



PROVO MUNICIPAL COUNCIL

Redevelopment Agency of Provo

Regular Meeting Agenda

5:30 PM, Tuesday, March 11, 2025

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).

March 11 Council Meeting: Dial **346 248 7799**. Enter Meeting ID **833 9747 5081** and press **#**. When asked for a participant ID, press **#**. To join via computer, visit zoom.us and enter the meeting ID and passcode: **041849**.

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 A recognition of Provo City by the National Digital Inclusion Alliance as a 2024 Visionary Digital Inclusion Trailblazer (25-007).
- 2 A ceremony for the pinning of police badges. (25-025)

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.

Redevelopment Agency of Provo

- 3 A resolution approving a services agreement between the RDA and Provo City. (25-039)
- 4 A resolution consenting to the appointment of the Provo City Redevelopment Agency director. (25-006)

Consent Agenda

- 5 A resolution approving the appropriation of \$20,115 in the general fund for a contractual sales tax increment post-performance payment to The Shops at Riverwoods. (25-026)
- 6 A resolution approving the appropriation of \$84,784 in the general fund for a contractual sales tax increment post-performance payment to Parkway Village. (25-027)
- 7 A resolution approving an interlocal agreement between Provo City and Utah County regarding funding for the Provo Municipal Airport terminal expansion. (25-020)
- 8 A resolution appropriating \$19,500,000 in the airport fund, funded by a contribution from Utah County, for airport terminal expansion applying to the fiscal year ending June 30, 2025. (25-020)
- 9 A resolution approving the transfer of \$650,124 from the general fund to the airport fund for an interfund loan payment and an associated appropriation of \$160,071 in the airport fund to pay for interest expenses. (25-029)

Action Agenda

- 10 A resolution approving the appointment of individuals to various boards and commissions. (25-031)
- 11 An ordinance amending the zone map classification of approximately 0.82 acres of real property, generally located at 4122 North Canyon Road, from the RA Zone to the R1.10 Zone. North Timpview Neighborhood (PLRZ20250003)
- 12 An ordinance amending Provo City Code regarding the minimum lot size requirement in the Agritourism Overlay (AT) Zone. (PLOTA20240383)
- 13 An ordinance amending Provo City Code Title 14 regarding group quarters in the Professional Office (PO) Zone. Citywide application. (PLOTA20240386)

Adjournment

If you have a comment regarding items on the agenda, please contact Councilors at council@provo.gov or using their contact information listed at: provo.gov/434/City-Council

Materials and Agenda: agendas.provo.org

Council meetings are broadcast live and available later on demand at youtube.com/ProvoCityCouncil. To send comments to the Council or weigh in on current issues, visit OpenCityHall.provo.org.

The next Council Meeting will be held on Tuesday, March 25, 2025. 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 kmartins@provo.gov at least three working days prior to the meeting. Council meetings are broadcast live and available for on demand viewing at 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. Council meeting agendas are available through the Utah Public Meeting Notice website at utah.gov/pmn, which also offers email subscriptions to notices.

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: JOHNB
Presenter: John Borget, Director of Administrative Services
Department: Administrative Services
Requested Meeting Date: 03-11-2025
Requested Presentation Duration: 10 minutes
CityView or Issue File Number: 25-007

SUBJECT: 1 A recognition of Provo City by the National Digital Inclusion Alliance as a 2024 Visionary Digital Inclusion Trailblazer (25-007).

RECOMMENDATION: No Action

BACKGROUND: The National Digital Inclusion Alliance (NDIA) named Provo City as a 2024 Visionary Digital Inclusion Trailblazer for the 5th year in a row. This national program recognizes Provo's efforts to close the digital divide. According to the NDIA, Trailblazers are local governments that promote digital literacy and offer broadband access for underserved residents.

In an increasingly connected society, digital inclusion—access to affordable high-speed internet, devices, and digital skills training—is essential not only to participate in today's world but also to finding greater opportunities to thrive using tools to navigate the internet confidently and independently.

"The purpose of this administrative directive is to ensure that Provo City government envisions a city where every resident has the opportunities to easily, safely, affordably and reliably access and use information and communication technologies (ICTs) in the ways that best serve their individual needs," said Josh Ihrig, Provo's Information Systems Division Director. "In a digitally equitable Provo, communities will be connected--not divided--by technology."

"Without digital equity, full participation in nearly every aspect of American society including employment, education, health, and civic engagement is compromised, as well as essential services," said Mayor Michelle Kaufusi. "Families can become self-sufficient through improving technology skills and having access to necessary equipment. Everyone deserves an opportunity to better themselves and their family."

The Digital Inclusion Program is funded, and offered, by Provo City government and community partnerships. Stakeholders include the city, United Way, Google Fiber, Comcast, Verizon, T-Mobile, Provo School District, Provo Library, Provo Recreation Center, and numerous community volunteers.

"United Way has been proud to partner with Provo City as we work together to assure that the benefits of our community's great technology benefit everyone," said Bill Hulterstrom, president and CEO of United Way of Utah County. "Provo is certainly worthy of recognition for this good work."

FISCAL IMPACT: None

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES: In an increasingly connected society, digital inclusion—access to affordable high-speed internet, devices, and digital skills training—is essential not only to participate in today's world but also to finding greater opportunities to thrive using tools to navigate the internet confidently and independently.

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: KCLAUSEN

Presenter: Chief Troy Beebe

Department: Police

Requested Meeting Date: 01-01-2018

Requested Presentation Duration: 30 minutes

CityView or Issue File Number: 25-007

SUBJECT: 2 A ceremony for the pinning of police badges. (25-025)

RECOMMENDATION: Presentation of badges to Provo's newest officers

BACKGROUND: Long tradition in policing to give police officers their badge in a public forum.

FISCAL IMPACT: 0

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

Safe and sound-Badge pinning ceremonies are public, symbolic events that highlight accountability, honor, and dedication to service, helping to foster stronger relationships with the community.

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: BRIANJ

Presenter: Brian Jones, City Attorney

Department: Legal

Requested Meeting Date: 03-11-2025

Requested Presentation Duration: 10 min

CityView or Issue File Number: 25-039

SUBJECT: 3 A resolution approving a services agreement between the RDA and Provo City. (25-039)

RECOMMENDATION: Recommend RDA Board approval of agreement.

BACKGROUND: The previous version of the shared services agreement clarified resources provided by the City to the Agency in furtherance of their joint objectives. It is now proposed that the agreement be updated to include the provision of a City employee to serve as RDA Director, with a commensurate transfer of money from the RDA to the City. Previously the agreement was administrative in nature only, but the transfer of funds requires approval by the RDA Governing Board. (The City Council does NOT need to also approve the agreement as the City's side is administrative only.)

FISCAL IMPACT: Provides for the transfer of money from RDA to City equivalent to 80% of the salary of the City employee serving as RDA Director.

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
Furthers governmental efficiency and redevelopment efforts.

SERVICES AGREEMENT BETWEEN PROVO CITY AND THE REDEVELOPMENT AGENCY OF PROVO CITY CORPORATION

This agreement regarding the provision of services (“Agreement”) is made and entered into by and between the Redevelopment Agency of Provo City Corporation (“RDA”), a political subdivision of the State of Utah, and Provo City, Utah, a municipal corporation and political subdivision of the State of Utah (“CITY”), (each a “Party” and collectively the “Parties”).

PREAMBLE

WHEREAS, RDA was originally incorporated under Provo Ordinance No. 284, approved March 20, 1972 pursuant to the provisions of Utah Code Title 11, Chapter 19 (currently Utah Code Title 17C).

WHEREAS, RDA incorporation came about as the result of action taken by the Commission of Provo City in an effort to provide greater economic growth in the city;

WHEREAS, both CITY and RDA aim to further improve the economic welfare of the citizens of Provo, and CITY and RDA have worked closely together to accomplish this purpose; and

WHEREAS, because of the mutual benefit derived by the Parties from their close relationship, the Parties desire to enter into an agreement to document the details of their working relationship.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants and promises of the Parties contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

Section 1. EFFECTIVE DATE; DURATION

This Agreement shall become effective and shall enter into force upon the execution thereof by the Parties to this Agreement. The term of this Agreement shall be from the effective date hereof until terminated, but is no longer than 50 years from the effective date of this Agreement.

Section 2. PURPOSE

This Agreement has been established and entered into between RDA and CITY for the purpose of reducing to writing those services that will be provided by CITY to RDA in recognition of the benefits provided to CITY by the RDA’s work.

Section 3. SERVICES TO BE PROVIDED BY CITY

CITY agrees to provide the following administrative and support services to RDA:

- Use of CITY offices for RDA meetings;
- Use of CITY resources, including Council staff and other employees, to create agendas, record meetings, draft minutes, send meeting notices, and perform other basic support services related to holding RDA board meetings;
- Use of CITY resources, including employees, to provide basic accounting services, including tracking funding to and expenditures from RDA and providing budget and expense reports to the RDA board;
- Use of CITY resources, including employees, to provide Human Resources services and assistance with regard to RDA employees;
- Appointment, subject to the advice and consent of the Governing Board, of a CITY employee to serve as the Agency Director;
- Use of CITY resources, including employees, to perform management and operational activities of the RDA under the direction of the RDA Executive Director, including, but not limited to, receiving and reviewing project applications, preparing and reviewing documents, deeds, agreements, etc.; and
- Assist the RDA in securing insurance to cover RDA activities.

Section 4. RDA OBLIGATIONS.

RDA agrees to:

- work closely with CITY staff in considering the projects and economic and redevelopment opportunities for which RDA funds will be used; and
- transfer to CITY annually an amount equal to 80% of the total compensation of the CITY employee appointed to serve, with the advice and consent of the Board, as the Agency Director.

Section 5. METHOD OF TERMINATION

This Agreement will automatically terminate at the end of its term herein, pursuant to the provisions of Section 1 of this Agreement. Prior to the automatic termination at the end of the term of this Agreement, any Party to this Agreement may terminate the Agreement sixty (60) days after providing written notice of termination to the other Party.

Section 6. AMENDMENTS

This Agreement may not be amended, changed, modified or altered except by an instrument in writing approved by the Parties.

Section 7. SEVERABILITY

If any term or provision of the 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 8. NO PRESUMPTION

Should any provision of this Agreement require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against the Party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that each of the Parties have participated in the preparation hereof.

Section 9. HEADINGS

Headings herein are for convenience of reference only and shall not be considered any interpretation of the Agreement.

Section 10. BINDING AGREEMENT

This Agreement shall be binding upon the heirs, successors, administrators, and assigns of each of the Parties hereto.

Section 11. NOTICES

All notices, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the Provo City Recorder (for CITY) or to the RDA Secretary (for RDA), or at such other addresses as may be designated by notice given hereunder.

Section 12. ASSIGNMENT

The Parties to this Agreement shall not assign this Agreement, or any part hereof, without the prior written consent of the other Party to this Agreement. No assignment shall relieve the original Parties from any liability hereunder.

Section 13. 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 14. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the Parties. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied upon by the Parties to it.

PROVO CITY:

MICHELLE KAUFUSI
MAYOR

DATE: _____

HEIDI ALLMAN
RECORDER

DATE: _____

REDEVELOPMENT AGENCY OF PROVO CITY CORPORATION:

MICHELLE KAUFUSI
EXECUTIVE DIRECTOR

DATE: _____

HEIDI ALLMAN
SECRETARY

DATE: _____

1 RDA RESOLUTION <<Document Number>>
2

3 A RESOLUTION APPROVING A SERVICES AGREEMENT BETWEEN THE
4 RDA AND PROVO CITY. (25-039)

5
6 RECITALS:
7

8 It is proposed that the Governing Board of the Redevelopment Agency of Provo City (the
9 Agency Governing Board) approve the Services Agreement attached as Exhibit A;

10 The proposed agreement updates a previous version listing services provided to the RDA
11 by the City in furtherance of their shared objectives;

12 The update provides that the City will provide a City employee to serve, subject to the
13 Board's advice and consent, as RDA Director, in exchange for which the RDA will transfer an
14 amount equivalent to 80% of that employee's total compensation to the City;

15 On March 11, 2025, the Agency Governing Board met to consider the facts regarding this
16 matter and receive public comment, which facts and comments are found in the public record of
17 the Board's consideration; and

18 After considering the facts presented to the Agency Governing Board, the Board finds
19 that (i) the proposed action should be approved as described herein, and (ii) such action furthers
20 the health, safety, and general welfare of the citizens of Provo City.

21
22 THEREFORE, the Agency Governing Board resolves as follows:

23
24 PART I:

25 The Services Agreement attached as Exhibit A is approved and the RDA Executive
26 Director is authorized to execute the agreement.

27
28 PART II:

29
30 This resolution takes effect immediately.

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: NLA

Presenter: Bill Peperone, Development Services Director

Department: Development Services

Requested Meeting Date: 03-11-2025

Requested Presentation Duration: 10 minutes

CityView or Issue File Number: 25-006

SUBJECT: 4 A resolution consenting to the appointment of the Provo City Redevelopment Agency director. (25-006)

RECOMMENDATION: Approve the resolution

BACKGROUND: Appointment to fill RDA Director vacancy.

FISCAL IMPACT: Pending

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

N/A

RDA RESOLUTION <<Document Number>>

A RESOLUTION CONSENTING TO THE APPOINTMENT OF THE PROVO CITY REDEVELOPMENT AGENCY DIRECTOR. (25-006)

RECITALS:

It is proposed that the Governing Board of the Redevelopment Agency of Provo City (the Agency Governing Board) consent to the appointment of the Director of the Provo City Redevelopment Agency;

The Executive Director of the Agency, Michelle Kaufusi, has recommended the individual named below to serve as the Provo City Redevelopment Agency Director;

On _____, the Agency Governing Board met to consider the facts regarding this matter, which facts and comments are found in the public record of the Board's consideration; and

After considering the facts presented to the Agency Governing Board, the Board finds that (i) the proposed action 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 Agency Governing Board resolves as follows:

PART I:

The Agency Governing Board consents to the appointment of _____ as the Director of the Redevelopment Agency of Provo City, conditioned on meeting all the requirements of the position.

PART II:

This resolution takes effect immediately.

END OF RESOLUTION.

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: SWILMOTH

Presenter: Melissa McNalley, Community Grant Administrator

Department: Development Services

Requested Meeting Date: 03-11-2025

Requested Presentation Duration: 10 minutes

CityView or Issue File Number: 25-026

SUBJECT: 5 A resolution approving the appropriation of \$20,115 in the general fund for a contractual sales tax increment post-performance payment to The Shops at Riverwoods. (25-026)

RECOMMENDATION: Budget appropriation approval of \$20,115 from the General Fund.

BACKGROUND: On June 27, 2018 a resolution was passed to authorize the Mayor to negotiate and execute a Post Performance Sales Tax Reimbursement 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. On September 22, 2021 the Agreement was executed and it was established that the Commencement Date would be October 1, 2020, the first full month following the project's completion. 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 third payment in the fifteen-year agreement, that is \$20,115, which represents the amount over the baseline of \$118,016. The total received in 3 years is \$95,923.

FISCAL IMPACT: \$20,115

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

PROVO MUNICIPAL COUNCIL

STAFF REPORT



Submitter: Sandra Wilmoth

Department: Development Services

Requested Meeting Date: March 11, 2025

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

RECOMMENDATION: Budget appropriation approval of \$20,115 from General Fund. This is for a Work and Council Meeting

BACKGROUND: On June 27, 2018 a resolution was passed to authorize the Mayor to negotiate and execute a Post Performance Sales Tax Reimbursement 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. On September 22, 2021 the Agreement was executed and it was established that the Commencement Date would be October 1, 2020, the first full month following the project's completion. 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 third payment in the fifteen-year agreement, that is \$20,115, which represents the amount over the baseline of \$118,016. The total received in 3 years is \$95,923.

FISCAL IMPACT: \$20,115

PRESENTER'S NAME: Melissa McNalley

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:

Exhibit A

Resolution 2018-23

SHORT TITLE

A resolution authorizing the Mayor of Provo City to negotiate and execute a Post-Performance Sales Tax Increment Reimbursement agreement with The Shops at the Riverwoods. (18-066)

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

DISTRICT	NAME	FOR	AGAINST	OTHER
CW 1	DAVID SEWELL	✓		
CW 2	GEORGE STEWART	✓		
CD 1	GARY WINTERTON	✓		
CD 2	GEORGE HANDLEY	✓		
CD 3	DAVID KNECHT	✓		
CD 4	KAY VAN BUREN		✓	
CD 5	DAVID HARDING		✓	
<input type="button" value="TOTALS"/>		5	2	

This resolution was passed by the Municipal Council of Provo City, on the 19th day of June 2018, on a roll call vote as described above. Signed this 27th day of June 2018.



Gary Winterton
Chair



Maria Kaupan
Mayor

Resolution 2018-23

CITY RECORDER'S CERTIFICATE AND ATTEST

I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to resolution number 2018-23.

This resolution was signed and recorded in the office of the Provo City Recorder on the
28th day of June 2018.



A handwritten signature in black ink, which appears to read "Amanda Greenback".

Amanda Greenback
City Recorder

RESOLUTION 2018-23.

A RESOLUTION AUTHORIZING THE MAYOR OF PROVO CITY TO NEGOTIATE AND EXECUTE A POST-PERFORMANCE SALES TAX INCREMENT REIMBURSEMENT AGREEMENT WITH THE SHOPS AT THE RIVERWOODS. (18-066)

WHEREAS, the owners of The Shops at the Riverwoods, located at 4801 North University Avenue, Provo, Utah, desire to enter into a sales tax increment reimbursement agreement with Provo City; and

WHEREAS, The Shops at the Riverwoods are anticipating investing between \$11 and \$13 Million into the center for the purpose of upgrades and additional improvements to the shopping center; and

WHEREAS, The Shops at the Riverwoods will incur costs related to improvements and has requested that the City provide reimbursement through sales tax increment financing for a portion of the owner's costs associated with the upgrades and improvements; and

WHEREAS, Provo City has determined that the requested financial assistance is consistent with the guidelines of Provo City's available economic development programs; and

WHEREAS, Provo City has determined the requested reimbursements are reasonable to improve The Shops at the Riverwoods shopping center; and

WHEREAS, Provo City in 2014 hired a nationally recognized retail consultant, Retail Strategies, to perform a retail analysis for Provo and determined that there is a significant amount of spending by Provo residents outside of Provo, also known as “leakage,” due, in part, to the perception that Provo lacks retail options for goods and services, and

WHEREAS, post-performance sales tax increment agreements can be an effective tool to generate additional funds and retail shopping opportunities while continuing to provide the existing baseline sales tax proceeds to the City, and

WHEREAS, the representative of The Shops at the Riverwoods is presently negotiating with Provo City Administration and Staff and is requesting a post-performance sales tax increment reimbursement agreement with a fifteen (15) year term to capture the sales tax increment above the base, which is \$98,251.00 annually, until the end of the fifteen (15) year term, not to exceed \$1,500,000.00 in reimbursement; and

41 WHEREAS, on June 5, 2018 and June 19, 2018, the Municipal Council met to ascertain
42 the facts regarding this matter and receive public comment, which facts and comments are found
43 in the public record of the Council's consideration; and

44
45 WHEREAS, Provo City has determined the project (i) promotes retention of existing
46 businesses, (ii) encourages commercial redevelopment and revitalization of the area, and (iii)
47 reasonably furthers the health, safety, and general welfare of the citizens of Provo.

48
49 NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah, as
50 follows:

51
52 PART I:

53
54 The Mayor is authorized to negotiate and execute a Sales Tax Increment
55 Reimbursement Agreement between Provo City Corporation and The Shops at the Riverwoods,
56 consistent with the parameters attached hereto as Exhibit A.

57
58 PART II:

59 This resolution shall take effect immediately.

60
61 END OF RESOLUTION.

64

Exhibit A

65

66

Parameters

67

68 Deal point 1. Determine an acceptable maximum dollar amount for reimbursement – the
69 requested amount is \$1,500,000.00.

70

71 Deal point 2. Determine an acceptable time frame for which an incentive would be offered. A
72 fifteen (15) year deal has been proposed.

73

74 Deal point3. The shopping center owners believe by making a substantial investment into the
75 store, their sales will be boosted.

76

77 Deal point 4. Current annual sales are just under \$20 Million which generates \$98,251
78 annually in sales tax revenue to Provo City.

79

80 Deal point 5. Hypothetically, if sales at the Shops at Riverwoods were to increase 10 %
81 compounded annually, the \$1,500,000.00 would be achieved in about year 13.5. Hypothetically,
82 if sales at the Shops at Riverwoods were to only increase 2.5% compounded annually, only
83 \$332,110.00 would be achieved by year 15.

84

85 Deal point 6. Allow owners to recoup the lesser of \$1,500,000 or15 years of reimbursement.
86 Whichever of the two comes first, then the agreement will be terminated with no guarantee of
87 recouping the total amount allowed.

RESOLUTION 2018-.

A RESOLUTION AUTHORIZING THE MAYOR OF PROVO CITY TO NEGOTIATE AND EXECUTE A POST-PERFORMANCE SALES TAX INCREMENT REIMBURSEMENT AGREEMENT WITH THE SHOPS AT THE RIVERWOODS. (18-066)

WHEREAS, the owners of The Shops at the Riverwoods, located at 4801 North University Avenue, Provo, Utah, desire to enter into a sales tax increment reimbursement agreement with Provo City; and

WHEREAS, The Shops at the Riverwoods are anticipating investing between \$11 and \$13 Million into the center for the purpose of upgrades and additional improvements to the shopping center; and

WHEREAS, The Shops at the Riverwoods will incur costs related to improvements and has requested that the City provide reimbursement through sales tax increment financing for a portion of the owner's costs associated with the upgrades and improvements; and

WHEREAS, Provo City has determined that the requested financial assistance is consistent with the guidelines of Provo City's available economic development programs; and

WHEREAS, Provo City has determined the requested reimbursements are reasonable to improve The Shops at the Riverwoods shopping center; and

WHEREAS, Provo City in 2014 hired a nationally recognized retail consultant, Retail Strategies, to perform a retail analysis for Provo and determined that there is a significant amount of spending by Provo residents outside of Provo, also known as “leakage,” due, in part, to the perception that Provo lacks retail options for goods and services, and

WHEREAS, post-performance sales tax increment agreements can be an effective tool to generate additional funds and retail shopping opportunities while continuing to provide the existing baseline sales tax proceeds to the City, and

WHEREAS, the representative of The Shops at the Riverwoods is presently negotiating with Provo City Administration and Staff and is requesting a post-performance sales tax increment reimbursement agreement with a fifteen (15) year term to capture the sales tax increment above the base, which is \$98,251.00 annually, until the end of the fifteen (15) year term, not to exceed \$1,500,000.00 in reimbursement; and

41 WHEREAS, on June 5, 2018 and June 19, 2018, the Municipal Council met to ascertain
42 the facts regarding this matter and receive public comment, which facts and comments are found
43 in the public record of the Council's consideration; and

44
45 WHEREAS, Provo City has determined the project (i) promotes retention of existing
46 businesses, (ii) encourages commercial redevelopment and revitalization of the area, and (iii)
47 reasonably furthers the health, safety, and general welfare of the citizens of Provo.

48
49 NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah, as
50 follows:

51

52

53 **PART I:**

54
55 The Mayor is authorized to negotiate and execute a Sales Tax Increment
56 Reimbursement Agreement between Provo City Corporation and The Shops at the Riverwoods,
57 consistent with the parameters attached hereto as Exhibit A.

58

59 **PART II:**

60

61 This resolution shall take effect immediately.

62

63 **END OF RESOLUTION.**

64

Exhibit A

65

66

Parameters

67

68 Deal point 1. Determine an acceptable maximum dollar amount for reimbursement – the
69 requested amount is \$1,500,000.00.

70

71 Deal point 2. Determine an acceptable time frame for which an incentive would be offered. A
72 fifteen (15) year deal has been proposed.

73

74 Deal point3. The shopping center owners believe by making a substantial investment into the
75 store, their sales will be boosted.

76

77 Deal point 4. Current annual sales are just under \$20 Million which generates \$98,251
78 annually in sales tax revenue to Provo City.

79

80 Deal point 5. Hypothetically, if sales at the Shops at Riverwoods were to increase 10 %
81 compounded annually, the \$1,500,000.00 would be achieved in about year 13.5. Hypothetically,
82 if sales at the Shops at Riverwoods were to only increase 2.5% compounded annually, only
83 \$332,110.00 would be achieved by year 15.

84

85 Deal point 6. Allow owners to recoup the lesser of \$1,500,000 or15 years of reimbursement.
86 Whichever of the two comes first, then the agreement will be terminated with no guarantee of
87 recouping the total amount allowed.

88

Incentive Name	The Shops at the Riverwoods Reinvestment		
Project Location	4801 North University Avenue		
Incentive Type	<input type="checkbox"/> Loan or Grant <input type="checkbox"/> Fee Incentive <input checked="" type="checkbox"/> Tax Increment Financing <input type="checkbox"/> Land write-down <input type="checkbox"/> Infrastructure		
Project Description	Create a post-performance incentive agreement for The Shops at the Riverwoods to offset certain costs associated with a \$10,000,000+ investment to encourage additional improvements to the shopping center.		
Brief Summary of Community Goals for the Project	<ul style="list-style-type: none"> • Current annual sales for the entire center are \$21 million which generate approximately \$105,000 in sales tax revenue to Provo City. • If a 50% sales increase is accomplished the first year, with an average 1.5% increase every year over for 15 years, sales could increase to over \$41,000,000 annually and generate \$205,000 in retail sales tax to Provo – making \$100,000 available as an incentive, to be used for other improvements/enhancements in the shopping center. 		
Proposed Project Terms	<ul style="list-style-type: none"> • 15 year deal • 100% Sales Tax Incentive • Until \$1.5 million gap is reached OR 15 years expires 		
Project Proponents	Economic Development Department		
Eligibility Criteria	The Shops at the Riverwoods must generate more than the current base of \$105,000 to receive any tax incentive. Provo City Council has made retail a priority in 2018. The Shops at the Riverwoods, is the one of the few lifestyle shopping centers in Provo that encourages community involvement through activities, in conjunction with retail opportunities. The immediate and surrounding areas, including patrons from different cities, will be drawn to the new improvements, increasing the sales tax collected; generating additional revenue for Provo City and accomplishing the goal to gain additional and retain sales tax dollars in our community.		
Principles Fulfilled by the Project	<input checked="" type="checkbox"/> Redevelopment <input checked="" type="checkbox"/> Growing the base <input checked="" type="checkbox"/> Significant capital investment/improvement - taxable <input type="checkbox"/> Increase building inventory <input checked="" type="checkbox"/> Post-performance	<input checked="" type="checkbox"/> Catalyst development, tipping point, "Field of Dreams" <input type="checkbox"/> Desirable name, product, service <input type="checkbox"/> Location of development <input type="checkbox"/> Job created/retained <input type="checkbox"/> End user vs. developer - require specific agreements	

Exhibit B

SALES TAX INCREMENT FUNDING AGREEMENT

Tigriswoods, DBA The Shops at the Riverwoods
4801 North University Avenue Provo, Utah 84604

THIS SALES TAX INCREMENT FUNDING AGREEMENT ("Agreement") is made and entered into as of the 22 day of Sept ("Effective Date"), between the City of Provo ("City"), and Tigriswoods, LLC, a Utah limited liability company ("Tigris"). Tigris is referred to herein individually as an "Owner." City and Tigris may be referred to herein individually as a "Party;" they may be referred to as the "Parties."

RECITALS

A. This Agreement concerns that certain retail shopping center, commonly known as The Shops at the Riverwoods, located generally at 4801 North University Avenue, Provo, Utah ("Shopping Center").

B. As of the Effective Date, Tigris is the fee owner of five parcels of land (collectively, the "Subject Lots"). The Subject Lots are more particularly described in **Exhibit A and B** to this Agreement.

C. Tigris does business as "The Shops at the Riverwoods."

D. Owner's total investment in the acquisition of parcel number 51:308:0004, upgrades and additional improvements in the shopping center and the AMC Theater is estimated to be in excess of \$9,000,000, and the Parties agree that the City will reimburse Owner up to \$1,500,000 of documented costs. A breakdown of the Owner's Costs for the parcel acquisition, upgrades and improvements as of the Effective Date, is set forth on **Exhibit C** to this Agreement. As of the Effective Date, a portion of the Owner's Costs are estimated to be approximately One Million Five Hundred Thousand Dollars (\$1,500,000) ("Owner's Estimated Costs").

E. Tigris, has requested that City provide reimbursement for a portion of the Owner's Actual Costs (defined in **Section 1.5**) including City Approval Fees which are estimated to be up to, but probably less than \$150,000.00 (defined in Section 1.3)

F. City has determined that the requested reimbursements are necessary to offset the costs of the Project, which are all necessary and related improvements to the Shopping Center as described in Sections B and D, which are the "Subject Lots" for the purpose of attracting local and national retailers, and to demonstrate local support for the completion of the upgrades, and to recognize the positive impact that this investment will have on sales tax revenues and on assessed values in the Shopping Center and nearby properties.

G. City has determined that the Project advances the purposes of City by providing improvements to the shopping center, including the AMC Movie Theater, thereby increasing sales tax revenue over several years and by recruiting desirable national and local retail clients in a major commercial area of the City.

City is willing to assist with the Project by reimbursing Owner the sales tax increment generated from the Subject Lots to pay for a portion of the Owner's Actual Costs, associated with Shopping Center as defined in Section 1.5.

H. Subject to the terms and conditions contained herein, the Owner shall make improvements to The Shops at the Riverwoods Shopping Center, including the AMC Movie Theater.

NOW, THEREFORE, in consideration of the foregoing Recitals, Owner's agreements with City, and the terms and conditions hereby agreed to, and other good and valuable consideration, the Parties agree as follows:

1. DEFINED TERMS. The Recitals set forth above, and any exhibits attached hereto, are hereby incorporated as integral parts of this Agreement. As used herein, the following terms shall have the meanings respectively indicated:

1.1 "Annual Sales Taxes" for a particular Tax Year (defined in **Section 1.10**) means the amount of sales taxes received by City upon taxable retail sales generated by the Subject Lots for such Tax Year at Point of Sale (defined in **Section 1.6**), which, as of the Effective Date, is 0.5% (one-half (1/2) of one (1) percent) of such taxable retail sales.

