency; (iii) be accepted as a participant of a Project by the other Members of such Project; (iv) be approved as a participant of such Project by the Board. In addition, organizations or corporations that are formed by or operated for the benefit of Public Agencies that meet the requirements of clauses (i) and (ii) above may become additional Members of SUVPS if the requirements of clauses (iii) and (iv) above are met.

6.3. Additional Members must participate in at least one Project.

6.4. The governing body of a Public Entity or Agency that seeks to become an additional Member shall adopt and file with SUVPS a resolution and acknowledgment agreeing to membership in SUVPS and accepting the terms and conditions of this Agreement.

6.5. Upon acceptance, additional Members shall, by resolution adopted by its governing body, appoint a representative to the Board.

6.6. The Board may terminate the membership of any Member; however, no such termination shall constitute a termination of any contract between SUVPS and the terminated Member, nor shall such termination discharge or relieve the terminated Member of its

obligations under any contract to which the terminated Member is then a party.

**Section 7. Board of Directors and Officers.** SUVPS shall be governed and managed by a Board of Directors and Officers as provided for below and in accordance with the Bylaws. The Bylaws provide, among other things, for (i) the calling and holding of Meetings, (ii) the operation of the Board, and (iii) the election and duties of the Officers.

7.1. Board. SUVPS shall be managed by the Board, comprised of one Director representing each Member. The Director representing each Member shall be the designated elected official of such Member and/or a person selected and appointed by the governing body of such Member for a period of four (4) years. Members shall appoint Directors to their respective four-year terms to foster continuity on the Board. All Directors serve at the pleasure of their respective governing body. Members may appoint an alternate Director to serve in the absence or unavailability of the appointed Director. The Board shall, by majority vote, select a Chair from among the Directors. The Chair shall hold office for a one-year term. Director vacancies shall be filled for any unexpired term(s) by resolution adopted by the governing body of the Member which the vacant seat represents. Each Member may remove its Director in its own discretion. The Board is hereby authorized and empowered to make, alter, or repeal the Bylaws and to exercise all powers conferred upon SUVPS by the Act and this Agreement.

7.2 Officers. The officers of SUVPS shall consist of a Chair, a Secretary/Treasurer, and such other officers as necessary or desirable and as provided for in the Bylaws. Each officer shall be elected annually by the Board for a one-year term. In addition to such officers, the Board may appoint such assistant officers as the Board determines necessary or desirable.

7.3 Indemnity. The Members agree that the protection afforded to the Members under the Utah Governmental Immunity Act, Utah Code Ann. §§ 63-30-1 to -38, as amended and supplemented (the "Immunity Act") shall be extended to SUVPS, its board, officers, and employees, pursuant to section 11-13-24 of the Act. The Members expressly intend that all of the protection afforded to the Members under the Immunity Act shall be extended to SUVPS, its Board, Officers, and employees. Each Member hereby delegates to SUVPS, to the extent permitted by law, all of the powers, privileges, and immunities conferred by the Immunity Act.

7.4 Committees of the Board. The Board may create a Project Committee for each Project and such other committees as may be necessary from time to time. All Committees, except for Project Committees, shall consist of Directors appointed by the Chair. Persons serving on Project Committees shall be recommended by the Board and shall be appointed by the governing bodies of Members participating in the Project.

7.5 Deference to Project Committees. The Members intend that the Board shall, to the fullest extent practicable, (i) defer to the particular expertise of each Project Committee with respect to the Project that is governed by such Committee and (ii) act upon and in furtherance of the recommendations of each such Project Committee with respect to the Project governed by such Committee.

7.6 Voting of Project Committees. The Members of each Project shall have one vote on all matters before a Project Committee Meeting and a majority vote of the representatives present and voting at a Project Committee Meeting shall be necessary to recommend a decision to the Board. Any Member may call for a weighted vote and, in such event, the recommendation to the Board shall require the vote of both (i) a majority of the entitlement shares of the Members participating in a Project and (ii) a majority of the Member Representatives present and voting at such a Project Committee Meeting.

**Section 8. Powers.** In furtherance of the purposes of this Agreement, SUVPS shall have all powers conferred upon SUVPS as a separate legal entity pursuant to the Act, including the powers set forth in section 11-13-5.5 of the Act, and all powers possessed by the Members with respect to electric utility undertakings, and such powers are hereby delegated to SUVPS as contemplated by the Act. The powers delegated to SUVPS shall be exercised by the Board and any committees of the Board. The powers thus delegated include, without limitation, the following:

(a) own, purchase, lease acquire by eminent domain or otherwise, construct, operate, maintain, and repair or cause to be constructed, operated, maintained, and repaired any Project(s);

(b) subject to the approval of the governing body of each Member that will participate in a Project, borrow money or incur indebtedness, issue revenue bonds or notes for the purposes for which SUVPS or a Project was created; and assign, pledge or otherwise convey as security for the payment of any such indebtedness, the revenues and receipts derived from or in connection with a Project or Projects, which assignment, pledge or other conveyance may rank prior in right to any other obligation except taxes, or payments in lieu of taxes, payable to the State of Utah or its political subdivisions;

(c) contract for the purchase, lease, or other acquisition of a supply of electric power, transmission or other services in connection therewith;

(d) contract for the construction, operation, maintenance and repair of a Project( s) or any part thereof;

(e) exercise all powers conferred upon Members by the Thermal Power Facilities Act, Utah Code Ann. §§ 54-9-1 to -6, as amended (or any similar or successor statute);

(f) enter into contracts pursuant to which a Project or the benefits of a Project are made available to some or all of the Members, and, if approved by the Board, to one or more entities that are not Members, either by sale, lease, or other contract for the use of the Project;

(g) contract for the sale, lease, or other transfer of a portion of service from a Project to one or more electric cooperative associations organized under the Utah Non -

Profit Corporation and Cooperative Association Act or to another public or private entity or entities;

