

**HEBER CITY CORPORATION  
75 North Main Street  
Heber City, UT 84032  
Heber City Council Meeting**

**July 1, 2025**

**4:00 p.m. Work Meeting  
6:00 p.m. Regular Meeting**

**TIME AND ORDER OF ITEMS ARE APPROXIMATE AND MAY BE CHANGED AS TIME PERMITS**

**I. WORK MEETING - 4:00 P.M.**

1. Scheid Setback Request and Potential Development Agreement (Jamie Baron, Planning Manager) - *15 min*
2. Red Ledges Park, Trails, and Open Space (Tony Kohler, Community Development Director) - *25 min*
3. Ordinance 2025-08 adopting the Central Heber Overlay Zone (CHOZ) (Tony Kohler, Community Development Director) - *10 min*

**II. BREAK - 10 MIN**

**III. REGULAR MEETING - 6:00 P.M.**

1. Call to Order
2. Pledge of Allegiance (Aaron Cheatwood, Council Member)
3. Prayer/Thought by Invitation (Mike Johnston, Council Member)

**IV. AWARDS, RECOGNITION, and PROCLAMATIONS:**

1. Mayor's Youth Contest Winners to Celebrate the 250th Anniversary of the Battle of Lexington and Concord

**V. CONFLICT OF INTEREST DISCLOSURE:**

**VI. CONSENT AGENDA:**

1. Approval of June 3, 2025, City Council Meeting Minutes (Trina Cooke, City Recorder)
2. Richard and Boni Losee Family Estate Right to Burial Amended Agreement (J. Mark Smedley, Asst. City Manager)
3. Resolution 2025-11 Nine-step pay scale and policy adjustment for Heber City Public Employees (Cherie Ashe, Human Resources Manager) -
4. Mayor's Nomination of Carl Nielson to the POSTT Committee (Heidi Franco, Mayor)

**VII. PUBLIC COMMENTS: (3 min per person/20 min max)**

**VIII. GENERAL BUSINESS ITEMS:**

1. Statewide Stage 1 Firework Restrictions (Clint Neerings) - *10 min*
2. Central Heber Water and Sewer line Replacement Project Update and Update on Other Miscellaneous Engineering Projects (Russ Funk, City Engineer) - *10 min*

**IX. ACTION ITEMS:** (Council can discuss; table; continue; or approve items)

1. Ordinance 2025-16 Updating Heber City's Purchasing Policy (Wendy Anderson) - *10 min*
2. Quiet Zone Study Results & Council Direction (Russ Funk, City Engineer, Clint Allen) - *30 min*

**X. RECESS AS THE HEBER CITY COUNCIL AND CONVENE AS THE CRA BOARD:**

1. Buys Agreement for Sale and Purchase of Real Property and Lease Agreement (Matt Brower, City Manager) - *20 min*

**XI. ADJOURN AS THE CRA BOARD AND RECONVENE AS THE HEBER CITY COUNCIL:**

**XII. COMMUNICATION:**

**XIII. CLOSED MEETING:** (As Needed)

**XIV. ADJOURNMENT:**

Ordinance 2006-05 allows Heber City Council Members to participate in meetings via telecommunications media. In accordance with the Americans with Disabilities Act, those needing special accommodations during this meeting or who are non-English speaking should contact Trina Cooke at the Heber City Offices 435.657.7886 at least eight hours prior to the meeting.

Posted on June 26, 2025, in the Heber City Municipal Building located at 75 North Main, the Heber City Website at [www.heberut.gov](http://www.heberut.gov), and on the Utah Public Notice Website at <http://pmn.utah.gov>. Notice provided to the Wasatch Wave.



# Heber City Council Staff Report

**MEETING DATE:**

7/1/2025

**SUBJECT:**

Scheid Setback Request and Potential Development Agreement

**RESPONSIBLE:**

Jamie Baron

**DEPARTMENT:**

Planning

**STRATEGIC RELEVANCE:**

Community and Economic Development

## SUMMARY

John and Charlotte Scheid are asking the Council about a potential Development Agreement to allow them to build an accessory building 3' from the Right of Way on 500 North. This is to mitigate the impact of the new school site from their home and store farm equipment. Additionally, the Scheid's are requesting the City Council waive the fees associated with the Development Agreement and a 4-way stop at 500 N and 600 W.

The Policy Questions are as follows:

1. Does the Council support the idea of a Development Agreement to permit an accessory building to be 3' from the ROW on 500 North?
2. Does the Council support the request to waive the application fees for a Development Agreement?
3. Does the Council support changing the intersection of 500 N and 600 W to a 4-way stop.

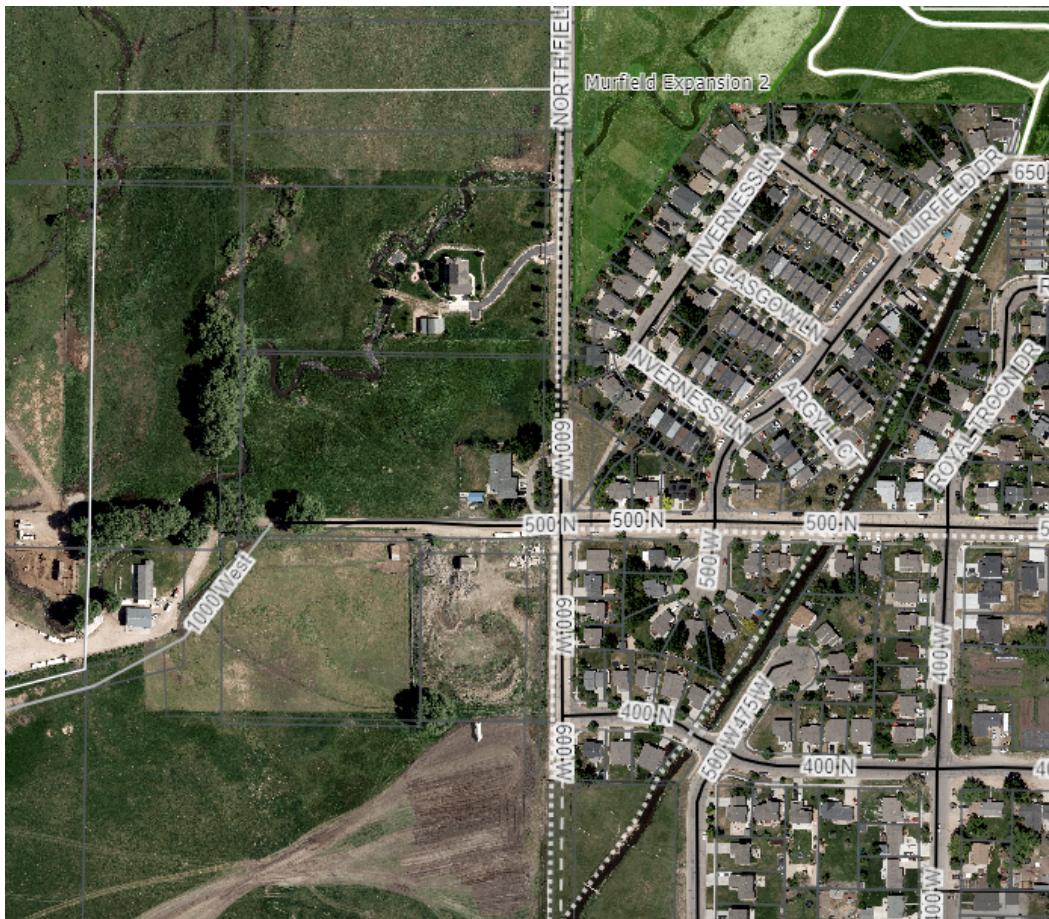
## RECOMMENDATION

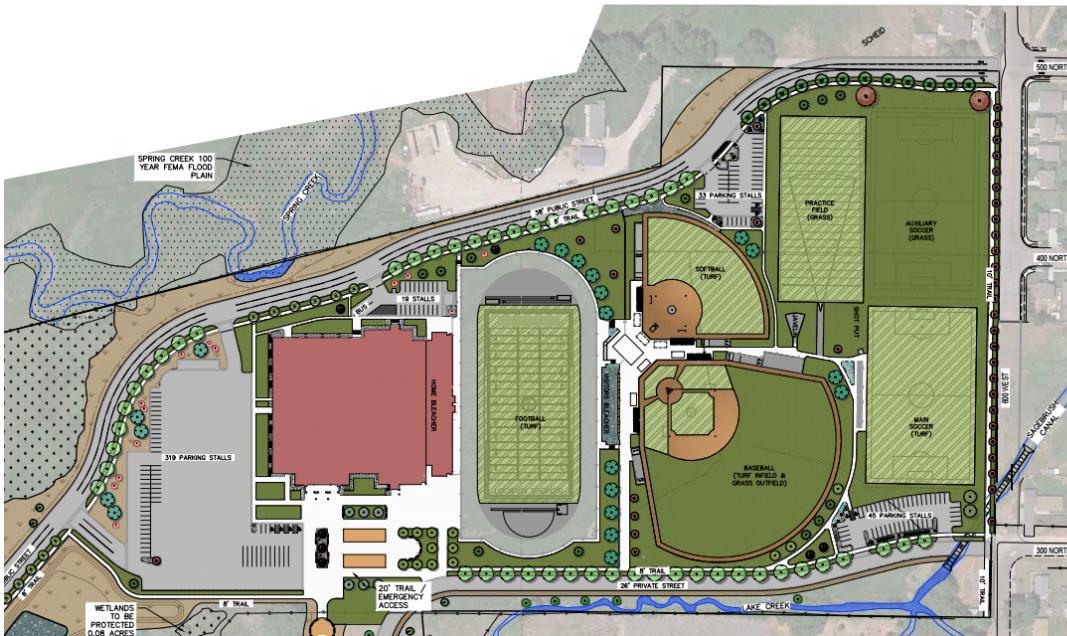
Staff is seeking whether or not the Council is willing to entertain a development agreement for the Scheid's setback request. Staff is recommending waiving the \$2,300 escrow fee and not changing the intersection at 500 N and 600 W at this time.

## BACKGROUND

John and Charlotte Scheid live on the NW corner of 600 West and 500 North. The property is approximately 5 acres in size and Zoned RA-2. The new Deer Creek High school site is located directly south of the Scheid's. As part of the development requirements for the new school, 500 North had to be widened. In the process of widening the road, the Scheids gave up some property. The

new sports fields are directly across the street. The Scheid's are requesting a development agreement to permit the building of a barn between their house and the street, with a setback of 3 feet from the public right of way (ROW). The current code would require 10 feet. The barn is needed to house their farm equipment and the placement is to mitigate the noise and other impacts of the new school site. Additionally, the Scheid's are requesting a waiver of the development agreement.





Staff met with John and Charlotte a couple of weeks ago and discussed their options as follows:

1. Follow the code – Move the building to a place that meets the code, however it is clear that this does not meet their concerns and objective in placing the building between their house and the school site.
2. Variance – Based on state code and the ALJ, staff told them that we were happy to process this for them, however we did not think the variance would be granted as the criteria for a variance is quite stringent. As they have a large lot and could build the building in another location on the lot that does meet the code, the ALJ is not likely grant this.
3. Code Amendment – Visit with Council about whether or not to change the code. This would change the code for everyone. Based on the last revision to this code, we put the 10' setback to preserve some space between the street and structures. Also, the building code for fire walls had changed from 3' to 5', which is the other minimum setback.
4. Development Agreement – Council can make a change for them, but it would not change for all properties in the City. Same public process as text amendment, different noticing requirements. Would meet with Council first.

The Scheid's are requesting to move forward with the Development Agreement so that it only applies to their property.

## DISCUSSION

### Set Backs

The City's code used to allow accessory buildings to be 3 feet from the property line so long as the water off the roof didn't drain toward the property line. This was later changed to 5 feet to be

consistent with the change in building code for fire rated walls. A 5' setback is required to not have to add a fire rated wall. Additionally, on the street side yard, the setback was increased to 10' so maintain some additional setback from the street.

### **Fee Waiver**

The Development agreement fee is \$5,300. \$3,000 for admin and \$2,300 in escrow. The escrow will pay for any attorney time. The request is a simple agreement, so it would make sense that the escrow would not be fully used and much of that would be coming back to the Scheid's. However, the admin costs are fixed costs associated with processing the application, including the PC and CC meetings, public hearings, and notices.

### **Stop Sign**

In addition to the request for their property, the Scheid's would like to see a 4-way stop at the intersection of 500 North and 600 West. The intersection is currently a 2-way stop, with the traffic on 500 North stopping at 600 West. Staff would recommend no changes. The traffic patterns could be studied after the opening of the school.

### **FISCAL IMPACT**

N/A at this time.

### **CONCLUSION**

John and Charlotte Scheid are asking the Council about a potential Development Agreement to allow them to build an accessory building 3' from the Right of Way on 500 North. This is to mitigate the impact of the new school site from their home and store farm equipment. Additionally, the Scheid's are requesting the City Council waive the fees associated with the Development Agreement and a 4-way stop at 500 N and 600 W. Staff is seeking whether or not the Council is willing to entertain a development agreement for the Scheid's setback request. Staff is recommending waiving the \$2,300 escrow fee and not changing the intersection at 500 N and 600 W at this time.

### **ALTERNATIVES**

Not an action item

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### **POTENTIAL MOTIONS**

Not an action item.

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### **ACCOUNTABILITY**

**Department:** Planning  
**Staff member:** Jamie Baron, Planning Manager

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## EXHIBITS

None

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 75 N Main Street  
Heber City, UT 84032

 Phone: 435-657-0757  
Fax: 435-657-2543

 [heberut.gov](http://heberut.gov)



# Heber City Council Staff Report

**MEETING DATE:** 7/1/2025  
**SUBJECT:** Red Ledges Park, Trails, and Open Space  
**RESPONSIBLE:** Tony Kohler  
**DEPARTMENT:** Planning  
**STRATEGIC RELEVANCE:** Community Development

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## SUMMARY

Red Ledges would like to update Council on the status of the western trail connection from Red Ledges to the Heritage Farms Parkway, discuss opportunities with expanding the park and discuss the potential for modifying the Red Ledges Master Plan by shuffling some of the remaining density. Policy questions include:

- Is Council receptive to a discussion about the park being completed with a pump track and being dedicated to the public?
- Is Council willing to take ownership of a sliver of remaining land between Heritage Farms Parkway and Stone Creek?
- Is Council receptive to having a discussion about a density transfer on the east part of Red Ledges?
- Are there other issues in previous development agreements that need addressed?

## RECOMMENDATION

Staff recommends Council provide feedback on the proposed policy discussions. The issues would need to return to Council to finalize.

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## BACKGROUND

Red Ledges talked with Council on August 6, 2024 about the status of the Red Ledges Community. Council expressed interest in continuing dialogue about the future of land north of the park, such as trails, pump track, etc. This meeting is a follow up to that discussion.

## DISCUSSION

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Red Ledges and the City have entered into several agreements and agreement amendments, attached for reference. The final remaining issues from those agreements include the final disposition of the park area and the western trail connection. Representatives from Red Ledges will be present to walk through their power point, discuss their ideas, and address any questions the Council may have.

## **FISCAL IMPACT**

None at this time

## **CONCLUSION**

N/A

## **ALTERNATIVES**

N/A

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## **POTENTIAL MOTIONS**

N/A

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## **ACCOUNTABILITY**

**Department:** Planning  
**Staff member:** Tony Kohler, Community Development Director

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## **EXHIBITS**

1. Red Ledges Presentation
2. Red Ledges Bypass Dedication Plat
3. Red Ledges Master Plan.1
4. RL Master Plan Park
5. Consolidated Red Ledges Agreements



RED LEDGES™

— U \* T \* A \* H —



# Community Map

1,122 Residences  
currently planned out of  
1,370 Approved Density



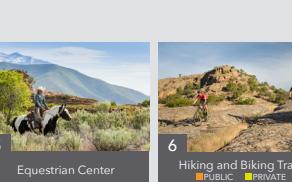
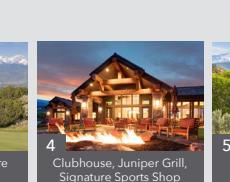
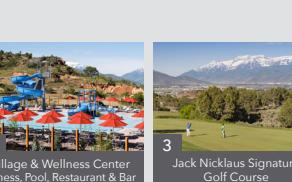
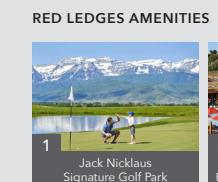
2,000 Total Acres



# 395-Acre

# Conservation Easement

**NOTES:**



# Amenities & Lifestyle Overview

## Red Ledges Golf

- Jack Nicklaus Signature Golf Course (18 holes)
- Jack Nicklaus Signature Golf Park (12 holes)
- Jim McLean Golf School with year-round golf simulation and indoor practice facility
- Practice area - range with a putting green
- Red Ledges Signature Shops at both courses
- Year-Round Golf Lounge with Foresight GC Quad Eagle Plus golf simulators

## Red Ledges Tennis

- Cliff Drysdale Tennis programming
- Ten tennis courts
- 12 pickleball courts (6 dedicated)
- Tennis bubble October-May for year-round tennis and pickleball

## Clubhouse Area Facilities

- Private spa treatment room
- Pool and hot-tub with poolside services
- Basketball court
- Kids' Club Yurt

## Village Center

- Resort-style pool and spa with lap lanes
- 144-foot waterslide and water playground
- Wellness Center featuring a strength & conditioning room and a studio for classes
- Men's and women's locker rooms
- Playground

## Dining

- Juniper Grill at the Clubhouse featuring casual, bar, and fine dining.
- Poolside Bar and Grill at the Village Center
- Village Center Rooftop Lounge
- Sage Bistro poolside food truck
- To-go options plus special themed dinner events

## Equestrian Center

- Guided trail rides
- Private horseback riding lessons
- Horse boarding
- Horse leasing

## Ski Access and Winter Activities

- Privileged access to Deer Crest Club and Stag Lodge, two ski-in, ski-out lounges at Deer Valley Resort
- Ski-shuttle service to and from Deer Valley Resort every 15 minutes
- Winter Adventure Trail with 7+ miles of groomed trails
- Guided snowshoe and cross-country tours
- Member Ski Club and dedicated ski days

## Community Association Amenities

- Miles of trails for hiking and biking including trails connecting to the new Jordan Park - a Heber City community park built by Red Ledges.
- Staffed Greeter's Cottages (15-hours a day), community patrol, and overnight security.

## Member Calendar

Year-round programming for members is provided by the club and a full-time Activities Director. Events and activities include hiking, biking, arts and crafts, activities for kids, fly-fishing, boating, and more.



# Amenity Highlight: GOLF

## *Jack Nicklaus 18-Hole Signature Course*

With stunning views of the Rocky Mountains from all 18 holes, our Jack Nicklaus Signature Golf Course was named the #1 new private course by Golf Magazine when it debuted in 2009. It continues to provide the finest golf experience for members and guests.

## *Jim McLean Golf School*

Rated the #1 golf school in the world, the Jim McLean Golf School operates year-round at Red Ledges with winter training facilities and a state-of-the-art golf simulator located at the practice facility of the Jack Nicklaus Signature Golf Course. Utilizing proven methods developed by World Golf Teacher Hall of Fame member Jim McLean, our pros evaluate each individual's golf game and provide guidance that leads to improvement.



2009 WINNER  
#1 New Private Course  
Golf Inc.



15 TIME WINNER  
Utah's Best Golf Course  
Utah's Best of State



*A breathtaking backdrop for  
an exhilarating round of golf.*

# *The First-Ever Jack Nicklaus Signature 12-Hole Golf Park*



The very first 12-hole Jack Nicklaus Signature Golf Park was built at Red Ledges to provide outstanding play for golfers of every age and ability. The Golf Park is a par-3 course with 12 holes, and equal parts challenge and splendor. Each hole has a standard regulation hole for the avid player and an eight-inch hole for beginners.

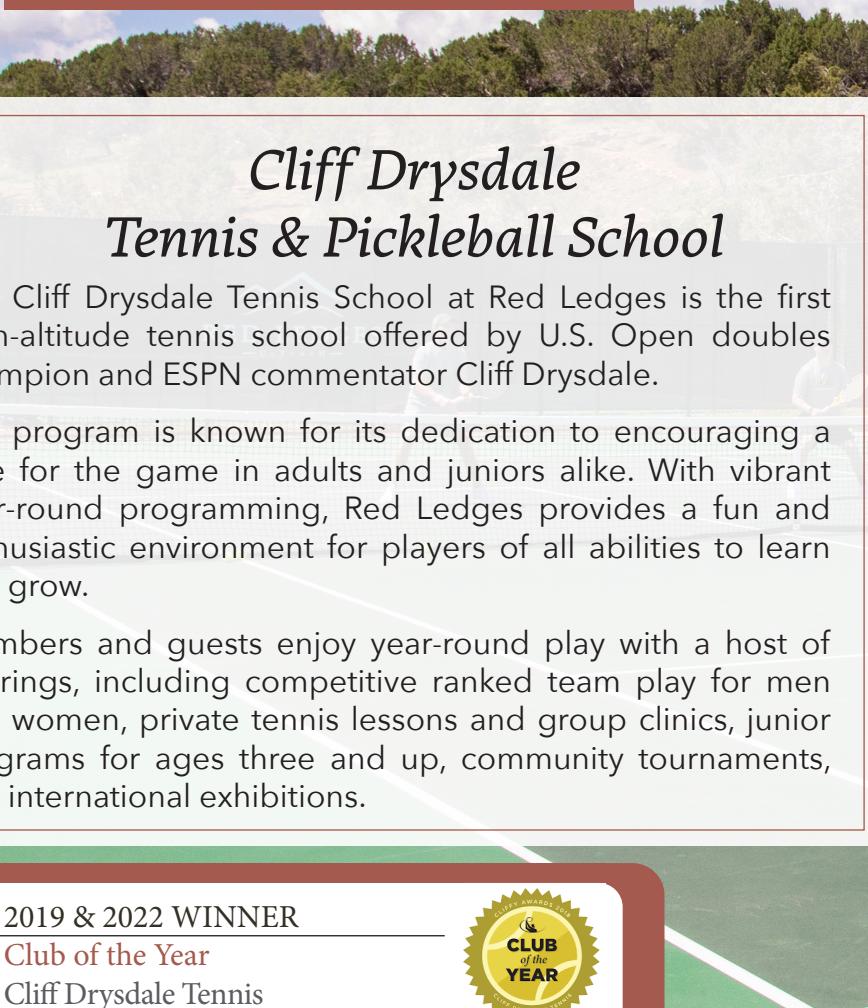
All Red Ledges members may use the 30 acres of grass for activities ranging from walking, jogging, spending time with a favorite four-legged furry friend, tossing a Frisbee or playing Frisbee Golf, having a picnic, to sitting on a blanket watching the sunset.





*Play barefoot, bring your dog, use a soccer ball.  
It's all about having fun in a laid back atmosphere.*

# Amenity Highlight: TENNIS



## *Cliff Drysdale Tennis & Pickleball School*

The Cliff Drysdale Tennis School at Red Ledges is the first high-altitude tennis school offered by U.S. Open doubles champion and ESPN commentator Cliff Drysdale.

The program is known for its dedication to encouraging a love for the game in adults and juniors alike. With vibrant year-round programming, Red Ledges provides a fun and enthusiastic environment for players of all abilities to learn and grow.

Members and guests enjoy year-round play with a host of offerings, including competitive ranked team play for men and women, private tennis lessons and group clinics, junior programs for ages three and up, community tournaments, and international exhibitions.

2019 & 2022 WINNER

Club of the Year

Cliff Drysdale Tennis



2023 WINNER



Outstanding Facility

United States Tennis Association

**Club Tennis & Pickleball Facilities**  
10 Tennis Courts  
6 Pickleball Courts  
2 Courts covered in winter for indoor play

# Amenity Highlight: WELLNESS

Golf Inc.

2024 WINNER  
Amenity of the Year  
Golf Inc.



## *The Wellness Center*

Built in 2023, the Wellness Center features a beautiful studio, a strength and cardio area, state-of-the-art equipment, day-use lockers, and dedicated restrooms. Engaging in an active and healthful lifestyle is a pillar of the community. Members have complimentary access to the following fitness facilities and programs.



### ***Fitness Facility***

Strength & Cardio area with state-of-the-art equipment.



### ***Wellness Series***

A monthly lecture series covering every aspect of wellness.



### ***Fitness Classes***

The club offers members over 20 different fitness classes a week.



### ***Personal Training***

With diverse experience to help members reach any fitness goal.

# Amenity Highlight: CLUBHOUSE



Expanded in 2023, the Red Ledges Clubhouse is a central gathering space where family, friends, and neighbors come together to enjoy great company, exceptional cuisine, and stunning views.



*Family-Friendly Dining*



*Casual Bar & Lounge*



*Fine-Dining Room* Page 19 of 236

# Real Estate Update



Over \$365 Million sold since inception in 2007.

876 total homesites sold, **up to** 494 remaining - including land, HOA-maintained neighborhoods, & Custom Homes.

Approximately 467 homes are completed and over 105 are in the construction process.

Range in segmentation from 3-unit condo buildings, 2-unit Villas, Single Family Homes, Custom Homes, and Estate Homesites.

# Signature Neighborhoods

Red Ledges' Signature Neighborhoods are easy-living neighborhoods where proven floor plans are in place. They also feature the additional convenience of maintenance-free living with snow removal and landscaping managed by the Red Ledges' Community Association.

## Landscaping & Snow Removal



maintained by the HOA



## Park View Villas *at a glance*

3-4 Bedrooms | 3.5-4.5 Bathrooms | 2,339-3,090 Sq. Ft.

Located on the Jack Nicklaus Signature Golf Course and walking distance to the award-winning Village Center

Two-Car Garage | Basement

Built by Hillwood Homes

## Village Center Cabins *at a glance*

3 Bedrooms | 4 Bathrooms | 2,419-2,463 sq ft

Two different floor plan options

Located next to the Village Center and Jack Nicklaus Signature Golf Park

Built by Red Ledges Construction

## Mountain View Village *at a glance*

3-5 Bedrooms | 4-6 Bathrooms | 2,630-3,917 Sq Ft

Five unique floor plans | Single and two-story living options

Walking distance to the Village Center and Jack Nicklaus Signature Golf Park

Built by Red Ledges Construction

# Red Ledges Construction



Red Ledges Construction was established to deliver an exceptional homebuilding experience for our property owners and raise the level of value in the community. Providing the highest quality construction with a team of experienced professionals, constant communication, and a highly personalized level of service throughout.

We've assembled a select team of architects, designers, project managers, and trade partner alliances to capitalize on decades of experience. Our mission is to deliver the most cost-effective solutions, defining luxury homebuilding excellence at Red Ledges.

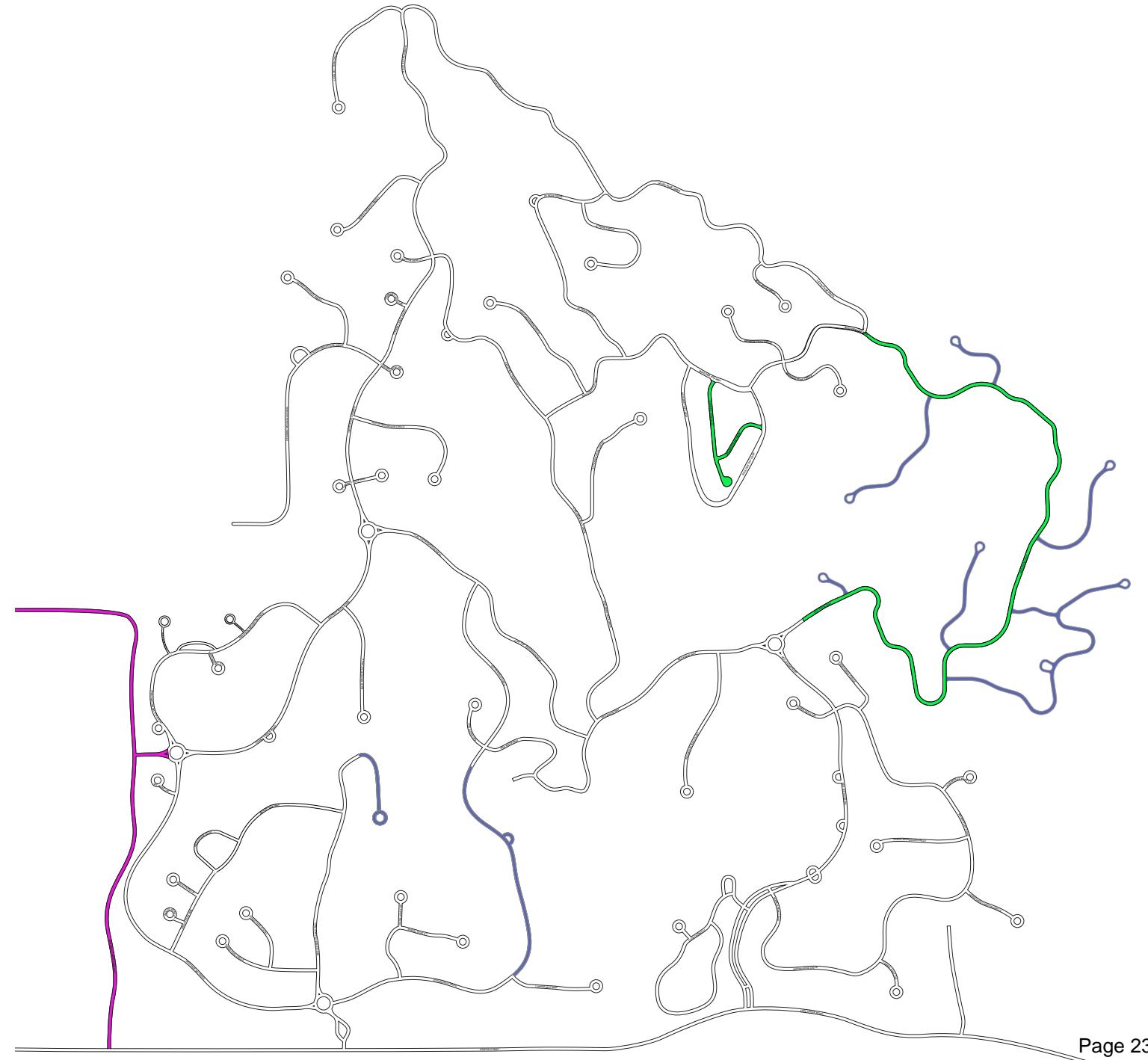
# Infrastructure Update

## Completed 2023

Heritage Farms Parkway  
West Entrance

## In Progress

## Future Roads



# Membership Demographics

777 total Members:

448 Golf

52 Golf Park

277 Lifestyle

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81% Ski/Snowboard

66% Golf

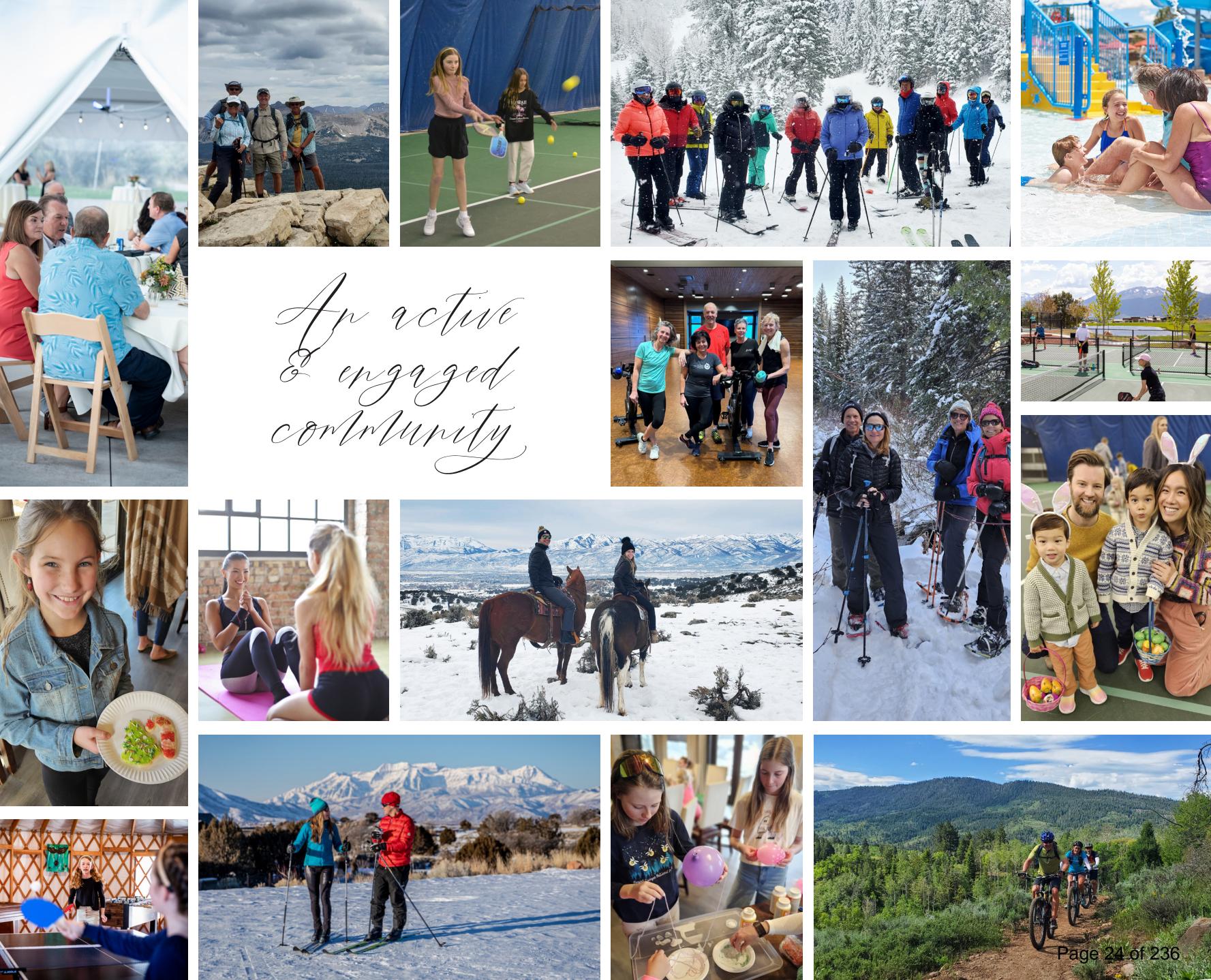
53% Racket Sports

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59% Full Time Residents

35% Part Time Residents

6% Investor



# Member's Origin Map

## TOP STATES:

Utah - 31.5%

California - 25%

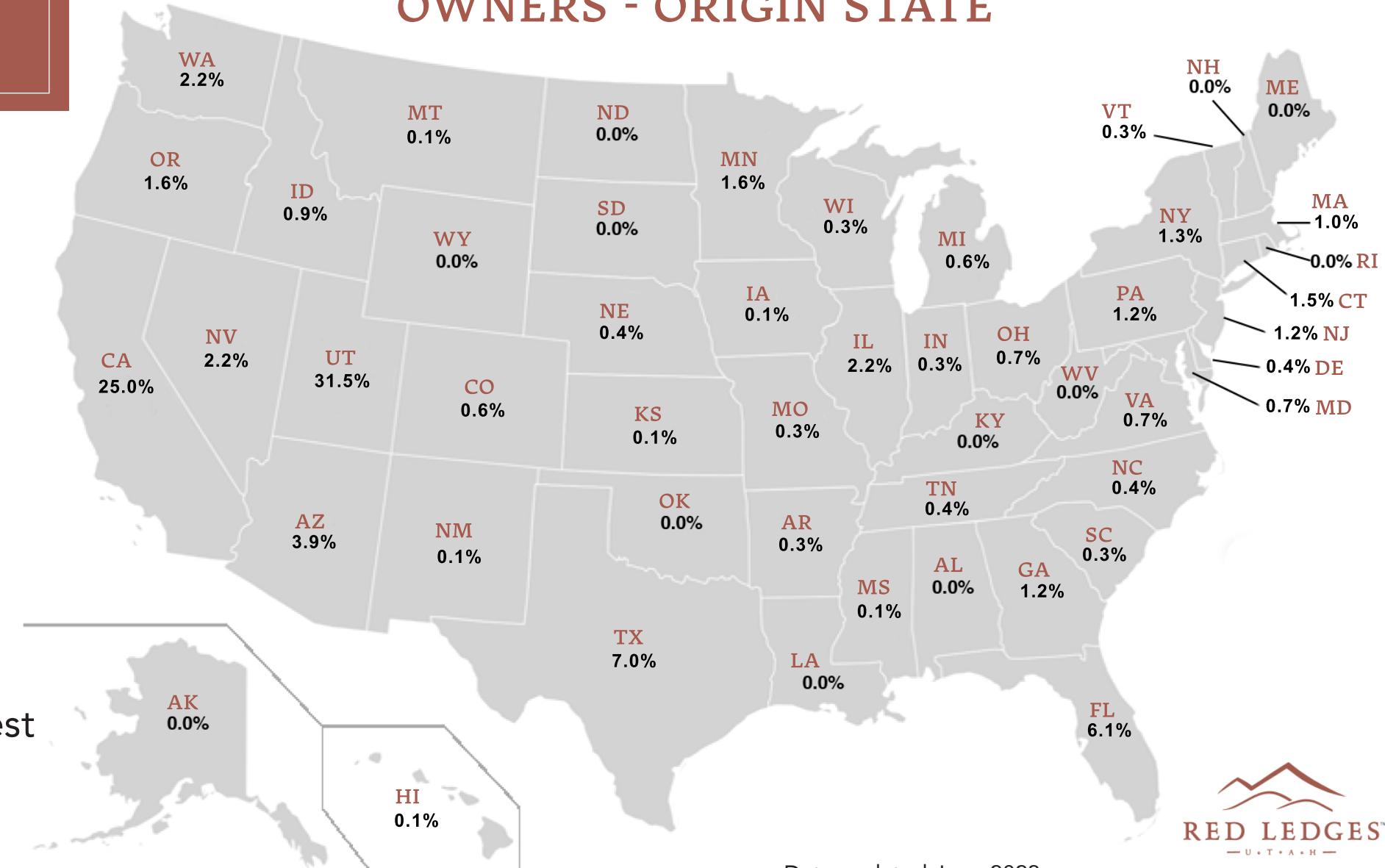
Texas - 7%

Florida - 6.1%

Arizona - 3.9%

Growth from the  
Tri-State area, Chicago,  
and the Pacific Northwest  
over the past few years.

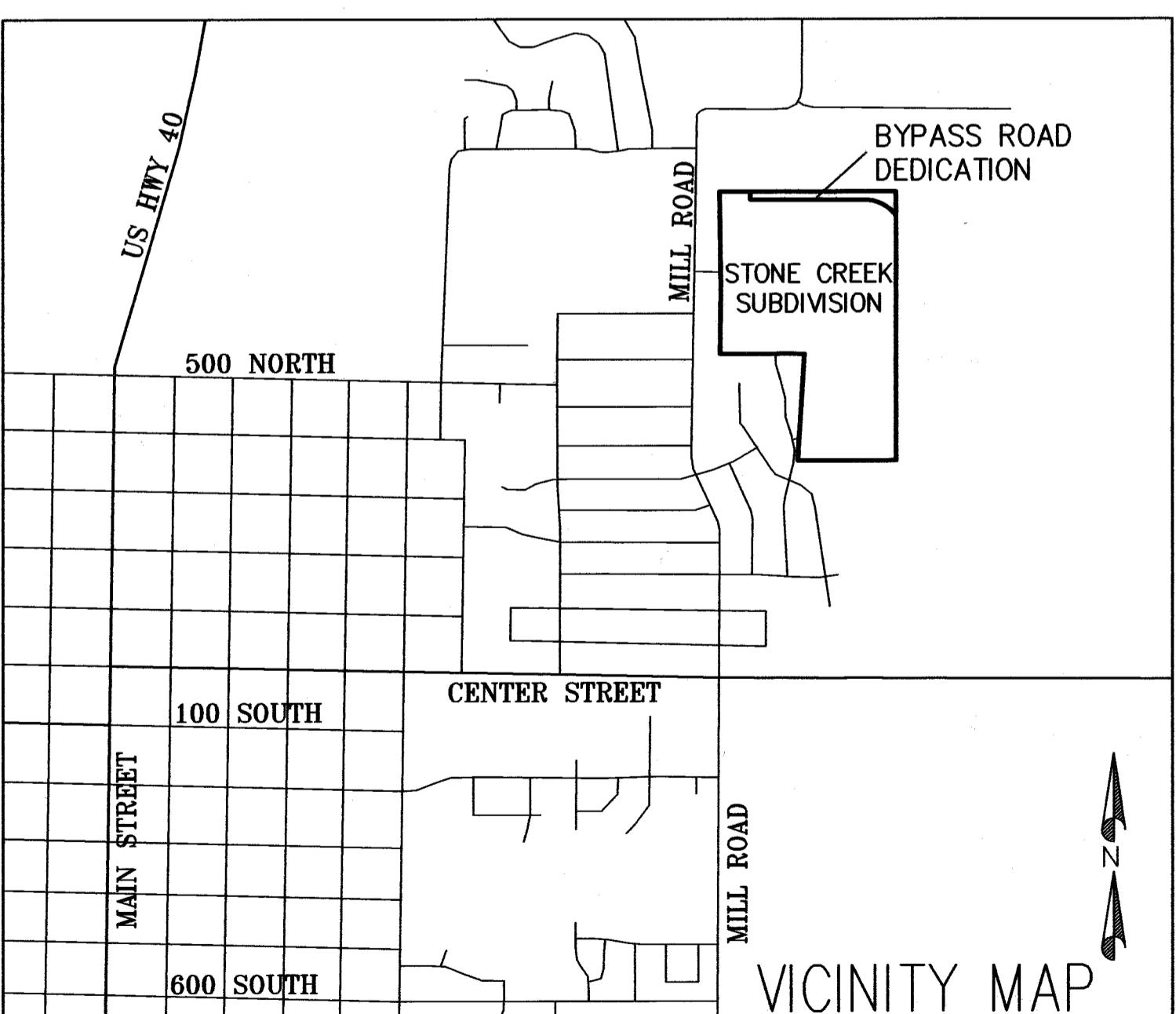
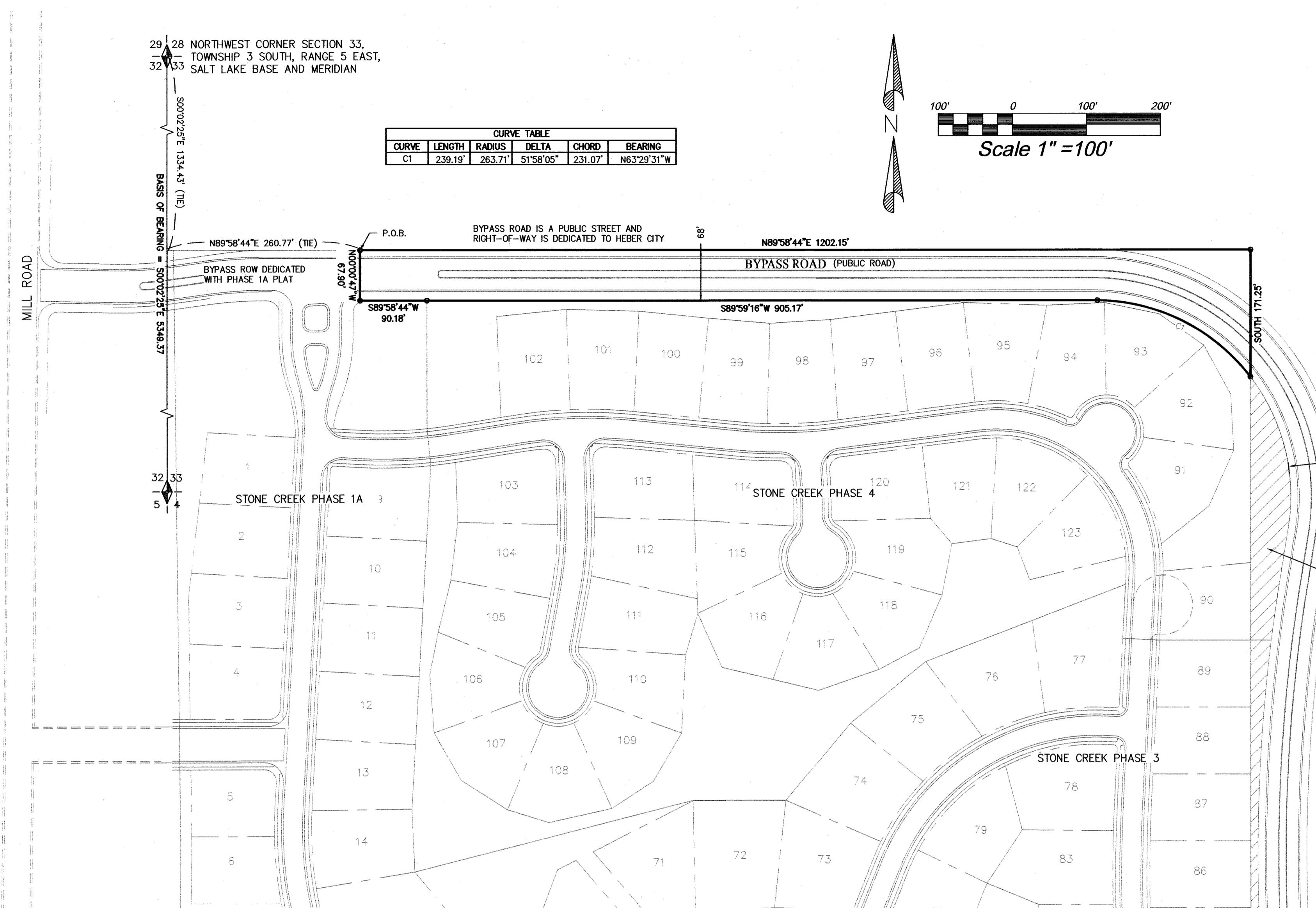
## RED LEDGES OWNERS - ORIGIN STATE



Data updated June 2023

Thank You!





LOCATED IN THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 3 SOUTH,  
RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.

## COUNTY SURVEYOR'S CERTIFICATE

APPROVED AS TO FORM ON THIS 28<sup>th</sup> DAY  
OF FEBRUARY, 2018.9  
ROS# 3113.  
  
COUNTY SURVEYOR

SURVEYOR'S CERTIFICATE  
ACCORDANCE WITH SECTION 10-9a-603 OF THE UTAH CODE, I, BING CHRISTENSEN, DO  
HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR HOLDING LICENSE NUMBER  
796 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND  
PROFESSIONAL LAND SURVEYORS LICENSING ACT.  
I FURTHER CERTIFY THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON  
PLAT IN ACCORDANCE WITH SECTION 17-23-17 OF THE UTAH CODE, AND HAVE VERIFIED  
MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THE PLAT.

## BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY WAS ESTABLISHED AS SOUTH 0°02'25" EAST 5349.37 FEET BETWEEN THE NORTHWEST AND SOUTHWEST CORNERS OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.

## BOUNDARY DESCRIPTION

BEGINNING AT A POINT WHICH IS SOUTH 0°02'25" EAST 1334.43 FEET ALONG A  
SECTION LINE AND NORTH 89°58'44" EAST 260.77 FEET FROM THE NORTHWEST  
CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE  
AND MERIDIAN.

HENCE NORTH 89°58'44" EAST 1202.15 FEET; THENCE SOUTH 171.25 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 63.71 FEET AND TO WHICH POINT A RADIAL LINE BEARS NORTH 52°29'31" EAST; THENCE NORTHWESTERLY 239.19 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 51°58'05" CHORD BEARING AND DISTANCE OF NORTH 63°29'31" WEST 231.07 FEET); THENCE SOUTH 9°59'16" WEST 905.17 FEET; THENCE SOUTH 89°58'44" WEST 90.18 FEET; THENCE NORTH 0°00'47" WEST 67.90 FEET TO THE POINT OF BEGINNING.

CONTAINING: 2.03 ACRES

## OWNER'S DEDICATION

E UNDERSIGNED OWNER OF THE PROPERTY DESCRIBED HEREON HEREBY  
INDICATES THE LAND TO HEBER CITY FOR A PUBLIC ROAD.

ITED THIS 27<sup>th</sup> DAY OF FEBRUARY, 2018-2019  
Rich Homas  
BLACKSTONE CREEK LLC - MANAGER

## ACKNOWLEDGMENT

STATE OF UTAH	S.S.	 JENNIFER BALLS Notary Public - State of Utah Comm. No. 704493 My Commission Expires on Feb 7, 2023
COUNTY OF WASATCH	27	
ON THE <u>27</u> DAY OF <u>February</u> , <u>2019</u> PERSONALLY APPEARED BEFORE ME, THE SIGNER(S) OF THE FORGOING DEDICATION, WHO DULY ACKNOWLEDGED TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED,  MY COMMISSION EXPIRES <u>2/7/23</u>		

ACCEPTANCE BY HERBER CITY

ACCEPTANCE BY HEBER CITY  
THE CITY COUNCIL OF HEBER CITY, WASATCH COUNTY, STATE OF UTAH,  
HEREBY ACCEPTS THIS DEDICATION OF PUBLIC RIGHT-OF-WAY HEREON  
SHOWN.

APPROVED Kellieen Potter ATTEST Trina Cooke  
MAYOR CITY RECORDER  
(SEE SEAL BELOW)

(SEE SEAL BELOW)

# PLANNING COMMISSION APPROVAL

28 DAY OF February, 2018 BY THE  
CITY PLANNING COMMISSION

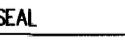
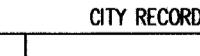
APPROVED THIS Heber Keith Rawlings

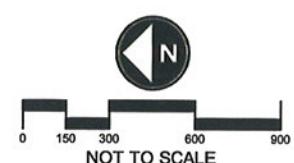
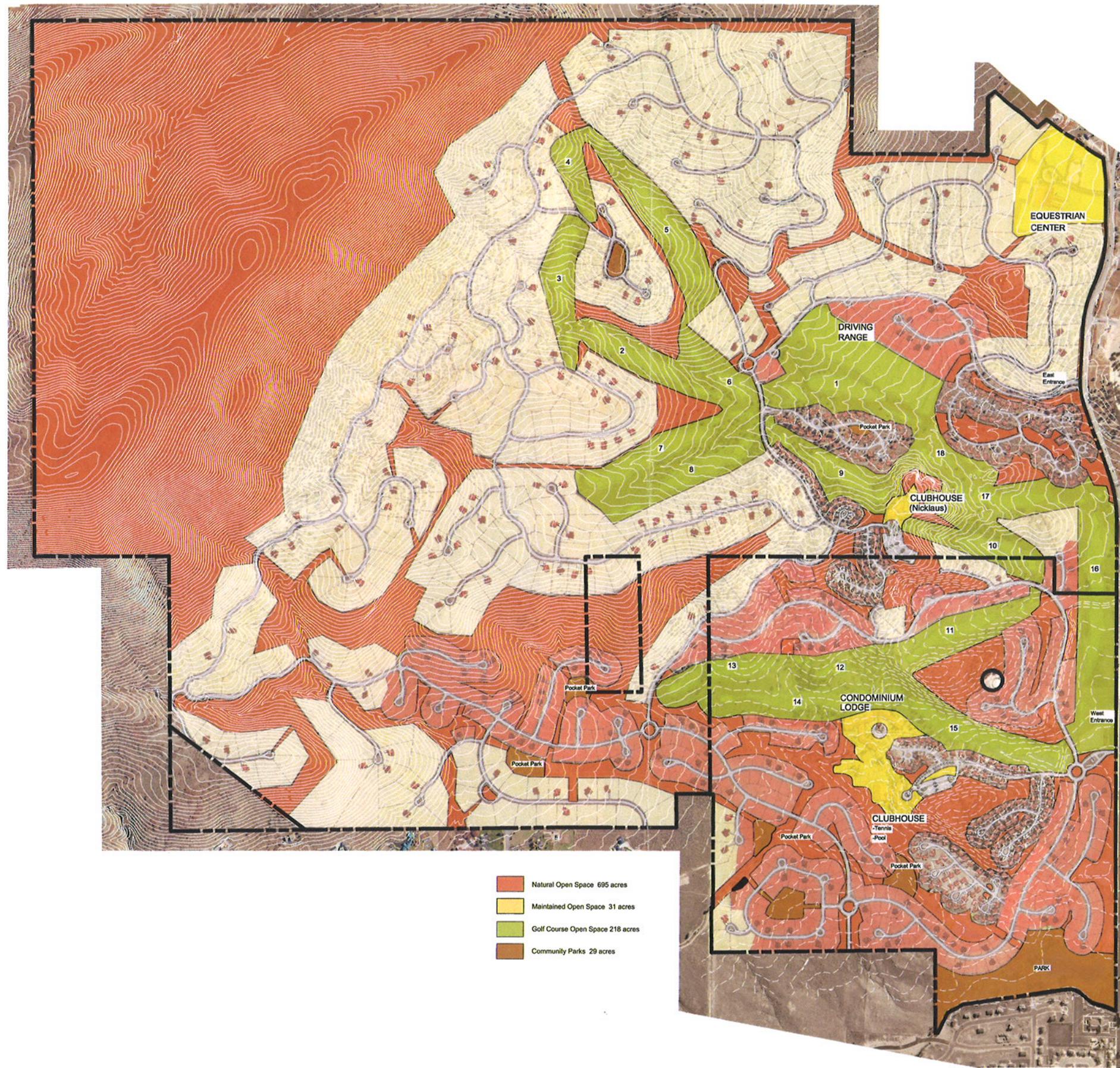
# CHAIRMAN, PLANNING COMMISSION

# EAST BYPASS ROAD

# DEDICATION

# DEDICATION

SURVEYOR'S SEAL	NOTARY PUBLIC SEAL	CITY ENGINEER SEAL	CITY RECORDER SEAL
			



### JACK JOHNSON COMPANY

Designing World Destinations  
In-Person - 1777 Sun Peak Drive • Park City • Utah 84060  
Telephone - 435.645.9000 • Facsimile - 435.649.1620  
www.jackjohnson.com

DATE: November 22, 2006  
DESIGNED BY: dej  
DRAWN BY: dej  
REVIEWED BY:  
PROJECT: 0649.0205.00  
ISSUE: Annex App. & Master Plan

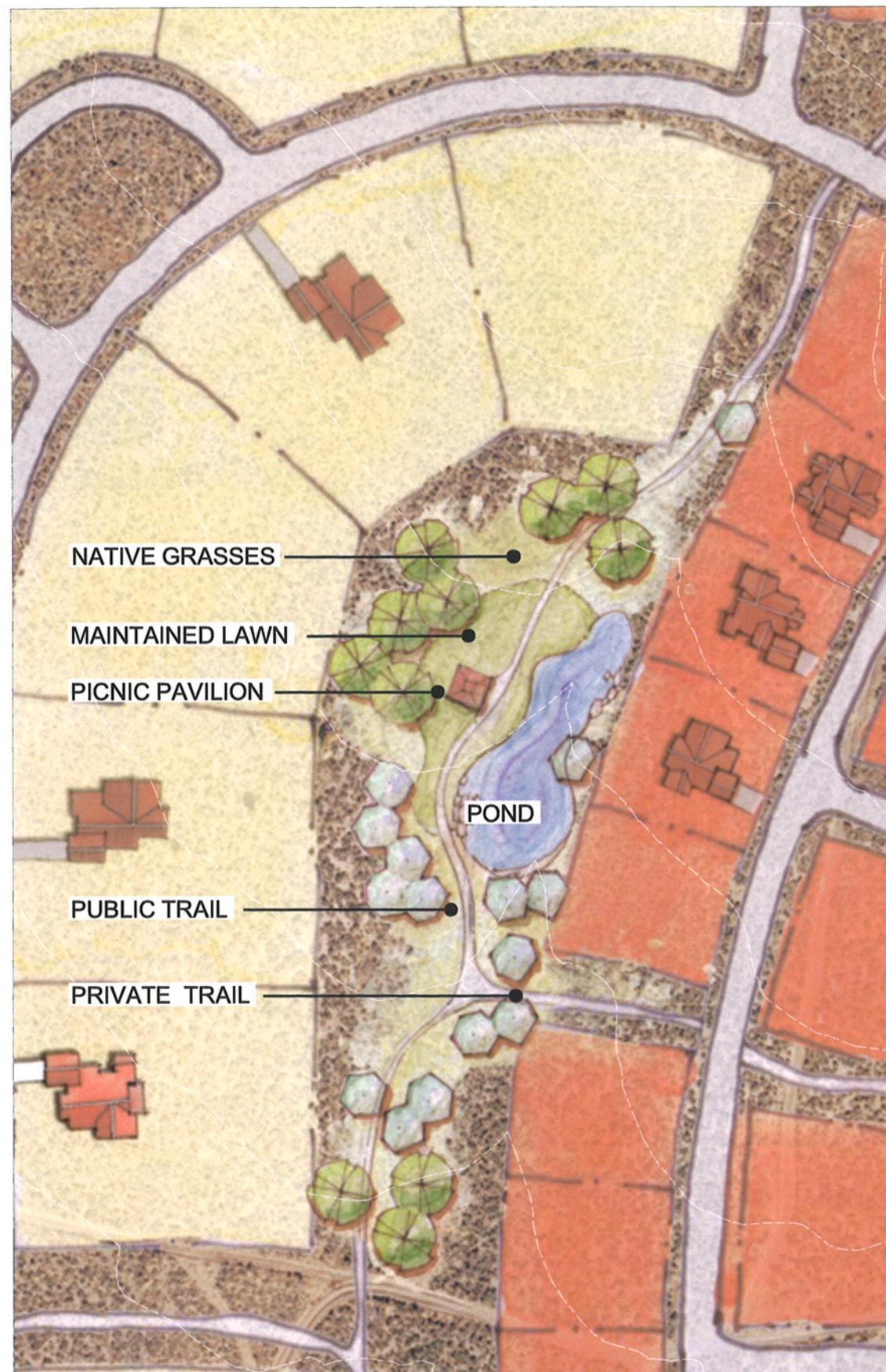
### REVISIONS

## Burns Red Ledges Recreational Community

Master  
Open Space  
Plan

P2

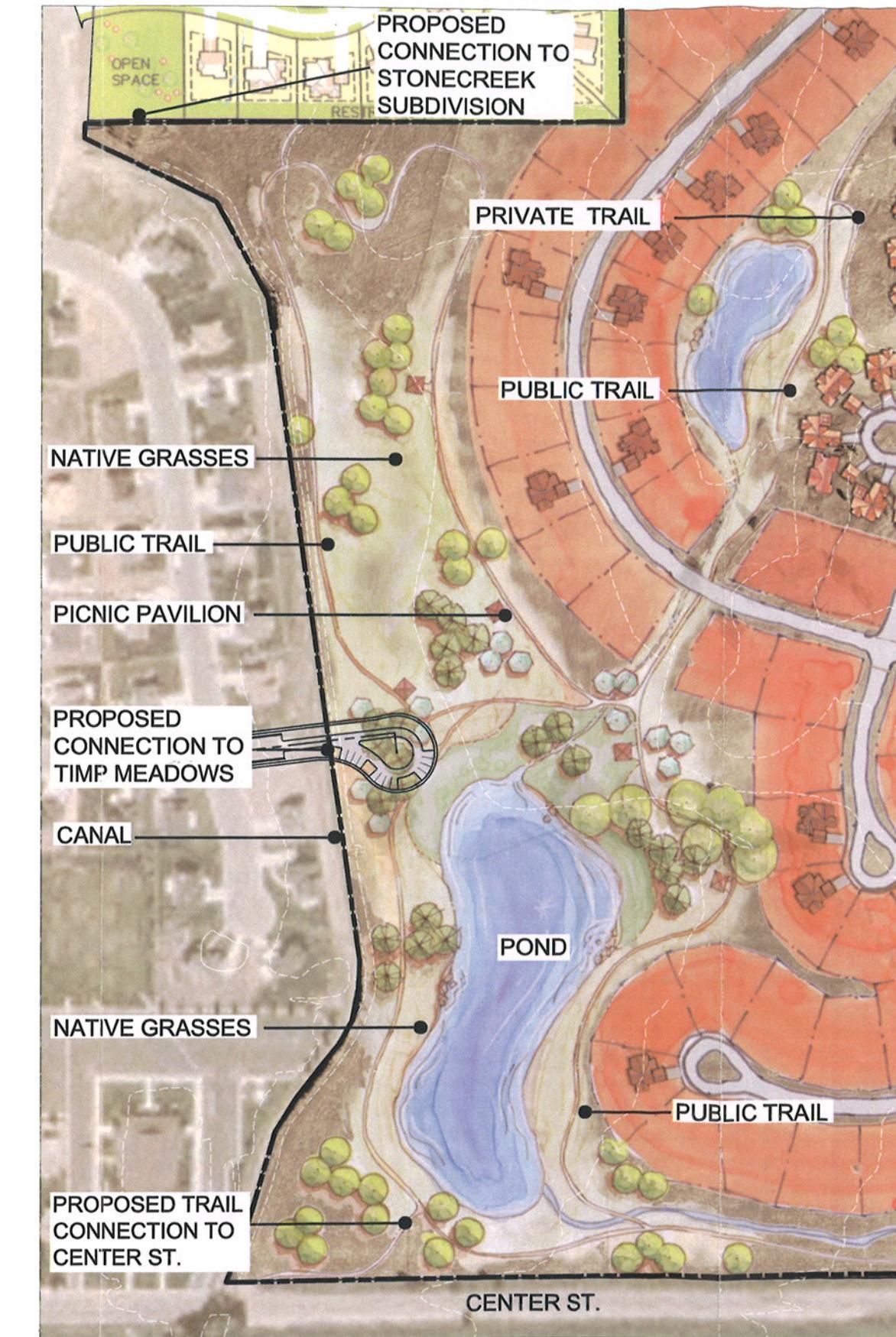
Jack Johnson Company | Plot Date: November 21, 2006 | Printed by KTS