1.2 "Base Sales Tax Amount" means the Annual Sales Tax associated with Shopping Center as defined in Section A and B received by the City for the twelve (12) month period ending May 31, 2018 which totaled One-Hundred Eighteen Thousand Sixteen (\$118,016).

1.3 "City Approval Fees" means all fees paid by Owner or any entity controlled by Owner, to City in connection with any City approval, entitlement or permit, or application or submittal for any City approval, entitlement or permit, with respect to the Project in the pursuit of accomplishing Section G of the Recitals above. Owner shall pay any City Approval Fees to the City up-front.

Without limitation of the foregoing, City Approval Fees shall include any permit fees, plan check fees, impact or development fees or assessments, traffic mitigation fees, utility connection fees, or comparable fees or charges paid to the City or any department or agency of the City in the pursuit of accomplishing Section G of the Recitals above; provided however, that City Approval Fees shall not include any fees or charges paid to any party other than the City.

1.4 "Commencement Date" shall mean the first (1st) day of the first (1st) full calendar month following the date on which the Project, as defined in **Recital H** above, is completed. For purposes of determining the Commencement Date, the Project shall be deemed to be completed on the date the AMC Theater opens after its renovations are completed. The commencement date shall be October 1, 2020. The first full tax reimbursement period shall be October 1, 2020 through September 30, 2021.

1.5 "Owner's Actual Costs" shall be the cost of upgrades and improvements to The Shops at Riverwoods, including acquisition and construction of AMC Theater improvements, demolition, additions, retrofits or otherwise related to improving the interior and

exterior of the theater and any City Approval Fees paid by Owner, but shall not include legal fees or broker commissions.

City, and Tigris shall enter into an agreement, substantially in the form attached as **Exhibit D** to this Agreement (“**Owner’s Actual Costs Confirmation Agreement**”), to confirm the amount of the Owner’s Actual Costs, including without limitation, the amount of the City Approval Fees paid through the Commencement Date.

1.6 “Point of Sale” with respect to Annual Sales Taxes, refers to sales tax revenues received by City based on all taxable transactions made at the Subject Lots as the geographical point of sale. Point of Sale and/or Annual Sales Taxes do not include any sales tax revenues received by the City based on the City’s population as a percentage of the overall population of the State of Utah.

1.7 “Reimbursement Payment” means, with respect to each Tax Year during the Reimbursement Term, a payment to Tigris, equal to the Sales Tax Increment (defined below) for the applicable Tax Year, until Owner has become entitled to total Reimbursement Payments during the Reimbursement Term up to the Target Reimbursement Amount (defined in **Section 1.10**).

1.8 “Sales Tax Increment” means the difference between (a) the Annual Sales Tax received by the City from the Subject Lots for the applicable Tax Year, and (b) the Base Sales Tax Amount.

1.9 “Reimbursement Term” shall mean the term of this Agreement, beginning on the Commencement Date, and ending on the date which immediately precedes the fifteenth (15th) anniversary of the Commencement Date (“**Expiration Date**”).

1.10 “Target Reimbursement Amount” shall be one hundred percent (100%) of the Owner’s Actual Costs up to \$1,500,000, including one hundred percent (100%) of the amount of any City Approval Fees (as defined in **Section 1.3**) paid by Owner.

1.11 “Tax Year” shall mean the initial twelve (12) month period beginning on the Commencement Date, and ending on the day immediately preceding the first (1st) anniversary of the Commencement Date, and each succeeding twelve (12) month period during the Reimbursement Term beginning on each successive anniversary of the Commencement Date.

2. ANNUAL REIMBURSEMENT PAYMENTS.

2.1 Address for Payments. For the period commencing on the Commencement Date and continuing through the expiration of the Reimbursement Term, City shall make annual Reimbursement Payments to Owner at the address for Reimbursement Payments to Owner set forth in **Section 7.1**, or such other address as Owner may designate from time to time in accordance with **Section 7.1**; provided however, that the total amount of the Reimbursement Payments shall not exceed the Target Reimbursement Amount.

2.2 Timing of Payments & Supporting Documentation. Reimbursement Payments pursuant to this Agreement shall be made by City within one hundred-twenty (120) days after the end of each Tax Year and after: (i) Annual Sales Taxes for the Subject Lots for the applicable Tax Year are received by City; and (ii) documentation is received by City from the Utah State Tax Commission providing support for the Annual Sales Taxes received for the Subject Lots for the applicable Tax Year. City shall contemporaneously provide Owner with a written accounting by month, in the aggregate, of the annual Reimbursement Payment, demonstrating the City's determination of the amount of the Annual Sales Taxes (based on Point of Sale) for the Subject Lots for the applicable Tax Year and the amount of such Reimbursement Payment. City shall be required to provide the amount of the total Annual Sales Taxes for the Subject Lots in the aggregate only and shall have no obligation to provide any information concerning Annual Sales Taxes paid by any particular business or businesses on the Subject Lots.

2.3 Confidentiality. Except for the amount and timing of Reimbursement Payments made to Owner under this Agreement (if and to the extent such amounts and timing are public information), City and Owner shall keep Annual Sales Tax information confidential, unless disclosure is otherwise required by law.

2.4 Remedies. The failure of the City to timely make any Reimbursement Payment hereunder in accordance with this Agreement shall constitute a material default by City under this Agreement, unless City pays any such Reimbursement Payment to Owner in full in accordance with this Agreement within fifteen (15) days after City's receipt of a notice of non-payment from Owner. Upon the occurrence of a default by City, Owner shall have all remedies available to it in law or equity, including without limitation, specific performance.

3. CAPS ON PAYMENTS

3.1 Cap on Payments. Notwithstanding anything in this Agreement to the contrary, in no event shall the total amount of the Reimbursement Payments exceed \$1,500,000

3.2 Acknowledgment of the Parties' Intent – Owner Incentive. The Parties acknowledge that the intent of this Agreement, including without limitation this Section 3, is intended to incentivize Owner to invest in the Subject Lots and to cause the Subject Lots to be improved, managed, and operated so as to generate increased Annual Sales Taxes.

4. TERMINATION. The Parties acknowledge that any Reimbursement Payments are to be made after the end of the applicable Tax Year, in accordance with Section 2.2.

This Agreement shall automatically terminate and be of no further force or effect after the latest of the following has occurred: (i) the Expiration Date has occurred, or (ii) Owner has received the full amount of the Reimbursement Payments to which Owner is entitled hereunder, for the final Tax Year during the Reimbursement Term and all prior Tax Years; provided however, that the Parties hereby disclaim any representation or warranty that the total

Reimbursement Payments will equal the \$1,500,000 or any particular percentage of Owner's Actual Costs.

This Agreement shall also automatically terminate if construction of the Project has not commenced on or before December 31, 2019.

Upon termination of this Agreement, no Party shall have any further obligations to the other Party. Following termination of this Agreement, upon request from either Party, the Parties agree to execute any reasonable documentation which may be necessary to confirm expiration and/or termination of this Agreement.

5. ASSIGNMENT OF AGREEMENT OR PAYMENTS.

5.1 Rights of Assignees. No future owner or tenant of all or any part of the Subject Lots, other than Owner, shall be entitled to claim any right or benefit by, through or under this Agreement, including, but not limited to, the right to receive all or any portion of any Reimbursement Payments, and no future owner or tenant of the Subject Lots, other than Owner, shall be deemed to be a third party beneficiary of this Agreement, unless and until Owner has in writing expressly assigned such right, including any right to receive any portions of any Reimbursement Payments.

5.2 Assignment. Owner shall not have any right to assign this Agreement, in whole or in part, or the right to any Reimbursement Payments, except to a successor to Tigris as a fee owner of a Subject Lot or Subject Lots. A conveyance of a fee Ownership interest in a Subject Lot or Subject Lots shall not by itself constitute or result in an assignment of this Agreement or the right to any Reimbursement Payment, and neither this Agreement nor the right to payment of any Reimbursement Payment shall run with the land.

An assignment or partial assignment of this Agreement or the right to any Reimbursement Payments may only be effected by a writing executed by Owner. No assignment or partial assignment of this Agreement or any right to any Reimbursement Payments shall be binding on City unless and until City has received (i) a written notice of such assignment, together with a copy of the applicable assignment document, from Owner, (ii) complete contact information and an address for payment of any Reimbursement Payments to any assignee to which any right to any Reimbursement Payments has been assigned, (iii) and the tax or employer identification number of any assignee to which any right to any Reimbursement Payments has been assigned. City shall be entitled to rely on any notice of any assignment or partial assignment of this Agreement and/or right to any Reimbursement Payments which the City receives from Owner.

6. FUTURE RE-PARCELIZATION OF THE SUBJECT LOTS. City acknowledges that from time to time from the Effective Date through the Expiration Date: (i) the Subject Lots may be combined or further subdivided, and/or the existing parcel lines on the Subject Lots may be relocated; (ii) the existing improvements on the Subject Lots may be modified, altered, re-configured, expanded, replaced, or demolished; and (iii) new improvements may be constructed on the Subject Lots.

7. NOTICES.

7.1 Addresses. Any notice, payment, demand, or communication required or permitted to be given to any Party pursuant to any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if sent by registered or certified mail (return receipt requested), postage and charges prepaid, or by Federal Express or other reputable overnight delivery service which maintains delivery records and requires a signature upon receipt, addressed as follows:

Notices to Tigriswoods, LLC, DBA:

The Shops at the Riverwoods
4833 N Edgewood Dr.
Ste 201
Provo, Utah 84604

Reimbursement Payments:

Tigriswoods, LLC
4833 N Edgewood Dr.
Ste 201
Provo, Utah 84604

Notices to City:

City of Provo
351 West Center Street
Provo, UT 84601
Attn.: Dixon Holmes

7.2 Receipt. Notices shall be deemed effective upon receipt. The person and place to which notices are to be given may be changed by either Party by written notice to the other Party. For purposes of this Agreement, the term "receipt" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to this **Section 7** as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified by this **Section 7**, or (iii) in case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (A) the date of the attempted delivery or refusal to accept delivery, (B) the date of the postmark on the return receipt, or (C) the date of receipt of notice or refusal or notice of non-delivery by the sending party.

8. MISCELLANEOUS.

8.1 Attorneys' Fees. If any Party to this Agreement commences a dispute resolution proceeding, whether litigation, arbitration, or otherwise, respecting any question between the Parties to this Agreement arising out of or relating to this Agreement or the breach thereof, the prevailing Party in such dispute resolution proceeding shall be entitled to the

recovery of a reasonable attorneys' fee and all other reasonably incurred costs and expenses of the successful prosecution or defense of such proceeding. The term "dispute resolution proceeding" as used above shall be deemed to include appeals from a lower court judgment or arbitration award and it shall include proceedings in the Federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters. For purposes of proceedings in the Federal Bankruptcy Court, the term "prevailing Party" as used above shall be deemed to mean the prevailing Party in an adversary proceeding or contested matter, or any other actions taken by the non-bankrupt Party which are reasonably necessary to protect its rights.

8.2 Governing Law. This Agreement is intended to be performed in the State of Utah, and the laws of Utah shall govern the validity, construction, enforcement and interpretation of this Agreement.

8.3 Amendments. This Agreement may be amended or supplemented only by an instrument in writing executed by all of the Parties hereto.

8.4 Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never composed a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.

8.5 Further Acts. In addition to the acts and deeds recited herein and contemplated to be performed, executed, and delivered by the Parties, the Parties agree to perform, execute, and deliver or cause to be performed, executed, and delivered any and all such further acts, deeds and assurances as may be necessary to consummate the transactions contemplated hereby.

8.6 Warranty Against Payment of Consideration for Agreement. Tigris represents and warrants that neither it nor any of its members, managers, employees or officers has: (1) provided an illegal gift or payoff to any City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in City's conflict of interest ordinance; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance.

8.7 Non-liability of City Officials and Employees. No member, official, or employee of City shall be personally liable to Owner or any of its successors in interest, in the event of any default or breach by City, or for any amount which may become due to Owner or its successor, or on any obligation under the terms of this Agreement.

8.8 Governmental Immunity. Nothing in this Agreement shall be deemed to constitute or imply a waiver, modification or alteration of the caps or limitations on liability or

privileges, immunities or other protection available to City under the Utah Governmental Immunity Act or such other statutes or laws affording governmental agencies caps or limitations on liability or privileges, immunities or other protections.

8.9 No Relationship of Principal and Agent. Nothing contained in this Agreement, nor any acts of the Parties or the City, the City planning director, the Planning Commission (or its designee), shall be deemed or construed to create the relationship of principal and agent, or of limited or general partnership, or of joint venture or of any other similar association between City and Owner.

8.10 No Presumption. This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against any Party.

8.11 Captions. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement.

8.12 Non-Disclosure. The Parties agree that the terms of this Agreement are confidential and constitute proprietary information of the respective Parties (collectively, the “**Information**”). Each of the Parties agrees that such Party, and its respective partners, members, managers, officers, directors, employees, advisors, consultants and attorneys, shall not disclose the Information to any other person without the prior written consent of the other Party except pursuant to an order of a court of competent jurisdiction, or to the extent required as part of any statutory public approval process required for this Agreement and/or any Reimbursement Payments; provided, however, that any Party may disclose the Information to its lenders or prospective lenders or the accountants who audit its financial statements or prepare its tax returns, to its constituent members, partners, shareholders, to its attorneys and consultants, to any prospective transferee of all or any portions of the Subject Lots, to any governmental entity, agency or person to whom disclosure is required by applicable law, regulation or duty of diligent inquiry and in connection with any action brought to enforce the terms of this Agreement, on account of the breach or alleged breach hereof or to seek a judicial determination of the rights or obligations of the Parties under this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the term, “**Information**”, shall not include information which, at the time it is disclosed and through no fault of any Party, is in the public domain or is available or becomes available to the general public. Notwithstanding anything to the contrary contained in this Agreement, City will release information required by Utah Code 63G-2-101 et seq, Government Records and Access Management Act.

8.13 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one Agreement. Any Party may effectuate the execution and delivery of this Agreement by sending a signed copy to the other Party by email (with .pdf attachment) or other form of electronic transmission. Any document sent in the foregoing manner shall be deemed and treated in all respects as an original instrument bearing the original signature of the transmitting party.

[this space intentionally left blank]

Signature Page of Tigriswoods, LLC to
Participation and Reimbursement Agreement

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first above written.

Tigriswoods, LLC,
a Utah limited liability corporation

By: 
Name: Britton Roney
Title: Manager

“Tigris”

State of Utah
County of Utah

The foregoing instrument was acknowledged before me this 22nd day of September, 2021, by Britton Roney, Manager of Tigriswoods, who is known to me or who has proved his identity to me, and who by his signature affirms his authority to represent and legally bind Tigriswoods to this agreement.

Witness my hand and official seal

(Seal)




Brenda Burch
Notary Public

CITY OF PROVO

By: 
Name: Michelle Kaufusi, Mayor

Attest:

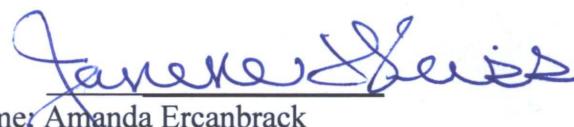
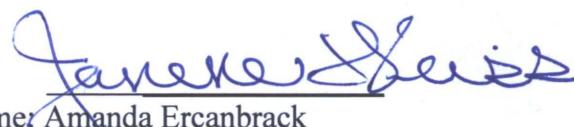

By: 
Name: Amanda Ercanbrack

EXHIBIT A

Legal Description of the Subject Lots

All of Lots 1, 2, 3, 4, and 5, Plat "A", RIVERWOODS SHOPS SUBDIVISION, Provo, Utah, according to the official plat thereof recorded in the Office of the Utah County Recorder.

EXHIBIT B

Subdivision Plat

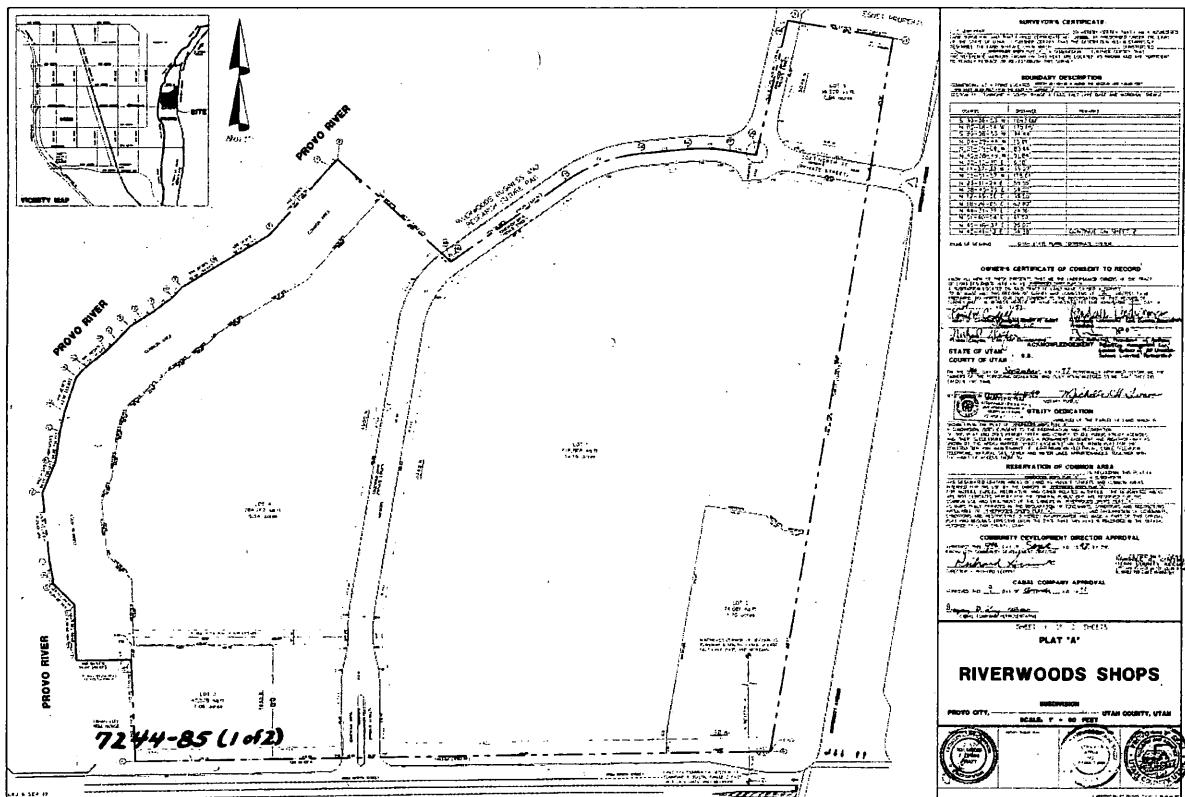


EXHIBIT C

Breakdown of Owner's Estimated Costs

Owner Shopping Center Sales Tax Participation Plan

Owner Shopping Center Sales Tax Participation Plan	
Owners Total Investment	\$9,000,000+
City Reimbursement Agreement	\$1,500,000
City's Total Reimbursement	\$1,500,000

EXHIBIT D

FORM OF OWNER'S ACTUAL COSTS CONFIRMATION AGREEMENT

OWNER'S ACTUAL COSTS CONFIRMATION AGREEMENT

This Owner's Actual Costs Confirmation Agreement ("Confirmation Agreement") is entered into as of _____, 20____, by and between the City of Provo ("City"), and Tigriswoods, LLC, a Utah limited liability company ("Tigris"), ("Owner"), pursuant to Section 1.5 of that certain Sales Tax Increment Funding Agreement, dated _____, 2021 ("Reimbursement Agreement").

City, and Owner hereby acknowledge and agree that the amount of the Owner's Actual Costs (as defined in Section 1.5 of the Reimbursement Agreement) exceeds

NINE MILLION and 00 /100ths Dollars (\$ 9,000,000 . 00), including City Approval Fees (as defined in Section 1.3 of the Reimbursement Agreement) paid through the Commencement Date (defined in Section 1.4 of the Reimbursement Agreement) totaling One Hundred Fifty Thousand and 00 /100ths Dollars (\$ 150,000 . 00). However, City shall only pay up to the Target Reimbursement Amount (as defined in Section 1.10 of the Reimbursement Agreement) which is one million five-hundred thousand and 0/100ths Dollars (\$1,500,000.00) including City Approval Fees (as defined in Section 1.3 of the Reimbursement Agreement).

This Confirmation Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one Confirmation Agreement. Any party may effectuate the execution and delivery of this Confirmation Agreement by sending a signed copy to the other Party by email (with .pdf attachment) or other form of electronic transmission. Any document sent in the foregoing manner shall be deemed and treated in all respects as an original instrument bearing the original signature of the transmitting party.

*[this space intentionally left blank –
signatures on following pages]*

IN WITNESS WHEREOF, the Parties have executed this Confirmation Agreement as of the date first above written.

CITY OF PROVO

By: Michelle Kaufusi
Name: Michelle Kaufusi
Its: Mayor
“CITY”

Tigriswoods, LLC

By: Britton Roney
Name: Britton Roney
Its: Mayor
“Tigris”

RESOLUTION <<Document Number>>

A RESOLUTION APPROVING THE APPROPRIATION OF \$20,115 IN THE
GENERAL FUND FOR A CONTRACTUAL SALES TAX INCREMENT
POST-PERFORMANCE PAYMENT TO THE SHOPS AT RIVERWOODS.
(25-026)

RECITALS:

It is proposed that \$20,115 be appropriated in the General Fund for a contractual sales tax increment post-performance payment to the Shops at Riverwoods;

On September 22, 2021, Provo City entered into a sales tax increment agreement with the Shops at the Riverwoods;

The funding source for the appropriation is the increased General Fund sales tax revenues received based on the performance of the Shops at Riverwoods;

On February 25, 2025, and March 11, 2025, 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 appropriation 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 Provo Municipal Council resolves as follows:

PART I:

The Mayor is authorized to appropriate \$20,115 in the General Fund for a payment to the Shops at Riverwoods.

PART II:

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, March 11th, 2025** 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 an appropriation of \$20,115 in the general fund for a sales tax increment post-performance payment to the Shop's at the Riverwoods. The funding source of the appropriation is the sales tax revenue.

The meeting will also be available to the public for live broadcast and on-demand viewing at: 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 and enter Meeting ID **833 9747 5081** and Passcode **041849**. To listen or comment via phone, dial **346-248-7799**, enter Meeting ID **833 9747 5081** 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 and click on the meeting agenda.

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: SWILMOTH

Presenter: Melissa McNalley, Community Grant Administrator

Department: Development Services

Requested Meeting Date: 03-11-2025

Requested Presentation Duration: 10 minutes

CityView or Issue File Number: 25-027

SUBJECT: 6 A resolution approving the appropriation of \$84,784 in the general fund for a contractual sales tax increment post-performance payment to Parkway Village. (25-027)

RECOMMENDATION: Budget Appropriation approval of \$84,784 from the General Fund

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 sixth payment in the ten-year agreement, that is \$84,784, which represents that amount over the baseline of \$136,476, it is not likely that full reimbursement amount will be achieved. Total received in 6 years is \$315,385.

FISCAL IMPACT: \$84,784 from the General Fund

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

PROVO MUNICIPAL COUNCIL

STAFF REPORT



Submitter: Sandra Wilmoth
Department: Development Services
Requested Meeting Date: March 11, 2025

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

RECOMMENDATION: Budget Appropriation approval of \$84,784 from the General Fund. This is for the Work Session and 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 sixth payment in the ten-year agreement, that is \$84,784, which represents that amount over the baseline of \$136,476, it is not likely that full reimbursement amount will be achieved. Total received in 6 years is \$315,385.

FISCAL IMPACT: \$84,784

PRESENTER'S NAME: Melissa McNalley

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:

Exhibit A

Resolution 2016-49

SHORT TITLE

A resolution authorizing the Mayor of Provo City Corporation to negotiate and execute a sales tax increment reimbursement agreement between Provo City Corporation and Parkway Village Provo Holdings 2, LLC.

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

DISTRICT	NAME	MOTION	SECOND	FOR	AGAINST	OTHER
CW 1	DAVID SEWELL			✓		
CW 2	GEORGE STEWART			✓		
CD 1	GARY WINTERTON	✓		✓		
CD 2	KIM SANTIAGO			✓		
CD 3	DAVID KNECHT			✓		
CD 4	KAY VAN BUREN		✓	✓		
CD 5	DAVID HARDING				✓	
			TOTALS	6	1	0

This resolution was passed by the Municipal Council of Provo City, on the 15th day of November, 2016, on a roll call vote as described above. Signed this 7 December 2016.



Chair



Mayor

Resolution 2016-49

CITY RECORDER'S CERTIFICATE AND ATTEST

I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Resolution Number 2016-49.

This resolution was signed and recorded in the office of the Provo City Recorder on the
8th day of December, 2016.



Jeanne Shiss

City Recorder

RESOLUTION 2016-49.

A RESOLUTION AUTHORIZING THE MAYOR OF PROVO CITY CORPORATION TO NEGOTIATE AND EXECUTE A SALES TAX INCREMENT REIMBURSEMENT AGREEMENT BETWEEN PROVO CITY CORPORATION AND PARKWAY VILLAGE PROVO HOLDINGS, LLC AND PARKWAY VILLAGE PROVO HOLDINGS 2, LLC. (16-112)

WHEREAS, Parkway Village Provo Holdings, LLC and Parkway Village Provo Holdings 2, LLC (collectively “Parkway Village Holdings”) owns lots at the Parkway Village retail shopping center, located at 2255 North University Parkway, Provo, Utah; and

WHEREAS, Parkway Village Holdings, in accordance with the Provo-Orem Transportation Improvement Project, has entered into an agreement with Utah Transit Authority and Utah Department of Transportation to create a new signalized intersection providing vehicular access between Parkway Village and University Parkway; and

WHEREAS, the new intersection leg on the Parkway Village side is in direct conflict with an existing retail building, which will need to be demolished, and

WHEREAS, Parkway Village Holdings will incur costs related to (i) early termination of a lease with an operating business, (ii) demolition of the building where such tenant was located, (iii) construction of certain driveway improvements to connect Parkway Village's parking lot to the new intersection at University Parkway, (iv) contribution to UTA and UDOT costs for designing and constructing the roadway, intersection, and traffic signal improvements, and (v) construction costs and associated fees for a new building to replace the demolished building; and

WHEREAS, Parkway Village Holdings has requested that the City provide reimbursement for a portion of the owner's costs; and

WHEREAS, Provo City Corporation has determined that the requested financial assistance is consistent with the guidelines of Provo City Corporation's available programs; and

WHEREAS, sales tax increment agreements can be an effective tool to generate additional funds, yet continue to provide the existing baseline sales tax proceeds to the City, and

WHEREAS, Provo City Corporation has determined the requested reimbursements are reasonable to offset the intersection and traffic signal upgrade impacts and related new work by Parkway Village Holdings; and

41 WHEREAS, the representative of Parkway Village Holdings and Provo City
42 Administration and Staff are presently negotiating a sales tax increment reimbursement
43 agreement with a ten (10) term to capture up to half of the enumerated costs. *Additionally, it is
44 proposed that if the Parkway Village Holdings are able to capture half the cost prior to the end of
45 the ten (10) year term, then both Provo City and Parkway Village Holdings shall share equally in
46 the sales tax increment above the base until the end of ten (10) year term; and

47
48 WHEREAS, on November 15, 2016, the Municipal Council held a duly noticed public
49 meeting to ascertain the facts regarding this matter, which facts are found in the meeting record;
50 and

51
52 WHEREAS, Provo City Corporation has determined the project (i) improves traffic flow
53 and safety, (ii) promotes retention of existing businesses within the shopping center, (ii) encourages commercial redevelopment and revitalization of the University Parkway Corridor,
54 and (iv) reasonably furthers the health, safety, and general welfare of the citizens of Provo.

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56 NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah, as
57 follows:

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59
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61 PART I:
62
63 1. The Mayor is authorized to negotiate and execute a Sales Tax Increment
64 Reimbursement Agreement between Provo City Corporation and Parkway Village Holdings,
65 consistent with the parameters attached hereto as Exhibit A.

66
67 PART II:
68

69 This resolution shall take effect immediately.

70
71 END OF RESOLUTION.

Exhibit A

Parameters

Deal point 1. A ten (10) year term, commencing upon execution of the agreement.

Deal point 2. Base year uses the previous 12 months of generated sales tax as a starting point from execution of the agreement.

Deal point 3. Capture up to half of the costs associated with demolition of existing building, design and construction of road and intersection improvements incurred by Parkway Village Holdings, costs associated with construction of a replacement building including building permit fees, plan check and impacts fees, all of which shall be paid up front.

Deal point 4.1 If Parkway Village Holdings are successful in capturing up to half the costs before the ten year agreement expires, then Parkway Village Holdings and Provo City will share sales tax increment on a 50/50 split until the end of the ten year term, but in no event shall Parkway Village Holdings receive sales tax increment in excess of the total costs described in Deal Point 3 above.

1 This is a request of Parkway Village Holdings and has not been vetted with the Municipal Council. It will be the intent of Parkway Village Holdings to make this request and hope to further discuss this possibility in the meeting.

Provo City (*Department*)

Staff Memorandum

Memo Title

Meeting Date

<p>Department Head Name Dixon Holmes Phone 852-6166</p> <p>Presenter Name Dixon Holmes Phone 852-6166</p> <p>Required Time for Presentation Time 15 – 30 min</p> <p>Is This Time Sensitive Yes</p> <p>Case File # (if applicable) NA</p>	<p>Purpose of Proposal</p> <ul style="list-style-type: none"> Discussion on potential sales tax increment for a retail shopping center on University Parkway, seeking partial cost recovery due to new entrance and existing building demolition <p>Action Requested</p> <ul style="list-style-type: none"> Consideration for approving a sale tax increment reimburse agreement and authorize the Mayor to execute an agreement between Provo City and Parkway Village Partners. <p>Relevant City Policies</p> <ul style="list-style-type: none"> Economic Development <p>Budget Impact</p> <ul style="list-style-type: none"> Potentially forgo future, incremental sales tax revenue for a defined period of time. <p>Description of Parameters of Approval</p> <ul style="list-style-type: none"> Ability to capture up to half of the costs incurred to remove the old building, street access intersection costs, new building costs, including building, plan check and impact fees (all fees would be paid up front and then reimbursed overtime according to agreement. <ul style="list-style-type: none"> Term of capture – 10 (ten) years Baseline starting point a rolling 12 months back. Recapture base on increment over the baseline, up to half of costs.
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	<ul style="list-style-type: none">• Requested but not agreed to yet – if Parkway Village is able to capture up to half of the agreed upon costs, and there was still time remaining on the ten year term, Parkway would share half of the incremental sales tax revenue to the end of the ten years.
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RESOLUTION 2016-.