(h) acquire by gift, grant purchase, eminent domain or otherwise and to lease any property (real or personal), building, works or improvements necessary or convenient for purposes provided for in this Agreement;

(i) employ or contract with persons or firms for personnel to accomplish its purposes and powers;

(j) incur debts, liabilities or obligations which are those of SUVPS and not the debts liabilities or obligations of any of the Members;

(k) sue and be sued in its own name;

(l) contract with any Member or with third parties upon behalf of any Member to provide such power supply, generation, transmission, transformation, and distribution services, and/or operation, maintenance and repair services as may be necessary for the operation of the electric light and power works of such Member;

(m) pursue one or more Projects for any Member under separate accountability, control, and administration as may be required by financing arrangements as to each such Project without obligating the Members participating in any one Project for the obligations of the Members participating in any other Project undertaken by SUVPS;

(n) enter into contracts or agreements with respect to any Project pursuant to which SUVPS may make payments in lieu of tax to or for the benefit of one or more Public Agencies and/or payments or other arrangements for purposes of alleviating the impact of Projects constructed or acquired by SUVPS or for other purposes deemed appropriate by SUVPS; and

(o) take such other actions, engage in such other transactions, enter into such contracts and agreements, and do all other things as may be necessary, convenient or appropriate to accomplish its purposes or carry out any of its powers.

**Section 9. Capital Contributions.** The Members made initial capital contributions in such proportion that the energy used by them bears to the total energy used by all the Members for a twelve-month period ending on the calendar quarter year immediately preceding the entering into force of the Original Agreement, excluding energy generated by any Member.

Members shall contribute additional capital contributions in such amounts necessary so the total capital contribution of each Member is in such proportion that the energy used by that Member bears to the total energy used by all Members for the twelve months ending on the calendar quarter year immediately preceding the commitment of such expenditures, excluding energy generated by any Member.

Because the electrical capacity required by Members varies from year to year, when any Member's peak electrical demand, less generation, during the calendar year exceeds that fraction of total transformer capacity to the proportion of total association capitalization contributed by that Member, it is agreed that within ninety (90) days after the end of the calendar year, such member shall reimburse the association for the peak excess demand according to a reasonable formula determined by the Board, not to exceed the current Utah Power & Light RS-3 Schedule for Demand. Reimbursements shall be distributed to Members according to a reasonable formula determined by the Board.

### **Section 10. Financing and Budget.**

10.1. A Project may be financed in whole or in part by the issuance of bonds and notes of SUVPS payable from and secured by the revenues and receipts derived from the ownership and operation of such Project including, without limitation, revenues and receipts from: (a) power sales contracts, transmission service contracts, and any other contracts of sale of any entitlement to generation, distribution, transformation, transmission and related services, property and facilities provided by such Project; (b) the sale of energy, transmission, and other services; (c) other benefits of such Project; and (d) other available funds of SUVPS related to such Project, including without limitation amounts paid to SUVPS under contracts with respect to such Project.

10.2 Such revenues, receipts and other funds shall be applied for the purposes and on the terms and conditions set forth in the bond or note resolutions, indentures or agreements of SUVPS securing such bonds or notes and as required by the Act.

10.3 No Member shall be liable for any bond, note, indebtedness, or other obligation incurred by SUVPS, nor liable for the indebtedness of any other Member, nor liable for any indebtedness or other obligation with respect to a Project, other than the obligations of such Member arising under its separate contracts with SUVPS as to each separate Project.

10.4 SUVPS shall, in connection with the undertaking of a Project, enter into contracts with anyone or more of the Members and such other public or private entities that may qualify as purchasers thereof from such Project under the Act and any other applicable law and under the powers and purposes set forth in this Agreement, for sale of the capacity, service or facilities of the designated Project on such terms as will produce sufficient revenue to meet and pay all operating and maintenance expenses, debt service, and reserve requirements, and all other charges or liens whatsoever payable from the revenue of such Project. The contracts entered into by SUVPS with respect to each Project shall contain such provisions with respect to the termination of such Project as are necessary or appropriate and for the disposition of all property comprising or related to such Project upon such termination. Collectively, the contracts for all Projects shall provide for the disposition of all property owned or administered by SUVPS.

10.5 SUVPS shall annually adopt a budget for the ensuing year which shall set forth in

reasonable detail: (a) estimates of revenues and operating and maintenance expenses with respect to each Project; (b) debt service and reserve requirements; (c) payments with respect to renewals and replacements for each Project and contingency reserves therefore; and (d) such other items and matters as shall be required pursuant to its agreements, service contracts and bond and note resolutions and indentures. Such budget shall be adopted and may be amended from time to time in the manner provided in such agreements, sales, and service contracts, bond and note resolutions, and indentures. Collectively, the budgets so adopted by SUVPS shall account for all of the financial activities of SUVPS, except as otherwise may be provided in the contracts and other documents related to such Projects. .

10.6 SUVPS shall submit its budget for approval to each Member no later than one hundred twenty (120) days before the beginning of the members' fiscal years.

**Section 11. Withdrawal.** In accordance with these terms, Members may withdraw from SUVPS. The withdrawal of any Member shall not constitute termination of this Agreement or of SUVPS, and the remaining Members shall do all things necessary to maintain operation of SUVPS. No such withdrawal shall constitute a termination of any contract between SUVPS and the terminated Member, nor shall such withdrawal discharge or relieve the terminated Member of its obligation under any contract to which the terminated Member is then a party.

A Member that withdraws shall be entitled to reimbursement of its percentage of capital interest in the net assets of SUVPS based upon its respective total capital contribution(s) to SUVPS. For purposes of this Section 11, the net assets of SUVPS shall be determined by subtracting the existing liabilities of SUVPS from the value of the assets of SUVPS as determined by a qualified appraiser appointed by the Board. Reimbursement(s) to the withdrawing Member shall be made in installments and over such time as is necessary to guarantee continued efficient operation of SUVPS.

