



**NOTICE OF A JOINT WORK SESSION WITH THE
VINEYARD PLANNING COMMISSION AND A
SPECIAL SESSION OF THE VINEYARD CITY COUNCIL
June 15, 2022, at 6:00 PM**

PUBLIC NOTICE is hereby given that the Vineyard City Council will hold a Joint Work Session with the Vineyard Planning Commission and a Special City Council Session on Wednesday, June 15, 2022, at 6:00 p.m., at Vineyard City Hall, 125 South Main Street, Vineyard, Utah. This meeting can also be viewed on our [live stream page](#).

AGENDA

Presiding Mayor Julie Fullmer

1. CALL TO ORDER/INVOCATION/INSPIRATIONAL THOUGHT/PLEDGE OF ALLEGIANCE – *to be announced*.

2. JOINT WORK SESSION WITH PLANNING COMMISSION

2.1 Downtown Vineyard Development

Community Development Director Morgan Brim will lead a discussion regarding updates and time schedules for the Downtown Vineyard development.

3. PUBLIC COMMENTS

(15 minutes)

“**Public Comments**” is defined as time set aside for citizens to express their views for items not on the agenda. Each speaker is limited to three minutes. Because of the need for proper public notice, immediate action **cannot** be taken in the Council Meeting. If action is necessary, the item will be listed on a future agenda, however, the Council may elect to discuss the item if it is an immediate matter of concern.

Public comments can be submitted ahead of time to pams@vineyardutah.org.

4. MAYOR AND COUNCILMEMBERS’ REPORTS/DISCLOSURES/RECUSALS

5. STAFF, COMMISSION, AND COMMITTEE REPORTS

(3 minutes each)

5.1 City Manager Ezra Nair

5.2 Planning Commission Chair Bryce Brady

5.3 Public Works Director Chris Wilson – Quarterly Report

5.4 Development Services Technician Anna Nelson – Special Events Report

5.5 Heritage Commission Chair Tim Blackburn – Report

6. APPOINTMENTS

- 6.1 City Treasurer.....1 vacancy**
With the advice and consent of the council, Mayor Fullmer will appoint Kristie Bayles as the new city treasurer.

7. CONSENT ITEMS

- 7.1 [Approval of the May 25, City Council Meeting Minutes](#)
7.2 [Approval of Timpanogos Special Service District Service Agreement \(Resolution 2022-15\)](#)
7.3 [Approval Of a Utah Transit Authority \(UTA\) At-Grade Crossing and Multi Use Trail Crossing Agreement for Lindon Heritage Trail \(Resolution 2022-16\)](#)
7.4 [Approval of UTA 800 North Crossing Agreement #6944\) and Approval of the UTA 1600 North Crossing Agreement #6945 \(Resolution 2022-17\)](#)
7.5 [Approval of Union Pacific Railroad \(UPRR\) 1600 North Crossing Agreement #03322-45 \(Resolution 2022-18\)](#)
7.6 [Approval of an amendment to the ILA with Utah County for the Community Development Block Grant \(CDBG\) participation Agreement \(Resolution 2022-19\)](#)
7.7 [Approval of PTIF Management Authorization \(Resolution 2022-20\)](#)
7.8 [Approval Zions Bank \(Resolution 2022-21\)](#)

8. PRESENTATIONS/RECOGNITIONS/AWARDS

8.1 PRESENTATION – Communities That Care Coalition

Communications Manager Kathryn Newman will give a presentation to the Council on forming a Communities That Care Coalition for Vineyard City.

9. BUSINESS ITEMS

9.1 DISCUSSION AND ACTION – Special Event Permit for The Rex Real Estate Team

Development Services Technician Anna Nelson will present a special event permit for a fireworks show and client appreciation party to be held on July 1, 2022 at Vineyard Grove Park. The mayor and City Council will take appropriate action.

9.2 DISCUSSION AND ACTION – Special Event Permit for Utah Mama Latina

Development Services Technician Anna Nelson will present a special event permit for a Latino Festival to be held on August 13, 2022 at Vineyard Grove Park. The mayor and City Council will take appropriate action.

9.3 DISCUSSION AND ACTION – Amending Municipal Code Title 13 Community Development and Public Facilities (Ordinance 2022-07)

Communications Manager Kathryn Newman will present an amendment to the Vineyard Municipal Code Title 13 Community Development and Public Facilities; adding Chapter 13.16 City Library. The mayor and City Council will act to adopt (or deny) this request by ordinance.

9.4 DISCUSSION AND ACTION – Amending Municipal Code Chapter 5.14 Itinerant Merchants (Ordinance 2022-08)

Business License Administrator Kelly Kloepper will present an amendment to the Municipal Code Chapter 5.14 Itinerant Merchants requiring certain temporary businesses, such as fireworks stands, snow shacks, Christmas tree lots, and produce

stands, to provide proof of insurance and to pay a deposit to ensure cleanup of the site. The mayor and City Council will act to adopt (or deny) this request by ordinance.

9.5 DISCUSSION AND ACTION – [Personnel Policies and Procedure Manual \(Resolution 2022-22\)](#)

City Manager Ezra Nair will present a recommended change to the Personnel Policies and Procedure Manual. The mayor and City Council will act to adopt (or deny) this request by resolution.

10. CLOSED SESSION

The Mayor and City Council pursuant to Utah Code 52-4-205 may vote to go into a closed session for the purpose of (these are just a few of the items listed, see Utah Code 52-4-205 for the entire list):

- (a) discussion of the character, professional competence, or physical or mental health of an individual
- (b) strategy sessions to discuss collective bargaining
- (c) strategy sessions to discuss pending or reasonably imminent litigation
- (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares
- (e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares
- (f) discussion regarding deployment of security personnel, devices, or systems;
- (g) the purpose of considering information that is designated as a trade secret, as defined in Section [13-24-2](#), if the public body's consideration of the information is necessary in order to properly conduct a procurement under [Title 63G, Chapter 6a, Utah Procurement Code](#);

11. ADJOURNMENT

The next meeting is on Wednesday, June 29, 2022.

This meeting may be held in a way that will allow a councilmember to participate electronically. The Public is invited to participate in all City Council meetings. In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the City Recorder at least 24 hours prior to the meeting by calling (801) 226-1929.

I, Pamela Spencer, the undersigned duly appointed Recorder for Vineyard, hereby certify that the foregoing notice and agenda was emailed to the Salt Lake Tribune, posted at the Vineyard City Offices, on the Vineyard and the Utah Public Notice websites, and delivered electronically to city staff and to each member of the Governing Body.

AGENDA NOTICING COMPLETED ON: June 13, 2022

CERTIFIED (NOTICED) BY: /s/ Kelly Kloepper
KELLY KLOEPFER, DEPUTY RECORDER



**MINUTES OF A VINEYARD
CITY COUNCIL MEETING**

City Council Chambers
125 South Main Street, Vineyard, Utah
May 25, 2022, at 6:00 PM

Present

Mayor Julie Fullmer
Councilmember Tyce Flake
Councilmember Amber Rasmussen
Councilmember Mardi Sifuentes
Councilmember Cristy Welsh

Absent

Staff Present: City Manager Ezra Nair, City Attorney Jayme Blakesley, Finance Director David Mortensen, City Engineer Naseem Ghandour, Staff Engineer Emily Dicataldo, Stormwater/MS4 Coordinator Justine Marshall, Water Manager Sullivan Love, Communications Manager Kathryn Newman, City Recorder Pamela Spencer, Vineyard Bicycle Advisory Commission Chair Caden Rhoton, Vineyard Youth Council Mayor Holland Welch

Others speaking: Residents Spencer Duncan and Matt Geddes; Nate Julian, Equity Real Estate Solid

1. CALL TO ORDER/INVOCATION/INSPIRATIONAL THOUGHT/PLEDGE OF ALLEGIANCE

Mayor Fullmer opened the meeting at 6:00 pm. Councilmember Welsh gave the invocation and led the Pledge of Allegiance.

2. WORK SESSION

No items were submitted.

3. PUBLIC COMMENTS

 Resident Spencer Duncan, living in the Springs subdivision, expressed concern with the parking around Freedom Preparatory Academy. He requested that the city restrict overnight parking along 470 North and 100 West, closest to the school. He mentioned that he had contacted staff with his concerns. Mayor Fullmer asked if staff had given him any options to solve the parking issue. Mr. Duncan replied that he was given a link to the Neighborhood Street Parking Concern application. There was a discussion about parking restriction options.

3.1  Nate Julian with Equity Real Estate Solid asked about the signature gathering process for the mylar on Consent; Item 6.4; Plat Amendment to Lot 22, Edgewater at Geneva, A Planned Unit Development. Mr. Ghandour replied that staff had to review the mylar before it could be signed. There was a brief discussion about the mylar process. Mr. Ghandour suggested that the

city sign the mylar and then Mr. Julian could return it to the owners for their signatures and return it to the city for recording.



Mayor Fullmer called for additional comments. Hearing none, she closed the public comment session.

4. MAYOR AND COUNCILMEMBERS' REPORTS/DISCLOSURES/RECUSALS



Councilmember Rasmussen reported that she had attended the Utah Valley University (UVU) Sustainability Summit.



Councilmember Sifuentes thanked the Utah County Sheriff's Deputies for their work on the NOVA (Nurturing, Opportunities, Values, and Accountability) program in Vineyard.

5. STAFF, COMMISSION, AND COMMITTEE REPORTS

5.1

 City Manager Ezra Nair reported that staff had passed out doorhangers for the Vineyard Days event next week.

5.2 Planning Commission Chair Jeff Knighton – Chair Knighton was excused.

5.3

 City Engineer Naseem Ghandour turned the time over to Stormwater/MS4 Coordinator Justine Marshall. Ms. Marshall presented a quarterly report on projects that the Engineering Department was working on. She also reported on two conferences that she had recently attended. Mr. Ghandour mentioned that Ms. Marshall had received scholarships to attend a leadership conference.

5.4

 Mayor Fullmer asked Communications Manager Kathryn Newman to report on the "Better Days" exhibit that would be in the Vineyard on May 31. Mayor Fullmer also mentioned that she had attended the opening of the new regional airport terminal in Provo, that the FrontRunner station was on track to open in July, and that the funding for the expansion of the Vineyard Connector should be solidified soon.

5.5

 Ms. Newman explained that the city was fortunate to host a traveling exhibit, sponsored by Better Days. The exhibit included a replica of the Martha Hughes Cannon statue that will be installed in the nation's capitol. The exhibit would be on May 31 from 10:00 am to 6:00 pm. She mentioned that there would also be activities throughout the day to go along with the exhibit. At 6:00 pm there will be a panel discussion on empowering women with representatives from Timpanogos Regional and Mountain View Hospitals.

5.6

 Vineyard Bicycle Advisory Commission Chair Caden Rhoton presented his quarterly report. Mayor Fullmer asked what the response from residents was about the bicycle boulevard at the last commission meeting. Mr. Rhoton replied that there was some misinformation about the proposed plan for Holdaway Road and that the commission was able to explain the plan. There was a discussion about the process residents could go through for parking and traffic calming solutions. Mr. Rhoton continued his report.

5.7

 Youth Council Mayor Holland Welch presented her quarterly report about events that the Youth Council had participated in and future events they were planning. Ms. Marshall said that she had an idea for an art project and would coordinate with the youth council.

99 **6. CONSENT ITEMS**

100 **6.1** Approval of the May 6, 2022 City Council Executive Luncheon Minutes

101 **6.2** Approval of the May 11, 2022, City Council Meeting Minutes

102 **6.3** Approval of a Plat Amendment to The Lochs @ Waters Edge Plat F

103 **6.4** Approval of a Plat Amendment to Lot 22, Edgewater at Geneva, A Planned Unit
104 Development

105 **6.5** Adoption of the CDBG Program Interlocal Agreement Amendment (Resolution 2022-13)

106
107  Mayor Fullmer called for a motion.

108
109  **Motion:** COUNCILMEMBER FLAKE MOVED TO APPROVE CONSENT ITEMS 6.1
110 THROUGH 6.5 AS PRESENTED. COUNCILMEMBER WELSH SECONDED THE
111 MOTION. ROLL CALL WENT AS FOLLOWS: MAYOR FULLMER, COUNCILMEMBERS
112 FLAKE, RASMUSSEN, SIFUENTES, AND WELSH VOTED YES. THE MOTION CARRIED
113 UNANIMOUSLY.

114
115
116 **7. APPOINTMENTS**

117 **7.1**  Utah Lake Authority Governing Board.....1 vacancy
118 With the advice and consent of the City Council, the City will appoint Mayor Fullmer to
119 the new Utah Lake Authority Governing Board. (*Resolution 2022-14*)

120
121  Mayor Fullmer explained that she held the position on the current Utah Lake Commission
122 and was appointing herself to the new board. She then called for a motion.

123
124  **Motion:** COUNCILMEMBER FLAKE MOVED TO APPROVE THE APPOINTMENT
125 OF MAYOR JULIE FULLMER TO THE UTAH LAKE AUTHORITY GOVERNING
126 BOARD. COUNCILMEMBER WELSH SECONDED THE MOTION. ROLL CALL WENT
127 AS FOLLOWS: MAYOR FULLMER, COUNCILMEMBERS FLAKE, RASMUSSEN,
128 SIFUENTES, AND WELSH VOTED YES. THE MOTION CARRIED UNANIMOUSLY.

129
130
131 **8. PRESENTATIONS/RECOGNITIONS/AWARDS**

132 No items were submitted.

133
134
135 **9. BUSINESS ITEMS**

136 **9.1**  **PUBLIC HEARING – Adopted Tentative Fiscal Year 2022-2023 Budget**

137 The mayor and City Council will hear public comment regarding the adopted Tentative
138 Fiscal Year 2022-2023 Budget. Utah State Code 10-6-115 states that after the conclusion
139 of the public hearing, the mayor and City Council may continue to review the tentative
140 budget. Approval of the final budget is tentatively scheduled for June 22.

141  Mayor Fullmer called for a motion to open the public hearing.

142
143  **Motion:** COUNCILMEMBER WELSH MOVED TO OPEN THE PUBLIC HEARING AT
144 6:37 PM. COUNCILMEMBER FLAKE SECONDED THE MOTION. MAYOR FULLMER,
145 COUNCILMEMBERS FLAKE, RASMUSSEN, SIFUENTES, AND WELSH VOTED YES.
146 THE MOTION CARRIED UNANIMOUSLY.

147
148 Mr. Mortensen gave a brief summation of the tentative budget.

149
150  Mayor Fullmer called for public comments.

151
152  Councilmember Welsh asked about pending changes to the old town hall property; the
153 removal of the white house and the ground improvements. Mr. Mortensen replied that the
154 removal of the house would be done under the current budget and the ground improvements
155 would come out of next year's budget. There was a discussion about the improvements.

156
157  Resident Matt Geddes, living in The Meadows subdivision, asked about the funds for the
158 removal of the white house. Mr. Mortensen replied that staff was planning to tear down the white
159 house in this fiscal year and if that did not happen they would have to reappropriate the funds in
160 the next fiscal year.

161
162  Mayor Fullmer called for a motion to close the public hearing.

163
164  **Motion:** COUNCILMEMBER FLAKE MOVED TO CLOSE THE PUBLIC HEARING AT
165 6:47 PM. COUNCILMEMBER SIFUENTES SECONDED THE MOTION. MAYOR
166 FULLMER, COUNCILMEMBERS FLAKE, RASMUSSEN, SIFUENTES, AND WELSH
167 VOTED YES. THE MOTION CARRIED UNANIMOUSLY.

168
169 **9.2 PUBLIC HEARING – Transfer from Enterprise Funds to Internal Services Fund**

170 Finance Director David Mortensen will present recommendations to transfer enterprise
171 funds to an internal service fund to pay for services such as facilities, fleet, and
172 information systems. The City Council will hear public comment regarding these
173 recommended transfers.

174
175  Mayor Fullmer called for a motion to open the public hearing.

176
177  **Motion:** COUNCILMEMBER WELSH MOVED TO OPEN THE PUBLIC HEARING AT
178 6:48 PM. COUNCILMEMBER SIFUENTES SECONDED THE MOTION. MAYOR
179 FULLMER, COUNCILMEMBERS FLAKE, RASMUSSEN, SIFUENTES, AND WELSH
180 VOTED YES. THE MOTION CARRIED UNANIMOUSLY.

181
182  Mr. Geddes asked how staff had determined the amount that was being transferred from the
183 Enterprise Funds to each fund. Mr. Mortensen explained that they were transferring money to the
184 Internal Services Funds to cover costs. He said that he had used an allocation based on personnel,
185 fleet, and facilities.

186
187  Mayor Fullmer called for additional public comments. Hearing none, she called for a motion
188 to close the public hearing.

189
190  **Motion:** COUNCILMEMBER SIFUENTES MOVED TO CLOSE THE PUBLIC
191 HEARING AT 6:53 PM. COUNCILMEMBER WELSH SECONDED THE MOTION.
192 MAYOR FULLMER, COUNCILMEMBERS FLAKE, RASMUSSEN, SIFUENTES, AND
193 WELSH VOTED YES. THE MOTION CARRIED UNANIMOUSLY.

196 9.3 PUBLIC HEARING – Zoning Text Amendment (Ordinance 2022-06)

197 Community Development Director Morgan Brim is requesting a zoning map amendment
198 for the site known as Geneva Nitrogen located at 1165 North Geneva Road, Vineyard,
199 Utah 84059, Serial No. 17:022:0006 from I-1 Industrial to RC, Regional Commercial.
200 The mayor and City Council will act to adopt (or deny) this request by ordinance.
201 *(Following public comment by any member of the public who wish to be heard, this item*
202 *will be continued to the July 13, 2022, City Council meeting.)*

203  Mayor Fullmer explained that the discussion would be held on July 13, 2022. She then
204 called for a motion to open the public hearing.

205
206  **Motion:** COUNCILMEMBER WELSH MOVED TO OPEN THE PUBLIC HEARING AT
207 6:53 PM. COUNCILMEMBER FLAKE SECONDED THE MOTION. MAYOR FULLMER,
208 COUNCILMEMBERS FLAKE, RASMUSSEN, SIFUENTES, AND WELSH VOTED YES.
209 THE MOTION CARRIED UNANIMOUSLY.

210
211  Mayor Fullmer called for public comments. Hearing none, she called for a motion to
212 continue to item to the July 13, 2022 City Council meeting.

213
214  **Motion:** COUNCILMEMBER FLAKE MOVED KEEP THE PUBLIC HEARING OPEN
215 AND CONTINUE BUSINESS ITEM 9.3, ZONING TEXT AMENDMENT TO THE JULY 13,
216 2022 CITY COUNCIL MEETING. COUNCILMEMBER RASMUSSEN SECONDED THE
217 MOTION. MAYOR FULLMER, COUNCILMEMBERS FLAKE, RASMUSSEN, SIFUENTES,
218 AND WELSH VOTED YES. THE MOTION CARRIED UNANIMOUSLY.

219 9.4 DISCUSSION AND ACTION – Approval of an Increase to the Staffing Plan

220
221 City Manager Ezra Nair is requesting the approval of an increase to the staffing plan in
222 the Communications Department, moving a part-time employee to full-time. The mayor
223 and City Council will take appropriate action. *(This item was continued from the May*
224 *11, 2022 City Council meeting.)*

225
226
227  Mr. Nair explained the reason for the staffing request.

228
229  Mayor Fullmer called for questions for the council. Hearing none, she called for a motion.

230
231  **Motion:** COUNCILMEMBER RASMUSSEN MOVED TO APPROVE THE ADDITION
232 TO THE STAFFING PLAN AS PRESENTED. COUNCILMEMBER SIFUENTES
233 SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS FLAKE,
234 RASMUSSEN, SIFUENTES, AND WELSH VOTED YES. THE MOTION CARRIED
235 UNANIMOUSLY.

236 10. CLOSED SESSION

237
238 No closed session was held.

239 11. ADJOURNMENT

240
241
242
243
244  Mayor Fullmer called for a motion to adjourn the meeting.



Motion: COUNCILMEMBER FLAKE MOVED TO ADJOURN THE MEETING AT 6:55 PM. COUNCILMEMBER SIFUENTES SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS FLAKE, RASMUSSEN, SIFUENTES, AND WELSH VOTED YES. THE MOTION CARRIED UNANIMOUSLY.

MINUTES APPROVED ON: _____

CERTIFIED CORRECT BY: /s/ Pamela Spencer
PAMELA SPENCER, CITY RECORDER

DRAFT



VINEYARD CITY COUNCIL/RDA STAFF REPORT

Meeting Date: 6-15-2022

Agenda Item: 7.2 ILA with TSSD

Department: Public Works

Presenter: Chris Wilson

Background/Discussion:

In 2006, the Town of Vineyard entered into agreements with Timpanogos Special Services District (TSSD) to accommodate the sewer needs of the town north of 400 South. There were three separate agreements made for treatment services, collection system maintenance services, and impact fee collection. The agreements were for the term of 25 years. TSSD is renewing all of the member cities' service agreements. Vineyard City's agreement is not set to expire just yet, however the TSSD would like to have all the member city agreements renew at the same time. This puts all of the cities on the same time frame and can provide some financial advantage for the TSSD in financing/bond negotiations. The new service agreement does not change any of the existing terms, but it does combine the three existing agreements into one. There were several clarifying and clerical updates made as well. This agreement has been reviewed by staff and the City Attorney and it is proposed to approve the mayor to sign.

Fiscal Impact:

No budget requirements

Recommendation:

Motion to Approve

Sample Motion:

I move to approve the 2022 Amended and Restated Sewer Treatment Services Contract and Collection Maintenance Agreement, Resolution 2022-15, to be signed by the mayor as proposed.

Attachments:

Resolution 2022-15

2022 Amended and Restated Sewer Treatment Services Contract and Collection Maintenance Agreement

RESOLUTION NO. 2022-15

**A RESOLUTION AUTHORIZING THE MAYOR TO SIGN
AN INTERLOCAL AGREEMENT.**

WHEREAS, pursuant to the Utah Interlocal Cooperation Act, Utah Code Annotated, Section 11-13-1, et seq., 1953 as amended, governmental entities are allowed to enter into agreements for the joint provision of services; and

WHEREAS, Vineyard, Utah having determined that it is in the public interest and welfare of its residents has negotiated an agreement with Timpanogos Special Service District for sewer treatment services to be provided to the city.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF VINEYARD AS FOLLOWS:

1. The Vineyard City Council authorizes the mayor to sign the agreement titled 2022 Amended and Restated Sewer Treatment Services Contract and Collection Maintenance Agreement, in the form attached hereto as Exhibit A.
2. This resolution shall take effect upon passing.

Passed and dated this 15th day of June, 2022.

Mayor

Attest:

Recorder

**2022 AMENDED AND RESTATED SEWER TREATMENT SERVICES CONTRACT AND
COLLECTION MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into as of the ____ day of _____, 2022, by and between the TIMPANOGOS SPECIAL SERVICE DISTRICT, Utah County, Utah, a body politic and corporate and a quasi-municipal public corporation, distinct from each county and municipality in which it is located, of the State of Utah (the “District”), and VINEYARD CITY, Utah County, State of Utah, a municipal corporation of the State of Utah (the “City”),

Witnesseth:

WHEREAS, the City and the District previously entered into a Sewer Treatment Services Contract and/or extensions, amendments and/or Supplementary Agreements thereto as well as a Collection Systems Maintenance Agreement (the “Prior Service Contracts”) for the purpose of defining and establishing their respective rights and responsibilities with respect to sewage treatment service, the construction, operation and maintenance of sewage treatment and sludge disposal facilities by the District, and collection systems maintenance to serve the City; and

WHEREAS, the District and the City desire to restate, amend and modify the agreement between them originally contained in the Prior Service Contracts in order to continue their rights and responsibilities with respect to sewage treatment services, the construction, operation and maintenance of sewage treatment and sludge disposal facilities of the District and collection systems maintenance to serve the City and other municipalities;

NOW, THEREFORE, the District and the City hereby agree and covenant as follows:

ARTICLE I

DEFINITIONS AND AUTHORITY

Section 101. (a) Unless the context otherwise requires, the terms in this Section defined shall, for all purposes of the Agreement, have the meanings herein specified.

“Agreement” means this 2022 Sewer Treatment Services Contract as amended and supplemented from time to time.

“City” means Vineyard City, Utah County, Utah, a municipal corporation duly organized under the laws of Utah.

“City Council” means the City Council of the City or any successor governing body of the City as provided by law.

“Collection System” means the sewage facilities of the City used in connection with the collection and disposal of sewage, including improvements, extensions, and additions thereto which may be made while this Agreement remains in effect.

“District” means the Timpanogos Special Service District, Utah County, Utah, a special service district located in the State of Utah duly organized and existing under the provisions of the Utah Special Service District Act.

“System” means the sewage treatment facilities of the District, and all other improvements, facilities, or property used in connection with the collection, treatment and disposal of sewage, including all improvements, extensions, and additions thereto which may be made while this Agreement remains in effect, and including all property, real, personal and mixed, of every nature now or hereafter owned by the District and used or useful in the operation of its sewage treatment facilities.

“Televising Unit” means the equipment capable of televising and recording the condition of sewer lines.

“Combination Unit” means the equipment capable of cleaning sewer lines.

“Unit” refers to a Televising Unit and a Combination Unit collectively.

Section 102. The Agreement is adopted pursuant to the provisions of the Limited Purpose Local Government Entities Title 17D, Chapter 1, and Title 17B, Chapter 1 of the *Utah Code Annotated* (1953, as amended).

Section 103. This Agreement is entered into for the purpose of providing for the sale by the District and the purchase by the City of sewage treatment services provided by the System and to establish and define the rights and responsibilities of the District and the City with respect to operation, service and maintenance of the System.

Section 104. This Agreement replaces and supersedes in their entirety the Prior Service Contracts.

ARTICLE II

TREATMENT SERVICES TO BE PROVIDED

Section 201. From time to time the District has constructed, added to, improved or extended the System and anticipates that it will do so in the future as well as it shall continue to operate and maintain the System. The System shall at all times be operated and maintained in compliance with applicable State and Federal discharge requirements. The District shall at all times obtain and maintain all necessary licenses and permits required to operate and maintain the System and shall comply with all applicable laws and regulations.

Section 202. The District shall provide sewage treatment services to the City in accordance with the terms and provisions of this Agreement. Should the capacity of the System be exceeded, the City shall continue to have access to the System on a proportional basis with other cities located within the boundaries of the District, based on a proportion taken from a comparison of a 3-year history of the volume and character of sewage discharge by each such city.

ARTICLE III

COLLECTION SYSTEMS MAINTENANCE

Section 301. The District shall have the following duties and obligations regarding system maintenance, (the “Collection Systems Maintenance”):

(a) From time-to-time the District shall televise, record and clean portions of the existing sewer system of the City (except for service lateral lines), report the results thereof to the City and, upon written request of the City, make available to the City for reviewing and copying any video tape taken of the lines.

(b) The District shall televise new interceptor lines installed from time to time in the City to check for leaks in said lines, report the results thereof to the City and, upon written request of the City, make available to the City for reviewing and copying any video tape taken of the lines.

(c) Each calendar year, the District shall, if requested by the City, televise and/or clean the sewer system of the City and new interceptor lines installed in the City as provided above, for a percentage of normal working time in each calendar year less four weeks which is at least equal to the percentage of the City's portion of the total influent to the District in the preceding calendar year of all political subdivisions within the District that utilize the

Collection Maintenance Services provided herein. The District shall not be required to provide service to the City in any calendar year in excess of the above-stated percentage unless emergency conditions require additional service.

(d) The District shall provide the City with a schedule setting forth the respective sewer lines to be serviced, the service to be performed on the lines, and the dates such services will be performed on the lines (the “Service Schedule”). The District shall provide the City with the Service Schedule at least thirty (30) days prior to the time of the scheduled services. The District may deviate from the Service Schedule in the event of emergencies which occur in other municipalities for which the District has similar obligations to provide services with the Unit. In the event of any emergency which requires the District to deviate from the Service Schedule, the District shall promptly notify the City of the need to deviate from the Service Schedule and shall within five (5) business days provide the City with a revised Service Schedule.

(e) The District shall clean the sewer lines of the City in cases of emergency (except for house service lateral lines), when so notified by the City that an emergency exists.

Section 302. The City shall have the following duties and obligations regarding Collection Systems Maintenance:

(a) The City shall be responsible for any necessary construction and repairs of its sewer system, including any necessary repair of defects discovered by the District while using the Unit.

(b) The City shall, as funding becomes available, maintain its manholes up to

grade, at the proper elevation, and easily accessible to the District. The District will not be required to provide any service for lines where the related manholes are not up to grade, at the proper elevation and easily accessible to the District.

(c) The City shall provide one City employee to assist the District in operating and using the Unit when traffic control requires three people to operate and manage the Unit and when one operator of the Unit is required to enter a manhole. The City shall also provide one City employee to assist the District in operating and using the Unit when one of the two District employees trained to operate the Unit is ill, on vacation or for any other reason is unable to operate the Unit. If no City employee is available to assist when specified, the service to the City will be rescheduled as promptly as possible in relation to the District's obligation to provide services to other municipalities.

(d) In the case of emergencies related to the sewer system, the City shall send a City employee to assess the emergency situation.

Section 303. As to Collection Systems Maintenance, the Parties further agree as follows:

(a) The District shall have no liability for any flooding or damage resulting from the condition or proper cleaning of the sewer lines, and the City assumes all responsibility and liability for any such flooding or damage.

(b) The District shall be under no obligation under this Agreement with respect to the cleaning or other service of house service lateral lines or other privately owned lateral lines.

(c) Each party hereto shall be liable for, and shall hold the other harmless from, all costs, damages, and losses resulting from the negligence of said party or its respective

agents, officers, employees or servants. Failure to discover a latent defect or problem in the structural integrity of the lines shall not be considered negligence.

(d) It is understood by the parties hereto that the cleaning function of the Unit is accomplished by force of liquid under pressure. The parties hereto agree that the City shall be liable for any cost, damage or loss resulting from or related to the existing conditions of the line such as, but not limited to, protruding lateral lines or weak tile lines.

(e) As provided for in Article IV of this Agreement, the provisions for Collection Systems Maintenance set forth herein do not and nothing herein shall be interpreted to constitute a transfer of any interest whatsoever in and to the sewer lines within the City's sewer system and the District expressly agrees that the City shall continue to own all such sewer lines within its sewer system.

ARTICLE IV

CITY RESPONSIBLE FOR OWN SYSTEM AND PRESERVATION OF DISTRICT'S SYSTEM

Section 401. The City hereby acknowledges that it shall bear any and all costs of constructing, operating, maintaining, and repairing its sewage Collection System, including lines necessary to extend said system to the interceptor lines constructed or owned by the District and that the District shall not bear any such costs or be responsible for constructing, operating, maintaining, adding to or improving said system of the City.

Section 402. Delivered herewith is a map that depicts the location of the District's interceptor lines and the City's Collection System. The City shall not take any action that could interfere with the operation and maintenance of the District's interceptor lines, including, but not limited to, modifying or vacating public rights of ways or public utility easements.

Section 403. The location of the District's System and the location of that System's connection with the City's Collection System are **PROTECTED RECORDS** as the disclosure of such could jeopardize the life or safety of an individual and/or jeopardize the security of governmental property, or governmental programs from damage or use contrary to the law or public policy. As such no such disclosure is permitted except as may be permitted by the Utah Governmental Records Access and Management Act.

ARTICLE V

INDUSTRIAL AND OTHER SPECIAL DISCHARGES

Section 501. The District has and will maintain and update a Pretreatment Program that is approved by the State of Utah and complies with Federal pretreatment standards, including those contained in 40 CFR (Code of Federal Regulations) Part 403 (the "Pretreatment Program"). The Pretreatment Program is to prevent the introduction of pollutants into the System which will interfere with the operation of the System or contaminate the resulting sewage sludge; prevent the introduction of pollutants into the System which will pass through the treatment works into receiving waters or the atmosphere or otherwise be incompatible with the work; and, improve opportunities to recycle and reclaim wastewaters and the sludge resulting from wastewater treatment. The City shall adopt by ordinance, at least as stringent, the District's Pretreatment Program as may be amended from time to time.

Section 502. The District reserves the right to approve or disapprove the discharge of any wastes other than sewage to any sewer system which sends wastewater to the System. All industrial discharge of any wastes other than sanitary facility wastes shall require prior written approval of the District, shall comply with Federal pre-treatment standards, and shall be subject to special charges

as determined by the District. Discharges of unusual wastes from other sources shall also be subject to prior written approval of the District.

Section 503. Special permits granted for industrial or other unusual discharges may be revoked by the District upon ninety (90) days' notice from the District to the City, if, as determined by the District, the discharge results in excessive operational problems or constitutes an unexpectedly large threat to the integrity of the System, which cannot be recompensed by increasing the special charge. Any discharges after such ninety (90) day period shall be considered unapproved and shall be subject to the conditions above stated.

ARTICLE VI

COST OF SERVICES AND PAYMENT

Section 601. The City hereby agrees to promptly pay all charges which are assessed by the District in accordance with this Agreement.

Section 602. Each city and other user of the District facilities shall be billed monthly or at such greater time intervals as shall be determined by the District. In no event shall the District bill the City less frequently than annually. Such amount so billed shall be due and payable within thirty (30) days after the date of the billing.

Section 603. Special charges for wastes other than sewage shall include, without limitation, any costs of operation and maintenance occasioned by the character of such wastes and any damages to the System, or any fines or other penalties or costs resulting from loss of proper operation of the System due to the unapproved discharge within the City or area served by the District.

Section 604. The District shall provide that sufficient revenue is generated to pay all costs for the operation and maintenance of the System. The costs shall be distributed to all users of the System in proportion to each user's contribution to the total loading of the System. Factors such as strength (BOD and TSS), volume and nutrient factors shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user or user class.

Section 605. The District shall determine the total annual costs of operation and maintenance of the System which are necessary to maintain the capacity and performance for which such works were designed and constructed. The total annual cost of operation and maintenance shall include, but is not limited to, amounts paid by the District for improvement, repair, replacement or for the acquisition of any type of equipment related to the System, for salaries and wages, employees' health, hospitalization, pension and retirement expenses, fees for services, materials and supplies, rents, administrative and general expenses, insurance expenses, for legal, engineering, accounting and financial advisory fees and expenses and costs of other consulting and technical services, training of personnel, taxes, payments in lieu of taxes and other governmental charges imposed by any entity other than the District, fuel costs, payments for the purchase of water for use in connection with the construction and operation of the System, costs of utility services and other auxiliary services, and any other current expenses or obligations required to be paid by the District under the provisions of any bond resolution or indenture or by law, all to the extent properly allocable to the System. For purposes of this Article VI, the District shall include in its costs of operation and maintenance charged to the City and other users of the System services all costs imposed on the District by any bond resolution or indenture, including, without limitation, all costs

of debt service and payments or deposits for reserve funds in connection with any bonds or other obligations of the District and all costs necessary to comply with the covenants and obligations of the District contained in such bond resolutions or indentures. To the extent that debt service of the District is actually paid from the proceeds of taxes actually levied and collected by the District on all taxable property in the boundaries of the District, such debt service shall be excluded for purposes of determining charges to the City for System services.

Section 606. To determine the proportion of each user's wastewater contribution, the District has installed and maintains metering stations throughout the District. The District owns and has the sole right to maintain each metering station, except for that meter located at the lift station identified on Exhibit A attached hereto (the "Vineyard Lift Station Meter"), which is owned, operated and maintained by the City. The District upon reasonable notice shall have the right to test the Vineyard Lift Station Meter to verify the accuracy of the meter. The City upon reasonable notice shall have the right to test any meter applicable to the City's wastewater contribution to verify the accuracy of the meter. Delivered herewith is a map that depicts the location of the meter(s) applicable to the City's wastewater contribution. In determining the proportion of each user's wastewater contribution, the District shall measure and take into account the following:

1. Each user's monthly volume of wastewater. The amount used as the total monthly volume of wastewater shall include infiltration and inflow.
2. Each user's monthly poundage of 5-day 20 degree centigrade biochemical oxygen demand which has been discharged to the System.
3. Each user's monthly suspended solids poundage which has been discharged to the System.

4. Nutrient factors imposed by any regulatory body.

Section 607. If the City requests additional metering stations, all such metering station(s) must be approved by the District's staff as meeting all District standards. The District will arrange for and pay all costs for the meter(s) and the installation of the meter(s). The District will then bill the City for the reimbursement of all such meter costs. All other costs, including furnishing and installing the vault, flume, electrical pad, electrical panel, Rocky Mountain Power and services, and associated appurtenances will be provided and paid by the City. Upon completion, inspection, and approval, the metering station(s) shall be owned by the District.

Section 608. The District shall review the total annual cost of operation and maintenance as well as each user's wastewater contribution on an annual basis and shall revise the service charges as necessary to assure equity of the service charges assessed to the City and other users, and to assure that sufficient funds are obtained to adequately operate and maintain the System, including payment of the debt of the District.

Section 609. The City and other users of the System will be charged a certain amount for each one thousand (1,000) gallons of wastewater treated; plus, a certain amount per pound of Biochemical Oxygen Demand, a certain amount per pound of Suspended Solids, and nutrient factors imposed by any regulatory body, to be determined by the District, considering the factors herein mentioned. The rates shall be re-established annually or more frequently if so determined by the District Administrative Board.

Section 610. The District shall have no power to demand that the City make payment for any charges due under this Article VI from it to the District from monies raised by the City by taxation, but such charges may be solely payable from charges the City makes to the users of its

own sewage Collection System. All amounts due and owing to the District from the City under this Agreement shall be treated by the city as operation and maintenance costs of the City's sewer system. Notwithstanding the foregoing sentences in this Section 6010, it is understood that the City is free to make payments due under this Agreement from any available monies it may have on hand at the time such payments are due.

Section 611. The City covenants and agrees to impose rates and charges on its sewer customers in amounts sufficient to make all payments called for under this Article VI and to properly operate and maintain, at its own expense, its sewer Collection System.

Section 612. Pursuant to Utah Code Ann. § 10-8-38(2)(a)(i) and in compliance with the Utah Board of Health regulations, the City shall provide for mandatory connection where its sewer Collection System is reasonably available and feasible within 300 feet of any property line with any building used for human occupancy and will make a reasonable charge for the use thereof and shall enact all ordinances and make all necessary amendments to resolutions necessary for it to do so.

Section 613. The City is obligated to pay only for treatment services rendered to it during the month or other longer service period for which it is to receive a bill.

ARTICLE VII

IMPACT FEES

Section 701. In order to provide and pay for expanded capacity to the System and to provide the District with increased ability to provide sewer treatment services to the City, the District has in the past and may in the future acquire additional facilities or improve or expand existing facilities to accommodate new growth within the District ("Expansion Facilities").

Section 702. Pursuant to Section 11-36a-101 et seq. Utah Code Annotated (1953, as amended), the District has adopted a resolution establishing an Impact Fee to pay for the Expansion Facilities and may further amend the Impact Fee. The District hereby represents and warrants to the City that the District has complied and shall comply with the applicable statutory provisions of the Utah Code to lawfully impose the Impact Fee. The City hereby agrees to develop, maintain and update a topographical master plan for sewer service within its boundaries upon which the District may rely in planning for future development. Any connection to the District's collection system may only be where the District approves.

Section 703. The District and the City agree that the Impact Fee shall be applied, to the extent received by the District, to the costs to the District of acquiring, constructing and improving the Expansion Facilities as a part of the System, and that to the extent, but only to the extent, that such Impact Fees are paid to and available to the District, the District will not include the costs of the Expansion Facilities in calculating its service charges to be apportioned among the Contracting Cities in accordance with Article VI. To the extent the Impact Fees received are inadequate or unavailable to pay the costs of providing or paying for the Expansion Facilities, then such costs in excess of the available Impact Fees shall be treated and charged as service charges in accordance with Article VI. To the extent the Impact Fees received in any year exceed the amount needed to pay the costs of providing the Expansion Facilities, then the excess shall be (a) held for payment of, or applied to the early redemption of bonds issued to finance the Expansion Facilities, (b) applied to growth-related improvements to the System, as evidenced and supported by written plans and analyses adopted by the District in the exercise of its sole business judgment, or (c) applied to any combination thereof. It is expected by the parties hereto that the costs of providing the Expansion

Facilities will consist principally of the payment of debt service, including, but not limited to, principal, interest, redemption premiums, paying agent, registrar, trustee fees, engineering costs, legal fees and bond costs, on bonds of the District issued to finance the acquisition, construction and improvement of the Expansion Facilities or the direct payment of the costs of acquisition, construction and improvement of the Expansion Facilities, or both.

Section 704. The City agrees that the payment of the Impact Fee by applicants for a building permit from the City shall be a condition of development and that no building permit shall be issued until the required Impact Fee is paid. The amount of the Impact Fee shall be established by resolution of the District and may change from time to time.

Section 705. The City shall calculate and collect the Impact Fee for and on behalf of the District and shall remit to the District all Impact Fees collected sixty (60) days following the 20th of the month in which such fees are received by the City. Any Impact Fees collected by the City that are not remitted to the District within the time specified shall accrue interest at the annual rate of three percent (3%) calculated daily, which interest the City shall pay to the District. The City and District may establish an agreed upon administrative fee to be paid to the City for the collection of the Impact Fee on behalf of the District.

Section 706. The Impact Fee is based on information contained in duly adopted Impact Fee Facilities Plans and Analysis. Each City shall collect from each applicant for building permits the amount of the Impact Fee in accordance with the formulas provided by the District.

Section 707. The City shall provide to the District by the 20th of each month, a summary of all residential permits issued during the prior month and copies of all non-residential permits issued during the prior month. At no more than a quarterly basis, if requested by the District, at no fee to

the District, and at reasonable times, the City shall allow the District to audit City building permit records and the Impact Fees assessed and collected to determine whether the impact fees were properly assessed and collected. If the Impact Fee collected by the City was improperly assessed and/or collected after receiving notice of the formulas and fees from the District, the City shall be responsible to pay to the District the difference between the amount collected and the amount that should have been charged together with interest thereon calculated at the rate of three percent (3%) per annum, calculated daily. The District shall give the City thirty days written notice of any amounts owed under this Section. Interest on the amount owed will not begin to accrue until the day after the expiration of the thirty-day notice period. The District shall have nine months to review and or audit the Impact Fees assessed and collected by the City which period shall commence the day after the City delivers to the District the summary of residential permits issued or in the case of non-residential permits the day after copies of the actual permits are delivered to the District. After the expiration of the nine-month period, the District may not assess the City any amount owed by reason of a difference between the amount collected and the amount that should have been collected. Once assessed, the District shall have whatever applicable statute of limitations applies to collect the amount assessed as provided in this Section 707 and interest thereon.

ARTICLE VIII

REPRESENTATIONS OF THE CITY

Section 801. The City hereby warrants and represents that (a) its existing indebtedness for all purposes does not exceed the limit provided in Article XIV, Section 4, of the Constitution of the State of Utah, (b) it has the power to enter into this Agreement and all necessary action has been

taken by its City Council to authorize the execution and delivery of this Agreement, and (c) this Agreement does not conflict with, and the execution and performance by the City hereof will not constitute a breach of or a default under any contract, lease, court order, administrative rule, regulation or law to which the City or its properties or either of them are subject or by which it is bound.

ARTICLE IX

INSPECTION OF RECORDS

Section 901. At no more than a quarterly basis, if requested by the City, and at reasonable times, the District shall, upon request of the City, make available its books and records for inspection by the duly authorized agents of the City at no fee to the City.

ARTICLE X

FORCE MAJEURE

Section 1001. If, by reason of *Force Majeure*, either party shall be unable in whole or in part to perform its obligations hereunder, said party shall not be deemed in default during the continuance of such inability and shall not incur any liability for its failure to perform its obligations hereunder. Each party shall use its best efforts to remedy with all reasonable dispatch the cause or causes preventing it from performing such obligations; provided, however, the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the affected party, and it shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in its judgment unfavorable to it. “*Force Majeure*” means, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of

any kind of the government of the United States of America or of the State of Utah or any of their departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; pandemics, floods; explosions; breakage or accidents to machinery, transmission pipes or canals from a cause not reasonably within the control of a party; or any other cause or event not reasonably within the control of that party.

ARTICLE XI

THIRD PARTY CLAIMS

Section 1101. This Agreement is not intended to be a third-party beneficiary contract for the benefit of the retail sewer customers of the City and no such third party shall have any cause of action against the District for any failure by the District to take and receive sewage as provided for herein or for any breach or default by the District hereunder. In addition, no such third party shall have any rights hereunder which would in any way restrict the rights of the District and the City to modify or terminate this Agreement at any time or in any manner. To the extent that the City has any legal duty and authority to defend or indemnify the District against any claims of the City's customers, retail or residential, it shall do so. It is expressly understood and agreed that such duty does not extend to any activities of the District not directly related to the treatment of wastewater and sewage, *e.g.*, claims resulting from automobile accidents involving District equipment, etc.

ARTICLE XII

MAINTENANCE OF DISTRICT REVENUES

Section 1201. Except as provided in Section 1202 below, the City, so far as it legally may, covenants and agrees that, during the term of this Agreement (a) it will not grant a franchise for the operation of any competing sewer system within its boundaries located within Utah County until

termination of this Agreement in accordance with Article XIII hereof, (b) it will not itself treat sewage, and (c) it will maintain its corporate identity and shall make no attempt to cause its corporate existence to be abolished.

Section 1202. If as of the date of this Agreement the City is treating any portion of its waste water by a facility other than the District's System, the City, so far as it legally may covenants and agrees that (a) it will not grant a franchise for the operation of any competing sewer system to treat sewage originating from within the boundaries of the District's service area located within Utah County until termination of this Agreement in accordance with Article XIV hereof, (b) it will not itself treat sewage originating from within the boundaries of the District's service area located within Utah County , and (c) it will maintain its corporate identity and shall make no attempt to cause its corporate existence to be abolished.

ARTICLE XIII

DEFAULT

Section 1301. In the event the CITY defaults in the payment of any charges or fees arising hereunder and such default remains uncured for thirty (30) days after the City's receipt of written notice of such default, the District, in its sole discretion will try in good faith to settle any dispute with the city, but may exercise any remedy available to it under the law to collect the default, including the withholding of services.

Section 1302. In the event of any default in the performance of any obligation hereunder or any breach of any term hereunder by a party, the other party shall be entitled, in addition to any other remedy which may be available hereunder or under applicable law, to recover from the defaulting party its costs incurred in enforcing its rights hereunder or seeking damages for any

breach hereof, including reasonable attorneys' fees, whether such costs are incurred through litigation or otherwise.

Section 1303. The remedies available in this Article shall be cumulative and in addition to any other remedies which may be available hereunder or under applicable law, and no election by either party to exercise, modify or waive any remedy on any occasion shall be deemed to be an election to exercise, modify or waive the same or any other remedy on any other occasion.

ARTICLE XIV

TERMINATION

Section 1401. Unless hereafter modified in a writing signed by all parties hereto, this Agreement shall have and be for a term of twenty-five (25) years from the date of its execution by the parties hereto.

ARTICLE XV

ASSIGNMENT

Section 1501. Neither the District nor the City shall transfer or assign any of the rights or delegate any of the duties of this Agreement without the prior written consent of the other.

ARTICLE XVI

COMPLETE AGREEMENT; MODIFICATION

Section 1601. This Agreement constitutes the full and complete agreement by and between the parties as to the matters covered hereby, and supersedes all prior oral or written agreements, representations, conversations or understandings of the parties.

Section 1602. The terms of this Agreement shall not be altered, amended or modified, except by written agreement of the parties hereto. Such modification or amendment shall be duly filed with the secretary of the District and with the city recorder of the City.

ARTICLE XVII

SEVERABILITY

Section 1701. It is hereby declared that all parts of this Agreement are severable, and if any section, paragraph, clause or provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Agreement.

ARTICLE XVIII

BINDING EFFECT

Section 1801. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective officers, employees, agents, representatives, successors and assigns (in the event assignment is approved as provided in Article XV hereof).

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective duly authorized representatives as of the day and year first above written and shall be effective as of that date.

“DISTRICT”

TIMPANOGOS SPECIAL SERVICE DISTRICT

By _____

Chairperson, Advisory Board

ATTEST:

Secretary of District
[SEAL]

“CITY”
[VINEYARD CITY]

By _____
Mayor

ATTEST:

City Recorder
[SEAL]

1597293.3

DISTRICT ATTORNEY REVIEW AND APPROVAL

Martha Wingate of the law firm of Ray Quinney & Nebeker P.C., duly licensed to practice law in the State of Utah, as the attorney authorized to represent the District for review of this Agreement as to proper form and compliance with applicable law pursuant to Utah Code Ann. § 11-13-202.5(3), does hereby opine that the Agreement is in proper form and compliance with applicable law.

DATED: _____ RAY QUINNEY & NEBEKER P.C.

By _____
Martha Wingate
Attorney for Timpanogos Special Service
District

CITY ATTORNEY REVIEW AND APPROVAL

_____ of the law firm of _____, duly licensed to practice law in the State of Utah, as the attorney authorized to represent the City for review of this Agreement as to proper form and compliance with applicable law pursuant to Utah Code Ann. § 11-13-202.5(3), does hereby opine that the Agreement is in proper form and compliance with applicable law.