A RESOLUTION AUTHORIZING THE MAYOR OF PROVO CITY CORPORATION TO NEGOTIATE AND EXECUTE A SALES TAX INCREMENT REIMBURSEMENT AGREEMENT BETWEEN PROVO CITY CORPORATION AND PARKWAY VILLAGE PROVO HOLDINGS, LLC AND PARKWAY VILLAGE PROVO HOLDINGS 2, LLC. (16-112)

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WHEREAS, Parkway Village Holdings, in accordance with the Provo-Orem Transportation Improvement Project, has entered into an agreement with Utah Transit Authority and Utah Department of Transportation to create a new signalized intersection providing vehicular access between Parkway Village and University Parkway; and

WHEREAS, the new intersection leg on the Parkway Village side is in direct conflict with an existing retail building, which will need to be demolished, and

WHEREAS, Parkway Village Holdings will incur costs related to (i) early termination of a lease with an operating business, (ii) demolition of the building where such tenant was located, (iii) construction of certain driveway improvements to connect Parkway Village's parking lot to the new intersection at University Parkway, (iv) contribution to UTA and UDOT costs for designing and constructing the roadway, intersection, and traffic signal improvements, and (v) construction costs and associated fees for a new building to replace the demolished building; and

WHEREAS, Parkway Village Holdings has requested that the City provide reimbursement for a portion of the owner's costs; and

WHEREAS, Provo City Corporation has determined that the requested financial assistance is consistent with the guidelines of Provo City Corporation's available programs; and

WHEREAS, sales tax increment agreements can be an effective tool to generate additional funds, yet continue to provide the existing baseline sales tax proceeds to the City, and

WHEREAS, Provo City Corporation has determined the requested reimbursements are reasonable to offset the intersection and traffic signal upgrade impacts and related new work by Parkway Village Holdings; and

41 WHEREAS, the representative of Parkway Village Holdings and Provo City
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44 proposed that if the Parkway Village Holdings are able to capture half the cost prior to the end of
45 the ten (10) year term, then both Provo City and Parkway Village Holdings shall share equally in
46 the sales tax increment above the base until the end of ten (10) year term; and

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48 WHEREAS, on November 15, 2016, the Municipal Council held a duly noticed public
49 meeting to ascertain the facts regarding this matter, which facts are found in the meeting record;
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52 WHEREAS, Provo City Corporation has determined the project (i) improves traffic flow
53 and safety, (ii) promotes retention of existing businesses within the shopping center, (ii) encourages commercial redevelopment and revitalization of the University Parkway Corridor,
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63 consistent with the parameters attached hereto as Exhibit A.

64
65 **PART II:**

66
67 This resolution shall take effect immediately.

68
69 **END OF RESOLUTION.**

82

83

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Exhibit A

85

86

Parameters

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88 Deal point 1. A ten (10) year term, commencing upon execution of the agreement.

89

90 Deal point 2. Base year uses the previous 12 months of generated sales tax as a starting point
91 from execution of the agreement.

92

93 Deal point 3. Capture up to half of the costs associated with demolition of existing building,
94 design and construction of road and intersection improvements incurred by Parkway Village
95 Holdings, costs associated with construction of a replacement building including building permit
96 fees, plan check and impacts fees, all of which shall be paid up front.

97

98 Deal point 4.¹ If Parkway Village Holdings are successful in capturing up to half the costs
99 before the ten year agreement expires, then Parkway Village Holdings and Provo City will share
100 sales tax increment on a 50/50 split until the end of the ten year term.

101

¹ This is a request of Parkway Village Holdings and has not been vetted with the Municipal Council. It will be the intent of Parkway Village Holdings to make this request and hope to further discuss this possibility in the meeting.

Exhibit B

DOCUMENT APPROVAL

Parkway Village Sales Tax Agreement

CONTRACT OR AGREEMENT TITLE

Parkway Village Holdings, LLC /
Nearon Enterprises, LLC

VENDOR NAME

BID #

DEPARTMENT: Economic Development

CONTACT: Dixon Holmes EXTENSION: 6166

PROPOSED IMPLEMENTATION DATE: 01/01/2017

ACCOUNT NUMBER: _____

DOES THIS AGREEMENT CONTAIN CONFIDENTIAL INFORMATION? No

IF YES, PLEASE EXPLAIN:

Brief Description of Contract:

Sales Tax Increment Agreement with Parkway Village Holdings (Nearon Enterprises) -
approved by council on 15 November 2016 (Resolution 2016-49).

Additional Information:

Please sign electronically as well as the originals

<u>1/10/2017</u>	<u>John Curtis</u>
Date	DEPARTMENT-REVIEWED AS TO CONTENT
<u>1/10/2017</u>	<u>Dustin Grabau</u>
Date	FINANCE-FISCAL REVIEW
<u>1/10/2017</u>	<u>Daniel Follett</u>
Date	PURCHASING
<u>1/11/2017</u>	<u>Robert Trombly</u>
Date	LEGAL-APPROVED AS TO FORM
<u>1/11/2017</u>	<u>Wayne Parker</u>
Date	CHIEF ADMINISTRATIVE OFFICER
<u>1/11/2017</u>	<u>John Curtis</u>
Date	MAYOR
<u>1/12/2017</u>	<u>Janene Weiss</u>
Date	CITY RECORDER – ATTEST

Workflow Notes:

PARTICIPATION AND REIMBURSEMENT AGREEMENT

Parkway Village Shopping Center
2255 N. University Parkway, Provo, Utah 84064

THIS PARTICIPATION AND REIMBURSEMENT AGREEMENT (“**Agreement**”) is made and entered into as of the 1st day of January, 2017 (“**Effective Date**”), between the City of Provo (“**City**”), Parkway Village Provo Holdings, LLC, a Delaware limited liability company (“**PVPH**”), Parkway Village Provo Holdings 2, LLC, a Delaware limited liability company (“**PVPH 2**”), and Nearon Enterprises, LLC, a California limited liability company (“**Nearon**”). PVPH and PVPH 2 are referred to herein individually as an “**Owner**”, and collectively, as the “**Owners**”. City, PVPH, PVPH 2, and Nearon are referred to herein individually as a “**Party**”, and collectively, as the “**Parties**”.

R E C I T A L S

A. This Agreement concerns certain portions of a retail shopping center, commonly known as Parkway Village, located generally at 2255 North University Parkway, Provo, Utah (“**Shopping Center**”).

B. The portions of the Shopping Center which are subject to this Agreement are commonly known as Lots 1, 2, 3, 4, 5, 6A and 6B, and the Lots 1-6 Common Areas (collectively, the “**Subject Lots**”). The Subject Lots are more particularly described collectively in **Exhibit A-1** to this Agreement.

C. The Subject Lots are among the lots in the Shopping Center, which Shopping Center lots are shown on that certain subdivision plat, titled Parkway Village Shopping Center Planned Unit Development, which was recorded in the official records of Utah County, Utah, on April 10, 2014, as Entry No. 23576:2014 and Map No. 14198 (“**Subdivision Plat**”), attached as **Exhibit B** to this Agreement.

D. As of the Effective Date, PVPH is the fee owner of Lot 3 and the Lots 1-6 Common Area (collectively, the “**PVPH Lots**”). The PVPH Lots are more particularly described in **Exhibit A-2** to this Agreement.

E. As of the Effective Date, PVPH 2 is the fee owner of Lots 1, 2, 4, 5, 6A and 6B (collectively, the “**PVPH 2 Lots**”). The PVPH 2 Lots are more particularly described in **Exhibit A-3** to this Agreement.

F. Nearon holds a controlling membership interest in, and is the designated manager of, both PVPH and PVPH 2, pursuant to PVPH and PVPH 2’s respective organizational documents.

G. PVPH and PVPH 2, as the fee owners of the Subject Lots, have entered into a separate agreement or agreements with the Utah Transit Authority (“**UTA**”) related to the Provo-Orem Transportation Improvement Project, which will include, among other improvements, installation of roadway improvements along University Parkway fronting the Subject Lots, and a

new signalized intersection providing vehicular access to and from the Subject Lots and University Parkway.

H. In connection with the roadway and signalized intersection improvements described in **Recital G**, PVPH and PVPH 2 have incurred costs, and will incur additional costs (collectively, the “**Owner’s Costs**”), related to the following items, which are referred to in this Agreement collectively as the “**Project**”: (i) early termination of a lease with an operating business, (ii) demolition of the building where such operating tenant was located, (iii) construction of certain driveway improvements to connect the Subject Lots to the new intersection and University Parkway, (iv) contributions to UTA’s costs of designing and constructing the roadway, intersection, and traffic signal improvements, and (v) construction of a new building on Lot 2. A breakdown of the Owner’s Costs, estimated as of the Effective Date, is set forth on **Exhibit C** to this Agreement. As of the Effective Date, the Owner’s Costs are estimated to be approximately One Million Two Hundred Sixty Thousand Dollars (\$1,260,000) (“**Owner’s Estimated Costs**”).

I. Nearon, on behalf of, and as agent for PVPH and PVPH 2, has requested that City provide reimbursement for a portion of the Owner’s Actual Costs (defined in **Section 1.5**).

J. City has determined that the requested financial assistance will benefit City because the improvements improve traffic flow and increase safety, which promotes the welfare of the public using University Parkway in the City. In addition, such assistance is consistent with the guidelines for City’s available programs, because it advances the goals of the Provo-Orem Transportation Improvement Project, promotes retention of existing businesses within the Subject Lots and other portions of the Shopping Center, and encourages commercial re-development and revitalization of the University Parkway corridor.

K. City has determined that the requested reimbursements are necessary to offset the costs of the Project, demonstrate local support for the completion of the upgrades, and to recognize the positive impact that this investment will have on assessed values in the Shopping Center and nearby properties.

L. City has determined that the Project advances the purposes of City by providing improvements to, and modernization of, public infrastructure and promoting public safety and convenience in a major entrance to City.

M. City is willing to commit to assist with the Project by reimbursing PVPH and PVPH 2 with a portion of the sales tax increment generated from the Subject Lots to pay for a portion of the Owner’s Actual Costs, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the foregoing Recitals, PVPH and PVPH 2’s agreements with UTA, and the terms and conditions hereby agreed to, and other good and valuable consideration, the Parties hereby agree as follows:

1. DEFINED TERMS. The Recitals set forth above, and any exhibits attached hereto, are hereby incorporated as integral parts of this Agreement. As used herein, the following terms shall have the meanings respectively indicated:

1.1 “Annual Sales Taxes” for a particular Tax Year (defined in **Section 1.10**) means the amount of sales taxes received by City upon taxable retail sales generated by the Subject Lots for such Tax Year at Point of Sale (defined in **Section 1.6**), which, as of the Effective Date, is 0.5% (one-half (1/2) of one (1) percent) of such taxable retail sales.

1.2 “Base Sales Tax Amount” means the Annual Sales Tax received by the City for the twelve (12) month period ending September 30, 2016, which totaled One Hundred Thirty-Six Thousand Four Hundred Seventy-Six Dollars (\$136,476).

1.3 “City Approval Fees” means all fees paid by PVPH, PVPH 2, and/or any entity controlled by Nearon (collectively, including without limitation, PVPH, PVPH 2, and Nearon, “**Nearon Affiliates**”), to City in connection with any City approval, entitlement or permit, or application or submittal for any City approval, entitlement or permit, with respect to the Project and/or the new or replacement building on Lot 2, during the twenty-four (24) month period commencing on the Effective Date. If construction of the new or replacement building on Lot 2 is delayed, the twenty-four (24) months may be extended for an additional twelve (12) months upon request to Provo City, approval of which will not be unreasonably withheld. Nearon Affiliates shall pay any City Approval Fees to the City up-front.

Without limitation of the foregoing, City Approval Fees shall include any permit fees, plan check fees, impact or development fees or assessments, traffic mitigation fees, utility connection fees, or comparable fees or charges paid to the City or any department or agency of the City; provided however, that City Approval Fees shall not include any fees or charges paid to any party other than the City.

1.4 “Commencement Date” shall mean the first (1st) day of the first (1st) full calendar month following the date on which the Project, as defined in **Recital H** above, is completed. For purposes of determining the Commencement Date, the Project shall be deemed to be completed on the date when the new intersection, new vehicular entrance to the Subject Lots from University Parkway, and the new traffic signals controlling access to and from the Subject Lots and University Parkway over and across the new entrance, are open and fully operational.

1.5 “Owner’s Actual Costs” means, collectively, the actual amount of Owner’s Costs, to be determined after the Commencement Date, plus any City Approval Fees paid by Nearon Affiliates.

Within a reasonable period following the Commencement Date, City, PVPH, PVPH 2, and Nearon shall enter into an agreement, substantially in the form attached **Exhibit D** to this Agreement (“**Owner’s Actual Costs Confirmation Agreement**”), to confirm the amount of the Owner’s Actual Costs, including without limitation, the amount of the City Approval Fees paid through the Commencement Date.

1.6 “**Point of Sale**” with respect to Annual Sales Taxes, refers to sales tax revenues received by City based on all taxable transactions made at the Subject Lots as the geographical point of sale. Point of Sale and/or Annual Sales Taxes do not include any sales tax revenues received by the City based on the City’s population as a percentage of the overall population of the State of Utah.

1.7 “**Reimbursement Payment**” means, with respect to each Tax Year during the Reimbursement Term, a payment to Nearon, as agent for PVPH and PVPH 2 or any Nearon Affiliate, equal to the Sales Tax Increment (defined below) for the applicable Tax Year, until such Nearon Affiliates have collectively become entitled to total Reimbursement Payments during the Reimbursement Term up to the Target Reimbursement Amount (defined in **Section 1.9**).

Notwithstanding the foregoing, once Nearon Affiliates have collectively become entitled to Reimbursement Payments up to the Target Reimbursement Amount, Nearon, as agent for the Nearon Affiliates, shall thereafter be entitled to Additional Incentive Payments (defined in **Section 3.1**) in accordance with **Section 3**, until such Nearon Affiliates have collectively become entitled to Reimbursement Payments and Additional Incentive Payments up to the amount of Owner’s Actual Costs.

“**Sales Tax Increment**” means the difference between (a) the Annual Sales Tax received by the City from the Subject Lots for the applicable Tax Year, and (b) the Base Sales Tax Amount. If in a given Tax Year the Sales Tax Increment is negative, such negative Sales Tax Increment will be offset against the positive Sales Tax Increment in subsequent Tax Years.

1.8 “**Reimbursement Term**” shall mean the term of this Agreement, beginning on the Commencement Date, and ending on the date which immediately precedes the tenth (10th) anniversary of the Commencement Date (“**Expiration Date**”).

1.9 “**Target Reimbursement Amount**” shall be fifty percent (50%) of the Owner’s Actual Costs, including fifty percent (50%) of the amount of any City Approval Fees (as defined in **Section 1.3**) paid by Nearon Affiliates.

1.10 “**Tax Year**” shall mean the initial twelve (12) month period beginning on the Commencement Date, and ending on the day immediately preceding the first (1st) anniversary of the Commencement Date, and each succeeding twelve (12) month period during the Reimbursement Term beginning on each successive anniversary of the Commencement Date.

2. ANNUAL REIMBURSEMENT PAYMENTS.

2.1 **Address for Payments.** For the period commencing on the Commencement Date and continuing through the expiration of the Reimbursement Term, City shall make annual Reimbursement Payments to Nearon, as agent for PVPH, PVPH 2, and any Nearon Affiliates, at the address for Reimbursement Payments to Nearon set forth in **Section 8.1**, or such other address as Nearon may designate from time to time in accordance with **Section 8.1**; provided however, that the total amount of the Reimbursement Payments shall not exceed the Target Reimbursement Amount.

2.2 Timing of Payments & Supporting Documentation.

Reimbursement Payments pursuant to this Agreement shall be made by City within one hundred-twenty (120) days after the end of each Tax Year and after: (i) Annual Sales Taxes for the Subject Lots for the applicable Tax Year are received by City; and (ii) documentation is received by City from the Utah State Tax Commission providing support for the Annual Sales Taxes received for the Subject Lots for the applicable Tax Year. City shall contemporaneously provide Nearon with a written accounting by month, in the aggregate, of the annual Reimbursement Payment, demonstrating the City's determination of the amount of the Annual Sales Taxes (based on Point of Sale) for the Subject Lots for the applicable Tax Year and the amount of such Reimbursement Payment. City shall be required to provide the amount of the total Annual Sales Taxes for the Subject Lots in the aggregate only, and shall have no obligation to provide any information concerning Annual Sales Taxes paid by any particular business or businesses on the Subject Lots.

2.3 Confidentiality.

Except for the amount and timing of Reimbursement Payments and any Additional Incentive Payments (defined in **Section 3.1**) made to Nearon under this Agreement (if and to the extent such amounts and timing are public information), City and Nearon shall keep Annual Sales Tax information confidential, unless disclosure is otherwise required by law.

2.4 Remedies.

The failure of the City to timely make any Reimbursement Payment or Additional Incentive Payments hereunder in accordance with this Agreement shall constitute a material default by City under this Agreement, unless City pays any such Reimbursement Payment or Additional Incentive Payment to Nearon in full in accordance with this Agreement within fifteen (15) days after City's receipt of a notice of non-payment from Nearon. Upon the occurrence of a default by City, Nearon shall have all remedies available to it in law or equity, including without limitation, specific performance.

3. ADDITIONAL INCENTIVE PAYMENTS.

3.1 Additional Incentive Payments - Examples.

If, on or before the Expiration Date, Nearon Affiliates have collectively become entitled to Reimbursement Payments equal to the Target Reimbursement Amount, then (i) the date on which the total Reimbursement Payments that Nearon has become entitled to reaches the Target Reimbursement Amount shall be the "**Target Reimbursement Date**", and (ii) Nearon shall be entitled to additional incentive payments equal to fifty percent (50%) of the Sales Tax Increment from the Target Reimbursement Date through the Expiration Date ("**Additional Incentive Payment**"), provided however, that in no event shall the total of all Reimbursement Payments and Additional Incentive Payments received by Nearon exceed the Owner's Actual Costs.

The following examples of how the Reimbursement Payments and Additional Incentive Payments would be calculated are set forth below for purposes of illustration only. For each of the following examples, assume that the Owner's Actual Costs, without including any City Approval Fees, are the same as the Owner's Estimated Costs (\$1,260,000):

Example #1: Assume that during the Reimbursement Term, the total Sales Tax Increment is Six Hundred Fifty Thousand Dollars (\$650,000), and Nearon Affiliates have paid City Approval Fees totaling One Hundred Thousand Dollars (\$100,000).

In this Example #1, (i) fifty percent (50%) of such City Approval Fees (\$50,000), would be included in the Target Reimbursement Amount, resulting in a Target Reimbursement Amount of Six Hundred Eighty Thousand Dollars (\$680,000), (ii) Nearon would be entitled to Reimbursement Payments during the Reimbursement Term equal to the Sales Tax Increment, or \$650,000, and (iii) the Reimbursement Payments that Nearon would be entitled to (\$650,000) would be less than the adjusted Target Reimbursement Amount.

In this Example #1, Nearon would not be entitled to any Additional Incentive Payments.

Example #2: Assume that during the Reimbursement Term, the total Sales Tax Increment is Six Hundred Fifty Thousand Dollars (\$650,000), and Nearon Affiliates have paid no City Approval Fees during the Reimbursement Term.

In this Example #2, (i) the Target Reimbursement Amount would remain Six Hundred Thirty Thousand Dollars (\$630,000), (b) the total Reimbursement Payments that Nearon would be entitled to during the Reimbursement Term (\$650,000) would exceed the Target Reimbursement Amount (\$630,000), by Twenty Thousand Dollars (\$20,000).

Under this Example #2, Nearon's total Reimbursement Payments would be capped at the Target Reimbursement Amount (\$630,000), and Nearon would be entitled to an Additional Incentive Payment equal to fifty percent (50%) of the difference between such Sales Tax Increment (\$650,000) and such Reimbursement Payments (\$630,000), or Ten Thousand Dollars (\$10,000).

Example #3: Assume that during the Reimbursement Term, the total Sales Tax Increment is Two Million Two Hundred Thousand Dollars (\$2,200,000), and Nearon Affiliates have paid City Approval Fees during the Reimbursement Term totaling One Hundred Thousand Dollars (\$100,000).

In this Example #3, (i) fifty percent (50%) of such City Approval Fees (\$50,000) would be included in the Target Reimbursement

Amount, resulting in a Target Reimbursement Amount equal to \$680,000, (ii) the total Reimbursement Payments that Nearon would be entitled to would be capped at the Target Reimbursement Amount of \$680,000, (iii) fifty percent (50%) of the Sales Tax Increment above the Target Reimbursement Amount (\$680,000) would be Seven Hundred Sixty Thousand Dollars (\$760,000), (iv) the Additional Incentive Payments that Nearon would be entitled to during the Reimbursement Term (\$760,000), plus the total Reimbursement Payments (\$680,000) would exceed the Target Reimbursement Amount (\$680,000) by Seven Hundred Sixty Thousand Dollars (\$760,000), and (d) the total Reimbursement Payments and Additional Incentive Payments that Nearon would be entitled to during the Reimbursement Term (\$1,440,000) would exceed the Owner's Actual Costs (1,360,000) by Eighty Thousand Dollars (\$80,000).

Under this Example #3, Nearon would be entitled to Reimbursement Payments totaling \$680,000, plus Additional Incentive Payments equal to Six Hundred Eighty Thousand Dollars (\$680,000), because the total amount of the Reimbursement Payments and Additional Incentive Payments (\$1,440,000) would be capped at the amount of the Owner's Actual Costs (\$1,360,000).

3.2 Timing of Additional Incentive Payments. Additional Incentive Payments shall be made by the City within one hundred-twenty (120) days after the end of each Tax Year ending after the Target Reimbursement Date, and after: (i) Annual Sales Taxes for the Subject Lots for the applicable Tax Year are received by City; and (ii) documentation is received by the City from the Utah Department of Revenue verifying the accuracy of the amount of Annual Sales Taxes for the Subject Lots for the applicable Tax Year. The City shall contemporaneously provide Nearon with a written accounting with the Additional Incentive Payments, demonstrating the City's determination of the amount of the Annual Sales Taxes (based on Point of Sale) for the Subject Lots for the Reimbursement Term through the end of the applicable Tax Year, the amounts of all Reimbursement Payments and Additional Incentive Payments during the Reimbursement Term through the end of the applicable Tax Year, and the amount of the applicable Additional Incentive Payment.

3.3 Cap on Payments. Notwithstanding anything in this Agreement to the contrary, in no event shall the total amount of the Reimbursement Payments and any Additional Incentive Payments exceed the Owner's Actual Costs.

3.4 Acknowledgment of the Parties' Intent – Owner Incentive. The Parties acknowledge that the intent of this Agreement, including without limitation this **Section 3**, is intended to incentivize Nearon Affiliates to invest in the Subject Lots and to cause the Subject Lots to be improved, managed, and operated so as to generate increased Annual Sales Taxes. Accordingly, if Annual Sales Taxes are sufficient to result in a Sales Tax Increment exceeding

the Target Reimbursement Amount pursuant to **Section 1.9**, then the Parties intend for City and Nearon Affiliates to share equally in the Sales Tax Increment during the Reimbursement Term above the Target Reimbursement Amount.

4. TERMINATION. The Parties acknowledge that any Reimbursement Payments and Additional Incentive Payments are to be made after the end of the applicable Tax Year, in accordance with **Section 2.2**, and **Section 3.2** (if applicable).

This Agreement shall automatically terminate and be of no further force or effect after the latest of the following have occurred: (i) the Expiration Date has occurred, and (ii) Nearon has received the full amount of the Reimbursement Payments and Additional Incentive Payments to which Nearon Affiliates are entitled hereunder, for the final Tax Year during the Reimbursement Term and all prior Tax Years; provided however, that the Parties hereby disclaim any representation or warranty that the total Reimbursement Payments and Additional Incentive Payments will equal the amount of Owner's Actual Costs or any particular percentage of Owner's Actual Costs.

This Agreement shall also automatically terminate if construction of the Project has not commenced on or before December 31, 2017.

Upon termination of this Agreement, no Party shall have any further obligations to the other Parties. Following termination of this Agreement, upon request from any Party, the Parties agree to execute any reasonable documentation which may be necessary to confirm expiration and/or termination of this Agreement.

5. APPOINTMENT OF NEARON AS AGENT. PVPH and PVPH 2, on behalf of themselves and on behalf of any Nearon Affiliates which may become a successor-in-interest to PVPH and/or PVPH 2 as an owner of any of the Subject Lots, each hereby appoint Nearon as their authorized agent for collection of Reimbursement Payments and any Additional Incentive Payments from City. Nearon shall allocate and distribute the Reimbursement Payments and any Additional Incentive Payments to PVPH, PVPH 2 and/or any successor Nearon Affiliates. PVPH and PVPH 2, as the current Owners of the Subject Lots, hereby grant Nearon all rights and authorizations which may be necessary or desirable in order for Nearon to carry out Nearon's rights and duties pursuant to this **Section 5**.

6. ASSIGNMENT OF AGREEMENT OR PAYMENTS.

6.1 Rights of Assignees. No future owner or tenant of all or any part of the Subject Lots, other than Nearon Affiliates, shall be entitled to claim any right or benefit by, through or under this Agreement, including, but not limited to, the right to receive all or any portion of any Reimbursement Payments or any Additional Incentive Payments, and no future owner or tenant of the Subject Lots, other than Nearon Affiliates, shall be deemed to be a third party beneficiary of this Agreement, unless and until Nearon has expressly assigned such right, including any right to receive any portions of any Reimbursement Payments or any Additional Incentive Payments in writing.

6.2 Assignment. Nearon shall not have any right to assign this Agreement, in whole or in part, or the right to any Reimbursement Payments or any Additional Incentive Payments, except to PVPH and/or PVPH 2, or a successor to PVPH and/or PVPH 2 as a fee owner of a Subject Lot or Subject Lots. A conveyance of a fee ownership interest in a Subject Lot or Subject Lots shall not by itself constitute or result in an assignment of this Agreement or the right to any Reimbursement Payment or any Additional Incentive Payments, and neither this Agreement nor the right to payment of any Reimbursement Payment or any Additional Incentive Payments shall run with the land.

An assignment or partial assignment of this Agreement or the right to any Reimbursement Payments or any Additional Incentive Payments may only be effected by a writing executed by Nearon. No assignment or partial assignment of this Agreement or any right to any Reimbursement Payments or any Additional Incentive Payments shall be binding on City unless and until City has received (i) a written notice of such assignment, together with a copy of the applicable assignment document, from Nearon, (ii) complete contact information and an address for payment of any Reimbursement Payments or any Additional Incentive Payments to any assignee to which any right to any Reimbursement Payments or any Additional Incentive Payments has been assigned, (iii) and the tax or employer identification number of any assignee to which any right to any Reimbursement Payments or any Additional Incentive Payments has been assigned. City shall be entitled to rely on any notice of any assignment or partial assignment of this Agreement and/or right to any Reimbursement Payments or any Additional Incentive Payments which the City receives from Nearon.

7. FUTURE RE-PARCELIZATION OF THE SUBJECT LOTS. City acknowledges that from time to time from the Effective Date through the Expiration Date: (i) the Subject Lots may be combined or further subdivided, and/or the existing parcel lines on the Subject Lots may be relocated; (ii) the existing improvements on the Subject Lots may be modified, altered, re-configured, expanded, replaced, or demolished; and (iii) new improvements may be constructed on the Subject Lots.

8. NOTICES.

8.1 Addresses. Any notice, payment, demand, or communication required or permitted to be given to any Party pursuant to any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if sent by registered or certified mail (return receipt requested), postage and charges prepaid, or by Federal Express or other reputable overnight delivery service which maintains delivery records and requires a signature upon receipt, addressed as follows:

Notices to Nearon:

Nearon Enterprises
101 Ygnacio Valley Road, Suite 450
Walnut Creek, CA 94596
Attn.: President and CFO

Reimbursement Payments &
Additional Incentive Payment:

Nearon Enterprises
101 Ygnacio Valley Road, Suite 450
Walnut Creek, CA 94596

Notices to PVPH:

Parkway Village Provo Holdings, LLC
c/o Nearon Enterprises
101 Ygnacio Valley Road, Suite 450
Walnut Creek, CA 94596
Attn.: President and CFO

Notices to PVPH 2:

Parkway Village Provo Holdings 2, LLC
c/o Nearon Enterprises
101 Ygnacio Valley Road, Suite 450
Walnut Creek, CA 94596
Attn.: President and CFO

Notices to City:

City of Provo
351 West Center Street
Provo, UT 84601
Attn.: Dixon Holmes

8.2 Receipt. Notices shall be deemed effective upon receipt. The person and place to which notices are to be given may be changed by any Party by written notice to the other Parties. For purposes of this Agreement, the term “receipt” shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to this **Section 8** as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified by this **Section 8**, or (iii) in case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (A) the date of the attempted delivery or refusal to accept delivery, (B) the date of the postmark on the return receipt, or (C) the date of receipt of notice or refusal or notice of non-delivery by the sending party.

9. MISCELLANEOUS.

9.1 Attorneys' Fees. If any Party to this Agreement commences a dispute resolution proceeding, whether litigation, arbitration, or otherwise, respecting any question between the Parties to this Agreement arising out of or relating to this Agreement or the breach thereof, the prevailing Party in such dispute resolution proceeding shall be entitled to the recovery of a reasonable attorneys' fee and all other reasonably incurred costs and expenses of the successful prosecution or defense of such proceeding. The term “dispute resolution proceeding” as used above shall be deemed to include appeals from a lower court judgment or arbitration award and it shall include proceedings in the Federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters. For purposes of proceedings in the Federal Bankruptcy Court, the term “prevailing Party” as used above shall be deemed to mean

the prevailing Party in an adversary proceeding or contested matter, or any other actions taken by the non-bankrupt Party which are reasonably necessary to protect its rights.