**Section 12. Termination.** The Members, through a unanimous vote of the Board, may terminate and dissolve SUVPS. Upon termination, dissolution, or liquidation of SUVPS, the Members are entitled to receive a distribution of their respective percentage(s) of the net assets of SUVPS based upon their respective total capital contribution(s) to SUVPS. For purposes of this Section 12, the net assets of SUVPS shall be determined by subtracting the existing liabilities of SUVPS from the value of the assets of SUVPS as determined by a qualified appraiser appointed by the Board.

**Section 13. Relationship and Obligations.** The Members shall not be deemed under this Agreement to be partners, joint ventures, or associated in any manner which obligates them for the debts, defaults or mistakes of any other Member, or which renders them individually liable for any obligations of SUVPS.

**Section 14. Limitation on Liability of Board.** Directors shall have no liability to any Member for any act or omission in the performance of his/her duties as a Director. The Members hereby agree not to make any claim or file any case of action arising from any act or omission of a Director in the performance of his/her duties as a Director.

**Section 15. Amendments.** This Agreement may be amended by a majority vote of the Board. Any amendments shall become effective when at least three-fourths (3/4) of the Members have executed and approved the amendment(s) agreed to by the Board. To be effective, any amendment(s) shall be approved by an authorized attorney as required by the Act and Section 16 below.

**Section 16. Authorized Attorney Approval.** This Agreement shall be submitted by each Member to an attorney duly licensed and practicing within the State of Utah who is familiar with SUVPS and the requirements of the Act and is authorized to review the same by the Member. The attorney shall determine whether this Agreement complies with the laws of the State of Utah. The attorney shall approve this Agreement by execution of the endorsement below.

**Section 17. Counterparts.** This Agreement shall be executed in four counterparts, one for each Member, each of which shall constitute an original.

**Section 18. Governing Law.** This Agreement shall be governed and construed under" the laws of the State of Utah.

**Section 19. Severability.** Should any part, term, provision of this Agreement be held by the courts as void, illegal, in conflict with any law of the State of Utah, or otherwise rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected.

IN WITNESS WHEREOF, this Member has caused this Agreement to be executed and attested by its proper officers, pursuant to a resolution of its governing body, and is bound hereby: with all other parties executing a counterpart hereof.

Dated this \_\_\_\_\_ day of January, 2005

PAYSON CITY by:

\_\_\_\_\_  
BERNELL C. EVANS, Mayor

ATTEST:

\_\_\_\_\_  
JEANETTE CURTIS, Recorder

Approved as being in proper form and In  
Compliance with the laws of the State of Utah.

\_\_\_\_\_  
DAVID C. TUCKET, Attorney

SPRINGVILLE CITY by:

\_\_\_\_\_  
FRITZ BOYER, Mayor

ATTEST:

\_\_\_\_\_  
KIM BIRD, Deputy Recorder

Approved as being in proper form and In  
Compliance with the laws of the State of Utah.

\_\_\_\_\_  
TROY FITZGERALD, Attorney

SALEM CITY by:

\_\_\_\_\_  
RANDY A. BRAILSFORD, Mayor

ATTEST:

\_\_\_\_\_  
JEFFREY D. NIELSON, Recorder

Approved as being in proper form and In  
Compliance with the laws of the State of Utah.

\_\_\_\_\_  
S. JUNIOR BAKER, Attorney

SPANISH FORK CITY by:

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DALE R. BARNEY, Mayor

ATTEST:

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KENT R. CLARK, Recorder

Approved as being in proper form and In  
Compliance with the laws of the State of Utah.

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S. JUNIOR BAKER, Attorney

# ORDINANCE NO. 02-05

## 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 02-05

### AN ORDINANCE AMENDING THE PROVISION OF THE MUNICIPAL CODE CONCERNING SIDEWALKS

WHEREAS, Spanish Fork City has adopted a Municipal Code which, inter alia requires the removal of ice or snow from sidewalks; and

WHEREAS, with many miles of sidewalks, the City has not enforced the provision on clearing of ice and snow from sidewalks; and

WHEREAS, it is better to repeal an unenforced ordinance than to leave it as part of the Code and fail to enforce it;

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

I.

Section 9.16.010 of the Spanish Fork City Municipal Code is hereby amended to read as follows:

**9.16.010. Cleaning Sidewalks.**

It is an infraction for any occupant or the owner of any property abutting on any street within Spanish Fork City to neglect or fail to clean and keep clean of all weed, dirt, or rubbish, the sidewalks in front of or adjacent to his or her premises.

II.

This Ordinance shall become effective 20 days after passage and publication.

DATED this \_\_\_\_ of \_\_\_\_\_, 2005.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SPANISH FORK,  
UTAH, this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
DALE R. BARNEY, Mayor

ATTEST:

\_\_\_\_\_  
KENT R. CLARK, City Recorder

F:\ORDBOOK\ORD\2005\Ord02\_05

## LEASE AGREEMENT

COME NOW Spanish Fork City and Springville City (collectively City) and Rick Olsen (Olsen) and hereby contract, covenant, and agree as follows:

1. City agrees to lease to Olsen approximately nine acres of real property located near the Spanish Fork/Springville Airport on the northwest corner of 1900 North and 300 West.

2. Olsen agrees to use said property as a pasture for livestock in accordance with accepted agricultural standards.

3. Olsen agrees to pay to City the sum of \$50.00 per acre per year for the use of the property.

4. The term of the lease shall be from the 1st day of March, 2005, through the 28th day of February, 2009.

5. The sum of \$450.00 shall be payable on or before the 1st day of March of each year representing the rental payment for that year.

6. Olsen agrees to replace and/or repair a number of fences which have fallen into a state of disrepair, or which have been removed for hangar construction purposes, and will receive a credit of one-half ( $\frac{1}{2}$ ) of the annual rental amount for the first two years of this lease agreement. Olsen may make the adjustment in the rent amount set forth in paragraph 5 representing this credit.

