

**WORK SESSION:** A work session will be held at 6:00 p.m. in Conference Room #3, Second Floor, of the Farmington City Hall, 160 South Main Street. The public is welcome to attend. The agenda for the work session will be as follows:

1. Questions or concerns the City Council may have on agenda items.
2. Update from Parks and Recreation on 2019 Programs

## **FARMINGTON CITY COUNCIL MEETING NOTICE AND AGENDA**

Notice is hereby given that the City Council of **Farmington City** will hold a regular City Council meeting on **Tuesday, March 3, 2020, at 7:00 p.m.** The meeting will be held at the Farmington City Hall, 160 South Main Street, Farmington, Utah.

*Meetings of the City Council of Farmington City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207, as amended. In such circumstances, contact will be established and maintained via electronic means and the meeting will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.*

The agenda for the meeting shall be as follows:

### **CALL TO ORDER:**

7:00 Roll Call (Opening Comments/Invocation) Pledge of Allegiance

### **PRESENTATIONS:**

7:05 Introduction of the New Youth City Council Members and the Administration of Oath of Office

7:20 Introduction and Approval of New Historic Preservation Committee Members

### **PUBLIC HEARINGS:**

7:20 Resolution Amending the Consolidated Fee Schedule regarding Parks and Recreation Fees

### **SUMMARY ACTION:**

*(Items listed are considered routine in nature and will be voted on in mass unless pulled for separate discussion)*

7:30 Minute Motion Approving Summary Action List

1. Animal Control Contract with Davis County
2. Interlocal Agreement with Weber Basin for the Wasatch Front Regional Pipeline 950 N Corridor Preservation and Easement
3. Zayo Franchise Agreement
4. Surplus Aging Extrication Equipment and Fire Hose

**GOVERNING BODY REPORTS:**

7:35 City Manager Report

1. Fire Monthly Activity Report for January

7:40 Mayor Talbot & City Council Reports

**ADJOURN**

**CLOSED SESSION**

Minute motion adjourning to closed session, if necessary, for reasons permitted by law.

DATED this 27th day of February, 2020.

**FARMINGTON CITY CORPORATION**

By: Holly Gadd  
Holly Gadd, City Recorder

**\*PLEASE NOTE:** Times listed for each agenda item are estimates only and should not be construed to be binding on the City Council.

*In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting, should notify Holly Gadd, City Recorder, 451-2383 x 205, at least 24 hours prior to the meeting.*

**Posted 02/28/2020**

CITY COUNCIL AGENDA

For Council Meeting:  
March 3, 2020

**S U B J E C T: Roll Call (Opening Comments/Invocation) Pledge of Allegiance**

It is request that City Councilmember Shawn Beus give the invocation to the meeting and it is requested that Mayor Jim Talbot lead the audience in the Pledge of Allegiance.

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.

CITY COUNCIL AGENDA

For Council Meeting:  
March 3, 2020

**S U B J E C T: Introduction of the New Youth City Council Members and the Administration of Oath of Office**

**ACTION TO BE CONSIDERED:**

None.

**GENERAL INFORMATION:**

Mayor Talbot will introduce the new Youth City Council and perform the Administration of Oath of Office.

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.

## YOUTH CITY COUNCIL 2020

Erik Baer	Avery Nobles
Emmaretta Barnett	Maggie Paget
Brecken Barnson	Logan Perez
Corrienne Bice (Mayor)	Ethan Peterson
Sadie Bergen	Ian Regis
Sterling Freebairn	Lauren Richardson
Livy Hendricks	Zachary Shumway
Jared Jardine	Judson (JP) Stelter
Megan Johnson	Thomas Stratford
Rachel Lee	Taylor Thomas
Katelyn Lemon	Walker Tracy
Andrew Manwaring	Madeline Wayment
Emma May	Sophie Wayment
Sarah Mceuen	Lauren Weddington
Megan Mille	Catherine "Catie" Wirz

CITY COUNCIL AGENDA

For Council Meeting:  
March 3, 2020

**S U B J E C T: Introduction of the New Youth City Council Members and the Administration of Oath of Office**

**ACTION TO BE CONSIDERED:**

Move that the City Council approve David Barney and Tiffany Ames as new members of the Historic Preservation Committee.

**GENERAL INFORMATION:**

John Anderson, President of the Historic Preservation Committee will be making this presentation.

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.

CITY COUNCIL AGENDA

For Council Meeting:  
March 3, 2020

**PUBLIC HEARING: Resolution Amending the Consolidated Fee Schedule regarding Parks and Recreation Fees**

**ACTION TO BE CONSIDERED:**

1. Hold Public Hearing.
2. Move that the City Council approve the Resolution Amending the Consolidated Fee Schedule to include all Parks and Recreation fees.

**GENERAL INFORMATION:**

See enclosed staff report prepared by Neil Miller, Parks and Recreation Director.

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.



# FARMINGTON CITY

H. JAMES TALBOT  
MAYOR

BRETT ANDERSON  
SHAWN BEUS  
SCOTT ISAACSON  
AMY SHUMWAY  
REBECCA WAYMENT  
CITY COUNCIL

SHANE PACE  
CITY MANAGER

## City Council Staff Report

To: Honorable Mayor and City Council  
From: Neil Miller, Parks and Recreation Director  
Date: February 27, 2020

**SUBJECT: FEE SCHEDULE UPDATE**

### RECOMMENDATION

To update the Consolidated Fee Schedule for Parks & Rec. to reflect new and current Parks & Rec. programs.

### BACKGROUND

Over the years changes brought new programs and class opportunities offered by Parks & Rec. After reviewal of the Consolidated Fee Schedule we feel that it is important that the schedule reflect the majority of the programs and classes the Parks & Rec currently provides; with continued allowance to add new classes and adjust ticket sales and service items appropriately with current market value.

Respectfully Submitted

Neil Miller  
Parks and Recreation Director

Review and Concur

For: Shane Pace  
City Manager

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE FARMINGTON CITY COUNCIL AMENDING THE  
CONSOLIDATED FEE SCHEDULE RELATED TO PARKS AND  
RECREATION FEES**

**WHEREAS**, the City Council has reviewed the Consolidated Fee Schedule and has determined that the same should be amended as provided herein; and

**WHEREAS**, the City Council, upon recommendation from the City's Administrative staff, has determined that amendment of the consolidated fee schedule is necessary to include all Parks and Recreation fees being charged.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF  
FARMINGTON CITY, STATE OF UTAH:**

**Section 1. Amendment.** The Farmington City Consolidated Fee Schedule is hereby amended to include the fees for Parks and Recreation currently not on the fee schedule. See exhibit "A" attached.

**Section 2. Severability.** If any section, clause or provision of this Resolution is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

**Section 3. Effective Date.** This Resolution shall become effective immediately upon its passage.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF FARMINGTON CITY,  
STATE OF UTAH, ON THIS 18<sup>TH</sup> DAY OF FEBRUARY, 2020.**

**FARMINGTON CITY**

ATTEST:

\_\_\_\_\_  
Holly Gadd  
City Recorder

By: \_\_\_\_\_  
H. James Talbot  
Mayor

# Exhibit "A"

## E3. Parks & Recreation Facilities Use Fees

### \*Park Picnic Boweries

Deposit	\$ 50.00
<b>Food Truck Deposit</b>	<b>\$ 100.00</b>
Resident (per bowery)	\$ 25.00
Non-resident (per bowery)	\$ 50.00
Woodland Grass Area (per hour)	\$ 25.00
Food Truck Deposit	

*The fee for Monday thru Thursday is for unlimited time. Fees for Friday, Saturday or Sunday for residents are \$25 for the first 4 hours plus \$5.00 for each additional hour up to a maximum of \$65.00. Non-residents will pay \$50.00 for the first 4 hours plus \$10.00 for each additional hour up to a maximum of \$130.00.*

Deposits must be paid at the time of reservation. Cancellations shall not be made less than 7 days before the reservation date in order to obtain a full refund. Cancellations made with less than 7 days advance notice will forfeit all fees paid, with the exception of bad weather or a lightning storm.

### \*Special Use Permit Fees

Use of amplified sound	\$ 25.00	hr.
Use of City athletic fields and lights	\$ 25.00	
Electricity for WOODLAND LAWN area	\$ 25.00	
Band(s) with amplified sound (Can not exceed 2 hours)	\$ 100.00	
Extra electricity for blow-up toys and/or other amusement devices	\$ 25.00	hr.
<b>Food Trucks</b>	<b>\$ 25.00</b>	
Animal show	\$ 25.00	
Groups over 300 participants	\$ 75.00	
(Other special uses that may adversely affect neighboring property owners)		ea.

### \*Community Arts Center Rental Fees

#### Main Floor

Deposits (Refundable):

Main Hall & Kitchen	\$ 200.00
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#### **Rental Fees:**

Main Hall (reserved in 2-hour increments)	\$ 50.00	hr.
Kitchen (minimum of 2 hours)	\$ 10.00	hr.
Resident (Families, receptions, etc.)	\$ 50.00	hr.
Non-resident	\$ 125.00	hr.
Commercial	\$ 65.00	hr.
Recitals	\$ 65.00	hr.
Non-profit Clubs	\$ 65.00	hr.

*(Non-Profit Clubs or organization must be Farmington based and 75% residents.)*

Organizations	\$ 65.00	hr.
City Employees	\$ 25.00	hr.
One Microphone CD and/or iPod hookup	\$ 10.00	hr.
Sound and Light Technician	\$ 25.00	hr.

*All fees (except additional classroom and sound for multi-purpose rooms) include Custodial/Building Supervisor fees @\$15/hr.*

**Classroom**

1, 2, 3, or 4 (reserved in 2-hour increments)

<b>Deposit (Refundable)</b>	<b>\$ 50.00</b>	
Resident	\$ 15.00	hr.
Non-resident	\$ 25.00	hr.

**Multi-Purpose Room** (including sound and kitchen)

<b>Deposit (Refundable)</b>	<b>\$ 75.00</b>	
Resident	\$ 30.00	hr.
Non-resident	\$ 55.00	hr.
City Employees	\$ 10.00	hr.

**Each Additional Room:**

Resident	\$ 5.00	hr.
Non-resident	\$ 10.00	hr.

**Sound in Multi-Purpose Room:**

Resident	\$ 10.00
Non-resident	\$ 10.00

**Entire Basement with sound:**

Resident	\$ 40.00	hr.
Non-resident	\$ 80.00	hr.

**Ceramics room is not available**

**Arts & Special Events**

**Youth Theater**

Deposit (Refundable if hours are completed)	\$ 75.00
Resident	\$ 20.00
Non-Resident	\$ 30.00
Tickets in advance	\$ 6.00
Tickets at the door	\$ 7.00

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### **Holiday Rental**

All holiday rentals are the same as standard rates except for Thanksgiving, Christmas Eve, Christmas Day and New Year's Day.

### **The Rates are:**

Resident - Upstairs	\$ 100.00	hr.
Resident - Basement	\$ 75.00	hr.
Non-Resident - Upstairs	\$ 175.00	hr.
Non-Resident - Basement	\$ 100.00	hr.
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Custodial/Site Supervisor fee for the above holidays	\$ 50.00	hr.

### **Community Arts Center Cancellation Fee**

If cancellation is made 30 days prior to the date scheduled for use of the facilities, the City will promptly refund all fees paid less a \$5 cancellation fee. If cancellation is made within 30 days of the reservation, the City will promptly refund all fees paid less a \$50 cancellation fee. If cancellation is made within 14 days of the reservation you forfeit the hourly fees due for the reservation and will have your deposit returned to you in full.

### **\*Swimming Pool**

Daily General Admission	\$ 4.00
Youth (3 and Under)	Free
Senior Citizens (65 and older)	\$ 3.00
After 5:00 p.m.	\$ 3.00

### **Punch Passes**

20 punches (Resident)	\$ 64.00
20 punches (Nonresident)	\$ 70.00
20 punches - Seniors	\$ 50.00
20 punches - City Employees, full-time, permanent part-time, including fire fighters and elected officials.	\$ 30.00

Punch passes are good for 2 seasons. The season that you purchase the pass and the following season.

### **Season Passes**

Resident Individual	\$ 50.00
Resident Family Early Bird (Until First Friday of May)	\$ 125.00

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City Employees - full & permanent part-time including firefighters & elected officials	\$ 25.00
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Resident Family (After First Friday of May)	\$ 150.00
Non-resident Individual	\$ 75.00
Non-resident Family	\$ 175.00

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A family pass is for 5 people, (Immediate family living in the same household) ages 3 and under are free and do not count towards the five people. Each person over a total number of 5 is an additional \$10.00.

**Lap Swim/Water Aerobics**

Lap Swim	\$ 3.00
20 Punches - Resident	\$ 45.00
20 Punches - Non-resident	\$ 50.00

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**Pool Rental**

Resident Fee	\$ 400.00
Nonresident	\$ 500.00

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**Pool Rental Refund Policy**

If cancelled prior to seven (7) days there will be a \$5.00 processing fee charged. If a cancellation is made as permitted in this section, the city shall promptly refund to the User any monies received, less the processing fee or cancellation fee. The cancellation fee shall be either Fifty Dollars (\$50.00) or the amount of the partial payment, whichever is less, and is to compensate the City for processing the cancellation and rescheduling of the Facilities.

**Swim Lessons**

Residents	\$ 35.00
Non-Residents	\$ 45.00

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**\*Recreation Activities**

**Softball/Baseball Field Use/Existing (does not include the 4plex)**

Deposit	\$ 50.00
Deposit for multiple days or tournaments	\$ 100.00
Rental Fee (first two hours)	\$ 25.00 hr.
(\$10.00 for each additional 2 hours or part thereof thereafter)	
Rental Fee (One hour)	\$ 15.00 hr.
Lighting Usage (One hour)	\$ 10.00 hr.
Field Prep	\$ 25.00

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### **Soccer Field Rental**

Deposit (league or single use event)	\$ 50.00	
Deposit (Tournament or other large scale event)	\$ 250.00	
Soccer Field (Painting Set up)	\$ 100.00	One time
Soccer Weekly (Painting Maintenance)	\$ 60.00	If Needed
Soccer Goal (Set up and Take down)	\$ 25.00	
Rental Fee	\$ 15.00	hr.

