

**APPROVED**

**CACHE COUNTY  
COUNCIL MINUTES  
FEBRUARY 09, 2010**

**CACHE COUNTY COUNCIL**  
**February 09, 2010**

AGRICULTURAL PROTECTION AREA – Public Hearing Set-February 23, 2010-6:00 p.m.-Boyd W & Sheri J Schiess.....	2
AMERICAN RED CROSS OF NORTHERN UTAH – Property Tax Exemption Request.....	2
AMERICAN WEST HERITAGE CENTER – Property Tax Exemption Request.....	2
APPOINTMENT – Davis, Dr. James-Bear River Board of Health .....	1
APPOINTMENT – Darrel Gibbons-Cache County Planning Commission .....	1
APPOINTMENT – Larson, Leslie-Cache County Planning Commission.....	1
APPOINTMENT – Nielsen, Bonnie-Board of Adjustments .....	1
BANKHEAD, KEVEN – Employee of the Month.....	2
BOARD OF EQUALIZATION – Tax Exemption Requests .....	2
CAPSA – Property Tax Exemption Request .....	3
CACHE COUNTY CHILDREN'S JUSTICE CENTER – Property Tax Exemption Request.....	3
CACHE COUNTY ROAD STANDARDS – Motion-Approving/Disapproving Request of proposed amendments to the Cache County Road Standards <i>(NO ACTION TAKEN)</i> .....	9
CACHE VALLEY CHRISTIAN CENTER – Property Tax Exemption Request.....	3
CENTRO DE LA FAMILIA DE UTAH – Property Tax Exemption Request.....	3
CHILD AND FAMILY SUPPORT CENTER – Property Tax Exemption Request .....	3
COMMON GROUND OUTDOOR ADVENTURES – Property Tax Exemption Request .....	3
CORPORATION OF THE EPISCOPAL CHURCH IN UTAH – Property Tax Exemption Request.....	3
DAUGHTERS OF THE UTAH PIONEERS LEAVITT-LAYNE CAMP– Property Tax Exemption Request .....	3
DAUGHTERS OF THE UTAH PIONEERS MUSEUM – Property Tax Exemption Request.....	3
DAVIS, DR. JAMES – Appointment-Bear River Board of Health .....	1
EBENEZER CHURCH OF GOD (Iglesia de Dios) – Property Tax Exemption Request.....	3
EMPLOYEE OF THE MONTH – Bankhead, Keven .....	2
ENVISION CACHE VALLEY – Local Officials Forum .....	2
EXTENSION – Use of vehicle request .....	9
FAITH AND FELLOWSHIP CENTER – Property Tax Exemption Request.....	3
FINAL PLAT APPROVAL – The S Curve Subdivision <i>(NO ACTION TAKEN)</i> .....	3
GIBBONS, DARREL – Appointment-Cache County Planning Commission.....	1
GROUP HOME – Motion-Approving/Disapproving Request for the Approval of a Group Home located at approximately 8135-S 3600 W, Mt. Sterling <i>(NO ACTION TAKEN)</i> .....	7
INDUSTRIAL DEVELOPMENT REVENUE BONDS – Public Hearing-February 09, 2010-6:00 p.m.-Lower Foods Project-Resolution No. 2010-08 .....	4,5
INTERLOCAL COOPERATION AGREEMENT – Resolution No. 2010-09-Approving the Fourth Amended Interlocal Cooperation Agreement with UCIP and Authorizing Executive to execute same.....	6
LARSON, LESLIE – Appointment-Cache County Planning Commission .....	1
LEGISLATORS' WEEKLY SATURDAY MEETINGS.....	2
LOGAN CHURCH OF CHRIST – Property Tax Exemption Request .....	3
LOGAN ENGLISH CONGREGATION OF JEHOVAH'S WITNESSES – Property Tax Exemption Request.....	3
LOWER, ALAN – Public Comment .....	5
LOWER FOODS PROJECT – Public Hearing-February 09, 2010-6:00 p.m.-Industrial Development Revenue Bonds-Resolution No. 2010-08 .....	4,5
NATURAL BARRIERS – Public Hearing-February 09, 2010-6:30 p.m.-Natural Barrier Amendment-Title 16.02.020 Natural Barriers.....	7
NIELSEN, BONNIE – Appointment-Board of Adjustments .....	1
NORTH AMERICAN ISLAMIC TRUST, THE – Property Tax Exemption Request .....	3
NORTH AMERICAN WEATHER CONSULTANTS .....	2
PLANNED PARENTHOOD – Property Tax Exemption Request.....	3

PROPERTY TAX EXEMPTION REQUEST – American Red Cross of Northern Utah.....	2
PROPERTY TAX EXEMPTION REQUEST – American West Heritage Center.....	2
PROPERTY TAX EXEMPTION REQUEST – CAPSA .....	3
PROPERTY TAX EXEMPTION REQUEST – Cache County Children's Justice Center .....	3
PROPERTY TAX EXEMPTION REQUEST – Cache Valley Christian Center .....	3
PROPERTY TAX EXEMPTION REQUEST – Centro de la Familia de Utah.....	3
PROPERTY TAX EXEMPTION REQUEST – Child and Family Support Center.....	3
PROPERTY TAX EXEMPTION REQUEST – Common Ground Outdoor Adventures .....	3
PROPERTY TAX EXEMPTION REQUEST – Corporation of the Episcopal Church in Utah .....	3
PROPERTY TAX EXEMPTION REQUEST – Daughters of the Utah Pioneers Leavitt-Layne Camp.....	3
PROPERTY TAX EXEMPTION REQUEST – Daughters of the Utah Pioneers Museum.....	3
PROPERTY TAX EXEMPTION REQUEST – Ebenezer Church of God (Iglesia de Dios) .....	3
PROPERTY TAX EXEMPTION REQUEST – Faith and Fellowship Center .....	3
PROPERTY TAX EXEMPTION REQUEST – Logan Church of Christ .....	3
PROPERTY TAX EXEMPTION REQUEST – Logan English Congregation of Jehovah's Witnesses .....	3
PROPERTY TAX EXEMPTION REQUEST – Planned Parenthood Association of Utah .....	3
PROPERTY TAX EXEMPTION REQUEST – Second Baptist Church.....	3
PROPERTY TAX EXEMPTION REQUEST – The North American Islamic Trust, Inc.....	3
PUBLIC COMMENT – Lower, Alan.....	5
PUBLIC HEARING – February 09, 2010-6:00 p.m.-To receive input regarding the proposal that the County issue its Industrial Development Revenue Bonds, Series 2010 (Lower Foods Project), etc.-Resolution No. 2010-08 .....	4,5
PUBLIC HEARING – February 09, 2010-6:15 p.m.-UT I Ding Dong Rezone-Agricultural Zone to UCO Zone approximately 10500 South 800 East, Avon .....	6
PUBLIC HEARING – February 09, 2010-6:30 p.m.-Natural Barrier Amendment-Title 16.02.020 Natural Barriers.....	7
PUBLIC HEARING SET – February 23, 2010-6:00 p.m.-Boyd W & Sheri J Schiess Agricultural Protection Area-8.24 Acres located south of Nibley .....	2
RAPZ/RESTAURANT TAX APPLICATIONS.....	2
RAPZ/RESTAURANT TAX – Wellsville Foundation Request for Usage of 2008 RAPZ/Restaurant Tax Funds.....	6
RAPZ/RESTAURANT TAX LOGO .....	9
RESOLUTION NO. 2010-08 – Consideration of a resolution of the County Council of Cache County, Utah authorizing the issuance and sale by the County of its Industrial Development Revenue Bonds, Series 2010 (Lower Foods Project), etc. ....	5
RESOLUTION NO. 2010-09 – Approving the Fourth Amended Interlocal Cooperation Agreement with UCIP and Authorizing Executive to execute same .....	6
REZONE – Public Hearing-February 09, 2010-6:15 p.m.-UT I Ding Dong Rezone-Agricultural Zone to UCO Zone approximately 10500 South 800 East, Avon .....	6
ROADS – Motion-Approving/Disapproving Request of proposed amendments to the Cache County Road Standards ( <i>NO ACTION TAKEN</i> ) .....	9
S CURVE SUBDIVISION – Final Plat Approval ( <i>NO ACTION TAKEN</i> ).....	3
SCHIESS, BOYD W & SHERI J – Agricultural Protection Area-Public Hearing Set-February 23, 2010-6:00 p.m.....	2
SECOND BAPTIST CHURCH – Property Tax Exemption Request.....	3
THE NORTH AMERICAN ISLAMIC TRUST, INC. – Property Tax Exemption Request.....	3
UAC LEGISLATIVE COMMITTEE MEETING – Bear River Health Department .....	2
UCIP – Resolution No. 2010-09-Approving the Fourth Amended Interlocal Cooperation Agreement with UCIP and Authorizing Executive to execute same .....	6
UDOT ANNUAL MEETING.....	2
UT I DING DONG REZONE – Agricultural Zone to UCO Zone approximately 10500 South 800 East, Avon-Public Hearing .....	6
UINTA ACADEMY – Motion-Approving/Disapproving Request for the Approval of a Group Home located at approximately 8135 S 3600 W, Mt. Sterling ( <i>NO ACTION TAKEN</i> ).....	7
VEHICLE – Extension request for use of .....	9
WELLSVILLE FOUNDATION – Request for Usage of 2009 RAPZ/Restaurant Tax Funds.....	6

**CACHE COUNTY COUNCIL MEETING  
February 09, 2010**

The Cache County Council convened in a regular session on February 09, 2010 at 5:00 p.m. in the Cache County Council Chamber at 199 North Main, Logan, Utah.

