

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting

March 19, 2024

4:00 p.m. Work Meeting
6:00 p.m. Regular Meeting

TIME AND ORDER OF ITEMS ARE APPROXIMATE AND MAY BE CHANGED AS TIME PERMITS

I. WORK MEETING - 4:00 P.M.

1. Flag Lots in the R-1 Zone (Jacob Roberts, Planner) - *20 min*
2. Wellberg Annexation (Tony Kohler, Community Development Director) - *20 min*
3. Utility Bill Relief Program (Mindy Kohler) - *20 min*
4. Snarr Family Duplex Request (Jacob Roberts, Planner) - *15 min*
5. Wasatch County Event Center grounds MDA (Tony Kohler, Community Development Director) - *20 min*
6. Potential Highway 32 Property Annexation (Jacob Roberts, Planner) - *15 min*

II. BREAK - 10 MIN

III. REGULAR MEETING - 6:00 P.M.

1. Call to Order
2. Pledge of Allegiance (Mike Johnston, Council Member)
3. Prayer/Thought by Invitation (Aaron Cheatwood, Council Member)

IV. CONFLICT OF INTEREST DISCLOSURE:

V. AWARDS, RECOGNITION, and PROCLAMATIONS:

1. Rural Water Association of Utah's Outstanding Service to Wastewater Customers 2023
2. Mayor's Award presented to Officer Ty Cummings

VI. CONSENT AGENDA:

1. Approval of February 19, 2024, City Council Meeting Minutes and March 5, 2024, City Council Meeting Minutes (Trina Cooke, City Recorder)
2. Ordinance 2024-07 Clayton Vance Zone Change 22 South (100 West) (Jacob Roberts, Planner) -

3. Mayor Nomination of Thom Shumard to the Audit Commission (Heidi Franco, Mayor)

VII. PUBLIC COMMENTS: (3 min per person/20 min max)

VIII. GENERAL BUSINESS ITEMS:

1. Public Hearing regarding budget amendment for Fiscal Year 2023-2024 (Sara Nagel, Finance Manager) -

IX. ACTION ITEMS: (Council can discuss; table; continue; or approve items)

1. Wasatch Back Economic Summit Sponsorship of \$5,000 (Dallin Koecher, Executive Director Heber Valley Chamber) - *10 min*
2. Ordinance 2024-02 Updating the C-3 Commercial Zone, C-3 Design Criteria and Parking Regulations within the C-3 Zone (Tony Kohler, Community Development Director) - *40 min*
3. Consider Approval of Contract Award for Construction of the 900 North Mill Road Roundabout (Russ Funk, City Engineer) - *5 min*
4. Main Street Park and 200 South Improvements Contract Award (Jamie Baron, Planning Manager) - *15 min*
5. Ordinance 2024-08 Updating the Utility Bill Code (Mindy Kohler) - *15 min*
6. Resolution 2024-04 Budget Amendment (Sara Nagel, Finance Manager) - *15 min*
7. Formal Letter to Heber Light and Power Acknowledging Interest in Administration Building Parcel (Matt Brower, City Manager) - *10 min*
8. Pay Scale and Policy Adjustment to the Heber City Police Department. (Parker Sever, Chief of Police, Cherie Ashe, Human Resources Director) - *20 min*
9. Resolution 2024-02 Updating the Code of Conduct and Ethics (Jeremy Cook, City Attorney) - *20 min*
10. Set Dates for Budget Workshops (Matt Brower, City Manager) - *5 min*

X. RECESS as the HEBER CITY COUNCIL and CONVENE as the HEBER CITY COMMUNITY REINVESTMENT AGENCY (CRA) BOARD

1. Wasatch County Interlocal Agreement Preliminary Approval (Matt Brower, City Manager)
2. Wasatch County School Board Joint Meeting Dates and Assignments (Matt Brower, City Manager)

XI. ADJOURN as the CRA BOARD and RECONVENE as the HEBER CITY COUNCIL

XII. COMMUNICATION:

XIII. ADJOURNMENT:

Ordinance 2006-05 allows Heber City Council Members to participate in meetings via telecommunications media.

In accordance with the Americans with Disabilities Act, those needing special accommodations during this meeting or who

are non-English speaking should contact Trina Cooke at the Heber City Offices 435.657.7886 at least eight hours prior to the meeting.

Posted on March 14, 2024, in the Heber City Municipal Building located at 75 North Main, the Heber City Website at www.heberut.gov, and on the Utah Public Notice Website at <http://pmn.utah.gov>. Notice provided to the Wasatch Wave.



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Flag Lots in the R-1 Zone
RESPONSIBLE: Jacob Roberts
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community & Economic Development

SUMMARY

Mr. Sullivan is requesting the creation of a flag lot on his property located at 605 Willow Circle. This property is within the R-1 Zone where flag lots are not currently permitted. The dimensions of the property are also too small and would not meet the minimum standards the city currently has for flag lot stems and setbacks in the zones where they are permitted.

RECOMMENDATION

Staff is requesting guidance on how to move forward. Possibly options include, but are not limited to, a Zone Text Amendment, MDA, or no action.

BACKGROUND

Mr. Sullivan approached staff about the possibility of creating a flag lot from his deep parcel with the intent to build a home on the new lot for his family. As the lot currently exists, it is unusually deep for the neighborhood because of the acquisition of a parcel that was originally open space owned by the city.

DISCUSSION

The property owner is proposing to put the stem of the flag lot on the east side of the property where there is 26' from the side of the home to the property line. The code as written would require 30' in order to accommodate a 20' driveway and a 10' setback from the home. In order to achieve the flag lot as desired, a change to the code or an MDA is required.

FISCAL IMPACT

N/A

CONCLUSION

Staff is requesting guidance from the council on how to best move forward on this issue.

ALTERNATIVES

N/A

POTENTIAL MOTIONS

Discussion Item

ACCOUNTABILITY

Department: Planning
Staff member: Jacob Roberts, Planner

EXHIBITS

1. Sullivan Project 2_2024
2. Flag Lots in the R-1 Zone Work Meeting Presentation 3.7.24

Sullivan Property

Untitled layer



New House



Driveway

605 Willow Circle, Heber City,
Utah 84032

Right side of house to property
line is 26Feet Wide.





Flag Lots in the R-1 Zone Request

Work Meeting

Date: 3/7/2024

Summary

- Mr. Sullivan is requesting the creation of a flag lot on his property located at 605 Willow Circle. This property is within the R-1 Zone where flag lots are not currently permitted. The dimensions of the property are also too small and would not meet the minimum standards the city currently has for flag lot stems and setbacks in the zones where they are permitted.

Policy Questions

- Allowing Flag Lots in R-1?
- By what method?
- Adjusting flag lot specifications to allow for narrower driveways or smaller setbacks?

Area Map



Flag Lot As
Proposed By
Property Owner

Flag Lot Proposal Continued



Current Code

18.52.030 Permitted and Conditional Uses

LAND USE	R-1	R-2	R-3	LIMITATIONS
Agriculture	P	P	P	
The keeping of grazing animals	P	P	P	As regulated by Section 18.68.135
Single family detached dwellings and on-site resident accessory structures	P	P	P	Structures include: garages and carports, greenhouses, swimming pools, pergolas/arbors, and fences, walls and hedges as regulated by Section 18.68.120. Rentals for less than 30 days are prohibited.
Customary household pets	P	P	P	As regulated by Section 6.18.140 for dogs, but shall not include the breeding of dogs and cats for sale.
Home Occupations	P	P	P	As regulated by Section 18.68.609
Accessory Dwelling Units	P	P	P	As regulated by Section 18.68.611
Bed & Breakfasts Inns	P	P	P	As regulated by Section 18.108.034
Group Homes protected under Federal Fair Housing Act	P	P	P	
Temporary buildings and yards for the storage of construction materials and equipment incidental that are accessory to construction of uses otherwise permitted in the zone.	P	P	P	A permit shall be valid for not more than one year and shall not be renewable for more than two successive periods of time at the same location
In-Home Daycare/Pre-School, nursery	P	P	P	As regulated by Section 18.86
Public schools, private school, public libraries, public parks, playgrounds, recreation buildings and religious institutions	P	P	P	Private school as regulated by Section 18.68.230. Temporary revival tents or buildings not allowed
Signs	P	P	P	As regulated by Section 18.104
Flag lots		P	P	See section 18.52.050
Boardinghouses and rooming houses			C	As regulated by Section 18.108.034
Clinics and hospitals			C	As regulated by Section 18.08.025

Current Code

18.52.050 Additional Regulations for Flag Lots

Flag lots are allowed with the following minimum requirements:

- A. The area of the flag portion of the lot shall be at least 25% greater than the minimum size of the lot in the zone.
- B. The stem shall be no less than 20' wide and no longer than 150' deep. The stem shall include a minimum of 4' for drainage and snow storage on one side as well as an expanded area near the street with a minimum dimension of 4' by 6' for a mailbox and weekly garbage service.
- C. The rear yard of the existing, pre-subdivision lot shall be extended by ten feet, but shall meet all minimums of the zone.
- D. Setbacks for the new building (s) shall be increased by ten feet for all front, side, and rear yards
- E. Building height shall be limited to 35'.

Set Backs in the Residential Zones

ZONE	MIN. LOT AREA	WIDTH & DEPTH	SETBACKS	ACCESSORY BUILDING	HEIGHT
R-1	10,000 square feet*	100'	Front: 30' from ROW, except that alfresco porches may encroach 10' into the setback Side: 10'/30' side setback for a corner lot Rear: 30' From other main buildings: 12'	As regulated by Section 18.68.060	40' max. main bldg. Min 12'
R-2	8,000 square feet*	80'	Front: 30' from ROW, except that alfresco porches may encroach 10' into the setback Side: 14' total with no side less than 6'/20' side setback for a corner lot Rear: 25'/ 20' for corner lots From other main buildings: 12'	As regulated by Section 18.68.060	40' max. main bldg. Min 12'
R-3	6,500 square feet*	100'	Front: 30' from ROW, except that alfresco porches may encroach 10' into the setback Side: 10' total with no side less than 4'/ 20' for a corner lot Rear: 20'/ 20' for corner lots From other main buildings: 12'	As regulated by Section 18.68.060	40' max. main bldg. Min 12'

***Additional Provision.** Corner lots in single family zones shall be 10% larger than the minimum lot size required by the zone.

Policy Questions

- Allowing Flag Lots in R-1?
- By what method?
- Adjusting flag lot specifications to allow for narrower driveways or smaller setbacks?

Possible Options

- Text Amendment to the R-1 Zone.
- Master Development Agreement for this property.
- No Action.



Flag Lots in the R-1 Zone Request

Work Meeting

Date: 3/7/2024



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Wellberg Annexation
RESPONSIBLE: Tony Kohler
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Development

SUMMARY

The City accepted this annexation petition in 2020; it did not proceed through the process, as the City was updating its General Plan. Annexation of this property will require an update to the Annexation Policy Plan in addition to completing the annexation process. The purpose of the agenda item is to update Council on the item before proceeding through the annexation process.

Questions before the City include:

- Should the City proceed with the Wellberg Annexation?
- Should the City proceed with amending the Annexation Policy Plan Map?

RECOMMENDATION

Staff recommends the City proceed with completion of the Wellberg Annexation and update to the Annexation Policy Plan.

BACKGROUND

The Wellberg property has been acquired by a new owner that would like to complete the annexation process. Since originally proposed, the development has changed. The development proposal on the 300 acres now only involves 2 proposed new homes. The owner has also acquired an access through the Red Ledges development. Finally, the property owner is willing to provide the much needed permanent trail easement for the eastern Red Ledges public trail.

To be completed, the annexation must proceed through the annexation process, which first involves an update to add the area on to the City's Annexation Policy Plan Expansion Area Map. This involves review and a public hearing with the Planning Commission and a final approval by the City Council, taking 3-9 months. This process involves Wasatch County. The annexation itself requires certification by the City, a 30 day protest period, review by the Planning Commission, public hearing with the City Council, and final approval of an ordinance by Council. The whole process is anticipated to take 9-15 months to complete.

DISCUSSION

Staff is inquiring Council's level of support to proceed with the annexation and Annexation Policy Plan Amendment. Additionally, the Annexation Policy Plan should be amended this year to address the new location of the byass.

FISCAL IMPACT

N/A

CONCLUSION

N/A

ALTERNATIVES

N/A

POTENTIAL MOTIONS

N/A

ACCOUNTABILITY

Department: Planning
Staff member: Tony Kohler, Community Development Director

EXHIBITS

1. Wellberg Petition Small 4-6-20
2. Wellberg Annexation Presentation

PETITION FOR ANNEXATION

We the undersigned owners of certain real property lying contiguous to the present municipal limits of Heber City hereby submit this Petition for Annexation and respectfully represent the following:

1. This petition is made pursuant to the requirements of Section 10-2-403, Utah Code Annotated:
2. The property subject to this petition is an unincorporated area contiguous to the boundaries of Heber City and the annexation thereof will not leave or create an unincorporated island or peninsula;
3. The signatures affixed hereto are those of the owners of private real property that:
 - a. is located within the area proposed for annexation;
 - b. covers a majority of the private land area within the area proposed for annexation;
 - c. is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation; and
 - d. lies contiguous to the present boundary of Heber City's corporate limits and is described in the attached **Exhibit A** and located at approximately 3600 East and 1800 North (Beginning at a point south 2,430.02 feet from the nw corner of sec 36 T3S R5E SLM:S89-53-16E 5,449.16
(briefly describe street address and/or location)
4. Title to the property by those signing this petition is as shown in the deeds or title report attached hereto as **Exhibit B**. (Copies of the deeds or title report must accompany this petition.)
5. The manner in which it was established that at least 1/3 of the value of all the private property sought to be annexed is owned by the signers of this petition is shown in the attached **Exhibit C**.
6. The **total** acres and **total** assessed value of **all** the lands sought to be annexed are 483.78 acres and \$ 532,158.00 assessed value; and the ownership interests and assessed values of the lands owned by the signers of this petition are as follows:

**EXHIBIT A
TO
PETITION FOR ANNEXATION**

Legal Description

Beginning at a point south 2,430.02 feet from the Northwest Corner of Section 36 Township 3
South Range East SLM:S89-53-16E 5,449.16

**EXHIBIT B
TO
PETITION FOR ANNEXATION**

Title Report



OLD REPUBLIC TITLE

Property Address: ADDRESS UNASSIGNED, WASATCH COUNTY, UT
Tax ID Number: 00-0007-8563
File Number: 2042186JM

Thank you for choosing Old Republic Title! We look forward to working with you.

BUYER	SELLER Wellberg Investments LC, a Utah limited liability company
BUYERS AGENT	LISTING AGENT
LENDER	

Your Escrow Officer Jarrod Mudrock and Escrow Assistant Tiffany Bowles are excited to be working with you, and look forward to helping you with all your closing needs. Please feel free to email them at JMudrock@oldrepublictitle.com and TBowles@oldrepublictitle.com or call them at the number below with any questions.



Old Republic National Title Insurance Company
11820 South State Street, Suite 330
Draper, UT 84020
Phone # 801-285-8733
Fax # 801-285-8735

WE ARE PROUD TO BE A LOCAL PRODUCER OF TITLE INSURANCE USING IN-HOUSE EMPLOYEES AND STAFF



OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

File No. 2042186JM

COMMITMENT FOR TITLE INSURANCE

**SCHEDULE A
ALTA COMMITMENT**

1. Commitment Date: January 23, 2020 at 8:00am
2. Policy or Policies to be issued:
 - (a) **ALTA STANDARD OWNER'S POLICY 6-17-2006**
Proposed Insured: To Be Determined
Amount of Insurance: To Be Determined
Premium:
Endorsements: ALTA 39
Endorsement Amount: \$0.00
 - (b) **ALTA EXTENDED LOAN POLICY 6-17-2006**
Proposed Insured: To Be Determined
Amount of Insurance: To Be Determined
Premium:
Endorsements: To Be Determined
Endorsement Amount:
3. The estate or interest in the land described or referred to in this Commitment is Fee Simple.
4. Title to the estate or interest in the Land is at the Commitment Date vested in:
Wellberg Investments LC, a Utah limited liability company
5. The land referred to in this Commitment is described as follows:

See Attached Exhibit "A"

Property Address:

ADDRESS UNASSIGNED
WASATCH COUNTY, Utah
Tax ID: 00-0007-8563

COUNTERSIGNED

Old Republic National Title Insurance Company

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

File No. 2042186JM

EXHIBIT "A"

Beginning at a point 18 rods North from the Southwest corner of the Northwest quarter of Section 35, in Township 3 South, Range 5 East, Salt Lake Base and Meridian; and running thence East 120 rods, thence North 302 rods to the North line of the Southwest quarter of Section 26, in said Township and Range; thence North 28°37' West 524.81 rods to a point 40 rods South and 21.82 rods East from the Northwest corner of the Northeast quarter of Section 22, said Township and Range, thence West 21.82 rods; thence South 280 rods to the Southwest corner of the Southeast quarter of said Section 22; thence East 160 rods to the Southeast corner of said Section 22, thence South 462 rods to the place of beginning.

TOGETHER WITH A right of way one rod in width extending from the Southwest corner of said land South to the County road, a point in Lot 4, of Section 2, in Township 4 South of Range 5 East, of Salt Lake Meridian, the Western line of said right of way being the Section line between Sections 34 and 35, in Township 3 South of Range 5 East, and between Sections 3 and 2 in Township 4 South of Range 5 East of the Salt Lake Base and Meridian.

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

File No. 2042186JM

SCHEDULE B - I ALTA COMMITMENT

REQUIREMENTS

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
5. Record Warranty Deed sufficient to convey the fee simple estate or interest in the property described or referred to herein.
6. Deed of Trust sufficient to encumber the fee simple estate or interest in the property described or referred to herein, for the benefit of the Proposed Insured, Schedule A, item 2B.
7. Release(s) and/or reconveyance(s) of Items contained in Schedule B of Exceptions.
8. Obtain a copy of the Articles of Incorporation and Bylaws or Articles of Organization and Operating Agreement for: **Wellberg Investments LC, a Utah limited liability company.**
9. Delivery to the Company of a sufficient survey, certified to Old Republic National Title Insurance Company, and other certified parties by a registered Land Surveyor, and meeting the "Minimum Standard Detail Requirement" as jointly adopted by the ALTA and the ACSM.

NOTE: This commitment shall be subject to matters (including, but not limited to encroachments, overlaps, gaps, etc.) as they may become apparent after an evaluation of said survey.
10. Title is to vest in persons not yet revealed, and when so vested will then be subject to matters disclosed by a search of the record against their names.

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

File No. 2042186JM

SCHEDULE B - II ALTA COMMITMENT EXCEPTIONS

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

General Exception

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I-Requirements are met.

Standard Exceptions

2. Taxes or assessments which are not now payable or which are not shown as existing liens by the records of any taxing authority that levies taxes or assessment on real property or by the public records.
3. Any facts, interest, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession, or claiming to be in possession, thereof.
4. Easements, liens, encumbrances, or claims of easements, liens or encumbrances which are not shown by the public records
5. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
6. Unpatented mining claims, reservations or exceptions in patents or in Acts authorizing the issuance thereof, Indian treaty or aboriginal rights, including but not limited, easements or equitable servitudes, water rights, or claims or title to water.
7. Any liens, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
8. Any service, installations, connections, maintenance, or construction charges for sewer, water, electricity, or garbage.

Note: General Exception 1 and Standard Exceptions 2 - 8 will be deleted on any extended coverage loan policy

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

File No. 2042186JM

Special Exceptions

9. 2020 General Property Taxes are accruing and are not yet due. 2019 Taxes have been PAID in the amount of \$58.99. Tax ID No.: 00-0007-8563
10. Said property is located within the boundaries Wasatch County, and is subject to all assessments and service charges levied thereof. Tax District: 14
 - Wasatch County Fire
 - Wasatch County Water District No. 1
 - Wasatch County Special Service District No. 21
 - Twin Creeks Special Service District
11. The effect of the 1969 Farmland Assessment Act, wherein there is a five (5) year roll-back provision with regard to assessment and taxation, which becomes effective upon a change in the use of all or part of eligible land, by reason of that certain Application for Assessment and Taxation of Agricultural Land, recorded January 28, 2008, as Entry No. 331287 in Book 958 at Page 2349, of the Official Records.
12. Subject to all existing roads, street, alleys, ditches, reservoirs, utilities, canals, pipelines, power poles, telephone, sewer, gas or water lines and rights of way and easements thereof.
13. Water rights, or claims or title to water.
14. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, geothermal resources, uranium, clay, rock, sand and gravel in, on, and/or under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
15. The legal description described herein does not perform a mathematical closure.
16. There appears to be gaps and or overlaps with the boundaries of the adjoining land, subject to discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which an A.L.T.A. Survey (made in accordance with "Minimum standard detail requirements for ALTA/ACSM Land Title Surveys"), may disclose, and which may or may not be shown by the public records, or any other facts.
17. The rights of parties in possession of subject property under unrecorded Contracts, Leases, Rental or Occupancy Agreements and any claim and/or claim liens thereunder.

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

File No. 2042186JM

18. Deed of Trust

Dated: June 28, 2007
Trustor: Wellberg Investments LC, a Utah limited liability company
Trustee: Mountain View Title & Escrow Co.
Beneficiary: Proficio Bank
Amount: \$3,050,000.00
Recorded: June 29, 2007
Entry No.: 322468
Book: 943
Page: 2316, of the Official Records

The beneficial interest under said Deed of Trust was assigned to Cache Valley Bank:

Recorded: February 20, 2019
Entry No.: 460759
Book: 1244
Page: 1232, of the Official Records

19. The Company requires the name of the proposed purchaser(s) in order to secure a search for any applicable judgment, tax and/or other statutory liens and matters. The company may then make additional exceptions and requirements.

NOTE: The following name(s) have been checked for judgments and no unsatisfied judgments appear of record, except as shown herein:

Wellberg Investments LC

No unsatisfied judgments appear of record in the past 8 years except as shown herein.

NOTE: According to Official Records, there have been no documents conveying the land described herein within 24 months prior to the date of this Commitment, except as follows:

NONE

For Escrow inquiries contact Jarrod Mudrock, 801-285-8733 or JMudrock@oldrepublictitle.com

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

File No. 2042186JM

If one of the Title Insurance Policies referenced in Schedule A is not purchased within six months of the Effective Date referenced in Schedule A, a cancellation charge will be assessed.

The policy to be issued contains an arbitration clause. Any matter in dispute between you and the company may be subject to arbitration as an alternative to court action. Upon request, the company will provide a copy of this clause and the accompanying arbitration rules prior to the closing of the transaction. Any decision reached by arbitration shall be binding upon both you and the Company. The arbitration award may include attorney's fees, if allowed by state law, and may be entered as a judgment in any court of proper jurisdiction.

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OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

File No. 2042186JM

Commitment for Title Insurance

Issued By Old Republic National Title Insurance Company

NOTICE



IMPORTANT-READ CAREFULLY THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED. THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I-Requirements; Schedule B, Part II-Exceptions; and the Commitment Conditions, Old Republic National Title Insurance Company, a Florida Corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I-Requirements have not been met within 6 months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Issued through the Office of:
Old Republic National Title Insurance
11820 South State Street, Suite 330
Draper, UT 84020

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111

Authorized Signatory

By

President

Attest

Secretary

This page is only a part of a 2016 ALTA Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions.



OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

File No. 2042186JM

COMMITMENT CONDITIONS

1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
- (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
- (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I-Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- (a) the Notice;
- (b) the Commitment to Issue Policy;
- (c) the Commitment Conditions;
- (d) Schedule A;
- (e) Schedule B, Part I-Requirements;
- (f) Schedule B, Part II-Exceptions; and
- (g) a counter-signature by the Company or its issuing agent that may be in electronic form.

4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
 - (i) comply with the Schedule B, Part I-Requirements;
 - (ii) eliminate, with the Company's written consent, any Schedule B, Part II-Exceptions; or

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- (iii) acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I- Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II-Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

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rev. 07/2016

FACTS

WHAT DOES OLD REPUBLIC TITLE DO WITH YOUR PERSONAL INFORMATION?

Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.
What?	The types of personal information we collect and share depend on the product or service you have with us. This information can include: • Social Security number and employment information • Mortgage rates and payments and account balances • Checking account information and wire transfer instructions When you are <i>no longer</i> our customer, we continue to share your information as described in this notice.
How?	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Old Republic Title chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information	Does Old Republic Title share?	Can you limit this sharing?
For our everyday business purposes — such as to process your transactions, maintain your account(s), or respond to court orders and legal investigations, or report to credit bureaus	Yes	No
For our marketing purposes — to offer our products and services to you	No	We don't share
For joint marketing with other financial companies	No	We don't share
For our affiliates' everyday business purposes — information about your transactions and experiences	Yes	No
For our affiliates' everyday business purposes — information about your creditworthiness	No	We don't share
For our affiliates to market to you	No	We don't share
For non-affiliates to market to you	No	We don't share

Questions

Go to www.oldrepublictitle.com (Contact Us)

Who we are	
Who is providing this notice?	Companies with an Old Republic Title name and other affiliates. Please see below for a list of affiliates.

What we do	
How does Old Republic Title protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. For more information, visit http://www.OldRepublicTitle.com/newnational/Contact/privacy .
How does Old Republic Title collect my personal information?	We collect your personal information, for example, when you: • Give us your contact information or show your driver's license • Show your government-issued ID or provide your mortgage information • Make a wire transfer We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.
Why can't I limit all sharing?	Federal law gives you the right to limit only: • Sharing for affiliates' everyday business purposes information about your creditworthiness • Affiliates from using your information to market to you • Sharing for non-affiliates to market to you State laws and individual companies may give you additional rights to limit sharing. See the "Other important information" section below for your rights under state law.

Definitions	
Affiliates	Companies related by common ownership or control. They can be financial and nonfinancial companies. • <i>Our affiliates include companies with an Old Republic Title name, and financial companies such as Attorneys' Title Fund Services, LLC, Lex Terrae National Title Services, Inc., Mississippi Valley Title Services Company, and The Title Company of North Carolina.</i>
Non-affiliates	Companies not related by common ownership or control. They can be financial and non-financial companies. • <i>Old Republic Title does not share with non-affiliates so they can market to you</i>
Joint marketing	A formal agreement between non-affiliated financial companies that together market financial products or services to you. • <i>Old Republic Title doesn't jointly market.</i>

Other Important Information

Oregon residents only: We are providing you this notice under state law. We may share your personal information (described on page one) obtained from you or others with non-affiliate service providers with whom we contract, such as notaries and delivery services, in order to process your transactions. You may see what personal information we have collected about you in connection with your transaction (other than personal information related to a claim or legal proceeding). To see your information, please click on "Contact Us" at www.oldrepublictitle.com and submit your written request to the Legal Department. You may see and copy the information at our office or ask us to mail you a copy for a reasonable fee. If you think any information is wrong, you may submit a written request online to correct or delete it. We will let you know what actions we take. If you do not agree with our actions, you may send us a statement.

Affiliates Who May be Delivering This Notice

American First Abstract, LLC	American First Title & Trust Company	American Guaranty Title Insurance Company	Attorneys' Title Fund Services, LLC	Compass Abstract, Inc.
eRecording Partners Network, LLC	Genesis Abstract, LLC	Kansas City Management Group, LLC	L.T. Service Corp.	Lenders Inspection Company
Lex Terrae National Title Services, Inc.	Lex Terrae, Ltd.	Mara Escrow Company	Mississippi Valley Title Services Company	National Title Agent's Services Company
Old Republic Branch Information Services, Inc.	Old Republic Diversified Services, Inc.	Old Republic Exchange Company	Old Republic National Title Insurance Company	Old Republic Title and Escrow of Hawaii, Ltd.
Old Republic Title Co.	Old Republic Title Company of Conroe	Old Republic Title Company of Indiana	Old Republic Title Company of Nevada	Old Republic Title Company of Oklahoma
Old Republic Title Company of Oregon	Old Republic Title Company of St. Louis	Old Republic Title Company of Tennessee	Old Republic Title Information Concepts	Old Republic Title Insurance Agency, Inc.
Old Republic Title, Ltd.	Republic Abstract & Settlement, LLC	Sentry Abstract Company	The Title Company of North Carolina	Title Services, LLC
Trident Land Transfer Company, LLC				

See Section 5.1

**OPERATING AGREEMENT
OF
WELLBERG INVESTMENTS, LC**

This Operating Agreement of Wellberg Investments, LC (this "Agreement"), is made and entered into as of the 27th day of July 2006, by and among Wellberg Investments, LC, a Utah limited liability company (referred to herein as the "Company"), and David B. Berger and Raymond Weller (collectively referred to herein as the "Members").

Recitals

A. The Members have formed a Utah limited liability company (the "Company") for the purposes and on the terms, covenants and conditions set forth herein.

B. On July 27, 2006, Articles of Organization were filed with the Division of Corporations and Commercial Code of the Department of Commerce, state of Utah, to form Wellberg Investments, LC (the "Company").

C. The parties hereto desire to enter into this Operating Agreement to provide for the regulation and management of the business and affairs of the Company.

Agreement

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned parties agree as follows:

**Article I
Definitions**

When used in this Agreement, the following terms shall have the meanings set forth below:

1.1 "Act" shall mean the Utah Revised Limited Liability Company Act, as amended or revised from time to time.

1.2 "Additional Capital Contribution" shall mean contributions of cash or other properties to the Company, in addition to the Members' Initial Capital Contributions.

1.3 "Agreement" shall mean this Operating Agreement of Wellberg Investments, LC, as originally executed and as amended from time to time.

1.4 "Capital Accounts" shall mean the Capital Account of each Member as described in Section 4.1 below.

1.5 "Capital Contributions" shall mean all Initial Capital Contributions and all Additional Capital Contributions.

1.6 "Code" shall mean the Internal Revenue Code of 1986, as amended (or any corresponding provision or provisions of succeeding law).

1.7 "Company" shall mean the limited liability company operated pursuant to the terms hereof for the limited purposes and scope set forth herein.

1.8 "Division" shall mean the Division of Corporations and Commercial Code of the Department of Commerce, State of Utah.

1.9 "Initial Capital Contributions" shall mean the initial contribution of cash or other property to the Company by the Members as set forth on Exhibit "A" attached hereto and incorporated herein by reference.

1.10 "Interest or Member's Interest" shall mean an individual Member's share of the Company's assets, profits, surplus or losses, and all rights of a Member of a limited liability company under the Act and under this Agreement.

1.11 [Left blank intentionally]

1.12 "Member or Members" shall mean the original Members entering into this Agreement as of the date hereof and such other persons or entities that are admitted to the Company as additional or Substituted Members in accordance with the terms of this Agreement. Reference to a "Member" shall mean any one of the Members. The names, addresses, and Interests of the Members in the Company as of the date hereof are set forth in Exhibit "A" attached hereto and incorporated herein by reference.

1.13 "Net Profits or Losses" means the net profits or losses of the Company for federal income tax purposes as determined by the Members or by accountants employed by the Company; provided, however, that in the event the profits or losses of the Company are later adjusted in any manner, as the result of an audit by the Internal Revenue Service, or otherwise, then the net profits or losses of the Company shall be adjusted to the same extent.

1.14 "Person" shall mean any individual, partnership, corporation, trust or other entity or association.

1.15 "Regulations" shall mean the regulations promulgated by the United States Department of the Treasury pursuant to and in respect of provisions of the Code. All references

herein to sections of the Regulations shall include any corresponding provision or provisions of succeeding, similar, substitute proposed or final Regulations.

1.16 "Substituted Member" shall mean a person who acquires an Interest in the Company from a Member and is admitted by the unanimous vote of all of the Members in accordance with the terms and conditions of this Agreement. Upon the satisfaction of all terms and conditions to the acquisition of a Member's Interest, specifically including, but without limitation, all conditions set forth in Section 7.2 below, the person acquiring such Interest will become a Member.

Article II

General Provisions

2.1 Formation of the Company. The Members have formed the Company as a limited liability company pursuant to the provisions of the Act, by filing Articles of Organization with the Division, and hereby adopt this Agreement to provide for the regulation and management of the Company's affairs.

2.2 Name. The name of the Company shall be "Wellberg Investments, LC" or such other name as the Members may select.

2.3 Purposes and Scope. Subject to the provisions of this Agreement, the Company is formed for the purpose of acquiring by purchase or otherwise, and owning, holding, developing, leasing, renting, mortgaging, selling, marketing or otherwise trading with and dealing in real estate, lands, and interests in lands and all other property of every kind and nature and transacting any and all lawful business for which limited liability companies may be organized under the laws of the state of Utah and exercising all powers permitted thereby. In this regard, the Company shall have all powers conferred by the laws of the state of Utah on limited liability companies formed under the Act and shall have the authority to do all things necessary or convenient to accomplish its purposes and operate its business as set forth herein. This Agreement does not and shall not be construed to create a partnership, joint venture, or other business relationship among the Members with respect to any activities whatsoever other than those to be conducted by the Company as specified in this Section 2.3.

2.4 Registered Office and Registered Agent. The address of the Company's registered office in the state of Utah is 2469 Fort Union Boulevard, Cottonwood Heights, Utah 84121, and the name of the Company's registered agent for service of process is Raymond Weller. Either the registered office or the registered agent may be changed in the manner provided by law. The Company's principal place of business shall be at the Company's registered office or such other location as the Members may select.

2.5 Ownership. The interest of each Member in the Company shall be personal property for all purposes. All property and interests in property, real or personal, owned by the Company shall be deemed owned by the Company as an entity, and no Member, individually, shall have any ownership in any property or interest in property owned by the Company except as

a Member in the Company. Each of the Members irrevocably waives, during the term of the Company's existence and during any period of its liquidation following any dissolution, any right that such Member may have to maintain any action for partition with respect to any of the assets of the Company.

2.6 No Individual Authority. Except as specifically authorized or as otherwise specifically provided in this Agreement, no Member, acting alone, shall have any authority to act for, or to undertake or assume any obligation, debt, duty or responsibility on behalf of, any other Member or the Company.

2.7 No Personal Liability. Except as and to the extent specifically set forth in this Agreement, neither the Members nor the employees or agents of the Company shall be liable under any judgment, decree or order of a court, or in any other manner, for a debt, obligation or other liability of the Company

2.8 Period of Existence of the Company. The Company shall commence as of the date of filing of the Company's Articles of Organization with the Division and shall continue thereafter through and including the close of business on July 25, 2056, or until sooner terminated as provided herein. The Company may not transact any business or incur any indebtedness, except for business incidental to its organization or to obtaining subscriptions for or payment of contributions to the capital of the Company, until the Articles of Organization of the Company have been filed with the Division.

Article III Capital Contributions

3.1 Initial Capital Contributions; Units. Each Member has contributed to the capital of the Company the amount of property and assets set forth opposite such Member's name on Exhibit A attached hereto and incorporated herein by reference, which contributions constitute the Initial Capital Contributions of the Members to the Company.

3.2 Additional Capital Contributions. No Member shall be required to make any additional Capital Contributions beyond those set forth in Section 3.1. From time to time, upon written consent of the Members, each of the Members may contribute additional cash and other properties to the Company, which shall constitute Additional Capital Contributions. Any transfer of cash or other property made by a Member to the Company shall be deemed to be a capital contribution credited to that Member's Capital Account, unless the transferor Member otherwise specifies at the time the transfer is made.

3.3 Withdrawal of Capital Contributions. Except as otherwise expressly provided in this Agreement, no Member shall have the right to demand or receive the return of such Member's capital contributions to the Company.

3.4 Loans. Any Member may, with the consent of the Members, make loans to the Company. The amount of any such loan or advance shall not increase the Capital Account of the

lending Member nor entitle such lending Member to any increase in his or her share of distributions of the Company or subject him or her to any greater portion of the losses which the Company may sustain. The amount of any such loan or advance shall be a debt due from the Company to such lending Member and shall be repayable on such terms and conditions, and bear interest at such rate as shall be mutually agreed upon between the lending Member and the Company. The loan may be secured, if required by the lending Member and consented to by the Members, by a mortgage on any or all of the properties of the Company. Such loans shall be repaid, together with interest, prior to the time any distributions are made to the Members.

3.5 No Interest. Except as otherwise provided herein, no Member shall receive any interest on such Member's capital contributions to the Company or such Member's Capital Account, notwithstanding any disproportion therein as between the Members.

Article IV

Capital Accounts, Allocations and Distributions

4.1 Capital Accounts. The Company shall maintain a "Capital Account" for each Member. Each Member's Capital Account shall constitute a percentage right of that Member to the Company profits and losses for that year. The Members shall compute each Member's Capital Account annually on the first day of the Company's fiscal year. At the end of each fiscal year, the Company shall calculate the Capital Accounts for each Member for the following year by crediting all contributions made to each Member's Capital Account and all profits credited to each Member's Capital Account and debiting all distributions to each Member and all losses debited to each Member's Capital Account. As of the date of this Agreement, the Capital Account of each Member shall be the percentages of capital set forth in Exhibit "A." Except as otherwise provided herein or by the Act, no Member having a negative balance in its Capital Account shall have any obligation to the Company or any other Member to restore its Capital Account to zero. A deficit Capital Account of a Member shall not be deemed to be a liability of such Member or an asset or property of the Company.

4.2 Allocation of Profits or Losses. The "net profits or losses of the Company" shall be the net profits or losses of the Company for federal income tax purposes as determined by the Members or by accountants employed by the Company; provided, however, that in the event the profits or losses of the Company are later adjusted in any manner, as the result of an audit by the Internal Revenue Service or otherwise, then the net profits or losses of the Company shall be adjusted to the same extent. The net profits or losses of the Company shall be allocated in the percentages of capital ownership reflected by the Capital Accounts in the books of the Company at the time such loss or profit is realized; provided, however, that:

- (a) the limit of each Member's liability shall be the amount of his or her individual investment, which shall include each Member's initial contribution to capital and any subsequent contributions made by that Member; and,
- (b) in the event a Member has contributed appreciated property to the Company in kind, and the property is later transferred by the Company (including but not

limited to sales or distributions in kind to Members other than the contributing Member), to the extent required by Section 704(c) of the Code, income, gain, loss or other deductions, other than depreciation, shall be allocated to the contributing Member.

4.3 Distribution of Assets. The Members may in their discretion distribute the assets of the Company pro rata or non-pro rata as they deem advisable. All distributions shall be reflected in the Capital Accounts of the Members. The Members may retain in the Company some or all of the Company's assets to be used for the reasonable needs of the business. No Member may demand payment of all or any part of their Capital Account from the Company except upon liquidation of the Company. No Member shall have priority over any other Member, either as to return of Capital Contributions or as to profits, losses, or distributions. No Member shall be personally liable to any other Member for the return of any part of the Member's Capital Contributions.

Article V

Management of the Company

5.1 Management. The Company will initially be managed by its Members, with all decisions affecting the Company to be made by the vote of Members owning more than fifty percent (50%) of the Company's Interests, it being agreed, however, that consistent with this Agreement, the Members may delegate certain decision making authority to one or more of the Members.

5.2 Members' Reimbursement. The Members shall be reimbursed for all reasonable costs and expenses incurred by them in connection with the Company's business.

5.3 Limited Liability of Members. The Members shall not be liable to the Company or to any of its other Members for honest mistakes of judgment or for losses due to such mistakes or to the negligence, dishonesty or bad faith of any employee or agent of the Company; provided that such employee or agent was selected, engaged or retained by the Members as authorized by the Company with reasonable care. The Members may rely upon the advice of legal counsel to the Company in determining what acts or omissions are within the scope of authority conferred by this Agreement. The Company shall indemnify and hold harmless the Members and their agents from and against any loss, expense, damage or injury suffered or sustained by them by reason of or in furtherance of the interest of the Company, including, but not limited to any judgment, award, settlement, reasonable attorneys' fees and other costs or expenses incurred in connection with the defense of any action or threatened action, proceeding or claim, provided that the acts, omissions, or alleged acts or omissions upon which such action or threatened action, proceedings or claims are based were performed or omitted in good faith and not fraudulently, in bad faith, or as a result of wanton and willful misconduct or gross negligence.

5.4 Company Indemnification of Members. The Company shall protect, defend, indemnify and hold harmless each Member and each of its representatives, employees and agents, from and against any loss, expense, damage or injury suffered or sustained by any of them by reason of any acts, omissions, or alleged acts or omissions arising out of the activities of the

Member or any representative, employee or agent of the Member on behalf of the Company or in furtherance of the interests of the Company, including, but not limited to, any judgment, award, settlement, reasonable attorneys' fees and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim if the acts, omissions or alleged acts or omissions upon which such actual or threatened action, proceeding or claim is based were for a purpose believed in good faith by the Member, or any representative, employee or agent of the Member, to be in the best interest of the Company or were not performed or omitted fraudulently and did not constitute willful misconduct or a breach of this Agreement by such indemnified party. The Members each acknowledge that the intention of the preceding provisions is to cause the Company to indemnify the Members with respect to the Members' negligence, but in no event shall a Member be indemnified with respect to its gross negligence or willful misconduct.

5.5 Conflict of Interest. Any Member may be a party to, or be directly or indirectly connected with any person, corporation or partnership with which the Company may have dealings including, but not limited to, any contract or transaction with the Company, and in the absence of fraud, no contract or other transaction shall be thereby affected or invalidated. Neither the Company nor any of the Members shall have any rights in or to such dealings or any profits derived therefrom.

5.6 Other Activities and Non-Competition. It is hereby acknowledged that the Members have extensive business interests of various types. Nothing in this Agreement shall be deemed to restrict in any way the rights of any Member to conduct any other business or activity whatsoever, and the Member shall not be accountable to the Company or to any other Member with respect to that business or activity. The organization of the Company shall be without prejudice to Members' respective rights to maintain, expand, or diversify such other interests and activities and to receive and enjoy profits or compensation therefrom. Each Member waives any rights the Member might otherwise have to share or participate in such other interests or activities of any other Member.

5.7 Authority of Members. No Member is an agent of the Company solely by virtue of being a Member, and no Member has the authority to bind the Company absent its authorization. This Section 5.7 supersedes any authority granted to the Members pursuant to the Act. Any Member who takes any action or binds the Company in violation of this Section 5.7 shall be solely responsible for any loss and expense incurred by the Company as a result of the unauthorized action and shall indemnify and hold the Company harmless with respect to the loss or expense. Except as otherwise provided herein, decisions of the Company shall be determined by a vote of a majority of the Member's Interests then outstanding, although the Members may delegate day to day decision making authority amongst themselves and to the Company's other employees, if any.

5.8 Conflicts of Interest. This Agreement shall not preclude the Company from dealing with any Member or its affiliates in connection with the business of the Company as independent contractors or as agents for others, and such affiliates may receive from such others or the Company normal profits, compensation, commissions or other income incident to such

dealings. The amount payable by the Company to any Member or its affiliates shall not be greater than the amount which the Company would have to pay under an arms-length contract with an unrelated third party.

5.9 No Liability to Third Parties. No Member shall, by virtue of his or her status as a Member or ownership of an Interest in the Company, be liable for the debts, obligations or liabilities of the Company.

5.10 Tax Matters Member. The Members shall designate a "tax matters partner" as that term is defined in Section 6231(a)(7) of the Code.

Article VI

Meetings of Members

6.1 Regular Meetings. The Company may hold regular meetings as from time to time designated by Members holding twenty percent (20%) or more of the Company's Interests. Such regular meetings shall be held at such time and place as designated by the Members designating such meetings.

6.2 Special Meetings. Special meetings of the Members may be called at any time by the written request of Members holding twenty percent (20%) or more of the Member's Interests then outstanding. Written notice of such meeting stating the place, the date and hour of the meeting, the purpose or purposes for which it is called, and the name of the person by whom or at whose direction the meeting is called shall be given. The notice shall be given to each Member. No business other than that specified in the notice of the meeting shall be transacted at any such special meeting.

6.3 Voting. Except as otherwise expressly provided in this Agreement, all matters which call for a vote or consent of the Members shall be by the affirmative vote or consent of Members owning more than fifty percent (50%) of the Member's Interests then outstanding. The vote of each Member who is entitled to vote shall be weighted based on that Member's Capital Account interest, in comparison to all other Capital Account interests of those Members entitled to vote.

6.4 Notice of Members Meetings. The Members shall give written notice stating the place, day, and hour of both regular and special meetings, and in the case of a special meeting, the purpose or purposes for which the meeting is called, which shall be delivered not less than (5) nor more than thirty (30) days before the date of the meeting in accordance with the provisions of Section 10.1, to each Member of record entitled to vote at such meeting.

6.5 Waiver of Notice. If, under the provisions of the Act, the Articles of Organization, or this Agreement, notice is required to be given to a Member, a waiver in writing signed by the person or persons entitled to the notice, whether made before or after the time for notice to be given, shall be deemed to be the equivalent of the giving of notice.

6.6 Quorum. A majority of the Member's Interests of the Company entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of Members. If less than a majority of the Member's Interests are represented at a meeting, a majority of the Member's Interests so represented may adjourn the meeting from time to time without further notice. At a meeting resumed after any such adjournment at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of Members in such number that less than a quorum remain.

6.7 Proxies/Power of Attorney. At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney in fact. Such proxy shall be filed with the Company before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

Article VII

Transfers of Member Interests

7.1 Assignment of Member's Interest. Subject to the provisions of this Article VII, a Member may assign or transfer that Member's interest in the Company at any time, either voluntarily by an instrument in writing or involuntarily by court order or by operation of law. Upon the assignment or transfer of a Member's interest in the Company, (i) the Company shall not be required to recognize any such assignment or transfer until the Company has received written notice of the same; (ii) no such assignment or transfer of an interest in the Company, whether voluntary or involuntary, shall of itself, dissolve the Company; (iii) the assignee or transferee of the Member's interest in the Company shall not thereby become entitled to vote or otherwise participate in the management of the Company's business and affairs, or to require any information or accounts of Company transactions, or to inspect the Company books and records, or to become a Member; (iv) the assignee or transferee shall only be entitled to receive, in accordance with the contract or order of assignment or transfer, the share of profits or other compensation by way of income and the return of contributions to which the assigning Member would otherwise be entitled under this Agreement and, in case of the winding-up of the Company, the assignee or transferee shall be entitled to receive such distributions as would otherwise be made to the assigning Member.

7.2 Admission as Substituted Member. With the exception of permitted transfers in the manner provided in this Agreement, no purchaser, assignee or other transferee (by conveyance, operation of law or otherwise) of all or any part of an interest in the Company shall have the right to become a Substituted Member in place of that person's seller, assignor or transferor, and, thereby, become entitled to vote and participate in the management of the business and affairs of the Company, unless all of the following conditions are satisfied (all subsequent references in this agreement to "assignor" and "assignee" shall be construed to include sellers and purchasers, transferors and transferees, donors and donees, and otherwise, as the case may be):

(a) The fully-exercised and acknowledged written instrument or order of sale, assignment or transfer, which sets forth the intention of the assignor that the assignee become a substituted Member in that Member's place, has been filed with the Company.

(b) The assignor and assignee execute and acknowledge such other instruments as the Members may from time to time require, in order to effect such admission, including the written acceptance and adoption by the assignee of the provisions of this Agreement.

(c) The assignee shall bear all reasonable expenses incurred in effecting the substitution.

(d) All of the other Members of the Company have consented in writing to the substitution, which consent shall be exercisable in the Member's sole discretion.

7.3 Cessation of a Member.

(a) Upon the death, legal incompetence, or the filing of a bankruptcy by a individual Member, his or her guardian, trustee, or personal representative (as the case may be) shall have all of the rights of a Member, as the case may be, for the limited purpose of settling or managing his or her estate, and such power as the decedent or incompetent possessed to constitute a successor as an assignee in making application to substitute such assignee as a Member. However, neither the guardian, trustee or personal representative nor his or her assignee shall have the right to become a Substitute Member except in accordance with the terms and conditions of this Agreement.

(b) Upon the bankruptcy, insolvency, dissolution or other cessation to exist as a legal entity of a Member, not an individual, the authorized representative of such entity shall have all of the rights of a Member for the limited purpose of winding up the affairs such entity and such power as such entity possessed to constitute a successor as an assignee of its Interest in the Company and to join with such assignee in making application for such assignee to become a Substitute Member. However, neither the authorized representative nor his or her assignee shall have the right to become a Substitute Member except in accordance with the terms and conditions of this Agreement.

7.4 Right of First Refusal.

(a) If any Member (a "Transferring Member") desires to assign, transfer or otherwise dispose of such Member's interest in the Company for value, he shall give written notice (a "Transfer Notice") to the Company and the other Members setting forth (i) the amount of Member's Interests in the Company (the "Transferable Interest") which the Transferring Member desires to transfer; (ii) the identity and address of the proposed purchaser or other transferee thereof; (iii) that the Transferring Member has received a bona fide offer therefor, if a sale is contemplated; (iv) the cash and other consideration

(per percentage interest and in the aggregate) to be received by the Transferring Member in connection with such disposition; (v) a true copy of the offer or agreement, if any, for such sale or other disposition and a certification by the Transferring Member that, to the best of his knowledge and belief, the offer or agreement is genuine and is in all respects what it purports to be; (vi) an offer to sell to the Company and the other Members the Transferable Interest in accordance with this Section 7.4; and (vii) such other information as may be necessary or desirable in order to afford to the Company and the other Members the benefits intended to be conferred by this Section 7.4. To the extent the terms of such sale or other transfer provide for the receipt by the Transferring Member of consideration other than cash or cash equivalents, the Transfer Notice shall also include a fair market appraisal of such consideration prepared by a qualified independent appraiser.

(b) The Company shall have 10 days from the date of receipt by it of the Transfer Notice to elect to purchase all or any part of the Transferable Interest. To the extent the Company does not elect to purchase all of such interest, the other Members shall have 20 days from the date of the expiration of the Company's option to elect to purchase all or any part of the Transferable Interest to which each Member shall be entitled to purchase (which, in the absence of a unanimous consent among such Members to the contrary, shall be in proportion to their respective Member's Interests), such election to be made by delivering written notice of such election to the Transferring Member within such 20-day period.

(c) If the Company and some, but not all, of the other Members timely exercise their election to so purchase their respective shares of the Transferable Interest not purchased by the Company, or if the other Members elect to purchase less than all of the Transferable Interest not purchased by the Company, then the Transferring Member after expiration of such 20-day option period to the other Members shall promptly give written notice (a "Second Notice") to each of the other Members so exercising their election that certain of the Transferable Interest remains available for purchase by them. Each of such exercising other Members shall have 10 days from the date of receipt by him of the Second Notice to elect to purchase his proportionate share (which, in the absence of a unanimous consent among such exercising other Members to the contrary, shall be determined by reference to the total Member's Interests held by the electing Members) of such remaining Transferable Interest, such election to be made by his delivering to the Transferring Member written notice of such election within such 10-day period.

(d) If the Company and/or some or all of the other Members have timely elected to purchase all of the Transferable Interest, then the Company and each of the electing other Members shall purchase that part of the Transferable Interest which it has elected to purchase within 30 days after expiration of such 20-day or 10-day period, as applicable, on a date and at a time designated by the Company and/or electing other Members in a written notice to be given at least two days in advance to the Transferring Member by the Company and/or electing other Members; and at the principal place of business of the Company. At the closing, the Transferring Member shall deliver

certificates or other evidence of ownership representing the Transferable Interest being purchased, duly endorsed in blank or accompanied by duly executed transfer documents acceptable to the Company and the purchasing Members.

(e) The purchase by the Company and/or the other Members shall be at the price and upon the same terms and conditions as contained in the Transfer Notice; *provided, however*, that if the Transfer Notice provides for payment of all or any portion of the purchase price by delivery of consideration other than cash or cash equivalents, the Company and/or other Members may make payment of such portion of the purchase price in cash or cash equivalents in the amount of the fair market value of such non-cash consideration as set forth in the appraisal accompanying the Transfer Notice. If, however, the Company or the other Members, as the case may be, electing to purchase the Transferable Interest shall object to such appraisal of the non-cash consideration within the time period set forth above for electing to purchase the Transferable Interest, the Company or the other Members so electing to purchase shall within such period select an independent appraiser to determine such fair market value. In the event that the independent appraisers selected by each of the Transferring Member and the Company or the other Members electing to purchase cannot agree on the fair market value, then the two independent appraisers shall mutually select a third independent appraiser to determine the fair market value, and the value selected by such third independent appraiser shall be binding on all of the parties hereto. Each such independent appraiser may use any customary method of determining fair market value. Each party shall bear the cost of the independent appraiser selected by that party and the cost of the independent appraiser, if any, mutually selected by the two independent appraisers shall be paid one-half by the Transferring Member and one-half by the Company or such other Members.

(f) If the Company and the other Members do not timely elect to purchase all of the Transferable Interest pursuant to this Section 7.4, the Transferring Member, within 30 days after the expiration of such 20-day period, 10-day period, or Second Notice, as applicable, may transfer the Transferable Interest to the purchaser or other transferee named in the Transfer Notice for the consideration and on the other terms set forth in the Transfer Notice and not otherwise. Upon failure of the Transferring Member to effect such transfer pursuant to the terms and conditions contained in the Transfer Notice within such 30-day period, the right to transfer such interest shall lapse, and any desired transfer thereafter shall be made only upon compliance again with the notice and election procedures of this Section 7.4.

(g) Purchasing Members shall become Substituted Members with respect to interests purchased under this Section 7.4 as soon as the purchase has been accomplished according to the terms hereof. Any other purchaser or transferee of a Transferring Member's interest shall not be entitled to become a substitute Member except as provided in Section 7.2.

7.5 Option to Purchase Interest Upon Certain Events.

(a) If a Member's interest is transferred pursuant to (i) an adjudication of the Member as a bankrupt; (ii) an entry of an order, judgment or decree by any court of competent jurisdiction appointing a trustee, receiver or liquidator of the assets of the Member; (iii) an assignment or attempted assignment by the Member for the benefit of creditors; (iv) the institution or attempted institution of voluntary bankruptcy proceedings by the Member; (v) the divorce or separation of the Member from his or her spouse under which by judicial decree the Member is required to transfer all or part of his interest in the Company to his or her spouse; or (vi) the death of the Member, then, in any such event (an "Option Event"), the Company and, to the extent the Company does not elect to purchase all of such Interest, the other Members shall have the option, but not the obligation, to purchase from such Member (or from such Member's estate or legal successor(s)) (the "Subject Member") the Subject Member's interest in the Company transferred.

(b) Not later than ninety (90) days after the occurrence of an Option Event, the Subject Member (or the Subject Member's estate or successor(s)) shall notify the Company of such occurrence, which notice shall set forth (i) a description of the Option Event; (ii) the Member's Interest which the Company and the other Members have the right to purchase pursuant to this Section 7.5 by reason of such Option Event; (iii) the identity of the Subject Member; and (iv) such other information as may be necessary or desirable in order to afford to the Company and the other Members the benefits intended to be conferred by this Section 7.5. Following the receipt of such notice, the Company shall give like notice to the other Members of the occurrence of the Option Event and of their option to purchase the Subject Member's Interest pursuant to this Agreement.

(c) The Company shall have 10 days from the date of receipt by it of the Option Notice to elect to purchase all or any part of the Subject Member's Interest. To the extent the Company does not elect to purchase all of such Interest, the other Members shall have 20 days from the date of the expiration of the Company's option to elect to purchase all or any part of the Subject Member's Interest to which each Member shall be entitled to purchase (which, in the absence of a unanimous consent among such Members to the contrary, shall be in proportion to their respective Member's Interests), such election to be made by delivering written notice of such election to the Subject Member within such 20-day period.