	<b><u>Resident</u></b>	<b><u>Non-Res.</u></b>
<b><u>Jr. Jazz</u></b>		
Kindergarten - 2nd Grade	\$ 50.00	\$ 60.00
3rd - 4th Grade	\$ 55.00	\$ 70.00
5th - 12th Grade	\$ 60.00	\$ 70.00
Team Registration	\$ 400.00	\$ 400.00

Fees to be determined on jersey cost and affiliation fees with the Jazz, by the Parks & Recreation Department. Setting of those fees are herein authorized by the Farmington City Council.

	<b><u>Resident</u></b>	<b><u>Non-Res.</u></b>
<b><u>Football</u></b>		
Deposit (Tackle Refundable when equipment is returned)	\$50.00	\$ 50.00
Tackle Football	\$150.00	\$ 150.00
Flag Football Kindergarten- 4th Grade	\$55.00	\$ 65.00
Flag Football 5th - 9th Grade	\$70.00	\$ 80.00

	<b><u>Resident</u></b>	<b><u>Non-Res.</u></b>
<b><u>Soccer (Spring 2020)</u></b>		
Soccer (jersey included)	\$ 40.00	\$ 50.00

	<b><u>Resident</u></b>	<b><u>Non-Res.</u></b>
<b><u>Soccer (Fall 2020 going forward)</u></b>		
3 year olds- Kindergarten	\$ 30.00	\$ 40.00
1st Grade- 4th Grade	\$ 35.00	\$ 45.00
5th-6th Grade	\$ 40.00	\$ 50.00
7th-9th Grade	\$ 45.00	\$ 55.00

One Time Jersey Fee

Fees to be determined on jersey cost by the Parks & Recreation Department. Setting of those fees are herein authorized by the Farmington City Council.

	<b><u>Resident</u></b>	<b><u>Non-Res.</u></b>
<b><u>Baseball</u></b>		
T-Ball (4 -5 yrs.)	\$ 40.00	\$ 55.00
Coach Pitch (5 yrs.)	\$ 40.00	\$ 55.00
Kindergarten	\$ 45.00	\$ 60.00
1st /2nd Minor	\$ 45.00	\$ 60.00
1st/2nd Major	\$ 50.00	\$ 65.00
3rd	\$ 60.00	\$ 75.00
4th	\$ 60.00	\$ 75.00
5th-6th	\$ 75.00	\$ 90.00

Jr High	\$ 100.00	\$ 115.00
High School	\$ 100.00	\$ 115.00

<b>Softball</b>	<b>Resident</b>	<b>Non-Res.</b>
Kindergarten	\$ 45.00	\$ 60.00
1st	\$ 45.00	\$ 60.00
2nd	\$ 45.00	\$ 60.00
3rd	\$ 55.00	\$ 70.00
4th	\$ 55.00	\$ 70.00
5th	\$ 55.00	\$ 70.00
U12 Fast Pitch	\$ 65.00	\$ 80.00
Jr High Softball	\$ 65.00	\$ 80.00
High School	\$ 65.00	\$ 80.00

<b>Adaptive Recreation</b>	<b>Resident</b>	<b>Non-Res.</b>
Jr. Jazz	\$ 26.00	\$ 31.00
Super Sport	\$ 26.00	\$ 31.00
Baseball	\$ 26.00	\$ 31.00

<b>Adult Programs</b>	
Men's Basketball	\$ 350.00
Women's Basketball	\$ 350.00
Adult Co-ed Soccer	\$ 350.00
Adult Volleyball Women's	\$ 225.00
Adult Volleyball Co-ed	\$ 225.00

<b>Pickleball</b>	<b>Resident</b>	<b>Non-Res.</b>
Pickleball League	\$ 25.00	\$ 30.00
Pickleball Round Robin (Per Team)	\$ 15.00	\$ 15.00

<b>Super Sport</b>	<b>Resident</b>	<b>Non-Res.</b>
Spring Sport	\$ 25.00	\$ 30.00
Summer Sport	\$ 25.00	\$ 30.00
Fall Super Sport	\$ 25.00	\$ 30.00

\*This is for a 3 day program. Fees will be adjusted by parks & recreation if school break is changed.

<b>Volleyball League</b>	<b>Resident</b>	<b>Non-Res.</b>
Youth Volleyball League	\$ 35.00	\$ 40.00

<b>Tennis Lessons</b>	\$ 35.00	\$ 45.00
<b>Archery</b>	\$ 30.00	\$ 40.00
<b>Farmingotn Track &amp; Field</b>	\$ 35.00	\$ 35.00

## Recreation Classes

Fees to be determined on an individual class, **tournaments, and seasonal programs**, by the Parks & Recreation Department. Setting of those fees are herein authorized by the Farmington City Council.

## GYMNASIUM

<u>Daily Admission</u>	<u>Resident*</u>	<u>Non-Res.</u>
6 & under free ( Must be accompanied by an adult)		
Youth Day Pass (Ages 7-17)	\$ 1.50	\$ 3.00
Adult Day Pass (18 and older)	\$ 1.50	\$ 3.00
Senior Day Pass (65+)	\$ 1.00	\$ 2.00
Family**	\$ 5.00	\$ 10.00

<u>Punch Pass - 20 Punches</u>	<u>Resident*</u>	<u>Non-Res.</u>
Youth (7-17)	\$ 15.00	\$ 40.00
Adult (18 and Older)	\$ 20.00	\$ 50.00
Senior (65+)	\$ 10.00	\$ 40.00

<u>One Month Membership</u>	<u>Resident*</u>	<u>Non-Res.</u>
Youth (7-17)	\$ 15.00	\$ 35.00
Adult (18 and Older)	\$ 20.00	\$ 45.00
Senior (65+)	\$ 10.00	\$ 35.00
Family**	\$ 40.00	\$ 60.00

<u>6 Month Membership</u>	<u>Resident*</u>	<u>Non-Res.</u>
Youth (6-17)	\$ 60.00	N/A
Adult (17 and Older)	\$ 80.00	N/A
Senior (65+)	\$ 50.00	N/A
Family**	\$ 140.00	N/A

<u>1 Year Membership</u>	<u>Resident*</u>	<u>Non-Res.</u>
Youth (6-17)	\$ 110.00	N/A
Adult (17 and Older)	\$ 150.00	N/A
Senior (65+)	\$ 90.00	N/A
Family**	\$ 260.00	N/A

\*\*Family Passes are for Immediate family living in the same household. Family passes are for up to 5 members. Each additional member is \$10

\*Residents must show proof of residency in order to receive the resident rate. Valid Drivers license is the best method for proof of residence.

<u>Facility Rental Prices</u>	<u>Resident*</u>	<u>Non-Res.</u>
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Full Basketball Courts (N/S)	\$70.00/hr	\$100.00 /hr
1/2 Basketball Court (E/W)	\$35.00 /hr.	\$55.00/hr.
Multi Purpose Room	\$35.00 /hr.	\$55.00/hr.
Single Hoop (Single Pickleball Court)	\$12.00 /hr.	\$19.00/hr.
Tennis Courts	\$10.00 /2hrs.	\$10.00 /2hrs.
Pickleball Court (Outdoor Only Courts 1&2)	\$10.00 /2hrs.	\$10.00 /2hrs.

<b>Additional Fees</b>	<b>Resident*</b>	<b>Non-Res.</b>
Ipod, CD or mic. Hook up	\$10.00	\$ 20.00
Score controller	\$10.00	\$ 20.00
Table & chair setup and take down	\$10.00	\$ 10.00

Reservations for the gym space **MUST** be reserved and paid for **two weeks** in advance and cannot be reserved during peak hours or Farmington City Parks and Recreation program nights. There may be an extra charge based upon capacity and equipment needed. Reservations must be approved by the Farmington City Parks and Recreation gymnasium manager. Any questions for facility reservations must be directed to the gymnasium manager.

CITY COUNCIL AGENDA

For Council Meeting:  
March 3, 2020

**SUBJECT: Minute Motion Approving Summary Action List**

1. Animal Control Contract with Davis County
2. Interlocal Agreement with Weber Basin for the Wasatch Front Regional Pipeline  
950 N Corridor Preservation and Easement
3. Zayo Franchise Agreement
4. Surplus Aging Extrication Equipment and Fire Hose

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.



# FARMINGTON POLICE DEPARTMENT

City Council Staff Report

*Chief Wayne D. Hansen*

Honorable Mayor and City Council

From: Wayne Hansen, Police Chief

Date: February 18, 2020

**SUBJECT: ANIMAL CONTROL CONTRACT WITH DAVIS COUNTY**

## RECOMMENDATIONS

Approve the current amendment for animal control services with Davis County.

## BACKGROUND

This amendment is for the 2020 calendar year for animal control services with Davis County. The terms of service have not changed. We do have an increase in cost which is calculated on a rolling average and could go up or down each year based on the past years call numbers. We receive good service from Davis County and they are responsive to our needs and concerns.

Included in this contract are services for managing both domestic animal issues as well as certain wildlife related situations that arise from time to time. There is also a provision for upgrading and improving infrastructure at the animal shelter. This is based on a percentage of each city's usage of animal control services and facilities.

Farmington's costs for this contract are as follows:

Domestic Animal services	58232.22
Wild animal services	9862.25
Capital Improvements	2876.62

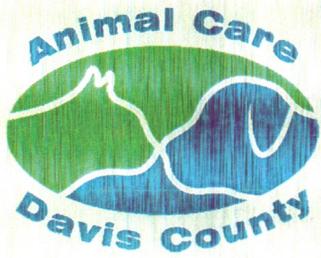
The yearly total is 70971.09 which is approximately 8700 over last year. The amendment is included with this report. I recommend that we approve this amendment as written and proposed.

Respectfully Submitted

Wayne Hansen  
Police Chief

Review and Concur

Shane Pace  
City Manager



# *Animal Care of Davis County*

1422 East 600 North – Fruit Heights, Utah 84037

Telephone: (801) 444-2200 – TDD: (801) 451-3228 – Fax: (801) 444-2212

Date: February 5, 2020

To: Shane Pace, City Administrator City of Farmington

From: Rhett Nicks, Director Animal Care of Davis County

RE: 2019 Animal Care and Control Contracts

Mr. Pace,

Enclosed you will find your city's statistics for 2019, two (2) contracts for 2020, and a self-addressed envelope. If you would like to have an original signed contract returned to your office please see to it that both contracts are signed by your designated party and returned to the shelter. Contracts will be presented to the Davis County Commission during the last regularly scheduled Commission meeting in May 2020. Contracts received after this date will be presented to the Commission at the convenience of the Director.

This past year saw a 12.98% increase in owner surrenders and a 16.77% increase in strays as well as a 2.09% increase in wildlife interaction (6.3% increase in wildlife calls). In addition the field moved to a 7 day a week operation and expanded its operational hours to 07:00 to 20:00 weekdays and 08:30 to 17:00 weekends. For the 5 busiest months, the shelter averaged approximately 20% of its staff out on medical leave or administrative leave. This generated the need to refocus field staff on priority calls. Because of this, there were significant decreases in our ability to provide extra patrols, license follow ups, and middle home quarantine checks. The department intended to refocus on priority calls and seek other means for compliance with licenses and quarantine checks over a 2 year period. The shortage of staff due to illness/injury has accelerated our plans.

## 2019 Highlights:

- Investigation of a severe injury to a child by two dogs
  - No charges, but this case made national media and consumed a significant amount of the departments' resources for almost 3 months
- Confiscation and subsequent guilty plea for 18 cattle repeatedly at large in a high traffic area
  - This took approximately 3 months and cost between \$6000 and \$9000
- Investigated 50 abandon swine for malnourishment, repeated at large, and causing a vehicular accident (subsequent compliance and the swine removed from the county)
- Bites over all dropped by 5.84%, however bite follow ups and increased investigation to determine if an animal was dangerous, increased by 12.04%
- Two investigations ending in the abatement of 2 dogs due to wellness/cruelty issues
- Answered 2,312 wildlife calls at 1110 address, 48% of calls from addresses with 3 service calls or more, 3 locations with 50+ service calls for wildlife
- Participated in 23 community events from parades to adoption days



# *Animal Care of Davis County*

1422 East 600 North – Fruit Heights, Utah 84037

Telephone: (801) 444-2200 – TDD: (801) 451-3228 – Fax: (801) 444-2212

Animal Care of Davis County's goals for 2020 are,

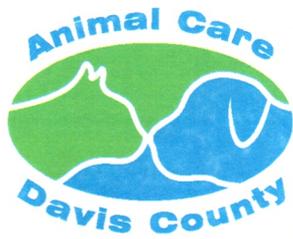
- Continued improvements in efficiencies with a focus on length of stay
- Increasing the general health of the animal population
- Continue increasing the participation of the community by expanding volunteer and foster programs
- Hold a Davis County specific adoption event
- Continue collaboration and planning efforts with the shelter stake holders and cities to build the shelters awareness and role in the community.

As you are aware this year is the final amendment on our five year contract that sunsets on December 31<sup>st</sup>, 2020. I look forward to working with the cities as we renegotiate a new contract addressing the shelter's needs, growth and necessary improvements. As Davis County moves into the next decade we are committed to providing professional animal care with unsurpassed service to those whom we serve. We will continue working with our advisory board and look forward to meeting and working with all of the cities throughout the year.

If you have any questions please do not hesitate to contact me.

A handwritten signature in black ink that reads "Rhett Nicks".

