



# PROVO MUNICIPAL COUNCIL

## Redevelopment Agency of Provo

### Regular Meeting Agenda

5:30 PM, Tuesday, February 20, 2024

Council Chambers

Hybrid meeting: 445 W. Center Street, Provo, UT 84601 or

<https://www.youtube.com/provocitycouncil>

The in-person meeting will be held in the **Council Chambers**. The meeting will be available to the public for live broadcast and on-demand viewing on YouTube and Facebook at: [youtube.com/provocitycouncil](https://www.youtube.com/provocitycouncil) and [facebook.com/provocouncil](https://www.facebook.com/provocouncil). If one platform is unavailable, please try the other. If you do not have access to the Internet, you can join via telephone following the instructions below.

#### **TO MAKE A VIRTUAL PUBLIC COMMENT:**

To participate in the public comment portion(s) of the meeting, call in as an audience member as the presentation is wrapping up. Be sure to mute/silence any external audio on your end to reduce feedback (if you are viewing the live proceedings on YouTube, mute the YouTube video; you will be able to hear the meeting audio through the phone while you are on the line).

**Press \*9 from your phone to indicate that you would like to speak.** When you are invited to speak, the meeting host will grant you speaking permission, calling on you by the last four digits of your phone number. Please begin by stating your first and last name, and city of residence for the record. After you have shared your comment, hang up. If you wish to comment on a later item, simply re-dial to rejoin the meeting for any subsequent comment period(s).

**February 20 Council Meeting: Dial 346 248 7799.** Enter Meeting ID 838 2832 1570 and press #. When asked for a participant ID, press #. To join via computer, visit [zoom.us](https://zoom.us) and enter the meeting ID and passcode: 872503.

#### **Decorum**

The Council requests that citizens help maintain the decorum of the meeting by turning off electronic devices, being respectful to the Council and others, and refraining from applauding during the proceedings of the meeting.

#### **Opening Ceremony**

#### **Roll Call**

#### **Prayer**

#### **Pledge of Allegiance**

#### **Presentations, Proclamations, and Awards**

1 Provo City Employee of the Month Award - February 2024

## Public Comment

Fifteen minutes have been set aside for any person to express ideas, concerns, comments, or issues that are not on the agenda:

Please state your name and city of residence into the microphone.

Please limit your comments to two minutes.

State Law prohibits the Council from acting on items that do not appear on the agenda.

## Action Agenda

- 2 A resolution approving the appropriation of \$59,113 in the General Fund for a Sales Tax Increment Payment to East Bay Shopping Center. (24-011)
- 3 A resolution approving the appropriation of \$84,794 in the General Fund for a Sales Tax Increment Payment to Parkway Village. (24-011)
- 4 A resolution approving the appropriation of \$41,979 in the General Fund for a Sales Tax Increment Payment to the Shops at Riverwoods. (24-011)
- 5 A resolution approving an interlocal agreement regarding funding for trail and bridge improvements along the Provo River Trail from Columbia Lane to University Parkway (24-020)
- 6 A resolution approving the transfer of \$665,325 from the General Fund to the Airport Fund. (24-006)
- 7 A resolution approving the transfer of \$90,658 from the Legacy CIP to the General Fund and the appropriation of those funds. (24-006)
- 8 An ordinance amending the Zone Map classification of real property, generally located at 301 N. Lakeshore Dr., from the Agricultural (A1.10) Zone to the Open Space, Preservation, and Recreation (OSPR) Zone. Fort Utah Neighborhood. PLRZ20220282

## Adjournment

If you have a comment regarding items on the agenda, please contact Councilors at [council@provo.org](mailto:council@provo.org) or using their contact information listed at: [provo.org/government/city-council/meet-the-council](http://provo.org/government/city-council/meet-the-council)

Materials and Agenda: [agendas.provo.org](http://agendas.provo.org)

Council meetings are broadcast live and available later on demand at [youtube.com/ProvoCityCouncil](https://youtube.com/ProvoCityCouncil)

To send comments to the Council or weigh in on current issues, visit [OpenCityHall.provo.org](http://OpenCityHall.provo.org).

The next Council Meeting will be held on Tuesday, March 5, 2024. The meeting will be held in the Council Chambers, 445 W. Center Street, Provo, UT 84601 with an online broadcast. Work Meetings generally begin between 12 and 4 PM. Council Meetings begin at 5:30 PM. The start time for additional meetings may vary. All meeting start times are noticed at least 24 hours prior to the meeting.

**Notice of Compliance with the Americans with Disabilities Act (ADA)**

In compliance with the ADA, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting are invited to notify the Provo Council Office at 445 W. Center, Provo, Utah 84601, phone: (801) 852-6120 or email [rcaron@provo.org](mailto:rcaron@provo.org) at least three working days prior to the meeting. Council meetings are broadcast live and available for on demand viewing at [youtube.com/ProvoCityCouncil](https://youtube.com/ProvoCityCouncil).

**Notice of Telephonic Communications**

One or more Council members may participate by telephone or Internet communication in this meeting. Telephone or Internet communications will be amplified as needed so all Council members and others attending the meeting will be able to hear the person(s) participating electronically as well as those participating in person. The meeting will be conducted using the same procedures applicable to regular Municipal Council meetings.

**Notice of Compliance with Public Noticing Regulations**

This meeting was noticed in compliance with Utah Code 52-4-207(4), which supersedes some requirements listed in Utah Code 52-4-202 and Provo City Code 14.02.010. Agendas and minutes are accessible through the Provo City website at [agendas.provo.org](http://agendas.provo.org). Council meeting agendas are available through the Utah Public Meeting Notice website at [utah.gov/pmn](http://utah.gov/pmn), which also offers email subscriptions to notices.

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** KNEVES  
**Department:** Mayor Office  
**Requested Meeting Date:** 02-20-2024

**SUBJECT:** Provo City Employee of the Month Award - February 2024

**RECOMMENDATION:** The February 2024 Employee of the Month has been selected from our Customer Service Department.

**BACKGROUND:** Provo City recognizes an employee each month who exhibits Exceptional Care for an Exceptional Community.

**FISCAL IMPACT:**

**PRESENTER'S NAME:** Mayor Kaufusi / Amanda Ercanbrack

**REQUESTED DURATION OF PRESENTATION:** 5 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

**CITYVIEW OR ISSUE FILE NUMBER:**

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** NLA  
**Department:** Development Services  
**Requested Meeting Date:** 02-06-2024

**SUBJECT:** A resolution approving the appropriation of \$59,113 in the General Fund for a Sales Tax Increment Payment to East Bay Shopping Center. (24-011)

**RECOMMENDATION:** Budget appropriation approval of \$59,113 from General Fund. This is for a Work Meeting and then to be placed on the next available Council Meeting

**BACKGROUND:** On June 2018 the Municipal Council approved a resolution authorizing the Mayor to execute an agreement between Provo City and East Bay Shopping Center LLC, the ownership group of the East Bay Shopping Center at 979 S University Ave. At the meeting the Council was presented with a request to reimburse the ownership group for the remodel, construction, and opening of a new Ross retail store, which would serve as a magnet to attract other retailers to fill this retail center. The reimbursement would be funded through retail sales tax increment above the established predetermined sales tax revenue generated by the retail center as of a certain date. The baseline revenue was established at \$90,099, which represents one half of one percent of total sales generated at the center, or that portion of sales tax revenue received by Provo City from the retail center, as provided by the State of Utah. In this Agreement, Provo City will continue to receive the baseline amount of \$90,099. The developer / owner will receive on an annual basis, a reimbursement against their actual out-of-pocket expenses, that is, any additional sales tax revenue above and beyond the baseline amount of \$90,099. The term of this agreement runs for ten years. In that time the developer / owner will be able to be reimbursed for up to one half of the out-of-pocket costs for the above-described expenses. The target reimbursement amount as per the agreement is \$1,154,385 which is one half of the total out-of-pocket expenses which were \$2,308,770. This is the fourth payment in the ten-year agreement, that is \$59,113 which represents the amount over the baseline of \$90,099. The total received in 4 years is \$241,098.

**FISCAL IMPACT:** \$59,113

**PRESENTER'S NAME:** Keith Morey, Assistant Director of Development Services

**REQUESTED DURATION OF PRESENTATION:** 10 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**  
Support economic retail growth and vitality of the City's major retail centers.

