

## WATER SUPPLY AGREEMENT

This Water Supply Agreement (the "Agreement") is made and entered into by and between the TOWN OF VIRGIN, a municipal corporation under the laws of the State of Utah (hereinafter referred to as "Town"), and the WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, a water conservancy district organized under the laws of the State of Utah (hereinafter referred to as "District"),

### R E C I T A L S:

A. WHEREAS, the District has drilled a well (the "Cottam Well"), designed a water treatment plant (hereinafter the "Treatment Plant") to be built near the Quail Creek Diversion Dam, and is constructing pipelines and other necessary facilities to connect the Cottam Well and the Treatment Plant with the Town's water system as well as the water systems of LaVerkin and Toquerville in order to provide an additional water supply for the Town; and

B. WHEREAS, the Town provides water service to its inhabitants and needs an additional water supply for industrial and municipal purposes to be supplied when the District's facilities are constructed and water becomes available for use by the Town; and

C. WHEREAS, the District is willing to sell water to the Town and the Town is willing to purchase water from the District on the terms and conditions set forth herein.

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

1. Definitions:

a. "Allotted Water" means the perpetual annual allotment

of municipal and industrial water to meet the needs of the Town, up to 1,000 culinary connections (residential equivalents) but limited to a maximum annual delivery by the District of 1,000 acre feet.

b. *"Commercial Connection"* means a connection of any facility which is not used for residential purposes (including but not limited to hotels and motels, nursing and retirement homes, hospitals; and facilities offered for occupation by recreational vehicles, trailers or tentsites which are not occupied or possessed by the same party for more than 30 consecutive days in any one year) made or intended to be made to the Town System, whether constructed or planned to be constructed as shown on any plans, plats or other documents submitted to the Town pursuant to its ordinance, where a building permit has been issued, or an actual connection is made. Commercial connections shall be computed by residential equivalent as set forth in paragraph 4 below.

c. *"Minimum Monthly Charge"* means the minimum charge to be paid per Residential or Commercial Connection each month as more fully set forth below.

d. *Minimum Monthly Allotment*" means an amount of water calculated by multiplying the total number of Residential and Commercial Connections to the Town System, including but not limited to the 137 existing connections, by 15,000 gallons.

e. *"Overage"* or *"Overage Rate"* means the amount to be paid for water used in excess of the Minimum Monthly Allotment.

f. *"Residential Connection"* means a connection of any single family residence (including but not limited to each single

family home; each individual unit of a duplex or apartment building; each individual mobile home unit, park model or homepad; and each individual unit designed to accommodate a recreational vehicle or trailer which is occupied or possessed by the same party for more than 30 consecutive days in any one year) made or intended to be made to the Town System, whether constructed or planned to be constructed as shown on any plans, plats or other documents submitted to the Town pursuant to its ordinances.

g. *"Town System"* means the Town's water delivery system as it now exists and as it may be improved or expanded in the future.

h. *"District Facilities"* means facilities devoted, in whole or in part, to supplying water by the District to the Town.

i. *"Water Availability Assessment"* means the charge for maintaining water available for use by each planned connection to the Town System, as more fully set forth below.

j. *"Water Connection Fee"* means the amount allocated to each planned connection to the Town System associated with the District's cost to maintain water available for the up to 1,000 water connections (measured by residential equivalent in the case of commercial connections) to be provided during the term of this Agreement, as more fully set forth below.

k. *"Cost of Living"* means the cost of living based upon the consumer price index published for the State of Utah, including all items of the Bureau of Labor Statistics of the United States Department of Labor for the period in question. Should a consumer

price index not be published for the State of Utah, the DISTRICT's Board of Directors shall use the consumer price index for the metropolitan area closest in highway miles to St. George, Utah, published by the Bureau of Labor Statistics of the United States Department of Labor. If the consumer price index ceases to be published or issued, the Board may use such other index as is then generally recognized and accepted for similar determinations of purchasing power.

1. "Notice Date" means the date notice is actually delivered by the District to the Town that water is available to the Town, as more fully set forth below.

2. Payment Provisions. In Consideration for the supply of the Allotted Water, the Town agrees to pay the District in the manner and at the rates hereinafter provided under the following separate costs:

a. The Minimum Monthly Charge plus any Overage as more fully set forth in Paragraph 3, below.

b. A Water Connection Fee as more fully set forth in paragraph 4 below.

c. A Water Availability Assessment as more fully set forth in Paragraph 5, below.

d. Interest at the rate of twelve percent (12%) per annum on any amount not paid when due hereunder.