Rhett Nicks  
Director, Animal Care of Davis County  
rnicks@co.davis.ut.us  
801-444-2204



# Animal Care of Davis County

1422 East 600 North - Fruit Heights, Utah 84037  
 Telephone: (801) 444-2200 - TDD: (801) 451-3228 - Fax: (801) 444-2212

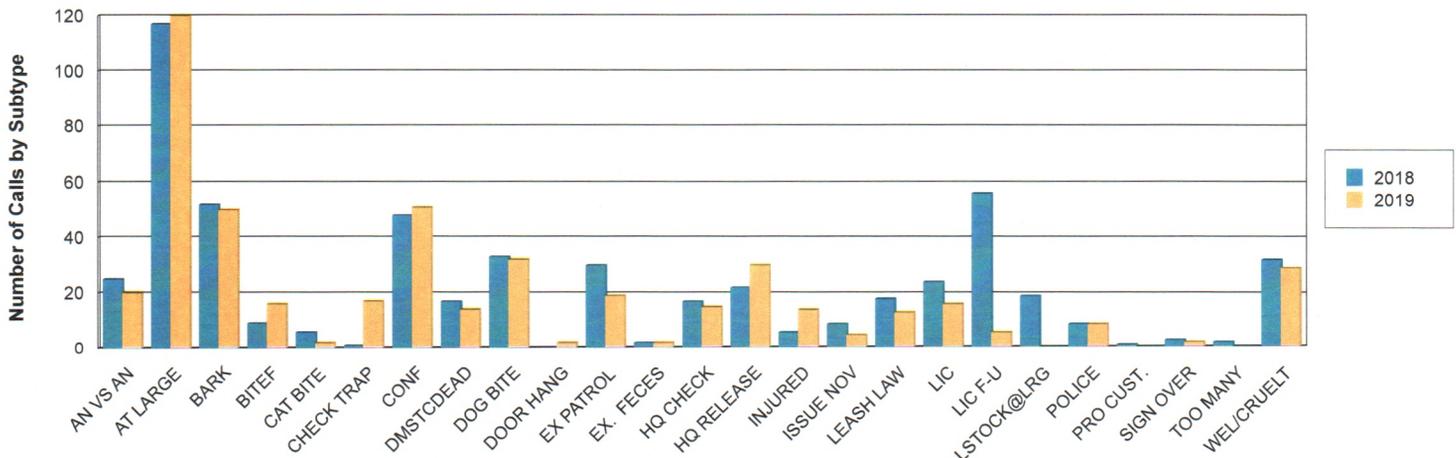
## Activity Report for FARMINGTON From January 01 to December 31, 2018 compared to 2019

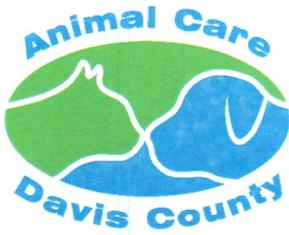
	2018	2019
AN VS AN	25	20
AT LARGE	117	120
BARK	52	50
BITEF	9	16
CAT BITE	6	2
CHECK TRAP	1	17
CONF	48	51
DMSTCDEAD	17	14
DOG BITE	33	32
DOOR HANG	0	2
EX PATROL	30	19
EX. FECES	2	2
HQ CHECK	17	15
HQ RELEASE	22	30
INJURED	6	14
ISSUE NOV	9	5
LEASH LAW	18	13
LIC	24	16
LIC F-U	56	6
LSTOCK@LRG	19	0
POLICE	9	9
PRO CUST.	1	0
SIGN OVER	3	2
TOO MANY	2	0
WEL/CRUELTY	32	29
<b>Total</b>	<b>558</b>	<b>484</b>

	2018	2019	Total
CITATION	3	2	5
Total	3	2	5

### Activity Subtype

Year to Year Comparison





# *Animal Care of Davis County*

1422 East 600 North - Fruit Heights, Utah 84037  
Telephone: (801) 444-2200 - TDD: (801) 451-3228 - Fax: (801) 444-2212

## WILDLIFE LOG FOR FARMINGTON

From 01/01/2019 to 12/31/2019

<b>Total</b>	<b>383</b>
<b>BAT</b>	<b>6</b>
<b>BIRD</b>	<b>4</b>
<b>DEER</b>	<b>2</b>
<b>DUCK/GEESE</b>	<b>2</b>
<b>OTHER</b>	<b>2</b>
<b>RABBIT</b>	<b>2</b>
<b>RACCOON</b>	<b>322</b>
<b>RODENT</b>	<b>4</b>
<b>SKUNK</b>	<b>36</b>
<b>SNAKE</b>	<b>2</b>
<b>SQUIRREL</b>	<b>1</b>

**AMENDMENT NO. 4 TO INTERLOCAL COOPERATION AGREEMENT FOR ANIMAL SERVICES**

This Amendment No. 4 to Interlocal Cooperation Agreement for Animal Services (this “Amendment No. 4”) is made and entered into as of January 1, 2020, by and between Davis County, a political subdivision of the state of Utah (the “County”), and Farmington City, a municipal corporation of the state of Utah (the “City”). The County and the City may be collectively referred to as the “Parties” herein.

**RECITALS**

This Amendment No. 4 is made and entered into by and between the Parties based, in part, upon the following recitals:

- A. In 2016, the Parties entered into an *Interlocal Cooperation Agreement for Animal Services*, which is labeled by the County as Contract No. 2016-232 (the “Agreement”); and
- B. The Parties, through this Amendment No. 4, desire to modify certain terms and/or provisions of the Agreement.

Now, based upon the foregoing, and in consideration of the terms set forth in this Amendment No. 4, the Parties do hereby agree as follows:

- 1. **Exhibit A of the Agreement is replaced in its entirety with the Exhibit A below:**

**EXHIBIT A**

The City’s 2020 calendar year obligation to the County for service calls, excluding calls for wild nuisance animal pick up and/or euthanization:

<u>Title/Category</u>	<u>Subtitle/Subcategory</u>	<u>Amount</u>
Budgeted 2020 Expenditures by Davis County for Animal Care and Control:	Personnel:	\$2,207,222.48
	Operating:	\$314,449.00
	Capital Equipment:	\$139,794.00
	Allocations:	+ \$134,055.24
	Total Expenditures:	\$2,795,520.72
Projected 2020 Revenues of Davis County Animal Care and Control:	Licenses:	\$220,000.00
	Shelter Fees:	\$180,500.00
	Surgical Fees:	\$48,000.00
	Wildlife Fees:	\$59,173.50
	Donations:	+ \$12,500.00
	Total Revenues:	\$520,173.50
Projected 2020 Expenditures Less Projected 2020 Revenues:		\$2,795,520.72 - \$520,173.50 \$2,275,347.22
Combined Cities’ 50% Obligation:		\$2,275,347.22 x 50% 1,137,673.61
Average of the City’s Total Billable Calls for 2018 and 2019:		522.50
Average of Combined Cities’ Total Billable Calls for 2018 and 2019:		10,208.00
The City’s 2019 Usage Rate:		522.50 / 10,208.00 5.12%
The City’s 2020 Calendar Year Obligation to the County:		\$58,232.22

The City shall pay the foregoing calendar year obligation to the County on a monthly basis and within thirty calendar days of receipt of a monthly invoice from the County.

The City's 2020 calendar year obligation to the County for wild nuisance animal pick up and/or euthanization calls or services:

Title/Category	Frequency/Amount
The City's Wildlife Calls for 2019:	383
Cost to City for Each Wildlife Call in 2019:	\$25.75
The City's 2020 Calendar Year Obligation to County for Wildlife Calls:	\$9,862.25

The City shall pay its calendar year obligation to the County for wild nuisance animal pick up and/or euthanization calls or services on a monthly basis and within thirty calendar days of receipt of a monthly invoice from the County.

The City's 2020 calendar year obligation to the County for the capital projects fund regarding the Shelter:

Title/Category	Amount
Total of Capital Projects Fund Regarding the Shelter:	\$562,000.00
Combined Cities' Portion of the Capital Projects Fund Regarding the Shelter:	\$281,000.00
2020 Obligation of the Combined Cities:	\$56,200.00
The City's 2019 Usage Rate:	5.12%
The City's 2020 Calendar Year Obligation to the County:	\$2,876.62

The City shall pay the foregoing calendar year obligation to the County on a monthly basis and within thirty calendar days of receipt of a monthly invoice from the County.

2. **Continuing Effect of the Agreement.** Except to the extent specifically modified by this Amendment No. 4, the terms and conditions of the Agreement shall remain in full force and effect.
3. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and all such counterparts shall have the same force and effect as original signatures.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment No. 4 to be signed by their duly authorized representatives on the dates indicated below.

<p>DAVIS COUNTY</p> <p>By: _____ Chair, Board of Davis County Commissioners</p> <p>Date: _____</p> <p>ATTEST:</p> <p>_____ Davis County Clerk/Auditor</p> <p>Date: _____</p> <p>Reviewed and Approved as to Proper Form and Compliance with Applicable Law:</p> <p>_____ Davis County Attorney's Office</p> <p>Date: _____</p>	<p>FARMINGTON CITY</p> <p>By: _____ Mayor</p> <p>Date: _____</p> <p>ATTEST:</p> <p>_____ City Recorder</p> <p>Date: _____</p> <p>Reviewed and Approved as to Proper Form and Compliance with Applicable Law:</p> <p>_____ City Attorney</p> <p>Date: _____</p>
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# FARMINGTON CITY

H. JAMES TALBOT  
MAYOR

BRETT ANDERSON  
SHAWN BEUS  
SCOTT ISAACSON  
AMY SHUMWAY  
REBECCA WAYMENT  
CITY COUNCIL

SHANE PACE  
CITY MANAGER

## City Council Staff Report

To: Honorable Mayor and City Council

From: Chad Boshell, City Engineer

Date: March 3, 2020

SUBJECT: **CONSIDER APPROVAL OF AN INTERLOCAL AGREEMENT WITH WEBER BASIN FOR THE WASATCH FRONT REGIONAL PIPELINE 950 N CORRIDOR PRESERVATION AND EASEMENT**

### RECOMMENDATION

Approve the Interlocal Cooperation Agreement with Weber Basin for the Wasatch Front Regional Pipeline 950 N Corridor Preservation and Easement.

### BACKGROUND

Weber Basin is working with other water conservancy districts to preserve a water pipeline corridor that extends through Salt Lake, Davis, and Weber Counties. This pipeline will convey water from the Bear River drainage system to municipalities along the Wasatch Front. Weber Basin has purchased much of the corridor through Kaysville and the route through Farmington was going to go through the future business park, wetlands, City Parks and conservation easements, and much private property. The City approached Weber Basin with an option to avoid these areas by having the pipeline be installed in 950 North and then under the future WDC trail. This agreement and easement will allow Weber Basin to install the pipe in 950 North and restricts other utilities from using the easement. City Staff and the City Attorney have reviewed the agreement and easement and recommends approving the agreement with Weber Basin.

### SUPPLEMENTAL INFORMATION

1. Interlocal Agreement

Respectively Submitted

Chad Boshell, P.E.  
City Engineer

Reviewed and Concur

For: Shane Pace  
City Manager

**INTERLOCAL AGREEMENT  
BETWEEN  
WEBER BASIN WATER CONSERVANCY DISTRICT  
AND  
FARMINGTON CITY  
FOR  
WASATCH FRONT REGIONAL PIPELINE 950 N CORRIDOR PRESERVATION  
AND EASEMENT**

This Agreement ("Agreement") is made and entered into as of the 23 day of January, 2020, by and among Farmington City Corporation (the "City"), a corporation organized under the laws of the state of Utah, and Weber Basin Water Conservancy District (the "District"), a water conservancy district organized under the laws of the State of Utah. The District and City are sometimes referred to herein as a "Party" or collectively as the "Parties."

**RECITALS**

**WHEREAS**, Weber Basin Water Conservancy District (hereinafter referred to as "the District") operates as a regional water supplier within the Ogden and Weber River drainages, and consequently is continually working towards the conservation of existing water supplies in addition to the development of new sources in order to ensure adequate water supply for both the immediate future and long term needs; and

**WHEREAS**, the District, in coordination with other agencies, has identified the need for a regional pipeline (hereinafter referred to as "the Wasatch Front Regional Pipeline" or "WFRP") extending from West Haven to the Salt Lake City area; and

**WHEREAS**, a majority of the required right-of-way for the WFRP has been secured between West Haven and Kaysville; and

**WHEREAS**, the District has a need to secure a corridor for the construction of the proposed WFRP through Farmington City; and

**WHEREAS**, the City and the District (hereinafter referred to as "the Parties") have discussed various alignment alternatives intended to provide for the necessary WFRP corridor without the significant impact on existing properties while limiting the impacts to the City's planned future development; and

**WHEREAS**, the District has recently purchased a piece of real property located just south of Shepard Lane and adjacent to 350 E, and extending to approximately 950 N (adjacent to and parallel to the D&RG Rail Trail) in the City (identified herein as the "District Property"); and

**WHEREAS**, both the District and the City deem it to be in the best interest of these entities, and the citizens served by the entities, to enter into this Agreement for the preservation of a corridor along a mutually advantageous route for the WFRP aqueduct, and the granting of an easement for the installation of the WFRP, while limiting of impacts to future development within the City and preserving a more advantageous corridor for the District.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Incorporation of Recitals. The Recitals are hereby incorporated into this Agreement.
2. Agreement for Easement. The City agrees to grant the District a 66-foot wide subsurface easement (the "Easement"), extending from the District Property (as defined above) over, under and across the City property as shown on Exhibit A, attached hereto and incorporated herein by reference, to the future UDOT West Davis Corridor (the "Subject Property"). The form of the Easement shall be substantially as set forth in Exhibit B, attached hereto and incorporated herein by reference and shall generally support the construction, operation and maintenance of a water conveyance pipeline, approximately ten (10) feet in diameter, with appropriate surface appurtenances (manholes, air vents, etc.). The City further agrees, based on all the terms of this Agreement and the accompanying Easement to be granted, to convey the easement without additional monetary consideration.
3. Exclusive Easement – Exception for Existing Utilities. Except City culinary water, City storm drainage and Central Davis Sewer all to be installed at a later date, the Easement will be an exclusive easement, for the benefit of the District, for the use of the subsurface of the Subject Property, and no other easements shall be granted, and no other utilities shall be installed, within or relating to the subsurface of the Subject Property. A description of all Existing Utilities within the Subject Area, together with an accurate description of the location of all such Existing Utilities, is outlined in Exhibit C, attached hereto and incorporated herein by reference. The Parties agree that, where possible and practical, they will work together in good faith to ensure that, if the Existing Utilities are ever replaced, repaired, or upgraded, those Existing Utilities will (again, if possible and practical) be replaced in a location that will minimize potential interference with the Easement granted hereunder.
4. Corridor Preservation. After conveyance of the Easement, the parties agree to jointly and cooperatively regulate the construction on, and installation of utilities within, the Subject Property in order to preserve the Easement and to allow for the eventual installation by the District of the WFRP. The Parties agree that the City is entitled to construct and maintain a road (including curb and gutter and other storm drainage facilities) (the "Road") on the surface and within the subsurface of the Subject Property.
5. Access to Easement Area. The District shall have the right to reasonable access, including ingress and egress, to the Subject Property, across the City's property for future construction and maintenance of any WFRP infrastructure that may be constructed within the

Subject Property, at locations mutually and reasonably agreed upon by the City and the District. The City also agrees where necessary, to provide temporary construction easements to the District across City property at locations approved by the City, in its discretion, for the installation of any improvements to the WFRP system to facilitate operations of the WFRP facilities.

