

Staff Report All (CM 4-20-16)

Item #

3- Eagle Scout – Haden Henry did his Eagle Scout project at the Library, he built spacers to go on the book shelves behind the books.

4 – Appoint Animal Shelter Board Member – By policy of the animal shelter, we had to post this position as being available. It has been posted on our city web page for the last couple of weeks. We have had one person interested and recommend appointing Chief Brad James (who was the one person who showed interest). Sid Jorgensen has been on the board prior and has been released.

5 – New Library board Member – Treg Wilder would like to serve on the Library Board. It has been recommended by Kerry the Librarian. (Included is his application form).

6 – Salem Park Master Plan Development Agreement – After the combined work session with Planning/Zoning and Council, the development agreement was modified. Here is the draft that went to Planning and zoning along with their recommendation on it (noted in Red) (see attached)

7 – Resolution on Fire Department Ambulance Services – Back on November 5, 2014 the council passed a resolution allowing the ambulance fee's to be waived after insurance paid, for individuals and dependent family members who are on the ambulance crew. We feel we should do the same for the volunteer fire department. This resolution is for that (see attached).

8 – Food Truck Ordinance – This was on last council meeting, but was taken off because it still needed some modification. This is the new revised version. (See attached).

9 – Resolution on PI Rates - After discussion in last work session, this is the outcome of the PI rates. (see attached).

10 – Memorandum of Understanding between the Utah Division of Forestry, Fire, and state Lands and Salem Fire Department. - This is the agreement so we can help out with the wildland fires, it establishes the reimbursement and other items. Attached is the Memorandum.

**RESOLUTION No. 42016A**

ROLL CALL

<b>VOTING</b>	<b>YES</b>	<b>NO</b>
<b>RANDY A. BRAILSFORD</b> Mayor (votes only in case of tie)		
<b>CRISTY SIMONS</b> City Council member		
<b>SOREN CHRISTENSEN</b> City Council member		
<b>AARON D. CLOWARD</b> City Council member		
<b>STERLING M. REES</b> City Council member		
<b>CRAIG B. WARREN</b> City Council member		

I MOVE this resolution be adopted: \_\_\_\_\_  
City Council member

I SECOND the foregoing motion: \_\_\_\_\_  
City Council member

**RESOLUTION No. 42016A**

**A RESOLUTION APPOINTING CHIEF BRAD JAMES TO  
THE SOUTH UTAH VALLEY ANIMAL SHELTER BOARD**

WHEREAS, Salem City is a member of the South Utah Valley Animal Shelter  
(the Shelter); and

WHEREAS, as a member of the Shelter, it is entitled to have a member on the  
Board of the Shelter; and

WHEREAS, the Mayor has appointed and the Council has approved Chief Brad James to serve on the Board of the Shelter in its regularly scheduled council meeting held on the 20th day of April, 2016; and

NOW, THEREFORE, be it resolved by the Salem City Council as follows:

1. Salem City hereby appoints Chief Brad James, to represent it on the South Utah Valley Animal Shelter Board.

2. This resolution is effective immediately.

DATED this 20th day of April 2016.

\_\_\_\_\_  
RANDY A. BRAILSFORD, Mayor

Attest:

\_\_\_\_\_  
JEFFREY D. NIELSON, City Recorder

# DEVELOPMENT AGREEMENT FOR THE SALEM PARK MASTER PLANNED DEVELOPMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of the \_\_\_\_\_ day of April, 2016 by and between J. Lyne Roberts & Sons, Inc. and Utah Lifestyle Homes, Inc. as developers (hereinafter, Roberts or Developer) and Salem City, (hereinafter City), (together, the "Parties").

## RECITALS

A. WHEREAS, Roberts owns interest in 118 acres of property located at approximately 1800 North between Mill Road and Arrowhead Trail in Salem City (the Property), which Property is more particularly described in Exhibit A. Roberts desires to develop the Property into a master planned project known as Salem Park; and

B. WHEREAS, the Parties intend to enter into this Agreement to allow Roberts and City to agree on issues such as land use density, streetscape, amenities, utility infrastructure, and other development objectives prior to development of the Property in accordance with City's Master Planned Zone. This process will lead to an attractive community that functions in a way that will add quality of life to future residents while allowing City to provide municipal services in a cost effective and efficient manner and in accordance with the Salem City General Comprehensive Plan, applicable zoning ordinances, and Construction and Development Standards of City; and

C. WHEREAS, Roberts has assembled a management team, as required by the Master Planned Zone, consisting of Tyler Roberts, the owner's representative of J. Lyne Roberts & Sons, Scott Peterson of Atlas Engineering, Jim Whitmore of Utah Lifestyle Homes (the construction arm of Utah Lifestyle Homes, Inc.) , and Brandon Reed of Loftsixfour Landscape Architecture; and

D. WHEREAS, approval of this agreement does not grant subdivision approval, site plan approval, or approval of any building permit, or other land use activity regulated by Salem City ordinances. Roberts expressly acknowledges that nothing in this agreement shall be deemed to relieve Roberts from the obligation to comply with all applicable requirements of City necessary for approval and recordation of subdivision plats, nor does it limit the future exercise of the police power by City in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances, and regulations after the date of this agreement;

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants hereinafter set forth, the sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

## SECTION I. DEFINITIONS

Unless the context requires a different meaning, any term or phrase used in this Agreement shall have that meaning given to it by the Salem City Municipal Code in effect on the date hereof. In the event of a conflict in definitions, that definition which provides the most restrictive development latitude shall prevail.

