

HUNTINGTON CITY
RESOLUTION 14-2023

A RESOLUTION OF THE CITY COUNCIL OF HUNTINGTON CITY, UTAH, AUTHORIZING AN
AGREEMENT BETWEEN HUNTINGTON CITY AND EMERY COUNTY
REGARDING TRANSFER OF LANDS

WHEREAS the Utah Code Ann. Section 10-8-2 permits Huntington City, Utah (the “City”) to purchase, receive, hold, sell, lease, convey, and dispose of real property owned by the City for the benefit of the municipality; and

WHEREAS the City owns the certain parcel of land approximately located at 95 West 300 South, Huntington, Utah 84528, or recorded as Parcel No. 01-0188-0031 in the records of the Emery County Recorder, hereto described in **Exhibit A** (the “**City Parcel**”) which has been appraised; and

WHEREAS Emery County (the “**County**”) owns that certain parcel of land approximately located at 650 North 200 West, Huntington, Utah 84528, or recorded as Parcel No. 01-0175-0020 in the records of the Emery County Recorder, at 0.9 acres, hereto described in **Exhibit B** (the “**County Parcels**”); and

WHEREAS Emery County (the “**County**”) owns that certain parcel of land approximately located at 176 West 100 North, Huntington, Utah 84528, or recorded as Parcel No. 01-0196-0050 in the records of the Emery County Recorder, at 0.35 acres, hereto described in **Exhibit B** (the “Senior Citizen Building” or together, with the Small Lot, the “**County Parcels**”); and

WHEREAS the City wishes to acquire the County Parcels in exchange for the City Parcel for the purpose of utilizing the county’s senior citizen center as an event center, meeting hall, parking space, or other purposes; and

WHEREAS Huntington City Code Section 7-8-2 defines a “significant parcel” as real property “having a fair market value in excess of one hundred thousand dollars (\$100,000.00)”;

WHEREAS Utah Code Ann. Subsection 10-8-2(4) and Huntington City Code 7-8-3 require the City to provide notice and conduct a public hearing before disposing of a significant parcel of real property to provide an opportunity for public comment on the proposed transaction.

NOW, THEREFORE, BE IT RESOLVED BY HUNTINGTON CITY AS FOLLOWS:

1. The County will convey the County Parcels to the City in exchange for the City Parcel to the County in substantially the same Agreement as attached herein as **Exhibit 1**, which will be duly recorded with the office of the Emery County Recorder.
2. The City is authorized to begin any developments upon receipt of the recorded deeds to the County Parcels.
3. This Resolution takes effect upon its adoption.

BE IT FURTHER RESOLVED, this resolution shall become effective as of October 18, 2023 upon approval of the Huntington City Council.

PASSED AND APPROVED this 18 day of October, 2023.

(SEAL)

Mayor, Leonard Norton

COUNCIL MEMBERS

Judd Beagley AYE _____ NAY _____

Tom Kay AYE _____ NAY _____

Jerry Livingston AYE _____ NAY _____

Lisa Miller AYE _____ NAY _____

ATTEST:

Devin Wilson AYE _____ NAY _____

Jenene Hansen, City Recorder

Exhibit A

Legal Description and Photograph of City Parcel

Parcel No. 01-0188-0031

Lots 1, 2, and 3 of Block 5, HUNTINGTON TOWNSITE SURVEY, according to the official plat thereof, records of the Emery County Recorder.



Exhibit B

Legal Description and Photograph of Small Lot

Parcel No. 01-0175-0020

Beginning at a point which is located N 00°45'32" W, 406.96 feet along the west line of the Southeast Quarter of the Southeast Quarter from the Southwest Corner of the Southeast Quarter of the Southeast Quarter of Section 13, Township 17 South, Range 8 East, SLB&M, said point being and the Northwestern Corner of Tax Parcel No. 01-0175-0015, official records of the Emery County Recorder; thence N 88°58'52" E, 143.94 feet to the Northeasterly Corner of said Tax Parcel No 01-0175-0015 and the centerline of County Road; thence N 09°30'38" E, 231.08 feet along said centerline to the Southerly Corner of Tax Parcel No. 01-0175-0005; thence N 85°26'02" W, 185.94, feet, more or less, to the Southwesterly Corner of said Tax Parcel No. 01-0175-0005 and to the west line of the said Southeast Quarter of the Southeast Quarter; thence S 00°45'32" E, 245.29 feet, more or less, along said west line to the point of beginning. Containing 0.90 acre, more or less.