**ATTENDANCE:**

**Chairman:** Gordon Zilles  
**Vice Chairman:** Jon White  
**Council Members:** Craig W Buttars, Brian Chambers, H. Craig Petersen & Kathy Robison & Cory Yeates  
**County Executive:** M. Lynn Lemon  
**County Clerk:** Jill N. Zollinger  
**County Attorney:** James Swink

**The following individuals were also in attendance:** Kenneth Allsop, Baylee Bankhead, Janiel Bankhead, Keven Bankhead, Ray Bankhead, Shay Bankhead, Stacey Bankhead, Graham Beland, Alex Buxton, Wayne Cardon, Darrell Erickson, Todd Hallock, Mike Haynie, Penny Haynie, Sharon L. Hoth, Gary Jenson, Kim Johnson, Sherilyn Johnson, Doug Kofford, Jennifer Lindley, Stephanie Lindley, Alan Lower, Cassie McBride, Lisa Mitton, Cathy Morgan, Alicia Moser, David Nielson, Pat Parker, Ryan Parker, Josh Runhaar, R. Jeff Simpson, Jim Smith, Ralph Stoddard, Justin Taylor, Melody Taylor, Steve Taylor, Herb Weston, Lynn Zollinger, **Media:** Charles Geraci (Herald Journal), Jeremy Threlfall (KUTA-TV).

**OPENING REMARKS AND PLEDGE OF ALLEGIANCE**

Council member Chambers gave the opening remarks and led those present in the Pledge of Allegiance.

**REVIEW AND APPROVAL OF AGENDA**

The agenda was approved as written.

**REVIEW AND APPROVAL OF MINUTES**

**ACTION:** Motion by Council member Robison to approve the minutes of the January 26, 2010 Council Meeting as written. White seconded the motion. The vote was unanimous, 6-0. Yeates absent.

**REPORT OF THE COUNTY EXECUTIVE: M. LYNN LEMON**

<b><u>APPOINTMENTS:</u></b>	Dr. James Davis	Bear River Board of Health
	Bonnie Nielsen	Board of Adjustments
	Leslie Larson	Cache County Planning Commission
	Darrel Gibbons	Cache County Planning Commission

**ACTION:** Motion by Council member Petersen to approve the recommended appointments. White seconded the motion. The vote was unanimous, 6-0. Yeates absent.

**WARRANTS:** There were no warrants.

**OTHER ITEMS**

- North American Weather Consultants Report** – Executive Lemon stated the January report shows the snowpack at 60% of normal and the water content is 71% of normal.
- UDOT Annual Meeting** will be held May 5, 2010 in the Cache County Council Chambers.
- Envision Cache Valley** will hold a Local Officials Forum on February 16, 2010 at 7:00 p.m. at BATC. Executive Lemon urged Council members and Planning Commission members to attend. Enter at the south side.
- Legislators' Weekly Saturday Meetings** will continue at 11:00 a.m. There has been good attendance.
- UAC Legislative Committee Meeting** is every Thursday morning at 9:00 a.m. which can be viewed at the Bear River Health Department.
- RAPZ/Restaurant Tax Applications** have been sent out to all past applicants and interested parties who have contacted Cache County. The deadline for applications is March 5, 2010 at 5:00 p.m.

**ITEMS OF SPECIAL INTEREST**

- **Employee of the Month** award was presented to Keven Bankhead of the Road Department by Jim Smith.

**PUBLIC HEARINGS, APPEALS AND BOARD OF EQUALIZATION MATTERS**

**PUBLIC HEARING SET:** FEBRUARY 23, 2010 – 6:00 P.M. – Boyd W & Sheri J Schiess Agricultural Protection Area – 8.24 Acres located south of Nibley

**ACTION:** Motion by Council member Buttars to set a Public Hearing – February 23, 2010 at 6:00 p.m. – Boyd W & Sheri J Schiess Agricultural Protection Area-8.24 Acres located south of Nibley. White seconded the motion. The vote was unanimous, 6-0. Yeates absent.

**ACTION:** Motion by Council member Robison to convene as a Board of Equalization. White seconded the motion. The vote was unanimous, 6-0. Yeates absent.

**THE COUNCIL CONVENED AS A BOARD OF EQUALIZATION.**

**BOARD OF EQUALIZATION**

- **Tax Exemption Requests**  
American Red Cross of Northern Utah  
American West Heritage Center

CAPSA  
Cache County Children's Justice Center  
Cache Valley Christian Center  
Centro de la Familia de Utah  
Child and Family Support Center  
Common Ground Outdoor Adventures  
Corporation of the Episcopal Church in Utah  
Daughters of the Utah Pioneers Leavitt-Layne Camp  
Daughters of the Utah Pioneers Museum  
Ebenezer Church of God (Iglesia de Dios)  
Faith and Fellowship Center  
Logan Church of Christ  
Logan English Congregation of Jehovah's Witnesses  
Planned Parenthood Association of Utah  
Second Baptist Church  
The North American Islamic Trust, Inc.

**ACTION: Motion by Council member Chambers to approve the Tax Exemption Requests. Robison seconded the motion. The vote was unanimous, 6-0. Yeates absent.**

**ACTION: Motion by Council member Buttars to adjourn from the Board of Equalization. Robison seconded the motion. The vote was unanimous, 6-0. Yeates absent.**

**THE COUNCIL ADJOURNED FROM THE BOARD OF EQUALIZATION.**

**PENDING ACTION**

- Final Plat Approval – The S Curve Subdivision** – Director Josh Runhaar explained that the Council reviewed this request at the last Council meeting and had directed him to check with Bear River Health Department concerning the septic tank feasibility. Runhaar reported that Bear River Health Department wants to do two more septic test spots in the Spring. Director Runhaar also reported that the developer will drop his request to three lots so a paved road will not be required.

Vice Chairman White stated he would prefer to wait for the report on the Spring septic tests before making a decision on this plat.

Steve Taylor, representing the developer, said he spoke with Richard Worley, of Bear River Health, this afternoon and Worley indicated he didn't feel the Spring tests will change anything. Worley said the property will handle a shallow septic system. Taylor indicated Kim Johnson, who has had thirty-eight years of septic experience in the Benson area, was present and willing to answer Council members' questions.

Taylor said the initial request was made in 2008, but the Benson Planning Commission was not functional and the request has sat for almost two years.

Kim Johnson said there is a possibility of temporary failure of septic systems in the area.

Chairman Zilles observed that he received several calls from Benson residents of the opinion that Benson has notoriously bad water and that is why the Benson Culinary Water District was formed. Wells for culinary water are not feasible in the area.

Council member Buttars said he received similar calls.

Taylor also indicated the developer will drill wells before building. If the water is not potable, he will not build homes.

Executive Lemon reminded Taylor that residents have stated there is standing water on the property a portion of the year. Will there be standing water on this property for some time in the year? Taylor said Herb Weston has farmed it and could answer that concern.

Taylor reminded the Council that the county has the right to have the plat recorded with the statement on it that stated this only be served by two culinary water permits and it will never be served by any more than two culinary water permits and any other water would have to be approved water from a well or other source.

Council member Chambers raised concerns that this request does not conform to the Benson Culinary Water District requirements.

Attorney Swink noted that the Benson Culinary Water System document is only binding on the Culinary Water District and is not binding on the County Council in its decisions on subdivisions.

*Tape 1, Side B*

Herb Weston, property owner and developer, addressed the Council and said his original intent was to subdivide to provide building lots for himself and his two sons. One son as since moved to Idaho and he will only need two building lots. Weston likes the idea of only two building lots with the remainder left in agriculture.

Director Runhaar said two buildable lots with the remainder left in agriculture is possible.

**ACTION: Motion by Vice Chairman White to table the Final Plat Approval – S Curve Subdivision – until the February 23, 2010 Council meeting when a corrected plat will be submitted. Robison seconded the motion. The vote was unanimous, 6-0. Yeates absent.**

**PUBLIC HEARINGS, APPEALS AND BOARD OF EQUALIZATION MATTERS**

**PUBLIC HEARING: FEBRUARY 09, 2010 – 6:00 P.M. – To receive input regarding the proposal that the County issue its Industrial Development Revenue Bonds, Series 2010**

(Lower Foods Project) in the aggregate principal amount of not to exceed \$3,000,000.00 (the "Bonds") and loan the proceeds of the Bond to Lower Properties, L.L.C. or any affiliate thereof (collectively, the "Borrower"), to finance the acquisition, construction, improvement and/or equipping of an expansion and related improvements to a building in use as a manufacturing facility located within the County and owned and used by the Borrower

Alex Buxton of Zions Bank Public Finance advised the Council that he and Alan Lower attended a previous Council meeting and reviewed the proposed bonding.

Chairman Zilles opened the Public Hearing and invited public comment.

Council member Buttars asked if this is within the Richmond City limits, if Lower intends to add on to the existing building and have the required permits, if any, been obtained from Richmond City?

Alan Lower responded it is within the Richmond City limits, there will be three additions to the building and he has two of the needed building permits from Richmond and will be preparing the papers for the third permit. A larger retail store will be added and Richmond City is excited about that.

Executive Lemon asked if more jobs will be added? Lower said there will be ten.

There was no other comment.