7. Olsen agrees to maintain any existing fences, new fences he constructs, ditches, or other similar objects located upon the property. New fences shall be the property of City at the termination of this lease.

8. This agreement is non-assignable without the written permission of each of the parties.

9. The parties recognize that City may need the property for airport purposes on short notice. Each party, therefore, has the right to terminate this agreement upon sixty (60) days notice. In the event of termination by City, the pro-rated amount of rent paid for the balance of the year shall be refunded. If terminated by City within the first two years, City shall also reimburse Olsen for the cost of the new fences constructed by Olsen.

10. This document represents the entire agreement between the parties. Any negotiations, representations, or conduct are merged herein and superseded hereby.

11. This agreement may be modified only by a written document executed by all parties hereto.

12. In the event of a breach of this agreement, the breaching party shall be liable to the non-breaching party for attorneys' fees and costs.

DATED this \_\_\_\_\_ day of February, 2005.

SPANISH FORK CITY by:

\_\_\_\_\_  
DALE R. BARNEY, Mayor

Attest:

\_\_\_\_\_  
KENT CLARK, City Recorder

SPRINGVILLE CITY by:

\_\_\_\_\_  
FRITZ BOYER, Mayor

Attest:

\_\_\_\_\_  
Jo Evans, City Recorder

\_\_\_\_\_  
RICK OLSEN



**MEMO**  
**SPANISH FORK CITY**  
**PUBLIC WORKS DEPARTMENT**

**DATE:** February 3, 2005

**TO:** Mayor Barney and City Council

**FROM:** Chris Thompson, Design Engineer

**RE:** House Demolition at 87 East 300 North

The city recently let out bids to demolish the home at 87 East 300 North. The following list summarizes the bid information:

Engineer's Estimate:	\$9,000.00
Low Bid:	\$7,450.00
Average Bid:	\$10,649.50

Conexco Inc. is the contractor with the lowest bid, see the attached bid tabulation. They have not worked for Spanish Fork City before so we tried to contact their references. We were only able to reach one reference and he reported that Conexco has enough equipment and experience to complete the project. They were happy with the quality of work Conexco provided and did not have change orders except to add work to the project.

We will continue to try and contact the remaining references and report any further information we obtain from them. We recommend that the city council award the contract to demolish the home at 87 East 300 North to Conexco Inc. for the amount of \$7,450.00.



**MEMO  
SPANISH FORK CITY  
PUBLIC WORKS DEPARTMENT**

**DATE:** February 8, 2005

**TO:** Mayor Barney and City Council

**FROM:** Chris Thompson, Design Engineer

**RE:** House Demolition at 87 East 300 North

The low bid for the house demolition project was actually \$8,700. A new bid tabulation is included with this addendum. Also, we have made contact with two more references for the low bidder, Conexco. Both references have given very favorable evaluations of the demolition work Conexco has done.

# SPANISH FORK CITY

2005 House Demolition 87 East 300 North Project  
 Bid Tabulation - Revised 2/7/2005

NO. ITEM	UNIT	QTY	Estimate		Cotexco		B&D Barney		All Services		
			UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	
1	87 East 300 North House Demolition	LUMP	1	\$ 9,000.00	\$ 9,000.00	\$ 8,700.00	\$ 8,700.00	\$ 9,068.00	\$ 9,068.00	\$ 11,580.00	\$ 11,580.00
			TOTAL :	\$ 9,000.00	\$ 9,000.00	TOTAL :	\$ 8,700.00	TOTAL :	\$ 9,068.00	TOTAL :	\$ 11,580.00

NO. ITEM	UNIT	QTY	HE Davis		Average		
			UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	
1	87 East 300 North House Demolition	LUMP	1	\$ 14,500.00	\$ 14,500.00	\$ 10,962.00	\$ 10,962.00
			TOTAL :	\$ 14,500.00	\$ 14,500.00	TOTAL :	\$ 10,962.00



**MEMO**  
**SPANISH FORK CITY**  
**PUBLIC WORKS DEPARTMENT**

**DATE:** February 3, 2005

**TO:** Mayor Barney and City Council

**FROM:** Chris Thompson, Design Engineer

**RE:** Testing and Inspection Contract

The city recently sent out requests for proposals to several engineering firms to provide testing and inspection services. These services will be provided on an as need basis as development and construction occurs in the city. A selection committee composing of Mayor Barney, Councilman Sorenson, Richard Heap, Richard Nielson and Chris Thompson evaluated the proposals. Proposals were evaluated for cost, quality of service and likelihood of conflict of interest.

Bid tabulations for these proposals are included with this memo. Quality of service is a primary concern, but all the engineering firms who submitted proposals were very qualified and had a lot of experience in testing and inspection work. There were a few engineering firms, however, which were currently employed by developers and/or contractors currently working in the city. The selection committee decided that since there were several firms that did not have this conflict of interest, only companies without this conflict would be considered.

Two of the engineering firms submitted to do both the inspection and testing work together. These firms were Horrocks Engineering and Epic Engineering. In the interview process they were able to show that this would save a substantial amount of money to both the city and the developers. Both of these engineering firms were very qualified so they were evaluated on cost. With these considerations in mind, we would like to recommend that the city council accept this contract with Epic Engineering to provide both the testing and inspection work for the city.