- 1.1 **Buildout** means the completion of all of the development of the Property in accordance with this Agreement.
- 1.2 **City** means Salem City, Utah. In certain contexts, City may mean a representative authorized by position or the City council to make a decision.
- 1.3 **Concept Plan** means the overall plan design for the development, attached hereto as

Exhibit B.

- 1.4 **Construction and Development Standards** means the standards adopted by Salem City describing and defining the criteria to be met in developing a subdivision such as Salem Park.
- 1.5 **Developer** means J. Lyne Roberts & Sons, Inc. and Utah Lifestyle Homes, Inc. This term also incorporates successors or assigns to whom the rights and responsibilities of this agreement may be transferred.
- 1.6 **Project Owners** means J. Lyne Roberts & Sons, Inc. and Utah Lifestyle Homes, Inc. This term also incorporates successors or assigns to whom the rights and responsibilities of this agreement have been transferred.
- 1.7 **Project Area** means the property identified on Exhibit A, which is the location of the proposed Salem Park development.
- 1.8 **Exhibit** means all exhibits or attachments including subsets of exhibits. For example: Exhibit C means and includes Exhibit C1,C2, and C3.

## **SECTION II. GENERAL RIGHTS AND RESPONSIBILITIES**

### **2.1 General Rights and Responsibilities of Developer**

2.1.1 **Conditions of Approval and Impact Fees.** With respect to the development of the Project Area, Developer accepts and agrees to comply with the impact, connection, and building fees of City in effect at the time of assessment. City agrees and represents that any such fee schedule will be applied uniformly within the City or service area of the City, as applicable. In the event Developer is concerned with new impact fees, it has the option to obtain, at its expense, an alternate impact fee analysis to present to the Council. The Council's consideration and adoption of the alternate fees shall not be unreasonably withheld so long as the analysis complies with the Utah Impact Fees Act (Utah Code Ann. §11-36a-101 et seq.).

2.1.2 **Construction Mitigation.** Developer shall provide the following measures, all to the reasonable satisfaction of City, to mitigate the impact of construction within Project Area. Developer shall also adhere to the usual construction impact mitigation measures required by City, including the MS4 requirements as mandated by the State of Utah, as they may be amended from time to time. Additional reasonable site-specific mitigation measures may be required. The following measures shall be included in each application for development of any final plat:

A. Limits of disturbance, vegetation protection and the re-vegetation plan for all construction, including construction of public improvements;

B. Protection of existing infrastructure improvements from abuse or damage while new infrastructure improvements are being constructed;

C. Construction traffic routing plan to minimize traffic impacts as approved by City.

2.1.3 **Subsequent Applications Under Future Development Code.** Unless specifically modified herein, Development Standards existing at the time of each final plat approval, except for the layout and street cross sections, shall be followed for that plat.

2.1.4 **Phasing Plan.** The Project is divided into two sections, one dealing with single family homes on larger lots (Exhibit C-1) and one dealing with patio homes on small lots, townhomes, and condominiums (Exhibit C-2). The phasing for the single family homes is numbered (1-9), while the other section is lettered (A-G). The Phasing Plan for the Property is attached hereto as Exhibit C-1 and C-2. Developer may proceed to develop the phases in any order. Developer shall provide the infrastructure, open space, or other amenities as noted in the amenities section of this agreement during the construction of that phase which contains that amenity. Some amenities are not tied to a phase. The timing of those amenities will be completed as set forth in the amenities section, attached hereto as Exhibit C-3.

2.1.5 **Vesting.** Developer is vested with the zoning and density as shown on the preliminary plat so long as a final plat is approved by the DRC within three years of the most recently approved final plat. If economic circumstances occur that warrant a delay in development, Developer may request an extension from the Council for up to an additional two years, and such request shall not be unreasonably withheld.

2.1.6 **Design Guidelines.** The Design Guidelines, attached hereto as Exhibit Q, shall be followed in the construction of facilities and buildings, unless specific requirements in this agreement require a different standard.

## 2.2 **General Rights and Responsibilities of City**

2.2.1 **Reserved Legislative Powers.** This Agreement shall not limit the future exercise of the police powers of City to enact ordinances, standards, or rules regulating development or zoning.

2.2.2 **Compliance with City Requirements and Standards.** Developer expressly acknowledges that nothing in this Agreement shall be deemed to relieve it from its obligations to comply with all applicable requirements of City necessary for approval and recordation of subdivision plats and site plans for the Property in effect at the time of development approval, or re-approval in the event of expiration, including the payment of required fees, the approval of subdivision plats and site plans, the approval of building permits and construction permits, and compliance with all applicable ordinances, resolutions, policies, and procedures of City. Developer remains vested with the entire project as long as it records a final plat every three years.

2.3 **Recording.** City or Developer may cause this Agreement, or a notice concerning this Agreement, to be recorded with the Utah County Recorder.

