

WORK MEETING AGENDA OF THE CITY COUNCIL OF LAYTON, UTAH

PUBLIC NOTICE is hereby given that the City Council of Layton, Utah, will hold a regular public meeting in the Council Conference Room in the City Center Building, 437 North Wasatch Drive, Layton, Utah, commencing at **5:30 PM on December 1, 2016.**

Item:

1. Discussion - Replacement Seating at Ed Kenley Amphitheater

2. Discussion - Interlocal Operating Agreement between Layton City and Weber Basin Water Conservancy District for the Layton Secondary Irrigation System

3. Annexation Agreement, Annexation and Rezone Request – Redford/Husky Real Estate – A (Agriculture) to R-S (Residential-Suburban) – Resolutions 16-70 and Ordinances 16-43 and 16-44 – Approximately 1875 West 1000 South

4. Open and Public Meetings Act Training

5. Conflict of Interest Training

6. Sexual Harassment Training

7. Mayor's Report

In the event of an absence of a full quorum, agenda items will be continued to the next regularly scheduled meeting.

This meeting may involve the use of electronic communications for some of the members of the public body. The anchor location for the meeting shall be the Layton City Council Chambers, 437 North Wasatch Drive, Layton City. Members at remote locations may be connected to the meeting telephonically.

Notice is hereby given that by motion of the Layton City Council, pursuant to Title 52, Chapter 4 of the Utah Code, the City Council may vote to hold a closed meeting for any of the purposes identified in that Chapter.

Date: _____ **By:** _____
Thieda Wellman, City Recorder

LAYTON CITY does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the employment or the provision of services. If you are planning to attend this public meeting and, due to a disability, need assistance in understanding or participating in the meeting, please notify Layton City eight or more hours in advance of the meeting. Please contact Kiley Day at 437 North Wasatch Drive, Layton, Utah 84041, 801.336.3825 or 801.336.3820.

**LAYTON CITY COUNCIL MEETING
AGENDA ITEM COVER SHEET**

Item Number: 1.

Subject:

Discussion - Replacement Seating at Ed Kenley Amphitheater

Background:

Discussion regarding the possible replacement of the current seating at the amphitheater and retaining wall improvements.

Alternatives:

N/A

Recommendation:

N/A

**LAYTON CITY COUNCIL MEETING
AGENDA ITEM COVER SHEET**

Item Number: 2.

Subject:

Discussion - Interlocal Operating Agreement between Layton City and Weber Basin Water Conservancy District for the Layton Secondary Irrigation System

Background:

Weber Basin Water Conservancy District (Weber Basin) currently provides secondary water to a portion of Layton City residents. Weber Basin wants to focus its resources and business as a regional, wholesale water supplier and as part of that focus, has formally approached the City and asked the City to consider operating that portion of its secondary water system located within the City through an interlocal agreement with the City. The City has developed, financed, constructed and owns, manages, operates, and maintains other City infrastructure systems including; drinking water, storm water, and waste water collection, underground water rights, water stock and sources of water supply which it has developed, appropriated, acquired and provided to its citizens residing within its boundaries. By interlocal agreement, Layton City and Weber Basin can jointly exercise the powers, privileges and authority to provide and manage a joint secondary water system within the City. An interlocal agreement has been drafted for that purpose and for review by the City Council. The draft interlocal agreement is for discussion purposes only. A final draft will be brought to the City Council on December 15th for final approval.

Alternatives:

N/A

Recommendation:

N/A

**INTERLOCAL OPERATING AGREEMENT
FOR THE
LAYTON SECONDARY IRRIGATION SYSTEM**

**DOCUMENT WAS
RECEIVED FROM
OUTSIDE SOURCE**

THIS INTERLOCAL OPERATING AGREEMENT ("*Agreement*"), is made and entered into as of this ___ day of _____, 2016 (the "*Effective Date*"), pursuant to authority of the Interlocal Cooperation Act, §11-13-101, *et seq.*, U.C.A., 1953, as amended (the "*Act*"), by and between LAYTON CITY, a body politic of the State of Utah ("*City*"), and WEBER BASIN WATER CONSERVANCY DISTRICT, a body politic of the State of Utah ("*Weber Basin*"). (City and Weber Basin are sometimes referred collectively as the "*Parties*.")

RECITALS

A. Weber Basin is a water conservancy district acting under authority of the Utah Water Conservancy Act. It has functioned as the local sponsor, under contract with the United States of America, in the development, financing, construction, management, operation, and maintenance of the U.S. Bureau of Reclamation's Weber Basin Project and its own district facilities, consisting collectively of an extensive series of dams, reservoirs, canals, pipelines, water treatment plants, power plants, and related equipment and facilities. These facilities are utilized by Weber Basin in providing municipal, industrial and secondary irrigation water--under water rights, water stock, and sources of water supply developed, appropriated, and acquired by the United States and Weber Basin--to its customers living in Davis, Weber, Morgan, and Summit counties and parts of Box Elder County.

B. City acts as a local district. City has developed, financed, and constructed and owns, manages, operates, and maintains other city infrastructure systems including; drinking water, storm water, and waste water collection, underground water rights, water stock and sources of water supply which it has developed, appropriated and acquired-- to its citizens residing within its boundaries. Its service area covers the entire city of Layton in Davis County, Utah (the "*City Irrigation System*").

C. In addition to its wholesale water storage and distribution system, Weber Basin currently owns and operates a certain water diversion, storage and distribution system and related equipment and

facilities, which it utilizes in providing, on a retail basis, secondary irrigation water service to its customers residing within the eastern half of Layton City in Davis County, Utah (the "*WBW-Layton Secondary System*"), which is more particularly described on the attached EXHIBIT "A" hereto.