**SPANISH FORK CITY  
2004 INSPECTIONS  
PROPOSAL TABULATION**

<b>NO.</b>	<b>EMPLOYEE</b>	<b>ESTIMATED QUANTITY</b>	<b>EPIC RATES</b>	<b>HORROCKS RATES</b>	<b>CIVIL SCI. RATES</b>	<b>SUNRISE RATES</b>	<b>GILSON RATES</b>	<b>HALL RATES</b>
1	Inspector: 2 to 4 years experience		\$40.00	\$43.00	\$59.00	\$49.00	\$60.00	
2	Inspector: 4 to 6 years experience		\$46.00	\$50.00	\$63.00			
3	Inspector: 6 to 10 years experience		\$51.00	\$55.00	\$66.00	\$56.00		
4	Inspector: 10 to 15 years experience		\$57.00	\$62.00	\$68.50	\$69.00	\$60.00	
5	Inspector: 15 to 20 years experience		\$67.00	\$77.00	\$71.50			
6	Inspector: 20+ years experience		\$72.00	\$77.00	\$74.50			
	Inspector for Hall Engineering							\$60.00
	Average Inspector Rates	1000	\$55.50	\$60.67	\$67.08	\$58.00	\$60.00	\$60.00
7	Project Engineer	250	\$87.00	\$89.00	\$90.00	\$80.00	\$88.00	\$91.00
			<b>\$77,250.00</b>	<b>\$82,916.67</b>	<b>\$89,583.33</b>	<b>\$78,000.00</b>	<b>\$82,000.00</b>	<b>\$82,750.00</b>

**SPANISH FORK CITY  
2004 GEOTECHNICAL TESTING  
PROPOSAL TABULATION**

		Earthtec			Epic Engineering			IGES Ingenieros			Terracon		Horrocks Engineers	
NO.	TEST	AVERAGE RATE	ESTIMATED QUANTITY	TOTAL	BILLING RATE	TOTAL	BILLING RATE	TOTAL	BILLING RATE	TOTAL	BILLING RATE	TOTAL	BILLING RATE	TOTAL
T1	Proctor Tests (AASHTO T-180)	\$ 99.00	60	\$ 5,940.00	\$ 90.00	\$ 5,400.00	\$ 95.00	\$ 5,700.00	\$ 105.00	\$ 6,300.00	\$ 105.00	\$ 6,300.00	\$ 100.00	\$ 6,000.00
T2	Nuclear Density Tests	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
T3	3 Cylinders, Slump & Air	\$ 31.00	90	\$ 2,790.00	\$ 24.00	\$ 1,440.00	\$ 30.00	\$ 1,800.00	\$ 36.00	\$ 2,160.00	\$ 45.00	\$ 2,700.00	\$ 20.00	\$ 1,200.00
T4	Sieve Analysis	\$ 56.60	75	\$ 4,245.00	\$ 40.00	\$ 2,400.00	\$ 38.00	\$ 2,280.00	\$ 50.00	\$ 3,000.00	\$ 55.00	\$ 3,300.00	\$ 100.00	\$ 6,000.00
T5	California Bearing Ratio (CBR)	\$ 108.00	5	\$ 540.00	\$ 85.00	\$ 5,100.00	\$ 80.00	\$ 4,800.00	\$ 200.00	\$ 12,000.00	\$ 105.00	\$ 6,300.00	\$ 70.00	\$ 4,200.00
T6	Concrete Core & Comp. Strength	\$ 33.60	15	\$ 504.00	\$ 8.00	\$ 480.00	\$ 10.00	\$ 600.00	\$ 25.00	\$ 1,500.00	\$ 50.00	\$ 3,000.00	\$ 75.00	\$ 4,500.00
T7	Asphalt Core and Density	\$ 39.20	15	\$ 588.00	\$ 18.00	\$ 1,080.00	\$ 13.00	\$ 780.00	\$ 25.00	\$ 1,500.00	\$ 65.00	\$ 3,900.00	\$ 75.00	\$ 4,500.00
T8	Field Marshall Tests	\$ 154.00	3	\$ 462.00	\$ 300.00	\$ 900.00	\$ 40.00	\$ 120.00	\$ 200.00	\$ 600.00	\$ 130.00	\$ 390.00	\$ 100.00	\$ 300.00
<b>Sub-Total:</b>				<b>\$ 9,129.00</b>	<b>Sub-Total:</b>	<b>\$ 11,400.00</b>	<b>Sub-Total:</b>	<b>\$ 10,380.00</b>	<b>Sub-Total:</b>	<b>\$ 20,760.00</b>	<b>Sub-Total:</b>	<b>\$ 19,590.00</b>	<b>Sub-Total:</b>	<b>\$ 20,700.00</b>
NO.	EMPLOYEE	AVERAGE RATE	ESTIMATED QUANTITY	TOTAL	BILLING RATE	TOTAL	BILLING RATE	TOTAL	BILLING RATE	TOTAL	BILLING RATE	TOTAL	BILLING RATE	TOTAL
E1	Geotechnical Engineer	\$ 91.00	67	\$ 6,086.00	\$ 95.00	\$ 6,353.52	\$ 90.00	\$ 6,019.12	\$ 85.00	\$ 5,684.73	\$ 85.00	\$ 5,684.73	\$ 100.00	\$ 6,687.91
E2	Field Technician Supervisor	\$ 50.10	121	\$ 6,086.00	\$ 42.50	\$ 5,162.77	\$ 63.00	\$ 7,653.05	\$ 38.00	\$ 4,616.13	\$ 45.00	\$ 5,466.47	\$ 62.00	\$ 7,531.58
E3	Field Technician	\$ 40.20	2574	\$103,462.00	\$ 35.00	\$ 90,078.86	\$ 36.00	\$ 92,652.54	\$ 35.00	\$ 90,078.86	\$ 40.00	\$ 102,947.26	\$ 55.00	\$ 141,552.49
<b>Total:</b>				<b>\$124,763.00</b>	<b>Total:</b>	<b>\$ 112,995.15</b>	<b>Total:</b>	<b>\$ 116,704.71</b>	<b>Total:</b>	<b>\$ 121,139.71</b>	<b>Total:</b>	<b>\$ 133,688.46</b>	<b>Total:</b>	<b>\$ 176,471.98</b>

## **AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT, made and entered into this \_\_\_ day of February, 2005, by and between SPANISH FORK CITY, a Municipal Corporation of the State of Utah, hereinafter called "CITY" and Epic Engineering, P .C., hereinafter referred to as "ENGINEER" who hereby acknowledge and reduce in writing this agreement.