## **SECTION III. SPECIFIC RIGHTS AND RESPONSIBILITIES**

### 3.1 **Municipal Utilities**

#### 3.1.1 **Obligations of Developer.**

3.1.1.1 **Installation and Design Criteria.** City provides the following utilities, which need to be brought to the Project by Developer, at no cost to City: Electric Power, Culinary Water, Pressurized Irrigation Water (**pipng and appurtenances within the subdivision only**), Sewer, and Storm Drain. Developer shall design, build and dedicate to City adequate delivery systems for each of these utilities according to City specifications and standards including all distribution lines, conduit, street lights, valving, fire hydrants, meters, and other required services to meet the needs for the Property. Improvements shall be upsized, if directed by the City Engineer to meet future needs of City utilities. Reimbursement for upsizing is set forth in the next section, under Obligations of City. All facilities necessary to provide adequate utility services installed by Developer to the Project Area, upon acceptance by the City, shall thereafter be owned, operated, and maintained by City, provided that any warranty periods as established by City ordinance shall be the responsibility of Developer.

3.1.1.2. **Utility Capacities.** Developer acknowledges and understands that City does not reserve utility or other infrastructure capacity until a final plat is submitted. Developer agrees that it is not vested with utility or infrastructure capacity until a final plat is submitted and that City may decline to approve any plat submitted if it determines that capacities do not exist. Developer acknowledges and understands that utility and infrastructure capacity is determined on a first come basis, based upon the submission of a final plat. Notwithstanding the foregoing, Developer has provided, with this Project, an electric substation, main water line, and a sewer lift station. Developer is vested with capacity in those facilities for the Salem Park Development Project.

3.1.1.3 **Easements.** Developer shall obtain and grant to City, at no cost to City, all easements necessary for the installation, operation, maintenance, and replacement of all City utilities, located within or without the Property as City determines to be necessary to adequately and properly serve the Property.

3.1.1.4 **Master Plan Utility Infrastructure Sizing.** Developer shall design, build and dedicate to City the utility infrastructure according to utility master plans and City Construction and Development Standards.

3.1.1.5 **Satisfaction of Water Rights Requirement.** Developer hereby asserts that it has read and is familiar with Salem City Municipal Code §13-2-110 and hereby agrees that prior to recording of a final plat he shall dedicate water rights to City, or otherwise comply with the provisions of the City Code. Developer and the engineer for City will work together to determine the amount of outdoor water to be transferred to meet the needs of the townhome and condominium units. If the standard for the amount of water changes, either up or down, Developer will transfer the amount of water required by the standard in effect at the time of final plat approval. The amount of residential equivalent uses for the outdoor use and the commercial uses will be calculated by the City Engineer and Developer notified prior to recordation of any final plat. City shall not be required to approve any plat, or issue any building permit, until the requirements of the referenced ordinance are fully satisfied. To the extent that water rights are transferred to City prior to plat approval, a credit for the water rights shall be granted when the applicable lots are approved. Water dedication agreements are acceptable for Strawberry Water in lieu of actual transfer. Cash in lieu of water transfers are acceptable only if City accepts cash in lieu at the time a transfer is required.

### 3.1.2 **Obligations of City.**

3.1.2.1 **City Service Obligations.** Upon the dedication and acceptance by City of the utility infrastructure, satisfaction of the water rights requirements (as outlined in section 3.1.1.5), and payment of impact fees, connection fees, and any other applicable fees by Developer, City shall provide all of the Property served by such infrastructure with utility service at a level generally provided to other areas of the City.

### 3.1.2.2 **Reimbursement.**

A. The cost of the culinary water, pressurized irrigation water, electric power, sewer, or storm drain infrastructure, except as set forth hereafter, shall be borne by Developer without reimbursement. Reimbursement for the costs incurred, above the minimum line sizes required by the City Engineer to service the Property with those utilities identified, shall be made to Developer. The minimum sizes required to service the Property will be determined by the City Engineer at the time of final plat approval, when all grades and other factors which affect size are fully known. These reimbursements shall come from impact fees or connector's agreements. A separate agreement shall be entered when the actual cost of those improvements is known. City has the sole discretion to determine the method and timing of reimbursements from impact fee accounts, which will be detailed in the separate agreement. The separate agreement shall commence payments within one year of its approval, and provide for either quarterly or

annual payments. Reimbursement shall be on a pro-rata basis, based upon the impact fee analysis for the applicable utility, and as determined by the City Engineer.

B. In addition to the reimbursements to be made from impact fees, as set forth in paragraph A, Developer shall be entitled to connector's agreements consistent with City's ordinances and policies concerning connector's agreements.

## 3.2 Amenities and Other Improvements

3.2.1 **Developer Obligations.** Developer agrees to provide the following transportation and traffic mitigation measures which are intended to reduce the traffic impact anticipated by the project.

