

WHEN RECORDED, RETURN TO:

Tooele City Recorder
90 North Main Street
Tooele, UT 84074
(435) 843-2110

**AGREEMENT
for
TOOELE COUNTY DETENTION FACILITY**

This AGREEMENT FOR TOOELE COUNTY DETENTION FACILITY (the "Agreement") is made and entered into this 7 day of March, 2011, (the "Effective Date") by and between TOOELE CITY CORPORATION (the "City"), a chartered city of the State of Utah, at 90 North Main Street, Tooele, Utah, and TOOELE COUNTY CORPORATION, an incorporated Utah county, at 47 South Main, Tooele, Utah (the "Developer"), owner and developer of Phase 1 of the new Tooele County Detention Facility (the "Jail").

Parcel Numbers. This Agreement affects Lot 2A of the ^{Tooele County} TC Jail Subdivision final plat, in Tooele City, Tooele County, State of Utah, approved conditionally on January 5, 2011, by the Tooele City Council.

RECITALS

A. Tooele City Code Chapter 7-26 ("Chapter 7-26"), enacted on March 4, 1998, by Ordinance 1998-10, requires all development applicants whose development applications are submitted to the City after March 4, 1998, to convey to the City municipal water rights sufficient for their developments. Chapter 7-26 was amended on August 3, 2005, by Ordinance 2005-07 to apply retroactively to all development applications that did not fully comply with all deadlines contained in the ordinance. (See Chapter 7-26, attached hereto as Exhibit A.)

B. The Developer submitted to Tooele City the final plat for TC Jail Subdivision in 2010, subsequent to the enactment of Ordinance 1998-10, and was thus not exempt from the requirements of Chapter 7-26 as initially enacted by Ordinance 1998-10, and was further not exempt because it could not satisfy the deadlines contained in Ordinance 2005-07. (See copy of TC Jail Subdivision, attached as Exhibit B.)

C. On 2/22, 2011, the Developer filed Application for Permanent Change of Water Number 57152 (the "First Change Application") to change the points of diversion, place of use, and nature of use of 200.0 acre-feet of water as evidenced by Water Right Number 15-4036, and also Application for Permanent Change of Water Number NA (the "Second Change Application"; collectively the "Change Applications") to change the points of diversion, place of use, and nature of use of NA acre-feet of water as evidenced by Water Right Number 15-NA. (See the Change Applications attached as Exhibit C.)

D. As of the Effective Date, the State Engineer has not issued Orders regarding the Change Applications. When issued, the Orders may or may not authorize water diversion and depletion sufficient to satisfy Chapter 7-26 for Phase 1 of the Jail.

E. The City has issued an administrative policy, dated May 7, 2008, regarding the approval of development applications for which water rights have yet to be conveyed to the City by a developer. (See the policy attached hereto as Exhibit D.)

F. For purposes of this Agreement, the conveyance of water rights to the Tooele City Water Special Service District (the "District") shall be considered the same as the conveyance of water rights to the City for purposes of Chapter 7-26.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as follows:

1. Because the Developer has filed the Change Applications, and because the Developer has given to the City no reason to believe that the Change Applications will not be approved, or that, when approved, the water diversion and depletion allowed by the Orders will not be sufficient to satisfy the requirements of Chapter 7-26 in relation to the Jail, the City will allow the Developer to obtain building permits for the Jail prior to the approval of the Change Applications.

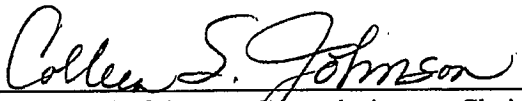
2. Should the State Engineer deny one or both of the Change Applications such that any amounts approved for diversion or depletion are less than the water diversion and depletion required by Chapter 7-26 for the Jail, the Developer agrees to convey additional water rights to the District sufficient to satisfy the requirements of Chapter 7-26 for the Jail, or to pay to the City the fee established as of the date of the Order for access to water rights owned by the City or the District sufficient to satisfy the requirements of Chapter 7-26 for the Jail.

3. The City will allow the issuance of building permits for the Lots, conditioned upon compliance with the Tooele City Code and all applicable building codes.