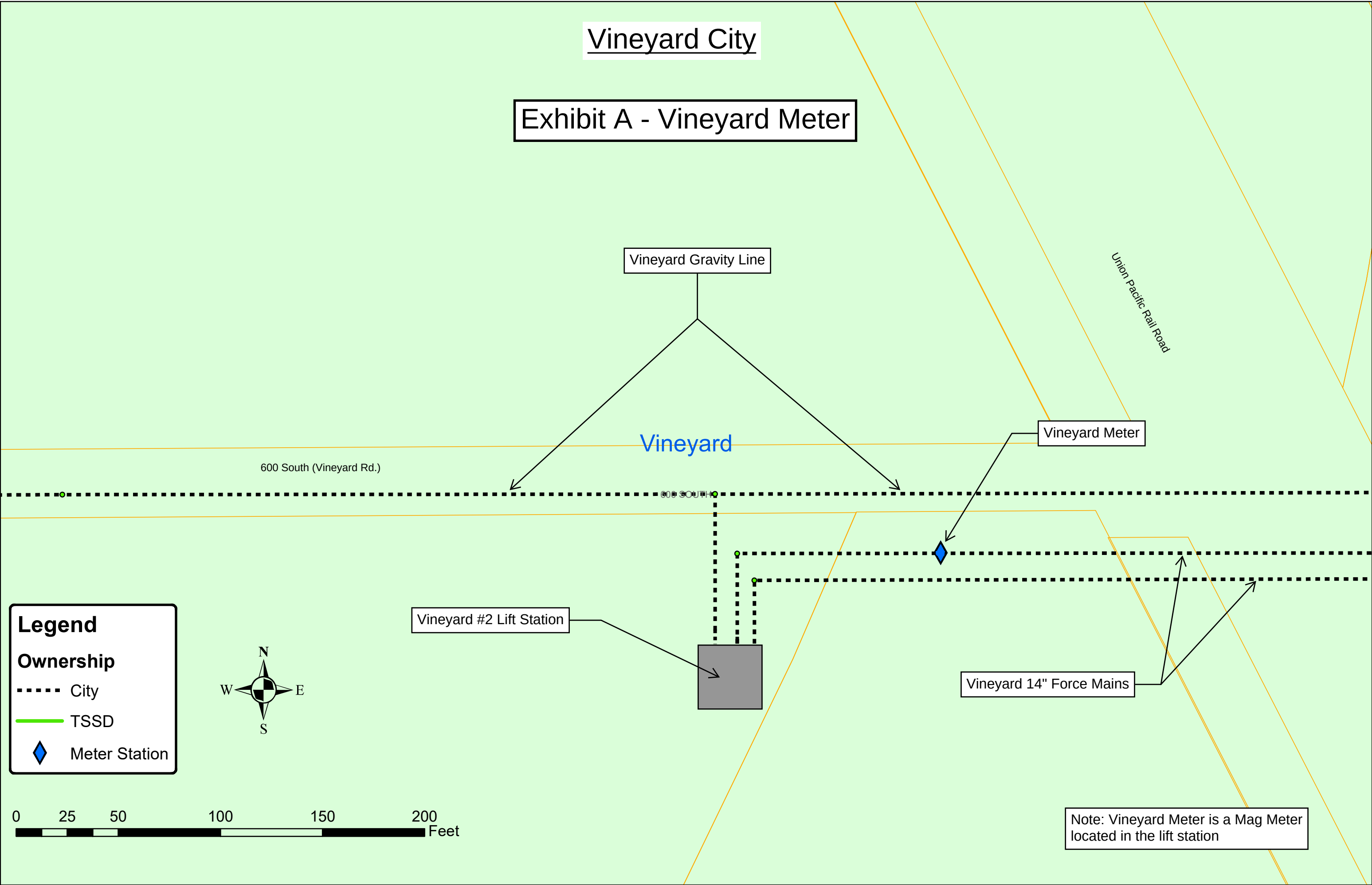
DATED: _____

By _____

Attorney for _____ City

Vineyard City

Exhibit A - Vineyard Meter



Vineyard City

Exhibit B - Vineyard Mainline

Lindon

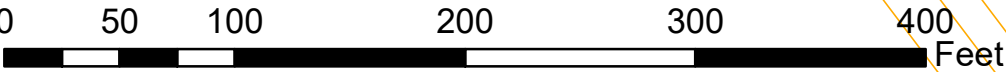
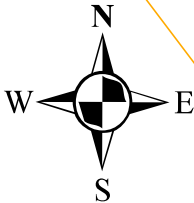
2500 WEST

400 NORTH

Legend

Ownership

- City
- TSSD
- Meter Station





VINEYARD CITY COUNCIL STAFF REPORT

Meeting Date: 06-15-2022

Agenda Item: Acceptance of At Grade Crossing and Multi Use Trail Crossing Agreement

Department: Engineering Development

Presenter: Naseem Ghandour, P.E. (City Engineer)

Background/Discussion:

City staff wishes to enter into an agreement with Utah Transit Authority (UTA) for an At Grade Crossing and Multi Use Trail Crossing for the railroad corridor, known as Commuter Rail South, and 1600 North in Vineyard City. This agreement would allow the City to provide connectivity for the Lindon Heritage Trail, that is expected to be constructed in 2023 by Lindon City, providing for recreational pedestrian access to the City's northern boundary. The improvements which will be included as part of the Heritage Trail consists of 14 foot wide pedestrian improvements and appurtenances which consist of two (2) 2 foot shoulders, 10 foot width of paved asphalt trail, concrete crossing panels, signage, and crossing protection fencing (the "Multi Use Trail") on and across the Right of Way. The Lindon Heritage Trail is aligned to the City's Trail Master Plan and its Active Transportation Plan. The agreement will provide the City license for the construction, operation and maintenance of the Wireline.

Fiscal Impact:

\$4479.00 for UTA application

Recommendation:

Staff Recommends Approval.

Sample Motion:

Motion to approve to enter into At Grade Crossing and Multi Use Trail Crossing Agreement.

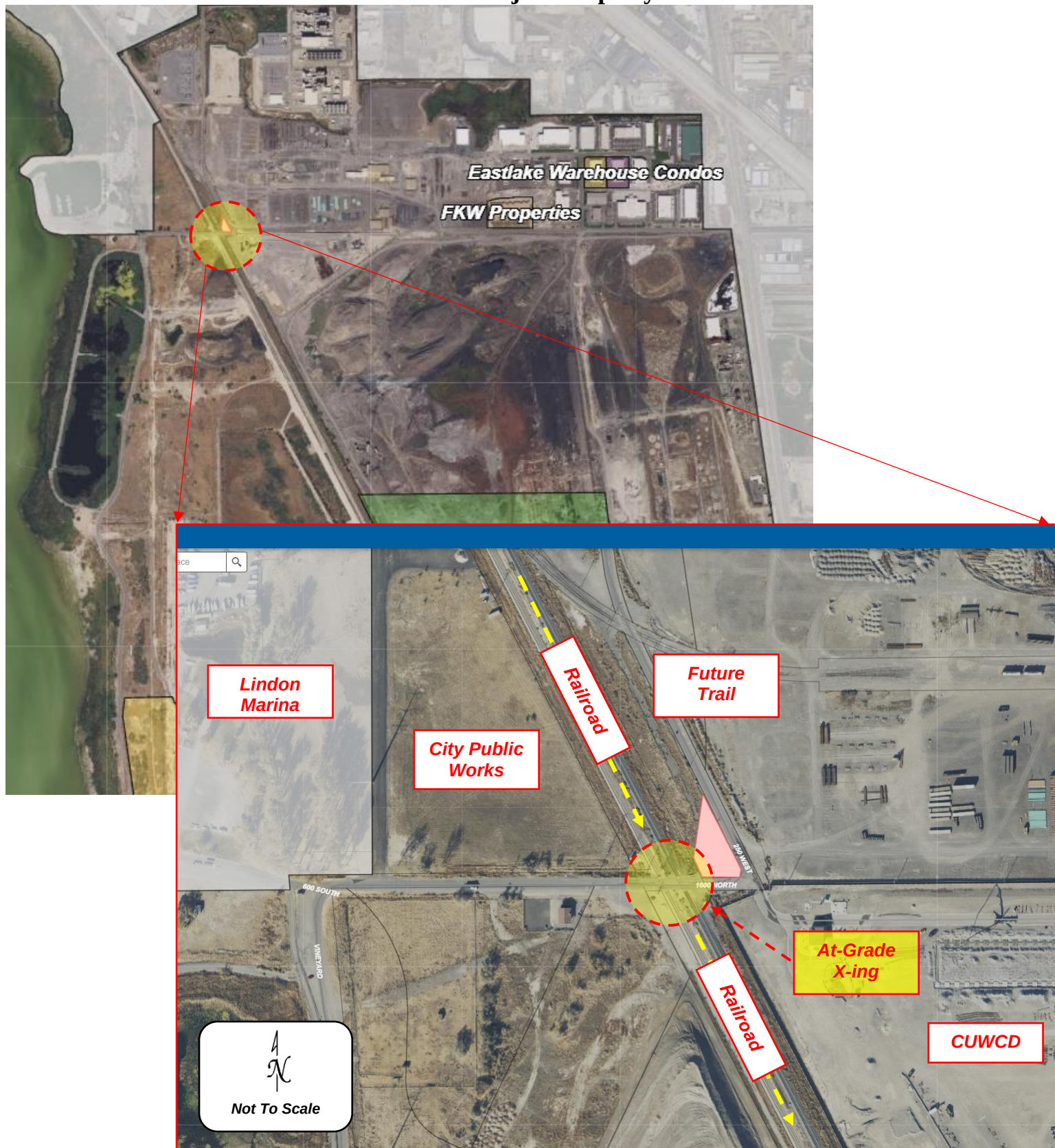
Attachments:

Aerial of Subject Property

UTA At Grade Crossing and Multi Use Trail Crossing Agreement

VINEYARD CITY COUNCIL STAFF REPORT

Aerial of Subject Property



RESOLUTION NO. 2022-16

A RESOLUTION AUTHORIZING THE CITY MANAGER TO
SIGN AN INTERLOCAL AGREEMENT.

WHEREAS, pursuant to the Utah Interlocal Cooperation Act, Utah Code Annotated, Section 11-13-1, et seq., 1953 as amended, governmental entities are allowed to enter into agreements for the joint provision of services; and

WHEREAS, Vineyard, Utah having determined that it is in the public interest and welfare of its residents has negotiated an agreement with Utah Transit Authority (UTA) for an at-grade crossing for the Lindon Heritage Trail.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF
VINEYARD AS FOLLOWS:

1. The Vineyard City Council authorizes the city manager to sign the agreement titled AT-GRADE CROSSING AND MULTI-USE TRAIL CROSSING AGREEMENT, in the form attached hereto as Exhibit A.

2. This resolution shall take effect upon passing.

Passed and dated this 15th day of June, 2022.

Mayor

Attest:

Recorder

AT GRADE CROSSING AND MULTI USE TRAIL CROSSING AGREEMENT
(Standard Wireline Form)

UTA Contract # PW/U/6833/G
Mile Post: S 35.49
Latitude: 40.326153
Longitude: -111.759431
Vineyard, Utah

THIS AT GRADE CROSSING AND MULTI USE TRAILCROSSING AGREEMENT (the “Agreement”) is made and entered into as of the _____ day of _____, 2022 **(to be dated after the final executing signature by UTA)**, by and between UTAH TRANSIT AUTHORITY, a large public transit district organized pursuant to the laws of the State of Utah (hereinafter “UTA”), and Vineyard City, a political subdivision of the state of Utah, with a principal address of 125 South Main Street, Vineyard, UT 84058 (hereinafter “Licensee”).

RECITALS

WHEREAS, UTA is the owner of a certain railroad corridor known as the Commuter Rail South (the “Right of Way”) acquired by UTA for the development and expansion of its public transportation system;

WHEREAS, Adjacent to the UTA owned property is railroad corridor owned and operated by the Union Pacific Railroad Company;

WHEREAS, Licensee has an existing roadway identified as Vineyard Road (600 S), not previously licensed, (the “At Grade Crossing”) which crosses the surface of the Right of Way at approximately mile post S 35.49(Latitude 40.326153, Longitude -111.759431) in Vineyard, Utah; and

WHEREAS, Licensee has requested to License additional improvements associated with the At Grade Crossing as part of the Heritage Trail, (the “Multi Use Trail”) and:

WHEREAS, Licensee intends to install and maintain the 14 foot wide pedestrian improvements and appurtenances which consist of two (2) 2’ shoulders, 10 foot width of paved asphalt trial, concrete crossing panels, signage, and crossing protection fencing (the “Multi Use Trail”) on and across the Right of Way which will cross at approximately mile post S 35.49 (Latitude 40.326153, Longitude -111.759431) in Vineyard, Utah; and

WHEREAS, Licensee desires a license for the construction, operation and maintenance of the Wireline.

AGREEMENT

NOW THEREFORE, on the stated Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereinafter set forth, the mutual benefits to the Parties to be derived herefrom, and for other valuable consideration, the receipt and sufficiency of which the Parties acknowledge, it is hereby agreed as follows:

ARTICLE I INCORPORATED TERMS AND DEFINITIONS

For purposes of this Agreement, the following definitions shall apply:

1.1 “Construct” and “Construction” mean the initial installation of the Multi Use Trail (or any improvements to the AT Grade Crossing and Multi Use Trail) in or otherwise materially affecting the Right of Way, as well as any subsequent reconstruction, relocation, restoration or rehabilitation of the AT Grade Crossing and Multi Use Trail (or any improvements to the AT Grade Crossing and Multi Use Trail) in or otherwise materially affecting the Right of Way.

1.2 “Emergency Access Manager” means the person or office responsible for controlling emergency Construction and Maintenance access to the Right of Way. The Emergency Access Manager as of the execution of this Agreement shall be reached at (801) 287-5455. UTA may change the designated Emergency Access Manager from time to time by delivery of notice in accordance with Article XVI of this Agreement.

1.3 “Freight Operator” means any entity using the Right of Way, or any portion thereof, to provide common carrier freight operations.

1.4 “Governmental Authority” means any federal, state, municipal, local or other division of government, or any agency thereof, having or asserting jurisdiction with respect to any matter related to this Agreement.

1.5 “Hazardous Materials” mean any materials or substances: (i) which are present in quantities and in forms which require investigation, removal, cleanup, transportation, disposal, response or remedial action (as the terms “response” and “remedial action” are defined in Section 101 of the Comprehensive Environmental Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 (24) and (25)) under any applicable federal, state or local environmental law, regulation, ordinance, rule or bylaw, as such are amended from time to time, whether existing as of the date hereof, previously enforced or subsequently amended (each hereafter an “Environmental Law”); or (ii) which are defined as “hazardous wastes,” “hazardous substances,” “pollutants” or “contaminants” under any Environmental Law.

1.6 “Losses” mean any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys’ fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs resulting from: (i) loss of or damage to the property of any Party or Third Person; (ii) death or personal injury to the agents of any Party or to any Third Person; or (iii) the cleanup or other requirements regarding any incident involving Hazardous Materials.

1.7 “Maintain” and “Maintenance” mean the performance of any repair, restoration, rehabilitation, refurbishment, retrofitting, inspection, monitoring, observation, testing, or similar work with respect to the AT Grade Crossing and Multi Use Trail (or any improvements to the AT Grade Crossing and Multi Use Trail) in or otherwise materially affecting the Right of Way.

1.8 “Party” and “Parties” mean UTA or Licensee, and UTA and Licensee, respectively.

1.9 “Third Person” means any individual, corporation or legal entity other than UTA and Licensee.

1.10 “Track Improvements” mean any and all tracks, rails, ties, switches, frogs, end of track barricades or bumpers and other barricades or bumpers, derail devices, tie plates, spikes, wires, fastenings and any other appurtenances related thereto, drainage structures, grading, ballast, subgrade stabilization, crossings, tunnels, bridges, trestles, culverts, structures, facilities, leads, spurs, turnouts, tails, sidings, signals, crossing protection devices, communications systems or facilities, catenary systems and wires, poles and all other operating and non-operating appurtenances located within the Right of Way.

1.11 “Utility” and “Utilities” mean and include all properties, facilities, utilities, crossings, encroachments, lines and similar appurtenances located within the Right of Way by permissive or prescriptive authority including, but not limited to, pipelines, tubelines, water and gas lines or mains, electrical conduits, ditches and other drainage facilities, wires, fiber optics, communication lines, sewer pipes, overhead wiring and supporting structures and appurtenances, and all similar installations.

1.12 “AT Grade Crossing” means the existing roadway line to be installed and maintained by Licensee pursuant to this Agreement and located on and across the surface of the Right of Way at Mile Post S 35.49 (Latitude 40.326153, Longitude -111.759431) on the Commuter Rail South in Vineyard, Utah as described in Exhibit “A”. The term “AT Grade Crossing ” shall also apply to any and all rearrangements, modifications, reconstruction, relocations, removals and extensions or additions concerning the AT Grade Crossing that are authorized and approved by UTA pursuant to this Agreement (unless they are the subject of a separate agreement that does not incorporate the terms hereof).

1.12.1 Licensee acknowledges that from time to time UTA may request partial and or full road closure in order to accommodate Track Improvement maintenance, repairs and replacement. Licensee shall coordinate in good faith to allow UTA to close the At Grade Crossing as necessary to accommodate maintenance of Track Improvements.

1.13 “Multi Use Trail” means the 14 foot wide pedestrian improvements and appurtenances which consist of two (2) 2’ shoulders, 10 foot width of paved asphalt trail, concrete crossing panels, signage, and crossing protection fencing to be installed and maintained by Licensee pursuant to this Agreement and located on and across the surface of the Right of Way at Mile Post S 35.49 (Latitude 40.326153, Longitude -111.759431) on the Commuter Rail South in Vineyard, Utah as described in Exhibit “A”. The term “AT Multi Use Trail ” shall also apply to any and all rearrangements, modifications, reconstruction, relocations, removals and extensions or additions concerning the Multi Use Trail that are authorized and approved by UTA pursuant to this Agreement (unless they are the subject of a separate agreement that does not incorporate the terms hereof).

1.13.1 UTA shall have the absolute right to close all or any portion of the Pedestrian Trail at any and all such times, and to such extent, as may be legally sufficient to prevent a dedication of, or the accrual of any right in, the Multi Use Trail, to any person or entity or the public, or as necessary to accommodate maintenance of Track Improvements

1.14 “Work Window” means the time period designated by UTA during which Construction, Maintenance and any other work with respect to the AT Grade Crossing and Multi Use Trail within the Right of Way is permissible. UTA may, at any time and at UTA’s sole discretion, determine that the Work Window shall not be concurrent with any passenger operations within the Right of Way.

ARTICLE II GRANT OF LICENSE AND REAL ESTATE USAGE CHARGE

2.1 An administrative fee has been waived for the license granted herein in the amount of **\$1,000.00**. This amount reflects the clerical, administrative and handling expense incurred in connection with the processing of this Agreement.

2.2 In consideration of the real estate usage charge to be paid by Licensee, and in further consideration of the covenants and agreements to be kept, observed and performed by Licensee hereunder, UTA hereby grants Licensee a license to Construct, Maintain and operate the AT Grade Crossing and Multi Use Trail in the location shown and in conformity with the dimensions and specifications indicated on the attached print dated **December 22, 2020** and approved by UTA Engineer on **May 28, 2021** marked Exhibit "A" (Exhibit "A" is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

2.3 Licensee agrees to pay UTA a one-time real estate usage charge of **\$2,903.00** payable on or before the date of execution. Licensee also agrees to pay an upfront Flagging cost of **\$1,576.00** and Special Inspection cost of **\$0** (these fees are more clearly described in Section 5.1).

2.4 The license granted by this Agreement is conditioned on the provision that Licensee shall obtain all necessary permission from and comply with all the requirements of the Union Pacific Railroad Company.

ARTICLE III ACCESS TO THE RIGHT OF WAY

3.1 Except in the event of an emergency (as provided in Section 3.2 below), Licensee shall request permission from UTA at least ten days (or such shorter period as may be approved by UTA) prior to performing any Construction or Maintenance in or otherwise materially affecting the Right of Way. Licensee's request to access the Right of Way shall be specific as to the time, date and activities for which Licensee seeks permission. The request shall also include a summary of the method and manner in which the Construction or Maintenance will be performed. As part of the application process, UTA may require Licensee (and its contractors or other agents seeking access to the Right of Way) to attend any track access coordination meetings, safety training or other instruction as may be deemed necessary by UTA. Once granted, UTA's permission to enter the Right of Way shall be formalized in writing and delivered to Licensee. After permission has been granted, Licensee shall comply with all conditions, instructions and requirements of such permit and with all instructions or directions given by UTA including, if required, daily telephone notification to the applicable rail dispatch center prior to each entry into the Right of Way. All contact with UTA shall be coordinated through the person designated by UTA from time to time as set forth in Article XVI of this Agreement. Provided that Licensee complies with the provisions of this Section, UTA agrees not to unreasonably withhold, condition, or delay its approval of Licensee's request.

3.2 Licensee shall have the right to enter the Right of Way in the event of an emergency to make repairs necessary to protect against imminent and serious injury or damage to persons or property. Licensee shall take all precautions necessary to ensure that such emergency entry does not compromise the safety of any operations conducted in the Right of Way by UTA or Freight Operator. Licensee must notify the Emergency Access Manager of the emergency access and the work being performed prior to entering the Right of Way.

ARTICLE IV

CONSTRUCTION AND MAINTENANCE OF THE AT GRADE CROSSING AND MULTIT USE TRAIL

4.1 All Construction and Maintenance with respect to the AT Grade Crossing and Multi Use Trail shall be performed to the satisfaction of UTA and in accordance with the conceptual, engineering and/or design plans (“Design Plans”) previously approved by UTA and attached hereto as Exhibit “A.” All Construction and Maintenance with respect to the AT Grade Crossing and Multi Use Trail shall be performed in compliance with the standards set forth in the National Electric Safety Code (“NESC”) and/or the National Electric Code (“NEC”). UTA may impose requirements in addition to or more stringent than the NESC or NEC, if UTA deems such requirements necessary for the safety of operations conducted in the Right of Way. UTA may also require additional fabrication methods, staging requirements or other precautions. All Construction and Maintenance with respect to the AT Grade Crossing and Multi Use Trail shall be performed during the designated Work Window. UTA shall have the right, but not the obligation, to observe any and all work performed in or materially affecting the Right of Way in connection with the AT Grade Crossing and Multi Use Trail to ensure that such work is performed in accordance with the requirements set forth in this Agreement. In its Construction or Maintenance of the AT Grade Crossing and Multi Use Trail, Licensee shall not make any material deviation from the Design Plans without UTA’s prior written approval.

4.1.1 With respect to any overhead facilities related to the AT Grade Crossing and Multi Use Trail, the Design Plans shall include: (a) a vertical clearance of not less than twenty-three and a half (23.5) feet on Commuter Rail between (above) the top of the highest rail and the lowest portion of the AT Grade Crossing and Multi Use Trail; (b) a vertical minimum of ten (10) feet above Light Rail catenary wires; (c) a side clearance that is as great as reasonably possible but in no event less than eleven (11) feet from the center line of any rail; and (d) in any event not less than the minimum clearance standards set forth in the NESC and/or the NEC.

4.1.2 With respect to any underground facilities related to the AT Grade Crossing and Multi Use Trail, Licensee shall submit to UTA plans setting out the method and manner of handling all work to be performed under the Track Improvements including, without limitation, the shoring and cribbing, if any, required to protect the operations of UTA, the Freight Operator or the owner of any adjacent tracks. Licensee shall not proceed with any such work until Licensee’s proposed methods have been approved by UTA. The AT Grade Crossing and Multi Use Trail shall be placed at the depth designated by UTA and shall not interfere with any Track Improvements.

4.2 Various Utilities exist on, over and under the surface of the Right of Way. Prior to commencing any Construction or Maintenance with respect to the AT Grade Crossing and Multi Use Trail, Licensee shall properly investigate and determine the location of all such Utilities. In addition to the required investigation, Licensee shall have all Utilities in the area of the AT Grade Crossing and Multi Use Trail “blue-staked” and clearly marked prior to any excavation. Licensee shall make arrangements for the protection of all Utilities and shall commence no excavation, boring or other penetration in the Right of Way until all such protection has been accomplished.

4.3 Fiber optic cable systems may be buried in the Right of Way. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee shall telephone UNION PACIFIC RAILROAD COMPANY during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried near the location of the AT Grade Crossing and Multi Use Trail. If so, Licensee

will telephone the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, make arrangements for relocation or other protection of the fiber optic cable. Licensee shall not commence any work until all such protection and/or relocation (if applicable) have been accomplished. In addition to other indemnity provisions in this Agreement, Licensee shall indemnify, defend and hold the UTA Indemnitees (as defined in Section 8.1 of this Agreement) harmless from and against all Losses arising out of any act or omission of Licensee, its contractors, agents and/or employees, that causes or contributes to: (a) any damage to or destruction of any telecommunications system in the Right of Way; and/or (b) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractors, agents and/or employees in the Right of Way. Licensee shall not have or seek recourse against UTA for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using UTA's property or a customer or user of services of the fiber optic cable on UTA's property.

4.4 Licensee shall be solely responsible for obtaining any property rights, easements, rights of way or other permission from Third Persons (collectively "Third Person Property Rights") as may be necessary to Construct, Maintain or operate the AT Grade Crossing and Multi Use Trail including, without limitation, any needed permission from the owner of any adjacent railroad corridor. Licensee shall also be solely responsible for obtaining any necessary franchises, permits or other necessary approvals from Governmental Authorities (collectively "Approvals"). Licensee agrees to pay any and all costs and expenses that may be asserted against UTA relating to such Third Person Property Rights or Approvals, and to assume any and all liability therefor.

4.5 Except as authorized in this Agreement or as may be immediately required for (and only at the actual time of) performance of any Construction or Maintenance contemplated under this Agreement, and then only in full compliance with all clearance standards and other safety requirements, Licensee shall not place, permit to be placed, erect, pile, store, stack, park, suffer or permit any line, building, platform, fence, gate, vehicle, car, pole, or other structure, obstruction, or material of any kind within the Right of Way.

4.6 Licensee shall Construct, Maintain and operate the AT Grade Crossing and Multi Use Trail in compliance with all requirements imposed by any Governmental Authority including, without limitation, the requirements of the Federal Railroad Administration, the Occupational Safety and Health Administration and the Utah Department of Transportation. Licensee shall also Construct, Maintain and operate the AT Grade Crossing and Multi Use Trail in compliance with all applicable environmental laws. Licensee shall take all suitable precautions to prevent any interference (by induction, leakage of electricity, or otherwise) with the operation of the Track Improvements or any other UTA or Third Person installations or facilities. If the AT Grade Crossing and Multi Use Trail for any reason causes interference with the operation of Track Improvements or any other UTA or Third Person installations or facilities, Licensee shall, upon notification by UTA and at Licensee's sole cost and expense, take such action as may be necessary to eliminate the interference including, without limitation, the removal of the AT Grade Crossing and Multi Use Trail.

4.7 If, in connection with the performance of any Construction or Maintenance work, Licensee or its Contractor damages any Track Improvements, Utilities, or any other facilities, Licensee shall repair or replace such facilities with the same or similar materials, if available, as reasonably required by the UTA, consistent with applicable Federal and State laws and regulations and to the satisfaction of UTA.

4.8 At the request of UTA, Licensee shall install markers identifying the location of the AT Grade Crossing and Multi Use Trail and related appurtenances at the Right of Way boundaries (where the AT Grade Crossing and Multi Use Trail enters and exits the Right of Way) or other locations where UTA

may designate. Markers shall be installed in a form and size as may be determined by UTA and at the sole cost and expense of Licensee. UTA hereby expressly reserves the right to require Licensee to erect and maintain, at Licensee's sole cost and expense, any and all signs of any character and nature whatsoever (e.g. location of AT Grade Crossing and Multi Use Trail, precautionary and/or warning signs, etc.) that UTA deems necessary or advisable in connection with the operation of the AT Grade Crossing and Multi Use Trail. Licensee shall install and/or erect any marker or sign that may be required under this Section within thirty (30) days after receiving written instructions from UTA.

4.9 Upon completion of any Construction or Maintenance relating to the AT Grade Crossing and Multi Use Trail, Licensee shall restore the surface of the Right of Way to its prior condition including, but not limited to, replacing any soil that was removed and thoroughly compacting it level with the adjacent surface of the ground and restoring any fences or other property that Licensee disturbed or removed from the Right of Way.

4.10 If a contractor is to perform any Construction or Maintenance contemplated in this Agreement, then the Licensee shall cause its contractor to comply with all applicable provisions of this Agreement. Additionally, Licensee shall require its contractor to execute UTA's form Contractor's Right of Entry Agreement (the "Contractor Agreement"). Any and all contractors used by Licensee in the Construction or Maintenance of the AT Grade Crossing and Multi Use Trail are subject to the approval of UTA, which approval shall not be unreasonably withheld, conditioned or delayed.

4.11 If Licensee fails to notify UTA a minimum of ten (10) days before the initial installation of the AT Grade Crossing and Multi Use Trail or if Licensee's Contractor fails to obtain a Contractor Agreement Licensee agrees to pay UTA an additional three thousand dollars (**\$3,000.00**) as a fee for the initial inspection of the AT Grade Crossing and Multi Use Trail, together with any other additional fees incurred by UTA to verify that the AT Grade Crossing and Multi Use Trail was installed as per the approved plans. Such review and verification could include exposing the line to verify the depth of/height of and materials installed. If the AT Grade Crossing and Multi Use Trail was not installed in the approved location, depth/height, and with the approved materials, as described in the approved plans, Licensee agrees to remove the AT Grade Crossing and Multi Use Trail and reinstall it according to the approved plans at Licensee's sole cost and expense.

ARTICLE V CONSTRUCTION OBSERVATION BY UTA – LICENSEE TO BEAR ALL COSTS

5.1 The current cost of flagging is \$788/day for an eight (8)-hour day and \$1,058/day for a twelve (12) - hour day. Flagging is charged in blocks, with a minimum billing of an eight (8) - hour period. The current cost for a special inspector is \$76/hour with a two (2) -hour minimum charge per inspection/inspector. UTA has determined that two (2), eight (8)-hour day for Flagging and zero (0), two (2)-hour day for a Special Inspection will be needed for the construction of this AT Grade Crossing and Multi Use Trail. Licensee will pre-pay **\$1,576.00** for Flagging and a Special Inspection at or before the execution of this Agreement. If after the construction of the AT Grade Crossing and Multi Use Trail extra days of Flagging or Special Inspection have been collected, Licensee may submit in writing for a refund from UTA. Submission for refund will need to be submitted to UTA within thirty (30) days of the date of completion of the AT Grade Crossing and Multi Use Trail. Refunds will only be issued after confirmation from UTA operations that the flagging and special inspection days were not used.

5.2 In the event that UTA, in its sole discretion, determines that any other inspectors (technical or special), monitors, observers, safety personnel, additional flaggers or other persons are required given the nature of the Construction or Maintenance to be performed, UTA may, at its sole discretion, provide

such personnel and Licensee shall, within thirty (30) days, reimburse UTA for the reasonable costs thereby incurred.

ARTICLE VI LICENSEE TO BEAR ALL COSTS RELATED TO AT GRADE CROSSING AND MULTI USE TRAIL

Licensee shall be solely responsible for any and all costs incurred with respect to any Construction, Maintenance or other work related to the AT Grade Crossing and Multi Use Trail. Such costs shall include, without limitation, the cost of any modifications to UTA's Track Improvements and other facilities that may be necessary to accommodate or facilitate the AT Grade Crossing and Multi Use Trail.

ARTICLE VII SUBORDINATION OF RIGHTS GRANTED - RELOCATION OF AT GRADE CROSSING AND MULTI USE TRAIL

7.1 The rights granted pursuant to this Agreement shall be subject and subordinate to the prior and continuing right and obligation of UTA to fully use the Right of Way, including the right and power of UTA to construct, maintain, repair, renew, use, operate, modify, or relocate new or existing Track Improvements upon, along, above, or across any or all parts of the Right of Way and other UTA property, all or any of which may be freely done at any time or times by UTA without liability to Licensee for compensation or damages. The grant of license for the AT Grade Crossing and Multi Use Trail is made without covenants of title or quiet enjoyment. UTA makes no warranties, either express or implied, regarding the nature, extent or status of its title to the Right of Way or regarding the existence or nonexistence of Third Person rights which may be superior to the license granted pursuant to this Agreement.

7.2 Licensee shall, at its sole cost and expense and within thirty (30) days after receipt of written notice from UTA, modify the AT Grade Crossing and Multi Use Trail, relocate all or any portion of the AT Grade Crossing and Multi Use Trail to such new location in the Right of Way as UTA may designate or (if neither modification nor relocation is practicable) remove the AT Grade Crossing and Multi Use Trail entirely from the Right of Way whenever, in furtherance of its needs and requirements, UTA shall find such action necessary or desirable. All the terms, conditions and stipulations herein expressed with reference to the AT Grade Crossing and Multi Use Trail on UTA's property in the location described herein shall, so far as the AT Grade Crossing and Multi Use Trail remains on UTA property, apply to the AT Grade Crossing and Multi Use Trail as modified or relocated pursuant to this Section. Licensee shall not be entitled to any damages or other compensation as the result of UTA's exercise of its rights under this paragraph. UTA agrees to exercise its rights under this Section in good faith.

7.3 The foregoing grant is also subject to the outstanding superior rights previously conveyed or granted to Third Parties by UTA, or its predecessors in interest, and the right of UTA to renew and extend the same.

ARTICLE VIII INDEMNITY AND RELEASE

8.1 As additional consideration for this Agreement, Licensee agrees to protect, defend, release, indemnify and hold harmless UTA, and any affiliates, successors, contractors, officers, directors, agents and employees of UTA (the "UTA Indemnitees") from and against any and all Losses proximately caused by: (a) the prosecution of any work contemplated by this Agreement by Licensee, or any employees,

principals, contractors or agents of Licensee, including, without limitation, the Construction or Maintenance of the AT Grade Crossing and Multi Use Trail , or any portion thereof; (b) the presence, operation or use of the AT Grade Crossing and Multi Use Trail or any portion thereof; or (c) Licensee's breach of any provision of this Agreement.

8.2 Licensee acknowledges that the Right of Way may be subject to prospective purchaser agreements and covenants not to sue that UTA has entered with the Utah Department of Environmental Quality and the United States Environmental Protection Agency. Pursuant to such agreements, UTA is required to characterize any excavated soil that appears to contain (or has the potential to contain) Hazardous Materials and to handle and dispose of any such soil in compliance with applicable state and federal laws. Under these agreements, UTA is not required to excavate any soil except as required for its rail construction activities within its Right of Way. Accordingly, any excavation contemplated in this Agreement exposes UTA to potential environmental liability that would not otherwise be present. As consideration for the rights granted to Licensee hereunder, Licensee agrees to assume all potential liability and responsibility for, and to indemnify and hold UTA harmless with respect to, any Losses related to the characterization and removal of any Hazardous Materials discovered during the performance of any Construction or Maintenance. Licensee agrees to perform any such characterization and removal in full compliance with all applicable state and federal environmental laws.

8.3 Licensee hereby releases UTA from, and agrees not to seek recourse against UTA with respect to, any claims, damages, fees, expenses or other losses proximately caused by Third Persons including, without limitation, Third Persons having licenses or other interests in the Right of Way.

8.4 The provisions of this Article shall survive the termination of this Agreement.

ARTICLE IX CLAIMS AND LIENS FOR LABOR AND MATERIALS; TAXES

9.1 Licensee shall fully pay for all materials joined or affixed to the Right of Way in connection with the AT Grade Crossing and Multi Use Trail, and for all labor performed with respect to the AT Grade Crossing and Multi Use Trail. Licensee shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee.

9.2 Licensee shall promptly pay or discharge all taxes, charges and assessments assessed or levied upon, in respect to, or on account of the AT Grade Crossing and Multi Use Trail to prevent the same from becoming a charge or lien upon the Right of Way and so that any taxes, charges and assessments levied upon or with respect to such property shall not be increased because of the AT Grade Crossing and Multi Use Trail or any improvements, appliances, or fixtures connected therewith.

ARTICLE X TERMINATION

10.1 UTA may terminate this Agreement if: (a) Licensee ceases to use the AT Grade Crossing and Multi Use Trail in an active and substantial way for any continuous period of one (1) year; (b) Licensee continues in default with respect to any provision of this Agreement for a period of thirty (30) days after UTA delivers written notice to Licensee identifying the nature of Licensee's breach of this Agreement; provided, however that if the nature of Licensee's breach is such that it cannot be cured within such thirty (30)-day period, Licensee shall not be deemed in default if Licensee commences to cure the breach within

thirty (30) days and thereafter diligently continues to remedy the breach; or (c) Licensee removes the AT Grade Crossing and Multi Use Trail from the Right of Way.

10.2 In addition to the provisions of Section 10.1, either Party may terminate this Agreement upon delivery of three hundred and sixty (360) days written notice to the other Party, with or without cause.

10.3 Termination of this Agreement for any reason shall not affect any of the rights, obligations or liabilities that have accrued prior to or concurrent with such termination.

ARTICLE XI INSURANCE

11.1 During the life of this Agreement, Licensee shall, at its sole cost and expense, obtain and maintain the insurance described in Exhibit "B" (Exhibit "B" is attached hereto and hereby incorporated into and made a part of this Agreement by reference). Licensee will also provide to UTA a Certificate of Insurance, identifying UTA Contract Number PW/U/6833/G, issued by its insurance carrier confirming the existence of such insurance and indicating that the policy or policies contain the following endorsement:

"Utah Transit Authority is named as an additional insured with respect to all liabilities arising out of the existence, use or any work performed on or associated with the AT Grade Crossing and Multi Use Trail Crossing Agreement PW/U/6833/G in the railroad right of way known as the Commuter Rail South at approximately Mile Post S 35.49 in Vineyard, Utah County, Utah"

11.2 Failure to maintain insurance as required shall entitle, but not require UTA to terminate the license granted hereby immediately.

11.3 If Licensee is a public entity subject to any applicable statutory governmental immunity laws, the limits of insurance described in Exhibit "B" shall be the limits the Licensee then has in effect or that are required by applicable current or subsequent law, whichever is greater, a portion of which may be self-insured with the consent and approval of UTA.

11.4 Licensee hereby acknowledges that it has reviewed the requirements of Exhibit "B", including without limitation the requirement for Railroad Protective Liability Insurance during construction, maintenance, installation, repair or removal of the AT Grade Crossing and Multi Use Trail which is the subject of this Agreement.

ARTICLE XII REMOVAL OF AT GRADE CROSSING AND MULTI USE TRAIL UPON TERMINATION OF AGREEMENT

Upon termination of this Agreement howsoever, Licensee shall, at Licensee's sole cost and expense, remove the AT Grade Crossing and Multi Use Trail from the Right of Way and shall restore, to the satisfaction of UTA, such portions of the Right of Way to at least as good a condition as such were in at the time that Licensee first entered the Right of Way. If Licensee fails to do the foregoing within a reasonable time, UTA may, at its option, perform such removal and restoration work at the expense of Licensee. Licensee shall reimburse UTA for the costs incurred in any restoration or removal work performed under this Article within thirty (30) days after receipt of the bill therefor. In the event UTA removes the AT Grade Crossing and Multi Use Trail pursuant to this Article, UTA shall in no manner be liable to the Licensee for any damage sustained by Licensee for or on account thereof, and such removal and restoration shall in no manner prejudice or impair any other right of action, including the recovery of

damages, that UTA may have against the Licensee. The provisions of this Article shall survive the termination of this Agreement.

ARTICLE XIII ASSIGNMENT

Licensee may not assign this Agreement, in whole or in part, or any rights herein granted, without UTA's written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Licensee may assign this Agreement and its rights hereunder as part of a sale to any entity that: (a) is a corporate parent to Licensee; (b) is merged or consolidated with Licensee; or (c) that purchases substantially all of the assets or capital stock of Licensee provided, however, that in any of the above instances such entity seeking an assignment under this Article must, as a condition to such assignment, assume all terms and conditions of this Agreement without limitation.

ARTICLE XIV SUCCESSORS AND ASSIGNS

Subject to the provisions of Article XIII, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, executors, administrators, successors and assigns.

ARTICLE XV SEVERABILITY

This Agreement is executed by the Parties under current interpretation of any and all applicable federal, state, county, municipal, or other local statutes, ordinances, or laws. Furthermore, each and every separate division hereof shall have independent and severable status from each other division, or combination thereof, for the determination of legality, so that if any separate division herein is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, invalid or unenforceable for any reason, that separate division shall be treated as a nullity but such holding or determination shall have no effect upon the validity or enforceability of each and every other division, or other combination thereof.

ARTICLE XVI NOTICES

Except as specifically provided elsewhere in this Agreement, all notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the addresses set forth herein. Addresses for notice may be changed by giving ten (10) days written notice of the change in the manner set forth herein.

If to UTA:

Utah Transit Authority
Attn: Property Management
669 West 200 South
Salt Lake City, UT 84101
PropertyManagement@rideuta.com

With a Copy to:

Utah Transit Authority
Attn: Legal Counsel
669 West 200 South
Salt Lake City, UT 84101

If to Licensee:

Vineyard City
Attn: City Manager
125 South Main Street
Vineyard, UT 84058

**ARTICLE XVII
NO IMPLIED WAIVER**

The waiver by UTA of the breach by Licensee of any condition, covenant or agreement herein contained shall not impair any future ability of UTA to avail itself of any remedy or right set forth in this Agreement. Neither the right of supervision by UTA, nor the exercise or failure to exercise such right, nor the approval or failure to disapprove, nor the election by UTA to repair or reconstruct all or any part, of the work contemplated by this Agreement shall be deemed a waiver of any of the obligations of Licensee contained or set forth in this Agreement.

**ARTICLE XVIII
ENTIRE AGREEMENT - COUNTERPARTS**

This Agreement shall constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. Any amendment to this Agreement must be in writing and executed by the authorized representatives of each Party. This Agreement may be executed in any number of counterparts and by each of the Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Agreement may be detached from any counterpart and reattached to any other counterpart hereof. The facsimile transmission of a signed original of this Agreement or any counterpart hereof and the retransmission of any signed facsimile transmission hereof shall be the same as delivery of an original.

**ARTICLE XIX
FORUM SELECTION AND CHOICE OF LAW**

This Agreement shall be construed and interpreted under the laws of the State of Utah and the parties agree that any action or proceeding brought concerning this Agreement may be brought only in the courts of Salt Lake County, Utah, and each party hereto hereby consents to the jurisdiction of such courts.

**ARTICLE XX
SPECIAL PROVISIONS**

Special provisions, if any, are included in the attached Exhibit "C" (Exhibit "C" is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

{Remainder of Page Intentionally Blank}

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date first herein written.

Reviewed and Approved as to Form for UTA

DocuSigned by:

29CDBF21746F4BB...
U T A Engineering

DocuSigned by:

56A03BC7C491482...
T I M M E R R I L L
Assistant Attorney General

UTAH TRANSIT AUTHORITY

By: _____
Paul Drake
Director, Real Estate & TOD

By: _____
Spencer Burgoyne
Manager, Property Administration

By: _____
Shelley Nielsen
Sr. Property Administrator

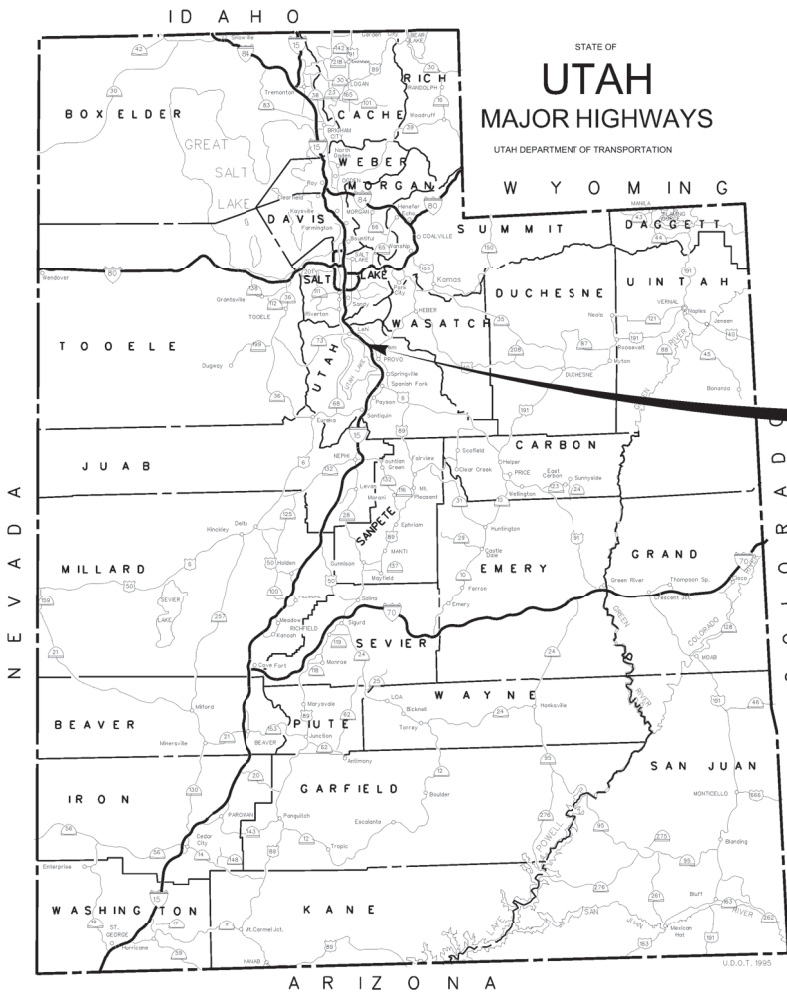
LICENSEE

By: _____
Ezra Nair/City Manager
Vineyard City

**EXHIBIT “A”
DESIGN PLANS**

[Insert engineering drawings showing the proposed crossing including proposed construction methods, shoring and cribbing requirements and mile post location]

D:\G:\Files\Sub\com\Central\Clients\UTV\UnderCt\p\Projects\50-19-008\LindonHeritageTrail\Phase3\Design\11625-14\Roadway\Design\11625-TitleSheet.dgn 22-DEC-2020



F-R399(165)

UTAH

DEPARTMENT OF TRANSPORTATION

SEE SHEET 1A FOR INDEX TO PLAN

SHEET NO.
1

U.S. Standard Units
(Inch-Pound Units)

ALL UNITS IN FEET UNLESS
OTHERWISE NOTED

PLANS OF PROPOSED PROJECT FEDERAL AID PROJECT

F-R399(165) PIN: 11625

LINDON HERITAGE TRAIL - PIONEER LN TO UTAH LAKE

TRAILS

UTAH COUNTY

LENGTH 0.872 MILES



DS
BH

5/28/2021

STA 56+70.57
END PROJECT
F-R399(165)

N 43271.909
E 186751.801

STA 10+00.00
BEGIN PROJECT
F-R399(165)

N 41988.432
E 184116.546

UTAH LAKE

2000 W

PIONEER LN

2000 N

I-15

VINEYARD RD

UTA / UPRR

THIS SEAL APPLIES TO ALL SHEETS
CONTAINING THIS SIGNATURE

VERIFIED FOR SUBMISSION FOR ADVERTISEMENT

DESIGN ENGINEER

APPROVED FOR USE

LINDON CITY

UTAH DEPARTMENT OF TRANSPORTATION

APPROVED FOR ADVERTISEMENT

REGION THREE PRECONSTRUCTION ENGINEER

D:\1. Files\Subarea\Centers\UT\Landon\CT\Project\A50-19-003\LandonHeritageTrail\Phase3\Design\11625-14-Roadway_Design\11625-14-Index.dgn 22-DEC-2020

INDEX TO SHEETS		
ROADWAY DRAWINGS		
SHEET NO.	NO. OF SHEETS	DESCRIPTION
1	1	TITLE
1-A	1	INDEX TO SHEETS
1-B	1	CROSS REFERENCE
SC-01	1	SURVEY CONTROL
TS-1 TO TS-2	2	TYPICAL SECTION
DT-1 TO DT-3	3	DETAILS
SM-1 TO SM-5	5	SUMMARY
UT-i	1	UTILITY LEGEND
UT-1 TO UT-12	12	UTILITY
PP-1 TO PP-12	12	PLAN & PROFILE

STRUCTURE DRAWINGS		
SHEET NO.	NO. OF SHEETS	DESCRIPTION
1 OF 5	1	SITUATION & LAYOUT
2 OF 5	1	APRON & WINGWALL DETAILS
3 OF 5	1	APRON & WINGWALL REINFORCEMENT
4 OF 5	1	CHAIN LINK FENCE
5 OF 5	1	REINFORCING SCHEDULE

PROJECT		LINDON HERITAGE TRAIL		UTAH DEPARTMENT OF TRANSPORTATION J-U-B ENGINEERS INC.		REVISIONS	
PIONEER LN TO UTAH LAKE							
PROJECT NUMBER		F-R399(165)		APPROVED			
INDEX TO SHEETS		PIN 11625		DRAWN BY		MH	
				QC CHECKED BY		CJF	
SHEET NO. 1-A				PROFESSIONAL ENGINEER		DATE	
				12/22/2020		APPROVED BY	
						DATE	
						REMARKS	



SHEET NO.		PROJECT		LINDON HERITAGE TRAIL		UTAH DEPARTMENT OF TRANSPORTATION										REVISIONS					
				PIONEER LN TO UTAH LAKE		J-U-B ENGINEERS INC.															
1-B		PROJECT NUMBER		F-R399(165)		PIN	11625	APPROVED		DRAWN BY		MH									
				CROSS REFERENCE						QC CHECKED BY		12/22/2020		DATE		APPROVED BY		NO.		DATE	

T.6S. N R.2E.
S.L.B. & M.

SURVEY CONTROL NOTES

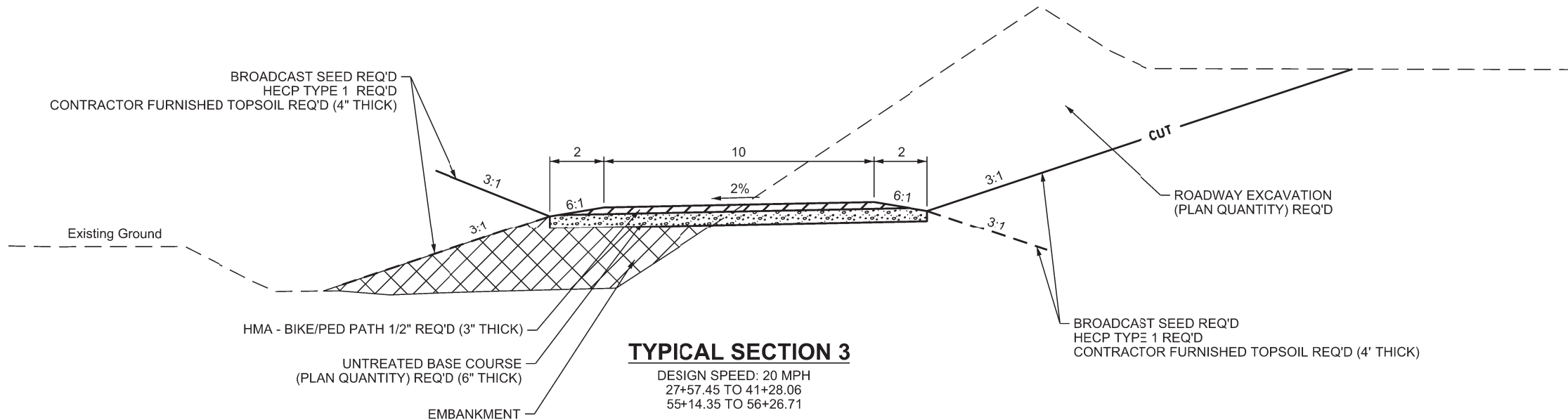
5. THE CONTROL POINT COORDINATES SHOWN HEREON ARE BASED ON ACTUAL FIELD MEASUREMENTS AND SHOULD BE USED FOR ALL CONSTRUCTION STAKING.

SURVEYOR'S CERTIFICATE

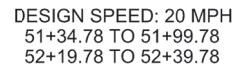
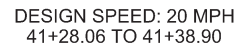
I FURTHER STATE THAT THE INTENT OF THIS SURVEY CONTROL SHEET IS TO PROVIDE THE COORDINATE DATA AND BEARING BASE THAT WAS USED FOR THE TOPOGRAPHIC SURVEY OF THE PROJECT AREA SHOWN HEREON INCIDENT TO PROJECT NUMBER F-R399(165) PIN 11625. I CERTIFY THAT THE PROJECT COORDINATES AND ELEVATIONS LISTED WERE VERIFIED BASED ON GPS RTK, AND ROBOTIC TOTAL STATION FIELD MEASUREMENTS AND PERTAIN ONLY TO THE PROJECT SITE DEPICTED ON THIS SHEET. I CERTIFY THAT THE VALUES SHOWN REFLECT THE POSITION OF EACH CONTROL POINT AT THE TIME THE DESIGN SURVEY WAS COMPLETED. HOWEVER, DUE TO THE LENGTH OF TIME BETWEEN THE DESIGN SURVEY AND THE ACTUAL CONSTRUCTION PERIOD, I MAKE NO GUARANTEE, NOR DO I CERTIFY, THAT THE POINTS SHOWN ARE UNDISTURBED OR CURRENTLY IN PLACE. ALL VALUES AND POSITIONS SHOULD BE FIELD VERIFIED PRIOR TO ANY CONSTRUCTION ACTIVITIES.