3. Minimum Monthly Charge Plus Overage. The Town agrees to pay the District a Minimum Monthly Charge of \$20 for each Residential Connection, and \$40 for each Commercial Connection, to

the Town System, including but not limited to the 137 existing connections.

a. Payment of the Minimum Monthly Charge shall entitle the Town to receive up to the Minimum Monthly Allotment. The Minimum Monthly Charge shall be due and payable whether or not the Town uses all of the Minimum Monthly Allotment amount.

b. In the event the Town uses an amount of water in excess of the Minimum Monthly Allotment in any month, the Town shall pay an Overage Rate of \$1.00 per 1,000 gallons.

c. Payments for the Minimum Monthly Charge and any Overage shall be made to District monthly on or before the 15th of each month.

d. The Minimum Monthly Charge and the Overage Rate include an amount for Operation and Maintenance Costs, which amount has been fixed and shall be adjusted annually by the District's Board of Directors, in accordance with Exhibit 1, attached hereto and incorporated herein by this reference..

4. Water Connection Fee. The Town shall pay the District a Water Connection Fee for every Residential and Commercial Connection for which final approval of the subdivision plat, lot, unit or other development has been granted or for which the subdivision plat or other relevant document has been recorded or for which a building permit has been issued or a water connection made, except for the 137 existing connections in the Town. The Water Connection Fee shall be \$1,500 for each Residential Connection and \$3,000 minimum for each Commercial Connection,

adjusted by residential equivalent as set forth below. In the case of commercial connections, the Water Connection Fee shall be computed by establishing the residential equivalent impact that the commercial facility will have on the water system (based upon projected actual usage), as computed by the Town's engineer. A Commercial Connection having an impact of up to two residential equivalents (2 acre feet per year) shall be charged the minimum of \$3,000. Commercial Connections having a greater impact shall be assessed as follows: The number of residential equivalents (rounded to the nearest whole number) shall be multiplied by \$1,500 to obtain the Commercial Connection Fee. Any additions to the commercial project shall, in connection with obtaining a building permit, re-evaluate the residential equivalent impact and pay an additional Water Connection Fee to pay for the additional impact on the system (if any)

a. An initial payment shall be due and payable within 10 days after the Notice Date for any connection fee paid to the Town prior to the Notice Date (if any).

b. Thereafter, the Water Connection Fee shall be made semi-annually and shall be due and payable on the 15th day of the month following the end of the six-month period after the Notice Date.

c. In the event of any delinquency in payment of the Water Connection Fee for any lot, plat, unit or other development, all delinquent amounts shall be brought current before the connection is made to the Town System.

d. The Water Connection Fee may be increased from time to time by the District's Board of Directors based on increases in the Cost of Living.

5. Water Availability Assessment. The Town shall pay the District a monthly Water Availability Assessment for each Residential and Commercial Connection from the date the Water Connection Fee was due and payable until the date the connection has been completed to the Town system.

a. The Water Availability Assessment shall be equal to one-half of the Minimum Monthly Charge applicable to the type of connection planned.

b. Payments for the Water Availability Assessment shall be made to District monthly on or before the 15th day of each month.

c. In the event of any delinquency in payment of the Water Availability Assessment for any lot, plat, unit or other development, all delinquent amounts shall be brought current before the connection is made to the Town System.

6. Prerequisite to Obligations Under this Agreement. The District will not be able to make the Allotted Water available to the Town until the District has completed construction of the District's facilities required to divert, treat and distribute the Allotted Water from the Cottam Well or other source to the point of delivery specified in paragraph 7, and all necessary permits and approvals have been obtained. Consequently, the parties agree that the respective obligations of the District and the Town under this

Agreement shall not take effect and are conditioned upon the completion of the District facilities required to deliver the Allotted Water to the Town. The District shall give notice to the Town on the date when the Allotted Water is available to the Town (the "Notice Date"). The Town shall be obligated to pay the charges provided for herein beginning 15 days after the Notice Date.

7. Point of Delivery. The District shall make the water to be delivered pursuant to this Agreement available at the point of delivery identified on Exhibit 2, attached hereto and incorporated herein by this reference.

8. District's Water Delivery Facilities. The District shall purchase, construct, operate and maintain, repair, and/or replace, at its sole expense and without any cost or other obligation to the Town, sufficient water rights, a treatment plant, and/or culinary well (at District's option), delivery lines, water metering facilities, or other facilities involved in making the water available to the Town at the point of delivery described in Paragraph 7 herein.