3.2.1.1 **Street Dedication and Improvements.** Developer agrees to dedicate adequate property for a sixty-six (66) foot wide street right-of-way in the single family phases and to complete the street improvements when those phases are constructed. Developer agrees to dedicate adequate property for a fifty-six (56) foot wide right-of-way in the patio homes phases and to complete the street improvements when those phases are constructed. No overnight parking will be allowed on the fifty-six (56) foot wide streets. Streets and parking areas in the townhome and condominium phases are private, but shall be constructed during the phase they are located in. Developer shall dedicate sufficient property to ~~widen make~~ Arrowhead Trail and Mill Road \_\_\_\_\_foot wide rights-of-way to match appropriate construction standards, as determined by Salem City or Utah County as the case may be, and to complete those improvements during the first phase to which they are adjacent to. ~~The cross-sections shown in the packet of exhibits are conceptual and actual cross-sections will be determined during the preliminary/final plat approval.~~

3.2.1.2 **Condominium Areas.** The interior parking areas and access thereto shall be private. Developer shall create a home owner's association, or other similar entity, to maintain, repair, and replace such areas. Developer shall grant a public utility easement around the perimeter of the Property and through the Property, as deemed necessary by the City Engineer.

3.2.1.3 **Amenities.** Developer will provide 22.68 acres of landscaped open space, which includes areas located within park strip planters and trails in the streets rights-of-way, as shown on the concept plan attached hereto as Exhibit B. The patio homes shall be fully landscaped. ~~The general landscape plan is attached as Exhibit D.~~ Landscaping shall comply with the detailed plan ~~included with the final plat approved by Salem City attached hereto as Exhibit D.~~ Complete landscaping, consistent with ~~the approved landscape plan Exhibit D,~~ shall be completed within each phase as shown on the phasing plan, attached as Exhibit C. All landscaping is to include hydro-seed grass or sod with automatic sprinklers and trees and shrubs as shown on ~~the approved landscape plan Exhibit D.~~ In addition to the landscaped open space, Developer will provide 0.84 acres of bird habitat with nesting boxes and 32.18 acres of unimproved open space, much of which is wetlands. The landscaped open space will be dedicated to City. The wetlands open space and bird habitat will be private and owned by Developer or an HOA. A two rail, non-white, vinyl fence (or equivalent approved by the DRC) shall be constructed between the wetlands open space and adjacent lots. The fence shall be constructed with the phase containing the adjacent lots.

Developer will provide two car garages for the townhomes. Developer will further provide an additional 78 parking spaces for residents and guests, which also includes driveways, except for shared driveways. All parking spaces are to have an asphalt surface, except for driveways, which may be asphalt or concrete. The condominiums shall have 96 covered parking spaces under the buildings, which are for private use by the residents. Developer will further provide an additional 130 uncovered spaces for use by residents and guests. Parking areas will be constructed during the phase in which they are located.

The townhomes will have a full hard surface front on all of the units, such as brick, stucco, hardi-plank, or rock, with pop outs, bay windows, and off-setting rooflines. Shingles are to be architectural grade, asphalt shingles. Townhomes will meet the architectural style shown on Exhibit E.

The condominiums will have a full hard surface front on all of the units, such as brick, stucco, hardi-plank, or rock, with pop outs, and bay windows as shown on Exhibit F. Shingles are to be architectural grade, asphalt shingles. A clubhouse is included with the condominiums with a minimum size of eighty (80) feet by forty (40) feet, and which contains, at a minimum, an indoor pool, **restrooms, changing room,** and meeting room. The clubhouse and pool elevations are shown on Exhibit P. The clubhouse shall be constructed of the same materials as the condominiums and shall meet the same architectural style. No occupancy permits will be granted in the second **condominium building phase** until the clubhouse, **tot lot, and landscaping are** is constructed. **The clubhouse, tot lot, and landscaping shall be bonded for with the final plat for the second condominium building.**

The patio homes will have a full hard surface front on all of the units, such as brick, stucco, hardi-plank, or rock, with pop outs, bay windows, and other features as shown on Exhibit G. Asphalt shingles are to be architectural grade.

A pavilion will be constructed in Park A as shown on Exhibit H. It shall be forty-four (44) feet by twenty (20) feet and contain mens and womens restrooms. It shall match, in style and materials, the photo shown as Exhibit H. It shall contain a parking lot containing **twenty-nine** ~~thirty-one~~ (29~~31~~) spaces. Due to the initial single family phases being already constructed, it shall be bonded for and constructed with the next phase of single family homes. The pavilion **and Park "A" landscaping and improvements** ~~itself~~ shall be bonded for and constructed with the phase of single family homes following construction of the parking lot.

Trails will be constructed throughout the Project, as shown on Exhibit B. Trails within phases shall be constructed with that phase. The trail connecting the two sections of the Project shall be bonded for and constructed with the first phase of patio homes. Trails are to have lighting in the locations **approved by City during final plat approval** ~~shown on Exhibit C.~~ The trails cross section and lighting standards are shown on Exhibit O.

A large tot lot, of commercial quality (to be approved by the City recreation director) and matching Exhibit I shall be constructed on Park A, adjacent to the pavilion. It shall be bonded for and constructed with the **next phase of single family homes following approval of this Agreement.** ~~first to be constructed of Phases 6, 7, 8, or 9.~~ A small tot lot, of commercial quality (to be approved by the City recreation director) and matching Exhibit J shall be constructed on Park B. It shall be bonded for and constructed with Phase D, but no later than the fourth phase of the lettered phases.

