



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  
March 15, 2016**

**PUBLIC NOTICE IS HEREBY GIVEN** that the **Midvale City Council** will hold a regular meeting on the **15th Day of March, 2016** at Midvale City Hall, 7505 South Holden Street, Midvale, Utah as follows:

**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
- 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 Stephen Brown
  - B. Councilmember Paul Glover
  - C. Councilmember Paul Hunt
  - D. Councilmember Quinn Sperry
  - E. Councilmember Wayne Sharp
- VI. MAYOR REPORT**
  - A. Mayor JoAnn B. Seghini
- VII. PUBLIC HEARING(S) - 7:00 PM**
  - A. Consider the Brad Heaps 3-Lot Subdivision (Flag Lot and Twin Home) located at 6795 South 700 East [*Lesley Burns, City Planner*]

**ACTION: Approve Brad Heaps 3-Lot Subdivision (Flag Lot and Twin Home) located at 6795 South 700 East**

- B. Consider a Rezone Request from Single-Family Residential with an Agricultural Overlay (SF1-AO) to Single-Family Residential with a Duplex Overlay (SF1-DO) located at 8111 South 100 East *[Matt Hilderman, Associate Planner]*

**ACTION: Approve Ordinance No. 2016-O-03 a Rezone Request from Single-Family Residential with an Agricultural Overlay (SF1-AO) to Single-Family Residential with a Duplex Overlay (SF1-DO) located at 8111 South 100 East**

**VIII. CONSENT AGENDA**

- A. Approve Minutes of March 1 & 8, 2016 *[Rori Andreason, H.R. Director/City Recorder]*

**IX. ACTION ITEMS**

- A. Approve Resolution No. 2016-R-07 for the Re-Appointment of Kassidy Wallin to continue serving on the Planning Commission as full time member *[Lesley Burns, City Planner]*
- B. Approve Resolution No. 2016-R-08 Authorizing the Mayor to enter into a contract with Hogan Associates Construction for the construction of the Midvale City Splash Pad *[Phillip Hill, Assistant City Manager/Community Development Director]*
- C. Approve Resolution No. 2016-R-09 Authorizing the Mayor to enter in a Lease Agreement between Midvale City and Communities Building Communities *[Robert Davis, Public Works Director]*

**X. DISCUSSION ITEMS**

- A. Discuss the ICMA-RC 401 Money Purchase Plan Document Restatement *[Rori Andreason, H.R. Director/City Recorder]*
- B. Discuss the ICMA-RC Vantage Trust II Multiple Collective Investment Funds Trust Participation Agreement *[Rori Andreason, H.R. Director/City Recorder]*

**XI. CALENDAR OF EVENTS**

- A. Mar 16 - Budget Retreat - ULGT
- B. Mar 23 - Planning Commission
- C. Mar 24 - 5:30 p.m. - Harvest Days Committee Meeting
- D. Apr 5 - Regular Meeting
- E. Apr 6 - Community Council/ULCT Conference (6th-8th)
- F. Apr 12 - Workshop
- G. Apr 13 - Planning Commission
- H. Apr 19 - Regular Meeting
- I. Apr 21 - 5:30 p.m. - Harvest Days Committee Meeting
- J. Apr 27 - Planning Commission

**XII. 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://pnm.utah.gov>. Council Members may participate in the meeting via electronic communications. Council Members'

City Council Meeting

March 15, 2016

Page 3

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: MARCH 11, 2016**

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



## MIDVALE CITY COUNCIL SUMMARY REPORT

March 15, 2016

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### **SUBJECT:**

Public Hearing on Brad Heaps Subdivision (flag lot for twin home subdivision) located at 6795 South 700 East

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**SUBMITTED BY:** Lesley Burns, City Planner

### **SUMMARY:**

The applicant, Brad Heaps, is requesting a subdivision approval in order to divide an existing parcel located at 6790 South 700 East into three lots, with one lot for an existing single family house and a flag lot for a twin home structure (2 lots). The property includes approximately 0.46 acres (20,290 square feet) with 84.5 feet of frontage on 700 East. The property is zoned SF-1 with a Duplex Overlay. The applicant is remodeling the existing house to include an attached two car garage, and has proposed building plans and a site plan for the twin home which have been reviewed and approved by the Planning Commission. Attached is a copy of the proposed subdivision/site plan and building elevations for the twin home structure, as well as the proposed final subdivision plat.

The Zoning Ordinance requires a Conditional Use Permit for the subdivision of a flag lot. In order to be approved, the proposal must comply with the following criteria:

1. Lot area: The minimum area of the banner portion of the proposed flag lot is 7,000 square feet and the minimum area of the remaining frontage lot is 7,000 square feet;
2. Lot width and depth: The minimum banner portion width and depth is 75 feet. The minimum lot width and depth of the frontage lot complies with all lot standards for the zone;
3. Setbacks: Setbacks for new development on a flag lot are 15 feet for each of the front, side and rear yards;
4. Height: The maximum proposed height for a structure is 25 feet;
5. Stories: A structure shall not exceed one story;
6. Parking/driveway access: Each flag lot and each frontage lot shall provide two parking spaces on the side or rear yard of the property. The driveway shall have a paved width of 20 feet;
7. Fire department access and water supply: Each dwelling must adhere to the Fire Code; and
8. Utilities: Both the flag lot dwelling and the frontage lot dwelling must be serviced by a public water and sewer system.

The proposed frontage lot (Lot 1) and the overall flag lot (before the division for the twin home) comply with the minimum lot area requirement with the banner portion of the flag lot being approximately 12,285 square feet and the frontage lot being 8,008 square feet. The proposed lots also comply with the minimum lot width and depth requirements. The flag lot includes a 20-foot wide driveway from 700 East along the north property line. This driveway will need to be paved as part of any development on the flag lot. The under construction, attached two-car garage will provide the required off-street parking spaces for the existing house. The remodeling of this house will also create an 18' x 30' driveway, providing additional on-site parking. The setbacks for the existing house from the new property lines being created by the subdivision (north side yard and rear) comply with setback requirements for the SF-1 zone, which includes a minimum eight foot side yard and 25 foot rear yard.

New development on the flag lot is required to comply with the 15-foot front, side and rear setbacks, as well as the height/single-story requirement. These items have been addressed with the proposed twin home development application.

The further division of the flag lot into two lots for a twin home is allowed under Section 17-7-1.14 C of the Zoning Ordinance. This provision provides for a lot size exclusion in the Duplex Overlay for the division of property creating individual ownership of each side of a twin home structure. The proposed lot boundary creating the two lots reflects the common wall between the two dwelling units within the two-unit residential structure.

The Subdivision Ordinance requires that 2-inch caliper deciduous street trees be planted at a rate of one tree per 30 feet of street frontage with any new subdivision. Based on this requirement, two street trees are required on the frontage lot along 700 East. These trees will need to be planted or guaranteed with a cash bond before the subdivision plat is recorded.

The Fire Marshal has reviewed the proposal. He has approved the plan subject to the following conditions:

- The flag lot driveway must be cleared of all overhanging branches so emergency vehicles will have a clear path.
- No parking signs are required along the flag lot driveway.

The Planning Commission reviewed this proposal and conducted a public hearing on December 9, 2015. At this time, the Planning Commission approved the Conditional Use Permit for the flag lot and a Conditional Use Permit for the twin home, as well as forwarded a positive recommendation for the City Council's consideration on the Subdivision Plat with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer and City Council.
2. A note shall be added to the subdivision plat indicating that a two-unit residential structure with a common wall along the center lot line of Lots 2 & 3 is required to be constructed on the property unless the subdivision plat is officially amended.
3. All new development on Lots 2 & 3 shall comply with the flag lot requirements, i.e. setbacks, height/single-story, parking, and 20-foot wide paved driveway. A note indicating these requirements shall be included on the final subdivision plat.

4. The flag lot driveway shall remain clear of overhanging vegetation and no parking signs posted. A note stating this shall be included on the final subdivision plat.
5. A 6-foot high screening fence shall be constructed along the north, south and east boundaries of the banner portion of Lots 2 & 3 in areas where a screening fence does not currently exist. This fence shall be completed prior to certificates of occupancy being issued on these lots. A note indicating this requirement shall be included on the final subdivision plat.
6. A shared access and maintenance easement and agreement shall be indicated and noted on the flag lot driveway area to ensure Lot 3 has legal access to 700 East.
7. The existing deck and stairs on the rear of the existing house on Lot 1 shall be modified to comply with the required 25-foot rear yard setback. This shall be completed prior to the subdivision plat being recorded.
8. The applicant shall plant two 2-inch caliper deciduous street trees on Lot 1 prior to the subdivision plat being recorded.
9. The applicant shall obtain duty to serve letters for water and sewer prior to the subdivision plat being recorded.

The applicant has submitted a final subdivision plat, which has been reviewed and approved by the City Engineer. This plat includes all of the notes required by the Planning Commission, including the shared access for Lots 2 and 3. The applicant has prepared a maintenance agreement for the shared driveway. This will be recorded with the subdivision plat. Evidence of water and sewer availability for the new lots has been provided. With these items completed, the proposed subdivision plat complies with the City's subdivision standards; however, the following items need to be addressed by the applicant before the subdivision plat can be recorded:

- The existing deck and stairs on the rear of the existing house on Lot 1 shall be modified to comply with the required 25-foot rear yard setback. This shall be completed prior to the subdivision plat being recorded.
- The applicant shall plant two 2-inch caliper deciduous street trees on Lot 1 prior to the subdivision plat being recorded.

**FISCAL IMPACT:** N/A

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**STAFF RECOMMENDATION:**

Staff agrees with the Planning Commission's recommendation, and would recommend the subdivision plat be approved with the following conditions:

1. The modification to the existing deck and stairs on the rear of the house on Lot 1 shall be completed to ensure compliance with the required rear yard setback from the new property line being created by the plat prior to the subdivision plat being recorded.
2. The applicant shall plant two 2-inch caliper deciduous street trees on Lot 1 prior to the subdivision plat being recorded. If weather does not permit this to occur, the applicant may post a cash bond guaranteeing the completion of this condition in a timely manner.
3. The applicant shall obtain all required signatures on the subdivision plat Mylar.

4. The maintenance agreement for the shared driveway on Lots 2 and 3 shall be recorded concurrently with the subdivision plat.

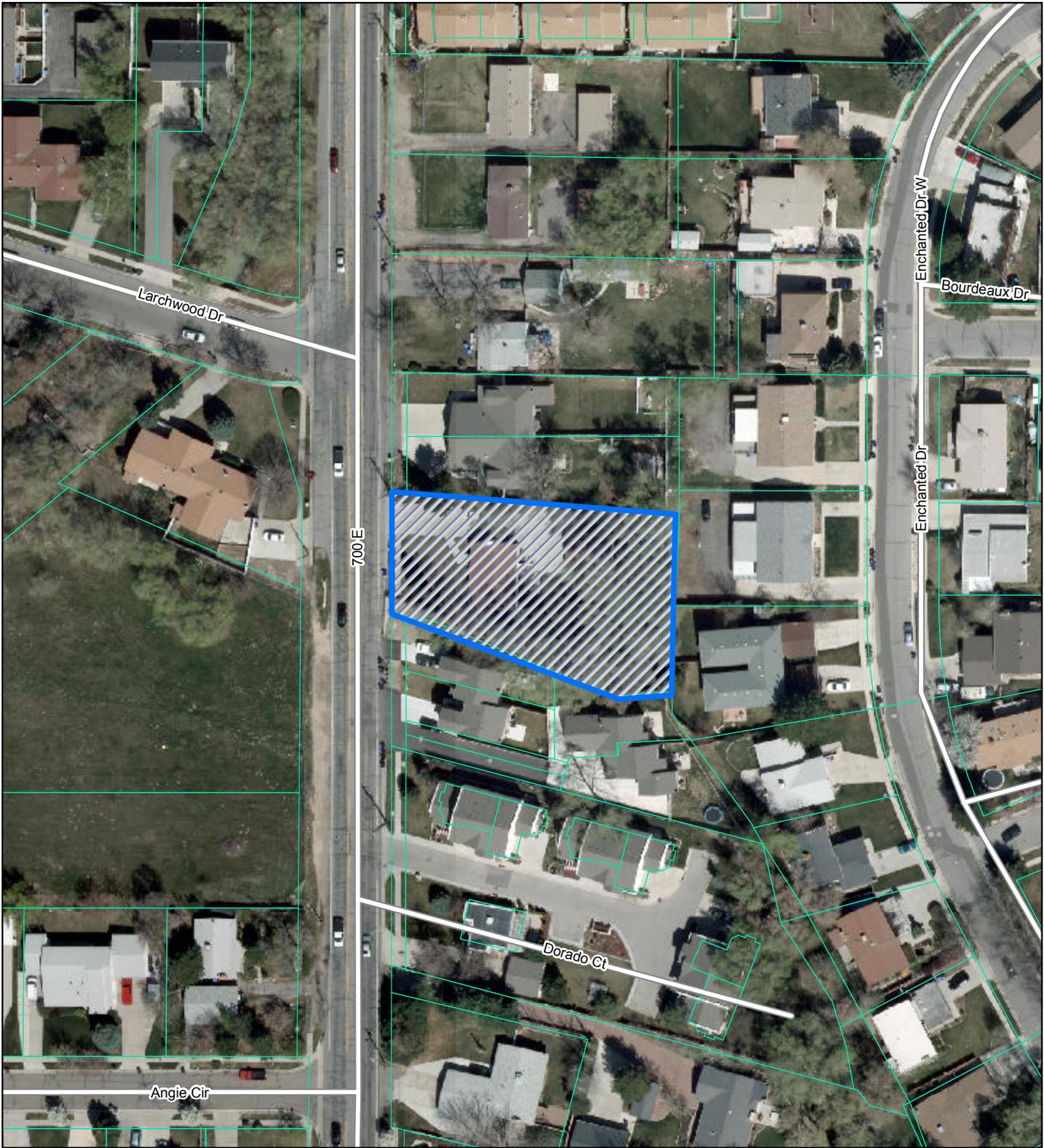
**RECOMMENDED MOTION:**

*“I move that we approve the Final Subdivision Plat for the Brad Heaps Subdivision located at 6795 South 700 East with the following conditions:*

1. *The modification to the existing deck and stairs on the rear of the house on Lot 1 shall be completed to ensure compliance with the required rear yard setback from the new property line being created by the plat prior to the subdivision plat being recorded.*
2. *The applicant shall plant two 2-inch caliper deciduous street trees on Lot 1 prior to the subdivision plat being recorded. If weather does not permit this to occur, the applicant may post a cash bond guaranteeing the completion of this condition in a timely manner.*
3. *The applicant shall obtain all required signatures on the subdivision plat Mylar.*
4. *The maintenance agreement for the shared driveway on Lots 2 and 3 shall be recorded concurrently with the subdivision plat.”*

