



Midvale City  
7505 South Holden Street  
Midvale, UT 84047  
801-567-7200  
[www.midvalecity.org](http://www.midvalecity.org)

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**MIDVALE CITY COUNCIL MEETING  
AGENDA  
January 05, 2016**

**PUBLIC NOTICE IS HEREBY GIVEN** that the **Midvale City Council** will hold a regular meeting on the **5th day of January, 2016** at Midvale City Hall, 7505 South Holden Street, Midvale, Utah as follows:

**5:30 PM**

**SWEARING IN CEREMONY FOR NEWLY ELECTED OFFICIALS**  
**Dahl Conference Room**

**6:30 PM**

**INFORMATIONAL ITEMS**

**I. DEPARTMENT REPORTS**

**II. CITY MANAGER BUSINESS**

**7:00 PM**

**REGULAR MEETING**

**III. GENERAL BUSINESS**

- A. WELCOME AND PLEDGE OF ALLEGIANCE
- B. ROLL CALL
- C. Jordan Valley Water Conservancy District Report

**IV. PUBLIC COMMENTS**

Any person wishing to comment on any item not otherwise on the Agenda may address the City Council at this point by stepping to the microphone and giving his or her name for the record. Comments should be limited to not more than three (3) minutes, unless additional time is authorized by the Governing Body. Citizen groups will be asked to appoint a spokesperson. This is the time and place for any person who wishes to comment on non-hearing, non-Agenda items. Items brought forward to the attention of the City Council will be turned over to staff to provide a response outside of the City Council meeting.

**V. COUNCIL REPORTS**

- A. Councilmember Wayne Sharp
- B. Councilmember Stephen Brown
- C. Councilmember Paul Glover
- D. Councilmember Paul Hunt
- E. Councilmember Quinn Sperry

**VI. MAYOR REPORT**

- A. Mayor JoAnn B. Seghini

**VII. CONSENT AGENDA**

- A. Approve minutes of December 15, 2015 [*Rori Andreason, H.R. Director/City Recorder*]

**VIII. ACTION ITEMS**

- A. Approve Resolution No. 2016-R-01 Appointing Lisa Garner as the City Attorney [*Kane Loader, City Manager*]
- B. Approve Resolution No. 2016-R-02 Reappointing Rori Andreason as the Midvale City Recorder [*Kane Loader, City Manager*]
- C. Approve Resolution No. 2016-R-03 Reappointing Dalin Hackett as the Midvale City Treasurer [*Kane Loader, City Manager*]
- D. Approve the Real Estate Purchase Offer for 297 East Fort Union Boulevard (7200 South) [*Phillip Hill, Asst. City Manager/Community Development Director*]

**IX. ADJOURN**

In accordance with the Americans with Disabilities Act, Midvale City will make reasonable accommodations for participation in the meeting. Request assistance by contacting the City Recorder at 801-567-7207, providing at least three working days advance notice of the meeting. TTY 711

A copy of the foregoing agenda was provided to the news media by email and/or fax; the agenda was posted in the City Hall Lobby, the 2<sup>nd</sup> Floor City Hall Lobby, on the City's website at [www.midvalecity.org](http://www.midvalecity.org) and the State Public Notice Website at <http://pmn.utah.gov>. Council Members may participate in the meeting via electronic communications. Council Members' participation via electronic communication will be broadcast and amplified so other Council Members and all other persons present in the Council Chambers will be able to hear or see the communication.

**PLEASE MAKE SURE ALL CELL PHONES ARE TURNED OFF DURING THE MEETING**

**DATE POSTED: DECEMBER 31, 2016**

**RORI L. ANDREASON, MMC  
H.R. DIRECTOR/CITY RECORDER**



**Midvale City**  
**CITY COUNCIL MEETING**  
*Minutes*

**Tuesday, December 15, 2015**  
**Council Chambers**  
**7505 South Holden Street**  
**Midvale, Utah 84047**

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**MAYOR:** Mayor JoAnn B. Seghini

**COUNCIL MEMBERS:** Council Member Wayne Sharp  
Council Member Stephen Brown  
Council Member Paul Glover  
Council Member Paul Hunt  
Council Member Quinn Sperry

**STAFF:** Kane Loader, City Manager; Phillip Hill, Assistant City Manager/Community Development Director; Laurie Harvey, Assistant City Manager/Admin. Services Director; Rori Andreason, H.R. Director/City Recorder; Bob Davis, Public Works Director; Chief Tony Mason, UPD Midvale Precinct; Battalion Chief Scott McBride, UFA; Dalin Hackett, Asst. Finance Director/City Treasurer; David Starkey, Senior Accountant; Danny Walz, RDA Director; Matt Hilderman, Associate Planner; and Jarin Blackham, IT Manager.

Mayor Seghini called the meeting to order at 6:30 p.m.

**I. INFORMATIONAL ITEMS**

**A. DEPARTMENT REPORTS**

Chief Mason had nothing to report.

Chief McBride had nothing to report.

Phillip Hill had nothing to report.

Laurie Harvey discussed the status of the Community Building Community and the buildings they are looking at renting. She discussed the location of the clinic and the CBC program. She said the city pays the utilities for city buildings.

Kane Loader asked the Council if they would agree to pay a grant of \$20,000 to the CBC similar to what is done with the Boys and Girls Club and the Arts Council. He said the grant would be used for rent and utilities with no other funding for the CBC. He said the grant would be based on the ability to fund the grant each year. He felt with a 5 year lease on the building by the post

office, it would be a resolution of their building needs. The seminary building would then be given back to the Church.

Laurie Harvey explained the increase in utility costs has been due to the clinic. When the clinic was in the middle school, the utilities were paid by the school district.

Councilmember Paul Glover said it would be best to decide on a fixed amount the City is willing to give them and end it there.

Mayor Seghini said this is a good location for those with a critical need but it won't affect a neighborhood.

Councilmember Paul Hunt said the running of the program and payment of the utilities and rent will be completely up to Mauricio.

Laurie Harvey suggested allowing the CBC to continue using the City's grant writer and give them an additional fixed amount of \$10,000. The Council agreed.

Councilmember Paul Glover said if the CBC can take care of the needs for the seminary building, he would agree with their use of the building but he did not want the City paying for any improvements.

Danny Walz said last week the City received the Utah Construction and Design Award for Outstanding Municipal Building. He said the new Senior Citizens Center also won.

Bob Davis said due to the snow storms the Public Works luncheon was rescheduled to Wednesday, Dec 16. Also, an open house is being held that same day at 3:00 p.m. for Ralph Stocking who is retiring after 33 years with the City. He said the old senior center at the park appears to have been broken into. Someone broke a couple of windows, entered the building and rummaged around. He is in the process of getting that secured.

Rori Andreason said she received a Facebook post on the City's site expressing appreciation for how well the roads were cleared with the snow storm and that the person is trying to teach Cottonwood Heights how to do the same. She also discussed the Local Officials Day scheduled for January 27, 2016. She announced the swearing in ceremony for the newly elected officials on January 5, 2016.

## **II. CITY MANAGER'S REPORT**

Kane Loader announced that UDOT has found a way to fund the 7200 South widening project. Salt Lake County Council approved the \$1.2 million dollars for the Fort Union Boulevard project.

