



Notice is hereby given that the  
**Eastern Summit County Sewer Advisory Committee (ESAC)**  
will meet  
**Thursday, June 8, 2023**  
**8:30 a.m.**

**electronically, via zoom, with an anchor location:**  
**Summit County Courthouse, Conference Room 2A & B**  
**60 N. Main Street, Coalville, UT**

**You may attend live or join via zoom:**

<https://summitcountyut.zoom.us/j/99868024373?pwd=YWcrbVd1V09xTGNIsmV5WGhIVXpKZz09>

To listen by phone dial:

US: +1 669 900 9128 or +1 346 248 7799

Zoom Meeting ID: 998 6802 4373

Password: 563186

### **AGENDA**

1. Public input not on the agenda.
2. Discussion regarding Eastern Summit County Water Conservancy Special Service District restructure updates. – Helen Strachan, Deputy County Attorney and Nathan Brooks, Director of Environmental Health.
3. Minutes: March 3, 2022; April 14, 2022

*Individuals with questions, comments, or needing special accommodations pursuant to the Americans with Disabilities Act regarding this meeting may contact Melissa Hardy in the Community Development Department at (435) 336-3157.*

Posted: June 6, 2023

Published: June 6, 2023

SUMMIT COUNTY, UTAH ORDINANCE NO. 717-C  
AN ORDINANCE AMENDING TITLE 2, CHAPTER 20 OF THE SUMMIT COUNTY CODE  
“EASTERN SUMMIT COUNTY WATER CONSERVANCY SPECIAL SERVICE DISTRICT”

PREAMBLE

**WHEREAS**, pursuant to Utah Code Annotated, §17D-1-101 et. seq. (the “Utah Special Service District Act”), 1953, amended, the then-Summit County Board of Commissioners adopted Resolution Number 2008-11 providing a Notice of Intention to establish the Eastern Summit County Water Conservancy Special Service District (the “District”) on April 16, 2008 and Resolution Number 2008-32 creating the District on December 17, 2008; and

**WHEREAS**, the Summit County Council adopted Ordinance No. 717, the Governing Ordinance for the District on May 20, 2009 setting forth, among other things, the powers and duties of the District; and

**WHEREAS**, on February 24, 2010, the Summit County Council adopted Ordinance No. 717-A, amending Ordinance No. 717, delegating select rights, powers and authorities to the County Manager pursuant to UCA Utah Code Annotated, §17D-1-103, 17D-1-105, 17D-1-106, 17D-1-301, and 17D-1-501 et. seq.; and

**WHEREAS**, on October 9, 2019, the Summit County Council adopted Ordinance No. 717-B, which streamlined the process of approving wastewater systems within the District’s boundaries; and

**WHEREAS**, the Summit County Council desires to amend Title 2, Chapter 20 of the Code, which governs the District’s structure, to provide additional policies and procedures related to the District’s organization and to establish specific rights and responsibilities of both the District and those developing property within the District’s boundaries.

**NOW, THEREFORE**, the County Council of the County of Summit, State of Utah, ordains as follows

**Section 1.** Title 2, Chapter 20 of the Summit County Code is amended as depicted in Exhibit A.

**Section 2:** This Ordinance shall take effect fifteen (15) days after the date of its publication.

APPROVED, ADOPTED, AND PASSED and ordered published by the Summit County Council, this \_\_\_\_ day of April, 2023.

SUMMIT COUNTY COUNCIL

SUMMIT COUNTY, UTAH

\_\_\_\_\_  
By Council Chair

Armstrong voted \_\_\_\_

Hanson voted \_\_\_\_

Stevens voted \_\_\_\_

Robinson voted \_\_\_\_

Harte voted \_\_\_\_

APPROVED AS TO FORM

\_\_\_\_\_  
Helen E. Strachan, Deputy County Attorney

ATTEST:

SUMMIT COUNTY CLERK

Date of Publication \_\_\_\_\_, 2023.