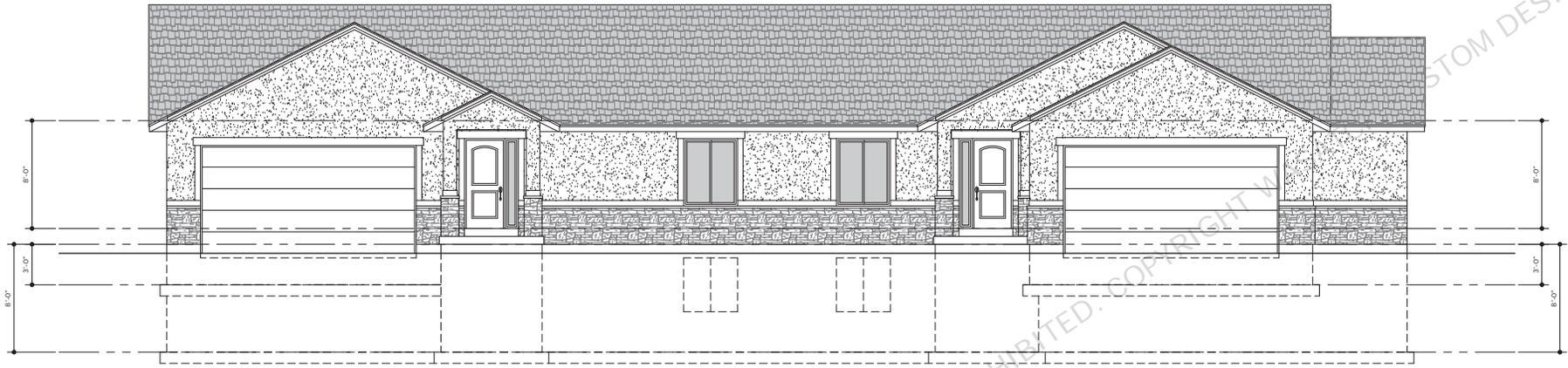
**Attachments:**

- Vicinity Map
- Site Plan/Preliminary Subdivision Plat
- Building Elevations
- Final Subdivision Plat



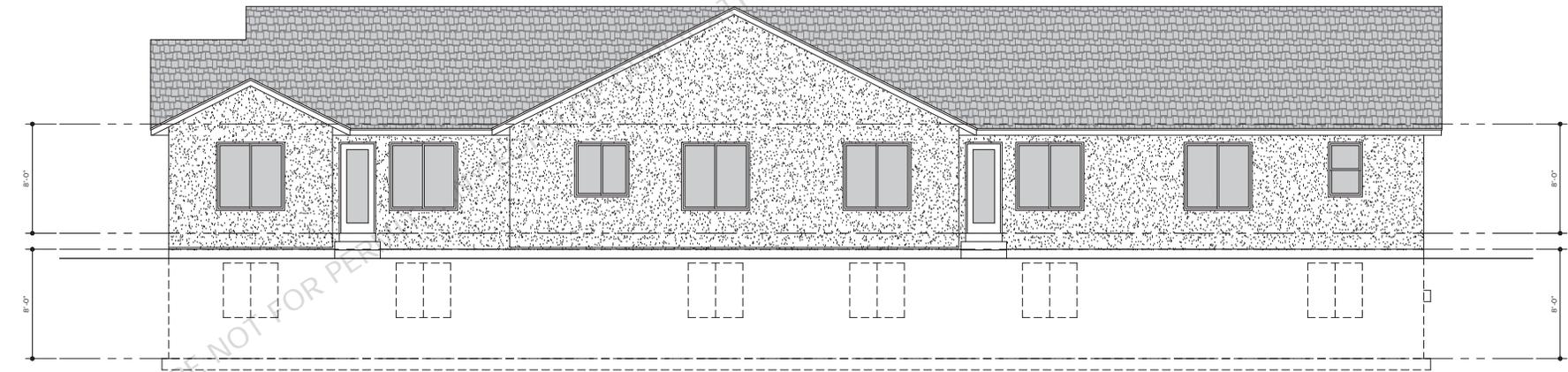
**Brad Heaps Flag Lot Subd  
6795 S 700 E**





**FRONT ELEVATION**

SCALE: 1/8" = 1'-0" (11 X 17 PAPER) OR  
1/4" = 1'-0" (22 X 34 PAPER)



**REAR ELEVATION**

SCALE: 1/8" = 1'-0" (11 X 17 PAPER) OR  
1/4" = 1'-0" (22 X 34 PAPER)

THESE PLANS ARE NOT FOR PERMIT

THIS PLAN IS STRICTLY PROHIBITED. COPYRIGHT WASATCH CUSTOM DESIGN



**Wasatch Custom Design**  
 Custom Design | Drafting Services | Stock Plans  
 9666 South 700 East, Suite 202  
 Sandy, UT 84070  
 T: 801.440.4435  
 www.wasatchcustomdesign.com

**Project:**  
 Lots 2 and 3  
 6975 South 700 East  
 Midvale, Utah  
 Salt Lake County  
 12/02/15

**Client:**  
**Brad Heaps Development**  
 Brad Heaps  
 1000 S. 1000 E.  
 City, State  
 Zip  
 Mink: 801.440.4435 | Brad: 801.597.6113  
 bradheaps@gmail.com

**Providing:**  
 CIVIL & STRUCTURAL  
 engineering services  
 Ryan B. Abner, P.E., S.E.  
 Reg. #: 801.793.4038  
 www.4d-engineers.com



Sheet:  
**A2.0**  
 Lots 2 and 3,  
 6975 South 700 East

**BRAD HEAPS SUBDIVISION**  
 MIDVALE CITY, SALT LAKE COUNTY, UTAH  
 A PART OF THE SOUTHWEST QUARTER SECTION 20,  
 TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN

**PLAT NOTES**

1. A two unit residential structure with a common wall along the center lot line of Lots 2 & 3 is required to be constructed on the property unless the subdivision plat is officially amended.
2. All new development on Lots 2 & 3 shall comply with the flag lot requirements, i.e. setbacks, height/angle story, parking, and 20 foot wide paved driveway.
3. The flag lot driveway shall remain clear of overhanging vegetation and no parking signs posted.
4. A 6 foot high screening fence shall be constructed along the north, south and east boundaries of the banner portion of Lots 2 & 3 in areas where a screening fence does not currently exist. The fence is to be completed before certificates of occupancy will be issued.

DUSTIN SNOW MINOR SUBDIVISION  
 BOOK 2002P  
 PAGE 108

LOT 1

LOT 2

LOT 2

LOT 3

ENCHANTED VILLAGE NO.2  
 BOOK MM  
 PAGE 28

**SURVEYORS CERTIFICATE**

I, David E. Hawkes, certify that I am a Professional Land Surveyor holding license number 356548 in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act. That a survey of the described tract of land has been completed by me in accordance with Section 7-23-17, filed as Record of Survey #2025-07-0341 in the Office of the Salt Lake County Surveyor. I have verified all measurements and have placed monuments as shown hereon.

**BOUNDARY DESCRIPTION**

A parcel of land lying and situate in the Southwest Quarter of Section 20, Township 2 South, Range 1 East, Salt Lake Base and Meridian. Comprising the 0.49 acres (0.47 acres less roadway) of land described in that certain Special Warranty Deed recorded August 08, 2007 as Entry #10207709, in Book 9509, at Page 3936 of the Salt Lake County Records. Basis of Bearing for the subject parcel being South 07°12'47" East 2646.97 feet measured between the Salt Lake County Surveyor's monuments monumenting the west line of the Southwest Quarter of said Section 20. Subject parcel being more particularly described as follows:

Commencing at the West Quarter Corner of said Section 20, thence South 07°12'47" East 1146.84 feet coincident with the west line of said quarter section; thence North 89°47'13" East 55.48 feet to a point North 85°23'56" West 11.02 feet of a number 5 rebar and cap stamped "PLS 356548" and the TRUE POINT OF BEGINNING; thence South 85°23'55" East through said rebar and cap 196.10 feet (South 85°11'08" East 199.95 per said deed) to a number 5 rebar and cap stamped "PLS 356548"; thence SOUTH 123.07 feet (122.00 feet per said deed) coincident with the west boundary of Enchanted Village No. 2 [Book MM, Page 28 of the Salt Lake County Records] to the northeast corner of the Snow 4 Lot Subdivision [Book 2009P, Page 29 of the Salt Lake County Records] and a number 5 rebar and cap stamped "PLS 356548"; thence the following four (4) courses coincident with the north boundary of said Snow Subdivision 1) WEST 7.86 feet (7.61 feet deed) along a vinyl fence line; 2) South 84°30'03" West 32.89 feet (South 84°30'00" West 37.00 feet deed) along a vinyl fence line; 3) North 87°21'08" West 134.43 (North 87°21'08" East 116.74 feet deed) along a fence line; 4) North 76°26'24" West 31.37 feet through a copper rivet set in the top of a concrete curb and gutter; thence North 07°12'47" East 82.83 feet (NORTH 81.00 feet deed) to the point of beginning.

EXCEPTING THEREFROM any portion which lies within 700 East Street.



**OWNERS DEDICATION**

Known all men by these presents that I (we), the undersigned owner(s) of the above described tract of land having caused the same to be subdivided into lots and streets, as shown on this plat and name said tract BRAD HEAPS SUBDIVISION, and hereby dedicate, grant and convey to the public all those parts or portions of said tract of land designated as streets, the same to be used as public thoroughfares forever, and also dedicate to the public those certain strips or easements for public utility and drainage purposes as shown hereon. The same to be used for the installation, maintenance and operation of public utility service lines and drainage as may be authorized by Midvale City. I (we) also grant and convey a perpetual ingress-egress easement over and across Lot 2, as depicted hereon for the benefit and use of the Owner(s) of Lot 3, their guests, assigns and successors in title, said easement to run appurtenant to Lot 3. Along with a binding obligation upon the Owner(s) of Lot 3, their assigns and successors in title, to share a one half interest in the cost, maintenance and upkeep of said easement. In witness I (we) have hereunto set our signature.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**ACKNOWLEDGMENT**

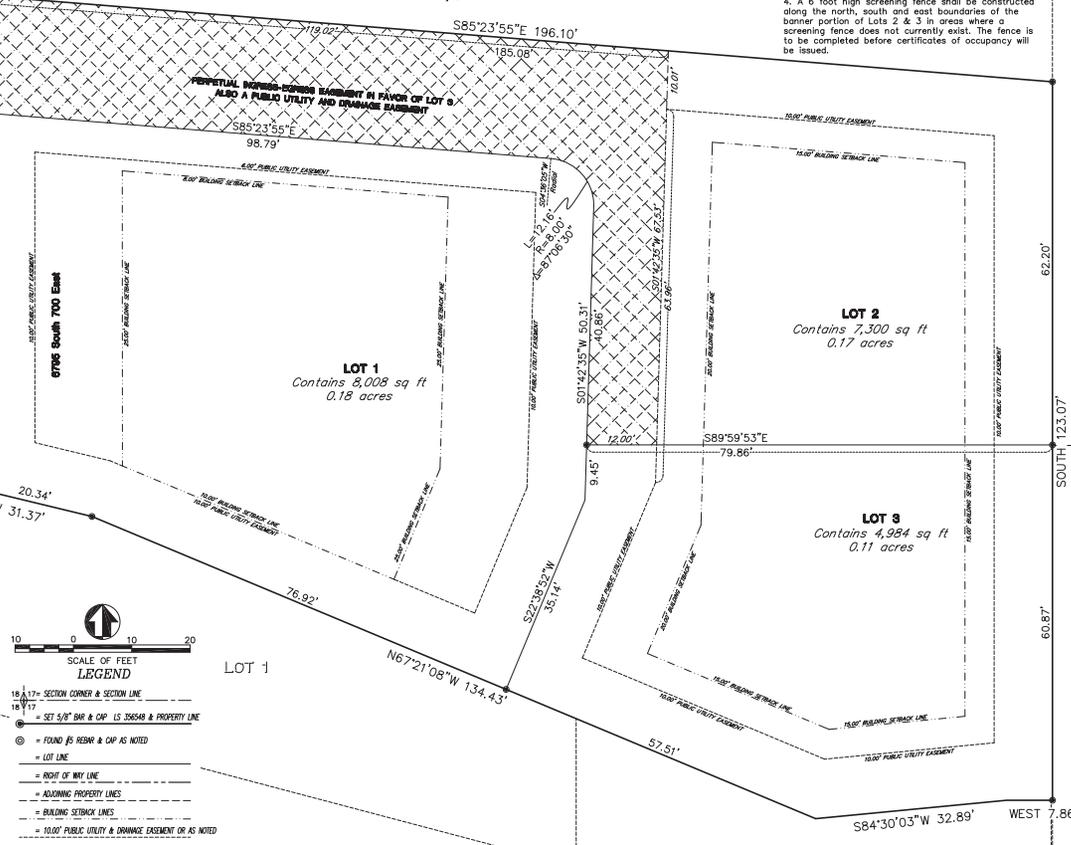
STATE OF UTAH }  
 COUNTY OF SALT LAKE } S.S.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, \_\_\_\_\_ of the above instrument, who duly acknowledged to me that he (they) executed the same.