D. Weber Basin desires to now focus its resources and business as a regional, wholesale water supplier and is studying the feasibility of turning over its various retail water systems to local water suppliers; and as such, Weber Basin has formally approached City and asked it to consider operating the WBW-Layton Secondary System through an interlocal agreement under the Utah Interlocal Cooperation Act – Title 11, Chapter 13 of the Utah Code (the “Act”).

E. The Act provides that any power or powers, privileges or authority exercised or capable of exercise by a public agency of the state (defined as any political subdivision of the state, including water conservancy districts), may be exercised and enjoyed jointly with any other public agency, and that any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the Act.

F. The City Council of City and the Board of Trustees of Weber Basin hereby find and determine that there are benefits in utilizing the resources and expertise of City in connection with the management and operation of the WBW-Layton Secondary System, and desire to enter into this Agreement whereby City would operate the WBW-Layton Secondary System (which will continue to be owned by Weber Basin) together with the existing City Irrigation Systems (which will continue to be owned by City) in providing secondary irrigation water service to its customers in Layton City in Davis County.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1) **Management, Operation and Maintenance of the WBW-Layton Secondary System.**

Weber Basin hereby appoints City to act in all respects as its operator and agent for the purpose of

managing, operating, maintaining, and repairing the WBW-Layton Secondary System. Services to be provided by City shall include the following:

- a) **General Administration.** City shall provide general administrative services in connection with WBW-Layton Secondary System, at its own expense, including:
 - i) providing personnel sufficient to effectively operate, maintain, and repair the WBW-Layton Secondary System;
 - ii) providing administrative policies and procedures governing staff personnel;
 - iii) determining staff compensation, benefits and status;
 - iv) providing necessary vehicles and equipment;
 - v) providing necessary office equipment and supplies;
 - vi) providing resources necessary in dealing with legal matters pertaining directly to any negligence by City or its employees in its operation, administration, and maintenance of the WBW-Layton Secondary System;
 - vii) recommending to Weber Basin upgrades and other capital improvements deemed necessary by City for it to effectively operate, maintain and repair the WBW-Layton Secondary System;
 - viii) providing surveillance and monitoring of WBW-Layton Secondary System facilities;
 - ix) meeting with Weber Basin planners and engineers regarding new development and capital improvements;
 - x) having input on preliminary and final plans, specifications and other criteria established by Weber Basin for new connections to WBW-Layton Secondary System (provided, however, that Weber Basin shall have the sole right to make final decisions in regard thereto);

- xii) coordinating with Weber Basin on the inspection, construction, installation and physical connection of any new individual customer or development to the WBW-Layton Secondary System as a condition to irrigation water service to said customer or development;
 - xiii) coordinating and cooperating with Weber Basin on construction work and related inspections within the incorporated city streets, rights-of-way and easements in connection with capital and other improvements, extensions and repairs to the WBW-Layton Secondary System;
 - xiv) scheduling, metering, monitoring, regulating and recording water diversion, delivery and use, and making a regular accounting of water diversions and deliveries, in cooperation with Weber Basin utilizing Weber Basin SCADA and other system facilities; and
 - xv) conducting water conservation patrols and disseminating notices of violation when applicable, to reduce wasteful watering and prohibit watering during the heat of the day.
- b) **Management of Rights-of-way and Easements.** City shall manage all Weber Basin rights-of-way and easements associated with the diversion and delivery of secondary irrigation water within the WBW-Layton Secondary System, including:
- i) notifying Weber Basin of any observed unauthorized encroachments on Weber Basin and Bureau of Reclamation easement rights and interests;
 - ii) facilitating, and coordinating if necessary with Weber Basin, Blue Stake services (See Exhibit "B") for all distribution facilities of the WBW-Layton Secondary System;
 - iii) meeting with Weber Basin, and City planners, engineers, utility companies, and developers in determining right-of-way and easement

requirements in connection with new developments proposed to be connected to WBW-Layton Secondary System; and

- iv) with the written concurrence of Weber Basin, consulting in the negotiation of property owner easements and easement agreements in behalf of Weber Basin.

Nothing herein shall be construed as limiting or otherwise impairing any right, title or interest which Weber Basin may have in connection with its easements and rights-of-way for all or any part of the WBW-Layton Secondary System.

c) **Management, Operation and Maintenance; Delivery of Secondary Irrigation**

Water. City shall manage, operate, maintain, and repair the WBW-Layton Secondary System facilities comprising the water distribution system defined in Section 3(b) and Section 4 of Exhibit "A" hereto, and all related equipment and facilities associated with the delivery and use of secondary irrigation water to and through the WBW-Layton Secondary System and within the WBW-Layton Secondary System, and shall deliver secondary irrigation water to the agricultural and secondary irrigation customers up to the point of the customer's individual Service Connection, subject to the following:

- i) Weber Basin shall provide to City all location and other maps, operation policies and procedures, system specifications, maintenance and service records, and any and all other documentation and information in the possession of Weber Basin as shall be necessary and available so as to enable City to manage, operate, maintain, and repair the WBW-Layton Secondary System in conformance with its obligations hereunder.
- ii) City shall provide reasonable and adequate public notification, as required throughout the irrigation season, in connection with its

operation, maintenance and water conservation of the WBW-Layton Secondary System pursuant to the terms of this Agreement.