9. Town's Water Delivery Facilities. The Town shall construct, operate and maintain, repair, and/or replace, at its sole expense and without any cost or other obligation to the District, any delivery lines, appurtenant fixtures, or other facilities, and any water meters or measurement devices involved in distributing or testing the Allotted Water from the point of delivery described in Paragraph 7 herein.



10. Assignment of Interests. In addition to the District's costs for developing and supplying water to the Town, the rates and charges set forth herein are based upon the additional consideration of the following provisions:

a. The District shall assume the Town's debt (estimated to be in the approximate amount of \$59,000 as of January 1, 1997) with the Board of Water Resources and with Zion's First National Bank on the Notice Date. The District may pay these debts in accordance with the terms of the existing obligations set forth in the relevant promissory notes or other governing documents. In the alternative, the District shall be deemed to have performed its obligations under this Paragraph if it pays directly to the Town the total principle amount due on the Notice Date. The Town shall make all payments when due until the Notice Date.

b. Heretofore, the Town has utilized a water system which relies upon leased water treated at a plant owned by the Town. Upon delivery of the Allotted Water to the Town and connection of the Town System to the District facilities, the Town will cease using the leased water and the treatment plant and the plant will be severed from the Town System and its remaining water works. The Town's water treatment plant shall be deemed abandoned ten (10) days after the Notice Date. The Town shall transfer all of its right, title and interest to the water treatment plant, including related parcel of real estate more specifically described on Exhibit 3, attached hereto and incorporated herein by this reference, not including water rights, to the District, to be

disposed of or used as determined by the District in its sole discretion. This transfer shall be done at a closing to be conducted by a title company within thirty (30) days after the Notice Date; closing costs shall be shared equally.

11. Ordinances. The Town shall pass an ordinance in the form substantially similar to Exhibit 4 hereto to ensure collection of the payments necessary to meet its obligations under this Agreement.

12. Copies of Documents. Upon receiving notice from the District as provided in Paragraph 6 herein, the Town shall provide an accounting of building permits issued and subdivision final plat filings on a form to be agreed upon between the parties, to document each connection to the Town System prior to the Notice Date, except the 137 existing connections in the Town. Thereafter, the Town shall provide a similar accounting of every building permit and final subdivision plat filing reflecting connection(s) to the Town System to the District at the time of issuance, approval and connection, in connection with required semi-annual reporting and payment.

13. Groundwater Protection. Until such time as a groundwater protection study is completed which determines the impact of septic tanks on the groundwater in the river system (which may allow a greater density), the Town shall not approve a project density of less than one unit per acre, except for R.V. Parks and Planned Unit Developments may be allowed if engineering studies reveal that there is no significant pollution to groundwater sources as a

result of installing a community septic system or other treatment facilities. After the groundwater protection study is completed showing that a greater density will not adversely affect groundwater, or if the Town connects to a community sewage treatment facility, then the Town may decide to adjust its zoning ordinance to allow greater density.

14. Approval to Allocate. Unless the Town gives its prior written approval, the District will not supply municipal and industrial water to any other user within the Town.

15. Water Shortage. In the event there is a shortage of water caused by drought, inaccuracy of distribution not resulting from negligence, hostile diversion, prior or superior claims, or other causes not within the reasonable control of the District, no liability shall accrue against the District, or any of its officers, agents, or employees, for any damage, direct or indirect, arising therefrom. If a shortage occurs in the District's municipal and industrial water supply, then deliveries of water pursuant to this Agreement shall be reduced in the proportion that the number of acre feet of such shortage bears to the total number of acre feet allotted for municipal and industrial use. The determination of shortages will be made by the District's Board of Directors, and its determination will be final and conclusive, and in the event that water is not available, the Town shall only pay for the amount of water that is available.

16. Uncontrollable Forces. The District shall not be considered to be in default in the performance of any of its

obligations hereunder if prevented from fulfilling such obligation by reason of an Uncontrollable Force, provided, however, that the District shall not be relieved of liability for failure of performance if such failure is due to causes arising out of its own negligence or due to removable or remedial causes which it fails to remove or remedy with reasonable dispatch. Nothing contained herein shall be construed to require the District to settle any strike or labor dispute in which it may be involved. If rendered unable to fulfill any of its obligations under this Agreement by reason of an Uncontrollable Force, the District shall give prompt written notice of such fact to the Town and shall exercise due diligence to remove such inability with all reasonable dispatch. For purposes of this Agreement, the term "Uncontrollable Force" means any cause beyond the control of the District, including, but not limited to, failure or impairment of facilities from flood, earthquake, storm, fire, pestilence, lightning, and other natural catastrophes, epidemic, war, explosion, aircraft crash, riot, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, terrorism, act of public enemy, civil or military authority, restraint by court order or public authority, and inability to obtain the necessary authorizations or approvals from any governmental agency or authority which the District could not reasonably have been expected to anticipate and which, by exercise of due diligence, it has been unable to overcome.

