

After Recording, Return To:
IM Flash Technologies, LLC
Attn: Nathan Hyde, Senior Counsel
1550 East 3400 North
Lehi, Utah 84043

**CERTIFICATE OF WATER RIGHT
DEDICATION AND ENTITLEMENT**

Issued by Lehi City

THIS CERTIFICATE OF WATER RIGHT DEDICATION AND ENTITLEMENT (this "**Certificate**") is issued effective as of the date set forth below, to IM Flash Technologies, LLC, a Delaware limited liability company with an address of Attn: Nathan Hyde, Senior Counsel, 1550 East 3400 North, Lehi, Utah 84043 (the "**Owner**") in conformance with the terms and provisions of that certain Water Purchase and Dedication Agreement (the "**Agreement**"), entered into by and between the Owner and Lehi City, dated as of the 29th day of March, 2017 a copy of which is affixed as **Attachment 1** hereto and the terms and provisions of which are incorporated by reference herein.

NOW, THEREFORE, THE UNDERSIGNED, Lehi City (the "**City**"), in consideration of the mutual covenants contained in the Agreement, hereby certifies as follows:

1. Water Right Dedication Entitlement. This Certificate hereby vests in the Owner as the owner of the real property described in **Attachment 2**, which is attached hereto and incorporated herein (the "**Property**") and its legal successors-in-interest and assigns to ownership of the Property (the "**Certificate Holder**"), a credit in full and final satisfaction of the requirements that would otherwise be imposed upon the Certificate Holder to dedicate, provide or convey water rights to the City as a condition to receiving culinary and irrigation water service from the City, including without limitation, the obligation to convey water rights to the City pursuant to Chapter 27, Annexation Procedures and Water Rights Conveyance Requirements of the *Lehi City Development Code* (the "**Development Code**"), and Section 27.070 of the same, as currently adopted or as may be amended from time to time, for a total of 1,123.79 acre-feet of water right entitlements, for the delivery of water to the Property for Owner's semiconductor manufacturing facility (the "**Facility**") or to the Property for Owner's other uses in the event that the Owner and its legal successors-in-interest and assigns to ownership of the Property cease operation of the Facility (the "**Water Right Dedication Entitlement**"). Impact fees and other required fees to receive water service from the City, and any applicable development requirements of the City will continue to be due and owing as provided by the Development Code and other applicable City ordinances or rules and regulations.

2. Transfer of Water Right Dedication Entitlement. The Water Right Dedication Entitlement evidenced by this Certificate may be transferred, in whole, or in part, in conformance with the following:

(a) The Water Right Dedication Entitlement may be transferred only together with the transfer of all or a portion of the Property to the Property transferee. A transfer of all of the Property requires the transfer of the entire Water Right Dedication Entitlement. A transfer of a portion of the Property permits the transfer of all or none or a portion of the Water Right Dedication Entitlement as determined by the Certificate Holder prior to the transfer of the portion of the Property to be transferred. Prior to the transfer of all or any portion of the Property to any transferee, the transferor shall first send written notice of the proposed transfer to the City, containing the name of the current Certificate Holder, the name and address of the proposed transferee, and the acre-feet amount of the Water Right Dedication Entitlement to be transferred. The City shall send a written acknowledgment of the notice to transferor, and therein verify the number of acre-feet of the Water Right Dedication Entitlement to be included with the transfer. Authorization of the transfer of all or a portion of the Water Right Dedication Entitlement together with all or a portion of the Property by the City shall not be withheld and shall not be unreasonably conditioned or delayed.

(b) The transfer of the Water Right Dedication Entitlement, or portion thereof, shall be accomplished pursuant to a written assignment, in the form attached as **Attachment 3** hereto, which shall set forth the name and address of the transferor, the name and address of the transferee, and the acre-feet amount of the Water Right Dedication Entitlement to be transferred pursuant to such assignment. The assignment shall be signed by the transferor and the transferee, with said signatures being duly acknowledged, and shall be authorized by the City thereon. Authorization of the transfer by the City shall not be withheld and shall not be unreasonably conditioned or delayed; provided that some portion of the Property is to be transferred with the Water Right Dedication Entitlement or portion thereof.

(c) The original of the duly executed and acknowledged assignment shall be delivered to the City and a copy thereof shall be retained by the transferee. The original assignment shall be retained of record by the City, which record, so long as it is accurately maintained, shall be conclusive as to the ownership of the Water Right Dedication Entitlement under the Agreement and this Certificate.

(d) No assignment of any ownership interest in the Water Right Dedication Entitlement shall be effective if it is (i) made without a corresponding conveyance of some portion of the Property or (ii) if it results in an assignment of more than the 1,123.79 acre-feet authorized under the Agreement and this Certificate.

(e) All transferees of the Water Right Dedication Entitlement made in compliance with the requirements of the Agreement and this Certificate shall have all of the rights and obligations set forth in the Agreement and this Certificate.

3. **Recording of this Certificate.** This Certificate shall be recorded in the office of the Utah County Recorder and indexed against the Property and a copy provided to the City.

4. **Perpetual Entitlement.** The rights under the Water Right Dedication Entitlement to the Property under this Certificate shall be perpetual.

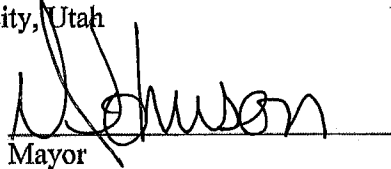
ISSUED this 15th day of MARCH, 2019.

CITY

Lehi City, Utah

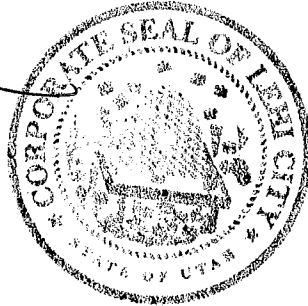
By:

Its: Mayor



Attest and Countersign:


City Recorder



ATTACHMENT 1

**Signed Water Purchase
And Dedication Agreement**

ATTACHMENT 1

[Copy of Water Purchase and Dedication Agreement]

WATER PURCHASE AND DEDICATION AGREEMENT

THIS WATER PURCHASE AND DEDICATION AGREEMENT (this "**Agreement**"), is made and entered into as of the 29th day of March, 2017 (the "**Effective Date**"), by and between LEHI CITY, a municipal corporation of the state of Utah (the "**City**"), and IM FLASH TECHNOLOGIES, LLC, a Delaware limited liability company with its principal place of business at 4000 North Flash Drive, Lehi, UT 84043 ("**IMFT**"). The City and IMFT may be referred to herein individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

A. IMFT owns real property located within the water service area of the City in Utah County, State of Utah more particularly described on **Exhibit A** attached to and made a part of this Agreement (the "**Property**"). IMFT owns a semiconductor manufacturing facility together with support operations (the "**Facility**") that are located on the Property.

B. IMFT desires the City to provide municipal water service to the Facility and the Property in the amount of 1,123.79 acre-feet of water annually pursuant to the Water Service Agreement (defined in Recital G) and the City will require a dedication of a right to use 1,123.79 acre-feet of water annually to the City (the "**Water Right Dedication Requirement**") and execution of the Water Service Agreement by the Parties to provide such water service.

C. Jordan Valley Water Conservancy District, a Utah water conservancy district (the "**District**") owns 1,354 shares of Welby stock in Welby Jacob Water Users Company (the "**Shares**") which allow the diversion of 1,354 acre-feet of water by the District annually from the Welby Canal for irrigation purposes.

D. Change Application No. a19826 (Water Right No. 55-8940) (the "**Change Application**") was filed by the District on the Shares in 1996 seeking to: (i) change the point of diversion of the water to an underground well situated in Highland, Utah; (ii) change the nature of use of the water from irrigation to municipal; (iii) change the place of use of the water to the District's service area; and (iv) reduce the volume of water to be diverted under Water Right No. 55-8940 to 1,123.79 acre-feet to compensate for canal seepage and evaporation loss in the Welby Canal. The Change Application has not been approved by the Utah State Engineer (the "**State Engineer**").

E. The District owns a well site, approximately one-acre in size, located at approximately 11000 North 6000 West, Highland, Utah (the "**Well Site**"), which Well Site is identified in the Change Application as the location of the proposed new point of diversion.

F. The City and the District have entered into that certain *Water Stock, Change Application and Well Site Purchase Agreement* with the District (the "**District Agreement**"). IMFT is an intended third party beneficiary to the District Agreement as to the purchase and acquisition of the Well Site. Pursuant to the District Agreement, the District will amend the

Change Application (the "Amended Change Application") and obtain an approval of the Amended Change Application by the State Engineer that is no longer subject to administrative or judicial appeals. The State Engineer will evaluate, quantify and approve the Amended Change Application for a certain diversion volume (the "Approved Diversion Volume") which volume is fully anticipated to be 1,123.79 acre-feet.

G. Following approval of the Amended Change Application and concurrently with the closing of the District Agreement, (i) IMFT will pay to the Escrow Agent (defined in Section 5 herein) Five Million Eight Hundred Ninety-Eight Thousand Nine Hundred Seventeen Dollars (\$5,898,917) (the "Purchase Price") for the combined purchase of the Shares, the Amended Change Application, and the Well Site, (ii) the City will purchase the Shares and the Amended Change Application from the District, and (iii) IMFT will purchase the Well Site from the District as described in the District Agreement. A copy of the District Agreement is set forth as Exhibit B, which is attached to and made a part of this Agreement.

H. The Purchase price is allocated as follows: Five Million Six Hundred Ninety-Eight Thousand Nine Hundred Seventeen Dollars (\$5,698,917) to the purchase of the Shares and the Amended Change Application to be owned by the City (the "Water Right Purchase Price"); and Two Hundred Thousand Dollars (\$200,000) to the Well Site to be owned by IMFT (the "Well Site Purchase Price").

I. IMFT has agreed to pay the Water Right Purchase Price to the Escrow Agent for the benefit of the City, in exchange for satisfaction of the City's Water Right Dedication Requirement to receive water service to the Facility and to the Property as set forth in more detail in the *Infrastructure, Water Service and Well Operation Agreement* included as Exhibit C, which is attached to and made a part of this Agreement (the "Water Service Agreement") and in exchange for a Certificate of Water Right Dedication and Entitlement (the "Certificate") to be recorded in the office of the Utah County Recorder and indexed against the Property as such Certificate is set forth as Exhibit D, which is attached to and made a part of this Agreement.

J. The City has agreed to accept the payment of the Water Right Purchase Price by IMFT for the City's purchase of the Shares and the Amended Change Application in exchange for (i) full satisfaction of the City's Water Right Dedication Requirement for IMFT to receive water service to the Facility and to the Property as set forth in more detail in the *Water Service Agreement* and (ii) the City's issuance of the Certificate.

NOW THEREFORE, for and in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. IMFT's Payment of Purchase Price. IMFT will pay the Purchase Price to the Escrow Agent prior to or at the Closing (defined in Section 5) to be distributed as follows at the Closing: (1) the Water Right Purchase Price to be paid to the District for the City's purchase of

the Shares and the Amended Change Application at the closing of the District Agreement; and the Well Site Purchase Price to be paid to the District for IMFT's purchase of the Well Site. The Purchase Price will be paid in current and immediately available funds.

2. Issuance of Water Right Dedication Certificate. The City shall execute the Certificate prior to or at the Closing.

3. Execution of Water Service Agreement. Each of the Parties shall execute two originals of the Water Service Agreement prior to or at the Closing.

4. City's Acknowledgment of the Water Right Dedication. The issuance of the Certificate by the City to IMFT is the City's acknowledgment that IMFT has met and fulfilled the City's water right dedication and conveyance requirements to receive water service to the Property in the amount of the Approved Diversion Volume not to exceed 1,123.79 acre-feet of water annually for the Facility or for IMFT's other uses tied to the Property in the event that IMFT ceases to operate the Facility in the future. The City also acknowledges that IMFT has no further obligation to dedicate or convey water rights to the City to receive water service to the Facility or for future use on the Property, unless the water use requirements for the requested water service exceed 1,123.79 acre-feet of water annually.