## **III. GENERAL BUSINESS**

### **A. Welcome and Pledge of Allegiance**

**B. Roll Call** – Council Members Stephen Brown, Paul Hunt, Wayne Sharp, Quinn Sperry and Paul Glover were present at roll call.

**C. Report from Audit Committee**

Laurie Harvey said the Audit Committee members are Councilmember Paul Hunt, Councilmember Paul Glover and Mont Millerberg. She said the financial statement is in draft form tonight until the audit has been received. The biggest change is she is now presenting a Comprehensive Annual Financial Report, which is much more extensive in showing financial trends. She feels this document will help prepare the budget next year. Secondly, she is reporting water and sewer activity separately for more transparency. She is reporting on two internal service funds including an information technology service fund. The management's discussion and analysis is a summary of the Audit. She recognized Dalin Hackett, Asst. Finance Director; and David Starkey, Senior Accountant who did a lot of work on the financial report. She said the Auditors are objective and do a great job as a third party. She also expressed appreciation to the Audit Committee.

Hansen, Bradshaw, Malmrose, & Erickson said the Finance Department is presenting a CAFR this year and that is a big task. He said he felt comfortable that the City's Finance Department is doing a great job reporting and making sure the funds are spent properly according to ordinances and laws. There is one adjustment due to GASB 68 effective this year relating to a retirement system and the obligation the City has with the retirement system. When the economy took a down turn and some entities around the county could not meet their retirement obligations, they actually went bankrupt. There is not a fund with these retirement funds just sitting there; they are invested so there is a portion that is unfunded. This statement says there is an unfunded portion of the Utah Retirement System and a third party actuary looks at the different entities to determine what their obligation is to these funds. Midvale's portion is \$1.6 million dollars. The revenues and expenditures are very comparable to the prior year. The City can have a rainy day fund with not less than 5% of budget revenues not to exceed 25% of budgeted revenues and the City is currently at 17%. He said as the City's Auditors, they give an opinion on internal controls of the City and they are issuing a clean opinion since they did not find anything out of compliance. He said they also issue an opinion regarding Utah State Compliance Procedures and they did not find any issues. He complimented the City, Directors and Finance Department for actively managing the finances of the City. He said they audit 12 other cities and special districts and Midvale City is healthy.

**IV. PUBLIC COMMENTS**

Glade Baldwin, 6800 South 900 East, said semi-trucks are parking overnight in this area. He said the police are reluctant to issue citations because that is a state road. He said the City Attorney said he would not be comfortable prosecuting a ticket. He asked what could be done to make the area a no parking zone so people can see to pull out on the road and for snow plowing. Staff said they would look into this issue.

There was no one else present who desired to speak.

**V. COUNCIL REPORTS**

**A. Councilmember Wayne Sharp** – warned that if you post something on KSL or Craig’s List and you are offered your asking price or a little more but it’s out of state, it is a scam. He said he attended the Demolay Masonic Temple dinner, which was very nice. They teach young men leadership and development skills so more of the youth are in charge of the activities they do.

**B. Councilmember Stephen Brown** – had nothing to report.

**C. Councilmember Paul Glover** – had nothing to report.

**D. Councilmember Paul Hunt** – had nothing to report.

**E. Councilmember Quinn Sperry** – said Floyd Tarbet, Community Council, asked for issues they can focus on for 2016 and if anyone knows of individuals interested in joining the Community Council.

**VI. MAYOR REPORT**

**Mayor JoAnn B. Seghini** – expressed appreciation to staff for getting funding for critical transportation issues.

**MOTION:** Councilmember Wayne Sharp **MOVED** to go into a public hearing. The motion was **SECONDED** by Councilmember Paul Glover. Mayor Seghini called for discussion on the motion. There being none the she called for a vote. The motion passed unanimously.

**VII. PUBLIC HEARINGS**

**A. CONSIDER A TEXT AMENDMENT REQUEST TO CHANGE THE AREA OF LIMITATIONS FOR WALL AND ROOF-MOUNTED TELECOMMUNICATIONS FACILITIES**

Matt Hilderman said an application was received proposing a text amendment concerning telecommunication facilities within the City of Midvale. Currently, the City’s telecommunication facility ordinance has an ‘Area of Limitations’ that limits the amount of wall- and roof-mounted antennas on a building to:

- Forty-square feet (40 SF) per exterior wall; or
- One-hundred and sixty-square feet (160 SF) per building for all carriers on the building.

The applicant is contesting, based upon the current telecommunication industry and technology and in order to provide the necessary communication for the activities stated above, this would limit the amount of carriers on one particular site to one, possibly two; and colocation would be difficult to accommodate. The applicant and Staff have concurred that the ‘Area of Limitations’ requirement is to limit the visual impact on the surrounding area.

The applicant submitted a proposal to limit the area of limitations to only wall-mounted antennas since; roof-mounted antennas are required to be screened, constructed, and painted to match the structure to which they are attached. The applicant had also proposed to amend the area of

limitations requirement for wall-mounted antennas to be allowed for *each* individual carrier rather than a *total for all carriers*. Staff has summarized the applicant's request below:

- a. Stealth wall-mounted and roof-mounted antennas not required to abide by area of limitations.
- b. Area of Limitations for non-stealth wall-mounted antennas.
- c. Total area of non-stealth wall-mounted antennas and supporting structures not to exceed forty square feet (40 sq. ft.) per carrier.
- d. Visible portion of the supporting structure will be used to calculate the area of limitation.

Staff recognizes the need to support the increasing need of wireless technology services; while still addressing the possible visual impacts on surrounding areas that this proposal may present. After reviewing and compiling the information, Staff prepared a revised ordinance proposal that addressed the following:

- a. Any proposed telecommunication facility will still require submittal of an ACUP application and approval from the Department of Community Development;
- b. Any proposed telecommunication facility that requires construction of a new screening wall will require approval of this feature from the Planning Commission;
- c. Staff recommends stealth-roof mounted antennas shall not abide by the Area of Limitations requirement;
- d. Staff recommends that the ordinance language for wall-mounted antennas, stealth- and nonstealth, continue to remain as presently adopted; and
- e. Additional organization of the overall ordinance.

