



WHEN RECORDED, RETURN TO:

Francis City  
2317 S Spring Hollow Road  
Francis, UT 84036

Parcel No. FT-53-A-3

**WATER RIGHT DEDICATION AGREEMENT FOR  
FRANCIS COMMONS PHASE 1**

This Water Rights Dedication Agreement (“**Agreement**”) is entered by and between Ivory Development, LLC, (“**Developer**”), and Francis City (“**City**”), a Utah municipal corporation. Developer, and the City are individually referred to as “**Party**” and collectively referred to as the “**Parties**” as the context may require.

**RECITALS**

WHEREAS, the City is a public water supplier under Utah Code § 73-1-4(1)(b), which owns, operates, and maintains a water distribution system to serve the public within the City’s boundaries pursuant to the Francis City Code and applicable law; and

WHEREAS, Developer owns Parcel No. FT-53-A-3 (the “**Parcel**”) in the City; and

WHEREAS, Developer intends to subdivide the property into a 30 single family lots known as the Francis Commons Phase 1 Subdivision (“**Subdivision**”); and

WHEREAS, at present, Developers desire to satisfy the City’s water dedication requirements needed to connect the Subdivision to the City’s water system; and

WHEREAS, pursuant to Section 17.25.290 of the Francis City Code, the City requires that the Developers “transfer to the City ownership of [a] net 0.45 acre-feet of wet water for culinary use for each equivalent residential unit in the parcel or project” and “transfer to the City net three acre-feet of wet water for irrigation of each one acre of land in the parcel or project” for the Proposed Development (“**Dedication Requirement**”); and

WHEREAS, the Subdivision will require 24.98 acre-feet, for culinary use pursuant to Section 17.25.290 of the Francis City Code; and

WHEREAS, Developer owns 31 Class A shares in Washington Irrigation Company (“**Washington**”) that are represented by Certificate Number 563 and 572 (“**Washington Shares**”), a copy of which is attached as **Exhibit A**; and

WHEREAS, Class A shares in Washington historically equaled 1.3 acre-feet per share, which would mean that the Washington Shares would total 40.3 acre-feet under the historic valuation; and

WHEREAS, due to the ongoing uncertainty of the per share valuations for Washington shares, Washington is not currently approving shareholder change applications; and

WHEREAS, the City's municipal system discharges into the Weber River drainage even though Washington and Washington shares are based on water rights that are approved for use in the Provo River drainage, where the State Engineer considers the City's municipal well to be located; and

WHEREAS, because the State Engineer believes the City's municipal well and water system diverts water from the Provo River drainage and discharges the water into the Weber River drainage, the State Engineer has previously determined that Washington shares diverted by the City's municipal well are 100% depleted; and

WHEREAS, the State Engineer has previously calculated the depletion amount under a change application seeking to transfer Washington shares into the City's municipal well by multiplying the number of shares by 0.4083 ("**Depletion Calculation**"), which could reduce the amount of water that could be approved under the Washington Shares to 1.00 acre-feet; and

WHEREAS, even if the State Engineer declines to increase the per-share value, the Washington Shares would provide 1.00 acre-feet under the Depletion Calculation, which would satisfy the City's Dedication Requirement if the State Engineer's new 0.762 acre-feet per share value for Washington shares remains unchanged; and

WHEREAS, the Parties desire to allow the Subdivision to connect to the City's water system notwithstanding the uncertainty of the per share valuations for Washington shares and Washington's refusal to approve change applications until the per share valuation issue is resolved by allowing Developers to dedicate the Washington Shares or other equivalent water shares or rights to the City pursuant to the terms of this Agreement; and

NOW, THEREFORE, in consideration of the mutual promises and covenants herein, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

#### **AGREEMENT**

1. **Incorporation of Recitals and Exhibits.** The Recitals and Exhibits contained in this Agreement are hereby incorporated into this Agreement as if fully set forth herein.

2. **Water Shares in Escrow.** Upon the execution of this Agreement, Developer will deliver the certificates for the Washington Shares to the City to hold in escrow subject to the terms of the Agreement, but will not endorse said certificate. As of the date Developer places the certificate in escrow with the City:

- a) The Developers will be deemed to have satisfied the City's water dedication requirements for the Subdivision; and

- b) The City will allow the Subdivision to connect to the City’s water system and will not deny any other approvals related to the Subdivision that pertain to the City’s water dedication requirements.