**Mass grading of Parks B, C, and D shall be completed with the fifth phase of construction following approval of this Agreement, regardless of a numbered or lettered phase and as described in Exhibit C.**

Each landscaped open area (Parks A, B, and C) shall have a minimum of one park bench located thereon. The park bench shall be of concrete construction (or equivalent substitute as approved by the City recreation director). The bench shall be in close proximity to the trail traversing the areas.

A masonry wall is to be constructed in the location shown on Exhibit C. It will match the style and quality shown on Exhibit K. **The wall colors on Arrowhead Trail and Mill Road do not need to match.** A vinyl fence is to be constructed in the location on Exhibit C. It will match the style and quality shown on Exhibit L.

A monument entrance sign will be constructed in the location shown on Exhibit C. It will match the style and quality shown on Exhibit M.

Bridges will be constructed throughout the wetlands in the locations shown on Exhibit C. They will match the style and quality shown on Exhibit N. The guardrails shall be constructed of wrought iron coated with a rust resistant substance.

Other amenities shown on Exhibit C shall be constructed in the sequence shown.

#### SECTION IV. GENERAL PROVISIONS

4.1 **Covenants Running with the Land.** The provisions of this Agreement shall constitute real covenants, contract and property rights, and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits hereof shall bind and inure to the benefit of each of the Parties hereto and all successors in interest to the Parties hereto. Future lot owners in the Project are not third party beneficiaries of this Agreement.

4.2 **Transfer of Property.** Developer shall have the right, with City's consent, to assign or transfer all or any portion of its rights and obligations under this Agreement to any party acquiring an interest or estate in the Property or any portion thereof, except as specifically set forth below. City may not unreasonably withhold its consent to such assignment. Developer shall provide written notice of any proposed or completed assignment or transfer. Unless City objects in writing within thirty (30) days, City shall be deemed to have approved of and consented to the assignment. In the event of an assignment, the transferee shall succeed to all of Developer's rights under this Agreement.

4.3 **No Agency, Joint Venture or Partnership.** It is specifically understood and agreed to by and among the Parties that: (i) the Salem Park project is a private development; (ii) City and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership among City and Developer; and (iii) nothing contained herein shall be construed as creating any such relationship.

4.4 **Consent.** In the event this Agreement provides for consent from City or Developer, such consent shall be deemed to be given thirty (30) days after consent is requested in writing in the event no response to the request is received within that period. All requests for consent shall be made in writing, and in no event shall consent be unreasonably withheld or delayed.

4.5 **Legal Challenges.** In the event that any third person challenges this Agreement or the development contemplated herein, Developer agrees to accept responsibility for all legal fees, including attorney's fees, expert witness expenses, and/or court costs incurred by City in defending this Agreement. City shall not be required to make any impact fee reimbursements contemplated herein if the source of impact fee funds for such reimbursements are held invalid, illegal, void, or otherwise unenforceable.

#### SECTION V. MISCELLANEOUS

5.1 **Incorporation of Exhibits and Headings.** All Exhibits referred to or attached hereto are hereby incorporated into this Agreement as if fully set forth herein. The headings to the various paragraphs and sections are for assistance in locating contract provisions, but are not to be considered part of the contract provisions.

5.2 **Other Miscellaneous Terms.** The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive.

5.3 **Severability.** If any provision of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

5.4 **Construction.** This Agreement has been reviewed and revised by legal counsel for each of the Parties and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

5.5 **Further Assurances, Documents, and Acts.** Each of the Parties agrees to cooperate in good faith with the other, and to execute and deliver such further documents, and to take all further acts reasonably necessary in order to carry out the intent and purposes of this Agreement and the actions contemplated hereby. All provisions and requirements of this Agreement shall be carried out by each party as allowed by law.

5.6 **Assignment.** Neither this Agreement nor any of the provisions, terms, or conditions hereof can be assigned by the Developer to any other party, individual or entity without assigning the rights as well as the obligations under this Agreement. The rights of the City under this Agreement shall not be assigned.

5.7 **Governing Law, and Dispute Resolution, and Attorney's Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

5.8 **Mediation.** Any and all disputes arising out of or related to this Agreement or the Parties performance hereunder shall be submitted to mediation before a mutually acceptable mediator prior to initiation of litigation. The parties shall: (i) mediate in good faith; (ii) exchange all documents which either believes to be relevant and material to the issue(s) in dispute; and; (iii) engage and cooperate in such further discovery as the parties agree or mediator suggests may be necessary to facilitate effective mediation. Mediator, venue, and related costs shall be shared equally by the Parties. Venue of the mediation shall be in Utah County. In the event the Parties are unable to agree upon a mediator, the mediator shall be appointed from an approved mediator list provided by the Utah State Bar Association with specialized knowledge of land use and municipal law. The appointment shall take place pursuant to the guidelines set forth by the Utah State Bar. This provision shall be specifically enforceable according to its terms, including but not limited to an action to compel mediation.

5.9 **Attorney's Fees.** If any Party hereto is required to engage the services of counsel by reason of the default of another Party, the non-defaulting Party shall be entitled to receive its costs and reasonable attorneys' fees, both before and after judgment and whether or not suit be filed. Said costs and attorneys' fees shall include, without limitation, costs and attorneys' fees incurred in any appeal and in any proceedings under any present or future federal bankruptcy act or state receivership act.