### **Planning Commission Recommendation**

On July 8th and September 17th, 2015, this item was presented before the Midvale City Planning Commission. Additional information was requested by the Planning Commission, as well as representatives from the telecommunication industry addressed the Planning Commission's concerns. On November 18, 2015, the Planning Commission reviewed all the information received and discussed the aesthetics of this use as is related to the surrounding neighborhoods and overall city character. It was the Planning Commission's recommendation to approve Staff's ordinance amendment with the following motion:

*"In order to accommodate uses not originally contemplated when the Zoning Ordinance was originally adopted and to further provide safety and security of individual properties and their uses, I move that we forward a positive recommendation to the City Council to change the language for the area of limitations requirement under the telecommunications ordinance provision as included in Attachment A, B, & C."*

### **City Council Discussion**

On December 1st, 2015, the City Council discussed this item, addressed the ordinance language for wall-mounted antennas, and requested additional information as to whether a percentage of

wall-mounted antennas would be acceptable. Staff has conducted research of this proposal and provides the following information and illustrations for analysis and further discussion:

1. Shane Company – 7182 S. State Street

- a. East Elevation – 4287.25 square feet; 3471.25 square feet excluding windows
  - i. 4% of wall coverage = 138.85 square feet
  - ii. 5% of wall coverage = 173.56 square feet
  - iii. Current ordinance = 40 square feet total
  - iv. Applicant proposal = 40 square feet *per carrier*
- b. South Elevation – 2286.375 square feet; 1748.625 square feet excluding windows
  - i. 4% of wall coverage = 70 square feet
  - ii. 5% of wall coverage = 87.4 square feet
  - iii. Current ordinance = 40 square feet total
  - iv. Applicant proposal = 40 square feet *per carrier*

2. Union Park Center – 7090 S. Fort Union

- a. North/South Elevations – 11,387.33 sq. ft.; 6,863.33 sq. ft. excluding windows
  - i. 4% of wall coverage = 274.5 square feet
  - ii. 5% of wall coverage = 343.17 square feet
  - iii. Current ordinance = 40 square feet total
  - iv. Applicant proposal = 40 square feet *per carrier*
- b. East/West Elevations – 13,834 sq. ft.; 7,204 sq. ft. excluding windows
  - i. 4% of wall coverage = 288.16 square feet
  - ii. 5% of wall coverage = 360.2 square feet
  - iii. Current ordinance = 40 square feet total
  - iv. Applicant proposal = 40 square feet *per carrier*

3. Hillcrest High School – 7350 S. 900 E.

- a. North/South Elevations – 1785 sq. ft. (1st story); 1833 sq. ft. (2nd story)
  - i. 4% of wall coverage = 71.4 sq. ft. (1st story); 73.32 sq. ft. (2nd story)
  - ii. 5% of wall coverage = 89.25 sq. ft. (1st story); 91.65 sq. ft. (2nd story)
  - iii. Current ordinance = 40 square feet total
  - iv. Applicant proposal = 40 square feet *per carrier*
- b. East/West Elevations – 8330 sq. ft. (1st story); 4700 sq. ft. (2nd story)
  - i. 4% of wall coverage = 333.20 sq. ft. (1st story); 188 sq. ft. (2nd story)
  - ii. 5% of wall coverage = 416.5 sq. ft. (1st story); 235 sq. ft. (2nd story)
  - iii. Current ordinance = 40 square feet total
  - iv. Applicant proposal = 40 square feet *per carrier*

Staff also researched other jurisdictional codes concerning telecommunication uses and some possible solutions could be to add language to the proposed text amendment that may state the following:

“Combinations: Total area for all wall-mounted antennas and supporting structures shall not exceed the lesser of sixty (60) square feet [40; 50] or 5% [3%; 4%] of each exterior wall of the building.”

“Non-stealth wall-mounted antennas may not be installed on a building wall or walls facing a public street or on a wall or walls constituting the buildings front or main entrance.”

“Wall-mounted antennas shall only be mounted on buildings of three (3) stories or more, having a penthouse or a mechanical room.”

Pete Simmons, representing Verizon Wireless, said they have a couple of buildings they are trying to put some antennas. As data increases, customers increase and they need more speed. He said areas of limitations are for antennas you can see. If you cannot see them, most municipalities do not consider them within the areas of limitations. He suggested focusing on percentage for non-stealth antennas. He said they would not place all of the antennas in one spot; they will be spread out. He said he could see some of the concerns regarding aesthetics.

The Council discussed details of the ordinance. This public hearing was continued to January 5, 2016.

**VIII. CONSENT AGENDA**

- A. APPROVE MINUTES OF DECEMBER 1<sup>st</sup> & 3<sup>rd</sup>, 2015**
- B. APPROVE RESOLUTION NO. 2015-R-56 ADOPTING THE MEETING SCHEDULE AND MAYOR PRO-TEM FOR CALENDAR YEAR 2016**

**MOTION:** Councilmember Quinn Sperry **MOVED** to approve the consent agenda. The motion was **SECONDED** by Councilmember Paul Glover. Mayor Seghini called for discussion on the motion. There being none the she called for a roll call vote. The voting was as follows:

Council member Stephen Brown	Aye
Council member Paul Glover	Aye
Council member Paul Hunt	Aye
Councilmember Wayne Sharp	Aye
Council member Quinn Sperry	Aye

**The motion passed unanimously.**

**IX. DISCUSSION ITEMS**

- A. DISCUSS REAL ESTATE PURCHASE OFFER FOR 297 EAST FORT UNION BOULEVARD (7200 SOUTH)**

Phillip Hill said on June 19, 2001 this property was declared surplus at \$5.75 per square foot. This is a remnant parcel the City picked up when the County began the 7200 South widening project. This is an odd shaped piece that really can't be developed. The sale price would be approximately \$39,450. He said Quinn Millet has made an offer for the full \$39,450. He recommended coming back to the Council on January 5<sup>th</sup> with a real estate purchase contract. He said Me. Millet is proposing a town home development. The Council agreed to bring it back.

**MOTION:** Councilmember Paul Hunt **MOVED** to table the closed session and move into the RDA and MBA. The motion was **SECONDED** by Councilmember

**Wayne Sharp. Mayor Seghini called for discussion on the motion. There being none the she called for a vote. The motion passed unanimously.**

The Council recessed at 8:13 p.m. and reconvened at 8:15 p.m.

**X. CLOSED SESSION**

**A. TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL**

**MAYOR:** Mayor JoAnn B. Seghini

**COUNCIL MEMBERS:** Council Member Wayne Sharp  
Council Member Stephen Brown  
Council Member Paul Glover  
Council Member Paul Hunt  
Council Member Quinn Sperry

**STAFF:** Kane Loader, City Manager; Phillip Hill, Assistant City Manager/Community Development Director; Laurie Harvey, Assistant City Manager/Admin. Services Director; Rori Andreason, H.R. Director/City Recorder; Bob Davis, Public Works Director; and Danny Walz, RDA Director.

**MOTION:** Councilmember Wayne Sharp **MOVED** to move into a closed session to discuss the character, professional competence or physical or mental health of an individual. The motion was **SECONDED** by Councilmember Stephen Brown. Mayor Seghini called for discussion on the motion. There being none the she called for a roll call vote. The voting was as follows:

Council member Stephen Brown	Aye
Council member Paul Glover	Aye
Council member Paul Hunt	Aye
Councilmember Wayne Sharp	Aye
Council member Quinn Sperry	Aye

**The motion passed unanimously.**

The Council went into closed session at 8:15 pm

**MOTION:** Councilmember Paul Glover **MOVED** to reconvene into open session. Councilmember Stephen Brown **SECONDED** the motion. Mayor Seghini called for discussion on the motion. There being none, she called for a vote. The motion passed unanimously.

The Council reconvened into open session at 8:50 p.m.

**XI. ADJOURN**

**MOTION: Councilmember Wayne Sharp MOVED to adjourn the meeting. Councilmember Stephen Brown SECONDED the motion. Mayor Seghini called for discussion on the motion. There being none, she called for a vote. The motion passed unanimously.**

The meeting adjourned at 8:50 pm.

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**Rori L. Andreason, MMC  
CITY RECORDER**

Approved this 5th day of January, 2016.