Notary Public

My Commission Expires \_\_\_\_\_

**BRAD HEAPS SUBDIVISION**  
 MIDVALE CITY, SALT LAKE COUNTY, UTAH  
 A PART OF THE SOUTHWEST QUARTER SECTION 20,  
 TOWNSHIP 2 SOUTH, RANGE 1 EAST,  
 SALT LAKE BASE AND MERIDIAN



- LEGEND**
- 18 1/2" SECTION CORNER & SECTION LINE
  - 18 1/4" SET 5/8" BAR & CAP LS 30648 & PROPERTY LINE
  - FOUND IR BEARS & CAP AS NOTED
  - LOT LINE
  - RIGHT OF WAY LINE
  - ADJOINING PROPERTY LINES
  - BUILDING SETBACK LINES
  - 10.0' PUBLIC UTILITY & DRAINAGE EASEMENT OR AS NOTED
  - PERPETUAL INGRESS-EGRESS EASEMENT IN FAVOR OF LOT 3
  - BUILDING FOOT PRINTS (TO BE CONSTRUCTED)
  - DIMENSION LINES
  - (M) = MONUMENT
  - (P) = PERMANENT
  - (R) = RECORD OF SURVEY
  - (C) = CENTER LINE MONUMENT
  - [Hatched Box] = STREET DEDICATION PARCEL
  - [Cross-hatched Box] = PERPETUAL INGRESS-EGRESS EASEMENT

**BASIS OF BEARING**  
 S00°12'47"E 2646.97' (meas.)  
 N07°12'47"E 2646.97' (meas.)  
 N07°12'47"E 2719.61' (meas.)  
 STREET CENTERLINE

**PREPARED BY:**  
**Boundary Consultants**  
 Professional Land Surveyors  
 1295 North 1700 West Farr West, Utah  
 801-792-1569 801-690-7158 FAX  
 dave@boundaryconsultants.biz

**MIDVALE CITY PLANNING AND ZONING COMMISSION APPROVAL**  
 Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
 by the Midvale City Planning and Zoning Commission.  
 \_\_\_\_\_  
 Signature

**SALT LAKE COUNTY HEALTH DEPARTMENT**  
 Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
 by the Salt County Health Department.  
 \_\_\_\_\_  
 Signature

**MIDVALE CITY ENGINEER**  
 Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
 by the Midvale City Engineer.  
 \_\_\_\_\_  
 Signature

**MIDVALE CITY ATTORNEY**  
 Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
 by the Midvale City Attorney.  
 \_\_\_\_\_  
 Signature

**MIDVALE CITY CITY COUNCIL**  
 Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_  
 by the Midvale City Council.  
 \_\_\_\_\_  
 Signature

**SALT LAKE COUNTY RECORDER**  
 ENTRY NUMBER \_\_\_\_\_  
 FEE PAID \_\_\_\_\_  
 FILED FOR RECORD AND RECORDED THIS \_\_\_\_\_  
 DAY OF \_\_\_\_\_, 20\_\_, IN BOOK \_\_\_\_\_, AT PAGE \_\_\_\_\_ OF THE  
 OFFICIAL RECORDS.  
 SALT LAKE COUNTY RECORDER



## MIDVALE CITY COUNCIL SUMMARY REPORT

**Meeting Date: March 15, 2016**

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### **SUBJECT:**

Public Hearing on a Rezone request from Single-Family Residential with an Agricultural Overlay to Single-Family Residential with a Duplex Overlay (SF1/AO – SF1/DO) located at 8111 South 100 East

Proposed Ord. No. 2016-O-03

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### **SUBMITTED BY:**

Matt Hilderman, Associate Planner

### **SUMMARY:**

The applicant and representative for the property owner, Michael Brodsky, is requesting that the property located at 8111 South 100 East be rezoned from a Single-Family Residential Zone with an Agricultural Overlay to a Single-Family Residential Zone with a Duplex Overlay. The proposal includes one parcel totaling an overall acreage of 0.28 acres. The applicant is proposing this amendment change for the purpose of constructing a two-unit residential structure (duplex). The applicant has provided a conceptual plan illustrating the anticipated use of the property and a proposed front, exterior elevation. The General Plan Proposed Land Use Map designates this property as Medium Density Residential.

The current condition of the property is a vacant, undeveloped parcel and research conducted by Staff determined this parcel of property has been vacant for several decades. The rezone proposal is surrounded by existing single-family residences to the North, East, and South and has frontage along 100 East. The proposed two-unit residential structure will have direct access onto 100 East.

In order for this development to proceed as proposed, the following approvals shall be required from the City:

1. A rezone of the entire property from SF1-AO to SF1-DO;
2. Conditional Use Permit for the two-unit structure (duplex);
3. Site Plan; and
4. Subdivision Plat, if applicable.

### **Rezone Amendment**

The Midvale City General Plan Proposed Land Use Map identifies this property as Medium Density Residential. This property is adjacent to existing single-family residential zones (SF1-AO) districts to the North, West, and South and an existing Clean Industrial zone district to the West. The General Plan Proposed Land Use Map identifies the North, South, and East areas as a proposed Medium-Density Residential use and the West area identified as a proposed High-Density Residential use. This proposed parcel of property along with the surrounding properties has the potential to be a Transit-Oriented Development. The proposed rezone from SF1-AO to SF1-DO will allow this property to continue correlating with the surrounding zone districts but provide an additional use for the property to assist in the initial beginning of development.

Under Section 17-3-1 of the Zoning Ordinance, the Planning Commission may recommend, and the City Council may grant, a rezoning application if it determines the rezoning is consistent with the goals and policies of the Midvale City General Plan, and the following:

1. The proposed rezoning is necessary either to comply with the Midvale City General Plan Proposed Land Use Map, or to provide land for a community need that was not anticipated at the time of the adoption of the Midvale City General Plan;
2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by natural characteristics of the land, including but not limited to steep slopes, floodplain, unstable soils, and inadequate drainage; or
3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area.

Staff believes the proposed rezone will provide additional residential uses in this area but not to the level of intensity for residential development that is identified in the General Plan. Staff also believes the following General Plan statements further correlate with the applicant's proposal:

"If the threatened neighborhood is to transition into other uses, it should be allowed to do so gracefully and with as much protection as possible, for as long as possible,"  
(Urban Design Element 2-10);

"A much larger site between State Street and the LRT track at approximately 8000 South will not be a TRAX station initially; however, it is owned by UTA and straddles the border between Midvale City and Sandy City. The site is recognized by both municipalities as a TOD opportunity in partnership with UTA. A station is not currently proposed on this site; however, an integrated TRAX station and mixed-use TOD development is envisioned on the site. Approaching redevelopment on these sites with an orientation toward TOD development is an opportunity...and to support ridership by increasing density at the station locations either through housing or employment."  
(Land Use Element 4-13, 4-14)

"The remaining undeveloped land in Midvale City is primarily small parcels and lots located within existing developed areas. These in-fill development opportunities must be compatible with adjacent land uses, i.e. new residential in-fill in residential areas,"  
(Land Use Element 4-15);

"In older residential areas where large lots were the norm because people often kept animals and cultivated large gardens, there is interest in opportunities to subdivide and develop additional residential dwellings on the property. Of critical importance is compatibility with the surrounding residential, and adequate and safe access to neighborhood streets via dedicated streets," (Land Use Element 4-15); and

"Wherever possible, property should be zoned to accommodate affordable housing and...affordable rental units are critical in providing housing opportunities for moderate and low-income families. The City should maintain a reasonable stock of rental housing and work to assist in the maintenance of existing, affordable housing units," (Housing Element 6-34).

**Planning Commission Recommendation**

The Planning Commission reviewed the rezone request and conducted a public hearing on Wednesday, February 24, 2016. The Planning Commission reviewed the submitted information and heard comments from the public. It was the Planning Commission’s recommendation to deny the rezone request with the following motion:

*Findings:*

*The surrounding environment has not changed or is not changing or transitioning to such a degree that we would need this change.*

*For the following reasons, I move that we forward a negative recommendation to the City Council denying the request to rezone the property identified at 8111 South 100 East:*

- 1. We find no compelling need to change the zoning as required by Code; Section 17-3-1.*
- 2. We feel that this creates “a pocket” zone in the middle of an otherwise Single-Family with Agricultural Overlay Zone.*
- 3. A single-family dwelling is feasible on this property, as presently zoned.*

Adoption of an ordinance is required for all rezones. If the City Council decides to approve the rezone as requested, an ordinance has been prepared to accomplish this, proposed Ordinance No. 2016-O-03.

**FISCAL IMPACT:** N/A

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**STAFF RECOMMENDATION:**

In reviewing this application and the above criteria, the City Council shall consider the appropriateness of this rezone request and determine a final decision on this legislative change request. This proposal will create a zone boundary that continues to join existing single-family neighborhoods; however this zone district will provide an additional residential use, than the surrounding single-family residential zones.

**RECOMMENDED MOTION:**

**Option 1:**

*“Based on a community need in the area and to comply with the Midvale City General Plan, I move that we adopt Ordinance No. 2016-O-03, rezoning the 0.28 acres located at approximately 8111 South 100 East, as specifically described in the ordinance, from SF1-AO to SF1-DO.”*

**Option 2:**

*“For the following reasons, I move that we deny the request to rezone the property identified at 8111 South 100 East:*

- 1. . . . .*
- 2. . . . .*
- 3. . . . .”*

**Attachments:**

- Vicinity Map
- Proposed Conceptual Plan
- Applicant Submittal
- General Plan Land Use Map
- Zoning Map
- Ordinance No. 2016-O-03

# 8111 SOUTH 100 EAST REZONE

-  Proposed Rezone
-  Midvale-Sandy City Limits



Station St

Station Landing Way

100 E

8135 S

150 E

Angel St

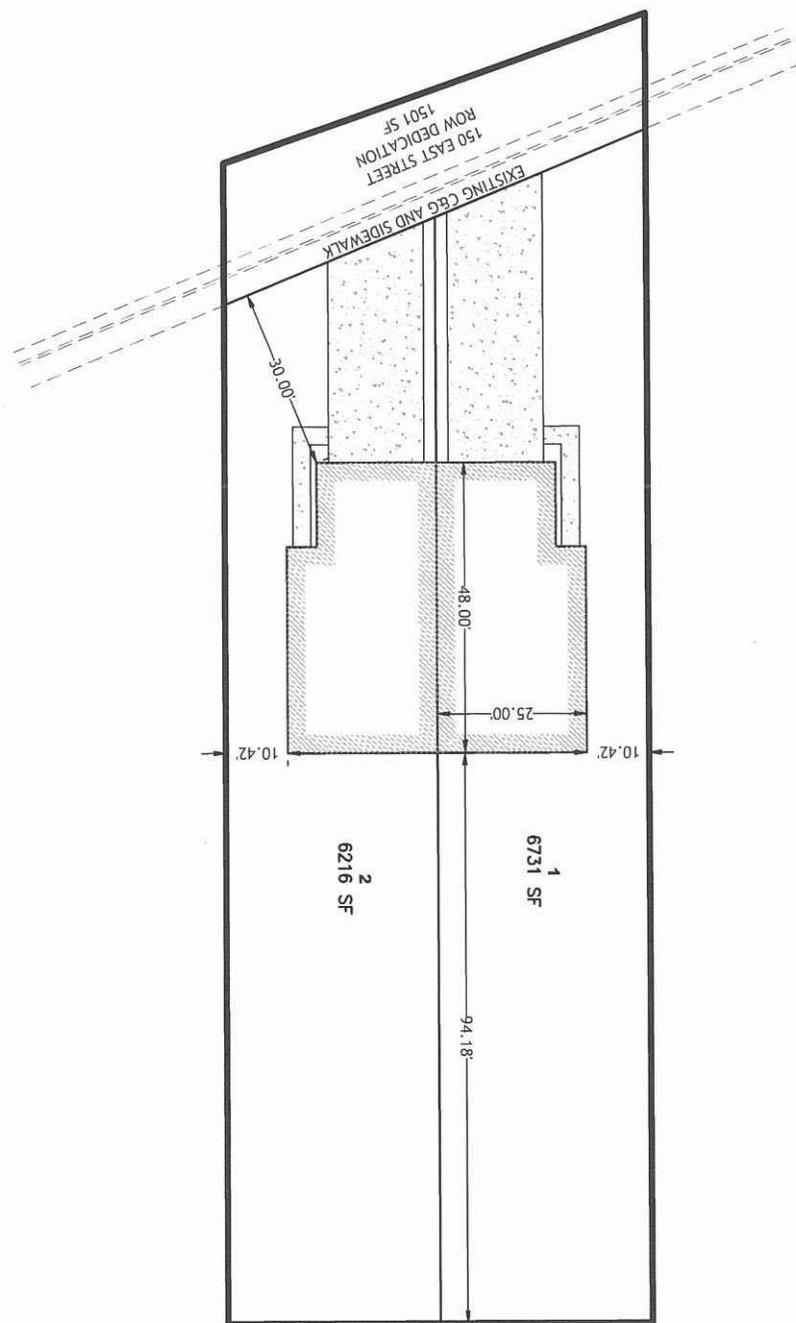
Resaca Dr

Tapp Ln

Eaglebrook Dr

230 E

270 E



HAMLET HOMES - Concept Plan





4454

4450



February 2, 2016

Midvale City  
Department of Community Development  
7505 South Holden Street  
Midvale City, Utah 84047  
Ph: (801) 567-7231

RE: Request for Rezone 8111 South 150 East

To whom it may concern,

Please accept this letter as Hamlet Development's formal request for rezoning the property located at 8111 South 150 East. Specifically, the request is to include this parcel in the duplex overlay as allowed in the SF-1 zone. Section 17-3-1, Paragraph E of the Midvale City Code identifies criteria or findings that may justify a request for rezone. These are the criteria's to be considered when contemplating zoning map amendment.

First, the Land Use Element of the General Plan identifies this parcel as Medium Density Residential. This requested rezone to duplex overlay is consistent with that land use. This request will bring the zoning map and Land Use Element of the General Plan into alignment.

Second, rezoning this property to duplex overlay will be consistent with existing neighboring uses. To the north is a townhome community in an RM-12 zone, to the south are twin homes in a SF-2 zone, and the industrial property to the west is zoned clean Industrial.