**PRIVATE PARK TYP.**  
2 ACRES



0 25 50 100 150  
SCALE: 1"=50'



**PUBLIC PARK**  
19 ACRES



0 50 100 200 300  
SCALE: 1"=100'



DATE: November 22, 2008  
DESIGNED BY: dej  
DRAWN BY: dej  
REVIEWED BY:  
PROJECT: 0649.0205.00  
ISSUE: Annex App. & Master Plan

**REVISIONS**

**Burns  
Red Ledges  
Recreational Community**

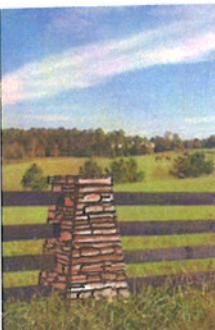
Parks Plan

**P4**

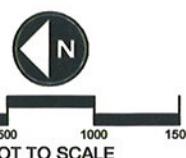
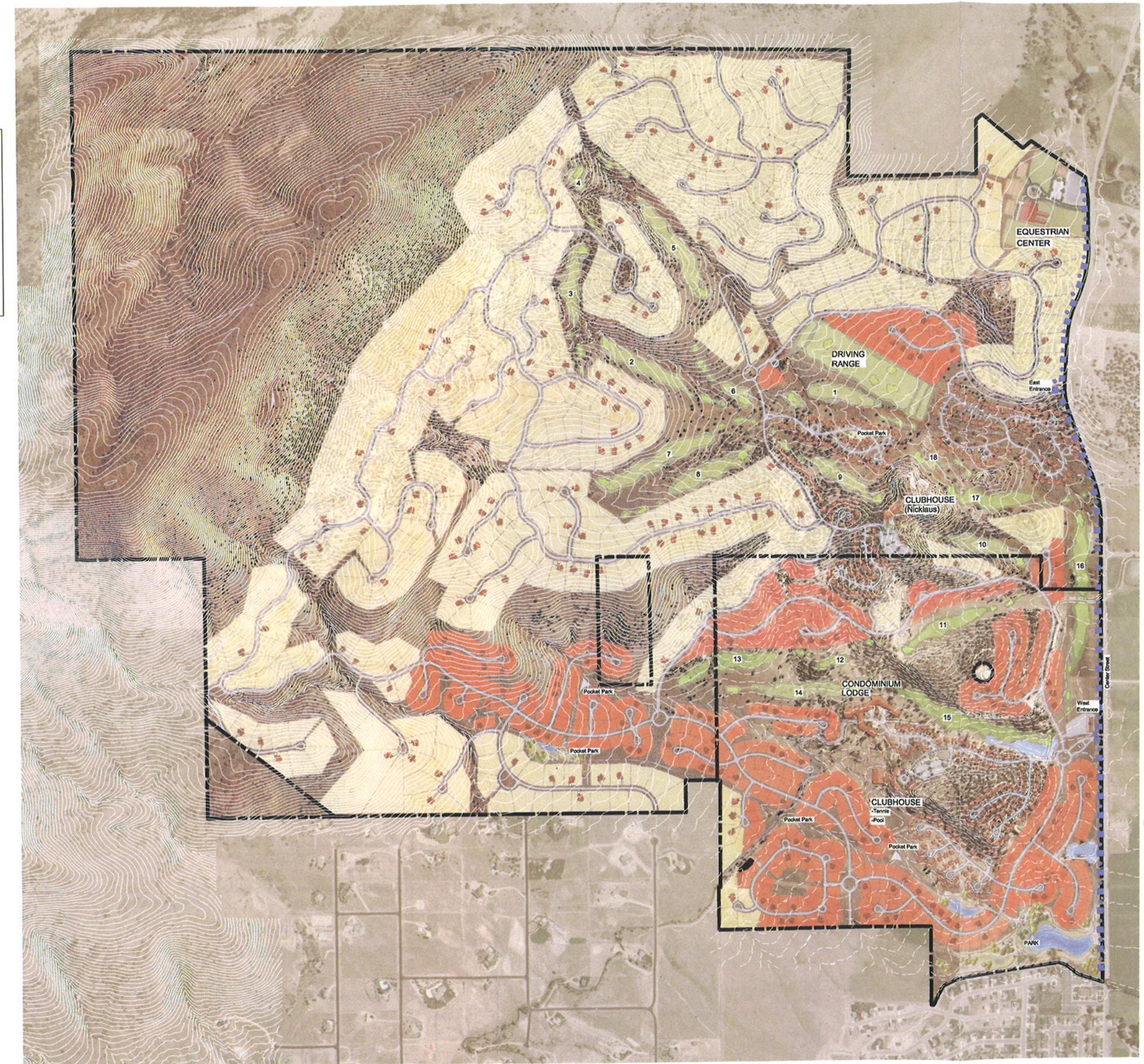
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file name: P4-Parks Plan.dwg | plot date: November 20, 2008 | plotted by: dej

## LEGEND

■ ■ ■ ■ ■ FENCING ALONG LAKE  
CREEK DRIVE



FENCING ALONG LAKE CREEK DRIVE SHALL  
FEATURE A TAPERED STONE PIER EVERY 50

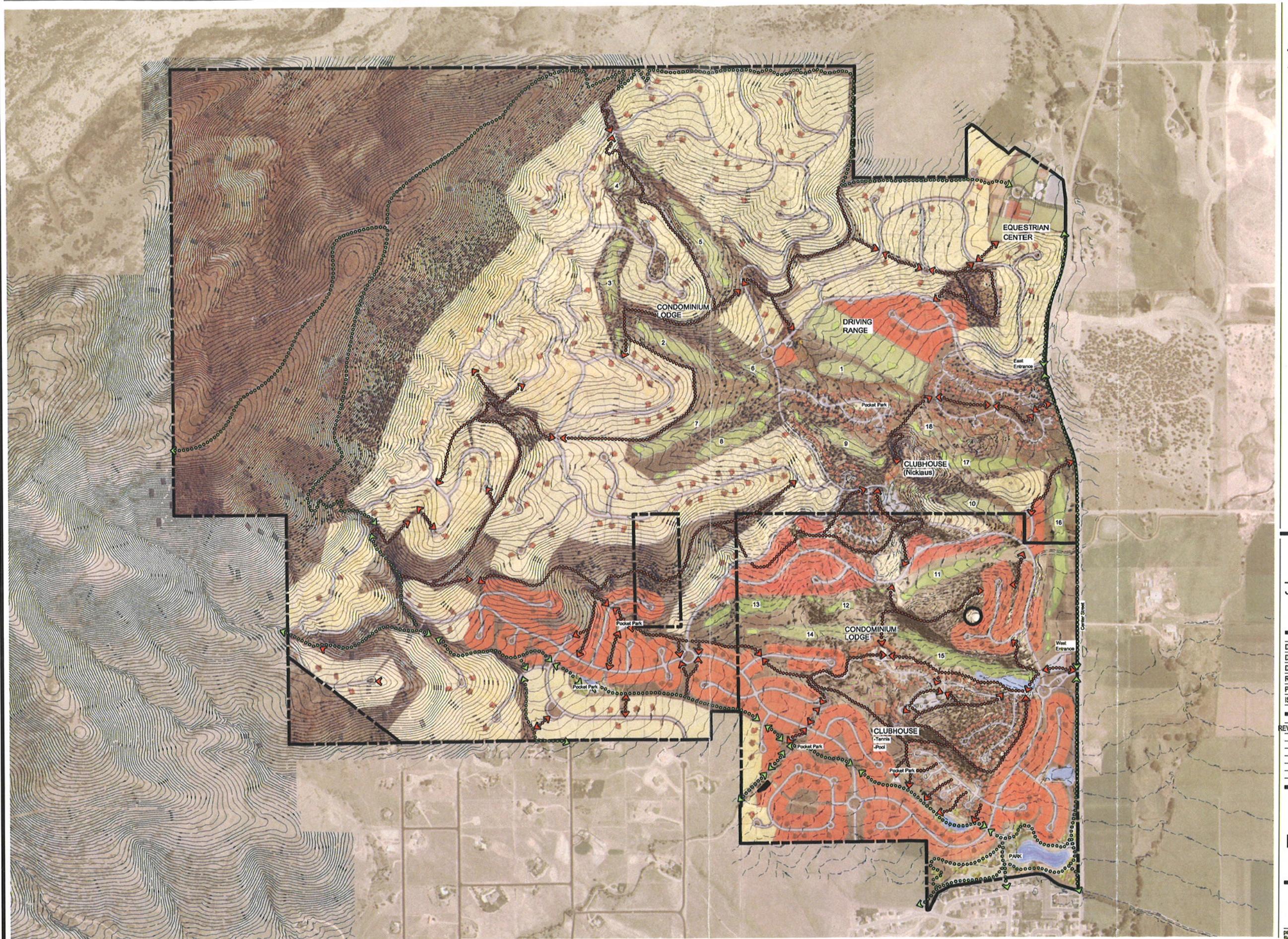


TE: November 22, 2008  
SIGNED BY: dej  
AWN BY: dej  
IEWED BY:  
JECT: 0649.0205.00  
UE: Annex, App. & Master Plan

## REVISIONS

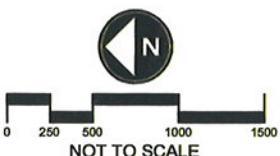
**Burns  
Red Ledges  
Recreational Community**

Fence Plan | P6



**LEGEND**

→ Public Trail System  
 ← Private Trail System



**JACK JOHNSON COMPANY**  
 Designing World Destinations  
 In-Person - 1777 Sun Peak Drive - Park City - Utah 84060  
 Telephone - 435.645.9000 - Facsimile - 435.649.1620  
[www.jackjohnson.com](http://www.jackjohnson.com)

DATE: November 22, 2008  
 DESIGNED BY: dej  
 DRAWN BY: dej  
 REVIEWED BY:  
 PROJECT: 0649.0205.00  
 ISSUE: Annex, App. & Master Plan

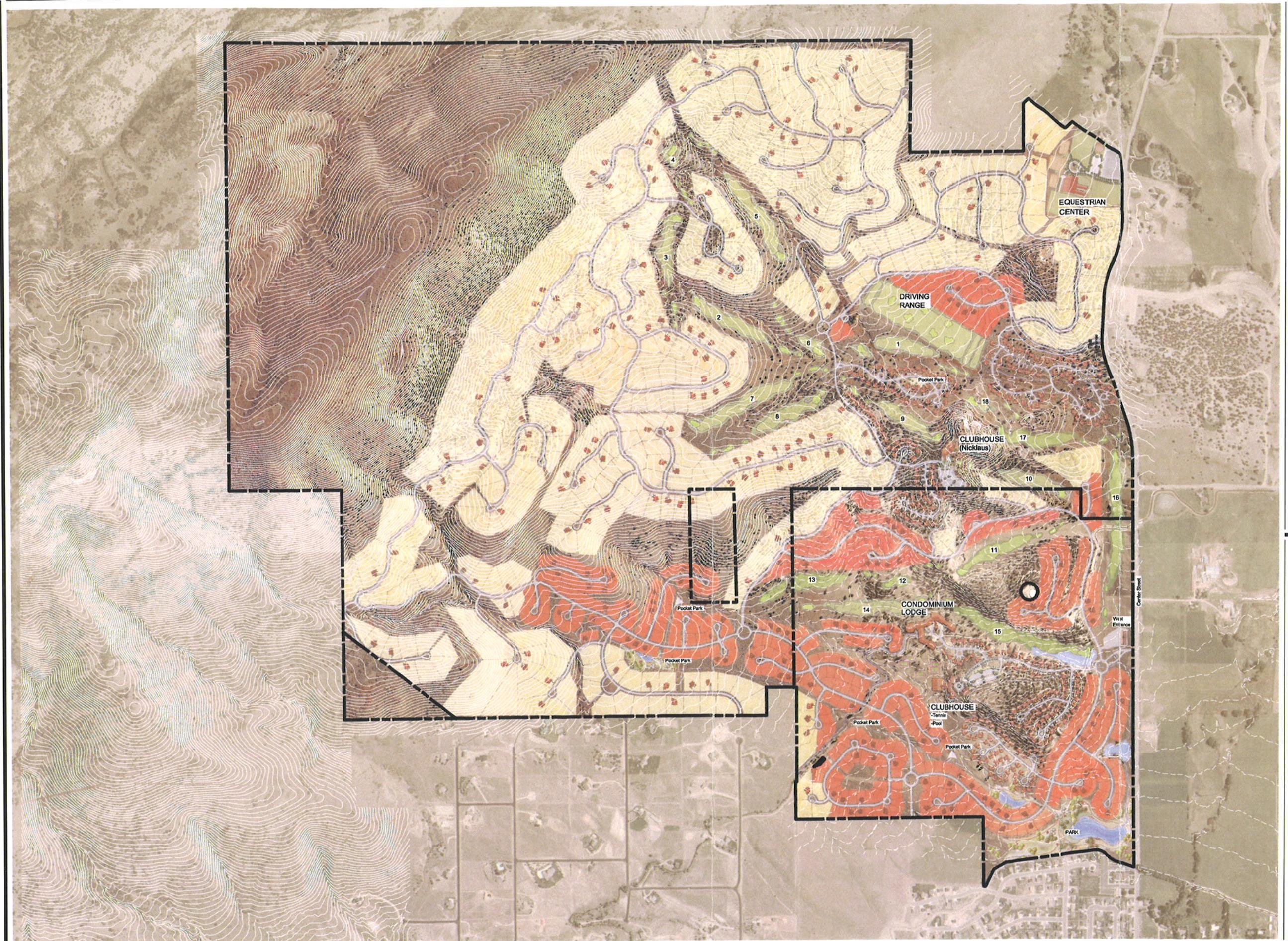
REVISIONS

**Burns  
 Red Ledges  
 Recreational Community**

Trail Plan

**P5**

path: X:\649 Red Ledges\Planning-Engineering\03\_Design  
 file name: P5-Trails.dwg | plot date: November 21, 2008 | plotted by djames



**JACK JOHNSON COMPANY**

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In-Person - 1777 Sun Peak Drive - Park City - Utah 84098  
Telephone - 435-645-9000 • Facsimile - 435-645-1620  
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DATE: November 22, 2006  
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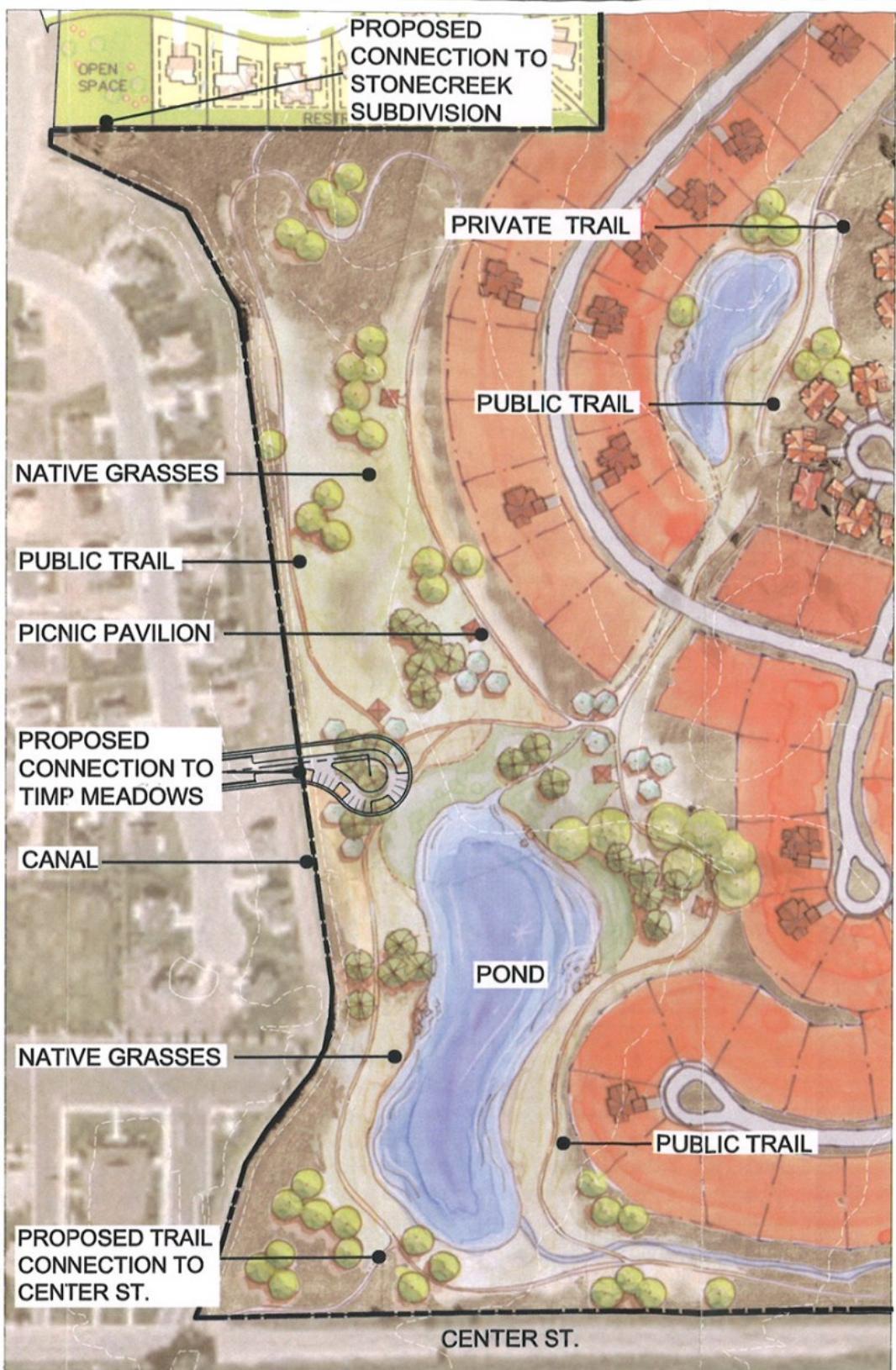
REVISIONS

**Burns  
Red Ledges  
Recreational Community**

Master Plan

**P1**

path: X:\649\Red Ledges\Planning-Engineering\03\_Design  
file name: MPI-Master Plan.dwg | plot date: November 20, 2006 | plotted by: James



**PUBLIC PARK**  
19 ACRES



0 50 100 200 300  
SCALE: 1"=100'

## ANNEXATION AGREEMENT FOR: RED LEDGES

AND  
COVENANT RUNNING WITH THE LAND  
(Red Ledges Annexation)

THIS AGREEMENT entered into this 3rd day of May, 2007, by and between Heber City, hereinafter referred to as "City" and the undersigned Red Ledges, LLC, as "Developer and Owner".

WHEREAS, the Developer and Owner has proposed the annexation of 1,525.94 acres ("hereinafter the "Property" or "Project"), as described in Exhibit A, into Heber City; and

WHEREAS, some unique conditions exist resulting from the features on and around the Property and the layout and design proposed by the Developer; and

WHEREAS, while the City, Developer, Wasatch County, and Twin Creeks Special Service District have entered into a separate Interlocal Agreement, a signed copy of which is attached hereto as Exhibit B, this Annexation Agreement and Covenant Running with the Land ("Agreement") is intended to supplement, not to amend or supercede the Interlocal Agreement, and to address issues and requirements that are specific to the relationship between Heber City and the Developer.

NOW, THEREFORE, the parties hereby agree as follows:

1. The Property shall be zoned PC Planned Community, consistent with the Heber City General Plan. Notwithstanding the PC Zoning designation which permits 2 units per acre, the density determination of the Red Ledges Recreational Community will be set at 1,370 residential units for the land currently owned by Red Ledges, as provided in the Interlocal Agreement, ¶10.
2. Planning for the Project shall be performed by the City pursuant to City standards. Red Ledges, however, acknowledges that the City's "PC" zone, which will apply to the Project, may be modified to be more similar to the County's PUD zone. See Interlocal Agreement, ¶18.
3. The Developer and Owner shall comply with Chapter 18.102 of the Heber City Code (the Affordable Housing Ordinance), as proposed by the Developer in the Red Ledges Master Plan Submission.
4. Developer and Owner shall record a declaration of covenants, conditions and restrictions ("CC & R's") against the Property for each phase of the Project, providing *inter alia* for membership and voting rights, property rights in common areas, assessments, operation and maintenance, general use instructions, architectural control, and building guidelines, and creation of a governing board or association to ensure consistent development standards, including, but not limited to, construction materials, fencing materials, and colors and heights within the development, and shall establish a Home Owner's Association and plan, criteria and/or process for the collection of dues for the maintenance of any and all improvements, including, but not limited to private open space, parks, utilities, and private streets.

5. Developer and Owner shall be responsible for paying for, providing or acquiring any necessary offsite easements or rights-of-way, offsite utility construction, and all other such utilities necessary to service the Project to City standards, including, but not limited to sewer, water, secondary irrigation, streets, electricity, gas, and cable television. If, in the City's sole discretion it is determined that it is in the best interest of the City and a benefit to the public, the City agrees to consider the issuance of bonds to fund the acquisition and/or installation of the above mentioned improvements.
6. Developer and Owner, at the request or requirement of the providers of electrical, gas, water, sewer and cable television utilities, shall relocate said utilities at its sole cost and expense as needed to avoid conflict with the Developer's proposed building pads. If, in the City's sole discretion, it is determined that it is in the best interest of the City and a benefit to the public, the City agrees to consider the issuance of bonds to fund the acquisition and/or installation of the above mentioned improvements and/or other improvements.
7. Developer and Owner shall bury any existing overhead power and telephone lines within its Property.
8. Developer and Owner shall be responsible for complying with all federal, state, and local regulations governing the quality and quantity of storm water and surface runoff from the Project site, including any required mitigation measures. Developer and owner shall not permit drainage from the Project to enter any natural or existing streams, canals or waterways without prior written approval of the appropriate authority
9. Where the Project fronts Lake Creek Road, Developer and Owner shall improve the north half of the right-of-way to the same arterial street standard. The existing Lake Creek Road right-of-way is approximately 66 feet wide, bounded by existing fences that are recognized by Heber City and Wasatch County as defining the existing right-of-way. The existing asphalt width is approximately 30' wide, roughly centered in the existing right-of-way. Accordingly, Developer and Owner shall dedicate an additional minimum of 3' of right-of-way and maximum of 9' of right-of-way along the north side of Lake Creek Road and shall widen the existing asphalt road a maximum of 16' for a maximum of 46'. This will require additional improvement by other owners on the south half of Lake Creek Road in order to improve the road to the current arterial standard. Final determination of exact amount of right-of-way and ultimate widening of Lake Creek Road will be made based on proposed Wasatch County Master Transportation Plan and conversations with Wasatch County including possible future participation by Wasatch County. In order to facilitate a future road widening to Lake Creek Road, Developer and Owner agree to provide adequate setbacks from the Lake Creek Right of Way such that Heber City may obtain future rights-of-way and construct a widened road without impacting existing structures (i.e., buildings, entry features, gatehouse, etc.) constructed as part of the Project. In addition, Developer and Owner shall dedicate sufficient right-of-way and construct 11' wide turn pockets on the north side of Lake Creek Road at each of the Project's intersections. Existing asphalt road will be overlaid with 2" of asphalt.
10. Development of the property shall comply with the Well Protection Plan adopted by the City.

During the preliminary and final subdivision approval process, Developer and Owner shall create a plan for fertilization, maintenance and irrigation of the golf course, open space, roads and individual lots, intended to protect Heber City's water sources from contamination. The Water Source Protection Plan will be provided to home owners in a format that informs them of their personal responsibilities to protect water source areas.

11. Existing vegetation and natural grading will be protected to the extent reasonably possible to minimize the Project's environmental, wildlife, visibility and aesthetic impacts.

12. Development of the Property shall be substantially consistent with the Master Plan proposed by the Developer and adopted by Heber City, subject to the following:

- a. Development design shall give due consideration to accommodate potential school buses, bus stops, fire engines, and emergency vehicles into and throughout the Project.
- b. The park on the west side of the Project shall be open and available for use by the general public.
- c. The trail system identified as public shall be open and available to the public, and shall include a public trail head and public parking accessible from a public street, provided such requirements do not conflict with the provisions of the Interlocal Agreement, ¶21 and ¶23.
- d. The equestrian center ("Center") located on the southeast side of the Project shall be open and available for use by the general public. In the event the Center cannot financially sustain operations, the City, the Developer and/or Homeowners' Association will jointly determine how to effectuate a redevelopment of the Center property for the continued benefit of the Project and the public.

13. This Agreement shall constitute and be construed as a covenant running with the land, binding on the undersigned parties, their heirs, assigns and successors in interest, provided that the City adopts an annexation ordinance and that said ordinance is not timely challenged in any administrative or judicial forum. This Agreement shall be recorded in the office of with the Wasatch County Recorder.

14. In the event there is a Failure to Perform under this Agreement and it becomes reasonably necessary for any party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside counsel), either with or without litigation, on appeal or otherwise, the losing party to the controversy shall pay to the successful party reasonable attorney's fees incurred by such party and, in addition, such costs and expenses as are incurred in enforcing this Agreement.

15. Time is of the essence of this Agreement. In case any party shall fail to perform the obligations on its part at the time fixed for the performance of such obligations by the terms of this Agreement, the other party or parties may pursue any and all remedies available in equity, at law,

and/or pursuant to the terms of this Agreement.

16. Forum: This Agreement and all matters pertaining to the validity, construction, interpretation, and effect of this Agreement shall be governed by the laws of the State of Utah. Any litigation regarding this Agreement shall take place in the Fourth District Court, Heber Department, in the State of Utah.

17. Severability: If any provision of this Agreement, or the application thereof to any person or circumstances, shall for any reason and to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such provision to the other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

18. Entire Agreement: This Agreement contains the entire understanding and agreement between the Parties, and all preceding agreements, if any, are merged herewith. It is expressly understood and agreed that this Agreement may not be altered, amended, or otherwise modified in any respect except by a written instrument, duly executed by all Parties hereto.

19. Additional Documents: The Parties agree to cooperate fully and execute any and all supplementary documents and to take all necessary actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

20. Successors in Interest: This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

21. Jointly Drafted: The Parties agree that this Agreement is the product of a negotiation between the Parties. The Agreement, therefore, shall be deemed to have been drafted jointly by all of the Parties.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year this agreement was first above written.

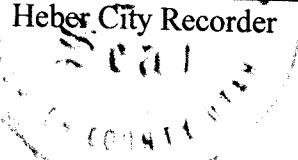
DATED this 3 day of May, 2007.

HEBER CITY:

By: David Phillips  
David Phillips, Mayor

ATTEST:

Pamela Dreher  
Heber City Recorder



RED LEDGES,  
Todd R Cates, Vice President

By: Todd R Cates

Pamela Dreher  
NOTARY PUBLIC

**EXHIBIT A**

A PARCEL OF LAND LOCATED IN SECTIONS 27, 28, 33 AND 34, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, WASATCH COUNTY, UTAH, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST QUARTER CORNER OF SAID SECTION 34, THENCE NORTH  $89^{\circ} 27'47''$  WEST, 1321.61 FEET; THENCE SOUTH  $00^{\circ} 12'04''$  EAST, 1331.49 FEET; THENCE SOUTH  $89^{\circ} 47'21''$  EAST, 565.58 FEET TO A CORNER OF A FENCE; THENCE ALONG SAID FENCE THE FOLLOWING FIVE COURSES AND DISTANCES: COURSE 1: SOUTH  $42^{\circ} 42'11''$  EAST, 85.28 FEET; COURSE 2: SOUTH  $39^{\circ} 09'02''$  WEST, 551.03 FEET; COURSE 3: SOUTH  $42^{\circ} 22'49''$  EAST, 108.58 FEET; COURSE 4: SOUTH  $34^{\circ} 57'40''$  WEST, 629.21 FEET; COURSE 5: SOUTH  $27^{\circ} 28'30''$  WEST, 52.51 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF CENTER STREET; THENCE ALONG LAST SAID LINE RUN THE FOLLOWING FIFTEEN (15) COURSES AND DISTANCES: COURSE 1: SOUTH  $82^{\circ} 29'18''$  WEST, 236.90 FEET; COURSE 2: NORTH  $89^{\circ} 43'51''$  WEST, 273.61; COURSE 3: SOUTH  $89^{\circ} 40'28''$  WEST, 159.18 FEET TO THE ARC OF A CURVE LEADING SOUTHWESTERLY; COURSE 4: SOUTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 798.74 FEET, AN ARC DISTANCE OF 65.47 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH  $85^{\circ} 56'53''$  WEST, 65.45 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 5: NORTH  $89^{\circ} 59'30''$  WEST, 47.73 FEET TO THE ARC OF A CURVE LEADING NORTHWESTERLY; COURSE 6: NORTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1392.51 FEET, AN ARC DISTANCE OF 528.39 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH  $75^{\circ} 37'30''$  WEST, 525.22 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 7: NORTH  $66^{\circ} 57'16''$  WEST, 8.05 FEET TO THE ARC OF A CURVE LEADING NORTHWESTERLY; COURSE 8: NORTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1125.00 FEET, AN ARC DISTANCE OF 392.89 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH  $76^{\circ} 57'33''$  WEST, 390.90 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 9: NORTH  $86^{\circ} 57'51''$  WEST, 479.23 FEET TO THE ARC OF A CURVE LEADING SOUTHWESTERLY; COURSE 10: SOUTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 700.00 FEET, AN ARC DISTANCE OF 282.84 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH  $81^{\circ} 27'38''$  WEST, 280.92 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 11: SOUTH  $69^{\circ} 53'06''$  WEST, 724.11 FEET TO THE ARC OF A CURVE LEADING SOUTHWESTERLY; COURSE 12: SOUTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1396.93 FEET, AN ARC DISTANCE OF 493.36 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH  $79^{\circ} 58'49''$  WEST, 490.80 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 13: NORTH  $89^{\circ} 55'27''$  WEST, 699.41 FEET TO THE EASTERLY AND NORTHERLY BOUNDARY OF THE RED LEDGES BOUNDARY PLAT, BY: WILDING

ENGINEERING, INC.; COURSE 14: SOUTH  $00^{\circ}37'53''$  WEST 3.09 FEET; COURSE 15: SOUTH  $89^{\circ}50'25''$  WEST, 1242.62 FEET TO THE WATER TANK PARCEL, THENCE ALONG SAID PARCEL THE FOLLOWING FIVE (5) COURSES AND DISTANCES: COURSE 1: NORTH  $00^{\circ}38'18''$  WEST, 610.28 FEET; COURSE 2: NORTH  $33^{\circ}22'32''$  EAST, 628.59 FEET TO A 100.0 FOOT RADIUS NON TANGENT CURVE; COURSE 3: ALONG THE ARC OF A 100.0 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, CENTER BEARS NORTH  $27^{\circ}37'50''$  EAST, THROUGH A CENTRAL ANGLE OF  $348^{\circ}31'28''$  AND ARC DISTANCE OF 608.27 FEET; COURSE 4: SOUTH  $33^{\circ}22'32''$  WEST 634.71 FEET; COURSE 5: SOUTH  $00^{\circ}38'18''$  EAST 616.31 FEET, RETURNING TO THE NORTH LINE OF CENTER STREET; THENCE ALONG SAID NORTH LINE THE FOLLOWING FOUR (4) COURSE AND DISTANCES: COURSE 1: SOUTH  $89^{\circ}44'42''$  WEST, 747.65 FEET; COURSE 2: SOUTH  $89^{\circ}58'28''$  WEST, 588.89 FEET; COURSE 3: SOUTH  $89^{\circ}41'17''$  WEST, 230.66 FEET; COURSE 4: SOUTH  $89^{\circ}21'43''$  WEST, 1272.98 FEET TO EASTERLY; THENCE ALONG THE EASTERLY LINE, AND LINE EXTENDED OF THE LDS CENTER STREET CHURCH PROPERTY AS SHOWN ON THAT CERTAIN SURVEY FILED FOR RECORD AS OWC-035-0333-0419, ON OCTOBER 25, 1995, IN THE OFFICES OF WASATCH COUNTY, STATE OF UTAH, THENCE ALONG SAID LDS CHURCH PARCEL THE FOLLOWING SIX (6) COURSES AND DISTANCES: COURSE 1: NORTH  $19^{\circ}12'05''$  EAST 112.98 FEET; COURSE 2: NORTH  $15^{\circ}57'05''$  EAST, 127.91 FEET; COURSE 3: NORTH  $32^{\circ}26'33''$  EAST, 61.51 FEET; COURSE 4: NORTH  $38^{\circ}29'54''$  EAST, 105.48 FEET; COURSE 5: NORTH  $28^{\circ}37'50''$  EAST, 45.34 FEET; COURSE 6: NORTH  $12^{\circ}33'26''$  EAST, ALONG SAID EASTERLY LINE, AND LINE EXTENDED 27.82 FEET, TO THE SOUTH LINE OF TIMP MEADOWS EAST SUBDIVISION PHASE 2, RECORDED IN BOOK 501, PAGES 686-695, ENTRY NO. 232941; THENCE ALONG SAID TIMP MEADOWS EAST LINE THE FOLLOWING FIVE (5) COURSES AND DISTANCES: COURSE 1: SOUTH  $89^{\circ}16'30''$  EAST, 0.24 FEET; COURSE 2: NORTH  $03^{\circ}00'11''$  EAST, 60.22 FEET; COURSE 3: NORTH  $07^{\circ}59'36''$  WEST, 1026.65 FEET; COURSE 4: NORTH  $27^{\circ}45'20''$  WEST, 167.54 FEET; COURSE 5: NORTH  $64^{\circ}07'24''$  WEST, 225.76 FEET, TO THE EASTERLY LINE OF THE TIMP MEADOWS EAST SUBDIVISION PHASE 3, RECORDED IN BOOK 528, PAGES 125-134, ENTRY NO. 238508; THENCE ALONG SAID TIMP MEADOWS EAST SUBDIVISION PHASE 3 EAST LINE NORTH  $03^{\circ}32'37''$  EAST, 22.23 FEET; THENCE NORTH  $89^{\circ}24'21''$  EAST 818.35 FEET; THENCE NORTH  $00^{\circ}34'07''$  WEST 2205.00 FEET TO THE EAST-WEST 40 ACRE LINE OF THE NORTHWEST QUARTER OF SAID SECTION 33; THENCE NORTH  $89^{\circ}24'37''$  EAST, ALONG SAID 40 ACRE LINE 441.24 FEET; THENCE SOUTH  $00^{\circ}35'23''$  EAST 17.60 FEET TO THE CORNER OF AN EXISTING FENCE; THENCE ALONG SAID FENCE NORTH  $89^{\circ}52'01''$  EAST 1110.58 FEET; THENCE LEAVING SAID FENCE NORTH  $00^{\circ}07'41''$  EAST 27.45 FEET TO THE TO THE EAST-WEST QUARTER SECTION LINE OF SAID SECTION 33; THENCE NORTH  $89^{\circ}14'45''$  EAST, ALONG THE EAST-WEST 40 ACRE LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33, 2.68 FEET, THENCE NORTH  $00^{\circ}08'18''$  EAST, 336.84 FEET; THENCE SOUTH  $89^{\circ}14'18''$  WEST, 332.86 FEET TO THE QUARTER SECTION LINE OF SAID SECTION 33; THENCE NORTH  $00^{\circ}07'51''$  EAST, ALONG LAST SAID LINE, 1000.40 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE NORTH  $00^{\circ}23'42''$  WEST, 3982.55 FEET; THENCE NORTH  $89^{\circ}33'40''$  EAST, 2703.62 FEET TO THE WEST SECTION LINE OF SAID SECTION 27; THENCE NORTH  $00^{\circ}05'54''$  WEST, 1316.61 FEET TO THE NORTHWEST CORNER OF SAID SECTION 27; THENCE NORTH  $89^{\circ}49'35''$  EAST, ALONG THE NORTH SECTION LINE OF SAID SECTION 27, 5289.47 FEET; THENCE

SOUTH 00°09'19" WEST, ALONG THE EAST LINE OF SAID SECTION 27, A DISTANCE OF 5256.54 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 27; THENCE SOUTH 00°02'56" EAST, ALONG THE EAST LINE OF SAID SECTION 34, A DISTANCE OF 2776.76 FEET BACK TO THE POINT OF BEGINNING.

LESS AND EXCEPTING:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, WASATCH COUNTY, UTAH, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT SOUTH 00°00'46" EAST, 131.99 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 33; THENCE SOUTH 00°0'46" EAST, 528.02 FEET; THENCE SOUTH 88°41'25" WEST, 1333.03 FEET; THENCE NORTH 00°05'29" EAST, 536.55 FEET; THENCE NORTH 89°03'22" EAST, 1332.32 FEET BACK TO THE POINT OF BEGINNING.

RED LEDGES PLANNED COMMUNITY  
MASTER PLAN AGREEMENT

THIS AGREEMENT is entered into this 24<sup>th</sup> day of  
April, 2007, by and between Heber City and Red  
Ledges, LLC, the undersigned as "Owners."

WHEREAS, the Owners desire to develop their property within  
the incorporated areas of Heber City, and that Heber City annex  
the hereinafter described property into the City under its PC  
zoning; and

WHEREAS, the Heber City Code requires that the Parties enter  
into a Planned Community Development Agreement for such  
developments within the PC Zone; and

WHEREAS, the City is willing to enter into such an agreement  
upon certain conditions and subject to certain covenants;

NOW, THEREFORE, the parties hereby agree as follows:

The "Red Ledges Master Plan" shall be approved by Heber City and  
be construed with, made a part of this Agreement and be binding  
upon the Parties and their assigns and successors in interest.

In addition to said Master Plan and the provisions therewith, the  
following shall constitute the terms and conditions between Red  
Ledges, LLC. ("Developer") and Heber City ("City") for the Red  
Ledges Planned Community Development Agreement ("Development  
Agreement") as required per Section 18.61.060.001.E. of the PC  
Zone.

1. Area Description. The Red Ledges Development ("Red  
Ledges") is located as shown on Exhibit A. The legal  
description for Red Ledges is also attached as Exhibit A.
2. Compliance With Master Plan. Red Ledges shall comply  
with the Master Plan Application Package (the "Master  
Plan") attached and incorporated as part of this  
Agreement hereto as Exhibit B in regard to, but not  
limited to, the total number of units, density, general  
configuration, open space uses, and improvements and is  
hereby approved to develop the property generally  
consistent with the Master Plan.
3. Compliance With Annexation Agreement. Developer shall  
comply with all requirements of the Red Ledges Annexation  
Agreement approved on March 15, 2007 and recorded with  
the Wasatch County Recorder on June 15, 2007.

4. Developer Obligations. In addition to the requirements of the Red Ledges Annexation Agreement and the Red Ledges Master Plan, Developer agrees to comply with the following requirements for Red Ledges; however, Developer reserves the right to change the order in which major amenities, i.e. golf clubhouse, tennis center, equestrian center, will be built. The Developer does commit to build one of each of these amenities in phases two, three & four.

a. Phased Infrastructure Requirements.

i. The following improvements will commence with Phase 1 of Red Ledges:

1. Lake Creek Drive from the western property boundary to the main entrance into Red Ledges.
2. The Red Ledges Golf Course.

ii. The following improvements will commence with Phase 2 of Red Ledges:

1. Construction of the Golf Course Clubhouse.

iii. The following improvements will commence with Phase 3 of Red Ledges:

1. Construction of the Tennis Center amenities.
2. Relocation of the water transmission lines from the McNaughtan Tank to Lake Creek Road and dedication of easements acceptable to the City which are necessary for access to and maintenance of the tank and related utility lines.
3. Master public trail located adjacent to the western boundary of the Red Ledges Community Park running along the western boundary of the Bypass Road.

iv. The following improvements will commence with Phase 4 of Red Ledges:

1. Lake Creek Drive from the main entrance into Red Ledges to the eastern property boundary.
2. Construct a public trail along the Lake Creek Road corridor.
3. Development of the Public Equestrian Facility and related trailheads and trails located along the eastern boundary of the project, in areas associated with Phase 4.
4. Master public trails located within areas associated with Phase 4.

- v. The following improvements will commence with Phase 5 of Red Ledges:
  - 1. Master public trails located within areas associated with Phase 5.
  - 2. Red Ledges Community Park irrigation and landscape improvements per the Conceptual Community Park Exhibit in the Master Plan.
- vi. The following improvements will commence with Phase 6 of Red Ledges:
  - 1. Master public trails located within areas associated with Phase 6.
- vii. The following improvements will commence with Phase 7 of Red Ledges:
  - 1. Master public trails located within areas associated with Phase 7.
- b. Public Dedications. Developer agrees to provide the following public dedications with the appropriate final plats for Red Ledges.
  - i. Access and maintenance easements will be provided along the canal facilities located in Red Ledges as required by Heber City and the Wasatch Irrigation Company.
  - ii. Access and maintenance easements will be provided to the existing water tank in favor of Heber City. Developer will be responsible for the relocation of the all necessary water lines from the McNaughtan tank to Lake Creek Road.
- c. Affordable Housing Plan. Developer shall comply with the affordable housing program approved by the Planning Commission and City Council for Red Ledges ("Affordable Housing Plan"). The Affordable Housing Plan shall be carried out as submitted in the Master Plan Package submitted by Red Ledges.

5. Modifications to the Master Plan. In order to ensure flexibility with the market fluctuations and demands of product and amenities, the City will allow for changes to the approved master plan with respect to product types and amenities at the Preliminary or Final Plan stages, provided that the modifications are consistent with the overall nature of the project and any additional impacts to City services are mitigated.

6. Red Ledges Street Standards. In compliance with Section 18.61 for Planned Community (PC) Zone, the street standards specific to Red Ledges will conform to the design standards outlined in the "Red Ledges Roadway Standards and Road Cross Sections" attached as Exhibit        hereto, and as set forth in the Interlocal Agreement, and be consistent with applicable provisions of the Red Ledges Master Plan. Also to be defined in the street standards are maximum lengths for cul-de-sacs and any emergency access routes appropriate to ensure safety associated with the roadways.
7. Homeowners Association. Developer shall create a homeowners association (the "Association") which will have the following responsibilities:
  - a. Enforcement of the Red Ledges Covenants, Conditions, and Restrictions (the "CC&Rs"), including the Red Ledges Design Guidelines.
  - b. Establishment of an Architectural Review Committee which shall review all home designs for compliance with the Red Ledges Design Guidelines.
  - c. Perpetual maintenance of all open space and other facilities deeded to the Association as identified on the final plats for Red Ledges ("Common Area").
  - d. Collection of assessments from Owners within Red Ledges for maintenance of the Common Area.
  - e. The CC&Rs, Bylaws, and Articles of Incorporation for the Association shall be recorded with the Red Ledges Phase 1 final plat.
8. This Agreement shall in no way limit the City from imposing further conditions and provisions in a future Subdivision Agreement, appropriate for such an agreement and consistent with the requirements of the Master Plan and this Development Agreement.
9. This Agreement shall be a covenant running with the land, and shall inure to the benefit of and be binding upon the Parties and their assigns and successors in interest. In the event Developer assigns this Agreement to any third party or successor in ownership, Developer shall be obligated to disclose and notify in writing the requirements of this Agreement to the assignee and to notify the City in writing of said assignment.

10. In the event there is a Failure to Perform under this Agreement and it becomes reasonably necessary for any party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside Counsel), either with or without litigation, on appeal or otherwise, the losing party to the controversy shall pay to the successful party reasonable attorney's fees incurred by such party and, in addition, such costs and expenses as are incurred in enforcing this Agreement.
11. Time is of the essence of this Agreement. In case any party shall fail to perform the obligations on its part at the time fixed for the performance of such obligations by the terms of this Agreement, the other party or parties may pursue any and all remedies available in equity, at law, and/or pursuant to the terms of this Agreement.

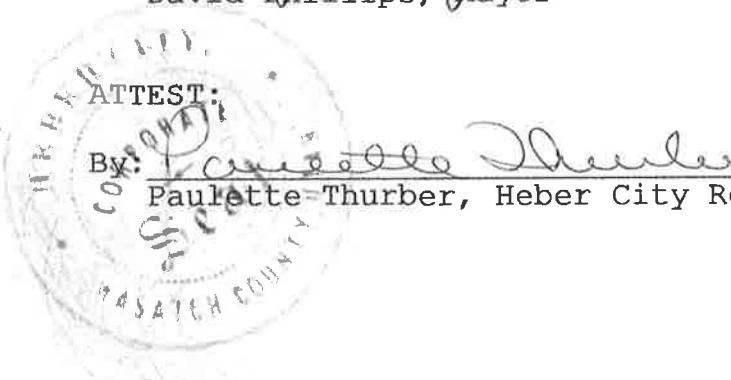
DATED this 3 day of May, 2007.

HEBER CITY:

By: David Phillips  
David Phillips, Mayor

ATTEST:

By: Paulette Thurber  
Paulette Thurber, Heber City Recorder



RED LEDGES, LLC

By: Todd R Cates  
Todd R Cates, Vice President

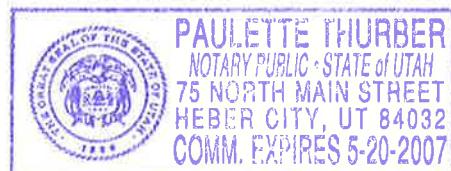
STATE OF UTAH )

: ss.

COUNTY OF WASATCH )

Lawrence Dreher  
NOTARY PUBLIC

NOTARY PUBLIC



**EXHIBIT A**

A PARCEL OF LAND LOCATED IN SECTIONS 27, 28, 33 AND 34, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, WASATCH COUNTY, UTAH, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST QUARTER CORNER OF SAID SECTION 34, THENCE NORTH  $89^{\circ} 27'47''$  WEST, 1321.61 FEET; THENCE SOUTH  $00^{\circ} 12'04''$  EAST, 1331.49 FEET; THENCE SOUTH  $89^{\circ} 47'21''$  EAST, 565.58 FEET TO A CORNER OF A FENCE; THENCE ALONG SAID FENCE THE FOLLOWING FIVE COURSES AND DISTANCES: COURSE 1: SOUTH  $42^{\circ} 42'11''$  EAST, 85.28 FEET; COURSE 2: SOUTH  $39^{\circ} 09'02''$  WEST, 551.03 FEET; COURSE 3: SOUTH  $42^{\circ} 22'49''$  EAST, 108.58 FEET; COURSE 4: SOUTH  $34^{\circ} 57'40''$  WEST, 629.21 FEET; COURSE 5: SOUTH  $27^{\circ} 28'30''$  WEST, 52.51 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF CENTER STREET; THENCE ALONG LAST SAID LINE RUN THE FOLLOWING FIFTEEN (15) COURSES AND DISTANCES: COURSE 1: SOUTH  $82^{\circ} 29'18''$  WEST, 236.90 FEET; COURSE 2: NORTH  $89^{\circ} 43'51''$  WEST, 273.61; COURSE 3: SOUTH  $89^{\circ} 40'28''$  WEST, 159.18 FEET TO THE ARC OF A CURVE LEADING SOUTHWESTERLY; COURSE 4: SOUTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 798.74 FEET, AN ARC DISTANCE OF 65.47 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH  $85^{\circ} 56'53''$  WEST, 65.45 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 5: NORTH  $89^{\circ} 59'30''$  WEST, 47.73 FEET TO THE ARC OF A CURVE LEADING NORTHWESTERLY; COURSE 6: NORTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1392.51 FEET, AN ARC DISTANCE OF 528.39 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH  $75^{\circ} 37'30''$  WEST, 525.22 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 7: NORTH  $66^{\circ} 57'16''$  WEST, 8.05 FEET TO THE ARC OF A CURVE LEADING NORTHWESTERLY; COURSE 8: NORTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1125.00 FEET, AN ARC DISTANCE OF 392.89 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH  $76^{\circ} 57'33''$  WEST, 390.90 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 9: NORTH  $86^{\circ} 57'51''$  WEST, 479.23 FEET TO THE ARC OF A CURVE LEADING SOUTHWESTERLY; COURSE 10: SOUTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 700.00 FEET, AN ARC DISTANCE OF 282.84 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH  $81^{\circ} 27'38''$  WEST, 280.92 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 11: SOUTH  $69^{\circ} 53'06''$  WEST, 724.11 FEET TO THE ARC OF A CURVE LEADING SOUTHWESTERLY; COURSE 12: SOUTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1396.93 FEET, AN ARC DISTANCE OF 493.36 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH  $79^{\circ} 58'49''$  WEST, 490.80 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 13: NORTH  $89^{\circ} 55'27''$  WEST, 699.41 FEET TO THE EASTERLY AND NORTHERLY BOUNDARY OF THE RED LEDGES BOUNDARY PLAT, BY: WILDING

ENGINEERING, INC.; COURSE 14: SOUTH  $00^{\circ} 37' 53''$  WEST 3.09 FEET; COURSE 15: SOUTH  $89^{\circ} 50' 25''$  WEST, 1242.62 FEET TO THE WATER TANK PARCEL, THENCE ALONG SAID PARCEL THE FOLLOWING FIVE (5) COURSES AND DISTANCES: COURSE 1: NORTH  $00^{\circ} 38' 18''$  WEST, 610.28 FEET; COURSE 2: NORTH  $33^{\circ} 22' 32''$  EAST, 628.59 FEET TO A 100.0 FOOT RADIUS NON TANGENT CURVE; COURSE 3: ALONG THE ARC OF A 100.0 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, CENTER BEARS NORTH  $27^{\circ} 37' 50''$  EAST, THROUGH A CENTRAL ANGLE OF  $348^{\circ} 31' 28''$  AND ARC DISTANCE OF 608.27 FEET; COURSE 4: SOUTH  $33^{\circ} 22' 32''$  WEST 634.71 FEET; COURSE 5: SOUTH  $00^{\circ} 38' 18''$  EAST 616.31 FEET, RETURNING TO THE NORTH LINE OF CENTER STREET; THENCE ALONG SAID NORTH LINE THE FOLLOWING FOUR (4) COURSE AND DISTANCES: COURSE 1: SOUTH  $89^{\circ} 44' 42''$  WEST, 747.65 FEET; COURSE 2: SOUTH  $89^{\circ} 58' 28''$  WEST, 588.89 FEET; COURSE 3: SOUTH  $89^{\circ} 41' 17''$  WEST, 230.66 FEET; COURSE 4: SOUTH  $89^{\circ} 21' 43''$  WEST, 1272.98 FEET TO EASTERLY; THENCE ALONG THE EASTERLY LINE, AND LINE EXTENDED OF THE LDS CENTER STREET CHURCH PROPERTY AS SHOWN ON THAT CERTAIN SURVEY FILED FOR RECORD AS OWC-035-0333-0419, ON OCTOBER 25, 1995, IN THE OFFICES OF WASATCH COUNTY, STATE OF UTAH, THENCE ALONG SAID LDS CHURCH PARCEL THE FOLLOWING SIX (6) COURSES AND DISTANCES: COURSE 1: NORTH  $19^{\circ} 12' 05''$  EAST 112.98 FEET; COURSE 2: NORTH  $15^{\circ} 57' 05''$  EAST, 127.91 FEET; COURSE 3: NORTH  $32^{\circ} 26' 33''$  EAST, 61.51 FEET; COURSE 4: NORTH  $38^{\circ} 29' 54''$  EAST, 105.48 FEET; COURSE 5: NORTH  $28^{\circ} 37' 50''$  EAST, 45.34 FEET; COURSE 6: NORTH  $12^{\circ} 33' 26''$  EAST, ALONG SAID EASTERLY LINE, AND LINE EXTENDED 27.82 FEET, TO THE SOUTH LINE OF TIMP MEADOWS EAST SUBDIVISION PHASE 2, RECORDED IN BOOK 501, PAGES 686-695, ENTRY NO. 232941; THENCE ALONG SAID TIMP MEADOWS EAST LINE THE FOLLOWING FIVE (5) COURSES AND DISTANCES: COURSE 1: SOUTH  $89^{\circ} 16' 30''$  EAST, 0.24 FEET; COURSE 2: NORTH  $03^{\circ} 00' 11''$  EAST, 60.22 FEET; COURSE 3: NORTH  $07^{\circ} 59' 36''$  WEST, 1026.65 FEET; COURSE 4: NORTH  $27^{\circ} 45' 20''$  WEST, 167.54 FEET; COURSE 5: NORTH  $64^{\circ} 07' 24''$  WEST, 225.76 FEET, TO THE EASTERLY LINE OF THE TIMP MEADOWS EAST SUBDIVISION PHASE 3, RECORDED IN BOOK 528, PAGES 125-134, ENTRY NO. 238508; THENCE ALONG SAID TIMP MEADOWS EAST SUBDIVISION PHASE 3 EAST LINE NORTH  $03^{\circ} 32' 37''$  EAST, 22.23 FEET; THENCE NORTH  $89^{\circ} 24' 21''$  EAST 818.35 FEET; THENCE NORTH  $00^{\circ} 34' 07''$  WEST 2205.00 FEET TO THE EAST-WEST 40 ACRE LINE OF THE NORTHWEST QUARTER OF SAID SECTION 33; THENCE NORTH  $89^{\circ} 24' 37''$  EAST, ALONG SAID 40 ACRE LINE 441.24 FEET; THENCE SOUTH  $00^{\circ} 35' 23''$  EAST 17.60 FEET TO THE CORNER OF AN EXISTING FENCE; THENCE ALONG SAID FENCE NORTH  $89^{\circ} 52' 01''$  EAST 1110.58 FEET; THENCE LEAVING SAID FENCE NORTH  $00^{\circ} 07' 41''$  EAST 27.45 FEET TO THE TO THE EAST-WEST QUARTER SECTION LINE OF SAID SECTION 33; THENCE NORTH  $89^{\circ} 14' 45''$  EAST, ALONG THE EAST-WEST 40 ACRE LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33, 2.68 FEET, THENCE NORTH  $00^{\circ} 08' 18''$  EAST, 336.84 FEET; THENCE SOUTH  $89^{\circ} 14' 18''$  WEST, 332.86 FEET TO THE QUARTER SECTION LINE OF SAID SECTION 33; THENCE NORTH  $00^{\circ} 07' 51''$  EAST, ALONG LAST SAID LINE, 1000.40 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE NORTH  $00^{\circ} 23' 42''$  WEST, 3982.55 FEET; THENCE NORTH  $89^{\circ} 33' 40''$  EAST, 2703.62 FEET TO THE WEST SECTION LINE OF SAID SECTION 27; THENCE NORTH  $00^{\circ} 05' 54''$  WEST, 1316.61 FEET TO THE NORTHWEST CORNER OF SAID SECTION 27; THENCE NORTH  $89^{\circ} 49' 35''$  EAST, ALONG THE NORTH SECTION LINE OF SAID SECTION 27, 5289.47 FEET; THENCE

SOUTH 00° 09'19" WEST, ALONG THE EAST LINE OF SAID SECTION 27, A DISTANCE OF 5256.54 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 27; THENCE SOUTH 00° 02'56" EAST, ALONG THE EAST LINE OF SAID SECTION 34, A DISTANCE OF 2776.76 FEET BACK TO THE POINT OF BEGINNING.