PENDING



## **MIDVALE CITY COUNCIL SUMMARY REPORT**

**Meeting Date: January 5, 2016**

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**SUBJECT: Resolution Appointing Lisa Garner as the Midvale City Attorney**

**SUBMITTED BY: Kane Loader, City Manager**

**SUMMARY:**

As discussed previously with the City Council, the City has made the decision to hire a full time City Attorney and staff for the legal department instead of contracting these services. With this decision, Lisa Garner has proven to be a great asset to the City in the legal work she has done over the last year. Lisa comes highly recommended and has vast knowledge and experience in this field. A Resolution has been prepared for the Council's consideration in appointing Ms. Lisa Garner as the Midvale City Attorney.

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**STAFF'S RECOMMENDATION AND MOTION: I move that we approve Resolution No. 2016-R-01 Appointing Lisa Garner as the Midvale City Attorney.**

**Attachments: Proposed Resolution**

**MIDVALE CITY, UTAH**

**RESOLUTION NO. 2016 R-01**

**A RESOLUTION APPOINTING LISA GARNER AS THE  
MIDVALE CITY ATTORNEY**

**WHEREAS**, pursuant to §10-3-809 Utah Code Annotated, the Mayor is authorized to appoint, with the advice and consent of the City Council, an individual to serve as the City Attorney who will be the Department Head of the Legal Department; and

**WHEREAS**, the Mayor has sought the advice and consent of the City Council concerning such appointment; and

**WHEREAS**, the Mayor desires to appoint Lisa Garner as the Midvale City Attorney; and

**WHEREAS**, the City Council desires to consent to this appointment,

**NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF MIDVALE, UTAH:**

**Section 1.** The City Council hereby confirms the Mayor’s appointment of Lisa Garner as the City Attorney for Midvale City.

**Section 2.** This Resolution shall take effect immediately.

Adopted by the City Council of Midvale, Utah, this 5<sup>th</sup> day of January, 2016.

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JOANN B. SEGHINI  
Mayor

ATTEST:

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RORI L. ANDREASON, MMC  
City Recorder

Voting by the City Council	“AYE”	“NAY”
Stephen Brown	_____	_____
Paul Glover	_____	_____
Quinn Sperry	_____	_____
Paul Hunt	_____	_____
Wayne Sharp	_____	_____



## **MIDVALE CITY COUNCIL SUMMARY REPORT**

**Meeting Date: January 5, 2016**

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**SUBJECT: Consider Resolution No. 2016-R-02 Reappointing Rori Andreason as the Midvale City Recorder**

**SUBMITTED BY: Mayor JoAnn B. Seghini/Kane Loader City Manager**

**SUMMARY:**

In accordance with Section 10-3-916 of the Utah Code, in each city of the fourth class on or before the first Monday in February following a municipal election, the Mayor with the advice and consent of the City Council, shall appoint a qualified person to the office of City Recorder. A resolution has been prepared for Council Consideration.

**FISCAL IMPACT: N/A**

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**STAFF'S RECOMMENDATION AND MOTION: I move that we approve Resolution No. 2016-R-02 Reappointing Rori Andreason as the Midvale City Recorder.**

**Attachments: Proposed Resolution**

MIDVALE CITY, UTAH

RESOLUTION NO. 2016-R-02

A RESOLUTION CONFIRMING THE REAPPOINTMENT OF RORI L. ANDREASON AS THE CITY RECORDER FOR MIDVALE CITY

Whereas, following each Municipal Election, the Mayor is authorized, pursuant to §10-3-916 Utah Code, to appoint, with the advice and consent of the City Council, a qualified individual to serve as the City Recorder; and

Whereas, the Mayor has sought the advice and consent of the City Council concerning such appointment; and

Whereas, the Mayor desires to reappoint Rori L. Andreason to serve as the City Recorder for Midvale City; and

Whereas, the City Council desires to consent to this appointment,

NOW, THEREFORE, BE IT IS RESOLVED BY THE CITY COUNCIL OF MIDVALE, UTAH:

Section 1. The City Council hereby confirms the Mayor’s reappointment of Rori L. Andreason to serve as the City Recorder for Midvale City.

Section 2. This Resolution shall take effect immediately.

Adopted by the City Council of Midvale, Utah, this 5th day of January, 2016.

\_\_\_\_\_  
JoAnn B. Seghini  
Mayor

ATTEST:

\_\_\_\_\_  
Rori L. Andreason, MMC  
City Recorder

Voting by the City Council: “Aye”		“Nay”
Stephen Brown	_____	_____
Paul Glover	_____	_____
Quinn Sperry	_____	_____
Paul Hunt	_____	_____
Wayne Sharp	_____	_____



## **MIDVALE CITY COUNCIL SUMMARY REPORT**

**Meeting Date: January 5, 2016**

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**SUBJECT: Consider Resolution No. 2016-R-03 Reappointing Dalin Hackett as the Midvale City Treasurer**

**SUBMITTED BY: Mayor JoAnn B. Seghini/Kane Loader City Manager**

**SUMMARY:**

In accordance with Section 10-3-916 of the Utah Code, in each city of the fourth class on or before the first Monday in February following a municipal election, the Mayor with the advice and consent of the City Council, shall appoint a qualified person to the office of City Treasurer. A resolution has been prepared for Council Consideration.

**FISCAL IMPACT: N/A**

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**STAFF'S RECOMMENDATION AND MOTION: I move that we approve Resolution No. 2016-R-03 Reappointing Dalin Hackett as the Midvale City Treasurer.**

**Attachments: Proposed Resolution**

**MIDVALE CITY, UTAH**

**RESOLUTION NO. 2016-R-03**

**A RESOLUTION CONFIRMING THE REAPPOINTMENT  
OF DALIN HACKETT AS CITY TREASURER FOR MIDVALE CITY**

**Whereas**, following each Municipal Election, the Mayor is authorized, pursuant to §10-3-916 Utah Code, to appoint, with the advice and consent of the City Council, a qualified individual to serve as the City Treasurer; and

**Whereas**, the Mayor has sought the advice and consent of the City Council concerning such appointment; and

**Whereas**, the Mayor desires to reappoint Dalin Hackett to serve as the City Treasurer for Midvale City; and

**Whereas**, the City Council desires to consent to this appointment,

**NOW, THEREFORE, BE IT IS RESOLVED BY THE CITY COUNCIL OF MIDVALE, UTAH:**

**Section 1.** The City Council hereby confirms the Mayor’s reappointment of Dalin Hackett to serve as the City Treasurer for Midvale City.

**Section 2.** This Resolution shall take effect immediately.

Adopted by the City Council of Midvale, Utah, this 5<sup>th</sup> day of January, 2016.