Exhibit C

Legal Description and Photograph of Large Lot

Parcel No. 01-0196-0050

Beginning 92.25 feet West of the Southeast Corner of Lot 2, Block 43, HUNTINGTON TOWNSITE SURVEY, according to the official plat thereof, records of the Emery County Recorder; thence West, 90.00 feet; thence North, 170.00 feet; thence East, 90.00 feet; thence South, 170.00 feet to the point of beginning. Containing 0.35 acre, more or less.

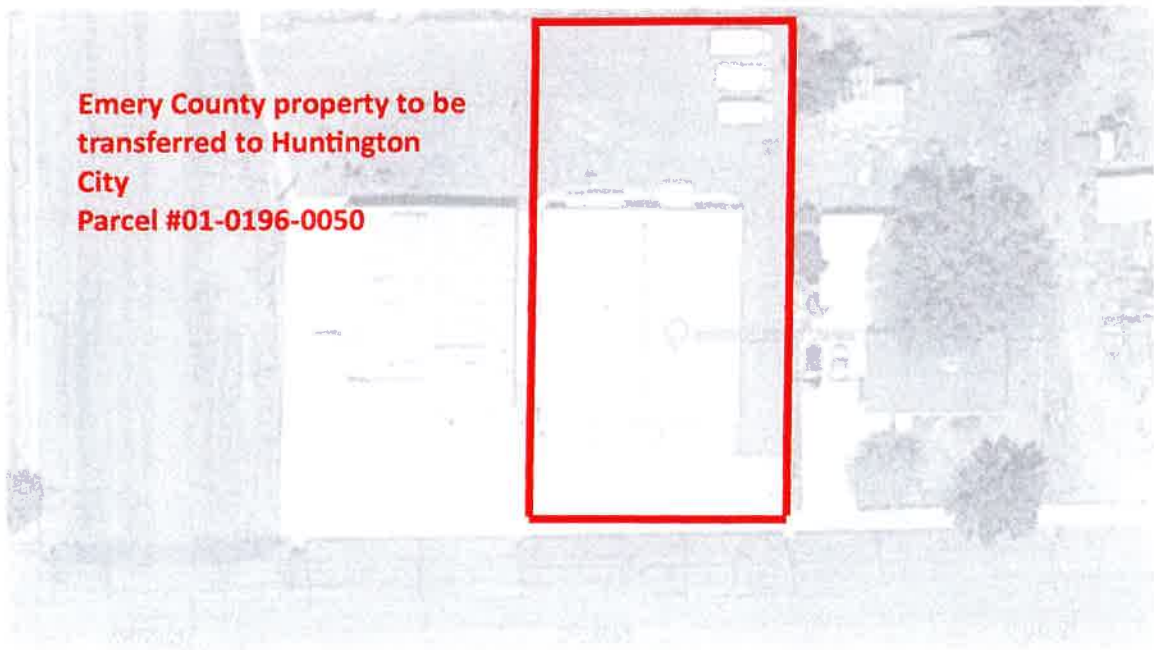


Exhibit 1

Real Estate Land Exchange Agreement

SEE ATTACHED

REAL ESTATE LAND EXCHANGE AGREEMENT

THIS REAL ESTATE LAND EXCHANGE AGREEMENT (“**Agreement**”) made this _____ day of _____ 2023 (the “**Effective Date**”) by and between EMERY COUNTY, a body politic, of Emery County, State of Utah (herein “**County**”) and HUNTINGTON CITY, a --- a municipality and political subdivision of the State of Utah (herein “**City**”) or otherwise known as “**Party**” or “**Parties**.”

RECITALS

WHEREAS, pursuant to the Interlocal Cooperation Act, specifically Utah Code Ann. § 11-13-214, the City as a public agency may convey property to or acquire property from any other public agency for consideration as may be agreed upon; and

WHEREAS, pursuant to Utah Code Ann. Subsection 63G-6a-103(45), the County or City is permitted to adopt its own procurement code; and

WHEREAS, pursuant to County Ordinance 07-18-23A, the County has adopted its own procurement code permitting the purchasing and disposition of property; and

WHEREAS, in compliance with Utah Code Ann. §§ 10-8-2, 63G-30-102, and Huntington City Code 7-8-3, a public hearing was conducted by the Huntington City Council to obtain public comment prior to the execution of this agreement; and

WHEREAS, in compliance with Utah Code Ann. § 7-8-6, Huntington City obtained an appraisal of the fair market value of the parcel from a suitably qualified real estate appraiser which is not binding upon the parties; and

WHEREAS, the County and the City each have certain parcels of property that they wish to exchange; and

WHEREAS, the City Parcel is vacant. Parcel No. 01-0188-0031, 5.10 acres of land, on LOTS 1, 2 and 3, BLOCK 5, HUNTINGTON TOWNSITE SURVEY, Huntington, Emery County, State of Utah, and which is legally described in the attached **Exhibit A** (“**City Parcel**”).