**ACTION: Motion by Council member Buttars to close the Public Hearing – To receive input regarding the proposal that the County issue its Industrial Development Revenue Bonds, Series 2010 (Lower Foods Project), etc. White seconded the motion. The vote was unanimous, 6-0. Yeates absent.**

#### **INITIAL PROPOSAL FOR CONSIDERATION**

- **Resolution No. 2010-08 – Consideration of a resolution of the County Council of Cache County, Utah authorizing the issuance and sale by the County of its Industrial Development Revenue Bonds, Series 2010 (Lower Foods Project) in the aggregate principal amount of not to exceed \$3,000,000.00, to finance the acquisition, construction, improvement and/or equipping of an expansion to a building in use as a manufacturing facility and related improvements for Lower Properties, L.L.C.; authorizing the execution by the County of a loan agreement and other documents required in connection therewith; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this resolution; and related matters**

(Attachment 1)

**ACTION: Motion by Council member Chambers to waive the rules and approve Resolution No. 2010-08-Consideration of a resolution of the County Council of Cache County, Utah authorizing the issuance and sale by the County of its Industrial Development Revenue Bonds, Series 2010 (Lower Foods Project) in the**



aggregate principal amount of not to exceed \$3,000,000.00, etc. Buttars seconded the motion. The vote was unanimous, 6-0. Yeates absent.

### **PUBLIC HEARINGS, APPEALS AND BOARD OF EQUALIZATION MATTERS**

**PUBLIC HEARING:** FEBRUARY 09, 2010 – 6:15 P.M. – UT I Ding Dong Rezone – Agricultural Zone to Utility Corridor Overlay (UCO) Zone approximately 10500 South 800 East, Avon – Director Runhaar told the Council this is for a communications tower that will be leasing a 50' x 50' pad site. The request will go through the conditional use permitting process with the Planning Commission and will probably be on the Council agenda in March.

Chairman Zilles opened the Public Hearing and invited public comment. There was none.

**ACTION:** Motion by Council member Buttars to close the Public Hearing – February 09, 2010-6:15 p.m.-UT I Ding Dong Rezone-Agricultural Zone to Utility Corridor Overlay (UCO) Zone approximately 10500 South 800 East, Avon. White seconded the motion. The vote was unanimous, 6-0. Yeates absent.

### **INITIAL PROPOSAL FOR CONSIDERATION**

- **Wellsville Foundation Request for Usage of 2008 RAPZ/Restaurant Tax Funds** – Executive Lemon explained that the county allocated RAPZ/Restaurant funds in 2008 to this foundation to begin the replacement of the heating in the Historic Wellsville Tabernacle. Because of engineer's concerns about the attic, it is asked that the Foundation be allowed to use the previously allocated funding for an engineering analysis of the building rather than the heating replacement.

**Council member Yeates arrived at the meeting.**

Executive Lemon said he is hesitant to approve this as he remembers that an analysis was already done on the strength of the roof structure. Lemon said he feels the study should be searched for.

(Attachment 2)

**ACTION:** Motion by Vice Chairman White to table the Wellsville Foundation Request until the February 23, 2010 Council meeting. Buttars seconded the motion. The vote was unanimous, 7-0.

- **Resolution No. 2010-09 – Approving the Fourth Amended Interlocal Cooperation Agreement with UCIP and Authorizing Executive to execute same** – Executive Lemon indicated this action is done frequently. There are a number of changes to the agreement. It is basically a clean up document. The Board has recommended it to the members and the members have passed it. UCIP is now seeking approval from each county. Attorney Swink has reviewed the agreement and has no problems with it.

(Attachment 3)

**ACTION: Motion by Council member Robison to waive the rules and approve Resolution No. 2010-09 – Approving the Fourth Amended Interlocal Cooperation Agreement with UCIP and Authorizing Executive to execute same. Yeates seconded the motion. The vote was unanimous, 7-0.**

### **PUBLIC HEARINGS, APPEALS AND BOARD OF EQUALIZATION MATTERS**

**PUBLIC HEARING: FEBRUARY 09, 2010 – 6:30 P.M. – Natural Barrier Amendment – Title 16.02.020 Natural Barriers** – Director Runhaar noted this is a continuing clean up of various portions of the county ordinance affected by the change over to a density based system in the county. Ordinance language will be drafted after this meeting and submitted for review at a future Council meeting.

Chairman Zilles opened the Public Hearing and invited public comment.

Wayne Cardon, Benson, expressed the concern that, as he reads it, Director Runhaar is given absolute authority for decisions concerning natural barriers.

Director Runhaar pointed out that according to county ordinance, if the zoning applicant requires further review of the natural barrier, the County Council shall be the land use authority.

There was no other public comment.

**ACTION: Motion by Vice Chairman White to close the Public Hearing – February 09, 2010-6:30 p.m.-Natural Barrier Amendment-Title 16.02.020 Natural Barriers. Robison seconded the motion. The vote was unanimous, 7-0.**

### **INITIAL PROPOSAL FOR CONSIDERATION**

- **Motion – Approving/Disapproving Request for the Approval of a Group Home located at approximately 8135 S 3600 W, Mt. Sterling** – Director Runhaar reviewed background information for the Council including the implementation of a new county ordinance dealing with group home facilities. Under that title, facilities are allowed to house up to four clients. There is an allowance for a request for a reasonable accommodation for additional persons in the home. This application is for Uinta Academy which already operates three homes in the county and pointed out the various other group homes in the county.

*Tape 2, Side A*

The request is for a reasonable accommodation for twelve clients. The home is located on nineteen acres in the Legacy Mountain Subdivision and is approximately 600 feet from the nearest home. Uinta Academy contends that they need twelve clients to be economically viable.

Executive Lemon asked if it is possible to see financial statements supporting the need for twelve clients to be financially sound? If the Council is asked to approve

the reasonable accommodation request, it needs to have the information on which to base its decision.

Attorney Swink assured Attorney Todd Hallock, who represented Uinta Academy, that any financial disclosure from Uinta Academy would be reviewed in a closed session to maintain confidentiality.

Council members asked for clarification of the difference between a residential facility for a person with a disability and a residential treatment facility. Runhaar explained that the residential treatment facilities in the county provide intensive medical staffing for serious health concerns for people in the facilities. A residential facility for a person with a disability, in this case, is more for persons with emotional and/or mental illness as opposed to physical illness.

Executive Lemon asked if eight or ten clients would be viable financially for Uinta Academy? Attorney Hallock said twelve is the number needed. Uinta's other facilities in Cache County have sixteen clients.

Residents from the area expressed concerns regarding the number of clients and staff that will be at the home noting traffic safety concerns for their children.

In response to Executive Lemon's question, two staff members are required for every four clients. There will also be psychiatric personnel and tutors.

Group therapy is one of the most important methods of treatment and a sufficient number of clients are needed to facilitate group therapy.

Area residents observed that the law says group homes are permitted four (4) residents and Uinta Academy is asking the county to change the law for them.

Chairman Zilles explained that Uinta Academy is petitioning according to the provision in the law to be allowed more residents.

Council member Robison asked if any of Uinta's clients will be driving? The reply was no.

*Tape 2, Side B*

Attorney Swink advised that a public meeting be scheduled for this request.

Chairman Zilles asked Pat Parker to place the issue of approving/disapproving the request for the approval of a group home located at approximately 8135 S 3600 W, Mt. Sterling on the February 23, 2010 agenda at 6:30 p.m. and allow thirty minutes for the discussion, fifteen minutes of which will be available for public comment.

Director Runhaar asked if the Council will need any other information from staff or the applicant for the next meeting?

Chairman Zilles reiterated the desire for the Council to see financials substantiating the assertion that twelve clients are needed for financial stability.

Executive Lemon commented that commercial businesses in the unincorporated area of the county are restricted as to how many employees they can have, yet group home employee numbers are not limited. Citizens may view this as unfair.

- **Motion – Approving/Disapproving Request of proposed amendments to the Cache County Road Standards** – Executive Lemon noted the Planning Commission has not yet seen the proposed amendments. Chairman Zilles and Director Runhaar stated the document before the Council is a very rough unfinished draft and referred them to the summary sheet for an overview of the document. The summary includes:
  - Roadway Classification System
  - Municipal Roadways
  - Tiered Roadway Section and Structural Cross Section
  - Dead End Roadways
  - Encroachment Permitting
  - Irrigation and Storm Drainage Design
  - Access Management
  - Engineering “Stuff”

After a brief discussion the Council decided to schedule a workshop on the proposed road standards with the Planning Commission on March 09, 2010 at 3:30 p.m. A Public Hearing will be scheduled for the April 27, 2010 Council meeting. Chairman Zilles asked Parker to keep this item on the agenda for discussion.

### **COUNCIL MEMBER REPORTS**

**Craig “W” Buttars** reported that Clark Israelsen, County Extension, has asked permission to take the County owned vehicle home. He does Extension visits in the morning and is frequently in distant parts of the county doing Extension work when the work day ends. He would prefer to be allowed to drive the vehicle home rather than returning it and picking up his own vehicle. He will pay the mileage cost from home to work and file a 1099. The Council concurred with Executive Lemon’s approval of the request.

**Kathy Robison** told the Council the RAPZ/Restaurant Tax logo they wanted is too busy and not a good color for reproducing as most facilities would have the logo displayed outside at a park, etc. or listed in a program where it is usually displayed in black and white. Council members and Executive Lemon preferred a logo with RAPZ and Restaurant Tax in approximately the same size fonts. Robison will come back with another logo.

