

**AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF THE
FOUNTAIN GREEN IRRIGATION COMPANY, REINCORPORATED**

THE UNDERSIGNED CORPORATION, pursuant to the authority set forth in the Utah Revised Nonprofit Corporation Act, Utah Code Ann. § 16-6a-101 et seq., (the “Act”), hereby revokes the Articles of Incorporation dated February 6, 1956, Amended Articles of Incorporation dated January 21, 2006, and any other amendments, and adopts the following Amended and Restated Articles of Incorporation (the “Articles.”).

WHEREAS, the Fountain Green Irrigation Company, Reincorporated (the “**Company**”) is a non-profit mutual irrigation company;

WHEREAS, the Company adopted its Articles of Incorporation in 1956 and said Articles were amended in 2006, according to the records of the Utah Division of Corporations and Corporate Code;

WHEREAS, the Company’s 2006 Amended Articles of Incorporation made the Company’s duration perpetual, but did not otherwise update the 1956 original articles to account for changes in the law;

WHEREAS, the Company desires to amend, update, and replace the 1956 original Articles and any related amendments, to account for changes and other developments in the law, including but not limited to the Act, pertaining to nonprofit mutual water companies; and

WHEREAS, at an annual meeting of the members held on January 2, 2021, the Company’s members adopted these Articles in conformance with the Act, subject to changes the Board of Directors approved and ratified on January 2, 2021.

NOW, THEREFORE, the Company hereby amends and restates the 1956 original articles in their entirety and adopts these **AMENDED AND RESTATED ARTICLES OF INCORPORATION**, effective upon adoption, as follows:

ARTICLE I – ORGANIZATION NAME

The name of this nonprofit Company is the **FOUNTAIN GREEN IRRIGATION COMPANY, REINCORPORATED**.

ARTICLE II – PRINCIPAL PLACE OF BUSINESS

The principal place of business for the Company is Fountain Green, Sanpete County, State of Utah, provided that the business of the Company may be conducted in all counties of the State of Utah and in all states of the United States, and in all territories thereof, and in all foreign countries as the Board of Directors determines.

The street address for the Company’s registered and principal place of business, which the Board may change from time to time without amendment to these Articles, is:

FOUNTAIN GREEN IRRIGATION COMPANY
740 West 400 South
Fountain Green, UT 84632

ARTICLE III – REGISTERED AGENT

The Company’s registered agent at the registered office set forth above is Denice Aagard, who hereby represents, affirms, and acknowledges that she accepts her appointment as the Company’s registered agent. The Board may change the Company’s registered agent from time to time without amendment to these Articles.

Denice Aagard

ARTICLE IV – PERIOD OF DURATION

The period of duration for this Company is perpetual beginning on the date of filing these Articles unless otherwise dissolved as provided by the Act or pursuant to the provisions of Bylaws adopted by the Company.

ARTICLE V – PURPOSES

The Company is organized as a nonprofit mutual corporation to provide water supply as originally granted and formally adjudicated by the Cox Decree for beneficial use by its members and to promote the general welfare and interest of its members consistent with all applicable federal, state, and local laws and regulations. In furtherance of, and in no way in limitation of, the powers now or hereinafter conferred upon non-profit Companies under the Act, the Company’s nature of business, purposes, and powers to be exercised, transacted, and promoted are as follows:

- (1) As evidenced by the Cox Decree, own rights to the use of water for irrigation, stockwatering, and any other beneficial purpose, and to divert, store, convey and distribute water for the beneficial use of the Company’s members.
- (2) Acquire, hold, and own water rights, water shares, and any source of water supply by appropriation, change, exchange, purchase, lease, contract, or otherwise, and to bargain, sell, lease, convey, or otherwise transfer such water to carry out the Company’s business in the best interests of its members.
- (3) Acquire, hold, sell, lease, bargain, transfer, and otherwise convey real and personal property, of any type, kind, or nature needed to carry out the Company’s purposes and powers.
- (4) Issue, assess, and manage certificates of shares evidencing the Company’s water rights, water supply, and any other interests in water along with other property and property rights; including, without limitation, the right of members to receive a proportionate share of the water the Company distributes to its members.

- (5) Control, regulate, divide, store, and distribute water to the Company's members on a proportionate basis consistent with their shares for use within the Company's service area on a non-profit basis only and subject to the terms, conditions, and limitations, of these Articles, the Company's Bylaws, and any applicable rules, regulations, or policies that the Company may adopt.
- (6) Own, lease, construct, drill wells, maintain, replace, repair, and take any other action needed to operate water diversion, distribution, measurement, storage, and all related equipment and facilities for the distribution of water to the Company's members.
- (7) Take any action needed to preserve, manage, and increase the Company's water supply for the purposes of irrigation, stockwatering, and any other beneficial uses and lawful purposes.
- (8) Negotiate, execute, and perform contracts of any nature and kind with other parties and entities needed to carry out the Company's objectives, purposes, and powers, provided that such contracts must be in the best interests of the Company's members.
- (9) To issue bonds and other forms of indebtedness, to mortgage or pledge its assets as security for loans and make and perform contracts of any kind for the purpose of borrowing money, acquiring water and water rights, and for the use, joint development of and/or the construction, repair, improvement, modification, repair and replacement of all water diversion, transportation, distribution, measurement, storage, and any other Company facilities and equipment.
- (10) To engage in any and all other lawful purposes, activities and pursuits which are or may hereafter be authorized for non-profit mutual corporations and are consistent with those powers described in the Act, as amended and supplemented.