- iii) Weber Basin shall provide to City an updated Geographical Information System (GIS) map with the WBW-Layton Secondary System identified as well as all customers entitled to the delivery of secondary irrigation water through the WBW-Layton Secondary System. The GIS map shall be updated by Weber Basin from time to time as new subdivisions are developed and new customers come on line. City shall deliver irrigation water through the WBW-Layton Secondary System to the customers identified on the map, as updated. Any repairs of the WBW-Layton Secondary System by City shall be recorded using a Global Positioning System (GPS), along with any specifics on the repairs, and sent to Weber Basin regularly for inclusion into their mapping system.
- iv) Except as provided herein or by a separate written amendment or agreement between the Parties, other secondary irrigation systems in the City and the WBW-Layton Secondary System shall not be interconnected. The WBW-Layton Secondary System shall be served with water from Weber Basin's sources of secondary irrigation water supply available for distribution through the WBW-Layton Secondary System.
- v) The WBW-Layton Secondary System shall be operated by City in conformance with operating procedures ("*WBW-Layton Secondary System Operating Procedures*"), to be promulgated by City and Weber Basin, to be attached as EXHIBIT "B" hereto and incorporated by reference herein, subject to the following:

- (1) The WBW-Layton Secondary System Operating Procedures shall set out the specific procedures that are to be followed by City in the operation and maintenance of each of the facilities comprising the WBW-Layton Secondary System described in Exhibit "B."
- (2) The WBW-Layton Secondary System Operating Procedures shall provide for the establishment of an operations coordinating committee ("*Operations Committee*"), to be comprised of, for Weber Basin: the Weber Basin General Manager or Assistant General Manager, Power and Irrigation Manager, System Operator, Lead Electrician, and Staff Engineer; and for City: the City Manager, City Engineer, Water Department Manager, Public Works Manager and Operator. The Operations Committee shall meet regularly and otherwise as needed during the irrigation season (April 1 through October 31), and as scheduled during the non-irrigation season (November 1 through March 31), for the purpose of reviewing and discussing operating procedures, coordinating system operation and maintenance plans and work, addressing financial issues, and other matters related to the operation of the WBW-Layton Secondary System.
- (3) The WBW-Layton Secondary System Operating Procedures may be changed from time-to-time by agreement of the Operations Committee without the necessity of amending this Agreement. Upon amendment, the revised operating procedures shall be

inserted as replacement Exhibit "B" hereto and shall replace and supersede the previous operating procedures.

- vi) City shall receive and respond to customer questions and complaints forwarded by Weber Basin to City or received directly by City pertaining to issues related to the operation of the WBW-Layton Secondary System, and Weber Basin shall cooperate with City, as reasonably requested by it, in answering questions and resolving complaints forwarded to City.
 - vii) City shall perform the initial start-up of the WBW-Layton Secondary System by closing drain valves, closing delivery turnouts, charging and flushing the distribution system, checking the system for leaks, and locating and repairing other problems within the WBW-Layton Secondary System, and provide public notice regarding the availability of secondary irrigation water to customers within the WBW-Layton Secondary System.
 - viii) At the end of the irrigation season, City shall perform the necessary procedures for shutting down the system, including, without limitation, the opening of drain valves.
- d) **Maintenance and Repairs.** City shall manage and operate the WBW-Layton Secondary System comprising the Water Distribution System defined in Section 3(b) and Section 4 of EXHIBIT "A" hereto, and all related equipment and components associated with the delivery and use of secondary irrigation water to the WBW-Layton Secondary System subject to the following:
- i) **Maintenance.** Maintenance shall be performed at the expense of City, including:
 - (1) City shall perform all regulator adjustments on Pressure Reducing Valves as necessary.

- (2) City shall, while driving through the service area, observe the status of all above ground water delivery components, and any noticeable leaks in below ground water delivery components.
 - (3) City shall provide Service Connection assistance (turn on or turn off) at the request of customers within the WBW-Layton Secondary System.
 - (4) City shall perform field services for "blue staking." (See Exhibit "B")
 - (5) City shall operate the WBW-Layton Secondary System including the start- up and filling (charging) of the system in the spring and shutting down and draining of the system in the fall.
- ii) **Repairs.** Repairs or replacements shall be performed by City at its own expense up to a calendar year maximum amount of Twenty Thousand Dollars (\$20,000) (which amount may be adjusted annually by advance notice from City to Weber Basin), and after that maximum amount has been expended, repairs or replacements will be at the expense of Weber Basin, including:
- (1) Repair or replacement of customer Service Connections.
 - (2) Repair of Main Trunk Lines and Distribution Lines for any occurring leaks.
 - (3) Repair or replacement of system Pressure Reducing Valves.
 - (4) Repairs or replacements, however, shall exclude repairs, replacements or maintenance to the 7 (seven) reservoirs, wells, open ditches (turn outs), pump houses, pumps, and water treatment facilities.

- iii) Weber Basin shall pay the cost to repair damage due to failure to properly blue stake, where the error was due to the negligent action of Weber Basin. City will pay the cost to repair damage due to failure to properly blue stake, where the error was due to the negligent action of City.
- e) **Other Services.** City shall provide such other administrative, management, operation, maintenance and repair services in connection with WBW-Layton Secondary System as may reasonably be requested in writing by Weber Basin and agreed to in writing by City.
- f) **Authority of City's City Council.** The services to be provided by City under Section 1, including all services provided by City not specifically enumerated which may hereafter be requested of City by Weber Basin pursuant to Section 1(d) herein, shall be subject, in all respects, to the ultimate approving authority of City's City Council. City shall adopt such policies, procedures, or ordinances for the management and the conduct of its affairs relative to the WBW-Layton Secondary System, and shall promulgate such rules and regulations as it shall deem necessary and proper in accomplishing the purposes of this Agreement, and shall, upon request by Weber Basin, submit all such policies, procedures, ordinances, rules, and regulations (limited to those policies, procedures, rules, and regulations that relate directly to the operation or maintenance of the WBW-Layton Secondary System) to Weber Basin for its review and approval. All services to be provided by City hereunder shall be performed subject to and in conformance with said policies, procedures, ordinances, rules and regulations.
- g) **Commencement of Service.** City shall commence to provide the services enumerated herein on the Effective Date.