5. The Closing. The closing of the transaction contemplated by this Agreement (the "Closing") will be held at the offices of Meridian Title with an address of _____ (the "Escrow Agent") on the date of and simultaneously with the closing described in the District Agreement.

(a) IMFT's Closing Deliveries. Prior to or at the Closing, IMFT shall deliver the following to the Escrow Agent:

- (i) the Purchase Price to be allocated as set forth in Recital H herein;
- and
- (ii) Two originals of the Water Service Agreement executed by IMFT.

(b) The City's Closing Deliveries.

- (i) The Certificate executed by the City;
- (ii) Two originals of the Water Service Agreement executed by the City; and
- (iii) A special warranty deed in substantially the form attached as Exhibit C to the District Agreement conveying title to the Well Site from the District to IMFT (the "Special Warranty Deed").

(c) Escrow Agent Duties. When the terms and conditions of this Agreement have been satisfied, the Escrow Agent has received the Purchase Price, the executed Certificate,

two fully executed originals of the Water Service Agreement, and the Special Warranty Deed, the Parties authorize the Escrow Agent to close the transaction by paying the Purchase Price to the District, recording the Certificate in the office of the Utah County Recorder and delivering the Certificate to IMFT, recording the Special Warranty Deed in the office of the Utah County Recorder and delivering it to IMFT, and delivering one executed original of the Water Service Agreement to each of the Parties.

(d) Costs and Expenses. All reasonable and customary costs and expenses associated with the Closing shall be shared equally by the Parties.

6. Representations and Warranties; Limitations.

(a) IMFT represents and warrants as of the Effective Date and as of the Closing that, except as affected by the terms of this Agreement:

(i) IMFT has no agreement(s) that would conflict with the representations, warranties and covenants made in this Agreement; and,

(ii) IMFT has full authority to enter into this Agreement; all action necessary to authorize the execution of this Agreement and its performance by IMFT have been taken; those executing the Agreement on behalf of IMFT have full authority to do so; and, this Agreement, upon execution, will be a binding legal obligation of IMFT.

(b) The City represents and warrants as of the Effective Date and as of the Closing:

(i) The City has no agreement(s) that would conflict with the representations, warranties and covenants made in this Agreement; and,

(ii) The City Council has adopted a resolution approving this Agreement and the transaction contemplated by this Agreement; the City has full authority to enter into this Agreement; all action necessary to authorize the execution of this Agreement and its performance by the City have been taken; those executing the Agreement on behalf of the City have full authority to do so; and this Agreement, upon execution, will be a binding legal obligation of the City.

7. Notices. All notices and other communications required or allowed by this Agreement shall be in writing and shall be personally delivered or sent by certified or registered U.S. Mail, return receipt requested, and addressed to the respective Party at the address set forth below or at such other address as a Party may hereafter designate by written notice to the other.

If to IMFT, to:

IM Flash Technologies, LLC
Attn: Nathan Hyde, Senior Counsel
4000 North Flash Drive
Lehi, Utah 84043

If to the City, to:

Lehi City
Attn: City Manager
153 North 100 East
Lehi, Utah 84043

Notice under this paragraph shall be effective on the date it is received or delivery is refused by the other Party.

8. Recording of the Certificate. The Certificate shall be recorded in the office of the Utah County Recorder and indexed against the Property.

9. Rights and Entitlements Tied to Property Ownership. The rights and entitlements of IMFT under this Agreement and under the Certificate are tied to the ownership of the Property and can only be alienated or assigned to the owner of the Property or a portion or portions thereof.

10. Termination of this Agreement. This Agreement shall automatically terminate upon the termination of the District Agreement. Otherwise, this Agreement shall remain in force unless mutually terminated by the Parties.

11. Survival of Representations and Warranties. The representations and warranties of the Parties contained in Section 6 shall survive the Closing for a period of five (5) years.

12. Assignment. IMFT shall have the right to assign this Agreement and the rights and obligations contained in this Agreement to any owner of the Property or a portion or portions thereof.

13. Amendment. This Agreement may be amended only by written instrument executed by both Parties.

14. Entire Agreement; Integration. This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter. Each Party acknowledges that it has not relied upon any statements, representations, agreements or warranties of any person, except those expressly stated in this Agreement.

15. Waiver. Neither Party shall be deemed to have waived any right or remedy under or with respect to this Agreement unless such waiver is expressed in a writing signed by such Party. No waiver of any right or remedy under or with respect to this Agreement by a Party on any occasion or in any circumstance shall be deemed to be a waiver of any other right or remedy on that occasion or in that circumstance nor a waiver of the same or of any other right or remedy on any other occasion or in any other circumstance.

16. Successors and Assigns. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective permitted affiliates and successors of the Parties, including the IMFT joint venture member companies Micron Technology, Inc. and Intel Corporation.

17. Cooperation and Further Assurances. Each of the Parties shall cooperate fully with one another and shall execute, deliver, file, and record such further and additional documents and instruments that the other party may reasonably request to effect further and more completely the transactions herein contemplated.

18. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Utah without giving effect to any choice or conflict of law provision or rule (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Utah.

19. Attorneys' Fees. In the event that any action or proceeding is commenced by any Party hereto for the purpose of enforcing any provision of this Agreement, the Parties to such action or proceeding shall receive as part of any award, judgment, decision or other resolution of such action or proceeding their costs and reasonable attorneys' fees as determined by the court making such award, judgment, decision or resolution.

20. Incorporation of Recitals and Exhibits. The Recitals and the Exhibits referenced in this Agreement are a material part hereof and shall be treated as if fully incorporated into the body of this Agreement.

21. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or construed to create an agency relationship, association, joint venture, trust or partnership, or impose any trust or partnership covenant, obligation or liability on or with regard to any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any other Party.

22. No Third Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or confers upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

23. Counterparts/Signatures. This Agreement may be executed by facsimile or other electronic means and in one or more counterparts, each of which shall be deemed an original, but

all of which together shall constitute one and the same instrument. Signatures delivered hereon by facsimile or electronic mail shall be deemed originals for all purposes.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

[Signatures on following page]

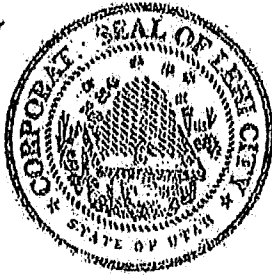
CITY

Lehi City, Utah

By: *[Signature]*
Its: Mayor
3-29-17

Attest and Countersign:

[Signature]
City Recorder



IMFT

IM Flash Technologies, LLC,
A Delaware limited liability company

By: *[Signature]*
Its: FACILITIES DIRECTOR

REVIEWED
IMFT LEGAL
[Signature]

EXHIBIT A**[LEGAL DESCRIPTION OF THE PROPERTY]**

The following described real property located in Utah County, State of Utah:

IM Flash Technologies, Inc.**Parcel 1A**

A parcel of land, situate in the SE1/4 and NE1/4 of Section 28, SW1/4 of Section 27, NE1/4 of Section 33, and NW1/4 of Section 34, Township 4 South, Range 1 East, Salt Lake Base and Meridian. The boundaries of said parcel are described as follows:

Beginning at a point on the Northerly Right-of-Way Line of State Route 92, said point also being S89°58'41"E 403.26 feet along the Section Line and S04°02'40"E 1303.43 feet from the South Quarter Corner of said Section 28; and running thence N04°02'40"W 2857.75 feet; thence N83°28'20"E 283.68 feet; thence N53°05'33"E 1215.74 feet; thence N14°38'07"W 368.81 feet; thence N75°21'53"E 982.07 feet; thence S07°33'50"E 420.33 feet; thence S74°14'09"E 1731.40 feet; thence S01°24'45"W 3315.83 feet to said Northerly Right-of-Way Line; thence the following six courses along said Northerly Right-of-Way Line: (1) S89°41'35"W 366.16 feet; (2) thence S89°43'46"W 790.00 feet; (3) thence S89°40'02"W 1110.00 feet; (4) thence S89°44'09"W 670.00 feet; (5) thence S89°41'35"W 200.09 feet; (6) thence N89°58'01"W 413.07 feet to the point of beginning. Contains 303.424 Acres

Excepting therefrom:

Any part of the above described property lying within the Right-of-Way Limits of the State Route 92.

Also Less and Excepting therefrom:

A parcel of land located in the East half of Section 28, and the Southwest quarter of Section 27, in Township 4 South, Range 1 East, Salt Lake Base and Meridian, Utah County, more particularly described as follows:

Beginning at a point that is North 49°33'54" East 689.864 feet from the South quarter corner of said section 28, a found brass cap monument set in concrete; thence North 7°36'13" West 561.630 feet; thence North 57°40'47" East 197.972 feet; thence North 32°19'13" West 130.000 feet; thence North 57°40'51" East 470.000 feet; thence North 32°19'13" West 292.138 feet; thence North 57°40'47" East 927.501 feet; thence North 14°38'07" West 470.873 feet; thence North 75°21'53" East 850.000 feet; thence South 14°38'07" East 393.198 feet; thence South 74°14'09" East 895.770 feet; thence South 15°45'51" West 356.197 feet; thence South 74°14'09" East 434.876 feet; thence South 15°45'51" West 1,123.803 feet; thence North 74°14'09" West 945.256 feet; thence South 81°45'51" West 494.185 feet; thence South 57°45'51" West 643.508 feet; thence South 81°48'12" West 794.602 feet to the point of beginning.

Net Acreage 203.571 Acres

[Tax Parcel ID No. 11-029-0043]

Exhibit A-1

WATER PURCHASE AND DEDICATION AGREEMENT

IM Flash Technologies, Inc.Parcel 1B

A parcel of land located in the East half of Section 28, and the Southwest quarter of Section 27, in Township 4 South, Range 1 East, Salt Lake Base and Meridian, Utah County, more particularly described as follows:

Beginning at a point that is North 49°33'54" East 689.864 feet from the South quarter corner of said section 28, a found brass cap monument set in concrete; thence North 7°36'13" West 561.630 feet; thence North 57°40'47" East 197.972 feet; thence North 32°19'13" West 130.000 feet; thence North 57°40'51" East 470.000 feet; thence North 32°19'13" West 292.138 feet; thence North 57°40'47" East 927.501 feet; thence North 14°38'07" West 470.873 feet; thence North 75°21'53" East 850.000 feet; thence South 14°38'07" East 393.198 feet; thence South 74°14'09" East 895.770 feet; thence South 15°45'51" West 356.197 feet; thence South 74°14'09" East 434.876 feet; thence South 15°45'51" West 1,123.803 feet; thence North 74°14'09" West 945.256 feet; thence South 81°45'51" West 494.185 feet; thence South 57°45'51" West 643.508 feet; thence South 81°48'12" West 794.602 feet to the point of beginning.
Contains 99.853 Acres

[Tax Parcel ID No. 11-029-0036]

Exhibit A-2

WATER PURCHASE AND DEDICATION AGREEMENT

EXHIBIT B

**[COPY OF THE WATER STOCK, CHANGE APPLICATION AND WELL SITE
PURCHASE AGREEMENT]**

Exhibit B-1

WATER PURCHASE AND DEDICATION AGREEMENT

WATER STOCK, CHANGE APPLICATION AND WELL SITE PURCHASE AGREEMENT

THIS WATER STOCK, CHANGE APPLICATION AND WELL SITE PURCHASE AGREEMENT (this "Agreement"), is made and entered into as of the ____ day of _____, 2017 (the "Effective Date"), by and between JORDAN VALLEY WATER CONSERVANCY DISTRICT, a water conservancy district organized under the laws of the state of Utah (the "District"), and LEHI CITY, a municipal corporation of the state of Utah (the "City"). The District and the City are each referred to herein as "Party," and collectively as the "Parties."

