

# **REGULAR MEETING**

**AGENDA  
AND  
STAFF MEMO**

**HEBER CITY CORPORATION**  
**75 North Main Street**  
**Heber City, UT 84032**  
**City Council Regular Meeting**  
**June 1, 2017**

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

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

- I.** Call to Order
- II.** Pledge of Allegiance: Council Member Heidi Franco
- III.** Prayer/Thought: By Invitation (Default Council Member Ronald Crittenden)
- IV.** Minutes for Approval: Draft February 16, 2017 Regular Meeting; and May 4, 2017 Regular Meeting
- V.** Open Period for Public Comments
  - 1.** 2017-2018 Fiscal Year Budget Workshop
  - 2.** Wes Bingham, Presentation of Quarterly Financial Report for the Period Ending March 31, 2017
  - 3.** Art City Investments LLC's, Request for Subdivision Preliminary Approval of The Village on 12th Located at 730 East 1200 South and Associated Developer's Agreement
  - 4.** Ordinance 2017-20, an Ordinance Amending Heber City Municipal Code Section 18.52.050, Section 18.56.050, Section 18.60.050, and Section 18.64.050 Setbacks, Section 18.68.060 Accessory Building, Lot Coverage Restricted, Section 18.68.070 Accessory Building, Habitation Prohibited, and Adoption of Section 18.68.075 Shipping Containers
  - 5.** WSI Wasatch Properties, Requests for an Approval for Midway Lane Commercial Center Small Subdivision Located at 895 West 100 South and associated Developer's Agreement

6. Presentation of the Draft Airport Minimum Standards
7. Approval of 2017 - 2018 Heber City Airport Capital Improvement Plan (CIP)
8. Reconsideration of the Airport Advisory Board's Recommendation to Rescind the Airport Manager's Directive Banning Vehicles from the FBO Ramp
9. Report on Community Impact Board (CIB) Loan Approval
10. Discussion Regarding Utah State Ombudsman's Advisory Opinion
11. Consideration of Closed Meeting Pursuant to Utah Code Annotated §52-4-205

## VI. Adjournment

Ordinance 2006-05 allows Heber City Council Members to participate in meetings via telecommunications media.

In accordance with the Americans with Disabilities Act, those needing special accommodations during this meeting or who are non-English speaking should contact Michelle Vest at the Heber City Offices (435) 654-0757 at least eight hours prior to the meeting.

Posted on May 25, 2017, in the Heber City Municipal Building located at 75 North Main, Wasatch County Building, Wasatch County Community Development Building, Wasatch County Library, on the Heber City Website at [www.ci.heber.ut.us](http://www.ci.heber.ut.us), and on the Utah Public Notice Website at <http://pmn.utah.gov>. Notice provided to the Wasatch Wave on May 25, 2017.

# Memo

To: Mayor and City Council  
From: Mark K. Anderson  
Date: 05/25/2017  
Re: City Council Agenda Items for June 1, 2017

---

## **REGULAR MEETING (4:00 p.m.)**

**Item 1 – 2017-2018 Fiscal Year Budget Workshop:** This agenda item is to continue discussion regarding additional changes that should be made to the Tentative Operating Budget for Fiscal Year 2017-18. Some members of the Council have expressed a desire to revisit the proposed wage and benefit increases before the final adoption of the budget and possibly some other items. Some of the topics that I will want to discuss with the Council are as follows:

- Budget Amendments that will need to occur before year end.
- Discussion regarding the funding of a street sweeper.
- School Crossing Zones and ADA Curb installation costs
- Allocation of Insurance Premiums

More detailed information will be forwarded next week.

**Item 2 – Wes Bingham, Presentation of Quarterly Financial Report for the Period Ending March 31, 2017:** Wes Bingham will review the summary financial report for the quarter ended March 31, 2017. (See enclosed report)

**Item 3 – Art City Investments LLC's, Request for Subdivision Preliminary Approval of The Village on 12th Located at 730 East 1200 South and Associated Developer's Agreement:** Art City Investments is seeking preliminary approval from the Council for the Village on 12<sup>th</sup> development. (See enclosed staff report, Bylaws, Condominium Document, Engineering Findings and proposed Site Plan) Because this parcel has the COSZ overlay, preliminary approval is required to be granted by the City Council before the project can seek final approval. The Planning Commission has reviewed the

project and is recommending approval subject to the items being addressed that are identified in the review performed by Horrocks Engineers.

**Item 4 – Ordinance 2017-20, an Ordinance Amending Heber City Municipal Code Section 18.52.050, Section 18.56.050, Section 18.60.050, and Section 18.64.050 Setbacks, Section 18.68.060 Accessory Building, Lot Coverage Restricted, Section 18.68.070 Accessory Building, Habitation Prohibited, and Adoption of Section 18.68.075 Shipping Containers:** The Planning Commission is recommending that the City amend the zoning ordinance to consolidate the definition of an Accessory Building in one location in the code and provide more clarity on what setbacks are required for accessory buildings based on size and height. The proposed amendment also prohibits living in an accessory building without receiving approval for an accessory apartment. Lastly, the Planning Commission is recommending that shipping containers be prohibited in residential zones. (See enclosed staff report, Ordinance and enclosed pictures of existing shipping containers within the City limits) Staff would also recommend approval.

**Item 5 – WSI Wasatch Properties, Requests for an Approval for Midway Lane Commercial Center Small Subdivision Located at 895 West 100 South and associated Developer’s Agreement:** Dr. Wade Isom is requesting final plat approval for a small commercial subdivision located at 895 West 100 South (Highway 113). The enclosed plat would take the existing property and divide it into two commercial lots. The intent would be to develop commercial uses on Lot #2 as the animal clinic is already located on Lot #1. The Planning Commission has reviewed the subdivision and is recommending approval subject to the conditions identified in the staff report. (See enclosed staff report and plat map) Staff would also recommend approval subject to those same conditions.

**Item 6 – Presentation of the Draft Airport Minimum Standards:** A draft document will not be available for review until May 30<sup>th</sup>. It is my understanding that this is intended to start the discussion about amendments that should be considered to the Airport Minimum Standards.

**Item 7 – Approval of 2017 – 2018 Heber City Airport Capital Improvement Plan (CIP):** Enclosed is the proposed CIP that is being recommended by the Airport Advisory Board. Denis Godfrey, Airport Manager, will provide a staff report with more background information next week. Also, enclosed is an email from Kristin Brownson, FAA Engineer for the State of Utah, regarding the eligibility of the ramp reimbursement and input on projects the FAA sees as being of priority for the Heber Airport. I believe the City should consider acceleration of the completion of Master Plan, deferral of this project too long may have an adverse effect on future grant funding. Going through this process would likely give clarity to issues of concern regarding the future of the airport.

**Item 8 – Reconsideration of the Airport Advisory Board’s Recommendation to Rescind the Airport Manager’s Directive Banning Vehicles from the FBO Ramp:** At the last City Council meeting, the Council asked that a compromise solution be worked out with the airport stakeholders regarding vehicle access on the ramp. (See enclosed staff report prepared by Denis Godfrey)

**Item 9 – Report on Community Impact Board (CIB) Loan Approval:** The Community Impact Board funding meeting will be held on Thursday, June 1<sup>st</sup> in Duchesne. Russ Funk and I will attend the meeting to be available to answer any questions the Board may have before they consider final funding approval of the Public Works expansion project. We will report the results of the meeting at the City Council meeting that evening.

**Item 10 – Discussion Regarding Utah State Ombudsman’s Advisory Opinion:** Enclosed is a copy of the Advisory Opinion that the City received from the Utah State Ombudsman regarding the imposition of impact fees on the Wasatch County School District. Mark Smedley, Bart Mumford and I have met and discussed that opinion. Bart and I have also spent some time on the phone with Brent Bateman to get clarity on some of the positions he takes in the opinion.

Via email, I will send you a summary of our recommendations. With the benefit of the opinion, we should work (in a timely manner) to seek resolution of the outstanding issues that we have with the District.

**Item 11 – Consideration of Closed Meeting Pursuant to Utah Code Annotated §52-4-205 (c) Strategy session to discuss pending or reasonably imminent litigation:**

# MINUTES



1 Heber City Corporation  
2 City Council Meeting  
3 February 16, 2017  
4 5:05 p.m.

5  
6 **REGULAR MEETING**

7  
8 The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on February 16,  
9 2017, in the City Council Chambers in Heber City, Utah

10  
11 **I. Call to Order**  
12 **City Manager's Report**

13  
14 Mayor McDonald called the meeting to order at 5:05 p.m. He welcomed all those that were present  
15 and acknowledged that all City Council members were present with the exception of Council  
16 Member Potter who was excused.

17  
18 Present: Mayor Alan McDonald  
Council Member Ronald Crittenden  
Council Member Jeffery Bradshaw  
Council Member Jeffery Smith  
Council Member Heidi Franco

Excused: Council Member Potter

Also Present: City Manager Mark Anderson  
Chief Dave Booth  
City Engineer Bart Mumford  
City Planner Jamie Baron  
Deputy City Recorder Amy Bridge

19  
20 Others present: Nathan Eaton, Wes Berg, Justin Johnston, Brian Baker, Aubrey Matthews, Justin  
21 Goodrich, Kaleb Weekes, Spencer Chappell, Maddox Knowles, Landon North, Burke Coleman,  
22 Hadley Western, Parker Webb, Jacob Steine, Parker Wood, Collin Judd, Brad Patterson, and others  
23 whose names were illegible.

24  
25 Mayor McDonald announced the City Offices were closed on Monday, February 20, 2017,  
26 in observance of President's Day. He also announced sandbags were available at Public Works to  
27 help prevent flood damage.

28  
29 **II. Pledge of Allegiance: Mayor Alan McDonald**

30  
31 **III. Prayer/Thought: By Invitation (Default Council Member Kelleen Potter)**

32  
33 In Council Member Potter's absence, the prayer was given by Council Member Bradshaw.

1 IV. Open Period for Public Comments

2  
3 Mayor McDonald opened the meeting for Public Comment. He acknowledged the presence of the  
4 Boy Scouts. He asked the Scouts to introduce themselves, give their rank and what merit badge  
5 they were working on. Mayor McDonald encouraged the Scouts to continue on and get their Eagle  
6 Scout and thanked them for coming.

7  
8 1. Public hearing with regard to the proposed issuance by Heber City, Utah of  
9 approximately \$22,000,000 Facility Revenue Bonds, Series 2017 (Rocky Mountain Care  
10 - Heber, LLC Project):  
11 Public Notice for Issuance of Bonds

12  
13 Before the Public Hearing, Mayor McDonald asked Brian Baker from Zion's Bank to give a brief  
14 presentation. Mr. Baker introduced himself and Aubrey Matthews. He also introduced Brad  
15 Patterson, who served as the City's Bond Council. Mr. Baker stated Zion's Bank was handling the  
16 financing for Rocky Mountain Care Center (RMCC), which was a project backed by the US  
17 Department of Agriculture (USDA) and was a USDA loan. The USDA would loan 70 percent of  
18 twenty-two million dollars. The other 30 percent would be financed by a private entity, which  
19 could be Zion's Bank. The USDA did not do construction loans; they loaned the money post  
20 construction. Rocky Mountain Care Center needed financing for construction, and that  
21 was where Zion's Bank would step in and provide two-years of financing during construction. As  
22 a qualifying 501(3)(c) facility, RMCC needed tax exempt bonds. In this situation, RMCC would  
23 go through the legal process of having a conduit bond issued through an entity who was capable  
24 and authorized, which in this case was Heber City or Wasatch County. In addition, it needed to  
25 be in the jurisdiction where they were located.

26  
27 Aubrey Matthews introduced himself, and he mentioned he was with ARC Funding Group, which  
28 was brokering the deal with the USDA and RMCC. Mr. Matthews gave a brief background on  
29 RMCC and mentioned the current facility would shut down and a new facility would be built. The  
30 new location would be directly across from the hospital. Rocky Mountain Care Center's last three  
31 new buildings had been built directly across from hospitals as part of their new  
32 model. Rocky Mountain Care Center's new building would be a 68,000 square foot, 92 bed state-  
33 of-the-art facility. In addition, RMCC 's new building would be open in a year and a half.

34  
35 Council Member Crittenden inquired who else would qualify for what they were asking the City  
36 to do. Mr. Matthews responded Wasatch County and the City were the only two who would  
37 qualify. Zion's bank advised RMCC to move forward with the City as opposed to the County  
38 because the project was in Heber City. When financing, the local entity was usually  
39 utilized. Council Member Crittenden expressed concern with liability and how the project would  
40 impact the City's bonding ability and future interest rates. Mr. Matthews indicated the answer  
41 would be better coming from Bond Council, but he would be glad to answer any questions about  
42 the facility. Council Member Franco asked when the bonds would be issued. Mr. Matthews  
43 replied the bonds would be issued prior to construction, and they would be for construction only.

44  
45 Discussion followed regarding the proposal.

1 Council Member Crittenden and Franco expressed a few concerns with the proposal. Mr. Baker  
2 explained all the Council was currently doing was having a Public Hearing to see if the City was  
3 willing to move forward.

4  
5 Brad Patterson, Law Firm of Gilmore Bell, addressed the Council. He thought Mr. Baker was  
6 very thorough and accurate. Mr. Patterson explained Bonds had to be issued by the City, but would  
7 not be debt to the City. Rocky Mountain Care Center would solely be responsible for the  
8 payment. Council Member Crittenden questioned who was paying Mr. Patterson. Mr. Baker  
9 explained Mr. Patterson represented the City with his expenses paid by RMCC. Mr. Patterson  
10 asked if the Council had any questions. Mayor McDonald expressed he thought everything had  
11 been well explained.

12  
13 Mayor McDonald opened a Public Hearing with regard to the proposed issuance of Bonds for the  
14 Rocky Mountain Care Center at 5:31 p.m.

15  
16 With no public comment forth coming, the public hearing closed at 5:32 p.m.

17  
18 2. [Ordinance 2017-8, An Ordinance Amending the Heber City Zoning of the Tingey and](#)  
19 [Glass Properties Located Between 600 East and 1200 East and Between 1200 South and](#)  
20 [2000 South](#)

21 [Ordinance 2017-8](#)

22 [Recommended Zone Change Conditions](#)

23 [Zone Change Agreement Tingey and Glass Properties](#)  
24

25 Jaime Baron presented a request to rezone a portion of the Tingey and Glass properties. The  
26 information, zone change recommendation, conditions, agreement and maps were included in the  
27 packets and presented on the screen. Mr. Baron pointed out the property's location on the City's  
28 map. The request was to rezone the area from Corporate Medical Park (CMP) and R-1 to Planned  
29 Community Mixed Use (PCMU).

30  
31 Mr. Baron explained one of the conditions from the Planning Commission was to have a restriction  
32 of 400-feet from the east property line, which would limit the development to single-family homes  
33 with a gross density of no more than 4-units per acre. The 400-foot recommendation came from  
34 the typical city block. Mr. Baron mentioned there were a few other conditions listed in the  
35 documents as well. Mr. Baron inquired if there were any questions.

36  
37 Council Member Crittenden asked how many residential properties could be built in the entire area  
38 as it was currently zoned. Mr. Baron explained the current zoning allowed 3-3.5 homes per acre,  
39 which would be roughly 75 lots. The proposed zone change would allow for approximately 70  
40 acres and 560 units. Council Member Crittenden clarified the potential residential impact would  
41 increase from 75 to 560 units. Mr. Baron responded yes, because the proposed change from CMP  
42 to PCMU, would offer higher density.

43  
44 Discussion followed regarding the conditions regarding the zone changes and clarification on the  
45 CMP and PCMU. It was also inquired exactly how many acres the proposed zone change would  
46 include.

1 Mr. Baron responded to the Council's questions by referring to areas on a map presented to the  
2 Council. Council Member Franco questioned why the area by Mill Road could not remain an R-  
3 1 zone. Mr. Baron explained the conditions recommended by the Planning Commission required  
4 60 acres to develop the PCMU zone, and it would allow transitioning as they move away from  
5 Mill Road. He added the condition was specific to the PCMU zoning.

6  
7 Council Member Crittenden inquired why there was a requirement to have 60 acres for the PCMU  
8 zoning. Mr. Baron went on to explain, the point of PCMU zone was to create a mixed use and a  
9 centralized neighborhood with an overall master planned community. In addition, the PCMU zone  
10 allowed the zone to conform to the existing Master Plan with a 400-foot block of single-family  
11 homes from Mill Road.

12  
13 Council Member Franco asked if the conditions were in Heber City's actual ordinance. Mr. Baron  
14 replied they were not included in the ordinance; however, he would make sure they were  
15 included. Council Member Franco asked for clarification on exactly where the 70 acres were on  
16 the map. Mr. Baron referred to the City's map and pointing out the 70 acres.

17  
18 Council Member Crittenden inquired where the road was by the existing hospital on the map. Mr.  
19 Anderson noted the road was located on 1500 South. Council Member Crittenden questioned  
20 if 1500 South would be extended into the new proposed area.

21  
22 Mr. Baron pulled up the City's map to explain existing roads and future construction.

23  
24 Council Member Crittenden questioned if the future roads could be included in the proposed zone  
25 change. Mr. Baron indicated they could. Council Member Crittenden inquired why the City would  
26 not extend 1500 South through the new development.

27  
28 Mr. Anderson explained Intermountain Health Care (IHC) had approached the City regarding the  
29 road, and IHC wanted to extend the road to the North. Intermountain Health Care does not want  
30 an active roadway between their campuses. They would like to eventually close the road to  
31 facilitate the hospital's future construction and master plan. Mr. Anderson explained Staff had  
32 looked at the area, and thought the City could open a road to the north to meet the needs of the  
33 City.

34  
35 Council Member Crittenden and Mr. Anderson continued to discuss the roads and zone change.  
36 Mr. Baron indicated where the roads would be in a PCMU zone, and presented the Council with a  
37 Future Transportation Plan map.

38  
39 Discussion continued regarding future roads.

40  
41 Mr. Anderson explained the City had not historically had a conditional zone change attached with  
42 identification of where future roads would be. He further explained the proposed zone change was  
43 completely separate from the road issue with IHC and was a different property.

44  
45 Council Member Franco suggested making the zone change conditional on the transportation  
46 corridors being met per the Capital Facilities Master Plan in the future. Mr. Baron agreed a

1 condition to meet the Capital Facilities Master Plan, at the time of the subdivision and property  
2 development, would be a fair condition.

3  
4 Mr. Anderson pointed out there would still be 300 to 400 feet of road coming off of Highway  
5 40. The Fire District was working with IHC to extend 500 East. Intermountain Health Care was  
6 debating whether or not to do the road with their current development or to finish the road in the  
7 future.

8  
9 Council Member Crittenden continued to express his concerns with IHC's building and road  
10 construction plans. Mr. Baron addressed Council Member Crittenden's concerns and explained  
11 the discussion regarding IHC was a separate issue and would not impact the proposed zone  
12 change. Council Member Franco asked for clarification of possible roads and boundaries on the  
13 City map Mr. Baron had presented. Mr. Baron answered referring to the City map.

14  
15 Council Member Franco inquired what the maximum height was in the PCMU zone. Mr. Baron  
16 explained the maximum height was three stories in PCMU zone. However, there was currently no  
17 height restriction in the R-1 zone.

18  
19 Council Member Franco suggested adding the conditions to the proposed zone change and looking  
20 at it again at the next Council meeting. The changes would need to include property owners  
21 who had to follow the Capital Facilities Master Plan on right-of-way easements.

22  
23 **Motion:** Council Member Franco moved to have Mr. Baron put the changes into the Ordinance  
24 with the Planning Commission's conditions and bring the Ordinance back to the City Council in  
25 two weeks after the changes were made. Motion failed for lack of a second.

26  
27 **Motion:** Council Member Franco moved to table the agenda item until the next City Council  
28 meeting. Council Member Crittenden made the second.

29  
30 Discussion followed regarding the motion.

31  
32 **Call the Question:** Council Member Voting Aye: Council Members Bradshaw, Franco, and  
33 Crittenden. Council Members Voting Nay: Council Member Smith. The motion passed with three  
34 votes in favor. Council Member Potter was not present. The motion passed with 3 votes for and 1  
35 vote against.

36  
37 [6. Wes Bingham - Presentation of the Quarterly Financial Report for the Quarter Ended](#)  
38 [December 31, 2016.](#)  
39 [Quarterly Financial Statement](#)

40  
41 Mr. Wes Bingham, Senior Accountant, presented and reviewed the Quarterly Financial Report.

42  
43 Council Member Crittenden asked for clarification regarding revenues and expenditures. Mr.  
44 Bingham explained revenues were higher than expected and expenditures were higher than  
45 expected. However, the expenditures were still within budgeted amounts.

1 Mr. Anderson indicated expenditures were higher because of several reasons: insurance was paid  
2 in July and a \$25,000 contribution was given to Heber Valley Tourism and Economic  
3 Development, etc.

4  
5 Mr. Bingham continued his report explaining the City was seeing higher than expected revenue in  
6 the Water and Sewer Fund. He noted this was before the rate increase in January 2017, and the  
7 City should exceed their budget in the Water Fund this year.

8  
9 Council Member Crittenden inquired if the culinary and pressurized irrigation revenues and  
10 expenditures could be separated for the upcoming budget meetings. Mr. Bingham explained it  
11 would be difficult. Mr. Anderson added, the revenues could be separated; however, the  
12 expenditures could not.

13  
14 Council Member Crittenden asked for clarification regarding the Water and Sewer  
15 budget. Council Member Bradshaw mentioned sewer rates were raised in July 2016. Mr.  
16 Bingham responded they were expecting an increase in revenue with the water rate increase, which  
17 went into effect in January 2017. He went on to say, the sewer depreciation was lower than the  
18 water fund. Council Member Crittenden asked if they would still have to have another rate  
19 increase. Mr. Anderson stated it depended on the proposed projects. Mayor McDonald pointed  
20 out that water rates were tied to usage. Mr. Anderson said the City had a \$100,000 annual debt  
21 obligation in the water fund.

22  
23 Council Member Crittenden inquired if the City could utilize the cash in the restriction fund for  
24 the water fund. Mr. Anderson stated they could utilize available funds. Council Member  
25 Crittenden questioned if the City could utilize the fund the City had set aside for the Public Works  
26 building. Mr. Anderson replied, they could utilize some of the funds; however, Class C Road  
27 Funds are for future road projects.

28  
29 Council Member Franco inquired how much Mr. Anderson was projecting over the 25  
30 percent surplus in July 2017. Mr. Anderson indicated there would be \$480,000 surplus. Mr.  
31 Bingham added part of Public Works building would be taken out of the surplus.

32  
33 [3. Approve Recommendation to Bid Out \(4\) 50'x50' Hangar Pads known as Pads 1A, 2B,  
34 3B, and 4B  
35 Taxi Lane Lease Hangar Area  
36 Airport Manger Staff Report](#)

37  
38 Mr. Godfrey passed out information to the City Council regarding the hangar pads for sale.

39  
40 Mr. Crittenden pointed out that Pad 1A had been deemed, "not available" right now. Mr. Godfrey  
41 said they found issues with the pad site; however, they were working on them. Council Member  
42 Franco stated they didn't discuss that with the Airport Advisory Board; do they need plats  
43 first? Mr. Godfrey indicated they needed a Standard Lease Agreement put in place first. It was  
44 Council Member Franco's opinion it would be completed by April 2017, and that would give them  
45 plenty of time to build. Mr. Godfrey indicated the new hangar owners would start to pay for

1 their ground leases on April 1, 2017. Council Member Franco inquired if it was the same type of  
2 offer? Mr. Godfrey said they would most likely not start structures until April 1, 2017.

3  
4 Council Member Crittenden indicated he liked the idea of putting the other 50' x 50' pads up to bid  
5 in order to be able to start them all together. Mr. Godfrey agreed; then they could streamline the  
6 building process. Council Member Franco questioned if they were suggesting a March/April  
7 timeline. Mr. Godfrey said he would like to get it done as soon as possible.

8  
9 Council Member Crittenden asked if they were putting the additional 50' x 50' pads out for bid  
10 before the Standardized Lease was finished.

11  
12 Discussed followed regarding putting the pads out to bid prior to the lease being completed.

13  
14 Council Member Franco questioned how they would avoid the same problems. Council Member  
15 Crittenden suggest they should wait until the March 2017 AAB meeting when the Standardized  
16 Lease was finished. Council Member Franco inquired if the bidders were willing to bid and wait  
17 for the lease.

18  
19 Mr. Godfrey indicated that he thought that was reasonable. Council Member Crittenden inquired  
20 if the bidders would have the ability to cancel out their offer if they didn't like the new  
21 lease? Council Member Franco's opinion was yes; they should be able to do that. Mayor  
22 McDonald stated the City could give approval to sell the pad sites with the condition the bidders  
23 approved of the new lease. Council Member Crittenden agreed. Council Member Franco inquired  
24 if there was consensus of the Council with the conditions of bidding out the pad sites.

25  
26 **Motion:** Council Member Crittenden moved to sell the three (3) pads and pad 1A if it was  
27 approved by GDA Engineering; they go forward with a bid process, and they set a minimum bid  
28 price of \$35,000. Hangars are bid per hangar, and no one owner could own more than one hangar;  
29 these are for new people. The advertising and bidding are subject to the bidders agreeing to the  
30 new Standardize Lease when it was approved by the City Council with the ability of the bidders to  
31 back out or cancel their purchase if they don't like the new Standardized Lease. The bidders will  
32 make the full \$35,000 payment upon approval. The bidders could start construction when they  
33 want, but if and when they start construction, it's would be at their own risk if they don't like the  
34 new Standardize Lease. Council Member Franco made the second. Council Members Voting Aye:  
35 Council Member Bradshaw, Franco, Smith and Crittenden. The motion passed unanimously.  
36 Council Member Potter was not present.

37  
38 4. [Approve Recommendation to Bid Out \(3\) 75'x75' Daniel Hangar Pads known as Daniel](#)  
39 [Hanger Pads 31, 32, 33](#)  
40 [Exhibit for 75' x 75' Hangars](#)  
41 [Airport Manager Staff Report](#)  
42

43 Mr. Godfrey addressed the Council. He said he was proposing to sell Daniel Hangar Pads 31, 32,  
44 and 33 with the same bid process as discussed in Agenda Item 3; however, there was no need to  
45 do right away; it could be delayed.

1 Mr. Crittenden suggested that these hangars should not be sold to benefit the other 50' x 50'  
2 hangars. In addition, he questions what's the minimum bid would be? Mr. Godfrey noted a 50' x  
3 50' hangar was 2,500 square feet, and the City was charging \$14 per square feet for those  
4 hangars. However, they were also getting the 20 feet around it.

5  
6 Mayor McDonald pointed out the density allowed for smaller hangars. Council Member  
7 Crittenden stated the City didn't allow more than one purchase per person at the Airport. It was his  
8 opinion that \$35,000 should be the minimum bid.

9  
10 It was pointed out that the 75 'x 75' hangars were 5,625 feet, which came out to  
11 approximately \$78,000. The price needed to be quite a bit more than the 50' x 50's pads. It was  
12 commented, if the City could not get more money for the 75' x 75' pads, they should sell smaller  
13 hangars. Council Member Crittenden's opinion was they might need to feel the market out more.

14  
15 **Motion:** Council Member Crittenden moved to table Agenda Item 4, bidding out three (3) 75 'x  
16 75' Daniel Hangar Pads known as Daniel Hanger Pads 31, 32, 33. Council Smith made the second.  
17 Council Members Voting Aye: Council Member Bradshaw, Franco, Smith and Crittenden. The  
18 motion passed unanimously. Council Member Potter was not present.

19  
20 Mr. Godfrey clarified the Council wanted a Standardized Lease by the next meeting; discussion  
21 followed regarding the 50' x 50' and 75' x 75' hangar pads and the Standardized Lease.

22  
23 Council Member Crittenden pointed out there was no phone reception at the Airport for a while,  
24 and everyone was calling Mr. Godfrey's cell phone. It was said Mr. Godfrey had \$160 in excess  
25 cell phone charges. Council Member Crittenden stated he would like Mr. Godfrey to have a City  
26 issued cell phone and have the excess cell phone bill paid by the City. Mr. Anderson informed the  
27 Council Mr. Godfrey was eligible for a City provided cell phone or a cell phone allowance. Mr.  
28 Godfrey indicated he was working with Mr. Beales in regards to the cell phone issue. Mayor  
29 McDonald informed the Council he told Mr. Godfrey he was authorized to get a cell phone and  
30 the City would pay his excess bill.

31  
32 [5. Chief Booth and Officer Xela Thomas, Update on Code Enforcement Presentation](#)  
33 [Code Enforcement Presentation](#)

34  
35 Chief Booth addressed the Council, and he indicated he would be presenting the agenda item  
36 instead of Officer Thomas due to her father passing away. Chief Booth said he was proud of the  
37 work they were doing. He went on to say since he had been Chief, he had been focusing on  
38 warrants.

39  
40 Chief Booth presented the Council with his presentation.

41  
42 Chief Booth informed the Council that Code Enforcement came to his Department in August 2015,  
43 and the Council asked for a 6-month follow-up after it began. He went on to say, the Council did  
44 not want a black and white marked car issuing citations. Therefore, Officer Thomas was put in-  
45 charge in a "soft uniform".



1 Chief Booth referred to his presentation and review of what Officer Thomas was in charge of.  
2  
3 Chief Booth mentioned that Officer Thomas was reacting to residents calling and in turn, she  
4 was enforcing City code. Council Member Crittenden said he was on the Weed Committee, and  
5 Officer Thomas impressed the Board with her enforcement. Chief Booth informed the Council  
6 they have tried not to take it to the extreme, and they were trying not to be ticky-tacky.  
7  
8 Chief Booth present the Code Enforcement stats for 2016.  
9  
10 Chief Booth addressed parking problems. He said they tried to come in with education, a lot of  
11 warnings and education, and utilizing Facebook to inform the public. In addition, they using  
12 warnings before citing residents. Furthermore, the Department's VIPs are working with Officer  
13 Thomas and a Reserve Officer to enforce the code.  
14  
15 Chief Booth addressed public nuisances. He stated the City's biggest complaint was single-family  
16 dwellings occupied by multiple families, and it was a tricky issue. In addition, the Court doesn't  
17 like to say what people could do in their own home. He went on to say the Courts and Legislature  
18 don't support it either. Chief Booth said we try to accommodate families that are having hardships.  
19  
20 Chief Booth informed the Council they tried to focus on the front yards and tried to be reasonable  
21 with enforcement. They gave plenty of notices. Chief Booth showed the Council pictures of  
22 nuisances they had enforced. He noted they don't use a hard-handed approach. Council Member  
23 Franco inquired how much the citations were. Chief Booth explained the citations start at \$25;  
24 however, they could not go past \$100. In addition, there are different fees for different violations.  
25  
26 Chief Booth reviewed the Public Safety's survey results with charts. Council Member Franco  
27 questioned if the trees by stop signs were enforced? Chief Booth indicated they had removed the  
28 trees in the right-of-way by the stop signs. Council Member Crittenden inquired if Chief Booth  
29 would have asked the residents if they wanted the trees trimmed to see the stop signs; he said Chief  
30 Booth may have had a different response. Chief Booth replied, it was mostly residents that do not  
31 want trees planted in the park strips. It was Council Member Crittenden's opinion if there was a  
32 stop sign blocked by a tree, it should come down. Chief Booth agreed. He stated, we are doing  
33 that; however, the community doesn't want to see the Department tearing down trees that aren't  
34 blocking the view.  
35  
36 Chief Booth addressed RVs and/or camper trailers being parked and people living in  
37 them. Council Member Franco stated she did not think that that was safe and it needed to be  
38 enforced. Chief Booth agreed.  
39  
40 Chief Booth addressed junk derby cars. Chief Booth indicated the Department received a lot of  
41 calls regarding derby cars. Council Member Franco questioned how they determined what was a  
42 junk derby car. Chief Booth indicated they look at items, such as: lack of registration, flat tires,  
43 etc. He went on to say our residents want their property values to increase and don't want junk  
44 parked in the roads. He stated he liked having a sworn officer enforcing the City's code. In  
45 addition, they found multiple unsafe situations in their community last summer. Council Member  
46 Franco inquired where it was. Chief Booth explained it was on Main Street and a business on the

1 other end of town. He indicated they got together with the business to help them. Chief Booth  
2 informed the Council they were finding multiple homeless camps in the City as well. He stated  
3 that Code Enforcement was good, and he was glad they were doing it.

4  
5 Council Member Crittenden pointed out the City had good availability in town for food, etc. He  
6 inquired if that was encouraging homelessness? Chief Booth indicated no. He stated he had been  
7 actively involved in this and there was a difference between the underemployed and  
8 indigents. They had put in safe guards that identified the homeless people traveling through town  
9 and developed plans to help them along. He said he had met with two stake presidents to make  
10 sure they were not helping the homeless stay in Heber City, and they would continue to address  
11 the issue.

12  
13 Chief Booth inquired if the Council was satisfied with the Department's Code  
14 Enforcement. Council Member Franco questioned how Officer Thomas responded when someone  
15 called to complain, and she did not feel it was something serious to the complainant. Chief Booth  
16 explained Officer Thomas would address the situation and speak to the resident and let the  
17 complainant know the situation had been addressed.

18  
19 Council Member Crittenden pointed out the City had a lot of semi parking in the residential  
20 areas. Chief Booth acknowledged they do, and they address it. Chief Booth pointed out that Code  
21 Enforcement violations were not given a lot of anonymity; however, they could be more proactive  
22 with that. Council Member Crittenden said they could not have a lot of ordinances  
23 they did not enforce. Mayor McDonald stated that he thought Chief Booth and Officer Thomas  
24 were doing a good job.

25  
26 7. [Mark Anderson, Discuss Change in Employer/Employee Participation Rate for Health,](#)  
27 [Vision and Dental Insurance and Wage Progression Presentation](#)  
28 [Medical-Dental Presentation](#)  
29 [Proposed Wage Advancement Policy](#)  
30

31 Mr. Anderson pointed out during the Council's Retreat they discussed how they could help  
32 employees by paying more of a percentage of benefits. Mr. Anderson referred to his presentation,  
33 and during that presentation he suggested a different percentage rate for tobacco users as an  
34 incentive for them to quit using tobacco products.

35  
36 Chief Booth informed the Council that Summit County did this, and they had the employees sign  
37 a statement, which said they did not use tobacco products; and they were subject to felony charges  
38 if they were found utilizing tobacco products.

39  
40 Mayor McDonald inquired if the Council could vote on this issue tonight if they agreed on  
41 it. Council Member Crittenden stated he did not agree on piecemealing benefits. He would like  
42 to see this item put off until the next meeting. He would like to table the item and bring all of it  
43 forward as a proposal for next year's budget.

44  
45 **Motion:** Council member Crittenden moved to table the insurance percentage amendment with a  
46 tobacco incentive to another time. Council Member Franco made the second. Council Members

1 Voting Aye: Council Members Franco and Crittenden. Council Members Voting Nay: Council  
2 Member Bradshaw and Smith. Mayor McDonald voted Aye to break the tie. The motion passed  
3 with three votes in favor and two votes against.  
4

5 Mr. Anderson indicated they would like to look at probationary raises, which had not been in effect  
6 for quite a while. In addition, they would like to look at Police Officers' raises.  
7

8 Mr. Anderson referred to his presentation.  
9

10 Mr. Anderson indicated the goal was to try to get to employees to mid-point at year 6 and  
11 maximum-point at year 12. He said the Council would need to commit to 3 percent. Council  
12 Member Franco inquired if the City was not giving anything except performance increase as of  
13 now. Mr. Anderson noted that was correct. They may have given some increases on probation  
14 that would not meet those benchmarks.  
15

16 Council Member Franco questioned if the City did not have any limits on who could progress  
17 or did the City have any data on turnover rates. Mr. Anderson stated that he couldn't say if they  
18 did. Council member Franco indicated they could not say a 6-year mark made any difference  
19 without data. Mr. Anderson indicated that common philosophy was people should be proficient  
20 at the 5-year mark.  
21

22 Council Member Crittenden inquired if the City fired employees. Chief Booth noted that  
23 he had fired five employees. Mr. Anderson added that other employees had been fired as well.  
24

25 Chief Booth stated the City needed to be more competitive with the market. He pointed out the  
26 industry standard was a Tier 2 System, and he was trying to be more competitive. He informed  
27 the Council that some agencies top out at 10-years. He and other Department Heads are trying  
28 to reward their star employees with their excellent performance.  
29

30 Chief Booth referred to Mr. Anderson's presentation. He said they had lost the housing  
31 allowance. He questioned how the City would keep their employees that had to drive an hour or  
32 more to work. He reminded the Council that they would get a different style of law enforcement  
33 with officers that were not living in their community. He went on to say, they needed to get some  
34 things going before they were in crisis.  
35

36 Council Member Franco clarified if the City was hiring employees more toward the mid-point or  
37 not. Chief Booth stated no; I am hiring more toward the low end to keep the budget down. Council  
38 Member Franco stated she did not think they were doing that outside of his department. Chief  
39 Booth indicated he had tried to strike a balance, and the Council had done that with him as  
40 well. The employees they had brought in at entry level, are the ones who were trying to stay here;  
41 and they need to try to keep them here.  
42

43 Chief Booth said he watched this occur at Summit County, and now he was watching it  
44 again. Council Member Crittenden said Chief Booth, you are the canary in the mine. This  
45 proposal built in a 3 percent increment to make it work; however, he didn't see it work  
46 Citywide. He indicated he could not support it being a general policy. Mr. Anderson informed the

1 Council it was a goal. Council Member Crittenden said he would like to see it apply to Chief  
2 Booth and his department, but he had a problem issuing it Citywide and not just with  
3 employees. Chief Booth said if Council Member Crittenden saw it as a problem, he should deal  
4 with the Department Heads.

5  
6 Chief Booth indicated he thought this should be part of the budget process. They needed to be  
7 competitive in the markets. Council Member Crittenden inquired what kept employees from  
8 moving on. In Chief Booth opinion, employees would move on, if they were struggling to get to  
9 the top of their pay scale; however, employees would stay if they knew they were moving forward.

10  
11 Chief Booth gave examples of the market the City was competing against. He indicated those  
12 things were what make people feel valuable. Mr. Anderson explained to the Council that they  
13 should be aware that most cities have pay grades and within those grades there were steps to move  
14 up within the grades.

15  
16 Council Member Crittenden questioned how many of the other City's Departments were doing  
17 what the Chief was doing? Council Member Franco inquired what happened when employees  
18 reached the top of their pay scale in 12-years; would they stay there? Chief Booth said I think they  
19 do, and in his opinion those employees stay because they know they are at the top of their scale.

20  
21 Mayor McDonald indicated he would like the Council to put together a package for employees by  
22 May 2017. Council Member Crittenden recommended a retreat for the Department Heads so they  
23 could talk through the packages and incentives and have a recommendation from the personnel  
24 committee. He stated it would drive everything else the Council would do in the budget. Mayor  
25 McDonald inquired if the Council would like to make a decision before the May 1, 2017. He said  
26 the City could start losing employees, and they have some great employees who are really  
27 struggling. He pointed out the Valley was more expensive to live in, and the City had to pay their  
28 employees more money in order to live here.

29  
30 Mr. Anderson indicated their first budget meeting would include Department Head  
31 recommendations. He stated he needed recommendations from the Council before they started the  
32 tentative budget. Mr. Anderson went on to say health insurance rates usually come into the City  
33 around mid-March. He went on to say the Department Heads like to participate in the  
34 conversation.

35  
36 Council Member Crittenden stated he did not want to give the impression that he was not happy  
37 with the City employees. Their community was becoming the "have and have nots". Mayor  
38 McDonald informed the Council they needed to focus on what they could do for their employees  
39 this year. He suggested they table the item and put it into their budget retreat. Mr. Anderson  
40 explained there were a lot of employees on track. Council Member Franco informed Mr. Anderson  
41 they needed numbers.

42  
43 **Motion:** Council Member Crittenden moved to table Item Number 7, Changes in  
44 Employer/Employee Participation Rate for Health, Vision and Dental Insurance and Wage  
45 Progression Presentation and move it into a budget retreat. Council Member Franco made the

1 second. Members Voting Aye: Council Member Bradshaw, Franco, Smith and Crittenden. The  
2 motion passed unanimously. Council Member Potter was not present.