ARTICLE VI – MEMBERSHIP AND SHARES

Membership in the Company is evidenced by the issuance of membership shares (“**shares**”). Owners of membership shares in the Company are referred to as members. Membership in the Company is acquired only by the acquisition of stock in the Company.

There are three classes of stock, which represent the three distinct divisions of water in the Company: Big Springs Division, Pole Canyon Division, and Birch Creek Division (“**Divisions**”). Big Springs Division stock represents the members in the Big Springs Division, which encompasses members who divert water from the Big Springs Stream, together with its tributaries, the waters from Log Canyon, Water Hollow, and Big Hollow and any other water sources within the geographic area as established by the Cox Decree. Each share of Big Springs Division stock represents the right to use one acre-feet of water on an average year.

Pole Canyon Division stock represents the members in the Pole Canyon Division, which encompasses members who divert water from Pole Canyon, Little Maple Canyon, Crooked

Canyon, and Squaw Springs. Each share of Pole Canyon Division Stock represents the right to use two and a half acre-feet of water on an average year.

Birch Creek Division stock represents members in the Birch Creek Division, which encompasses members who divert water from Birch Creek. Birch Creek Division stock represents the right to use two acre-feet of water on an average year.

There are 1,486.3865 shares of Big Springs Division stock, 54 shares of Pole Canyon Division stock, and 202.875 shares of Birch Creek Division stock recorded in the Company's books as of the date of adoption of these Articles, which the Company will honor.

The Company's water is currently used only for irrigation purposes.

Each member of the Company is a voting member entitled to one vote for share of stock issued and outstanding in the name of such stockholder on the books of the Company on the date of record. In the case of fractional shares, the votes cast as part of a share vote thereon will be assigned the same fractional value as that of the fractional share and will be counted accordingly. Cumulative voting is not allowed.

ARTICLE VII – BOARD OF DIRECTORS

The Company's Board of Directors will consist of six Directors. The Directors, when duly elected and qualified, will meet and organize the Board and elect one of their own members as President and Treasurer. The Directors may also elect Board members to serve as the Secretary and Treasurer or, at their discretion, may hire stockholders or non-stockholders to serve as Secretary or Treasurer. The Secretary and the Treasurer may not be the same person.

No person is eligible to become a director unless they are a member of the Company and must have his or her primary residence within the Company's service area, provided that the Board of Directors may elect to hire a stockholder or non-stockholder to serve as the Secretary instead of selecting a Director.

The name, street addresses, and term expiration of each of the persons serving on the Board as of the date of the adoption of these Amended and Restated Articles are as follows:

Gene Peckham
P.O. Box 219
Fountain Green, UT 84632
Term expires January 2021

Kim Johnson
P.O. Box 101
Fountain Green, UT 84632
Term expires January 2023

Gene Jacobsen
P.O. Box 372
Fountain Green, UT 84632
Term expires January 2022

Burt Oldroyd
P.O. Box 166
Fountain Green, UT 84632
Term expires January 2024

Gregory Johnson
P.O. Box 277
Fountain Green, UT 84632

Lester Anderson
P.O. Box 262
Fountain Green, UT 84632

Term expires in January 2021

Term expires January 2023

ARTICLE VIII – TERMS FOR DIRECTORS

The term for all Directors is four years, beginning on the date of their election at the annual meeting. The term of office for the President, Treasurer (if elected by the Directors), and Secretary (if elected by the Directors) is two year from the date of their election at the annual meeting. A non-Director hired by the Board of Directors to serve as Secretary has no term and serves at the pleasure of the Board.

ARTICLE IX – BOARD OF DIRECTORS AND OFFICERS

The Directors when duly elected and qualified will meet and organize the Board by electing from their members a President and Treasurer. Each Director has one vote. As provided by Article VII, the Directors may also elect a Director to serve as Secretary or may hire a stockholder or non-stockholder to serve as Secretary. The powers and duties of the President, Secretary, Treasurer, and other Directors will be as prescribed by the Bylaws.

ARTICLE X – QUORUM AND BOARD ACTIONS

Three of the Board of Directors constitutes a quorum, provided the other three members have been duly notified, and as such will transact the business and exercise the corporate powers of the Company. The Board of Directors may employ or appoint such agents, attorneys, help, and employees as they may deem necessary, and may fix their compensation, prescribe or change their duties, and discharge them at pleasure. The members of the Board of Directors may also receive reasonable compensation for their service to the Company as provided in the Company's Bylaws.