RECITALS

- A. The District owns 1,354 shares of Welby stock in Welby Jacob Water Users Company ("WJWUC") (the "Shares").
- B. The Shares are based on all the water rights and water shares owned by WJWUC, and utilized by WJWUC and its shareholders under the Welby Jacob Exchange.
- C. The Shares allow the District to divert 1,354 acre-feet of water from the Welby Canal for use for irrigation purposes within the service area of the Welby District of WJWUC.
- D. In 1996 the District, WJWUC and Utah Lake Distributing Company ("ULDC") filed Change Application a19826 (55-8940), seeking a change based on the Shares as follows: (i) change the point of diversion to an underground well situated in Highland, Utah, (ii) change the nature of use from irrigation to municipal, and (iii) change the place of use to the District's service area.
- E. ULDC signed Change Application a19826 because ULDC owned Water Right No. 55-8940, which partially supported the Shares under the Welby Jacob Exchange. Current State Engineer policy would not require the signature of ULDC on a new change application.
- F. The District owns a well site, approximately one-acre in size, located at approximately 11000 North 6000 West, Highland, Utah (the "Well Site"), which Well Site is identified in Change Application a19826 as the proposed new point of diversion.
- G. The City desires to use the water represented by the Shares for municipal purposes within the service area of the City, and for that purpose desires to have Change Application a19826 amended and approved (Change Application a19826, as so amended, is referred to hereinafter as the "Change Application") to support such use, and to purchase from the District the Shares and the Change Application.

Exhibit B-2

H. The District desires to so amend Change Application a19826, and to sell to the City the Shares and the Change Application, consistent with the terms and conditions of this Agreement.

I. By separate agreement with IM FLASH TECHNOLOGIES, LLC, a Delaware limited liability company ("IMFT"), and in consideration of IMFT's payment of the Well Site component of the Purchase Price (as defined below), the City has agreed that the Well Site shall be conveyed by the District to IMFT.

J. The District owns four other change applications, namely a32138, a32139, a32140 and a32141 ("Other Change Applications") which propose new groundwater withdrawals in the northern Utah County groundwater aquifer. The City desires as further consideration that the District withdraw or amend the Other Change Applications upon satisfactory approval of the Change Application as set forth in this Agreement.

NOW THEREFORE, for and in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. Sale of Shares, Change Application and Well Site; Amendment of Change Application.

(a) Subject to subsections (c) and (g) below, the District agrees to sell to the City, and the City agrees to purchase from the District, the Shares and the Change Application, and the District agrees to convey to IMFT the Well Site, on the terms and conditions set forth in Section 3 below.

(b) Change Application a19826 was filed with the Utah State Engineer on March 19, 1996, and protests to it were filed thereafter. The State Engineer has not taken formal action on Change Application a19826 as of the Effective Date. As soon as reasonably practicable following the Effective Date, the District shall deliver a letter to the State Engineer requesting an amendment to Change Application a19826 to change the place of use of the water represented by the Shares from the District's service area to the service area of the City.

(c) The Cedar Valley and Northern Utah Valley Groundwater Management Plan, adopted by the State Engineer on April 8, 2014, provides that change applications representing new groundwater withdrawals in the area of the proposed Well Site, and filed after September 30, 2010, will not be approved. Change Application a19826, given its 1996 filing date, is grandfathered from such policy. The Parties reasonably anticipate that the State Engineer will accept the request to change the place of use of the water as a minor amendment that does not adversely affect the grandfathered status of the Change Application. If, contrary to such mutual expectation, the State Engineer determines that such request adversely affects such grandfathered status, the District and City shall withdraw the request to amend Change

Exhibit B-3

Application a19826, and this Agreement and the Parties' rights hereunder shall automatically terminate and be of no further force and effect.

(d) The District shall take such actions as it deems reasonably appropriate to obtain final, non-appealable approval of the Change Application by the State Engineer in a form and on such terms as are mutually acceptable to the District and the City.

(e) The District and the City shall retain such consultants as they deem necessary to secure final, non-appealable approval of the Change Application. The District and the City shall each pay for their own consultants.

(f) The City shall reasonably cooperate with the District in the approval processes before the State Engineer for the Change Application and in any appeal, and the City shall execute all documents and take such reasonable actions and forbearances as the District may reasonably request in relation to the Change Application.

(g) If, within two years following the Effective Date, (i) the State Engineer grants approval of the Change Application in a form and on such terms as are mutually acceptable to the District and the City, (ii) all applicable time periods for the filing of a request for reconsideration or administrative appeal have expired, and (iii) all applicable time periods for the filing of a judicial review action have expired (the "Appeal Expiration Date"), then, within forty-five (45) days following the Appeal Expiration Date, the District and the City shall close on the sale and purchase of the Shares, the Change Application and the Well Site pursuant to Section 3. If such events do not occur within the stated two-year period, either Party may terminate this Agreement by giving written notice of such termination to the other within one week after the end of the two-year period. If no termination notice is given as provided by this subsection, the Agreement shall remain in force unless mutually terminated by the Parties.

(h) Within twenty-one (21) days after the Appeal Expiration Date and as a precedent to Closing, the District shall withdraw or amend the Other Change Applications by filing with the State Engineer: (i) a Notice of Application Withdrawal for change applications a32139, a32140 and a32141, and (ii) a request to amend change application a32138 to eliminate all proposed underground points of diversion except point of diversion number 6 for the West Union Canal Company well in Orem, and to limit the diversion to 1,000 acre-feet.

SECTION 2. Purchase Price. The combined purchase price for the Shares, the Change Application and the Well Site (collectively referred to herein as the "Purchase Price"), shall be (i) Five Million Six Hundred Ninety-Eight Thousand Nine Hundred Seventeen Dollars (\$5,698,917), plus (ii) Two Hundred Thousand Dollars (\$200,000) for the Well Site, for a total Purchase Price of Five Million Eight Hundred Ninety-Eight Thousand Nine Hundred Seventeen Dollars (\$5,898,917). The City shall tender or cause to be tendered the Purchase Price to the District at Closing, in current and immediately available funds.

SECTION 3. Closing.

Exhibit B-4

(a) At Closing:

(i) The District shall execute and deliver to the City an Assignment and Bill of Sale for the Shares, in substantially the form attached hereto as Exhibit A;

(ii) The District shall deliver to the City all share certificate(s) for the Shares, properly endorsed by the District for transfer to the City;

(iii) The District shall execute and deliver to the City an Assignment and Bill of Sale, in substantially the form attached hereto as Exhibit B, transferring and assigning to the City all right, title and interest of the District in and to the approved Change Application, and shall cause such Assignment and Bill of Sale to be executed by WJWUC, as appropriate and as advised by District legal counsel; and

(iv) The District shall execute and deliver to IMFT a special warranty deed for the Well Site, in substantially the form attached hereto as Exhibit C.

(b) If the Closing does not occur within forty-five (45) days after the Appeal Expiration Date (or such later date as the Parties may mutually agree), then either Party may elect, at its discretion and upon written notice to the other, not to proceed with the Closing, and thereafter neither Party shall have any obligation to perform as required by this Section 3.

(c) Subject to subsection (d), if either Party elects not to proceed with the Closing pursuant to subsection 3(b), this Agreement shall be null and void and shall terminate without further notice or condition.

(d) So long as this Agreement is not terminated, prior to Closing (i) the District shall retain possession of the Shares, and it shall exercise all rights associated with those Shares, including voting and the use of water periodically made available by WJWUC, and the District shall pay when due all assessments and charges made by WJWUC against those Shares; and, (ii) the District shall retain title to the Well Site and exercise all associated ownership rights at its discretion.

(f) The Closing shall be held at the offices of Meridian Title on a date and at a time acceptable to both Parties.

(g) All reasonable and customary costs associated with the Closing shall be shared equally by the Parties.

SECTION 4. Representations and Warranties; Limitations:

Exhibit B-5

(a) The District represents and warrants as of the Effective Date and as of the Closing that, except as affected by the terms of this Agreement:

(i) It has not pledged, encumbered, caused to be liened, or hypothecated the Shares, the Change Application or the Well Site, and that it owns all of the rights, title, and interest to the same;

(ii) Each sale, conveyance, and transfer to the City and IMFT contemplated by this Agreement is in full compliance with all rules, by-laws, and procedures of the District;

(iii) All fees and assessments due and payable to the WJWUC in connection with the District's ownership of the Shares have been paid;

(iv) The District has no agreement(s) that would conflict with the representations, warranties and covenants made in this Agreement; and,

(v) The District has full authority to enter into this Agreement; all action necessary to authorize the execution of this Agreement and its performance by the District have been taken; those executing the Agreement on behalf of the District have full authority to do so; and, this Agreement, upon execution, will be a binding legal obligation of the District.

(b) The City represents and warrants as of the Effective Date and as of the Closing:

(i) The City has no agreement(s) that would conflict with the representations, warranties and covenants made in this Agreement; and,

(ii) The City Council has adopted a resolution approving this Agreement and the payments to be made hereunder; such payments have been budgeted and appropriated by the City Council; the City has full authority to enter into this Agreement; all action necessary to authorize the execution of this Agreement and its performance by the City have been taken; those executing the Agreement on behalf of the City have full authority to do so; and this Agreement, upon execution, will be a binding legal obligation of the City.

SECTION 5. Notices. All notices and other communications required or allowed by this Agreement shall be in writing and shall be personally delivered or sent by certified or registered U.S. Mail, return receipt requested, and addressed to the respective Party at the address set forth below or at such other address as a Party may hereafter designate by written notice to the other.

Exhibit B-6

If to the District, to:

Jordan Valley Water Conservancy District
Attn: General Manager
8215 South 1300 West
West Jordan, Utah 84088

If to the City, to:

Lehi City
Attn: City Manager
153 North 100 East
Lehi, Utah 84043

Notice under this paragraph shall be effective on the date it is received or delivery is refused by the other Party.

SECTION 6. Survival of Representations and Warranties. The representations and warranties of the Parties contained in Section 4 shall survive Closing for a period of five (5) years.

SECTION 7. Assignment. Neither Party may assign this Agreement.

SECTION 8. Amendment. This Agreement may be amended only by written instrument executed by both Parties.

SECTION 9. Successors. All of the grants, covenants, terms, provisions, and conditions in this Agreement shall be binding upon and inure to the benefit of the successors of the Parties.

SECTION 10. Governing Law. This Agreement shall be interpreted in accordance with Utah law.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Exhibit B-7

CITY

Lehi City, Utah

By: _____
Its: Mayor

Attest and Countersign:

City Recorder

DISTRICT

Jordan Valley Water Conservancy District

By: _____
Its: _____

Exhibit B-8

EXHIBIT A

ASSIGNMENT AND BILL OF SALE

(Welby Jacob Water Users Company Shares)

THIS ASSIGNMENT AND BILL OF SALE (Welby Jacob Water Users Company Shares) (this "Assignment") is entered into to be effective as of _____, 20__ (the "Effective Date"), by and between JORDAN VALLEY WATER CONSERVANCY DISTRICT, a water conservancy district organized under the laws of the state of Utah (the "District"), and LEHI CITY, a municipal corporation of the state of Utah (the "City").

RECITALS

A. The District owns 1,354 shares of Welby stock in Welby Jacob Water Users Company ("WJWUC") (the "Shares").

B. The District has agreed to sell the Shares to the City in accordance with the terms and conditions of that certain Water Stock, Change Application and Well Site Purchase Agreement, dated as of _____, 2017, by and between the District and the City (the "Agreement").

C. The terms and conditions of the Agreement have been satisfied, and the parties desire to complete the transfer and conveyance of the Shares at this time.

NOW, THEREFORE, for and in consideration of the premises, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District does hereby make the following transfers, grants, assignments and conveyances to the City:

1. **Bill of Sale.** The District does hereby transfer, grant, assign, sell and convey to the City 1,354 shares of WJWUC stock, as more particularly described above. A copy of the certificates representing the Shares, properly endorsed for transfer by the District, is attached hereto as Exhibit A. The District has delivered the original certificates to the City on the date hereof, and the City acknowledges receipt of the same.

2. **District Representations.** The District represents to the City that (i) the District is the sole and exclusive owner of the Shares, (ii) there are no presently due and unpaid assessments or fees associated with the Shares, (iii) the Shares are free of any liens and encumbrances, and (iv) the Shares are valid and in good standing.

3. **Construction.** This Assignment shall be construed according to Utah law.

IN WITNESS WHEREOF, the District and the City have executed this Assignment as of the Effective Date.