SHEET NO.		SC-01	
UTAH COUNTY		PROJECT	
LINDON HERITAGE TRAIL		PIONEER LANE TO UTAH LAKE	
PROJECT NUMBER		F-R399(165)	PIN 11625
SURVEY CONTROL		APPROVED	
		DRAWN BY	
		QC CHECKED BY	
		DATE	
		PROFESSIONAL LAND SURVEYOR	
		DATE	
		NO.	
		DATE	
		APPROVED BY	
		REMARKS	
UTAH DEPARTMENT OF TRANSPORTATION			
REGION 3 - JU-B ENGINEERS, INC.			
REVISIONS			



PROJECT		LINDON HERITAGE TRAIL		UTAH DEPARTMENT OF TRANSPORTATION J-U-B ENGINEERS INC.										DRAWN BY		TBH						
		PIONEER LN TO UTAH LAKE												APPROVED		QC CHECKED BY						CJF
PROJECT NUMBER		F-R399(165)		PIN	11625		12/22/2020		DATE		PROFESSIONAL ENGINEER				NO.		DATE		APPROVED BY		REMARKS	
</																						

[illegible]

PROFILE SHEET 11 FOR WALL ALIGNMENT AND LOCATION.

5'-0" 6'-0" 2% 2% TRAIL

MSE RETAINING WALL LAYOUT LINE

4 FT CHAIN LINK FENCE, TYPE III

MSE WALL SUPPLIER TO DESIGN WALL FOR FENCE AND LOADS APPLIED TO THE FENCE

TOP OF WALL ELEVATION VARIES AT OR ABOVE TRAIL FINISHED GRADE

MSE RETAINING WALL BATTER AS SHOWN

CAP BLOCK

CORE DRILL CAP STONE FOR POST INSTALL THROUGH BLOCK. REMOVE WEBS OF BLOCK AS NECESSARY

APPROX. 12" BATTER

6" (THICK) CAST-IN-PLACE CONCRETE LEVELING PAD, WIDTH (PER MFR'S SPECIFICATION) FINISH GRADE

6" MIN 2'-0" MIN

BOTTOM OF WALL ELEVATION VARIES

3'-0" MIN 4'-0" MIN

2'-0" MINIMUM DEPTH MUST BE MAINTAINED FOR A MINIMUM OF 4'-0" FROM FRONT OF WALL

GEOGRID OR METAL REINFORCEMENT (PER MFR'S SPECIFICATIONS)

DRAINAGE FABRIC

SELECT MATERIAL FOR MSE WALLS (SEE SPECIFICATION 02832S)

Profile view of MSE Retaining Wall 1. The diagram shows the existing ground profile (dashed line), the top of the retaining wall (solid line), and the proposed road grade (solid line). The wall is 107.74 feet long. The proposed road grade is 2.234% and 0.205%.

Station	Elevation	Description
51+34.78	4502.54	RT 7.0
51+50.00	4502.88	
51+75.00	4503.38	
51+87.11	4503.56	PC 51+87.11 RT 7.0
52+00.00	4503.75	
52+39.00	4504.07	RT 7.0
52+39.00	4500.80	
52+00.00	4500.00	
51+75.00	4498.20	

Existing Ground at Face of Wall

TOP OF MSE RETAINING WALL 1

DESIGN PROFILE GRADE SEE SHEET PP-11

2.234%

0.205%

107.74

52.22

55.52

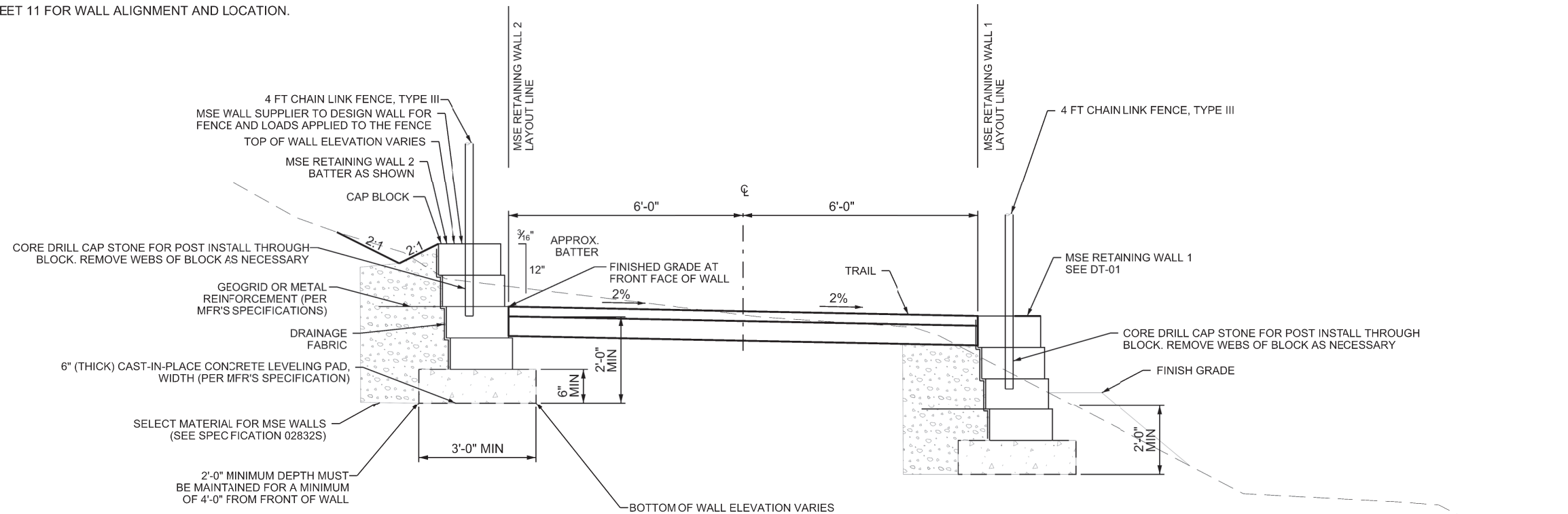
The diagram shows the elevation of MSE Retaining Wall 1, developed parallel to the London Heritage Trail. The wall profile is shown as a solid line, and the existing ground is shown as a dashed line. The proposed road grade is shown as a solid line above the wall. Key data points include stationing and elevations at various points along the wall and ground.

Station	Elevation	Description
51+34.78	4502.54	Proposed Road Grade
51+50.00	4502.88	Proposed Road Grade
51+75.00	4503.38	Proposed Road Grade
52+00.00	4503.75	Proposed Road Grade
52+39.00	4504.07	Proposed Road Grade
51+34.78	4497.60	Existing Ground
51+50.00	4497.80	Existing Ground
51+75.00	4498.20	Existing Ground
52+00.00	4500.00	Existing Ground
52+39.00	4500.80	Existing Ground
51+87.11	4503.56	Proposed Road Grade (PC 51+87.11 RT 7.0)

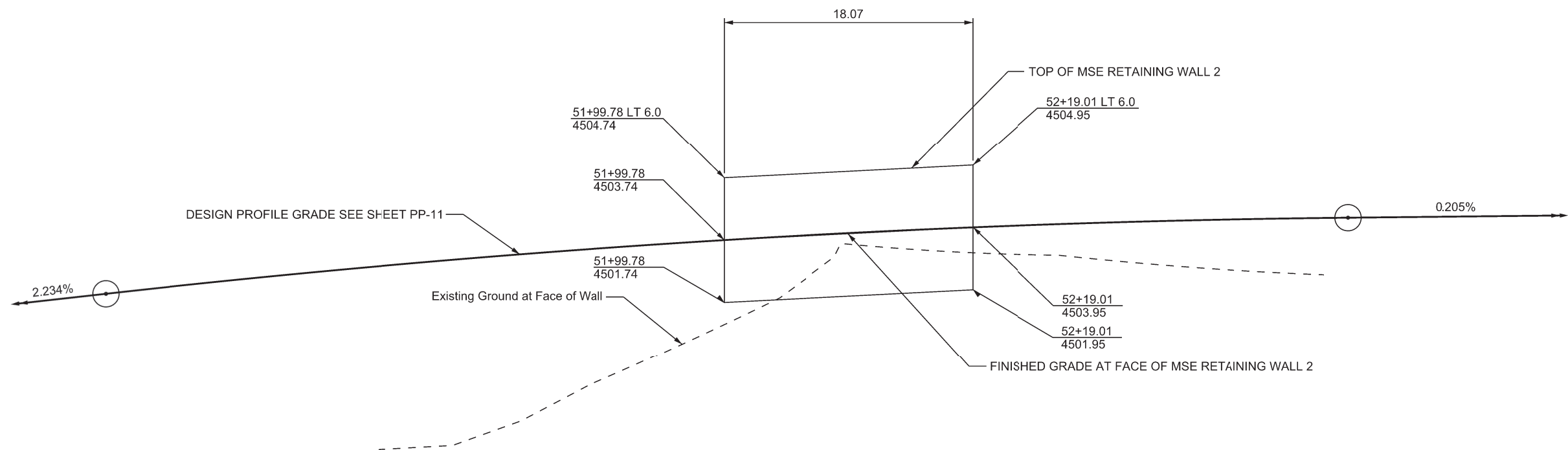
MSE RETAINING WALL 1 ELEVATION (DEVELOPED)
PARALLEL TO LONDON HERITAGE TRAIL

[illegible]

NOTE:
SEE PLAN AND PROFILE SHEET 11 FOR WALL ALIGNMENT AND LOCATION.



SECTION THRU MSE RETAINING WALL 2
NORMAL TO LINDON HERITAGE TRAIL



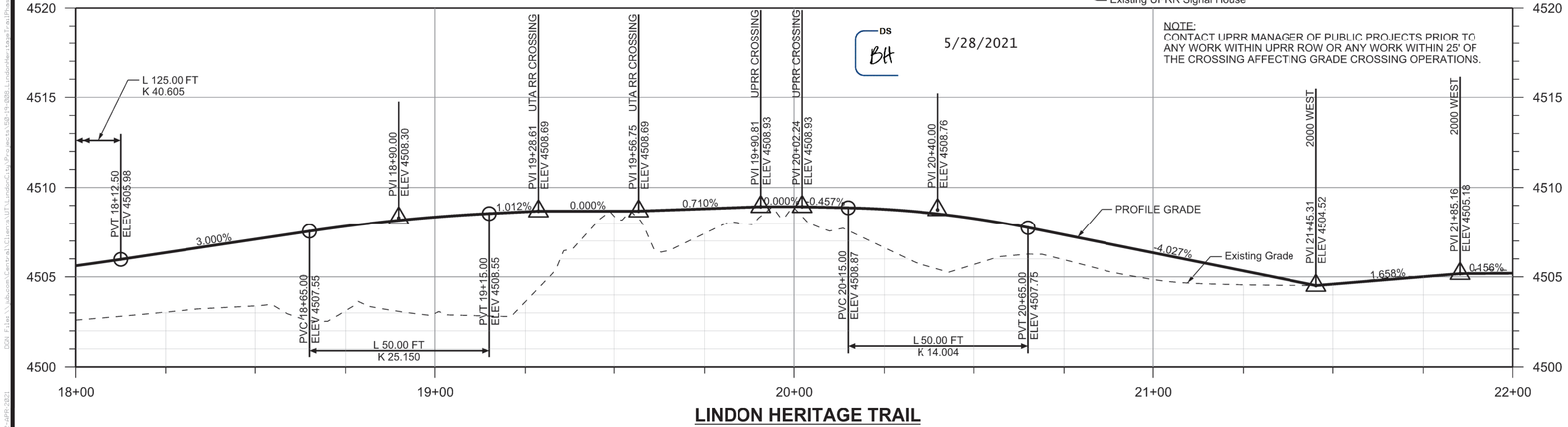
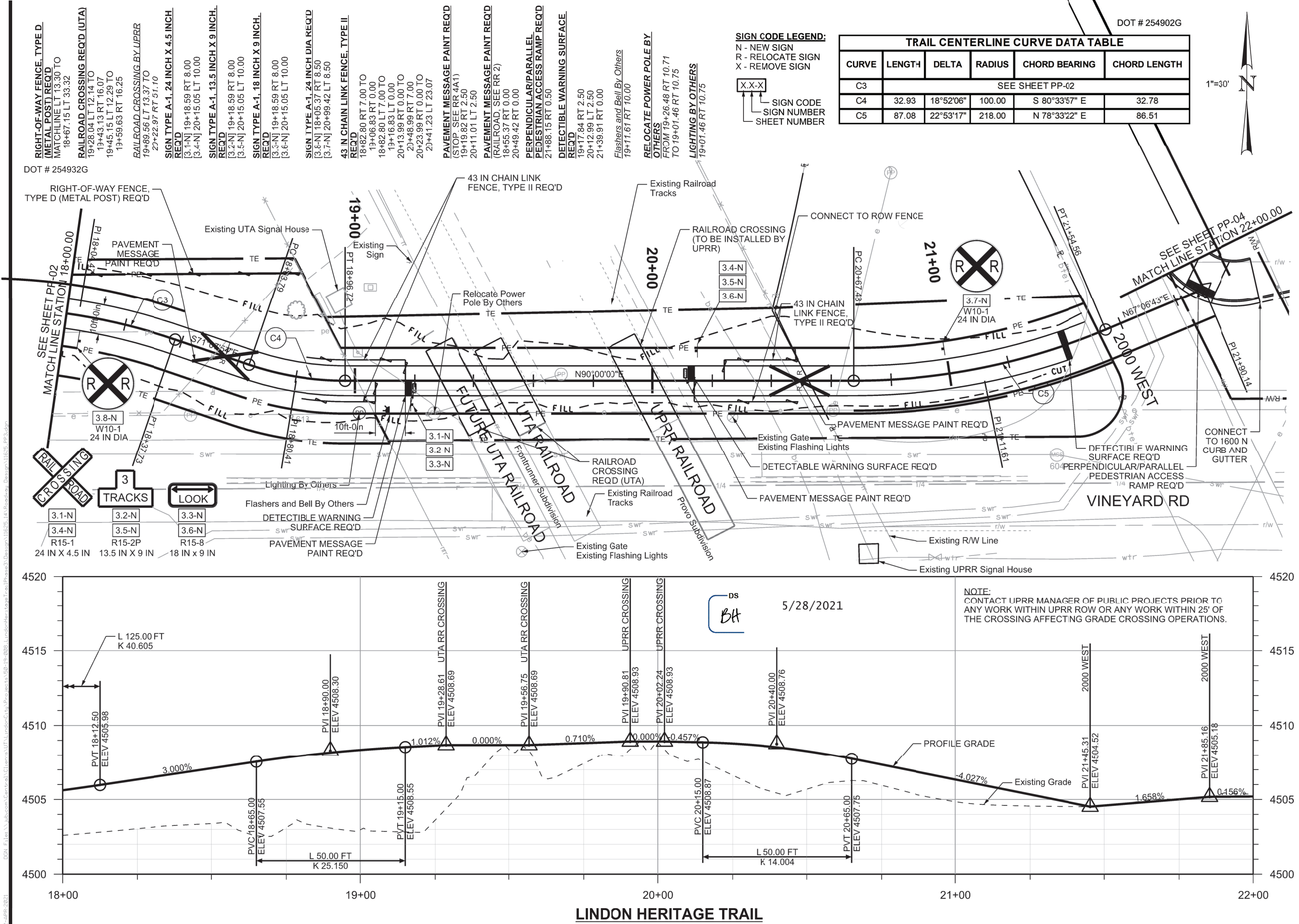
MSE RETAINING WALL 2 ELEVATION (DEVELOPED)
PARALLEL TO LINDON HERITAGE
TRAIL CONTROL LINE

PROJECT		LINDON HERITAGE TRAIL		UTAH DEPARTMENT OF TRANSPORTATION										REVISIONS			
		PIONEER LN TO UTAH LAKE		J-U-B ENGINEERS INC.													
PROJECT NUMBER	F-R399(165)	PIN	11625	APPROVED										NO.	DATE	APPROVED BY	REMARKS
				DRAWN BY													
DETAILS				3/17/2021										QC		CHECKED BY	
				DATE										C/JF			
				PROFESSIONAL ENGINEER													
SHEET NO.				DT-02													



REMOVABLE BOLLARD DETAIL

[illegible]



UTAH DEPARTMENT OF TRANSPORTATION
J-U-B ENGINEERS INC.

REVISIONS

NO.	DATE	APPROVED BY	REMARKS

PROJECT

LINDON HERITAGE TRAIL

PROJECT NUMBER

PIONEER LN TO UTAH LAKE

APPROVED

F-R399(165)

PIN 11625

PROFESSIONAL ENGINEER

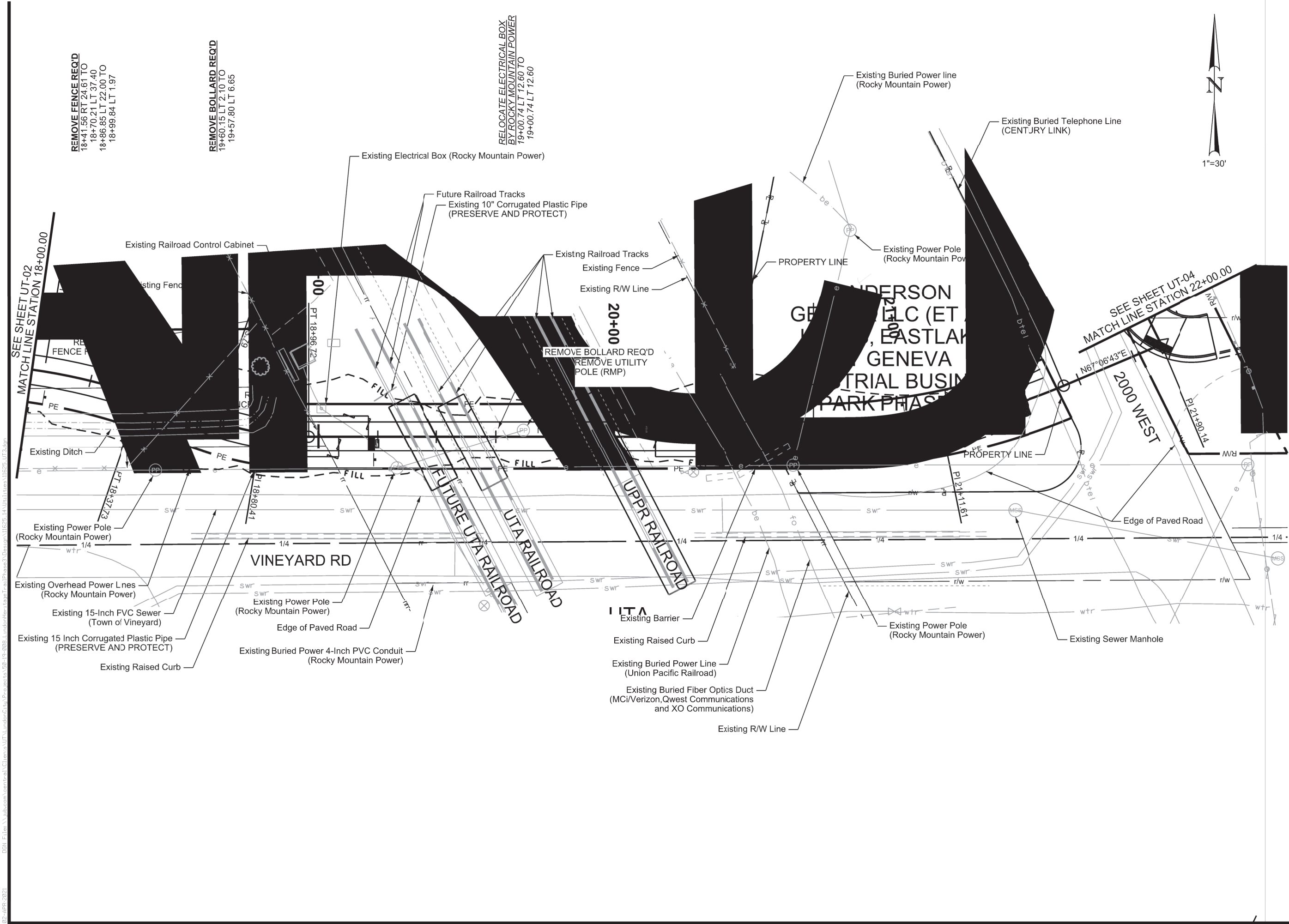
DATE 4/2/2021

QC CHECKED BY C/JF

DRAWN BY MH

PLAN AND PROFILE

SHEET NO. PP-03



UTAH DEPARTMENT OF TRANSPORTATION ^{MH}		J-U-B ENGINEERS INC.		APPROVED		DRAWN BY		C/JF	
PROJECT		LINDON HERITAGE TRAIL							
		PIONEER LN TO UTAH LAKE							
PROJECT NUMBER		UTILITY TOPO / REMOVAL				11625			
		F-R389(165)				PIN			
SHEET NO.		UT-03							
REVISIONS									



VINEYARD CITY COUNCIL/RDA STAFF REPORT

Meeting Date: 6-15-2022

Agenda Item: 7.4; 7.5 Railroad Crossing Agreements

Department: Public Works

Presenter: Chris Wilson

Background/Discussion:

Part of the Water Tank and Pipeline Distribution Project are two railroad crossings. One at 1600 North and the other at 800 North. At each crossing there are two railroad entities, UTA and UPRR. In order to facilitate the pipelines crossing under the tracks, the city must enter into a license agreement with the railroads for each crossing. Attached are three of the four crossing license agreements required. The fourth crossing, at 1600 North with UPRR, is pending a transfer to the city of an existing license from the developer, Anderson Geneva Development. Staff seeks council approval to sign the attached license agreements.

Fiscal Impact:

Associated License Agreement Fees are budgeted within the approved water tank project budget.

UTA 800 N Crossing Agreement #6944	\$ 7,040.00
UTA 1600 N Crossing Agreement #6945	\$ 6,314.00
<u>UPRR 1600 N Crossing Agreement #03322-45</u>	<u>\$ 1,250.00</u>
Total	\$14,604.00

Recommendation:

Motion to Approve

Sample Motion:

I move to approve the staff execute the three railroad license agreements for the Water Distribution Pipeline project as proposed.

Attachments:

Resolution 2022-17

UTA 1600 N Crossing Agreement #6945

UTA 800 N Crossing Agreement #6944

Resolution 2022-18

UPRR 1600 N Crossing Agreement #03322-45

RESOLUTION 2022-17

A RESOLUTION OF THE VINEYARD CITY COUNCIL APPROVING A PIPELINE CROSSING AGREEMENT WITH UTA

WHEREAS, Vineyard City has recently determined the need for the installation of a water supply line through various rights-of-way owned by the Utah Transit Authority (“UTA”); and

WHEREAS, the City and UTA have determined the necessity of establishing two separate Agreements to govern the installation of the water supply line at specific mile posts; and

WHEREAS, the City and UTA now desire to enter into two Pipeline Crossing Agreements governing the use of the right-of-way at specific mile posts; and

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF VINEYARD AS FOLLOWS:

Section 1. Approval. That certain Pipeline Crossing Agreement with UTA governing Mile Post S 36.08, attached hereto as Exhibit A and incorporated herein by reference, is hereby approved by the City Council of Vineyard City. The City Manager of the City is hereby authorized to execute the Agreement for and in behalf of the City.

Section 2. Approval. That certain Pipeline Crossing Agreement with UTA governing Mile Post S 36.34, attached hereto as Exhibit B and incorporated herein by reference, is hereby approved by the City Council of Vineyard City. The City Manager of the City is hereby authorized to execute the Agreement for and in behalf of the City.

Section 3. Severability. If any section, part or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts and provisions of this Resolution shall be severable.

Section 4. Effective Date. This Resolution shall become effective immediately upon its approval by the City Council.

Passed and dated this 15th day of June 2022.

Mayor

Attest:

Recorder

PIPELINE CROSSING AGREEMENT
(Interlocal Municipal Pipeline Form)

UTA Contract # PW/U/6945/P
Mile Post: S36.08
Latitude: 40.326299
Longitude: -111.759529
Vineyard, Utah

THIS PIPELINE CROSSING AGREEMENT (the “Agreement”) is made and entered into as of the ____ day of _____, 2022 **(to be dated after the final executing signature by UTA)**, by and between UTAH TRANSIT AUTHORITY, a large public transit district organized pursuant to the laws of the State of Utah (hereinafter “UTA”), and Vineyard City, a Utah municipality and political subdivision, through their Department of, with a principal address of 125 South Main Street, Vineyard, UT 84059 (hereinafter “Licensee”).

RECITALS

WHEREAS, UTA is the owner of a certain railroad corridor known as the Commuter Rail South (the “Right of Way”) acquired by UTA for the development and expansion of its public transportation system;

WHEREAS, Adjacent to the UTA owned property is railroad corridor owned and operated by the Union Pacific Railroad Company;

WHEREAS, Licensee intends to install and maintain 24-inch class 200 ductile iron drinking water supply line installed in a 36 inch steel casing (the “Pipeline”) via jack and bore located a minimum of 8.9 feet below the lowest point on the surface of the Right of Way which will cross at approximately Mile Post S36.08 (Latitude 40.326299, Longitude -111.759529) in Vineyard, Utah; and

WHEREAS, Licensee desires a license for the construction, operation and maintenance of the Pipeline.

AGREEMENT

NOW THEREFORE, on the stated Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereinafter set forth, the mutual benefits to the Parties to be derived herefrom, and for other valuable consideration, the receipt and sufficiency of which the Parties acknowledge, it is hereby agreed as follows:

ARTICLE I
INCORPORATED TERMS AND DEFINITIONS

For purposes of this Agreement, the following definitions shall apply:

1.1 “Construct” and “Construction” mean the initial installation of the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way, as well as any subsequent reconstruction, relocation, restoration or rehabilitation of the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way.

1.2 “Emergency Access Manager” means the person or office responsible for controlling emergency Construction and Maintenance access to the Right of Way. The Emergency Access Manager as of the execution of this Agreement shall be reached at (801) 287-5455. UTA may change the designated Emergency Access Manager from time to time by delivery of notice in accordance with Article XVI of this Agreement.

1.3 “Freight Operator” means any entity using the Right of Way, or any portion thereof, to provide common carrier freight operations.

1.4 “Governmental Authority” means any federal, state, municipal, local or other division of government, or any agency thereof, having or asserting jurisdiction with respect to any matter related to this Agreement.

1.5 “Hazardous Materials” mean any materials or substances: (i) which are present in quantities and in forms which require investigation, removal, cleanup, transportation, disposal, response or remedial action (as the terms “response” and “remedial action” are defined in Section 101 of the Comprehensive Environmental Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 (24) and (25)) under any applicable federal, state or local environmental law, regulation, ordinance, rule or bylaw, as such are amended from time to time, whether existing as of the date hereof, previously enforced or subsequently amended (each hereafter an “Environmental Law”); or (ii) which are defined as “hazardous wastes,” “hazardous substances,” “pollutants” or “contaminants” under any Environmental Law.

1.6 “Losses” mean any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys’ fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs resulting from: (i) loss of or damage to the property of any Party or Third Person; (ii) death or personal injury to the agents of any Party or to any Third Person; or (iii) the cleanup or other requirements regarding any incident involving Hazardous Materials. The term “Losses” shall not include any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys’ fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs excluded from Licensee’s indemnification obligations and assumed by UTA pursuant to Sections 8.1 and 8.2 of this Agreement.

1.7 “Maintain” and “Maintenance” mean the performance of any repair, restoration, rehabilitation, refurbishment, retrofitting, inspection, monitoring, observation, testing, or similar work with respect to the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way.

1.8 “Master Interlocal Agreement” means that certain Master Interlocal Agreement Regarding Fixed Guideway Systems Located Within Railroad Corridors, effective February 13, 2004, entered by and among UTA and the various municipalities and counties within which UTA’s rights of way are situated.

1.9 “Party” and “Parties” mean UTA or Licensee, and UTA and Licensee, respectively.

1.10 “Pipeline” means the 24- inch class 200 ductile iron drinking water supply line installed in a 36 inch steel casing to be installed and maintained by Licensee via jack and bore method of installation, pursuant to this Agreement and located a minimum of 8.9 feet below the lowest point on the surface of the Right of Way at Mile Post S36.08 (Latitude 40.326299, Longitude -111.759529) on the Commuter Rail South in Vineyard, Utah as described in Exhibit “A”. The term “Pipeline” shall also apply to any and all rearrangements, modifications, reconstruction, relocations, removals and extensions or additions

concerning the Pipeline that are authorized and approved by UTA pursuant to this Agreement (unless they are the subject of a separate agreement that does not incorporate the terms hereof).

1.11 “Third Person” means any individual, corporation or legal entity other than UTA and Licensee.

1.12 “Track Improvements” mean any and all tracks, rails, ties, switches, frogs, end of track barricades or bumpers and other barricades or bumpers, derail devices, tie plates, spikes, wires, fastenings and any other appurtenances related thereto, drainage structures, grading, ballast, subgrade stabilization, crossings, tunnels, bridges, trestles, culverts, structures, facilities, leads, spurs, turnouts, tails, sidings, signals, crossing protection devices, communications systems or facilities, catenary systems and wires, poles and all other operating and non-operating appurtenances located within the Right of Way.

1.13 “UTA System” means any light rail, commuter rail, trolley, guided busway, or similar public transportation system constructed by UTA in the Right of Way as contemplated in the Master Interlocal Agreement.

1.14 “Utility” and “Utilities” mean and include all properties, facilities, utilities, crossings, encroachments, lines and similar appurtenances located within the Right of Way by permissive or prescriptive authority including, but not limited to, pipelines, tubelines, water and gas lines or mains, electrical conduits, ditches and other drainage facilities, wires, fiber optics, communication lines, sewer pipes, overhead wiring and supporting structures and appurtenances, and all similar installations.

1.15 “Work Window” means the time period designated by UTA during which Construction, Maintenance and any other work with respect to the Pipeline within the Right of Way is permissible. UTA may, at any time and at UTA’s sole discretion, determine that the Work Window shall not be concurrent with any passenger operations within the Right of Way.

ARTICLE II GRANT OF LICENSE AND REAL ESTATE USAGE CHARGE

2.1 UTA customarily assesses a standard administrative fee reflecting the clerical, administrative and handling expense incurred in connection with the processing of this Agreement. The standard administrative fee has been waived consistent with the provisions of the Master Interlocal Agreement.

2.2 In consideration of the real estate usage charge to be paid by Licensee, and in further consideration of the covenants and agreements to be kept, observed and performed by Licensee hereunder, UTA hereby grants Licensee a license to Construct, Maintain and operate the Pipeline in the location shown and in conformity with the dimensions and specifications indicated on the attached print dated **March 10, 2022** and approved by UTA Engineer dated **March 30, 2022** marked Exhibit “A” (Exhibit “A” is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

2.3 Licensee agrees to pay UTA a one-time real estate usage charge of **\$3,784.00** payable on or before the date of execution. Licensee also agrees to pay an upfront Flagging cost of **\$1,576.00** an upfront and an upfront UTA fiber/utility marking fee of **\$650.00** Special Inspection cost of **\$304.00** (these fees are more clearly described in Section 5.1).

2.4 This license granted by this Agreement is conditioned on the provision that Licensee shall obtain all necessary permission from and comply with all the requirements of the Union Pacific Railroad Company.

ARTICLE III ACCESS TO THE RIGHT OF WAY

3.1 Except in the event of an emergency (as provided in Section 3.2 below), Licensee shall request permission from UTA at least ten days (or such shorter period as may be approved by UTA) prior to performing any Construction or Maintenance in or otherwise materially affecting the Right of Way. Licensee's request to access the Right of Way shall be specific as to the time, date and activities for which Licensee seeks permission. The request shall also include a summary of the method and manner in which the Construction or Maintenance will be performed. As part of the application process, UTA may require Licensee (and its contractors or other agents seeking access to the Right of Way) to attend any track access coordination meetings, safety training or other instruction as may be deemed necessary by UTA. Once granted, UTA's permission to enter the Right of Way shall be formalized in writing and delivered to Licensee. After permission has been granted, Licensee shall comply with all conditions, instructions and requirements of such permit and with all instructions or directions given by UTA including, if required, daily telephone notification to the applicable rail dispatch center prior to each entry into the Right of Way. All contact with UTA shall be coordinated through the person designated by UTA from time to time as set forth in Article XVI of this Agreement. Provided that Licensee complies with the provisions of this Section, UTA agrees not to unreasonably withhold, condition, or delay its approval of Licensee's request.

3.2 Licensee shall have the right to enter the Right of Way in the event of an emergency to make repairs necessary to protect against imminent and serious injury or damage to persons or property. Licensee shall take all precautions necessary to ensure that such emergency entry does not compromise the safety of any operations conducted in the Right of Way by UTA or the Freight Operator. Licensee must notify the Emergency Access Manager of the emergency access and the work being performed prior to entering the Right of Way.

ARTICLE IV CONSTRUCTION AND MAINTENANCE OF THE PIPELINE

4.1 All Construction and Maintenance with respect to the Pipeline shall be performed to the satisfaction of UTA and in accordance with the conceptual, engineering and/or design plans ("Design Plans") previously approved by UTA and attached hereto as Exhibit "A." All Construction and Maintenance with respect to the Pipeline shall be performed in a workmanlike manner, in compliance with all applicable industry standards and in compliance with the requirements of any applicable Governmental Authority. UTA may impose requirements in addition to or more stringent than industry or legal standards if UTA deems such requirements necessary for the safety of operations conducted in the Right of Way. UTA may also require additional fabrication methods, staging requirements or other precautions. All Construction and Maintenance with respect to the Pipeline shall be performed during the designated Work Window. UTA shall have the right, but not the obligation, to observe any and all work performed in or otherwise materially affecting the Right of Way in connection with the Pipeline to ensure that such work is performed in accordance with the requirements set forth in this Agreement. In its Construction or Maintenance of the Pipeline, Licensee shall not make any material deviation from the Design Plans without UTA's prior written approval. Licensee shall submit to UTA plans setting out the method and manner of handling all work to be performed under the Track Improvements including, without limitation, the shoring and cribbing, if any, required to protect the operations of UTA, the Freight Operator or the owner of any adjacent tracks.

Licensee shall not proceed with any such work until Licensee's proposed methods have been approved by UTA. The Pipeline shall be placed at the depth acceptable to UTA and shall not interfere with any Track Improvements.

4.2 Various Utilities exist on, over and under the surface of the Right of Way. Prior to commencing any Construction or Maintenance with respect to the Pipeline, Licensee shall properly investigate and determine the location of all such Utilities. In addition to the required investigation, Licensee shall have all Utilities in the area of the Pipeline "blue-staked" and clearly marked prior to any excavation. Licensee shall make arrangements for the protection of all Utilities and shall commence no excavation, boring or other penetration in the Right of Way until all such protection has been accomplished.

4.3 Fiber optic cable systems may be buried in the Right of Way. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee shall be solely responsible for contacting UNION PACIFIC RAILROAD COMPANY during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) and for determining if fiber optic cable is buried near the location of the Pipeline. If so, Licensee will contact the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, make arrangements for relocation or other protection of the fiber optic cable. Licensee shall not commence any work until all such protection and/or relocation have been accomplished. Licensee shall be solely responsible for all coordination with Union Pacific and any telecommunications companies. In coordinating the relocation or protection of fiber optic cable, Licensee shall not rely on any statements, engineering drawings or other oral or written representations of UTA or its representatives. In addition to other indemnity provisions in this Agreement, Licensee shall indemnify, defend and hold the UTA Indemnitees (as defined in Section 8.1 of this Agreement) harmless from and against all Losses arising out of: (a) any damage to or destruction of any telecommunications system proximately caused by any Construction, Maintenance or other work performed by Licensee or its agents relative to the Pipeline; and/or (b) any injury to or death of any person employed by or on behalf of any telecommunications company proximately caused by any Construction, Maintenance or other work performed by Licensee or its agents relative to the Pipeline. Except to the extent that liability is assumed by UTA as set forth in Sections 8.1 and 8.2 of this Agreement, Licensee shall not have or seek recourse against UTA for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using UTA's Right of Way or a customer or user of services of the fiber optic cable on UTA's Right of Way.

4.4 Licensee shall be solely responsible for obtaining any property rights, easements, licenses, rights of way or other permission from Third Persons (collectively "Third Person Property Rights") as may be necessary to Construct, Maintain or operate the Pipeline including, without limitation, any needed permission from the owner of any adjacent railroad corridor. Licensee shall also be solely responsible for obtaining any necessary franchises, permits or other necessary approvals from Governmental Authorities (collectively "Approvals"). Licensee agrees to pay any and all costs and expenses relating to such Third Person Property Rights or Approvals, and to assume any and all liability therefor.

4.5 Except as authorized in this Agreement or as may be immediately required for (and only at the actual time of) performance of any Construction or Maintenance contemplated under this Agreement, and then only in full compliance with all clearance standards and other safety requirements, Licensee shall not place, permit to be placed, erect, pile, store, stack, park, suffer or permit any line, building, platform, fence, gate, vehicle, car, pole, or other structure, obstruction, or material of any kind within the Right of Way.

4.6 Licensee shall Construct, Maintain and operate the Pipeline in compliance with all requirements imposed by any Governmental Authority including, without limitation, the requirements of the Federal Railroad Administration, the Occupational Safety and Health Administration and the Utah Department of Transportation. Licensee shall also Construct, Maintain and operate the Pipeline in compliance with all applicable environmental laws. The Pipeline shall be encased. Licensee shall take all suitable precautions to prevent any leakage or other interference with the operation of the Track Improvements or any other UTA or Third Person installations or facilities. If for any reason the Construction of the Pipeline causes interference with the operation of Track Improvements or any other UTA or Third Person installations or facilities existing prior to the Construction of the Pipeline, Licensee shall, upon notification by UTA and at Licensee's sole cost and expense, take such action as is necessary to eliminate the interference.

4.7 If, in connection with the performance of any Construction or Maintenance work, Licensee or its Contractor damages any Track Improvements, Utilities, or any other facilities, Licensee shall repair or replace such facilities with the same or similar materials, if available, as reasonably required by the UTA, consistent with applicable Federal and State laws and regulations and to the satisfaction of UTA.

4.8 At the request of UTA, Licensee shall install markers identifying the location of the Pipeline and related appurtenances at the Right of Way boundaries (where the Pipeline enters and exits the Right of Way) or other locations where UTA may designate. Markers shall be installed in a form and size as may be determined by UTA and at the sole cost and expense of Licensee. UTA hereby expressly reserves the right to require Licensee to erect and maintain, at Licensee's sole cost and expense, any and all signs of any character and nature whatsoever (e.g. location of Pipeline, precautionary and/or warning signs, etc.) that UTA deems necessary or advisable in connection with the operation of the Pipeline. Licensee shall install and/or erect any marker or sign that may be required under this Section within thirty (30) days after receiving written instructions from UTA.

4.9 Upon completion of any Construction or Maintenance relating to the Pipeline, Licensee shall restore the surface of the Right of Way to its prior condition including, but not limited to, replacing any soil that was removed and thoroughly compacting it level with the adjacent surface of the ground and restoring any fences or other property that Licensee disturbed or removed from the Right of Way.

4.10 If a contractor is to perform any Construction or Maintenance contemplated in this Agreement, then the Licensee shall cause its contractor to comply with all applicable provisions of this Agreement. Additionally, Licensee shall require its contractor to execute UTA's form Contractor's Right of Entry Agreement (the "Contractor Agreement"). Any and all contractors used by Licensee in the Construction or Maintenance of the Pipeline are subject to the approval of UTA, which approval shall not be unreasonably withheld, conditioned or delayed.

4.11 If Licensee fails to notify UTA a minimum of 10 days before the initial installation of the Pipeline or if Licensee's Contractor fails to obtain a Contractor Agreement, Licensee agrees to pay UTA an additional three thousand dollars (\$3,000) as a fee for the initial inspection of the Pipeline, together with any other additional fees incurred by UTA to verify that the Pipeline was installed as per the approved plans. Such review and verification could include exposing the line to verify the depth of and materials installed. If the Pipeline was not installed in the approved location, depth, and with the approved materials, as described in the approved plans, Licensee agrees to remove the Pipeline and reinstall it according to the approved plans at Licensee's sole cost and expense.

ARTICLE V CONSTRUCTION OBSERVATION BY UTA – LICENSEE TO BEAR ALL COSTS

5.1 The current cost of flagging is \$788/day for an eight (8)-hour day and \$1,058/day for a twelve (12) - hour day. Flagging is charged in blocks, with a minimum billing of an eight (8) - hour period. The current cost for a special inspector is \$76/hour with a two (2) -hour minimum charge per inspection/inspector. The current cost for a UTA fiber/utility marking is \$650/occurrence UTA has determined that two (2), eight (8)-hour day for Flagging and two (2), two (2)-hour day for a Special Inspection and one (1) UTA fiber/utility marking will be needed for the construction of this Pipeline. Licensee will pre-pay **\$2,350.00** for Flagging and a Special Inspection and UTA fiber/utility marking at or before the execution of this Agreement. If after the construction of the Pipeline extra days of Flagging or Special Inspection have been collected, Licensee may submit in writing for a refund from UTA. Submission for refund will need to be submitted to UTA within thirty (30) days of the date of completion of the Pipeline. Refunds will only be issued after confirmation from UTA operations that the flagging and special inspection days were not used.

5.2 In the event that UTA, in its sole discretion, determines that any other inspectors (technical or special), monitors, observers, safety personnel, additional flaggers or other persons are required given the nature of the Construction or Maintenance to be performed, UTA may, at its sole discretion, provide such personnel and Licensee shall, within thirty (30) days, reimburse UTA for the reasonable costs thereby incurred.

ARTICLE VI LICENSEE TO BEAR ALL COSTS RELATED TO PIPELINE

Except as otherwise set forth in the Master Interlocal Agreement, or in Sections 7.2 and Article 8 of this Agreement, Licensee shall be solely responsible for any and all costs incurred with respect to any Construction, Maintenance or other work related to the Pipeline.

ARTICLE VII SUBORDINATION OF RIGHTS GRANTED - RELOCATION OF PIPELINE

7.1 The rights granted pursuant to this Agreement shall be subject and subordinate to the prior and continuing right and obligation of UTA to fully use the Right of Way, including the right and power of UTA to construct, maintain, repair, renew, use, operate, modify, or relocate new or existing Track Improvements upon, along, above, or across any or all parts of the Right of Way and other UTA property, all or any of which may be freely done at any time or times by UTA. The grant of license for the Pipeline is made without covenants of title or quiet enjoyment. UTA makes no warranties, either express or implied, regarding the nature, extent or status of its title to the Right of Way or regarding the existence or nonexistence of Third Person rights which may be superior to the license granted pursuant to this Agreement.

7.2 Licensee shall, within sixty (60) days after receipt of written notice from UTA, modify or relocate (or, if agreed between the Parties, allow UTA to modify or relocate) all or any portion of the Pipeline as UTA may reasonably designate. To the extent that the modification or relocation of the Pipeline is necessitated by the construction, reconstruction, modification or relocation of any UTA System, UTA shall be responsible for the costs of such relocation. To the extent that the modification or relocation of the Pipeline is necessitated because the Pipeline is conflicting with or causing interference with any UTA or Third Person Track Improvements or Utilities existing prior to the Construction of the Pipeline, then Licensee shall be responsible for the costs of such relocation. All the terms, conditions and stipulations herein expressed with reference to the Pipeline in the location described herein shall, so far as the Pipeline remains on UTA property, apply to the Pipeline as modified or relocated pursuant to this Section.

7.3 The foregoing grant is also subject to the outstanding superior rights previously conveyed or granted to Third Persons by UTA, or its predecessors in interest, and the right of UTA to renew and extend the same.

ARTICLE VIII INDEMNITY AND RELEASE

8.1 Licensee agrees to protect, defend, release, indemnify and hold harmless UTA, and any successors, contractors, officers, directors, agents and employees of UTA (the "UTA Indemnitees"), from and against any and all Losses resulting from: (a) negligence on the part of Licensee, or any employees, principals, contractors or agents of Licensee, in conjunction with any Construction, Maintenance or other work performed by or on behalf of Licensee with respect to the Pipeline; (b) negligence on the part of Licensee, or any employees, principals, contractors or agents of Licensee, in the use or operation of the Pipeline; or (c) Licensee's breach of any provision of this Agreement. Notwithstanding the foregoing, Licensee shall not be required to indemnify UTA for, and UTA hereby assumes responsibility for, any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs that are proximately caused by the negligence, recklessness or willful misconduct of UTA with respect to the construction, maintenance or operation of any UTA System.

8.2 Licensee acknowledges that the Right of Way may be subject to prospective purchaser agreements and covenants not to sue that UTA has entered with the Utah Department of Environmental Quality and the United States Environmental Protection Agency. Pursuant to such agreements, UTA is required to characterize any excavated soil that appears to contain (or has the potential to contain) Hazardous Materials and to handle and dispose of any such soil in compliance with applicable state and federal laws. Under these agreements, UTA is not required to excavate any soil except as required for construction related to the installation of a UTA System. Accordingly, any excavation that Licensee performs with respect to the Pipeline exposes UTA to potential environmental liability that would not otherwise be present. As consideration for the rights granted to Licensee hereunder, Licensee agrees to assume all potential liability and responsibility for, and to indemnify and hold UTA harmless with respect to, any Losses related to the characterization and removal of any Hazardous Materials discovered during Construction or Maintenance. Licensee agrees to perform any such characterization and removal in full compliance with all applicable state and federal environmental laws. Notwithstanding the foregoing, Licensee shall not be required to indemnify UTA for, and UTA hereby assumes responsibility for, any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs related to any Hazardous Materials discovered as the result of modification or relocation work performed by or on behalf of Licensee in conjunction with the construction, reconstruction, modification or relocation of any UTA System. To the extent that either Party actually causes a release of Hazardous Materials into the Right of Way, such party shall be responsible for the characterization and removal of such Hazardous Materials and shall indemnify the other Party with respect to all losses resulting therefrom.

8.3 Licensee hereby releases UTA from, and agrees not to seek recourse against UTA with respect to, any claims, damages, fees, expenses or other losses proximately caused by Third Persons including, without limitation, Third Persons having licenses or other interests in the Right of Way. Nothing contained herein shall be construed or deemed to be a release of any Third Persons by Licensee.

8.4 The provisions of this Article shall survive the termination of this Agreement.

ARTICLE IX CLAIMS AND LIENS FOR LABOR AND MATERIALS; TAXES

9.1 Licensee shall fully pay for all materials joined or affixed to the Right of Way in connection with the Pipeline, and for all labor performed with respect to the Pipeline. Licensee shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee.

9.2 Licensee shall promptly pay or discharge all taxes, charges and assessments assessed or levied upon, in respect to, or on account of the Pipeline to prevent the same from becoming a charge or lien upon the Right of Way and so that any taxes, charges and assessments levied upon or with respect to such property shall not be increased because of the Pipeline or any improvements, appliances, or fixtures connected therewith.

ARTICLE X TERMINATION

10.1 UTA may terminate this Agreement if: (a) Licensee ceases to use the Pipeline in an active and substantial way for any continuous period of one (1) year; (b) Licensee continues in default with respect to any provision of this Agreement for a period of thirty (30) days after UTA delivers written notice to Licensee identifying the nature of Licensee's breach of this Agreement; provided, however that if the nature of Licensee's breach is such that it cannot be cured within such thirty (30)-day period, Licensee shall not be deemed in default if Licensee commences to cure the breach within thirty (30) days and thereafter diligently continues to remedy the breach; or (c) Licensee removes the Pipeline from the Right of Way.

10.2 Termination of this Agreement for any reason shall not affect any of the rights, obligations or liabilities that have accrued prior to or concurrent with such termination.

ARTICLE XI INSURANCE

11.1 During the life of this Agreement, Licensee shall, at its sole cost and expense, obtain and maintain the insurance described in Exhibit "B" (Exhibit "B" is attached hereto and hereby incorporated into and made a part of this Agreement by reference). Licensee will also provide to UTA a Certificate of Insurance, identifying UTA Contract Number PW/U/6945/P, issued by its insurance carrier confirming the existence of such insurance and indicating that the policy or policies contain the following endorsement:

"Utah Transit Authority is named as an additional insured with respect to all liabilities arising out of the existence, use or any work performed on or associated with the Pipeline Crossing Agreement PW/U/6945/P in the railroad right of way known as the Commuter Rail South at Mile Post S36.08 in Vineyard, Utah County, Utah"

11.2 Failure to maintain insurance as required shall entitle, but not require UTA to terminate the license granted hereby immediately.

11.3 If Licensee is a public entity subject to any applicable statutory governmental immunity laws, the limits of insurance described in Exhibit "B" shall be the limits the Licensee then has in effect or that are required by applicable current or subsequent law, whichever is greater, a portion of which may be self-insured with the consent and approval of UTA. Licensee does not waive any of its rights of entitlements

to governmental immunity and limitations on liability to Third Persons under the Utah Governmental Immunity Act.

11.4 Licensee hereby acknowledges that it has reviewed the requirements of Exhibit "B", including without limitation the requirement for Railroad Protective Liability Insurance during construction, maintenance, installation, repair or removal of the pipeline which is the subject of this Agreement.

ARTICLE XII REMOVAL OF PIPELINE UPON TERMINATION OF AGREEMENT

Upon termination of this Agreement pursuant to Article X hereof, Licensee shall, if requested in writing by UTA and at Licensee's sole cost and expense, remove the Pipeline from the Right of Way and shall restore, to the satisfaction of UTA, such portions of the Right of Way to at least as good a condition as such were in at the time that Licensee first entered the Right of Way. If Licensee fails to do the foregoing within a reasonable time, UTA may, at its option, perform such removal and restoration work at the expense of Licensee. Licensee shall reimburse UTA for the costs incurred in any restoration or removal work performed under this Article within thirty (30) days after receipt of the bill therefor. In the event UTA removes the Pipeline pursuant to this Article, UTA shall in no manner be liable to the Licensee for any damage sustained by Licensee for or on account thereof, and such removal and restoration shall in no manner prejudice or impair any other right of action, including the recovery of damages, that UTA may have against the Licensee. The provisions of this Article shall survive the termination of this Agreement.

ARTICLE XIII ASSIGNMENT

Licensee may not assign this Agreement, in whole or in part, or any rights herein granted, without UTA's written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Licensee may assign this Agreement and its rights hereunder as part of a consolidation with an entity that: (a) is a successor governmental entity to Licensee; (b) is annexed with, merged into or consolidated with Licensee; or (c) that acquires substantially all of the assets of Licensee provided, however, that in any of the above instances such entity seeking an assignment under this Article must, as a condition to such assignment, assume all terms and conditions of this Agreement without limitation.

ARTICLE XIV SUCCESSORS AND ASSIGNS

Subject to the provisions of Article XIII, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, their officers, employees, representatives, successors and assigns.

ARTICLE XV SEVERABILITY

This Agreement is executed by the Parties under current interpretation of any and all applicable federal, state, county, municipal, or other local statutes, ordinances, or laws. Furthermore, each and every separate division hereof shall have independent and severable status from each other division, or combination thereof, for the determination of legality, so that if any separate division herein is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, invalid or unenforceable for any reason, that separate division shall be treated as a nullity but such holding

or determination shall have no effect upon the validity or enforceability of each and every other division, or other combination thereof.

ARTICLE XVI NOTICES

Except as specifically provided elsewhere in this Agreement, all notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the addresses set forth herein. Addresses for notice may be changed by giving ten (10) days written notice of the change in the manner set forth herein.