17. Reservation of Rights. The District reserves the right

to adopt lawful rules and regulations, and to exercise its full statutory powers, including specifically, the right to amend its rates, rules and its regulations in the future, and the right to exercise its statutory powers, as they now exist or are amended or enacted in the future, and it is expressly agreed that the District, by signing this contract, has not surrendered any of its rights in this regard, except insofar as necessary to comply with the express terms of this agreement.

The Town reserves the right to adopt lawful ordinances, and to exercise its full statutory powers, including specifically the right to amend its rates, rules and its regulations in the future, and the right to exercise its statutory powers, as they now exist or are amended or enacted in the future, and it is expressly agreed that the Town, by signing this contract, has not surrendered any of its rights in this regard, except insofar as necessary to comply with the express terms of this Agreement.

18. Federal Laws and Regulations. Town and District shall, within their legal authority, comply fully with all applicable federal laws, orders and regulations, and the laws of the State of Utah, all as administered by appropriate authorities, concerning the pollution of streams, reservoirs, groundwater, or water courses with respect to thermal pollution or the discharge of refuse, garbage, sewage, effluent, industrial waste, oil, mine tailings, mineral salts or other pollutants, and concerning the pollution of air with respect to radioactive materials or other pollutants.

19. Water Commitments. Any Commitment of water, and payment

to the District for water so committed pursuant to this Agreement, shall be subject to the Water Conservancy Act of Utah, Title 73, Chapter 9, U.C.A. 1953, as heretofore or hereafter amended and the rules and regulations of the District's Board of Directors now existing or hereafter legally promulgated.

20. Water Quality. The District shall provide water pursuant to this Agreement that meets existing drinking water standards. In the event that the water fails to meet these standards the District shall take immediate steps to correct deficiencies and notify the Town as required by Utah law. The Town shall be solely responsible for all actions necessary or appropriate to improve or maintain the quality of water after it reaches the point of delivery described in Paragraph 7 herein.

21. Water Conservation. Town shall review the District's Water Conservation Plan, adopt a conservation plan appropriate to the needs of the Town and cosponsor a county-wide water conservation plan with the District and other sponsors. The District shall assist the Town, upon Town's request, with regard to development of sound water use principles.

22. Reuse of Water. If the Town shall build, or participate in a sewer project (or other treatment options generating reusable effluent), the Town shall own the effluent, and have all rights to reuse the sewer effluent, or negotiate its reuse. In connection with any reuse, and any necessary filings with the State Water Engineer, the Town agrees to meet with the District and fairly

allocate a portion of reuse to return flows to the Virgin River System in order to avoid material loss of historical flows affecting the District's water right.

23. Notice. Any notice to be given or payment to be made hereunder shall have been properly given or made when received by the District or the Town, as the case may be, or when deposited in the United States mail, certified or registered, postage prepaid, addressed as follows:

To the District:

136 N. 100 E.  
St. George, UT 84770

\*

To the Town:

P. O. Box 790204  
Virgin, UT 84779

24. No Third Party Beneficiaries. This Agreement is not intended to be a third-party beneficiary contract for the benefit of any third parties, including but not limited to any customer of the Town, and no such persons shall have any cause of action against the District for any failure by the District to make water available as provided in this Agreement, or for any breach or default by the District hereunder. In addition, no third parties shall have any rights hereunder that would, in any way, restrict the parties' right to modify or renew this Agreement at any time or in any manner.

25. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Utah.

26. Entire Agreement. This Agreement shall constitute the entire agreement between the parties and supersedes any prior understanding, representation, or agreement of the parties regarding the subject matter hereof.

27. Modification of Agreement. Any modification of this Agreement or additional obligation assumed by any party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

28. No Waiver. No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute waiver of that or any other rights, unless expressly provided herein. Either party may, by notice delivered in the manner provided in this Agreement, but shall not be under obligation to, waive any of its rights or any conditions to its obligations hereunder. No waiver shall affect or alter the remainder of this Agreement, and each and every covenant, duty, and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

29. Persons Bound by Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective employees, representatives, successors, and assigns.