WHEREAS, the County Parcels are No. 01-0175-0020, approximately 0.90 acres, and located at 650 North 200 West, and No. 01-0196-0050, 0.35 acres, and located at 176 West 100 North, known as the Senior Citizens Building, LOT 2, BLOCK 43, HUNTINGTON TOWNSITE SURVEY, Huntington, Emery County, State of Utah and which is legally described in the attached **Exhibit B** (“**County Parcels**”).

NOW THEREFORE, in consideration of the premises and the mutual covenants and promises of the parties herein appearing and other good and valuable considerations the receipt of which is hereby duly acknowledged, the County and the City hereby agrees as follows:

AGREEMENT

1. Incorporation of Recitals. The above Recitals and all Exhibits attached to this Agreement are incorporated into and are made a part of this Agreement.
2. The City will convey to the County the following real property situated in Huntington City in Emery County, State of Utah, more particularly described as follows:

All of Emery County Tax Parcel No. 01-0188-0031

LOTS 1,2, and 3, BLOCK 5, HUNTINGTON TOWNSITE SURVEY. 5.10 ACRES.

3. The City will convey to the County the following real property (the “**City Parcel**”) situated in Huntington City, Emery County, State of Utah as follows and the County will take possession on delivery to the County of a good and sufficient warranty deed attached as **Exhibit C** (the “**City Warranty Deed**”) properly executed by the City, conveying marketable title to the County to the above-described real property, free and clear of all encumbrances and defects of whatsoever nature.
4. The City will pay all taxes and assessments of every kind and nature which are, or which may be assessed against, and which may become due on the real property up to the date of delivery of the City Warranty Deed to the County. Thereafter, it will be the responsibility of the County to pay or otherwise arrange for the disposition of any taxes assessed against the real property.
5. The County will convey to the City the following real properties (the “**County Parcels**”) situated in Emery County, State of Utah, more particularly described as follows and the City will take possession on delivery to the City of a good and sufficient warranty deed attached as **Exhibit D** (the “**County Warranty Deeds**”) properly executed by the County, conveying marketable title to the City to the below-described real property, free and clear of all encumbrances and defects of whatsoever nature.
6. All of Emery County Tax Parcel No. 01-0196-0050

Beginning 92.25 feet West of the Southeast Corner of Lot 2, Block 43, HUNTINGTON TOWNSITE SURVEY, according to the official plat thereof, records of the Emery County Recorder; thence West, 90.00 feet; thence North, 170.00 feet; thence East, 90.00 feet; thence

South, 170.00 feet to the point of beginning.

Containing 0.35 acre, more or less.

And

All of Emery County Tax Parcel No. 01-0175-0020

Beginning at a point which is located N 00°45 '32" W, 406.96 feet along the west line of the Southeast Quarter of the Southeast Quarter from the Southwest Corner of the Southeast Quarter of the Southeast Quarter of Section 13, Township 17 South, Range 8 East, SLB&M, said point being and the Northwesternly Corner of Tax Parcel No. 01-0175-0015, official records of the Emery County Recorder; thence N 88°58 '52" E, 143.94 feet to the Northeastly Corner of said Tax Parcel No 01-0175-0015 and the centerline of County Road; thence N 09°30'38" E, 231.08 feet along said centerline to the Southerly Corner of Tax Parcel No. 01-0175-0005; thence N 85°26'02" W, 185.94, feet, more or less, to the Southwesterly Corner of said Tax Parcel No. 01-0175-0005 and to the west line of the said Southeast Quarter of the Southeast Quarter; thence S 00°45 '32" E, 245.29 feet, more or less, along said west line to the point of beginning. Containing 0.90 acre, more or less.

