



**Regular City Council Meeting**  
**Tuesday, August 18, 2020**  
**City Hall Council Chambers**  
**5249 South 400 East, Washington Terrace City**  
**801-393-8681**  
[www.washingtonterracecity.com](http://www.washingtonterracecity.com)

\* **Note:** The Centers for Disease Control and Utah Department of Health have declared a national and state pandemic for COVID-19 where social distancing and other requirements are in place to prevent the spread of this infectious disease. Members of the Public may view the meeting via the City's Facebook page at: [Washingtonterracecity.com](http://Washingtonterracecity.com). Comments on appropriate agenda items may be emailed to: [amy@washingtonterracecity.org](mailto:amy@washingtonterracecity.org), or typed into the Facebook live stream at the citizen's comments agenda item.

**1. WORK SESSION:COUNCIL FIELD TRIP TO TOUR THE CITY TO EVALUATE ISSUES ASSOCIATED WITH PARKING REGULATIONS** **5:00 PM**

Council will meet at City Hall and then tour the City while discussing parking conditions and current regulations.

**2. ROLL CALL** **6:00 P.M.**

**3. PLEDGE OF ALLEGIANCE**

**4. WELCOME**

**5. CONSENT ITEMS**

**5.1 APPROVAL OF AGENDA**

Any point of order or issue regarding items on the Agenda or the order of the agenda need to be addressed here prior to the approval of the agenda.

**5.2 APPROVAL OF AUGUST 4, 2020 MEETING MINUTES**

**6. CITIZEN COMMENTS**

This is an opportunity to address the Council regarding your concerns or ideas that are not on the agenda as part of a public hearing. Please limit your comments to no more than 3 minutes.

**7. COUNCIL/STAFF RESPONSE AND CONSIDERATION TO CITIZEN COMMENTS**

Council and staff will consider and address concerns and take appropriate measures to follow up on any comments made in the citizen comments item on the agenda.

**For more information on these agenda items, please visit our website at [www.washingtonterracecity.com](http://www.washingtonterracecity.com)**

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In compliance with the Americans with Disabilities Act, persons who have need of special accommodation should contact the City Recorder at 801-395-8283.

CERTIFICATE OF POSTING

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted in three public places within the City of Washington Terrace City limits and sent to the *Standard Examiner* at least 24 hours prior to the meeting. Amy Rodriguez, City Recorder.

**8. RECURRING BUSINESS**

- 8.1 DISCUSSION/MOTION: APPROVAL OF THE REQUEST FOR PROPOSAL (RFP) FOR THE LOT SALE OF CITY PROPERTY LOCATED AT 5580 SOUTH ADAMS AVENUE PARKWAY**

**9. NEW BUSINESS**

This agenda item consists of new items brought to Council for discussion or action.

- 9.1 MOTION: AWARD CONTRACT(S) FOR THE 2020 CDBG “COMPLETION OF TANK #1 UPGRADES AND WATER LINE” PROJECT**  
Sealed bids were opened on August 13, 2020. The results of the bid opening, and a recommendation For award will be given.

- 9.2 MOTION/RESOLUTION 20-12: INTERCOUNTY AUTOMATIC AID FIRE AGREEMENT**

- 9.3 MOTION/ORDINANCE 20-04: AMENDMENT TO CHAPTER 17.10 RELATING TO IN-FILL RESIDENTIAL DEVELOPMENT**  
Amending the In-fill Residential Development to add a parcel to the in-fill development map, and adopting An in-fill development for a certain parcel

**10. COUNCIL COMMUNICATION WITH STAFF**

This is a discussion item only. No final action will be taken.

**11. ADMINISTRATION REPORTS**

This is an opportunity for staff to address the Council pertaining to administrative items.

**12. UPCOMING EVENTS**

August 27<sup>th</sup>: Planning Commission Meeting 6:00 p.m.  
September 1<sup>st</sup>: City Council Meeting 6:00p.m.  
September 7<sup>th</sup>: City Offices closed for Labor Day  
September 15<sup>th</sup> City Council Meeting 6:00 p.m.  
September 17<sup>th</sup>: Red Cross Donation Bloodmobile 2:00-7:00 p.m. (registration needed)  
September 24<sup>th</sup>: Planning Commission Meeting 6:00 p.m.

**13. ADJOURN THE MEETING: MAYOR ALLEN**

**14. ADJOURN INTO RDA MEETING ( THE RDA MEETING WILL BEGIN IMMEDIATELY FOLLOWING THE REGULAR MEETING)**

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# City of Washington Terrace

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Minutes of a Regular City Council meeting  
Held on August 4, 2020  
City Hall, 5249 South 400 East, Washington Terrace City,  
County of Weber, State of Utah

\* **Note:** The Centers for Disease Control and Utah Department of Health have declared a national and state pandemic for COVID-19 where social distancing and other requirements are in place to prevent the spread of this infectious disease. Members of the Public may view the meeting via the City's Facebook page at: [Washingtonterracecity.com](https://www.facebook.com/washingtonterracecity). Comments on appropriate agenda items may be emailed to: [amy@washingtonterracecity.org](mailto:amy@washingtonterracecity.org), or typed into the Facebook live stream at the citizen's comments agenda item.

## **MAYOR, COUNCIL, AND STAFF MEMBERS PRESENT**

Mayor Mark C. Allen  
Council Member F. Carey Seal  
Council Member Blair Brown  
Council Member Larry Weir  
Council Member Scott Barker- excused  
Council Member Jeff West  
Public Works Director Jake Meibos  
Recreation Director Aaron Solomon  
Chief Building Official/General Planner Tyler Seaman  
City Recorder Amy Rodriguez  
City Manager Tom Hanson

## **Others Present**

Jacci Florence

1. **ROLL CALL** **6:00 P.M.**

2. **PLEDGE OF ALLEGIANCE**

3. **WELCOME**

4. **CONSENT ITEMS**

4.1 **APPROVAL OF AGENDA**

4.2 **APPROVAL OF JULY 21, 2020 MEETING MINUTES**

Items 4.1 and 4.2 were approved by general consent. There will be one correction made on a typographical error before the minutes are printed.

6. **CITIZEN COMMENTS**

Amy Miller with the United Methodist Church stated that they are in the final Stages of delivering school supplies to the local schools, noting that Washington Terrace Elementary is completed, and Roosevelt will be completed this week. She wrote that they will be starting a small rummage sale on Saturdays during the Farmer's Market from 9am-11am.

7. **COUNCIL/STAFF RESPONSE AND CONSIDERATION TO CITIZEN COMMENTS**

Mayor Allen thanked Ms. Miller and her congregation for all their hard work and support to the City.

8. **RETURNING BUSINESS**

**8.1 RESOLUTION 20-11: AMENDMENT TO THE FISCAL YEAR 2021 FEE SCHEDULE**

Meibos stated that this item was discussed at the previous Council Meeting. He stated that the new proposed fee schedule is attached.

**Motion by Council Member Brown  
Seconded by Council Member West  
To approve the amendment to the Fiscal Year 2021  
Fee Schedule  
Approved unanimously (5-0)  
Roll Call Vote**

9. **NEW BUSINESS**

**9.1 DISCUSSION/DIRECTION: REVIEW OF VARIOUS PARKING REGULATIONS SET FORTH IN CHAPTER 10.12 OF THE MUNICIPAL CODE**

Council Member West stated that he has been approached with questions on the parking ordinance. He stated that a resident was told that his tow truck parked on the street was illegal. He then moved it to his driveway and was told that he could not have overhang onto the sidewalk. Council Member West stated that the resident did not understand why his truck was considered unacceptable while other vehicles hanging over the sidewalk were acceptable. This led to a review of the parking ordinance.

Seaman stated that the ordinance does not allow commercial vehicles to park on public streets unless they are servicing a home or vehicle. They are only allowed on the street for 8 hours. Seaman stated that there are 3 classes of commercial vehicles. He stated that the ordinance states that a commercial- based vehicle over 14,001 pounds is not allowed to be parked on residential streets. He stated that commercial vehicles shall be parked 3 feet from the sidewalk. Seaman stated that he has found that the 3 feet behind sidewalls applies to all vehicles, not just commercial. He stated that he is concerned with our limited property standards. He stated that it will be challenging to adhere to the 3 foot rule with personal trucks and vehicles. He stated that this is an area he would like to look further into. He stated lack of driveway length in the city will be challenging.

Seaman stated that ordinance states it is unlawful for any vehicle to be parked on the street longer than 24 hours. He stated that there is a contradiction in code, noting that another section stated that the time limit is 72 hours. He stated that he feels this area needs revision.

Council Member West asked what is the city trying to accomplish with the 3 feet behind the sidewalk Rule, asking if it was tied to safety issues. He stated that because of street layouts within the city, each case is different.

Seaman stated that the 3 foot rule was based on safety issues to allow a buffer to cars or pedestrians that are coming down the street. Council Member Barker stated that his is concerned for residents walking on the sidewalks in the community. He wants to make sure that they can be seen. He stated that he does not know how the 3 feet applies to every home and vehicle. He wants the public to be safe as they walk down the sidewalk.

Hanson stated that if it is in our ordinance, we need to enforce it. He stated that he is concerned that we have to enforce the ordinance consistently. He stated that we do not have the capacity to enforce this ordinance consistently, questioning if the ordinance should remain in place. He is concerned that if we do not enforce the ordinance and there was an accident, the city may be on the liability side. He asked if we are at higher risk if we let people park at the edge of the sidewalk.

Mayor Allen agreed and stated that we must be consistent with enforcement on every type of vehicle, noting that it would be too hard to enforce on individual types of vehicles. Seaman stated that the vehicle must be 9 feet away from street or curb if there are no sidewalks.

Mayor Allen stated that the geographic makeup of our city and lot frontages is kind of unique. Council Member Seal stated that if you have a sidewalk, we would have to consistent with the 3 foot rule, but feels that it should be pushed back to 5 feet if there is no sidewalk. He state That we need to be consistent across the board. Mayor Allen suggested changing 3 feet to just “back of sidewalk” Council Member West stated that there are different circumstances, suggesting that if there is a sidewalk the ordinance should say that we cannot block the sidewalk and if they don’t have a sidewalk, then an offset should be set from the street. Council Member Seal stated that there should be a distance from the curb or sidewalk and it must be consistent. He stated that the main reason is a safety issue.

Seaman stated that the majority of the problems generated will be after 5 pm and he envisions some challenges in enforcement, noting that the sheriff’s department would not be enforcing this. Seaman stated that it is challenging to enforce.

Council Member Brown stated that the number one thing is safety. He stated that he agrees with the 3 foot rule. He stated that problems arise when people park their motor homes in their driveways. He stated that trailer and motor homes should be stored in an appropriate location, and not at their residence.

Council Member Barker stated that he prefers a cushion, but is not sure on the appropriate amount.

Council Member Weir stated that we need to look at what is available, especially in the north side of town. He stated that we cannot keep up with all the code now and shouldn’t have to try to enforce this. He did state that he agrees with a buffer, but it would depend on the area and the amount of the buffer.

Seaman stated that it is a different situation with the tow truck operator because it is his livelihood. He agreed that proper storage on a fifth wheel or motor home is important, but are we looking at the big picture in the city and what are we trying to create.

Council Member Barker stated that if we let people park to the sidewalk, it will develop into people parking on the curb, and then out into the street. He reiterated that he just wants residents to be safe, but we will have to watch it. He stated that he doesn’t want to make it so people can park on a curb because it may cut into safety issues.

Council Member Brown asked if we give variances in different parts of the city if there is not a 3 foot distance available. He asked if it was possible for Seaman to use common sense and give them a variance. Hanson stated that it would be challenging on how to defend who we do or don’t give variances. He stated we could wind up in court if there is a lot of gray area, noting that we must

stay consistent.

Seaman stated that he wants to do a drive around the city to see the challenges out there. He Stated that he appreciates all the opinions. Council Member Seal stated that he would like to accompany Seaman on his drive around the city. Council Member Weir told Seaman that there have been two trailers parked on the street all summer and would like to address parking issues on the streets.

The Mayor stated that Council should do their own research around the city and bring this Item back for further discussions.

Hanson addressed the tow truck that is currently in violation. He asked if the tow truck Can remain for an additional two weeks while the Council works out this issue. Mayor Allen stated that he would be ok with that until the matter is resolved entirely.

## **9.2 DISCUSSION/ACTION: CITY PARTICIPATION IN THE WEBER COUNTY “MASK UP WEBER” CAMPAIGN**

Hanson stated that Weber County is trying to encourage consistent mask wearing to slow the spread of Coronavirus. He stated that they have some fliers and videos for the campaign. He stated that the county will be sharing information on bill boards. He stated that staff would like to have the opportunity to promote this campaign and request permission to post the Mask Up Campaign on social media and around City Offices and events.

Mayor Allen stated that we encourage the mask wearing and will do whatever they need us to do To promote this campaign. Hanson stated that the County has a full blown campaign with video loops. He stated that it might be in other environments coming into the city. Council agreed that it is a smart idea.

**Motion by Council Member Weir  
Seconded by Council Member Seal  
To participate in the Weber County Mask Up Campaign.  
Approved unanimously (5-0)**

## **9.3 DISCUSSION/MOTION: REVENUE RECESSION PLAN “ESSENTIAL EMPLOYEE” HIRING**

Hanson stated that we are in the Revenue Recession shortfall plan, which puts us in a hiring freeze. He stated that we have the opportunity to hire essential employees. He stated that we are at a point where football operations is going to move forward. Hanson stated that we have lost two of our part time employees who typically help Solomon in running the programs on-site and coordination with the coaches. Hanson stated that we are budgeted for this part time position but we need Council approval to do so during the Revenue Recession Shortfall.

Solomon stated that we typically have had himself, a recreation coordinator, and recreation on-site supervision running the football and other sports programs. He stated that both employees in those positions have recently resigned. He stated that he will be taking over most of the duties covered by the other employees, however, he stated that the football program will require an on-site coordinator to be on-site with him during the games. He stated that this position will require minimal hours.

Mayor Allen stated that he believes it is an essential position to move forward with the season. Council Member West agreed with the Mayor.

A discussion was held concerning how Council would like staff to move forward with hiring positions during the Revenue Recession Shortfall Plan. Hanson stated that he would like us to have the ability to replace current positions, noting that it is important to advertise as soon as possible. Rodriguez noted that all Department Head positions will still be brought before Council before posting or any offers are made. Hanson noted that any new positions or positions that are not currently filled will be brought before Council for consideration before posting.

**Motion by Council Member Barker,  
Seconded by Council Member West  
To hire the recreation coordinator immediately  
And to give direction to staff to not hire any positions that are  
Not currently filled, or any new positions, noting that  
Department Head positions will still need to be brought before Council  
Approved unanimously (5-0)**

**10. COUNCIL COMMUNICATION WITH STAFF**

Mayor Allen updated Council on the CARES ACT grant. He stated that the first round of funding yielded \$388,000 for Washington Terrace businesses. He stated that there is new money coming in on the second phase, which may open within the next few weeks. He stated that the county is working on funding for non-profit organizations as well. He stated that this is good news for people in the county as well as our area. He stated that the county wide average payout was around \$13,000. He stated that he believes 16 Washington Terrace business have benefitted from the CARES act.

**11. ADMINISTRATION REPORTS**

Hanson stated that Big-T recreation will be installing the playground at Lions Park the week of August 28<sup>th</sup>.

He noted that the fall cleanup will be November 16<sup>th</sup>.

**12. UPCOMING EVENTS**

August 6<sup>th</sup>: Special Planning Commission Meeting 6:00 p.m.

August 18<sup>th</sup>: City Council Meeting 6:00 p.m.

August 27<sup>th</sup>: Planning Commission Meeting (Tentative)

**13. ADJOURN THE MEETING: MAYOR ALLEN**

**Motion by Council Member  
Seconded by Council Member  
To adjourn the meeting  
Approved unanimously (5-0)  
Time: 7:18 p.m.**

**14. ADJOURN INTO RDA MEETING ( THE RDA MEETING WILL BEGIN IMMEDIATELY FOLLOWING THE REGULAR MEETING)**

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**Date Approved**

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**City Recorder**

## City Council Staff Report

**Author:** Tom Hanson  
**Subject:** RFP to sell 5580 S Adams Ave.  
**Date:** August 18, 2020  
**Type of Item:** Discussion / Action



**Summary:** It has been in the plan to sell to the property located at 5580 S. Adams Avenue for several years. In an effort to appropriately dispose of the land and encourage development of the land, staff has created an RFP process that will allow the City to select a developer that will purchase the land and create a project that will benefit the community and strengthen the tax base. The RFP process is one step in several that is and will take place in order to sell the land.

At this this Council has approved the process of disposing of the land with the intent to maximize the sale price and create a project that will strengthen our economic base. This is essentially the second step in the process of the land sale and development. The next step will be the selection of the developer, project proposal and final sale price based on greatest and best use of the property.

### **Description:**

- A. **Topic:** Sale of 5580 South Adams Avenue Property
  
- B. **Background:** In an effort to maximize the value of the land and capitalize on the RDA incentive we are proposing an RFP process in order to receive creative proposals for the purchase and development of the land. We are working with the legal team to edit the RFP to ensure a legal and open process is executed. The appraised value of the land without any reductions in property value for land-use restrictions is \$470,000. Please note that we are anticipating some negotiations based on the restrictions of land use directly east of the library.

Nonetheless, we are anticipating strong valuation for the land and healthy well thought-out proposals for the development. It will be important for the Mayor and Council and Planning Commission to determine the appropriate use of the land and how that use can be incorporated into the General Plan of the City.

You will notice that “land banking” will not be allowable in this process. It is the intent of the City to begin the development process immediately following the approval of the developer. This process is anticipated to take approximately 18 months to complete. If the process is not completed in the allotted time the arrangement will be dissolved and the process will begin anew. This reversal of the agreement will be the last resort and only executed when all other methods of resolution have been exhausted.

- C. **Analysis:** It is staff's opinion that an RFP process will allow for the flexibility and capacity to review the various alternatives to the use of the property. We are hopeful this process will maximize the value of the land while enabling the city to select the best fit for the community improve the offering of South East Business District. This process will align with the goals of the City and the RDA.

Goals are: On November 18, 1987, the City of Washington Terrace adopted, by Ordinance 6-87, the Southeast Redevelopment Plan. The Plan, dated September 21, 1987, acts as the official redevelopment plan for the project area. The Project Area Plan set to expire in 2015 was approved for an extension of an additional timeframe of 10 years.