4. This Agreement shall be recorded by the City in the official records of the Tooele County Recorder.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

TOOELE COUNTY CORPORATION


By: Board of County Commissioners, Chair

TOOELE CITY CORPORATION



By: *Patrick H. Dunlavy*
Patrick H. Dunlavy, Mayor

ATTEST:

Approved as to Form:

Michelle L. Pruden
Tooele City Recorder

Roger Baker
Roger Baker, Tooele City Attorney

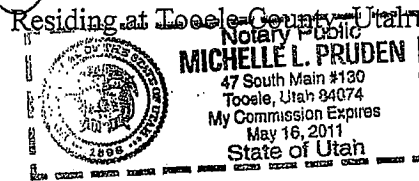
STATE OF UTAH)
COUNTY OF Tooele) : ss.

~~2008~~ ²⁰¹⁰ The foregoing instrument was acknowledged before me this 7 day of March, 2008, by Colleen S. Johnson, Chair of the Board of County Commissioners of TOOELE COUNTY CORPORATION.

Michelle L. Pruden
NOTARY PUBLIC

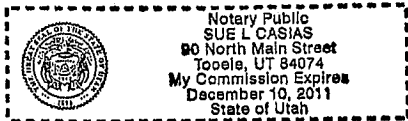
My Commission expires:

5/16/2011



STATE OF UTAH)
COUNTY OF TOOELE) : ss.

The foregoing instrument was acknowledged before me this 9th day of March, 2011, by PATRICK H. DUNLAVY, who is the Mayor of TOOELE CITY CORPORATION, a chartered city of the State of Utah.



Sue L. Casias
NOTARY PUBLIC
Residing at Tooele County, Utah

My Commission expires:

12-10-11

Exhibit A

Tooele City Code Chapter 7-26

CHAPTER 26. WATER RIGHTS

7-26-1. Water Rights Acquisition Policy and Conveyance Requirements.

7-26-2. Water Rights Required—Determination of Amount.

7-26-3. Type of Water Rights Acceptable for Conveyance.

7-26-4. Possible Adjustments or Revisions to Water Rights Conveyance Requirements.

7-26-5. Time of Conveyance.

7-26-6. Appeals and Requests for Adjustment, Modification, Exemption, or Waiver of Water Rights Conveyance Requirements.

7-26-7. Effective Date.

7-26-1. Water Rights Acquisition Policy and Conveyance Requirements.

Intent. It is intended that all applicants requesting annexation of land into Tooele City for residential development, all applicants requesting that property already within the boundaries of the City rezone the property to a higher density or more intensive use which increases the need for water service from the City, and all applicants requesting development approval shall provide water rights in an amount sufficient to satisfy the anticipated future water needs of the respective proposed development to be served and supplied by the City water system as provided in this Chapter. Satisfaction of this water rights acquisition policy and the accompanying conveyance requirements shall be considered as a condition to and requirement of approval for all such applications.

7-26-2. Water Rights Required—Determination of Amount.

(1) Residential Uses. The amount of water rights to be conveyed in order to satisfy this policy and provide an adequate supply of water for future residents of the City based on the needs created by anticipated future development shall be defined for residential development as one (1.0) acre-foot per equivalent residential dwelling unit.¹

^{1/}

The above requirement is based on a combination of State of Utah standards and Tooele historical usages of approximately .46 acre-feet of water for indoor use and .54 acre-feet of water for outdoor use assuming a 10,000 square-foot lot. The outdoor use requirement may be prorated according to the size of the lot or other outdoor area. This requirement is a reasonable average and is required despite a showing of variations above or below the average. (Ord. 99-34, 12-09-99)

(2) Non-Residential Uses. An amount sufficient to satisfy the projected needs of the proposed development shall be determined by the Tooele City Council after receiving the recommendation of the Tooele City Public Works Director.

(3) The quantity of water credited to a development applicant upon the applicant's dedication of water rights shall be that portion of the water right which the Office of the State Engineer has approved for consumption, and that quantity shall not include any amounts which the Office of the State Engineer requires to be returned to the hydrologic system.

7-26-3. Type of Water Rights Acceptable for Conveyance.

(1) Water rights proposed for conveyance to the City shall be municipal or municipal-type water rights. Prior to acceptance of such water rights, the City shall evaluate the rights proposed for conveyance and may refuse to accept any right which it determines to be insufficient in annual quantity or flow rate, unsuitable for municipal use, or not reasonably likely to be approved for change to municipal purposes within the City by the State Engineer. The City's refusal of such rights shall not constitute a waiver of, and shall not relieve an applicant from complying with, the requirements of this Chapter. In determining the quantity of water available under the water rights, the City will evaluate the priority of the water rights, the historic average quantities of water associated with the water rights, and other relevant factors. The City may require an approved application for the change of use and/or change of point of diversion, as applicable, with the State Engineer in order to quantify and verify the water rights.