7. Upon delivery, the City shall possess full use and enjoyment of the property, including all rights to use, access, and develop the property free of County interference.
8. Neither party provides any warranty to the real property, inclusive of improvements, in any way. It is understood that this land exchange implies no warranties from the County or City. The real property being exchanged under this Agreement is on an "AS-IS" basis and any known or unknown defects shall be the sole liability of the transferee. Notwithstanding the foregoing, City acknowledges this liability with their signature below, provided, however, that County represents that the building is, to the best of County's knowledge, in good condition and that there are no hidden or latent defects in the building of which County is aware.
9. City and County shall have until 5:00 p.m. (MST) on the date which is thirty (30) days after the signing of this Agreement in which to conduct its due diligence and all inquiries and investigations with respect to the properties as may be determined by City and County in its sole discretion and at its sole cost and expense (the "**Due Diligence Period**").
10. Title Insurance. County and City, at its sole expense, shall request a title commitment for an owners' policy of title insurance in the full appraised value of the County and City Parcels, issued by a reputable third-party title company. City may, at City's sole expense, have an updated or new survey conducted on the County Parcels.

11. For a period ending 10 days prior to the Closing Date, County and City shall have the Due Diligence Period to review and approve in writing the title commitment and survey (as applicable).
 - a) City shall give notice to County of any matters contained in the title commitment or survey to which City objects.
 - b) County shall have five (5) business days after receipt of City's notice of objections to cure the objections to the satisfaction of City or elect not to cure the same; provided, however, all deeds of trust, mortgages, judgment liens, mechanics' liens, materialmen's liens, and other similar financial encumbrances recorded against or affecting the County Parcels shall be discharged or otherwise removed by County at or before the end of the Due Diligence Period, the failure of which will constitute a County default.
 - c) If County fails or refuses to cure City's objections, City may:
 - (i) waive any such objections and proceed to the end of the Due Diligence Period, or
 - (ii) terminate this Agreement without penalty.
 - d) Notwithstanding anything to the contrary in this Section 12 or elsewhere in this Agreement, in the event the title commitment is not received by City within fifteen (15) calendar days of the Effective Date, the end of the Due Diligence Period shall thereafter be tolled one (1) calendar day for everyone (1) calendar day the title commitment has not been received. For the avoidance of confusion and doubt, the title commitment will not be deemed as having been received unless any and all exception documents associated with the title commitment have been received and/or made available to City.
12. During the Due Diligence Period, City and County may each terminate this agreement without penalty by issuing a 10-day written notice to the other party of its intention to terminate this Agreement. During the Due Diligence Period, City and County and its officers, employees, agents, advisors, accountants, attorneys, and engineers shall have the right to enter upon the properties at reasonable times after written notice to the other party for purposes of inspection and examination of the properties.
13. Closing. The transactions contemplated by this Agreement shall close at [Location], or such earlier date mutually acceptable to the Parties (the "**Closing Date**").
14. Closing Deliverables.

- City's Deliverables. At and as a condition to Closing, City shall deliver in connection with its conveyance to County:
 - A fully executed special warranty deed conveying the Transfer Land to County, substantially in the form of the attached Exhibit C.
- County's Deliverables. At and as a condition to Closing, County shall deliver in connection with its conveyance to City:
 - A fully executed special warranty deed conveying the County Parcels to City, substantially in the form of the attached Exhibit D.

15. Closing Costs.

- City's Closing Costs.
 - Real Estate Taxes. The Closing Date shall be used for proration of all property taxes due and owing on the City Parcel as of the Closing Date, if any, and shall be paid at City's sole cost and expense.
 - Recording Fees. City shall pay the recording fees, if any, for the special warranty deed from County for the County Parcels as described in Section 16. of this Agreement.
 - Title Insurance. City shall be responsible for the purchase of an owner's title insurance policy covering the County Parcels if desired by City.
 - Other Fees. Any other fees relating to the Closing shall be split equally between the Parties.
- County's Closing Costs.
 - Real Estate Taxes. The Closing Date shall be used for proration of all property taxes due and owing on County Parcels as of the Closing Date, if any, and shall be paid at County's sole cost and expense.
 - Recording Fees. County shall pay the recording fees, if any, for the special warranty deed from City on the City Parcel as described in Section 16. of this Agreement.