Very truly yours,

HAMLET DEVELOPMENT CORPORATION

Michael M. Brodsky  
President

MMB/er

Enclosures



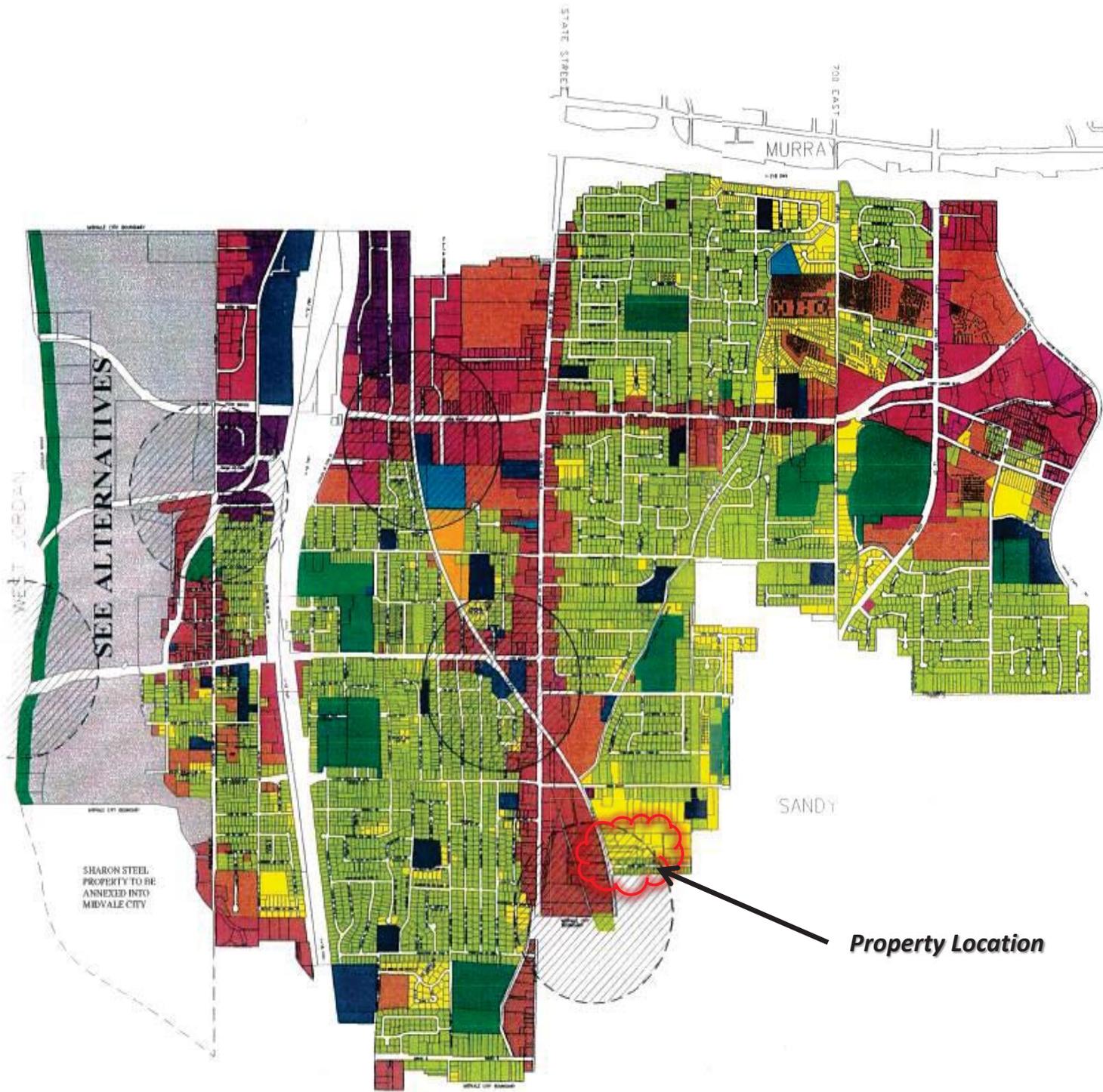
MIDVALE CITY

# MIDVALE CITY GENERAL PLAN

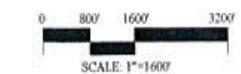
# PROPOSED LAND USE MAP

## LEGEND

-  RESIDENTIAL (LOW)
-  RESIDENTIAL (MEDIUM)
-  RESIDENTIAL (HIGH)
-  RESIDENTIAL (MOBILE HOME PARK)
-  OFFICE
-  MIXED USE
-  COMMERCIAL
-  GOVERNMENT AND PUBLIC AGENCIES
-  HEALTH FACILITIES
-  SCHOOLS
-  CHURCHES
-  PARKS AND OPEN SPACE
-  INDUSTRIAL
-  UTILITY
-  SEE ALTERNATIVES FOR PROPOSED LAND USE
-  APPROXIMATE POSSIBLE REDEVELOPMENT AREAS
-  CIVIC CENTER/TOWN CENTER
-  EXISTING TRAX STATION
-  PROPOSED TRAX STATION AND 1/4 MILE TRANSIT ORIENTED DEVELOPMENT POTENTIAL



**Property Location**



APRIL 2000

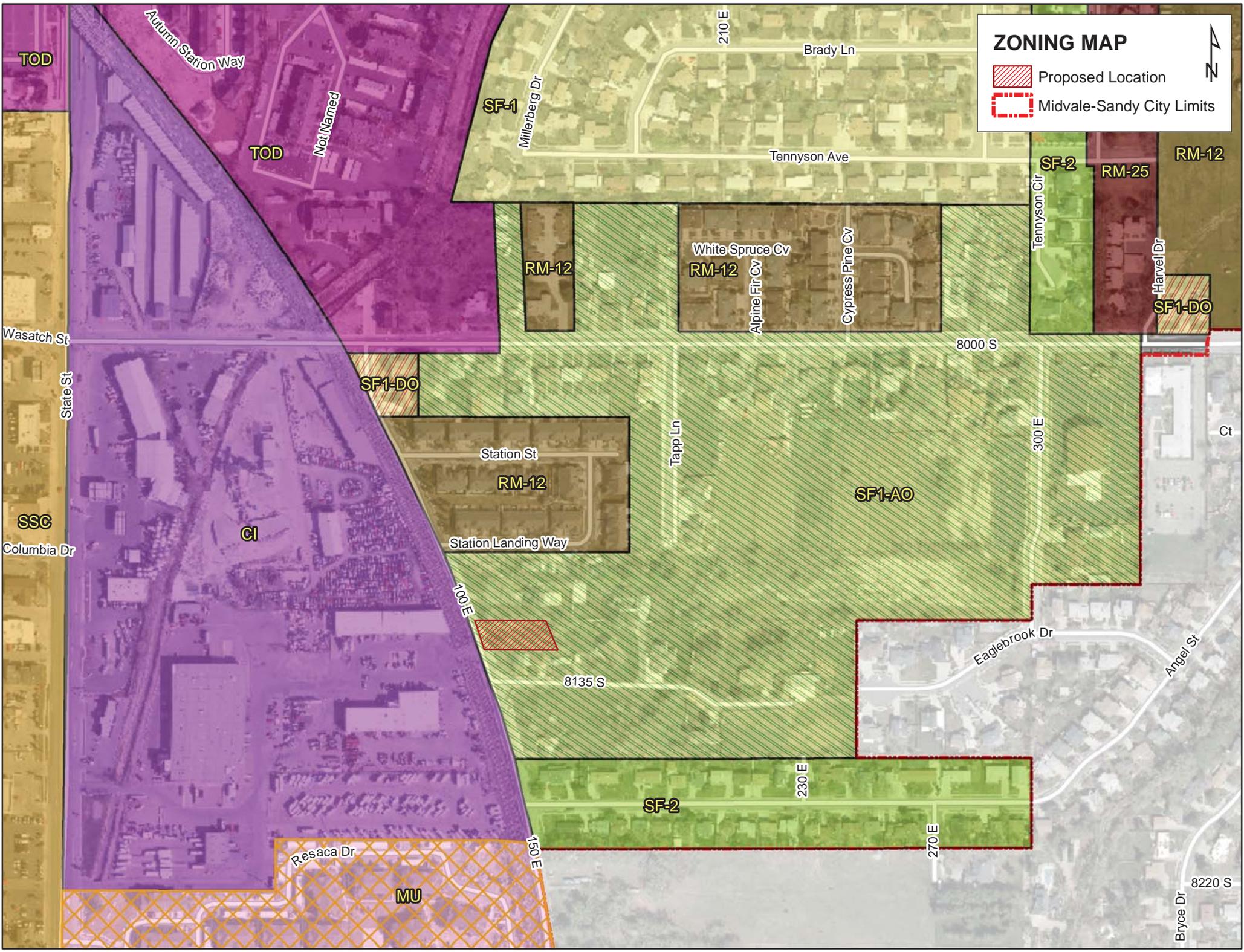


LANDMARK  
DESIGN

LANDSCAPE ARCHITECTURE  
AND LAND PLANNING  
1854 HIGHLAND DRIVE  
SALT LAKE CITY  
UTAH 84103  
PHONE (801) 474-2200  
FAX (801) 474-2207

# ZONING MAP

-  Proposed Location
-  Midvale-Sandy City Limits



**ORDINANCE NO. 2016-O-03**

**AN ORDINANCE REZONING APPROXIMATELY 0.28 ACRES OF PROPERTY LOCATED AT 8111 SOUTH 100 EAST FROM SINGLE-FAMILY RESIDENTIAL WITH AN AGRICULTURAL OVERLAY (SF1-AO) TO SINGLE-FAMILY RESIDENTIAL WITH A DUPLEX OVERLAY (SF1-DO); ALSO PROVIDING A SAVING CLAUSE AND AN EFFECTIVE DATE FOR THE ORDINANCE.**

**WHEREAS**, pursuant to Sections 10-9a-501 through 10-9a-503 Utah Code, the City has authority to make and amend a zoning plan which divides the City into zoning districts and within those districts to regulate the erection, construction, reconstruction, alteration, and uses of buildings and structures and the uses of land; and

**WHEREAS**, a request has been made for a change of zoning on the property described in Exhibit A; and

**WHEREAS**, the Planning Commission held a public hearing on February 24, 2016, which meeting was preceded by notice of publication in the Salt Lake Tribune and Deseret News, on February 10, 2016, to review the request for rezone; and

**WHEREAS**, the Planning Commission held a public meeting on February 24, 2016 to review the requested information and written public comments, and, after considering all of the information received, made a recommendation thereon to the City Council; and

**WHEREAS**, the City Council of Midvale City, Utah held a public hearing on March 15, 2016, which meeting was preceded by notice by publication in the Salt Lake Tribune and Deseret News, on March 1, 2016; and

**WHEREAS**, after taking into consideration citizen testimony, planning and demographic data, the desires of the owners of the property and the Planning Commission's recommendation as part of its deliberations, the City Council determined the rezoning of said property is appropriate, is consistent with the Midvale City General Plan, promotes the health and general welfare of the City, is compatible with the surrounding neighborhood, and fulfills the needs of the City as a whole.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of Midvale City, Utah as follows:

Section 1. The zoning ordinance which sets forth the zone districts within Midvale City which portion of the said zoning ordinance is established by a zoning map, is hereby amended as follows:

The property's (Parcel No. 22-31-176-021) described in Exhibit A attached hereto and by this reference made a part hereof, which property is located at approximately 8111 South 100 East, Midvale, Utah, and is currently zoned Single-Family Residential-Agricultural

Overlay (SF1-AO) shall be zoned Single-Family Residential-Duplex Overlay (SF1-DO).

ZONING PRIOR TO EFFECTIVE DATE OF THIS ORDINANCE:

Single-Family Residential-Agricultural Overlay (SF1-AO)

ZONING AFTER EFFECTIVE DATE OF THIS ORDINANCE:

Single-Family Residential Duplex Overlay (SF1-DO)

Section 2. If any part of this ordinance or the applications thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 3. This ordinance shall be effective upon publication of a summary thereof.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

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

ATTEST:

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

Date of first publication: \_\_\_\_\_

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

**“EXHIBIT A”**  
(Ordinance No. 2016-O-03)

**REZONE APPROXIMATELY 0.28 ACRES OF PROPERTY FROM SINGLE-FAMILY RESIDENTIAL-AGRICULTURAL OVERLAY (SF1-AO) TO SINGLE-FAMILY RESIDENTIAL-DUPLEX OVERLAY (SF1-DO):**

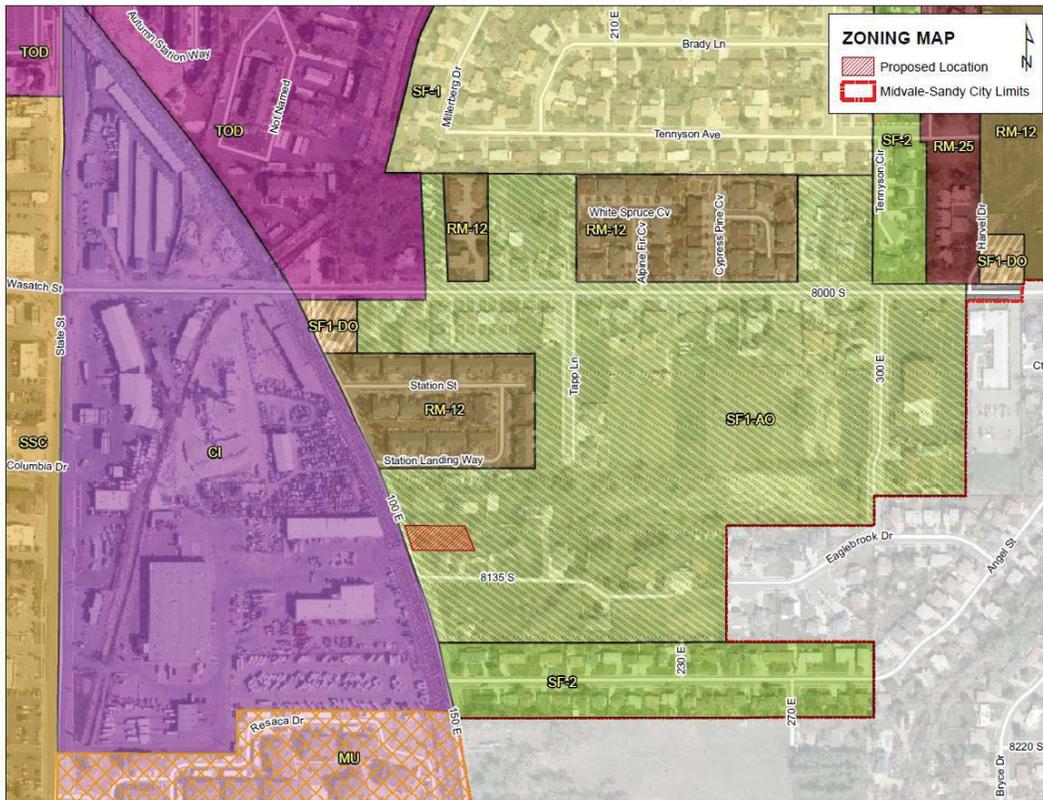
Legal Description

Order Number: SL69684BAT

**EXHIBIT "A"**

Beginning at a point which is North 89°57'28" West along the East/West Center Section line 1261.01 feet and North 546.15 feet from the Center of Section 31, Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence West 188.41 feet to a point on a 4330.25 foot radius curve to the right on the Easterly Line of the Oregon Short Line Railroad Right of Way, the center of said curve bears South 70°26'29" West from said point; thence Southeasterly along the arc of said curve and Easterly line through a central angle of 0°58'48" a distance of 74.07 feet; thence East 164.21 feet; thence North 70.00 feet to the point of beginning.

Situated in SALT LAKE County  
Parcel Identification Number: 22-31-176-021-0000





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

**Tuesday, March 1, 2016**  
**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 – via Electronic

**STAFF:** Phillip Hill, Assistant City Manager/Community Development Director; Laurie Harvey, Assistant City Manager/Admin. Services Director; Rori Andreason, H.R. Director/City Recorder; Lisa Garner, City Attorney; Bob Davis, Public Works Director; Chief Tony Mason, UPD Midvale Precinct; Battalion Chief Scott McBride, UFA; Danny Walz, RDA Director; and Jarin Blackham, IT Manager.

Mayor Seghini called the meeting to order at 6:31 p.m.