(d) If the Company and some, but not all, of the other Members timely exercise their election to so purchase their respective shares of the Subject Member's Interest not purchased by the Company, or if the other Members elect to purchase less than all of the Subject Member's Interest not purchased by the Company, then the Subject Member after expiration of such 20-day option period to the other Members shall promptly give written notice (a "Second Notice") to each of the other Members so exercising their election that certain of the Subject Member's Interest remains available for purchase by them. Each of such exercising other Members shall have 10 days from the date of receipt by him of the Second Notice to elect to purchase his proportionate

share (which, in the absence of a unanimous consent among such exercising other Members to the contrary, shall be determined by reference to the total Member's Interests held the electing Members) of such remaining Subject Member's Interest, such election to be made by his delivering to the Subject Member written notice of such election within such 10-day period.

(e) If the Company and/or some or all of the other Members have timely elected to purchase all of the Subject Member's Interest, then the Company and each of the electing other Members shall purchase that part of the Subject Member's Interest which it has elected to purchase within 30 days after expiration of such 20-day period, 10-day period, or Second Notice, as applicable, on a date and at a time designated by the Company and/or electing other Members in a written notice to be given at least two days in advance to the Subject Member by the Company and/or electing other Members, and at the principal place of business of the Company.

(f) The purchase price for the Subject Member's Interest purchased by the Company or another Member shall be the fair market value ("FMV") of the Interest as of the date of the occurrence of the Option Event as determined herein. The Company shall pay for and obtain an independent appraisal of all real estate and unlisted securities (including options and warrants). Listed securities shall be valued at the market price (bid) for such securities. All other assets shall be valued at their book value. The FMV of the interest being purchased shall be based on the relative percentage of ownership of the Company based on the total number of Member's Interest outstanding as of the valuation date multiplied by the sum of (i) the fair market value of the real estate and unlisted securities as determined by appraisal; plus (ii) the market price (bid) for any listed securities; plus (iii) the book value of all other assets; minus (iv) total Company liabilities at the valuation date.

(g) Payment by the Company or the Members of the purchase price for Subject Member's Interest shall be made in cash within six months of the closing date. Payment of the purchase price shall be made to the personal or legal representative of the Subject Member, or to his or her trustee, liquidator or receiver, or to his or her spouse or the personal or legal representative of his or her spouse, as appropriate, such payment to be made at the office of the Company in Salt Lake City, Utah, in each instance against receipt of certificates or other evidence of ownership representing the Subject Member's Interest being purchased, duly endorsed in blank or accompanied by duly executed transfer documents acceptable to the Company and the purchasing Members.

(h) If and to the extent that the Company and/or the other Members do not purchase all of the Subject Member's Interest pursuant to the preceding provisions of this Section 7.5, then the remaining Subject Member's Interests shall be transferred to the person or persons to whom the same would have passed in the absence of the provisions of this Agreement.

7.6 Additional Restrictions. Additional Restrictions. Notwithstanding the provisions

of above, a Member may only sell, assign, or otherwise transfer any Interest in the Company if:

(a) The proposed transfer will not result in the termination of the Company as provided in Section 708(b) of the Code, or otherwise adversely affect the Company's status as a Company thereunder. The Members are expressly authorized to enforce this provision by notifying the selling Members that all transfers or assignments will be suspended for a period of up to twelve (12) months whenever Company Interests representing aggregate Interests of thirty five percent (35%) or more in Company capital or revenues shall have been effectively transferred in any twelve (12) month period;

(b) Such selling Member and the purchaser, transferee or assignee execute such instruments of transfer and assignment with respect to such transactions as are in form and substance satisfactory to the non-selling Members; and

(c) The assignor or transferor delivers to the Company an opinion of counsel, in form acceptable to counsel to the Company; which includes, at least, the following, that:

(d) The proposed transfer or assignment of the Interest complies with all federal and state laws and regulations, including the Securities Act of 1933; and

In the event of a transfer of a Member's Interest, if it is in the best interest of the Company to do so, the Company may make an election, as provided for in Section 754 of the Code, to adjust the basis of the Company assets.

7.7 Permitted Transfers to Family Members. Nothing in this agreement shall be deemed to prohibit or limit the assignment or transfer from a Member of all or any part of the Member's Interest in the Company to its direct descendants, or to any legal entity of which such descendants are the majority owners or beneficiaries, and no such sale, assignment or transfer shall create a right, interest or power in any other Member, or in the Company, or any other person, to purchase or acquire such interest in the Company, nor shall the Member who desires to so assign or transfer all or any part of that Member's interest in the Company be required to obtain the prior consent of the other Members or the Company or to offer such interest to the other Members or to the Company.

Article VIII

Dissolution and Termination

8.1 Events of Dissolution. The Company shall be dissolved upon the first to occur of the following:

(a) The dissolution of the Company by judicial decree.

(b) The merger or consolidation of the Company with another limited liability company or other entity where the Company is not the surviving entity.

- (c) The sale of all or substantially all of the assets of the Company.
- (d) The close of business on July 25, 2056.
- (e) The written consent to dissolve of Members holding in the aggregate at least 67% of the outstanding Member Interests.
- (f) The death, retirement, resignation, dissolution, bankruptcy, incapacity, or expulsion of any Member, or any Member otherwise ceases to exist or withdraws, or the occurrence of any other event that terminates the continued eligibility for membership of a Member in the Company.
- (g) A deadlock in the voting of the Membership Interests on any matter.

Unless approved by Members holding, in the aggregate, at least 67% of the outstanding Member Interests, no Member shall have the right to, and all Members hereby agree they will not, dissolve, terminate, partition, or liquidate, or to petition a court for the dissolution, termination, partition, or liquidation of, the Company except as provided in this Agreement.

8.2 Option to Continue: Winding Up and Liquidation. Upon the occurrence of an event of dissolution under Section 8.1(f), the Members other than the Member to whom the event of dissolution occurred (the "Remaining Members") may elect within 180 days following the event of dissolution, exercisable by the written consent of Remaining Members holding in the aggregate at least a majority of the Member's Interests then outstanding, to continue the Company. Otherwise, upon the occurrence of an event of dissolution as provided in Section 8.1, the Company shall be wound up and liquidated by selling Company assets and distributing the proceeds from any such sale or sales of the assets of the Company as follows and in the following order of priority:

- (a) To pay the expenses of winding up.
- (b) To pay or provide for payment of all liabilities to creditors, in the priority provided by law, including liabilities to Members other than liabilities in respect of their Capital Accounts.
- (c) To establish any reserves which the Members may deem necessary for any anticipated, contingent or unforeseen liabilities or obligations of the Company arising out of, or in connection with, the conduct of the Company's business.
- (d) To each Member, pro rata in accordance with the positive balances in their Capital Accounts (determined after giving effect to the allocation of all gains and losses realized in connection with any terminating capital transactions occurring in connection with the liquidation of the Company).

8.3 Winding Up of the Company. Upon a dissolution of the Company, the winding

up of the affairs of the Company and the distribution of its assets shall be conducted exclusively by the Members; provided, that the Members may delegate their obligations to a receiver or a trustee.

A reasonable time shall be allowed for the orderly liquidation of the assets of the Company and the discharge of liabilities to creditors to enable the Members to minimize the losses customarily attendant to distressed dispositions of property. In liquidating the assets of the Company, all assets of a saleable value which the Members determine are not suitable for an equitable distribution shall be sold at public or private sale as the Members deem advisable. Any Member may purchase such assets at any such sale.

8.4 Return of Capital. Each Member shall look solely to the assets of the Company and to the Company property remaining after the payment or discharge of the debts and liabilities of the Company to the Member. If such assets and property are insufficient to return the Capital Contributions of each Member, the Members shall have no recourse against any other Member irrespective of such Member's capital balance, whether a debit or credit balance. All distributions of Company property upon liquidation of the Company shall be made in strict accordance with the balances of individual Members' Capital Accounts. However, any Member with a debit or negative balance in his or her Capital Account, upon the dissolution and winding up of the Company, shall not be entitled to a distribution as to capital or his or her share of profits.

8.5 Final Accounting. Each of the Members shall be furnished with a statement prepared by the Members or the Company's accountant which shall set forth the assets and liabilities of the Company as of the date of termination and which shall disclose the sources and applications of Company assets and proceeds thereof during the course of winding up the Company affairs and dissolution. Upon completion of the winding up and termination of the Company, the Members shall execute, acknowledge and cause to be filed Articles of Dissolution of the Company.

8.6 Method of Distribution of Assets. To the extent feasible, all distributions in liquidations shall be made pro rata to the Members in kind. Distributions of specific assets shall be determined solely by the Members.

Article IX

Books of Account, Accounting, Reports, and Banking

9.1 Books of Account. The Company books and records of account shall be maintained at the principal office of the Company or at such other location and by such person or persons as may be designated by the Members. The Company shall pay the direct expense of maintaining its books of account.

9.2 Method of Accounting/Fiscal Year. The Company books of account shall be maintained and kept on a basis of accounting determined by the Members and consistently applied. The fiscal year of the Company shall be the calendar year.

9.3 Financial Statements. The Company shall provide to each Member upon request either unaudited or audited (as determined by the Members in their reasonable discretion) financial statements which fairly represent the financial condition of the Company as of the end of each fiscal year. Such financial statements shall indicate the share of each Member in the net income, net loss, depreciation and other relevant fiscal items of the Company for such fiscal year. Each Member shall be entitled to receive copies of all federal, state and local income tax returns and information returns, if any, which the Company is required to file.

9.4 Bank Accounts. The funds of, and all monies actually received by the Company shall be deposited in a separate bank account or accounts in a national or state banking institution in the name of the Company. The Members shall be authorized to draw checks upon such account or accounts; *provided, however*, that no funds shall be withdrawn from any such account or accounts except for Company purposes.

9.5 Tax Returns. The Members shall, for each Fiscal Year, file or cause to be filed at the expense of the Company and on behalf of the Company, a partnership return within the time prescribed by law (including extensions) for such filing and shall deliver to each Member a copy of such Member's K-1 relating to such return. The Members shall also file or cause to be filed at the expense of the Company and on behalf of the Company such state and/or city income tax returns as may be required by law.

9.6 Audit. Each Member shall have the right at all reasonable times during usual business hours to audit, examine, and make copies of or extracts from the books of accounts and other records of the Company. Such right may be exercised through any agent or employee of such Member designated by such Member. Each Member shall bear all expenses incurred in any examination made for such Member's account.

9.7 Records. The Company shall keep at its place of business the following records: (a) a current list in alphabetical order of the full name and last known business street address of each Member; (b) a copy of the stamped articles of organization and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which the articles of organization or any certificate of amendment has been executed; (c) a writing signed by the organizer(s) of the Company setting forth the name and street address of each initial Member of the Company; (d) copies of the Company's federal, state, and local income tax returns and reports, if any, for the three most recent fiscal years; (e) copies of any financial statements of the Company for the three most recent fiscal years; (f) a copy of this Agreement plus all amendments thereto; (g) a copy of the minutes of each meeting of Members and any written consents obtained from Members; (h) unless otherwise set forth in the articles of organization or this Agreement, a written statement of (i) the amount of cash and a description and statement of the agreed value of the other property or services contributed or agreed to be contributed by each Member, (ii) the times at which, or events on the happening of which, any additional contributions agreed to be made by each Member are to be made, (iii) any right of a Member to receive distributions, (iv) any date or event upon the happening of which a Member is entitled to payment in redemption of the Member's Interest, and (v) any date or event upon the happening of which the Company is to be dissolved and its affairs wound up. These records

shall be subject to inspection and copying at the reasonable request, and at the expense, of any Member during ordinary business hours.

9.8 Company Property. The assets and liabilities as set forth on the books and records of the Company and such other property as may be contributed to the Company, together with all accumulated earnings, if any, are the property of the Company. Company property shall generally be acquired and conveyed and Company activities shall generally be engaged in the name of the Company and not in the name of a Member.

Article X Miscellaneous

10.1 Notices. All notices provided for by this Agreement shall be made in writing (1) either by actual delivery of the notice into the hands of the parties thereunto entitled, (2) by a commercially recognized means of express delivery which provides proof of delivery, or (3) by the mailing of the notice in the U.S. mails to the address appearing on the books of the Company or given by the Member to the Company for the purpose of notice, certified mail, return receipt requested (postage prepaid). If no address for a Member appears on the Company's books or is given by such Member, notice shall be deemed to have been given if sent by mail to the Company's principal executive office and the last address for such Member, known to the Company.

The notice shall be deemed to be received: on the date of its actual receipt by the party entitled thereto if hand-delivered to such person; on the date of its actual delivery by the express delivery company if sent by express delivery; and five (5) days after the date it was deposited in the United States mail, if sent by U.S. mail in the manner provided above.

10.2 Title and Captions. Article and Section titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof.

10.3 Gender. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders and the word "person" shall include corporation, firm, company, or other form of association.

10.4 Counterparts. This Agreement may be executed in several counterparts, and all such counterparts shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterpart.

10.5 Governing Law. This Agreement and all amendments hereto shall be governed by the laws of the State of Utah.

10.6 Survival of Terms and Provisions. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective

Members.

10.7 Severability. The invalidity or unenforceability of any part of this Agreement shall not invalidate or affect the validity or enforceability of any other provision of this Agreement, which shall continue to govern the rights and obligations of the parties hereto as though the invalid or unenforceable provisions(s) were not a part hereof.

10.8 Further Instruments. The Members agree that they will execute any and all other documents or legal instruments that may be necessary or required to carry out and effectuate all of the provisions hereof.

10.9 Entire Agreement/Amendment. This Agreement constitutes and represents the entire agreement of the Members with respect to the subject matter hereof, and all other prior agreements, covenants, promises and conditions, verbal or written, between the Members relating to the subject matter hereof are incorporated herein. No Member hereto has relied upon any other promise, representation or warranty, other than those contained herein, in executing this Agreement. This Agreement may only be amended or modified pursuant to a written instrument signed by all the Members of the Company.

10.10 Waiver of Lis Pendens and Partition. The Members recognize that no Member has any direct right in any Company property, but only an Interest in the Company which is deemed to be personal property. Accordingly, because the Company may suffer irreparable financial loss if a lis pendens were filed or an action for partition were brought with respect to Company property by a Member arising out of a Company dispute, each Member does hereby waive any such right to file a lis pendens against any property of the Company or bring an action for partition thereof.

10.11 Binding Arbitration. In the event of any dispute between the parties hereto as to the meaning or interpretation of this Agreement, or any other agreement entered into pursuant to this Agreement, the dispute shall be submitted to and resolved by binding arbitration before a panel of three arbitrators (or such lesser number of arbitrators as may be unanimously agreed to by the parties) appointed and acting in accordance with the Rules of the American Arbitration Association then in force and effect. The decision of a majority of the arbitrators submitted to arbitration pursuant to this provision shall be final and binding upon the parties. The arbitrators shall be entitled to award reasonable attorneys fees to the prevailing party.

10.12 Qualification in Other States. In the event that the business of the Company is conducted in states in addition to the State of Utah, then the Members agree that this Company shall exist under the laws of each state in which such business is actually conducted to the extent that it is necessary in order to do business in such state but that otherwise the laws of the State of Utah shall govern this Company and each Member agrees to execute such other and further documents as may be required in order to qualify the Company to conduct its business in other states. To the extent that business of the Company shall be conducted in another state, the Members may, in their discretion, designate a principal place of business and other offices in such state or states.

Article 11

Representations by Members

Each of the undersigned Members acknowledges that he, she or it has participated in the preparation of this Agreement and in the formation of the Company. In the event any question arises regarding the interpretation of this Agreement, no presumption shall be drawn in favor of or against any Member with respect to the drafting hereof. Each Member represents and warrants the following:

(a) The Member has received, read and analyzed the Agreement and other related documents.

(b) The Member acknowledges and understands that the Company has no financial or operating history and the Member's Interest as an investment involves a high degree of risk.

(c) The Member acknowledges and understands that there will be no public market for the Member's Interests, that there are substantial restrictions on the resale, assignment or transfer of the Member's Interests and it will likely not be possible to readily liquidate the Member's investment in the Company.

(d) The Member has sufficient net worth to bear the risk of the complete loss of his or her investment in the Company.

(e) The Member, by virtue of the Member's own investment acumen and business experience, is capable of valuing the risks and merits of investing in the Company.

(f) The Member is purchasing the Company Interests for the Member's own account for investment purposes and not with a view to or for any distribution thereof.

(g) All documents and additional information requested by the Member have been made available to the Member.

(h) The Member hereby adopts, accepts and agrees to be bound by all the terms and provisions of the Agreement and to perform all the obligations therein imposed on the Member.

IN WITNESS WHEREOF, this Operating Agreement of Wellberg Investments, LC has been executed by the undersigned as of the date first above written.

The Company: Wellberg Investments, LC

By Raymond Weller
Raymond Weller, Member

By David Berger
David Berger, Member

Members:

By David Berger
David Berger

Raymond Weller
Raymond Weller

EXHIBIT A TO OPERATING AGREEMENT

WELLBERG INVESTMENTS, LC

<u>Members Names and Addresses</u>	<u>Member's Contribution</u>	<u>Member's Interest</u>
David Berger 218 West 12650 South Draper, UT 84020	\$ 1,000,000	50.0%
Raymond Weller 2469 Fort Union Boulevard, Suite 200 Cottonwood Heights, UT 84124	\$ 1,000,000	50.0%
TOTAL	<u>\$ 2,000,000</u>	100.0%



State of Utah

DEPARTMENT OF COMMERCE

Division of Corporations & Commercial Code

PO Box 146705

Salt Lake City UT 84114-6705

Phone: (801) 530-4849

or toll free in-state (877) 520-3000

Fax: (801) 530-6438

RECEIVED

JUL 27 2006

Utah Div. Of Corp. & Comm. Code

Non-Refundable Processing Fee: \$52.00

Articles of Organization

1. Name of Limited Liability Company:	Wellberg Investments <i>LC</i>		
2. Purpose:	Real Estate ownership, development, sales and marketing		
3. Registered Agent Name, Signature and Street Address:	Raymond Weller 2469 Fort Union Boulevard #200 Cottonwood Heights Utah 84121 I hereby accept appointment as Registered Agent for the above named company <i>Raymond Weller</i> Authorized Signature of R.A. or on behalf of R.A. Company Date: July 27, 2006 The Director of the Division of Corporations shall be appointed agent of the company for service of process if the agent has resigned, the agent's authority has been revoked, or the agent cannot be found or served with the exercise of reasonable diligence.		
4. Designated Office:	☐ 2469 Fort Union Blvd. #200 Street Address City State Zip ☒ The company's registered office shall be its designated office		
5. Organizer(s):	The company ☐ does ☒ does not have organizers who are not members or managers of the company		
6. Name and Address of each Organizer who is not a Member or Manager:	1. Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Signature: _____ Date: _____ 2. Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Signature: _____ Date: _____		
	☐ Manager ☒ Member		
	1. Raymond Weller Member 7737 Pheasant Wood Drive Cottonwood Heights UT 84093 <i>Raymond Weller</i> 2. David Berger Member 218 West 12650 South Draper UT 84020 <i>David Berger</i>		
9. Duration:	☒ The duration of the company shall be 50 years ☐ The duration date of the company shall be _____		
10. Principal Address:	Address: _____ City: _____ State: _____ Zip: _____		

Under GRAMA 163-2-201, all registration information maintained by the Division is classified as public record. For confidentiality purposes, the business entity's personal address may be provided rather than the residential or private address of any individual affiliated with the entity.

**EXHIBIT C
TO
PETITION FOR ANNEXATION**

Valuation of Property Proposed for Annexation

The signer of this petition owns all of the property sought to be annexed and therefore owns 100% of the value of all the private property sought to be annexed.

EXHIBIT D

Record Owners

Mailing Address & Phone Number

Christensen Mountain Proppertie

723 12th Stret, Idaho Falls, ID 83404

Red Ledges Land Development, Inc.

1851 E Center St, Heber, UT 84032

Red Ledges Community Association, Inc.

1851 E Center St, Heber, UT 84032

RE Investment Holdings, LLC

6900 S 900 E, # 230, Midvale, UT 84047

**EXHIBIT E
TO
PETITION FOR ANNEXATION**

Concept Plan

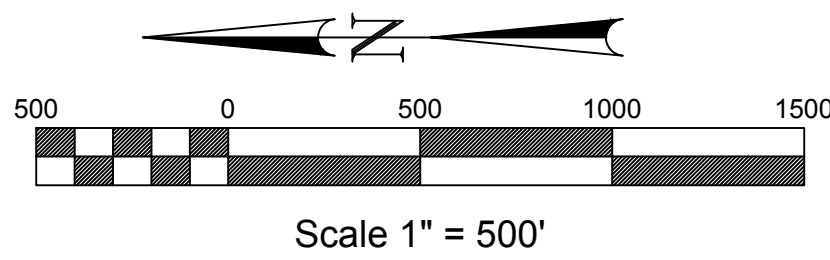
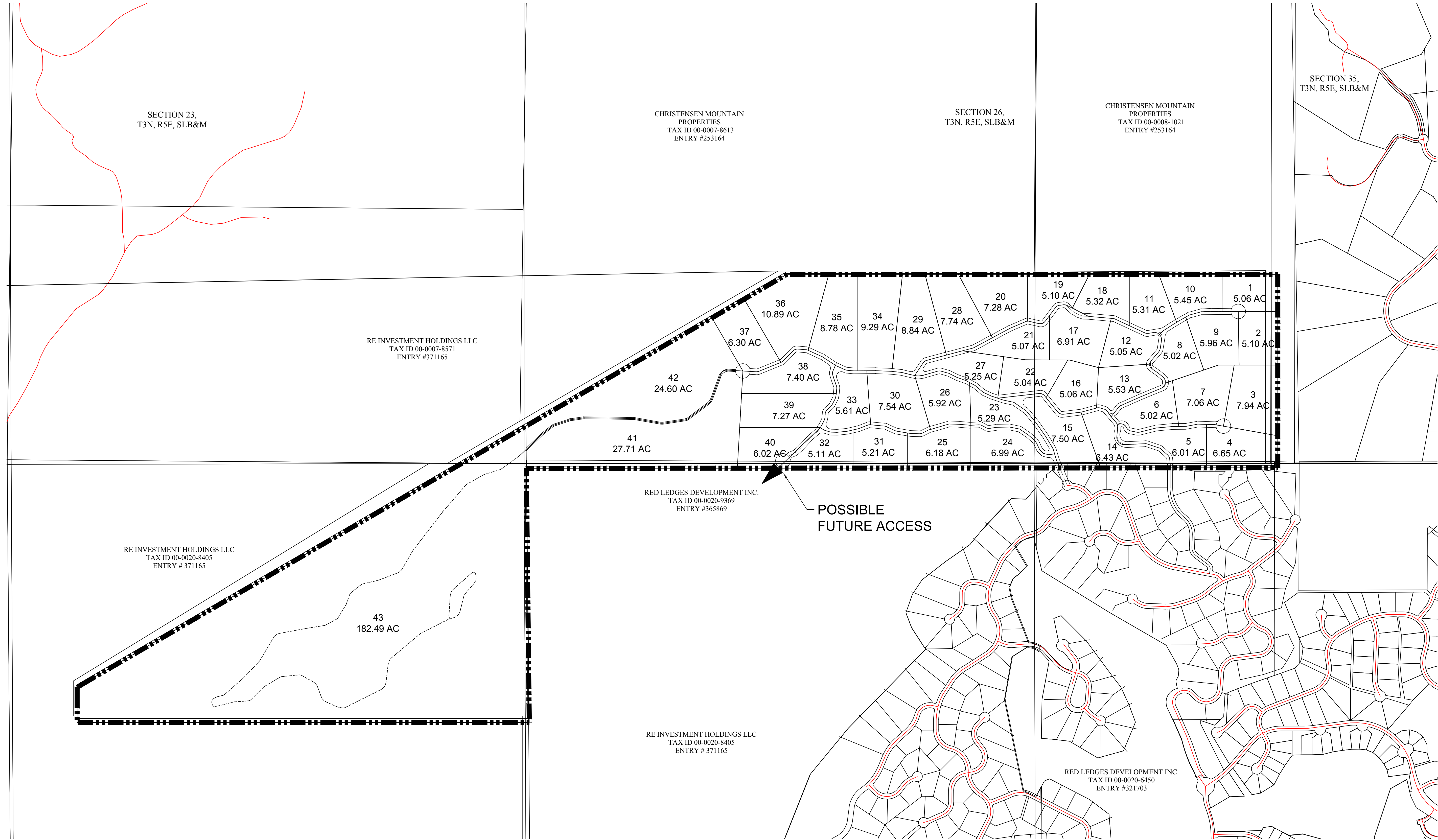
FILENAME: O:\SKYLINE VENTURES\Coyote Hollow\engineering\Design\Site plan.dwg TAB: SITE PLAN PLOT DATE AND TIME: 10/30/2019 6:30 PM



LEGEND

- 60 FT ROW ROADWAY
- 24 FT WIDE SHARED DRIVEWAY
- PRIVATE DRIVEWAY

TOTAL NUMBER OF LOTS 43 LOTS
PROPERTY AREA 489.32 ACRES



COYOTE HOLLOW
WASATCH COUNTY, UTAH
SITE PLAN SITE PLAN

231 West 800 South Salt Lake City, Utah 84101
Ward Engineering Group
Planning Engineering Surveying
PH: 801.487.8040 FX: 801.487.8668

CLIENT: SKYLINE VENTURE LLC
DWG: SITE PLAN DWG
JOB No.: 3891-SNT28-19
DATE: 07/09/2019

DRAWN BY:
DESIGN BY:
CHECKED BY:

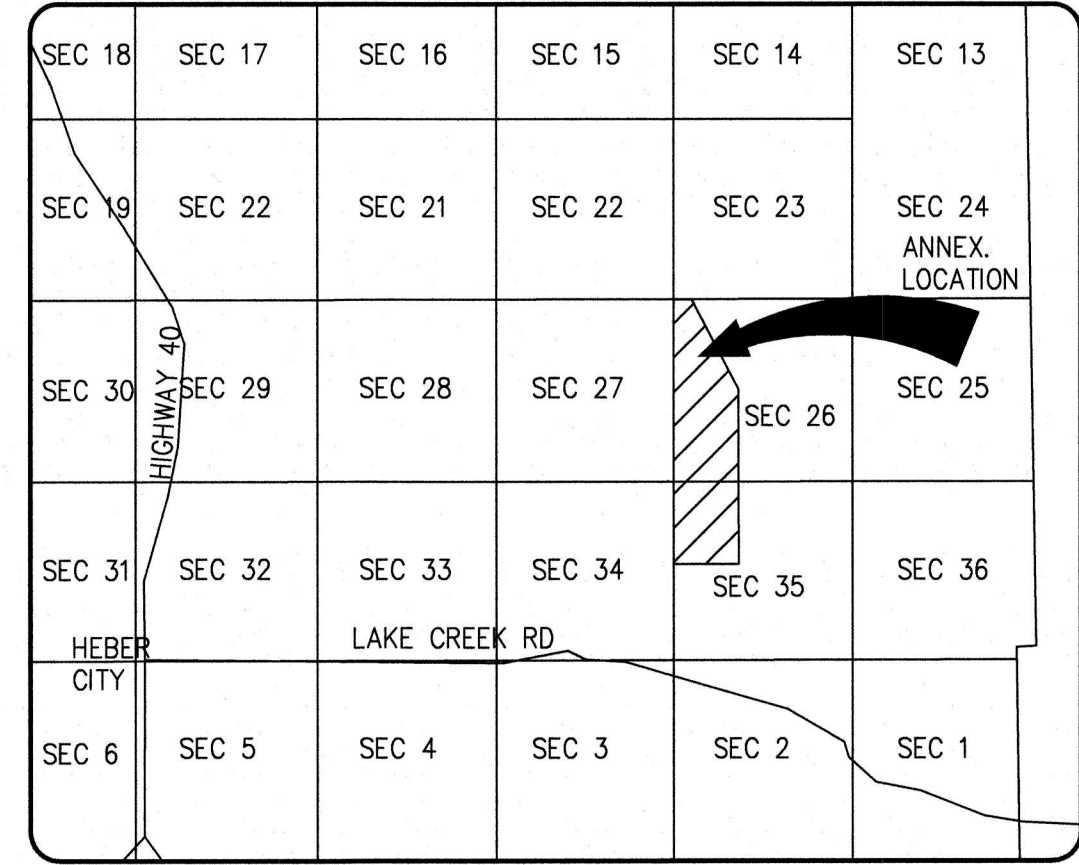
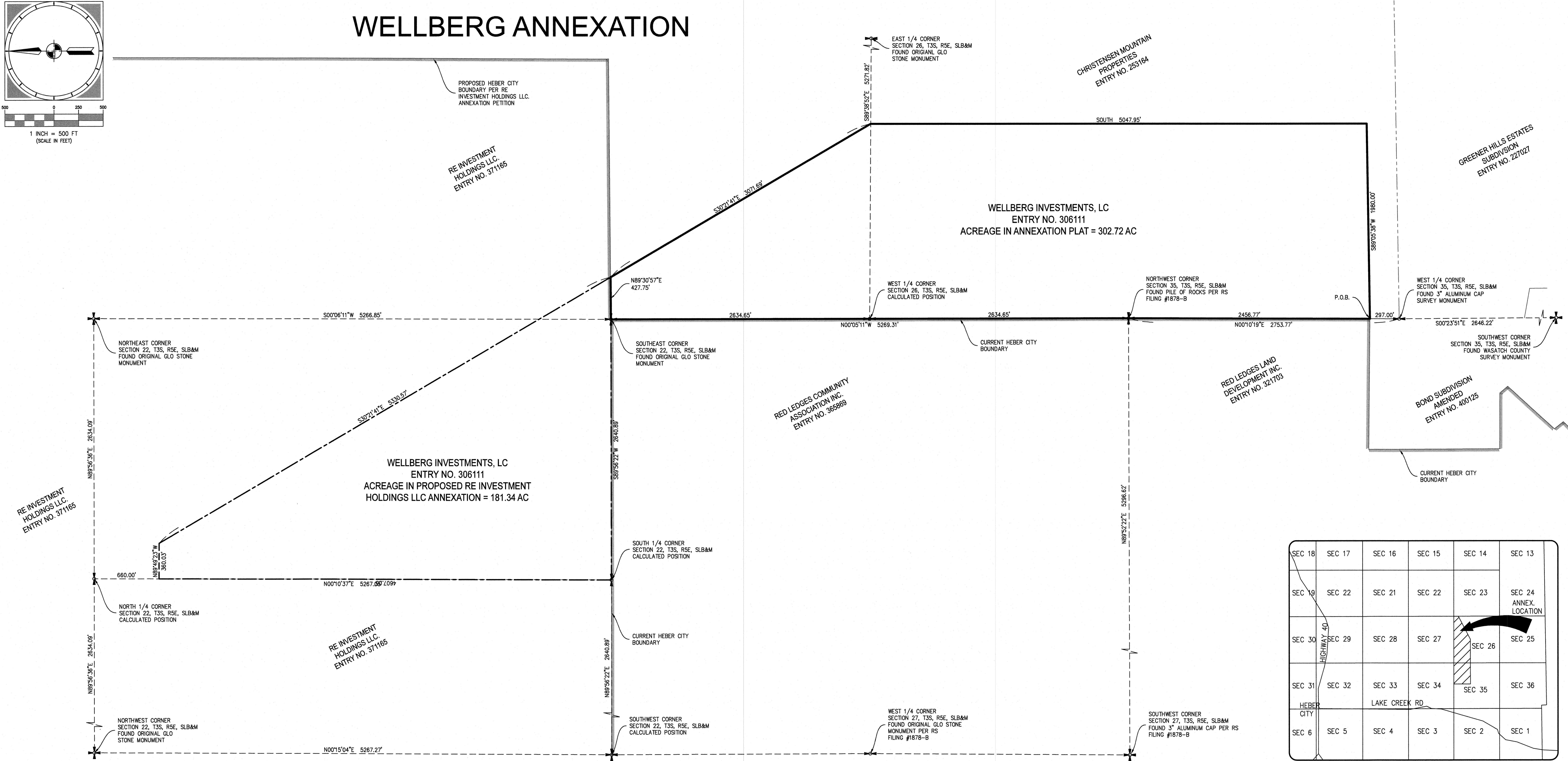
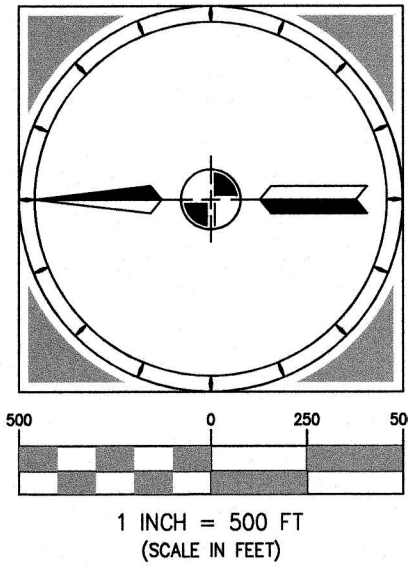
REVISIONS

SHEET

**EXHIBIT F
TO
PETITION FOR ANNEXATION**

Map

WELLBERG ANNEXATION



SURVEYOR'S CERTIFICATE

IN ACCORDANCE WITH SECTION 10-9a-603 OF THE UTAH CODE, I, KEVIN M. BALLS, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR HOLDING LICENSE NUMBER 11207308-2201 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS LICENSING ACT.

I FURTHER CERTIFY THAT THIS PLAT WAS PREPARED BY MYSELF OR UNDER MY DIRECTION IN CONFORMANCE WITH INFORMATION AND DATA PROVIDED BY THE OFFICE OF THE WASATCH COUNTY SURVEYOR.



KEVIN M. BALLS
PROFESSIONAL LAND SURVEYOR

COUNTY SURVEYOR

SIGNATURE _____ DATE _____

COUNTY RECORDER

ENTRY #: _____ DATE: _____ TIME: _____

FEE: _____ BOOK: _____ PAGE: _____ FOR: _____

BY _____ WASATCH COUNTY RECORDER PEGGY FOY SULSER.

BOUNDARY DESCRIPTION

BEGINNING NORTH 00°10'19" EAST 297.00 FEET ALONG THE SECTION LINE FROM AN ALUMINUM CAP MONUMENT MARKING THE LOCATION OF THE WEST QUARTER CORNER OF SECTION 35, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH 00°10'19" EAST 2456.77 FEET MORE OR LESS ALONG THE EASTERN HEBER CITY BOUNDARY AND THE SECTION LINE TO THE NORTHWEST CORNER OF SAID SECTION 35; THENCE NORTH 00°05'11" WEST 2634.65 FEET MORE OR LESS ALONG THE EASTERN HEBER CITY BOUNDARY AND THE SECTION LINE TO THE WEST QUARTER CORNER OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 00°05'11" WEST 2634.65 FEET MORE OR LESS ALONG THE EASTERN HEBER CITY BOUNDARY AND THE SECTION LINE TO THE NORTHWEST CORNER OF SAID SECTION 26; THENCE NORTH 89°30'57" EAST 427.75 FEET; THENCE SOUTH 50°47'95" WEST 5047.95 FEET; THENCE SOUTH 89°05'38" WEST 1980.00 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 302.72 ACRES MORE OR LESS.

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY WAS ESTABLISHED IN CONFORMANCE WITH THAT CERTAIN RECORD OF SURVEY MAP PREPARED BY JACK JOHNSON AND COMPANY AND FILED ON 18 JUNE, 2007, IN THE OFFICE OF THE WASATCH COUNTY SURVEYOR AS ENTRY NUMBER 1878-B. THE BASIS OF BEARINGS OF SAID RECORD OF SURVEY MAP WAS ESTABLISHED AS SOUTH 00°20'47" WEST BETWEEN A FOUND ORIGINAL GLO STONE MONUMENT LOCATED AT THE ONE-QUARTER BETWEEN SECTIONS 27 AND 28, AND A FOUND 3" ALUMINUM CAP MONUMENT LOCATED AS THE SOUTHEAST CORNER OF SECTION 28, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.

SURVEY NARRATIVE

PURPOSE: CURRENT UTAH CODE REQUIRES THAT ANNEXATION PETITIONS BE ACCOMPANIED BY "AN ACCURATE AND RECORDABLE MAP, PREPARED BY A LICENSED SURVEYOR, OF THE AREA PROPOSED FOR ANNEXATION" (SEE 10-2-403(3)(c)(1)). FOR THIS ANNEXATION PETITION MAP, AN "ACCURATE" MAP WAS INTERPRETED AS BEING PREPARED IN CONFORMANCE WITH UTAH CODE 17-23-20 AS PERTAINING TO MAPS OF BOUNDARY SURVEYS. EXISTING SECTION CORNER SURVEY MONUMENTS WERE USED TO IDENTIFY BOUNDARY LINES WHERE POSSIBLE.

ACCEPTANCE BY LEGISLATIVE BODY

THIS IS TO CERTIFY THAT WE, THE HEBER CITY COUNCIL, HAVE RECEIVED A PETITION SIGNED BY THE MAJORITY OF THE OWNERS OF THE TRACT OF LAND SHOWN HEREON REQUESTING THAT SAID TRACT OF LAND BE ANNEXED BY THE CITY OF HEBER CITY; AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR FILING HERewith, ALL IN ACCORDANCE WITH THE UTAH CODE ANNOTATED (1953) 10-2-401 TO 10-2-428 AS REVISED; AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION OF THE TRACT OF LAND AS SHOWN AS PART OF THE CITY OF HEBER CITY; AND THAT SAID TRACT OF LAND BE KNOWN HEREAFTER AS THE WELLBERG ANNEXATION.

DATED THIS DAY OF _____

SIGNATURE: HEBER CITY MAYOR _____ DATE _____

ATTEST: HEBER CITY RECORDER _____ DATE _____

CHAIRMAN, HEBER CITY PLANNING COMMISSION _____ DATE _____

SIGNATURE: HEBER CITY ENGINEER _____ DATE _____

CITY RECORDER'S SEAL

WELLBERG
ANNEXATION

WELLBERG INVESTMENTS LLC.
ANNEXATION INTO HEBER CITY

L20-078
SHEET
1 OF 1

SUMMIT ENGINEERING GROUP INC.
ENGINEER
IT IS A VIOLATION OF UTAH LAW FOR ANY PERSON, WITHOUT A VALID PROFESSIONAL LAND SURVEYOR LICENSE, TO PREPARE, RECORD, OR FILE A SURVEY MAP OR RECORD OF SURVEY MAP IN THE PUBLIC RECORDS OF THE STATE OF UTAH.

Summit Engineering Group Inc.
STRUCTURAL • CIVIL • LAND SURVEYING
100 WEST CENTER • 2ND FLOOR
HEBER CITY, UTAH 84301
P. 435-447-4422 • F. 435-447-4423

DRAWN BY: KMB
REVIEWED BY: MPJ
SCALE: 1" = 500'
ISSUE DATE: 04/06/2020

LOCATED IN SECTIONS 26 & 35,
TOWNSHIP 3 SOUTH, RANGE 5
EAST, SLB&M
WASATCH COUNTY, UTAH

12. Per the Heber City Annexation Policy Plan, a Concept Plan is attached as **Exhibit E**. This Concept Plan is a very preliminary plan -- the petitioner is not strictly bound by it. However, it is the hope of the Heber City Council that the Concept Plan submitted is the primary intention of the developer at the time annexation is being requested.

WHEREFORE, the Petitioners hereby request that this Petition be considered by the Heber City Council at its next regular meeting, or as soon thereafter as possible; that a resolution or motion be adopted or passed as required by law accepting this Petition for Annexation for further consideration; and that the governing body take such steps as required by law to complete the annexation herein petitioned.

DATED this 4th day of April, 2020.

PETITIONER(S)

ADDRESS AND PHONE NUMBER

David B Berger
Contact Sponsor/Petitioner (Print and Sign Name)

7195 S. Villandrie Lane
Salt Lake City, Utah 84121
801-842-9764

Sponsor/Petitioner (Print and Sign Name)

Sponsor/Petitioner (Print and Sign Name)

Sponsor/Petitioner (Print and Sign Name)

Sponsor/Petitioner (Print and Sign Name)

Petitioner (Print and Sign Name)

Petitioner (Print and Sign Name)

Petitioner (Print and Sign Name)

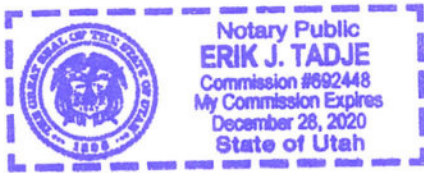
Designate at least one but not more than five of the signers of this petition as "Sponsors", one of whom must be designated as the "Contact Sponsor", and provide the mailing address and phone number of each sponsor. Any person signing in behalf of a corporation or LLC must show and provide verification that they are authorized to sign for said corporation or LLC and sign as designated on such authorization. We are asking that each signature be notarized.

State of UTAH
County of SALT LAKE

On this 2nd day of APRIL, 2020, DAVID BEN BERGER
personally appeared before me,

_____ who is personally known to me,
X _____ whose identity I verified on the basis of UTAH DRIVERS LICENSE
_____ who is authorized to sign on behalf of the entity/(ies) that own the property

to be the signer of the foregoing document, and he/she acknowledged that he/she signed it.



[Signature]
Notary Public

My Commission Expires: 28 DECEMBER 2020

State of UT
County of _____

On this _____ day of _____, _____,
personally appeared before me,

_____ who is personally known to me,
_____ whose identity I verified on the basis of _____
_____ who is authorized to sign on behalf of the entity/(ies) that own the property

to be the signer of the foregoing document, and he/she acknowledged that he/she signed it.

Notary Public

My Commission Expires: _____



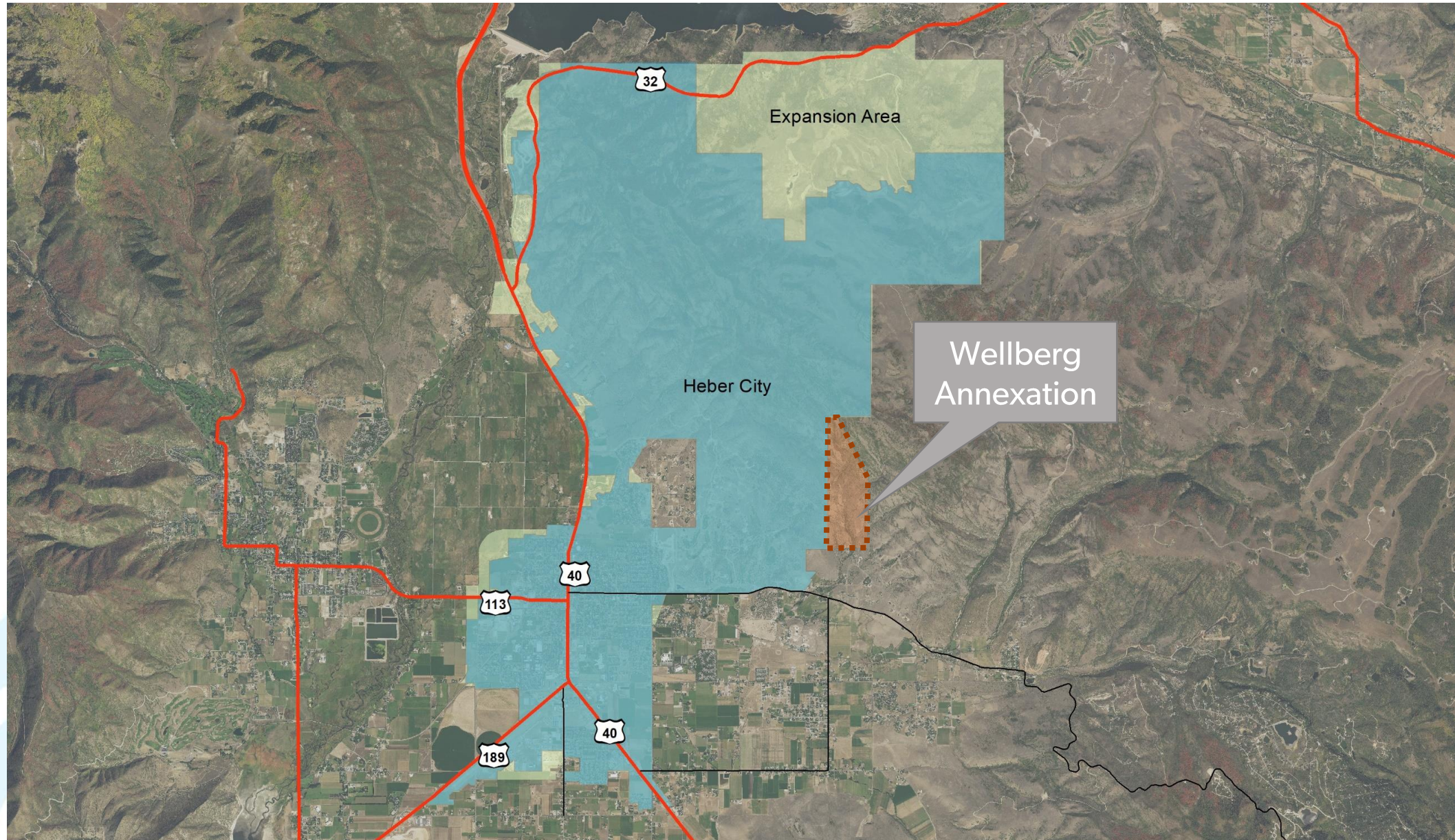
PLANNING

Wellberg Annexation

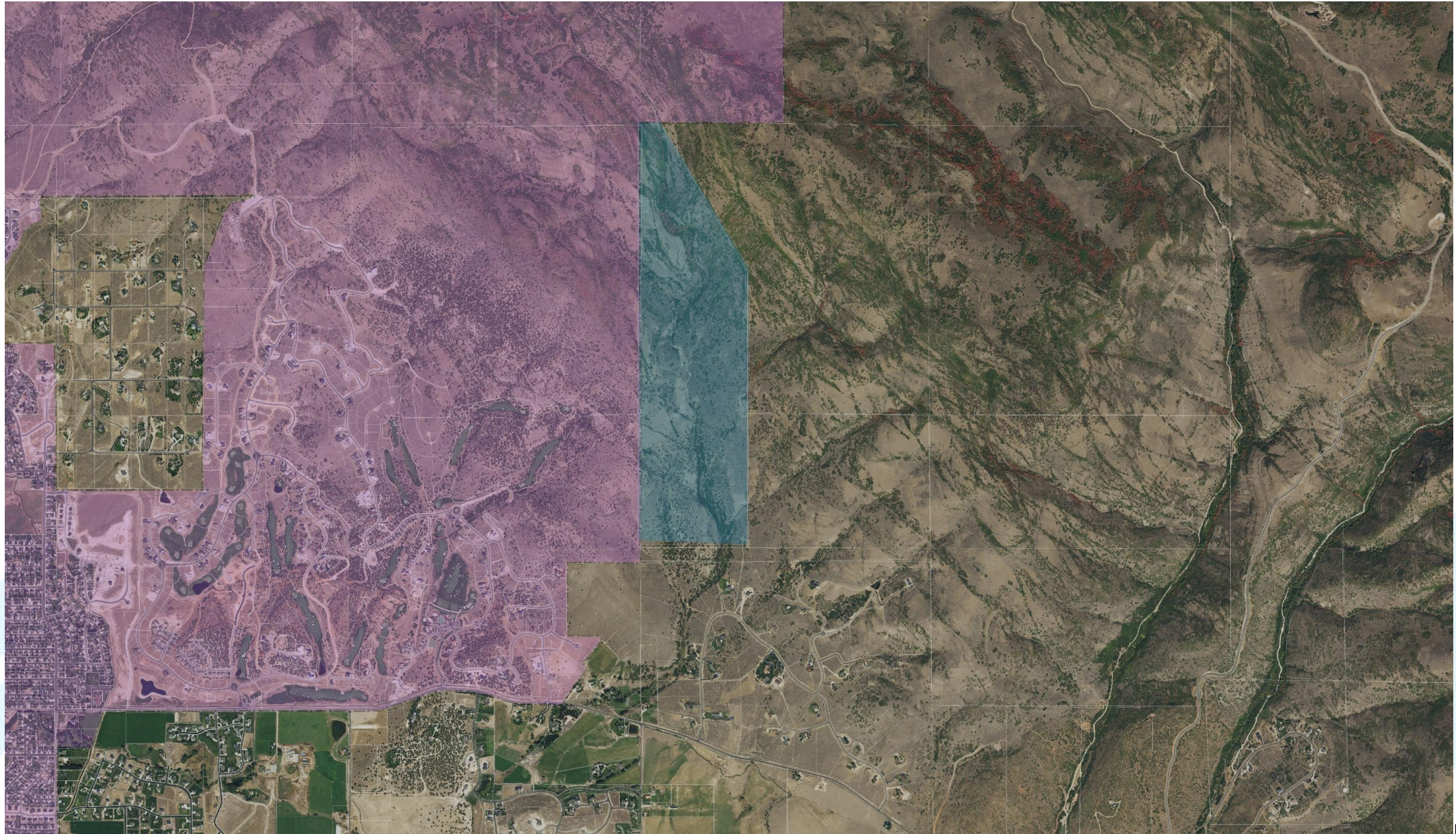
March 19, 2024

Date _____

Heber City's Expansion Area Map

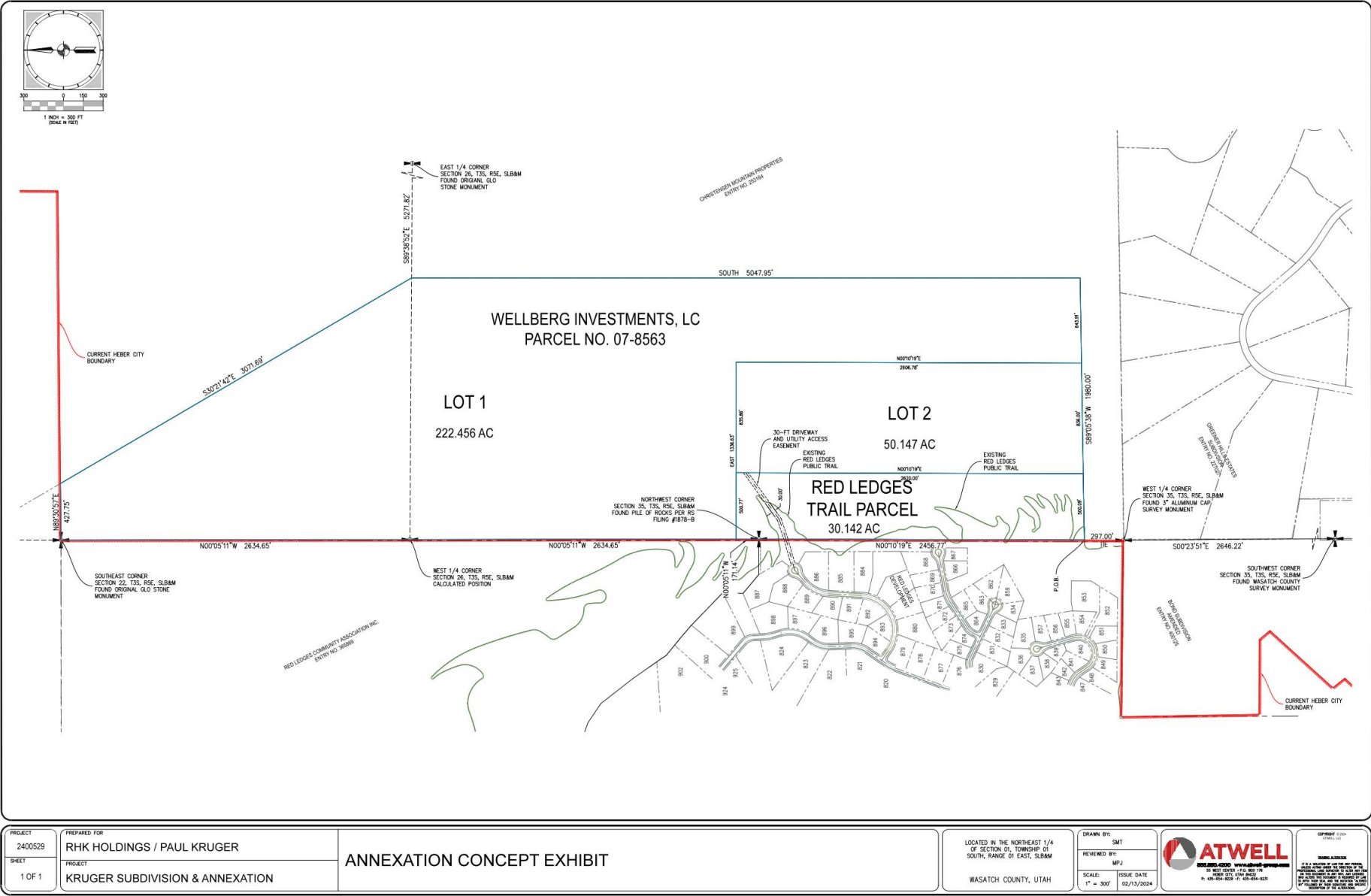


Aerial Photo





Concept



[illegible]

Policy Questions

- Should City proceed with the Wellburg Annexation?
- Should the City proceed with updating the Annexation Policy Plan?



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Utility Bill Relief Program
RESPONSIBLE: Mindy Kohler
DEPARTMENT: Finance
STRATEGIC RELEVANCE:

SUMMARY

Councilmember Scott Philips asked Finance to research the possibility of setting up a relief program for utility bills focused on senior citizens.

RECOMMENDATION

It is recommended that Council move forward with adopting a program that would provide assistance to senior citizens that are struggling to pay their utility bill, following the criteria set by the State of Utah for tax abatements.

BACKGROUND

As utility rates have increased in recent years, many residents on fixed incomes have expressed concern about being able to pay their utility bills.

DISCUSSION

This program would offer relief to those that meet the criteria set by the State for a property tax abatement. The customer would be required to show proof of their abatement. This can also be verified with the County Clerks office. Once this has been verified by staff, the customers' bill will be set at the amount approved by Council.

According to the Wasatch County tax records there were approximately 80 homeowners that qualified for abatement last year.

FISCAL IMPACT

The fiscal impact will depend on what services a customer has. The impact will likely be a mix of the two options below.

The impact assumes that the maximum bill amount will be capped at \$85/month.

Average billing amount without Pressurized Irrigation - \$104

Mitigate \$19/month for 80 customers - \$1520/month

Mitigate annually \$18,240

Average billing with Pressurized Irrigation - \$126

Mitigate \$41/month for 80 customers - \$3280/month

Mitigate annually - \$39,360

CONCLUSION

Staff is looking for guidance on how to move forward, or if this is something the City would like to offer.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the **item** as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the **item** as amended, as follows.

Alternative 3 - Continue

I move to **continue** the **item** to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 - Denial

I move to **deny** the **item** with the following findings.

ACCOUNTABILITY

Department: Finance
Staff member: Mindy Kohler

EXHIBITS

1. 2024 Utility Bill Relief Program
2. Utah Property Tax Abatement Criteria

Utility Bill Relief Program

- Use criteria for tax abatements, circuit breaker program (awaiting information from Wasatch County on how many customers currently receive tax abatements)
 - This can be verified on the county website – property tax look up
- Maximum total charge for utilities \$85
 - The remaining balance would either be covered by donations from citizens or written off with City Manager approval.
- Assistance would continue as long as the customer is receiving a tax abatement
- Assistance only applies to the owner and their spouse/partner listed on the deed of the home. It would not extend to a renter or heirs.
- Upon the death of the owner and spouse/partner the assistance will be discontinued

According to County tax records there are approximately 80 Heber City households that have received abatements last year.