LESS AND EXCEPTING:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, WASATCH COUNTY, UTAH, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT SOUTH 00° 00'46" EAST, 131.99 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 33; THENCE SOUTH 00° 0'46" EAST, 528.02 FEET; THENCE SOUTH 88° 41'25" WEST, 1333.03 FEET; THENCE NORTH 00° 05'29" EAST, 536.55 FEET; THENCE NORTH 89° 03'22" EAST, 1332.32 FEET BACK TO THE POINT OF BEGINNING.

Commencing at a point that is 662.10 feet North  $00^{\circ}18'46''$  East from the Southeast corner of Section 33, Township 3 South, Range 5 East, Salt Lake Base and Meridian; and running thence South  $89^{\circ}33'45''$  West 345.15 feet; thence South  $00^{\circ}29'18''$  West 680.17 feet to the fence line on the South side of Lake Creek Road; thence South  $89^{\circ}50'03''$  West 1963.17 feet along the fence line on the South of Lake Creek Road; thence North  $89^{\circ}52'32''$  West 424.34 feet along the fence line on the South side of Lake Creek Road; thence South  $89^{\circ}47'32''$  West 1714.51 feet along fence line on South side of Lake Creek Road; thence North  $00^{\circ}11'40''$  West 52.15 feet; thence North  $19^{\circ}11'41''$  East 112.98 feet; thence North  $15^{\circ}56'41''$  East 127.91 feet; thence North  $32^{\circ}26'09''$  East 61.51 feet; thence North  $38^{\circ}29'30''$  East 105.48 feet; thence North  $28^{\circ}37'26''$  East 45.34 feet; thence North  $12^{\circ}33'02''$  East 27.82 feet; thence South  $89^{\circ}16'54''$  East 0.24 feet; thence North  $02^{\circ}59'47''$  East 60.22 feet; thence North  $08^{\circ}00'00''$  West 1026.65 feet; thence North  $27^{\circ}45'44''$  West 167.54 feet; thence North  $64^{\circ}07'48''$  West 225.76 feet; thence North  $03^{\circ}33'41''$  East 894.05 feet to the quarter section line of said Section 33; thence South  $89^{\circ}26'04''$  West 709.94 feet along the quarter section line of Section 33 to the West line of Section 33; thence North  $00^{\circ}01'24''$  East 531.66 feet along the West line of Section 33 to the South line of lot 7 of the Sage Acres Subdivision; thence North  $89^{\circ}19'55''$  East 20.18 feet along the South line of lot 7; thence North  $00^{\circ}40'05''$  West 802.12 feet along the East line of the Sage Acres Subdivision; thence North  $89^{\circ}58'44''$  West 10.50 feet along the North line of lot 1 of Sage Acres Subdivision; thence North  $00^{\circ}01'24''$  East 1.28 feet along the West section line of Section 33 to the North one sixteenth line of said section 33; thence North  $89^{\circ}24'13''$  East 2673.54 feet along the North one sixteenth line of Section 33; thence North  $89^{\circ}13'55''$  East 2666.51 feet along the North one sixteenth line to the East line of Section 33; thence South  $00^{\circ}01'09''$  East 1346.08 feet along the East line of said section 33; thence South  $00^{\circ}18'46''$  West 2051.14 feet along the East line of Section 33 to the point of beginning. Containing: 436.36 acres more or less.

INTERLOCAL AGREEMENT REGARDING  
THE "RED LEDGES" PROPERTY

ORIGINAL

This Interlocal Agreement (hereafter "Agreement") is made by and among Wasatch County, Utah (hereafter "County"), Heber City (hereafter "City"), and Twin Creeks Special Service District (hereafter "Twin Creeks"), political subdivisions of the State of Utah, regarding the development of the "Red Ledges" property, located in Wasatch County and Heber City. The owners of this property, Red Ledges, LLC, a Florida Limited Liability Company having offices at 18001 Old Cutler Road, Suite 460, Miami, Florida 33157 (hereafter "Red Ledges"), is also a party to this Agreement.

WITNESSETH:

WHEREAS, Red Ledges is the owner of approximately 1,900 acres of land in Wasatch County and Heber City described as follows (hereafter the "Property"):

A PARCEL OF LAND LOCATED IN SECTIONS 27, 28, 33 AND 34, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, WASATCH COUNTY, UTAH,  
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST QUARTER CORNER OF SAID SECTION 34, THENCE NORTH 89°27'47" WEST, 1321.61 FEET; THENCE SOUTH 00°12'04" EAST, 1331.49 FEET; THENCE SOUTH 89°47'21" EAST, 565.58 FEET TO A CORNER OF A FENCE; THENCE ALONG SAID FENCE THE FOLLOWING FIVE COURSES AND DISTANCES: COURSE 1: SOUTH 42°42'11" EAST, 85.28 FEET; COURSE 2: SOUTH 39°09'02" WEST, 551.03 FEET; COURSE 3: SOUTH 42°22'49" EAST, 108.58 FEET; COURSE 4: SOUTH 34°57'40" WEST, 629.21 FEET; COURSE 5: SOUTH 27°28'30" WEST, 52.51 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF CENTER STREET; THENCE ALONG LAST SAID LINE RUN THE FOLLOWING FIFTEEN (15) COURSES AND DISTANCES: COURSE 1: SOUTH 82°29'18" WEST, 236.90 FEET; COURSE 2: NORTH 89°43'51" WEST, 273.61; COURSE 3: SOUTH 89°40'28" WEST, 159.18 FEET TO THE ARC OF A CURVE LEADING SOUTHWESTERLY; COURSE 4: SOUTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 798.74 FEET, AN ARC DISTANCE OF 65.47 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 85°36'53" WEST, 65.45 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 5: NORTH 89°59'30" WEST, 47.73 FEET TO THE ARC OF A CURVE LEADING NORTHWESTERLY; COURSE 6: NORTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1392.51 FEET, AN ARC DISTANCE OF 528.39 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 75°37'30" WEST, 525.22 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 7: NORTH 66°57'16" WEST, 8.05 FEET TO THE ARC OF A CURVE LEADING NORTHWESTERLY; COURSE 8: NORTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1125.00 FEET, AN ARC DISTANCE OF 392.89 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 76°57'33" WEST, 390.90 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 9: NORTH 86°57'51" WEST, 479.23 FEET TO THE ARC OF A CURVE LEADING SOUTHWESTERLY; COURSE 10: SOUTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 700.00 FEET, AN ARC DISTANCE OF 282.84 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 81°27'38"

WEST, 280.92 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 11: SOUTH  $69^{\circ}53'06''$  WEST, 724.11 FEET TO THE ARC OF A CURVE LEADING SOUTHWESTERLY; COURSE 12: SOUTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1396.93 FEET, AN ARC DISTANCE OF 493.36 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH  $79^{\circ}58'49''$  WEST, 490.80 FEET TO THE POINT OF TANGENCY OF SAID CURVE; COURSE 13: NORTH  $89^{\circ}55'27''$  WEST, 699.41 FEET TO THE EASTERLY AND NORTHERLY BOUNDARY OF THE RED LEDGES BOUNDARY PLAT, BY: WILDING ENGINEERING, INC.; COURSE 14: SOUTH  $00^{\circ}37'53''$  WEST 3.09 FEET; COURSE 15: SOUTH  $89^{\circ}50'25''$  WEST, 1242.62 FEET TO THE WATER TANK PARCEL, THENCE ALONG SAID PARCEL THE FOLLOWING FIVE (5) COURSES AND DISTANCES: COURSE 1: NORTH  $00^{\circ}38'18''$  WEST, 610.28 FEET; COURSE 2: NORTH  $33^{\circ}22'32''$  EAST, 628.59 FEET TO A 100.0 FOOT RADIUS NON TANGENT CURVE; COURSE 3: ALONG THE ARC OF A 100.0 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, CENTER BEARS NORTH  $27^{\circ}37'50''$  EAST, THROUGH A CENTRAL ANGLE OF  $348^{\circ}31'28''$  AND ARC DISTANCE OF 608.27 FEET; COURSE 4: SOUTH  $33^{\circ}22'32''$  WEST 634.71 FEET; COURSE 5: SOUTH  $00^{\circ}38'18''$  EAST 616.31 FEET, RETURNING TO THE NORTH LINE OF CENTER STREET; THENCE ALONG SAID NORTH LINE THE FOLLOWING FOUR (4) COURSE AND DISTANCES: COURSE 1: SOUTH  $89^{\circ}44'42''$  WEST, 747.65 FEET; COURSE 2: SOUTH  $89^{\circ}58'28''$  WEST, 588.89 FEET; COURSE 3: SOUTH  $89^{\circ}41'17''$  WEST, 230.66 FEET; COURSE 4: SOUTH  $89^{\circ}21'43''$  WEST, 1272.98 FEET TO EASTERLY; THENCE ALONG THE EASTERLY LINE, AND LINE EXTENDED OF THE LDS CENTER STREET CHURCH PROPERTY AS SHOWN ON THAT CERTAIN SURVEY FILED FOR RECORD AS OWC-035-0333-0419, ON OCTOBER 25, 1995, IN THE OFFICES OF WASATCH COUNTY, STATE OF UTAH, THENCE ALONG SAID LDS CHURCH PARCEL THE FOLLOWING SIX (6) COURSES AND DISTANCES: COURSE 1: NORTH  $19^{\circ}12'05''$  EAST 112.98 FEET; COURSE 2: NORTH  $15^{\circ}57'05''$  EAST, 127.91 FEET; COURSE 3: NORTH  $32^{\circ}26'33''$  EAST, 61.51 FEET; COURSE 4: NORTH  $38^{\circ}29'54''$  EAST, 105.48 FEET; COURSE 5: NORTH  $28^{\circ}37'50''$  EAST, 45.34 FEET; COURSE 6: NORTH  $12^{\circ}33'26''$  EAST, ALONG SAID EASTERLY LINE, AND LINE EXTENDED 27.82 FEET, TO THE SOUTH LINE OF TIMP MEADOWS EAST SUBDIVISION PHASE 2, RECORDED IN BOOK 501, PAGES 686-695, ENTRY NO. 232941; THENCE ALONG SAID TIMP MEADOWS EAST LINE THE FOLLOWING FIVE (5) COURSES AND DISTANCES: COURSE 1: SOUTH  $89^{\circ}16'30''$  EAST, 0.24 FEET; COURSE 2: NORTH  $03^{\circ}00'11''$  EAST, 60.22 FEET; COURSE 3: NORTH  $07^{\circ}59'36''$  WEST, 1026.65 FEET; COURSE 4: NORTH  $27^{\circ}45'20''$  WEST, 167.54 FEET; COURSE 5: NORTH  $64^{\circ}07'24''$  WEST, 225.76 FEET, TO THE EASTERLY LINE OF THE TIMP MEADOWS EAST SUBDIVISION PHASE 3, RECORDED IN BOOK 528, PAGES 125-134, ENTRY NO. 238508; THENCE ALONG SAID TIMP MEADOWS EAST SUBDIVISION PHASE 3 EAST LINE NORTH  $03^{\circ}32'37''$  EAST, 22.23 FEET; THENCE NORTH  $89^{\circ}24'21''$  EAST 818.35 FEET; THENCE NORTH  $00^{\circ}34'07''$  WEST 2205.00 FEET TO THE EAST-WEST 40 ACRE LINE OF THE NORTHWEST QUARTER OF SAID SECTION 33; THENCE NORTH  $89^{\circ}24'37''$  EAST, ALONG SAID 40 ACRE LINE 441.24 FEET; THENCE SOUTH  $00^{\circ}35'23''$  EAST 17.60 FEET TO THE CORNER OF AN EXISTING FENCE; THENCE ALONG SAID FENCE NORTH  $89^{\circ}52'01''$  EAST 1110.58 FEET; THENCE LEAVING SAID FENCE NORTH  $00^{\circ}07'41''$  EAST 27.45 FEET TO THE TO THE EAST-WEST QUARTER SECTION LINE OF SAID SECTION 33; THENCE NORTH  $89^{\circ}14'45''$  EAST, ALONG THE EAST-WEST 40 ACRE LINE OF THE NORTHEAST QUARTER OF SAID SECTION 33, 2.68 FEET, THENCE NORTH  $00^{\circ}08'18''$  EAST, 336.84 FEET; THENCE SOUTH  $89^{\circ}14'18''$  WEST, 332.86 FEET TO THE QUARTER SECTION LINE OF SAID SECTION 33; THENCE NORTH  $00^{\circ}07'51''$  EAST, ALONG LAST SAID LINE, 1000.40 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE NORTH  $00^{\circ}23'42''$  WEST, 3982.55 FEET; THENCE NORTH  $89^{\circ}33'40''$  EAST, 2703.62 FEET TO THE WEST SECTION LINE OF SAID SECTION 27; THENCE NORTH  $00^{\circ}05'54''$  WEST, 1316.61 FEET TO THE NORTHWEST

CORNER OF SAID SECTION 27; THENCE NORTH 89°49'35" EAST, ALONG THE NORTH SECTION LINE OF SAID SECTION 27, 5289.47 FEET; THENCE SOUTH 00°09'19" WEST, ALONG THE EAST LINE OF SAID SECTION 27, A DISTANCE OF 5256.54 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 27; THENCE SOUTH 00°02'56" EAST, ALONG THE EAST LINE OF SAID SECTION 34, A DISTANCE OF 2776.76 FEET BACK TO THE POINT OF BEGINNING.

LESS AND EXCEPTING:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, WASATCH COUNTY, UTAH, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT SOUTH 00°00'46" EAST, 131.99 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 33; THENCE SOUTH 00°0'46" EAST, 528.02 FEET; THENCE SOUTH 88°41'25" WEST, 1333.03 FEET; THENCE NORTH 00°05'29" EAST, 536.55 FEET; THENCE NORTH 89°03'22" EAST, 1332.32 FEET BACK TO THE POINT OF BEGINNING.

WHEREAS Red Ledges desires to develop the Property as a signature recreational community with various amenities, intended to include a Jack Nicklaus Signature golf course, Cliff Drysdale Tennis Center, spa, fitness center, equestrian center, (hereinafter the "Project") and such other amenities as deemed appropriate by Red Ledges, its staff and advisors; and

WHEREAS Red Ledges has filed a petition to annex the Property into the City; and

WHEREAS the County and Twin Creeks have filed protests to the annexation with the Wasatch County Boundary Commission; and

WHEREAS the City and Red Ledges desire that the County and Twin Creeks withdraw their protests to Red Ledges' petition for annexation; and

WHEREAS Red Ledges, the County, Twin Creeks and City desire to agree and sign an agreement of understanding with respect to certain issues and aspects involving the Parties and the Project; and

WHEREAS the Utah Interlocal Cooperation Act, found in Utah Code Title 11, Chapter 13, provides a statutory mechanism and framework for the parties' agreements and understandings regarding the Property and the Project; and

WHEREAS, Red Ledges currently expects to commence construction of the Project no later than the Summer of 2007, subject to the County's, Twin Creeks and City's timely performance of their covenants and agreements herein; and

WHEREAS the parties hereto wish to set forth in this Interlocal Agreement their mutual understandings with respect to some terms to be followed to mitigate and administer the impact of the Project and come to an agreement with regard to the shared cost of said mitigation; and

WHEREAS the City is considering annexation of the Property, and in the event of such an annexation, City and Red Ledges will enter into additional agreements, not in conflict with this

Agreement, including but not limited to an Annexation Agreement and Master Plan Approvals which will contain additional requirements, considerations and stipulations pertaining to this Project and Development of the same, and

WHEREAS, because the primary purpose of this Agreement is to regulate the development of the Project and the Property, the City, the County, and Twin Creeks each desire to allow the owners of the Property, Red Ledges, to agree to and be bound by the terms of this Agreement; and

WHEREAS this Agreement does not create an interlocal entity, but only represents an interlocal agreement; and

NOW, THEREFORE, the City, the County, Twin Creeks, and Red Ledges hereby agree as follows:

1. Duration of Agreement: This Agreement shall endure for 50 years. However, the payments made and the property deeded hereunder shall be permanent transactions.
2. Purposes: The purposes of this Agreement are to establish a mutually cooperative arrangement among the City, the County and Twin Creeks in regulating the development of the Red Ledges Property, and to establish mutually enforceable general regulations regarding this Property and the associated Project.
3. Financing: Each party to this Agreement will perform their obligations under this Agreement with each's own funds.
4. Termination: This Agreement may be terminated at the conclusion of 50 years or after the Property has been fully developed to the extent permissible under law. However, in the event all parties agree that this Agreement is no longer necessary, it may be terminated by the unanimous stipulation of the parties.
5. Withdrawal of Protests: The County and Twin Creeks agree to withdraw the protests they have each filed, pursuant to Utah Code Ann. §10-2-407 (2003), relating to Red Ledges' petition for annexation into Heber City. The County and Twin Creeks further consent to allow the annexation process to continue under the jurisdiction of Heber City.
6. Water, Secondary Water, and Sewer Services: Twin Creeks agrees to provide all water, secondary water, and sewer service for the Project according to the Rules, Policies, and Procedures of Twin Creeks. Red Ledges shall transfer the necessary water shares to Twin Creeks and shall be responsible for all costs associated with the delivery of water, secondary water, and sewer services. Residential properties will service their irrigation needs through the primary potable water system. County and City agree that the entire Project will be annexed into Twin Creeks and be served by the same. Secondary water will be provided by Twin Creeks for golf courses and other common areas. Twin Creeks further agrees to consider the issuance of bonds for infrastructure costs if requested by Red Ledges.

7. Bypass Road:

a. Red Ledges agrees to grant a 66-foot-wide easement to the City for a bypass road (hereafter "Bypass Road") running south to north near the eastern boundary of the proposed park area depicted in the Red Ledges Master Plan, between Lake Creek Road and the southern boundary of the Wasatch View Estates, as shown on Exhibit B attached hereto (hereafter "Bypass Road"). The centerline of the Bypass Road will be within 100 feet of the following described centerline:

A 66' FOOT RIGHT OF WAY, (33' EACH SIDE OF CENTERLINE) LOCATED IN SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, WASATCH COUNTY, UTAH, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT A POINT OF SAID RIGHT OF WAY, SAID POINT LIES 1353.17 FEET SOUTH  $89^{\circ} 49'54''$  WEST AND 24.03 FEET NORTH  $00^{\circ}32'07''$  WEST FROM THE SOUTH QUARTER CORNER OF SAID SECTION 33, AND RUNNING THENCE NORTH  $00^{\circ}32'07''$  WEST, 153.84 FEET TO THE ARC OF A 800.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG THE ARC OF SAID 800.00 FOOT RADIUS CURVE 160.88 FEET (CHORD BEARS NORTH  $05^{\circ}13'32''$  EAST 160.61 FEET); THENCE NORTH  $10^{\circ}59'12''$  EAST 232.03 FEET TO THE ARC OF A 600.00 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID 600.00 FOOT RADIUS CURVE 258.27 FEET (CHORD BEARS NORTH  $01^{\circ}20'41''$  WEST 256.28 FEET); THENCE NORTH  $13^{\circ}40'34''$  WEST 243.16 FEET TO THE ARC OF A 600.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE ALONG THE ARC SAID 600.00 FOOT RADIUS CURVE 459.72 FEET (CHORD BEARS NORTH  $08^{\circ}16'26''$  EAST 448.56 FEET); THENCE NORTH  $30^{\circ}13' 27''$  EAST, 190.37 FEET TO THE ARC OF A 300 FOOT RADIUS CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID 300.00 FOOT RADIUS CURVE 161.30 FEET (CHORD BEARS NORTH  $14^{\circ}49'16''$  EAST 159.36 FEET); THENCE NORTH  $00^{\circ}34'55''$  WEST, 2204.96 FEET TO THE POINT OF TERMINATION.

b. No driveways will be allowed to access the Bypass Road, and no on-street parking will be allowed on the Bypass Road.

c. Red Ledges, at its own expense, will construct the Bypass Road pursuant to City Standards; and when it is completed, Red Ledges will deed the underlying land to the City and the City will maintain the Bypass Road in perpetuity. Red Ledges shall plant and maintain the landscaping associated with the public park and Bypass Road in perpetuity.

d. Red Ledges will obtain, in a timely manner, a 66-foot right-of-way for a road running east to west along the north boundary of the property currently referred to as the "Stone Creek Development," and through the lot described as Sage Acres Lot #1, which is located on Mill Road in Heber City, to connect the Bypass Road to Mill Road (hereafter the "Connection Road"). No on-street parking or driveway access will be allowed on the Connection Road. Heber City and Red Ledges will equally

share the cost to acquire Sage Acres Lot #1, at the total cost of approximately \$190,000.

e. Red Ledges, at its own expense, will construct the Connection Road pursuant to the City's Standards and under the City's direction.

f. Red Ledges will complete the construction of both the Bypass Road and the Connection Road within one year of the City's final plat approval of the Project's first phase.

8. Open Space: Within six months of the City's final plat approval of the Project's first phase, Red Ledges will convey, to a third-party acceptable to the County and Red Ledges, a conservation easement covering approximately 400 acres in the northeast quadrant of the Property (hereafter "Open Space"). In the event that the County and Red Ledges cannot agree on a third-party to hold the conservation easement, the joint board set forth in paragraph 21 will select one. Exhibit "A," attached hereto, illustrates the approximate location and outline of the 400 acres of Open Space. Exhibit "B," attached hereto, sets forth the terms of the conservation easement that will be used. Red Ledges will immediately thereafter, and within six months of the City's final plat approval of the Project's first phase, convey the fee title in the Open Space to the County. In the event that Red Ledges becomes insolvent or sells, conveys, transfers, or assigns any interest in the Property or the Project to any individual or entity—not including normal financing requirements conducted in the ordinary course of business or the sale of improved lots—the Open Space shall be immediately conveyed as set forth in this paragraph. Red Ledges shall be entitled to permit its residents and prospective buyers to utilize the trails in the Open Space to an equal extent as any other County resident or member of the public.

9. City's Widening of Center Street: Red Ledges shall provide financial assistance to the City to renovate the City's Center Street between Main Street and Mill Road up to a maximum of one-third of the cost of such renovation, with Red Ledges' share of this expense not to exceed One Million Dollars (\$1,000,000.00). Said monies shall be paid to the City when the City initiates the project to widen Center Street (hereafter "Center Street Project") or by January 1, 2012, but in any event no sooner than January 2009 or 180 days after final plat approval of the Project's first phase, whichever first occurs, and no later than January 2012. In the event the Center Street Project has not been initiated by January 2012, Red Ledges shall deposit \$1,000,000 into an escrow account administered by a third party and upon terms and conditions satisfactory to both the City and Red Ledges, provided that the City shall be entitled to any interest earned on said deposit. The City shall consult and confer with Red Ledges regarding the prioritization of expenditures, aesthetic impacts and the timing of improvement.

10. Density: The density determination of the Red Ledges Recreational Community will be set at 1,370 residential units for the land currently owned by it.

11. Storm Drain: The Parties agree that the storm drain system to be installed on the Red Ledges property will be designed to City standards.
12. Fire District Inspections: The Parties agree that the Wasatch County Fire District will perform all fire inspections related to the Property, and it will collect the same fire inspection fees for the Project and the Property that are assessed on a county-wide basis.
13. Project's Interior Roads: The Parties agree that the County's current 26' wide asphalt paving standard will be used for all roads, with rolled curb and gutter in Red Ledges. Sidewalks will only be required if Red Ledges determines they are needed. If needed, sidewalks will only be on one side of the street and will be 4' wide. Maintenance of and services surrounding any such roads shall be administered pursuant to Paragraph 14 below.
14. Gated Community: The Parties agree that Red Ledges Recreational Community will be and shall forever remain, at the election of the HOA, a fully private and gated community, said agreement to be enforceable by the HOA and/or Red Ledges. All roads and storm drain systems within the Community will be maintained by and at the expense of the HOA.
15. Grading Permits for Golf Course: Upon master plan approval by the City and Twin Creeks water approval, the City agrees to forthwith issue grading permits for golf course construction.
16. Building Inspections: All building inspections will be performed by the City in a timely manner. The City will ensure that enough qualified inspectors are available for that purpose.
17. Engineering: The City shall, review all Project engineering documents. Twin Creeks shall be responsible to review engineering for the water and sewer systems, and will supply preliminary plans to the City for review and comment.
18. Planning: Planning for the Project will be done by the City pursuant to City standards. However, Red Ledges understands that the City's "PC" zone, which will apply to the Project, may be modified to be more similar to the County's PUD zone. The Director of Planning for the County will consult with and advise the City planning department as it refines the City's PC zone. The City will involve the Fire District and the County Planning Department in the review of the development proposals with the City's "Development Review Committee." The County's Planning Director will review and consult with the City Planning Department regarding each phase of the project. In the event of a disagreement between the City and the County regarding the planning of the Project, either party may refer the disagreement to the joint board identified by paragraph 21. All parties agree that the County's ridgeline ordinances and standards as currently in effect will apply to the Property and the

Project with the same force and effect as if the Project were occurring within the County's jurisdiction.

19. Fire Station: Within one year of the City's final plat approval of the Project's first phase, Red Ledges agrees to provide a one acre lot, with utilities stubbed to the lot, within the Project at a location to be selected by Red Ledges with access to Lake Creek Road, for use as a fire station. The County will build the station and pay for all improvements on the lot, subject to architectural design review of Red Ledges or the Home-owners Association (hereafter "HOA") as provided in the Project's CC&R's. This design review will only apply to exterior architectural features, and approval will not be unreasonably withheld. If the County determines not to build a station on this lot, said lot shall revert to Red Ledges for any use permitted by City ordinances. In the event that Red Ledges becomes insolvent or sells, conveys, transfers, or assigns any interest in the Property or the Project to any individual or entity—not including normal financing requirements conducted in the ordinary course of business or the sale of improved lots—the lot referred to herein shall be immediately conveyed.
20. Mitigation Fee: Red Ledges agrees to pay a mitigation fee to the County in the amount of \$4,500,000, to be used for the common good and general benefit of the citizens of Wasatch County, for example, but not limited to, acquisition of open space, for creation of parks, and similar facilities. The fee will be structured as follows: one-third to be paid December 31, 2007, provided the initial final plat approval of the first phase is completed with sufficient time for Red Ledges to begin lot sales in 2007, otherwise, the first one-third will be paid within six months of the City's final plat approval of the Project's first phase; the second third to be paid by December 31, 2008, or within 18 months of the City's final plat approval of the Project's first phase, whichever last occurs; and the final third to be paid by December 31, 2009, or within 30 months of the City's final plat approval of the Project's first phase, whichever last occurs. In the event that Red Ledges becomes insolvent or sells, conveys, transfers, or assigns any interest in the Property or the Project to any individual or entity—not including normal financing requirements conducted in the ordinary course of business or the sale of improved lots—the mitigation fee set forth herein shall become immediately due and payable.
21. Joint Board: Pursuant to Utah Code Section 11-13-207(1)(b), this Agreement shall be administered by a joint board consisting of six members, three appointed by the City and three appointed by the County. Four board-members shall constitute a quorum. Matters may be submitted to the joint board at the request of any two members of the joint board, and it shall render its decision within thirty (30) days of the submission. Any matter contemplated by this Agreement may be submitted to this joint board, but the joint board shall have no authority to violate, interpret, or change City's codes or ordinances. The joint board may adopt rules and bylaws as appropriate for the internal operation of the joint board. If a two-thirds majority (4) of the entire committee cannot agree with reference to any decision to be made, the

matter in dispute shall be submitted to the Mountainlands Association of Governments for arbitration. Provided, however, this dispute resolution mechanism shall not be construed as authorizing any material change to the Parties' rights and obligations under this Agreement, and no provision of this Agreement may be construed as giving Red Ledges the right to circumvent the City's planning and appeal process as set forth in the City's code and ordinances.

22. Effective Date: This Agreement shall be neither effective nor binding on any party until all parties have signed hereto. The effective date of this Agreement shall be the date of the last signature hereto.
23. Trail System: Red Ledges will provide a trail system that appropriately connects with the County trail system. Red Ledges will cooperate with the County Trail Planner to do so. Any dispute regarding the requirements of this paragraph may be referred to the joint board identified by paragraph 21.

### C. Miscellaneous Provisions

24. Rescission: The parties recognize that while this Agreement anticipates the City's annexation of the Property, this Agreement does not bind the City to do so. In the event that the City decides not to annex the Property, all parties will be deemed to have rescinded this Agreement, and this Agreement shall become null and void and of no further force or effect.
25. Default, Noncompliance: In the event of a default under this Agreement or any non-compliance with the Agreement, any party may sue for injunctive relief, specific performance, and damages. The prevailing party or parties shall recover their costs and attorney's fees. Attorney fees for an attorney employed full-time by a governmental agency shall be calculated by using the same rate as the average rate for attorney's fees charged by privately employed attorneys in the State of Utah who have a similar number of years' experience as the governmental agency's attorney.
26. Forum: This Agreement and all matters pertaining to the validity, construction, interpretation, and effect of this Agreement shall be governed by the laws of the State of Utah. Any litigation regarding this Agreement shall take place in the Fourth District Court, Heber Department, in the State of Utah.
27. Severability: If any provision of this Agreement, or the application thereof to any person or circumstances, shall for any reason and to any extent be invalid or unenforceable, the remainder of this Agreement and the application of such provision to the other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

28. Entire Agreement: This Agreement contains the entire understanding and agreement between the Parties, and all preceding agreements are merged herewith. It is expressly understood and agreed that this Agreement may not be altered, amended, or otherwise modified in any respect except by a written instrument, duly executed by all Parties hereto.

29. Additional Documents: The Parties agree to cooperate fully and execute any and all supplementary documents and to take all necessary actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

30. Successors in Interest: This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns.

31. Jointly Drafted: The Parties agree that this Agreement is the product of a negotiation between the Parties. The Agreement, therefore, shall be deemed to have been drafted jointly by all of the Parties.

32. Authorization: Each person executing this Agreement on behalf of any entity represents and warrants that they are duly authorized to sign on their behalf and to bind the entity.

a. Pursuant to Utah Code Section 11-13-202.5(1)(b), this Agreement must be approved by the legislative body of the public agencies who are parties to this Agreement. This approval will be reflected by the signature of the chair of such body on this Agreement.

b. Pursuant to Utah Code Section 11-13-202.5(2), the legislative body of each public agency which is a party to this Agreement shall adopt a resolution or ordinance approving this Agreement and specifying the effective date of the Agreement.

c. Pursuant to Utah Code Section 11-13-203(3), the legislative body of each public agency which is a party to this Agreement shall cause this Agreement to be reviewed by the attorney authorized to represent the public agency for review as to proper form and compliance with applicable law. This review will be reflected by the signature of such attorney to this Agreement.

33. Notice: Any notice to be given or other document to be delivered by any Party to the other or others hereunder may be delivered in person, or may be deposited in the United States mail, duly certified or registered, return receipt requested, with postage

prepaid, and addresaed to the Party for whom intended, as follows:

WASATCH COUNTY  
Attention: Council Chair  
25 North Main Street  
Heber City, Utah 84032

With a copy to:

Thomas Low, Esq.  
805 West 100 South  
Heber City, Utah 84032

HEBER CITY MAYOR  
Attention: Mark Anderson  
75 North Main Street  
Heber City, Utah 84032

With a copy to:

J. Mark Smedley, Esq.  
30 North Main  
Heber City, Utah 84032

TWIN CREEKS SPECIAL SERVICE DISTRICT  
Attn: Dan Matthews  
55 South 500 East  
Heber City, Utah 84032

RED LEDGES, L.L.C.  
Attention: M. Anthony Burns  
18001 Old Cutler Rd, Suite 460  
Miami, FL 33157

With a copy to:

Craig V. Wentz, Esq.  
50 South Main Street, Suite 1500  
Salt Lake City, UT 84144

WASATCH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF UTAH:

Steve Farrell  
By: Steve Farrell, Wasatch County Council Chair

Dated: 2/21/2007

Michael Davis  
By: Michael Davis, Wasatch County Manager

Dated: 2/21/2007

APPROVED BY:

Thomas L. Low  
Thomas L. Low, Wasatch County Attorney

Dated: 2/21/07

HEBER CITY, A MUNICIPAL CORPORATION:

David R. Phillips  
By: Mayor, David R. Phillips, Heber City,

Dated: 2/21/07

APPROVED BY:

J. Mark Smedley  
J. Mark Smedley, Heber City Attorney

Dated: 21<sup>st</sup> Feb. 2007

TWIN CREEKS SPECIAL SERVICE DISTRICT:

Kendall Crittenden  
By: Kendall Crittenden, Chair

Dated: 2/21/07

APPROVED BY:

Attorney for Twin Creeks Special Service District  
Attorney for Twin Creeks Special Service District

Dated: 2/21/07

RED LEDGES, LLC, A FLORIDA LIMITED LIABILITY CO.

Todd R. Cates  
By: Todd R. Cates, Vice President

Dated: 2/21/07

Exhibit "A": Approximate Location and Outline  
Of 400 Acres Open Space



## Exhibit "B": Terms of Conservation Easement

1. **Purpose.** It is the purpose of this Easement to assure that the Property will be retained predominantly in its natural, open space condition and to prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property. Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with the purpose and provisions of this Easement.

2. **Rights of Grantee.** To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

a) To preserve and protect the Conservation Values of the Property;

b) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor except in emergencies or cases of suspected deliberate violations, and Grantee shall not unreasonably interfere with Grantors' use and quiet enjoyment of the Property;

c) To prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use; and

d) To review, comment upon, approve or object to any proposed plans relating to prohibited uses and permitted uses as set forth below.

3. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

a) **Subdivision.** The division or subdivision or de facto subdivision of the Property into smaller parcels for any purpose.

b) **Structures and Improvements.** The construction or maintenance of any, houses, mobile homes, docks, and aircraft landing strips unless otherwise allowed herein.

c) **Mineral Development.** Surface mining, extraction or subsurface mining. Quarrying, excavating, or removing rocks, minerals, gravel, sand, topsoil, or other similar materials on or from the Property.

d) **Topography Modification.** Changes in the existing general topography of the landscape or land surface of the Property, excluding minor changes as a result of activities expressly permitted herein, unless such changes were caused by the forces of nature. Changing

the topography of the Property by placing on it any soil, land fill, or other material, except as necessary to conduct specific water preservation, collection and distribution purposes.

e) **Waste Disposal and Hazardous Materials.** Use of the Property for dumps, landfills, or the storage or deposit of waste materials of any kind. Placing, filling, storing or dumping on the Property of trash, debris, refuse, vehicle bodies, junk or waste. Using the Property for dumping, depositing, abandoning, discharging, storing, maintaining or releasing any gaseous, liquid, solid, radioactive or hazardous waste materials or pollutants of whatever nature on, in or over the ground or into the subsurface or groundwater of the Property. Dumping or other disposal of non-compostable refuse, animal carcasses, wildlife-attracting materials, or any other material which could reasonably be considered debris. Dumping ashes, sawdust, bark trash, rubbish or any other material or using the Property for dumps, landfills, or the storage or deposit of waste materials of any kind. Disposal of any waste materials generated by activities expressly permitted herein shall be in accordance with applicable state laws. Slash and other debris associated with timber harvesting activities shall be disposed of according to standard forestry practices. (This prohibition does not impose liability on Grantee, nor shall Grantee be construed as having liability as a "responsible party" under CERCLA or similar federal or state statutes.)

f) **Industrial, Commercial and Residential Activities.** The use of the Property for industrial, commercial (except grazing of livestock) or residential activities.

g) **Game Farming or Game Farm Animals.** Construction or operation of a game farm on the Property, or raising or holding game farm animals on the Property. "Game farm animals" include those animals regulated or prohibited by the Utah Legislature, the Division of Wildlife Resources, or the Department of Agriculture and Food.

h) **Commercial Feed Lot.** Establishing or maintaining any commercial feedlot on the Property. For purposes of this Easement, a commercial feedlot is defined as a permanently constructed, confined area or facility, within which the land is not grazed or cropped annually, used for purposes of engaging in the business of receiving and feeding livestock for hire.

i) **Signs and Billboards.** Placing any sign or billboard on the Property, except to state the name and address of the Property owner and manager; to advertise on-site activities which are permitted on the Property; to advertise the sale or rental of the Property; to identify natural environmental features; to give road or trail directions; or to control unauthorized entry or use of the Property. Signs shall be no larger than fifteen (15) square feet in area. This paragraph shall not prohibit Grantee from displaying such signs as it may customarily use to identify lands under conservation easement and the terms of such conservation easement; provided however, that the location of any such signs placed by Grantee shall be subject to receipt of Grantor's prior approval for same.

j) **Water Rights, Alteration of Water Course and Topography.** Use of the Property that would be detrimental to water quality or that would permanently alter the normal

water level and/or flow of surface or groundwater, except as is reasonable to carry out the permitted activities on the Property.

k. **Disturbance of Ecological Features.** Changing, disturbing, altering or impairing the significant relatively natural ecological features and values such as prime, unique, or important farmland soils; or the destruction of other significant conservation interests on the Property.

l. **Native Vegetation.** Conversion of native vegetation to exotic cover species or the introduction of non-native plant species. Cutting, removing, or destruction of native vegetation, except by grazing, haying, or other agricultural practices.

m. **Motor vehicle use.** Use of snowmobiles, motorcycles, or other motorized vehicles off of roads, trails or travelways established for that purpose, except for utilization of water rights, Water Facilities or property-maintenance purposes.

(i) **Exceptions.** Motor vehicles shall be allowed for the limited purpose of accessing the Property by the general public at entryways or the location of access roads on the periphery of the Property and for parking lots for the public. Off Highway Vehicles (OHVs) such as, snowmobiles, motorcycles, All-terrain vehicles (ATV's), and other such recreational vehicles, as designated by Grantor, shall be allowed, but only on designated areas or designated trails established, and maintained by the Grantor for such use. Areas designated for such use may only be accessed through trail heads or access points established by Grantor and designated for that purpose. Areas located within 1000 feet of the developed property will be designated as Motorized Recreational Vehicle No Play Zones and under no circumstances shall such vehicles be allowed to operate within, nor shall any OHV trails be established within (1,000) feet of the developed property. All OHV's shall be equipped with regulation mufflers and not violate County sound ordinances then in effect.

n. **Trapping.** Animal trapping for purposes other than control of predatory animals which demonstrably have caused damage to property. Trapping methods employed must be selected for the target species, in accordance with Federal, state and local law and administered as humanely as is possible.

o. **Storage.** Keeping or storage on the Property of any automobiles, trucks, campers, travel trailers, motor homes, boats, heavy equipment, or other type of machinery not associated with property maintenance or water facilities.

4. **Reserved Rights.** Grantor reserves all rights accruing from its ownership of the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, the following rights are expressly reserved:

- a. **Trails, low intensity uses and restrooms.** It is intended that there shall be constructed and maintained trails of various types (including but not limited to pedestrian, cycling, equestrian, and Off Highway Vehicle (OHV)) with trailheads, parking lots, gathering places and low intensive recreational facilities which would include restrooms with water, electricity and sewer connections which would be located on the Property.
- b. **Grazing Rights.** Use of the Property for grazing of cattle, horses, sheep and goats is an express permitted use so long as conservation of the soils is maintained and the Property is not overgrazed as shall be determined by industry standards.
- c. **Hunting.** Hunting of elk, deer, and rabbits, and all game birds such as shall be permitted by the Wildlife Resources Division of the State of Utah shall be a permitted use, subject to public safety restrictions on the discharging of firearms within proximity limits of residential housing as are determined by the Wasatch County Sheriff's Department.
- d. **Facilities.** Grantor may maintain, replace, and repair the fences, roads and other improvements located on the Property as of the date of this Easement, as identified in the Baseline Documentation. Grantor may maintain, replace, and repair the existing fences, roads and other improvements identified in the Baseline Documentation, as may be necessary for the uses permitted by this Easement, provided such fence, road or improvement is maintained, replaced or repaired in its original approximate size and general location. If any or all of such facilities are removed or destroyed, Grantor may replace them with similar structures of the same size in the same location.
- e. **Construction of additional items.** Grantor may construct additional fences and roads as may be necessary for the uses permitted by this Easement upon prior written approval by Grantee, as provided in Section 5 of this Easement. Grantor may construct fences along the exterior border of the Property without prior approval of Grantee. Drift fences may be constructed as necessary to control drifting snow.
- f. **Maintenance.** Replacement or repair of existing fences within the Property boundaries and construction of new fences on the Property's exterior boundary shall be constructed in such a manner and with such materials as not to unduly endanger wildlife safety or to materially inhibit wildlife movement. Grantee's prior written approval, consistent with Section 5 of this Easement, must be obtained prior to replacing, repairing, or constructing any fencing on the Property that unduly endangers wildlife safety or that materially inhibits wildlife movement.
- g. **Defensible space for fire protection.** Any existing or new structures are required to manage vegetation to reduce fire intensities. The recommended treatment of vegetation is dependent on fuel type (kinds of trees/shrubs/grass) and slope.
- h. **Agricultural Chemicals.** Use of agricultural chemicals for the following purposes and under the following conditions:

(1) For the control of noxious weeds, other invasive exotic plant species and plants toxic to domestic livestock; provided that chemical herbicides may be used only in those amounts and with a frequency of application that constitute the minimum necessary for control; and, except with the prior approval of Grantee, that the herbicide is not applied by aerial spraying.

(2) For the control of agricultural, forest, or rangeland pests; provided that chemical biocides may be used only when no other reasonable and generally accepted method of control is effective, that the biocide is used only in those amounts and with a frequency of application constituting the minimum necessary to accomplish reasonable agricultural and residential purposes, that the biocide has minimal adverse effects on non-target species of plants or animals, and, except with the prior approval of Grantee, that the biocide is not applied by aerial spraying.

i. **Utilities and Easements.** Grantor may establish easements or rights of way for public utilities or communication facilities such as antennas, satellite dishes etc. and supporting structures and access roads. Such easements and uses may only be allowed if they can be established in locations or in a manner that will not significantly detract from the conservation values established herein. Such facilities may not be located within (1500) feet of the developed property.

5. **Review of Grantor Plans Pursuant to Prohibited Uses and Reserved Rights.** Before undertaking any activity pursuant to any reserved right under Section 4 above or any exception to a prohibited use under Section 3 above, Grantor shall submit to Grantee a detailed written plan describing the undertaking. Grantee shall have a period of forty-five (45) days from receipt of said plan to review said plan and make objections to same. All such objections shall be based upon inconsistencies between the plan and the purpose of this Easement or the Conservation Values of the Property. If within said (45) day period, Grantee makes no objections, then Grantee shall be deemed to have approved said plan, but nothing else not contained in the plan. If Grantee raises objections, the parties agree to meet and resolve in good faith all such objections prior to Grantor undertaking such development. If no agreement can be reached between the parties regarding the plan despite use of the parties' best efforts to do so, either one of the parties may submit the matter to binding arbitration. Any matter submitted to arbitration shall be submitted to and heard by the Salt Lake City Office of the American Arbitration Association in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association.

6. **Grantee's Facilitation and Enhancement of Conservation Values.** Nothing set forth herein shall prevent Grantee from seeking to facilitate or enhance the Conservation Values of the Property or the purposes of this Easement. Before undertaking any such facilitation, improvement or enhancement of the Conservation Values, Grantee shall prepare and submit to Grantor a detailed written plan describing same. Grantor shall have a period of forty-five (45) days from receipt of said plan to review said plan and make objections to same. All such objections shall be based upon inconsistencies between the plan and the purposes of this

Easement and the Conservation Values of the Property; provided however, that such enhancements shall not be in derogation of the reserved rights or the exceptions to the prohibited uses reserved to Grantor in this Easement. If within said 45 day period, Grantor makes no objections, the Grantor shall be deemed to have approved said plan, but no other matters except those set forth in the plan. If Grantor raises objections, the parties agree to meet and resolve in good faith all such objections prior to Grantee undertaking such development.

7. **General Agreed Parameters for Certain Types of Improvements and Uses.** The parties agree to the following matters with regard to particular types of possible improvements or uses of the Property:

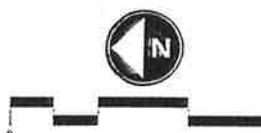
a. **Roads.** The parties agree that any road which is permitted and constructed will be constructed in such a fashion and manner so as to:

- (1) minimize the width and length of such road;
- (2) maximize the ability of the road to be reclaimed and returned to a natural state when it is no longer required or needed;
- (3) minimize the road's impact on the Conservation Values of the Property.

8. **Structures and Other Improvements.** The parties agree that any structures or other improvement which are permitted and constructed will be constructed in such a fashion and manner so as to minimize the structure's impact on the Conservation Values of the Property.

9. **Access.** An express right of access by the general public is hereby granted to the Property and is conveyed by this Easement as may be controlled by the Grantor in strict compliance with Parks and Open Space General Plan of the Grantees and the preservation of water rights and water facilities.

10. **Modification.** If circumstances arise under which an amendment to or modification of the Easement would be appropriate, Grantor and the Grantee may jointly amend the Easement; provided that no amendment shall be allowed that affects the qualification of the Easement under the IRS Code 170 (b), or any regulation promulgated in this section, or the 'Land Conservation Easement Act' of Utah's statutes, Sections 57-18-1 to 57-18-7, successor statute or which affect the rights of DIC as contained in this Easement. Any such amendment shall be consistent with the purposes of the Easement, shall not affect its perpetual duration, shall not permit additional development or improvements to be undertaken on the Property other than development or improvements currently permitted by the Easement, and shall not impair any of the significant conservation values of the Property. Any such amendment shall be recorded in the official records of the county in which the Property is located. Any such proposed amendment would require (60) days notice to the public in writing and published in a daily newspaper for (3) consecutive weeks.



NOT TO SCALE



#### JACK JOHNSON COMPANY

Designing World Destinations

In-Person - 1777 Sun Peak Drive - Park City - Utah 84068

Telephone - 435.645.0000 - Facsimile - 435.640.1820

[www.jackjohnson.com](http://www.jackjohnson.com)

DATE: November 22, 2000  
DESIGNED BY: dj  
DRAWN BY: dj  
REVISED BY:  
PROJECT: 0649.0205.00  
ISSUE: Annex, App. & Master Plan

REVISIONS  
8-22-07 REvised Master Plan

Burns  
Red Ledges  
Recreational Community

Master Plan

P1

Architectural Drawing Services, Inc. (ADS)  
File Name: 0649.0205.00 | Job Date: November 22, 2000 | Sheet Number: 1

FIRST AMENDMENT TO INTERLOCAL AGREEMENT  
REGARDING THE "RED LEDGES" PROPERTY

This Agreement amends the Interlocal Agreement executed on February 21, 2007 (hereinafter the "Agreement") by and among Wasatch County, Utah, (hereinafter "County"), Heber City (hereinafter "City"), Twin Creeks Special Service District (hereinafter "Twin Creeks"), political subdivisions of the State of Utah, and Red Ledges LLC, a Florida Limited Liability Company, regarding the development of the "Red Ledges" property, located in Wasatch County and Heber City. Red Ledges Land Development, Inc., a Florida Corporation, (hereinafter "Red Ledges") is the successor in interest to all the rights and obligations of Red Ledges, LLC, under the February 21, 2007 Agreement and maintains offices at 2 S. Main Street, Suite 2-A, Heber City, UT 84032.

WHEREAS paragraph 7(f) of the Agreement specified that Red Ledges would complete construction of the Bypass Road and the Connection Road, as more particularly described therein, within one (1) year from the City's final plat approval of the Project's First Phase; and

WHEREAS final approval of the plat for the Project's First Phase occurred on October 12, 2007; and

WHEREAS an adjoining property owner, described in the Agreement as Stone Creek Development, has encountered delays in the installation of its required infrastructure adjoining the Bypass Road and Connection Road.

WHEREAS, the parties have agreed to extend the October 12, 2008 completion date for the Bypass Road and Connection Road as hereinafter set forth.

NOW, THEREFORE, the City, County, Twin Creeks and Red Ledges hereby agree as follows:

1. Extended Completion Date for the Bypass Road and Connection Road: The parties agree that the October 10, 2008 completion date is hereby extended through October 10, 2009.

2. Conditional Second Extension of the Completion Date for the Bypass Road and Connection Road. At the request of Red Ledges, the City, the County, and Twin Creeks, shall consent to a second extension of time for completion of the Bypass Road and Connection Road through October 10, 2010 in the event that either (1) Stone Creek encounters additional delay in the installation of the required infrastructure or, (2) Red Ledges encounters unforeseeable delays justifying the second extension.

3. Ratification: Except as expressly modified herein the Agreement is ratified, confirmed and declared to be in full force and effect by the parties hereto.

IN WITNESS WHEREOF the parties hereto have executed this First Amendment to the Agreement on the dates reflected opposite their respective signature elements as follows:

**WASATCH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF UTAH:**

By: Steve Farrell, Wasatch County Council Chair

Date: 9/26/08

By: Michael Davis, Wasatch County Manager

Date: 9/26/08

APPROVED BY: Thomas L. Low  
Thomas L. Low, Wasatch County Attorney

Date: 9-26-08

**HEBER CITY, A MUNICIPAL CORPORATION:**

By: Mayor, David R. Phillips, Heber City

Date: 8-21-08

APPROVED BY: J. Mark Smedley  
J. Mark Smedley, Heber City Attorney

Date: 23<sup>rd</sup> Oct. 2008

**TWIN CREEKS SPECIAL SERVICE DISTRICT:**

By: Kendall Crittenden, Chair

Date: 2/5/2009

APPROVED BY: Attorney for Twin Creeks Special Service District

Date: 5/5/09

**RED LEDGES LAND DEVELOPMENT, INC., a Florida Corporation:**

By: Todd Cates, Vice President

Date: 8/26/08

## **SECOND AMENDMENT TO INTERLOCAL AGREEMENT REGARDING THE "RED LEDGES" PROPERTY**

This Agreement amends the Interlocal Agreement executed on February 21, 2007 (hereinafter the "Agreement") by and among Wasatch County, Utah, (hereinafter "County"), Heber City (hereinafter "City"), Twin Creeks Special Service District (hereinafter "Twin Creeks"), political subdivisions of the State of Utah, and Red Ledges LLC, a Florida Limited Liability Company, regarding the development of the "Red Ledges" property, located in Wasatch County and Heber City. Red Ledges Land Development, Inc., a Florida Corporation, (hereinafter "Red Ledges") is the successor in interest to all the rights and obligations of Red Ledges, LLC, under the February 21, 2007 Agreement and maintains offices at 2 S. Main Street, Suite 2-A, Heber City, UT 84032.

WHEREAS, the City, County and Red Ledges desire to have a public trail system that connects to a County wide trail system and reduce to writing a formal agreement that formalizes the trail requirements and expectations for the Red Ledges Development; and

WHEREAS, Paragraph 23 of the Interlocal Agreement specifies that Red Ledges "will provide a trail system that appropriately connects with the County trail system. Red Ledges will cooperate with the County Trail Planner to do so. Any dispute regarding the requirements of this paragraph may be referred to the joint board identified in paragraph 21 of the Interlocal Agreement."; and

WHEREAS, the City and County have overlapping responsibilities regarding the trails and the trail system; and

WHEREAS, the parties hereto desire a unified public trail system that avoids conflicts between the parties; and

WHEREAS, the City and Red Ledges have entered into written agreements regarding trails, specifically within an Annexation Agreement recorded in Book 942 Pages 1876-1883, a Master Plan Agreement recorded in Book 943 Pages 118-127, and a Subdivision Agreement recorded in Book 951 Pages 1860-1883 in the Wasatch County Recorder's Office; and

WHEREAS, the City has approved and permitted construction of Phase 1 improvements which include trails; and

[Last Whereas clause deleted.]

NOW, THEREFORE, the parties hereto agree as follows:

1. All public trails are to be built concurrent with City and County approved infrastructure, on a phase by phase basis. Phase 1 Trails are shown in Exhibit 1.
2. All trails that cross roads shall be identified as public or private with appropriate signage. Exhibit 2 shows those locations currently anticipated as requiring such signage. Exhibit 4 shows the agreed signage design.

3. Locations of public trails are shown in Exhibit 3. Excepting trails in open space that may be built in the future not at the expense of Red Ledges.
4. Trails are to meet County trail standards (as shown in Exhibit 4) except that grades may exceed over 10% in limited areas approved by Heber City, provided that best efforts should be made to not exceed the 10% grade requirement.
5. Trail connections shall be allowed for off-site public trails to connect to Red Ledges public trails at the five locations shown in Exhibit 2. With the approval of Red Ledges, Heber City and Wasatch County, additional connections beyond those shown in Exhibit 2 may be made within the Open Space Area that will be dedicated to Wasatch County, but not within the area of subdivision lots. Additional connections from off-site to the public trails through the Heber City Park may be allowed.
6. There shall be a 20' minimum width public trail easement dedicated on all plats over all public trails. However, all public trail easement plat dedications for back country trails, as identified in Exhibit 2, shall have a 10' minimum width.
7. The trail crossing at the 90 degree bend on the bypass shall be constructed in accordance with accepted standards approved by Heber City. Generally, the standards entail street surface painting (i.e. double white lines), ADA compliant curb cuts on each side of the road that are 8 feet wide, a sign for each direction of traffic to warn about pedestrians, a public trail sign on each side of the street, and adequate night lighting.
8. Except as provided herein, trail surfaces are to conform and be constructed by the developer to the profile standards shown on Exhibit 4 (asphalt, crushed rock etc).
9. As agreed in the subdivision agreement, public trails will be maintained by Heber City.
10. Except as expressly amended herein, the terms and provisions of the Interlocal Agreement dated February 21, 2007, and as amended by the First Amendment dated \_\_\_\_\_, remain in full force and effect.