**Cory Yeates** indicated he will have information at the next Council meeting on the road expenses for the last year.

*Tape 3, Side A*

**Brian Chambers** reported that the Fire Board is visiting fire stations in the valley.

Cache County Council  
02-09-2010

**Craig Petersen** said the Cluster Group has met and have a consensus on basic ideas and recommendations for the clustering portion of the subdivision ordinance to be brought back to the Council in the future.

**Jon White** thanked local firefighters who donate two to two-and-half weeks of their time each year for training.

**Gordon Zilles** asked that a discussion on the 4-day versus 5-day work week be held as soon as Executive Lemon gathers information from Assessor Howell regarding the impact on the Motor Vehicles office's ability to serve the public.

**ADJOURNMENT**

The Council meeting adjourned at 8:20 p.m.

---

**ATTEST:** Jill N. Zollinger  
County Clerk

---

**APPROVAL:** Gordon A. Zilles  
Chairman

# RESOLUTION 2010-08

(Lower)

Logan City, Utah

February 9, 2010

The County Council (the "Council") of Cache County, Utah (the "County"), met in regular session at the regular meeting place of the Council at 199 North Main Street in Logan City, Utah at 5:00 p.m. on February 9, 2010, with the following members present:

Gordon A. Zilles	Chairman
Jon White	Vice Chair
H. Craig Petersen	Councilmember
Craig W. Buttars	Councilmember
S. Brian Chambers	Councilmember
Kathy Robison	Councilmember
Cory Yeates	Councilmember

Also present:

M. Lynn Lemon	County Executive
Jill N. Zollinger	County Clerk
James Swink	County Attorney

Absent:

Cory Yeates

After the meeting had been duly called to order and after other matters not pertinent to this Resolution had been discussed, a Certificate of Compliance with Open Meeting Law with respect to this February 9, 2010 meeting was presented to the Council, a copy of which is attached hereto as Exhibit A.

The following resolution was then introduced, in written form, whereupon Councilmember Chambers moved that such resolution be adopted. The motion was seconded by Councilmember Buttars, and adopted by the following vote:

Aye:	Zilles	Chambers
	White	Robison
	Petersen	
	Buttars	
Nay:		

None  
This Resolution was then signed by the Chair in open meeting and recorded by the County Clerk. The Resolution is as follows:

RESOLUTION NO. 2010-08

A RESOLUTION OF THE COUNTY COUNCIL OF CACHE COUNTY, UTAH (THE "ISSUER") AUTHORIZING THE ISSUANCE AND SALE BY THE ISSUER OF ITS INDUSTRIAL DEVELOPMENT REVENUE BONDS, SERIES 2010 (LOWER FOODS PROJECT) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$3,000,000, TO FINANCE THE COSTS OF THE ACQUISITION, CONSTRUCTION, FURNISHING, AND EQUIPPING OF AN EXPANSION AND RELATED IMPROVEMENTS TO A BUILDING FOR USE AS A MANUFACTURING FACILITY BY LOWER PROPERTIES, L.L.C. (THE "BORROWER"), PAYABLE SOLELY FROM REVENUES ARISING FROM THE PLEDGE OF A LOAN AGREEMENT WITH THE BORROWER; AUTHORIZING THE EXECUTION AND DELIVERY BY THE ISSUER OF A LOAN AGREEMENT AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.

WHEREAS, pursuant to the Utah Industrial Facilities and Development Act, Title 11, Chapter 17, Utah Code Annotated 1953, as amended (the "Act"), Cache County, Utah (the "Issuer") is authorized to issue its revenue bonds to finance the costs of any "project" as defined in the Act to the end that the Issuer may be able to promote the general welfare and encourage the increase of industry and commerce within the State of Utah; and

WHEREAS, the Act provides that a municipality or county may issue revenue bonds for the purpose of using substantially all of the proceeds thereof to pay or to reimburse a business for the costs of the acquisition and construction of the facilities of a project and that title to or in such facilities may at all times remain in the company and in such case the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds or other secured or unsecured debt obligations of the company; and

WHEREAS, Lower Properties, L.L.C., a limited liability company organized under the laws of the State of Utah and authorized to do business in the State of Utah (the "Borrower"), has or will enter into contracts for the acquisition, construction, furnishing, equipping of an expansion and related improvements to a manufacturing facility for use by the Borrower and located in Cache County, Utah (the "Project"); and

WHEREAS, the Project will be of the character and will accomplish the purposes provided by the Act, and the Issuer is willing to issue its revenue bonds to finance the Project upon terms which will be sufficient to pay the costs of the Project as evidenced by such bonds, all as set forth in the details and provisions of the Loan Agreement by and among the Issuer, Zions First National Bank, as lender (the "Lender"), and the Borrower (the "Loan Agreement") substantially in the form attached hereto as Exhibit B; and

WHEREAS, pursuant to the provisions of the Act, the Issuer proposes to enter into the Loan Agreement in connection with the financing of the Project pursuant to which the Issuer will issue its Industrial Development Revenue Bonds, Series 2010 (Lower Foods Project) in an aggregate principal amount not to exceed \$3,000,000 (the "Bonds"); and

WHEREAS, the County Council of the Issuer (the "Council") deems it necessary and advisable to authorize the issuance and the sale of the Bonds and to authorize the execution and delivery of the an escrow agreement (the "Escrow Agreement") by and among Zions First National Bank, as escrow agent (the "Escrow Agent"), the Issuer, the Lender, and the Borrower, in substantially the form attached hereto as Exhibit C, the Loan Agreement, and other related documents necessary or advisable in connection with the issuance and sale of the Bonds; and

WHEREAS, pursuant to the provisions of the Loan Agreement, the Borrower will promise to pay amounts sufficient to pay, when due, the principal of, premium, if any, and interest on the Bonds, all in accordance with the requirements of the Act; and

WHEREAS, pursuant to the Act, the County published a Notice of Public Hearing and Notice of Bonds to Be Issued on January 15, 2010, in the *Herald Journal*, a newspaper having general circulation in the County, the Affidavit and Proof of Publication of such notice being attached hereto as Exhibit D; and

WHEREAS, in order to comply with Section 147(f) of the Internal Revenue Code of 1986, as amended, the Council held a public hearing on February 9, 2010, for the purpose of receiving public comment on the proposed issuance of the Bonds; and

WHEREAS, the Act and the documents to be signed by the Issuer provide that the Bonds shall not constitute nor give rise to a general obligation or liability of the Issuer or be a charge against its general credit or taxing powers and that the Bonds will be payable from and secured only by the revenues arising from the pledge and assignment under the Loan Agreement;

NOW, THEREFORE, BE IT RESOLVED by the County Council of Cache County, Utah as follows:

Section 1. All terms defined in the recitals hereto shall have the same meaning when used herein.

Section 2. The Issuer is authorized to finance the costs of the Project incurred by the Borrower with the proceeds of the Bonds, all pursuant to the provisions of the Act. All action heretofore taken by the officers of the Issuer directed toward the issuance of the Bonds is hereby ratified, approved and confirmed.

Section 3. The Issuer is authorized and directed to issue the Bonds as fully registered bonds, in the aggregate principal amount of not to exceed \$3,000,000 The Bonds shall bear interest, shall be payable on the dates, shall be subject to redemption prior to maturity, and shall mature all as set forth in the Loan Agreement.



The form, terms and provisions of the Bonds and the provisions for the signatures, authentication, payment, registration, transfer, exchange, redemption, tender and number shall be as set forth in the Loan Agreement. The Chair and County Clerk are hereby authorized and directed to execute and seal the Bonds. The signatures of the Chair and the County Clerk may be by facsimile or manual execution.

The form of Bond is set out in the Loan Agreement, copies of which were before the Council at this meeting, which form is incorporated herein by reference and made a part hereof.

Section 4. The Bonds are to be issued in accordance with and pursuant to, and the Issuer is authorized and directed to execute and deliver, the Loan Agreement, in substantially the same form presented to the Council at the meeting at which this resolution was adopted. The Loan Agreement provides for the issuance of the Bonds solely for the purpose of financing the cost of the Project and for paying expenses incidental thereto. The Loan Agreement provides for certain representations and warranties by the Issuer and the Borrower, for certain conditions precedent to the purchase of the Bonds, for certain affirmative and negative covenants, and for remedies in connection with the failure to perform certain covenants thereunder. The Loan Agreement specifically provides that the Bonds shall not constitute nor give rise to a general obligation or liability of the Issuer or a charge against its general credit or taxing powers. Recourse on the Bonds executed and delivered by the Issuer pursuant to the Loan Agreement may be had only against the security for the Bonds as provided therein and in the Loan Agreement.

Section 5. The Escrow Agreement provides that the Borrower will have the right to requisition from the Escrow Agent, with approval from the Lender, the proceeds of the Bonds from time to time, all in accordance with the provisions of the Escrow Agreement. The Loan Agreement provides that if the proceeds of the Bonds are not sufficient to defray all costs and expenses of acquiring, constructing and improving the Project and all expenses incidental thereto, the Borrower will pay all such excess costs and expenses and will acquire, construct, and improve the Project without additional cost to the Issuer.

Section 6. The Project will consist of a manufacturing facility as contemplated in the Act consisting of the building and equipment and related property and improvements, including any modification thereof, substitutions therefor and amendments thereto.