6. Maintenance and Repair. The City shall be solely responsible for the cost of the installation and maintenance of the Road and related City improvements on the Subject Property. The District shall be solely responsible for the costs of any and all improvements to and maintenance of the WFRP, to be installed in the subsurface of the Subject Property, including the installation and maintenance of the WFRP within the subsurface of the Subject Property. Additionally, upon installation and/or repair of the WFRP, the District shall be responsible to return the surface of the Subject Property, including the Road, to the condition that it was in prior to the installation and/or repair of the WFRP, and specifically agrees to provide at construction, or upon reconstruction, a 2 inch mill and overlay for the entire disturbed length of 950 North Street. Notwithstanding the foregoing, if any damage to the Easement Area, which requires maintenance or repair, is caused by the negligence or intentional act of a specific Party, its agents or employees, then that Party shall bear responsibility for all costs and expenses relating to the maintenance or repair of such damage.

7. Future Relocation. The parties agree that prior to construction of the WFRP, and upon construction of the City Street and as development occurs, a more beneficial and effective location for the WFRP, still within the 950 North general right of way, may be identified. If such a corridor is identified by the City, and agreed upon by Weber Basin, such agreement not to be unreasonably withheld, the City may relocate the easement to the identified corridor by a written amendment to this Agreement.

8. Agency Limitation. The employees of each Party providing services pursuant to or in accordance with the terms of this Agreement are solely the officers, agents or employees of such Party. Each Party shall assume any and all liability for the payment of salaries, wages or other compensation due or claimed to be due its employees, including worker's compensation claims, and each Party shall hold the other harmless therefrom. No Party shall be liable for compensation or indemnity to the employee of any other Party for any injury or sickness arising out of his or her employment, and each Party hereby agrees to hold the other Parties harmless against any such claim.

9. Indemnification. Each Party agrees to indemnify, protect, and save and hold the other Parties and their respective officers, trustees, agents, employees and permitted assigns harmless against and in respect of any and all claims, losses, liabilities, damages, costs, deficiencies or expenses (including attorney's fees) affecting any persons or property as a result of the indemnifying Party's actions or from any misrepresentation, material omission, breach of warranty, or non-fulfillment of any covenant or agreement on the part of the indemnifying Party under or relating to this Agreement, and any and all actions, suits, proceedings, demands, assessments, judgments, costs, legal and accounting fees and other expenses incident to any of the foregoing.

10. No Joint Venture. This Agreement shall not constitute a joint venture of the Parties. No Party is nor shall be the legal representative or agent of any other Party for any purpose and a Party shall have no power to assume or create, in writing or otherwise, any obligation or responsibility of any kind, express or implied, in the name of or on behalf of any other Party, and no Party shall have any obligation with respect to any other Party's debts or other liabilities.

11. Joint Resolution. This Agreement shall become effective upon (a) its approval by a resolution of the governing body of each Party, (b) its execution by each Party, and (c) the filing of an executed copy of this Agreement with the keeper of records of each of the Parties.

12. No Assignment. No Party may assign or transfer its rights or obligations under this Agreement without the prior written consent of the other Parties to this Agreement. However, nothing herein shall be construed to prevent a jurisdictional transfer of the right of way to the Utah Department of Transportation.

13. Joint Administrators. Pursuant to Section 11-13-207 of the Cooperation Act, the District appoints Tage I. Flint, its General Manager, as its administrator for all matters relating to the District's participation in this Agreement. The City appoints Shane Pace, its City Manager, as its administrator for all matters relating to the City's participation in this Agreement. Should any of the administrators named above cease to be employed by the represented Party, unless the said Party otherwise notifies the other Parties in writing, the person who replaces the prior administrator (e.g., the District's new General Manager) shall become the new administrator of that Party for purposes of this Agreement. Any Party may, at any time, change the designation of its administrator by providing written notice to the other Parties. To the extent that any administration of this Agreement becomes necessary, then the Parties' administrators named above, or their designees or successors, shall constitute a joint board for such purpose, and each Party shall have an equal vote in any decision that needs to be made.

14. No Separate Entity. No separate legal entity is created by this Agreement and there shall be no joint acquisition or ownership of property and it will not be necessary to dispose of property on the termination of this Agreement. Each Party, to the extent needed, shall supply at its own cost all personnel, equipment, supplies and materials necessary to perform its obligations and intended actions as set forth in this Agreement. Each Party will be responsible for maintaining its own financial budget for both income and expenditures arising under this Agreement.

15. Binding Effect. The provisions of this Agreement shall bind and inure to the benefit of the Parties hereto and their respective permitted successors and assigns.

16. Rules of Construction. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Utah. In the event an ambiguity or question of intent or interpretation arises, no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. The paragraph headings contained herein are for purposes of reference only and 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. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the extent permitted by applicable law.

17. Entire Agreement. 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 all of the Parties hereto.

18. Counterparts. This Agreement may be executed in any number of counterparts and by each of the Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Agreement may be detached from any counterpart and reattached to any other counterpart hereof.

19. Facsimile. The transmission of a signed original of this Agreement or any counterpart hereof by facsimile or by other electronic means, and the retransmission of any signed transmission hereof, shall be the same as delivery of an original.

20. Authorized Signatures. Each individual signing this Agreement on behalf of a Party hereby represents and warrants, through his or her signature, that the execution of this Agreement has been approved by a resolution duly adopted by the governing authority of such Party, and that a signed copy of this Agreement will be filed with the keeper of public records of such Party of each Party pursuant to Section 11-13-209 of the Cooperation Act.

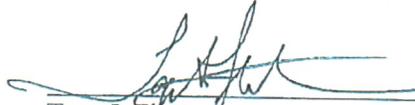
21. Counsel Approval. This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party pursuant to and in accordance with the provisions of Section 11-13-202.5(3) of the Cooperation Act;

22. Conditions Precedent. This Agreement will not take legal effect until this Agreement (a) has been approved by each Party as required by Utah Code Section 11-13-202(2), (b) has been submitted to the attorney authorized to represent each Party for review as to proper form and compliance with law as required by Utah Code Section 11-13-203, and (c) has been filed with the keeper of records of each Party, as required by Utah Code Section 11-13-209.

[[Signatures on Following Page]]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first above written.

**DISTRICT:**  
**WEBER BASIN WATER CONSERVANCY DISTRICT**

By:   
Tage I. Flint  
General Manager/CEO

DATED: 1/27/20

Approved:   
District Attorney

**CITY:**  
**FARMINGTON CITY CORPORATION**

By: \_\_\_\_\_

DATED: \_\_\_\_\_

Attest: \_\_\_\_\_

DATED: \_\_\_\_\_



# FARMINGTON CITY

H. JAMES TALBOT  
MAYOR

BRETT ANDERSON  
SHAWN BEUS  
SCOTT ISAACSON  
AMY SHUMWAY  
REBECCA WAYMENT  
CITY COUNCIL

SHANE PACE  
CITY MANAGER

To: Mayor and City Council

From: Jayme L. Blakesley, City Attorney

Date: February 27, 2020

Subject: Franchise Agreement with Zayo Group, LLC

**RECOMMENDATION:**

Authorize the Mayor to sign the attached Franchise Agreement with the Zayo Group, LLC.

**BACKGROUND:**

Zayo Group is a fiberoptic telecommunications company that desires to provide services within the City boundaries. In order to establish a telecommunications network within Farmington, Zayo Group has agreed to the attached Franchise Agreement. The Franchise Agreement has been reviewed and approved by the City Manager and City Attorney. In all material respects, the agreement is similar to existing franchise agreements between the city and other telecommunications companies.

## FARMINGTON CITY AND ZAYO GROUP, LLC FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (“Franchise” or “Agreement”) is made and entered into on \_\_\_\_\_, 2020 by and between Farmington City, Utah, (hereinafter “City”) and Zayo Group, LLC, a Delaware limited liability company, (hereinafter “Company”).

### WITNESSETH:

WHEREAS, the City, pursuant to *Utah Code Ann.* §10-8-11, as amended, the City’s inherent Police Powers, Chapter 9-4 of the Farmington City Code, and other statutory authority, regulates the use of City Right-of-Way for the benefit of its residents; and

WHEREAS, the Company desires to provide certain telecommunication services within the City and in connection therewith to establish a telecommunications network in, under, along, over, and across present and future streets, alleys, easements, and Rights-of-Way of the City, consisting of telecommunication lines, cables, and all necessary appurtenances; and

WHEREAS, the City, in exercise of its ownership rights over and in the public streets, alleys, easements, and Rights-of-Way, believes that it is in the best interest of the public to provide to the Company and its successors a non-exclusive franchise to operate its business within the City; and

WHEREAS, the City and the Company have negotiated an arrangement whereby the Company may provide its services within the City, pursuant to the terms and conditions outlined in this Agreement and in Chapter 9-4 of the Farmington City Code and other relevant sections of the Farmington City Code, and subject to the further reasonable regulation under its police and other regulatory power;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, and other good and valuable consideration, City and Company agree as follows:

### ARTICLE I

#### FRANCHISE AGREEMENT AND ORDINANCE

- 1.1 Agreement.** Upon approval by the City Council, this Franchise Agreement shall be deemed to constitute a contract by and between City and Company.
- 1.2 Ordinance.** The City has adopted Chapter 9-4 “Franchise Rights-of-Way” (the “Ordinance”), and such Ordinance is incorporated herein by reference and made an integral part hereof.
- 1.3 Grant of Franchise.** The City hereby grants to Company and its successors and assigns the non-exclusive right, privilege, and franchise (the “Franchise”) to construct, maintain,

and operate a Telecommunications System (hereinafter “Network”), in, under, along, over, and across the present and future streets, alleys, easements and Rights-of-Way of the City. The Franchise does not grant to the Company the right, privilege or authority to engage in the community antenna (or cable) television business although nothing contained herein shall preclude the Company from (1) permitting those lawfully engaged in such business to utilize Company’s facilities within the City for such purposes, or (2) from providing such service if an appropriate Franchise is obtained and all other legal requirements have been satisfied.

- 1.4 Financial Capability.** Company warrants that it has the financial capability to construct, maintain, and operate a telecommunications network and to otherwise comply with the provisions of this Agreement.
- 1.5 Relationship; Joint Facilities Agreement.** Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in a manner that would indicate any such relationship with the other. The Franchise does not grant Company the right to use City poles, conduit, or other facilities. The use of such facilities shall be governed by a separate Pole Attachment and Conduit Occupancy Agreement.
- 1.6 Records Inspection.** The records of the Company pertaining to the reports, plans, designs, and payments required by this Franchise, including, but not limited to, any records deemed necessary or useful by the City to calculate or confirm Gross Revenues, as defined herein, shall be open for inspection by the City and its duly authorized representatives at all reasonable business hours of the Company, provided Company is given reasonable notice. Such records may be copied by the City and the copies may be removed from the premises, provided that reasonable arrangements are made to protect the confidentiality of such records.
- 1.7 Definitions.** The words, terms, and phrases which are used herein and in the Ordinance shall have their ordinary plain meaning unless the word, term, or phrase is expressly defined herein. Words, terms, and phrases which are not specifically defined herein, but are defined in 47 U.S.C. Section 153, or its successor, shall have the technical meaning provided by that section as of the date of this agreement. The following words, terms, and phrases when used herein shall have the following meanings:

“City Council” means the City Council of Farmington City.

“Customer” means a person or user of the Company’s telecommunications Network who lawfully receives telecommunications services or other services therefrom with the Company’s authorized permission, including, but not limited to, other companies utilizing Company’s Network to provide services to customers of those companies.

The term “Facilities” or “facilities” when used in this Agreement means all or a portions of Company’s Telecommunications System.

“Gross Revenues” means any and all revenues of the Company derived from the sale of telecommunications services to its Customers within the City, without regard to the billing address of the Customer; and to the extent such services utilize the herein-referenced fiber-optic, copper, or other cable; except that the term “Gross Revenue” shall not include revenue from sources excluded by law.

“Network” means a Network of telecommunications lines and cables (including without limitation fiber-optic and copper lines and cables), together with necessary and desirable appurtenances (including underground and above-ground conduits and structures, poles, towers, wire, and cable) for its own use for the purpose of providing telecommunications services to the City, the inhabitants thereof, and persons and corporations beyond the limits thereof.

“Public Improvement” means any existing or contemplated public facility, building, or capital improvement project, including without limitation streets, alleys, sidewalks, sewer, water drainage, Right-of-Way improvements, poles, lines, wires, conduits, and Public Projects.

“Public Project” means any project planned or undertaken by the City or any governmental entity for construction, reconstruction, maintenance, or repair of public facilities or improvements, or any other purpose of a public nature.

“Rights-of-Way” includes present and future City streets, alleys, rights-of-way, and public easements, including easements dedicated in plats of the City.

## ARTICLE II

### TERM AND RENEWAL

- 2.1 Term and Renewal.** The Franchise granted to Company shall be for a period of five (5) years commencing on the date this Agreement is executed, unless this Franchise be sooner terminated as herein provided. At the end of the initial five (5) year term the Franchise may be renewed by Company upon the same terms and conditions as contained in this Agreement, so long as Company is in compliance with the provisions of this Agreement, for an additional five (5) year term, by providing to the City’s representative, not less than ninety (90) calendar days before the expiration of the initial franchise term, written notice of Company’s intent to renew. If the statutory limit imposed on the Franchise Fee by *Utah Code Ann.* § 11-26-1 et seq., or any successor provision, including *Utah Code Ann.* § 10-1-403, is changed, the parties shall amend, upon its renewal, this Agreement to conform to the new statutory limit.
- 2.2 Rights of Company Upon Expiration or Revocation.** Upon expiration of the Franchise, whether by lapse of time, by agreement between Company and the City, or by revocation

or forfeiture thereof, the Company shall have the right to remove any and all of its facilities, but in such event, it shall be the duty of the Company, immediately upon such removal, to restore the streets, avenues, alleys, and other public ways and grounds from which such facilities are removed to as good condition as the same were before the removal was effected.