# Exhibit A

**CHAPTER 20  
EASTERN SUMMIT COUNTY WATER CONSERVANCY  
SPECIAL SERVICE DISTRICT**

**2-20-1: PURPOSE:**

To provide for the public health, safety, and general welfare of the residents living within the jurisdictional boundaries of the Eastern Summit County Water Conservancy Special Service District, the District is authorized to provide a system for the collection, treatment, and disposition of Wastewater through facilities or systems acquired or constructed for that purpose through construction, purchase, lease, contract, gift or condemnation or any combination thereof.

**2-20-2: DEFINITIONS:**

APPLICANT	The Owner of land and/or his/her representative seeking formal action from the County or the District.
ASSOCIATION	A legally created corporation or other entity to which all Owners belong as member, the organizational documents for which provide a mechanism for assessing fees upon its members and for assuming and fulfilling responsibilities on behalf of all of its members
CC&Rs	Perpetual covenants, conditions and restrictions imposed upon a subdivision and recorded against the title to the lots created therein which together with the organizational documents of an Association, provide for rules and regulations of the subdivision.
COUNTY:	Summit County, Utah.
COUNTY COUNCIL:	The Summit County Council who exercises legislative authority in the county.
CDD	The Community Development Department of Summit County
COUNTY MANAGER:	The chief executive officer of the county.
DISTRICT:	The Eastern Summit County Water Conservancy Special Service District.
DIVISION	The Utah State Division of Water Quality
ESAC:	The Eastern Summit County Sewer Advisory Committee
ESAC Member	A duly appointed member, either voting or ex-officio, of ESAC

GENERAL MANAGER	The chief executive officer of the District.
GOVERNING BOARD:	The County Council of Summit County.
HEALTH DEPARTMENT	The Summit County Health Department, Environmental Health Division
LARGE UNDERGROUND WASTEWATER DISPOSAL SYSTEM OR LUWD SYSTEM	The same type of device as an Onsite Wastewater System except that it meets one of the following: <ol style="list-style-type: none"> <li>1) designed to handle more than 5,000 gallons per day of domestic Wastewater; or</li> <li>2) Wastewater that originates in multiple dwellings, commercial establishments, recreational facilities, schools; or</li> <li>3) any other underground Wastewater disposal system not covered under the definition of an Onsite Wastewater System.</li> </ol>
ONSITE WASTEWATER SYSTEM	A Wastewater disposal system for domestic Wastewater which is designed for a capacity of 5,000 gallons per day or less and is not designed to serve multiple dwelling units which are owned by separate Owners except condominiums and twin homes. It usually consists of a building sewer lateral, a septic tank and an absorption system.
OWNERS:	The owners of a lot or parcel of property within the boundaries of the eastern Summit County Water Conservancy Special Service District for which Wastewater service is sought.
PUBLIC SEWER	Also known as a publicly owned treatment works or “POTW”, which is a sewer treatment system owned and operated by a governmental agency or public utility.
STATE RULE	Refers to the “Utah Department of Environmental Quality”, Water Quality Administrative Rules, Title R317.
WASTEWATER:	Any water, sewage, industrial waste, or other liquid or waterborne substances causing or capable of causing pollution of waters, other than uncontaminated stormwater, discharged from any facility.
WASTEWATER SYSTEM:	The structures, equipment and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

**2-20-3: GOVERNING BOARD:**

As provided pursuant to Utah Code Annotated sections 17D-1-102(5) and 17D-1-301, the District is hereby governed by the County Council, which is the Governing Board of the District.

#### **2-20-4: POWERS AND DUTIES:**

The Governing Board of the District hereby has all rights, powers, authority and duties to exercise all or any of the powers provided for in Utah Code Annotated sections 17D-1-103, 17D-1-105, 17D-1-106, 17D-1-301, and 17D-1-501 et seq. The Governing Board has control and supervisory authority of the District and may delegate such further powers and authority as provided by statute. In addition, the Governing Board shall have the following authority and duties:

A. The Governing Board shall conduct its business according to bylaws, which it shall adopt, with the Governing Board meeting as needed to act on the business of the District. The bylaws may be amended from time to time by a majority vote of the Governing Board.

