

**SECOND AMENDMENT TO
POLE CANYON ANNEXATION AND MASTER
DEVELOPMENT AGREEMENT**

THIS SECOND AMENDMENT TO POLE CANYON ANNEXATION AND MASTER DEVELOPMENT AGREEMENT ("*Amendment*") is made and entered into effective as of the 19 day of April, 2016, by and between EAGLE MOUNTAIN CITY, a Utah municipal corporation ("*City*"), and OQUIRRH WOOD RANCH, LLC, a Utah limited liability company ("*OWR*"), on behalf of the "Pole Canyon Investment Group" (as defined in the Development Agreement).

RECITALS:

A. The City and the Pole Canyon Investment Group (also referred to as the "PCIG") are parties to that certain Pole Canyon Annexation and Master Development Agreement dated January 19, 2010, which was amended by that certain First Amendment to Pole Canyon Annexation and Master Development Agreement dated July 1, 2014 (collectively, the "*Development Agreement*"). All capitalized terms not otherwise defined in this Amendment shall have the same meaning given to such terms in the Development Agreement.

B. The City and OWR, on behalf of the PCIG, desire to amend the Development Agreement pursuant to this Amendment by removing a deadline by which certain property is required to be developed and dedicated to the City as a public rodeo grounds.

AMENDMENT:

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and OWR, on behalf of the PCIG, agree as follows:

1. Regional Park Facility. Sections 8.2 ("Rodeo Grounds") of the Development Agreement is hereby amended by deleting Section 8.2 in its entirety, and by replacing the same with the following:

8.2 Regional Park Facility. In lieu of any requirement relating to the dedication or construction of any public rodeo grounds and in fulfillment of all requirements under this Agreement and/or City Code relating to the dedication or construction of a specialized Recreation Area and/or a regional park, the PCIG hereby agrees to cause to be subdivided and conveyed (whether by deed or pursuant to a long term ground lease, as determined by the City) to the City property comprising not less than one hundred (100) acres (the "System Recreational Property"), for use (i) by the Utah National Parks Council, Boy Scouts of America, or other affiliate of the Boy Scouts of America (as applicable, "BSA"), for BSA's construction and operation of a regional high adventure boy scout camp (the "Scout Property"), (ii) as a wake park, (iii) as part of a master trail system (including a trail head accessible by the public), and/or (iv) as another regional

recreational use mutually acceptable to both PCIG and the City. PCIG or the BSA shall set aside not less than five acres of the System Recreational Property for public use. The final approved use and terms of such use shall be mutually approved through good faith negotiations and through a mutually acceptable transfer agreement between the City and the PCIG (the "System Recreational Property Transfer Agreement").

2. Amendment to WHWC Transition Agreement. The City and PCIG acknowledge that, in connection with and concurrently to the approval and execution of this Amendment, the City and WHWC have entered into that certain Amendment to the WHWC Transition Agreement, a copy of which is attached to this Amendment as Exhibit A.

3. White Hills Park. The City acknowledges and confirms that it has previously inspected the White Hills Park (as described in Section 9.4.3 of the Development Agreement) as completed by the PCIG and the improvements completed by PCIG are acceptable to meet PCIG's requirement under Section 9.4.3 of the Development Agreement. Accordingly, PCIG's requirement under Section 9.4.3 of the Development Agreement shall be completed once PCIG deeds the park property to the City free and clear of all liens and encumbrances. PCIG and City agree that a portion of the park may have been constructed on adjacent property, and PCIG shall be responsible to survey the park and, if necessary, acquire the property from the neighboring property owner and deed such property to the City.

4. Rocky Mountain Power. Section 17 of the Development Agreement is hereby deleted.

5. Counterpart Signatures. This Amendment may be executed in counterparts, which, when compiled together shall constitute one and the same document. The exchange of electronic or facsimile copies of signatures to this Amendment shall for all purposes constitute original signatures.

6. Full Force and Effect. Except as expressly amended herein, the Development Agreement remains in full force and effect.

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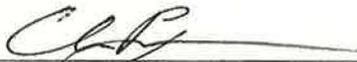
IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective as of the day and year first written above.

CITY:

EAGLE MOUNTAIN CITY, a Utah municipal corporation

ATTEST:

By: 
Fionnuala B. Kofoed, City Recorder

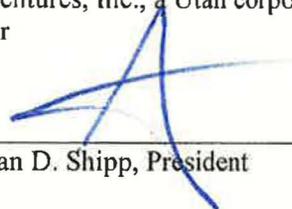
By: 
Christopher Pengra, Mayor



OWR (ON BEHALF OF THE POLE CANYON INVESTMENT GROUP):

OQUIRRH WOOD RANCH, LLC, a Utah limited liability company

By: Shipp Ventures, Inc., a Utah corporation, its Manager

By: 
Nathan D. Shipp, President

1251562

EXHIBIT A

**FIRST AMENDMENT TO
WHWC TRANSITION AGREEMENT**

See attached.

**First Amendment to
White Hills Water Company Transition and Acquisition Agreement
with
Eagle Mountain City**

This First Amendment to White Hills Water Company Transition and Acquisition Agreement with Eagle Mountain City is made and entered into as of the 19 day of April, 2016, by and  between White Hills Water Company, Inc., a Utah for-profit corporation ("WHWC"), and Eagle Mountain City, a municipal corporation of the State of Utah (the "City").

RECITALS:

A. The City and WHWC are parties to that certain White Hills Water Company Transition and Acquisition Agreement with Eagle Mountain City dated January 19, 2010 (the "Transition Agreement"), relating to the transition of ownership of the WHWC culinary water system and other assets to the City. A copy of the Transition Agreement is attached hereto as Exhibit "A". All capitalized terms not otherwise defined in this First Amendment shall have the same meaning given to such terms in the WHWC Transition Agreement.

