

UNDERGROUND FACILITIES LOCATING AND MARKING
SERVICE AGREEMENT

THIS AGREEMENT made this April 1, 2019 (the "Effective Date") by and between ONE CALL LOCATORS, LTD. d/b/a ELM UTILITY SERVICES, a Montana corporation having an address at 3021 Palmer Street, Suite C, Missoula, MT, 59808 (hereinafter referred to as "Contractor") and TOOELE COUNTY having an address at 47 S. Main Street (hereinafter referred to as "Company").
Tooele, UT 84074

WITNESSETH:

WHEREAS, Company owns and operates underground facilities in certain areas of the state of Utah; and,

WHEREAS, Company desires Contractor to provide the labor and equipment necessary to provide certain services relative to locating and marking Tooele County's underground facilities in certain areas where Company provides underground service, and,

WHEREAS, Contractor is willing and able to provide locating and marking services for Company.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained the receipt and sufficiency is hereby acknowledged, the parties do mutually covenant and agree as follows:

1. Definitions

"Agreement": This Agreement and any all future amendments, modifications, supplements or addenda thereto.

"Business Day": Any day other than Saturday, Sunday or any legal federal, state or local holiday.

"Business Hours." The hours between the hour of 8:00 a.m. and 5:00 p.m. local time of a Business Day.

"Confidential Information." (a) Means nonpublic information that Company or Contractor designates as being confidential or which, under the circumstances surrounding disclosure ought to be treated as confidential by Recipient. (b) Recipient may disclose Confidential Information in accordance with a judicial or other governmental order, provided that Recipient either (i) gives Company or Contractor reasonable notice prior to such disclosure to allow them a reasonable opportunity to seek a protective order or equivalent, or (ii) obtains written assurance from the applicable judicial or governmental entity that it will afford the Confidential Information the highest level of protection afforded under applicable law or regulation.

"Excavation/Excavate": Any operation in which earth, rock or other material on or below the surface of the ground is moved or otherwise displaced by any means (except the tilling of sod less than twelve inches in depth for agricultural purposes, or road and ditch maintenance that does not change the original road grade or ditch flow line).

"Excavation Site": The area where an Excavator intends to Excavate or actually performs Excavation.

"Excavator": Any person who engages directly in Excavation and/or the design of Excavation, and who requests the location of the Company's Underground Facilities.

"Excavator Notification": Notification given to the Excavator that Underground Facilities are not present at the Excavation Site. *"Facility Owner"*: The owner of a specific Underground Facility.

"Identified, But Unlocatable": An Underground Facility, the presence of which is known, but which cannot be field marked with Reasonable Accuracy.

"Locatable Underground Facility": An Underground Facility which can be field marked with Reasonable Accuracy by using devices capable of identifying and locating the Underground Facilities within the required range of accuracy, or by use of maps and records.

"Field Locate/Locating Services": The process of detecting Underground Facilities through the use of inductive or conductive equipment, and marking the surface of the ground to identify the existence and location of Underground Facilities or Underground Plant. A Field Locate means each 0 - 500 lineal feet of buried plant will be billed as a locate. Locates in excess of 500 feet shall be billed in additional 500 foot increments. Regular dispatch during business hours (8:00 a.m. to 5:00 p.m. Monday through Friday local time).

"Marking": The use of flags or paint strips of a minimum of two inches by twelve inches, or other clearly identifiable materials at distances of every ten feet, and at each divergency from a straight line in accordance with the current marking standards of the American Public Works Association to show the field of Underground Facilities with Reasonable Accuracy.

"One-Call Locator Service/One-Call Hotline": A service provided by third party through which a Person can notify a Facility Owner, its agent or representative, of proposed Excavation and request field marking of Underground Facilities.

"Person": Any individual, partnership, franchise holder, association, corporation, limited liability company, state, city, county or any subdivision or instrumentality of a state and its employees, agents or legal representatives.