If to UTA:

Utah Transit Authority
Attn: Property Management
669 West 200 South
Salt Lake City, UT 84101
PropertyManagement@rideuta.com

With a Copy to:

Utah Transit Authority
Attn: Legal Counsel
669 West 200 South
Salt Lake City, UT 84101

If to Licensee:

Vineyard City
Attn: Chris Wilson, Public Works Director
125 South Main Street
Vineyard, Utah 84059

ARTICLE XVII NO IMPLIED WAIVER

The waiver by UTA of the breach by Licensee of any condition, covenant or agreement herein contained shall not impair any future ability of UTA to avail itself of any remedy or right set forth in this Agreement. Neither the right of supervision by UTA, nor the exercise or failure to exercise such right, nor the approval or failure to disapprove, nor the election by UTA to repair or reconstruct all or any part of the work contemplated by this Agreement shall be deemed a waiver of any of the obligations of Licensee contained or set forth in this Agreement.

ARTICLE XVIII ENTIRE AGREEMENT - COUNTERPARTS

This Agreement shall constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. Any amendment to this Agreement must be in writing and executed by an authorized representatives of each Party. This Agreement may be executed in any number of counterparts and by each of the Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Agreement may be detached from any counterpart and reattached to any other counterpart hereof. The facsimile transmission of a signed original of this Agreement or any counterpart hereof and the retransmission of any signed facsimile transmission hereof shall be the same as delivery of an original.

**ARTICLE XIX
FORUM SELECTION AND CHOICE OF LAW**

This Agreement shall be construed and interpreted under the laws of the State of Utah and the parties agree that any action or proceeding brought concerning this Agreement may be brought only in the courts of Salt Lake County, Utah, and each party hereto hereby consents to the jurisdiction of such courts.

**ARTICLE XX
SPECIAL PROVISIONS**

Special provisions, if any, are included in the attached Exhibit "C" (Exhibit "C" is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date first herein written.

Reviewed and Approved as to Form for UTA

DocuSigned by:

29CDBF21746F4BB...

UTA Engineering

DocuSigned by:

82323E2963D5460...

Tim Merrill
Assistant Attorney General

UTAH TRANSIT AUTHORITY

By: _____
Paul Drake
Director, Real Estate & TOD

By: _____
Spencer Burgoyne
Manager, Property Administration

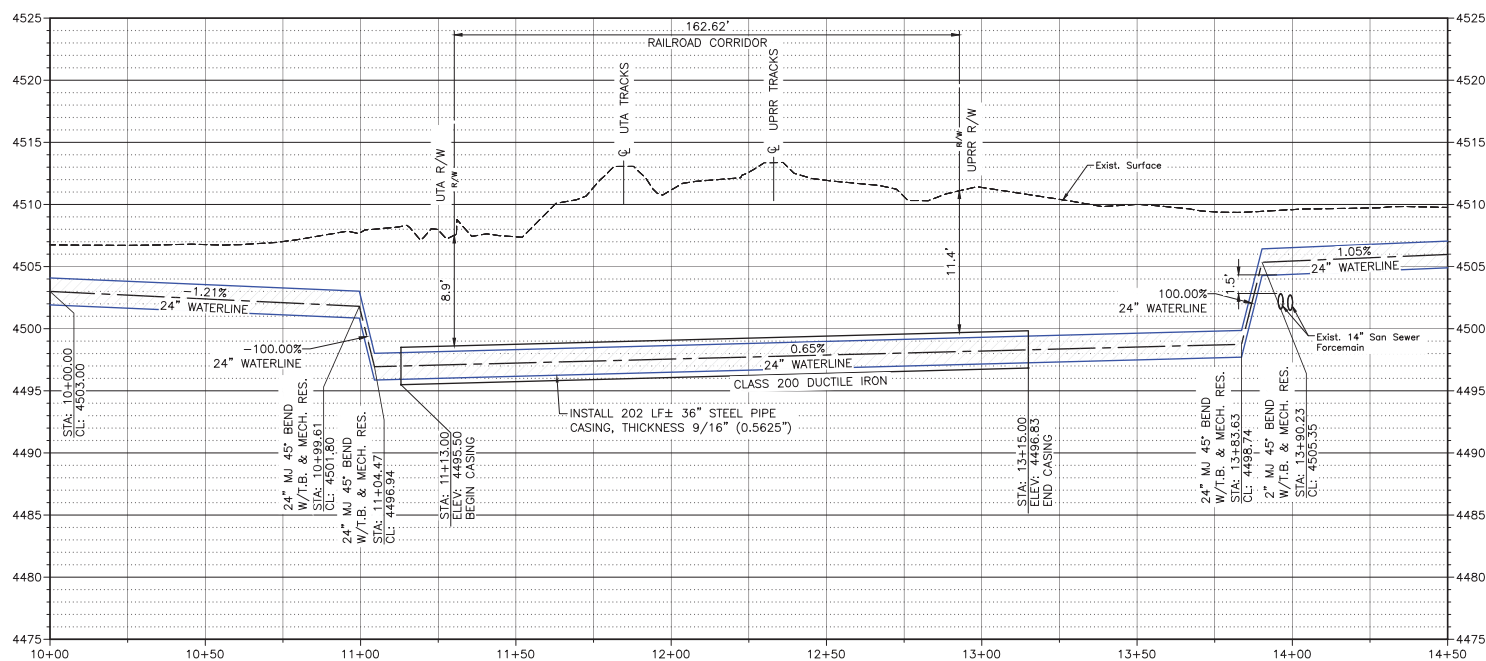
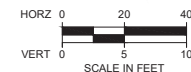
By: _____
Heidi Tippetts
Property Administrator

LICENSEE

By: _____
Chris Wilson, Public Works Director
Vineyard City

**EXHIBIT “A”
DESIGN PLANS**

[Insert engineering drawings showing the proposed crossing including proposed construction methods, shoring and cribbing requirements and mile post location]



FILE: 50-20-059 C1-201X PP
JUB PROJ. #: 50-20-059
DRAWN BY: _____
DESIGN BY: _____
CHECKED BY: _____


ONE INCH
AT FULL SIZE, IF NOT ONE
INCH SCALE ACCORDINGLY

LAST UPDATED: 3/10/2022

SHEET NUMBER:
C1-201

3/30/2022

EXHIBIT "B"

INSURANCE REQUIREMENTS

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. **Commercial General Liability Insurance:** Policy providing coverage for death, personal injury and property damage with a combined single limit of at least \$2,000,000 each occurrence or claim and an aggregate limit of at least \$4,000,000. The policy shall contain broad form contractual liability insurance covering the indemnity obligations assumed by Licensee in the Agreement. Exclusions for railroads (except where the Pipeline is in all places more than fifty (50) feet from any railroad tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed. Coverage provided on a "claims made" form shall provide for at least a two-year extended reporting and discovery period if (a) the coverage changes from a claims made form to an occurrence form, (b) there is a lapse/cancellation of coverage, or (c) the succeeding claims made policy retroactive date is different for the expiring policy.
 - a. The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE: "Contractual Liability Railroads" ISO from CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Utah Transit Authority Property" as the Designated Job Site.
- B. **Automobile Liability Insurance:** Policy providing bodily injury, property damage and uninsured vehicles coverage with a combined single limit of at least \$2,000,000 each occurrence or claim. This insurance shall cover all motor vehicles including hired and non-owned, and mobile equipment if excluded from coverage under the commercial general liability insurance.
- C. **Worker's Compensation and Employer's Liability Insurance:** Policy covering Licensee's statutory liability under the laws of the State of Utah. If Licensee is self-insured, evidence of State approval must be provided.
- D. **Railroad Protective Liability Insurance (RRPLI):** During construction and maintenance within fifty (50) feet of an active railroad track, including but not limited to installation, repair or removal of facilities, equipment, services or materials, the Licensee and/or Licensee's Contractor must maintain "Railroad Protective Liability" insurance on behalf of UTA only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000.
 - a. If the Licensee and/or Licensee's Contractor is not enrolling for this coverage under UTA's blanket RRPLI program, the policy provided must have the definition of "JOB LOCATION" AND "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement.
- E. **Umbrella or Excess Insurance:** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

F. Other Insurance Provisions:

- a. Licensee and their insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against UTA. Licensee's insurance shall be primary with respect to any insurance carried by UTA. Licensee will furnish UTA at least thirty (30) days advance written notice of any cancellation or non-renewal of any required coverage that is not replaced.
- b. The required insurance policy(ies) shall be written by a reputable insurance company with a current AM Best's Insurance Guide Rate of A better, or as may otherwise be acceptable to UTA. Such insurance company shall be authorized to transact business in the State of Utah.
- c. The fact that insurance is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by UTA shall not be limited by the amount of the required insurance coverage.

**SUBMITTING REQUESTS FOR
RAILROAD PROTECTIVE LIABILITY INSURANCE**
(\$2,000,000 per occurrence/ \$6,000,000 aggregate)

Application forms for inclusion in Utah Transit Authority's Blanket Railroad Protective Liability Insurance Policy may be obtained from a Property Administrator.

If you have questions regarding railroad protective insurance (i.e. premium quotes, application) please contact David Pitcher at:

Phone: (801) 287-2371
Email: dcpitcher@rideuta.com

Send or hand deliver Checks and Applications to the following address:

Utah Transit Authority
Attn: Property Management
669 West 200 South
Salt Lake City, UT 84101

EXHIBIT "C"

SPECIAL PROVISIONS

Licensee or Licensee's contractor must first obtain a FrontRunner Track Access Permit from UTA before any access will be allowed on UTA property. The current contact person for obtaining a FrontRunner Track Access Permit is Michael Stidd at (385) 419-8401, or such other contact as shall be identified on UTA's website location noted below.

A copy of the permit that shall be filled out and submitted can be found on UTA's website, under the Track Access Permit tab.

<https://rideuta.com/Doing-Business/Property-Management>

Note: Access Permits will not be issued without first having an executed Contractor's Right of Entry Agreement, UTA having received proof of insurance as provided in the Right of Entry Agreement, and verification that the Contractor and all of the Contractor's Employees have gone through UTA's Roadway Worker Training, if applicable.

1. Licensee or Licensee's contractor shall provide a rail monitoring plan to be reviewed and approved by UTA prior to commencement of Construction. The top of rail shall not deflect more than ¼ inch vertically or horizontally. Licensee or Licensee's contractor shall also provide an established contingency plan in the event of ground loss and/or the rail deviates ¼ inch vertical or horizontal, the contingency plan must be reviewed and approved by UTA prior to commencing the Construction. In the event that the top of rail deflects more than ¼ inch, operations shall stop immediately and the UTA onsite representative notified. Construction shall not continue until UTA's engineer has determined the appropriate action required to protect the safety, integrity and functionality of the railroad elements.
 - a. UTA RWIC required for installing and monitoring survey points during Construction
2. Licensee or Licensee's Contractor shall pothole to locate and protect in place all UTA fiber and utilities in accordance with this Agreement or as otherwise specified by separate potholing agreement.
 - a. Fiber locate must be verified by a UTA authorized party prior to commencement of bore
 - b. Licensee or Licensee's Contractor shall provide minimum 7 day notice request for UTA marking of fiber and submit fee of \$650.00 for such marking.
 - i. Contact Bryan Keck to schedule bkeck@rideuta.com; (801) 807-9601 to schedule
3. Licensee or Licensee's Contractor shall coordinate for a UTA representative or RWIC to be present during the work, such representative shall be determined at UTA's sole and separate discretion.
4. UDOT Project Work to be performed during UTA non-operational hours of service unless otherwise determined Fronrunner Track Access Permitting.

5. Licensee or Licensee's Contractor shall only cross the Right of Way at designated public crossings.

PIPELINE CROSSING AGREEMENT
(Interlocal Municipal Pipeline Form)

UTA Contract # PW/U/6944/P
Mile Post: S 36.34
Latitude: 40.310196
Longitude: -111.748330
Vineyard, Utah

THIS PIPELINE CROSSING AGREEMENT (the “Agreement”) is made and entered into as of the ____ day of _____, 2022 **(to be dated after the final executing signature by UTA)**, by and between UTAH TRANSIT AUTHORITY, a large public transit district organized pursuant to the laws of the State of Utah (hereinafter “UTA”), and Vineyard City, a Utah municipality and political subdivision, through their Department of, with a principal address of 125 South Main Street, Vineyard, UT 84059 (hereinafter “Licensee”).

RECITALS

WHEREAS, UTA is the owner of a certain railroad corridor known as the Commuter Rail South (the “Right of Way”) acquired by UTA for the development and expansion of its public transportation system;

WHEREAS, Adjacent to the UTA owned property is railroad corridor owned and operated by the Union Pacific Railroad Company;

WHEREAS, Licensee intends to install and maintain 24-inch class 200 ductile iron waterline, installed in a 36 inch steel casing inside an existing concrete pipe (the “Pipeline”) via directional bore located a minimum of 19.90 feet from bottom of rail to top of pipe which will cross at approximately Mile Post S 36.34 (Latitude 40.310196, Longitude -111.748330) in Vineyard, Utah; and

WHEREAS, Licensee desires a license for the construction, operation and maintenance of the Pipeline.

AGREEMENT

NOW THEREFORE, on the stated Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereinafter set forth, the mutual benefits to the Parties to be derived herefrom, and for other valuable consideration, the receipt and sufficiency of which the Parties acknowledge, it is hereby agreed as follows:

ARTICLE I
INCORPORATED TERMS AND DEFINITIONS

For purposes of this Agreement, the following definitions shall apply:

1.1 “Construct” and “Construction” mean the initial installation of the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way, as well as any subsequent reconstruction, relocation, restoration or rehabilitation of the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way.

1.2 “Emergency Access Manager” means the person or office responsible for controlling emergency Construction and Maintenance access to the Right of Way. The Emergency Access Manager as of the execution of this Agreement shall be reached at (801) 287-5455. UTA may change the designated Emergency Access Manager from time to time by delivery of notice in accordance with Article XVI of this Agreement.

1.3 “Freight Operator” means any entity using the Right of Way, or any portion thereof, to provide common carrier freight operations.

1.4 “Governmental Authority” means any federal, state, municipal, local or other division of government, or any agency thereof, having or asserting jurisdiction with respect to any matter related to this Agreement.

1.5 “Hazardous Materials” mean any materials or substances: (i) which are present in quantities and in forms which require investigation, removal, cleanup, transportation, disposal, response or remedial action (as the terms “response” and “remedial action” are defined in Section 101 of the Comprehensive Environmental Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 (24) and (25)) under any applicable federal, state or local environmental law, regulation, ordinance, rule or bylaw, as such are amended from time to time, whether existing as of the date hereof, previously enforced or subsequently amended (each hereafter an “Environmental Law”); or (ii) which are defined as “hazardous wastes,” “hazardous substances,” “pollutants” or “contaminants” under any Environmental Law.

1.6 “Losses” mean any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys’ fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs resulting from: (i) loss of or damage to the property of any Party or Third Person; (ii) death or personal injury to the agents of any Party or to any Third Person; or (iii) the cleanup or other requirements regarding any incident involving Hazardous Materials. The term “Losses” shall not include any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys’ fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs excluded from Licensee’s indemnification obligations and assumed by UTA pursuant to Sections 8.1 and 8.2 of this Agreement.

1.7 “Maintain” and “Maintenance” mean the performance of any repair, restoration, rehabilitation, refurbishment, retrofitting, inspection, monitoring, observation, testing, or similar work with respect to the Pipeline (or any improvements to the Pipeline) in or otherwise materially affecting the Right of Way.

1.8 “Master Interlocal Agreement” means that certain Master Interlocal Agreement Regarding Fixed Guideway Systems Located Within Railroad Corridors, effective February 13, 2004, entered by and among UTA and the various municipalities and counties within which UTA’s rights of way are situated.

1.9 “Party” and “Parties” mean UTA or Licensee, and UTA and Licensee, respectively.

1.10 “Pipeline” means the 24 inch class 200 ductile iron waterline, installed in a 36 inch steel casing inside an existing concrete pipe line to be installed and maintained by Licensee via directional bore method of installation, pursuant to this Agreement and located a minimum of 19.90feet from bottom of rail to top of pipe at Mile Post S 36.34 (Latitude 40.310196, Longitude -111.748330) on the Commuter Rail South in Vineyard, Utah as described in Exhibit “A”. The term “Pipeline” shall also apply to any and all rearrangements, modifications, reconstruction, relocations, removals and extensions or additions

concerning the Pipeline that are authorized and approved by UTA pursuant to this Agreement (unless they are the subject of a separate agreement that does not incorporate the terms hereof).

1.11 “Third Person” means any individual, corporation or legal entity other than UTA and Licensee.

1.12 “Track Improvements” mean any and all tracks, rails, ties, switches, frogs, end of track barricades or bumpers and other barricades or bumpers, derail devices, tie plates, spikes, wires, fastenings and any other appurtenances related thereto, drainage structures, grading, ballast, subgrade stabilization, crossings, tunnels, bridges, trestles, culverts, structures, facilities, leads, spurs, turnouts, tails, sidings, signals, crossing protection devices, communications systems or facilities, catenary systems and wires, poles and all other operating and non-operating appurtenances located within the Right of Way.

1.13 “UTA System” means any light rail, commuter rail, trolley, guided busway, or similar public transportation system constructed by UTA in the Right of Way as contemplated in the Master Interlocal Agreement.

1.14 “Utility” and “Utilities” mean and include all properties, facilities, utilities, crossings, encroachments, lines and similar appurtenances located within the Right of Way by permissive or prescriptive authority including, but not limited to, pipelines, tubelines, water and gas lines or mains, electrical conduits, ditches and other drainage facilities, wires, fiber optics, communication lines, sewer pipes, overhead wiring and supporting structures and appurtenances, and all similar installations.

1.15 “Work Window” means the time period designated by UTA during which Construction, Maintenance and any other work with respect to the Pipeline within the Right of Way is permissible. UTA may, at any time and at UTA’s sole discretion, determine that the Work Window shall not be concurrent with any passenger operations within the Right of Way.

ARTICLE II GRANT OF LICENSE AND REAL ESTATE USAGE CHARGE

2.1 UTA customarily assesses a standard administrative fee reflecting the clerical, administrative and handling expense incurred in connection with the processing of this Agreement. The standard administrative fee has been waived consistent with the provisions of the Master Interlocal Agreement.

2.2 In consideration of the real estate usage charge to be paid by Licensee, and in further consideration of the covenants and agreements to be kept, observed and performed by Licensee hereunder, UTA hereby grants Licensee a license to Construct, Maintain and operate the Pipeline in the location shown and in conformity with the dimensions and specifications indicated on the attached print dated **April 13, 2022** and approved by UTA Engineer dated **April 29, 2022** marked Exhibit “A” (Exhibit “A” is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

2.3 Licensee agrees to pay UTA a one-time real estate usage charge of **\$4,510.00** payable on or before the date of execution. Licensee also agrees to pay an upfront Flagging cost of **\$1,576.00**, an upfront UTA fiber/utility marking fee of **\$650.00** and Special Inspection cost of **\$304.00** (these fees are more clearly described in Section 5.1).

2.4 This license granted by this Agreement is conditioned on the provision that Licensee shall obtain all necessary permission from and comply with all the requirements of the Union Pacific Railroad Company.

ARTICLE III ACCESS TO THE RIGHT OF WAY

3.1 Except in the event of an emergency (as provided in Section 3.2 below), Licensee shall request permission from UTA at least ten days (or such shorter period as may be approved by UTA) prior to performing any Construction or Maintenance in or otherwise materially affecting the Right of Way. Licensee's request to access the Right of Way shall be specific as to the time, date and activities for which Licensee seeks permission. The request shall also include a summary of the method and manner in which the Construction or Maintenance will be performed. As part of the application process, UTA may require Licensee (and its contractors or other agents seeking access to the Right of Way) to attend any track access coordination meetings, safety training or other instruction as may be deemed necessary by UTA. Once granted, UTA's permission to enter the Right of Way shall be formalized in writing and delivered to Licensee. After permission has been granted, Licensee shall comply with all conditions, instructions and requirements of such permit and with all instructions or directions given by UTA including, if required, daily telephone notification to the applicable rail dispatch center prior to each entry into the Right of Way. All contact with UTA shall be coordinated through the person designated by UTA from time to time as set forth in Article XVI of this Agreement. Provided that Licensee complies with the provisions of this Section, UTA agrees not to unreasonably withhold, condition, or delay its approval of Licensee's request.

3.2 Licensee shall have the right to enter the Right of Way in the event of an emergency to make repairs necessary to protect against imminent and serious injury or damage to persons or property. Licensee shall take all precautions necessary to ensure that such emergency entry does not compromise the safety of any operations conducted in the Right of Way by UTA or the Freight Operator. Licensee must notify the Emergency Access Manager of the emergency access and the work being performed prior to entering the Right of Way.

ARTICLE IV CONSTRUCTION AND MAINTENANCE OF THE PIPELINE

4.1 All Construction and Maintenance with respect to the Pipeline shall be performed to the satisfaction of UTA and in accordance with the conceptual, engineering and/or design plans ("Design Plans") previously approved by UTA and attached hereto as Exhibit "A." All Construction and Maintenance with respect to the Pipeline shall be performed in a workmanlike manner, in compliance with all applicable industry standards and in compliance with the requirements of any applicable Governmental Authority. UTA may impose requirements in addition to or more stringent than industry or legal standards if UTA deems such requirements necessary for the safety of operations conducted in the Right of Way. UTA may also require additional fabrication methods, staging requirements or other precautions. All Construction and Maintenance with respect to the Pipeline shall be performed during the designated Work Window. UTA shall have the right, but not the obligation, to observe any and all work performed in or otherwise materially affecting the Right of Way in connection with the Pipeline to ensure that such work is performed in accordance with the requirements set forth in this Agreement. In its Construction or Maintenance of the Pipeline, Licensee shall not make any material deviation from the Design Plans without UTA's prior written approval. Licensee shall submit to UTA plans setting out the method and manner of handling all work to be performed under the Track Improvements including, without limitation, the shoring and cribbing, if any, required to protect the operations of UTA, the Freight Operator or the owner of any adjacent tracks.

Licensee shall not proceed with any such work until Licensee's proposed methods have been approved by UTA. The Pipeline shall be placed at the depth acceptable to UTA and shall not interfere with any Track Improvements.

4.2 Various Utilities exist on, over and under the surface of the Right of Way. Prior to commencing any Construction or Maintenance with respect to the Pipeline, Licensee shall properly investigate and determine the location of all such Utilities. In addition to the required investigation, Licensee shall have all Utilities in the area of the Pipeline "blue-staked" and clearly marked prior to any excavation. Licensee shall make arrangements for the protection of all Utilities and shall commence no excavation, boring or other penetration in the Right of Way until all such protection has been accomplished.

4.3 Fiber optic cable systems may be buried in the Right of Way. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee shall be solely responsible for contacting UNION PACIFIC RAILROAD COMPANY during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) and for determining if fiber optic cable is buried near the location of the Pipeline. If so, Licensee will contact the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, make arrangements for relocation or other protection of the fiber optic cable. Licensee shall not commence any work until all such protection and/or relocation have been accomplished. Licensee shall be solely responsible for all coordination with Union Pacific and any telecommunications companies. In coordinating the relocation or protection of fiber optic cable, Licensee shall not rely on any statements, engineering drawings or other oral or written representations of UTA or its representatives. In addition to other indemnity provisions in this Agreement, Licensee shall indemnify, defend and hold the UTA Indemnitees (as defined in Section 8.1 of this Agreement) harmless from and against all Losses arising out of: (a) any damage to or destruction of any telecommunications system proximately caused by any Construction, Maintenance or other work performed by Licensee or its agents relative to the Pipeline; and/or (b) any injury to or death of any person employed by or on behalf of any telecommunications company proximately caused by any Construction, Maintenance or other work performed by Licensee or its agents relative to the Pipeline. Except to the extent that liability is assumed by UTA as set forth in Sections 8.1 and 8.2 of this Agreement, Licensee shall not have or seek recourse against UTA for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using UTA's Right of Way or a customer or user of services of the fiber optic cable on UTA's Right of Way.

4.4 Licensee shall be solely responsible for obtaining any property rights, easements, licenses, rights of way or other permission from Third Persons (collectively "Third Person Property Rights") as may be necessary to Construct, Maintain or operate the Pipeline including, without limitation, any needed permission from the owner of any adjacent railroad corridor. Licensee shall also be solely responsible for obtaining any necessary franchises, permits or other necessary approvals from Governmental Authorities (collectively "Approvals"). Licensee agrees to pay any and all costs and expenses relating to such Third Person Property Rights or Approvals, and to assume any and all liability therefor.

4.5 Except as authorized in this Agreement or as may be immediately required for (and only at the actual time of) performance of any Construction or Maintenance contemplated under this Agreement, and then only in full compliance with all clearance standards and other safety requirements, Licensee shall not place, permit to be placed, erect, pile, store, stack, park, suffer or permit any line, building, platform, fence, gate, vehicle, car, pole, or other structure, obstruction, or material of any kind within the Right of Way.

4.6 Licensee shall Construct, Maintain and operate the Pipeline in compliance with all requirements imposed by any Governmental Authority including, without limitation, the requirements of the Federal Railroad Administration, the Occupational Safety and Health Administration and the Utah Department of Transportation. Licensee shall also Construct, Maintain and operate the Pipeline in compliance with all applicable environmental laws. The Pipeline shall be encased. Licensee shall take all suitable precautions to prevent any leakage or other interference with the operation of the Track Improvements or any other UTA or Third Person installations or facilities. If for any reason the Construction of the Pipeline causes interference with the operation of Track Improvements or any other UTA or Third Person installations or facilities existing prior to the Construction of the Pipeline, Licensee shall, upon notification by UTA and at Licensee's sole cost and expense, take such action as is necessary to eliminate the interference.

4.7 If, in connection with the performance of any Construction or Maintenance work, Licensee or its Contractor damages any Track Improvements, Utilities, or any other facilities, Licensee shall repair or replace such facilities with the same or similar materials, if available, as reasonably required by the UTA, consistent with applicable Federal and State laws and regulations and to the satisfaction of UTA.

4.8 At the request of UTA, Licensee shall install markers identifying the location of the Pipeline and related appurtenances at the Right of Way boundaries (where the Pipeline enters and exits the Right of Way) or other locations where UTA may designate. Markers shall be installed in a form and size as may be determined by UTA and at the sole cost and expense of Licensee. UTA hereby expressly reserves the right to require Licensee to erect and maintain, at Licensee's sole cost and expense, any and all signs of any character and nature whatsoever (e.g. location of Pipeline, precautionary and/or warning signs, etc.) that UTA deems necessary or advisable in connection with the operation of the Pipeline. Licensee shall install and/or erect any marker or sign that may be required under this Section within thirty (30) days after receiving written instructions from UTA.

4.9 Upon completion of any Construction or Maintenance relating to the Pipeline, Licensee shall restore the surface of the Right of Way to its prior condition including, but not limited to, replacing any soil that was removed and thoroughly compacting it level with the adjacent surface of the ground and restoring any fences or other property that Licensee disturbed or removed from the Right of Way.

4.10 If a contractor is to perform any Construction or Maintenance contemplated in this Agreement, then the Licensee shall cause its contractor to comply with all applicable provisions of this Agreement. Additionally, Licensee shall require its contractor to execute UTA's form Contractor's Right of Entry Agreement (the "Contractor Agreement"). Any and all contractors used by Licensee in the Construction or Maintenance of the Pipeline are subject to the approval of UTA, which approval shall not be unreasonably withheld, conditioned or delayed.

4.11 If Licensee fails to notify UTA a minimum of 10 days before the initial installation of the Pipeline or if Licensee's Contractor fails to obtain a Contractor Agreement, Licensee agrees to pay UTA an additional three thousand dollars (\$3,000) as a fee for the initial inspection of the Pipeline, together with any other additional fees incurred by UTA to verify that the Pipeline was installed as per the approved plans. Such review and verification could include exposing the line to verify the depth of and materials installed. If the Pipeline was not installed in the approved location, depth, and with the approved materials, as described in the approved plans, Licensee agrees to remove the Pipeline and reinstall it according to the approved plans at Licensee's sole cost and expense.

ARTICLE V CONSTRUCTION OBSERVATION BY UTA – LICENSEE TO BEAR ALL COSTS

5.1 The current cost of flagging is \$788/day for an eight (8)-hour day and \$1,058/day for a twelve (12) - hour day. Flagging is charged in blocks, with a minimum billing of an eight (8) - hour period. The current cost for a special inspector is \$76/hour with a two (2) -hour minimum charge per inspection/inspector. The current cost for a UTA fiber/utility marking is \$650/occurrence. UTA has determined that two (2), eight (8)-hour day for Flagging and two (2), two (2)-hour day for a Special Inspection and one (1) UTA fiber/utility marking will be needed for the construction of this Pipeline. Licensee will pre-pay **\$2,350.00** for Flagging and a Special Inspection at or before the execution of this Agreement. If after the construction of the Pipeline extra days of Flagging or Special Inspection have been collected, Licensee may submit in writing for a refund from UTA. Submission for refund will need to be submitted to UTA within thirty (30) days of the date of completion of the Pipeline. Refunds will only be issued after confirmation from UTA operations that the flagging and special inspection days were not used.

5.2 In the event that UTA, in its sole discretion, determines that any other inspectors (technical or special), monitors, observers, safety personnel, additional flaggers or other persons are required given the nature of the Construction or Maintenance to be performed, UTA may, at its sole discretion, provide such personnel and Licensee shall, within thirty (30) days, reimburse UTA for the reasonable costs thereby incurred.

ARTICLE VI LICENSEE TO BEAR ALL COSTS RELATED TO PIPELINE

Except as otherwise set forth in the Master Interlocal Agreement, or in Sections 7.2 and Article 8 of this Agreement, Licensee shall be solely responsible for any and all costs incurred with respect to any Construction, Maintenance or other work related to the Pipeline.

ARTICLE VII SUBORDINATION OF RIGHTS GRANTED - RELOCATION OF PIPELINE

7.1 The rights granted pursuant to this Agreement shall be subject and subordinate to the prior and continuing right and obligation of UTA to fully use the Right of Way, including the right and power of UTA to construct, maintain, repair, renew, use, operate, modify, or relocate new or existing Track Improvements upon, along, above, or across any or all parts of the Right of Way and other UTA property, all or any of which may be freely done at any time or times by UTA. The grant of license for the Pipeline is made without covenants of title or quiet enjoyment. UTA makes no warranties, either express or implied, regarding the nature, extent or status of its title to the Right of Way or regarding the existence or nonexistence of Third Person rights which may be superior to the license granted pursuant to this Agreement.

7.2 Licensee shall, within sixty (60) days after receipt of written notice from UTA, modify or relocate (or, if agreed between the Parties, allow UTA to modify or relocate) all or any portion of the Pipeline as UTA may reasonably designate. To the extent that the modification or relocation of the Pipeline is necessitated by the construction, reconstruction, modification or relocation of any UTA System, UTA shall be responsible for the costs of such relocation. To the extent that the modification or relocation of the Pipeline is necessitated because the Pipeline is conflicting with or causing interference with any UTA or Third Person Track Improvements or Utilities existing prior to the Construction of the Pipeline, then Licensee shall be responsible for the costs of such relocation. All the terms, conditions and stipulations herein expressed with reference to the Pipeline in the location described herein shall, so far as the Pipeline remains on UTA property, apply to the Pipeline as modified or relocated pursuant to this Section.

7.3 The foregoing grant is also subject to the outstanding superior rights previously conveyed or granted to Third Persons by UTA, or its predecessors in interest, and the right of UTA to renew and extend the same.

ARTICLE VIII INDEMNITY AND RELEASE

8.1 Licensee agrees to protect, defend, release, indemnify and hold harmless UTA, and any successors, contractors, officers, directors, agents and employees of UTA (the "UTA Indemnitees"), from and against any and all Losses resulting from: (a) negligence on the part of Licensee, or any employees, principals, contractors or agents of Licensee, in conjunction with any Construction, Maintenance or other work performed by or on behalf of Licensee with respect to the Pipeline; (b) negligence on the part of Licensee, or any employees, principals, contractors or agents of Licensee, in the use or operation of the Pipeline; or (c) Licensee's breach of any provision of this Agreement. Notwithstanding the foregoing, Licensee shall not be required to indemnify UTA for, and UTA hereby assumes responsibility for, any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs that are proximately caused by the negligence, recklessness or willful misconduct of UTA with respect to the construction, maintenance or operation of any UTA System.

8.2 Licensee acknowledges that the Right of Way may be subject to prospective purchaser agreements and covenants not to sue that UTA has entered with the Utah Department of Environmental Quality and the United States Environmental Protection Agency. Pursuant to such agreements, UTA is required to characterize any excavated soil that appears to contain (or has the potential to contain) Hazardous Materials and to handle and dispose of any such soil in compliance with applicable state and federal laws. Under these agreements, UTA is not required to excavate any soil except as required for construction related to the installation of a UTA System. Accordingly, any excavation that Licensee performs with respect to the Pipeline exposes UTA to potential environmental liability that would not otherwise be present. As consideration for the rights granted to Licensee hereunder, Licensee agrees to assume all potential liability and responsibility for, and to indemnify and hold UTA harmless with respect to, any Losses related to the characterization and removal of any Hazardous Materials discovered during Construction or Maintenance. Licensee agrees to perform any such characterization and removal in full compliance with all applicable state and federal environmental laws. Notwithstanding the foregoing, Licensee shall not be required to indemnify UTA for, and UTA hereby assumes responsibility for, any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs related to any Hazardous Materials discovered as the result of modification or relocation work performed by or on behalf of Licensee in conjunction with the construction, reconstruction, modification or relocation of any UTA System. To the extent that either Party actually causes a release of Hazardous Materials into the Right of Way, such party shall be responsible for the characterization and removal of such Hazardous Materials and shall indemnify the other Party with respect to all losses resulting therefrom.

8.3 Licensee hereby releases UTA from, and agrees not to seek recourse against UTA with respect to, any claims, damages, fees, expenses or other losses proximately caused by Third Persons including, without limitation, Third Persons having licenses or other interests in the Right of Way. Nothing contained herein shall be construed or deemed to be a release of any Third Persons by Licensee.

8.4 The provisions of this Article shall survive the termination of this Agreement.

ARTICLE IX CLAIMS AND LIENS FOR LABOR AND MATERIALS; TAXES

9.1 Licensee shall fully pay for all materials joined or affixed to the Right of Way in connection with the Pipeline, and for all labor performed with respect to the Pipeline. Licensee shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee.

9.2 Licensee shall promptly pay or discharge all taxes, charges and assessments assessed or levied upon, in respect to, or on account of the Pipeline to prevent the same from becoming a charge or lien upon the Right of Way and so that any taxes, charges and assessments levied upon or with respect to such property shall not be increased because of the Pipeline or any improvements, appliances, or fixtures connected therewith.

ARTICLE X TERMINATION

10.1 UTA may terminate this Agreement if: (a) Licensee ceases to use the Pipeline in an active and substantial way for any continuous period of one (1) year; (b) Licensee continues in default with respect to any provision of this Agreement for a period of thirty (30) days after UTA delivers written notice to Licensee identifying the nature of Licensee's breach of this Agreement; provided, however that if the nature of Licensee's breach is such that it cannot be cured within such thirty (30)-day period, Licensee shall not be deemed in default if Licensee commences to cure the breach within thirty (30) days and thereafter diligently continues to remedy the breach; or (c) Licensee removes the Pipeline from the Right of Way.

10.2 Termination of this Agreement for any reason shall not affect any of the rights, obligations or liabilities that have accrued prior to or concurrent with such termination.

ARTICLE XI INSURANCE

11.1 During the life of this Agreement, Licensee shall, at its sole cost and expense, obtain and maintain the insurance described in Exhibit "B" (Exhibit "B" is attached hereto and hereby incorporated into and made a part of this Agreement by reference). Licensee will also provide to UTA a Certificate of Insurance, identifying UTA Contract Number PW/U/6944/P, issued by its insurance carrier confirming the existence of such insurance and indicating that the policy or policies contain the following endorsement:

"Utah Transit Authority is named as an additional insured with respect to all liabilities arising out of the existence, use or any work performed on or associated with the Pipeline Crossing Agreement PW/U/6944/P in the railroad right of way known as the Commuter Rail South at Mile Post S 36.34 in Vineyard, Utah County, Utah"

11.2 Failure to maintain insurance as required shall entitle, but not require UTA to terminate the license granted hereby immediately.

11.3 If Licensee is a public entity subject to any applicable statutory governmental immunity laws, the limits of insurance described in Exhibit "B" shall be the limits the Licensee then has in effect or that are required by applicable current or subsequent law, whichever is greater, a portion of which may be self-insured with the consent and approval of UTA. Licensee does not waive any of its rights of entitlements

to governmental immunity and limitations on liability to Third Persons under the Utah Governmental Immunity Act.

11.4 Licensee hereby acknowledges that it has reviewed the requirements of Exhibit "B", including without limitation the requirement for Railroad Protective Liability Insurance during construction, maintenance, installation, repair or removal of the pipeline which is the subject of this Agreement.

ARTICLE XII REMOVAL OF PIPELINE UPON TERMINATION OF AGREEMENT

Upon termination of this Agreement pursuant to Article X hereof, Licensee shall, if requested in writing by UTA and at Licensee's sole cost and expense, remove the Pipeline from the Right of Way and shall restore, to the satisfaction of UTA, such portions of the Right of Way to at least as good a condition as such were in at the time that Licensee first entered the Right of Way. If Licensee fails to do the foregoing within a reasonable time, UTA may, at its option, perform such removal and restoration work at the expense of Licensee. Licensee shall reimburse UTA for the costs incurred in any restoration or removal work performed under this Article within thirty (30) days after receipt of the bill therefor. In the event UTA removes the Pipeline pursuant to this Article, UTA shall in no manner be liable to the Licensee for any damage sustained by Licensee for or on account thereof, and such removal and restoration shall in no manner prejudice or impair any other right of action, including the recovery of damages, that UTA may have against the Licensee. The provisions of this Article shall survive the termination of this Agreement.

ARTICLE XIII ASSIGNMENT

Licensee may not assign this Agreement, in whole or in part, or any rights herein granted, without UTA's written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Licensee may assign this Agreement and its rights hereunder as part of a consolidation with an entity that: (a) is a successor governmental entity to Licensee; (b) is annexed with, merged into or consolidated with Licensee; or (c) that acquires substantially all of the assets of Licensee provided, however, that in any of the above instances such entity seeking an assignment under this Article must, as a condition to such assignment, assume all terms and conditions of this Agreement without limitation.

ARTICLE XIV SUCCESSORS AND ASSIGNS

Subject to the provisions of Article XIII, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, their officers, employees, representatives, successors and assigns.

ARTICLE XV SEVERABILITY

This Agreement is executed by the Parties under current interpretation of any and all applicable federal, state, county, municipal, or other local statutes, ordinances, or laws. Furthermore, each and every separate division hereof shall have independent and severable status from each other division, or combination thereof, for the determination of legality, so that if any separate division herein is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, invalid or unenforceable for any reason, that separate division shall be treated as a nullity but such holding

or determination shall have no effect upon the validity or enforceability of each and every other division, or other combination thereof.

ARTICLE XVI NOTICES

Except as specifically provided elsewhere in this Agreement, all notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the addresses set forth herein. Addresses for notice may be changed by giving ten (10) days written notice of the change in the manner set forth herein.

If to UTA:

Utah Transit Authority
Attn: Property Management
669 West 200 South
Salt Lake City, UT 84101
PropertyManagement@rideuta.com

With a Copy to:

Utah Transit Authority
Attn: Legal Counsel
669 West 200 South
Salt Lake City, UT 84101

If to Licensee:

Vineyard City
Attn: Chris Wilson, Public Works Director
125 South Main Street
Vineyard, Utah 84059

ARTICLE XVII NO IMPLIED WAIVER

The waiver by UTA of the breach by Licensee of any condition, covenant or agreement herein contained shall not impair any future ability of UTA to avail itself of any remedy or right set forth in this Agreement. Neither the right of supervision by UTA, nor the exercise or failure to exercise such right, nor the approval or failure to disapprove, nor the election by UTA to repair or reconstruct all or any part of the work contemplated by this Agreement shall be deemed a waiver of any of the obligations of Licensee contained or set forth in this Agreement.

ARTICLE XVIII ENTIRE AGREEMENT - COUNTERPARTS

This Agreement shall constitute the entire agreement and understanding of the Parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. Any amendment to this Agreement must be in writing and executed by an authorized representatives of each Party. This Agreement may be executed in any number of counterparts and by each of the Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Agreement may be detached from any counterpart and reattached to any other counterpart hereof. The facsimile transmission of a signed original of this Agreement or any counterpart hereof and the retransmission of any signed facsimile transmission hereof shall be the same as delivery of an original.

**ARTICLE XIX
FORUM SELECTION AND CHOICE OF LAW**

This Agreement shall be construed and interpreted under the laws of the State of Utah and the parties agree that any action or proceeding brought concerning this Agreement may be brought only in the courts of Salt Lake County, Utah, and each party hereto hereby consents to the jurisdiction of such courts.

**ARTICLE XX
SPECIAL PROVISIONS**

Special provisions, if any, are included in the attached Exhibit "C" (Exhibit "C" is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date first herein written.

UTAH TRANSIT AUTHORITY

Reviewed and Approved as to Form for UTA

DocuSigned by:

Brandon Heath

29CDBF21746F4BB

UTA Engineering

DocuSigned by:

Tim Merrill

82323E2963D5460

Tim Merrill

Assistant Attorney General

By: _____

Paul Drake

Director, Real Estate & TOD

By: _____

Spencer Burgoyne

Manager, Property Administration

By: _____

Heidi Tippets

Property Administrator

LICENSEE

By: _____

Chris Wilson, Public Works Director
Vineyard City

**EXHIBIT “A”
DESIGN PLANS**

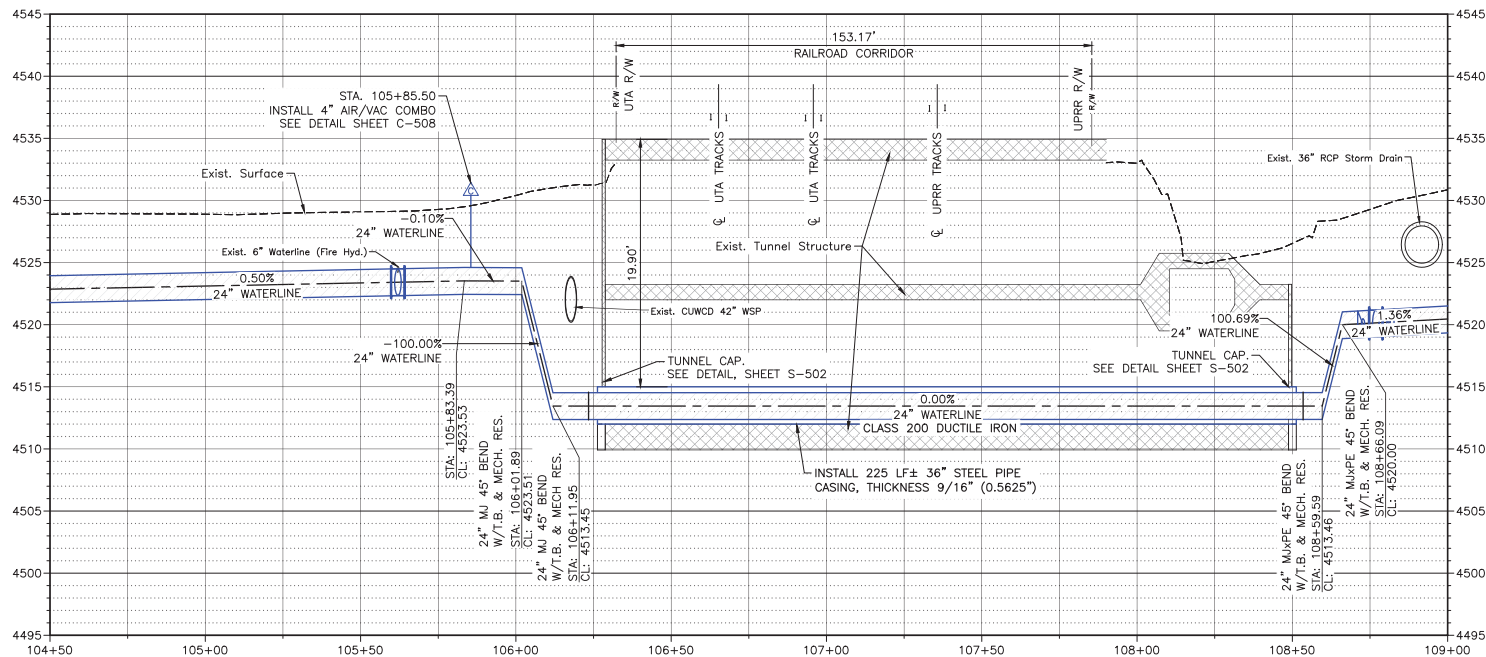
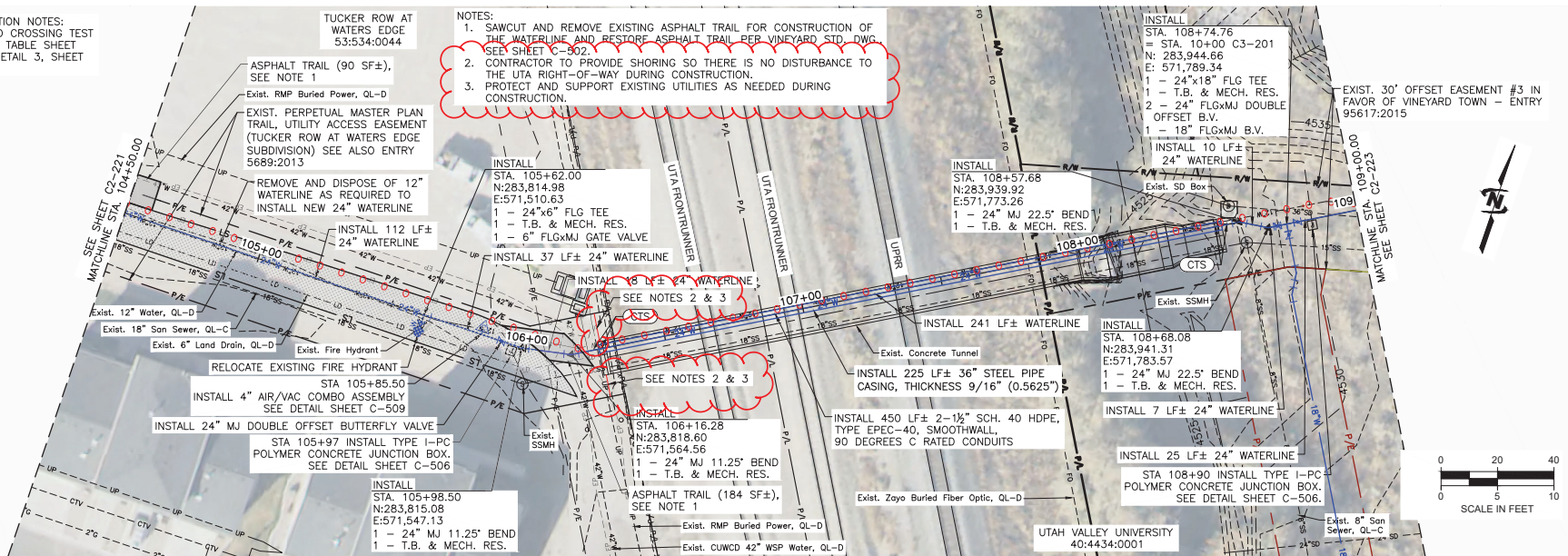
[Insert engineering drawings showing the proposed crossing including proposed construction methods, shoring and cribbing requirements and mile post location]

CATHODIC PROTECTION NOTES:
1. CTS - CASED CROSSING TEST STATION. SEE TABLE SHEET C2-501 & DETAIL 3, SHEET C2-502.

TUCKER ROW AT WATERS EDGE
53:534:0044

NOTES:

1. SAWCUT AND REMOVE EXISTING ASPHALT TRAIL FOR CONSTRUCTION OF THE WATERLINE AND RESTORE ASPHALT TRAIL PER VINEYARD STD. DWG. SEE SHEET C-502.
2. CONTRACTOR TO PROVIDE SHORING SO THERE IS NO DISTURBANCE TO THE UTA RIGHT-OF-WAY DURING CONSTRUCTION.
3. PROTECT AND SUPPORT EXISTING UTILITIES AS NEEDED DURING CONSTRUCTION.



JUB ENGINEERS, INC.
240 W. Center St.
Suite 200
Orem, UT 84057
Phone: 801.226.0393
www.jub.com

90% SET
PRELIMINARY
PLANS
NOT FOR
CONSTRUCTION

NO.	DESCRIPTION	BY	DATE

VINEYARD CITY PH. 1 WATER DISTRIBUTION PIPELINE
VINEYARD CITY, UTAH
VINEYARD CONNECTOR PLAN & PROFILE

FILE: 50-20-085 C2-201X.PP
REVISED: 5-20-2018
DRAWN BY: [Signature]
CHECKED BY: [Signature]
LAST UPDATED: 4/15/2022

SHEET NUMBER:
C2-222RR

DS

BH

4/29/2022

EXHIBIT "B"

INSURANCE REQUIREMENTS

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. **Commercial General Liability Insurance:** Policy providing coverage for death, personal injury and property damage with a combined single limit of at least \$2,000,000 each occurrence or claim and an aggregate limit of at least \$4,000,000. The policy shall contain broad form contractual liability insurance covering the indemnity obligations assumed by Licensee in the Agreement. Exclusions for railroads (except where the Pipeline is in all places more than fifty (50) feet from any railroad tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed. Coverage provided on a "claims made" form shall provide for at least a two-year extended reporting and discovery period if (a) the coverage changes from a claims made form to an occurrence form, (b) there is a lapse/cancellation of coverage, or (c) the succeeding claims made policy retroactive date is different for the expiring policy.
 - a. The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE: "Contractual Liability Railroads" ISO from CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Utah Transit Authority Property" as the Designated Job Site.
- B. **Automobile Liability Insurance:** Policy providing bodily injury, property damage and uninsured vehicles coverage with a combined single limit of at least \$2,000,000 each occurrence or claim. This insurance shall cover all motor vehicles including hired and non-owned, and mobile equipment if excluded from coverage under the commercial general liability insurance.
- C. **Worker's Compensation and Employer's Liability Insurance:** Policy covering Licensee's statutory liability under the laws of the State of Utah. If Licensee is self-insured, evidence of State approval must be provided.
- D. **Railroad Protective Liability Insurance (RRPLI):** During construction and maintenance within fifty (50) feet of an active railroad track, including but not limited to installation, repair or removal of facilities, equipment, services or materials, the Licensee and/or Licensee's Contractor must maintain "Railroad Protective Liability" insurance on behalf of UTA only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000.
 - a. If the Licensee and/or Licensee's Contractor is not enrolling for this coverage under UTA's blanket RRPLI program, the policy provided must have the definition of "JOB LOCATION" AND "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement.
- E. **Umbrella or Excess Insurance:** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

F. Other Insurance Provisions:

- a. Licensee and their insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against UTA. Licensee's insurance shall be primary with respect to any insurance carried by UTA. Licensee will furnish UTA at least thirty (30) days advance written notice of any cancellation or non-renewal of any required coverage that is not replaced.
- b. The required insurance policy(ies) shall be written by a reputable insurance company with a current AM Best's Insurance Guide Rate of A better, or as may otherwise be acceptable to UTA. Such insurance company shall be authorized to transact business in the State of Utah.
- c. The fact that insurance is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by UTA shall not be limited by the amount of the required insurance coverage.