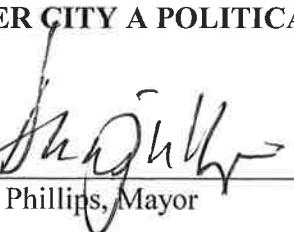
IN WITNESS WHEREOF the Parties hereto have executed this Second Amendment to the Agreement on the dates reflected opposite their respective signature elements as follows:

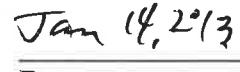
**WASATCH COUNTY A POLITICAL SUBDIVISION UNDER THE STATE OF UTAH**

By:   
Mike Davis, Wasatch County Manager

 2013  
2009  
Date

**HEBER CITY A POLITICAL SUBDIVISION UNDER THE STATE OF UTAH**

By:   
David Phillips, Mayor

 2013  
2009  
Date

ATTEST:

Michelle Kellogg  
Heber City Recorder

**TWIN CREEKS SPECIAL SERVICE DISTRICT A POLITICAL SUBDIVISION  
UNDER THE STATE OF UTAH**

By: D. Math  
Manager, Twin Creeks Special Service District

1/14 2013  
Date

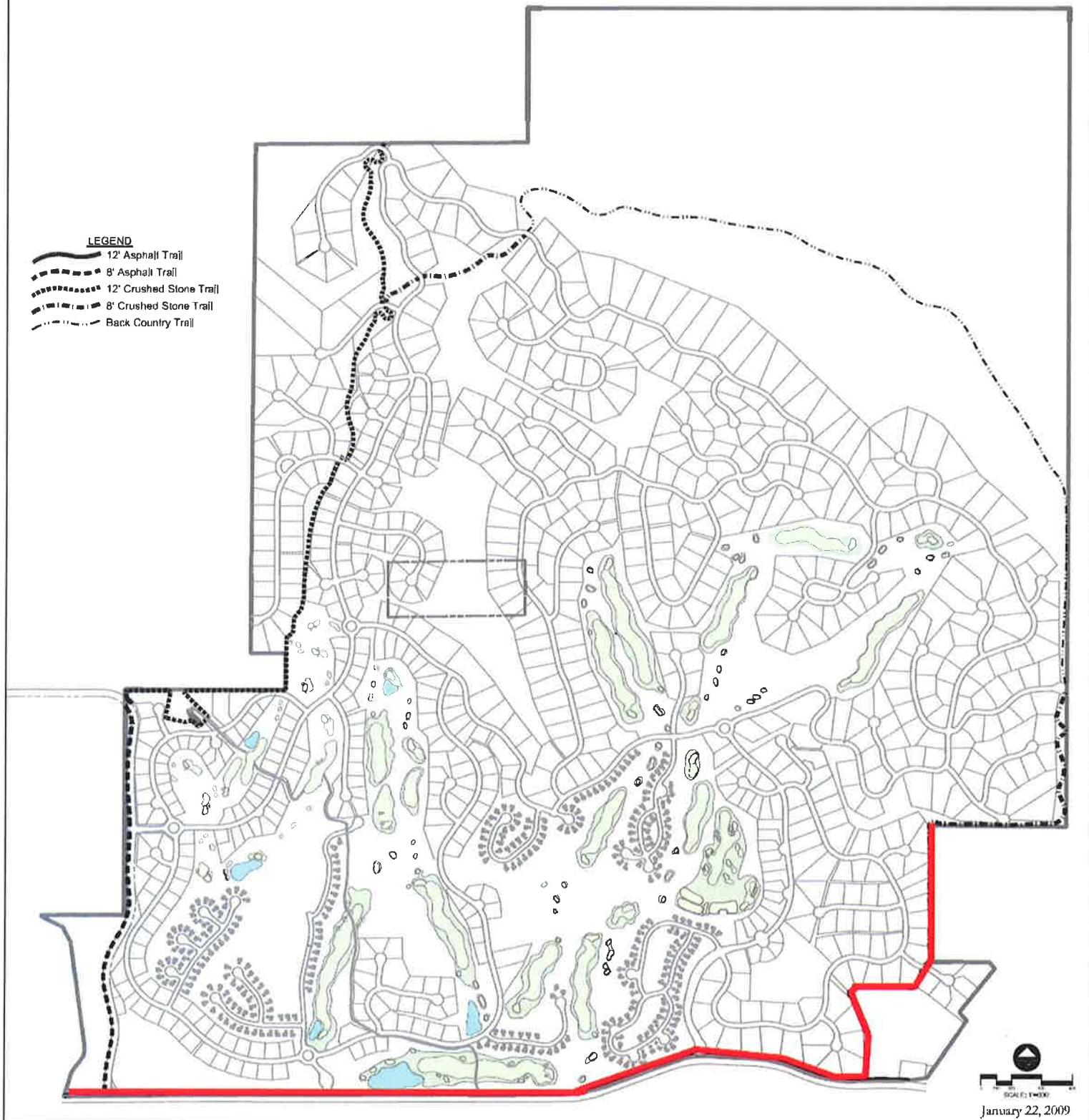
**RED LEDGES LAND DEVELOPMENT, INC:**

By: T. Cates  
Todd Cates, Vice President

1/15/13 2009  
Date

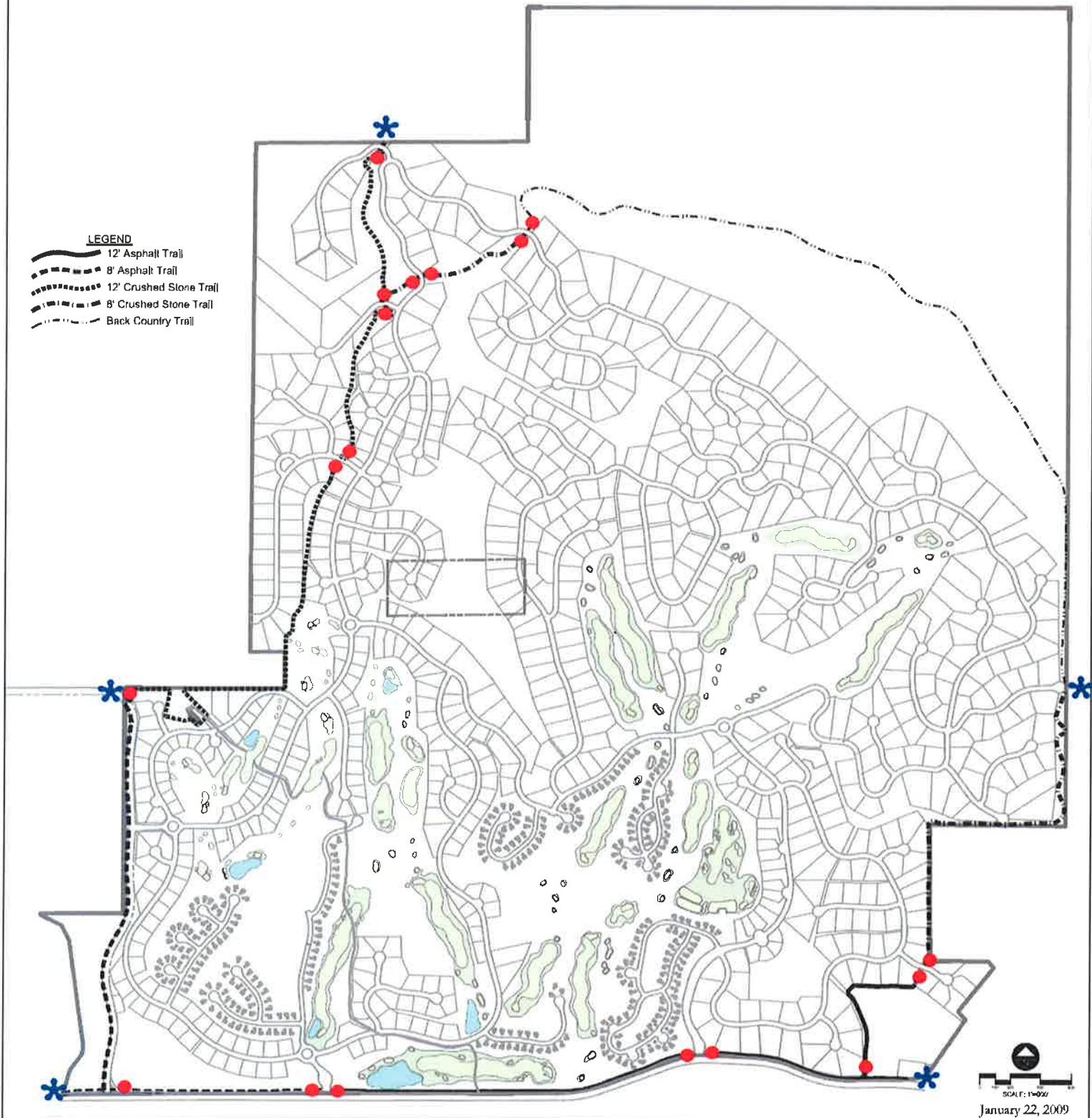
# Exhibit 1

Phase 1 Trails are marked in red



## Exhibit 2

- “Public Trail” Sign Locations
- ★ Public trail connection points

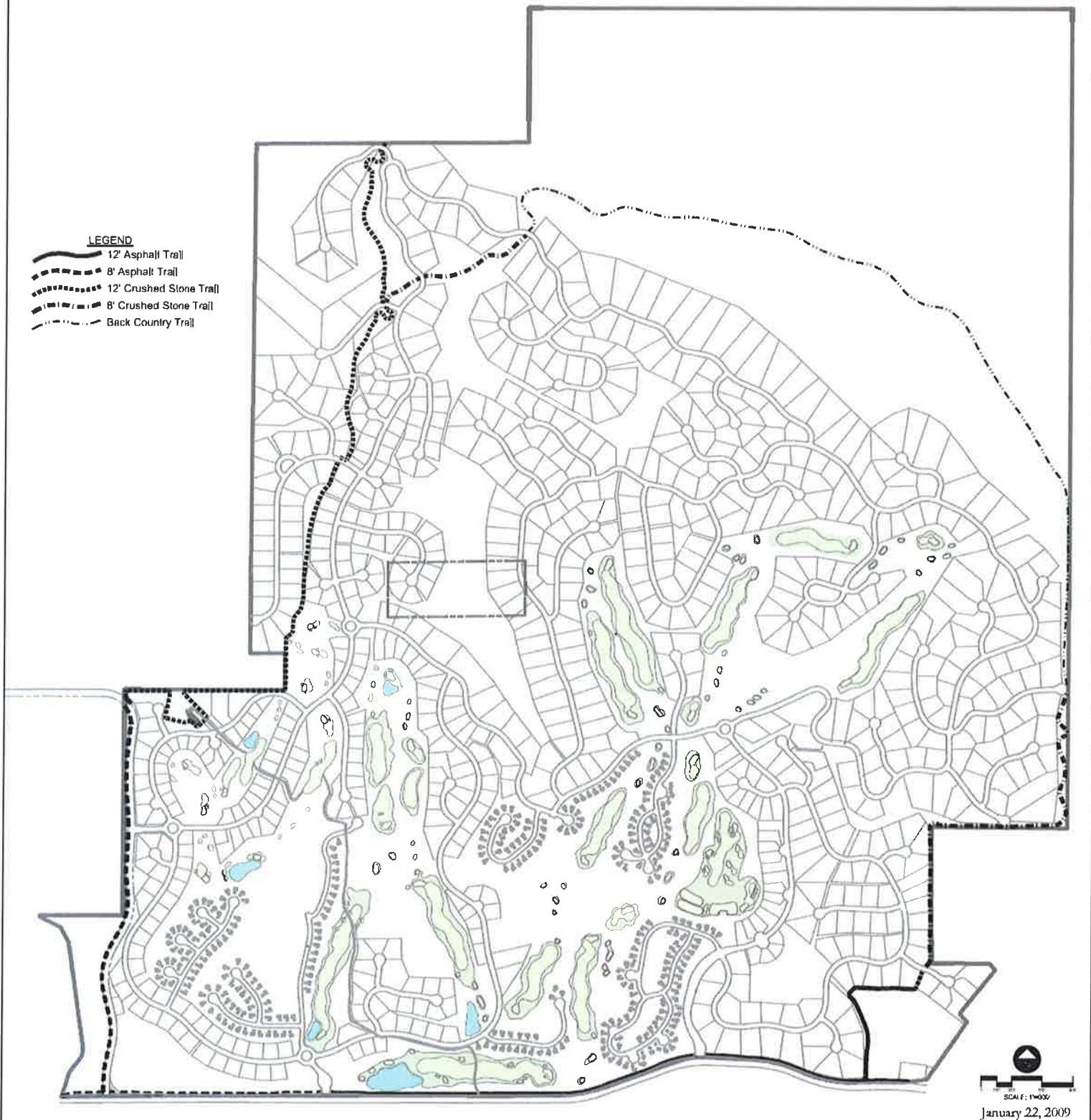


January 22, 2009

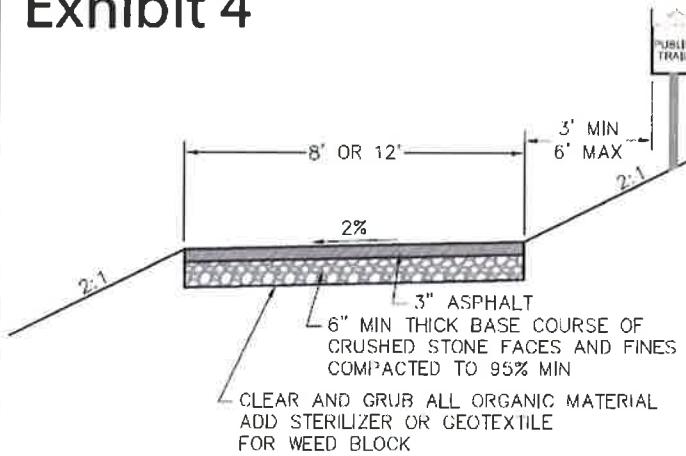


## Exhibit 3

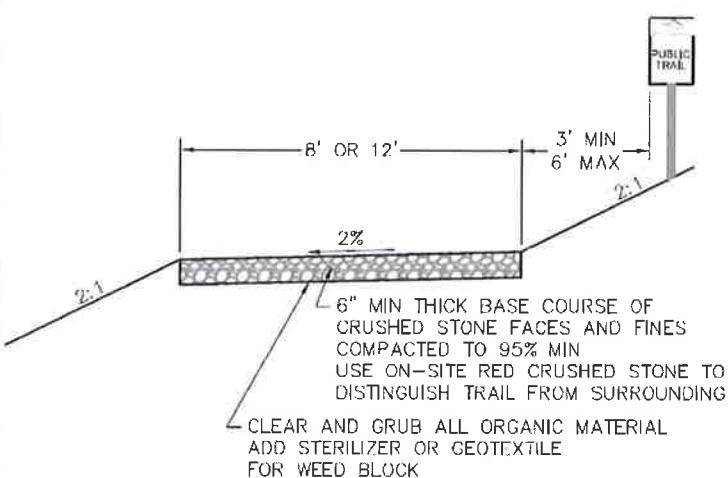
### All public trails



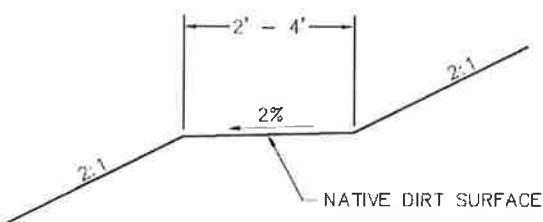
## Exhibit 4



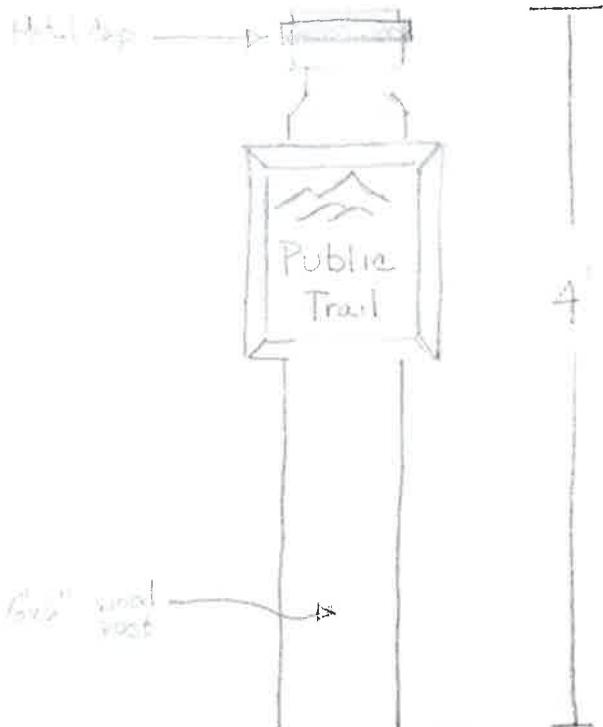
## ASPHALT TRAIL - NTS



## CRUSHED STONE TRAIL - NTS



## BACK COUNTRY TRAIL



**PUBLIC TRAIL SIGN**

THIRD AMENDMENT TO INTERLOCAL AGREEMENT  
REGARDING THE "RED LEDGES" PROPERTY

This Agreement amends the Interlocal Agreement executed on February 21, 2007 (hereinafter the "Agreement") by and among Wasatch County, Utah, (hereinafter "County"), Heber City (hereinafter "City"), Twin Creeks Special Service District (hereinafter "Twin Creeks"), political subdivisions of the State of Utah, and Red Ledges LLC, a Florida Limited Liability Company, regarding the development of the "Red Ledges" property, located in Wasatch County and Heber City. Red Ledges Land Development, Inc., a Florida Corporation, (hereinafter "Red Ledges") is the successor in interest to all the rights and obligations of Red Ledges, LLC, under the February 21, 2007 Agreement and maintains offices at 2 S. Main Street, Suite 2-A, Heber City, UT 84032.

WHEREAS paragraph 7(f) of the Agreement specified that Red Ledges would complete construction of the Bypass Road and the Connection Road, as more particularly described therein, within one (1) year from the City's final plat approval of the Project's First Phase; and

WHEREAS final approval of the plat for the Project's First Phase occurred on October 12, 2007; and

WHEREAS an adjoining property owner, described in the Agreement as Stone Creek Development, has encountered continued delays in the installation of its required infrastructure adjoining the Bypass Road and Connection Road.

WHEREAS the parties have agreed to extend the October 12, 2008 completion date for the Bypass Road and Connection Road as hereinafter set forth.

WHEREAS the First Amendment to Interlocal Agreement was signed and executed between 2008 & 2009 which extended this date until October 10, 2009 with a second extension through October 10, 2010.

NOW, THEREFORE, the City, County, Twin Creeks and Red Ledges hereby agree as follows:

1. Extended Completion Date for the Bypass Road and Connection Road: The parties agree that the October 10, 2008 completion date is hereby extended through October 31, 2016.

2. Grading and Utilities: Should Stone Creek move forward with their needed utilities before construction of the Bypass Road and Connection Road begins, Red Ledges agrees to rough grade those portions of the roads needed for said utilities.

3. Ratification: Except as expressly modified herein the Agreement is ratified, confirmed and declared to be in full force and effect by the parties hereto.

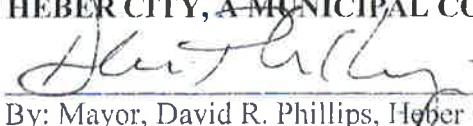
IN WITNESS WHEREOF the parties hereto have executed this Third Amendment to the Agreement on the dates reflected opposite their respective signature elements as follows:

**WASATCH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF UTAH:**

  
By: Mike Davis, Wasatch County Manager

Date: 2/22/2013

**HEBER CITY, A MUNICIPAL CORPORATION**

  
By: Mayor, David R. Phillips, Heber City

Date: 2/21/2013

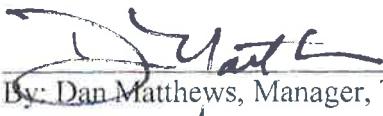
ATTEST:

  
Heber City Recorder

Date: 2-21-2013



**TWIN CREEKS SPECIAL SERVICE DISTRICT:**

  
By: Dan Matthews, Manager, Twin Creeks Special Service District

Date: February 14, 2013

**RED LEDGES LAND DEVELOPMENT, INC., a Florida Corporation:**

  
By: Todd Cates, Vice President

Date: 3/28/13

## FOURTH AMENDMENT TO INTERLOCAL AGREEMENT REGARDING THE “RED LEDGES” PROPERTY

This Agreement amends the Interlocal Agreement executed on February 21, 2007 (hereinafter the “Agreement”) by and among Wasatch County, Utah, (hereinafter “County”), Heber City (hereinafter “City”), Twin Creeks Special Service District (hereinafter “Twin Creeks”), political subdivisions of the State of Utah, and Red Ledges LLC, a Florida Limited Liability Company, regarding the development of the “Red Ledges” property, located in Wasatch County and Heber City. Red Ledges Land Development, Inc., a Florida Corporation, (hereinafter “Red Ledges”) is the assignee of all the rights and obligations of Red Ledges, LLC, under the February 21, 2007 Agreement and maintains offices at 1851 E Center St, Heber City, UT 84032.

WHEREAS paragraph 7(f) of the Agreement specified that Red Ledges would complete construction of the Bypass Road and the Connection Road, as more particularly described therein, within one (1) year from the City’s final plat approval of the Project’s First Phase; and

WHEREAS final approval of the plat for the Project’s First Phase occurred on October 12, 2007; and

WHEREAS the parties have agreed to extend the October 12, 2008 completion date for the Bypass Road and Connection Road as hereinafter set forth.

WHEREAS the First Amendment to Interlocal Agreement was signed and executed between 2008 & 2009 which extended this date until October 10, 2009 with a second extension through October 10, 2010.

WHEREAS the Second Amendment to Interlocal Agreement was signed and executed on January 14, 2013.

WHEREAS the Third Amendment to Interlocal Agreement was signed and executed between February and March of 2013.

NOW, THEREFORE, the City, County, Twin Creeks and Red Ledges hereby agree as follows:

1. Extended Completion Date for the Bypass Road and Connection Road: The Parties agree that the completion date for construction of the Bypass Road and the Connection Road is hereby extended through October 31, 2019. Beginning in the year 2019 and thereafter, each February or March, depending on what is most convenient to the scheduling agenda of the City Council, the city agrees to assess the then current desire for the Bypass and Connection Road, and related issues, and reconsider further extensions to each successive October 31st, on a year by year basis.

The parties specifically agree that failure on the part of Red Ledges to initiate and finish on site, physical construction of said Bypass Road and Connection Road by October 31, 2019, or subsequent granted extensions, or failure to abide by any other provision of this agreement shall constitute a breach of the Interlocal Agreement and this Amendment. Red Ledges further agrees that if this breach occurs the city could choose to withhold any further phase approvals, until the agreed physical construction of said Bypass Road and Connection Road has been completed.

2. Bypass Road and Water Line Easement: Simultaneous with the execution of this Amendment, Red Ledges will record the easements attached as Exhibits A and C hereto for the benefit of the City. The easements shall be granted for the purpose of a roadway and laying underground utilities, and other underground and surface facilities related to public roads and utilities. Use of said easement shall not obligate the City to construct any utilities, particularly those required for the function of the road when it is constructed; i.e. storm drain. Said utilities shall be constructed and installed within the alignment described on the draft plat, incorporated and made a part of this Agreement, as Exhibit B herein, and the draft construction drawings

prepared by Jack Johnson Company, dated June 10, 2008, both of which are subject to change.

3. Grading and Access: Should Heber City or an authorized developer move forward with any utilities needed within the easement before construction of the Bypass Road and Connection Road begins, Red Ledges agrees to rough grade those portions of the road needed for said utilities, within two foot of the finished grade centerline shown on the draft construction drawings prepared by Jack Johnson Company, dated June 10, 2008.

4. Road Right-Of-Way Dedication: Within two weeks of completion of the Bypass Road and Connection Road, a plat describing the 66-foot road right-of-way underlying the roadway, including the east road and utility connection described in Exhibit C, shall be dedicated by Red Ledges to Heber City. If there is a breach in the timing, the conditions of Item 1 will apply.

5. Ratification: Except as expressly modified herein, the aforementioned February 21, 2007 Interlocal Agreement is ratified, confirmed and declared to be in full force and effect by the parties hereto.

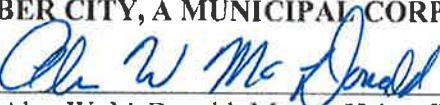
IN WITNESS WHEREOF the parties hereto have executed this Fourth Amendment to the Agreement on the dates reflected opposite their respective signature elements as follows:

**WASATCH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF UTAH:**

  
By: Mike Davis, Wasatch County Manager

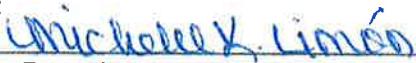
Date: March 10, 2016

**HEBER CITY, A MUNICIPAL CORPORATION:**

  
By: Alan W. McDonald, Mayor, Heber City

Date: 9 MARCH 2016

ATTEST:

  
Heber City Recorder

Date: 3/09/2016



**TWIN CREEKS SPECIAL SERVICE DISTRICT:**

  
By: Ron Phillips, Manager, Twin Creeks Special Service District

Date: 3/10/2016

**RED LEDGES LAND DEVELOPMENT, INC., a Florida Corporation:**

  
By: Todd Cates, Vice President

Date: 3/10/16

## EXHIBIT A

### Bypass Easement

AFTER RECORDATION PLEASE RETURN TO:  
**HEBER CITY CORPORATION**  
75 NORTH MAIN STREET  
HEBER CITY, UT 84032

### GRANT OF RIGHT-OF-WAY EASEMENT TO HEBER CITY

For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned Property Owner, RED LEDGES LAND DEVELOPMENT, INC., as GRANTOR(S) hereby grant to HEBER CITY, a municipal corporation situated in Wasatch County, the State of Utah, (herein after referred to as "CITY"), a permanent easement of right-of-way sixty-six (66) feet in width for the purpose of laying underground utilities, and other appurtenant underground and surface structures related to public roads and utilities, hereinafter referred to as "said facilities," together with the right to construct, operate, maintain, repair and replace said facilities, and the right of ingress and egress for such purposes. Said easement is described as follows:

**(See Attached Exhibit 'A' for Legal Description & Location Map)**

GRANTOR waives any right to compel CITY to grade, surface, or otherwise improve or maintain said easement area.

GRANTOR shall not increase or decrease or permit to be increased or decreased the ground elevations of said easement existing at the time this document is executed, nor construct or permit to be constructed any permanent building, structures, improvements, landscaping, or other encroachment upon said easement, without the express written consent in advance of the CITY.

GRANTOR further grants to CITY the right to assign any or all of the rights granted in this easement in whole or in part to other companies providing public utilities or communication facilities/services.\* CITY recognizes the private nature of Grantor's development and will limit access to the easement to only those parties involved in construction and maintenance of utilities until the permanent Bypass Road is built (as defined in the Interlocal Agreement dated February 21, 2007).

CITY may remove from the easement any building, structure, improvement or other encroachments thereon conflicting, interfering or inconsistent with its use for the purposes hereby granted. CITY shall have the right to install its own locks or receive gate codes in all fences and gates which now cross or may hereafter cross said easement, as well as provide a drivable surface over said easement to facilitate access. Fences constructed around or through the easement shall contain a 12 foot wide gate for CITY access. CITY shall cause that the roads within this easement will be returned to pre-construction conditions after all such utilities are installed. CITY or its representatives shall coordinate with Grantor so as to not unreasonably interfere with the current use of roads within this easement while construction of utilities occurs. CITY and Grantor agree to indemnify each other and hold each other harmless from any and all liabilities, including attorneys' fees, incident to each party's or their agents use of the Easement provided herein.

Nothing contained herein shall be construed to provide an easement of ingress or egress to the general public until the Bypass Road becomes a public road.

GRANTOR: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
(Printed Name / Title)

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_ : 84.

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared before me \_\_\_\_\_, the landowner of the property described in the attached Exhibit A and duly acknowledged to me that they executed the same.

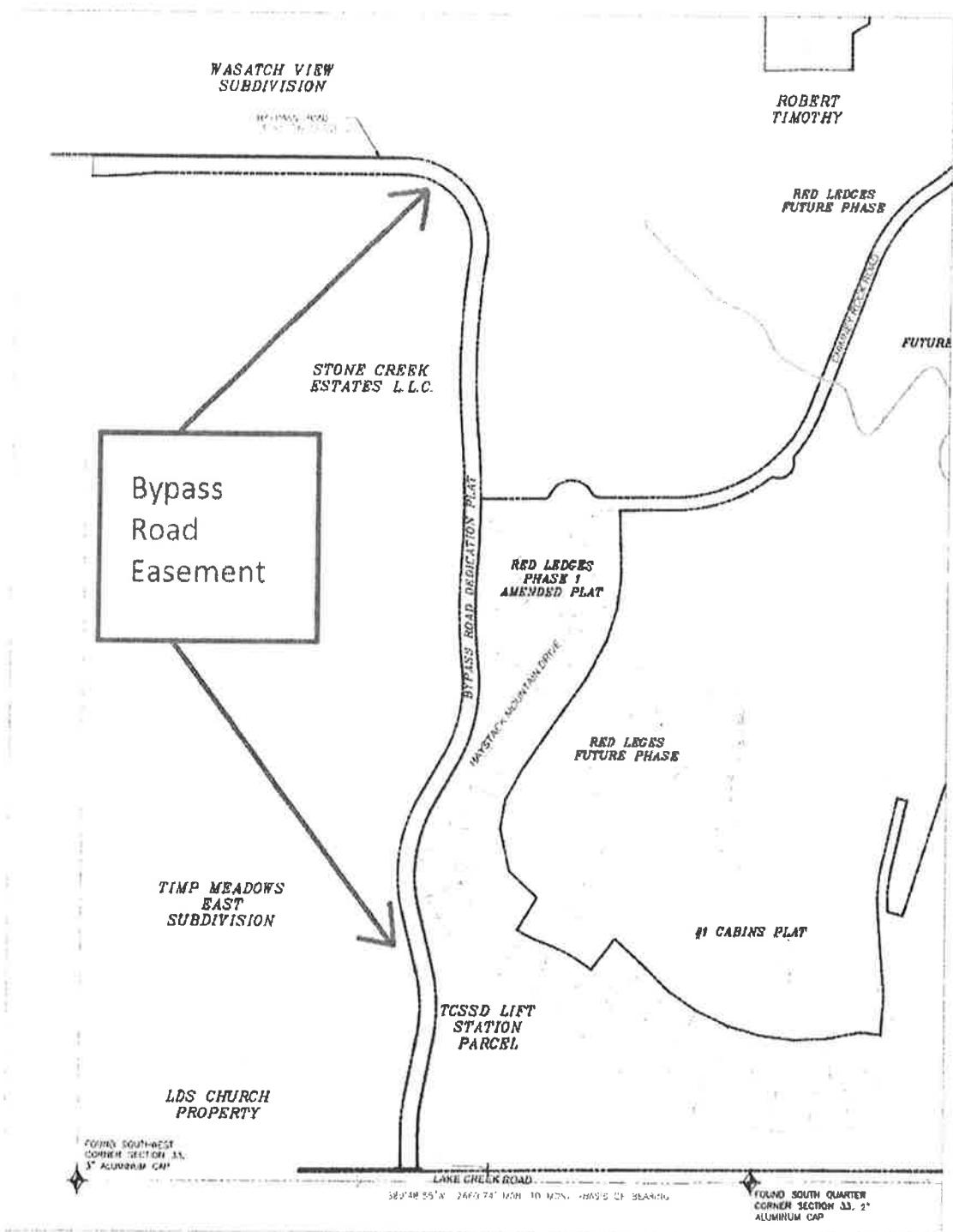
NOTARY PUBLIC

## EASEMENT EXHIBIT A

A PARCEL OF LAND LOCATED IN THE NORTHWEST AND SOUTHWEST QUARTERS OF SECTION 32 AND THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, WASATCH COUNTY, UTAH, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

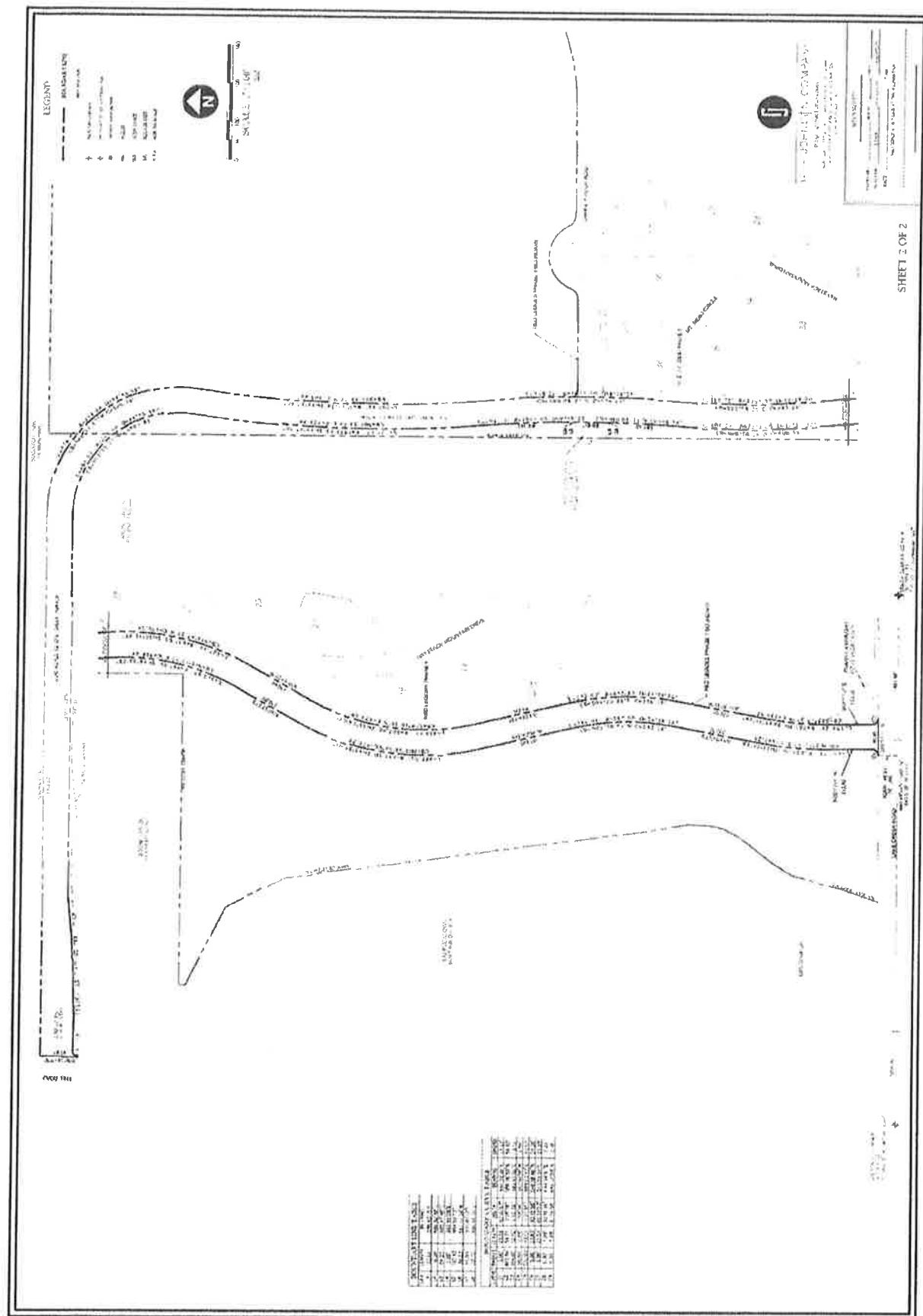
BEGINNING AT A POINT LOCATED NORTH 89°48'55" EAST, 1259.08 FEET ALONG THE SOUTH LINE OF SECTION 33 AND NORTH, 48.25 FEET FROM THE SOUTHWEST CORNER OF SECTION 33 TO A POINT ON THE ARC OF A CURVE LEADING NORTHEASTERLY; THENCE NORTHEASTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 15.00 FEET, AN ARC DISTANCE OF 23.58 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 44°30'26" EAST, 21.23 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 00°32'07" WEST, 113.96 FEET TO THE ARC OF A CURVE LEADING NORTHERLY; THENCE NORTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 833.00 FEET, AN ARC DISTANCE OF 167.51 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 05°13'32" EAST, 167.23 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 10°59'12" EAST, 232.03 FEET TO THE ARC OF A CURVE LEADING NORTHERLY; THENCE NORTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 567.00 FEET, AN ARC DISTANCE OF 244.06 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 01°20'41" WEST, 242.16 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 13°40'34" WEST, 242.16 FEET TO THE ARC OF A CURVE LEADING NORTHERLY; THENCE NORTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 633.00 FEET, AN ARC DISTANCE OF 485.01 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 08°16'26" EAST, 173.23 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 30°13'27" EAST, 170.69 FEET TO THE ARC OF A CURVE LEADING NORTHERLY; THENCE NORTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 567.00 FEET, AN ARC DISTANCE OF 364.69 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 11°47'53" EAST, 358.44 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE LEADING NORTHERLY; THENCE NORTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 2033.00 FEET, AN ARC DISTANCE OF 401.24 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 00°58'26" WEST, 400.59 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE LEADING NORTHERLY; THENCE NORTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 2967.00 FEET, AN ARC DISTANCE OF 543.49 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 00°08'23" WEST, 493.58 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE LEADING NORTHERLY; THENCE NORTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 2985.33 FEET, AN ARC DISTANCE OF 723.17 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 01°58'49" EAST, 721.40 FEET TO THE POINT REVERSE CURVATURE OF A CURVE LEADING NORTHWESTERLY; THENCE NORTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 257.00 FEET, AN ARC DISTANCE OF 461.03 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 40°32'47" WEST, 405.95 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 89°57'43" WEST, 993.88 FEET; THENCE SOUTH 34°50'23" WEST, 110.43 FEET; THENCE NORTH 89°49'06" WEST, 1.99 FEET TO THE ARC OF A CURVE LEADING WESTERLY; THENCE WESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 457.54 FEET, AN ARC DISTANCE OF 59.71 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 86°26'35" WEST, 59.67 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE LEADING WESTERLY; THENCE WESTERLY, ALONG AND AROUND SAID CURVE, CONCAVE SOUTHERLY HAVING A RADIUS OF 114.00 FEET, AN ARC DISTANCE OF 12.12 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 86°45'02" WEST, 12.12 FEET; THENCE SOUTH 83°47'48" WEST, 84.25 FEET TO THE ARC OF A CURVE LEADING WESTERLY; THENCE WESTERLY ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 86.00 FEET, AN ARC DISTANCE OF 2.88 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 87°50'16" WEST 2.88 FEET; THENCE SOUTH 86°52'49" WEST, 16.34 FEET TO THE ARC OF A CURVE LEADING WESTERLY; THENCE WESTERLY ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 933.00 FEET, AN ARC DISTANCE OF 46.61 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 89°03'47" WEST, 40.60 FEET; THENCE NORTH 38°45'15" WEST, 73.69 FEET TO THE POINT OF TANGENCY OF A CURVE LEADING SOUTHWESTERLY; THENCE SOUTHWESTERLY ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 15.00 FEET, AN ARC DISTANCE OF 23.63 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 46°05'47" WEST, 21.26 FEET; THENCE NORTH 00°58'47" EAST, 97.45 FEET; THENCE NORTH 89°59'13" EAST, 1408.82 FEET TO THE ARC OF A CURVE LEADING SOUTHEASTERLY; THENCE SOUTHEASTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 333.00 FEET, AN ARC DISTANCE OF 574.99 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 40°32'47" EAST, 506.18 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE LEADING SOUTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 2919.34 FEET, AN ARC DISTANCE OF 707.18 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 01°58'49" WEST, 705.46 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE LEADING SOUTHERLY; THENCE SOUTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 3033.00 FEET, AN ARC DISTANCE OF 516.27 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 00°08'23" EAST, 509.67 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE LEADING SOUTHERLY; THENCE SOUTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 1967.00 FEET, AN ARC DISTANCE OF 383.22 FEET. SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 00°58'26" EAST, 387.59 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE LEADING SOUTHERLY; THENCE SOUTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 633.00 FEET, AN ARC DISTANCE OF 407.14 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 11°47'53" WEST, 400.16 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 30°13'27" WEST, 170.69 FEET TO THE ARC OF A CURVE LEADING SOUTHERLY; THENCE SOUTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 567.00 FEET, AN ARC DISTANCE OF 434.44 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 08°16'26" WEST, 423.89 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 13°40'34" EAST, 243.16 FEET TO THE ARC OF A CURVE LEADING SOUTHERLY; THENCE SOUTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 633.00 FEET, AN ARC DISTANCE OF 272.47 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 01°20'41" EAST, 270.37 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 10°59'12" WEST, 232.03 FEET TO THE ARC OF A CURVE LEADING SOUTHERLY; THENCE SOUTHERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 767.00 FEET, AN ARC DISTANCE OF 154.24 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 05°13'32" WEST, 150.98 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 00°32'07" EAST, 114.10 FEET TO THE ARC OF A CURVE LEADING SOUTHEASTERLY; THENCE SOUTHEASTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 15.00 FEET, AN ARC DISTANCE OF 23.54 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 45°29'34" EAST, 21.20 FEET; THENCE SOUTH 89°33'00" WEST, 26.00 FEET BACK TO THE POINT OF BEGINNING.

CONTAINING 8.58 ACRES, MORE OR LESS.



# EXHIBIT B

## Draft Plat



## EXHIBIT C

### Utility Easement

AFTER RECORDATION PLEASE RETURN TO:  
HEBER CITY CORPORATION  
75 NORTH MAIN STREET  
HEBER CITY, UT 84032

### GRANT OF UTILITY EASEMENT TO HEBER CITY

For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned Property Owner, RED LEDGES LAND DEVELOPMENT, INC., as GRANTOR(S) hereby grant to HEBER CITY, a municipal corporation situated in Wasatch County, the State of Utah, (herein after referred to as "CITY"), a permanent easement of right-of-way sixty-six (66) feet in width for the purpose of laying underground utilities, and other appurtenant underground and surface structures related to public roads and utilities, hereinafter referred to as "said facilities," together with the right to construct, operate, maintain, repair and replace said facilities, and the right of ingress and egress for such purposes. Said easement is described as follows:

**(See Attached Exhibit 'A' for Legal Description and location map)**

GRANTOR waives any right to compel CITY to grade, surface, or otherwise improve or maintain said easement area.

GRANTOR shall not increase or decrease or permit to be increased or decreased the ground elevations of said easement existing at the time this document is executed, nor construct or permit to be constructed any permanent building, structures, improvements, landscaping, or other encroachment upon said easement, without the express written consent in advance of the CITY.

GRANTOR further grants to CITY the right to assign any or all of the rights granted in this easement in whole or in part to other companies providing public utilities or communication facilities/services. CITY recognizes the private nature of Grantor's development and will limit access to the easement to only those parties involved in construction and maintenance of said facilities.

CITY may remove from the easement any building, structure, improvement or other encroachments thereon conflicting, interfering or inconsistent with its use for the purposes hereby granted. CITY shall have the right to install its own locks or receive gate codes in all fences and gates which now cross or may hereafter cross said easement, as well as provide a drivable surface over said easement to facilitate access. Fences constructed around or through the easement shall contain a 12 foot wide gate for CITY access. CITY shall cause that the roads within this easement will be returned to pre-construction conditions after all such utilities are installed.

CITY and Grantor agree to indemnify each other and hold harmless from any and all liabilities, including attorneys' fees, incident to the each party's or their agents use of the Easement provided herein.

Nothing contained herein shall be construed to provide an easement of ingress or egress to the general public.

GRANTOR: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name / Title

STATE OF \_\_\_\_\_) : ss.  
COUNTY OF \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared before me  
\_\_\_\_\_, the landowner of the property described in the attached  
Exhibit A and duly acknowledged to me that they executed the same.

\_\_\_\_\_  
NOTARY PUBLIC

## **Easement Exhibit A**

### Utility Easement

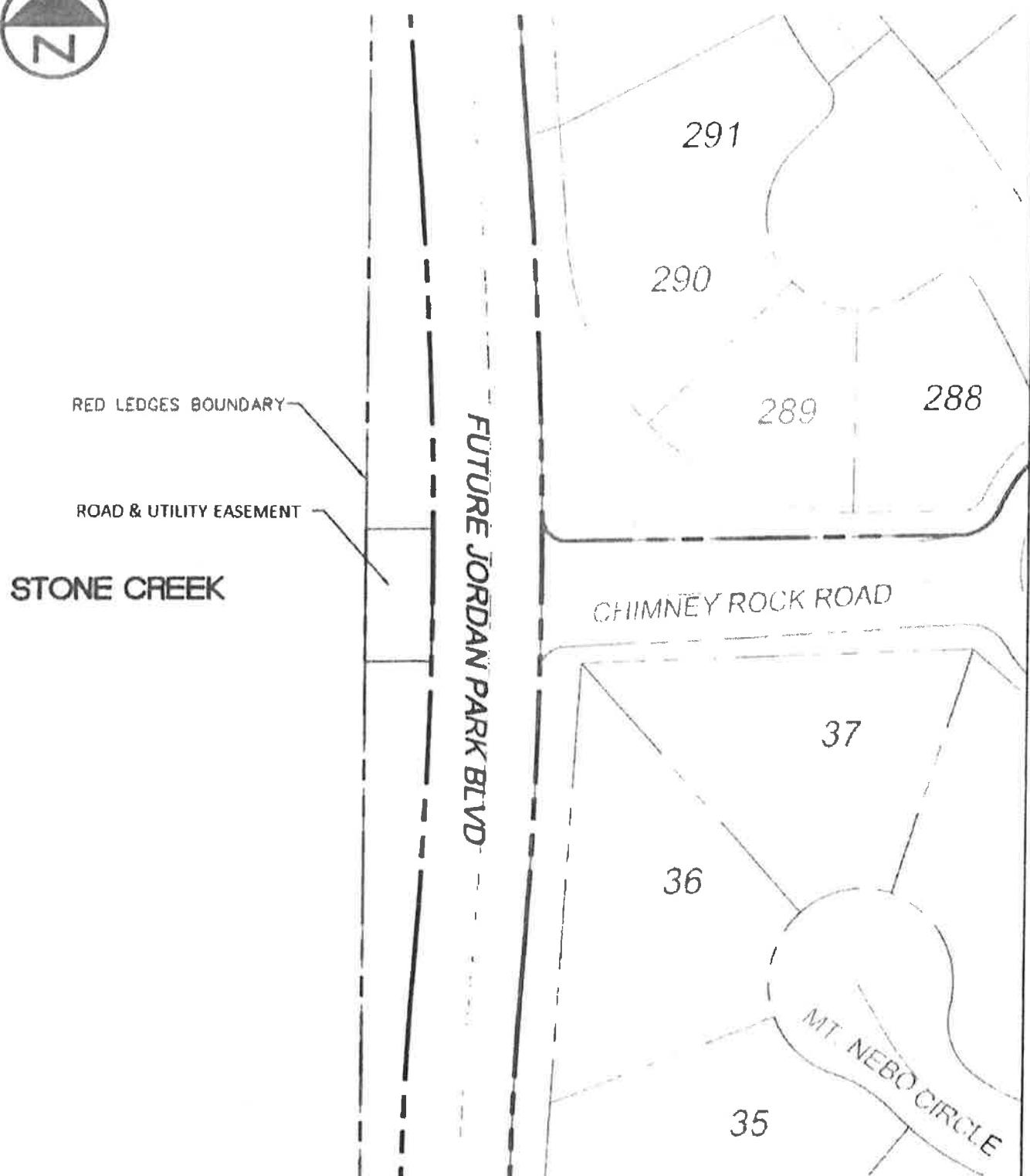
#### JORDAN PARK BLVD UTILITY EASEMENT

BASIS OF BEARING FOR THIS DESCRIPTION IS NORTH 89°22'55" EAST BETWEEN THE SOUTHWEST CORNER OF SECTION 28, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, AND THE SOUTH QUARTER CORNER OF SAID SECTION 28.

BEGINNING AT A POINT ALONG THE RED LEDGES BOUNDARY, AS RECORDED IN THE WASATCH COUNTY SURVEYORS OFFICE AS ENTRY 1878-A AND 1878-B, SAID POINT BEING NORTH 89°22'55" EAST 1461.21 FEET ALONG THE SECTION LINE AND SOUTH 2676.91 FEET FROM THE SOUTHWEST CORNER OF SECTION 28, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 89°44'34" EAST 41.25 FEET TO A POINT ON THE FUTURE JORDAN PARK BLVD WEST RIGHT OF WAY LINE; THENCE ALONG SAID RIGHT OF WAY LINE, SOUTHWESTERLY 80.01 FEET ALONG THE ARC OF A 2967.00 FOOT RADIUS NON-TANGENT CURVE TO THE RIGHT (CHORD BEARS SOUTH 00°17'14" WEST 80.00 FEET; THENCE LEAVING SAID RIGHT OF WAY, SOUTH 89°44'34" WEST 40.84 FEET TO A POINT ON THE SAID RED LEDGE BOUNDARY; THENCE ALONG SAID RED LEDGES BOUNDARY, NORTH 00°00'32" WEST 80.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 3,298 FEET, MORE OR LESS.

# ROAD AND UTILITY EASEMENT



12

G:\DATA\10093 Red Ledges\dwg\Plat\RL Bypass Road plot sheet 2.dwg



**MEMORANDUM OF UNDERSTANDING REGARDING A TIMELINE OF REQUIRED  
TRIGGER EVENTS FOR COMPLETION OF RED LEDGES' PORTION OF THE  
EASTERN BYPASS AND CONNECTION ROAD and THE ASSOCIATED PUBLIC  
PARK and TRAIL ("Sixth Amendment")**

The Fifth Amendment - Memorandum of Understanding ("MOU"), dated the 29<sup>th</sup> of August, 2019, is hereby amended as this ~~12<sup>th</sup>~~ day of August, 2020, and this Sixth Amendment is made by and among *Red Ledges Land Development, Inc., a Florida Corporation*, ("Red Ledges"), and *Heber City, Corporation*, ("Heber City," or "City," or "The City"), having offices at 75 N Main St, Heber City, UT 84032, collectively hereinafter referred to as the "Parties".

**WITNESSETH:**

**WHEREAS**, The *Interlocal Agreement*, (2007), and the *Red Ledges Planned Community Master Plan Agreement* (2007) read together, indicate that:

7. c *Red Ledges, at its own expense, will construct the Bypass Road pursuant to city standards; and when it is completed, Red Ledges will deed the underlying land to the City and the City will maintain the Bypass Road in perpetuity. Red ledges shall plant and maintain the landscaping associated with the public park and Bypass road in perpetuity..., and*

7. f *Red Ledges, will complete construction of the Bypass road and Connection road within one year of final approval of Phase 1 ... and*

**WHEREAS**, the portion of the Bypass road and Connection road that Red Ledges agreed to construct has been identified as Section C of the Eastern Bypass and Connection Road, and

**WHEREAS**, the said Master Plan Agreement instructs that the following improvements will commence with *Phase 5 of Red Ledges*:

4. a. v. 2. *Red Ledges Community Park irrigation and landscape improvements per the Conceptual Community Park Exhibit in the Master Plan, and*

**WHEREAS**, The *Fourth Amendment to Interlocal Agreement Regarding the "Red Ledges" Property*, provided that the Parties agreed that the completion date for Section C of the Eastern Bypass and Connection Road was extended through October 31, 2019, and that failure on the part of Red Ledges to initiate and finish construction of Section C of the Eastern Bypass and Connection Road by October 31, 2019, or subsequent granted extensions would constitute a breach of the Interlocal Agreement and the Fourth Amendment. It was further agreed that if that specific breach occurred, the City could choose to withhold any further phase approvals, until the Bypass and Connection Road was completed. (page 1, paragraph 1 *Extended Completion Date for the Bypass Road and Connection Road*), and

**WHEREAS**, on the 2<sup>nd</sup> day of June, 2020, pursuant to a request by Red Ledges, the City Council gave direction to Staff to extend the completion date for construction of Section C of the Eastern

Bypass and Connection Road until sometime beyond May 30, 2021, and clarify a date specific for completion of the public park and public trail and trail head, and access to said park, trail and trail head, and

**WHEREAS**, Red Ledges and the City desire to agree and sign an agreement in respect to a revised timeline of said trigger events, including but not limited to occurrences, constructions, submissions, applications, inspections, respective obligations and duties, and expectations of each Party, and

**WHEREAS**, Specifically, the Parties desire to capture and reduce to writing a timeline of required, specific and certain trigger events for the completion of Section C of the Eastern Bypass and Connection Road until sometime beyond said May 30, 2021, and completion of the public park and public trail, and access to the public park, public trail and trail head on or before the 30<sup>th</sup> day of May, 2021, by amending the August 29<sup>th</sup> 2019 MOU;

**NOW THEREFORE**, It is agreed that the 5<sup>th</sup> Amendment- MOU of August 29<sup>th</sup>, 2019, is amended as follows:

1. Subject to acts of God, events outside the control of Red Ledges, or delay caused by the City, Red Ledges, or its successors shall initiate and be responsible to complete construction, subject to approval of the City Engineer, of Section C of the Eastern Bypass and Connection Road, and a public park, public trail, public trailhead identified and park access bridge, identified and made reference in the above mentioned *Interlocal Agreement*, (2007), and the *Red Ledges Planned Community Master Plan Agreement* (2007) in accordance with the terms and conditions set forth in this Sixth Amendment.

2. The Public Park and Public Trail, including all amenities, vegetation and plantings, referenced in the aforementioned August 29, 2019 amended MOU, (Fifth Amendment) along with the temporary access to said Park including an improved, asphalted parking lot, curb and gutter along said Park access road, an added public trail head, the portion of the Public Trail that goes from Center Street to the Park entrance, and the Park access bridge from 110 North to the Park, shall all be substantially completed on or before June 30th, 2021.

2.1. All interior accesses within the Park from the parking lot to the pavilions, the “all abilities” playground (referenced below), the park amenities, restrooms, trailhead to the outlaying trail system, and from the Park access bridge to 110 North shall be hard surfaced and ADA compliant. These accesses may be a combination of sidewalks or hard surface trails. The portion of the trail that goes from Center Street to the Park entrance shall be asphalted.

2.2. The Temporary road access from Center Street to the Park shall originally be the existing dirt road accessed off Center Street, and that runs north and south along the length of the Public Park. The improved, asphalted parking lot shall be located at the south end of the retention basin. The temporary access may originally consist of gravel, or road base for the first three years from the date of this Agreement. Red Ledges shall be responsible to maintain said road so that it is smooth and easily commutable and reasonably free of potholes, wash boarding

and any other obstacles. Thereafter, in the event that Section C of the Eastern Bypass and Connection Road has not commenced within said three years, Red Ledges shall fully improve, said access, including full asphalting and striping of said access along the length of the frontage of the Park, up to the entry of the Park's parking lot at the south end of the retention basin, subject to City Engineer approval, within 90 days of the three (3) year anniversary date of this Agreement.

3 In consideration for extending the completion deadline for Section C of the Eastern Bypass and Connection Road, sometime beyond May 30, 2021, said Public Park shall include the following additional amenities and improvements. An "all abilities" playground consisting of at least two "all abilities," or "inclusive play" amenities, and play surface area that permits wheelchairs and strollers to enter and navigate the play space. City and Red Ledges shall mutually decide on the location and size of "all abilities" playground, type of inclusive play amenities, and type of play surface. Both parties will work in good faith to finalize these details. Additionally, pending the approval of Red Ledges, both parties will work cooperatively to site a sufficiently sized space for a "fitness court," (as illustrated in Exhibit A) to be located near or adjacent to the "all abilities" playground. The City shall be solely responsible for the construction and maintenance of the fitness court and any costs and liabilities related thereto.

3.1 Red Ledges shall also be responsible for installing temporary improvements, before April 1, 2021, needed to protect downstream properties, east of Section C of the Eastern Bypass and Connection Road, from natural runoff or Wasatch canal flooding that may occur due to the postponing of drainage facilities to be constructed with the Bypass Road. The April 2021 timeline is adopted to allow Developer reasonable opportunity to work with the correct canal oversight authority on plans as well as complete said temporary flood control improvements after the water is removed from the canal for the 2020 water season.

4. Section C of the Eastern Bypass and Connection Road, shall be completed upon the earliest of any of the following events:

a. Within sixty (60) days of the completion, of both connecting road portions of Sections A or B, if construction on those Sections (A and B) begins approximately at the same time or simultaneously; or

b. If either Section A or Section B is completed independent of the other, or construction is begun on either Section, independent of the other, construction of Section C of the Eastern Bypass and Connection Road shall begin within sixty (60) days of the beginning of construction of the later of Section A or B, and then shall be completed within 120 days of the completion of both Sections A and B, subject to weather permitting conditions; or

c. Within 120 days of when eighty percent (80%) of the 1,210 platted units/lots of the entire Red Ledges Development have sold. Should the total number of platted units/lots be reduced or increased, construction will begin within 120 days of when 80% of the adjusted number of lots/units are sold. Should Red Ledges complete platting of lots prior to selling 80% of units/lots, Red Ledges will provide to the City a performance and construction bond for the entire construction costs for Section C and Connection Road of the Eastern Bypass.

4.1 Red Ledges will provide the City a copy of its EMMA quarterly disclosure reports that are submitted to Zions Bank as part of Red Ledges's required report for the Twin Creeks assessment bond, pursuant to a June 30<sup>th</sup>, 2015 Agreement.

4.2. In the event that Section C of the Eastern Bypass and Connection Road is not completed in a timely manner pursuant to these time line triggers, or that any of the time line trigger events of this Agreement are not met, in addition to all other remedies, sanctions and rights of enforcement contained in the Annexation Agreement, Interlocal Agreement, Development Agreement and Master Plan Agreement, the Red Ledges Planned Community Master Plan Agreement (2007), and the First, Second, Third, Fourth, and Fifth Amendment to the Interlocal Agreement Regarding the "Red Ledges Property", and any other associated agreements or contracts pertaining to the Red Ledges Development and Annexation, and pursuant to this MOU, the City may, in its sole discretion, not grant and withhold any further approvals for the associated Red Ledges Development and Projects, including but not limited to subdivision approvals, plat approvals, plat amendments, building permit approvals, inspection approvals, either owned by Red Ledges or its assigns or successors. The decision of the City to withhold any such approvals shall in no way limit or restrict the City from enforcing or seeking any and all other remedies at law, equity or identified or provided for in any of the above referenced Agreements associated with Red Ledges and Heber City and Wasatch County.

5. The timeline of required, preparatory trigger events for completion of Section C of the Eastern Bypass and Connection Road, and to which Red Ledges shall be required to adhere, or be declared in default of its obligations are as follows:

5.1. Completion and submission to the City of an executed surety bond and performance agreement approved by the City in an amount equal to 120% of the estimated total cost for the City to construct the public park, public trail and trailhead, on or before August 31st, 2020. The previous bond requirement for Section C of the Eastern Bypass and Connection Road is postponed until construction bids are awarded on Sections A and B, if construction for both is commenced simultaneously, or, when the construction bid is awarded for the later of either Section A or B. In any such event, said previous bond coverage for Section C of the Eastern Bypass and Connection Road shall be required within twenty (20) days of such above described events. Except as otherwise set forth herein, the extent of Red Ledges duty to secure its surety's obligation to guarantee Red Ledges' performance under this Agreement, and other referenced Agreements herein, shall be limited to the amount of the Security (herein the "Proceeds"). All incidental costs that may exceed the amount of the surety obligation herein, shall, notwithstanding, be available to the City from Red Ledges. Except as against surety, nothing in this Agreement, including but not limited to the surety's limit of liability shall prevent the City from seeking all and any remedies at equity or law against any and all other parties associated with such costs, damages or losses suffered by the City.

5.2. Complete road design and construction documents, approved by the City Engineer for Section C of the Eastern Bypass and Connection Road, the Public Park, and the Public Trail, and dedication of the associated right of way to the City for Section C of the Eastern

Bypass and Connection Road, shall be executed and submitted to the City on or before September 1, 2020.

6. Except as amended hereby or inconsistent herewith, the August 29, 2019, Fifth Amendment- MOU remains in full force and effect.

IN WITNESS WHEREOF the foregoing has been confirmed and agreed to be effective the 12<sup>th</sup> day of August, 2020.

AGREED TO BY:



Matt Brower,  
Heber City Manager  
Heber City, Utah  
On this 11 of August, 2020



Mayor Kelleen Potter,  
Heber City, Utah  
On this 11 of August, 2020



By: Todd R. Cates, VP  
Red Ledges Land Development, Inc.,  
Heber City, Utah  
On this 12<sup>th</sup> of August, 2020

**FIFTH AMENDMENT - MEMORANDUM OF UNDERSTANDING REGARDING A  
TIME LINE OF REQUIRED TRIGGER EVENTS FOR COMPLETION OF RED  
LEDGES' PORTION OF THE EASTERN BYPASS AND CONNECTION ROAD and  
THE ASSOCIATED PUBLIC PARK and TRAIL**

This Fifth Amendment - Memorandum of Understanding ("MOU"), dated as of the 29<sup>th</sup> day of August 2019, is made by and between Red Ledges Land Development, Inc., a Florida Corporation, ("Red Ledges"), and Heber City, Corporation, ("Heber City, or City, or The City"), having offices at 75 N Main St, Heber City, UT 84032 ("City"), collectively hereinafter referred to as the "Parties".

WITNESSETH:

WHEREAS, The Interlocal Agreement, (2007), and the Red Ledges Planned Community Master Plan Agreement (2007) read together, indicate that:

7. c. Red Ledges, at its own expense, will construct the Bypass Road pursuant to city standards; and when it is completed, Red Ledges will deed the underlying land to the City and the City will maintain the Bypass Road in perpetuity. Red Ledges shall plant and maintain the landscaping associated with the public park and Bypass Road in perpetuity..., and

7. f "Red Ledges will complete construction of the Bypass road and Connection Road within one year of final approval of Phase 1..." and

WHEREAS, The said Master Plan Agreement instructs that the following improvements will commence with Phase 5 of Red Ledges:

4. a. v. 2. Red Ledges Community Park irrigation and landscape improvements per the Conceptual Community Park Exhibit in the Master Plan, and

WHEREAS, The Fourth Amendment to Interlocal Agreement Regarding the "Red ledges" Property, provides that the Parties agreed that the completion date for construction of the Bypass and Connection road was extended through October 31, 2019, and that failure on the part of Red Ledges to initiate and finish construction of the Bypass and Connection Road by October 31, 2019, or subsequent granted extensions would constitute a breach of the Interlocal Agreement and the Fourth Amendment. It was further agreed that if that specific breach occurred, the City could choose to withhold any further phase approvals, until the Bypass and Connection Road was completed. (Page 1, paragraph 1 Extended Completion Date for the Bypass Road and Connection Road.), and

WHEREAS, On the 19th day of March, 2019, the City Council passed a Motion not to extend the completion date for construction of the Eastern Bypass Connection Road beyond October 31, 2019, without assurances agreeable to the City, and

WHEREAS, The Parties desire to capture and reduce to writing a time line of required, specific and certain trigger events for the completion of said Eastern Bypass and Connection Road as a City Standard Minor Collector Road, a public park and public trail and

WHEREAS, Red Ledges and the City desire to agree and sign an agreement in respect to a time line of said trigger events, including but not limited to occurrences, constructions, submissions, applications, inspections, respective obligations and duties, and expectations of each Party;

NOW THEREFORE, It is agreed as follows:

1. Subject to acts of God, or delay caused by the City or Heber Light and Power out of the control of Red Ledges, Red Ledges shall initiate and be responsible to complete construction, subject to approval of the City Engineer, with approval from the City Council, the Eastern Bypass & Public Trail, Public Park, and Connection Road identified, and made reference in the above mentioned Interlocal Agreement, (2007), and the Red Ledges Planned Community Master Plan Agreement (2007).