B. The City and WHWC desire to amend the Transition Agreement, in among other ways, by modifying certain of the transition actions required by WHWC prior to transfer of the water system to the City, and by stipulating to the excess capacities in the water system, as more fully set forth below.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and WHWC agree as follows:

1. Amendments to Section 1. Section 1(c)(1) of the Transition Agreement is deleted in its entirety, and the following is inserted in lieu thereof:

- (1) encumber the stock or other assets of WHWC, except with respect to a loan which WHWC and City acknowledge has been requested and approved by the Drinking Water Board for the improvement of certain assets owned by WHWC, as more particularly described in Section 2 of this Agreement (as amended) below (the "Second DWB Loan");

2. Amendments to Section 2. Section 2 of the Transition Agreement is deleted in its entirety, and the following is inserted in lieu thereof:

2. Transition Actions.

- a. Except as otherwise provided in Section 2(b) below, prior to transfer of the water system to the City and either before or after this Agreement is executed, and subject to the review and approval of all improvements by the City Engineer, WHWC or others shall improve the water system, after approval of all plans and specifications for improvements and with provision for ongoing inspection of the work in progress by the City, as follows:

- (1) Chlorinate and flush the One Million Gallon Storage Tank and upper pipeline, and begin storing water in the tank in compliance with state regulations, in preparation to service the Cook Well;
 - (a) The parties acknowledge that the One Million Gallon Storage Tank and upper pipeline (and related real property) will not be conveyed by WHWC to the City until they are needed for service by the City in the area, but that WHWC must complete this requirement to standards acceptable to the City before the City will accept these facilities or allow WHWC or any other users to connect to the system above the pressure zone line indicated on Exhibit C, attached hereto and incorporated herein. ;
- (2) Upgrade the Cook Well by installing a completely new pump system, including pump, pump column, and pump motor, downhole transducer, pitless adapter, drawdown sensor, and flow meter, as more fully defined in the recommendation of the City Engineer;
 - (a) The parties acknowledge that this transition action has been satisfactorily completed prior to the date of this Amendment;
- (3) Provide the City water quality sampling data for the WHWC water system. Chlorination equipment will be added if water samples require chlorination;
 - (a) The parties acknowledge that (i) water sample results obtained prior to the date of this Amendment indicate no chlorination is needed at the present time, and (ii) the new Cook Well control building was planned and constructed for the future addition of chlorination equipment by the City (at the City's cost and discretion);
- (4) Provide copies of any water system as built drawing(s), survey(s) and/or legal description of the well site(s) to be dedicated to the City;
- (5) Retain Corrosion Control Technologies (or another similar company) to evaluate the water storage tanks and make recommendations for a plan to maintain, improve and/or upgrade the existing storage tanks, including re-painting, and ultimately re-lining the storage tanks;
 - (a) The parties acknowledge that the evaluation of the lower two (2) tanks have been completed and the City has received a copy of the Evaluation Report and recommendations.
- (6) Construct an additional state-approved Drinking Water Well, (16-inch diameter, approximately 350 feet deep, estimated to produce a sustainable yield of at least 1200 gpm). The new well shall be in close proximity to the Cook Well. The City and WHWC shall cooperatively file a temporary change application for the well based on WHWC water

rights. Ultimately, a permanent change application adding the new well will be filed (\$240,000 estimate);

(a) The parties acknowledge that this transition action has been satisfactorily completed prior to the date of this Amendment;

(7) Construct a new Control House to serve both the existing Cook Well and the New Well, including any and all electrical panels and controls, valves automation equipment, chlorination equipment, if necessary. At the time the new Control House is constructed, a new soft water will be installed;

(a) The parties acknowledge that the new Cook Well Control Building including soft starts, to control both Cook Well #1 and Cook Well #2, has been satisfactorily completed prior to the date of this Amendment;

(8) Re-paint storage tanks;

(a) The parties acknowledge that the painting of the lower two (2) tanks will be included as part of tasks and improvements included in funding request to the State Drinking Water Board;

(9) Replace all the manual read meters with electronic read meters. The electronic read meters will be installed by the City.

(a) The parties acknowledge that replacing the manual read meters was included as part of tasks and improvements included in funding request to the State Drinking Water Board;

(10) Take action(s) to maintain and/or upgrade the storage tanks and to extend their useful life and/or increase their capacity, pursuant to plan(s) developed based on Corrosion Control Technologies' recommendations, including but not limited to providing inner relining as recommended. In exchange for any and all improvements to the storage tanks not paid for by the City, OWR/PCIG shall have impact fee credits for extending the storage capacity life as set forth in paragraph 15.

(a) (a) The parties acknowledge that the painting of the lower two (2) tanks will be included as part of tasks and improvements included in funding request to the State Drinking Water Board;

b. WHWC and the City acknowledge that the City has identified the following additional transition actions which the City desires to have included as part of the tasks and improvements to be listed in a funding request to be made by WHWC to the DWB;

(1) Fencing of Cook Well #1 and Cook Well #2 site;

- (2) Install three (3) air/vac stations within the existing WHWC distribution system; and
- (3) Replacement of steel piping in certain sections of the WHWC system, including various repairs of pipeline under Wilson Ave. (including replacement of approximately 850 lineal feet of 10" steel pipeline from Wilson Ave. heading south toward White Hills Country Estates), and approximately 70 lineal feet from the well house to Adams Street.

WHWC agrees to pursue such funding request with the DWB in good faith and with reasonable diligence, and such funding must be obtained by WHWC as a condition to the First Closing.

- c. Notwithstanding anything to the contrary in Section 2(b) above, the First Closing (further described in Section 3 below) shall occur promptly following the latter of (i) completion of those transition items identified in Section 2(a) above which are as of the date of this Amendment currently incomplete, and (ii) receipt of approval from the DWB to the WHWC funding request described above, the awarding by WHWC of the project to the contractor who will perform the work to be financed through the DWB loan, and closing of the loan between WHWC and DWB.