**SUBMITTING REQUESTS FOR
RAILROAD PROTECTIVE LIABILITY INSURANCE**
(\$2,000,000 per occurrence/ \$6,000,000 aggregate)

Application forms for inclusion in Utah Transit Authority's Blanket Railroad Protective Liability Insurance Policy may be obtained from a Property Administrator.

If you have questions regarding railroad protective insurance (i.e. premium quotes, application) please contact David Pitcher at:

Phone: (801) 287-2371
Email: dcpitcher@rideuta.com

Send or hand deliver Checks and Applications to the following address:

Utah Transit Authority
Attn: Property Management
669 West 200 South
Salt Lake City, UT 84101

EXHIBIT "C"

SPECIAL PROVISIONS

Licensee or Licensee's contractor must first obtain a FrontRunner Track Access Permit from UTA before any access will be allowed on UTA property. The current contact person for obtaining a FrontRunner Track Access Permit is Michael Stidd at (385) 419-8401, or such other contact as shall be identified on UTA's website location noted below.

A copy of the permit that shall be filled out and submitted can be found on UTA's website, under the Track Access Permit tab.

<https://rideuta.com/Doing-Business/Property-Management>

Note: Access Permits will not be issued without first having an executed Contractor's Right of Entry Agreement, UTA having received proof of insurance as provided in the Right of Entry Agreement, and verification that the Contractor and all of the Contractor's Employees have gone through UTA's Roadway Worker Training, if applicable.

Licensee or Licensee's contractor shall only cross the Right of Way at designated Public Crossings

1. Licensee or Licensee's contractor shall provide a rail monitoring plan to be reviewed and approved by UTA prior to commencement of Construction. The top of rail shall not deflect more than ¼ inch vertically or horizontally. Licensee or Licensee's contractor shall also provide an established contingency plan in the event of ground loss and/or the rail deviates ¼ inch vertical or horizontal, the contingency plan must be reviewed and approved by UTA prior to commencing the Construction. In the event that the top of rail deflects more than ¼ inch, operations shall stop immediately and the UTA onsite representative notified. Construction shall not continue until UTA's engineer has determined the appropriate action required to protect the safety, integrity and functionality of the railroad elements.
 - a. UTA RWIC required for installing and monitoring survey points during Construction
2. Licensee or Licensee's Contractor shall pothole to locate and protect in place all UTA fiber and utilities in accordance with this Agreement or as otherwise specified by separate potholing agreement.
 - a. Fiber locate must be verified by a UTA authorized party prior to commencement of bore
 - b. Licensee or Licensee's Contractor shall provide minimum 7-day notice request for UTA marking of fiber and submit fee of \$650.00 for such marking.
 - i. Contact Bryan Keck to schedule bkeck@rideuta.com; (801) 807-9601 to schedule
3. Licensee or Licensee's Contractor shall coordinate for a UTA representative or RWIC to be present during the work, such representative shall be determined at UTA's sole and separate discretion.

4. UDOT Project Work to be performed during UTA non-operational hours of service unless otherwise determined Frontrunner Track Access Permitting.
5. Licensee or License's Contractor shall provide shoring plans stamped by a professional engineer licensed in the State of Utah as directed on Note 2 of sheet C2-222RR of the project drawings. Shoring plans to be provided for review and approval by UTA prior to commencement of construction
6. Licensee or License's Contractor shall only cross the Right of Way at designated public crossings.

RESOLUTION 2022-18

A RESOLUTION OF THE VINEYARD CITY COUNCIL APPROVING A PIPELINE CROSSING AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY

WHEREAS, Vineyard City has recently determined the need for the installation of a water supply line through right-of-way owned by the Union Pacific Railroad Company (“UPRC”); and

WHEREAS, the City and UPRC now desire to enter into a Pipeline Crossing Agreement governing the use of the right-of-way; and

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF VINEYARD AS FOLLOWS:

Section 1. Approval. That certain Pipeline Crossing Agreement with UPRC, attached hereto as Exhibit A and incorporated herein by reference, is hereby approved by the City Council of Vineyard City. The City Manager of the City is hereby authorized to execute the Agreement for and in behalf of the City.

Section 2. Severability. If any section, part or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts and provisions of this Resolution shall be severable.

Section 3. Effective Date. This Resolution shall become effective immediately upon its approval by the City Council.

Passed and dated this 15th day of June 2022.

Mayor

Attest:

Recorder



April 14, 2022
Folder: 03322-45

CHRIS WILSON
VINEYARD CITY
125 SOUTH MAIN STREET
VINEYARD, UT 84059

Re: Proposed One (1) Underground Twenty Four Inch (24") Steel Drinking Water Pipe Encased In A Thirty Six Inch (36") Steel Casing Pipeline Crossing of Railroad Property at Mile Post 709.91 on the Provo Subdivision at or near Vineyard, Utah County, Utah

Attached is an original of the agreement covering your use of the Railroad Company's right of way. Please return the executed agreement via email. For any payment(s), please follow the accompanying instructions.

An original copy of the fully-executed document will be returned to you, when approved and processed by the Railroad Company.

- Payment in the amount of **One Thousand Two Hundred Fifty Dollars (\$1,250.00)** is due and payable to Union Pacific Railroad Company upon your execution of the agreement. Please include your payment, **with Folder No. 03322-45 noted on that document.** If you require formal billing, you may consider this letter as a formal bill and that 94-6001323 is this Corporation's correct Federal Taxpayer Identification Number.
- Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed documents within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

If you have any questions, please contact me at tleddy@up.com.

Sincerely,

Thomas Leddy
Sr Analyst Real Estate

PIPELINE CROSSING AGREEMENT

Mile Post: 709.91, Provo Subdivision
Location: Vineyard, Utah County, Utah

THIS AGREEMENT ("Agreement") is made and entered into as of April 14, 2022, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **VINEYARD CITY**, to be addressed at 125 South Main Street, Vineyard, Utah 84059 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate one (1) underground twenty four inch (24") steel drinking water pipe encased in a thirty six inch (36") steel casing pipeline crossing only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Vineyard, Utah County, State of Utah ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated March 10, 2022, attached hereto as **Exhibit A** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for one (1) underground twenty four inch (24") steel drinking water pipe encased in a thirty six inch (36") steel casing pipeline crossing, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of **One Thousand Two Hundred Fifty Dollars (\$1,250.00)**.

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licensors at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licensors to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licensors herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licensors to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licensors of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licensors to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licensors, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licensors's written consent, will be absolutely void and may result in Licensors's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

B. Upon Licensor's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Folder No. 03322-45)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: VINEYARD CITY
125 South Main Street
Vineyard, Utah 84059

Article 12. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

VINEYARD CITY

By: _____

By: _____

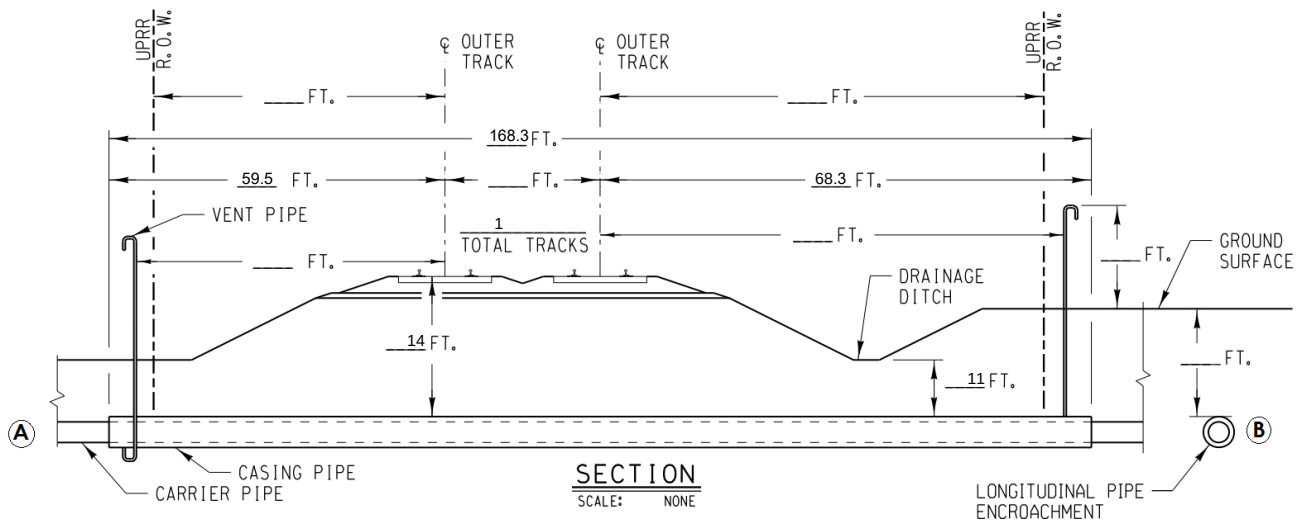
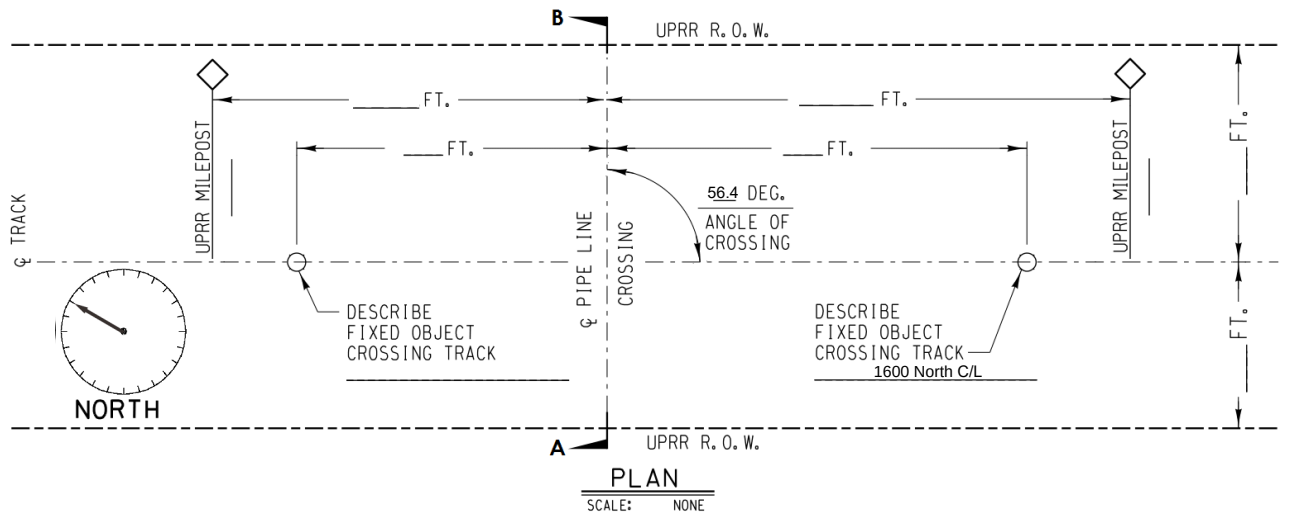
Thomas Leddy
Sr Analyst Real Estate

Name Printed: _____

Title: _____

NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING
☐ ENCROACHMENT
☐ BOTH



NOTES:

- 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK
- 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.1

- A) METHOD OF INSTALLATION BORED AND JACKED
- B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT _____
- C) SIGNS PROVIDED? AT MINIMUM SIGNS WILL BE PROVIDED AS STATED ABOVE
- D) CARRIER MATERIAL STEEL. IF RCP, CLASS V? NA.
COMMODITY TO BE CONVEYED DRINKING WATER.
OPERATIONAL PRESSURE 60 PSI. MAOP 60 PSI.
WALL THICKNESS (INCH)/ SCHEDULE 0.42. DIAMETER 24 IN.
CATHODIC/COATING PROTECTION YES
- E) CASING MATERIAL STEEL PIPE. IF RCP, CLASS V? NA.
TOTAL LENGTH CASING PIPE: 202 FT.
WALL THICKNESS 0.5625 IN. DIAMETER 36 IN.
CATHODIC/COATING PROTECTION YES
CASING PIPE IS SEALED AT THE ENDS.
- F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES
95 AND 57.



BUILDING AMERICA®

EXHIBIT "A"

SUBDIVISION:

TRACK TYPE: MAINLINE TRACK

M.P.:

LAT.: 40.326322

E.S.M.:

LONG.: -111.75938

NEAREST CITY:

COUNTY:

STATE:

VINEYARD

UTAH

UT

APPLICANT: VINEYARD CITY

FILE NO.: 0332245

DATE: 03/10/2022

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensors to use and maintain its entire property including the right and power of Licensors to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensors without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensors to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensors's satisfaction and in strict conformity with: (i) Licensors's current engineering standards and specifications, including those for shoring and cribbing to protect Licensors's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensors's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensors, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensors's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licensors's approval, Licensee shall contact both of Licensors's field representatives ("Licensors's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licensor has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensor's Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensor's Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensor shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensor will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensor, including but not limited to flagging, Licensor shall bill Licensee for such expenses incurred by Licensor, unless Licensor and a federal, state, or local governmental entity have agreed that Licensor is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensor and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensor performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensor and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensor will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensor is required to pay the flaggers and which could not reasonably be avoided by Licensor by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensor to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensor a minimum of

five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensors if flagging services are needed again after such five day cessation notice has been given to Licensors.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensors then current safety standards located at the below web address ("Licensors Safety Standards") to ensure uniformity with the safety standards followed by Licensors own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensors if it determines that any of Licensors Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensors Safety Standards to each of its employees before they enter Railroad Property.

[Union Pacific Current Safety Requirements](#)

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensors, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensors operations and work performed by Licensors personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensors shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensors Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**.

E. Licensors shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensors operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensors provides such support, Licensors shall invoice Licensee, and Licensee shall pay Licensors as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensors Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensors then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall visit up.com/CBUD to complete and submit the required form to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline

Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.
2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.
3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;

3. Removal of person(s) from Railroad Property;
4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;
5. Right(s) or interest(s) granted pursuant to this Agreement;
6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;
7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at [this link](#) for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad

Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licenser at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licenser immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licenser at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been restored in accordance with Licenser's requirements. Upon Licenser's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licenser may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licenser will be at the cost and expense of Licensee. In the event that Licenser performs any of the Restoration Work, Licensee shall release Licenser from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licenser's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B**), accrued or otherwise, which may have arisen prior to such termination.

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance.** Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured,

this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance.** Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensor only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensor's property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance.** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

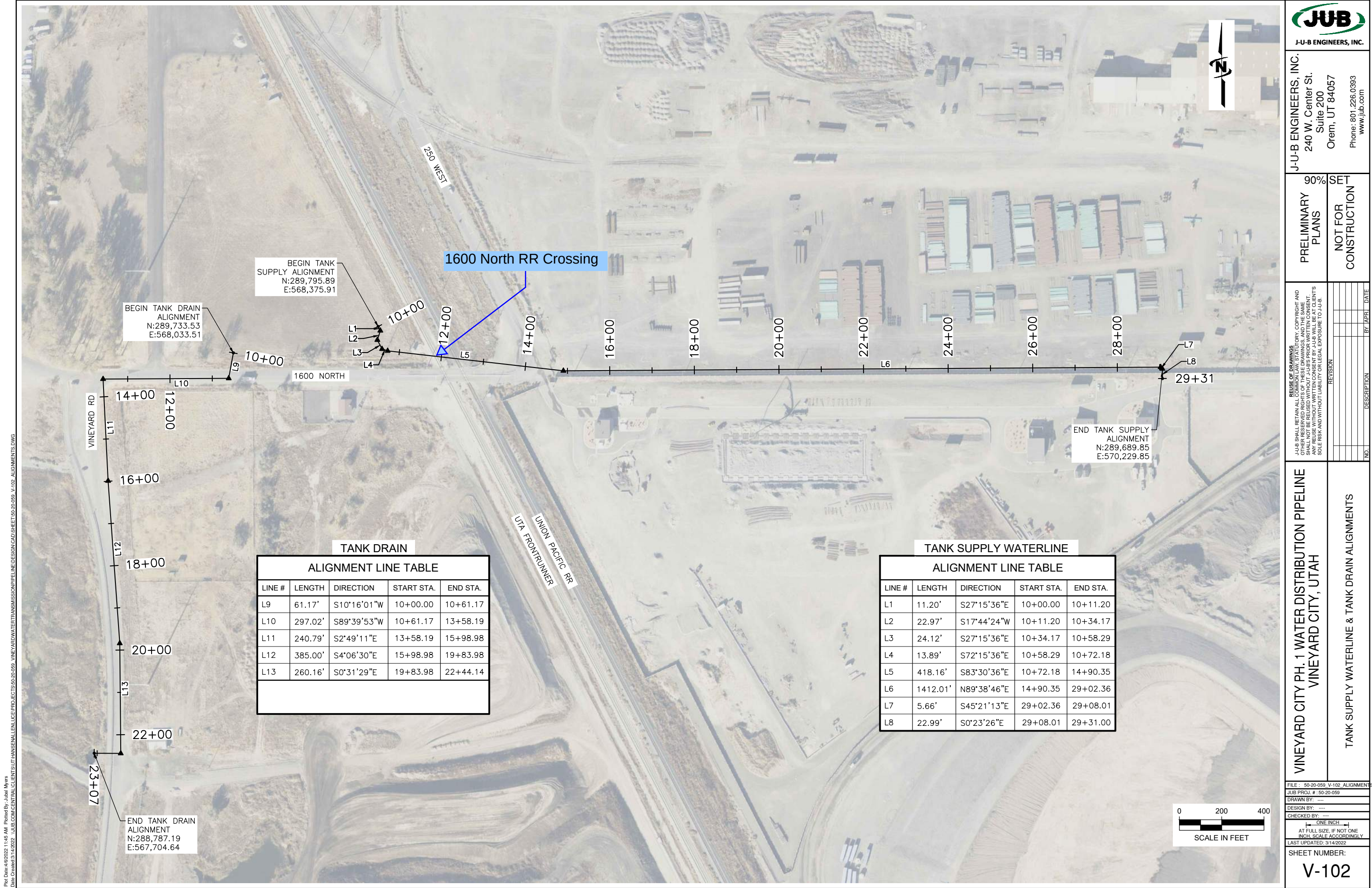
G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensor as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensor as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensor and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensor from Licensee or any third party will not be limited by the amount of the required insurance coverage.





J-U-B ENGINEERS, INC.

J-U-B ENGINEERS, INC.
240 W. Center St.
Suite 200
Orem, UT 84057
Phone: 801.226.0393
www.jub.com

90% SET

PRELIMINARY PLANS

NOT FOR CONSTRUCTION

REUSE OF DRAWINGS

JUB SHALL RETAIN ALL COMMON LAW, STATUTORY, COPYRIGHT AND OTHER RIGHTS IN THIS DRAWING. NO PART OF THIS DRAWING SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN CONSENT OF JUB. ANY REUSE WITHOUT WRITTEN CONSENT BY JUB WILL BE AT CLIENT'S SOLE RISK AND WITHOUT LIABILITY OR LEGAL EXPOSURE TO JUB.

NO.	REVISION	DESCRIPTION	BY	DATE

VINEYARD CITY PH. 1 WATER DISTRIBUTION PIPELINE
VINEYARD CITY, UTAH

TANK SUPPLY WATERLINE & TANK DRAIN ALIGNMENTS

FILE: 50-20-059 V-102 ALIGNMENTS
JUB PROJ. #: 50-20-059
DRAWN BY: ---
DESIGN BY: ---
CHECKED BY: ---
AT FULL SIZE, IF NOT ONE INCH SCALE ACCORDINGLY
LAST UPDATED: 3/14/2022
SHEET NUMBER:
V-102



VINEYARD CITY COUNCIL STAFF REPORT

Meeting Date: 06/15/2022

Agenda Item: 7.6 Amendments to the CDBG Program Agreement

Department: Recorder

Presenter: Pamela Spencer

Background/Discussion:

In 2016, Vineyard entered into an Interlocal Cooperation Agreement with Utah County to participate in the U.S. Department of Housing and Urban Development's (HUD) Community Development Block (CDBG) Grant Program. The Interlocal Cooperation Agreement was for Federal Fiscal Years 2017 through 2019 and successive 3-year periods thereafter. The Interlocal Agreement was amended in 2019 and was due to renew this year. However, due to federal regulations, changes have been made to Agreement 2016-633 Section 7, it becomes necessary to amend the agreement with Utah County to continue Vineyard's participation in the CDBG program. Those amendments were approved on May 25, 2022. The Utah County Attorney's Office has made additional amendments to the agreement in sections 1, 2, 3, 5, and 7.

Fiscal Impact:

N/A

Recommendation:

Staff recommends adoption of the additional amendments to CDBG Program agreement.

Sample Motion:

I move to adopt Resolution 2022-19, Amending the Participation Agreement Between Vineyard, Utah and Utah County to Participate in the Community Development Block Grant (CDBG) Program and allow the mayor to sign the amended agreement.

Attachments:

Resolution 2022-19

Amendment to 2016-633 agreement (version 2, 5.31.22).

RESOLUTION NO. 2022-19

**A RESOLUTION AUTHORIZING THE MAYOR TO
SIGN AN INTERLOCAL AGREEMENT**

WHEREAS, pursuant to the Utah Interlocal Cooperation Act, Utah Code Annotated, Section 11-13-1, et seq., 1953 as amended, governmental entities are allowed to enter into agreements for the joint provision of services; and

WHEREAS, Vineyard City Council, having determined that it is in the public interest and welfare of its residents, has negotiated an agreement with Utah County to amend the interlocal agreement entered into in 2016, and amended in 2022, allowing Vineyard to continue participating in the Community Development Block Grant (CDBG) program.

WHEREAS, The Utah County Attorney's Office has added additional amendments to the agreement making necessary to reapprove the amended agreement.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF
VINEYARD AS FOLLOWS:**

1. The Vineyard City Council authorizes the mayor to sign the agreement titled Amendment to Interlocal Agreement 2016-633 between Utah County and Vineyard City (v2, 5.31.2022), in the form attached hereto as Exhibit A.
2. This resolution shall take effect upon passing.

Passed and dated this 15th day of June, 2022.

Mayor

Attest:

Recorder

AGREEMENT NO. 2022 - _____

**AMENDMENT TO INTERLOCAL AGREEMENT 2016-633
BETWEEN UTAH COUNTY AND VINEYARD CITY**

THIS AMENDMENT, made and entered into this ____ day of _____ 2022, by and between **UTAH COUNTY**, a corporate and political body of the State of Utah, hereinafter referred to as the **COUNTY**, and **VINEYARD CITY**, a municipal corporation, hereinafter referred to as **CITY**.

WHEREAS, the above parties previously entered into Agreement No. 2016-633 relating to the Community Development Block Grant Program; and

WHEREAS, the above parties previously entered into Agreement No. 2019-560 amending Agreement No. 2016-633 to update the Department of Housing and Urban Development (“HUD”) requirements; and

WHEREAS, the **COUNTY** and **CITY** desire to further amend Agreement No. 2016-633 to continue CDBG efforts and maintain compliance with HUD requirements.

NOW THEREFORE, in consideration of the foregoing, the mutual covenants made herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the **COUNTY** and **CITY** hereby amend Agreement No. 2016-633 to read as follows:

Section 1, second to last sentence:

1. As provided in Section 570.307 of the Regulations, the qualification of the County as an urban county shall remain effective for the entire 3-year period in effect regardless of changes in its population during that period of time, and the parties agree

the City may not withdraw from nor be removed from inclusion in the urban county for HUD's grant computation purposes during that 3-year period.

Section 2, first sentence:

2. The City and the County shall cooperate in the development and selection of CDBG program activities and projects to be conducted or performed in the City during each of the Federal Fiscal Years (2017-2019) and for each successive 3-year period covered by this agreement.

Section 3:

3. The City recognizes and understands that the County, as a qualified urban county, will be the entity required to execute all grant agreements received from HUD pursuant to the County's annual requests for CDBG program funds that HUD will hold the County, as the grantee under the CDBG programs, legally liable and responsible for the overall administration and performance of the annual CDBG programs, including the projects and activities to be conducted in the City. By executing the agreement, the City understands that (1) the City may not apply for grants under the Small City or State CDBG programs from appropriations for fiscal years during the period in which they are participating in the urban county's CDBG program; (2) the City may receive a formula allocation under the HOME Program only through Utah County as an urban county; and (3) the City may receive a formula allocation under the ESG Program only through the Urban County.

Section 5, first sentence:

5. Prior to disbursing any CDBG programs to any subrecipients, the County shall enter into written agreements with such subrecipients in compliance with 24 CFR 570.503 (CDBG) of the Regulations.

Section 7:

7. City agrees to do all things that are appropriate and required of it to comply with the applicable provisions of the grant agreements received by the County from HUD, the provisions of the Act, and all Rules and Regulations, guidelines, circulars, and other requisites promulgated by the various federal departments, agencies, administrations and commissions relating to the CDBG program. The City and the County agree that failure by them to adopt an amendment to the agreement incorporating all changes necessary to meet the requirements for cooperation agreements set forth in the Urban County Qualification Notice applicable for a subsequent three-year qualification period, and to submit the amendment to HUD as provided in the urban county qualification notice, will void the automatic renewal of such qualification period. In addition the City and the County shall take all actions necessary to assure compliance with the certification required of the County by Section 104(b) of Title I of the Housing and Community Development Act of 1974 as amended, that the grant will be conducted in conformity with Title VI of the Civil Rights Act of 1964, and the implementing regulations at 24 CFR part 1, and the Fair Housing Act, and the implementing regulations at 24 CFR part 100 and other applicable laws. In addition, the City and the County shall take all actions necessary to assure compliance with Title VI of the Civil Rights Act of 1964; the Fair Housing Act; Section 109 of the Title I of the Housing and Community Development Act of 1974, and the implementing regulations at 24 CFR part 6, which incorporates Section 504 of the Rehabilitation Act of 1973, and the implementing regulations at 24 CFR part 8; Title II of the Americans with Disabilities Act, and the implementing regulations at 28 CFR part 35; the Age Discrimination Act of 1975, and the implementing regulation at 24 CFR part 146; Section 3 of the Housing and Urban Development Act of 1968; and other applicable laws, and shall affirmatively further fair housing.

The remaining paragraphs of Agreement No. 2016-633 and 2019-560 which have not been amended herein shall remain in full force and effect.

IN WITNESS WHEREOF the parties have caused this Amendment to be duly executed

on the date listed above.

BOARD OF COUNTY COMMISSIONERS
UTAH COUNTY, UTAH

Thomas V. Sakievich, Chair

ATTEST:
JOSH DANIELS
Utah County Clerk/Auditor

By: _____
Deputy Clerk/Auditor

APPROVED AS TO FORM AND COMPLIANCE
WITH APPLICABLE LAWS:
DAVID O. LEAVITT
Utah County Attorney

By: _____
Deputy County Attorney

AMERICAN FORK CITY

AMERICAN FORK CITY

By: _____
Mayor

Attest:

By: _____
City Recorder

REVIEWED AS TO FORM AND
COMPLIANCE WITH APPLICABLE LAW:

By: _____
City Attorney



VINEYARD CITY COUNCIL STAFF REPORT

Meeting Date: June 15, 2022

Agenda Item: 7.7 Approval of PTIF Management Authorization

Department: Finance

Presenter: David Mortensen

Background/Discussion:

The Utah State Treasurer's Office requires that the City Council pass a resolution giving at least two individuals authority to add or delete users to access and/or transact with PTIF accounts; to add, delete, or make changes to bank accounts tied to PTIF accounts; to open or close PTIF accounts; and to execute any necessary forms in connection with such changes on behalf of Vineyard City.

With the recent departure of Bayley Deason, Treasurer, who was previously given this authority, it is necessary to pass a new resolution. It is proposed that this authority be given to David Mortensen, Finance Director; Kristie Bayles, incoming City Treasurer; and Ezra Nair, City Manager.

Fiscal Impact: None

Recommendation: Approval of the Resolution

Sample Motion: I move to approve the resolution as presented by staff giving authority to David Mortensen, Kristie Bayles, and Ezra Nair to add or delete users; to access and/or transact with PTIF accounts; to add, delete, or make changes to bank accounts tied to PTIF accounts; to open or close PTIF accounts; and to execute any necessary forms in connection with such changes on behalf of Vineyard City.

Attachments:

Resolution 2022-20

PTIF Entity Resolution Form

VINEYARD CITY

RESOLUTION NO. 2022-20

**A RESOLUTION OF THE CITY COUNCIL OF VINEYARD CITY
AUTHORIZING CERTAIN INDIVIDUALS TO MAKE CHANGES TO
THE CITY'S PTIF FUND ACCOUNT.**

WHEREAS, the City Council of Vineyard City has determined that it will aid the efficient fiscal operations of the City for the City to designate those individuals who shall have access to and the ability to alter authorizations of the City's PTIF account; and

WHEREAS, in the interest of fiscal integrity and sound financial practices, the City Council now desires to make the required authorizations;

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF
VINEYARD AS FOLLOWS:**

Section 1. Adoption. The City Council of Vineyard, Utah hereby authorizes the City's Finance Director and the City's Treasurer to have access to the City's PTIF account to make administrative changes. The City Manager is hereby authorized by the City Council to provide the attached Certification of Authorized Individuals to the State Treasurer's Office listing the name and position of the City's Finance Director and the name and position of the City's Treasurer.

Section 2. Severability. If any section, part, or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts and provisions of this Resolution shall be severable.

Section 3. Effective Date. This Resolution shall become effective immediately upon its approval by the City Council.

Passed and dated this 15th day of June, 2022.

Mayor

Attest:

Recorder



Office of the
State Treasurer

Public Entity Resolution

1. Certification of Authorized Individuals

I, _____(Name) hereby certify that the following are authorized: to add or delete users to access and/or transact with PTIF accounts; to add, delete, or make changes to bank accounts tied to PTIF accounts; to open or close PTIF accounts; and to execute any necessary forms in connection with such changes on behalf of _____(Name of Legal Entity). Please list at least two individuals. Each individual must have a unique email.

Name	Title	Email	Signature(s)
_____	_____	_____	_____
_____	_____	_____	_____

The authority of the named individuals to act on behalf of _____(Name of Legal Entity) shall remain in full force and effect until written revocation from _____(Name of Legal Entity) is delivered to the Office of the State Treasurer.

2. Signature of Authorization

I, the undersigned, _____(Title) of the above named entity, do hereby certify that the forgoing is a true copy of a resolution adopted by the governing body for banking and investments of said entity on the _____day of _____, 20____, at which a quorum was present and voted; that said resolution is now in full force and effect; and that the signatures as shown above are genuine.

Signature	Date	Printed Name	Title
_____	_____	_____	_____

STATE OF UTAH)
) §
COUNTY OF _____)

Subscribed and sworn to me on this _____ day of _____, 20____, by
_____ (Name), as _____ (Title) of
_____(Name of Entity), proved to me on the basis of
satisfactory evidence to be the person(s) who appeared before me.

(seal)

Signature_____

RESOLUTION NO. 2022-21

**A RESOLUTION OF THE VINEYARD CITY COUNCIL AUTHORIZING
ADDITIONAL OFFICERS OF THE CITY TO ACT FOR THE CITY REGARDING
THE CITY'S BANK ACCOUNTS**

WHEREAS, the city is governed by Utah Code Annotated 10-6-143 with respect to the issuance of checks; and

WHEREAS, the Vineyard City Council wishes to designate persons authorized to sign checks on behalf of the city;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Vineyard, Utah as follows:

Section 1. Authorization. Subject to the requirements of Utah Code Annotated Title 10, Chapter 6, and the constraints of the City's budget, any additional officers and agents of the City designated below are hereby authorized to sign checks on behalf of the City. Before affixing a signature, the designated officer must determine that a sufficient amount is on deposit in the appropriate bank account of the City to honor the check. The person maintaining the City's financial records may not sign any single signature check.

Section 2. Officers Designated. The persons occupying the following offices or positions with the city are authorized to sign checks on behalf of the city: City Manager, Finance Director, and City Treasurer.

Section 3. Binding Effect. Any agreements, instruments or documents executed and delivered to Zions Bank by any of the above-named additional officers or agents shall be the binding and enforceable obligations of the City, enforceable in accordance with their respective terms.

Section 4. Severability Clause. If any section, part or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts and provisions of this Resolution shall be severable.

Section 5. Effective Date. This Resolution shall become effective immediately upon its passage.

Passed and dated this 15th day of June 2022.

Julie Fullmer, Mayor

Attest

Pamela Spencer, City Recorder



VINEYARD CITY COUNCIL STAFF REPORT

Meeting Date: June 15, 2022

Agenda Item: Rex Real Estate/The Tribe

Department: Admin

Presenter: Anna Nelson

Background/Discussion:

The Tribe Utah has applied for a special event permit on behalf of Rex Real Estate for an event at Grove Park on 7/1/2022 from 7:00 PM to 11:00 PM with setup starting at 8:00 AM and cleanup happening after the event and throughout the day the following day. This is a client outreach and community event and they are anticipating 1750 participants in attendance.

They would like to use one of Grove Park's soccer fields to have 11 bounce houses, 8-9 food vendors, a stage for live music, and fireworks.

We are supportive of hosting events like this and have attempted to facilitate this as much as possible. We have met as staff to make sure that we provide this recommendation that will work for each of the staff members involved.

Impact:

- Multiple large events have happened at Grove Park with live music, this may have an impact on residents.
- All of the parking is required at the park including the detention area to ensure enough parking is available for the participants at the event.

Recommendation:

We are recommending one condition for approval.

1. An adequate parking plan that includes both Freedom Elementary and Trailside Elementary. And at least 3 volunteers directing parking throughout the event.
2. A mass gathering permit issued by Utah County.
3. A firework permit issued by Orem Fire, with the contingency of wind ratings being below 15 MPH for the firework show to move forward.
4. Utah County Sheriff's office supplemental law enforcement agreement. Contracting 4 total sheriffs for security and firework monitoring.
5. Rental fee

We are recommending the following fees for a total of \$1630 and \$930 deposit.

Special Event Permit Fee: \$100

Special Event Deposit: \$300

Soccer Field Rental: (3 fields per event map): \$1200

Soccer field deposit: \$300



VINEYARD CITY COUNCIL STAFF REPORT

Bounce house deposit: \$100

Temporary structure permit: \$100

2 Pavilion reservation: \$230

2 Pavilion rental deposit: \$230

The applicant is requesting a fee waiver for this event.

Sample Motion:

Motion to approve the special events permit application for Rex Real Estate on July 1st with the one condition that have been recommended by staff.

Or

Motion to approve the special events permit application for Rex Real Estate on July 1st with the rental fees waived.

Attachments:

See attached Special Event Applications and site plans

Special Events Department
125 South Main St.
(801)226-1929
annan@vineyardutah.org



FOR OFFICE USE ONLY

Application Received _____

Fee Paid _____

Special Event Permit Application

The following application must be submitted **30 days prior to the scheduled event**, and the permit must be obtained a minimum of one week prior to the event. This application DOES NOT constitute a valid Special Event Permit until approved by the City.

APPLICANT INFORMATION

Name of Applicant: The Tribe Utah, LLC		Date of application: 5/30/22	
Applying in behalf of (if other than self): Rex Real Estate Team			
Email address: Erik@thetribeutah.com			
Mailing Address: 1200 Towne Centre Blvd. Spc 2134			
City: Provo	State: UT	Zip Code: 84601	Phone: 801-664-1077
Name of Event: Rex Real Estate Team Firework Show and Client Appreciation Party			
Date of Event: 7/1/22			

EVENT INFORMATION

Name of Event: Rex Real Estate Team Firework Show and Client Appreciation Party		
Date of Event: 7/1/22		Number of people anticipated at event: 999
Setup: 7/1/22	Start time: 8:00 AM	End time: 7:00 PM
Cleanup: 7/1/22 and 7/2/22	Start time: 11:00 PM	End time: TBD

Type of Event

☐ Athletic ☒ Entertainment ☐ Other: _____

Brief Description of Event: Free 4th of July celebration; all ages with live music, fireworks, and vendors.

Will Vineyard streets be used? ☐ Yes ☒ No

Will streets need to be closed/blocked to traffic? ☐ Yes ☒ No

If any portion of a street is closed, the event organizer will need to provide barricades. As a consideration for this permit, the applicant agrees to:

1. Rent or secure barricades from a licensed barricade company.
2. Assume all liability of erection and maintenance of barricades.
3. Clean up the area upon termination of the permitted use.
4. Assume all liability for the applicant's use of the street during the specified period.
5. Ensure that barricades will be conspicuously displayed and lighted if the event takes place prior to dawn or after dusk.

Will you be using portable toilets? ☐ Yes ☒ No Have you made arrangements for trash disposal? ☒ Yes ☐ No

Will your event include the use of a Vineyard pavilion? ☐ Yes ☒ No If yes, a pavilion reservation is also required.

Will your event include the use of a bounce house or inflatable play equipment? ☒ Yes ☐ No

If yes, a refundable \$200 deposit is required. Additional fees may be assessed after the event for any damages on city property due to bounce houses/inflatables.

Vendors/Food/Alcohol

Will there be vendors selling products or services? ☒ Yes ☐ No

If yes, we require the Temporary Sales Tax Numbers from the State of Utah Special Events Tax Division for all vendors. Please complete the attached Vendor Information sheet.

If vendors are selling food, submit a copy of their Utah County Health Department Permit.

If vendors are selling alcohol, a separate Class C Temporary Liquor License or Class D Temporary Beer License is required. Please note that alcohol use is PROHIBITED on City property. (Vineyard Municipal Code Chapter 8-300)

Law Enforcement/Security Services

Each special event permit application will be reviewed, and based on event type and number of attendees, the Utah County Sheriff's Department will determine the number of law enforcement personnel required for the event, if any.

We contract with the Utah County Sheriff's Department. If you are in need of any law enforcement services for your event, please contact them at (801)794-3970. See the attached Agreement for Supplemental Law Enforcement Services.

By submitting a signed application, the applicant certifies that falsifying any information on this application constitutes cause for rejection or revocation of the permit. The applicant agrees to pay additional fees as required for the use of City services and facilities.

Applicant's Name (please print): Erik Little

Applicant's Signature: Erik Little Date: 5/30/22

CITY APPROVAL

City Personnel for Event _____ Number of Hours _____ Fee Paid \$ _____

Utah County Sheriff Personnel for Event _____ Number of Hours _____ Fee Paid \$ _____

This application has been reviewed, including verification of required insurance and other information, and required fees have been paid.

Vineyard Public Works Department

Date _____

Utah County Sheriff's Office

Date _____

Vineyard Special Events Department

Date _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/31/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER East Main Street Insurance Services, Inc. Will Maddux PO Box 1298 Grass Valley CA 95945	CONTACT NAME: Will Maddux PHONE (A/C. No. Ext): (530) 477-6521 FAX (A/C. No): E-MAIL ADDRESS: info@theeventhelper.com
INSURED The Tribe Utah, LLC Erik Little 1200 Towne Centre Blvd., Suite #2134 Provo UT 84601	INSURER(S) AFFORDING COVERAGE INSURER A: Evanston Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Host Liquor Liability ☐ Retail Liquor Liability GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y		3DS5473-M2741341	07/01/2022 12:01 AM	07/02/2022 12:01 AM	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Deductible \$ 1,000
	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	☐ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y / N ☐ N / A						PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder listed below is named as additional insured per attached MEGL 2217 01 19.
Attendance: 999, Event Type: Concert - Pop/Cover Band.

CERTIFICATE HOLDER**CANCELLATION**

Vineyard Grove Park 350 N 100 E Vineyard UT 84059	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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EVANSTON INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

Vineyard Grove Park
350 N 100 E
Vineyard, UT 84059

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule of this endorsement, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by the acts or omissions of any insured listed under Paragraph **1.** or **2.** of Section II – Who Is An Insured:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms and conditions remain unchanged.

Anna Nelson

From: Erik Little <erik@thetribetah.com>
Sent: Friday, June 3, 2022 7:43 PM
To: Anna Nelson
Cc: Chris Francis; Jimmy Rex
Subject: Re: Rex Real Estate Team Client Appreciation Party Application - July 1

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Anna,

I responded to your bullet points in red.

I met with our review committee and they had the following questions and comments:

- Based on previous years the numbers you're estimated seem pretty low. We estimated about 1500 people at Rex Real Estates last firework show, it was a great turnout. And with your help and great advertisement, Erik we think the turnout will be even larger. We just want to ensure that estimations are correct so your permit is accurate. That being said, we want to have you adjust your numbers to reflect the correct amount estimated. And we would like you to get a mass gathering permit based on those numbers. **We will adjust the number of estimated attendees to 1,750 to more accurately account for your estimations.**
- Port – a- pottys would be required. You would need to provide as many as is required based on the county code. I can get you the exact number by Monday. **We will provide portable toilets based on what is required by the county. It is our understanding that there are already 8 toilets at the park. Is this correct? Hopefully, we can take those into account for the county requirements.**
- How many bounce houses are you anticipating? **We have reserved 11 inflatables for the event.**
- You noted 4- 6 food vendors. In previous years Rex Real Estate had closer to 8 or 9. Just wondering if the 4-6 is accurate. **After talking with Jimmy's team, they agree that there will probably be 8 or 9 food vendors again this year.**
- We are going to be recommending to the council that an adequate parking plan is provided which would include reserving both freedom prep and trailside elementary. **Sounds good. We will get to work on this parking plan ASAP. Is there someone in particular who needs to give us permission to use the lots at the schools?**

Thanks for your help on this.

Erik



On Thu, Jun 2, 2022 at 4:55 PM Anna Nelson <annan@vineyardutah.org> wrote:

Hi Erik,

I met with our review committee and they had the following questions and comments:

- Based on previous years the numbers you're estimated seem pretty low. We estimated about 1500 people at Rex Real Estates last firework show, it was a great turnout. And with your help and great advertisement, Erik we think the turnout will be even larger. We just want to ensure that estimations are correct so your permit is accurate. That being said, we want to have you adjust your numbers to reflect the correct amount estimated. And we would like you to get a mass gathering permit based on those numbers.
- Port – a- pottys would be required. You would need to provide as many as is required based on the county code. I can get you the exact number by Monday.
- How many bounce houses are you anticipating?
- You noted 4- 6 food vendors. In previous years Rex Real Estate had closer to 8 or 9. Just wondering if the 4-6 is accurate.
- We are going to be recommending to the council that an adequate parking plan is provided which would include reserving both freedom prep and trailside elementary.

I think for now those are the comments we have. We will be meeting again next Thursday to officially prepare the staff report and we will have you on the agenda June 15th for review from the city council.

Thanks,



Anna Nelson

Development Services Technician | Vineyard

p: 801.226.1929

a: 125 S Main Street

w: vineyardutah.org

From: Erik Little <erik@thetribetah.com>

Sent: Wednesday, June 1, 2022 11:36 AM

To: Anna Nelson <annan@vineyardutah.org>

Cc: Chris Francis <7627408@gmail.com>; Jimmy Rex <jimmyrex@rret.com>

Subject: Re: Rex Real Estate Team Client Appreciation Party Application - July 1

Hi Anna,

Ideally, we'd like to avoid the process of obtaining a mass gathering permit because, as you said, the zoning of the park might not require it. Keep me posted on that because we are willing to submit the mass gathering permit paperwork ASAP if absolutely necessary.

We anticipate only 4-6 vendors. Turns out the grass area will probably only have 1 or 2. We will have a few food trucks in the parking lot as well.

For fireworks, we are using Firestorm Pyrotechnics (the same company as last time). We just followed up with them about obtaining a permit from Orem Fire. I will keep you posted on the status of that.

A fee waiver would be great since this event directly benefits the community of Vineyard and it is free to attend.

I appreciate you getting back to me so quickly!

Sincerely,

Erik



On Tue, May 31, 2022 at 10:10 AM Anna Nelson <annan@vineyardutah.org> wrote:

Hi Erik,

Thanks! I will get working on this. I am not sure about the mass gathering permit because the park's typical use is also taken into account during the event. But I will reach out to the county and see what they require.

From here I will take your application to our review committee on Thursday. They will give me their feedback and I will take that to the council in the form of a staff report. I will also send you the staff report. I will try my best to get you on the agenda for next council meeting which is Wednesday the 8th.

Can you verify a few things for me:

- What is the max amount of Vendors you are anticipating? Do you have a range you are hoping for?
- Who are you using for fireworks? Have they started the fire permit with Orem Fire?

Please let me know if Rex Real Estate is requesting any Fee Waiver for this event. The fees will be based on our fee schedule which you can find here <https://www.vineyardutah.org/DocumentCenter/View/2734/Consolidated-Fee-Schedule-Amended-392022-2021-2022-Fiscal-Year-FINAL2>. Sorry the current fees listed on the application are outdated. After meeting with our review committee Thursday I should have the fees outlined for you, based on the current fee schedule.

Thanks,



Anna Nelson

Development Services Technician | Vineyard

p: 801.226.1929

a: 125 S Main Street

w: vineyardutah.org

From: Erik Little <erik@thetribetah.com>
Sent: Tuesday, May 31, 2022 9:25 AM
To: Anna Nelson <annan@vineyardutah.org>
Cc: Chris Francis <7627408@gmail.com>; Jimmy Rex <jimmyrex@rret.com>
Subject: Rex Real Estate Team Client Appreciation Party Application - July 1

Hi Anna,

I hope you had a great holiday weekend! I am reaching out on behalf of the Rex Real Estate Team in regards to their annual concert and firework show scheduled to take place on July 1, 2022. We are requesting to host this event at Vineyard Grove Park again.

Attached to this email are the following:

- Special Event Permit Application
- Event layout
- A copy of the insurance for Vineyard Grove Park

We do not have all vendors locked in yet and will submit the Vendor Information Sheet to you before the event takes place. There will be no alcohol sold at the event.

We can pay the \$200 inflatable deposit as well as the \$100 application fee at any time. Assuming the grass is not damaged, the \$200 deposit will be returned, correct?

We do not plan on obtaining a mass gathering permit from the county because the park is already zoned for mass gatherings and the expected turnout is 999 attendees, which is less than what is required by the county to obtain the permit.

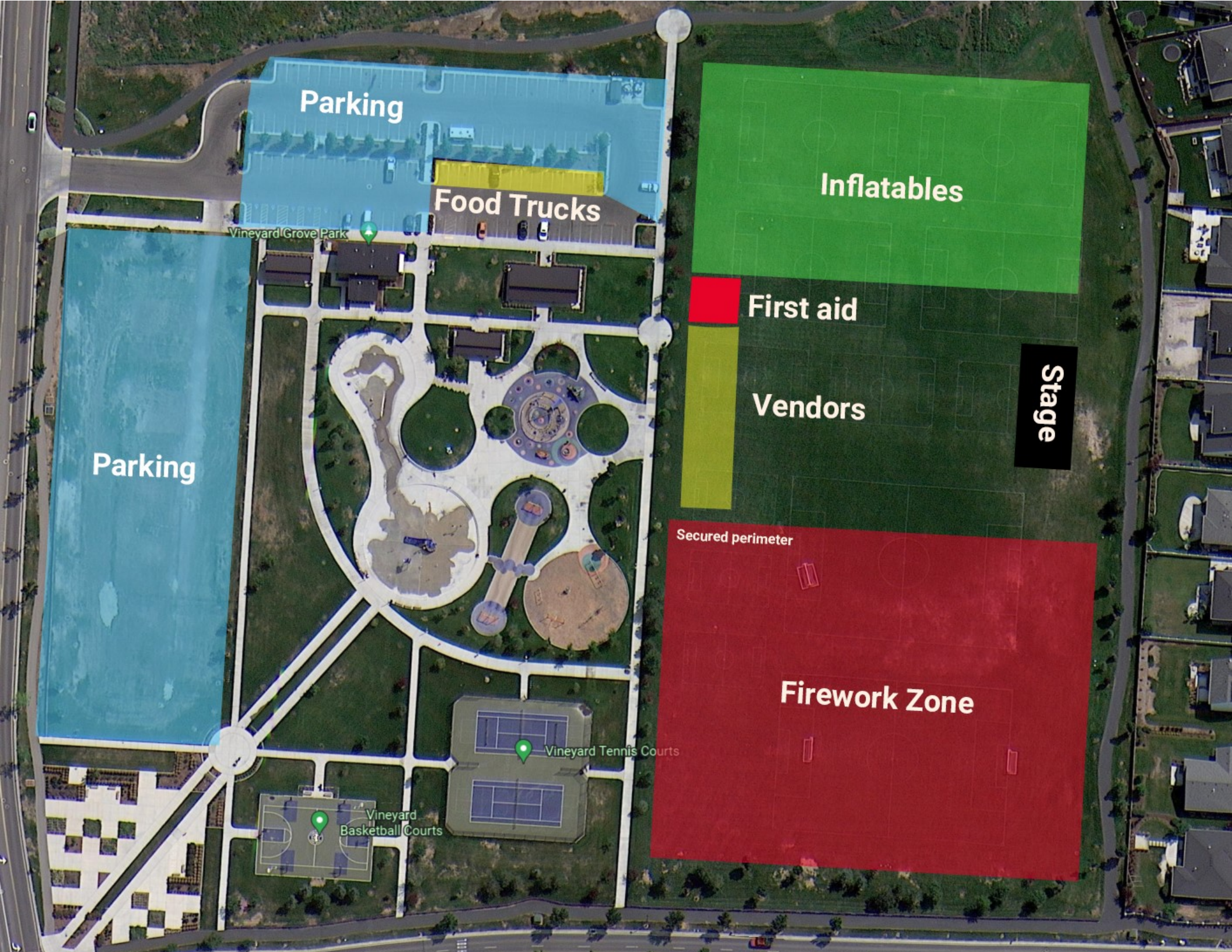
Please let me know if you need anything else at this time.

Sincerely,

Erik Little

The Tribe Utah, LLC

801-664-1077



Parking

Food Trucks

Inflatables

First aid

Vendors

Stage

Parking

Secured perimeter

Firework Zone

Vineyard Grove Park

Vineyard Tennis Courts

Vineyard Basketball Courts



VINEYARD CITY COUNCIL STAFF REPORT

Meeting Date: 6/15/2022

Agenda Item: Latin Festival

Department: Admin

Presenter: Anna Nelson

Background/Discussion:

Stefanie Jean-Baptiste, a Vineyard Resident, has applied for a special event permit on behalf of Utah Mama Latina for an event at Grove Park on 8/13/2022 from 12:00 PM to 10:00 PM with setup starting at 9:00 AM and cleanup happening after the event and throughout the day the following day. This is a community cultural event and they are anticipating 1500-2500 participants in attendance throughout the day. With peak times bringing in up to 800 people at a time.

They would like to use all of Grove Park's soccer fields to have music, folkloric dancers, traditional foods from different countries, and vendors.

We are supportive of hosting events like this and have attempted to facilitate this as much as possible. We have met as staff to make sure that we provide this recommendation that will work for each of the staff members involved.

Impact:

- Multiple large events have happened at Grove Park with live music, this may have an impact on residents.
- All of the parking is required at the park including the detention area to ensure enough parking is available for the participants at the event.