9.2 Governing Law. This Agreement is intended to be performed in the State of Utah, and the laws of Utah shall govern the validity, construction, enforcement and interpretation of this Agreement.

9.3 Amendments. This Agreement may be amended or supplemented only by an instrument in writing executed by all of the Parties hereto.

9.4 Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never composed a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.

9.5 Further Acts. In addition to the acts and deeds recited herein and contemplated to be performed, executed, and delivered by the Parties, the Parties agree to perform, execute, and deliver or cause to be performed, executed, and delivered any and all such further acts, deeds and assurances as may be necessary to consummate the transactions contemplated hereby.

9.6 Warranty Against Payment of Consideration for Agreement. Nearon, PVPH, and PVPH 2 each represent and warrant that neither it nor any of its members, managers, employees or officers has: (1) provided an illegal gift or payoff to an City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in City's conflict of interest ordinance; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, an City officer or employee or former City officer or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance.

9.7 Non-liability of City Officials and Employees. No member, official, or employee of City shall be personally liable to Nearon, PVPH, PVPH 2, or any of their successors in interest, in the event of any default or breach by City, or for any amount which may become due to Nearon or its successor, or on any obligation under the terms of this Agreement.

9.8 Governmental Immunity. Nothing in this Agreement shall be deemed to constitute or imply a waiver, modification or alteration of the caps or limitations on liability or privileges, immunities or other protection available to City under the Utah Governmental Immunity Act or such other statutes or laws affording governmental agencies caps or limitations on liability or privileges, immunities or other protections.

9.9 No Relationship of Principal and Agent. Nothing contained in this Agreement, nor any acts of the Parties or the City, the City planning director, the Planning Commission (or its designee), shall be deemed or construed to create the relationship of principal and agent, or of limited or general partnership, or of joint venture or of any other similar association between City and Nearon, PVPH, and/or PVPH 2.

9.10 No Presumption. This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against any Party.

9.11 Captions. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement.

9.12 Non-Disclosure. The Parties agree that the terms of this Agreement are confidential and constitute proprietary information of the respective Parties (collectively, the “**Information**”). Each of the Parties agrees that such Party, and its respective partners, members, managers, officers, directors, employees, advisors, consultants and attorneys, shall not disclose the Information to any other person without the prior written consent of the other Parties except pursuant to an order of a court of competent jurisdiction, or to the extent required as part of any statutory public approval process required for this Agreement and/or any Reimbursement Payments; provided, however, that any Party may disclose the Information to its lenders or prospective lenders or the accountants who audit its financial statements or prepare its tax returns, to its constituent members, partners, shareholders, to its attorneys and consultants, to any prospective transferee of all or any portions of the Subject Lots, to any governmental entity, agency or person to whom disclosure is required by applicable law, regulation or duty of diligent inquiry and in connection with any action brought to enforce the terms of this Agreement, on account of the breach or alleged breach hereof or to seek a judicial determination of the rights or obligations of the parties under this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the term, “**Information**”, shall not include information which, at the time it is disclosed and through no fault of any Party, is in the public domain or is available or becomes available to the general public. Notwithstanding anything to the contrary contained in this Agreement, City will release information required by Utah Code 63G-2-101 et seq, Government Records and Access Management Act.

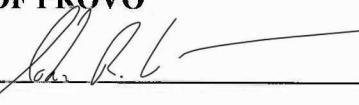
9.13 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one Agreement. Any Party may effectuate the execution and delivery of this Agreement by sending a signed copy to the other Parties by email (with .pdf attachment) or other form of electronic transmission. Any document sent in the foregoing manner shall be deemed and treated in all respects as an original instrument bearing the original signature of the transmitting party.

[this space intentionally left blank]

Signature Page of City of Provo to
Participation and Reimbursement Agreement

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first above written.

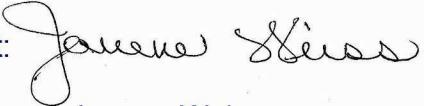
CITY OF PROVO

By: 

Name: John R. Curtis

Its: Mayor

“CITY”

Attest: 

Janene Weiss
City Recorder



Signature Page of Parkway Village Provo Holdings, LLC to
Participation and Reimbursement Agreement

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first above written.

PARKWAY VILLAGE PROVO HOLDINGS, LLC,
a Delaware limited liability corporation

By: Nearon Enterprises,
a California corporation
Its: Designated Manager

By: 
Name: Anthony Perino
Title: President

“PVPH”

Signature Page of Parkway Village Provo Holdings 2, LLC to
Participation and Reimbursement Agreement

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first above written.

PARKWAY VILLAGE PROVO HOLDINGS 2, LLC,
a Delaware limited liability corporation

By: Nearon Enterprises,
a California corporation
Its: Designated Manager

By: 
Name: Anthony Perino
Title: President

“PVPH 2”

Signature Page of Nearon Enterprises to
Participation and Reimbursement Agreement

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first above written.

NEARON ENTERPRISES, LLC,
a California limited liability company

By: Nearon Enterprises,
a California corporation
Its: Manager

By: 
Name: Anthony Perino
Title: President

“NEARON”

EXHIBIT A-1

Legal Description of the Subject Lots

ALL OF LOTS 1, 2, 3, 4, 5, 6A, AND 6B, PARKWAY VILLAGE SHOPPING CENTER PLANNED UNIT DEVELOPMENT, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND RECORDED APRIL 10, 2014 AS ENTRY NO. 23576:2014 AS MAP NO. 14198 IN THE OFFICE OF THE UTAH COUNTY RECORDER, STATE OF UTAH.

APN: 49-767-0001; 49-767-0002; 49-767-0003; 49-767-0004; 49-767-0005; 49-767-0006; and 49-767-0010.

TOGETHER WITH THE APPURTEnant OWNERSHIP IN THE COMMON AREA AS SET FORTH UNDER SAID OFFICIAL PLAT AND MAP, AND FURTHER DEFINED BY THE DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS RECORDED APRIL 10, 2014 AS ENTRY NO. 23577:2014 OF OFFICIAL RECORDS (AS SAID MAP AND DECLARATION MAY HERETOFORE BE AMENDED AND/OR SUPPLEMENTED THERETO).

APN: 49-767-0011

EXHIBIT A-2

Legal Description of the PVPH Lots

ALL OF LOT 3, PARKWAY VILLAGE SHOPPING CENTER PLANNED UNIT DEVELOPMENT, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND RECORDED APRIL 10, 2014 AS ENTRY NO. 23576:2014 AS MAP NO. 14198 IN THE OFFICE OF THE UTAH COUNTY RECORDER, STATE OF UTAH.

APN: 49-767-0003

THE COMMON AREA AS SET FORTH UNDER THE PARKWAY VILLAGE SHOPPING CENTER PLANNED UNIT DEVELOPMENT, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND RECORDED APRIL 10, 2014 AS ENTRY NO. 23576:2014 AS MAP NO. 14198 IN THE OFFICE OF THE UTAH COUNTY RECORDER, STATE OF UTAH, AND FURTHER DEFINED BY THE DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS RECORDED APRIL 10, 2014 AS ENTRY NO. 23577:2014 OF OFFICIAL RECORDS (AS SAID MAP AND DECLARATION MAY HERETOFORE BE AMENDED AND/OR SUPPLEMENTED THERETO).

APN: 49-767-0011

EXHIBIT A-3

Legal Description of the PVPH 2 Lots

ALL OF LOTS 1, 2, 4, 5, 6A, AND 6B PARKWAY VILLAGE SHOPPING CENTER PLANNED UNIT DEVELOPMENT, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND RECORDED APRIL 10, 2014 AS ENTRY NO. 23576:2014 AS MAP NO. 14198 IN THE OFFICE OF THE UTAH COUNTY RECORDER, STATE OF UTAH.

APN: 49-767-0001; 49-767-0002; 49-767-0004; 49-767-0005; 49-767-0006; 49-767-0010.

Exhibit A-3

Provo sales tax agmt v08 170109 cts.docx

EXHIBIT B

Subdivision Plat

[attached]

Exhibit B

Provo sales tax agmt v08 170109 cts.docx

EXHIBIT C

Breakdown of Owner's Estimated Costs

Parkway Village Sales Tax Participation Plan

Demo of Pad C including: 6,240 SF

Updated 8/11/16

Owner Contributions towards 4-way intersection:		Notes
Projected Intersection Costs to be paid by Owner	\$208,154	Current cost from UTA/UDOT. Subject to cost increases. Includes \$20,965 Design Fee.
Building Value (rebuild cost @ \$150/SF)	\$936,000	Based on current estimated costs to rebuild.
Demo of Building	\$35,000	Estimate
Construction of Ramp to University Parkway	\$65,000	Estimate
Payment to Tenant (Nicolitalia) to Vacate	\$15,000	Lease Termination is executed
Total	\$1,259,154	
Rounded	\$1,260,000	

Exhibit C

Provo sales tax agmt v08 170109 cts.docx

EXHIBIT D

FORM OF OWNER'S ACTUAL COSTS CONFIRMATION AGREEMENT

OWNER'S ACTUAL COSTS CONFIRMATION AGREEMENT

This Owner's Actual Costs Confirmation Agreement ("Confirmation Agreement") is entered into as of _____, 20____, by and between the City of Provo ("City"), Parkway Village Provo Holdings, LLC, a Delaware limited liability company ("PVPH"), Parkway Village Provo Holdings 2, LLC, a Delaware limited liability company ("PVPH 2"), and Nearon Enterprises, a California corporation ("Nearon"), pursuant to Section 1.5 of that certain Participation and Reimbursement Agreement, dated January 1, 2017 ("Reimbursement Agreement").

City, PVPH, PVPH 2, and Nearon hereby acknowledge and agree that the amount of the Owner's Actual Costs (as defined in Section 1.5 of the Reimbursement Agreement) is _____ and ____/100ths Dollars (\$_____.____), including City Approval Fees (as defined in Section 1.3 of the Reimbursement Agreement) paid through the Commencement Date (defined in Section 1.4 of the Reimbursement Agreement) totaling _____ and ____/100ths Dollars (\$_____.____).

This Confirmation Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one Confirmation Agreement. Any party may effectuate the execution and delivery of this Confirmation Agreement by sending a signed copy to the other parties by email (with .pdf attachment) or other form of electronic transmission. Any document sent in the foregoing manner shall be deemed and treated in all respects as an original instrument bearing the original signature of the transmitting party.

*[this space intentionally left blank –
signatures on following pages]*

**Signature Page of City of Provo to
Owner's Actual Costs Confirmation Agreement**

IN WITNESS WHEREOF, the parties have executed this Confirmation Agreement as of
the date first above written.

CITY OF PROVO

By: _____

Name: _____

Its: _____

“CITY”

Signature Page of Parkway Village Provo Holdings, LLC, to
Owner's Actual Costs Confirmation Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date first above written.

PARKWAY VILLAGE PROVO HOLDINGS, LLC,
a Delaware limited liability corporation

By: Nearon Enterprises,
a California corporation
Its: Designated Manager

By: _____
Name: Anthony Perino
Title: President

“PVPH”

Exhibit D – Page 3

Signature Page of Parkway Village Provo Holdings 2, LLC, to
Owner's Actual Costs Confirmation Agreement

IN WITNESS WHEREOF, the parties have executed this Confirmation Agreement as of
the date first above written.

PARKWAY VILLAGE PROVO HOLDINGS 2, LLC,
a Delaware limited liability corporation

By: Nearon Enterprises,
a California corporation
Its: Designated Manager

By: _____
Name: Anthony Perino
Title: President

“PVPH 2”

Exhibit D – Page 4

**Signature Page of Nearon Enterprises to
Owner's Actual Costs Confirmation Agreement**

IN WITNESS WHEREOF, the parties have executed this Confirmation Agreement as of
the date first above written.

NEARON ENTERPRISES, LLC,
a California limited liability company

By: Nearon Enterprises,
a California corporation
Its: Manager

By: _____
Name: Anthony Perino
Title: President

“NEARON”

Exhibit D – Page 5

RESOLUTION <<Document Number>>

**A RESOLUTION APPROVING THE APPROPRIATION OF \$84,784 IN THE
GENERAL FUND FOR A CONTRACTUAL SALES TAX INCREMENT
POST-PERFORMANCE PAYMENT TO PARKWAY VILLAGE. (25-027)**

RECITALS:

It is proposed that \$84,784 be appropriated in the General Fund for a contractual sales tax increment post-performance payment to Parkway Village;

On January 1, 2017, Provo City entered into a sales tax increment agreement with Parkway Village;

The funding source for the appropriation is the increased General Fund sales tax revenues received based on the performance of Parkway Village;

On February 25, 2025, and March 11, 2025, 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 appropriation 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 Provo Municipal Council resolves as follows:

PART I:

The Mayor is authorized to appropriate \$84,784 in the General Fund for a payment to Parkway Village.

PART II:

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, March 11th, 2025** 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 an appropriation of \$84,784 in the general fund for a sales tax increment post-performance payment to the Parkway Village. The funding source of the appropriation is the sales tax revenue.

The meeting will also be available to the public for live broadcast and on-demand viewing at: 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 and enter Meeting ID **833 9747 5081** and Passcode **041849**. To listen or comment via phone, dial **346-248-7799**, enter Meeting ID **833 9747 5081** 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 and click on the meeting agenda.

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: JMCKNIGHT

Presenter: Brian Torgersen, Airport Director

Department: Public Works

Requested Meeting Date: 03-11-2025

Requested Presentation Duration: 10 minutes

CityView or Issue File Number: 25-020

SUBJECT: 7 A resolution approving an interlocal agreement between Provo City and Utah County regarding funding for the Provo Municipal Airport terminal expansion. (25-020)

RECOMMENDATION: Approve the resolution authorizing the Mayor to sign the agreement with Utah County.

BACKGROUND: The Utah County Commission has pledged \$78 million to help fund the expansion of the Provo Airport terminal. The expectations regarding the use and transfer of funding is formalized through an interlocal agreement between the County and City. The agreement was authorized by the Utah County Commission on January 29, 2025.

FISCAL IMPACT: \$78 million in County funds pleged to the expansion of the Provo Airport terminal

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

Page 61 of the 2023 General Plan states “Provo should continue to invest in and expand its airport and flight offerings while promoting the city’s accessibility regionally, nationally, and internationally.”

THE PROVO AIRPORT

Brian Torgersen, PE, CM
Airport Department Director



Provo Airport Terminal

July 13, 2022 – First day of Service!



Commercial Operations

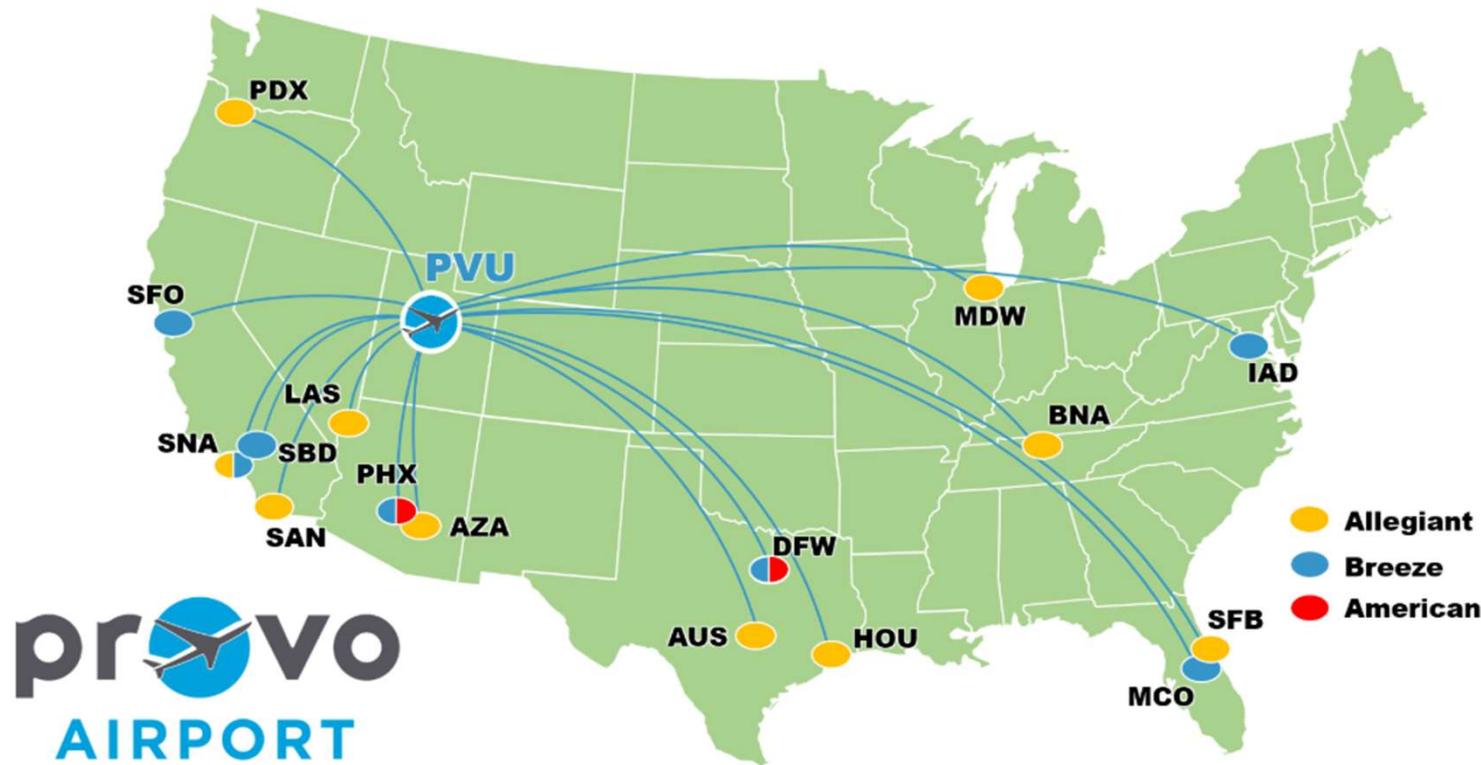


- 10 Commercial aircraft currently based at the Provo Airport
- 775 monthly commercial flights in/out

PVU Route Map

Non-Stop Destinations

- 3 Airline Carriers
- 16 Non-Stop Destinations
- 19 Routes



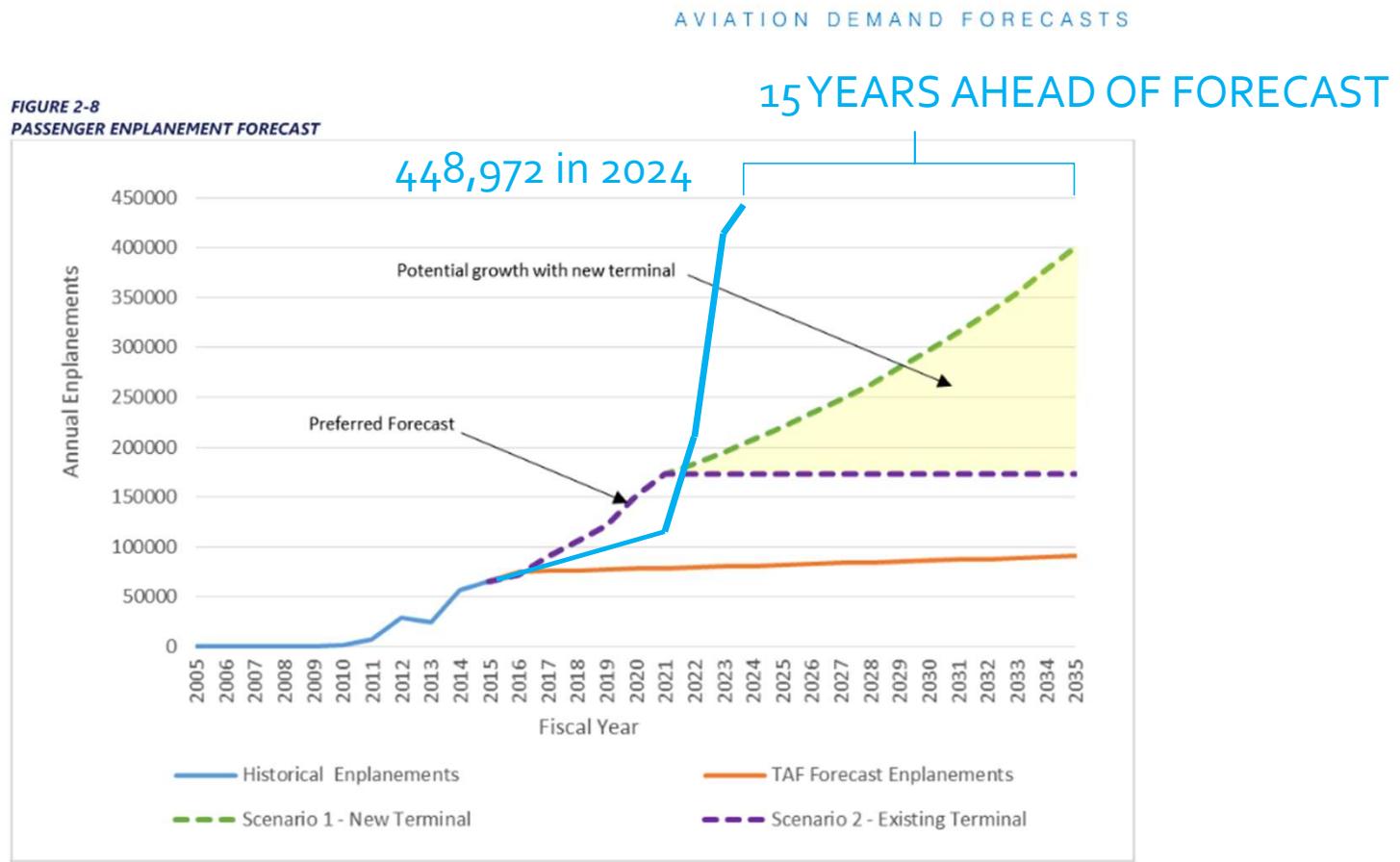
Master Plan Forecast –vs- Actual

Annual Enplanements

- 2017 – 91,581
- 2018 – 80,106
- 2019 – 110,279
- 2020 – 77,217
- 2021 – 118,740
- 2022 – 211,741
- 2023 – 414,072
- 2024 – 448,972