Average billing amount without Pressurized Irrigation - \$104

- Subsidize \$19/month for 80 customers - \$1520/month
- Subsidize annually \$18,240

Average billing with Pressurized Irrigation - \$126

- Subsidize \$41/month for 80 customers - \$3280/month
- Subsidize annually - \$39,360

Funding Sources

- Reclassify a portion of Account Set Up and/or Reconnection Fees
 - Annual estimates of these fees \$17,375
- Write off the balance and absorb in the budget
- Donations from community members
 - Notice would go out in the utility bills and community mailers, social media, website with a link to where community members can make a one time or ongoing donation to help those in need.



Property Tax Abatement, Deferral and Exemption Programs for Individuals

Utah State Tax Commission
P.O. Box 30412
Salt Lake City, Utah 84130
801-297-7780
1-800-368-8824
tax.utah.gov



If you need an accommodation under the Americans with Disabilities Act, email taxada@utah.gov, or call 801-297-3811 or TDD 801-297-2020. Please allow three working days for a response.

General Information

Utah law allows Utah residents five types of property tax relief:

1. Circuit Breaker
 - Renter Refund (Utah Code §59-2-1209)
 - Homeowner Low Income Abatement (UC §59-2-1208)
2. Veterans with a Disability Exemption (UC §§59-2-1903 & 1904)
3. Active or Reserve Duty Armed Forces Exemption (see UC §59-2-1902)
4. Blind Exemption (UC §59-2-1106)
5. Indigent Abatement/Deferral (UC §§59-2-1801 – 1805)

Get application forms and more information (including deadlines) from your county auditor's or treasurer's office.

Unless you are applying for the veterans with a disability exemption, you must be a U.S. citizen or legally present in the U.S. (see 8 U.S.C. 1641) to receive tax relief.

Renter Refund (circuit breaker)

Eligibility

To qualify for this tax credit:

1. You are a renter (or a manufactured homeowner who rents a lot).
2. Your 2022 total household income was less than \$38,369 (UC §59-2-1202).
3. You were a Utah resident for the entire year.
4. You are either:
 - a. at least 66 years of age, or
 - b. an unmarried surviving spouse, regardless of age.

You must be able to prove Utah residency and household income to qualify.

Refund Amount

Up to \$1,137 of rent can be refunded, based on income and a percentage of rent paid.

To Apply

Complete form TC-90CB, Renter Refund Application, and submit it to the Utah State Tax Commission (210 N 1950 W, Salt Lake City UT 84134) by December 31.

For more information or help, call the Taxpayer Services Division at 801-297-6254 or 1-800-662-4335 ext 6254.

County Programs for HOMEOWNERS

Homeowner Low Income Abatement (circuit breaker)

Eligibility

To qualify for this tax credit:

1. You are a homeowner or manufactured homeowner.
2. Your home is owner-occupied.
3. Your 2022 total household income was less than \$38,369 (UC §59-2-1202).
4. You were a Utah resident for the entire year.
5. You owned the home for the entire calendar year.
6. You are either:
 - a. at least 66 years of age, or
 - b. an unmarried surviving spouse, regardless of age.

You must be able to prove Utah residency and household income to qualify.

Abatement Amount

Up to \$1,186 of property tax can be abated, based on income, plus an additional credit equal to the tax on 20 percent of a home's fair market value.

To Apply

Complete an application and submit it to your local county government by September 1.

Veterans with a Disability Exemption

Eligibility

This exemption is available to veterans disabled in military service (at least 10 percent disability), their unmarried surviving spouse or minor orphans.

Exemption Amount

The exemption is up to \$479,504 of taxable value of a residence, based on the percentage of disability incurred in the line of duty and on the unemployability classification. The exemption can also be applied toward tangible personal property, such as motor vehicles. No exemption is allowed for any disability below 10 percent.

Requirement

An application with proof of military service and proof of disability (or death) must be on file with the county where the eligible property is located.

Active or Reserve Duty Armed Forces Exemption

Eligibility

This exemption is available to active or reserve members of the US Armed Forces on active duty outside the state 200 days in a continuous 365-day period beginning in the prior year.

Exemption Amount

The exemption equals the total taxable value of the claimant's primary residence.

Requirements

To receive the exemption you must:

1. apply on or before September 1 of the year after the year of qualifying service, and
2. include with your application verifying military documentation including orders for qualifying active or reserve service.

You must apply each year you are eligible. Only one exemption is allowed for each period of qualifying service.

Blind Exemption

Eligibility

This exemption is available to legally blind property owners, their unmarried surviving spouse or their minor orphans. There are no income or age requirements.

Exemption Amount

Up to \$11,500 of the taxable value of real and tangible personal property is exempt from property tax.

Requirements

File the application by September 1 with your county.

Your first year's application must include a statement signed by an ophthalmologist.

Indigent Abatement

Eligibility

Indigent abatement is granted by your county's legislative body. To qualify:

1. you must be a homeowner or manufactured homeowner.
2. your home must be owner-occupied,
3. you must live in your home for at least 10 months,
4. your 2022 income must be less than \$38,369, and
5. you either:
 - a. are at least 65 years of age, or
 - b. can show a disability or extreme hardship.

Abatement Amount

The abatement is 50 percent of the total tax for the current year, or a maximum of \$1,186, whichever is less (see Utah Code §59-2-1803).

Requirements

File the application by September 1 with proof of home ownership, income, disability and/or hardship, and other information your county requires.

All applications must be filed with the county.

Indigent Deferral

A county may offer property tax deferral programs that allow property owners to delay paying their assessed taxes for a certain period of time. Interest will accrue annually, but delinquency penalties won't be assessed during the deferral period. There may be multiple deferral programs in a county, each with different eligibility requirements. To learn more about available deferral programs and eligibility, contact your county.

Appeal Rights

If you feel you have been wrongly denied property tax exemption, abatement, deferral or renter refund, you may appeal to the Utah State Tax Commission. You must file the appeal within 30 days of the denial notification. File your appeal with the county auditor, who will forward your appeal to the Utah State Tax Commission.

Contact Info

Call your county for application forms and more information.

<u>County</u>	<u>Phone</u>
Beaver	435-438-6463
Box Elder	435-734-3317
Cache	435-755-1706
Carbon	435-636-3221
Daggett	435-784-3210
Davis	801-451-3367
Duchesne	435-738-1228
Emery	435-381-3550
Garfield	435-676-1109
Grand	435-259-1321
Iron	435-477-8331
Juab	435-623-3410
Kane	435-644-2458
Millard	435-743-5227
Morgan	801-845-4030
Piute	435-577-2840
Rich	435-793-5155
Salt Lake	385-468-8300
San Juan	435-587-3223
Sanpete	435-835-2142
Sevier	435-893-0401
Summit	435-336-3016
Tooele	435-843-3311
Uintah	435-781-5361
Utah	801-851-8109
Wasatch	435-657-3190
Washington	435-634-5712
Wayne	435-836-1300
Weber	801-399-8400



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Snarr Family Duplex Request
RESPONSIBLE: Jacob Roberts
DEPARTMENT: Planning
STRATEGIC RELEVANCE:

SUMMARY

The owners of the property located at approx. 92 W 400 N are looking to convert their single family home with a legal basement ADU into a legal duplex. The current zoning of the property is R-3, duplexes nor multifamily are permitted in this zone. Duplexes are not permitted in any zone. The building code has very specific requirements for duplexes which the property owner would need to meet. The property owner has indicated to staff that the goal is to be able to rent out both floors of the property as separate units. Potential resolutions include but are not limited to a text amendment, zone change, MDA or no action. Staff is looking for feedback from Council on how to best move forward with the request.

RECOMMENDATION

N/A

BACKGROUND

The Snarr family owns the home located at approx. 92 W 400 N. This home currently has a legal internal ADU in the basement. The intent of the homeowners is to turn this property into a legal duplex. The home was constructed in a way that will allow a fairly simple transition to a duplex by building code standards. The home already has these aspects, which are required by building code for an approved duplex,

- Separate heating and cooling system (mini splits)
 - Fire barrier
 - Separate 2+ car driveway
 - Separate entrance
 - Own mailing address (92 W 400 N Apt B, Heber City UT 84032)
-

- Completed passed inspection by Heber City

DISCUSSION

As the zoning currently stands a duplex would not be permitted in this zone. In order to permit the Snarr family to convert their home with a legal ADU into a legal duplex, either the code would need to be amended or an MDA would need to be put in place. It is important to note that a legal ADU differs from a duplex. An ADU is only legal if the property owners live on the property of the ADU. This is true for either an internal or external ADU. It is not permitted for a Single Family Home to be partitioned off into multiple ADU's. For this reason, the property owners are requesting a duplex to facilitate the renting of two units in this building. A duplex differs as it is essentially two distinct units that are attached. There are stringent requirements for duplexes outlined in the building code. The property owners would be required to work with the building department to verify that all code has been met.

The Future Land Use Designation for this parcel is labeled as OD or Outer Downtown. Outer Downtown is to be characterized by,

1. A mixed residential and commercial area supportive of historic downtown.
2. Up to 5 story heights with affordable housing and additional design features.
3. Gateway to Historic Downtown with mixed use blocks. Streets to include on-street parking and bike accommodations.

FISCAL IMPACT

N/A

CONCLUSION

Staff is requesting guidance on how to best move forward with the Snarr family's request to convert their SFD with a legal duplex into a legal ADU.

ALTERNATIVES

N/A

POTENTIAL MOTIONS

Discussion Item

ACCOUNTABILITY

Department: Planning
Staff member: Jacob Roberts, Planner

EXHIBITS

1. Snarr Family Duplex Request



Snarr Family Duplex Request

92 W 400 N

Work Meeting

Date: 3/19/2024

Summary

- The owners of the property located at approx. 92 W 400 N are looking to convert their single-family home with a legal basement ADU into a legal duplex. The current zoning of the property is R-3, duplexes nor multifamily are permitted in this zone. Duplexes are not permitted in any zone.

Policy Questions

- Will Council consider allowing the Snarr family to convert their single-family home with a legal ADU into a legal Duplex?

Potential Solutions

- Zone Text Amendment
- MDA
- No Action

Area Map

Snarr Family Property



Property



Located at 92 W 400 N

Future Land Use Designation

Uses: A mixed residential and commercial area supportive of historic downtown.

Density Range / Scale: Up to 5 story heights with affordable housing and additional design features.

Key Characteristics: Gateway to Historic Downtown with mixed use blocks. Streets to include on-street parking and bike accommodations.

Future Land Use Map Categories	District Type	Uses	Density Range / Scale (gross acreage)	Key Characteristics
	Central Neighborhoods (CN)	Primary: SFDs on smaller lots, with options for detached ADUs, flag lots Secondary: connective and corner small scale retail/ restaurants, bed and breakfasts, community gardens, along 100 South	3-8 units per acre 1-3 story height	A mixed neighborhood emphasizing a variety of housing types. Strong street connections to the downtown and the tourist center; bicycle and pedestrian friendly. Historic structures and homes enhanced.
	Neighborhood Mixed Use Corridor (Frontages of Center Street and 100 South from 150 West to 600 West) (NMUC)	Primary: A mix of residential, missing middle housing, hospitality, retail, restaurant, office	3-12 units per acre 1-3 story height	Single family in scale (e.g. mansion homes, townhomes), transition area to central neighborhoods, historic structures and homes enhanced, possible activated alley, history walk, bicycle and pedestrian friendly.
	Historic Downtown (300 South to 300 North, 200 East to 200 West) (HD)	A mixed residential and commercial town center with historical architecture and active open spaces	Up to 4 story heights with step backs (interior block locations encouraged) Consider 2 story minimum height	Small business storefronts with historic architectural elements on first floors along Main Street. Interior block commercial/office uses blending with higher density residential. Includes on-street parking and bike accommodations, parking structures, and shared parking. Emphasis on historic beautification, placemaking, plazas, parks, historic walk, and activated alley.
	Outer Downtown (300 South to 600 South; 300 North to 500 North; 150 East to 150 West) (OD)	A mixed residential and commercial area supportive of historic downtown	Up to 5 story heights with affordable housing and additional design features	Gateway to Historic Downtown with mixed use blocks. Streets to include on-street parking and bike accommodations.
	Residential Transition Area (150 West to 200 West and 150 East to 200 East; generally 500 North to 600 South) (RT)	Single family and missing middle housing, retail, restaurant, office, neighborhood commercial, home based business, attached/detached ADUs, pocket parks and plazas	1-2 story height	Mixed use transition area to central neighborhoods. Streets to include on-street parking and bike accommodations.

Policy Questions

- Will Council consider allowing the Snarr family to convert their single-family home with a legal ADU into a legal Duplex?



Snarr Family Duplex Request

92 W 400 N

Work Meeting

Date: 3/19/2024



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Wasatch County Event Center grounds MDA
RESPONSIBLE: Tony Kohler
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Development

SUMMARY

Wasatch County has improved the Event Center Parking area to incorporate a replacement area for the RV park (the existing RV park located at 600 West 100 South, has been transferred to Heber Light & Power for their new office facility). This new RV park has not been constructed to City standards. The Planning Commission held a public hearing on October 24 to consider a development agreement (MDA) and provided a recommendation of approval on November 14, 2023.

Policy questions include the following:

- What conditions should be included with the MDA?

RECOMMENDATION

Staff recommends Council discuss the draft MDA and provide feedback for approval at the following Council meeting.

BACKGROUND

On August 1, 2023, the City Council asked the Planning Commission to proceed with a zone change process. The zone change process includes a public hearing with the Planning Commission and ends with negotiations with the City Council in formulating the terms of a development agreement and adoption of a formal ordinance.

On October 24, 2023, the Planning Commission held a public hearing and received comments as follows.

1. Address generator noise from RVs.

2. Look into changing the fence height from 6 feet to eight feet.
3. Install sidewalk as soon as possible on 650 South.
4. Plant trees along 650 South and utilize xeriscaping to save water.
5. Implement dust control measures on the site.
6. Address train visibility with UDOT permitting for the fence at the railroad intersection.
7. Work with City to implement parking limits along 650 South.

The City has identified the area as part of the Tourism and Recreation District within the new Envision Central Heber Vision. In the long term, there is likely a different vision for the property than an RV park, which may warrant a flexible approach to zoning standards on the property.

On November 14, 2023, the Planning Commission recommended approval of an MDA for the event center.

DISCUSSION

The recommended conditions for the MDA addresses the following.

1. Requirement to construct 5 foot sidewalk (adjacent to curb) along 650 South.
2. Implement new strategies for 650 South parking management.
3. Requirement to obtain railroad crossing permit.
4. Requirement to install trees and landscaping along 650 South street frontage.
5. Requirement to replace 6 foot tall fence with 8 foot tall fence.
6. Requirement to control dust on internal gravel driveways.

FISCAL IMPACT

There is no fiscal impact to the City for this decision.

CONCLUSION

A development agreement can provide flexibility to implement the City's Envision Central Heber Vision and mitigate the concerns of compatibility with neighboring properties, provided the conditions above are integrated into an MDA for the property.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

N/A

ACCOUNTABILITY

Department: Planning
Staff member: Tony Kohler, Community Development Director

EXHIBITS

1. County MDA Draft 1
2. Event Center Vicinity Map
3. Event Center Photos
4. Public Facilities Zone
5. RV Park Standards

When recorded return to:

Heber City Corporation
Attn: City Recorder
75 North Main Street
Heber City, UT 84032

DEVELOPMENT AGREEMENT (Wasatch County Event Center)

THIS DEVELOPMENT AGREEMENT entered into this _____ day of _____, 202__, by and between **Heber City**, a Utah municipality (“City”), and Wasatch County, a (“Developer” or “Owner”). Developer and City are, from time to time, hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the Developer is the owner of an approximately 8.29 acres of real property located at approximately 900 West 650 South in Heber City, Utah (the “Property”). A legal description of the Property is attached hereto as Exhibit A; and

WHEREAS, Developer has constructed an RV Park on the Property and certain improvements have not been constructed to City standards;

WHEREAS, the City desires to have certain conditions of the RV Park improved to meet City standards;

WHEREAS, the City, acting pursuant to its authority under Utah Code Ann. §10-9a-101, *et. seq.*, in compliance with the Heber City Land Use Code, and in furtherance of its land use policies, goals, objectives, ordinances and regulations, has made certain determinations with respect to the Property, and therefore has elected to approve and enter into this Agreement in order to advance the policies, goals and objectives of the City, and to promote the health, safety and general welfare of the public.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties agree as follows:

1. **Street Standards.** A 5 foot wide sidewalk will be constructed by Developer along the street frontage of the Properties adjacent to the curb.

2. **On-street Parking.** Developer will work with City on new strategies for parking management along 650 South.
3. **Rail Road Crossing.** Developer will obtain any necessary permits from UDOT and make appropriate changes, if any, to the fence to ensure compliance with applicable clear visibility requirements at the intersection of the railroad crossing along 650 South.
4. **Landscaping.** A 10 foot landscaping strip will be planted along 650 South by Developer with trees spaced on average each 25 feet of frontage and drought tolerant landscaping ground cover.
5. **Fencing.** The 6 foot tall fence will be replaced by Developer with an 8 foot tall concrete tilt-up fence along the frontage of the Properties, matching fencing style on adjacent properties owned by the Developer.
6. **Internal Driveways.** Hard surfacing will not be required for the internal driveways; Developer will implement a treatment program to control dust on the site within one year of execution of this agreement.
7. **Timing.** Unless otherwise stated above, required Improvements shall be installed within 5 years of execution of this agreement.
8. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Utah. The rules, regulations, official policies, standards and specifications applicable to the development of the Property (the “Applicable Law”) shall be in accordance with those set forth in this Agreement, and those rules, regulations, official policies, standards and specifications, including City Ordinances and Resolutions, in force and effect on the date the City Council granted preliminary approval to Developer for the Project. Developer expressly acknowledges and agrees that nothing in this Agreement shall be deemed to relieve Developer from the obligation to comply with all applicable requirements of the City necessary for approval and recordation of the subdivision plat, including the payment of fees and compliance with all other applicable ordinances, resolutions, regulations, policies and procedures of the City.
9. **Default.** Any failure by any party to perform any term or provision of this Agreement, which failure continues uncured for a period of ten (10) calendar days following the receipt of written notice of such failure from the other party shall constitute a “Default” under this Agreement.
10. **Notice.** Any notice of default (“Default Notice”) shall: (1) specify the claimed event of Default; (2) identify with particularity the provisions of any applicable law, rule, regulation or provision of this Agreement that is claimed to be in Default; (3) identify why the claimed Default is claimed to be material; and (4) specify the manner in which said failure may be satisfactorily cured.

11. **Cure.** Following receipt of a Default Notice, the defaulting Party shall have thirty (30) days in which to cure such claimed Default (the “Cure Period”). If more than 30 days is required for such cure, the defaulting Party shall have such additional time as is reasonably necessary under the circumstances in which to cure such Default so long as the defaulting Party commences such cure within the Cure Period and pursues such cure with reasonable diligence. City may, in City’s sole discretion, withhold permits or approvals during any Cure Period.
12. **Developer’s Exclusive Remedy.** Developer’s sole and exclusive remedy under this Agreement shall be specific performance of the rights granted in this Agreement and City’s obligations under this Agreement. In no event shall City be liable to developer, its successors or assigns, or any developer, property owner or other parties under this agreement, for any indirect, special, punitive, incidental or consequential damages, including, without limitation, lost profits, costs of delay, or liabilities to third parties.
13. **City’s Remedies upon Default.** In addition to all other remedies available at law or in equity, City shall have the right to withhold all further reviews, approvals, licenses, building permits and other permits for development of the Property in the case of a Default by Developer, until the Default has been cured. City shall further have the right to draw on any security posted or provided in connection with the Property and relating to remedying of the particular Default.
14. **Emergency Defaults.** Anything in this Agreement notwithstanding, if the Council finds on the record in a public meeting that a Default by Property Owners materially impairs a compelling, countervailing public interest and that any delays in imposing a remedy to such a Default would also impair a compelling, countervailing public interest, the City may impose the remedies of Section 10.4 without any further requirements or obligations to the Property Owners. The City shall give Notice to Property Owners of any public meeting at which an emergency Default is to be considered and Property Owners shall be allowed to attend such meeting and address the Council regarding the claimed emergency Default.
15. **Fees.** Developer shall be required to pay all permit fees, building permit fees, inspection fees, impact fees or other fees imposed by the City as set forth in the City Code and the City’s consolidated fee schedule.
16. **Entire Agreement.** This Agreement, including its Exhibits, contains the entire agreement between the parties, and no statement, promise or inducement made by either party hereto, or agent of either party hereto which is not contained in this written Agreement shall be valid or binding. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City and of the Developer.
17. **Time is of the essence.** In case any party shall fail to perform the obligations on its part at the time fixed for the performance of such obligations by the terms of this Agreement, the other party or parties may pursue any and all remedies available in equity, at law, and/or pursuant to the terms of this Agreement.

18. **Term of Agreement.** The term of this Agreement shall commence on the Effective Date and continue for a period of ten (10) years. Unless otherwise agreed between the City and the Developer, the Developer's vested interests and rights contained in this Agreement expire at the end of the Term, or upon termination of this Agreement. Upon termination of this Agreement, the obligations of the Parties to each other hereunder shall terminate, but none of the dedications, easements, deed restrictions, licenses, building permits, or certificates of occupancy granted prior to the expiration of the term or termination of this Agreement shall be rescinded or limited in any manner. If Developer has not constructed the Project in accordance with the Concept Elevations prior to the expiration of this Agreement, the zoning of the Property shall automatically revert to R-2 zoning upon expiration of this Agreement.
19. **No Third-Party Beneficiary Rights.** This Agreement is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any third-party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby.
20. **Recording.** This Agreement shall be recorded with the Wasatch County Recorder as soon as reasonably practicable after execution of this Agreement. The City Recorder shall cause to be recorded a fully executed copy of this Agreement in the Official Records of the County of Wasatch.
21. **Notices.** Any notice or communication required hereunder between the City and the Developer must be in writing and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (1) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United State mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses as set forth below:

The City:

Heber City Manager
75 N Main Street
Heber City, UT 84032

Developer

Wasatch County
25 North Main Street
Heber City, UT 84032

22. **Insurance and Indemnification.** Developer shall defend and hold the City and its officers, employees and consultants harmless for any and all claims, liability and damages arising out of the negligent actions or inactions of such Developer, its agents or employees pursuant to this Agreement, unless caused by the City's gross negligence or willful misconduct.
23. **Bodily Injury and Property Damage Insurance.** Developer agrees to and shall indemnify and hold the City and its elected and appointed boards, officers, agents, employees, and consultants harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) rising from or as a result of the death of any person or any accident, injury, loss or damage to any person or property directly caused by any acts done or omissions of Developer or its agents, servants, employees or contractors in connection with this Agreement, except for willful misconduct or negligent acts or omissions of the City or its elected or appointed boards, officers, agents, employees or consultants.
24. **Waiver of Rights Under Utah Code Section 10-9a-532.** The Parties have been represented by an attorney throughout this process or have had the opportunity to consult with an attorney. Developer acknowledges that this Agreement does not restrict any of Developer's rights under clearly established state law or that Developer has been advised in writing of any such rights being restricted. As an essential term of this Agreement, Developer hereby waives any claim that any term of this Agreement is void, illegal, invalid, or unenforceable as the result of any failure on the City's part to disclose in writing any rights being restricted by this Agreement.
25. **Binding Effect.** If Developer conveys any portion of the Property or buildings to one or more owners or sub-developers, the property so conveyed shall have the same rights, privileges, and shall be subject to the same limitations and rights of the City, applicable to such properties under this Agreement prior to such conveyance, without any required approval, review, or consent by the City, except as otherwise provided herein.
26. **No Waiver.** Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future date any such right or any other right it may have.
27. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Agreement shall remain in full force and affect.
28. **Other Necessary Acts.** Each Party shall execute and deliver to the other Party any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.

29. **Covenants Running with the Land and Manner of Enforcement.** The provisions of this Agreement shall constitute real covenants, contract and property rights and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns and transferees. Notwithstanding anything in this Agreement to the contrary, the owners of the individual lot in the Project shall have no right to bring any action under this Agreement as a third-party beneficiary. The City may look to the Developer, its successors and/or assigns, or the lot owners for performance of the provisions of this Agreement relative to the portions of the Projects owned or controlled by such party. The City may, but is not required to, perform any obligation of the Developer that the Developer fails adequately to perform. Any cost incurred by the City to perform or secure performance of the provisions of this Agreement shall constitute a valid lien on the Project, including prorated portions to the individual lots or units in the Project.
30. **Amendment.** Unless otherwise stated in this Agreement, the Parties may amend this Agreement from time to time, in whole or in part, by mutual written consent. No amendment or modification to this Agreement shall require the consent or approval of any person or entity having any interest in the specific lot, or other portion of the Project. Each person or entity (other than the City and the Developer) that holds any beneficial, equitable, or other interests or encumbrances in all or any portion of the Property at any time hereby automatically, and without the need for any further documentation or consent, subjects and subordinates such interests and encumbrances to this Agreement and all amendments thereof that otherwise comply with this Section 32. Each such person or entity agrees to provide written evidence of that subjection and subordination within fifteen (15) days following a written request for the same from, and in a form reasonably satisfactory to, the City and/or the Developer.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year this agreement was first above written.

DATED this _____ day of _____, 2023.

HEBER CITY:

By: _____
Heidi Franco, Mayor

ATTEST:

Heber City Recorder

DATED this _____ day of _____, 2023.

DATED this _____ day of _____, 2023.

WASATCH COUNTY:

By: _____

Print Name: _____

Title: _____

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2023, personally appeared before me
_____, who duly acknowledged to me that (s)he has authority to and did
execute the foregoing on behalf of Wasatch County.

NOTARY PUBLIC

Exhibit A: Legal Description

Parcel Nos. 00-0020-7246
00-0020-7251
00-0005-8664

PARCEL 1:

BEGINNING WEST 458.04 FEET AND SOUTH 238.92 FEET AND NORTH 89°12' WEST 781.77 FEET FROM NORTHEAST CORNER SOUTHWEST QUARTER SECTION 6 TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE MERIDIAN; NORTH 89°12' WEST 538.23 FEET; NORTH 00°48' EAST 660 FEET; SOUTH 89°11'59" EAST 536.59 FEET; SOUTH 00°39'21" WEST 660 FEET TO THE BEGINNING.

PARCEL 2:

BEGINNING AT A POINT ON A FENCE LINE WHICH IS SOUTH 2786.62 FEET AND EAST 1300.26 FEET FROM THE "OLD MONUMENT FOR THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN (TARGET "TIMPANOGOS" BEARS SOUTH 54°26'29" WEST FROM SAID SECTION CORNER; FURTHERMORE, SAID SECTION CORNER LIES SOUTH 81.36 FEET AND EAST 128.90 FEET FROM THE "NOW" WASATCH COUNTY SURVEYOR'S REFERENCE MONUMENT); AND RUNNING THENCE NORTH 00°39'21" EAST 680.22 FEET; THENCE SOUTH 89°24'54" EAST 64.03 FEET ALONG A FENCE LINE; THENCE SOUTH 00°39'21" WEST 680.38 FEET TO A FENCE LINE; THENCE NORTH 89°16'24" WEST 64.03 FEET ALONG A FENCE LINE TO THE POINT OF BEGINNING.

BEGINNING at a point on a fence line which is South 2786.62 feet and East 1300.26 feet from the "Old" Monument for the Northwest corner of Section 6, Township 4 South, Range 5 East, Salt Lake Base and Meridian (Target "Timpanogos" bears South 54°26'29" West from said section corner; furthermore, said section corner lies South 81.36 feet and East 128.90 feet from the "New" Wasatch County Surveyor's reference monument); thence South 89°16'24" East 64.03 feet to the true point of beginning.

And running thence North 00°39'21" East 680.38 feet; thence South 89°24'54" East 680.65 feet along a fence line; thence South 18°28'27" West 181.55 feet; thence South 41°18'54" West 670.46 feet along railroad right of way line; thence North 89°16'24" West 188.25 feet along a fence line to the point of beginning.















18.26 Institutional And Public Facilities Zone

18.26.010 Objectives - Characteristics

18.26.020 Permitted Primary Uses

18.26.025 Permitted Secondary Uses

18.26.030 Area Requirements

18.26.040 Setback Requirements

18.26.050 Height And Size Requirements

18.26.060 Special Provisions

18.26.065 Compatibility With Residential Zones

18.26.010 Objectives - Characteristics

1. The Institutional and Public Facilities (IPF) zone has been established for the primary purpose of providing a location where public and community buildings and facilities can be located and promotes the current and future use of such facilities.
2. This zone is intended to provide immediate recognition of such areas upon the official zoning map of the City, and to reduce the effect which the location of these facilities may have upon zoning statistics in residential, commercial, or industrial areas.
3. This zone is characterized by a mixture of public buildings, parks, schools, and other facilities meant for the use by the public and community.
4. In order to accomplish the objectives and purposes of this title and to stabilize and protect the essential characteristics of this zone, the regulations set out in this chapter shall apply in the IPF zone.

HISTORY

Adopted by Ord. [2020-36](#) Adopting an Institutional and Public Facilities Zone on 8/18/2020

18.26.020 Permitted Primary Uses

The following buildings, structures and uses of land shall be permitted in the IPF Zone upon compliance with requirements as set forth in this Section:

1. Accessory buildings and parking lots incidental and accessory to other permitted uses;
2. Cemetery;
3. Museums, art galleries;
4. Hotels and convention centers;
5. The raising of farm animals, agriculture and farming;
6. Storm water and flood protection facilities;
7. Sporting complexes, training facilities and associated housing;
8. Performing art center;
9. Private and public schools;

10. Solar and wind farms;
11. Telecommunication facilities;
12. Wildlife areas;
13. Churches;
14. Fairgrounds;
15. Event Centers;
16. Hospitals;
17. Public Parks;
18. Public buildings;
19. Public utility buildings, storage yards and associated structures (not including commercial storage sheds or outdoor commercial storage areas);
20. Recreation buildings and facilities;
21. Schools, Colleges, Universities;
22. Scenic railroads and railroad maintenance yards;
23. Water wells, utility transmission and distribution lines, dams, pumping plants, power plants, substations, sewage treatment plants.

HISTORY

Adopted by Ord. [2020-36](#) Adopting an Institutional and Public Facilities Zone on 8/18/2020

18.26.025 Permitted Secondary Uses

The following buildings, structures and uses of land shall be permitted in the IPF Zone upon compliance with requirements as set forth in this Section. Secondary uses must accompany a primary use on the same lot or within the same building. The existence of secondary uses shall not limit the operation or extent of permitted primary uses within the IPF Zone.

1. Nursery, day care, or preschools in support of a primary activity.
2. Public Facilities for Special Events. Public Facilities for Special Events is defined as follows: A parcel used for overnight parking and lodging using RVs, travel trailers, temporary housing units, in conjunction with governmentally sanctioned, or sponsored public events.
3. Recreational Vehicle Courts compliant with Chapter 18.96

HISTORY

Adopted by Ord. [2020-36](#) Adopting an Institutional and Public Facilities Zone on 8/18/2020

18.26.030 Area Requirements

1. There is no minimum lot area requirement and no maximum building size in the IPF Zone.
2. Each project approved under this section must be fully located within the IPF Zone.

HISTORY

Adopted by Ord. [2020-36](#) Adopting an Institutional and Public Facilities Zone on 8/18/2020

18.26.040 Setback Requirements

In the IPF Zone, all buildings shall be set back at fifteen (15) feet from any public street right-of-way line. In the event of competing set back requirements as a result of building code restrictions, the most restrictive shall govern.

HISTORY

Adopted by Ord. [2020-36](#) Adopting an Institutional and Public Facilities Zone on 8/18/2020

18.26.050 Height And Size Requirements

All buildings in the IPF Zone shall be limited in height to forty-five (45) feet. Height may exceed this limit, provided the building is setback from each property line one horizontal foot for each vertical foot in height.

HISTORY

Adopted by Ord. [2020-36](#) Adopting an Institutional and Public Facilities Zone on 8/18/2020

18.26.060 Special Provisions

1. A 10 foot wide landscaping strip shall be provided along each street right of way, which shall be planted with a mixture of evergreen and deciduous trees, spaced on average no further than one tree for each twenty-five (25) feet of street frontage.
2. Sidewalk shall be installed according to City standards along the property's street frontage.
3. RV Parks shall be screened from existing residential development with a masonry fence 8 feet tall.
4. All outdoor lighting shall be shielded to direct light and glare only onto the premises and shall be consistent with Chapter 18.78 Lighting.
5. The storage of goods and materials within 50 feet of a public street shall occur within a building or behind an eight foot tall sight obscuring fence.

HISTORY

Adopted by Ord. [2020-36](#) Adopting an Institutional and Public Facilities Zone on 8/18/2020

18.26.065 Compatibility With Residential Zones

18.96 Recreational Vehicle Courts

18.96.010 Intent Of Provisions

18.96.020 Permit And Plans Required

18.96.030 Content Of Plan

18.96.040 Standards And Requirements

18.96.010 Intent Of Provisions

The intent of this chapter is to promulgate minimum regulations which are designed to facilitate the development of safe and sanitary accommodations for short-term occupants.

HISTORY

Adopted by Ord. [199](#) §02.1004.01 on 11/6/1973

18.96.020 Permit And Plans Required

Any person wishing to construct a recreational vehicle court shall prepare a plan therefor and submit the same to the planning and zoning administrator. Before a permit can be issued for any construction connected with a recreational vehicle court, the plans must be approved as set forth in this chapter. No construction connected with said vehicle court shall be commenced until a valid permit has been obtained therefor.

HISTORY

Adopted by Ord. [199](#) §02.1004.02 on 11/6/1973

18.96.030 Content Of Plan

The plan shall show the following information:

1. The topography represented by contours shown at no greater intervals than two feet when required by the planning and zoning administrator;
2. The proposed street and recreational vehicle court layout;
3. Proposed reservations for parks, playgrounds and open spaces, if any;
4. Size and character of service and recreation buildings and other structures associated with land and facilities to be used by the recreational vehicle court occupants;
5. Proposed landscape planting plan, including type and location of plant material;
6. Location of existing and proposed utility lines and easements, water and sewer lines, fire hydrants and other improvements.

HISTORY

Adopted by Ord. [199](#) §02.1004.03 on 11/6/1973

18.96.040 Standards And Requirements

The development of any recreational vehicle court shall conform to the following standards and requirements:

1. The area shall be in one ownership and shall remain in one ownership and the same shall not be subdivided thereafter.;
2. The plan must be prepared by an engineer, land surveyor, architect or landscape architect licensed to practice in the state;
3. Yard Lighting. A minimum of two-tenths footcandles of light shall be required for protective yard lighting the full length of all driveways and walkways;
4. All roadways shall be hard surfaced;
5. All recreational vehicle courts shall abut upon a collector or arterial street as set forth in the comprehensive plan of the city;
6. No exit or entrance from a recreational vehicle court shall be through a residential zone;
7. All one-way roadways shall be at least sixteen feet in width and all two-way roadways shall be at least twenty-four feet in width;
8. All recreational vehicle spaces shall be located at least twenty feet back from the right-of-way line of any public street and the resulting setback space must be landscaped with lawn and trees or shrubs as approved by the planning and zoning administrator except over permitted driveways;
9. All areas within the court which are not occupied by buildings or hardsurfacing shall be landscaped and maintained with lawn, trees and shrubs designed to provide privacy and noise containment, and shall be equipped with adequate sprinkling devices as determined by the planning and zoning administrator;
10. Each recreational vehicle space shall be at least twenty feet in width and at least forty feet in length;
11. All recreational vehicles shall be served by a water system, a sewage disposal system and solid waste disposal facilities which have been approved by the State Health Department;
12. All recreational vehicle courts shall be maintained in a tidy and sanitary condition, free at all times from debris, trash and deleterious objects and structures;
13. Prerequisite to the occupancy of any recreational vehicle court shall be the obtaining of an annual license, which shall be issued only after inspection by the planning and zoning administrator. It shall be unlawful to operate a recreational vehicle court without first obtaining a license, and said license shall be refused or revoked upon failure of the owner and/or operator to maintain the park in accordance with the standards and requirements as set forth in this section;
14. In addition to meeting the requirements of this section, all recreational vehicle courts shall also conform to the requirements set forth in the Code of Camp, Trailer Court, Hotel, Motel and Resort Sanitation Regulations, as adopted by the Utah State Board of Health.

HISTORY

Adopted by Ord. [199](#) §02.1004.04 on 11/6/1973

Amended by Ord. [2000-21](#) on 8/17/2000



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Potential Highway 32 Property Annexation
RESPONSIBLE: Jacob Roberts
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community & Economic Development

SUMMARY

Ms. Plourde is seeking the recommendation of The City Council on the potential annexation of parcel 07-7086 (*see attached map*) to facilitate the construction of an event venue that works with the challenging topography of the parcel and maximizes the views from the parcel.

RECOMMENDATION

N/A

BACKGROUND

Ms. Plourde wishes to annex this parcel into the city and construct an event space on the small amount of usable land on this heavily sloped parcel. The topography of the area is difficult to work around without mass grading and Ms. Plourde feels that the business model of an event/gathering space will be able to make good use of the property while maintaining and working within the challenging topography.

DISCUSSION

This parcel does fall within the area of the City's Annexation Policy Plan (*see attached map*). The General Land Use map designates this area to be Mountain Preservation / Neighborhood with Open Space (*details unclear*). The Mountain Preservation designation calls for the area to primarily be "Recreational uses using the preserved natural areas". Consideration of an event venue on this space as part of the potential annexation is requested.

FISCAL IMPACT

CONCLUSION

Staff is request guidance on the potential annexation of parcel 07-7086 located along Hwy 32. The annexation would be to facilitate the construction of an event venue on the challenging parcel.

ALTERNATIVES

N/A

POTENTIAL MOTIONS

Discussion Item

ACCOUNTABILITY

Department: Planning
Staff member: Jacob Roberts, Planner

EXHIBITS

1. Potential Annexation of Property Along Hwy 32
2. Plourde Annexation Map
3. Harvest Moon Venue



Potential Annexation of Property Along Hwy 32

Work Meeting

Date: 3/19/2024

Summary

- Ms. Plourde is seeking the recommendation of The City Council on the potential annexation of parcel 07-7086 to facilitate the construction of an event venue that works with the challenging topography of the parcel and maximizes the views from the parcel.

Policy Questions

- Will Council consider the potential annexation of Parcel 07-7086?

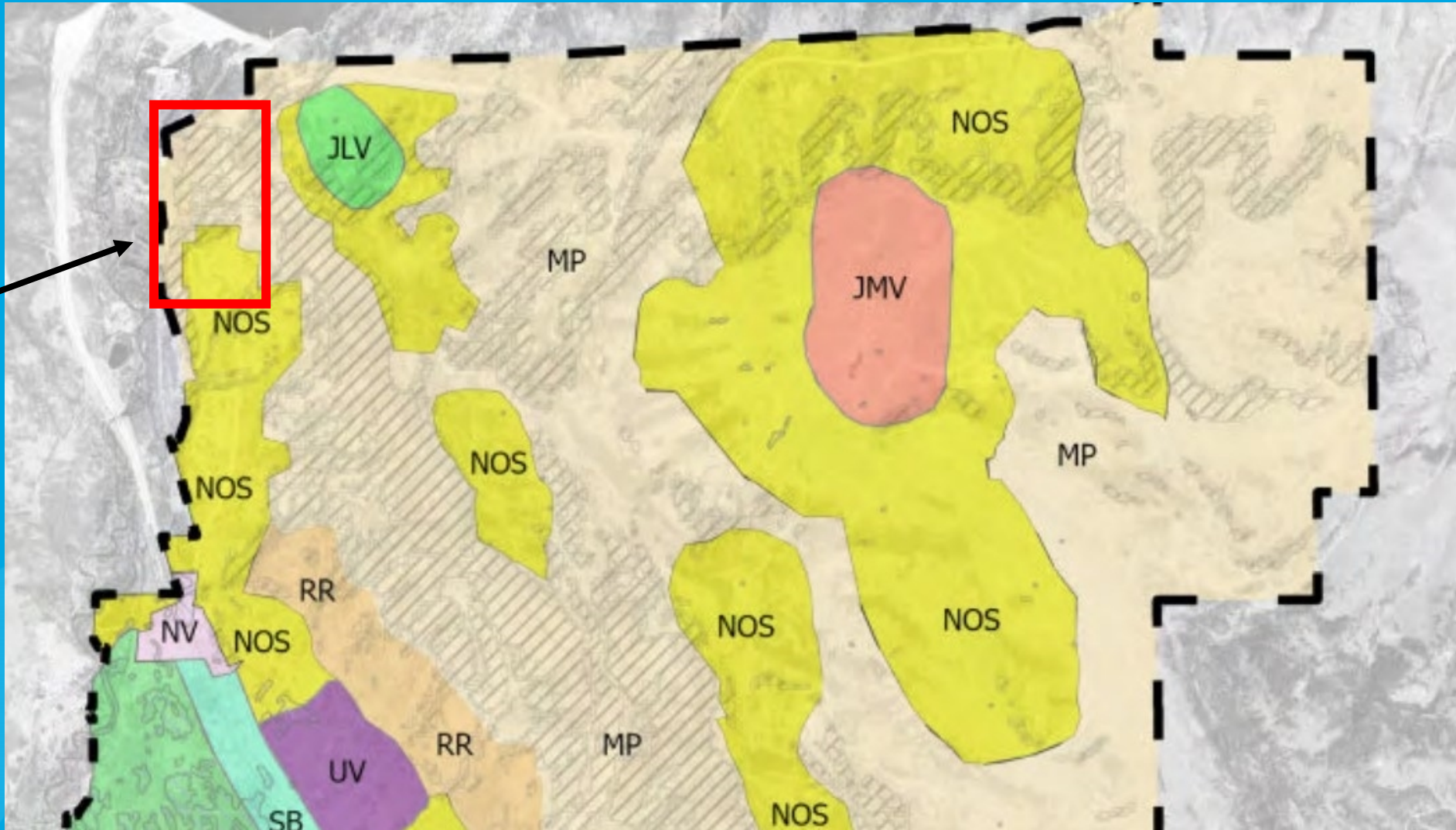
Area Map



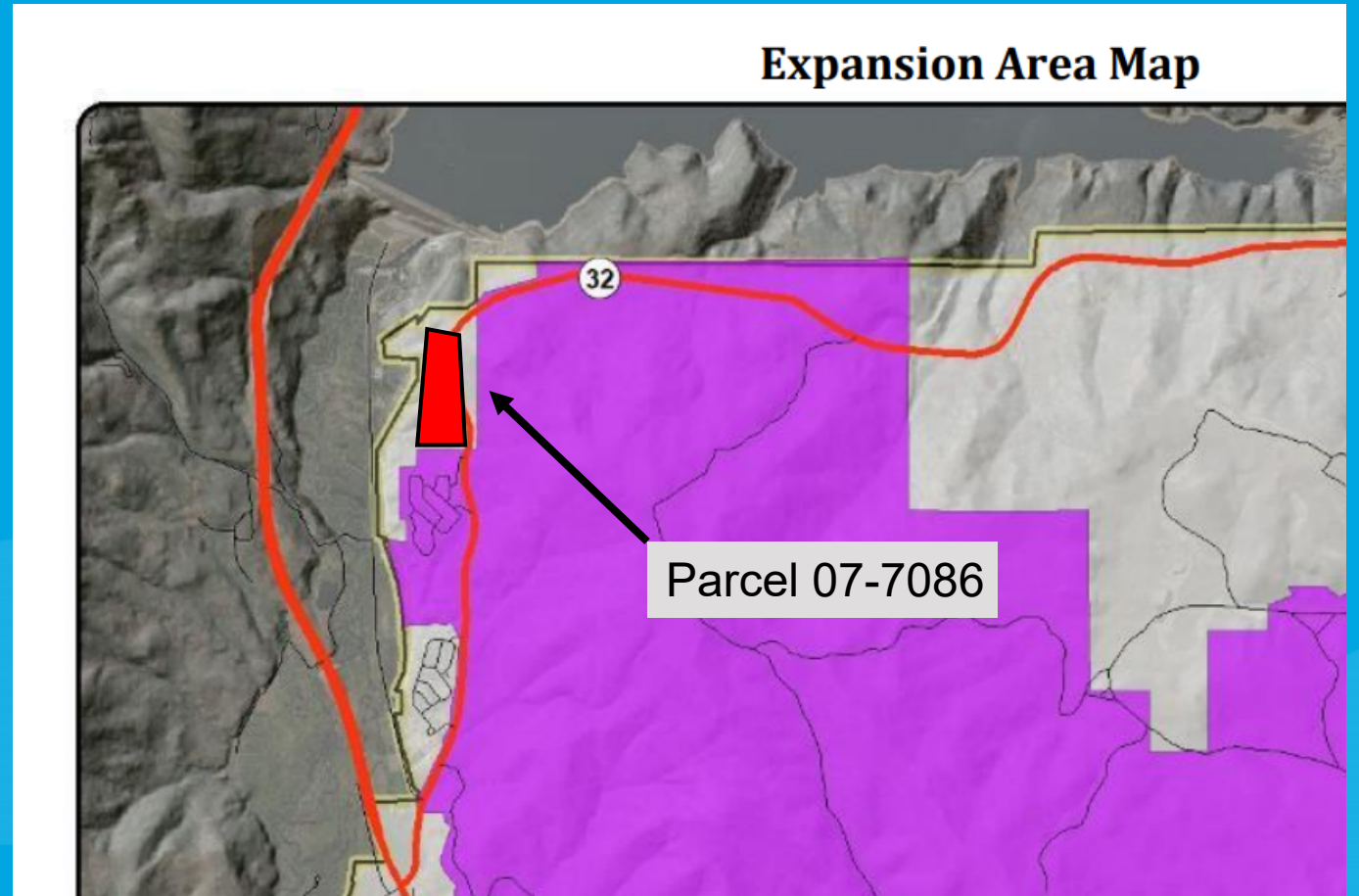
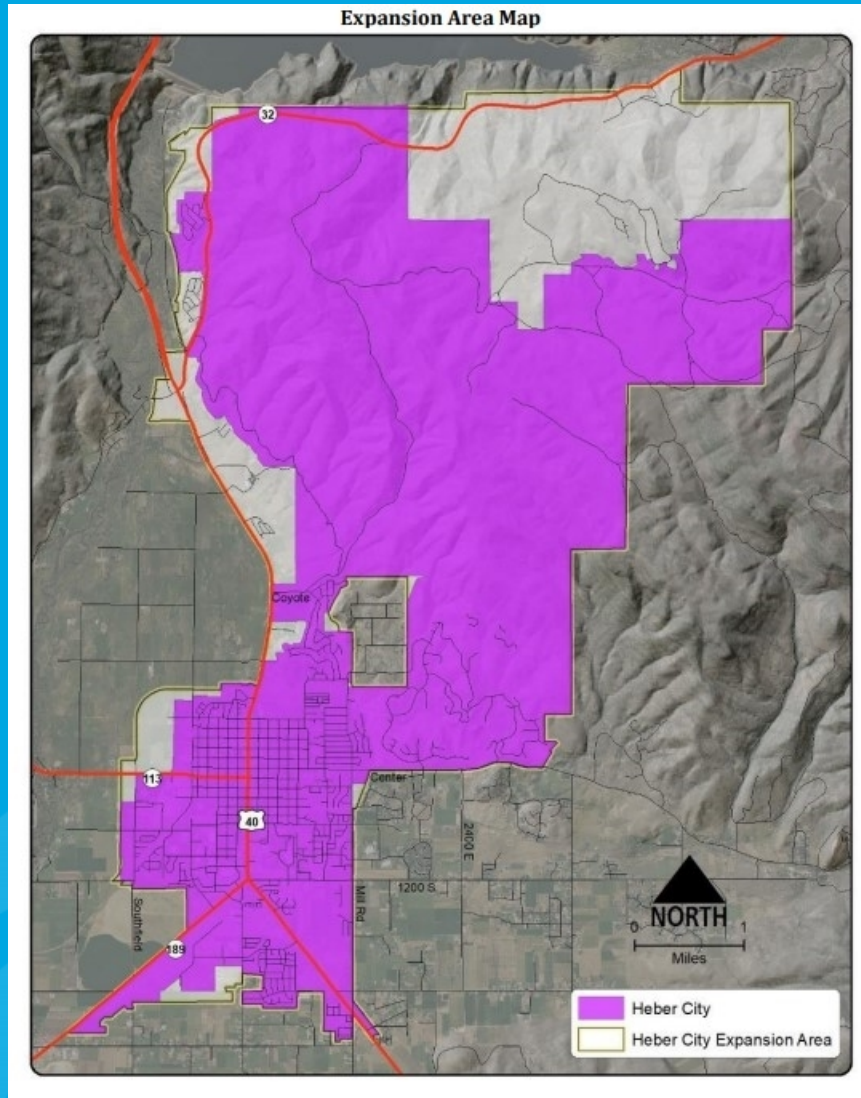
Future Land Use Designation

General Plan Designation: Mountain Preservation / Neighborhoods with Open Space

General Area of Parcel in Question



Annexation Policy Plan



Policy Questions

- Will Council consider the potential annexation of Parcel 07-7086?



Potential Annexation of Property Along Hwy 32

Work Meeting

Date: 3/19/2024



Jordanelle
Reservoir

31

32

32

5

40

8

7

18

17

A Heber Event Venue: by Harvest Moon Events







Land Specs

- Parcel 07-7086, 37.16 acres
 - Wasatch County, A-20
 - Heber city boundary directly to the south and throughout the area surrounding hwy 32
 - Most of the lot is too sloped to develop. We've located about .8 of an acre on 5-15% slope for our use
-



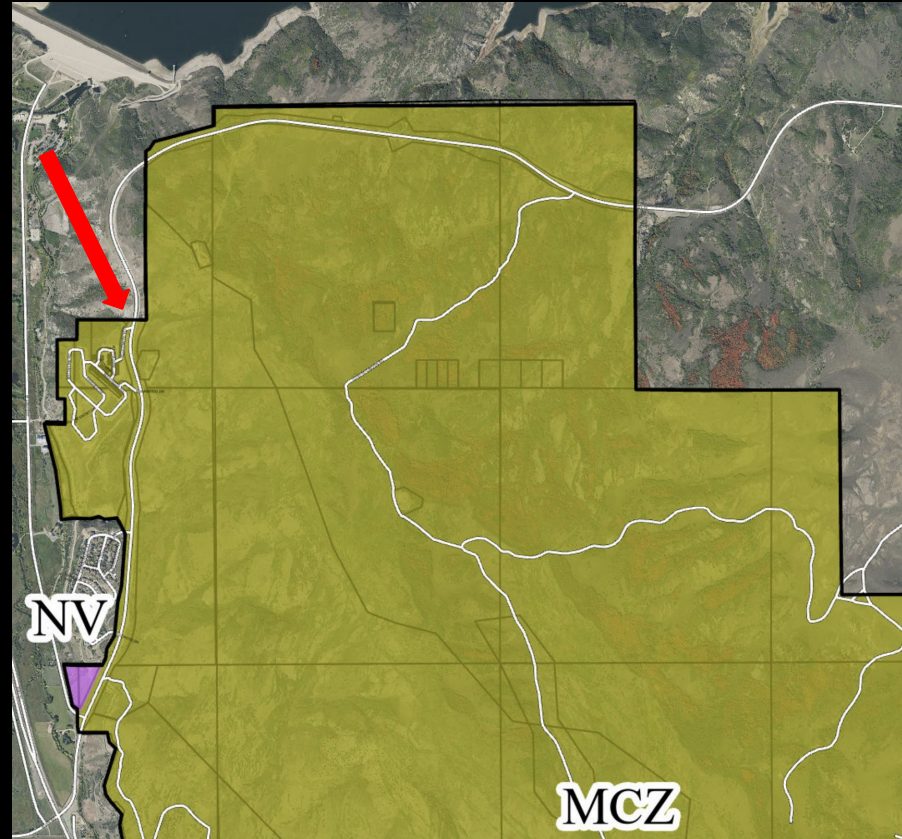


Why Annex

- We believe our proposed use is a great fit for the lot and for Heber.
 - Low density:
Maintaining open space & celebrating the views
 - MCZ zone is a good fit
 - Highway adjacent
 - Gives Heber a gorgeous weddings/events venue, which is in demand
-

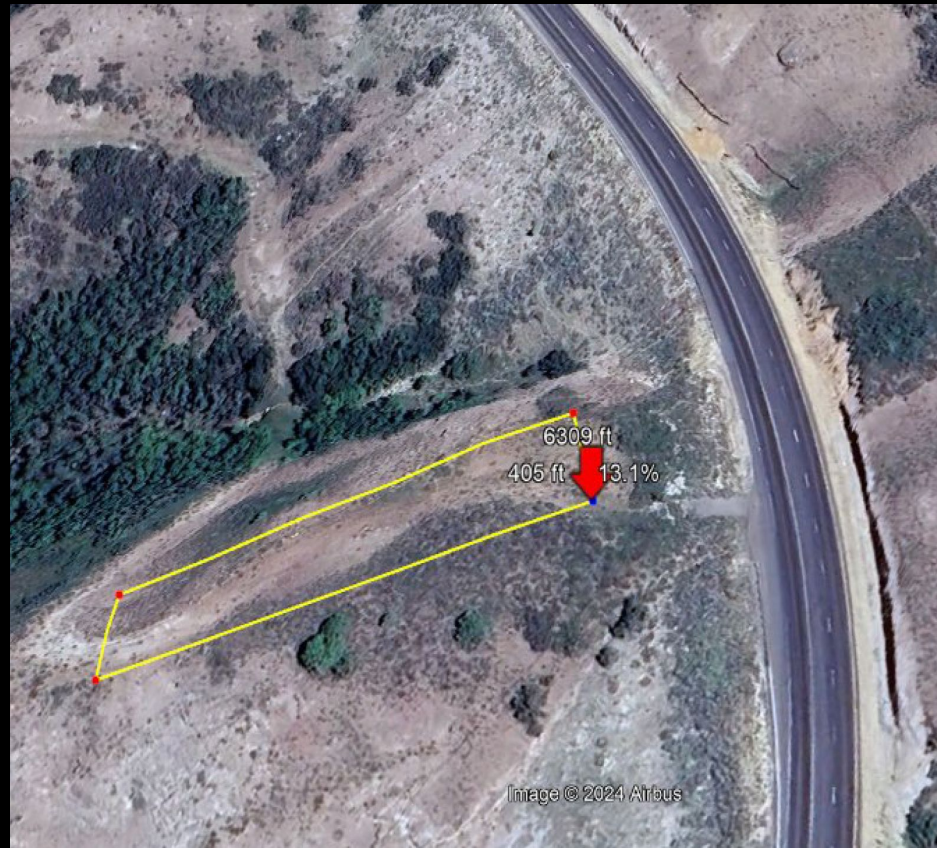


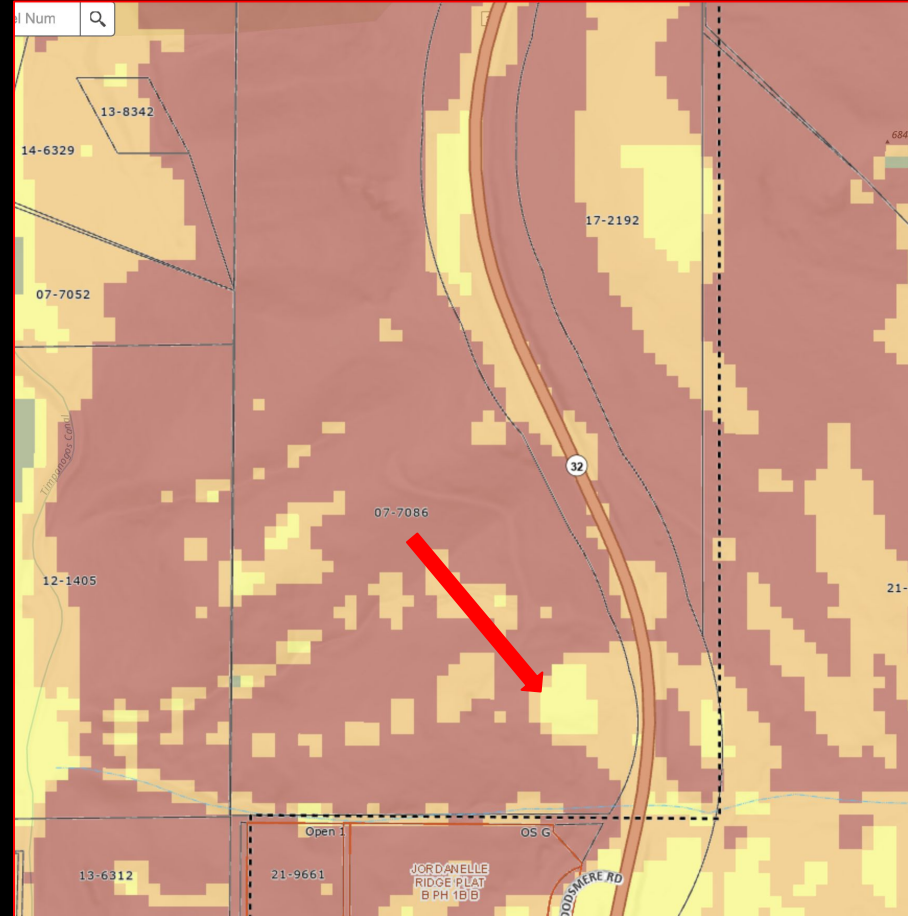
Location



NV

MCZ







Use

- Wedding ceremonies & receptions
 - Corporate meetings, luncheons & dinners
 - Retreats
 - Birthday parties, anniversary dinners, and celebrations
 - Community gatherings
-





Structures

- Parking lot for 40 vehicles with bus/fire truck access
 - Engineered decks with railings to support temporary style structures:
 - Yurts for gathering spaces and back-of-house prep areas
 - Large statement glass tent
 - Outdoor gathering areas
-





Capacities

- We'd like to appeal to groups of various sizes, 20-200.
 - There will always only be one group at a time.
 - The yurts will be perfect for the smaller more intimate groups, while the tent can accommodate up to 200 guests under cover for a seated meal.
-



A wide-angle photograph of a mountainous landscape covered in snow. The foreground shows a snow-covered field with some low-lying vegetation. In the middle ground, there are rolling hills and valleys, also covered in snow. In the background, a range of mountains is visible, with some peaks partially covered in snow. The sky is blue with scattered white clouds. The text "Tent Specs" is overlaid in a large, white, serif font on the left side of the image.