**I. INFORMATIONAL ITEMS**

**A. DEPARTMENT REPORTS**

Chief Mason said the new citizen's academy has started.

Chief McBride had nothing to report.

Laurie Harvey said Fitch ratings confirmed the AA- rating on water and sewer bonds. She also said she has hired a temporary part-time person to assist our water meter maintenance tech with problem meters. She briefly discussed the January financials and check listing she sent to the Council.

Bob Davis said each year they have a federally funded CDBG funds to rebuild a road. They have designed a new one for this summer which is Lennox Street. He reported that four employees were attending the Rural Water Conference in St. George this week. He also reported that he had met with the City's consultant to evaluate service connection lines. They are looking at two new lines with Jordan Valley Water Conservancy District, which will allow more pressure to the 1000 East area. It will take two to three years to complete those connections but the bulk of it will be done within 18 months. The old senior center has been rented out for next weekend so repairs have been made to the facility.

Councilmember Glover said there is a woman wanting to fix up the alley way on Lincoln Street. Councilmember Sharp said that is a private street. Phillip Hill said he would have code enforcement look at the alley way.

Phillip Hill stated they are meeting with the contractor for 7200 South, and they will be finishing up soon. In the next couple of weeks they will meet with UDOT to discuss the \$25 million dollars that was added to the I-15 project. It goes from SR201 to about 12600 South. They have added improvements to 7200 South. The splash pad project is being reviewed and a contract will be brought back for approval within the next week or two.

Councilmember Wayne Sharp asked if the CBC was going to move into the building with the clinic. Mayor Seghini said she did not think so. Councilmember Glover said the Council said the City wouldn't put any money into any improvements in the seminary building. Councilmember Wayne Sharp said there are already negative impacts to the neighborhood including excessive cars, and kids playing in the street. Phillip Hill said the parking issue will be alleviated with the completion of the middle school.

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

Kane Loader was absent.

## **III. GENERAL BUSINESS**

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

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

### **C. Proclamation Boys & Girls Club Week**

Council Member Stephen Brown read the proclamation into the record. Members of the Boys and Girls Club were present and spoke briefly about their programs they offer.

## **IV. PUBLIC COMMENTS**

There was no one present who desired to speak.

## **V. COUNCIL REPORTS**

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

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

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

**D. Councilmember Quinn Sperry** – had nothing to report.

**E. Councilmember Wayne Sharp** – had nothing to report.

**VI. MAYOR REPORT**

**Mayor JoAnn B. Seghini** – had nothing to report.

**VII. CONSENT AGENDA**

- A. APPROVE MINUTES OF FEBRUARY 16, 2016**
- B. SET DATE AND TIME (MARCH 15, 2016 AT 7:00 P.M.) FOR A PUBLIC HEARING TO CONSIDER THE BRAD HEAPS 3-LOT SUBDIVISION (FLAG LOT AND TWIN HOME)**
- C. SET DATE AND TIME (MARCH 15, 2016 AT 7:00 P.M.) FOR A PUBLIC HEARING TO CONSIDER A REZONE REQUEST FROM SINGLE-FAMILY RESIDENTIAL WITH AN AGRICULTURAL OVERLAY (SF-AO) TO SINGLE-FAMILY RESIDENTIAL WITH A DUPLEX OVERLAY (SF1-DO) LOCATED AT 8111 SOUTH 100 EAST**
- D. APPROVE ORDINANCE NO. 2016-O-02 AMENDING TITLE 2 OF THE MIDVALE MUNICIPAL CODE**

**MOTION:** Councilmember Wayne Sharp **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:

<b>Council member Stephen Brown</b>	<b>Aye</b>
<b>Council member Paul Glover</b>	<b>Aye</b>
<b>Council member Paul Hunt</b>	<b>Aye</b>
<b>Councilmember Wayne Sharp</b>	<b>Aye</b>
<b>Council member Quinn Sperry</b>	<b>Aye</b>

**The motion passed unanimously.**

**VIII. ACTION ITEMS**

- A. APPROVE AMENDED FINAL SUBDIVISION PLAT APPROVAL FOR THE STATION AT MIDVALE CONDOMINIUMS LOCATED AT 7682-7696 SOUTH CENTER SQUARE AND 137 WEST PARK STREET**

Phillip Hill stated the Station at Midvale project is the 186 unit multi-family development located at 7682-7696 South Center Square and 137 West Park Street. The Conditional Use Permit and Preliminary Site Plan for the project were approved by the Planning Commission on June 24, 2015. Staff approved the Final Site Plan for the project on November 10, 2015. This development proposal also included the review of a condominium (subdivision) plat which would allow each residential unit to be individually owned and the creation of a homeowners association to own and maintain all of the common areas inside the buildings as well as the property outside the buildings. The Planning Commission forwarded a recommendation to the City Council to approve this subdivision plat, and on November 10, 2015, the City Council approved the plat.

Since that time, the developer has submitted an amended subdivision plat to replace the plat originally approved. Instead of providing for 186 individual residential units in two buildings

and common area, the proposed revised plat provides for the individual ownership of each building (two units) and common area. The revised plat does not change the layout or unit configuration of the approved 186 unit residential project. The building footprints, landscaping, parking, recreation amenities, property management, etc. will remain as originally approved on the Final Site Plan and Conditional Use Permit. The Planning Commission forwarded a recommendation to the City Council to approve this amended plat on January 13, 2016, and on February 2, 2016, the City Council approved the amended preliminary subdivision plat for the Station at Midvale Condominiums with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer and City Council.
2. The applicant shall prepare a declaration of covenants, conditions and restrictions, to ensure the project functions as a whole, and the common areas are appropriately be approved by the City's legal staff and City Council and recorded concurrently with the subdivision plat.

The applicant has submitted the amended final subdivision plat, as well as an amended declaration. The plat has been reviewed and approved by the City Engineer, and the declaration has been reviewed and approved by the City's legal staff. The amended plat and declaration have been found to be consistent with the preliminary subdivision plat and final site plan approvals.

**MOTION: Councilmember Quinn Sperry MOVED that we approve the Amended Final Subdivision Plat for the Station at Midvale Condominiums located at 7682 – 7696 South Center Square and 137 West Park Street with the following conditions:**

- 1. The applicant shall obtain all required signatures on the condominium plat Mylar.**
- 2. The Declaration of Condominiums for the project shall be recorded concurrently with the plat.**

**The motion was SECONDED by Councilmember Wayne Sharp. Mayor Seghini called for discussion on the motion. There being none the she called for a roll call vote. The voting was as follows:**

<b>Council member Stephen Brown</b>	<b>Aye</b>
<b>Council member Paul Glover</b>	<b>Nay</b>
<b>Council member Paul Hunt</b>	<b>Aye</b>
<b>Councilmember Wayne Sharp</b>	<b>Aye</b>
<b>Council member Quinn Sperry</b>	<b>Aye</b>

**The motion passed 4-1 in favor.**

**B. APPROVE RESOLUTION NO. 2016-R-05 APPOINTING ALTERNATE PLANNING COMMISSIONER H. EVAN HANSON**

Phillip Hill stated the Midvale Planning Commission is comprised of five full time members and two alternate members. Currently, there is a vacancy for an alternate position. Evan Hanson has

expressed an interest in serving on the Planning Commission in this capacity. Mr. Hanson has lived in the Midvale area for 30 years, and currently resides in District 1. He is retired from a 36 year career in the energy industry, which included government relations with jurisdictions across the country with time spent before many commissions and boards. Mr. Hanson has been involved with the City's General Plan Update, participating in some of the workshops, and would like to get more involved in his community.

It is the Mayor's desire to appoint Mr. Hanson to the Planning Commission as an alternate member. The Mayor is requesting the Council's consent for this appointment, which would be for a four year term beginning immediately.

**MOTION: Councilmember Paul Hunt MOVED to approve Resolution No. 2016-R-05 appointing Evan Hanson to serve on the Planning Commission as an alternate member with his term expiring February 2020. The motion was SECONDED by Councilmember Quinn Sperry. Mayor Seghini called for discussion on the motion. There being none 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.**

**C. APPROVE RESOLUTION NO. 2016-R-06 ADOPTING A NOTICE OF PENDING AMENDMENTS TO THE TOD, STATE STREET COMMERCIAL AND MULTI-FAMILY ZONES WITH RESPECT TO BUILDING SETBACK AND MAXIMUM HEIGHTS**

Phillip Hill said a Resolution adopting a notice of pending amendments to the Transit Oriented Development (TOD) zone, State Street Commercial (SSC) zone, RM-12 and RM-25 Multi-Family zones has been prepared for Council approval. Because the Council has identified that it is in the best interests of the citizens of Midvale City to amend these ordinances with respect to building height and setbacks, this pending ordinance notice will stay all applications in these zones until such time as the proposed amendments have been adopted by ordinance by the City Council.

**MOTION: Councilmember Stephen Brown MOVED that based on the findings of the City Council and the pending ordinance amendments to the Transit Oriented Development (TOD) zone, State Street Commercial (SSC) zone, RM-12 and RM-25 Multi-Family zones with respect to building height and setbacks, I move to adopt Resolution #2016-R-06, adopting a notice of pending amendments. The motion was SECONDED by Councilmember Paul Hunt. Mayor Seghini called for discussion on the motion. There being none 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. DISCUSSION ON BRAD HEAPS 3-LOT SUBDIVISION (FLAT LOT AND TWIN HOME) LOCATED AT 6795 SOUTH 700 EAST**

Phillip Hill stated The applicant, Brad Heaps, is requesting a subdivision approval in order to divide an existing parcel located at 6790 South 700 East into three lots, with one lot for an existing single family house and a flag lot for a twin home structure (2 lots). The property includes approximately 0.46 acres (20,290 square feet) with 84.5 feet of frontage on 700 East. The property is zoned SF-1 with a Duplex Overlay. The applicant is remodeling the existing house to include an attached two car garage, and has proposed building plans and a site plan for the twin home which have been reviewed and approved by the Planning Commission.

The Zoning Ordinance requires a Conditional Use Permit for the subdivision of a flag lot. In order to be approved, the proposal must comply with the following criteria:

1. Lot area: The minimum area of the banner portion of the proposed flag lot is 7,000 square feet and the minimum area of the remaining frontage lot is 7,000 square feet;
2. Lot width and depth: The minimum banner portion width and depth is 75 feet. The minimum lot width and depth of the frontage lot complies with all lot standards for the zone;
3. Setbacks: Setbacks for new development on a flag lot are 15 feet for each of the front, side and rear yards;
4. Height: The maximum proposed height for a structure is 25 feet;
5. Stories: A structure shall not exceed one story;
6. Parking/driveway access: Each flag lot and each frontage lot shall provide two parking spaces on the side or rear yard of the property. The driveway shall have a paved width of 20 feet;
7. Fire department access and water supply: Each dwelling must adhere to the Fire Code; and
8. Utilities: Both the flag lot dwelling and the frontage lot dwelling must be serviced by a public water and sewer system.

The proposed frontage lot (Lot 1) and the overall flag lot (before the division for the twin home) comply with the minimum lot area requirement with the banner portion of the flag lot being approximately 12,285 square feet and the frontage lot being 8,008 square feet. The proposed lots also comply with the minimum lot width and depth requirements. The flag lot includes a 20-foot wide driveway from 700 East along the north property line. This driveway will need to be paved as part of any development on the flag lot. The under construction, attached two-car garage will provide the required off-street parking spaces for the existing house. The remodeling of this house will also create an 18' x 30' driveway, providing

additional on-site parking. The setbacks for the existing house from the new property lines being created by the subdivision (north side yard and rear) comply with setback requirements for the SF-1 zone, which includes a minimum eight foot side yard and 25 foot rear yard.

New development on the flag lot is required to comply with the 15-foot front, side and rear setbacks, as well as the height/single-story requirement. These items have been addressed with the proposed twin home development application.

The further division of the flag lot into two lots for a twin home is allowed under Section 17-7-1.14 C of the Zoning Ordinance. This provision provides for a lot size exclusion in the Duplex Overlay for the division of property creating individual ownership of each side of a twin home structure. The proposed lot boundary creating the two lots reflects the common wall between the two dwelling units within the two-unit residential structure.

The Subdivision Ordinance requires that 2-inch caliper deciduous street trees be planted at a rate of one tree per 30 feet of street frontage with any new subdivision. Based on this requirement, two street trees are required on the frontage lot along 700 East. These trees will need to be planted or guaranteed with a cash bond before the subdivision plat is recorded.

The Fire Marshal has reviewed the proposal. He has approved the plan subject to the following conditions:

- The flag lot driveway must be cleared of all overhanging branches so emergency vehicles will have a clear path.
- No parking signs are required along the flag lot driveway.

The Planning Commission reviewed this proposal and conducted a public hearing on December 9, 2015. At this time, the Planning Commission approved the Conditional Use Permit for the flag lot and a Conditional Use Permit for the twin home, as well as forwarded a positive recommendation for the City Council's consideration on the Subdivision Plat with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer and City Council.
2. A note shall be added to the subdivision plat indicating that a two-unit residential structure with a common wall along the center lot line of Lots 2 & 3 is required to be constructed on the property unless the subdivision plat is officially amended.
3. All new development on Lots 2 & 3 shall comply with the flag lot requirements, i.e. setbacks, height/single-story, parking, and 20-foot wide paved driveway. A note indicating these requirements shall be included on the final subdivision plat.
4. The flag lot driveway shall remain clear of overhanging vegetation and no parking signs posted. A note stating this shall be included on the final subdivision plat.

5. A 6-foot high screening fence shall be constructed along the north, south and east boundaries of the banner portion of Lots 2 & 3 in areas where a screening fence does not currently exist. This fence shall be completed prior to certificates of occupancy being issued on these lots. A note indicating this requirement shall be included on the final subdivision plat.
6. A shared access and maintenance easement and agreement shall be indicated and noted on the flag lot driveway area to ensure Lot 3 has legal access to 700 East.
7. The existing deck and stairs on the rear of the existing house on Lot 1 shall be modified to comply with the required 25-foot rear yard setback. This shall be completed prior to the subdivision plat being recorded.
8. The applicant shall plant two 2-inch caliper deciduous street trees on Lot 1 prior to the subdivision plat being recorded.
9. The applicant shall obtain duty to serve letters for water and sewer prior to the subdivision plat being recorded.

The applicant has submitted a final subdivision plat, which has been reviewed and approved by the City Engineer. This plat includes all of the notes required by the Planning Commission, including the shared access for Lots 2 and 3. The applicant has prepared a maintenance agreement for the shared driveway. This will be recorded with the subdivision plat. Evidence of water and sewer availability for the new lots has been provided. With these items completed, the proposed subdivision plat complies with the City's subdivision standards; however, the following items need to be addressed by the applicant before the subdivision plat can be recorded:

- The existing deck and stairs on the rear of the existing house on Lot 1 shall be modified to comply with the required 25-foot rear yard setback. This shall be completed prior to the subdivision plat being recorded.
- The applicant shall plant two 2-inch caliper deciduous street trees on Lot 1 prior to the subdivision plat being recorded.