3  
4 8. Consideration of Closed Meeting Pursuant to Utah Code Annotated §52-4-205(d)  
5 strategy sessions to discuss the purchase, exchange, or lease of real property, including  
6 any form of a water right or water shares  
7

8 **Motion:** Council Member Smith moved to go into Closed Meeting Pursuant to Utah Code  
9 Annotated §52-4-205(d) strategy sessions to discuss the purchase, exchange, or lease of real  
10 property, including any form of a water right or water shares. Council Member Bradshaw made  
11 the second. Council Member Voting Aye: Council Member Bradshaw, Franco, Smith, and  
12 Crittenden. Council Member Potter was not present.

13  
14 Closed Meeting Minutes of the Heber City Council, of Heber City, Wasatch  
15 County, Utah on February 16, 2017 at 8:25 p.m., in the City Council Chambers in  
16 Heber City, Utah.

17  
18 Present: Mayor Alan McDonald  
19 Council Member Jeffery Bradshaw  
20 Council Member Heidi Franco  
21 Council Member Jeffrey Smith  
22 Council Member Ronald Crittenden  
23

24 Excused: Council Member Kelleen Potter  
25

26 Also Present: City Manager Mark Anderson  
27 Deputy City Recorder Amy Bridge  
28

29 Those present discussed strategy sessions to discuss the purchase, exchange, or lease of  
30 real property, including any form of a water right or water shares pursuant to Utah  
31 Code, Section 52-4-205 (1)(d).  
32

33 **Motion:** Council Member Bradshaw moved to reconvene back into the Regular meeting  
34 at 9:37 p.m. Council Member Smith made the second. The motion passed unanimously.  
35

36 V. Adjournment  
37

38 With no further business coming before the Council at this time, Council Member Crittenden  
39 moved to close the meeting. Council Member Franco made the second. The meeting adjourned  
40 at 9:38 p.m.  
41  
42  
43  
44

45 \_\_\_\_\_  
46 Michelle Vest, City Recorder

1  
2  
3

Draft

1 Heber City Corporation  
2 City Council Meeting  
3 May 4, 2017  
4 5:01 p.m.  
5

6 **REGULAR MEETING**  
7

8 The Council of Heber City, Wasatch County, Utah, met in **Regular Meeting** on May 4, 2017, in  
9 the City Council Chambers in Heber City, Utah  
10

11 I. Call to Order  
12 [City Manager's Memo](#)  
13

Present: Mayor Alan McDonald  
Council Member Jeffery Bradshaw  
Council Member Heidi Franco  
Council Member Kelleen Potter  
Council Member Jeffrey Smith  
Council Member Ronald Crittenden

Excused: None

Also Present: City Manager Mark Anderson  
City Engineer Bart Mumford  
City Planner Jamie Baron  
Chief of Police Dave Booth  
Airport Manager Denis Godfrey  
Senior Accountant Wesley Bingham  
City Recorder Michelle Vest

14 Others in Attendance: Dave Hansen, Marci Harvey, Mike Eriksson, Riley Probst, Mark Fischer,  
15 Thomas Eddington, Paul Boyer, Jim and Karen Letsinger, Earl Polenz, Randy Birch, Blake  
16 Allen, Ron Blue, Brian Rowser, Sterling Woodruff, Mike Johnston and others whose names  
17 were illegible.  
18

19 Mayor McDonald called the meeting to order at 5:01 p.m. and welcomed all those in  
20 attendance. Mayor McDonald introduced the Council Members and acknowledged all members  
21 were in attendance. He expressed his appreciation to City Staff, and the work they did in  
22 preparation of the City Council meeting.  
23

24 [II. Pledge of Allegiance: Council Member Ronald Crittenden](#)  
25

26 [III. Prayer/Thought: By Invitation \(Default Council Member Jeffrey Smith\)](#)  
27

1 IV. Minutes for Approval: Draft January 19, 2017 Regular Meeting; January 21, 2017  
2 Strategic Planning Meeting; February 2, 2017 Regular Meeting; March 15, 2017 Budget  
3 Meeting; and April 11, 2017 Budget Meeting  
4 January 19, 2017 Regular Meeting  
5 January 21, 2017 Strategic Planning Meeting  
6 February 2, 2017 Regular Meeting  
7 March 15, 2017 Budget Meeting  
8 April 11, 2017 Budget Meeting  
9

10 Council Member Smith moved to approve the Draft January 19, 2017, Regular Meeting; January  
11 21, 2017, Strategic Planning Meeting; February 2, 2017, Regular Meeting; March 15, 2017,  
12 Budget Meeting; and April 11, 2017, Budget Meeting. Council Member Bradshaw made the  
13 second. Council Members Voting Aye: Council Member Bradshaw, Franco, Potter, Smith, and  
14 Crittenden. The motion passed unanimously.

15  
16 V. Open Period for Public Comments

17 There were no public comments at this time.  
18

19 Chief Booth informed the Council he had a new Reserve Officer he would like to introduce at this  
20 time; her name was Laurie Backus. He went on to say he would like to take the opportunity during  
21 this time in the meetings to introduce the new Officers during the next few meetings. The Public  
22 Safety Department would have about six new Reserve Officers to introduce.  
23

24 Chief Booth explained that Officer Backus had been in law enforcement for about 18 years. She  
25 currently worked for the State of Utah and Summit County. She had a Bachelor's Degree and was  
26 very proficient in firearms and was a firearms instructor as well.  
27

28 Following Officer Backus' introduction, she was sworn in as a Heber City Reserve Officer.  
29

30 1. Public Hearing - Ordinance 2017-15, an Ordinance Annexing Property Known as the  
31 Three String Holdings, Highway 189 Annexation Located at 1568 South Highway 189,  
32 Heber City, Wasatch County, State of Utah; and Approval of the Associated Annexation  
33 Agreement

34 Staff Report

35 Ordinance 2017-15 and Annexation Agreement

36 Three String Holdings Annexation Petition

37 Three String Holdings Annexation Plat

38 Three String Holdings Annexation Public Notice

39 Three String Holdings Annexation Notice Letter

40 Heber Valley Special Service District Letter  
41

42 Mr. Baron informed the Council this was a proposed annexation on Highway 189 known as the  
43 Three String Holdings, Highway 189 Annexation. He went on to explain it had right-of-way as  
44 well, just south of Beehive Storage. The petitioner was requesting the I-1 zone, and the property  
45 was adjacent to the sewer fields. Mr. Baron pointed out in the Staff Report, a buffer zone would  
46 be required, and the petitioner needed to comply with that. Mr. Baron noted they would



1 be permitted some uninhabited uses, which was why the petitioner requested the I-1 zone. The  
2 zone would permit storage sheds, and they might want to do some storage sheds. Finally, Mr.  
3 Baron noted the total acreage was 18.5 acres, and it was contiguous with the City.

4  
5 Council Member Crittenden said he didn't understand the buffer zone. Mr. Baron explained the  
6 buffer zone, which was 300 feet surrounding the fields, was for safety of fluids, and occupied uses  
7 may not be permitted in the buffer area. He went on to say they also asked in the agreement that  
8 the habitable area not be residential, but it could be retail habitable.

9  
10 Mayor McDonald opened the public hearing for public comment at 5:12 p.m.

11  
12 With no public comment forth coming, Mayor McDonald closed the public hearing at 5:13 p.m.

13  
14 Council Member Crittenden inquired if there had been protests. Ms. Vest indicated there had not.

15  
16 **Motion:** Council Member Crittenden moved to adopt Ordinance 2017-15, an Ordinance Annexing  
17 Property Known as the Three String Holdings, Highway 189 Annexation Located at 1568 South  
18 Highway 189, Heber City, Wasatch County, State of Utah; and Approval of the Associated  
19 Annexation Agreement. Council Member Smith made the second. Council Member Voting Aye:  
20 Council Member Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed  
21 unanimously.

22  
23 Discussion followed regarding the motion. Council Member Franco inquired if Council Member  
24 Crittenden would also include the Findings and Conditions in the Staff Report.

25  
26 **Amendment:** Council Member Crittenden moved to amend the motion to include the Findings  
27 and Conditions in the Staff Report. Council Member Smith made the second. Council Member  
28 Smith made the second. Council Member Voting Aye: Council Member Bradshaw, Franco, Potter,  
29 Smith, and Crittenden. The motion passed unanimously.

## 30 31 [2. Mark Fischer, Blakeslee Group, Update on Heber City's Branding](#)

32  
33 Mark Fischer, Blakeslee Group, addressed the Council regarding the City's Branding.

34  
35 Mr. Fisher presented the Council with some new ideas of branding. He went on to point out  
36 where they started last go around was at the top of the first screen shot. He reminded the Council  
37 they asked his group to enlarge Timpanogos Mountain, and they have a couple of different versions  
38 of that with some variation in the colors.

39  
40 Mr. Fischer indicated that one aspect of what they attempt to do was go with the different seasons.  
41 He pointed out that sometimes Timpanogos Mountain was white and covered with snow and other  
42 times it's quite green with the different seasons.

43  
44 Mr. Fischer said then they discussed if the Bell Tower should be included. He noted they have  
45 shown the Bell Tower in various sketches, which were centered and off center and with color.

1 Then, they are showing the Bell Tower breaking the skyline. In addition, to a straight on version  
2 of the Bell Tower

3  
4 Mr. Fischer indicated those are the choices they had come up. He stated the last time they met,  
5 they debated some different options and put some different colors in there. Council Member Potter  
6 inquired if Mr. Fischer were to go with one color, what would he recommend. Mr. Fischer  
7 indicated he would recommend blue.

8  
9 Mayor McDonald polled the Council on which sketch was their preference.

10  
11 Council Member Crittenden indicated he preferred the middle one with the white snow.

12  
13 Council Member Potter stated she did not like it when it was not breaking the ridgeline; she liked  
14 it breaking the skyline. In addition, she did not like the straight on look. Furthermore, she was not  
15 crazy about any of the colors. She preferred the blue one but with a bit of different blue.

16  
17 Council Member Smith said he thought it needed to break the ridgeline as well. He liked the Bell  
18 Tower straight or the other one was fine.

19  
20 Council Member Bradshaw indicated he liked the middle one with the blue.

21  
22 Council Member Franco said she was in favor of the one on Page 1, with the large plain mountain.

23  
24 Mayor McDonald summarized that it appeared they like the blue one with the ridgeline.

25  
26 Council Member Crittenden inquired if the tagline could be bigger. Mr. Fischer indicated it could.

27  
28 Council Member Potter questioned what Mr. Fischer liked. Mr. Fischer said he liked the Bell  
29 Tower breaking the ridgeline. He went on to say he thought there was a lot of value to be able to  
30 change the color for the season. However, some people say you can never change the color, but he  
31 disagreed with that.

32  
33 Mayor McDonald inquired what color variation the Council would like. Council  
34 Members Crittenden, Potter, and Franco indicated they liked blue. Council Member Smith stated  
35 he liked the ability to change the color; and Council Member Bradshaw said he liked blue overall  
36 or the ability to change the color.

37  
38 [3. Marci Harvey, Presentation to Heber City from Wasatch Chevys](#)  
39 [Wasatch Chevys Car Show Flyer](#)

40  
41 Marci Harvey, Wasatch Chevys Group, presented the City with a check from the Wasatch Chevys  
42 Car Show, which would be in June 2107. In addition, she presented the City with a plaque for 2016  
43 and this year. Mr. Harvey mentioned the cars on the flyer were the cars from the original members  
44 from 1994, and this year was their 25th anniversary. In conclusion, she thanked the Council for  
45 everything they did for their organization.

1 4. Ordinance No. 2017-16, an Ordinance Amending the Section 18.108.115 Two-Family  
2 Dwelling Special Exception in Chapter 18.108 Conditional Uses of the Heber City  
3 Municipal Code

4 Staff Report

5 Ordinance 2017-16  
6

7 Mr. Baron addressed the Council regarding an amendment to Chapter 18.108. He explained they  
8 received an application to amend the City's Ordinance from Mr. Riley Probst. Mr. Baron explained  
9 the purpose behind the amendment was for a quarter acre lot, with a sunset provision,  
10 to construct a two-family dwelling.  
11

12 Mr. Baron stated the amendment would allow someone, under certain criteria, to build a two-  
13 family dwelling unit within a block area where 40 percent or more was already two-family  
14 dwellings. He added the rest of the changes or code remained the same.  
15

16 Mr. Baron informed the Council that the Planning Commission inquired how this would affect  
17 areas in the rest of the City. The area Mr. Probst was interested in was on 200 West south of 600  
18 South. There are duplexes and twin homes in the area and there is an older home there that was  
19 dilapidated. He continued, there was two lots. The corner lot was part of a subdivision, and it was  
20 a two-family subdivision already. Then there were four single family homes lots, and it would  
21 allow Mr. Probst to fill in some of the lots.  
22

23 Council Member Potter addressed the trail plan, which came down to the Recreation Center. She  
24 inquired if the plan was a part of trail plan, and would the developer have to accommodate the trail  
25 plan?  
26

27 Council Member Franco indicated that she had spoken with Mr. Mumford about putting the trail  
28 on the north side of 600 South. Mr. Baron stated Mr. Probst might want to talk about that. He  
29 informed the Council this particular subdivision had already been recorded. The lot on the north  
30 side could already have a duplex built on it.  
31

32 Council Member Potter referred to the Master Trail Plan. She said she wanted to make sure the  
33 development was not making it so it would not happen. She noted it was a County-wide trail plan,  
34 and she discussed the requirements of the trail for federal funding. Mr. Baron stated he did not  
35 think the proposed ordinance would change anything.  
36

37 Council Member Franco indicated it could change the easement where they needed the trail.  
38 Council Member Potter said she thought they were supposed to adopt the Master Trail Plan;  
39 however, they held off because of the Form Base Code.  
40

41 Discussion followed where the proposed amendments to Chapter 18.108 could apply to other part  
42 of the City. Mr. Anderson indicated it could apply to the area of 300 West 500 North, which  
43 was next to Muirfield. He noted that everything on the east side of that was twin homes, and it  
44 may qualify. However, as of right now, the property was not subdivided.  
45

1 Council Member Franco pointed out the amendments to Chapter 18.108 are supposed to expire in  
2 December 2017.

3  
4 Council Member Crittenden's opinion was the proposed amendments to Chapter 18.108 was a spot  
5 zone Ordinance. He went on to say, he had talked to everyone on that block, and they are against  
6 it. The people with the twin homes are okay with it, but they don't like the duplexes. He said if  
7 they did the amendment, he would suggest the construction of twin homes and not two-family  
8 homes. He inquired if the Ordinance could be changed to twin homes and not two-dwelling  
9 homes. Mr. Baron said Mr. Probst was the one requesting the amendment, and he suggested the  
10 Council speak to Mr. Probst regarding that matter.

11  
12 Council Member Bradshaw addressed the north lot. He indicated it developed over the years and  
13 200 West wasn't there for quite some time. He went on to say the whole corner was an eye  
14 sore. He didn't have any heartburn if they had some nice twin homes or duplexes on the property.

15  
16 Council Member Franco questioned if the lot be subdivided for a twin home and a single family  
17 home. Mr. Baron replied, if I remember right, there was not enough frontage to do a single-family  
18 home.

19  
20 Riley Probst - Developer

21 Mr. Probst addressed the Council. He informed the Council the old house on the north lot was built  
22 in 1893, and he could construct a duplex or twin house on that lot now. In addition, he could  
23 construct a single-family home on the other lot; he has 81 feet of frontage.

24  
25 Mr. Probst explained if the City did not like the ordinance, he could subdivide the lot and do three  
26 single-family homes. He went on to explain, he did not want to construct duplexes; he wanted to  
27 construct twin homes with four bedrooms. If he constructed single-family homes, they would be  
28 narrow and wouldn't be as nice. He noted there would be room for four homes, but it wouldn't look  
29 good.

30  
31 Council Member Crittenden inquired if Mr. Probst was opposed to substituting the word duplex  
32 with twin home.

33  
34 Mr. Probst informed the Council the only difference between duplex and twin home was  
35 ownership. As for aesthetics, they look the same, and they are not changing the zoning. He added  
36 it was an existing ordinance to allow one change.

37  
38 Council Member Smith inquired if there were any property line changes. Mr. Probst indicated  
39 there were not. It was noted that Mr. Probst had two recorded lots; lots one was in a recorded  
40 subdivision and the other lot was not. Mr. Probst indicated he would record a new subdivision.

41  
42 Council Member Franco addressed Council Member Potter's concern in regards to larger easement  
43 for the trail. She questioned if Mr. Probst was opposed to that. Mr. Probst indicated he was not;  
44 he would work that out with the Planning Commission.

1 Council Member Franco inquired why the Planning Commission put the sunset provision in the  
2 Ordinance if there was no other place the amendment would apply.

3  
4 Mr. Baron explained the City Council took twin homes out of residential zones with the exception  
5 in Chapter 18.108. A developer cannot develop a two-family dwelling home in Heber City. It  
6 was noted that was put in place back when the City Council thought there were too many two-  
7 family dwelling homes in Heber City. Mr. Anderson's opinion was the City should look at a place  
8 where two-family dwellings could be. Council Member Potter stated if we aren't going to allow  
9 this type of housing, the problems would continue to increase.

10  
11 **Motion:** Council Member Smith moved to adopt Ordinance No. 2017-16, an Ordinance Amending  
12 the Section 18.108.115 Two-Family Dwelling Special Exception in Chapter 18.108 Conditional  
13 Uses of the Heber City Municipal Code with the findings and conditions in the Staff Report and  
14 with Condition 1 as changing the two-family dwellings to twin homes under Section B authorizing  
15 the construction of a two-family dwelling changed to authorizing the construction of a twin home  
16 subject to the following conditions. Council Member Bradshaw made the second. Council  
17 Members Voting Aye: Council member Bradshaw, Potter, and Smith. Council. Council Members  
18 Vote Nay: Council Member Crittenden. Council Members Abstaining: Council Member Franco.  
19 The motion passed with three votes in favor, one vote against, and one abstention.

20  
21 7. [Blake Allen, Final Plat Approval for a Small Subdivision, the Montgomery Lot Split,](#)  
22 [Located at 200 North 400 West](#)  
23 [Staff Report](#)

24  
25 Mr. Baron addressed the Council regarding the small subdivision to split Mr. Allen's lot. He  
26 pointed out there was an existing road, and he presented a diagram to the Council.

27  
28 **Motion:** Council Member Franco moved to grant Final Plat Approval for a Small Subdivision, the  
29 Montgomery Lot Split, Located at 200 North 400 West subject to the Findings and Conditions of  
30 the Planning Commission on Page 1. Council Member Bradshaw made the second. Council  
31 Members Voting Aye: Council Member Bradshaw, Franco, Potter, Smith, and Crittenden. The  
32 motion passed unanimously.

33  
34 8. [Approval of the Cooperative Agreement Between the Utah Division of Forestry, Fire and](#)  
35 [State Lands Regarding Protecting Non-Federal Land from Wildland Fire](#)  
36 [Staff Report](#)  
37 [Cooperative Agreement](#)

38  
39 Mr. Eriksson addressed the Council regarding a Cooperative Agreement between the Utah  
40 Division of Forestry, Fire and State Lands and the City for protecting non-federal land from wild  
41 land fires. He explained it had to do with a Legislative change in 2016, and it had been in the  
42 process mostly between the Utah League of Cities and Towns and the Association of Counties. He  
43 noted it was not the Insurance Fund, but it did act as an insurance fund for municipalities.

44  
45 Mr. Eriksson went on to explain prior to this change, if a municipality had a wild land fire go  
46 through their community, they were responsible for a portion of the acreage that went through their

1 community. He stated the Legislature changed the law to allow municipalities to opt into the  
2 program if they wanted to. He pointed out that Heber City was not a super, high risk community,  
3 which was reflected in the City's match, which would be expected if the City opted into the  
4 program. Mr. Eriksson informed the Council that he thought it would be a relatively cheap  
5 insurance policy if a wild fire came through and destroyed 40 to 50 acres of Red Ledges.

6  
7 Mayor McDonald clarified what the deductible would be for Heber City. Mr. Eriksson explained  
8 the deductible was based on a risk assessment they did for the entire State of Utah with  
9 every community included. It was noted that Heber City's match was \$4,818. Mayor McDonald  
10 inquired if Heber City had a million-dollar wild land fire, this program would cover the entire cost  
11 of the fire. Mr. Eriksson indicated it would.

12  
13 Mr. Anderson clarified for the Council it was not money the City would pay; it was mitigation  
14 efforts the City would perform, which would add up to the \$4,818. Mr. Eriksson added 50 percent  
15 was mitigation; 25 percent was prevention, and 25 percent was preparedness. Mr. Eriksson  
16 indicated if the Fire Department purchased a new fire truck, 25 percent of the purchase would go  
17 toward the match. Mr. Eriksson gave more examples of what could go toward the match.

18  
19 Mr. Eriksson stated the idea behind the program wasn't for communities to buy their way out of  
20 situation. The idea was for communities to be invested in their own community and think of ways  
21 to reduce the risks to their communities.

22  
23 Council Member Crittenden said as he read the material, and his thought was it was discouraged  
24 to pay with money; it was intended to be a match. He went on to inquired if the City would get  
25 credit for things the County Fire District did since the City paid into the Fire District and does not  
26 have a City Fire Department. Mr. Eriksson said the City would; however, they would have to  
27 work that out. He noted there was a concern with that because in the agreement it said the  
28 firefighters would be trained to a certain class. He noted it may be as simple as getting a letter from  
29 Chief Giles stating they would comply with the standards, and if the City wanted to opt in, they  
30 would hold up their end of the agreement.

31  
32 Council Member Franco indicated it sounded like to her it was a process that was being worked  
33 out. Mr. Eriksson said it was. Council Member Franco questioned if Mr. Eriksson's department  
34 would issue some guidelines on how that would work out with the counties and cities. Mr.  
35 Eriksson said he thought it would be worked out city by city, and they may see a couple of different  
36 variations on how it would be done. He went on to say there was a law passed in 2006 that required  
37 fire departments to already do those things.

38  
39 Council Member Franco stated when she looked at the map a few years ago, which was a 2006  
40 map, and it gave the City's risk levels, was the map updated? Mr. Eriksson indicated the map was  
41 updated; however, he does not know what map she looked at. He went on to explain almost every  
42 community had stayed the same or dropped some. Mr. Anderson stated he received a map;  
43 however, it would not print out correctly. He pointed out, as it related to Heber City, the only area  
44 affected by the wild land fire area, was Red Ledges.

1 Mr. Eriksson explained how to read the map, and there was a monetary value placed on per acre for  
2 each area. In addition, there was a possibility over an average of ten years, if the City had multiple  
3 mini fires, there was a component of that where they take the average of the ten years and throw  
4 out the high and the low and add that into the risk, which could raise the match.

5  
6 Council Member Franco indicated that Mr. Eriksson was showing the 10-year fire suppression  
7 cost, which meant that was there level. However, once the City opted in, was that forever? Mr.  
8 Eriksson said no, it was not forever; the City could opt out next year if they wanted to. Council  
9 Member Franco clarified if they did not opt in, the City would be on the hook for all the costs  
10 associated with a fire. Mr. Eriksson, indicated yes, that was correct. The City would be getting a  
11 bill for the fire.

12  
13 Council Member Crittenden asked what would happen if the City didn't meet their \$4,818 match;  
14 would the City be in the arrears. Mr. Eriksson indicated yes; however, if the City exceed the  
15 amount, the City would be credited for the next year.

16  
17 Council Member Crittenden's opinion was Red Ledges should provide at least 50 percent of the  
18 mitigation because they were a private subdivision. He would like to see them have "buy-in" to  
19 the program. Council Member Bradshaw thought that was a good idea as well, and he wouldn't be  
20 surprised if they were not already doing that.

21  
22 Chief Booth informed the Council his department had been working with Red Ledges the last few  
23 months; all of that was in the works. The Council was just not aware of it.

24  
25 **Motion:** Council Member Potter moved to approve the Cooperative Agreement Between the Utah  
26 Division of Forestry, Fire and State Lands Regarding Protecting Non-Federal Land from Wildland  
27 Fire. Council Member Franco made the second. Council Members Voting Aye: Council Member  
28 Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.

29  
30 [9. Consideration of the Airport Advisory Board's Recommendation to Rescind the Airport  
31 Manager's Directive Banning Vehicles from the FBO Ramp; have an Assessment Done  
32 for a Vehicle Lane Along the FBO Ramp; and Amend the Rules and Regulations in  
33 Section 7](#)

34 [Airport Manager's Staff Report](#)  
35 [Airport Manager's Directive 17-01](#)  
36 [Airport Advisory Board Comments](#)

37  
38 Mr. Godfrey addressed the Council regarding the Airport Advisory Board's recommendation to  
39 the City Council to rescind the Airport Manager's directive to ban vehicle traffic from the FBO's  
40 ramp. Mayor McDonald inquired if it was for all types of vehicles. Mr. Godfrey replied it was for  
41 all vehicles.

42  
43 Council Member Crittenden provided some clarification; it was not a complete ban. He went on  
44 to explained individuals at the Airport could be accompanied by a member of OK3's Staff. Mr.  
45 Godfrey noted individuals could go on the ramp by permission and supervision by the FBO  
46 personnel. Council member Potter questioned how someone would get permission; would they be

1 available around the clock? Mr. Godfrey indicated they would have to contact the FBO;  
2 however, they are not there 24/7. He went on to say, all he had to offer, was a compromise, which  
3 was in the works.

4  
5 Council Member Franco said she would like to know what the permission process was, and she  
6 did not know if it was fair from the standpoint of the Rules and Regulations. It was her opinion  
7 that the FBO controlled everything such as, the ramp fees and the tie down fees, and there should  
8 not be a permission fee. She suggested it needed to be a clear, fair process. Mr. Godfrey indicated  
9 there would not be a permission fee.

10  
11 Mr. Godfrey stated it was his intent in the beginning to go through a process. Council Member  
12 Franco reiterated that a clear, fair process needed to be added and not just have a ban. Mr. Godfrey  
13 pointed out the Rules and Regulations give the Airport Manager discretion to control vehicle  
14 traffic on the aircraft ramp, and that is what he did. He saw a safety issue, and he did what he did.

15  
16 Council Member Franco inquired if Mr. Godfrey had tried to go after the traffic violating the  
17 aircraft ramp. Mr. Godfrey indicated he had intercepted traffic and talked to individuals. The  
18 educational process began at that point.

19  
20 Council Member Potter questioned if the Council had any legal counsel regarding this  
21 issue. Council Member Franco inquired what the legal liability was if they rescinded the directive.  
22 Mr. Godfrey indicated they were opening themselves up to exposure if an incident happened on  
23 the ramp. Council Member Franco inquired if the City was already under exposure under the  
24 Rules 7.6.2 because they were already allowing a 20-foot clearance without Mr. Godfrey's  
25 directive. Mr. Godfrey stated yes, there was a risk.

26  
27 Mr. Godfrey explained to the Council that the aircraft had changed. At the Airport now, it was  
28 covered with 20-million dollar jets and fuel trucks. It was his opinion that it was expedient to fix  
29 the issues.

30  
31 Brian Rowser - Hangar Owner/AAB Member

32 Mr. Rowser informed the Council that he liked compromise. He stated they had not heard what  
33 that compromise would be. He went on to say he was disappointed when the directive came out  
34 and asked that it be suspended. Mr. Rowser expressed the City had a very experienced Airport  
35 Board, and they had asked that it be rescinded.

36  
37 Mr. Rowser discussed the traffic and liability at the Airport. It was Mr. Rowser's opinion there was  
38 less liability with a car than an aircraft. In addition, the FBO was at the Airport less than 50 percent  
39 of the time, and thinking the FBO was going to be there to supervise traffic on the ramp was less  
40 than amenable.

41  
42 Mr. Rowser pointed out the directive was only directed at Airport users. He pointed out that Mr.  
43 Godfrey mentioned an education process; however, there had been zero attempt to control it.



1 Mr. Rowser informed the Council that he flew to many airports, and he drove on ramps. He went  
2 on to explain they could put traffic lanes in at the Airport. They could come up with a common-  
3 sense plan.

4  
5 Sterling Woodruff - Self-Fueling Distributor

6 Mr. Woodruff address the Council. He explained he was providing self-fueling at the Airport, and  
7 their fuel tote was located by the Airport Manager's office. They had no direct way to get to their  
8 fuel, and it would directly affect their business. Mr. Woodruff stated they needed a compromise  
9 fairly quickly. He added that he did not see the FBO very accommodating on escorting them.

10  
11 Paul Boyer - Daniel Hangar 19

12 Mr. Boyer informed the Council that Heber City's Airport was a Federal Grant Airport, which was  
13 funded by the public for the public.

14  
15 Mr. Boyer explained the City could not prohibit the public from coming onto the Airport. In  
16 addition, escorting individuals on the ramp was not going to happen after hours. He quoted Kristen  
17 Brownson, with the FAA, and she said, "you could not limit the public after hours". There are  
18 vehicle lanes on airports all over the country. Mr. Boyer indicated there were dozens of other  
19 options. He reminded the Council that everyone helped pay for this Airport.

20  
21 Council Member Crittenden asked Mr. Boyer, if you were still the Airport Manager, and this was  
22 still your decision, how would you want the Council to handle it and not micro-manage you as the  
23 Airport Manager.

24  
25 Mr. Boyer explained how he would come up with his decision. He stated that he agreed with Mr.  
26 Godfrey, with the current Rules and Regulations, he had the authority to make this decision.  
27 But, with the current environment at the Airport, at this time, there are a lot of special issues that  
28 are volatile.

29  
30 Council Member Crittenden informed the Council there was some discussion of remedial process  
31 in the Airport Advisory Board meeting that Mr. Godfrey was looking at some compromises, and  
32 Council Member Crittenden discussed those compromises. He went on to say he trusted Mr.  
33 Godfrey was listening, and he was hearing the concerns.

34  
35 Council Member Crittenden stated he was thinking about two approaches: the  
36 directive would stand for 30-days to get a compromise, or it needed to be tabled for 30-days to get  
37 a compromise. He thought the compromise needed to be looked at and accommodated so the  
38 hardships could be dealt with and still have the safety.

39  
40 Council Member Crittenden said, I don't think we just want anyone doing it. I had a few visits to  
41 the airport when he saw a vehicle come down the taxiway and down the ramp. He thought things  
42 needed to be done, and he didn't want to put the hammer down on the City's Airport Manager. He  
43 would rather give him the time to work out a compromise.

1 Sterling Woodruff - Self-Fueling Distributor

2 Mr. Woodruff reiterated that his business was being affected. He informed the Council that  
3 their students were hanging out at the Airport and going to lunch in Heber City. He pointed out  
4 that 30-days was a long time for them. He noted it was safer for them to utilize the little strip of  
5 land. He mentioned that he used to be a line guy at the Airport, and he had experience, and they  
6 need something that would help Heber City. In addition, it was more of a hazard to take fuel out  
7 on the road than on the ramp.

8

9 Council Member Crittenden clarified it would be a hardship for Mr. Woodruff to keep the directive  
10 in place for 30-days.

11

12 Mr. Woodruff indicated that he was not trying to rush Mr. Godfrey, and they need to keep the  
13 Airport safe. However, the other options and the amount of students they have create a hazard.

14

15 Council Member Franco indicated she had spoken about the directive with the City's legal advice,  
16 and he was concerned about the liability and the vitality. She noted the self-fueling could be given  
17 another location. Mr. Godfrey informed the Council the self-fueling was temporary until the  
18 Minimum Standards addressed it. Council Member Franco pointed out that Mr. Woodruff had the  
19 right for self-fueling. She questioned what could be done so it was not a hardship on them. Mr.  
20 Godfrey indicated he could grant them permission to use the taxi way.

21

22 Council Member Franco questioned if there had any repeat offenders on the ramp/taxi way with  
23 the education he had done. Mr. Godfrey said, yes. He went on to explain, because of those few  
24 people everyone would be shut down, and due to his concern of liability; and the FBO would sue  
25 the City. He asked the Council to keep in mind they had a Part 13 Complaint.

26

27 Council Member Crittenden inquired with the two cases that need special attention, do you feel  
28 like it was within his latitude to grant those two exceptions during the 30-days to come to a  
29 compromise. Mr. Godfrey indicated that he believed so. Council Member Potter pointed out for  
30 every Brian Rowser, there would be seven more exceptions. Mr. Rowser just happened to be here.

31

32 Mr. Rowser informed the Council there were a lot of planes that come into the Airport after hours.  
33 In his opinion, the liability had not changed in 70 years.

34

35 Council Member Crittenden noted the City had an Ordinance or Rule that stated no one could  
36 come within 20-feet of another plane with a vehicle. He questioned if that Rule waved the City's  
37 liability. Mr. Godfrey explained if a vehicle hit a plane, that individual would have to have a gate  
38 pass. He added, those individuals are supposed to have insurance on their vehicle. He suggested  
39 what would happen if an individual did not have insurance, the responsibility could or would fall  
40 to the Airport and maybe the FBO.

41

42 Mr. Godfrey said keep in mind, that was someone's leasehold. They should have some reasonable  
43 expectation of what happens on their leasehold.

44

1 Council Member Franco stated we do have some conflicting legal advice on that right now. Kristen  
2 Brownson said it was a public ramp. The City needed to go to the FAA and get an exact opinion  
3 what Ms. Brownson meant.  
4

5 Mr. Godfrey informed the Council he would support the 30-day fix it period and work it out.  
6 Council Member Franco said if we had the 30-day fix it period, what exemptions would you give  
7 for those individuals that need to unload passengers, fix their aircraft, etc. Council Member Potter  
8 suggested to repeal the directive right now; it had been fine for 70 years. Mr. Godfrey would have  
9 30-days to figure it out, and that would bring everyone to the table. She went on to say, it was not  
10 fair to those that are trying to keep in business.  
11

12 **Motion:** Council Member Smith moved to suspend the directive for 30-days to give the Airport  
13 Manager and users of the Airport time to find a solution. Council Member Bradshaw made the  
14 second.  
15

16 Council Member Franco asked if Council Member Smith could add in the motion to get legal  
17 advice on whether the 20-foot is enough to give the City absolution from liability; in addition, what  
18 public really means with this compromise?  
19

20 **Council Member Smith's Amended Motion:** Council Member Smith accepted Council Member  
21 Franco's amendments. Council Member Bradshaw made the second. Council Members Voting  
22 Aye: Council Member Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed  
23 unanimously  
24

25 **Amendment to Council Member Smith's Amended Motion:** Council Member Crittenden  
26 moved to amend the motion to direct that it be on the agenda for the 1st of June 2017 to have the  
27 City's Airport Manager present a compromise that he agreed to. Council Member Potter made  
28 the second. Council Members Voting Aye: Council Member Bradshaw, Franco, Potter, Smith, and  
29 Crittenden. The motion passed unanimously.  
30

31 [10. Discussion Regarding Heber City's Airport Template Lease](#)  
32 [AAB Staff Report](#)  
33 [DRAFT - Airport Template Hangar Lease](#)  
34

35 Brian Rowser – Airport Advisory Board Member

36 Mr. Rower informed the Council that the Airport Advisory Board (AAB) learned this agenda  
37 item was on the Council's agenda mainly pertaining to the Kirsch Lease, and they knew they had  
38 not given any advice pertaining to the Kirsch Lease. He went on to say there were so many leases  
39 at the Airport that they tried to label each one to keep them straight: there is the Hangar Row Lease,  
40 the Mabbutt Lease, which was through a committee, the proposed Kirsch Lease, and the Daniel  
41 Lease, which was what everyone was on except Hangar Row and the FBO.  
42

43 Mr. Rowser indicated what the AAB concluded was they do not think the Kirsch Lease was  
44 appropriate for what the City was looking for. It was more appropriate for the City to be renting  
45 out hangars as opposed to the City leasing ground for people to build a hangar upon.  
46

1 Mr. Rowser indicated what the AAB would like to do was take their experience in this material  
2 and give the Council a good recommendation on what lease they felt represented the City's  
3 interest, the Airport users' interests and provides some balance. Therefore, last night they created  
4 a committee to look at all of the leases, and come up with a good lease for the Council to look  
5 at. They would like to run that through the committee, then through the AAB, and then ultimately  
6 made a recommendation to the Council.  
7

8 Mr. Rowser stated their first recommendation from the AAB was the City already paid Mr.  
9 Kirsch for a lease, the AAB thought Mr. Kirsch should provide the appropriate lease, which would  
10 be a ground lease as opposed to a hangar lease and not charge the City twice.  
11

12 Mr. Rowser indicated the second recommendation from the AAB was given the fact the leases  
13 might be all over the place, it might be premature for the City Council to spend their time looking  
14 at a standard lease right now until the AAB was able to take the leases right now and run them  
15 through AAB committee, present it to the AAB, come up with a recommendation, and forward it  
16 to the City Council.  
17

18 Council Member Franco indicated that she had spoken with Mr. Kirsch that morning and he  
19 admitted it was a hangar lease and not a ground lease, and he would send a ground lease. However,  
20 the part you don't want to hear was, the ground lease was very similar to a hangar lease.  
21

22 **Motion:** Council Member Franco moved to table Item Number 10, discussion regarding Heber  
23 City's Airport template lease and go through this process that the Airport Advisory Board had  
24 submitted. Council Member Crittenden made the second. Council Members Voting Aye: Council  
25 Member Bradshaw, Franco, Potter, Smith, and Crittenden. The motion passed unanimously.  
26

27 5. [Ordinance No. 2017-17, an Ordinance Vacating Lot 20 of Valley Height Subdivision,](#)  
28 [Plat A](#)  
29 [Staff Report](#)  
30 [Petition's Letter](#)  
31 [Ordinance 2017-17](#)

32 6. [Alan M. Anderson, Final Plat Approval for a Small Subdivision, Valley Heights Plat "C",](#)  
33 [Located at 1267 North Valley Heights Circle](#)  
34 [Staff Report](#)  
35 [Valley Heights Plat C](#)  
36 [Annexation Agreement](#)  
37 [Valley Heights Subdivision Agreement](#)  
38

39 Mr. Mike Johnston, Summit Engineering, addressed the Council; he indicated he was present to  
40 represent Alan Anderson. Mr. Johnston noted that Summit Engineering assisted in the  
41 development of the Valley Heights Subdivision, and Mr. Anderson was Plat A, Lot 20. Mr.  
42 Anderson was requesting to vacate Lot 20, and include it in Plat C with two lots. Mr. Johnston  
43 informed the Council, along with the vacation of Lot 20, they were asking to vacate the easement  
44 which was utilized to access the City's water tank. However, the City would get the road back, and  
45 it would not be as steep.  
46

1 Mr. Johnston informed the Council that Agenda Item 6 went with Agenda Item 5. He indicated if  
2 the Council allowed the Andersons to vacate Lot 2, there would be the two lots in Plat C. He  
3 explained one lot was about 5 acres, and the other lots was about 2.38 acres. The  
4 Anderson's would build a new home on one of the lots and sell the other lot. Mr. Johnston  
5 indicated that both lots have frontage on the cul-de-sac, and they both met minimum standards.  
6

7 Mr. Johnston explained the new road would swing through Sandy S property, and both property  
8 owners would give the City an easement. It was inquired how it would work when a portion of the  
9 road was outside the City's limits. Mr. Baron indicated it was addressed in the subdivision  
10 agreement. Mr. Mumford added the City had a recorded easement; however, it would be vacated,  
11 and the City would record a new one.  
12

13 Mr. Mumford discussed the easement and how the water tank would be accessed.  
14

15 **Motion:** Council Member Franco moved to combine Agenda Items 5 and 6; adopt Ordinance No.  
16 2017-17, an Ordinance Vacating Lot 20 of Valley Height Subdivision, Plat A and give Final Plat  
17 Approval for a Small Subdivision, Valley Heights Plat "C", Located at 1267 North Valley Heights  
18 Circle, which would also include the findings and conditions located in the Staff Report,  
19 and subject to the sequence of the easement agreements and the water tank would always be  
20 accessible. Council Member Crittenden made the second.  
21

22 Discussion followed. Mr. Mumford wanted to clarify that the upper lot would not be provided  
23 services at this time and there would be notes on the plat specifying that.  
24

25 **Call the Question:** Council Members Voting Aye: Council Member Bradshaw, Franco, Potter,  
26 Smith, and Crittenden. The motion passed unanimously.  
27

## 28 11. [Adoption of the 2017/2018 Tentative Operating Budget](#) 29

30 Mr. Anderson addressed the Council regarding the Tentative Budget. Mr. Anderson expressed  
31 his appreciation to all the City Staff that had worked on the budget. He stated the Council had  
32 indicated they may want to meet another time to discuss the Tentative Budget before the Final  
33 Budget was adopted.  
34

35 Mr. Anderson recommended another date to discuss any changes the Council may want to discuss  
36 regarding the Tentative Budget, which could be May 18, 2017, which would be the next Regular  
37 Council meeting; and he suggested starting at 4:00 p.m.  
38

39 Mr. Anderson stated by State statute, the City was required to adopt a Tentative Budget by the first  
40 meeting in May and to consider a public hearing date.  
41

42 **Motion:** Council Member Bradshaw moved to adopt the Tentative Operating Budget for the Fiscal  
43 Year 2017-2018 and have a Final Budget Hearing on June 15, 2017. In addition, meet at 4:00  
44 p.m. on May 18, 2017, to have another Tentative Budget discussion. Council Member Smith made  
45 the second.  
46

1 Discussion followed regarding the motion. Council Member Franco stated she was hoping for  
2 more discussion regarding the Tentative Budget. She questioned if Council Members Bradshaw  
3 and Smith were in favor of 3 percent COLA, the 3 percent merit, and the 90/10 insurance split and  
4 so forth. Council Member Bradshaw said, tentatively yes.