Tent Specs

Ideally, the glass tent structure will be usable year-round.

We are working with a tent manufacturer to design one to accommodate the snow loads. HVAC will allow for temperature control year-round.





Utilities

- Essential: Electrical and propane
- Non-essential: water & sewer

We plan to use luxury restroom trailers for the facilities, which will be serviced after each event. We do not need running water on site, as caterers can bring in everything that is needed for each event.





Site Plan Idea

Plan forthcoming





About the Owner

Kasey Plourde started Harvest Moon Events in 2012 in Park City, Utah. With a degree in Communication and background planning VIP events in Las Vegas, she has over 20 years of experience designing world-class celebrations. She is proud to have a fantastic team of event specialists who are passionate about producing one-of-a-kind, memorable occasions. Kasey knows what it takes to run a venue, knows how to execute a successful event, and is an expert in the Summit & Wasatch County event industry.



Thanks for your
consideration!

Further questions:

Kasey: 435-901-3625

kasey@harvestmoonevents.com

From: Parker Sever <psever@heberut.gov>
Sent: Tuesday, March 5, 2024 11:01 AM
To: Cherie Ashe <cherieashe@heberut.gov>
Cc: Matt Brower <mbrower@Heberut.gov>
Subject: Mayors award

I would like to nominate Ty Cummings for the Mayor's Award. While only having been here a short time, he has a great attitude and is embracing our motto to serve with compassion. While responding to a child custody complaint he was able to see a mother and small child were having difficulty and were low on food and resources. Officer Cummings took it upon himself to go and get food and needed items for the mother and child.

This is a wonderful example of the caring and compassionate service we hope our officers provide to our community.

Candace Bufton
Public Works Administrative Manager
749 West 300 South
Heber City, UT 84032

Dear Candace,

On behalf of the Heber City Council, the entire City Administration, and the citizens of Heber, I would like to express my sincere congratulations for being the recipient of the American Water Works Association's Outstanding Administration Award for 2023 for the Intermountain Chapter. Your exceptional work and dedication exemplify the values and ideals that make our City thrive. We thank you for and commend your innovation which has proven to be a significant benefit for the City.

The City of Heber is pleased to extend additional congratulations to you as the recipient of the Mayor's Award. For your hard work and dedication, there will be a \$100.00 bonus deposited with your next paycheck.

With appreciation,

Mayor Heidi Franco

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting
February 20, 2024

DRAFT Minutes

4:00 p.m. Closed Session
4:30 p.m. Work Meeting
6:00 p.m. Regular Meeting

I. CLOSED SESSION - 4:00 P.M.

Mayor Heidi Franco called the meeting to order at 4:13 p.m. and welcomed everyone present.

Motion: Council Member Cheatwood moved to enter Closed Session. **Second:** Council Member Barney made the second. **Voting Yes:** Council Members, Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. Council Member Phillips was excused. The **Motion Passed 4-0.**

The meeting entered Closed Session at 4:14 p.m. pursuant to UCA 52-4-205.

City Council Present:

Mayor Heidi Franco
Council Member Yvonne Barney
Council Member Aaron Cheatwood
Council Member Mike Johnston
Council Member Sid Ostergaard

City Council Absent:

Council Member Scott Phillips

Staff Present:

City Manager Matt Brower
City Engineer Russ Funk
City Attorney Jeremy Cook
City Recorder Trina Cooke

1. Strategy Session to Discuss the Purchase, Exchange, or Lease of Real Property UCA 52-4-205 (Jeremy Cook, City Attorney)

Motion: Council Member Barney made the motion to adjourn the Closed Session and return to the Regular Meeting. **Second:** Council Member Cheatwood made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, Barney, and Johnston. **Voting No:** None. Council Member Phillips was excused. The **Motion Passed 4-0.**

The meeting returned to regular session at 4:54 p.m.

II. WORK MEETING - 4:30 P.M.

Mayor Franco called the Work Meeting to order at 4:56 p.m. and welcomed everyone present.

City Council Present: Mayor Heidi Franco
Council Member Yvonne Barney - departed at 5:40 p.m.
Council Member Aaron Cheatwood
Council Member Mike Johnston
Council Member Sid Ostergaard

City Council Absent: Council Member Scott Phillips

Staff Present: City Manager Matt Brower
Assistant City Manager Mark Smedley
Community Development Director Tony Kohler
Planning Manager Jamie Baron
City Planner Jacob Roberts
City Engineer Russ Funk
Finance Director Sara Nagel
City Attorney Jeremy Cook
City Recorder Trina Cooke

Staff Participating Remotely: IT Manager Anthon Beales, Human Resources Manager Cherie Ashe, Deputy City Recorder Robin Raines-Bond, Assistant City Manager Mark Smedley, Engineering Administrative Assistant Desiree Muheim, Engineering GIS Technician Shiona Howard, and Engineer Ross Hansen.

Also Present: McKay Riddle, Aaron Johnson, Adam Thompson, Aaron Gabrielson, Eric Hales, Kaden Obray, M. Crosby, Ryan Walton, Rene Wood, Josh Weisher, Scott Jaffa, Jessica Broadhead, Dave Johnson, Russ Witt, Dallin Koecher, Lynsee Sulser, Wendy Anderson, Kody Giles, Caradee Williams, Mike Bradshaw, Tori Broughton, Cathy Witt, Ben Sehy, and others who did not sign in or whose handwriting was illegible.

Also Attending Remotely: (Names are shown as signed in online) Aubrey Larsen LDI, Joe & Kimsha Byrne, Brock M, Curtis, Grace Doerfler, KPCW Production, Media@MDG, and Mike Lynch.

1. Potential Rezone of Property from R-3 Residential to C-3 Commercial at 167 West Center (Riedell, Tony Kohler, Community Development Director) - 25 min

Petitioner Tanner Rydel explained the desire to rezone two parcels to C3 commercial. The property owners hoped to redevelop the lots as mixed-use units to include ground-level commercial or office space with residential units, and possible affordable housing, on the upper floor.

Property owner Sam Burbidge described possible design plans for the two parcels and shared concept images. Council majority expressed support for the project to proceed.

2. Potential MDA for School House Academy (Jamie Baron, Planning Manager) - 25 min

The Mayor skipped forward on the agenda to discuss Work Meeting agenda item three.

Planning Manager Jamie Baron shared the PowerPoint presentation as included in the meeting materials. He explained the proposed schoolhouse would be a commercial daycare. He hoped to see the City move away from Master Development Agreements (MDAs) and wished to know if the Council would support a zone change or approve the daycare as a conditional use. Council discussion followed noting the need for daycare facilities in the community. General consensus of Council was supportive of the project moving forward.

Petitioner McKay Riddle clarified that a daycare was required by State Code to have a six-foot fence surrounding the facility. Mr. Riddle explained that they owned the neighboring lot. Dave Johnson inquired about the City's time-line for a text amendment. Mr. Baron outlined the process requirements, stating the timeline would take approximately three-plus months.

3. Zoning of Trade Schools (Jamie Baron, Planning Manager) - 25 min

Planning Manager Jamie Baron explained the trade school regulations and definition as outlined by the State. The petitioner wished to open a school to teach safe and sanitary tattooing. General consensus of the Council was to not permit trade schools in the C3 zone within downtown Main Street.

Petitioners Joe and Kimsha Byrne explained that the proposed trade school would offer an apprenticeship program. The State had informed them that apprentice programs were exempt from certain regulations as apprenticeship programs were protected. The Byrnes were applying through a Federal program to be the first officially recognized tattoo apprenticeship program of its kind. Mr. Byrne noted it was a basement space they were looking to buy on Main Street and there was plenty of parking behind the building. The Department of Labor intended to offer State and Federal funding to tattoo apprenticeship programs. The Byrnes explained that their program would offer dental and medical benefits that were not offered elsewhere in the tattoo industry.

Mr. Baron explained there was currently nowhere in the City that permitted trade schools. Therefore, the issue would need to be readdressed in the future for Council consideration.

The meeting was returned to item two on the Work Meeting agenda.

III. BREAK - 15 MIN

IV. REGULAR MEETING - 6:00 P.M.

1. Call to Order (Mayor Heidi Franco)

Mayor Franco called the meeting to order at 6:13 p.m. and welcomed everyone present.

2. Pledge of Allegiance (Yvonne Barney, Council Member)

Council Member Cheatwood led the recitation of the Pledge of Allegiance.

3. Prayer/Thought by Invitation (Mike Johnston, Council Member)

Council Member Johnston shared that he had been watching the States Legislative Session and had counted over 800 bills. He paraphrased a quote from whom he did not recall "Regulations grow at the same rate as weeds". He asked the Heber Council to be careful and not over-regulate Heber City's residents and businesses. He asked community members to speak up if they felt the Council was ever overregulating.

V. CONFLICT OF INTEREST DISCLOSURE:

There were no conflicts disclosed.

VI. AWARDS, RECOGNITION, and PROCLAMATIONS:

There were no awards to present that evening.

VII. CONSENT AGENDA:

Motion: Council Member Johnston moved to approve the Consent Agenda as listed. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, and Johnston. **Voting No:** None. Council Members Phillips and Barney were absent. The **Motion Passed 3-0.**

1. January 20, 2024, City Council Meeting Minutes for Day 2 of the Annual City Council Strategic Retreat, and February 6, 2024, City Council Meeting Minutes (Trina Cooke, City Recorder)
2. Nominations to the Audit Committee and Airport Advisory Board (Heidi Franco, Mayor)
3. Kitchen MDA Amendment (Tony Kohler, Community Development Director)

VIII. PUBLIC COMMENTS: (3 min per person/20 min max)

No one from the public came forward to comment.

IX. GENERAL BUSINESS ITEMS:

1. Heber Leadership Academy (HLA) - *20 min*

Ryan Walton and Adam Thompson were representing the Heber City Leadership Academy (HLA). The Mayor invited all the members present of the current HLA class to stand and introduce themselves. Mr. Thompson shared a PowerPoint with images of the proposed HLA class project to complete the landscaping around the water feature currently being installed at the historic Heber City Hall Building.

Council Member Cheatwood suggested seeking funding from local business-owners. Council Member Johnston expressed support. Council Member Ostergaard asked about lighting for the area. HLA member Dallin Quinn, asked for clarification for the goal of Council's request for lighting. It was intended to attract people to use the area and offer safety after dark.

2. Heber Valley Chamber of Commerce and Tourism (Dallin Koecher, Jessica Broadbent) - *20 min*

Dallin Koecher and Jessica Broadhead presented the annual report on behalf of the Heber Valley Tourism, Economic Development, and Chamber of Commerce, as included in the meeting materials. There was a survey included in the presentation polling residents' opinion of tourism in the valley.

3. Project Updates (Russ Funk, City Engineer)

City Engineer Russ Funk shared the status and expected timelines of the ongoing engineering projects throughout the City.

X. ACTION ITEMS: (Council can discuss; table; continue; or approve items)

1. Reallocation of PTIF Funds (Benjamin Sehy, Meeder Public Funds Inc) - *25 min*

Finance Manager Sara Nagel explained that Zions Public Finance had done a great job for Heber City but the finance department felt it was important to explore alternate options on behalf of the City's monetary investments. Ben Sehy with Meeder Public Funds Inc. provided background and an overview and explained the services offered by the investment firm. He informed Council of the experience the firm had with municipal and governmental entity's investments.

Motion: Council Member Ostergaard motioned to approve the reallocation of PTIF (Public Treasurers' Investment Fund) with Meeder Public Funds Inc with up to 80/20% strategy as discussed. **Second:** Council Member Cheatwood made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, and Johnston. **Voting No:** None. Council Members Barney and Phillips were absent. The **Motion Passed 3-0.**

2. Ordinance 2024-06 Witt Cottages (aka Industrial Road Cottages) MDA (Tony Kohler, Community Development Director) - *15 min*

Community Development Director Tony Kohler explained the Master Development Agreement (MDA) had been approved by Council the previous December. There had not been an Ordinance presented then and a road dedication was now included. Mr. Witt had asked that the City include a provision to return the land to him if it was not utilized within a ten-year time-frame. City Engineer Russ Funk clarified that this was an opportunity for the City to negotiate a beneficial return from the property owner.

Property owner Russ Witt explained he had been through the entire process of negotiating with the City and the City had asked for four additional feet in dedication at the last minute for a trail. He felt the City should be more transparent with the process. Discussion followed.

City Attorney Jeremy Cook expressed preference for the land to be dedicated as an easement. Mr. Funk stated that if the Council did not want to see 8-foot trails, the City should update the Trails Master Plan.

Motion: Council Member Johnston made the motion to accept the MDA as written with a revision to item 6 to read "Upon redevelopment of the property, the developer shall grant an easement for an additional four-foot trail right of way along Industrial Parkway to accommodate a future trail. If the City has not constructed the trail within ten years after the recording of the easement, the easement shall terminate." **Second:** Council Member Cheatwood made the second.

Discussion: Council discussed the terms of the easement with Mr. Witt and agreed upon the following amendment:

Amended Motion: The easement would continue in perpetuity and the property owner retained the ability, after ten years, to request the City either build the sidewalk or vacate the easement. Council Member Cheatwood's second stood.

Voting Yes: Council Members Ostergaard, Cheatwood, and Johnston. **Voting No:** none. Council Members Barney and Phillips were absent. The **Motion Passed 3-0.**

3. Jordanelle Ridge (Fitzgerald) Preliminary Subdivision (Aubrey Larsen , Planning Consultant) - 30 min

Planning Consultant Aubrey Larson provided the project details and background as included in the meeting materials. She shared images of the site plan and the trail plan. Council Member Johnston was concerned with the lack of guest parking available in the plan.

Project representative Mike Bradshaw indicated there could be parking found on the unit driveways where guests would need to park or on the public streets outside the development. Mr. Bradshaw explained the intent of the development's design was to create a walkable neighborhood.

Council discussion resulted in the request for the following changes to the community development plan:

1. More guest parking in all areas - especially in the middle area in F3
2. Small playgrounds or tot-lots throughout, including F3
3. Public access to private roads on adjoining stubs
4. Affordable housing phasing as included in the original agreement
5. Crosswalks by the stormwater channels to the springs
6. 18 affordable units
7. Additional pedestrian connectivity between buildings, every four or five units, in the F3 area
8. Public access to the private road from Ciarra way

Mr. Bradshaw agreed to incorporate the requested changes into the design concept.

Motion: Council Member Johnston moved to grant preliminary approval conditionally with the items listed and the conditions and findings of the Staff Report.

Second: Council Member Ostergaard made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, and Johnston. **Voting No:** None. Council Members Barney and Phillips were absent. The **Motion Passed 3-0.**

City Manager Matt Brower stated that Staff had asked to address item five on the agenda next.

4. Ordinance 2024-02 Updating the C-3 Commercial Zone, C-3 Design Criteria and Parking Regulations within the C-3 Zone (Tony Kohler, Community Development Director) - 40 min

Agenda item four was pushed to a future meeting.

5. Permitted and Conditional Use Amendment to the BMP (Business and Medical Park) Zone (Jacob Roberts, Planner) - 30 min

Community Development Director Tony Kohler presented the proposed updates to the Business and Manufacturing Park (BMP) Zone. He shared the list of businesses proposed to be added to the zone, including pawn shops and tattoo parlors, as attached in the meeting materials. He read the recommendations forwarded from the Planning Commission. Council discussion followed.

Motion: Council Member Johnston moved to adopt the changes to the BMP zone by Ordinance 2024-04 except for the tattoo parlors and pawn shops. **Second:** Council Member Cheatwood made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, and Johnston. **Voting No:** None. Council Members Barney and Phillips were absent. The **Motion Passed 3-0.**

Council Member Johnston asked to address agenda item seven next.

Motion: Council Member Johnston moved to extend the meeting to 10:15 p.m., or thereabouts, and that the Council discuss item seven on the agenda and communication items. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Ostergaard, Cheatwood, and Johnston. **Voting No:** None. Council Members Barney and Phillips were absent. The **Motion Passed 3-0.**

6. Resolution 2024-02 Updating the Code of Conduct and Ethics (Jeremy Cook, City Attorney) - 20 min

Agenda item six was pushed to a future meeting.

7. Resolution 2024-03 to Reaffirm Resolution 2023-07 and Recommend to County Council to Delay Decision on North Fields Open Space Conservation until Utah Department of Transportation (UDOT) Completes the Environmental Impact Study (EIS) (Scott Phillips, Council Member) - 10 min

Council Member Johnston felt it was important to get easements in the North Fields to protect possible bypass routes for Highway 40 alternates. He felt it was not necessary to ask the County Council to defer the dedication of the conservation easement in the North Fields. He wished to preserve the agricultural zoning. He felt Council could agree they did not want commercial development along the proposed bypass route. He supported the Wasatch Open Lands Board's (WOLB's) proposal but did not want to prevent UDOT (Utah Department of Transportation) from continuing with the EIS (Environmental Impact Study) and thereby impacting the progress towards construction of the bypass. He proposed an agreement with the County, and property owner Mr. Gertsch, to allow Bypass easements in the proposed North Fields conservation easement. He was not supportive of the resolution as written and hoped the landowner and WOLB would work with UDOT.

City Engineer Russ Funk proposed allowing the County to proceed with the purchase of the land for a conservation easement and to exclude in writing the UDOT Bypass as a restricted use. Mayor Franco was unsure if the exclusion would be permitted within the Federal guidelines. Council discussion continued.

Council Member Johnston wanted to proceed with expressing support of WOLB's conservation easement purchase with the condition to allow the Bypass and support of UDOT continuing the EIS.

City Attorney Jeremy Cook explained that it could be easier to have UDOT condemn the land needed from the conservation easement for the bypass. He felt he would need to learn more information to provide an opinion. City Manager Matt Brower recommended the City meet with the County, Midway, and UDOT. He proposed adding the discussion to the County Council Meeting scheduled for March 6 following the City's CRA (Community Redevelopment Agency) discussion item on the agenda.

Motion: Council Member Johnston moved to not adopt Resolution 2024-03 that night but rather direct the City Manager to contact Craig Hancock with UDOT and tell him the City Council's concerns and desires for conservation easements but wished to support UDOT and asked Mr. Hancock to bring ideas to the City. To share what the County was planning with regard to conservation easements and return to the meeting on March 5. **Second:** Council Member Cheatwood seconded the motion. **Voting Yes:** Council Members Ostergaard, Cheatwood, and Johnston. **Voting No:** None. Council Members Phillips and Barney were absent. The **Motion Passed 3-0.**

Mayor Franco noted the Council had received a public comment via email regarding the proposed Resolution and it would be included in the meeting minutes [found at the end of the minutes].

XI. COMMUNICATION:

City Manager Matt Brower asked the City Council Members to attend the County Council Meeting scheduled for March 6, 2024, to ask the County to join the City in an Interlocal Agreement for the CRA (Community Reinvestment Agency). It was decided that Council Member Johnston would be the presenter.

Mayor Franco reminded Council to register for the upcoming Utah League of Cities and Towns Conference.

XII. ADJOURNMENT:

Motion: Council Member Ostergaard made the motion to adjourn. **Second:** Council Member Cheatwood made the second. The meeting adjourned at 10:39 p.m.

Trina Cooke, City Recorder

February 19, 2024

To: Wasatch County Council
Heber City Council

From: George Hansen
[REDACTED]

Midway, Ut
[REDACTED]
[REDACTED]

Subject: North Fields Preservation

I am writing to both councils jointly about preserving the North Fields.

Bottom Line Up Front (BLUF) #1- We have a unique and singular current opportunity on a matter for which we have dreamed, planned, voted on and bonded money for decades. #2- We need to be proactive and united. If we do not proactively decide our destiny, then we will have to reactively live with the consequences of those who would take that decision from us. #3- If we continue to not be united, then definitely, someone else will decide for us, and it will not be to our best interest.

For a bit of my qualification to address this issue- think Snake Creek Canyon, Soldier Hollow, Tate Barn, Midway Sensitive Land and Hillside/Ridgeline Ordinance. These are the successes that I have been involved in..

With respect to the North Fields, a couple of decades ago, I sat on the Open Space committee with Steve Farrell and Heide Franco as we envisioned the future of that gem. Then someone applied for a zoning modification to increase density. Of course, the application was denied, That led to Tracy Taylor's successful referendum ballot initiative, where 74% of the voters affirmed that the zoning of the 2500 acres of the North Fields remain as A-20. That was reaffirmed in 2018 with the voter approval of a \$10M County Open Space Bond, the same year that Midway approved a \$5 M open space bond . Both measures were soundly approved. It is clear that the electorate of this County supports these open spaces that define our lifestyle, economy, air, water and traffic quality, and our children's future. The voters have put their money into the ballot box, and the current elected officials should excersize their duty to honor this strong and historical constituency.

Highway 40 will continue to be a problem until a bypass is built. And every time we delay action, opportunities disappear, doors close, prices increase. Growth will come, whether we like it or not. Let's control that growth, instead of it controlling us.

Of the five alternative highway routes, the best are those that keep the alignment of the current highway, keep it close to the current commercial and zoning opportunities. The problem is that two of UDOTs routes go directly through the North Fields corridor, that corridor the public is paying to protect.

The County Open Space Bond Committee is committing to purchase 200 critical acres . There are a few council members (both county and city) who are advocating delaying those conservation purchases until UDOT determines their route. But our voters have spoken twice now, to put their money

into the voting booth for preservation. The problem is that if this opportunity is delayed, there is a chance of losing the matching funds, the conservation sellers moving on.

We should rather proactively control our destiny, instead of reacting to UDOT. We should rather keep that transportation corridor along the commercially planned North Village (east side of Hwy 40) where it will benefit current private owners and current zoning. Let's not put a new corridor in the heart blood of our economy and lifestyle, while at the same time contributing to degraded water quality for the Blue Ribbon Provo River (which we paid hundreds of millions to protect), the initiation of Heber Valley's own brown cloud, and sprawling congestion. We do not want to be West Valley City. We are Heber Valley.

When Farmington City was dealing with UDOT on the Legacy Highway, there were problems. Farmington was smart enough to hire an engineering firm known to UDOT (Horrocks) to go over the analysis. They worked together amicably, and Horrock was able to lead UDOT to see Farmington's point of view. That was a bit more complex , but the concept worked well;

Technical Analysis

The North Fields routes (WB3 and WB4) both impact the most wetlands and both require Provo River Reclamation Plan acreage. They are also both surface grade intersections. Plan WA3, the North Fields alternative with separated grade intersections, was rejected due to wetlands impact.

Please look at Figure 3-16 (below) from the level 2 screening. It shows a Highway 40 alignment, grade separated access divided highway. It survives the EIS, albeit the most expensive, (The least expensive is WB 1, the same alignment but surface grade intersections.)

Perhaps WA 1 could be redesigned to two intersections?

Figure 3-16. Level 2 Design Layout for Limited-access West Bypass (WA1)

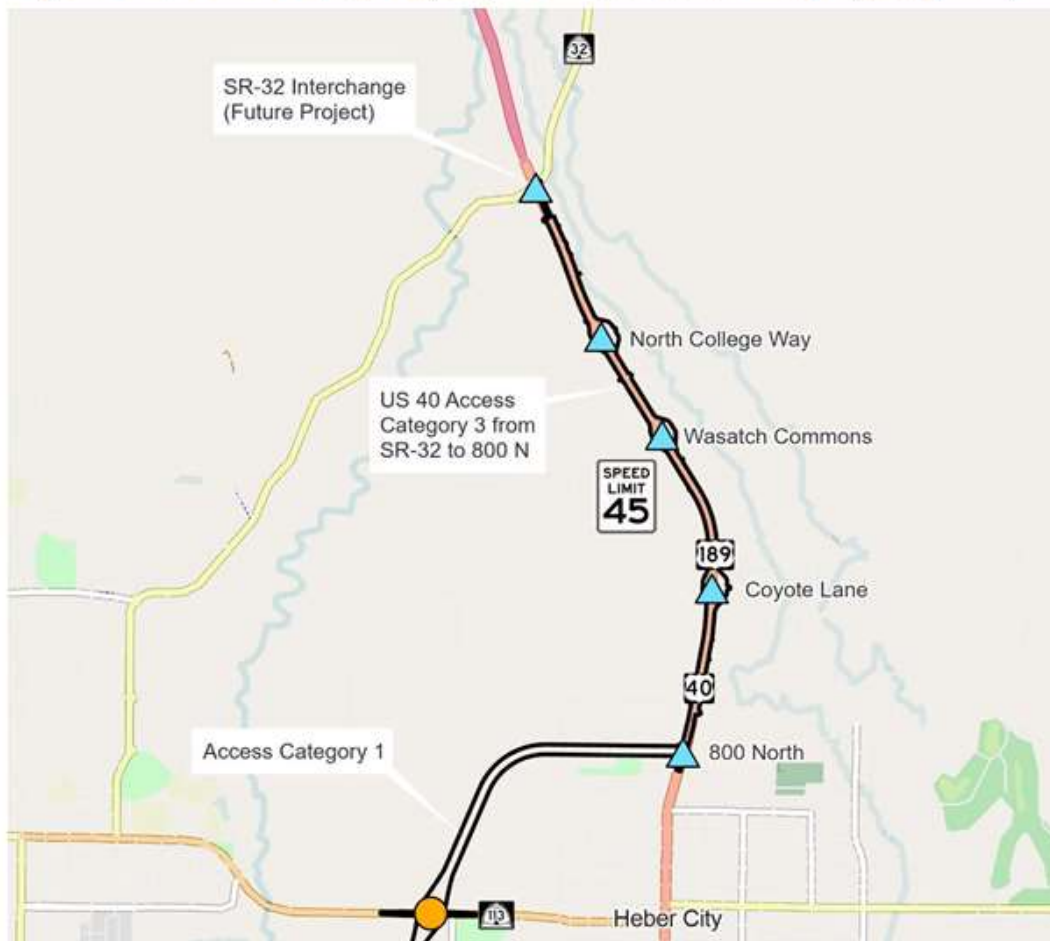


Table 3-15. Final Level 2 Screening Results

Alternative		Impacts			Cost	Recommended for Draft EIS?
		Waters of the U.S.	Section 4(f) Resources	Property Acquisitions		
WA1	West bypass – limited access and grade-separated interchanges	12.4 ac	430 lf of trails 8 buildings	163 parcels 186.5 ac	\$244.9 M	Yes
WA3	West bypass – limited access and grade-separated interchanges with northern extension	53.7 ac	430 lf of trails 2 buildings 2.4 ac of PRRP	144 parcels 240.3 ac	\$286.3 M	No
WB1	West bypass – parkway and at-grade intersections	8.9 ac	380 lf of trails 8 buildings	147 parcels 141.2 ac	\$178.6 M	Yes
WB2	West bypass – parkway and at-grade intersections and realign U.S. 189	8.9 ac	380 lf of trails 8 buildings	149 parcels 137.3 ac	\$184.0 M	Yes
WB3	West bypass – parkway and at-grade intersections with northern extension	39.3 ac	370 lf of trails 2 buildings 2.4 ac of PRRP	166 parcels 221.0 ac	\$204.5 M	Yes
WB4	West bypass – parkway and at-grade intersections with northern extension and realigned U.S. 189	39.3 ac	370 lf of trails 2 buildings 2.4 ac of PRRP	170 parcels 217.7 ac	\$209.4 M	Yes

HEBER CITY CORPORATION
75 North Main Street
Heber City, UT 84032
Heber City Council Meeting
March 5, 2024

DRAFT Minutes

4:00 p.m. Regular Meeting
AMENDED AGENDA

I. REGULAR MEETING - 4:00 pm

1. Call to Order (Heidi Franco, Mayor)

Mayor Franco called the meeting to order at 4:04 p.m. and welcomed everyone present.

City Council Present: Mayor Heidi Franco
Council Member Yvonne Barney
Council Member Aaron Cheatwood
Council Member Mike Johnston
Council Member Sid Ostergaard
Council Member Scott Phillips (remotely from 4:20 p.m. - 5:05 p.m.)

Staff Present: City Manager Matt Brower
Community Development Director Tony Kohler
City Engineer Russ Funk
Finance Director Sara Nagel
Chief of Police Parker Sever
City Attorney Jeremy Cook
IT Director Anthon Beales
City Recorder Trina Cooke

Staff Participating Remotely: Planning Manager Jamie Baron, Planning Admin Meshelle Kjianen, Planner Jacob Roberts, IT Director Anthon Beales, Human Resources Manager Cherie Ashe, Public Works Director Matthew Kennard, Deputy City Recorder Robin Raines-Bond, Engineering GIS Specialist Shiona Howard, and Engineer Ross Hansen.

Also Present: City Consultant Ryan Bunnell, Di Ann Duke Turner, Matt Parker, Christi Judd, Mark Nelson, Ava Baldwin, Craig Hancock, Dustin Grabau, and others who did not sign in or whose names were illegible.

Also Attending Remotely: (names are shown as signed in online) Mia, TMT, IronJ, Grace Doerfler, Dave Thacker, Catherine, Bingo, Curt Castagna, Jason Talley, and Barbara Larsen.

II. ACTION ITEMS:

1. Discuss the Updates for the Heber Valley Corridor (Matt Brower, City Manager) - 60 min

UDOT (Utah Department of Transportation) Representatives Craig Hancock and Matt Parker were present to provide updates regarding the proposed bypass in the Heber Valley corridor. Mr. Hancock shared the status of the ongoing Environmental Impact Study (EIS) being conducted in the Valley's North Fields. The County's Wasatch Open Lands Board (WOLB) was negotiating a land purchase in the North Fields to be dedicated as a conservation easement. The City was concerned that a Conservation Easement dedication would interfere with the progress of the proposed bypass. UDOT hoped to finish the EIS process. Council discussed concerns regarding the protection of the North Fields versus the need for a bypass route to alleviate traffic on Highway 40 by diverting through traffic from Heber City's downtown Main Street. Mr. Hancock described UDOT's intent to keep the bypass out of the North Fields. General consensus of the Heber City Council was supportive of protecting the North Field while working with UDOT and the County to exclude the bypass as a prohibited use in designated conservation easements.

UDOT representative Matt Parker was a Heber resident located near the south side of the proposed bypass route. He stated that he had seen such a process through many times and trusted the process which followed the law and would do its best to impact the fewest residents possible and act impartially.

2. Discuss Hangar Term Sheet / Approval of a New Master Lease or Amendment at Heber Airport for Aeronautical Activity (Curt Castagna , Aeroplex Group Partner) - 15 min

Airport consultant Curt Castagna presented the information as included in the attached meeting materials. Jason Tally represented Edgewood Capital, LLC, a current master tenant at the Heber Airport with a parcel and hangar. There were approximately 14 years remaining on the existing lease term, with unilateral options for Edgewood to extend the lease for an additional ten years, for a total of 24 years, terminating in 2048. Edgewood wanted to add the Pad K area to its leasehold in order to construct an additional hangar area to support electric and light aircraft assembly, delivery, and non-FBO related support services. The proposed business would generate increased Airport revenues.

Motion: Council Member Cheatwood moved to authorize the City Manager to execute a new Master Lease Agreement for aeronautical activity as presented, with the findings and conditions as presented in the conclusion in the Staff Report and with the additional obligation as modeled in the October 3rd agreement for the prior conditional use which stated that 1% of gross revenues would be paid to the Airport or would go up as the consolidated fee schedule could potentially raise the fee in the future. **Second:** Council Member Ostergaard made the second. **Voting Yes:** Council Members Barney, Cheatwood, Johnston, and Ostergaard. **Voting No:** None. Council Member Phillips was absent. The **Motion Passed 4-0.**

3. Discuss Animal Control MOU (Heidi Franco, Mayor, Parker Sever, Chief of Police) - 15 min

Chief of Police Parker Sever explained the Heber Valley Animal Control Department provided services throughout Wasatch County. There had not been an updated interlocal service agreement with other entities within the county since 1999 that he could find. He proposed a Memorandum of Understanding (MOU) with the entities serviced outlining an agreement for Animal Control services to be provided, and the establishment of an Animal Control Board.

Chief Sever shared the difficulty in finding and retaining part-time help. He would be seeking an additional full-time employee for the Animal Control Department in the upcoming budget cycle. City Manager Matt Brower explained the Council did not need to approve anything at that time.

Mayor Franco moved the meeting ahead to Agenda item five.

The internet connection was lost, interrupting the meeting recording from minute 1.27.47 through 2.09.15.

4. City Branding Update (Ryan Bunnell) - 25 min

City Consultant and PIO (Public Information Officer) Ryan Bunnell explained he was following up on the City's rebranding effort with proposed names for the upcoming bandshell, plaza, alleyway, and recreation district. Council discussed the theme and possible names for the new areas.

Di Ann Duke Turner felt the proposed train depot at the park would take people away from downtown businesses. She felt the City was doing the proposed projects to cater to the tourists rather than the local community. She thought the proposed renovations took the park away from the people. Mrs. Turner preferred the name Heber Town Square. Council Member Ostergaard suggested that Mrs. Turner attend the next meeting which Roger Brooks presented at in order to hear the intentions of the redesign of the park and hear the big-picture plan.

Mr. Bunnell recommended the Council continue to consider and discuss ideas for the theme and identifying names. Council Member Johnston felt the Council should strive for an authentic theme and keep it local focused. Mr. Bunnell would return to a future meeting to present updated ideas based upon Council feedback.

5. Evans Property Acquisition (Russ Funk, City Engineer) - 5 min

Motion: Council Member Barney moved to approve the property acquisition and right-of-way contract for the Evans' property. **Second:** Council Member Cheatwood made the second. **Voting Yes:** Council Members Barney, Cheatwood, Johnston, and Ostergaard. **Voting No:** None. Council Member Phillips was absent. The **Motion Passed 4-0.**

III. ADJOURNMENT:

City Manager Matt Brower reminded Council to attend the County Council Meeting the following evening, March 6, to participate in the discussion of two agenda items: 1. The CRA discussion to encourage the County's participation in an interlocal agreement with Heber City and 2. Discussion regarding the Heber Valley corridor, UDOT's EIS, and the proposed WOLB (Wasatch Open Lands Board) land purchase for a conservation easement. He was working with Wasatch County School District Superintendent Paul Sweat to arrange time for the City Council to meet with the School Board for further CRA discussion.

Mr. Brower noted Roger Brooks was in town working with the Heber Valley Chamber to design and plan for a park that would support 250 days of activity per year; consider parking solutions for downtown; and businesses needed to support the plan.

Staff was working on a May event to rededicate the City Hall Historic Tabernacle building once the bell tower repairs and renovation were completed.

Mayor Franco reminded Council to register for the upcoming ULCT (Utah League of Cities and Towns) conference if they had not done so already.

Motion: Council Member Cheatwood move to adjourn. **Second:** Council Member Ostergaard seconded the motion. The meeting adjourned at 6:30 p.m.

Trina Cooke, City Recorder



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Ordinance 2024-07 Clayton Vance Zone Change 22 South (100 West)
RESPONSIBLE: Jacob Roberts
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community & Economic Development

SUMMARY

Mr. Vance is requesting a zone change for the property located at 22 South 100 West. *See attached map for current zoning.* The request is to change the zone on the property from its current zoning designation of Residential R-3 to the Commercial C-3 Zone. *See attached map for updated zoning.*

RECOMMENDATION

Staff recommends approval of Ordinance 2024-07.

BACKGROUND

Previously, Mr. Vance was requesting a MDA in conjunction with the zone change to allow for the construction of an office building with attached residential. After discussions with staff, we have determined with the applicant that given the applicants timeline for construction (3-5 years) and the updates being adopted to the C-3 Zone code, it would be more expedient for Mr. Vance to request a zone change without an MDA. This zone change is inline with the general plan as this area is classified as the Historic Downtown district, which is meant to include *"A mixed residential and commercial town center with historical architecture and active open spaces"*. The long range plan for the site will meet the goals for this area of town as are stated in the General Plan,

"Interior block commercial/office uses blending with higher density residential. Includes on-street parking and bike accommodations, parking structures, and shared parking. Emphasis on historic beautification, place making, plazas, parks, historic walk, and activated alley."

Given Mr. Vance's timeline of 3–5 years, staff thought it best for the applicant to apply only for the zone change and come back for further approvals when construction begins to move forward.

DISCUSSION

The general plan designates this parcel along with others that front 100 West as part of the DT (Downtown) District of the city. *See attached map.* This zone change is consistent with the general plan and paves the way for development along this corridor to fit within the goals stated by the General Plan. The Downtown district is meant to include *"A mixed residential and commercial town center with historical architecture and active open spaces"*. The long range plan for the site will meet the goals for this area of town as are stated in the General Plan,

"Interior block commercial/office uses blending with higher density residential. Includes on-street parking and bike accommodations, parking structures, and shared parking. Emphasis on historic beautification, place making, plazas, parks, historic walk, and activated alley."

Given Mr. Vance's timeline of 3–5 years, staff thought it best for the applicant to apply only for the zone change and come back for further approvals when construction begins to move forward.

FISCAL IMPACT

None.

CONCLUSION

Staff recommends approval of the zone change as it is consistent with the general plan and furthers the long range planning goals of the city and specifically of the Historic Downtown Core by blending commercial and residential while also beautifying the neighborhood with classic architecture that is consistent with other historic buildings in the vicinity.

Findings

1. Planning Commission held a public hearing on October 24, 2023
2. Planning Commission forwarded a positive recommendation on October 24, 2023
3. Proposed Zone Change is consistent with the General Plan.

Conditions

1. Property will comply with all master plans and standards.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Approval - Staff Recommended Option

I move to **approve Ordinance 2024-07** as presented, with the findings and conditions as presented in the conclusion of the staff report.

ACCOUNTABILITY

Department: Planning
Staff member: Jacob Roberts, Planner

EXHIBITS

1. Ord 2024-07 Clayton Vance Zone Change
2. Current Zoning
3. Zone Change Map
4. General Plan Designation Map

ORDINANCE NO. 2024-07

AN ORDINANCE AMENDING THE C-3 ZONE TO INCLUDE PROPERTY LOCATED AT APPROXIMATELY 22 SOUTH 100 WEST.

WHEREAS, the City Council of Heber City finds that the proposed zone change is consistent with the Heber City Envision 2050 General Plan.

BE IT ORDAINED by the City Council of Heber City, Utah, the properties described in Exhibit A, are hereby rezoned to C-3 Commercial.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this _____ day of _____ 2024.

	AYE	NAY	ABSENT	ABSTAIN
Sid Ostergaard	_____	_____	_____	_____
Michael Johnston	_____	_____	_____	_____
Aaron Cheatwood	_____	_____	_____	_____
Scott Phillips	_____	_____	_____	_____
Yvonne Barney	_____	_____	_____	_____

APPROVED:

Mayor Heidi Franco

ATTEST:

RECORDER

Date: _____

EXHIBIT A

Current Zoning as
of 10/11/2023

R-3

C-3

CENTER ST

Clayton Vance
Property

HWY
113

100 S

200 S

C-2

300 S

MAIN ST

200 E

100 E

300 N

200 N

100 N

N

**Requested Zone
Change from R-3
to C-3**

R-3

C-3

CENTER ST

**Clayton Vance
Property**

HWY 113

100 S

200 S

C-2

300 S

100 E

MAIN ST

200 E



General Plan Future Land Use Designation



400-N

300-N

200-N

100-N

100-W

CENTER-ST

MAIN-ST

100-E

200-E

Wasatch
County
North School
Offices

HC HISTORIC
CORE

HC HISTORIC
CORE

DT DOWNTOWN

Clayton Vance
Property

HWY-113

100-S

200-S

300-S

400-S

TR TOURISM
RECREATIONAL

HC HISTORIC
CORE

Main Street Park

Central School Park



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Mayor Nomination of Thom Shumard to the Audit Commission
RESPONSIBLE: Heidi Franco
DEPARTMENT: City Council
STRATEGIC RELEVANCE: Necessary Administrative Item

SUMMARY

One Audit Committee seat is still open. The Mayor is nominating Thom Shumard.

RECOMMENDATION

City Council can consider approving the one Audit Committee member as listed in this staff report.

BACKGROUND

For the Audit Committee:

Per City Resolution 2022-15, The Audit Committee makes recommendations to the City Council regarding financial matters, including selecting the external auditor, internal control improvements, internal audit scope, review of the completed audit, review of hotline complaints, and other financial policies as necessary. The Committee consists of three to five voting members and two non-voting ex officio members consisting of the City Manager and Finance Manager. The citizen/financial expert members serve four-year terms. The Committee meets at the City Administrative Offices as scheduled. It is anticipated that the Committee will meet 3-5 times annually. Audit Committee members should have the necessary experience and skills to provide effectively:

Independence. The audit committee should be independent of both management and the auditor, thus enhancing the integrity of the financial reporting.

Communication. Audit committees are effective communication intermediaries between management, the auditor, and the governing authority. Auditing and financial reporting involve increasingly complex and specialized processes that are generally not fully understood by the members of a government's governing authority. The members of the audit committee help magnify the governing authority's effectiveness through independent communication of complex and specialized issues.

Accountability. Accountability is enhanced by the synergy between the elected officials with ultimate responsibility for financial reporting and internal controls and the audit committee members with the education and experience necessary to advise the governing body on complex financial reporting and internal control matters.

Member Experience and Skills. Public sector audit committee members should collectively possess the experience and skills necessary to carry out the Committee's responsibilities with respect to the financial audit and internal controls. While it is recommended that most committee members come from outside the government, familiarity with the public sector environment and governmental accounting is helpful. Individual members should possess the following knowledge, skills, and abilities:

- Knowledge of the entity, its environment, and constituency.
- Knowledge of and experience in accounting, auditing, and financial reporting.
- Practical interpersonal and communication skills and the political savvy to keep the discourse focused on the subject matter rather than on personalities and politics.
- Understanding and appreciation for management's responsibility to establish and monitor internal controls.

DISCUSSION

N/A

FISCAL IMPACT

N/A

CONCLUSION

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

Alternative 3 - Continue

I move to **continue** the item to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 - Denial

I move to **deny** the item with the following findings.

ACCOUNTABILITY

Department: City Council
Staff member: Heidi Franco, Mayor

EXHIBITS

1. Audit Committee Nominee Thom Shumard

Nominee:

1. Audit Committee Nominee: Thom Shumard *(for a four-year term, March 2024 – March 2028.)*

Thom Shumard

Heber City, UT 84032

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Letter from Mr. Shumard:

Mayor Franco:

I have a strong background in accounting, extensive experience working with both non-profit and for-profit organizations, active participation in board meetings, and proficiency in accounting software; I am committed to bringing a dedicated and knowledgeable perspective to the critical role of overseeing our city's finances. Over the years, I have applied this knowledge in various professional settings, gaining valuable insights into financial management, budgeting, and auditing processes. My hands-on experience with multiple accounting tools allow me to leverage technology to improve efficiency and accuracy in financial processes, ultimately leading to better outcomes for Heber City. If elected to the Audit Committee, I am committed to upholding the highest standards of integrity, accountability, and transparency in financial oversight. I will work diligently to ensure that taxpayer dollars are managed responsibly and that our city's financial practices are in compliance with regulatory requirements.

I am passionate about serving our community and contributing to its continued success.

Thank you.

See attached Resume.

Thom Shumard

Experience:

Senior Consultant Emburse Los, Angeles

5/2019-Present

Promoted from Implementation Project Manager to Consultant to Senior Consultant
Coordinate all aspects of project completion with strict and tight deadlines
Translate complex customer requirements into actionable language for configuration
Manage high-volume portfolio of clients with “white glove” service offering
Meet with resources including high-level officers at small to enterprise clients
Automated multiple processes including new client setup and import file creation
Mentoring team members on technical and soft skills receiving 90%+ satisfaction surveys
Develop and maintain documentation around new processes
Participate in and lead team solutioning calls

Controller Cordata Healthcare Innovations Cincinnati, OH

3/2015-6/2019

Close month, quarter, and annual books and report to internal and external management
Design and implement schedules for unearned revenues, department cross-charges, stock option earn-outs, etc.
Manage all cash functions including Accounts Receivable, Accounts Payable, banking, and credit activity
Generate Cash Flow projections to ensure liquidity for continued operations
Implement Paycor payroll and onboarding system; standardize onboarding and exit processes
Assist with due diligence in acquisition, financing, and divestiture transactions

Grant Accountant Cincinnati Children’s Hospital Medical Center Cincinnati, OH

5/2013-3/2015

Communicate effectively with internal customers to provide timely and accurate financial reports, as well as troubleshooting and customer service functions
Read and interpreted contracts from state, federal, and private sponsors
Created, reviewed, and approved cost transfers and journal entries
Created and distributed macros to staff to speed reporting by up to 60%

Accounting Specialist Red Hot Promotions Newport, KY

5/2011-4/2015

Reconciled monthly credit card statements with \$50,000-\$60,000 in transactions
Managed global recall for largest client: customer calls, monthly reports, ensuring replacement of affected parts
Prepared detailed reports for clients including media purchases, promotional products, and pricing analysis
Coordinated and negotiated with vendors for office purchases

Academic Tutor Northern Kentucky University Highland Heights, KY

8/2010-12/2011

Worked with up to three students at a time to aid with understanding of subject matter
Tutored Accounting, Finance, Economics, and Information Systems

Education:

Northern Kentucky University Highland Heights, KY

December 2011

Bachelor of Science in Accounting, Minor in Business Administration; CPA Eligible

GPA: 3.4 Major GPA: 3.7

Languages: Fluent in American Sign Language, Elementary French, and Elementary Spanish. Basic: Python, Java, SQL

Computer Skills:

Microsoft Office: Word, Excel, PowerPoint, and Access (including Google analogues)

- Excel experience includes Vlookup, Pivot Tables, and VBA Macros for automation

Experienced with JIRA, Jenkins, Salesforce, Metabase, Logzio, Boomi, limited use of AWS, GitHub, Trello, APIs

Other:

Five years management experience of 100+ EEs across multiple departments
Received Eva G. Farris Scholarship Award
Studied Advanced Cost Accounting
Head of the Party Planning Committee



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Resolution 2024-04 Budget Amendment
RESPONSIBLE: Sara Nagel
DEPARTMENT: Finance
STRATEGIC RELEVANCE: Necessary Administrative Action

SUMMARY

Staff has determined that a third amendment to the Fiscal Year 2024 budget is required to address budget reallocations and unanticipated expenditures.

RECOMMENDATION

Hold a public hearing on March 19, 2024 to consider an amendment to the FY 2024 annual budget and adopt Resolution 2024-04 amending the FY 2024 annual budget.

BACKGROUND

Periodically, the City needs to amend the budget to address items such as budget reallocation, unanticipated expenditures, a change in department needs or procurement delays. This is the third amendment request in FY 2024.

DISCUSSION

City staff determined there are unexpected expenditures that require consideration for a budget amendment.

The proposed amendment is fashioned to ensure that expenditures do not exceed budgeted resources. Provided below is a summary of the budget changes Staff is recommending. Additionally, proposed resolution 2024-04 contains specific details of the amendment impacts to each fund.

General Fund (10)

The City allocates Administration (including IT and HR) and Engineering salaries and benefits costs to the Culinary, Sewer, Stormdrain, Pressurized Irrigation and Airport Special Revenue funds at each

payperiod at the payroll level. Historically, Finance booked a monthly adjusting journal entry to bring the payroll expenses back to the General Fund and then offset the expenses by booking transfer revenue. In consultation with the City's accountants, Finance determined that the monthly adjusting entry is not needed, and it is more appropriate to eliminate the offsetting revenue. Going forward, Administration and Engineering salaries and benefits costs will be recorded in the proprietary funds without any adjusting entries.

No budget impact.

Capital Improvement Fund - Streets (46)

Project T-058b: Section A Upsize & 550 E Roundabout

The City budgeted \$665K to reimburse Valley Hills for upsizing Section A of the Eastern Bypass and to finish the road construction associated with the 550 E Roundabout. Due to costs coming in higher than budgeted and some additional costs associated with the Bassett Property Acquisition, a budget amendment is needed.

Requested budget: \$416,000

Project T-057b: Section B Mill Rd Roundabout

The City budgeted \$652K to begin construction of the Mill Road Roundabout. It was anticipated to budget the remaining \$256,000 needed to complete the project in the FY24/25. Due to the contractors proposed schedule of completing the project prior to the end of June, it is proposed to move the FY24/25 funds into FY23/24. An overall budget increase was also needed on the project due to higher than anticipated property acquisition costs.

Requested budget: \$256,000

Capital Improvement Fund - Parks (47)

Project P-034 East Bypass Trail - 500 E to Hwy 40

The City budgeted \$58,000 to Reimburse Valley Hills to upsize the sidewalk along the south side of Section A of the Eastern Bypass to a trail. In addition, a portion of the trail on the southwest corner of the 550 East roundabout is eligible to be paid for using impact fees instead of general funds.

Requested budget: \$14,000

Project P-050 East Bypass Trail - Mill Rd to 500 E

The City budgeted \$156,000 to construct the trail along the south side of Section B of the Eastern Bypass and for the trail improvements associated with the Mill Road Roundabout. Due to increased property acquisition costs associated with property needed for the trail on the south side of the roundabout, a budget amendment is needed.

Requested budget: \$79,000

Culinary Water Impact Fee Fund (56)

Project W-007 East Bypass - Hwy 40 to Mill Rd

The City budgeted \$496,000 to Reimburse Valley Hills for upsizing the culinary water line in Section A of the Eastern Bypass as well as to construct the culinary water line in Section B and through the 550 East Roundabout. Based on finalized costs for all components of the project, a budget amendment is needed.

Requested budget: \$288,000

Waste Water Impact Fee Fund (57)

Project S-046 Sewer - Valley Hills Dr to 600 N (10")

The City budgeted \$73K to upsize the sewer line in 550 E in association with the 550E Roundabout. Actual costs came in higher than expected for the sewer line upsize.

Requested budget: \$41,000

Pressurized Irrigation Impact Fee Fund (58)

Project I-018 East Bypass - 800 E to 300 E

The City budgeted \$341,000 to Reimburse Valley Hills for upsizing the pressurized irrigation line in Section A of the Eastern Bypass as well as to construct the pressurized irrigation line in Section B and through the 550 East Roundabout. Actual costs came in higher than expected for all 3 components of this project.

Requested budget: \$104,000

Finance discussed each amendment with the requesting department manager to review the impact on the related funds. Finance determined each fund currently has sufficient fund balance to absorb the additional budget request.

FISCAL IMPACT

The proposed amendment will affect the following funds:

General Fund (10)	\$0
Capital Improvement Fund - Streets (46)	\$672,000
Capital Improvement Fund - Parks (47)	\$93,000
Culinary Water Impact Fee Fund (56)	\$288,000
Waste Water Impact Fee Fund (57)	\$41,000
Pressurized Irrigation Impact Fee Fund (58)	\$104,000

The fiscal impact is specified in resolution 2024-04 Exhibit A

CONCLUSION

Staff recommends that you move to approve resolution 2024-04 as presented, with the findings and conditions presented.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

Alternative 3 - Continue

I move to **continue** the item to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 - Denial

I move to **deny** the item with the following findings.

ACCOUNTABILITY

Department: Finance
Staff member: Sara Nagel, Finance Manager

EXHIBITS

1. EXHIBIT A Budget Amendment Resolution 2024-04

**HEBER CITY, UTAH
RESOLUTION NO. 2024-04**

A RESOLUTION APPROVING THE THIRD AMENDMENT TO THE HEBER CITY BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2024 (FY 2024).

WHEREAS, the Utah Uniform Fiscal Procedures Act provides for the legislative body an opportunity, at any time during the budget period, to review the individual budgets of the funds, to determine if the total of any of them should be increased (UCA ' 10-6-127); and

WHEREAS, Heber's City's financial manager has determined that a budget amendment impacting the City's General Fund (10), Cap. Imp. Fund – Streets (46), Cap Imp. Fund – Parks (47), Culinary Water Impact Fee Fund (56), Waste Water Impact Fee Fund (57), Pressurized Irrigation Impact Fee Fund (58); and

WHEREAS, the City properly advertised, as prescribed by state law (UCA ' 10-6-113), and held a Public Hearing on Tuesday, March 19, 2024, to garner input from the general public on the proposed FY 2024 budget amendment; and

NOW, THEREFORE, BE IT RESOLVED by the Heber City Council, of Heber City, Utah, as follows:

The Heber City Budget for the fiscal year ending June 30, 2024, is hereby amended as set forth in the attached "Exhibit A," which is hereby incorporated into and made a part of this Resolution by reference.

ADOPTED AND PASSED by the City Council of Heber City, Utah this _____ day of _____, 2024, by the following vote:

	AYE	NAY
Council Member Yvonne Barney	_____	_____
Council Member Aaron Cheatwood	_____	_____
Council Member Mike Johnston	_____	_____
Council Member Sid Ostergaard	_____	_____
Council Member Scott Phillips	_____	_____

APPROVED:

Mayor Heidi Franco

ATTEST:

_____ Date: _____

RECORDER

EXHIBIT "A"

General Fund (10)

Justification: To adjust Admin, HR, IT and Engineering salaries, benefits and payroll taxes budgets to reflect actual payroll allocations and eliminate monthly true-up journal entry.