2) **Ownership of Assets; Improvements; Replacement and Additions.** Notwithstanding the services to be provided by City pursuant to this Agreement, title to all assets associated with the WBW-Layton Secondary System shall, at all times during the term of this Agreement, be and remain vested in Weber Basin. Any asset within the WBW-Layton Secondary System that City and Weber Basin shall determine is in need of improvement or replacement during the term of this Agreement, and any new asset that is determined to be needed, shall be improved, replaced, constructed and installed by Weber Basin at its sole cost and expense. As the operator of the WBW-Layton Secondary System, City shall have the right to have input in, and an opportunity to review the design, plans and specifications related to any such improvement, replacement or addition to the WBW-Layton Secondary System prior to final design (provided, however, that Weber Basin shall have the sole right to make final decisions in regard thereto).

3) **Weber Basin Responsibilities.** Given the nature of this Agreement as set forth in Recital F herein, and by virtue of the fact that not all functions related to the administration and operation of the WBW-Layton Secondary System are being turned over to City (including title to the system assets, contract management, billing, capital improvements, GIS and SCADA systems monitoring, etc.) as set forth herein, the Parties agree as follows:

- a) Weber Basin shall, during the term of this Agreement, provide at its expense, certain financial and engineering technical support relating to the WBW-Layton Secondary System, upon reasonable request by City, in furtherance of City's duties and responsibilities hereunder.
- b) Weber Basin shall continue to provide, at its own expense, the electric power required in connection with the operation of the WBW-Layton Secondary System.
- c) Weber Basin shall receive all new applications for connection to, and shall administer and manage all new and existing contracts relating to, the WBW-Layton Secondary System, in conformance with its standard procedures

including, without limitation, the levy, collection and administration of any applicable fees.

- d) Weber Basin shall review and prepare necessary water right change applications, and review applications for internal changes in place of use of water within the WBW-Layton Secondary System.
- e) Weber Basin shall continue to levy, bill and collect all water service fees and charges generated from the delivery of secondary irrigation water to customers on the WBW-Layton Secondary System. All said fees, charges and other revenues levied and collected in connection with the operation of the WBW-Layton Secondary System shall be accounted for under a separate account entitled Weber Basin's *WBW-Layton Secondary System Fund*. All fees, charges and other revenues levied, collected and held in the WBW-Layton Secondary System Fund shall belong to Weber Basin for use in its general operations, with a percentage of said fund being reserved for City in the operation of the WBW-Layton Secondary System.
- f) Weber Basin shall continue to be responsible for capital improvements to the WBW-Layton Secondary System.
- g) During the 2017 irrigation season, Weber Basin shall provide necessary personnel to work with and train City personnel regarding the operation and management of the WBW-Layton Secondary System.
- h) The Parties hereby acknowledge and agree that in order to ascertain the true cost of administering, operating, maintaining and repairing the WBW-Layton Secondary System, City shall, during the term of this Agreement, account for and maintain a record of all time spent by City's in-house staff personnel, and costs and expenses. Said records maintained by City in connection with the WBW-

Layton Secondary System, shall be available for inspection by Weber Basin during the annual coordination meeting.

4) **Payment by Weber Basin to City for Service Rendered.** Weber Basin shall pay City for the services to be provided by it under this Agreement in conformance with the following:

- a) During the 2017 calendar year, City, and Weber Basin, shall track their respective costs in relation to the services being provided under this Agreement, and City shall submit monthly reimbursement invoices to Weber Basin for the costs incurred by City, which shall be paid by Weber Basin within thirty (30) days.
- b) In October or November of each year, City and Weber Basin shall hold an annual coordination meeting to discuss the prior year's operation of the system. In the initial annual coordination meeting to occur in October or November of 2017, the Parties shall negotiate a lump-sum payment for 2018. This initial lump-sum payment will be based on a negotiated percentage (which has been initially presented as Eighteen Percent (18%), but which will be finally determined at the time of the first annual coordination meeting) (the "2017 Negotiated Percentage"), of the fees, charges, and other revenues which are levied and collected by Weber Basin from customers who receive water through the WBW-Layton Secondary System during the 2017 calendar year. Weber Basin shall pay the full lump-sum payment to City by January 15, 2018, and this lump sum payment shall represent pre-payment for services under this Agreement for the upcoming year.
- c) In all subsequent years, City shall, on or before January 15, receive from Weber Basin, a lump-sum payment (based on the 2017 Negotiated Percentage of fees, charges, and other revenues which are levied and collected by Weber Basin from customers who receive water through the WBW-Layton Secondary System for

the previous year). This amount may be increased according to the annual adjustment Weber Basin's Board of Trustees approves, in Weber Basin's sole discretion. As outlined above, each such lump-sum payment shall represent pre-payment for services under this Agreement for the upcoming calendar year.

- d) In the event City disputes the amount paid by Weber Basin, pursuant to this Section 4, the City manager and Weber Basin's general manager shall discuss and resolve such dispute to the Parties' mutual satisfaction. In the event the managers are unable to resolve such dispute, the same shall be mediated before a mutually-acceptable mediator prior to initiation of litigation. The Parties shall: (i) mediate in good faith; (ii) exchange all documents which each believes to be relevant and material to the dispute; (iii) exchange written positions stating their position on the disputed item(s) and outlining the subject matter and substance of the anticipated testimony of persons having personal knowledge of the facts underlying the dispute, and; (iv) engage and cooperate in such further discovery as the Parties agree or the mediator suggests may be necessary to facilitate effective mediation. The mediator, venue, and related costs shall be shared equally by the Parties. Venue of the mediation shall be in Davis County, Utah. In the event the Parties are unable to agree upon a mediator, the mediator shall be appointed by a court of competent jurisdiction. This Section 4(d) shall be specifically enforceable according to its terms, including, but not limited to, an action to compel mediation. Weber Basin's obligation to the amount of the disputed item(s) shall be deferred, without interest, until it is finally determined in accordance with the provisions of this Section 4(d).