(2) In the discretion of the City Public Works Director and/or City Engineer, in lieu of actual conveyance of water rights pursuant to this Chapter, a single-lot development applicant or final subdivision plat applicant may pay to the City an amount, established by the City Council per acre foot of water rights, intended to be sufficient for the City to purchase the municipal water rights necessary to satisfy the anticipated future water needs of the proposed development to be served and supplied by the City water system.

(3) Supply and Delivery Facilities May be Required. In addition to furnishing water rights, the applicant may be required to pay additional costs required to construct the facilities necessary to supply, store, and distribute water in accordance with Title 4 of the Tooele City Code.

7-26-4. Possible Adjustments or Revisions to Water Rights Conveyance Requirements.

(1) Annexation; deferral. Where an annexation contains property which is being annexed without the consent of the owner, or where water service will not immediately be provided by the City as a result of an annexation, the City may, in the exercise of the discretion of the City Council, elect to not require the conveyance of water rights at the time of annexation as long as the annexation specifically identifies such parcels and provides either an alternative means to satisfy these water rights conveyance requirements or provides that any subsequent change in zoning classification or subsequent development approval which increases the need for water service by the City will require the conveyance of additional water rights to the extent necessary to provide adequate water to serve such future development. Such an election shall not constitute a waiver of, and shall not relieve an applicant from complying with, the requirements of this Chapter.

(2) Lands Which are Restricted Against Future Development. Where development of the property in question is restricted by unusual circumstances such as topographic features, environmentally sensitive or fragile conditions, or voluntary limitations on landscape and other activities which will reduce the amount of water to be provided by the City, the City Council may reduce the amount of the water right required to be conveyed to an amount commensurate with the nature of the proposed restricted development. Any such restriction must be accompanied by enforceable provisions for securing compliance in a form to be approved the Tooele City Attorney.

7-26-5. Time of Conveyance.

The conveyance of title to the water rights, free and clear of all liens, encumbrances, and claims of any nature not expressly approved in writing by Tooele City, shall occur prior to, concurrent with, or as a condition to final annexation, rezoning, or development approval. An approved final plat shall not be signed or recorded prior to conveyance of the water rights.

7-26-6. Appeals and Requests for Adjustment, Modification, Exemption, or Waiver of Water Rights Conveyance Requirements.

(1) Any applicant, person, or entity which is subject to this water rights acquisition policy and conveyance requirement may file, in writing, either prior to or concurrent with the application that triggers the water rights conveyance requirement, an appeal or a request for adjustment, modification, exemption, or waiver of the requirement with the City Council seeking relief from all

or a portion of the water rights acquisition policy requirements as contained in this Chapter.

(2) Supporting Information to be Submitted. Any such appeal or request for relief shall be signed by the applicant and contain adequate information and documentation in support of the relief requested. The City Council may request additional information which they deem reasonably necessary in order to make a decision on the application. The burden shall be upon the applicant in any such appeal or request for adjustment, modification, exemption, or waiver of this water rights conveyance requirement to demonstrate that the strict application of the policy under their particular facts and circumstances is inequitable, unreasonable, or unlawful.

(3) Decision by City Council. Within thirty (30) days of the filing of the completed appeal or request, together with all supporting information and documentation required by the City Council, the City Council shall schedule a public hearing with appropriate notice. At the public hearing, the applicant and all interested persons shall be entitled to present information, documentation, and witnesses in support of or in opposition to the application. At the conclusion of the hearing, the City Council shall either issue its decision or vote to study further the appeal or request and issue its decision at the next regular City Council meeting.

7-26-7. Effective Date.

Tooele City specifically finds that it is necessary for the immediate preservation of the health, safety, and welfare of the present and future inhabitants of the City that this ordinance shall take effect retroactive to the date of subdivision final plat or site plan application for those subdivisions or site plans that fail to do any one of the following:

(1) (a) for residential subdivisions or the residential portion of mixed-use subdivisions, obtain subdivision final plat approval from the City Council prior to August 1, 2005;

(b) for non-residential subdivisions or the non-residential portion of mixed-use subdivisions, obtain site plan approval from the Planning Commission prior to August 1, 2005;

(2) complete public improvement bonding pursuant to Tooele City Code §7-19-12 prior to August 1, 2006; or

(3) complete all bonded public improvements prior to August 1, 2007.