"Reasonable Accuracy": Locating within the outside dimensions of both sides of an Underground Facility or Underground Plant as defined by State law.

"Standby Time." Company Authorized protection of high profile and other high consequence facilities. Billed at designated hourly rate.

"Underground Facility" or "Underground Plant": Any item buried or placed below the surface of the ground for use in connection with the storage or conveyance of water, sewage, electronic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids or other substances, including but limited to pipes, sewers, conduits, cables, valves lines, wires, manholes, attachments and those parts of poles or anchors below ground.

"Unlocatable Underground Plant." An unlocatable underground plant which is one that is not locatable by the normal business process, used by Contractor in tracing underground plants.

2. Drawings, Scope of the Work, and Confidentiality

(a) Contractor agrees to perform locating and marking services for Company's Underground Facilities located within the following territory as requested by Company:

Service Area Description:

(b) Prior to Contractor commencement of locating services, Company shall provide Contractor with accurate and up-to date system maps. Failure to provide such information may, in Contractor's sole discretion, be grounds for Contractor to refuse to perform locating and marking services under the Agreement. Company will continue to provide all subsequent updates to the system maps as they become available.

(c) Any such maps, drawings, sketches, or other technical information either oral, written or otherwise furnished or disclosed to or obtained by Contractor in the performance of this Agreement shall be deemed Confidential Information and shall remain the property of Company. All copies of such information shall be returned to Company upon written request or at the completion of this Agreement. This obligation of confidentiality shall survive the termination of this Agreement.

(d) Contractor shall provide 24-hour protection with call given by the One-call Center or Company.

3. Term of Agreement.

The term of this Agreement shall remain in effect from the Effective Date hereof until 12/31/2019. From thereafter the contract will automatically renew annually for a period of one (1) year, unless sooner terminated as provided herein.

4. Payment for Services.

(a) Contractor shall submit invoices to Company at the beginning of each month for services rendered during the previous month. Such invoices shall be due and payable upon presentation, but in no event later than thirty (30) days from invoice date. Unless otherwise prohibited by applicable law, any invoice which remains outstanding for more than thirty (30) days shall accrue a late fee equal to one percent (1%) per month or fraction thereof until paid in full.

(b) Each invoice shall include notations of what facilities were marked and not marked, and if not marked it will list reason(s) why it was not marked, and what day the facility was marked. Copies of the tickets shall be available to Company upon request. Company shall, after reviewing such invoice and verifying that the work has been done according to the Company's specifications, pay each undisputed invoice within thirty (30) days of receipt of the invoice.

(c) In the event of a dispute as to the accuracy of any invoice, Company shall promptly return such invoice to Contractor with a detailed explanation of the nature of the dispute, and

request that a corrected invoice be submitted. If Contractor does not agree with Company's that such invoice is incorrect, Contractor shall so notify Company, in writing, and further explain the reasons for its assertion that the invoice is correct. It is agreed that the parties shall use their best efforts to resolve such dispute among themselves within thirty (30) days from the date of Contractor's response. If the dispute is not resolved within the thirty (30) day period, Contractor may consider Company's failure to pay to be a material breach of this Agreement.

(d) All invoices shall be sent to Company at the following address:

Tooele County
47 S. Main Street
Tooele, UT 84074

5. Schedule of Service Charges.

Contractor shall charge for services rendered hereunder in the following manner:

Pricing:

Code	Description	Price
	Locate Charges (0'-500'; 500' increments thereafter)	
LR	Locate Regular	\$25.00
	Hourly Charges (2 Hour Min)	
H	Regular Hourly (Standby & Monitor)	\$52.00
HAH	Hourly After Hours	\$68.00
MIN	Monthly Minimum Charge	\$750.00

- Monthly minimum charge to be applied only if total units + hourly charges do not reach \$750 in one calendar month.
- If units (500' increments) billed exceed 30 in one calendar month, pricing thereafter will be billed in 500' increments at \$25.00 per unit.
- Hourly units will not be charged in conjunction with Locate units. Hourly units are for standby & monitor services or other hourly work as requested by Company.
- Hourly After Hours charges will be billed for emergency call outs that occur during non-business hours in lieu of regular locate charges.
- All tickets generated under Company member code & transmitted from the Call Center will be received directly by contractor, with no screening being done by company.
- All tickets received will be counted and/or billed a minimum of 1LR.