5) **Scheduling of Deliveries in the Event of Emergency Shortages.** The scheduling and delivery of secondary irrigation water to customers on the WBW-Layton Secondary System shall be coordinated so as to minimize, to the extent possible, the impacts resulting from shortages in water supply

and otherwise. In times of water shortage due to drought or any other natural or man-made condition or occurrence, City shall have full authority to declare a water emergency, and to ration or otherwise regulate the diversion, distribution and use of water to the WBW-Layton Secondary System customers. Public notices and public education shall be made by City to WBW-Layton Secondary System customers to make them aware of these emergencies. City shall enforce all restrictions to ensure compliance with Weber Basin's shortage restrictions. Weber Basin shall reasonably cooperate with City in connection with actions taken by City in dealing with such emergency situations, and City shall reasonably cooperate with Weber Basin in connection with any actions taken by Weber Basin in enforcing diversion, distribution and/or use regulations and restrictions duly imposed by Weber Basin and/or City in the event of an emergency or otherwise.

6) **Compliance with Applicable Laws, Regulations and Permit Requirements.** This Agreement shall not relieve either Party of any obligation or responsibility imposed upon it by law; however, the actual and timely performance of such Party's obligations or responsibilities by the other Party pursuant to this Agreement may be offered in satisfaction thereof. City shall comply with all applicable local, state and federal laws, ordinances, statutes, regulations and permit requirements which now or may hereafter govern City's, operation, maintenance, and repair of the WBW-Layton Secondary System, the City Irrigation System and City's water rights and sources of water supply, and City shall adopt resolutions imposing such additional rules and regulations as shall be necessary to fully implement and comply with the same.

7) **Insurance.**

- a) City shall maintain not less than \$1,000,000 of general liability insurance coverage against property damage, product and other liability. City shall provide Weber Basin with a certificate of insurance which manifests City's compliance with this provision. Weber Basin shall be identified as a co-insured on City's general liability policy.

b) Weber Basin shall maintain not less than \$1,000,000 of general liability insurance coverage against property damage, product and other liability. Weber Basin shall provide City with a certificate of insurance which manifests Weber Basin's compliance with this provision. City shall be identified as a co-insured on Weber Basin's general liability policy.

8) **Duration and Termination.** The respective obligations of City and Weber Basin as enumerated in this Agreement shall be and remain in full force and effect from the Effective Date and thereafter until either Party terminates this Agreement by written notice to the other. During the 2017 Calendar year, this Agreement can be terminated by either Party with or without cause. In any subsequent year, termination of this Agreement shall only occur after sufficient cause is justified by either Party and no other remedy can be pursued ("sufficient cause" may include financial loss or unexpected financial burden incurred in performance of obligations hereunder). Notice to effectuate a termination of this Agreement in any given year shall be delivered not earlier than October 31 or later than December 31 of said year, and this Agreement shall be terminated effective March 1 of the next succeeding year (the "*Termination Date*"). The period commencing with the delivery of the notice of termination through the Termination Date shall be used by the Parties in settling their affairs hereunder. In no event should this Agreement extend beyond 50 years from the Effective Date, unless otherwise agreed upon, in writing, by the Parties.

9) **Agency Relationship.** The intent of the Parties by this Agreement is that Weber Basin shall retain City as Weber Basin's operator and agent solely for the purpose of providing the services enumerated in Section 1 herein, subject to the terms and provisions of this Agreement. This Agreement shall not be construed so as to give City any right of or power of control over Weber Basin, nor shall it be construed to obligate City to assume any obligations or liabilities of Weber Basin, except as provided in this Agreement. Likewise, this Agreement shall not be construed so as to give Weber Basin any right of or power of control over City, nor shall it be construed to obligate Weber Basin to assume any obligations or liabilities of City, except as provided in this Agreement.

10) **Indemnification.**

- a) City shall indemnify and hold Weber Basin, and its officers, agents, employees, consultants and contractors, harmless from and against any and all liability, losses, damages, claims, demands, suits, and proceedings, of whatsoever kind or nature, as well as any and all costs and expenses incurred in connection therewith, including court costs and reasonable attorney's fees, resulting from any injury to persons or damage to property, whether real or personal, which arise out of or are otherwise attributable to the negligence or misconduct of City, or its officers, agents, employees, consultants and contractors, in connection with the services to be provided by City hereunder. Notwithstanding the foregoing, City shall have no obligation to indemnify or hold Weber Basin, and its agents, employees and officers, harmless from and against any liability, losses, damages, claims, demands, suits, and proceedings, of whatsoever kind or nature, which arise out of or are otherwise attributable to the negligence or misconduct of Weber Basin, or its officers, agents, employees, consultants and contractors other than City, subject to applicable provisions of the Utah Governmental Immunity Act.
- b) Weber Basin shall indemnify and hold City, and its officers, agents, employees, consultants and contractors, harmless from and against any and all liability, losses, damages, claims, demands, suits, and proceedings, of whatsoever kind or nature, as well as any and all costs and expenses incurred in connection therewith, including court costs and reasonable attorney's fees, resulting from any injury to persons or damage to property, whether real or personal, which arise out of or are otherwise attributable to the negligence or misconduct of Weber Basin, or its officers, agents, employees, consultants and contractors, in connection with the services to be provided by City hereunder. Notwithstanding the foregoing,

Weber Basin shall have no obligation to indemnify or hold City, and its agents, employees and officers, harmless from and against any liability, losses, damages, claims, demands, suits, and proceedings, of whatsoever kind or nature, which arise out of or are otherwise attributable to the negligence or misconduct of City, or its officers, agents, employees, consultants and contractors other than Weber Basin.