5.10 **Notices.** Any notice or communication required hereunder between the Parties must be in writing, and may be given either personally or by certified mail, return receipt requested. If given by certified mail, the same shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice is given when delivered to the party to whom it is addressed. Any Party hereto may at any time, by giving ten (10) days written notice to other Parties hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at the addresses set forth below:

If to City to:  
SALEM CITY  
Attn: City Mayor  
30 W. 100 S.  
P.O. Box 901  
Salem, Utah 84653

With a copy to:  
S. Junior Baker  
Salem City Attorney  
40 S. Main  
Spanish Fork, Utah 84660

If to J. Lyne Roberts & Sons, Inc. to:  
J. Lyne Roberts & Sons, Inc.  
Attn: Tyler Roberts  
2705 N. 550 E.  
Provo, Ut 84604

With a copy to:

Utah Lifestyle Homes, Inc.  
Attn: Jim Whitmore  
143 E. Salem Park Circle  
Salem, Utah 84653

5.11 **Exhibits.** The following exhibits are attached to this Agreement and incorporated herein for all purposes:

Exhibit A	Legal description and map of the Property
Exhibit B	Overall Concept Plan
Exhibit C	Phasing Plan
Exhibit D	Landscape Plan
Exhibit E	Townhome Elevation (rendering/pictures)
Exhibit F	Condominium Elevation (rendering/pictures)
Exhibit G	Patio Home Elevation (rendering/pictures)
Exhibit H	Park Pavilion Elevation (rendering/pictures)
Exhibit I	Large Tot Lot (standards/pictures)
Exhibit J	Small Tot Lot (standards/pictures)
Exhibit K	Masonry Wall Standards and Picture
Exhibit L	Vinyl Fencing Standards and Picture
Exhibit M	Monument Entrance Sign
Exhibit N	Bridges
Exhibit O	Trails Cross-section and Lighting Standards
Exhibit P	Clubhouse and Pool Elevation (rendering/pictures)
Exhibit Q	Design Guidelines

IN WITNESS WHEREOF, this Agreement has been executed by the Parties, by persons duly authorized to execute the same and by Salem City, acting by and through its City Council as of the \_\_\_\_ day of \_\_\_\_\_, 2016.

**SALEM CITY** by:

\_\_\_\_\_  
Randy A. Brailsford, Mayor

Attest:

\_\_\_\_\_  
Jeffrey D. Nielson, City Recorder

**J. LYNE ROBERTS & SONS, Inc.** by:

\_\_\_\_\_  
Tyler Roberts, President

**UTAH LIFESTYLE HOMES, Inc.** by:

\_\_\_\_\_  
Jim Whitmore, President

# RESOLUTION NO. 42016C

## ROLL CALL

VOTING	YES	NO
<b>RANDY A. BRAILSFORD</b> <i>(Mayor, votes only in case of tie)</i>		
<b>SOREN CHRISTENSEN</b> <i>Council member</i>		
<b>AARON D. CLOWARD</b> <i>Council member</i>		
<b>STERLING M. REES</b> <i>Council member</i>		
<b>CRISTY SIMONS</b> <i>Council member</i>		
<b>CRAIG B. WARREN</b> <i>Council member</i>		

I MOVE this ordinance be adopted: Council member

I SECOND the foregoing motion: Council member

## RESOLUTION # 42016C

### A RESOLUTION AMENDING RESIDENTIAL PRESSURE IRRIGATION WATER RATES

WHEREAS, Salem City provides outdoor water through a pressure irrigation system; and

WHEREAS, there are a wide variety of lot sizes in Salem, but the cost for pressure irrigation water has been set at the same rate for all lot sizes; and

WHEREAS, it would be more equitable to create rates for the different lot sizes so residents with smaller lots are not subsidizing those with larger lots; and

WHEREAS, until the City decides to meter the pressure irrigation water so actual usage can be billed, it is fair and reasonable to charge pressure irrigation water rates based on various lot sizes;

NOW THEREFORE, be it resolved by the Salem City Council as follows:

1. Each residential lot in the City shall be assessed a base rate for pressure irrigation

water based on the size of the meter. A one inch meter shall be twenty-five dollars (\$25.00) per month. A one and one-half inch meter shall be thirty-five dollars (\$35.00) per month. A two inch meter shall be forty-five dollars (445.00) per month.

2. In addition to the base rate, each lot shall be assessed a monthly usage rate based on lot size as follows:

<u>Lot Size</u>	<u>Rate</u>
0 to 10,890 square feet (up to 1/4 acre)	\$ 4.00
10,891 to 14,520 square feet (1/4 to 1/3 acre)	\$ 5.00
14,521 to 21,780 square feet (1/3 to 1/2 acre)	\$ 7.00
21,781 to 32,670 square feet (1/2 to 3/4 acre)	\$11.00
32,671 to 43,560 square feet (3/4 to 1 acre)	\$14.00
43,561 to 57,935 square feet (1 to 1.33 acres)	\$19.00
57,936 to 65,340 square feet (1.33 to 1.5 acres)	\$21.00
65,341 to 87,120 square feet (1.3 to 2 acres)	\$28.00
over 87,120 square feet (over 2 acres)	\$35.00