6. Independent Contractor.

Contractor represents and warrants to Company that Contractor is free to enter into this Agreement and that Contractor has no other contractual commitments or obligations which will conflict or interfere with the performance of Contractor's obligations hereunder.

It is further understood and agreed that the Contractor is an independent contractor, and not an employee of Company, and Contractor hereby represents and agrees that it will perform said work as an Independent Contractor; that it has and hereby retains the right to exercise control and supervision of the work and full control over the employment, direction, compensation and discharge of all persons assisting it in the work; that it will be solely responsible for the payment of its employees and for the payment of all federal, state, county and municipal taxes and contributions pertaining thereto; and that it will be responsible for its own acts. Any representations to the contrary shall be invalid and non-binding as to the parties.

7. Subcontractor's Requirements.

Contractor shall not subcontract the work to be performed hereunder, or any part of said work, unless it has first obtained the written approval of Company, and Company shall have full and complete discretion in withholding or granting said approval. Any such approved Subcontractor is required to provide evidence of insurance substantially equivalent to that required by this Agreement, or which is otherwise acceptable to Company prior to commencing any work. Upon request, Contractor shall provide Company with copies of any subcontract agreements entered into pursuant to the provisions of this section, prior to approval of any proposed Subcontractor.

8. Indemnification.

Company shall indemnify and hold Contractor harmless from and against any and all claims, losses, actions, and damages resulting from Company's negligent acts that proximately cause such claims, losses, actions, or damages provided, however, nothing herein shall imply or be construed to mean that Company cannot assert any claim for contribution or comparative negligence against the contractor as may be permitted by law.

Contractor shall indemnify and hold the Company, its officers, agents and employees harmless from and against any and all claims, losses, actions, and damages resulting from Contractor's negligent acts that proximately cause such claims, losses, actions, or damages provided, however, nothing herein shall imply or be construed to mean that Contractor cannot assert any claim for contribution or comparative negligence against Company as may be permitted by law.

9. Solicitation of Employees.

Company understands and agrees that Contractors' employees are high skilled and specially trained individuals who are of great value and importance to Contractor. Company understands and agrees that it would be a difficult and expensive undertaking for Contractor to replace its employees. Company further understands and agrees that the measure of damages for the loss of a Contractor employee would be difficult to ascertain; such damages are, therefore presumed to exist. Company agrees not to infringe upon or interfere with the employer-employee relationship between Contractor and any of its employees. Such infringement and interference

would include, though not by way of limitation, the solicitation for employment of Contractor employees, the inducement or encouragement of Contractor employees to leave their employment with Contractor or any of its affiliated companies or entities, or the direct employment of Contractor employees by Company or any of its affiliated companies. IN THE EVENT THAT ANY CONTRACTOR EMPLOYEE IS EMPLOYED BY COMPANY OR ANY OF ITS AFFILIATES OR MEMBER COMPANIES WITHIN ONE (1) YEAR FROM THE TERMINATION DATE OF THIS AGREEMENT, COMPANY AGREES TO PAY CONTRACTOR, IN AND AS LIQUIDATED DAMAGES, A SUM OF MONEY EQUAL TO THE GREATER OF THE DEPARTING EMPLOYEE'S TOTAL ANNUAL COMPENSATION BEING PAID BY CONTRACTOR AT THE TIME OF DEPARTURE or THE TOTAL COMPENSATION TO BE PAID BY COMPANY. For the purposes of this Agreement, "Total Compensation" shall include regular wages, bonuses and the total value of any employee benefits package.