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
10-3851	Transfer From Culinary Water Fund	\$ (560,089.00)
10-3852	Transfer From Sewer Fund	(489,229.00)
10-3854	Transfer From Stormdrain Fund	(115,006.00)
10-3855	Transfer From Pressurized Irrigation	(95,481.00)
10-3821	Transfer From Airport Sp. Rev. Fund	(93,210.00)
	Total	<u><u>\$ (1,353,015.00)</u></u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
10-4311	Admin Salaries	\$ (435,884.00)
10-4313	Admin Benefits	(119,697.00)
10-4317	Admin FICA	(33,235.74)
10-4911	Engineering Salaries	(431,706.00)
10-4913	Engineering Benefits	(178,196.00)
10-4917	Engineering FICA	(33,025.51)
10-4611	HR Salaries	(46,875.00)
10-4613	HR Benefits	(20,960.00)
10-4617	HR FICA	(3,585.94)
10-4711	IT Salaries	(37,148.00)
10-4713	IT Benefits	(9,860.00)
10-4717	IT FICA	(2,841.82)
	Total	<u><u>\$ (1,353,015.00)</u></u>

Capital Improvement Fund - Parks (46)

Justification: The City budgeted \$665K to reimburse Valley Hills for upsizing Section A of the Eastern Bypass and to finish the road construction associated with the 550 E Roundabout. Due to costs coming in higher than budgeted and some additional costs associated with the Bassett Property Acquisition, a budget amendment is needed.

Project T-058b Streets - Section A Upsize & 550 E Roundabout

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
46-3870	Contributions - Surplus	\$ 416,000.00
	Total	<u><u>\$ 416,000.00</u></u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
46-4073	Improvements Other Than Building	\$ 416,000.00
	Total	<u><u>\$ 416,000.00</u></u>

Capital Improvement Fund - Parks (46)

Justification: The City budgeted \$652K to begin construction of the Mill Road Roundabout. It was anticipated to budget the remaining \$256,000 needed to complete the project in the FY24/25. Due to the contractors proposed schedule of completing the project prior to the end of June, it is proposed to move the FY24/25 funds into FY23/24. An overall budget increase was also needed on the project due to higher than anticipated property acquisition costs.

Project T-057b Streets - Section B Mill Rd Roundabout

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
46-3870	Contributions - Surplus	\$ 256,000.00
	Total	<u>\$ 256,000.00</u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
46-4073	Improvements Other Than Building	\$ 256,000.00
	Total	<u>\$ 256,000.00</u>

Capital Improvement Fund - Parks (47)

Justification: The City budgeted \$58,000 to Reimburse Valley Hills to upsize the sidewalk along the south side of Section A of the Eastern Bypass to a trail. In addition, a portion of the trail on the southwest corner of the 550 East roundabout is eligible to be paid for using impact fees instead of general funds.

Project: P-034 East Bypass Trail - 500 E to Hwy 40

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
47-3870	Contributions - Surplus	\$ 14,000.00
	Total	<u>\$ 14,000.00</u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
47-4073	Improvements Other Than Building	\$ 14,000.00
	Total	<u>\$ 14,000.00</u>

Capital Improvement Fund - Parks (47)

Justification: The City budgeted \$156,000 to construct the trail along the south side of Section B of the Eastern Bypass and for the trail improvements associated with the Mill Road Roundabout. Due to increased property acquisition costs associated with property needed for the trail on the south side of the roundabout, a budget amendment is needed.

Project: P-050 East Bypass Trail - Mill Rd to 550 E

Source:

Account Number	Account Name	Amount
47-3870	Contributions - Surplus	\$ 79,000.00
	Total	<u>\$ 79,000.00</u>

Use:

Account Number	Account Name	Amount
47-4073	Improvements Other Than Building	\$ 79,000.00
	Total	<u>\$ 79,000.00</u>

Culinary Water Impact Fee Fund (56)

Justification: The City budgeted \$496,000 to Reimburse Valley Hills for upsizing the culinary water line in Section A of the Eastern Bypass as well as to construct the culinary water line in Section B and through the 550 East Roundabout. Based on finalized costs for all components of the project, a budget amendment is needed.

Project W-007 East Bypass - Hwy 40 to Mill Rd

Source:

Account Number	Account Name	Amount
56-3870	Contributions - Surplus	\$ 288,000.00
	Total	<u>\$ 288,000.00</u>

Use:

Account Number	Account Name	Amount
56-4073	Improvements Other Than Building	\$ 288,000.00
	Total	<u>\$ 288,000.00</u>

Waste Water Impact Fee Fund (57)

Justification: The City budgeted \$73K to upsize the sewer line in 550 E in association with the 550E Roundabout.

Actual costs came in higher than expected for the sewer line upsize.

Project: S-046 Sewer - Valley Hills Dr to 600 N (10")

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
57-3870	Contributions - Surplus	\$ 41,000.00
	Total	<u>\$ 41,000.00</u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
57-4073	Improvements Other Than Building	\$ 41,000.00
	Total	<u>\$ 41,000.00</u>

Pressurized Irrigation Impact Fee Fund (58)

Justification: The City budgeted \$341,000 to Reimburse Valley Hills for upsizing the pressurized irrigation line in Section A of the Eastern Bypass as well as to construct the pressurized irrigation line in Section B and through the 550 East Roundabout. Actual costs came in higher than expected for all 3 components of this project.

Project: I-018 East Bypass - 800 E to 300 E

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
58-3870	Contributions - Surplus	\$ 104,000.00
	Total	<u>\$ 104,000.00</u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
58-4073	Improvements Other Than Building	\$ 104,000.00
	Total	<u>\$ 104,000.00</u>



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Ordinance 2024-02 Updating the C-3 Commercial Zone, C-3 Design Criteria and Parking Regulations within the C-3 Zone
RESPONSIBLE: Tony Kohler
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Community Development

SUMMARY

With the Envision Central Heber Vision adopted on September 5th, it provides guidance for several implementation efforts. The Vision suggests amending key zoning policies for implementation including the C-3 Zone Purpose and Objectives, C-3 Zone Uses and C-3 Zone Design Criteria. Other Vision suggested implementation zoning strategies will be addressed in 2024 as a follow up such as C-2 and C-4 zone updates, residential transition zone (a new zone) and infill strategies.

Recent discussions have also suggested eliminating the parking requirement for retail and restaurant uses and to establish a lower parking requirement for residential uses in the Downtown/C-3 zone.

In the City Council meeting on December 5, 2023, setbacks in relationship to Public Utility Easements (PUEs), for the C-3 zone (and other zones too, but those are not C-3 zone issues) were discussed by the Power Company and Public Works. Staff was asked to do some research in other communities that have dealt with this issue for some time. That research is included in this staff report and has resulted in slight changes to the proposed ordinance, and future changes to emphasize utility plans being conceptualized up front in the Permitted and Conditional Use Application Requirements chapter and the Subdivision ordinance.

This staff report is essentially the same, except for the discussion of utilities. Slight modifications to the last draft are included to modify the utility and parking issues, based on discussion at the City retreat.

RECOMMENDATION

Staff recommends approval of Ordinance 2024-02, adopting the update to the C-3 Zone and Parking Code with the suggested changes.

BACKGROUND

The Envision Heber 2050 general plan was adopted a few years ago. It covers the downtown area but not in the detail needed for developing priorities/steps for the City to consider in implementation. Updates to the C-3 and parking chapters are being presented concurrently with the General Plan updates. In addition, People+Place will be trying to wrap up the general on-going ordinance updates by the end of the year.

Anticipated future ordinance work during 2024, includes:

1. Review the Flag Lots requirements and Frontage/Areas to increase housing flexibility for Central Neighborhoods
2. Review and update the Midway Lane Overlay District Update
3. Create a Downtown Transition Zone Overlay District
4. C-2 and C-4 Zone Uses/Design Standards Districts Update
5. Potential map changes to conform the zoning with the Vision
6. Potential Rezone of I-1 Zoned areas around 600 West

In a previous update the three zones C-2, C-3, C-4 were combined into one chapter. Uses were updated including no additional car/RV sales in the C-3 zone. This new draft continues that update and adds a series of design standards covering materials, a build-to line, height restrictions near City-owned property, and an emphasis on historic design.

The historic design section is based on Lane Lythgoe's sketch, currently housed in your "Design Guidelines". The concept promoted here allows the developer some design discretion/choices, except for the storefront requirements along Main Street, while assuring that the end result reflects historic design. From the many features shown in the sketch, the developer needs to pick at least 4. This is a staff suggested reduction after the input received in the Planning Commission's public hearing. This allows some flexibility and choice for the developer after incorporating storefront designs along Main Street.

The changes are limited to the C-3 zone. Partially this is due to the new noticing requirements (hopefully changing in the 2024 Legislative session) that require a mailed notice to all of the property owners in the C-3 zone. If we included the C-2 and C-4 zones in the proposed changes, the mailout would be huge/costly and the main priority of addressing what needs to be done in the C-3 zone could be highly watered down, by other issues presented in the other two zones. With an intent to complete the C-3 updates by the end of the year, this seemed counterproductive. We will get back to those updates during 2024.

Summary changes in the C-3 zone

1. Slight expansion of the chapter purpose
2. Added arts type uses, no drive-ins allowed (no policy change there), added Hotels back as CUP, restricted commercial parking so that private paid parking lots don't front on Main,

dropped hospitals out of the C-3, residential use on first floor not allowed on Main, corner plazas.

3. Front yard setbacks are suggested to be reduced to zero, in keeping with the historic pattern already established.
4. Many design features required covering storefront windows, awnings, main entrance doors, building length
5. Building materials are limited
6. Historic design features based on the sketch
7. Adaptive reuse covered with some incentives. Removal of false facades required.
8. Residential use open space requirements or a payment in lieu
9. Height – 3 stories unless a stepback is included then can go to 4 and limits height around publicly owned land (City Park and City Hall areas)

Parking chapter change

Reduced the parking requirement for existing uses, even if a change of use occurs that could potentially increase parking demand. Expansions of existing uses and new uses must meet the standards for off street parking.

Public Open House input (October 11th)

An open house was held to allow for public input concerning the updates to the C-3 zone. Every property owner was sent a notice for the open house and for the public hearing on the 24th. Attendance was mostly from potential candidates for the upcoming election, planning commission members, the Mayor, and several property owners. General comments were supportive but focused on the following:

- The need for a parking garage to allow for more on-site development – an options analysis is in process from Zions Public Finance
- Should 100 East and West become one-way streets?
- Continue to allow the drive-up restaurants but the drive-up window not facing Main Street is reasonable
- Concerns about the chain store prohibitions, although the flexibility in the definition is greater than some other communities. Even with a more restrictive ordinance in Park City, one meeting participant said he sees many national/international chains on the PC Main Street.
- Will the requirement for at least 6 historic features (now changed to 4) from the Lane Lythgoe sketch (6 of 14 shown on the sketch) be enough to provide the historic flavor for new buildings within the C-3 zone? We may get some input from the State Historic Preservation Office, prior to the meeting.

DISCUSSION

The Planning Commission held a public hearing on October 24, 2023, and continued the discussion of the C-3 zone updates. The priority issues for discussion included: parking, materials, historic features, and chain store prohibitions. The following is intended to discuss those issues that the PC

discussed in greater depth to provide an understanding of their concerns, and the basis for their recommendation.

Parking

As previously discussed, the Parking ordinance is suggested to be amended to eliminate parking requirements for commercial uses and lower the requirements for residential use to one on-site parking space per unit. This suggestion is based on input from Roger Brooks so that more of the space on a lot can be devoted to buildings instead of parking lots. It is intended to be an incentive for development to occur in the Downtown.

An alternative was offered that places some burden on the development community to assist the City with the parking issue. Each development would be required to stripe an equal amount of parking, equal to what they normally would have been required, but limited to the block they face. The striping would occur on the adjacent street and would need to include street improvements where none exist (only the one side of the block). The Central Heber Vision did suggest that on-street parking could temporarily address the parking needs for development Downtown.

Longer term needs for an off-street surface parking lot or a parking structure are not actually a zoning responsibility. Recent contact with Zions Public Finance provided these financing options, for your information:

1. Best source, and most commonly used source for parking garages is tax increment (CRA generated).
2. City could issue sales tax bonds and make payments with parking garage fees
3. City could create a Special Assessment Area (SAA) but this is not likely as many property owners would likely object. The legal threshold to enact is having at least 60% of the property owners agreeing. If 40 percent object, it can't be created. Most City Councils would be hesitant to create a SAA if there were considerable objections (10%-20% perhaps)
4. Local Districts – Jonathan and I don't think you can legally create one for the purpose of building a parking garage. The State Code section (17B-1-202) describes the services allowed under a District. Our guess is that parking garages are not included because they aren't considered a "legitimate public service".
5. P3 partnership – a public entity can contract with a private entity to construct and maintain a particular service but the revenues would have to be sufficient to make it attractive to a private entity. I've seen this done with fiber, toll roads, hospitals, but haven't seen it done with a parking garage.
6. Business Improvement Districts – these are purely voluntary groups and have no legal powers to issue bonds or to require member payments from year to year.

Parking changes for the C-3 zone are only suggested for expansions of existing uses and new uses.

Materials

The following text is from the draft and includes some amendments since the hearing based on comments at the hearing:

New development in the C-3 zone shall incorporate common, locally found materials such as granite, stone, sandstone, or brick as part of the first floor façade of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, except if located on an the side upper floor of a building or on the side or rear or upper floors façade. Where used they shall be sculpted to resemble brick, and/or sandstone blocks.

The above changes would assure the integrity of storefront design on the first floor and allow more flexibility on upper floors. The updated draft includes the above language.

Historic Features

Historic features are insured in two ways. The first is a basic requirement for first floor storefront design along Main Street. This includes windows at 50% of that first floor face, transom windows above, and a bulkhead below. The second means of assuring historic design, is to choose 4 features from the Lane Lythgoe sketch, not including the three required items above. This provides the developer the ability to choose the features that they want to incorporate into the building, instead of dictating everything. The 4 feature requirement is a reduction from the previous draft where 6 were suggested.

Chain Stores

Again, this is Roger Brooks' suggestion. The definition that was reviewed is a more flexible version of Park City's chain store definition. Several have noted that Park City may not have been following this definition in recent years. Checking on Midway, it appears that their architectural design requirements have prevented most chains from locating there. A "chain store" definition is not found in their definitions chapter.

One could imply from the above that if we have the historic design, that in and of itself could prevent or limit chain stores from locating there. There are also arguments to be made that some chain stores can benefit the community and the prohibition could prevent some desired stores from locating in Heber. It may be logical to postpone the chain store decision for a future discussion. The Planning Commission recommended letting the historic design requirements control the chain store interest in locating in Downtown.

Just making "chain stores" a conditional use is ***not an option***. Conditional uses are administrative uses and if they meet the standards of your ordinances, and mitigate any actual detrimental effects, they should be approved.

Restaurants with Drive-up windows

As this draft has progressed, the idea of allowing restaurants with drive-up windows has been debated back and forth. The current adopted version of the C-3 zone does not allow them and that policy is maintained in the attached draft. Drive-ups would be allowed in the other "C" zones.

Utilities/Public Utility Easements

Although there are issues with where to place the required utilities in other zones in the City, the C-3 zone, which is the historic downtown zone, has the most complexity. The recently adopted Vision suggests the buildings be located as they have been historically, up close to the right-of-way (ROW). This causes some difficulties in placing utilities in convenient locations within the ROW, where major excavations may be needed in the case of repairs, maintenance, or service upgrades. This is a common issue for most downtowns that usually have a similar form, with buildings located adjacent to the ROW.

The City Council asked the staff to do some research on how other communities handle their utilities. We communicated with the planning and engineering staff at Daybreak, Brigham City, and with the Planning Director in Logan. Summaries of those conversations are provided below:

Daybreak – a “new” community with essentially one property owner in their Soda Row downtown.

- Soda Row: utilities can be placed in rear alleys. Alleys and parking lots are excellent locations for utilities
- Soda Row: has 5-10’ setbacks which create some utility flexibility but was designed for overhangs and door swings to occur on private property
- Gas company lines are under sidewalk. Gas is recommended be 10’ from any structure, but some communities are ok with 1’.
- Power: spacing 5’ from any structure
- Gas and power must be spaced from each other
- Downtown context requires more thought for box placement – due to the ownership situation, many above ground boxes are back in parking lots
- Residential: varies a lot
- No underground vaults – with their flexible locations they are not needed
- Road cuts: pavement index condition: mill and overlay
- City doesn’t want or allow the big boxes (and developer) doesn’t want boxes along street – pushed to interior locations
- Development in Daybreak has a lot of flexibility; communication is key to solutions

Brigham City – UDOT owned Main Street but side streets in their historic downtown include buildings up next to the ROW

- Case by case utility placement decisions in their historic downtown. No standardized system – need creative solutions.
- Utilities permitted in right of way but prefer to not be under asphalt.
- Main Street-flexibility with utilities. Look for other locations, especially alleys of which they have quite a few. Their alleys have easements but are generally private.
- Back alleys can have overhead power. Some areas with utilities are not really alleys – just parking lots in the back of buildings. This includes some of the government properties.

- Residential zones are moving toward a 15' PUE.

Logan – Discussed the Main Street historic area, including Center Street, a destination street with many activities. The emphasis in Logan is on form - getting the downtown design the best it can be with buildings adjacent to the ROW and wide sidewalks, street furniture, landscaping, lighting.

- No above ground utilities allowed
- All utilities are in the ROW and that is their preferred location
- Vaults are used extensively
- Center street has very wide sidewalks(about 20') and only one lane in each direction with diagonal parking on both sides of the street that shifts to parallel parking at intersections
- They prioritize the form (downtown design) they want to achieve over the convenience of utility placement

Conclusions

1. Gas can go underneath the sidewalk. Don't allow dry utilities in the street pavement.
2. Put power in the back as often as possible or to the side of buildings, not out front. Alleys become more important.
3. Use back alleys for overhead power or underground power whenever possible
4. Power can be overhead in some cases
5. Need flexibility in the core downtown area and seek flexible solutions including the use of alleys, parking lots, side yard easements, underground, etc.
6. Don't allow utility boxes between street and buildings. Place in locations out of the ROW or underground. Keep the above ground "boxes" out of the clear view areas for intersections and driveways
7. Involve power company and other utilities at the concept plan stage to assess needs for upgrades and determine what infrastructure will be needed.
8. Review front setbacks in other zones in the City to assure more convenient, consistent utility locations. The C-3 historic downtown area is more complicated for utilities than other areas of the community.
9. Update the Permitted and Conditional Use Application chapter, Subdivision ordinance, and Standard Specifications (engineering) to address PUEs more clearly.

To some extent this conversation suggests that emphasizing the establishment of the alleys as suggested in the Vision, should be a priority in the C-3 area.

FISCAL IMPACT

Potential to incentivize growth in the Downtown. Funds for processing and drafting are already available from the Downtown and ordinance update processes. Zoning ordinance updates are only one part of the Vision – there are many capital projects needed to meet the Vision.

CONCLUSION

These basic ordinance updates would help implement the Central Heber Vision in the C-3 zone.

ALTERNATIVES

The Planning Commission’s public hearing draft is included as Exhibit 2 to provide additional context concerning their deliberations. Parking alternatives that the PC reviewed are shown as exhibit 3. A clean version of the C-3 zone, incorporating the PC’s recommendation and recent updates is included in Exhibit 1 and includes the final parking recommendation.

1. Approve as proposed
2. Approve as amended in the meeting
3. Continue
4. Deny

POTENTIAL MOTIONS

Alternative 1 – Staff Recommendation

I move to **approve Ordinance 2024-02 adopting the proposed C-3 Zone Updates**, with the findings and conditions as presented in this staff report.

Alternative 2 – Approve as Amended from discussions in the meeting

I move to **approve Ordinance 2024-02 adopting the proposed C-3 Zone Updates**, with the findings and conditions as presented in this staff report, with the following changes:

Alternative 3 – Continue

I move to **continue** the item to another meeting on , with direction to Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 – Deny

I move to **deny Ordinance 2024-02 adopting the C-3 Zone Updates** with the following findings.

ACCOUNTABILITY

Department: Planning
Staff member: Tony Kohler, Community Development Director

EXHIBITS

1. Ord 2024-02 C-3 Updates
2. Exhibit 2 PC Version
3. Exhibit 3 Parking Options

ORDINANCE NO. 2024-02

**AN ORDINANCE ADOPTING UPDATES TO THE C-3 COMMERCIAL ZONE, C-3
DESIGN CRITERIA AND PARKING REGULATIONS WITHIN THE C-3 ZONE.**

BE IT ORDAINED by the City Council of Heber City, Utah, that Heber City Municipal Code Chapter 18.28 C-3 Commercial Zone is amended and Section 18.72.100 is adopted as set forth in Exhibit A, attached hereto and incorporated herein.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

If any provisions of the Heber City Code heretofore adopted are inconsistent herewith they are hereby repealed.

To the extent that any ordinances, resolutions, or policies of Heber City materially conflict with the provisions of this Ordinance, they are hereby amended to comply with the provisions hereof.

This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY
COUNCIL this _____ day of _____ 2024.

	AYE	NAY	ABSENT	ABSTAIN
Yvonne Barney	_____	_____	_____	_____
Aaron Cheatwood	_____	_____	_____	_____
Michael Johnston	_____	_____	_____	_____
Sid Ostergaard	_____	_____	_____	_____
D. Scott Phillips	_____	_____	_____	_____

APPROVED:

Mayor Heidi Franco

ATTEST:

RECORDER

Date:

Exhibit A

18.72.100 Parking Requirements in the C-3 Zone

There shall be no parking requirement for existing building floor area in the C-3 Zone, even if a change of use occurs that increases parking demand within the existing floor area. Expansions to existing floor area and new buildings shall meet the standards for off street parking (chapter 18.72).

18.28 Commercial Zones

18.28.010	Purpose and Objectives
18.28.020	Application Requirements
18.28.030	Permitted and Conditional Uses
18.28.040	Development Standards
18.28.050	Additional Regulations
18.28.060	Gross Floor Area of Buildings Limitations for Retail Business
18.28.070	Gasoline Pump Island Locations and Lighting
18.28.080	Related Provisions

18.28.010 Purpose and Objectives

- A. The C-2 commercial zone has been established to facilitate the development of attractive entrances to the City. To reduce the conflict between commercial and residential uses along principal highways and streets adjacent to the central commercial districts and to facilitate the orderly expansion of commercial uses out from the central commercial districts. Incorporating some of the historical architectural styles evident on Main Street is suggested for development in the C-2 zone.
- B. The C-3 central commercial zone has been established as a district in which the primary use of the land is for business, a mixture of uses, and community activities. The area covered by this zone is the historical core area encompassing Main Street and adjacent blocks, which acts as the dominant shopping, community gathering place, and financial center for the City and surrounding territory. For this reason, the zone has been located in the central part of the City, where the street pattern makes the variety of uses readily accessible to all parts of the City and surrounding region and where business, shopping, and engaging activities can be carried on with maximum convenience. The C-3 zone is characterized by wide, clean, well-lighted streets and ample pedestrian ways for the convenience and safety of the public. It is the historic core of the City with an historic architectural style and variety that is distinct from the rest of the City.
- C. The C-4 general commercial zone has been established as a district in which the primary use of the land is for business, recreation, and hospitality purposes.

18.28.020 Application Requirements

All permitted, and conditional uses are required to submit a site plan as part of an application available online and at the City offices.

18.28.030 Permitted and Conditional Uses

The following chart describes the uses that are appropriate in each commercial zone:

- A. Symbol definitions: **P** = PERMITTED USE (P) A site plan application is required with staff processing. Site plan applications are approved when and if they meet the ordinance standards. **C** = PLANNING COMMISSION CONDITIONAL USE REVIEW (C). A site plan application with Planning Commission review is required. Blank means prohibited.
- B. If a use is not specifically designated below, then it is prohibited.
- C. All uses listed in the use table that require a building permit shall also require a site plan application.

Commercial Zones Permitted Use Table

LAND USES	C-2	C-3	C-4	Limitations
Arts and arts-related uses, including the crafting of products for sale		P		
Caretaker dwelling	P	P	P	
Kennels, if located more than 400' from a residential zone	C			
Home Occupations	P	P	P	
In-Home Daycare/Pre-School	P	P	P	
Mixed uses within a building	C	C	C	The Main Street-facing ground floor is required to be non-residential
Bed and Breakfast Inns	P	P	P	As regulated by Section 18.108.034
Religious institutions, schools (public and private), and other public buildings	P	P	P	
Commercial Day Care Center and/or Pre-School	C	C	C	
Group Homes	P	P	P	
Fraternity/non-profit buildings, clubs, lodges	P	P	P	
Funeral establishments, mortuaries, and wedding chapels;	P	P	P	
New and Used car lots	C			No car lots permitted north of 600 South
Gymnasium/physical fitness /Spa establishments (may include massage)	P	P	P	
Pawn shops, tattoo, massage, smoke and vape shops, cash stores				Prohibited in all commercial zones
Recreation vehicle courts	C		C	As regulated by Section 18.96
Utility buildings, transmission lines, and structures, Electric substations	C	C	C	
Small Cell Installations	C	C	C	
Telecommunication towers	C		C	See Telecommunication Ordinance 18.110. Towers shall incorporate a stealth design
Public Utilities, Shops and Storage Yards, and Public Buildings	P	P	P	
Public Water Reservoir/ Public Storage Tank	P	P	P	
Gas/convenience store with or w/o car wash	C		C	
Car Wash	C			

LAND USES	C-2	C-3	C-4	Limitations
Retail Shops/Services	P	P	P	
Big Box Retail (60,000 square feet and larger)	C			
Financial Institutions	P	P	P	Excludes check cashing and loan stores
Sit Down Restaurants	P	P	P	
Restaurants with drive-thru facilities	P		P	No drive-thru windows facing the street
Professional offices, Business Medical/Dental/Optical Office/Clinics and Laboratories	P	P	P	
Private Instructional Studio - Artist, Photography, Dance, Music, Drama, Health, Exercise	P	P	P	May include retail sales
Commercial Complex	C		C	
Hotels	C	C	C	See section 18.28.040 for additional standards
Commercial parking lots and/or parking structures as a singular use	C	C	C	Not allowed within 100' of Main Street in the C-3 zone
Craftsman Industrial style Light Manufacturing	C	C	C	Within an enclosed building and including a retail component
Manufacturing and processing	C			Within an enclosed building
Indoor and outdoor welding and sheet metal shops	C		C	Only allowed south of 1200 South in the C-2 zone. Only artistic welding in the C-4 zone (no sheet metal shops).
Warehouses, trucking, and associated storage buildings	C			Truck parking and outside storage are not allowed within 60 feet of any public street
Hospitals	C		C	
Enclosed Temperature Controlled Storage Units	C			Shall include commercial uses unrelated to the storage function on the street-facing facade
Wholesale establishments with stock on-premises and a retail/office component/store but not a storage warehouse	C			
Attached Residential Developments (3 units and up)		P		Shall not occupy ground floor facing Main Street except for residential entrances and amenities.

18.28.040 Development Standards

- A. In the C-2 and C-4 Commercial Zones, there shall be no area, width, and location requirements except that all buildings and structures in the C-2 and C-4 zones

shall conform to the requirements of the adopted Heber City C-2 and C-4 Design Standards and Guidelines. In the C-3 zone, a 0 (zero) foot front setback is required.

- B. **Dry Utilities (power, communication, gas).** In the C-3 Zone where an intentional street wall is required, dry utility placement shall occur in the public Right of Way or through negotiated locations such as an alley or a public utility easements (PUE) on private property. A determination of the best locations for utilities shall occur during the application process with an application requirement for a conceptual utility plan as part of that process. No above ground utilities, especially utility boxes shall be placed in the clear view of an intersection or driveway. Any above ground utilities shall be located in an easement (PUE) behind the front face of the building, and preferably to the rear of the building.

- C. **Entrances and Windows C-3 Zone.** Entrances to the first floor of buildings shall front a public street, plaza or courtyard. Main entrances shall be covered or recessed using angular side walls to create a larger opening into the first-floor use. On double or triple-frontage lots, main doors are required where the greatest amount of pedestrian traffic is anticipated. When facing Main Street or within 100' of Main Street on a perpendicular street, all windows shall constitute at least 50% of first-floor street-facing facades, and 25 percent of all upper-story street facing facades. First-floor windows shall include transom and bulkhead features to assure historical complementary design. Windows shall be at least 50 percent transparent. Street facing windows that are not on the same façade as the main building entrance, may cover the first-floor windows with non-advertising window films using a mountain (including flora and fauna), mill, orchard, pioneers, agricultural, or mountain-related sports theme. Living screens may replace up to 50% of the window requirement for the lowest anticipated pedestrian traffic frontage. Mirrored windows are not allowed.

For residential units, balconies shall be required for at least 50% of the units. In no case shall any balconies have a separation from an opposing balcony of less than 10 feet.

Windows above the first floor in the C-3 zone shall conform to the standards described in the sketch in Section F, including sills, windowpanes, and a sash.

- D. **Building Materials.** One or more of the following exterior materials of a durable or resilient nature, such as brick, stone, composite materials, metal accents, or other materials of similar quality, hardness, and low maintenance characteristics, are required in the C-3 zones.

New development in the C-3 zone shall incorporate common, locally found materials such as granite, stone, sandstone, or brick as part of the first floor façade of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, except if located on an upper floor of a building or on the side or rear façade. Where used they shall be sculpted to resemble brick, and/or sandstone blocks. Other materials may be considered by the Planning Director for soffits or as accents or unique architectural features. Twenty-five-year guarantee architectural shingles or other long-lasting materials are required for sloped roofs.

- E. **Building Length and Facades.** For the C-3 zone, no new street-facing building elevation may exceed 50 feet in length without at least a 3-foot variation in the depth of the façade along the public right of way and a 2-foot variation on other facades. Residential unit balconies shall not be interpreted to meet this requirement. No single building shall exceed 200 feet in length. Where buildings are proposed of that length, a separation between that building and the next building of a minimum of ten feet is required, creating a passageway to interior spaces. Such passageways shall be downward-lighted, provide a safe pedestrian space and include vegetation in boxes every 30 feet of length. At minimum, building facades shall provide pedestrian plazas every 200 feet of

building length to break up long building façades along public rights-of-way. Streetside outdoor dining areas may substitute for such plazas. Top floors shall have architectural differentiation from the other floors of the building, and rooflines shall vary at least every 100 feet, at a minimum. For first-floor uses in mixed use buildings, the appearance of small shops/storefronts with variation in the first-floor façade at least every 30 feet is required. If buildings fronting on Main Street include a permanent awning, it shall extend at least 7 feet from the storefront/façade to provide shade and refuge from inclement weather. Awnings shall be cantilevered from the front façade of the building. Such awnings shall be provided in colors that reflect colors incorporated as part of the exterior of the building.

F. **Building Design Features.** From the sketch below (Figure 1: Anatomy of a Main Street Building), to obtain a permitted use or conditional use permit, choose and incorporate within the building design:

1. C-3 Zone. At least 4 of the historic features, over and above any required features.
2. Storefront, Bulkhead, and Transom Windows are required as per section B above.

ANATOMY OF A MAIN STREET BUILDING:

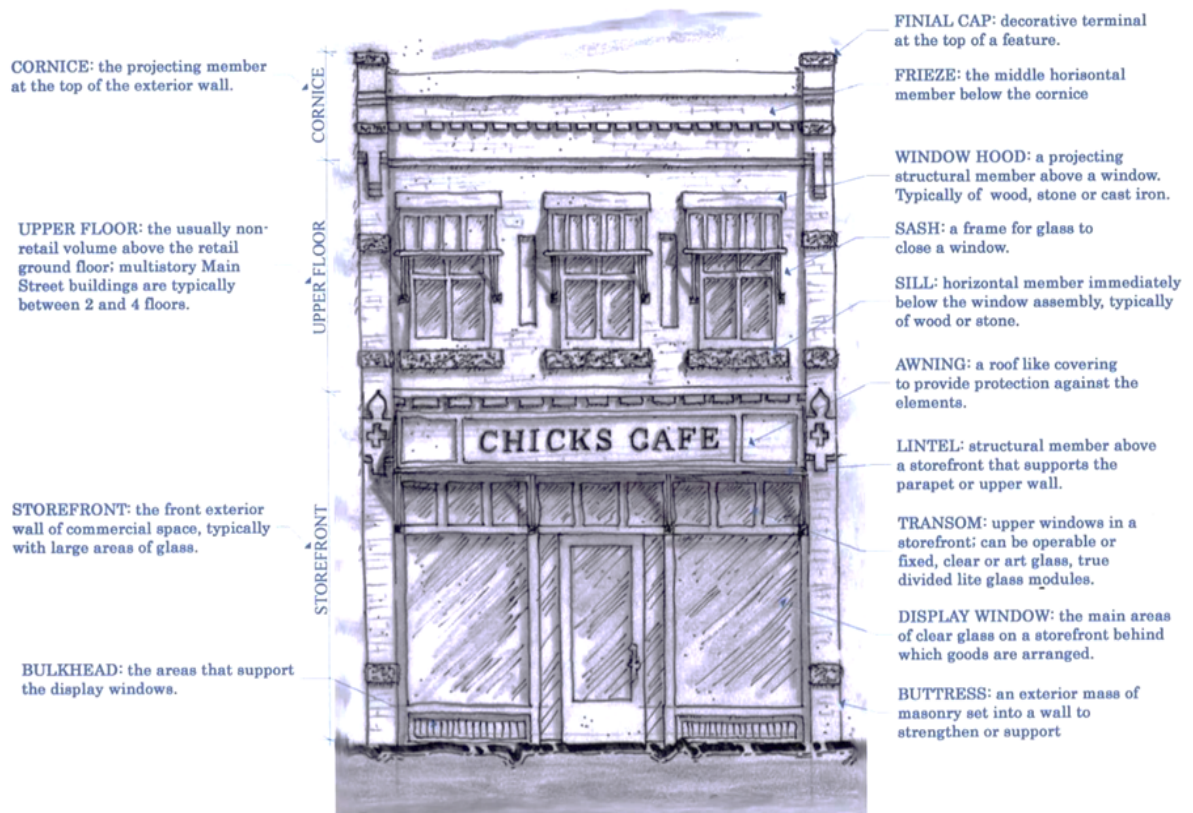


Figure 1 Sketch courtesy of Lane Lythgoe

G. **C-3 Zone Adaptive Reuse.** There are several existing buildings within the C-3 zone that could be reworked into a new use. The following general requirements are required:

1. If the character of the existing building is deemed historic or historically significant, either by Federal programs or by the Historic Master Plan or by individual application to the City, due to its age (50 plus years minimum) or displays a unique architectural style or unique features, as determined by the Planning Director, then reconstruction shall attempt to retain as much of that character as possible. False facades shall be

- removed to reveal the original finish materials, which shall be rehabilitated, as per industry best practices for historic buildings.
2. The ground floor facing a public ROW shall encompass retail or restaurant uses to a minimum depth of 20’
 3. The maximum height in the zone may be exceeded by up to 12’ to accommodate architectural features or an additional story. No transitional height requirement is imposed.
 4. A change of use to any use allowed in the zone, permitted or conditional, is allowed. Although a change of use may occur, no additional parking is required.
 5. Exterior additions shall be reflective of the historical character/style of the original building.
 6. All adaptive reuse proposals shall be processed as permitted uses.
- H. **C-3 Zone Site Furnishings.** Each development shall incorporate site furnishings into the site including benches facing Main Street. One additional site furnishing shall be included from this list: a patio/seating area, pedestrian plaza with benches, play areas, kiosk area, water feature, clock tower, sculpture, bike racks, and public art.
- I. **Private Outdoor Lighting and Outdoor Dining.** In the C-3 Zone, lighting for streets and parking lots on the interior of the development is required. All lighting shall be dark sky compliant as required by Chapter 18.78 of Heber City Municipal Code. The applicant shall submit a plan which indicates the type and location of lights in relation to the development and designed for pedestrian/vehicular safety. Pedestrian lighting may include bollards and all lighting shall follow established themes. Outdoor seating and dining may be partially or fully covered to extend the outdoor dining experience through the spring and fall months. Outdoor patio heaters and misters are permitted. Restaurant tables and chairs may be movable or permanent and should be reflected on the site plan. If alcohol is served, the restaurant will need to provide signage and decorative fencing per the health department code. Fencing materials shall be limited to metal picket fencing. Any accommodation for dogs shall be subject to the Wasatch County Health Department regulations.
- Access Between Uses.** In the C-3 zone, vehicular and pedestrian access is required between uses and does not force vehicles/pedestrians out to the adjacent streets.
- J. **Open Space and Plazas.** For residential development in the C-3 zone, that includes residential mixed uses, the open space requirement is 20% of the gross area of the site.
1. This open space requirement shall be fulfilled through rooftops, terraces for general resident use, plazas and pocket parks. The required common open space shall be privately maintained for general use by the residents of the building and/or the public and be usable land areas that are not occupied by buildings, dwellings, structures, parking areas, streets, public park strips, curb-gutter-sidewalk, driveways, or alleys and shall be accessible by all residents of the development. For the purposes of this Chapter, gross site area is defined as the total area of the development excluding anything in the public right of way. For development or redevelopment involving sites that are one acre in size or greater, at least 40 percent of required open space must be in the form of a plaza that is located at the front, corner or side of the building along a street, and open and accessible to the public at all times. The following requirements must be met:
 - a. At least 50% of the plaza’s perimeter that does not front on vehicular right-of-way shall be lined by building frontages.
 - b. Fully enclosed permanent structures are not permitted.
 - c. Playgrounds are not permitted.
 - d. Minimum pervious surface = 30%
 - e. Must include seating, shade structures, and one tree (2-inch caliper minimum) per 800 sf of plaza area

- f. Special features such as fountains and for sale public art installations are encouraged. Active features, that give visitors something to do, shall be incorporated into the plaza.
2. **On-site open space/park substitution.** In-lieu Substitutions in the C-3 zone. The open space/park requirement may be modified through potential substitutions for any development within the C-3 zone. Such in-lieu substitutions are intended to enhance existing parks with features or improve park land. The three parks on Main Street and the regional facilities near 600 West are the signature open spaces in the Central Heber area and are a benefit to all development in the area.
In-lieu substitutions are encouraged for the benefit of the Main Street parks and 600 West parks by application to the City Council or City Manager, under the following circumstances:
 3. Cash in-lieu. The City may determine that in certain situations, accepting cash as an in-lieu substitution, where it can be shown that acceptance of those funds, is more effective by creating park improvements as opposed to smaller on-site private parks. Cash in-lieu payments shall not be accepted without a qualified appraisal process, managed by the City. The City shall be obligated, in a timely manner, to use the in-lieu funds within the C-3 zone for land purchases, open space, pedestrian system enhancements, the daylighting of streams, and/or traditional park related improvements.
 4. Any land which has been already dedicated, set aside, platted, or otherwise approved as park or open space, may not be substituted or used for any purpose other than those allowed by this chapter.
 5. In-lieu substitutions shall be reviewed by the City Council and/or City Manager, through an application, however, final approval of the in-lieu substitution rests with the City Council. Such approvals shall occur as part of an MDA, or prior to issuance of Final Site Plan approval or a building permit.
- K. Where buildings are located on a corner in the C-3 zone that addresses Main Street, a corner plaza creating a 10' by 10' triangle outside but adjacent to the ROW is required. Such plazas shall include street furniture that allows for seating, as a minimum.
- L. In the C-3 zone, height shall be a maximum of three stories without a stepback, and shall not exceed 46 feet or the three stories but may be raised another 12'/one additional story, if the building includes a stepback with a minimum of 10' depth, above the first story.
- M. In the C-3 zone, buildings over two stories shall include stepbacks between the second and third stories when adjacent to publicly owned properties.
- N. In the areas on the west side of 100 West and the east side of 100 East, no building shall be taller than three stories.
- O. In the C-2 and C-4 zones, height may be increased to 4 stories, not to exceed 55 feet if all of the following standards are met:
 1. The application includes at least 10% percent affordable housing, available to persons at 60% of the current County Average Median Income (AMI) or below that threshold.
 2. If it is a mixed-use building.
 3. If the building design includes a step back of a least ten feet between the second and third stories.
- P. In the C-2 zone, buildings may be increased to 5 stories with a stepback included and affordable housing is included.
- Q. Any use on a parcel larger than 1 acre in a C-3 or C-4 zone or any use with a building footprint larger than 30,000 square feet, shall become a conditional use.
- R. Any use on a parcel larger than 5 acres and any use with a building footprint larger than 60,000 square feet in the C-2 zone shall become a conditional use.

18.28.050 Additional Regulations

The following provisions apply within the Commercial Zones

- A. For buildings within the C-2 and C-4 zone, a strip of land at least fifteen feet in width adjacent to all public streets shall be landscaped as set forth in Chapter 18.76 of this title except for permitted driveways, except as required by the Heber City C-2 and C-4 Zone Design Standards and Guidelines.
- B. No dust, odors, smoke, vibration or intermittent light, glare or noise shall be emitted which is discernible beyond the premises except for normal traffic movement.
- C. Storage of all merchandise, material and products shall be carried on within a building or within an area enclosed with a sight-obscuring fence or wall except for licensed vehicles in running order.
- D. All off-street parking shall be hard-surfaced as regulated by Chapter 18.72, except within the C-3 zone where some parking requirements have been reduced.
- E. All buildings located adjacent to major streets shall have at least one entrance way facing onto said street.
- F. Sale material may be displayed on business premises during normal working hours.
- G. See 18.76.050 for building setbacks adjacent to residential use.

18.28.060 Gross Floor Area of Buildings Limitations for Retail Business

- A. **C-2 Zone.** No floor area limitation.
- B. **C-3 Zone.** Retail establishments shall not exceed 60,000 square feet of gross first floor area, considered the building footprint, within the C-3 Zone. As per section 18.28.040 (4), all buildings in the C-3 zone that exceed a 30,000 square foot footprint, be a conditional use
- C. **C-4 Zone.** No floor area limitation.

18.28.070 Gasoline Pump Island Location and Lighting

Gasoline pump islands shall be set back from any right-of-way line to accommodate the landscape setback and proper circulation/stacking for the pumps. Each pump shall provide stacking for a minimum of two standard sized vehicles defined as 20' for each. A circulation aisle beyond the stacking area is required that allows for a circular traffic movement. Pump islands shall be so located that automobiles stopped for service will not extend over the property line. In no case shall pumps be set closer than twelve feet from any street lines, nor closer than ten feet from any side or rear property line. Lots from which gasoline is dispensed to customers at retail shall be not less than seventy-five by one hundred feet in size. Canopies over pump islands may extend to the closest edge of any required landscaping. Any above ground fuel tanks such as propane tanks shall be located with a minimum setback from the ROW as per the IBC or 30' whichever is greater. See the Lighting Chapter 18.78, for lighting standards.

18.28.080 Related Provisions

- Chapter 18.12 Administration
- Chapter 18.08 Definitions

- Chapter 18.68 Supplementary Regulations
- Chapter 18.108 Conditional Use Permits
- Chapter 18.72 Off Street Parking and Loading
- Chapter 18.103 Sign Regulations
- Chapter 18.78 Lighting
- Chapter 18.174 Enforcement
- Chapter 17 Subdivisions
- Heber City C-2 and C-4 Zone Design Standards and Guidelines
- Heber City C-3 Zone Design Standards and Guidelines

Exhibit 2

(PC's public hearing version)

18.28 Commercial Zones

18.28.010	Purpose and Objectives
18.28.020	Application Requirements
18.28.030	Permitted and Conditional Uses
18.28.040	Development Standards
18.28.050	Additional Regulations
18.28.060	Gross Floor Area of Buildings Limitations for Retail Business
18.28.070	Gasoline Pump Island Locations and Lighting
18.28.080	Related Provisions

18.28.010 Purpose and Objectives

- A. The C-2 commercial zone has been established to facilitate the development of attractive entrances to the City. To reduce the conflict between commercial and residential uses along principal highways and streets adjacent to the central commercial districts and to facilitate the orderly expansion of commercial uses out from the central commercial districts. Incorporating some of the historical architectural styles evident on Main Street is suggested for development in the C-2 zone.
- B. The C-3 central commercial zone has been established as a district in which the primary use of the land is for business, a mixture of uses, and community activities purposes. The area covered by this zone is the historical core area encompassing Main Street and adjacent blocks, which acts as the dominant shopping, community gathering place, and financial center for the City and surrounding territory. For this reason, the zone has been located in the central part of the City, where the street pattern makes the ~~business buildings~~ variety of uses readily accessible to all parts of the City and surrounding region and where business ~~and~~ shopping, and engaging activities can be carried on with maximum convenience. The C-3 zone is characterized by wide, clean, well-lighted streets and ample pedestrian ways for the convenience and safety of the public. It is the historic core of the City with an historic architectural style and variety, that is distinct from the rest of the City.
- C. The C-4 general commercial zone has been established as a district in which the primary use of the land is for business, recreation, and hospitality purposes.

18.28.020 Application Requirements

All permitted, and conditional uses are required to submit a site plan as part of an application available online and at the City offices.

18.28.030 Permitted and Conditional Uses

The following chart describes the uses that are appropriate in each commercial zone:

- A. Symbol definitions: **P** = PERMITTED USE (P) A site plan application is required with staff processing. Site plan applications are approved when and if they meet the ordinance standards. **C** = PLANNING COMMISSION CONDITIONAL USE REVIEW (C). A site plan application with Planning Commission review is required. Blank means prohibited.
- B. If a use is not specifically designated below, then it is prohibited.
- C. All uses listed in the use table that require a building permit shall also require a site plan application.

Commercial Zones Permitted Use Table

LAND USES	C-2	C-3	C-4	Limitations
<u>Arts and arts-related uses, including the crafting of products for sale</u>		<u>P</u>		
Caretaker dwelling	P	<u>P</u>	P	
Kennels, if located more than 400' from a residential zone	C			
Home Occupations	P	P	P	
In-Home Daycare/Pre-School	P	P	P	
Mixed uses within a building	C	C*	C	<i>The Main Street-facing ground floor is required to be non-residential</i>
Bed and Breakfast Inns	P	P	P	As regulated by Section 18.108.034
Religious institutions, schools (public and private), and other public buildings	P	P	P	
Commercial Day Care Center and/or Pre-School	C	C	C	
Group Homes	P	P	P	
Fraternity/non-profit buildings, clubs, lodges	P	P	P	
Funeral establishments, mortuaries, and wedding chapels;	P	P	P	
New and Used car lots	C			No car lots permitted north of 600 South
Gymnasium/physical fitness /Spa establishments (may include massage)	P	P	P	
Pawn shops, tattoo, massage, smoke and vape shops, cash stores				Prohibited in all commercial zones
Recreation vehicle courts	C		C	As regulated by Section 18.96
Utility buildings, transmission lines, and structures, Electric substations	C	C	C	
Small Cell Installations	C	C	C	
Telecommunication towers	C		C	See Telecommunication Ordinance 18.110. Towers

LAND USES	C-2	C-3	C-4	Limitations
				shall incorporate a stealth design
Public Utilities, Shops and Storage Yards, and Public Buildings	P	P	P	
Public Water Reservoir/ Public Storage Tank	P	P	P	
Gas/convenience store with or w/o car wash	C		C	
Car Wash	C			
Retail Shops/Services	P	P*	P	
Big Box Retail (60,000 square feet and larger)	C			
Financial Institutions	P	P	P	Excludes check cashing and loan stores
Sit Down Restaurants	P	P*	P	
Restaurants with drive-thru facilities	P		P	No drive-thru windows facing the street
Professional offices, Business Medical/Dental/Optical Office/Clinics and Laboratories	P	P	P	
Private Instructional Studio - Artist, Photography, Dance, Music, Drama, Health, Exercise	P	P	P	May include retail sales
Commercial Complex	C		C	
Hotels	C	<u>C</u>	C	See section 18.28.040 for additional standards
Commercial parking lots and/or parking structures as a singular use	C	C	C	<u>Not allowed within 100' of Main Street in the C-3 zone</u>
Craftsman Industrial style Light Manufacturing	C	C	C	<i>Within an enclosed building and including a retail component</i>
Manufacturing and processing	C			<i>Within an enclosed building</i>
Indoor and outdoor welding and sheet metal shops	C		C	Only allowed south of 1200 South in the C-2 zone. Only artistic welding in the C-4 zone (no sheet metal shops).
Warehouses, trucking, and associated storage buildings	C			<i>Truck parking and outside storage are not allowed within 60 feet of any public street</i>
Hospitals	C	<u>C</u>	C	
Enclosed Temperature Controlled Storage Units	C			Shall include commercial uses unrelated to the storage function on the street-facing facade

LAND USES	C-2	C-3	C-4	Limitations
Wholesale establishments with stock on-premises and a retail/office component/store but not a storage warehouse	C			
<u>Attached Residential Developments (3 units and up)</u>		<u>P</u>		<u>Shall not occupy ground floor facing Main Street except for residential entrances and amenities.</u>

*** Conventional Chain Business.** Conventional Chain Business is a business, including but not limited to retailers or restaurants, which maintains one or more of the following standardized items which cause it to be substantially identical to more than 20 other businesses regardless of ownership or location at the time of the application: (1) standardized menu or merchandise with 50% or more of in-stock merchandise from a single distributor bearing uniform markings; or (2) a standardized array of products or merchandise; or (3) uniform apparel; or (4) standardized architectural design, the layout of facade, decor or color scheme and signs; trademarks, and service marks or logos, or similar standardized features. Such stores are not allowed in the C-3 zone.

18.28.040 Development Standards

A. In the C-2 and C-4 Commercial Zones, there shall be no area, width, and location requirements except that all buildings and structures in the C-2 and C-4 zones shall conform to the requirements of the adopted Heber City C-2 and C-4, ~~and C-3~~ Design Standards and Guidelines. In the C-3 zone a build-to front setback line is required ranging from 3' to 15'. This means a building can be placed anywhere within that 3' to 15' area. This is established to encourage outdoor dining space. See sections L-O for height restrictions.

B. Entrances and Windows

C-3 zone - entrances to the first floor of buildings shall front a public street, plaza or courtyard. Main entrances shall be covered or recessed using angular side walls to create a larger opening into the first-floor use. On double or triple-frontage lots, main doors are required where the greatest amount of pedestrian traffic is anticipated. When facing Main Street or within 100' of Main Street on a perpendicular street, all windows shall constitute at least 50% of first-floor street-facing facades, and 25 percent of all upper-story street facing facades. First-floor windows shall include transom and bulkhead features to assure historical complementary design. Windows shall be at least 50 percent transparent. Street facing windows that are not on the same façade as the main building entrance, may cover the first-floor windows with non-advertising window films using a mountain (including flora and fauna), mill, orchard, pioneers, agricultural, or mountain-related sports theme. Living screens may replace up to 50% of the window requirement for the lowest anticipated pedestrian traffic frontage. Mirrored windows are not allowed.

For residential units, balconies shall be required for at least 50% of the units. In no case shall any balconies have a separation from an opposing balcony of less than 10 feet.

Windows above the first floor in the C-3 zone shall conform to the standards described in the sketch in section D, including sills, windowpanes, and a sash.

C. Building Materials

One or more of the following exterior materials of a durable or resilient nature, such as brick, stone, composite materials, metal accents, or other materials of similar quality, hardness, and low maintenance characteristics, are required in the C-3 zones.

New development in the C-3 zone shall incorporate common, locally found materials such as granite, stone, sandstone, or brick as part of the first floor façade of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, except if located on **an the side upper floor** of a building **or on the side** or rear **or upper floors** **façade**. **Where used** they shall be sculpted to resemble brick, and/or sandstone blocks. Other materials may be considered by the Planning Director for soffits or as accents or unique architectural features. Twenty-five-year guarantee architectural shingles or other long-lasting materials are required for sloped roofs.

D. Building Length and Facades

For the C-3 zone, no new street-facing building elevation may exceed 50 feet in length without at least a 3-foot variation in the depth of the façade along the public right of way and a 2-foot variation on other facades. Residential unit balconies shall not be interpreted to meet this requirement. No single building shall exceed 200 feet in length. Where buildings are proposed of that length, a separation between that building and the next building of a minimum of ten feet is required, creating a passageway to interior spaces. Such passageways shall be downward-lighted, provide a safe pedestrian space and include vegetation in boxes every 30 feet of length. At minimum, building facades shall provide pedestrian plazas every 200 feet of building length to break up long building façades along public rights-of-way. Streetside outdoor dining areas may substitute for such plazas. Top floors shall have architectural differentiation from the other floors of the building, and rooflines shall vary at least every 100 feet, at a minimum. For first-floor uses in mixed use buildings, the appearance of small shops/storefronts with variation in the first-floor façade at least every 30 feet is required. If buildings fronting on Main Street include a permanent awning, it shall extend at least 7 feet from the storefront/façade to provide shade and refuge from inclement weather. Awnings shall be cantilevered from the front façade of the building. Such awnings shall be provided in colors that reflect colors incorporated as part of the exterior of the building.

E. Building Design Features. From the sketch below (Figure 1:Anatomy of a Main Street Building), to obtain a permitted use or conditional use permit, choose and incorporate within the building design:

C-3 zone – at least 4 of the historic features, over and above any required features.

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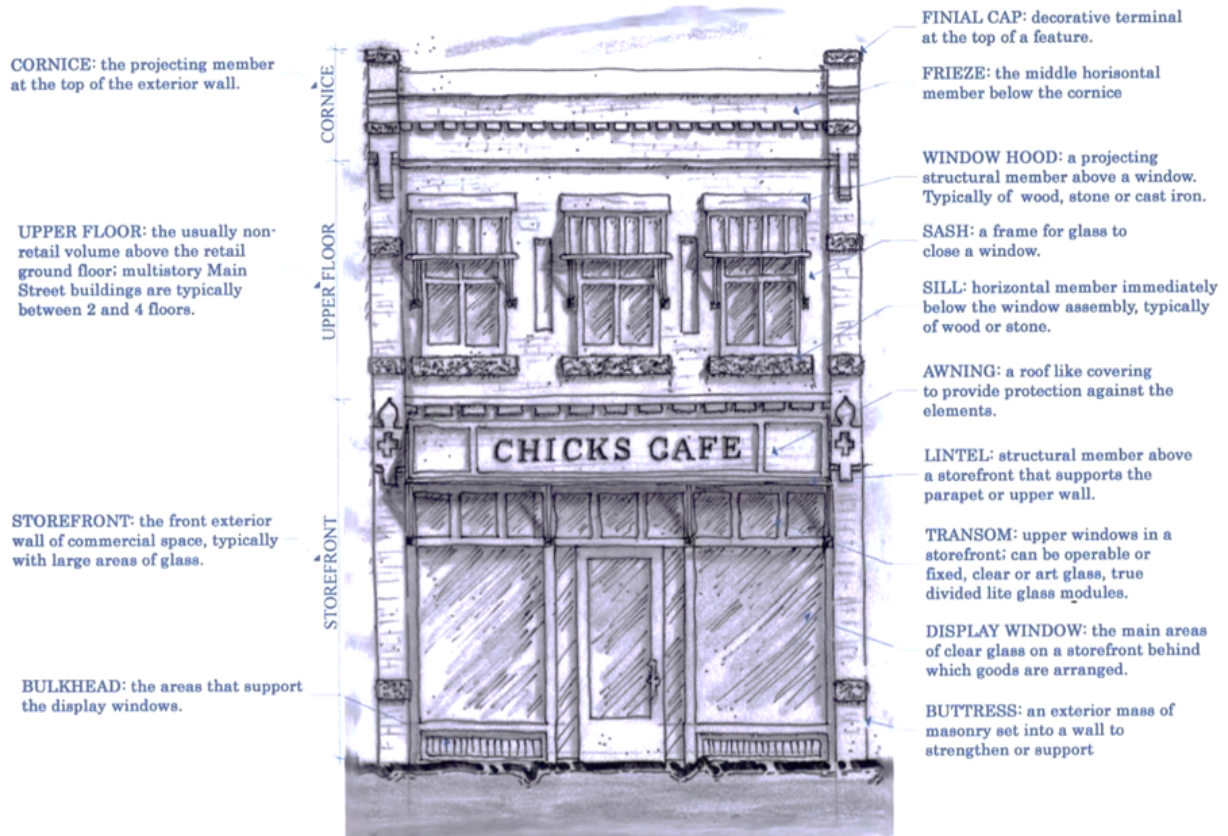


Figure 1 Sketch courtesy of Lane Lythgoe

Storefront, Bulkhead, and Transom Windows are required as per section B above.