\_\_\_\_\_  
JoAnn B. Seghini  
Mayor

ATTEST:

\_\_\_\_\_  
Rori L. Andreason, MMC  
City Recorder

<b>Voting by the City Council: “Aye”</b>		<b>“Nay”</b>
Stephen Brown	_____	_____
Paul Glover	_____	_____
Quinn Sperry	_____	_____
Paul Hunt	_____	_____
Wayne Sharp	_____	_____



## MIDVALE CITY COUNCIL SUMMARY REPORT

**Meeting Date: January 05, 2016**

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**SUBJECT:** Approve sale of approximately .21 acres of property located at 297 East 7200 South

**SUBMITTED BY:** Phillip Hill, Assistant City Manager/Director, CD

**SUMMARY:**

Section 12.16.050 of the Midvale City Municipal Code adopts the provisions of 10-8-2 of the Utah Code pertaining to the disposition of City owned properties and rights-of-way. This process details noticing requirements, public hearing requirements and the process by which the property is to be disposed of if approved by the City Council.

Following the process set in 12.16.050, the City Council vacated this piece of city owned property on June 19, 2001 and set a minimum sales price of \$5.75 per square foot. In addition, the Council adopted a policy that allows for a reduction in sales price from 15% up to 25% for properties encumbered by odd shape, easements, etc.

Due to the odd shape of this lot and considering that it is also encumbered by a UTOPIA cabinet and access easement at the north end, staff recommends that we apply a 25% reduction to the sales price. The sales price for this property at \$5.75 per square foot would be \$52,599, and with a 25% reduction the price is \$39,450. The price has been calculated from a rough estimate of the parcel size, and may fluctuate slightly as a final survey of the property is conducted by the buyer.

Mr. Quinn Millet has submitted a Real Estate Purchase Contract (REPC) for \$39,450 with \$1,000 of that deposited as earnest money. Mr. Millet's intent at this point is to construct a townhouse development that would utilize this parcel in conjunction with parcels to the west.

**FISCAL IMPACT:**

Sale of the property would result in a positive cash flow to the city of roughly \$39,450.

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**RECOMMENDATION MOTION:**

*Based on the City Council having taken previous action to declare the subject property surplus and the City Council's authority to dispose of City owned property per Section 10-8-2 of Utah State Code as adopted per Section 12.16.050 of the Midvale City Municipal*

*Code, Staff recommends that the City Council; approve the Mayor entering into a contract for the sale of the subject property for \$39,450 or roughly \$4.31 per square foot. Price shall be adjusted accordingly should the property be found to be more or less than .21 acres.*

**Attachments:**

- Location map
- Site plan & easement
- Quinn Millet REPC/Offer

260 E

300 E

Fort Union Blvd

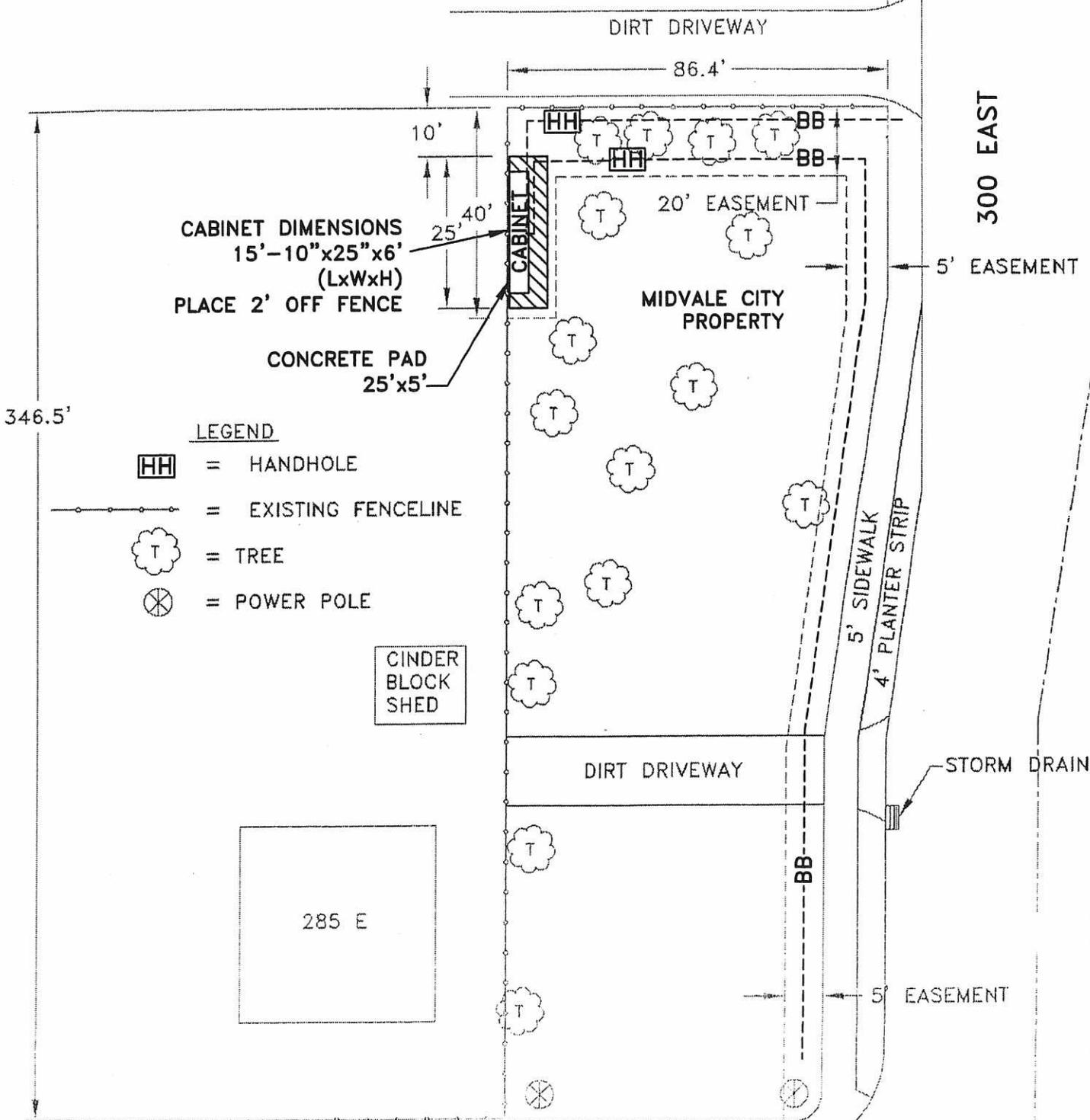
297 East Fort Union Boulevard

 Subject Property [0.21 acres]



# EXHIBIT "A"

CONSTRUCTION NOTE:  
TREES THAT CAN BE REMOVED OR  
TRIMMED HAVE BEEN MARKED WITH WHITE  
PAINT



**LEGEND**

- HH = HANDHOLE
- = EXISTING FENCELINE
- T = TREE
- ⊗ = POWER POLE

CINDER  
BLOCK  
SHED

SCALE	- NONE
CITY	- MIDVALE
CABINET LOCATION	- MD03
SHEET #	- 2 OF 2
DATE	- 8/12/05



# REAL ESTATE PURCHASE CONTRACT FOR LAND



This is a legally binding Real Estate Purchase Contract ("REPC"). If you desire legal or tax advice, consult your attorney or tax advisor.