3. Amendments to Section 8. Section 8 of the Transition Agreement is deleted in its entirety, and the following is inserted in lieu thereof:

8. Representations or Warranties. WHWC represents and warrants to the City that (i) WHWC has good and marketable title to the assets transferred to the City pursuant to this Agreement, free and clear of any lien or encumbrance other than the liens in favor of the DWB now or in the future which have been permitted by this Agreement or are otherwise consented to by the City; (ii) WHWC is duly authorized to enter into this transaction with the City and to consummate the transactions contemplated hereby, (iii) WHWC has obtained all governmental and/or third party consents and approvals required to consummate the transactions contemplated by this Agreement, (iv) the transactions contemplated by this Agreement do not violate any federal, state or local laws or ordinances, and (v) to the knowledge of the officers of WHWC, and except as otherwise disclosed to the City by an inspection report or other report delivered by WHWC to the City prior to the date of this Agreement, the assets transferred pursuant to this Agreement are in good condition and repair, ordinary wear and tear excepted. Except as specified in this section, any transfer under this Agreement shall be on an "As Is Where Is" basis with all faults and effects that may exist now and in the future, without representations or warranties by WHWC. The foregoing representations and warranties provided by this Agreement shall continue for a period of one year following the date of when each portion of the water system is acquired by the City, including the wells, water tanks, water, distribution systems and the other portions of the water system; provided, however, that the representations and warranties provided in subsection (v) of this Section 8 shall continue for a period of one year following the date of when each portion of the water system is acquired, unless such portions underwent repair and maintenance work described in Section 2, in which case such warranty shall continue with respect to

such portion of the water system for a period of one year following completion of such repair only. Also, any manufacturer, contractor or other third party warranty granted in favor of WHWC will survive this Agreement for the full period of the warranty, and are hereby assigned to the City. Notwithstanding the foregoing, but subject to any third party warranty which is assigned pursuant to the preceding sentence, the City specifically agrees that those improvements identified on Exhibit "D" attached hereto and incorporated herein are hereby accepted by the City in their "As Is Where Is" condition as of the date of this Amendment.

4. Amendments to Section 10. Section 10 of the Transition Agreement is deleted in its entirety, and the following is inserted in lieu thereof:

10. Water Rights Banking. The parties expressly agree that any and all water rights conveyed to and accepted by the City in excess of those water rights necessary to serve the existing White Hills Subdivision will be accepted and banked by the City for the use and benefit of Oquirrh Wood Ranch, LLC ("OWR"), pursuant to the City's applicable water banking ordinance. Furthermore, the City agrees that, subject to availability of excess water source capacity in Cook Well #1 and Cook Well #2, which shall be determined in the City's sole discretion, OWR and/or OWR's designees may (a) utilize excess capacity in Cook Well #1 and Cook Well #2 in connection with farming, livestock or other agricultural purposes, until such water is required to be allocated for development purposes at the City's current culinary rate per 1000 gallons of water, unless the City adopts a reduce agricultural rate. For purposes of the first sentence of this Section 10, "those water rights necessary to serve the existing White Hills Subdivision" specifically include 110.4 acre feet for the existing residences located within White Hills Plats A, B and C (and any other existing connections not located within White Hills Country Estates), and 9.28 acre feet for the existing residences located within White Hills Country Estates.

5. Amendments to Section 11. Section 11 of the Transition Agreement is amended by inserting the following sentence at the end of Section 11:

"Based on the foregoing, the City and WHWC hereby acknowledge and agree that the excess capacity in specific components of the WHWC system relating to storage, water source, and water distribution is more particularly identified on Exhibit "B" to this Second Amendment, and OWR shall be entitled to a credit against the payment of impact fees for capacity in the specific system improvements identified on Exhibit B to the extent that OWR is able to utilize the excess capacity for future development.

6. Amendments to Section 12. Section 12 of the Transition Agreement is amended by inserting the following sentences at the end of Section 12:

"WHWC represents and acknowledges that OWR is the property owner entitled to the excess capacity in the WHWC water system (which excess capacity is set forth on Exhibit "B" to this Second Amendment), and WHWC assigns rights relating to such excess capacity (whether in the form of impact fee credits, reimbursements, or otherwise) to OWR. Initial values for credits for storage, distribution and source are defined in

Exhibit "B", provided that such values may increase or decrease based upon and in connection with the City's completion of the Impact Fee Analysis for the area. "

7. Amendment to Add New Section 17. The following is inserted as a new Section 17 to the Transition Agreement:

"17. Water Rates.

(a) The City and WHWC acknowledge that (i) there are maintenance related improvements which the City desires to cause to be made by WHWC to the water system, but which were not originally required by this Agreement, (ii) WHWC has been successful in securing funding for maintenance related improvements which are both required by this Agreement and which are required of WHWC by this Agreement, which financing has been secured through a loan from the Drinking Water Board in the anticipated amount of \$520,000.00 ("Second DWB Loan"), and (iii) following analysis of the maintenance related improvements to be funded by the Second DWB Loan (including but not limited to maintenance related improvements to the existing users' system), the City and WHWC have determined that 68.17% of the total Second DWB Loan amount is properly allocable to the existing water users ("Existing Users") in White Hills Plats A, B and C, and White Hills Country Estates (the "Existing Users' Proportionate Share").

(b) The City hereby agrees to promptly follow any required process to adopt in connection with the First Closing under this Agreement, applicable water rates for the Pole Canyon Service area. Without limiting the generality of the foregoing, the City agrees to include in such water rates an amount equal to \$9.75 per connection per month (the "Maintenance Improvement Amount"), for both existing connections (i.e. for White Hills Plats A, B and C, and White Hills Country Estates), and for future connections from lots developed within Pole Canyon ("Future Users"), to cover the cost of a portion of the debt service in connection with the Second DWB Loan. The City and WHWC acknowledge that such \$9.75 per connection per month amount is the amount necessary to satisfy the Existing Users' proportionate share of the Second DWB Loan. The City agrees to forward to WHWC, on an annual basis, such amounts collected from water rates during the preceding year (based on the \$9.75 per month amount), with such payment to be made by the City at least thirty (30) days prior to the due date of WHWC's annual payment obligation under the Second DWB Loan. WHWC agrees to apply the funds from (a) Existing Users solely to pay back the Existing Users' proportionate share of the Second DWB Loan incurred, together with WHWC's reasonable administrative costs in administering the repayment of the Second DWB Loan. Once the Second DWB Loan has been paid by WHWC in full, the City's obligation to collect and forward the Maintenance Improvement Amount from the monthly rates shall terminate.