30. Rights and Remedies. The parties shall have all rights and remedies provided under Utah law for a breach or threatened



breach of this Agreement, these rights and remedies shall not be mutually exclusive, and the exercise of one or more of these rights and remedies shall not preclude the exercise of any other rights and remedies. Each party confirms that damages at law may be an inadequate remedy for a breach or threatened breach of any provision hereof and the respective rights and obligations of the parties hereunder shall be enforceable by specific performance, injunction, or other equitable remedy. In addition to its other rights and remedies the District shall have the right to curtail or cut off water delivery to the Town if the Town is delinquent on any payment provided for herein for a period of more than 180 days from the date payment is due; provided, however, that delivery shall not be curtailed or cut off without providing written notice thirty (30) days in advance of any such action.

31. Authorization. Each individual executing this Agreement does thereby represent and warrant to each other so signing (and each other entity for which another person may be signing) that he or she has been duly authorized to sign this Agreement in the capacity and for the entities set forth where he or she signs.

32. Necessary Acts and Cooperation. The parties hereby agree to do any act or thing and to execute any and all instruments required by this Agreement and which are necessary and proper to make effective the provisions of this Agreement.

33. Termination of Obligation to Provide Connections. In the event the Town has not connected all of the 1,000 culinary connections provided for herein to its System on or before fifty

(50) years from the Notice Date, the District's obligation to provide allotted water for any additional connections shall terminate, provided, however, that the terms and conditions of this Agreement shall remain in full force and effect as they relate to any connections which have been made prior to the termination date pursuant to this Agreement.

34. Execution of Agreement. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

DATED this 24<sup>th</sup> day of June, 1997.

TOWN OF VIRGIN

By: Joy Kunderbuden

WASHINGTON COUNTY WATER  
CONSERVANCY DISTRICT

By: Jack Lemmon

Attest:

Laurie Weaver  
Recorder

Approved: [Signature]  
Russell J. Gallian  
Town Attorney

[Signature]  
Barbara Hjelle  
Attorney for Washington  
County Water Conservancy  
District

## EXHIBIT 1

### OPERATION AND MAINTENANCE COSTS

The Minimum Monthly Charge set forth in paragraph 3 of the Petition shall be adjusted annually to account for increases in Operation and Maintenance costs, provided, however, that until the Water Treatment Plant has been in operation for at least two years, or five years has elapsed, whichever is later, the adjustment shall be calculated based on the increase in the Cost of Living for the prior year. Thereafter, the Operation and Maintenance costs for the first year of operation of the Water Treatment Plant shall be used as the baseline and increases in such costs shall be based on the Town's proportionate share of those increases in costs incurred in connection with the District Facilities, as more fully described below.

1. Operation and Maintenance costs shall be calculated utilizing the following principles:

a. The parties acknowledge that the District maintains and adjusts its base rate for raw water on an annual basis for the cost of raw water. Raw water is described as all water supplied by the District to wholesale customers on an untreated basis (for example, the current price for such water is \$90 per acre foot per year computed in the same manner as the St. George contract). The District, in determining the appropriate level of this charge, shall allocate to its raw water cost all of its administrative and overhead costs, except for extraordinary charges due to unanticipated costs,

which costs shall be amortized over a fair and reasonable period, depending on the circumstances. Also included in the cost of providing raw water shall be the actual direct costs of providing the same allocated toward the raw water. Notwithstanding this statement, there shall be no duplication of allocation of such costs for water that is provided (as in the case of the Town of Virgin) as wholesale water or treated water for distribution to retail customers.

b. In determining the allocated costs of wholesale water (including the water supplied to the Town, the cost element shall be as follows:

- i. The cost of raw water as computed above;
- ii. Additional cost of supplying water to the Town, including the cost of treating, pumping and transmitting the water (not previously accounted for under the raw water costs) to the point that it is delivered to the Town. In a case where a particular water supply is shared among communities or other providers, such costs shall be further divided by percentage of actual use by the Town of Virgin over total use by all users in the source. Such cost center shall be captured and analyzed by project. For example, cost of providing wholesale water to areas other than the Anderson Junction Well or Virgin/LaVerkin treatment Plant shall not be considered in this Agreement.

- iii. Paragraphs i. and ii. shall be added together

and divided by actual water supplied to determine the operation and maintenance cost expressed in 1,000 gallon increments.

c. It is specifically agreed that no amount for capital costs (including long-term replacements) shall be added to the wholesale water costs provided above, inasmuch as the parties contemplate that such costs shall be paid for separately by the payment of water reservation fees. Accordingly, there should be no allocation of interest, depreciation or capital cost to the wholesale water cost provided for above, inasmuch as there is a separate funding source for those. With respect to setting the water reservation fee, the District agrees to provide engineering studies which fairly set the water reservation fee based upon the actual cash stream required in order to repay capital costs for the systems providing actual water, together with anticipated interest, but without allocation of administrative overhead or other costs that are allocated to raw water and/or wholesale costs under the formulas above, with the intention that there would be approximate cost recovery achieved without profit.