Exhibit B-9

JORDAN VALLEY WATER
CONSERVANCY DISTRICT

By: _____
Date: _____

LEHI CITY

By: _____
Its: Mayor

Attest and Countersign:

City Recorder

Exhibit B-10

WATER PURCHASE AND DEDICATION AGREEMENT

EXHIBIT A

[Here attach copy of Share Certificates.]

Exhibit B-11

WATER PURCHASE AND DEDICATION AGREEMENT

EXHIBIT B

ASSIGNMENT AND BILL OF SALE

(Change Application a19826 (55-8940))

THIS ASSIGNMENT AND BILL OF SALE (Change Application a19826 (55-8940)) (this "Assignment"), is entered into to be effective as of _____, 20__ (the "Effective Date"), from JORDAN VALLEY WATER CONSERVANCY DISTRICT, a water conservancy district organized under the laws of the state of Utah (the "District"), and WELBY JACOB WATER USERS COMPANY, a Utah non-profit corporation ("WJWUC"), to LEHI CITY, a municipal corporation of the state of Utah (the "City").

RECITALS

A. Reference is hereby made to that certain Application for Permanent Change of Water, filed by the District, WJWUC and another entity with the Utah Division of Water Rights on March 19, 1996, and relating to Water Right No. 55-8940, as amended by letter request filed by the District on _____, 2017, and as approved by the Utah State Engineer by Order dated _____ ("Change Application a19826").

B. The District owns 1,354 shares of Welby stock in Welby Jacob Water Users Company ("WJWUC") (the "Shares"), on which Change Application a19826 is based.

C. The District has agreed to sell the Shares to the City in accordance with the terms and conditions of that certain Water Stock, Change Application and Well Site Purchase Agreement, dated as of _____, 2017, by and between the District and the City (the "Agreement").

D. In connection with the sale of the Shares, and in connection with the Agreement, the District desires to transfer and convey Change Application a19826 to the City.

NOW, THEREFORE, for and in consideration of the premises, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District does hereby make the following transfers, grants, assignments and conveyances to the City:

1. Bill of Sale. The District and WJWUC do hereby transfer, grant, assign, sell and convey to the City Change Application a19826.

2. Construction. This Assignment shall be construed according to Utah law.

Exhibit B-12

IN WITNESS WHEREOF, the District has executed this Assignment as of the Effective Date.

JORDAN VALLEY WATER
CONSERVANCY DISTRICT

By: _____
Date: _____

WELBY JACOB WATER USERS COMPANY

By: _____
Date: _____

Exhibit B-13

EXHIBIT C

RECORDED AT THE REQUEST OF:

IM FLASH TECHNOLOGIES, LLC
Attn: Nathan Hyde, Senior Counsel
4000 North Flash Drive
Lehi, Utah 84043

Space above for County Recorder's use

SPECIAL WARRANTY DEED

JORDAN VALLEY WATER CONSERVANCY DISTRICT, a water conservancy district organized under the laws of the state of Utah ("Grantor"), hereby CONVEYS AND WARRANTS as against all claiming by, through, and under Grantor only and not otherwise, to IM FLASH TECHNOLOGIES, LLC, a Delaware limited liability company, whose mailing address 4000 North Flash Drive, Lehi, Utah 84043 ("Grantee"), for the sum of Ten and No/100 Dollars and other good and valuable consideration, all right, title and interest of Grantor in and to the following described tract(s) of land situated in Utah County, State of Utah, to-wit:

See Exhibit A attached hereto.

TOGETHER WITH all structures, covenants, rights-of-way, easements, tenements, hereditaments, and other rights, if any, on or appurtenant to said land, excepting water rights.

WITNESS the hand of said Grantor, as of the date indicated below.

GRANTOR:

JORDAN VALLEY WATER
CONSERVANCY DISTRICT

By: _____
Its: _____

Exhibit B-14

EXHIBIT A

The parcel of land conveyed hereby is situated in Utah County, State of Utah, and is more particularly described as follows:

Commencing at the Northwest Corner of Lot 8, HYLAND VIEW SUBDIVISION, according to the official plat thereof and running thence North $0^{\circ}11'48''$ East 132.0 feet; thence North $89^{\circ}55'30''$ East 317.0 feet; thence South $0^{\circ}11'48''$ West 133.5 feet; thence South $89^{\circ}48'12''$ West 317.0 feet to the point of beginning.

Tax Serial No. 11:037:0074

Exhibit B-16

WATER PURCHASE AND DEDICATION AGREEMENT

EXHIBIT C

[COPY OF THE WATER SERVICE AGREEMENT]

Exhibit C-1

WATER PURCHASE AND DEDICATION AGREEMENT

**INFRASTRUCTURE, WATER SERVICE AND
WELL OPERATION AGREEMENT**

This INFRASTRUCTURE, WATER SERVICE and WELL OPERATION AGREEMENT (this "**Agreement**") is made effective this ___ day of _____, 20___ (the "**Effective Date**"), by and between LEHI CITY CORPORATION, a municipal corporation with its principal place of business at 153 North 100 East, Lehi, Utah 84043 (the "**City**"), and IM FLASH TECHNOLOGIES, LLC, a Delaware limited liability company with its principal place of business at 4000 North Flash Drive, Lehi, UT 84043 ("**IMFT**"). The City and IMFT may be referred to herein individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

- A. The City is a municipality located in Utah County, State of Utah that provides utility service, including water service, to residents and businesses within its boundaries.
- B. IMFT owns real property located within the water service area of the City in Utah County, State of Utah more particularly described on **Exhibit A** attached to and made a part of this Agreement (the "**Property**"). IMFT owns a semiconductor manufacturing facility together with support operations that are located on the Property.
- C. IMFT owns Water Right Nos. 55-8976 (a19136) and 55-8981 (a19136) which together authorize the diversion of 1,943 acre-feet of water annually from IMFT's process water wells located on the Property (the "**IMFT Wells**").
- D. The City and Jordan Valley Water Conservancy District (the "**District**") have entered into that certain *Water Stock, Change Application and Well Site Purchase Agreement* dated of even date herewith (the "**Jordan Valley Agreement**") where the City will acquire from the District 1,354 shares of stock (the "**Welby Shares**") in the Welby Jacob Water Users Company, and Change Application No. a19826 (55-8940) filed on the Welby Shares (the "**Change Application**") (collectively the Welby Shares and the Change Application may be referred to herein as the "**Jordan Valley Water Right**") and where IMFT will acquire from the District a well site approximately one acre in size located at approximately 11000 North 6000 West, Highland, Utah (the "**Well Site**") as such is more particularly described in **Exhibit B**, which is attached to and made a part of this Agreement.
- E. The Parties have entered into that certain *Water Purchase and Dedication Agreement* (the "**Dedication Agreement**") dated of even date herewith, pursuant to which IMFT paid to the District, for the benefit of the City, the purchase price of the Jordan Valley Water Right in exchange for satisfaction of the City's water right dedication requirement for the delivery of 1,123.9 acre-feet of culinary water to the Property (the "**Dedicated Water**").
- F. The proposed point of diversion of a new municipal well to be owned, constructed, and equipped by IMFT and operated and maintained by the City as set forth in more

Exhibit C-2

detail in this Agreement, and which is commonly referred to herein as the "Highland Well," is located on the Well Site to be acquired by IMFT at the simultaneous closings of the Dedication Agreement and the Jordan Valley Agreement.

G. The City will acquire all necessary easements and rights-of-way for the construction of a new ten inch (10") pipeline (the "Pipeline") extending from the Well Site to its interconnection with an existing culinary water pipeline owned by the City as such is depicted on Exhibit C, which is attached to and made a part of this Agreement. The Pipeline is to be constructed by IMFT at IMFT's cost and the City will own, operate, maintain and repair the Pipeline as part of the City's municipal water system at the City's cost and expense as set forth in more detail in this Agreement.

H. IMFT desires the City to operate the Highland Well and deliver the Dedicated Water to IMFT through the Pipeline and other City owned infrastructure and the City desires to provide perpetual water delivery of the Dedicated Water to the Property pursuant to the terms and conditions of this Agreement.

NOW THEREFORE, for and in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Construction of Highland Well by IMFT. The Highland Well Site is undeveloped. After the closing of the Jordan Valley Agreement and the Dedication Agreement (the "Closings"), IMFT will at its sole cost and expense, engineer, drill, construct, and equip the Highland Well on the Well Site to specifications that, at a minimum, will render it capable of pumping 200 acre-feet per year more than the 1,123.9 acre-feet of the Dedicated Water to be delivered to IMFT pursuant to this Agreement. Such additional 200 acre-feet of water is the "Additional Pumping." The constructed Highland Well shall be a municipal well drilled and equipped to the standards of the Utah Division of Drinking Water (the "DDW"). The City shall obtain all DDW approvals of the Highland Well. The Parties shall mutually agree in writing on the engineering plans and specifications for the Highland Well prior to commencement of drilling. Upon completion of the Highland Well to the engineering plans and specifications, and approval by the DDW, the City shall in writing to IMFT, approve the completed Highland Well for use as a culinary water well to be connected to the City's existing municipal water system.

2. Ownership of the Highland Well. The Highland Well will be owned by IMFT. The City acknowledges and agrees that it will not acquire by this Agreement or by operation of law or statute, and will never have any ownership interest in the Well Site or the Highland Well or in any personal property, including without limitation, the well casing, pumps, improvements, and connection between the Highland Well and the Pipeline, and other infrastructure associated with the Highland Well. However, nothing in this Agreement shall prohibit the Parties from selling or transferring the Highland Well or Well Site to the City in the future if their intentions change.

Exhibit C-3

3. Operation, Maintenance and Repair of the Highland Well. The City shall operate, maintain and repair the Highland Well, and IMFT shall pay or reimburse the City for the costs therefor pursuant to Section 13 of this Agreement. The Parties shall mutually agree in writing on a maintenance plan for the Highland Well prior to commencement of operation of the Highland Well (the "Maintenance Plan"). All monitoring and water use reporting to the Utah Division of Water Rights (the "Division") and all reporting to the DDW shall be the responsibility of the City, at the City's sole cost and expense.

4. Grant of a License by IMFT for Access and Operation of the Highland Well. IMFT grants the City a license for access to the Well Site and the Highland Well and for the operation, maintenance and repair of the Highland Well by the City.

5. Indemnification by the City for Access and Operation of the Highland Well. The City shall indemnify, defend and hold harmless IMFT (and IMFT's successors and assigns) from and against any and all obligations, claims, demands, damages, injuries, deaths, liens (including, without limitation, mechanics' and materialmen's liens), losses, suits, actions, judgments, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) ("Claims"), which may be incurred by or asserted against IMFT, its managers, members, officers, directors, shareholders employees, agents, successors and assigns to the extent that they in any way arise out of or are related to the activities of the City on the Well Site, or the City's operation of the Highland Well, unless caused by IMFT's negligence, gross negligence, or willful misconduct.

6. Indemnification by IMFT for City Access and Operation of the Highland Well. IMFT shall indemnify, defend and hold harmless the City (and it's successors and assigns) from and against any and all obligations, claims, demands, damages, injuries, deaths, liens (including, without limitation, mechanics' and materialmen's liens), losses, suits, actions, judgments, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) which may be incurred by or asserted against the City, its managers, members, officers, directors, shareholders employees, agents, successors and assigns to the extent that they in any way arise out of or are related to the activities of the City on the Well Site owned by IMFT, or the City's operation of the Highland Well owned by IMFT, unless caused by the City's negligence, gross negligence, or willful misconduct.

7. Acquisition of Necessary Easements and Rights-of-Way for the Pipeline. Prior to the commencement of the construction of the Pipeline, the City shall acquire any easements or rights of way, if any, that are necessary or appropriate for the construction of the Pipeline and connection to the City's existing municipal water system. IMFT shall reimburse the City for the cost of any easements that are necessary and appropriate for the construction and siting of the Pipeline.

8. Construction of the Pipeline by IMFT. IMFT shall construct the Pipeline at its sole cost and expense from the Highland Well to the City's existing municipal water system at the connection point depicted on Exhibit C. The Parties shall mutually agree in writing on the

Exhibit C-4

engineering plans and specifications for the Pipeline prior to commencement of construction of the Pipeline. The timeline of the construction of the Pipeline shall be determined and controlled by IMFT in its sole discretion. Upon completion of the construction of the Pipeline pursuant to the engineering plans and specifications, and approval by all relevant regulatory authorities, the City shall in writing to IMFT, accept the completed Pipeline and its connection to the City's existing municipal water system.