Recommendation:

We are recommending one condition for approval.

1. An adequate parking plan that includes both Freedom Elementary and Trailside Elementary. And at least 3 volunteers directing parking throughout the event.
2. A mass gathering permit issued by Utah County.
3. Utah County Sheriff's office supplemental law enforcement agreement. Contracting 2 total sheriffs for security during peak times.
4. Rental fee

We are recommending the following fees for a total of \$1515 and \$715 deposit.

Special Event Permit Fee: \$100

Special Event Deposit: \$300

Soccer Field Rental: (3 fields per event map, 8 hours): \$1200

Soccer field deposit: \$300

Temporary structure permit: \$100



VINEYARD CITY COUNCIL STAFF REPORT

2 Pavilion reservation: \$115

2 Pavilion rental deposit: \$115

The applicant is requesting a fee waiver for this event.

Sample Motion:

Motion to approve the special events permit application for Utah Mama Latina on August 13th with the one condition that have been recommended by staff.

Or

Motion to approve the special events permit application for Utah Mama Latina on August 13th with the rental fees waived.

Attachments:

See attached Special Event Applications and site plans

Special Events Department
125 South Main St.
(801)226-1929
annan@vineyardutah.org



FOR OFFICE USE ONLY

Application Received _____

Fee Paid _____

Special Event Permit Application

The following application must be submitted **30 days prior to the scheduled event**, and the permit must be obtained a minimum of one week prior to the event. This application DOES NOT constitute a valid Special Event Permit until approved by the City.

APPLICANT INFORMATION

Name of Applicant: <u>Stefanie Jean-Baptiste</u>		Date of application: <u>05/24/2022</u>	
Applying in behalf of (if other than self): <u>UTAH MAMA LATINA</u>			
Email address: <u>utahmamalatinalevents@gmail.com</u>			
Mailing Address: <u>732 North 380 West</u>			
City: <u>Vineyard</u>	State: <u>UT</u>	Zip Code: <u>84059</u>	Phone: <u>801 636 8879</u>
Name of Event: <u>Vineyard's Latino Festival</u>			
Date of Event: <u>August 13, 2022 (Saturday)</u>			

EVENT INFORMATION

Name of Event: <u>Vineyard's Latino Festival</u>		
Date of Event: <u>August 13, 2022</u>		Number of people anticipated at event: <u>1500 - 2500 people throughout day</u>
Setup: <u>9:00 am</u>	Start time: <u>12:00 pm</u>	End time: <u>10: pm</u>
Cleanup: <u>10:00 pm</u>	Start time: <u>"</u>	End time: <u>"</u>

Type of Event

☐ Athletic ☒ Entertainment ☒ Other: cultural

Brief Description of Event: community cultural event

Will Vineyard streets be used? ☐ Yes ☒ No

Will streets need to be closed/blocked to traffic? ☐ Yes ☒ No

If any portion of a street is closed, the event organizer will need to provide barricades. As a consideration for this permit, the applicant agrees to:

1. Rent or secure barricades from a licensed barricade company.
2. Assume all liability of erection and maintenance of barricades.
3. Clean up the area upon termination of the permitted use.
4. Assume all liability for the applicant's use of the street during the specified period.
5. Ensure that barricades will be conspicuously displayed and lighted if the event takes place prior to dawn or after dusk.

Will you be using portable toilets? ☒ Yes ☐ No Have you made arrangements for trash disposal? ☒ Yes ☐ No

Will your event include the use of a Vineyard pavilion? ☐ Yes ☒ No If yes, a pavilion reservation is also required.

Will your event include the use of a bounce house or inflatable play equipment? ☐ Yes ☒ No

If yes, a refundable \$200 deposit is required. Additional fees may be assessed after the event for any damages on city property due to bounce houses/inflatables.

Vendors/Food/Alcohol

Will there be vendors selling products or services? ☒ Yes ☐ No

If yes, we require the Temporary Sales Tax Numbers from the State of Utah Special Events Tax Division for all vendors. Please complete the attached Vendor Information sheet.

If vendors are selling food, submit a copy of their Utah County Health Department Permit.

If vendors are selling alcohol, a separate Class C Temporary Liquor License or Class D Temporary Beer License is required. Please note that alcohol use is PROHIBITED on City property. (Vineyard Municipal Code Chapter 8-300)

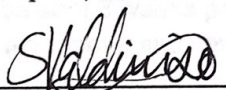
Law Enforcement/Security Services

Each special event permit application will be reviewed, and based on event type and number of attendees, the Utah County Sheriff's Department will determine the number of law enforcement personnel required for the event, if any.

We contract with the Utah County Sheriff's Department. If you are in need of any law enforcement services for your event, please contact them at (801)794-3970. See the attached Agreement for Supplemental Law Enforcement Services.

By submitting a signed application, the applicant certifies that falsifying any information on this application constitutes cause for rejection or revocation of the permit. The applicant agrees to pay additional fees as required for the use of City services and facilities.

Applicant's Name (please print): Stefanie Jean-Baptiste (UTAH MAMA LATINA)

Applicant's Signature:  Date: 05/24/2022

CITY APPROVAL

City Personnel for Event _____ Number of Hours _____ Fee Paid \$ _____

Utah County Sheriff Personnel for Event _____ Number of Hours _____ Fee Paid \$ _____

This application has been reviewed, including verification of required insurance and other information, and required fees have been paid.

Vineyard Public Works Department

Date

Utah County Sheriff's Office

Date

Vineyard Special Events Department

Date

Vineyard City's Latin Festival

August 13, 2022

12:00 P.M. - 10:00 P.M.

Detailed Event Plan:

We would like to use the north side of Vineyard Grove park (grass area) to bring to Vineyard city the first Vineyard City's Latin Festival. We have done this event for 6 years in Orem city as well as many other community events such as El Dia de Los Muertos at Thanksgiving point and at The Shops at Riverwoods. We really think Vineyard city is an amazing new community that would benefit from the rich culture and a new fun way to involve all of Vineyard City's residents as well. Our events bring a lot of music, folkloric dancers, traditional foods from different countries, and many vendors with amazing talents. Our events reach a total of 1500-2500 people throughout the day. We promote our event on our social media platforms, news outlets, and community influencers as well.

Parking plan: Vineyard Grove park parking lot plus grass area for parking, Freedom Prep elementary parking, and Trailside elementary if needed

Crowd Control: We are going to get volunteers for the event however we will try to get Utah County Sheriff's department as well to get enough crowd control coverage.

Security safety plan: same as above

Communication Plan: All directors of the event and volunteers will have communication at all times.

Trash Collection: Our Volunteers and Cleaning Committee for our events.

Vendors list will be sent 3 weeks prior to the event. (Our vendors include food vendors, kids games (no bounce houses), and vendors that sell arts and crafts, homemade goods, clothing, jewelry, etc.

Event Insurance will be available as soon as you guys would like it.

No Alcoholic Beverages will be sold or permitted at our event.

Please let me know if you would like any further information on the event or any concerns.

Thank you,

Stefanie Jean-Baptiste
Event Coordinator
801-636-8879





VINEYARD CITY COUNCIL STAFF REPORT

Meeting Date: June 15, 2022

Agenda Item: 9.3 Ordinance 2022-07 – adding Chapter 13.16 Public Library

Department: Library

Presenter: Kathryn Newman, Communications Manager

Background/Discussion: The Vineyard Children's Library is planning to reopen with Tuesday/Thursday afternoon hours for the summer at its current Gammon Park location on June 21.

Along with the reopening, plans for the transition to 125 S. Main Street location are underway. Once the library is moved, the library will be open on a daily basis.

Because the library is reopening this summer, we are able to continue our three-year process to become certified by the Utah State Library without interruption. One of the next steps in the Utah State Library's certification process is to form the Vineyard City Library Board.

Fiscal Impact:

None at this time

Recommendation:

Enact Ordinance 2022-07, adding Chapter 13.16 Public Library for formation of the Library Board as well as other library operating procedures.

Sample Motion:

I move to adopt Ordinance 2022-07, adding Chapter 13.16 Public Library as presented.

Attachments:

Ordinance 2022-07

**VINEYARD
ORDINANCE 2022-07**

**AN ORDINANCE OF THE VINEYARD CITY COUNCIL AMENDING
MUNICIPAL CODE TITLE 13 COMMUNITY DEVELOPMENT AND PUBLIC
FACILITIES; ADDING CHAPTER 13.16 PUBLIC LIBRARY**

WHEREAS, The Vineyard City Council under the authority of Utah Code 10-3 desires to amend the Municipal Code; and

WHEREAS, the City Council has determined that it is in the best interest of the public to amend Title 13 Community Development and Public Facilities and Chapter 13.16 Public Library; and

NOW THEREFORE, be it ordained by the Council of the Vineyard, in the State of Utah, as follows:

SECTION 1: **ADOPTION** “13.16 City Library” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16 City Library(*Added*)

SECTION 2: **ADOPTION** “13.16.010 Established-Library Management” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16.010 Established-Library Management(*Added*)

The Vineyard City Library is hereby established and shall be managed and operated by the Vineyard City Council and a library board, which shall be established as hereinafter provided.

SECTION 3: **ADOPTION** “13.16.020 Board-Established-Terms Of Office” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16.020 Board-Established-Terms Of Office(*Added*)

There is hereby created and established a library board of Vineyard City, which shall consist of five members, each of whom shall be residents of the city, and one of whom shall be a sitting member of the city council. Each member of the Board shall be nominated by the mayor and confirmed by the city council for three-year terms or until their successors are appointed. Initially, appointments shall be made for one, two, and three-year terms. Annually thereafter, the city council shall, before the first day of July of each year, appoint for three-year terms board members to take the place of retiring members. Board members shall not serve more than two full terms in succession.

SECTION 4: **ADOPTION** “13.16.030 Board-Removal-Vacancies” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16.030 Board-Removal-Vacancies(*Added*)

Any member of the board may be removed for misconduct or neglect of duty by the city council. Vacancies in the board of directors, occasioned by removals, resignations, or otherwise, shall be filled for the unexpired term in the same manner as original appointments.

SECTION 5: **ADOPTION** “13.16.040 Board-Members To Serve Without Compensation” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16.040 Board-Members To Serve Without Compensation(*Added*)

Board members shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

SECTION 6: **ADOPTION** “13.16.050 Board-Chair-Duties” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16.050 Board-Chair-Duties(*Added*)

Following appointment, board members shall meet and elect a chair and such other officers, as they deem necessary, for one-year terms. The chair shall be selected among the appointed, non-city council members of the board. The chair shall present the agenda, as hereinafter provided, of all materials pertaining to the library to be considered at each and every meeting of the board.

SECTION 7: **ADOPTION** “13.16.060 Board-Space For Meetings-Equipment” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16.060 Board-Space For Meetings-Equipment(*Added*)

The city council shall establish and furnish suitable space for the meetings and the carrying on of the business and functions of the library and board.

SECTION 8: **ADOPTION** “13.16.070 Board-Meetings-Absence” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16.070 Board-Meetings-Absence(*Added*)

The board shall meet in regular meetings at a time designated by the board. Special meetings may be convened at any time as determined by the board chair upon giving notice to all members of the board and the city council. At least three members of the board must attend said meeting in response to said notice, and a certified copy of the minutes of each special board meeting shall be furnished to all members of the board.

SECTION 9: **ADOPTION** “13.16.080 Board-Meetings-Agenda-Powers” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16.080 Board-Meetings-Agenda-Powers(*Added*)

The agenda for each meeting of the board shall be prepared by the chair and said agenda may cover all matters pertaining to the operation of the Vineyard City Library, which requires attention or administrative action thereon. The board shall have the power in respect to all matters of policy and operation of the library to have read into the minutes of the board meetings, board decisions, and recommendations on any such matters; and shall have the power to add matters to the aforesaid agenda of the board, which have not been submitted for their consideration as hereinabove provided. The powers of the board are advisory and shall extend to all phases of the library operation.

SECTION 10: **ADOPTION** “13.16.090 Appointment Of Librarian/Library Director” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16.090 Appointment Of Librarian/Library Director(*Added*)

The city manager shall appoint a library volunteer coordinator and, as budget allows, a competent person as librarian/library director to have immediate charge of the library with such duties and compensation for his or her services as the city manager shall fix and determine. The librarian/library director shall act as the executive officer of the library board.

SECTION 11: **ADOPTION** “13.16.100 Board-Annual Reports” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16.100 Board-Annual Reports(*Added*)

The board chair or designee shall make an annual report to the city council of the condition and operation of the library. The board shall also make reports to the librarian/library director as directed by the librarian/library director. The board shall also provide for the keeping of such records as shall be required by the Utah State Library Commission in its request for an annual report from the public libraries and shall submit such annual report to the commission.

SECTION 12: **ADOPTION** “13.16.110 Board To Adopt Rules For Library Use-Use Of Library To Be Free” of the Vineyard Municipal Code is hereby *added* as follows:

ADOPTION

13.16.110 Board To Adopt Rules For Library Use-Use Of Library To Be Free(*Added*)

The board shall make and adopt rules and regulations not inconsistent with law, for the governing of the library. Subject to such rules and regulations, the library shall be free to the use of the inhabitants of the city. The board may exclude from the use of the library any and all persons who shall willfully violate such rules. The board may extend the privileges and use of the library to persons residing outside the city on such terms and conditions as it may prescribe by its regulations.

SECTION 13: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 14: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 15: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from June 15, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE VINEYARD COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Mayor Julie Fullmer	_____	_____	_____	_____
Tyce Flake	_____	_____	_____	_____
Amber Rasmussen	_____	_____	_____	_____
Mardi Sifuentes	_____	_____	_____	_____
Cristy Welsh	_____	_____	_____	_____

Presiding Officer

Attest

Julie Fullmer, Mayor, Vineyard

Pamela Spencer, City Recorder
Vineyard



VINEYARD CITY COUNCIL STAFF REPORT

Meeting Date: June 15, 2022

Agenda Item: 9.4 Amending Municipal Code Chapter 5.14 Itinerant Merchants

Department: Business Licensing

Presenter: Business License Administrator Kelly Kloepper

Background/Discussion: The Business Licensing Department is coordinating with the Community Development Department to completely update the Municipal and Zoning Codes regulating temporary and seasonal business types. However, these changes are not yet ready to present to City Council. Staff would like to make a few minor changes to the code that will protect the city until then.

After having been approached by a few individuals with questions about setting up fireworks stands, it came to staff's attention that the current Itinerant Merchants chapter does not include the requirement that an applicant submit proof of insurance coverage or a deposit with their application.

The proposed Ordinance corrects this omission, and also makes other minor changes to update the application requirements.

Fiscal Impact: Staff do not foresee any fiscal impact because of these changes beyond staff time processing refunds for deposits.

Recommendation: The Business Licensing Department recommends approval of these Municipal Code amendments.

Sample Motion: I move to adopt the Business Licensing code text amendments, Ordinance 2022-08, as presented.

Attachments: Ordinance 2022-08

**VINEYARD
ORDINANCE 2022-08**

**AN ORDINANCE OF THE VINEYARD CITY COUNCIL AMENDING
MUNICIPAL CODE CHAPTER 5.14 ITINERANT MERCHANTS**

WHEREAS, The Vineyard City Council under the authority of Utah Code 10-3 desires to amend the Municipal Code; and

WHEREAS, the City Council has determined that it is in the best interest of the public to amend Chapter 5.14 Itinerant Merchants; and

NOW THEREFORE, be it ordained by the Council of the Vineyard, in the State of Utah, as follows:

SECTION 1: AMENDMENT “5.14 Itinerant Merchants” of the Vineyard Municipal Code is hereby *amended* as follows:

A M E N D M E N T

5.14 Itinerant Merchants

A. LICENSE REQUIRED. It shall be unlawful for:

1. A transient merchant, itinerant merchant or itinerant vendor to engage in such business without first obtaining a license therefor in compliance with the provisions of this section.
2. Any person to engage in the business of peddler without first obtaining a permit and license therefor as provided in this section.
3. Any solicitor or canvasser to engage in such business without first obtaining a permit and license therefor in compliance with the provisions of this section.

B. DEFINITIONS

1. "Transient merchant," "itinerant merchant" or "itinerant vendor" is defined as any person, firm or corporation, whether as owner, agent, co-signee or employee, whether or not a resident of the municipality, who engages in a temporary business of selling and delivering goods, wares and merchandise within the municipality, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodging house, apartment, shop or any street, alley, or other place within the municipality, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this section merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local

dealer, trader, merchant or auctioneer.

2. "Peddler" as used in this section shall include any person, whether or not a resident of the municipality, traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, motor vehicle, railroad car, or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this section shall be deemed a peddler subject to the provisions of this section. The word "peddler" shall include the words "hawker" and "huckster".
3. "Canvasser" or "solicitor" means any individual whether or not a resident of the municipality, traveling either by foot, wagon, motor vehicle, or other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales, provided that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel or motel room, lodging house, apartment, shop or any other place within the municipality for the sole purpose of exhibiting samples and taking orders for future delivery.

C. APPLICATION FOR LICENSE.

1. Applicants for permits and licenses under this section, shall file a sworn application in writing signed by the applicant, if an individual, by all partners, if a partnership, and by the president if a corporation, or by an agent, including a state or regional agent, with the recorder which shall give the following information:
 - a. The name of the applicant, and if the applicant is an employee or agent of a corporation, the name of the corporation.
 - b. The address of the applicant, and if the applicant is an agent or employee of a corporation, the address of the corporation.
 - c. A brief description of the nature of the business and the goods to be sold and from whom and where the applicant obtains the goods to be sold.
 - d. If the applicant is employed by or an agent of another person, the name and permanent address of such other person or persons.
 - e. The length of time for which the applicant desires to engage in business within the municipality.

The place or places within the municipality where the applicant propose to carry on his or her business.

- f. ~~list of the other municipalities in which the applicant has engaged in business within the six month period preceeding the date of the application. A photograph of the applicant, taken within six months immediately prior to the date of filing the application, which photograph shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner. A statement as to whether or not the applicant, or any of his employers have been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor and the original or copy, dated no older than 180 days prior to the date of the Application, of either: (1) a Utah Department of Public Safety Bureau of Criminal Identification verified criminal history report personal to the Applicant; or (2) verification by the Utah Department of Public Safety Bureau of Criminal Identification that the Applicant has not had a prior conviction of a felony or a misdemeanor involving fraud or moral turpitude. If the applicant desires to sell fresh vegetables, fruits, meats, or other foodstuffs, a statement by a reputable physician in the state of Utah, dated not more than ten days prior to submission of the application, certifying the applicant to be free of infectious, contagious, or communicable diseases.~~
- g. If the applicant is employed by another person, firm or corporation, documents showing that the person, firm or corporation for which the applicant proposes to do business is authorized to do business within the state of Utah.
- h. Site plan delineating where the temporary business will be located and the parking area available for patrons.
- i. Written permission from the property owner where the temporary business will be located in a form acceptable to the city.
- j. Acceptable evidence of a special event sales tax number issued by the state of Utah.
- k. A statement that the applicant agrees to comply strictly with the laws of the State, the City, and the terms of this license as granted, and to furnish any additional information upon request.
- l. All applications to sell fireworks must include insurance certificates evidencing public liability insurance coverage in the amount of two hundred thousand dollars/four hundred thousand dollars (\$200,000.00/\$400,000.00), and property damage insurance coverage in the amount of two hundred thousand dollars (\$200,000.00), and such certificates shall designate the city as an additional insured, and include certificates evidencing products liability insurance in an amount not less than one million dollars (\$1,000,000.00) per occurrence.

m. A cash deposit in the amount of three hundred dollars (\$300.00) for each temporary stand to be operated by the applicant. Such deposit shall assure compliance with provisions of this Chapter, including, but not limited to, the removal of the stand and the cleaning of the site upon which it was located. In the event the licensee does not comply with the provisions of this Chapter, including, but not limited to, removing the stand or trailer or cleaning the site thereof, the City may remove the stand or trailer, clean the site, or take such other action as is necessary for compliance with this Chapter, or may cause the same to be done by other persons, and the reasonable cost thereof shall be a charge against the licensee and shall be subtracted from the deposit described above.

n. The applicant shall remove any structure or materials used for the temporary site such as tents, poles, display bins, etc., and shall clean and restore the site to its original condition within five (5) days after retail sales cease.

2. At the time of filing the application, a fee shall be deposited with the recorder. The City Council shall from time to time enact by resolution the amount of the fee to be paid. This fee shall be listed in the current fee schedule.

D. INVESTIGATION AND ISSUANCE OF LICENSE.

1. On receiving the application, the recorder shall issue a temporary license if the applicant meets the above requirement and refer it to the chief of police who shall cause such investigation of the applicant's business and moral character to be made as he deems reasonable and necessary for the protection of the public good.
2. The applicant may do business on the temporary license during the period of the investigation. If as a result of the investigation the applicant's character or business responsibility is found to be unsatisfactory, the chief of police shall endorse such upon the application together with a statement of his reasons therefor and return the application to the recorder who shall notify the applicant that his temporary license has been disapproved and that business shall not be conducted.
3. If as a result of such investigation, the character and business responsibility of the applicant is found to be satisfactory, the chief of police shall endorse such upon the application and return it to the recorder who shall upon payment of the prescribed license fee deliver to the applicant his permit and issue a license. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee and the kind of goods to be sold pursuant to the application together with an expiration date.

E. FEES.

1. The City Council shall from time to time enact by resolution the fees to be charged by Vineyard City for any license pursuant to this section.
2. None of the license fees provided for by this section shall be applied so as to engage an undue burden upon interstate commerce. In any case where a

license fee is believed by the licensee or applicant for license to place an undue burden upon interstate commerce, he or she may apply to the mayor for an adjustment of the fee so that it will not be discriminatory, unreasonable, or unfair to interstate commerce. Such application may be made before, at or within six months after paying the prescribed license fee.

3. If any license fee or tax is not paid within sixty days of the due date, a penalty of 50% of the amount of such license fee or tax, or \$25.00 whichever is greater. All penalties provided for in this section shall be collected by the City Recorder and the payment thereof enforced by him in the same manner as the license fees are collected and payment thereof enforced. No license shall be issued until all penalties legally assessed have been paid in full.

F. LICENSES, BADGES, REVOCATION, EXPIRATION, APPEAL.

1. A recorder shall issue to each licensee at the time of delivery of his temporary license a badge which shall contain the words "Licensed Solicitor," "Licensed Transient Merchant," or "Licensed Peddler" as the case may be, for which the application was made and the license issued, and the number of the license, in letters and figures easily discernible from a distance of five feet. Such badge shall, during the time peddlers or solicitors are engaged in the business for which they are licensed, be worn constantly by them on the front of their outer garment in such a way as to be conspicuous.
2. Any person licensed pursuant to this section shall exhibit their license at the request of any citizen of the municipality.
3. It shall be the duty of any police officer of this municipality to require any person seen soliciting, canvassing or peddling, and who is not known by such officer to be duly licensed, to produce his or her license and to enforce the provisions of this section.
4. Revocation of license.
 - a. Permits and licenses issued pursuant to this section may be revoked by the chief of police or the recorder, after notice and hearing, for any of the following causes:
 - (1) Fraud, misrepresentation or a false statement contained in the application for the license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as solicitor or canvasser.
 - (3) Any violation of this section.
 - (4) Conviction of any crime or misdemeanor involving moral turpitude.
 - (5) Conducting the business of soliciting, or of canvassing in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
 - b. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address or at the address

shown on his application. The hearing and notice shall in all other aspects substantially comply with VMC 2.12.

5. Any person aggrieved by the action of the chief of police or the recorder in the denial of a permit or a license issued pursuant to this section, or by the action of the City Council of the municipality. Such appeal shall be taken by filing with the council within 14 days after notice of the action complained of has been mailed to such person's last known address or address on the business application, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for the hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as above proved in Section F,4.

6. All licenses issued pursuant to this section shall expire on the date specified on the license.

G. **ADDITIONAL REQUIREMENTS.** This section shall not be construed so as to waive the provisions and requirements of any other ordinance of this municipality and the requirements and fees required herein shall be in addition to any other requirements and fees of any other ordinance of this municipality.

H. **EXCEPTIONS.** The provisions of this section shall not apply to any individual who is at the time he is engaged in any activity which would otherwise require licensing by this section, engaged in an activity which is authorized by any church or charity which has a permanent structure located within the state of Utah, provided such church or charity has had such permanent for at least six months prior to the date when the individuals engaged in the activity which would otherwise require licensing by this section.

SECTION 2: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 3: SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: EFFECTIVE DATE This Ordinance shall be in full force and effect from June 15, 2022 and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE VINEYARD COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Mayor Julie Fullmer	_____	_____	_____	_____
Tyce Flake	_____	_____	_____	_____
Amber Rasmussen	_____	_____	_____	_____
Mardi Sifuentes	_____	_____	_____	_____
Cristy Welsh	_____	_____	_____	_____

Presiding Officer

Attest

Julie Fullmer, Mayor, Vineyard

Pamela Spencer, City Recorder
Vineyard

RESOLUTION NO. 2022-22

**A RESOLUTION AMENDING THE PREVIOUSLY ADOPTED PERSONNEL
POLICIES AND PROCEDURES MANUAL FOR VINEYARD, UTAH**

WHEREAS, the Vineyard City Council desires to have consistent policies for its employees and to promote a workplace that is safe and professional; and

WHEREAS, the Vineyard City Council desires to amend the previously adopted Personnel Policies and Procedures Manual,

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF VINEYARD
AS FOLLOWS:

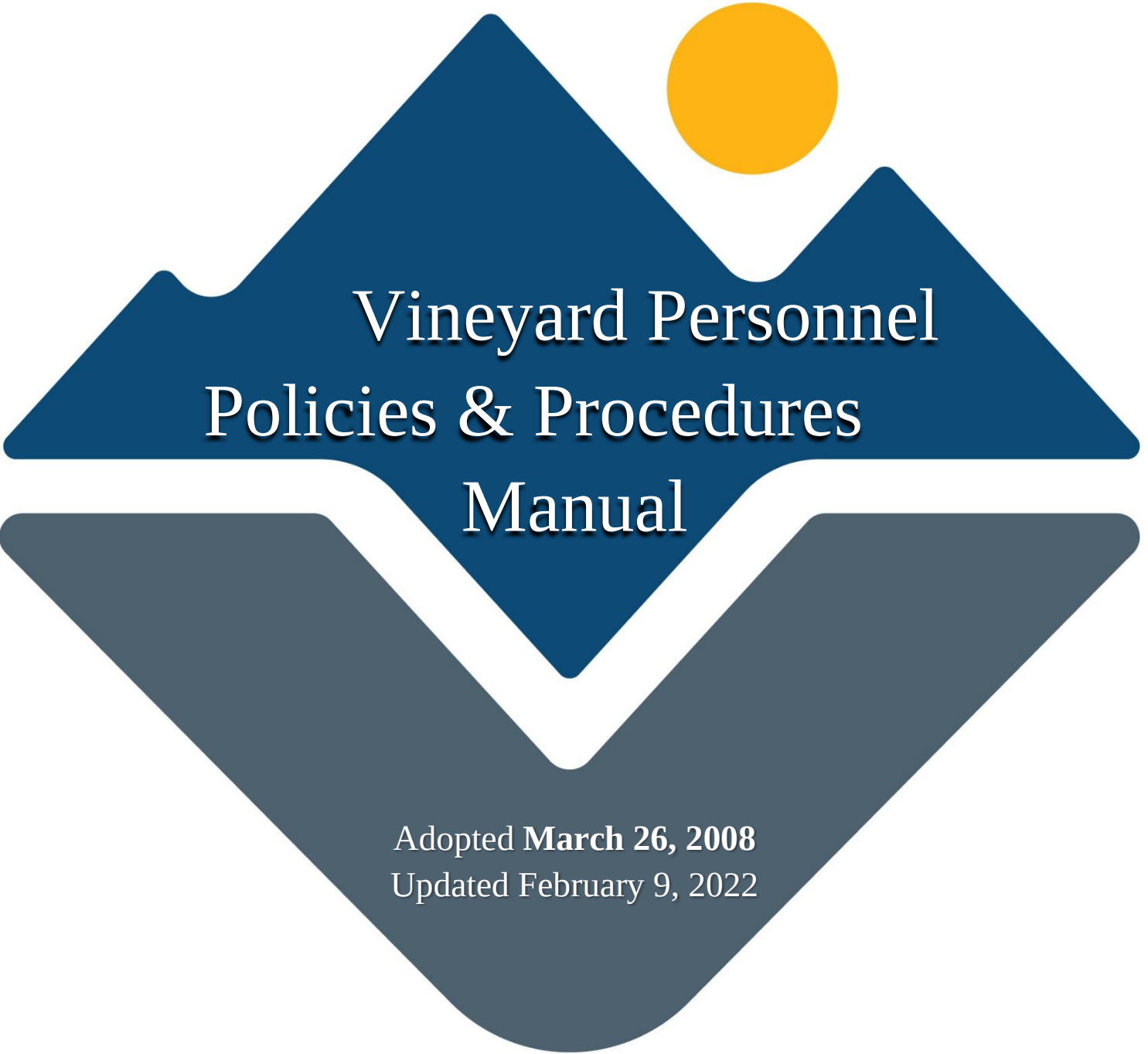
1. The Vineyard Policies and Procedure Manual will be amended as shown in Exhibit A.
2. This Resolution shall take effect upon passing.

Passed and dated this 15th day of June, 2022.

Julie Fullmer, Mayor

Attest:

Pamela Spencer, City Recorder



Vineyard Personnel Policies & Procedures Manual

Adopted **March 26, 2008**
Updated February 9, 2022

This document supersedes all personnel policies and procedures previously established or approved by Vineyard.

PREFACE

It is the policy of Vineyard to establish reasonable rules of employment conduct (i.e., guidelines for management and employees to follow) and to ensure compliance with these rules through a program consistent with the best interests of Vineyard and its employees. THIS MANUAL IS NOT, AND SHALL NOT BE CONSTRUED AS, AN EXPLICIT OR IMPLIED CONTRACT, SHALL NOT MODIFY ANY EXISTING AT-WILL STATUS OF ANY VINEYARD EMPLOYEE, AND SHALL NOT CREATE ANY DUE PROCESS REQUIREMENT IN EXCESS OF FEDERAL OR STATE CONSTITUTIONAL OR STATUTORY REQUIREMENTS. THE TERM “AT-WILL” MEANS EMPLOYEES CAN TERMINATE OR BE TERMINATED AT WILL. EXCEPTIONS ARE EMPLOYEES HAVING WRITTEN CONTRACTS SIGNED BY THE MAYOR OF VINEYARD.

It is also the policy of Vineyard to comply with Federal and State Equal Employment Opportunity guidelines. All employment decisions will be made without unlawful regard as to federal and state protected classes, such as race, color, religion, sex, national origin, age, or disability. To this end, Vineyard will not engage in any unlawful discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, disability, age, or veteran status, and will ensure that applicants and employees are treated without unlawful regard to these characteristics.

Additionally, it is the policy of Vineyard to strive for safety in all activities and operations, and to carry out the commitment of compliance with health and safety laws applicable to Vineyard by enlisting the help of all employees to ensure that public and work areas are free of hazardous conditions.

Vineyard reserves the right to change any of its policies and/or procedures at any time in the future for any reason. Therefore, if you have suggestions or comments concerning the content of this manual, please submit them, in writing, to your immediate supervisor or department head for review. Thank you.

INTRODUCTION

Welcome,

Vineyard's Personnel Policies and Procedures Manual is simply a written guide for management and staff. This manual not only outlines Vineyard's policy on the various phases of the employer-employee relationship, it also indicates how the policy is to be administered. Consequently, each employee is able to use this Manual as a guide when policy needs to be applied to a given situation. As an employee of Vineyard, you are expected to read, understand, and follow the policies and procedures contained in this manual.

Please be advised that it is the obligation of each employee of Vineyard to conduct themselves in conformity with the principle of Equal Employment Opportunity at all times. All employment activities including, but not limited to, advertising, recruitment, hiring, promotion, demotion, transfer, disciplinary action, layoff, termination, compensation, and training, shall be conducted without unlawful regard to federal and state protected classes such as race, color, religion, sex, sexual orientation, national origin, age, or disability. (Title VII of the Civil Rights Act and the Americans with Disabilities Act (ADA)).

Finally, no employee, officer, agent, or other representative of Vineyard has any authority to enter into any agreement for employment for any specified period of time or to make any agreement or representation, verbally or in writing, which alters, amends, or contradicts the provisions of this Personnel Policies and Procedures Manual.

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SECTION I: EQUAL EMPLOYMENT OPPORTUNITY (EEO)

1. General Policy

It is the policy of Vineyard to comply with Equal Employment Opportunity standards in all phases of personnel administration: job structuring, recruitment, examination, selection, appointment, placement, training, upward mobility, discipline, etc., without unlawful regard to race, color, religion, sex, sexual orientation, age, physical or mental disability, national origin, or veteran status. Considerations for all phases of personnel administration will be based on education, skills, experience, personality, and fit and potential for job performance and learning.

2. Supervisor Responsibilities

The mayor, or designee, will ensure that Vineyard is in compliance with all of the personnel policies and procedures in this manual, including all EEO standards. Additionally, the Human Resource Manager, or department head, will ensure that each employee receives a copy of this Personnel Policies and Procedures Manual and that the employee signs and dates a “Policy Statement and Acknowledgment Form” (*form #1*) stating receipt of the manual. The Human Resource Manager will then file the signed and dated “Policy Statement and Acknowledgment Form” in the employee's personnel file.

3. Employee Responsibilities

Employees are responsible for informing themselves about the policies, practices, and benefits set forth in Vineyard's Personnel Policy and Procedures Manual by reading them and, if necessary, asking a supervisor to explain them. Additionally, all employees are required to sign and date a “Policy Statement and Acknowledgment Form” (*form #1*) stating receipt of this manual.

SECTION II: PROTECTION FROM CONTRACTOR CAUSED LOSSES/LIABILITIES

1. General Policy

Vineyard will take all necessary precautions and steps in written contracts to prevent loss and liability arising from entering relationships with independent contractors using the “Hold Harmless Agreement” (*form #2*), which is a part of the “Indemnity Provision Contract”, or the entire “Indemnity Provision Contract” (*form #3*).

2. Supervisor Responsibilities

- A. Ensure that no work is performed by any private contractor until:
 - 1. A written contract between Vineyard and the contractor has been entered into and signed by both parties.
 - 2. The signed written contract has been attested by the city recorder.
- B. Each contract with a private contractor should contain indemnity/hold harmless clauses, which provide that:
 - 1. The contractor assumes all liability arising out of work performed by the contractor or their officers, employees, agents, and volunteers.
 - 2. The contractor must provide evidence that they have acquired and maintain comprehensive general liability coverage, including liability insurance covering the contract concerned, prior to the execution of the contract.
 - 3. Vineyard and its officials, employees, agents, and volunteers must be named as additional insured on the liability insurance policy.
- C. Each contract with a private contractor should contain provisions that ensure the contractor is carrying workers compensation insurance coverage.
 - 1. Vineyard should require evidence of Workers Compensation insurance (or evidence of qualified self-insurance) from all contractors.
 - 2. Vineyard shall have the contractor show evidence of the contractor’s Workers Compensation coverage to Vineyard.

SECTION III: RECRUITMENT & SELECTION

1. General Policy

It is Vineyard's goal to provide meaningful services to its population in a cost-effective and professional manner. This requires that Vineyard attract, retain, and motivate the most skilled and customer-service-oriented employees available.

2. Hiring Procedures

The Human Resources Manager shall develop and administer a process for the recruitment and selection of all city employees.

- A. When a position opens in a department or a need arises to create a new position, the department head shall submit a request to the Human Resource Manager with an updated job description for the position. The department head and Human Resource Manager shall meet to discuss the needs of the department and develop a framework for the job description and profile of ideal candidate.
- B. The job description shall be approved by the Human Resource Manager prior to initiating the job posting and recruitment process.
- C. The Human Resources Manager shall prepare and distribute a job announcement which shall be distributed according to the market area for the position.
- D. All applicants will submit a cover letter, resume, application, and other required material to the Human Resource department by the closing date as set forth in the job announcement. The applicants selected may be screened through additional testing as approved by the Human Resources Manager.
- E. All prospective city employees and volunteers shall be required to provide the City with a certified copy of their own criminal history record or authorize the City, in writing, to conduct a criminal background check prior to appointment. Failure to provide or authorize a criminal history record will preclude employment or appointment. Applicants who have not lived in the State of Utah for the three years immediately preceding their application may be required to provide the city with a certified copy of their criminal history record from their last state of residence. Any expenses associated with obtaining out of state criminal history records shall be the responsibility of the applicant.
- F. In accordance with the City's Drug and Alcohol-Free Workplace Policy, final candidates for all positions shall be required to pass a drug test as a prerequisite to employment
- G. All prospective city employees and volunteers who may be assigned to drive are required to submit to a pre-employment driving record evaluation which shall be conducted with the written consent of the person being evaluated. An evaluation of

the applicant's driving record will be a factor in determining eligibility for employment. Driving record evaluations shall be completed annually for employees assigned to drive a vehicle or are provided a vehicle stipend by the city.

- H. Any employee who is required to maintain a CDL as part of his/her essential job functions is also required to have a current DOT medical card.
- I. Supervisors shall schedule a new employee orientation with the Human Resources Manager as soon as possible after the employee starts work.
- J. Unless otherwise provided in a written contract signed by the mayor, employment with the City is at-will, so that either party may terminate the relationship at any time and for any legally permissible reason.
- K. The process of hiring a department head will include at least one round of panel interviews with no less than 2 members of the city council invited to serve as part of the panel. The number of panel rounds will allow for all council members to attend if the interest arises. If no members of the city council are able or interested in serving as part of the panel, interviews will be conducted at the discretion of the city manager. Before the city manager moves to fire a department head, the city manager will meet with the council in a closed session to discuss. Final determination for firing falls to the city manager.
- L. Veterans Preference - Honorably discharged veterans who have served in the armed forces of the United States as defined by Utah Code § 71-10-1, and any un-remarried surviving spouse of such honorably discharged veterans shall be preferred for employment, either directly or by contract, if they possess equal qualifications to other applicants for that employment and if they are residence of the State of Utah as recorded in Utah Code § 71-10-2, and § 71-10-3.

3. Internal Applicants

- A. Current employees with a satisfactory employment status may apply for internal job openings. The consensus of the employee's supervisor and the HR department may be necessary for employees with less than one year of service with Vineyard.
- B. All applicants for a posted vacancy will be considered based on their qualifications and the ability to perform the job successfully. Internal candidates who are not selected will be notified by the HR department.

4. Anti-Nepotism

- A. It shall be the policy of Vineyard to comply with the anti-nepotism provisions of Section 52-3-1, Utah Code Annotated (1953, as amended) regarding the employment, appointment, or direct supervision of relatives.
- B. No Vineyard employee may hire, appoint, or directly supervise his or her relative except as permitted by State Law. Anti-nepotism requirements apply not only when

hiring a new employee, but also when assigning, transferring, or promoting an employee.

- C. A relative includes a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, grandparent, grandchild, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

5. Elected Officials

- A. No City employee shall serve as an elected official for the City simultaneously with their term of employment. A City employee who desires to be elected to a municipal office for Vineyard City must resign employment when they declare their candidacy.
- B. An elected official for the city who desires to apply for a position as an employee for the city must resign their office prior to applying for the position.

6. Immigration Law Compliance

Although Vineyard does not discriminate on the basis of citizenship or national origin, it is committed to employing only United States citizens and aliens who are authorized to work in the United States. In compliance with the Immigration Reform and Control Act of 1986, each new employee—as a condition of employment—must complete the “Employment Verification Form I-9” and present documentation establishing identity and employment eligibility. Failure to present the requisite documentation within three (3) working days from the date of hire may result in termination of employment. Former employees who are rehired must complete an “Employment Verification Form I-9”.

7. Volunteers

Vineyard regularly sponsors community events and, beyond a need for additional help, there is a great mutual benefit in having residents volunteer to help in successfully planning and executing these events. There are also many opportunities for Vineyard’s citizens to serve on various committees and in other groups that provide a benefit to the community. This policy is intended to formalize the volunteer sign-up process and outline the City’s duty to train and vet volunteers.

- A. The city will follow the following guidelines
 - 1. The city will publish volunteer opportunities, and a volunteer application, on the city website.
 - 2. Residents desiring to volunteer will fill out and submit the volunteer application to the city manager, or to an appropriate party designated by the city manager and identified in the volunteer opportunity listing.
- B. Upon receipt of a volunteer application, the city will evaluate the application by:
 - 1. ensuring that the applicant is qualified to perform the duties related to the volunteer position applied for; and
 - 2. checking the applicant against the database of registered sex offenders.
- C. The city will generally approve volunteers for service unless;
 - 1. the desired volunteer position is filled;

2. the desired volunteer position requires certain qualifications that the applicant does not possess; or
 3. the applicant is a registered sex offender.
- D. Volunteers will not be compensated, nor will they be given preferential treatment by the city, its departments, employees, or officers.

8. Internships

As a rapidly growing city located near two major universities, Vineyard is well positioned to offer challenging and rewarding internship opportunities to students seeking training and experience in city government and operations. The purpose of this policy is to outline the City's procedure for accepting and placing interns and to state the City's expectations with respect to interns and internships, as well as describe what potential interns should expect from the City before, during, and after their internship.

- A. The internships will follow the general guidelines outlined below
1. Potential interns must be a current student or recent graduate of an accredited university
 2. participate in an internship program sponsored by their university
- The city will:
3. assign a mentor to each intern; and
 4. provide interns with a valuable learning experience and relevant training.
 5. Interns are not and will not be considered "employees" for purposes of the FLSA.
 6. The city will ensure that internships are primarily for the academic benefit of the interns by:
 7. requiring interns to be closely supervised in their work;
 8. conducting regular reviews of each intern's work and progress;
 9. holding entrance and exit interviews;
 10. ensuring that the work given to each intern aligns, as closely as possible, to his or her academic objectives;
 11. giving priority to academic commitments by adjusting each intern's work schedule as appropriate and necessary; and
 12. not seeking or requiring any immediate advantage from the internship.
 13. Entrance interviews will be conducted by the supervisor assigned to each intern. At a minimum, the supervisor will review this policy, discuss mutual expectations, and outline the projects and work to be accomplished during the internship.
 14. Exit interviews will be conducted by the city manager. At a minimum, the city manager will discuss the results of the internship, review the intern's performance, and receive feedback about the academic value of the internship.
- B. Potential interns will submit an application consisting of, at a minimum:
1. a resume;
 2. a cover letter stating their academic objectives for the internship; and
 3. a proposed schedule and timeline for the internship.

4. After receiving an application, the city manager will be responsible for reviewing the application and conducting an interview, if desired.
 5. Notwithstanding an intern's (or potential intern's) "non-employee" status, all applicable laws (e.g., equal opportunity, anti-discrimination, etc.) will apply during the application, onboarding, and internship processes.
- C. The city will not derive a benefit from an internship such that the internship:
1. displaces a current employee; or
 2. postpones the hiring of needed additional employees.
 3. The city will not make any guarantee of paid employment following an internship, and interns will not expect any entitlement to paid employment following an internship.
 4. Interns desiring paid employment with the city will be required to follow the City's standard application process, and will not, as a result of their internship, be given any preference in the hiring process.

SECTION IV: ALCOHOL AND DRUG FREE WORKPLACE

1. General Policy

The purpose of this policy is to implement the Federal Drug Free Workplace Act of 1988 by providing for a safe and productive work environment that is free from impaired performance caused by employee use or abuse of alcohol, controlled substances, and/or medication.

2. Employee Responsibilities.

- A. No employee shall unlawfully manufacture, dispense, possess, use, or distribute any controlled substance, medication, or alcohol.
- B. Any employee convicted under a federal or state statute regulating controlled substances shall notify their supervisor and the department head within five days after the conviction.
- C. No employee shall consume alcoholic beverages immediately before work, during work hours, or while at work during breaks or lunches.
- D. No employee shall be impaired by alcohol, illegal drugs, or medication during work hours.
 - 1. Any employee who is called back to work during non-scheduled work hours and has recently consumed alcohol or drugs which impair his/her ability to safely perform his/her duties shall notify the supervisor of the impairment and shall not report to work.
- E. No employee shall represent Vineyard in an official capacity while impaired by alcohol, illegal drugs, or medication.
- F. No employee using medication that may impair performance shall operate a motor vehicle or engage in safety sensitive functions while on duty for Vineyard.
- G. If an employee is using prescription or non-prescription medication that may impair performance of duties, the employee shall report that fact to their supervisor.
 - 1. Depending on the circumstances, employees may be reassigned, prohibited from performing certain tasks, or prohibited from working if they are determined to be unable to perform their jobs safely and properly while taking the prescription or nonprescription legal drugs.
- H. An employee who has reason to believe that the performance of another employee is impaired by alcohol, illegal drugs, and/or medication shall immediately notify their supervisor or department head.

3. Disciplinary Action

Because of the serious nature of illegal use or abuse of alcohol, controlled substances, and/or medication, appropriate employee disciplinary action will be taken, up to and including termination.

SECTION V: DRUG TESTING

1. General Statement

It is the policy of Vineyard that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance and/or the distribution, dispensation, possession, or use of alcohol in the workplace is expressly prohibited.

- A. Alcohol. Alcohol is defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols in methyl and isopropyl alcohol no matter how packaged or in what form the alcohol is stored, utilized, or found, except for approved medical or first aid measures.
- B. Controlled Substances. Amphetamines* (e.g., methamphetamine, speed), Barbiturates (e.g., Amobarbital, Butobarbital, Phenobarbital, Secobarbital), Benzodiazepines, Cocaine*, Methadone, Opiates* (e.g., Codeine, Heroin, Morphine, Hydromorphone, Hydrocodone), Phencyclidine* (PCP), Propoxyphene, THC* (Marijuana), LSD, or other substances, which may only be legally obtained and used pursuant to a physician's prescription.
- C. On Duty Accident. Any accident causing injury to person or damage to property, involving the loss of life, or the issuance of a moving traffic citation to the employee.
- D. Positive Test. Any test result showing a blood alcohol content (BAC) of 0.02 or greater or the presence of any controlled substance in the test subject.
- E. Refusal to Submit to Testing. Failure to provide an adequate breath or urine sample without a valid and verified medical explanation after the employee has received notice that they are being tested and a breath or urine sample is required or engages in conduct that clearly obstructs the testing process.
- F. Reasonable Suspicion. Knowledge sufficient to induce an ordinarily prudent and cautious individual under the circumstances to believe that a prohibited activity is occurring. Circumstances which may constitute a basis for determining a reasonable suspicion include but are not limited to: a pattern of abnormal or erratic behavior (i.e. a significant change in absenteeism); the direct observation of the employee or volunteer using drugs, possession of drugs at the work site, or the noticeable presence of physical symptoms of drug use (i.e. dilated or pinpoint pupils, unusual changes in speech pattern, restlessness, rapid mood swings, bloodshot eyes, odor of alcohol, unusual euphoria, "nodding off", needle marks, unusual aggressive or bizarre acts, or hallucinations).
- G. Safety Sensitive Duties. Any duties requiring a Commercial Driver License (CDL), Firefighter Duties (as per job description), Law Enforcement Duties (as per job description), any other duties or positions deemed safety sensitive. This includes all supervisory and management personnel in those particular job positions.

2. Policy

In order to achieve a drug-free workplace, employees shall be required to participate in all of the following alcohol and controlled substances testing, which shall be performed by a qualified expert designated by the City:

- A. When an applicant has been extended a conditional offer of employment but before beginning work.
- B. When there is a reasonable suspicion to believe that the employee is in an impaired state.
- C. When the employee has been involved in an on-duty accident or unsafe work practice.
- D. As a condition for return to duty after testing positive for controlled substances or alcohol.
- E. As part of follow-up procedures to employment related drug or alcohol violations.
- F. On a random basis as allowed by law).

3. Testing

- A. Testing Notice.
 - 1. Before performing any alcohol or drug test authorized by this policy Vineyard, through its designated representative shall notify the employee being tested, verbally or in writing, whether the test being administered is required by the Omnibus Transportation Employees Testing Act of 1991, or whether it is required by this policy.
 - 2. Vineyard employees who, under Vineyard requirements, hold CDLs are required under rules established by the Federal Highway Administration to be subjected to pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing.
 - A. When conducting any of the above noted tests on CDL employees, Vineyard shall provide the employee with the following notice:
 - a. The drug and/or alcohol test you are being required to take is required under rules established by the Federal Highway Administration pursuant to the Omnibus Transportation Employee Testing Act of 1991.
 - b. If you refuse to submit to the required testing, you may be subject to disciplinary action, up to and including termination.

3. Vineyard employees who are not required by Vineyard to hold a CDL, but who are employed in safety sensitive positions, while not subject to testing under federal statute, are subject to pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing under this policy.
 - A. When conducting any of the above noted tests on non-CDL safety sensitive employees, Vineyard shall provide the employee with the following notice:
 - a. The drug and/or alcohol test you are being required to take is required by the policies and procedures of Vineyard.
 - b. If you refuse to submit to the required testing, you may be subject to disciplinary action, up to and including termination.
- B. Pre-Employment Testing. Vineyard requires a final applicant selected for a position with Vineyard to undergo an alcohol and drug screen test to detect the presence of alcohol and illegal drugs or controlled substances in the body. Refusal to take such a test shall be grounds for denial of employment. An applicant who tests positive for controlled substances or whose test detects a BAC of .04 or higher may be denied employment with Vineyard.
 1. Drug and alcohol testing shall be conducted after the selected applicant has been extended a conditional offer of employment but before beginning work.
 2. The city manager, or designee, shall provide an individual who has been offered a conditional offer of employment, information on whom to contact to provide a sample to be tested for alcohol and controlled substances in accordance with these policies and procedures.
 3. All of Vineyard's job announcements and conditional offers of employment shall contain the following notice:
 - A. A positive test result or failure to submit to the required testing shall result in a withdrawal of any conditional offer of employment with Vineyard.
 4. If the final applicant tests positive for drugs or alcohol or refuses to submit to testing as defined by this policy, the conditional offer of employment shall be withdrawn in writing and the applicant shall not be employed by Vineyard.
- C. Prohibited Conduct.
 1. Employees shall not use, be under the influence of (.02 BAC), or be in possession of alcohol while on duty, on Vineyard premises or while in Vineyard vehicles. Vineyard premises include buildings, parking lots, grounds, and vehicles owned by Vineyard, personal vehicles being used for Vineyard

business.

2. Employees shall not use, be under the influence of, be in possession of, or be in such a condition as to test positive for alcohol or controlled substances while on duty, on Vineyard premises or while in Vineyard vehicles. Vineyard premises includes buildings, parking lots, grounds and vehicles owned by Vineyard or personal vehicles being used for Vineyard business.
3. Employees using, possessing, distributing, dispersing, or being at the workplace under the influence of alcohol or illegal or illegally obtained/used controlled substances shall be subject to questioning and disciplinary action.
4. Any employee violating this policy may be subject to immediate termination.