Section 7. The Loan Agreement and the Escrow Agreement, in substantially the forms presented to the Council at this meeting, with such changes as are authorized by Section 10 hereof, are hereby approved in all respects, and the Chair (including any acting chair) or Vice Chair and County Clerk are hereby authorized to execute each of the same on behalf of the Issuer and to affix the seal of the Issuer thereto and the acts of the Chair or Vice Chair and County Clerk in so doing are and shall be the act and deed of the Issuer. The Chair, Vice Chair, County Clerk and all other proper officers and employees of the Issuer are hereby authorized and directed to take all steps on behalf of the Issuer to

perform and discharge the obligations of the Issuer under each of said instruments including, without limitation, the approval, execution and delivery of all such further documents necessary or advisable in connection with the issuance and sale of the Bonds.

Section 8. The Chair or Vice Chair is hereby authorized to make, either prior or subsequent to the execution thereof, any alterations, changes or additions in the Loan Agreement, the Escrow Agreement, and the Bonds herein authorized which may be necessary to correct any errors or omissions therein, to remove ambiguities therefrom, to conform the same to other provisions of said instruments, to the agreement of the Borrower, the Lender, to the provisions of this Resolution, or any other resolution adopted by the Issuer, or the provisions of the laws of the State of Utah or the United States as long as the rights of the Issuer are not materially adversely affected thereby. The Chair or Vice Chair is hereby authorized to approve of such further documents necessary or advisable in connection with the issuance and sale of Bonds, such approval to be signified by the Chair's or Vice Chair's execution thereof so long as the rights of the Issuer are not materially adversely affected thereby.

Section 9. Pursuant to Section 11-17-13, Utah Code Annotated 1953, as amended, the Issuer includes herein the pledge and undertaking of the State of Utah that the State of Utah will not alter, impair or limit the rights vested hereunder or in the Bonds, the Loan Agreement, the Escrow Agreement, or any of the documents contemplated hereby until the Bonds, together with all interest thereon, have been fully paid and discharged and all obligations of the Issuer thereunder and under the Loan Agreement and the Escrow Agreement are fully performed.

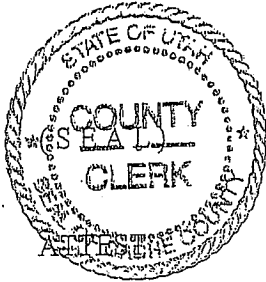
Section 10. It is hereby declared that all parts of this Resolution are severable and that if any section, paragraph, clause or provision of this Resolution shall, for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining provisions of this resolution.

Section 11. The Chair, County Clerk and other officers of the Issuer are hereby authorized to execute all documents and take such action as they may deem necessary or advisable in order to carry out and perform the purpose of this Resolution and the execution or taking of such action shall be conclusive evidence of such necessity or advisability. All action heretofore taken by the Issuer, its officers and employees, with respect to the issuance and sale of the Bonds is hereby ratified and confirmed. Any action authorized by this Resolution to be taken by the Chair may be taken by any duly authorized acting chair in the absence of the Chair.

Section 12. All resolutions, orders and regulations or parts thereof heretofore adopted or passed which are in conflict herewith are, to the extent of such conflict, hereby repealed. This repealer shall not be construed so as to revive any resolution, order, regulation or part thereof heretofore repealed.

Section 13. This Resolution shall take effect immediately upon its approval and adoption.

PASSED AND APPROVED BY THE COUNTY COUNCIL OF CACHE  
COUNTY, UTAH THIS FEBRUARY 9, 2010.



A handwritten signature in black ink, appearing to read "Gordon A. Zilles", written over a horizontal line.

Chair

Gordon A. Zilles

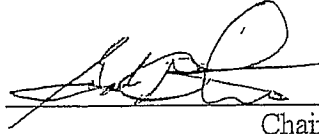
A handwritten signature in black ink, appearing to read "Jill N. Zollinger", written over a horizontal line.

County Clerk

Jill N. Zollinger

(Here follows business not pertinent to the above.)

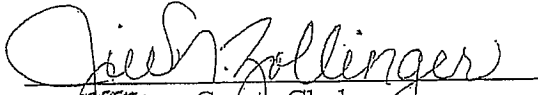
Pursuant to motion duly made and seconded, the Council adjourned.



Chair

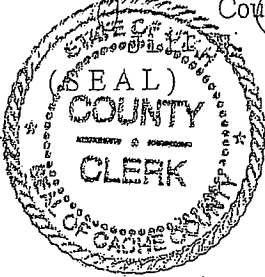
Gordon A. Zilles

ATTEST:



County Clerk

Zollinger



STATE OF UTAH            )  
                                  ): ss.  
COUNTY OF CACHE        )

I, Jill N. Zollinger, the duly qualified and acting County Clerk of Cache County, Utah (the "County"), do hereby certify according to the records of the County Council of the County (the "Council") in my possession, that the foregoing constitutes a true, correct and complete copy of a Resolution adopted by the Council at a meeting held on February 9, 2010.

IN WITNESS WHEREOF, I have hereunto subscribed my signature and impressed hereon the official seal of the County Clerk of Cache County, Utah this February 9, 2010.

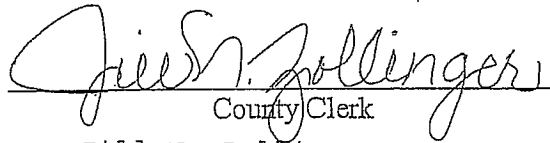
  
County Clerk  
Jill N. Zollinger



EXHIBIT A

CERTIFICATE OF COMPLIANCE WITH OPEN MEETING LAW

I, Jill N. Zollinger, the undersigned County Clerk of Cache County, Utah (the "County"), do hereby certify, according to the records of the County in my official possession, and upon my own knowledge and belief, that:

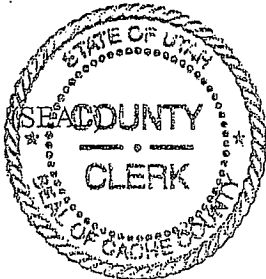
(a) in accordance with the requirements of Section 52-4-6(2), Utah Code Annotated 1953, as amended, there was given not less than twenty-four (24) hours public notice of the agenda, date, time, and place of the February 9, 2010, public meeting held by the County as follows:

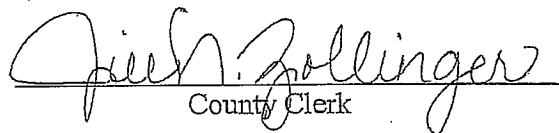
(i) By causing a Notice, in the form attached hereto as Schedule 1, to be posted at the County's offices at 179 North Main Street, Logan City, Utah on February 4, 2010, at least twenty-four (24) hours prior to the convening of said meeting, the Notice having continuously remained so posted and available for public inspection until the completion of said meeting; and

(ii) By causing a copy of such Notice, in the form attached hereto as Schedule 1, to be delivered to the *Herald Journal* on February 4, 2010, at least twenty-four (24) hours prior to the convening of the meeting.

(iii) By causing a Notice, in the form attached hereto as Schedule 1, to be published on the Utah Public Notice Website (<http://pmn.utah.gov>) at least twenty-four (24) hours prior to the convening of the meeting.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this February 9, 2010.



  
County Clerk

Jill N. Zollinger

SCHEDULE 1  
MEETING NOTICE

CACHE COUNTY  
CORPORATION

M. LYNN LEMON  
COUNTY EXECUTIVE/SURVEYOR

199 N. MAIN  
LOGAN, UTAH 84321  
TEL 435-755-1850  
FAX 435-755-1981

COUNTY COUNCIL  
CORY YEATES  
H. CRAIG PETERSEN  
KATHY ROBINSON  
BRIAN CHAMBERS  
GORDON A. ZILLES  
CRAIG "W" BUTTARS  
JON WHITE

February 4, 2010

Public Notice is hereby given that the Cache County Council of Cache County, Utah will hold a Regular Meeting in the Cache County Historic Courthouse, 199 North Main, Logan, Utah 84321 at 5:00 p.m. on TUESDAY, FEBRUARY 9, 2010.

- 5:00
1. Call to order
  2. Opening/Pledge – Brian Chambers
  3. Review and approval of agenda
  4. Review and approval of minutes (January 26, 2010)
  5. Report of County Executive
    - a. Appointments
    - b. Warrants
    - c. Other Items
  6. Items of Special Interest
- 5:10\*
- a. Employee of the Month – Presented by Jim Smith
  7. Unit or Committee Reports
  8. Consent Agenda
  9. Budgetary Matters
    - a. Transfers - Intra Department
    - b. Transfers - Inter Department
  10. Public Hearings, Appeals and Board of Equalization matters
    - a. Set Public Hearing – February 23, 2010 –6:00 p.m. Boyd W & Sheri J. Schiess Agricultural Protection Area – 8.24 acres located South of Nibley



6:00\*\* b. Public Hearing – To receive input regarding the proposal that the County issue its Industrial Development Revenue Bonds, Series 2010 (Lower Foods Project) in the aggregate principal amount of not to exceed \$3,000,000 (the “Bonds”) and loan the proceeds of the Bonds to Lower Properties , L.L.C. or any affiliate thereof (collectively, the “Borrower”), to finance the acquisition, construction, improvement and/or equipping of an expansion and related improvements to a building in use as a manufacturing facility located within the County and owned and used by the Borrower.

