

# Santaquin City Resolution 04-05-2017

## A RESOLUTION APPROVING A REAL PROPERTY PURCHASE AGREEMENT BETWEEN SANTAQUIN CITY AND THE SANTAQUIN WATER SPECIAL SERVICE DISTRICT

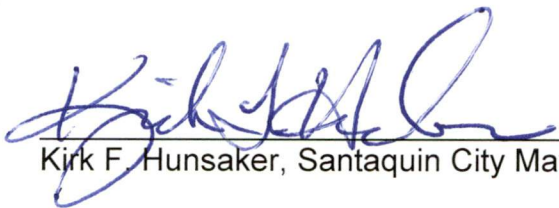
**WHEREAS**, the Santaquin Water Special Service District acquired two parcels of property along Summit Ridge Drive through the trade of water for land; and

**WHEREAS**, the City of Santaquin has need of these parcels of property for the Right of Way (ROW) for the extension of Summit Ridge Parkway to US-6 Main Street; and

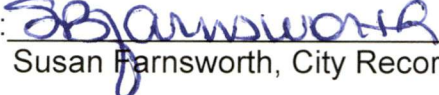
**WHEREAS**, the City of Santaquin, in exchange for the ROW is willing to pay the district \$24,937.50, which will be used to pay the assessments on the Summit Creek Irrigation and Canal Company shares owned by the district.

**NOW, THEREFORE, BE IT RESOLVED**, that Santaquin City approve the Real Property Purchase Agreement shown on Attachment (A).

Approved and adopted by the Santaquin City Council this 19<sup>th</sup> day of April, 2017.



Kirk F. Hunsaker, Santaquin City Mayor

Attest:   
Susan Farnsworth, City Recorder



## REAL PROPERTY PURCHASE AGREEMENT

**THIS REAL PROPERTY PURCHASE AGREEMENT** (this "Agreement") is made and entered into on this 19<sup>th</sup> day of April, 2017, by and between the **CITY OF SANTAQUIN, UTAH**, a municipality of the state of Utah ("Buyer") and **SANTAQUIN SPECIAL SERVICE DISTRICT** a political subdivision of the state of Utah ("Seller") as of the date Buyer and Seller execute this Agreement as provided on the signature page. Buyer and Seller are herein sometimes referred to individually as a "Party" and collectively as the "Parties." The transactions contemplated by this Agreement are herein sometimes collectively referred to as the "Transaction."

### RECITALS

WHEREAS, Buyer is a municipality located in Utah County, state of Utah, whose municipal boundaries include a large residential and commercial development with a single access for public ingress and egress; and

WHEREAS, Buyer desires to obtain property for the construction and operation of an additional public thoroughfare to serve the access needs of the aforementioned development as well as the future growth and development of Santaquin City; and

WHEREAS, Seller owns certain real property that is located in an area that is suitable for the construction of the public thoroughfare that the City desires to build, and is willing to sell said real property ("the Property") to Buyer; and

WHEREAS, the Parties desire to enter into an agreement to accomplish Buyer's purchase of the Property, subject to the terms and conditions set forth herein.

**NOW THEREFORE**, the Parties hereto agree as follows:

**1. Property Purchase.** Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller, subject to the terms and conditions contained herein, that certain real property that is described in Exhibit A hereto (the "Property"), together with all improvements and appurtenances (if any), and all oil, gas and mineral rights owned by Seller; also including all of Seller's right, title and interest in all construction, drainage, and other easements appurtenant to the Property, but excluding therefrom any and all water rights.

**2. Property Sold "As Is."** BUYER SHALL ACCEPT TITLE TO THE PROPERTY, AND ACCEPT THE PROPERTY, AS IS, WHERE IS, WITH ALL FAULTS EXCLUDING ONLY THOSE WARRANTIES INHERENT WITHIN THE WARRANTY DEED BY WHICH SELLER WILL CONVEY TITLE TO THE PROPERTY TO BUYER AND REPRESENTATIONS, WARRANTIES AND COVENANTS EXPRESSED IN THIS AGREEMENT, TO THE EXTENT THEY SURVIVE THE CLOSING.

**3. Consideration.** Parties agree that the total price to purchase the Property is Twenty-Four Thousand Nine Hundred Thirty-Seven and 50/100 Dollars, receipt of which is

hereby acknowledged. No additional monies will be exchanged or paid as consideration for this Agreement.