B. The Governing Board shall appoint the County Manager as the General Manager for the District, who shall have the duties described in section 2-20-5 of this chapter.

C. The Governing Board shall appoint Members of ESAC ("ESAC Members"), on recommendation by the General Manager.

D. The Governing Board, with the guidance of the General Manager and ESAC, shall adopt policies, procedures, and regulations for the district.

#### **2-20-5: GENERAL MANAGER:**

The Governing Board hereby delegates the following powers, authorities and duties to a General Manager, who shall oversee the District:

A. To govern the day-to-day operations of the District;

B. To prepare, in cooperation with the Governing Board, an annual budget for the District, which will conform to Utah Code Annotated section 17B-1-601 et seq., "fiscal procedures for local district" and recommend the budget so prepared to the County Council. The budget shall demonstrate all proposed expenditures and the fees to be established and collected as revenue to the District's budget;

C. To provide a recommendation to the Governing Board as to the operation of the District, including policies, procedures, and regulations for the District;

D. To provide a recommendation to the Governing Board as to the establishment and collection of the fees and charges for the various Wastewater management services provided to the Owners with the fee schedules reviewed and approved by the County Council.

#### **2-20-6: SEWER ADVISORY COMMITTEE:**

A. Creation, Purpose, And Authority: The Governing Board hereby creates the "Eastern Summit County Sewer Advisory Committee", or "ESAC," which shall act in an advisory capacity to the Governing Board and the General Manager. ESAC shall generally advise the Governing Board

and the General Manager on Wastewater issues and systems within Eastern Summit County. There shall be no actual or apparent authority vested in ESAC except for the authority granted herein.

B. Guiding Principles For ESAC: The following guiding principles shall exist for ESAC:

1. In conjunction with the Summit County Health Department and the municipalities of Eastern Summit County, analyze the existing Wastewater systems and conduct an inventory of existing Wastewater systems.

2. Create an efficient process for the approval by either the General Manager or the Governing Board of Wastewater systems within their jurisdiction in Eastern Summit County.

3. Jointly review all proposed Wastewater systems within their jurisdiction with staff of the Summit County Community Development Department, Engineering Department, and Health Department, who shall address regional impacts and opportunities of Wastewater systems.

C. Powers And Duties: The Governing Board hereby delegates the following powers and duties to ESAC:

1. To assist the General Manager in governing the day-to-day operations of the District.

2. To assist the General Manager with providing a recommendation to the Governing Board as to the operation of the District, including policies, procedures, and regulations for the District.

3. To assist the General Manager with providing a recommendation to the Governing Board as to the establishment and collection of the fees and charges for the various Wastewater services provided to the Owners with the fee schedules reviewed and approved by the County Council.

4. To provide a recommendation to either the General Manager or the Governing Board on Wastewater systems, as described in subsection 2-20-7 of this chapter.

5. To act in an advisory role to the General Manager and the Governing Board or to other officials and departments in any matters pertaining to Wastewater issues within Eastern Summit County.

6. ESAC, through its chair, or his/her designee, shall make both an oral and written report annually to the Governing Board concerning its activities during the past year and its proposals for the coming year.

7. ESAC shall not have the power to obligate the County for funds and/or expenditures or incur any debt on behalf of the County.

8. All powers and duties prescribed and delegated herein are delegated to ESAC as a unit, and all action hereunder shall be of ESAC acting as a whole. No action of any individual ESAC Member is authorized, except through the approval of the Governing Board.