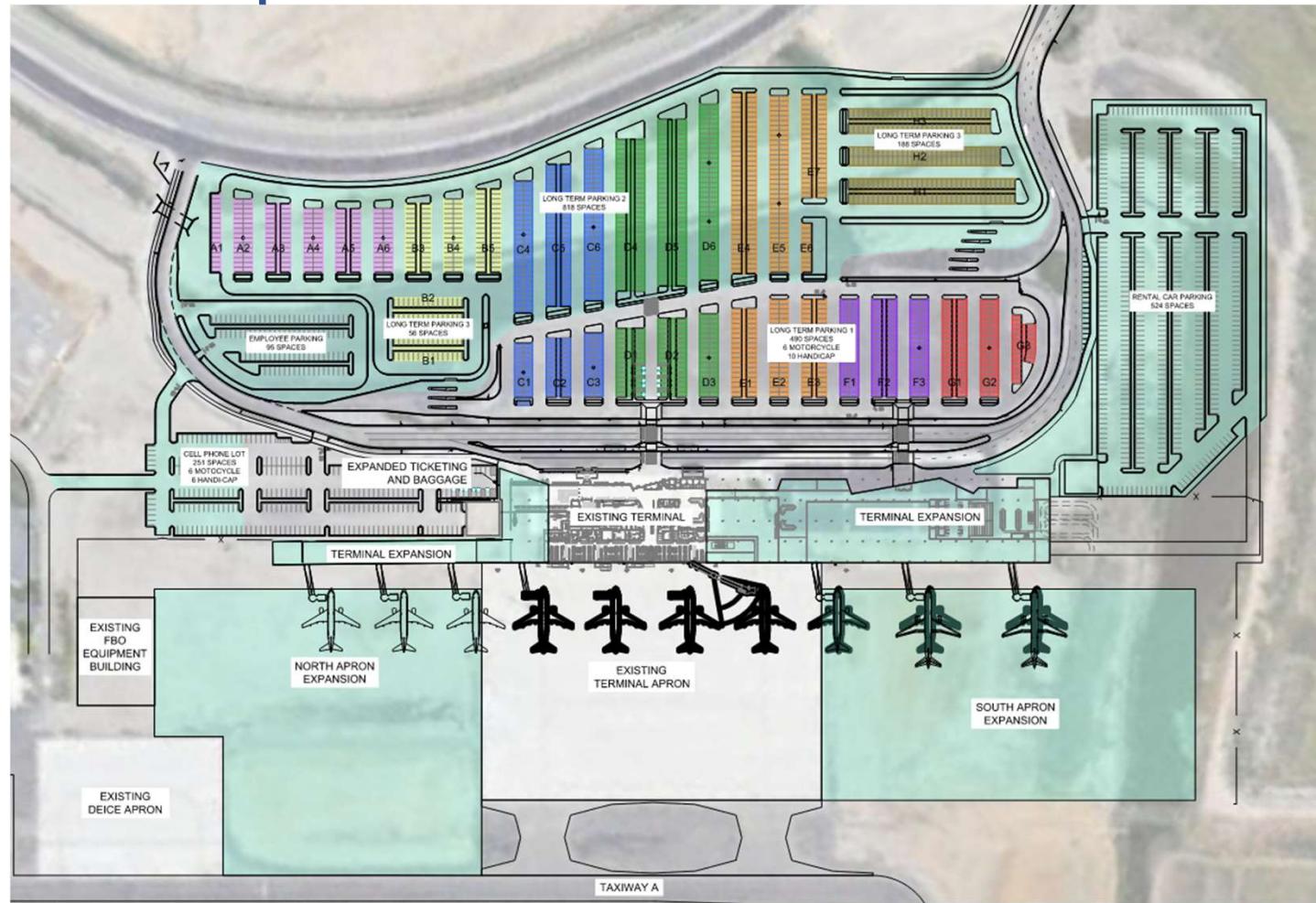
891,392 - Total
Passengers in 2024

FIGURE 2-8
PASSENGER ENPLANEMENT FORECAST



Source: FAA 2016 TAF, RS&H Analysis, 2017

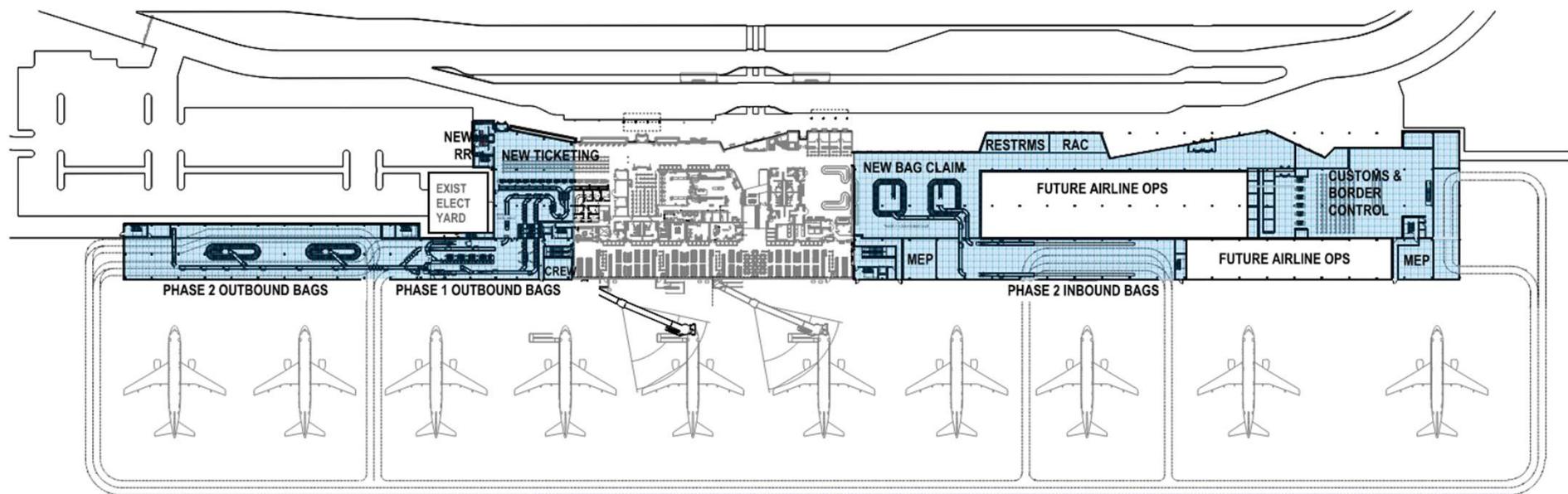
Terminal Expansion Site Plan



Expansion Rendering

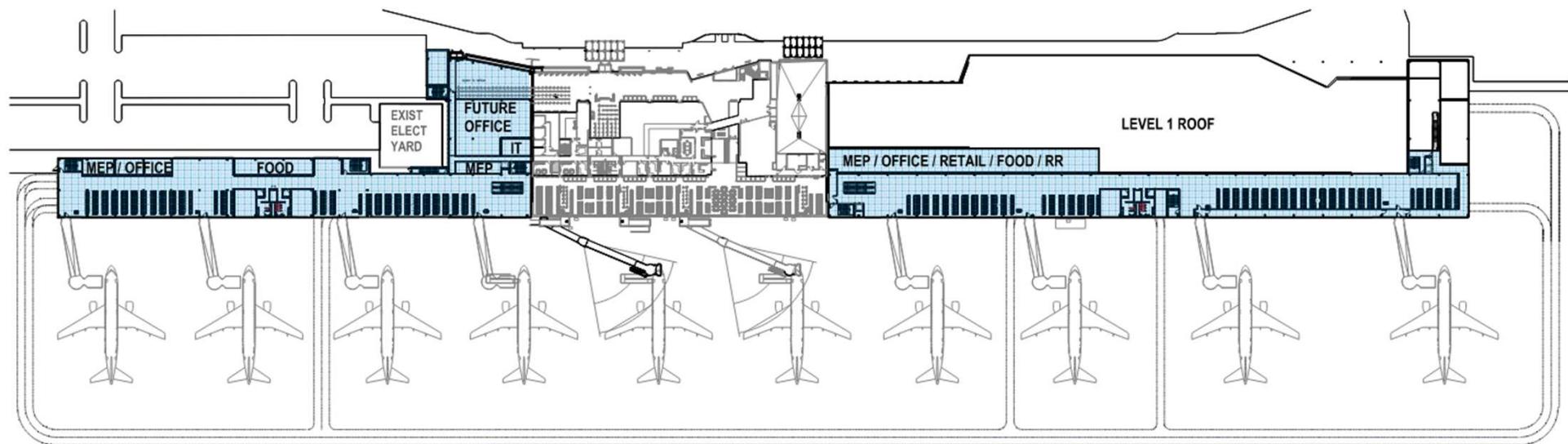


Expansion Concept – Level 1



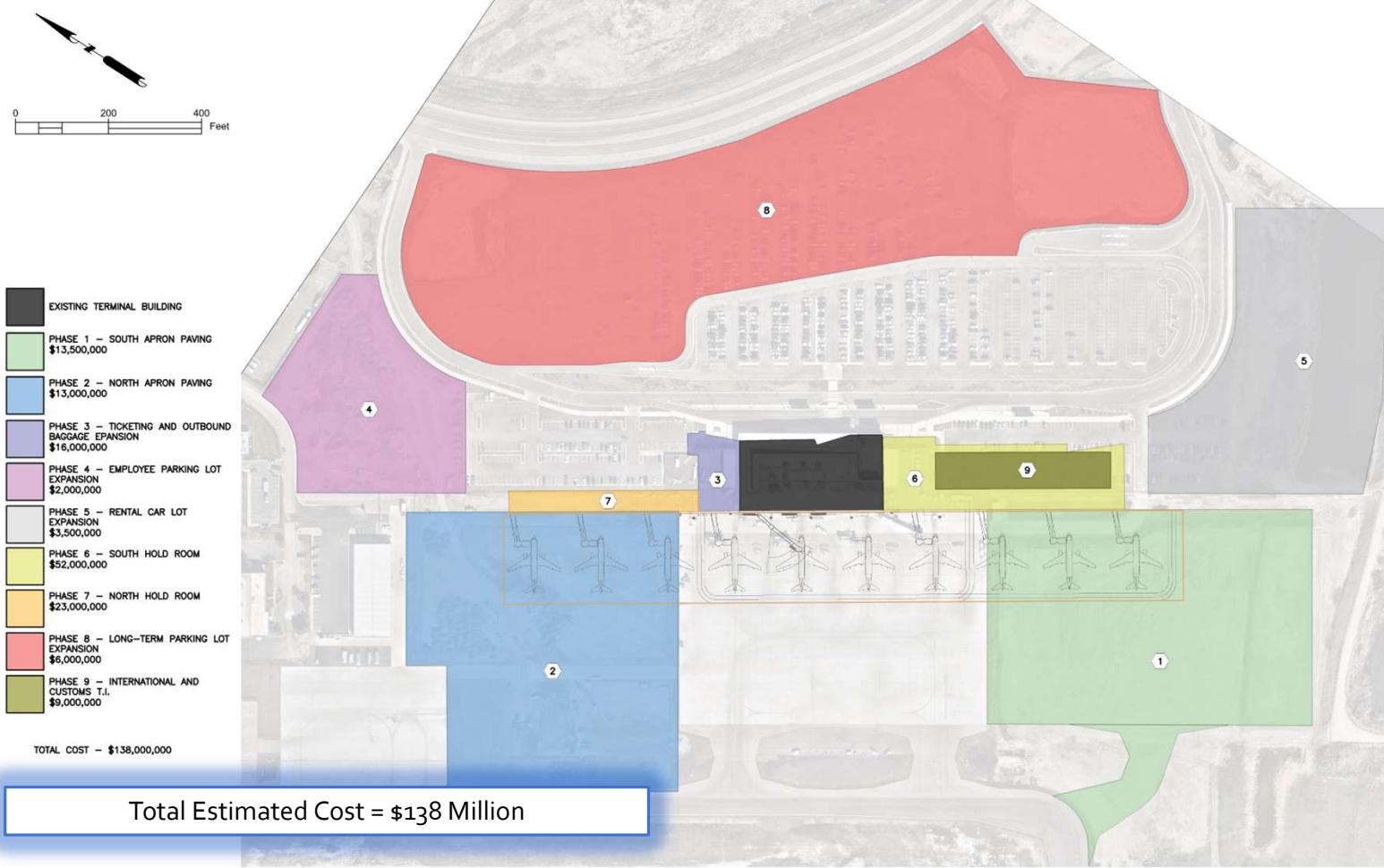
PROVO AIRPORT - NORTH & SOUTH ADDITIONS - LEVEL 1

Expansion Concept – Level 2



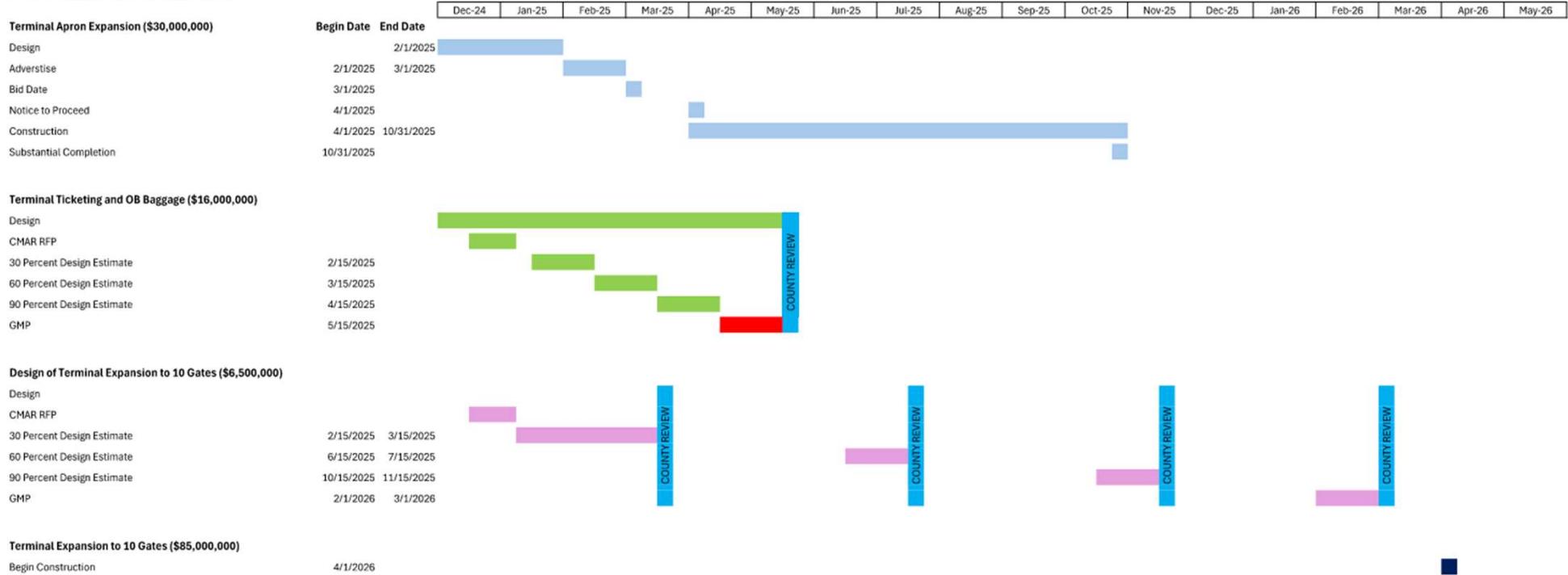
PROVO AIRPORT - NORTH & SOUTH ADDITIONS - LEVEL 2

Terminal Expansion Phasing



Project Timeline

Provo Airport Terminal Expansion



Project Funding



\$7.9 Million (Entitlements) – 2024, 2025, 2026
\$2.0 Million (Community Directed Legislative Appropriation) - 2023
\$5.0 Million (Discretionary) – 2025
\$4.5 Million (BIL Terminal Build) – 2025
\$10.0 Million (Anticipated Future Funding)
Total - **\$19.4 Million in-place** - \$29.4 Anticipated

\$1.0 Million (2023 One-time State appropriation remaining)
\$5.0 Million (2024 One-time State appropriation)
\$4.5 Million (2025 One-time State appropriation)
Total - **\$10.5 Million**

\$11.0 Million (Transportation Sales Tax)
\$5.6 Million (Airport Reimbursements)
Total **\$16.6 Million**

\$3.4 Million (Tourism Tax. Remaining)
\$19.5 Million (Tourism Tax)
\$45.5 Million (Bond - Backed by Tourism Tax)
Total - **\$68.4 Million (Construction) + \$13 Million Bond Interest**

\$16.9 Million (TIP Selection)

**\$131.8 Million
in Place!**



Interim Financing Loan
\$14.5 Million SIB Loan



Interim Financing Loan



In-House Construction

Interlocal Agreement



- \$10 Million (Existing Tourism Tax)
 1. \$6.6 Million spent on initial apron dirt work
 2. \$3.4 Million remaining
- \$78 Million (Existing Tourism Tax)
 1. \$19.5 Million up-front
 - Ticketing and Baggage Expansion
 - 10 Gate Terminal Final Design
 2. \$3.9 Million annually for 15 years
 - City Bond?
 - County Bond?
 - Minimize interest and maximize construction funding
 - 10-Gate Terminal
 - Annual expense report to County
 - Milestone updates with County
 - County Participation in key events

Council Action Requested

- Resolution approving the City's entrance into the Interlocal Agreement and authorizing the Mayor to sign
- Resolution appropriating the upfront \$19.5 million upon receipt from the County



Brian Torgersen
801-376-2293
btorgersen@provo.gov

**INTERLOCAL COOPERATION AGREEMENT BETWEEN UTAH COUNTY
AND PROVO CITY
REGARDING FUNDS TO ASSIST THE PROVO AIRPORT EXPANSION AND ITS
FACILITIES**

This agreement (the "Agreement") is made and entered into this 29th day of January 2025, by and between **Utah County** ("County"), a political subdivision of the State of Utah, with principal offices located at 100 East Center Street, Suite 2300, Provo, Utah 84606, and **Provo City** ("City"), a political subdivision of the State of Utah, with principal offices located at 445 West Center, Provo, Utah 84601.

RECITALS

WHEREAS, the Utah Interlocal Co-operation Act, Title 11, Chapter 13, Utah Code, permits local governmental units including cities, counties, interlocal 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 County desires to support and encourage tourism by supporting the development of airport facilities, including terminal expansion facilities, within Utah County; and

WHEREAS, the County has previously imposed a tax pursuant to the (1) Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act, Title 59, Chapter 12, Part 6, Utah Code, and (2) Transient Room Tax, Title 59, Chapter 12, Part 6, Utah Code (the "Tourism Tax Revenues"; and

WHEREAS, the County finds that the expansion of airport facilities is an appropriate use of Tourism Tax funds.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the County and the City as follows:

Section 1. PURPOSES

This Agreement has been established and entered into between the County and the City for the purpose of the County providing the City with Tourism Tax Revenues or other revenues, to assist in funding and financing certain costs of the expansion of the Provo Airport and related facilities (the "Provo Airport Expansion Project").

Section 2. EFFECTIVE DATE; DURATION

This Agreement shall become effective and shall enter into force, within the meaning of the Act, upon the submission of this Agreement to, and the approval thereof by resolution of, the governing bodies of each of the parties to this Agreement and upon execution of this Agreement

by the parties. The term of this Agreement shall be from the effective date hereof until the earlier of either (i) December 31, 2056 or (ii) the date on which the County has satisfied its maximum contribution and the Provo Airport Expansion Project has been completed.

Section 3. TERMS; OBLIGATIONS OF THE COUNTY AND THE CITY

1) County's Obligations:

- a. The County agrees to contribute to the City for expenses of the development of the Provo Airport Expansion Project.
- b. The maximum contribution amount from County will not exceed \$78,000,000.00, regardless of the total cost of the Provo Airport Expansion Project. The Parties anticipate that City will utilize funding from multiple sources for the development and construction of the Provo Airport Expansion Project and the County's contribution is a portion of the funding. The County may opt to use alternative funding sources, aside from Tourism Tax Revenues, to meet its maximum contribution obligation.
- c. County shall make an upfront contribution for the first year, (calendar year 2025) not exceeding 19,500,000.00 to City upon City's submission of an invoice to the County administrator with a description of proposed expenses of the Provo Airport Expansion Project.
- d. County shall make annual payments of up to \$3,900,000 commencing in 2026 and continuing for the duration of this agreement as provided herein. The annual payments will discontinue once the County has provided the maximum contribution to City.
 - i. If no Bonds (as defined below) have been issued:
 1. the County shall make the annual payment to City upon City's submission of an invoice to the County administrator no sooner than January 1 and no later than June 30 of each year, with a description of proposed expenses of the Provo Airport Expansion Project;
 2. In years when the anticipated annual payment is not requested or required by the City, the City may roll over up to \$3,900,000.00 to the following year; and
 3. County shall withhold the final \$7,800,000 of its maximum contribution until the completion of the Provo Airport Expansion Project and the whole project has received all necessary permits for operation and the Airport Expansion Project is fully operational.
 - ii. If Bonds have been issued by the County pursuant to Section 3 of this agreement, County shall satisfy its annual payment obligation by making any required payments on the Bonds.
 - iii. If Bonds have been issued by the City pursuant to Section 3 of this agreement, County shall make the annual payment to City by July 1 of each year.
- e. Notwithstanding the above, if agreed upon by the Parties, the County at its sole discretion can elect to provide an annual payment greater than \$3,900,000.00 in any given year. Any additional funds paid shall be deducted from the total maximum contribution.
- f. The County shall not be responsible for any costs or obligations associated with

the Provo Airport Expansion Project beyond the maximum contribution as defined herein.

2) City's Obligations:

- a. The funds contributed to the City by the County under this agreement are to be used exclusively for the Provo Airport Expansion Project.
- b. The City shall maintain the funds in an interest-bearing account, with all accrued interest dedicated to the benefit of the Provo Airport Expansion Project.
- c. The City agrees to develop, construct, and complete the Provo Airport Expansion Project before the deadline defined herein and regardless of total cost and expense. City acknowledges that County's contribution is anticipated to be only a portion of the total cost of the Provo Airport Expansion Project. The Provo Airport Expansion Project is defined at a minimum to include:
 - i. Construction of expanded ticketing/check-in counters and passenger queueing area;
 - ii. Expansion of the TSA baggage screening and outbound baggage processing areas and systems;
 - iii. Design costs for the concept and final design of a fully functional, tenant passenger terminal and applicable terminal support facilities, such as a rental car facility and passenger parking lot expansion;
 - iv. Expanding the terminal to add 3 passenger boarding gates on the south side of the terminal building, 2 of which are intended to be capable of accommodating international flight arrivals;
 - v. Expanding inbound baggage processing areas and systems;
 - vi. Relocating and improving rental car facilities;
 - vii. Expanding ground level terminal space to be used by airlines and other terminal support providers;
 - viii. Providing shell space sufficient to accommodate a Federal Inspection Station (FIS) to allow for Customs and Border Patrol (CBP) operations;
 - ix. Expanding the terminal to add 3 passenger boarding gates on the north side of the terminal building;
 - x. Expanding terminal concessions space for in-terminal retail sales;
 - xi. Expanding employee parking facilities; and
 - xii. Expanding and improving passenger parking facilities.
- d. The City agrees to provide periodic updates to the Board of Utah County Commissioners at the following benchmarks:
 - i. The guaranteed maximum price ("GMP") of the Terminal Ticketing and OB Baggage;
 - ii. 30 Percent Design Estimate for the Terminal Expansion to 10 Gates;
 - iii. 60 Percent Design Estimate for the Terminal Expansion to 10 Gates;
 - iv. 90 Percent Design Estimate for the Terminal Expansion to 10 Gates; and
 - v. The GMP for the Terminal Expansion to 10 Gates.
- e. The City shall meet with County Commission, or a County employee designated by the County Commission, at least twice annually to discuss the needs and progress of the project.
- f. The City shall provide an annual financial report to the County by January 20 of each year for the prior calendar year. The report shall include an accounting of funds expended to date, supported by receipts and other documentation, as well as an accounting of any interest accrued from County contributions in

interest-bearing accounts. If City fails to provide the annual financial report to the County by January 20, the City shall pay the County a penalty of \$5,000, with an additional \$5,000 penalty imposed every 30 days thereafter if the report has not been provided.

- g. The City agrees to invite the County Commission to all ceremonial events related to the Provo Airport Expansion Project, including groundbreakings, ribbon-cutting ceremonies, and other celebratory occasions.
- h. If construction differs from the Provo Airport Expansion Project as described in this agreement, the City will need to get County's consent to amendments. Otherwise, the City agrees that future funding will be forfeited and that any funds delivered to City that were used for construction different from what is stated in this agreement will be repaid to County.
- i. The City agrees to complete the Provo Airport Expansion Project as described herein by January 1, 2034, aligning with the commencement of the 2034 Utah Winter Olympics, or \$19,500,000.00 will be repaid to the County over a period of up to 20 years, and any outstanding funds will be forfeited.

3) **Bond Issuance and Security:** In order to achieve the Provo Airport Expansion Project goals, the Parties intend and expect that some portion of the County's annual payments will be used to secure a bond issuance (the "*Bonds*"). Unless the City and the County mutually agree that it is more advantageous for the County to issue the Bonds, the City may issue Bonds to finance a portion of the Provo Airport Expansion Project, to fund any necessary reserves, and to pay costs of issuance. The City presently anticipates the Bonds to be amortized over an approximately 15-year amortization period, but may bond on any terms deemed advisable. The sole or primary source of payment and security for the Bonds will be Tourism Tax Revenues paid by the County pursuant to the Annual Commitment (defined below).

- a. In the event that Bonds are issued by the City, in order to provide for additional security and a debt service coverage margin, the County pledges to pay the City, in addition to the annual payments described above, by July 1 of each year, additional Tourism Tax Revenues in an amount sufficient, when added to the annual payment, to provide 2.0x coverage of debt service on the Bonds ("*Additional Revenues*") (collectively with the annual payment, the "*Annual Commitment*"). The City, or the County on behalf of the City, shall cause the Additional Revenues to be deposited by July 1 into a bond fund securing the Bonds (unless, upon written approval of the City, such funds are set aside in a County-held fund securing the Bonds) (the "*Bond Fund*"). Upon satisfaction of any annual coverage requirements with respect to the Bonds, and so long as the County is not in default of its obligations under this agreement, the Additional Revenues shall be released from the Bond Fund and remitted to the County for use by the County for any lawful purpose.
- b. Whereas the County has previously issued, and currently has outstanding, its Series Excise Tax Revenue Refunding Bonds, Series 2020 (the "*Outstanding County Excise Tax Bonds*"), which are secured by (among other revenues) 100% of the County's Tourism Tax Revenues, the Annual Commitment shall constitute a second lien pledge of Tourism Tax Revenues, subject only to the pledge of Tourism Tax Revenues with respect to the Outstanding County Excise

Tax Bonds. The County covenants that, until it has satisfied its obligation to pay the last Annual Commitment installment, the County shall not issue or incur any future bonds, indebtedness, or other obligations (including “*Additional Bonds*,” as defined in the General Indenture of Trust, dated as of January 1, 2010, as supplemented and amended, including by a Second Supplemental Indenture of Trust dated as of January 1, 2020 (the “*County Excise Tax Indenture*”), securing the Outstanding County Excise Tax Bonds) secured by Tourism Tax Revenues on a basis senior to, or on parity with, the pledge of the County with respect to the Annual Commitment; *provided, however*, that the County may pledge Tourism Tax Revenues on a basis senior to or on parity with the pledge of the Annual Commitment for the purpose of issuing additional bonds (“*County Refunding Bonds*”) to refund Outstanding County Excise Tax Bonds for economic savings, so long as the final maturity of such refunding bonds does not exceed the final maturity of the Outstanding County Excise Tax Bonds.

- c. If, as described above, the City and the County mutually agree that it is more advantageous for the County to issue the Bonds, such issuance shall meet the following criteria:
 - i. The Bonds shall be bonds issued at competitive market interest rates at the time of issuance that result in the maximum project construction funding;
 - ii. The combined annual principal and interest payments for the Bonds shall be \$3,900,000 and shall be for a term equal to the number of annual payments still owing; and
 - iii. The project construction fund resulting from the Bonds shall include:
 1. the par amount of the bonds, plus any reoffering premium less the cost of issuance and the total underwriter’s discount; and
 2. any interest from investing the bond proceeds until the funds are utilized for the project subject to applicable arbitrage requirements.

Section 4. FILING OF INTERLOCAL COOPERATION AGREEMENT

Executed copies of this Agreement shall be placed on file in the office of the County Clerk of the County and with the official keeper of records of the City and shall remain on file for public inspection during the term of this Agreement.

Section 5. ADOPTION REQUIREMENTS

This Agreement 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 (c) submitted to and approved by an Authorized Attorney of each of the parties, as required by Section 11-13-202.5, Utah Code, and (d) filed in the official records of each party.

Section 6. 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, may not be affected thereby, and must 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 7. 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 8. INDEMNIFICATION.

The County shall indemnify and hold the City harmless from and against any and all claims arising from any breach or default in the performance of any obligation on the County's part to be performed under the terms of this Agreement, or arising from any act or negligence of the County, or any of the County'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 County and the City 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 County's obligations under this provision shall survive the expiration or other termination of this Agreement.

The City shall indemnify and hold the County harmless from and against any and all claims arising from any breach or default in the performance of any obligation on the City's part to be performed under the terms of this Agreement, or arising from any act or negligence of the City, or any of the City'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. The City's obligations under this provision shall survive the expiration or other termination of this Agreement.

Section 9. 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.

Section 10. AMENDMENTS

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, (c) submitted to and approved by an authorized attorney of each of the parties, as required by Section 11-13-205.5, Utah Code, and (d) filed in the official records of each party.

Section 11. ASSIGNMENT

The parties to this Agreement shall not assign this Agreement, or any part hereof, without the prior written consent of all other parties to this Agreement. No assignment shall relieve the original parties from any liability hereunder.

Section 12. NO PRESUMPTION

Should any provision of this Agreement require judicial interpretation, the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against the party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that each of the parties have participated in the preparation hereof.

Section 13. NOTICES

All notices, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the parties at the addresses of the City Mayor or County Commission, or at such other addresses as may be designated by notice given hereunder.

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

APPROVED AND ADOPTED this 29th day of January 2025.

BOARD OF COUNTY COMMISSIONERS,
UTAH COUNTY, UTAH

DocuSigned by:

Brandon B. Gordon

FCC2EEE5B8EA4AD
BRANDON B. GORDON, Chair

Signed by:

ATTEST:
AARON R. DAVIDSON
Utah County Clerk



By: *Jolynn Clegg*
Deputy Clerk

Signed by:

EEFB899502484FB..

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

By: *Jeffrey S. Gray*
Deputy County Attorney

DocuSigned by:

96A7AC669CB946A

BOARD OF COUNTY COMMISSIONERS UTAH
COUNTY, UTAH

BRANDON B. GORDON, CHAIR

SKYLER BELTRAN, VICE CHAIR

AMELIA POWERS GARDNER, COMMISSIONER

VOTE

YEA

NAY

X

X

ABSENT

CITY

Authorized by Resolution No. _____, authorized and passed on the _____ day of
_____ 2025.

Mayor, Provo City

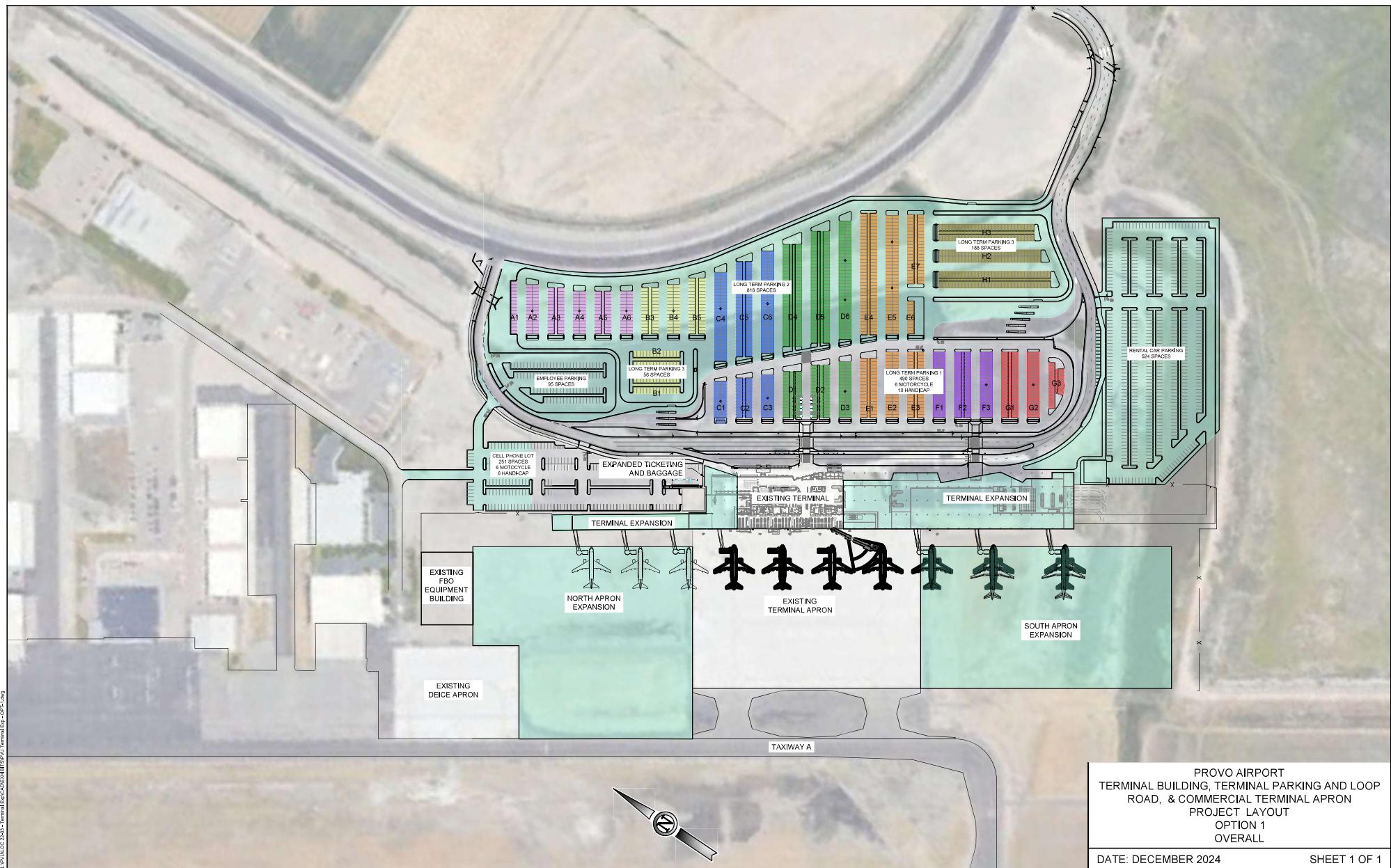
ATTEST:

Heidi Allman
Provo City Recorder

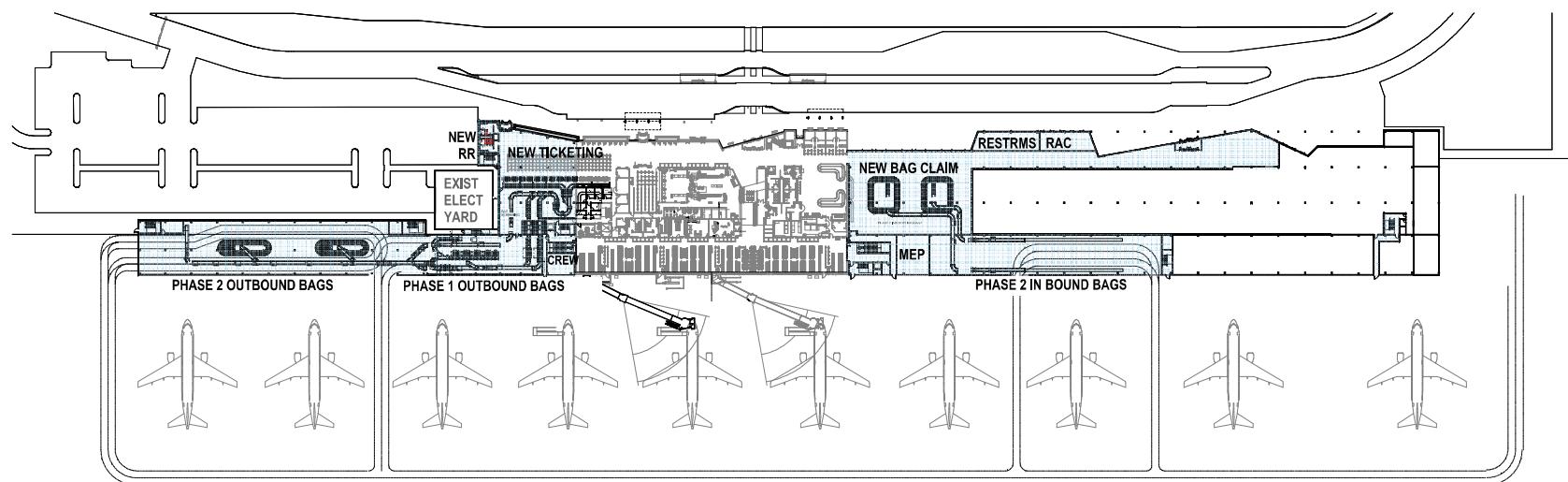
APPROVED AS TO FORM AND COMPATIBILITY
WITH THE LAWS OF THE STATE OF UTAH
Provo City Attorney

By: _____

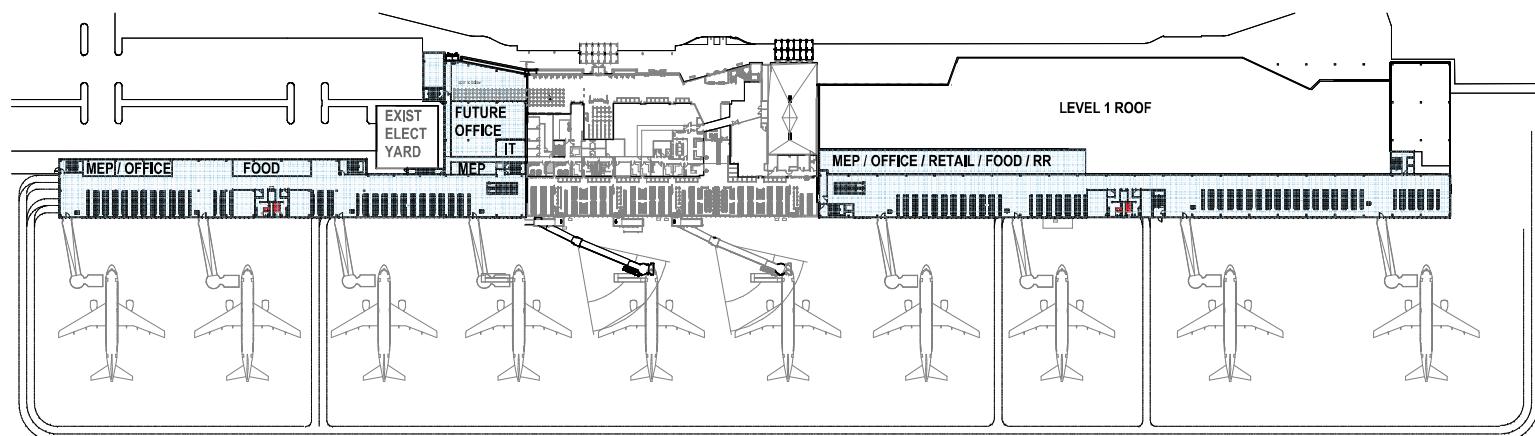
Exhibit: Expansion Concept



Concept



PROVO AIRPORT - NORTH & SOUTH ADDITIONS - LEVEL 1
WITHOUT INTERNATIONAL ARRIVALS



PROVO AIRPORT - NORTH & SOUTH ADDITIONS - LEVEL 2
WITHOUT INTERNATIONAL ARRIVALS

Concept



Concept



RESOLUTION <<Document Number>>

A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN
PROVO CITY AND UTAH COUNTY REGARDING FUNDING FOR THE
PROVO MUNICIPAL AIRPORT TERMINAL EXPANSION. (25-020)

The Utah County Commission has pledged \$78 million to help fund the expansion of the Provo Airport terminal;

In order for Provo City to utilize these funds to accomplish the project, Provo City and Utah County desire to enter into an interlocal cooperation agreement pursuant to Section 11-13-207, Utah Code Annotated, 1953 as amended;

The Utah County Commission approved the interlocal agreement on January 29, 2025;

On March 11, 2025, 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 such action reasonably furthers the health, safety, and general welfare of the citizens of Provo City.