**4. Closing.** This Transaction shall be closed at the offices of Santaquin City at 275 West Main Street, Santaquin, Utah or at any other place as the Parties may agree, on or before May 20<sup>th</sup>, 2017. "Closing" shall occur when Seller and Buyer have made all of their respective deliveries described below, to-wit:

**a. Seller's Closing Deliveries.** Seller shall deliver to Buyer a general warranty deed (the "Deed"), fully executed and properly acknowledged by Seller, conveying the Property to Buyer.

**b. Buyer's Closing Deliveries.** Buyer shall deliver to Seller any other funds, instruments or documents as may be reasonably requested by Seller, or reasonably necessary to effect or carry out the purposes of this Agreement (which funds, instruments or documents are subject to Buyer's prior approval, which approval shall not be unreasonably withheld, conditioned or delayed).

**5. Closing Costs and Prorations.**

General and special taxes, if any, and assessments against the Property for all periods prior to the Closing Date shall be paid by Seller. Seller and Buyer shall each pay their own legal expenses in connection with this Transaction.

**6. Possession.** Unless otherwise agreed in writing by the Parties, Seller shall deliver possession of the Property to Buyer upon Closing.

**7. Conveyance; Title Insurance.** Seller shall convey to Buyer, by general warranty deed, good and marketable fee simple title to the Property, free and clear of all mortgages, trust deeds, judgments, mechanics' liens, tax liens and warrants and other financial encumbrances. Buyer may acquire a current standard coverage owner's policy of title insurance at Buyer's sole cost and expense.

**8. Seller's Representations, Warranties and Covenants.** Seller represents, warrants and covenants to Buyer that:

**a.** Seller is a valid political subdivision of the state of Utah and has full power and authority to enter into this Agreement and complete this Transaction.

**b.** Seller has good and marketable fee simple title to the Property. Other than as has been or will be disclosed to Buyer, there are no unrecorded agreements, leases, liens or encumbrances that may affect title to the Property to which Seller is a party or of which Seller has knowledge.

**c.** Upon Seller's execution of this Agreement, it will be binding and enforceable against Seller in accordance with its terms, and upon Seller's execution of the additional

documents contemplated by this Agreement, they will be binding and enforceable against Seller in accordance with their terms.

**d.** Subject to the foregoing, neither the execution and delivery of this Agreement, nor the consummation of this Transaction will constitute a breach under any contract or agreement to which Seller is a party or by which Seller is bound that affects the Property or any part thereof.

**e.** Seller has not entered into any agreement or contract with respect to the Property or granted any interest in the Property that is inconsistent with Seller's obligation to convey to Buyer good and marketable fee simple title to Seller's interest in the Property in accordance with the requirements of this Agreement. Except as otherwise provided herein, Seller shall not, prior to any termination of this Agreement and without Buyer's prior written consent, enter into or execute any easement, encumbrance, lease, or other agreement with respect to the Property, or execute, record or consent to any declaration of covenants, conditions and restrictions or other similar document with respect to the Property.

**f.** Seller has not received notice of any pending or threatened condemnation action affecting the Property, any moratorium on building on the Property, or any violation with regard to any applicable law, regulation, ordinance, requirement, covenant, condition or restriction relating to the present use, occupancy or condition of the Property from any person, authority or agency having jurisdiction over the Property.

**g.** Seller has not received notice of any intended public improvements that will result in any condemnation or taking of all or a portion of any part of the Property, or in any special assessments, levies, taxes or other charges being assessed against any part of the Property that will impose a lien upon the Property. Seller has no knowledge of special assessments pending or threatened against or with respect to the Property on account of or in connection with streets, roads or any other public improvements, including, but not limited to, storm and sanitary sewer, water or other utility lines, curbs, gutters, drainage facilities, sidewalks, lighting and the like.

**h.** There are no suits, claims, proceedings or investigations pending or, to Seller's actual knowledge, threatened with respect to the Property or that will adversely affect Seller's ability to meet its obligations under this Agreement.