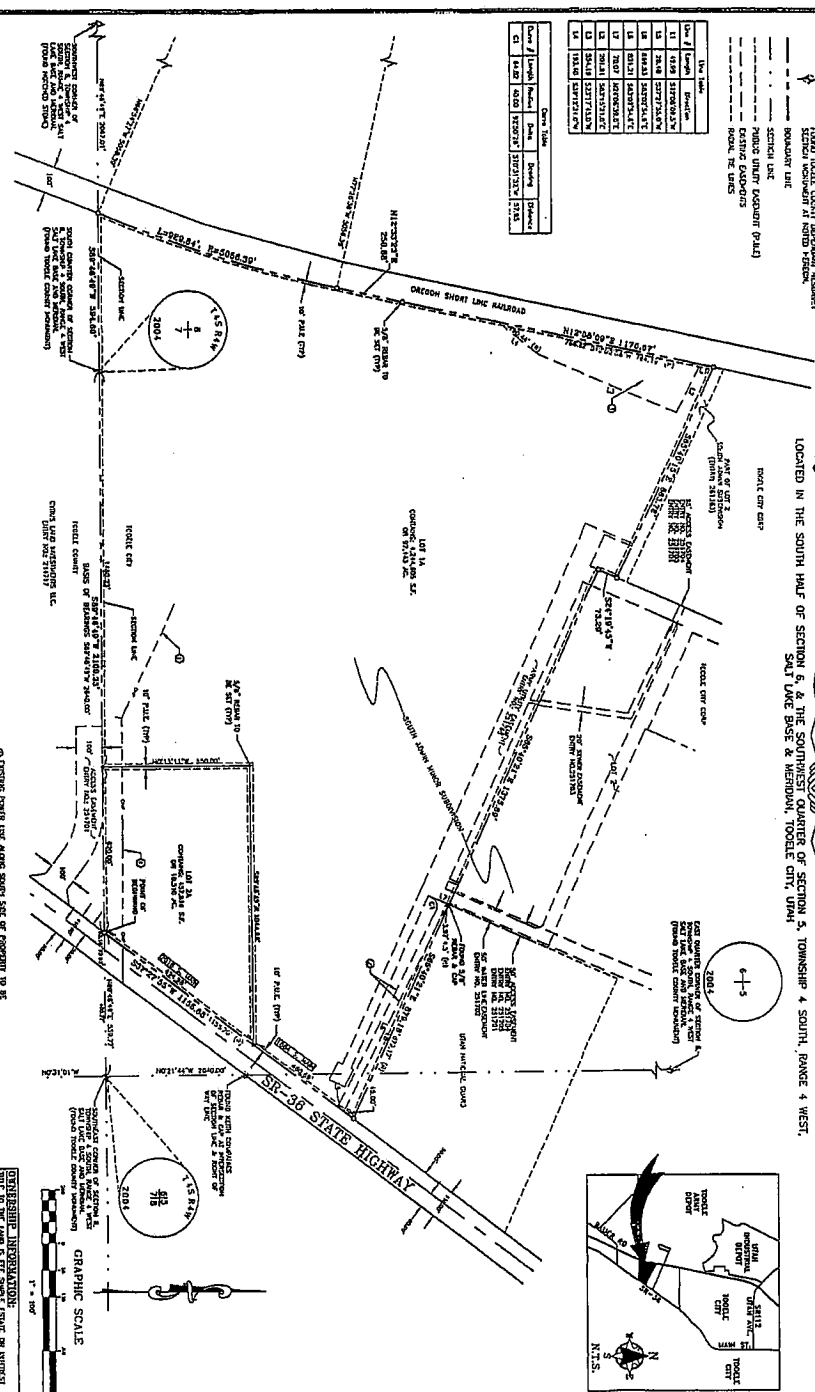
Exhibit B

TC Jail Subdivision

LEGEND

- 0 BOUNDARY CORNER (SEE PAGE 5)
- 1 LOT CORNER (SEE PAGE 5)
- 2 ROAD RIGHT-OF-WAY (SEE PAGE 5)
- 3 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 4 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 5 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 6 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 7 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 8 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 9 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 10 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 11 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 12 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 13 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 14 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 15 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 16 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 17 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 18 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 19 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE
- 20 ROAD RIGHT-OF-WAY & 10'-0" ROAD RESERVE