F. C-3 Zone Adaptive Reuse – There are several existing buildings within the C-3 zone that could be reworked into a new use. The following general requirements are required:

- a. If the character of the existing building is deemed historic or historically significant, either by Federal programs or by the Historic Master Plan or by individual application to the City, due to its age (50 plus years minimum) or displays a unique architectural style or unique features, as determined by the Planning Director, then reconstruction shall attempt to retain as much of that character as possible. False facades shall be removed to reveal the original finish materials, which shall be rehabilitated, as per industry best practices for historic buildings.

- b. The ground floor facing a public ROW shall encompass retail or restaurant uses to a minimum depth of 20’
- c. The maximum height in the zone may be exceeded by up to 12’ to accommodate architectural features or an additional story. No transitional height requirement is imposed.
- d. A change of use to any use allowed in the zone, permitted or conditional, is allowed. Although a change of use may occur, no additional parking is required.
- e. Exterior additions shall be reflective of the historical character/style of the original building.
- f. All adaptive reuse proposals shall be processed as permitted uses.

G. C-3 Zone Site Furnishings: Site Furnishings: Each development shall incorporate site furnishings into the site including benches facing Main Street. One additional site furnishing shall be included from this list: a patio/seating area, pedestrian plaza with benches, play areas, kiosk area, water feature, clock tower, sculpture, bike racks, and public art.

H. Private Outdoor Lighting and Outdoor Dining

In the C-3 zone, lighting for streets and parking lots on the interior of the development is required. All lighting shall be dark sky compliant as required by Chapter 18.78 of Heber City Municipal Code. The applicant shall submit a plan which indicates the type and location of lights in relation to the development and designed for pedestrian/vehicular safety. Pedestrian lighting may include bollards and all lighting shall follow established themes described in subsection W of this section.

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I. Access Between Uses

In the C-3 zone, vehicular and pedestrian access is required between uses and does not force vehicles/pedestrians out to the adjacent streets.

J. Open Space and Plazas

- a. For residential development in the C-3 zone, that includes residential mixed uses, the open space requirement is 20% of the gross area of the site. This open space requirement shall be fulfilled through rooftops, terraces for general resident use, plazas and pocket parks. The required common open space shall be privately maintained for general use by the residents of the building and/or the public and be usable land areas that are not

occupied by buildings, dwellings, structures, parking areas, streets, public park strips, curb-gutter-sidewalk, driveways, or alleys and shall be accessible by all residents of the development. For the purposes of this chapter, gross site area is defined as the total area of the development excluding anything in the public right of way. For development or redevelopment involving sites that are one acre in size or greater, at least 40 percent of required open space must be in the form of a plaza that is located at the front, corner or side of the building along a street, and open and accessible to the public at all times. The following requirements must be met:

1. At least 50% of the plaza's perimeter that does not front on vehicular right-of-way shall be lined by building frontages.
2. Fully enclosed permanent structures are not permitted.
3. Playgrounds are not permitted.
4. Minimum pervious surface = 30%
5. Must include seating, shade structures, and one tree (2-inch caliper minimum) per 800 sf of plaza area
6. Special features such as fountains and for sale public art installations are encouraged. Active features, that give visitors something to do, shall be incorporated into the plaza.
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The open space/park requirement may be modified through potential substitutions for any development within the C-3 zone. Such in-lieu substitutions are intended to enhance existing parks with features or improve park land. The three parks on Main Street and the regional facilities near 600 West are the signature open spaces in the Central Heber area and are a benefit to all development in the area.

In-lieu substitutions are encouraged for the benefit of the Main Street parks and 600 West parks by application to the City Council or City Manager, under the following circumstances:

1. Cash in-lieu: the City may determine that in certain situations, accepting cash as an in-lieu substitution, where it can be shown that acceptance of those funds, is more effective by creating park improvements as opposed to smaller on-site private parks. Cash in-lieu payments shall not be accepted without a qualified appraisal process, managed by the City. The City shall be obligated, in a timely manner, to use the in-lieu funds within the C-3 zone for land purchases, open space, pedestrian system enhancements, the daylighting of streams, and/or traditional park related improvements.
2. Any land which has been already dedicated, set aside, platted, or otherwise approved as park or open space, may not be substituted or used for any purpose other than those allowed by this chapter.

3. In-lieu substitutions shall be reviewed by the City Council and/or City Manager, through an application, however, final approval of the in-lieu substitution rests with the City Council. Such approvals shall occur as part of an MDA, or prior to issuance of Final Site Plan approval or a building permit.

K. Where buildings are located on a corner in the C-3 zone that addresses Main Street, a corner plaza creating a 10' by 10' triangle outside but adjacent to the ROW is required. Such plazas shall include street furniture that allows for seating, as a minimum.

L. In the C-3 zone, height shall be a maximum of three stories ~~without a stepback, and shall~~ not to exceed 46 feet ~~for the C-3 zone~~ or the three stories but may be raised another 12'/one additional story, if the building includes a stepback with a minimum of 10' depth, above the first story.

M. In the C-3 zone, buildings over two stories shall include stepbacks between the second and third stories when adjacent to publicly owned properties.

N. In the areas on the west side of 100 West and the east side of 100 East, no building shall be taller than three stories.

O. In the C-2 and C-4 zones, height may be increased to 4 stories, not to exceed 55 feet if all of the following standards are met:

- a. The application includes at least 10% percent affordable housing, available to persons at 60% of the current County Average Median Income (AMI) or below that threshold.
- b. If it is a mixed-use building.
- c. If the building design includes a step back of a least ten feet between the second and third stories.

P. In the C-2 zone, buildings may be increased to 5 stories with a stepback included and affordable housing is included.

Q. Any use on a parcel larger than 1 acre in a C-3 or C-4 zone or any use with a building footprint larger than 30,000 square feet, shall become a conditional use.

R. Any use on a parcel larger than 5 acres and any use with a building footprint larger than 60,000 square feet in the C-2 zone shall become a conditional use.

18.28.050 Additional Regulations

The following provisions apply within the Commercial Zones

- A.** For buildings within the C-2 and C-4 zone, a strip of land at least fifteen feet in width adjacent to all public streets shall be landscaped as set forth in Chapter 18.76 of this title

except for permitted driveways, except as required by the Heber City C-2 and C-4 Zone Design Standards and Guidelines.

- B. No dust, odors, smoke, vibration or intermittent light, glare or noise shall be emitted which is discernible beyond the premises except for normal traffic movement.
- C. Storage of all merchandise, material and products shall be carried on within a building or within an area enclosed with a sight-obscuring fence or wall except for licensed vehicles in running order.
- D. All off-street parking shall be hard-surfaced as regulated by Chapter 18.72, except within the C-3 zone where some parking requirements have been reduced.
- E. All buildings located adjacent to major streets shall have at least one entrance way facing onto said street.
- F. Sale material may be displayed on business premises during normal working hours.
- G. See 18.76.050 for building setbacks adjacent to residential use

18.28.060 Gross Floor Area of Buildings Limitations for Retail Business

- A. **C-2 Zone.** No floor area limitation.
- B. **C-3 Zone.** Retail establishments shall not exceed 60,000 square feet of gross first floor area, considered the building footprint, within the C-3 Zone. As per section 18.28.040 (4), all buildings in the C-3 zone that exceed a 30,000 square foot footprint, be a conditional use
- C. **C-4 Zone.** No floor area limitation.

18.28.070 Gasoline Pump Island Location and Lighting

Gasoline pump islands shall be set back from any right-of-way line to accommodate the landscape setback and proper circulation/stacking for the pumps. Each pump shall provide stacking for a minimum of two standard sized vehicles defined as 20' for each. A circulation aisle beyond the stacking area is required that allows for a circular traffic movement. Pump islands shall be so located that automobiles stopped for service will not extend over the property line. In no case shall pumps be set closer than twelve feet from any street lines, nor closer than ten feet from any side or rear property line. Lots from which gasoline is dispensed to customers at retail shall be not less than seventy-five by one hundred feet in size. Canopies over pump islands may extend to the closest edge of any required landscaping. Any above ground fuel tanks such as propane tanks shall be located with a minimum setback from the ROW as per the IBC or 30' whichever is greater. See the Lighting Chapter 18.78, for lighting standards.

18.28.080 Related Provisions

- Chapter 18.12 Administration
- Chapter 18.08 Definitions
- Chapter 18.68 Supplementary Regulations

- Chapter 18.108 Conditional Use Permits
- Chapter 18.72 Off Street Parking and Loading
- Chapter 18.103 Sign Regulations
- Chapter 18.78 Lighting
- Chapter 18.174 Enforcement
- Chapter 17 Subdivisions
- Heber City C-2 and C-4 Zone Design Standards and Guidelines
- Heber City C-3 Zone Design Standards and Guidelines

Exhibit 3

(PC's parking alternatives)

18.72.100 ~~Reserved~~ Parking Requirements in the C-3 Zone

Given the availability of on-street parking and existing parking lots, new commercial uses and existing commercial use expansions are not required to provide any on-site parking. Residential uses, whether configured in mixed-use buildings or single purpose buildings shall provide at least 1 off-street parking space per unit. Complete street improvements are required, that may include pavement, curbs, gutters and sidewalks, as per the Standards and Specifications for such streets.

There shall be no parking requirement for existing building floor area in the C-3 Zone, even if a change of use occurs that increases parking demand within the existing floor area. Expansions to existing floor area and new buildings shall meet the standards for off street parking (chapter 18.72).



Heber City Council Staff Report

MEETING DATE: 3/19/2024

SUBJECT: Consider Approval of Contract Award for Construction of the 900 North Mill Road Roundabout

RESPONSIBLE: Russ Funk

DEPARTMENT: Engineering

STRATEGIC RELEVANCE: Necessary Administrative Action

SUMMARY

The purpose of this item is to seek Council approval to award a construction contract to RC Enterprise Paving and Construction for the 900 N Mill Road Roundabout.

RECOMMENDATION

That the City Council authorize staff to execute a contract with the apparent low bidder RC Enterprise Paving & Construction, for an amount of \$607,237.

BACKGROUND

In order to fully complete Heritage Farms Parkway (Eastern Bypass), the intersection of Mill Road and Heritage Farms Parkway (900 North) needs to be reconstructed. Per direction from Council and in accordance with the Streets Master Plan, the City has designed a roundabout for this intersection. The project was originally bid in the summer of 2023, but only one bid in the amount of \$841,523 was received at the time. To allow for more time to work on property acquisition, and hoping for a more favorable bidding environment, it was decided to re-bid the project in early 2024.

The project was re-advertised for bid on February 7th, February 14th, and February 21st with a public bid opening held on February 27th. The following bids were received:

Bidder	Bid Amount
RC Enterprise Paving and Construction	\$607,237.00
Geneva Rock	\$705,268.90

MC Contractors	\$798,505.60
Staker Parson	\$822,111.25

Attached is the bid tabulation showing the bid details.

DISCUSSION

The contract was bid to allow flexibility on a start date for the contractor, but has an expected construction timeline of 90 calendar days once it is started. Regardless of the start date, the project is required to be completed by September 15, 2024.

FISCAL IMPACT

Total Engineering design and inspection services for the project are estimated to be \$155,448. The construction cost if awarded to RC Enterprise Paving and Construction is \$607,237. Electrical relocation work to be completed by Heber Light & Power has an estimated cost of \$50,000. Property Acquisition Expenses relating to the project are estimated at \$240,000.

The total budget for the project, including a 10% construction contingency, is estimated to be \$1,118,000. Of these costs, \$37,797 will be reimbursed to the City by others and approximately \$66,000 was paid out in FY22/23, leaving roughly \$1,014,000 to be paid from the FY23/24 Budget.

The FY23/24 Budget includes 2 projects to fund components of this project. They are project P-050 (900 N Trail - Mill Rd to 550E) with an approved budget of \$156,000 (Parks Impact Fee) and project T-057b (Mill Rd Roundabout) with an approved budget of \$652,000 (Streets Impact Fee). A budget amendment will be needed for both funds in order to complete this project. If awarded, a budget amendment will be brought to the Council separately.

CONCLUSION

Based on receiving favorable bids and the need to complete this last component of Heritage Farms Parkway, Staff recommends that the Council approve the recommendation to award the contract to RC Enterprise Paving & Construction.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the **item** as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the **item** as amended, as follows.

Alternative 3 - Continue

I move to **continue** the **item** to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 - Denial

I move to **deny** the **item** with the following findings.

ACCOUNTABILITY

Department: Engineering
Staff member: Russ Funk, City Engineer

EXHIBITS

1. Bid Tabulation

Engineer's Estimate
Horrocks Engineers

Base Bid Contractors	Base Bid	Alt 1	Total
RC Enterprise Paving & Construct	\$583,829.00	\$23,908.00	\$607,737.00
Geneva Rock	\$681,782.90	\$23,486.00	\$705,268.90
MC Contractors	\$761,468.60	\$37,037.00	\$798,505.60
Staker Parson	\$785,941.25	\$36,170.00	\$822,111.25

Project Manager: Willa Motley, P.E.

Project Engineer: Ryan Dummer, P.E.

Construction Cost Index:

13176

Bid Opening: Heber City

Date: February 27, 2024

Time: 1:00pm

For: 900 N Mill Road Roundabout

Heber City

900 N Mill Road

Heber City, 84032

Average

Engineer's Estimate

Percent Difference

\$703,255.44

\$564,115.42

-20%

\$30,150.25

\$33,150.00

10%

\$733,405.69

\$597,265.42

-19%

Base Bid				Bidder 1		Bidder 2		Bidder 3		Bidder 4			
				RC Enterprise Paving & Construction		Geneva Rock		MC Contractors		Staker Parson			
Engineer's Estimate				Construction		Geneva Rock		MC Contractors		Staker Parson			
ITEM NO.	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
1	Mobilization	1	LS	\$26,800.00	\$26,800.00	\$54,000.00	\$54,000.00	\$49,000.00	\$49,000.00	\$68,750.00	\$68,750.00	\$80,000.00	\$80,000.00
2	Traffic Control & Public Relations	1	LS	\$15,600.00	\$15,600.00	\$15,900.00	\$15,900.00	\$11,000.00	\$11,000.00	\$33,000.00	\$33,000.00	\$66,000.00	\$66,000.00
3	Storm Water Pollution Prevention Plan	1	LS	\$4,900.00	\$4,900.00	\$10,400.00	\$10,400.00	\$11,000.00	\$11,000.00	\$17,500.00	\$17,500.00	\$1,670.00	\$1,670.00
4	Remove & Dispose of Existing Concrete Box	1	EA	\$540.00	\$540.00	\$1,010.00	\$1,010.00	\$780.00	\$780.00	\$1,400.00	\$1,400.00	\$654.00	\$654.00
5	Remove & Dispose of Existing Concrete Sidewalk	1,444	SF	\$11.00	\$15,884.00	\$3.00	\$4,332.00	\$2.50	\$3,610.00	\$3.15	\$4,548.60	\$1.25	\$1,805.00
6	Remove Concrete Curb & Gutter	764	LF	\$13.30	\$10,161.20	\$8.00	\$6,112.00	\$7.75	\$5,921.00	\$5.50	\$4,202.00	\$7.30	\$5,577.20
7	Remove & Discard of Existing Sign	1	EA	\$176.00	\$176.00	\$110.00	\$110.00	\$270.00	\$270.00	\$350.00	\$350.00	\$217.00	\$217.00
8	Remove & Discard Gate	1	EA	\$200.00	\$200.00	\$280.00	\$280.00	\$750.00	\$750.00	\$300.00	\$300.00	\$108.00	\$108.00
9	Remove & Discard Barbed Wire Fence	170	LF	\$47.27	\$8,035.90	\$4.00	\$680.00	\$4.00	\$680.00	\$5.50	\$935.00	\$3.25	\$552.50
10	Remove & Discard Barbed Fence	250	LF	\$47.27	\$11,817.50	\$4.00	\$1,000.00	\$4.00	\$1,000.00	\$5.50	\$1,375.00	\$3.25	\$812.50
11	Remove & Discard Curb Inlet Box	2	EA	\$2,500.00	\$5,000.00	\$600.00	\$1,200.00	\$780.00	\$1,560.00	\$1,825.00	\$3,650.00	\$654.00	\$1,308.00
12	Remove & Discard Storm Drain Pipe	45	LF	\$21.00	\$945.00	\$20.00	\$900.00	\$16.00	\$720.00	\$58.00	\$2,610.00	\$44.30	\$1,993.50
13	Remove PI Meter Box	1	EA	\$2,500.00	\$2,500.00	\$200.00	\$200.00	\$280.00	\$280.00	\$435.00	\$435.00	\$412.00	\$412.00
14	Remove Lamppost & Base	1	EA	\$500.00	\$500.00	\$550.00	\$550.00	\$3,800.00	\$3,800.00	\$2,275.00	\$2,275.00	\$2,710.00	\$2,710.00
15	Remove Fire hydrant	1	EA	\$1,365.00	\$1,365.00	\$1,200.00	\$1,200.00	\$1,900.00	\$1,900.00	\$2,375.00	\$2,375.00	\$965.00	\$965.00
16	Relocate Existing Mailbox	2	EA	\$500.00	\$1,000.00	\$430.00	\$860.00	\$130.00	\$260.00	\$1,100.00	\$2,200.00	\$271.00	\$542.00
17	Relocate Landscaping Rocks	5	EA	\$250.00	\$1,250.00	\$130.00	\$650.00	\$110.00	\$550.00	\$155.00	\$775.00	\$163.00	\$815.00
18	Landscape Demolition NE (928 N Mill Rd)	1	LS	\$10,000.00	\$10,000.00	\$2,000.00	\$2,000.00	\$2,700.00	\$2,700.00	\$1,900.00	\$1,900.00	\$1,500.00	\$1,500.00
19	Landscape Demolition SE (874 N Mill Rd)	1	LS	\$10,000.00	\$10,000.00	\$2,050.00	\$2,050.00	\$6,300.00	\$6,300.00	\$3,850.00	\$3,850.00	\$2,995.00	\$2,995.00
20	Landscape Demolition NW (925 N Mill Rd)	1	LS	\$10,000.00	\$10,000.00	\$3,400.00	\$3,400.00	\$8,700.00	\$8,700.00	\$1,900.00	\$1,900.00	\$749.00	\$749.00
21	Pulverize, Regrade, & Compact	17,866	SF	\$0.42	\$7,503.72	\$1.50	\$26,799.00	\$0.40	\$7,146.40	\$1.50	\$26,799.00	\$1.40	\$25,012.40
22	Roadway Excavation and Grading (Cut and Remove)	876	CY	\$15.00	\$13,140.00	\$46.00	\$40,296.00	\$55.00	\$48,180.00	\$54.00	\$47,304.00	\$56.90	\$49,844.40
23	Soft Spot Repair	150	CY	\$73.00	\$10,950.00	\$86.00	\$12,900.00	\$130.00	\$19,500.00	\$120.00	\$18,000.00	\$129.00	\$19,350.00
24	Pothole Existing Utility	5	EA	\$600.00	\$3,000.00	\$170.00	\$850.00	\$660.00	\$3,300.00	\$995.00	\$4,975.00	\$407.00	\$2,035.00
25	Install Fire hydrant	1	EA	\$9,450.00	\$9,450.00	\$9,850.00	\$9,850.00	\$10,000.00	\$10,000.00	\$9,835.00	\$9,835.00	\$13,650.00	\$13,650.00
26	Install 6" C900 PVC Waterline	24	LF	\$120.00	\$2,880.00	\$120.00	\$2,880.00	\$100.00	\$2,400.00	\$120.00	\$2,880.00	\$95.40	\$2,289.60
27	Combo Box Concrete Lid Reconstruction	1	EA	\$5,000.00	\$5,000.00	\$650.00	\$650.00	\$1,000.00	\$1,000.00	\$3,000.00	\$3,000.00	\$7,750.00	\$7,750.00
28	Install 24"x36" Catch Basin	2	EA	\$4,586.99	\$9,173.98	\$3,950.00	\$7,900.00	\$6,200.00	\$12,400.00	\$5,950.00	\$11,900.00	\$6,830.00	\$13,660.00
29	Install 18" ADS Storm Drain Line	70	LF	\$160.00	\$11,200.00	\$103.00	\$7,210.00	\$140.00	\$9,800.00	\$143.00	\$10,010.00	\$206.00	\$14,420.00
30	Relocate Irrigation Box Meter	2	EA	\$600.00	\$1,200.00	\$780.00	\$1,560.00	\$2,100.00	\$4,200.00	\$1,000.00	\$2,000.00	\$2,860.00	\$5,720.00
31	Install 2" Pressurized Irrigation Meter Box	1	EA	\$2,753.33	\$2,753.33	\$5,150.00	\$5,150.00	\$3,900.00	\$3,900.00	\$7,500.00	\$7,500.00	\$8,020.00	\$8,020.00
32	Raise and Collar Valve	3	EA	\$614.53	\$1,843.59	\$525.00	\$1,575.00	\$1,500.00	\$4,500.00	\$700.00	\$2,100.00	\$813.00	\$2,439.00
33	Raise and Collar Valve Cluster	2	EA	\$1,377.61	\$2,755.22	\$660.00	\$1,320.00	\$1,500.00	\$3,000.00	\$1,900.00	\$3,800.00	\$2,440.00	\$4,880.00
34	4" Asphalt Pavement	643	TON	\$90.00	\$57,870.00	\$130.00	\$83,590.00	\$130.00	\$83,590.00	\$143.00	\$91,949.00	\$146.00	\$93,878.00
35	Untreated Base Course	424	TON	\$26.00	\$11,024.00	\$52.00	\$22,048.00	\$45.00	\$19,080.00	\$70.00	\$29,680.00	\$63.90	\$27,093.60
36	Granular Borrow	513	TON	\$23.00	\$11,799.00	\$42.00	\$21,546.00	\$42.00	\$21,546.00	\$66.00	\$33,858.00	\$36.80	\$18,878.40
37	High Back Curb & Gutter	909	LF	\$37.00	\$33,633.00	\$31.00	\$28,179.00	\$40.00	\$36,360.00	\$29.00	\$26,361.00	\$33.60	\$30,542.40
38	Type M2 Curb	580	LF	\$30.98	\$17,968.40	\$25.00	\$14,500.00	\$33.00	\$19,140.00	\$40.00	\$23,200.00	\$27.10	\$15,718.00

39	Type Q Curb	61	LF	\$39.45	\$2,406.45	\$49.00	\$2,989.00	\$60.00	\$3,660.00	\$50.00	\$3,050.00	\$53.10	\$3,239.10
40	Mountable Curb	220	LF	\$34.26	\$7,537.20	\$30.00	\$6,600.00	\$49.00	\$10,780.00	\$40.00	\$8,800.00	\$32.50	\$7,150.00
41	Concrete Sidewalk	643	SF	\$4.60	\$2,957.80	\$8.00	\$5,144.00	\$14.00	\$9,002.00	\$9.00	\$5,787.00	\$8.65	\$5,561.95
42	Concrete ADA Ramp	296	SF	\$12.00	\$3,552.00	\$10.00	\$2,960.00	\$27.00	\$7,992.00	\$22.00	\$6,512.00	\$10.85	\$3,211.60
43	ADA Truncated Panel	8	EA	\$480.00	\$3,840.00	\$325.00	\$2,600.00	\$760.00	\$6,080.00	\$350.00	\$2,800.00	\$352.00	\$2,816.00
44	Concrete Driveway Tie-in/Realignment	1,826	SF	\$11.50	\$20,999.00	\$7.00	\$12,782.00	\$10.00	\$18,260.00	\$10.00	\$18,260.00	\$7.60	\$13,877.60
45	3" Colored Concrete Pavement (Inside Islands)	1,850	SF	\$9.53	\$17,630.50	\$6.00	\$11,100.00	\$17.00	\$31,450.00	\$12.00	\$22,200.00	\$6.50	\$12,025.00
46	8" Colored Concrete Pavement (Roundabout Apron)	3,502	SF	\$13.28	\$46,506.56	\$14.00	\$49,028.00	\$18.00	\$63,036.00	\$19.00	\$66,538.00	\$15.20	\$53,230.40
47	Pavement Marking Paint (White)	6	GAL	\$43.50	\$261.00	\$350.00	\$2,100.00	\$370.00	\$2,220.00	\$400.00	\$2,400.00	\$54.20	\$325.20
48	Pavement Marking Paint (Yellow)	4	GAL	\$43.50	\$174.00	\$350.00	\$1,400.00	\$370.00	\$1,480.00	\$400.00	\$1,600.00	\$65.05	\$260.20
49	Pavement Marking - 12" Stop Bars and Cross Walks	154	LF	\$1.10	\$169.40	\$2.50	\$385.00	\$4.25	\$654.50	\$5.00	\$770.00	\$3.80	\$585.20
50	Landscape Installation SE (874 N Mill Rd)	1	LS	\$15,000.00	\$15,000.00	\$16,700.00	\$16,700.00	\$23,000.00	\$23,000.00	\$22,500.00	\$22,500.00	\$36,250.00	\$36,250.00
51	Landscape Installation NW (925 N Mill Rd)	1	LS	\$30,000.00	\$30,000.00	\$36,600.00	\$36,600.00	\$33,000.00	\$33,000.00	\$25,000.00	\$25,000.00	\$39,200.00	\$39,200.00
52	Sign - Yield R1-2 (36"x36"x36")	4	EA	\$554.02	\$2,216.08	\$200.00	\$800.00	\$220.00	\$880.00	\$825.00	\$3,300.00	\$188.00	\$752.00
53	Sign - R6-5P (30"x30")	4	EA	\$554.02	\$2,216.08	\$240.00	\$960.00	\$1,000.00	\$4,000.00	\$825.00	\$3,300.00	\$895.00	\$3,580.00
54	Sign - R4-7C (18"x30")	3	EA	\$554.02	\$1,662.06	\$200.00	\$600.00	\$850.00	\$2,550.00	\$635.00	\$1,905.00	\$730.00	\$2,190.00
55	Sign - W11-02 (36"x36")	6	EA	\$554.02	\$3,324.12	\$290.00	\$1,740.00	\$1,100.00	\$6,600.00	\$815.00	\$4,890.00	\$922.00	\$5,532.00
56	Sign - W16-7P (24"x12")	4	EA	\$554.02	\$2,216.08	\$130.00	\$520.00	\$130.00	\$520.00	\$400.00	\$1,600.00	\$109.00	\$436.00
57	Sign - W16-9P (24"x12")	2	EA	\$554.02	\$1,108.04	\$200.00	\$400.00	\$130.00	\$260.00	\$400.00	\$800.00	\$109.00	\$218.00
58	Install Lamppost	2	EA	\$1,000.00	\$2,000.00	\$8,800.00	\$17,600.00	\$3,400.00	\$6,800.00	\$7,000.00	\$14,000.00	\$13,550.00	\$27,100.00
59	HL&P 3" PVC Conduit	595	LF	\$52.37	\$31,160.15	\$17.00	\$10,115.00	\$22.00	\$13,090.00	\$31.00	\$18,445.00	\$32.50	\$19,337.50
60	HL&P 6" PVC Conduit	195	LF	\$62.50	\$12,187.50	\$19.00	\$3,705.00	\$39.00	\$7,605.00	\$50.00	\$9,750.00	\$54.20	\$10,569.00
61	HL&P 3" PVC Sweeps	14	EA	\$274.14	\$3,837.96	\$66.00	\$924.00	\$440.00	\$6,160.00	\$350.00	\$4,900.00	\$542.00	\$7,588.00
62	HL&P 6" PVC Sweeps	4	EA	\$333.65	\$1,334.60	\$110.00	\$440.00	\$720.00	\$2,880.00	\$720.00	\$2,880.00	\$1,085.00	\$4,340.00

TOTAL BASE BID				\$564,115.42		\$583,829.00		\$681,782.90		\$761,468.60		\$785,941.25	
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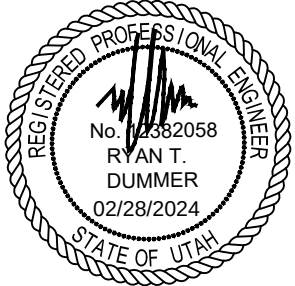
Additive Alternate #1				Engineer's Estimate		Bidder 1 RC Enterprise Paving & Constructio		Bidder 2 Geneva Rock		Bidder 3 MC Contractors		Bidder 3 Staker Parson	
ITEM NO.	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT	UNIT PRICE	TOTAL AMOUNT
AI1	Install 1" Pressurized Irrigation Service	1	EA	\$3,500.00	\$3,500.00	\$5,200.00	\$5,200.00	\$3,600.00	\$3,600.00	\$3,200.00	\$3,200.00	\$3,145.00	\$3,145.00
AI2	Install 1" Culinary Water Service	1	EA	\$5,500.00	\$5,500.00	\$4,900.00	\$4,900.00	\$3,700.00	\$3,700.00	\$5,665.00	\$5,665.00	\$5,405.00	\$5,405.00
AI3	Install 4" Sewer Service	2	EA	\$5,500.00	\$11,000.00	\$4,800.00	\$9,600.00	\$5,200.00	\$10,400.00	\$8,300.00	\$16,600.00	\$9,865.00	\$19,730.00
AI4	1.5" PVC Conduit	263	EA	\$50.00	\$13,150.00	\$16.00	\$4,208.00	\$22.00	\$5,786.00	\$44.00	\$11,572.00	\$30.00	\$7,890.00
Total Alternative Bid				\$33,150.00		\$23,908.00		\$23,486.00		\$37,037.00		\$36,170.00	

* Denotes a mathematical error

I hereby certify that this is a true and correct Bid Tabulation for the
900 N Mill Road Roundabout



Ryan Dummer, P.E.





Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Main Street Park and 200 South Improvements Contract Award
RESPONSIBLE: Jamie Baron
DEPARTMENT: Planning
STRATEGIC RELEVANCE: Necessary Administrative Action

SUMMARY

The purpose of this item is to seek Council approval to award a construction contract to Maddox Construction for the Main Street Park and 200 South Improvements.

RECOMMENDATION

City Council authorize staff to execute a contract with the apparent low bidder Maddox Construction, for an amount of \$2,793,385.

BACKGROUND

The City Park project began with the Parks Master Plan, adopted in 2021, which identified a new band shell and other improvements to support the market. The city received a \$600k Rural Opportunities grant for these improvements. This grant requires the completion of the park portion, mainly the bandshell, by September 1st 2024. Staff began the design of the park improvements and the bandshell in 2022. Following a council tour and a recommendation by Roger Brooks in 2023, the Council directed staff to include improvements to 200 S to make the street a plaza street, including pacers and the reduction to a single lane one-way street. This project is considered a strategic and pivotal improvement to spur interest and reinvestment in downtown.

The project was advertised for bid on February 9th with a public bid opening held on March 7th. The following bids were received:

Bidder	Bid Amount
Maddox Construction	\$2,793,385.00

Stout Building Contractors	\$4,025,632.54
Cal Wadsworth Construction	\$4,220,252.80
JLR Contractors	\$4,509,933.75
BHI	\$5,792,149.00

Attached is the bid tabulation showing the bid details.

DISCUSSION

The bandshell/Park portion of the project is required to be constructed by September 1, 2024 to meet grant requirements. The remaining improvements are to be completed by May of 2025. Maddox has proposed a time frame of total project completion by October 1, 2024. If awarded, construction is to begin by April 1, 2024.

FISCAL IMPACT

Total design and inspection services for the project are estimated to be \$305,000. Most the design work has been completed at this time.

The construction cost if awarded to Maddox Construction is \$2,793,385.00.

Electrical relocation work to be completed by Heber Light & Power has an estimated cost of \$162,000.

The total budget for the project, including a 10% construction contingency, is estimated to be \$3,562,000. The funding sources for the project are as follows:

Fund	Amount	% of project
47 - Parks Impact Fund	\$2,002,000	56.20%
42- General Capital Improvements	\$1,405,000	39.44%
51- Water Operating	\$155,000	4.35%
Total	3,562,000	100%

All funding sources are with current available funds. However, a budget amendment will be needed to update the budgeted expenditures in fund 47. If awarded, a budget amendment will be brought to the Council separately.

CONCLUSION

Based on receiving favorable bids and the strategic priority of the park and plaza improvement, Staff recommends that the Council approve the recommendation to award the contract to Maddox Construction.

ALTERNATIVES

1. Approve as proposed
 2. Approve as amended
 3. Continue
 4. Deny
-

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **award** the Main Street Park and 200 South Improvements to Maddox Construction as presented.

ACCOUNTABILITY

Department: Planning
Staff member: Jamie Baron, Planning Manager

EXHIBITS

1. BID TAB Heber Main Street Park
2. AIA Standard Form of Agreement

Bid Tabulation Bid Schedule A - Heber Main Street Park Improvements													
				Maddox Construction		Stout Building Contractors		Cal Wadsworth Construction		JLR Contractors		BHI	
	ITEM	QUANT.	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
	Bid Schedule												
A-1	Mobilization / Demobilization / Construction Layout	1	LS	\$ 127,640.00	\$ 127,640.00	\$ 587,539.00	\$ 587,539.00	\$ 462,964.00	\$ 462,964.00	\$ 410,656.96	\$ 410,656.96	\$ 646,022.00	\$ 646,022.00
A-2	Erosion Control / SWPPP	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 14,988.00	\$ 14,988.00	\$ 13,352.00	\$ 13,352.00	\$ 32,857.16	\$ 32,857.16	\$ 42,891.00	\$ 42,891.00
A-3	Traffic Control	1	LS	\$ 7,000.00	\$ 7,000.00	\$ 37,718.00	\$ 37,718.00	\$ 3,294.00	\$ 3,294.00	\$ 39,880.96	\$ 39,880.96	\$ 40,000.00	\$ 40,000.00
A-4	Demolition - Site Clearing and Grubbing	1	LS	\$ 38,068.00	\$ 38,068.00	\$ 33,104.00	\$ 33,104.00	\$ 18,606.00	\$ 18,606.00	\$ 25,630.96	\$ 25,630.96	\$ 23,678.00	\$ 23,678.00
A-5	Demolition - Remove and Dispose of Existing Asphalt	1	LS	\$ 38,653.00	\$ 38,653.00	\$ 33,613.00	\$ 33,613.00	\$ 38,105.00	\$ 38,105.00	\$ 56,995.25	\$ 56,995.25	\$ 22,832.00	\$ 22,832.00
A-6	Demolition - Remove and Dispose of Existing Concrete Curb	1	LS	\$ 7,895.00	\$ 7,895.00	\$ 3,140.00	\$ 3,140.00	\$ 2,504.00	\$ 2,504.00	\$ 14,285.73	\$ 14,285.73	\$ 13,953.00	\$ 13,953.00
A-7	Demolition - Remove and Dispose of Existing Flatwork	1	LS	\$ 13,215.00	\$ 13,215.00	\$ 18,124.00	\$ 18,124.00	\$ 3,075.00	\$ 3,075.00	\$ 15,083.34	\$ 15,083.34	\$ 22,832.00	\$ 22,832.00
A-8	Demolition - Remove and Dispose of Existing Tree	1	LS	\$ 1,000.00	\$ 1,000.00	\$ 600.00	\$ 600.00	\$ 1,878.00	\$ 1,878.00	\$ 1,785.73	\$ 1,785.73	\$ 3,045.00	\$ 3,045.00
A-9	Existing Tree Protection	1	LS	\$ 690.00	\$ 690.00	\$ 9,965.00	\$ 9,965.00	\$ 1,388.00	\$ 1,388.00	\$ 5,952.40	\$ 5,952.40	\$ 18,557.00	\$ 18,557.00
A-10	Earthwork / Site Grading	1	LS	\$ 56,527.00	\$ 56,527.00	\$ 66,787.00	\$ 66,787.00	\$ 26,943.00	\$ 26,943.00	\$ 74,642.87	\$ 74,642.87	\$ 45,000.00	\$ 45,000.00
A-11	Earthwork Cut to Haul Off-Site	1	LS	\$ 80,969.00	\$ 80,969.00	\$ 70,408.00	\$ 70,408.00	\$ 104,007.00	\$ 104,007.00	\$ 84,708.59	\$ 84,708.59	\$ 170,000.00	\$ 170,000.00
A-12	Structural Fill	1	LS	\$ 95,947.00	\$ 95,947.00	\$ 83,433.00	\$ 83,433.00	\$ 28,846.00	\$ 28,846.00	\$ 148,099.46	\$ 148,099.46	\$ 240,000.00	\$ 240,000.00
A-13	Imported Topsoil	1	LS	\$ 10,021.00	\$ 10,021.00	\$ 11,925.00	\$ 11,925.00	\$ 16,445.00	\$ 16,445.00	\$ 26,800.00	\$ 26,800.00	\$ 10,267.00	\$ 10,267.00
A-14	Structural Soil	1	LS	\$ -	\$ -	\$ -	\$ -	\$ 6,261.00	\$ 6,261.00	\$ 26,625.00	\$ 26,625.00	\$ 104,918.00	\$ 104,918.00
A-15	Utility - Off-Site Electrical Relocation	1	LS	\$ 54,389.00	\$ 54,389.00	\$ 494,598.00	\$ 494,598.00	\$ 18,785.00	\$ 18,785.00	\$ 18,235.73	\$ 18,235.73	\$ 191,257.00	\$ 191,257.00
A-16	Utility - Site Electrical Service	1	LS	\$ 54,389.00	\$ 54,389.00	\$ -	\$ -	\$ 31,309.00	\$ 31,309.00	\$ 148,319.07	\$ 148,319.07	\$ 191,257.00	\$ 191,257.00
A-17	Utility - Electrical Site Lighting	1	LS	\$ 54,389.00	\$ 54,389.00	\$ -	\$ -	\$ 22,542.00	\$ 22,542.00	\$ 197,498.82	\$ 197,498.82	\$ 191,257.00	\$ 191,257.00
A-18	Cross Gutter - 3' w/6" UBC, 12" Granular Material	210	LF	\$ 9.32	\$ 1,958.00	\$ 1,750.01	\$ 367,502.00	\$ 43.00	\$ 9,030.00	\$ 58.95	\$ 12,379.50	\$ 125.00	\$ 26,250.00
A-19	Curb - UDOT 30" w/ 3" UBC	140	LF	\$ 9.11	\$ 1,276.00	\$ -	\$ -	\$ 81.40	\$ 11,396.00	\$ 59.66	\$ 8,352.40	\$ 129.00	\$ 18,060.00
A-20	Curb - Heber 24" w/ 6" UBC	315	LF	\$ 4.67	\$ 1,470.00	\$ -	\$ -	\$ 69.00	\$ 21,735.00	\$ 50.84	\$ 16,014.60	\$ 104.00	\$ 32,760.00
A-21	Asphalt Paving, Heber Spec 3" Asphalt w/ 8" UBC	3,000	SF	\$ 4.07	\$ 12,200.00	\$ 5.80	\$ 17,400.00	\$ 3.76	\$ 11,280.00	\$ 7.36	\$ 22,080.00	\$ 8.70	\$ 26,100.00
A-22	Asphalt Chip Seal	2,330	SF	\$ 4.29	\$ 10,000.00	\$ -	\$ -	\$ 3.76	\$ 8,760.80	\$ 2.39	\$ 5,568.70	\$ 7.00	\$ 16,310.00
A-23	Asphalt Paving, UDOT Spec	1,150	SF	\$ 10.32	\$ 11,870.00	\$ 12.07	\$ 13,880.50	\$ 6.26	\$ 7,199.00	\$ 14.72	\$ 16,928.00	\$ 23.00	\$ 26,450.00
A-24	Concrete Flatwork (4" Thick), Base Course (4"), 12" over EX	12,500	SF	\$ 6.88	\$ 86,034.00	\$ 17.49	\$ 218,572.00	\$ 19.40	\$ 242,500.00	\$ 13.69	\$ 171,125.00	\$ 18.00	\$ 225,000.00
A-25	Concrete Steps and Railings	1	LS	\$ 5,000.00	\$ 5,000.00	\$ -	\$ -	\$ 37,743.00	\$ 37,743.00	\$ 35,476.21	\$ 35,476.21	\$ 90,549.00	\$ 90,549.00
A-26	Concrete Wall Raised Planters	7	EACH	\$ 4,000.00	\$ 28,000.00	\$ -	\$ -	\$ 10,153.00	\$ 71,071.00	\$ 9,455.79	\$ 66,190.53	\$ 11,469.00	\$ 80,283.00
A-27	Concrete Unit Pavers	16,200	SF	\$ 14.26	\$ 231,000.00	\$ 13.67	\$ 221,454.00	\$ 23.00	\$ 372,600.00	\$ 33.11	\$ 536,382.00	\$ 19.80	\$ 320,760.00
A-28	Compacted Crushed Stone 3" Deep	4,100	SF	\$ 2.98	\$ 12,202.00	\$ 15.90	\$ 65,190.00	\$ 1.00	\$ 4,100.00	\$ 2.36	\$ 9,676.00	\$ 2.70	\$ 11,070.00
A-29	Traffic Signs	8	EACH	\$ 812.50	\$ 6,500.00	\$ 86.25	\$ 690.00	\$ 2,370.00	\$ 18,960.00	\$ 892.86	\$ 7,142.88	\$ 342.00	\$ 2,736.00
A-30	Pavement Markings	8	EACH	\$ 250.00	\$ 2,000.00	\$ 346.88	\$ 2,775.04	\$ 313.00	\$ 2,504.00	\$ 297.62	\$ 2,380.96	\$ 820.00	\$ 6,560.00
A-31	Band Shell Complete	1	LS	\$ 1,261,904.00	\$ 1,261,904.00	\$ 1,200,268.00	\$ 1,200,268.00	\$ 1,940,928.00	\$ 1,940,928.00	\$ 1,695,050.90	\$ 1,695,050.90	\$ 2,071,905.00	\$ 2,071,905.00
A-32	Bench 6' - w/ Back	2	EACH	\$ 500.00	\$ 1,000.00	\$ 1,170.00	\$ 2,340.00	\$ 2,040.00	\$ 4,080.00	\$ 2,674.89	\$ 5,349.78	\$ 2,459.00	\$ 4,918.00
A-33	Bench 6' - w/o Back	2	EACH	\$ 500.00	\$ 1,000.00	\$ 1,055.00	\$ 2,110.00	\$ 2,040.00	\$ 4,080.00	\$ 2,279.95	\$ 4,559.90	\$ 1,913.00	\$ 3,826.00
A-34	Picnic Table 6'	8	EACH	\$ 650.00	\$ 5,200.00	\$ 3,250.00	\$ 26,000.00	\$ 3,110.00	\$ 24,880.00	\$ 5,244.41	\$ 41,955.28	\$ 3,825.00	\$ 30,600.00
A-35	Litter Receptacle	2	EACH	\$ 500.00	\$ 1,000.00	\$ 1,020.00	\$ 2,040.00	\$ 1,215.00	\$ 2,430.00	\$ 1,677.04	\$ 3,354.08	\$ 2,459.00	\$ 4,918.00
A-36	Bollard	13	EACH	\$ 500.00	\$ 6,500.00	\$ 197.00	\$ 2,561.00	\$ 863.00	\$ 11,219.00	\$ 535.72	\$ 6,964.36	\$ 800.00	\$ 10,400.00
A-37	Mulch - Wood Bark 4" Deep	1	LS	\$ 3,500.00	\$ 3,500.00	\$ 7,072.25	\$ 7,072.25	\$ 3,921.00	\$ 3,921.00	\$ 6,187.50	\$ 6,187.50	\$ 2,162.00	\$ 2,162.00
A-38	Irrigation System New and Modifications	1	LS	\$ 35,000.00	\$ 35,000.00	\$ 28,704.00	\$ 28,704.00	\$ 50,628.00	\$ 50,628.00	\$ 34,253.76	\$ 34,253.76	\$ 77,415.00	\$ 77,415.00
A-39	Sod - Repair Including Topsoil	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 6,174.95	\$ 6,174.95	\$ 15,182.00	\$ 15,182.00	\$ 18,000.00	\$ 18,000.00	\$ 15,798.00	\$ 15,798.00
A-40	Tree - 2" Caliper	33	EACH	\$ 546.24	\$ 18,026.00	\$ 475.00	\$ 15,675.00	\$ 813.00	\$ 26,829.00	\$ 500.00	\$ 16,500.00	\$ 537.00	\$ 17,721.00
A-41	Shrub - 1 Gallon	172	EACH	\$ 43.60	\$ 7,500.00	\$ 32.16	\$ 5,531.52	\$ 136.00	\$ 23,392.00	\$ 37.50	\$ 6,450.00	\$ 26.00	\$ 4,472.00
A-42	Shrub - 2 Gallon	31	EACH	\$ 96.77	\$ 3,000.00	\$ 87.00	\$ 2,697.00	\$ 164.00	\$ 5,084.00	\$ 50.00	\$ 1,550.00	\$ 73.00	\$ 2,263.00
A-43	Shrub - 3 Gallon	22	EACH	\$ 136.36	\$ 3,000.00	\$ 87.00	\$ 1,914.00	\$ 190.00	\$ 4,180.00	\$ 68.75	\$ 1,512.50	\$ 73.00	\$ 1,606.00
A-44	Shrub - 5 Gallon	17	EACH	\$ 147.06	\$ 2,500.00	\$ 87.00	\$ 1,479.00	\$ 232.00	\$ 3,944.00	\$ 75.00	\$ 1,275.00	\$ 73.00	\$ 1,241.00
	BID SCHEDULE A TOTAL				\$ 2,409,432.00		\$ 3,677,972.26		\$ 3,739,959.80		\$ 4,080,717.87		\$ 5,109,899.00

Corrections to bid calculations

Bid Tabulation Bid Schedule B - Heber Main Street Park Improvements													
				Maddox Construction		Stout Building Contractors		Cal Wadsworth Construction		JLR Contractors		BHI	
	ITEM	QUANT.	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
	Bid Schedule												
B-1	Demolition - Remove and Dispose of Existing Utilities	1	LS	\$ 30,487.00	\$ 30,487.00	\$ 26,511.47	\$ 26,511.47	\$ 15,072.00	\$ 15,072.00	\$ 13,452.40	\$ 13,452.40	\$ 25,000.00	\$ 25,000.00
B-2	Utility - Bypasses and Temporary Service	1	LS	\$ 2,640.00	\$ 2,640.00	\$ -	\$ -	\$ 17,584.00	\$ 17,584.00	\$ 32,738.11	\$ 32,738.11	\$ 16,000.00	\$ 16,000.00
B-3	Utility - Potholing and Verification	1	LS	\$ 5,092.00	\$ 5,092.00	\$ 4,428.38	\$ 4,428.38	\$ 4,369.00	\$ 4,369.00	\$ 6,250.00	\$ 6,250.00	\$ 10,000.00	\$ 10,000.00
B-4	Utility - Connect to Storm Drain Box	3	EACH	\$ 1,766.33	\$ 5,299.00	\$ 4,608.38	\$ 13,825.14	\$ 2,260.00	\$ 6,780.00	\$ 2,380.96	\$ 7,142.88	\$ 4,000.00	\$ 12,000.00
B-5	Utility - Solid Lid	1	EACH	\$ 4,502.00	\$ 4,502.00	\$ 3,915.68	\$ 3,915.68	\$ 2,763.00	\$ 2,763.00	\$ 2,083.34	\$ 2,083.34	\$ 4,000.00	\$ 4,000.00
B-6	Utility - Curb Inlet	1	EACH	\$ 3,501.00	\$ 3,501.00	\$ 3,045.68	\$ 3,045.68	\$ 4,521.00	\$ 4,521.00	\$ 8,425.84	\$ 8,425.84	\$ 7,000.00	\$ 7,000.00
B-7	Utility - Combination Box	2	EACH	\$ 4,502.50	\$ 9,005.00	\$ 3,915.68	\$ 7,831.36	\$ 7,285.00	\$ 14,570.00	\$ 7,619.06	\$ 15,238.12	\$ 10,000.00	\$ 20,000.00
B-8	Utility - 10" Class 52 Ductile Iron	58	LF	\$ 185.38	\$ 10,752.00	\$ 161.22	\$ 9,350.76	\$ 251.00	\$ 14,558.00	\$ 188.71	\$ 10,945.18	\$ 215.00	\$ 12,470.00
B-9	Utility - 15" RCP	117	LF	\$ 103.41	\$ 12,099.00	\$ 89.93	\$ 10,521.81	\$ 226.00	\$ 26,442.00	\$ 122.65	\$ 14,350.05	\$ 230.00	\$ 26,910.00
B-10	Utility - 18" RCP	428	LF	\$ 120.41	\$ 51,537.00	\$ 104.71	\$ 44,815.88	\$ 251.00	\$ 107,428.00	\$ 110.47	\$ 47,281.16	\$ 200.00	\$ 85,600.00
B-11	Utility - Connect to Existing Sewer Main	1	LS	\$ 2,070.00	\$ 2,070.00	\$ 1,800.00	\$ 1,800.00	\$ 6,280.00	\$ 6,280.00	\$ 4,166.68	\$ 4,166.68	\$ 7,000.00	\$ 7,000.00
B-12	Utility - 4' Sewer Manhole	4	EACH	\$ 14,097.50	\$ 56,390.00	\$ 12,258.38	\$ 49,033.52	\$ 7,536.00	\$ 30,144.00	\$ 9,537.94	\$ 38,151.76	\$ 8,700.00	\$ 34,800.00
B-13	Utility - Sewer Lateral	4	EACH	\$ 6,273.25	\$ 25,093.00	\$ 5,455.21	\$ 21,820.84	\$ 2,512.00	\$ 10,048.00	\$ 6,718.53	\$ 26,874.12	\$ 10,000.00	\$ 40,000.00
50603	Utility - 8" PVC SDR-35 Sewer Main	411	LF	\$ 123.12	\$ 50,603.00	\$ 113.49	\$ 46,644.39	\$ 176.00	\$ 72,336.00	\$ 153.75	\$ 63,191.25	\$ 350.00	\$ 143,850.00
B-15	Utility - 6" PVC SDR-35 Sewer Main	120	LF	\$ 113.70	\$ 13,644.00	\$ 104.81	\$ 12,577.20	\$ 182.00	\$ 21,840.00	\$ 150.67	\$ 18,080.40	\$ 300.00	\$ 36,000.00
B-16	Utility - Plug and Abandon Manhole	1	EACH	\$ 2,070.00	\$ 2,070.00	\$ 1,800.00	\$ 1,800.00	\$ 1,885.00	\$ 1,885.00	\$ 3,452.40	\$ 3,452.40	\$ 3,400.00	\$ 3,400.00
B-17	Utility - Connect to Manhole	1	EACH	\$ 2,070.00	\$ 2,070.00	\$ 1,800.00	\$ 1,800.00	\$ 2,763.00	\$ 2,763.00	\$ 2,380.96	\$ 2,380.96	\$ 6,000.00	\$ 6,000.00
B-18	Utility - Connect to Existing Water Main	2	EACH	\$ 1,018.50	\$ 2,037.00	\$ 886.34	\$ 1,772.68	\$ 4,270.00	\$ 8,540.00	\$ 3,987.40	\$ 7,974.80	\$ 9,800.00	\$ 19,600.00
B-19	Utility - 8" Gate Valve	4	EACH	\$ 3,888.00	\$ 15,552.00	\$ 3,381.00	\$ 13,524.00	\$ 1,632.00	\$ 6,528.00	\$ 3,989.71	\$ 15,958.84	\$ 3,500.00	\$ 14,000.00
B-20	Utility - 8" Tee	1	EACH	\$ 2,088.00	\$ 2,088.00	\$ 1,816.25	\$ 1,816.25	\$ 1,130.00	\$ 1,130.00	\$ 2,228.36	\$ 2,228.36	\$ 6,000.00	\$ 6,000.00
B-21	Utility - Fire Hydrant	1	EACH	\$ 10,350.00	\$ 10,350.00	\$ 9,000.00	\$ 9,000.00	\$ 11,304.00	\$ 11,304.00	\$ 10,255.11	\$ 10,255.11	\$ 14,500.00	\$ 14,500.00
B-22	Utility - Water Service Complete	6	EACH	\$ 3,123.17	\$ 18,739.00	\$ 2,878.86	\$ 17,273.16	\$ 3,768.00	\$ 22,608.00	\$ 4,409.50	\$ 26,457.00	\$ 6,500.00	\$ 39,000.00
B-23	Utility - 8" C900 PVC Water Main	472	LF	\$ 102.40	\$ 48,333.00	\$ 94.39	\$ 44,552.08	\$ 150.00	\$ 70,800.00	\$ 110.46	\$ 52,137.12	\$ 210.00	\$ 99,120.00
	BID SCHEDULE B TOTAL				\$ 383,953.00		\$ 347,660.28		\$ 480,293.00		\$ 429,215.88		\$ 682,250.00
	TOTALS SCHEDULES A AND B				\$ 2,793,385.00		\$ 4,025,632.54		\$ 4,220,252.80		\$ 4,509,933.75		\$ 5,792,149.00

DRAFT AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the « » day of « » in the year « »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

« »
« »
« »
« »

and the Contractor:
(Name, legal status, address and other information)

« »
« »
« »
« »

for the following Project:
(Name, location and detailed description)

« »
« »
« »

The Architect:
(Name, legal status, address and other information)

« »
« »
« »
« »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, Special Provisions, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

☐ The date of this Agreement.

☐ A date set forth in a notice to proceed issued by the Owner.

☐ Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

☐

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[« »] Not later than « » (« ») calendar days from the date of commencement of the Work.

[« »] By the following date: « »

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be « » (\$ « »), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)

§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

« »

§ 4.6 Other:
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

« »

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the « » day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the « » day of the « » month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than « » (« ») days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« »

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

« »

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

« »

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

« »

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

« »

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

« » % « »

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

« »

« »

« »

« »

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 15.4 of AIA Document A201–2017

☐ Litigation in a court of competent jurisdiction

☐ Other *(Specify)*

« »

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)

« »

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:

(Name, address, email address, and other information)

« »

« »

« »

« »

« »

« »

§ 8.3 The Contractor’s representative:

(Name, address, email address, and other information)

« »

« »

« »

« »

« »

« »

§ 8.4 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days’ prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« »

§ 8.7 Other provisions:

« »

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

« »

.5 Drawings

Number	Title	Date

.6 Specifications

Section	Title	Date	Pages

.7 Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[« »] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

« »

[« »] The Sustainability Plan:

Title	Date	Pages

[« »] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

« »

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

« »« »

(Printed name and title)

CONTRACTOR (Signature)

« »« »

(Printed name and title)



Heber City Council Staff Report

MEETING DATE: 3/19/2024

SUBJECT: Ordinance 2024-08 Updating the Utility Bill Code

RESPONSIBLE: Mindy Kohler

DEPARTMENT: Finance

STRATEGIC RELEVANCE: These updates are needed to give guidance to staff on how to handle billing adjustments. Updates were made to existing code to better align with how the billing is now being done. The code has not been updated for several years.