9. ESAC shall have any other power and/or duty as prescribed and authorized by the Governing Board.



D. Membership:

1. ESAC shall consist of five (5) voting ESAC Members who shall be appointed by the Governing Board, on the recommendation of the General Manager.
2. Membership of ESAC shall be as follows:
  - a. One ESAC Member from the County's Community Development Department.
  - b. One ESAC Member from the County's Engineering Department.
  - c. One ESAC Member from the County's Health Department.
  - d. Two (2) ESAC Members from the public at large.
3. One representative of the County attorney's office shall serve as an ex officio ESAC Member, but shall have no right to vote on any matter before ESAC.
4. The General Manager may, in his or her discretion, add up to three (3) ex officio ESAC Members, to assist with the communications and functions of ESAC. Said ex officio ESAC Members shall not have any voting rights.
5. ESAC Members serve at the pleasure of the General Manager and may be removed and replaced at any time. There are no terms limits.

E. Officers:

1. The voting ESAC Members shall appoint a chair and vice chair. The chair shall prepare meeting agendas and shall preside over and conduct all meetings. The chair, or his/her designee, shall act as the representative to the General Manager and the Governing Board for all ESAC transactions and shall have the responsibility of presenting all proposals from ESAC to the General Manager and/or the Governing Board. The chair and vice chair shall serve a term of one (1) year.

F. Meetings And Procedures:

1. ESAC shall meet as needed. A notice of the time and place of each meeting shall be given to ESAC Members not less than three (3) days in advance of the meeting.
2. All meetings of ESAC shall comply with the Utah open meetings laws as found in section 52-4-101 et seq., Utah Code Annotated (1953), as amended.
3. Executive closed sessions may be scheduled whenever the chair deems such action permissible under the Utah open meetings act, and with the concurrence of the County attorney.
4. Written minutes of each open meeting shall be prepared, preserved and made available for public inspection.

5. A majority of the voting ESAC Members shall constitute a quorum and the action of the majority of the ESAC Members present shall be the action of ESAC.
6. ESAC Members shall attend all meetings unless their absence is excused by the chair.
7. All recommendations of ESAC shall be made at a public meeting by motion, made and seconded and by a voice vote. The motion shall be in the form of findings of fact and shall state the reason for the findings by ESAC and a statement of any recommended conditions to be attached to the action.

#### **2-20-7: APPROVAL OF WASTEWATER SYSTEMS:**

A. Summit County Health Department Approvals: The following shall be reviewed and approved, denied, or approved with conditions by the Health Department pursuant to the Summit County Health Code:

1. Proposed Onsite Wastewater Systems that serve proposed subdivisions or development of three (3) or less lots or parcels pursuant to Title 11, Chapter 4 Section 5 (B) of the code; or
2. Proposed Onsite Wastewater Systems that serve proposed subdivisions of four (4) or more lots pursuant to Title 11, Chapter 4 Section 5 (C) of the code, but only if all of the proposed lot sizes are ten (10) acres in size or greater.
3. Notwithstanding Section 2-20-7 (B) below, any proposed Wastewater System where the Health Department has determined that Public Sewer is "reasonably available" as that phrase is defined by the Summit County Health Code.

B. District Approvals: The following shall be reviewed and a recommendation of approval, denial, or approval with conditions provided by ESAC:

1. Proposed Wastewater Systems that serve such proposed subdivisions of four (4) or more lots pursuant to Title 11, Chapter 4 Section 5 (C) of the code, but only if the proposed lot sizes are less than ten (10) acres in size.
  - a. For proposed Wastewater Systems that serve proposed subdivisions of ten (10) or less lots, ESAC shall review the application and make a recommendation on the proposed Wastewater System to the General Manager of the District. The General Manager shall review the proposed Wastewater System, ESAC's recommendation and make a final decision on the Applicant's proposed Wastewater System. The General Manager's decision may be appealed to the Governing Board within ten (10) business days.