**CITYVIEW OR ISSUE FILE NUMBER: 24-011**

1 RESOLUTION 2024-\_\_\_\_.  
2

3 A RESOLUTION APPROVING THE APPROPRIATION OF \$59,113 IN THE  
4 GENERAL FUND FOR A SALES TAX INCREMENT PAYMENT TO EAST  
5 BAY SHOPPING CENTER. (24-011)  
6

7 RECITALS:  
8

9 It is proposed that \$59,113 be appropriated in the General Fund for a sales tax increment  
10 post-performance payment to East Bay Shopping Center; and  
11

12 The funding source for the appropriation is \$59,113 from the increased General Fund sales  
13 tax revenues received based on the performance of East Bay Shopping Center; and

14 On February 6, 2024, the Municipal Council met to consider the facts regarding this  
15 matter and receive public comment, which facts and comments are found in the public record of  
16 the Council's consideration; and  
17

18 After considering the facts presented to the Municipal Council, the Council finds that (i)  
19 the \$59,113 appropriation in the General fund should be approved as described herein, and (ii)  
20 such action furthers the health, safety, and general welfare of the citizens of Provo City.  
21

22 THEREFORE, the Municipal Council of Provo City, Utah resolves as follows:  
23

24 PART I:  
25

26 The Mayor is authorized to appropriate \$59,113 in the General Fund for payment to East  
27 Bay Shopping Center.

28 PART II:  
29

30 This resolution takes effect immediately.

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:**

**Department:**

**Requested Meeting Date:**

**SUBJECT:** East Bay Shopping Center Sales Tax Reimbursement Agreement – fourth payment – budget appropriation

**RECOMMENDATION:** Budget appropriation approval of \$59,113 from General Fund. This is for a Work Meeting and then to be placed on the next available Council Meeting

**BACKGROUND:** On June 2018 the Municipal Council approved a resolution authorizing the Mayor to execute an agreement between Provo City and East Bay Shopping Center LLC, the ownership group of the East Bay Shopping Center at 979 S University Ave. At the meeting the Council was presented with a request to reimburse the ownership group for the remodel, construction, and opening of a new Ross retail store, which would serve as a magnet to attract other retailers to fill this retail center. The reimbursement would be funded through retail sales tax increment above the established predetermined sales tax revenue generated by the retail center as of a certain date. The baseline revenue was established at \$90,099, which represents one half of one percent of total sales generated at the center, or that portion of sales tax revenue received by Provo City from the retail center, as provided by the State of Utah. In this Agreement, Provo City will continue to receive the baseline amount of \$90,099. The developer / owner will receive on an annual basis, a reimbursement against their actual out-of-pocket expenses, that is, any additional sales tax revenue above and beyond the baseline amount of \$90,099. The term of this agreement runs for ten years. In that time the developer / owner will be able to be reimbursed for up to one half of the out-of-pocket costs for the above-described expenses. The target reimbursement amount as per the agreement is \$1,154,385 which is one half of the total out-of-pocket expenses which were \$2,308,770. This is the fourth payment in the ten-year agreement, that is \$59,113 which represents the amount over the baseline of \$90,099. The total received in 4 years is \$241,098.

**FISCAL IMPACT:** \$59,113

**PRESENTER'S NAME:** Keith Morey, Asst Director of Development Services

**REQUESTED DURATION OF PRESENTATION:** 10 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**  
Support economic retail growth and vitality of the City's major retail centers.

**CITYVIEW OR ISSUE FILE NUMBER:**



# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** NLA  
**Department:** Development Services  
**Requested Meeting Date:** 02-20-2024

**SUBJECT:** A resolution approving the appropriation of \$84,794 in the General Fund for a Sales Tax Increment Payment to Parkway Village. (24-011)

**RECOMMENDATION:** Budget Appropriation approval of \$84,794 from the General Fund. This is for a Work Meeting and then to be placed on the next available Council Meeting

**BACKGROUND:** On November 15, 2016 the Municipal Council approved a resolution authorizing the Mayor to execute an agreement between Provo City and Parkway Village LLC, the ownership group of the Parkway Village shopping center located at 2255 North University Parkway. At the meeting the Council was presented with a request to reimburse the ownership group for certain extra-ordinary demolition, development and construction costs associated with the removal of an existing occupied retail pad, participation of the installation of a new traffic signal and the construction of a replacement retail pad. The reimbursement would be funded through retail sales tax increment above the established predetermined sales tax revenue actually generated by the retail center as of a certain date. The baseline revenue was established at \$136,476, which represents one half of one percent of total sales generated at the center, or that portion of sales tax revenue received by Provo City from the retail center, as provided by the State of Utah. In this agreement, Provo City will continue to receive the baseline amount of \$136,476. The developer/owner will receive, on an annual basis, a reimbursement against their actual out-of-pocket expenses, that is, any additional sales tax revenue above and beyond the baseline amount of \$136,476. The term of the agreement runs for ten years. In that time the developer/owner will be able to be reimbursed for up to one half the out-of-pocket costs for the above-described expenses. The target reimbursement amount as per the agreement is \$1,053,395.86 which is one half of the total out-of-pocket expenses which were \$2,106,791.72. As this is the fifth payment in the ten-year agreement, that is \$84,794, which represents that amount over the baseline of \$136,476, it is not likely that full reimbursement amount will be achieved. Total received in 5 years is \$230,601.

**FISCAL IMPACT:** \$84,794

**PRESENTER'S NAME:** Keith Morey, Assistant Director of Development Services

**REQUESTED DURATION OF PRESENTATION:** 10 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:** As a part of the resolution approved by the Municipal Council on November 15, 2016, it was determined that in this specific instance a reimbursement agreement of this nature was appropriate and consistent with economic development initiatives to encourage investment and bring more retail opportunities and sales tax revenue to Provo City.

**CITYVIEW OR ISSUE FILE NUMBER:** 24-011

1 RESOLUTION 2024-\_\_\_\_.  
2

3 A RESOLUTION APPROVING THE APPROPRIATION OF \$84,794 IN THE  
4 GENERAL FUND FOR A SALES TAX INCREMENT PAYMENT TO  
5 PARKWAY VILLAGE. (24-011)  
6

7 RECITALS:  
8

9 It is proposed that \$84,794 be appropriated in the General Fund for a sales tax increment  
10 post-performance payment to Parkway Village; and  
11

12 The funding source for the appropriation is \$84,794 from the increased General Fund sales  
13 tax revenues received based on the performance of Parkway Village; and

14 On February 6, 2024, the Municipal Council met to consider the facts regarding this  
15 matter and receive public comment, which facts and comments are found in the public record of  
16 the Council's consideration; and  
17

18 After considering the facts presented to the Municipal Council, the Council finds that (i)  
19 the \$84,794 appropriation in the General fund should be approved as described herein, and (ii)  
20 such action furthers the health, safety, and general welfare of the citizens of Provo City.  
21

22 THEREFORE, the Municipal Council of Provo City, Utah resolves as follows:  
23

24 PART I:  
25

26 The Mayor is authorized to appropriate \$84,794 in the General Fund for a payment to  
27 Parkway Village.

28 PART II:  
29

30 This resolution takes effect immediately.

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:**  
**Department:**  
**Requested Meeting Date:**

**SUBJECT:** Parkway Village Sales Tax Reimbursement Agreement - fifth payment - budget appropriation

**RECOMMENDATION:** Budget Appropriation approval of \$84,794 from the General Fund. This is for a Work Meeting and then to be placed on the next available Council Meeting

**BACKGROUND:** On November 15, 2016 the Municipal Council approved a resolution authorizing the Mayor to execute an agreement between Provo City and Parkway Village LLC, the ownership group of the Parkway Village shopping center located at 2255 North University Parkway. At the meeting the Council was presented with a request to reimburse the ownership group for certain extra-ordinary demolition, development and construction costs associated with the removal of an existing occupied retail pad, participation of the installation of a new traffic signal and the construction of a replacement retail pad. The reimbursement would be funded through retail sales tax increment above the established predetermined sales tax revenue actually generated by the retail center as of a certain date. The baseline revenue was established at \$136,476, which represents one half of one percent of total sales generated at the center, or that portion of sales tax revenue received by Provo City from the retail center, as provided by the State of Utah. In this agreement, Provo City will continue to receive the baseline amount of \$136,476. The developer/owner will receive, on an annual basis, a reimbursement against their actual out-of-pocket expenses, that is, any additional sales tax revenue above and beyond the baseline amount of \$136,476. The term of the agreement runs for ten years. In that time the developer/owner will be able to be reimbursed for up to one half the out-of-pocket costs for the above-described expenses. The target reimbursement amount as per the agreement is \$1,053,395.86 which is one half of the total out-of-pocket expenses which were \$2,106,791.72. As this is the fifth payment in the ten-year agreement, that is \$84,794, which represents that amount over the baseline of \$136,476, it is not likely that full reimbursement amount will be achieved. Total received in 5 years is \$230,601.

**FISCAL IMPACT:** \$84,794

**PRESENTER'S NAME:** Keith Morey, Asst Director of Development Services

**REQUESTED DURATION OF PRESENTATION:** 10 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:** As a part of the resolution approved by the Municipal Council on November 15, 2016, it was determined that in this specific instance a reimbursement agreement of this nature was appropriate and consistent with economic development initiatives to encourage investment and bring more retail opportunities and sales tax revenue to Provo City.