**B. DISCUSS A REZONE REQUEST FROM SINGLE-FAMILY RESIDENTIAL WITH AN AGRICULTURAL OVERLAY (SF- AO) TO SINGLE-FAMILY RESIDENTIAL WITH A DUPLEX OVERLAY (SF1-DO) LOCATED AT 8111 SOUTH 100 EAST**

Matthew Hilderman stated the applicant and representative for the property owner, Michael Brodsky, is requesting that the property located at 8111 South 100 East be rezoned from a Single-Family Residential Zone with an Agricultural Overlay to a Single-Family Residential Zone with a Duplex Overlay. The proposal includes one parcel totaling an overall acreage of 0.28 acres. The applicant is proposing this amendment change for the purpose of constructing a two-unit residential structure (duplex). The applicant has provided a conceptual plan illustrating the anticipated use of the property and a proposed front, exterior elevation however, the Planning

Commission will not be reviewing the specific site plan and details at this time. The General Plan Proposed Land Use Map designates this property as Medium Density Residential.

The current condition of the property is a vacant, undeveloped parcel and research conducted by Staff determined this parcel of property has been vacant for several decades. The rezone proposal is surrounded by existing single-family residences to the North, East, and South and has frontage along 100 East. The proposed two-unit residential structure will have direct access onto 100 East.

In order for this development to proceed as proposed, the following approvals shall be required from the City:

1. A rezone of the entire property from SF1-AO to SF1-DO;
2. Conditional Use Permit for the two-unit structure (duplex);
3. Site Plan; and
4. Subdivision Plat, if applicable.

At this time, the applicant is only requesting a rezone and further submissions of a detailed development plan and subdivision plat may proceed in the forthcoming.

#### **General Plan Amendment and Rezone**

The Midvale City General Plan Proposed Land Use Map identifies this property as Medium Density Residential. This property is adjacent to existing single-family residential zones (SF1-AO) districts to the North, West, and South and an existing Clean Industrial zone district to the West. The General Plan Proposed Land Use Map identifies the North, South, and East areas as a proposed Medium-Density Residential use and the West area identified as a proposed High-Density Residential use. This proposed parcel of property along with the surrounding properties has the potential to be a Transit-Oriented Development. The proposed rezone from SF1-AO to SF1-DO will allow this property to continue correlating with the surrounding zone districts but provide an additional use for the property to assist in the initial beginning of development.

Under Section 17-3-1 of the Zoning Ordinance, the Planning Commission may recommend, and the City Council may grant, a rezoning application if it determines the rezoning is consistent with the goals and policies of the Midvale City General Plan, and the following:

1. The proposed rezoning is necessary either to comply with the Midvale City General Plan Proposed Land Use Map, or to provide land for a community need that was not anticipated at the time of the adoption of the Midvale City General Plan;
2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by natural characteristics of the land, including but not limited to steep slopes, floodplain, unstable soils, and inadequate drainage; or

3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area.

Staff believes the proposed rezone will provide additional residential uses in this area but not to the level of intensity for residential development that is identified in the General Plan. Staff also believes the following General Plan statements further correlate with the applicant's proposal:

"If the threatened neighborhood is to transition into other uses, it should be allowed to do so gracefully and with as much protection as possible, for as long as possible," (Urban Design Element 2-10);

"A much larger site between State Street and the LRT track at approximately 8000 South will not be a TRAX station initially; however, it is owned by UTA and straddles the border between Midvale City and Sandy City. The site is recognized by both municipalities as a TOD opportunity in partnership with UTA. A station is not currently proposed on this site; however, an integrated TRAX station and mixed-use TOD development is envisioned on the site. Approaching redevelopment on these sites with an orientation toward TOD development is an opportunity...and to support ridership by increasing density at the station locations either through housing or employment." (Land Use Element 4-13, 4-14)

"The remaining undeveloped land in Midvale City is primarily small parcels and lots located within existing developed areas. These in-fill development opportunities must be compatible with adjacent land uses, i.e. new residential in-fill in residential areas," (Land Use Element 4-15);

"In older residential areas where large lots were the norm because people often kept animals and cultivated large gardens, there is interest in opportunities to subdivide and develop additional residential dwellings on the property. Of critical importance is compatibility with the surrounding residential, and adequate and safe access to neighborhood streets via dedicated streets," (Land Use Element 4-15); and

"Wherever possible, property should be zoned to accommodate affordable housing and...affordable rental units are critical in providing housing opportunities for moderate and low-income families. The City should maintain a reasonable stock of rental housing and work to assist in the maintenance of existing, affordable housing units," (Housing Element 6-34);

In reviewing this application and the above criteria, the Planning Commission shall consider the appropriateness of the rezone request and forward a recommendation to the City Council for its consideration. The City Council will determine a final decision on this legislative change request. This proposal will create a zone boundary that continues to join existing single-family neighborhoods; however this zone district will provide an additional residential use than the surrounding single-family residential zones.

**Planning Commission Recommendation**

A public hearing was held with the Planning Commission on February 24, 2016 to consider this rezone application. After consideration of the proposal, the Planning Commission has forwarded a negative recommendation (5-0) to the City Council.

**C. LEGISLATIVE UPDATE**

Phillip Hill briefly discussed some legislative bills that may impact the City.

**XI. ADJOURN**

**MOTION: Councilmember Wayne Sharp MOVED to adjourn the meeting. Councilmember Paul Hunt 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 7:42 p.m.

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

Approved this 15<sup>th</sup> day of March, 2016.



**MIDVALE CITY**  
**CITY COUNCIL WORKSHOP MEETING**  
*Minutes*

**Tuesday, March 8, 2016**  
**Council Chambers**  
**7505 S. Holden Street**  
**Midvale, Utah 84047**

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**MAYOR:** JoAnn Seghini - Excused

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

**STAFF:** Phillip Hill, Asst. City Manager/CD Director; Laurie Harvey, Asst. City Manager/Admin. Services Director; Rori Andreason, H.R. Director/City Recorder; Lisa Garner, City Attorney; Bob Davis Public Works Director; Danny Walz, Redevelopment Agency Director; Christopher Butte; Economic Development Director; and Jarin Blackham, IT Manager.

Mayor Pro-Tem Stephen Brown called the meeting to order at 6:35 p.m.

**I. DISCUSSION ITEMS**

**A. ENVISION UTAH PRESENTATION – YOUR UTAH YOUR FUTURE UPDATE**

Ryan Beck, Envision Utah, gave a presentation on “Your Utah Your Future”. The Vision of 2050 focuses on actively and safely securing our future. Over 52,000 Utahans took a survey about their desires for the future for Utah. The survey the transportation and community’s vision showed is that Utahans envision safe communities that make life convenient. They desire active town and village centers in and around most neighborhoods, so they can choose to live close to where they work, shop, learn, and play. They want to be able to drive short distances, walk, bike, and access public transportation in most communities, so they can live healthy lives and save time and money. Utahans envision their communities having good housing options for them, regardless of their stage of life and whether they want to own a large home or rent a small apartment. The Housing and cost of living vision showed Utahans envision as good, safe communities with a variety of housing and transportation options that maintain a low cost of living. They envision communities where people with varying incomes and backgrounds and in different stages of life can find a home they can afford. They want the option to save money by driving shorter distances, walking, or biking to jobs, shopping, schools, public transportation, parks, and other services and amenities. Utahans envision keeping household costs for utilities and taxes low.

**B. UTOPIA UPDATE – Postponed until a later date.**

**C. DISCUSS CODE ENFORCEMENT**

Phillip Hill discussed the code enforcement process. He discussed complaints they have been hearing about the process. Most of the complaints are asking why it is taking so long to deal with an issue. He discussed repeat offenders which will be dealt with more harshly. He said as part of the budget he will be discussing having the hearing officer schedule hearing dates twice a month rather than being on call. He also discussed a common sense tickler file for the code enforcement officers so notices are not being given out to people who have a refrigerator out for a few hours to be picked up by Rocky Mountain Power.

The Council said they wanted the process to be shortened. The Council agreed to eliminate the 10 day courtesy notice as long as the common sense tickler file stays in place. The Council said they want Midvale cleaned up so the code enforcement needs to be progressive.

**D. LEGISLATIVE UPDATE – Postponed until a later date.**

**E. DISCUSS ICMA-RC PLAN AGREEMENTS – Postponed until a later date.**

**II. ADJOURN**

Mayor Pro-Tem Stephen Brown adjourned the meeting at approximately 7:28 p.m.

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

Approved this 15th day of March, 2016



## MIDVALE CITY COUNCIL SUMMARY REPORT

**Meeting Date: March 15, 2016**

---

**SUBJECT:** Re-Appointment of Kassidy Wallin to continue serving on the Planning Commission as full time member (Resolution No. 2016-R-07)

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**SUBMITTED BY:** Lesley Burns, City Planner

**SUMMARY:**

Members of the Midvale City Planning Commission are appointed to serve four year terms or to finish the unexpired terms of past members. Members are allowed to serve a maximum of two full consecutive terms. Kassidy Wallin finished an unexpired term at the end of February. Mr. Wallin has expressed an interest in serving a new full term. He lives in the Bingham Junction/Riverwalk area (District 5) and has been a great asset on the Commission, currently serving as the Vice Chair. If re-appointed, Mr. Wallin's term would end in February 2020.

It is the Mayor's desire to re-appoint Mr. Wallin so he continues to serve as a full time member on the Planning Commission for four more years. The City Council is required to consent to appointments to the Planning Commission. A Resolution has been prepared for the City Council's consideration of this re-appointment.

**FISCAL IMPACT:** N/A

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**STAFF RECOMMENDATION:**

Staff recommends that the City Council adopts Resolution No. 2016-R-07, re-appointing Kassidy Wallin to serve on the Planning Commission as a full time member for a four year term.

**RECOMMENDED MOTION:**

*"I move that we adopt Resolution No. 2016-R-07, re-appointing Kassidy Wallin to the Planning Commission as a full time member with his term expiring February 2020."*

**Attachments:**

- Resolution No. 2016-R-07

**MIDVALE CITY, UTAH  
RESOLUTION No. 2016-R-07**

**A RESOLUTION CONFIRMING THE RE-APPOINTMENT OF KASSIDY WALLIN TO  
CONTINUE SERVING ON THE PLANNING COMMISSION AS A FULL TIME  
MEMBER**

**WHEREAS**, in accordance with Section 17-4-1 of the Midvale City Municipal Code and the Midvale City Planning Commission Bylaws and Rules of Procedure, the Planning Commission is comprised of five members and two alternates to serve four year terms for a maximum of two full consecutive terms; and

**WHEREAS**, Kassidy Wallin has been serving on the Planning Commission as full time member and is finishing an unexpired term of a past member; and

**WHEREAS**, the Mayor desires to re-appoint Kassidy Wallin to serve a full term on the Planning Commission with this term expiring in February 2020; and

**WHEREAS**, Kassidy Wallin has expressed a desire to continue serving on the Planning Commission; and

**WHEREAS**, members of the Planning Commission are appointed by the Mayor with the advice and consent of the City Council per Section 17-4-2 of the Midvale Municipal Code; and

**WHEREAS**, the City Council consents to this appointment;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Midvale City, Utah:

**SECTION 1.** The City Council hereby confirms the Mayor's re-appointment of Kassidy Wallin to serve a full term on the Planning Commission as a full time member with this term expiring in February 2020.

**SECTION 2.** This Resolution shall take effect March 15, 2016.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

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

ATTEST:

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

Voting by City Council	"Aye"	"Nay"
Stephen Brown	_____	_____
Paul Glover	_____	_____
Paul Hunt	_____	_____
Wayne Sharp	_____	_____
Quinn Sperry	_____	_____



## MIDVALE CITY COUNCIL SUMMARY REPORT

Meeting Date: March 15, 2016

---

**SUBJECT:** Contract with Hogan and Associates Construction for the Main Park Splash Pad

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

**SUMMARY:**

On August 11, 2015 the Council approved Resolution 2015-R-40 authorizing the Mayor to enter into a contract with Hogan Construction for a Construction Management General Contractor (CMGC) relationship to finish out the construction drawings and ensure that we kept the project within budget.

Since August we have worked with Hogan as well as Logan Simpson Design to complete the construction drawings and bid for subcontractors to work under Hogan's direction. The final construction cost has been compiled by Hogan for a total Guaranteed Maximum Price of \$434,863. This is a not to exceed amount for Hogan and their subcontractors, and any savings will revert to the City. Because of the nature of the CMGC process and the turnkey approach of the actual splash pad sub-contractor, it is expected the very little to none of the \$22,000 construction contingency will be necessary.

**FISCAL IMPACT:** \$400,000 of the funds for this project have been previously secured through the Salt Lake County TRCC process, and up to \$34,863 will come out of the parks and open space fund which has previously been used for such projects as the Jordan River Pedestrian bridges and the pedestrian crossing under the new light rail bridge spanning the Jordan River.

---

**STAFF'S RECOMMENDATION AND MOTION:**

**I move that we approve Resolution No. 2016-R-08, authorizing the Mayor to enter into a contract with Hogan and Associates Construction for the Main Park Splash Pad Project.**

**Attachments:**

- **Resolution No. 2016-R-08**
- **Exhibit A – Guaranteed Maximum Price Amendment**
- **Original Contract approved per Resolution 2015-R-40**

**RESOLUTION NO. 2016-R-08**

**WHEREAS**, the City identified the need for additional recreational opportunities in the City;  
and

**WHEREAS**, Midvale City was awarded funds for the construction of a splash pad in the Main City Park; and

**WHEREAS**, this project was advertised for bid, and bids were received by the City for this project; and

**WHEREAS**, the City evaluated the bids for a CMGC contract based on the criteria noted in the bid documents, and based on that analysis awarded this project to Hogan and Associates Construction, and entered into a contract with the City for those services; and

**WHEREAS**, Hogan Construction, Logan Simpson Design, and the City have spent the last 6 months designing and completing the construction drawings to allow for Hogan Construction to call for bids from sub-contractors; and

**WHEREAS**, Hogan Construction has selected sub-contractors and per their contract has submitted Exhibit A, Guaranteed Maximum Price Amendment for a total construction cost of \$434,863;

**NOW THEREFORE BE IT RESOLVED**, that based on the foregoing, the Midvale City Council adopts this resolution authorizing the Mayor to sign Exhibit A, Guaranteed Maximum Price Amendment with Hogan and Associates Construction of \$434,863 for the Main Park Splash Pad Project.