2. Unless otherwise agreed to in writing, the Parties anticipate and are expected that pursuant to and in accordance with this said time line and trigger events, the Eastern Bypass and Connection Road, and public trail, shall be completed on or before May 30, 2021.

3. In the event that the Eastern Bypass and Connection Road is not completed on or before May 30, 2021 or that any of the time line trigger events of this agreement are not met, in addition to all other remedies, sanctions and rights of enforcement contained in the Annexation Agreement, Interlocal Agreement, Development Agreement and Master plan Agreement, the Red Ledges Planned Community Master Plan Agreement (2007), and the First, Second, Third and Fourth Amendments to the Interlocal Agreement Regarding the "Red Ledges Property", and any other associated agreements or contracts pertaining to the Red Ledges Development and Annexation, and pursuant to this MOU, the City shall not grant any further approvals for the associated Red Ledges Development and Projects, including but not limited to subdivision approvals, plat approvals, plat amendments, either owned by Red Ledges or its assigns or successors. The decision of the City to withhold such approvals shall in no way limit or restrict the City from enforcing or seeking any and all other remedies at law, equity or identified or provided for in any of the above referenced Agreements associated with Red Ledges and Heber City and Wasatch County.

4. The time line of required trigger events for completion of Red Ledges' Eastern Bypass and Connection Road, and to which Red Ledges shall be required to adhere, or be declared in default of its obligations are as follows:

a. Completion and submission to the City of an executed surety bond and performance agreement approved by the City in an amount equal to 120% of the estimated total cost for the City to construct the Eastern Bypass and Connection Road, public park and public trail, on or before July 15, 2019. Except as otherwise set forth herein, the extent of Red Ledges to secure its, (Red Ledges'), performance under this Agreement, and other referenced Agreements herein, shall be limited to the amount of the Security (herein the "Proceeds"). All

incidental costs that may exceed the amount of the surety obligation herein, shall, notwithstanding, be available to the City from Red Ledges. Except as against surety, nothing in this Agreement, including but not limited to the surety's limit of liability shall prevent the City from seeking all and any remedies at equity or law against any and all other parties associated with such costs, damages or losses suffered by the City.

b. Completion and submission to the City of approved and complete road design and construction documents, approved by the City Engineer for the Eastern Bypass and Connection Road, Public Park, Public Trail, and dedication of Eastern Bypass including Public Trail & Public Park right of way to the City, on or before October 31, 2019. In addition, Red Ledges will dedicate easements to the City for all Red Ledges public trails upon default or the City's acceptance of such road and park. Furthermore, Red Ledges will convey the deed to the land for the Eastern Bypass Road and Public Park to the City upon default or the City's acceptance of such road and park.

c. Award of a construction contract and beginning construction, on or before March 1, 2020.

d. Completion of the road substructure, which for the purposes of this Agreement shall mean all improvements and underground utilities for the road except asphalt, curb and gutter, and trail on or before October 1, 2020.

e. Completion and City approval and acceptance of the road construction project, on or before May 30, 2021.

If, upon the City's written notice to Surety of Red Ledges' failure to perform as per the preceding time line, the proceeds are not remitted to City within thirty (30) days of demand, or the improvements are not installed within a reasonable time period determined by City, then Red Ledges acknowledges and agrees that City shall be allowed to proceed against Red Ledges without further notice for all City's costs of obtaining the Proceeds and/or completing the improvements.

5. Inasmuch as the Red Ledges development has now geographically entered Phase five (5), pursuant to aforementioned Agreements, and this Agreement, Red Ledges agrees to complete the Public Park adjacent to Center Street, and running adjacent along the western edge of the Eastern Bypass Road on or before October 1, 2020. Said Park shall be developed in accordance with the Conceptual Community Park Exhibit in the Master Plan and notwithstanding that Exhibit shall include at a minimum the following key elements:

a. Native & irrigated grasses with necessary topsoil for good growth south of the Stone Creek retention pond to existing Lake Creek trail. Park grade & elevations shall be similar to surrounding land & Bypass Road elevations with ability to add berms, sandstone rocks, and sculpting the land to add interest to the park.

Red Ledges will plant native grass and plants in all other areas of the park not dedicated to trails and irrigated grass turf. Red Ledges will place clean top soil of 1 to 3 inches

on an as needed basis on disturbed areas where top soils have been removed and plant native grass and plants in all other areas of the park not dedicated to trails and turf. Red Ledges will be responsible to assure the establishment & maintenance of the native grass and plants for two years after dedication of park to City.

b. A public, gravel trail system that runs around and through the interior of the Park, including around the retention pond. The design and location of park trails will be done with cooperation and approval of Heber City prior to construction. Red Ledges will locate, design and construct, with approval of Heber City. All public trails will be based on the *Second Amendment to Interlocal Agreement Regarding the "Red Ledges" Property* dated January 14, 2013; furthermore, the internal park trails will be governed by this 'Fifth Amendment - Memorandum of Understanding.'

c. Two Family size covered picnic pavilions with electrical outlets and a minimum of ten feet irrigated grass around each pavilion including approximately 8 inches of clean top soil under irrigated grass. Electric metering will be assigned to City upon dedication of Park.

d. Pedestrian trail access to Timp Meadows/170 North to the west of Park with the City making necessary improvements to the Wasatch Canal. Red Ledges will contribute up to \$15,000 to City for costs of Canal Bridge by May 30, 2021.

e. Trail access and connections to Center St. and Eastern Bypass public trails.

f. At least 10 Park Benches.

g. 1 permanent unisex restroom with attendant lighting.

h. Asphalted public parking for onsite trail head and Public Park with nighttime lighting per standards of at least 15 parking spaces, which will be asphalted on or before May 30, 2021.

i. Minimum two water drinking fountains & faucet spigots in park area south of retention pond.

5.1. Except for the two-year native grasses & plants maintenance requirement, Heber City shall be responsible for the perpetual care and maintenance of said Public Park upon dedication. Heber City will accept responsibility for perpetual maintenance of pavilions, irrigated turf areas, parking area, public bathroom, all public trails located in the park, and all other areas of the park. City's maintenance responsibility will commence upon: 1) completion of all park amenities detailed in this MOU, and 2) dedication of all park property to Heber City on or before May 30, 2021. Said deed shall include a statement of reversion that the City will deed the land back to Red Ledges Community Association, Inc., if City chooses not to maintain public park as a park as is, in perpetuity. In the event that the City chooses to deed land back to Red Ledges Community Association Inc., it will maintain the public park as is, in perpetuity.

Perpetual maintenance of the public trails is to be the responsibility of Red Ledges including within Red Ledges and along the Eastern Bypass Road and Center Street trails. Red Ledges agrees to maintain trails and asphalt to City standards.

6. Red Ledges agrees to complete the Public Trail that runs through the park adjacent to Center Street, and running adjacent along the western edge of the Eastern Bypass on or before May 30, 2021. Red Ledges will also install the public trail on the southern edge of the Connection Road on or before May 30, 2021 per same standards below in 6a., b., & c., except installing asphalt. Said Public Trail on the Eastern Bypass Road shall be developed and completed pursuant to the trail plan or other such trail references appertaining to any aforementioned Agreements, this Agreement, and City standards, and shall include at a minimum the following:

- a. 8' wide asphalt, 3" thick, 6" road base, and weed barrier.
- b. Trail access, crossings, and connections to Red Ledges public trail system at Center Street and the north east corner of the Eastern Bypass and Connection Road.
- c. No vehicles or vehicular traffic shall be allowed on the Public Trail or associated amenities, except City, Red Ledges, or County maintenance vehicles.

6.1. Notwithstanding the Second Amendment to the Interlocal Agreement, clause 9; Red Ledges shall be responsible for the perpetual care and maintenance of said Public Trail and all public trails listed in the Second Amendment. Red Ledges agrees to maintain trails and asphalt to City standards.

6.2 Any public accesses to said Public Trail shall be recorded.

7. Red Ledges agrees that all trails designated as public trails in the *Second Amendment* on private and public property, including trails within the public park, are available for general public use and not to be restricted to private only use.

8. Red Ledges agrees to finalize and complete the open space agreement with Wasatch County pursuant to aforementioned Agreements and this Agreement by June 15, 2020, pending county approval.

9. This Agreement is effective upon signature by the parties and will remain in effect unless and until terminated by mutual agreement.

10. This Agreement shall in no way supersede, replace or impose requirements or processes provided for by any local, state or federal land use laws or ordinances, or any other associated agreements or contracts pertaining to the Red Ledges Development and Annexation, some of which are mentioned herein.

11. AMENDMENTS This Agreement may be modified or amended only by written agreement among the parties hereto. Any terms or conditions not set forth in this Agreement, but expressly agreed to in a future MOU signed by the City and Developer shall be considered integrated into this MOU.

12. TERMINATION This MOU may be terminated at any time by mutual written agreement of all parties. Expiration or termination would affect only pursuit of new projects under the MOU. Projects completed or in progress will be governed by the specific individual agreements set forth herein as they apply to such projects.

13. AUTHORITY The City Manager and Mayor executing this MOU represent and warrant that they are signing this MOU with full approval of and authority granted by the Heber City Legislative Body.

14. REMEDIES In the event of any party's default under this Agreement the non-defaulting party or parties may, in addition, but not limited to any and all other remedies afforded them by local, state or federal law, or in the Agreements referenced and mentioned above herein, or this Agreement, sue for injunctive relief and/or damages. The prevailing party or parties shall recover their costs and attorney's fees.

IN WITNESS WHEREOF the foregoing has been confirmed and agreed to be effective the 29<sup>th</sup> day of July 2019.  
AUGUST

AGREED TO BY:

  
Matt Brower,  
Heber City Manager

Heber City, Utah  
On this 29<sup>th</sup> of July 2019

  
Kelleen Potter

Mayor/Kelleen Potter,  
Heber City, Utah  
On this 29<sup>th</sup> of July 2019

  
Red Ledges Land Development, Inc.,

  
Todd R Cates, VP  
Heber City, Utah  
On this 29<sup>th</sup> of June, 2019

WASATCH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF UTAH:



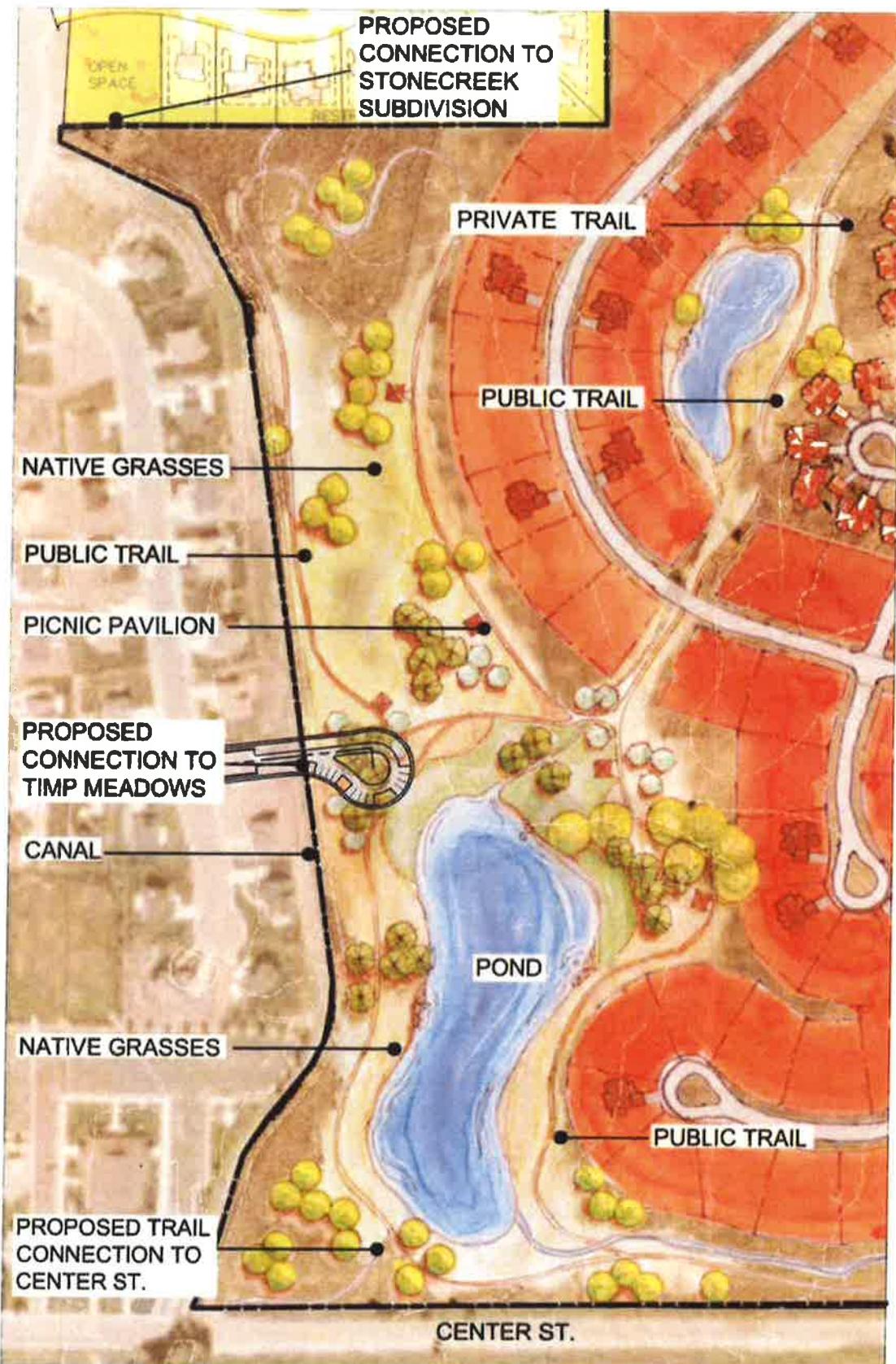
Mike Davis, Wasatch County Manager  
Heber City, Utah  
On this 30<sup>th</sup> of September, 2019

TWIN CREEKS SPECIAL SERVICE DISTRICT:



Ron Phillips, Twin Creeks Special Service District  
Heber City, Utah  
On this 10<sup>th</sup> of September, 2019

RED LEDGES MASTER PLAN PARK EXHIBIT 11/22/06



**PUBLIC PARK**  
19 ACRES



0 50 100 200 300  
SCALE: 1"=100'

Red Ledges Land Development, Inc.  
2 S. Main Street  
Suite 2-A  
Heber City, UT 84032

May 8, 2009

Mayor David R. Phillips  
75 North Main Street  
Heber City, UT 84032

Re: Interlocal Agreement Regarding the "Red Ledges" Property

Dear Mayor Phillips:

Paragraph 9 of the Interlocal Agreement Regarding the "Red Ledges" Property executed by and between Wasatch County, Heber City, Twin Creeks Special Service District and Red Ledges, LLC on November 21, 2007, pertaining to the ""City's Widening of Center Street" provides that Red Ledges shall provide financial assistance to the "City" to renovate the City's Center Street between Main Street and Mill Road up to a maximum of one-third of the cost of such renovation, with Red Ledges' share of the expense not to exceed One Million Dollars (\$1,000,000.00). City representatives have advised that the total cost of the Center Street widening project will be approximately \$3,500,000.00 and that the \$1,000,000.00 maximum amount provided for in the Agreement will be required to be paid by Red Ledges to the City.

Based upon discussions with members of your staff, all interested parties have agreed that the \$1,000,000.00 amount required to be paid by Red Ledges Land Development, Inc., as successor to Red Ledges, LLC, in accordance with the provisions of paragraph 9 of the Interlocal Agreement shall be paid in six (6) monthly installments commencing on June 1, 2009 and on the first day of each month thereafter through November 1, 2009 in the following amounts: \$166,666.66 on June 1, July 1, August 1, September 1 and October 1 and a final payment of \$166,666.70 on November 1, 2009.

Please sign and return the enclosed copy of this letter to confirm our understanding and agreement with reference to the agreed installment payment arrangement to satisfy the \$1,000,000.00 obligation in accordance with the provisions of paragraph 9 of the Interlocal Agreement.

Best regards,

Yours sincerely,

Red Ledges Land Development, Inc.

  
Todd Cates, Vice President

Acknowledged and agreed this 13 day of May, 2009.

By: David R. Phillips  
Title: Mayor



# Heber City Council Staff Report

<b>MEETING DATE:</b>	7/1/2025
<b>SUBJECT:</b>	Ordinance 2025-08 adopting the Central Heber Overlay Zone (CHOZ)
<b>RESPONSIBLE:</b>	Tony Kohler
<b>DEPARTMENT:</b>	Planning
<b>STRATEGIC RELEVANCE:</b>	

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## SUMMARY

After the Central Heber Vision was adopted last year, the City has been working on implementation. Already pieces of the Vision are underway. As part of that Vision, transitions from the commercial/mixed use downtown (the C-3 zone) area into the Central Neighborhoods and the possibility of creating infill options for the Central Neighborhoods became recommendations within the Vision. The draft Central Heber Overlay Zone, CHOZ, is intended to implement those parts of the Vision.

CHOZ includes two sub-districts. One sub-district, the Transition Corridor (TC) covers the transition areas located essentially in a north south direction east and west of the C-3 zone but also including the Midway Lane area, west to about 600 West. The second sub-district, the Central Neighborhoods (CN), covers the downtown existing neighborhood generally in the R-2 and R-3 zones.

Part of the intent of the CHOZ is to provide a balance of rental and ownership opportunities in the Downtown. Some of the options provide the potential for affordable housing that could be owner occupied. Some options are strictly rental situations, but long term rentals.

The Council held a workshop where a PowerPoint presentation covered many of the aspects of the CHOZ. The intent of this workshop is to review the actual draft ordinance and discuss several issues that have arisen.

## RECOMMENDATION

The staff requests the City Council to study the draft and be prepared to ask questions and address issues. New changes since the PC recommendation are in red.

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## BACKGROUND

Envision Heber Phase 3, included the Vision for Central Heber, a grass roots process that created a series of recommendations for the Downtown area.

## DISCUSSION

Within the general CHOZ Overlay, there are two sub-districts: Central Neighborhoods for the neighborhoods, and the Transition Corridor District (east and west of Main Street and along Midway Lane). The intent of each district is as follows:

Central Neighborhoods District (CND). The Central Neighborhoods District, as part of the Central Heber Overlay Zone, has been established to allow for various forms of infill. These include flag lots, small lots, and certain missing middle housing types. The CND adds additional housing flexibility to the R-2 and R-3 zones in the Downtown area.

In general, additional uses are proposed, especially for various housing types. Some new housing concepts are proposed including, flag lots, smaller lots (based on your current infill ordinance), duplexes, twin homes, and ADUs which are already allowed

Some spatial requirements have been made more flexible but all development types will accommodate needed easements for Public Works.

Design standards are based on the type of building being proposed.

A new small lot concept is also suggested which would allow for a detached ADU-like lot accessed by a permanent easement with a requirement for the owner to live in the new dwelling.

Transition Corridors District (TCD). The Central Heber Vision suggests an additional mix of uses could be considered as a transition to the residential neighborhoods east and west of the Main Street area and along Midway Lane. The Transition Corridors District (TCD) has been established to promote limited uses with a mix consisting of residential and commercial uses. The mix of uses would allow for medium to higher density residential uses, with occasional corners for lower intensity commercial uses. The TCD has several suggested transitions as you closer to the 200s. A portion of the TCD, between 150 West and 150 East, has been identified by the Central Heber Vision, as an area to be considered for rezoning to C-3 Commercial.

## CND and TCD housing and use options

Difference between the two sub-districts – see table 18.83.040

Some changes and issues have recently been discussed:

- Updated town house section – suggest no more than 5 attached units and if the units do not face the street (are oriented away from the street), the end unit closest to the street has to face and be accessed from the street— Max of 5 total units in a project in the CND but no project size limitation in the TCD, just no more than 5 attached units in one building
- Double deep flag lots have been re-introduced
- Previously dropped Mansion apartments from CND but a recent idea suggests dropping the duplexes and twin homes and replacing those with Mansion Apartments which would allow 2 through 4 units. This would mean a 2 unit Mansion Apartment has more standards which it needs to meet. State law changes have impacted creating design standards for duplexes, twin homes and single family dwellings.
- Flag lots, detached ADUs, and SDUs emphasize standards that make them subordinate to avoid the “neighbors in my backyard” issue
- Staff suggests keeping the 35' height limit as a general standard but that is reduced for flag lots, detached ADUs, and SDUs to 1.5 stories
- The safety requirements for Public Works and the Fire Department have been pulled together as a general set of requirements applicable to all new development. The Fire Department's hose rule is quite restrictive for many of our deeper lots (150' to the midpoint at the rear of the building). Interior sprinkling requirements which create more flexibility, may need to occur more than anticipated.
- Issues have been raised about some of the building design requirements increasing costs of construction.
- Several graphics need updates so please focus on the text and realize that some of the labels on the graphics need to be changed.
- Some housing types require permanent owner occupancy and others require longer term rentals

## FISCAL IMPACT

None at this time

## CONCLUSION

The CHOZ is intended to implement the Central Heber Vision.

## ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

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## POTENTIAL MOTIONS

N/A

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## ACCOUNTABILITY

**Department:** Planning  
**Staff member:** Tony Kohler, Community Development Director

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## EXHIBITS

1. CHOZ draft for 7 1 25
2. Ord 2025-08 CHOZ (2)

## **18.83 Central Heber Overlay Zone (CHOZ)**

Draft update for the July 1 workshop

- 18.83.010      Purpose**
- 18.83.020      Permitted and Conditional Uses**
- 18.83.030      Spatial Requirements**
- 18.83.040      Building Typologies & Design Requirements**
- 18.83.050      Visual Screening**
- 18.83.060      Definitions**
- 18.83.070      Related Provisions**

### **18.83.010      Purpose**

To implement the Central Heber Vision of the General Plan, the Central Heber Overlay Zone (CHOZ) is hereby created to include two distinct land use districts. If the use of the Overlay is desired by an applicant, the uses and standards of this chapter shall apply.

- A. **Central Neighborhoods District (CND)** is established to allow for various low intensity forms of infill, combined with options to preserve historic homes. Infill options include certain missing middle housing types and historic building use flexibility.
- B. **Transition Corridors District (TCD)** is established to permit a moderate intensity mixture of residential and commercial uses. The TCD serves as a transition area from the C-3 Commercial Zone westward and eastward of Main Street to existing residential neighborhoods. The district also serves as a connecting land use from the C-3 Commercial Zone westward to the area containing the new high school, railroad and Southfield Park. The TCD promotes missing middle housing types, historic building use flexibility, mixed use buildings and lower intensity commercial uses. A portion of this area, located between 150 W/E to the C-3 Commercial Zone, has been identified by the General Plan as an area to be considered for rezoning to the C-3 Commercial Zone, in the future.

### **18.83.020      Permitted and Conditional Uses**

The underlying zone uses remain. The CHOZ includes additional uses and limitations as described below. In order to accomplish the objectives and purposes of this title and to stabilize and protect the essential district characteristics, the following uses are allowed the CHOZ:

#### **A. Land Use Regulations Terms**

P = PERMITTED USE (P) A site plan application is required with staff processing. Site plan applications are approved, when and if they meet the ordinance standards.

C = PLANNING COMMISSION CONDITIONAL USE REVIEW (C). A site plan application with Planning Commission review is required.

N = not allowed in the particular overlay area

- B. Within the Table, if a use is not specifically designated below, then it is prohibited, except as specified in the underlying zone.

All uses listed in the use table, that require a building permit shall also require a site plan application.

### Permitted and Conditional Use Chart

#### 18.83.020.1

Land Use	CND	TCD	Limitations
Residential attached units	P	P	See Section 18.83.040 for permitted building types per district. 5 or less units per building and project is limited to 5 units
Residential attached units over 5 units	N	C	See Section 18.83.040 for permitted building types per district,
Artist studios & live-work	N	P	
Office, Retail, Services and Secondhand Stores	N	P	<ul style="list-style-type: none"> <li>• Max 5000 sf footprint</li> <li>• See note 1 below</li> <li>• Tattoo parlors, tobacco shops, adult related businesses, pawn shops &amp; cannabis facilities are prohibited)</li> </ul>
Cafes/restaurants, bakery, outdoor dining	N	C	<ul style="list-style-type: none"> <li>• No drive-up windows</li> <li>• No fast food</li> <li>• See note 1 below</li> </ul>
Hotels	N	C	See note 1 below
Medical offices, clinics	N	P	See note 1 below
Institutional/Religious, Museums & Public Uses	C	P	
Fitness centers & gymnasiums	N	P	See note 1 below
Commercial day care	N	P	As regulated by State Law
Home occupations, home based pre-school, daycare and micro-school	P	P	As regulated by Section 18.68.609 & State Law
Public/Private schools	C	P	As regulated in State Law and Section 18.68.230. Size limitations may be imposed.
Signs	N	P	<ul style="list-style-type: none"> <li>• As regulated by Section 18.104</li> <li>• Further limited to one monument sign (max 15 square feet and 4' in height) with a rock/brick base, and one wall sign (max 24 square feet and 3' in height) or one projecting sign (as per the standards in 18.104)</li> </ul>

Note 1 - For the TCD, permitted only for properties fronting 100 South and for properties fronting 100 East and 100 West

#### 18.83.030 Spatial Standards

- A. The minimum spatial standards shall be as set forth in the underlying zone, with the addition of Small lots, Flag lots and SDUs, as described below.
- B. The maximum height of all principal structures shall be thirty-five feet and accessory buildings shall follow the requirements of the underlying zone.

**General Spatial Requirements \***

**Table 18.83.030.1**

Frontage	Min Front Setback	Min Rear Setback	Min Side Setback	Min Area & Depth	Max Height
All other buildings must meet the frontage requirements of the underlying zone	15 feet min from public right of way; 10 feet min for flag lots from PUE/access easement to any building	15 feet to property line	5 feet min to each side property line; 15 feet min from public right of way	As per the underlying zone or as specified in section 18.83.040 98 foot min depth for corner lots	25-foot 1.5 stories max for flag lots, detached ADUs, and SDUs; 35 foot max for all other buildings

\*Other standards may apply elsewhere in this code, such as 18.83.040

**18.83.040 Building Typologies & Design Requirements**

**Table of Permitted Building Types per District**

**18.83.040.1**

Building Typology	CND	TCD
Small lot	P	N
Flag lot (s)	P	P
Subordinate Dwelling Unit (SDU)	P	P
Detached and Internal Accessory Dwelling Unit (ADUs)	P	P
Townhouses (small – no more than 5 attached units per building)	P	P
Townhouse complexes (more than one building)	N	C
Mansion style apartments/condominiums	N (alt "C")	C
Duplexes (alt delete)	C	C
Twin Homes (alt delete)	P	P
Commercial Building	N	P
Mixed Use Building	N	P

- A. Those who desire to convert homes**, lots or other buildings to commercial use or multi-family use shall maintain the required landscaping. No parking is allowed in the front yard.
- B. Rooftops** may be used as garden type open space, and/or passive recreation space.
- C. All Rooftop** Heating, Ventilating, and Air Conditioning equipment (HVAC) shall be enclosed or screened such that it is not readily recognizable as HVAC equipment.
- D. Special Standards** for certain uses and structures.
  1. Non-residential uses shall not produce noise exceeding fifty-five (55) decibels as measured at the property line, vibration, fumes smoke, dust or other particulate

matter, odorous matter, heat, humidity, glare, electrical interference or other objectionable effects.

2. Where garages are built, they shall be wired for a minimum of 220 Volt vehicle charging.
3. Temporary outdoor sales are allowed.
4. 10 foot wide dry utility easements shall be provided along each public and private right of way. Dry utility placement shall occur in the public Right of Way or through negotiated locations such as the private drive/street, an alley or a public utility easement (PUE) on private property. A determination of the best locations for utilities shall occur during the application process with an application requirement for a conceptual utility plan as part of that process. No above ground utilities, especially utility boxes, shall be placed in the clear view of an intersection or driveway. Any above ground utilities shall be located in an easement (PUE) behind the front face of the building, and preferably to the rear of the building.
5. All development proposed within this overlay is subject to the normal review processes of the City. The City Fire Department shall review, provide comments/recommendations, and resolve any access and fire suppression related issues.
6. When located on private property, sewer, water, and irrigation shall be metered from the public ROW and distributed through the development as private ownership. Such extensions are not a City responsibility.
7. **When rented, all housing types, except ADUs, shown in table 18.83.040.1 shall have a minimum lease period of one year.**

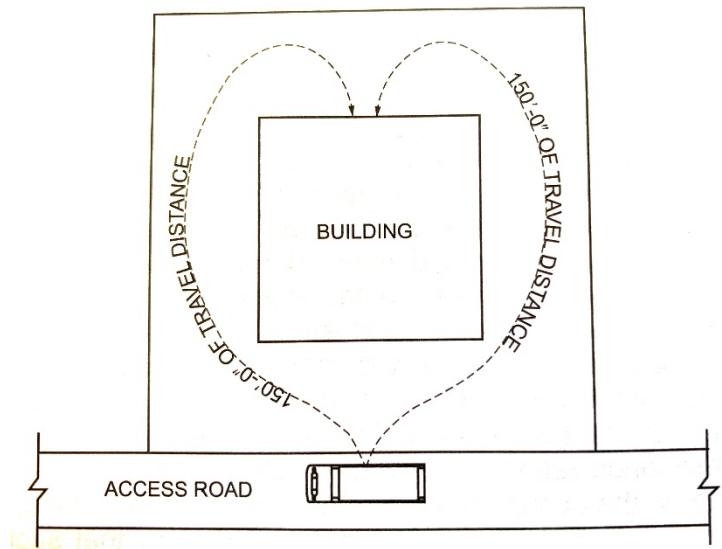
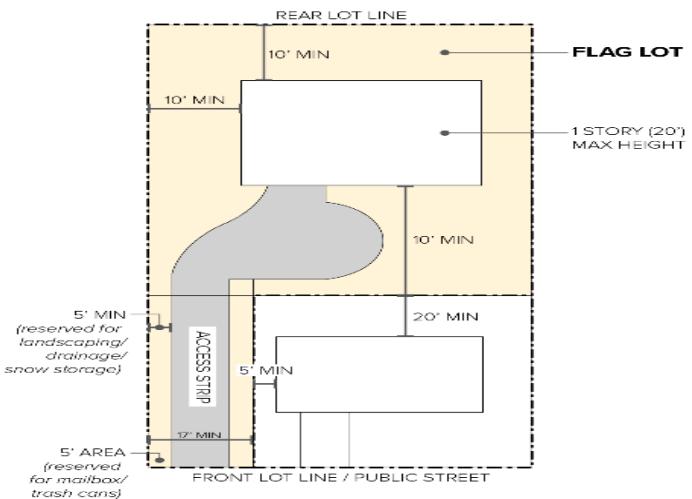
**E. Small lots.** Smaller lots than the standard lot size required in the R-2 and R-3 zones are allowed as follows:

1. Such interior lots may have a width no less than 49' at the front yard setback and if located on a corner, 56' wide.
2. Any street facing garage shall be setback from the front face of the dwelling by at least ten feet.
3. Lots with a detached rear yard garage are required to have a minimum twelve (12') foot side yard from the side property line, to accommodate a driveway to the required rear parking. The opposite side yard setback is a minimum of six (6) feet.
4. A minimum lot size of 3,500 square feet is required.

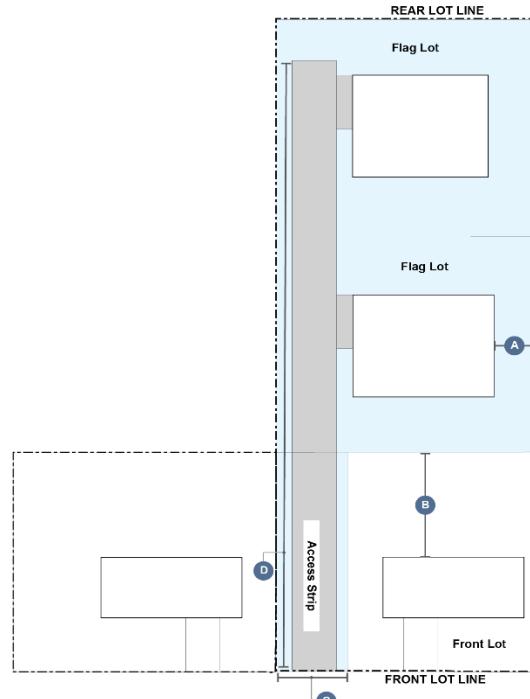
**F. Flag lots.** Flag lots shall meet the following requirements. These requirements supersede the requirements for flag lots in Section 18.52.050:

1. Up to two (2) flag lots (plus the existing home) may be created from an existing parcel of property.
2. **Homes shall not exceed 1.5 stories in height and 10' rear, front, and side yard minimums are required.**
3. **The existing home shall maintain a minimum of a 20' rear yard.**
4. The flag lot (s) shall be used exclusively as a single-family residential dwelling which includes the potential for one internal Accessory Dwelling Unit and shall be located to the rear of the original or front lot. If the dwelling on the front lot is torn down, any new dwelling shall face the adjacent street.

5. The main body of a flag lot, exclusive of the access strip, shall be no smaller than 50% of the required lot area in the zone in which it is located.
6. The existing front lot shall meet the required lot area, lot width, front yard, side and rear yard setback requirements for the governing zoning district in which it is located.
7. The access strip portion of a flag lot:
  - a. Shall be at least 17'-15' wide for its entire length from the street to the point where the access strip adjoins the main body of the flag lot **with a minimum of 12' of pavement**;
  - b. Shall be paved except for **The 15' driveway shall include, 5'-3' reserved for landscaping/drainage/snow storage adjacent to the neighboring property line**, unless agreed to in writing by the adjoining property owner;
  - c. Hard surfaced driveways shall be located a minimum of **5'-3'** from any existing home on the original or neighboring lots;
  - d. **No driveway gates are allowed.**
  - e. Shall front on a public street;
  - f. Shall not exceed one hundred fifty feet (150') in length **measured to the midpoint at the back of the flag lot home, measured as a pedestrian would walk from the street to the back of the home, see attached diagram for reference**. **unless approved by the Fire Department**. All flag lots/homes shall be within 600' of a fire hydrant, as measured along the roadway and access to the front door and/or garage. Interior sprinkling may be required for homes further than 150' from the public street and all flag lots are subject to Fire Department approval.



- 1) Where the 5' **3'** landscaped area abuts the public street, it shall contain a mailbox (s), displaying the lot address (s), and a gravel or paved area for trash cans.
- g. Any flag lot/home exceeding the 150' regulation shall have a minimum 16' wide, paved driveway with the 3' buffers on each side and an approved turnaround, as per Fire Department standards.
8. Where two flag lots are proposed behind a lot fronting on the public street, the middle lot may have a zero lot line using the property line adjacent to the furthest lot.
9. Two (2) adjoining flag lots may share a common access strip only if the access strip is **a paved twenty-two (20'-22')** wide or greater **width** – this includes a 5' landscaped drainage/snow storage area ~~and 15' of pavement. A Fire Department approved turnaround is required.~~
10. The access strip portion of a flag lot shall be platted as a contiguous portion of the flag lot(s) or as an easement but require public utility easements for access and public utilities from the original lot and to the adjacent street, in addition to recorded agreements about maintenance by the property owners.
11. The subdivision plat shall include an outline of the buildable area proposed for the home (s).
12. 2 parking spaces are required for each home, as well as a turnaround area to prevent the need to back out through the driveway/access strip.
13. The address of the flag lot dwelling (s) shall be clearly visible on the home when viewed from the access strip and on the mailbox along the public street.

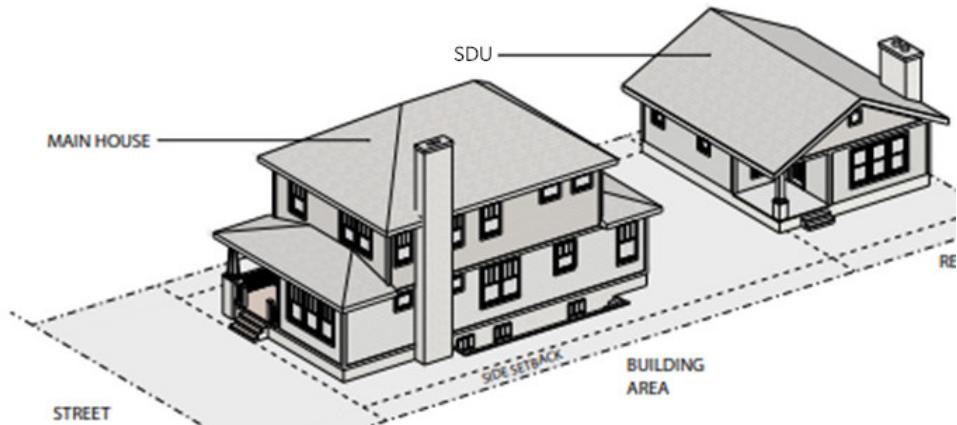


## G. Subordinate Dwelling Units (SDU)

1. These ordinance provisions only apply to lots 5000 square feet and larger and located in the CHOZ. If an SDU can be located on a property, it is considered an additional voluntary benefit provided to the homeowner and therefore is subject to additional regulations.
2. A Permitted use application for a Subordinate Dwelling Unit (SDU) is required. Such applications shall show the footprint and height, materials/design of the SDU, the proposed lot, side yards, rear yards, the designated front yard, and the proposed

permanent access easement. In addition, a subdivision plat and processing is required.

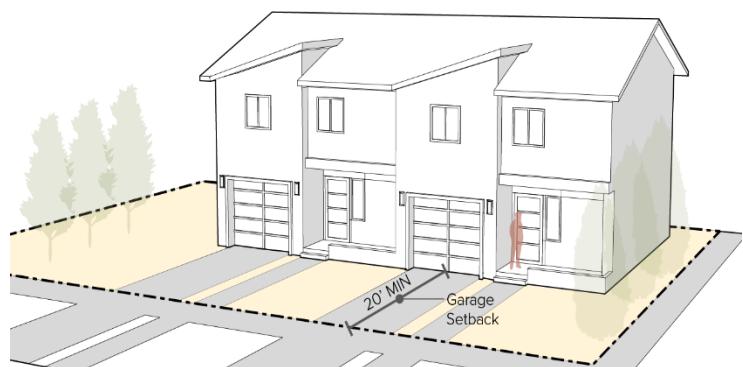
3. Standards: The following standards and conditions shall apply to all SDUs:
  - a. Location: A SDU shall only be allowed as part of, or in conjunction with, a single-household dwelling, and SDUs shall contain no more than a ~~one-story 1.5 stories (pitched roof excluded)~~ and shall have minimum side and rear yard of 5 feet ~~or as allowed by Building Code standards~~. The front yard shall have a minimum of 10' unless adjacent to a street or alley, where 15' minimum is required.
  - b. Number: A maximum of one SDU is allowed and only the original, existing dwelling may contain an additional internal ADU. The SDU shall not have an internal ADU.
  - c. Parking: At least one off-street parking stall shall be provided for the SDU. The required parking space may be a designated tandem space on the original lot as a permanent easement area. Parking spaces shall be identified on the subdivision plat. ~~In addition, the parking area shall include sufficient space for garbage cans and a mailbox clearly displaying the address of the SDU, adjacent to the public street.~~
  - d. Design And Character: The SDU shall be designed to reflect the architecture of the existing home but as a small home with painted wood, composite wood-like appearing materials, brick or stone exteriors as well as a pitched roof, 3' by 12' minimum.
  - e. ~~No SDU shall be allowed to be located further than 150' from the public street as measured to the midpoint at the rear of the SDU and measured as a pedestrian would walk from the street to the back of the home. All SDUs shall be within 600' of a fire hydrant, as measured to the midpoint at the rear of the SDU.~~
4. Size: An SDU shall be subordinate to the footprint of the original single-household dwelling. The SDU shall not have more than an eight hundred (800) square foot footprint. ~~Basements are encouraged. If a garage is desired, it is not included in the 800 square foot footprint.~~
5. Lot Size and Frontage:
  - a. The original home shall be located on a lot that is at least 5000 square feet and meet the setbacks as specified in this ordinance.
  - b. No frontage on a public street or alley is required for an SDU, but a walkable or drivable permanent access easement is required (see 11 below).
6. Foundation: The SDU shall be secured to a permanent concrete foundation in accordance with the International Building Code, as adopted and amended by the City.
7. Occupants: The SDU shall be ~~owner~~ occupied exclusively by one household.



8. The SDU shall be permanently occupied by the owner. The City may require the recording of an instrument with the property to notify the public of this requirement.
9. The SDU shall have separate utilities from the original dwelling.
10. An SDU shall have a recorded permanent access easement or a deeded driveway. If the permanent access easement can only accommodate pedestrians, then the original lot shall accommodate the required one additional parking space. Such walkable pathways shall be a **minimum** width of 5' to 12' and shall connect to the public street. Such pathways shall be unobstructed, maintaining a clear path free of debris and impediments to access.
11. Accessory buildings shall meet the standards for accessory buildings in the existing zone. Accessory buildings shall be subordinate in height to the SDU. Once a front yard is designated, accessory buildings are not allowed in the front yard.
12. The front entry shall include a covered porch at least 6' deep and contain at least 60 square feet.

**H. Duplexes and Twin homes (*option to delete*):** as an extra allowance in the CHOZ, construction of a duplex or a twin home is considered an additional voluntary benefit provided to the property owner and therefore is subject to additional regulations.

1. If garages are proposed, the garage door shall encompass no more than 40% of the front façade (A) and shall be recessed, a minimum of 5', as per the drawing below.
2. If garages are proposed for each unit, they shall not be placed adjacent to each other and have a minimum setback of 20'.
3. Vinyl, aluminum siding and stucco are not allowed.
4. Separate utility lines and connections are required for each unit.
5. Duplexes located on a corner lot shall have one unit facing each street.
6. Twin homes require an agreement between the owners to be recorded specifying how shared walls, roofs, yards and drives are to be maintained.

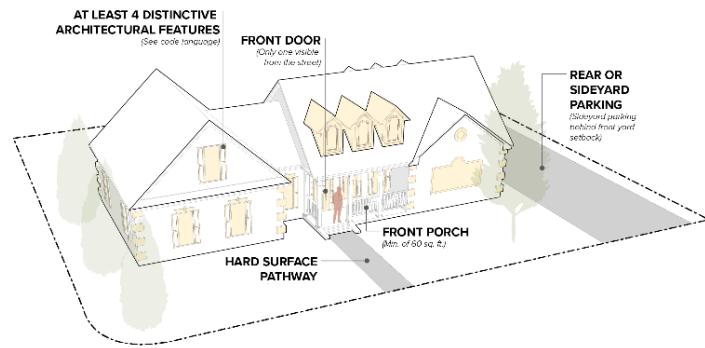


7. Twin homes require a subdivision plat.

**I. Mansion Style Apartments/condominiums.** Shall be designed to resemble larger homes and shall only have one visible front door as viewed from the public street. The front door area shall include a porch with a minimum of 60 square feet and a hard surfaced pathway to the street. Parking shall be provided to rear or side beyond front yard setback. Vinyl, aluminum and stucco wall surfaces are not allowed. **Mansion Style apartment/condominiums may accommodate 2 to 4 units.**

All Mansion Style apartment buildings shall include at least 4 distinctive architectural features from the following list (only one item from each numbered item below, as a minimum) and shall be incorporated in each building:

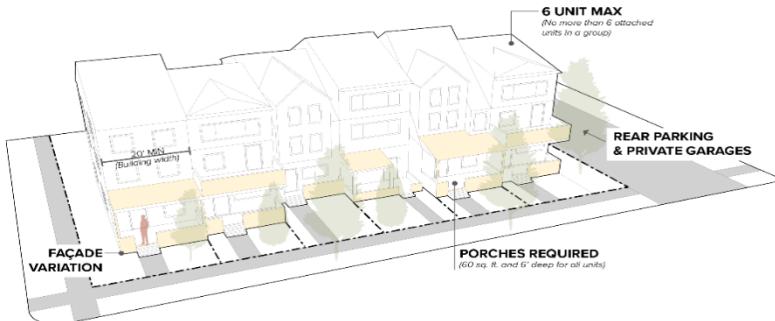
1. Ornamental details such as knee braces, exposed joists, decorative vents, window shutters.
2. Box or bay windows
3. Balconies with at least 50 square feet.
4. A minimum of 5 windows, 12 square foot minimum on the front façade.
5. A substantial/noticeable change of material applied to the front façade.
6. A substantial/noticeable change of color applied to the front façade.
7. A change of pattern that is substantial/noticeable on the façade (Example: changing brick work from face brick to a soldier course or basket weave pattern.)
8. Brick or stone along the front of the building, covering at least 25% of the front of the building.
9. Materials – brick, stone, wood, cement composite materials, and metal accents.



Separate utilities for each unit are required if condominium units are proposed.

**J. Townhouse.** Horizontally attached multi-story units in a rowhouse configuration. This building type can include live/work units. If live work is included, such units shall not exceed 3000 square feet of business usage, not more than 50% of the floor, and no more than 5 employees. If end units face the street, they shall **they shall address the street with a front door and a porch and** include windows covering at least 25% of the façade for each floor. Parking and private garages shall be to the rear of the building allowing the primary façade to front a public street or public greenspace. Garages shall include the infrastructure for a 220 outlet capable of faster car charging. Provide outdoor covered balconies or patios for 100% of the units at a minimum of 6 feet deep and 60 square feet each.

Building width shall be a minimum of 20'. Guest parking shall not include any driveway area that accesses a garage. No more than 5 attached units per building. Setbacks for each unit shall be varied at least 2' feet where a development has more than 5 units. Townhouse developments with over 12 units shall include at least a play structure and a barbecue/seating area and one passive leisure space of at least 3000 square feet. Separate utilities for each unit are required and may require easements for units that are distant from a public street. Building heights shall not exceed 35 feet. An HOA is required.



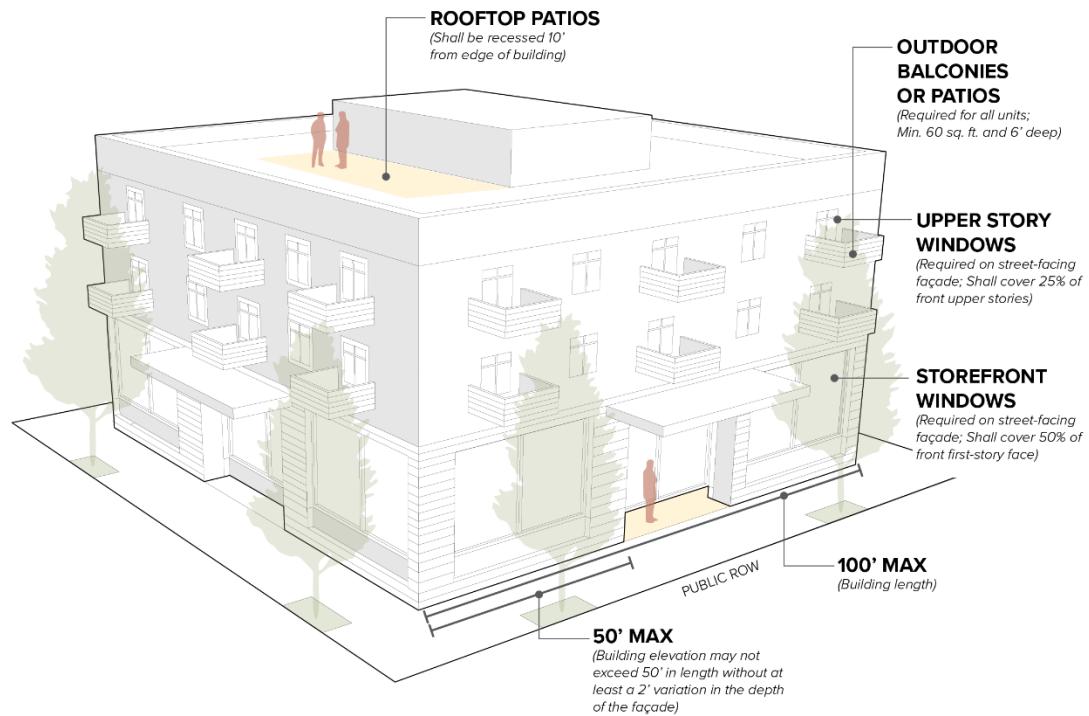
**K. Mixed-use buildings.** Intended for a mix of primarily residential with commercial/office or commercial and office uses required to be located on the first floor, and optional above the first floor at or near the front build-to-line with parking to the rear, underground, or podium type. No podium parking is allowed to front a street. This building type may support office, retail, hotel/hospitality or residential uses mixed vertically. For residential units, provide outdoor balconies or patios for 100% of the residential units at a minimum of 6 feet deep and 60 square feet each. No wood burning fireplaces, stoves, appliances, or outdoor fire pits are allowed. Provide indoor bike storage or bike lockers. Rooftop patios are allowed but shall be recessed ten feet from the edge of the building.

Exterior materials of a durable or resilient nature such as brick, stone, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics are required. Roughhewn, exposed wood beams, columns and supports are required for all facades facing a street. New development in the TCD shall incorporate common, locally found materials such as granite, stone, sandstone, wood, and brick as part of the first floor of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, but may be used on second and above stories if additional scoring provides a brick-like appearance. Other materials may be considered, by the Planning Director for soffits, or as accents or unique architectural features. Twenty-five year guaranteed architectural shingles or other longer-lasting materials are required for sloped roofs. 360 degree architectural consistency is required.

No new building elevation may exceed 50 feet in length without at least a 2-foot variation in the depth of the façade along the public right of way and a 1-foot variation on other facades. Residential unit balconies shall not be interpreted to meet this requirement. No single building shall exceed 100 feet.

Parking shall be to the rear of the building.

Storefront windows are required on the street facing façade and street facing windows shall be cover a minimum of 50% of the front first story face and 25 percent of all upper stories.



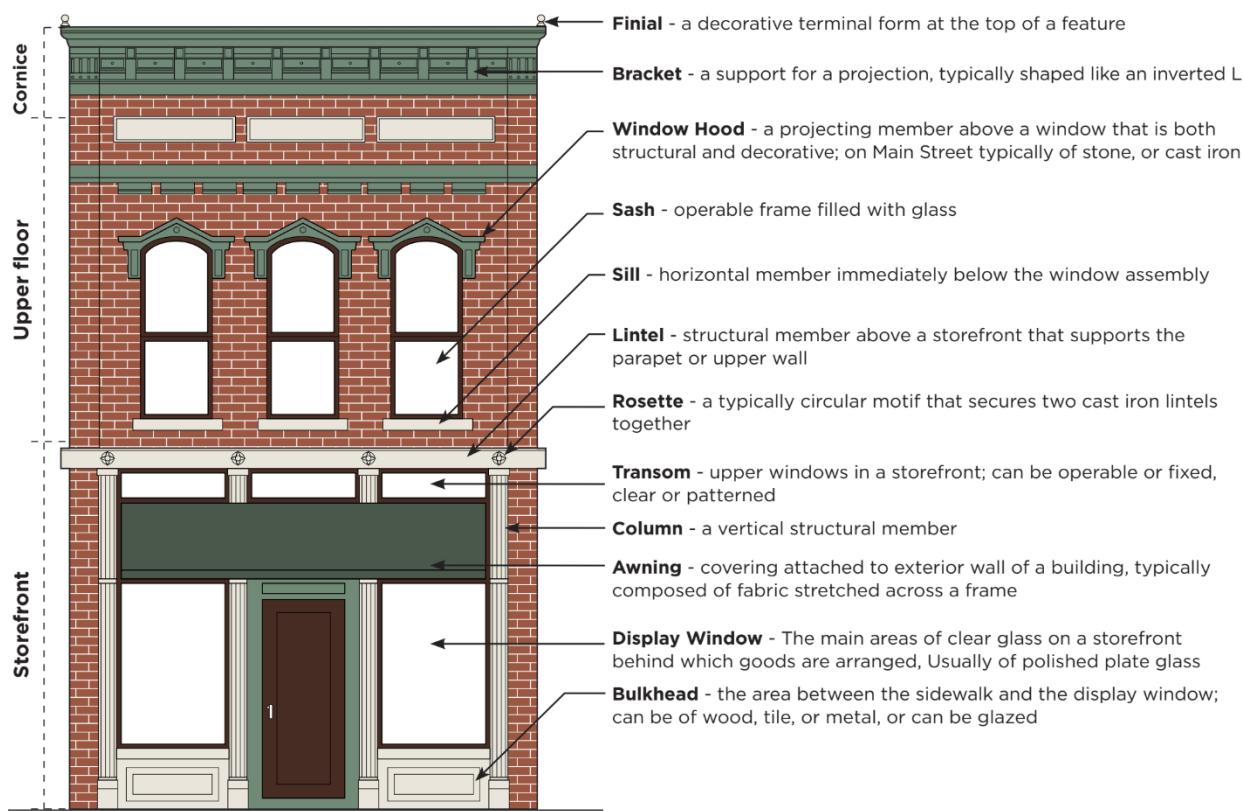
## L. Commercial Buildings.

Minimum 2-story building with the primary use of office, retail, civic or commercial use. All such buildings shall include at least 1 vehicle charging station per building.

Exterior materials of a durable or resilient nature such as brick, stone, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics are required. Roughhewn, exposed wood beams, columns and supports are required for all facades facing a street. New development in the TCD shall incorporate common, locally found materials such as granite, stone, sandstone, wood, and brick as part of the first floor of each building for at least 75% of the first floor, excluding the windows. All stories above the first floor shall incorporate at least 50% of the above specified materials. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, but may be used on second and above stories if additional scoring provides a brick-like appearance. Other materials may be considered, by the Planning Director for soffits, or as accents or unique architectural features. Twenty-five year guaranteed architectural shingles or other longer-lasting materials are required for sloped roofs. 360 degree architectural consistency is required.

Principal entrance shall face the street or be located on the corner of the building and recessed. Front façade shall include a storefront type appearance and include at least two additional features from the sketch below:

# ANATOMY OF A MAIN STREET BUILDING



## 18.83.050 Visual Screening

All commercial lots within the zone shall have a six-foot rear yard sight obscuring fence.

## 18.83.060 Definitions (added as needed and likely relocated to the definitions chapter)

## 18.83.070 Related Provisions

Chapter 18.12	Administration
Chapter 18.08	Definitions
Chapter 18.68	Supplementary Regulations
Chapter 18.108	Conditional Use Permits
Chapter 18.72	Off-Street Parking and Loading
Chapter 18.103	Sign Regulations
Chapter 18.78	Lighting
Chapter 18.174	Enforcement
Chapter 18.117	Subdivisions

## **ORDINANCE 2025-08**

### **AN ORDINANCE REPEALING THE RESIDENTIAL COMMERCIAL OVERLAY ZONE (RC) AND THE NEIGHBORHOOD INFILL OVERLAY ZONE (NIOZ) AND REPLACING THEM WITH THE CENTRAL HEBER OVERLAY ZONE (CHOZ).**

**WHEREAS**, Heber City's General Plan, Envision Heber 2050, identifies a new vision for the Central Heber Area, including new opportunities for infill development, redevelopment and mixed use development;

**WHEREAS**, the Heber City Planning Commission hosted a workshop and public hearing for impacted property owners in Central Heber for the proposed new CHOZ; and

**WHEREAS**, on April 22, 2025, the Heber City Planning Commission provided a unanimous recommendation to the City Council for the adoption of the CHOZ;

**NOW, THEREFORE**, the City Council finds it consistent with the public interest and the City's General Plan to adopt the CHOZ.

**BE IT ORDAINED** by the City Council of Heber City, Utah, the Zoning Map is hereby Amended to replace the RC Residential Commercial Overlay Zone and Neighborhood Infill Overlay Zone as shown in Exhibit A; Heber City Municipal Code, Chapter 18.50 RC Residential Commercial Overlay Zone and Chapter 18.83 Neighborhood Infill Overlay Zone, are hereby REPEALED and replaced with Chapter 18.83 Central Heber Overlay Zone (CHOZ), which is hereby ADOPTED as shown in Exhibit B;

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

To the extent that any ordinances, resolutions, or policies of Heber City materially conflict with the provisions of this Ordinance, they are hereby amended to comply with the provisions hereof.

This Ordinance shall take effect immediately upon passage.

**PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL**  
this 1<sup>st</sup> day of July, 2025.

**AYE**

**NAY**

**ABSENT**

**ABSTAIN**

Aaron Cheatwood

Michael Johnston

Sid Ostergaard

Scott Phillips

Yvonne Barney

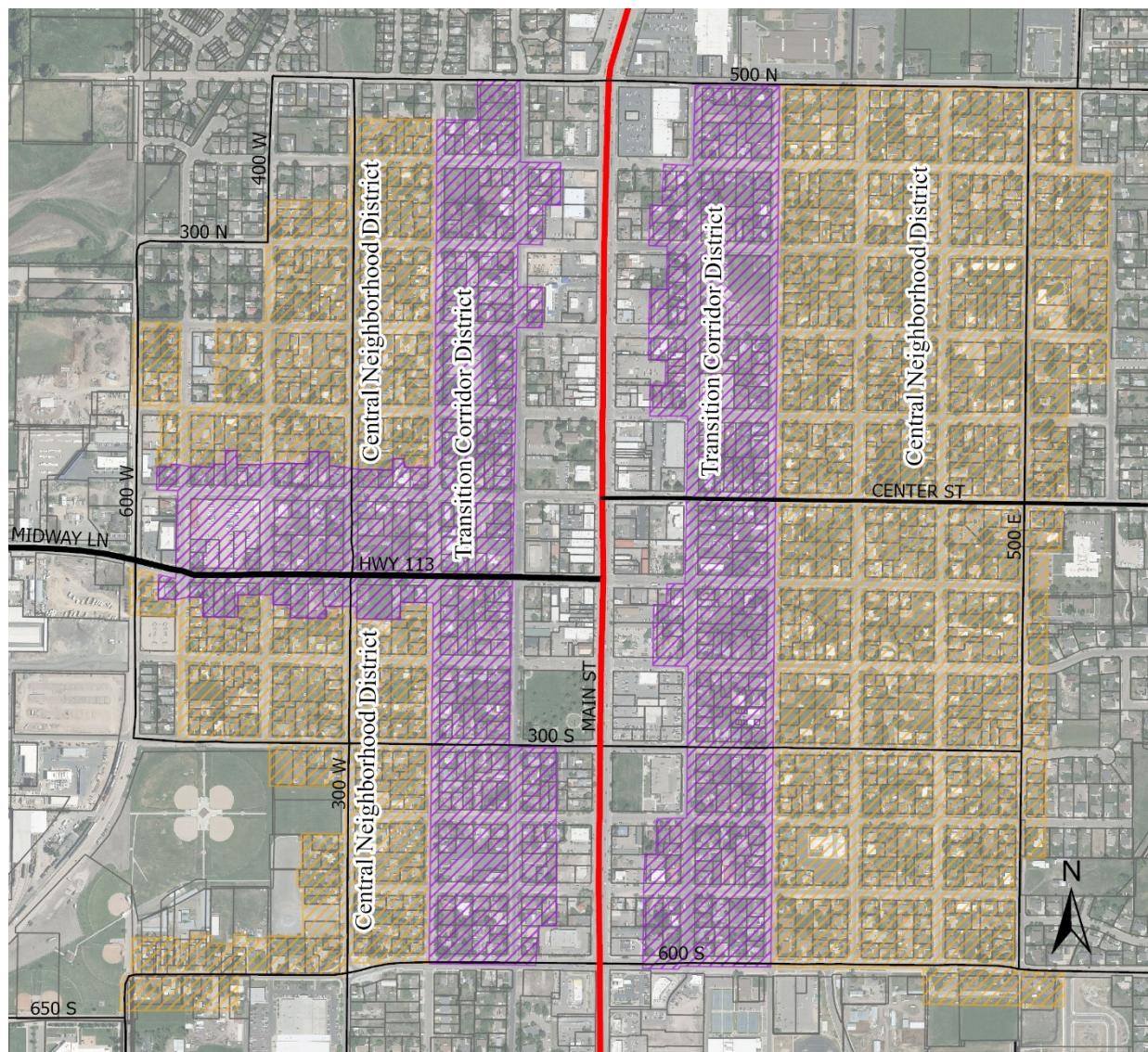
APPROVED:

\_\_\_\_\_  
Mayor Heidi Franco

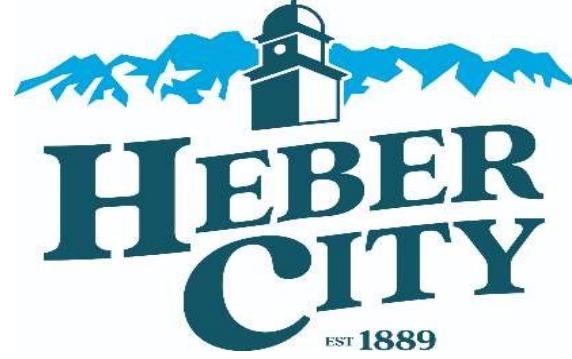
ATTEST:

\_\_\_\_\_  
Date: \_\_\_\_\_ RECORDER

## EXHIBIT A: CENTRAL HEBER OVERLAY ZONING MAP



**EXHIBIT B: CHAPTER 18.83 CENTRAL HEBER OVERLAY ZONE**



**HEBER CITY COUNCIL STAFF REPORT**

**MEETING DATE: 7/1/2025**

**SUBJECT: Mayor's Contest Awards to honor the  
250<sup>th</sup> Anniversary of the Battle of Lexington and Concord**

**RESPONSIBLE:** Mayor Heidi Franco

**STRATEGIC RELEVANCE:** Necessary Administrative Item

**RECOMMENDATION:**

To honor the first battle of the Revolutionary War--the 250<sup>th</sup> Anniversary of the Battle of Lexington and Concord this war; Mayor Franco held a Youth Contest. Winners will read their entries at the City Council meeting and at the Red, White, and Blue Festival on July 4<sup>th</sup>.

Mayor Franco is awarding:

**Esther Linford, age group 8-10**

**Addie Brock, age group 11-14**

**Abigail Ragozzine, age group 15-17**

Two Other Honorable Mentions are:

**Alexis Linford, age group 11-14**

**Daelee Smith, age group 11-14**



# Heber City Council Staff Report

<b>MEETING DATE:</b>	7/1/2025
<b>SUBJECT:</b>	Richard and Boni Losee Family Estate Right to Burial Amended Agreement
<b>RESPONSIBLE:</b>	J. Mark Smedley
<b>DEPARTMENT:</b>	Administrative
<b>STRATEGIC RELEVANCE:</b>	

---

## SUMMARY

Richard and Boni Losee ("Losees") signed the *Richard and Boni Losee Family Estate Right to Burial Agreement* on March 19, 2021. Heber City Corporation ("City") is a party to this Agreement.

In this Agreement, Losees were granted permission to acquire a grouping of multiple burial lots, with the rights of burial, as a *Family Estate*, on the Heber City Cemetery property.

The project timeline in said March 2021 Agreement originally showed March 1, 2024, as the commencement date for construction of the project, with construction to be completed by November 30, 2024.

The Losees were unable to meet those original dates and that time line, and requested an amendment to the *Richard and Boni Losee Family Estate Right to Burial Agreement* to extend the dates of construction commencement and completion for two years, with a new commencement date of March 1, 2026, and a new completion date of November 30, 2026.

While it appears that a proposed agreement was prepared to request the new dates, and approved by the Council, it is unclear whether such an agreement was ever executed.

Notwithstanding, the Losee Family requests an amendment to the *Agreement*, to again extend the dates of construction commencement and completion for two years, with a new commencement date of **March 1, 2028**, and a new completion date of **November 30, 2028**. As partial consideration for this second extension request, the Losee Family agrees to pay the City **\$17,850.00**, representing one-half of the \$35,700.00 payment the Family was required to pay at time of the original contract execution. The Family desires to wait until the new Cemetery Administration building and Cremation Garden development is completed, at which time they may wish to slightly modify and improve their

design.

The project timeline in the Agreement shows construction commencing on March 1, 2024, and completion by November 30, 2024. If approved, that timeline would be extended to a commencement date of March 1, 2028, and a completion date of November 30, 2028.

## RECOMMENDATION

The City Council Approves the Proposed Amendment to the *Richard and Boni Losee Family Estate Right to Burial Agreement*.

---

## BACKGROUND

Losees recently received a copy of the new *Cemetery Administration Building and Cremation Garden Design*.

The new facilities will be built in the cemetery near the Losee Family Estate's location.

Losees wish to be informed about the progress of the new development, including how near the road will be to the Losee Family Estate.

In light of the new development, and for other reasons related to their own timing and feasibility options, Losees are respectfully requesting to amend the Agreement with the new construction and completion dates referenced above.

## DISCUSSION

The **only** proposed changes to the *Richard and Boni Losee Family Estate Right to Burial Agreement* are as follows:

1. Date and title changes on Page 1, including adding the word "Amended" to the title, and putting a blank day of July, 2025, for the proposed signing date.
2. Redlined changes to the Recitals Section beginning on Page (1) outline the new requested commencement date of **March 1, 2028**, and a new completion date of **November 30, 2028**.

3. The Lossee Family's commitment to pay additional consideration of **\$17,850.00** for the City agreeing to extend the commencement and completion dates on page (6): In Paragraph 16, changing those dates to March 1, 2028, for the commence construction date, and November 30, 2028, for the completion date.
4. A special Acknowledgment Provision under Section III a., wherein the Parties agree that this Agreement is conditioned upon and subject to the City potentially adjusting or shifting the planned plot for the Lossee Family Estate, of approximately 4,756 square feet or 119 burial spots. That area might be moved a bit south or southwest, from the cemetery administration building plot, to line up adjacent to, but not encroach upon, the plot. Any changes will ultimately be consistent with Heber City's upcoming Cemetery Masterplan.

Other than these minor changes, this Agreement is consistent with the original March 19<sup>th</sup>, 2021 Agreement.

## **FISCAL IMPACT**

The City could receive **\$17,850.00** additional revenue in consideration for extending the commencement and completion dates for the Lossee Family Project.

No direct negative impact, liability or risk to Heber City.

## **CONCLUSION**

See above.

## **ALTERNATIVES**

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

---

## **POTENTIAL MOTIONS**

### **Alternative 1 - Approval - Staff Recommended Option**

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

### **Alternative 2 - Approve as Amended**

---

I move to **approve** the item as amended, as follows.

#### **Alternative 3 - Continue**

I move to **continue** the item to another meeting on [DATE], with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

#### **Alternative 4 - Denial**

I move to **deny** the item with the following findings.

---

### **ACCOUNTABILITY**

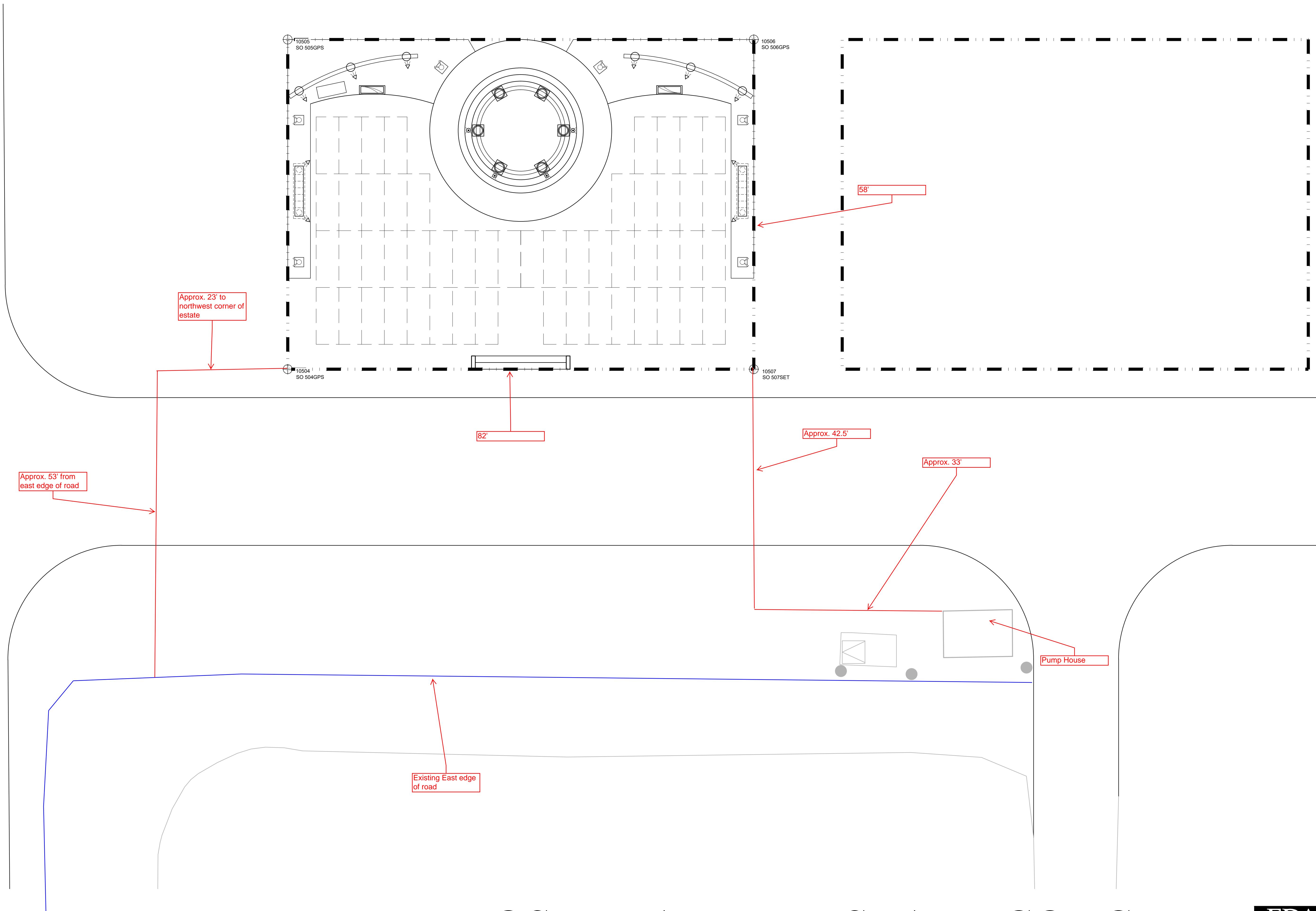
**Department:** Administrative

**Staff member:** J. Mark Smedley, Asst. City Manager

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### **EXHIBITS**

1. Losee Estate Moved North with Survey points JMS Exhibit A
2. Losee Cemetery Agreement March 2021 with Exhibit B
3. LoseeFamilyEstateBurialAgreement-amendment for May 2023 2025 July (003) CLEAN



# LOSEE FAMILY ESTATE CONCEPT

## BONI AND RICHARD LOSEE



May 30, 2023

# **RICHARD AND BONI LOSEE FAMLY ESTATE RIGHT TO BURIAL AGREEMENT**

THIS AGREEMENT, is entered into this 19th day of March, 2021.

## **\*\*\*\*\*PARTIES\*\*\*\*\***

**“Losee Family” “Family”:** NAME: **The Boni Z. Losee Trust**

ADDRESS: RR# Box B7  
Sundance, UT 84604  
Email: [richard@cirquelodge.com](mailto:richard@cirquelodge.com)

**“Heber City” “City”:** NAME: **Heber City Corporation**

ADDRESS: 75 North Main Street,  
Heber City, UT 84032  
Email: [mbrower@heberut.gov](mailto:mbrower@heberut.gov)

## **\*\*\*\*\*RECITALS\*\*\*\*\***

WHEREAS, The Losee Family and Heber City, (“the Family and City”) desire to enter into an agreement whereby the Family is granted permission to acquire a grouping of multiple burial plots, with the rights of burial, as a Family Estate, on the Heber City Cemetery property, as set forth herein;

NOW, THEREFORE, in consideration of the premises and other valuable consideration, the Family and the City (collectively the “Parties”) agree as follows:

**\*\*\*\*\*TERMS AND CONDITIONS\*\*\*\*\***

**I. DEFINITIONS.**

1. “Family” and “City,” as used in this Agreement, shall also refer to the heirs, executors, administrators, successors, and/or assigns of Family and City respectively.
2. “Contract Documents” means the documents used to describe the plat or legal descriptions attached hereto as Exhibits and relevant City Documents or Ordinances which are on file with the City.
3. “Failure to Perform” or “Fail to Perform,” as used in this Agreement, shall mean the nonperformance in a timely manner by a party to this Agreement of any material obligation, in whole or in part, required of such party by the terms of this Agreement. The occurrence of such failure to perform shall give the other party or parties the right to pursue any and all remedies available at law, in equity, and/or otherwise available pursuant to the terms of this Agreement.

**II. PURPOSE OF AGREEMENT.**

The parties hereto expressly acknowledge that the purpose of this Agreement is to set forth the terms and conditions of the establishment of a family burial estate within the Heber City Cemetery. The rights conferred upon the Family by the City shall be limited to burial.

**III. THE FAMILY ESTATE PROPERTY.**

The City, hereby grants to the Family, a specific grouping of multiple burial plots, with the rights of burial, some conjoining and adjacent, but all located in an area designated by specific boundaries, together, as a family estate, on the Heber City Cemetery property. The Parcel of land known as the Losee Family Estate (“Estate”, or sometimes referred to as “Project”) located at and within the Heber City Cemetery, Wasatch County Utah, is more fully described on *Exhibit “A”* attached and made part hereof.

IV. TERM.

Subject to all other provisions of this Agreement regarding termination reserved herein, the term of this Agreement shall be perpetual, and shall commence on the date of execution by City, unless terminated in accordance with the provisions hereof.

V. TRANSFER.

Except as expressly provided herein, no burial plots within the Estate may be transferred or sold. The Family may allow anyone to be buried in the Estate plots, but may not sell or transfer for compensation or consideration, at a value that is greater than the City's then current Cemetery Fee Schedule, any plots located within the Estate, once the Estate is established and designated. The Family shall be given credit for the amount deposited for burial plots they have reserved, and the value, in effect as January 31, 2021, of long-term burial plots they have paid for and have already used (which remains will be reinterred in the new Estate), including those that are still available in the same location at the Heber City Cemetery as of the execution date of this Agreement. The credit will be made only after the Family plots have been transferred to the City.

VI. MARKERS and IMPROVEMENTS.

The Losee Family Estate will occupy approximately 4,756 square feet (equivalent to 119 burial spaces) hereinafter referred to as the "estate area," as set forth and described in the "site plan" attached hereto and made a part hereof as *Exhibit "B"*. The estate area will consist of various elements including the following:

1. **Granite Pavilion.** A large granite pavilion will be located in the top center of the estate area, and will consist of a circular granite walk area enclosing the pavilion, three granite steps upon which the pavilion is built, and a six columned pavilion with a dome structure on top. The lettering on top of the pavilion must refer to the Losee family in perpetuity.
2. **Winged Columns.** Two sets of matching winged columns with family names will be erected on either side of the pavilion, located at the top left and top right of the estate area. Each set of winged columns will have three connected columns, which will match the columns used on the granite pavilion.

3. Statue. Within the pavilion, a statue will be erected, which will depict a clothed female figure holding a baby or small child.
4. Miscellaneous auxiliary features, including specifically, but not necessarily limited to, columbariums/niches, cremation pedestals, and benches.
5. The elements and features may be completed in two phases. The first phase will include construction of the granite pavilion, the columns matching the pavilion with a curved granite beam on top (also referred to as “wings”), the cremation pedestals, and the benches. The planned second phase will include construction of the two (2) column variants which hold the urns on either side (also referred to as the family columbariums/niches).

All headstones will be flat and horizontal to the ground level, but cremation repositories may be vertical or semi-vertical. Each burial plot shall be limited to one headstone. Only one vertical family monument shall be allowed inside the Family Estate. Only human remains or cremations will be allowed to be buried or stored in the Family Estate. The total number of burials, lawn or cremation, in the Family Estate cannot exceed 119. It is anticipated that there will be 52 ground burials and 67 cremation burials. Each ground burial shall be limited to a single corpse, or two infants or two small children, or two cremation burials. The locations for the 67 cremation internments shall be limited to the identified benches, cremation pedestals, and columbarium/niches as set forth in the site plan. A full description of the estate area is set forth in *Exhibit “B”*.

Requests from the Family for minor changes to said monuments, landscaping or improvements, may be administered by the Cemetery Director, pursuant and subject to his approval. However, if in the Director’s sole discretion, any such Family requests or proposed improvements would materially alter or change that which is represented in the Exhibits of the Agreement, or are different from what the Director expects, at the Director’s request, such proposed improvements shall be subject to independent approval of the City Council, which shall not be unreasonably withheld.

## VII. SURVEY.

The entire Family Estate area shall be surveyed to determine the full number of graves, and additional burial plots, cremation burials, and other areas that will provide land area

for the Estate's burial plots, improvements, open space and landscaping. The City shall undertake the survey upon full payment of twenty five percent (25%) of the initial purchase price. The Family shall pay the costs of said survey within thirty (30) days of invoicing. A copy of the survey will be included with Exhibit A of this agreement and shared with the Family.

### **VIII. PAYMENT FOR THE RIGHT TO BURY WITHIN THE FAMILY ESTATE.**

1. *Price of Family Estate and Initial Payment.* The Family shall pay all costs, and bear the responsibilities associated with the construction and implementation of all the monuments, physical facilities and improvements of the Estate, and shall pay a purchase price for the right to bury within, and use the Family Estate. Said price shall consist of the burial plots themselves, and in addition, shall include the extended entire square foot area of the Family Estate, including area for open space, and landscaping and improvements. The overall per square foot price of the entire Family Estate shall be the same amount charged per square foot for burial plots. The total price for the approximately 4,756 square feet to be used as the Losee Family Estate, including the anticipated 52 ground burial sites and 67 cremation niches, is \$142,800. Twenty five percent (25%) of the total purchase price, or \$35,700, is due at time of contract execution.

2. *Requirements Prior to Commencing Phases.* Prior to initiating construction on either Phase 1 (one) or the planned Phase 2 (two) of the estate Project, the Family will deliver all of the fully paid for granite improvements to the Staging Area, and under no circumstances shall the granite improvements be removed from the Staging Area until they are installed in the proper location on the Family Estate.

3. *Rights Conferred Upon Full Payment.* Before initiating any construction on the Project, the entire outstanding amount due to the City shall be paid in full. Additionally, no burials shall be permitted by the City until the outstanding amount due to the City has been paid in full.

4. *Right to Burial Prior to Project Construction.* The Family shall have the right to use five (5) of the burial plots for burials prior to the commencement and completion of Phase 1 of the Project, provided the following items are fully completed:

- a) Full payment of the price for the establishment of the Losee Family Estate.

- b) Completion of the survey;
- c) Lawn burial area is fully improved, including but not limited to grading, irrigation installation, and sod installation.
- d) Five (5) burial sites cannot be located on or adjacent to Construction Area.

5. *Location of Cremation Niches.* Use of the approximate 67 cremation burial niches are limited to the cremation pedestals and benches included in phase one (1) and the two (2) column variants which hold the urns on either side (also referred to as the family columbariums/niches) included in phase 2.

6. *Construction Area.* All construction of the Family Estate, including but not limited to said improvements and monuments, walkways, roadways and access points, shall take place within a limited geographical area referred to as a "Construction Area."

7. *Staging Area.* Additional to, apart and separate from the Construction Area, there shall be a "Staging Area," for the preparation, staging and storage of construction materials, tools and equipment.

8. *Cemetery Director Approval of Areas.* Both the Construction and Staging Areas shall be determined, defined and designated by the Cemetery Director.

9. *Construction Hours.* Hours of construction shall be between 7:30 a.m. and 8:00 p.m.

10. *Construction Access.* Access to the Construction and Staging Areas shall be designated and authorized by the Cemetery Director, in consultation with a Losee Family representative.

11. *Construction Cost and Damage Responsibility.* Except for circumstances of willful or gross negligence on the part of the City or its agents, the Family shall bear the costs of all construction, and any and all damages that may occur to the project, including but not limited to damage to any improvements, monuments, open space, or landscaping as a result of the construction. The Family shall defend and indemnify the City pursuant to Provision X of this Agreement.

12. *Maintenance of the improvements of the Family Estate.* The Family shall perform, be responsible for and bear all costs of all routine maintenance of the monuments, improvements, open space, and physical facilities of the Family Estate, subject to the approval of

the Cemetery Director. The City will be responsible for maintaining all landscaping, plantings, live foliage, trees, hedges, lawns and turf.

13. *Public Access.* The public shall have access to the Family Estate at all times and without restriction, except for times of Family burial services.

14. *Project Timeline.* The Family shall commence construction of phase one (1) of the Family Estate Project on or before the March 1, 2024. Once construction of a phase of the Family Estate begins, the Family shall complete said phase of the Project within one (1) construction season. For the purposes of this Agreement, a construction season is defined as beginning on March 1<sup>st</sup>, and terminating on November 30<sup>th</sup>, unless reasonable arrangements to extend the time are approved in writing by the City.

15. *Failure to Pay Costs and Termination.* Failure on the part of the Family to pay the cost of the Family Estate within thirty (30) days of written notice from the City, shall initiate a late fee penalty of eighteen (18%) per annum of the entire amount due. Failure to pay the balance due within one hundred and twenty (120) days of the said written notice from the City, shall constitute a default of this Agreement, and the City may, in its sole discretion, terminate the Agreement, enter into another Agreement, or extend any other proposed amendment to this Agreement. In the event the City determines to terminate the Agreement, the City shall be released of any and all obligations or responsibilities to the Family that may have been imposed by this Agreement.

16. *Failure to Commence Construction.* Failure on the part of Family to commence construction on Phase 1 by March 1, 2024, shall constitute a default of this Agreement, and the City may, in its sole discretion, terminate the Agreement, enter into another Agreement, or extend any other proposed amendment to this Agreement. In the event the City determines to terminate the Agreement, the City shall retain 25% (\$35,700) of the total purchase price and refund any amount paid in excess of this amount.

## IX. PUMPHOUSE.

1. In the event that the Family desires or is required by the City to relocate the Cemetery Pump House as a result of the Estate design, the Family shall bear all costs for said relocation, including but not limited to any associated costs for engineering, surveying, reinstallation, re-piping and re-wiring, and Pump House aesthetics design, subject to approval by

the Cemetery Director.

2. In the event the City relocates the Cemetery Pump House prior to construction of the Losee Family Estate, the City shall bear all such costs. Should the City decide to upsize pipe capacity, or upgrade the wiring, or upgrade the aesthetics design, as a result of the relocation of the Pump House, regardless of who is responsible for such relocation, the City shall pay all upgrading costs.

3. Regardless of whether the City or the Family relocates the Pump House, the City's Cemetery Director shall be the relocation project administrator. As such, the Director shall determine and administer all aspects of the relocation, including but not limited to the scope, manner, process and location.

**X. INDEMNIFICATION AND HOLD HARMLESS.**

The Parties expressly agree to defend, protect, indemnify and hold each other, their officers, agents and employees free and harmless from and against any and all claims, demands, damages, expenses, losses or liability of any kind or nature whatsoever which the other Party, its officers, agents or employees may sustain or incur or which may be imposed upon them for injury to or death of persons or damages to property arising out of or resulting from the negligent acts or negligent omissions of the other Party, its officers, agents, employees or guests in their use or misuse of the Family Estate. The Parties agree to defend at their own cost, expense and risk all claims or legal actions that may be instituted against the other Party, which arise out of its negligent acts or omissions. The Family agrees to pay any settlement entered into by the City in satisfaction of a claim for which the Family has the obligation to indemnify, provided that the City obtains the Family's written consent to such settlement in advance.

**XI. HEBER CITY ORDINANCES and INTERNMENT POLICIES AND PROCEDURES.**

The Family hereby acknowledges and agrees to the applicability of the Heber City Municipal Ordinances and State regulations to this Agreement, and the right of the City to implement and govern the Project pursuant to the City and Cemetery internment policies and procedures. The Family hereby acknowledges notice of the terms, conditions and requirements presently contained therein and agrees, so far as said ordinances apply to persons such as the

Family herein, to comply with such ordinances as are now in effect or as they may be amended during the term of this Agreement or any renewal.

**XII. PERMITS, LICENSES AND CERTIFICATES.**

The Family shall be responsible for obtaining all required permits, licenses and certificates which may be required in connection with the Family Estate and Cemetery, and improvement and use of the Family Estate.

**XIII. ASSIGNMENT.**

The Family shall not assign this Agreement, nor its right to bury in the Family Estate without prior written approval of the City. In no event and under no conditions shall any assignment pursuant to this provision, or any provision contained in this Agreement herein trigger a new agreement.

**XIV. RULES AND REGULATIONS.**

The City shall have the right to adopt and enforce reasonable local and state rules and regulations with respect to the use of the property consisting of the Family Estate.

**XV. FORCE MAJEURE.**

If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason or act of God, flood, hurricane, tornado, earthquake, strikes, lockouts, which are beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay(s), and said period of the performance of any such act shall be extended for a period equivalent to the period of the triggering delay(s).

**XVI. DESTRUCTION OF PREMISES.**

Should the vertical improvements to the Family Estate be damaged or destroyed in whole or in part, by fire, earthquake or any other casualty, or other act of God, at any time during the term of this Agreement so that the same cannot be repaired within a reasonable time pursuant to the circumstances to substantially the same condition they were in immediately prior

to the happening of such casualty, then either the City or the Family may terminate this Agreement.. Said termination shall be effected by a written notice to the other Party, pursuant to Provision XXI. In no event shall the City be liable to the Family for any damages resulting to the Family Estate from the happening of such act of God or other casualty, or from the repair of the plots or the Family Estate, nor shall the City be responsible to the Family to repair any such damages.

In the event the Family cannot bear the costs of, or refuses to repair such damages, the City, in its sole discretion, reserves the right, with written notice pursuant to Provision XXI, to repair or remediate the damage as it desires or deems appropriate, without obligation or responsibility to the Family.

In the event damage to vertical improvements causes a threat to public safety, the City, in its sole discretion, reserves the right to take immediate steps to remediate the threat at its own discretion, without obligation or responsibility to the Family.

#### **XVII. COSTS OF SUSTAINING AN ACTION FOR BREACH OR DEFAULT.**

In the event either the City or the Family commences legal action against the other claiming a breach or default of this Agreement, the prevailing party in such litigation shall be entitled to recover from the other reasonable attorney fees and all costs connected with said litigation.

#### **XVIII. PARTIAL INVALIDITY.**

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

#### **XIX. AMENDMENTS TO BE IN WRITING.**

This Agreement sets forth all of the agreements and understandings of the parties and is not subject to modification except in writing, duly executed by the legally authorized representatives of each of the parties.

XX. WAIVER OF RIGHTS.

The failure of the City to insist upon strict enforcement of any of the terms, conditions and covenants herein shall not be deemed a waiver of any rights or remedies that the City may have and shall not be deemed a waiver of any subsequent breach or default by the Family of the terms, conditions and covenants herein contained.

XXI. NOTICES.

All notices given or to be given, by either party to the other shall be given in writing and shall be addressed or delivered to the parties at the addresses hereinafter set forth or at such other addresses as the parties may by written notice hereafter designate. Notices to the City and the Family shall be addressed as follows:

To: HEBER CITY

City Cemetery Manager c/o the City Recorder

To: Family

Richard and Boni Losee

Address: 75 North Main Street,  
Heber City, UT 84032

RR3 Box B7  
Sundance, UT 84604

Email: tcook@heberut.gov

richard@cirquelodge.com

With a copy to: Heber City  
Manager  
75 North Main, Heber City, Utah  
84032  
mbrower@heberut.gov

Heber City Attorney  
75 North Main, Heber City, Utah 84032  
msmedley@heberut.gov

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed, with all the formalities required by law on the respective dates set forth opposite their signatures to be effective the day and year first above written.

HEBER CITY, a Municipal Corporation:

FAMILY: The Boni<sup>Z</sup> Losee Trust

APPROVED:

By: Kelleen L. Potter

Kelleen L. Potter, Heber City Mayor

3/24/2021  
Date



By: Boni Z. Losee

Boni Z. Losee and Richard S. Losee, Trustees

March 19, 2021  
Date

ATTEST:

Trina W. Lockette  
City Recorder

3/24/2021  
Date

APPROVED AS TO FORM:

J. Mark Hanley  
City Attorney

Mark 23, 2021  
Date

# **EXHIBIT**

## **“A”**

# **EXHIBIT**

## **“B”**



SCALE: 1/8" = 1'-0"

# LOSEE FAMILY ESTATE CONCEPT

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## BONI AND RICHARD LOSEE



STATUE WITHIN PAVILION



1. APPROXIMATELY 52 LAWN BURIAL SPACES AND APPROXIMATELY 67 CREMATION SPACES FOR A TOTAL OF 119 INTERMENTS.

(2) 25 NICHE FAMILY COLUMBARIUM = 50 INURNMENTS TOTAL

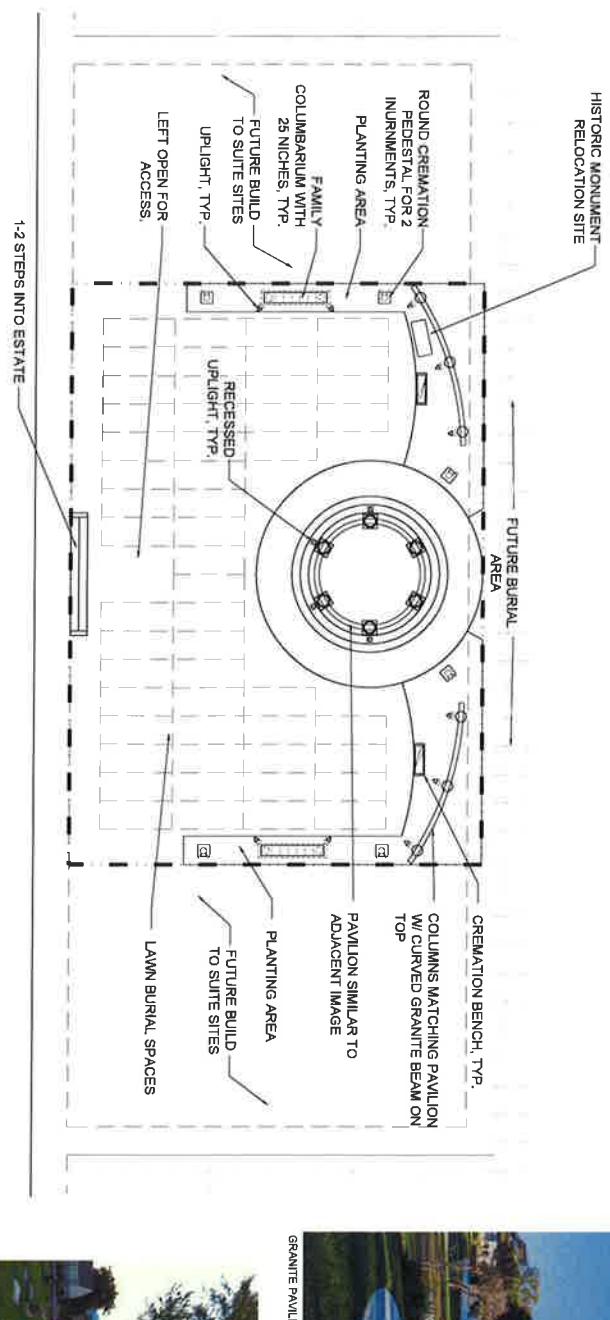
(9) CREMATION PEDESTALS FOR 2 INTERMENTS EA = 12 INURNMENTS TOTAL

(2) CREMATION BENCHES = 5 INURNMENTS TOTAL

SITE = 4,756 SF, WHICH IS EQUIVALENT TO 119 SPACES.

WITH THE CITY'S FUTURE APPROVAL, WE WOULD LIKE TO RESERVE THE RIGHT TO MAKE SLIGHT MODIFICATIONS TO THE SITE PLAN AS FUTURE NEEDS MAY CHANGE OVER THE YEARS.

PROPOSED CEMETERY ROAD











**RICHARD AND BONI LOSEE FAMLY ESTATE RIGHT  
TO BURIAL AMENDED AGREEMENT**

**July 2025**

THIS AMENDED GREEMENT, is entered into this \_\_\_\_\_ day of July, 2025.

**\*\*\*\*\*PARTIES\*\*\*\*\***

**“Losee Family” “Family”:**      NAME:      **The Boni Z. Losee Trust**

ADDRESS:    RR# Box B7  
                 Sundance, UT 84604  
Email:        [richard@cirquelodge.com](mailto:richard@cirquelodge.com)

**“Heber City” “City”:**      NAME:      **Heber City Corporation**

ADDRESS:    75 North Main Street,  
                 Heber City, UT 84032  
Email:        [mbrower@heberut.gov](mailto:mbrower@heberut.gov)

**\*\*\*\*\*RECITALS\*\*\*\*\***

WHEREAS, The Losee Family and Heber City, (“the Family and City”) entered into the *Richard and Boni Losee Family Estate Right to Burial Agreement* on March 19, 2021.

In said Agreement, Losees were granted permission to acquire a grouping of multiple burial lots, with the rights of burial, as a *Family Estate*, on the Heber City Cemetery property.

The project timeline in the Agreement originally showed **March 1, 2024**, as the commencement date for construction of the project, with construction to be completed by **November 30, 2024**.

The Losees were unable to meet those original dates and that time line, and requested an amendment to the *Richard and Boni Losee Family Estate Right to Burial Agreement* to extend the dates of construction commencement and completion for two years, with a new commencement date of March 1, 2026, and a new completion date of November 30, 2026.

The proposed agreement to extend the completion time was prepared requesting the new dates, and approved by the Council.

Notwithstanding, the Losee Family requests another amendment to the *Richard and Boni Losee Family Estate Right to Burial Agreement* to again extend the dates of construction commencement and completion for two years, with a new commencement date of **March 1, 2028**, and a new completion date of **November 30, 2028**. As partial consideration for this second extension request, the Losee Family agrees to pay the City **\$17,850.00**, representing one half of the \$35,700.00 payment the Family was required to pay at time of the original contract execution. The Family desires to wait until the new Cemetery Administration building and Cremation Garden development is completed, at which time they may wish to slightly modify and improve their design.

NOW, THEREFORE, in consideration of the premises and other valuable consideration, the Family and the City (collectively the “Parties”) agree to amend the original March 19, 2021, as follows:

#### \*\*\*\*\*TERMS AND CONDITIONS\*\*\*\*\*

##### I. DEFINITIONS.

1. “Family” and “City,” as used in this Agreement, shall also refer to the heirs, executors, administrators, successors, and/or assigns of Family and City respectively.
2. “Contract Documents” means the documents used to describe the plat or legal descriptions attached hereto as Exhibits and relevant City Documents or Ordinances which are on file with the City.
3. “Failure to Perform” or “Fail to Perform,” as used in this Agreement, shall mean the nonperformance in a timely manner by a party to this Agreement of any material obligation, in whole or in part, required of such party by the terms of this Agreement. The

occurrence of such failure to perform shall give the other party or parties the right to pursue any and all remedies available at law, in equity, and/or otherwise available pursuant to the terms of this Agreement.

II. PURPOSE OF AGREEMENT.

The parties hereto expressly acknowledge that the purpose of this Agreement is to set forth the terms and conditions of the establishment of a family burial estate within the Heber City Cemetery. The rights conferred upon the Family by the City shall be limited to burial.

III. THE FAMILY ESTATE PROPERTY.

The City, hereby grants to the Family, a specific grouping of multiple burial plots, with the rights of burial, some conjoining and adjacent, but all located in an area designated by specific boundaries, together, as a family estate, on the Heber City Cemetery property. The Parcel of land known as the Losee Family Estate (“Estate”, or sometimes referred to as “Project”) located at and within the Heber City Cemetery, Wasatch County Utah, is more fully described on ***Exhibit “A”*** attached and made part hereof.

a. **Acknowledgment Note:** All Parties specifically acknowledge and agree that this Agreement is subject to and conditioned upon any required or desired adjustment and alignment, or realignment by the City of the plot location of The Losee Family Estate of approximately 4,756 square feet (equivalent to 119 burial spaces) hereinafter referred to as the “Estate Area,” potentially to the south/southwest of the southern boundary line and southwest corner of the plot line of the Cemetery Administration Building and Complex, consistent and in accordance with the forthcoming Heber City Cemetery Masterplan.

IV. TERM.

Subject to all other provisions of this Agreement regarding termination reserved herein, the term of this Agreement shall be perpetual, and shall commence on the date of execution by City, unless terminated in accordance with the provisions hereof.

V. TRANSFER.

Except as expressly provided herein, no burial plots within the Estate may be

transferred or sold. The Family may allow anyone to be buried in the Estate plots, but may not sell or transfer for compensation or consideration, at a value that is greater than the City's then current Cemetery Fee Schedule, any plots located within the Estate, once the Estate is established and designated. The Family shall be given credit for the amount deposited for burial plots they have reserved, and the value, in effect as January 31, 2021, of long-term burial plots they have paid for and have already used (which remains will be reinterred in the new Estate), including those that are still available in the same location at the Heber City Cemetery as of the execution date of this Agreement. The credit will be made only after the Family plots have been transferred to the City.

## VI. MARKERS and IMPROVEMENTS.

The Losee Family Estate will occupy approximately 4,756 square feet (equivalent to 119 burial spaces) hereinafter referred to as the "Estate Area," as set forth and described in the "site plan" attached hereto and made a part hereof as ***Exhibit "B"***. The estate area will consist of various elements including the following:

1. Granite Pavilion. A large granite pavilion will be located in the top center of the estate area, and will consist of a circular granite walk area enclosing the pavilion, three granite steps upon which the pavilion is built, and a six columned pavilion with a dome structure on top. The lettering on top of the pavilion must refer to the Losee family in perpetuity.
2. Winged Columns. Two sets of matching winged columns with family names will be erected on either side of the pavilion, located at the top left and top right of the estate area. Each set of winged columns will have three connected columns, which will match the columns used on the granite pavilion.
3. Statue. Within the pavilion, a statue will be erected, which will depict a clothed female figure holding a baby or small child.
4. Miscellaneous auxiliary features, including specifically, but not necessarily limited to, columbariums/niches, cremation pedestals, and benches.
5. The elements and features may be completed in two phases. The first phase will include construction of the granite pavilion, the columns matching the pavilion with a curved granite beam on top (also referred to as "wings"), the cremation pedestals,

and the benches. The planned second phase will include construction of the two (2) column variants which hold the urns on either side (also referred to as the family columbariums/niches).

All headstones will be flat and horizontal to the ground level, but cremation repositories may be vertical or semi-vertical. Each burial plot shall be limited to one headstone. Only one vertical family monument shall be allowed inside the Family Estate. Only human remains or cremations will be allowed to be buried or stored in the Family Estate. The total number of burials, lawn or cremation, in the Family Estate cannot exceed 119. It is anticipated that there will be 52 ground burials and 67 cremation burials. Each ground burial shall be limited to a single corpse, or two infants or two small children, or two cremation burials. The locations for the 67 cremation internments shall be limited to the identified benches, cremation pedestals, and columbarium/niches as set forth in the site plan.

Requests from the Family for minor changes to said monuments, landscaping or improvements, may be administered by the Cemetery Director, pursuant and subject to his approval. However, if in the Director's sole discretion, any such Family requests or proposed improvements would materially alter or change that which is represented in the Exhibits of the Agreement, or are different from what the Director expects, at the Director's request, such proposed improvements shall be subject to independent approval of the City Council, which shall not be unreasonably withheld.

## VII. SURVEY.

The entire Family Estate area shall be surveyed to determine the full number of graves, and additional burial plots, cremation burials, and other areas that will provide land area for the Estate's burial plots, improvements, open space and landscaping. The City shall undertake the survey upon full payment of twenty five percent (25%) of the initial purchase price. The Family shall pay the costs of said survey within thirty (30) days of invoicing. A copy of the survey will be included with ***Exhibit A*** of this Agreement and shared with the Family.

## VIII. PAYMENT FOR THE RIGHT TO BURY WITHIN THE FAMILY ESTATE.

1. *Price of Family Estate and Initial Payment.* The Family shall pay all costs, and bear the responsibilities associated with the construction and implementation of all the

monuments, physical facilities and improvements of the Estate, and shall pay a purchase price for the right to bury within, and use the Family Estate. Said price shall consist of the burial plots themselves, and in addition, shall include the extended entire square foot area of the Family Estate, including area for open space, and landscaping and improvements. The overall per square foot price of the entire Family Estate shall be the same amount charged per square foot for burial plots. The total price for the approximately 4,756 square feet to be used as the Losee Family Estate, including the anticipated 52 ground burial sites and 67 cremation niches, is \$142,800. As partial consideration for this second extension request, upon execution of this Amended Agreement the Family shall pay an additional **\$17,850.00**, representing one half of the \$35,700.00 payment the Family was required to pay at time of the original contract execution.

2. *Requirements Prior to Commencing Phases.* Prior to initiating construction on either Phase 1 (one) or the planned Phase 2 (two) of the estate Project, the Family will deliver all of the fully paid for granite improvements to the Staging Area, and under no circumstances shall the granite improvements be removed from the Staging Area until they are installed in the proper location on the Family Estate.

3. *Rights Conferred Upon Full Payment.* Before initiating any construction on the Project, the entire outstanding amount due to the City shall be paid in full. Additionally, no burials shall be permitted by the City until the outstanding amount due to the City has been paid in full.

4. *Right to Burial Prior to Project Construction.* The Family shall have the right to use five (5) of the burial plots for burials prior to the commencement and completion of Phase 1 of the Project, provided the following items are fully completed:

- a) Full payment of the price for the establishment of the Losee Family Estate.
- b) Completion of the survey;
- c) Lawn burial area is fully improved, including but not limited to grading, irrigation installation, and sod installation.
- d) Five (5) burial sites cannot be located on or adjacent to Construction Area.

5. *Location of Cremation Niches.* Use of the approximate 67 cremation burial niches are limited to the cremation pedestals and benches included in phase one (1) and

the two (2) column variants which hold the urns on either side (also referred to as the family columbariums/niches) included in phase 2.

6. *Construction Area.* All construction of the Family Estate, including but not limited to said improvements and monuments, walkways, roadways and access points, shall take place within a limited geographical area referred to as a “Construction Area.”

7. *Staging Area.* Additional to, apart and separate from the Construction Area, there shall be a “Staging Area,” for the preparation, staging and storage of construction materials, tools and equipment.

8. *Cemetery Director Approval of Areas.* Both the Construction and Staging Areas shall be determined, defined and designated by the Cemetery Director.

9. *Construction Hours.* Hours of construction shall be between 7:30 a.m. and 8:00 p.m.

10. *Construction Access.* Access to the Construction and Staging Areas shall be designated and authorized by the Cemetery Director, in consultation with a Losee Family representative.

11. *Construction Cost and Damage Responsibility.* Except for circumstances of willful or gross negligence on the part of the City or its agents, the Family shall bear the costs of all construction, and any and all damages that may occur to the project, including but not limited to damage to any improvements, monuments, open space, or landscaping as a result of the construction. The Family shall defend and indemnify the City pursuant to Provision X of this Agreement.

12. *Maintenance of the improvements of the Family Estate.* The Family shall perform, be responsible for and bear all costs of all routine maintenance of the monuments, improvements, open space, and physical facilities of the Family Estate, subject to the approval of the Cemetery Director. The City will be responsible for maintaining all landscaping, plantings, live foliage, trees, hedges, lawns and turf.

13. *Public Access.* The public shall have access to the Family Estate at all times and without restriction, except for times of Family burial services.

14. *Project Timeline.* The Family shall commence construction of phase one (1) of the Family Estate Project on or before the **March 1, 2028**. Once construction of a phase of the Family Estate begins, the Family shall complete said phase of the Project within one

(1) construction season. For the purposes of this Agreement, a construction season is defined as beginning on **March 1<sup>st</sup>**, and terminating on **November 30<sup>th</sup>**, unless reasonable arrangements to extend the time are approved in writing by the City.

15. *Failure to Pay Costs and Termination.* Failure on the part of the Family to pay the cost of the Family Estate within thirty (30) days of written notice from the City, shall initiate a late fee penalty of eighteen (18%) per annum of the entire amount due. Failure to pay the balance due within one hundred and twenty (120) days of the said written notice from the City, shall constitute a default of this Agreement, and the City may, in its sole discretion, terminate the Agreement, enter into another Agreement, or extend any other proposed amendment to this Agreement. In the event the City determines to terminate the Agreement, the City shall be released of any and all obligations or responsibilities to the Family that may have been imposed by this Agreement.

16. *Failure to Commence Construction.* Failure on the part of Family to commence construction on Phase 1 by **March 1, 2028**, and completion on or before **November 30, 2028**, shall constitute a default of this Agreement, and the City may, in its sole discretion, terminate the Agreement, enter into another Agreement, or extend any other proposed amendment to this Agreement. In the event the City determines to terminate the Agreement, the City shall retain 25% (\$35,700) of the total purchase price and refund any amount paid in excess of this amount.

## IX. PUMPHOUSE.

1. In the event that the Family desires or is required by the City to relocate the Cemetery Pump House as a result of the Estate design, the Family shall bear all costs for said relocation, including but not limited to any associated costs for engineering, surveying, reinstallation, re-piping and re-wiring, and Pump House aesthetics design, subject to approval by the Cemetery Director.

2. In the event the City relocates the Cemetery Pump House prior to construction of the Losee Family Estate, the City shall bear all such costs. Should the City decide to upsize pipe capacity, or upgrade the wiring, or upgrade the aesthetics design, as a result of the relocation of the Pump House, regardless of who is responsible for such relocation, the City shall pay all upgrading costs.

3. Regardless of whether the City or the Family relocates the Pump House, the City's Cemetery Director shall be the relocation project administrator. As such, the Director shall determine and administer all aspects of the relocation, including but not limited to the scope, manner, process and location.

**X. INDEMNIFICATION AND HOLD HARMLESS.**

The Parties expressly agree to defend, protect, indemnify and hold each other, their officers, agents and employees free and harmless from and against any and all claims, demands, damages, expenses, losses or liability of any kind or nature whatsoever which the other Party, its officers, agents or employees may sustain or incur or which may be imposed upon them for injury to or death of persons or damages to property arising out of or resulting from the negligent acts or negligent omissions of the other Party, its officers, agents, employees or guests in their use or misuse of the Family Estate. The Parties agree to defend at their own cost, expense and risk all claims or legal actions that may be instituted against the other Party, which arise out of its negligent acts or omissions. The Family agrees to pay any settlement entered into by the City in satisfaction of a claim for which the Family has the obligation to indemnify, provided that the City obtains the Family's written consent to such settlement in advance.

**XI. HEBER CITY ORDINANCES and INTERNMENT POLICIES AND PROCEDURES.**

The Family hereby acknowledges and agrees to the applicability of the Heber City Municipal Ordinances and State regulations to this Agreement, and the right of the City to implement and govern the Project pursuant to the City and Cemetery internment policies and procedures. The Family hereby acknowledges notice of the terms, conditions and requirements presently contained therein and agrees, so far as said ordinances apply to persons such as the Family herein, to comply with such ordinances as are now in effect or as they may be amended during the term of this Agreement or any renewal.

**XII. PERMITS, LICENSES AND CERTIFICATES.**

The Family shall be responsible for obtaining all required permits, licenses and certificates which may be required in connection with the Family Estate and Cemetery, and

improvement and use of the Family Estate.

**XIII. ASSIGNMENT.**

The Family shall not assign this Agreement, nor its right to bury in the Family Estate without prior written approval of the City. In no event and under no conditions shall any assignment pursuant to this provision, or any provision contained in this Agreement herein trigger a new agreement.

**XIV. RULES AND REGULATIONS.**

The City shall have the right to adopt and enforce reasonable local and state rules and regulations with respect to the use of the property consisting of the Family Estate.

**XV. FORCE MAJEURE.**

If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason or act of God, flood, hurricane, tornado, earthquake, strikes, lockouts, which are beyond the control of the party obligated (financial inability excepted), performance of such act shall be excused for the period of the delay(s), and said period of the performance of any such act shall be extended for a period equivalent to the period of the triggering delay(s).

**XVI. DESTRUCTION OF PREMISES.**

Should the vertical improvements to the Family Estate be damaged or destroyed in whole or in part, by fire, earthquake or any other casualty, or other act of God, at any time during the term of this Agreement so that the same cannot be repaired within a reasonable time pursuant to the circumstances to substantially the same condition they were in immediately prior to the happening of such casualty, then either the City or the Family may terminate this Agreement. Said termination shall be effected by a written notice to the other Party, pursuant to Provision XXI. In no event shall the City be liable to the Family for any damages resulting to the Family Estate from the happening of such act of God or other casualty, or from the repair of the plots or the Family Estate, nor shall the City be responsible to the Family to repair any such damages.

In the event the Family cannot bear the costs of, or refuses to repair such damages, the City, in its sole discretion, reserves the right, with written notice pursuant to Provision XXI, to repair or remediate the damage as it desires or deems appropriate, without obligation or responsibility to the Family.

In the event damage to vertical improvements causes a threat to public safety, the City, in its sole discretion, reserves the right to take immediate steps to remediate the threat at its own discretion, without obligation or responsibility to the Family.

#### **XVII. COSTS OF SUSTAINING AN ACTION FOR BREACH OR DEFAULT.**

In the event either the City or the Family commences legal action against the other claiming a breach or default of this Agreement, the prevailing party in such litigation shall be entitled to recover from the other reasonable attorney fees and all costs connected with said litigation.

#### **XVIII. PARTIAL INVALIDITY.**

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

#### **XIX. AMENDMENTS TO BE IN WRITING.**

This Agreement sets forth all of the agreements and understandings of the parties and is not subject to modification except in writing, duly executed by the legally authorized representatives of each of the parties.

#### **XX. WAIVER OF RIGHTS.**

The failure of the City to insist upon strict enforcement of any of the terms, conditions and covenants herein shall not be deemed a waiver of any rights or remedies that the City may have and shall not be deemed a waiver of any subsequent breach or default by the Family of the terms, conditions and covenants herein contained.

**XXI. NOTICES.**

All notices given or to be given, by either party to the other shall be given in writing and shall be addressed or delivered to the parties at the addresses hereinafter set forth or at such other addresses as the parties may by written notice hereafter designate. Notices to the City and the Family shall be addressed as follows:

To: HEBER CITY

City Cemetery Manager c/o the City Recorder

To: Family

Richard and Boni Losee

Address: 75 North Main Street,  
Heber City, UT 84032

RR3 Box B7  
Sundance, UT 84604

Email: [tcook@heberut.gov](mailto:tcook@heberut.gov)

[richard@cirquelodge.com](mailto:richard@cirquelodge.com)

With a copy to: Heber City  
Manager  
75 North Main, Heber City, Utah  
84032  
[mbrower@heberut@.gov](mailto:mbrower@heberut@.gov)

Heber City Attorney  
75 North Main, Heber City, Utah 84032  
[msmedley@heberut.gov](mailto:msmedley@heberut.gov)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed, with all the formalities required by law on the respective dates set forth opposite their signatures to be effective the day and year first above written.

HEBER CITY, a Municipal Corporation:

FAMILY: The Boni Losee Trust

APPROVED:

By: \_\_\_\_\_  
Heidi Franco, Heber City Mayor

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Date

By: \_\_\_\_\_  
Boni Z. Losee, Trustee

---

Date

By: \_\_\_\_\_  
Richard S. Losee, Trustee

---

Date

ATTEST:

---

City Recorder

---

Date

APPROVED AS TO FORM:

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Heber City Attorney

---

Date

## Exhibit A.

Heber City Survey of the full number of graves, and additional burial plots, cremation burials, and other areas that will provide land area for the Estate's burial plots, improvements, open space and landscaping.

Exhibit B.

“Estate Area,”



# Heber City Council Staff Report

<b>MEETING DATE:</b>	7/1/2025
<b>SUBJECT:</b>	Resolution 2025-11 Nine-step pay scale and policy adjustment for Heber City Public Employees
<b>RESPONSIBLE:</b>	Cherie Ashe
<b>DEPARTMENT:</b>	Human Resources
<b>STRATEGIC RELEVANCE:</b>	Necessary Administrative Item

## SUMMARY

Adjustments to the policy governing pay increases for Heber City Public employees include a Nine-Step pay plan as per the FY 26 adopted Budget. Section 13 of the Policy & Procedures Employee Handbook would require amendment, including Section 13.2 Compensation through 13.8 Salary Range Adjustment

## RECOMMENDATION

The City Council approves Resolution 2025-11 to institute a new nine-step policy that reflects adjustments to pay advancements based on hire date and/or promotion date, similar to those for Public Safety sworn officers, as adopted in 2024 following probationary release and a one-year performance review from date of hire in the same position.

## BACKGROUND

In March 2024, Police Officers instituted a nine-step pay plan that connects years of service, merit pay, and performance reviews based on the hire or promotion date. In the past, employees were evaluated in December for potential merit increases in early January. The Nine-Step plan would recognize the anniversary date of hire rather than an arbitrary end of the calendar year for all employees, making the date more relevant for measuring goals and accomplishments. The City Council requested staff to introduce a similar nine-step pay plan for all other public employees, including non-sworn Police Officers. This nine-step pay plan would eliminate the current practice of six years to middle and twelve years to the maximum top of pay grade. Instead, annually, a non-Police Heber City employee would be eligible for a 5% merit increase in base rate pay until reaching the Maximum Top of Grade.

The primary difference between the Police nine-step and the remainder of the City staff is:

1. City employees do not receive 'Letters of Caution'. Depending on the severity of the mistake, this

would be a 'Verbal Warning' that may impact the overall performance rating.

2. City employees have a probationary period of six months instead of sworn Police Officers at one year, which makes Staff eligible for Step 3 potentially within twelve months.

3. City employees would not reset their anniversary of hire date based on a revised review following any discipline. City employees would either be considered for an annual review on either the date of the most recent promotion or their original hire date.

## DISCUSSION

### Section 13.7 Merit Pay Salary Adjustment

A. Regular, full-time public employees shall be eligible for consideration for merit pay increases as follows:

To the second (2nd) step of the salary schedule, after completion of the probation period,

To the third (3rd) and each subsequent step after completion of a minimum of one (1) year of service at each step.

After completion of probation, Step 2 is automatic and not meritorious.

Each step after step 2 is considered meritorious.

B. Each step increase is performed on an employee's anniversary date. The employee's anniversary date is determined by;

One year from the employee's Probationary Release date;

One year from a promotion,

If adopted, the rates of pay for the current year would need to be reconciled to current years of service and satisfactory performance.

Eligibility for the full meritorious Step increase shall be determined by:

1. Average or above average evaluation during the last rating period, and

2. Recommendation of a wage increase in the performance evaluation, and

3. No disciplinary action higher than a verbal warning during the rating period.

C. Merit pay increases shall be granted upon approval of the employee's Department Head for continued meritorious and efficient service and continued improvement by the employee in the effective performance of the duties of his/her position.

D. Notwithstanding any other provision in this Section, the City Council may vote to reduce or suspend the meritorious increases if the City Council determines that budget constraints or other factors warrant reducing or suspending the meritorious increases should a fiscal or other emergency arise.

## FISCAL IMPACT

Police and all other Heber City departments: Public Works - Water, Roads, Sewer, Parks & Cemetery Trails;

Airport; Community Development, Planning, Building; Engineering; Finance, City Treasurer, HR; City Recorder; Administration. Incrementally progressing through the pay scale benefits employees, especially in Heber City, where the cost of living is among the highest in the state.

## CONCLUSION

I believe this change would benefit the City in the following areas.

1. Retention of employees with rates of pay comparable to those of surrounding organizations.
2. Encourages employees to meet or exceed expectations of their job duties in order to receive merit increases.
3. Recognizes the employee experience and rewards them appropriately.
4. If an employee experiences disciplinary action, it incentivizes them to continue to improve in order to obtain the increase at a later date.
5. Offers flexibility to the department head when awarding meritorious service as a motivation for employees.

## ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

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## POTENTIAL MOTIONS

### Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

### Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

### Alternative 3 - Continue

I move to **continue** the item to another meeting on [DATE], with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

### Alternative 4 - Denial

I move to **deny** the item with the following findings.