## OFFER TO PURCHASE AND EARNEST MONEY DEPOSIT

On this 30th day of November, 2015 ("Offer Reference Date") Wellsville Mountains LLC ("Buyer") offers to purchase from MIDVALE CITY CORP ("Seller") the Property described below and  delivers to the Buyer's Brokerage with this offer, or  agrees to deliver no later than four (4) calendar days after Acceptance (as defined in Section 23), Earnest Money in the amount of \$1000.00 in the form of Check. After Acceptance of the REPC by Buyer and Seller, and receipt of the Earnest Money by the Brokerage, the Brokerage shall have four (4) calendar days in which to deposit the Earnest Money into the Brokerage Real Estate Trust Account.

Buyer's Brokerage Equity Real Estate Phone: 801-747-0758

Received by: \_\_\_\_\_ on \_\_\_\_\_  
(Signature above acknowledges receipt of Earnest Money) (Date)

## OTHER PROVISIONS

1. PROPERTY: 297 E Ft Union Blvd

also described as: 22-30-128-039-0000

City of Midvale, County of Salt Lake State of Utah, Zip 84047 (the "Property"). Any reference below to the term "Property" shall include the Property described above, together with the Included Items and water rights/water shares, if any, referenced in Sections 1.1, and 1.3.

1.1 Included Items. (specify) \_\_\_\_\_

1.2 Excluded Items. (specify) \_\_\_\_\_

1.3 Water Service. The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from this sale: \_\_\_\_\_

2. PURCHASE PRICE. The Purchase Price for the Property is \$39,450. Except as provided in this Section, the Purchase Price shall be paid as provided in Sections 2(a) through 2(d) below. Any amounts shown in 2(b) and 2(d) may be adjusted as deemed necessary by Buyer and the Lender.

\$1000 (a) Earnest Money Deposit. Under certain conditions described in the REPC, this deposit may become totally non-refundable.

\$ \_\_\_\_\_ (b) New Loan. Buyer may apply for mortgage loan financing (the "Loan") on terms acceptable to Buyer.

\$ \_\_\_\_\_ (c) Seller Financing. (see attached Seller Financing Addendum)

\$38450 (d) Balance of Purchase Price in Cash at Settlement

\$39450 PURCHASE PRICE. Total of lines (a) through (d)

## 3. SETTLEMENT AND CLOSING.

3.1 Settlement. Settlement shall take place no later than the Settlement Deadline referenced in Section 24(d), or as otherwise mutually agreed by Buyer and Seller in writing. "Settlement" shall occur only when all of the following have been completed: (a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by the REPC, by the Lender, by the title insurance and escrow/closing offices, by written escrow instructions (including any split closing instructions, if applicable), or by applicable law; (b) any monies required to be paid by Buyer or Seller under these documents

(except for the proceeds of any new loan) have been delivered by Buyer or Seller to the other party, or to the escrow/closing office, in the form of cash, wire transfer, cashier's check, or other form acceptable to the escrow/closing office.

**3.2 Prorations.** All prorations, including, but not limited to, homeowner's association dues, property taxes for the current year, rents, and interest on assumed obligations, if any, shall be made as of the Settlement Deadline referenced in Section 24(d), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The provisions of this Section 3.2 shall survive Closing.

**3.3 Greenbelt.** If any portion of the Property is presently assessed as "Greenbelt" the payment of any roll-back taxes assessed against the Property shall be paid for by:  Seller  Buyer  Split Equally Between Buyer and Seller  Other (explain)

**3.4 Special Assessments.** Any assessments for capital improvements as approved by the HOA (pursuant to HOA governing documents) or as assessed by a municipality or special improvement district, prior to the Settlement Deadline shall be paid for by:  Seller  Buyer  Split Equally Between Buyer and Seller  Other (explain) \_\_\_\_\_

The provisions of this Section 3.4 shall survive Closing.

**3.5 Fees/Costs/Payment Obligations.** Unless otherwise agreed to in writing, Seller and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Tenant deposits (including any prepaid rents) shall be paid or credited by Seller to Buyer at Settlement. Buyer agrees to be responsible for homeowners' association and private and public utility service transfer fees, if any, and all utilities and other services provided to the Property after the Settlement Deadline. The escrow/closing office is authorized and directed to withhold from Seller's proceeds at Closing, sufficient funds to pay off on Seller's behalf all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. The provisions of this Section 3.5 shall survive Closing.

**3.6 Closing.** For purposes of the REPC, "Closing" means that: (a) Settlement has been completed; (b) the proceeds of any new loan have been delivered by the Lender to Seller or to the escrow/closing office; and (c) the applicable Closing documents have been recorded in the office of the county recorder. The actions described in 3.6 (b) and (c) shall be completed within four calendar days after Settlement.

**4. POSSESSION.** Seller shall deliver physical possession of the Property to Buyer as follows:  Upon Closing;  \_\_\_ Hours after Closing;  \_\_\_ Calendar Days after Closing;  Other (explain)

Any contracted rental of the Property prior to or after Closing, between Buyer and Seller, shall be by separate written agreement. Seller and Buyer shall each be responsible for any insurance coverage each party deems necessary for the Property. Seller agrees to deliver the Property to Buyer free of debris and personal belongings. The provisions of this Section 4 shall survive Closing.

**5. CONFIRMATION OF AGENCY DISCLOSURE.** Buyer and Seller acknowledge prior written receipt of agency disclosure provided by their respective agent that has disclosed the agency relationships confirmed below. At the signing of the REPC:

Seller's Agent \_\_\_\_\_, represents  Seller  both Buyer and Seller as a Limited Agent;  
Seller's Brokerage \_\_\_\_\_, represents  Seller  both Buyer and Seller as a Limited Agent;

Buyer's Agent Lindsay Millet, represents  Buyer  both Buyer and Seller as a Limited Agent;  
Buyer's Brokerage Equity Real Estate - Premier Elite Branch, represents  Buyer  both Buyer and Seller as a Limited Agent.

**6. TITLE & TITLE INSURANCE.**

**6.1 Title to Property.** Seller represents that Seller has fee title to the Property and will convey marketable title to the Property to Buyer at Closing by general warranty deed. Buyer does agree to accept title to the Property subject to the contents of the Commitment for Title Insurance (the "Commitment") provided by Seller under Section 7, and as reviewed and approved by Buyer under Section 8. Buyer also agrees to accept title to the Property subject to any existing leases rental and property management agreements affecting the Property not expiring prior to Closing which were provided to Buyer pursuant to Section 7(e). The provisions of this Section 6.1 shall survive Closing.

**6.2 Title Insurance.** At Settlement, Seller agrees to pay for and cause to be issued in favor of Buyer, through the title insurance agency that issued the Commitment, the most current version of an ALTA standard coverage owner's policy of title insurance. Any additional title insurance coverage desired by Buyer shall be at Buyer's expense.

