

RESOLUTION
OF THE BOARD OF TRUSTEES OF THE
NS PUBLIC INFRASTRUCTURE DISTRICT NO. 3
APPROVING WITHDRAWAL OF PROPERTY

WHEREAS, NS Public Infrastructure District No. 3 (the “District”) was created by a resolution of the City of Salem, Utah (the “City”) on April 3, 2024 and a Certificate of Creation was issued by the Utah Lieutenant Governor on May 2, 2024; and

WHEREAS, Utah Code Section 17D-4-201(4)(a)(i)(B) provides that an area outside the boundaries of the District may be withdrawn from the District if the Board of Trustees of the District (the “Board”) adopts a resolution to withdraw the property, provided that the Governing Document authorizes the Board to withdraw the property without further consent of the City; and

WHEREAS, Section V.A.5 of the Governing Document permits the District to withdraw property within the District boundaries without the City’s consent provided certain conditions set forth in the Governing Document are met; and

WHEREAS, Utah Code Section 17D-4-201(4)(a)(ii) provides that if there are any registered voters within the area to be withdrawn, a petition is filed with the City that contains the signatures of 100% of registered voters within the area, demonstrating that the registered voters approve of the withdrawal from the District; and

WHEREAS, there are no registered voters within the area to be annexed; and

WHEREAS, in conformance with Utah Code Section 17D-4-201(4)(a)(iii) a petition for withdrawal that contains the signatures of 100% of the surface property owners within the area to be withdrawn demonstrating the surface property owners’ consent to the withdrawal from the District (the “Petition”) has been filed with the City; and

WHEREAS, the District desires to adopt this resolution to withdraw property from the District’s boundaries.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. **Findings.** Pursuant to and in accordance with Utah Code Section 17B-1-501, the Board hereby makes the following findings:
 - a. The area to be withdrawn does not and will not require the service the District provides;
 - b. The District will not be able to provide service to the area to be withdrawn for the reasonably foreseeable future; or

- c. The area to be withdrawn has obtained a commitment to receive the same service that is provided by the District from NS Public Infrastructure District No. 2.
- d. The withdrawal of the area will not result in a breach or default by the District under:
 - i. any of its notes, bonds, or other debt or revenue obligations;
 - ii. any of its agreements with entities which have insured, guaranteed, or otherwise credit-enhanced any debt or revenue obligations of the District; or
 - iii. any of its agreements with the United States or any agency of the United States.
- e. The withdrawal of the area will not adversely affect the ability of the District to make any payments or perform any other material obligations under:
 - i. any of its agreements with the United States or any agency of the United States;
 - ii. any of its notes, bonds, or other debt or revenue obligations; or
 - iii. any of its agreements with entities which have insured, guaranteed, or otherwise credit-enhanced any debt or revenue obligations of the District.
- f. The withdrawal of the area will not result in the reduction or withdrawal of any rating on an outstanding note, bond, or other debt or revenue obligation of the District.
- g. The withdrawal of the area will not create an island or peninsula of nondistrict territory within the District or of District territory within nondistrict territory that has a material adverse affect on the District's ability to provide service or materially increases the cost of providing service to the remainder of the District.
- h. The withdrawal of the area will not materially impair the operations of the remaining District.
- i. The withdrawal of the area will not require the District to materially increase the fees it charges or property taxes or other taxes it levies in order to provide to the remainder of the District the same level and quality of service that was provided before the withdrawal.

2. **Approval of Withdrawal.** The Board hereby grants the Petition attached hereto as **Exhibit A** and orders the withdrawal of the property from the District effective September 19, 2024.

3. **Debt.** Pursuant to Pursuant to Utah Code Section 17B-1-510(5), once withdrawn, the area shall remain liable for its proportionate share of the principal and interest on any outstanding bonded indebtedness of the District existing immediately prior to the effective date of the exclusion order.

[Remainder of Page Intentionally Left Blank, Signature Page Follows]

ADOPTED SEPTEMBER 19, 2024.

DISTRICT:

**NS PUBLIC INFRASTRUCTURE DISTRICT
NO. 3**, a body politic and corporate created and
validly existing under the laws of the State of
Utah

By:

Officer of the District

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

General Counsel to the District

Exhibit A

Petition for Withdrawal