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## ACCOUNTABILITY

**Department:** Human Resources  
**Staff member:** Cherie Ashe, Human Resources Manager

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## EXHIBITS

1. 2025-11Resolution Comp Step Program
2. New pay steps Heber City Police
3. Policy 9 Step
4. PayPlan

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 75 N Main Street  
Heber City, UT 84032

 Phone: 435-657-0757  
Fax: 435-657-2543

 [heberut.gov](http://heberut.gov)

## **RESOLUTION NO. 2025-11**

### **A RESOLUTION ADOPTING UPDATES TO THE HEBER CITY PERSONNEL POLICY**

**WHEREAS**, the Heber City Personnel Policy establishes policies and procedures for City employees;

**WHEREAS**, The Personnel Policy Committee suggests adopting a nine step pay plan similar to that of Public Safety adopted in March 2024;

**WHEREAS**, the proposed changes to the Personnel Policy section 13.2 Compensation include nine steps;

**WHEREAS**, the City Council finds that the proposed changes to the Personnel Policy are beneficial to the employees and City and update, clarify and streamline pay scale advancement procedures for public safety personnel; and non sworn Police Officers and Heber City Staff.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of Heber City, Utah, that the Heber City Council adopts the nine-step pay plan included in the budget.

This Resolution shall take effect and be in force beginning the fiscal year 2026 and after its adoption and publication.

**ADOPTED AND PASSED** by the City Council of Heber City, Utah, this day of July, 2025. This Resolution shall become effective upon adoption and passage by the City Council.

**HEBER CITY**  
A Utah Municipal Corporation

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Heidi Franco, Mayor

ATTEST:

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Trina Cooke, City Recorder

(city seal)

## **EXHIBIT “A”**

### **13.40 City Staff Merit Pay Salary Adjustment**

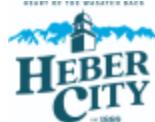
- A. Regular, full-time employees shall be eligible for consideration for merit pay increases as follows:
  1. To the second (2nd) step of the salary schedule after completion of one (1) year of service in the first step.
  2. To the third (3rd) and each subsequent step after completion of a minimum of one (1) year of service at each step.
  3. After completion of probation, Step 2 is automatic and not meritorious. Each step after step 2 is considered meritorious.
- B. Each step increase is performed on an employee’s anniversary date. The employee’s anniversary date is determined by:
  1. One year from the employee’s start date;
  2. One year from a promotion
- C. Eligibility for the full meritorious increase shall be determined by:
  1. Average or above average evaluation during the last rating period, and
  2. Recommendation of a wage increase in the performance evaluation, and
  3. No disciplinary action higher than a Verbal Warning during the rating period.
- D. An employee who has received disqualifying disciplinary action during the preceding year shall not be eligible for a salary adjustment at their annual evaluation for a step increase. A written appraisal may be performed by the supervisor no less than 120 days after the disciplinary action which shows a significant improvement in performance.
  1. The next step increase will be considered at the new one (1) year anniversary.
  2. The Supervisor shall receive permission from the Department Head prior to the evaluation being completed to receive approval to perform said evaluation. The evaluation may be denied based upon the sole determination from the Department Head that discipline was egregious enough that the evaluation should not be performed.
  3. It is the responsibility of the department and the employee to track anniversary dates and employee evaluation dates. Only by exception of the City Manager will back pay also known as 'Retro pay' occur if the evaluation was scheduled late, or completed incorrectly that result in the employee’s step increase being delayed.

An employee that does not have disqualifying disciplinary action but who, based upon a review of the supervisor’s evaluation, is not performing at the level of a standard employee may be recommended for a partial increase. This increase shall be determined and recommended by the department head.

An employee who has received a partial increase will be able to obtain the top step of the pay range in future annual evaluations. This would be done in 5% increments each year, based upon merit and this policy until the top of the pay range has been met.

- E. In such cases as may occur wherein an employee shall demonstrate exceptional sustained ability and proficiency in performance of his/her assigned duties, said employee may be given a special merit advancement to the next higher step without regard to the minimum length of service provisions contained in this Section upon recommendation of the Department Head and the approval of the City Manager.
- F. Merit pay increases shall be granted upon approval of the employee's Department Head for continued meritorious and efficient service and continued improvement by the employee in the effective performance of the duties of his/her position.
- G. Notwithstanding any other provision in this Section, the City Council may vote to reduce or suspend the meritorious increases if the City Council determines that budget constraints or other factors warrant reducing or suspending the meritorious increases. The Council may increase future meritorious increases to offset any decreases due to a reduction or suspension.

DEPARTMENT	JOB TITLE	MONTHLY SALARY									HOURLY SALARY									old scale
		1/MIN	2	3	4	5	6	7	8	9/MAX	1/MIN	2	3	4	5	6	7	8	9/MAX	
HCPD	Police Officer	\$5,327	\$5,593	\$5,873	\$6,165	\$6,472	\$6,795	\$7,134	\$7,491	\$7,757	30.73	32.28	33.88	35.57	37.34	39.20	41.16	43.22	44.75	43.01
HCPD	Senior Police Officer	\$5,593	\$5,873	\$6,165	\$6,472	\$6,795	\$7,134	\$7,491	\$7,757	\$8,145	32.27	33.88	35.57	37.34	39.20	41.16	43.22	44.75	46.99	5% Incentive 46.76
HCPD	Master Officer	\$5,873	\$6,165	\$6,472	\$6,795	\$7,134	\$7,491	\$7,757	\$8,145	\$8,551	33.88	35.57	37.34	39.20	41.16	43.22	44.75	46.99	49.33	5% Incentive 49.11
HCPD	Sergeant	\$6,460	\$6,783	\$7,195	\$7,474	\$7,849	\$8,240	\$8,533	\$8,960	\$9,509	37.27	39.13	41.51	43.12	45.28	47.54	49.23	51.69	54.86	10% seperation 54.00
HCPD	Master Sergeant	\$6,783	\$7,105	\$7,460	\$7,833	\$8,225	\$8,635	\$9,067	\$9,521	\$9,998	39.13	40.99	43.04	45.19	47.45	49.82	52.31	54.93	57.68	5% incentive 56.67
HCPD	Police Lieutenant	\$7,722	\$8,108	\$8,514	\$8,940	\$9,388	\$9,857	\$10,350	\$10,868	\$11,412	44.55	46.78	49.12	51.58	54.16	56.87	59.71	62.70	65.84	15% seperation 65.51
HCPD	Police First Lieutenant	\$8,108	\$8,514	\$8,940	\$9,388	\$9,857	\$10,350	\$10,868	\$11,412	\$11,983	46.78	49.12	51.58	54.16	56.87	59.71	62.70	65.84	69.13	5% Increase
HCPD	Police Deputy Chief	\$8,337	\$8,755	\$9,193	\$9,654	\$10,138	\$10,646	\$11,180	\$11,740	\$12,329	48.10	50.51	53.04	55.70	58.49	61.42	64.50	67.73	71.18	10% Seperation 71.13
HCPD	Office Manager	\$4,505	\$4,730	\$4,966	\$5,214	\$5,474	\$5,748	\$6,036	\$6,337		25.99	27.29	28.65	30.08	31.58	33.16	34.82	36.56		36.39
HCPD	Administrative Assistant	\$3,678	\$3,861	\$4,054	\$4,255	\$4,467	\$4,692	\$4,935	\$5,177		21.22	22.28	23.39	24.55	25.77	27.07	28.47	29.87		29.71



## **PayScale/Salary Adjustment – 9-Step Progression Policy**

### **A. Eligibility for Step Increases**

Regular, full-time employees of Heber City are eligible for consideration for step-based merit increases in accordance with the following guidelines:

1. Advancement to Step 2 occurs upon successful completion of the probationary period service in Step 1.
2. Advancement to Step 3 and each subsequent step requires a minimum of one (1) year of service at the current step.
3. Following successful completion of the probationary period, advancement to Step 2 is automatic. Progression beyond Step 2 is contingent upon satisfactory performance.
4. The City Manager retains the discretion to recommend step increases outside of the standard progression based on performance or operational needs.

### **B. Anniversary Date and Timing of Increases**

Step increases are processed on the employee's anniversary date, defined as:

1. One year from the employee's original hire date;
2. One year from the date of a promotion; or

### **C. Criteria for Merit Step Increases**

Employees must meet the following criteria to qualify for a full merit-based step increase:

1. Achieve an average or above-average rating on their most recent performance evaluation;
2. Receive a recommendation for a wage increase in the evaluation; and
3. Have no disciplinary action exceeding a verbal warning during the rating period.

### **D. Impact of Disciplinary Actions on Step Increases**

Employees who have received disqualifying disciplinary action (above a verbal warning) within the preceding 12 months are ineligible for a step increase at the time of their annual evaluation. However:

1. If significant improvement is demonstrated, a written performance appraisal may be conducted no sooner than 120 days after the disciplinary action.



2. The subsequent step increase will be evaluated based on one (1) year of satisfactory performance from the date of hire or promotion date. Heber City will not retro pay any potential increase.
3. The Department Head must authorize the evaluation before it is conducted and may deny it if the prior discipline was deemed severe.
4. The department and the employee are responsible for tracking anniversary and evaluation dates. The City does not typically provide retroactive pay for evaluations that are delayed or improperly administered.

If an employee is not subject to disqualifying discipline but is not performing fully satisfactorily, the supervisor may recommend a partial step increase. The Department Head has the authority to determine and approve such partial increases.

Employees receiving partial increases remain eligible for future progression to the top step through subsequent merit-based evaluations, with annual increases applied in 5% increments, subject to this policy.

#### **E. Special Merit Advancement**

Employees who demonstrate exceptional and sustained performance may be eligible for a special merit advancement to the next step in the salary schedule without regard to the standard time-in-step requirement. Such advancement requires a recommendation from the Department Head and approval by the City Manager.

#### **F. Budgetary Considerations**

The City Council reserves the right to reduce or suspend step increases based on budgetary constraints or other relevant considerations. If step increases are suspended, the Council may authorize future increases to offset the missed progression, at its discretion.

## Proposed Pay Plan

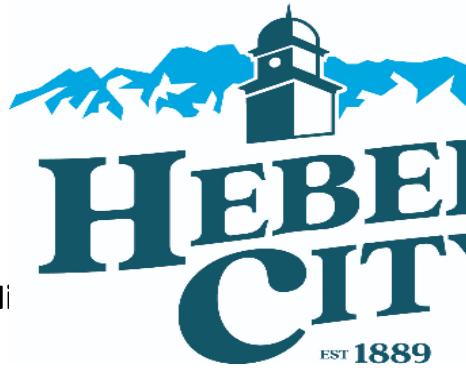
## Competitive Objective

## Annual Pay Roster

0.0%

COLA

Job Title	Job Value	Pay Roster								Range
		1	2	3	4	5	6	7	8	
City Manager	5555	\$107,347	\$137,344	\$167,241	\$217,572	\$228,458	\$235,873	\$251,100	\$250,000	\$250,000
Community Development Director	5555	\$151,384	\$188,583	\$215,512	\$252,788	\$258,422	\$265,448	\$275,824	\$285,244	\$285,244
Public Works Director	5555	\$142,195	\$165,243	\$185,285	\$204,548	\$212,768	\$211,486	\$218,476	\$228,000	\$228,000
Finance Director	5555	\$128,200	\$150,303	\$180,618	\$193,243	\$196,211	\$193,522	\$191,198	\$193,258	\$177,721
City Prosecutor/Residential City Manager	5555	\$118,385	\$124,228	\$158,431	\$195,353	\$193,881	\$198,331	\$198,548	\$195,457	\$168,444
Planning Manager	5555	\$102,833	\$107,284	\$112,564	\$118,192	\$124,182	\$128,387	\$135,822	\$145,664	\$158,847
Public Works Director	5555	\$84,468	\$88,864	\$108,887	\$148,887	\$144,447	\$148,468	\$145,478	\$148,487	\$148,444
Airport Manager	5555	\$84,000	\$85,848	\$93,452	\$98,166	\$103,875	\$108,228	\$113,548	\$113,322	\$125,288
Program Compliance Administrator	5555	\$81,755	\$85,854	\$98,147	\$104,554	\$105,387	\$104,355	\$105,574	\$115,852	\$128,885
Fire Manager	5555	\$81,705	\$85,731	\$98,088	\$104,584	\$105,314	\$104,273	\$105,433	\$114,358	\$128,215
Human Resources Manager	5555	\$81,158	\$85,186	\$95,446	\$105,318	\$108,614	\$109,544	\$108,722	\$114,158	\$115,866
Senior Accountant	5555	\$75,411	\$88,251	\$94,243	\$108,455	\$102,878	\$107,521	\$102,338	\$102,517	\$112,333
IT Administrator	5555	\$73,721	\$77,487	\$81,278	\$85,342	\$85,585	\$84,885	\$88,234	\$103,733	\$108,328
Public Supervisor/Lead	5555	\$73,447	\$75,888	\$78,844	\$88,883	\$88,838	\$85,434	\$85,845	\$84,884	\$84,884
Parks, Camping, Trails & Open Space Foreman	5555	\$71,376	\$74,344	\$78,632	\$82,626	\$86,757	\$91,895	\$93,658	\$108,453	\$105,454
Technology Foreman	5555	\$71,297	\$74,735	\$78,593	\$82,466	\$86,585	\$86,518	\$85,464	\$101,291	\$105,245
Sewer Systems Foreman	5555	\$71,297	\$74,735	\$78,593	\$82,466	\$86,585	\$86,518	\$85,464	\$101,291	\$105,245
Water Systems Foreman	5555	\$71,297	\$74,735	\$78,593	\$82,466	\$86,585	\$86,518	\$85,464	\$101,291	\$105,245
City Recorder	5555	\$59,345	\$75,446	\$77,118	\$88,374	\$85,829	\$85,274	\$85,738	\$98,425	\$103,346
Planner II	5555	\$57,377	\$71,375	\$74,345	\$78,592	\$82,627	\$86,758	\$91,895	\$95,654	\$108,455
Shop Mechanic	5555	\$57,058	\$71,251	\$74,813	\$78,554	\$82,482	\$86,888	\$88,338	\$85,483	\$108,257
Lead Sewer Systems Operator	5555	\$55,366	\$78,514	\$85,823	\$97,521	\$91,337	\$95,467	\$93,748	\$94,227	\$98,335
Lead Water System Operator	5555	\$55,366	\$78,514	\$85,823	\$97,521	\$91,337	\$95,467	\$93,748	\$94,227	\$98,335
Lead Roads, Water, Pl.	5555	\$55,366	\$78,514	\$85,823	\$97,521	\$91,337	\$95,467	\$93,748	\$94,227	\$98,335
Lead Technology Operator	5555	\$55,366	\$78,514	\$85,823	\$97,521	\$91,337	\$95,467	\$93,748	\$94,227	\$98,335
Facility Maintenance Foreman	5555	\$50,225	\$65,237	\$65,531	\$65,748	\$75,284	\$75,854	\$88,788	\$84,743	\$88,333
Lead Parks Operator	5555	\$57,836	\$78,451	\$79,373	\$77,572	\$81,555	\$85,635	\$85,315	\$84,411	\$95,151
Lead Camping Operator	5555	\$57,836	\$78,451	\$79,373	\$77,572	\$81,555	\$85,635	\$85,315	\$84,411	\$95,151
Planner I	5555	\$50,829	\$65,124	\$68,388	\$71,733	\$75,389	\$75,153	\$83,117	\$87,273	\$91,636
City Treasurer	5555	\$50,225	\$64,278	\$67,493	\$78,857	\$74,488	\$75,428	\$82,826	\$85,127	\$88,484
Public Works Office Manager	5555	\$53,258	\$62,249	\$65,329	\$68,583	\$72,819	\$75,628	\$72,481	\$83,374	\$87,533
Utility Maintenance Operator III	5555	\$50,478	\$61,482	\$64,472	\$67,635	\$71,888	\$74,634	\$78,366	\$82,284	\$86,333
Police Executive Admin./Office Manager	5555	\$50,335	\$61,315	\$64,388	\$67,533	\$70,373	\$74,528	\$78,255	\$82,167	\$86,276
Animal Control Supervisor	5555	\$55,829	\$68,514	\$61,545	\$64,622	\$67,855	\$71,246	\$74,888	\$78,543	\$82,475
Utility Maintenance Operator II	5555	\$55,382	\$58,158	\$61,836	\$64,888	\$67,232	\$78,857	\$74,198	\$77,833	\$81,734
Parks & Camping Foreman	5555	\$54,834	\$67,635	\$68,521	\$65,547	\$66,725	\$70,851	\$73,564	\$77,242	\$81,184
Reserve Officer	5555	\$55,845	\$55,782	\$58,487	\$51,411	\$54,481	\$57,785	\$71,851	\$74,645	\$78,378
Lead Parks/Camping Worker	5555	\$52,688	\$55,298	\$58,388	\$60,388	\$63,345	\$67,143	\$70,588	\$74,825	\$77,725
Arborist/Sprayer	5555	\$52,787	\$55,349	\$58,118	\$61,815	\$64,886	\$67,263	\$78,633	\$74,164	\$77,875
Utility Maintenance Operator I	5555	\$52,322	\$54,338	\$57,685	\$60,563	\$63,537	\$66,777	\$70,116	\$73,622	\$77,333
Airport Officer Administrator	5555	\$51,588	\$54,885	\$56,788	\$55,627	\$58,688	\$65,793	\$63,825	\$72,477	\$75,181
Coroner/Assistant	5555	\$51,488	\$53,378	\$55,627	\$53,511	\$52,487	\$55,611	\$58,892	\$72,336	\$75,333
Assessing Technician II	5555	\$51,281	\$59,761	\$60,443	\$53,271	\$62,295	\$65,347	\$68,614	\$72,845	\$75,647
Court Administrator/Supervisor	5555	\$50,395	\$55,534	\$56,241	\$55,824	\$51,372	\$55,874	\$60,325	\$71,741	\$75,328
Deputy City Recorder	5555	\$50,517	\$55,849	\$56,635	\$58,488	\$61,484	\$64,474	\$67,638	\$71,885	\$74,637
Animal Control Officer II	5555	\$45,451	\$51,323	\$54,513	\$57,245	\$60,188	\$63,413	\$66,263	\$63,582	\$73,881
Assessing Technician I	5555	\$45,328	\$51,735	\$54,385	\$57,184	\$59,353	\$62,357	\$66,185	\$63,418	\$72,881
Administrator Residential/Certified Permit Tech	5555	\$48,884	\$51,328	\$53,894	\$56,583	\$55,418	\$62,395	\$65,583	\$68,784	\$72,224
Business License Administrator	5555	\$48,319	\$51,735	\$53,272	\$55,335	\$58,732	\$61,663	\$64,252	\$67,338	\$71,338
Parks & Camping Administrator/Residential/Caretaker Services	5555	\$47,153	\$49,456	\$51,371	\$54,563	\$57,298	\$60,163	\$63,171	\$66,323	\$65,646
Planning Administrator/Assistant	5555	\$47,153	\$49,436	\$51,371	\$54,563	\$57,298	\$60,163	\$63,171	\$66,323	\$65,646
Police Administrator/Assistant	5555	\$45,885	\$49,147	\$51,684	\$54,184	\$56,859	\$59,738	\$62,725	\$65,854	\$65,154
Parks/Camping Maintenance Worker II	5555	\$45,783	\$49,122	\$51,578	\$54,157	\$56,885	\$59,738	\$62,633	\$65,828	\$65,113
Facility Maintenance Technician	5555	\$45,768	\$49,186	\$51,562	\$54,148	\$56,847	\$59,683	\$62,673	\$65,887	\$65,837
Jailor/Court Clerk II	5555	\$45,448	\$48,778	\$51,289	\$53,763	\$56,458	\$59,288	\$62,244	\$65,357	\$68,625
Public Works Administrator/Assistant	5555	\$45,383	\$48,782	\$51,197	\$53,634	\$56,378	\$59,197	\$62,157	\$65,265	\$68,528
Animal Control Officer I	5555	\$45,373	\$48,631	\$51,126	\$53,682	\$56,386	\$59,185	\$62,144	\$65,251	\$68,514
Assessor/Property Specialist	5555	\$45,265	\$48,578	\$51,087	\$53,568	\$56,295	\$59,147	\$62,088	\$65,188	\$68,555
Building Administrator/Assistant/Certified Technician	5555	\$45,537	\$47,814	\$50,285	\$52,745	\$55,347	\$58,188	\$61,824	\$64,875	\$67,273
Code Enforcement Technician	5555	\$45,781	\$45,886	\$48,181	\$50,598	\$53,119	\$55,275	\$58,564	\$61,432	\$64,587
Prosecutor's Assistant	5555	\$45,674	\$45,858	\$48,158	\$50,558	\$53,086	\$55,248	\$58,527	\$61,453	\$64,526
Jailor/Court Clerk I	5555	\$45,485	\$45,658	\$47,349	\$50,248	\$52,857	\$55,588	\$58,275	\$61,183	\$64,248
Police Secretary	5555	\$42,458	\$44,629	\$45,854	\$45,197	\$51,656	\$54,933	\$56,351	\$59,733	\$62,703
Parks/Camping Maintenance Worker I	5555	\$42,356	\$44,484	\$45,783	\$45,844	\$51,436	\$54,871	\$56,274	\$59,513	\$62,704
Animal Shelter Technician	5555	\$41,434	\$45,585	\$45,681	\$47,365	\$50,363	\$52,881	\$55,325	\$58,381	\$61,216

**HEBER CITY COUNCIL STAFF REPORT****MEETING DATE: 7/1/2025****SUBJECT: Mayor's Nomination for POSTT Committee – Carl T. Ni****RESPONSIBLE:** Mayor Heidi Franco**STRATEGIC RELEVANCE:** Necessary Administrative Item**RECOMMENDATION:**

Mayor Franco is nominating Carl T. Nielson for the POSTT Committee. One other POSTT Committee member notified the Mayor as to their moving out of Heber City this year. Carl has many skills and commitment to Heber City that will work well on the POSTT Committee. The Mayor discussed the attendance requirement, and POSTT activities with Carl. He has already attended a POSTT Committee June meeting. Carl Nielson's resume is attached in the agenda materials.

# Carl T. Nielson

(435) 557-0296 | carl.t.nielson@gmail.com

## EDUCATION

### Brigham Young University – Marriott School of Business

*Bachelor of Science in Entrepreneurial Management and a minor in Media Arts*

Provo, UT  
Apr 2025

- GPA 3.87 / 4.00

- *Academic Scholarship, Sterling Scholar Scholarship*

- Creators club member, Creators Book Club member

- Relevant Coursework: Principles of Finance, Principles of Accounting, Marketing Management, Econ Principles & Problems, Spreadsheets & Bus Analysis, Intro to Mgt Info Systems, Intro Global Supply Chain Mgt, Intro to Global Supply Chain International, Intro Business Analytics, Entrepreneurship Analytics, Entrepreneurial Innovation

- *Phi Eta Sigma* member (top 20% of my class)

### Wasatch High School – Graduate 2018

Heber City, UT

- Graduate with High Honors, Sterling Scholar

- Student Government *Student Body President*, Improv Club *President*, lead roles in school and community musicals

## EXPERIENCE

### KW Park City Keller Williams Realty

*Realtor*

Park City, UT

November 2024 – Current

### Blue Raven Solar

*Sales Development Representative*

Orem, UT

May 2024 – Current

### Sunergy Solar

*Sales Representative (Closer)*

Destin, FL

Mar 2023 – Jan 2024

- Closing ratio of 91% in first 6 weeks

### Timberline Pest Control

*Sales Representative*

Utah County, UT

Apr 2021 – August 2021

## LEADERSHIP & SERVICE

### Mobi

*Co- Founder*

Provo, UT

Oct 2023 – Nov 2024

- Designed and validated a patent pending accessible cooking station for wheelchair users

- Showcased at Utah Valley Parade of Homes

- Accepted into iHUB – Utah's innovation incubator

- Validation and Traction grants recipient through the Rollins Center

### The Church of Jesus Christ of Latter-day Saints

*Volunteer Representative*

Warsaw, Poland

Sep 2018 – Oct 2020

- Engaged in religious discussions and frequent community service

- Taught free weekly English lectures

- Learned advanced Polish

## AWARDS, SKILLS & INTERESTS

- Active Real Estate License

- *Eagle Scout*, Boy Scouts of America

- *1<sup>st</sup> Place/Scholarship Winner*, Sterling Scholar Competition in Speech, Theater Arts, and Forensics

- Jeffery R. and Patricia T. Holland Scholarship Winner

- I am an experienced videographer, video editor and content creator



# Heber City Council Staff Report

**MEETING DATE:** 7/1/2025  
**SUBJECT:** Statewide Stage 1 Firework Restrictions  
**RESPONSIBLE:** Clint Neerings  
**DEPARTMENT:** Administrative  
**STRATEGIC RELEVANCE:**

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## SUMMARY

## RECOMMENDATION

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## BACKGROUND

## DISCUSSION

## FISCAL IMPACT

## CONCLUSION

## ALTERNATIVES

1. Approve as proposed
2. Approve as amended

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3. Continue
4. Deny

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## POTENTIAL MOTIONS

### Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

### Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

### Alternative 3 - Continue

I move to **continue** the item to another meeting on [DATE], with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

### Alternative 4 - Denial

I move to **deny** the item with the following findings.

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## ACCOUNTABILITY

**Department:** Administrative  
**Staff member:**

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## EXHIBITS

None



# Heber City Council Staff Report

<b>MEETING DATE:</b>	7/1/2025
<b>SUBJECT:</b>	Ordinance 2025-16 Updating Heber City's Purchasing Policy
<b>RESPONSIBLE:</b>	Wendy Anderson
<b>DEPARTMENT:</b>	Administrative
<b>STRATEGIC RELEVANCE:</b>	Necessary Administrative Action

## SUMMARY

Staff proposes updates to Heber City Municipal Code § 3.14 Purchasing Policy to raise outdated purchasing thresholds that no longer reflect current market conditions. Due to significant inflation in recent years, many routine purchases now exceed the existing limits, triggering unnecessary administrative steps. The revised thresholds maintain the same approval structure while modernizing dollar amounts for efficiency. The update is consistent with the City's recently increased \$10,000 fixed asset capitalization limit.

## RECOMMENDATION

Staff recommends adoption of the attached ordinance amending the purchasing policy to update procurement thresholds for inflation and operational efficiency.

## BACKGROUND

The City's current purchasing thresholds were last updated on September 6, 2022 (Resolution 2022-19). Since that time, inflation has significantly increased the cost of equipment, supplies, and services, causing many routine purchases to exceed existing approval or bidding limits. This has resulted in inefficiencies, delays, and disproportionate administrative burden for low- and mid-value transactions.

Additionally, on November 19, 2025, the Heber City Council approved an increase to the City's capitalization threshold from \$5,000 to \$10,000. Aligning purchasing thresholds with this new policy also ensures consistency in procurement, accounting, and audit practices.

## DISCUSSION

### Thresholds and Authorizations

The ordinance updates threshold amounts across the following sections:

- **§ 3.14.050 – Approval of Purchases**
- **§ 3.14.060 – Exemptions**
- **§ 3.14.070 – Purchases Not Requiring Sealed Bids**
- **§ 3.14.080 – Purchases Requiring Sealed Bids**
- **§ 3.14.135 – Disposal or Lease of Public Property**

### **Comparison of Original and Proposed Purchasing Thresholds**

Category	Original Threshold	Proposed Threshold	Authorization*
<b>Purchase Orders</b>			
All purchases		$\geq \$10,000$	Purchase Order Required
<b>Approval of Purchases</b>			
General Purchase Approval	< \$4,000	< \$10,000	Any Authorized Staff
Unbudgeted Purchases	$\geq \$5,000$	$\geq \$10,000$	City Council
General Purchase Approval	\$5,000 - \$30,000	\$10,000 – \$50,000	Department Head
General Purchase Approval	\$30,001-\$50,000	\$50,001-\$75,000	City Manager
General Purchase Approval	> \$50,000	> \$75,000	City Council
Public Works Approval	\$50,001- \$100,000	\$75,001-\$150,000	City Manager
Public Works Approval	> \$100,000	> \$150,000	City Council
<b>Informal Quote Requirements</b>			
No Quotes Required	< \$4,000	< \$10,000	
Two Quotes Required	\$4,000-\$8,000	\$10,000-\$15,000	Department Head
Three Quotes Required	\$8,001-\$50,000	\$15,001-\$75,000	City Manager
Three Quotes + Informal Solicitation (PW)	\$50,001- \$100,000	\$75,001-\$150,000	City Manager
<b>Contract Requirements</b>			
Professional Services	Any Amount	$\geq \$25,000$	Contract Required
General Contracts	< \$50,000 (project or annual amt)	< \$75,000 (project or annual amt)	Negotiated with at least two qualified parties and awarded by City Manager

General Contracts	$\geq \$50,000$ (project or annual amt)	$\geq \$75,000$ (project or annual amt)	Negotiated with at least two qualified parties and awarded by City Council
"As Needed" Contracts	< \$200,000	< \$250,000	No City Council approval needed
Public Works Contracts		$\leq \$150,000$	City Manager
Public Works Contracts	> \$100,000	> \$150,000	City Council
<b>Sealed Bids Requirements</b>			
General Sealed Bid	> \$50,000	> \$75,000	City Council
Public Works Sealed Bid	> \$100,000	> \$150,000	City Council
<b>Other</b>			
Surplus Disposal	> \$5,000	> \$10,000	City Council
Change Orders	All change orders	All change orders	City Manager
Changers	$\geq \$10,000$ or 10% of approved contract	$\geq \$15,000$ or 10% of approved contract	City Council
Sole Sourced Procurement	> \$50,000	> \$75,000	Ten-day public notice required before City Council approval

\*The authorization level listed for each dollar threshold is the highest approval required; all subordinate approvals implied by lower thresholds (e.g., Department Head, City Manager) are presumed to have been obtained before the request advances to the higher approving authority.

These adjustments preserve existing approval roles and competitive processes but make them more functional in today's economy.

### **Volunteer and Employee Gift Card Policy**

The current policy allows up to \$50 per year in gift cards for volunteers. However, gift cards are considered cash-equivalent under IRS regulations and may be treated as taxable compensation. Staff recommends replacing this with a policy that limits volunteer recognition to non-cash, tangible items (e.g., City-branded merchandise). This ensures compliance and reduces audit risk while still honoring community contributions.

### **FISCAL IMPACT**

There is no direct fiscal impact. The changes do not increase spending authority but make purchasing practices more responsive to real-world costs. Staff efficiency is also expected to improve by reducing unnecessary escalations for routine purchases.

### **CONCLUSION**

The proposed updates modernize Heber City's purchasing policy to account for inflationary cost increases and operational realities. The adjustments preserve transparency, maintain internal

controls, and support more efficient public procurement. Staff recommends adoption of the ordinance as presented.

## ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

---

## POTENTIAL MOTIONS

### Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above and allow Staff to make immaterial changes and corrections, as needed, before updating code online.

### Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

### Alternative 3 - Continue

I move to **continue** the item to another meeting on [DATE], with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

### Alternative 4 - Denial

I move to **deny** the item with the following findings.

---

## ACCOUNTABILITY

**Department:** Administrative  
**Staff member:** Sara Nagel, Finance Manager

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## EXHIBITS

1. Ordinance 2025-16 Updating Heber City's Purchasing Policy
2. 3.14 Updated Purchasing Policy Code\_Redline
3. 3.14 Updated Purchasing Policy Code\_Clean Copy

## ORDINANCE NO. 2025-15

### AN ORDINANCE AMENDING CHAPTER 3.14 OF THE HEBER CITY MUNICIPAL CODE – PURCHASING POLICY

**WHEREAS**, the Heber City Council last updated the City's Purchasing Policy on September 6, 2022; and

**WHEREAS**, on November 19, 2024, the Heber City Council adopted a resolution increasing the City's fixed asset capitalization threshold from \$5,000 to \$10,000; and

**WHEREAS**, the City recognizes that inflation has significantly increased the cost of goods, services, and capital equipment since the last policy update, making existing purchasing thresholds outdated and restrictive; and

**WHEREAS**, it is the intent of the City Council to ensure fiscal responsibility while allowing staff to operate efficiently under purchasing guidelines that reflect current economic conditions; and  
**WHEREAS**, the City Council desires to revise Chapter 3.14 of the Heber City Municipal Code to adjust purchasing thresholds across all sections in a manner consistent with the updated capitalization threshold and inflationary pressures;

**NOW THEREFORE, BE IT ORDAINED** by the City Council of Heber City, Utah, that Chapter 3.14 of the Heber City Municipal Code is hereby amended as shown in Exhibit A, attached hereto and incorporated by reference.

This Ordinance shall take effect on July 1, 2025.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

	AYE	NAY
Council Member Yvon Barney	_____	_____
Council Member Aaron Cheatwood	_____	_____
Council Member Michael Johnston	_____	_____
Council Member Sid Ostergaard	_____	_____
Council Member D. Scott Phillips	_____	_____

APPROVED:

\_\_\_\_\_  
Mayor Heidi Franco

ATTEST:

\_\_\_\_\_  
RECODER Date: \_\_\_\_\_

### **3.14.010 Purpose**

The underlying purpose of this chapter is:

- A. To ensure that purchases and services contracted for the city are in the best interest of the public and to ensure fair and equitable treatment of all persons who wish to or do conduct business with the city.
- B. To provide for the greatest possible economy in procurement activities for the city.
- C. To foster effective broad-based competition within the free enterprise system to ensure that the city will receive the best possible service or product at the lowest possible price.
- D. To provide a systematic and uniform method of purchasing goods and services for the city.

### **3.14.020 Definitions**

“As needed” shall refer to miscellaneous professional or public works related tasks on an ongoing basis for a period of time and for rates identified in the contract.

“Business” means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

“Change order” means a written order signed by the city manager or department head, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the city manager to order without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

“City” means Heber City and all other reporting entities controlled by or financially dependent upon the city council.

“City manager” means the city manager of Heber City.

**“Contract” means a written agreement between the City and a vendor, consultant, or contractor for the delivery or disposal of supplies, services, or construction, typically involving defined terms, deliverables, and legal obligations. A contract is distinct from a purchase order and may be used when the scope, complexity, or duration of the procurement requires more formal documentation than a purchase order alone.**

**“Contract” means a written agreement for the delivery or disposal of supplies, services, or construction.**

“Invitation for bids” means all documents, whether attached or incorporated by reference, used for soliciting bids.

“Invitation to negotiate” means a written solicitation for sealed offers to select one or more vendors with which to commence negotiations for the procurement of unique commodities or services described in the solicitation. The outcome of this process is selection of the response that represents the best value to the city.

“Person” means any business, individual, union, committee, club, other organization, or group of individuals.

“Procurement” means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction.

“Professional services contract” means a contract for services performed by an independent contractor in a professional capacity who produces a service predominantly of an intangible nature. These include, but are not limited to, the services of an attorney, physician, engineer, accountant, architectural consultant, dentist, artist, appraiser or photographer.

“Public utilities equipment and supplies” means equipment and materials purchased by the public works department ~~or parks/cemetery department~~ that are used in the regular course of supplying public utilities or park and trail amenities, and includes but is not limited to such items as piping, irrigation equipment, meters, conduit, terminations, transformers, cable, wire, hoses, pad mounted equipment, and general construction materials.

“Public utilities equipment and supplies” does not include any purchase that includes, in whole or in part, labor (not including freight or delivery), services, vehicles or machinery.

“Public works project” means the construction of a street, road, curb and gutter, sidewalk, a public park, trail, or other recreational facility; a pipeline, culvert, dam, canal, or other system or facility for water, sewage, storm water, or flood control; or any other public infrastructure, system, or improvement constructed, owned, operated, or maintained by the City.

“Purchase” means the acquisition of goods (supplies, equipment, etc.) in a single transaction such that payment is made prior to receiving or upon receipt of the goods.

“Purchase description” means the words used in a solicitation to describe the supplies or services to be acquired, and includes specifications attached to or made a part of the solicitation.

“Purchase Order” means a written or electronic authorization that commits funds and authorizes a vendor to provide specified goods or services at an agreed price. A purchase order may serve as a formal contract between the City and the vendor and must be issued prior to the acquisition of goods or services, except in cases explicitly exempted by this policy.

“Request for proposals” means all documents, whether attached or incorporated by reference, used for soliciting proposals.

“Sealed bids” means written proposals from persons or entities offering to contract with or to sell to the city which are received in sealed envelopes to be opened after the deadline for receipt of bids as defined in an invitation to bid.

“Sole source” means goods or service for which there is only one source for the procurement item. Circumstances under which there is only one source for a procurement item may include:

- (1) where the most important consideration in obtaining a procurement item is the compatibility of equipment, technology, software, accessories, replacement parts, or service;
- (2) where a procurement item is needed for trial use or testing;
- (3) where transitional costs are unreasonable or cost prohibitive; or
- (4) where reasonably equivalent goods or services are not available from any other source.

“Unbudgeted Purchase” means any expenditure or contractual obligation for goods, services, or capital items that has not been authorized through the adopted annual budget or an approved budget amendment.”

### 3.14.030 General Policy

- A. All city purchases and contracts for goods and services shall be subject to this chapter unless specifically exempted.
- B. No contract or purchase shall be so arranged, fragmented or divided with the purpose or intent to circumvent this chapter.
- C. No purchase shall be contracted for, or made, unless sufficient funds have been budgeted in the years in which the funds are to be expended.
- D. Reasonable attempts shall be made to publicize anticipated purchases or contracts to known vendors, contractors and suppliers.

- E. When it is advantageous to the city, annual or other recurring contracts for services and supplies regularly purchased should be approved.
- F. All purchases and contracts must be approved by the city manager unless otherwise specified in this chapter.
- G. All contracts for services shall be approved as to form by the city attorney.
- H. In the event there are conflicts with any provision of this policy, and relevant provisions of State Code, such State Code provisions shall govern.

### **3.14.040 Authority Of City Manager**

The city manager or a person designated by the city manager shall be responsible for the following:

- A. Ensure that all purchases for services comply with this chapter.
- B. Review and approve all purchases of the city.
- C. Establish necessary additional procedures for the efficient and economical management of the contracting and purchasing functions authorized by this chapter. Such procedures shall be in writing and on file in the city recorder's office as a public record.
- D. Maintain accurate and sufficient records concerning all city purchases and contracts for services.
- E. Maintain a list of contractors for public improvements and personal services who have made themselves known to the city and are interested in soliciting city business.
- F. Make recommendations to the city council concerning amendments to this chapter.
- G. In the absence of the city manager, the mayor shall be designated and authorized to fulfill the duties of the city manager with respect to any contract, purchase, or payment that requires immediate action or execution. The mayor shall promptly notify the city manager of any actions taken by the mayor.

### **3.14.050 Approval Of Purchases**

- A. All purchasing approvals and change orders must comply with the thresholds and authority levels set forth in Appendix A. Procurement methods include purchase orders, contracts, or check requests, as applicable. Only authorized personnel may initiate purchases, and all purchases shall be documented through the City's financial system. Definitions for contract, purchase, and related terms are consolidated in Section 3.14.020.**

**The following approvals are required for all purchases unless otherwise exempted in this chapter:**

~~A. Any contract, purchase, purchase order, check request, or service request for nonprofessional services and supplies or building improvements in the total amount of \$5,000 or less may be made or approved by the city manager, department head, or an employee or supervisor authorized by the city manager or department head to make such purchase, purchase order, check request, or service request.~~

~~B. Any contract, purchase, purchase order, check request, or service request for nonprofessional services, supplies, or building improvements in the total amount of more than \$5,000 but less than \$30,000 must be made or approved by the city manager or department head.~~

~~C. Any contract, purchase, purchase order, check request, or service request for nonprofessional services and supplies or building improvements in the total amount of more than \$30,000 but less than \$50,000 must be made or approved by the city manager.~~

~~D. Any contract, purchase, purchase order, check request, or service request for public utilities equipment and supplies, or public works projects, in the total amount of more than \$50,000 but less than \$100,000 must be made or approved by both the department head and the city manager.~~

~~E. Gift cards may only be purchased for individuals who volunteer for the City and must be approved by the City Manager. Gift cards are to be gifted in limited circumstances and shall not exceed \$50 annually to any single individual. Documentation for any gift card purchase must include approval from the City Manager, purpose of gift, recipient name, date of gift, and total amount gifted. Employees may not receive gift cards as they are a taxable benefit subject to IRS audit.~~

~~B. F.~~ The city manager may establish additional policies and controls which are consistent with the approval mechanism set forth in this chapter.

~~G. The following contracts and purchases must be approved by the city council:~~

~~1. Any contract or purchase in the amount of \$50,000 or more, which is not related to public works projects or public utilities equipment and supplies.~~

~~a. Any contract or purchase of public works projects or public utilities equipment and supplies in the amount of \$100,000 or more.~~

~~C. b.~~ An invoice or check request received pursuant to a Council approved contract does not require further Council approval.

~~D. e.~~ A purchase order shall be issued in the amount of the approved contract, unless otherwise directed by City Manager or designee.

~~d. A contract is required when a purchase is made that exceeds \$50,000 or more, which is not related to public works projects or public utilities equipment and supplies. For public works projects or public utilities equipment and supplies a contract is required when the purchase exceeds \$100,000.~~

E. 2. All Unbudgeted Purchases require approval with the thresholds and authority levels set forth in Appendix A ~~Any contract, purchase or payment over \$5,000, dealing with public utilities and supplies, or public works projects, which is not anticipated in the current budget and is are~~ not funded by development fees (including connection fees or impact fees) or paid for by third parties.

F. 3. All ~~Any~~ “change orders” ~~that’s the greater of \$10,000 or 10% of a previously approved contract amount. All other change orders to be approved by the City Manager or designee.~~ require approval with the thresholds and authority levels set forth in Appendix A. The sole exceptions shall be 1) where the project is developer funded; and 2) in circumstances where waiting for the City Council approval will create potential claim for damages against the City. In such cases, the City Manager shall submit the approved authorization to the City Council for ratification at its next regularly scheduled meeting. ~~All change orders will be reported monthly to the newspaper of local circulation in the area at least 10 days before the public meeting to approve the purchase or contract by the city council.~~ In the event that there is only one service provider, no competitive bidding is required.

G. H. All ~~disbursement warrants~~ generated by the city will be reported monthly to the City Council.

H. I. Credit cards issued in the city's name may be made available for use by specific city employees. Credit cards may be used for purchasing where there is some benefit to the city such as convenience, the ability to make recurring payments where required, or cash back to the city through a loyalty program. Heber City's current Credit Card Policy is incorporated and made a part of this Agreement by reference hereto. Purchases using credit cards shall be subject to all the required limitations, requirements, and approvals of this chapter. Each credit card statement shall be reviewed monthly by at least two persons, which shall include at least the city manager or city finance officer, and a department head, to protect against misuse or fraud.

### 3.14.060 Exemptions

The following transactions are exempt from the competitive bidding requirements of this chapter. The city manager shall determine ~~whether or not~~ whether a particular contract or purchase is exempt under the following criteria:

- A. When the provisions of this chapter would prevent the city from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.
- B. When any purchase or encumbrance is made with state or federal funds and the applicable state or federal laws or regulations are in conflict with this chapter to the extent that following the provisions of this chapter would jeopardize the use of those state or federal funds, such conflicting provisions of this chapter shall not apply and the city officials making such purchases shall follow the procedure required by the state or federal laws or regulations.
- C. Emergency contracts which require prompt execution of the contract because of an imminent threat to the safety or welfare of the public, or public or private property; circumstances which place the city or its officers and agents in a position of serious legal liability; or circumstances which are likely to cause the city to suffer financial harm or loss, the gravity of which clearly outweighs the benefits of competitive bidding in the usual manner. The city manager or mayor shall notify the city council of any emergency contract which would have normally required their approval at the next regularly scheduled city council meeting.
- D. Projects which are acquired, expanded, or improved under the Local Building Authority Act.
- E. Purchases from vendors or suppliers who are the sole source of the goods or services under procurement. If any sole source procurement exceeds the thresholds in Appendix A \$50,000, notice of the sole source procurement shall be published in a newspaper of general circulation in the state or a newspaper of local circulation in the area at least 10 days before the public meeting to approve the purchase or contract by the city council. In the event that there is only one service provider, no competitive bidding is required.
- F. Purchases from state or local surplus property agencies or entities or purchases from entities under state-awarded equipment contracts. Additionally, the City shall have the power to enter into joint purchase agreements with any or all other public agencies within the state for the purchase of any commodity or service, whenever it is determined by the City Council to be in the best interest of the City, regardless of whether such agency or agencies are associated with state entities.
- G. Professional Service Contracts. All professional services must comply with the thresholds and authority levels set forth in Appendix A. The selection of professional service contracts shall be based on an evaluation of the services needed, the abilities of the contractors, the uniqueness of the service and the general performance of the contractor. When selecting the most qualified consultants to perform professional services, the city shall not solicit or use pricing policies and proposals or other pricing information to determine a consultant's compensation until after the most qualified

consultant(s) has been selected. When soliciting professional services, the City will indicate in the notice whether negotiations will commence with the firm deemed most qualified or the City will prequalify firms prior to soliciting price quotes. ~~All professional services require a contract at any dollar amount. Small purchases of professional services, valued at a project or annual amount not to exceed \$50,000, may be negotiated with a minimum of two qualified persons or firms and may be accepted and awarded by the City Manager or designee. Proposals which exceed \$50,000 must be approved and awarded by the City Council.~~ Contracts for ongoing "As Needed" services approved by City Council do not require Council approval for individual tasks or projects performed under the contract provided an individual task value does not exceed ~~threshold levels set forth in Appendix A.~~ ~~\$200,000; Any contract involving an independent auditor, regardless of contract amount, requires City Council approval.~~

### 3.14.070 Purchases Not Requiring Sealed Bids

~~A. Purchases below the sealed bid threshold do not require formal bidding. Informal quotes may be required based on thresholds in Appendix A. Purchases using state cooperative contracts, approved emergency methods, or other exemptions outlined in Section 3.14.060 are excluded.~~

~~Purchases and expenditures of less than \$4,000 shall not require bids or quotes of any type, but are otherwise subject to the general policies of this chapter. These purchases and expenditures that do not require formal quotes are intended to include materials, supplies and services regularly purchased and consumed by the city such as office supplies, janitorial supplies, postage, food and beverages.~~

B. Purchases shall not be artificially divided so as to constitute a purchase or expenditure under this section.

~~C. All purchases and expenditures of more than \$4,000 but less than \$8,000 shall require a minimum of two documented price quotes unless the purchase or expenditure is exempt from the competitive bidding requirement of this chapter or requires a sealed bid.~~

~~D. All purchases and expenditures of more than \$8,000 but less than \$50,000 shall require a minimum of three documented price quotes unless the purchase or expenditure is exempt from the competitive bidding requirement of this chapter or requires a sealed bid.~~

~~EC. All purchases of public utilities equipment and supplies, or public works projects, and expenditures of more than \$50,000 but less than \$100,000 shall require the use of an informal written solicitation and a minimum of three or more documented price quotes unless the purchase or expenditure is exempt from the competitive bidding requirement of~~

~~this chapter or the purchase expenditure requires a sealed bid.~~ The city manager may approve a purchase or expenditure without the required price quotes if the city manager determines that there are not two additional vendors or suppliers of such items.

~~F. Purchases made through the cooperative purchasing contracts administered by the State Division of Purchasing, or any other public agencies of the state, shall not require bids or quotes of any type.~~

### 3.14.080 Purchases Requiring Sealed Bids

~~A. Unless specifically exempt from the competitive bidding requirements of this chapter, whenever the total price of a contract for services, supplies or building improvements is estimated to be \$50,000 or more, or the total price of a contract for a public works project or public utilities equipment and supplies is estimated to be \$100,000 or more, an invitation for bids or a request for proposals shall be issued prior to acquisition.~~

~~BA.~~ Bid Specifications. Specifications for public contracts shall not expressly or implicitly require any product by any brand name or make, nor the product of any particular manufacturer or seller, unless the product is specified in the City standard drawings and specifications or is exempt by these regulations or by the directive of city council.

~~CB.~~ Advertising Requirements. An advertisement for bids is to be published for two consecutive weeks in a newspaper of general circulation in the city or a public project advertising website, and in as many additional issues and publications as the city manager may determine, at least five days prior to the opening of bids; and, at the discretion of the City, may be; delivered to known responsible prospective bidders, including those whose names are on a bidders' list or who have made a written request that their names be added to the bidders' list; posted on an electronic bid page which is accessible to large numbers of potential bidders.

~~DC.~~ All advertisements for bids shall state:

1. The date and time after which bids will not be accepted;
2. The date that prequalification applications must be filed, and the class or classes of work for which bidders must be prequalified if prequalification is a requirement;
3. The character of the work to be done or the materials or things to be purchased;
4. The office where the specifications for the work, material or things may be seen;
5. The name and title of the person designated for receipt of bids;
6. The type and amount of bid security if required;

7. The date, time and place that the bids will be publicly opened.

### **3.14.090 Requirements For Bids**

All bids made to the city shall be:

- A. In writing;
- B. Filed with the city recorder, unless specifically stated in the bid requests;
- C. Opened publicly by the city manager, department head or other designated person at the time designated in the advertisement and filed for public inspection;
- D. Have the appropriate bid security attached, if required by the specifications for the project.

### **3.14.100 Award Of Contract**

A. After bids are opened, and a determination made that a contract be awarded, the award shall be made to the lowest responsible bidder. "Lowest responsible bidder" shall mean the lowest bidder who has substantially complied with all prescribed requirements, has submitted the bid in good faith, has a history of fully performing work at the bid price, and who has not been disqualified as set forth herein. If two (2) or more of the bids received are for the same total amount or list price, quality and service being equal, the City Manager or designee may negotiate with the bidders and obtain the best bid possible and/or give a preference to a bona fide local bidder

B. The successful bidder shall promptly execute a formal contract and, if required, deliver a performance and payment bond to the city in a sum equal to the contract price, together with proof of appropriate insurance. Upon execution of the contract, bond, and insurance, bid security shall be returned. Failure to execute the contract, bond, or insurance shall be cause to forfeit the bid security.

C. Local Bid Preference: For purchases under \$50,000 in total, local bidders will be allowed to match the low bid submitted by non-local providers as follows:

1. When a quotation or bid for supplies, equipment, services, or materials from a non-local provider (from outside Wasatch County) submitted in response to a quote invitation or bid request is the low bid price AND there is a local bidder whose bid or quote is within five (5) percent of the lowest bid of the non-local bidder(s), at the option of the city, the purchase

may be awarded to the local bidder provided he/she agrees to meet the low quote or bid of the lowest non-local bidder within two business days after notification.

2. In the event that more than one local bidder (within the boundaries of Wasatch County) shall notify Heber City of his/her willingness to meet the low quote or bid of the lowest non-local bidder, the purchase shall be awarded to the willing local bidder who was the lowest local bidder originally. If there are two or more equally low local bidders, then the local bidder to which the purchase is awarded shall be the local bidder whose original bid was first received by the City

#### **3.14.110 Rejection Of Bids**

The city manager or the city council may reject any bid not in compliance with all prescribed requirements, and reject all bids if rejection of all bids is determined to be in the best interest of the city.

#### **3.14.120 Disqualification Of Bidders**

The city manager, upon investigation, may disqualify a bidder if:

- A. The bidder does not have sufficient financial ability to perform the contract;
- B. The bidder does not have equipment available to perform the contract;
- C. The bidder does not have key personnel available, of sufficient experience, to perform the contract;
- D. The person has previously breached contractual obligations with public or private agencies; or
- E. The bidder fails to comply with the requests of an investigation by the city manager.

#### **3.14.130 Prequalification Of Bidders**

The city may require prequalification of bidders.

- A. Upon establishment of the applicant's qualifications, the city manager or department head shall issue a qualification statement. The statement shall inform the applicant of the project for which the qualification is valid, as well as any other conditions which may be imposed on the qualification. It shall advise the applicant to notify the city manager or department head promptly if there has been any substantial change of conditions or circumstances which would make any statement contained in the prequalification application no longer applicable or untrue.

B. If the city manager or department head does not qualify an applicant, written notice to the applicant is required stating the reasons the prequalification was denied and informing the applicant of the right to appeal the decision within five business days after receipt of the notice. Appeals shall be made to the city council. The city manager or department head may, upon discovering that a prequalified party is no longer qualified, revoke prequalification by sending notification of the revocation to the party subject to the revocation. The notice shall state the reason(s) for revocation, and that the revocation will be effective immediately.

### 3.14.135 Disposal Or Lease Of Public Property

A. No public property having an estimated value in excess of ~~\$250 one hundred dollars (\$100.00)~~ shall be disposed of or released to anyone other than the City, unless such property has been declared surplus by the City Manager or designee.

B. Whenever public property is surplus, unused, obsolete, unsuitable or otherwise no longer needed, the department head having control of such property shall notify the City Manager or designee. The City Manager or designee may notify other City departments of the availability of such property. The City Manager or designee shall supervise any transfer of such property to any other department. If no use can be made or can be expected to be made within the reasonably foreseeable future, the property shall be disposed of in accordance with this section.

C. The City Manager or designee shall prepare a listing of all City-owned property which s/he feels is no longer needed by the City and which can be declared surplus. After an item has been declared surplus, the property may be disposed of or leased. If an item has an estimated salvage value over ~~five thousand dollars (\$5,000)~~~~\$10,000~~, the City Council shall approve its disposal. All disposals, leases and/or subleases of public property shall be made, in accordance with law, under the direction of the City Manager or designee.

D. Except as otherwise required by State law, boundary line agreements and deeds conveying unneeded portions of rights-of-way or easements may be executed without declaring the property surplus.

E. Before disposing of a significant parcel of real property, the City shall comply with the provisions of Utah Code Ann. 10-8-2(4) and any ongoing or future amendments thereto. For purposes of this section, a significant parcel of real property is defined to be any parcel one acre or greater, or any parcel with a structure or structures upon it where the value of such improved real property is greater than \$250,000.00. Reasonable notice shall constitute posting the property thirty (30) days prior and publishing notice in a newspaper of local circulation fourteen (14) days prior to a public hearing concerning the disposition.

### **3.14.140 Appeal Procedures**

Any supplier, vendor, or contractor subject to an adverse procurement decision by the city, in violation of this chapter, may appeal that decision to the city council.

- A. The complainant shall promptly file a written appeal letter, with the city recorder, within five working days from the time the alleged incident occurred. The letter of appeal shall state all relevant facts of the matter and the remedy sought.
- B. Upon receipt of the notice of appeal, the city recorder shall forward to the city council the appeal notice, investigation of the matter and any other relevant information.
- C. The city council shall conduct a hearing on the matter and provide the complainant an opportunity to be heard. A written decision shall be sent to the complainant.

### **3.14.150 Accounts Payable**

The city's finance director will be responsible for establishing a system and process for the accurate and timely processing of all disbursements of city funds with emphasis on taking advantage of discounts when available and avoidance of late charges.

### **3.14.160 Cancellation And Rejection Of Bids**

- A. An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interest of the city; the reasons for cancellation or rejection shall be made part of the contract file.
- B. Bids, proposals, and contracts which create a conflict of interest under the Municipal Officers' and Employees' Ethics Act shall be rejected unless a legally required conflict disclosure has been made by the official or employee subject to the conflict.

### **3.14.170 Cost-Plus-A-Percentage-Of-Cost Profits Contracts**

Subject to the limitations of this section, any type of contract which will promote the best interests of the city may be used; provided, that the use of a cost-plus-a-percentage-of-cost profit contract is prohibited unless specifically approved by the city council under special circumstances which clearly justify the use of such contracts because the scope of work or the nature of the work is to be closely supervised by the city and the city council so finds in writing. A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the city than any other type

or that it is impracticable to obtain the supplies, services, or construction required except under such a contract.

#### **3.14.175 Consideration Of Procurement Alternatives**

When it's deemed in the best interests of the City to use bidding alternatives that involve a greater level of sophistication than traditional bids or proposals, such as design-build or invitation to negotiate, or other similar alternatives that would provide the City the greatest value at the lowest cost, these alternatives should be available to, and considered and used by the City. The concept being that the City retains the ability to solicit the presentation of new ideas for proposals for initiating, fashioning and completing projects, not previously used or implemented. Use of such bidding alternatives requires City Council approval.

#### **3.14.180 Required Contract Clauses**

All contracts for work entered into by the city shall whenever practicable, contain clauses permitting or requiring the following:

- A. The unilateral right of the city to order, in writing, changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work.
- B. Variations occurring between estimated quantities of work in a contract and actual quantities.
- C. Suspension of work ordered by the city.
- D. Requirements for performance bonds and labor and material payment bonds as required by law for construction projects.
- E. Other provisions required for compliance with federal or state law. All contract specifications shall seek to promote overall economy and best use for the purposes intended and encourage competition in satisfying the needs of the city and shall not be unduly restrictive. Where practicable and reasonable, and within the scope of this chapter, Utah products, contracts and contractors, in the discretion of the City may be given preference as permitted by Utah law.

#### **3.14.190 Final Action On Appeals**

The decision of the city council with respect to any appeal shall be the final action of the city with respect to that appeal.

#### **3.14.200 Conflicts Prohibited**

No person involved in making procurement decisions may have personal investments or derive any income from any business entity, which may create a conflict between their private interests and their public duties. In the event of a conflict, the conflicted person shall recuse themselves from the particular procurement decision or decisions creating the conflict by notifying the city manager (or, in the event the city manager is the conflicted party, by notifying the mayor) of the conflict, and shall not participate in that particular decision or decisions.

### **3.14.300 Penalties**

It is unlawful:

- A. 1.** For any bidder or prospective bidder, or any employee or officer thereof, in restraint of freedom of competition or otherwise, by agreement with any other person, bidder, or prospective bidder, to bid a fixed price, or to "rotate" bidding practices among competitors.
- B. 2.** For any person to offer or to give to any elected official, officer or employee of the City or any member of his immediate family, any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or other form, under circumstances in which it could reasonably be intended to influence him/her or could reasonably be expected to influence him/her in his/her duties concerning the award of any contract or order of purchase, or for any elected official, officer or employee to directly or indirectly solicit or directly or indirectly accept any such gift for such purpose.
- C. 3.** For any elected official, officer or employee to disclose, in advance of the opening of the bids, the content of any bid invited through the formal competitive bidding procedure.
- D. 4.** For any elected official, officer or employee to actively participate in the awarding of a contract from which s/he will directly benefit, without fully disclosing any interest s/he has therein.
- E. 5.** For any elected official, officer or employee or other person to appropriate for personal or private use any item of public property.
- F. 6.** To purchase supplies or equipment for the personal use of any elected official, officer or employee unless the item or items are required parts of a worker's equipment and are necessary to the successful performance of the duties of such official, officer or employee. Other personal purchases shall not be permitted and will be cause for disciplinary action.

**B.** The following contracts are, in the discretion of the City Manager, voidable:

- A. 1. Contracts which result from a conflict of interest under this Chapter or other applicable law.
- B. 2. Contracts awarded to a person or firm that tried to influence the award of such contract by offering something of material value to any elected official, officer or employee.
- C. C. A violation of this section by a City employee shall be cause for disciplinary action. A violation of this section by an elected official shall be malfeasance in office.