- 2.3 Rights of City Upon Expiration or Revocation.** Upon expiration of the term of this Franchise, forfeiture, or lawful revocation of this Franchise, and if no renewal or extension thereof is agreed upon, Company may, at the discretion of the City Council, be required, in part or entirely, to remove all its wires, poles, fixtures, and other facilities or equipment installed or used in the enjoyment of the Franchise. Alternatively, the removal, or sale of such facilities and equipment may be directed, limited, or conditioned by the City by agreement or through means of other lawful municipal power or right. The City may continue to invoke any or all provisions of this Franchise against Company or any successor entity enjoying de facto franchise privileges after expiration or revocation. The City and the Company will work together to take all other actions deemed necessary and proper by the City to accommodate the transition to any successor as may be in the best interest of the City or its inhabitants and the Company.

### ARTICLE III

#### CONSIDERATION AND PAYMENT

- 3.1 Franchise Fee.** For and in consideration of the Franchise, and as fair and reasonable compensation to the City for the use by the Company of the City's Rights-of-Way, the Company agrees:
- a. To pay to the City an annual franchise fee (the "Franchise Fee"), in an amount equal to, and consisting of, the municipal telecommunications license tax (the "Municipal Telecommunications Tax") authorized pursuant to the Utah Municipal Telecommunications License Tax Act, Title 10, Chapter 1, Part 4, *Utah Code Annotated* 1953, as amended, and imposed and levied pursuant to Farmington City Code, Chapter 5-7, (collectively the "Municipal Telecommunications Tax Laws"). Such Franchise Fee shall be calculated in the manner provided in the Municipal Telecommunications Tax Laws, and shall be paid by the Company to the Utah State Tax Commission, as agent for the City under an Interlocal Cooperation Agreement by and among the City, the Utah State Tax Commission, and others, at the times and in the manner prescribed in the Municipal Telecommunications Tax Laws, and any rules and regulations promulgated thereunder. Compliance by the Company with the terms and provisions of the Municipal Telecommunications Tax Laws, and any rules and regulations promulgated thereunder, shall satisfy all requirements of this Agreement with respect to the calculation and payment of the Franchise Fee.
  - b. Notwithstanding the provisions of Section 3.1(a) above, the Franchise Fee shall be calculated and payable as described therein only so long as the Company and the services provided within the City by the Company by means of the Company

Facilities are subject to the Municipal Telecommunications Tax. In the event all or any portion of the Company Facilities ceases to be used by the Company to provide services subject to the Municipal Telecommunications Tax, the Company shall pay, in lieu of the Franchise Fee, a charge with respect to such portion of the Company Facilities, payable from and after the (i) the date Company ceases to provide such services, or (ii) the date the Municipal Telecommunications Tax ceases to apply to the services provided by the Company, which shall be calculated in the same manner as the charge then imposed by the City on other Companies occupying the Right-of-Way with similar facilities, and which do not provide telecommunication services subject to the Municipal Telecommunications Act. The City and the Company agree to negotiate in good faith any amendments to this Agreement as shall be necessary to accommodate a change in the Municipal Telecommunications Tax Laws, including payment provisions; provided such new or changed provisions shall conform substantially with the provisions contained in any permits held by other similarly situated companies.

- 3.2 Reconciliation.** Within thirty (30) calendar days after the filing of any report or the making of any payment, or within such reasonable additional time as the City may request, the City shall examine such report or payment, determine the accuracy thereof, and, if the City finds any errors, report such errors to the Company for correction. If the Franchise Fee as paid shall be found deficient, the Company shall promptly remit the difference, and if the Franchise Fee as paid shall be found excessive, the City shall promptly refund the difference. In the event of a disagreement, the Company shall make payment under protest pending the resolution of the dispute between the parties or through the courts. Neither payment of the Franchise Fee nor failure to make such investigation shall be deemed to estop the City or the Company in any way or prevent subsequent investigation by either and collection or return of any amount properly due. No acceptance of any payment by the City shall be construed as a release of, or an accord or satisfaction of, any claim the City might have for further or additional sums payable under the terms of this Agreement for the performance of any other obligation of the Company hereunder.
- 3.3 Extensions Not Statute of Limitation or Repose.** The aforesaid 30-day notice period is not intended and shall not act as a statute of limitation or repose, which limitation periods shall be governed by Utah Law.
- 3.4 Delinquency.** Any payment not paid when due shall be subject to a delinquency penalty charge of ten percent (10%) of the payment. Failure to make any payment and penalty charges within thirty (30) calendar days of the applicable payment date shall constitute breach of the terms of this Agreement and constitute just cause for termination, and such unpaid amount shall bear interest until paid at the rate of an additional ten percent (10%) per annum until paid.
- 3.5 Revenue Report Following Termination.** In the event this Agreement or the Franchise should be terminated, forfeited, or determined to be void or invalid by any order or decree by a court of competent jurisdiction, the Company, not later than thirty (30) calendar days following such termination, forfeiture, or determination, shall submit to the

City a report prepared as before required, showing the Gross Revenues of the Company in the City for the time elapsed since the last period for which the Company has paid the Franchise Fee. Coincidental with the submission of the report, the Company shall pay to the City the Franchise Fee due and owing to the City for such period.

- 3.6 Audits.** For the purpose of verifying the correct amount of the Franchise Fee, the books and records of Company pertaining thereto shall be open to inspection or audit by duly authorized representatives of Farmington City at all reasonable times, but not more than once a year, upon giving reasonable notice of the intention to inspect or audit said books and records. The Company agrees to reimburse the City the reasonable costs of an audit if the audit discloses that the Company has paid ninety-five percent (95%) or less of the compensation due the City for the period of such audit. In the event the accounting rendered to the City by the Company herein is found to be incorrect, then payment shall be made on the corrected amount within thirty (30) calendar days of written notice, it being agreed that the City may accept any amount offered by the Company, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

## ARTICLE IV

### USE AND RELOCATION OF FACILITIES IN THE PUBLIC RIGHT-OF-WAY

- 4.1 Franchise Rights to Use the Public Right-of-Way.** The Company shall have the right to use the public Rights-of-Way within the City to construct and maintain its Network subject to the conditions set forth in this Agreement, including the provisions of Chapter 9-4 of the Farmington City Code, which are hereby incorporated by reference; provided, however, that the Company shall not, pursuant to this Agreement, place any new poles, mains, cables, structures, pipes, conduits, or wires on, over, under, or within any Right-of-Way, City park, pleasure ground, or other recreational area currently existing or developed in the future without a permit from the City Representative. Nothing contained herein shall preclude the City from granting a revocable permit for such purpose. In addition, Company shall have the right to utilize any easements across private property granted to the City for utility purposes, provided the City's written permission is obtained in each case and the documents granting such easements to the City authorize such use. Company specifically understands and acknowledges that certain City easements and Rights-of-Way may be prescriptive in nature, and that nothing in this Franchise extends permission to use the easement or Right-of-Way beyond the extent that the City may have acquired, and such easements and Rights-of-Way may be subject to third party prior or after-acquired interests. Company is cautioned to examine each individual easement and Right-of-Way and the legal arrangement between the City and adjacent property owners. The City assumes no duty or obligation to defend any interest in any easement or Right-of-Way and Company remains solely responsible to make any arrangements required as a result of other persons claiming an interest in the City easement or Right-of-Way.
- 4.2 Company Duty to Relocate; Subordination to City Use.** Whenever the City, for any lawful public purpose, shall require the relocation or reinstallation of any property of the

Company or its successors in any of the streets, alleys, Rights-of-Way, or public property of the City, it shall be the obligation of the Company, upon notice of such requirement and written demand made of the Company, and within a reasonable time thereof, but not less than ninety (90) calendar days, to remove and relocate or reinstall such facilities as may be reasonably necessary to meet the requirements of the City. Such relocation, removal, or reinstallation by the Company shall be at no cost to the City; provided, however, that the Company and its successors and assigns may maintain and operate such facilities, with the necessary appurtenances, in the new location or locations without additional payment, if the new location is a public place. Notwithstanding the foregoing, the duty of the Company to install or relocate its lines underground shall be subject to the provisions of paragraph 5.3 below. Any money and all rights to reimbursement from the State of Utah or the federal government to which the Company may be entitled for work done by Company pursuant to this paragraph shall be the property of the Company. The City shall assign or otherwise transfer to the Company all rights the City may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement. In the event the City has required the Company to relocate its facilities to accommodate a private third party, the City shall use good faith to require such third party to pay the costs of relocation. Notwithstanding anything to the contrary herein, the Company's use of the Right-of-Way shall in all matters be subordinate to the City's use of the Right-of-Way for any public purpose. The City and Company shall coordinate the placement of their respective facilities and improvements in a manner which minimizes adverse impact on each other. Where placement is not otherwise regulated, the facilities shall be placed with adequate clearance from such Public Improvements so as not to impact or be impacted by such Public Improvements.

- 4.3 Duty to Obtain Approval to Move Company Property; Emergency.** Except as otherwise provided herein, the City, without the prior written approval of the Company, shall not intentionally alter, remove, relocate, or otherwise interfere with any Company facilities. However, if it becomes necessary (in the judgment of the Mayor, City Council, City Manager, City Engineer, Fire Chief, Police Chief, or their designees) to cut, move, remove, or damage any of the cables, appliances, or other fixtures of the Company because of a fire, emergency, disaster, or imminent threat thereof, these acts may be done without prior written approval of the Company, and the repairs thereby rendered necessary shall be made by the Company, without charge to the City. Should the City take actions pursuant to this section, the Company shall indemnify, defend, and hold the City harmless from and against any and all claims, demands, liens, or liability for (a) loss or damage to the Company's property and/or (b) interruptions of telecommunications services provided by the use of or through the Company's property (including telecommunications services provided by the Company to the Company's Customers), whether such claims, demands, liens, or liability arise from or are brought by the Company, its insurers, the Company's Customers, or third parties. If, however, the City requests emergency funding reimbursement from federal, state or other governmental sources, the City shall include in its request the costs incurred by the Company to repair facilities damaged by the City in responding to the emergency. Any funds received by the City on behalf of Company shall be paid to the Company within thirty (30) business days.

## ARTICLE V

### PLAN, DESIGN, CONSTRUCTION, INSTALLATION OF COMPANY FACILITIES

**5.1 Coordination of Construction and Joint Use.** On or before February 28, May 31, August 31, and November 30 of each calendar year, or such other date the Company and City may agree upon from year to year, the Company's and the City's representatives will meet (the "Quarterly Coordination Meeting") for the purpose of exchanging information and documents regarding future construction of Company's facilities within the City, with a view toward coordinating their respective activities. Documents and information to be exchanged shall include, without limitation, engineering drawings or other detailed maps of the proposed locations of construction or installation of telecommunication facilities. The Company, the City Engineer, and the Community Development Director shall thereafter in good faith exchange other information and documents regarding the proposed construction for the purpose of coordinating the joint and respective activities within the City. Any significant construction or installation of new facilities by the Company or other franchised telecommunication companies not presented at the Quarterly Coordination Meeting shall only be commenced upon approval of the City Manager and the Community Development Director. Upon request, information regarding future capital improvements involving land acquisition or construction or installation of telecommunication facilities shall be treated with confidentiality as governed, and to the extent authorized, by City ordinance and the Government Records Access and Management Act.

**5.2 Conditions of Public Utility Easement, Right-of-Way and Street Occupancy.**

a. Except as provided below, the Company shall not erect, authorize, or permit others to erect any poles within the streets of the City for the operation of Company's Network, but shall use the existing poles and facilities of the City Energy Department and other telecommunication providers under such terms as the Company negotiates with City and these other entities in separate "joint facilities" agreements. City shall cooperate with Company in its negotiating with other telecommunication providers.

b. The Company may request, in writing, that it be authorized to erect poles or place conduit or other facilities within the streets of the City for the operation of its Network. Such consent shall be entirely discretionary with the City and shall be given upon such terms and conditions as the City Council, in its sole discretion, may prescribe, which shall include a requirement that the Company perform, at its sole expense, all tree trimming required as a result of the Company's presence to maintain the line or facilities clear of obstructions. With respect to any poles or wire-holding structures that the Company is authorized to construct and install within the City, a public utility or public utility district serving the City may, if denied the privilege of utilizing such pole or facility by the Company, apply for such permission to the City Council. If the City Council finds that such use would enhance the public convenience and would not unduly interfere with the Company's present and future operations, the City Council may authorize such use

subject to such terms and conditions as may reasonably be agreed between the parties. Such authorization shall include the condition that the public utility district pay to the Company any and all actual and necessary costs incurred by the Company in permitting such use, and shall indemnify the Company and City from and against any claims or causes of action brought about due to such use.

- c. No cables, equipment, or wires for construction, maintenance, and operation of the Network shall be installed or the installation thereof commence on any existing pole within the City until the proposed location, specifications, and manner of installation of such cables, equipment, and wires are set forth upon an engineering drawing, plot, or map showing the existing poles, streets, alleys, or highways where such installations are proposed. The drawing, plot, or map shall be submitted to the City Engineer and reviewed for approval or disapproval within a reasonable time in writing. Such approval shall not be unreasonably withheld. The Company shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the system, including but not limited to any necessary approvals from persons and/or the City to use private property, easements, poles and conduits.
- d. If, in the conduct of its business, the Company is required to locate facilities in the streets of the City, other than facilities that may be attached to utility poles, the nature of such facilities shall be disclosed to the City for prior review and approval as to the need thereof and as to the location within the street. The installation shall be made under such conditions as the City Engineer shall prescribe.
- e. The Company, at its own expense, may, and is solely responsible to, trim trees overhanging the public Rights-of-Way of the City to prevent the branches of such trees from coming in contact with the Company's wires and cable. Prior to the Company attempting to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City, the Company shall obtain approval from, and be under the supervision of, the City official to whom such duties have been or may be delegated in accordance with the applicable provisions of the municipal code of the City. Company shall immediately remove the trimmings and restore the area to its previous condition.
- f. The Company, on the request of any person holding a building moving permit issued by the City, shall temporarily raise or lower its wires to permit the moving of such building. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Company may require such payment in advance. The City agrees to provide prior written notice of the necessity to move the wires as far in advance as possible; provided in no event shall the City give less than forty-eight (48) hours advance notice. In the event of a disagreement between the Company and the holder of a permit, such disagreement shall be resolved by the City.