5  
6 Council Member Franco said she was hoping for more discussion. She stated she would like to  
7 balance it with other goals they had for economic development, better personnel management, and  
8 goals they had in the past. She just doesn't see that in here. Mayor McDonald indicated that was  
9 why they were going to meet earlier on May 18, 2017. He indicated if there were any concerns or  
10 questions, she could bring it up at that time.

11  
12 Council Member Franco inquired if the Tentative Budget was proposing a 5 percent sewer increase  
13 or anything for water. Mr. Anderson indicated the Tentative Budget included a 5 percent sewer  
14 rate increase per household. Council Member Franco said the brochure said 5 percent increase per  
15 resident. Mr. Anderson clarified it was per household/connection. Council Member Franco stated  
16 that needed to be corrected.

17  
18 **Call the Question:** Council Member Voting Aye: Council Members Bradshaw, Potter,  
19 and Smith. Council Members Abstaining: Council Members Franco and Crittenden. The motion  
20 passed with three votes in favor and two abstentions.

21  
22 [12. Consideration of Closed Meeting Pursuant to Utah Code Annotated §52-4-205 Annotated](#)  
23 [§52-4-205 \(c\) Strategy Session to Discuss Pending or Reasonably Imminent Litigation](#)

24  
25 [13. Discuss Daniel #2 Airport Hangar Lease](#)

26  
27 Mayor McDonald suggested the Council continued the item until he received more information  
28 from Mr. Smedley.

29  
30 **Motion:** Council Member Bradshaw moved to continue Item Number 13, Discuss Daniel #2  
31 Airport Hangar Lease. Council Member Smith made the second. Council Members Voting Aye:  
32 Council Member Bradshaw, Potter, Smith, and Crittenden. Council Members Abstaining: Council  
33 Member Franco. The motion passed with four votes in favor and one abstentions.

34  
35 **VI. Adjournment**

36  
37 With no further business coming before the Council at this time, Council Member Franco moved  
38 to adjourn the meeting. Council Member Bradshaw made the second. The meeting adjourned at  
39 7:26 p.m.

40  
41  
42  
43 \_\_\_\_\_  
44 Michelle Vest, City Recorder  
45  
46

# TAB 1

**There are no physical  
materials for this  
agenda item.**



# TAB 2

**HEBER CITY CORPORATION  
STATE OF UTAH**

**Interim Financial Statements  
For The Period Ended March 31, 2017**

**Prepared by:  
Finance Department**

HEBER CITY CORPORATION

Interim Financial Statements  
For The Period Ended March 31, 2017

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTORY SECTION	
Executive Summary of Financial Reporting	3-9
FINANCIAL SECTION	
Tax Revenues by Source	10
Other Revenues by Source	11
Balance Sheet	12-13
Red & Green Report	14-32
Sales Tax Revenue Summary (Cash Basis)	33
Combined Airport Statement	34

May 15, 2017

Heber City Corporation

75 North Main St.

Heber City, UT 84032

RE: Financial Reporting March 2017 Unaudited

To Mayor McDonald, City Council and City Manager:

I have enclosed the financial reporting package for the period ended March 31st, 2017.

**Governmental Activity**

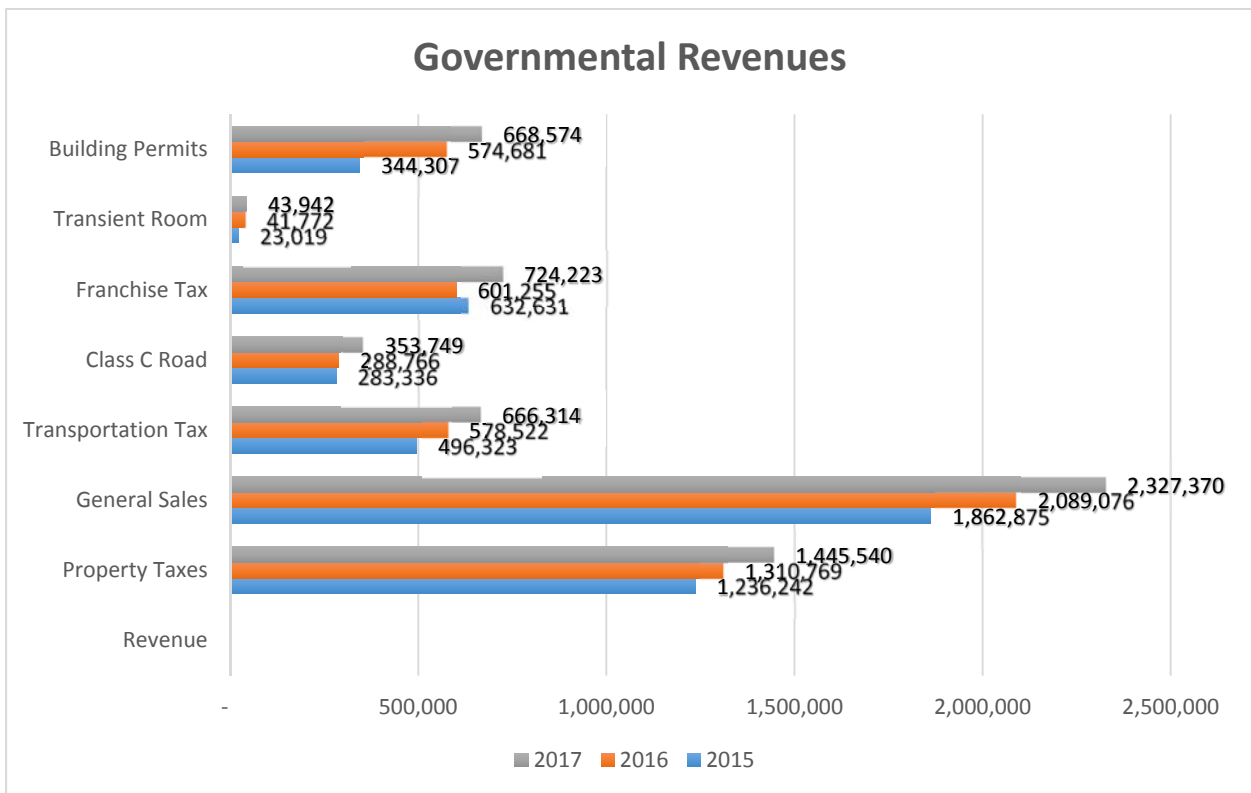
Our Sales Tax and Building Permits have continued to be strong this year. We ended the 3rd quarter with Sales Tax revenues of \$2,327K. Last year over the same time period we were at \$2,089K. So we are roughly 11.4% higher than last year. We prepared a sales tax budget of 2.9M for FY 16-17. So we are at 80.25% of our budgeted revenue for the year through the 3rd quarter.

As discussed in the last quarter review the fine revenue was down. However when we consider the \$29K in revenue for fines, forfeitures, small claims, court security, and traffic school in the month of March, the departmental revenues are expected to cover 80% of what was budgeted. This is an improvement in the most recent quarter.

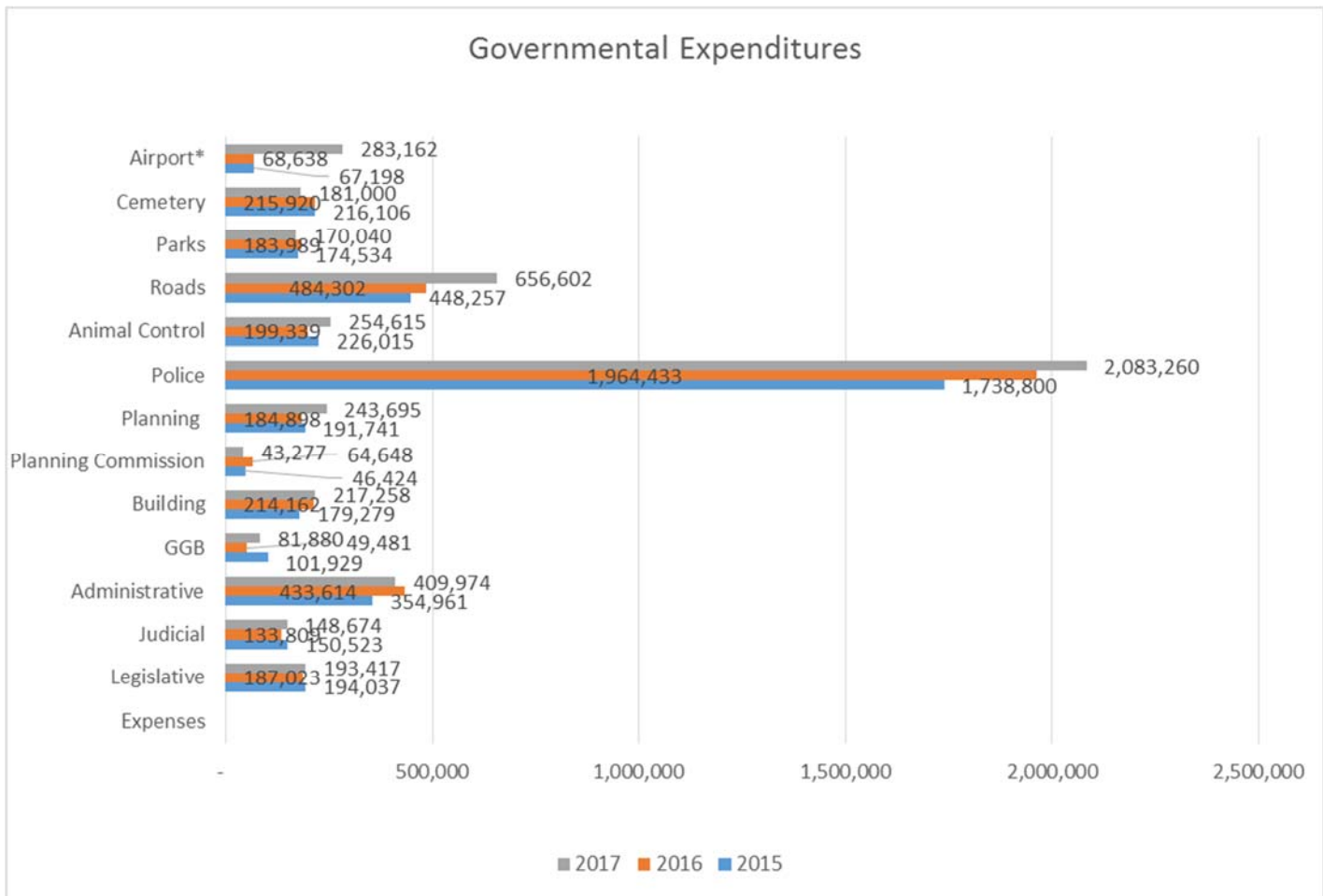
Our Transportation tax is at \$666,314 through the 3rd quarter. Over the same period last year we were at \$578,522. So we are seeing a 15% increase. It now appears that it will exceed the budget and estimate that was set in the budget process and is included in the financial statements.

Building Permit revenue has held a fairly steady pace through the 3<sup>rd</sup> quarter there was a slight seasonal drop. In terms of actual numbers we were \$574,681 last year YTD and we are at \$668,574 this year. This is a 16% YOY increase. I have included some charts throughout the executive Summary to give you a quick glance at the information contained in the financials. These charts only hit major items and aren't meant to be fully inclusive of all information. For example I have excluded the expenditures in these charts related to Election costs. Here are the Revenues and expenditure charts related to governmental activities.

Governmental	Year			Percentage Increase	
	2015	2016	2017	2016	2017
Revenue				%	
Property Taxes	1,236,242	1,310,769	1,445,540	106.03%	110.28%
General Sales	1,862,875	2,089,076	2,327,370	112.14%	111.41%
Transportation Tax	496,323	578,522	666,314	116.56%	115.18%
Class C Road	283,336	288,766	353,749	101.92%	122.50%
Franchise Tax	632,631	601,255	724,223	95.04%	120.45%
Transient Room	23,019	41,772	43,942	181.46%	105.20%
Building Permits	344,307	574,681	668,574	166.91%	116.34%
<b>Total</b>	<b>4,878,734</b>	<b>5,484,839</b>	<b>6,229,712</b>	<b>112.42%</b>	<b>113.58%</b>



Governmental	Year			Percentage Increase	
	2015	2016	2017	2016	2017
Expenses				%	
Legislative	194,037	187,023	193,417	96.39%	103.42%
Judicial	150,523	133,809	148,674	88.90%	111.11%
Administrative	354,961	433,614	409,974	122.16%	94.55%
GGB	101,929	49,481	81,880	48.54%	165.48%
Building	179,279	214,162	217,258	119.46%	101.45%
Planning Commission	46,424	64,648	43,277	139.25%	66.94%
Planning	191,741	184,898	243,695	96.43%	131.80%
Police	1,738,800	1,964,433	2,083,260	112.98%	106.05%
Animal Control	226,015	199,339	254,615	88.20%	127.73%
Roads	448,257	484,302	656,602	108.04%	135.58%
Parks	174,534	183,989	170,040	105.42%	92.42%
Cemetery	216,106	215,920	181,000	99.91%	83.83%
Airport*	67,198	68,638	283,162	102.14%	412.54%
<b>Total</b>	<b>4,089,803</b>	<b>4,384,256</b>	<b>4,966,854</b>	<b>107.20%</b>	<b>113.29%</b>



The expenditures are within budget across the board. The one item that isn't within the budget relates to costs associated with future land purchases. We haven't yet adopted the potential amendments associated with this. However we are still within budget but the budget will have to be adjusted should we look at purchases of land. Our revenues in excess of expenditures in the general fund is just over 1.1M through March 31<sup>st</sup>.

**Business Type Activity**

We are seeing higher than expected revenues in the water fund. The water fund through the 3rd quarter has \$1,580K in revenues. We have reached 79.93% of budgeted revenues for the year. I am projecting that we will end the year with revenues of \$2,111K. I am also expecting our expenditures to end up around \$2,406K. This includes \$815K in depreciation. We have collected \$538,400 in Culinary Impact Fees and \$123,472 in pressurized irrigation Impact Fees. I have included a chart showing the enterprise revenues and expenditures along with tables to provide a visual perspective.

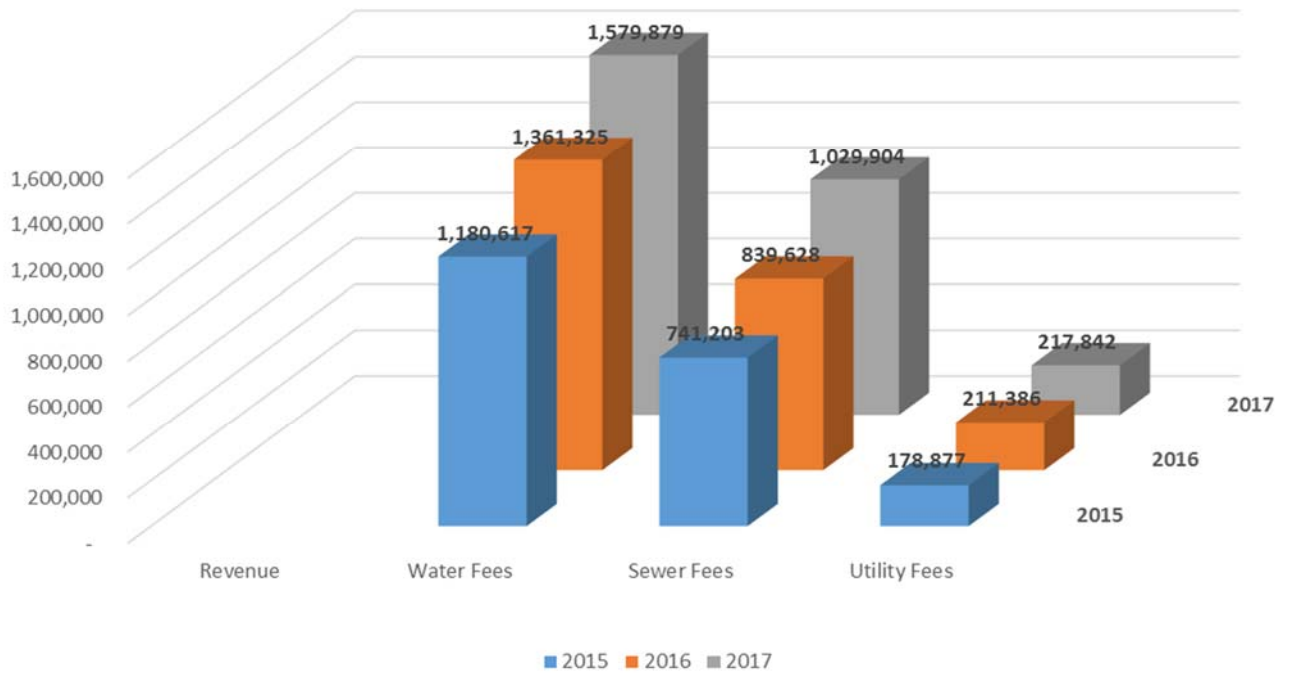
Business Type	Year			Percentage Increase	
	2015	2016	2017	2016	2017
Revenue				%	
Water Fees	1,180,617	1,361,325	1,579,879	115.31%	116.05%
Sewer Fees	741,203	839,628	1,029,904	113.28%	122.66%
Utility Fees	178,877	211,386	217,842	118.17%	103.05%
<b>Total</b>	<b>2,100,697</b>	<b>2,412,339</b>	<b>2,827,625</b>	<b>114.84%</b>	<b>117.22%</b>

Business Type	Year			Percentage Increase	
	2015	2016	2017	2016	2017
Expenses				%	
Water	1,627,096	1,661,726	1,762,859	102.13%	106.09%
Sewer	1,038,065	1,089,719	1,225,821	104.98%	112.49%
Utility	104,009	146,090	177,016	140.46%	121.17%
<b>Total</b>	<b>2,769,169</b>	<b>2,897,535</b>	<b>3,165,697</b>	<b>104.64%</b>	<b>109.25%</b>

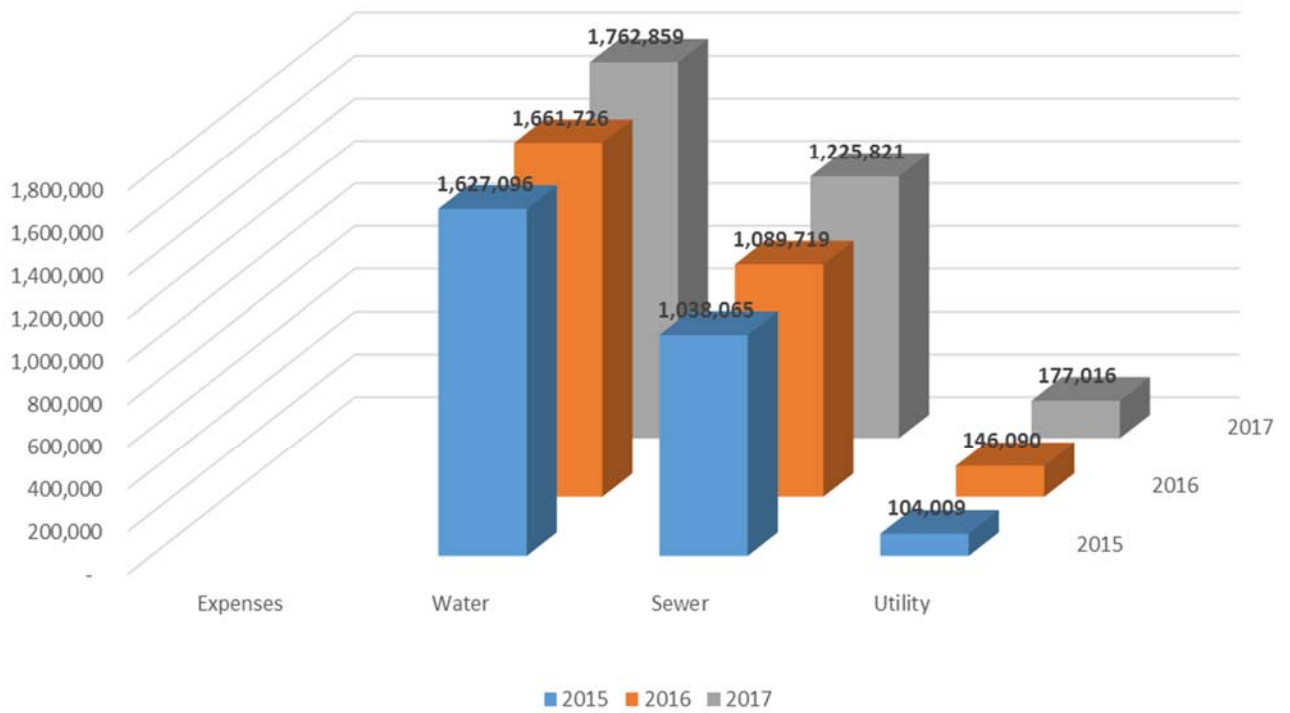
\*I have included Fund 53 for 2015 and 2016 to be comparative for 2017.

Legal Fees have increased costs.					
----------------------------------	--	--	--	--	--

### Business Type Revenues



### Business Type Expenses





Looking forward into next fiscal year with the rate increases being in effect for the full year I am projecting \$2,357K in revenue. I am still expecting our revenues in the future to fall short of fully funding depreciation in the water fund but we have made significant headway.

Our expenditures in the water fund are over in some accounts and under in others. However I expect at the end of the year that they will be close to the overall budget for expenditures. We have spent 73.07% of the total Water budget.

Our Sewer revenues are at 75.90% of the budget and I expect them to finish the year just over the budgeted revenue of \$1,357K by 15-20K. Our expenditures of 1,226K for the year to date is at 72.31% of the budgeted expenditures of \$1,695K for the year. We have made progress in covering the depreciation in the sewer fund as well but we are still not covering it and haven't made as much progress. As I have compared our figures with Payson City I am noticing that our Water Rates and Utility Rate are comparative or close. However our Sewer is still substantially less than what Payson charges. We went from covering \$136K in depreciation last year for this same time period to \$212K over the first nine months this year. We have made some progress in the sewer fund in eliminating the impact fee deficit by collecting impact fees of \$478K and only expending \$16K over the same time period.

The utility fund has generated a small profit of \$47.2K over the first half of the year as public works has been more focused in other areas. In particular the roads department has seen 78K more in spending for salaries and benefits over the same time frame last year. I expect the utility fund to expend more going into the end of the fiscal year and to keep a small profit of \$35-40K. This is more than I expected when I reported in the mid-year report by 15-20K. The streets are in need of sweeping and the sweeper has been down often. We have discussed this in our budget meetings.

In regards to impact fees and restricted revenues we have received \$3,140K so far this year. We have used \$1,776K for these restricted purposes. I have included a table showing the various restricted assets, revenues and expenditures in the following chart.

Restricted Funds	6/30/2016	3/31/2017	3/31/2017	3/31/2017
	Beginning Bal	Revenue	Used	Ending Bal
Storm Drain	\$ 84,000	\$ 1	\$ 36,650	\$ 47,351
Street	2,586,906	810,736	305,633	3,092,009
Transportation	1,655,149	679,017	555,742	1,778,424
Class C Roads	1,102,559	362,303	334,157	1,130,705
Parks	461,617	122,706	42,308	542,014
Water	1,974,991	583,534	485,408	2,073,117
Pressurized Irr.	463,397	82,634	-	546,031
Sewer	(862,054)	477,856	16,131	(400,330)
Perpetual Care	285,944	21,687	-	307,630
<b>Total</b>	<b>\$ 7,752,507</b>	<b>\$ 3,140,473</b>	<b>\$ 1,776,029</b>	<b>\$ 9,116,951</b>

If there are any questions as you read through the Red & Green report or other financials feel free to contact me with questions.

Respectfully,

Wesley Bingham, CPA

Senior Accountant

**HEBER CITY CORPORATION  
TAX REVENUES BY SOURCE DETAIL  
(LAST TEN FISCAL YEARS)**

Fiscal Year	General Property Tax	General Use and Sales Tax	Franchise Tax	Fees In Lieu of Tax	Transient Room Tax	Transportation Tax	Class C Roads Tax	Other Revenues	Total
2006	540,560	1,521,857	721,192	86,720	26,249	372,514	320,593	1,604,648	5,194,332
2007	584,293	1,710,201	677,075	91,238	26,017	434,292	346,243	1,705,377	5,574,736
2008	663,176	1,850,386	703,510	91,473	33,069	484,516	369,982	1,674,496	5,870,607
2009	676,604	1,592,096	667,879	87,935	19,602	383,712	358,129	1,437,361	5,223,318
2010	687,872	1,443,849	645,327	68,136	19,995	355,937	366,212	966,246	4,553,574
2011	745,512	1,545,379	728,584	61,160	23,235	376,448	392,111	1,392,235	5,264,664
2012	773,271	1,830,138	727,857	63,605	24,528	448,448	424,396	1,429,098	5,721,341
2013	827,346	2,023,755	756,445	64,708	24,078	503,963	443,000	1,610,994	6,254,289
2014	877,175	2,209,926	810,202	70,858	38,007	572,936	425,967	1,732,652	6,737,722
2015	1,218,461	2,486,773	818,910	88,036	31,366	669,294	449,259	3,099,439	8,861,538
2016	1,267,115	2,794,329	862,404	108,445	50,082	775,698	503,018	1,984,956	8,346,046
2017 YTD	1,367,691	2,327,370	724,223	77,849	43,942	666,314	353,749	1,560,025	7,121,163

\* "Transportation Tax has been accounted for within fund 48 since 2010. Figures are included for comparison."

\*\* "Class C Road Fund Allotment has been accounted for in Fund 49. Figures are included for comparison."

**HEBER CITY CORPORATION  
OTHER REVENUES BY SOURCE DETAIL  
(LAST TEN FISCAL YEARS)**

---

Fiscal Year	Licenses and Permits	Inter-Governmental Revenue	Charges For Services	Fines And Forfeitures	Interest	Miscellaneous Revenue	Heber Light & Power and Other Rev.	Total
2006	369,870	457,030	264,764	213,160	125,533	50,541	123,750	1,604,648
2007	326,788	476,268	354,377	224,588	154,260	45,346	123,750	1,705,377
2008	463,642	486,264	155,759	255,757	157,595	31,730	123,750	1,674,496
2009	305,445	449,108	133,120	229,262	67,244	121,698	131,484	1,437,361
2010	282,129	86,873	133,330	212,546	4,675	22,396	224,297	966,246
2011	323,767	416,897	143,627	247,304	10,590	33,585	216,465	1,392,235
2012	560,523	175,976	133,113	331,485	20,335	33,290	174,375	1,429,098
2013	526,253	175,370	207,252	304,801	12,116	160,202	225,000	1,610,994
2014	715,542	208,370	255,663	312,202	22,704	49,421	168,750	1,732,652
2015	628,335	213,023	244,549	315,362	18,963	1,375,944	303,263	3,099,439
2016	878,605	182,933	295,417	308,252	40,920	53,830	225,000	1,984,956
2017 YTD	781,583	204,321	157,483	170,939	45,931	31,018	168,750	1,560,025

**Heber City Corporation**  
**State Of Utah**  
**Statement Of Net Position**  
For The Period Ended March 31, 2017

	General Government				
	General Fund	Airport Special Revenue Fund	Transportation Tax	Class C Roads	Debt Service
<b>Assets</b>					
<b>Current Assets</b>					
Cash & Cash Equivalents	\$ 5,465,716	\$ 144,413	\$ 1,493,099	\$ 1,134,043	\$ 5,613
Receivables	119,334	59,619	62,928	-	-
Inventory	-	-	-	-	-
Property Tax Receivable - Short Term	36,597	-	-	-	-
Pre-paids	(109)	-	222,397	-	-
<b>Total Current Assets</b>	<b>5,621,538</b>	<b>204,033</b>	<b>1,778,424</b>	<b>1,134,043</b>	<b>5,613</b>
<b>Fixed Assets</b>					
Building	-	-	-	-	-
Improvements Other Than Buildings	-	-	-	-	-
Water Rights	-	-	-	-	-
Equipment	-	-	-	-	-
Land	-	-	-	-	-
Accumulated Depreciation	-	-	-	-	-
<b>Net Fixed Assets</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Other Assets</b>					
Construction In Progress	\$ -	\$ -	\$ -	\$ -	\$ -
Grants Receivable	-	-	-	-	-
Investment in Heber Light & Power	-	-	-	-	-
Due From Other Governments	272,659	-	-	-	-
Due From Other Funds	-	-	-	-	-
Restricted Pension Assets	-	-	-	-	-
<b>Total Other Assets</b>	<b>272,659</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Total Assets</b>	<b>\$ 5,894,197</b>	<b>\$ 204,033</b>	<b>\$ 1,778,424</b>	<b>\$ 1,134,043</b>	<b>\$ 5,613</b>
<b>Liabilities</b>					
<b>Current Liabilities</b>					
Accounts Payable	\$ 78,906	\$ 30,638	\$ -	\$ 3,338	\$ -
Retention Payable	-	-	-	-	-
Wages Payable	74	-	-	-	-
Payroll Liabilities	45,570	-	-	-	-
Surcharges Due the State	1,333	-	-	-	-
Deferred Revenue Short Term-State Grants	-	-	-	-	-
Deferred Revenue Short Term-State Grants	-	-	-	-	-
Deferred Revenue Short Term-Property Tax	-	-	-	-	-
<b>Total Current Liabilities</b>	<b>\$ 125,882</b>	<b>\$ 30,638</b>	<b>\$ -</b>	<b>\$ 3,338</b>	<b>\$ -</b>
<b>Long-Term Liabilities</b>					
Bail Trust & Victim Restitution	\$ 15,972	\$ -	\$ -	\$ -	\$ -
Cash Held In Evidence	2,645	-	-	-	-
Water Meter Deposits/ Deposits	-	-	-	-	-
Development Bonds	1,874,787	-	-	-	-
Construction Bonds	128,000	-	-	-	-
Other Liabilities	7,158	-	-	-	-
Due To Other Governments	-	-	-	-	-
Due to Other Funds	4,647	-	-	-	-
Accrued Interest Payable	-	-	-	-	-
Bonds Payable	-	-	-	-	-
Deferred Revenue Long Term-State Grants	-	-	-	-	-
Deferred Revenue Long Term-Property Tax	36,597	-	-	-	-
Restricted Pension Liabilities	-	-	-	-	-
<b>Total Long-Term Liabilities</b>	<b>\$ 2,069,805</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Equity</b>					
Reserve - Impact Fees	\$ -	\$ -	\$ -	\$ -	\$ -
Reserve - Sales Tax Bond	280,205	-	-	-	-
Reserve - Bond Proceeds	-	-	-	-	-
Reserve - Airport	-	-	-	-	-
Non-Spendable	311	-	-	-	-
Restricted	-	-	1,655,149	1,102,559	4,082
Beginning Fund Balances	2,280,586	184,105	-	-	-
Surplus/(Deficit) Current Year	1,137,408	(10,711)	123,275	28,146	1,531
<b>Total Equity</b>	<b>\$ 3,698,510</b>	<b>\$ 173,394</b>	<b>\$ 1,778,424</b>	<b>\$ 1,130,705</b>	<b>\$ 5,613</b>
<b>Total Liabilities &amp; Equity</b>	<b>\$ 5,894,197</b>	<b>\$ 204,033</b>	<b>\$ 1,778,424</b>	<b>\$ 1,134,043</b>	<b>\$ 5,613</b>

**Heber City Corporation**  
**State Of Utah**  
**Statement Of Net Position**  
For The Period Ended March 31, 2017

	Proprietary	Enterprise			Fiduciary
	Internal Service	Water	Sewer	Utility	Perpetual Care
<b>Assets</b>					
<b>Current Assets</b>					
Cash & Cash Equivalents	\$ 744,132	\$ 3,869,916	\$ 1,594,787	\$ 231,195	\$ 307,630
Receivables	-	155,468	179,266	25,498	-
Inventory	-	-	-	-	-
Property Tax Receivable - Short Term	-	-	-	-	-
Pre-paids	-	45,485	-	-	-
<b>Total Current Assets</b>	<b>744,132</b>	<b>4,070,869</b>	<b>1,774,052</b>	<b>256,693</b>	<b>307,630</b>
<b>Fixed Assets</b>					
Building	-	530,620	543,677	-	-
Improvements Other Than Buildings	-	25,661,682	16,213,642	-	-
Water Rights	-	8,753,022	-	-	-
Equipment	2,598,318	1,185,649	1,627,478	138,549	-
Land	-	364,819	192,942	-	-
Accumulated Depreciation	(1,706,366)	(9,501,376)	(5,791,665)	(26,933)	-
<b>Net Fixed Assets</b>	<b>\$ 891,952</b>	<b>\$ 26,994,416</b>	<b>\$ 12,786,074</b>	<b>\$ 111,616</b>	<b>\$ -</b>
<b>Other Assets</b>					
Construction In Progress	\$ 9,004	\$ 933,637	\$ -	\$ 1,650	\$ -
Grants Receivable	-	-	-	-	-
Investment in Heber Light & Power	-	-	-	-	-
Due From Other Governments	-	-	-	-	-
Due From Other Funds	-	-	-	-	-
Restricted Pension Assets	-	89,574	43,540	12,325	-
<b>Total Other Assets</b>	<b>9,004</b>	<b>1,023,211</b>	<b>43,540</b>	<b>13,975</b>	<b>-</b>
<b>Total Assets</b>	<b>\$ 1,645,089</b>	<b>\$ 32,088,496</b>	<b>\$ 14,603,666</b>	<b>\$ 382,284</b>	<b>\$ 307,630</b>
<b>Liabilities</b>					
<b>Current Liabilities</b>					
Accounts Payable	\$ -	\$ 23,645	\$ 36,093	\$ 2,629	\$ -
Retention Payable	-	-	0	-	-
Wages Payable	-	-	-	-	-
Payroll Liabilities	-	92,856	50,314	10,815	-
Surcharges Due the State	-	-	-	-	-
Deferred Revenue Short Term-State Grants	-	-	-	-	-
Deferred Revenue Short Term-Property Tax	-	-	-	-	-
<b>Total Current Liabilities</b>	<b>\$ -</b>	<b>\$ 116,501</b>	<b>\$ 86,407</b>	<b>\$ 13,444</b>	<b>\$ -</b>
<b>Long-Term Liabilities</b>					
Bail Trust & Victim Restitution	\$ -	\$ -	\$ -	\$ -	\$ -
Cash Held In Evidence	-	-	-	-	-
Water Meter Deposits/ Deposits	-	4,453	-	-	-
Development Bonds	-	-	-	-	-
Construction Bonds	-	-	-	-	-
Other Liabilities	-	-	-	-	-
Due To Other Governments	-	-	-	-	-
Due to Other Funds	-	-	-	-	-
Accrued Interest Payable	-	5,120	-	-	-
Bonds Payable	-	576,000	-	-	-
Deferred Revenue Long Term-State Grants	-	-	-	-	-
Deferred Revenue Long Term-Property Tax	-	-	-	-	-
Restricted Pension Liabilities	-	299,959	145,970	38,253	-
<b>Total Long-Term Liabilities</b>	<b>\$ -</b>	<b>\$ 885,532</b>	<b>\$ 145,970</b>	<b>\$ 38,253</b>	<b>\$ -</b>
<b>Equity</b>					
Reserve - Impact Fees	\$ -	\$ 2,438,388	\$ -	\$ -	\$ -
Reserve - Sales Tax Bond	-	-	-	-	-
Reserve - Bond Proceeds	-	-	-	-	-
Reserve - Airport	-	-	-	-	-
Non-Spendable	-	-	-	-	-
Restricted	-	-	-	-	285,944
Beginning Fund Balances	1,613,940	28,129,570	14,072,984	283,386	-
Surplus/(Deficit) Current Year	31,148	518,505	298,306	47,201	21,687
<b>Total Equity</b>	<b>\$ 1,645,089</b>	<b>\$ 31,086,463</b>	<b>\$ 14,371,290</b>	<b>\$ 330,587</b>	<b>\$ 307,630</b>
<b>Total Liabilities &amp; Equity</b>	<b>\$ 1,645,089</b>	<b>\$ 32,088,496</b>	<b>\$ 14,603,666</b>	<b>\$ 382,284</b>	<b>\$ 307,630</b>

## Budget Report for March 2017

### Heber City - General Fund FY 2016/2017 Budget

	Budget	Actual	75.00%	Year End
Revenues	FY 2016-2017	To Date FY 2016-2017	Percent Target	Projected Amount
<b>Taxes</b>				
General Sales & Use Tax	\$ 2,900,000	\$ 2,327,370	80%	\$ 3,000,000
Property Taxes	1,443,510	1,442,202	100%	1,492,000
Franchise Taxes	880,000	724,223	82%	1,020,000
Transient Room Tax	54,000	43,942	81%	54,000
Penalties & Interest	4,000	3,337	83%	4,000
<b>Total Taxes</b>	<b>\$ 5,281,510</b>	<b>\$ 4,541,075</b>	<b>86%</b>	<b>\$ 5,570,000</b>
<b>License and Permits</b>				
Building Permits	\$ 450,000	\$ 668,574	149%	\$ 825,000
Business Licenses	112,000	96,948	87%	115,000
Animal Control Fees	24,550	14,027	57%	19,800
Other Permit Fees	2,000	2,034	102%	2,600
<b>Total License and Permits</b>	<b>\$ 588,550</b>	<b>\$ 781,583</b>	<b>133%</b>	<b>\$ 962,400</b>
<b>Intergovernmental Revenue</b>				
Federal Grants	\$ 49,000	\$ 24,595	50%	\$ 49,000
State Grants	10,000	-	0%	10,000
Other Grants	-	-	0%	-
City Council Board Comp.	31,300	21,918	70%	31,300
County Wide Animal Control	168,944	122,581	73%	164,000
State Liquor Fund	25,000	28,084	112%	28,084
Other Intergovernmental Rev.	14,284	7,142	50%	14,284
<b>Total Intergovernmental</b>	<b>\$ 298,528</b>	<b>\$ 204,321</b>	<b>68%</b>	<b>\$ 296,668</b>
<b>Charges For Service</b>				
Zoning and Subdivision Fees	\$ 95,000	\$ 108,243	114%	\$ 120,000
Airport Revenue	-	100	100%	-
Cemetery Revenue	68,250	49,140	72%	73,900
Other Misc Charges For Services	-	-	0%	-
<b>Total Charges for Service</b>	<b>\$ 163,250</b>	<b>\$ 157,483</b>	<b>96%</b>	<b>\$ 193,900</b>
<b>Fines and Forfeitures</b>				
Court Fines & Forfeitures	\$ 315,000	\$ 162,788	52%	\$ 250,000
Enforcement Fees	10,750	8,151	76%	11,000
<b>Total Fines and Forfeitures</b>	<b>\$ 325,750</b>	<b>\$ 170,939</b>	<b>52%</b>	<b>\$ 261,000</b>
<b>Interest</b>				
Interest Income	\$ 20,000	\$ 45,931	230%	\$ 52,000
<b>Total Interest Income</b>	<b>\$ 20,000</b>	<b>\$ 45,931</b>	<b>230%</b>	<b>\$ 52,000</b>