**i.** Seller has not: (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy, or received notice of the filing of any involuntary petition in bankruptcy against the Seller; (iii) received notice of the appointment of a receiver to take possession of all or substantially all of the Seller's assets; (iv) received notice of the attachment or other judicial seizure of all or substantially all of the assets of Seller; (v) within twelve (12) months preceding the date of this Agreement, admitted in writing the inability of Seller to pay its debts as they come due; or (vi) made an offer of settlement, extension or composition to the creditors of Seller generally.

j. Seller is not in default under the terms of any written agreement with a third party to which Seller is a party pertaining to the Property, nor has any event occurred that, with notice or passage of time, or both, would constitute a default by Seller under any such agreement, nor has Seller received notice of any default under any agreement or encumbrance to which the Property or any portion thereof is subject.

k. Seller does not have actual knowledge of the existence of any criminal or other investigation concerning Seller or any other person that may result in a forfeiture of all or any portion of the Property.

l. Neither the execution and the delivery of this Agreement nor the consummation of this Transaction is subject to any requirement that Seller obtain any consent, approval or authorization of, or make any declaration or filing with, any governmental authority or third party that has not been obtained or that, in any case or in the aggregate, if not obtained or made would render the execution, delivery or consummation illegal or invalid, or would constitute a default under this Agreement, or result in the creation of any lien, charge or encumbrance upon the Property.

m. Seller does not have actual knowledge of or any reason to suspect the presence or existence of any Hazardous Materials (as defined below) or petroleum underground storage tanks on or near the Property that would necessitate or require remediation, cleanup or any other action in accordance with any Environmental Laws (as defined below). Seller has no knowledge or reason to suspect that prior to the date of this Agreement the Property has not been used in compliance with applicable Environmental Laws. Seller has not at any time used, stored or kept at the Property any Hazardous Materials, except in compliance with all Environmental Laws and, other than as disclosed above, Seller has no knowledge or reason to suspect that any Hazardous Materials have been used, stored or kept at the Property except in compliance with applicable Environmental Laws. Seller has no knowledge or reason to suspect that the Property has been designated by any governmental or quasi-governmental authority as an area subject to environmental or other regulation that would materially affect the use of the Property as contemplated by Buyer. As used in this Agreement, the term "Hazardous Materials" is defined to include, without limitation, (i) oil hydrocarbons, petroleum, petroleum products or products containing or derived from petroleum; and (ii) any hazardous or toxic waste, substance, material, chemical, gas or particulate matter, as presently defined by or for purposes of any Environmental Laws. As used in this Agreement, the term "Environmental Laws" is defined to include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. Section 2601, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A. Section 1251, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. Section 300f, et seq.; the Clean Air Act, 42 U.S.C.A. Section 7401, et seq.; any successor to those laws (in existence on the date this representation is made or updated); any rules, regulations, ordinances, orders or decrees issued pursuant to those laws; any other federal, state or local environmental, health or safety statute, ordinance, code, rule, regulation, order or decree as may now or at any later time be in effect regulating, relating to or imposing liability or standards concerning or in connection with hazardous or toxic wastes, substances, materials,

chemicals, gases or particulate matter or the emission, discharge, dumping or other release of any substance to the environment; and any common law theory based on nuisance or strict liability.

n. Seller shall, immediately notify Buyer in writing upon receiving notice of any actual or threatened claims or proceedings (i) for the condemnation of the Property or any portion thereof, (ii) arising out of injury or damage to or upon the Property or any portion thereof, (iii) arising out of any violation or threatened violation of applicable laws or regulations relating to or affecting the Property, including but not limited to any violation of Environmental Laws, or that may result in the liability of the owner or a successor owner of any interest in the Property, (iv) arising out of the imposition of any special assessment, levy or tax, (v) relating to the potential formation of any taxing authority affecting the Property, (vi) that could affect or cloud title to or ownership of the Property, or (vii) that could result in a moratorium against building on the Property.

The foregoing representations, warranties and covenants shall be true, correct and accurate on and as of the date of this Agreement and on and as of the date of Closing and shall survive the Closing for a period of twelve (12) months. Prior to Closing, should Seller inform Buyer or should Buyer become aware of facts or information which differs with any representation or warranty of Seller set forth in this Agreement, Seller's representation or warranty shall be deemed to have been modified accordingly. Should Buyer be aware of contrary facts and circumstances before the Closing, but elect to close, Buyer must be deemed to have waived the same.