2. In addition the costs determined under the formula above, Operating and Maintenance costs shall include \$.05 per thousand gallons for the repair and replacement fund for District's constructed storage facilities. This fund is to keep the District's storage facilities in good operating condition, including dam structure and pipelines. The funds may be used

anywhere in the District for the purpose of replacing any storage facilities in good operating condition, including dam structure and pipelines. The funds may be used anywhere in the District for the purpose of replacing any storage facility or parts thereof, which notwithstanding reasonable District maintenance requires replacement from time to time. It may also be used for operation and maintenance of District treatment or storage facilities which are determined to be costs in excess of the ordinary costs of such operation and maintenance, or in the operation during periods of special stress. This fund, together with interest thereon shall be invested or deposited by the District and maintained apart from other District funds, in compliance with the laws of the State of Utah governing the investment of such fund. The annual payment for the repair and replacement fund may be adjusted upward or downward, as determined to be essential in the sole judgment of the District's Board of Directors and based upon recommendation of the District's Engineer as to the amount to be allocated as the Town's payment to this fund, provided, however, that no upward adjustment shall exceed \$.02 per thousand gallons in any given year. A twelve-month notice will be given to Town on any adjustment. In the event the Town does not agree that the assessments by the District for the repair and replacement fund are reasonable, the Town may request that the District retain an independent consultant and the District shall retain an independent consultant acceptable to both parties to review the repair and replacement fund costs and make recommendations to the District. If the consultant indicates

that the repair and replacement costs are excessive, the District shall reduce the repair and replacement costs assessed as outlined in the consultant's audit. The costs of the audit shall be treated as an Operation and Maintenance cost.

3. Where any facility is used to provide water to persons or entities other than Town, Operation and Maintenance costs shall be assessed to the Town in the same ratio as the Town's water usage bears to the total water used by all connected communities from or provided by that facility as measured by meter.

4. In the event the Town does not agree that an increase in the Operation and Maintenance Costs is reasonable, the Town may request the District to retain an independent consultant acceptable to both parties to review the Operation and Maintenance Costs and make recommendations to the District. The District shall retain and pay the costs of employing the consultant. If the consultant indicates that the Operation and Maintenance Costs are excessive, the Town shall pay reasonable operation and maintenance costs as outlined in the consultant's report or recommendations. In the event the consultant finds the Operation and Maintenance Costs to be reasonable, the costs to retain the consultant shall be paid by the District and be treated as Operation and Maintenance Cost.