## Budget Report for March 2017

Heber City - General Fund FY 2016/2017 Budget				
	Budget	Actual	75.00%	Year End
Revenues-continued	FY 2016-2017	To Date FY 2016-2017	Percent Target	Projected Amount
<b>Miscellaneous Revenue</b>				
Sale Of Fixed Assets	\$ 2,000	\$ -	0%	\$ 2,000
Donation	-	-	0%	-
Rents & Other Miscellaneous Rev	42,650	31,018	73%	51,650
Gain/Loss On Sale Of Securities	-	-	0%	-
<b>Total Miscellaneous Revenues</b>	<b>\$ 44,650</b>	<b>\$ 31,018</b>	<b>69%</b>	<b>\$ 53,650</b>
<b>Contributions &amp; Transfers</b>				
Heber Light & Power Dividend	\$ 225,000	\$ 168,750	75%	\$ 225,000
General Fund Surplus	283,162	-	0%	177,388
Other Transfers From Funds	23,200	-	0%	-
<b>Total Contributions &amp; Transfers</b>	<b>\$ 531,362</b>	<b>\$ 168,750</b>	<b>32%</b>	<b>\$ 402,388</b>
<b>Total General Fund Revenues</b>	<b>\$ 7,253,600</b>	<b>\$ 6,101,100</b>	<b>84%</b>	<b>\$ 7,792,006</b>

## Budget Report for March 2017

Heber City - General Fund FY 2016/2017 Budget				
	Budget	Actual	75.00%	Year End
Expenses	FY 2016-2017	To Date FY 2016-2017	Percent Target	Projected Amount
<b>General Fund Expenses</b>				
Legislative	\$ 264,000	\$ 193,417	73%	\$ 263,817
Judicial	206,650	148,674	72%	202,141
Administrative	657,550	409,974	62%	582,704
General Government Buildings	235,500	81,880	35%	210,676
Elections	-	-	0%	-
Building	316,750	217,258	69%	301,186
Planning Commission	89,350	43,277	48%	71,500
Planning	381,750	243,695	64%	380,854
Police	2,915,600	2,083,260	71%	2,829,900
Animal Control	356,400	254,615	71%	355,626
Roads	947,400	656,602	69%	940,728
Parks	290,900	170,040	58%	280,237
Cemetery	311,750	181,000	58%	1,092,637
Airport	-	-	0%	-
Transfers	280,000	280,000	100%	280,000
<b>Total General Fund Expenses</b>	<b>\$ 7,253,600</b>	<b>\$ 4,963,692</b>	<b>68%</b>	<b>\$ 7,792,006</b>
<b>Surplus/(Deficit)</b>	<b>\$ -</b>	<b>\$ 1,137,408</b>		<b>\$ -</b>



## Budget Report for March 2017

### Heber City - Airport Special Revenue FY 2016/2017 Budget

	Budget	Actual	75.0%	Year End
Revenues	FY 2016-2017	To Date FY 2016-2017	Percent Target	Projected Amount
Charges for Services				
Airport Business FBO/SSO Fees	\$ 8,000	\$ 6,861	86%	\$ 8,000
Airport Hangar Ground Lease Fee	106,000	113,103	107%	113,303
Aviation Fuel	25,000	23,294	93%	40,000
Airport Landing Fees	35,000	32,363	92%	45,000
Hangar Transfer Fees	1,000	-	0%	1,000
Hangar Pad Fees	163,000	60,000	37%	262,690
Farm Lease	3,500	2,250	64%	3,500
Interest Income	1,800	1,466	81%	1,800
Miscellaneous Income	1,000	33,115	3312%	33,175
Contributions - Surplus	23,200	-	0%	-
Cost of Sales	-	-	0%	-
<b>Total Revenues</b>	<b>\$ 367,500</b>	<b>\$ 272,451</b>	<b>74%</b>	<b>\$ 508,468</b>

### Heber City - Airport Special Revenue FY 2016/2017 Budget

	Budget	Actual	75.0%	Year End
Expenses	FY 2016-2017	To Date FY 2016-2017	Percent Target	Projected Amount
Salaries and Wages	\$ 107,700	\$ 78,338	73%	\$ 110,000
Temporary Employees	-	-	0%	-
Employee Benefits	51,000	28,091	55%	40,000
Travel	1,000	1,026	103%	1,800
Office Supplies	300	365	122%	500
Utilities	5,500	5,563	101%	7,000
Telephone	1,000	946	95%	1,250
Professional Services	145,000	121,020	83%	150,000
Special Supplies	10,500	7,840	75%	10,500
Insurance	5,000	3,675	74%	4,000
Depreciation	-	-	0%	-
Building	500	-	0%	500
Improv. Other Than Buildings	35,000	28,034	80%	35,000
Equipment	3,000	1,785	59%	3,000
Capital Equipment	2,000	-	0%	2,000
Equipment Maintenance	-	6	100%	-
Internal Service Charge	-	6,472	100%	8,630
Transfer to Airport CIP	-	-	0%	-
Transfer From Airport Hangars	-	-	0%	-
<b>Total Capital Expenses</b>	<b>\$ 367,500</b>	<b>\$ 283,162</b>	<b>77%</b>	<b>\$ 374,180</b>
<b>Surplus/(Deficit)</b>	<b>\$ -</b>	<b>\$ (10,711)</b>		<b>\$ 134,288</b>

## Budget Report for March 2017

### Heber City - Debt Service Fund FY 2016/2017 Budget

	Budget	Actual To Date	75.0% Percent	Year End Projected
Revenues	FY 2016-2017	FY 2016-2017	Target	Amount
Contributions from Other Funds	\$ 572,064	\$ 572,064	100%	\$ 572,064
Other Revenues	-	-	0%	-
Interest earnings	2,000	360	18%	400
Contributions From Surplus	-	-	0%	-
<b>Total Revenues</b>	<b>\$ 574,064</b>	<b>\$ 572,424</b>	<b>100%</b>	<b>\$ 572,464</b>

	Budget	Actual To Date	75.0% Percent	Year End Projected
Expenses	FY 2016-2017	FY 2016-2017	Target	Amount
Bond Principal	\$ 470,000	\$ 470,000	100%	\$ 470,000
Other Debt Principal	-	-	0%	-
Interest	100,894	100,893	100%	100,894
Fees	-	-	0%	-
<b>Total Capital Expenses</b>	<b>\$ 570,894</b>	<b>\$ 570,893</b>	<b>100%</b>	<b>\$ 570,894</b>
<b>Surplus/(Deficit)</b>	<b>\$ 3,170</b>	<b>\$ 1,531</b>		<b>\$ 1,570</b>

## Budget Report for March 2017

### Heber City - CIP - Airport FY 2016/2017 Budget

Capital Revenues	Budget FY 2016-2017	Actual To Date FY 2016-2017	75.0% Percent Target	Year End Projected Amount
Federal Grants	\$ 104,213	\$ 9,862	9%	\$ 9,862
State Grants	5,387	3,376	63%	3,376
Other Revenues	-	-	0%	-
Interest Earnings	100	(794)	-794%	100
Contributions From Other Funds	-	-	0%	-
Contributions From Surplus	5,300	-	0%	542
<b>Total Revenues</b>	<b>\$ 115,000</b>	<b>\$ 12,443</b>	<b>11%</b>	<b>\$ 13,880</b>

Capital Expenses	Budget FY 2016-2017	Actual To Date FY 2016-2017	75.0% Percent Target	Year End Projected Amount
Professional Services	\$ 75,000	\$ -	0%	\$ -
Special Supplies	-	-	0%	-
Building and Improvements	40,000	13,780	34%	10,580
Equipment	-	-	0%	3,300
Other Expenditures	-	-	0%	-
Transfer to Other Funds	-	-	0%	-
<b>Total Expenses</b>	<b>\$ 115,000</b>	<b>\$ 13,780</b>	<b>12%</b>	<b>\$ 13,880</b>
<b>Surplus/(Deficit)</b>	<b>\$ -</b>	<b>\$ (1,337)</b>		<b>\$ -</b>

## Budget Report for March 2017

### Heber City - CIP - Capital Projects FY 2016/2017 Budget

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Revenues	FY 2016-2017	FY 2016-2017	Target	Amount
Federal Grants	\$ -	\$ -	0%	\$ -
Contributions From Surplus	993,000	-	0%	578,000
Miscellaneous Revenue	-	-	0%	-
Interest Income	7,000	22,047	315%	22,000
Contributions & Transfers	-	-	0%	-
<b>Total Revenues</b>	<b>\$ 1,000,000</b>	<b>\$ 22,047</b>	<b>2%</b>	<b>\$ 600,000</b>

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Expenses	FY 2016-2017	FY 2016-2017	Target	Amount
Public Notices	\$ -	\$ -	0%	\$ -
Professional Services	-	-	0%	-
Buildings	1,000,000	14,065	1%	600,000
Improvements Other than Building	-	-	0%	-
Contributions & Transfers	-	-	0%	-
<b>Total Expenses</b>	<b>\$ 1,000,000</b>	<b>\$ 14,065</b>	<b>1%</b>	<b>\$ 600,000</b>
<b>Surplus/(Deficit)</b>	<b>\$ -</b>	<b>\$ 7,982</b>		<b>\$ -</b>

## Budget Report for March 2017

### Heber City - CIP - Industrial Park FY 2016/2017 Budget

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Revenues	FY 2016-2017	FY 2016-2017	Target	Amount
Land Sales & Lease Income	\$ -	\$ -	0%	\$ 700,000
Interest Income	3,200	3,016	94%	3,200
Contributions From Surplus	-	-	0%	5,800
Contributions & Transfers	-	-	0%	-
<b>Total Revenues</b>	<b>\$ 3,200</b>	<b>\$ 3,016</b>	<b>94%</b>	<b>\$ 709,000</b>

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Expenses	FY 2016-2017	FY 2016-2017	Target	Amount
Special Supplies	\$ -	\$ -	0%	\$ -
Professional Services	\$ -	\$ -	0%	\$ 9,000
Land Purchases	\$ -	\$ -	0%	-
Contributions & Transfers	-	-	0%	-
<b>Total Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>0%</b>	<b>\$ 9,000</b>
<b>Surplus/(Deficit)</b>	<b>\$ 3,200</b>	<b>\$ 3,016</b>	<b>106%</b>	<b>\$ 700,000</b>

## Budget Report for March 2017

### Heber City - CIP - Storm Drainage FY 2016/2017 Budget

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Revenues	FY 2016-2017	FY 2016-2017	Target	Amount
Storm Impact Fees	\$ -	\$ -	0%	\$ -
Street Impact Fees	-	-	0%	-
Interest Income	-	1	100%	-
Contributions From Surplus	-	-	0%	84,000
<b>Total Revenues</b>	<b>\$ -</b>	<b>\$ 1</b>	<b>100%</b>	<b>\$ 84,000</b>

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Expenses	FY 2016-2017	FY 2016-2017	Target	Amount
Special Supplies	\$ -	\$ -	0%	\$ -
Professional & Technical Services	-	-	0%	-
Impact Fees Refunded	-	-	0%	-
Improvements Other Than Building	-	36,650	100%	84,000
<b>Total Expenses</b>	<b>\$ -</b>	<b>\$ 36,650</b>	<b>100%</b>	<b>\$ 84,000</b>
<b>Surplus/(Deficit)</b>	<b>\$ -</b>	<b>\$ (36,649)</b>	<b>0%</b>	<b>\$ -</b>

## Budget Report for March 2017

### Heber City - CIP - Streets FY 2016/2017 Budget

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Revenues	FY 2016-2017	FY 2016-2017	Target	Amount
Street Impact Fees	\$ 300,000	\$ 553,256	184%	\$ 625,000
Interest Income	8,000	21,797	272%	22,000
Contributions From Other Funds	120,000	235,684	196%	250,000
Developer Contributions	-	-	0%	50,000
Contributions From Surplus	421,000	-	0%	-
<b>Total Revenues</b>	<b>\$ 849,000</b>	<b>\$ 810,736</b>	<b>95%</b>	<b>\$ 947,000</b>

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Expenses	FY 2016-2017	FY 2016-2017	Target	Amount
Professional & Technical Services	\$ -	\$ -	0%	\$ -
Improvements Other Than Building	849,000	305,633	36%	800,000
<b>Total Expenses</b>	<b>\$ 849,000</b>	<b>\$ 305,633</b>	<b>36%</b>	<b>\$ 800,000</b>
<b>Surplus/(Deficit)</b>	<b>\$ -</b>	<b>\$ 505,103</b>	<b>100%</b>	<b>\$ 147,000</b>

## Budget Report for March 2017

<b>Heber City - CIP - Parks FY 2016/2017 Budget</b>				
---	--	--	--	--

	Budget	Actual To Date	75.0% Percent	Year End Projected
<b>Capital Revenues</b>	<b>FY 2016-2017</b>	<b>FY 2016-2017</b>	<b>Target</b>	<b>Amount</b>
Park Impact Fees	\$ 75,000	\$ 117,990	157%	\$ 135,000
State Grant	-	-	0%	-
Other Revenue	-	-	0%	-
Interest Income	3,000	4,716	157%	5,000
Contributions From Surplus	-	-	0%	-
<b>Total Revenues</b>	<b>\$ 78,000</b>	<b>\$ 122,706</b>	<b>157%</b>	<b>\$ 140,000</b>

	Budget	Actual To Date	75.0% Percent	Year End Projected
<b>Capital Expenses</b>	<b>FY 2016-2017</b>	<b>FY 2016-2017</b>	<b>Target</b>	<b>Amount</b>
Professional & Technical Services	\$ 15,000	\$ 308	2%	\$ 15,000
Improvements Other Than Building	43,000	42,000	98%	43,000
<b>Total Expenses</b>	<b>\$ 58,000</b>	<b>\$ 42,308</b>	<b>73%</b>	<b>\$ 58,000</b>
<b>Surplus/(Deficit)</b>	<b>\$ 20,000</b>	<b>\$ 80,398</b>	<b>402%</b>	<b>\$ 82,000</b>



## Budget Report for March 2017

### Heber City - CIP - Trans Tax FY 2016/2017 Budget

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Revenues	FY 2016-2017	FY 2016-2017	Target	Amount
Transportation Sales Tax	\$ 780,000	\$ 666,314	85%	\$ 780,000
Interest Income	5,000	12,703	254%	13,000
Appropriated Surplus	1,495,000	-	0%	227,000
<b>Total Revenues</b>	<b>\$ 2,280,000</b>	<b>\$ 679,017</b>	<b>30%</b>	<b>\$ 1,020,000</b>

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Expenses	FY 2016-2017	FY 2016-2017	Target	Amount
Road Maintenance/Construction	\$ 2,160,000	\$ 320,058	15%	\$ 770,000
Professional & Technical Services	-	-	0%	-
Contributions & Transfers	120,000	235,684	196%	250,000
<b>Total Expenses</b>	<b>\$ 2,280,000</b>	<b>\$ 555,742</b>	<b>24%</b>	<b>\$ 1,020,000</b>
<b>Surplus/(Deficit)</b>	<b>\$ -</b>	<b>\$ 123,275</b>	<b>100%</b>	<b>\$ -</b>

## Budget Report for March 2017

### Heber City - CIP - Class C Road FY 2016/2017 Budget

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Revenues	FY 2016-2017	FY 2016-2017	Target	Amount
Class C Road Fund Allotment	\$ 540,000	\$ 353,749	66%	\$ 540,000
Other Revenue	1,500,000	-	0%	-
Interest Income	5,000	8,553	171%	9,000
Appropriated Surplus	647,064	-	0%	493,064
<b>Total Revenues</b>	<b>\$ 2,692,064</b>	<b>\$ 362,303</b>	<b>13%</b>	<b>\$ 1,042,064</b>

	Budget	Actual To Date	75.0% Percent	Year End Projected
Capital Expenses	FY 2016-2017	FY 2016-2017	Target	Amount
Equipment/Road Construction	\$ 2,400,000	\$ 42,093	2%	\$ 750,000
Professional & Technical Services	-	-	0%	-
Contributions & Transfers	292,064	292,064	100%	292,064
<b>Total Expenses</b>	<b>\$ 2,692,064</b>	<b>\$ 334,157</b>	<b>12%</b>	<b>\$ 1,042,064</b>
<b>Surplus/(Deficit)</b>	<b>\$ -</b>	<b>\$ 28,146</b>	<b>0%</b>	<b>\$ -</b>

## Budget Report for March 2017

<b>Heber City - Water FY 2016/2017 Budget</b>			
---	--	--	--

	Budget	Actual	75.0%	Year End
Revenues	FY 2016-2017	FY 2016-2017	Percent Target	Projected Amount
Culinary Water Sales	\$ 1,585,000	\$ 1,265,332	80%	\$ 1,700,000
Secondary Water Sales	337,000	260,449	77%	343,000
Hook-Up Fees	25,000	29,255	117%	38,000
Penalty-Late Fees	13,000	6,562	50%	9,000
Delinquent Acct. Reconnect Fee	7,000	4,393	63%	5,800
Change of Ownership Fee	9,500	8,025	84%	9,500
Appropriated Surplus	-	-	0%	-
Miscellaneous Revenue	-	5,864	100%	5,864
<b>Total Revenue</b>	<b>\$ 1,976,500</b>	<b>\$ 1,579,879</b>	<b>80%</b>	<b>\$ 2,111,164</b>

	Budget	Actual	75.0%	Year End
Operating Expenses	FY 2016-2017	FY 2016-2017	Percent Target	Projected Amount
Payroll, Benefits & Taxes	\$ 1,025,700	\$ 733,247	71%	\$ 1,015,000
Supplies, Subscriptions & Uniforms	172,500	80,990	47%	123,050
Utilities	133,000	116,216	87%	155,200
Outside Services	115,200	93,041	81%	120,200
Travel & Training	9,500	14,240	150%	17,000
Insurance	36,000	32,980	92%	35,000
Miscellaneous	11,000	11,941	109%	14,500
Capital Operating Costs	91,000	58,165	64%	97,500
Depreciation	800,000	608,520	76%	815,000
Contributions & Transfers	-	-	0%	-
<b>Total Expenses</b>	<b>\$ 2,393,900</b>	<b>\$ 1,749,342</b>	<b>73%</b>	<b>\$ 2,392,450</b>
<b>Income (Loss) From Operations</b>	<b>\$ (417,400)</b>	<b>\$ (169,462)</b>	<b>41%</b>	<b>\$ (281,286)</b>

## Budget Report for March 2017

### Heber City - Water FY 2016/2017 Budget

	Actual	75.0%	Year End
Water-Continued Non-Operating Income	Budget FY 2016-2017	To Date FY 2016-2017	Percent Target
			Projected Amount

#### Non-Operating Income

Impact Fees Culinary Water	\$ 350,000	\$ 572,985	164%	\$ 675,000
Impact Fees Secondary Water	70,000	82,634	118%	95,000
State Grant	-	7,500	100%	7,500
Bond Proceeds	-	-	0%	-
Sale of Fixed Assets	-	4,534	100%	16,144
Developer Contributions	-	-	0%	-
Interest Income	7,000	33,833	483%	36,000
Contributions & Transfers	-	-	0%	-
<b>Total Non-Operating Income</b>	<b>\$ 427,000</b>	<b>\$ 701,485</b>	<b>164%</b>	<b>\$ 829,644</b>

	Actual	75.0%	Year End
Non-Operating Expenses	Budget FY 2016-2017	To Date FY 2016-2017	Percent Target
			Projected Amount

#### Non-Operating Expenses

Interest Expense	\$ 13,518	\$ 13,518	100%	\$ 13,518
<b>Total Non-Operating Expenses</b>	<b>\$ 13,518</b>	<b>\$ 13,518</b>	<b>100%</b>	<b>\$ 13,518</b>
<b>Non-Operating Income (Loss)</b>	<b>\$ 413,482</b>	<b>\$ 687,968</b>	<b>166%</b>	<b>\$ 816,126</b>
<b>Total Income or Loss</b>	<b>\$ (3,918)</b>	<b>\$ 518,505</b>	<b>-13234%</b>	<b>\$ 534,840</b>

## Budget Report for March 2017

<b>Heber City - Sewer FY 2016/2017 Budget</b>			
---	--	--	--

	Budget	Actual To Date	75.0% Percent	Year End Projected
Revenues	FY 2016-2017	FY 2016-2017	Target	Amount
Sewer Service Revenues	\$ 1,340,000	\$ 1,017,052	76%	\$ 1,358,000
Hook-Up Fees	8,000	9,752	122%	11,000
Penalty-Late Fees	9,000	3,100	34%	7,000
Miscellaneous Revenue	-	-	0%	-
<b>Total Revenue</b>	<b>\$ 1,357,000</b>	<b>\$ 1,029,904</b>	<b>76%</b>	<b>\$ 1,376,000</b>

	Budget	Actual To Date	75.0% Percent	Year End Projected
Operating Expenses	FY 2016-2017	FY 2016-2017	Target	Amount
Payroll, Benefits & Taxes	\$ 635,300	\$ 386,240	61%	\$ 540,000
Heber Valley Special Service District	300,000	233,217	78%	305,000
Supplies, Subscriptions & Uniforms	46,750	33,231	71%	46,750
Utilities	10,500	9,188	88%	13,000
Outside Services	34,250	22,452	66%	34,250
Travel & Training	8,000	6,005	75%	8,600
Insurance	38,000	35,571	94%	38,000
Miscellaneous	14,000	11,468	82%	14,000
Capital Operating Costs	58,500	69,983	120%	87,500
Depreciation	550,000	418,467	76%	556,000
Contributions & Transfers	-	-	0%	-
<b>Total Expenses</b>	<b>\$ 1,695,300</b>	<b>\$ 1,225,821</b>	<b>72%</b>	<b>\$ 1,643,100</b>
<b>Income (Loss) From Operations</b>	<b>\$ (338,300)</b>	<b>\$ (195,918)</b>	<b>58%</b>	<b>\$ (267,100)</b>

## Budget Report for March 2017

Heber City - Sewer FY 2016/2017 Budget				
---	--	--	--	--

Sewer-Continued Non Operating Income	Budget FY 2016-2017	Actual To Date FY 2016-2017	75.0% Percent Target	Year End Projected Amount
Impact Fees Sewer	\$ 250,000	\$ 477,856	191%	\$ 550,000
Sale of Fixed Assets	-	4,534	100%	4,534
Bond Proceeds	-	-	0%	-
Developer Contributions	-	-	0%	-
Interest Income	4,500	11,834	263%	12,500
<b>Total Non-Operating Income</b>	<b>\$ 254,500</b>	<b>\$ 494,224</b>	<b>194%</b>	<b>\$ 567,034</b>

Non Operating Expenses	Budget FY 2016-2017	Actual To Date FY 2016-2017	75.0% Percent Target	Year End Projected Amount
<b>Non-Operating Expenses</b>				
Interest Expense	\$ -	\$ -	0%	\$ -
<b>Total Non-Operating Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>0%</b>	<b>\$ -</b>
<b>Non-Operating Income (Loss)</b>	<b>\$ 254,500</b>	<b>\$ 494,224</b>	<b>194%</b>	<b>\$ 567,034</b>
<b>Total Income or Loss</b>	<b>\$ (83,800)</b>	<b>\$ 298,306</b>	<b>-356%</b>	<b>\$ 299,934</b>

## Budget Report for March 2017

<b>Heber City - Utility Fund</b>				
<b>FY 2016/2017 Budget</b>				

	Budget	Actual	75.0%	Year End
Revenues	FY 2016-2017	FY 2016-2017	Percent	Projected
			Target	Amount

**Revenues**

Utility Fees	\$ 283,000	\$ 216,165	76%	\$ 288,000
Penalty-Late Fees	3,300	1,677	51%	2,000
Miscellaneous Revenue	-	-	0%	-
<b>Total Revenue</b>	<b>\$ 286,300</b>	<b>\$ 217,842</b>	<b>76%</b>	<b>\$ 290,000</b>

	Budget	Actual	75.0%	Year End
Operating Expenses	FY 2016-2017	FY 2016-2017	Percent	Projected
			Target	Amount

Payroll, Benefits & Taxes	\$ 176,000	\$ 116,528	66%	\$ 191,000
Supplies, Subscriptions & Uniforms	20,500	11,811	58%	20,225
Utilities	3,900	3,214	82%	4,650
Outside Services	48,100	11,133	23%	25,100
Travel & Training	2,500	513	21%	2,000
Insurance	9,000	7,282	81%	9,000
Miscellaneous	4,000	-	0%	4,000
Capital Operating Costs	16,000	18,389	115%	23,000
Depreciation	11,000	8,147	74%	11,000
Contributions & Transfers	-	-	0%	-
<b>Total Expenses</b>	<b>\$ 291,000</b>	<b>\$ 177,016</b>	<b>61%</b>	<b>\$ 289,975</b>
<b>Income (Loss) From Operations</b>	<b>\$ (4,700)</b>	<b>\$ 40,826</b>	<b>-869%</b>	<b>\$ 25</b>

	Budget	Actual	75.0%	Year End
Non-Operating Income	FY 2016-2017	FY 2016-2017	Percent	Projected
			Target	Amount

Rents & Miscellaneous	\$ -	\$ -	0%	\$ -
Sale of Fixed Assets	-	4,534	100%	-
Developer Contributions	-	-	0%	-
Interest Income	1,500	1,841	123%	1,900
<b>Total Non-Operating Income</b>	<b>\$ 1,500</b>	<b>\$ 6,375</b>	<b>425%</b>	<b>\$ 1,900</b>
<b>Non-Operating Income (Loss)</b>	<b>\$ 1,500</b>	<b>\$ 6,375</b>	<b>425%</b>	<b>\$ 1,900</b>
<b>Total Income or Loss</b>	<b>\$ (3,200)</b>	<b>\$ 47,201</b>	<b>-1475%</b>	<b>\$ 1,925</b>

## Budget Report for March 2017

### Heber City - Internal Service Fund FY 2016/2017 Budget

	Budget	Actual	75.0%	Year End
	To Date	To Date	Percent	Projected
Revenues	FY 2016-2017	FY 2016-2017	Target	Amount

**Revenues**

Equipment Replacement Charge	\$ 244,100	\$ 188,777	77%	\$ 240,000
<b>Total Revenue</b>	<b>\$ 244,100</b>	<b>\$ 188,777</b>	<b>77%</b>	<b>\$ 240,000</b>

	Budget	Actual	75.0%	Year End
	To Date	To Date	Percent	Projected
Expenses	FY 2016-2017	FY 2016-2017	Target	Amount

**Expenses**

Depreciation Expense	\$ 235,000	\$ 176,338	75%	\$ 230,000
<b>Total Expenses</b>	<b>\$ 235,000</b>	<b>\$ 176,338</b>	<b>75%</b>	<b>\$ 230,000</b>
<b>Income (Loss) From Operations</b>	<b>\$ 9,100</b>	<b>\$ 12,440</b>	<b>137%</b>	<b>\$ 10,000</b>

	Budget	Actual	75.0%	Year End
	To Date	To Date	Percent	Projected
Non-Operating Income	FY 2016-2017	FY 2016-2017	Target	Amount

**Non-Operating Income**

Sale Of Assets	\$ 20,000	\$ 11,610	58%	\$ 5,000
Interest Income	3,500	7,098	203%	7,800
Contributions & Transfers	-	-	0%	-
Surplus	-	-	0%	-
<b>Total Non-Operating Income</b>	<b>\$ 23,500</b>	<b>\$ 18,708</b>	<b>80%</b>	<b>\$ 12,800</b>
<b>Total Income or Loss</b>	<b>\$ 32,600</b>	<b>\$ 31,148</b>	<b>96%</b>	<b>\$ 22,800</b>



## Budget Report for March 2017

<b>Heber City - Perpetual Care FY 2016/2017 Budget</b>				
--	--	--	--	--

	Budget	Actual	75.0%	Year End
Revenues	FY 2016-2017	FY 2016-2017	Percent Target	Projected Amount
Perpetual Care Certificates	\$ 43,000	\$ 19,034	44%	\$ 30,000
Interest Income	2,200	2,653	121%	2,700
Surplus	-	-	0%	-
<b>Total Revenues</b>	<b>\$ 45,200</b>	<b>\$ 21,687</b>	<b>48%</b>	<b>\$ 32,700</b>

	Budget	Actual	75.0%	Year End
Expenses	FY 2016-2017	FY 2016-2017	Percent Target	Projected Amount
Contributions & Transfers	\$ -	\$ -	0%	\$ -
<b>Total Expenses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>0%</b>	<b>\$ -</b>
<b>Surplus/(Deficit)</b>	<b>\$ 45,200</b>	<b>\$ 21,687</b>	<b>48%</b>	<b>\$ 32,700</b>

## MONTHLY SALES TAX

Heber City Corporation  
Sales Tax Revenue Summary  
Feb-17  
Cash Basis

	2009	2010	2011	2012	2013	2014	
<b>JANUARY</b>	\$114,714.80	\$104,828.00	\$111,630.16	\$151,031.95	\$154,412.60	167,896.12	109%
<b>FEBRUARY</b>	\$180,187.55	\$153,195.52	\$165,712.52	\$195,985.25	\$214,462.76	232,847.72	109%
<b>MARCH</b>	\$113,141.41	\$106,450.76	\$127,384.52	\$125,672.46	\$153,465.61	163,832.08	107%
<b>APRIL</b>	\$104,363.97	\$105,855.58	\$114,766.44	\$134,397.54	\$142,436.97	157,256.41	110%
<b>MAY</b>	\$137,938.65	\$131,756.28	\$149,478.78	\$177,972.14	\$199,586.55	207,937.86	104%
<b>JUNE</b>	\$90,123.70	\$82,692.35	\$106,335.82	\$117,021.84	\$137,783.45	169,665.23	123%
<b>JULY</b>	\$114,390.85	\$110,052.96	\$119,813.91	\$150,929.26	\$166,982.78	179,215.82	107%
<b>AUGUST</b>	\$142,499.84	\$151,041.94	\$180,252.68	\$206,708.83	\$211,402.88	243,775.87	115%
<b>SEPTEMBER</b>	\$123,154.61	\$122,500.23	\$129,343.68	\$142,231.86	\$176,408.83	197,717.45	112%
<b>OCTOBER</b>	\$124,624.24	\$119,801.22	\$157,719.46	\$172,139.74	\$178,522.57	202,039.11	113%
<b>NOVEMBER</b>	\$140,798.57	\$132,075.42	\$174,187.41	\$183,891.32	\$200,717.91	237,676.48	118%
<b>DECEMBER</b>	\$117,940.23	\$124,838.32	\$135,624.13	\$149,652.20	\$164,222.45	185,006.80	113%
<b>TOTAL</b>	<b>\$1,503,878.42</b>	<b>\$1,445,088.58</b>	<b>\$1,672,249.51</b>	<b>\$1,907,634.39</b>	<b>\$2,100,405.36</b>	<b>\$2,344,866.95</b>	

Percent Change                    -14.82%                    -3.91%                    15.72%                    14.08%                    10.11%                    11.64%

	2015	2016	2017	2018	2019	2020	
<b>JANUARY</b>	\$184,700.71	\$205,107.68	\$234,590.89				114%
<b>FEBRUARY</b>	\$271,042.49	\$297,998.83	\$323,430.43				109%
<b>MARCH</b>	\$174,992.30	\$191,238.63	\$220,871.22				115%
<b>APRIL</b>	\$165,923.34	\$191,067.63	\$235,501.27				123%
<b>MAY</b>	\$228,252.32	\$268,625.98					118%
<b>JUNE</b>	\$195,934.18	\$198,775.53					101%
<b>JULY</b>	\$199,711.85	\$237,851.32					119%
<b>AUGUST</b>	\$272,657.94	\$281,020.51					103%
<b>SEPTEMBER</b>	\$226,162.36	\$250,531.21					111%
<b>OCTOBER</b>	\$225,288.63	\$262,054.94					116%
<b>NOVEMBER</b>	\$259,156.03	\$291,782.04					113%
<b>DECEMBER</b>	\$210,397.94	\$227,587.81					108%
<b>TOTAL</b>	<b>\$2,614,220.09</b>	<b>\$2,903,642.11</b>	<b>\$1,014,393.81</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	

Percent Change                    11.49%                    11.07%

HEBER CITY CORPORATION  
SUMMARY OF AIRPORT REVENUES AND EXPENSES  
31-Mar-17

	06/30/2011	06/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016	3/31/2017
<b>Revenues</b>							
Airport Business Lease	\$ 4,980	\$ 5,515	\$ 6,957	\$ 6,422	\$ 5,851	\$ 8,593	\$ 6,861
Airport Hangar Sales/Pad Fees	-	-	496,000	535,600	46,707	-	60,000
Airport Hangar Ground Lease	65,217	58,369	73,355	67,552	81,395	88,270	115,353
Aviation Fuel	10,616	14,623	25,281	24,866	24,199	23,749	23,294
Landing Fees	-	3,176	31,531	31,763	35,740	41,063	32,363
Interest Income	303	155	1,899	2,621	3,627	3,850	672
Hangar Lease (City Owned)	21,662	37,473	40,300	7,226	-	-	-
Federal Grants	207,720	342,647	123,430	231,295	2,904,124	1,609,593	9,862
State Grants	2,195	37,806	67,769	10,407	150,077	83,205	3,376
Misc. Income (FBO Lease Extension)	-	-	-	-	200,000	-	-
Misc Income Other	7,562	-	-	-	-	3,607	33,115
Hangar Transfer Fees	-	1,146	4,510	-	1,956	-	-
Total Revenues	\$ 320,256	\$ 500,911	\$ 871,032	\$ 917,753	\$ 3,453,677	\$ 1,861,930	\$ 284,895
<b>Expenses</b>							
Salaries & Wages	\$ 28,671	\$ 25,695	\$ 27,549	\$ 28,818	\$ 30,947	\$ 36,295	\$ 78,338
Benefits	12,809	12,540	9,133	10,039	12,228	12,922	28,091
Travel	-	-	507	657	951	1,060	1,026
Utilities	3,005	5,292	4,923	4,786	3,993	4,965	5,563
Office Supplies	-	2	814	270	196	156	365
Telephone	650	1,424	1,875	1,243	774	920	946
Professional Services	137,902	275,049	135,706	268,392	182,381	147,229	121,020
Special Supplies	12,521	8,497	84,946	6,083	5,274	3,571	7,840
Insurance	4,840	4,371	4,280	4,122	4,063	4,409	3,675
Cost of Sales/Inventory Writedown	-	13,360	424,000	450,000	27,977	-	-
Depreciation	11,819	11,819	11,819	11,819	11,819	11,819	-
Buildings & Improvements	74,027	131,504	26	600	3,234,475	1,575,919	41,814
Equipment	276	-	5,877	6,371	4,130	16,266	1,785
Internal Service Charge	-	-	-	-	-	-	6,472
Interest Expense	5,380	7,772	4,212	-	-	-	-
	\$ 291,902	\$ 497,325	\$ 715,667	\$ 793,200	\$ 3,519,211	\$ 1,815,531	\$ 296,936
Net Income	\$ 28,354	\$ 3,586	\$ 155,365	\$ 124,553	\$ (65,534)	\$ 46,399	\$ (12,041)

\* Does not include a \$225,000 transfer from the General Fund for future grant matches in June 2013.

\*\* Misc. Income of \$25,000 related to insurance proceeds from snowblower damage.

**TAB 3**



**Villages on 12th  
Preliminary Plat**

<b>Report Date:</b>	May 24, 2017
<b>Owner:</b>	Naniola Investment Company LLC
<b>Applicant:</b>	Art City Investments
<b>Developer:</b>	Art City Investments
<b>Location:</b>	730 East 1200 South
<b>Parcel:</b>	00:0020:8471 – 4.09 acres 00:0020:8469 – 6.42 acres Total – 10.51 acres
<b>Zone:</b>	R-3 COSZ
<b>General Plan:</b>	High Density Residential
<b>Land Use Authority:</b>	City Council
<b>Action Type:</b>	Administrative
<b>Planner:</b>	Jamie Baron, Planner

---

**Summary**

Art City Investments is seeking Preliminary Plat Approval for The Villages on 12<sup>th</sup>, a 120-unit condominium complex on 10.48 acres. With conditions, the application **Can Comply** with the Development Code, as outlined in the “Code Requirements” section of the staff report.

**Recommendation**

Staff recommends the City Council **approve** the request with the conditions as outlined in the “Recommendation and Alternatives” section of the staff report.

---

**Request**

The petitioner is requesting Preliminary Plat approval for a 120-unit condo complex with 10 12-unit buildings.

**Background**

On March 16, 2017, the City received an application for The Villages on 12<sup>th</sup> Preliminary Plat. The site consists of 10 buildings with 12 units each. The plan includes a playground, sand volleyball court, and splash pads for the amenities, with 50% open space.

**Process**

Section 18.22.040 indicates that the City Council is the approval body for Preliminary Plats in the Clustered Open Space Zone, following the review and a recommendation from the Planning Commission.

***Staff Finding: Consistent.** The Planning Commission has forwarded a positive recommendation and the application is before the City Council for approval.*

### **Community Review**

A public hearing was held at the Planning Commission on April 27, 2017.

### **General Plan**

The General Plan Map identifies this area as High Density Residential. The General Plan Document defines High Density Residential as follows:

The high density residential district is characterized by a somewhat higher density of residential uses at 6 units or less per acre, including single family homes, commercial apartments, and manufactured home parks. Commercial apartments may exceed this density. Health clinics and hospitals also exist in this district, but are approved as conditional uses to ensure compatibility with the residential uses. This district, with the higher density and higher traffic volumes, is located near and adjacent to the commercial districts to provide a close proximity to services for the residents of the district and to serve as a buffer to commercial districts for the lower density residential uses.

***Staff Finding: Consistent.** The property is Zoned R-3 (High Density Residential) with the COSZ overlay, which allows for a total of 12 units per acre.*

### **Code Requirements**

Code compliance of the application is outlined below.

The Concept Plan **Complies** with Sections 17.14, 17.20, 17.24, 17.40, 17.48, 18.60, 18.68.

The Concept Plan **Can Comply** with the development code as follows:

- **18.22 Clustered Open Space Zone (COSZ) – Can Comply**
    - 18.22.070 Standards and Requirements
      - A landscaping plan is required for Final Plat approval.
      - Berms may be required along 1200 South and 820 East.
  - **18.72 Off Street Parking and Loading – Can Comply**
    - 18.72.100 – Lighting
      - All lighting shall be full cut-off. Lighting details were not required with this submittal.
-

**Recommendation and Alternatives**

**Staff Recommended Option – Approval**

“I move to **approve** the Villages on 12<sup>th</sup> Preliminary Plat with the Findings and Conditions in the Staff Report:”

**Findings**

1. The application complies with the requirements of the Development Code.
2. The application is consistent with the General Plan, as articulated in the “General Plan” section of the staff report.
3. The Planning Commission forwarded a positive recommendation to the Council.