3. The total rate, combining both base for a one inch meter and usage is represented by the following table:

<u>Lot Size</u>	<u>Usage</u>	<u>Base</u>	<u>Total Rate</u>
0 to 10,890 square feet	\$4.00	\$25.00	\$29.00
10,891 to 14,520 square feet	\$5.00	\$25.00	\$30.00
14,521 to 21,780 square feet	\$7.00	\$25.00	\$32.00
21,781 to 32,670 square feet	\$11.00	\$25.00	\$36.00
32,671 to 43,560 square feet	\$14.00	\$25.00	\$39.00
43,561 to 57,935 square feet	\$19.00	\$25.00	\$44.00
57,936 to 65,340 square feet	\$21.00	\$25.00	\$46.00
65,341 to 87,120 square feet	\$28.00	\$25.00	\$53.00
over 87,120 square feet	\$35.00	\$25.00	\$60.00

4. The total rate, combining both base for a one and one-half inch meter and usage is represented by the following table:

<u>Lot Size</u>	<u>Usage</u>	<u>Base</u>	<u>Total Rate</u>
0 to 10,890 square feet	\$4.00	\$35.00	\$39.00
10,891 to 14,520 square feet	\$5.00	\$35.00	\$40.00
14,521 to 21,780 square feet	\$7.00	\$35.00	\$42.00
21,781 to 32,670 square feet	\$11.00	\$35.00	\$46.00
32,671 to 43,560 square feet	\$14.00	\$35.00	\$49.00
43,561 to 57,935 square feet	\$19.00	\$35.00	\$54.00

57,936 to 65,340 square feet	\$21.00	\$35.00	\$56.00
65,341 to 87,120 square feet	\$28.00	\$35.00	\$63.00
over 87,120 square feet	\$35.00	\$35.00	\$70.00

5. The total rate, combining both base for a two inch meter and usage is represented by the following table:

<u>Lot Size</u>	<u>Usage</u>	<u>Base</u>	<u>Total Rate</u>
0 to 10,890 square feet	\$4.00	\$45.00	\$49.00
10,891 to 14,520 square feet	\$5.00	\$45.00	\$50.00
14,521 to 21,780 square feet	\$7.00	\$45.00	\$52.00
21,781 to 32,670 square feet	\$11.00	\$45.00	\$56.00
32,671 to 43,560 square feet	\$14.00	\$45.00	\$59.00
43,561 to 57,935 square feet	\$19.00	\$45.00	\$64.00
57,936 to 65,340 square feet	\$21.00	\$45.00	\$66.00
65,341 to 87,120 square feet	\$28.00	\$45.00	\$73.00
over 87,120 square feet	\$35.00	\$45.00	\$80.00

6. Schools, churches, multi-family residential buildings, and other large users shall pay a monthly base rate of \$25.00 plus a usage rate of \$25.00 per month per residential equivalent (10,000 square feet of irrigation surface).
7. The rates, both base and usage, shall be applied on a monthly basis year around.
8. This resolution is effective immediately upon passage.

DATED this 20<sup>th</sup> day of April, 2016.

\_\_\_\_\_  
RANDY A. BRAILSFORD, Mayor

Attest:

\_\_\_\_\_  
JEFFERY D. NIELSON, City Recorder

# ORDINANCE NO. 42016

## ROLL CALL

VOTING	YES	NO
<b>RANDY A. BRAILSFORD</b> <i>Mayor (votes only in case of tie)</i>		
<b>SOREN CHRISTENSEN</b> <i>Council member</i>		
<b>AARON D. CLOWARD</b> <i>Council member</i>		
<b>STERLING REES</b> <i>Council member</i>		
<b>CRISTY SIMONS</b> <i>Council member</i>		
<b>CRAIG B. WARREN</b> <i>Council member</i>		

I MOVE this ordinance be adopted:

I SECOND the foregoing motion

## ORDINANCE No. 42016

### AN ORDINANCE AMENDING BUSINESS LICENSE REGULATIONS CONCERNING MOBILE FOOD VENDORS

WHEREAS, SALEM City has adopted an ordinance regulating businesses and requiring business licenses; and

WHEREAS, the current ordinance combines all itinerant merchants into one section; and

WHEREAS, requests for licensing from mobile food vendors has been made; and

WHEREAS, separating mobile food vendors from other itinerant merchants has the support of the Chamber of Commerce and would benefit the residents of the community;

NOW THEREFORE, be it ordained and enacted by the Salem City Council as follows:

**I.**

Salem City Municipal Code §6-1-010 “Definitions” is hereby amended to add a definition of mobile food vendor as follows:

**6-1-010**      **Definitions**

“Mobile Food Vendor” means any business which sells edible goods from a non-stationary location within the City. The term shall include, but not be limited to:

Mobile food trucks: a self-contained motorized vehicle selling food items;

Concession carts: mobile vending units selling food items that must be moved by non-motorized means;

Concession trailers: a vending unit selling food items which is pulled by a motorized unit and has no power to move on its own.

**II.**

Salem City Municipal Code §6-1-110(A), Fee Schedule, is hereby amended as follows:

**6-1-110.**      **Fee Schedule.**

- A. Each business, trade, calling, profession, itinerant merchant, solicitor, canvasser, mobile food vendor, or other entity engaged in business in Salem City shall pay an annual license fee of \$50.00.