**APPROVED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
JoAnn Seghini, Mayor

ATTEST:

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

**EXHIBIT A**  
**Guaranteed Maximum Price Amendment**  
**To AIA Document A133 – 2009 Agreement between Owner and Construction Manager**

For the following PROJECT: Midvale City Main Park Splash Pad

THE OWNER: City of Midvale

THE CONSTRUCTION MANAGER: Hogan & Associates Construction, Inc.

**ARTICLE A.1**

**§ A.1.1 Guaranteed Maximum Price**

Pursuant to Section 2.2.6 of the Agreement dated September 8, 2015, the Owner and Construction Manager hereby amend the agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of this Agreement.

**§ A.1.1.1** The Contract Sum, including any alternates listed below, is guaranteed by the Construction Manager not to exceed Four Hundred Thirty Four Thousand Eight Hundred Sixty Three Dollars and No/100 (\$434,863) subject to additions and deductions by Change Order as provided in the Contract Documents.

**§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price.** Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Construction Manager's Fee, and other items that comprise the Guaranteed Maximum Price. See Attachment 1, One page GMP Summary Sheet dated March 7, 2016. See Attachment 2, Proposal form Cloward H20 dated March 7, 2016, including the terms therein.

**§ A.1.1.3** The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

ALTERNATE #1 –South Sidewalk

ALTERNATE #2 –Sand Blast Splash Pad Deck

ALTERNATE #3 –Upgraded Concrete Color

**§ A.1.1.4** The Guaranteed Maximum Price is based on the following Drawings, Specifications, Addenda and General, Supplementary and other Conditions of the Contract:

Drawings, Sheet Index Time Stamped January 7, 2016

**ARTICLE A.2**

**§ A.2.1** The anticipated date of Substantial Completion established by this Amendment is: May 20, 2016

**OWNER**

**CONSTRUCTION MANAGER**

\_\_\_\_\_  
(Signature)

  
\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed name and title)

Rob Birch  
\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
Date

March 11, 2016  
\_\_\_\_\_  
Date

\_\_\_\_\_  
ATTEST

\_\_\_\_\_  
ATTEST



**CONFIDENTIAL**

**Midvale City Splash Pad**

Midvale City  
3/7/2016

				Base Bid	NOTES	Alt # 01: Concrete Sidewalk	Alt # 02: Sandblast Finish @ Splash Pad	Alt # 03: Splash Pad Color				
Total Bids Used From Below				335,329		31,900	5,000	8,000				
General Conditions				27,600								
<b>SUBTOTAL</b>				<b>362,929</b>		<b>31,900</b>	<b>5,000</b>	<b>8,000</b>				
Bond & Insurance				4,349		-	-	-				
<b>COST OF WORK SUBTOTAL</b>				<b>367,278</b>		<b>31,900</b>	<b>5,000</b>	<b>8,000</b>				
Preconstruction Fee				10,000								
Construction Contingency 5.00%				21,743								
Construction Support Services by Cloward H2O				9,750								
CM Fee 6.00%				26,091.75								
<b>TOTAL</b>				<b>434,863</b>		<b>31,900</b>	<b>5,000</b>	<b>8,000</b>				
Estimated Cost (Owner)				400,000								
Sect'n	Description	Contractor	Bid Amount	Bid Used	Exclusions	NOTES	Bid Amount	Bid Used	Bid Amount	Bid Used	Bid Amount	Bid Used
									5,000	5,000	8,000	8,000
<b>Div-01: General Requirements</b>												
	012100 Allowances					No Allowances are noted in the Specifications						
<b>Div-02: Existing Conditions</b>												
	024119 Selective Demolition					See Division 13						
<b>Div-31: Earthwork</b>												
	311000 Site Clearing					See Division 13						
	312000 Earth Moving											
		Rasco	58,150									
		England	63,344			for sidewalks, pad, building, utilities, df	5,000		5,000			
		Acme										
<b>Div-32: Exterior Improvements</b>												
	Hot-Mix Asphalt Paving					See Division 13						
	Site Concrete											
	Concrete Paving Joint Sealants											
		Acme	58,597			incl. Truncated Dome, pad, sidewalk	14,141					
		Rasco	27,755									
		Rasco - Sidewalks	29,776			Alternate includes earthwork & grub	25,900	25,900				
	328400 Planting Irrigation											
	329115 Soil Preparation (performance)											
	329200 Turf and Grasses											
		Hansen	33,062				6,000	6,000				
		Splash Pads USA	32,900	32,900								
<b>Div-03: Concrete</b>												
	033000 Cast-In-Place Concrete					See Division 13	13,323					
		Rasco	44,310			incl. ladder, hatch						
<b>Div-04: Masonry</b>												
	042000 Unit Masonry					See Division 13						
		AK	9,200			incl. GROUT & Rebar Install						
		Harv & Higam	10,100			incl. GROUT & Rebar Install						
		Darold Kellos	12,555									
		JH	13,800									
		Rebar for Masonry	972									
<b>Div-05: Metals</b>												
	Concrete Reinforcing					See Division 13						
		Harris Rebar (FOB) - Splashpad & Tank	6,305									
		Western States (FOB) - Splashpad & Tank	8,350									
	055213 Pipe & Tube Railings											
		Metal Line	3,350			Ladder and Railing						
			2,800									
	Misc Metals											
			2,000									
<b>Div-06: Wood, Plastics, and Composites</b>												
	061000 Rough Carpentry					See Division 13						
	061600 Sheathing											
	061753 Shop-Fabricated Wood Trusses											
			5,540									
		Colonial (Material only)	2,900									
	Misc. Rough Carpentry											
<b>Div-07: Thermal and Moisture Protection</b>												
	Building Insulation-rigid? (072100)					See Division 13						
	EIFS (072400)	See Stucco (099723)										
	Asphalt Shingles (073113)	Capitol	4,125			incl. ice & water, drip edge, shingles						
	Joint Sealants (079200)											

<b>Div-08: Openings</b>			See Division 13					
081113	Hollow Metal Doors & Frames							
087100	Door Hardware							
		ABS	1,068					
		Beacon Metals	937		4-6 week lead time			
		Installation	500					
<b>Div-09: Finishes</b>			See Division 13					
09 97 23	Stucco		2,560					
		Hall Co.	2,400					
		Commercial Coatings						
099113	Exterior Painting							
099123	Interior Painting							
071900	Water Repellents	Hendricksen	2,380		Block Sealant & Anti-Graffiti			
		Hegemann	900		Block Sealant			
<b>Div-13: Special Construction</b>								
131001	Water Feature General							
131101	Water Feature Earthwork							
131102	Water Feature Geosynthetics (for Earthwork)							
131103	Water Feature Grading & Excavation							
131104	Water Feature Dewatering							
131105	Water Feature Foundation Drainage							
131106	Water Feature Trenching							
131107	Water Feature Backfilling							
131201	Water Feature Lightweight Structural Fill							
131202	Water Feature Reinforcement							
131203	Water Feature Concrete Form Work							
131204	Water Feature Cast In Place Concrete							
131205	Water Feature Elastomeric Waterproofing							
131401	Water Feature Accessories							
131402	Water Feature Pipe Testing & Cleaning							
131403	Water Feature Pipe Hangers, Supports, & Anchors							
131404	Water Feature White Goods							
131501	Water Feature Mechanical Identification							
131502	Water Feature Pumps & Motors							
131503	Water Feature Filters							
131504	Water Feature Chemical Feed Systems							
131505	Water Feature Ozone Generation & Injection							
131511	Water Feature Valves, Gauges, & Meters							
131601	Water Feature General Electrical Requirements							
131602	Water Feature Controller							
131604	Water Feature Instruments, Switches & Alarms							
131605	Water Feature Control Panels							
131606	Water Feature Instrument Power Systems							
131607	Water Feature Programmable Logic Controllers							
131609	Water Feature Disconnects, MCC & Starters							
131610	Water Feature Electrical Accessories							
131611	Water Feature Grounding							
		CEM	169,775		check on license #			
		Rasco	202,185		check to see if they'll perform all other			
		Rasco - Drinking Fountain	5,900					
		Splashpad USA	290,644	290,644		Incl in Base Bid	Incl in Base Bid	Incl in Base Bid
	MAXI SWEEP	1-HP	3,500					
<b>Div-26: Electrical</b>								
		CR Lighting	11,785	11,785				

7 March 2016

**Dave Harris**  
**EPG**

**Re: Midvale City Splashpad - Midvale, Utah**  
Construction Services Scope and Fee

---

Dave,

We are pleased to present this proposal for construction support services as a continuation of the engineering work now completed for the Midvale City Splash Pad.

We propose the following scope and services to be invoiced on a timecard basis up to the values given in the compensation section. As work progresses we will notify you if our time is approaching the allowance and seek for reasonable reconciliation.

- A. Construction Support Services Scope of Work:** CLOWARD H<sub>2</sub>O also will allocate the necessary resources to provide CA for the duration of construction, anticipated to start immediately and be completed by early May. Delays or change in the schedule may require additional services beyond the following allowances.
- **Permitting Assistance:** Up to ten (10) hours are included for assistance in the preparation of applications for permits and responding to comments from county Building and Health Departments.
  - **In-House Construction Support Services:** Up to twenty (20) hours are included for responding to RFI's, equipment submittal reviews, engineering coordination with other project team members, and minor modification of design to fit contractor's means and methods, construction schedule, or unique site conditions. Most effort will likely be concentrated near the start of construction and then again approaching startup.
  - **On-Site Reviews:** Site observation visits by our Sr. Engineer or Project Manager will be conducted at key points in the construction period to review the installation for conformance with the designs, coordinate with contractor to resolve questions or concerns, assist the project manager with assessment of completion, review materials and products data, and generally assist however possible. It is anticipated that three (3) on-site reviews will occur at the following milestones:
    - Pipe laid in trenches prior to backfilling to observe pressure testing
    - Early in mechanical room layout, prior to substantial plumbing completion
    - At about 90% completion of mechanical room piping and electrical.
  - **Startup and Commissioning Services:** Start-Up and Commissioning services include making final adjustments to the water features, mechanical systems, control and programming, and ensuring that electrical control and water treatment systems are running correctly and that the operators understand and are trained in their use and maintenance. It is anticipated that there will be one (1) visit for startup and commissioning.





# Document A133™ – 2009

## **Standard Form of Agreement Between Owner and Construction Manager as Constructor** where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

**AGREEMENT** made as of the 8th day of September in the year 2015  
*(In words, indicate day, month and year.)*

**BETWEEN** the Owner:  
*(Name, legal status and address)*

Midvale City  
7505 Holden Street  
Midvale, UT 84047

and the Construction Manager:  
*(Name, legal status and address)*

Hogan & Associates Construction, Inc.  
940 N. 1250 W.  
Centerville, UT 84014

for the following Project:  
*(Name and address or location)*

Midvale City Splash Pad  
Midvale City Park .

The Architect:  
*(Name, legal status and address)*

Logan Simpson, Inc.  
8 East Broadway, STE 300  
Salt Lake City, UT 84111

The Owner's Designated Representative:  
*(Name, address and other information)*

Phillip Hill  
7505 Holden Street  
Midvale, UT 84047

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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**User Notes:** (1196377715)

The Construction Manager's Designated Representative:  
*(Name, address and other information)*

Rob Birch  
Hogan & Associates Construction, Inc.  
940 N. 1250 W.  
Centerville, UT 84014

The Architect's Designated Representative:  
*(Name, address and other information)*

Jesse Bell  
8 East Broadway, STE 300  
Salt Lake City, UT 84111

The Owner and Construction Manager agree as follows.

Init.

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## TABLE OF ARTICLES

1	GENERAL PROVISIONS
2	CONSTRUCTION MANAGER'S RESPONSIBILITIES
3	OWNER'S RESPONSIBILITIES
4	COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
5	COMPENSATION FOR CONSTRUCTION PHASE SERVICES
6	COST OF THE WORK FOR CONSTRUCTION PHASE
7	PAYMENTS FOR CONSTRUCTION PHASE SERVICES
8	INSURANCE AND BONDS
9	DISPUTE RESOLUTION
10	TERMINATION OR SUSPENSION
11	MISCELLANEOUS PROVISIONS
12	SCOPE OF THE AGREEMENT

### ARTICLE 1 GENERAL PROVISIONS

#### § 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

#### § 1.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

#### § 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™–2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2007, which document is incorporated herein by reference. The term "Contractor" as used in A201–2007 shall mean the Construction Manager.

### ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and

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Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

### **§ 2.1 Preconstruction Phase**

**§ 2.1.1** The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

### **§ 2.1.2 Consultation**

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

**§ 2.1.3** When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

### **§ 2.1.4 Phased Construction**

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

### **§ 2.1.5 Preliminary Cost Estimates**

**§ 2.1.5.1** Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager suggest alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

**§ 2.1.5.2** As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

### **§ 2.1.6 Subcontractors and Suppliers**

The Construction Manager shall develop bidders' interest in the Project.

**§ 2.1.7** The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the

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establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

#### **§ 2.1.8 Extent of Responsibility**

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

#### **§ 2.1.9 Notices and Compliance with Laws**

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents.

#### **§ 2.2 Guaranteed Maximum Price Proposal and Contract Time**

**§ 2.2.1** At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

**§ 2.2.2** To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

**§ 2.2.3** The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

**§ 2.2.4** In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order.

**§ 2.2.5** The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

**§ 2.2.6** If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following

acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

### § 2.3 Construction Phase

#### § 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201–2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

#### § 2.3.2 Administration

§ 2.3.2.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager, (2) is qualified to perform that portion of the Work, and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

§ 2.3.2.5 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.3.2.6 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201–2007.

§ 2.3.2.7 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 2.3.2.8 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

#### § 2.4 Professional Services

Section 3.12.10 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

#### § 2.5 Hazardous Materials

Section 10.3 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

### ARTICLE 3 OWNER'S RESPONSIBILITIES

#### § 3.1 Information and Services Required of the Owner

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems sustainability and site requirements.

§ 3.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 3.1.4 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

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§ 3.1.4.1 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4.4 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

### § 3.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 **Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

### § 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B103™-2007, Standard Form of Agreement Between Owner and Architect, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

## ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

### § 4.1 Compensation

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2: *(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)*

\$10,000 per Exhibit A - Proposal letter dated July 22, 2015

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within two (2) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services on the Project and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

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**§ 4.2 Payments**

**§ 4.2.1** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

**§ 4.2.2** Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.  
*(Insert rate of monthly or annual interest agreed upon.)*

12 % Per Annum

**ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES**

**§ 5.1** For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

**§ 5.1.1** The Construction Manager's Fee:  
*(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)*

6% of the Cost of the Work per Exhibit A - Proposal letter dated July 22, 2015

**§ 5.1.2** The method of adjustment of the Construction Manager's Fee for changes in the Work:

Per Exhibit A - Proposal letter dated July 22, 2015

**§ 5.1.3** Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Per Exhibit A - Proposal letter dated July 22, 2015

**§ 5.1.4** Rental rates for Construction Manager-owned equipment shall not exceed One hundred percent ( 100 %) of the standard rate paid at the place of the Project.