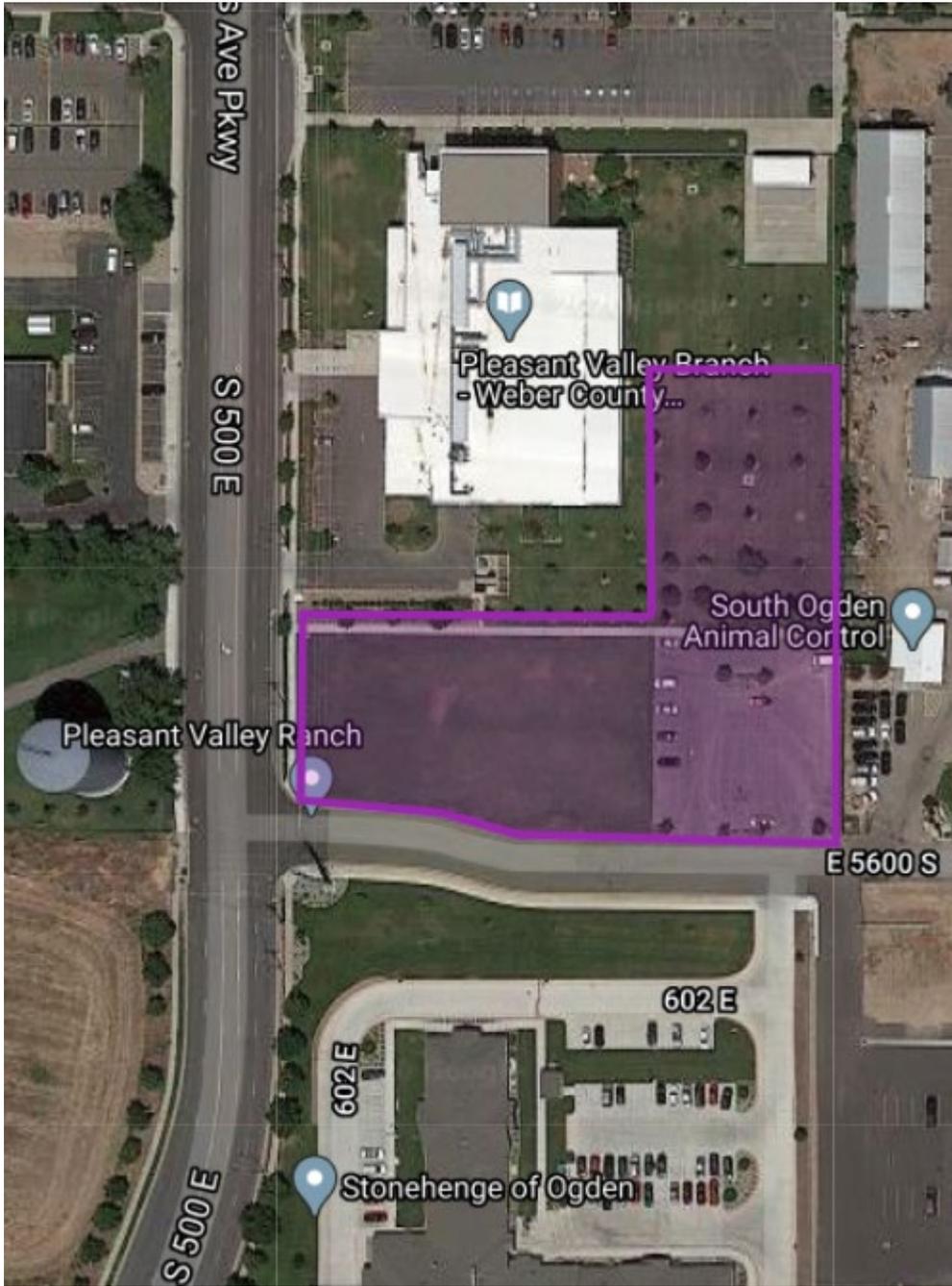
The purpose of the plan and the associated extension is intended to accomplish the following areas as primary redevelopment objectives within the project area:

- Removal of structurally substandard buildings to permit the return of the project area land to economic use and new construction.
- Removal of impediments to land disposition and development through assembly of land into reasonably size and shape parcels served by improved public utilities and new community facilities.
- Rehabilitation of buildings to assure sound long term economic activity in the core area of Washington Terrace City.



Image (above) Adams Avenue

- The elimination of environmental deficiencies, including, among others, small and irregular lot subdivision, overcrowding of the land and inadequate off-street parking.
- Achievement of an environment reflecting a high level of concern for architectural and urban design principles developed through encouragement, guidance, appropriate controls and professional assistance to owner participants and redevelopers.
- Implement the tax increment financing provisions of the Utah Neighborhood Development Act.
- The strengthening of the tax base and economic health of the entire community and of the State of Utah.
- Provisions for improvements to public streets, curbs and sidewalks, other public rights-of-way, street lights, landscape area, public parking and other public improvements.
- Provisions for underground utility improvements including water, sewer, and storm water improvements to develop greater efficiencies in the utility system.
- Research, develop and promote undeveloped and or underutilized properties within the RDA to businesses and or organization's that may find the area suitable for business expansion and construction.





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**REQUEST FOR PROPOSALS**  
**Development Site**  
**5580 S. Adams**  
**Avenue Parkway**

Washington Terrace, Utah

**DRAFT**

Washington Terrace  
Community Development

5249 S Southpointe Dr.  
Washington Terrace, UT 84405  
801-395-8288

## I. Executive Summary

The purpose of this Request for Proposal (“RFP”) is to solicit proposals from experienced real estate developers interested in the acquisition and development of certain commercial property currently owned by the Washington Terrace City (“City”). The Subject Property for this Project is referred to collectively as the “Property” and is identified in Exhibit A below. The City will consider sale of the property to the successful “Responder” who meets the requirements detailed in this RFP. Only Responders who demonstrate a high level of knowledge and experience in commercial or mixed-used development projects with a proven past experience of high-quality development projects need to apply to this RFP.

The selection process that will be conducted by Washington Terrace City (the “City”) as outlined by this RFP. After evaluation of responsive submittals, the City intends to make its final selection for contract award and execution.

Responders shall limit their submittals to the information required herein as well as other relative information regarding qualifications and experience.

It is estimated that the defined work will commence within forty-five (45) calendar days after the contract has been executed.

## II. Project Scope

Washington Terrace (City) currently owns “Property” located at 5580 S. Adams Avenue Parkway (Approximately 1.95 Acres). It is the intention of the City to sell the property to an experienced Responder who will create an appealing commercial or mixed-use multi-family housing development. The Property is currently zoned C-1 but may qualify for a zoning change to a mixed-use concept the meets the desires of the City.

**Approval of any increased density / rezone will be contingent on a high-quality design, taxable value of the new proposed product, and connectivity with the theme, including architectural standards and design that meets the approval of the City.**

The successful Responder to this RFP will be responsible for submitting and obtaining approval on the following steps prior to obtaining ownership of the property:

1. Approval of rezone of the Property.
2. Approval to develop the ground as approved by the Planning Commission and City Council.
3. Contractual completion of the project within (eighteen) 18 months.

### III. Overview

The City wants to ensure that this development is well-planned, sensitive to adjoining properties, and will accommodate the needs of the City, including its RDA. The City recognizes for this project it may be appropriate to create zoning and other land use requirements for this specific site. This development of the Property must be carefully planned and agreed to between the City and the Responder. It is also acknowledged that regulations be enforced and assured in accordance with a full executed Development Agreement between the City and Responder. This will create enabling provisions for adopting a specialized land use and zoning this project that meets the overall goals stated herein. The City seeks to partner with a qualified Responder to purchase and develop the Property. Required responsibilities of the selected Responder shall include, but are not limited to:

- **Land Bank** – In order to develop the Property in a timely manner, this property is not available for land banking purposes. It is the intent of the City to complete development within eighteen (18) months of proposal approval.
- **Acquisition** – Purchase Property from the City (see Exhibit A). Purchase price is to be proposed and submitted by the responder based on their proforma and cost analysis of the project. The purchase is Fee Simple Subject to Condition Subsequent, and said conditions being the development of the property within eighteen (18) months, unless extended by the sole discretion of the City. Responder is responsible for all closing costs, environmental reviews, due diligence, title fees, and any other cost.
- **Pre-Development Consultation** – Responder is responsible to retain and pay all necessary consultants required for all aspect's property development. Such consultants should include, but is not limited to: Civil Engineer, Architect, Structural Engineer, Geotechnical Engineer, Planner, Environmental Consultant, Landscape Architect. Responder is responsible for all development fees and permits.
- **Land Development** – the successful Responder is responsible for all aspects of the development of the Property and completion of the project which includes, but is not limited to: site clearing, debris removal, grading and retaining, site utilities (i.e. sewer, water, storm drain, gas, electric, communication), site infrastructure (i.e. curb, gutter, sidewalk, storm water facilities, ingress and egress, , parking, roadways, fencing, landscaping, and all other necessary infrastructure).
- **Concept Design** –the attached Architectural Design Standards are the basis for the design of the project (See Exhibit B).
- **Construction Drawings** – the successful Responder shall retain a licensed design professional to produce all construction drawings necessary to be able to submit and obtain land use approval and a building permit from the City (civil and structural engineering that meets local codes is required).

IV. **Requirements**

**The successful qualified Responder shall have:**

- A. A minimum of 10 years' experience with commercial or mixed-use commercial/residential development and construction. It is preferred that the experience includes elements of themed project design and proactive community engagement.
- B. An understanding of the planning and land use approval process.
- C. Be licensed by the state where required and be in good standing with any regulatory agencies.

DRAFT

**V. Procedures for Submission of Request for Proposals**

All parties responding to this RFP must provide their contact information to the City upon obtaining a copy of the RFP. Contact information must be received forty-eight (48) hours prior to the RFP closing deadline. Contact information shall include: Tyler Seaman 801-395-8285 or Tom Hanson 801-395-8282

Contact email is: [tylers@washingtonterracecity.org](mailto:tylers@washingtonterracecity.org)

**Please submit three (3) copies of all required documents in a sealed envelope. The envelope must be marked as: "5580 S. Adams Avenue RFP"**

Submissions lacking any of the documents specified in this RFP may be deemed non-responsive or incomplete and be disregarded. The City reserves the right to exclude any or all responses or cancel this RFP at any time during the selection process. The City reserves the right to request additional information, including documentation, from any responding party. It is the Responder's sole responsibility to read and understand this RFP along with all written instructions and Exhibits contained herein. The successful Responder is responsible for all due diligence prior to closing at Responder's sole expense including closing costs, title fees, and all other costs. Responses to the RFP shall be submitted to the City at Washington Terrace City Hall:

5249 S Southpointe Dr.  
Washington Terrace, UT 84405

**Sealed Responses to the RFP are due: TBD.**

**To schedule an appointment to access the site or to submit any questions or requests for additional information, please do so in writing to: [tylers@washingtonterracecity.org](mailto:tylers@washingtonterracecity.org)**

**TBD** No inquiries or requests for additional information will be accepted after **TBD**. Responses to inquiries will be posted in addendum(s) within three (3) business day of receipt to the following website: <https://washingtonterrace.municipalcodeonline.com/>

Bidder must acknowledge all addendums on final submitted bid document.

Washington Terrace reserves the right to accept or reject any bid that best serves its convenience and/or is in the best interest of the City.

Washington Terrace reserves the right to reject any late, incomplete, irregular, or

non-responsive submission and reserves the right to waive any irregularity in submissions.

Responses to the RFP that are not received in the City prior to the time and date specified will be considered late. **LATE RESPONSES WILL NOT BE CONSIDERED FOR AWARD.** The City reserves the right to reject any and all responses.

It is the Responder's responsibility to assure the delivery of its responses to the City prior to or at the designated date and time. In order to facilitate review; materials must be submitted in the correct format as described below.

## VI. **Submittal Format**

All responses to this RFP should include and will be evaluated, weighed, and selected based on the following criteria:

### A. **Experience**

Provide a ten (10) year summary of your experience with commercial and mixed-use development projects. Please include, at a minimum, the following information:

- Project name, description, and location.
- Experience with new construction development.
- Photographs of completed buildings/units and projects.
- Experience in coordinating overall project with other consultants specifically landscape architects, civil engineers, and interior designers).
- Project reference contact information (name, phone, email).
- Familiarity with municipal and building code requirements for the City.

### B. **Organizational Chart**

Include an organizational chart of the proposed team for this project, including the names of specific team members and their assigned responsibilities. Please provide a small bio for key individuals including but not limited to:

- Owner
- Lead Project Manager
- Project Engineer
- Project Architect
- General Contractor

### C. **Project Schedule**

Responder shall provide a schedule indicating milestones to completion. Specifically, days to completed planning approval and pre-development work, days from beginning to completion of land development, days to complete from beginning to occupancy.

### D. **Purchase Price**

Responder to propose a purchase price based on their development cost analysis and proforma. The purchase price shall be for entire Property in its current "as is" condition. The purchase price should be included in the requested proforma. Purchase price will begin at a base line of appraised value of \$470,000.00. Buildable area consists of 25,000 square feet with required parking, landscaping, amenities, and site design shown on the site plan as required by code. Purchase is Fee Simple Subject to Condition Subsequent, which condition is the development of the Property within the time limitations set forth in this RFP.

**E. Sources & Uses / Pro Forma**

Provide a detailed source and uses / pro forma showing estimated costs and revenues of project (see Exhibit C for an example of minimum requested information) Responder may submit sources and uses / pro forma in an alternate format as long as all line items requested in Exhibit C are clearly presented.

**F. Conceptual Site Plan**

Site plan showing initial proposed layout of the new development. It must also show the following:

- Location of proposed new structures, including approximate building dimensions.
- Proposed setbacks on all structures to property lines, and adjacent structures
- Street and driveway widths
- Approximate locations of underground utilities.
- Retaining wall locations (If necessary)
- Site access which meets fire code requirements
- Note buildable area in Exhibit A

**G. New Construction Plan / Narrative**

Description of work detailing how the new construction proposed meets City goals and compliments the architecture on nearby properties. Please include photos / sketches or any items that help demonstrate the intent and vision of the proposed new building(s). The narrative must also include the following:

- Commercial uses.
- Number of housing units in addition to commercial if mixed-use applies.
- Type of ownership structure proposed.
- Construction grade and materials proposed.
- Exterior and Interior finished proposed.  
Building height, massing, and number of stories proposed.

#### **H. Bid Format**

For uniform review and evaluation of the project bids, the following format must be used in preparing your response:

1. Cover sheet
2. Table of Contents
3. Narrative on Experience
4. Experience (including photos & renderings)
5. Organizational Chart
6. Project Schedule
7. Detailed Sources & Uses / Proforma / Purchase Price
8. Conceptual Site Plan
9. New Building Plan / Narrative
10. Appendix (any additional pertinent information)

**Submit three (3) copies.**

#### **VII. Qualifications Evaluation**

The following criteria will be considered in determining the Responder's qualification score:

- Experience of Personnel – 10 points
- Industry Experience with Similar Projects – 15 Points
- Past Performance – 15 Points
- Project Schedule – 10 Points
- Project Sources & Uses / Proforma – 25 Points
- Site Plan / Conceptual vision for property – 25 Points
- Partnering capacity with the City – 25 Points

#### **VIII. Selection**

Based upon the scoring of responsive submittals, the City intends to select one (1) final Responder for contract award and execution. The City may conduct interviews and responders should be prepared to present before the City.

## **IX. Miscellaneous**

The City shall have the right to verify the accuracy of all information submitted and to make such investigation, as it deems necessary to determine the ability of a prospective Responder to perform the obligations outlined in the response. The City reserves the right to reject any response where the available evidence or information does not satisfy the requirements of this RFP or does not adequately demonstrate to the City that the prospective Responder is qualified to carry out properly the obligations of the response, is a person or firm of good reputation or character for strict, complete, and faithful performance of business obligations, or if the prospective Responder refuses to cooperate with and assist the City in the making of such investigation.

Any additional information regarding qualifications and experience that the Responder wishes to submit may be attached to its response to the RFP in the form of appendices. Statements should be complete and as brief as possible.

The Responder, by submitting a response to this RFP, waives all rights to protest or seek any legal remedies whatsoever regarding any aspect of the Request, the City's selection of a Responder with whom to enter into negotiations, or the City's rejection of any or all responses.

Qualified respondents shall hire Licensed Contractors in the State of Utah, for this type of work, and who meet City insurance and security requirements, and have experience with all work defined in the scope of work.

All work must meet current industry standards including all Federal, State and local rules and regulations.

The City will make every effort to ensure all offerors are treated fairly and equally throughout the entire advertisement, review and selection process. The procedures established herein are designed to give all parties reasonable access to the same basic information.

Cost of Developing Proposals -- all costs related to the preparation of proposals and any related activities are the sole responsibility of the offeror. The City assumes no liability for any costs incurred by offerors throughout the entire selection process.

Proposal Ownership – once submitted, all proposals, including attachments, supplementary materials, addenda, any other information or documents whatsoever become the property of the City and will not be returned to the submitting party.

Conflict of Interest – No member, officer, or employee of the City, during his or her tenure shall have any interest, direct or indirect, in this contract or the proceeds thereof, except as permitted by City.

Non-Collusion – The offeror guarantees the proposal is not a product of collusion

with any other offeror and no effort has been made to fix the proposal price or any offeror or to fix any overhead, profit of cost estimate of any proposal price.

Award of Contract - The selection of the company will be made by a selection committee as solely determined by the City. The City reserves the right to negotiate and hold discussions with prospective service providers as necessary. However, the City may award this contract without discussion of proposals received from prospective service providers. The selected company shall enter into a written agreement with the City. The City reserves the right to cancel this Request for Proposal. The City reserves the right to reject any or all proposals received. Furthermore, the City shall have the right to waive any informality or technicality in proposals received, when in the best interest of the City. The City reserves the right to segment or reduce the scope of services and enter into contracts with more than one vendor.

#### **X. Public Information**

Pursuant to the Utah Government Records Access and Management Act (GRAMA), records will be considered public after the contract is awarded.