- 5.3 Duty to Underground.** The Company shall be required to comply with the rules and regulations of the Public Service Commission in regard to the installation of underground lines. In addition, the Company shall comply with rules and regulations adopted by the City for the placement of newly constructed Network lines underground; provided, however, Company shall only be required to place newly constructed Network lines underground to the extent that underground placement is also required of all other existing and newly constructed lines of other telecommunication companies at that location with the City. If all other electric utilities or telephone utilities are located or relocated underground in any place within the City after the Company has installed its facilities, the Company shall thereafter remove and relocate its facilities underground in such places. Where utilities are underground, the Company may locate certain equipment above ground upon a showing of necessity and with the written approval from the City.
- 5.4 Company Duty to Comply with Rules and Regulations.** Facilities located on, upon, over, and under property in which the City has an ownership interest shall be constructed, installed, maintained, cleared of vegetation, renovated, or replaced in accordance with such rules and regulations as the City may issue. The Company shall acquire permits in accordance with such rules and regulations and the City may inspect the manner of such work and require remedies as may be necessary to assure compliance. It is understood that this work involves the health, safety, and welfare of the community, and from time to time, must be done under circumstances that may make prior acquisition of a permit infeasible.
- 5.5 Compliance with Pollution Laws.** Company shall ensure that its facilities within the City meet the standards required by applicable federal and state air and water pollution laws. Upon the City's request, the Company shall provide the City with a status report of such measures.
- 5.6 Compliance with Applicable Laws.** All telecommunications lines, poles, towers, pipes, conduits, equipment, property, and other structures or assets installed, used, maintained, relocated, or dismantled under color of this Agreement shall be so installed, used, operated, tested, maintained, relocated, or dismantled in accordance with applicable present and future federal, state, and City law and regulations, including but not limited to the most recent editions of the National Electrical Code, the National Electrical Safety Code, and the Fiber Optic Cable Installation Standard of the Telecommunications Industry Committee, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this Agreement may be additional to or stricter than such minimum standards.
- 5.7 Location to Minimize Interference.** All lines, poles, towers, pipes, conduits, equipment, property, structures, and assets of the Company shall be located so as to minimize interference with the use of streets, alleys, Rights-of-Way, and public property by others and shall reasonably avoid interference with the rights of owners of property that abuts any of said streets, alleys, Rights-of-Way, or public property.

**5.8 Repair of Damage.** If during the course of work on its facilities, the Company causes damage to or alters any street, alley, Rights-of-Way, sidewalk, utility, Public Improvement, or other public or private property, the Company (at its own cost and expense and in a manner approved by the City) shall promptly and completely restore such street, alley, Rights-of-Way, sidewalk, utility, Public Improvement or other public or private property to its previous condition, in accordance with applicable City ordinances, policies, and regulations relating to repair work of similar character to the reasonable satisfaction of the City. Except in case of emergency, the Company, prior to commencing work in the public way, street, or public property, shall make application for a permit to perform such work from the City Engineer or other department or division designated by the City. Such permit shall not be unreasonably withheld. The Company shall abide by all reasonable regulations and requirements of the City for such work.

**5.9 Guarantee of Repairs.** For a period of one year following the completion of the repair work performed pursuant to Section 5.8, the Company shall maintain, repair, and keep in good condition those portions of said streets, alleys, Rights-of-Way, or public and private property restored, repaired, or replaced to the satisfaction of the City.

**5.10 Safety Standards.** The Company's work, while in progress, shall be properly protected at all times with suitable barricades, flags, lights, flares, or other devices as are reasonably required by applicable safety regulations, or standards imposed by law including, but not limited to, signing in conformance with the Federal and State of Utah manuals on Uniform Traffic Control Devices.

**5.11 Supervision by the City.**

- a. The Company shall construct, operate, and maintain the Network within the City in strict compliance with all laws, ordinances, rules, and regulations of the City and any other agency having jurisdiction over the operations of the Company.
- b. The Company's Network and all parts thereof within the City shall be subject to the right of periodic inspection by the City; provided that such inspection shall be conducted at reasonable times and upon reasonable notice to the Company.

**5.12 Company's Duty to Remove Its Network.**

- a. The Company shall promptly remove, at its own cost and expense, from any public property within the City, all or any part of the Network when one or more of the following conditions occur:
  - (1) The Company ceases to operate the Network for a continuous period of twelve months, and does not respond to written notice from the City within thirty (30) days after receiving such notice following any such cessation, except when the cessation of service is a direct result of a natural or man-made disaster;

- (2) The Company fails to construct said Network as herein provided and does not respond to written notice from the City within thirty (30) days after receiving such notice following any such failure;
  - (3) The Franchise is terminated or revoked pursuant to notice as provided herein; or
  - (4) The Franchise expires pursuant to this Agreement.
- b. The Company's removal of any or all of the Network that requires trenching or other opening of the City's streets shall be done only after the Company obtains prior written notice and approval from the City.
  - c. The Company shall receive notice, in writing from the City, setting forth one or more of the occurrences specified in Subsection 5.12(a) above and shall have ninety (90) calendar days from the date upon which said notice is received to remove or abandon such facilities.

**5.13 Notice of Closure of Streets.** Except in cases of emergency, the Company shall notify the City not less than three (3) working days in advance of any construction, reconstruction, repair, or relocation of facilities which would require any street or lane closure. Except in the event of an emergency, as reasonably determined by the Company, no such closure shall take place without prior authorization from the City. In addition, all work performed in the traveled way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected as required by Section 5.10, above.

## ARTICLE VI

### POLICE POWER

**6.1 Reservation of Police Power.** The City expressly reserves, and the Company expressly recognizes, the City's right and duty to adopt, from time to time, in addition to the provisions herein contained, such ordinances and rules and regulations as the City may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties.

**6.2 Other Regulatory Approval.** The Company and the City shall at all times during the life of this Franchise, comply with all federal, state, and City laws and regulations and with such reasonable and lawful regulation as the City now or hereafter shall provide, including all lawful and reasonable rules, regulations, policies, resolutions and ordinances now or hereafter promulgated by the City relating to permits and fees, sidewalk and pavement cuts, attachment to poles, utility location, construction coordination, beautification, and other requirements on the use of the Right-of-Way. The terms of this Franchise shall apply to all the Company's facilities used, in whole or part, in the provision of telecommunications services in newly annexed areas upon the effective date of such annexation. Company shall provide no service regulated by the Federal Communications Commission (FCC) or

Utah Public Service Commission (PSC) until it has received all necessary approvals and permits from said commissions. Nothing in this Agreement shall constitute a waiver of either party's right to challenge any portion of this Agreement which is not in accordance with applicable federal, state and local laws.

## ARTICLE VII

### CITY REPRESENTATIVES

- 7.1 City Manager's Duties and Responsibilities.** The City Manager is hereby designated as the "City Representative" with full power and authority to take appropriate action for and on behalf of the City and its inhabitants to enforce the provisions of this Agreement and to investigate any alleged violations or failures of the Company to comply with said provisions or to adequately and fully discharge its responsibilities and obligations hereunder. The City Manager may delegate to others, including but not limited to, the City Attorney, City Engineer, and City Finance Director, the various duties and responsibilities of City Representative. The failure or omission of the Manager or the Manager's designee(s) as City Representative to act shall not constitute any waiver or estoppel.
- 7.2 Company Duty to Cooperate.** In order to facilitate such duties of the City Representative, the Company agrees to allow the City Representative reasonable access to any part of the Company's Network within the City's public Rights-of-Way.
- 7.3 City Financial Review.** With regard to financially related matters, the Manager or the Manager's designee, as City Representative may undertake a financial review of Company's payment of its Franchise fees and other fees and obligations under this agreement. The failure or omission to conduct a financial review shall not constitute any waiver or estoppel.
- 7.4 No Waiver or Estoppel.** Neither the City nor the Company shall be excused from complying with any of the terms and conditions of this Agreement by any failure of the other or any of its officers, employees, or agents, upon any one or more occasions, to insist upon or to seek compliance with any of such terms and conditions.

## ARTICLE VIII

### TRANSFER OF FRANCHISE

- 8.1 Written Approval Required.** The Company shall not transfer or assign the Franchise or any rights under this Agreement to another entity, unless the City shall first give its approval in writing, which approval shall not be unreasonably withheld or delayed. Any attempted assignment or transfer without such prior written consent shall constitute a Default of the Franchise. In the event of such a Default, City shall proceed according to the procedure set forth in this Agreement, and any applicable state or federal law. Notwithstanding anything to the contrary herein, so long as Company is in full compliance with this Agreement, this Agreement, without any approval or consent of City, may be

sold, assigned or transferred by the Company to the Company's principal, affiliates, subsidiaries of its principal, or to any entity which acquires all or substantially all of Company's assets in the market defined by the FCC in which the Network is located by reason of a merger, acquisition or other business reorganization.

**8.2 Procedure for Obtaining Approval for Transfer.** At least ninety (90) calendar days before a proposed assignment or transfer of Company's Franchise is scheduled to become effective, Company shall petition in writing for the City Council's written consent for such a proposed assignment or transfer. The City will not unreasonably withhold its consent to such an assignment or transfer. However, in making such a determination, the City Council may consider any or all of the following:

- (a) experience of proposed assignee or transferee (including conducting an investigation of proposed assignee or transferee's service record in other communities);
- (b) qualifications of proposed assignee or transferee;
- (c) legal integrity of proposed assignee or transferee;
- (d) financial ability and stability of the proposed assignee or transferee;
- (e) the corporate connection, if any, between the Company, and proposed assignee or transferee; and
- (f) any other aspect of the proposed assignee's or transferee's background which could affect the health, safety, and welfare of the citizenry of the City as it relates to the operation of a telecommunications network.

**8.3 Certification of Assignee.** Before an assignment or transfer is approved by the City Council, the proposed assignee or transferee shall execute an affidavit, acknowledging that it has read, understood, and intends to abide by the applicable Franchise Agreement and all applicable laws, rules, and regulations.

**8.4 Effect of Approval.** In the event of any approved assignment or transfer, the assignee or transferee shall assume all obligations and liabilities of Company, except an assignment or transfer shall not relieve the Company of its liabilities under the Franchise Agreement until the assignment actually takes place, unless specifically relieved by federal, or state law, or unless specifically relieved by the City Council at the time an assignment or transfer is approved.

**8.5 Transfer Upon Revocation by City.** Company and City agree that in the case of a lawful revocation of the Franchise, at Company's request, which shall be made in its sole discretion, Company shall be given a reasonable opportunity to effectuate a transfer of its Network to a qualified third party. City further agrees that during such a period of time, it shall authorize the company to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period greater than six (6) months from the effective date of such revocation. If at the end of that time, Company is unsuccessful in procuring a qualified transferee or assignee of its Network which is reasonably acceptable to the City, Company and City may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that Company's

continued operation of its Network during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment, of any rights of either the City or the Company. Notwithstanding anything to the contrary set forth herein, neither City nor Company shall be required to violate federal or state law.

- 8.6 Abandonment of Facilities by Company.** The Company, with the written consent of the City, may abandon any underground facilities in place, subject to the requirements of the City. In such an event, after receiving the written consent of the City, the abandoned Network shall become the property of the City, and the Company shall have no further responsibilities or obligations concerning those facilities.

## ARTICLE IX

### ACCEPTANCE BY THE COMPANY OF FRANCHISE

**Company Duty to Approve Franchise Agreement.** If the Company has not duly executed this Agreement prior to the City Council's adoption of the corresponding ordinance, then within sixty (60) calendar days after the effective date of the City Council's adoption of the ordinance, the Company shall execute this Agreement and file an unqualified acceptance of the ordinance in writing with the City Recorder of the City in a form approved by the City Attorney; otherwise, this Agreement and any ordinance adopted relating thereto and all rights granted hereunder shall be null and void.

## ARTICLE X

### EXTENSION OF CITY LIMITS

**Annexations.** Upon the annexation of any territory to the City, all rights hereby granted and the Franchise shall extend to the territory so annexed to the extent the City has authority. All facilities owned, maintained, or operated by the Company located within, under, or over streets of the territory so annexed shall thereafter be subject to all terms hereof.

## ARTICLE XI

### EARLY TERMINATION OR REVOCATION OF FRANCHISE

- 11.1 Grounds for Termination.** The City may terminate or revoke this Agreement and all rights and privileges herein provided for any of the following reasons:
- a. The Company fails to make timely payments of the Franchise Fee as required under Article III of this Agreement and does not correct such failure within thirty (30) business days after receipt of written notice by the City of such failure;
  - b. The Company, by act or omission, materially violates a duty or obligation herein set forth in any particular within the Company's control, and with respect to which redress is not otherwise herein provided. In such event, the City, acting by or

through its City Council, may determine, after hearing, that such failure is of a material nature, and, thereupon, after written notice giving the Company notice of such determination, the Company, within thirty (30) calendar days of such notice, shall commence efforts to remedy the conditions identified in the notice and shall have ninety (90) calendar days from the date it receives notice to remedy the conditions. After the expiration of such ninety-day period and failure to correct such conditions, the City may declare the Franchise forfeited, and, thereupon, the Company shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and, provided further, that in the event such failure is of such nature that it cannot be reasonably corrected within the ninety-day time period provided above, the City shall provide additional time for the reasonable correction of such alleged failure if the reason for the non-compliance was not the intentional or negligent act or omission of the Company;

- c. The Company becomes insolvent, unable, or unwilling to pay its debts; is adjudged bankrupt; or all or part of its facilities should be sold under an instrument to secure a debt and is not redeemed by the Company within thirty (30) calendar days; or
- d. In furtherance of the Company policy or through acts or omissions done within the scope and course of employment, a director or officer of the Company knowingly engages in conduct or makes a material misrepresentation with or to the City that is fraudulent or in violation of a felony criminal statute of the State of Utah.