**Conditions:**

1. All conditions of the City Engineer shall be met.
  2. The Trails along 1200 South and 820 East shall be concrete.
  3. All lighting shall be full cut-off.
  4. A Full Landscaping Plan shall be provided with Final Plat.
  5. Berming shall be used on 1200 South and 820 East to screen the parking areas.
  6. Any proposed fencing shall be identified on the landscaping plan.
  7. An ADA ramp and signage will be required at the north of the property where the trail crosses 820 East.
  8. All other code requirements shall be met.
  9. Any other conditions or changes as articulated by the City Council:
- 

**Alternative 1 - Continuance**

“I move to **continue** the Villages on 12<sup>th</sup> Preliminary Plat to another meeting on [DATE], with direction to the applicant and Staff on information and / or changes needed to render a decision, as follows:

1. \_\_\_\_\_
2. \_\_\_\_\_

**Alternative 2 – Denial**

“I move to **deny** the Villages on 12<sup>th</sup> Preliminary Plat with the Findings below:

1. The Villages on 12<sup>th</sup> Preliminary Plat is not consistent with the General Plan, as articulated by the City Council: \_\_\_\_\_, and/or,

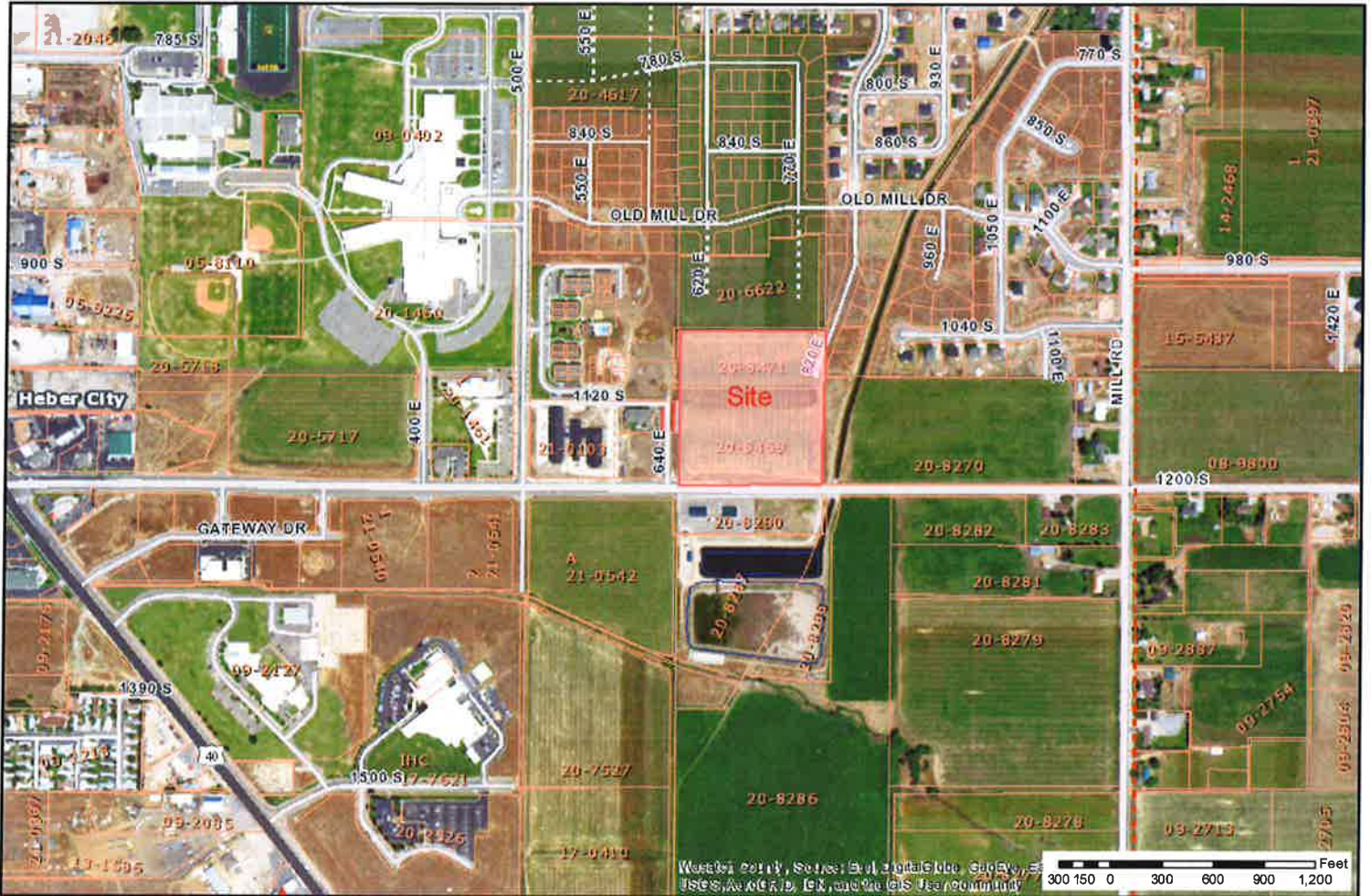
2. The Villages on 12<sup>th</sup> Preliminary Plat is not consistent with Section [SECTION] of the Code, as articulated by the City Council: \_\_\_\_\_.

Exhibits:

- |                          |          |
|--------------------------|----------|
| A. Map                   | [Page 5] |
| B. Conceptual Elevations | [Page 6] |



# Village on 12th



The boundary lines shown here have been generated for the internal use of Wasatch County and should only be used for general reference purposes.

Questions concerning ownership boundary locations should be directed to a title company, attorney, or licensed land surveyor. Wasatch County makes no warranty as to the accuracy or usefulness of this information. The end user of this information assumes all responsibility concerning this information's appropriate use.





April 5, 2017

Heber City Corporation  
Attn: Bart Mumford P.E.  
75 North Main  
Heber City, Utah 84032

**Subject: The Village on 12<sup>th</sup> – Preliminary Review**

Dear Bart:

Horrocks Engineers recently reviewed the plans for The Village on 12<sup>th</sup> located on 1200 South between 600 East and 800 East. The project includes 10 buildings with 12 units in each building. The following items need to be addressed with approval.

**General**

- The plans need to be revised to incorporate all of the red-line comments and items discussed at DRC.
- The addresses need to be obtained from the County and then submitted to the City for their records.
- A phasing plan needs to be shown, including what utilities and improvements will be installed with each phase.
- All underground work, curb, gutter, and asphalt work will need to be completed in 1200 South and 820 East prior to building permits being issued for the first phase. The City will work with the developer to get building permits before the on-site private asphalt is completed. This will be conditioned on meeting City code requirements, fire protection, and access requirements. The fire department requires a 26-foot wide hard surface access to new buildings.
- A blanket easement document for both the sewer and water lines needs to be provided and recorded.
- All onsite roads, storm drain systems, and irrigation will be private.
- The new City Standard Drawings and Specifications will need to be incorporated into the drawings.
- There are existing utility extension line agreements in place for sewer and water that require the City to collect funds from this development to reimburse the developer who installed the original utilities in 820 East and 1200 South.
- The development agreement needs to address the public trails within the easements, any storm drain agreements that may be made, maintenance of the public utilities, and any other potential items that may arise.

**Streets**

- ADA ramps need to be installed at the north end of the project on both the east and west sides of 820 East to connect the new trail to the existing one on the east side of the road.
- The trails along 1200 South and 820 East should be 8-foot wide concrete since they are replacing concrete sidewalk. These trails will be maintained by the project HOA.

- The sidewalk on the east side of 820 East may be eliminated, and it should be installed when the east side of 820 East develops.
- A striping plan for 1200 South needs to be included.
- The type of street lights for 1200 South need to be determined. Will they be dark sky compliant and residential or commercial style?
- The asphalt on 820 East needs to 44-feet wide and 4-inches thick.
- The total width of the 1200 South ROW needs to be shown.

#### **Storm Drain**

- The plan shows the storm drain for 1200 South tying into the private system on site. This should be revised to reflect the extension of the Master Planned 21-inch storm drain line in 1200 South. This line will extend along the frontage of this development and used for 1200 South only. This master planned line collects the storm water from 1200 South as it widens with curb and gutter to the east.
- A percolation test at the pond location is required, and a safety factor of two or more needs to be added to the rate determined for this location. The storm drain calculation needs to be updated with the information found.

#### **Pressurized Irrigation**

- WCWEP has master planned an 18-inch irrigation line in 820 East, running west along 1200 South, and tying into the existing irrigation in 1200 South. This is planned so that the backlot irrigation lines in Wasatch Vista and along the west side of this development can be abandoned. A plan for this needs to be agreed upon between WCWEP, the developer, and the City.
- The services shown off of the existing irrigation line on the west side of the property need to be eliminated and all the services need to be shown on the new lines in 820 East and/or 1200 South.

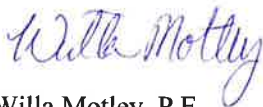
#### **Water**

- The plan needs to show a tee with valves on the existing 12 inch culinary water main in 1200 South.
- A fire department connection (FDC) is needed for each building within 150 feet of a fire hydrant.

Please call our office with any questions or concerns regarding this project.

Sincerely,

HORROCKS ENGINEERS

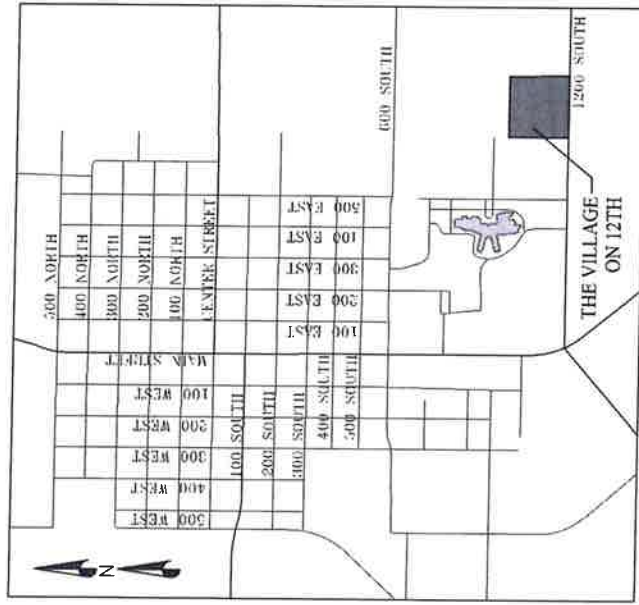


Willa Motley, P.E.

cc: file  
Berg Engineering  
Art City Investments  
Heber Planning Department

# THE VILLAGE ON 12TH

## PRELIMINARY APPLICATION



VICINITY MAP

### SHEET INDEX

1. SITE PLAN
2. LANDSCAPE PLAN
3. OPEN SPACE PLAN
4. ROAD PLAN
5. UTILITY PLAN
6. STORM DRAIN PLAN
7. BUILDING RENDERING

THE VILLAGE ON 12TH - PRELIMINARY APPLICATION - 16 MARCH 2017

ALL CITY PROSIMITANS  
 1000 S. 12TH ST. SUITE 100  
 WILSON, CALIFORNIA 94094  
 TEL: 415.333.3333 FAX: 415.333.3333  
 WWW.ACPRO.COM  
 DATE: 16.MAR.2017

THE VILLAGE ON 12TH  
 COVER SHEET



ENGINEERING  
 Products Group P.C.  
 1000 S. 12TH ST. SUITE 100  
 WILSON, CALIFORNIA 94094  
 TEL: 415.333.3333 FAX: 415.333.3333  
 WWW.ACPRO.COM

REVISIONS: 001  
 DATE: 16.MAR.2017  
 SHEET: 0



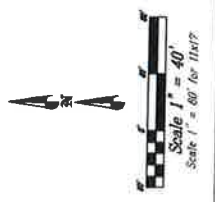
PLANT SCHEDULE

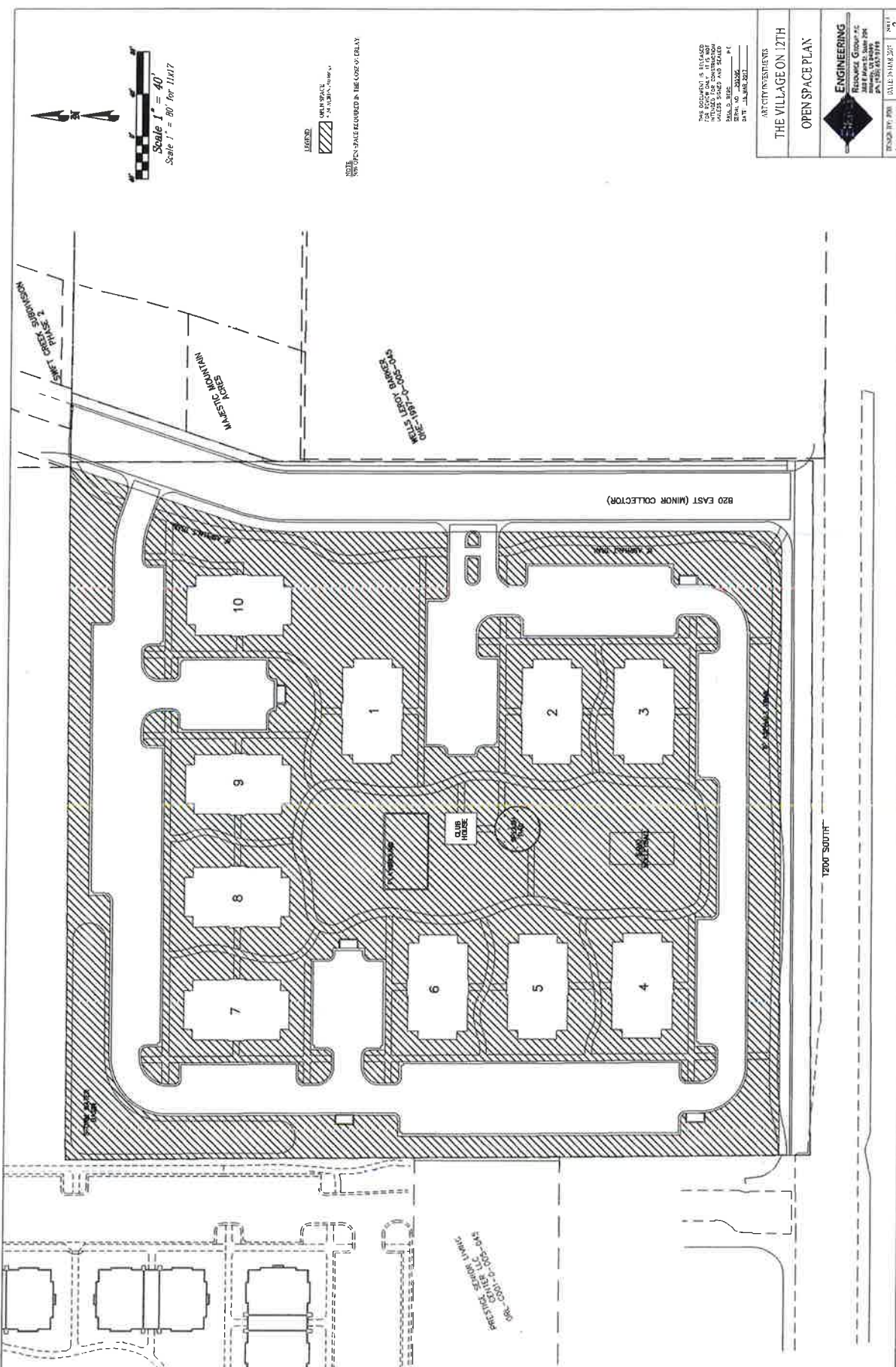
TREES	SYM	COMMON NAME / BOTANICAL NAME	CODE	CAL	SIZE
	25	Australian Maple / Acer floridanum / Autumn Blaze	848	2'	Cal
	18	Australian Paperbark / Eucalyptus amplexicaulis / Autumn Purple	888	2'	Cal
	36	Cornus Red Dogwood / Cornus rugosa / Autumn Red	848	2'	Cal
	40	Overlander Pear / Pyrus calleryana / Overlander	848	2'	Cal
	26	Sheep Ash / Fraxinus pennsylvanica	848	2'	Cal
	11	Upland Yew / Taxus canadensis	848	2'	Cal
EVERGREEN TREES	SYM	COMMON NAME / BOTANICAL NAME	CODE	CAL	SIZE
	17	Hop Spruce / Picea pungens glauca / Hoop Spruce	848	8"	8-10"
GROUND COVERS	SYM	COMMON NAME / BOTANICAL NAME	CODE		
	102	Knautia Bluegrass / Poa pratensis	102		



NOT RESPONSIBLE FOR EXISTING  
 TREE REMOVALS. ALL EXISTING  
 TREES TO BE MAINTAINED  
 UNLESS SHOWN TO BE  
 DEAD OR DISEASED.  
 DATE: 18 AUG 2022

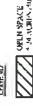
AT CITY INVESTMENTS  
 THE VILLAGE ON 12TH  
 LANDSCAPE PLAN





Scale 1" = 40'  
Scale 1" = 80' For 1:1x17

LEGEND



OPEN SPACE

NOTES: ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED

THIS DOCUMENT IS ISSUED  
WITHOUT LIABILITY FOR CONSTRUCTION  
DEFECTS, OMISSIONS, AND DELAYS.  
DATE: 08/20/2024

AN CITY INVESTMENTS  
THE VILLAGE ON 12TH  
OPEN SPACE PLAN



ENGINEERING  
Richard G. Grier, P.E.  
Professional Engineer No. 10000  
PA 1251 05/19/18  
DRAWN BY: GOS DATE: 08/20/24 SHEET: 3



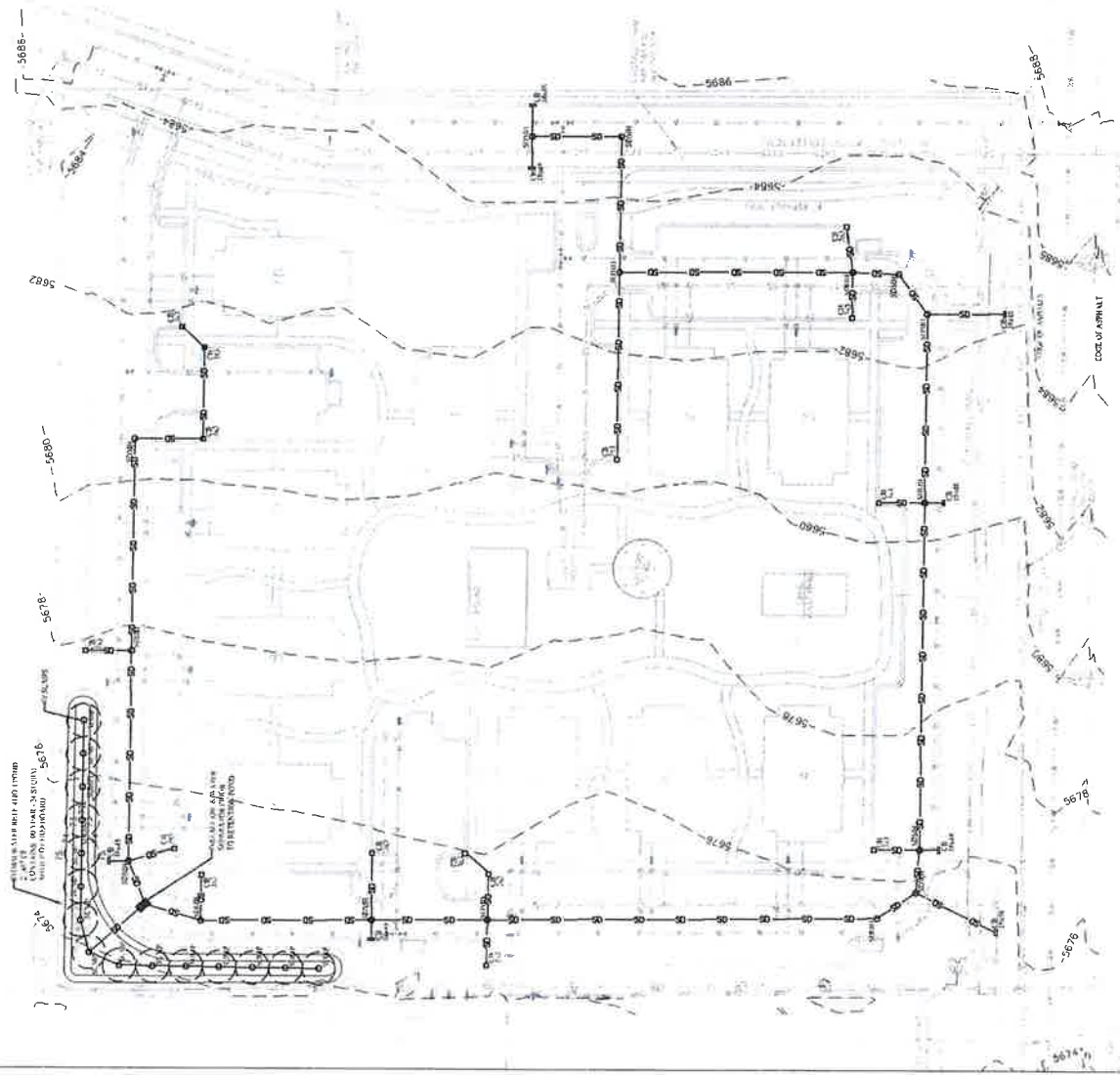
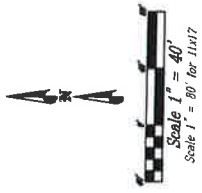




**LEGEND**

- EXISTING SEWER
- PROPOSED SEWER
- EXISTING WATER
- PROPOSED WATER
- EXISTING PRESSURIZED IRRIGATION
- PROPOSED PRESSURIZED IRRIGATION
- EXISTING STORM DRAIN
- PROPOSED STORM DRAIN
- EXISTING G.A.S.
- EXISTING OVERHEAD POWER

ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE CITY OF ASPEN UTILITY CONTRACTS. CONTRACTOR IS RESPONSIBLE FOR ALL STAKEOUTS AND FIELD VERIFICATION.



THE ABOVE IS PREPARED FOR THE CITY OF ASPEN, COLORADO. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL STAKEOUTS AND FIELD VERIFICATION.

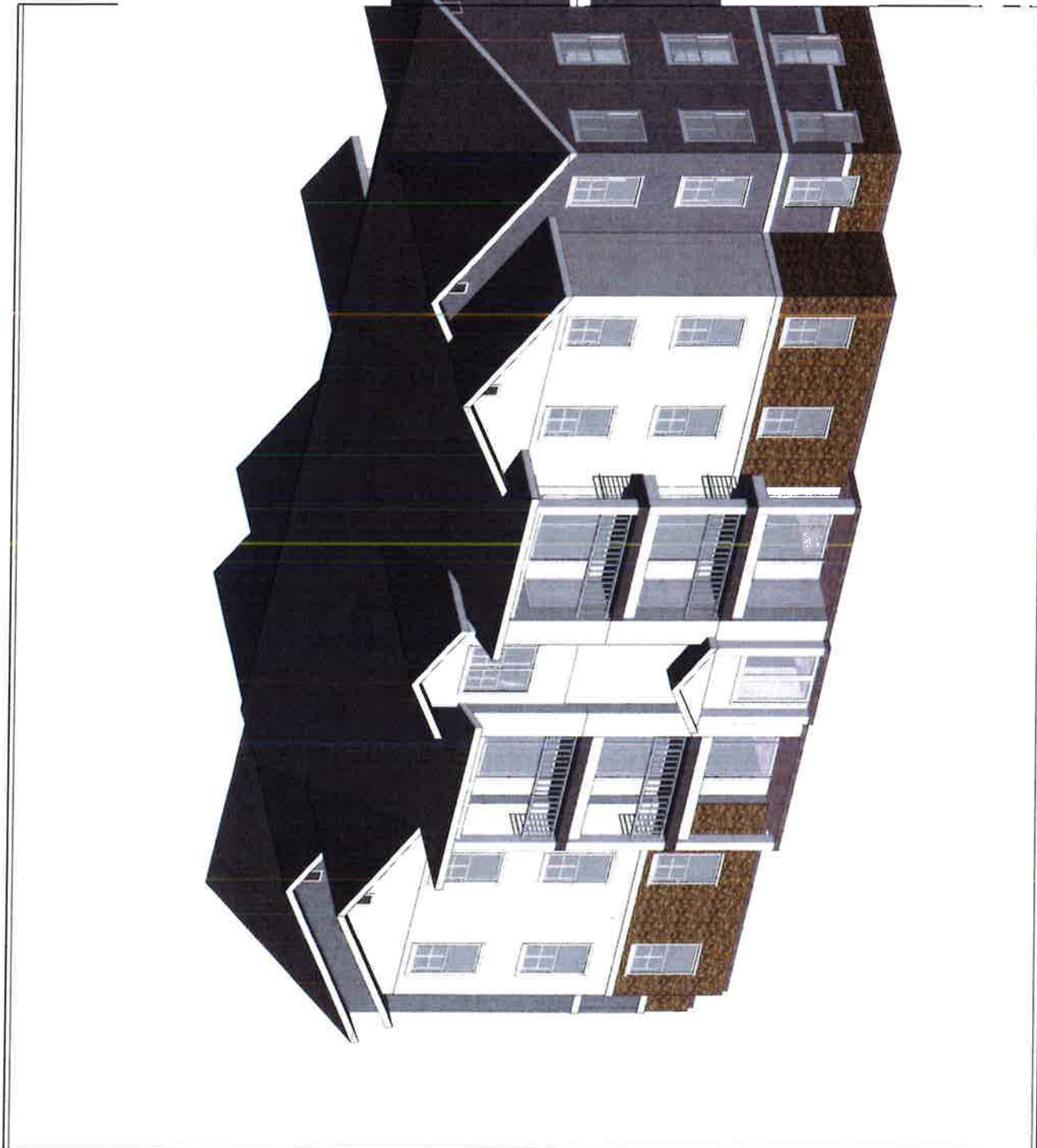
ART CITY INVESTMENTS  
**THE VILLAGE ON 12TH**  
**STORM DRAIN PLAN**

**ENGINEERING**  
 Rousace Gossard P.E.  
 1000 N. 12TH ST. SUITE 204  
 ASPEN, CO 81611  
 PH: 970.925.4900  
 FAX: 970.925.4901

DESIGN BY: RGM DATE: 11/11/17  
 DRAWN BY: GJM  
 SHEET NO. 6

**Table 2 - Reservoir Peak Storage**

Time Period	Total Volume (cu ft)	Peak Volume (cu ft)	Peak Volume (MG)	Peak Volume (MG)	Peak Volume (MG)
15-30	17,248	17,248	0.000	0.000	0.000
30-45	34,496	34,496	0.000	0.000	0.000
45-60	51,744	51,744	0.000	0.000	0.000
60-75	68,992	68,992	0.000	0.000	0.000
75-90	86,240	86,240	0.000	0.000	0.000
90-105	103,488	103,488	0.000	0.000	0.000
105-120	120,736	120,736	0.000	0.000	0.000
120-135	137,984	137,984	0.000	0.000	0.000
135-150	155,232	155,232	0.000	0.000	0.000
150-165	172,480	172,480	0.000	0.000	0.000
165-180	189,728	189,728	0.000	0.000	0.000
180-195	206,976	206,976	0.000	0.000	0.000
195-210	224,224	224,224	0.000	0.000	0.000
210-225	241,472	241,472	0.000	0.000	0.000
225-240	258,720	258,720	0.000	0.000	0.000
240-255	275,968	275,968	0.000	0.000	0.000
255-270	293,216	293,216	0.000	0.000	0.000
270-285	310,464	310,464	0.000	0.000	0.000
285-300	327,712	327,712	0.000	0.000	0.000
300-315	344,960	344,960	0.000	0.000	0.000
315-330	362,208	362,208	0.000	0.000	0.000
330-345	379,456	379,456	0.000	0.000	0.000
345-360	396,704	396,704	0.000	0.000	0.000
360-375	413,952	413,952	0.000	0.000	0.000
375-390	431,200	431,200	0.000	0.000	0.000
390-405	448,448	448,448	0.000	0.000	0.000
405-420	465,696	465,696	0.000	0.000	0.000
420-435	482,944	482,944	0.000	0.000	0.000
435-450	500,192	500,192	0.000	0.000	0.000
450-465	517,440	517,440	0.000	0.000	0.000
465-480	534,688	534,688	0.000	0.000	0.000
480-495	551,936	551,936	0.000	0.000	0.000
495-510	569,184	569,184	0.000	0.000	0.000
510-525	586,432	586,432	0.000	0.000	0.000
525-540	603,680	603,680	0.000	0.000	0.000
540-555	620,928	620,928	0.000	0.000	0.000
555-570	638,176	638,176	0.000	0.000	0.000
570-585	655,424	655,424	0.000	0.000	0.000
585-600	672,672	672,672	0.000	0.000	0.000
600-615	689,920	689,920	0.000	0.000	0.000
615-630	707,168	707,168	0.000	0.000	0.000
630-645	724,416	724,416	0.000	0.000	0.000
645-660	741,664	741,664	0.000	0.000	0.000
660-675	758,912	758,912	0.000	0.000	0.000
675-690	776,160	776,160	0.000	0.000	0.000
690-705	793,408	793,408	0.000	0.000	0.000
705-720	810,656	810,656	0.000	0.000	0.000
720-735	827,904	827,904	0.000	0.000	0.000
735-750	845,152	845,152	0.000	0.000	0.000
750-765	862,400	862,400	0.000	0.000	0.000
765-780	879,648	879,648	0.000	0.000	0.000
780-795	896,896	896,896	0.000	0.000	0.000
795-810	914,144	914,144	0.000	0.000	0.000
810-825	931,392	931,392	0.000	0.000	0.000
825-840	948,640	948,640	0.000	0.000	0.000
840-855	965,888	965,888	0.000	0.000	0.000
855-870	983,136	983,136	0.000	0.000	0.000
870-885	1,000,384	1,000,384	0.000	0.000	0.000
885-900	1,017,632	1,017,632	0.000	0.000	0.000
900-915	1,034,880	1,034,880	0.000	0.000	0.000
915-930	1,052,128	1,052,128	0.000	0.000	0.000
930-945	1,069,376	1,069,376	0.000	0.000	0.000
945-960	1,086,624	1,086,624	0.000	0.000	0.000
960-975	1,103,872	1,103,872	0.000	0.000	0.000
975-990	1,121,120	1,121,120	0.000	0.000	0.000
990-1005	1,138,368	1,138,368	0.000	0.000	0.000
1005-1020	1,155,616	1,155,616	0.000	0.000	0.000
1020-1035	1,172,864	1,172,864	0.000	0.000	0.000
1035-1050	1,190,112	1,190,112	0.000	0.000	0.000
1050-1065	1,207,360	1,207,360	0.000	0.000	0.000
1065-1080	1,224,608	1,224,608	0.000	0.000	0.000
1080-1095	1,241,856	1,241,856	0.000	0.000	0.000
1095-1110	1,259,104	1,259,104	0.000	0.000	0.000
1110-1125	1,276,352	1,276,352	0.000	0.000	0.000
1125-1140	1,293,600	1,293,600	0.000	0.000	0.000
1140-1155	1,310,848	1,310,848	0.000	0.000	0.000
1155-1170	1,328,096	1,328,096	0.000	0.000	0.000
1170-1185	1,345,344	1,345,344	0.000	0.000	0.000
1185-1200	1,362,592	1,362,592	0.000	0.000	0.000
1200-1215	1,379,840	1,379,840	0.000	0.000	0.000
1215-1230	1,397,088	1,397,088	0.000	0.000	0.000
1230-1245	1,414,336	1,414,336	0.000	0.000	0.000
1245-1260	1,431,584	1,431,584	0.000	0.000	0.000
1260-1275	1,448,832	1,448,832	0.000	0.000	0.000
1275-1290	1,466,080	1,466,080	0.000	0.000	0.000
1290-1305	1,483,328	1,483,328	0.000	0.000	0.000
1305-1320	1,500,576	1,500,576	0.000	0.000	0.000
1320-1335	1,517,824	1,517,824	0.000	0.000	0.000
1335-1350	1,535,072	1,535,072	0.000	0.000	0.000
1350-1365	1,552,320	1,552,320	0.000	0.000	0.000
1365-1380	1,569,568	1,569,568	0.000	0.000	0.000
1380-1395	1,586,816	1,586,816	0.000	0.000	0.000
1395-1410	1,604,064	1,604,064	0.000	0.000	0.000
1410-1425	1,621,312	1,621,312	0.000	0.000	0.000
1425-1440	1,638,560	1,638,560	0.000	0.000	0.000
1440-1455	1,655,808	1,655,808	0.000	0.000	0.000
1455-1470	1,673,056	1,673,056	0.000	0.000	0.000
1470-1485	1,690,304	1,690,304	0.000	0.000	0.000
1485-1500	1,707,552	1,707,552	0.000	0.000	0.000
1500-1515	1,724,800	1,724,800	0.000	0.000	0.000
1515-1530	1,742,048	1,742,048	0.000	0.000	0.000
1530-1545	1,759,296	1,759,296	0.000	0.000	0.000
1545-1560	1,776,544	1,776,544	0.000	0.000	0.000
1560-1575	1,793,792	1,793,792	0.000	0.000	0.000
1575-1590	1,811,040	1,811,040	0.000	0.000	0.000
1590-1605	1,828,288	1,828,288	0.000	0.000	0.000
1605-1620	1,845,536	1,845,536	0.000	0.000	0.000
1620-1635	1,862,784	1,862,784	0.000	0.000	0.000
1635-1650	1,880,032	1,880,032	0.000	0.000	0.000
1650-1665	1,897,280	1,897,280	0.000	0.000	0.000
1665-1680	1,914,528	1,914,528	0.000	0.000	0.000
1680-1695	1,931,776	1,931,776	0.000	0.000	0.000
1695-1710	1,949,024	1,949,024	0.000	0.000	0.000
1710-1725	1,966,272	1,966,272	0.000	0.000	0.000
1725-1740	1,983,520	1,983,520	0.000	0.000	0.000
1740-1755	2,000,768	2,000,768	0.000	0.000	0.000
1755-1770	2,018,016	2,018,016	0.000	0.000	0.000
1770-1785	2,035,264	2,035,264	0.000	0.000	0.000
1785-1800	2,052,512	2,052,512	0.000	0.000	0.000
1800-1815	2,069,760	2,069,760	0.000	0.000	0.000
1815-1830	2,087,008	2,087,008	0.000	0.000	0.000
1830-1845	2,104,256	2,104,256	0.000	0.000	0.000
1845-1860	2,121,504	2,121,504	0.000	0.000	0.000
1860-1875	2,138,752	2,138,752	0.000	0.000	0.000
1875-1890	2,156,000	2,156,000	0.000	0.000	0.000
1890-1905	2,173,248	2,173,248	0.000	0.000	0.000
1905-1920	2,190,496	2,190,496	0.000	0.000	0.000
1920-1935	2,207,744	2,207,744	0.000	0.000	0.000
1935-1950	2,224,992	2,224,992	0.000	0.000	0.000
1950-1965	2,242,240	2,242,240	0.000	0.000	0.000
1965-1980	2,259,488	2,259,488	0.000	0.000	0.000
1980-1995	2,276,736	2,276,736	0.000	0.000	0.000
1995-2010	2,293,984	2,293,984	0.000	0.000	0.000
2010-2025	2,311,232	2,311,232	0.000	0.000	0.000
2025-2040	2,328,480	2,328,480	0.000	0.000	0.000
2040-2055	2,345,728	2,345,728	0.000	0.000	0.0



# 12- PLEX EXAMPLE BRAD MORGAN

© Copyright 2017  
Brad Morgan  
Architect  
1000 W. 12th Street  
Springville, UT 84761  
Tel: 435.766.1234  
Fax: 435.766.1235  
www.bradmorgan.com

SHEET NO.  
DATE  
03/15/2017

REVISIONS  
DATE

1991 South State Road Kennewick WA 98533 PH 801-491-0275

**BYLAWS  
THE VILLAGE ON 12  
TH CONDOMINIUMS HOMEOWNERS ASSOCIATION**

ARTICLE I  
REGISTERED AGENT AND OFFICE

1. **Office and Registered Agent.** The initial Registered Agent shall be Brad Morgan of **560 West 800 North** Orem, Utah 84057. However, after transfer of management and control of the Association is made by the Declarant to the members of the Association, the Registered Agent shall be the President of the Association and the Registered Office shall be the home of the President or such other place as shall be designated by him.

ARTICLE II  
ASSOCIATION

1. Composition. The association of unit Owners is a mandatory association consisting of all Owners.

2. Place of Meeting. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place as may be designated by the Management Committee from time to time and stated in the notice of meeting.

3. Notice of Meeting. It shall be the duty of the Secretary to hand deliver or mail to each owner at his last known address, by regular U.S. mail postage prepaid, a notice of (a) each annual meeting of the Association not less than ten (10) and not more than thirty (30) days in advance of such meeting. The notice shall state the purpose, day, date, time and place of the meetings. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

4. Qualified Voters. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if he is in full compliance with all of the terms, covenants, and conditions of the Project Documents and shall have fully paid his share of the Common Expenses and all Assessments and/or Additional Charges due.

5. Proxies. The votes appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Unit Owner, or in cases where the Owner is more than one person, by or on behalf of all such persons. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically (a) if the Owner attends the meeting in person, (b) it is revoked in writing and written notice of the revocation is given to the Secretary of the Association prior to the meeting, and (c) upon the adjournment of the first meeting held on or after the date of that proxy. Each must be filed with the Secretary of the Association prior to the meeting. Only individual Owners or the legal representative of an institutional Owner may be proxies.

6. Quorum Voting. Fifty-one (51.0%) percent of the members of the Association shall constitute a quorum for the adoption of decisions. If however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat, present in person or represented by proxy, shall have power

to adjourn the meeting and reschedule for a time no earlier than two days after the set time for the original meeting. No notice of such rescheduled meeting shall be required except an oral announcement at the meeting to be rescheduled. Those Owners present, either in person or by proxy, at the rescheduled meeting shall constitute a quorum for the adoption of decisions. When a quorum is present at any meeting, the vote of the Owners representing a majority of the members of the Association in person or by proxy, shall decide any question brought before the meeting. If the Declaration requires a fixed percentage of Owners to approve any action, however, that percentage shall be required notwithstanding the contrary notwithstanding.

7. Order of Business. The order of business at all meetings of the Association shall be as follows:

- a. roll call;
- b. proof of notice of meeting;
- c. reading of minutes of preceding meeting;
- d. reports of officers;
- e. report of special committees, if any;
- f. election of inspectors of election, if applicable;
- g. election of Committee Members, if applicable;
- h. unfinished business; and
- i. new business.

8. Conduct of Meeting. The President shall, or in his absence the Vice-President, preside over all meetings of the Association; and the Secretary shall keep the minutes of the meeting as well as record of all transactions occurring thereat.

9. Open Meeting Policy. All Management Committee meetings shall be open to all voting members, but attendees other than members of the Management Committee may not participate in any discussion or deliberation unless a majority of a quorum requests that they be granted permission to speak. In such case, the President may limit the time any such individual may speak.

10. Action May Be Taken Without A Meeting. Any action to be taken at the meeting of the Management Committee or any action that be taken at a meeting of the Management Committee may be taken without a meeting if a consent in writing, setting for the action so taken, shall be signed by all the members of the Management Committee, An explanation of the action taken shall be posted at a prominent place or places within the common areas with three (3) days after the written consents of all of the members of the Management Committee have been obtained.

11. Executive Session. The Management Committee, with approval of a majority of a quorum, may adjourn a meeting and reconvene an executive session to discuss and vote upon personnel matters, litigation or threatened litigation in which the Association is or may become involved, and orders of business of a privileged, confidential, sensitive or similar nature. The nature of any and all business to be considered in an executive session shall first be announced in open session

### ARTICLE III MANAGEMENT COMMITTEE

1. Powers and Duties. The affairs and business of the Association shall be managed by the Management Committee consisting of three (3) or more Unit Owners. The Management Committee shall have all of the powers and duties necessary for the administration of the affairs of the Association in

accordance with the provisions of the Declaration and may do all such acts and things necessary to operate and maintain the Project:

- a) Preparation of an annual budget;
- b) Allocating the Common Expenses;
- c) Providing for the regulation of all the Common Areas and upkeep, replacement, and maintenance.
- d) Designating, hiring, and dismissing the personnel necessary to operate and maintain the project.
- e) Collecting and depositing the Assessments.
- f) Making, amending, and enforcing the Rules and Regulations.
- g) Opening and closing bank accounts for and in behalf of the Association and designating the signatories required therefore.
- h) Making, or contracting for the making, of, repairs, additions, and improvements to, or alterations of, the Property, and repairs to, and restoration of, the Property, in accordance with the Declaration and other provisions of the Bylaws, after damage or destruction by fire or other casualty.
- i) Purchasing and maintaining insurance.
- j) Paying the, cost of, all services tendered to the Project and not billed directly to Owners or individual Units.
- k) Keeping books and records with detailed accounts of the receipts and expenditure's affecting the Project and the administration of the Project, specifying the maintenance, and repair expenses of the Common Areas and any other expenses incurred. Said documents, books, financial statements, and vouchers accrediting the entries thereupon shall be available for examination by the owners, their duly authorized agents or attorneys, during, general business, hours on working days and at times and in a manner that shall be set and announced by the Committee for the general knowledge of the Owners. All books and records shall be kept in accordance with accepted accounting practices, and the same, upon a resolution approved by a majority of the Members of the Association, shall be formally Audited by an outside auditor employed by the Committee who shall not be a resident of the Project or an Owner therein. The cost of such Audit shall be a Common Expense. Copies of books and records, financial statements, reports, compilations, and Audits shall be supplied to any first mortgagee, of any Unit in the Project who requests the same in writing from the Secretary. A mortgage holder, at its expense, may have an Audited financial statement prepared at any time.
- l) Providing, where necessary, all water, electricity, and other necessary utility services for the Common Areas and such services to the Units, including but not limited to heating, as are not separately metered or charged to the Owners.
- m) Making emergency repairs;
- n) At the sole expense and risk of the Owner, impounding, immobilizing, towing or otherwise removing any motor vehicle parked, stored or standing in violation of the parking rules and regulations or in an unauthorized area;
- o) Assigning or leasing overflow parking spaces to residents and/or establishing handicap parking;
- p) Establishing and collecting user fees; and
- q) Doing such other things and acts necessary to accomplish the foregoing and not inconsistent with the Declaration or Bylaws, or to do anything required by a proper resolution of the Management Committee or Association.

2. Composition of the Management Committee. The Management Committee shall be composed of three (3) or more members.

3. Election and Term of Office of the Committee. The term of office of membership on the Management Committee shall be two (2) years. At the expiration of the member's term, a successor shall be elected.