#### **TBD Milestone Schedule**

The following proposed milestone schedule is approximate and subject to change: TBD

**Advertise RFP**

**Deadline for submittal of three (3) copies of proposals**

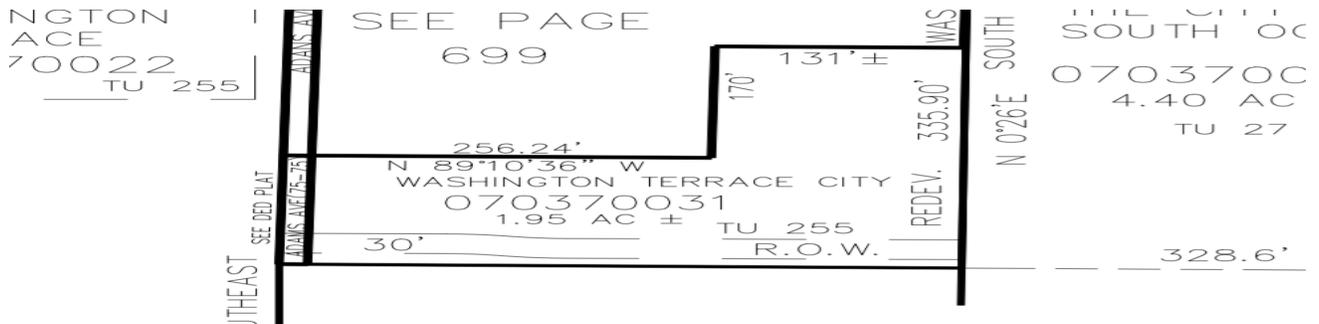
**Evaluation of Qualifications**

**Notice of Award to qualified Responder**

Exhibit A – Property Area – Legal Descriptions



PART OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER SECTION; RUNNING THENCE SOUTH 89D30' EAST 390.00 FEET ALONG THE SOUTH LINE OF SAID QUARTER SECTION, THENCE NORTH 0D26' EAST ALONG THE WESTERLY LINE OF SOUTH WASHINGTON TERRACE CITY PROPERTY, 335.90 FEET, THENCE NORTH 89D30' WEST 131 FEET, MORE OR LESS, THENCE SOUTH 0D45'24" WEST, 170.00 FEET; THENCE NORTH 89D10'36" WEST 256.24 FEET TO THE WEST LINE OF SAID QUARTER SECTION, THENCE SOUTH 0D26' WEST ALONG SAID WEST LINE 165.91 FEET TO THE POINT OF BEGINNING. EXCEPTING THEREFROM THAT PORTION ADAMS AVENUE ROAD DEDICATION PLAT (75-75). SUBJECT TO A 30 FOOT WIDE EASEMENT 15 FEET WIDE ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE: BEGINNING AT A POINT WHICH IS NORTH 0D26' EAST 32.0 FEET FROM THE SOUTHWEST CORNER OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY: RUNNING THENCE SOUTH 89D30' EAST 100 FEET, THENCE RIGHT ALONG THE ARC OF A 200.0 FOOT RADIUS CURVE A DISTANCE OF 36.04 FEET (CHORD BEARS SOUTH 75D50'13" EAST 35.99 FEET), THENCE LEFT ALONG THE ARC OF A 200.0 FOOT RADIUS CURVE A DISTANCE OF 36.04 FEET (CHORD BEARS SOUTH 75D50'13" EAST 35.99 FEET), THENCE SOUTH 89D30' EAST 220 FEET, MORE OR LESS, TO THE EXISTING PROPERTY LINE OF SOUTH WASHINGTON TERRACE CITY. [NOTE: BECAUSE THE DESCRIPTION OF RECORD DID NOT CONTAIN AN AREA FOR THIS PARCEL THE AREA FOR THIS PARCEL WAS CALCULATED BY THE RECORDERS OFFICE FOR TAX PURPOSES.]



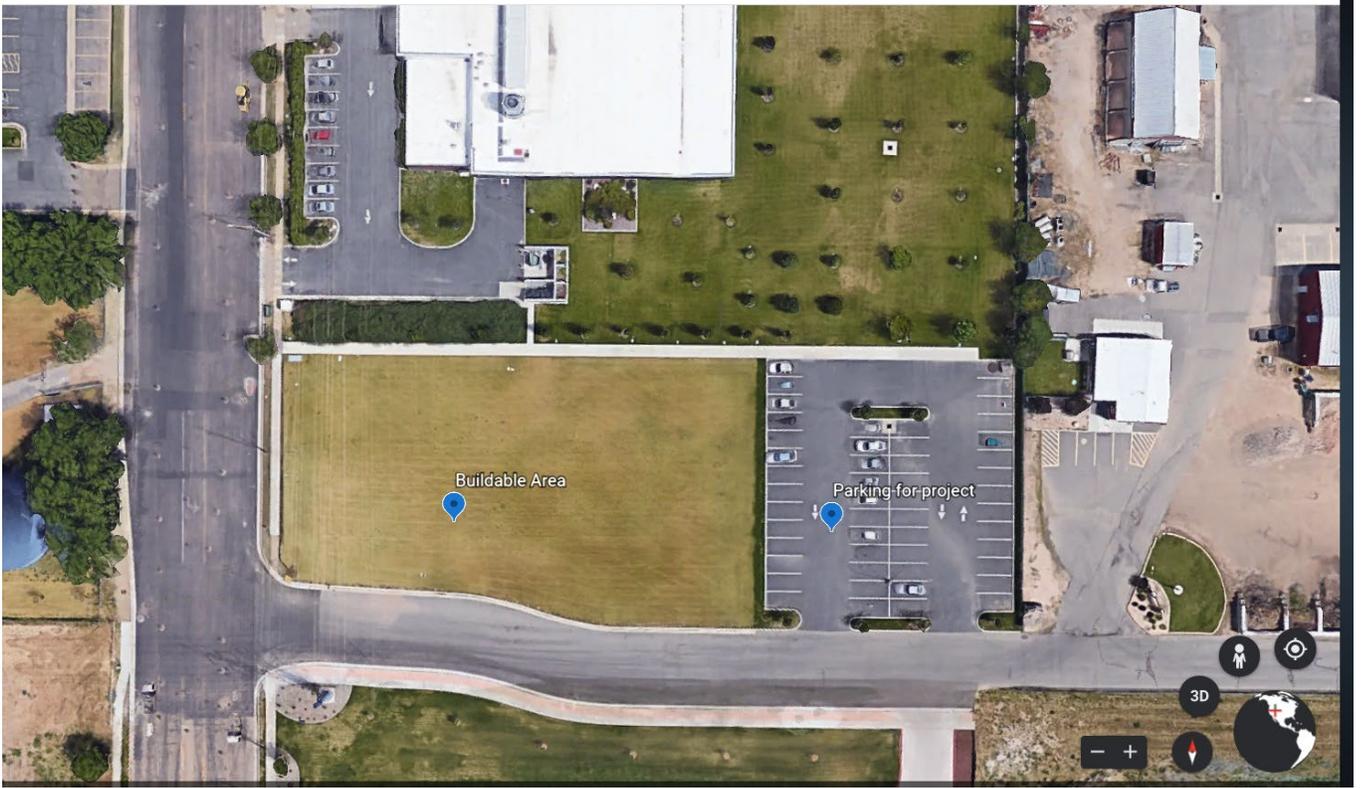


Exhibit B – Architectural Design Theme







## Simple Forms

The simplicity in design provides an inviting atmosphere and clean, expansive spaces with room to breathe.



**Exhibit C – Minimum Sources & Uses / Proforma Information**

<b>Sources &amp; Uses</b>			
<b>Sources</b>			
1			
2			
3			<b>New Construction Units</b>
4			<b>New Construction Unit Size (SqFt)</b>
5			
6			
<b>Total Sources</b>			
<b>Uses</b>			
<b>Land Acquisition Purchase Price (Total)</b>			
<b>Land Costs</b>			
Land Development Costs			
Fees			
<b>Total Land and Development Costs</b>			
<b>Vertical Construction Costs</b>			
New Construction Costs			
Construction Interest Costs			
<b>Total Construction Costs</b>			
<b>Sales and Closing Costs</b>			
Sales Commissions			
Closing Costs			
Sales Incentives			
<b>Total Sales and Closing Costs</b>			
<b>Operating Expenses</b>			
Warranty / Maintenance Service			
Marketing			
General & Administrative			
Property and Other Taxes			
General Contingency			
<b>Total Operating Expenses</b>			
<b>TOTAL USES</b>			

## City Council Staff Report



**Author:** Jake Meibos

**Subject:** Water Tank #1 Feed/Distribution water line and tank equipment and painting

**Date:** 8/18/2020

**Type of Item:** Discussion and Motion

**Summary Recommendation:** Move to award a contract for installation of the distribution water line and to install the water tank equipment and painting.

### **Description:**

**A. Completion of the water distribution line and tank equipment and painting**

- B. Background:** Water Tank #1, located at 5295 South 500 west, is one of two, one-million gallon tanks in the City that will supply water demands and provide fire flows, as required by state law. In the past two years, the city has received two Community Development Block Grants (CDBG) to reconstruct the tank and improve the water pressure and volume to zone C.

Phase one of the tank improvements were completed in the fall of 2018 by a seismic upgrade. Phase two of the tank improvements were completed last fall and consisted of connecting the feeder/distribution line to and from the tank.

There are two parts to the third and final phase. Part one is to install the remaining distribution water main line. The distribution line will consist of approx. 2,000 ft. of 10" PVC pipe line to be installed along 500 west from 5100 south to 4800 south and connect back into zone C. Providing a higher volume of water to zone C will meet the required fire flow volume and capacity. Part two is painting a portion of the interior of the tank, installing equipment and disinfecting the tank prior to service.

**Analysis:** Competitive bids for Tank improvements and distribution line were opened Thursday August 13<sup>th</sup>, 2020. The Engineer's estimate for the projects is \$430,000. Selected low bid contractor(s) will be presented at Council meeting.

### **Department Review:** Public Works, City Manager, Finance

- A. Approve the Request:** It is requested that the City Council move to award the Distribution line and tank improvements to staff's recommended low bid contractor(s)
- B. Deny the Request:** By denying this request could jeopardize 50% completion of the project by December 31<sup>st</sup> 2020. The City would not be able to apply for additional CDBG funds during the upcoming application cycle in that event.

**C. Continue the Item:** The success of this CDBG funded project will complete the Water Tank #1 Feed/Distribution line and tank improvements. Additionally, if 50% of the estimated project funds are not expended by December 31<sup>st</sup> 2020 the city will not be eligible to apply for 2021 CDBG funding.

**City of Washington Terrace**  
**County of Weber, State of Utah**

**RESOLUTION NO. 20-12**

**A RESOLUTION AUTHORIZING AN  
INTERCOUNTY AUTOMATIC AID FIRE AGREEMENT**

**WHEREAS**, the City of Washington Terrace (hereinafter known as “City”) is a municipal corporation duly organized and existing under the laws of the State of Utah; and

**WHEREAS**, the parties are desirous of entering an agreement for providing automatic mutual aid for fire protection and emergency medical response among the parties; and

**WHEREAS**, such agreement is in furtherance of the purposes of Section 11-7-1, Utah Code Annotated, 1953, as amended; and

**WHEREAS**, each party desires to cooperate with and assist the other for fire protection, emergency medical response at the receipt of such an alarm where resources within their county are exhausted; and

**WHEREAS**, this Agreement is intended to “enhance” but not replace existing “Mutual Aid Agreements or within County Automatic Aid Agreements.”

**WHEREAS**, the City Council finds that entering into a contractual relationship and supporting an agreement for these mutually beneficial services is in the best interest of the citizens of the City; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Washington Terrace hereby agrees to the attached Intercounty Automatic Aid Fire Agreement “Exhibit A”:

PASSED AND APPROVED by the City Council this \_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MARK C. ALLEN, Mayor

ATTEST:

\_\_\_\_\_  
AMY RODRIGUEZ, City Recorder

Roll Call Vote  
Council Member Barker \_\_\_  
Council Member Brown \_\_\_  
Council Member Seal \_\_\_  
Council Member Weir \_\_\_  
Council Member West \_\_\_

**INTERCOUNTY AUTOMATIC AID FIRE AGREEMENT**

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020 (“effective date”), pursuant to the provisions of the Interlocal Cooperation Act, by and between **OGDEN CITY CORPORATION**, a municipal corporation of the State of Utah, **ROY CITY CORPORATION**, a municipal corporation of the State of Utah, **SOUTH OGDEN CITY CORPORATION**, a municipal corporation of the State of Utah, **RIVERDALE CITY CORPORATION**, a municipal corporation of the State of Utah, **WASHINGTON TERRACE CITY**, a municipal corporation of the State of Utah, **NORTH VIEW FIRE DISTRICT**, a political subdivision of the State of Utah, and the **WEBER FIRE DISTRICT**, a political subdivision of the State of Utah, **SOUTH WEBER CITY CORPORATION**, a municipal corporation of the State of Utah, **CLINTON CITY CORPORATION**, a municipal corporation within the State of Utah, **LAYTON CITY CORPORATION**, a municipal corporation within the State of Utah, **KAYSVILLE CITY CORPORATION**, a municipal corporation within the State of Utah, **SYRACUSE CITY CORPORATION**, a municipal corporation within the State of Utah, **FARMINGTON CITY CORPORATION**, a municipal corporation within the State of Utah, **NORTH DAVIS FIRE DISTRICT**, a political subdivision of the State of Utah, **SOUTH DAVIS METRO FIRE SERVICE AREA**, a political subdivision of the State of Utah.

**WITNESSETH:**

**WHEREAS**, the parties are desirous of entering an agreement for providing automatic mutual aid for fire protection and emergency medical response among the parties; and

**WHEREAS**, such agreement is in furtherance of the purposes of Section 11-7-1, Utah Code Annotated, 1953, as amended; and

**WHEREAS**, each party desires to cooperate with and assist the other for fire protection, emergency medical response at the receipt of such an alarm where resources within their county are exhausted; and

**WHEREAS**, this Agreement is intended to “enhance” but not replace existing “Mutual Aid Agreements or within County Automatic Aid Agreements.”

**NOW, THEREFORE**, it is hereby agreed:

1. Upon request from an on-scene incident for intercounty resources the 911 Public Safety Answering Point (PSAP) responsible for the incident will make the request to the neighboring County within this agreement as described by the “intercounty response plan” as determined by the fire chiefs of each participating party. Fire chiefs within each County will develop a coordinated “intercounty response plan” reviewed and approved by respective fire chiefs of each participating party within their county. Upon request from on-scene incident commander for intercounty resources, the neighboring county’s 911 PSAP will be contacted specifying intercounty resource request. Only those pre-identified resource units within the response plan will be dispatched by the neighboring county to the requesting county’s incident

location. Once intercounty resources are sent by their respective 911 PSAP, while en-route, responding units will report to the requesting 911 PSAP to confirm radio communication and notification of en-route status. Once assigned to a neighboring county's incident all radio communication will occur on the requesting 911 PSAP talk groups and their status managed by the requesting 911 PSAP. Upon completion of incident assignment, release by the incident commander, neighboring county units will return to radio communication with their primary PSAP.

2. Any dispatch of equipment and personnel pursuant to this Agreement is subject to the following conditions:

- a. The "Automatic Aid" fire company being requested must be currently in an "available" status.
- b. The responding company must be a "pumping" apparatus of Class A engine type or "quint" style aerial device with Class A engine specifications, water tender, a NWCG classified Type 1-6 wildland fire suppression unit, an incident commander staff member and vehicle, or a state licensed medical unit either as either a rescue or ambulance. Such responding company must respond with no fewer than two firefighters/EMS certified personnel on board.
- c. The "Automatic Aid" fire company must respond immediately from the fire station to which they are assigned immediately upon receipt of the alarm. All such responders must ride in the emergency vehicle to the incident. None shall respond by private vehicle.
- d. Dispatch will issue the following information to the responding "Automatic Aid" fire company:
  - i. Address of incident;
  - ii. Type of incident;
  - iii. Talk Group and 911 PSAP Assignment
  - iv. Incident command designation; and
  - v. Commander's name or unit when available.
- e. All parties under this agreement will function under the Incident Command System as taught by the National Fire Academy and as practiced under Weber/Davis area local guidelines and standard operating procedures (SOP's). The responding "Automatic Aid" fire company shall report by radio to the Incident Commander or staging officer at the location to which the equipment was requested and shall be subject to the orders of that commander.
- f. The responding "Automatic Aid" company shall be released by the requesting organization when the services of the "Automatic Aid" fire company are determined to not be required or when the "Automatic Aid" fire company is needed to provide protection to its own jurisdiction, such need to be the sole determination of the responding organization. This agreement is intended for

initial response only. Time commitment for the “Automatic Aid” companies shall not extend beyond eight (8) hours after initial dispatch time.

- g. Assistance under this Agreement may be refused by the supervising shift officer or any of the parties if, in the supervisor’s best judgment, it is determined that the party is unable to reasonably respond.

3. Each party waives all claims against the other for compensation for any loss, damage, personal injury, or death occurring because of performing this Agreement.

4. Neither party shall be reimbursed by the other party for any costs incurred pursuant to this Agreement.

5. All privileges and immunities from liability which surround the activities of any firefighting force or fire department, when performing its functions within the other party’s territorial limits, shall apply to the activities of that other party’s firefighting department while furnishing fire protection outside its territorial limits under this Agreement.

6. The effect of the death or injury of any firefighter, who is killed or injured while responding to an incident outside the territorial limits of the firefighter department of which the firefighter is a member and while that department is functioning pursuant to this Agreement, shall be the same as if the firefighter were killed or injured while that department was functioning within its own territorial limits, and such death or injury shall be considered to be in the line of duty.

7. There is no separate legal entity created by this Agreement to carry out its provisions; and to the extent that this Agreement requires administration other than as is set forth herein, it shall be administered by the governing bodies of the parties acting as a joint board. There shall be no real or personal property acquired jointly by the parties as a result of this Agreement.

8. This Agreement shall not relieve any party of any obligation or responsibility imposed upon any of the parties by law, except that the performance of a responding party may be offered in satisfaction of any such obligation or responsibility to the extent of actual and timely performance thereof by the responding party.

9. This Agreement shall be effective for a period of five (5) years from the effective date. Any party may terminate its obligations under this Agreement after giving thirty (30) days advance written notice of termination to the other parties. Such termination shall not modify the Agreement as between any of the remaining parties, except only to exclude the terminating part from the obligations created herein.

10. This Agreement shall become affective as set out above provided it has been approved as appropriate by the above-mentioned parties, and in accordance with the provisions of Section 11-13-101 et seq., Utah Code Annotated, 1953, as amended. In accordance with the provisions of Section 11-13-202.5(3), this Agreement shall be submitted to the attorney authorized to represent each party for review as to proper form and compliance with applicable law before this agreement may take effect.