8. Counterpart Signatures. This First Amendment may be executed in counterparts, which, when compiled together shall constitute one and the same document. The exchange of electronic or facsimile copies of signatures to this First Amendment shall for all purposes constitute original signatures.

9. Full Force and Effect. Except as expressly amended herein, the WHWC Transition Agreement remains in full force and effect.

IN WITNESS WHEREOF, the City and WHWC have executed this First Amendment as of the day and year first above written.

The City:

EAGLE MOUNTAIN CITY

Date: 4/

By: [Signature]

Its: _____

WHWC:

WHITE HILLS WATER COMPANY, INC.

Date: 4/22/2014

By: [Signature]
Nathan D. Shipp, President

1342240v3

BY: [Signature]
CITY RECORDS



EXHIBIT "A"
TRANSITION AGREEMENT

See attached.

White Hills Water Company Transition and Acquisition Agreement
with
Eagle Mountain City

The White Hills Water Company, Inc. a Utah for-profit corporation, and Eagle Mountain City, a municipal corporation of the State of Utah, for valuable consideration, enter into this White Hills Water Company Transition and Acquisition Agreement with Eagle Mountain City ("Agreement") this 19 day of January, 2000, and agree as follows:

RECITALS

Parties. White Hills Water Company, Inc., a Utah for-profit corporation owns and operates the culinary water system for the White Hills Subdivision located in Cedar Valley in unincorporated Utah County. White Hills Water Company, Inc. is a "C" Corporation and is owned by Cedar Valley Water, LLC, which is owned by Oquirrh Wood Holdings, LLC ("WHWC"). Eagle Mountain City is a municipal corporation of the State of Utah ("City").

Annexation. Certain real properties owned by, Oquirrh Wood Ranch, LLC, and others as identified in the draft "Annexation and Pole Canyon Master Development Agreement" have petitioned Eagle Mountain City for annexation. Located within the boundaries of the property under consideration for annexation is the White Hills Water Company, Inc.

White Hills Water Company, Inc. WHWC is currently a water utility regulated by the Utah Public Service Commission to provide service to the White Hills Subdivision in Utah County, Utah. WHWC owns certain assets of real property, culinary and irrigation water rights, and water system infrastructure and equipment, including but not limited to wells, pump houses, storage tank(s), pipelines, valves, fire hydrants, water system capacity, and other assets as more fully described in Exhibit A, except the irrigation water rights which are more fully described in Exhibit B. WHWC also owns certain cash, account receivables and other financial assets as more fully described in Exhibit C. WHWC is a party to certain Agreements, Contracts, Insurance Policies and other written instruments as more fully described in Exhibit D.

Transition of WHWC Ownership and Operation. After completion of the annexation, the parties desire to transfer the ownership and operation of the WHWC culinary water system and other assets to Eagle Mountain City after the required improvements have been completed. The required improvements must be completed before any part of the Project within Oquirrh Wood Ranch receives a building permit

from the City; WHWC has completed a number of upgrades to the system and infrastructure, and shall perform additional upgrades before the City accepts and operates the water system. The terms and conditions of the transfer, transition and acquisition are as set forth below.

AGREEMENT

1. The transfer from WHWC and acquisition of assets by the City shall occur by WHWC donating, transferring and conveying or assigning the specific assets listed on Exhibit A to the City. The balance of the assets not a part of the existing system, required to provide water service which are described in Exhibit B shall be transferred as directed in Paragraph 8, below. No transfer of stock in WHWC to the City shall occur; however, the stock certificates representing all of the outstanding shares in WHWC shall be delivered to the City to insure that the owners of shares in WHWC comply with the transfer of ownership restrictions of this Agreement. The parties agree that the transition and acquisition shall be conducted to mutually benefit the parties.

- a. After the approval and effective date of the Annexation described in Paragraph 2 above, WHWC shall retain ownership, operation and control of the water system serving the White Hills Subdivision and shall complete the improvements and repairs described in this Agreement prior to the First Closing. The First Closing shall occur before any part of the Oquirrh Wood Ranch Project receives a building permit from the City, but not later than on or before January 1, 2011. The sole remedy for not completing the required improvements and the First Closing on or before January 1, 2011, shall be that no building permits may be issued by the City until the First Closing occurs. WHWC shall cause engineered plans and specifications to be prepared for the required improvements and shall submit the plans to the City for review, comment and approval before work commences after the date of this Agreement. To accommodate City inspection of construction, notice shall be provided to the office of the City Engineer, to the person designated by the City, of selection of the proposed contractor or equipment vendor, including copies of all relevant materials describing the work, and all pre construction meetings and other activities as requested by the City during the course of construction.
- b. As security for the completion of the improvements and repairs required by this Agreement, WHWC shall deliver to the City the stock certificates representing their ownership interest in the WHWC. The City shall hold the WHWC stock certificates required by this Agreement in its possession until

a final release letter is issued by the City to WHWC when all the required repairs or improvements are completed, inspected and approved by the City, whereupon the stock certificates shall be returned to WHWC.

c. During the period between Annexation and the First Closing when the WHWC water system for the White Hills Subdivision assets described in Exhibit A are donated, transferred, and conveyed or assigned to the City, WHWC covenants not to:

- (1) encumber the stock or other assets of WHWC;
- (2) transfer ownership of any asset of WHWC, except that WHWC may convey and sell portions of the irrigation water rights;
- (3) extend water service beyond those existing or prepaid water connections;
- (4) exercise the power of eminent domain.