11) **Miscellaneous Provisions.**

- a) **No Assignment.** Neither Party may assign its interest in this Agreement.
- b) **No Third-Party Beneficiaries.** This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.
- c) **Governing Law.** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Utah without giving effect to any choice or conflict of law provision or rule (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Utah.
- d) **Submission to Jurisdiction.** Each of the Parties submits to the jurisdiction of the Second Judicial District Court of the State of Utah in any action or proceeding arising out of or relating to this Agreement and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each of the Parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety, or other security that might be required of any other Party with respect thereto. Each Party agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment or in any other manner provided by law or at equity. EACH PARTY HEREBY

IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY OR THE ACTIONS OF SUCH PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

- e) **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
- f) **Business Relationship.** This Agreement does not acknowledge the existence of or establish a partnership, joint venture, or any other form of business relationship between the Parties other than as expressly set forth herein, and this Agreement is limited solely to the purposes and interests expressed herein.
- g) **Severability.** If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable, or unenforceable, such void, voidable or unenforceable term or provision shall not affect the enforceability of any other term or provision of this Agreement; and the Parties agree to attempt in good faith to reform such void or unenforceable provision to the extent necessary to render such provision enforceable and to carry out its original intent.
- h) **Entire Agreement.** This Agreement constitutes the entire understanding and agreement by and between the Parties hereto, and supersedes all prior agreements, representations or understandings by and among them, whether written or oral, pertaining to the subject matter hereof.
- i) **Construction.** As used herein, all words in any gender shall be deemed to include the masculine, feminine or neuter, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

- j) **Amendment.** This Agreement cannot be altered or amended except pursuant to an instrument in writing executed by the Parties.
- k) **Force Majeure.** Performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrections, strikes, lock-outs, floods, earthquakes, fires, casualties, acts of God, epidemics, quarantine, restrictions, inability (when the responsible Party is faultless) to secure necessary labor, materials, tools, acts or failure to act of any public or governmental agency or entity, or by any other reason not the fault of the Party delayed in performing work or doing acts required under the terms of this Agreement, and in such event, the performance of such work or the doing of such act shall be excused for the period of the delay and the period of performance for any such work or the doing of any such act shall be extended for a period equivalent to the period of such delay.
- l) **Further Action.** The Parties hereby agree to execute and deliver such additional documents and to take such further action as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.
- m) **Expenses of Enforcement.** In any proceeding to enforce, interpret, rescind or terminate this Agreement or in pursuing any remedy provided hereunder or by applicable law, the prevailing Party shall be entitled to recover from the other Party all costs and expenses, including a reasonable attorney's fee, whether such proceeding or remedy is pursued by filing suit or otherwise, and regardless of whether such costs, fees and/or expenses are incurred in connection with any bankruptcy proceeding. For purposes of hereof, the term "prevailing Party" shall include, without limitation, a Party who agrees to dismiss an action or proceeding upon the other's payment of the sums allegedly due or performance of the covenants allegedly breached, or who obtains substantially the relief sought. The

provisions set forth in this paragraph shall survive the merger of these provisions into any judgment.

- n) **Counterparts.** This Agreement may be executed in any number of counterparts and by each of the Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Agreement may be detached from any counterpart and reattached to any other counterpart hereof.
- o) **Facsimile or Electronic Transmission.** The facsimile or electronic transmission of a signed original of this Agreement or any counterpart hereof and the retransmission of any signed facsimile or electronic transmission hereof shall be the same as delivery of an original.
- p) **Notice.** Any notice required or desired to be given pursuant to this Agreement or otherwise relating to this Agreement shall be in writing, addressed to the Party at the address listed below, and shall be deemed effective: (i) upon personal delivery, or (ii) three business days following deposit in the United States Mail, postage prepaid, certified mail, return receipt requested.

To: Layton City
c/o City Manager
437 North Wasatch Dr.
Layton, UT 84041

To: Weber Basin Water Conservancy District
c/o General Manager
2837 East Highway 193
Layton, Utah 84040

Any Party hereto may change its address for the purpose of receiving notices as herein provided by serving written notice given in the manner aforesaid.

- q) **Appointment of Administrators.** Weber Basin appoints Tage I. Flint, its General Manager, as its administrator for all matters relating to Weber Basin's participation in this Agreement. City appoints Alex Jensen, its City Manager, as its representative and initial contact for all matters relating to City's participation in this Agreement. Should either of the administrators named above cease to be employed by the represented Party, unless the said Party otherwise notifies the other Party in writing, the person who replaces the prior administrator shall become the new administrator of that Party for purposes of this Agreement. Either Party may, at any time, change the designation of its administrator by providing written notice to the other Party. To the extent that any administration of this Agreement becomes necessary, then the Parties' administrators named above, or their designated designees or successors, shall constitute a joint board for such purpose.
- r) **Status of Employees and Compensation.** Weber Basin and City employees providing services pursuant to or consistent with the terms of this Agreement are solely the officers, agents or employees of the employing entity. Each Party shall assume any and all liability for the payment of salaries, wages or other compensation due or claimed to be due its employees, including worker's compensation claims, and each Party shall hold the other harmless therefrom. Weber Basin shall not be liable for compensation or indemnity to any City employee and City shall not be liable for compensation or indemnity to any Weber Basin employee for any injury or sickness arising out of his or her employment, and each Party hereby agrees to hold the other Party harmless against any such claim.
- s) **Providing Supplies, Personnel and Equipment.** Each Party, to the extent needed, shall supply at its own cost all personnel, equipment, supplies and

materials necessary to perform its obligations and intended actions as set forth in this Agreement.

- t) **Warranty of Authority.** The individuals executing this Agreement on behalf of the Parties hereby warrant that they have the requisite authority to execute this Agreement on behalf of the respective Parties and that the respective Parties have agreed to be and are bound hereby.

IN WITNESS WHEREOF the Parties have caused this instrument to be executed as of the day and year first above written.