9. Transfer of the Pipeline to the City. Upon IMFT's completion of construction of the Pipeline at IMFT's cost and the acceptance of the Pipeline by the City, and for no additional consideration other than the consideration specified in this Agreement, IMFT shall transfer ownership of the Pipeline to the City substantially in the form of the Bill of Sale set forth on Exhibit D, which is attached to and made a part of this Agreement.

10. Operation, Maintenance and Repair of the Pipeline by the City. Upon delivery to the City of the Bill of Sale for the Pipeline, the City shall own and operate the Pipeline as part of its municipal water system to deliver the City's water, whether to IMFT or to the City's other customers, and the City shall operate, maintain and repair the Pipeline at its sole cost and expense without charge to IMFT.

11. Additional Change Applications. After final approval of the Change Application and the Closings, the City shall file one or more additional change applications (the "Additional Change Applications") with the Division seeking approval to (i) divert the additional 200 acre-feet of Additional Pumping annually from the Highland Well under City water rights other than the Jordan Valley Water Right, and (ii) to permit the diversion of the Dedicated Water from other City municipal water sources (the "City Sources") and the IMFT Wells to provide the City flexibility in delivering the Dedicated Water to IMFT. Any delivery of the Dedicated Water from the IMFT Wells shall be governed by Section 12 (b) hereof. The City shall involve IMFT in the preparation of the Additional Change Applications, and IMFT shall be given a reasonable opportunity to review and comment on the Additional Change Applications prior to their filing with the Division. The protection of any City water rights included in any Additional Change Applications and the obligation to maintain them in good standing in the Division records and to file any of the necessary applications, notices, petitions, or other required documents with the Division is the sole responsibility of the City. The City shall be responsible, at its cost, for filing any Request for Extension of Time in which to file Proof of Beneficial Use and any Proof of Beneficial Use with the Division and perfecting the Additional Change Applications. IMFT shall be given a reasonable opportunity to review and comment on any Request for Extension of Time and any Proof of Beneficial Use prepared to perfect any of the Additional Change Applications prior to their filing with the Division. IMFT will reasonably cooperate with the City in the filing of any Additional Change Applications, in obtaining State Engineer approval of any Additional Change Applications, in maintaining any Additional Change Applications in good standing in the Division records and in perfecting any of the Additional Change Applications.

12. Delivery of the Dedicated Water by the City. The City shall deliver the Dedicated Water for the term of this Agreement from the Highland Well or the City Sources through the

Exhibit C-5

City's municipal water system, including but not limited to the Pipeline, to the Delivery Points, as described herein, at the flow rate requested by IMFT, but in no event at a flow rate exceeding 1,100 gallons per minute ("gpm"), unless otherwise agreed to by the Parties.

(a) Delivery Points. Prior to the time the Pipeline becomes operational, the City shall establish a new delivery point for Dedicated Water delivered from the Highland Well at the City tank and reservoir system located east of the Property (the "Tank Delivery Point") as such is depicted on Exhibit E, which is attached to and made a part of this Agreement. The City may also deliver the Dedicated Water to the existing City water back-up connection on the Property (each a "Delivery Point" and together, the "Delivery Points"). By agreement, the Parties may establish additional delivery points and connections.

(b) Delivery from the IMFT Wells. IMFT is constructing the Pipeline and the Highland Well to provide infrastructure for the City to deliver the Dedicated Water to the Property. After approval of an Additional Change Application permitting the IMFT Wells as points of diversion for the Dedicated Water, IMFT may deliver all or a portion of the Dedicated Water from the IMFT Wells; provided, however, that such delivery shall be at IMFT's sole discretion and may not be compelled by the City. IMFT shall deduct any portion of the Dedicated Water it delivers from the IMFT Wells from the City's delivery obligation of the Dedicated Water for the year in which IMFT makes such deliveries.

13. Payment for Water Delivery. IMFT will pay the City for delivery of the Dedicated Water to the Delivery Points as set forth in this Section.

(a) Payment for Operation of the Highland Well and for Delivery of the Dedicated Water Through the City's Municipal Water System. IMFT shall pay the electric power costs to pump the Dedicated Water and the Additional Pumping from the Highland Well. IMFT's payment or reimbursement for the electric power costs shall be full payment and satisfaction for the City's delivery of the Dedicated Water to the Delivery Points (i) from the Highland Well or from the City Sources (ii) through the City's municipal water system, including but not limited to, through the Pipeline. The City will use the water diverted by the Additional Pumping as part of its municipal water supply.

(b) Payment for Maintenance and Repair of the Highland Well and the Pipeline. IMFT will reimburse the City for maintenance and repairs to the Highland Well under the Maintenance Plan. The City will pay for maintenance and repair to the Pipeline without contribution from IMFT.

(c) Total City Charges for Delivery of the Dedicated Water. Together, the transfer of the Pipeline from IMFT to the City, payment for the electric power costs to pump the Dedicated Water and for the Additional Pumping in subsection (a) of this Section 13, reimbursement for the maintenance and repair of the Highland Well in subsection (b) of this Section 13, and providing the City a license to use IMFT's Highland Well to deliver City water to its customers as part of its municipal water supply constitute the total "Delivery Charge" for the City's delivery of the Dedicated Water to the Delivery Points for the term of this Agreement.

Exhibit C-6

No additional payment or reimbursement to the City or City impact fee other than the Delivery Charge will be required or may be assessed by the City, now or in the future, for the City's delivery of the Dedicated Water to IMFT at the Delivery Points. In addition, because IMFT is (i) paying for the City's purchase of the Jordan Valley Water Right to supply the Dedicated Water, (ii) engineering, drilling and equipping the Highland Well, constructing the Pipeline and connecting it to the Highland Well and the City's existing municipal water system at IMFT's cost and expense, and (iii) constructing the Pipeline at IMFT's cost and expense and transferring ownership of the Pipeline to the City, no additional impact fees, user fees, delivery fees or other fees are owed to the City or will be required or assessed by the City, now or in the future, for the City's delivery of the Dedicated Water to IMFT at the Delivery Points.

14. Protection and Perfection of the Jordan Valley Water Right. The protection of the Jordan Valley Water Right and the obligation to maintain it in good standing in the Division records and to file any other necessary applications, notices, petitions, or other required documents with the Division and the DDW and any other relevant federal, state, or local governmental body is the sole responsibility of the City at the City's cost and expense. The City shall be responsible, at its cost, for filing any (i) Request for Extension of Time in which to file Proof of Beneficial Use and (ii) any Proof of Beneficial Use on the Change Application with the Division and perfecting the Change Application. IMFT shall be given a reasonable opportunity to review and comment on any Request for Extension of Time and any the Proof of Beneficial Use prepared to perfect the Change Application prior to their filing with the Division. IMFT will reasonably cooperate with the City in maintaining the Change Application in good standing in the Division records, and in perfecting the Change Application.

15. Term of Agreement. The term of this Agreement is perpetual unless terminated pursuant to Section 21 of this Agreement.

16. Representations and Warranties: Limitations.

(a) IMFT represents and warrants as of the Effective Date that, except as affected by the terms of this Agreement:

(i) IMFT has no agreement(s) that would conflict with the representations, warranties and covenants made in this Agreement; and,

(ii) IMFT has full authority to enter into this Agreement; all action necessary to authorize the execution of this Agreement and its performance by IMFT have been taken; those executing the Agreement on behalf of IMFT have full authority to do so; and, this Agreement, upon execution, will be a binding legal obligation of IMFT.

(b) The City represents and warrants as of the Effective Date and as of the Closing:

(i) The City has no agreement(s) that would conflict with the representations, warranties and covenants made in this Agreement; and,

Exhibit C-7

(ii) The City Council has adopted a resolution approving this Agreement and the transaction contemplated by this Agreement; the City has full authority to enter into this Agreement; all action necessary to authorize the execution of this Agreement and its performance by the City have been taken; those executing the Agreement on behalf of the City have full authority to do so; and this Agreement, upon execution, will be a binding legal obligation of the City.

17. Indemnification: Each Party shall indemnify, defend, and hold harmless the other Party for its breach of any term or condition of this Agreement. Each Party shall indemnify the other Party and defend and hold harmless the other Party (and the Party's successors and assigns) from and against any and all Claims, which may be incurred by or asserted against it, its managers, members, officers, directors, shareholders employees, agents, successors and assigns to the extent that the Claims in any way arise out of or are related to the activities of the Party on the Property, unless caused by the other Party's negligence, gross negligence, or willful misconduct.

18. Insurance. The City shall maintain commercial general liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence combined single limit and such policies shall remain in full force and effect during the term of this Agreement, and shall name IMFT as an additional insured. IMFT (or any subcontractor installing the Pipeline) shall maintain commercial general liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence combined single limit and such policies shall remain in full force and effect during the construction of the Pipeline, and shall name the City as an additional insured.

19. Default and Remedies. Each of the following events shall constitute an "Event of Default" by a Party and shall permit the non-defaulting Party to terminate this Lease and/or pursue all other appropriate remedies:

(a) Failure to Pay. The failure or omission by either Party to pay amounts required to be paid pursuant to this Agreement when due hereunder, and such failure or omission has continued for ten (10) days after written notice from the other Party;

(b) Failure to Perform. The failure or omission by either Party to observe, keep or perform any of the other terms, agreements or conditions set forth in this Agreement, and such failure or omission has continued for thirty (30) days (or such longer period as may reasonably be required to cure such failure or omission, provided that cure has commenced and such Party is diligently proceeding to complete such cure) after written notice from the other Party; or

(c) Breach of Representation or Warranty. Any representation or warranty made by a Party in this Agreement that is false or misleading in any material respect.

(d) Remedies; Cumulative Rights. Except as set forth in this Section, the remedies herein provided are not exclusive, but shall be cumulative and shall be in addition to any other remedies now or hereafter allowed by applicable law and in equity, and the Parties

Exhibit C-8

hereby acknowledge and agree that upon an Event of Default by one Party, the other Party shall have all rights and remedies available by applicable law and in equity for any breach of this Agreement. The defaulting Party shall be liable to reimburse the non-defaulting Party for such non-defaulting Party's expenses and costs relating to such default (including, but not limited to, reasonable attorneys' fees).

(e) Specific Performance. Notwithstanding any other provision of this Agreement but subject to applicable notice and cure periods, each Party agrees that it would be irreparably harmed by a breach by the other Party of its non-monetary obligations under this Agreement, (ii) an award of damages would be inadequate to remedy such a breach, and (iii) each Party shall be entitled to equitable relief, including specific performance or injunction, to compel compliance by the noncompliant Party with the provisions of this Agreement.

(f) Right to Cure. If either Party defaults in the performance of any of its obligations under this Agreement, then the other Party shall have the right to satisfy such obligations, and/or remedy any such default, by any appropriate means, and the cost thereof (including attorneys' fees, expert fees and court costs) shall be reimbursed to the curing Party by the defaulting Party within thirty (30) days.

20. Notices. All notices and other communications required or allowed by this Agreement shall be in writing and shall be personally delivered or sent by certified or registered U.S. Mail, return receipt requested, and addressed to the respective Party at the address set forth below or at such other address as a Party may hereafter designate by written notice to the other.

If to IMFT, to:

IM Flash Technologies, LLC
 Attn: Nathan Hyde, Senior Counsel
 4000 North Flash Drive
 Lehi, Utah 84043

If to the City, to:

Lehi City
 Attn: Water Systems Director
 153 North 100 East
 Lehi, Utah 84043

Notice under this paragraph shall be effective on the date it is received or delivery is refused by the other Party.

21. Termination of this Agreement. This Agreement shall automatically terminate upon the termination of the Jordan Valley Agreement and the Dedication Agreement due to the failure of such agreements to close as set forth therein. Otherwise, this Agreement shall remain in force unless mutually terminated by the Parties.

Exhibit C-9

22. Assignment. IMFT shall have the right to assign this Agreement and the rights and obligations contained in this Agreement to any owner of the Property or a portion or portions thereof.