6:15\*\* c. Public Hearing – UT I Ding Dong Rezone – Agricultural Zone to UCO zone approximately 10500 South 800 East, Avon

6:30\*\* d. Public Hearing – Natural Barrier Amendment – Title 16.02.020 Natural Barriers

e. Board of Equalization

1. Property Tax Exempt Requests (attached)

11. Pending Action

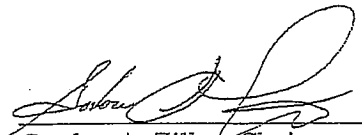
a. Final Plat Approval – The S Curve Subdivision (attached)

12. Initial proposal for consideration of action

a. Resolution No. 2010-08 – Consideration of a resolution of the County Council of Cache County, Utah authorizing the issuance and sale by the County of its I Industrial Development Revenue Bonds, Series 2010 (Lower Foods Project) in the aggregate principal amount of not to exceed \$3,000,000, to finance the acquisition, construction improvement and/or equipping of an expansion to a building in use as a manufacturing facility and related improvements for Lower Properties. L.L.C; authorizing the execution by the County of a Loan agreement and other documents required in connection therewith; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this resolution; and related matters. (attached)

- b. Resolution No. 2010-09 – Approving the Fourth Amended Interlocal Cooperation Agreement with UCIP and Authorizing Executive to execute same. (attached)
- c. Motion – Approving/Disapproving Request for the Approval of a Group Home located at approximately 8135 S. 3600 W., Mt. Sterling (attached)
- d. Motion – Approving/Disapproving Request of proposed amendments to the Cache County Road Standards (attached)
- e. Wellsville Foundation Request for usage of 2008 RAPZ/Restaurant Tax Funds

- 13. Other Business
- 14. Council Member Reports
- 15. Adjourn

  
Gordon A. Zilles, Chairman

\*Designated time for Special Interest Items

\*\* Citizens desiring to be heard are encouraged to submit their messages in writing during or prior to the hearing.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Pat Parker, Cache County Council, at 755-1850 at least three working days prior to the meeting.

EXHIBIT B

LOAN AGREEMENT

(See Transcript Document No. \_\_\_\_\_)

EXHIBIT C

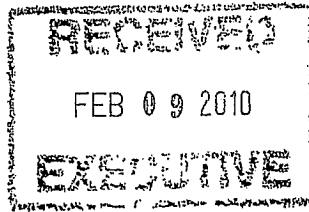
ESCROW AGREEMENT

(See Transcript Document No. \_\_\_\_\_)

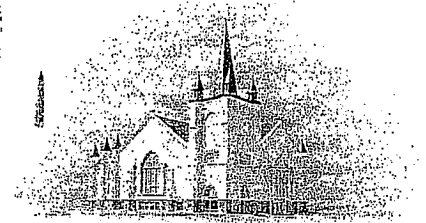
EXHIBIT D

AFFIDAVIT OF PUBLICATION OF THE  
NOTICE OF BONDS TO BE ISSUED

(See Transcript Document No. \_\_\_\_)



Wellsville Foundation, Inc.  
P. O. Box 166  
Wellsville, UT 84339



*"Preserving the Beauty and Heritage of Our Community"*  
[www.wellsvilleheritage.org](http://www.wellsvilleheritage.org)

February 9, 2010

Cache County Council and Executive Committee  
100 North Main Street  
Logan, UT 84321

RE: Historic Wellsville Tabernacle

The Wellsville Foundation received 2008 RAPZ Tax Grant monies in the amount of \$35,000 from Cache County for the design and engineering plans required for a new heating and cooling system for the Historic Wellsville Tabernacle. The monies were granted to create a comprehensive design to replace the steam heat system which is causing severe deterioration of the walls in the building.

Wellsville Foundation contracted with MechTech Engineering for the design and construction documents for the proposed heating and cooling system for the Wellsville Tabernacle. To date, we have paid MechTech Engineering approximately \$15,000 which has been covered by the 2008 RAPZ Tax Grant monies.

It was discovered during the process that the roof structure of the building may not be structurally strong enough to support the new mechanical equipment. Specific detailed information was given to MechTech from Cartwright Engineering about the structure of the proposed mechanical room. It was reported that the proposed truss and possibly other roof areas are over-stressed and showing significant signs of a catastrophic failure. The Wellsville Foundation was advised of the risks and cautioned about continued occupation until further analysis and repair of the existing structural condition of the Wellsville Tabernacle attic and roof.

The Wellsville Foundation is soliciting proposals from licensed and qualified structural engineers with experience working on historic buildings to review and further analyze the structure so that we may continue with our original plan of implementing a new heating and cooling system for the historic building.

Your permission is requested at this time to use the remaining portion of the allotted funds to help cover the costs of the structural analysis, and perhaps, the necessary modifications needed to support the existing load capacity required by code plus the proposed mechanical equipment necessary for our replacement heating and cooling system.

Kaylene Ames, President  
Wellsville Foundation, Inc.

Laurel Maughan, Vice-President  
Wellsville Foundation, Inc.

**RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A  
FOURTH AMENDED INTERLOCAL COOPERATION AGREEMENT WITH  
OTHER MEMBERS OF UTAH COUNTIES INSURANCE POOL, RELATING  
TO THE ESTABLISHMENT, FUNDING AND OPERATION OF UTAH  
COUNTIES INSURANCE POOL**

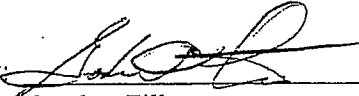
WHEREAS, pursuant to the provisions of the Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated, 1953 as amended, and the Utah Insurance Code, Title 31A, Chapter 1, et seq, Utah Code Annotated, 1953 as amended, public agencies, including political subdivisions of the State of Utah as therein defined, are authorized to enter into mutually advantageous agreements to provide services and facilities; and

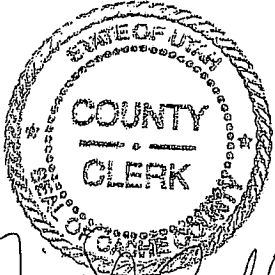
WHEREAS, the County Council of Cache County, Utah, has determined that the interests and welfare of the public within Cache County's jurisdiction will best be served by a Fourth Amended Interlocal Cooperation Agreement with other members of Utah Counties Insurance Pool relating to the establishment, funding and operation of Utah Counties Insurance Pool.

NOW, THEREFORE, be it resolved by the County Council of Cache County, Utah, that Cache County approve and authorize the Cache County Executive to execute a Fourth Amended Interlocal Cooperation Agreement with other members of Utah Counties Insurance Pool relating to the establishment, funding and operation of Utah Counties Insurance Pool.


APPROVED AND ADOPTED this 9 day of February, 2010.

CACHE COUNTY COUNCIL

By:   
Gordon Zilles,  
Council Chair, Cache County



ATTEST:

By:   
Jill Zollinger, Clerk, Cache County

APPROVED AS TO FORM:

By:   
James Swink, Attorney, Cache County



**FOURTH AMENDED INTERLOCAL COOPERATION AGREEMENT**

THIS IS THE FOURTH AMENDED INTERLOCAL COOPERATION AGREEMENT, made and entered into by and between members of the Utah Counties Insurance Pool, a political subdivision of the State of Utah, each of which hereby agrees to abide by the terms and conditions of this Amended Agreement and all actions taken pursuant hereto.

**WITNESSETH:**

WHEREAS, pursuant to the provisions of the Interlocal Cooperation Act, Utah Code Ann. §11-13-101 et. seq., 1953 as amended, the Governmental Immunity Act, § 63-30-1 et. seq., 1953 as amended, and the Utah Insurance Code, Utah Code Ann. § 31A-1-103, 1953 as amended, public agencies, including political subdivisions of the State of Utah as therein defined, are authorized to enter into written agreements with one another for joint or cooperative action to establish a public agency insurance mutual; and

WHEREAS, the governing bodies of counties located in the State of Utah, by entering into an Interlocal Cooperation Agreement, formed the Utah Association of Counties Insurance Mutual, which began operations on or about January 1, 1992, as a public agency insurance mutual; and

WHEREAS, the governing bodies of the members of the Utah Association of Counties Insurance Mutual, on or about August, 21, 2003; amended the original Interlocal Cooperation Agreement, making various corrections and updating references; and

WHEREAS, the governing bodies of the Members of the Utah Association of Counties Insurance Mutual amended the Amended Interlocal Cooperation Agreement, on or about June 2, 2006, changing the name of the Utah Association of Counties Insurance Mutual to the Utah Counties Insurance Pool; and

WHEREAS, the governing bodies of the Members of the Utah Counties Insurance Pool amended the Amended Interlocal Cooperation Agreement, on or about January 22, 2008, making various corrections and updating references; and

WHEREAS, the Members of the Utah Counties Insurance Pool now desire to amend the Amended Interlocal Cooperation Agreement, by approving and adopting this Fourth Amended Interlocal Cooperation Agreement;

NOW, THEREFORE, the parties do mutually agree as follows:

**Section 1. EFFECTIVE DATE; DURATION.**

This Fourth Amended Interlocal Cooperation Agreement shall become effective and shall enter into force, within the meaning of the Interlocal Cooperation Act, upon the submission of this Fourth Amended Interlocal Cooperation Agreement to, and the approval and execution hereof by resolution of the governing bodies of each of the parties. The term of this Fourth Amended Interlocal Cooperation Agreement shall be fifty (50) years, pursuant to Utah Code Ann. §11-13-204, 1953 as amended, unless renewed as permitted by law, or until earlier dissolved as provided herein.

**Section 2. CREATION OF A SEPARATE LEGAL ENTITY.**

The parties to this agreement through their respective governing bodies and pursuant to the provisions of Utah Code Ann. §11-13-203, 1953 as amended, hereby create a legal entity to be known as the Utah Counties Insurance Pool to provide the services described herein.