**11.2 Reserved Rights.** Nothing contained herein shall be deemed to preclude the Company from pursuing any legal or equitable rights or remedies it may have to challenge the action of the City.

## **ARTICLE XII**

### **INSURANCE AND INDEMNIFICATION**

**12.1 No City Liability.** Except as otherwise specifically provided herein, the City shall in no way be liable or responsible for any loss or damage to property, including financial or other business loss (whether direct, indirect, or consequential), or any injury to or death of any person that may occur in the construction, operation, or maintenance by the Company of its lines and appurtenances hereunder, except to the extent of the City's negligence or willful misconduct.

**12.2 Company Indemnification of City.** The Company shall indemnify, and at the City's option defend, and hold the City, and the officers, agents and employees thereof, harmless from and against any and all claims, suits, actions, liability and judgments for damages or otherwise harmless from and against claims, demands, liens, and all liability or damage of whatsoever kind on account of, or arising from, the exercise by the Company of the rights related to this Agreement, or from the operations of the Company within the City, and shall pay the costs of defense plus reasonable attorneys' fees. Said indemnification shall include,

but not be limited to, the Company's negligent acts or omissions pursuant to its use of the rights and privileges of this Agreement, including construction, operation, and maintenance of telecommunications lines and appurtenances, whether or not any such use, act, or omission complained of is authorized, allowed, or prohibited by this Agreement.

12.3 The Company agrees to indemnify, save and hold harmless, and defend the City, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Company's construction, operation, or maintenance of its telecommunications network, provided that the City shall give the Company written notice of its obligation to indemnify the City within ten (10) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Company shall not indemnify the City for any damages, liability or claims resulting from the willful misconduct or negligence of the City. In no event shall the City be liable to the Company for any indirect, incidental, special, punitive or consequential damages whatsoever, arising out of, or in connection with, this agreement, including but not limited to loss of profits, lost revenue, loss of goodwill, loss of anticipated savings, loss of data, incurred or suffered by the Company.

**12.4 Notice of Indemnification.** The Company shall give prompt written notice to the City of any claim, demand, or lien that may result in a lawsuit against the City. City shall give written notice to Company promptly after City learns of the existence of Claim for which City seeks indemnification; provided, however, the failure to give such notice shall not affect the rights of City, except and only to the extent the Company is prejudiced by such failure. The Company shall have the right to employ counsel reasonably acceptable to the City to defend against any such Claim. If such counsel will represent both the Company and City, there may be no conflict with such counsel's representation of both. Company must acknowledge in writing its obligation to indemnify the City for the entire amount of any Loss relating thereto. No settlement of a Claim may seek to impose any liability or obligation upon the City other than for money damages. If Company fails to acknowledge in writing its obligation to defend against or settle such Claim within fifteen (15) days after receiving notice thereof from the City (or such shorter time specified in the notice as the circumstances of the matter may dictate), the City shall be free to dispose of the matter, at the expense of Company (but only if indemnification is adjudged to be proper), in any way in which the City deems to be in its best interest. Notwithstanding any provision hereof to the contrary, the Company shall not be obligated to indemnify, defend, or hold the City harmless to the extent any claim, demand, or lien arises out of or in connection with a breach by the City of any obligation under this Agreement or any negligent or otherwise tortious act or failure to act of the City or any of its officers or employees or agents.

**12.5 Insurance.** Company shall file a certificate of insurance with the City, and at all times thereafter maintain in full force and effect at its sole expense, an acceptable policy or policies which have one of the three highest or best ratings from the Alfred M. Best Company of liability insurance, including comprehensive general liability insurance. The policy or policies shall name as additional insured the City, and in their capacity as such,

its officers, agents and employees. Policies of insurance shall be in the minimum single limit amount of two million dollars (\$2,000,000) per occurrence. The insurer or insurers shall be authorized to write the required insurance in the State of Utah. The policy or policies of insurance shall be maintained by the Company in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of the Company or for other reasons, except after thirty (30) calendar days advance written notice mailed by the insurer to the City, and that such notice shall be transmitted postage prepaid.

- 12.6 City's Right to Intervene.** In any suit in which the City is named as a party and seeks indemnification from the Company, and in which the City in its own reasonable discretion believes that a conflict of interest with Company exists, the City shall have the right to provide its own defense in connection with the same. In such event, in addition to being reimbursed for any such judgment that may be rendered against the City which is subject to indemnification hereunder, together with all court costs incurred therein, the Company shall reimburse the City for all reasonable attorney's fees, including those employed by the City in such case or cases, as well as all reasonable expenses incurred by the City by reason of undertaking the defense of such suit or suits, whether such suit or suits are successfully defended, settled, compromised, or fully adjudicated against the City.
- 12.7 No Creation of a Private Cause of Action.** The provisions set forth herein are not intended to create liability for the benefit of third parties but is solely for the benefit of the Company and the City. In the event any claim is made against the City that falls under these indemnity provisions and a Court of competent jurisdiction should adjudge, by final decree, that the City is liable therefore, the Company shall indemnify and hold the City harmless of and from any such judgment or liability, including any court costs, expenses, and attorney fees incurred by the City in defense thereof. Nothing herein shall be deemed to prevent the parties indemnified and held harmless herein from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve the Company from its duty of defense against liability or paying any judgment entered against such party.
- 12.8 Performance Bonds and Other Surety.** To ensure completion of the Company's performance of its obligations hereunder, Company shall furnish to the City a performance bond, that is substantially similar in form to the surety guarantee bond that is attached hereto as Exhibit 1, from an insurer or guarantor that is acceptable to the City.

### ARTICLE XIII

#### REMEDIES

- 13.1 Duty to Perform.** The Company and the City agree to take all reasonable and necessary actions to assure that the terms of this Agreement are performed.

**13.2 Remedies at Law.** In the event the Company or the City fail to fulfill any of their respective obligations under this Agreement the City or the Company, whichever the case may be, shall have a breach of contract claim and remedy against the other in addition to any other remedy provided by law, provided that no remedy that would have the effect of amending the specific provisions of this Agreement shall become effective without such action that would be necessary to formally amend the Agreement.

**13.3 Third Party Beneficiaries.** The benefits and protection provided by this Agreement shall inure solely to the benefit of the City and the Company. This Agreement shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

**13.4 Force Majeure.** The Company shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control, but the Company shall not be relieved of any of its obligations to comply promptly with any provision of this Franchise contract by reason of any failure of the City to enforce prompt compliance. Nothing herein shall be construed as to imply that City waives any right, payment, or performance based on future legislation where said legislation impairs this contract in violation of the United States or Utah Constitutions.

## ARTICLE XIV

### NOTICES

**City and Company Designees and Addresses.** Unless otherwise specified herein, all notices between the City and the Company pursuant to or concerning this Agreement or the Franchise shall be delivered to (or to such other offices as the City or Company may designate by written notice to the other Party):

City:

Farmington City  
Attn: City Manager  
160 S. Main  
Farmington, UT 84025

Company:

Zayo Group, LLC  
Attn: Director, Underlying Rights – West  
Region  
1805 29th Street, Suite 2050  
Boulder, CO 80301

**With copies to (which shall not constitute notice):**

Farmington City Attorney's Office  
2118 E. 3900. S #300

With a Copy to:

Zayo Group, LLC  
Attn: General Counsel – West Region  
1805 29th Street, Suite 2050  
Boulder, CO 80301

Holladay, UT 84124  
Attention: Todd Godfrey

Emergencies:

Network Operations Center & Repair  
Phone: (888) 404 9296  
E-mail: [zayoncc@zayo.com](mailto:zayoncc@zayo.com)

**With a copy to (except for invoices)(which copy will not constitute notice):**

## ARTICLE XV

### CHANGING CONDITIONS

**Meet to Confer.** The Company and the City recognize that many aspects of the telecommunications business are currently the subject of discussion, examination, and inquiry by different segments of the industry and affected regulatory authorities, and that these activities may ultimately result in fundamental changes in the way the Company conducts its business. In recognition of the present state of uncertainty respecting these matters, the Company and the City each agree, on request of the other during the term of this Agreement, to meet with the other and discuss in good faith whether it would be appropriate, in view of developments of the kind referred to above during the term of this Agreement, to amend this Agreement or enter into separate, mutually satisfactory arrangements to effect a proper accommodation of any such developments.

## ARTICLE XVI

### AMENDMENT AND GENERAL PROVISIONS

- 16.1 Duty to Negotiate.** At any time during the term of this Agreement, the City, through the City Council, or the Company may propose amendments to this Agreement by giving thirty (30) calendar days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, shall negotiate, within a reasonable time, in good faith in an effort to agree upon mutually satisfactory amendment(s).
- 16.2 Written Approval to Amend Agreement Required.** No amendment or amendments to this Agreement shall be effective until mutually agreed upon by the City and the Company, and an ordinance or resolution approving such amendments is approved by the City Council.
- 16.3 Entire Agreement.** This Agreement and all attachments hereto represent the entire understanding and agreement between the parties hereto with respect to the subject matter

hereof, and can be amended, supplemented, modified, or changed only by the written agreement of the parties, including the formal approval of the City Council.

**16.4 Governing Law.** This Agreement and any action related to this Agreement will be governed the laws of the State of Utah.

**16.5 Joint Drafting.** The Parties acknowledge that this Agreement has been drafted jointly by the Parties and agree that this Agreement will not be construed against either Party as a result of any role such Party may have had in the drafting process.

## ARTICLE XVII

### SEVERABILITY

**17.1 Conditions.** If any section, sentence, paragraph, term, or provision of this Agreement or the Ordinance is for any reason determined to be or rendered illegal, invalid, or superseded by other lawful authority including any state or federal, legislative, regulatory, or administrative authority having jurisdiction thereof or determined to be unconstitutional, illegal, or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such determination shall have no effect on the validity of any other section, sentence, paragraph, term, or provision hereof or thereof, all of which shall remain in full force and effect for the term of this Agreement and the Ordinance or any renewal or renewals thereof, except for Article III hereof. The parties do not waive their right to assert that the obligations contained herein, including those obligations contained in Article III arise as a matter of contract and are not otherwise conditioned.

**17.2 Conflicts.** In the event of a conflict between any provision of this Agreement and the Ordinance, the provisions of the Ordinance in effect at the time the Agreement is entered into shall control.

**17.3 Fee Article Non-Severable.** Article III hereof is essential to the adoption of this Agreement, and should it be challenged by the Company or determined to be illegal, invalid, unconstitutional, or superseded, in whole or in part, the entire Agreement and the Franchise shall be voided and terminated, subject to the following provisions of this Article. In the event of a judicial, regulatory, or administrative determination that Article III is illegal, invalid, unconstitutional, or superseded, such termination shall be effective as of the date of a final appealable order, unless otherwise agreed upon by the City and the Company. In the event of any legislative action that renders Article III unconstitutional, illegal, invalid, or superseded, such termination shall be effective as of the effective date of such legislative action.

**17.4 Waiver of Non-Severability.** Notwithstanding the foregoing, if the City stipulates in writing to judicial, administrative, or regulatory action that seeks a determination that Article III is invalid, illegal, superseded, or unconstitutional, then a determination that Article III is invalid, illegal, unconstitutional, or superseded shall have no effect on the

validity or effectiveness of any other section, sentence, paragraph, term, or provision of this Agreement, which shall remain in full force and effect.

**17.5 Lease Terms Upon Termination.** In the event this Agreement is terminated pursuant to Section 17.3 hereof, the City grants to the Company a license for the location of facilities according to the same terms and conditions as set forth in this Agreement. Accordingly, the Company shall pay, as fair market rental value, the same amounts, at the same times, required for the payment of the Franchise Fee pursuant to Article III hereof and be bound by all other terms and conditions contained herein; provided, however, that in no event shall the Company be obligated to pay a higher percentage of Gross Revenues as rent or otherwise derived from the sale of telecommunications services within the City than is paid by other telecommunication companies serving within the City.

IN WITNESS WHEREOF, this Franchise Agreement is executed in duplicate originals as of the date first set forth above, to become effective on that date.

**Farmington City**

By: \_\_\_\_\_  
H. James Talbot, Mayor

ATTEST:

\_\_\_\_\_  
Secretary

ATTEST:

\_\_\_\_\_  
Holly Gadd, City Recorder

APPROVED AS TO FINANCES:

\_\_\_\_\_  
Chief Financial Officer

**Zayo Group, LLC**

By: \_\_\_\_\_  
\_\_\_\_\_, r

APPROVED AS TO FORM:

\_\_\_\_\_  
General Counsel

STATE OF COLORADO            )  
  )ss.  
COUNTY OF BOULDER        )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2020, personally appeared before me \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, who being by me duly sworn did each respectively say that he/she is the General Counsel of \_\_\_\_\_, and that the foregoing instrument was signed in behalf of said Company by authority of a resolution of its [board of directors]/[Managers]; and he/she each acknowledged

to me that said Company executed the same.

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Notary Public

# FARMINGTON CITY FIRE DEPARTMENT

82 North 100 East  
P.O. Box 160  
Farmington, Utah 84025  
Tel. (801) 451-2842  
Fax (801) 451-7865

*Proud Protectors of Your Life and Property - Since 1907*



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## CITY COUNCIL STAFF REPORT

To: Honorable Mayor and City Council

From: Guido Smith, Fire Chief

Date: February 26, 2020

**SUBJECT: SURPLUS AGING EXTRICATION EQUIPMENT AND FIRE HOSE WITH INTENT TO APPLY REVENUES TOWARD EQUIPMENT & MAINTENANCE FUND.**

### **RECOMMENDATIONS:**

a. Request the City Council declare listed extrication equipment and hose as surplus with the intent to sell to Plain City Corporation.

b. Request the City Council approve surplus revenues be applied toward the department Equipment & Maintenance Fund# 10-530-250.