23. Amendment. This Agreement may be amended only by written instrument executed by both Parties.

24. Entire Agreement; Integration. This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter. Each Party acknowledges that it has not relied upon any statements, representations, agreements or warranties of any person, except those expressly stated in this Agreement.

25. Waiver. Neither Party shall be deemed to have waived any right or remedy under or with respect to this Agreement unless such waiver is expressed in a writing signed by such Party. No waiver of any right or remedy under or with respect to this Agreement by a Party on any occasion or in any circumstance shall be deemed to be a waiver of any other right or remedy on that occasion or in that circumstance nor a waiver of the same or of any other right or remedy on any other occasion or in any other circumstance.

26. Successors and Assigns. This Agreement is binding upon and inures to the benefit of the affiliates and successors of the Parties, including the IMFT joint venture member companies Micron Technology, Inc. and Intel Corporation.

27. Cooperation and Further Assurances. Each of the Parties shall cooperate fully with one another and shall execute, deliver, file, and record such further and additional documents and instruments that the other party may reasonably request to effect further and more completely the transactions herein contemplated.

28. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Utah without giving effect to any choice or conflict of law provision or rule (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Utah.

29. Attorneys' Fees. In the event that any action or proceeding is commenced by any Party hereto for the purpose of enforcing any provision of this Agreement, the Parties to such action or proceeding shall receive as part of any award, judgment, decision or other resolution of such action or proceeding their costs and reasonable attorneys' fees as determined by the court making such award, judgment, decision or resolution.

30. Incorporation of Recitals and Exhibits. The Recitals and the Exhibits referenced in this Agreement are a material part hereof and shall be treated as if fully incorporated into the body of this Agreement.

Exhibit C-10

31. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or construed to create an agency relationship, association, joint venture, trust or partnership, or impose any trust or partnership covenant, obligation or liability on or with regard to any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, any other Party.

32. No Third Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or confers upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

33. Counterparts/Signatures. This Agreement may be executed by facsimile or other electronic means and in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures delivered hereon by facsimile or electronic mail shall be deemed originals for all purposes.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

THE CITY

Lehi City, Utah

By: _____
Its: Mayor

Attest and Countersign:

City Recorder

IMFT

IM Flash Technologies, LLC,
A Delaware limited liability company

By: _____
Its: _____

Exhibit C-11

EXHIBIT A**Legal Description of the Property**

The following described real property located in Utah County, State of Utah:

IM Flash Technologies, Inc.**Parcel 1A**

A parcel of land, situate in the SE1/4 and NE1/4 of Section 28, SW1/4 of Section 27, NE1/4 of Section 33, and NW1/4 of Section 34, Township 4 South, Range 1 East, Salt Lake Base and Meridian. The boundaries of said parcel are described as follows:

Beginning at a point on the Northerly Right-of-Way Line of State Route 92, said point also being S89°58'41"E 403.26 feet along the Section Line and S04°02'40"E 1303.43 feet from the South Quarter Corner of said Section 28; and running thence N04°02'40"W 2857.75 feet; thence N83°28'20"E 283.68 feet; thence N53°05'33"E 1215.74 feet; thence N14°38'07"W 368.81 feet; thence N75°21'53"E 982.07 feet; thence S07°33'50"E 420.33 feet; thence S74°14'09"E 1731.40 feet; thence S01°24'45"W 3315.83 feet to said Northerly Right-of-Way Line; thence the following six courses along said Northerly Right-of-Way Line: (1) S89°41'35"W 366.16 feet; (2) thence S89°43'46"W 790.00 feet; (3) thence S89°40'02"W 1110.00 feet; (4) thence S89°44'09"W 670.00 feet; (5) thence S89°41'35"W 200.09 feet; (6) thence N89°58'01"W 413.07 feet to the point of beginning. Contains 303.424 Acres

Excepting therefrom:

Any part of the above described property lying within the Right-of-Way Limits of the State Route 92.

Also Less and Excepting therefrom:

A parcel of land located in the East half of Section 28, and the Southwest quarter of Section 27, in Township 4 South, Range 1 East, Salt Lake Base and Meridian, Utah County, more particularly described as follows:

Beginning at a point that is North 49°33'54" East 689.864 feet from the South quarter corner of said section 28, a found brass cap monument set in concrete; thence North 7°36'13" West 561.630 feet; thence North 57°40'47" East 197.972 feet; thence North 32°19'13" West 130.000 feet; thence North 57°40'51" East 470.000 feet; thence North 32°19'13" West 292.138 feet; thence North 57°40'47" East 927.501 feet; thence North 14°38'07" West 470.873 feet; thence North 75°21'53" East 850.000 feet; thence South 14°38'07" East 393.198 feet; thence South 74°14'09" East 895.770 feet; thence South 15°45'51" West 356.197 feet; thence South 74°14'09" East 434.876 feet; thence South 15°45'51" West 1,123.803 feet; thence North 74°14'09" West 945.256 feet; thence South 81°45'51" West 494.185 feet; thence South 57°45'51" West 643.508 feet; thence South 81°48'12" West 794.602 feet to the point of beginning.

Net Acreage 203.571 Acres

[Tax Parcel ID No. 11-029-0043]

Exhibit C-12

IM Flash Technologies, Inc.Parcel 1B

A parcel of land located in the East half of Section 28, and the Southwest quarter of Section 27, in Township 4 South, Range 1 East, Salt Lake Base and Meridian, Utah County, more particularly described as follows:

Beginning at a point that is North $49^{\circ}33'54''$ East 689.864 feet from the South quarter corner of said section 28, a found brass cap monument set in concrete; thence North $7^{\circ}36'13''$ West 561.630 feet; thence North $57^{\circ}40'47''$ East 197.972 feet; thence North $32^{\circ}19'13''$ West 130.000 feet; thence North $57^{\circ}40'51''$ East 470.000 feet; thence North $32^{\circ}19'13''$ West 292.138 feet; thence North $57^{\circ}40'47''$ East 927.501 feet; thence North $14^{\circ}38'07''$ West 470.873 feet; thence North $75^{\circ}21'53''$ East 850.000 feet; thence South $14^{\circ}38'07''$ East 393.198 feet; thence South $74^{\circ}14'09''$ East 895.770 feet; thence South $15^{\circ}45'51''$ West 356.197 feet; thence South $74^{\circ}14'09''$ East 434.876 feet; thence South $15^{\circ}45'51''$ West 1,123.803 feet; thence North $74^{\circ}14'09''$ West 945.256 feet; thence South $81^{\circ}45'51''$ West 494.185 feet; thence South $57^{\circ}45'51''$ West 643.508 feet; thence South $81^{\circ}48'12''$ West 794.602 feet to the point of beginning.
Contains 99.853 Acres

[Tax Parcel ID No. 11-029-0036]

Exhibit C-13

EXHIBIT B

[Legal Description of the Well Site]

Commencing at the Northwest Corner of Lot 8, HYLAND VIEW SUBDIVISION, according to the official plat thereof and running thence North $0^{\circ}11'48''$ East 132.0 feet; thence North $89^{\circ}55'30''$ East 317.0 feet; thence South $0^{\circ}11'48''$ West 133.5 feet; thence South $89^{\circ}48'12''$ West 317.0 feet to the point of beginning.

[Tax Serial No. 11:037:0074]

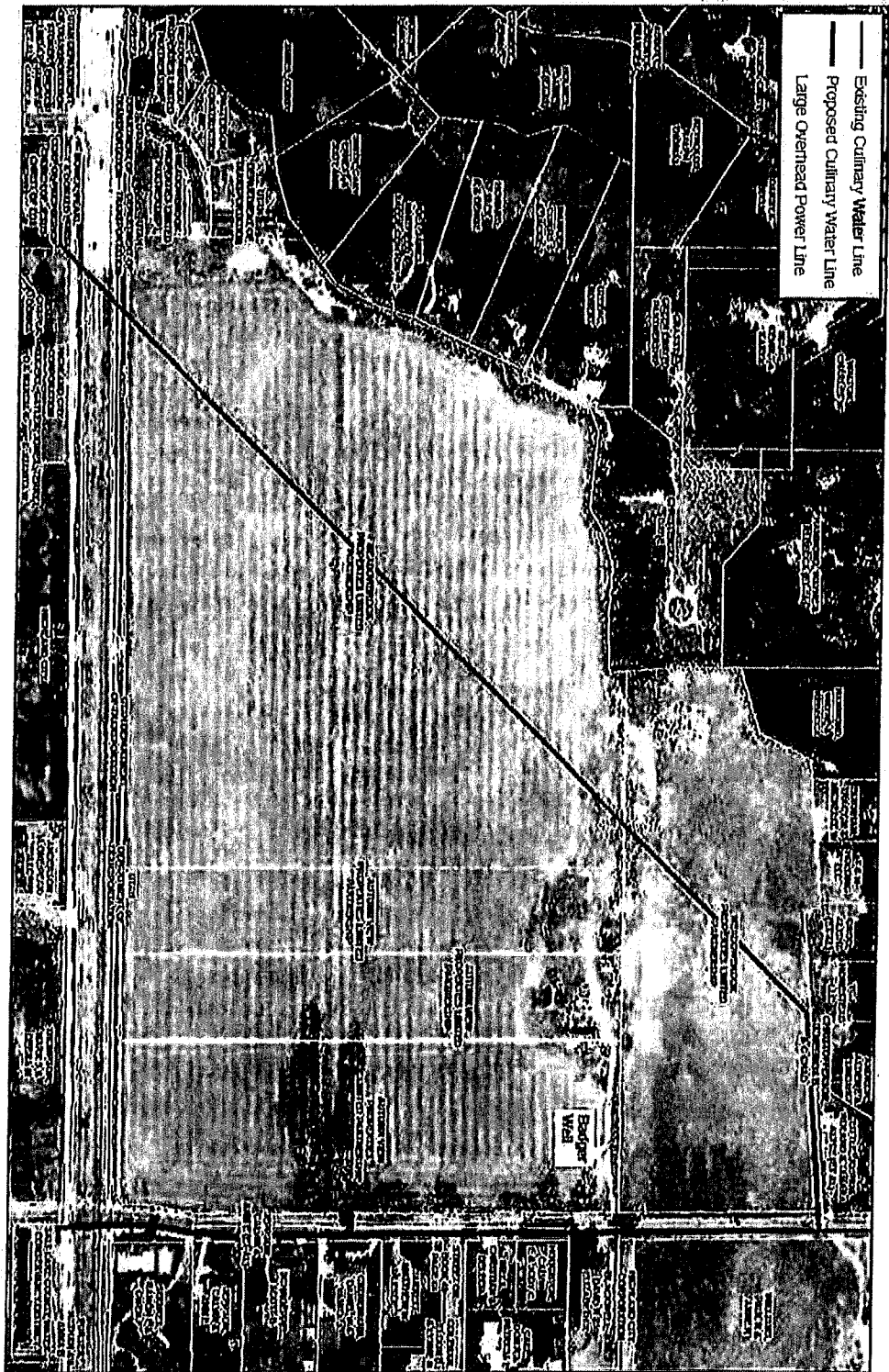
Exhibit C-14

WATER PURCHASE AND DEDICATION AGREEMENT

EXHIBIT C

[Depiction of the Pipeline Location]

Exhibit C-15



WATER PURCHASE AND DEDICATION AGREEMENT

Exhibit C-16

EXHIBIT D

[Bill of Sale for the Pipeline]

BILL OF SALE AND ASSIGNMENT

THIS BILL OF SALE AND ASSIGNMENT (This "**Assignment**") is entered into to be effective as of _____, 20__, (the "**Effective Date**"), by and between IM FLASH TECHNOLOGIES, a Delaware limited liability company ("**IMFT**"), and LEHI CITY, a municipal corporation of the state of Utah (the "**City**").