- Title Insurance. County shall be responsible for the purchase of an owner's title insurance policy covering the City Parcel if desired by County.
 - Other Fees. Any other fees relating to the Closing shall be split equally between the Parties.
16. Default. If either Party shall fail to comply with the terms of this Agreement, the non-defaulting party shall send written notice and provide a reasonable opportunity to cure, but not less than thirty (30) days. If the default is not cured within the time allowed, the defaulting party shall pay all reasonable attorneys' fees and costs incurred by the non-defaulting party in enforcing its rights. In the event of default in any of the terms and conditions of the Agreement, the party in default shall pay all costs and expenses, including reasonable attorney's fees, which may arise or accrue from enforcing this Agreement, or in pursuing any remedy provided hereunder or by the statutes of the State of Utah whether such remedy is pursued by filing a suit or otherwise.
 17. Broker's Commission. No broker or finder has been used for this transaction; therefore, no commissions are due.
 18. Entire Agreement. This Agreement sets forth the entire understanding of the Parties with respect to the matters set forth herein as of the date hereof, it supersedes all prior oral or written agreements of the parties as to the matters set forth herein, and it cannot be altered or amended except pursuant to an instrument in writing, signed by the Parties.
 19. Binding Effect. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, and any persons or entities claiming rights by, through or under them. All rights of the parties hereunder may be assigned without restriction but notice of each assignment shall be given in writing within ten (10) days thereof to either the County or the City, as the case may be, at the respective addresses.
 20. Advice of Counsel. The Parties confirm, represent and warrant that they (a) have carefully read this Agreement, (b) understand the terms hereof, (c) have had the opportunity to seek the advice from legal counsel of their own choosing, (d) find it to be a fair and reasonable transaction in compliance with all applicable laws, (e) are executing this Agreement as a voluntary act, and (f) agree to be bound by and to faithfully execute the terms of the Agreement. The Parties further confirm, represent and warrant that they are not under duress, and they acknowledge that to the extent they have waived any rights or defenses by entry into this Agreement that such waiver was made voluntarily and with full knowledge of the ramifications of such waiver.

21. Attorney Fees. If any Party shall seek to enforce or protect its rights under this Agreement or under any document or instrument executed and delivered in connection herewith in any action, suit, mediation, arbitration case, or other proceeding, the prevailing Party shall be entitled to receive from the other Party payment of its costs and expenses, including reasonable attorney fees incurred (whether such costs or fees are incurred before or after the commencement of the proceeding), including any and all appeals or petitions therefrom.
22. Governing Law. This Agreement shall be governed by the laws of the State of Utah, with venue in the Seventh District Court of Utah.
23. Authority. The Parties represent and warrant that the individuals whose signatures appear below have full power and authority to enter into this Agreement on behalf of the Parties for whom this Agreement is executed, and no further act on behalf of any such Party shall be or is required to authorize the execution of this Agreement.
24. Effect of Agreement. Nothing in this Agreement shall be construed to relieve either Party of any obligations imposed by federal, state or local laws, ordinances, regulations or standards.
25. Assignment. This Agreement shall not be assigned by either Party.
26. Cooperation. The Parties shall perform their respective obligations in good faith, and agree to execute such further or additional documents, and to take such other actions, as may be reasonably necessary or appropriate to fully confirm and/or carry out the intent and purposes of the Parties as set forth in this Agreement.
27. Notices. Unless this Agreement specifically requires otherwise, any notice, demand or request provided for in this Agreement, or served, given or made in connection with it, shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, or by an internationally recognized overnight courier service that provides a receipt of delivery, in each case, to the parties at the addresses specified below:

IN WITNESS WHEREOF, the County and the City have hereunto caused their names to be signed on their behalf, the day and year first above written.

DATED this ____ day of October 2023.

EMERY COUNTY

By: _____
Keven Jensen, Chairman

ATTEST:

Brenda Tuttle, Clerk/Auditor

HUNTINGTON CITY

By: _____
Leonard Norton, Mayor

ATTEST:

Jenene Hansen, City Recorder

EXHIBIT A

(City Parcel Legal Description)

Parcel No. 01-0188-0031

Lots 1, 2, and 3 of Block 5, HUNTINGTON TOWNSITE SURVEY, according to the official plat thereof, records of the Emery County Recorder.

EXHIBIT B

(County Parcels Legal Descriptions)

Parcel No. 01-0196-0050

Beginning at a point 92.25 feet West of the Southeast corner of Lot 2, Block 43, Huntington Townsite Survey; thence West 90 feet; thence North 170 feet; thence East 90 feet; thence South 170 feet to the point of beginning.