WHEREAS, CITY recognizes the need for professional and technical services to assist in inspection, testing, and tracking of infrastructure installations in new developments; and

WHEREAS, CITY recognizes ENGINEER as having the necessary expertise and experience to perform the services for CITY and that it is properly qualified and licensed in the State of Utah for this work;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions herein contained, the parties agree as follows:

### **SECTION I - Basic Services of Engineer**

ENGINEER shall provide the basic services described in detail in Exhibit A, attached hereto and made a part hereof.

It is hereby understood and agreed that ENGINEER will provide engineering inspection and testing services to the CITY in accordance with Exhibit A. For all services and materials pertinent hereto, CITY agrees to pay ENGINEER on a monthly basis at the specific rates of pay for the actual number of hours worked for each class indicated on the attached Rate Schedule. All work will be assigned by CITY at weekly coordination meetings. No work shall be performed without being requested by CITY.

ENGINEER'S billing to CITY shall indicate the actual hours worked on each job site. ENGINEER shall be reimbursed an amount equal to one hundred percent (100%) of the billed amount no later than thirty (30) days following City's receipt of invoice from ENGINEER for the billed work.

### **SECTION II - Additional Services of Engineer**

If authorized in writing by CITY, ENGINEER shall furnish additional services which are in addition to basic services. As further additional services are requested by CITY, this Agreement may be modified subject to mutual consent by execution of an addendum by authorized representatives of both parties, setting forth the additional scope of services to be performed, the

performance time schedule, and the compensation for said services. ENGINEER shall not proceed to perform any such additional service until CITY has determined that such service is beyond the scope of the basic services to be provided by ENGINEER, is required, and has given its written authorization to perform or obtain it.

### **SECTION III - Time of Performance**

ENGINEER shall commence work within 24 hours following issuance of an inspection or testing request by CITY to ENGINEER. Generally these requests will be issued at the weekly coordination meeting.

### **SECTION IV - Compliance with Laws, Rules, Regulations**

ENGINEER shall exercise usual and customary care to assure that all services performed pursuant to this Agreement are performed in accordance with and in full compliance with all applicable Federal, State or City laws, and any rules or regulations promulgated thereunder.

### **SECTION V - Responsibility of Engineer**

By executing this Agreement, ENGINEER warrants to CITY that he/she possesses, or will arrange to secure from others, all of the necessary professional capabilities, experience, resources, and facilities to provide to CITY the services contemplated under this Agreement. ENGINEER further warrants that he/she will follow the best current, generally accepted practice of the engineering profession to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding the project for which services are rendered under this Agreement.

### **SECTION VI - Term**

The term of this Agreement shall commence upon CITY'S and ENGINEER'S approval and signing of this agreement and shall continue through December 31, 2007, unless terminated earlier pursuant to the terms of this agreement.

### **SECTION VII - Subcontracting**

ENGINEER shall not subcontract or otherwise assign any portion of the work to be performed under this Agreement, without the prior written approval of CITY.

### **SECTION VIII - Independent Contractor**

ENGINEER and CITY agree that ENGINEER is an independent contractor. ENGINEER shall be solely responsible for the conduct and control of the work performed under this Agreement. ENGINEER shall be free to tender consulting services to others during the term of this Agreement, so long as such activities do not interfere with or diminish ENGINEER'S ability

to fulfill the obligations established herein to CITY. ENGINEER shall comply with the conflict of interest provisions set forth in section XVII of this agreement.

### **SECTION IX - Equal Employment Opportunity**

In connection with the execution of this Agreement, ENGINEER shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. ENGINEER shall take affirmative action to ensure that applicants are employed, and the employees are treated during their employment, without regard to their race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selected for training, including apprenticeship. ENGINEER shall comply with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60), and any other applicable Federal and State laws and regulations relating to equal employment opportunity.

### **SECTION X - Title VI Compliance**

ENGINEER shall comply with Title VI of the Civil Rights Act of 1964, as amended, and with the provisions contained in 49 CFR 21 through Appendix C and 23 CFR 710.405(b).

During the performance of this Agreement, ENGINEER, for itself, its assignees and successors in interest, agrees as follows:

1. Compliance with Regulations: ENGINEER shall comply with the Regulations relative to nondiscrimination in federally-assisted programs, Title 49, Code of Federal Regulations, Parts 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

2. Nondiscrimination: ENGINEER, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection or retention of subcontractors, including procurement of materials and leases of equipment. ENGINEER shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

3. ENGINEER is hereby notified by CITY of ENGINEER'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age or national origin.

4. Information and Reports: ENGINEER shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by CITY to be pertinent to ascertain compliance with such Regulations, orders, and instructions.

5. Sanctions for Noncompliance: In the event of ENGINEER'S noncompliance with the nondiscrimination provisions of this Agreement, CITY shall impose such contract sanctions as it may determine to be appropriate, including; but not limited to:

A. Withholding of payments to ENGINEER under the Agreement until the ENGINEER complies, and/or

B. Cancellation, termination, or suspension of the Agreement, in whole or in part.

6. ENGINEER shall take such action with respect to SUBCONTRACTORS as CITY may direct as a means of enforcing such provisions including sanctions for noncompliance. ENGINEER may request the United States to enter into any resulting litigation to protect the interests of the United States.