THEREFORE, the Provo Municipal Council resolves as follows:

PART I:

1. The Interlocal Cooperation Agreement, as attached in Exhibit A is approved.
2. The Mayor is authorized to sign and execute all necessary and appropriate documents in conjunction with this agreement.

PART II:

This resolution takes effect immediately.

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: JMCKNIGHT

Presenter: Brian Torgersen, Airport Director

Department: Public Works

Requested Meeting Date: 03-11-2025

Requested Presentation Duration: 5 minutes

CityView or Issue File Number: 25-020

SUBJECT: 8 A resolution appropriating \$19,500,000 in the airport fund, funded by a contribution from Utah County, for airport terminal expansion applying to the fiscal year ending June 30, 2025. (25-020)

RECOMMENDATION: Approve the resolution appropriating the upfront \$19.5 million upon receipt from Utah County

BACKGROUND: The Utah County Commission has pledged \$78 million to help fund the expansion of the Provo Airport terminal. The expectations regarding the use and transfer of funding is formalized through an interlocal agreement between the County and City. The agreement was authorized by the Utah County Commission on January 29, 2025. The agreement stipulates the County will contribute an upfront amount of \$19.5 million. This resolution appropriates that money so it can be spent in the Airport fund.

FISCAL IMPACT: \$19.5 million in County funds pledged as the upfront portion of their \$78 million contribution to the Provo Airport terminal

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

Page 61 of the 2023 General Plan states “Provo should continue to invest in and expand its airport and flight offerings while promoting the city’s accessibility regionally, nationally, and internationally.”

RESOLUTION <<Document Number>>

A RESOLUTION APPROPRIATING \$19,500,000 IN THE AIRPORT FUND
FUNDED BY A CONTRIBUTION FROM UTAH COUNTY FOR AIRPORT
TERMINAL EXPANSION APPLYING TO THE FISCAL YEAR ENDING
JUNE 30, 2025. (25-020)

RECITALS:

It is proposed that \$19,500,000 be appropriated in the Airport Fund for Airport Terminal Expansion;

The funding source is Utah County Tourism Tax Revenues pledged by interlocal agreement;

On March 11, 2025, 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 appropriation should be approved, and (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.

THEREFORE, the Provo Municipal Council resolves as follows:

PART I:

The Mayor is authorized to appropriate \$19,500,000 upon receipt of funds from Utah County in the Airport fund for Airport Terminal Expansion.

PART II:

This resolution takes effect immediately.

END OF RESOLUTION.



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, **March 11, 2025** 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 an appropriation of \$19,500,000 in the Airport fund for the airport terminal expansion. The funding source of the appropriation is \$19,500,000 from Utah County's tourism tax, as authorized by the Utah County Commission in an interlocal agreement with Provo City on January 29, 2025.

The meeting will also be available to the public for live broadcast and on-demand viewing at: 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 and enter Meeting ID **833 9747 5081** and Passcode **041849**. To listen or comment via phone, dial **346-248-7799**, enter Meeting ID **833 9747 5081** 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 and click on the meeting agenda.

Kelsey Zarbock, Budget Officer

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: JOHNB
Presenter: John Borget, Director of Administrative Services
Department: Administrative Services
Requested Meeting Date: 03-11-2025
Requested Presentation Duration: 10 minutes
CityView or Issue File Number: 25-029

SUBJECT: 9 A resolution approving the transfer of \$650,124 from the general fund to the airport fund for an interfund loan payment and an associated appropriation of \$160,071 in the airport fund to pay for interest expenses. (25-029)

RECOMMENDATION: Transfer \$650,124 from the General Fund to the Airport for an interfund loan payment related to a purchase of property adjacent to the Airport

BACKGROUND: 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. 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. 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 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 a transfer from the General Fund of \$650,124, which includes interest of \$160,071. Beginning on fiscal 2027 the plan is for the Airport to make the annual payment on the loan without any assistance from the General Fund.

FISCAL IMPACT: Decrease of General Fund balance of \$650,124

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
Meets goals and objectives of the City by supporting the Airport and meeting the obligation of the interfund loan.

1 RESOLUTION 2025 <<Document Number>>
2

3 A RESOLUTION APPROVING THE TRANSFER OF \$650,124 FROM THE
4 GENERAL FUND TO THE AIRPORT FUND FOR AN INTERFUND
5 LOAN PAYMENT AND AN ASSOCIATED APPROPRIATION OF
6 \$160,071 IN THE AIRPORT FUND TO PAY FOR INTEREST EXPENSES.
7 (25-029)

8 RECITALS:
9

10 It is proposed that \$650,124 be transferred from the General Fund to the Airport Fund for
11 an interfund loan payment to the Energy Fund. On April 21, 2020, the Municipal Council
12 approved a resolution authorizing an interfund loan between the Airport Fund and the
13 Energy Fund for \$4,900,526 to purchase land near the Airport. The loan was to be paid back
14 with Airport revenues, but if revenues were not sufficient, a transfer would be made from
15 the General Fund for all or a portion of the payment. The Airport is currently not able to
16 make the payment, so a transfer from the General Fund of \$650,124, which includes an
17 appropriation for interest of \$160,071, is requested.

18 On February 25, 2025, and March 11, 2025, the Municipal Council met to consider the
19 facts regarding this matter and receive public comment, which facts and comments are found in
20 the public record of the Council's consideration; and

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

26 THEREFORE, the Provo Municipal Council resolves as follows:

28 PART I:

30 A \$650,124 transfer from the General Fund to the Airport Fund is hereby authorized,
31 applying to the fiscal year ending June 30, 2025.

33 PART II:

35 An appropriation of \$160,071 for interest expenses is authorized in the Airport fund
36 applying to the fiscal year ending June 30, 2025

38 PART III:

40 This resolution takes effect immediately.

PROVO MUNICIPAL COUNCIL

WORK SESSION

STAFF REPORT



Submitter: JOHNB
Presenter: John Borget
Department: Administrative Services
Requested Meeting Date: 02-25-2025
Requested Presentation Duration: 30 minutes
CityView or Issue File Number: 25-029

SUBJECT: 6 A resolution approving the transfer of \$650,124 from the General Fund to the Airport Fund for an interfund loan payment and an associated appropriation of \$160,071 in the Airport Fund to pay for interest expenses. (25-029)

RECOMMENDATION: Transfer \$650,124 from the General Fund to the Airport for an interfund loan payment related to a purchase of property adjacent to the Airport

BACKGROUND: 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. 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. 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 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 a transfer from the General Fund of \$650,124, which includes interest of \$160,071. Beginning on fiscal 2027 the plan is for the Airport make the annual payment on the loan without any assistance from the General Fund.

FISCAL IMPACT: Decrease of General Fund balance of \$650,124.

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
Meets goals and objectives of the City by supporting the Airport and meeting the obligation of the interfund loan.



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, March 11 2025** 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 \$650,124 from the General Fund to the Airport Fund for an interfund loan payment to the Energy Fund and an associated \$160,071 appropriation in the Airport Fund to cover interfund interest expense. The funding source of the transfer is General fund balance.

The meeting will also be available to the public for live broadcast and on-demand viewing at: 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 and enter Meeting ID **833 9747 5081** and Passcode **041849**. To listen or comment via phone, dial **346-248-7799**, enter Meeting ID **833 9747 5081** 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 and click on the meeting agenda.

Kelsey Zarbock, Budget Officer

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: HWALSTAD

Presenter: Mayor Kaufusi

Department: Mayor Office

Requested Meeting Date: 03-11-2025

Requested Presentation Duration: 5

CityView or Issue File Number: 25-031

SUBJECT: 10 A resolution approving the appointment of individuals to various boards and commissions. (25-031)

RECOMMENDATION: Mayor's reappointment and appointment of individuals to various boards and commissions

BACKGROUND: The Mayor will appoint individuals to fill current vacancies on various boards and commissions. These appointments will be presented to the Council for approval.

FISCAL IMPACT: None

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

Per Provo City Code, the Mayor will make appointments to vacant seats on various boards and commissions to ensure that they meet the requirements.

RESOLUTION <<Document Number>>

A RESOLUTION APPROVING THE APPOINTMENT OF INDIVIDUALS
TO VARIOUS BOARDS AND COMMISSIONS. (25-031)

RECITALS:

The Mayor has recommended the following individuals for reappointment and appointment to various city boards and commissions, as shown below;

On March 11, 2025, 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, the Council finds that (i) the proposed action 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 Provo Municipal Council gives its advice and consent to the following appointments:

PART I:

1. On the Transportation and Mobility Advisory Committee (TMAC), pursuant to Povo City Code Section 14.04B.010:

<u>Appointee's Name</u> Greg McFarlane	<u>Board</u> TMAC	<u>Seat</u>	<u>Term Expiration Date</u> June 30, 2027
---	----------------------	-------------	--

2. Following said reappointment, there are 8 members and 1 vacancy on the Transportation and Mobility Advisory Committee (TMAC), as shown in the attached Exhibit A.

PART II:

1. On the Arts Council, pursuant to Provo City Code Section 2.22.010:

<u>Appointee's Name</u>	<u>Board</u>	<u>Seat</u>	<u>Term Expiration Date</u>
Newell Daley	Arts Council	3	June 30, 2026
Christopher Meek	Arts Council	10	June 30, 2027
Stephanie Breinholt	Arts Council	1	June 30, 2025

41	Isaac King	Arts Council	11	June 30, 2025
42	Nate Keller	Arts Council	9	June 30, 2025

43

44 2. Following said appointments, there are 11 members, and no vacancies on the Arts
45 Council as shown on the attached Exhibit B.

46

47

48 PART III:

49

50 This resolution takes effect immediately

EXHIBIT A¹
TRANSPORTATION AND MOBILITY ADVISORY COMMITTEE APPOINTMENTS

Name	Seat ²	Consecutive Term Number	Term Expiration Date ³	Appointing Resolution
James Hamula	District 1 and Business/Community Organization Rep.	1	6/30/2025	2021-36
Joy McMurray	District 2	1	6/30/2022	2019-38
		2	6/30/2025	2022-42
Beth Provence	District 3	1	6/30/2025	2023-07
Noah Gordon	District 4	1	9/5/2025	2023-38
David Keller	District 5	1	6/30/2027	2024-
Lisa Jensen	Planning Commission member		For duration of service on Planning Commission	2022-42
Greg Macfarlane	Representative of college-level transportation academia	1	12/31/2027	2022-03; Attached
David Hurtado	Alternate	1	6/30/2025	2022-58
<i>Vacant</i>	Alternate			

¹ This Exhibit includes the Transportation and Mobility Advisory Committee appointees in the resolution to which it is attached. Anyone not so appointed should be removed from the Exhibit.

² Alternate seats are required under city code.

³ No more than two consecutive terms. Three-year (staggered) terms. Vacancies filled for the duration of unexpired term.

EXHIBIT B²
ARTS COUNCIL APPOINTMENTS

Name	Seat	Residency status²	Term Expiration Date³	Appointing Resolution
Stephanie Breinholt	1	Provo resident	6/30/2025	Attached
Barta Heiner	2	Provo resident	6/30/2027	2022-16, 2024-44
Newell Daley	3	Provo resident	6/30/2026	Attached
Daren Smith	4	Provo resident	6/30/2026	2023-25
Jen Babcock	5	Provo resident	6/30/2027	2024-50
Margaret Weber	6	Provo resident	6/30/2026	2023-25
Jennifer Griffin	7	Provo Resident	6/30/2027	2024-50
Emilie Campbell	8	Provo resident	6/30/2026	2023-25
Nate Keller	9	Non-Provo resident	6/30/2025	Attached
Christopher Meek	10	Non-Provo Resident	6/30/2027	Attached
Isaac King	11	Provo resident	6/30/2025	Attached

1 This Exhibit includes the Arts Council appointees in the resolution to which it is attached. Anyone not so appointed should be removed from the Exhibit.

2 Up to three members may be non-residents of Provo.

3 Three-year terms.

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: JDAHNEKE

Presenter: Jessica Dahneke, Planner

Department: Development Services

Requested Meeting Date: 01-01-2018

Requested Presentation Duration: 5 minutes

CityView or Issue File Number: PLRZ20250003

SUBJECT: 11 An ordinance amending the zone map classification of approximately 0.82 acres of real property, generally located at 4122 North Canyon Road, from the RA Zone to the R1.10 Zone. North Timpview Neighborhood (PLRZ20250003)

RECOMMENDATION: Approve the proposed zone map amendment from the Residential Agricultural zone to the One-Family Residential R1.10 zone

BACKGROUND: The applicant is seeking a zone map amendment for a 0.82-acre parcel located at 4122 N Canyon Road. The proposed change would rezone the property from Residential Agriculture (RA) to Single-Family Residential (R1.10), enabling the creation of an additional residential lot. This rezoning request aligns with both the General Plan and Northeast Neighborhoods Plan Future Land Use Map, which designate this area for residential development.

FISCAL IMPACT: none

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

Goal 1a in the Land Use chapter of the General Plan states, “Encourage the development of additional single-family home developments in key areas to address housing shortages and facilitate additional economic growth and economic opportunities.”

Provo City Planning Commission
Report of Action

February 12, 2025

*ITEM 4 Brian Morrow requests approval of a Zone Map Amendment from the RA (Residential Agricultural) Zone to the R1.10 Zone in order to complete a two-lot residential subdivision, located at 4122 N Canyon Road. North Timpview Neighborhood. Jessica Dahneke (801) 852-6413 jdahneke@provo.gov PLRZ20250003

The following action was taken by the Planning Commission on the above described item at its regular meeting of February 12, 2025:

RECOMMENDED APPROVAL

On a vote of 5:0, the Planning Commission recommended that the Municipal Council approve the above noted application

Motion By: Adam Shin

Second By: Barbara DeSoto

Votes in Favor of Motion: Melissa Kendall, Barbara DeSoto, Jonathon Hill, Andrew South, Adam Shin, Jeff Whitlock
Jeff Whitlock 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 R1.10 Zone is described in the attached Exhibit A.

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 01/15/2025.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood District Chair addressed the Planning Commission during the public hearing.
- Sharon Memmont stated that the item had been brought to the January 15, 2025 District 1 meeting and that all in attendance at that meeting were in favor of the rezone.

CONCERNS RAISED BY PUBLIC

No public comment was given on this item

APPLICANT RESPONSE

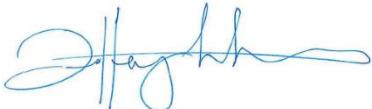
Key points addressed in the applicant's presentation to the Planning Commission included the following:

Brian and Bonnie Morrow explained that the original property owners are settling out a trust and doing so it would create a lot smaller than the residential agricultural zone would allow. Rezoning to R1.10 allows for the creation of a conforming lot.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Whitlock opened the item to Commission discussion, the commissioners felt they were ready to make a motion on the item based on the information presented by staff and the applicant.
- Commissioner Shin motioned to recommend approval of the item.
- Commissioner DeSoto seconded the motion.



Planning Commission Chair



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.

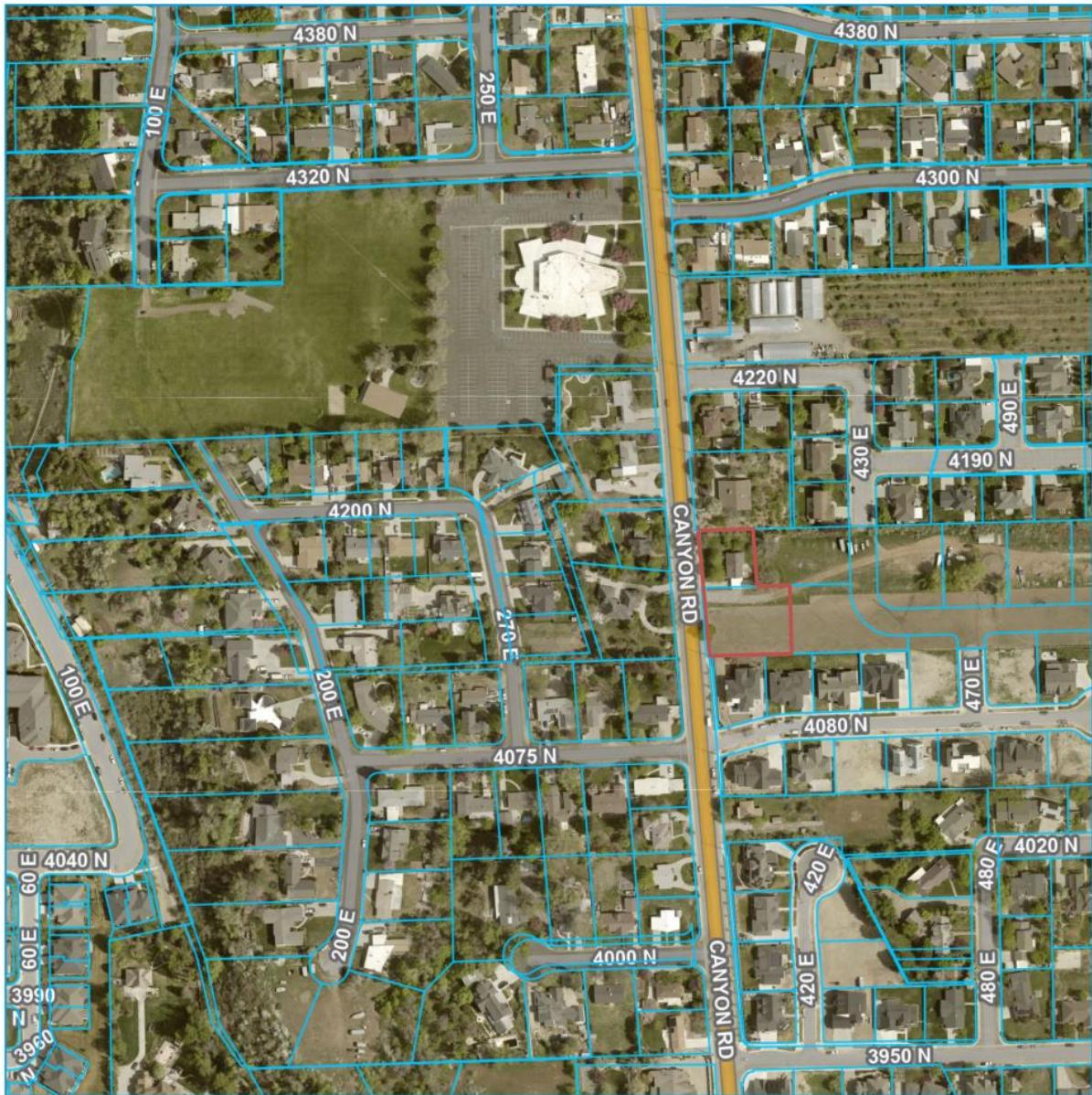
Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

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 the Development Services Department, 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 – AREA MAP AND LEGAL DESCRIPTION

Item 4



Date: 1/30/2025

This map is for graphical representation only and not for construction or defining feature locations.

0 0.04 0.09
mi

PARCEL 20:031:0265: COM S 0 DEG 0' 18" E 534.252 FT & S 89 DEG 59' 42" W 1138.315 FT FR N 1/4 COR. SEC. 19, T6S, R3E, SLB&M.; S 4 DEG 24' 54" E 98.99 FT; S 2 DEG 9' 36" E 15.92 FT; S 88 DEG 44' 16" W 107.49 FT; N 4 DEG 40' 52" W 114.96 FT; N 88 DEG 44' 17" E 108.65 FT TO BEG. AREA 0.285 AC.

PARCEL 40:232:0005: PART LOT 2, PLAT A, GLAZIER SUB DESCRIBED AS FOLLOWS; COM S 0 DEG 0' 18" E 784.503 FT & S 89 DEG 59' 42" W 1061.355 FT FR N1/4 COR. SEC. 19, T6S, R3E, SLB&M.; S 88 DEG 43' 38" W 165.2 FT; N 4 DEG 28' 4" W 137.6 FT; N 88 DEG 44' 51" E 172.88 FT; S 1 DEG 16' 3" E 137.22 FT; S 1 DEG 19' 51" E .1 FT TO BEG. AREA 0.533 AC.

**Planning Commission Hearing
Staff Report**
Hearing Date: February 12, 2025

***ITEM 4** Brian Morrow requests approval of a Zone Map Amendment from the RA (Residential Agricultural) Zone to the R1.10 Zone in order to complete a two-lot residential subdivision, located at 4122 N Canyon Road. North Timpview Neighborhood. Jessica Dahneke (801) 852-6413 jdahneke@provo.gov PLRZ20250003

Applicant: GLAZIER, SHURI & ROWENA S (ET AL) Morrow, Brian

Staff Coordinator: Jessica Dahneke

Property Owner: GLAZIER, SHURI & ROWENA S (ET AL)

Parcel ID: 40:232:0005, 20:031:0265

Acreage: 0.82

Number of Properties: 1

Number of Lots: 1

Current Zone: Residential Agriculture

Proposed Zone: R1.10

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented.

The next available meeting date is February 26, 2025, 6:00 P.M.

2. **Deny** the requested variance. *This action would not be consistent with the recommendations of the Staff Report. The Board of Adjustment should state new findings.*

Current Legal Use:

Single-Family Dwelling

Relevant History:

The property, currently zoned Residential Agricultural (RA), contains a single-family dwelling. The applicant is seeking to rezone the property from RA to R1.10, which would enable the creation of an additional lot on the property.

Neighborhood Issues:

The proposed rezone was presented at the District 1 meeting on January 15th. All residents present at the meeting were in support of the rezone.

Summary of Key Issues:

- The Property is currently zoned Residential Agriculture.
- The General Plan and the Northeast Neighborhoods Plan future land use map show this area as residential.
- The required lot size in the RA zone is half an acre.
- The R1.10 zone allows quarter acre lots.
- The rezone would allow for the creation of an additional lot at the property.

Staff Recommendation:

Approve the requested rezone. This action would be consistent with the recommendations of the Staff Report.

OVERVIEW

The applicant is seeking a zone map amendment for a 0.82-acre parcel located at 4122 N Canyon Road. The proposed change would rezone the property from Residential Agriculture (RA) to Single-Family Residential (R1.10), enabling the creation of an additional residential lot. This rezoning request aligns with both the General Plan and Northeast Neighborhoods Plan Future Land Use Map, which designate this area for residential development. Approving the proposed rezone would allow for the creation of an additional lot and single-family dwelling.

Surrounding Zones

North: Residential Agriculture

East: Residential Agriculture

South: R1.10

West: R1.10

FINDINGS OF FACT

1. The parcel is currently zoned Residential Agricultural (RA) and is 0.82 of an acre or 35,719 square feet.
2. The proposed zoning is R1.10, single-family residential.
3. The General Plan designation for the area is Residential.
4. The R1.10 zone allows for quarter acre lots.
5. Approving the rezone would allow for the creation of an additional lot.

STAFF ANALYSIS

The property, currently zoned Residential Agricultural, is situated within a well-established single-family neighborhood characterized by consistent residential development. The proposed rezone seeks to create an additional residential lot that would seamlessly integrate with the existing neighborhood's architectural and density. Approving the proposed rezone to R1.10 would be consistent with the General Plan and matches the surrounding use.

General Plan

Provo City Code Title 14.02.020(2) sets forth the following guidelines for consideration of amendments:

1. Before recommending an amendment to this Title, the Planning Commission shall determine whether an 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 public purpose for this amendment is to create an additional single-family lot and add to the housing supply in the area.

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

Staff response: Approval of this zone map amendment will allow the applicant to subdivide and add an additional single-family dwelling to the neighborhood.

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

Staff response: Goal 1a in the Land Use chapter of the General Plan states, “Encourage the development of additional single-family home developments in key areas to address housing shortages and facilitate additional economic growth and economic opportunities.”

- 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: The proposed zone map amendment is consistent with the timing and sequencing of the General Plan goal mentioned above.

- 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 proposal will hinder or obstruct General Plan policies.

- f) Adverse impacts on adjacent landowners.

Staff response: The surrounding neighborhood is predominantly zoned R1.10, rezoning this area should not have any adverse impacts to the adjacent landowners.

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

Staff response: The General Plan shows this area as “Residential”. The rezone matches this designation.

- 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 is no conflict between the General Plan Map and General Plan Policies.

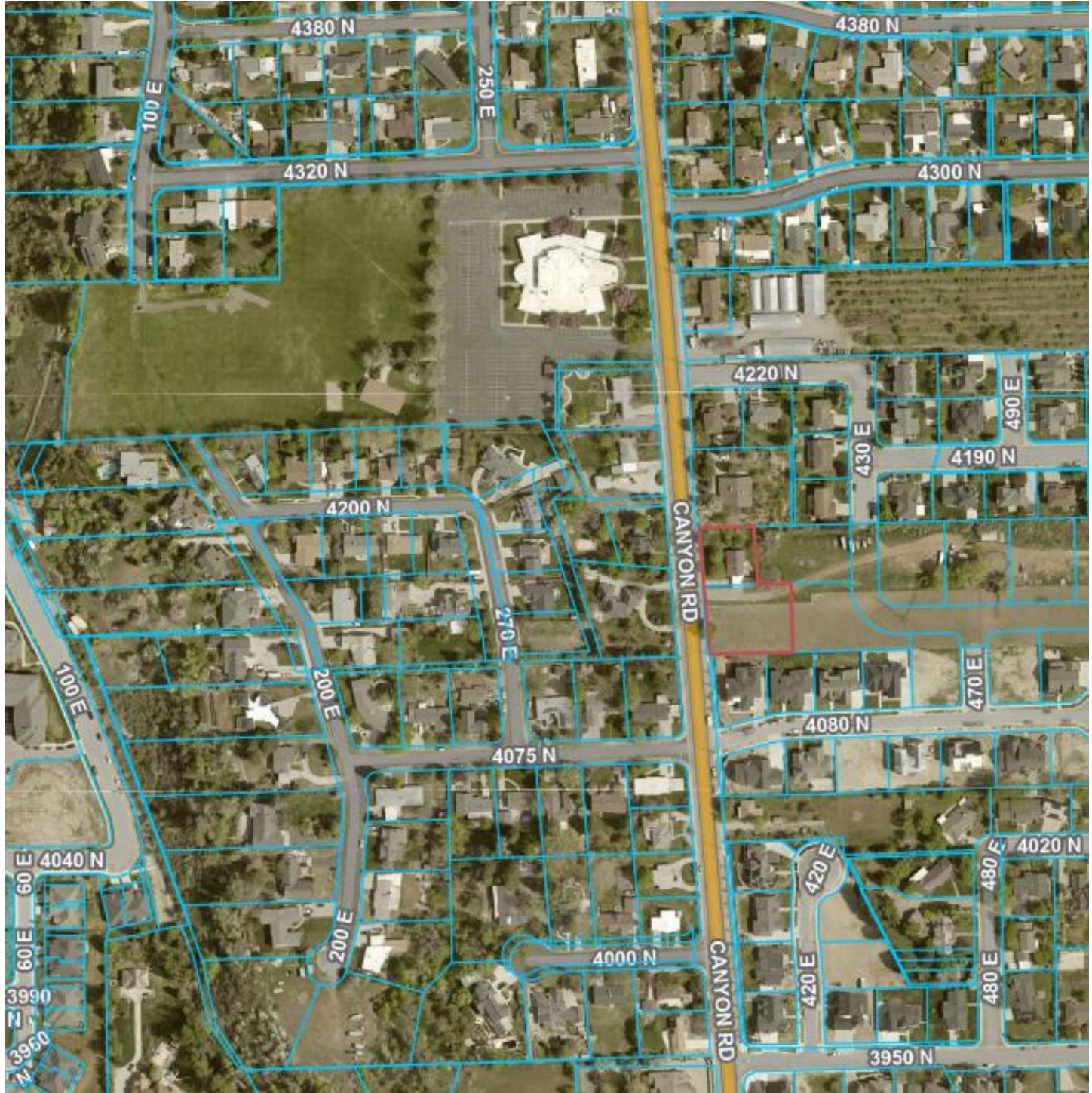
CONCLUSIONS

The proposed rezone aligns with both the General Plan and the Northeast Neighborhoods Plan and should not have an adverse impact on the surrounding property owners. Based on the information provided, staff recommends approval of the proposed zone map amendment.