**OGDEN CITY CORPORATION, a  
Utah Municipal Corporation**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Recorder

APPROVED AS TO FORM AND AS  
COMPATIBLE WITH STATE LAW:

\_\_\_\_\_  
City Attorney

**WASHINGTON TERRACE CITY CORPORATION, a  
Utah Municipal Corporation**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Recorder

APPROVED AS TO FORM AND AS  
COMPATIBLE WITH STATE LAW:

\_\_\_\_\_  
City Attorney

# Inter-County Fire/EMS

## Auto Aid Protocol

(Box Elder, Davis, Weber)

Weber County	<b>Strike Team (Same Kind of Resources)</b>		<b>Task Force (Group of Single Resources)</b>	
EMS	(6)	3 Ambulances (2 personnel each) A-1 A-66 A-31	(9)	1 Paramedic Rescue (2 personnel) 2 Ambulances (2 personnel each) 1 Engine (3 personnel) R-1 A-1 A-66 E-32
Structure Fire or Structural Interface	(9)	3 Engine (3 personnel each) L-81 E-2 L-31	(10)	1 Ladder(3 personnel) 1 Engine (3 personnel) 1 Rescue (2 personnel) 1 Ambulance (2 personnel) L-1 R-1 L-81 A-66
Wildland	(6)	3 Brush Trucks (2 personnel each) (Type 6) B-4 B-63 B-131 3A-26 Unit/Overhead	(9)	2 Brush Trucks (2 personnel each) 1 Engine (3 personnel) 1 Water Tender (2 personnel) B-4 L-4 B-63 WT-63 3A-26 Unit/Overhead
Definitions		<b>Strike Team</b> – Specified combination of the <u>same</u> kind and <u>type</u> of resources, with common communications, and a leader.		<b>Task Force</b> – Any <u>combination</u> of <u>single</u> resources assembled for a particular tactical need, with common communications and a leader. Either pre-established and sent to an incident or formed at an incident.

### Discussion Points

- 1) We would use our existing Auto Aid Agreement for the basis of a Intra-County Agreement.
- 2) Terms of Agreement would address liability, worker’s compensation, no cost, short term ≤ 12 hours.
- 3) Once Strike Teams or Task Forces are dispatched, they will stage at 5600 S I-15 (south response) 2700 N I-15 (north response) I-84 Highway 89 (east response) prior to responding to scene collectively. All Teams/Forces will have leader assigned.
- 4) Only the units identified will be dispatched if they are in an available status. No replacement units will be dispatched.



## City Council Staff Report

Community Development

**Author:** Community Development  
**Subject:** Rezone and Site Plan  
**Date:** August 18, 2020  
**Type of Item:** Discussion/Action/Ordinance

**Summary Recommendation:** Motion to approve the amendment to the infill development map and grant site plan approval. Motion by Ordinance.

**Description:** All of Lot 2 Laker 88 Subdivision, parcel #07-795-0002

**A. Background:** Applicant wants to rezone lot 2 into an infill zone which would allow him to build a twin home on the property. A public hearing was held at the August 6, 2020, Planning Commission meeting. The Commission reviewed the ordinance, which allows for three things; 1. To add the parcel to the infill development map, 2. Clarifies the area as to which the calculations for lot densities are established, 3. Approves the building of the proposed home.

The Planning Commission discussed the ordinance, and changes were made to the language based on their recommendations. The Planning Commission gave a favorable recommendation to approve the ordinance, along with the site plan.

**B. Analysis:** Based on the development review staff and the applicant the request would meet the eligibility and guidelines listed in ordinance 20-01. There are 11 lots surrounding the area totaling 22 dwellings. This averages out to be 2 dwelling per acre ratio. This would meet the ratio the applicant is requesting.

**C. Department comments:** Development review staff has reviewed the zoning change and site plan and would recommend approval based on the information provided.

### Alternatives:

**A. Approve the Request:** The Council may approve the ordinance amending chapter 17.10 relating to the infill residential development regulations; adding lot 2 Laker 88 Subdivision with parcel #07-795-0002 and adopting an infill development for parcel #07-795-0002.

**B. Deny the Request:** Deny the applicants request

**C. Continue the Item:** The Council may table the request to a later meeting, subject to suggesting additional information, or requiring changes to the ordinance prior to making a decision.

WASHINGTON TERRACE CITY

ORDINANCE 20-04

IN-FILL RESIDENTIAL DEVELOPMENT

**AN ORDINANCE OF THE CITY OF WASHINGTON TERRACE, UTAH, AMENDING CHAPTER 17.10 RELATING TO IN-FILL RESIDENTIAL DEVELOPMENT REGULATIONS; ADDING PARCEL TO THE INFILL DEVELOPMENT MAP; AND ADOPTING AN INFILL DEVELOPMENT FOR A CERTAIN PARCEL; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Washington Terrace City (hereafter referred to as “City”) is a municipal corporation, duly organized and existing under the laws of the State of Utah;

**WHEREAS**, *Utah Code Annotated* §§ 10-8-84 and 10-8-60 authorizes the City to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

**WHEREAS**, the City desires to update its land use regulations relating to in-fill development;

**WHEREAS**, Title 10, Chapter 9a, of the *Utah Code Annotated*, 1953, as amended, enables the City to regulate land use and development;

**WHEREAS**, after publication of the required notice, the Planning Commission held its public hearing on August 6, 2020, to take public comment on this Ordinance, and subsequently gave its recommendation to approve;

**WHEREAS**, the City Council received the recommendation from the Planning Commission and held its public meeting on \_\_\_\_\_, 2020, and desires to act on this Ordinance;

**NOW, THEREFORE**, be it ordained by the City Council of Washington Terrace City as follows:

**Section 1: Repealer.** Any word other, sentence, paragraph, or phrase inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

**Section 2: Adoption.** Chapter 17.10 of the *Washington Terrace Municipal Code* is hereby amended to read as follows:

**17.10.50 Eligibility and Guidelines.**

- 1) Eligible Parcels. The In-fill Development Map set forth in Exhibit “A” adopted and incorporated herein by this reference specifies the eligible parcels that may be used for in-fill development subject to the requirements of this title. Parcels not identified on the In-fill Development Map are not eligible. The Owner of any parcel not identified on the In-fill Development Map may request to be added to said Map by Ordinance if the size and configuration meet the purpose and intent of this Chapter.
- 2) Requirements. The existing zoning and General Plan shall be residential.
- 3) Guidelines. The following guideline apply:
  - a) Size and Access. Meet the size and access criteria as follows:
    - i) Being accessed from a public street.

- ii) Be of sufficient size for egress without interfering with adjoining properties and be of sufficient size for a residential use without reduction of residential setbacks for the zone by more than twenty-five (25%).
- iii) Be of sufficient size for fire access in accordance with the specifications of the Fire Marshall and the applicable code.
- iv) Be capable of being serviced by utilities and infrastructure.
- v) Be no more than two (2) stories, including any basement.
- b) Architecture and Design. Meet the architecture and design criteria as follows:
  - i) Each unit shall have a minimum two (2) car attached garage, private driveway parking in the front set-back area equivalent to one (1) vehicle, and off-street guest parking located in the overall development site plan equal to one (1) additional vehicle for each unit.
  - ii) Provide for the following architectural features:
    - (1) Minimum sixty (60) percent of the front exterior of the residential structure shall be brick, stone, or cultured stone material. Remainder of the exterior structure shall consist of: cement board, architectural shingles, heavy timber, or stucco. No vinyl or metal siding is permitted.
    - (2) Color schemes, such as earth-tones, that promote curb appeal.
    - (3) Varied rooflines that include: decorative dormers, gabled or hipped pitched roofs, and parapets or cornices.
    - (4) Front porches shall include decorative exterior lighting.
- c) Density. The density of lots in any in-fill development shall be calculated based upon the average density of the ~~surrounding~~ residential uses immediately adjoining to, and across the street from, the property seeking in-fill development under this Chapter on a per acre basis as calculated by the Building Official.

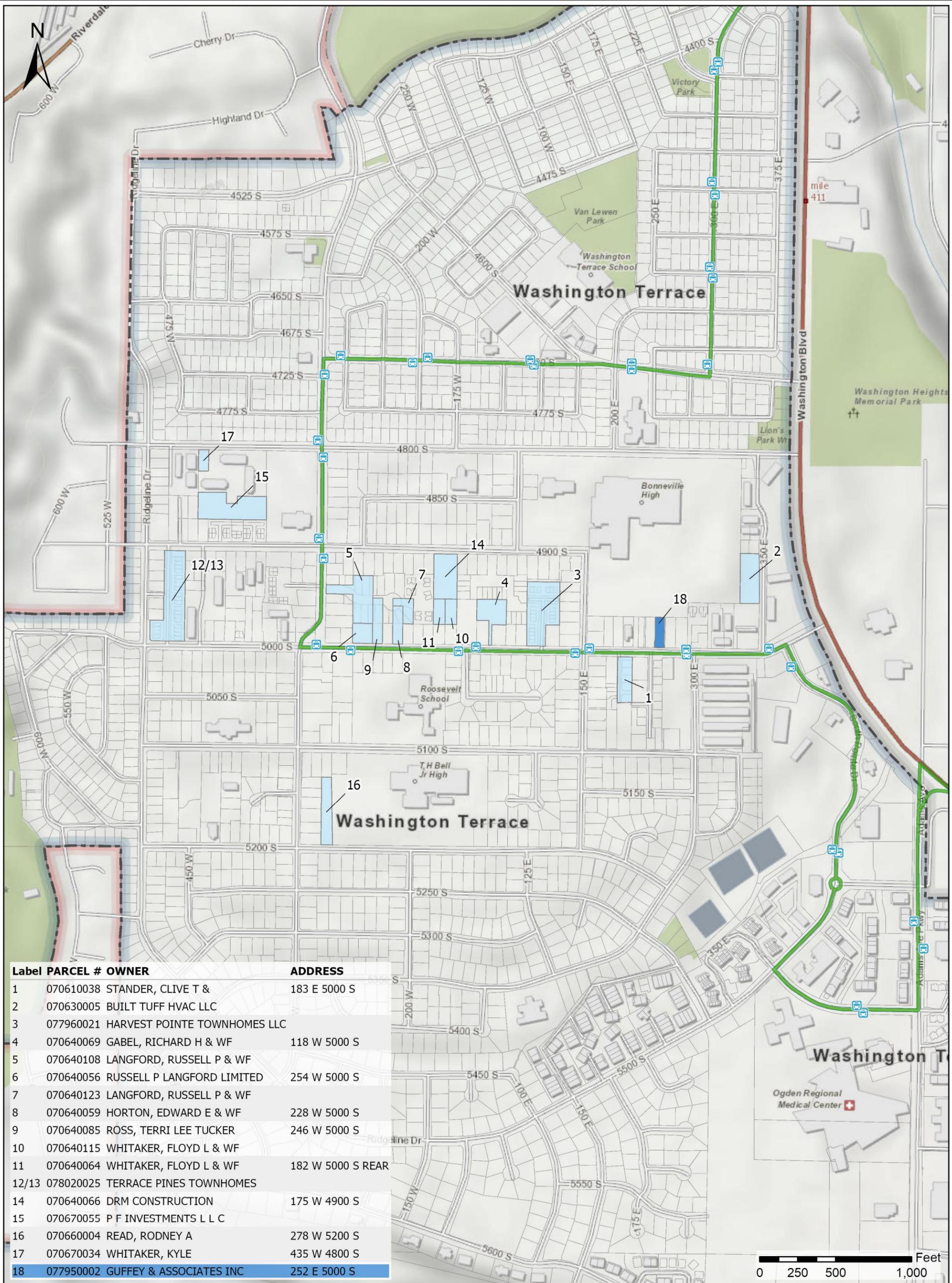
**17.10.060 Administration.**

- 1) Administrative Function. It is policy that after the legislative adoption of the In-fill Development Sub-zone (In-fill SZ) ~~sub-zone~~ and Development Agreement, that implementation shall be an administrative function and not legislative.
- 2) Maintenance. Unless otherwise provided in the Development Agreement, all infrastructure in the sub-zone shall be maintained and operated by an owner association established for that purpose.
- 3) Covenants. Any covenants, conditions, and restriction shall be approved by the City as part of the Development Agreement.
- 4) Escrow. As part of the Development Agreement, the applicant shall enter into an Escrow Agreement. The escrow funds shall be deposit in escrow account with a federally insured financial institution approved by the City and be in the amount equal to the cost of the improvements not yet installed and as estimated or approved by the City Engineer. The City shall be authorized to draw upon the funds to complete any improvement, and the escrow amount shall additionally include costs incurred by the City for approval of the development, and ten percent of the total costs of improvements as determined by the City Engineer as a contingency warrant amount.

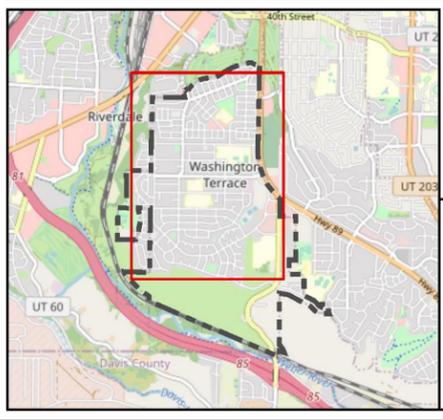
**Section 3:** **Map.** The In-fill Development Map in Exhibit “A” attached hereto and incorporated by this reference is hereby amended to include Weber County Parcel No. 077950002.

**Section 4:** **Adoption of In-Fill Development.** Weber County Parcel Number 077950002 in hereby zoned In-fill SZ in accordance with Chapter 17.10, and the Development Agreement attached hereto as Exhibit “B” and incorporated herein by this reference is hereby adopted along with all attachment thereto.





Label	PARCEL #	OWNER	ADDRESS
1	070610038	STANDER, CLIVE T &	183 E 5000 S
2	070630005	BUILT TUFF HVAC LLC	
3	077960021	HARVEST POINTE TOWNHOMES LLC	
4	070640069	GABEL, RICHARD H & WF	118 W 5000 S
5	070640108	LANGFORD, RUSSELL P & WF	
6	070640056	RUSSELL P LANGFORD LIMITED	254 W 5000 S
7	070640123	LANGFORD, RUSSELL P & WF	
8	070640059	HORTON, EDWARD E & WF	228 W 5000 S
9	070640085	ROSS, TERRI LEE TUCKER	246 W 5000 S
10	070640115	WHITAKER, FLOYD L & WF	
11	070640064	WHITAKER, FLOYD L & WF	182 W 5000 S REAR
12/13	078020025	TERRACE PINES TOWNHOMES	
14	070640066	DRM CONSTRUCTION	175 W 4900 S
15	070670055	P F INVESTMENTS L L C	
16	070660004	READ, RODNEY A	278 W 5200 S
17	070670034	WHITAKER, KYLE	435 W 4800 S
18	077950002	GUFFEY & ASSOCIATES INC	252 E 5000 S



**Infill Properties**  
 Existing (light blue)  
 Proposed (dark blue)

**UTA Transit**  
 Route 612 (green line)  
 Bus Stops (blue square with bus icon)

**Parcel Boundary** (thin grey line)  
**Municipal Boundary** (dashed black line)

Data Sources:  
 Utah AGRC WMTS Basemap - Terrain  
 © OpenStreetMap (and) contributors, CC-BY-SA

**THE CITY OF**  
*Washington Terrace*  
 K. Thompson, July 2020

**WASHINGTON TERRACE CITY INFILL PROPERTY MAP** **EXHIBIT**  
**A**

The data contained in this document is for reference use. This data is based upon the interpretation of the municipal code and other governing law as determined by the City of Washington Terrace. The data was compiled from the best sources available in order to minimize error. While the data has been tested for accuracy and content, the City of Washington Terrace disclaims any responsibility and makes no warranty, expressed or implied, as to the accuracy of completeness of the information, text, graphics or other items contained on this map, and it being within surveying or engineering standards. Neither is the City of Washington Terrace responsible or liable for any third party reliance, data derivatives of any kind, or any misuse of this data. Any measurements taken from the data may not be accurate without a formal survey.

**CITY OF WASHINGTON TERRACE  
SUBDIVISION DEVELOPMENT AGREEMENT**

The Parties to this Development Agreement (“Agreement”) are \_ Bank of Utah, Custodian FBO: Jeffery J. Beckstead IRA \_\_\_\_\_, “Developer”) and the City of Washington Terrace (“City”). The Effective Date of this Agreement is the date of the last party to sign below.

**RECITALS**

**WHEREAS**, Utah Code §10-9a-604.5 authorizes the City to enter a Development Agreement; and

**WHEREAS**, the Developer seeks permission to subdivide property within City, to be known as WT Twin SUBDIVISION (“Subdivision”), which property is more particularly described in the attached as Exhibit “A” and incorporated herein by this reference (“Property”); and

**WHEREAS**, the City seeks to protect the health, safety, and general welfare of the residents by requiring the completion of various improvements in the Subdivision and thereby to limit the harmful effects of substandard development; and

**WHEREAS**, the purpose of this Agreement is to protect the City from the cost of completing the improvements required as part of the approval of this Subdivision itself and is not executed for the benefit of material, men, laborers, or others providing work, services or material to the Subdivision; and

**WHEREAS**, the mutual promises, covenants, and obligations contained in this Agreement are authorized by state law and the City’s Municipal Code;

**NOW, THEREFORE**, the Parties hereby agree as follows:

**DEVELOPER’S OBLIGATIONS**

1. **In-fill Improvements.** The Developer shall construct and install, at his own expense, those on-site and off-site In-fill Improvements listed on Exhibit “B” attached hereto and incorporated herein by this reference (“Improvements”). The Developer’s obligation to complete the Improvements will arise immediately upon Plat approval by the City, will be independent of any obligations of the City contained herein and will not be conditioned on the commencement of construction in the development or sale of any lots or improvements within the development.
  
2. **Financial Guarantee.** To secure the performance of his obligations hereunder, the Developer will make a Cash Deposit of a “Financial Guarantee” to be held in Escrow under the terms of an Escrow Agreement established in the form and manner approved

by the City Attorney which shall be attached hereto as Exhibit “C” incorporated by this reference. The Financial Guarantee is to be in the amount specified in the total of all In-fill Improvements including related costs and contingency calculated as part of the In-fill Improvements. The Financial Guarantee will be established Escrow Holder approved by the City Attorney, and Developer hereby warrants that said Financial Guarantee is safe and secure with said Escrow Holder who is capable of administering the same. The Financial Guarantee shall be payable at sight to the City. The Escrow Agreement shall be executed with the Escrow Holder and the Parties. The Financial Guarantee will be payable to the City at any time upon presentation of:

- a. A sight draft drawn on the issuing Escrow Holder in the amount to which the City is entitled to draw pursuant to the terms of this Agreement; or
- b. A request executed by the City Attorney or City Recorder stating that the City is entitled to make a draw or Developer is in default under this Agreement;
- c. A request by the City under this Agreement or for Inspection/Subdivision Fees. Developer hereby authorizes the release of any and all outstanding Inspection/Subdivision Fees as specified in the Exhibit “B”.