### **BACKGROUND:**

In January 2020, the department received approval to pursue a lightly used and newer Heavy Rescue Tender (HRT). This truck is capable of meeting the department's growing needs for rescue operations to include expanded water / foam delivery, updated extrication equipment, scene lighting, upgraded lifting bags and improved cribbing capacity. With the successful acquisition of the HRT, the department is now in a position to surplus older extrication equipment and hose inventory as listed.

### **FFD Surplus Extrication Equipment & Hose Descriptions**

#### **Holmatro Hydraulic Extrication / Intermediate Kit:**

1 Portable Gas Powered B&S / Dual Tool Hydraulic Pump Unit

*Model No. 2060 PU*

*S/N: 11215*

1 Portable Gas Powered Honda / Single Tool Hydraulic Pump Unit

*Model No. PPU-15*

*S/N: PPU1500842*

1 Medium Spreader

*Model No. 315-UL*

*S/N: 315001427*

1 Medium Cutter

*Model No.3020-UL*

*S/N: 302000448*

1 Large Cutter

*Model No. 3035-NCT*

*S/N: Not Legible*

1 Small Ram

*Model No. 3340*

*S/N: 3344001688*

1 Large Ram

*Model No.3350*

*S/N: 335001781*

2 Holmatro HP Lumen Hoses

*Model No. Not Applicable*

*S/N: Not Applicable*

1 Ram Support / Base Unit

*Model No. HRS-16*

*S/N: N/A*

**Sell Price: \$3,500**

**Various Brands / Multiple Sections of Hose / Appliances:**

800 Feet of 5" Large Diameter Hose (LDH)

800 Feet of 3" Hose

500 Feet of 2.5" Hose

1000 Feet of 1.75" Hose

100' High Rise Pack w/ Nozzle

5 Various Control Nozzles

2 Foam B/Pipes\* 1.5" & 2.5"

1 Gated 2.5 – 1.5 Valve

S/N Not Applicable

**Sell Price: \$1,500**

**Combined surplus items to be sold for \$5,000.**

Respectfully Submitted,



Guido Smith  
Fire Chief

Reviewed & Concur



For: Shane Pace  
City Manager

CITY COUNCIL AGENDA

For Council Meeting:  
March 3, 2020

**SUBJECT: City Manager Report**

1. Fire Monthly Activity Report for January

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.



# Farmington City Fire Department

## Monthly Activity Report



January 2020



### Emergency Services

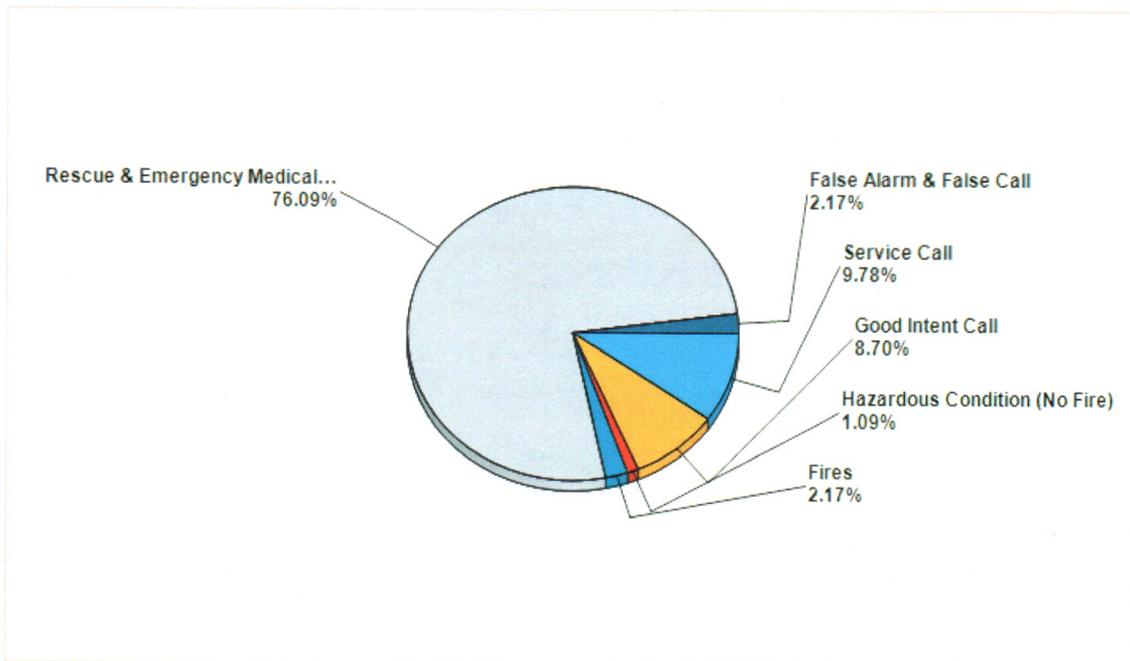
**Fire / Rescue Related Calls: 22**

*All Fires, Rescues, Haz-Mat, Vehicle Accidents, CO Calls, Brush Fires, EMS Scene Support, False Alarms, etc.*

**Ambulance / EMS Related Calls: 70 / Transported 44 (63%)**

*Medicals, Traumatic Incidents, Transfers, CO Calls w/ Symptomatic Patients, Medical Alarms, etc.*

<b>Calls Missed / Unable to Adequately Staff:</b>	<b>6 (6.5 %)</b>	<b>6 YTD (6.5%)</b>
<b>Overlapping Calls:</b>	<b>10 (10.1 %)</b>	<b>10 YTD (10.1%)</b>



### On-Duty Crew / Shift Dynamic Data / January:

<b>Emergent Incident / On-Scene Hours / Month Total:</b>	<b>28.0 Hrs.</b>	<b>(Approximate 112 Man Hours)</b>
<b>EMS Transport / Turn-Around Hours / Month Total:</b>	<b>88 Hrs.</b>	<b>(Approximate 176 Man Hours)</b>

<b>Urgent EMS Related Response Times (average):</b>	<b>5:39 Min/Sec</b>	<b>GOAL 5 minutes or less (+ 0.39)</b>
<b>Urgent Fire Related Response Times (average):</b>	<b>5.40 Min/Sec</b>	<b>GOAL 5 minutes or less (+ 0.40)</b>

**Part-Time Man-Hours** (based on the following 28-day pay periods) Jan. 17<sup>th</sup> and Jan. 31<sup>st</sup>

Part-Time Shift Coverage / Staffing:	664	Budgeted 672	Variance -8
Training & Drill Hours:	48	1,524.5 (FY20)	
Emergency Calls/ Station Staffing:	3.5	FIRE 2.5 Hrs. / EMS 1.0 Hrs. (3.5 YTD)	
Special Event Hours:	0	12 (FY20)	
Part-Time Fire Marshal:	77.5	Budgeted 120	Variance - 42.5
Part-Time Fire Inspector	40.5	Budgeted 90	Variance - 49.5
<b>Total PT Staffing Hours:</b>	<b>833.5</b>	<b>7,459.5 (FY20)</b>	
Career Fire Chief:	N/A	Salary Exempt	Overtime N/A
Career Administrative Asst. x 1	N/A	40 Hour Reg.	Overtime + 3
Career Captains, Engineers & FF's x 9	N/A	48/96 Hour Rotation	Overtime + 72

\*NOTE: Shift Coverage (Medical Leave) & Training Requirements

**Revenues & Grant / Donation Activity YTD:**

**Ambulance Revenue December 2019:**

	Month	Calendar Year	FY 2020
Ambulance Services Billed	\$83,802.42	\$856,746.88	\$438,648.06
<b>Ambulance Billing Collected</b>	<b>\$57,397.23</b>	<b>\$437,584.70</b>	<b>\$255,000.33</b>
<b>Variiances:</b>	<b>\$26,405.19</b>	<b>\$419,162.18</b>	<b>\$183,647.73</b>
Collection Percentages	68%	51%	58%

**Grant / Donation Activity "Requests":**

Extra Equipment W/ HRT Purchase \$4,500 \$4,500 YTD

**Grant / Donation Activity "Received":**

Equip w/ HRT – Flashlights, Tools, Foam, Hose, etc. \$4,500 \$4,500 YTD

**Department Training & Man-Hours**

Monthly Staff Meeting & Leadership Training	15	
Shift Drill #1 – FIRE – Extrication / Hybrid	24	
Shift Drill #2 – EMS – IO Access	24	
Shift Drill #3 – FIRE – Aerial Ops	24	
Shift Drill #4 – EMS – Geriatric Assessment	24	
Shift Drill #5 – FIRE – Basic Pump Ops	24	
Winter Fire School Training x 2	32	
Ice Rescue Certification & Refresher	48	
<b>Actual Training Hours:</b>	<b>215</b>	<b>215 HRS YTD</b>

<b><u>Fire Prevention &amp; Inspection Activities</u></b>	<b>QTY</b>	
New & Existing Business Inspections:	16	
Re-Inspections:	0	
Fire Plan Reviews & Related:	10	
Consultations & Construction Meetings:	22	
Station Tours & Public Education Sessions:	9	9 YTD

<b><u>Health, Wellness &amp; Safety Activities</u></b>	<b>QTY</b>	
Reportable Injuries:	0	0 YTD
Physical Fitness / Gym Membership Participation %:	100%	
Chaplaincy Events:	1	1 YTD

<b><u>Process Improvement Activities:</u></b>	<b>QTY</b>	
Process Improvement Program (PIP) Submittals:	0	0 YTD

### **Monthly Activity Narrative:**

*Emergent response times averaged just over 5.6 minutes for both Fire & EMS responses. Emergent incidents included medical responses, vehicle fires, rescues, structure fires, and CO emergencies. One career employee is recovering from hernia surgery from an injury sustained while lifting a patient last month. A full recovery is expected with a return date of mid-February. Six and a half percent of calls resulted in "no-staffing" or "short-staffing" of apparatus (on-duty crew attending to other calls and/or part-time staffing not available due to lack of availability). This percentage is attributed (in part) by crews attending to over 10% of overlapping calls that overwhelm our existing staffing model. Sixty-three percent of all Ambulance calls resulted in transporting patients to hospitals. Ambulance collection revenues continue with little predictability due to mandated billing variables. Total ambulance collection revenues for the calendar year 2019 came in around 51%. Monthly training encompassed Vehicle Extrication, Intraosseous (IO) Infusion, Aerial Operations, Care for Geriatrics, Basic Pump Ops, Ice Rescue Ops, and Winter Fire School x 2 personnel. FFD was successful in selling the old 1994 reserve pumper to Plain City FD and should finalize all payment details early February.*

*With the blessing from the council, FFD was able to pursue a short-notice opportunity to inspect and acquire a replacement Pierce Heavy Rescue Tender (HRT) apparatus from Wilton, NY. The Farmington Fleet Manager and Fire Chief flew out to Wilton and completed multiple detailed, comprehensive inspections and performance evaluations prior to acquiring the apparatus and driving it back to Farmington. Note: This process also included a detailed inspection from a Pierce dealership located in Altamont, NY. WFD agreed to accept \$150,000 for the apparatus, which equates to a phenomenal savings compared to refurbishing an existing unit and/or acquiring a comparable newly built HRT (1.2 million dollars). WFD also graciously donated an approximate \$4,500 worth of additional equipment and supplies. We anticipate the HRT be placed into service late February / early March. FFD already has several potential buyers of the old 2001 Rescue Engine in addition to one of our Water Tenders. FFD no longer needs two water tenders as the HRT comes equipped with a 1,000 gallon water tank.*

*After years of repairing broken drain covers / grates in our apparatus bays, we had no other choice than to replace six (6) grates due to safety concerns. The pre-existing grates became serious tripping hazards and seized into position; thus, prohibiting crews from cleaning the sumps. This expense was not built into our FY2020 budget and may challenge our year-end disposition.*

*Please feel free to visit or contact myself at your convenience with questions, comments or concerns: Office (801) 939-9260 or email [gsmith@farmington.utah.gov](mailto:gsmith@farmington.utah.gov).*

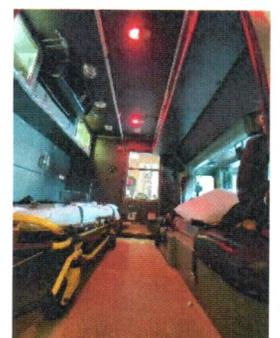
Guido Smith - Fire Chief

## January 2020 Photos:

Used Heavy Rescue Inspection, Acquisition (Wilton FD, NY) and Delivery, Annual Ice Rescue Certification Training, Broken Station Drain Covers Replaced, Ongoing EMS Training, Reserve Transport Engine Placed Into Service.

### Attached Page:

FFD Apparatuses Progress & Consolidation



# FFD Apparatus Fleet Progress & Consolidation 2019 – 2020



**Fire Prevention / Inspection Car  
(Retired Farmington Police Car)**  
*Replaced with FEPP 4x4 for Fire  
 Prevention Use and Brush Fire  
 Response (9,000 Miles)*  
 (Car now utilized by city hall)

Cost: FEPP Grant & 4K



**2001 Rescue Pumper & 1986  
 Water Tender**

*Replaced with Newer  
 2004/06 (Lightly Used)  
 Heavy Rescue Tender – HRT  
 (30,000 Miles)*

(Old Units Sold)  
 Cost: 220K – Includes  
 updating rescue tools and  
 wrap. (Impact Fund)



**2001 Reserve Ambulance  
 & 1994 Reserve Pumper**  
*Replaced with 2001  
 Transport Engine for Reserve  
 Use (40,000 Miles)*

(Old Units Sold)

Cost: 30K (Covered by the  
 sale of old apparatus)



**All-Terrain Mass Casualty  
 Incident (MCI) & Event  
 Support Trailer**

*Acquired Via FEPP Grant &  
 Regional Funding of \$4,000*

Initial rapid treatment of up  
 to 100 victims.



CITY COUNCIL AGENDA

For Council Meeting:  
March 3, 2020

**S U B J E C T: Mayor Talbot & City Council Reports**

NOTE: Appointments must be scheduled 14 days prior to Council Meetings; discussion items should be submitted 7 days prior to Council meeting.