TOOELE COUNTY JAIL SUBDIVISION
TOOELE CITY, UTAH
 VACATING, AMENDING, & SUBDIVIDING LOT 1, SOUTH MAIN MINOR SUBDIVISION
 LOCATED IN THE SOUTH HALF OF SECTION 6, & THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 4 SOUTH, RANGE 4 WEST,
 SALT LAKE BASE & MERIDIAN, TOOELE CITY, UTAH



ROCKY MOUNTAIN POWER
 NOTICE: ROCKY MOUNTAIN POWER HAS REVIEWED THE SUBDIVISION MAP AND HAS DETERMINED THAT THE SUBDIVISION MAP IS IN ACCORDANCE WITH THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION. THE SUBDIVISION MAP IS SUBJECT TO THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER.

QUESTAR
 NOTICE: QUESTAR HAS REVIEWED THE SUBDIVISION MAP AND HAS DETERMINED THAT THE SUBDIVISION MAP IS IN ACCORDANCE WITH THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION. THE SUBDIVISION MAP IS SUBJECT TO THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER.

COUNTY HEALTH DEPT.
 APPROVED THIS _____ DAY OF _____, 20____ BY THE TOOELE COUNTY HEALTH DEPARTMENT.

COUNTY SUPERVISOR
 APPROVED THIS _____ DAY OF _____, 20____ BY THE TOOELE COUNTY SUPERVISOR.

TOOELE COUNTY RECORDER
 TOOELE COUNTY JAIL SUBDIVISION
 SALT LAKE BASE & MERIDIAN, TOOELE CITY, UTAH

CITY ATTORNEY
 APPROVED AS TO FORM OF THIS _____ DAY OF _____, 20____ BY THE TOOELE CITY ATTORNEY.

CITY ENGINEER
 APPROVED AS TO FORM OF THIS _____ DAY OF _____, 20____ BY THE TOOELE CITY ENGINEER.

COMMUNITY DEVELOPMENT
 APPROVED AS TO FORM OF THIS _____ DAY OF _____, 20____ BY THE TOOELE CITY COMMUNITY DEVELOPMENT.

PLANNING COMMISSION
 APPROVED THIS _____ DAY OF _____, 20____ BY THE TOOELE CITY PLANNING COMMISSION.

CITY COUNCIL
 APPROVED THIS _____ DAY OF _____, 20____ BY THE TOOELE CITY COUNCIL.

Word Engineering Group
 211 Williams Blvd., Suite 100, Salt Lake City, UT 84111
 Phone: (801) 571-1144
 Fax: (801) 571-1144
 www.wordeng.com

CITY ATTORNEY
 APPROVED AS TO FORM OF THIS _____ DAY OF _____, 20____ BY THE TOOELE CITY ATTORNEY.

COMMUNITY DEVELOPMENT
 APPROVED AS TO FORM OF THIS _____ DAY OF _____, 20____ BY THE TOOELE CITY COMMUNITY DEVELOPMENT.

PLANNING COMMISSION
 APPROVED THIS _____ DAY OF _____, 20____ BY THE TOOELE CITY PLANNING COMMISSION.

CITY COUNCIL
 APPROVED THIS _____ DAY OF _____, 20____ BY THE TOOELE CITY COUNCIL.

SUBDIVISION'S CERTIFICATE
 I, CLIVE A. HARRIS, CLERK OF THE TOOELE COUNTY CLERK'S OFFICE, DO HEREBY CERTIFY THAT THE SUBDIVISION MAP IS IN ACCORDANCE WITH THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER. THE SUBDIVISION MAP IS SUBJECT TO THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER.

LEGAL DESCRIPTION PER LOT 1, SOUTH MAIN MINOR SUBDIVISION
 ENTRY NO. 8413523
 APPROVED BY THE TOOELE COUNTY CLERK'S OFFICE
 DATE: NOVEMBER 23, 2010

OWNERS DEMAND
 NOTICE: THE TOOELE COUNTY CLERK'S OFFICE HAS REVIEWED THE SUBDIVISION MAP AND HAS DETERMINED THAT THE SUBDIVISION MAP IS IN ACCORDANCE WITH THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER. THE SUBDIVISION MAP IS SUBJECT TO THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER.