4. First Meeting. The first meeting of the members of the Management Committee shall be immediately following the annual meeting of the Association or at such other time and place designated by the Committee.

5. Regular Meetings. Regular meetings of the Management Committee shall be held from time to time and at such time and place as shall be determined by a majority of the members of the Committee, but no less often than monthly.

6. Special Meetings. Special meetings of the Management Committee may be called by the President, Vice President or a majority of the members on at least forty-eight (48) hours prior notice to each member. Such notice shall be given personally, by regular U.S. Mail postage prepaid, or by telephone and such notice shall state the time, place and purpose of the meeting. Any meeting attended by all members of the Committee shall be valid for any and all purposes.

7. Waiver of Notice. Before or at any meeting of the Management Committee, any member may, in Writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Committee shall constitute a waiver of notice. If all the members are present at any meeting of the Committee no notice shall be required and any business may be transacted at such meeting.

8. Committee's Quorum. At all meetings of the Management Committee, a majority of the members then in office shall constitute a quorum for the transaction of business, and the acts of the majority of the Committee members present at a meeting at which a quorum is present shall be deemed to be the acts of the Committee. If, at any meeting of the Committee, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time but for no longer than two days. At any such rescheduled meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

9. Vacancies. Vacancies in the Management Committee caused by any reason other than removal of a member by a vote of the Association shall be filled by vote of the majority of the remaining members of the Committee at a special meeting of the Committee held for that purpose promptly after the occurrence of any such vacancy, even though the total members remaining may constitute less than a quorum of the Committee; and each person so elected shall be a member for the remainder of the term of the member so replaced. A vacancy created by the removal of a member by a vote of the Association shall be filled by the election and vote of the Association.

10. Removal of Committee Member. A member of the Management Committee may be removed with or without cause, and his successor elected at any duly called regular or special meeting of the Association at which a quorum of the Association is present, by an affirmative vote of a majority of the members of the Association. Any member whose removal has been proposed by the Owners shall be given at least thirty days notice of the calling of the meeting and the purpose thereof and an opportunity to



be heard at the meeting. Any Committee Member who misses twenty-five percent (25%) or more of the Committee Meetings or who misses three (3) consecutive meetings, in any calendar year, shall be automatically removed from the Committee.

11. Conduct of Meetings. The President shall preside over all meetings of the Committee and the Secretary shall keep a Minute Book of the Committee recording therein all resolutions adopted by the Committee and a record of all transactions and proceedings occurring at such meetings.

12. Report of Committee. The Committee shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, a full and clear statement of the business and condition of the Association.

#### ARTICLE IV OFFICERS

1. Designation. The principal Officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, all of whom shall be elected by the Committee. The Committee may appoint assistant secretaries and such other officers as in its judgment may be necessary. The President, Secretary and Treasurer must be members of the Committee. Two or more offices may be held by the same person, except that the President shall not hold any other office.

2. Election of Officers. The Officers of the Association shall be elected annually by the Committee at the first meeting of each Committee immediately following the annual meeting of the Association and shall hold office at the pleasure of the Committee. Any vacancy in an office shall be filled by the Committee at a regular meeting or special meeting called for such purpose.

3. Removal of Officers. The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Committee may be removed at any time by the affirmative vote of a majority of the Committee, and his successor may be elected at any regular meeting of the Committee, or at any special meeting of the Committee called for such purposes.

4. President. The President shall be the chief executive officer; he shall preside at meetings of the Association and the Committee shall be an ex officio member of all committees; he shall have general and active management of the business of the Committee and shall see that all orders and resolutions of the Committee are carried into effect. He shall have all of the general powers and duties which are usually vested in or incident to the use of president of a corporation organized under the laws of the State of Utah.

5. Vice-President. The Vice-President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Committee or the President shall prescribe. If neither the President nor the Vice President is able to act, the Committee shall appoint a member of the Committee to do so on an interim basis.

6. Secretary. The secretary shall attend all meetings of the Committee and all meetings of the Association and record all votes and the minutes of all proceedings in a book to be kept by him for that purpose and shall perform like duties for committees when required. He shall give, or cause to be given, notices for all meetings of the Association and the Committee and shall perform such other duties as may be prescribed by the Committee. The Secretary shall compile and keep current at the principal office of the Association, a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the Minute

Book of the Association, containing the minutes of all annual and special meetings of the Association and all sessions of the Committee including resolutions.

7. Treasurer. The Treasurer shall have custody of all funds and securities that are not under the control of the Managing Agent, and with the assistance of the Managing Agent, shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all monies and other valuable effects in such depositories as may be designated by the Committee. He shall disburse funds as ordered by the Committee, taking proper vouchers for such disbursements, and shall render to the President and members, at the regular meetings of the Committee, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Project.

ARTICLE V  
FISCAL YEAR

The fiscal year of the Association shall be the calendar year consisting of the twelve (12) month period commencing on January I of each year terminating on December 31 of the same year. The fiscal year herein established shall be subject to change by the Committee should it be deemed advisable or in the best interests of the Association.

ARTICLE VI  
INVESTMENT OF COMMON FUNDS

Common funds may only be deposited into institutions which are federally insured.

ARTICLE VII  
AMENDMENT TO BYLAWS

1. Amendments. These Bylaws may be modified or amended either (a) by the affirmative vote of a majority of the members of the Association or (b) pursuant to a written instrument of consent duly executed by a majority of the members of the Association; provided however, all of the written consents must be obtained within a ninety (90) day period and, so long as Declarant is in control of the owner's association, must be approved in writing by the Department of Veterans Affairs (VA) pursuant to CFR, Title 38, Section 36.4357(b)(4) and, if any financing or guaranty of any financing of a Unit is provided by the Federal Housing Admin. of the United States Dept. of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corp. (FHLMC), Federal National Mortgage Assoc. (FNMA), Government National Mortgage Assoc. (GNMA), by such agencies.

2. Recording. An amendment to these Bylaws shall become effective immediately upon recordation in the Office of the County Recorder of Utah County, State of Utah.

ARTICLE VIII  
NOTICE

1. Manner of notice. All notices, demands, bills, statements, or other communications provided for or required under these Bylaws (except as to notices of Association meetings which were previously addressed in Article II of these Bylaws) shall be in writing and shall be deemed to have been duly given if delivered personally or sent by regular US Mail postage prepaid, a) if to an Owner, at the address of his Unit and at such other address as the Owner may have designated by notice in writing to the Secretary; or b) if to the Committee or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes the Declaration, or of these Bylaws, a waiver thereof, in writing, signed by the person or persons, entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto unless such waiver ineffective under the provisions of the Declaration.

ARTICLE IX  
COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. Conflict. These Bylaws are subordinate and subject to all provisions of the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these Bylaws and the Declaration, the provision of the Declaration shall control.

2. Waiver. No restriction, condition, obligation, or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

3. Captions. The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

4. Interpretation. Whenever in these Bylaws the context so requires, the singular number shall refer to the plural and the converse; and the use of any gender shall be deemed to include both masculine and feminine; and the term "shall" is mandatory while the term "may" is permissive.

5. Severability. The invalidity of any one or more phrases, sentences, subparagraphs, subsections or sections hereof shall not affect the remaining portions of this instrument or any part thereof, and in the event that any portion or portions of this document should be invalid or should operate to render this document invalid, this document shall be construed as if such invalid phrase or phrases, sentence or sentences, subparagraph or subparagraphs, paragraph or paragraphs, subsection or subsections, or section or sections had not been inserted.

6. Governing Law; Consent to Jurisdiction. These Bylaws shall be governed by and construed in accordance with the laws of the State of Utah without regard to conflicts of law principles. Any action or proceeding, however characterized, relating to or arising out of these Bylaws, or in connection with the subject matter hereof shall be maintained in the state courts located in Utah County, Utah or the federal courts located in Salt Lake City, Utah, and the parties hereto, each for itself or himself or herself or his or her successors and permitted assigns, hereby irrevocably submits to the jurisdiction of the courts of the State of Utah and the Courts of the United States of America sitting in the Salt Lake City, Utah for the purposes of any such action or proceeding and irrevocably agrees to be bound by any judgment rendered thereby in connection with these Bylaws.

**SIGNATURE PAGE FOLLOWS**

DATED the \_\_\_\_ day of \_\_\_\_\_, 2016.

Art City Investments, LLC, a Utah Limited Liability Company

By: Brad Morgan  
Manager, Member of Art City Investments, LLC.

\_\_\_\_\_  
Brad Morgan  
Title: Manager, Member

STATE OF UTAH                    )  
  : ss.  
COUNTY OF UTAH                )

On the \_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared before me Brad Morgan, who by me being duly sworn, did say that he is the Manager of Art City Investments, LLC, a Utah Limited Liability Company, and that the within and foregoing instrument was signed in behalf of said company by authority of its Articles of Organization or a resolution of its Members, and said Brad Morgan duly acknowledged to me that said Company executed the same.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at:  
My Commission Expires:

DECLARATION OF CONDOMINIUM FOR  
THE VILLAGE ON 12th CONDOMINIUMS

A Utah Condominium Project  
Springville, Utah

DECLARANT:  
12th South Investments, LLC  
A Utah limited liability company

WHEN RECORDED RETURN TO:

**Art City Investments, LLC**  
**560 West 800 North**  
**Orem, Utah 84057**  
**(801) 636-3637**

**DECLARATION OF CONDOMINIUM  
FOR THE THE VILLAGE ON 12th CONDOMINIUMS  
(A Utah Condominium Project)**

This Declaration of Condominium for THE VILLAGE ON 12th CONDOMINIUMS is made and executed by Art City Investments, LLC, a Utah limited liability company, 560 West 800 North Orem, Utah 84057 (the "Declarant").

**RECITALS**

A. The Property is zoned R-2 and RMF-2 and is located in a desirable, accessible area within proximity to transportation routes and markets.

B. By subjecting the Property to this Declaration, it is the desire, intent and purpose of Declarant to create a community in which beauty shall be substantially preserved, which will enhance the desirability of living on that real estate subject to this Declaration, and which will increase and preserve the attractiveness, quality and value of the lands and improvements therein.

C. This Declaration of Condominiums affects that certain real property located in Utah County, Utah described with particularity in Article 11 below, or attached exhibits (hereinafter referred to as the "Tract").

D. Art City Investments, LLC is the owner of the Tract.

E. Declarant has constructed, is in the process of constructing, or will construct upon the Tract a residential condominium project which shall include certain Units, Limited Common Area, Common Area, and other improvements. All of such construction has been, or is to be, performed in accordance with the plans contained in the Condominium Plat to be recorded concurrently herewith.

F. Declarant intends to sell to various purchasers the fee title to the individual Units included in the Tract, together with an appurtenant undivided ownership interest in the Common Area and a corresponding membership interest in the Association of Unit Owners, subject to the Condominium Plat, the covenants, conditions and restrictions set forth herein.

G. Declarant desires, by filing this Declaration of Condominium and Condominium Plat, to submit the Tract and all improvements now or hereafter constructed thereon to the provisions of the Utah Condominium Ownership Act (the "Act").

H. The Project is to be known as "The Village on 12th Condominiums."

**AGREEMENT**

DECLARANT HEREBY DECLARES that the Property is and shall henceforth be owned, held, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to the following uniform covenants, conditions, restrictions and equitable servitudes (hereafter, "CCRs"). The said CCRs are in furtherance of, and the same shall constitute a general plan for the ownership, improvement, sale, use and occupancy of the Property; they are also in furtherance of and designed to accomplish the desires, intentions, and purposes set forth above in the Recitals. The City of Springville is intended to be a third party beneficiary of this agreement.

## I. DEFINITIONS

When used in this Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated.

1. **Additional Charges** shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorney's fees, late charges, accruing interest, service fees, filing and recordation fees, and other expenditures incurred or charged by the Association.

2. **Articles of Incorporation** shall mean and refer to the Articles of Incorporation of The Village on 12th Condominiums Homeowners Association, Inc. to be filed with the Utah Department of Commercial Code.

3. **Assessment** shall mean and refer to any amount imposed upon, assessed or charged a Unit Owner or Resident at the Project.

4. **Association** shall mean and refer to any of the Unit Owners at The Village on 12th Condominiums taken as or acting as a group in accordance with the Declaration.

5. **Building** shall mean and refer to any of the structures constructed in the Project.

6. **Business Use and Trade** shall mean and refer to any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: a) such activity is engaged in full or part-time; b) such activity is intended to or does generate a profit; or c) a license is required therefore.

7. **By Laws** shall mean and refer to the By Laws of the Association, when formed and registered with the State of Utah.

8. **Capital Improvement** shall mean and refer to all new improvements intended to add to, enhance or upgrade the nature, scope, utility, value, or beauty of the Project, as opposed to ordinary repair and maintenance.

9. **City** shall mean and refer to the City of Springville, Utah.

10. **Committee** shall mean and refer to the Management Committee of the Association as duly constituted.

11. **Common Areas** shall mean and refer to all real property in the Project owned in common by the unit owners including but not limited to the following items:

- a) The real property and interests in real property submitted hereby, including the entirety of the Tract and all improvements constructed thereon, excluding the individual Units.
- b) All Common Areas and Facilities designated as such in the Condominium Plat;
- c) All Limited Common Areas designated as such in the Condominium Plat;
- d) All utility installations and all equipment connected with or in any way related to the

furnishing of utilities to the Project and intended for the common use of all Unit Owners, such as telephone, electricity, gas, water, cable TV and sewer;

e) The Project's outdoor grounds, lighting, perimeter fences, landscaping, sidewalks, parking, clubhouse, swimming pool, tot lot, and roadways;

f) All portions of the Project not specifically included within the individual Units; and

g) All other parts of the Project normally in common use or necessary or convenient to the use, existence, maintenance, safety, operation or management of the Property owned by the Association for the common benefit of its Members.

Provided, however, utility installation such as telephone, electricity, gas, water, and sewer may be dedicated to the City and, if so, this definition shall not be construed to allow the Association to exclude the City from the ownership and control of the utility systems so dedicated.

12. **Common Expense** shall mean and refer to: (a) The expense of all irrigation or secondary water; (b) All sums lawfully assessed against the Owners; (c) Expenses of administration, maintenance, repair or replacement of the Project; (d) Expenses allocated by the Association among the Owners; (e) Expenses agreed upon as common expenses by the Association; and (f) Expenses declared common expenses by the Declaration.

13. **Community** shall mean and refer to the Project.

14. **Community Wide Standard** shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Community, as determined by the Management Committee from time to time.

15. **Condominium Plat** shall mean and refer to the Condominium Plat of The Village on 12th Condominiums on file in the office of the County Recorder of Utah County, as amended or supplemented from time to time.

16. **Declaration** shall mean and refer to this Declaration of Condominium for The Village on 12th Condominiums.

17. **Design Guidelines** shall mean and refer to the architectural and engineering plans and specifications and guidelines prepared by the Declarant and approved by the City for the construction of the Buildings, Units, and other physical improvements in the Project, including by way of illustration but not limitation all structural components and Exterior Materials. The City shall assume no responsibility for enforcement of the Design Guidelines, but reserves the right to and may enforce any Design Guideline at any time and in its sole discretion.

18. **Eligible Insurer** shall mean and refer to an insurer or governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

19. **Eligible Mortgagee** shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

20. **Eligible Votes** shall mean and refer to those votes available to be cast on any issue before the



Association or the Committee. A vote which is for any reason suspended is not an "*eligible vote*".

21. **Exterior Materials** shall mean and refer to cultured stone, rock, stucco, wood, or vinyl or cement fiber siding, finished lumber, brick, or other similar materials but shall not mean cinder block or concrete block or aluminum or vinyl siding. Exterior residence materials shall be of a noncombustible material as approved by the City. The City shall assume no responsibility for enforcement of the External Materials, but reserves the right to and may enforce any External Material requirement at any time and in its sole discretion. The determination whether any specific material constitutes an acceptable Exterior Material shall be made by Declarant or its designee.

22. **Family** shall mean one of the following: (1) a single person living alone; (2) a group of natural persons related to each other by blood, or legally related to each other by marriage or adoption, such a parent, child, grandparent, grandchild brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, with an additional person or persons as domestic help or a caretaker; or (3) a group of not more than three unrelated persons living and cooking together as a single housekeeping unit and maintaining a common household, but not as a boarding or rooming house.

23. **Guest** shall mean and refer to an invitee, temporary visitor or any person whose presence within the Project is approved by or is at the request of a particular Resident.

24. **Land** shall mean and refer to all of the real property subject to this Declaration.

25. **Limited Common Areas** shall mean and refer to those Common Areas designated in this Declaration or in the Condominium Plat as reserved for the use of a certain Unit Owner to the exclusion of the other Unit Owners. Any portico, colonnade, Unit entry, doorsteps, landings, porches, balconies, decks, patios, private yard areas, garages, carports, assigned parking spaces, storage lockers, or other improvements intended to serve only a single Unit, shall constitute Limited Common Area appertaining to that Unit exclusively, whether or not the Condominium Plat makes such a designation.

26. **Majority** shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

27. **Management Committee** shall mean and refer to the committee of Owners elected to direct the affairs of the Association

28. **Manager** shall mean and refer to the person or entity appointed or hired by the Association to manage and operate the Project and/or assist in the administration of the Association.

29. **Map** shall mean and refer to the Condominium Plat.

30. **Member**, unless the context clearly requires otherwise, shall mean and refer to the Owner of a Unit, each of whom is obligated, by virtue of his ownership to be a member of the Association.

31. **Mortgage** shall mean and refer to both a first mortgage or first deed of trust on any Unit, but shall not mean or refer to an executory contract of sale.

32. **Mortgagee** shall mean and refer to a mortgagee under a first mortgage or a beneficiary under a first deed of trust on any Unit, but shall not mean or refer to a seller under an executory contract of sale.

33. **Owner** shall mean and refer to the person who is the owner of record (in the office of the County Recorder of Utah County, Utah) of a fee or an undivided fee interest in a Unit, excluding a

mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

34. **Period of Declarant's Control** shall mean and refer to a period of time commencing on the date this Declaration is recorded and terminating on the occurrence of the earliest of the following events: (a) five (5) years from the effective date of this Declaration, (b) not less than 120 days after 75% of the Units have been conveyed, or (c) the Declarant executes and records a written Waiver of his right to control.

35. **Permanent Resident** shall mean and refer to anyone who resides in the Project for more than four (4) consecutive weeks or for more than eight (8) weeks in any calendar year.

36. **Person** shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

37. **Project** shall mean and refer to this: The The Village on 12th Condominium Project.

38. **Project Documents** shall mean and refer to the Declaration, ByLaws, Rules and Regulations, and Articles of Incorporation associated with this project and the Association.

39. **Property** shall mean and refer to all of the land or real estate, improvements and appurtenances submitted to the Act and this Declaration.

40. **Recreational, Oversized or Commercial Vehicle** shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other recreational or commercial transportation device of any kind.

41. **Repair** shall mean and refer to merely correcting the damage done sometimes by accident or fire or other cause, but more often due to the ravages of time and the deterioration resulting from ordinary wear and tear, by substituting for the damage, decayed or worn-out parts, new material, usually similar to that replaced, and so restoring the structure to its original sound condition.

42. **Resident** shall mean and refer to any person living or staying at the Project. This includes but is not limited to all lessees, tenants and the family members, agents, representatives, or employees of Owners, tenants or lessees.

43. **Single Family** shall mean one family unit.

44. **Single Family Residence** shall mean and refer to both the architectural style of a Unit and the nature of the residential use permitted.

45. **Unit** shall mean and refer to a separate physical part of the Property intended for independent use, including one or more rooms or spaces located in one or more floors or part or parts of floors in a building. Mechanical equipment and appurtenances located within anyone Unit, or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Unit; so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, windows and window frames, doors and door frames, trim, carpeting, tile and linoleum. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Unit or serving only the Unit, and any structural

members, parts, components or any-other property of any kind, including fixtures of appliances within any Unit, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building within which the Unit is located shall be deemed to be part of the Unit.

46. **Unit Number** shall mean and refer to the number, letter or combination thereof designating a particular Unit.

## II. SUBMISSION

The Land described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference is hereby submitted to the Act.

The Land is hereby made subject to and shall be governed by the Act, and the covenants, conditions and restrictions set forth herein. The Land is also subject to the right of the City to access to the roads within the Project for emergency vehicles, service vehicles, and to all of the utility installations, up to the residential meters.

The Land is SUBJECT TO the described easements and rights-of-way. Easements and rights-of-way in favor of the City include any dedicated roadways and public utility easements as are depicted on the Condominium Plat.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property, including, by way of illustration and not limitation, all easements and rights-of-way in and to any detention basin, entry way, monument, and park.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservation and, exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the, above-described Tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights of-way, encroachments, or discrepancies shown on or revealed by the Condominium Plat or otherwise existing; an easement for each and every common area improvement, equipment, pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the above-described Tract; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such common area improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

## III. COVENANTS, CONDITIONS, AND RESTRICTIONS

The foregoing submission is made upon, under and subject to the following covenants, conditions, and restrictions:

1. **Description of Improvements.** The project will consist of (7)- 3 Story, 12-Plex condo style buildings The project will Eighty-Four (84) three bedroom/two bathroom condominiums of roughly 1,200 square feet each.

The Units will be constructed principally of concrete foundations with exterior walls of thin brick/stone, Hardi board & stucco, pitched roofs, interior walls of wood studs, plywood, and dry wall plaster. The Common Area and Facilities will include the following; the project will have an exterior

open space area, a 900 square foot clubhouse, Splash Pad, Tot-lot, open space ball field & volleyball area at the rear of the buildings, and it will also have guest parking areas, open space, roadways and walks. The Project will also contain other improvements of a less significant nature. The location and configuration of the improvements referred to in the foregoing sentence are depicted on the Condominium Plat.

**2. Description and Legal Status of the Property.** The Condominium Plat shows each Unit, its location, those Limited Common Areas and Facilities which are reserved for its use, and the Common Areas and Facilities to which it has immediate access. All Units shall be capable of being independently owned, encumbered and conveyed; and shall have an appurtenant undivided percentage of ownership interest in the Common Areas and Facilities, subject to the rights of Declarant, the City, and all easements of record.

**3. Membership in the Association.** Since membership in the Association is mandatory, each Unit Owner is a member of the Association and membership may not be partitioned from the ownership of a Unit.

**4. Allocation of Profits, Losses and Voting Rights.** Profits, losses and voting rights shall be distributed among the Owners equally. The percentage of ownership interest in the Common Areas and Facilities appurtenant to each Unit is equal. The undivided interest of each Unit Owner in the Common Areas and Facilities shall have a permanent character and shall not be altered without the consent of two thirds (2/3) of the Unit Owners expressed in an amended declaration duly recorded.

**5. Limited Common Areas.** Limited Common Areas are also Common Areas. Limited Common Area may not be partitioned from the Unit to which it is appurtenant. The exclusive use of Limited Common Area is reserved to the Unit to which it is assigned on the Condominium Plat, as amended from time to time.

**6. Conveyancing.** Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering a Unit shall describe the interest or estate involved substantially as follows:

All of Unit No. \_\_\_ in Building No. \_\_\_, The Village on 12th Condominiums, as the same is identified in the Condominium Plat recorded in Utah County, Utah as Entry No. \_\_\_ in Book \_\_\_ at Page \_\_\_ of the official records of the County Recorder of Utah County, Utah (as said Condominium Plat may have heretofore been amended or supplemented) and in the Declaration of Condominium for The Village on 12th Condominiums, recorded in Utah County, Utah as Entry No. \_\_\_ in Book- \_\_\_ at Page \_\_\_ of the official records of the County Recorder of Utah County, Utah (as said Declaration may have heretofore been supplemented), together with an undivided percentage of ownership interest in the common areas and facilities.

Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Unit. Neither the membership in the Association, nor percentage of ownership interest in the Common Areas, nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such mandatory membership in the Association and such right of exclusive use shall automatically accompany the transfer of the Unit to which they relate.

**7. Architectural and Design Guidelines.** The Declarant has prepared Design Guidelines for the Project, which has been approved by the City. The City shall assume no responsibility for enforcement of

the Design Guidelines, but reserves the right to and may enforce any Design Guideline at anytime and in its sole discretion. The approved Design Guidelines shall apply to all construction activities within the project. The Declarant shall have sole and full authority to change, amend, and supplement the Design Guidelines as long as it owns any of the Property; provided however, the approved Design Guidelines may not be at anytime be changed, amended, or supplemented without the express written consent of the City. The Declarant or, after transition of the Project, the Association must stamp all proposed plans and specifications to construct or remodel a Building or Unit approved and in compliance with the Declaration and Design Guidelines before presenting such plans and specifications to the City for the issuance of a building permit.

**8. Ownership and Use Restrictions.** Each Owner, of whatever kind, shall be entitled to the exclusive ownership and possession of his Unit, to an undivided percentage of ownership interest in the Common Areas, and to membership in the Association as set forth herein, subject to the following use restrictions:

a) Nature and Restrictions on Ownership and Use in General. Each Owner shall have and enjoy the privileges of fee simple ownership of his Unit. There shall be no requirements concerning who may own a Unit, it being intended that they may and shall be owned as any other property rights by persons. The Common Areas shall only be used in a manner consistent with the residential nature of the Project.

b) Title to the Common Area. Each Unit Owner shall be entitled to an undivided percentage of undivided ownership interest in and to the Common Areas and Facilities, free and clear of all liens (other than current years taxes, if any) prior to the Declarant's first conveyance of a Unit.

c) Mandatory Association. Each purchaser of a Unit, by virtue of accepting a deed or other document of conveyance thereto, shall automatically become a member of the Association.

d) Member's Easements and Rights of Way. Every Member of the Association shall as an Owner have the right and non-exclusive easement to use and enjoy the Common Area. Such right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following restrictions:

(1) The right of the Association to limit the number of guests, and to adopt administrative rules and regulations from time to time governing the use and enjoyment of the Common Area;

(2) The right of the Association to suspend the voting rights and the privilege to use the recreational amenities by a member for: (a) any period during which his Common Area Assessment remains delinquent, and (b) a period not to exceed thirty (30) days after notice and hearing as may be set forth hereinafter for any infraction of the Association rules;

(3) Subject to the prior written consent of Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Department of Veterans Affairs (VA) (where appropriate), the right of the Association to dedicate or transfer all or any part of

the Common Area to any public agency, authority, or utility for the purpose of providing utilities and similar or related purposes. During the Declarant's Period of Control, any such dedication or transfer shall be effective only if approved in writing by the Declarant; and

(4) The right of the Association to charge a reasonable admission or other user fee for the use of any recreational facility situated upon the Common Area.

e) Rules and Regulations. The Association, acting through its Management Committee, shall have the power and authority to adopt administrative and/or house rules and regulations and, in its sole discretion, to impose reasonable user fees for the amenities. Such rules, regulations and use restrictions shall be binding upon all Owners and Residents, their guests and invitees.

(1) *Parties, Bound.* All provisions of the Project Documents shall be binding upon all Owners and Residents, their families, guests and invitees.

(2) *Nuisance.* It shall be the responsibility of each Owner and Resident to prevent the creation or maintenance of a nuisance in, on or about the Project. The term "nuisance" includes but is not limited to the following:

a. The development of any unclean, unhealthy, unsightly condition on, in or about his Unit or the Common Areas;

b. Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community by other residents, their guests or invitees, including placing or storing anything other than patio furniture, in good condition, on balconies or patios.

c. Unreasonable amounts of noise or traffic in, on or about any Unit or the Common Area, especially after 10:00 p.m. and before 7:00 a.m. during the week and midnight and 8:00 a.m. during weekends; and

d. Drug houses and drug dealing; the unlawful sale, manufacture, service, storage, distribution, dispensing or acquisition occurs of any controlled substance; gambling; criminal activity; parties which occur frequently which bother, annoy or disturb other reasonable residents or interfere with their quiet and peaceful enjoyment of the premises; prostitution; or other violation of U.C.A., Section 78B-6-1107, as amended or supplemented.

(3) *Removing Garbage, Dust and Debris.* All rubbish, trash, refuse, waste, dust, debris and garbage shall be deposited in sealed plastic bags or other authorized containers, shall be regularly removed from the Unit, not being allowed to accumulate therein so as to create a sanitation, health or safety hazard, and shall be disposed of within dumpsters provided by the Association.

(4) *Subdivision of a Unit.* No Unit may be subdivided.

(5) *No Severance.* The elements of a Unit and other rights appurtenant to the ownership of a Unit, including interest in Common Areas and Facilities and Limited Common Areas and Facilities, if any, are inseparable, and each Owner agrees that he shall not, while this Declaration is in effect, make any conveyance of less than an entire Unit and such appurtenances. Any conveyance made in contravention of this Subsection, including under any conveyance, encumbrance, judicial sale or other transfer (whether voluntary or involuntary) shall be void.

(6) *No Hazardous Activities.* No activities shall be conducted on any Lot or Unit and no improvements shall be constructed on any Lot or Unit which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace if such is permitted by City ordinances.

(7) *Temporary Structures.* No Owner or occupant shall place upon any part of the Project any temporary structures, including but not limited to dog runs, storage units, tents, trailers and sheds or their equivalent, without the prior written consent of the Committee; provided, however, with tents maybe allowed for up to forty-eight (48) hours by unit owners in their Limited Common Areas or the Common Area immediately adjacent to their buildings.

(8) *Trees, Shrubs and Bushes; Maintenance of Proper Sight Distance at Intersections.* All property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight. No fence, wall, hedge, shrub, bush, tree or monument, real or artificial, shall be planted or placed by any Owner or occupant in, on or about the Common Areas without the prior written consent of the Committee. The Management Committee may alter or remove any objects planted or placed in violation of this subsection and shall not be guilty of a trespass.

(9) *Energy Conservation Equipment.* No solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Project without the prior written consent of the Committee.

(10) *Business Use.* No Business Use and Trade may be conducted in or from any Unit unless: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; (b) the business activity conforms to all zoning requirements for the project; (c) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; and (d) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Committee.

Notwithstanding the above, the leasing of a residence shall not be considered a

trade or business within the meaning of this sub-section.

(11) *Storage and Parking of Vehicles.* The driving, parking, standing and storing of motor vehicles in, on or about the Project shall be subject to the following:

a. The parking rules and regulations adopted by the Committee from time to time;

b. The parking areas are not designed for recreational, commercial or oversized motor vehicles and the Management Committee has the right to make rules and regulations restricting or prohibition their use. Unless otherwise determined by the Management Committee, all recreational, Commercial and Oversized Vehicles shall be parked outside the Project.

c. No motor vehicle or trailer may be parked or stationed in such a manner so as to create potentially dangerous situation.

d. Except for purposes of loading and unloading, no motor vehicle or trailer maybe parked or stationed in such a manner so as to create an obstacle or along any street or road, or ill front of any garage, walkway, driveway, Building or Unit, or in an unauthorized Common Areas.

e. Residents may only park their motor vehicles within their designated garages, driveways, covered parking spaces or uncovered parking spaces, or in other designated Common Areas.

f. Residents may not park their motor vehicles in red zones, fire lanes, guest or visitor parking, or other unauthorized areas.

g. Visitors or guests shall park their motor vehicles in Common Areas designated for Guest or visitor parking, or with permission, driveways.

h. No Owners or Residents shall repair or restore any vehicle of any kind in, on or about any Unit or the Common Area, except for emergency repairs, and then only for a seventy-two (72) hour period to enable movement thereof to a proper repair facility.

i. No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than as originally designed and constructed.

j. No motor vehicle shall be parked in such a manner as to inhibit or block access to a Unit, garage, covered parking space, uncovered parking space, entrance, exit, or parking area, and all parking areas shall be used solely for the parking and storage of motor vehicles used for personal transportation.

(12) *Aerials, Antennas and Satellite Systems.* Antennas and satellite dishes shall be prohibited, except (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter or diagonal measurement; (b) antennas or satellite dishes designed to receive video



programming services via multipoint distribution services are one meter or less in diameter or diagonal measurement: or (c) antennas or satellite dishes designed to receive television broadcast signals ("Permitted Devices") shall be permitted, Provided that any such Permitted Device is: (1) located in the attic, crawl space, garage, or other interior spaces of the Unit or another approved structure on the property, so as not to be visible from outside the Unit or other structure; and (2) attached to or mounted in the Limited Common Area immediately adjacent to the Unit, such as a balcony, deck or patio in the rear of the building, and extending no higher than the eaves of that portion of the roof of the Unit directly in front of such antenna. The Management Committee may adopt rules establishing a preferred hierarchy of alternative locations and requiring screening of all permitted Devices, so long as such rules do not unreasonably increase the cost of installation, maintenance, or use of the permitted Device in the authorized areas

(13) *Window Treatments.* No-aluminum foil, newspapers, reflective film coatings, or any similar or non-neutral colored materials may be used to shade the exterior Windows of residential structure on a Unit. Sun shades are not allowed on the exterior of any building, unless the color, style, construction material and uniformity of appearance are approved by the Management Committee.

(14) *Windows.* All windows and window panes in the Project shall be harmonious, and comparable in size, design and quality so as not to detract from uniformity in appearance and quality of construction;

(15) *Pets.* No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. Up to two (2) domestic pets per unit are allowed. All pets must be properly licensed and registered with the appropriate governmental agency, abide by all pet rules and regulations adopted by the Management Committee from time to time. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (a) it causes damage to the property of anyone other than its owner; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it defecates on any common area and the feces are not immediately cleaned up by the responsible party; (e) it barks, whines or howls, or makes other disturbing noises in an excessive, continuous untimely fashion; or (f) it molests or harasses passersby by lunging at them or chasing passing vehicles. Pets may not be tied or tethered in the Common Area. The Management Committee may require a pet deposit or a pet registration fee.

(16) *Insurance.* Nothing shall be done or kept in, on or about any Unit or in the Common Areas or limited Common Areas which may result in, the cancellation of the insurance on the Property or an increase in the rate of the insurance on the Property, over what the Management Committee, but for such activity, would pay.

(17) *Laws.* Nothing shall be done or kept in, on or about any Unit or Common Areas, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

(18) *Damage or Waste.* No damage to, or waste of, the Common Areas or Limited common Areas shall be committed by any Owner or Resident, their guests or invitees; and each Owner and Resident shall indemnify and hold the

Management Committee and the other Owners in the Project harmless against all loss resulting from any such damage or waste caused by that owner or Resident, their guests or invitees; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee or any other Owner.

(19) *Structural Alterations.* Except in the case of an emergency repair, no structural alteration, plumbing, electrical or similar work within the Common Areas or Limited Common Areas shall be done or permitted by any Owner without the prior written consent of the Management Committee.

9. **Leases.** Any agreement for the leasing, rental, or occupancy of a Unit (hereinafter in this Section referred to as a “lease”) shall be in writing and a copy thereof shall be delivered to the Management Committee upon request. By virtue of taking possession of a Unit, each lessee agrees, to be subject to and abide by these restrictive covenants, and that any covenant violation shall be deemed to constitute a default under the lease. No Owner shall be permitted to lease his, Unit for transient, hotel, seasonal, rental pool or corporate/executive use purposes, which by way of illustration and not limitation includes any rental with an initial term of less than one (1) year. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his entire Unit without the express written consent of the Management Committee. Within ten (10) days after delivery of written notice of the creation of a nuisance or material violation of these restrictive covenants, the Owner shall proceed promptly to abate the nuisance or cure the default, and notify the Management Committee in writing of his intentions. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Unit.

10. **Easements—Support, Maintenance and Repair.** There is hereby RESERVED to the City and the Association, and the City and the Association is hereby GRANTED a nonexclusive easement over, across, through, above and under the Units and the Common Area for the operation, maintenance, and repair of the Common Ares and Facilities, and regulation of the Design Guidelines. The City shall assume no responsibility for enforcement of the Design Guidelines, but reserves the right to and may enforce any Design Guideline at anytime and in its sole discretion.

11. **Liability of Owners, and Residents for Damages and Waste.** Each Owner or Resident shall be liable to the Association, or other Owners or Residents, for damages to person or property and waste in the Community caused by his negligence.

12. **Encroachments.** If any portion of Common Area, Limited Common Area, or a Unit encroaches or comes to encroach upon other Common Area, Limited Common Area, or a Unit as a result of construction, reconstruction, repair, shifting, settling, or movement, an easement for such encroachment is created hereby and shall exist so long as such encroachment exists.

13. **Management Committee.** The Association shall be managed by a Management Committee.

14. **Officers and Agents.** The Management Committee shall elect and/or appoint officers and agents of the Association, including without limitation a President, Secretary, and Treasurer.

15. **Management Committee Meetings.** The Management Committee shall meet at regular intervals and at least quarterly.

16. **Status and General Authority of Management Committee.** Any instrument executed by the Management Committee that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall

conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Association shall, in connection with its exercise of any of the powers delineated in subparagraphs (a) through (m) below, constitute a legal entity capable of dealing in its Committee name. The Management Committee shall have, and is hereby granted, the following authority and powers:

a) Access. The right, power and authority to have access to each Unit: (1) from time to time during reasonable hours and after reasonable notice to the occupant of the Unit being entered, as may be necessary for the maintenance, repair or replacement of any of the Common Areas and Facilities; or (2) for making emergency repairs necessary to prevent damage to the Common Areas and Facilities or to another Unit or Units, provided that a reasonable effort is made to provide notice to the occupant of the Unit prior to entry.

b) Grant Easements. The authority, without the vote or consent of the Owners, Mortgagees, insurers or guarantors of any Mortgage, or of any other person, to grant or create, on such terms as it deems advisable, reasonable permits, licenses, and non-exclusive easements over, under, across, and through the Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance, operation or regulation of the Project.

c) Execute Documents. The authority to execute and record, on behalf of all Owners, any amendment to the Declaration or Condominium Plat which has been approved by the vote or consent necessary to authorize such amendment.

d) Standing. The power to sue and be sued.

e) Enter Into Contracts. The authority to enter into contracts which in any way concern the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.

f) Transfer Interests in Real Property. The power and authority to exchange, convey or transfer any interest in real property, so long as it has been approved by at least seventy five percent (75%) of the Association Members.

g) Purchase Property. The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as it has been approved by at least seventy five (75%) percent of the Association Members.

h) Add Property. The power and authority to add any real property, or interest therein, obtained pursuant to subparagraph (g) above to the Project, so long as it has been approved by at least seventy five percent (75%) of the Association Members.

i) Borrow Money and Pledge Collateral. The power and authority to borrow money and pledge collateral so long as it has been approved by at least seventy five percent (75%) of the Association Members.

j) Promulgate Rules. The authority to promulgate such reasonable administrative guidelines, rules, regulations, policies and procedures as may be necessary or desirable to aid the Committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the Act and this Declaration.

k) Meetings. The authority to establish procedures for the conduct of its meetings, including but not limited to the power to decide what portion of the meeting shall be open or closed to Owners or Residents not on the Committee, to retire to executive session, to regulate record keeping, and to allow, control or prohibit the electronic reproduction (video or audio) of Committee meetings.

l) Delegation of Authority. The power and authority to delegate its responsibilities over the management and control of the Common Areas and regulation of the Project to a professional manager, reserving the right, power and authority, however, to control and oversee the administration thereof.

m) All other Acts. The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably, necessary for the Management Committee to perform its functions on behalf the Owners.

Anything to the contrary notwithstanding, while Declarant controls the Association and before the end of the Period of Declarant's Control, any amendments to the Declaration or mergers must (where appropriate) be approved in writing and in advance by Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Department of Veterans Affairs (VA).

**17. Delegation of Management Responsibilities:** The Management Committee may delegate some of its management responsibilities to either a professional management company, an experienced on-site manager, an independent contractor, through service contracts, or any combination thereof. The Manager may be an employee or an independent contractor. The termination provision of any such contract must not require a termination penalty or any advance notice of any more than sixty (60) days, and no such contract or agreement shall be for a term greater than one (1) year. The Management Committee may also employ general laborers, grounds crew, maintenance, bookkeeping, administrative and clerical personnel as necessary to perform its management responsibilities. Provided, however, any management contract may be terminated for cause on thirty (30) days notice in accordance with Title 38, Code of Federal Regulations, Section 36.4360a, as it may be amended from time to time.

**18. Owners Meeting.** The Association shall meet at least annually.

**19. Lists of Owners, Renters, Eligible Mortgagees, Insurers and Guarantors.** The Management Committee shall maintain up to date lists of the name, address and phone number of all Owners, Renters, Eligible Mortgagees, Insurers and Guarantors. The Owners, Mortgagees, Insurers and Guarantors have a duty to provide this information to the Committee.