#### **3.14.400 Volunteer and Employee Recognition**

- A. Volunteers may be recognized with non-cash, tangible items (e.g., City-branded merchandise), subject to a value limit of \$50 annually per individual. Gift cards or other cash-equivalent items are not permitted. Recognition items must be approved by the City Manager. Documentation shall include the type of item, purpose of recognition, recipient name, date of issuance, and total value. Employees may not receive volunteer recognition items.

## Appendix A – Purchasing Threshold Table

Category	Proposed Threshold	Authorization*
<u>Purchase Orders</u>		
All purchases	$\geq \$10,000$	Purchase Order Required
<u>Approval of Purchases</u>		
General Purchase Approval	$< \$10,000$	Any Authorized Staff
Unbudgeted Purchases	$\geq \$10,000$	City Council
General Purchase Approval	$\$10,000 - \$50,000$	Department Head
General Purchase Approval	$\$50,001 - \$75,000$	City Manager
General Purchase Approval	$> \$75,000$	City Council
Public Works Approval	$\$75,001 - \$150,000$	City Manager
Public Works Approval	$> \$150,000$	City Council
<u>Informal Quote Requirements</u>		
No Quotes Required	$< \$10,000$	
Two Quotes Required	$\$10,000 - \$15,000$	Department Head
Three Quotes Required	$\$15,001 - \$75,000$	City Manager
Three Quotes + Informal Solicitation (PW)	$\$75,001 - \$150,000$	City Manager
<u>Contract Requirements</u>		
Professional Services	$\geq \$25,000$	Contract Required
General Contracts	$< \$75,000$ (project or annual amt)	Negotiated with at least two qualified parties and awarded by City Manager
General Contracts	$\geq \$75,000$ (project or annual amt)	Negotiated with at least two qualified parties and awarded by City Council
“As Needed” Contracts	$< \$250,000$	No City Council approval needed
Public Works Contracts	$\leq \$150,000$	City Manager
Public Works Contracts	$> \$150,000$	City Council
<u>Sealed Bids Requirements</u>		
General Sealed Bid	$> \$75,000$	City Council
Public Works Sealed Bid	$> \$150,000$	City Council
<u>Other</u>		
Surplus Disposal	$> \$10,000$	City Council
Change Orders	All change orders	City Manager
Changers	$\geq \$15,000$ or 10% of approved contract	City Council
Sole Sourced Procurement	$> \$75,000$	Ten-day public notice required before City Council approval

\*The authorization level listed for each dollar threshold is the highest approval required; all subordinate approvals implied by lower thresholds (e.g., Department Head, City Manager) are presumed to have been obtained before the request advances to the higher approving authority.

### **3.14.010 Purpose**

The underlying purpose of this chapter is:

- A. To ensure that purchases and services contracted for the city are in the best interest of the public and to ensure fair and equitable treatment of all persons who wish to or do conduct business with the city.
- B. To provide for the greatest possible economy in procurement activities for the city.
- C. To foster effective broad-based competition within the free enterprise system to ensure that the city will receive the best possible service or product at the lowest possible price.
- D. To provide a systematic and uniform method of purchasing goods and services for the city.

### **3.14.020 Definitions**

“As needed” shall refer to miscellaneous professional or public works related tasks on an ongoing basis for a period of time and for rates identified in the contract.

“Business” means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

“Change order” means a written order signed by the city manager or department head, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the city manager to order without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

“City” means Heber City and all other reporting entities controlled by or financially dependent upon the city council.

“City manager” means the city manager of Heber City.

“Contract” means a written agreement between the City and a vendor, consultant, or contractor for the delivery or disposal of supplies, services, or construction, typically involving defined terms, deliverables, and legal obligations. A contract is distinct from a purchase order and may be used when the scope, complexity, or duration of the procurement requires more formal documentation than a purchase order alone.

“Invitation for bids” means all documents, whether attached or incorporated by reference, used for soliciting bids.

“Invitation to negotiate” means a written solicitation for sealed offers to select one or more vendors with which to commence negotiations for the procurement of unique commodities or services described in the solicitation. The outcome of this process is selection of the response that represents the best value to the city.

“Person” means any business, individual, union, committee, club, other organization, or group of individuals.

“Procurement” means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction.

“Professional services contract” means a contract for services performed by an independent contractor in a professional capacity who produces a service predominantly of an intangible nature. These include, but are not limited to, the services of an attorney, physician, engineer, accountant, architectural consultant, dentist, artist, appraiser or photographer.

“Public utilities equipment and supplies” means equipment and materials purchased by the public works department that are used in the regular course of supplying public utilities or park and trail amenities, and includes but is not limited to such items as piping, irrigation equipment, meters, conduit, terminations, transformers, cable, wire, hoses, pad mounted equipment, and general construction materials.

“Public utilities equipment and supplies” does not include any purchase that includes, in whole or in part, labor (not including freight or delivery), services, vehicles or machinery.

“Public works project” means the construction of a street, road, curb and gutter, sidewalk, a public park, trail, or other recreational facility; a pipeline, culvert, dam, canal, or other system or facility for water, sewage, storm water, or flood control; or any other public infrastructure, system, or improvement constructed, owned, operated, or maintained by the City.

“Purchase” means the acquisition of goods (supplies, equipment, etc.) in a single transaction such that payment is made prior to receiving or upon receipt of the goods.

“Purchase description” means the words used in a solicitation to describe the supplies or services to be acquired, and include specifications attached to or made a part of the solicitation.

“Purchase Order” means a written or electronic authorization that commits funds and authorizes a vendor to provide specified goods or services at an agreed price. A purchase order may serve as a formal contract between the City and the vendor and must be issued

prior to the acquisition of goods or services, except in cases explicitly exempted by this policy.

“Request for proposals” means all documents, whether attached or incorporated by reference, used for soliciting proposals.

“Sealed bids” means written proposals from persons or entities offering to contract with or to sell to the city which are received in sealed envelopes to be opened after the deadline for receipt of bids as defined in an invitation to bid.

“Sole source” means goods or service for which there is only one source for the procurement item. Circumstances under which there is only one source for a procurement item may include:

- (1) where the most important consideration in obtaining a procurement item is the compatibility of equipment, technology, software, accessories, replacement parts, or service;
- (2) where a procurement item is needed for trial use or testing;
- (3) where transitional costs are unreasonable or cost prohibitive; or
- (4) where reasonably equivalent goods or services are not available from any other source.

“Unbudgeted Purchase” means any expenditure or contractual obligation for goods, services, or capital items that has not been authorized through the adopted annual budget or an approved budget amendment.”

### **3.14.030 General Policy**

- A. All city purchases and contracts for goods and services shall be subject to this chapter unless specifically exempted.
- B. No contract or purchase shall be so arranged, fragmented or divided with the purpose or intent to circumvent this chapter.
- C. No purchase shall be contracted for, or made, unless sufficient funds have been budgeted in the years in which the funds are to be expended.
- D. Reasonable attempts shall be made to publicize anticipated purchases or contracts to known vendors, contractors and suppliers.
- E. When it is advantageous to the city, annual or other recurring contracts for services and supplies regularly purchased should be approved.

- F. All purchases and contracts must be approved by the city manager unless otherwise specified in this chapter.
- G. All contracts for services shall be approved as to form by the city attorney.
- H. In the event there are conflicts with any provision of this policy, and relevant provisions of State Code, such State Code provisions shall govern.

### **3.14.040 Authority Of City Manager**

The city manager or a person designated by the city manager shall be responsible for the following:

- A. Ensure that all purchases for services comply with this chapter.
- B. Review and approve all purchases of the city.
- C. Establish necessary additional procedures for the efficient and economical management of the contracting and purchasing functions authorized by this chapter. Such procedures shall be in writing and on file in the city recorder's office as a public record.
- D. Maintain accurate and sufficient records concerning all city purchases and contracts for services.
- E. Maintain a list of contractors for public improvements and personal services who have made themselves known to the city and are interested in soliciting city business.
- F. Make recommendations to the city council concerning amendments to this chapter.
- G. In the absence of the city manager, the mayor shall be designated and authorized to fulfill the duties of the city manager with respect to any contract, purchase, or payment that requires immediate action or execution. The mayor shall promptly notify the city manager of any actions taken by the mayor.

### **3.14.050 Approval Of Purchases**

- A. All purchasing approvals and change orders must comply with the thresholds and authority levels set forth in Appendix A. Procurement methods include purchase orders, contracts, or check requests, as applicable. Only authorized personnel may initiate purchases, and all purchases shall be documented through the City's financial system. Definitions for contract, purchase, and related terms are consolidated in Section 3.14.020.
- B. The city manager may establish additional policies and controls which are consistent with the approval mechanism set forth in this chapter.
- C. An invoice or check request received pursuant to a Council approved contract does not require further Council approval.

- D. A purchase order shall be issued in the amount of the approved contract, unless otherwise directed by City Manager or designee.
- E. All Unbudgeted Purchases require approval with the thresholds and authority levels set forth in Appendix A which are not funded by development fees (including connection fees or impact fees) or paid for by third parties.
- F. All “change orders” require approval with the thresholds and authority levels set forth in Appendix A. The sole exceptions shall be 1) where the project is developer funded; and 2) in circumstances where waiting for the City Council approval will create potential claim for damages against the City. In such cases, the City Manager shall submit the approved authorization to the City Council for ratification at its next regularly scheduled meeting. In the event that there is only one service provider, no competitive bidding is required.
- G. All disbursements generated by the city will be reported monthly to the City Council.
- H. Credit cards issued in the city's name may be made available for use by specific city employees. Credit cards may be used for purchasing where there is some benefit to the city such as convenience, the ability to make recurring payments where required, or cash back to the city through a loyalty program. Heber City's current Credit Card Policy is incorporated and made a part of this Agreement by reference hereto. Purchases using credit cards shall be subject to all the required limitations, requirements, and approvals of this chapter. Each credit card statement shall be reviewed monthly by at least two persons, which shall include at least the city manager or city finance officer, and a department head, to protect against misuse or fraud.

### 3.14.060 Exemptions

The following transactions are exempt from the competitive bidding requirements of this chapter. The city manager shall determine whether a particular contract or purchase is exempt under the following criteria:

- A. When the provisions of this chapter would prevent the city from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.
- B. When any purchase or encumbrance is made with state or federal funds and the applicable state or federal laws or regulations are in conflict with this chapter to the extent that following the provisions of this chapter would jeopardize the use of those state or federal funds, such conflicting provisions of this chapter shall not apply and the city officials making such purchases shall follow the procedure required by the state or federal laws or regulations.
- C. Emergency contracts which require prompt execution of the contract because of an imminent threat to the safety or welfare of the public, or public or private property;

circumstances which place the city or its officers and agents in a position of serious legal liability; or circumstances which are likely to cause the city to suffer financial harm or loss, the gravity of which clearly outweighs the benefits of competitive bidding in the usual manner. The city manager or mayor shall notify the city council of any emergency contract which would have normally required their approval at the next regularly scheduled city council meeting.

- D. Projects which are acquired, expanded, or improved under the Local Building Authority Act.
- E. Purchases from vendors or suppliers who are the sole source of the goods or services under procurement. If any sole source procurement exceeds the thresholds in Appendix A, notice of the sole source procurement shall be published in a newspaper of general circulation in the state or a newspaper of local circulation in the area at least 10 days before the public meeting to approve the purchase or contract by the city council. In the event that there is only one service provider, no competitive bidding is required.
- F. Purchases from state or local surplus property agencies or entities or purchases from entities under state-awarded contracts. Additionally, the City shall have the power to enter into joint purchase agreements with any or all other public agencies within the state for the purchase of any commodity or service, whenever it is determined by the City Council to be in the best interest of the City, regardless of whether such agency or agencies are associated with state entities.
- G. Professional Service Contracts. All professional services must comply with the thresholds and authority levels set forth in Appendix A. The selection of professional service contracts shall be based on an evaluation of the services needed, the abilities of the contractors, the uniqueness of the service and the general performance of the contractor. When selecting the most qualified consultants to perform professional services, the city shall not solicit or use pricing policies and proposals or other pricing information to determine a consultant's compensation until after the most qualified consultant(s) has been selected. When soliciting professional services, the City will indicate in the notice whether negotiations will commence with the firm deemed most qualified or the City will prequalify firms prior to soliciting price quotes. Contracts for ongoing "As Needed" services approved by City Council do not require Council approval for individual tasks or projects performed under the contract provided an individual task value does not exceed threshold levels set forth in Appendix A.

### **3.14.070 Purchases Not Requiring Sealed Bids**

- A. Purchases below the sealed bid threshold do not require formal bidding. Informal

quotes may be required based on thresholds in Appendix A. Purchases using state cooperative contracts, approved emergency methods, or other exemptions outlined in Section 3.14.060 are excluded.

Expenditures that do not require formal quotes are intended to include materials, supplies and services regularly purchased and consumed by the city such as office supplies, janitorial supplies, postage, food and beverages.

B. Purchases shall not be artificially divided so as to constitute a purchase or expenditure under this section.

C. The city manager may approve a purchase or expenditure without the required price quotes if the city manager determines that there are not two additional vendors or suppliers of such items.

### **3.14.080 Purchases Requiring Sealed Bids**

A. Bid Specifications. Specifications for public contracts shall not expressly or implicitly require any product by any brand name or make, nor the product of any particular manufacturer or seller, unless the product is specified in the City standard drawings and specifications or is exempt by these regulations or by the directive of city council.

B. Advertising Requirements. An advertisement for bids is to be published for two consecutive weeks in a newspaper of general circulation in the city or a public project advertising website, and in as many additional issues and publications as the city manager may determine, at least five days prior to the opening of bids; and, at the discretion of the City, may be; delivered to known responsible prospective bidders, including those whose names are on a bidders' list or who have made a written request that their names be added to the bidders' list; posted on an electronic bid page which is accessible to large numbers of potential bidders.

C. All advertisements for bids shall state:

1. The date and time after which bids will not be accepted;
2. The date that prequalification applications must be filed, and the class or classes of work for which bidders must be prequalified if prequalification is a requirement;
3. The character of the work to be done or the materials or things to be purchased;
4. The office where the specifications for the work, material or things may be seen;
5. The name and title of the person designated for receipt of bids;
6. The type and amount of bid security if required;

7. The date, time and place that the bids will be publicly opened.

### **3.14.090 Requirements For Bids**

All bids made to the city shall be:

- A. In writing;
- B. Filed with the city recorder, unless specifically stated in the bid requests;
- C. Opened publicly by the city manager, department head or other designated person at the time designated in the advertisement and filed for public inspection;
- D. Have the appropriate bid security attached, if required by the specifications for the project.

### **3.14.100 Award Of Contract**

A. After bids are opened, and a determination made that a contract be awarded, the award shall be made to the lowest responsible bidder. "Lowest responsible bidder" shall mean the lowest bidder who has substantially complied with all prescribed requirements, has submitted the bid in good faith, has a history of fully performing work at the bid price, and who has not been disqualified as set forth herein. If two (2) or more of the bids received are for the same total amount or list price, quality and service being equal, the City Manager or designee may negotiate with the bidders and obtain the best bid possible and/or give a preference to a bona fide local bidder

B. The successful bidder shall promptly execute a formal contract and, if required, deliver a performance and payment bond to the city in a sum equal to the contract price, together with proof of appropriate insurance. Upon execution of the contract, bond, and insurance, bid security shall be returned. Failure to execute the contract, bond, or insurance shall be cause to forfeit the bid security.

C. Local Bid Preference: For purchases under \$50,000 in total, local bidders will be allowed to match the low bid submitted by non-local providers as follows:

1. When a quotation or bid for supplies, equipment, services, or materials from a non-local provider (from outside Wasatch County) submitted in response to a quote invitation or bid request is the low bid price AND there is a local bidder whose bid or quote is within five (5) percent of the lowest bid of the non-local bidder(s), at the option of the city, the purchase may be awarded to the local bidder provided he/she agrees to meet the low quote or bid of the lowest non-local bidder within two business days after notification.

2. In the event that more than one local bidder (within the boundaries of Wasatch County) shall notify Heber City of his/her willingness to meet the low quote or bid of the lowest non-local bidder, the purchase shall be awarded to the willing local bidder who was the lowest local bidder originally. If there are two or more equally low local bidders, then the local bidder to which the purchase is awarded shall be the local bidder whose original bid was first received by the City

#### **3.14.110 Rejection Of Bids**

The city manager or the city council may reject any bid not in compliance with all prescribed requirements and reject all bids if rejection of all bids is determined to be in the best interest of the city.

#### **3.14.120 Disqualification Of Bidders**

The city manager, upon investigation, may disqualify a bidder if:

- A. The bidder does not have sufficient financial ability to perform the contract;
- B. The bidder does not have equipment available to perform the contract;
- C. The bidder does not have key personnel available, of sufficient experience, to perform the contract;
- D. The person has previously breached contractual obligations with public or private agencies; or
- E. The bidder fails to comply with the requests of an investigation by the city manager.

#### **3.14.130 Prequalification Of Bidders**

The city may require prequalification of bidders.

A. Upon establishment of the applicant's qualifications, the city manager or department head shall issue a qualification statement. The statement shall inform the applicant of the project for which the qualification is valid, as well as any other conditions which may be imposed on the qualification. It shall advise the applicant to notify the city manager or department head promptly if there has been any substantial change of conditions or circumstances which would make any statement contained in the prequalification application no longer applicable or untrue.

B. If the city manager or department head does not qualify an applicant, written notice to the applicant is required stating the reasons the prequalification was denied and informing the applicant of the right to appeal the decision within five business days after receipt of the notice. Appeals shall be made to the city council. The city manager or department head

may, upon discovering that a prequalified party is no longer qualified, revoke prequalification by sending notification of the revocation to the party subject to the revocation. The notice shall state the reason(s) for revocation, and that the revocation will be effective immediately.

#### 3.14.135 Disposal Or Lease Of Public Property

A. No public property having an estimated value in excess of \$250 shall be disposed of or released to anyone other than the City, unless such property has been declared surplus by the City Manager or designee.

B. Whenever public property is surplus, unused, obsolete, unsuitable or otherwise no longer needed, the department head having control of such property shall notify the City Manager or designee. The City Manager or designee may notify other City departments of the availability of such property. The City Manager or designee shall supervise any transfer of such property to any other department. If no use can be made or can be expected to be made within the reasonably foreseeable future, the property shall be disposed of in accordance with this section.

C. The City Manager or designee shall prepare a listing of all City-owned property which s/he feels is no longer needed by the City and which can be declared surplus. After an item has been declared surplus, the property may be disposed of or leased. If an item has an estimated salvage value over \$10,000, the City Council shall approve its disposal. All disposals, leases and/or subleases of public property shall be made, in accordance with law, under the direction of the City Manager or designee.

D. Except as otherwise required by State law, boundary line agreements and deeds conveying unneeded portions of rights-of-way or easements may be executed without declaring the property surplus.

E. Before disposing of a significant parcel of real property, the City shall comply with the provisions of Utah Code Ann. 10-8-2(4) and any ongoing or future amendments thereto. For purposes of this section, a significant parcel of real property is defined to be any parcel one acre or greater, or any parcel with a structure or structures upon it where the value of such improved real property is greater than \$250,000.00. Reasonable notice shall constitute posting the property thirty (30) days prior and publishing notice in a newspaper of local circulation fourteen (14) days prior to a public hearing concerning the disposition.

#### 3.14.140 Appeal Procedures

Any supplier, vendor, or contractor subject to an adverse procurement decision by the city, in violation of this chapter, may appeal that decision to the city council.

A. The complainant shall promptly file a written appeal letter, with the city recorder, within five working days from the time the alleged incident occurred. The letter of appeal shall state all relevant facts of the matter and the remedy sought.

B. Upon receipt of the notice of appeal, the city recorder shall forward to the city council the appeal notice, investigation of the matter and any other relevant information.

C. The city council shall conduct a hearing on the matter and provide the complainant an opportunity to be heard. A written decision shall be sent to the complainant.

#### **3.14.150 Accounts Payable**

The city's finance director will be responsible for establishing a system and process for the accurate and timely processing of all disbursements of city funds with emphasis on taking advantage of discounts when available and avoidance of late charges.

#### **3.14.160 Cancellation And Rejection Of Bids**

A. An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interest of the city; the reasons for cancellation or rejection shall be made part of the contract file.

B. Bids, proposals, and contracts which create a conflict of interest under the Municipal Officers' and Employees' Ethics Act shall be rejected unless a legally required conflict disclosure has been made by the official or employee subject to the conflict.

#### **3.14.170 Cost-Plus-A-Percentage-Of-Cost Profits Contracts**

Subject to the limitations of this section, any type of contract which will promote the best interests of the city may be used; provided, that the use of a cost-plus-a-percentage-of-cost profit contract is prohibited unless specifically approved by the city council under special circumstances which clearly justify the use of such contracts because the scope of work or the nature of the work is to be closely supervised by the city and the city council so finds in writing. A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the city than any other type or that it is impracticable to obtain the supplies, services, or construction required except under such a contract.

#### **3.14.175 Consideration Of Procurement Alternatives**

When it's deemed in the best interests of the City to use bidding alternatives that involve a greater level of sophistication than traditional bids or proposals, such as design-build or invitation to negotiate, or other similar alternatives that would provide the City the greatest value at the lowest cost, these alternatives should be available to, and considered and used by the City. The concept being that the City retains the ability to solicit the presentation of new ideas for proposals for initiating, fashioning and completing projects not previously used or implemented. Use of such bidding alternatives requires City Council approval.

### **3.14.180 Required Contract Clauses**

All contracts for work entered into by the city shall whenever practicable, contain clauses permitting or requiring the following:

- A. The unilateral right of the city to order, in writing, changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work.
- B. Variations occurring between estimated quantities of work in a contract and actual quantities.
- C. Suspension of work ordered by the city.
- D. Requirements for performance bonds and labor and material payment bonds as required by law for construction projects.
- E. Other provisions required for compliance with federal or state law. All contract specifications shall seek to promote overall economy and best use for the purposes intended and encourage competition in satisfying the needs of the city and shall not be unduly restrictive. Where practicable and reasonable, and within the scope of this chapter, Utah products, contracts and contractors, in the discretion of the City may be given preference as permitted by Utah law.

### **3.14.190 Final Action On Appeals**

The decision of the city council with respect to any appeal shall be the final action of the city with respect to that appeal.

### **3.14.200 Conflicts Prohibited**

No person involved in making procurement decisions may have personal investments or derive any income from any business entity, which may create a conflict between their private interests and their public duties. In the event of a conflict, the conflicted person shall recuse themselves from the particular procurement decision or decisions creating the conflict by notifying the city manager (or, in the event the city manager is the conflicted

party, by notifying the mayor) of the conflict, and shall not participate in that particular decision or decisions.

### **3.14.300 Penalties**

It is unlawful:

- A. For any bidder or prospective bidder, or any employee or officer thereof, in restraint of freedom of competition or otherwise, by agreement with any other person, bidder, or prospective bidder, to bid a fixed price, or to "rotate" bidding practices among competitors.
- B. For any person to offer or to give to any elected official, officer or employee of the City or any member of his immediate family, any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, promise, or other form, under circumstances in which it could reasonably be intended to influence him/her or could reasonably be expected to influence him/her in his/her duties concerning the award of any contract or order of purchase, or for any elected official, officer or employee to directly or indirectly solicit or directly or indirectly accept any such gift for such purpose.
- C. For any elected official, officer or employee to disclose, in advance of the opening of the bids, the content of any bid invited through the formal competitive bidding procedure.
- D. For any elected official, officer or employee to actively participate in the awarding of a contract from which s/he will directly benefit, without fully disclosing any interest s/he has therein.
- E. For any elected official, officer or employee or other person to appropriate for personal or private use any item of public property.
- F. To purchase supplies or equipment for the personal use of any elected official, officer or employee unless the item or items are required parts of a worker's equipment and are necessary to the successful performance of the duties of such official, officer or employee. Other personal purchases shall not be permitted and will be cause for disciplinary action.

The following contracts are, in the discretion of the City Manager, voidable:

- A. Contracts which result from a conflict of interest under this Chapter or other applicable law.
- B. Contracts awarded to a person or firm that tried to influence the award of such contract by offering something of material value to any elected official, officer or employee.

C. A violation of this section by a City employee shall be cause for disciplinary action. A violation of this section by an elected official shall be malfeasance in office.

#### **3.14.400 Volunteer and Employee Recognition**

A. Volunteers may be recognized with non-cash, tangible items (e.g., City-branded merchandise), subject to a value limit of \$50 annually per individual. Gift cards or other cash-equivalent items are not permitted. Recognition items must be approved by the City Manager. Documentation shall include the type of item, purpose of recognition, recipient name, date of issuance, and total value. Employees may not receive volunteer recognition items.

## Appendix A – Purchasing Threshold Table

Category	Proposed Threshold	Authorization*
<b>Purchase Orders</b>		
All purchases	$\geq \$10,000$	Purchase Order Required
<b>Approval of Purchases</b>		
General Purchase Approval	< \$10,000	Any Authorized Staff
Unbudgeted Purchases	$\geq \$10,000$	City Council
General Purchase Approval	\$10,000 – \$50,000	Department Head
General Purchase Approval	\$50,001–\$75,000	City Manager
General Purchase Approval	> \$75,000	City Council
Public Works Approval	\$75,001–\$150,000	City Manager
Public Works Approval	> \$150,000	City Council
<b>Informal Quote Requirements</b>		
No Quotes Required	< \$10,000	
Two Quotes Required	\$10,000–\$15,000	Department Head
Three Quotes Required	\$15,001–\$75,000	City Manager
Three Quotes + Informal Solicitation (PW)	\$75,001–\$150,000	City Manager
<b>Contract Requirements</b>		
Professional Services	$\geq \$25,000$	Contract Required
General Contracts	< \$75,000 (project or annual amt)	Negotiated with at least two qualified parties and awarded by City Manager
General Contracts	$\geq \$75,000$ (project or annual amt)	Negotiated with at least two qualified parties and awarded by City Council
“As Needed” Contracts	< \$250,000	No City Council approval needed
Public Works Contracts	$\leq \$150,000$	City Manager
Public Works Contracts	> \$150,000	City Council
<b>Sealed Bids Requirements</b>		
General Sealed Bid	> \$75,000	City Council
Public Works Sealed Bid	> \$150,000	City Council
<b>Other</b>		
Surplus Disposal	> \$10,000	City Council
Change Orders	All change orders	City Manager
Changers	$\geq \$15,000$ or 10% of approved contract	City Council
Sole Sourced Procurement	> \$75,000	Ten-day public notice required before City Council approval

\*The authorization level listed for each dollar threshold is the highest approval required; all subordinate approvals implied by lower thresholds (e.g., Department Head, City Manager) are presumed to have been obtained before the request advances to the higher approving authority.



# Heber City Council Staff Report

<b>MEETING DATE:</b>	7/1/2025
<b>SUBJECT:</b>	Quiet Zone Study Results & Council Direction
<b>RESPONSIBLE:</b>	Russ Funk, Clint Allen
<b>DEPARTMENT:</b>	Engineering
<b>STRATEGIC RELEVANCE:</b>	Community and Economic Development Infrastructure Sustainability

## SUMMARY

Earlier this year, Council authorized a Railroad Quiet Zone Study to evaluate what it would take to implement a Railroad Quiet Zone through Heber City. The Study evaluated improvements that would be needed at the 650 South, Southfield Road, and 1200 South crossings.

## RECOMMENDATION

Provide direction to staff regarding implementation of a Railroad Quiet Zone in Heber City.

## BACKGROUND

Based on numerous requests from the Heber Valley Railroad, Developers, and Heber City Residents, the City commissioned a Railroad Quiet Zone Study to evaluate what would be needed to implement a Railroad Quiet Zone through Heber City. A Quiet Zone would allow trains to pass through the city without blowing their horns as they approached and passed through city streets. As part of the study, Horrocks Engineers has prepared concept drawings, cost estimates, and additional information to present to Council.

Heber City also had another analysis completed in 2022 regarding the South Field Road Railroad Crossing. The analysis concluded that based on the existing volume and speed of vehicles and trains, that a Yield or Stop controlled crossing was acceptable, but that installing active control devices, such as flashing lights or automatic gates would improve safety now and in the future. The City's Transportation Master Plan calls for installation of crossing arms in the future as the road is built to the Major Collector standard.

## DISCUSSION

As Heber City continues to grow, traffic on 650 South, Southfield Road, and 1200 South will increase, adding to concerns for safety. The 650 South crossing already includes flashing lights and automatic gates which help with safety concerns, but would require other improvements to establish a Quiet Zone. Southfield Road is currently Yield controlled, and would require automatic gates and other improvements for safety and establishment of a Quiet Zone. The 1200 South crossing is a very low volume road, and would likely not require additional improvements unless the City moves forward with a Quiet Zone.

## **FISCAL IMPACT**

The requirement for improvements to Southfield Road can be attributed to growth, and are included in the Transportation Master Plan, making them eligible to be paid for using impact fees as a primary source of funding.

The improvements to 650 South and 1200 South would not be impact fee eligible.

Final Engineering Design for the Southfield Road Improvements is underway and was approved with the FY25 Budget.

No Final Design work has taken place for additional improvements to 650 South or 1200 South. Design Costs are estimated at \$28,700 for both locations.

Improvement Costs are Estimated at

650 South - \$17,000

Southfield Rd - \$739,000

1200 South - \$703,000

Included in the FY26 Budget is \$1,929,080 in Street Impact Fees intended to reimburse developers for constructed improvements and build Impact Fee Eligible Improvements. A portion of this funding could be used to fund the Southfield Road Crossing Improvements. Staff would need to conduct further financial analysis on what impact fees might be available in FY '26 for quiet zone improvements.

Earlier this year, the City applied for a grant through UDOT for rail safety improvements, but the grant was not awarded. The City can re-apply in the future for funds to help with the improvements.

## **CONCLUSION**

Understanding the costs and requirements associated with implementation of a Railroad Quiet Zone, staff is seeking feedback and direction from Council regarding this initiative.

## **ALTERNATIVES**

1. Move forward with construction of the Southfield Road Crossing Improvements. Hold off on the other crossings.

2. Move forward with construction of the Southfield Road Crossing Improvements. Move forward with Design of the Other Crossings, but pursue other grants and funding options before moving forward with construction.
3. Move forward with construction of the Southfield Road Crossing Improvements. Complete Design of the other crossings, and budget next year for construction.
4. Other Direction
5. Continue

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## POTENTIAL MOTIONS

N/A

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## ACCOUNTABILITY

**Department:** Engineering  
**Staff member:** Russ Funk, City Engineer

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## EXHIBITS

1. Horrocks Quiet Zone Presentation



# QUIET ZONE ANALYSIS

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Prepared by:



# Federal Quiet Zone Requirements

*“In order for a quiet zone to be qualified under this rule, it must be shown that the lack of the train horn does not present a significant risk with respect to loss of life or serious personal injury, or that the significant risk has been compensated for by other means. The rule provides four basic ways in which a quiet zone may be established.”*

1. One or more SSMs as identified in Appendix A are installed at each public crossing in the quiet zone; or
2. The Quiet Zone Risk Index is equal to, or less than, the Nationwide Significant Risk Threshold without implementation of additional safety measures at any crossings in the quiet zone; or
3. Additional safety measures are implemented at selected crossings resulting in the Quiet Zone Risk Index being reduced to a level equal to, or less than, the Nationwide Significant Risk Threshold; or
4. Additional safety measures are taken at selected crossings resulting in the Quiet Zone Risk Index being reduced to at least the level of the Risk Index With Horns (that is, the risk that would exist if train horns were sounded at every public crossing in the quiet zone).

*“Each public highway-rail grade crossing in a New Quiet Zone established under this part must be equipped, no later than the quiet zone implementation date, with active grade crossing warning devices comprising both flashing lights and gates which control traffic over the crossing and that conform to the standards contained in the MUTCD. Such warning devices shall be equipped with constant warning time devices, if reasonably practical, and power-out indicators.”*

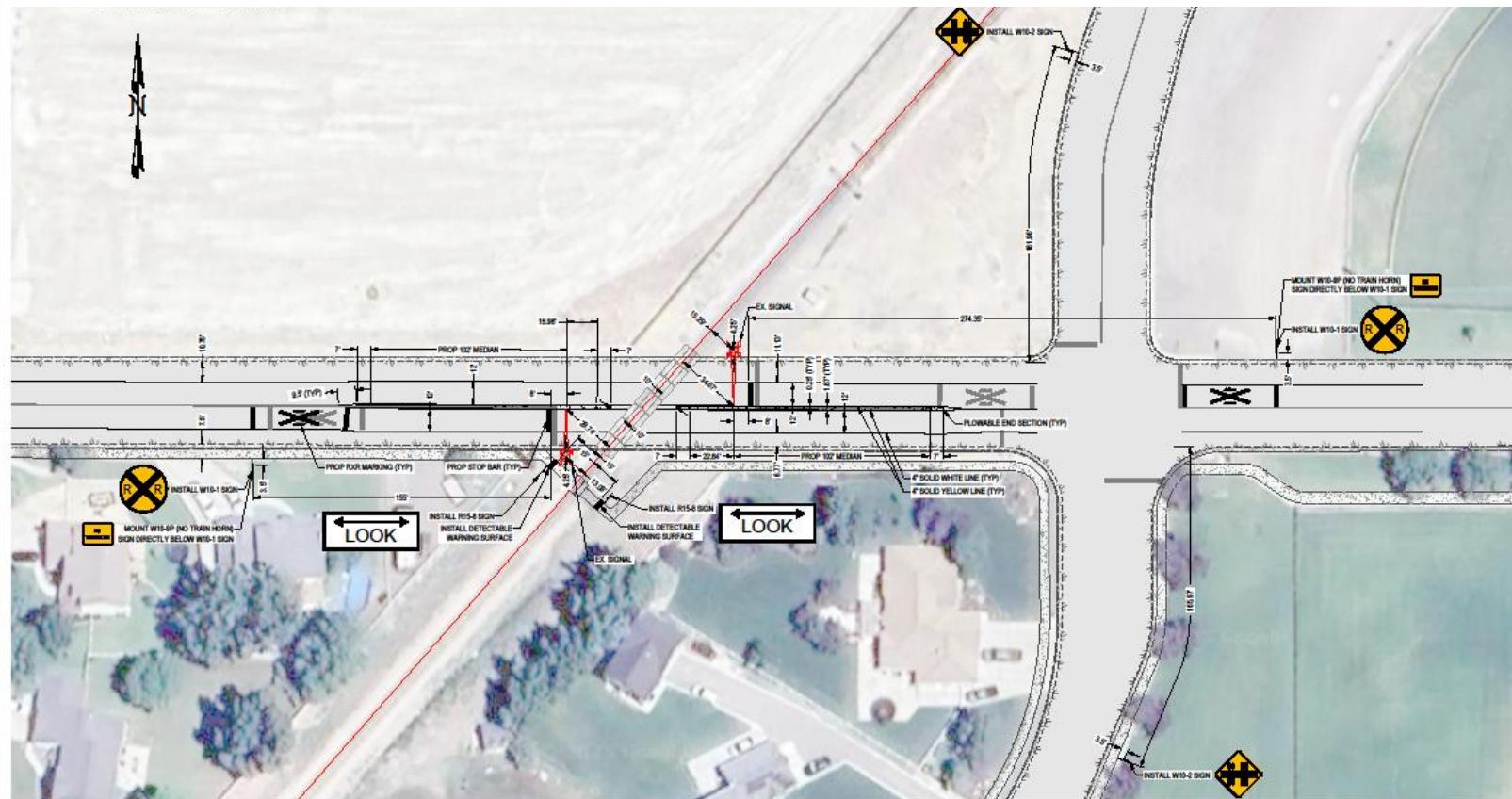
# Quiet Zone Calculations

Crossing	Street	Traffic	Warning Device	Pre-SSM	Risk
917966C	650 South	2400	Gates	13	2,535.29
917967J	South Field Road	1800	Gates	13	1,281.62
917968R	1200 South	1800	Gates	13	1,281.62



Summary	
Estimated Total Cost	1,489,485
Nationwide Significant Risk Threshold	15488.00
Risk Index with Horns	5094.77
Quiet Zone Risk Index	1699.61

## 650 SOUTH QUIET ZONE CROSSING IMPROVEMENT PLAN



**CONCEPTUAL**  
FOR REVIEW / DISCUSSION  
NOT FOR CONSTRUCTION

LEGEND:  
EX. RR OWNED TRACK  
PROP. RR OWNED TRACK  
EX. IND. OWNED TRACK  
PROP. IND. OWNED TRACK  
RR RR  
RR SHIFT IND. OWNED TRACK  
FUTURE TRACK  
RR RIGHT OF WAY

 Horrocks.

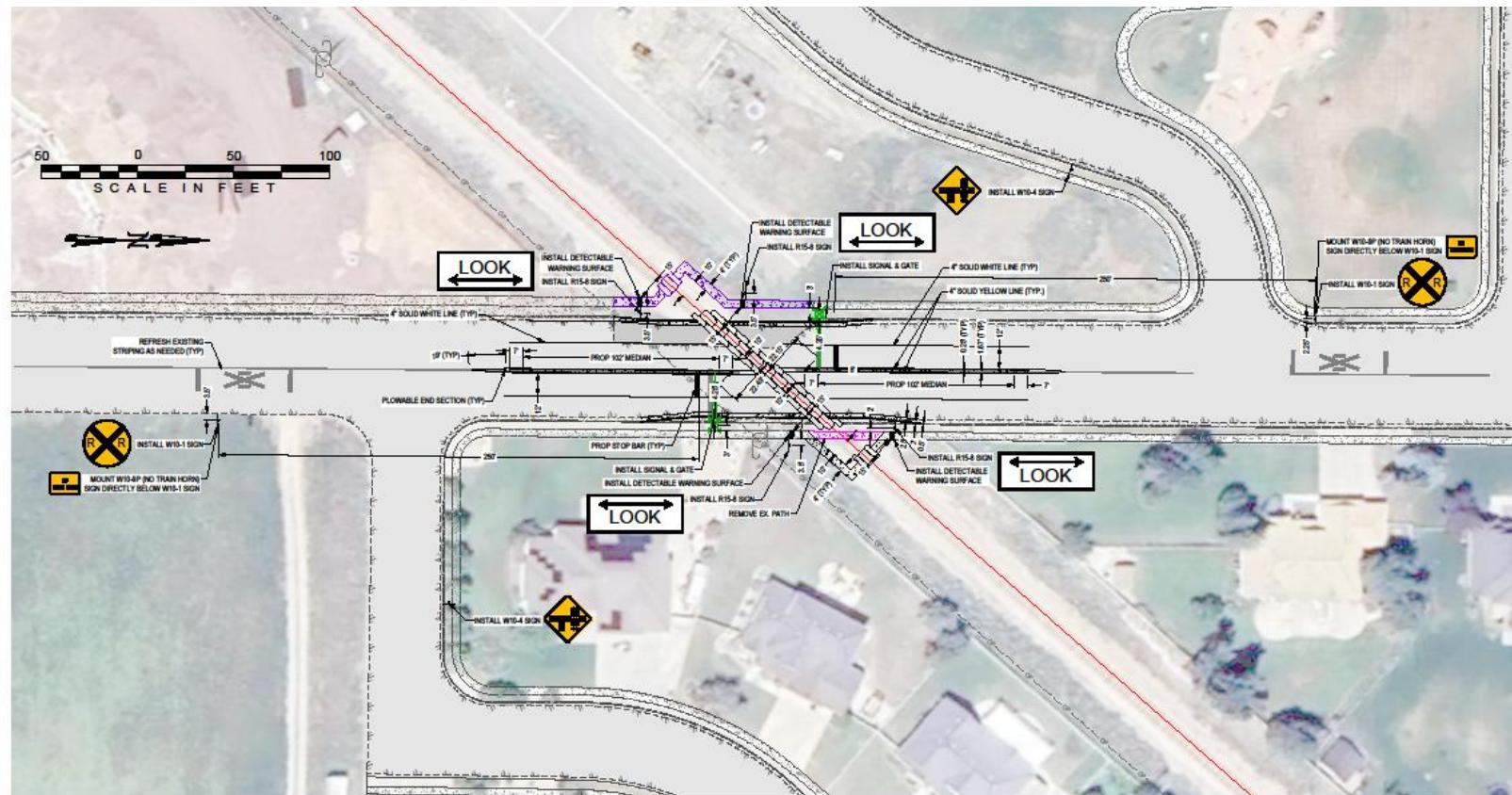
400 S Riverfront Rd, Ste 200 | Salt Lake City, UT 84101 | P: 800.350.0000 | [www.horrocks.com](http://www.horrocks.com)

CONCEPT  
DRAWN BY: A. VITZ  
RAILROAD: HEBER VALLEY RAILROAD  
CHECKED BY: C. ALLEN  
LOCATION & DESCRIPTION: MP 0.75-1.5, HEBER VALLEY RAILROAD  
HEBER CITY, WASATCH CO, UT  
DATE: JUNE 13, 2005  
SHEET NUMBER: 1 OF 4  
SHEET TITLE: 650 S QUIET ZONE IMPROVEMENT PLAN

# 650 South Cost Estimate

650 South Crossing					
Number	Description	Quantity	Unit	Unit Price	Amount
1	Signage and Striping	1	LS	2000	2000
2	Median Improvements	1	LS	15000	1500
<b>Subtotal</b>					<b>17,000</b>

# SOUTHFIELD ROAD QUIET ZONE XING IMPROVEMENT PLAN



## **CONCEPTUAL**

**FOR REVIEW / DISCUSSION**

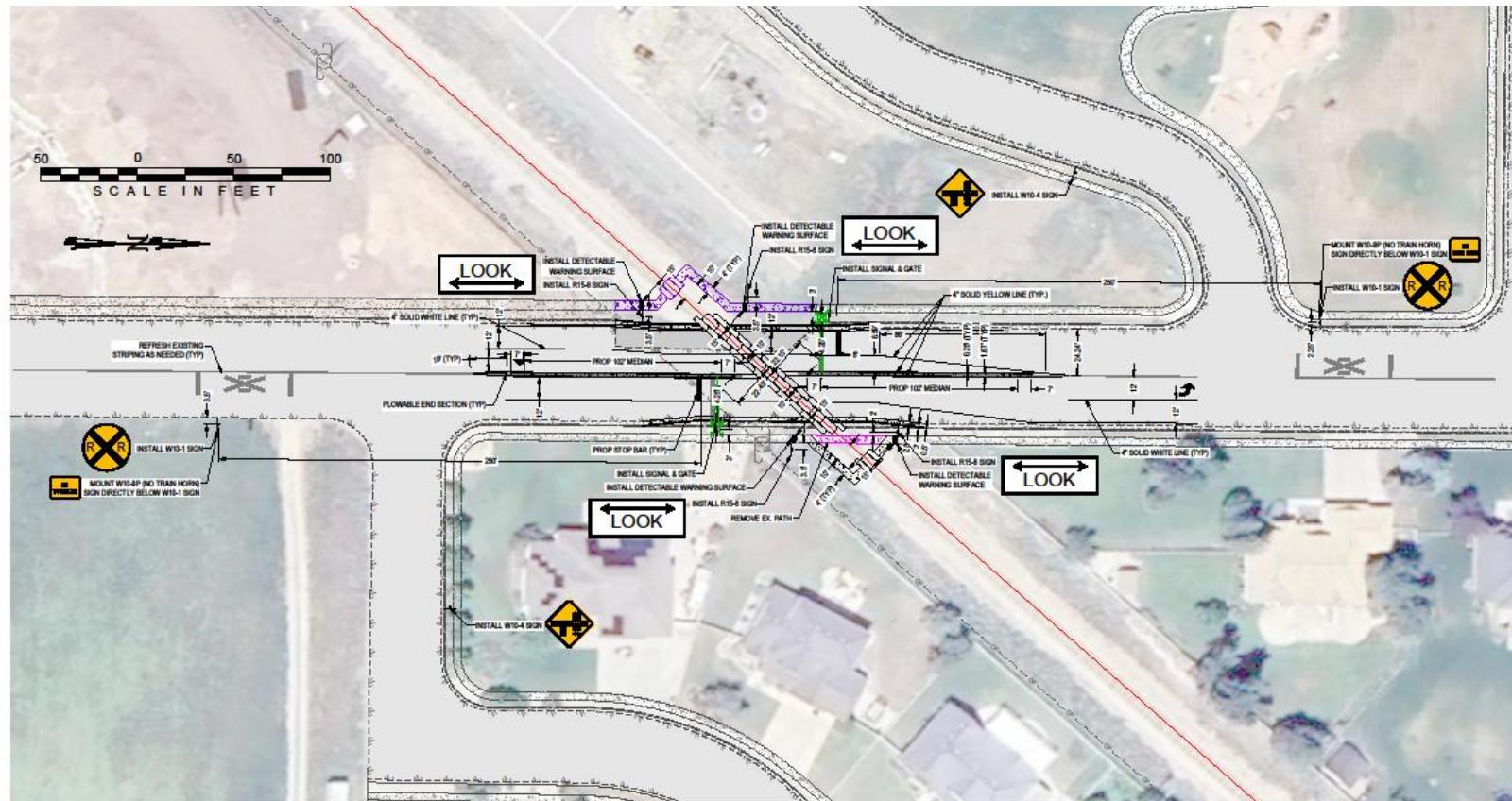
**NOT FOR CONSTRUCTION**

LEGEND:  
 EX. PR OWNED TRACK  
 PROP. PR OWNED TRACK  
 EX. IND. OWNED TRACK  
 PROP. IND. OWNED TRACK  
 REMOVED. IND. OWNED TRACK  
 SHIFT. IND. OWNED TRACK  
 FUTURE TRACK  
 PR. SHIFT. OWNED

**Horrocks**  
400 S Riverfront Rd, Ste 200 | Salt Lake City, UT 84120 | P: 801.369.0000 | [www.horrocks.com](http://www.horrocks.com)

DRAWN BY:		RAILROAD: <b>HEBER VALLEY RAILROAD</b>	
A. MITZ		LOCATION & DESCRIPTION: MP 0.75-1.5, HEBER VALLEY RAILROAD	
CHECKED BY: C. ALLEN		HEBER CITY, WASATCH Co, UT	
DATE: JUNE 13, 2005		SHEET NUMBER: 2 OF 4	
SHEET TITLE: SOUTHFIELD QUIET ZONE IMPROVEMENT PLAN			

## FUTURE SOUTHFIELD RD. QUIET ZONE XING IMPROVEMENT PLAN



## **CONCEPTUAL**

**FOR REVIEW / DISCUSSION**

**NOT FOR CONSTRUCTION**

LEGEND:  
EX. PR. OWNED TRACK  
PROP. PR. OWNED TRACK  
EX. IND. OWNED TRACK  
PROP. IND. OWNED TRACK  
PENALTY IND. OWNED TRACK  
SHIFT IND. OWNED TRACK  
FUTURE TRACK  
PR. RIGHT OF WAY

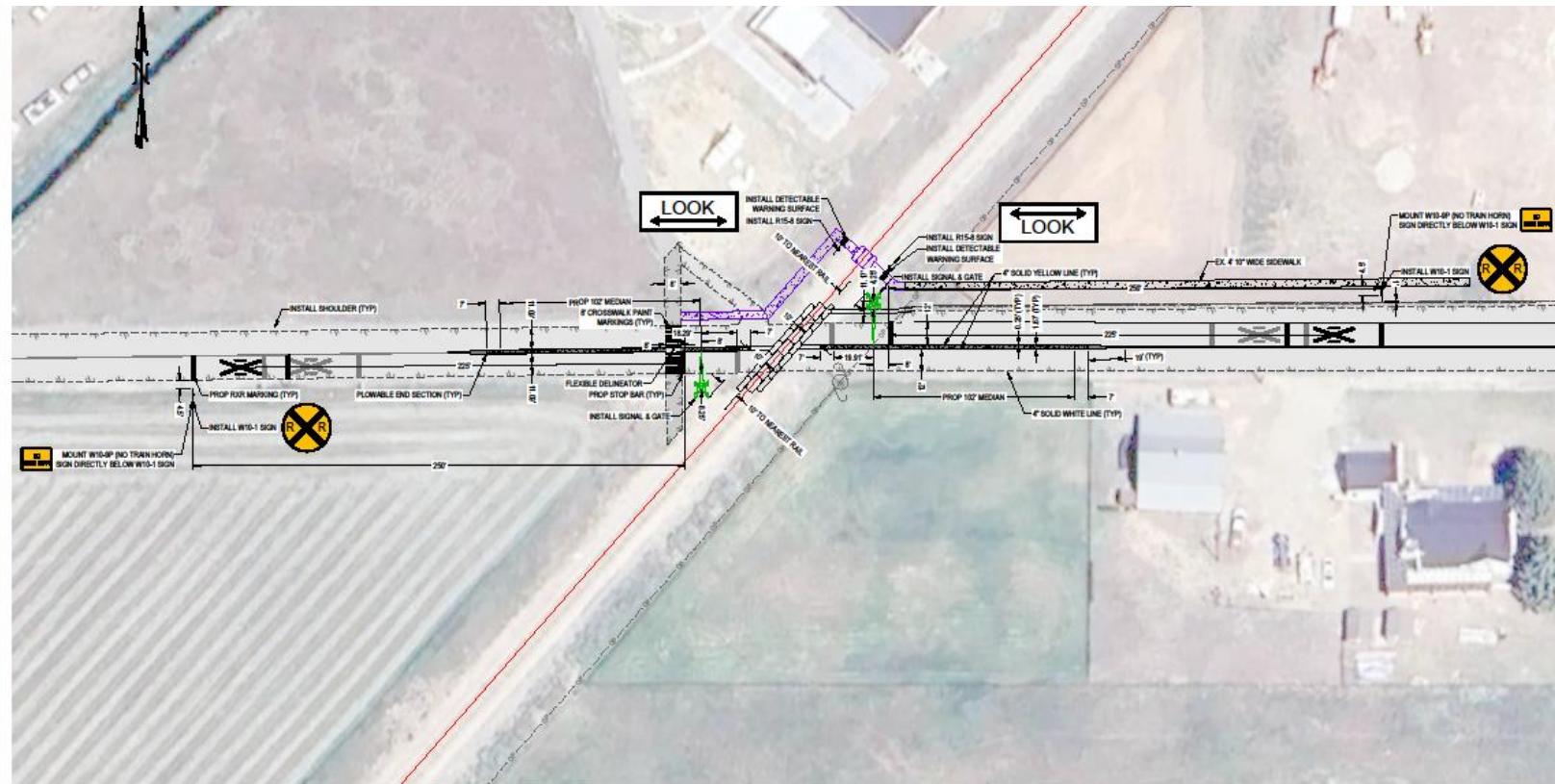
Horrocks

DRAWN BY:	A. MITZ	<b>RAILROAD:</b>	<b>HEBER VALLEY RAILROAD</b>
CHECKED BY:	C. ALLEN	LOCATION & DESCRIPTION:	MP 0.75-1.5, HEBER VALLEY RAILROAD HEBER CITY, WASATCH CO, UT
DATE:	JUNE 13, 2005	SHEET TITLE:	
SHEET NUMBER:		FUTURE SOUTHFIELD QUIET ZONE IMPROVEMENT PLAN	
3 OF 4			

# Southfield Road Crossing Cost Estimate

Southfield Road Crossing					
Number	Description	Quantity	Unit	Unit Price	Amount
1	Railroad Flagging	7	Day	2500	17500
2	Concrete Panels	96	TF	1800	172800
3	Engineering for Signals	1	LS	17200	17200
4	Signal and Gate	2	EA	250000	50000
5	Signage and Striping	1	LS	5000	5000
6	Curb and Gutter	281	LF	35	9835
7	Sidewalk	182	LF	60	10920
8	Sidewalk Removal	36	LF	5	180
9	Pavement	114	SY	65	7410
10	Median Improvements	1	LS	15000	15000
Subtotal				<b>755,845</b>	

## 1200 SOUTH QUIET ZONE XING IMPROVEMENT PLAN



1200 South Quiet Zone Xing Improvement Plan

**CONCEPTUAL**  
FOR REVIEW / DISCUSSION  
NOT FOR CONSTRUCTION

LEGEND:  
EX. RR OWNED TRACK  
PROP. IND. OWNED TRACK  
EX. IND. OWNED TRACK  
PROP. IND. OWNED TRACK  
REMOVE IND. OWNED TRACK  
SHRINK IND. OWNED TRACK  
FUTURE TRACK  
RR RIGHT OF WAY



 Horrocks.  
4060 S Riverfront Rd, Ste 200 | Salt Lake City, UT 84120 | P: 800.363.9300 | [www.horrocks.com](http://www.horrocks.com)

CONCEPT  
DRAWN BY: A. VITZ  
CHECKED BY: C. ALLEN  
DATE: JUNE 15, 2025  
SHEET NUMBER: 4 OF 4  
SHEET TITLE: 1200 S QUIET ZONE IMPROVEMENT PLAN  
RAILROAD: HEBER VALLEY RAILROAD  
LOCATION & DESCRIPTION: MP 0.75-1.5, HEBER VALLEY RAILROAD  
HEBER CITY, WASATCH Co, UT

# 1200 South Cost Estimate

1200 South Crossing					
Number	Description	Quantity	Unit	Unit Price	Amount
1	Railroad Flagging	7	Day	2500	17500
2	Concrete Panels	78	TF	1800	140400
3	Engineering for Signals	1	LS	13700	13700
4	Signal and Gate	2	EA	250000	500000
5	Signage and Striping	1	LS	2700	2700
6	Curb and Gutter	44	LF	35	1540
7	Sidewalk	430	LF	60	25800
8	Median Improvements	1	LS	15000	15000
				<b>Subtotal</b>	<b>716,640</b>



# Heber City Council Staff Report

<b>MEETING DATE:</b>	7/1/2025
<b>SUBJECT:</b>	Buys Agreement for Sale and Purchase of Real Property and Lease Agreement
<b>RESPONSIBLE:</b>	Matt Brower
<b>DEPARTMENT:</b>	Administrative
<b>STRATEGIC RELEVANCE:</b>	

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## SUMMARY

This agenda item is to consider the approval of two agreements between Heber Light and Power (HL&P) and the Heber City Community Reinvestment Agency (Agency). Both agreements concern real property currently owned by HL&P located at 31 South and 100 West and currently used as the administration building by HL&P. The first agreement is a Sale and Purchase Agreement that consummates the Agency's purchase of HL&P's administration building; whereas, the second agreement is a lease agreement establishing the Agency as the lessor of the referenced real property and HL&P as the lessee.

## RECOMMENDATION

Staff recommends the Agency Board approve the Sale and Purchase Agreement and Lease Agreement with HL&P.

## BACKGROUND

The Heber City Community Reinvestment Agency (Agency) and Heber Light and Power (HL&P) have negotiated a Sale and Purchase of Real Property Agreement and a Lease Agreement for the administration building currently owned by HL&P and located at 31 South and 100 West.

HL&P is constructing a new administration building located on the corner of 600 West and 300 South with an expected completion sometime in late 2025. Their business plan is to move their operations from their property located at 31 South and 100 West to to their new building when completed.

The Heber City Council has identified the purchase of the HL&P property as a key priority for achieving several of the Envision Central Heber initiatives included in the adopted plan. The

Envision Central Heber Plan was adopted in 2023 after undertaking a significant public input process. One of the key initiatives in the plan is to provide more parking to support existing business, city event programming, and reinvestment in the downtown.

In 2024 HL&P initiated an appraisal of their parcel by Inqoba, an independent third party appraisal company. The appraisal established the current value for the HL&P parcel at \$875,000.00.

## DISCUSSION

The Sale and Purchase of Real Property Agreement includes the following key terms:

1) Counterparties to the Agreement are the Heber City Community Reinvestment Agency (Agency) and Heber Light and Power (HL&P).

2) Transaction price: \$876,000---\$1,000 over the appraised value.

3) The closing of the Sale and Purchase Agreement is contingent upon the City's sole satisfaction with the following three conditions: a) acquiring of or commitment for a Title Policy; b) successful negotiation of a Lease Agreement; and c) complete satisfaction with all other commitments', conditions and obligations contained in the Agreement.

4) Closing would occur after City's concurrence with all commitments, conditions and obligations or no later than April 30, 2025.

The Lease Agreement includes the following key terms:

1) Counterparties to the Agreement are the Heber City Community Reinvestment Agency (Agency) and Heber Light and Power (HL&P).

2) Agreement grants HL&P an initial lease term of 6 months and two automatic renewals of six months each unless terminated sooner by HL&P by giving 120 days notice prior to the conclusion of the initial term or renewal terms. Additionally, should HL&P cease operations in the building, the lease will terminate 30 days after notice by Agency.

3) Lease rate is \$1 per initial term and \$1 for each renewal term.

4) Indemnification language requiring each party to indemnify the other.

5) HL&P is responsible for building maintenance and utilities during the lease.

6) HL&P is required to continue existing use of the building.

## FISCAL IMPACT

The Sale and Purchase of Real Property Agreement establishes the amount of the transaction at \$876,000.00. Staff is proposing the following revenue mix for covering the cost of the transaction:

1) \$700,000.00 from GF restricted reserves. This sum was ascertained recently from the City's sale of 1.5 acres located in the commercial park located near Heber Valley Airport.

2) \$176,000.00 from GF unrestricted reserves.

Should Council approve this Agreement, a budget amendment would be required for the general revenue fund and Community Reinvestment Agency Fund, as this transaction was not included in the FY '25 budget. This amendment would be expected in March '25.

## CONCLUSION

HL&P has agreed to sale their parcel of land located at 31 South and 100 West to the Agency at this time, provided the Lease Agreement is also approved. The purchase is consistent with the Envision Central Heber initiative and Council's down town priorities. Heber City has the financial resources to consummate the transaction. Heber City staff recommends adoption of both agreements.

## ALTERNATIVES

1. Approve as proposed
2. Approve as amended
3. Continue
4. Deny

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## POTENTIAL MOTIONS

### Alternative 1 - Approval - Staff Recommended Option

I move to **approve** the item as presented, with the findings and conditions as presented in the conclusion above.

### Alternative 2 - Approve as Amended

I move to **approve** the item as amended, as follows.

### Alternative 3 - Continue

I move to **continue** the item to another meeting on [DATE], with direction to the applicant and/or Staff on information and / or changes needed to render a decision, as follows:

### Alternative 4 - Denial

I move to **deny** the item with the following findings.

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## ACCOUNTABILITY

**Department:** Administrative  
**Staff member:** Matt Brower, City Manager

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## EXHIBITS

None