RECITALS

- A. IMFT owns a newly constructed ten inch (10") water pipeline more particularly described and depicted on **Exhibit A** to this Assignment (the "**Pipeline**").
- B. The District has agreed to transfer the Pipeline to the City in accordance with the terms and conditions of that certain Infrastructure, Water Service and Well Operation Agreement, dated _____, 20__, by and between the City and IMFT, and the City (the "**Agreement**").
- C. The terms and conditions of the Agreement relating to the transfer of the Pipeline from IMFT to the City have been satisfied, and the parties to the Agreement desire to complete the transfer and conveyance of the Pipeline.

NOW, THEREFORE, for and in consideration of the premises, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, IMFT does hereby make the following transfer, grant, assignment and conveyance to the City.

1. **Bill of Sale**. IMFT hereby transfers, grants, assigns, sells and conveys the Pipeline to the City as such is more particularly described in **Exhibit A**. IMFT hereby covenants to the City that IMFT is the lawful owner of the Pipeline free and clear of all liens, security interests and encumbrances. Upon Buyer's written request from time to time, Seller shall promptly execute and deliver to Buyer such further documents and instruments as may be reasonably requested by Buyer to transfer the Assigned Properties to Buyer. Except as may be specifically provided in the Agreement and this Assignment, the Pipeline is being conveyed, **without warranty, express or implied**.
2. **Acceptance of the Pipeline by the City**. The City hereby accepts the Pipeline, in its "AS IS" and "WHERE IS" condition and location.

Exhibit D-17

- 3. Governing Law. This Bill of Sale and Assignment shall be governed by the laws of the State of Utah.
- 4. Attorneys' Fees. If either party hereto fails to perform any of its obligations under this Bill of Sale and Assignment or if a dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Bill of Sale and Assignment, then the defaulting party or the party not prevailing in such dispute shall pay any and all reasonable costs and expenses incurred by the other party on account of such default and/or in enforcing or establishing its rights hereunder, including without limitation, court costs and reasonable attorneys' fees and disbursements awarded by a court of competent jurisdiction.
- 5. Effective Date. This Bill of Sale and Assignment shall be effective as of the Effective Date.
- 6. Counterparts. This Bill of Sale and Assignment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one agreement. Any facsimile signature shall constitute a valid and binding method for executing this document.

IN WITNESS WHEREOF, IMFT and the City have executed this Assignment as of the Effective Date.

IM FLASH TECHNOLOGIES, LLC,
A Delaware limited liability company

LEHI CITY,
a municipal corporation of the State of Utah

By: _____

By: _____

Date: _____

Date: _____

Attest and Countersign:

City Recorder

Exhibit D-18

EXHIBIT E

[Depiction of the Tank Delivery Point]

Exhibit C-19

EXHIBIT D**[WATER RIGHT DEDICATION CERTIFICATE]**

After Recording, Return To:
 IM Flash Technologies, LLC
 Attn: Nathan Hyde, Senior Counsel
 4000 North Flash Drive
 Lehi, Utah 84043

**CERTIFICATE OF WATER RIGHT
 DEDICATION AND ENTITLEMENT**

Issued by Lehi City

THIS CERTIFICATE OF WATER RIGHT DEDICATION AND ENTITLEMENT (this "**Certificate**") is issued effective as of the date set forth below, to IM Flash Technologies, LLC, a Delaware limited liability company with an address of Attn: Nathan Hyde, Senior Counsel, 4000 North Flash Drive, Lehi, Utah 84043 (the "**Owner**") in conformance with the terms and provisions of that certain Water Purchase and Dedication Agreement (the "**Agreement**"), entered into by and between the Owner and Lehi City, dated as of the ___ day of _____, ___ a copy of which is affixed as **Attachment 1** hereto and the terms and provisions of which are incorporated by reference herein.

NOW, THEREFORE, THE UNDERSIGNED, Lehi City (the "**City**"), in consideration of the mutual covenants contained in the Agreement, hereby certifies as follows:

1. Water Right Dedication Entitlement. This Certificate hereby vests in the Owner as the owner of the real property described in **Attachment 2**, which is attached hereto and incorporated herein (the "**Property**") and its legal successors-in-interest and assigns to ownership of the Property (the "**Certificate Holder**"), a credit in full and final satisfaction of the requirements that would otherwise be imposed upon the Certificate Holder to dedicate, provide or convey water rights to the City as a condition to receiving culinary and irrigation water service from the City, including without limitation, the obligation to convey water rights to the City pursuant to Chapter 27, Annexation Procedures and Water Rights Conveyance Requirements of the *Lehi City Development Code* (the "**Development Code**"), and Section 27.070 of the same, as currently adopted or as may be amended from time to time, for a total of the Approved Diversion Volume (defined in the Agreement) not to exceed 1,123.79 acre-feet of water right entitlements, for the delivery of water to the Property for Owner's semiconductor manufacturing facility (the "**Facility**") or to the Property for Owner's other uses tied to the Property in the event that the Owner and its legal successors-in-interest and assigns to ownership of the Property cease operation of the Facility (the "**Water Right Dedication Entitlement**"). Impact fees and other required fees to receive water service from the City, and any applicable development

Exhibit D-1

requirements of the City will continue to be due and owing as provided by the Development Code and other applicable City ordinances or rules and regulations.

2. Transfer of Water Right Dedication Entitlement. The Water Right Dedication Entitlement evidenced by this Certificate may be transferred, in whole, or in part, in conformance with the following:

(a) The Water Right Dedication Entitlement may be transferred only together with the transfer of all or a portion of the Property to the Property transferee. A transfer all of the Property requires the transfer of the entire Water Right Dedication Entitlement. A transfer of a portion of the Property permits the transfer of all or none or a portion of the Water Right Dedication Entitlement as determined by the Certificate Holder prior to the transfer of the portion of the Property to be transferred. Prior to the transfer of all or any portion of the Property to any transferee, the transferor shall first send written notice of the proposed transfer to the City, containing the name of the current Certificate Holder, the name and address of the proposed transferee, and the acre-feet amount of the Water Right Dedication Entitlement to be transferred. The City shall send a written acknowledgment of the notice to transferor, and therein verify the number of acre-feet of the Water Right Dedication Entitlement to be included with the transfer. Authorization of the transfer of all or a portion of the Water Right Dedication Entitlement together with all or a portion of the Property by the City shall not be withheld and shall not be unreasonably conditioned or delayed.

(b) The transfer of the Water Right Dedication Entitlement, or portion thereof, shall be accomplished pursuant to a written assignment, in the form attached as Attachment 3 hereto, which shall set forth the name and address of the transferor, the name and address of the transferee, and the acre-feet amount of the Water Right Dedication Entitlement to be transferred pursuant to such assignment. The assignment shall be signed by the transferor and the transferee, with said signatures being duly acknowledged, and shall be authorized by the City thereon. Authorization of the transfer by the City shall not be withheld and shall not be unreasonably conditioned or delayed; provided that some portion of the Property is to be transferred with the Water Right Dedication Entitlement or portion thereof.

(c) The original of the duly executed and acknowledged assignment shall be delivered to the City and a copy thereof shall be retained by the transferee. The original assignment shall be retained of record by the City, which record, so long as it is accurately maintained, shall be conclusive as to the ownership of the Water Right Dedication Entitlement under the Agreement and this Certificate.

(d) No assignment of any ownership interest in the Water Right Dedication Entitlement shall be effective if it is (i) made without a corresponding conveyance of some portion of the Property or (ii) if it results in an assignment of more than the 1,123.79 acre-feet authorized under the Agreement and this Certificate.

(e) All transferees of the Water Right Dedication Entitlement made in compliance with the requirements of the Agreement and this Certificate shall have all of the rights and obligations set forth in the Agreement and this Certificate.

Exhibit D-2

3. Recording of this Certificate. This Certificate shall be recorded in the office of the Utah County Recorder and indexed against the Property and a copy provided to the City.

4. Perpetual Entitlement. The rights under the Water Right Dedication Entitlement to the Property under this Certificate shall be perpetual.

ISSUED this _____ day of _____, 20____.

CITY

Lehi City, Utah

By: _____
Its: Mayor

Attest and Countersign:

City Recorder

By: _____
Chair

Exhibit D-3

ATTACHMENT 1

**[COPY OF SIGNED WATER PURCHASE AND DEDICATION
AGREEMENT TO BE ATTACHED]**

Exhibit D-4

WATER PURCHASE AND DEDICATION AGREEMENT

ATTACHMENT 2**[LEGAL DESCRIPTION OF THE PROPERTY]**

The following described real property located in Utah County, State of Utah:

IM Flash Technologies, Inc.**Parcel 1A**

A parcel of land, situate in the SE1/4 and NE1/4 of Section 28, SW1/4 of Section 27, NE1/4 of Section 33, and NW1/4 of Section 34, Township 4 South, Range 1 East, Salt Lake Base and Meridian. The boundaries of said parcel are described as follows:

Beginning at a point on the Northerly Right-of-Way Line of State Route 92, said point also being S89°58'41"E 403.26 feet along the Section Line and S04°02'40"E 1303.43 feet from the South Quarter Corner of said Section 28; and running thence N04°02'40"W 2857.75 feet; thence N83°28'20"E 283.68 feet; thence N53°05'33"E 1215.74 feet; thence N14°38'07"W 368.81 feet; thence N75°21'53"E 982.07 feet; thence S07°33'50"E 420.33 feet; thence S74°14'09"E 1731.40 feet; thence S01°24'45"W 3315.83 feet to said Northerly Right-of-Way Line; thence the following six courses along said Northerly Right-of-Way Line: (1) S89°41'35"W 366.16 feet; (2) thence S89°43'46"W 790.00 feet; (3) thence S89°40'02"W 1110.00 feet; (4) thence S89°44'09"W 670.00 feet; (5) thence S89°41'35"W 200.09 feet; (6) thence N89°58'01"W 413.07 feet to the point of beginning. Contains 303.424 Acres

Excepting therefrom:

Any part of the above described property lying within the Right-of-Way Limits of the State Route 92.

Also Less and Excepting therefrom:

A parcel of land located in the East half of Section 28, and the Southwest quarter of Section 27, in Township 4 South, Range 1 East, Salt Lake Base and Meridian, Utah County, more particularly described as follows:

Beginning at a point that is North 49°33'54" East 689.864 feet from the South quarter corner of said section 28, a found brass cap monument set in concrete; thence North 7°36'13" West 561.630 feet; thence North 57°40'47" East 197.972 feet; thence North 32°19'13" West 130.000 feet; thence North 57°40'51" East 470.000 feet; thence North 32°19'13" West 292.138 feet; thence North 57°40'47" East 927.501 feet; thence North 14°38'07" West 470.873 feet; thence North 75°21'53" East 850.000 feet; thence South 14°38'07" East 393.198 feet; thence South 74°14'09" East 895.770 feet; thence South 15°45'51" West 356.197 feet; thence South 74°14'09" East 434.876 feet; thence South 15°45'51" West 1,123.803 feet; thence North 74°14'09" West 945.256 feet; thence South 81°45'51" West 494.185 feet; thence South 57°45'51" West 643.508 feet; thence South 81°48'12" West 794.602 feet to the point of beginning.

Net Acreage 203.571 Acres

[Tax Parcel ID No. 11-029-0043]

Exhibit D-5

IM Flash Technologies, Inc.**Parcel 1B**

A parcel of land located in the East half of Section 28, and the Southwest quarter of Section 27, in Township 4 South, Range 1 East, Salt Lake Base and Meridian, Utah County, more particularly described as follows:

Beginning at a point that is North 49°33'54" East 689.864 feet from the South quarter corner of said section 28, a found brass cap monument set in concrete; thence North 7°36'13" West 561.630 feet; thence North 57°40'47" East 197.972 feet; thence North 32°19'13" West 130.000 feet; thence North 57°40'51" East 470.000 feet; thence North 32°19'13" West 292.138 feet; thence North 57°40'47" East 927.501 feet; thence North 14°38'07" West 470.873 feet; thence North 75°21'53" East 850.000 feet; thence South 14°38'07" East 393.198 feet; thence South 74°14'09" East 895.770 feet; thence South 15°45'51" West 356.197 feet; thence South 74°14'09" East 434.876 feet; thence South 15°45'51" West 1,123.803 feet; thence North 74°14'09" West 945.256 feet; thence South 81°45'51" West 494.185 feet; thence South 57°45'51" West 643.508 feet; thence South 81°48'12" West 794.602 feet to the point of beginning.
Contains 99.853 Acres

[Tax Parcel ID No. 11-029-0036]

Exhibit D-6

ATTACHMENT 3

[FORM OF ASSIGNMENT OF OWNERSHIP IN WATER RIGHT DEDICATION ENTITLEMENT]

ASSIGNMENT OF WATER RIGHT DEDICATION ENTITLEMENT

THIS ASSIGNMENT OF WATER RIGHT DEDICATION ENTITLEMENT (this "Assignment") is dated as of the ____ day of _____, ____ (the "Effective Date"), by and between _____, a Delaware limited liability company ("Assignor"); and _____, a _____ ("Assignee").