**20. Capital Improvements.** All expenses for capital improvements shall be governed by and subject to the following conditions, limitations and restrictions:

a) Committee Discretion/Expenditure Limit. Any capital improvement to the Project which costs ten percent (10%) or less of the Total Annual Budget, and does not alter the nature of the Project, may be authorized by the Management Committee alone (the "Capital Improvement Ceiling").

b) Owner Approval/Expenditure Limit. Any capital improvement, the cost of which will exceed the Capital Improvement Ceiling, must, prior to the commencement of

construction, be authorized by at least a majority of the percentage of undivided ownership interest in the Common Area.

c) Owner Approval/Changing the Nature of the Project. Any capital improvement which would materially alter the nature of the Project (e.g., changing the roofing materials, the construction of the external Building surfaces, color scheme, etc.) must, regardless of its cost and prior to being constructed or accomplished, be authorized by at least sixty-seven (67%) percent of the undivided ownership interest in the Common Areas.

**21. Operation, Maintenance and Alterations.** Each Unit, the Limited Common Area, Common Area shall be maintained, repaired, and replaced in accordance with the following covenants, conditions and restrictions:

a) Clean, Safe, Sanitary and Attractive Condition. The Units, Limited Common Area, and Common Area shall be maintained in a usable, clean, functional, safe, sanitary, attractive and good condition, consistent with Community Standards.

b) Landscaping. All landscaping in the Project shall be maintained and cared for in a manner consistent with the standards of design and quality originally established by Declarant and in accordance with Community Standards. Specific written guidelines, standards, controls, and restrictions on landscaping may be adopted or amended by the Committee from time to time. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, or cover of shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be neatly trimmed. In a word, all landscaping shall be tasteful, so as not to affect adversely the value or use of any other Unit, or to detract from the uniform design and appearance of the Project.

c) Area of Common Responsibility. Unless otherwise expressly noted, the Association shall maintain, repair and replace all of the Common Area and Facilities within or serving the Project, including by way of illustration but not limitation the swimming pool, clubhouse, tot lot, open space, common landscaping, entry and monument. The Association shall also repair and replace all Limited Common Area improvements as may be required from time to time (the "Area of Common Responsibility")

d) Area of Personal Responsibility. Each Owner shall maintain, repair and replace, his Unit, including without limitation, all individual services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, fixtures, windows and window systems, glass, doors and door systems, garage doors and garage door systems, patios, balconies and decks, subject to the approval of the Management Committee as to construction materials, quality of construction and installation. Each Unit Owner shall also be responsible for maintaining and keeping his Unit and Limited Common Area clean, attractive, tidy, uncluttered, safe, sanitary and functional condition, so as not to detract from the health, safety or uniform appearance or design of the Project, and in a manner consistent with Community Standards, and to repair the plumbing fixtures and lateral pipes servicing only his Unit, including any damage caused thereby and not covered by insurance.

e) Default Provisions. If (except in the case of an emergency) after written notice and a hearing, it is determined that any responsible party has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of the real

property and improvements described herein, or that the need for maintenance, repair, or replacement thereof is caused through the willful or negligent act of any person, then the association, or Management Committee may, but is not obligated to, provide such maintenance, repair, or replacement at the defaulting of responsible party's sole cost and expense (the "Default Maintenance Cost"). The Default Maintenance Cost is the debt of such defaulting or responsible party at the time the expense is paid and shall be collectible as such. In addition, it may be considered a "Fine" against a Unit Owner. A Fine assessed hereunder which remains unpaid after the time for appeal has expired becomes a lien against the Unit Owner's interest in the property in accordance with the same standards as a lien for assessments and cost of collection under U.C.A., Section 57-8-44.

f) Alterations to the Common Area. The Declarant may make changes to the design and construction of the improvements located in or on the Common Areas without additional approval required including without limitation the consent of the Management Committee or Members of the Association; provided, however, no Owner or Resident may make any structural alterations to the Common Area (including the Limited Common Area), without the express prior written consent of the Management Committee.

g) Certain Work Prohibited. No Unit Owner shall do any work or make any alterations or changes which would jeopardize the soundness or safety of the Property, reduce its value or impair any easement or hereditament) without in every such case the unanimous written consent of all the other Unit Owners being first had and obtained.

**22. Common Expenses.** Each Owner shall pay his Assessments subject to and in accordance with the procedures set forth below.

a) Declarant. Anything to the contrary notwithstanding, the Declarant shall not be obligated to pay Assessments on any Units owned by it until such time as: (1) the physical structures are substantially completed; (2) certificates of permanent occupancy are issued and the Units are sold or, rented; or (3) Declarant elects in writing to pay the Assessments, whichever first occurs.

b) Purpose of Common Area Expenses. The Assessments provided for herein shall be used for the general purpose: of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the owners and residents, including the maintenance of any real and personal property owned by the Association, and regulating the Community, all as may be more specifically authorized from time to time by the Committee.

c) Creation of Assessments. Since the Assessments shall pay for the common expenses of the Association, as shall be determined by the Management Committee from time to time, each Owner, by acceptance of a deed to a Unit, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association in a timely manner all Assessments assessed by the Committee.

d) Budget. At least thirty (30) days prior to the Annual Homeowners Meeting, the Management Committee shall prepare and deliver to the Owners a proposed Budget which:

(1) *Itemization.* Shall set forth an itemization of the anticipated Common

Expenses for the twelve (12) month calendar year, commencing with the following January 1.

(2) *Basis*. Shall be based upon advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and regulation of the Association, which estimate shall include but is not limited to expenses of management, irrigation water, grounds maintenance, taxes and special assessments, premiums for all insurance which the Committee is required or permitted to maintain, common lighting and heating, water charges, trash collection, sewer service charges, carpeting, painting, repairs and maintenance of the Common Areas and replacement of those elements of the Common Areas that must be replaced on a periodic basis, wages for Management Committee employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, capital improvement reserve, and other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under and by reason of this Declaration.

e) Apportionment. The common profits, losses and voting rights of the Project shall be distributed among and the common expenses shall be charged equally to the Unit Owners.

f) Approval of Budget and Assessments. The proposed Budget and the Assessments shall become effective unless disapproved at the Annual Meeting by a vote of at least a majority of the percentage of ownership interest in the Common Areas. Notwithstanding the foregoing, however, if the membership disapproves the proposed budget and Assessments or the Management Committee fails for any reason to establish the Budget and Assessments for the succeeding year, then and until such time as a new budget and new Common Area Assessment schedule shall have been established, the Budget and the Assessments in effect for the then current year shall continue for the succeeding year.

g) Payment of Assessments. The Management Committee has the sole authority and discretion to determine how and when the annual Assessments are paid.

h) Personal Obligation of Owner. Owners are liable to pay all Assessments assessed and Additional Charges; provided, however, no first mortgagee or beneficiary under a first deed of trust (but not the Seller under a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Unit pursuant to the remedies provided in the mortgage or trust deed shall be liable for unpaid Assessments which accrued prior to the acquisition of title. For purposes of this Section, the term "Owner" shall mean and refer jointly and severally to: (1) the Owner of both the legal and equitable interest in any Unit; (2) the owner of record in the offices of the County Recorder of Utah County, Utah; and (3) both the Buyer and Seller under any executory sales contract or other similar instrument.

i) Equitable Changes. If the aggregate of all monthly payments on all of the Units is too large or too small as a result of unanticipated income or expenses, the Committee may from time to time effect an equitable change in the amount of said payments, but, without the prior approval of a majority of the percentage of ownership interest in the Common Area, not greater than fifteen (15%) percent of the Common Area Assessment in any

calendar year. Owners shall be given at least thirty (30) days written notice of any changes.

j) Dates and Manner of Payments. The dates and manner of payment shall be determined by the Committee.

k) Reserve Account. The Committee shall establish and maintain a reserve account or accounts to pay for unexpected operating expenses and capital improvements.

l) Analysis Report. The Management Committee shall prepare and update at least annually a written Capital Asset Replacement and Reserve Account Analysis, and make the report available to the Owners at the annual meeting of the Association.

m) Acceleration. Assessments shall be paid in the manner and on dates fixed by the Committee who may, at its option and in its sole discretion, elect to accelerate the entire annual Common Area Assessment for delinquent Owners. If, however, the Common Area Assessment is accelerated and an Owner subsequently files bankruptcy or the Committee otherwise decides acceleration is not in its best interest, the committee, at its option and in its sole discretion, may elect to decelerate the obligation.

n) Statement of Assessments Due. Upon written request, the Committee shall furnish to any Owner a statement of Assessments due, if any, on his Unit. Failure to provide the certificate within ten (10) days after a written request is received by the Secretary shall be deemed conclusive evidence that all Assessments are paid current. The Association may require the advance payment of a processing charge not to exceed \$15.00 for the issuance of such certificate.

o) Superiority of Assessments. All Assessments and liens created to secure the obligation to pay Assessments are superior to any homestead exemptions to which an Owner may be entitled which insofar as it adversely affects the Association's lien for unpaid Assessments each Owner by accepting a deed or other document of conveyance to a Unit hereby waives.

p) Suspension of Right to Use Amenities for Non-Payment. At the discretion of the Management Committee, the right to use any amenities in the Project may be suspended for up to ninety (90) days if the Owner is in arrears on his obligation to pay Assessments and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

q) Suspension of Right to Vote for Non-Payment. At the discretion of the Committee, the right of an Owner to vote on issues concerning the Association may be suspended for up to ninety (90) days if the Owner is delinquent in the payment of his Assessments, and has failed to cure or make satisfactory arrangements to cure the default after reasonable notice of at least ten (10) days.

**23. Special Assessments.** In addition to the other Assessments authorized herein, the Association may levy special assessments in any year, subject to the following:

a) Committee Based Assessment. So long as the special assessment does not exceed the sum of Five hundred and 00/100<sup>th</sup> Dollars (\$500.00) per Unit in any one fiscal year (the "Special Assessment Limit"), the Committee may impose the special assessment without



any additional approval.

b) Association Approval. Any special assessment which would exceed the Special Assessment limit shall be effective only if approved by a majority of the members of the Association. The Committee in its discretion may allow any special assessment to be paid in installments.

24. **Benefit Assessments**. If an Owner has the choice to accept or reject the benefit, then the Management Committee shall have the power and authority to assess an Owner in a particular area as follows:

a) Benefit only To Specific Unit. If the expense benefits less than all of the Units, then those Units benefitted may be specifically assessed, and the specific assessment shall be equitably apportioned among those Units according to the benefit received.

b) Unequal or Disproportionate Benefit. If the expense benefits all Units, but does not provide an equal benefit to all Units, then all Units shall be specifically assessed, but the specific assessment shall be equitably apportioned among all Units according to the benefit received.

Failure of the Committee to exercise its authority under this Section shall not be grounds for any action against the Association of the Committee and shall not constitute a waiver of the Committee's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Committee has not previously exercised its authority under this Section.

25. **Individual Assessments**. Individual Assessments shall be levied by the Committee against a Unit and its Owner to reimburse the Association for: (a) administrative costs and expenses incurred by the Committee in enforcing the Project Documents; (b) costs associated with the maintenance, repair or replacement of Common Area for which the Unit Owner is responsible; (c) any other fine, charge, fee, due, expense, or cost designated as an Individual Assessment in the Project Documents or by the Management Committee; and (d) attorneys' fees, interest, and other charges relating thereto as provided in this Declaration.

26. **Collection of Assessments**. The Owners must pay their Assessments in a timely manner. Payments are due in advance on the first of the month. Payments are late if received after the 10th day of the month in which they were due.

a) Delinquent Assessments. Any Assessment not paid when due shall be deemed delinquent and a lien securing the obligation shall automatically attach to the Unit, regardless of whether a written notice is recorded.

b) Late Fees and Accruing Interest. A late fee of twenty-five dollars (\$25.00) or five percent (5%) of the delinquent amount, whichever is greater, shall be assessed on all tardy payments. Default interest at the rate of one percent (1.0%) per month or twelve percent (12%) per annum shall accrue on all delinquent accounts.

c) Lien. If any Unit Owner fails or refuses to make any payment of any Assessment or his portion of the Common Expenses when due, that amount shall constitute a lien on the interest of the Owner in the Property, and upon the recording of notice of lien by the Manager, Management Committee or their designee it is a lien upon the Owner's interest

in the Property prior to all other liens and encumbrances, recorded or unrecorded, except: (1) tax and special assessment liens on the Unit in favor of any assessing unit or special improvement district; and (2) encumbrances on the interest of the Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

d) Foreclosure of Lien and/or Collection Action. If the Assessments remain unpaid, the Association may, as determined by the Committee, institute suit to collect the amounts due and/or to foreclose the lien.

e) Personal Obligation. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him or her personally for the collection of the charges as a debt or to foreclose the lien in the same manner as mechanics liens, mortgages, trust deeds or encumbrances may be foreclosed.

f) No Waiver. No Owner may waive or otherwise exempt himself or herself from liability for the Assessments provided for herein, including but not limited to the non-use of Common Areas or the abandonment of his Unit.

g) Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Committee to take some action or perform some function required to be taken or performed by the Association or committee under this Declaration or the By Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

h) Application of Payments. All payments shall be applied as follows: Additional Charges, Delinquent Assessments and Current Assessments.

i) Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Committee. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the Unit during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Committee may bid for the Unit at foreclosure or other sale and hold, lease, mortgage, or convey the same.

j) Appointment of Trustee. If the Committee elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Unit hereby irrevocably appoints the attorney of the Association, provided s/he is a member of the Utah state Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein. Declarant hereby conveys and warrants pursuant to U.C.A. Sections 57-1-20

and 57-8-45 to the attorney of the Association, with power of sale, the unit and all improvements to the unit for the purpose of securing payment of assessments under the terms of the declaration.

k) Attorney in Fact. Each Owner by accepting a deed to a Unit hereby irrevocably appoints the association as his attorney in fact to collect rent from any person renting his Unit, if the Unit is rented and Owner is delinquent in his assessments. Rent due shall be paid directly to the Association, upon written demand, until such time as the Owner's Assessments are current; and the Owner shall credit the Renter, against rent due, for the amount of money paid to the Association.

**27. Liability of Management Committee.** The Association shall indemnify every officer and member of the Committee against any and all expenses, including but not limited to attorney's fee reasonably incurred by or impose upon any officer or member of the Committee in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Committee) to which he or she may be a party by reason of being or having been an officer or member of the Committee. The officers and members of the Committee shall not be liable for any mistake of judgment, negligent at otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and members of the Committee shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or members of the Committee may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and member of the Committee free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall, be exclusive of any other rights to which any officer or member of the Committee, or former officer or member of the Committee, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officer's and director's insurance coverage to fund this obligation, if such insurance is reasonably available.

**28. Insurance.** The Manager, Management Committee or Association will obtain insurance against loss or damage by fire and other hazards for: (a) all Common Elements and Facilities; and (b) all buildings that contain more than one Unit, including any improvement which is a permanent part of a Building. The insurance coverage shall be written in the property in the name of the Manager, Management Committee or Association, as trustee for each of the Unit Owners in the percentages established in this Declaration. The insurance premiums shall be a Common expense. This section is without prejudice to the right of each Unit Owner to insure his own Unit for his benefit. The Manager, Management Committee or Association shall satisfy at least the following minimum requirements:

a) Property Insurance. Blanket property insurance using the standard "Special" or "All Risk" building form. Loss adjustment shall be based upon replacement cost. For purposes of this sub-section, the term "casualty insurance" shall not mean or refer to "earthquake" or other special risks not included in the standard 'condominium' casualty policy. This additional coverage may be added by the Committee as it deems necessary in its best judgment and in its sole discretion

b) Flood Insurance. If any parts of the Project's improvements are in a Special Flood Hazard Area which is designated as A, AE, AH, AO, AI-30, A-99, V, VE, or VI-30 on a Flood Insurance Rate Map (FIRM) the Association shall obtain a "master" or "blanket" policy of flood insurance and provide for the premiums to be paid as a common expense. The policy should cover any common element buildings and any other common property. The Unit Owner may also be required to purchase an individual policy. The amount of flood insurance should be at least equal to the lesser of 100% of the insurable value if the

facilities or the maximum coverage available under the appropriate National Flood Insurance Administration program.

c) Liability Insurance. A public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The 'public liability policy shall have at least a One Million (\$1,000,000) Dollar single person limit as respects bodily injury and property damage, a Two Million (\$2,000,000) Dollar limit per occurrence if reasonably available, and a One Million (\$1,000,000) Dollar Minimum property damage limit. If possible, the policy should be written on the comprehensive form and shall include non-owned and hired automobile liability protection.

d) Directors and Officers Insurance; A director's and officer's liability or errors and omissions policy, if reasonably available, with at least One Million (\$1,000,000) Dollars in coverage.

e) Fidelity Bond A separate fidelity bond in a reasonable amount to be determined by the management Committee to cover all non-compensated officers as well as all employees for theft of Association funds, subject to the following:

(1) *Agents*, Furthermore, where the Committee or the Association has delegated some or all of the responsibility for the handling of funds to a management agent, such bonds are required for the management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Committee or the Association.

(2) *Amount of Coverage.* The total amount of fidelity bond coverage required shall be based upon the Committee's best business judgment, but shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Committee, the Association, or the Management agent as the case may be, at any given time during the term of each bond. Nevertheless, in no event may the amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Lots, plus reserve funds.

(3) *Quality of Coverage.* The bonds required shall meet the following additional requirements: (a) they shall name the Committee, the Owners Association, and the Property Manager as obligee; (b) if the contract or bond excludes coverage for damages caused by persons serving without compensation, and may use that exclusion as a defense or reason not to pay a claim, the insurance company shall, if possible, be required to waive that exclusion or defense; (c) the premiums on all bonds required herein for the Committee and the Association (except for premiums on fidelity bonds maintained by a management agent for its office, employees and agents) shall be paid by the Committee or the Association as part of the Common Expenses; and (d) the bonds shall provide that they may not be canceled or substantially modified, including cancellation for nonpayment of premium, without at least ten days' prior written notice to the Committee and the Association, to any Insurance Trustee, and to each service of loans on behalf of any Mortgagee, and FNMA.

f) Earthquake Insurance shall not be required unless requested by at least Seventy five percent (75%) of the Members of the Association.

g) Miscellaneous Items. The following provisions shall apply to all insurance coverage:

(1) *Quality of Carrier*. A "B" or better general policyholder's rating or a "B" or better financial performance index rating in Best's Insurance Reports, an "A" or better general policyholder's rating and a financial size category of "VIII" or better in Best's Insurance reports — International Edition, an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings, a "BBB" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's International Confidential Rating Service --if the carrier is issuing a master policy or an insurance policy for the common elements in the Project.

(2) *The Insured*. The name of the insured under each policy required to be maintained hereby shall be set forth therein substantially as follows: "Association of Unit Owners for The Village on 12th Condominiums, for the use and benefit of the individual Owners."

(3) *Designated Representative*. The Association may designate an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such Trustee, for the use and benefit of the individual Owners.

(4) *Beneficiary*. In any policy covering the entire Project, each owner and his Mortgagee, shall be beneficiaries of the policy in an amount equal to the Owner's percentage of undivided Ownership interest in the Common Areas and Facilities.

(5) *Certificate of Insurance*. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

(6) *Mortgage Provisions*. Each policy shall contain a standard mortgage clause or its equivalent and shall provide that the policy may not be canceled or substantially modified without at least ten (10) days prior written notice to the Association and to each Mortgagee.

(7) *Miscellaneous Provisions*. Each insurance policy shall contain at least the following additional miscellaneous items: (a) A waiver of the right of a subrogation against Owners individually; and (b) A provision that the insurance is not prejudiced by any act or neglect or any individual Owner.

(8) *Prompt Repair*. Each Owner further covenants and agrees that in the event of any partial loss, damage or destruction of his Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction.

(9) *Disbursement Proceeds*. Proceeds of insurance policies shall be disbursed to repair promptly and reasonably the damages. Any proceeds remaining thereafter shall be placed in the Capital Improvement Reserve Account and retained by and for the benefit of the Association. This is a covenant for the benefit of the Association and any Mortgagee of a Unit, and may be enforced by them.

(10) *Special Endorsements*. Each policy shall also contain or provide those

endorsements commonly purchased by other Associations in similarly situated first class subdivisions in the county, including but not limited to a guaranteed replacement cost endorsement under which the insurer agrees to replace the insurable property regardless of the cost and, or a Replacement Cost Endorsement under which the insurer agrees to pay up to 100% of the property's insurable replacement cost, but no more, and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement which waives the requirement for coinsurance; an Inflation Guard Endorsement when it can be obtained, a Building Ordinance or Law Endorsement, if the enforcement of any building zoning or land-use law would result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs, and increased costs of reconstruction; Steam Boiler and Machinery Coverage Endorsement if the Project has any central heating or cooling.

(11) *Restrictions on Policies.* No insurance policy shall be maintained where:

a. Individual Assessments Prohibited. Under the term of the carrier's charter, By-Laws, or policy, contributions may be required from, or assessments may be made against, an Owner, a borrower, a Mortgagee, the Management Committee, the Association, FNMA, or the designee of FNMA.

b. Payments Contingent. By the terms of the Declaration, By-Laws, or policy, payments are contingent upon action by the carrier's board of directors, policyholder, or member; or

c. Mortgagee Limitation Provisions. The policy includes any limited clauses (other than insurance conditions) which could prevent the party entitled (including, without limitation, the Committee, the Association, an Owner, FNMA, or the borrowers) from collecting insurance proceeds.

(12) *Intent.* The foregoing provisions shall not be construed to limit the power or authority of the Association, Committee or Owners to obtain and maintain insurance coverage, in amounts and in such forms as the Management Committee or Association may deem appropriate from time to time.

(13) *Deductible.* The deductible on a claim made against the Association's Property Insurance Policy shall be paid for by the party who would be liable for the loss, damage, claim, or repair in the absence of insurance, and in the event of multiple responsible parties, the loss shall be allocated in relation to the amount each party's responsibility bears to the total. If a loss is caused by an act of God or nature or by an element, risk or peril beyond the control of the Unit Owner, then the Association shall be responsible for the deductible.

h) Adjusting Claims. The Management Committee has the authority to adjust claims and, if the claim may be filed with the Unit Owner's or renter's insurance carrier, may require from the prospective claimant's insurance company a formal notice of rejection and an unconditional denial of the claim or its equivalent before submitting the claim to the Association's insurance company, particularly if (1) it risks cancellation of the Association's insurance, or (2) the problem occurred in the Unit, or (3) was caused by the claimant, or (4) the claim is legally or primarily the responsibility of the claimant, and (5)

there is a substantial likelihood that the claim will be covered by the Owner's or renter's insurance company. The Management Committee may also elect to self-insure any claim and in such an instance the person legally responsible for the loss or maintenance shall pay the deductible.

**29. Destruction, Condemnation and Obsolescence.** The following provisions shall apply with respect to the destruction, condemnation, or obsolescence of the Project.

a) Definitions. Each of the following terms shall have the meaning indicated:

(1) "*Substantial Destruction*" shall exist whenever, as a result of any damage or destruction to the Project or any part thereof, the excess of the estimate cost of restoration over the funds available is Twenty five percent (25%) percent or more of the estimated restored value of the Project.

(2) "*Partial Destruction*" shall mean any other damage or destruction to the Project or any part thereof.

(3) "*Substantial Condemnation*" shall exist whenever a complete taking of the Project or a taking of part of the Project has occurred under eminent domain or by grant or conveyance in lieu of condemnation, and the excess of the estimated cost of restoration over the funds available is Twenty five (25%) percent or more of the estimated restored value of the Project.

(4) "*Partial Condemnation*" Shall mean any other such taking by eminent domain or grant or conveyance in lieu thereof.

(5) "*Substantial Obsolescence*" shall exist whenever the Project or any part thereof has reached such a state of obsolescence or disrepair that the excess of the estimated cost of restoration over the funds available is Twenty five percent (25%) percent or more of the estimated restored value of the Project.

(6) "*Partial Obsolescence*" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(7) "*Restored Value*" shall mean the fair market value of the Project after Restoration as determined by an MAI or other qualified appraisal.

(8) "*Estimated Cost of Restoration*" shall mean the estimated costs of restoring the Project to its former condition.

(9) "*Available Funds*" shall mean any proceeds of insurance; condemnation awards, payments in ion, and any uncommitted funds of the Management Committee or Association Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a mortgagee, or that portion or any condemnation award or payment in lieu of condemnation payable to the Owner or Mortgagee for the condemnation or taking of the Unit in which they are interested.

b) Determination by Committee. Upon the occurrence of any damage or destruction to the Project or any part thereof, or upon a complete or partial taking of the Project under

eminent domain or by grantor conveyance in lieu thereof; the Committee shall make a Determination as to whether the excess of Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. In addition, the Committee shall, from time to time, review the condition of the Project to determine whether Substantial Obsolescence. In making, such determinations the Committee may retain and rely upon one or more qualified appraisers or other professionals.

c) Restoration of the Project. Restoration of the Project shall be undertaken by the Committee promptly without a vote of the Owners in the event of Partial Destruction, Partial Condemnation, or Partial Obsolescence and shall also be undertaken in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence unless the failure to make Restoration is consented to by Owners collectively holding at least sixty-seven percent of the Project's undivided Ownership interest and is further consented to by Eligible Mortgagees holding Mortgages on Units which have appurtenant at least fifty-one (51 %) percent of the undivided ownership interest in the Common Areas and Facilities which is then subject to Mortgages held by Eligible Mortgagees.

d) Notices of Destruction or Obsolescence. Within thirty (30) days after the Committee has determined Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence exists, it shall sent to each Owner and Eligible Mortgagee a written description of the destruction, condemnation, or state of obsolescence involved, shall take appropriate steps to ascertain the preferences of the Eligible Mortgagees concerning Restoration, and shall, with or, without a meeting of the Owners (but in any event in accordance with the applicable provisions of this Declaration), take appropriate steps to determine the, preferences of the Owners regarding Restoration.

e) Excess Insurance. In the event insurance proceeds, condemnation awards, or payments in lieu of condemnation actually received by the Committee or Association exceed the cost of Restoration when Restoration is undertaken, the excess shall be paid and distributed to the Owners in proportion to their respective undivided interests in the Common Areas. Payment to any Owner whose Unit is the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

f) Inadequate Insurance. If the cost of Restoration exceeds Available Funds, the Management Committee may elect to make a special assessment in accordance with Article III, Section 21 above to pay for the deficiency.

g) Reallocation in Event of Partial Restoration. In the event that all or any portion of one or more Units will not be the subject of Restoration (even though the Project will continue as a condominium project) or is taken in a condemnation proceeding or pursuant to any agreement in lieu thereof, the undivided Ownership interest in the Common Areas and Facilities shall be immediately reallocated to the remaining Units.

h) Sale of Project. Unless Restoration is accomplished as set forth above, the Project shall be sold in the event of Substantial Destruction, Substantial Condemnation, or Substantial Obsolescence. In the event of such sale, Condominium Ownership under this Declaration and the Condominium Plat shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Committee to the Owners in proportion to their respective undivided interests in the Common Areas. Payment to any Owner whose Unit is then the subject of a Mortgage shall be made jointly to such Owner and the interested



Mortgagee.

i) Authority of Committee to Represent Owners in Condemnation or to Restore or Sell. The Committee, as attorney-in-fact for each Owner, shall represent all of the Owners and the Association in any condemnation proceeding or in negotiations, settlements, and agreements with the condemning authority for the acquisition of all or any part of the Common Areas and Facilities.

j) Settlement Proceeds. The award in any condemnation proceeding and the proceeds of any settlement related thereto shall be payable to the Association for the use and benefit of the Owners and their mortgagees as their interests may appear.

k) Restoration Power. The Committee, as attorney-in-fact for each Owner, shall have and is hereby granted full power and authority to restore or to sell the Project and each Unit therein whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided.

l) Right of Entry. Such authority shall include the right and power to enter the premises as reasonably necessary with reasonable advance notice, as well as the right to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

m) Termination of Legal Status. Any action to terminate the legal status of the Project after Substantial Destruction or Condemnation occurs shall be agreed to by Unit Owners who represent at least sixty-seven (67%) percent of the total allocated votes in the Association and by Eligible Mortgage holders who represent at least fifty-one (51%) percent of the votes of the Units that are subject to mortgages held by eligible holders.

The termination of the legal status of the Project for reasons other than Substantial Destruction or Condemnation of the property shall be agreed to by Eligible Mortgage holders that represent at least sixty-seven (67%) percent of the votes of the mortgaged Units. However, implied approval may be assumed when an Eligible Mortgage holder (except (where appropriate) the Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) or the Department of Veterans Affairs (VA)) fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

**30. Consent in Lieu of Vote.** In any case in which this Declaration requires the vote of an Owner for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold the required percentages, subject to the following conditions:

a) Sixty-Day Limit. All necessary consents must be obtained prior to the expiration of sixty (60) days from the time the first written consent is obtained; and

b) Change in Ownership. Any change in Ownership of a Unit which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or

taken into account for any purpose; and

c) Notice. If approved, written notice of the approval must be given to all Unit Owners at least ten (10) days before any action is required by them.

31. **Mortgage Protection**. Nothing herein contained, and no violation of these covenants, conditions and restrictions, shall invalidate or impair the lien of any mortgage or deed of trust, given in good faith and for value. Mortgagees are excluded from any leasing or rental restrictions when obtaining or after obtaining a Unit in foreclosure. The lien or claim against a Unit for unpaid Assessments levied by the Management Committee or by the Association pursuant to this Declaration shall be subordinate to any Mortgage recorded on or before the date such Assessments become due. In addition:

a) Effects of Voluntary and Involuntary Sale. The lien or claim against a Unit for such unpaid Assessments shall not be affected by any sale or transfer of such Unit, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Unit or the exercise of a power of sale available thereunder shall extinguish any debt payable prior to such sale or transfer. Nevertheless, any such unpaid Assessments which are extinguished in accordance with the foreclosure or power of sale shall not relieve the purchaser or transferee of such Unit from liability for, nor such Unit the lien of any Assessments becoming due thereafter.

b) Books and Records Available for Inspection. The Committee or the Association shall make available to the Owners, to Mortgagees, and lenders, and to holders, insurers, or guarantor of any Mortgage current copies of the Declaration, By-Law, and administrative rules and regulations concerning the Project, as well as the books, records, and financial statements of the Committee and the Association. The term "Available," as used in the Paragraph, shall mean available for reasonable inspection upon request during normal business hours or under other reasonable circumstances. The Association shall have right to recover its photocopying and service charges incurred in making the inspection and photocopying available.

c) Right to Financial Statement. The holder, insurer or guarantor of any Mortgage shall be entitled, upon written request, to a financial statement for the immediately preceding fiscal year. Any financial statement requested pursuant hereto shall be furnished to the requesting party within a reasonable time following such request.

d) Management Contracts. Any agreement for professional management of the Project, and any contract for goods or services, or any lease which is entered into by the Management Committee shall provide, or be deemed to provide hereby, that:

(1) Either party may terminate the contract with cause upon at least thirty (30) days prior written notice to the other party; and

(2) No contract may be for an initial term greater than one (1) year.

e) Eligible Mortgagee Designation. Upon written request to the Committee or the Association by the holder, insurer, or guarantor of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Unit Number or address of the property encumbered by the Mortgage held or insured by such holder, insurer, or guarantor), such holder insurer, or guarantor shall be deemed thereafter to be an "Eligible Mortgagee" or "Eligible Insurer" or "Eligible Guarantor," as the case may be,

shall be included on the appropriate lists maintained by the Association, and shall be entitled to timely written notice of any of the following:

(1) *Condemnation Loss or Award.* Any condemnation loss or any casualty loss which affects a material portion of the Project or any Unit on which there is a Mortgage held, insured, or guaranteed by such Eligible Insurer or Guarantor.

(2) *Delinquency.* Any delinquency in the payment of Assessments owed by an Owner of a Unit subject to a Mortgage held, insured or guaranteed by such Eligible Insurer or Guarantor, which delinquency, remains uncured for a period of sixty days.

(3) *Lapse of Insurance.* Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Committee or the Association.

(4) *Consent Required.* Any proposed action which would require that consent of a specified percentage of Eligible Mortgagees.

f) Approval of Proposed Action or Transaction. Any Mortgagee who receives, by certified or registered mail, a written request with a return receipt requested, to approve any act, transaction or amendment to the Declaration, and who does not return a negative response within thirty (30) days shall be deemed to have approved such request; provided, however and anything to the contrary notwithstanding, so long as Declarant is in control of the owner's association, such action or transaction must be approved in writing by the Department of Veterans Affairs (VA) pursuant to CFR, title38, Section36.4357(b)(4) and, if any financing or the guaranty of any financing of a Unit is provided by the Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA), by such agencies.

32. **Amendment.** This Declaration may be amended as follows:

a) Amendments by Declarant. Until after the termination of the Declarant's Period of Control, this document and the Condominium Plat may be unilaterally amended by the Execution by Declarant of an instrument amending the same without any additional approval required, and no other amendment shall be valid or enforceable without the Declarant's prior written consent. Declarant expressly reserves the right to change the definition of Common Area and/or Unit, and their designation on the Plat, in order to expand the definition of a Unit to include the roof, exterior walls, footings and foundations, etc., provided the maintenance, repair and replacement of such items remain part of the Area of Common Responsibility and the Project is developed in accordance with the approved development plan of the City's planning commission.

b) Consent of the Owners. After the termination of the Declarant's Period of Control, the affirmative vote of at least sixty-seven percent (67%) of the Owners shall be required and shall be sufficient to amend the Declaration or the Condominium Plat. Any amendment so authorized shall be accomplished through the recordation of an, instrument executed by the Management Committee. In such instrument the Committee shall certify that the vote required by this Section for, amendment has, occurred, and, if approval of a

specified percentage of Eligible Mortgagees is required for such amendment, that such approval has been obtained.

c) Protection of Declarant Rights. An amendment shall not terminate or decrease any unexpired development right, or Period of Declarant Control unless the Declarant approves or consents in writing.

d) Execution of Amendments. An amendment or revocation which only requires the execution of and instrument by declarant as hereinabove provided shall be effective when executed by Declarant and when recorded in the office of the County Recorder of Utah County, Utah. An amendment which requires the affirmative written assent or vote of the Owners as hereinabove provided shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment has been so approved and the Declarant if the Declarant's consent is also required, and, when the amendment has been recorded in the office of the County Recorder of Utah County, Utah.

e) Consent of Eligible Mortgagee to Terminate Legal Status of Project. The consent of at least sixty-seven percent (67%) of the Eligible Mortgagees shall be required to any amendment which would terminate the legal status of the Project.

f) Consent of Eligible Mortgagees to Add or Amend Any Material Provision. The consent of Eligible Mortgagees holding at least fifty-one (51 %) percent of the undivided ownership interest in the Common Areas shall be required to add to or amend any material provision of this Declaration or the Condominium Plat which establishes, provides for, governs, or regulates any of the following:

- Voting rights;
- Increases in Assessments that raise the previously assessed amount by more than 25%, Assessment liens, or the priority of Assessment liens;
- Reductions in reserves for, maintenance, repair, and replacement of Common Areas, Facilities and Elements;
- Responsibility for maintenance and repairs;
- Reallocation of interests in the Common Area, Limited Common Area, and general or limited common elements, or rights to their use;
- Redefinition of any Unit boundaries;
- Convertibility of Units into Common Area or Elements, or vice versa;
- Expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
- Hazard or fidelity insurance requirements;
- Imposition of any restrictions on the leasing of Units;

- Imposition of any restrictions on a Unit Owner's right to sell or transfer his Unit;
- A decision by the Association (if the Project consists 'of more than 50 Units) to establish self-management if professional management had been required previously by the Project Documents, or by an Eligible Mortgage holder;
- Restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the documents; and
- Any provisions that expressly benefit Mortgage holders, insurers or guarantors.

Any addition or amendment shall not be considered material for purposes of this paragraph if it is for the clarification only or to correct a clerical error. Notice of any proposed amendment to any Eligible Mortgagee to whom a written request to approve an addition or amendment to this Declaration or the Condominium Plat is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Association. Any Eligible Mortgagee who does not deliver to the Committee or the Association a negative response to the notice of the proposed amendment within thirty (30) days from the date of such mailing shall be deemed to have approved the proposal. The foregoing consent requirements shall not be applicable to amendments to this Declaration and the Condominium Plat or the termination of the legal status of the Project if such amendments or such termination are made or accomplished in accordance with the provisions of this Declaration regarding Condemnation or Substantial Obsolescence.

**33. Due Process Requirements; Notice of Hearing; Opportunity to be Heard.** In the event of a claimed violation of the Project Documents or the Act, no citation or suspension shall be imposed without the Management Committee first giving the alleged violator written notice of the violation and an opportunity to be heard by the Committee. Provided, however, nothing herein shall be construed to prevent the Management Committee from (a) immobilizing, towing or impounding a motor vehicle in violation of the parking rules and regulations for which no additional notice is required, or (b) making and emergency repairs or taking any other emergency action it deems necessary and subsequently providing notice to the Unit Owner or Resident and giving them an opportunity to be heard.

**34. Declarant's Sales Program.** Anything to the contrary notwithstanding, until Declarant has sold all Units owned by it, or the expiration of seven (7) years following the date on which the Declaration is filed for record in the Office of the Utah County Recorder, whichever first occurs, the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations of an Owner to pay his portion of the Common Expenses or other Assessments, except as herein otherwise provided. Neither the Owners, the Association, nor the Management Committee shall interfere with the completion of improvements and sale of Declarant's Units, and Declarant shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Units owned by Declarant:

- a) Sales Office and Model Units. Declarant shall have the right to maintain one (1) or more sales offices and (1) or more model Units at any one time. Such office and/or models may be one or more of the units owned by the Declarant, one or more separate structures or facilities placed on the Property for the purpose of aiding Declarant's sales effort, or any combination of the foregoing;
- b) Promotional. Declarant shall have the right to maintain a reasonable number of promotional advertising and/or directional signs, banners or similar devices at any place or places on the Property.

c) Common Area use. Declarant shall have the right to use the Common Areas of the Project including but not limited to the right to use the Clubhouse as a sales office and in any other way necessary to facilitate sales.

d) Relocation and Removal. Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Within a reasonable period of time after the happening of the Event, Declarant shall have the right to remove from the Project any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Declarant's sales effort.

e) Restrictions in Favor of the Declarant. The recreational amenities or facilities at the Project may not be subject to any restriction or reservation in favor of the Declarant or any of its affiliates.

**35. Limitation on Improvements by Association.** Until such time as the earlier of the following events occur: (a) all of the Additional land has been added and the Declarant has sold or rented all of the Units, or (b) seven (7) years after the date of the sale of the first Unit, or (c) such time as Declarant chooses, neither the Association nor the Committee shall, without the written consent of Declarant, make any improvement to or alteration in any of the Common Areas and Facilities created or constructed by Declarant, other than such repairs, replacements, or similar matters as may be necessary to properly maintain the Common Areas as originally created or constructed by Declarant.

**36. Completion Obligation.** Declarant hereby covenants in favor of each Owner that within two (2) years from the date of any contract of sale:

a) Units. Each Unit which an Owner has contracted to purchase, the Building within which such Units is contained or is to be contained, and the appurtenant Limited Common Area shall be substantially constructed, and ready for use or occupancy (as the case may be); and

b) Common Area. There shall be substantially completed and usable as part of the Common Areas all planned landscaping, green space, sidewalks, parking facilities, roads, fences, outdoor light and utility lines and conduits adjacent to the Unit or Building in which a Unit is located, and necessary for its use.

**37. Declarant's Rights Assignable.** All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance transfer or assignment. Any Mortgage covering all Units or Buildings in the Project title to which is vested in Declarant shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protections and controls which are accorded to Declarant (in its capacity as Declarant) herein.

**38. Mortgagee Approval.** Until the termination of the Period of Declarant's Control, the Declarant shall not annex additional properties or amend the Declaration without the prior written consent (where appropriate) of the Federal Housing Administration of the United States Department of Housing and Urban Development (FHA), the Federal Home Loan Mortgage Corporation or the Mortgage Corporation (FHLMC), Federal National Mortgage Association (FNMA), Government National

Mortgage Association (GNMA) or the Department of Veterans Affairs (VA

**39. Transfer of Management.** Anything to the contrary notwithstanding, Declarant may at any time relinquish its reserved right to select the Members of the Committee and may elect to transfer the management of the Project to a Committee elected by the Owners. Upon the termination of the Period of Declarant's Control, or sooner if the Declarant so elects, Declarant shall notify Owners in writing of the effective date of such transfer (the "Transfer Date") at least forty five (45) days prior thereto. Thereupon, the Owners shall call a meeting to elect the Members of the Management Committee to take office as of the Transfer Date. Declarant may make or add enforceable supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Unit in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration;

**40. Enforcement and Right to Recover Attorneys Fees.** Should the Association or Committee be required to take action to enforce the Declaration, By-Laws or any administrative rules or regulations adopted from time to time, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorneys fee, which may arise or accrue.