2. Transition Actions.

a. Prior to transfer of the water system to the City and either before or after this Agreement is executed, and subject to the review and approval of all improvements by the City Engineer, WHWC or others shall improve the water system, after approval of all plans and specifications for improvements and with provision for ongoing inspection of the work in progress by the City, as follows:

- (1) Chlorinate and flush the One Million Gallon Storage Tank and upper pipeline, and begin storing water in the tank in compliance with state regulations, in preparation to service the Cook Well;
- (2) Upgrade the Cook Well by installing a completely new pump system, including pump, pump column, and pump motor, downhole transducer, pitless adapter, drawdown sensor, and flow meter, as more fully defined in the recommendation of the City Engineer;
- (3) Provide the City water quality sampling data for the WHWC water system. Chlorination equipment will be added if water samples require chlorination;
- (4) Provide copies of any water system as built drawing(s), survey(s) and/or legal description of the well site(s) to be dedicated to the City;
- (5) Retain Corrosion Control Technologies (or another similar company) to evaluate the water storage tanks and make recommendations for a plan to maintain, improve and/or upgrade the existing storage tanks, including re-painting, and ultimately re-lining the storage tanks;

- (6) Construct an additional state-approved Drinking Water Well, (16-inch diameter, approximately 350 feet deep, estimated to produce a sustainable yield of at least 1200 gpm). The new well shall be in close proximity to the Cook Well. The City and WHWC shall cooperatively file a temporary change application for the well based on WHWC water rights. Ultimately, a permanent change application adding the new well will be filed (\$240,000 estimate).
- (7) Construct a new Control House to serve both the existing Cook Well and the New Well, including any and all electrical panels and controls, valves automation equipment, chlorination equipment, if necessary. At the time the new Control House is constructed, a new soft starter will be installed.
- (8) Re-paint storage tanks.
- (9) Replace all the manual read meters with electronic read meters. The electronic read meters will be installed by the City.
- (10) Take action(s) to maintain and/or upgrade the storage tanks and to extend their useful life and/or increase their capacity, pursuant to plan(s) developed based on Corrosion Control Technologies' recommendations, including but not limited to providing inner relining as recommended. In exchange for any and all improvements to the storage tanks not paid for by the City, OWR/PCIG shall have impact fee credits for extending the storage capacity life as set forth in paragraph 15.

3. First Closing. At the First Closing WHWC shall donate, transfer and convey or assign to the City the assets of WHWC described below and which are more fully described in Exhibit A without encumbrance or reservation or condition:

- a. Real Property. Improved Real Property, as more specifically described in the attached Exhibit A, consisting of several parcels of property where wells and tanks, etc. are located, will be conveyed by Special Warranty Deed free and clear of all encumbrances including delinquent or pending property taxes or other financial encumbrances. Such conveyances will include all water system improvements and infrastructure used or constructed to be used in providing water service to the White Hills Subdivision wherever located but located on such property, including but not limited to wells, pump houses, storage tanks, pipelines, etc.
- b. Easements. Easements, as more fully described in the attached Exhibit A, for existing and future waterlines shall be conveyed by assignment and/or appropriate deed with warranty of transferability and status in good

standing. The parties specifically agree that to the extent pipelines are moved in the future, and existing easements are no longer needed, such easements will be abandoned, relinquished and reconveyed to the Grantor(s) or neighboring property owners as directed by WHWC.

- c. Culinary Water System Water Rights. Water rights, as more fully described in the attached Exhibit A, consisting of water rights that have already been approved for culinary and domestic use, shall be conveyed by Special Warranty Water Rights Deed(s).
- d. Water System Improvements, Infrastructure and Equipment. The vast majority of the water system improvements and infrastructure improvements are attached to real property that will be conveyed by deed, as set forth above. To the extent any water system infrastructure or equipment is personal property not attached to real property to be conveyed, it will be assigned and/or conveyed via appropriate Bill of Sale.
- e. Financial Assets
 - (1) Accounts Receivable and Payable. Accounts receivable and payable for the WHWC shall be closed as of the First Closing date. The parties agree that accounts receivable due and owing to WHWC are to include water usage billings, standby fees, and other customer reimbursables invoiced by WHWC after closing for water usage or services rendered prior to closing. No cash will be transferred to the City except as expressly provided otherwise in this Agreement. The parties agree that accounts payable by WHWC are to include employee wages, salary and payroll taxes and expenses if any, invoices for contractors, suppliers and electric utilities invoiced after the closing for purchases and services of every kind provided prior to closing. The City will not assume any liability of the WHWC and the WHWC represents that at closing it will have no liability for any other payables not expressly stated in this paragraph.
 - (2) Impact Fees. There are no Impact Fees or related fees collected by WHWC that have not previously been spent for appropriate improvements or operations. Therefore, no impact fees will be transferred to the City upon transfer of the water system improvements.

4. Second and Subsequent Closing(s) on the one year anniversary date and subsequent one year intervals. One year from the date of the first closing and or on each subsequent anniversary date thereafter, as necessary, WHWC at its sole discretion may donate, convey and assign to the City any, all, or no portion of the remaining assets as determined by WHWC, including portions of the Irrigation Water Rights described in Exhibit B and any associated change applications. The conveyance shall be by a Special Warranty Water Rights Deed, the form of which is attached as Exhibit F acceptable to counsel for the City. The transfer of any Irrigation Water Rights to the City shall be with the express reservation of WHWC to use the water for irrigation on the heretofore lands authorized to be irrigated under the water rights until such time that the City requires the water for municipal purposes.

5. Change Application.

- a. The WHWC may file a change application with the State Engineer to change the nature of use, place of use and points of diversion for some or all of the Culinary and Irrigation Water Rights to be used for municipal purposes within the service area of the City prior to the First Closing. A copy of the change application (if filed with the State Engineer) is attached as Exhibit G.
- b. If the change application is not filed as of the date of this Agreement, WHWC and the City shall work cooperatively in preparing and filing the change application to identify the proper points of diversion for the hereafter wells. All the existing points of diversion for the Water Rights shall continue as authorized wells under the change application in addition to City wells identified by the City.
- c. WHWC shall be responsible for all costs associated with, and for obtaining approval of, the change application. The City shall cooperate with WHWC in obtaining approval.
- d. Until the Water Rights are needed by the City to service the Oquirrh Wood Ranch and the Pole Canyon Project, Oquirrh Wood Ranch shall have the right to continue to put the water under the Water Rights to full beneficial use, including irrigation, stockwater and other agricultural uses at the sole cost and expense of Oquirrh Wood Ranch utilizing sources and wells not owned by the City or used in the operation of the water system.

e. The filing of the change application shall not prevent WHWC or assigns to sell at their sole discretion portions or all of the Irrigation Water Rights to third parties.

f. The timing of when the Culinary Water Rights will be conveyed to the City, and when and if the Irrigation Water Rights will be conveyed to the City, and the quantity of the Culinary and Irrigation Water Rights conveyed to the City shall be in accordance with the terms of this Agreement.