SUMMARY

Update code to provide clarification on utility payments, notice of assessments, billing adjustment and give administrative authority to City Manager to waive or adjust water utility bills in extreme and unusual circumstances.

RECOMMENDATION

Staff recommends City Council moves to approve Ordinance 2024-08 which provides clarification on utility payments, notice of assessment and billing adjustments.

BACKGROUND

In reviewing the code, staff found that there wasn't information regarding billing adjustments for water leaks. A section was added to the code detailing how credits would be issued to those customers. This is in line with what has been done historically but was never adopted in the code. Also, recently there have been several house fires that have left homes un-livable. The owners have asked to have some forgiveness on their bills while the homes are being repaired. Currently, there isn't anything in the code giving administrative authority to reduce or waive portions of a customer's bill for this type of situation. This will give guidance to staff on how to proceed and also consistency in how adjustments are handled.

DISCUSSION

FISCAL IMPACT

This is not a widespread issue, the fiscal impact should be minimal.

CONCLUSION

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

Alternative 3 - Continue

I move to **continue** the item to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 - Denial

I move to **deny** the item with the following findings.

ACCOUNTABILITY

Department: Finance
Staff member: Mindy Kohler

EXHIBITS

1. Ordinance 2024-08 - Water Billing Amendments - 4882-5062-8525 - 1

ORDINANCE 2024-08

AN ORDINANCE amending Section 13.04.210 Rates -- Bill Payment and Section 13.04.220 Rates -- Notice Of Assessment and adding Section 13.04.225 Rates – Billing Adjustments.

BE IT ORDAINED by the City Council of Heber City, Utah, that Heber City Municipal Code **Section 13.04.210 Rates -- Bill Payment** and **Section 13.04.220 Rates -- Notice Of Assessment** are amended and **Section 13.04.225 Rates – Billing Adjustments** is added as set forth in Exhibit A.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

To the extent that any ordinances, resolutions, or policies of Heber City materially conflict with the provisions of this Ordinance, they are hereby amended to comply with the provisions hereof.

This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this _____ day of _____ 2024.

	AYE	NAY	ABSENT	ABSTAIN
Aaron Cheatwood	_____	_____	_____	_____
Michael Johnston	_____	_____	_____	_____
Sid Ostergaard	_____	_____	_____	_____
Scott Phillips	_____	_____	_____	_____
Yvonne Barney	_____	_____	_____	_____

APPROVED:

Mayor Heidi Franco

ATTEST:

RECORDER

Date:

Exhibit A

13.04.210 Rates -- Bill Payment

A. Rates to be charged water users shall be in such amount as the City Council may, from time to time, fix by resolution. All rates shall be reasonable and uniform with respect to class for the type of services to be rendered.

B. All bills shall be dated the 25th last day of the month and mailed on or before the 1st day of the next month and shall provide that the same shall become delinquent if not paid by the 20th of the month. A five (5) percent or \$5.00 penalty, whichever is greater, will be assessed against all utility bills not paid in full before the next billing, which, as indicated above, will have a statement date of the 25th last day of the month and which will be mailed on or before the 1st.

C. It is unlawful, after water service has been disconnected, for any person to reconnect the same without the consent of the City Council; and any person violating this Section shall be deemed guilty of an offense.

13.04.220 Rates -- Notice Of Assessment

A. If a utility account becomes delinquent, a notice of intent to disconnect shall be printed on the next billing statement. The notice shall provide that the delinquent user has until the 20th of the month in which to bring the account current. Exception: There needs to be a minimum of \$10.00 delinquency before the notice of intent to disconnect is printed. If payment is not made by the 20th of the month, a second courtesy notice will be mailed ~~on or about the 10th of the next month~~ two weeks prior to the shut off date stating intent to disconnect ~~on the 20th of that self-same month~~ on the Wednesday after the 20th. If full payment is not made by said ~~20th of that month~~ date at 10:00 a.m., the water supply to the premises will be disconnected. Once the shut-off list leaves the office, a \$25.00 service fee shall be charged, regardless of whether the water service is shut off or not. Before water service can be restored, the outstanding balance must be paid in full. "Outstanding balance" includes past-due amounts, current charges, and penalties. In addition thereto, there will be a re-connect fee assessed of \$25.00 for any re-connection service performed or to be performed during working hours and \$40.00 for the re-connection if it is performed after hours. "After hours" covers Saturdays, Sundays, holidays, and any time outside of regular City office hours. Water service may also be disconnected for failure to pay any of the service charges or penalties.

B. Any water user not using water after the meter reading has been made must report it to the City Treasurer and have the water shut off. If they fail to do so, the full amount of the next assessment must be paid. No allowance will be made for non-use for less than one month.

C. All corrections in assessments and all abatements shall be made under the direction of the City Council and shall be certified to the City Treasurer.

13.04.225 Rates – Billing Adjustments

A. A water customer of the City who has any reason to believe that the customer's water lines, pipes or fixtures are leaking shall contact the City offices on the business day immediately following the date on which the customer learns the reason to believe there is a leak. Reason to believe there is a leak may include, but shall not necessarily be limited to, receiving an unusually high water bill or noticing the discharge of water on or at the water service address. City staff shall inspect the property for water leaks as soon as possible after contact by the customer. If City staff determines there is a water leak on the customer's premises, staff will notify the City Treasurer's office in writing and advise the customer of their next steps. The customer shall repair the leak, at the customer's expense, within ten (10) calendar days from the delivery of such notice. City staff shall verify that the necessary repairs have been made. If a customer has received a water bill that the customer believes is unusually high as a result of a leak, the customer may contact the City offices to seek relief pursuant to this ordinance. If, and only if, the customer has fully complied with the above requirements, the customer may receive relief according to the following policy: City staff shall calculate the monthly water usage for the property address (regardless of ownership) during the same month of the prior year. For the period during which the leak existed, the customer shall be billed at the current billing rate for the prior years monthly usage. Adjustments will be given for 3 billing periods prior to the leak being confirmed, if necessary.

B. A water customer who is not occupying a premise for a period of time due to an unusual circumstance such as a flood or fire, a death or medical issue, or a military deployment may contact the office of the City Treasurer to apply for a temporary reduction of their bill. The City Manager shall evaluate the request for a temporary reduction on a case by case basis and may provide administrative relief up to fifty percent (50%) reduction of the billing for a period not to exceed six months.



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Resolution 2024-04 Budget Amendment
RESPONSIBLE: Sara Nagel
DEPARTMENT: Finance
STRATEGIC RELEVANCE: Necessary Administrative Action

SUMMARY

Staff has determined that a third amendment to the Fiscal Year 2024 budget is required to address budget reallocations and unanticipated expenditures.

RECOMMENDATION

Hold a public hearing on March 19, 2024 to consider an amendment to the FY 2024 annual budget and adopt Resolution 2024-04 amending the FY 2024 annual budget.

BACKGROUND

Periodically, the City needs to amend the budget to address items such as budget reallocation, unanticipated expenditures, a change in department needs or procurement delays. This is the third amendment request in FY 2024.

DISCUSSION

City staff determined there are unexpected expenditures that require consideration for a budget amendment.

The proposed amendment is fashioned to ensure that expenditures do not exceed budgeted resources. Provided below is a summary of the budget changes Staff is recommending. Additionally, proposed resolution 2024-04 contains specific details of the amendment impacts to each fund.

General Fund (10)

The City allocates Administration (including IT and HR) and Engineering salaries and benefits costs to the Culinary, Sewer, Stormdrain, Pressurized Irrigation and Airport Special Revenue funds at each

payperiod at the payroll level. Historically, Finance booked a monthly adjusting journal entry to bring the payroll expenses back to the General Fund and then offset the expenses by booking transfer revenue. In consultation with the City's accountants, Finance determined that the monthly adjusting entry is not needed, and it is more appropriate to eliminate the offsetting revenue. Going forward, Administration and Engineering salaries and benefits costs will be recorded in the proprietary funds without any adjusting entries.

No budget impact.

Capital Improvement Fund - Streets (46)

Project T-058b: Section A Upsize & 550 E Roundabout

The City budgeted \$665K to reimburse Valley Hills for upsizing Section A of the Eastern Bypass and to finish the road construction associated with the 550 E Roundabout. Due to costs coming in higher than budgeted and some additional costs associated with the Bassett Property Acquisition, a budget amendment is needed.

Requested budget: \$416,000

Project T-057b: Section B Mill Rd Roundabout

The City budgeted \$652K to begin construction of the Mill Road Roundabout. It was anticipated to budget the remaining \$256,000 needed to complete the project in the FY24/25. Due to the contractors proposed schedule of completing the project prior to the end of June, it is proposed to move the FY24/25 funds into FY23/24. An overall budget increase was also needed on the project due to higher than anticipated property acquisition costs.

Requested budget: \$256,000

Capital Improvement Fund - Parks (47)

Project P-034 East Bypass Trail - 500 E to Hwy 40

The City budgeted \$58,000 to Reimburse Valley Hills to upsize the sidewalk along the south side of Section A of the Eastern Bypass to a trail. In addition, a portion of the trail on the southwest corner of the 550 East roundabout is eligible to be paid for using impact fees instead of general funds.

Requested budget: \$14,000

Project P-050 East Bypass Trail - Mill Rd to 500 E

The City budgeted \$156,000 to construct the trail along the south side of Section B of the Eastern Bypass and for the trail improvements associated with the Mill Road Roundabout. Due to increased property acquisition costs associated with property needed for the trail on the south side of the roundabout, a budget amendment is needed.

Requested budget: \$79,000

Culinary Water Impact Fee Fund (56)

Project W-007 East Bypass - Hwy 40 to Mill Rd

The City budgeted \$496,000 to Reimburse Valley Hills for upsizing the culinary water line in Section A of the Eastern Bypass as well as to construct the culinary water line in Section B and through the 550 East Roundabout. Based on finalized costs for all components of the project, a budget amendment is needed.

Requested budget: \$288,000

Waste Water Impact Fee Fund (57)

Project S-046 Sewer - Valley Hills Dr to 600 N (10")

The City budgeted \$73K to upsize the sewer line in 550 E in association with the 550E Roundabout. Actual costs came in higher than expected for the sewer line upsize.

Requested budget: \$41,000

Pressurized Irrigation Impact Fee Fund (58)

Project I-018 East Bypass - 800 E to 300 E

The City budgeted \$341,000 to Reimburse Valley Hills for upsizing the pressurized irrigation line in Section A of the Eastern Bypass as well as to construct the pressurized irrigation line in Section B and through the 550 East Roundabout. Actual costs came in higher than expected for all 3 components of this project.

Requested budget: \$104,000

Finance discussed each amendment with the requesting department manager to review the impact on the related funds. Finance determined each fund currently has sufficient fund balance to absorb the additional budget request.

FISCAL IMPACT

The proposed amendment will affect the following funds:

General Fund (10)	\$0
Capital Improvement Fund - Streets (46)	\$672,000
Capital Improvement Fund - Parks (47)	\$93,000
Culinary Water Impact Fee Fund (56)	\$288,000
Waste Water Impact Fee Fund (57)	\$41,000
Pressurized Irrigation Impact Fee Fund (58)	\$104,000

The fiscal impact is specified in resolution 2024-04 Exhibit A

CONCLUSION

Staff recommends that you move to approve resolution 2024-04 as presented, with the findings and conditions presented.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the **item** as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the **item** as amended, as follows.

Alternative 3 - Continue

I move to **continue** the **item** to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 - Denial

I move to **deny** the **item** with the following findings.

ACCOUNTABILITY

Department: Finance
Staff member: Sara Nagel, Finance Manager

EXHIBITS

1. EXHIBIT A Budget Amendment Resolution 2024-04

**HEBER CITY, UTAH
RESOLUTION NO. 2024-04**

A RESOLUTION APPROVING THE THIRD AMENDMENT TO THE HEBER CITY BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2024 (FY 2024).

WHEREAS, the Utah Uniform Fiscal Procedures Act provides for the legislative body an opportunity, at any time during the budget period, to review the individual budgets of the funds, to determine if the total of any of them should be increased (UCA ' 10-6-127); and

WHEREAS, Heber's City's financial manager has determined that a budget amendment impacting the City's General Fund (10), Cap. Imp. Fund – Streets (46), Cap Imp. Fund – Parks (47), Culinary Water Impact Fee Fund (56), Waste Water Impact Fee Fund (57), Pressurized Irrigation Impact Fee Fund (58); and

WHEREAS, the City properly advertised, as prescribed by state law (UCA ' 10-6-113), and held a Public Hearing on Tuesday, March 19, 2024, to garner input from the general public on the proposed FY 2024 budget amendment; and

NOW, THEREFORE, BE IT RESOLVED by the Heber City Council, of Heber City, Utah, as follows:

The Heber City Budget for the fiscal year ending June 30, 2024, is hereby amended as set forth in the attached "Exhibit A," which is hereby incorporated into and made a part of this Resolution by reference.

ADOPTED AND PASSED by the City Council of Heber City, Utah this _____ day of _____, 2024, by the following vote:

	AYE	NAY
Council Member Yvonne Barney	_____	_____
Council Member Aaron Cheatwood	_____	_____
Council Member Mike Johnston	_____	_____
Council Member Sid Ostergaard	_____	_____
Council Member Scott Phillips	_____	_____

APPROVED:

Mayor Heidi Franco

ATTEST:

_____ Date: _____

RECORDER

EXHIBIT "A"

General Fund (10)

Justification: To adjust Admin, HR, IT and Engineering salaries, benefits and payroll taxes budgets to reflect actual payroll allocations and eliminate monthly true-up journal entry.

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
10-3851	Transfer From Culinary Water Fund	\$ (560,089.00)
10-3852	Transfer From Sewer Fund	(489,229.00)
10-3854	Transfer From Stormdrain Fund	(115,006.00)
10-3855	Transfer From Pressurized Irrigation	(95,481.00)
10-3821	Transfer From Airport Sp. Rev. Fund	(93,210.00)
	Total	<u><u>\$ (1,353,015.00)</u></u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
10-4311	Admin Salaries	\$ (435,884.00)
10-4313	Admin Benefits	(119,697.00)
10-4317	Admin FICA	(33,235.74)
10-4911	Engineering Salaries	(431,706.00)
10-4913	Engineering Benefits	(178,196.00)
10-4917	Engineering FICA	(33,025.51)
10-4611	HR Salaries	(46,875.00)
10-4613	HR Benefits	(20,960.00)
10-4617	HR FICA	(3,585.94)
10-4711	IT Salaries	(37,148.00)
10-4713	IT Benefits	(9,860.00)
10-4717	IT FICA	(2,841.82)
	Total	<u><u>\$ (1,353,015.00)</u></u>

Capital Improvement Fund - Parks (46)

Justification: The City budgeted \$665K to reimburse Valley Hills for upsizing Section A of the Eastern Bypass and to finish the road construction associated with the 550 E Roundabout. Due to costs coming in higher than budgeted and some additional costs associated with the Bassett Property Acquisition, a budget amendment is needed.

Project T-058b Streets - Section A Upsize & 550 E Roundabout

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
46-3870	Contributions - Surplus	\$ 416,000.00
	Total	<u><u>\$ 416,000.00</u></u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
46-4073	Improvements Other Than Building	\$ 416,000.00
	Total	<u><u>\$ 416,000.00</u></u>

Capital Improvement Fund - Parks (46)

Justification: The City budgeted \$652K to begin construction of the Mill Road Roundabout. It was anticipated to budget the remaining \$256,000 needed to complete the project in the FY24/25. Due to the contractors proposed schedule of completing the project prior to the end of June, it is proposed to move the FY24/25 funds into FY23/24. An overall budget increase was also needed on the project due to higher than anticipated property acquisition costs.

Project T-057b Streets - Section B Mill Rd Roundabout

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
46-3870	Contributions - Surplus	\$ 256,000.00
	Total	<u>\$ 256,000.00</u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
46-4073	Improvements Other Than Building	\$ 256,000.00
	Total	<u>\$ 256,000.00</u>

Capital Improvement Fund - Parks (47)

Justification: The City budgeted \$58,000 to Reimburse Valley Hills to upsize the sidewalk along the south side of Section A of the Eastern Bypass to a trail. In addition, a portion of the trail on the southwest corner of the 550 East roundabout is eligible to be paid for using impact fees instead of general funds.

Project: P-034 East Bypass Trail - 500 E to Hwy 40

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
47-3870	Contributions - Surplus	\$ 14,000.00
	Total	<u>\$ 14,000.00</u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
47-4073	Improvements Other Than Building	\$ 14,000.00
	Total	<u>\$ 14,000.00</u>

Capital Improvement Fund - Parks (47)

Justification: The City budgeted \$156,000 to construct the trail along the south side of Section B of the Eastern Bypass and for the trail improvements associated with the Mill Road Roundabout. Due to increased property acquisition costs associated with property needed for the trail on the south side of the roundabout, a budget amendment is needed.

Project: P-050 East Bypass Trail - Mill Rd to 550 E

Source:

Account Number	Account Name	Amount
47-3870	Contributions - Surplus	\$ 79,000.00
	Total	<u>\$ 79,000.00</u>

Use:

Account Number	Account Name	Amount
47-4073	Improvements Other Than Building	\$ 79,000.00
	Total	<u>\$ 79,000.00</u>

Culinary Water Impact Fee Fund (56)

Justification: The City budgeted \$496,000 to Reimburse Valley Hills for upsizing the culinary water line in Section A of the Eastern Bypass as well as to construct the culinary water line in Section B and through the 550 East Roundabout. Based on finalized costs for all components of the project, a budget amendment is needed.

Project W-007 East Bypass - Hwy 40 to Mill Rd

Source:

Account Number	Account Name	Amount
56-3870	Contributions - Surplus	\$ 288,000.00
	Total	<u>\$ 288,000.00</u>

Use:

Account Number	Account Name	Amount
56-4073	Improvements Other Than Building	\$ 288,000.00
	Total	<u>\$ 288,000.00</u>

Waste Water Impact Fee Fund (57)

Justification: The City budgeted \$73K to upsize the sewer line in 550 E in association with the 550E Roundabout.

Actual costs came in higher than expected for the sewer line upsize.

Project: S-046 Sewer - Valley Hills Dr to 600 N (10")

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
57-3870	Contributions - Surplus	\$ 41,000.00
	Total	<u>\$ 41,000.00</u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
57-4073	Improvements Other Than Building	\$ 41,000.00
	Total	<u>\$ 41,000.00</u>

Pressurized Irrigation Impact Fee Fund (58)

Justification: The City budgeted \$341,000 to Reimburse Valley Hills for upsizing the pressurized irrigation line in Section A of the Eastern Bypass as well as to construct the pressurized irrigation line in Section B and through the 550 East Roundabout. Actual costs came in higher than expected for all 3 components of this project.

Project: I-018 East Bypass - 800 E to 300 E

Source:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
58-3870	Contributions - Surplus	\$ 104,000.00
	Total	<u>\$ 104,000.00</u>

Use:

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
58-4073	Improvements Other Than Building	\$ 104,000.00
	Total	<u>\$ 104,000.00</u>



March 12, 2024

Heber Light and Power Board of Directors
31 South 100 West
Heber City, Utah 84032

Attention: Jason Norlen, General Manager
Office Telephone: 435 654-2913
jnorlen@heberpower.com

RE: Solicitation for Purchase of the Heber Light and Power Office Building and Property located at 31 South and 100 West, Heber City, Utah 84032

Dear Manager Norlen and Heber Light and Power Board Members,

The Governing Body of Heber City respectfully submits this Letter as a *quasi-amicus curiae* document. It is intended as an offering and Heber City's solicitation for the purchase of the Heber Light and Power Office Building and Real Property upon which it sits.

Heber City respectfully submits this proposal for purchase to the Board, as an official declaration and solicitation, and humbly anticipate that the Board will give the City priority consideration given the majority ownership interest of the City with Heber Light and Power, and the following supporting criteria.

In furtherance of Heber City's Envision Central Heber, and plans for the revitalization of Main Street, and the central blocks between Historic Heber City Tabernacle and Main Street City Park, Heber City desires this purchase as a central, core component of this revitalization project.

This Property is uniquely located within this proposed redevelopment corridor between Center Street and 200 South, situated within the central midblock section between the Tabernacle and City Park. These two locations are distinct and substantial, cultural settings of historical significance.

The revitalization of downtown was one of the consistent, desired and material aspects of the Envision Heber 2050 and Envision Central Heber Initiatives.

As your sister Council, we appreciate your unique circumstance and position as a public board and body politic, in attempting to balance effective growth with responsible stewardship of our people's

property and money. We submit this to you with genuine mutual admiration and support. If you need clarification or more information, or we can help in any way, please get with me.

Respectfully submitted,

Heidi Franco
Heber City Mayor

cc: Matt Brower, City Manager
75 North Main
Heber City, Utah 84032



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Pay Scale and Policy Adjustment to the Heber City Police Department.
RESPONSIBLE: Parker Sever, Cherie Ashe
DEPARTMENT: Human Resources
STRATEGIC RELEVANCE: Necessary Administrative Item

SUMMARY

Adjustments to the policy governing pay increases for the Heber City Police Department.

RECOMMENDATION

That City Council by motion approves the attached resolution and new policy, that reflects adjustment to pay advancements at the Heber City Police Department & direction to evaluate instituting a similar competitive program for remaining City Departments.

BACKGROUND

Currently, the Heber City Police Department, (HCPD) and all other employees of the City are governed by the Heber City Policy and Procedures manual. I identified the following sections relevant to movement within the City pay scales;

Section 13.7 Merit Salary Adjustment

- A. All employees shall be eligible for consideration of a salary adjustment on January 1 of each year and at any other period deemed appropriate by the City Manager or by the City Council.
- B. For the purpose of determining eligibility for advancement, the supervisor of the employee shall indicate on the employee evaluation of the preceding year. An employee who has been demoted or suspended during the preceding year shall not be eligible for a salary adjustment until the following year unless an interim written appraisal has been performed by the supervisor more than 90 days after the demotion or suspension which shows a significant improvement in performance.

Section 13.8 Salary Range Adjustment

In order for employees in hourly or exempt service to maintain constant buying power in the face of either economic inflationary or recessionary periods, the hourly and exempt salary ranges within the

Compensation Plan shall be reviewed annually and adjusted if deemed appropriate. The City Council may implement a Cost of Living Adjustment for all employees effective on the first full pay period of the fiscal year.

Section 13.32 Wage Advancement

A. Wage Advancement Employee would be eligible to advance to any point within the pay scale range with the approval of the City Manager. To be eligible, Employee must: Be a full time or part-time employee; Be in good standing with his or her department head; have three (3) consecutive years of average or above average evaluations, and Have not had a letter of reprimand or higher discipline within the last three (3) years.

These sections are meant to move employees through their respective pay scales. However, employees are not moving their way along the pay scale in an incremental manner. Currently, an employee will hit their mid-year max after 6 years and will be adjusted to their max after 12 years. What is occurring is that because employees are not moving through their pay scales incrementally, they are receiving large adjustments at 6 years, receiving their mid/max and at 12 years receiving their max. This is demonstrated by 2 employees at the Police Department. One receives their mid/max during this budget and the next will receive his 12-year max cycle. The first officer, a Sergeant, after 5 years with the City, will be moved to his 6-year mid/max and receive a raise of \$11,128.00. The Second, a Lieutenant, is hitting his 12 year max and will receive a raise this year of \$12,376.00. These large jumps create several problems for the police department.

1. Employees looking at other agencies see large increases if they were to leave.
2. It creates compaction issues. If we attract a lateral officer, we either have to hire them at a rate higher than an officer of similar experience working here, or reduce their rate, which may result in their pay rate being less than where they are coming from.
3. It makes it harder for working families to get ahead, incrementally moving through the pay scale benefits the employees, especially in Heber City, which has one of the highest costs of living in Utah.

DISCUSSION

Human Resources and the Police Department are proposing to change the current policy which was previously cited and adding to it a new safety personnel section, i.e. uniformed officers, that would read as follows;

Section 13.71 Public Safety Merit Pay Salary Adjustment

- A. Regular, full-time safety employees shall be eligible for consideration for merit pay increases as follows:
1. To the second (2nd) step of the salary schedule after completion of one (1) year of service in the first step.

2. To the third (3rd) and each subsequent step after completion of a minimum of one (1) year of service at each step.
3. After completion of probation, Step 2 is automatic and not meritorious. Each step after step 2 is considered meritorious.

B. Each step increase is performed on an employee's anniversary date. The employee's anniversary date is determined by;

1. One year from the employees start date;
2. One year from a promotion, or
3. One year from a special evaluation.

C. Eligibility for the full meritorious increase shall be determined by:

1. Average or above average evaluation during the last rating period, and
2. Recommendation of a wage increase in the performance evaluation, and
3. No disciplinary action higher than a Letter of Caution during the rating period.

D. An employee who has received disqualifying disciplinary action during the preceding year shall not be eligible for a salary adjustment at their annual evaluation for a step increase. A written appraisal may be performed by the supervisor no less than 120 days after the disciplinary action which shows a significant improvement in performance. This appraisal may not be performed prior to the regular anniversary date,

1. This written appraisal shall set a new anniversary date and the next step increase will be considered at the new one (1) year anniversary.
2. The Supervisor shall receive permission from the Department Head prior to the evaluation being completed to receive permission to perform said evaluation. The evaluation may be denied based upon the sole determination of the department head that the discipline was egregious enough that the evaluation should not be performed.
3. It is the responsibility of the department and the employee to track anniversary dates and employee evaluation dates. The City will not typically back pay late, or incorrectly done evaluations that result in the employees step increase being delayed.

An employee that does not have disqualifying disciplinary action but who, based upon a review of the supervisors' evaluation, is not performing at the level of a standard employee may be recommended for a partial increase. This increase shall be determined and recommended by the department head. An employee who has received a partial increase, will be able to get to the top step of the pay range in an annual evaluation. This would be done in 5% increments each year, based upon merit and this policy until the top of the pay range has been met.

E. In such cases as may occur wherein an employee shall demonstrate exceptional sustained ability and proficiency in performance of his/her assigned duties, said employee may be given a special

merit advancement to the next higher step without regard to the minimum length of service provisions contained in this Section upon recommendation of the Department Head and the approval of the City Manager.

F. Merit pay increases shall be granted upon approval of the employee's Department Head for continued meritorious and efficient service and continued improvement by the employee in the effective performance of the duties of his/her position.

G. Notwithstanding any other provision in this Section, the City Council may vote to reduce or suspend the meritorious increases if the City Council determines that budget constraints or other factors warrant reducing or suspending the meritorious increases. The Council may increase future meritorious increases to offset any decreases due to a reduction or suspension.

This proposed change would have the following impact on the Police Department/City.

1. Employees would be adjusted to the correct position within their pay scale after their next evaluation.
2. Evaluation dates would change from doing all of them at the end of the year, to coinciding with their anniversary or most recent promotion date.
3. The department would go from a 6-year mid/max 12 year topped out, to an approx 9 year topped out with incremental movements through the pay scale. This time frame could be longer depending upon discipline and promotions.
4. The HCPD will continue to participate in the annual COLA as this affects the entire pay scale, but we will no longer participate in the city's annual merit increase in January.
5. Standardizes the salaries ranges. Despite many officers having a similar time with HCPD, there are only 2 sets of officers that have the same pay rate.

This new policy was brought to the personnel committee on December 14, 2023. The committee and those in attendance were in favor of the proposal and bringing it to council. The Committee indicated that they would like to see this policy across all City departments.

The language for the personnel manual was reviewed and approved by the City Attorney.

For comparison, the City of Heber for uniformed officers will be put at their mid-range after 6 years and at their max after 12 years. The County of Wasatch is currently maxing out their public safety officers after 8 years, Park City maxes out after 7 years and Summit County after 8 years. We also contacted numerous agencies on the Wasatch front and found several that were doing pay steps and some of the feedback received was that it had solved some disparity problems and brought consistency to the pay ranges. Of all the agencies contacted, all except one provided a COLA each year and their merit increases.

FISCAL IMPACT

Fortunately and unfortunately, the department has a lot of very young officers. This benefits the City in implementation as many are naturally at the bottom of the pay scale. This will not have a significant impact on this current budget cycle. The two officers previously cited are already budgeted to receive their increase in this fiscal year. Examining the anniversary dates of the employees, this would only impact 3 employees prior to the new fiscal year.

Officer 1 - 3 pay periods remaining \$307.20
Officer 2 - 4 pay period remaining \$496.00
Officer 3 - 10 pay period remaining \$1008.00

This would result in increased costs that would have to be budgeted in the fiscal year 2025 budget. I have reviewed each employee and the increased costs would be approx. \$63,567 to put the employee within their correct pay step on the new 9-year scale.

This amount is due to 5 employees being within 1–2 years of receiving their mid-max, at which time the City will be paying to put them into a pay close to what is being proposed. This is also not factoring in current merit increases, which would decrease this amount.

The pay scale does increase slightly in various positions. The pay ranges would not line up exactly when calculating the 5% over 9 years. The attached Excel spreadsheets final column shows what the old pay step used to be. There are also 2 employees whose pay slightly exceeds the pay scale. This can easily be corrected in the next COLA increase to bring them into line with the established pay steps as the entire scale moves.

Once the employees are being compensated at the new rate based upon their years of experience with the City, it would be an approximately 2% increase in annual pay costs over what the employee would typically get when factoring in our annual merit and COLA increases.

The language of the policy also allows for the City to suspend merit increases by vote of the City Council should a fiscal or other emergency arise.

CONCLUSION

I believe this change would benefit the City in the following areas.

1. Retention of officers. Officers will see their pay as consistently comparable to surrounding agencies.
2. Encourages officers to perform at an acceptable level in order to receive merit increases.
3. Aids the employee in personal budgeting and knowing where they will be.
4. Recognizes the employee experience and rewards them appropriately.
5. If an employee experiences disciplinary action, it incentivizes them to continue to improve in order to obtain the increase at a later date.
6. Awards all city employees that exceed their department's expectations.
7. Gives flexibility to the department head when awarding increases to do a smaller increase for underperforming employees.

ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the **item** as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the **item** as amended, as follows.

Alternative 3 - Continue

I move to **continue** the **item** to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 - Denial

I move to **deny** the **item** with the following findings.

ACCOUNTABILITY

Department: Human Resources
Staff member: Cherie Ashe, Human Resources Director
Parker Sever, Chief of Police

EXHIBITS

1. Employee Hire Date Analysis no name
2. New pay steps Heber City
3. Resolution Personnel Policy

	HIRE DATE	YEARS OF SERVICE	CURRENT PAY RATE	NEW STEP	NEW PAY RATE	S.O. INCENTIVE	DEGREE INCENTIVE	INCENTIVE RATE	ADDITIONAL COST
2L2	6/11/2001	22	\$71.18	9	\$71.18			\$	-
2L3	3/22/2012	11	\$59.89	9	\$65.84			\$	12,376.00
2L4	11/21/2016	6	\$49.12	7	\$49.23			\$	228.80
2L5	6/30/2016	7	\$50.37	7	\$49.23		yes	\$52.31	\$ 4,035.20
2L6	4/23/2019	5	\$39.93	5	\$45.28			\$	11,128.00
2L7	8/27/2018	6	\$47.39	6	\$47.54			\$	312.00
2L8	10/21/2019	4	\$38.57	4	\$43.12			\$	9,464.00
2L9	6/27/2013	16	\$49.11	9	\$46.99		yes	\$49.33	\$ 457.60
2L10	10/30/2014	9	\$43.36	9	\$46.99		yes	\$49.33	\$ -
2L11	8/31/2015	8	\$42.59	8	\$43.22	Yes	yes	\$46.99	\$ 9,152.00
2L12	7/26/2018	8	\$40.89	8		Yes		\$44.75	\$ 8,028.80
2L13	8/13/2018	5	\$34.57	5	\$37.34	Yes		\$39.20	\$ 9,630.40
2L14	12/31/2018	4	\$34.57	4	\$35.57	Yes		\$37.74	\$ 6,593.60
2L15	6/27/2019	4	\$33.95	4	\$35.57	Yes		\$37.74	\$ 7,883.20
2L16	12/27/2021	1	\$32.60	2				\$33.88	\$ 2,662.40
2L17	2/2/2022	1	\$32.62	2				\$32.62	\$ -
2L18	7/15/2021	2	\$38.98	6	\$39.20			\$	457.60
2L19	6/27/2022	1	\$32.59	1	\$32.59			\$	-
2L20	6/27/2022	1	\$32.28	1	\$32.28			\$	-
2L21	8/8/2022	1	\$31.65	1	\$31.65			\$	-
2L22	7/17/2023	0	\$30.73	1	\$30.73			\$	-
2L23	5/1/2023	0	\$30.73	1	\$30.73			\$	-
2L24	5/15/2023	0	\$31.85	3	\$33.88			\$	2,662.40
2L25	10/21/2019	0	\$34.60		\$35.57			\$	2,017.60
2L26	10/23/2023	0	\$32.60	3	\$33.88			\$	-
2L51	9/21/2020	3	\$33.00					\$	-
2L52	7/16/2018	22	\$32.94					\$	-
2L53	4/17/2023	0	\$29.71		\$29.87			\$	332.80
2L54	5/17/2023	0	\$26.00					\$	87,422.40

		MONTHLY SALARY									HOURLY SALARY										
DEPARTMENT	JOB TITLE	1/MIN	2	3	4	5	6	7	8	9/MAX	1/MIN	2	3	4	5	6	7	8	9/MAX		
HCPD	Police Officer	\$5,327	\$5,593	\$5,873	\$6,165	\$6,472	\$6,795	\$7,134	\$7,491	\$7,757	30.73	32.28	33.88	35.57	37.34	39.20	41.16	43.22	44.75		43.01
HCPD	Senior Police Officer	\$5,593	\$5,873	\$6,165	\$6,472	\$6,795	\$7,134	\$7,491	\$7,757	\$8,145	32.27	33.88	35.57	37.34	39.20	41.16	43.22	44.75	46.99	5% Incentive	46.76
HCPD	Master Officer	\$5,873	\$6,165	\$6,472	\$6,795	\$7,134	\$7,491	\$7,757	\$8,145	\$8,551	33.88	35.57	37.34	39.20	41.16	43.22	44.75	46.99	49.33	5% Incentive	49.11
HCPD	Sergeant	\$6,460	\$6,783	\$7,195	\$7,474	\$7,849	\$8,240	\$8,533	\$8,960	\$9,509	37.27	39.13	41.51	43.12	45.28	47.54	49.23	51.69	54.86	10% seperation	54.00
HCPD	Master Sergeant	\$6,783	\$7,105	\$7,460	\$7,833	\$8,225	\$8,635	\$9,067	\$9,521	\$9,998	39.13	40.99	43.04	45.19	47.45	49.82	52.31	54.93	57.68	5% incentive	56.67
HCPD	Police Lieutenant	\$7,722	\$8,108	\$8,514	\$8,940	\$9,388	\$9,857	\$10,350	\$10,868	\$11,412	44.55	46.78	49.12	51.58	54.16	56.87	59.71	62.70	65.84	15% seperation	65.51
HCPD	Police First Lieutenant	\$8,108	\$8,514	\$8,940	\$9,388	\$9,857	\$10,350	\$10,868	\$11,412	\$11,983	46.78	49.12	51.58	54.16	56.87	59.71	62.70	65.84	69.13	5% Increase	
HCPD	Police Deputy Chief	\$8,337	\$8,755	\$9,193	\$9,654	\$10,138	\$10,646	\$11,180	\$11,740	\$12,329	48.10	50.51	53.04	55.70	58.49	61.42	64.50	67.73	71.18	10% Seperation	71.13
HCPD	Office Manager	\$4,505	\$4,730	\$4,966	\$5,214	\$5,474	\$5,748	\$6,036	\$6,337		25.99	27.29	28.65	30.08	31.58	33.16	34.82	36.56			36.39
HCPD	Adminstrative Assistant	\$3,678	\$3,861	\$4,054	\$4,255	\$4,467	\$4,692	\$4,935	\$5,177		21.22	22.28	23.39	24.55	25.77	27.07	28.47	29.87			29.71

RESOLUTION NO. 2024-05

A RESOLUTION ADOPTING UPDATES TO THE HEBER CITY PERSONNEL POLICY

WHEREAS, the Heber City Personnel Policy establishes policies and procedures for City employees;

WHEREAS, the City's Human Resources and Police Administration has reviewed the Personnel Policy and suggested a number of proposed changes to the Personnel Policy;

WHEREAS, the proposed changes to the Personnel Policy add a number of sections to the Personnel Policy;

WHEREAS, the City Council finds that the proposed changes to the Personnel Policy are beneficial to the employees and City and update, clarify and streamline pay scale advancement procedures for public safety personnel; and

NOW THEREFORE, BE IT RESOLVED by the City Council of Heber City, Utah, that the Heber City Council adopts the updated Personnel Policy attached hereto as Exhibit A.

This Resolution shall take effect and be in force from and after its adoption and publication.

ADOPTED AND PASSED by the City Council of Heber City, Utah, this 19 day of March, 2024. This Resolution shall become effective upon adoption and passage by the City Council.

HEBER CITY
A Utah Municipal Corporation

Heidi Franco, Mayor

ATTEST:

Trina Cooke, City Recorder

(city seal)

EXHIBIT “A”

13.40 Public Safety Merit Pay Salary Adjustment

- A. Regular, full-time safety employees shall be eligible for consideration for merit pay increases as follows:
 - 1. To the second (2nd) step of the salary schedule after completion of one (1) year of service in the first step.
 - 2. To the third (3rd) and each subsequent step after completion of a minimum of one (1) year of service at each step.
 - 3. After completion of probation, Step 2 is automatic and not meritorious. Each step after step 2 is considered meritorious.
- B. Each step increase is performed on an employee’s anniversary date. The employee’s anniversary date is determined by;
 - 1. One year from the employees start date;
 - 2. One year from a promotion, or
 - 3. One year from a special evaluation.
- C. Eligibility for the full meritorious increase shall be determined by:
 - 1. Average or above average evaluation during the last rating period, and
 - 2. Recommendation of a wage increase in the performance evaluation, and
 - 3. No disciplinary action higher than a Letter of Caution during the rating period.
- D. An employee who has received disqualifying disciplinary action during the preceding year shall not be eligible for a salary adjustment at their annual evaluation for a step increase. A written appraisal may be performed by the supervisor no less than 120 days after the disciplinary action which shows a significant improvement in performance. This appraisal may not be performed prior to the regular anniversary date,
 - 1. This written appraisal shall set a new anniversary date and the next step increase will be considered at the new one (1) year anniversary.
 - 2. The Supervisor shall receive permission from the Department Head prior to the evaluation being completed to receive permission to perform said evaluation. The evaluation may be denied based upon the sole determination from the department head that discipline was egregious enough that the evaluation should not be performed.
 - 3. It is the responsibility of the department and the employee to track anniversary dates and employee evaluation dates. The City will not typically back pay late, or incorrectly done evaluations that result in the employees step increase being delayed.

An employee that does not have disqualifying disciplinary action but who, based upon a review of the supervisor’s evaluation, is not performing at the level of a standard employee may be recommended for a partial increase. This increase shall be determined and recommended by the department head.

An employee who has received a partial increase will be able to obtain the top step of the pay range in future annual evaluations. This would be done in 5% increments each year, based upon merit and this policy until the top of the pay range has been met.

- E. In such cases as may occur wherein an employee shall demonstrate exceptional sustained ability and proficiency in performance of his/her assigned duties, said employee may be given a special merit advancement to the next higher step without regard to the minimum length of service provisions contained in this Section upon recommendation of the Department Head and the approval of the City Manager.
- F. Merit pay increases shall be granted upon approval of the employee's Department Head for continued meritorious and efficient service and continued improvement by the employee in the effective performance of the duties of his/her position.
- G. Notwithstanding any other provision in this Section, the City Council may vote to reduce or suspend the meritorious increases if the City Council determines that budget constraints or other factors warrant reducing or suspending the meritorious increases. The Council may increase future meritorious increases to offset any decreases due to a reduction or suspension.



Heber City Council Staff Report

MEETING DATE: 3/19/2024
SUBJECT: Resolution 2024-02 Updating the Code of Conduct and Ethics
RESPONSIBLE: Jeremy Cook
DEPARTMENT: Administrative
STRATEGIC RELEVANCE:

SUMMARY

Resolution 2012-07 adopted a code of conduct and ethics. On February 6, 2024, the Council reviewed Resolution 2012-07 and requested that it be brought back with revisions to the procedure for investigation of a complaint.

RECOMMENDATION

No recommendation

BACKGROUND

DISCUSSION

Resolution 2024-02 amends the Code of Conduct and Ethics formerly adopted by the City. The changes primarily relate to the procedure for the investigation of an ethics complaint and recommendation of corrective action.

FISCAL IMPACT

None

CONCLUSION

ALTERNATIVES

1. Approve as proposed
 2. Approve as amended
 3. Continue
 4. Deny
-

POTENTIAL MOTIONS

Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

Alternative 3 - Continue

I move to **continue** the item to another meeting on , with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

Alternative 4 - Denial

I move to **deny** the item with the following findings.

ACCOUNTABILITY

Department: Administrative
Staff member: Jeremy Cook, City Attorney

EXHIBITS

1. Resolution 2012-07 and Heber City Code of Conduct and Ethics
2. Resolution 2024-02 and Heber City Code of Conduct and Ethics - 4876-7455-1972 - 1

RESOLUTION NO. 2012-07

A RESOLUTION **ADOPTING** A CODE OF CONDUCT AND ETHICS FOR PUBLIC OFFICIALS OF HEBER CITY.

BE IT RESOLVED by the City Council of Heber City, Utah that the *Code of Conduct and Ethics for Public Officials*, as a matter of policy, is adopted as set forth in Exhibit "A":

This Resolution shall take effect and be in force from and after its adoption and publication.

ADOPTED and PASSED by the City Council of Heber City, Utah this 17th day of May, 2012, by the following vote:

	AYE	NAY
Council Member Robert L. Patterson	<u>X</u>	_____
Council Member Alan W. McDonald	<u>X</u>	_____
Council Member Benny Mergist	<u>X</u>	_____
Council Member Jeffery M. Bradshaw	<u>X</u>	_____
Council Member Erik Rowland	<u>X</u>	_____

APPROVED:


Mayor David R. Phillips

ATTEST:


RECORDER

CODE OF CONDUCT AND ETHICS FOR PUBLIC OFFICIALS (Mayor, City Council members, Commissions, Committees, Boards)

A. DECLARATION OF POLICY

It is the policy of the City of Heber to uphold, promote, and demand ethical conduct from its elected and appointed public officials. The citizens and businesses of Heber City are entitled to have fair, ethical, and accountable local government.

As members of the City Council, we recognize the importance of codifying and making known to the general public the ethical principles and laws that guide the work of elected officials and members of appointed boards, commissions, and committees (public officials). Public officials are to maintain the highest standards of personal integrity, truthfulness, and fairness in carrying out their public duties.

In order to fulfill this mission, the City of Heber hereby adopts a Code of Conduct and Ethics for public officials to assure public confidence in the integrity of local government and its effective and fair operation. This code describes the standards of behavior to which its leaders aspire. The constant and consistent theme through the conduct guidelines is “respect.” Public officials experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, public officials are called upon to exhibit appropriate behavior at all times. These guidelines help public officials to do the right thing in even the most difficult situations. Public officials have the duty to conduct City affairs in a businesslike manner, assuring timely consideration of matters before them and thoughtful expeditious decision-making. These guidelines incorporating best practices among city governments can help guide public officials to contribute to this end.

Furthermore, the effective functioning of democratic government requires that public officials comply with both the letter and spirit of the laws and policies affecting the operations of government; that public officials be independent, impartial and fair in their judgment and actions; that public office be used for the public good, not for personal gain; and that public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

B. GENERAL PRINCIPLES UNDERLYING THE CODE OF CONDUCT AND ETHICS

The stability and proper operation of a democratic representative government depends upon public confidence in the integrity of the government, and upon responsible exercise of the trust conferred by the people upon their public officials.

Governmental decisions and policy must be made and implemented through proper channels and processes of the government structure.

Public local government officials must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.

Public local government officials must always remain aware that at various times they play different roles:

1. **As advocates**, who strive to advance the legitimate needs of their citizens,

2. **As legislators**, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions, and

3. **As fair and impartial decision-makers**, when making quasi-judicial and administrative determinations.

Public local government officials must know how to distinguish among these roles, to determine when each role is appropriated, and to act accordingly.

Public local government officials must be aware of their obligations to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his/her own conscience the touchstone by which to determine what conduct is appropriate.

C. APPLICABLE LAWS AND POLICIES

1. Compliance with Law

a. Public officials should take care to obey all laws that apply to their official actions as public officials. Public officials should be guided by the spirit as well as the letter of the law in whatever they do to give their best judgment.

b. At the same time, public officials should feel free to assert policy positions and opinions without fear of reprisal from fellow official members or citizens. To assert that a public official is behaving unethically based upon a disagreement with other officials on a question of policy (and not on the public officials ethical behavior) is unfair, dishonest, irresponsible, and itself unethical.

c. The commissions, committees, boards, and city's governing body shall endeavor to keep itself up-to-date, through its attorney or other sources, of new or on-going legal or ethical quandaries or difficulties that they may face in their official positions.

d. Public officials shall comply with the laws of the nation, the State of Utah, and the City of Heber in the performance of their public duties to foster respect for all government. These laws include, but are not limited to: the United States and Utah Constitutions and any City Codes, resolutions, ordinances and policies; laws pertaining to conflicts of interest, contracts with public entities, election campaigns, financial disclosures, and employer responsibilities and open processes of government.

2. Responsibility of Public Office

a. Recognizing that stewardship of the public interest must be their primary concern, public officials shall work for the common good of the people of Heber City, avoiding actions that are inconsistent with the best interests of the city, and not for any private or personal interest; and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

b. Public officials should act with integrity and with independence from improper influence as they exercise the functions of their offices.

c. Public officials should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behavior.

d. City Council members and the Mayor - Because of the value of the independent advice of boards, committees or commissions to the public decision-making process, members of the City Council and Mayor shall, except when the City Council or Mayor is a member of the that public body, limit their participation in the proceedings of such subordinate public bodies to the communication of requested information and providing factual information relevant to the discussion at hand, and shall not otherwise attempt to unduly use their position to influence the deliberations or outcomes of the proceedings.

e. Public Officials should use their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner. They should be self-governing and not subject to improper influence, while at the same time being able to consider the opinions and ideas of others. At the same time, public officials should recognize that they are part of a larger group and should act accordingly. They should respect their office and not behave in ways that reflect badly on it. They should treat other public officials and the public with respect, and should honor the opinions of others even when they disagree. They should recognize that they are not generally authorized to act on behalf of the board, commission, committee, or council, since the board, commission, committee or council must take official action as a body.

3. Impropriety

a. Public officials should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach.

b. A public official is considered to be acting with impropriety if a reasonable person who was made aware of the totality of the circumstance surrounding the public official's action would conclude that it was more likely than not that the behavior did not benefit someone in the public official's position.

c. If a public official concludes that his/her actions, while legal and ethical, may be misunderstood, he/she may seek the advice of the City Attorney. He/she may also state on the record the facts of the situation and the steps taken to resolve it.

4. Performance of Duties

a. Public officials shall perform their duties in accordance with the processes and rules of order established by the State, City Council, boards, commissions, and committees, governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.

b. Public officials shall be loyal to the political objectives expressed by the electorate and the programs developed to attain those objectives.

c. Public Officials of local governing boards should be faithful in the performance of the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. Public officials should be faithful in their attendance at meetings and in their preparation for those meetings. They should carefully analyze all credible information that is provided to them or which they obtained from outside sources.

d. Public officials shall publicly share with the body substantive information that is relevant to a matter under consideration by the council, boards, commissions, and committees, which they may have received from sources outside the public decision-making process.

e. Public officials should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with the scrutiny appropriate to their particular office.

f. As a group of citizens to whom much has been entrusted, the board should demand full accountability from those over whom it has authority. The board should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

g. All public officials should be willing to bear their fair share of the governing board's workload. To the extent appropriate, they should be willing to put the City's interests ahead of their own.

5. Conduct of Public Meetings

a. Public officials of local governing boards should conduct the affairs of their meetings in an open and public manner. They should comply with all applicable laws of governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. This includes being sensitive to those matters recognized by law.

b. The public officials should remember when meeting that they are conducting the public's business. They should also remember that the records of their local government belong to the public and not to them or their employees or staff. They should make clear that a climate of openness is to be maintained at all times in their government units.

c. In order to ensure strict compliance with the laws governing openness, governing public officials should strive to be open.

d. They should prohibit unjustified delay in fulfilling public records requests.

e. They should take deliberate steps before they go into closed session for any reason, to ensure that the closed session will be lawful.

f. Public officials shall inform themselves of public issues, listen courteously and attentively to public discussions before the body and focus on the business at hand.

g. Officials shall refrain from interrupting other speakers, making personal comments not relevant to the business of the body, or otherwise interfere with the orderly conduct of meetings.

h. Appropriate City staff should be involved when public officials meet in their regular meetings and with officials from other agencies and jurisdictions to ensure proper staff support and to keep staff informed.

6. Procedures of Public Meetings

a. During public meetings, public officials shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the orders of the presiding officer or the rules of the city council.

b. A public official desiring to speak shall address the chair and, upon recognition by the presiding officer, shall confine discussion to the question under debate, avoid discussion of personalities and indecorous language, and refrain from personal attacks and verbal abuse.

c. A public official, once recognized, shall not be interrupted while speaking unless called to order by the presiding officer, unless a point of order is raised by another council member, or unless the speaker chooses to yield to questions from another member. If a public official member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or make additional remarks so as to comply with rules of the city council.

d. Public officials shall confine their questions to the particular matters before the assembly and in debate shall confine their remarks to the issues before the body.

e. When there is more than one speaker on the same subject, the public official will delay their comments until after all speakers on the subject have been heard.

f. The City Manager and any other appointed, administrative level official shall be entitled at all times to any privilege of the floor for the purpose of speaking upon any question that pertains to their duties, responsibilities and authority.

7. Public Participation in Public Meetings

a. Any resident or interested party desiring to address the body shall be first recognized by the chair. She/he shall then step to the floor microphone and state her/his name and address in an audible tone for the City's record. Remarks shall be limited to the question under discussion.

b. The purpose of addressing the public officials body is to communicate formally with the regarding matters that relate to the public officials business or citizens' concerns within the subject matter jurisdiction of the public officials. Persons addressing the public officials' body on an agenda item shall confine their remarks to the matter under consideration by the public officials' body.

c. Members of the public may address the public officials' body during public comments and/or before consideration of any agenda item; however, no person shall address the public officials' body without first being recognized by the Mayor or chair. Any

person wishing to speak, during an agenda item, must wait until the chair calls for the particular agenda item.

d. Each person addressing the public officials' body shall do so in an orderly manner and shall not engage in conduct that disrupts, disturbs, or otherwise impedes the orderly conduct of the meeting. Any person, who so disrupts the meeting shall, at the discretion of the Mayor or a majority of the public body members, be subject to removal from that meeting.

e. Members of the audience shall not engage in disorderly or boisterous conduct, including the utterance of loud, threatening, or abusive language; clapping; whistling; stamping; or other acts that disturb, disrupt, impede, or otherwise render the orderly conduct of the public meeting unfeasible.

f. A member of the audience engaging in such conduct shall, at the discretion of the Mayor or a majority of the public officials' body, be subject to removal from that meeting.

8. Conduct of Public Officials in Open Public or Private Meetings and Using the Social Media Network

a. The professional and personal conduct of public officials must be above reproach and avoid even the appearance of impropriety.

b. Public officials shall refrain from abusive conduct, unsubstantiated personal charges or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, the staff or the public.

c. Public officials shall refrain from interrupting other speakers, making personal comments not relevant to the business of the body; or otherwise interfering with the orderly conduct of the meetings.

d. Public officials shall commit to practice civility and decorum in discussions and debates.

e. Public officials shall commit to honoring the role of the chair in maintaining order, keeping discussion on track, and focusing discussion on agenda items at hand.

f. Public officials shall avoid arguments with the public.

g. Public officials shall not engage in personal attacks of any kind under any circumstance.

h. Public officials should treat each other and the public with respect, regardless of their race, age, religion, gender, sexual orientation, or disability, and should not unlawfully discriminate against any person or group of persons.

D. PUBLIC OFFICIALS ACKNOWLEDGMENT AND COMMITMENT TO THE CODE OF CONDUCT AND ETHICS

1. We respect the individual
2. I treat my fellow public officials, staff and the public with patience, courtesy and civility, even when we disagree on what is best for the community.
3. I promote consistency, equity and non-discrimination in public agency decision-making.
4. I respect the dignity and privacy of individuals and organizations.
5. I recognize the worth of individual members and appreciate their individual talents, perspectives and contributions.
6. I will conduct my public affairs with honesty, integrity, fairness, respect for others and will not slander or defame others.
7. I will avoid and discourage conduct that is divisive, harmful or not in the best interest of other individuals.
 - a. We Honor the Public Trust as Stewards of the Community
 1. I am a steward of the public trust.
 2. I understand that the community expects me to serve with dignity and respect for my office, as well as to be an agent of the democratic process in the public interest.
 3. I avoid actions that might cause the public to question my independent judgment.
 4. I do not use my office or the resources of the City for personal or political gain.
 5. I am a prudent steward of public resources and actively consider the impact of my decisions on the financial and social stability of the City, its citizens and businesses.
 6. I am prepared to make decisions in the public's best interest based on the merits and substance of the matter at hand, and to take responsibility for my actions, whether those decisions are popular or not.
 - b. We Maintain Open and Honest Communication
 1. I am honest and forthright with my fellow officials, the public and others, even when it is uncomfortable to do so.
 2. I encourage diverse public engagement in our decision-making processes and support the public's right to know.

We, the public officials of Heber City, hold ourselves as individuals and the City of Heber organization as a whole, accountable for acting consistently with the Code of Conduct and Ethics.

I affirm that I have read and understand the city of Heber Code of Conduct and Ethics and agree to uphold it.

Signature: _____ Date: _____

1. Implementation

a. The Code of Conduct and Ethics for the public officials of the City of Heber is intended to be self-enforcing. It therefore becomes most effective when officials are thoroughly familiar with it and embraces its provisions. For this reason ethical standards shall be included in the regular orientation for candidates for the City Council, applicants to boards, committees, and commissions, newly elected officials, and appointed members of boards, commissions and committees.

b. Public Officials entering office or appointment will receive a statement certifying they have read and understand the City of Heber Code of Conduct and Ethics. Signing the statement is optional. All public officials are subject to the provisions of the Code of Conduct and Ethics whether or not the statement is signed.

c. All Public officials (Mayor, City Council, boards, commissions, and committees) shall review and sign this personal code of conduct and ethics at the first meeting in February of each year when the Public Officials meet, as a symbol of each Public Official's continuing commitment to abide by the principles of this code. This code shall be evaluated by the city council in the first meeting of January of every even year.