**9. Buyer's Representations and Warranties.** Buyer represents and warrants to Seller that:

a. Buyer is a validly existing municipality and political subdivision of the state of Utah, organized and existing pursuant to the provisions of Utah law, and has full power and authority to enter into this Agreement and complete this Transaction.

b. This Agreement will be binding and enforceable against Buyer in accordance with its terms, and upon Buyer's execution of the additional documents contemplated by this Agreement, those terms and conditions and additional documents will be binding and enforceable against Buyer in accordance with their terms.

The foregoing representations and warranties shall be true, correct and accurate on and as of the date of this Agreement and on and as of the Closing date. All representations, warranties and covenants by Buyer set forth in this Agreement will survive the consummation of this Agreement, the delivery and recordation of the Deed and the Closing of this Transaction.

**10. Risk of Loss.** The risk of loss will be upon Seller until Closing. Seller shall, at Seller's sole cost, take reasonable steps to protect the Property from damage and deterioration prior to Closing. In the event of any loss or damage to or condemnation of the Property prior to Closing, Buyer may either waive such loss, damage or condemnation and proceed to close this Transaction, or cancel this Agreement. If Buyer waives any loss or damage to or condemnation of the Property and proceeds to close this Transaction, Seller shall, at and as a condition

precedent to Closing, pay to Buyer the amount of any insurance or condemnation proceeds attributable to the Property that have been received by the Seller and assign to Buyer as of Closing all rights or claims to proceeds payable thereafter.

**11. Entire Agreement; Amendments.** This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof, and all prior negotiations, understandings, representations, inducements and agreements, whether oral or written and whether made by a Party hereto or by any one acting on behalf of a Party, shall be deemed to be merged in this Agreement and shall be of no further force or effect. No amendment, modification, or change in this Agreement shall be valid or binding unless reduced to writing and signed by the Parties hereto.

**12. Expenses of Enforcement.** In any proceeding to enforce, interpret, rescind or terminate this Agreement or in pursuing any remedy provided hereunder or by applicable law, the prevailing Party shall be entitled to recover from the other Party all costs and expenses, including reasonable attorneys' fees, whether such proceeding or remedy is pursued by filing suit or otherwise, and regardless of whether such costs, fees and/or expenses are incurred in connection with any bankruptcy proceeding.

**13. Notices.** Except as otherwise required by law, any notice given in connection with this Agreement must be in writing and must be given by personal delivery, overnight courier service, confirmed electronic transmission, or United States certified or registered mail, return receipt requested, postage prepaid, addressed to Seller or Buyer as follows (or at another address or facsimile number as Seller or Buyer or the person receiving copies may designate in writing):

Seller: Santaquin Special Service District  
275 West Main Street  
Santaquin, Utah 84655

Buyer: Santaquin City  
Attention: City Manager  
275 West Main Street  
Santaquin, Utah 84655

Notice is deemed to have been given on the date on which notice is delivered, if notice is given by personal delivery, on the date of delivery to the overnight courier service, if that service is used, and on the date of deposit in the mail, if mailed. Notice is deemed to have been received on the date on which the notice is actually received or delivery is refused.

**14. Survival.** Except as otherwise provided herein, all of the covenants, agreements, representations and warranties set forth in this Agreement survive the Closing, and do not merge into any deed, assignment or other instrument executed or delivered under this Agreement.

**15. Waiver.** The failure to enforce at any time any provision of this Agreement or to require the performance of any provision hereof shall not constitute a waiver of any such

provision or affect either the validity of this Agreement or any part hereof or the right of either Party hereto to thereafter enforce each and every provision of this Agreement in accordance with the terms of this Agreement.

**16. Time of Essence; Dates of Performance.** Time is expressly declared to be of the essence of this Agreement. In the event that any date for performance by either Party of any obligation hereunder required to be performed by such Party falls on a Saturday, Sunday or nationally established holiday, the time for performance of such obligation shall be deemed extended until the next business day following such date.

**17. Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all such counterparts, when taken together, shall be deemed to constitute one and the same instrument.

**18. Electronic Transmission.** Electronic transmission of this Agreement, signed by a Party, and retransmission of any signed electronic transmission, shall be the same as delivery of an original hereof.

**19. Succession and Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. Any third party acquiring an interest in the Property after the Closing shall be a permitted assignee of Buyer and any third party obtaining an interest in the Property prior to Closing shall be a permitted assignee of Seller. Otherwise, neither Party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party.