10. Termination.

- (a) Convenience: This Agreement may be terminated by either party at any time and for any reason upon giving ninety (90) days' prior written notice to the non-terminating party. In the event of such termination for convenience by Company, the Contractor shall be paid for all amounts due to Contractor under this Agreement to the termination date. In the event of termination by Contractor, all work in progress shall be completed by termination date.
- (b) Breach: Should either party hereunder fail to perform any of the obligations or responsibilities which have been assumed hereunder, the non-offending party shall have all remedies available to it at law or in equity, at such party's option, including but not by way of limitation, recession, termination and specific performance. Notwithstanding the foregoing, however, the party asserting the breach must notify the offending party, in writing, of its intent to assert a claim for breach of the Agreement and specify therein the basis for the claim. The offending party shall then have fifteen (15) working days from the date of receipt of such notice to cure the breach.

11. Contractor Responsibilities.

- (a) Labor, Materials and Equipment: Contractor shall furnish and pay for all labor, supervision, tools, materials, warehousing, transportation and equipment necessary to perform underground facilities locating and marking services as requested by Company.
- (b) Insurance/Losses: Contractor, at Contractor's sole cost and expense, shall be responsible for insuring losses or damages relating to all equipment, tools, supplies and materials belonging to Contractor, any subcontractor, or any utility company upon whose facilities Contractor may be working. It is specifically understood and agreed that Contractor releases and holds Company forever harmless from any and all responsibility resulting from negligence or otherwise for damages to, misappropriation or theft or any other loss or damage sustained by the above-referenced equipment and supplies and other personal property belonging to others unless caused by the negligence of Company.
- (c) Permits: Contractor shall obtain and comply with the provisions of all applicable permits and licenses relative to the services to be performed hereunder as may be required by the local jurisdiction.

- (d) Payment of liens: Contractor agrees to promptly pay and discharge any liens, claims, or charges filed or asserted against Company by or on behalf of any of Contractor's employees, subcontractors, suppliers or any other third party with respect to the performance of services under this Agreement. If any lien claim, or threatened lien claim or charge is not paid or discharged, Company may, but shall not be obligated to, withhold payment in an amount equal to one and one half (1.5) times the total amount of any such lien, claim or charge until the same has been dismissed of record or satisfied, or alternatively a lien claim may be discharged by direct payment from Company, and such payment may be set off against any funds held by Company or owed to Contractor; provided, however, Contractor may, at its own cost and expense, post an appropriate cash or surety bond for purposes of dismissing any recorded lien or claim and proceed thereafter to contest such lien or claim without cost or expense to Company. Company shall thereupon release any funds withheld pursuant to this subsection.
- (e) Contractor agrees that in its execution of the work, it shall utilize only trained personnel knowledgeable in locating and marking Underground Facilities.

12.

Liability:

- (a) Contractor shall be liable for damages to the property and facilities of Company that result from errors or omissions on the part of Contractor in locating and marking said facilities according to the standards contained herein. The annual accumulated value of such liabilities and all claims made by 3rd parties directly or indirectly associated with such damages shall not exceed \$1,000.00. In the event of such loss, Company shall submit a detailed invoice to contractor setting forth, in specific terms, a description of the loss, including the time and place of the occurrence leading to said damages and a detailed accounting of the costs associated with the necessary and reasonable repairs or replacement to the property and facilities of Company. If Contractor does not dispute Company's claim for damages, it shall promptly pay the invoice for such damages. Company shall notify Contractor, by calling 888-728-9343 and obtaining a reference number, of such claim for damage within two (2) hours following Company being notified that damage to their property or facilities has resulted from an alleged error or omission by Contractor. Unless Contractor is so notified, Contractor shall be deemed released from any liability for such damage.
- (b) If Contractor disputes a claim for damages under this section, it shall promptly notify Company, in writing, of such dispute. Said notice shall specify the reasons for the dispute. It is agreed that the parties shall use their best efforts to resolve such dispute among themselves within thirty (30) days from the date of Contractor's response.
- (c) To the extent permitted by law, and subject to the limitations set forth in this section, Contractor shall save Company harmless from, and indemnify it against all claims, actions, demands, liens, fees and expenses on account thereof, for injury or damage to any person or property whatsoever, including death, which may arise out of, or result from, the negligent performance by Contractor of the services subject to this agreement. Nothing contained herein, however, shall imply or be construed to mean that Contractor cannot

assert any claim for contribution or comparative negligence against Company as may be permitted by law.