Parcel No. 01-0175-0020

Beginning at a point which is located N 00°45'32" W, 406.96 feet along the west line of the Southeast Quarter of the Southeast Quarter from the Southwest Corner of the Southeast Quarter of the Southeast Quarter of Section 13, Township 17 South, Range 8 East, SLB&M, said point being at the Northwesterly Corner of Tax Parcel No. 01-0175-0015, official records of the Emery County Recorder; thence N 88°58'52" E, 143.94 feet to the Northeasterly Corner of said Tax Parcel No. 01-0175-0015 and the centerline of County Road; thence N 09°30'38" E, 231.08 feet along said centerline to the Southerly Corner of Tax Parcel No. 01-0175-0005; thence N 85°26'02" W, 185.94 feet, more or less, to the Southwesterly Corner of said Tax Parcel No. 01-0175-0005 and to the west line of the said Southeast Quarter of the Southeast Quarter; thence S 00°45'32" E, 245.29 feet, more or less, along said west line to the point of beginning.

Containing 0.90 acre, more or less.

EXHIBIT C

(City Warranty Deed Conveying City Parcel to County)

When Recorded, Return To:

SPECIAL WARRANTY DEED

HUNTINGTON CITY, a body corporate and politic of the State of Utah, Grantor, hereby conveys against all who claim by, through, or under the Grantor to EMERY COUNTY, a body corporate and politic of the State of Utah, Grantee, for good and valuable consideration, the following described tract of land in Emery County, State of Utah:

Parcel No. 01-0188-0031

Lots 1, 2, and 3 of Block 5, HUNTINGTON TOWNSITE SURVEY, according to the official plat thereof, records of the Emery County Recorder.

This Special Warranty Deed is subject to all easements, rights of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing property taxes and assessments.

Grantor further covenants and binds itself to warrant and forever defend the title to the property to the said Grantee, Grantee's successors and assigns, against the lawful claims of all persons whomsoever claiming by, through or under Grantor, but not otherwise.

WITNESS the hand of said Grantor this ____ day of _____ 2023.

HUNTINGTON CITY

By: _____

Name: _____

Title: _____

State of Utah)

County of Emery)
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On this _____ day of _____ 2023, before me, _____ a notary public, personally appeared _____, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.

Witness my hand and official seal.

Notary Public

EXHIBIT D

(County Warranty Deed Conveying County Parcels to City)

When Recorded, Return To:

SPECIAL WARRANTY DEED

EMERY COUNTY, a body corporate and politic of the State of Utah, Grantor, hereby conveys against all who claim by, through, or under the Grantor to HUNTINGTON CITY, a body corporate and politic of the State of Utah, Grantee, for good and valuable consideration, the following described tracts of land in Emery County, State of Utah:

Parcel No. 01-0196-0050

Beginning at a point 92.25 feet West of the Southeast corner of Lot 2, Block 43, Huntington Townsite Survey; thence West 90 feet; thence North 170 feet; thence East 90 feet; thence South 170 feet to the point of beginning.

Parcel No. 01-0175-0020

Beginning at a point which is located N 00°45'32" W, 406.96 feet along the west line of the Southeast Quarter of the Southeast Quarter from the Southwest Corner of the Southeast Quarter of the Southeast Quarter of Section 13, Township 17 South, Range 8 East, SLB&M, said point being at the Northwesterly Corner of Tax Parcel No. 01-0175-0015, official records of the Emery County Recorder; thence N 88°58'52" E, 143.94 feet to the Northeasterly Corner of said Tax Parcel No. 01-0175-0015 and the centerline of County Road; thence N 09°30'38" E, 231.08 feet along said centerline to the Southerly Corner of Tax Parcel No. 01-0175-0005; thence N 85°26'02" W, 185.94 feet, more or less, to the Southwesterly Corner of said Tax Parcel No. 01-0175-0005 and to the west line of the said Southeast Quarter of the Southeast Quarter; thence S 00°45'32" E, 245.29 feet, more or less, along said west line to the point of beginning.

Containing 0.90 acre, more or less.

This Special Warranty Deed is subject to all easements, rights of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing property taxes and assessments.

Grantor further covenants and binds itself to warrant and forever defend the title to the property to the said Grantee, Grantee's successors and assigns, against the lawful claims of all persons whomsoever claiming by, through or under Grantor, but not otherwise.

WITNESS the hand of said Grantor this ____ day of _____ 2023.

EMERY COUNTY

By: _____

Name: _____

Title: _____

State of Utah)

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County of Emery)

On this ____ day of _____ 2023, before me, _____ a notary public, personally appeared _____, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.

Witness my hand and official seal.

Notary Public