**CITYVIEW OR ISSUE FILE NUMBER:**

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** NLA  
**Department:** Development Services  
**Requested Meeting Date:** 02-06-2024

**SUBJECT:** A resolution approving the appropriation of \$41,979 in the General Fund for a Sales Tax Increment Payment to the Shops at Riverwoods. (24-011)

**RECOMMENDATION:** Budget appropriation approval of \$41,979 from General Fund. This is for a Work Meeting and then to be placed on the next available Council Meeting

**BACKGROUND:** On September 22, 2021 the Municipal Council approved a resolution authorizing the Mayor to execute an agreement between Provo City and Tigriswoods, LLC, DBA The Shops At The Riverwoods at 4801 N University Ave. At the meeting the Council was presented with a request to reimburse the ownership group for a portion of the acquisition and remodel of the AMC Theater and for extensive remodel of several other buildings at this retail center. The reimbursement will be funded through retail sales tax increment above the established predetermined sales tax revenue generated by the retail center as of a certain date. The baseline revenue was established at \$118,016 which represents one half of one percent of total sales generated at the center, or that portion of sales tax revenue received by Provo City from the retail center, as provided by the State of Utah. In this Agreement, Provo City will continue to receive the baseline amount of \$118,016. The developer / owner will receive on an annual basis, a reimbursement against their actual out-of-pocket expenses, that is, any additional sales tax revenue above and beyond the baseline amount of \$118,016. The term of this agreement runs for fifteen (15) years. In that time the developer / owner will be able to be reimbursed for a portion of above-described expenses. The target reimbursement amount as per the agreement is \$1,500,000 which is a portion (approximately 16%) of the total out-of-pocket expenses which were \$9,194,258. This is the second payment in the fifteen-year agreement, that is \$41,979 which represents the amount over the baseline of \$118,016. Total received in 2 years is \$75,808.

**FISCAL IMPACT:** \$41,979

**PRESENTER'S NAME:** Keith Morey, Assistant Director of Development Services

**REQUESTED DURATION OF PRESENTATION:** 10 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**  
Support economic retail growth and vitality of the City's major retail centers.

**CITYVIEW OR ISSUE FILE NUMBER:** 24-011

1 RESOLUTION 2024-\_\_\_\_.  
2

3 A RESOLUTION APPROVING THE APPROPRIATION OF \$41,979 IN THE  
4 GENERAL FUND FOR A SALES TAX INCREMENT PAYMENT TO THE  
5 SHOPS AT RIVERWOODS. (24-011)  
6

7 RECITALS:  
8

9 It is proposed that \$41,979 be appropriated in the General Fund for a sales tax increment  
10 post-performance payment to the Shops at the Riverwoods; and  
11

12 The funding source for the appropriation is \$41,979 from the increased General Fund sales  
13 tax revenues received based on the performance of the Shops at the Riverwoods; and

14 On February 6, 2024, the Municipal Council met to consider the facts regarding this  
15 matter and receive public comment, which facts and comments are found in the public record of  
16 the Council's consideration; and  
17

18 After considering the facts presented to the Municipal Council, the Council finds that (i)  
19 the \$41,979 appropriation in the General fund should be approved as described herein, and (ii)  
20 such action furthers the health, safety, and general welfare of the citizens of Provo City.  
21

22 THEREFORE, the Municipal Council of Provo City, Utah resolves as follows:  
23

24 PART I:  
25

26 The Mayor is authorized to appropriate \$41,979 in the General Fund for a payment to the  
27 Shops at Riverwoods.

28 PART II:  
29

30 This resolution takes effect immediately.

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:**

**Department:**

**Requested Meeting Date:**

**SUBJECT:** The Shops At The Riverwoods Sales Tax Reimbursement Agreement – second payment – budget appropriation

**RECOMMENDATION:** Budget appropriation approval of \$41,979 from General Fund. This is for a Work Meeting and then to be placed on the next available Council Meeting

**BACKGROUND:** On September 22, 2021 the Municipal Council approved a resolution authorizing the Mayor to execute an agreement between Provo City and Tigriswoods, LLC, DBA The Shops At The Riverwoods at 4801 N University Ave. At the meeting the Council was presented with a request to reimburse the ownership group for a portion of the acquisition and remodel of the AMC Theater and for extensive remodel of several other buildings at this retail center. The reimbursement will be funded through retail sales tax increment above the established predetermined sales tax revenue generated by the retail center as of a certain date. The baseline revenue was established at \$118,016 which represents one half of one percent of total sales generated at the center, or that portion of sales tax revenue received by Provo City from the retail center, as provided by the State of Utah. In this Agreement, Provo City will continue to receive the baseline amount of \$118,016. The developer / owner will receive on an annual basis, a reimbursement against their actual out-of-pocket expenses, that is, any additional sales tax revenue above and beyond the baseline amount of \$118,016. The term of this agreement runs for fifteen (15) years. In that time the developer / owner will be able to be reimbursed for a portion of above-described expenses. The target reimbursement amount as per the agreement is \$1,500,000 which is a portion (approximately 16%) of the total out-of-pocket expenses which were \$9,194,258. This is the second payment in the fifteen-year agreement, that is \$41,979 which represents the amount over the baseline of \$118,016. Total received in 2 years is \$75,808.

**FISCAL IMPACT:** \$41,979

**PRESENTER'S NAME:** Keith Morey, Asst Director of Development Services

**REQUESTED DURATION OF PRESENTATION:** 10 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

Support economic retail growth and vitality of the City's major retail centers.

**CITYVIEW OR ISSUE FILE NUMBER:**



# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** JMCKNIGHT  
**Department:** Public Works  
**Requested Meeting Date:** 01-09-2024

**SUBJECT:** A discussion on a resolution approving an interlocal agreement regarding funding for trail and bridge improvements along the Provo River Trail from Columbia Lane to University Parkway (24-020)

**RECOMMENDATION:** Request approval of interlocal agreement allocating \$4,332,126 in funding to the City.

**BACKGROUND:** \$4,332,126 has been allocated to reimburse costs for trail and bridge improvements along the Provo River Trail from Columbia Lane to University Parkway. The total approved project cost is \$4,646,709, with a required City match of \$314,583. This interlocal agreement is necessary for the County to disburse the funds.

**FISCAL IMPACT:** \$4,332,126 will be received by Provo City to reimburse trail and bridge improvement costs.

**PRESENTER'S NAME:** Gordon Haight, Engineering Division Director

**REQUESTED DURATION OF PRESENTATION:** 15 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

**CITYVIEW OR ISSUE FILE NUMBER:** 24-020

1 Resolution 2024-

2  
3 A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT  
4 REGARDING FUNDING FOR AN IMPROVEMENT PROJECT ON THE  
5 PROVO RIVER TRAIL. (24-020)

6  
7 RECITALS:

8  
9 Provo City has been awarded \$4,332,126 in funding to reimburse costs associated with the  
10 construction of Provo River Trail improvements from Columbia Lane to University Parkway; and

11  
12 Utah County is the party that will disburse the funds and Provo City and Utah County need  
13 to enter into an interlocal agreement governing the disbursement (Exhibit A); and

14  
15 The Municipal Council was briefed regarding this item during the February 6, 2024 Work  
16 Meeting; and

17  
18 After considering the facts and comments presented to the Municipal Council at a public  
19 meeting held on February 20, 2024, the Council finds that approving the interlocal agreement  
20 reasonably furthers the health, safety and general welfare of the citizens of Provo City.

21  
22 THEREFORE, the Municipal Council of Provo City, Utah resolves, as follows:

23  
24 PART I:

- 25  
26 1. The Interlocal Agreement attached as Exhibit A is approved.  
27 2. The Mayor is authorized to sign and execute all necessary and appropriate documents in  
28 conjunction with this agreement.

29  
30 PART II:

31  
32 This resolution takes effect immediately.

33  
34 END OF RESOLUTION

35

**INTER-LOCAL COOPERATION AGREEMENT**  
**between**  
**UTAH COUNTY and**  
**PROVO CITY**

**For A Project Known As**

**PROVO RIVER TRAIL – COLUMBIA LANE TO UNIVERSITY PARKWAY**

**THIS AGREEMENT**, made and entered into this \_\_\_ day of January 2024, by and between **UTAH COUNTY (Program Manager)**, a political subdivision of the State of Utah, with principle offices located at 100 East Center ST, Suite 2300, Provo, Utah 84606 and **PROVO CITY (Project Sponsor)**, a political subdivision of the State of Utah, with principle offices located at 445 West Center, Provo, UT.

**RECITALS:**

**WHEREAS**, the Utah Interlocal Co-operation Act, Title 11, Chapter 13, Utah Code Annotated (1953), as amended, permits local governmental units including cities, counties, inter-local agencies and political subdivisions of the State of Utah to make the most efficient use of their powers by enabling them to cooperate with other public entities on the basis of mutual advantage and to exercise joint cooperative action for the benefit of their respective citizens; and

**WHEREAS**, the Program Manager and the Project Sponsor desire to facilitate the construction of a trail project known as the Provo River Trail – Columbia Lane to University Parkway (**Approved Project**) which consists of trail and bridge improvements along the Provo River Trail from Columbia Lane to University Parkway; and

**WHEREAS**, the Program Manager and the Project Sponsor held duly noticed public meetings wherein this Agreement was considered and an Authorizing Resolution was presented for approval by the respective legislative bodies.

**NOW THEREFORE**, in consideration of the covenants and agreements contained herein and other valuable consideration, the sufficiency of which is hereby acknowledged, the Program Manager and the Project Sponsor hereby agree as follows:

**Section 1. PURPOSES.**

This Agreement has been established and entered into between the Program Manager and the Project Sponsor for the purpose of outlining the respective rights and responsibilities of the Program Manager and the Project Sponsor in the construction of the Approved Project.

**Section 2. ADMINISTRATION OF AGREEMENT.**

The parties hereto agree that, pursuant to Section 11-13-207, Utah Code Annotated, 1953 as amended, the Utah County Public Works Director shall act as the administrator responsible for the administration of this Agreement. The parties further agree that this Agreement does not anticipate nor provide for any organizational changes in the parties. The administrator agrees to keep all books and records in such form and manner as the Utah County Auditor shall specify and further agrees that said books shall be open for examination by the parties hereto at all reasonable times.