(d) If any person or entity threatens to sue, makes a written or oral demand or claim, sues or initiates any legal proceeding against Company on account of any provision of this indemnity agreement, then Company shall immediately notify Contractor of such pending or threatened litigation and such notification shall be made by Company no later than 30 days after Company learns of said pending litigation, lawsuit, claim or demand. It is expressly agreed that the failure of Company to provide Contractor with timely notice as stated above shall release and absolve Contractor of any liability to Company under this provision. The notice to Contractor by Company shall be made in writing.

(e) If a claim is made against Company under paragraph (d) above, Contractor or its insurance carrier shall have the right to defend such proceeding by hiring legal representatives selected and chosen by Contractor or its insurance carrier, and Contractor and its insurance carrier shall have the right to negotiate settlement of said claim or alleged claim directly with claimant without the approval or consent of Company, but with prior notice to Company. If Contractor fails to provide a defense or diligently pursue settlement for an indemnified event, Company shall have the right to withhold payment to Contractor in an amount equal to the total amount of any such liens, claims, actions, demands or other charges until the same has been dismissed of record or satisfied, or alternatively the same may be discharged by direct payment from Company and said payment shall be set-off against funds held by Company or owed to Contractor.

13. Compliance with All Laws.

Contractor shall comply with all laws, ordinances and regulations of the United States, the state of Utah as appropriate, and any unit of local government asserting jurisdiction thereto, applicable to the work hereunder (including, but not limited to Worker's Compensation, Unemployment Insurance and Social Security); and shall be responsible for obtaining all licenses, permits, inspections and other authorizations required for the Contractor's performance of this Agreement.

14. Taxes.

The Contractor shall pay all applicable State and Federal Social Security, unemployment insurance, and other taxes, assessments, or contributions due by Contractor and payable to the State of Utah as appropriate, and/or the United States in connection with the work to be performed under this Agreement, and the Contractor shall hold the Company harmless from any liability on account of any such taxes or assessments.

15. Equal Employment.

Contractor acknowledges that it is an equal opportunity employer. No provisions or application of this Agreement shall cause or result in discrimination against any employee or applicant for employment in his or her hiring, tenure, or condition of employment because of race, color, religion, sex or national origin.

16. Amendments, Modifications and Supplements.

Written amendments, modifications and supplements to this Agreement are allowed and will be binding upon Company and Contractor, provided they are in writing and signed by an authorized representative of both parties. The term "this Agreement" as used herein shall be deemed to include any future amendments, modifications and supplements. All such amendments, modifications and supplements shall not, unless specifically referred to, be construed to adversely affect vested rights or causes of action which have accrued prior to the effective date of such amendments, modification or supplement.

17. Ownership of Documents.

Upon completion of the services or termination of this Agreement for any reason, all documents, reports, patents, copyrights, work in progress and all data gathered or developed in connection with the work under this Agreement, upon the request by the party originally owning such documents, shall be turned over to requesting party.

18. Background and Drug Testing.

Contractor, at its sole cost and expense, shall ensure that all personnel of the Contractor performing under the Agreement are prohibited from the use of illegal drugs and/or alcohol. Unless otherwise prohibited by collective bargaining agreements, employment contracts, or applicable law, Contractor shall request its employees performing under this Agreement to submit to illegal drugs and/or alcohol screening on a voluntary basis, and shall request said employees to sign a drug testing consent and release form which shall indemnify and hold harmless from liability Contractor, Company and their agents. A negative drug screen will be prerequisite to employment of any person by Contractor who will perform on the project hereunder.