- b. For proposed Wastewater Systems that serve proposed subdivisions of eleven (11) or more lots, ESAC shall review the application and make a recommendation on the proposed Wastewater System to the Governing Board of the District. The Governing Board shall review the proposed Wastewater System, ESAC's recommendation and make a final decision on the Applicant's proposed Wastewater System. The Governing Board's decision may be appealed to 3rd District Court within thirty (30) calendar days.

2. Any development that, in the discretion of the Summit County Health Department, has been identified as requiring a recommendation and approval by the District due to, for example, the intensity of the proposed uses or the proposed daily septic flows of over five thousand (5,000 gallons per day of water).

3. All proposed LUWD Systems shall be reviewed by the District, regardless of the size of the subdivision/development and regardless of the sizes of the proposed lots. Approvals shall be as outlined in Section 2-20-7(B)(1)(a) and (b) above.

C. Applications for Wastewater Systems:

1. All applications for Wastewater Systems in Summit County shall be made to the Health Department for initial review and to determine if review and approval lies with the Health Department or with the District.
2. If the application requires District approval as outlined above in Section 2-20-7 (A) and (B), the application shall be forwarded to the District and the CDD.
3. ESAC Submittals: Prior to the scheduling of any proposed Wastewater System application before ESAC, the Applicant shall submit to the CDD information in order for ESAC to make its recommendation. The Applicant may consult with State Rule and the Health Department to determine what information may be beneficial to ESAC during the review of the application. However, at the discretion of ESAC, other information may be required in order for ESAC to make its recommendation.
  - a. Required LUWD System Submittals: If the Applicant is proposing a LUWD System, the following shall be submitted to the CDD prior to scheduling the application with ESAC:
    - i. The Approval in Concept letter received from the Division;
    - ii. Information related to the development being proposed, including type of development, the phasing (if any) of the proposed project, drawings and maps indicating the location, boundary & configuration of the proposed project;
    - iii. General information as outlined in State Rule 317-5-4 (as amended);

- iv. Engineering report containing all design criteria;
- v. Plans for the LUWD System outlined in State Rule 317-5-5(B) (as amended);
- vi. Any applicable District application fees;
- vii. Preliminary LUWD System management plan;
- viii. Proposed CC&Rs, organizing documents for the Association, and other such dedications, contracts, covenants, or agreements demonstrating that any privately-owned components associated with the LUWD System will be assigned to an appropriate Association;
- ix. Draft easements or title documents showing required access to the LUWD System;
- x. Preliminary Title Report dated within 30 days of the date of submission to ESAC, for the property being developed and for all other properties where easements for proposed Wastewater lines required to provide Wastewater service to the project will be necessary; and
- xi. Any other information which will allow for a complete evaluation of the application.

4. District Approval Agreement:

- a. District approvals of Wastewater Systems, not including approvals of LUWD Systems, shall be in the form of findings of fact, conclusions of law and conditions of approval. District approvals of LUWD Systems shall be in the form of a "Large Underground Wastewater Disposal Management and Maintenance Agreement," between the Applicant and the District (and approved by the County Attorney's Office) which shall contain, at a minimum, the following:
  - i. The Approval in Concept letter issued by the Division included as an attachment;
  - ii. Design and engineering requirements of the LUWD System;
  - iii. Pre-construction requirements of the LUWD System;
  - iv. Construction permit requirements of the LUWD System;
  - v. Construction and installation requirements of the LUWD System including the posting of any required warranties;
  - vi. Ownership of the LUWD System;
  - vii. Operation, maintenance and management responsibilities of the LUWD System;
  - viii. Reference to proposed CC&Rs of the proposed development that specifies the responsibilities of the Owners and the Association with respect to the LUWD System;
  - ix. Easements associated with the LUWD System showing District's allowed perpetual access to the LUWD System included as an attachment;
  - x. Requirements for future connection to Public Sewer;

- xi. Reserve fund requirements; and
  - xii. Agreement to pay all required District fees.
- b. The “Large Underground Wastewater Disposal Management and Maintenance Agreement” shall be signed by the chair of the Governing Board as part of the final District approval of the LUWD System and recorded with the Summit County Recorder.