**Section 3. MULTIPLE JURISDICTIONS.**

If a project is within multiple jurisdictions and/or agencies, one jurisdiction or agency will enter in to this interlocal agreement and interface with the Program Manager as the Project Sponsor. Multiple jurisdictions and/or agencies interactions will be outlined within a separate interlocal agreement between said jurisdictions and/or agencies. This agreement shall be referenced in this agreement as an Exhibit.

**Section 4. EFFECTIVE DATE; DURATION.**

This Agreement shall become effective and shall enter into force within the meaning of the Interlocal Cooperation Act, upon the submission of this Agreement to, and the approval and execution hereof by the governing bodies of the Program Manager and the Project Sponsor. The term of this Agreement shall be from the date of execution hereof until the terms and obligations identified herein are completed, but in no event, longer than 3 years from the execution date.

**Section 5. NO SEPARATE LEGAL ENTITY.**

The Program Manager and the Project Sponsor do not contemplate nor intend to establish a separate legal or administrative entity under the terms of this Agreement.

## Section 6. TERMS.

- 1) **Project Scope** - Trail and bridge improvements along the Provo River Trail from Columbia Lane to University Parkway in Provo, Utah.
- 2) **Procurement** - The Project Sponsor will designate a qualified project engineer from its staff or hire a project engineer from the Project Sponsors consultant pool or the prequalified UDOT pool, who will be responsible for project delivery. The Project Sponsor shall follow Utah State Code Section 63G-6a-101 or its own procurement/purchasing policy. Different project engineers can be designated or hired for different phases of the project.
- 3) **Project Development** - The Project Sponsor and the designated project engineer, will design, acquire the necessary rights-of-way (ROW), bid out, and manage the construction of the Approved Project.
  - a) **Design Standard** - The design and construction of the Approved Project will meet or exceed Provo City standards.
  - b) **Environmental Work** - The Project Sponsor will acquire the appropriate clearances and permits through the design process. The Project Sponsor can follow their own adopted environmental process, or follow the Recommended Environmental Guidance / Mountainland & Utah County Programmed Projects document (including designating with the Program Manager the type of environmental work to be completed), or any other stricter environmental process under local or federal law. The Project Sponsor must follow any National Environmental Policy Act (NEPA) requirements required (Endangered Species Act, Clean Water Act, etc.), and any other local or government agency requirements for the Approved Project.
  - c) **Design Work** - The Project Sponsor will involve the Program Manager at the following design milestones:
    - (1) Kickoff Meeting;
    - (2) 30% Scope and Schedule Review;
    - (3) 60% On Site Plan Review; and
    - (4) 90% Plans, Specifications and Estimate.

- d) **Final Design Approval** - Once project design is completed, the Project Sponsor will review the final design with the Program Manager. The construction phase will not proceed unless both parties agree that the project is ready.
  - e) **ROW Acquisition** - The Project Sponsor will be responsible to acquire all necessary ROW adhering to state and local laws. The Project Sponsor can follow their own adopted ROW acquisition process or follow the Recommended Right of Way Acquisition Guidance / Mountainland & Utah County Programmed Projects guidance document, or as required by Utah law.
  - f) **Construction Advertising** - To advertise construction, the Project Sponsor shall follow Utah State Code Section 63G-6a-101 or its own procurement/purchasing policy. All construction bids will include a 10% construction contingency. The Project Sponsor will provide a copy of the advertisement and the notice of award to the Program Manager.
- 4) **Project Signage/Contact Info** - It is recommended that the Project Sponsor install signage informing the public of the following:
- a) Project name.
  - b) Project description.
  - c) Start and completion dates (general).
  - d) Contact name, phone number, website address, email.
  - e) Use the sentence “This project funded with Mountainland Transportation Funding”.
  - f) List project sponsors and their logos (Project Sponsor, Mountainland, Utah County).
  - g) Generally, one sign at each access point to the project shall be installed.
  - h) Signs should be at least 4’ x 6’, or large enough for passing motorists to read.
  - i) Signs should be installed prior to construction and stay in place through construction.
- 5) **Construction Process** - The Project Sponsor will manage the construction process. The Project Sponsor will notify the Program Manager of any changes that affect the scope of the project or costs that exceed the construction contingency.
- 6) **Project Completion** - Program Manager staff will be notified and allowed to attend the final inspection of the completed project.
- 7) **Project Hold** - The Program Manager has the authority to place a project on hold at any time during the project development process or withhold reimbursement of invoices during the construction process if the Program Manager deems that the Approved Project is not within the Approved Project scope or budget. The Program Manager shall notify the Project Sponsor

of the hold in writing and will work with the Project Sponsor to rectify the issues promptly. If the Project Sponsor and Program Manager cannot bring the Approved Project back into scope or if additional funding is needed above what the Program Manager or the Project Sponsor can provide, the issues will be brought to the Mountainland TAC committee and MPO Board for their review, recommendations, resolutions, and approvals.

- 8) **Total Project Cost** - Both the Program Manager and Project Sponsor acknowledge that the Approved Project has been authorized by the Mountainland MPO Board (Utah County Commission must also approve if county funds are used) to be funded at an amount not to exceed \$4,646,709.00 (Total Project Cost) for the direct costs of the Approved Project.
  - a) **Matching Funds** - The Project Sponsor is required to pay a match or portion of the Total Project Cost. This amount is 6.77% of the Total Project Cost. The use of Project Sponsor equipment and/or Project Sponsor employee time for the project shall not be reimbursable, but can be claimed by the Project Sponsor as a soft match toward the required 6.77% matching funds required from the Project Sponsor. The Project Sponsor is required to pay the difference between the required match and the value of the soft match, if any.
  - b) **Multi-Year Funding** - Some projects require funding across multiple fiscal years. Reimbursement for Approved Project activities can only be made up to the available amount identified in a single fiscal year. Any balance from a prior year where available funds have not been expended for the Approved Project are then advanced to the next fiscal year and are added to the funds available that fiscal year. Fiscal year for County Transportation Sales Tax Funds starts on January 1<sup>st</sup>. The Approved Project has \$4,646,709.00 beginning in 2025.
  - c) **Funding Availability** - MAG Exchange funds are distributed to the MPO generally in October each year through a cooperative agreement with UDOT. The exchange process requires that MPO federal funds be exchanged with UDOT for state funds on an annual basis. The federal funds are made available by congress, the release of funds can fluctuate yearly. County Transportation Sales Tax funds are generally available each January and are generated by sale tax revenue, which can fluctuate with the economy. MAG will not reimburse expenses on an Approved Project unless funding is made available by UDOT and Utah County. This could require the Approved Project to be placed on hold by the Program Manager or that the Project Sponsor advance their own funds toward the Approved Project with reimbursement to be made by the Program Manager upon receipt of available funding from UDOT and/or Utah County.

- d) **Reimbursement** - The Project Sponsor, if desiring reimbursement for the direct costs of the Approved Project, will provide the Program Manager with one monthly itemized invoice detailing actual costs for the ROW acquisition, design, utility relocation, construction, or other approved elements of the project. Appropriate backup materials shall also be supplied by the Project Sponsor to the Program Manager without requiring separate inquiry. The Program Manager agrees to reimburse the Project Sponsor within 30 days of receiving acceptable itemized invoices establishing the validity of the direct costs of the Approved Project. The maximum amount of reimbursement from the Program Manager to the Project Sponsor for any fiscal year shall be the available funds actually received by the Program Manager for such fiscal year. The maximum amount of reimbursement from the Program Manager to the Project Sponsor for the entire cost of the Approved Project shall not exceed \$4,332,126.00 (Total Project Cost less Matching Funds). Any costs which exceed \$4,332,126.00 shall be the sole responsibility of the Project Sponsor. The Program Manager will review and approve monthly each itemized invoice and will reimburse the total invoice amount less the required matching funds.
- e) **Cost Overruns** - The Program Manager maintains a contingency account for cost overruns. The Project Sponsor may request additional funds above the approved Total Project Cost with supporting documentation demonstrating the need for additional funds. The Program Manager may approve up to 10% of the Total Project Cost up to a maximum of \$500,000. The MPO Board can approve higher amounts (Utah County Commission must also approve if county funds are used). The addition of these contingency funds would require a modification to this Agreement. If no additional funds are awarded or the Approved Project still requires additional funds, the Project Sponsor will be responsible to fund the overrun.
- f) **Surplus Funds** - Any surplus funds remaining after the completion of the Approved Project will be returned to the Utah County fund balance to be reallocated to other projects selected through the MPO project selection process. Note that Mountainland and Utah County selects and funds projects, not project sponsors. Surplus funds cannot be moved to a new project not already approved through the MPO project selection process. Any surplus funds paid by the Project Sponsor shall be returned to the Project Sponsor.
- 9) **Liability, Ownership and Maintenance of Approved Project** - The Project sponsor bears all liability through all stages of project development and construction. The Project Sponsor shall own and be responsible for maintenance, repair and replacement of the completed project.
- 10) **Inspection of Approved Project** - The Program Manager and its designees, upon reasonable



notice, reserve the right to enter upon the Approved Project to inspect the same to verify compliance with this Agreement.

