

1 **JOINT RESOLUTION APPROVING THE**
2 **FLATIRON/HARPER JOINT VENTURE PROPOSED**
3 **SETTLEMENT AGREEMENT**

4 2017 FIRST SPECIAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Wayne A. Harper**

7 House Sponsor: Gage Froerer

8
9 **LONG TITLE**

10 **General Description:**

11 This resolution approves a proposed settlement agreement.

12 **Highlighted Provisions:**

13 This resolution:

- 14 ▶ approves the proposed settlement agreement in *Utah Department of Transportation*
15 *v. Flatiron/Harper Joint Venture.*

16 **Special Clauses:**

17 None

18
19 *Be it resolved by the Legislature of the state of Utah:*

20 WHEREAS, the Utah Department of Transportation sued Flatiron/Harper Joint
21 Venture, Flatiron Constructors, Inc., Harper Contracting, Inc., and their sureties in the Fourth
22 Judicial District Court, State of Utah, Civil No. 150300055;

23 WHEREAS, the Utah Department of Transportation alleged breach of contract and
24 breach of performance bond by the defendants, and sought declaratory relief and damages
25 related to the defendants' work on a portion of Utah State Road 92;

26 WHEREAS, the defendants filed a counterclaim against the Utah Department of
27 Transportation, alleging breach of contract and breach of the implied covenant of good faith
28 and fair dealing;

29 WHEREAS, the parties participated in formal mediation that resulted in a proposed

30 settlement agreement;

31 WHEREAS, under the proposed settlement agreement, the defendants agree to pay
32 \$8,400,000 to cover the cost of long term maintenance and repair of defective work and
33 \$3,000,000 in liquidated damages;

34 WHEREAS, under the proposed settlement agreement, the Utah Department of
35 Transportation agrees to pay the balance owed to the defendants under the original contract;

36 WHEREAS, the net result of the proposed settlement agreement is that the defendants
37 will receive approximately \$102,000,000 of the original \$113,000,000 contract;

38 WHEREAS, under the proposed settlement agreement, the Utah Department of
39 Transportation and the defendants agree to dismiss all claims in the current case with prejudice
40 and to release all future claims related to or arising from the contract at issue in the case; and

41 WHEREAS, certain settlements of more than \$1,000,000 require the governor's and the
42 Legislature's approval before a government entity may sign such an agreement:

43 NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah
44 approves the proposed settlement agreement for *Utah Department of Transportation v.*
45 *Flatiron/Harper Joint Venture.*