The Board of Directors have the power to promulgate, alter, amend, and repeal rules, regulations, and policies for the management of the internal affairs of the Company and the operation and control of the Company's water diversion, scheduling, distribution and storage facilities, as the Board of Directors deems necessary, subject to the relevant portions of the Act, these Articles, and the Company's Bylaws. In no event will the Board of Directors adopt rules, regulations, and policies that abridge or impair the vested rights of members.

ARTICLE XI – BYLAWS

Provisions for the regulation of the internal affairs of the Company are set forth in the Company's Bylaws, which must be consistent with these Articles as adopted, restated, amended, or otherwise changed pursuant to Article XII herein.

ARTICLE XII – AMENDMENTS

The restatement, amendment, or any other change to these Articles must be consistent with applicable portions of the Act and approved by a majority vote of the members present at the Company's annual meeting or a duly noticed special meeting. Once adopted by the members, any restatement, amendment, or other change stands until again amended by the members.

ARTICLE XIII – PRIVATE PROPERTY

The private property of the members of this Company will not be liable for its corporate obligations.

ARTICLE XIV – ASSESSMENTS

Pursuant to the Utah Share Assessment Act, assessments must be assessed equitably, and different classes of shares may be subject to differing assessments. The stock of this Company is assessable for the purpose of maintaining the system, and for the development or purchase of other water supplies, as may be agreed upon by the members at a regular meeting called for that purpose.

The annual stock assessment for the purpose of raising funds to carry on the business of the Company may be levied by the Board of Directors at any time. Such assessments may be in such amounts as may be necessary to meet the expenses of the Company for all purposes.

Assessments for general purposes must be uniform on all shares. General purposes are intended to mean, and do mean, the salaries of the general Directors and Officers; and all other things wherein the interests of the whole Company are involved.

Assessments for taking care of the ditches and water infrastructure located in the different Divisions as described in Article VI may vary as between the different Divisions, so that the assessments levied on the shares taking water through the water infrastructure in the respective Divisions will be sufficient to provide for the repair, replacement, and cleaning of the respective infrastructure, without reference to any other Division; any and all expenses of taking care of such infrastructure, distributing water there to the members; and all such outlay as is not connected with the infrastructure in the respective Division, will be born exclusively by assessments levied on the stock in such Division. One division may borrow from another division's surplus with the vote of approval from the Board and paid back through higher future assessments on division receiving the money. If such borrowing occurs, the Board must keep adequate accounting records reflecting the amount borrowed and the date such surplus was borrowed.

The Company may enforce assessments in any manner provided in the Share Assessment Act provided in the Company's Bylaws.

ARTICLE XV – DISTRIBUTIONS

No part of the net earnings of the Company will inure to the benefit of, or be distributable to its trustees, Directors, or other private persons, except that the Company is authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article V hereof.

ARTICLE XVI – DISSOLUTION

In the event of dissolution of the Company, the Company must follow the applicable requirements of the Utah Code, including § 16a-6a-1401 et seq., and must distribute its assets in

conformance with the requirements of § 16-6a-1302 of the Act and any other applicable portion of the Act or law.

In the event of an involuntary dissolution or lapsing, the Company will not automatically transfer title to the Company's property, including title to water rights, water conveyance facilities, or any other assets of a nonprofit corporation organized to divert or distribute water. Instead, title will remain with the Company pending the winding up of its affairs or reinstatement of the Company. As a part of winding up its affairs, the involuntarily dissolved Company may distribute its assets to another nonprofit corporation organized to receive the assets of and function in the place of the involuntarily dissolved or lapsed corporation in conformance with the provisions of § 16-6a-1302(2)(c) of the Act.

ARTICLE XVII – MEMBER APPROVAL

These Articles were duly adopted by a majority vote of the Company's members present at a meeting of the Company's members held on January 2, 2021, subject to additional changes the Board approved and ratified on January 2, 2021, in conformance with the requirements of the Act, by the following vote:

SHARES VOTING IN FAVOR OF ADOPTION – _____.

SHARES VOTING AGAINST ADOPTION – _____.

SHARES ABSTAINING – _____.

[signatures on following page]

ADOPTED this ____ day of _____, 2021 on behalf of the

FOUNTAIN GREEN IRRIGATION COMPANY, REINCORPORATED

By: _____
Gregory F. Johnson, President

ATTEST:

By: _____
Mary Gilgen, Secretary

STATE OF UTAH)
 :ss.
COUNTY OF UTAH)

Gregory Johnson and Mary Gilgen, being first duly sworn under oath, depose and say that they are the President and Secretary of the Fountain Green Irrigation Company, Reincorporated, respectively, and that they have each signed the foregoing Amended and Restated Articles of Incorporation of the Fountain Green Irrigation Company, Reincorporated, and that said Company duly authorized the execution of the same.

Notary Public