**EXHIBIT 2**  
**POINT OF DELIVERY**

Description to Virgin Flow Meter and Elevations of Waterline Profile

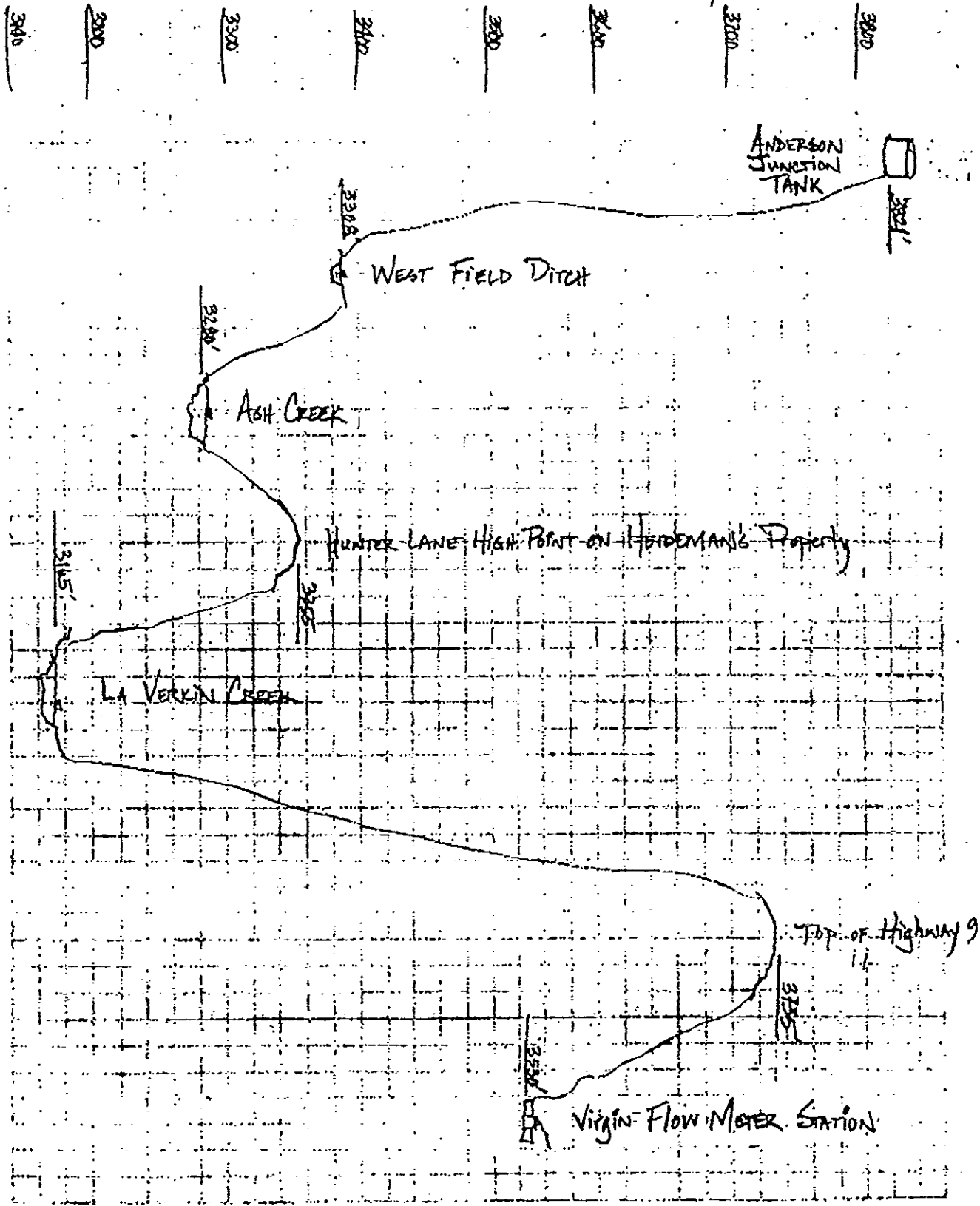
Located at a point 304 feet South and 2745 feet West from the Center of Section 21,  
Township 41 South, Range 12 West, Salt Lake Base & Meridian





JONES & DEMILLE ENGINEERING  
45 East 500 North  
Richfield, Utah 84701  
Telephone (801) 898-8265  
Fax (801) 898-8268

Project:	TOSQUEVILLE TO VIRGIN UTAH		Page:
Location:		Date:	6-17-97
Prepared:		By:	K.B.R.
Client:	Wash. Co. Water Conservancy Dist.		Checked:



Recorded at Request of \_\_\_\_\_  
at \_\_\_\_\_ M. Fee Paid \$ \_\_\_\_\_  
by \_\_\_\_\_ Dep. Book \_\_\_\_\_ Page \_\_\_\_\_ Ref.: \_\_\_\_\_  
Mail tax notice to Town of Virgin Address Virgin, Utah

REQUEST: JOHN PALMER  
RECK 355  
FILE 411  
1984 JUL 27 AM 11:17  
264471  
WASHINGTON COUNTY RECORDER

## Quit-Claim Deed

BERT S. LEANY and PATSY LaRUE LEANY, husband & wife, grantor,  
of St. George, County of Washington, State of Utah, hereby  
QUIT-CLAIM to  
TOWN OF VIRGIN, grantee,  
of Virgin, Washington County, Utah,  
for the sum of  
Ten and No/100 (\$10.00) and other valuable consideration--- DOLLARS,  
the following described tract of land in Washington County,  
State of Utah:

### TREATMENT PLANT SITE

DESCRIPTION CHECKED

BEGINNING at a point which is South 0°02'20" West 2,073.95 feet from the Northwest Corner of Section 23, Township 41 South, Range 12 West, Salt Lake Base and Meridian, said point being on the West boundary of said Section 23; thence North 84°35'23" East 218.49 feet; thence South 25°03'39" East 85.00 feet; thence South 64°56'21" West 280.00 feet to the West boundary of said Section 23; thence North 0°02'20" East along said West boundary 175.00 feet to the point of beginning. Containing 0.710 acres.

WITNESS the hand of said grantors, this 8th day of June, A.D., one thousand nine hundred and eighty four.