**Section 3. PURPOSES.**

This Fourth Amended Interlocal Cooperation Agreement has been established and entered into between the members of the Utah Counties Insurance Pool (herein referred to as the Pool) for the following purposes:

1. To comply with the Utah Interlocal Cooperation Act and other applicable laws of the State of Utah; and
2. To ratify the previous formation of a group-funded Pool to fund through joint self-insurance, reinsurance, excess insurance, or other lawful manner, certain liabilities of member Utah counties, as permitted by the Utah Insurance Code and determined by the Board, with the powers set forth in the Amended Bylaws of the Pool (herein referred to as the Amended Bylaws); and
3. To provide, through the Pool, certain claims and risk management services related to the liabilities so funded, and assist members in reducing and preventing such liabilities; and
4. To provide other services and functions as permitted by law.

**Section 4. MEMBERS.**

1. Membership in the Pool is limited to Utah counties and such other governmental entities allowed under its Amended Bylaws.
2. Members shall have such powers and authorities as provided herein and as set forth in the Amended Bylaws. Such powers shall include, but not be limited to:
  - a) Voluntarily dissolve the Pool, but only at a meeting at which a majority of all Members, whether present at the meeting or not, vote in favor of the dissolution.
  - b) Appoint or select members of the Pool Board of Trustees, in accordance with this Agreement, the Amended Bylaws and the Interlocal Cooperation Act.

**Section 5. BOARD OF TRUSTEES.**

The Pool shall be governed by a Board of Trustees. The Trustees shall have such powers and authorities as provided herein and as set forth in the Amended Bylaws.

1. The Board shall be comprised of thirteen persons in the following manner:
  - a) One Trustee, appointed by the governing body of Davis County, representing Davis County;
  - b) One Trustee, appointed by the governing body of Utah County, representing Utah County;
  - c) One Trustee, appointed by the governing body of Washington County, representing Washington County;
  - d) One Trustee, appointed by the governing body of Weber County, representing Weber County;
  - e) Two Trustees, elected by Member counties of the third class, representing counties of the third class;
  - f) One Trustee, elected by Member counties of the fourth class, representing counties of the fourth class;
  - g) One Trustee, elected by Member counties of the fifth and sixth class, representing counties of the fifth and sixth class;
  - h) Two Trustees, elected by all Member counties, representing all counties at large;
  - i) One Trustee, appointed by the Board, shall be a sheriff of a Member county, who serves as the Chair of the Law Enforcement Committee;
  - j) One Trustee, appointed by the Board, shall be the Chair of the Litigation Management Committee and;
  - k) One Trustee, appointed by the Board, shall be the Chair of the Personnel Committee.
    - i. Trustees serving pursuant to subsections (e)-(h) shall be designated as "Elected Trustees" and serve four-year overlapping terms.
    - ii. Trustees serving pursuant to subsections (a)-(d) shall serve at the pleasure of the governing bodies of the Member.
    - iii. Trustees serving pursuant to subsections (i)-(k) shall serve for four-year terms and may be reappointed to subsequent terms by the Board.
    - iv. A Trustee serving pursuant to subsection (i) shall serve a four-year term ending on December 31 in even numbered years between presidential elections.

- v. Trustees serving pursuant to subsections (j) and (k) shall serve four-year terms ending on December 31 of presidential election years.
2. No person convicted of a felony may serve as a Trustee.
3. Each Trustee shall be an elected or appointed officer or an employee of a Member.
4. Election of Trustees shall take place at the annual Membership Meeting. Elected Trustees shall assume office at the first Board meeting of the calendar year following their election.
5. The Board of Trustees shall elect a Nominating Committee from its members. The Nominating Committee shall solicit nominations for available elected Trustee positions in accordance with the Amended Bylaws.
6. A vacancy shall occur on the Board when a Trustee:
  - a) Submits a written resignation to the Board; or
  - b) Dies; or
  - c) Is no longer an elected or appointed officer or employee of a Member; or
  - d) Fails to attend three consecutive regular meetings of the Board without the Board having excused such absences except that such additional absence or absences shall be excused for temporary mental or physical disability or illness; or
  - e) Is removed by the Members by a two-thirds vote of the Members present at a Membership Meeting; or
  - f) Is convicted of a felony; or
  - g) The Member of which the Trustee is an official or employee terminates their membership in the Pool.
7. Any vacancy in the position of an Elected Trustee may be filled by majority vote of the remaining Trustees until the next annual meeting of the Members, at which time the Members shall elect a person to fill the vacancy for the unexpired term.
8. Any vacancy in the position of an appointed Trustee under Article 5.1(a)-(d) shall be filled by appointment from the respective county and the Trustee shall serve for the remainder of the unexpired term. If the county is no longer a Member, the Trustee position shall revert to an at large position, adding to the number of such positions under Section 5.1(h), and be filled by a majority vote of the remaining Trustees until the next annual meeting of the Members, at which time the Members shall elect a person to fill the vacancy.

9. Any vacancy in the position of an appointed Trustee under Article 5.1(i)-(k) shall be filled by majority vote of the remaining Trustees and shall fill the unexpired term of the Trustee.
10. To the extent permitted by law, Trustees may be reimbursed for expenses incurred in the performance of their duties, as authorized by the Board.
11. Each Trustee must be a resident of the State of Utah.
12. The powers of the Board shall include, but not be limited to, the powers to:
  - a) Delegate, by resolution adopted at a meeting of the Trustees and specifically defined in the written minutes of the Trustees' meetings, authority for specific functions to the Chief Executive Officer, but only to the extent permitted by the laws of the State of Utah and the Amended Bylaws.
  - b) Establish Member contributions, including premiums and service fees, pursuant to guidelines adopted by the Board from time to time.
  - c) Serve as the policyholder of any group policies or plans.
  - d) Determine the methods of claim administration and payment; provide for claim experience for the Members collectively or separately; and establish claim procedures and conditions to be met prior to the payment or defense of a claim.
  - e) Jointly self-insure or obtain reinsurance or excess insurance (specific or aggregate), or any combination thereof, or otherwise provide for the funding of coverages and adopt and adjust coverages provided by or through the Pool, as the Board deems appropriate.
  - f) Establish employment policies for the employees of the Pool including but not limited to policies, salaries and benefits.
  - g) Provide for the administration of the moneys of the Pool, for the manner of payments to the Pool, and for payment of all expenses of the Pool; establish standards for the accountability of all receipts and disbursements of the Pool; and establish procedures for safekeeping, handling, and investing such monies received or paid.
  - h) Acquire, lease, hold, and dispose of real and personal property.
  - i) Exercise the full power and authority of any Member of the Pool when requested to do so by the Member's governing body.
  - j) Provide for necessary activities, and enter into contracts as necessary or appropriate to accomplish the purposes of the Pool.

- k) Do any act permitted by law and not in conflict with the Amended Interlocal Cooperation Agreement or the Amended Bylaws of the Pool.
- l) Provide for an independent audit of the financial statements and operations of the Pool, including claim handling procedures, handling of receipts and payments, investments, adequacy of reserves, compliance with financial reporting requirements and overall operations of the Pool, at such times as the Board may determine.
- m) Establish loss reduction, prevention and risk management policies, procedures, and requirements for Members of the Pool and provide risk management services and educational and other programs related to risk management.
- n) Create various Committees of the membership to assist in the oversight and operation of the Pool. The members of such Committees, including the chair, shall be appointed by the Board.
- o) Approve a list of attorneys or law firms authorized to represent Members in claims covered by or through the Pool.
- p) Obtain the services of agents, attorneys, brokers, consultants, employees, and service providers as necessary or appropriate for the operation of the Pool.
- q) Terminate a Member from the Pool as provided for in the Amended Bylaws.
- r) Create levels of membership within the Pool to provide for appropriate representation and control. Levels of membership may include, but are not limited to, voting and non-voting members and equity and non-equity members.
- s) Amend the Bylaws by a two-thirds vote of all Board members.
- t) Exercise all powers of the Pool except those powers reserved to the Members, and all powers necessary and proper for the operation of the Pool and implementation of the Pool, subject to the limits of the Agreement, the Amended Bylaws, and the Utah Code. The Board is responsible for all operations of the Pool.

#### **Section 6. OFFICERS.**

The Board of Trustees shall elect officers and establish the duties of officers of the Pool in accordance with Utah law and the Amended Bylaws.

#### **Section 7. COMMITTEES.**

The Board of Trustees may establish from time to time such committees of the Board as shall be deemed appropriate by said Board.

**Section 8. MANNER OF FINANCING.**

1. The Utah Counties Insurance Pool shall be funded by contributions in the form of premiums or service fees, from the Members:
  - a) The amount of such contributions including any interest penalty thereon shall be established by the Board of Trustees.
  - b) Premiums established by the Board may be audited and additional premium charged based on the rate used to establish the original premium.
  - c) The Board may not charge assessments to the Members.
2. All monies of the Pool, and earnings thereon, shall be held in the name of and for the use and benefit of the Pool.
3. The Board of Trustees shall prepare an annual budget consistent with Utah Code Ann. 17A-1-408 et. seq., as amended.