- 11) **Other Expenses** - Except as otherwise expressly stated herein, all expenses not identified as a part of the Approved Project or executed prior to the Agreement shall be the sole responsibility of the Project Sponsor.
- 12) **No Third-Party Rights** - The obligations of the parties set forth in this Agreement shall not create any rights in or obligations to any persons or parties other than to the Project Sponsor and Program Manager. This Agreement is not intended to nor shall it be construed to benefit any third party.
- 13) **Recitals** - The Recitals portion of this Agreement constitutes a part of this Agreement.

#### **Section 7. FILING OF INTERLOCAL COOPERATION AGREEMENT.**

Executed copies of this Agreement shall be placed on file with the official keeper of records of the Program Manager and the Project Sponsor and shall remain on file for public inspection during the term of this Agreement.

#### **Section 8. AMENDMENTS.**

- 1) **Amending this Agreement** - This Agreement may not be amended, changed, modified or altered except by an instrument in writing which shall be: (a) approved by Resolution of the governing body of each of the parties, (b) executed by a duly authorized official of each of the parties, and (c) filed in the official records of each party.
- 2) **Change Orders** - Changes can occur throughout a project. Changes that are outside the scope outlined in this contract must be amended as stated above. Minor changes and adjustments that fall within the original project scope can be addressed with a change order. A change order does not require amending this agreement. A change order is defined as that additional effort necessary by reason of changed conditions which are radical, unforeseen, and completely beyond the control of the Project Sponsor. The Project Sponsor shall create the change order and keep records of them. Any additional costs incurred can be covered by the construction contingency or by added local funding and should be addressed in the change order. If additional costs are more than the construction contingency and available local funds, the Project Sponsor shall contact the Program Manager to review funding options.

**Section 9. EXTRA WORK**

Extra work shall be undertaken only when previously authorized in writing by the Program Manager and is defined as additional work which is neither shown nor defined in this Agreement. Extra work includes additional improvements adjacent to the Approved Project or in other locations that the Project Sponsor desires to complete as a package of projects. Extra work can be for utility projects, facilities that tie into the Approved Project, project betterments, or other work desired by the Project Sponsor. No costs incurred by extra work can be billed to the Approved Project. Any invoices submitted by the Project Sponsor shall clearly detail costs incurred by the Approved Project and list separately costs incurred by the extra work. This agreement shall be referenced in this agreement as an Exhibit.

**Section 10. SEVERABILITY.**

If any term or provision of this Agreement or the application thereof shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and shall be enforced to the extent permitted by law. To the extent permitted by applicable law, the parties hereby waive any provision of law, which would render any of the terms of this Agreement unenforceable.

**Section 11. GOVERNING LAW.**

All questions with respect to the construction of this Agreement, and the rights and liability of the parties hereto, shall be governed by the laws of the State of Utah.

**Section 12. INDEMNIFICATION.**

The Project Sponsor shall indemnify and hold the Program Manager harmless from any and all claims of liability for any injury or damage to any person or property whatsoever occurring in, on or about the Approved Project or any part thereof. The Project Sponsor shall further indemnify and hold the Program Manager harmless from and against any and all claims arising from any breach or default in the performance of any obligation on the Project Sponsor's part to be performed under the terms of this Agreement, or arising from any act or negligence of the Project Sponsor, or any of the Project Sponsor's agents, employees, contractors, subcontractors, or invitees and from and against all costs, reasonable attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. Both the Project Sponsor and Program Manager agree that the terms of this Agreement are subject to, and not a waiver of, the protections, immunities and liability limits of the Governmental Immunity

Act, U.C.A. 63G-1-101, et. seq. The Project Sponsor's obligations under this provision shall survive the expiration or other termination of this Agreement.

**Section 13. ENTIRE AGREEMENT**

This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

IN WITNESS WHEREOF, the parties have signed and executed this Agreement, after resolutions duly and lawfully passed, on the dates listed below:

**UTAH COUNTY**

Authorized and passed on this \_\_\_ day of December 2023,

BOARD OF COUNTY COMMISSIONERS,  
UTAH COUNTY, UTAH

---

AMELIA POWERS GARDNER, Chair

ATTEST:  
AARON R. DAVIDSON  
Utah County Clerk

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM AND LEGALITY:  
JEFFREY S. GRAY  
Utah County Attorney

By: \_\_\_\_\_  
Deputy County Attorney

**PROVO CITY**

Authorized and passed on this \_\_\_\_ day of December 2023,

PROVO CITY  
UTAH COUNTY, UTAH

\_\_\_\_\_  
Mayor

ATTEST:

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

REVIEWED AS TO FORM AND  
COMPATIBILITY WITH APPLICABLE  
LAW:

By: \_\_\_\_\_  
City Attorney

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** JOHN B  
**Department:** Administrative Services  
**Requested Meeting Date:** 02-06-2024

**SUBJECT:** A resolution approving the transfer of \$665,325 from the General Fund to the Airport Fund. (24-006)

**RECOMMENDATION:** A resolution transferring \$665,325 from the General Fund to the Airport Fund for an interfund loan payment to the Energy Fund.

**BACKGROUND:** On April 21, 2020 the Municipal Council approved a resolution authorizing an interfund loan between the Airport and the Energy Fund for \$4,900,526 to purchase land near the Airport. The loan is for 10 years with a fixed principal payment of \$490,053 and a variable interest rate equal to the monthly State Pool rate. After this loan payment the outstanding balance will be \$2,940,314. The loan was to be paid back with Airport revenues and if revenues were not sufficient a transfer would be made from the General Fund for all or a portion of the payment. The Airport is currently not in a position to make all or a portion of the payment so Administration is recommending a transfer from the General Fund of \$665,325 which includes interest of \$175,272.

**FISCAL IMPACT:** Decrease in General Fund Balance of \$665,325

**PRESENTER'S NAME:** John Borget, Director of Administrative Services

**REQUESTED DURATION OF PRESENTATION:** 15 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

**CITYVIEW OR ISSUE FILE NUMBER:** 24-006

RESOLUTION 2024- \_\_\_\_.

A RESOLUTION APPROVING THE TRANSFER OF \$665,325 FROM THE GENERAL FUND TO THE AIRPORT FUND. (24-006)

RECITALS:

It is proposed that \$665,325 be transferred from the General Fund to the Airport Fund for an interfund loan payment to the Energy Fund; and

On April 21, 2020, the Municipal Council approved a resolution authorizing an interfund loan between the Airport Fund and the Energy Fund for \$4,900,526 to purchase land near the Airport; and

The loan is for 10 years with a fixed principal payment of \$490,053 and a variable interest rate equal to the monthly Utah Public Treasurer's Investment Fund rate; and

The loan was to be paid back with Airport revenues, but if revenues were not sufficient, a transfer would be made from the General Fund as needed; and

The Airport is currently not in a position to make the payment, so a transfer from the General Fund of \$665,325, which includes interest of \$175,272, is requested; and

On February 20, 2024, the Municipal Council met to consider the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

After considering the facts presented to the Municipal Council, the Council finds that (i) the proposed transfer should be approved as described herein, and (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.

THEREFORE, the Municipal Council of Provo City, Utah resolves as follows:

PART I:

A \$665,325 transfer from the General Fund to the Airport Fund is authorized, applying to the fiscal year ending June 30, 2024, for the purpose of making an interfund loan payment to the Energy Fund.

PART II:

This resolution takes effect immediately.

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** KZARBOCK  
**Department:** Finance  
**Requested Meeting Date:** 01-01-2018

**SUBJECT:** A transfer of \$90,658 from the Legacy CIP to the General Fund and an appropriation in the General Fund for license plate readers (24-006)

**RECOMMENDATION:** Approve a transfer of \$90,658 from the Legacy CIP to the General Fund and approve the related appropriation of \$90,658 in the General Fund for license plate readers.

**BACKGROUND:** The Parking Division has two vehicles waiting for installation of license plate readers which would also require tablet computers. The total cost for these two vehicles is \$90,657.82.

**FISCAL IMPACT:** \$90,658

**PRESENTER'S NAME:** Sandy Bussio, Parking Program Manager

**REQUESTED DURATION OF PRESENTATION:** 10 min

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

**CITYVIEW OR ISSUE FILE NUMBER:** 24-006



1 RESOLUTION 2024-\_\_\_\_.  
2

3 A RESOLUTION APPROVING THE TRANSFER OF \$90,658 FROM THE  
4 LEGACY CIP TO THE GENERAL FUND AND THE APPROPRIATION OF  
5 THOSE FUNDS. (24-006)  
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7 RECITALS:  
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9 It is proposed that \$90,658 be appropriated in the General Fund to pay for license plate  
10 readers related to parking enforcement operations; and  
11

12 The funding source for the appropriation is \$90,658 from budget savings in the Legacy  
13 CIP; and

14 To accommodate the appropriation, it is proposed that the Council first approve a transfer  
15 of \$90,658 from the Legacy CIP to the General Fund; and

16 On February 20, 2024, the Municipal Council met to consider the facts regarding this  
17 matter and receive public comment, which facts and comments are found in the public record of  
18 the Council's consideration; and  
19

20 After considering the facts presented to the Municipal Council, the Council finds that (i)  
21 the proposed transfer and appropriation should be approved, and (ii) such action furthers the  
22 health, safety, and general welfare of the citizens of Provo City.  
23

24 THEREFORE, the Municipal Council of Provo City, Utah resolves as follows:  
25

26 PART I:  
27

28 The Mayor is authorized to transfer \$90,658 from the Legacy CIP to the General Fund.  
29

30 PART II:  
31

32 The Mayor is authorized to appropriate \$90,658 in the General fund to pay for license  
33 plate readers related to parking enforcement operations.  
34

PART III:

This resolution takes effect immediately.