Signed in the presence of

BERT S. LEANY

PATSY LaRUE LEANY

STATE OF UTAH  
COUNTY OF WASHINGTON

On the 8th day of June

82, 19 84, personally appeared before me

BERT S. LEANY and PATSY LaRUE LEANY  
duly acknowledged to me that they executed the same.

the signers of the within instrument, who

JOHN W. PALMER

Residing at: St. George, Utah

My Commission Expires: 10/20/87

APPROVED FORM - UTAH SECURITIES COMMISSION

FORM 103.1 - QUIT-CLAIM DEED - Washington South, S.L.C., Utah

264471

COPY

ORDINANCE NO. 97-01-23

ORDINANCE APPROVING WATER SUPPLY AGREEMENT  
AND WATER RATES

WHEREAS, the Town of Virgin has a critical need to acquire additional water for municipal, residential and commercial use; and

WHEREAS, the Town has engaged engineers and other experts to look into additional sources of water for the Town; and

WHEREAS, the existing sources of the Town are based upon water leases which will expire in the near future; and

WHEREAS, the Town has determined that it is in the best interests of the Town to enter into an Agreement with the Washington County Water Conservancy District to become the primary wholesale water supplier to the Town; and

WHEREAS, the Town has held a number of meetings, including public hearings, including engineering studies, to determine the best way to secure a long-term water supply for the Town, including additional connections.

NOW, THEREFORE, it is hereby ordained by the Town Council of the Town of Virgin as follows:

1. The Town Council hereby approves that certain Water Supply Agreement attached hereto as Exhibit A and authorizes the Mayor and Clerk to execute the same for and on behalf of the Town of Virgin. The Town Council further approves of the terms and conditions of said Agreement.

2. Consistent with the requirements of the Water Supply Agreement, the following rate structure shall go into effect effective with the notice date as provided in the Water Supply Agreement which shall mean and refer to the date that notice was given by the Washington County Water Conservancy District to the Town that water is available to the Town:

a. Each residential connection to the municipal water system of the Town shall pay a minimum monthly fee of \$27.00 which shall entitle that connection to receive up to 15,000 gallons per month. All out-of-town connections will pay a double fee.

b. Each commercial connection to the municipal water system of the Town shall pay a minimum monthly fee of \$54.00, which shall entitle that connection to receive up to 15,000 gallons per month. Each out-of-town connection shall pay double the commercial rate.

c. Water provided to any connection in excess of 15,000 gallons in any month shall pay for excess water at the overage rate of \$2.00 per 1,000 gallons. The minimum monthly fee in any overages shall be due and payable upon billing, and delinquent if not paid within thirty (30) days after billing. Delinquent water bills shall be subject to a late fee of \$5.00, together with interest at the rate of 18% per annum until paid. In the event that any water bill becomes sixty (60) days past due, the Town shall have the right to shut off the water, in which event the water shall not be turned back on until the water bill is paid in full, together with a service charge of \$50.00.

d. The Water Reservation Fee in the amount of \$1,500 shall be charged for all residential connections that are made and \$3,000 for commercial connections. In the case of commercial connections, the Water Connection Fee shall be computed by establishing the residential equivalent impact that the commercial facility will have on the water system, as computed by the Town's engineer. The number of residential equivalents (rounded to the nearest whole number) shall be multiplied by the \$3,000 Commercial Connection Fee payable. Any additions to the commercial project shall, in connection with obtaining a building permit, re-evaluate the residential equivalent impact and pay an additional Water Connection Fee to pay for the additional impact on the system (if any). Said fees shall be payable with the building permit on any parcels that are built on property for which the Water Reservation Fee has been assessed (i.e. outside of new subdivision as defined below). All new subdivisions filed in the Town of Virgin after the effective date of this Ordinance, shall pay the water reservation fee as provided above and which shall be due and payable upon recording of final plat. In the event that the Town shall serve

any property outside of the subdivision (except for existing connections) the water reservation fees and water rates shall be paid prior to actual connection. Nothing in this Ordinance shall require the Town to serve anyone outside of its boundaries.

e. All lots for which a Water Reservation Fee has been paid shall also pay, on a monthly basis, a Water Availability Assessment in the amount of 1/2 of the monthly minimum fee provided for in paragraph 2(a) and (b) above until actual connection occurs.

f. Except for existing connections in the Town that are currently actually connected, or previously paid for and of record in the Town's records, no connection shall be made to the Town's water system and no water shall be provided to any connection unless and until all water availability assessments which have accrued for that connection have been paid in full.

This Ordinance shall go into effect after posting as provided by law.

Dated: \_\_\_\_\_

TOWN OF VIRGIN

\_\_\_\_\_  
Councilman

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Councilman

\_\_\_\_\_  
Councilman

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Councilman

ATTEST:  
  
\_\_\_\_\_