3. **Standards.** The Developer will construct the In-fill Improvements according to the Public Works Standards and Technical Specifications, municipal code, applicable building or other codes adopted by City, all of which are incorporated herein by this reference.
4. **Warranty.** The Developer warrants that the In-fill Improvements, each and every one of them, will be free from defects for a period of one (1) year from the date that the City accepts the improvement when completed by the Developer and as requested by the Developer for conditional acceptance and final acceptance as provided in state law.
5. **Completion Periods.** The Developer shall commence work on the In-fill Improvements within one year from the Effective Date (also may be referred to as “Commencement Period”) and the In-fill Improvements, each and every one of them, will be completed within two (2) years from the Effective Date (also may be referred to as “Completion Period”).
6. **Compliance.** The Developer will comply with all approval requirements, relevant laws, code requirements, standards, specifications, and regulations in effect at the time of Plat approval when fulfilling his obligations under this Agreement. When necessary to protect public health, the Developer will be subject to laws, ordinances and regulations that become effective after final plat approval. The Developer shall specifically comply as follows:
  - a. Comply with the municipal code and building code, and specifically with the requirements of Chapter 17.10 of the Washington Terrace Municipal Code.
  - b. The recorded Plat shall substantially conform to the approved Plat for the Subdivision attached in Exhibit “D” incorporated herein by this reference, subject to any changes by the City Engineer.

- c. Approved Final Subdivision Plan, including all Floor Plan and Elevations, shall comply with Exhibit “E” and all regulations set forth in Chapter 17.10 of the Washington Terrace Municipal Code. Developer shall specifically comply with all building materials set forth by code or ordinance of the In-fill SZ.
  - d. Comply with the Public Works Standards and Technical Specifications along with all requirements of the City Engineer.
  - e. Conform to the Final Approval granted by the Planning Commission and City Council as set forth in the applicable minutes.
  - f. Submit for review and approval by the City Attorney the Covenants, Conditions & Restriction (CC&Rs) and Home Owners’ Association (HOA) documents for the Subdivision.
7. **Dedication.** The Developer will dedicate to the City or other applicable agency as designated by the City the In-fill Improvements listed on Exhibit “B” attached hereto and incorporated herein by this reference pursuant to the procedure described below. The Developer shall also dedicate to the City or other applicable agency designated by the City all adequate secondary water in the form of bona fide water rights/shares as may be required for approved culinary use and for secondary irrigation.
8. **Inclusion and/or Annexation.** The Developer, each subsequent purchaser, prospective purchaser, transferee, assignee, heir, or any other type of owner (collectively the “Owners”) of any or all lot or lots (collectively the “Lots”), and the HOA, hereby consents and agrees not to contest, protect, or object to inclusion and/or annexation into any special assessment area, special district, or similar entity as determined or directed by the City. Owners in the Subdivision hereby and forever acknowledge and accept that such are subject to taxes, assessments, utility fees, monthly user fees, or any fee or assessment imposed by any special assessment area, special district, or similar entity. Owners in the Subdivision hereby and forever acknowledge and hold the City harmless for the Subdivision and its In-fill Improvements, any actions or operation related to the same, including the service and operation of any utilities, and specifically any sanitary sewer, culinary water, and secondary water systems. The provisions of this Agreement relating to Owners runs in perpetuity.
9. **Home Owner Association.** The Developer, each subsequent purchaser, prospective purchaser, transferee, assignee, heir, or any other type of owner (collectively the “Owners”) of any or all lot or lots (collectively the “Lots”) hereby forever acknowledge and consent to being governed by a Home Owner or Home Owners’ Association (“HOA”) as set forth in such documents and bylaws created for the same, pay any and all fees or assessments for the same, and forever hold the City harmless for the same. The Owners and HOA are joint and severally liable under this Agreement. The Owners and HOA is responsible to maintain the HOA in good standing as a Utah non-profit corporation and shall hold the City harmless for the same. The Owners and HOA shall collect a fee equivalent to the costs of maintaining the HOA as set forth in the Covenants, Conditions, and Restrictions (CC&Rs) and shall also be responsible for any

and all snow removal (including the public right-of-way), open space, common area, and landscaping. Failure of the HOA to collect the necessary fees for the maintenance of the HOA, and as additionally provided in this Paragraph, may result in the City taking legal or other enforcement action against the HOA to impose a fair HOA fee upon Owners and/or special assessment to comply with this Paragraph with all costs incurred by the City, including attorney fees and costs, for any action to be reimbursed to the City by the HOA. The Owners and HOA hereby hold the City harmless for the Subdivision and all In-fill Improvements. The City does not enforce any Covenants, Conditions, and Restriction (CC&Rs) relating to the Subdivision unless expressly stated in the CC&Rs, enforcement is to be made by Owners in the Second District Court. Nothing in this Agreement prevents the HOA from contracting with the City to provide services for the HOA.

10. **Special District/Assessment.** At any time, the City may opt to include the Subdivision in one or more special district, service area, special assessment area or other equivalent entity to pay for maintenance of any In-fill Improvements in the Subdivision, which for the purpose of this Paragraph includes, but is not limited to: roadways, curb, gutter, sidewalk, snow removal, landscaping, storm drain, flood control, sewer and/or water (culinary and secondary). The Owners and HOA hereby waive any right to protest the City's inclusion of the Subdivision, in whole or part, in any special district, service area, special assessment area or other equivalent entity.
11. **Durability.** The continuing obligations and provisions of this Development Agreement run in perpetuity with the land.

#### **CITY'S OBLIGATIONS**

12. **Plat Approval.** The City will grant Final Subdivision Plat ("Plat") approved and Zoning Map Amendment to "In-fill SZ" for the Plat that is substantially similar to the Plat attached in Exhibit "D" and incorporated herein. Approval of the Plat and this Subdivision is subject to the applicable state laws and local ordinances in effect at the time of Plat approval.
13. **Easement and Improvements.** This Paragraph is intended to comply with the mandates enforced upon the City by Phase II of the federal Clean Water Act and other applicable federal and state regulations and provide access to public improvements and utilities. The Developer, each subsequent purchaser, prospective purchaser, transferee, assignee, heir, or any other type of owner (collectively the "Owners") of any or all lot or lots (collectively the "Lots") hereby acknowledges consents that the City is granted an easement over all storm water and drain facilities, public improvements and utilities, and such easement includes all rights to access at any time for inspection of any storm water and drain facilities in accordance with any regulation imposed by the federal or state governments and as otherwise provided in this Paragraph. In the event that the storm water facilities are not adequately maintained, operated, or controlled by the HOA then

all storm water and drain facilities may be assumed and maintained by the City at the expense of each owner or an assessment area, special district, or similar entity may be established for the same at the sole discretion of the City. The City may also inspect and maintain any other public improvements and gain access for the same on any private property to adequately ensure the use, operation, repair, replacement, and maintenance of any public improvement.

14. **Inspection and Certification.** The City will inspect the In-fill Improvements as they are being constructed and, if acceptable to the City Engineer, certify such improvement are in compliance with the standards and specifications of the City. Such inspection and certification, if appropriate, will occur within a reasonable time of notice by the Developer that he desires to have the City inspect an improvement. Before obtaining certification of any such improvement, the Developer will present to the City valid lien waivers from all persons providing materials or performing work on the improvement for which certification is sought. Certification by the City Engineer does not constitute a waiver by the City of the right to draw funds under the Financial Guarantee on account of defects in or failure of any improvement that is detected or which occurs following such certification.
15. **Notice of Defect.** The City will provide timely notice to the Developer whenever inspection reveals that an Improvement does not conform or is defective to the standards and specifications or the approved Subdivision improvement drawings on file with the City or City Engineer. The Developer will have thirty (30) days from the issuance of such notice to cure or substantially cure the defect. The City may not declare a default under this Agreement during the thirty (30) day cure period on account of any such defect unless it is clear that the Developer does not intend to cure the defect. The Developer will have no right to cure defects in or failure of any improvement found to exist or occurring after the City accepts dedication of the Improvement(s).
16. **Acceptance of Dedication.** The City or other applicable agency will accept the dedication of any validly certified Improvement within thirty (30) days of the Developer's offer to dedicate the Improvement. The City's or agency's acceptance of dedication is expressly conditioned on the presentation by the Developer of a policy of title insurance, where appropriate, for the benefit of the City showing that the Developer owns the Improvement in fee simple and that there are no liens, encumbrances, or other restrictions on the improvement unacceptable to the City in its reasonable judgment. Acceptance of the dedication of any improvement does not constitute a waiver by the City of the right to draw funds under the Financial Guarantee on account of any defect in or failure of the Improvement that is detected or which occurs after the acceptance of the dedication. The In-fill Improvements must be offered to the City in no more than one (1) dedication per month.
17. **Reduction of Security.** After the acceptance of any Improvement, the amount which the City is entitled to draw on the Financial Guarantee may be reduced by an amount

equal to ninety (90) percent of the estimated cost of the Improvement as shown on Exhibit "B". At the request of the Developer, the City will execute a Certificate of Release verifying the acceptance of the Improvement and waiving its right to draw on the Financial Guarantee to the extent of such amount. A Developer in default under this Agreement will have no right to such a certificate. Upon the acceptance of all of the In-fill Improvements, the balance that may be drawn under the credit will be available to the City for 90 days after expiration of the Warranty Period.

18. **Use of Proceeds.** The City will use funds drawn under the Financial Guarantee only for the purposes of completing the In-fill Improvements or correcting defects in or failures of the In-fill Improvements.

### OTHER PROVISIONS

19. **Events of Default.** The following conditions, occurrences, or actions will constitute a default by the Developer during the Construction Period:
- a. Developer's failure to commence construction of the In-fill Improvements within one year of final subdivision plat approval;
  - b. Developer's failure to complete construction of the In-fill Improvements within two years of final subdivision plat approval;
  - c. Developer's failure to cure defective construction of any Improvement within applicable cure period;
  - d. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer; or
  - e. Foreclosure of any lien against the Property or a portion of the Property or assignment or conveyance of the Property in lieu of foreclosure.

The City may not declare a default until written notice has been given to the Developer.

20. **Measure of Damages.** The measure of damages for breach of this Agreement will be the reasonable cost of completing the In-fill Improvements. For In-fill Improvements upon which construction has not begun, the estimated cost of the In-fill Improvements as shown on Exhibit "B" will be prima facie evidence of the minimum cost of completion. However, neither that amount, nor the amount of the Financial Guarantee, establishes the maximum amount of the Developer's liability. The City will be entitled to complete all unfinished In-fill Improvements at the time of default regardless of the extent to which development has taken place in the Subdivision or whether Development ever commenced.

21. **City's Rights Upon Default.** When any event of default occurs, the City may draw on the Financial Guarantee to the extent of the face amount of the credit less ninety (90) percent of the estimated cost (as shown on Exhibit "B") of all In-fill Improvements theretofore accepted by the City. The City will have the right to complete In-fill Improvements itself or contract with a third party for completion, and the Developer

hereby grants to the City, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such In-fill Improvements. Alternatively, the City may assign the proceeds of the Financial Guarantee to a subsequent developer (or a lender) who has acquired the Subdivision by purchase, foreclosure, or otherwise who will then have the same rights of completion as the City if and only if the subsequent developer (or lender) agrees in writing to complete the unfinished In-fill Improvements. In addition, the City also may suspend final plat approval during which time the Developer will have no right to sell, transfer, or otherwise convey lots or homes within the Subdivision without the express written approval of the City or until the In-fill Improvements are completed and accepted by the City. These remedies are cumulative in nature except that during the Warranty Period, the City's only remedy will be to draw funds under the Financial Guarantee. The City may file a Certificate of non-compliance on the Subdivision with applicable fines set forth in code or pursue other remedies at law or equity.

22. **Indemnification and Improvements.** The Developer and any subsequent Owners of any or all Lots in the Subdivision hereby expressly agree to forever indemnify and hold the City and any Affected Entities (includes any other agencies and utilities) harmless from and against all claims, costs, and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work at the development site and elsewhere pursuant to this Agreement. Such Owners further forever agree to aid and defend the City in the event that the City is named as a defendant in an action concerning the performance of work or any In-fill Improvements pursuant to this Agreement or development, maintenance, and operation of the Subdivision. This indemnity obligation shall not be construed to indemnify City and any Affected Entities against the City or the Affected Entities own negligence, to the extent allowed by law. The Owners of any or all Lots in the Subdivision in the hereby expressly acknowledge that the Secondary Water System (the "System") as provided in the In-fill Improvements is supplied by a third party irrigation company and is subject to drought, rationing, regulations, and strict conservation measures and agree to conform to such. Also, said System may contain mollusks, crustaceans, moss, algae, debris, or foreign objects that require Owners to provide continuous maintenance and upkeep, winterization measures, and specialized operation or handling.
23. **Employment.** The Developer is not an agent or employee of the City.
24. **No Waiver.** No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both City and Developer; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The City's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement.

25. **Amendment or Modification.** The parties to this Agreement may amend or modify this Agreement only by written instrument executed by the City and by the Developer, or authorized agent. Such amendment or modification will be properly notarized before it may be effective.
26. **Attorney's Fees.** Should either party be required to resort to litigation, arbitration, or mediation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator, or mediator awards relief to both parties, each will bear its own costs in their entirety.
27. **Vested Rights.** The City does not warrant by this Agreement that the Developer is or is not entitled to any other approval(s), permits, or licenses required by the City or has vested right to such, before the Developer is entitled to commence development of the Subdivision or to transfer ownership of property in the Subdivision.
28. **Third Party Rights.** No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement, except that if the City does not exercise its rights within sixty (60) days following knowledge of an event of default, a purchaser of a lot or home in the Subdivision may bring an action in mandamus to compel the City to exercise its rights.
29. **Scope.** This Agreement constitutes the entire agreement between the Parties and no statement(s), promise(s) or inducement(s) that is/are not contained in this Agreement will be binding on the parties.
30. **Time.** For the purpose of computing the Commencement Period, Abandonment, and Completion Periods, and time periods for City action, such times in which civil disaster, acts of God, or extreme weather conditions occur or exist will not be included if such times prevent the Developer or City from performing his/its obligations under the Agreement.
31. **Severability.** If any part, term or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.
32. **Benefits.** The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the City. Such approval may not be unreasonable withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also run with the Property, binding the heirs, successors, and assigns of the Developer. There is no prohibition on the right of the City to assign its rights under this Agreement.

The City will release the Developer's Financial Guarantee if it accepts new security from another developer or lender who obtains the Property.

- 33. **Notice.** Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:
  - a. Developer: \_\_2605 Washington Blvd, Ogden, UT 84401\_\_.
  - b. City: 5249 South 400 East, Washington Terrace, UT 84405.
  
- 34. **Recordation.** Either Developer or City may record a copy of this Agreement at any time in the Recorder's Office of Weber County, Utah.
  
- 35. **Immunity.** Nothing contained in this Agreement constitutes a waiver of any of the City's immunity under any applicable state law or otherwise.
  
- 36. **Personal Jurisdiction and Venue.** Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement or Financial Guarantee will be deemed proper only if such action is commenced in Second District Court of and for Weber County. The Developer expressly waives his right to bring such action in or to remove such action to any other court whether state or federal.

FOR DEVELOPER:

*Bank of Utah Custodian*  
*By: Pamela Sambut, V.P., SA TRUST OFFICER*

7/30/2020

Bank of Utah, Custodian FBO: Jeffery J. Beckstead IRA  
Developer

Date

APPROVED AS TO FORM:

CORPORATE ACKNOWLEDGMENT

State of Utah            )  
                                   ss:  
 County of Weber        )

On the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, personally appeared before me, a Notary Public, \_\_\_\_\_, the signer of the within instrument, who duly acknowledged to me that he executed the same in his authorized capacity.

\_\_\_\_\_  
Notary Public

CITY OF WASHINGTON TERRACE:

\_\_\_\_\_  
MARK ALLEN, Mayor

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
City Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**ACKNOWLEDGMENT**

State of Utah            )  
                                  ss:  
County of Weber        )

On the \_\_\_\_ day of \_\_\_\_\_ 20 \_\_, personally appeared before me MARK ALLEN, and the signer of the foregoing instrument, who duly acknowledged to me that he executed the same in his authorized capacity.

\_\_\_\_\_  
Notary Public

**SCHEDULE OF EXHIBITS**

- Exhibit A:    Legal Description of Property Description to Be Subdivided
- Exhibit B:    City Engineer’s Estimate of Required On-site and Off-site “In-fill Improvements”
- Exhibit C:    Financial Guarantee
- Exhibit D:    Approved Final Subdivision Plat
- Exhibit E:    Approved Final Subdivision Plan (Floor Plan and Elevations)

## Exhibit A

Legal Description of the Property:

### BOUNDARY DESCRIPTION

All of Lot 2 Laker 88 Subdivision, According to the official plat there of on file with the Weber County  
Recorders Office as Entry # 2967624

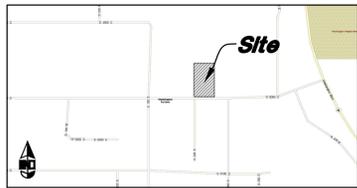
More particularly described as follows

A part of the Northeast Quarter of Section 17, Township 5 North, Range 1 West, Salt Lake Base  
and Meridian, U.S. Survey, Washington Terrace City, Weber County, Utah:

Beginning at a point on the Northerly Right-of-Way Line of 5000 South Street, said point being  
831.75 feet South 89°09'22" East and 33.00 feet North from the Southwest Corner of the Northwest  
Quarter of the Northeast Quarter of Section 17; and running thence North 0°50'38" East 25.00 feet;  
thence North 13°30'28" East 25.31 feet; thence North 0°16'09" East 147.99 feet to the Southerly Line of  
the Weber School District Property; thence along said Southerly and Westerly Lines the following two (2)  
courses: (1) South 89°26'12" East 59.87 feet, and (2) South 1°58'57" West 198.00 feet to the Northerly  
Right-of-Way Line of said 5000 South Street; thence North 89°09'22" West 60.00 feet along said Northerly  
Right-of-Way Line to the Point of Beginning.