### **SECTION XI- Insurance Required**

Without in any way limiting ENGINEER'S liability pursuant to the indemnification described below, ENGINEER shall maintain, during the term of this contract and for a three-year period

following completion of the project, the following insurance:

1. Workers' Compensation and Employer's Liability Insurance as prescribed by applicable law.

2. Comprehensive General Liability Insurance (bodily injury and property damage), the limits of which shall not be less than one million dollars (\$1,000,000.00) combined single limit per occurrence and annual aggregate, whichever is greater, and which includes the following supplementary coverages:

A. Primary contractual liability to cover liability assumed under the contract and Section IV hereinabove;

B. Personal injury liability with the "Employee" and "Contractual" exclusions deleted;

3. Broad form property damage liability insurance; and

4. Automobile bodily injury and property damage liability insurance, the limits of which shall not be less than one million dollars (\$1,000,000.00) combined single limit per occurrence, and annual aggregate, whichever is greater. Such insurance shall extend to owned, non-owned and hired automobiles used by ENGINEER'S employees, agents, or assigns in the performance of this contract.

5. The insurance policies specified above shall be endorsed to require that the insurer provide CITY with thirty (30) days' written notice prior to the effective date of any cancellation of the insurance; and contain a waiver of subrogation in favor of the indemnities.

6. Professional Liability Insurance covering negligent acts, errors, or omissions of ENGINEER, the limits of which shall not be less than two-hundred and fifty thousand (\$250,000) per occurrence. This professional liability policy shall contain a contractual liability endorsement sufficient to cover all liability assumed herein.

## **SECTION XII - Indemnification**

ENGINEER agrees to hold harmless and indemnify CITY, its officers, boards, commissions, and employees against all claims, damages, losses, and costs, including costs of defense, arising out of the negligent performance of services under this Agreement. It is acknowledged and agreed that the documents and computer programs and files prepared by the ENGINEER pursuant to this Agreement are instruments of professional service intended for use on this project only. Nevertheless, they shall become the property of CITY.

## **SECTION XIII - Publication**

Any and all reports published by ENGINEER shall acknowledge that it was prepared in cooperation with CITY.

## **SECTION XIV-Copyrights**

ENGINEER shall be free to copyright material developed under this Agreement with the provision that CITY has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the material.

## **SECTION XV - Ownership of Documents**

Original documents, methodological explanations, computer programs, drawings, designs, and reports generated by this Agreement shall belong to and become the property of CITY in accordance with accepted standards relating to public work contracts. Any additional copies, not otherwise provided for herein, shall be the responsibility of CITY. CITY will not sell originals or copies of any computer programs for profit without the written authorization of ENGINEER. All drawings, maps, GIS information, plans, or other similar materials relating to OWNER'S infrastructure or real or personal property shall be owned by OWNER and ENGINEER shall turn over all such material at the termination of this contract.

## **SECTION XVI - Documentation/Access to Records**

ENGINEER shall document the results of the work to the satisfaction of CITY. Such documentation may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of contract objectives.

ENGINEER shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred, and make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment to ENGINEER. Such materials shall be available for inspection by authorized representatives of CITY, or the copies thereof shall be furnished if requested. Inspection reports shall be submitted to the CITY weekly.

### **SECTION XVII - Interest of Officials and Engineer**

ENGINEER hereby covenants that he or she has, at the time of the execution of this Agreement, no interest, and that he or she shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. ENGINEER further covenants that in the performance of this work no person having any such interest shall be employed by ENGINEER. No engineering services, inspections, nor testing may be performed by ENGINEER for CITY when there is a conflict of interest. Conflicts of interest include, but are not limited to:

1. Inspecting or testing work performed by a contractor or developer which is currently employing ENGINEER'S services.
2. Inspecting or testing work performed for a contractor or developer directly related to the inspector, tester, or one who supervises the inspector or tester.
3. Any situation that does not comply with the Utah State Anti-Nepotism law, Utah Code Annotated §52-3-1 et seq.

### **SECTION XVIII - Termination for Convenience of City**

CITY may terminate this Agreement at any time by giving notice to ENGINEER of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In such event, all finished or unfinished documents and other materials shall, at the option of CITY become its property. If this Agreement is terminated by CITY as provided herein, ENGINEER shall be paid a total amount that is the ratio of completed tasks to total services as determined by CITY and ENGINEER, less payments already made under this contract.

### **SECTION XIX - Termination of Agreement for Cause**

1. CITY may, by written notice to ENGINEER, terminate the whole or any part of this Agreement in anyone of the following circumstances:

A. If ENGINEER fails to perform the services called for by this Agreement within the time(s) specified herein, or any extension thereof, or

B. If ENGINEER fails to perform the services called for by this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances does not correct such failure within a period of five (5) days (or such longer period as CITY may authorize in writing) after receipt of notice from CITY specifying such failure.

C. If CITY finds it no longer needs additional help on inspections or testing.

2. In the event CITY terminates this Agreement in whole or in part as provided in Paragraph "A" above, CITY may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3. ENGINEER shall not be liable for any excess costs if the failure to perform arises out of causes beyond the control and without the fault or negligence of ENGINEER. Such causes include, but are not limited to, acts of God or of the public enemy, acts of government, in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions and strikes.

4. Should the Agreement be terminated as provided in Paragraph "A" above, ENGINEER shall provide CITY with all finished and unfinished documents, data, studies, services, drawings, maps, models, photographs, reports, etc., prepared by ENGINEER pursuant to this Agreement. Upon termination as provided in Paragraph "A" above, ENGINEER shall be paid the value of the work performed, as determined by CITY and ENGINEER, less payments of compensation previously made.

#### **SECTION XX - Dispute**

Any dispute not resolvable by informal discussion between the parties to this contract shall be subject to mandatory mediation according to the rules and requirements of the 4th Judicial District Court.

#### **SECTION XXI - Jurisdiction**

Except as otherwise specifically provided, this Agreement shall be administered and interpreted under the laws of the State of Utah. Jurisdiction of litigation arising from this Agreement shall be in Utah County. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall be in full force and effect.

#### **SECTION XXII - Successors and Assigns**

This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties. ENGINEER shall not assign, delegate, or transfer the rights and duties under this Agreement. or any part thereof without the prior written consent of CITY.