**20. Further Acts.** The Parties hereby agree for themselves, and for their successors and assigns, to execute any instruments and to perform any act which may be necessary or proper to carry out the purposes of this Agreement.

**21. Governing Law.** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Utah without giving effect to any choice or conflict of law provision or rule (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Utah.

**22. Submission to Jurisdiction.** Each of the Parties submits to the jurisdiction of the Fourth Judicial District Court of the State of Utah in any action or proceeding arising out of or relating to this Agreement and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each of the Parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety, or other security that might be required of any other Party with respect thereto. Each Party agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment or in any other manner provided by law or at equity.



**23. Interpretation.** In the event an ambiguity or question of intent or interpretation arises, no presumption or burden of proof shall arise favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Agreement. This Agreement has been divided into paragraphs and subparagraphs for convenience only and the paragraph headings contained herein are for purposes of reference only, which shall not limit, expand, or otherwise affect the interpretation of any provision hereof. Whenever the context requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include the masculine, feminine and neuter gender, and the term "person" shall include any individual, firm, partnership (general or limited), joint venture, corporation, limited liability company, trust, association, or other entity or association or any combination thereof.

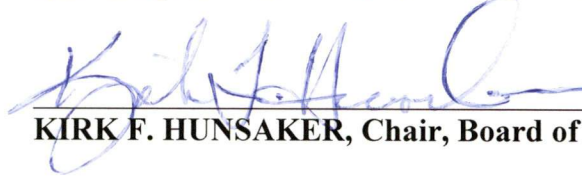
**24. Authority of Signers.** Each person executing this Agreement hereby warrants his or her authority to do so, on behalf of the entity for which he or she signs, and to bind such entity.

[Remainder of Page Intentionally Left Blank – Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have executed this Real Property Purchase Agreement on this 19 day of April, 2017.


**SELLER:**

**SANTAQUIN SPECIAL SERVICE DISTRICT**



**KIRK F. HUNSAKER, Chair, Board of Trustees**

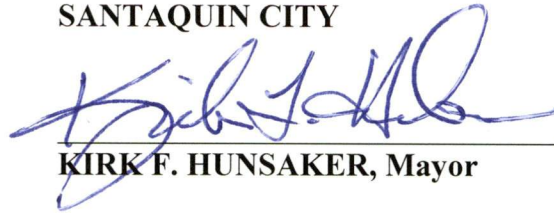
**ATTEST:**

  
Susan B. Farnsworth, Secretary

**SANTAQUIN SPECIAL SERVICE**  
District - Roads  
Established  
December 18, 2013  
**STATE OF UTAH**


**BUYER:**

**SANTAQUIN CITY**



**KIRK F. HUNSAKER, Mayor**

**ATTEST:**

  
Susan B. Farnsworth, City Recorder



**EXHIBIT A**  
**DESCRIPTION OF THE PROPERTY**

**SANTAQUIN CITY RESOLUTION 04-05-2017  
ATTACHMENT "A"**

**Serial No. 32:009:0069**

**Acres 1.789589**

Legal Description: COM S 2640 FT & E 384.45 FT FR N 1/4 COR. SEC. 3, T10S, R1E, SLB&M.; ALONG A CURVE TO L (CHORD BEARS: N 21 DEG 6' 27" E 407.56 FT, RADIUS = 645 FT); N 2 DEG 41' 24" E 28.41 FT; S 80 DEG 17' 19" E 150.16 FT; S 383.27 FT; W 296.11 FT TO BEG. AREA 1.790 AC.

**Serial No. 32:009:0068**

**Acres 0.388549**

Legal Description: COM S 178.22 FT & E 1388.58 FT FR N 1/4 COR. SEC. 3, T9S, R1E, SLB&M.; N 17 DEG 57' 53" E 53.9 FT; ALONG A CURVE TO R (CHORD BEARS: N 24 DEG 28' 3" E 240.1 FT, RADIUS = 1060 FT); S 0 DEG 43' 55" W 106.98 FT; N 89 DEG 24' 50" W .88 FT; S 0 DEG 45' 4" W 164.03 FT; N 89 DEG 23' 59" W 111.68 FT TO BEG. AREA 0.389 AC.