## **2-20-8: DISTRICT POLICIES REGARDING WASTEWATER SYSTEMS:**

### **A. Requirements for Wastewater Systems:**

1. All proposed subdivisions and development of eleven (11) or more lots (if proposed lot sizes are less than ten (10) acres in size) shall be required to install a LUWD System.
2. All proposed subdivisions and development between four (4) and ten (10) lots (if proposed lots sizes are less than ten (10) acres in size) may be eligible for Onsite Wastewater Systems based upon an initial review by the Health Department per the Summit County Health Code. If the Health Department determines that the proposed subdivision may be eligible for Onsite Wastewater Systems, the recommendation shall be forwarded to ESAC and reviewed per Section 2-20-7(B) above.

### **B. Design and Engineering Requirements of a LUWD System:**

1. LUWD Systems shall meet the design and engineering requirements of State Rule 317-5. Any subsequent changes to the design shall be required to receive the approval of the District and shall be approved in writing by both the Division and the District.
2. All costs associated with the engineering and design of the LUWD System shall be borne by the Applicant.

### **C. Pre-Construction and Construction Requirements:**

1. All pre-construction requirements for a LUWD System shall be submitted to the District for its review and approval prior to submitting to the Division. All costs associated with the pre-construction permit requirements shall be borne by the Applicant.
2. The construction permit application and any associated requirements per State Rule shall be submitted to the District for its review and approval prior to submitting to the Division. All costs associated with the construction permit requirements shall be borne by the Applicant.
3. Prior to Applicant recording the plat associated with the LUWD System, Applicant shall either complete construction and installation of the LUWD System or post an improvement completion financial assurance for the LUWD

System with the District. If Applicant elects to post an improvement completion financial assurance, the Applicant shall provide assurance for completion of 110% of the estimated costs of construction of the LUWD System (which includes a 10% warranty). The mechanism for assurance shall be agreed to by Applicant and the District and may include an irrevocable letter of credit, a cash bond to be escrowed by the District or a third-party escrow agent pursuant to a cash bond escrow agreement, or a performance or surety bond.

4. Applicant shall be solely responsible for the cost, expense and supervision of the construction and installation of the LUWD System up to and including the isolation valve at the point of connection with the lateral sewer line from each lot (lot Owners shall be individually responsible for the septic tank and sewer pipes solely servicing their home as outlined in the CC&Rs). Notwithstanding the foregoing, Applicant shall coordinate all construction and installation efforts, including but not limited to pre-construction meetings, construction work and supervision of construction and installation with the District, which may, in its sole discretion, attend any aspects of the construction and/or installation of the LUWD System.
5. Upon completion of the LUWD System construction and installation, the Applicant shall be responsible for obtaining an inspection and approval of the LUWD System from the Division. Once the Applicant has obtained approval of the LUWD System from the Division, the Applicant shall provide notice thereof to the District who shall also inspect the same for approval of any release of the improvement completion financial assurance by the District to the Applicant.
6. Upon final inspection of the LUWD System by the District, the LUWD System shall be dedicated to the District for future ownership and maintenance consistent with Subsections 2-20-9 and 2-20-10 below.

**2-20-9: OWNERSHIP OF LUWD SYSTEMS:** All final subdivision plats associated with a LUWD System shall include plat notes, consistent with the following:

- A. **Centralized LUWD System Treatment Facilities:** The District shall own the centralized LUWD System treatment facilities and associated appurtenances including, but not limited to, primary settling tank, control and maintenance structures, discharge pumps, force mains, drain fields and manholes. Applicant shall grant to the District any perpetual easements required for access, installation, operation and maintenance of the centralized LUWD System treatment facilities and associated appurtenances, including any required access roads and parking areas.
- B. **Infrastructure Tributary to the Centralized LUWD System Treatment Facility:** All sewer mains and appurtenances including, but not limited to, manholes and shared laterals

shall be owned by the District and will be located within the public utilities easements (“PUE”) and/or sanitary sewer easement identified on the plat associated with the LUWD System. An isolation valve, located within the PUE, will be placed on the lateral serving each lot.