3. **Change Application.**

- a) **Per Share Valuation Resolution.** When the per share valuation is resolved for the Washington Shares or when Washington can approve change applications, Developers and the City will recalculate the per-share value of the Washington Shares to determine how many shares are needed to satisfy the City’s Dedication Requirement. Provided, however, that Developers have the option to replace the Washington Shares with other water shares or water rights (“**Substitute Water Rights**”) that are acceptable to the City and capable of providing at least 24.98 acre-feet of water for the Subdivision under the regulations, policies, or ordinances of the City and the State Engineer (the “**Replacement Option**”). Developers may exercise the Replacement Option by providing written notice to the City that express their desire to exercise the Replacement Option, explains the legal basis and extent of the Substitute Water Rights, and includes proof of Developer’s ownership of the Substitute Water Rights. With 30 days of receiving a notice from the Developers to exercise the Replacement Option, the City will notify the Developers if the Substitute Water Rights are acceptable, provided that the City may not unreasonably withhold, delay, or condition its acceptance of the Substitute Water Rights. If the City agrees to replace the Washington shares with Substitute Water Rights, the Developers will deposit the water share certificates or water deeds associated with the Substitute Water Rights in escrow with the Title Company and the and the Title Company will release the certificate for the Washington shares to Developers upon receipt of the water share certificates or water deeds for the Substitute Water Rights.
- b) **Preparation of Change Application.** After determining how many shares are needed to satisfy the City’s Dedication Requirement and whether the Developers will use the Washington Shares or Substitute Water Rights, the Developers will, at their own cost and expense, prepare a change application for the City’s review and approval that requests authorization from the State Engineer to divert the water under the requisite number of shares from points of diversion in the City’s municipal water system (“**Change Application**”). Notwithstanding Developers’ Replacement Option under **Paragraph 3(a)**, the Change Application shall be approved by the City

4. **Approvals from Washington.** After the City approves the Change Application, the Developers will secure the necessary approvals from Washington to file the Change Application to the extent approval from Washington is required to file the Change Application.

5. **Change Application Filing and Approval Process.**

- a) Change Application Filing. After securing approval from the City and Washington to file the Change Application, the Developers will file and prosecute the Change Application with the State Engineer.
- b) Protests, Request for Reconsideration, and Appeals: If a protest is filed, if the State Engineer approves the Change Application for less than 24.98 acre-feet, or if the State Engineer approves the Change Application with conditions that are unacceptable to the Developers, Developers will determine how or whether to respond to a protest or to file a request for reconsideration or appeal.
- c) Costs and Expenses. The Developers will be solely responsible for: (1) their reasonable, documented actual costs in preparing, filing, and prosecuting the Change Application with the State Engineer, (2) any reasonable, documented actual costs associated with preparing, filing, and prosecuting a request for reconsideration before the State Engineer; and (3) costs or other fees associated with filing a request for reconsideration with the State Engineer's Office or an appeal filed in district court following an unfavorable decision by the State Engineer regarding the Change Application; and (4) costs associated with changing shares from A to B.

6. **Dedication Process**

- a) Execution of Water Documents. After State Engineer issues a final and unappealable decision that approves the Change Application for at least 24.98 acre-feet without conditions that are unacceptable to the Developers, the Developers will endorse any share certificates or execute any water deeds held in by the City needed to convey title to 24.98 acre-feet of water to the City, Developer will also, at their sole cost and expense, obtain any new certificates from any applicable water companies or file and prosecute any segregation requests that may be needed to fulfill the terms of this Agreement.
- b) Unfavorable Decision. If the State Engineer issues a final and unappealable decision that denies the Change Application or approves the Change Application for less than 24.98 acre-feet, or includes conditions that Developers deem unfavorable, Developers will dedicate additional water shares or rights to the City that are acceptable to the City ("**Additional Water Rights**") to cure any deficiency between 24.98 acre-feet and the amount of water approved under the Change Application following the same dedication and change application process set forth in this Agreement. Provided, however, that the City may not unreasonably deny, condition, or delay its acceptance of Additional Water Rights.

7. **Dispute Resolution.**

- a) **Informal Negotiation.** It is the intent of the Parties that any dispute relating to the interpretation and enforcement of this Agreement be resolved informally and promptly through informal good faith negotiations between the Parties as set forth in this **Paragraph 7** before either Party may file suit against the other Party to exercise any right or remedy that it may have under this Agreement, at law, or in equity.
  
- b) **Formal Mediation.**
  - i. *Written Notice.* After at least one attempt to resolve an alleged default or dispute through informal negotiation, either Party to this Agreement may initiate formal mediation proceedings by sending a written notice to the other Party setting forth the particulars of the dispute, the provision(s) of this Agreement involved, and a suggested resolution of the issue.
  
  - ii. *Response to Written Notice.* The Party receiving the written notice will respond in writing within 20 days of receipt of the written notice with an explanation and response to the proposed resolution.
  
  - iii. *Mediation.* If the correspondence does not resolve the dispute, then the Parties will endeavor to reasonably agree upon a mediator and will mediate the dispute in good faith. Each Party will be responsible for their own costs and will split the costs of the mediator between them by dividing the total costs of the mediator by the number of Parties involved. If the Parties cannot agree upon a mediator, each Party will name a mediator and such two mediators will name a third mediator. The Parties will be bound to mediate the dispute with the third mediator. The Parties will share sharing the costs of mediation equally.
  