ADMINISTRATIVE  
SERVICES  
TEL 801 852 6504  
351 W CENTER ST  
PO BOX 1849  
PROVO, UT 84603

## NOTICE OF PUBLIC HEARING BEFORE THE PROVO MUNICIPAL COUNCIL

Notice is hereby given that the Municipal Council of Provo, Utah will hold a public hearing on the following item during the Council Meeting that will take place on Tuesday, February 20, 2024 at 5:30 p.m. in the Council Chambers located at the Provo City Center Building, 445 West Center Street, Provo, Utah. Anyone interested is invited to attend.

**Provo City Council will consider a transfer of \$90,658 from the Legacy CIP to the General Fund, and then a related appropriation of \$90,658 in the General fund for license plate readers related to parking enforcement. The funding source of the transfer is budget savings in the Legacy CIP.**

The meeting will also be available to the public for live broadcast and on-demand viewing at: [youtube.com/provocitycouncil](https://www.youtube.com/provocitycouncil). Those who would like to participate in the meeting virtually may do so via Zoom. To join the Zoom meeting, visit [zoom.us/join](https://zoom.us/join) and enter Meeting ID 859 1999 6765 and Passcode **355967**. To listen or comment via phone, dial **346-248-7799**, enter Meeting ID 859 1999 6765 **and** press **#**. Press **#** again for participant ID. Once connected, press **\*9** to indicate that you would like to comment. For more information regarding how to comment in the electronic meeting, visit [agendas.provo.org](https://agendas.provo.org) and click on the meeting agenda.

Kelsey Zarbock, Budget Officer

# PROVO MUNICIPAL COUNCIL STAFF REPORT



**Submitter:** SWILMOTH  
**Department:** Development Services  
**Requested Meeting Date:** 02-20-2024

**SUBJECT:** A discussion regarding an ordinance amending the Zone Map classification of real property, generally located at 301 N. Lakeshore Dr., from the Agricultural (A1.10) Zone to the Open Space, Preservation, and Recreation (OSPR) Zone. Fort Utah Neighborhood. PLRZ20220282

**RECOMMENDATION:** To be heard at the February 20, 2024 Work & Council Meeting. Please see supporting documents.

**BACKGROUND:** Provo City Parks Department is requesting approval for a new 4.86-acre park to be located at 301 N Lakeshore Drive. As part of this process, they are requesting to have the property rezoned to the Open Space, Preservation, and Recreation Zone (OSPR) where parks are a permitted use. This new park will be located at the gateway to the new Provo River Delta that was recently completed. The two parcels are owned by Provo City and are currently zoned A1.10 like some of the property to the north. The other property to the north is already zoned Open Space, Preservation, and Recreation Zone (OSPR) where an existing park is located. The property to the west is in unincorporated Utah County where the Provo River Delta is located. Residential R1.8 zone is located to the south and east. Along with this rezone request, there is a project plan application to have the vacant land converted into a city park. Staff has reviewed the submitted plans with the code requirements for the OSPR zone and finds that they comply with the code if this property is rezoned.

**FISCAL IMPACT:**

**PRESENTER'S NAME:** Dustin Wright, Planner

**REQUESTED DURATION OF PRESENTATION:** 10 minutes

**COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:**

**CITYVIEW OR ISSUE FILE NUMBER:** PLRZ20220282

ORDINANCE 2024-\_\_\_\_\_.

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF REAL PROPERTY, GENERALLY LOCATED AT 301 N. LAKESHORE DRIVE, FROM THE AGRICULTURAL (A1.10) ZONE TO THE OPEN SPACE, PRESERVATION, AND RECREATION (OSPR) ZONE. FORT UTAH NEIGHBORHOOD. PLRZ20220282

RECITALS:

It is proposed that the classification on the Provo Zoning Map for approximately 4.86 acres of real property, generally located at 301 N. Lakeshore Drive (an approximation of which is shown or described in Exhibit A and a more precise description of which will be attached as Exhibit B after the Zone Map has been updated), be amended from the Agricultural (A1.10) Zone to the Open Space, Preservation, and Recreation (OSPR) Zone; and

On January 31, 2024, the Planning Commission held a public hearing to consider the proposal, and after the hearing the Planning Commission recommended **approval** of the proposal to the Municipal Council by a 8:0 vote; and

The Planning Commission’s recommendation was based on the project design presented to the Commission; and

On February 20, 2024, the Municipal Council met to determine the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council’s consideration; and

After considering the Planning Commission’s recommendation and the facts presented to the Municipal Council, the Council finds that (i) the Provo Zoning Map should be amended as set forth below, and (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.

THEREFORE, the Municipal Council of Provo City, Utah ordains as follows:

PART I:

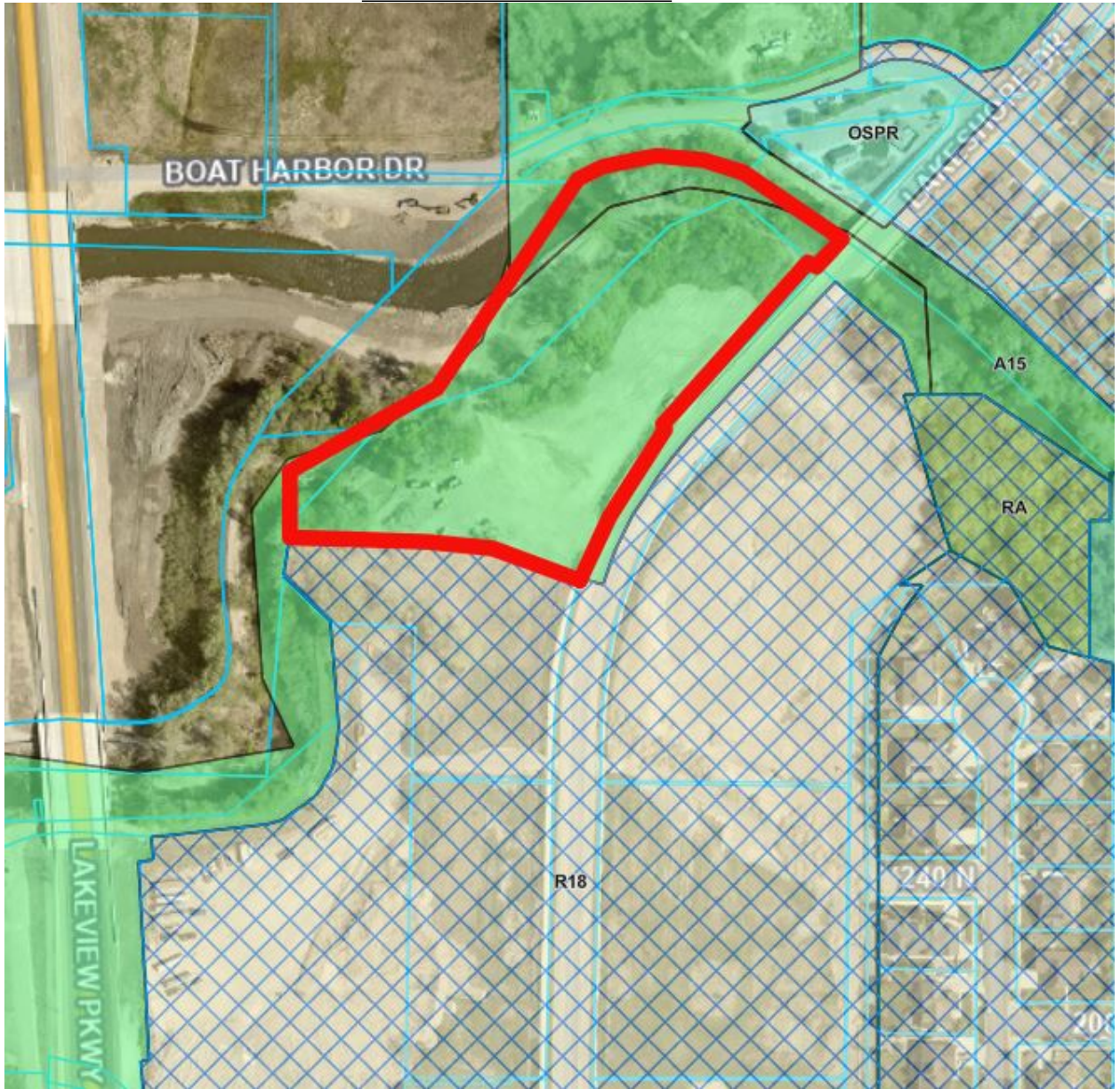
The classification on the Provo Zoning Map is amended from the Agricultural (A1.10) Zone to the Open Space, Preservation, and Recreation (OSPR) Zone for the real property described in this ordinance.