- C. Infrastructure Located on Lots: The Applicant or subsequent Owner(s) shall own and shall be responsible for the installation of the building sewer, building sewer cleanout(s), septic tank, lateral, and lateral connection located on the individual lots and upstream of the isolation valve in the PUE. Prior to issuance of a certificate of occupancy, Applicant shall record perpetual easements for maintenance and inspection from the existing PUE up to and including the septic tank and cleanout between the tank and the building foundation. The Health Department shall approve the location, size and type of septic tank to be installed on each lot.

## **2-20-10: OPERATION, MAINTENANCE AND MANAGEMENT:**

### **A. District Responsibilities:**

1. The District shall provide oversight and supervision of each LUWD System within its jurisdiction. The rights and duties of the District relating to each LUWD System and to the District’s operation and maintenance thereof shall be governed by the State’s description of the rights and responsibilities of a Body Politic under State Rule. The District shall be responsible for overseeing the day-to-day operations of each LUWD System within its jurisdiction. The District shall hire a “Certified Operator” (“CO”) to handle the scheduled maintenance of each LUWD System, which includes the following:
  - a. Quarterly inspections of the LUWD System and equipment that meets the requirements of the Division.
  - b. Annual inspection of the septic tank and effluent filter located on each lot within the LUWD System, including filter cleaning.
  - c. All inspection, sampling, and reporting requirements set forth in State Rule.
  - d. Coordination with the Association and the District to handle emergency repairs and maintenance.

### **B. Applicant Responsibilities:**

1. The Applicant or subsequent Owner(s), through its CCRs and organizing documents of the Association associated with the development, shall maintain the lateral lines and septic tank between each home and the connection point with the main line. Any associated maintenance costs including, but not limited to, effluent filter replacement and tank pumping, shall be borne on the Applicant.
2. Costs and Fees. Applicant or subsequent Owner(s) shall pay all overhead costs, CO costs, maintenance costs, and septic tank pumping charges related to the LUWD

System. These charges will be billed by the District to the Applicant, who will assess these costs and fees consistent with the associated CC&Rs and the organizational documents for the Association for the development.

3. The Applicant shall establish, maintain and replenish a reserve fund, which shall be established prior to or upon final LUWD System inspection and approval by the District. The reserve fund shall be utilized for the express purpose of funding ongoing repairs, improvements, and potential catastrophes to those portions of the LUWD System owned by the District. The District shall also have the right to include an on-going, periodic reserve fund assessment to the Association for each lot, in order to augment the reserve fund over time to assist in the ongoing maintenance and replacements costs of the LUWD System. The minimum reserve fund balance shall be reviewed by the District on an annual basis and may be revised by the District as deemed necessary. The reserve fund shall be maintained in an escrow account acceptable to the District, and the District shall have access to the reserve fund to provide any maintenance, repairs, or improvements to the LUWD System that, in the opinion of the District, are deemed necessary.

#### **2-20-11: FUTURE CONNECTIVITY TO A PUBLIC SEWER:**

- A. A malfunctioning or failing LUWD System constitutes a public health hazard. A malfunctioning or failing LUDW System is one that is not functioning in compliance with the requirements of applicable State Rule R317-5 and may include:
  1. absorption systems that seep or flow to the surface of the ground or into waters of the State;
  2. systems that overflow from any of their components;
  3. systems that cause backflow into any portion of a building drainage system;
  4. systems discharging effluent that does not comply with applicable effluent discharge standards of its operating permit;
  5. leaking septic tanks; or
  6. noncompliance with standards stipulated in or by the construction permit, operating permit, or both.
- B. Availability of Public Sewer:
  1. For individual parcels, Public Sewer is considered “reasonably available” if the allowable Public Sewer connection is within 300’ of any part of the parcel. Measurements are taken using the path of access to the Public Sewer connection as deemed appropriate by the governing body of the applicable Public Sewer district.