Contains 11,477 Sq. Ft. or 0.263 Acres

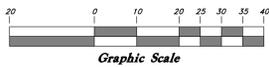
	A	B	C
1	<b><u>WT Twin</u></b>		
2	DATE: <u>July 8, 2020</u>		
3	<b>Work</b>		<b>TASK</b>
4	<b>ITEM #</b>	<b>ITEM</b>	<b>PRICE</b>
5	<b>I.</b>	<b>DEMOLITION</b>	
6		SAWCUT, EX. CONCRETE, CURB & GUTTER AND ASPHALT	
7		REMOVE & DISPOSE EX. ASPHALT	
8		REMOVE & DISPOSE EX. CONCRETE SIDEWALK & FLAT WORK	
9		REMOVE & DISPOSE EX. CONCRETE CURB & GUTTER	
10			-----
11		<b>SUBTOTAL:</b>	<b>1,600.00</b>
12			
13	<b>II.</b>	<b>RIGHT OF WAY IMPROVEMENTS</b>	
14		30" CATCH CURB & GUTTER	<b>0.00</b>
15		CONFORM EX. S.D. GRATE TO NEW CURB	<b>0.00</b>
16		DRIVEWAY APPROACH 6" THICK	<b>0.00</b>
17		6' WIDE x 4" THICK SIDEWALK	<b>0.00</b>
18		CITY STANDARD ASPHALT PAVEMENT RESTORATION	<b>0.00</b>
19			-----
20		<b>SUBTOTAL:</b>	<b>5,600.00</b>
21	<b>III.</b>	<b>CULINARY WATER IMPROVEMENTS</b>	
22		(2) 1" CULINARY WATER CONNECTION COMPLETE	
23		(2) 1" CULINARY WATER LATERAL AND METER BOX COMPLETE	
24			-----
25		<b>SUBTOTAL:</b>	<b>4,400.00</b>
26			
27	<b>IV.</b>	<b>SEWER IMPROVEMENTS</b>	
28		(2) 4" SANITARY SEWER CONNECTION COMPLETE	
29		(2) 4" SANITARY SEWER LATERAL COMPLETE	
30		(2) 4" SANITARY SEWER CLEAN OUT	
31		<b>SUBTOTAL:</b>	<b>3,400.00</b>
32			
33			
34			
35		<b><u>GRAND TOTAL:</u></b>	<b>15,000.00</b>
36			



VICINITY MAP  
Not to Scale



Scale: 1" = 20'



# WT Twin Subdivision P.U.D.

A part of the Northeast Quarter of Section 17, T5N, R1W, SLB&M, U.S. Survey  
Washington Terrace, Weber County, Utah  
August 2020

### SURVEYOR'S CERTIFICATE

I, Andy Hubbard, do hereby certify that I am a Professional Land Surveyor in the State of Utah, and that I hold Certificate No. 6242920 in accordance with Title 58, Chapter 22, of the Professional Engineers and Professional Land Surveyors Licensing Act. I also certify that I have completed a survey of the property described hereon in accordance with Section 17-23-17 and that I have verified all measurements shown hereon this plat of WT Twin Subdivision P.U.D. in Washington Terrace City, Weber County, Utah and that it has been correctly drawn to the designated scale and is a true and correct representation of the following description of lands included in said subdivision, based on data compiled from records in the Weber County Recorder's Office. Monuments have been found or placed as represented on this plat.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2020.

6242920  
License No.

Andy Hubbard

### OWNERS DEDICATION

I, the undersigned, Owner of the hereon described tract of land, hereby set apart and subdivide the same into lots and streets, as shown on this plat and name said tract of WT Twin Subdivision P.U.D. and hereby dedicate, grant and convey to Washington Terrace City, Weber County, Utah those certain strips for easements for public utilities and drainage purposes, as shown hereon, the same to be used for installation, maintenance and operation of public utility service lines and drainage, as may be authorized by Washington Terrace City, Weber County, Utah, with no buildings or structures being erected within such easements.

Signed this \_\_\_\_ Day of \_\_\_\_\_, 2020.

Jeff Beckstead

### ACKNOWLEDGMENT

State of Utah }  
County of \_\_\_\_\_ } ss

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020 by Jeff Beckstead.

Residing At: \_\_\_\_\_ A Notary Public commissioned in Utah  
Commission Number: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

Print Name

### BOUNDARY DESCRIPTION

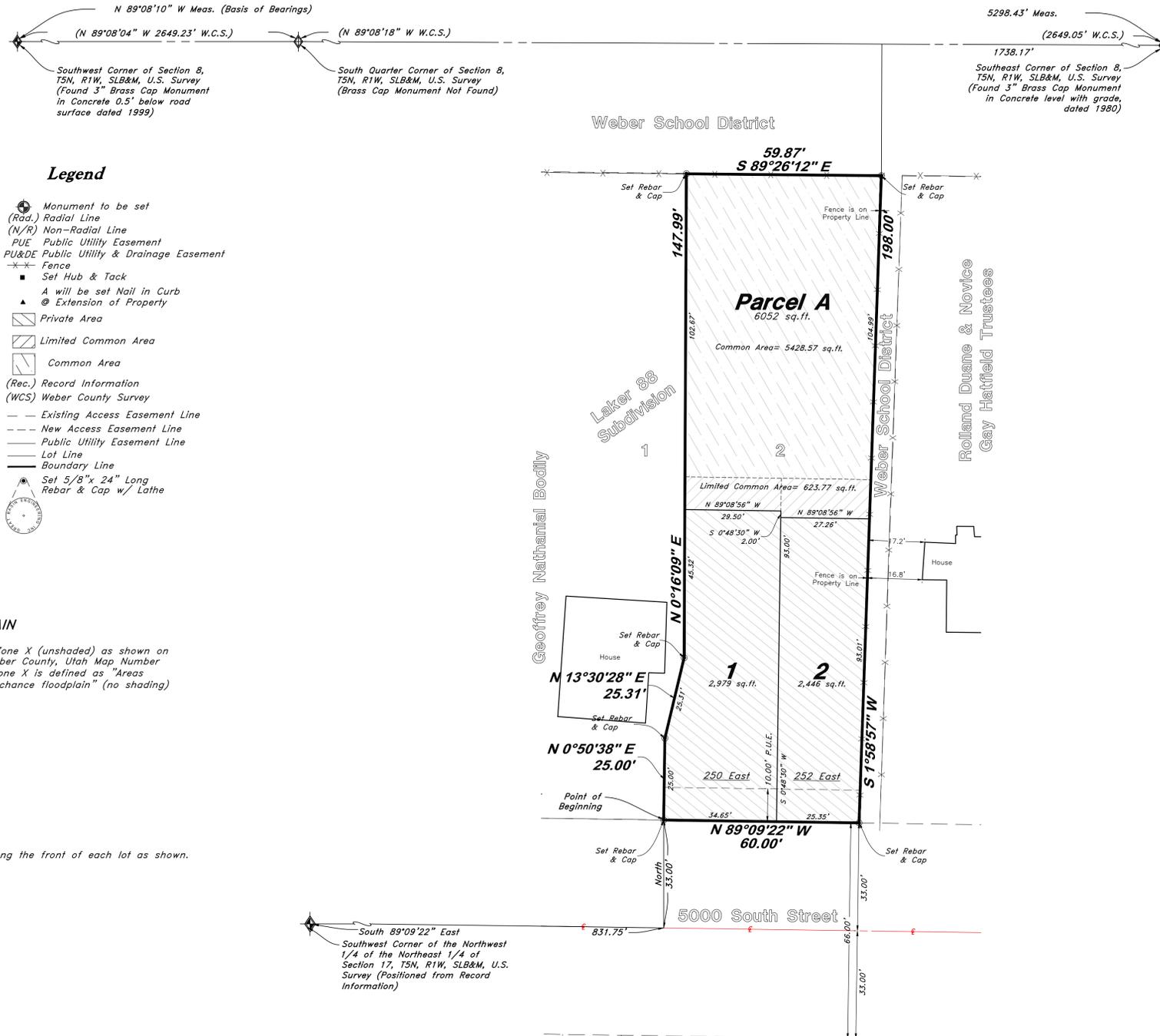
All of Lot 2 Laker 88 Subdivision, According to the official plat there of on file with the Weber County Recorders Office as Entry # 2967624.

More particularly described as follows:

A part of the Northeast Quarter of Section 17, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, Washington Terrace City, Weber County, Utah:

Beginning at a point on the Northerly Right-of-Way Line of 5000 South Street, said point being 831.75 feet South 89°09'22" East and 33.00 feet North from the Southwest Corner of the Northwest Quarter of the Northeast Quarter of Section 17; and running thence North 0°50'38" East 25.00 feet; thence North 13°30'28" East 25.31 feet; thence North 0°16'09" East 147.99 feet to the Southerly Line of the Weber School District Property; thence along said Southerly and Westerly Lines the following two (2) courses: (1) South 89°26'12" East 59.87 feet, and (2) South 1°58'57" West 198.00 feet to the Northerly Right-of-Way Line of said 5000 South Street; thence North 89°09'22" West 60.00 feet along said Northerly Right-of-Way Line to the Point of Beginning.

Contains 11,477 Sq. Ft. or 0.263 Acres



- #### Legend
- Monument to be set (Rad.) Radial Line (N/R) Non-Radial Line
  - PUE Public Utility Easement
  - PU&DE Public Utility & Drainage Easement
  - Fence
  - Set Hub & Tack
  - A will be set Nail in Curb
  - Extension of Property
  - Private Area
  - Limited Common Area
  - Common Area
  - (Rec.) Record Information
  - (WCS) Weber County Survey
  - Existing Access Easement Line
  - New Access Easement Line
  - Public Utility Easement Line
  - Lot Line
  - Boundary Line
  - Set 5/8" x 24" Long Rebar & Cap w/ Lathe

#### FLOOD PLAIN

This property lies entirely within flood Zone X (unshaded) as shown on the FEMA Flood Insurance Rate Map for Weber County, Utah Map Number 49057C0436F dated 2 June, 2015. Flood Zone X is defined as "Areas determined to be outside the 0.2% annual chance floodplain" (no shading)

#### NOTE:

1. 10' Wide Public Utility Easements along the front of each lot as shown.

WASHINGTON TERRACE CITY  
This is to certify that this plat and dedication of this plat were duly approved and accepted by the Council of Washington Terrace City, Utah this \_\_\_\_ day of \_\_\_\_\_, 2020.  
Title: \_\_\_\_\_  
Attest: \_\_\_\_\_  
Mayor

WASHINGTON TERRACE CITY ENGINEER  
I hereby certify that the required public improvement standards and drawings for this subdivision conform with Washington Terrace standards and the amount of the financial guarantee is sufficient for the installation of these improvements.  
Washington Terrace City Engineer

WASHINGTON TERRACE CITY ATTORNEY  
I have examined the financial guarantee and other documents associated with this subdivision plat, and in my opinion they conform with the City Ordinance applicable thereto and now in force and effect.  
Signed this \_\_\_\_ day of \_\_\_\_\_, 2020.  
Washington Terrace City Attorney

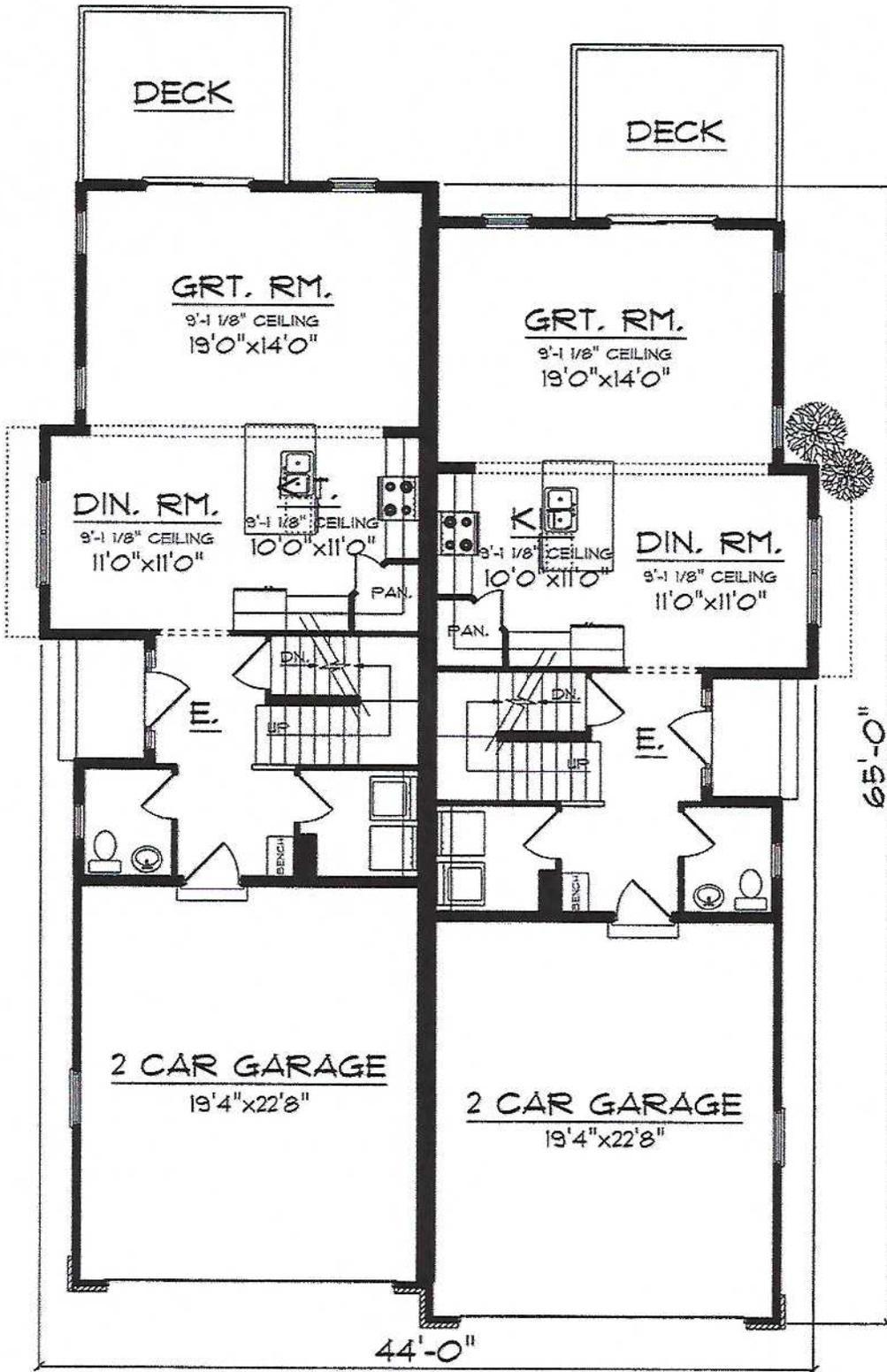
WASHINGTON TERRACE CITY PLANNING COMMISSION APPROVAL  
This is to certify that this subdivision plat was duly approved by the Washington Terrace City Planning Commission.  
Signed this \_\_\_\_ day of \_\_\_\_\_, 2020.  
Chairman, Washington Terrace City Planning Commission

DEVELOPER:  
Jeff Beckstead  
Great Basin Engineering, Inc  
c/o Andy Hubbard  
Andyh@greatbasineng.com  
5746 South 1475 East, Suite 200  
Ogden, Utah 84405  
(801) 394-4515

WEBER COUNTY RECORDER	
ENTRY NO. _____	FEE PAID _____
RECORDED _____	FILED FOR RECORD AND AT _____
IN BOOK _____	OF OFFICIAL RECORDS, PAGE _____
RECORDED FOR _____	
WEBER COUNTY RECORDER	
BY: _____	DEPUTY

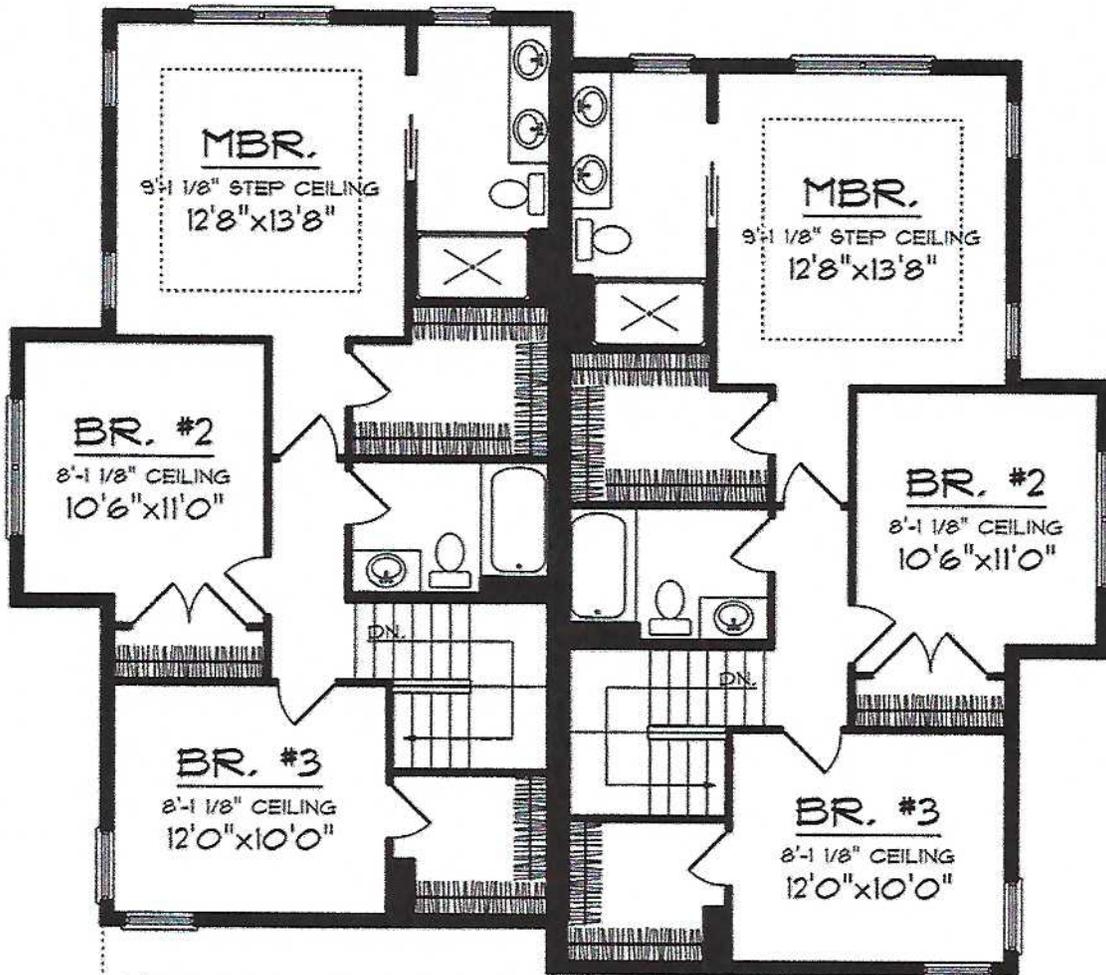


EXHIBIT E  
(PRELIMINARY)