ACKNOWLEDGMENT
 I, _____, COUNTY ENGINEER, DO HEREBY CERTIFY THAT THE SUBDIVISION MAP IS IN ACCORDANCE WITH THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER. THE SUBDIVISION MAP IS SUBJECT TO THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER.

GENERAL NOTES
 1. THE SUBDIVISION MAP IS SUBJECT TO THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER.
 2. THE SUBDIVISION MAP IS SUBJECT TO THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER.
 3. THE SUBDIVISION MAP IS SUBJECT TO THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER.
 4. THE SUBDIVISION MAP IS SUBJECT TO THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER.
 5. THE SUBDIVISION MAP IS SUBJECT TO THE REGULATIONS OF THE PUBLIC UTILITIES COMMISSION AND THE REGULATIONS OF THE STATE ENGINEER.

TOOELE COUNTY RECORDER
 TOOELE COUNTY JAIL SUBDIVISION
 SALT LAKE BASE & MERIDIAN, TOOELE CITY, UTAH

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TOOELE COUNTY RECORDER
 TOOELE COUNTY JAIL SUBDIVISION
 SALT LAKE BASE & MERIDIAN, TOOELE CITY, UTAH

Exhibit C

Change Applications

APPLICATION FOR PERMANENT CHANGE OF WATER

STATE OF UTAH

Rec. by AS

Fee Amt. \$250.00

Receipt # 11-00677

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

CHANGE APPLICATION NUMBER: a37152
(c9059JAUSICK)

WATER RIGHT NUMBER: 15-4036

This Change Application proposes to change the POINT(S) OF DIVERSION, PLACE OF USE, and NATURE OF USE.

1. OWNERSHIP INFORMATION.

A. NAME: Tooele City Water Special Service District
ADDRESS: 90 North Main Street
Tooele, UT 84074
REMARKS: interested party

NAME: Tooele County
ADDRESS: 47 South Main Street
Tooele UT 84074

INTEREST: 100%

B. PRIORITY OF CHANGE: 2/22/11

FILING DATE: 2/22/11

C. EVIDENCED BY: 15-4036 (A23750)
a25225(15-4036)

* DESCRIPTION OF CURRENT WATER RIGHT: *

2. SOURCE INFORMATION.

A. QUANTITY OF WATER: 200.0 acre-feet

B. SOURCE: Underground Water Wells (7)

C. POINT(S) OF DIVERSION.

RECEIVED

FEB 22 2011

COUNTY: Tooele

WATER RIGHTS:
SALT LAKE

POINTS OF DIVERSION -- UNDERGROUND:

- (1) 0 feet E 400 feet from SW corner, Section 04, T 2S, R 6W, SLBM
WELL DIAMETER: inches WELL DEPTH:
- (2) 0 feet E 3,300 feet from SW corner, Section 09, T 2S, R 6W, SLBM
WELL DIAMETER: inches WELL DEPTH:
- (3) N 20 feet E 610 feet from N $\frac{1}{4}$ corner, Section 23, T 2S, R 6W, SLBM
WELL DIAMETER: inches WELL DEPTH:
COMMENT: Wirthington well

Permanent Change

- (4) S 2,300 feet E 700 feet from NW corner, Section 17, T 3S, R 4W, SLBM
WELL DIAMETER: inches WELL DEPTH:
- (5) S 500 feet E 2,000 feet from NW corner, Section 18, T 3S, R 4W, SLBM
WELL DIAMETER: inches WELL DEPTH:
- (6) S 1,500 feet E 4,000 feet from NW corner, Section 18, T 3S, R 4W, SLBM
WELL DIAMETER: inches WELL DEPTH:

3. WATER USE INFORMATION.

MUNICIPAL: from Jan 1 to Dec 31. Tooele County.