Contractor shall not permit the introduction or use of intoxicating liquor or any drugs not prescribed for use by the individual, upon the job site, or upon any of the grounds, equipment, or vehicles occupied or controlled by Contractor.

19. Insurance.

Before commencing any of the Work provided for herein, Contractor shall submit to Company certificates evidencing that insurance of the types and amounts specified below has been obtained by Contractor.

- (a) Workers Compensation Insurance in compliance with the laws of the state where work is to be performed; this requirement shall also be imposed upon any subcontractors performing any portion of the construction required herein.
- (b) Contractor shall also have employer's liability insurance covering all its employees with Employer's Liability Insurance with a limit not less than One Million Dollars (\$1,000,000.00).
- (c) Comprehensive Public Liability Insurance written on a standard liability policy form including; (a) Comprehensive General Liability Insurance covering Premises Operations,

Independent Contractors Product Completed Operations for all services and products supplied for the work for a period of not less than one year from the completion of the work, Broad Form Property Damage, and Personal Injury Hazards with an employee exclusion excluded; and (b) Contractual Liability Insurance specifically insuring the liability assumed by Contractor under this Agreement, including, without limitation, the Indemnities provided for herein. Minimum limits of liability shall be Two Million Dollars (\$2,000,000.00) per occurrence/aggregate combined single limit for Bodily Injury and Property Damage liability.

(d) Automobile Liability Insurance written on a comprehensive automobile form, insuring all owned, non-owned, and hired or leased automobiles with minimum limits of liability of One Million Dollars (\$1,000,000.00) per occurrence for Bodily Injury and Five Hundred Thousand Dollars (\$500,000.00) per occurrence for Property Damage, with a fleet automatic endorsement and such other endorsements as that which may be required or offered from time to time.

(e) All such insurance certificates accepted by Company shall; (a) provide that said insurance will not be canceled, modified or changed until at least thirty (30) days after written notice of such cancellation has been given to Company via registered or certified mail; (b) the coverage provided to Company shall continue in full force and effect under the policy by the Name Insured except with respect to non-payment of premium. Company, and any utility company upon whose facilities Contractor may be working in the scope of its performance for Company, shall be named as additional insured under all such policies; (c) contain provisions waiving any rights of subrogation in favor of Company and against Contractor, Contractor's representative or any subcontractor; (d) be endorsed to name Company, and any above-referenced local utility company, as an additional Insured except as to Worker's Compensation; (e) the insurance applicable to Company shall be primary and not contributing to or in excess of any insurance which may be maintained by Company for its own benefit; (f) failure to provide the required certificates of insurance shall not operate to invalidate the insurance requirement under this Agreement; and (g) all insurance shall be written by a company having an AM Best rating of A or better.

20. Company Right to Audit Records.

For a period of one (1) year after the completion of the work covered by this Agreement, the Company, its auditor or other authorized representative shall have reasonable access to any accounting records of Contractor relating to the work covered by this Agreement.

21. Severability.

If any term or provision of this Agreement is declared void or unenforceable by any court having jurisdiction, the remaining terms and provisions shall not be affected thereby but shall continue in full force and effect.

22. Force Majeure.

Neither party shall be deemed in default of this Agreement or any order hereunder to the extent that any delay or failure in the performance of its obligations results from any reasonably unforeseeable cause beyond its reasonable control and without its fault or negligence, such as

but not limited to, acts of God, acts of civil or military authority, embargoes, epidemics, wars, riots, insurrections, fires, explosions, earthquakes, floods, unusually severe weather conditions or strikes.

If either party is prevented in whole or in part from performing its obligations under this Agreement by unforeseeable causes beyond its reasonable control and without its fault or negligence then the party so prevented shall be excused from whatever performance is affected by such cause, to the extent the performance is actually affected; provided that such party provides written notice to the other party of such condition within thirty (30) calendar days from the onset of such condition.