MAIN FLOOR PLAN

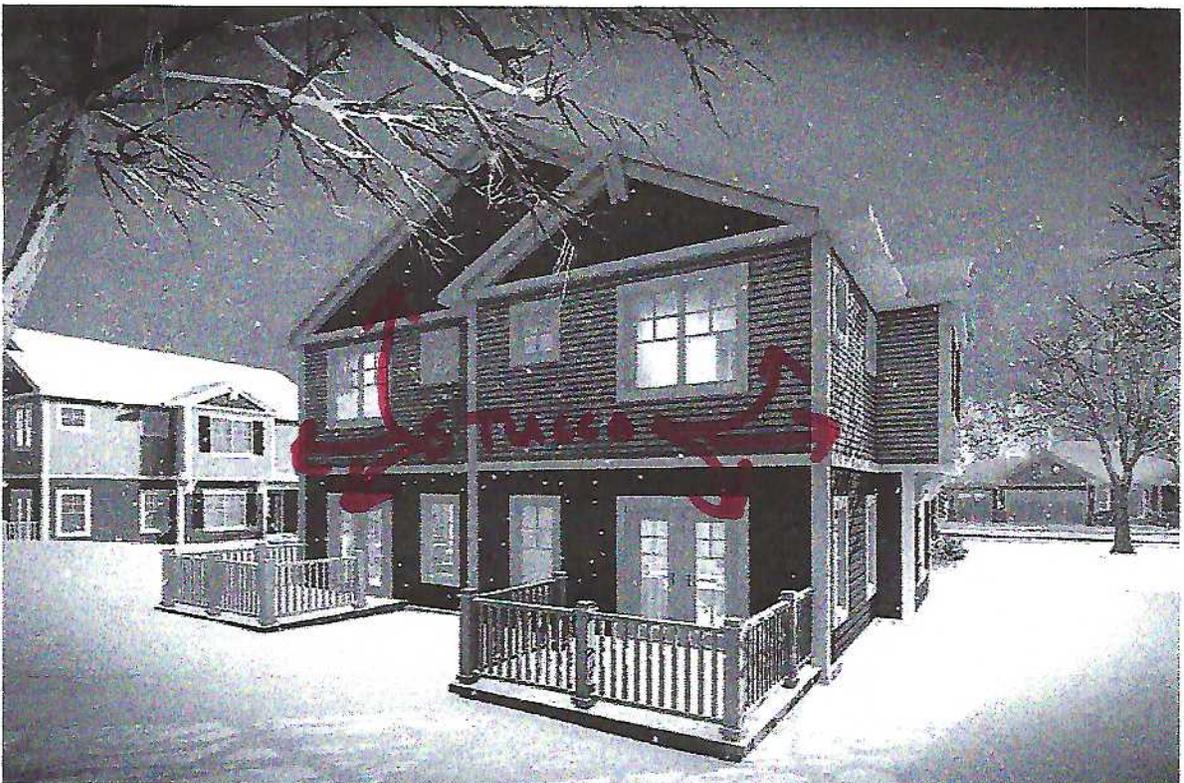
EXHIBIT E (cont.)  
(PRELIMINARY)



SECOND FLOOR PLAN

EXHIBIT E (cont. 2)  
(PRELIMINARY)

CLADDING TO BE CODE COMPLIANT WITH  
FRONT ELEVAT. 60% STONE AND REMAINDER STUCCO





City of Washington Terrace  
Redevelopment Agency Meeting  
Tuesday, August 18, 2020  
following the Regular City Council Meeting  
City Hall Council Chambers  
5249 South 400 East, Washington Terrace City

1. **ROLL CALL**
2. **INTRODUCTION OF GUESTS**
3. **CONSENT ITEMS**  
*Any point of order or issue regarding items on the Agenda or the order of the agenda need to be addressed here prior to the approval of the agenda.*
  - 3.1 **APPROVAL OF AGENDA**
  - 3.2 **APPROVAL OF MEETING MINUTES FROM AUGUST 4, 2020**
4. **RECURRING BUSINESS**
  - 4.1 **MOTION/RESOLUTION 20-13: APPROVAL FOR PARTICIPATION FOR DEVELOPMENT WITHIN THE CENTRAL BUSINESS DISTRICT REDEVELOPMENT PROJECT AREA**
5. **COMMENTS CONSIDERED**
6. **ADJOURNMENT OF MEETING: CHAIR ALLEN**

CERTIFICATE OF POSTING

I, Amy Rodriguez, The undersigned duly appointed City Recorder of the City of Washington Terrace do hereby certify that the above agenda was posted in three public places within the City limits and sent to the *Standard Examiner* at least 24 hours prior to the meeting.

For Packet Information, please visit our website at [www.washingtonterracecity.org](http://www.washingtonterracecity.org)

1 City of Washington Terrace

2  
3 Minutes of a Redevelopment Meeting  
4 Held on August 4, 2020  
5 following the Regular City Council Meeting  
6 City Hall, 5249 South 400 East, Washington Terrace City,  
7 County of Weber, State of Utah  
8

9 **CHAIR, BOARD, AND STAFF MEMBERS PRESENT**

- 10 Chair Allen  
11 Board Member Seal  
12 Board Member Brown  
13 Board Member Weir  
14 Vice- Chair Barker  
15 Board Member West  
16 General Planner Tyler Seaman  
17 City Manager Tom Hanson  
18 City Recorder Amy Rodriguez  
19

20 **Others Present**

21 Kim and Jacci Florence

22 **Due to COVID 19 Restrictions, the meeting was held via zoom and live streamed on**  
23 **facebook**  
24  
25

26 1. **ROLL CALL**

27  
28 2. **INTRODUCTION OF GUESTS**

29  
30 3. **CONSENT ITEMS**  
31  
32

33 **3.1 APPROVAL OF AGENDA**

34 **3.2 APPROVAL OF MEETING MINUTES FROM JULY 21, 2020**

35 Items 3.1 and 3.2 were approved by general consent.  
36

37 4. **NEW BUSINESS**  
38

39 **4.1 DISCUSSION/DIRECTION: DISCUSSION TO CONSIDER**  
40 **PARTNERING WITH THE TERRACE PLAYHOUSE ON**  
41 **THE PLAYHOUSE EXTERIOR RENOVATION**

42 Hanson stated that the Terrace Playhouse is known throughout Utah. He stated that it is a very  
43 recognizable landmark. He stated that the Florence’s have stated to him that they would like to  
44 remain in Washington Terrace.

45 He stated that he has been working with Jacci and Kim on how we can team up with them  
46 through the RDA to help with that area and work on their exterior. He stated that the structure is



## RDA Board Staff Report

**Author:** Tom Hanson  
**Subject:** Terrace Playhouse Reimbursement  
**Date:** August 18, 2020  
**Type of Item:** Motion / Action



### Summary:

For several years we have been working with the Terrace Playhouse to renovate the front of the structure in order to improve the overall curb-appeal of the building. With this improvement it is anticipated that the overall appeal of the Central Business District (CBD) will improve and hopefully motivate others to improve their environment as well. This sort of investment will not generate a new revenue source or significantly increase the tax increment from the structure but will help accomplish goals set out in the CBD RDA plan.

### Description:

- A. **Topic:** Terrace Playhouse Incentive for the renovation of the façade and replacement of interior lobby carpeting as described in the Participation Agreement. In short, the agreement is for a 50% match up to \$110,000.00 for the construction of the façade and the replacement of the carpeting in the lobbies of the playhouse.
- B. **Background:** As described in the Summary, the Terrace Playhouse has been in need of funding to help improve the look and feel of the building. The building has deteriorated to the point that it is critical need of structural and esthetic improvements. The improvements will accomplish some of the goals associated with the RDA to include:
- Rehabilitation of buildings to assure sound long-term economic activity in the core area of Washington Terrace City.
  - Achievement of an environment reflecting a high level of concern for architectural and urban design principles developed through encouragement, guidance, appropriate controls and professional assistance to owner participants and redevelopers.
  - The strengthening of the tax base and economic health of the entire community and of the State of Utah.
- C. **Analysis:**  
Based on the information provided by Beverly's Terrace Playhouse and the goals of the RDA, we anticipate a successful project that will achieve goals set out by the RDA, build a stronger sense of community, and help bring the community together in a meaningful way. The Terrace Playhouse is an anchor to the community and has become part of the fabric of our entire region. The Terrace Playhouse an institution worthy preserving. Staff would recommend approving the project as described.

**Redevelopment Agency of Washington Terrace**  
County of Weber, State of Utah

**RESOLUTION NO. 20-13**

**A RESOLUTION AUTHORIZING A PARTICIPATION AGREEMENT FOR  
DEVELOPMENT WITHIN THE CENTRAL BUSINESS DISTRICT  
REDEVELOPMENT PROJECT AREA**

**WHEREAS** the Redevelopment Agency of Washington Terrace (the “**Agency**”) has been created and operates pursuant to Utah Code Annotated (“**UCA**”) Title 17C, the Community Reinvestment Agency Act and its predecessor statutes (the “**Act**”), for the purpose of promoting project area development within the Agency boundaries; and

**WHEREAS** under authority of the Act, the Agency has created the Central Business District Redevelopment Project Area (the “**Project Area**”); and

**WHEREAS** the Agency is authorized to enter into agreements with property owners, governmental entities, private entities and others;

**WHEREAS** the Agency finds the participation agreement between the Agency and the owner of the Terrace Plaza Playhouse (the “**Participation Agreement**”) to be in harmony with and consistent with the plan for the Project Area and in the best interests of the Agency and Washington Terrace City.

**THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE REDEVELOPMENT AGENCY OF WASHINGTON TERRACE AS FOLLOWS:**

1. The Participation Agreement attached hereto as **Exhibit A** is approved with such additions, modifications, deletions or other changes as may be deemed necessary or appropriate and approved by the Chair of the Agency Board in consultation with legal counsel, whose execution thereof on behalf of the Agency shall conclusively establish such necessity, appropriateness and approval with respect to all such additions, modifications, deletions and/or other changes incorporated therein.
2. The Chair or his designee shall execute the Participation Agreement on behalf of the Agency.
3. This Resolution shall take effect upon adoption.

*[resolution continues on next page]*

**PASSED AND ADOPTED** by the Governing Board of the Redevelopment Agency of Washington Terrace this \_\_\_\_ day of \_\_\_\_\_, 2020.

**REDEVELOPMENT AGENCY OF WASHINGTON TERRACE**

\_\_\_\_\_  
**Mark C. Allen, Chair ATTEST:**

\_\_\_\_\_  
**Amy Rodriguez , City Recorder**

**Roll Call Vote**

**Board Member Blair Brown** \_\_\_\_\_  
**Board Member Larry Weir** \_\_\_\_\_  
**Board Member Scott Barker** \_\_\_\_\_  
**Board Member Carey Seal** \_\_\_\_\_  
**Board Member Jeff West** \_\_\_\_\_

**PARTICIPATION AGREEMENT by and between the COMMUNITY  
DEVELOPMENT AND RENEWAL AGENCY OF WASHINGTON  
TERRACE CITY and the BLAINE L OLSEN LIVING TRUST**

This Participation Agreement (the “**Agreement**”) is made and entered into as of this 18<sup>th</sup> day of August, 2020 (the “**Effective Date**”), by and between the COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF WASHINGTON TERRACE CITY (the “**Agency**”), a political subdivision of the State of Utah operating under the Utah Community Reinvestment Agency Act (the “**Act**”; § 17C-1-101 *et seq.*, or its predecessor statutes), and the Blaine L Olsen Living Trust (“**Participant**”). Participant and the Agency may from time to time hereinafter be referred to individually as a “**Party**” and collectively as the “**Parties.**”

**1. SUBJECT OF AGREEMENT**

**1.1. Purpose of the Agreement**

The purpose of this Participation Agreement is to carry out in part the Project Plan (the “**Plan**”) for the Central Business District Project Area (the “**Project Area**”) by providing for incentives to entice Participant to renovate the exterior of the Terrace Playhouse building (the “**Building**”) and replace carpet in the lobby areas of the interior, and to specify the terms and conditions pursuant to which the Agency and Participant will cooperate in bringing about such development, including funds the Agency will provide to assist in Participant’s renovation of the Building, which will benefit the entire Project Area.

**1.2. Agreement in the Best Interests of the City and Residents**

This Agreement is in the vital and best interests of Washington Terrace City, Utah (the “**City**”), and the health, safety, and welfare of its residents, and in accord with public purposes. This Agreement is carried out pursuant to the Act.

**1.3. The Project Area**

The Project Area is located within the boundaries of the City. The exact boundaries of the Project Area are specifically and legally described in the Plan.

**1.4. The Project Area Plan and Budget**

This Agreement is subject to the provisions of the Plan, as adopted and ordained on August 5, 1987, by the Agency and the Washington Terrace City Council (the “**Council**”) in accordance with the Act and is incorporated herein by this reference.

**1.5. Reserved**

**1.6. Description of the Site**

The Building is located on property that is a portion of the Project Area consisting of approximately 1.57 acres, also known as Weber County Parcel # 25-023-0001 and as 99 East 4600 South, Washington Terrace, Utah (the “**Site**”).

**1.7. Description of the Investment**

Pursuant to the terms of this Agreement, Participant shall renovate all or portions of the interior and exterior of the Building. The renovations to the Building shall include the installation of a new commercial façade on the front of the Building and the replacement of the main corridor area carpeting (the “**Renovations**”). Participant estimates that the cost of the Renovations will be approximately \$230,000 over a period of approximately one year (the “**Investment**”). The Agency may, at its sole discretion, include additional improvements made to the Building or volunteer labor hours as Renovations for purposes of calculating the total Investment.

**1.8. The Reimbursement**

As used in this Agreement, the term “**Reimbursement**” means the lesser of One Hundred Ten Thousand Dollars (\$110,000.00) or fifty percent (50%) of the Investment. The Reimbursement will be paid to Participant upon compliance with the terms and conditions of this Agreement. The Reimbursement may be paid out of Agency Funds or any other source that may be deemed appropriate by the Agency in accordance with the Act.

**1.9. Parties to the Agreement**

**1.9.1. The Agency**

The address of the Agency for purposes of this Agreement is:

Washington Terrace City Redevelopment Agency  
Attn: Executive Director  
5249 South 400 East  
Washington Terrace City, Utah 84405

With a copy to:

Adam S. Long  
Smith Hartvigsen, PLLC  
257 East 200 South, Suite 500  
Salt Lake City, UT 84111

### **1.9.2. The Participant**

Participant's address for purposes of this Agreement is:

Blaine L Olsen Living Trust (Beverly Terrace Plaza Playhouse)  
C/O Jacci Florence  
1307 E 625 N  
Layton, UT 84040

### **1.10. Prohibition against Certain Changes**

#### **1.10.1. Acknowledgement by Participant**

Participant acknowledges the importance of the development of the Project Area to the general welfare of the community, the public assistance set forth in this Agreement that has been made available by law and by the Agency for the purpose of making the Investment within the Project Area possible, that a significant change in the identity of Participant, as prohibited by this Section 1.10, may be considered, for practical purposes, a transfer or disposition of the Investment or the Building, the qualifications and identity of Participant are of particular concern to the Agency, and that it is because of such qualifications and identity that the Agency is entering into this Agreement with Participant.

#### **1.10.2. Assignment or Transfer of Agreement**

Participant represents and agrees for itself and its successors and assigns that Participant will not assign or transfer or attempt to assign or transfer all or any part of this Agreement, or any rights herein or obligations hereunder, during the term of this Agreement except as explicitly allowed herein or as agreed to in a writing signed by the Parties. The Agency may withhold its consent to such an assignment or transfer if, in the sole discretion of the Agency, such transfer or assignment would result in the economic development goals of the Agency and the Project area not being met.

The attempted or actual assignment or delegation of this Agreement in violation of the above provisions is a material Default that shall be subject to the provisions of Article 5 of this Agreement.

#### **1.10.3. Continuing Obligations**

A permitted assignment or transfer of this Agreement, in whole or in part, shall not relieve Participant from any and all obligations under this Agreement unless specifically agreed to in writing by the Agency. Except as otherwise provided herein, all of the terms, covenants, and conditions of this Agreement are and will remain binding upon Participant and its successors and assigns until the expiration or termination of this Agreement.

## **2. OBLIGATIONS OF THE PARTIES**

### **2.1. Payment of Reimbursement**

#### **2.1.1. Payment Obligation**

So long as Participant fulfills all of its obligations under this Agreement, the Agency will pay to Participant the Reimbursement. Full payment of the Reimbursement shall be made to the participant no later than ninety (90) days after it has submitted the Request for Payment and demonstrated the occupation requirements pursuant to Section 2.3.

### **2.2. Sole Source of Funding for the Reimbursement**

The entirety of Participant's Reimbursement contemplated in this Agreement will be funded solely by the Agency Funds held by the Agency as generated through the Agency's project area development efforts. Participant is not, and shall not be, entitled to any other funds collected by the Agency for the Project Area or any other funds held by the Agency or the City.

### **2.3. Conditions Precedent to the Payment of the Reimbursement to Participant**

In addition to other provisions in this Agreement, the Agency has no obligation to remit to Participant the Reimbursement unless and until all the following conditions precedent, as detailed in the following subsections, are satisfied:

#### **2.3.1. Completion of the Renovations**

The Renovations must be completed prior to the date that is twelve (12) months from the Effective Date of this Agreement. Completion of the building façade shall be evidenced by a Certificate of Completion from Washington Terrace City.

#### **2.3.2. Total Investment.**

The total Investment must be at least \$110,000.00.

#### **2.3.3. Request for Payment by Participant**

Participant must have made a Request for Payment in writing pursuant to Section 2.5.

### **2.4. Effect of Failure to Meet Conditions Precedent to Payment of Reimbursement**

In the event that the conditions precedent as described in Section 2.3 are not met during the term of this Agreement, and Participant is thus not entitled to receive the Reimbursement, but is otherwise not in default under this Agreement, such failure shall not constitute a Default under this Agreement. Such failure shall result in the forfeiture of the Reimbursement by Participant.

## **2.5. Request for Reimbursement**

Participant shall submit in writing a request for payment to the Agency by March 31, 2022. The Participant shall include in the request, proof of issuance of the (1) Certificate of Completion for the building facade, (2) copies of paid invoices for the Renovations, and (3) lien clearance from all contractors that performed any part of the Renovations (the “**Request for Payment**”).

## **2.6. Payment of Taxes**

During the term of this Agreement, to the extent applicable, Participant and any of its successors-in-interest in any portion of the Site or Building agree to pay, prior to delinquency, all undisputed real property and other *ad valorem* taxes and assessments assessed against any portion of the Site or Building or any other taxable property, including personal property, located within the Site to the extent owned by Participant or any of its successors-in-interest; provided, however, that Participant expressly retains any and all rights to: (a) challenge, object to, or appeal any real property or personal property and other *ad valorem* taxes and assessments; and (b) petition for the reduction thereof.