**Section 9. PROPERTY USED IN COOPERATIVE UNDERTAKING.**

1. Any real or personal property acquired, held, and used pursuant to this cooperative undertaking shall be administered and controlled by the Board of Trustees established in Section 5 hereof. Any disposition of said real or personal property shall also be administered and controlled by said Board of Trustees, pursuant to the terms of this Agreement.
2. The provisions of this Agreement and the assets of the Pool are for the benefit of the Members of the Pool only, and no other persons or entities shall have any rights or interest in this Agreement or in any of the other documents referred to herein or in any such assets, as a third party beneficiary or otherwise. The assets of the Pool shall not be subject to attachment, garnishment, or any equitable proceeding.
3. In the event of a voluntary dissolution of the Pool, as provided in Section 4 hereof, the property of the Pool not used or needed for the purposes of the Pool, including its contractual obligations, shall be distributed, as determined by the Board, only to Utah counties which are Members of the Pool at the time of dissolution. Such dissolution shall be handled as provided in Section 12.

**Section 10. ADDITION OF OTHER MEMBERS.**

Other governmental entities may become parties to this Amended Interlocal Cooperation Agreement, subject to the approval of the Board of Trustees, by executing an Addendum to this Agreement.

1. In order for a governmental entity to be added to this Agreement by Addendum, the Addendum must be:

- a) Approved by the governing body of the governmental entity to be added;  
and
  - b) Reviewed as to form and compliance with applicable law by the attorney  
for the governmental entity to be added.
2. Prior to becoming effective, this Amended Interlocal Cooperation Agreement  
and the Addendum shall be filed with the person who keeps the records of the  
public agency being added to this Agreement.

#### **Section 11. WITHDRAWAL AND TERMINATION.**

1. Any Member may withdraw their participation in a line of coverage of the  
Pool, but only at the end of a Pool fiscal year after giving the Board timely  
written notice of such withdrawal, pursuant to a resolution of the Member's  
governing body. Timely written notice of such withdrawal must be provided  
to the Board no later than 120 days prior to the Member's intended date of  
withdrawal. The Board shall consider a timely written notice of withdrawal to  
be a final decision unless the notice is rescinded by the Member no later than  
90 days prior to the Member's intended date of withdrawal. The Board may,  
by a three-fourths vote and at its sole discretion, agree to permit an earlier date  
of withdrawal. A Member withdrawn from a line of coverage shall lose any  
voting rights inured as a result of participation in that line of coverage and any  
claim of title or interest to any asset of the Pool resulting from that line of  
business upon the effective date of that withdrawal with the exception of the  
right to payment of claims which occurred prior to withdrawal, or in the case  
of "claims made" coverage, the payment of claims made within the claims  
made reporting period adopted by the Board and in effect at the time of  
withdrawal.
2. Any member may terminate its membership in the Pool, but only at the end of a  
Pool fiscal year, after giving the Board timely written notice of such termination,  
pursuant to a resolution of the Member's governing body. Timely written notice  
of such termination must be provided to the Board no later than 120 days prior to  
the Member's intended date of termination. The Board shall consider a timely  
written notice of termination to be a final decision unless the notice is rescinded  
by the Member at least 90 days prior to the Member's intended date of  
termination. A terminating Member shall lose all voting rights and any claim of  
title or interest to any asset of the Pool upon the effective date of termination with  
the exception of the right to payment of claims which occurred prior to  
termination, or in the case of "claims made" coverage, the payment of claims  
made within the claims made reporting period adopted by the Board and in effect  
at the time of termination.

#### **Section 12. DISSOLUTION AND DISPOSITION OF PROPERTY.**

The Pool may be dissolved by a majority of the entire Membership voting in favor of  
dissolution at a Membership Meeting. In the event of voluntary dissolution of the Pool,  
the assets of the Pool not used or needed for the purposes of the Pool, including its



contractual obligations shall be distributed, as determined by the Board, only to Utah counties, which are Members of the Pool at the time of dissolution. The Members of the Pool at the time the vote is held to dissolve the Pool shall continue to be considered Members of the Pool until the final disposition of property and dissolution of the Pool is complete.

Upon partial or complete dissolution of the Pool by the Members, the Trustees shall determine all other matters relating to the disposition of property and dissolution of the Pool by a two-thirds vote of all Trustees.

Each member's interest in the property of the Pool shall be calculated as follows:

1. The sum of the contributions for all fund years for which the Member was a participant in the Pool divided by all contributions received by the Pool during its life, is the ratio used to calculate interest in Pool property other than equity, which is defined for these purposes as cash or cash equivalent assets of the Pool.
2. For equity calculation, the ratio of each Member's contributions to the total contributions shall be computed for each fund year. The Member's contribution ratio shall then be multiplied by the total surplus, less any borrowed surplus, attributable to a fund year as stated in the most recent monthly financial statement. A Member's total equity will be the sum of the yearly amounts for each fund year for which that Member was a participating Member in the Pool.
3. In the event that the surplus amount is a negative number, a Member's equity will be decreased using the same method of calculation as above.
4. In the event of a termination of membership, the terminated Member shall lose and have no claim to any Pool property or assets. The property interest and equity formerly attributed to that Member for each fund year shall be allocated to the remaining counties that were Members during that year.

The Board shall serve as trustees for the disposition of property or funds, payment of obligations, dissolution and winding up of the affairs of the Pool. Any vacancy on the Board after dissolution has begun shall be filled in accordance with the Bylaws.

### **Section 13. INDEMNIFICATION.**

It is the intent of the Pool to provide the broadest possible immunity from personal liability to each trustee, officer, and employee of the Pool allowed by applicable laws of the State of Utah including, but not limited to, the Utah Governmental Immunity Act, the Utah Non-Profit Corporation and Co-operative Association Act and the Utah Insurance Code, as amended from time to time. The Pool shall defend and indemnify the trustees, officers and employees of the Pool against any and all expense, including attorney fees and liability expenses, sustained by them or any of them in connection with any suit or suits which may be brought against them involving or pertaining to any of their acts or duties to the fullest extent allowed by the laws of the State of Utah.

The Pool shall purchase liability or other appropriate insurance providing coverage for the trustees, officers and employees of the Pool. Nothing herein shall be deemed to prevent compromises of any litigation where the compromise is deemed advisable in order to prevent greater expense or cost in the defense or prosecution of such litigation.

Neither this Fourth Amended Interlocal Cooperation Agreement nor any action of the governing body of a county in adopting this Fourth Amended Interlocal Cooperation Agreement is intended to nor do they waive, nor shall they be construed as waiving, any immunity or limitation on liability provided to the Members or their officers or employees by any law, including but not limited to any such immunity or limitation appearing in the Utah Governmental Immunity Act, and amendments thereto.

#### **Section 14. FILING OF INTERLOCAL COOPERATION AGREEMENT.**

Executed copies of this Fourth Amended Interlocal Cooperation Agreement shall be placed on file in the office of the County Clerk of each of the Members to this Fourth Amended Interlocal Agreement, and shall remain on file for public inspection during the term of this Fourth Amended Interlocal Cooperation Agreement.

#### **Section 15. JOINT AND SEVERAL LIABILITY.**

Except as provided herein, and to the extent of the financial contributions to the Pool agreed to herein or such additional obligations as may come about through amendments to this agreement or the Bylaws, no Member agrees or contracts herein to be held responsible for any claims made against any other Member. The contracting parties intend in the creation of the Pool to establish an organization to operate only within the scope herein set out and have not herein created as between Member and Member any relationship of partnership, surety, indemnification, or responsibility for the debts of or claims against any other Member.

#### **Section 16. AMENDMENTS.**

This Fourth Amended Interlocal Cooperation Agreement may not be amended, changed, modified or altered except by an instrument in writing which shall be (a) approved by resolution of the governing body of each of the parties, (b) executed by a duly authorized official of each of the parties, (c) submitted to and reviewed by an authorized Attorney of each of the parties, as required by Utah Code Ann. §11-13-202.5(3), 1953 as amended, and (d) filed in the official records of each party.

#### **Section 17. SEVERABILITY.**

If any term or provision of the Fourth Amended Interlocal Cooperation Agreement or the application thereof shall to any extent be invalid or unenforceable, the remainder of this Fourth Amended Interlocal Cooperation Agreement, or the application of such term or provision to circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and shall be enforced to the extent permitted by law. To the extent permitted by applicable law, the parties hereby waive any provision of law, which would render any of the terms of this Fourth Amended Interlocal Cooperation Agreement unenforceable.

Section 18. GOVERNING LAW.

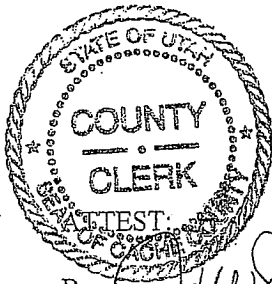
All questions with respect to the construction of this Fourth Amended Interlocal Cooperation Agreement, and the rights and liability of the parties hereto, shall be governed by the laws of the State of Utah.

Section 19. EXECUTION BY COUNTERPART.

This Fourth Amended Interlocal Cooperation Agreement may be executed in counterparts. The original of each executed Fourth Amended Interlocal Cooperation Agreement shall be filed with the Pool.

IN WITNESS WHEREOF, the parties have signed and executed this Fourth Amended Interlocal Cooperation Agreement, after resolutions duly and lawfully passed, on the dates listed below:

Dated this 9 day of February, 20 10



By: Jill Zollinger  
Jill Zollinger, Clerk, Cache County

CACHE COUNTY

By: Lynn Lemon  
Lynn Lemon  
Cache County Executive

REVIEWED AND FOUND TO BE IN PROPER FORM AND COMPLIANCE WITH APPLICABLE LAW.

By: James Swink  
James Swink, Attorney, Cache County