D. Reasonable Suspicion Testing.

1. When a designated supervisor determines that there is reasonable suspicion to believe that an employee performing or assigned to safety sensitive positions is using, is under the influence of, or is in possession of alcohol or controlled substances, the employee shall be subject to drug/alcohol testing.
 - A.** The supervisor making the determination that reasonable suspicion exists shall submit written documentation to the Human Resources Officer, setting forth the specific, concurrent articulable observations concerning the appearance, behavior, speech, or body odors, which resulted in the reasonable suspicion determination. Reasonable suspicion of use of a controlled substance may also be based on observation of indications of the chronic and withdrawal effects of controlled substances, or the observation drug or alcohol use, or the presence of drug paraphernalia.
 - a. The required observations underlying reasonable suspicion testing must be made by a supervisor or Vineyard official who has received at least two (2) hours of training on the physical, behavioral, speech, and performance indicators of alcohol and drug use.
 - b. Observations underlying the reasonable suspicion testing must be documented in writing and signed by the supervisor or Vineyard designated official within twenty-four (24) hours or before the results of the test are announced, whichever is later.
 - B.** Reasonable suspicion testing may not be conducted by the same supervisor who makes the reasonable suspicion determination.
2. Special requirements associated with reasonable suspicion alcohol testing.
 - A.** Alcohol testing is authorized only if the observations set forth above are made during, just proceeding, or just after the performance of safety

sensitive functions.

- B.** If an alcohol test is not administered within two (2) hours following the identification of reasonable suspicion, the supervisor shall prepare and maintain documentation stating why the test was not administered within two (2) hours.
 - C.** If an alcohol test is not administered within eight (8) hours following the identification of reasonable suspicion, the supervisor shall cease attempts to administer an alcohol test and shall prepare and maintain documentation stating why the test was not administered within eight (8) hours.
 - 3. Special requirements associated with reasonable suspicion drug testing. If a drug test is not administered within thirty-two (32) hours following the identification of reasonable suspicion, the supervisor shall cease attempts to administer a controlled substance test and shall prepare and maintain documentation stating why the test was not administered within thirty-two (32) hours.
 - 4. Upon required testing due to reasonable suspicion, the employee tested shall not engage in the operation of any Vineyard equipment or engage in any employment related duties, which their supervisor deems dangerous to themselves or others until the results of the tests are received, and the employee is released back to work by the department head.
 - 5. An employee undergoing reasonable suspicion testing should be driven to the testing and then driven home and should not be kept on the job.
- E. Random Testing.**
- 1. Employees assigned to, or performing, safety sensitive duties are subject to random drug/alcohol tests.
 - 2. Random tests shall be both of the following:
 - A.** Unannounced.
 - B.** Reasonably spread throughout the year.
 - 3. Each employee within a testing pool must have an equal chance of being tested each time a random test is conducted.
 - 4. Random Testing for CDL Drivers.
 - A.** CDL drivers may be subjected to random alcohol testing only while performing safety sensitive functions, just before the driver is to perform safety sensitive functions, or just after the driver has ceased performing

safety sensitive functions.

- B.** Drug tests may be performed at any time the driver is on duty.
- 5. Random Testing for Non-CDL Safety Sensitive Employees. Non-CDL safety sensitive employees may be subjected to random alcohol and drug tests any time the employee is on duty.
- 6. Pool Testing - Consortiums.
 - A.** Vineyard may join a consortium with testing pools large enough so that Vineyard's CDL drivers are always subject to random testing and the required annual testing rate shall be met by tests conducted of all drivers within the pool.
 - B.** If and when Vineyard chooses to join a drug/alcohol testing consortium, Vineyard shall designate a liaison to coordinate with the testing consortium and obtain and maintain all of the following records and information:
 - a. How the random selection pool was assembled.
 - b. The method of selection and notification of drivers.
 - c. The location of collection sites.
 - d. Methods of reporting the test results on each driver.
 - e. Summary reports on the consortiums program showing that the consortium tested at the prescribed minimum annual rates for alcohol and/or controlled substances.
- F. Post-Accident Testing. Any personnel involved in an accident causing personal injury which requires medical attention or causing property damage in excess of \$2,500.00 shall be subject to alcohol and controlled substances testing, as soon after the accident as possible, preferably within two (2) hours.
- G. An employee is subject to testing following an accident or unsafe work practice affecting the safety of that employee or others, including the general public. Such employee shall not engage in the operation of any city equipment or engage in any employment related duties, which the department director deems dangerous to the employee or to others, until the results of the test(s) are received and the employee is released back to work by the city manager or designated representative, or surviving employee in a safety sensitive position involved in an accident involving the loss of human life, shall be tested as soon as practical for alcohol and controlled drugs.
 - 1. An employee who is subject to post-accident testing shall remain readily available for such testing or shall be deemed to have refused to submit to testing.

2. The results of tests conducted by Federal, State, or Local law enforcement officers having independent authority to conduct tests to detect alcohol or controlled substances may be used by the employer to meet post-accident testing requirements.
 3. Time frames for testing and consequences of failure to test.
 - A. Alcohol.
 - a. If the test is not administered within two (2) hours following the accident, the supervisor shall prepare and submit documentation stating why the test was not administered within two (2) hours.
 - b. If the test is not administered within eight (8) hours following the accident, the supervisor shall cease attempts to administer an alcohol test and shall prepare and submit documentation stating why the test was not administered within eight (8) hours.
 - B. Controlled Substances.
 - a. If the test is not administered within thirty-two (32) hours following the accident, the supervisor shall cease attempts to administer a controlled substance test and shall prepare and submit documentation stating why the test was not administered within thirty-two (32) hours.
 4. An employee may volunteer to take a drug screening test, at the City's expense, for his/her own or for the City's legal protection no matter the results of the accident. The presence of drugs or other metabolites discovered in the drug screening test, or the employee's refusal to submit to the drug screening test, shall result in appropriate disciplinary action.
 5. Upon required testing due to an accident or reasonable cause, the employee tested shall not engage in the operation of any Vineyard equipment or engage in any employment related duties, which his supervisor deems dangerous to himself or others until the results of the tests are received, and the employee is released back to work by the City Manager or department head.
- H. Consequences of Positive Drug/Alcohol Test.
1. Alcohol.
 - A. If any alcohol test result shows a blood alcohol content of 0.04 or greater, the employee shall be removed from, and cannot return to, a safety sensitive function until, at a minimum, all of the following are met:
 - a. The employee undergoes evaluation by a substance abuse professional, and where necessary, rehabilitation.

- b. The substance abuse professional determines that the employee has successfully complied with any required rehabilitation.
 - c. The employee undergoes a return-to-duty test with a result of less than 0.02 BAC.
 - B.** If an employee's test results show an alcohol concentration of greater than 0.02, but less than 0.04, the employee shall not be permitted to perform any safety sensitive functions for at least twenty-four (24) hours.
- 2. Drug/Controlled Substance.
 - A.** If a drug test result shows that the employee has misused a controlled substance the employee shall be removed from, and cannot be returned to, a safety sensitive position until, at a minimum, all of the following are met:
 - a. The employee undergoes evaluation by a substance abuse professional, and where necessary, rehabilitation.
 - b. The substance abuse professional determines that the employee has successfully complied with any required rehabilitation.
 - c. The employee undergoes a return-to-duty test with a verified negative test result for controlled substances.
- I. Treatment.
 - 1. If through any of these detection methods or on his initiative, an employee tests positive or seeks rehabilitation treatment, Vineyard will pay for an initial substance abuse evaluation. Participation in any rehabilitation treatment is confidential.
 - 2. Vineyard encourages employees to enroll in a counseling or rehabilitation program. An employee will be required to sign a document agreeing to the following conditions in order to remain employed with full rights and benefits:
 - A.** Any employee for whom treatment is recommended will be responsible for costs not covered by insurance. The employee will be required to use accrued compensatory time, annual vacation leave, and then sick leave until all leave is expended. Vineyard will pay the employee's benefit package during the allotted treatment time, but not wage supplements during this time. Each incident will be reviewed on a case-by-case basis.
 - B.** If a required treatment or rehabilitation program involves confinement, the employee's position may be held for the determined length of the treatment and the employee restored to his former position upon successful completion of the substance abuse rehabilitation. Each

incident will be reviewed on a case-by-case basis.

3. Before any rehabilitation in lieu of or in addition to disciplinary action is undertaken, a written memorandum of understanding or agreement should be signed by the City Manager, department head, and the employee.
 - A. The memorandum should set out the expectations which the employee must satisfy, including successful completion of a rehabilitation program; appropriate waiver of confidentiality to permit communication between supervisors and rehabilitation service providers, as needed; periodic rehabilitation drug testing as determined appropriate; an acknowledgment that failure to successfully complete rehabilitation will lead to appropriate disciplinary action; and such further conditions as may be necessary and appropriate.
- J. Follow-up Testing. Employees who have violated this policy and continue to work for Vineyard shall be subject to follow up drug/alcohol testing for a period of not less than one (1) year and not to exceed sixty (60) months.
 1. Employees subject to follow up testing will be tested a minimum of six (6) times in the first (1st) twelve (12) months following their return to duty.
 2. Follow-up testing beyond one (1) year shall be based on a need assessment provided by a substance abuse professional.
- K. General.
 1. Vineyard maintains the right to conduct unannounced inspections of Vineyard owned property, workstations, equipment, desks, cabinets, etc.
 2. Vineyard maintains the right to utilize detection methods necessary for the enforcement of this policy including blood, urine, or other tests, and the use of electronic detection equipment and trained animals.
 3. Failure to cooperate with these detection methods or inspections is grounds for disciplinary action up to and including termination of employment.
 4. Employees may direct any questions regarding this policy to their supervisor or department head.
 5. In all drug testing and sample collection procedures, any transmittal or reporting of test results shall be conducted with due respect for confidentiality.
 - A. Drug test activities and result reports may be made available only to supervisors and management personnel with an immediate need to know about those procedures and results.
 - B. Testing procedures and results may be made available and communicated

as needed for the purposes of any disciplinary action or criminal investigation or prosecution.

- C. Records regarding test results are generally considered protected documents under the provisions of the Government Records Access and Management Act (63-2-304 (9) Utah Code Ann., 1953, as amended).

6. Any violations of law will be referred to law enforcement officials.

- A. Testing by law enforcement personnel under the reasonable suspicion standard may not be used for law enforcement or criminal justice purposes. This does not include post-accident testing done by a law enforcement agency as part of a criminal investigation.

SECTION VI: SEXUAL/GENDER AND OTHER HARASSMENT

1. General Policy

The city will not tolerate harassment of any kind. Harassment for any discriminatory reason, such as age, color, disability, genetic status, military status, national origin, pregnancy, race, religion, sex, sexual orientation, veteran or disabled veteran status or other basis protected by federal, state and/or local laws, may subject the City and/or the individual harasser to liability.

- A. The giving or withholding of tangible job benefits based on the granting of sexual favors (Quid Pro Quo) and any behavior or conduct of a sexual/gender-based nature which is demeaning, ridiculing, or derisive and results in a hostile abusive or unwelcome work environment constitutes sexual harassment.
 - 1. Unlawful discrimination/harassment of employees of any type, on or off duty, based on gender, race, religion, ethnic origin, or sexual orientation, subtle or otherwise, shall not be tolerated and violators will be subject to disciplinary action up to and including termination.
- B. Retaliation or reprisals are prohibited against any employee who opposes a forbidden practice, has filed a charge, testified, assisted, or participated in any manner in an investigative proceeding or hearing under this policy.
- C. False or bad faith claims regarding harassment shall result in disciplinary action, up to and including termination, against the accuser.
- D. Employees accused of sexual or other harassment and facing disciplinary action shall be entitled to receive notice of charges, the evidence to be used against them, and an opportunity to respond before any disciplinary action may be taken.
- E. Records and proceedings of harassment claims, investigations, or resolutions are confidential and shall be maintained separate and apart from the employee's personnel file.
- F. All employees, supervisors and management personnel shall receive training on the harassment policy and grievance procedures during orientation and annual training.
- G. In addition to prohibiting harassment by its employees, the city will not tolerate harassment toward its employees by its citizens, contractors and/or vendors, etc. This policy applies to everyone working on behalf of the City, including not only elected officials, executives, supervisors, managers, employees, and volunteers, but also citizens, vendors, contractors, and visitors who come into contact with an employee conducting their job duties. This policy also covers persons doing business with the City via electronic or other communication media.

2. Prohibited Conduct

Employees should work in environments free from physical attack, threats, and menacing or harassing behaviors. Physical attacks, threats, harassment, and property damage are always prohibited. Employees may not possess or use a weapon illegally while at work. “Weapon” may consist of firearms, knives, bombs, bats, clubs, stun guns, or tools used in a violent or threatening manner. As used in this policy, violence is defined to including the following:

- A. Physical Attack is an unwanted or hostile contact, such as, but not limited to hitting, fighting, pushing, shoving, or throwing objects.
- B. Threat is stating a present or future intention to cause physical or mental harm. Any expression of intent to cause physical or mental harm is considered to be a threat.
- C. Harassment is behavior or communication designed or intended to intimidate, menace, or frighten another person.
- D. Property Damage is behavior or acts that contribute to the destruction or damage of property.
- E. Sexual Harassment includes unwelcome sexual advances, requests for sexual favors or other verbal or physical acts of a sexual nature or sex-based nature where:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or the granting of tangible job benefits (Quid Pro Quo).
 - 2. An employment decision is based on an individual's acceptance or rejection of such conduct.
 - 3. Such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment.
- F. Other Forms of Harassment include, but are not limited to:
 - 1. Insults, practical jokes, innuendoes, hazing, teasing, derogatory remarks, unwelcome or inappropriate nicknames, and similar conduct, which is based on race, gender, age, disability, etc. or is degrading and offensive.
 - 2. Gender role stereotyping which results in assignments made or denied solely on the traditional historic perceptions regarding the types of jobs that specific genders may/should perform, comments or written material reinforcing traditional historic perceptions regarding gender, behavior/conduct of a visual or verbal nature directed at a specific gender which is demeaning, ridiculing, or derisive, or creating an environment that demonstrates a demeaning, ridiculing, or derisive attitude toward a specific gender.
- G. Prohibited acts of harassment can take a variety of forms ranging from subtle

pressure for sexual activity to physical assault. Harassment includes, but is not limited to:

1. Physical Assaults of a sexual nature, such as: rape, sexual battery, molestation or attempts to commit these assaults.
 2. Intentional physical conduct which is sexual in nature, such as: touching, hugging, pinching, patting, grabbing, brushing against another employee's body, or poking another employee's body.
 3. Unwanted sexual advances, propositions, or other sexual comments, such as: sexually-oriented gestures, noises, remarks, jokes, or comments about a person, a person's sexuality, or sexual experience.
 4. Preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward.
 5. Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's gender.
 6. Displaying, possessing, bringing, reading, or viewing, pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic on city property or while performing city functions.
 - a. A picture will be presumed to be sexually suggestive if it depicts a person of either gender who is not fully clothed or in clothes that are not suited to, or ordinarily accepted for, the accomplishment of routine work in and around the office/shop and who is posed for the obvious purpose of displaying or drawing attention to private portions of his or her body.
 - b. Reading or otherwise publicizing in the work environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning, or pornographic.
 - c. Displaying signs or other materials purporting to segregate an employee by gender in any area of the workplace (other than restrooms and similar semi-private lockers/changing rooms)
 7. This harassment policy applies not only to the workplace during normal hours of operation but also to organizational travel and all work-related social functions, even if such activities are held off-site.
- H. Retaliation or reprisals are prohibited against any employee who opposes a forbidden practice, has filed a charge, testified, assisted, or participated in any manner in an

investigative proceeding or hearing under this policy. Retaliation for harassment complaints includes, but is not limited to;

1. Disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work-related matters with any employee because that employee has complained about or resisted harassment, discrimination, or retaliation.
2. Engaging in any conduct that would tend to discourage others from making a complaint of harassment or is intended to punish a person who made a complaint. This includes such behavior as ostracizing or being continually rude towards a person who has complained.
3. Intentionally pressuring, falsely denying, lying about or otherwise covering up or attempting to cover-up conduct such as that described in any item above.
4. Retaliation is prohibited regardless of whether or not the original complaint made by the victim or alleged victim of retaliation had any merit.
5. Special or more closely monitored attention to work performance, or the assignment of duties not otherwise performed during the regular course of the employee's duties.

3. Disciplinary Action

- A. Employees found guilty of harassment may face disciplinary action up to, and including, termination based on all the circumstances of the case.
- B. False claims regarding harassment shall result in disciplinary action, up to and including termination, against the accuser.
- C. Complaints made under this policy will not result in any adverse action against the person making the complaint, and no other person who participates with an investigation will be treated adversely because of that participation. However, individuals who knowingly provide false information, either through a complaint or an investigation, will be subject to disciplinary action, up to and including termination.

4. Complaint Process and Complaint Files

- A. Complaint Process.
 1. Employees who are experiencing an unwelcome or hostile work environment, which is clearly offensive, or are subjected to harassment, should address that unwelcome behavior/conduct through this formal remedial process rather than the general grievance process.
 2. If subjected to harassment, employees are encouraged to firmly and promptly

notify the offender that his/her behavior is unwelcome. The city recognizes that it may be difficult to initiate such a discussion.

3. If an employee believes that he/she, or another individual is/may be, subjected to objectionable conduct, you must report it immediately to your supervisor, manager, Department Head or Human Resources so a full investigation may be conducted. No one should allow an inappropriate situation to continue by not reporting it, regardless of who may be creating the situation.
4. Formal complaints should be submitted promptly, in writing or orally, and specify:
 1. The identity of the victim.
 2. The identity of the offending employee.
 3. The date and time of the offense.
 4. The offensive behavior that the employee engaged in.
 5. The frequency of the offensive behavior.
 6. The names of any witnesses.
 7. Damage the victim suffered as a result of the offensive behavior.
 8. How the victim would like the matter settled, or what the victim would like to see happen.
5. The victim will be allowed a reasonable amount of time during work to prepare a formal complaint.
6. The victim should submit formal written complaints to Human Resources. If the Mayor or City Administrator is the employee engaging in the offensive behavior, the formal complaint should be submitted to the Council.
7. Employees are required to report violations of the harassment policy when they first feel they have been harassed or when they are aware of another employee being harassed.

B. Complaint Files.

1. Information related to any harassment complaint, proceeding, or resolution shall be maintained in separate and confidential harassment complaint file. This information shall not be placed or maintained in an employee's personnel file.
2. Information contained in the harassment complaint files shall be released only with the written authorization of the victim and the City Administrator

3. Participants in any harassment proceeding/investigation shall treat all information related to that proceeding/investigation as confidential.

5. Investigation of Complaints

- A. Employees should not assume that the city is aware of an existing situation. The first step to correct a problem begins with the proper individuals in the city receiving information about any type of violence, harassment, or discrimination.
- B. The city and its agents are under a duty to investigate or to eradicate any form of violence, harassment, discrimination, or complaints about conduct in violation of this policy. All allegations of harassment will be quickly investigated.
 1. To the extent possible, the employee's confidentiality and that of any witnesses and the alleged harasser will be protected against unnecessary disclosure.
 2. The investigation may also include a thorough review of files and other tangible evidence.
 3. The investigators will make every reasonable attempt to rationally and objectively resolve any questions of credibility between the complaint and the accused employee.
 4. Employees accused of harassment and facing disciplinary action shall be entitled to receive notice of charges, the evidence to be used against them, and an opportunity to respond before any disciplinary action may be taken.
 5. When the investigation is completed, the employee who has been subjected to the alleged harassment will be informed of the outcome of that investigation and will be provided the opportunity to discuss the outcome with the City Manager.

6. Victim Protection

- A. Individual complaints, either verbal or written, are confidential.
- B. Victims of alleged harassment shall not be required to confront the accused outside of a formal proceeding.
- C. The accused shall not contact the victim regarding the alleged harassment.
- D. Retaliation or reprisals are prohibited against any employee who opposed a practice forbidden under this policy, or who has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

SECTION VII: EMPLOYEE CODE OF CONDUCT

1. Professionalism

Vineyard is a professional association whose purpose, among others, is to provide professional services to its citizens. Its employees must adhere to high standards of public service that emphasize professionalism and courtesy. Employees are required to carry out efficiently the work items assigned as their responsibility, to maintain good conduct, and to do their part in maintaining good relationships with their supervisors and fellow employees, the public, and other member employees and officials.

2. Privileged Information

Vineyard employees involved with information of significant public interest may not use this privileged information for personal gain, nor to benefit friends or acquaintances. If an employee has an outside interest which could be affected by any Vineyard plan or activity, this situation must be reported to their immediate supervisor or department head immediately. Each employee is charged with the responsibility of ensuring only information that should be made available to the general public is released as defined in the Government Records Access and Management Act.

3. Confidentiality

Fellow employees have an unquestionable right to expect all personal information about themselves, their illness, their family, and financial circumstances to be kept confidential. Every employee has an obligation to protect this confidence. Never discuss privileged information with others who are not authorized to receive it, either inside or outside the office.

4. Gifts and Gratuities

Vineyard employees are prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loan, or item of monetary value from any person seeking to obtain business with Vineyard, or from any person within or outside Vineyard employment whose interests may be affected by the employees' performance or nonperformance of official duties. Vineyard employees will not accept gifts or gratuities except under circumstances allowed by the Utah Municipal Officers and Employee Ethics Act (Utah Code 10-3-13).

5. Attendance

Regular attendance and punctuality are essential to providing high quality work, service to customers, and to avoid extra work for fellow employees. Therefore, when the employee is going to be late or will not be able to report to work, the employee must notify their supervisor prior to the scheduled work time. If the employee is ill or has an emergency, they should notify their supervisor as soon as possible on each day of absence. All employees with excessive tardiness may be subject to disciplinary action up to and including termination.

6. Appearance

Vineyard reserves the right to expect its employees to present a favorable impression during any contact with the public. All employees are expected to maintain a neat and clean personal appearance. Standards of dress shall be appropriate to the job and the tasks to be accomplished.

7. Smoking

In compliance with the Utah Indoor Clean Air Act, smoking is not permitted in Vineyard facilities. Vineyard also prohibits smoking in Vineyard owned vehicles.

8. Use of Electronic Communications and Mail Systems

EMPLOYEES HAVE NO PRIVACY RIGHTS WITH RESPECT TO ANYTHING ON THEIR PHONE SYSTEM, PC, LAPTOP OR THE CITY NETWORK, INCLUDING E-MAIL

- A. Telephones are provided for the conducting of City business. However, personal use by employees is permitted within the following guidelines:
 - 1. The use is of reasonable duration and frequency during approved breaks or lunch periods.
 - 2. The City incurs no added costs, such as long-distance charges.
 - 3. The use is not related to any illegal activity or the conduct of an outside business.
 - 4. The use does not interfere with the performance of City business, the employee's assigned duties, or the assigned duties of other employees and does not adversely affect the performance of the employee or the organization.
 - 5. The City reserves the right to limit the frequency and length of personal telephone calls. Personal calls that are excessive and/or unnecessary are not acceptable and may result in disciplinary action up to and including termination.
- B. Certain personnel are provided cell phones for the convenience of the city and employees in the performance of their official duties. Personal use of cell phones should be limited while on city time.
 - 1. Employee Eligibility. A cell phone will be issued to an eligible employee, or the city will provide reimbursement for use of a personal cell phone for city business when his/her job description requires the employee to be reachable immediately, be on call outside of normal business hours, or be away from a fixed workstation for a substantial portion of his/her workday.
 - 2. Determination of cell phone issuance or reimbursement is up to the department director and city manager. Employees that are issued a city-owned cell phone,

or paid a monthly reimbursement, must be reachable on their cell phones both during and after regular business hours.

3. Cell Phone Reimbursement Levels. The following levels are to be used by Department Directors in determining reimbursement to the employee for the use of a personal cell phone for work related purposes

Level 1: Minimal use of cell phone after hours or while away from a desk, generally does not require the issuance of a city-owned cell phone, but phone service can be reimbursed at \$10 per month.

Level 2: Some interaction with the public and other employees while away from a desk. Reimbursed at \$20 per month.

Level 3: Extensive interaction with the public and other employees while away from a desk. Reimbursed \$30 per month.

Level 4: Data plan and/or extensive communication with the public and other employees via phone, text, and email during and after regular business hours in order to be more effective in job performance. Reimbursed at \$50 per month.

Level 5: Data Plan as described in level 4 with wireless access point capability. To be used by employees that require internet service on other electronic devices. This level should not be used if the employee has a separate wireless card. Reimbursed at \$80 per month.

- C. The use of the city paid postage for personal correspondence is not permitted unless purchased in advance; abuse of this privilege may result in loss of privilege for all employees. In the interest of security and safety for all employees and members of the public, all mail and parcels are subject to search; they may be opened and inspected at any time. Therefore, employees should have no expectation of privacy with respect to any mail or parcel included with the City's mail or parcels.
- D. Any employee desiring to use Vineyard owned FAX or copying machines for items of a personal nature may do so after paying for such use at the employee rate, which is in effect at the time of use.
- E. As a user of the Vineyard's network and computer system, you may be authorized to access the Internet. Internet access is provided for business purposes. You should be aware that every Internet site you visit may be capable of determining who you are and whom you represent. Accordingly, access to the Internet should include the use of good judgment, common sense, and careful discretion.
 1. Visiting gaming or adult sites is prohibited. If employees access gaming or adult sites, even accidentally, such employees shall notify his/her supervisor as soon as possible.
 2. Because of the prevalence of viruses on the Internet, you should use great caution in downloading any programs, data, or other material, and should download only to your specific PC's hard drive, and not to the City's network drives.
 3. The City reserves the right to limit an employee's access to the Internet for any

reason.

4. An employee has no privacy rights with respect to anything on their PC, laptop, or the City network, including internet sites accessed.
- F. Employees desiring to establish social networking accounts in order to publish information as an official representative of the City shall obtain approval from the mayor or designee. Social networking accounts that represent the city in an official capacity may be established for use only by the mayor or designee.
1. Employees that have personal blogging or social networking accounts not approved by the mayor or designee who desire to post comments or information concerning the City must make it clear that the views and opinions they express about work-related matters are their own, have not been reviewed or approved by the City, and do not necessarily represent the views and opinions of the City.
 2. Employees engaging in online social networking and blogging activities are expected to remain respectful of the City, its employees, its services, its residents, and its contract agents. Material should not be posted that is obscene, vulgar, defamatory, threatening, discriminatory, harassing, abusive, hateful, or embarrassing to another person or entity. Further, employees should not engage in on-line activity that reflects or may reflect negatively on the City, its elected or appointed officials, affiliates, employees, clients, partners, vendors, and suppliers, or contains any content prohibited by the City's policies and procedures. Proper consideration should be given to avoid topics that could be inflammatory, such as religious or political views.
 3. Social networking sites should be used in a positive manner and should not be the medium typically used to respond to negative issues.
 4. Employees should not disclose private or confidential information, or information obtained in a setting for which the information was meant to be private.
 5. Employee's networking accounts representing the city should properly identify themselves somewhere within the website with their name (or department when relevant) and should not post information on behalf of the city as an anonymous masked "cover-name).
 6. Posts should be accurate with employees being mindful of spelling, punctuation, and grammar. If errors in posts are found, employees should be up front about the mistake and correct the error quickly by posting new messages that clearly indicate the error.
 7. Employees should ensure that online networking activities do not interfere with their daily job commitments and duties. Other adopted City policies regarding computer uses shall be adhered to. Privileges of using networking websites for

official City related matters may be revoked by the mayor or designee for any abuse of time and/or posting of inappropriate material or messages.

9. Purchasing

All purchases must follow the Vineyard Purchasing Policy. (This is a separate document).

10. Credit Cards

Vineyard credit cards shall be used for official business only and shall not be used for the personal convenience of an employee. Receipts for credit card purchases will be delivered to finance department by the end of the month the purchases are made, failure to provide receipts for credit card purchases may require employee reimbursement for undocumented purchases. Repeat offenders may lose access to credit cards.

11. Outside Activities

Vineyard employees shall not use City owned property in support of outside interests and activities when such use would compromise the integrity of Vineyard or interfere with the employee's duties. Specifically, an employee who is involved in an outside activity such as a civic organization, committee unrelated to Vineyard business, public office, or service club, shall:

1. Pursue the outside activity on the employee's own time.
2. Pursue the outside activity away from Vineyard offices.
3. Discourage any phone, mail or visitor contact related to the outside interest at Vineyard offices.
4. Arrange for annual leave or compensatory time off in advance to pursue the outside interest during business hours.
5. Not use data processing equipment, postage metering machines, copiers, other Vineyard owned equipment or supplies for the outside interest.
6. Please be advised that Vineyard may from time to time delete e-mail messages.

12. Prohibited Acts

Expressly prohibited acts include:

- A. Attempts to read, copy, forge, modify, or delete e-mail messages of other users.
- B. Sending harassing, threatening, obscene, inappropriate, or other objectionable messages via e-mail.
- C. Sending unsolicited junk mail, for profit messages, or chain letters.

- D. Otherwise sending communications that are not in accordance with the standards expected from City employees, as determined by Vineyard.
- E. Similar acts to those listed above are also prohibited.

13. Political Activity

- A. An employee shall not coerce another employee to support a political activity, whether funds or time are involved.
- B. An employee shall not engage in political activity during work hours, unless on approved leave.
- C. An employee shall not use Vineyard owned equipment, supplies or resources, and other attendant expenses (diskettes, paper, computer online and access charges, etc.) when engaged in political activity.
- D. An employee shall not use, discriminate in favor of or against, any person, or applicant for employment based on political activities.
- E. An employee shall not use the employee's title or position while engaging in political activity.

14. Secondary Employment

Employment with Vineyard shall be the employee's primary employment. Employees entering into other employment are required to provide written notification to their immediate supervisor or department head, using the "Employee's Notice of Secondary Employment" (*form #22*) before starting any secondary or outside employment.

15. Disclosure of Conflict of Interest

Employee will sign a "Disclosure Statement" if there is a potential for a conflict of interest when they are involved with an outside organization or business (*form #23*).

16. Personal Use of Public Property

Vineyard employees are public servants. The City provides public property to its employees for the primary purpose of facilitating the public's business. The incidental personal use of public property furthers the public's business by promoting employee efficiency, good will, and morale at little or no cost to the City. Therefore, personal use of public property by City employees is authorized if such use is de minimus, incidental, and satisfies the following criteria

- A. Is authorized to use or possess property to fulfill the employee's official functions
- B. Public value of use or possession of property by employee outweighs any personal benefit to employee
- C. Does not interfere with employee's primary duties or City operations

- D. Does not interfere with the performance of any other employee's duties
- E. Does not compromise the integrity of City property, information, or software
- F. Does not involve conducting an outside business or private employment or other activities conducted for private financial gain
- G. Does not violate the law or City policy
- H. Does not create a risk of liability or harm to the City

17. Identification/City Apparel

Vineyard employees are encouraged to wear at least one of the following when operating on behalf of the city outside of the city offices:

- A. Shirt, vest, jacket, or other form of clothing with the city's logo clearly visible
- B. City issued photo ID with the city's logo clearly visible

The purpose of this is to help the general public know that they are meeting with a legitimate Vineyard City employee.

SECTION VIII: DISCIPLINARY ACTION

1. General Policy

- A. It is the policy of the Vineyard that management will inform its employees about what is expected at work, what constitutes employee misconduct, and what the employee's rights are, if disciplined.
- B. It is the responsibility of all employees to observe rules of conduct necessary for the proper operation of Vineyard government. Administrative procedures have been established for the handling of disciplinary measures when required. All such measures shall follow the presentation of charges to the employee.
- C. Disciplinary action, in the form of either a verbal warning, written reprimand (*form #24*), suspension (*form #25*), demotion (*form #26*), or termination of employment (*form #27*), may be imposed for misconduct depending on the seriousness of the misconduct.
- D. Misconduct for purposes of this policy includes inability to perform required job functions, acts of insubordination, violation of the employee's code of conduct contained in this policy, violation of any other portion of this policy or other clearly established policies, and any illegal or immoral conduct that significantly compromises the employee's ability to successfully work for the City.

2. Conducting an Investigation

- A. The department head or City Administrator may conduct an investigation into the allegations, which form the grounds for any proposed disciplinary action.
- B. During an investigation to determine the facts upon which disciplinary action may be imposed the department head or City Administrator may place an employee on administrative leave.
- C. Disciplinary action shall not be imposed until an informal pre-disciplinary hearing, with appropriate written notice, has been completed by the department head or City Administrator. The investigation shall include an opportunity for the employee to respond to the allegations.

3. Imposing Disciplinary Action

- A. The department head or City Administrator shall conduct disciplinary action in a consistent manner.
- B. Each employee shall be afforded prior access to Vineyard's rules, policies, and procedures.
- C. The employee shall receive timely notice of the pre-disciplinary meeting, overview

of allegations, and potential disciplinary action.

- D. Prior to imposing the disciplinary action, the employee shall have the opportunity to review the disciplinary action with the department head or City Administrator. The employee shall have the opportunity to respond to the allegations. The employee's written response, if any, and other related documents shall be placed in the employee's personnel file.
- E. In determining the type and severity of the disciplinary action, the department head, or City Administrator, may consider aggravating and mitigating circumstances which include, but are not limited to the repeated nature of misconduct; prior disciplinary action imposed; the severity of the misconduct; the employee's work record; the effect on Vineyard operations; and/or the potential of the misconduct to harm person(s) or property.
- F. For disciplinary action other than a verbal reprimand the department head or City Administrator shall notify the employee, in writing, of the findings of the investigation/pre-disciplinary hearing. The written statement shall include:
 - 1. The grounds for disciplinary action, including a description of the specific misconduct for which the disciplinary action is being imposed.
 - 2. Any prior disciplinary action imposed.
 - 3. The disciplinary action to be imposed.
 - 4. The effective date and duration of the disciplinary action.
 - 5. The corrective action necessary, if any, for the employee to avoid further disciplinary action.
- G. Suspension, demotion, transfer, or termination of an employee shall require the approval of the department head and City Administrator (*forms #25, #26, #27, #28*).
- H. The department head or City Administrator may note the disciplinary action on their personal notes at the time the disciplinary action is imposed and/or on the employee's "Employee Performance Review Form" (*form #50*).

4. **Appeal Procedures**

- A. "Non-merit employees" have no appeal rights.
- B. Employees have no "verbal warning" appeal rights.
- C. Employees have no "written reprimand" appeal rights.
- D. Appealing to Vineyard's Council. Upon written receipt of an Employee Suspension, Demotion, Transfer, or Termination Notice, some employees have the right to appeal

the disciplinary process and action imposed by the department head or City Administrator, to Vineyard's Council (exceptions include Probationary Employees, appointed officers including the Recorder, department heads and other employees as indicated as not being entitled to a due process hearing in Utah Code 10-3-1105):

1. An employee must submit a written notice of appeal to Vineyard's Recorder within ten (10) days or an employee will be deemed to have waived all appeal rights.
2. If Vineyard's Council overturns the Employee Disciplinary Action:
 - a. Vineyard's Council may reinstate any loss of pay associated with the Employee Disciplinary Action.
 - b. The Human Resource Manager shall remove the record of the disciplinary action from the employee's personnel file.
3. If Vineyard's Council upholds the Employee Disciplinary Action an employee has the right to appeal the decision to the Utah Court of Appeals pursuant to Utah Code 10-3-1106.

SECTION IX: GRIEVANCE PROCEDURES

1. General Policy

Employees who perceive that they have a grievance against Vineyard or any Vineyard Employee, other than a grievance that is covered by the sexual and other harassment section of this policy, shall exhaust the administrative procedure set forth in the body of this policy before addressing their grievance through any other forum. An employee may file a grievance about any perceived work-related injustice or oppression resulting from an act occurrence, omission, condition, or unfair labor practice other than termination, suspension or demotion which must be addressed through the disciplinary appeal process. Issues addressable throughout the grievance process include, but are not limited to:

1. Employee-supervisor relationships.
 2. Duty assignments not affecting job classification.
 3. Shift and job location assignments.
 4. Working conditions.
 5. Practices affecting granting of leave.
- A. Grievances should be resolved at the lowest administrative level possible. Employees and the department head shall attempt to resolve grievances informally by discussing the grievance issues before any formal written grievance is filed. Each employee pursuing a formal grievance must prepare and submit a separate written "Grievance Form" (*form #31*).
 - B. Employees will be allowed a reasonable amount of time during work to prepare written grievances. Employee grievances must be filed within ten (10) days of the occurrence or event giving rise to the grievance or within ten (10) days of when the employee acquires knowledge of the occurrence or event giving rise to the grievance.
 - C. At each level of the grievance process, after an administrator has received an employee grievance, the administrator shall have ten (10) working days to respond in writing to the grievance.
 - D. If an administrator is unable to answer the grievance within the specified time period due to extenuating circumstances, the administrator may take an additional ten (10) working days to answer the grievance if they notify the employee in writing of the exigent circumstances and that the extension is being exercised. If the grievance remains unresolved or the decision is considered unacceptable, the employee may appeal the decision to the next level of appeal.
 - E. Absent exigent circumstances, if the supervisor fails to respond within the allotted time, the employee may proceed to the next level of appeal.

- F. Only the issues presented in the original grievance may be considered throughout the appellate process. A grievance and any necessary appeals shall be processed through the following chain of command, if applicable:
1. Department Head.
 2. City Manager.
 3. ~~Human Resources~~ Mayor or Designee.
 4. Council.
- G. The decision of the Council constitutes the final level of appeal and is final and non-appealable.

2. Confidentiality

Written Grievance Forms shall be private data under the Government Records Access Management Act of the State of Utah. The Mayor or Council may declare the grievance documents to be confidential and/or order the entire record, or any part of it, sealed.

3. Filing

- A. No document relating to a grievance shall be placed in the employee's personnel file.
- B. If any disciplinary action against an employee is rescinded as a result of the grievance process, the Human Resource Manager shall remove the record of the disciplinary action from the employee's personnel file.
- C. If any disciplinary action against an employee is modified as a result of the grievance process, the unmodified record of the disciplinary action shall be removed from the employee's personnel file and the modified record of the disciplinary action shall be placed in the employee's personnel file.

SECTION X: TERMINATION OF EMPLOYMENT

1. Types of Termination

Any involuntary termination or termination of any employee who is allowed to resign, in lieu of an involuntary termination, should be reviewed with legal counsel before termination is pursued or a resignation is accepted to ensure the employees "due process" rights are not violated.

- A. Retirement. Voluntary termination at the end of an employee's career.
- B. Voluntary Resignation. When an employee wishes to leave Vineyard, they will complete a "Notice of Voluntary Resignation Form" (*from # 29*) and present it to their immediate supervisor or department head.
- C. Resignation, in Lieu of an Involuntary Termination, Agreement. The mayor or designee may conclude that an employee should be involuntarily terminated for no Involuntary Termination proceedings have begun, but have not been completed, and an employee suggests that they would like to voluntarily resign, the mayor or designee may agree to a "Resignation In Lieu Of An Involuntary Termination Agreement" (*form # 30*).
- D. Involuntary Termination. The department head or City Administrator may conclude that an employee should be involuntarily terminated for no reason (for non-merit employees and department heads) or for cause (*form #27*).
- E. Reductions in Force/Layoffs. Whenever it is necessary to reduce the number of employees in Vineyard because of lack of work or lack of funds, Vineyard may attempt to minimize layoffs by readjustment of personnel through reassignment of duties in other work areas (*form #28*).
- F. Medical. The Americans with Disabilities Act (ADA) prohibits illegal discrimination by an employer against an otherwise qualified individual with a disability. Consequently, an employee should not be terminated for medical reasons without prior consultation with legal counsel.
- G. Death. If an employee of Vineyard dies, their estate receives all pay due and any earned and payable benefits (such as payment for compensation time and vacation leave) as of the date of death.

2. Required Notice Prior to Termination

- A. All employees, including at-will employees, must notify Vineyard at least two (2) weeks before retiring or voluntarily resigning to be eligible:
 - 1. To receive pay for unused, accrued vacation leave (if applicable).
 - 2. For rehire.

- B. Vineyard does not have a requirement to give any prior notice to an employee before terminating their employment with Vineyard.
- C. Unused, accrued vacation leave will always be paid for terminations of employment involving Reductions in Force/Layoffs, Medical Reasons, and Deaths.

3. Termination Procedures

- A. A “Notice of Voluntary Resignation Form” (*form #31*), signed by the employee and the department head or City Administrator, may be utilized in Voluntary Resignations.
- B. Involuntary Terminations/Separations for Cause require Vineyard to provide their terminating employees with written notification of due process (*form #27*). At-Will Involuntary Terminations (for Non-merit employees and department heads) do not require Vineyard to provide their terminating employees with written notification of due process.
- C. A “Resignation in Lieu of an Involuntary Termination Agreement” (*form #30*), signed by the employee and the department head or City Administrator, may be utilized in negotiated terminations. A “Resignation In Lieu of an Involuntary Termination Agreement” does not require Vineyard to provide their terminating employees with written notification of due process.
- D. The following steps should be taken for Voluntary Retirements:
 - 1. Employees who desire retirement should notify Vineyard three (3) months in advance.
 - 2. Vineyard should communicate the status of each employee’s retirement benefits. Upon request for retirement benefits, Vineyard should notify the administrator of the retirement program and the appropriate state and federal regulatory agencies.
 - 3. Vineyard should carefully explain to the employee what the options are [such as Cobra; (see #4 in Section X) and Retirement Plan Options].
 - 4. Vineyard should give the employee ample time to review the retirement plan.
 - 5. Vineyard should have the employee sign a release, or at least a declaration statement, to the effect that they are electing retirement of their own free will.
- E. The following steps should be taken for Reductions in Force/Layoffs:
 - 1. Determine whether Vineyard is required to follow statutory guidelines related to the reduction in force/layoff. If Vineyard is required to follow statutory guidelines, policy, procedure, and actual practice must comply with said guidelines.

2. If Vineyard is facing a possible reduction in labor force, Vineyard should explain the situation to its employees, advising them of the possibility that reductions in force/layoffs may become an economic necessity for Vineyard.
 3. In the selection of employees for Vineyard's reduction in force/layoff, the following guidelines should be considered:
 - a. Selection should be based upon the employee's ability to perform the work assignments within the affected department.
 - b. Seniority should govern the selection when ability is equal.
 - c. Emergency, temporary, and non-merit employees should be laid off first.
 - d. Merit employees should be the last to be laid off, when possible, in inverse order of their length of service.
 - e. Before any reduction in force/layoff, Vineyard should determine whether it is subject to the requirements of the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101, et seq.
 - f. Vineyard should carefully explain to the employee what the options are such as Cobra (see #4 of Section X) and Retirement Plan Options.
 - g. If Vineyard cannot give advanced notice of a reduction in force/layoff to the employee, two weeks' severance pay may be given in lieu of notice for a bona fide reduction in force/layoff.
 4. Written reductions in force/layoff notices should contain the following information:
 - a. Statement that separation from employment is based on reduction in force/layoff.
 - b. Anticipated date of layoff.
 - c. Any options regarding employee placement in another position.
- F. Outstanding Pay.
1. Arrange for distribution of any paychecks which may be due the employee, including pay for any hours worked but not paid; pay for unused, accrued vacation leave (if applicable).
 2. Under Utah State law, the required timing of the final payment at termination is:
 - a. A Voluntary Resignation. Within one (1) workday of effective resignation date.

- b. An Involuntary Termination/Separation for Cause. Within one (1) workday of last day worked.
- G. The terminating employee will return any supplies or equipment, which are the property of Vineyard, to Vineyard at termination.
- H. All terminating employees should complete an “Exit Interview Form” (*from # 32*) with the department head. The Exit Interview Form should be signed by the employee and the department head.

4. Cobra

Any employee, who is eligible for benefits, that is separated from Vineyard is entitled to a continuation of insurance coverage per the mandates of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) plan as stated in the Vineyard’s “COBRA Notification” (*form #33*).

- A. Federal Public Law 99-272 (which became effective July 1, 1986 and is known as COBRA) requires that all employers of twenty (20) or more full-time employees offer a continuation of group insurance coverage to individuals who fall under one (1) of the following qualifying events:
 - 1. Termination of employment (other than for gross misconduct), for a maximum continuation period of eighteen (18) months.
 - 2. Reduction of work hours below eligibility requirement, for a maximum continuation period of eighteen (18) months.
 - 3. Dependent coverage terminated due to death of employee, for a maximum continuation period of thirty-six (36) months.
 - 4. Divorce or legal separation from employee, for a maximum continuation period of thirty-six (36) months.
 - 5. Spouse or dependent of Medicare eligible employee, for a maximum continuation period of thirty-six (36) months.
 - 6. Dependent child who ceases to be a dependent under the generally applicable requirements of the group plan, for a maximum continuation period of thirty-six (36) months.
- B. Under the Act, a qualifying individual is entitled to continued group insurance coverage identical to that, which is provided to similarly situated beneficiaries to whom a qualifying event has not occurred. Individuals who are entitled to continued benefits under COBRA guidelines are required to pay the entire premium required under the policy during the entire period of the continued coverage. The premium a qualifying individual will be required to pay may not exceed one hundred and two percent (102%) of the applicable premium, for any period of continued coverage.

Failure to pay the monthly premium will result in a cancellation of the insurance.

- C. The insurance benefits offered under the COBRA guidelines will be terminated if and when any of the following occur:
 - 1. A qualifying individual fails to pay the premium at the time it is required.
 - 2. A qualifying individual becomes eligible for coverage under any other group insurance plan due to employment or remarriage.
 - 3. At the expiration of a qualifying individual's maximum continuation period.
- D. The offer of continued insurance coverage under COBRA is made independent of any other offer to continue insurance that may be required under any applicable state law.
- E. A qualifying individual has sixty (60) days from the termination date of their current coverage to decide whether to continue their insurance coverage under this plan. If they decide to apply for the continued coverage, all due and owing premiums must be paid before coverage will be granted. If they fail to apply for coverage within the sixty (60) days, they will have waived their rights to continuation of coverage under the COBRA guidelines. They are not required to apply for or accept coverage under COBRA.

SECTION XI: RECORD KEEPING

1. General Policy

Federal law requires employers to keep detailed data about their employees (*see retention schedule*).

2. Confidentiality

Employee records are maintained in compliance with the law.

- A. Confidentiality must be maintained at all times with access limited to employees and their supervisory chain.
- B. Vineyard's policy is that only relevant, job-related information is maintained on its employees, that such information is held in strict confidence, and that access is limited only to those who require it for legitimate business reasons.
- C. Employees have the opportunity to review their own files in the presence of the Human Resource Manager, on Vineyard premises during regular business hours.

3. Personnel File Requirements

- A. General.
 - 1. Personnel files are maintained on each employee and kept by the Human Resource Manager. The record copy (original) of all appropriate personnel information, as set forth hereafter, related to an employee shall be filed in the employee's personnel file.
 - 2. No information from any record placed in an employee's personnel file will be communicated to any person or organization except by the Human Resource Manager
 - 3. Employees, or their representative designated in writing, may examine the employee's personnel file upon request during normal working hours at Vineyard. When a supervisor requires access to the personnel file of an employee under their supervision for the handling of personnel matters, the supervisor must obtain authorization from the department head or Human Resource Manager
- B. Contents.
 - 1. An employment record; including the employee's "Job Application" (*form #7*), resume, cover letter, interview forms (*forms #8, #9, #10, #11, #12, #13*), "Employment Eligibility Verification" (*form #18*), "Employee's Withholding Allowance Certificate" (*form #34*), "Job Offer Letter" (*form #14*), etc.

2. A signed copy of the employee's acknowledgment of receiving a copy of the personnel policies and procedures manual (*form #1*); and the performance standard for the position the employee currently occupies.
 3. A copy of the "Orientation Form" (*form #35*) and the "New Hire Check Sheet" (*from #36*).
 4. Election form to disclose or keep confidential, the employee's home address, and home telephone number (*form #37*).
 5. Certificates, college degrees/diplomas pertinent to their job requirements
 6. All personnel action forms, including:
 - a. Performance evaluations (*form #50*).
 - b. Promotions or transfers (*form #28*).
 - c. Salary rate changes.
 - d. Disciplinary action taken. The employee will be asked to sign the disciplinary action form (*form #24, #25, #26, #27, or #28, #30*). If the employee refuses to sign this form the department head or City Administrator, will so state.
 7. Any information the employee wants included in response to any of the above actions.
 8. Records of citations for excellence or awards for good performance.
 9. Annual records of any leave accrued and taken. Official records of vacation and sick leave accrual and leave usage are kept for employees by the finance department. Leave balances are shown on the official record to reflect any remaining leave to which an employee is entitled. Employees may check with the finance department, to obtain information regarding their current leave usage.
 10. Record of any other pertinent information having a bearing on the employee's status.
- C. Employee Information/Change of Employee Status. Employees are responsible for ensuring that personal employee information contained in their personnel files is current and accurate. Employee information (any change in number of dependents, marital status, address, telephone number, etc.) should be updated by completing an "Employee Information/Change of Status Form" (*form #39*) and giving it to the Human Resource Manager, to update their personnel file.
- D. Giving References. Vineyard limits information given in a reference to the following:

1. Verification that the employee worked, full-time or part-time, for Vineyard during a stated period.
2. A description of the position held.
3. Verification that the employee achieved a given salary range.

4. Other Files Requirements

Records related to the items listed below should be kept according to approved retention schedule. In addition, records should be examined annually to keep the files current and to save those records that management feels should be kept longer.

- A. Test papers completed by job applicants or candidates for any position.
- B. Results of any pre-employment physical exam and mobility exams should be kept for a period of at least four (4) years.
- C. Any advertisements or notices relating to job openings, promotions, training programs, or opportunities for overtime work.
- D. Records of promotion, demotion, transfer, selection for training, layoff, rehire, or termination of any employee. These should also be signed by the employee.

5. Salary/Wage Requirements

The Federal Labor Standards Act (FLSA) requires Vineyard to keep all of the following data on all employees for a period of at least seven (7) years.

- A. Employee's sex.
- B. Time and day work schedule.
- C. Hours worked each day and total hours worked each week.
- D. Total daily or weekly straight-time earnings.
- E. Total additions to, or deductions from, wages paid each pay period, including an explanation of items that make up additions and deductions.
- F. Date of payment and pay period covered.
- G. Total overtime above regular compensation for workweek.

6. Other Requirements

There are record keeping requirements under other federal and state laws over which the personnel record keeping function has jurisdiction:

- A. Occupational Safety and Health Act (OSHA) record of injuries.
- B. Employee Retirement Income Security Act (ERISA) record of pensions.
- C. The Immigration Reform and Control Act (IRCA) of 1986 requires verification of status forms to be kept for three (3) years after the person is hired or for one (1) year after employment is terminated, whichever is later.

SECTION XII: PERFORMANCE EVALUATIONS

1. General Policy

- A. Performance evaluations will consist of a review between the supervisor and the employee using Vineyard's Performance Evaluation Form (form#50)
- B. It is the policy of Vineyard that employee evaluations be conducted in a manner, which will ensure fair treatment and an objective evaluation of employee performance.
- C. Goal setting is critical for the development of performance plans and standards. Goals define in broad terms the underlying purpose of a given activity or set of activities.
- D. Objectives specify what should be achieved during an employee's employment with Vineyard.
- E. There are certain fundamental principles, which govern the establishment of goals, objectives, and performance standards.
 - 1. Participatory Goal Setting. In setting goals and objectives of employees, the supervisors should seek to involve employees in the process.
 - 2. Outline Results to be Achieved. There should be room for flexibility. The supervisor should discuss with the employee how much will be done, when it needs to be completed, and what resources will be required.
 - 3. Relate to Organizational Objectives and Goals. In the process of initially formulating performance plans, each employee should be provided with the larger picture and how their work contributes to the organization. This is the responsibility of each supervisor.
 - 4. Define Objectives. Objectives must be clearly defined and understood by both employees and their supervisors. There must be clear agreement on resources to be made available, periodic reviews and other related control activities.
 - 5. Give Support. Employees should understand that they will be fully supported by their supervisors in pursuing the achievement of the mutually agreed upon objectives and standards.