6. Transfer of Management and Operation of Water System. At the First Closing, the City shall accept the described assets, and thereafter shall assume responsibility for operation of the water system, including delivery of culinary water to White Hills Residents, as well as for all future development in the Pole Canyon Project. The said transfer is not an exaction subject to challenge by WHWC or others.

7. Due Diligence and Inspection Period. Upon the effective date of this Agreement the City shall have a 30-day due diligence period with full inspection rights to evaluate and inspect each of the identified groups of assets.

8. Representations or Warranties. WHWC represents and warrants to the City that (i) WHWC has good and marketable title to the assets transferred to the City pursuant to this Agreement, free and clear of any lien or encumbrance, (ii) WHWC is duly authorized to enter into this transaction with the City and to consummate the transactions contemplated hereby, (iii) WHWC has obtained all governmental and/or third party consents and approvals required to consummate the transactions contemplated by this Agreement, (iv) the transactions contemplated by this Agreement do not violate any federal, state or local laws or ordinances, and (v) to the knowledge of the officers of WHWC, and except as otherwise disclosed to the City by an inspection report or other report delivered by WHWC to the City prior to the date of this Agreement, the assets transferred pursuant to this Agreement are in good condition and repair, ordinary wear and tear excepted. Except as specified in this section, any transfer under this Agreement shall be on an "As Is Where Is" basis with all faults and defects that may exist now and in the future, without representations or warranties by WHWC. The foregoing representations and warranties provided by this Agreement shall continue for a period of one year following the date of when each portion of the water system is acquired, including the wells, water tanks, water, distribution systems and the other portions of the water system. Also, any manufacturer, contractor or other third party warranty granted in favor of WHWC will survive this Agreement for the full period of the warranty, and are hereby assigned to the City.

9. Public Service Commission. The culinary water service provided by WHWC to the White Hills Subdivision is regulated as a water utility by the Utah Public Service Commission ("PSC"). Upon transfer of the assets and operation of the WHWC to the City, the parties agree that the PSC shall have no further jurisdiction and regulatory authority over the assets, rates and operation of the water system. WHWC shall meet any PSC requirements and upon transfer of the operation of the WHWC to the City, WHWC shall obtain an acknowledgment from the PSC that the water system is no longer regulated as a public water utility.

10. Water Rights Banking. The parties expressly agree that any and all water rights conveyed to the City in excess of those water rights necessary to serve the existing White Hills Subdivision will be accepted and banked by the City for the use and benefit of Oquirrh Wood Ranch, LLC ("OWR"), pursuant to the City's applicable water banking ordinance.

11. Estimated Excess Water System Capacity ERUs. In addition to excess water rights, the parties acknowledge that the donated water system has and will have a substantial amount of excess water storage, water source, and water distribution system capacities. The culinary water system currently serves 121 residential connections and includes two (2) banked or future connections. Based on an engineering analysis of the existing water system capacity conducted by Aqua Engineers and reviewed by the city's engineers (Horrocks), and depending on the condition of the assets there may be an estimated excess water system capacity beyond existing demands of the system. Excess capacity will be evaluated in the preparation of the Capital Facilities Plan for impact fee analysis to be prepared by the City. The amount and value of any excess capacity in the system shall be determined by the engineering analysis in the Capital Facilities Plan and the impact fees laws of the State of Utah. The parties acknowledge that WHWC has undertaken or will undertake substantial system upgrades and improvements after the Aqua/Horrocks studies were completed, and any assessment and credit given for excess capacities should factor these additional system upgrades and improvements into the equation for calculating excess capacity credits.

12. Credits or Reimbursement for Water System Capacity. The City agrees that WHWC may assign such rights to impact fee credit or reimbursement for excess capacity, if any, held by WHWC at the date of the final closing to the property owner entitled thereto as permitted under the terms of the impact fee law of the State of Utah.

13. Pole Canyon Basic Local District and Central Water Project Water. The Pole Canyon Basic Local District ("PCBLD") has requested from the Central Utah Water Conservancy District an allocation of at least 5,500 acre-feet of water from the Central Water Project ("CWP Water"). The parties to this Agreement anticipate that the CWP

Water will ultimately be allocated to the City for the benefit of the Pole Canyon Project and others. The delivery of the CWP Water to the Pole Canyon Project would require the construction of a pipeline to deliver water to the west side of the City where the Pole Canyon Project is located. The existing WHWC water system infrastructure is located at the base of the Pole Canyon Project. The City agrees that before any pipeline is constructed for the delivery of CWP water to the west side of the City that the City shall study and consider whether or not it is more or less cost effective to construct a pipeline to deliver CWP water to the Pole Canyon project, expand and develop the sources under the ownership and control of the WHWC, or its successor's in interest, or provide water by exchange using the CWP contract water to provide water to other areas of the City.

14. Mutual Indemnification. WHWC indemnifies the City for the time period the water system was owned and operated by WHWC, and the City indemnifies WHWC beginning on ____ [date] _____ when the City owns and operates the water system.

15. Alternative Dispute Resolution, Legal Action & Attorneys Fees. In the event any dispute(s) should arise between the parties, based on this Agreement or their actions pursuant to this Agreement, they expressly agree to employ their best efforts to resolve any and all such dispute(s) by good-faith negotiations between themselves. In the event they are unsuccessful in reaching a satisfactory resolution, however, they expressly agree to solicit the assistance of a qualified, neutral, independent, third party mediator, to assist in mediating and resolving any such dispute(s). Only in the event such efforts at alternative dispute resolution are unsuccessful will the parties resort to litigation as a means of attempting to resolve any such disputes, in which case the prevailing part(ies) shall be entitled to recover from the other all of their costs and reasonable attorneys fees incurred in connection with any such action(s). Otherwise, the parties shall each be responsible for their own attorneys fees associated with this transaction, including preparation and review of documents to support it.