**7. SELLER DISCLOSURES.** No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents in hard copy or electronic format which are collectively referred to as the "Seller Disclosures":

- (a) a written Seller Property Condition Disclosure (Land) for the Property, completed, signed and dated by Seller as provided in Section 10.2;
- (b) a Commitment for Title Insurance as referenced in Section 6.1;
- (c) a copy of any restrictive covenants (CC&R's), rules and regulations affecting the Property;
- (d) a copy of the most recent minutes, budget and financial statement for the homeowners' association, if any;
- (e) a copy of any lease, rental, and property management agreements affecting the Property not expiring prior to Closing;
- (f) evidence of any water rights and/or water shares referenced in Section 1.3;
- (g) written notice of any claims and/or conditions known to Seller relating to environmental problems; and violation of any CC&R's, federal, state or local laws, and building or zoning code violations; and
- (h) Other (specify) \_\_\_\_\_

**8. BUYER'S CONDITIONS OF PURCHASE.**

**8.1 DUE DILIGENCE CONDITION.** Buyer's obligation to purchase the Property:  IS  IS NOT conditioned upon Buyer's Due Diligence as defined in this Section 8.1(a) below. This condition is referred to as the "Due Diligence Condition." If checked in the affirmative, Sections 8.1(a) through 8.1(c) apply; otherwise they do not.

(a) **Due Diligence Items.** Buyer's Due Diligence shall consist of Buyer's review and approval of the contents of the Seller Disclosures referenced in Section 7, and any other tests, evaluations and verifications of the Property deemed necessary or appropriate by Buyer, such as: the physical condition of the Property; the existence of any hazardous substances, environmental issues or geologic conditions; the square footage or acreage of the Property; the costs and availability of flood insurance, if applicable; water source, availability and quality; the location of property lines; regulatory use restrictions or violations; fees for services such as HOA dues, municipal services, and utility costs; convicted sex offenders residing in proximity to the Property; and any other matters deemed material to Buyer in making a decision to purchase the Property. Unless otherwise provided in the REPC, all of Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with Buyer's Due Diligence. Buyer agrees to pay for any damage to the Property resulting from any such inspections or tests during the Due Diligence.

(b) **Buyer's Right to Cancel or Resolve Objections.** If Buyer determines, in Buyer's sole discretion, that the results of the Due Diligence are unacceptable, Buyer may either: (i) no later than the Due Diligence Deadline referenced in Section 24(b), cancel the REPC by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller; or (ii) no later than the Due Diligence Deadline referenced in Section 24(b), resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence.

(c) **Failure to Cancel or Resolve Objections.** If Buyer fails to cancel the REPC or fails to resolve in writing any objections Buyer has arising from Buyer's Due Diligence, as provided in Section 8.1(b), Buyer shall be deemed to have waived the Due Diligence Condition.

**8.2 APPRAISAL CONDITION.** Buyer's obligation to purchase the Property:  IS  IS NOT conditioned upon the Property appraising for not less than the Purchase Price. This condition is referred to as the "Appraisal Condition." If checked in the affirmative, Sections 8.2(a) and 8.2(b) apply; otherwise they do not.

(a) **Buyer's Right to Cancel.** If after completion of an appraisal by a licensed appraiser, Buyer receives written notice from the Lender or the appraiser that the Property has appraised for less than the Purchase Price (a "Notice of Appraised Value"), Buyer may cancel the REPC by providing written notice to Seller (with a copy of the Notice of Appraised Value) no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

(b) **Failure to Cancel.** If the REPC is not cancelled as provided in this section 8.2(a), Buyer shall be deemed to have waived the Appraisal Condition.

**8.3 FINANCING CONDITION.** Buyer's obligation to purchase the property:  IS  IS NOT conditioned upon Buyer obtaining the Loan referenced in Section 2(b). This condition is referred to as the "Financing Condition." If checked in the affirmative, Sections 8.3(a) and 8.3(b) apply; otherwise they do not. If the Financing Condition applies, Buyer agrees to work diligently and in good faith to obtain the Loan.

(a) **Buyer's Right to Cancel Before the Financing & Appraisal Deadline.** If Buyer, in Buyer's sole discretion, is not satisfied with the terms and conditions of the Loan, Buyer may cancel the REPC by providing written notice to Seller no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

(b) **Buyer's Right to Cancel After the Financing & Appraisal Deadline.** If after expiration of the Financing & Appraisal Deadline referenced in Section 24(c), Buyer fails to obtain the Loan, meaning that the proceeds of the Loan have not been delivered by the Lender to Seller or to the escrow/closing office as required under Section 3.6 of the REPC, then Buyer or Seller may cancel the REPC by providing written notice to the other party; whereupon the Earnest Money Deposit, or Deposits, if applicable (see Section 8.4 below), shall be released to Seller without the requirement of further written authorization from Buyer.

In the event of such cancellation, Seller agrees to accept as Seller's exclusive remedy, the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages. Buyer and Seller agree that liquidated damages would be difficult and impractical to calculate, and the Earnest Money Deposit, or Deposits, if applicable, is a fair and reasonable estimate of Seller's damages in the event Buyer fails to obtain the Loan.

**8.4 ADDITIONAL EARNEST MONEY DEPOSIT.** If the REPC has not been previously cancelled by Buyer as provided in Sections 8.1, 8.2 or 8.3(a), then no later than the Due Diligence Deadline referenced in Section 24(b), or the Financing & Appraisal Deadline referenced in Section 24(c), whichever is later, Buyer:  WILL  WILL NOT deliver to the Buyer's Brokerage, an Additional Earnest Money Deposit in the amount of \$ \_\_\_\_\_. The Earnest Money Deposit and the Additional Earnest Money Deposit, if applicable, are sometimes referred to herein as the "Deposits". The Earnest Money Deposit, or Deposits, if applicable, shall be credited toward the Purchase Price at Closing.

**9. ADDENDA.** There  ARE  ARE NOT addenda to the REPC containing additional terms. If there are, the terms of the following addenda are incorporated into the REPC by this reference:  Addendum No. \_\_\_\_  Seller Financing Addendum  Other (specify) \_\_\_\_\_

**10. AS-IS CONDITION OF PROPERTY.**

**10.1 Condition of Property/Buyer Acknowledgements.** Buyer acknowledges and agrees that in reference to the physical condition of the Property: (a) Buyer is purchasing the Property in its "As-Is" condition without expressed or implied warranties of any kind; (b) Buyer shall have, during Buyer's Due Diligence as referenced in Section 8.1, an opportunity to completely inspect and evaluate the condition of the Property; and (c) if based on the Buyer's Due Diligence, Buyer elects to proceed with the purchase of the Property, Buyer is relying wholly on Buyer's own judgment and that of any contractors or inspectors engaged by Buyer to review, evaluate and inspect the Property.

**10.2 Condition of Property/Seller Acknowledgements.** Seller acknowledges and agrees that in reference to the physical condition of the Property, Seller agrees to: (a) disclose in writing to Buyer defects in the Property known to Seller that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent Buyer; (b) carefully review, complete, and provide to Buyer a written Seller Property Condition Disclosure (Land) as stated in Section 7(a); and (c) deliver the Property to Buyer in substantially the same general condition as it was on the date of Acceptance, as defined in Section 23. The provisions of Sections 10.1 and 10.2 shall survive Closing.

**11. FINAL PRE-SETTLEMENT INSPECTION.**

**11.1 Pre-Settlement Inspection.** At any time prior to Settlement, Buyer may conduct a final pre-Settlement inspection of the Property to determine only that the Property is "as represented", meaning that the items referenced in Sections 1.1, 1.3 and 8.1(b)(ii) ("the items") are respectively present, repaired or corrected as agreed. The failure to conduct a pre-Settlement inspection or to claim that an item is not as represented shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented. If the items are not as represented, Seller agrees to cause all applicable items to be corrected, repaired or replaced (the "Work") prior to the Settlement Deadline referenced in Section 24(d).