4. PLACE OF USE.

The Service Area of Tooele County
(Which includes all or part of the following legal subdivisions:)

| BASE TOWN RANG SEC | NORTH-WEST $\frac{1}{4}$ | | | | NORTH-EAST $\frac{1}{4}$ | | | | SOUTH-WEST $\frac{1}{4}$ | | | | SOUTH-EAST $\frac{1}{4}$ | | | | |
|--------------------|--------------------------|----|----|----|--------------------------|----|----|----|--------------------------|----|----|----|--------------------------|-----|----|----|---|
| | NW | NE | SW | SE | NW | NE | SW | SE | NW | NE | SW | SE | NW | NE | SW | SE | |
| SL 1S 6W 32 | X | X | X | X | *** | | | | *** | X | X | X | X | *** | | | |
| SL 1S 7W 22 | X | X | X | X | *** | X | X | X | *** | X | X | X | X | *** | X | X | X |
| | X | X | X | X | *** | X | X | X | *** | X | X | X | X | *** | X | X | X |
| SL 2S 6W 05 | X | X | X | X | *** | X | X | X | *** | X | X | X | X | *** | X | X | X |
| | X | X | X | X | *** | X | X | X | *** | X | X | X | X | *** | X | X | X |
| | X | X | X | X | *** | X | X | X | *** | X | X | X | X | *** | X | X | X |
| | X | X | X | X | *** | X | X | X | *** | X | X | X | X | *** | X | X | X |
| SL 3S 5W 02 | X | X | X | X | *** | X | X | X | *** | X | X | X | X | *** | X | X | X |
| | X | X | X | X | *** | X | X | X | *** | X | X | X | X | *** | X | X | X |
| | X | X | X | X | *** | | | | *** | X | X | X | X | *** | | | |

* THE FOLLOWING CHANGES ARE PROPOSED: *

5. SOURCE INFORMATION.

- A. QUANTITY OF WATER: 200.0 acre-feet
- B. SOURCE: Underground Water Wells (existing) COUNTY: Tooele
- C. POINT(S) OF DIVERSION. Same as HERETOFORE, but ADDING the following:

POINTS OF DIVERSION -- UNDERGROUND:

- (1) N 2,065 feet E 2,030 feet from SW corner, Section 21, T 3S, R 4W, SLBM
WELL DIAMETER: inches WELL DEPTH:
COMMENT: #16 (Rodeo Grounds Well)
- (2) S 1,150 feet E 2,500 feet from NW corner, Section 22, T 3S, R 4W, SLBM
WELL DIAMETER: inches WELL DEPTH:
COMMENT: Well #15 (England Acres Well)

D. COMMON DESCRIPTION: Tooele City

RECEIVED

FEB 22 2011

WATER RIGHTS
SALT LAKE

6. WATER USE INFORMATION. Changed as Follows:

MUNICIPAL: from Jan 1 to Dec 31. Tooele County.

MUNICIPAL: from Jan 1 to Dec 31. Tooele City Water Special Service Dist.


7. PLACE OF USE. Changed as Follows:

The Service Area of Tooele County

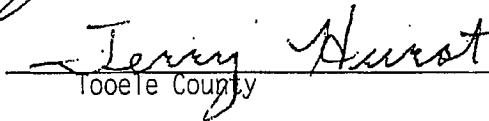
The Service Area of Tooele City Water Special Service Dist

8. SIGNATURE OF APPLICANT(S).

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application, through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).



Tooele City Water Special Service District



Tooele County

RECEIVED

FEB 22 2011

**WATER RIGHTS
SALT LAKE**

Exhibit D

May 7, 2008, Administrative Policy

Administrative Policy

RE: Payment In Lieu Of Water Rights Conveyance

Effective Date: May 7, 2008

Tooele City Code Chapter 7-26 requires the conveyance of water rights as a condition of annexation, rezoning, and/or development approval. Section 7-26-3(2) states the following:

In the discretion of the City Public Works Director and/or City Engineer, in lieu of actual conveyance of water rights pursuant to this Chapter, a single-lot development applicant or final subdivision plat applicant may pay to the City an amount, established by the City Council per acre foot of water rights, intended to be sufficient for the City to purchase the municipal water rights necessary to satisfy the anticipated future water needs of the proposed development to be served and supplied by the City water system.

This Administrative Policy is pursuant to the discretion embodied in §7-26-3(2).

Residential Development. From the Effective Date through August 31, 2008, Tooele City will allow owners of existing parcels that are not part of a recorded subdivision, and owners of single lots subdivided from those existing parcels through two-lot subdivisions (e.g., lot split), to pay a fee (the "Fee") per parcel or lot in lieu of the residential water right requirement of §7-26-2(1). The item for which the Fee is paid shall be known for purposes of this Policy as a Water Rights Credit or Credit.