23. Confidential Information.

Any Confidential Information provided by either party to the other pursuant to this Agreement shall not be disclosed to any third party except with prior written consent of the providing party. Neither party shall use the Confidential Information of the other for its own benefit, or for the benefit of any third party, without the prior written consent of the providing party. Any unauthorized disclosure or use of the information in violation of this provision will conclusively be deemed a material breach of this Agreement. This provision shall survive the termination of this Agreement.

24. Company's Representative.

The Company's Representative for the purpose of this Agreement shall be Derek Bracken or such other person as the Company shall designate in writing. Whenever approval or authorization from or communication or submission to the Company is required by this Agreement, such communication or submission shall first be directed to the Company's Representative.

25. No Assignment.

Neither party shall assign this Agreement in whole or in part without the prior written consent of the other, which consent shall not be unreasonably withheld.

26. Controlling Law.

This Agreement shall be governed by and interpreted under the laws of the State of Utah as appropriate. All legal disputes arising out from this Agreement shall be adjudicated in the Circuit Court of Peoria County, Illinois, or the Federal District Court for the Northern District of Illinois. The parties hereto specifically waive any objections to the personal jurisdiction of such courts in these matters.

27. Warranty.

Contractor warrants that all services performed herein shall be performed using that degree of skill and care ordinarily exercised in and consistent with generally accepted practices for the nature of the services and shall conform to all requirements of this Agreement.

28. Entire Agreement.

This Agreement and any and all amendments, modifications or supplements, shall constitute the entire agreement between the parties with respect to the subject matter. Both parties hereto represent they have read this Agreement, agree to be bound by all terms and conditions stated herein, acknowledge receipt of a signed, true and exact copy of this Agreement. This Agreement constitutes the entire agreement of the parties. Covenants or representation not contained in this Agreement shall not be binding upon the parties. This Agreement may not be modified in any, unless such modification is in writing and agreed to by all parties.

29. Binding Effect.

All covenants, agreements, representations, and warranties of the parties contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs and legal representatives.

30. Incorporation by Reference.

The paragraphs beginning "Whereas" and any Exhibits referred to in this Agreement are hereby made a part of this Agreement

31. Notices.

All notices, requests, demands, and other communications to be given to any party hereunder shall be in writing and shall be deemed to have been duly given if delivered in person or sent by registered or certified mail, postage prepaid, to the last known place of business, or such place as either shall periodically designate in writing, as set forth below.

If to Company:

Derek Bracken
Tooele County
47 S. Main Street
Tooele, Ut 84074

With Copy to:

Denise Lawrence
Tooele County
47 S. Main Street
Tooele, UT 84074

If to Contractor:

ELM Locating & Utility Services
Josh Hinrichs, President
3021 Palmer Street, Suite C
Missoula, MT 59808

Facsimile: 406-327-6875
Telephone: 406-728-9343
Email: josh.hinrichs@elmlocating.com

or such other address as either party may, from time to time, advise the other of by notice in writing in accordance with the provisions hereof.

32. Survival of Representations and Warranties.

All covenants, agreements, and warranties made herein and in any documents and instruments delivered on closing or hereafter pursuant to this Agreement shall be deemed material, and to have been relied upon by the parties notwithstanding any investigation heretofore or hereafter made by or on behalf of any of the parties, and shall survive the closing.

33. Attorneys' Fees.

In the event either party breaches any of the terms and conditions of this Agreement and it is necessary to institute court proceedings, then the prevailing party, in addition to any damages awarded, shall be awarded its attorney's fees and costs.

34. Warranty of Execution.

The undersigned do hereby warrant that they have the power and authority to execute this Agreement for and on behalf of each respective party.


35. Execution of Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives.

COMPANY

Tooele County

By: 
(Signature)


Print Name: Tom Tripp

Print Title: Tooele County Commissioner

Date: 1 April '19

CONTRACTOR

ELM Utility Services

by: 
(Signature)

Print Name: Josh Hinrichs

Print Title: President

Date: _____