ATTACHMENTS

1. Aerial Map
2. Proposed Rezone Map

Attachment 1 – Aerial Map



Attachment 2 – Proposed Rezone Map



ORDINANCE <<Document Number>>

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY 0.82 ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 4122 NORTH CANYON ROAD, FROM THE RESIDENTIAL AGRICULTURAL (RA) ZONE TO THE ONE-FAMILY RESIDENTIAL (R1.10) ZONE. NORTH TIMPVIEW NEIGHBORHOOD (PLRZ20250003).

RECITALS:

It is proposed that the classification on the Provo Zoning Map for approximately 0.82 acres of real property, generally located at 4122 N Canyon Rd (an approximation of which is shown or described in Exhibit A and a more precise description of which is attached as Exhibit B), be amended from the Residential Agricultural (RA) Zone to the One-Family Residential (R1.10) Zone;

On February 12, 2025, 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 5:0 vote;

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

On March 11, 2025, 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 Provo Municipal Council ordains as follows:

PART I:

The classification on the Provo Zoning Map is amended from the Residential Agricultural (RA) Zone to the One-Family Residential (R1.10) Zone for the real property described in this ordinance.

41

42 PART II:

43

44 A. If a provision of this ordinance conflicts with a provision of a previously adopted
45 ordinance, this ordinance controls.

46

47 B. This ordinance and its various sections, clauses, and paragraphs are severable. If any part,
48 sentence, clause, or phrase is judicially determined to be unconstitutional or invalid, the
49 remainder of the ordinance is not affected by that determination.

50

51 C. This ordinance takes effect immediately after it has been posted or published in accordance
52 with Utah Code Section 10-3-711, presented to the Mayor in accordance with Utah Code
53 Section 10-3b-204, and recorded in accordance with Utah Code Section 10-3-713.

54

55 D. The Municipal Council directs that the Provo Zoning Map be updated and codified to
56 reflect the provisions enacted by this ordinance.

57

Exhibit A

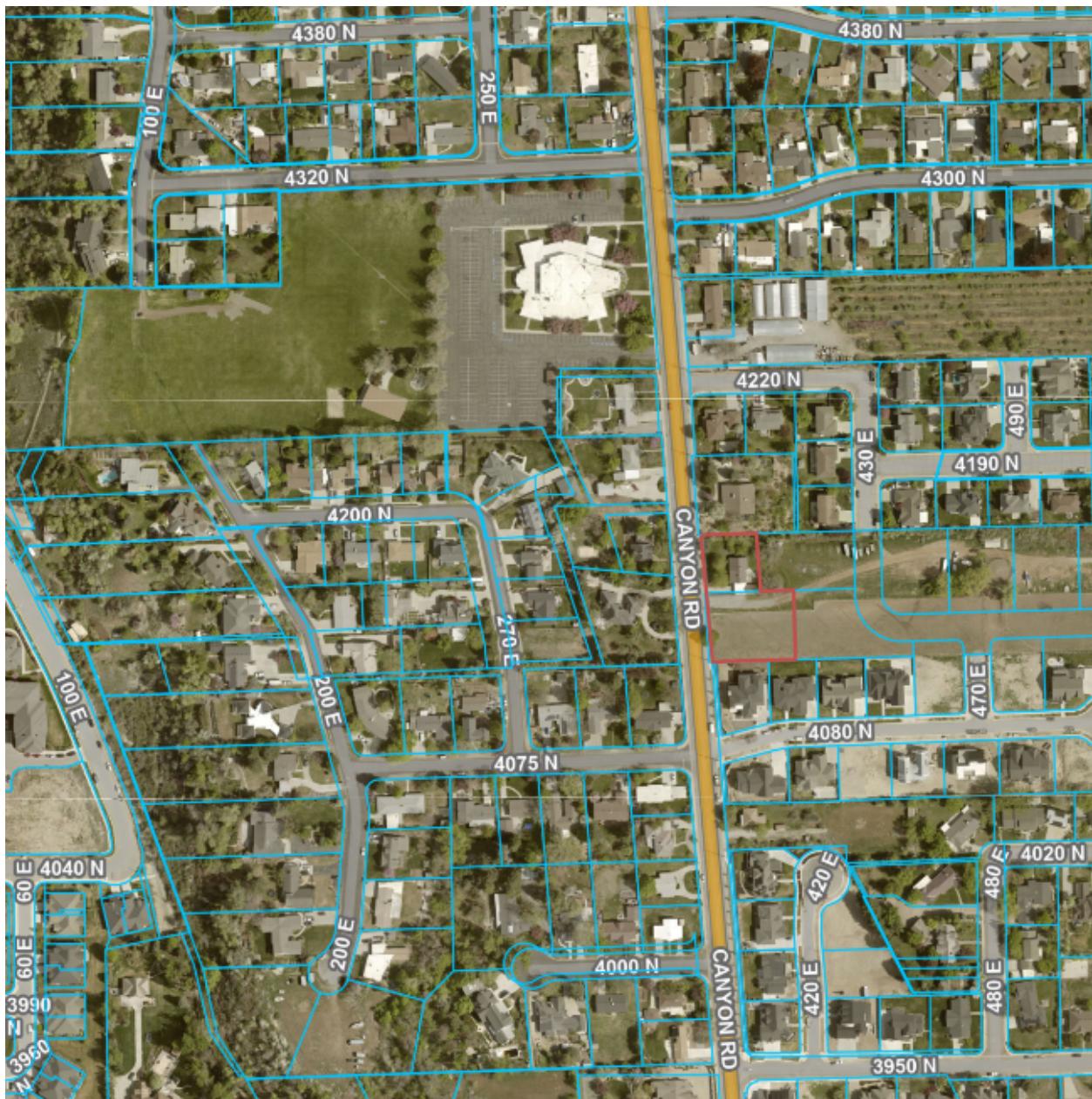
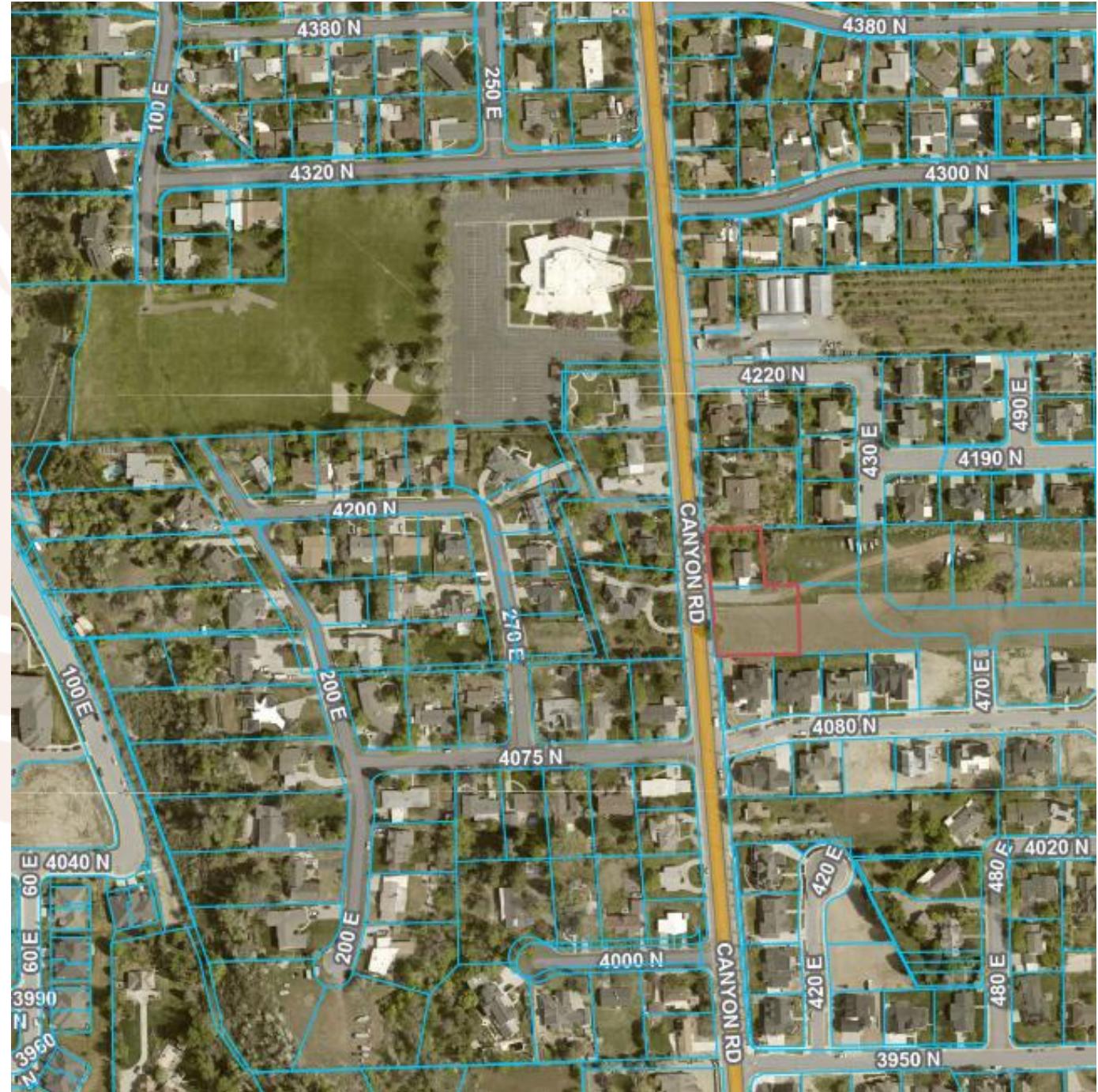


Exhibit B

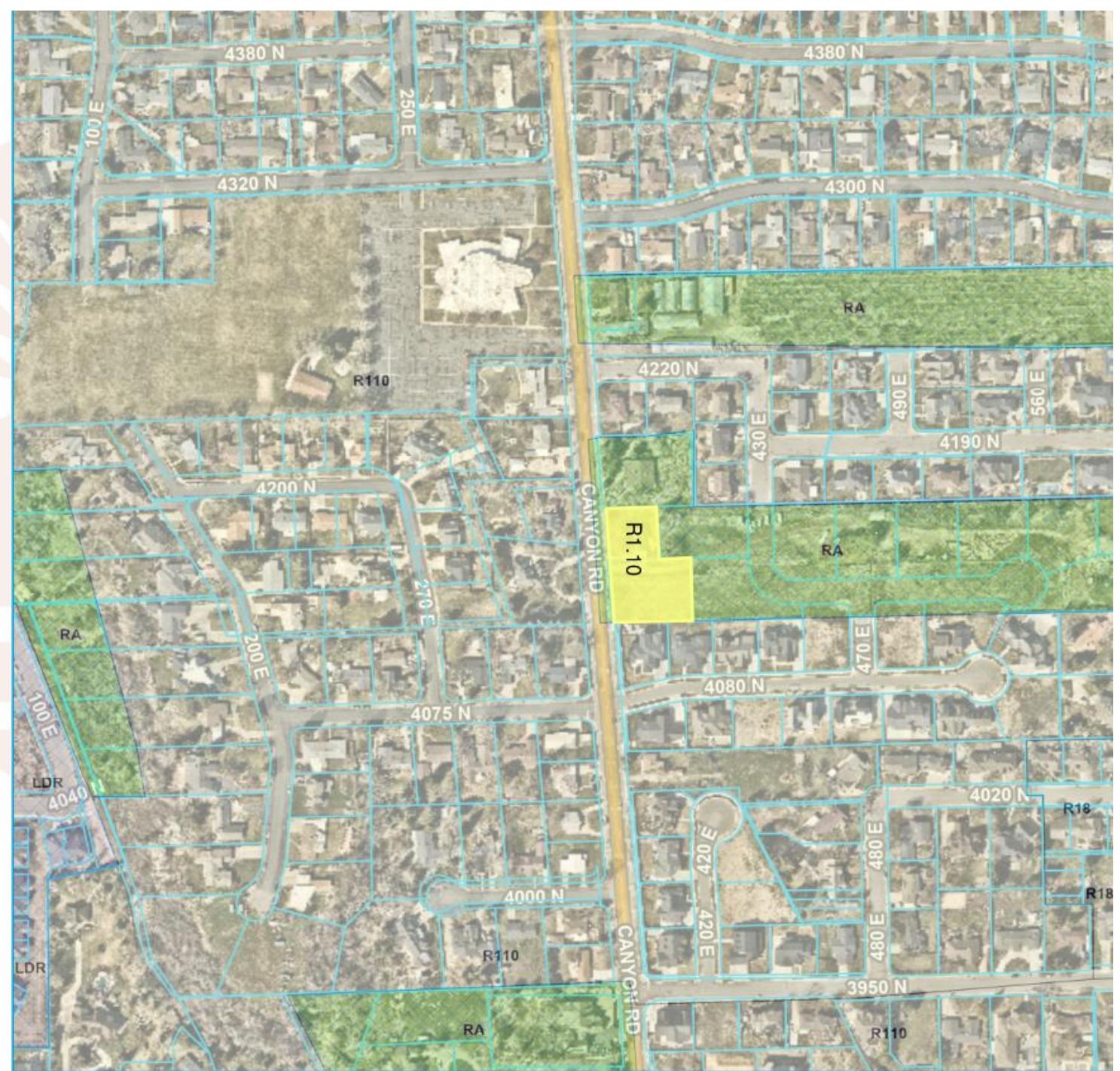
Parcel 40:232:0005: PART LOT 2, PLAT A, GLAZIER SUB DESCRIBED AS FOLLOWS; COM S 0 DEG 0' 18" E 784.503 FT & S 89 DEG 59' 42" W 1061.355 FT FR N1/4 COR. SEC. 19, T6S, R3E, SLB&M.; S 88 DEG 43' 38" W 165.2 FT; N 4 DEG 28' 4" W 137.6 FT; N 88 DEG 44' 51" E 172.88 FT; S 1 DEG 16' 3" E 137.22 FT; S 1 DEG 19' 51" E .1 FT TO BEG. AREA 0.533 AC.

Parcel 20:031:0265: COM S 0 DEG 0' 18" E 534.252 FT & S 89 DEG 59' 42" W 1138.315 FT FR N 1/4 COR. SEC. 19, T6S, R3E, SLB&M.; S 4 DEG 24' 54" E 98.99 FT; S 2 DEG 9' 36" E 15.92 FT; S 88 DEG 44' 16" W 107.49 FT; N 4 DEG 40' 52" W 114.96 FT; N 88 DEG 44' 17" E 108.65 FT TO BEG. AREA 0.285 AC.

Area map



Proposed rezone



PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: DWRIGHT
Presenter: Dustin Wright, Planner
Department: Development Services
Requested Meeting Date: 03-11-2025
Requested Presentation Duration: 5 minutes
CityView or Issue File Number: PLOTA20240383

SUBJECT: 12 An ordinance amending Provo City Code regarding the minimum lot size requirement in the Agritourism Overlay (AT) Zone. (PLOTA20240383)

RECOMMENDATION: Planning Commission recommendation: Approval
Requested action: Approval

BACKGROUND: The applicant owns an acre of land in the Residential (R18) zone and would like to be able to apply for a zone map amendment for the Agricultural (A1) zone with the Agritourism Overlay (AT), but it requires a minimum of five acres. She is requesting at this time that the ordinance is changed from requiring five acres to only require one acre as the minimum lot size so that she can apply for the overlay zone. The AT zone is provided to allow limited commercial activities within an agricultural setting to attract visitors to a farm, ranch, or other agricultural businesses to help preserve existing agricultural land in the city.

FISCAL IMPACT: None

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

This amendment aligns with, and helps complete goals in the General Plan from: Chapter 4 encourages the development of additional single-family homes in key areas, such as the city's west side, to address housing shortages, and to facilitate additional economic growth and opportunities. Chapter 5 calls to employ innovative approaches to promote local business and create community. Chapter 8 identifies the value of "conservation of open spaces, scenic areas, and viable agricultural land.

Hearing Date: February 12, 2025

***ITEM 2** Peggy Case requests an Ordinance Text Amendment to Section 14.08A.040 (Lot Area) to reduce the minimum lot size for the Agritourism Overlay Zone from five (5) acres to one (1) acre. Citywide Application. Dustin Wright (801) 852-6414 dwright@provo.gov PLOTA20240383

Applicant: Peggy Case

Staff Coordinator: Dustin Wright

Property Owner: N/A

Parcel ID: N/A

Acreage: N/A

Number of Properties: N/A

Council Action Required: Yes

Relevant History:

City staff initiated the agritourism overlay zone that was adopted in 2023.

Neighborhood Issues:

A neighbor suggested that it would be better for the applicant to rezone her property to a commercial zone to achieve her goals than to amend the Agritourism Overlay (AT) zone.

Summary of Key Issues:

- This amendment would reduce the minimum acreage requirement from five acres to one acre.
- The applicant has a property that is a little over an acre, this amendment would apply to all A1 zoned properties.
- The applicant would still need to apply zone map amendment for her property if the text amendment is approved.

ALTERNATIVE ACTIONS

Continue to a future date to obtain additional information or to further consider information presented. *The next available meeting date is February 26, 2025 at 6:00 p.m.*

Recommend denial of the requested text amendment. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Staff Recommendation:

Recommend approval to the Municipal Council for the proposed ordinance text amendment to section 14.08A.040 (Lot Area), to reduce minimum lot size to one acre.

BACKGROUND

The applicant owns an acre of land in the Residential (R18) zone and would like to be able to apply for a zone map amendment for the Agricultural (A1) zone with the Agritourism Overlay (AT), but it requires a minimum of five acres. She is requesting at this time that the ordinance is changed from requiring five acres to only require one acre as the minimum lot size so that she can apply for the overlay zone.

The AT zone is provided to allow limited commercial activities within an agricultural setting to attract visitors to a farm, ranch, or other agricultural businesses to help preserve existing agricultural land in the city.

CODE ANALYSIS

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 amendment is to provide more opportunities for property owners in the A1 zone to apply for the AT overlay and potentially provide spaces for more agritourism for the community. This can help preserve farm land by providing additional means of income while providing opportunities to invite the community to experience these assets.

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

Staff response: The proposed change will allow more property owners with less than five acres to be able to qualify. They will still have to go through the public review process for a rezone to the AT overlay zone.

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

Staff response: This amendment aligns with, and helps complete goals in the General Plan from:

Chapter 4 encourages the development of additional single-family homes in key areas, such as the city's west side, to address housing shortages, and to facilitate additional economic growth and opportunities.

Chapter 5 calls to employ innovative approaches to promote local business and create community.

Chapter 8 identifies the value of “conservation of open spaces, scenic areas, and viable agricultural land.

(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: The proposed amendment to the ordinance does not conflict with and timing and sequencing of the General Plan.

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

Staff response: Staff does not see any potential conflicts from the proposed amendment with the General Plan policies.

(f) Adverse impacts on adjacent landowners.

Staff response: The proposed amendment would open new opportunities for more land owners, that do not currently have enough land, to apply for the overlay. There is still a protection in place to limit where these overlay zones are applied through the rezone process.

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

Staff response: N/A

(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: N/A

ANALYSIS AND CONCLUSION

The applicant’s proposed amendment would provide an opportunity, not only for themselves, but for other land that could also benefit from the additional land uses allowed in the overlay zone. The overlay zone needs to be applied for just like rezoning a property to a new zone. This means that just having an acre of land is not enough to be approved. Each property would have to apply and go through the public review process to get city council approval. The applicant still needs to apply for a zone map amendment.

Staff are supportive of the proposed change and find that the proposed text amendment will help support the General Plan’s goals focused on conserving open space, employing innovative approaches to promote local business and creating community.

STAFF RECOMMENDATION

Recommend approval to the Municipal Council for the proposed ordinance text amendment to section 14.08A.040 (Lot Area), to reduce minimum lot size to one acre.

ATTACHMENTS

1. Existing and Proposed Text
2. Applicant Response

Attachment 1 – Existing and Proposed Text

Existing Text

14.08A.040 (Lot Area)

Each lot or parcel of land in the AT Overlay must contain a minimum of five (5) acres. The AT Overlay may not be applied to an existing agricultural parcel that does not meet this requirement.

Proposed Text

14.08A.040 (Lot Area)

Each lot or parcel of land in the AT Overlay must contain a minimum of ~~five (5) acres~~ one (1) acre. The AT Overlay may not be applied to an existing agricultural parcel that does not meet this requirement.

Attachment 2 – Applicant Response

1. Economic Growth and Increased Revenue:

Tourism Development: Provo is a hub for visitors due to its proximity to the Provo Airport, Utah Valley University (UVU), Brigham Young University (BYU), and renowned attractions such as Sundance and Provo Canyon. This amendment will allow for increased lodging options, attracting more visitors and enabling them to stay within city limits.

Tax Revenue: Short-term rentals contribute to the local economy through transient room taxes and increased visitor spending at local businesses, restaurants, and attractions. This will directly benefit Provo's general fund and local business community.

2. Supports the City's General Plan Objectives:

Strategic Land Use: The amendment reflects Provo's commitment to utilizing land in ways that balance growth and community needs. The property's location adjacent to a mixed-use zone ensures compatibility with surrounding developments and prevents overburdening residential neighborhoods.

Transportation and Connectivity: Its proximity to the Provo Airport and major transportation routes makes this property an ideal candidate for short-term rental use, aligning with the city's objectives for improving accessibility and connectivity for residents and visitors alike.

3. Minimal Impact on Existing Neighborhoods:

The property is situated outside traditional residential neighborhoods, reducing potential conflicts with long-term residents. This amendment prioritizes transitional and mixed-use areas for development, preserving the character of established neighborhoods while accommodating growth.

4. Enhanced Visitor Experience:

Provo is becoming a premier destination for both business and leisure travelers. This amendment will enable the city to offer high-quality short-term rental options near key attractions and institutions, improving the overall visitor experience and encouraging repeat visits.

5. Managed Growth and Development:

This amendment represents a thoughtful approach to managed growth, addressing the increasing demand for short-term accommodations without requiring large-scale developments. It maximizes the utility of a uniquely positioned 1-acre property while aligning with Provo's vision for balanced and sustainable development.

Conclusion:

The proposed General Plan Amendment will have a positive and lasting impact on Provo City by driving economic development, enhancing the city's appeal as a destination, and supporting the General Plan's goals for strategic land use and growth. It ensures that Provo can continue to meet the needs of its expanding population, growing tourism sector, and thriving economy.

We respectfully request the city council and mayor's support in approving this amendment to advance Provo's vision for the future.

Provo City Planning Commission

Report of Action

February 12, 2025

*ITEM 2	Peggy Case requests an Ordinance Text Amendment to Section 14.08A.040 (Lot Area) to reduce the minimum lot size for the Agritourism Overlay Zone from five (5) acres to one (1) acre. Citywide Application. Dustin Wright (801) 852-6414 dwright@provo.gov PLOTA20240383
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The following action was taken by the Planning Commission on the above described item at its regular meeting of February 12, 2025:

RECOMMENDED APPROVAL

On a vote of 6:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Andrew South

Second By: Adam Shin

Votes in Favor of Motion: Andrew South, Adam Shin, Barbara DeSoto, Jonathon Hill, Jeff Whitlock, Melissa Kendall
Jeff Whitlock 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.

TEXT AMENDMENT

The text of the proposed amendment is attached as Exhibit A

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

- Citywide Application; all Neighborhood District Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood District Chair was present /addressed the Planning Commission during the public hearing.
- This item was City-wide or affected multiple neighborhoods.

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:

- A district representative said that there is general support from the neighbors but that there could be a concern for parking and noise that may result from a smaller lot with this land use.

APPLICANT RESPONSE

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

- The applicant was not present during the public hearing.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- It was discussed that one acre feels too small for this land use. Staff explained that any property that wishes to apply for the overlay zone will have to go through the public review process which would give staff, the Planning Commission and the City Council the opportunity to evaluate each specific property that applies.
- There are not any properties that currently have the AT overlay and so this would not give any new opportunities to someone without first going through the rezone process.
- The AT overlay zone allows for commercial tours, educational classes, museums, event halls.
- Only 1/3 of a parcel can be used for the overlay uses.



Planning Commission Chair



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 the Development Services Department, 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

Existing Text

14.08A.040 (Lot Area)

Each lot or parcel of land in the AT Overlay must contain a minimum of five (5) acres. The AT Overlay may not be applied to an existing agricultural parcel that does not meet this requirement.

Proposed Text

14.08A.040 (Lot Area)

Each lot or parcel of land in the AT Overlay must contain a minimum of ~~five (5) acres~~ one (1) acre. The AT Overlay may not be applied to an existing agricultural parcel that does not meet this requirement.

ORDINANCE <<Document Number>>

AN ORDINANCE AMENDING PROVO CITY CODE REGARDING THE
MINIMUM LOT SIZE REQUIREMENT IN THE AGRITOURISM OVERLAY
(AT) ZONE.(PLOTA20240383)

RECITALS:

It is proposed that Provo City Code Section 14.08A.040 be amended to reduce the minimum lot size requirement in the Agritourism Overlay (AT) Zone from five acres to one acre;

On February 12, 2025, the Planning Commission held a public hearing to consider the proposed amendment, and after the hearing, the Planning Commission recommended approval to the Municipal Council by a vote of 6:0;

On March 11, 2025, the Municipal Council met to ascertain 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) Provo City Code 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 Provo Municipal Council ordains as follows:

PART I:

Provo City Code Section 14.08A.040 is amended as follows:

14.08A.040 Lot Area.

Each lot or parcel of land in the AT Overlay must contain a minimum of ~~five (5) acres~~ one (1) acre. The AT Overlay may not be applied to an existing agricultural parcel that does not meet this requirement.

PART II:

- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance prevails.
- B. This ordinance and its various sections, clauses, and paragraphs are severable. If any part, sentence, clause, or phrase is judicially determined to be unconstitutional or invalid, the remainder of the ordinance is not affected by that determination.

45 C. This ordinance takes effect immediately after it has been posted or published in accordance
46 with Utah Code Section 10-3-711, presented to the Mayor in accordance with Utah Code
47 Section 10-3b-204, and recorded in accordance with Utah Code Section 10-3-713.

48
49 D. The Municipal Council directs that the official copy of Provo City Code be updated to
50 reflect the provisions enacted by this ordinance.

Existing Text

14.08A.040 (Lot Area)

Each lot or parcel of land in the AT Overlay must contain a minimum of five (5) acres. The AT Overlay may not be applied to an existing agricultural parcel that does not meet this requirement.

Proposed Text

14.08A.040 (Lot Area)

Each lot or parcel of land in the AT Overlay must contain a minimum of ~~five (5) acres~~ one (1) acre. The AT Overlay may not be applied to an existing agricultural parcel that does not meet this requirement.

PROVO MUNICIPAL COUNCIL

COUNCIL MEETING

STAFF REPORT



Submitter: HSALZL
Presenter: Hannah Salzl, Planner
Department: Development Services
Requested Meeting Date: 01-01-2018
Requested Presentation Duration: 15 minutes
CityView or Issue File Number: PLOTA20240386

SUBJECT: 13 An ordinance amending Provo City Code Title 14 regarding group quarters in the Professional Office (PO) Zone. Citywide application. (PLOTA20240386)

RECOMMENDATION: Planning Commission recommended approval of the proposed text amendment 6:0.

BACKGROUND: The applicant proposes permitting Group Quarters (or dormitory-/boarding house-style units) as a use in the Professional Office (PO) zone (14.16) and only for properties with frontage along Center Street. Staff would add that the property must not have a home on the historic registry. There is currently only one area zoned PO along Center Street between 200 East and 400 East (see Staff Report Attachment 2 for a map). It covers the westernmost two blocks of Joaquin and Maeser Neighborhoods and is adjacent to the Downtown Neighborhood. Current land uses in the zone include small commercial (e.g., bank, dentist, insurance offices) and multifamily housing. The PO zone does not allow for short-term rentals, so the property could not become transient housing.

Group quarters would be an appropriate land use in this area and would further General Plan goals for housing affordability and strategic density near transit, educational centers, and employment centers.

The applicants have a parcel in mind for dormitory-style group housing at 256 East Center Street. It used to serve as an assisted living facility with 34 beds but has not been in use for the past year. The new project would house 20 residents with private rooms and common kitchen, dining, and recreation areas. Each room would have its own kitchenette. Half would have their own bathroom. The remaining rooms would share six dressing room-style bathrooms with private locking doors, averaging roughly 1.6 tenants per bathroom (see Staff Report Attachment 3 for details and a current floor plan). They propose affordably priced housing for students and non-students, which would address the gap in small-scale rentals for low-income tenants. They would open the project to male tenants only so that students of Brigham Young University could live there. Regardless of the plan, the proposed amendment furthers General Plan goals and is appropriate for the area.

The current code does not have additional development standards for group housing. However, staff, the Planning Commission, and the applicants agreed that specific requirements could be worked out in the concept plan review for this project. The project met or exceeded staff and Commissioners' expectations, and the applicants have a track record of high-quality developments. If this proposed amendment is passed and group quarters becomes a permitted use again in Provo, staff will expand on the definition in the update of the zoning code (currently in progress). Staff did not want to slow down the application for the adaptive reuse, and the permitted area is so small and well developed that no other group quarters applications are expected in the near future.