RECITALS

A. Assignor is the certificate holder (the "Certificate Holder") of the certain Certificate of Water Right Dedication and Entitlement (the "Certificate") evidencing a certain water right dedication entitlement (the "Water Right Dedication Entitlement") issued by Lehi City for the right to receive water service to the real property described in the attached Exhibit A (the "Property") in the amount of 1,123.79 acre-feet of water per year as such is established by the Water Purchase and Dedication Agreement between Assignor and Lehi City, dated as of the ____ day of _____ (the "Agreement").

B. The Water Right Dedication Entitlement may be transferred, in whole or in part together with a transfer of all or a portion of the Property.

C. The transfer must be authorized by Lehi City, which authorization shall not be withheld and shall not be unreasonably conditioned or delayed.

D. In connection with the transfer of all or a portion of the Property, Assignor desires to assign and transfer to Assignee Assignor's rights and interests under the Water Right Dedication Entitlement as set forth below and Assignee desires to accept such assignment and to assume and perform all of Assignor's covenants and obligations in and under the _____ from and after the Effective Date, subject to the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Assignor and Assignee hereby agree as follows:

Exhibit D-7

1. Assignor hereby assigns, conveys, transfers, and sets over to Assignee Assignor's right, title, and interest in and to _____ acre-feet of the Water Right Dedication Entitlement as of the Effective Date.

2. Assumption. Assignee hereby assumes and agrees to perform, fulfill, and comply with all covenants and obligations to be performed, fulfilled, or complied with relating to the assigned Water Right Dedication Entitlement under the Agreement and the Certificate, which arise from and after the Effective Date.

3. Further Assurances. Following the Effective Date, and without any further consideration or other payment, Assignor shall execute and deliver such other instruments of conveyance, assignment, transfer and delivery and execute and deliver such other documents and take or cause to be taken such other actions as Assignee reasonably may request in order to consummate, complete and carry out the transaction contemplated by this Assignment.

4. Conflict with the Purchase Agreement. This Assignment made hereunder is made in accordance with and subject to the Agreement and the Certificate (including, without limitation, the representations, warranties, covenants, and agreements contained therein), which is incorporated herein by reference. In the event of a conflict between the terms and conditions of this Assignment, and the terms and conditions of the Agreement, the terms and conditions of the Agreement shall govern, supersede and prevail. Notwithstanding anything to the contrary in this Assignment, nothing herein is intended to, nor shall it, extend, amplify, or otherwise alter the representations, warranties, covenants and obligations of the Parties contained in the Agreement or the survival thereof.

5. Incorporation; Counterparts; Successors. The recitals set forth above and the exhibit attached hereto are incorporated herein by this reference. This Assignment may be executed in one or more counterparts and delivered by electronic transmission, each of which is to be deemed original for all purposes, but all of which together shall constitute one and the same instrument. All references to Assignor and Assignee herein shall be deemed to include their respective successors and assigns.

IN WITNESS WHEREOF, Assignor and Assignee have duly executed this Assignment as of the Effective Date.

[Signatures on following page]

Exhibit D-8

ASSIGNOR:

IM FLASH TECHNOLOGIES, LLC,
a Delaware limited liability company

By: _____
Print Name: _____
Its: _____

ASSIGNEE:

a _____

By: _____
Print Name: _____
Its: _____

CITY AUTHORIZATION:

LEHI CITY

By: _____
Its: Mayor

Attest and Countersign:

City Recorder

9250236_9

Exhibit D-9

WATER PURCHASE AND DEDICATION AGREEMENT

ATTACHMENT 2

Legal Description of the Property

ATTACHMENT 2**[LEGAL DESCRIPTION OF THE PROPERTY]**

The following described real property located in Utah County, State of Utah:

IM Flash Technologies, Inc.

Parcel 1A

A parcel of land, situate in the SE1/4 and NE1/4 of Section 28, SW1/4 of Section 27, NE1/4 of Section 33, and NW1/4 of Section 34, Township 4 South, Range 1 East, Salt Lake Base and Meridian. The boundaries of said parcel are described as follows:

Beginning at a point on the Northerly Right-of-Way Line of State Route 92, said point also being S89°58'41"E 403.26 feet along the Section Line and S04°02'40"E 1303.43 feet from the South Quarter Corner of said Section 28; and running thence N04°02'40"W 2857.75 feet; thence N83°28'20"E 283.68 feet; thence N53°05'33"E 1215.74 feet; thence N14°38'07"W 368.81 feet; thence N75°21'53"E 982.07 feet; thence S07°33'50"E 420.33 feet; thence S74°14'09"E 1731.40 feet; thence S01°24'45"W 3315.83 feet to said Northerly Right-of-Way Line; thence the following six courses along said Northerly Right-of-Way Line: (1) S89°41'35"W 366.16 feet; (2) thence S89°43'46"W 790.00 feet; (3) thence S89°40'02"W 1110.00 feet; (4) thence S89°44'09"W 670.00 feet; (5) thence S89°41'35"W 200.09 feet; (6) thence N89°58'01"W 413.07 feet to the point of beginning. Contains 303.424 Acres

Excepting therefrom:

Any part of the above described property lying within the Right-of-Way Limits of the State Route 92.

Also Less and Excepting therefrom:

A parcel of land located in the East half of Section 28, and the Southwest quarter of Section 27, in Township 4 South, Range 1 East, Salt Lake Base and Meridian, Utah County, more particularly described as follows:

Beginning at a point that is North 49°33'54" East 689.864 feet from the South quarter corner of said section 28, a found brass cap monument set in concrete; thence North 7°36'13" West 561.630 feet; thence North 57°40'47" East 197.972 feet; thence North 32°19'13" West 130.000 feet; thence North 57°40'51" East 470.000 feet; thence North 32°19'13" West 292.138 feet; thence North 57°40'47" East 927.501 feet; thence North 14°38'07" West 470.873 feet; thence North 75°21'53" East 850.000 feet; thence South 14°38'07" East 393.198 feet; thence South 74°14'09" East 895.770 feet; thence South 15°45'51" West 356.197 feet; thence South 74°14'09" East 434.876 feet; thence South 15°45'51" West 1,123.803 feet; thence North 74°14'09" West 945.256 feet; thence South 81°45'51" West 494.185 feet; thence South 57°45'51" West 643.508 feet; thence South 81°48'12" West 794.602 feet to the point of beginning.

Net Acreage 203.571 Acres

[Tax Parcel ID No. 11-029-0043]

IM Flash Technologies, Inc.**Parcel 1B**

A parcel of land located in the East half of Section 28, and the Southwest quarter of Section 27, in Township 4 South, Range 1 East, Salt Lake Base and Meridian, Utah County, more particularly described as follows:

Beginning at a point that is North 49°33'54" East 689.864 feet from the South quarter corner of said section 28, a found brass cap monument set in concrete; thence North 7°36'13" West 561.630 feet; thence North 57°40'47" East 197.972 feet; thence North 32°19'13" West 130.000 feet; thence North 57°40'51" East 470.000 feet; thence North 32°19'13" West 292.138 feet; thence North 57°40'47" East 927.501 feet; thence North 14°38'07" West 470.873 feet; thence North 75°21'53" East 850.000 feet; thence South 14°38'07" East 393.198 feet; thence South 74°14'09" East 895.770 feet; thence South 15°45'51" West 356.197 feet; thence South 74°14'09" East 434.876 feet; thence South 15°45'51" West 1,123.803 feet; thence North 74°14'09" West 945.256 feet; thence South 81°45'51" West 494.185 feet; thence South 57°45'51" West 643.508 feet; thence South 81°48'12" West 794.602 feet to the point of beginning.
Contains 99.853 Acres

[Tax Parcel ID No. 11-029-0036]

ATTACHMENT 3

Assignment of Water

Right Dedication Entitlement

(Form Only)

ATTACHMENT 3

[Form Assignment of Ownership in Water Right Dedication Entitlement]

**ASSIGNMENT OF WATER RIGHT
DEDICATION ENTITLEMENT**

THIS ASSIGNMENT OF WATER RIGHT DEDICATION ENTITLEMENT (this "**Assignment**") is dated as of the ____ day of _____, ____ (the "**Effective Date**"), by and between _____, a Delaware limited liability company ("**Assignor**"); and _____, a _____ ("**Assignee**").

RECITALS

A. Assignor is the certificate holder (the "**Certificate Holder**") of the certain Certificate of Water Right Dedication and Entitlement (the "**Certificate**") evidencing a certain water right dedication entitlement (the "**Water Right Dedication Entitlement**") issued by Lehi City for the right to receive water service to the real property described in the attached **Exhibit A** (the "**Property**") in the amount of 1,123.79 acre-feet of water per year as established by the Water Purchase and Dedication Agreement between Assignor and Lehi City, dated as of the ____ day of _____ (the "**Agreement**").

B. The Water Right Dedication Entitlement may be transferred, in whole or in part together with a transfer of all or a portion of the Property.

C. The transfer must be authorized by Lehi City, which authorization shall not be withheld and shall not be unreasonably conditioned or delayed.

D. In connection with the transfer of all or a portion of the Property, Assignor desires to assign and transfer to Assignee Assignor's rights and interests under the Water Right Dedication Entitlement as set forth below and Assignee desires to accept such assignment and to assume and perform all of Assignor's covenants and obligations in and under the _____ from and after the Effective Date, subject to the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignor hereby assigns, conveys, transfers, and sets over to Assignee Assignor's right, title, and interest in and to _____ acre-feet of the Water Right Dedication Entitlement as of the Effective Date.

2. Assumption. Assignee hereby assumes and agrees to perform, fulfill, and comply with all covenants and obligations to be performed, fulfilled, or complied with relating to the assigned Water Right Dedication Entitlement under the Agreement and the Certificate, which arise from and after the Effective Date.

3. Further Assurances. Following the Effective Date, and without any further consideration or other payment, Assignor shall execute and deliver such other instruments of conveyance, assignment, transfer and delivery and execute and deliver such other documents and take or cause to be taken such other actions as Assignee reasonably may request in order to consummate, complete and carry out the transaction contemplated by this Assignment.

4. Conflict with the Purchase Agreement. This Assignment made hereunder is made in accordance with and subject to the Agreement and the Certificate (including, without limitation, the representations, warranties, covenants, and agreements contained therein), which is incorporated herein by reference. In the event of a conflict between the terms and conditions of this Assignment, and the terms and conditions of the Agreement, the terms and conditions of the Agreement shall govern, supersede and prevail. Notwithstanding anything to the contrary in this Assignment, nothing herein is intended to, nor shall it, extend, amplify, or otherwise alter the representations, warranties, covenants and obligations of the parties contained in the Agreement or the survival thereof.

5. Incorporation; Counterparts; Successors. The recitals set forth above and the exhibit attached hereto are incorporated herein by this reference. This Assignment may be executed in one or more counterparts and delivered by electronic transmission, each of which is to be deemed original for all purposes, but all of which together shall constitute one and the same instrument. All references to Assignor and Assignee herein shall be deemed to include their respective successors and assigns.

IN WITNESS WHEREOF, Assignor and Assignee have duly executed this Assignment as of the Effective Date.

ASSIGNOR:

IM FLASH TECHNOLOGIES, LLC,
a Delaware limited liability company

By: _____
Print Name: _____
Its: _____

ASSIGNEE:

a _____

By: _____
Print Name: _____
Its: _____

CITY AUTHORIZATION:

LEHI CITY

By: _____
Its: Mayor

Attest and Countersign:

City Recorder