16. Miscellaneous Provisions.

- a. The parties expressly agree to execute any and all other documents and instruments, and to take any and all other actions as may be necessary to carry out the express intentions of the parties, and shall use their good faith and diligent efforts to accomplish, close and fully consummate the transaction contemplated by this Agreement.
- b. In the event any of the terms, conditions or covenants contained in this Agreement are held to be invalid, any such invalidity shall not affect any other term or condition contained herein, and the remaining valid portion(s) of the

Agreement shall remain in full force and effect.

- c. This Agreement and all terms, conditions, rights, entitlements and obligations hereof shall survive the Closing, and not be deemed merged and/or terminated at Closing.
- d. This Agreement supersedes any and all previous agreements, written or verbal, by and between the parties, and any and all such agreements are deemed merged herein. No modification of this Agreement shall be enforceable unless such modification is in writing, signed by the parties affected by the modification. This Agreement may be executed in any number of counterparts; and when so executed, all of such counterparts shall constitute a single instrument binding upon all parties hereto, notwithstanding the fact that all parties are not signatory to the original or to the same counterpart.

WHITE HILLS WATER COMPANY, INC.

By: *Nathan Shipp*

Its: President

STATE OF UTAH)

ss.

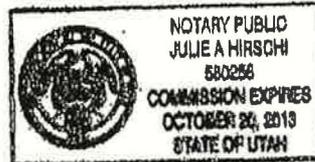
COUNTY OF UTAH)

On the 20th of January, ~~2000~~ ²⁰¹⁰ personally appeared before me, Nathan Shipp who duly acknowledged to me that the foregoing instrument was executed on behalf of WHITE HILLS WATER COMPANY, INC.

My Commission Expires: 10-20-2013

Julie A. Hirsch
Notary Public

Residing at: Salt Lake CO



CEDAR VALLEY WATER, LLC

By: *Nathan Shipp*

Its: *Manager*

STATE OF UTAH:)

ss.

COUNTY OF UTAH:)

On the 26th of January, ~~2009~~ ²⁰¹⁰ personally appeared before me, Nathan Shipp who duly acknowledged to me that the foregoing instrument was executed on behalf of CEDAR VALLEY WATER, LLC

My Commission Expires: 10-20-2013 *Julie A. Hirsch*
Notary Public

Residing at: Salt Lake Co.



EAGLE MOUNTAIN CITY

By: *James Jacobs*
Its: *Mayor*

ATTEST:

Fionnuala B. Kofoed
Fionnuala B. Kofoed, City Recorder



EXHIBIT A

LIST OF ASSETS OF
WHITE HILLS WATER COMPANY, INC.

Real Property and Easements

Improved real property consisting of several parcels of property where wells and tanks and other water system improvements are located and easements for existing and future pipelines and other water system improvements where the land is not owned by WHWC. Legal descriptions will be written after the properties are surveyed by a certified land surveyor. WHWC will pay all of the costs of the survey, preparation of description and cost of survey plats showing the properties in which the WHWC has title to the land or easement or other right of use.

Culinary Water Rights

Sufficient water rights to provide culinary and irrigation water to cover existing demands and uses within the White Hills Subdivision. The sufficient water rights shall be calculated using the City required standards for service. At least the 404 domestic uses as a portion of Water Right No. 54-36 and a portion of approved change application number 15643 shall be donated and conveyed.

Water System

Wells and pump houses:

- Cook Well or Primary Well, fully equipped, including but not limited to, pump, casing, piping, electrical connections, electronic controls, and upgraded well house.
- Backup Well or Cook Well, fully equipped, including but not limited to, pump, casing piping, electrical connections, electronic controls, and pump house
- Booster Pump(s), fully equipped, including but not limited to, pumps, piping, electrical connections, electronic controls, and upgraded pump house.

Water treatment facilities and equipment

Storage Tank(s)

- One (1) fully installed, equipped and connected 1,000,000 gallon water storage tank
- One (1) fully installed, equipped and connected 550,000 gallon water storage tank
- One (1) fully installed, equipped and connected 220,000 gallon water storage tank



Water distribution pipelines
Valves, fire hydrants, etc.

Vehicles, Equipment, Furniture



Exhibit B

White Hills Water Company Transition and Acquisition Agreement
with Eagle Mountain City
January 19, 2010

White Hills Water Company Irrigation Water Rights

Water Right No.
54-34
54-37
54-77
54-80
54-1267
54-1268

EXHIBIT C

**FINANCIAL INFORMATION OF
WHITE HILLS WATER COMPANY, INC.**
as determined under Paragraph 3.e. to be provided
at First Closing

EXHIBIT D

AGREEMENTS, INSURANCE POLICIES AND OTHER WRITTEN INSTRUMENTS.

- General liability insurance policy
- Commitments to provide a total of 131 water connections in the White Hills Water Company water system broken down as follows:
 - 121 existing connections
 - 2 prepaid connections
 - 8 committed connections for 8 vacant lots in White Hills

EXHIBIT G
CHANGE APPLICATION

No change application has yet been filed with the State Engineer,
but a change application will be prepared pursuant to
the provisions of paragraph 9.

EXHIBIT "B"

WHWC FACILITIES CAPACITY ANALYSIS

See attached.