LAYTON CITY

By _____
Mayor, Robert J Stevenson

ATTEST:

Thieda Wellman, City Recorder

APPROVED:

City Attorney, Gary R. Crane

WEBER BASIN WATER CONSERVANCY DISTRICT

By _____
Kyle R. Stephens, Chair, Board of Trustees

WITNESS:

Tage I. Flint, General Manager

APPROVED:

District Attorney

EXHIBIT "A"

DESCRIPTION OF THE WBW-LAYTON SECONDARY SYSTEM

1) **Service Area.** The area served by the WBW-Layton Secondary System currently includes approximately 3,784 Service Connections situated on approximately 3,225 acres of land, within the corporate limits of Layton City in Davis County, Utah. An aerial photograph showing the existing and future service area to be served by the WBW-Layton Secondary System and the existing and future service area of the City Irrigation System is attached as EXHIBIT "C" hereto.

2) **Sources of Water Supply and Water Rights.** Weber Basin secondary irrigation water delivered through the WBW-Layton Secondary System is currently supplied from the Davis Aqueduct and Kays Creek, under Weber Basin Project and other Weber Basin water supplies authorized for diversion and use within the service area of Weber Basin. The locations of the facilities referenced herein are shown on the aerial photograph attached as EXHIBIT "C" hereto.

3) **System Facilities; Emergency Connection.** The secondary irrigation water distributed through the WBW-Layton Secondary System is primarily delivered from the Davis Aqueduct and released to, stored in the 1.9, 2.6, P3.7, West Sandridge, and East Sandridge regulating reservoirs along the east bench of North Davis County (the "*Storage Reservoir*"), and a distribution system (the "*Distribution System*"), more particularly described as follows:

a) **WATER STORAGE RESERVOIRS AND RELATED FACILITIES**

i) **1.9 Reservoir**

Located at 1400 East 3000 North, Layton
Owned by United States of America
Capacity of 24.2 AF

ii) **East Sandridge Reservoir**

Located at 2350 East 3700 North Layton

Owned by United States of America
Capacity of 10.0 AF

iii) **East Sandridge Pump Station**

Located near 1400 East 3400 North, Layton
Owned by United States of America
Capacity of 9.0 cfs

iv) **West Sandridge Reservoir**

Located at 2350 East 3700 North, Layton
Owned by United States of America
Capacity of 10.0 AF

v) **West Sandridge Pump Station**

Located rear of 3359 North 2550 East, Layton
Owned by United States of America
Capacity of 15.0 cfs

vi) **2.6 Reservoir**

Located at 2600 East 2500 North, Layton
Owned by United States of America
Capacity of 17.0 AF

vii) **P3.7 Reservoir**

Located rear of 1550 North Valley View Dr., Layton
Owned by United States of America
Capacity of 8.0 AF

viii) **East Layton Pump Station**

Located at 1550 North Valley View Dr., Layton
Owned by United States of America
Capacity of 9.0 cfs

ix) **4.3 Reservoir**

Located at 940 North East Side Dr., Layton
Owned by United States of America
Capacity of 10.0 AF

x) **5.0 Reservoir**

Located at 450 North East Side Dr., Layton
Owned by United States of America
Capacity of 14.0 AF

The locations of each of the above facilities are shown on the aerial photograph attached as EXHIBIT "C" hereto.

- b) **DISTRIBUTION SYSTEM.** The WBW-Layton Secondary System Distribution System includes a series of secondary irrigation water pipelines, including main trunk pipelines (the "*Main Trunk Lines*"), laterals and distribution pipelines (the "*Distribution Lines*"), and pressure reducing stations ("*PRVs*"), as shown on the aerial photograph attached as EXHIBIT "C" hereto.

4) **Individual Service Connections.** The individual customer Service Connections to the WBW-Layton Secondary System generally consist of 1 inch diameter turnouts and connecting service pipelines (the "*Service Connections*").

EXHIBIT "B"

WBW-LAYTON SECONDARY SYSTEM OPERATING PROCEDURES

ADMINISTRATION

- 1) SYSTEM ENGINEERING REVIEW, CONSTRUCTION ADMINISTRATION, AND INSPECTION**
 - a) Weber Basin shall administer new water allocations and connections for new developments in accordance with Weber Basin standards and procedures.
 - b) City will be notified by Weber Basin of any new Service Connections prior to installation.
 - c) Weber Basin shall perform all new subdivision system design reviews. City shall have the right to have input in, and an opportunity to review the design, plans and specifications related to the new system.
 - d) Weber Basin shall establish all meter specifications. All new connections to the WBW-Layton Secondary System are required, by Weber Basin policy, to install a meter. Weber Basin shall be responsible for the installation, reading, operations, maintenance, and replacement of the secondary meters.
 - e) Weber Basin shall inspect all new piping and Service Connections. City shall have the right to participate in all inspections prior to trench refilling.
 - f) Weber Basin shall maintain the system data base and be responsible for gathering GPS data. All changes shall be communicated to City regularly.
 - g) Weber Basin shall be responsible for system mapping. Mapping corrections or modifications discovered by City and not properly shown on current system maps shall be communicated by City to Weber Basin weekly. System mapping corrections made by Weber Basin shall be communicated to City weekly.
 - h) City shall have the right to participate in all pre-construction meetings related to the system.

- 2) BLUE STAKING**
 - a) Weber Basin shall provide all necessary blue staking grid information to Blue Stakes of Utah.

- b) City shall be responsible for all blue staking field responsibilities and costs unless the costs are due to the negligence of Weber Basin, its officers or employees, in which case Weber Basin shall pay the cost related to any damage caused by such negligence.
- c) Weber Basin retains the responsibility for blue staking of the aqueduct, pump stations, pumped pipelines, and wells.

3) SCADA

- a) Weber Basin shall maintain the current Weber Basin SCADA system.
- b) City shall obtain a SCADA contractor to provide and install equipment necessary to split the signal of the current SCADA system so as to be available to City, if City determines to split the signal.
- c) City shall operate and maintain that portion of the SCADA system that relays signals to City.