2. Compliance and Enforcement

a. The City of Heber Code of Conduct and Ethics expresses standards of ethical conduct expected for the public officials of the Mayor, City Council, boards, commissions, and committed. Officials themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

b. The Chairs of commissions, boards, committees and the Mayor have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Conduct and Ethics are brought to their attention.

c. All City Council members shall have a responsibility to intervene when actions of another City Council member appear to be in violation of the Code of Conduct and Ethics are brought to their attention.

d. A person making a complaint against a public official of violation of this policy shall submit the complaint in writing, to the City Manager or Mayor who will determine legal sufficiency. The written complaint must be based substantially upon the personal knowledge of the complaint and signed under oath or affirmation by the person filing the complaint. The City Manager or Mayor when receiving a complaint shall report all complaints to the City Council regardless of determination.

e. The Mayor or City Manager shall investigate the complaint and shall give the person the opportunity to be heard. A written report of the findings and the recommendations of the Mayor or City Manager shall be filed with the governing body.

f. The governing body shall make a final determination upon a majority vote of all members, except or any member which is the subject of a complaint. No hearing shall be bound by the strict rule of evidence, and the standard of proof required for a final determination of violation of this policy shall be a preponderance of evidence. At the discretion of the City Council, sanction may include requesting a formal public apology reprimands or censure, or removal or exclusion from leadership positions, governing board, and other official positions or duties that do not conflict with Utah Statutes.

g. A violation of this code of conduct and ethics shall not be considered a basis for challenging the validity of a City Council, board, committee, or commission decision.

RESOLUTION NO. 2024-02

A RESOLUTION AMENDING THE CODE OF CONDUCT AND ETHICS FOR PUBLIC OFFICIALS OF HEBER CITY.

BE IT RESOLVED by the City Council of Heber City, Utah that the *Code of Conduct and Ethics for Public Officials*, is amended as set forth in Exhibit "A":

This Resolution shall take effect and be in force from and after its adoption.

ADOPTED and PASSED by the City Council of Heber City, Utah, this ____ day of _____, 2024, by the following vote:

	AYE	NAY	ABSENT	ABSTAIN
Aaron Cheatwood	_____	_____	_____	_____
Michael Johnston	_____	_____	_____	_____
Sid Ostergaard	_____	_____	_____	_____
Scott Phillips	_____	_____	_____	_____
Yvonne Barney	_____	_____	_____	_____

APPROVED:

Mayor Heidi Franco

ATTEST:

City Recorder

Exhibit A

CODE OF CONDUCT AND ETHICS FOR PUBLIC OFFICIALS (Mayor, City Council members, Commissions, Committees, Boards)

A. DECLARATION OF POLICY

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As members of the City Council, we recognize the importance of codifying and making known to the general public the ethical principles and laws that guide the work of elected officials and members of appointed boards, commissions, and committees ("public officials"). Public officials are to maintain the highest standards of personal integrity, truthfulness, and fairness in carrying out their public duties.

To fulfill this mission, the City of Heber hereby adopts a Code of Conduct and Ethics for public officials to assure public confidence in the integrity of local government and its effective and fair operation. This code describes the standards of behavior to which its leaders aspire. The constant and consistent theme through the conduct guidelines is "respect." Public officials experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, public officials are called upon to exhibit appropriate behavior at all times. These guidelines help public officials to do the right thing in even the most difficult situations. Public officials have the duty to conduct City affairs in a businesslike manner, assuring timely consideration of matters before them and thoughtful expeditious decision-making. These guidelines incorporating best practices among city governments can help guide public officials to contribute to this end.

Furthermore, the effective functioning of democratic government requires that public officials comply with both the letter and spirit of the laws and policies affecting the operations of government; that public officials be independent, impartial and fair in their judgment and actions; that public office be used for the public good, not for personal gain; and that public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

B. GENERAL PRINCIPLES UNDERLYING THE CODE OF CONDUCT AND ETHICS

The stability and proper operation of a democratic representative government depends upon public confidence in the integrity of the government, and upon responsible exercise of the trust conferred by the people upon their public officials.

Governmental decisions and policy must be made and implemented through proper channels and processes of the government structure.

Public local government officials must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.

Public local government officials must always remain aware that at various times they play different roles:

1. **As legislators**, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions, and

2. **As fair and impartial decision-makers**, when making quasi-judicial and administrative determinations, public local government officials must know how to distinguish among these roles, to determine when each role is appropriated, and to act accordingly. Public local government officials must be aware of their obligations to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his/her own conscience the touchstone by which to determine what conduct is appropriate.

C. APPLICABLE LAWS AND POLICIES

1. Compliance with Law

a. Public officials should take care to obey all laws that apply to their official actions as public officials. Public officials should be guided by the spirit as well as the letter of the law in whatever they do to give their best judgment.

b. At the same time, public officials should feel free to assert policy positions and opinions without fear of reprisal from fellow official members or citizens. To assert that a public official is behaving unethically based upon a disagreement with other officials on a question of policy (and not on the public officials ethical behavior) is unfair, dishonest, irresponsible, and itself unethical.

c. The commissions, committees, boards, and city's governing body shall endeavor to keep itself up-to-date, through its attorney or other sources, of new or on-going legal or ethical quandaries or difficulties that they may face in their official positions.

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d. Public officials shall publicly share with the body substantive information that is relevant to a matter under consideration by the council, boards, commissions, and committees, which they may have received from sources outside the public decision-making process.

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g. All public officials should be willing to bear their fair share of the governing board's workload. To the extent appropriate, they should be willing to put the City's interests ahead of their own.

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a. Public officials of local governing boards should conduct the affairs of their meetings in an open and public manner. They should comply with all applicable laws of governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. This includes being sensitive to those matters recognized by law.

b. The public officials should remember when meeting that they are conducting the public's business. They should also remember that the records of their local government belong to the public and not to them or their employees or staff. They should make clear that a climate of openness is to be maintained at all times in their government units.

c. In order to ensure strict compliance with the laws governing openness, governing public officials should strive to be open.

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a. During public meetings, public officials shall assist in preserving order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the orders of the presiding officer or the rules of the city council.

b. A public official desiring to speak shall address the chair and, upon recognition by the presiding officer, shall confine discussion to the question under debate, avoid discussion of personalities and indecorous language, and refrain from personal attacks and verbal abuse.

c. A public official, once recognized, shall not be interrupted while speaking unless called to order by the presiding officer, unless a point of order is raised by another council member, or unless the speaker chooses to yield to questions from another member. If a public official member is called to order while speaking, that member shall cease speaking immediately until the question of order is determined. If ruled to be in order, the member shall be permitted to proceed. If ruled to be not in order, the member shall remain silent or make additional remarks so as to comply with rules of the city council.

d. Public officials shall confine their questions to the particular matters before the assembly and in debate shall confine their remarks to the issues before the body.

e. When there is more than one speaker on the same subject, the public official will delay their comments until after all speakers on the subject have been heard.

f. The City Manager and any other appointed, administrative level official shall be entitled at all times to any privilege of the floor for the purpose of speaking upon any question that pertains to their duties, responsibilities and authority.

7. Public Participation in Public Meetings

a. Any resident or interested party desiring to address the body shall be first recognized by the chair. She/he shall then step to the floor microphone and state her/his name and address in an audible tone for the City's record. Remarks shall be limited to the question under discussion.

b. The purpose of addressing the public officials body is to communicate formally with the regarding matters that relate to the public officials business or citizens' concerns within the subject matter jurisdiction of the public officials. Persons addressing the public officials' body

on an agenda item shall confine their remarks to the matter under consideration by the public officials' body.

c. Members of the public may address the public officials' body during public comments and/or before consideration of any agenda item; however, no person shall address the public officials' body without first being recognized by the Mayor or chair. Any person wishing to speak, during an agenda item, must wait until the chair calls for the particular agenda item.

d. Each person addressing the public officials' body shall do so in an orderly manner and shall not engage in conduct that disrupts, disturbs, or otherwise impedes the orderly conduct of the meeting. Any person, who so disrupts the meeting shall, at the discretion of the Mayor or a majority of the public body members, be subject to removal from that meeting.

e. Members of the audience shall not engage in disorderly or boisterous conduct, including the utterance of loud, threatening, or abusive language; clapping; whistling; stamping; or other acts that disturb, disrupt, impede, or otherwise render the orderly conduct of the public meeting unfeasible.

f. A member of the audience engaging in such conduct shall, at the discretion of the Mayor or a majority of the public officials' body, be subject to removal from that meeting.

8. Conduct of Public Officials in Open Public or Private Meetings and Using the Social Media Network

a. The professional and personal conduct of public officials must be above reproach and avoid even the appearance of impropriety.

b. Public officials shall refrain from abusive conduct, unsubstantiated personal charges or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, the staff or the public.

c. Public officials shall refrain from interrupting other speakers, making personal comments not relevant to the business of the body; or otherwise interfering with the orderly conduct of the meetings.

d. Public officials shall commit to practice civility and decorum in discussions and debates.

e. Public officials shall commit to honoring the role of the chair in maintaining order, keeping discussion on track, and focusing discussion on agenda items at hand.

f. Public officials shall avoid arguments with the public.

g. Public officials shall not engage in personal attacks of any kind under any circumstance.

h. Public officials should treat each other and the public with respect, regardless of their race, age, religion, gender, sexual orientation, or disability, and should not unlawfully discriminate against any person or group of persons.

D. IMPLEMENTATION

1. Review and Execution of Acknowledgment

a. The Code of Conduct and Ethics for the public officials of the City of Heber is intended to be self-enforcing and apply to all public officials.

b. All public officials entering office or appointment shall receive a copy of the Code of Conduct and Ethics.

c. All members of the City Council (including the Mayor) and Planning Commission are encouraged to sign the Acknowledgment and Commitment the Code of Conduct and Ethics (attached hereto as Exhibit A) certifying they have read and understand the City of Heber Code of Conduct and Ethics. Signing the statement is optional, but all public officials are subject to the provisions of the Code of Conduct and Ethics whether the statement is signed.

2. Compliance and Enforcement

a. A person making a complaint against a public official of violation of this policy shall submit the complaint in writing to the City Manager. The complaint must be in writing, based substantially upon the personal knowledge of the complainant, and include the name, address, phone number and email of the complainant.

b. The City Manager, with the assistance of the City Attorney if required, shall investigate the complaint. If the City Manager determines that the conduct in the complaint merits potential actions by the City Council, the City Manager shall issue a written report of the findings and the recommendations of the City Manager which shall be provided to the governing body. Otherwise, the City Manager shall simply notify the governing body of the complaint.

c. Any member of the governing body may request that the item be placed on a City Council agenda. A determination of any sanctions or other actions shall be based upon a majority vote of all members, except any member which is the subject of a complaint. At the discretion of the City Council, sanctions may include requesting a formal public apology, reprimands or censure, or removal or exclusion from leadership positions, governing board, and other official positions or duties that do not conflict with Utah Statutes.

d. A violation of this code of conduct and ethics shall not be considered a basis for challenging the validity of a City Council, board, committee, or commission decision.

EXHIBIT A

PUBLIC OFFICIAL'S ACKNOWLEDGMENT AND COMMITMENT TO THE CODE OF CONDUCT AND ETHICS

1. I will treat my fellow public officials, staff and the public with patience, courtesy and civility, even when we disagree on what is best for the community.
2. I will promote consistency, equity and non-discrimination in public agency decision-making.
3. I will respect the dignity and privacy of individuals and organizations.
4. I will recognize the worth of individual members and appreciate their individual talents, perspectives and contributions.
5. I will conduct my public affairs with honesty, integrity, fairness, respect for others and will not slander or defame others.
6. I will avoid and discourage conduct that is divisive, harmful or not in the best interest of the community.
7. I will avoid actions that might cause the public to question my independent judgment.
8. I will not use my office or the resources of the City for personal or political gain.
9. I will strive to be as prepared as possible to make decisions in the public's best interest based on the merits and substance of the matter at hand, and to take responsibility for my actions, whether those decisions are popular or not.
10. I will be honest and forthright with my fellow officials, the public and others, even when it is uncomfortable to do so.
11. I will support open and public dialogue on issues and the public's right to participate in the decision making process.

I affirm that I have read and understand the Heber City Code of Conduct and Ethics and agree to uphold it.

Signature:

Date:

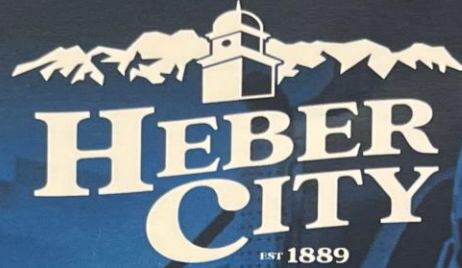
Exhibit A

Heber City FY 2024/2025 BUDGET CALENDAR

DATE	DESCRIPTION
October 2023	• ClearGov Budget Software Implementation Begins
November 2023	• Work commences on capital projects and 5-year budget forecasts for General Fund • Update financial policies
December 5, 2023	• Council adopts Budget Calendar for FY 2024-2025
By end of January, 2024	• Council Strategic Retreat ▸ Council determines strategic direction for FY 2024-2025 and details budget priorities
By end of January, 2024	• Staff Planning Retreat ▸ Staff operationalizes Councils' top and high budget priorities
By end of January, 2024	• ClearGov Staff Training • Budget instructions distributed to Department Directors ▸ City Manager conducts budget workshop with staff
January/ February	• Detailed revenue projections completed • Department's work on next year's operating and capital budgets
February 15	• Salaries & Benefit Requests Due by <u>5 PM</u>
March 1	• County notified of date, time and place of public hearing for any potential tax levy increase (59-2-919 (8) (a))
March 1	• Capital Project Budgets, and Operating Budgets requests Due by <u>5 PM</u>
Week of March 4	• City Manager and Finance Director conduct budget reviews with Department Directors and completes revenue estimates for all funds
March 11 through April 15	• City Manager & Finance Director completes the preparation of the Tentative Budget and computes the Tentative Millage Rate necessary to support the proposed Tentative Budget
April 16	• Tentative Budget and Tentative Millage Rate submitted to City Council (10-6-111(1))
April 16	• Tentative Budget tentatively adopted by City Council (10-6-111(3)) and Public Hearing date set for adoption of Final Budget (10-6-113)

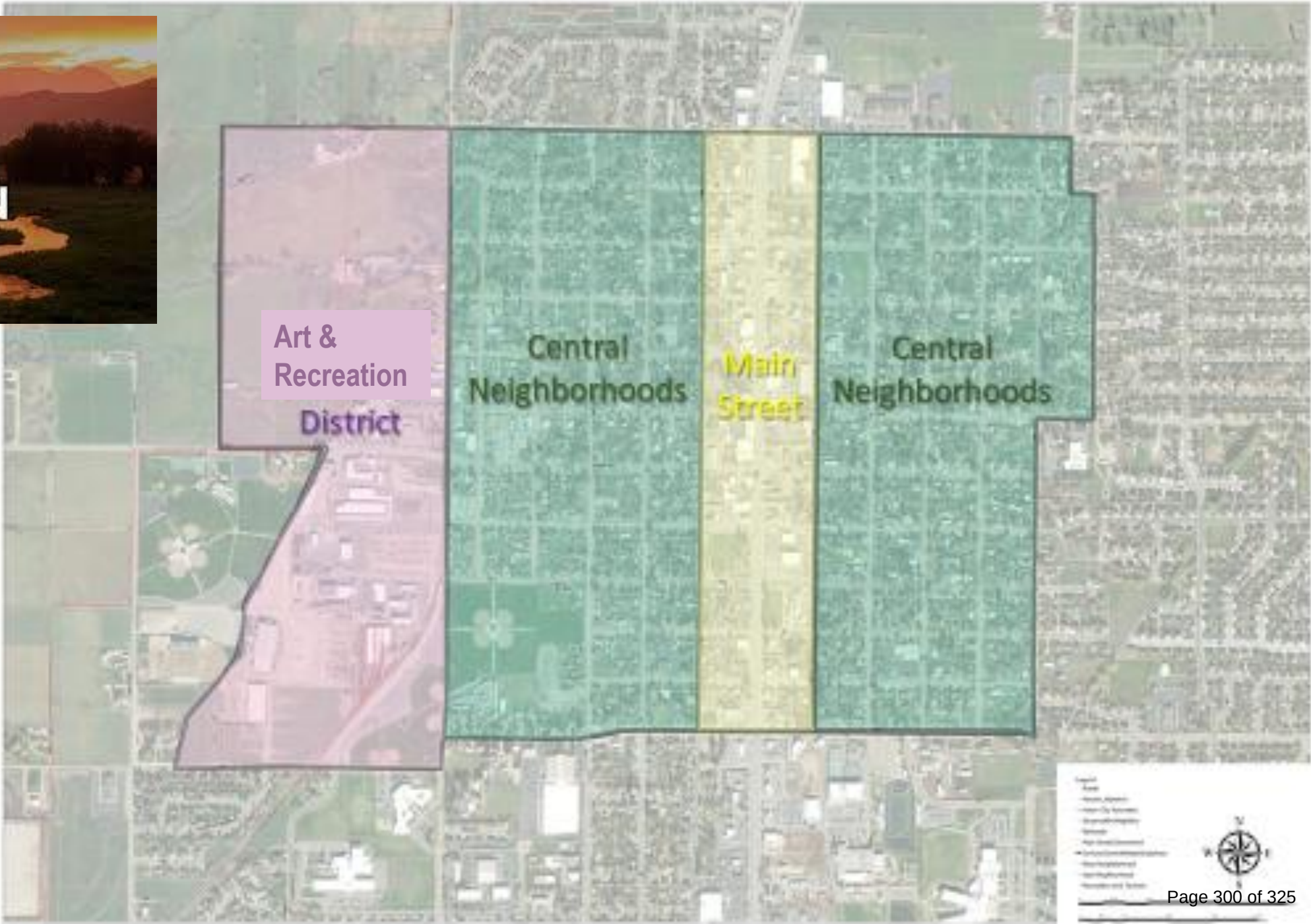
DATE	DESCRIPTION
April 17 through May 7	• Mayor & City Council review Tentative Budget with City Manager & Staff ► One budget workshop to review operating budgets for all funds ► One budget workshop to review capital requests and misc. items
May 8 through May 21	• City Manager and Finance Director prepare Final Budget based on Council's direction
May 31	• Issue notice to WAVE, Public Notice Website and placed on City web site of Public Hearing (Published 7 days prior to Public Hearing) to consider adoption of Final Budget for FY 2023/2024 (10-6-113)
May 31	• Final Budget distributed to Council & Staff ► Final budget made available for public inspection a minimum of 10 days prior to adoption of final budget (10-6-112)
June 4	• Public Hearing on the Final Budget for FY 2023/2024 (10-6-114) • If no increase in tax levy, legislative body may adopt final Budget by Ordinance for FY 2023/2024 (10-6-118) • Adopt proposed <u>or</u> final tax rate by resolution or ordinance (59-2-912) (10-6-133)
June 20	• Forward proposed or certified Tax Rate to County Auditor (10-6-134)
June 20	• If necessary, due to input received at public hearing held on June 4, City Council adopts Budget and Tax Rate
Prior to July 20 or August 31	• Final certified copy of budget filed with State Auditor within 30 days after adoption (10-6-118)
<u>NOTE:</u> If the City decides to increase the tax levy, the City would not adopt the budget in June. In the event of an increase in the tax levy, the following additional steps would be undertaken:	
July 20	• Issue public notice of Public Hearing for adoption of FY 2024/2025 Tax Levy (59-2-919 (e) (1) (A))
August 20	• Council holds Public Hearing on proposed augmented tax levy (59-2-919) • Council adopts Resolution approving augmented tax levy (59-2-919) • Council adopt Ordinance approving Final Budget
August 21	• Forward resolution adopting augmented Tax Levy to County Auditor (59-2-920)

HEART OF THE WASATCH BACK



DOWNTOWN TRANSFORMATION UNDERWAY





- Legend
- Area
- Water
- Highway
- City Boundary
- County Boundary
- State
- Age-Grade Boundary
- County Boundary
- Neighborhood
- Neighborhood
- Neighborhood
- Neighborhood
- Neighborhood



Imagine 2050...



Increment Primer: Smiths Marketplace

Initial Heber City Investment in Off-Site Improvements: \$1,600,000

Expected Opening Date: June '24

Value Established: January 1, '25

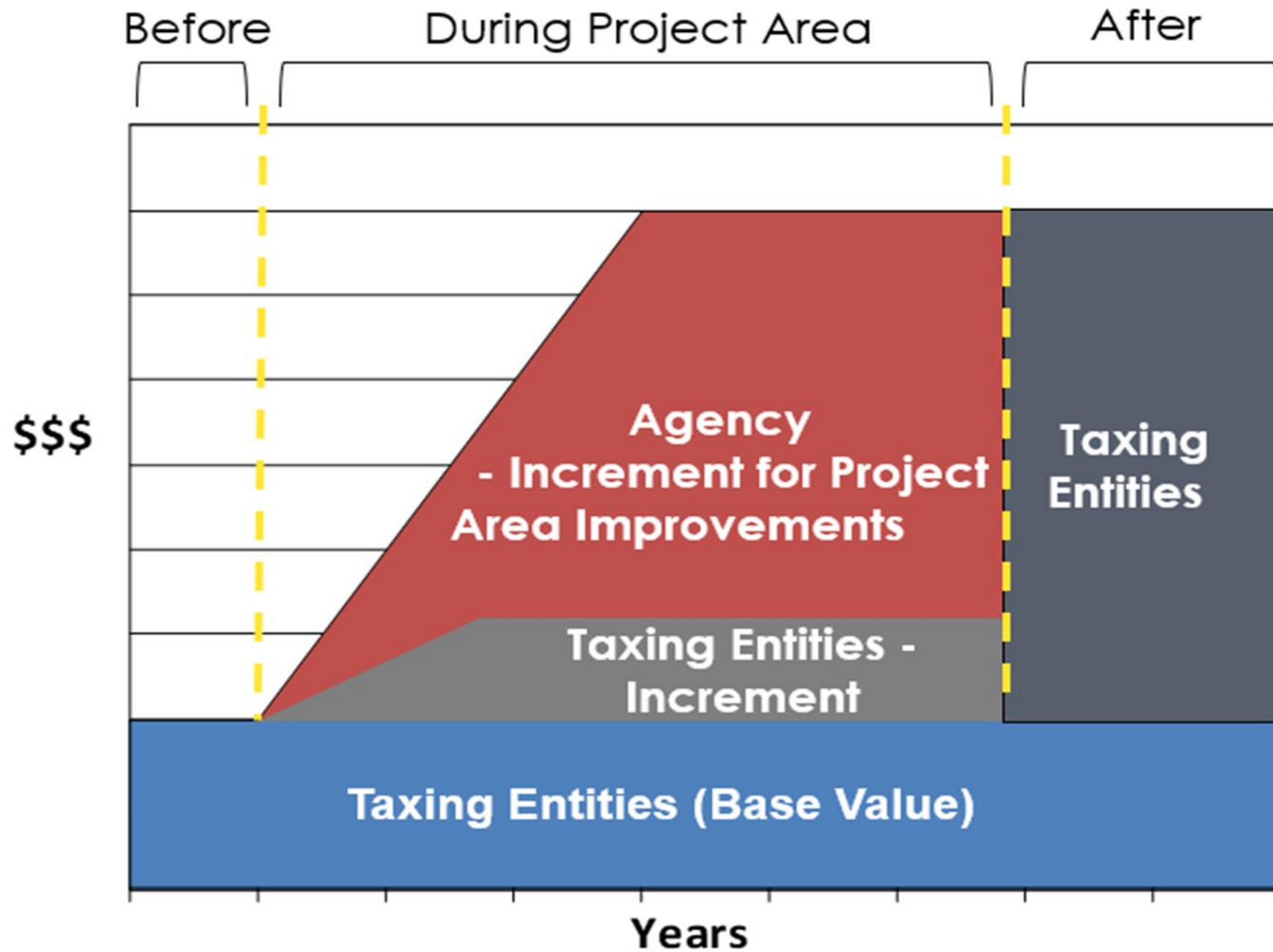
Need interlocals adopted by December '24



Estimated Tax Increment to Agency

(Zions Bank)

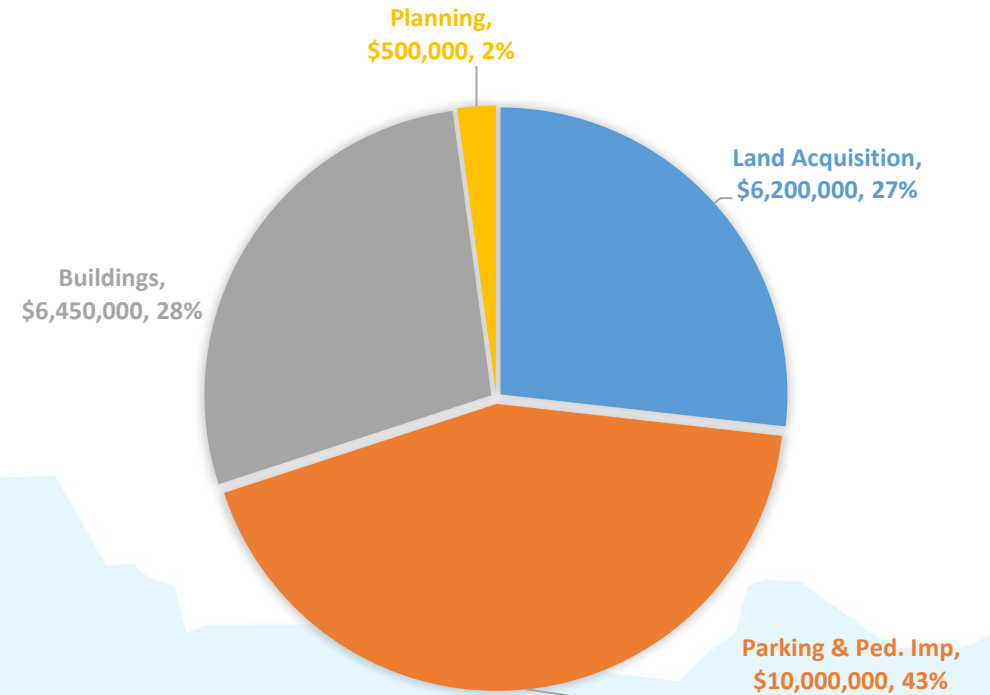
Entity	Increment	Status	Split
Wasatch County	\$3,200,000	N	75/25
Wasatch County School District	\$16,000,000	N	75/25
Heber City	\$2,000,000	A	80/20
CUWCD	\$1,000,000	A	75/25
Total:	\$22,200,000		
		A=Approved	
		N=Negotiating	



CRA Projected Projects and Outlay

CRA Funding Categories		Cost	Timing
Land Acquisition		Projections	Projections
>	Wasatch County Fire Station	\$1,800,000	24
^	Heber Light & Power Adm Building	\$1,300,000	24
>	Wasatch County Adm. Building	\$3,100,000	25-26
#	Mid-Block Pedestrian Path (plan details forthcoming)		TBD
Sub Total:		\$6,200,000	
Parking & Pedestrian Improvements			
^	Surface Parking (Fire Station/HL&P)	\$1,000,000	25-30
^	Parking Structure and/or Acquisition of add. Surface Parking	\$5,000,000	TBD
^	Art & Recreation District Investments (Wasatch County Vision)	\$4,000,000	TBD
Sub Total:		\$10,000,000	
Buildings			
^	Commercial Incubators	\$250,000	25-26
^	Affordable Housing (state mandate 10%)	\$2,200,000	TBD
^	"But-for" Improvements for Private Investment	\$4,000,000	TBD
Sub Total:		\$6,450,000	
Planning			
^	Idea Formation & Design for Wasatch County Adm. Bldg Lot	\$100,000	25
^	Ideas Formation & Design for 600 W Near RR	\$100,000	24
^	Design for Hwy 40 Streetscape Through Historic District	\$300,000	25
Sub Total:		\$500,000	
Grant Total:		\$23,150,000	
Estimated Agency CRA Increment:		\$22,200,000 *	
Difference:		-\$950,000	
Notes:			
*Does not include independent Heber Investments of 4M +			
*Assumes City covers Agency administration costs			
^ Estimated Cost			
# Cost TBD			
> Appraisal Value			

CRA PROJECTED OUTLAY BY CATEGORY



CRA Projected Projects and Outlay

CRA Funding Categories		Cost	Timing
Land Acquisition		Projections	Projections
>	Wasatch County Fire Station	\$1,800,000	24
^	Heber Light & Power Adm Building	\$1,300,000	24
>	Wasatch County Adm. Building	\$3,100,000	25-26
#	Mid-Block Pedestrian Path (plan details forthcoming)		TBD
Sub Total:		\$6,200,000	
Parking & Pedestrian Improvements			
^	Surface Parking (Fire Station/HL&P)	\$1,000,000	25-30
^	Parking Structure and/or Acquisition of add. Surface Parking	\$5,000,000	TBD
^	Art & Recreation District Investments (Wasatch County Vision)	\$4,000,000	
Sub Total:		\$10,000,000	
Buildings			
^	Commercial Incubators	\$250,000	25-26
^	Affordable Housing (state mandate 10%)	\$2,200,000	TBD
^	"But-for" Improvements for Private Investment	\$4,000,000	TBD
Sub Total:		\$6,450,000	
Planning			
^	Idea Formation & Design for Wasatch County Adm. Bldg Lot	\$100,000	25
^	Ideas Formation & Design for 600 W Near RR	\$100,000	
^	Design for Hwy 40 Streetscape Through Historic District	\$300,000	25
Sub Total:		\$500,000	
Grant Total:		\$23,150,000	
Estimated Agency CRA Increment:		\$22,200,000 *	
Difference:		-\$950,000	
Notes:			
*Does not include independent Heber Investments of 4M +			
*Assumes City covers Agency administration costs			
^ Estimated Cost			
# Cost TBD			
> Appraisal Value			



Wasatch County (WC)

Total Projected WC Increment: \$3,200,000

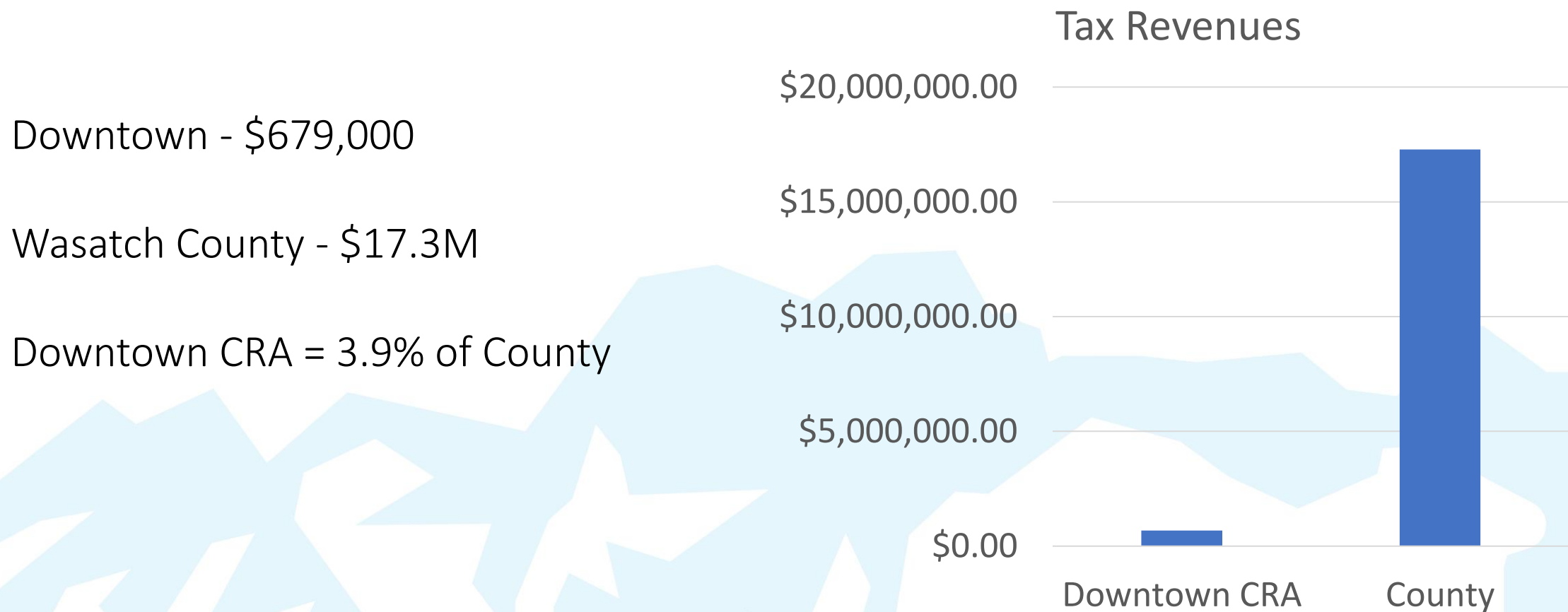
Total Increment to Arts/Rec District to support WC
Long-term Plan: \$4,100,000

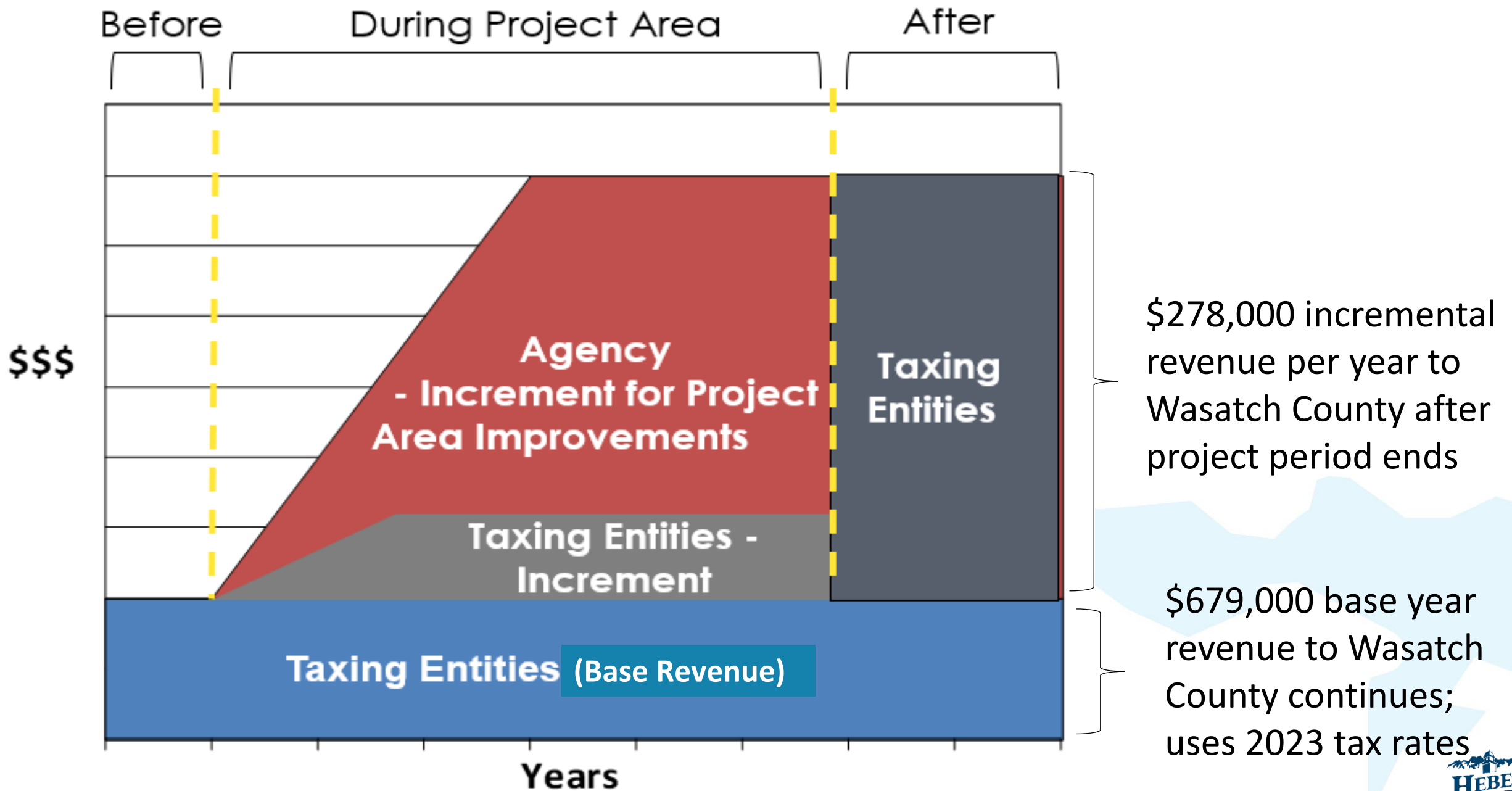
Est. Difference: \$900,000 to County's favor

Downtown Vision & Initial Investments



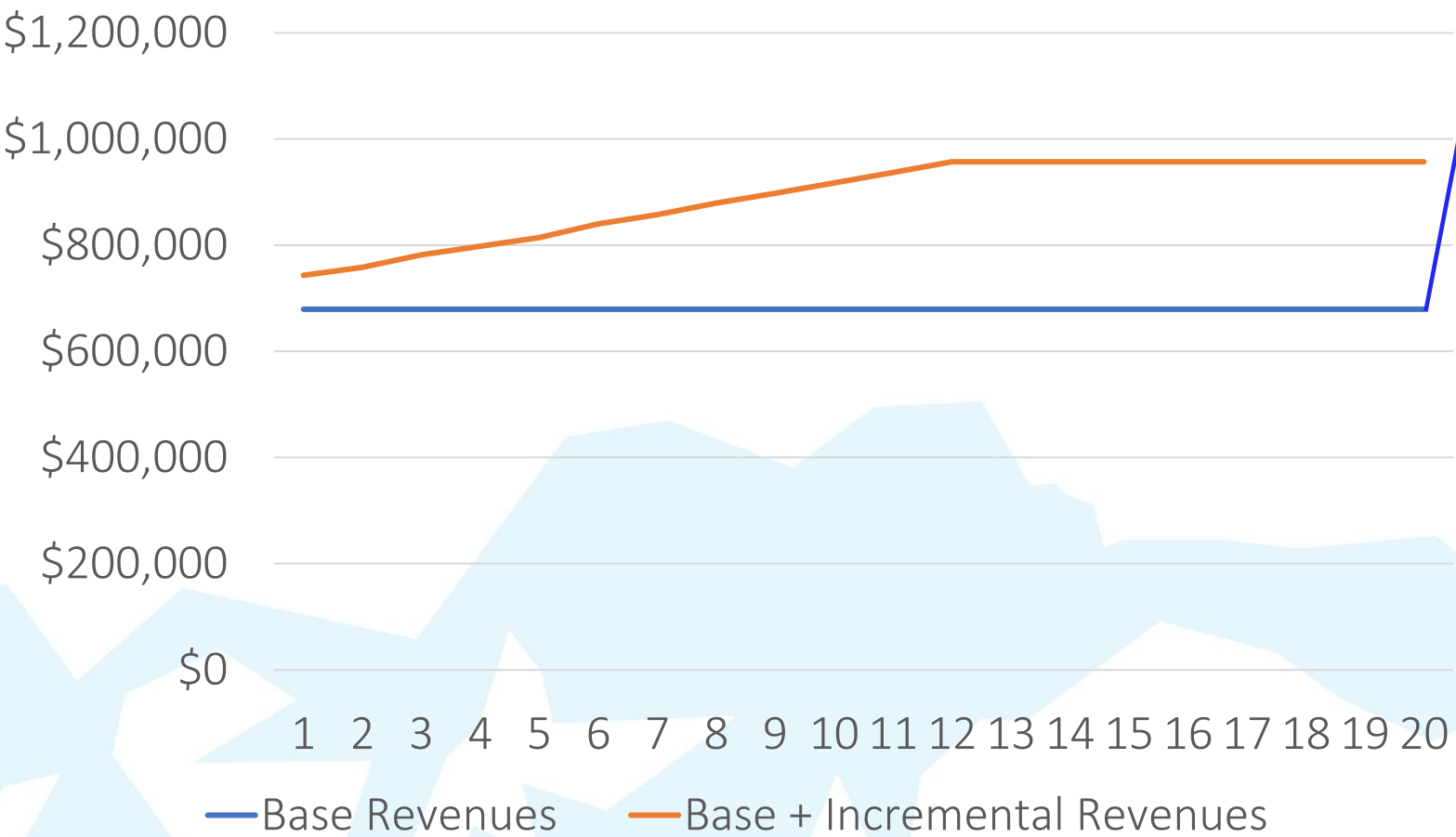
2023 Property Tax Revenue Comparison





CRA Tax Revenues Generated

CRA Tax Revenue Benefits to Wasatch County



*In 21st Year,
County Receives
Base & 100% of
Increment

Key Interlocal Agreement Terms

- 1) 75/25 Increment Split
- 2) 20 Year Term (2044) or Cap on Increment (\$3.2M to \$4.2M)--whichever reached first
- 3) Base values include Wasatch County's commercial reappraisals
- 4) Return of unused tax increment
- 5) Formation of **Two** Advisory Committees--to review, prioritize, & make investment recommendations (details would have to be worked out and agreed to by both parties)
 - Downtown Heber CRA Advisory Board
 - Membership: County, School District, CUWCD, CAMS, City (5 total)
 - Art & Recreation District CRA Advisory Board (focused on "District" investments-\$4.1M budgeted)
 - Membership: County, County Rec. District, Railroad, City (4 total)
- 6) Affordable Housing—10% prioritized for County, City and District work force

Wasatch County Benefits

- Financial Benefits:
 - Base revenue will increase by nearly 41% during CRA term (from \$679k/yr to \$957k/yr)
 - Annual increment in “Project Area” estimated to grow faster with CRA, should exceed County’s annual property tax growth in “Project Area”
 - Expect greater increases with CRA in Transient Room Tax (TRT); Restaurant Tax; and Sales Tax
 - Earmark \$4M of CRA Tax Increment to Art & Recreation District to support County’s long-term plan (this amount exceeds projected value of County’s portion of increment)
 - Earmark of \$100k of CRA Tax Increment to Support County’s Visioning Process in Arts & Recreation District

Wasatch County Benefits

- Other Benefits:
 - Partner with City and business community to realize community's vision for downtown and Art & Recreation District (destination for visitors, locals and private investment)

- Leverage



- Affordable housing—10% set-a-side
 - Heber City has also prioritized County work force in N. Village MDAs

Questions...

Next Steps...

**INTERLOCAL AGREEMENT by and between the HEBER CITY
COMMUNITY REINVESTMENT AGENCY and
WASATCH COUNTY for the HEBER CITY DOWNTOWN
COMMUNITY REINVESTMENT PROJECT AREA**

THIS INTERLOCAL AGREEMENT is entered into as of the ____ day of _____, 2024 (the “Effective Date”) by and between the **HEBER CITY COMMUNITY REINVESTMENT AGENCY**, a political subdivision of the State of Utah (the “Agency”), and **WASATCH COUNTY**, a political subdivision of the State of Utah (the “Taxing Entity”). The Agency and the Taxing Entity shall be referred to individually as a “Party” and collectively as the “Parties”.

A. WHEREAS the Agency was created pursuant to the provisions of, and continues to operate under, the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, Title 17C of the Utah Code (the “Act”), and is authorized thereunder to conduct urban renewal, economic development, community development, and community reinvestment activities within Heber City, Utah, as contemplated by the Act; and

B. WHEREAS the Agency created the Heber City Downtown Community Reinvestment Project Area (the “Project Area”) and adopted a community reinvestment project area plan for the Project Area (the “Project Area Plan”) on July 20, 2021, which is incorporated herein by this reference, which includes the legal description and a map of the Project Area, pursuant to which the Agency desires to encourage, promote and provide for desirable development within the Project Area; and

C. WHEREAS the Taxing Entity and the Agency have determined that it is in the best interests of the Taxing Entity to provide certain financial assistance through the use of Tax Increment (as defined below) in connection with the development of the Project Area as set forth in the Project Area Plan; and

D. WHEREAS the Agency anticipates providing a portion of the tax increment (as defined in Utah Code Annotated (“UCA”) § 17C-1-102(61) (hereinafter “Tax Increment”)), created by development within the Project Area to encourage desirable development within the Project Area; and

E. WHEREAS UCA § 17C-5-204(3) authorizes the Taxing Entity to consent to the payment to the Agency of all or a portion of the Taxing Entity’s share of Tax Increment generated from the Project Area for the purposes set forth therein; and

F. WHEREAS UCA § 11-13-215 further authorizes the Taxing Entity to share its tax and other revenues with the Agency; and

G. WHEREAS in order to facilitate development of the Project Area, the Taxing Entity desires to pay to the Agency a portion of the Taxing Entity's share of Tax Increment generated by development within the Project Area in accordance with the terms of this Agreement; and

H. WHEREAS the provisions of applicable Utah State law shall govern this Agreement, including the Act and the Interlocal Cooperation Act, Title 11 Chapter 13 of the UCA, as amended (the "**Cooperation Act**").

NOW, THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Taxing Entity's Consent.

a. Pursuant to Section 17C-5-204(4) of the Act and Section 11-13-215 of the Cooperation Act, the Taxing Entity hereby agrees and consents that the Agency shall be paid **seventy-five percent (75%)** of the Taxing Entity's share of the Tax Increment from the Project Area (the "**Taxing Entity's Share**") for up to twenty (20) consecutive years. The Agency may begin collecting increment, or "trigger" the collection of Tax Increment, upon written notice to the Taxing Entity and to Wasatch County. Regardless of the date for which the Agency begins collecting Tax Increment under this Agreement, the Agency shall not collect Tax Increment for any period beyond **December 31, 2045**. The date that the Agency begins collecting Tax Increment under this Agreement shall be on January 1 of the particular year. For the sake of illustration only, this subsection requires that the Agency begin collecting Tax Increment no later than **January 1, 2026** in order to receive the full 20 years of Tax Increment contemplated by this Agreement.

b. The Taxing Entity's Share shall be used for the purposes set forth in the Act as reflected herein and in the Project Area Documents and shall be disbursed as specified herein. The calculation of annual Tax Increment shall be made using (a) the Taxing Entity's tax levy rate during the year for which Tax Increment is to be paid and (b) the base year value for purposes of calculating Tax Increment shall be the value of all taxable property within the Project Area as of January 1, 2025 (the "**Base Year Value**"), which taxable value is subject to adjustment as required by law.

c. All centrally-assessed property existing within the Project Area as of the date of this Agreement, if any, shall be excluded from the calculation of Tax Increment under this Agreement. However, any new centrally assessed property constructed within the Project Area in connection with the Project shall be considered as new incremental value for purposes of calculating

Tax Increment pursuant to this Agreement. The County is hereby authorized to make such calculations and estimates as may be reasonably necessary to accomplish such treatment as described in this subsection.

d. The Taxing Entity hereby authorizes and directs Wasatch County to pay directly to the Agency the Taxing Entity's Share in accordance with UCA § 17C-5-206 for the period described herein.

e. Of the amounts received by the Agency, the Agency may retain ten percent (10%) of the total Taxing Entity's Share each year to be used as described in UCA § 17C-5-307(3).

f. Notwithstanding any other provision of this Agreement, the total cumulative amount paid to the Agency pursuant to this Agreement may not exceed \$4,200,000 (the "Maximum Agency Increment").

2. Authorized Uses of Tax Increment.

a. The Parties agree that the Agency may apply the Taxing Entity's Share to the payment of any of the components of the development within the Project Area and related purposes, including but not limited to those items detailed in the attached Exhibit A, the cost and maintenance of public infrastructure and other improvements located within the Project Area, incentives to developers or participants within the project area, administrative, overhead, legal, and other operating expenses of the Agency, and any other purposes deemed appropriate by the Agency, all as authorized by the Act.

3. Project Area Advisory Committees

a. On or before the date on which the Agency receives the first payment of Tax Increment pursuant to this Agreement, the Agency shall establish two an advisory committees, including such rules and procedures as may be appropriate, for the Mainstreet Project Area (the "Mainstreet Advisory Committee") and Arts & Recreation Project Area (the "Arts & Recreation Advisory Committee"), each as described below:

a.b. The Mainstreet Advisory Committee

i. The Mainstreet Advisory Committee shall provide to the Agency Board non-binding recommendations and information relating to desired development goals for the Project Area located east of 600 West and proposed projects and investments by the Agency that are funded, in whole or in part, by Tax Increment generated by development within the Project Area located east of 600 West.

- ii. The Advisory Committee shall consist of five members, including Wasatch County, Wasatch County School District, Heber City, and two Community Alliance for Mainstreet members.~~at least three, but not more than seven, members.~~
- ~~iii. The Advisory Committee should include members representing a variety of interests relating to the Project Area, including property owners, taxing entities, residents, businesses, and civic organizations.~~
- ~~iv-iii.~~ Wasatch County shall have the right to appoint at least one member of the Advisory Committee.
- ~~v-iv.~~ Heber City shall have the right to appoint at least one member of the Advisory Committee.
- v. Wasatch County School District shall have the right to appoint at least one member of the Advisory Committee.
- vi. The Community Alliance for Mainstreet shall have the right to appoint two members representing business and property owners.

c. The Arts and Recreation Advisory Committee

- vii. The Arts and Recreation Advisory Committee shall provide to the Agency Board non-binding recommendations and information relating to desired development goals for the Project Area located west of 600 West and proposed projects and investments by the Agency that are funded, in whole or in part, by Tax Increment generated by development within the Project Area located west of 600 West
- viii. The Advisory Committee shall consist of four members, including Wasatch County, Wasatch County Recreation District, Heber Valley Railroad, and Heber City.
- ix. Wasatch County shall have the right to appoint at least one member of the Advisory Committee.
- x. The Wasatch County Recreation District shall have the right to appoint one member of the Advisory Committee.
- xi. Heber City shall have the right to appoint at least one member of the Advisory Committee.
- xii. The Heber Valley Railroad shall have the right to appoint at least one member of the Advisory Committee.

vi.

4. The Agency shall provide the Committee with sufficient information and time for the Committee to provide its recommendations and information to the Agency Board in advance of the Agency making such investments or approving projects.

5. **Return of Tax Increment to the Taxing Entity.** If the Agency, in its sole discretion, is unable to utilize the full amount of the Taxing Entity's Share for the uses authorized in Section 2, above, then the Agency shall return to the Taxing Entity that portion of that Taxing Entity's Share that the Agency is unable to utilize.

6. **Consent to Project Area Budget.** As required by UCA § 17C-5-304, the Taxing Entity consents to the Project Area Budget adopted by the Agency for the Project Area.

7. **No Third-Party Beneficiary.** Nothing in this Agreement shall create or be read or interpreted to create any rights in or obligations in favor of any person or entity not a party to this Agreement. Except for the parties to this Agreement, no person or entity is an intended third-party beneficiary under this Agreement.

8. **Due Diligence.** Each of the Parties acknowledges for itself that it has performed its own review, investigation, and due diligence regarding the relevant facts upon which this Agreement is based, including representations of the Agency concerning the Project and the Project's benefits to the community and to the Parties, and each Party relies upon its own understanding of the relevant law and facts, information, and representations, after having completed its own due diligence and investigation.

9. **Interlocal Cooperation Act.** In satisfaction of the requirements of the Cooperation Act in connection with this Agreement, the Parties agree as follows:

a. This Agreement shall be authorized and adopted by resolution of the legislative body of each Party pursuant to and in accordance with the provisions of Section 11-13-202.5 of the Cooperation Act.

b. This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney in behalf of each Party pursuant to and in accordance with the Section 11-13-202.5(3) of the Cooperation Act.

c. A copy of this executed Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Cooperation Act.

d. The Chair of the Agency is hereby designated the administrator for all purposes of the Cooperation Act.

e. The term of this Agreement shall commence on the publication of the notice required by Section 17C-5-205 of the Act and shall continue through the date on which all of the Taxing Entity's Share has been paid to and disbursed by the Agency as provided herein.

f. Following the execution of this Agreement by all Parties, the Agency shall cause a notice regarding this Agreement to be published on behalf of all parties in accordance with Section 11-13-219 of the Cooperation Act and Section 17C-5-205 of the Act.

6. **Modification and Amendment.** Any modification of or amendment to any provision contained herein shall be effective only if the modification or amendment is in writing and signed by all Parties. Any oral representation or modification concerning this Agreement shall be of no force or effect.

7. **Further Assurance.** Each of the Parties hereto agrees to cooperate in good faith with the others, to execute and deliver such further documents, to adopt any resolutions, to take any other official action, and to perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement. Further, in the event of any question regarding the calculation or payment of amounts contemplated hereunder, the Parties shall cooperate in good faith to resolve such issue.

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

9. **Interpretation.** The terms "include," "includes," "including" when used herein shall be deemed in each case to be followed by the words "without limitation."

10. **Severability.** If any provision of this Agreement is held to be invalid or unenforceable by any court of competent jurisdiction or as a result of future legislative action, and if the rights or obligations of any Party hereto under this Agreement will not be materially and adversely affected thereby,

- a. such holding or action shall be strictly construed;
- b. such provision shall be fully severable;
- c. this Agreement shall be construed and enforced as if such provision had never comprised a part hereof;
- d. the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the invalid or unenforceable provision or by its severance from this Agreement; and

e. in lieu of such illegal, invalid, or unenforceable provision, the Parties hereto shall use commercially reasonable efforts to negotiate in good faith a substitute, legal, valid, and enforceable provision that most nearly effects the Parties' intent in entering into this Agreement.

11. **Authorization.** Each of the Parties hereto represents and warrants to the other that the warranting Party has taken all steps, including the publication of public notice where necessary, in order to authorize the execution, delivery, and performance of this Agreement by each such Party.

12. **Time of the Essence.** Time is of the essence in the performance of this Agreement.

13. **Incorporation of Recitals.** The recitals set forth above are hereby incorporated by reference as part of this Agreement.

14. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement

15. **Incorporation of Exhibits.** Any exhibits to this Agreement are hereby incorporated by reference as part of this Agreement.

ENTERED into as of the day and year first above written.

[Remainder of page intentionally left blank; signature pages to follow]

Agency:

**HEBER CITY COMMUNITY
REINVESTMENT AGENCY**

By: _____
Heidi Franco, Chair

Attest:

Trina Cooke, Secretary

Attorney Review of Interlocal Agreement:

The undersigned, an attorney licensed to practice in the State of Utah, has reviewed the foregoing Interlocal Agreement and finds it to be in proper form and in compliance with applicable state law.

Adam S. Long

[Signatures continue]

[ADDITIONAL SIGNATURES TO INTERLOCAL AGREEMENT]

Taxing Entity:

WASATCH COUNTY

By: _____
Mike Davis, County Manager

Attest:

Name:
Title:

EXHIBIT A

CRA Projected Projects and Outlay		
CRA Funding Categories		Cost
Land Acquisition		Timing
		Projections
>	Wasatch County Fire Station	\$1,800,000
^	Heber Light & Power Adm Building	\$1,300,000
>	Wasatch County Adm. Building	\$3,100,000
#	Mid-Block Pedestrian Path (plan details forthcoming)	TBD
Sub Total:		\$6,200,000
Parking & Pedestrian Improvements		
^	Surface Parking (Fire Station/HL&P)	\$1,000,000
^	Parking Structure and/or Acquisition of add. Surface Parking	\$5,000,000
^	Art & Recreation District Investments (Wasatch County Vision)	\$4,000,000
Sub Total:		\$10,000,000
Buildings		
^	Commercial Incubators	\$250,000
^	Affordable Housing (state mandate 10%)	\$2,200,000
^	"But-for" Improvements for Private Investment	\$4,000,000
Sub Total:		\$6,450,000
Planning		
^	Idea Formation & Design for Wasatch County Adm. Bldg Lot	\$100,000
^	Idea Formation & Design for 600 W Near RR	\$100,000
^	Design for Hwy 40 Streetscape Through Historic District	\$300,000
Sub Total:		\$500,000
Grant Total:		\$23,150,000
Estimated Agency CRA Increment:		\$22,200,000 *
Difference:		-\$950,000
Notes:		
*Does not include independent Heber Investments of 4M +		
*Assumes City covers Agency administration costs		
^ Estimated Cost		
# Cost TBD		
> Appraisal Value		