FISCAL IMPACT: N/A

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

The amendment furthers 14 General Plan goals and strategies:

1. Land Use Strategy 1. Promote sustainable urban design.
2. Land Use Strategy 3. Promote small scale, infill development across the city.
3. Land Use Goal 1b. Encourage infill opportunities in downtown, mixed-use, and transit-oriented developments.
4. Housing Strategy 1. Promote a mix of home types, sizes, and price points.
5. Housing Goal 1. Allow for different types of housing in neighborhoods and allow for a mix of home sizes at different price points, including ADUs.
6. Housing Goal 1a. Encourage opportunities for small scale, infill housing development.
7. Housing Goal 1b. Consider revising regulations to encourage development of a mix of housing types.
8. Housing Goal 1f. Encourage more options for entry level housing including smaller lots and mixed housing, as well as smaller unit sizes including studios and apartments.
9. Housing Goal 2. Strive to increase the number of housing units of all types across the whole of Provo in appropriate and balanced ways.
10. Housing Goal 2a. Promote housing that is attainable for all income levels.
11. Housing Goal 2c. Encourage "affordability through design" by utilizing best practices to optimize efficiency in building and land use.
12. Housing Goal 2e. Identify opportunities for and invest in the rehabilitation of existing uninhabitable housing stock into moderate-income housing.
13. Community Identity Strategy 3. Work to create a sense of belonging for all Provo residents.
14. Community Identity Goal 1a. Consider ways to support development, uses, and activities that energize the historic downtown.

ORDINANCE <<Document Number>>

AN ORDINANCE AMENDING PROVO CITY CODE TITLE 14 REGARDING
GROUP QUARTERS IN THE PROFESSIONAL OFFICE (PO) ZONE.
CITYWIDE APPLICATION. (PLOTA20240386)

RECITALS:

It is proposed that Provo City Code Section 14.16.020 (Permitted Uses) be amended to add Group Quarters to the list of permitted uses in the Professional Office (PO) Zone;

On February 12, 2025, the Planning Commission held a public hearing to consider the proposed amendment, and after the hearing, the Planning Commission recommended approval to the Municipal Council by a vote of 6:0;

On March 11, 2025, the Municipal Council met to ascertain 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) Provo City Code 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 Provo Municipal Council ordains as follows:

PART I:

Provo City Code Section 14.16.020 (Permitted Uses) is amended as set forth in Exhibit

A.

PART II:

- A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance prevails.
- B. This ordinance and its various sections, clauses, and paragraphs are severable. If any part, sentence, clause, or phrase is judicially determined 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.

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- D. The Municipal Council directs that the official copy of Provo City Code be updated to reflect the provisions enacted by this ordinance.

48 **14.16.020 Permitted Uses**

50 (1) Those uses or categories of uses as listed herein, and no others, are permitted in the PO zone.

52 . . .

54 (4) Permitted Principal Uses. The following principal uses and structures, and no others, are
55 permitted in the PO zone:**Exhibit A**

Use No.	Use Classification
1200	Group quarters (Only for properties that have frontage on Center Street and are not listed on the Provo City Historic Landmarks Register)
4811	Electric transmission right-of-way (Identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4821	Gas pipeline right-of-way (Identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4824	Gas pressure control stations
4831	Water pipeline right-of-way (Identifies areas where the surface is devoted exclusively to the right-of-way of the activity).
4835	Irrigation distribution channels
4836	Water pressure control stations and pumping plants
4841	Sewage pipeline right-of-way (Identifies areas where surface is devoted exclusively to right-of-way activity)
4844	Sewage pumping stations
4864	Combination utilities right-of-way (Identifies areas where surface is devoted exclusively to right-of-way activity)
4873	Storm drain or right-of-way (Predominantly covered pipes or boxes)
4923	Travel Agencies
5912	Prescription pharmacy (intended for the convenience of permitted establishments and/or clients thereof, provided that no business occupies more than fifteen percent (15%) of the total floor area of the building in which it is located and has no separate entrance)

6100	Financial, Insurance and Real Estate Services
6311	Advertising services (office only)
6320	Consumer credit services
6330	Duplicating, stenographic, and office services
6340	Dwelling, janitorial, and other building services (office only)
6350	News syndicate services (office only)
6360	Employment services
6390	Miscellaneous business services (office only)
6500	Professional Services (except 6513, 6515 Behavior, drug and alcohol treatment; office only, no lodging or bed facilities, 6516)
6710	Executive, legislative, and judicial offices
6900	Miscellaneous service organizations (office only)
6910	Religious activities
7112	Museums
7398	Video Rental Shops

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58 . . .

**Planning Commission Hearing
Staff Report**
Hearing Date: February 12, 2025

***ITEM 3** Tom Taylor requests an Ordinance Text Amendment to Section 14.16.020 (Permitted Uses) to add Group Quarters as a permitted use in the PO (Professional Office) Zone. Citywide Application. Hannah Salzl (801) 852-6423 hsalzl@provo.gov PLOTA20240386

Applicants: Anders Taylor and Thomas Taylor

Staff Coordinator: Hannah Salzl

Relevant History: The proposed amendment applies so narrowly that only 3.5 blocks of Center Street frontage (200 E to 400 E) would be affected. The applicants have a building in mind for group housing located at 256 East Center Street, which previously served as an assisted living facility but has not been in use for the past year.

Neighborhood Issues: There has not yet been a neighborhood meeting on this item and staff has not received any feedback on the request at the time of this report.

Summary of Key Issues:

- Group quarters is a land use category in City code but is not currently permitted in any zones.
- The proposed amendment would permit group quarters only in PO zones on parcels with frontage along Center Street.
- There is only one PO zone along Center Street, which has 3.5 blocks of Center Street frontage.
- The layout and location of the building make it ideal for affordable group housing.
- Affordable, dense housing in this area is consistent with General Plan goals.

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented.

The next available meeting date is February 28, 2025 at 6:00 P.M.

2. **Deny** the requested variance. *This action would not be consistent with the recommendations of the Staff Report. The Board of Adjustment should state new findings.*

Staff Recommendation: That the Planning Commission recommend approval of the proposed text amendments to the Provo City Council.

OVERVIEW

Group quarters is an existing land use classification in Provo City Code but has not been permitted in any zones for some time. The applicant proposes permitting it as a use in the Professional Office (PO) zone (14.16) and only for properties with frontage along Center Street. Staff would add that the property must not have a home on the historic registry. There is currently only one area zoned PO along Center Street between 200 East and 400 East (see Attachment 2 for a map). It covers the westernmost two blocks of Joaquin and Maeser Neighborhoods and is adjacent to the Downtown Neighborhood. Current land uses in the zone include small commercial (e.g., bank, dentist, insurance offices) and multifamily housing.

Group quarters would be an appropriate land use in this area and would further General Plan goals for housing affordability and strategic density near transit, educational centers, and employment centers.

The applicants have a parcel in mind for dormitory-style group housing at 256 East Center Street. It used to serve as an assisted living facility with 34 beds but has not been in use for the past year. They propose affordably priced housing for students and non-students, which would address the gap in small-scale rentals for low-income tenants (see Attachment 3 for details and a floor plan). Regardless of the plan, the proposed amendment furthers General Plan goals and is appropriate for the area.

The PO zone affected by this proposed amendment is connected to the bicycle routes network and is within walking distance of transit and amenities (see Findings of Fact 3 for details). The affected zone is also within short walking distance of Downtown and the employment, dining, and recreational opportunities there. Increasing density near the Downtown also encourages Downtown activation and is generally considered to be best practice.

This proposed amendment and the subsequent planned redevelopment meet 14 specific goals and strategies of the General Plan, listed in full in Staff Analysis (c).

STAFF ANALYSIS

Staff support the proposal to permit group housing in PO zones with frontage along Center Street and not in homes on the historic registry.

Provo City Code Section 14.02.020(2) sets forth the following guidelines for consideration of ordinance text amendments.

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 amendment helps fill a gap of affordable, small-scale housing in walkable areas near transit while also increasing density near Downtown to help activate businesses there. This would be a suitable place for group housing.

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

Staff response: Staff believes that the proposed amendment serves the public.

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

Staff response: The amendment furthers 14 General Plan goals and strategies:

1. Land Use Strategy 1. Promote sustainable urban design.
2. Land Use Strategy 3. Promote small scale, infill development across the city.
3. Land Use Goal 1b. Encourage infill opportunities in downtown, mixed-use, and transit-oriented developments.
4. Housing Strategy 1. Promote a mix of home types, sizes, and price points.
5. Housing Goal 1. Allow for different types of housing in neighborhoods and allow for a mix of home sizes at different price points, including ADUs.
6. Housing Goal 1a. Encourage opportunities for small scale, infill housing development.
7. Housing Goal 1b. Consider revising regulations to encourage development of a mix of housing types.
8. Housing Goal 1f. Encourage more options for entry level housing including smaller lots and mixed housing, as well as smaller unit sizes including studios and apartments.
9. Housing Goal 2. Strive to increase the number of housing units of all types across the whole of Provo in appropriate and balanced ways.
10. Housing Goal 2a. Promote housing that is attainable for all income levels.
11. Housing Goal 2c. Encourage “affordability through design” by utilizing best practices to optimize efficiency in building and land use.

- 12. Housing Goal 2e. Identify opportunities for and invest in the rehabilitation of existing uninhabitable housing stock into moderate-income housing.**
- 13. Community Identity Strategy 3. Work to create a sense of belonging for all Provo residents.**
- 14. Community Identity Goal 1a. Consider ways to support development, uses, and activities that energize the historic downtown.**

(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 issues related to this proposal.

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

Staff response: This proposal does not hinder or obstruct attainment of the General Plan's articulated policies.

(f) Adverse impacts on adjacent landowners.

Staff response: Staff do not foresee any adverse impacts on adjacent landowners.

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

Staff response: This proposal does not conflict with zoning or the General Plan.

(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 is not a conflict.

FINDINGS OF FACT

1. The proposed amendment would permit group quarters only in PO zones on parcels with frontage along Center Street and not in homes on the historic registry. This means only the PO-zoned area between 200 East and 400 East.
2. Group quarters is already a land use in Provo City Code.
3. The affected PO-zoned area is within easy distance of transit and services, specifically:
 - a. 0.3 miles (2.5 blocks) to UVX station
 - b. 0.3 miles (3 blocks) to bus stop
 - c. 0.7 miles (7 blocks) to Smith's
 - d. 0.9 miles (7 blocks) to Fresh Market
 - e. 0.9 miles (8 blocks) to southern edge of BYU campus

4. Should the proposed amendment be approved, the applicants have a plan in place for the redevelopment of an unused assisted living facility. The project would provide adequate housing and parking and is near transit and services (see Attachment 3 for details).

CONCLUSIONS

The proposed amendment to permit group housing in PO zones on parcels with frontage along Center Street and not in homes on the historic registry furthers the goals and strategies of the General Plan, including providing a variety of housing at different price points, encouraging infill redevelopment, encouraging sustainable urban design, and activating Downtown. It is also consistent with best practices such as increasing density in areas within walking distance of transit and services. Group housing would be an appropriate land use for the area and would be consistent with neighboring existing uses.

ATTACHMENTS

1. Proposed Language 14.16.020 (Permitted Uses)
2. Zone Map
3. Details of Proposed Redevelopment (Dependent on Proposed Amendment)

Attachment 1 – Proposed Language 14.16.020 (Permitted Uses)

(1) Those uses or categories of uses as listed herein, and no others, are permitted in the PO zone.

...

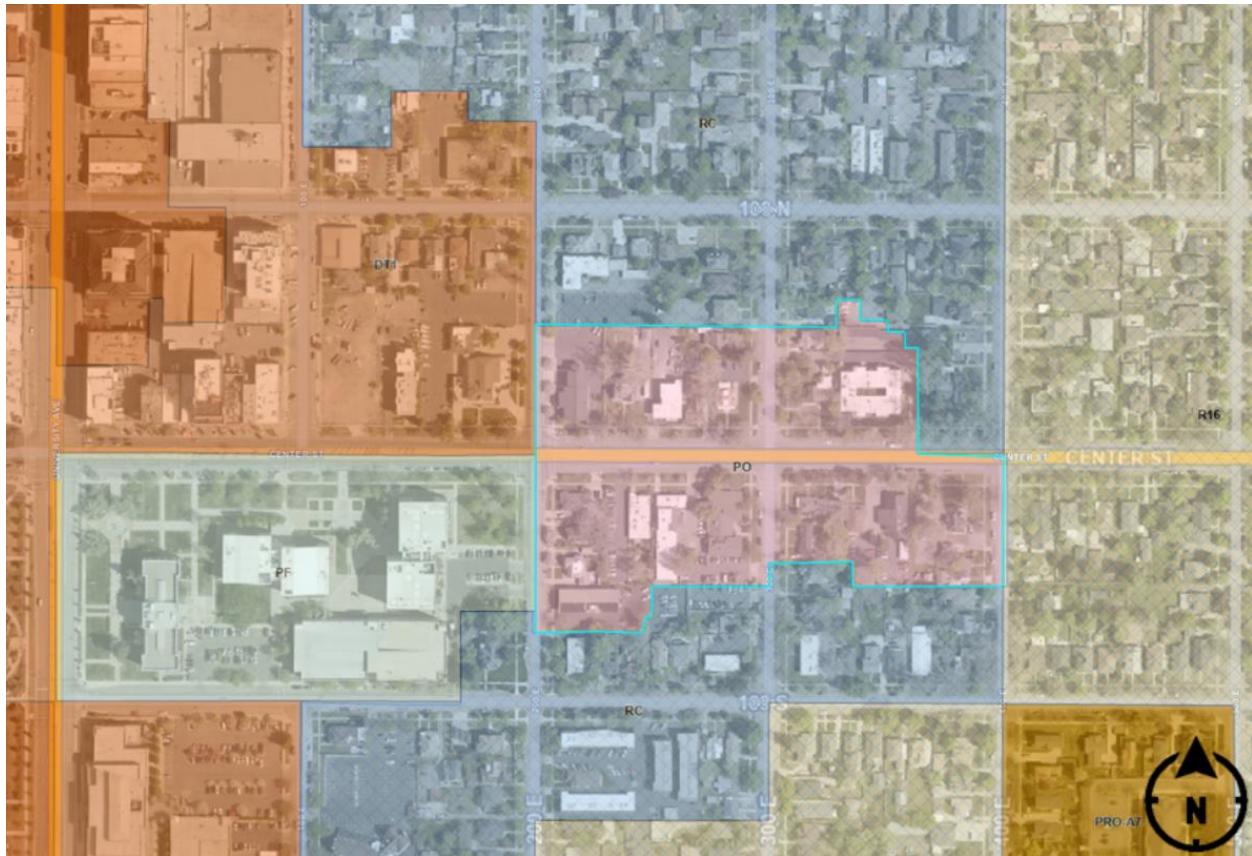
(4) Permitted Principal Uses. The following principal uses and structures, and no others, are permitted in the PO zone:

Use No.	Use Classification
1200	Group quarters (For properties with frontage on Center Street, not in homes on historic registry)
4811	Electric transmission right-of-way (Identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4821	Gas pipeline right-of-way (Identifies areas where the surface is devoted exclusively to the right-of-way of the activity)
4824	Gas pressure control stations
4831	Water pipeline right-of-way (Identifies areas where the surface is devoted exclusively to the right-of-way of the activity).
4835	Irrigation distribution channels
4836	Water pressure control stations and pumping plants
4841	Sewage pipeline right-of-way (Identifies areas where surface is devoted exclusively to right-of-way activity)
4844	Sewage pumping stations
4864	Combination utilities right-of-way (Identifies areas where surface is devoted exclusively to right-of-way activity)
4873	Storm drain or right-of-way (Predominantly covered pipes or boxes)
4923	Travel Agencies
5912	Prescription pharmacy (intended for the convenience of permitted establishments and/or clients thereof, provided that no business occupies more than fifteen percent (15%) of the total floor area of the building in which it is located and has no separate entrance)
6100	Financial, Insurance and Real Estate Services

6311	Advertising services (office only)
6320	Consumer credit services
6330	Duplicating, stenographic, and office services
6340	Dwelling, janitorial, and other building services (office only)
6350	News syndicate services (office only)
6360	Employment services
6390	Miscellaneous business services (office only)
6500	Professional Services (except 6513, 6515 Behavior, drug and alcohol treatment; office only, no lodging or bed facilities, 6516)
6710	Executive, legislative, and judicial offices
6900	Miscellaneous service organizations (office only)
6910	Religious activities
7112	Museums
7398	Video Rental Shops

Attachment 2 – Zone Map

The map below shows the only instance of the PO zone affected by the proposed amendment.



Attachment 3 – Details of Proposed Redevelopment (Dependent on Proposed Amendment)

The structure at 256 East Center Street used to serve as an assisted living facility with 34 beds but has not been in use for the past year. The applicants propose to renovate and repurpose the existing structure, which is already designed for communal living with private rooms. The proposed group housing would include the following:

- 20 single bedrooms with kitchenettes (sink, mini fridge, microwave/hotplate, counter)
 - Some rooms also have private bathrooms
- 20 parking spaces
- 6 communal restrooms and showers with lockable doors (3.3 residents per restroom/shower)
- On-site laundry
- 1 large commercial kitchen
- 1 large commercial dining room/recreational room
- On-site storage
- Plans to convert former staff rooms into libraries, reading rooms, or movie rooms

The applicants also plan to host presentations from local realtors and bankers about how to plan to buy a house. They are also planning to set aside a portion of revenue from the project to create a home buyers' assistance program for residents.

The full floor plan can be found on the following page.

Provo City Planning Commission
Report of Action

February 12, 2025

*ITEM 3	Tom Taylor requests an Ordinance Text Amendment to Section 14.16.020 (Permitted Uses) to add Group Quarters as a permitted use in the PO (Professional Office) Zone. Citywide Application. Hannah Salzl (801) 852-6423 hsalzl@provo.gov PLOTA20240386
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The following action was taken by the Planning Commission on the above described item at its regular meeting of February 12, 2025:

APPROVED

On a vote of 6:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Andrew South

Second By: Barbara DeSoto

Votes in Favor of Motion: Adam Shin, Barbara DeSoto, Jonathon Hill, Andrew South, Melissa Kendall, Jeff Whitlock
Jeff Whitlock 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.

TEXT AMENDMENT

The text of the proposed amendment is attached as Exhibit A.

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

- Citywide Application; all Neighborhood District Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood District Chair was present /addressed the Planning Commission during the public hearing.
- This item was City-wide or affected multiple neighborhoods.
- Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERN 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:

- A representative from the Maeser District read comments from residents that were not submitted
 - Two were supportive of creative ways to get more much-needed housing downtown.
 - Two were supportive based on past projects from the applicant.
 - Two wanted more information before weighing in.

- Nine were opposed because of the shared kitchen and bathrooms, which they said do not encourage long-term tenants.
 - Many seemed to believe that there would be one bathroom shared among 20 residents, which is not the case.
- Residents did not want to see this become transient housing.
- One resident wanted to know the requirements for parking.
- Someone who owned two buildings next to the project described how businesses in the area have worked hard to clean up the area and create a sense of place. He had concerns about 20 people sharing one bathroom and the kind of people that would attract to the area.
- One resident wanted a better definition of “group quarters” but supported the idea of urban dorms such as this.

APPLICANT RESPONSE

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

- They run the Startup and Bright Buildings and have many entrepreneurs there who are in need of affordable housing. They do not want roommates but cannot afford much while starting their small businesses.
- The adaptive reuse of the building will meet this need and revitalize the area.
- The original assisted living facility had 34 tenants, but they plan to decrease it to 20 with private rooms.
 - About half of the rooms have private bathrooms. There are two large bathroom areas that will contain three dressing rooms each (six total) that lock individually and have a shower, toilet, and sink inside. There are about 1.5 tenants per shared bathroom (not including those with private bathrooms). There are additional bathrooms throughout the building as well.
 - All of the rooms have private kitchenettes in addition to the shared commercial-scale kitchen.
- Each room is approximately 150 square feet.
- They plan for \$400-600 per room per month and are working on refining that estimate.
- The units will be for men only so that students from Brigham Young University can live there.
- The zone already does not allow short-term rentals (defined as habitation of fewer than 30 days).
- If a tenant were to bring in a roommate, they would be in violation of their rental contract.
- It will need internal upgrades to plumbing and electrical.
- The design in the Staff Report is the current layout, but the basic layout would not change much.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Commission asked what was permitted under “group quarters.” If this proposed amendment is passed and group quarters becomes a permitted use again in Provo, staff will expand on the definition. Staff did not want to slow the adaptive reuse application down, and the permitted area is so small and well developed that no other group quarters applications are expected in the near future.
- Commissioner Whitlock created a startup in Provo and understands the needs of young founders who pay themselves very small salaries. He agreed that this project is exactly what those members of the community need. He also vouched for the past success of the applicants’ projects.
- Commissioner DeSoto recently stayed in a hostel with a similar setup that was very comfortable and thought this group housing project would meet a community need.
- Bill Peperone clarified that short term rentals are not allowed in the PO zone.
- Commissioner Hill supported the idea and expressed a desire to see basic development standards for the project in the absence of zoning requirements. Commissioner Whitlock pointed out that those could be agreed on during concept plan review, and Bill Peperone said that Planning Commission review is optional for concept plans but that staff would bring it to them in this case. The applicants supported this idea.
- Dan Gonzales suggested that boarding house style residences might be appropriate uses in broader areas of the city, as long as they are well maintained and do not become short-term transient housing. Bill Peperone said that if the Planning Commission would like to pursue that, staff can consider other zones where it might be applicable.
- Commissioner Kendall supported the idea and wants to help people start new businesses in the community. She asked about ways to include requirements and protections. Bill Peperone possibility of adding group quarters as a conditional use rather than a permitted one. This would not slow down the applicant as long as staff could overlap their project plan and conditional use permit applications, as long as the conditional use was added to the zone as part of this discussion.

- Commissioner South said that he was not concerned. The area where it would be permitted is small, and the part of the city is appropriate for it. He did not want to hold up the application by adding requirements now. They could be done in concept plan review.
- Commissioner DeSoto agreed with Commissioner South and was eager to see the property improved.
- Staff noted the option to recommend approval with conditions to the Council and recommending that the use be moved to the Conditional Uses table and that minimal requirements or conditions be added.
- Commissioner Shin liked this idea and wanted to require a minimum number of bathrooms.
- The Commission supported the plan and wanted time to figure out what the requirements would be. They did not want to take that time now and were comfortable setting those during the concept plan review.



Planning Commission Chair



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 the Development Services Department, 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

14.16.020 (Permitted Uses)

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...

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*ITEM 3

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Citywide Application

PLOTA20240386

PROPOSED TEXT

14.16.020 Permitted Uses.

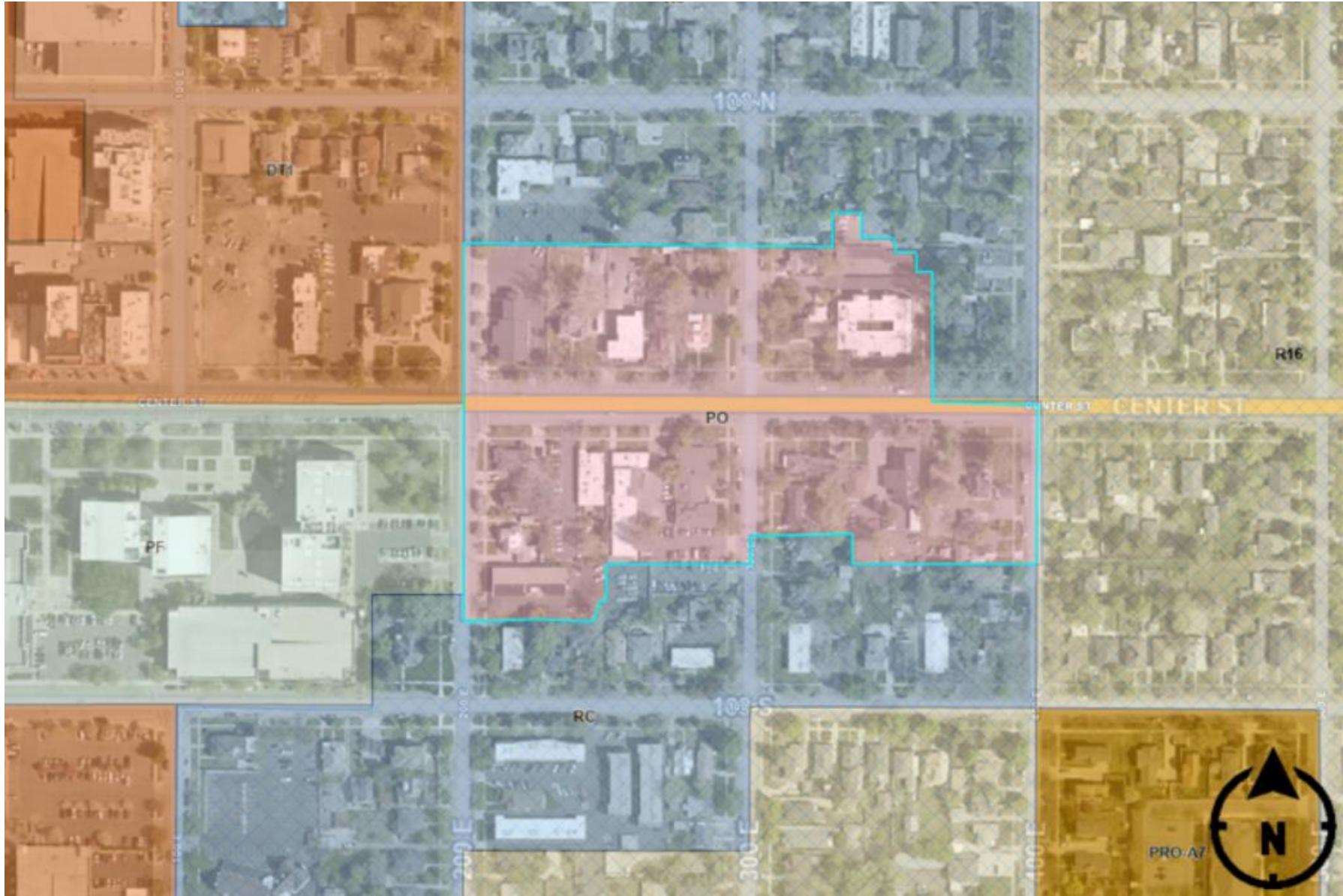
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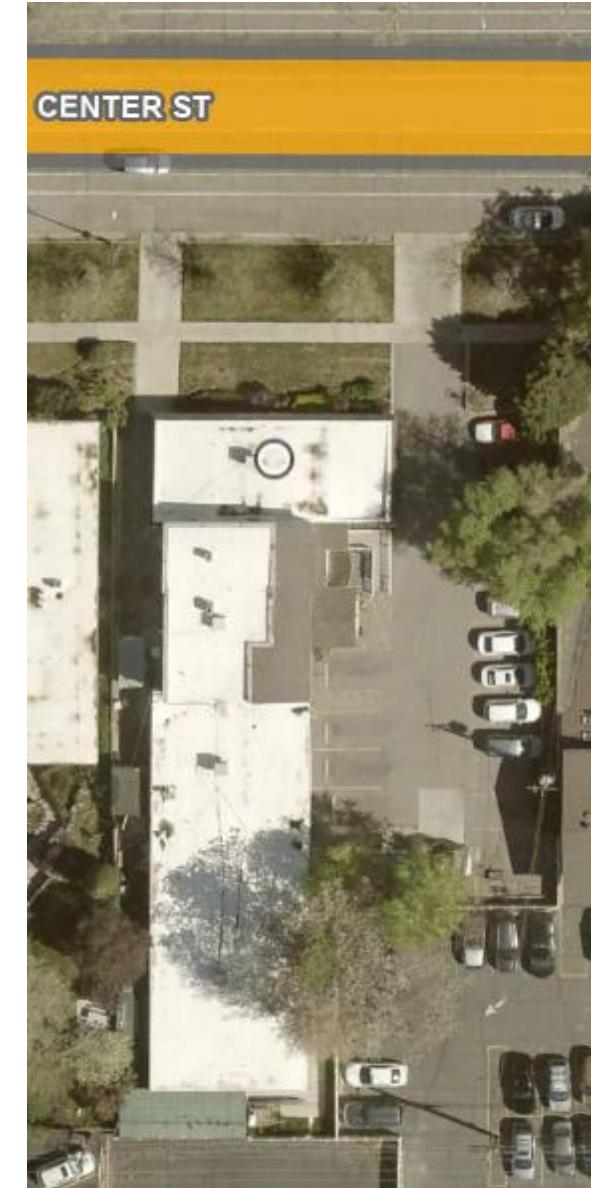
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...	...

APPLIED AREA



PROPOSED PROJECT

- 256 East Center Street
- Adaptive reuse of closed assisted living facility for 34 residents
- Proposed 20 residents in private rooms
- 20 parking spaces
- Not exclusive to students
- Well connected to cycling and transit routes
- Within 1 mile of two grocery stores, bus stops, UVX stop, and BYU
- Within 1 mile of downtown, Start Up employment areas
- Regardless of project, amendment meets General Plan goals (Staff Analysis (c))
 - Promote affordable housing and mix of home types, sizes, and prices
 - Promote small scale, infill development and rehabilitation of existing stock
 - Encourage infill near Downtown for further economic activation
 - Encourage “affordability through design” through optimized land use



ADDRESSING PROJECT CONCERNS

- Becoming transient housing
 - Zone does not allow short-term rentals
- Concerns about shared restrooms
 - Several rooms have private bathrooms, and shared shower/bathrooms will be private “dressing room” style with showers
 - Roughly 16 toilets (10 private, 1.5 people per shared toilet) and 6 showers (3 people per shower)
- Desire to preserve historic character of neighborhood
 - Building on parcel is not historic
 - Code amendment prohibits the use on parcels with historic buildings
- Lack of development standards in code
 - Staff did not want to slow down this application
 - If approved, staff will add standards in the current code update
 - This development meets or exceeds staff’s expectations and any standards we would propose, and the developers have a good track record
 - The permitted area for group quarters is so small that staff have no concerns about others coming in before the standards

*ITEM 3

Tom Taylor requests an Ordinance Text Amendment to Section 14.16.020 (Permitted Uses) to add Group Quarters as a permitted use in the PO (Professional Office) Zone.

Citywide Application

PLOTA20240386