PART II:

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- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance controls.
- B. This ordinance and its various sections, clauses, and paragraphs are severable. If any part, sentence, clause, or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance is not affected by that determination.
- C. This ordinance takes effect immediately after it has been posted or published in accordance with Utah Code Section 10-3-711, presented to the Mayor in accordance with Utah Code Section 10-3b-204, and recorded in accordance with Utah Code Section 10-3-713.
- D. The Municipal Council directs that the Provo Zoning Map be updated and codified to reflect the provisions enacted by this ordinance.

EXHIBIT A - ZONE MAP



**\*ITEM 2** Provo Parks and Recreation requests approval of a Zone Map Amendment from the A1.10 (Agricultural) zone to the OSPR (Open Space, Preservation, and Recreation) zone in order to build a new park, located at 301 N Lakeshore Drive. Fort Utah Neighborhood. Dustin Wright (801) 852-6414 [dwright@provo.org](mailto:dwright@provo.org) PLRZ20220282

<p>Applicant: John Bunderson</p> <p>Staff Coordinator: Dustin Wright</p> <p>Property Owner: Provo City</p> <p>Parcel ID#: 21:029:0079 and 21:023:0172</p> <p>Acreeage: Approximately 4.86 acres Number of Properties: 2</p> <p>Current Zone: A1.10 Agricultural Zone (to be rezoned OSPR Open Space, Preservation, and Recreation Zone)</p> <p>Council Action Required: Yes</p> <p><b><u>ALTERNATIVE ACTIONS</u></b></p> <ol style="list-style-type: none"> <li>1. <b>Continue</b> to a future date to obtain additional information or to further consider information presented. <i>The next available meeting date is February 14, 2024, at 6:00 p.m.</i></li> <li>2. <b>Recommend denial</b> of the requested rezone. This action <u>would not be consistent</u> with the recommendations of the Staff Report. The Planning Commission should <u>state new findings</u>.</li> </ol>	<p><b><u>Current Legal Use:</u></b> Currently vacant parcels in the A1.10 zone.</p> <p><b><u>Relevant History:</u></b> There is a Project Plan Application (PLPPA20210131) for a new park to be built at this location.</p> <p><b><u>Neighborhood Issues:</u></b> A Fort Utah Neighborhood meeting was held on March 25, 2021. Staff is not aware of any neighborhood issues for this park.</p> <p><b><u>Summary of Key Issues:</u></b></p> <ul style="list-style-type: none"> <li>• This rezone request consists of two parcels of land that are owned by Provo City and are in the A1.10 zone currently.</li> <li>• A new park development is being proposed by our City Parks Department for this location and needs to have the property rezoned to the OSPR zone where parks are a permitted use.</li> <li>• The rezone application has been approved by the Coordinators Review Committee (CRC).</li> </ul> <p><b><u>Staff Recommendation:</u></b> Recommend approval to the City Council for requested rezone from A1.10 to the OSPR zone.</p>
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## **BACKGROUND**

Provo City Parks Department is requesting approval for a new 4.86-acre park to be located at 301 N Lakeshore Drive. As part of this process, they are requesting to have the property rezoned to the Open Space, Preservation, and Recreation Zone (OSPR) where parks are a permitted use. This new park will be located at the gateway to the new Provo River Delta that was recently completed.

The two parcels are owned by Provo City and are currently zoned A1.10 like some of the property to the north. The other property to the north is already zoned Open Space, Preservation, and Recreation Zone (OSPR) where an existing park is located. The property to the west is in unincorporated Utah County where the Provo River Delta is located. Residential R1.8 zone is located to the south and east.

Along with this rezone request, there is a project plan application to have the vacant land converted into a city park. Staff has reviewed the submitted plans with the code requirements for the OSPR zone and finds that they comply with the code if this property is rezoned.

## **FINDINGS OF FACT**

Sec. 14.020.020(2) establishes criteria for the amendments to the zoning title as follows: **(Staff response in bold type)**

Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:

(a) Public purpose for the amendment in question.

**Staff response: The purpose of the rezone is to provide a zone that allows parks as a permitted use. The OSPR zone is the preferable zone for city parks.**

(b) Confirmation that the public purpose is best served by the amendment in question.

**Staff response: The proposed rezone will allow a new city park that can be enjoyed by the public.**

(c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.

**Staff response: The General Plan Open Space and Recreation chapter has several goals that this rezone would help accomplish. Connecting the lake to the mountains via the lake and river, increase opportunities for recreation, facilitate walkable and bikeable connectivity and infrastructure along the river to name a few. This rezone is also aligned with the river and lakeshore chapter goals of the**



**General Plan by restoring riverbanks and expanding opportunities for outdoor gatherings and relaxing along the river. Improve and expand trailheads and connections.**

(d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.

**Staff response: There are no timing and sequencing that would be affected with this rezone request.**

(e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.

**Staff response: Staff does not believe that this rezone would hinder the General Plan as it is in alignment with the desired land use for the area.**

(f) Adverse impacts on adjacent landowners.

**Staff response: No adverse impacts to adjacent landowners are anticipated.**

(g) Verification of correctness in the original zoning or General Plan for the area in question.

**Staff response: The land use map from the General Plan has been reviewed and found to be correct for this area.**

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

**Staff response: There are no conflicts noted by staff.**

**STAFF ANALYSIS**

City staff is supportive of this rezone as it will help in attaining some of the goals in the General Plan related to open space, recreation, and the natural and social environment. The General Plan calls for parks and open space along the river and this rezone will help facilitate the proper zone where parks are a permitted land use.

**STAFF RECOMMENDATION**

Recommend approval to the City Council for requested rezone from A1.10 to the OSPR zone.