**III.**

Salem City Municipal Code Title 6, Chapter 11 “Mobile Food Vendors” is hereby created as follows:

**CHAPTER 11 – MOBILE FOOD VENDORS**

**6-11-010**      **Conditions and Requirements**

**6-11-020**      **Restrictions**

**6-11-030**      **Conditions for Operating at City Facilities**

**6-11-040**      **Violation**

**6-11-010**      **Conditions and Requirements**

A mobile food vendor business license shall be required for each mobile food truck, concession cart, concession trailer, or other mobile vending unit. A mobile food vendor license

is subject to the following criteria:

1. The nature, location, and manner of operation of the activity does not constitute a health or safety hazard to the public.
2. The mobile food vendor has permission from the property owner where the foods are to be sold.
3. Workers preparing food for immediate consumption, whether on premises, or “to go” must have a valid food handlers permit issued by the Utah County Health Department.
4. The sales must be located in a public facilities, commercial or industrial zoning district. Home deliveries are also allowed in any residential zone.
5. The use does not interfere with pedestrian access-ways, fire lanes, driveways, or traffic visibility.
6. Parking on the property is adequate to serve any existing permanent uses and the proposed mobile food vendor use.
7. No mobile food vendor license shall be issued or valid during the period of the Salem Days celebration.
8. The mobile food vendor license is on display during operating hours.

**6-11-020      Restrictions**

Concession and booth permits for the Salem Days celebration shall be limited to the number established by the City Council/Salem Days Committee. The cost of concession and booth permits shall be in the amounts set by the City Council/Salem Days Committee. No person shall operate concessions or booths during Salem Days without a permit issued by the City. Any person violating the provisions of this paragraph is guilty of a class C misdemeanor.

**6-11-030      Conditions for Operating at City Facilities**

A mobile food vendor may locate and operate from City properties under the following conditions:

1. Activities at a specific location are limited to forty-eight (48) hours.
2. The City Recreation Director has approved and signed a permit for the date(s) and location.

**6-11-040      Violation**

A mobile food vendor operating without a mobile food vendor license, or in violation of any of the provisions of this Chapter, shall be guilty of a class C misdemeanor.

**IV.**

This Ordinance shall become effective 20 days after passage and publication.

PASSED AND ORDERED PUBLISHED BY THE CITY COUNCIL OF SALEM,  
UTAH, this 20th day of April, 2016.

\_\_\_\_\_  
RANDY A. BRAILSFORD, Mayor

Attest:

\_\_\_\_\_  
Jeffrey D. Nielson, City Recorder

**AFFIDAVIT OF POSTING**

JEFFREY D. NIELSON, being first duly sworn, deposes and says that he is the  
duly appointed and qualified recorder of the City of Salem, a Municipal Corporation of the State  
of Utah, and that on the \_\_\_\_ day of April, 2016 he posted a true and correct copy of Ordinance  
No. \_\_\_\_\_ as enacted by Salem City Council on the 20th day of April, 2016 said posting  
being made at the City Offices, at the United States Post Office, and at the Salem City Library,  
all being public places and located within the City Limits of Salem, Utah County, Utah.

DATED this \_\_\_\_ day of April, 2016

\_\_\_\_\_  
JEFFREY D. NIELSON, City Recorder

STATE OF UTAH    )  
                          : ss  
COUNTY OF UTAH )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of April, 2016, by Jeffrey  
D. Nielson.

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

# RESOLUTION NO. 42016B

## ROLL CALL

VOTING	YES	NO
<b>RANDY A. BRAILSFORD</b> <i>(Mayor, votes only in case of tie)</i>		
<b>SOREN CHRISTENSEN</b> <i>Council member</i>		
<b>AARON D. CLOWARD</b> <i>Council member</i>		
<b>STERLING M. REES</b> <i>Council member</i>		
<b>CRISTY SIMONS</b> <i>Council member</i>		
<b>CRAIG B. WARREN</b> <i>Council member</i>		

I MOVE this ordinance be adopted: Council member

I SECOND the foregoing motion: Council member

## RESOLUTION # 42016B

### A RESOLUTION ESTABLISHING A POLICY CONCERNING AMBULANCE CHARGES FOR SEMA AND FIRE FIGHTER MEMBERS

WHEREAS, Salem City has a volunteer ambulance department entitled Salem Emergency Medical Association, known as SEMA; and

WHEREAS, Salem City has a volunteer fire department; and

WHEREAS, many of the fire department and SEMA members devote large amounts of time in training for and responding to medical emergencies, providing an invaluable service to the residents of the City; and

WHEREAS, it is fair and equitable that ambulance charges, above insurance coverage, for fire department and SEMA members be waived in return for their volunteer service;

NOW THEREFORE, be it resolved by the Salem City Council as follows:

1. Ambulance charges, above any amounts covered by insurance, for fire department or SEMA volunteers, their spouses, and dependent children are waived.
2. This resolution is effective immediately upon passage.

DATED this 20<sup>th</sup> day of April, 2016.

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RANDY A. BRAILSFORD, Mayor

Attest:

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JEFFERY D. NIELSON, City Recorder