2. For subdivisions, Public Sewer is considered “reasonably available” if the distance in feet to the allowable Public Sewer connection is less than or equal to the product of the aggregated area in square footage of all of lots in the subdivision multiplied by 0.0069 (open space, parks, recreational areas, etc... are not considered as part of the area of the subdivision lots in this distance calculation).
- C. A LUWD System shall be discontinued and shall be required to connect to a Public Sewer System if the following can be met:
  1. The District, in its sole discretion, determines that a malfunctioning or failing LUWD System cannot be remedied;
  2. The District has determined that Public Sewer is reasonably available per Section 2-20-11(B) above;
  3. The applicable Public Sewer district consents to hookup; and
    - a. The District has agreed to pay for the expense of Public Sewer connection.
- D. The Applicant shall be given ninety (90) days to connect to Public Sewer after the decision is made by the District. The decision by the District to require connection to Public Sewer may be appealed to the Governing Board within ten (10) calendar days.
- E. For any LUWD System that has been discontinued, the District shall follow State Rule outlining the process for discontinued use of a LUWD System.

#### **2-20-12: OPERATION:**

The District may utilize the services of the Summit County Treasurer (the “Treasurer”) and the Summit County Auditor (the Auditor”) to assist in financial matters. All collections, investments, disbursements, procurement, and other financial transactions will be managed by the Treasurer, who is delegated the role of District Treasurer. The Governing Board delegates the recording and safeguarding of all minutes of meetings of the board to the Summit County Clerk, who shall act as Secretary of the District.

#### **2-20-13: INDEMNIFICATION:**

The District shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil or criminal, administrative or investigative, by reason of the fact that he or she is or was the General Manager, an ESAC Member, director, officer, employee, or agent of the District. The indemnification shall be for all expenses (including attorney fees), judgments, fines, and amount paid in settlement, actually and reasonably incurred by him or her in connection with the action, suit, or proceeding, including any appeal of the action, suit or proceeding, if he or she acted in good faith or in a manner he or she reasonably believed to be in or not opposed to the best interests of the District, and with respect to any criminal action or proceeding, if he or she had no reasonable cause to believe the conduct was unlawful.

Determination of any action, suit, or proceeding by judgment, order, settlement, conviction or on a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the party did not meet the applicable standard of conduct. Indemnification under this section may be paid by the District in advance of the final disposition of any action, suit, or proceeding, on a preliminary determination that the director, officer, employee, or agent met the applicable standard of conduct and on receipt of an undertaking by or on behalf of the General Manager, ESAC Member, director, officer, employee, or agent to repay the amount, unless it is ultimately determined that he or she is not entitled to be indemnified by the District as authorized in this section.

The District shall also indemnify any General Manager, ESAC Member, director, officer, employee, or agent who has been successful on the merits or otherwise, in defense of any action, suit, or proceeding, or in defense of any claim, issue, or matter in the action, suit, or proceeding, against all expenses, including attorney fees, actually and reasonably incurred, without the necessity of an independent determination that the General Manager, an ESAC Member, director, officer, employee, or agent met any appropriate standard of conduct.

The indemnification provided for in this section shall continue as to any person who has ceased to be the General Manager, an ESAC Member, director, officer, employee, or agent, and shall inure to the benefit of the heirs, executors, and administrators of that person.

#### **2-20-14: INSURANCE:**

The District shall have power to purchase and maintain insurance on behalf of any person who is the General Manager, an ESAC Member, director, officer, employee, or agent of the District against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the District would have authority to indemnify him or her against the liability under the provisions of this section, or under law.

#### **2-20-15: ANNUAL REPORT:**

The District shall make an annual presentation to the County Council of its goals, budget and activities.