#### **SECTION XXIII - Notices**

Any notices required to be given pursuant to this Agreement shall be deemed to have been given by their deposit, postage prepaid, in the United States Postal Service, addressed to the parties as follows:

To ENGINEER:  
Epic Engineering, P.C.  
Attn: Korey C. Walker  
841 South Main  
Heber City, UT 84032

To CITY:  
Spanish Fork City  
Attn: Public Works Director/City Engineer  
40 South Main Street  
Spanish Fork, UT 84660

#### **SECTION XXIV - Miscellaneous Provisions**

This Agreement is subject to the following special provisions:

1. The titles used in this Agreement are for general reference only and are not a part of this Agreement.
2. This Agreement shall be interpreted as though prepared by both parties.
3. Any provision of this Agreement held to violate any law shall not invalidate the remainder of this Agreement.
4. Any failure to require strict compliance with any provision of this Agreement shall not be a waiver of strict compliance with regard to subsequent performance of such provision.

#### **SECTION XXV -Integration**

This agreement represents the entire understanding of CITY and ENGINEER as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by CITY and ENGINEER.

#### **SECTION XXVI.- Attorney's Fees**

In the event of a breach of this agreement, the non-breaching party is entitled to recover its attorney's fees and any costs incurred.

DATED the day and year first written above.

SPANISH FORK CITY by:

---

DALE R. BARNEY, Mayor

Attest:

\_\_\_\_\_  
KENT R. CLARK, Recorder

EPIC ENGINEERING, P.C. by:

\_\_\_\_\_  
KOREY C. WALKER, President

Attest:

\_\_\_\_\_  
DON OLSEN, Corporate Secretary

## EXHIBIT A

The scope of work involves the following areas:

1. Inspect the materials used in construction to insure they conform to approved plans and City's Construction and Development Standards.
2. Perform or witness the performance of all tests and inspections required by the City's Construction and Development Standards.
3. Attend Pre-construction Meetings.
4. Itemize cost per Development for inspections and testing performed.
5. Survey public utilities as they are installed.
6. Perform certified lab testing to assure construction work meets City's Construction and Development Standards.
7. Be responsible for overall quality assurance on all assigned projects.
8. Perform other related duties as requested.
9. Be familiar with and enforce the City's Construction and Development Standards.

# Rate Schedule

## INSPECTIONS

Employee	Trip Charge	Hourly Billing Rate
Inspector: 2 to 4 years experience	\$28 / \$14	\$40.00
Inspector: 4 to 6 years experience	\$30 / \$15	\$46.00
Inspector: 6 to 8 years experience	\$32 / \$16	\$51.00
Inspector: 10 to 15 years experience	\$34 / \$17	\$57.00
Inspector: 15 to 20 years experience	\$36 / \$18	\$67.00
Inspector: 20 + years experience	\$38 / \$19	\$72.00
Project Engineer	\$40 / \$20	\$87.00

Inspectors may apply half of any construction experience provided construction work includes a wide variety of mainline work on sewer, water and storm drain systems, concrete work and road construction. At least one year of experience must be as a public works inspector working with a professional engineer. Only professional engineers licensed in the state of Utah may be project engineers assigned to a project in the city. Supportive engineering or drafting will be provided by the city.

All travel time, secretarial, administrative, vehicle, equipment or any other overhead costs shall be included in the hourly billing rate of the inspectors or engineers. For work that requires travel to the city the engineering firm may only bill for actual time spent in the city limits although trip charges may apply.

Trip charges shall be billed on 2 tier levels at the predetermined rates listed in the above table. When a trip involves only one development the higher tier trip charge shall be applied. For trips that involve more than one development the lower tier trip charge shall be charged to each development. A development may not be billed for more than one trip charge in a given day. All morning inspections shall be included in a single trip. All afternoon inspections shall be included in a single trip.

All inspections shall be scheduled one business day in advance. Cancellations shall be allowed up to 2 hours before the scheduled inspection. If a scheduled inspection is not cancelled and the contractor is not ready for the inspection then an additional trip charge may be applied.

## TESTING

Test	Unit	Billing Rate
Proctor Tests (AASHTO T-180)	EACH	\$95
Nuclear Density Tests	N/A	N/A *
Set of Concrete Cylinder Tests (3 Cylinders / Set) also includes Slump & Air Entrainment Tests	EACH	\$30
Sieve Analysis	EACH	\$38
California Bearing Analysis (CBR)	EACH	\$80
Concrete Core and Compressive Strength Tests	EACH	\$10
Asphalt Core and Density Tests	EACH	\$13
Field Marshall Tests	EACH	\$40

Employee	Trip Charge	Hourly Billing Rate
Lab Technician	N/A	\$37
Field Technician Supervisor	\$34 / \$17	\$63
Field Technician	\$24 / \$12	\$36

\*Nuclear Density Tests will be billed as part of the field technician time.

Only professional engineers licensed in the state of Utah may be geotechnical engineers assigned to city work. Any other supportive engineering or drafting will be provided by the city.

All travel time, secretarial, administrative, vehicle, equipment or any other overhead costs shall be included in the hourly billing rate of the technicians or engineers. For work that requires travel to the city the lab may only bill for actual time spent in the city limits although trip charges may apply.

Trip charges shall be billed on 2 tier levels at the predetermined rates listed in the above table. When a trip involves only one development the higher tier trip charge shall be applied. For trips that involve more than one development the lower tier trip charge shall be charged to each development. A development may not be billed for more than one trip charge in a given day. All morning inspections shall be included in a single trip. All afternoon inspections shall be included in a single trip.

All inspections shall be scheduled one business day in advance. Cancellations shall be allowed up to 2 hours before the scheduled inspection. If a scheduled inspection is not cancelled and the contractor is not ready for the inspection then an additional trip charge may be applied.