**§ 5.1.5** Unit prices, if any:  
*(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)*

Item	Units and Limitations	Price per Unit (\$0.00)
None		

**§ 5.2 Guaranteed Maximum Price**

**§ 5.2.1** The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.  
*(Insert specific provisions if the Construction Manager is to participate in any savings.)*

All savings revert to Owner

**§ 5.2.2** The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

**§ 5.3 Changes in the Work**

**§ 5.3.1** The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The

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Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201–2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 5.3.3 In calculating adjustments to subcontracts (except those awarded with the Owner's prior consent on the basis of cost plus a fee), the terms "cost" and "fee" as used in Section 7.3.3.3 of AIA Document A201–2007 and the term "costs" as used in Section 7.3.7 of AIA Document A201–2007 shall have the meanings assigned to them in AIA Document A201–2007 and shall not be modified by Sections 5.1 and 5.2, Sections 6.1 through 6.7, and Section 6.8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201–2007 shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1.2 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

## ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

It is NOT the intent of this contract to have reimbursable accounts outside the scope of the GMP. All costs listed in Article 6 shall be included in the GMP. The Construction Manager will provide lump sum amounts for all work to be self performed per Section 2.3.2.

In the event that items of work are not covered by a specific subcontract or supplier bid, the CM/GC shall include in the GMP the fixed cost of his compensation to perform said work, to the extent that the work can be identified at the time. Any changes to the original scope of work after establishment of the GMP will be handled through the normal Change Order process.

### § 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

### § 6.2 Labor Costs

§ 6.2.1 Wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 6.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

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*(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)*

**§ 6.2.3** Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

**§ 6.2.4** Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3.

**§ 6.2.5** Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, with the Owner's prior approval.

**§ 6.3 Subcontract Costs**

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts.

**§ 6.4 Costs of Materials and Equipment Incorporated in the Completed Construction**

**§ 6.4.1** Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

**§ 6.4.2** Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

**§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items**

**§ 6.5.1** Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

**§ 6.5.2** Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Construction Manager-owned item may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

**§ 6.5.3** Costs of removal of debris from the site of the Work and its proper and legal disposal.

**§ 6.5.4** Costs of document reproductions, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

**§ 6.5.5** That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

**§ 6.5.6** Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

**§ 6.6 Miscellaneous Costs**

**§ 6.6.1** Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

**§ 6.6.2** Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Construction Manager is liable.

**§ 6.6.3** Fees and assessments for the building permit and for other permits, licenses and inspections for which the Construction Manager is required by the Contract Documents to pay.

**§ 6.6.4** Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

**§ 6.6.5** Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201-2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

**§ 6.6.6** Costs for electronic equipment and software, directly related to the Work with the Owner's prior approval.

**§ 6.6.7** Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

**§ 6.6.8** Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

**§ 6.6.9** Subject to the Owner's prior approval, expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work.

**§ 6.7 Other Costs and Emergencies**

**§ 6.7.1** Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

**§ 6.7.2** Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201-2007.

**§ 6.7.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Construction Manager and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

**§ 6.7.4** The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201-2007 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 6.8.

**§ 6.8 Costs Not To Be Reimbursed**

**§ 6.8.1** The Cost of the Work shall not include the items listed below:

Init.

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;
- .4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of the Construction Manager, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .8 Costs for services incurred during the Preconstruction Phase.

### § 6.9 Discounts, Rebates and Refunds

§ 6.9.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

### § 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

§ 6.10.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, the Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

### § 6.11 Accounting Records

The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

## ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

### § 7.1 Progress Payments

§ 7.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Construction Manager as provided below and elsewhere in the Contract Documents.

§ 7.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the last day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201-2007;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Construction Manager's Fee, less retainage of five percent (5%). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of five percent (5%) from that portion of the Work that the Construction Manager self-performs;

Init.

- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

§ 7.1.8 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 7.1.9 Except with the Owner's prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 7.1.10 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

## § 7.2 Final Payment

§ 7.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect.

The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201–2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201–2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201–2007. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

**ARTICLE 8 INSURANCE AND BONDS**

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201-2007.

*(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)*

Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)
Payment & Performance Bond	100 % of contract Amount
Liability Insurance	Per Exhibit B Certificate of Insurance

**ARTICLE 9 DISPUTE RESOLUTION**

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201-2007. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)*

- [ X ] Arbitration pursuant to Section 15.4 of AIA Document A201-2007
- [ ] Litigation in a court of competent jurisdiction
- [ ] Other: *(Specify)*

**§ 9.3 Initial Decision Maker**

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

**ARTICLE 10 TERMINATION OR SUSPENSION**

**§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price**

§ 10.1.1 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201-2007.

Init.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.

§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

#### § 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Section 10.2.1 and 10.2.2 below, the Contract may be terminated as provided in Article 14 of AIA Document A201-2007.

§ 10.2.1 If the Owner terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager pursuant to Sections 14.2 and 14.4 of A201-2007 shall not exceed the amount the Construction Manager would otherwise have received pursuant to Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.2 If the Construction Manager terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager under Section 14.1.3 of A201-2007 shall not exceed the amount the Construction Manager would otherwise have received under Sections 10.1.2 and 10.1.3 above, except that the Construction Manager's Fee shall be calculated as if the Work had been fully completed by the Construction Manager, utilizing as necessary a reasonable estimate of the Cost of the Work for Work not actually completed.

#### § 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007. In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA

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Document A201-2007, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

**ARTICLE 11 MISCELLANEOUS PROVISIONS**

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201-2007.

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.3 Governing Law

The Contract shall be governed by the law of the State of Utah and any action to enforce any provision of this contract shall be filed with the 3<sup>rd</sup> Judicial District Court in and for Salt Lake County, State of Utah.

§ 11.4 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201-2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions:

**ARTICLE 12 SCOPE OF THE AGREEMENT**

§ 12.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A133-2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A201-2007, General Conditions of the Contract for Construction

*(Paragraphs deleted)*

This Agreement is entered into as of the day and year first written above.

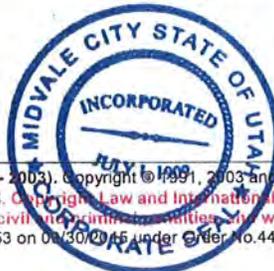
*John B. Seghini*  
OWNER (Signature)

*[Signature]*  
CONSTRUCTION MANAGER (Signature)

JoAnn B. Seghini  
*(Printed name and title)*

~~Dwight Packard Vice President~~  
*Bob Birch Project Manager*  
*(Printed name and title)*

Attest: *Shelly Reed*  
Deputy Recorder



Init.

## **Additions and Deletions Report for AIA® Document A133™ – 2009**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:50:53 on 09/30/2015.

### **PAGE 1**

AGREEMENT made as of the 8th day of September in the year 2015

...

Midvale City  
7505 Holden Street  
Midvale, UT 84047

...

Hogan & Associates Construction, Inc.  
940 N. 1250 W.  
Centerville, UT 84014

...

Midvale City Splash Pad  
Midvale City Park.

...

Logan Simpson, Inc.  
8 East Broadway, STE 300  
Salt Lake City, UT 84111

...

Phillip Hill  
7505 Holden Street  
Midvale, UT 84047

### **PAGE 2**

Rob Birch  
Hogan & Associates Construction, Inc.  
940 N. 1250 W.  
Centerville, UT 84014

...

Jesse Bell  
8 East Broadway, STE 300

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User Notes:

(1196377715)

Salt Lake City, UT 84111

PAGE 3

12 SCOPE OF THE AGREEMENT

EXHIBIT A — GUARANTEED MAXIMUM PRICE AMENDMENT

PAGE 4

§ 2.1.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager ~~suggests~~ suggest alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

PAGE 6

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the ~~agreed-upon~~ agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

...

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a ~~cost-plus~~ cost-plus a fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.

PAGE 7

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, ~~systems~~, systems sustainability and site requirements.

PAGE 8

The Owner shall retain an Architect to provide services, ~~duties~~, duties and responsibilities as described in AIA Document ~~B133™-2014~~, B103™-2007, Standard Form of Agreement Between Owner and Architect, ~~Construction Manager as Constructor Edition~~, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

...

\$10,000 per Exhibit A - Proposal letter dated July 22, 2015

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within two ( 2 ) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

PAGE 9

§ 4.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

...

12 % Per Annum

...

§ 5.1 For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current ~~funds~~ funds for the Construction Manager's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

...

6% of the Cost of the Work per Exhibit A - Proposal letter dated July 22, 2015

...

Per Exhibit A - Proposal letter dated July 22, 2015

...

Per Exhibit A - Proposal letter dated July 22, 2015

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed One hundred percent ( 100 %) of the standard rate paid at the place of the Project.

...

None

...

All savings revert to Owner

PAGE 10

It is NOT the intent of this contract to have reimbursable accounts outside the scope of the GMP. All costs listed in Article 6 shall be included in the GMP. The Construction Manager will provide lump sum amounts for all work to be self performed per Section 2.3.2.

In the event that items of work are not covered by a specific subcontract or supplier bid, the CM/GC shall include in the GMP the fixed cost of his compensation to perform said work, to the extent that the work can be identified at the time. Any changes to the original scope of work after establishment of the GMP will be handled through the normal Change Order process.

PAGE 14

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the last day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty ( 30 ) days after the Architect receives the Application for Payment.

...

- .3 Add the Construction Manager's Fee, less retainage of five percent ( 5 %). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of five percent ( 5 %) from that portion of the Work that the Construction Manager self-performs;

PAGE 16

<u>Payment &amp; Performance Bond</u>	<u>100 % of contract Amount</u>
<u>Liability Insurance</u>	<u>Per Exhibit B Certificate of Insurance</u>

...

[  ] Arbitration pursuant to Section 15.4 of AIA Document A201-2007

PAGE 18

~~Section 13.1 of A201-2007 shall apply to both the Preconstruction and Construction Phases. The Contract shall be governed by the law of the State of Utah and any action to enforce any provision of this contract shall be filed with the 3<sup>rd</sup> Judicial District Court in and for Salt Lake County, State of Utah.~~

...

- ~~.3 AIA Document E201™ 2007, Digital Data Protocol Exhibit, if completed, or the following:~~
- ~~.4 AIA Document E202™ 2008, Building Information Modeling Protocol Exhibit, if completed, or the following:~~
- ~~.5 Other documents:  
(List other documents, if any, forming part of the Agreement.)~~

...

Dwight Packard Vice President

## Certification of Document's Authenticity

AIA® Document D401™ – 2003

Rob Birch

I, ~~Dwight Packard~~, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:50:53 on 09/30/2015 under Order No. 4442713863\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

  
\_\_\_\_\_  
(Signed)

Project Manager  
\_\_\_\_\_  
(Title)

3/7/2016  
\_\_\_\_\_  
(Dated)



Hogan & Associates Construction, Inc.  
940 North 1250 West • Centerville, Utah 84014  
(801) 951.7000 • (801) 951.7100 fax  
www.hoganconstruction.com

July 22, 2015

City of Midvale  
Attn: Rori Andreason, City Recorder  
7505 South Holden Street  
Midvale, UT 84047

Re: Main Park Splash Pad - Fee Proposal

Dear Ms. Andreason and members of the selection committee,

We are pleased to provide this proposal for Construction Management services for the new Main Park Splash Pad per the terms of the RFP #03-2015.

For Pre-Construction Phase Services as described in the RFP, including one design estimate, bidding to subcontractors and preparation of Guaranteed Maximum Price proposal, our proposed fee is a lump sum of Ten Thousand Dollars (\$10,000.00).

For Construction Phase Services as described in the RFP, our proposed Construction Management Fee is 6% of the Cost of Construction. We anticipate this will be included in the GMP as a lump sum amount. Based on the published budget of \$400,000, the amount would be \$24,000. This fee includes overhead, profit, and home office support costs; it does not include any on-site costs.

We anticipate Performance and Payment Bonds will be required for this project. If required, the cost of these bonds adds 1% of the Contract Amount and we anticipate will be included in the GMP as part of the General Conditions line item. As is typical in the industry, we anticipate general conditions will include supervision labor, mobilization, temporary utilities, general cleanup labor and dumpsters, temporary fence, and other similar non-trade specific items, which will be presented as part of the total GMP.

Contractor Change Order Markup is proposed to be 5% for pass-through costs and 10% for self-performed work items.

We will work diligently to complete construction by the desired November 20, 2015 date listed in the RFP. However, given the potential start of construction in late fall and the unpredictable weather conditions, we cannot guarantee completion by this date.

We appreciate your consideration for this exciting project for the citizens of Midvale City, and hope to be selected to help you make this project to reality.

Respectfully,  
Hogan & Associates Construction, Inc.

Cristopher Hogan  
Executive Vice President





## MIDVALE CITY COUNCIL SUMMARY REPORT

Meeting Date: March 15, 2016

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**SUBJECT:** Lease Agreement for the Former Midvale Middle School Seminary Building with the Community Building Community (CBC)

**SUBMITTED BY:** Bob Davis, Public Works Director

**SUMMARY:**

The Canyons School District is in the process to demolishing and rebuilding the Midvale Middle School located at approximately 7900 South 400 West. The Church of Jesus Christ of Latter Day Saints has owned and operated a Seminary Building on an adjacent parcel in conjunction with the Middle School. The Church has decided to not use this Seminary Building in the future and has recently deeded ownership of it to Midvale City. The City has determined that a good use for the building would be to host programs for the Communities Building Communities program currently operating within Midvale City. These programs would include an education center and a community medical and dental clinic.

A Lease Agreement has been prepared that would allow the Communities Building Communities (CBC) to enter into a long term lease of the former Midvale Middle School Seminary Building, located at 328 West Wasatch Street, with Midvale City. The proposed Lease Agreement has been reviewed and approved by the City Attorney and is included for the Council's consideration.

**FISCAL IMPACT:** \$1 per year rental income.

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**STAFF'S RECOMMENDATION AND MOTION:** I move that we approve Resolution No. 2016-R-09 Authorizing the Mayor to enter into a Lease Agreement between Midvale City and Communities Building Communities (CBC) for the former Midvale Middle School Seminary Building located at 328 West Wasatch Street.

**Attachments:** Proposed Resolution  
Lease Agreement