## **2.7. Reduction or Elimination of Reimbursement**

The Parties agree that Participant assumes and accepts the risk of possible alteration of Federal or State statute, regulation, or adjudication rendering unlawful or impractical the collection, receipt, disbursement, or application of the Reimbursement to the Agency as contemplated in and by this Agreement. If the provisions of Utah law which govern the payment of the Reimbursement to the Agency are changed or amended so as to reduce or eliminate the amount paid to the Agency under the Interlocal Agreements, the Agency’s obligation to pay Participant the Reimbursement, as applicable, will be proportionately reduced or eliminated, but only to the extent necessary to comply with the changes in such law. Further, Participant agrees and acknowledges that it has made such investigations as necessary and assumes all risk as to whether the Project Area, the Plan, and other applicable documents were properly approved, adopted, and made effective. Notwithstanding any change in law, Participant specifically reserves and does not waive any right it may have to challenge, at Participant’s cost and expense, the constitutionality of any law change(s) that would reduce or eliminate the payment of Reimbursement to the Participant and nothing herein shall be construed as an estoppel, waiver, or consent to reduce or eliminate payment of the Reimbursement to Participant. Participant acknowledges, understands, and agrees that the Agency is under no obligation to challenge the validity, enforceability, or constitutionality of a change in law that reduces or eliminates the payment of Reimbursement to Participant, or to otherwise indemnify or reimburse Participant for its actions to independently do so.

## **2.8. Declaration of Invalidity**

In the event any legal action is filed in a court of competent jurisdiction that seeks to invalidate the Project Area or this Agreement or that otherwise seeks to or would have the possible result of reducing or eliminating the payment of the Reimbursement to Participant, the Agency shall provide written notice of such legal action to Participant. In the event such an action is filed, the Agency shall have no obligation to challenge that action or defend itself against such action. If requested by Participant, the Agency may, at its sole discretion, take such actions as may be

reasonably required to defend such legal action and to address the grounds for any causes of action that could result in the reduction or elimination of the Reimbursement. Participant specifically reserves and does not waive any right it may have to intervene, at Participant's cost and expense, in any such legal action and challenge the basis for any causes of action or any remedy sought that would reduce or eliminate the payment of the Reimbursement to Participant, and nothing herein shall be construed as an estoppel, waiver, or consent to reduce or eliminate payment of the Reimbursement to Participant. In the event that the court declares that the Agency cannot pay the Reimbursement, invalidates the Project Area or this Agreement, or takes any other action which eliminates or reduces the amount of Reimbursement, and the grounds for the legal determination cannot reasonably be addressed by the Agency, the Agency's obligation to pay to Participant the Reimbursement in accordance with this Agreement will be reduced or eliminated to the extent required by law.

### **2.9. Dispute over Receipt of Payment of the Reimbursement**

If not due to the act, error, or omission of the Agency, in the event a dispute arises as to the person or entity entitled to receive the Reimbursement under this Agreement due to a claimed assignment or claimed successor-in-interest to the Reimbursement or otherwise, the Agency may withhold payment of the Reimbursement and may refrain from taking any other action required of it by this Agreement until the dispute is resolved either by agreement or by a court of competent jurisdiction and sufficient evidence of such resolution is provided to the Agency. The Agency shall be entitled to deduct from its payment of the Reimbursement any costs or expenses, including reasonable attorney fees, incurred by the Agency due to the dispute, except in the instance that the dispute arises due to the act, error, or omission of the Agency, in which case the Agency shall be responsible for all costs and expenses including reasonable and actual attorney fees.

### **2.10. Nature of Participant's Obligations and Limitation**

To qualify to receive the Reimbursement as set forth herein, Participant shall fulfill all of its obligations as set forth in this Agreement. The failure of Participant to fulfill its obligations may result in a failure to qualify to receive the Reimbursement, trigger repayment of all or a portion of the Reimbursement, or result in termination of this Agreement but shall not give rise to any other right or remedy in favor of the Agency.

### **2.11. Reserved**

### **2.12. Operation of the Building**

Participant shall utilize the Building as a performance venue as it has historically been used in a commercially reasonable manner and in accordance with industry standards. For purposes of this Agreement, "**Operating**," "**Operational**," or "**Operations**" of the Building shall mean when the following conditions are satisfied: (1) successful completion of the Renovations and (2) availability of the Building for use as a performance venue.

### **2.13. Commencement of Operations**

Operations of the Building as described in Section 2.12 shall begin no later than March 31, 2022. For purposes of this Section, the Building shall be deemed Operational if the conditions and standards in Section 2.12 are met. If Participant fails to commence Operations of the Building as required by this Section for any reason other than events of *force majeure*, the Agency shall have the right to terminate this Agreement upon written notice to Participant, subject, however, to any notice and cure periods set forth in Article 5.

### **2.14. Continuing Operations**

Operation of the Building as described in Section 2.12 shall be commenced as described in Section 2.13 and shall continue throughout the term of this Agreement as set forth in Article 4. For purposes of this Section, the Building shall be considered in Operation if the Building is Operating as described in Section 2.12 of this Agreement.

### **2.15. Cessation of Operations**

If Participant sells or otherwise ceases to Operate the Building for any reason other than events of *force majeure* or destruction (“**Cessation**”), such Cessation shall be a default subject to the provisions of Article 5.

### **2.16. Funding Responsibility**

The Parties understand and agree that funding for the Investment comes entirely from Participant’s internal capital or from financing obtained by Participant. The Agency shall not be liable or responsible for providing, obtaining, or guaranteeing such financing.

## **3. ADDITIONAL TERMS**

### **3.1. Investment**

Participant will at all times be responsible for its Investment in Site and the Building. Recognizing the level of Investment by Participant, the Agency has determined that it is in the best interests of the residents of the City to provide the Reimbursement to Participant as an incentive to improve the Building on the Site and undertake the continued Operation requirements as contemplated in this Agreement.

### **3.2. Responsibility for Development Plans and Permits**

The Agency shall not have any responsibility to obtain permits, licenses, or other approvals for the Building or the Site.

### **3.3. Other Terms**

#### **3.3.1. City Land Use Authority**

Participant acknowledges that nothing in this Agreement shall be deemed to supersede, waive, or replace the City's authority over land use, zoning, and permitting within the City.

#### **3.3.2. Indemnification**

Participant agrees to and shall indemnify, defend, and hold the Agency and its directors, officers, agents, employees, and representatives harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorney fees and court costs) arising from or as a result of the death of any person, or any accident, injury, loss, or damage whatsoever caused to any third party person or to the property of any third party person, directly or indirectly caused by any acts done or any errors or omissions of Participant or its directors, officers, agents, employees, consultants, and contractors on the Building or the Site except for willful misconduct or negligent acts or omissions of the Agency, the City, or their respective directors, officers, agents, employees, contractors, and consultants. Likewise, the Agency agrees to and shall indemnify, defend, and hold Participant and its directors, officers, agents, employees, and representatives harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person, or any accident, injury, loss, or damage whatsoever caused to any third party person or to the property of any third party person, directly or indirectly caused by any acts done or any errors or omissions of the Agency, the City, or their respective directors, officers, agents, employees, contractors and consultants except for willful misconduct or negligent acts or omissions of Participant or its directors, officers, agents, employees, consultants, and contractors.

#### **3.3.3. Limits on Liability**

In no event shall one Party be liable to the other(s) for consequential, special, incidental, indirect, exemplary, or punitive damages of any kind (including, but not limited to, loss of profits, loss of reputation, or loss of current or prospective business advantage, even where such losses are characterized as direct damages) arising out of or in any way related to the relationship or dealings between Participant and the Agency, regardless of whether the claim under which damages are sought is based upon contract, tort, negligence (of any kind), willful misconduct, strict liability or otherwise, and regardless of whether the parties have been advised of the possibility of such damages at the time of contracting or otherwise.

#### **3.3.4. Local, State, and Federal Laws**

Participant shall make the Investment and utilize the Building in conformity with all applicable laws; provided, however, that unless otherwise addressed elsewhere in this Agreement, nothing herein shall limit the right of Participant to properly challenge any such law or the applicability of such law.

### **3.3.5. Rights of Access**

Representatives of the Agency shall have the right of reasonable access to the Building for purposes of inspection, with reasonable and prior written notice (but in no event less than 48 hours prior), and without charges or fees, during normal business hours or as otherwise agreed to in writing by Participant, subject, however, to the rules, regulations, security protocols, and other access limitations for safety and security purposes as required by Participant.

### **3.3.6. Responsibility of the Agency**

The Agency shall not have any obligation under this Agreement other than those specifically provided for herein. Except as expressly provided for in this Agreement, nothing herein shall be construed as requiring the Agency to pre-approve or prejudice any matter, or as otherwise binding the Agency's discretion or judgment on any issue prior to an appropriate hearing (if required), review, or compliance with any other requirement.

### **3.3.7. Non-waiver of Governmental Immunity**

Nothing in this Agreement shall be construed as a waiver of any immunity, protection, or rights granted to the Agency under the Governmental Immunity Act of Utah, Utah Code § 63G-7-101, *et seq.*

## **4. EFFECT AND DURATION OF COVENANTS; TERM OF AGREEMENT**

The covenants, including but not limited to conformance with federal, local, and state laws, established in this Agreement shall, without regard to technical classification and designation, be binding on the Parties and any successors-in-interest for the benefit of each of the respective Parties, their successors and assigns during the term of this Agreement, which shall terminate on the date that is five (5) years from the date that the Reimbursement is paid to Participant, unless earlier terminated by written agreement of the Parties or pursuant to the terms of Article 5 (the "**Term**").

## **5. DEFAULTS, REMEDIES, AND TERMINATION**

### **5.1. Default**

If either the Agency or Participant fails to perform or delays performance of any material obligation of this Agreement and fails to cure as provided for in this Article 5, such conduct constitutes a default of this Agreement ("**Default**"). The Party in default must immediately commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction, or remedy within the periods provided in Section 5.3 hereof.

### **5.2. Notice**

If a Default under this Agreement occurs, the non-defaulting Party shall give written notice (a "**Default Notice**") of the Default to the defaulting Party, specifying the nature of the Default. Failure or delay in giving such notice shall not constitute a waiver of any Default, nor shall it

change the time of Default, nor shall it operate as a waiver of any rights or remedies of the non-defaulting Party; but the non-defaulting Party shall have no right to exercise any remedy hereunder without delivering the Default Notice as provided herein. Delays by either Party in asserting any of its rights and remedies shall not deprive the other Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

### **5.3. Cure Period**

The non-defaulting Party shall have no right to exercise a right or remedy hereunder unless the subject Default continues uncured for a period of thirty (30) days after delivery of the Default Notice with respect thereto, or, where the default is of a nature which cannot be cured within such thirty (30) day period, the defaulting Party fails to commence such cure within thirty (30) days and to diligently proceed to complete the same. A Default that can be cured by the payment of money is understood and agreed to be among the types of defaults that can be cured within thirty (30) days. If the Default is not cured, or commenced to be cured if such default is of a nature which cannot be cured by such Party within thirty (30) days of delivery of the Default Notice, such failure to cure shall be an Event of Default (“**Event of Default**”), and the non-defaulting Party may pursue such other rights and remedies as it may have, except, however, if Participant fails to commence or continue Operations as required by Sections 2.13 and 2.14, above, then in such case Agency’s sole remedy shall be to terminate this Agreement and seek repayment of the Reimbursement as described in Subsection 5.3.1 (for clarity, Agency may not commence an action against Participant for specific performance to commence or continue Operations). Further, in the event of a Default by Participant, past all applicable cure periods, Agency’s sole remedy shall be to terminate this Agreement upon payment of any amounts that may be due from Participant to the Agency under this Agreement.

#### **5.3.1. Rights and Remedies**

Upon the occurrence of an Event of Default, the non-defaulting Party shall have all remedies provided for in this Agreement and shall have the right to obtain specific performance, unless otherwise limited by the express remedies set forth in this Agreement. Such remedies are cumulative, and the exercise of one or more of such rights or remedies shall not preclude the exercise, at the same or different times, of any other rights or remedies for the same Default or any other Default by the defaulting Party.

Upon the occurrence of an Event of Default by Participant, Participant shall repay to the Agency a portion of the Reimbursement proportionate to the number of whole months that the Building was Operating compared to the total obligation of Operate the Building of sixty (60) months.

Notwithstanding to foregoing, the Agency shall not have to right to compel, through a remedy of specific performance or otherwise, the Participant to make any investment within the Project Area or to Operate the Building as contemplated by this Agreement.

### **5.3.2. Legal Actions**

#### **5.3.2.1. Venue**

All legal actions between the Parties, arising under this Agreement, shall be conducted exclusively in the Second District Court for the State of Utah located in Weber County, Utah, unless they involve a case with federal jurisdiction, in which case they shall be conducted exclusively in the Federal District Court for the District of Utah.

#### **5.3.2.2. Service of Process**

Service of process on the Agency shall be made by personal service upon the Chairman or Executive Director of the Agency or in such other manner as may be provided by law. Service of process on Participant shall be by personal service upon its Registered Agents, or in such other manner as may be provided by law, whether made within or without the State of Utah.

#### **5.3.2.3. Applicable Law**

The laws of the State of Utah shall govern the interpretation and enforcement of this Agreement.

## **6. GENERAL PROVISIONS**

### **6.1. Authority**

Each Party hereby represents and warrants to the other that the following statements are true, complete, and not misleading as regards to the representing and warranting party: (a) such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder; (b) those executing this Agreement on behalf of each Party do so with the full authority of the Party each represents; (c) this Agreement constitutes a legal, valid, and binding obligation of each Party, enforceable in accordance with its terms.

### **6.2. Notices, Demands, and Communications between the Parties**

Formal notices, demands, and communications between the Agency and Participant shall be sufficiently given if emailed and: (1) personally delivered; or (2) if dispatched by registered or certified mail, postage prepaid, return-receipt requested, to the principal offices of the Agency and Participant, as designated in Sections 1.9.1 and 1.9.2 hereof. Such written notices, demands, and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by formal notice hereunder. Delivery of notice shall be complete upon mailing or making physical delivery of the writing containing the notice.

### **6.3. Severability**

In the event that any condition, covenant, or other provision herein contained is held to be invalid or void by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained unless such severance shall have a material effect on the terms of this Agreement. If

such condition, covenant, or other provision shall be deemed invalid due to its scope, all other provisions shall be deemed valid to the extent of the scope or breadth permitted by law.

#### **6.4. Nonliability of Officials and Employees**

No director, officer, agent, employee, representative, contractor, attorney, or consultant of the Parties hereto shall be personally liable to any other Party hereto, or any successor-in-interest thereof, in the event of any Default or breach by a Party hereto or for any amount which may become due to a Party hereto or to its successor, or on any obligations under the terms of this Agreement.

#### **6.5. Enforced Delay; Extension of Time and Performance**

In addition to the specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in Default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of a public enemy, terrorist activity, epidemics, quarantine restrictions, freight embargoes, lack of transportation, unusually severe weather, or any other causes beyond the reasonable control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent, whether on the part of the Agency's Executive Director or its governing board or on the part of Participant, to the other Party within thirty (30) days of actual knowledge of the commencement of the cause. Time of performance under this Agreement may also be extended in writing by the Agency and Participant by mutual agreement.

#### **6.6. Approvals**

Whenever the consent or approval is required of any Party hereunder, except as otherwise herein specifically provided, such consent or approval shall not be unreasonably withheld or delayed.

#### **6.7. Time of the Essence**

Time shall be of the essence in the performance of this Agreement.

#### **6.8. Attorney Fees**

In the event of any litigation arising from or related to this Agreement, the prevailing Party shall be entitled to recover from the non-prevailing party all reasonable costs and attorney fees related to such litigation.

#### **6.9. Interpretation**

The Parties hereto agree that they intend by this Agreement to create only the contractual relationship established herein, and that no provision hereof, or act of either Party hereunder, shall be construed as creating the relationship of principal and agent, or a partnership, or a joint venture, or an enterprise between the Parties hereto.

**6.10. No Third-Party Beneficiaries**

It is understood and agreed that this Agreement shall not create for either Party any independent duties, liabilities, agreements, or rights to or with any third party, nor does this Agreement contemplate or intend that any benefits hereunder accrue to any third party.

**6.11. Mediation**

In the event a dispute arises between the parties with respect to the terms of this Agreement or the performance of any contractual obligation by one or both of the parties, the parties agree to submit the matter to formal and confidential non-binding mediation before any judicial action may be initiated, unless an immediate court order is needed or a statute of limitations period will run before mediation can be reasonably completed. A mediator will be selected by mutual agreement of the parties. The parties must mediate in good faith to resolve the dispute in a timely manner. Each party will be responsible for its own costs and one-half of the cost of the mediator. The place of mediation shall be Herriman City, Utah.

**6.12. Headings**

Article and Section titles, headings or captions 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.

**6.13. Contra Proferentum**

This is an arm's-length Agreement: The Parties have read this Agreement and have executed it voluntarily after having been apprised of all relevant information and the risks involved and having had the opportunity to obtain legal counsel of their choice. Consequently, no provision of this Agreement shall be strictly construed against either Party.

**6.14. Further Assurances**

The Parties shall cooperate, take such additional actions, sign such additional documentation, and provide such additional information as reasonably necessary to accomplish the objectives set forth in this Agreement.

**6.15. Incorporation of Recitals and Exhibits**

All recitals and exhibits attached hereto are incorporated into this Agreement as if fully set forth herein.

**6.16 Governmental Records and Management Act**

The Agency acknowledges that Participant considers all of the information provided to the Agency in connection with this Agreement is protected under the Utah Governmental Records Access and Management Act, § 63-2-101 *et seq.* (“GRAMA”) under a claim of “business confidentiality” so

long as Participant complies with the applicable requirements in making a claim of business confidentiality under § 63G-2-309(1)(a)(i)(A) & (B).

## **7. DUPLICATION, INTEGRATION, WAIVERS, AND AMENDMENTS**

### **7.1. Duplicate Originals**

This Agreement may be executed in duplicate originals, each of which shall be deemed an original. Electronic pdf signatures shall be considered original signatures and scans of original documents shall be treated as original documents.

### **7.2. Integration**

This Agreement (including its exhibits) constitutes the entire understanding and agreement of the Parties regarding the subject matter thereof. When executed by the Parties, this Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to the subject matter thereof.

### **7.3. Waivers and Amendments**

All waivers of the provisions of this Agreement must be in writing. This Agreement and any provisions hereof may be amended only by mutual written agreement between Participant and the Agency.

*[Remainder of page intentionally left blank; signature pages to follow]*

**COMMUNITY DEVELOPMENT AND  
RENEWAL AGENCY OF  
WASHINGTON TERRACE CITY**

By: \_\_\_\_\_  
\_\_\_\_\_, Executive Director

Attest:

By: \_\_\_\_\_  
\_\_\_\_\_, Secretary

STATE OF UTAH                                    )  
  : ss.  
COUNTY OF WEBER                            )

In the County of Weber, State of Utah, on this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, before me, the undersigned notary, personally appeared \_\_\_\_\_, the executive director of the Community Development and Renewal Agency of Washington Terrace City, who is personally known to me or who proved to me his identity through documentary evidence to be the person who signed the preceding document in my presence and who swore or affirmed to me that his signature is voluntary and on behalf of the Community Development and Renewal Agency of Washington Terrace City by authority of its Board of Directors.

\_\_\_\_\_  
Notary signature and seal