2. Employee Work Plan

- A. As part of the review process the supervisor and employee will establish an Employee Work Plan to set goals for the coming year. The purpose of the Employee Work Plan is to provide a vehicle for setting and communicating performance goals. The supervisor and employee will focus on goals to improve job performance

according to departmental and organizational objectives. The Employee Work Plan is a collaborative process in which employees and their supervisors:

1. Jointly identify objectives for the next performance evaluation period.
 2. Define priorities and performance standards for the next performance period.
 3. Compare progress against expectations and revise the plan, when necessary.
- B. The performance plan shall include goals and objectives, mutually acceptable performance standards, and a prioritization of goals and objectives.
- C. Both employees and their supervisor shall sign the work plan.

3. Performance Standards

- A. Performance standards and expectations shall be established for each employee. Employees shall participate in the establishment of performance standards and expectations relevant to their jobs.
- B. Employees shall be advised of how they are performing in relation to established standards.
- C. Performance evaluations are an ongoing process, which requires that supervisor, and subordinates meet periodically to discuss achievements, review performance, and mutually agree on strategies to eliminate performance deficiencies. This ongoing process culminates in the written evaluation at the end of the annual performance evaluation period.
- D. Employees shall be made aware of the time frames and actions to be taken to improve performance and to increase the value of service.
- E. Employees shall know what role their supervisors shall play in providing them with assistance toward improved performance.
- F. Under no circumstances should employees be allowed to prepare their own performance evaluation. It is the responsibility of the employee's supervisor to prepare performance evaluations.
- G. Employees shall have the right to prepare relevant comments to accompany their evaluations.

4. Performance Ratings.

- A. Each employee evaluation shall provide an overall performance rating which can be equated to one of the following:

5. (5-4) EXCEEDS EXPECTATIONS: Frequently exceeds job requirements. Objectives are

achieved above the established standards and accomplishments are made in unexpected areas as well. This rating should only be used when work performance exceeds expectations.

(3) MEETS EXPECTATIONS: Performs 100% of job duties satisfactorily. Normal guidance and supervision are required.

(2-1) NEEDS IMPROVEMENT: Occasionally fails to meet job requirements; performance must improve to meet expectations of position. Some work may be incomplete, of poor quality or quantity, or not submitted within acceptable time frames. Improvement is required.

6. Performance Periods

A. Non-merit employees.

1. Employees on probation shall have performance evaluations following the end of their orientation period.
2. The performance evaluations may be used to provide information to both the employee and management regarding the employee's performance.
3. Non-merit employees should understand that their performance evaluations and the results of such evaluations shall not obligate Vineyard to a particular course of action relative to non-merit employees, nor shall it create any property/due process rights for non-merit employees relative to their jobs/positions.

B. Merit employees.

1. Performance evaluations and semi-annual reviews will be completed at the designated review period as per the City Manager
2. Although a salary adjustment does not automatically follow a performance evaluation, the performance evaluation will be included as a component of any future compensation increase.

7. Confidentiality

A. Completed performance evaluations shall permanently remain in the employee's personnel file and become a part of the private information of that file.

B. Performance evaluations may be used in decisions concerning advancement, future training needs; performance related salary adjustments and contested disciplinary actions.

SECTION XIII: EMPLOYMENT CLASSIFICATIONS/COMPENSATION

1. General Policy

Vineyard will pay at least minimum wages and overtime to all employees except those who are specifically exempt from minimum wage and overtime under the Fair Labor Standards Act (FLSA) of 1938. Vineyard will also provide equal pay to all employees doing similar work, which requires substantially equal skill, effort, and responsibility, and are performed under similar working conditions in accordance with the Fair Labor Standards Act of 1938 and the Equal Pay Act of 1963.

2. Employment Classifications

There are four classifications of employees within Vineyard:

- A. Full-time. An employee hired for an indefinite period in a position for which the normal work schedule is more than thirty (30) hours per week. Full-time employees may or may not qualify for specific Vineyard benefits.
- B. Part-time. An employee hired for an indefinite period in a position for which the normal work schedule is less than thirty (30) hours per week. Part-time employees do not qualify for Vineyard benefits.
- C. Temporary. An employee hired for a position, which is required for only a specific, known duration, usually less than six (6) months. Temporary employees do not qualify for Vineyard benefits.
- D. Seasonal. An employee hired for a position which is required only for the summer or winter months. Summer or winter only employees do not qualify for Vineyard benefits.

3. Employment Status

To facilitate provisions of the Fair Labor Standards Act, employees shall also be classified as either exempt or nonexempt, with respect to eligibility for overtime payment. They shall be defined as:

- A. Exempt. Positions of a managerial, administrative, or professional nature, as prescribed by Federal and State Labor Statutes shall be exempt from minimum wage and mandatory overtime payment regulations.
- B. Nonexempt. Positions of a clerical, technical, or service nature, as defined by Federal and State Labor Statutes, which are covered by provisions for minimum wage and mandatory overtime payment regulations.

4. **Merit/Non-merit**

All employees are considered “at-will.” This means that Vineyard City can fire an at-will employee with or without cause and without notice. Likewise, an at-will employee can quit without having to give any notice. In terms of rights to due process and appeal procedures, the city uses the terms “Merit and Non-merit.”

- A. Merit Employees. Merit employees have the right to appeal any adverse employment decision such as suspension, demotion, reduction in pay, and termination. Employees become merit employees after satisfying their orientation period (90 days).
- B. Non-merit Employees. Non-merit employees do not have the right to appeal any adverse employment decision. Employees are non-merit employees during their orientation period (90 days).

5. **Work Week**

- A. Begins on Sunday at 12:00 a.m. (midnight).
- B. Ends on Saturday at 11.59:59 p.m.
- C. Employees engaged in public safety activities, such as Law Enforcement and Fire Protection Departments: As directed by the mayor, or designee.

6. **Workdays.**

- A. Full Time: Monday -Friday. Department heads may direct employees to work a different schedule as deemed necessary.
- B. Part Time: As directed by the department head.
- C. Employees engaged in public safety activities, such as Law Enforcement and Fire Protection Departments: As directed by the mayor, or designee.

7. **Work Hours.**

- A. Full Time: Monday – Thursday 8:00 to 5:30 Friday 8:00 to Noon. Department heads may direct employees to work a different schedule as deemed necessary.
- B. Part Time: As directed by the department head.
- C. Employees engaged in public safety activities, such as Law Enforcement and Fire Protection Departments: As directed by the department head.

8. **Attendance.** Employees shall be in attendance at their workstations during normal working hours, as directed by department heads.

9. Breaks and Lunch Periods.

A. Full-time:

1. Breaks: Two (2) optional fifteen (15) minute paid breaks during a standard workday. Breaks cannot be used to extend the lunch period or shorten an employee's work hours.
2. Lunch: One thirty (30) minute unpaid lunch period during a standard workday.

B. Part-time: As directed by the department head.

C. Employee breaks and lunch periods will be taken at the discretion of their supervisor or department head, to ensure continuity in the flow of work.

D. If employees choose to work through their paid breaks, it is their decision to do so, and no extra compensation will be given for the extra time worked.

E. Employees engaged in public safety activities, such as Police and Fire Departments: As directed by the department head.

F. For up to one year after a child's birth, any employee who is breastfeeding her child will be provided reasonable break times as needed to express breast milk for her baby. The city has designated a room at the main office for this purpose. Refrigeration units are available in all work locations. Any breast milk stored in the refrigerator must be labeled with the name of the employee and the date of expressing the breast milk. Any nonconforming products stored in the refrigerator may be disposed of. Employees storing milk in the refrigerator assume all responsibility for the safety of the milk and the risk of harm for any reason, including improper storage or refrigeration and tampering. Nursing mothers wishing to express milk must coordinate a schedule for breaks, the location and use of the room, and the need for alternative refrigeration equipment with their program manager. Employees who work off-site or in other locations will be accommodated with a private area as necessary.

Breaks of more than 20 minutes in length will be unpaid, and the employee should indicate this break period on her time record.

10. Compensatory Time Off

A. Employees may receive compensatory time off in lieu of overtime pay at Vineyard's discretion. The department head, reserves the right to schedule when an employee's accrued compensatory time will be used. Written employee requests to use their accumulated compensation time during specific dates and times, must be approved by the department head, who shall honor the requests unless granting the compensatory time off would create a substantial hardship for Vineyard.

- B. The law requires that after non-exempt employees have accumulated the maximum amounts of compensatory time off during any work period, any additional overtime must be paid as set forth below:
 - 1. For employees engaged in public safety activities, such as Law Enforcement and Fire Protection Departments, with five (5) or more employees, not more than four hundred eighty (480) hours of compensatory time off may accrue.
 - 2. For employees engaged in public safety activities, such as Law Enforcement and Fire Protection Departments, with less than five (5) employees the FLSA does not apply.
 - 3. For employees not engaged in public safety activities, not more than two hundred forty (240) hours of compensatory time off may accrue.
- C. Compensation time off will be accumulated at the overtime rate of one and one-half (1/2) hours for every hour worked, for all overtime hours worked.

11. Overtime Pay

- A. For employees engaged in Law Enforcement public safety activities in Departments with five (5) or more employees, overtime pay would apply for over one hundred seventy one (171) hours worked in a work period consisting of twenty eight (28) consecutive days and shall be compensated at the rate of one and one-half (1.5) the regular hourly rate of the employee. Following this requirement, overtime pay would apply for over eighty-six (86) hours worked in a work period consisting of fourteen (14) consecutive days and for over forty-three (43) hours worked in a work period consisting of seven (7) consecutive days (*form #40*).
- B. For employees engaged in Fire Protection public safety activities in Departments with five (5) or more employees, overtime pay would apply for over two hundred twelve (212) hours worked in a work period consisting of twenty eight (28) consecutive days and shall be compensated at the rate of one and one-half (1.5) the regular hourly rate of the employee. Following this requirement, overtime pay would apply for over one hundred six (106) hours worked in a work period consisting of fourteen (14) consecutive days and for over fifty-three (53) hours worked in a work period consisting of seven (7) consecutive days (*form #40*).
- C. For employees engaged in public safety activities, such as Law Enforcement and Fire Protection Departments, with less than five (5) employees the FLSA does not apply and, therefore, overtime pay shall not be paid for any hours worked in any work period.
- D. For employees not engaged in public safety activities; overtime pay would apply for over forty (40) hours worked in a work week and shall be compensated at the rate of one and one-half (1.5) the regular hourly rate of the employee.
- E. For employees not engaged in public safety activities, if a holiday, vacation, or sick

day falls within a work week, the employee must work forty (40) hours over and above these hours before overtime must be paid. If an employee works on a holiday because of an emergency situation, they will:

1. Receive regular straight-time pay for the time worked, plus holiday pay.
 2. Or, with approval of the department head, be allowed to take the holiday off at a later date.
- F. Overtime shall be approved by the department head, in writing before worked, except for public safety activities, such as Law Enforcement Officers and Firefighters. Overtime shall be authorized for personnel only when absolutely necessary to provide required services. Violation of this policy may result in disciplinary action, up to and including termination.
- G. Public safety activities, such as Law Enforcement Officers and Firefighters, may work overtime without prior authorization only in emergency situations.
- H. Public safety activities, such as Law Enforcement Officers and Firefighters, who work overtime in emergency situations shall notify the Police/Fire Chief as soon as possible with the overtime worked.

12. On-call Policy

Due to the risk associated with providing public services, timely response to emergencies is necessary. Employees may be required to fill “on-call” shifts as determined by department heads.

- A. On-call shifts will begin Tuesday at 5:30 PM and will end the following Tuesday at 8:00 AM.
- B. Employees required by the city to be available for on-call shifts will be compensated at 10 hours for each on call shift. This compensation may be in either compensatory or paid out as straight time regardless of employment classification.
- C. Time is considered on-call time when the employee has freedom of movement in personal matters as long as the employee is available for a call to duty. An employee may not be in on-call status while using leave or while otherwise unable to respond to a call to duty.
- D. On-call status shall be designated by a supervisor and shall be in writing. Carrying a pager or cell phone shall not constitute on-call time without this written agreement.
- E. The employee shall record the hours spent in on-call status, and any actual hours worked, on the official time record, for the specific date the hours were incurred, in order to be paid.
- F. An employee may not record on-call hours and actual hours worked for the same period of time.

- G. An employee shall receive 2 hours straight time for the first call out within a 24-hour period and will receive time and a half for any additional time during the first callout or any other call out during that same 24-hour period.

13. Time Sheets

Employees will complete and electronically sign, as verification of accuracy, an Employee Time Sheet showing all hours worked, including overtime, and submit the time sheet to their supervisor or department head for approval, which the supervisor will turn in to the finance department for processing.

- A. It is a job requirement that all non-exempt employees and employees working in an hourly paid position must “clock in” at the start of their shift and “clock out” at the end of their shift. Adjustments to hours worked and leave taken should be reported to your supervisor and finance weekly. To view hours worked contact the finance department.
- B. The FLSA does not permit an employer to benefit from the work of an employee without compensating them for such work. Therefore, all hours worked must be reported using the time clock electronic timekeeping system. Any time spent working while not clocked in (a.k.a. “working off the clock”) is strictly prohibited. Employees are required to clock in before performing any work and are not permitted to clock out until their shift has ended. Employees that under report or fail to report hours worked are subject to corrective action up to and including termination. Examples of “working off the clock” may include:
 - 1. Forgetting to clock in or out.
 - 2. Voluntarily continuing to work at the end of regular working hours.
 - 3. Taking work home to complete on the weekend or in the evening (without preauthorization)
 - 4. Checking/Reading/Reviewing work related emails or listening to work-related voicemail messages while away from the office or workplace.
 - 5. Answering phones, emails, or attending to customers while clocked out for a lunch break.
- C. Once an employee has clocked in, he/she is responsible for starting work. When a shift has been completed, it is the employee’s responsibility to clock out. Employees conducting personal business or simply not working while clocked in may be considered “riding the clock” and could be subject to corrective action up to and including termination
- D. All full-time employees should clock out for lunch. If they do not clock out for lunch 30 minutes will be automatically deducted after 6 hours of work. Some departments require employees to leave their workstation for lunch and breaks. Check with your

supervisor regarding this policy.

- E. Employees and supervisors must resolve all missed clock in or outs, reconcile and enter all leave taken, and review clock hours on the Monday following the close of a pay period. It is imperative that employees request any necessary time clock adjustments in a timely manner.
- F. If an employee is unable to clock in or out because of a time clock malfunction, accidental oversight, or other reason, it is the employee's responsibility to immediately inform accounting.
- G. The following infractions are prohibited, will be considered severe and may be subject to immediate corrective action, up to and including termination.
 - 1. Any attempt to tamper with timekeeping hardware or software.
 - 2. Clocking in or out for another employee (a.k.a. "buddy punching")
 - 3. Interference with another employee's use of the time clock
 - 4. Unauthorized viewing of another employee's time

SECTION XIV: SALARY PLANNING

1. General Policy

Vineyard has established a process to consider annual pay increases for employees using the annual CPI, annual performance evaluations (see Section XII, *form #50*),

2. Use of Annual Performance Evaluation

Each year the Mayor and Council will establish a percentage in the budget allocated to raises. Annual Performance Evaluations will be used to determine eligibility for annual pay increases as follows:

- A. A score of 4 or above – full increase
- B. A score of 3 to 3.9 – half increase
- C. A score below 3 – no increase

3. Criteria for Annual Pay Increase

Vineyard will consider annual pay increases for employees based on the following criteria:

- A. A Cost of Living Allowance (COLA) based on the April CPI from an established index, and;
- B. Up to full increase based on annual performance evaluation as outlined above.

4. Annual Pay Increases Not Automatic

Pay increases will be considered annually based on the criteria outlined above, as well as budget constraints each year. Pay increases are NOT automatic and will be considered by the Council on an annual basis.

5. Pay Range Adjustments

The city will evaluate pay ranges every other year to ensure the pay ranges and compensation is competitive with the local market. This evaluation will be done by completing a market analysis with similar positions.

SECTION XV: PAYROLL ADMINISTRATION

1. Pay Periods

The Fair Labor Standards Act requires that wages be calculated on a periodic basis consisting of twenty-eight (28) days for employees working in public safety activities, such as Law Enforcement and Firefighters, and on a weekly basis for employees not working in public safety activities, unless an exception is granted by the Department of Labor.

2. Pay Days

Vineyard's paydays are as follows: Bi-weekly every other Friday beginning June 30, 2012.

3. Minimum Wage/Salary

The Fair Labor Standards Act requires that Vineyard pay an employee at least the minimum wage as a gross wage/salary, minus the legally required pay deductions.

4. Pay Deductions

Vineyard is permitted to make deductions authorized by their employees. The following is a checklist of payroll deductions:

A. Itemized Deductions.

1. Mandatory:
 - a. Medicare tax
 - b. Federal Tax.
 - c. State Tax.

SECTION XVI: REIMBURSABLE EXPENSES

1. General Policy

With prior approval, legitimate expenses will be reimbursed by Vineyard to the employee. Receipts should be required to reimburse the employee. Reimbursement may be in the form of petty cash, an addition to a paycheck, or a separate check. Records must be kept reflecting the amount of reimbursement each employee has received.

2. Training and Conferences

If required to attend training seminars, conferences, briefings, or gather information; an employee will be compensated, in addition to paying any tuition or fees, at the rate of one and one-half (1.5) times their regular workday pay if hours worked exceed forty (40) hours in that week.

3. Travel Policy

- A. All travel outside of the Vineyard limits during Vineyard work hours shall be authorized by the department heads. Employees traveling beyond a 50-mile radius of Vineyard shall complete a Travel Reimbursement Request Form. This form must be completed 2 weeks prior to scheduled travel to qualify for reimbursements.
- B. City vehicles shall be used for all travel, if a vehicle is not available, department heads may approve the use of a personal vehicle. Employees shall submit a Travel Reimbursement Request Form with required mileage. The employee will be reimbursed at the established IRS rate for travel deductions (currently fifty-four and one half (54.5) cents per mile). Employees traveling further take priority when allocating city vehicles.
 - 1. Employees attending trainings may elect to use a personal vehicle for their convenience. The employee will not qualify for a mileage reimbursement but may be reimbursed for actual fuel expenses during travel. Original fuel receipts must be submitted to finance department in order to receive a reimbursement. Employees must begin and end trip with full tank of fuel to ensure accurate reimbursement.
 - 2. For employees that receives a monthly vehicle stipend, any travel that is less than 100 miles in total will not receive any additional reimbursement. If traveling further than 100 miles, they may apply for a fuel expense reimbursement but will not qualify for a mileage reimbursement.
- C. Travel should occur during normal business hours. Reservations, airline tickets, & per diem shall be scheduled with this assumption. An employee may elect to adjust travel plans to meet personal needs; this shall not incur additional cost to the city.

- D. All hotels or other sleeping accommodations and airplane or other travel accommodations shall be arranged in advance for overnight trips and paid in advance of the trip.
- E. All registration fees, etc., will be paid in advance by check. If this is not possible, the employee will be reimbursed for their own expenditure for registration fees, etc., after presentation of a valid receipt in conjunction with previously authorized travel.
- F. Employees attending an elective training will be paid normal work hours for the days they are traveling and attending the training
 - 1. Overtime requests for extenuating circumstances must be approved beforehand by the department head.
- G. For any mandatory training, the amount of thirty dollars (\$37.00) shall be granted as the maximum daily per diem allowance for Vineyard employees engaged in travel on the Vineyard's behalf. No per diem shall be authorized for meals that are provided as part of a training. No per diem shall be authorized for spouses of employees or others traveling with the employee at their own expense (Please note: the department head, however, may authorize the cost of a double rather than a single hotel room to accommodate the travel of a spouse with an employee). Receipts shall not be required for per diem advancements or compensation unless the employee requests reimbursement above the authorized amount.
- H. For any mandatory travel that requires less than a full day shall be compensated by the following specific per diem allowances:
 - 1. Breakfast: Seven dollars (\$7.00) maximum, when departing before 7:00 a.m.
 - 2. Lunch: Ten dollars (\$10.00) maximum. When departing before 11:00 a.m. or returning after 1:00 p.m.
 - 3. Dinner: Twenty dollars (\$20.00) maximum, when returning after 7:00 p.m.
 - 4. These amounts may be either advance after submission and approval of travel request or reimbursed after presentation of receipts.

SECTION XVII: BENEFITS

1. Worker's Compensation

- A. All employees are covered by workers compensation, which provides medical reimbursement and disability benefits for job-related illness or injury. An employee does not accrue benefits while receiving workers compensation payments. For exact compensation coverage, check the workers compensation contract on file with the mayor, or designee.
- B. Employees may use accrued vacation or sick leave to make up the difference between workers compensation benefits and their base pay.
- C. Medical Attention. An employee who sustains a bona fide, on-the-job injury may seek medical attention from the medical facility of their choice. They must tell the doctor, HOW, WHEN and WHERE the accident occurred. The doctor will complete a medical report and copies of this report should be sent within seven (7) days to the insurance carrier, the Industrial Commission, and to the injured worker (Please Note: Do not submit doctor or hospital bills for on-the-job injuries or illness to the regular medical plan).
- D. Initial Reporting of Illness or Injury. Reporting the accident or illness is critical to qualification for payment under workers compensation. If an employee is injured while on the job, no matter how minor, the circumstances should be reported to their supervisor or department head immediately. A copy of the report must be sent to the insurance carrier and a copy must be sent to the Industrial Commission within seven (7) days of the date of injury.
- E. Reporting while off the Job. While on leave because of a bone fide, on-the-job injury or illness, an employee must contact their supervisor or the department head to report on their condition. Failure to provide the required medical status reports may result in revocation of the leave and/or immediate termination.
- F. Return to Service. All employees must return to work after the approval of the attending physician. A statement from the attending physician stating the employee is able to resume normal duties will be required before returning to work. Failure to return to work when directed may result in immediate termination. An employee who is able to return to work in light duty status may be required to work in a different department and perform duties not contained within their current job classification.
- G. At the time of final release or settlement of a workers compensation claim, if no vacancy exists, and if a reasonable effort, which has proven to be unsuccessful, has been made to place the employee in another position, they may be terminated and paid any accrued benefits due to them.

2. Insurance

- A. Medical Health Insurance. It is the policy of Vineyard to help cover the cost of health insurance by:
 - 1. Paying for a full-time employee insurance coverage, a portion of the cost of their family coverage, and contributing towards an HSA.
 - 2. Providing optional dental insurance coverage for employee and family that will be paid fully by the employee
 - 3. Providing optional vision insurance coverage for employee and family that will be paid fully by the employee
- B. Life Insurance. A basic life insurance policy is provided free of charge for each full-time employee at Vineyard's expense. This is included in the package with the health insurance.
- C. Insurance Termination, Transition, and Conversion.
 - 1. Termination. When an employee is terminated from employment with Vineyard, Vineyard will cease making contributions to the employee's insurance plans.
 - 2. Transition. In cases requiring longer than three (3) months, arrangements may be made with the mayor or designee for the employee to pay the additional premiums required. Both Medical/Health Insurance and Life Insurance may be converted on termination in accordance with the terms of the individual policies. This is an individual responsibility that should be made directly between the individual employee and Vineyard.
 - 3. Conversion.
 - a. The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 is available for those employees who resign or are terminated from employment or if work hours are reduced which makes the employee no longer eligible to participate in the state group health insurance plans. Employees may have the right to continue to participate in a COBRA program through the state for up to eighteen (18) months at the employee's expense, subject to current state and federal law.
 - b. Eligible dependents may also extend coverage, at their expense, for up to thirty-six (36) months in state health insurance plans in the event of the employee's death, divorce, legal separation, or entitlement to Medicare benefits, or when a child ceases to be eligible for coverage as a dependent under the terms of the plan, subject to current state and federal law.

3. State and Federal Unemployment

All employees whether regular, part-time, or temporary are covered by the benefits of State and Federal Unemployment.

4. Continuing Training

Employees are encouraged to obtain continuing training through attendance at job related seminars. Requests for attendance must be approved in advance by their department head.

- A. Required by Vineyard. When Vineyard requires an employee to attend any education or training course, conference, seminar, or certification course, Vineyard will provide the necessary time off with pay and will reimburse the employee for all associated costs including tuition or registration fees, authorized travel, meals, and lodging.
- B. Vineyard recognizes the importance of the educational growth of its full-time employees. Subject to annual budget appropriations, the City may reimburse full-time employees for trade school, college, or university courses, which have a direct relationship on the employee's position with the City or lead to a related certificate or degree. Courses must not interfere with job performance or interfere with an employee's job responsibilities.

Employees desiring to enroll in a course at an accredited institution must obtain approval in writing from their immediate supervisor, their Department Director, and the City Manager. All paperwork must be completed, signed, and presented to Human Resources for verification prior to attending any course. Requests for tuition assistance will be prioritized by the date completed applications are received by the Human Resources Division. Financial assistance may be provided to full-time employees for continuing education when the following requirements are met:

- 1. The educational experience must take place at accredited colleges, universities, or trade schools. Correspondence or on-line courses qualify for assistance only with prior approval from an employee's Department Director and the Human Resources Manager.
- 2. Employees receiving assistance must have completed their first year of employment with the city.
- 3. Employees must be in active employment status.
- 4. Employees who have been subject to corrective action in the last year are generally not eligible for assistance.
- 5. The Employee must receive a "B" grade or better (or a pass grade if the course is pass/fail) to be eligible for tuition assistance for a given course.
- 6. Within sixty (60) days of completion of approved education, employees must submit a reimbursement form to their Department Director for approval. The form will be filed in the employee's personnel file. The Reimbursement Form must include the following information:
- 7. The cost of tuition and educational materials must be itemized and documented. The city will reimburse the employee for 50% of the educational expenses up to a maximum of \$2,500 total yearly (fiscal) and up to a lifetime maximum of \$7,500.

8. Official transcripts, which indicate a qualifying grade of “B” or better. In those cases of "pass" or "fail," a pass is required to receive tuition assistance reimbursement.
9. Tuition assistance is provided with the expectation that the employee will remain with the city and utilize the newly acquired skills. Each tuition reimbursement transaction vests in 24 months after receipt of the reimbursement. Any tuition reimbursement payments not vested must be repaid in full if the employee resigns, retires, or is terminated for cause.

5. Retirement System

Additional details are available from the Finance Department.

- A. All full time Vineyard employees are covered by the Utah State Retirement Systems, unless otherwise authorized by the City Council according to State Law. Vineyard shall follow the eligibility requirements as set forth by the Utah Retirement System.
- B. The cost of this program is paid for by Vineyard and the employee in the percentages set by action of the City Council.
- C. The city does not contribute towards a retirement plan for elected and part-time appointed officials and certifies them as ineligible in the Utah Retirement System.

SECTION XVIII: FAMILY AND MEDICAL LEAVE ACT (FMLA)

1. General Policy

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to:

Twelve workweeks of leave in a 12-month period (measured forward) for:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or

Twenty-six workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (military caregiver leave).

- A. A single public agency is further defined under Section 3(x) of the Federal Labor Standards Act to include Vineyard.
- B. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a medical facility or continuing treatment by a health care provider.
- C. Intermittent leave or a reduced leave schedule for medical reasons can be taken under this policy when medically necessary. Intermittent leave or a reduced leave schedule to care for a new child can be taken only if the employee and Vineyard mutually agree to that arrangement.
 1. Intermittent leave is leave that is not taken consecutively.
 2. A reduced leave schedule is a leave schedule that reduces the usual number of hours per workweek or hours per workday.

2. Eligibility

To be eligible for FMLA leave, an employee must:

- A. Have been employed for at least twelve (12) months by the employer.
- B. Have been employed for at least one thousand two hundred fifty (1,250) hours of service with that employer during the previous twelve (12) months.

3. Leave Options

At either the employee or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

4. Notice and Medical Certification Requirements

When an employee notifies Vineyard of their request for FMLA leave, Vineyard will provide the employee with an "Employer Response to Employee Request for Family and Medical Leave Form" (Form WH-381) (form#43 WH-382). Vineyard may require the employee to provide advanced leave notice and medical certification. Employees who are required to provide medical certification will use a "Certification of Physician or Practitioner Form" (form #44 WH-380). Additionally, FMLA leave may be denied if the following requirements are not met:

- A. The employee ordinarily must provide thirty (30) days advance notice when the leave is foreseeable. When this is not possible, the employee should provide such notice as is possible.
- B. The employee may be required to provide the employer with medical certification to support a request for FMLA leave because of a serious health condition. If the employer requires a second (2nd) or third (3rd) opinion, they will both be at the employer's expense.
- C. A fitness for duty report is required before an employee returns to work with the employer.

5. Benefits and Employment Status

- A. During the FMLA leave, the employer must maintain the employee's health benefits coverage under any group health plan that the employee has with the employer.
- B. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's FMLA leave. However, no seniority or other benefits will accrue during the FMLA leave.
- C. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

SECTION XIX: LEAVES OF ABSENCE

1. Absent Without Leave

- A. Any unauthorized absence of an employee from duty shall be grounds for disciplinary action, up to and including termination, by their department head.
- B. Any employee who is absent for three (3) or more consecutive workdays without authorized leave shall be deemed to have voluntarily resigned their position and employment without notice. Where extenuating circumstances are found to have existed, however, such absence may be covered by the department head, by subsequent grant of leave with or without pay as the circumstances dictate.

2. Annual Vacation Leave

- A. Each full-time employee shall receive annual vacation leave at the following rate:

Years of Service	Accrual Hours Annually
0-1	80
1-4	96
5-9	120
10-14	144
15 +	168

- B. Persons hired on an emergency, part-time (under an annual average of 30 hours per week), seasonal, temporary or contract basis shall not accrue annual vacation leave.
- C. The maximum annual vacation leave, which can be accrued and carried forward from calendar year to calendar year, is ~~eighty (80) hours~~ **two times the employee's annual accrual rate**. Any accrued annual vacation leave in excess of ~~eighty (80) hours~~ **two times the employee's annual accrual rate** shall be cashed in on January first (1st) of the year following the calendar year (Jan. 1 to Dec. 31) in which the leave was accrued. This cash in shall be compensated at a rate of 25% and shall be paid as a one-time bonus on the first paycheck in January the following year. (An employee making \$10 dollars per hour who cashes in 40 hours would receive a \$100 bonus.)
- D. A holiday, which falls during an employee's annual vacation leave, shall be counted as a paid holiday and not as annual vacation leave.
- E. An employee who is separated from employment may be compensated for all accrued annual vacation leave.

- F. All annual vacation leave requests should be submitted a reasonable time in advance of the desired time off to the supervisor or department head. If an excessive number of employees request annual vacation leave for the same time-period, annual vacation leave shall be granted in order of application (first-come-first-served) at the discretion of the department head.
- G. Donation. Employees may donate 33% or a maximum of 100 hours of accrued sick leave and or vacation to the sick bank donation account. Hours will be converted to a dollar figure based on the donating employee's current wage. Recipients of the account will receive hours from the sick bank donation account, converted from a dollar figure to hours, based on their current wage, to provide time away from work for terminal or life threatening illnesses, approved at the discretion of the mayor or designee.
- H. Employees transferring from other positions may be given up to 5 years of service credits for related experience in a similar position. This year of service credit is available at the discretion of the mayor and city manager

3. Holiday Leave

- A. It is the policy of Vineyard to provide paid holiday benefits for employees working 30 hours or more per week. Full time employees will be paid at a rate of 8 hours per holiday. Paid holidays are as follows:

- 1. New Year's Day.....January 1st
- 2. Human Rights Day.....3rd Monday in January
- 3. President's Day.....3rd Monday in February
- 4. Memorial Day.....Last Monday in May
- 5. Juneteenth.....June 19th
- 6. Independence Day.....July 4th
- 7. Pioneer Day.....July 24th
- 8. Labor Day.....1st Monday in September
- 9. Thanksgiving Day.....4th Thursday in November
- 10. Day after Thanksgiving.....4th Friday in November
- 11. Christmas Day.....December 25th
- 12. Day Before or After Christmas December 24th or 26th

13. Any day designated by the Governor as a State Holiday will be observed.

- B. If any of the above holidays fall on Saturday, then the preceding Friday shall be the holiday. If any of the above holidays fall on Sunday, then the following Monday is the holiday.

4. Sick Leave

- A. Purpose. Sick leave shall not be considered as a privilege, which an employee may use at their discretion, but shall be allowed only in case of necessity and actual sickness or disability of the employee or immediate family of the employee.
- B. Use of sick leave. Sick leave may be used at any time with approval of the supervisor or department head for any of the following reasons:
1. When the employee is unable to perform their regular duties or other temporary work to which they may be assigned.
 2. Visits to hospitals, clinics, doctors and dentists' offices for diagnosis or treatment of illness or injury or examination. The minimum time that may be taken by non-exempt employees is one ~~(1) hour~~ 15 minutes.
- C. Eligibility. Sick leave shall be available to all full-time employees, Seasonal, temporary, provisional, and emergency employees are not eligible for sick leave. Sick leave will not be granted to employees during their first ninety (90) calendar days of employment, except for emergency circumstances.
- D. Accrual. Fulltime employees shall receive eighty (80) hours per year. The employee will begin to accrue sick leave immediately upon being hired by Vineyard. Sick leave shall not accrue if an employee is in a leave-without-pay status. Records will be kept by the Finance Department.
- E. Use. Sick leave shall be used when an employee has called in sick and charged against non-exempt employees in not less than one ~~(1) hour~~ 15 minute increments. Advance sick leave is not allowed. Working extra hours to make up for sick time used must be preapproved by their supervisor.
- F. Donation. Employees may donate up to 33% or a maximum of 100 hours of accrued sick leave and or vacation to another employee for terminal or life threatening illnesses at the discretion of the City Administrator.
- G. Separation An employee who terminates employment regardless of whether it is involuntary or voluntary, shall not be compensated for unused accrued sick leave.
- H. Payments.
1. In order to qualify for sick leave payments, an employee must notify their supervisor or department head, no later than one (1) hour after normal starting

time on each day of absence unless the circumstances surrounding the absence make such notification impossible. The supervisor or department head should also be kept advised of the employee's progress and expected date of return to duty.

2. Any absence for illness beyond accrued sick leave will result in the employee being carried on annual leave status until all annual leave has expired, then be carried in a leave-without-pay status.
3. Certification of Illness. For sick leave in excess of three (3) consecutive working days, or if abuse of sick leave is indicated, the department head may require a certificate from the attending physician stating that such illness prevented the employee from working.
- I. Reporting Absences. An employee should contact his/her supervisor prior to the start of their work time and will be paid only when the employee (or a member of the immediate family of the employee that is incapacitated) notifies their supervisor, or department head, within one (1) hour after the employee's scheduled reporting time. Continued reporting for more than a one-time absence will be accomplished as directed by the department head. The department head may request a doctor's release any time they question the reasonableness of an absence of one (1) day or more. This type of request should be the exception, not the rule.

5. Parental Leave

- A. An employee who becomes pregnant, or whose legal or common law spouse becomes pregnant, may continue working, prior to the birth of the child, until such time as the employee can no longer satisfactorily perform the essential functions of their duties. This parental leave will apply for up to a maximum of twelve (12) weeks.
- B. During a parental leave period in excess of four (4) weeks and up to twelve (12) weeks, the employee will still receive a health insurance benefit, but will not accrue additional leave time.
- C. During a parental leave period, the employee may elect to use some or all available leave time.
- D. Vineyard may fill vacancies created by parental leave with temporary or provisional appointments. At the expiration of the parental leave, the employee shall return to the same position, where feasible, or to a similar position. Failure of the employee to return to work at the expiration of parental leave shall be considered a voluntary resignation of their position and employment without notice.

6. Injury Leave

Any employee injured on the job, however slightly, must report the fact immediately to their

supervisor or department head. It shall be the duty of the supervisor or department head, to obtain information regarding the accident or injury and to complete and submit such reports as are required. Unused sick leave or vacation leave may be granted in accordance with applicable rules and regulations. During injury leave periods, vacation leave, sick leave, or time toward yearly performance evaluation shall not accrue, unless an exception is granted by the City Administrator. However, injury leave for periods greater than six (6) months shall in no case be granted. Furthermore, eligibility for such leaves requires conformance with all worker's compensation regulations.

7. Military Leave

A full time employee shall be granted leave with compensation for the difference in salary for active duty, for service in the National Guard or in the Armed Forces reserves for the purpose of fulfilling annual field training. Paid military leave shall not exceed ten (10) working days in anyone (1) calendar year. (Utah State Code 39-3-1 & -2). Any compensation, including travel and expense allowance, received by the employee must be turned back to Vineyard.

8. Jury Leave

Full time employees may be granted leave with full pay when performing jury duty or when required to serve as a witness in any Vineyard litigation in any municipal, county, state, or federal court, or before an administrative tribunal. Any compensation, including travel and expense allowance, received by the employee must be turned back to Vineyard. Paid leave will not be granted when the employee is serving as his own witness in financial and related suits, which he has initiated.

9. Funeral Leave

The department head shall grant an employee up to three (3) days of funeral leave with pay to attend the funeral of the employee's legal or common law spouse, child, step-child, daughter or son-in-law, parent, step-parent, grandchild, mother or father-in-law, sister or brother-in-law, grandparent, spouses' grandparent, brother, or sister. Funeral leave shall not be charged against accrued annual vacation or sick leave.

10. Administrative Leave with Pay

- A. While performing authorized duties. Full time employees may be granted administrative leave with pay to perform authorized duties in connection with Vineyard business, attend trade or professional meetings which relate to official duties, participate in recognized and authorized training programs, or facilitate the needs of Vineyard.
- B. Pending possible disciplinary action. Full time employees may be granted administrative leave with pay pending the outcome of an investigation undertaken to determine if disciplinary action against the employee is warranted.

11. Leave Without Pay

- A. The mayor, or designee, may grant an employee leave without pay for a specified period of time, not to exceed one (1) year. At the expiration of the leave without pay, the employee shall return to the same position, where feasible, or to a similar position. Failure of the employee to return to work at the expiration of leave without pay shall be considered a voluntary resignation of their position and employment without notice.
- B. A leave without pay shall not constitute a break in service. However, during a leave without pay period in excess of thirty (30) calendar days, an employee's annual vacation leave, sick leave, and time toward their performance evaluation, if applicable, shall not accrue.
- C. Leave without pay shall be granted:
 - 1. For education purposes when the employee's course of study will be of direct benefit to Vineyard, their absence will not be a hardship for their department, and the employee agrees to return to work at the end of the leave without pay period.
 - 2. To attend funerals not covered by the funeral leave policy.
 - 3. To attend to an ill or injured member of the employee's immediate family when the absence is not covered by sick leave.
- D. Employees are expected to apply for leave without pay in advance and in writing, providing as much detail about the absence as possible so that the mayor, or designee, may decide where the leave without pay is warranted.

12. Documentation of Leave

Some of the above absences must be supported by a copy of the official paperwork causing the absence. Such paperwork must be submitted to the department head, as soon as possible. In some cases where official paperwork is not available, the department head, may request that the employee supply additional information in writing to support the absence.

SECTION XX: GENERAL SAFETY

1. General Policy

The following general safety rules will apply in all agency work places. Each work unit may prepare separate safety rules applicable to the specific nature of work in their area but not in conflict with these rules.

- A. Proper licensing and extreme caution are required by all employees operating any type of power equipment.
- B. Employees will use safety equipment appropriate to the job, such as safety glasses, gloves, toe guards, back supports, and hard hats, if required or appropriate to the work performed.
- C. Employees will avoid wearing loose clothing and jewelry while working on or near equipment and machines. Long hair will be properly secured.
- D. All accidents, regardless of severity, personal or vehicular, shall be reported immediately to the supervisor/department head.
- E. Defective equipment will be reported immediately to the supervisor.
- F. Employees will not operate equipment or use tools for which licensing and training has not been received.
- G. In all work situations, safeguards required by State and Federal Safety Orders will be provided.
- H. Due to the potential risk of serious injury or death, employees are prohibited from entertaining, or caring for, guests or family members in or around inherently dangerous work areas. These areas include, but are not limited to:
 - 1. Road repair.
 - 2. Construction areas.
 - 3. Vehicle maintenance areas.
 - 4. Swimming pools.
 - 5. Animal control.
 - 6. Power plants.
 - 7. Sewers.

2. Proper Use of Vineyard Equipment and Tools

The use of Vineyard equipment or tools for private purposes is strictly prohibited. However, reasonable use of Vineyard tools and equipment to protect property and preserve life is authorized.

- A. Employees shall be required to attend training provided by Vineyard; including an explanation of job hazards, safety procedures and training on all equipment, tools, etc., necessary for the accomplishment of the employee's job description. Employees may attend additional training as approved by Vineyard.
- B. A commercial driver license (CDL) is required for operators of commercial motor vehicles. No individual shall be allowed to operate such vehicles unless they have a current commercial driver license in their possession. This license is required pursuant to the Commercial Motor Vehicle Safety Act, signed into law on October 27, 1986. Employees must renew their commercial driver license at four (4) year intervals. Employees required to obtain or renew a CDL will be reimbursed for the cost to obtain or renew such CDL
- C. Operators and passengers in a business-use vehicle equipped with seat belts must wear them when the vehicle is in operation, and all employees operating vehicles shall observe all local traffic laws and Vineyard's Cell Phone Policy (see section VII:8)
- D. Employees shall keep the agency vehicles, which are used by them clean, presentable, and serviceable. Employees receiving car allowances shall also keep their vehicles clean, presentable, and serviceable.

SECTION XXI: UTAH OSHA REQUIREMENTS

1. General Policy

It is the policy of Vineyard to maintain an environment, which is free from any recognizable hazard, which is likely to cause death or serious injury to any employee through open communication with all employees.

2. Posting UOSHA Notices

Vineyard will post all required UOSHA notices in conspicuous places (such as employee bulletin boards or where similar notices are usually posted). Employees may obtain additional information from the Human Resources when they have questions about any of the standards, which are provided under UOSHA.

3. Inspection Procedures

All employees should follow the procedures listed below in the event an inspector from UOSHA presents themselves on the job site.

- A. If an inspector arrives on the job site, an employee should understand that they are not authorized to offer any information requested by the inspector.
- B. The employee will inform the inspector that the employee will contact the supervisor, or department head, who will accompany the inspector during any inspection.
- C. The supervisor/department head should make sure that all employees know who they are required to contact, including all alternates, in the event an UOSHA inspector shows up on the job site.
- D. If the UOSHA inspector does not reveal the appropriate credentials at the outset of the inspection, the supervisor or department head, should ask the inspector to reveal their credentials and should examine them before allowing an inspection of the job site.
- E. The supervisor or department head should not refuse an inspection of the job site where the inspector does not have a warrant to inspect.
- F. If the credentials are appropriate, and before beginning the inspection, the supervisor or department head, should ask the inspector the reason the inspection is being conducted. If it is routine, no further requests are required. If the inspection was due to an employee complaint, the supervisor or department head, should request a copy of the complaint. This will help Vineyard correct any safety problems (Please Note: Under no circumstances should the information received on an employee complaint be used for disciplinary action toward an employee as this type of action is prohibited by law).

- G. The supervisor or department head should accompany the inspector during the entire inspection of the job site.
- H. The supervisor or department head should take notes throughout the entire inspection. The supervisor or department head should note every comment and observation made by those participating in the inspection. The supervisor or department head, accompanying the inspector should not volunteer any unsolicited information.

4. Accident Reporting Procedures

- A. Employees who are injured in connection with employment, regardless of the severity of the injury, must immediately notify the supervisor or department head, who will ensure prompt and qualified medical attention is provided and all required UOSHA reports are completed. Employees, who do not and/or will not accept qualified medical attention when directed by their supervisor or department head, shall be subject to disciplinary action, up to and including termination.

- B. The supervisor or department head will investigate the job-related injury to determine the cause of the injury.

- C. Reporting Requirements:

Vineyard shall contact UOSHA within eight (8) hours of the occurrence of any job-related death, disabling, serious, or significant injury, and/or any occupational disease.

In addition, Vineyard must report all fatal heart attacks that occur at work.

Vineyard shall report all work-related inpatient hospitalizations, amputations, and losses of an eye within 24 hours

Vineyard must submit OSHA form 300A when 20 or more employees are in positions of historically high rates of injuries or illness. The report deadline beginning in 2019 and every year thereafter is March 2nd

- D. Vineyard shall file the required report with UOSHA within seven (7) days after first knowledge or notification of an injury or occupational disease resulting in medical treatment, loss of consciousness, loss of work, restriction of work, or transfer to another job. Minor injuries such as scratches and cuts do not need to be reported to UOSHA if they require only minor first-aid treatment.
- E. Vineyard shall keep a copy of the UOSHA report in their UOSHA File.
- F. Vineyard shall give the employee a copy of the UOSHA report and explain the employee's rights and responsibilities concerning the work-related injury or occupational disease.

- G. If an employee later dies as a result of work-related injury, Vineyard shall file a report with UOSHA within seven (7) days of first knowledge or notification of the death.

SECTION XXII: CONFINED SPACE ENTRY

1. General Policy

Vineyard has a written confined space entry policy, as required in accordance with Volume 29 Code of Federal Regulation 1910.146. this policy will be updated, as necessary.

2. Requirements

The written confined space entry policy includes the following:

- A. A review of potential confined spaces.
- B. A permitting system for entering permit-required confined spaces.
- C. A rescue plan for managing confined space incidents.
- D. Protocols for managing contractors doing work in Vineyard's confined spaces.
- E. A list of the appropriate personal protective equipment and hardware (hoists, winches, gas monitors, respirators, and ventilation gear) required for safe entry and exit.

3. Training

Annual training on the confined space entry policy is required for all employees required to enter confined spaces.

SECTION XXIII: DISASTER RESPONSE PLANNING

1. General Policy

Vineyard has developed the following Disaster Response Plan using, in part, a Disaster Response Planning Guide (see Form # 46 for details). All employees will be expected to adhere to this Disaster Response Plan to the maximum extent possible and practicable.

2. Employee Disaster Notification

- A. Employees are required to sign up and register for the Utah County Everbridge Notification System. Administration and supervisors are responsible for notifying all Vineyard employees of disaster response actions required.
- B. Notification for Vineyard employees will be made using the Utah County Everbridge Notification System.

3. Disaster Response Plan

Wind, Water, Fire, Earthquake, Volcano, Nuclear, Terrorist, Manmade, Etc. See “Disaster Response Planning Guide” (form #46)

- A. Employees already at work will assess the disaster and take whatever evasive action is deemed necessary, within the law, to protect themselves, their fellow employees, and the public in general.
 - 1. Employees will report to the supervisor or department head, as soon as practical and await instructions.
 - 2. Use of all Vineyard vehicles, equipment, tools, and office items, including telephones and computers, will be used only as directed by an employee’s supervisor during an emergency situation.
 - 3. Employees will be allowed to contact their families as soon as their supervisor can allow this action to be taken.
- B. Employees not at work will assess the disaster and take whatever evasive action is necessary, within the law, to protect themselves and their families.
- C. Employees not at work will contact their supervisor or department head, as soon as practical for further instructions.

4. Suspicious Person or Activity

- A. Not everything you see is suspicious, you must learn what is normal before you can report anything abnormal. For example, a person walking across the parking lot is not necessarily suspicious. However, a person walking through the building attempting to open office doors is suspicious. Suspicious activity refers to suspicious

persons, behavior, and activity. Your assistance in reporting suspicious activity helps to maintain a safe and secure environment for all Vineyard employees. If in doubt, report it.

5. Reporting Suspicious Persons or Activities

- A. If you witness a crime or suspicious activity, it is important to report it immediately after the incident occurs. The chances of catching the perpetrator will be much greater than if you wait even just a few minutes. Because police officers cannot be everywhere at once, they need your help. Your special efforts regarding prompt and accurate reporting of these incidents can help keep our city facilities safer for everyone. Below is a set of guidelines on reporting suspicious persons or activity.

When you report suspicious persons or activities – remember the four W’s – Who, What, When and Where.

1. Who is the suspicious person? (Provide a description of the person.)
2. What is the suspicious activity?
3. When did the incident occur or is it still taking place?
4. Where is the suspicious person/activity?

- B. Immediately report the incident to your supervisor, city manager or a police officer, if on site.
- C. Do not try to handle the problem yourself.
- D. Do not delay reporting the incident.

Do not leave the location from which you are reporting the incident unless you are in danger

6. Suspicious Activity, Person or Assailant Threats

- A. Vineyard has developed the following procedures to be followed in the event that a suspicious person or assailant is in the area:
1. Employees will use the Sir Name of their supervisor or department head, that they are addressing, repeated again, to alert him/her, of a threatening situation. An example following this procedure would be: Mr. (Last name of the supervisor), Mr. (Last name of the supervisor), could you please come to the front desk.
 2. Employees will physically signal to supervisors or employees that a threatening situation exists.
- B. Be Observant. Vineyard has developed a “Suspicious Persons or Assailants Identification Checklist” (*form #47*) for employees to use. Features and physical characteristics that employees can remember about suspicious persons or assailants will greatly help local law enforcement officials in the apprehension of suspects.

7. Suspicious Packages or Objects

- A. If you receive or discover a suspicious package or foreign device, do not touch it, tamper with it, or move it. Immediately inform a police officer if onsite, dial 911 report it.
- B. Move people away from the suspicious object. Do not move or attempt to open the package. Do not investigate the package too closely. Do not cover or insulate the package. Suspicious packages are not limited to those delivered by a commercial or U.S. postal carrier. The following characteristics have been designated by the U.S. Post Office and the Bureau of Alcohol, Tobacco, Firearms and Explosives as indicators of suspicious packages:
 - Lumps, bulges, or protrusions on a package
 - A lopsided or heavy-sided package or excessive masking tape
 - Handwritten addresses or labels from companies (check to see if the company exists and if they sent a package or letter)
 - Packages wrapped in string
 - Excess postage on small packages or letters
 - No postage or uncanceled postage
 - Handwritten notes, such as, "To Be Opened in the Privacy of," "Confidential," "Your Lucky Day Is Here," "Prize Enclosed"
 - Restrictive markings such as "confidential" or "personal"
 - Improper spelling of common names, places, or titles
 - Generic or incorrect titles. Titles with no name attached
 - Leaks, stains, or protruding wires, string, tape, etc.
 - Hand delivered or "dropped off for a friend" packages or letters
 - No return address or a pretend return address
 - Foreign mail, air mail, and special-delivery packages
 - Any letter or package arriving before or after a phone call from an unknown person asking if the item was received

8. Telephone Bomb Threats

- A. Do not hang up. Remain calm.
- B. Take the caller seriously. Assume the threat is real.
- C. If you have Caller ID, look for the originating number.
- D. Do not use cell phone, two-way radio, or any wireless communication device, as it can act as a trigger for an explosive device.
- E. Have a coworker call 911 on another line. If you are alone, after the call is disconnected by the caller, do not hang up the phone. Press *69 first and then hang up the phone. This procedure will "capture" the phone line so that the phone city can trace it. Then call 911 to report the threat.
- F.

- G. Be Attentive. Vineyard has developed a “Telephone Bomb Threat Checklist” (*form #48*) for employees to use. Voice characteristics, background noises, and bomb threat details that employees can remember about suspicious persons or assailants will greatly help local law enforcement officials in the apprehension of suspects.