Credits will be available on a first-come first-served basis. The Fee shall be paid in full at the time of building permit issuance. Should a building permit for which the Fee was paid expire under the terms of the permit, the City will refund the Fee, minus a \$100 administrative service charge. An owner who previously paid the Fee and received a Fee refund due to an expired building permit may submit a new building permit application and pay the Fee on a first-come first-served basis behind others who paid the Fee and whose building permits remain valid.

For lots larger than 10,000 square-feet, each building permit for which the Fee is paid shall be accompanied by an Affidavit of the owner stating that no more than 10,000 square-feet shall be irrigated without first paying an additional sum (the "Additional Fee") or conveying additional water rights (the "Additional Water Rights"). The Additional Sum or Additional Water Rights shall be determined on a gross-acre pro-rata based upon the State of Utah water duty for all areas of land in excess of 10,000 square-feet and upon the Fee established as of the date of the City's discovery that land areas in excess of the 10,000 square-feet are being irrigated. The Affidavit shall further state that the irrigation of land areas larger than 10,000 square-feet without first paying the Additional Sum or conveying the Additional Water Rights shall constitute a knowing

theft of services under Utah Code §76-6-409, as amended. No owner shall be allowed to purchase Credits for more than two (2) acre-feet of municipal water rights for any lot.

Shares of stock in an irrigation company shall not be accepted by the City in lieu of the Fee or of the municipal water rights required under Chapter 7-26. However, for lots larger than 10,000 square-feet located within an irrigation company service area, a lot owner may acquire shares of stock in the company and utilize company water to satisfy the requirement to otherwise pay the Additional Sum or convey the Additional Water Rights for those portions of a lot in excess of 10,000 square-feet. This allowance shall be conditioned upon the owner first signing an affidavit stating that the owner, in lieu of paying the Additional Sum or conveying the Additional Water Rights, will utilize irrigation company water to irrigate those portions of a lot in excess of 10,000 square-feet, that culinary water will not be used for such irrigation without the payment of the Additional Sum or conveyance of the Additional Water Rights, and that if the shares of irrigation company stock are disposed of and culinary water utilized to irrigate those portions of land in excess of 10,000 square-feet without payment of the Additional Sum or conveyance of the Additional Water Rights, such shall constitute a knowing theft of services under Utah Code 76-6-409, as amended.

Non-residential Development. From the Effective Date through August 31, 2008, Tooele City will allow owners of non-residential developments to pay a fee (the "Fee") per acre-foot of municipal water rights in lieu of the non-residential water right requirement of §7-26-2(2), if the requirement is determined by the City to be less than twenty (20) acre-feet of municipal water rights. The item for which the Fee is paid shall be known for purposes of this Policy as a Water Rights Credit or Credit.

Credits may be made available, in the discretion of the Public Works Director, with approval of the Mayor, after full consideration of the following criteria in relation to the amount of water used:

- The number of jobs the development is anticipated to create, together with the nature of the jobs (e.g., full-time) and job compensation (e.g., wage levels, benefits).
- The amount of sales tax the development is anticipated to generate.
- The amount of property tax the development is anticipated to generate.
- The anticipated environmental impacts of the development.

Credits will be available on a first-come first-served basis. The Fee shall be paid in full at the time of building permit issuance. Should a building permit for which the Fee was paid expire under the terms of the permit, the City will refund the Fee, minus a \$100 administrative service charge. An owner who previously paid the Fee and received a Fee refund due to an expired building permit may submit a new building permit application and pay the Fee on a first-come first-served basis behind others who paid the Fee and whose building permits remain valid.

General.

1. The Fee shall be established preliminarily at \$15,000 per Credit, each Credit being the equivalent of one (1) acre-foot of municipal water rights, required pursuant to §7-26-2.
2. Water Rights Credits sold pursuant to this Policy shall not exceed a total of 50 acre-feet of municipal water rights.
3. Upon payment of the Fee or Additional Fee, the City will track such payment on the approved building permit.
4. This Policy shall supercede any prior oral or written policies or practices.
5. It is the intention of Tooele City to utilize the Fees paid toward the purchase of additional water rights from which Water Rights Credits may be sold pursuant to future iterations of this Policy.