- c) **Completion of Mediation.** If the Parties are unable to resolve a dispute after completing one session of mediation, either Party may file suit against the other Party to exercise any right or remedy that it may have under this Agreement, at law, or in equity regarding the issue in question.
  
- d) **Applicable Law and Venue.** This Agreement will be construed in accordance with the laws of the State of Utah, and any actions between the Parties arising out of the relationship contemplated by this Agreement will be brought in Summit County, Utah.
  
- e) **Attorneys' Fees.** If a dispute between any of the Parties arises under this Agreement, the prevailing Party shall be awarded its attorneys' fees and costs to enforce the terms of this Agreement.

**8. Miscellaneous Provisions.**

- a) Effective Date and Term. This Agreement will become effective on the date when each Party executes it.
- b) Entire Agreement. This Agreement, including exhibits, constitutes the entire agreement of the Parties and supersedes all prior oral or written agreements, communications, understandings, representations, or discussions between the Parties involving the issues that are the subject of this Agreement.
- c) Amendment. This Agreement may only be amended by a writing signed by both Parties.
- d) Severability. If any provision of this Agreement or the application of any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.
- e) Time is of the Essence. Time is of the essence in performing all duties and obligations under this Agreement.
- f) Further Assurances. The Parties will each execute such documents as necessary to implement the intent and purposes of this Agreement.
- g) Warranty of Authority. The signers of this Agreement warrant that they are duly authorized to execute this Agreement on behalf of the entity for which they are signing.
- h) Counterparts. This Agreement may be executed in one or more counterparts each of which is an original of this Agreement and all of which, when taken together is the same agreement.
- i) Governing Law. This Agreement shall be construed and governed under the laws of the State of Utah.
- j) Headings and Captions. The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision.
- k) Necessary Acts and Cooperation. The Parties will perform those acts and/or sign all documents required by this Agreement and which may be reasonably necessary to effectuate the terms of this Agreement.

- l) Required Approvals and Consent. Neither Party will unreasonably withhold, condition, or delay its consent for any approvals required herein.
- m) Assignment: It is expressly understood that either Party may assign any and all of their duties and obligations arising under this Agreement after providing written notice to the other Party.
- n) Runs With Land. The terms hereof will be binding on the successors and assigns of the Parties hereto and touch and concern and run with the land and burden the land.
- o) Legal Review. The Parties represent and agree that they had full opportunity to review this Agreement and that they accept the terms hereof. The rule that such an agreement is to be construed against its drafter does not apply to this Agreement.
- p) No Third-Party Beneficiary. This Agreement is not intended to be a third-party beneficiary contract for the benefit of any third-parties.
- q) Notices. All notices and other communications, required or permitted to be given hereunder, will be in writing and will be deemed to have been duly given and delivered as of the date the notice is sent, if delivered by mail or email to the following, which Parties may change from time to time in writing:

Ivory Development, LLC  
c/o Peter Gamvroulas  
978 East Woodoak Lane  
Salt Lake City, UT 84117

Francis City  
c/o City Engineer  
2317 South Spring Hollow Road  
Francis, UT 84036

*[Signatures and Acknowledgments Follow]*

**IVORY DEVELOPMENT, LLC**

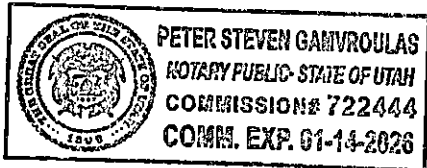
Kevin Anglesey  
By: KEVIN ANGLESEY  
ITS: SECRETARY

**ACKNOWLEDGEMENT**

State of Utah )  
:SS

County of SALT LAKE )

On this 17<sup>TH</sup> day of JANUARY, 2024, personally appeared before me, KEVIN ANGLESEY, who proved on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the foregoing instrument and acknowledged that he executed the same.



Peter Steven Gamvroulas  
Notary Public





Entry: 01203337

B: 2778 P: 1071

Account: 0529469

Sec/Twn/Range: S 29 T 2S R 6E

Acres: 11.63

District: 02

Mail To: IVORY DEVELOPMENT LLC

978 WOODOAK LN  
SALT LAKE CITY, UT 84117

Situs Address:

PARCEL 1:

A PORTION OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 6 EAST, SALT LAKE BASE AND MERIDIAN; BEGINNING AT A POINT N 00°00'00"E 888.55 FEET AND N 90°00'00"W 51.00 FEET FROM THE SOUTHEAST CORNER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 6 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE N 89°39'31"W 381.82 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 15.00 FEET, A DISTANCE OF 23.56 FEET, A CHORD DIRECTION OF S 45°20'29"W, AND A CHORD DISTANCE OF 21.21 FEET; THENCE S 00°20'29" W 194.94 FEET; THENCE S 89°58'59"W 60.00 FEET; THENCE N 00°20'29"E 195.60 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 15.00 FEET, A DISTANCE OF 23.03 FEET, A CHORD DIRECTION OF N 43°38'38"W, AND A CHORD DISTANCE OF 20.83 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 430.00 FEET, A DISTANCE OF 230.86 FEET, A CHORD DIRECTION OF N 72°14'54"W, AND A CHORD DISTANCE OF 228.10 FEET; THENCE N 56°52'03"W 138.49 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 15.00 FEET, A DISTANCE OF 26.44 FEET, A CHORD DIRECTION OF S 72°38'07"W, AND A CHORD DISTANCE OF 23.15 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 240.00 FEET, A DISTANCE OF 91.30 FEET, A CHORD DIRECTION OF S 11°14'24"W, AND A CHORD DISTANCE OF 90.75 FEET; THENCE S 00°20'29" W 260.11 FEET; THENCE S 89°58'59"W 420.01 FEET ALONG A FENCE LINE; THENCE N 00°00'00"E 288.87 FEET; THENCE ALONG THE EASTERLY LINE OF RIVER BLUFFS PLAT A SUBDIVISION N 00°11'00" E 317.37 FEET; THENCE N 12°58'03"W 70.11 FEET TO THE SOUTHERLY LINE OF WILD WILLOW SUBDIVISION, PHASE 2D; THENCE ALONG SAID SOUTHERLY LINE 589°37'10"E 14.15 FEET AND N 00°22'37"E 0.69 FEET; THENCE S 89°56'50"E 872.35 FEET ALONG THE SOUTHERLY LINE OF PARCEL FT-2037; THENCE S 00°20'29"W 389.17 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 15.00 FEET, A DISTANCE OF 23.56 FEET, A CHORD DIRECTION OF S 44°39'31"E, AND A CHORD DISTANCE OF 21.21 FEET; THENCE S 89°39'31"E 381.46 FEET TO THE EASTERLY RIGHT OF WAY LINE OF STATE ROUTE 32; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE S 00°00'00"E 60.00 FEET TO THE POINT OF BEGINNING. CONT. 11.63 AC. 2778-1071 2802-666

Owner(s): IVORY DEVELOPMENT LLC

**EXHIBIT A**  
(Washington Shares)

INCORPORATED UNDER THE LAWS OF

No. 572

The State Of Utah

A 6.0 Shares  
B 0  
D 1.8



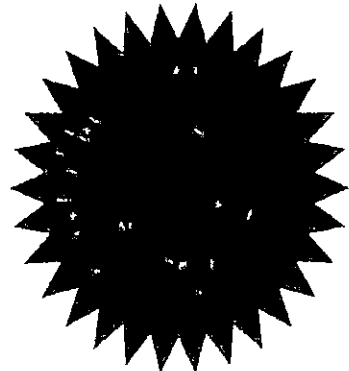
*David Madsen*

WASHINGTON IRRIGATION COMPANY

This Certifies that Ivory Development, LLC is the owner of  
Class A. six zero & zero one eight Shares of the Capital Stock  
WASHINGTON IRRIGATION COMPANY

transferable only on the Books of the Corporation by the holder hereof in person or by duly authorized Agent on surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF the duly authorized officers of this Corporation have hereunto subscribed their names and caused the corporate Seal to be hereto affixed at this 3rd day of JANUARY A.D. 2024



*Collette Madsen*

Secretary

*David Madsen*

President

INCORPORATED UNDER THE LAWS OF

No. 563 The State Of Utah  
A 250 Shares  
B 0  
D 7.5

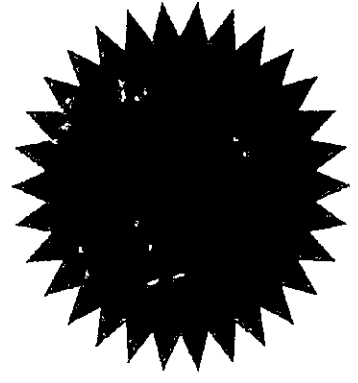


*New* WASHINGTON IRRIGATION COMPANY

This Certificate that Every Development LLC is the owner of  
Class A Twenty Five year zero D Seven Five Shares of the Capital Stock  
WASHINGTON IRRIGATION COMPANY

transferable only on the Books of the Corporation by the holder hereof in person or by duly authorized Agent on surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF the duly authorized officers of this Corporation have hereunto subscribed their names and caused the corporate Seal to be hereto affixed at this 10 day of October A.D. 2023



Andrew P. Perry Secretary  
David The President