4) ELECTRICAL SYSTEM MAINTAINANCE

Maintenance of all electrical systems, including, pump motors, motor control centers, breakers, transformers, electrical metering, and the Weber Basin portion of the SCADA system, shall be performed by or under the direction of Weber Basin's electricians.

5) EMERGENCY CALL-OUTS

- a) City shall be responsible for first response in the event of an emergency. Emergency calls received by Weber Basin shall be forwarded to City during business hours. During non-business hours, Weber Basin's dispatcher shall call the City system operator on call, according to the yearly schedule as delivered by City to Weber Basin.
- b) If an electrical problem is suspected, Weber Basin electricians shall be called out (during normal business hours) or the on-call Weber Basin electrician (if during non- business hours, at 801-771-1677).

OPERATIONAL GUIDELINES

1) GENERAL SYSTEM OPERATION

- a) Pressure Reducing Valves (PRVs) shall be used to regulate system pressure. PRVs need to be checked daily to ensure pilot is operating properly. As the season progressed minor adjustments to the operating pressures may be required to reduce higher pressures, thereby reducing stresses on the system.

- b) Utilize blowoffs/drains as needed within the system to assist in removal of debris.
- c) Replace curb valves and valve boxes when damaged, missing or as customer assistance is needed.

2) PRE-CHARGE

- a) Close drains. Utilize drain lists to ensure all drains are closed.
- b) Check air-vacs. Utilize air-vac lists to ensure air-vacs are checked and operating properly.

3) SYSTEM CHARGING

- a) Trunk lines.
 - i) Open main valve on the reservoirs to slowly charge the 1500 South trunk line. Charge system to the first PRV, then slowly charge to the second PRV. (Initially trunk line charging can generally take place using water captured in the 18.8 reservoir over the winter.)
 - ii) Insure that air-vacs seat, hold pressure and do not leak.
 - iii) Set up PRVs, bleed air out of the valve.
 - iv) Set pilot at ____ psi.
 - v) Open the drains and run until clean.
- b) After water runs clean.
 - i) Shut the drains and crack the distribution lateral valves to charge areas/neighborhoods served by each lateral until entire system is charged.
 - ii) Open to flow about ____ to ____ gpm.
 - iii) Normally takes __ to __ hours to load the system.
 - iv) While system is charging, drive streets being served looking for leaks or sprinkler systems that are running, shutting off service valve as needed.

4) WINTERIZING

- a) PRVs need to be drained, disassembled and cleaned, along with pilots.
- b) Repair air-vacs as necessary.

EXHIBIT "C"
AERIAL PHOTOGRAPH

**LAYTON CITY COUNCIL MEETING
AGENDA ITEM COVER SHEET**

Item Number: 3.

Subject:

Annexation Agreement, Annexation and Rezone Request – Redford/Husky Real Estate – A (Agriculture) to R-S (Residential-Suburban) – Resolutions 16-70 and Ordinances 16-43 and 16-44 – Approximately 1875 West 1000 South

Background:

The property proposed for annexation contains 3.13 acres located on the north side of 1000 South at approximately 1875 West. The annexation/rezone area encompasses two-thirds of the Redford property with the front third of the Redford property already in the City and zoned R-S. The annexation/rezone area is surrounded by unincorporated county and R-S zoning to the south.

The annexation petition is accompanied by a rezone request for R-S zoning to develop a single family residential subdivision with access from 1000 South.

The annexation petition is accompanied with an Annexation Agreement that outlines the developer's requirements for developing the 4.89 acres of property. This includes off-site utility improvements and the location of the subdivision street access from 1000 South.

Alternatives:

Alternatives to the First Motion: Alternatives are to 1) Adopt Resolution 16-70 approving the Annexation Agreement; 2) Adopt Resolution 16-70 approving the Annexation Agreement with modifications; or 3) Not adopt Resolution 16-70 denying the Annexation Agreement.

Alternatives to the Second Motion: Alternatives are to 1) Adopt Ordinance 16-43 approving the annexation based on consistency with the Annexation Plan; or 2) Not adopt Ordinance 16-43 denying the annexation request.

Alternatives to the Third Motion: Alternatives are 1) Adopt Ordinance 16-44 approving the rezone from A to R-S based on consistency with General Plan land use recommendations for this property; or 2) Not adopt Ordinance 16-44 denying the rezone request from A to R-S.

Recommendation:

The Planning Commission recommends the Council adopt Resolution 16-70 approving the Annexation Agreement and adopt Ordinance 16-43 approving the annexation based on consistency with the Annexation Plan. The Planning Commission also recommends the Council adopt Ordinance 16-44 approving the rezone request to R-S. This recommendation is based on consistency with the General Plan land use recommendation for this property.

Staff supports the recommendation of the Planning Commission.

**LAYTON CITY COUNCIL MEETING
AGENDA ITEM COVER SHEET**

Item Number: 4.

Subject:

Open and Public Meetings Act Training

Background:

Mr. Gary Crane, Layton City Attorney, will instruct the Mayor and Council on required Open Meeting Act training.

Alternatives:

N/A

Recommendation:

N/A

**LAYTON CITY COUNCIL MEETING
AGENDA ITEM COVER SHEET**

Item Number: 5.

Subject:

Conflict of Interest Training

Background:

Mr. Gary Crane, Layton City Attorney, will instruct the Mayor and Council on required Conflict of Interest training.

Alternatives:

N/A

Recommendation:

N/A

**LAYTON CITY COUNCIL MEETING
AGENDA ITEM COVER SHEET**

Item Number: 6.

Subject:

Sexual Harassment Training

Background:

Mr. Gary Crane, Layton City Attorney, will instruct the Mayor and Council on required Sexual Harassment training.

Alternatives:

N/A

Recommendation:

N/A

**LAYTON CITY COUNCIL MEETING
AGENDA ITEM COVER SHEET**

Item Number: 7.

Subject:

Mayor's Report

Background:

N/A

Alternatives:

N/A

Recommendation:

N/A