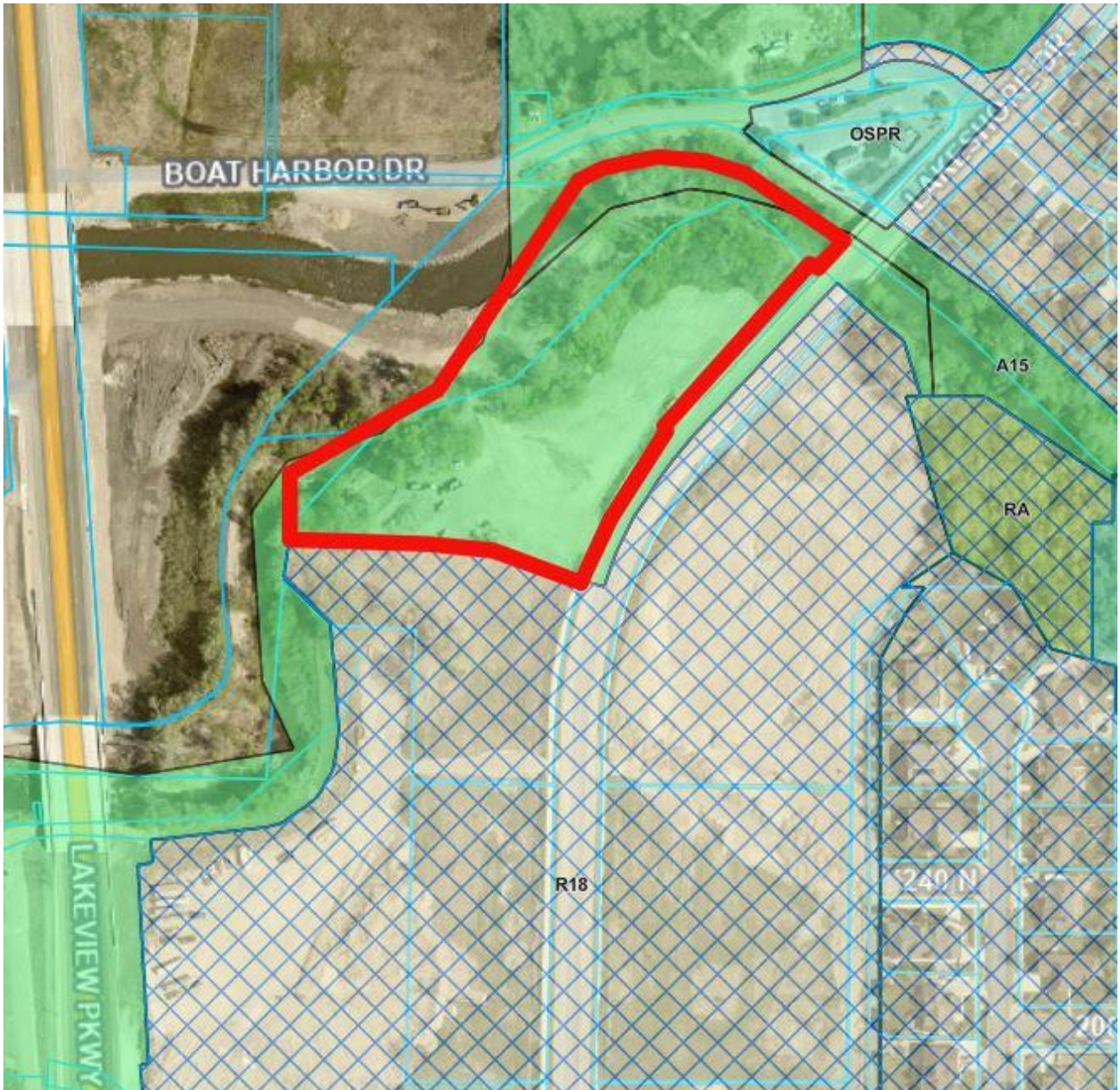
**ATTACHMENTS**

1. Attachment 1 – Aerial of Site
2. Attachment 2 – Zoning Map
3. Attachment 3 – Parcels to be Rezoned

Attachment 1 – Aerial of Site



Attachment 2 – Zoning Map



Attachment 3 – Parcels to be Rezoned

Parcel A ID – 21:029:0079

Description –

COM S 50 DEG 25' 54" E 126.29 FT FR W 1/4 COR. SEC. 3, T7S, R2E, SLB&M.; N 71 DEG 28' 36" W 138.73 FT; ALONG A CURVE TO L (CHORD BEARS: N 80 DEG 19' 50" W 84.65 FT, RADIUS = 275 FT); N 89 DEG 9' 33" W 194.88 FT; N 7 DEG 0' 0" E 19.24 FT; N 43 DEG 0' 0" E 196.62 FT; N 72 DEG 15' 0" E 184.75 FT; N 46 DEG 13' 51" E 308.37 FT; N 66 DEG 30' 0" E 103.59 FT; S 48 DEG 59' 57" E 138.16 FT; S 43 DEG 28' 34" W 273.49 FT; ALONG A CURVE TO R (CHORD BEARS: S 41 DEG 44' 39" W 40.83 FT, RADIUS = 678 FT); S 50 DEG 2' 50" E 11.98 FT; ALONG A CURVE TO L (CHORD BEARS: S 29 DEG 41' 23" W 239.06 FT, RADIUS = 666 FT) TO BEG.

AREA 3.413 AC.

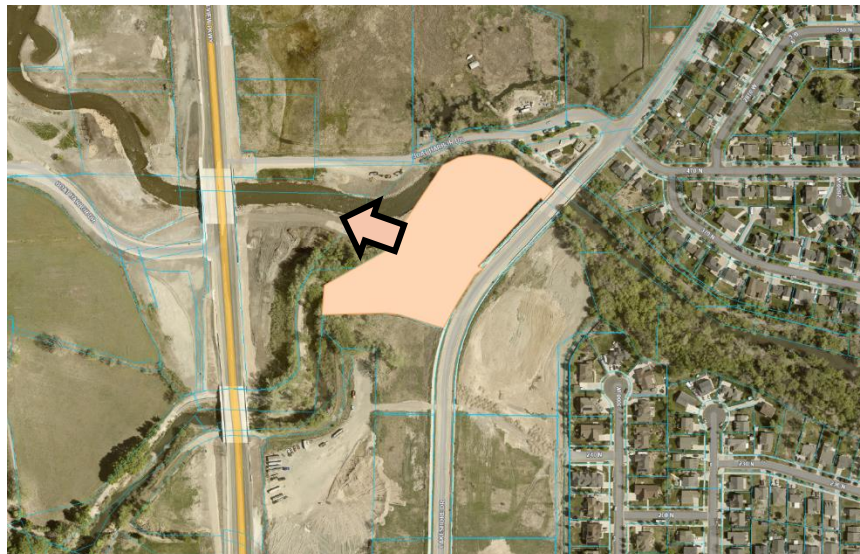
Parcel B ID– 21:023:0172

Description –

COM S 19.3 FT & W 312.5 FT FR E 1/4 COR. SEC. 4, T7S, R2E, SLB&M.; N 89 DEG 9' 22" W 2.44 FT; N 5 DEG 0' 54" E 94.39 FT; N 60 DEG 5' 0" E 114.01 FT; N 60 DEG 5' 0" E 119.7 FT; N 34 DEG 51' 21" E 348.48 FT; N 66 DEG 26' 33" E 55.91 FT; N 79 DEG 37' 30" E 67.22 FT; S 81 DEG 21' 1" E 67.61 FT; S 72 DEG 44' 26" E 53.5 FT; S 58 DEG 4' 42" E 130.69 FT; S 52 DEG 25' 23" E 29.03 FT; S 37 DEG 30' 27" W 53.62 FT; N 48 DEG 59' 56" W 12.51 FT; S 43 DEG 28' 40" W .72 FT; N 48 DEG 59' 57" W 137.95 FT; S 66 DEG 30' 0" W 103.59 FT; S 46 DEG 13' 51" W 308.37 FT; S 72 DEG 15' 0" W 184.75 FT; S 43 DEG 0' 0" W 196.62 FT; S 7 DEG 0' 1" W 19.24 FT TO BEG.

AREA 1.445 AC.

Site Map-



Provo City Planning Commission

# Report of Action

January 31, 2024

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\*Item 2 Provo Parks and Recreation requests approval of a Zone Map Amendment from the A1.10 (Agricultural) Zone to the OSPR (Open Space, Preservation, and Recreation) Zone in order to build a new park, located at 301 N Lakeshore Drive. Fort Utah Neighborhood. Dustin Wright (801) 852-6414 dwright@provo.org PLRZ20220282

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The following action was taken by the Planning Commission on the above described item at its regular meeting of January 31, 2024:

## RECOMMENDED APPROVAL

On a vote of 8:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Lisa Jensen

Second By: Melissa Kendall

Votes in Favor of Motion: Lisa Jensen, Melissa Kendall, Andrew South, Barbara DeSoto, Raleen Wahlin, Jonathon Hill, Robert Knudsen, Daniel Gonzales

*Daniel Gonzales was present as Chair.*

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

### LEGAL DESCRIPTION FOR PROPERTY TO BE REZONED

The property to be rezoned to the OSPR (Open Space, Preservation, and Recreation) Zone is described in the attached Exhibit A.

### RELATED ACTIONS

PLPPA20210131 January 31, 2024 Planning Commission hearing Item 1.

### DEVELOPMENT AGREEMENT

- Does not apply.

### STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

### CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

### NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held on 03/25/2021.

### NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood District Chair was not present or did not address the Planning Commission during the hearing.

### CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during

the public hearing included the following:

- No comments were made by the public.

#### APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- The equestrian trail will be for day use only and there is no overnight parking permitted.
- The timeline would begin once the rezone is approved and construction would end spring 2025.

#### PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The rezone is compatible with the General Plan and the surrounding zones and uses.
- The Commission members asked about the trail access to the delta and the river and the health of the river with the diversion. The site elevation will be raised to help ensure there are not issues with the sewer connections and flood plain.
- Commission members commented that it will be nice to add connections and improve the trail head and that there will be education areas and playgrounds for younger visitors.



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Planning Commission Chair



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Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (\*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to Development Services. 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

**BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS**

# Exhibit A

Parcel A ID – 21:029:0079

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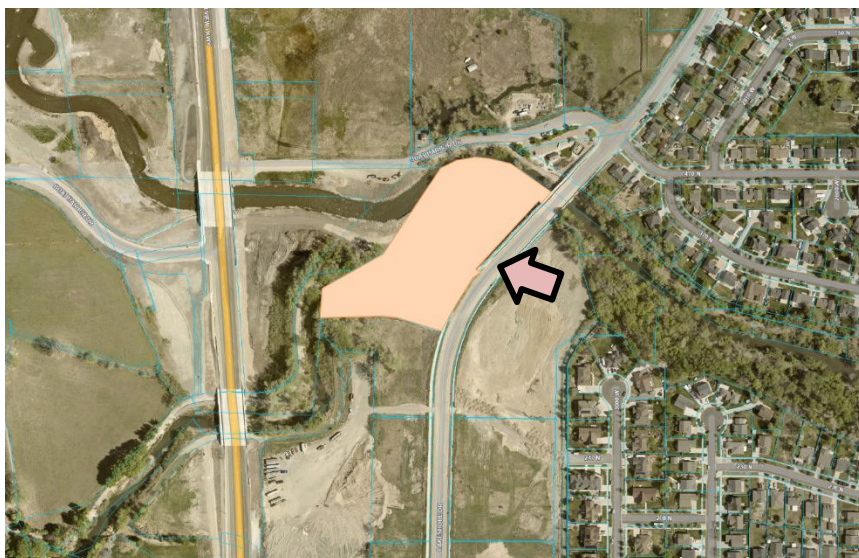
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AREA 1.445 AC.

Site Map-






WELCOME HOME

City Council

February 20, 2024





Provo Parks and Recreation requests approval of a Zone Map Amendment from the A1.10 (Agricultural) zone to the OSPR (Open Space, Preservation, and Recreation) zone in order to build a new park, located at 301 N Lakeshore Drive.

***Fort Utah Neighborhood***

PLRZ20220282

301 N Lakeshore  
Dr.





New Trail to Delta area

Provo River Trail to Utah Lake State Park

Natural Surface Trail

Natural Surface Trail

Existing Lakeshore Bridge Trailhead

OUTDOOR CLASSROOM

RIVER ACCESS

INTERPRETIVE FEATURE

TO RIVER DELTA

ADVENTURE PLAYGROUND IN THE WOODS

PROVO RIVER TRAIL BRIDGE OVER DIVERSION

TRAIL OVER DIVERSION BERM

ICONIC SHADE STRUCTURE

IRRIGATED TURF

RESTROOM

LAKESHORE DRIVE

PARKING (22)

TRAILER PARKING (4)

RIVER ACCESS

IRRIGATED TURF

EQUESTRIAN TRAIL

Zoning Map  
A1.5 Zone to OSPR Zone