**11.2 Escrow to Complete the Work.** If, as of Settlement, the Work has not been completed, then Buyer and Seller agree to withhold in escrow at Settlement a reasonable amount agreed to by Seller, Buyer (and Lender, if applicable), sufficient to pay for completion of the Work. If the Work is not completed within thirty (30) calendar days after the Settlement Deadline, the amount so escrowed may, subject to Lender's approval, be released to Buyer as liquidated damages for failure to complete the Work. The provisions of this Section 11.2 shall survive Closing.

**12. CHANGES DURING TRANSACTION.** Seller agrees that from the date of Acceptance until the date of Closing, none of the following shall occur without the prior written consent of Buyer: (a) no changes in any leases, rental or property management agreements shall be made; (b) no new lease, rental or property management agreements shall be entered into; (c) no substantial alterations or improvements to the Property shall be made or undertaken; (d) no further financial encumbrances to the Property shall be made, and (e) no changes in the legal title to the Property shall be made.

**13. AUTHORITY OF SIGNERS.** If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person signing the REPC on its behalf warrants his or her authority to do so and to bind Buyer and Seller.

**14. COMPLETE CONTRACT.** The REPC together with its addenda, any attached exhibits, and Seller Disclosures (collectively referred to as the "REPC"), constitutes the entire contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties whether verbal or otherwise. The REPC cannot be changed except by written agreement of the parties.

**15. MEDIATION.** Any dispute relating to the REPC arising prior to or after Closing:  SHALL  MAY AT THE OPTION OF THE PARTIES first be submitted to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute

must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and share equally in the cost of such mediation. If mediation fails, the other procedures and remedies available under the REPC shall apply. Nothing in this Section 15 prohibits any party from seeking emergency legal or equitable relief, pending mediation. The provisions of this Section 15 shall survive Closing.

**16. DEFAULT.**

**16.1 Buyer Default.** If Buyer defaults, Seller may elect one of the following remedies: (a) cancel the REPC and retain the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages; (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Buyer to specifically enforce the REPC; or (c) return the Earnest Money Deposit, or Deposits, if applicable, to Buyer and pursue any other remedies available at law.

**16.2 Seller Default.** If Seller defaults, Buyer may elect one of the following remedies: (a) cancel the REPC, and in addition to the return of the Earnest Money Deposit, or Deposits, if applicable, Buyer may elect to accept from Seller, as liquidated damages, a sum equal to the Earnest Money Deposit, or Deposits, if applicable; or (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Seller to specifically enforce the REPC; or (c) accept a return of the Earnest Money Deposit, or Deposits, if applicable, and pursue any other remedies available at law. If Buyer elects to accept liquidated damages, Seller agrees to pay the liquidated damages to Buyer upon demand.

**17. ATTORNEY FEES AND COSTS/GOVERNING LAW.** In the event of litigation or binding arbitration to enforce the REPC, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under Section 15. This contract shall be governed by and construed in accordance with the laws of the State of Utah. The provisions of this Section 17 shall survive Closing.

**18. NOTICES.** Except as provided in Section 23, all notices required under the REPC must be: (a) in writing; (b) signed by the Buyer or Seller giving notice; and (c) received by the Buyer or the Seller, or their respective agent, or by the brokerage firm representing the Buyer or Seller, no later than the applicable date referenced in the REPC.

**19. NO ASSIGNMENT.** The REPC and the rights and obligations of Buyer hereunder, are personal to Buyer. The REPC may not be assigned by Buyer without the prior written consent of Seller. Provided, however, the transfer of Buyer's interest in the REPC to any business entity in which Buyer holds a legal interest, including, but not limited to, a family partnership, family trust, limited liability company, partnership, or corporation (collectively referred to as a "Permissible Transfer"), shall not be treated as an assignment by Buyer that requires Seller's prior written consent. Furthermore, the inclusion of "and/or assigns" or similar language on the line identifying Buyer on the first page of the REPC shall constitute Seller's written consent only to a Permissible Transfer.

**20. INSURANCE & RISK OF LOSS.**

**20.1 Insurance Coverage.** As of Closing, Buyer shall be responsible to obtain such casualty and liability insurance coverage on the Property in amounts acceptable to Buyer and Buyer's Lender, if applicable.

**20.2 Risk of Loss.** If prior to Closing, any part of the Property is damaged or destroyed by fire, vandalism, flood, earthquake, or act of God, the risk of such loss or damage shall be borne by Seller; provided however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the Purchase Price referenced in Section 2, Buyer may elect to either: (i) cancel the REPC by providing written notice to the other party, in which instance the Earnest Money, or Deposits, if applicable, shall be returned to Buyer; or (ii) proceed to Closing, and accept the Property in its "As-Is" condition.

**21. TIME IS OF THE ESSENCE.** Time is of the essence regarding the dates set forth in the REPC. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in the REPC: (a) performance under each Section of the REPC which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" and "calendar days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (e.g. Acceptance). Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to the REPC, except as otherwise agreed to in writing by such non-party.

**22. ELECTRONIC TRANSMISSION AND COUNTERPARTS.** Electronic transmission (including email and fax) of a signed copy of the REPC, any addenda and counteroffers, and the retransmission of any signed electronic transmission shall be the same as delivery of an original. The REPC and any addenda and counteroffers may be executed in counterparts.

**23. ACCEPTANCE.** "Acceptance" occurs **only** when **all** of the following have occurred: (a) Seller or Buyer has signed the offer or counteroffer where noted to indicate acceptance; and (b) Seller or Buyer or their agent has communicated to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

24. **CONTRACT DEADLINES.** Buyer and Seller agree that the following deadlines shall apply to the REPC:

- (a) Seller Disclosure Deadline December 24, 2015 (Date)
- (b) Due Diligence Deadline February 24, 2016 (Date)
- (c) Financing & Appraisal Deadline February 24, 2015 (Date)
- (d) Settlement Deadline March 24, 2016 (Date)

25. **OFFER AND TIME FOR ACCEPTANCE.** Buyer offers to purchase the Property on the above terms and conditions. If Seller does not accept this offer by: 5 : 00  AM  PM Mountain Time on December 11, 2015 (Date), this offer shall lapse; and the Brokerage shall return any Earnest Money Deposit to Buyer.

Quinn Millet 11-30-15  
 (Buyer's Signature) (Offer Date) (Buyer's Signature) (Offer Date)

Quinn Millet 1441 E Redondo Ave 84105 801-638-8970  
 (Buyer's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

\_\_\_\_\_  
 (Buyer's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

**ACCEPTANCE/COUNTEROFFER/REJECTION**

**CHECK ONE:**

**ACCEPTANCE OF OFFER TO PURCHASE:** Seller Accepts the foregoing offer on the terms and conditions specified above.

**COUNTEROFFER:** Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified in the attached ADDENDUM NO. \_\_\_\_\_.

**REJECTION:** Seller rejects the foregoing offer.

\_\_\_\_\_  
 (Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)

\_\_\_\_\_  
 (Seller's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

\_\_\_\_\_  
 (Seller's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

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