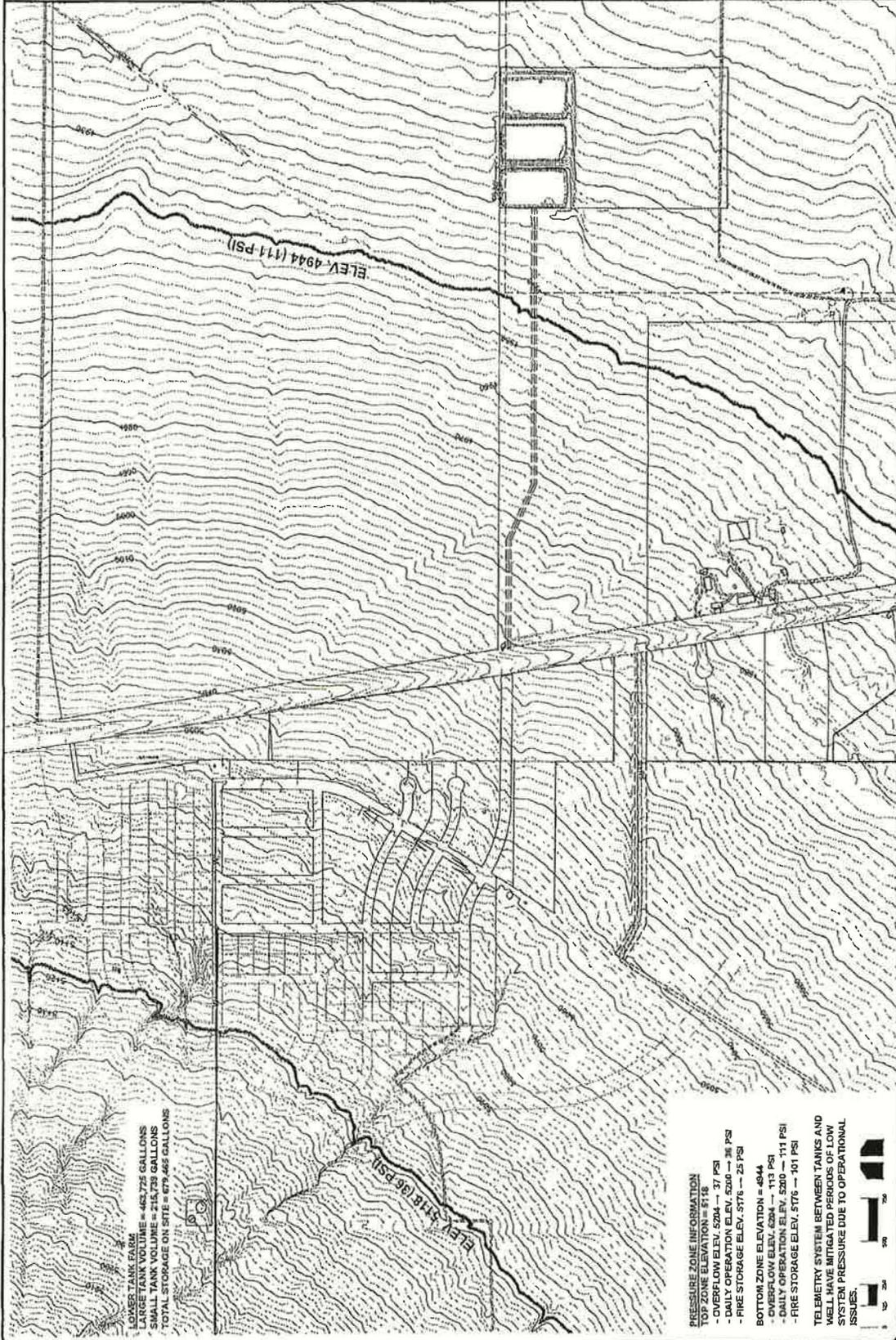
WHWC Facilities Capacity Analysis
November 9, 2015

Existing Water System Connections - Equivalent Residential Connections (ERUs)	123
A. Water Storage	
Storage requirements per DDW Rule R309-510	
Average Day Demand - Indoor: 400 gallons per residential connection	
Irrigation Storage - Outdoor (Zone 4): 2,848 gallons per irrigated acre (Assume average lot at 0.20 acres irrigated)	
Fire Suppression Storage - 1,000 gpm for 2 hour period = 120,000 gallons	
- Indoor requirement	49,200 gallons
- Irrigation requirement	70,061 gallons
- Fire Storage requirement	120,000 gallons
Total Storage Requirement - 123 Connections	239,261 gallons
Lower Tanks Together - With Altitude Valve	
- Lower Small Tank	215,739 gallons
- Lower Large Tank Active - With Altitude Valve	500,000 gallons
- Excess Capacity Lower Tanks - With Altitude Valve	476,478 gallons
Available ERU connections Lower Tanks Together - With Altitude Valve	491
B. Water Sources	
- It is assumed that the Well #1 and Well #2 provide redundancy due to the requirement for a backup water source.	
- Well Production Capacity - Pumping to Lower Tanks Site - 1,400 gpm	
Source requirements per DDW Rule R309-510	
Peak Day Demand - Indoor: 800 gallons per day per residential connection (0.56 gpm/connection)	
Peak Day Demand - Outdoor (Zone 4): 3.96 gpm per irrigated acre; (0.79 gpm/connection) (Assume average lot at 0.20 irrigated acres)	
- Indoor requirement	68.88 gpm
- Outdoor requirement	97.42 gpm
Total Source Requirement - 123 Connections	166.30 gpm
- Excess well source capacity	1,233.70 gpm
Available ERU connections per existing source	913

EXHIBIT "C"

PRESSURE ZONE EXHIBIT

See attached.



LOWER TANK AREA
 - LARGEST TANK VOLUME = 462,726 GALLONS
 - SMALL TANK VOLUME = 215,739 GALLONS
 - TOTAL STORAGE ON SITE = 678,465 GALLONS

PRESSURE ZONE INFORMATION
TOP ZONE ELEVATION = 5118
 - OVERFLOW ELEV. 5204 -- 37 PSI
 - DAILY OPERATION ELEV. 5200 -- 36 PSI
 - FIRE STORAGE ELEV. 5176 -- 25 PSI
BOTTOM ZONE ELEVATION = 4944
 - OVERFLOW ELEV. 5030 -- 25 PSI
 - DAILY OPERATION ELEV. 5200 -- 111 PSI
 - FIRE STORAGE ELEV. 5176 -- 101 PSI

TELEMETRY SYSTEM BETWEEN TANKS AND WELL HAVE MITIGATED PERIODS OF LOW SYSTEM PRESSURE DUE TO OPERATIONAL ISSUES.

EXHIBIT "D"

IMPROVEMENTS ACCEPTED BY THE CITY

1. Equip existing well with new pump
2. Drill new 2nd well
3. Equip new 2nd well with pump
4. Construct well control building
5. Install new electrical equipment and controls for 2 wells
6. Install telemetry equipment at lower tanks site and well control building