**41. Agent for Service of Process.** The President of the Association is the person to receive service of process in the cases authorized by the Act and the office. The initial registered Agent is Brad Morgan and the initial office of the Registered Agent is 560 West 800 North Orem, Utah 84057.

**42. Combination of Units.** An owner of two or more adjoining units shall have the right upon approval of the management committee and the mortgagees of said units, to combine one or more adjoining units or portions thereof and to alter or amend the declaration and map to reflect such combination.

a) Such amendments may be accomplished by the unit owner recording an amendment or amendments to this declaration, together with an amended map or maps containing the same information with respect to the altered units as required in the initial declaration and map with respect to the initial units. All costs and expenses required in such amendments shall be borne by the unit owner desiring such combination.

b) All such amendments to the declaration and map must be approved by attorneys employed by the management committee to insure the continuing legality of the declaration and the map. The cost of such review by the attorneys shall be borne by the person wishing to combine the units.

c) Any amendment of the declaration or map pursuant to this paragraph 20 shall reflect the changes occasioned by the alteration. Such changes shall include a change in the percentage of undivided interest in the common areas and facilities which are appurtenant to the units involved in the alterations. The remaining combined unit, if two or more units are totally combined, will acquire the total of the percentage of undivided interest in the common areas and facilities appurtenant to the units that are combined as set forth in Exhibit B. If a portion of one unit is combined with another, the resulting units shall acquire a proportionate percentage of the combination on the basis of area remaining in the respective, combined units. The percentage of undivided interest in the common areas and facilities appurtenant of all other units shall not be changed. All such amendments must, in all instances, be consented to by the management committee and also all other persons holding interest in the units affected. The consent of other unit owners need not be obtained to make such amendments or alterations valid providing the percentages of

undivided interest in the common areas and facilities of the other unit owners remain unchanged.

43. **Fines.** Each Owner and Resident is responsible for adhering to the Project Documents governing the Project. Pursuant to U.C.A., Section 57-8-37 (2001), a breach of these restrictive covenants and rules is subject to enforcement pursuant to the declaration and may include the imposition of a fine. Each Owner is also accountable and responsible for the behavior of his or her residents, tenants and/or guests. Fines levied against residents, tenants, and guests are the responsibility of the Owner. The Management Committee shall react to each material violation in the following manner:

a) That the following schedule of fines be adopted:

(1) List of Violations: Any violation of the Declaration, rules and regulations, and Bylaws shall be subject to a fine.

(2) Schedule of Fines:

(i) 1<sup>st</sup> violation: \$100

(ii) 2<sup>nd</sup> violation or failure to cure after 1<sup>st</sup> violation: \$250

(iii) 3<sup>rd</sup> violation or failure to cure after 2<sup>nd</sup> violation: \$500;

(iv) 4<sup>th</sup> violation and all other subsequent violations or failure to cure after 3<sup>rd</sup> violation or subsequent violations: \$1,000 additional fines or legal action.

Enforcement remedies are cumulative; accordingly, the Management Committee reserves its right to pursue any enforcement action authorized by law of the Declaration at any time during the fining process.

b) That all following procedures will be followed prior to levying a fine:

(1) Notice of Violation: All owners will be given a written notice of violation describing the violation and stating a time to cure the violation prior to a fine being levied.

(2) Time to Cure: All owners will be given a minimum of forty-eight (48) hours to cure a violation before a fine will be levied. The Committee in its discretion may grant a cure period exceeding forty-eight (48) hours if the Committee determines that forty-eight (48) hours is an unreasonable time period to cure the violation in question.

(3) Hearing: If a fine is levied, the offending Owner shall have the right to request an informal hearing with the Management Committee to protest or dispute the fine. A request for hearing must be made in writing within thirty (30) days from the date the fine is levied. Notice shall be deemed to have been received three (3) days after mailing via USPS first-class mail, postage prepaid. If a request for hearing is not received by the Management Committee, or their designated agent, within thirty-three (33) days from the date the fine is levied, the fine shall be deemed to be uncontested and the Owner forfeits their right to



hearing. A request for hearing shall be delivered to The Village on 12th Condominiums HOA, 560 West 800 North Orem, Utah 84057. The hearing shall be conducted in accordance with the procedures adopted by the Management Committee.

(4) Collection of Fines: Pursuant to Utah Code Ann. §57-8-37, fines shall be collected in the same manner as past due assessments.

c) That the following procedures shall govern an informal hearing of the Management Committee:

(1) Scheduling a Hearing/Continuances/Failure to Appear: The hearing shall, within reason, be conducted at the next regularly scheduled Committee meeting. The Committee shall give notice of the date, time, and location of the hearing to the requesting Owner. Notice of the hearing shall be delivered to the requesting Owner by USPS first-class mail, postage prepaid, or by hand delivery. No other Owners or parties shall be entitled to notice of the hearing. If the hearing date is unacceptable to the requesting Owner, they shall be entitled to one (1) continuance of the hearing date. To receive a continuance, the requesting Owner shall deliver a written request for continuance to the Association. The request must be received by the Association prior to the original hearing date. The continued hearing shall, within reason, take place at the second Committee meeting after the receipt of the original request for hearing. Failure by a requesting Owner to appear at a hearing or continued hearing shall result in a waiver of the requesting Owner's right to hearing and the fine shall be deemed uncontested.

(2) Hearing Procedures/Decision: The hearing shall be conducted by a minimum of three (3) Committee members. The requesting Owner shall be given fifteen (15) minutes to dispute the fine. The requesting Owner may present documentation or witnesses to dispute the fine. The Committee may question the requesting Owner or witnesses during the hearing. After hearing the requesting Owner's position and evidence, the Committee may either render its decision at the hearing or take the evidence and argument under advisement. If the Committee takes the evidence under advisement, they shall render a final decision within seven (7) days of the hearing. Once a decision is rendered, the Committee shall give written notice of their decision to the requesting owner. As part of the decision, the Committee shall state that payment of the fine is due within one hundred eighty (180) days or interest and late fees will accrue.

#### **44. Termination of Utilities and Right to Use Amenities for Non-Payment of Assessments.**

a) If an owner fails or refuses to pay any assessment when due, the management committee may (1) terminate the owner's right to receive utility services paid as a common expense; and (2) terminate the owner's right of access and use of recreational facilities., after giving notice and an opportunity to be heard.

b) Before terminating utility services right of access and use of recreational facilities, the manager or management committee shall give written notice to the owner in the manner provided in the declaration, bylaws, or association rules. The notice shall state:

(1) Utility services or right of access and use of recreational facilities will be terminated if payment of the assessment is not received within the time provided in the declaration, bylaws, or association rules, which time shall be stated and be at least 48 hours;

(2) the amount of the assessment due, including any interest or late payment fee; and

(3) the right to request a hearing.

c) An owner who is given such notice may request an informal hearing to dispute the assessment by submitting a written request to the management committee within 14 days from the date the notice is received. A notice shall be considered received on the date (a) it is hand delivered, (b) it is delivered, by certified mail, return receipt requested, or (c) five (5) days after it is deposited in the U.S. mail, postage prepaid, addressed to the owner's last known address on the books and records of the Association

d) The hearing shall be conducted in accordance with the standards provided in the declaration, bylaws, or association rules.

e) If a hearing is requested, utility services or right of access and use of recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been entered.

f) Upon payment of the assessment due, including any interest or late payment fee, the manager or management committee shall immediately take action to reinstate the terminated utility services to the unit and right to use of recreational facilities.

#### **45. Assignment of Rents.**

a) If: the owner of a unit who is leasing the unit fails to pay any assessment for a period of more than 60 days after it is due and payable, the management committee may demand the tenant to pay to the association all future lease payments due the owner, commencing with the next monthly or other periodic payment, until the amount due to the association is paid; provided, however, the manager or management committee must give the owner written notice, in accordance with the declaration, bylaws, or association rules, of its intent to demand full payment from the tenant. This notice shall:

(1) provide notice to the tenant that full payment of remaining lease payments will commence with the next monthly or other periodic payment unless the assessment is received within the time period provided in the declaration, bylaws, or association rules;

(2) state the amount of the assessment due, including any interest or late payment fee;

(3) state that any costs of collection, not to exceed \$150, and other assessments that become due may be added to the total amount due; and

(4) provide the requirements and rights described herein.

b) If the owner fails to pay the amount of the assessment due by the date specified in the notice, the manager or management committee may deliver written notice to the tenant, in accordance with the declaration, bylaws, or association rules, that demands future payments due to the owner be paid to the association pursuant hereto. A copy of the notice must be mailed to the owner at his last known address as shown on the books and records of the Association. The notice provided to the tenant must state:

(1) that due to the owner's failure to pay the assessment within the time period allowed, the owner has been notified of the management committee's intent to collect all lease payments due to the association pursuant hereto.

(2) that until notification by the association that the assessment due, including any interest or late payment fee, has been paid, all future lease payments due to the owner are to be paid to the association; and

(3) payment by the tenant to the association in compliance herewith will not constitute a default under the terms of the lease agreement. If payment is in compliance with this Subsection (6) suit or other action may not be initiated by the owner against the tenant for failure to pay.

c) All funds paid to the association pursuant hereto shall be deposited in a separate account and disbursed to the association until the assessment due, together with any cost of administration which may not exceed \$25, is paid in full. Any remaining balance must be paid to the owner within five business days of payment in full to the association.

d) Within five business days of payment in full of the assessment, including any interest or late payment fee, the manager or management committee must notify the tenant in writing that. Future lease payments are no longer due to the association. A copy of this notification must be mailed to the owner.

e) As used in this section, the terms "lease" or "leasing" shall mean and refer to regular, exclusive occupancy of a unit by any person or persons, other than the owner, for which the owner receives any consideration or benefit, including a fee, service, gratuity, or emolument.

46. **Effective Date.** This Declaration, any amendment or supplement hereto, and any amendment or supplement to the Condominium Plat shall take effect upon its being filed for record in the office of the County Recorder of Utah County, Utah,

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Art City Investments, LLC,  
A Utah limited liability company

\_\_\_\_\_  
Signature:

By: Brad Morgan  
Manager, Member of Art City Investments, LLC

STATE OF UTAH                    )  
  : ss.  
COUNTY OF UT AH                )

On the \_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared before me Brad Morgan, who by me being duly sworn, did say that he is the manager of Art City Investments, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said Company by authority of its Certificate of Organization or a resolution of its Members, and said Brad Morgan duly acknowledged to me that said Company executed the same.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing At: Springville, Utah  
Commission Expires:

**LEGAL DESCRIPTION OF TRACT**

**EXHIBIT "A"**

**THE VILLAGE ON 12<sup>th</sup> CONDOMINIUMS**

## **OWNERSHIP INTEREST and UNITS**

### **EXHIBIT "B"**

Ownership interest shall be calculated as follows:

1. Ownership per unit is equal
2. Each unit shall constitute 0.833 percent ownership of the whole (100% divided by 120 units)

**PROPOSED BYLAWS OF HOME OWNERS ASSOCIATION**  
**EXHIBIT "C"**

# TAB 4





**Accessory Building and Shipping Container Code Changes  
Code Amendment**

**Report Date:** May 24, 2017  
**Applicant:** Staff Initiated  
**Codes:** **18.52.050** Setbacks  
**18.56.050** Setbacks  
**18.60.050** Setbacks  
**18.64.050** Setbacks  
**18.68.060** Accessory Building – Lot Coverage  
Restricted  
**18.68.070** Accessory Building – Habitation  
Prohibited  
**18.68.075** Shipping Containers  
**Land Use Authority:** City Council  
**Action Type:** Legislative  
**Planner:** Jamie Baron, Planner

---

**Summary**

The Planning Commission has forwarded a positive recommendation to amend the code on Accessory Buildings and to Adopt a code on Shipping Containers.

**Recommendation**

Staff recommends that the City Council **approve** the proposed code changes as outlined in the "Recommendation and Alternatives" section of the staff report.

---

**Request**

Staff requests that the City Council discuss and consider the Accessory Building Code Amendment and Shipping Container Code Adoption.

The City Attorney has requested some minor changes in wording of the codes from that of the recommendation of the Planning Commission. Those changes are to create a definition of "Shipping Container" in Section 18.68.075 and to use the word "encroach" in subsection E (1) in Section 18.68.060. The building official asked for the change in sub section J of Section 18.68.060 to read, "as required by the building code".

These requests are shown in the attached code language.

The changes are aimed at mitigating the potential impact of accessory buildings for surrounding properties while increasing property rights for less intrusive buildings as determined by square footage and height. The changes include:

- Removing redundant language for accessory building setbacks from each zone to an ordinance specific to accessory buildings.
- Changing the setbacks to reflect the changes in the building code from 3' to 5'.
- Adding height restrictions on buildings based on square footage.
- Changing location restrictions for side yards based on square footage.
- Allowing for setback encroachments of buildings based on square footage and overall height.
- Changes to bring the accessory building code to reflect the Owner Occupied Accessory Apartment code in allowing for detached dwellings with the approval of an Owner Occupied Accessory Apartment.

#### **Process**

Section 18.12.190 requires that a code amendment be approved by the City Council after receiving a recommendation from the Planning Commission, following a Public Hearing.

***Staff Finding: Consistent.** The Planning Commission held a public hearing on both the Accessory Building Code Amendment and the Adoption of the Shipping Container Code. These changes are now before the City Council for review.*

#### **Community Review**

Section 18.12.190 requires that a code amendment be noticed as a public hearing at the Planning Commission. A public hearing for the Accessory Building Code Amendment was held at the March 9, 2017 Planning Commission Meeting. The public hearing for the Adoption of the Shipping Container code was held at the May 11, 2017 Planning Commission.

#### **General Plan**

Section 18.12.190 requires that a code amendment be reviewed against the "Comprehensive Plan" to determine if the change will more fully carry out the intent and purposes of the plan.

***Staff Finding: Consistent.** The proposed code changes do not alter any land use zones or densities. The proposed amendment aims at ensuring "orderly residential growth" while preserving the rights of the property owner.*

---

#### **Recommendation and Alternatives**

**Staff Recommended Option – Approval**

“I move to **approve** Ordinance 2017-20, Amending, Sections 19.52.050, 19.56.050, 19.60.050, 19.64.050, 19.68.060, 19.68.070, and Adopting Section 18.68.075 Shipping Containers with the Findings and Conditions in the Staff Report:”

**Findings**

1. The amendment is consistent with the General Plan.
2. The amendment has been noticed as a public hearing.

**Conditions:**

1. Any other changes as articulated by the City Council:

---

**Alternative 1 - Continuance**

“I move to continue the Accessory Building and Shipping Container Code Amendments to another meeting on [DATE], with direction to the applicant and Staff on information and / or changes needed to render a decision, as follows:

1. \_\_\_\_\_
2. \_\_\_\_\_

**Alternative 2 – Denial**

“I move to **deny** the Accessory Building and Shipping Container Code Amendments with the Findings below:

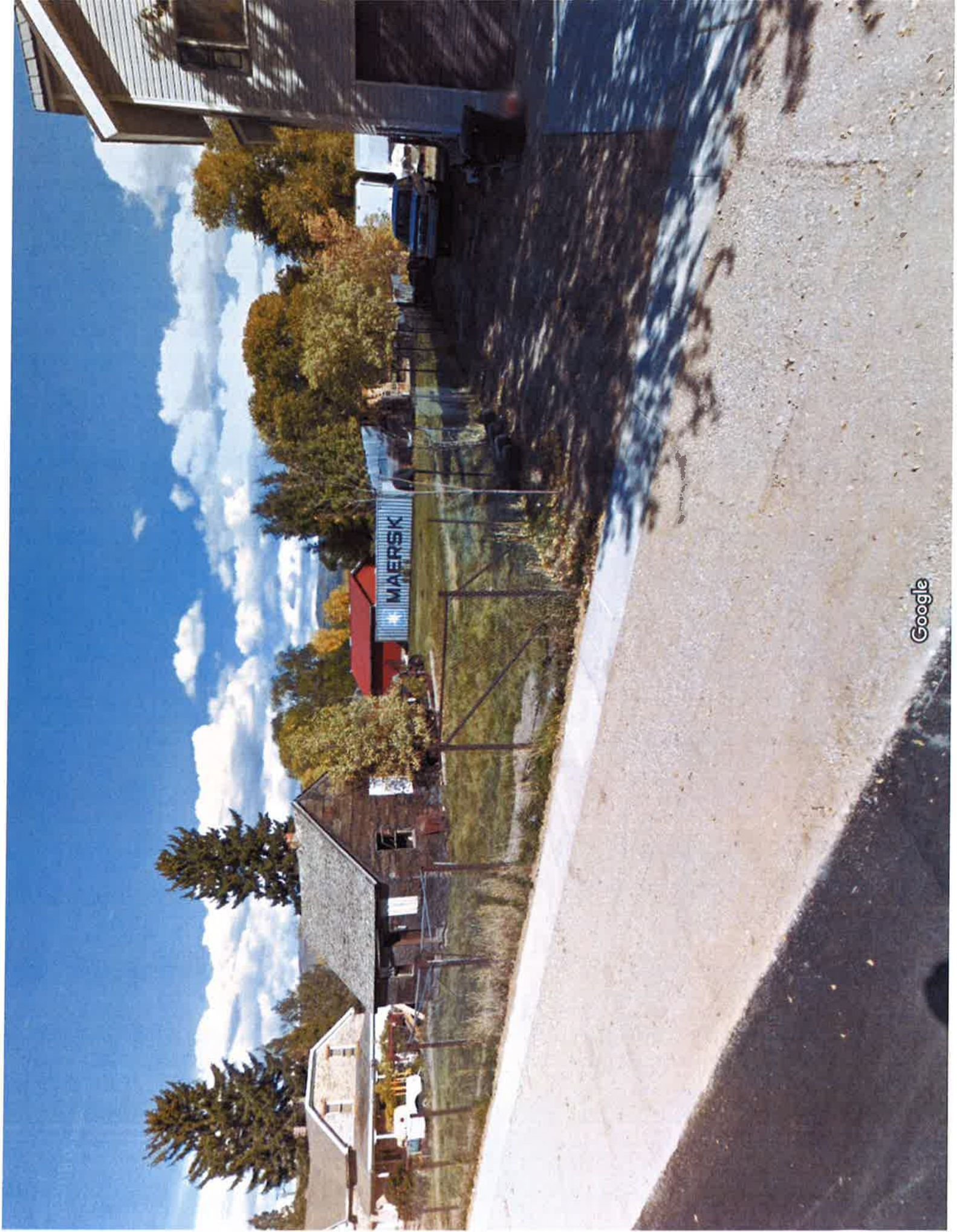
1. The Accessory Building and Shipping Container Code Amendment is not consistent with the General Plan, as articulated by the City Council:

---

**Exhibits:**

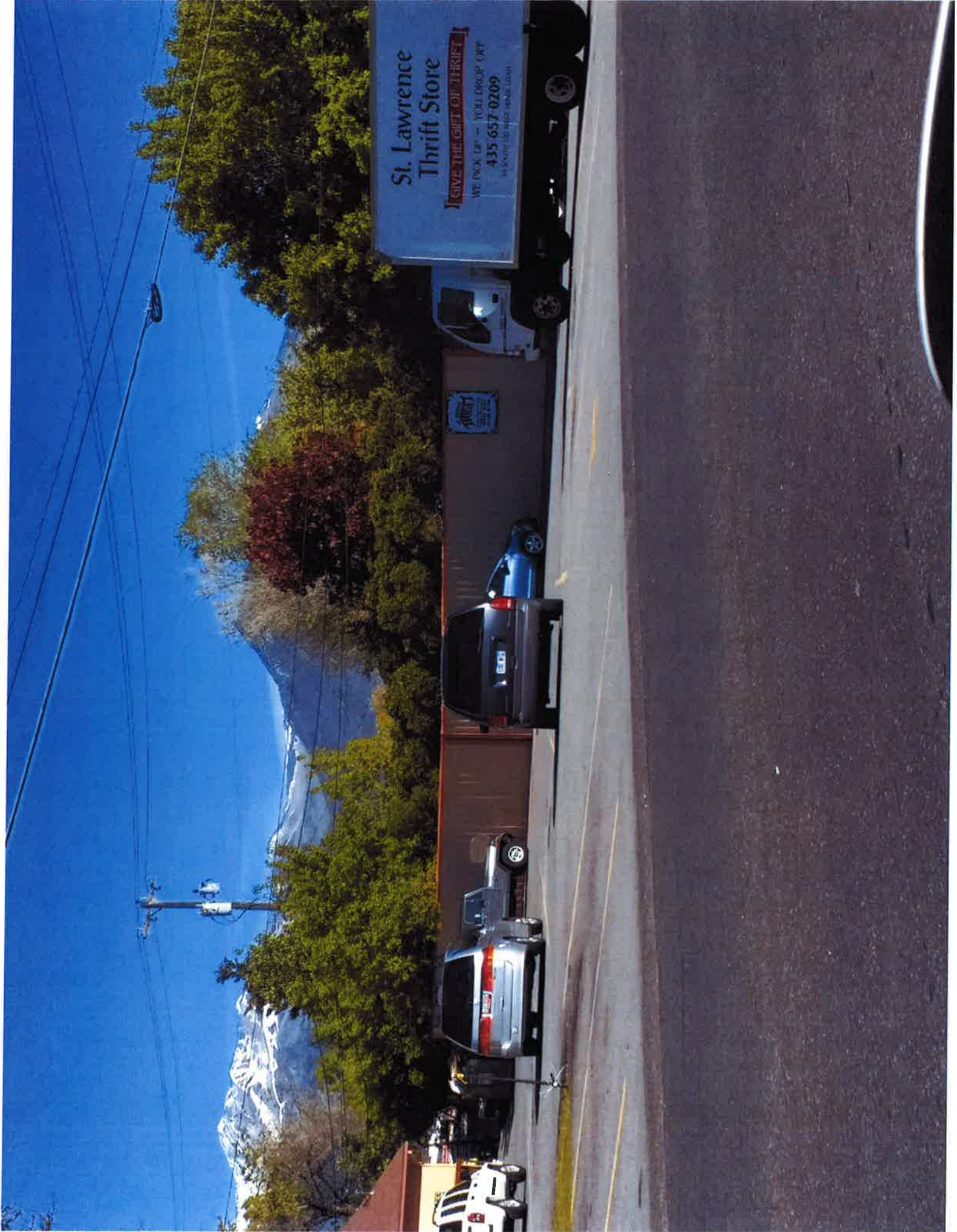
A. Code Changes

[Pages 4-8]









**ORDINANCE NO. 2017-20**

**AN ORDINANCE AMENDING SECTIONS 18.52.050 SETBACKS IN CHAPTER 18.52 R-1 RESIDENTIAL ZONE, 18.56.050 SETBACKS IN CHAPTER 18.56 R-2 RESIDENTIAL ZONE, 18.60.050 SETBACK REQUIREMENTS IN CHAPTER 18.60 R-3 RESIDENTIAL ZONE, 18.64.050 SETBACKS IN CHAPTER 18.64 RA-2 RESIDENTIAL-AGRICULTURAL ZONE, 18.68.060 ACCESSORY BUILDING – LOT COVERAGE RESTRICTED AND 18.68.070 ACCESSORY BUILDING – HABITATION PROHIBITED IN CHAPTER 18.68 SUPPLEMENTARY ZONING REGULATION AND ADOPTING SECTION 18.68.075 SHIPPING CONTAINERS IN CHAPTER 18.68 SUPPLEMENTARY ZONING REGULATION OF THE HEBER CITY MUNICIPAL CODE.**

BE IT ORDAINED by the City Council of Heber City, Utah, Sections 18.52.050, 18.56.050, 18.60.050, 18.64.050, 18.68.060, and 18.68.070 of the Heber City Municipal Code are **amended** to read as follows:

**18.52.050 Setbacks**

In the R-1 zone, the following setback requirements shall apply:

- A. Front Setback. All buildings and structures shall be set back at least thirty feet from the front property line with the exception that attached front yard alfresco porches shall be allowed to protrude up to ten feet into the front yard setback space.
- B. Side Setback. All dwellings shall be set back a minimum of ten feet from each side property line, except on corner lots. On corner lots, the side setback from any street shall not be less than thirty feet for main buildings.
- C. Rear Setback. For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty feet. For corner lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty feet, except that for dwellings having an attached garage or carport, the setback shall not be less than twenty feet.
- D. Accessory Building Setbacks. Accessory buildings shall follow the setbacks and requirements outlined in Section 18.68.060 Accessory Buildings.
  - ~~1. Front Setback. No accessory buildings shall be placed or constructed within the area defined as front yard.~~
  - ~~2. Side Setback. Accessory buildings shall be setback not less than three feet from the side property line, except that no side setback shall be required if the accessory building meets the fire resistive requirements as set forth in the current Uniform Building Code. On corner lots, the setback from the side street shall not be less than 45 feet from the street property line.~~
  - ~~3. Rear Setback. Accessory buildings shall be setback not less than three feet from the rear property line, except that no rear setback shall be required if the accessory building meets the fire resistive requirements as set forth in the current Uniform Building Code.~~
  - ~~4. Separation from other Structures. Accessory buildings shall be a minimum of twelve feet from any dwelling or other main building and not less than eight feet~~



~~from any other building. The separation applies to structures on this or any adjacent property, except if the accessory building is located in the rear yard and the "other building" is in a separate yard, then the accessory building may be placed within three feet of the property line.~~

- ~~5. Accessory Building over Easements. Accessory buildings may be constructed over utility easements provided that all applicable public utility companies have in writing released the easement for such a purpose. These releases must accompany the building permit application.~~
- ~~6. Accessory Buildings in Side Yards. Accessory buildings other than garages may not be placed in a side yard unless approved by the Board of Adjustment which consent may be given after notice has been given to the adjoining property owner and the Board has determined that the same will not adversely affect the market value of the adjoining lot and will not be materially detrimental to the aesthetics of the neighborhood. The Board of Adjustment may attach such conditions to its consent as is deemed appropriate to preserve the market and aesthetic value.~~
- ~~7. Provisions for Roof Drainage. No roof eave shall extend over any property line and any roof that drains toward the adjoining property shall be set back at least three feet from the property line.~~

#### **18.56.050 Setbacks**

In the R-2 zone, the following setback requirements are applicable:

- A. Front Setback. All buildings and structures shall be set back at least thirty feet from the front property line with the exception that attached front yard alfresco porches shall be allowed to protrude up to ten feet into the front yard setback space.
- B. Side Setback. All dwellings shall be set back so that the total of both side setbacks is not less than fourteen feet, with no side being closer than six feet, except on corner lots. On corner lots, the side setback from any street shall not be less than twenty feet for both main buildings;
- C. Rear Setback. For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at ~~lest~~least twenty-five feet. For corner lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least twenty feet;
- D. Accessory Building Setbacks. Accessory buildings shall follow the setbacks and requirements outlined in Section 18.68.060 Accessory Buildings.
  - ~~1. Front Setback. No accessory buildings shall be placed or constructed within the area defined as front yard.~~
  - ~~2. Side Setback. Accessory buildings shall be setback not less than three feet from the side property line, except that no side setback shall be required if the accessory building meets the fire resistive requirements as set forth in the current Uniform Building Code. On corner lots, the setback from the side street shall not be less than 45 feet from the street property line.~~
  - ~~3. Rear Setback. Accessory buildings shall be setback not less than three feet from the rear property line, except that no rear setback shall be required if the accessory building meets the fire resistive requirements as set forth in the current Uniform Building Code.~~
  - ~~4. Separation from other Structures. Accessory buildings shall be a minimum of~~

~~twelve feet from any dwelling or other main building and not less than eight feet from any other building. The separation applies to structures on this or any adjacent property, except if the accessory building is located in the rear yard and the "other building" is in a separate yard, then the accessory building may be placed within three feet of the property line.~~

- ~~5. Accessory Building over Easements. Accessory buildings may be constructed over utility easements provided that all applicable public utility companies have in writing released the easement for such a purpose. These releases must accompany the building permit application.~~
- ~~6. Accessory Buildings in Side Yards. Accessory buildings other than garages may not be placed in a side yard unless approved by the Board of Adjustment which consent may be given after notice has been given to the adjoining property owner and the Board has determined that the same will not adversely affect the market value of the adjoining lot and will not be materially detrimental to the aesthetics of the neighborhood. The Board of Adjustment may attach such conditions to its consent as is deemed appropriate to preserve the market and aesthetic value.~~
- ~~7. Provisions for Roof Drainage. No roof eave shall extend over any property line and any roof that drains toward the adjoining property shall be set back at least three feet from the property line.~~

#### **18.60.050 Setback Requirements**

In the R-3 zone, the following setback requirements are applicable:

- A. Front Setback. All buildings and structures shall be set back at least thirty feet from the front property line with the exception that attached front yard alfresco porches shall be allowed to protrude up to ten feet into the front yard setback space.
- B. Side Setback. All dwellings shall be set back so that the total of both side setbacks is not less than ten feet, with no side being closer than four feet, except on corner lots. On corner lots, the side setback from any street shall not be less than twenty feet for main buildings;
- C. Rear Setback. For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least twenty feet. For corner lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least twenty feet;
- D. Accessory Building Setbacks. Accessory buildings shall follow the setbacks and requirements outlined in Section 18.68.060 Accessory Buildings.
  - ~~1. Front Setback. No accessory buildings shall be placed or constructed within the area defined as front yard.~~
  - ~~2. Side Setback. Accessory buildings shall be setback not less than three feet from the side property line, except that no side setback shall be required if the accessory building meets the fire resistive requirements as set forth in the current Uniform Building Code. On corner lots, the setback from the side street shall not be less than 45 feet from the street property line.~~
  - ~~3. Rear Setback. Accessory buildings shall be setback not less than three feet from the rear property line, except that no rear setback shall be required if the accessory building meets the fire resistive requirements as set forth in the current Uniform Building Code.~~

- ~~4. Separation from other Structures. Accessory buildings shall be a minimum of twelve feet from any dwelling or other main building and not less than eight feet from any other building. The separation applies to structures on this or any adjacent property, except if the accessory building is located in the rear yard and the "other building" is in a separate yard, then the accessory building may be placed within three feet of the property line.~~
- ~~5. Accessory Building over Easements. Accessory buildings may be constructed over utility easements provided that all applicable public utility companies have in writing released the easement for such a purpose. These releases must accompany the building permit application.~~
- ~~6. Accessory Buildings in Side Yards. Accessory buildings other than garages may not be placed in a side yard unless approved by the Board of Adjustment which consent may be given after notice has been given to the adjoining property owner and the Board has determined that the same will not adversely affect the market value of the adjoining lot and will not be materially detrimental to the aesthetics of the neighborhood. The Board of Adjustment may attach such conditions to its consent as is deemed appropriate to preserve the market and aesthetic value.~~
- ~~7. Provisions for Roof Drainage. No roof eave shall extend over any property line and any roof that drains toward the adjoining property shall be set back at least three feet from the property line.~~

#### **18.64.050 Setbacks**

In the RA-2 zone, the following setback requirements are applicable:

- A. Front Setback. All buildings and structures shall be set back at least thirty from the front property line with the exception that attached front yard alfresco porches shall be allowed to protrude up to ten feet into the front yard setback space.
- B. Side Setback. All dwellings shall be set back a minimum of ten feet from each side property line, except on corner lots. On corner lots, the side setback from any street shall not be less than thirty feet for main buildings;
- C. Rear Setback. For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty feet. For corner lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty feet, except that for dwellings having an attached garage or carport, the setback shall not be less than twenty feet;
- D. Accessory Building Setbacks. Accessory buildings shall follow the setbacks and requirements outlined in Section 18.68.060 Accessory Buildings.

- ~~1. Front Setback. No accessory buildings shall be placed or constructed within the area defined as front yard.~~
- ~~2. Side Setback. Accessory buildings shall be setback not less than three feet from the side property line, except that no side setback shall be required if the accessory building meets the fire resistive requirements as set forth in the current Uniform Building Code. On corner lots, the setback from the side street shall not be less than 45 feet from the street property line.~~
- ~~3. Rear Setback. Accessory buildings shall be setback not less than three feet from the rear property line, except that no rear setback shall be required if the accessory~~

~~building meets the fire resistive requirements as set forth in the current Uniform Building Code.~~

- ~~4. Separation from other Structures. Accessory buildings shall be a minimum of twelve feet from any dwelling or other main buildings, and not less than eight feet from any other building. The separation applies to structures on this or any adjacent property, except if the accessory building is located in the rear yard and the "other building" is in a separate yard, then the accessory building may be placed within three feet of the property line.~~
- ~~5. Accessory Building over Easements. Accessory buildings may be constructed over utility easements provided that all applicable public utility companies have in writing released the easement for such a purpose. These releases must accompany the building permit application.~~
- ~~6. Accessory Buildings in Side Yards. Accessory buildings other than garages may not be placed in a side yard unless approved by the Board of Adjustment which consent may be given after notice has been given to the adjoining property owner and the Board has determined that the same will not adversely affect the market value of the adjoining lot and will not be materially detrimental to the aesthetics of the neighborhood. The Board of Adjustment may attach such conditions to its consent as is deemed appropriate to preserve the market and aesthetic value.~~
- ~~7. Provisions for Roof Drainage. No roof eave shall extend over any property line and any roof that drains toward the adjoining property shall be set back at least three feet from the property line.~~

#### **18.68.060 Accessory Buildings — Lot Coverage Restricted**

Accessory buildings in residential zones are subject to the following:

- A. No accessory buildings shall be located in the front yard.
- B. No accessory buildings shall be located between the street and the main building.
- C. Accessory Building Setbacks:
  - i. Rear: 5 feet from property line
  - ii. Side: 5 feet from property line
  - iii. Street Corner Side: 10 feet from property line
- D. Accessory Buildings over 200 total square feet shall require a building permit and:
  1. Shall meet all setbacks for accessory buildings.
  2. Shall not be taller than the main structure.
  3. Shall be placed in the rear yard.
    - i. Exception – A garage may be placed within the side yard if all requirements of this ordinance are met.
- E. Accessory Buildings less than 200 total square feet:
  1. May encroach within the required accessory building setbacks if:
    - i. The building is no larger than 120 total square feet.
    - ii. The building is no taller than 8 feet.
    - iii. The building is movable, except as permitted in 18.68.060(I).
    - iv. The building complies with 18.68.060(J).
  2. No building shall be taller than 12 feet.
- F. Accessory Buildings less than 50 total square feet and no taller than 6 feet are exempt from all requirements other than 18.68.060(A).

- G. Square footage is calculated to the outside of the structure.
- H. Accessory buildings in any residential zone shall cover not more than twenty-five percent of the rear yard.
- I. Separation from other Structures. Accessory buildings shall be a minimum of 12 feet from any dwelling or other main building and not less than 8 feet from any other building. The separation applies to structures on this or any adjacent property, except if the accessory building is located in the rear yard and the "other building" is in a separate yard, then the accessory building may be placed within 5 feet of the property line.
- J. Accessory Building over Easements. Accessory buildings may be constructed (attached to a foundation as required by the building code) over utility easements provided that all applicable public utility companies have in writing released the easement for such a purpose. These releases must accompany the building permit application.
- K. Provisions for Roof Drainage. No roof eave shall extend over any property line and any roof that drains toward the adjoining property shall be set back at least 5 feet from the property line.

**18.68.070 Accessory Building -- Habitation Prohibited**

Living and sleeping quarters in any building other than the main residential building is prohibited without an approved Owner Occupied Accessory Apartment.

BE IT ORDAINED by the City Council of Heber City, Utah, Section 18.68.075 of the Heber City Municipal Code is **adopted** to read as follows:

**18.68.075 Shipping Containers**

Shipping Container shall mean "A large metal box used for the transportation of goods". The keeping of shipping containers is prohibited in all residential zones.

This Ordinance shall take effect and be in force from and after (a) its adoption, (b) a copy has been deposited in the office of the City Recorder and (c) a short summary of it has been published in the Wasatch Wave, but not prior to the \_\_\_\_ day of \_\_\_\_\_, 2017.

ADOPTED and PASSED by the City Council of Heber City, Utah this \_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYE                      NAY

Council Member Jeffery M. Bradshaw                      \_\_\_\_\_

Council Member Heidi Franco                                      \_\_\_\_\_

Council Member Kelleen L. Potter                                      \_\_\_\_\_

Council Member Jeffrey Smith

\_\_\_\_\_

Council Member Ronald R. Crittenden

\_\_\_\_\_

APPROVED:

\_\_\_\_\_  
Mayor Alan McDonald

ATTEST:

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

RECORDER

Date of First Recording: \_\_\_\_\_

# TAB 5

Heber City Council  
Meeting date: June 1, 2017  
Report by: Anthony L. Kohler

**Re: Midway Lane Commercial Center Lot 1 Subdivision**

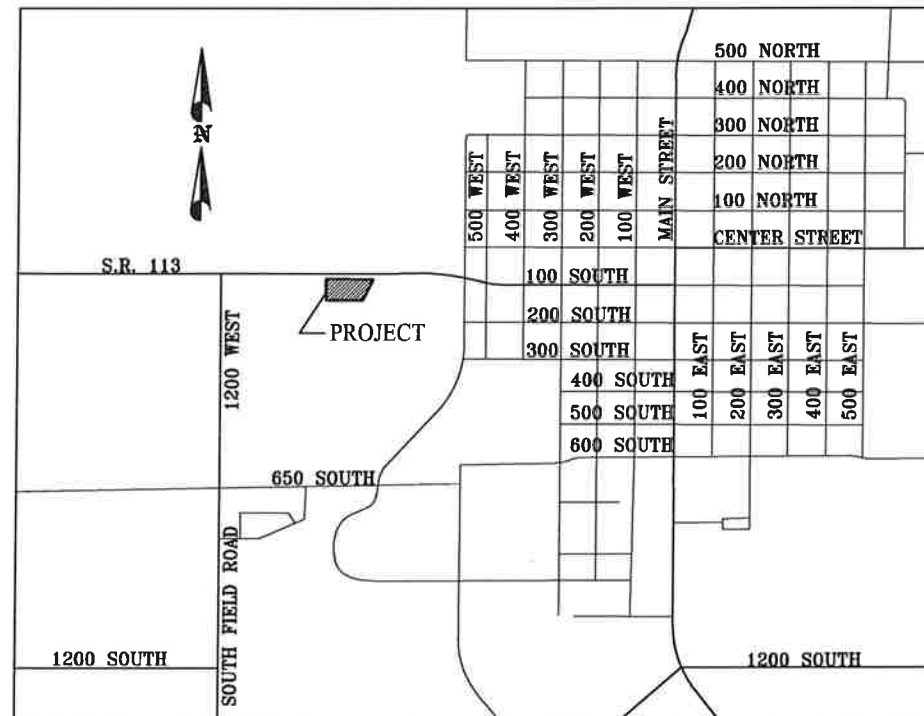
The petitioner is proposing a one lot subdivision to split the existing animal hospital from the rest of the property to the east. The property is located within the C-4 Commercial Zone.

On May 11, 2017, the Planning Commission found the proposed commercial subdivision consistent with Chapter 18.40 C-4 Commercial Zone, Title 17 Subdivisions, Chapter 18.72 Off-Street Parking and the C-2 & C-4 Design Criteria, conditional upon curb, gutter, asphalt, and sidewalk improvements along Midway Lane be deed restricted for Lot 1 and the remainder parcel, and Lot 1 should bury its existing above ground electrical service at the time when the remainder parcel develops.



# MIDWAY LANE COMMERCIAL CENTER

## LOT 1 - FINAL PLAN



VICINITY MAP

### SHEET INDEX

1. MASTER PLAN
2. MIDWAY LANE COMMERCIAL CENTER LOT 1 PLAT
3. DEMOLITION PLAN
4. GRADING PLAN
5. PAVING DETAILS
6. UTILITY PLAN
7. UTILITY DETAILS

MIDWAY LANE COMMERCIAL CENTER - LOT 1 FINAL PLANS - 13 APR 2017

THIS DOCUMENT IS INCOMPLETE  
AND IS RELEASED TEMPORARILY  
FOR INTERIM REVIEW ONLY. IT IS  
NOT INTENDED FOR CONSTRUCTION,  
OR PERMIT PURPOSES.  
PAUL D. BERG P.E.  
SERIAL NO. 295585  
DATE: 13 APR. 2017

WSI WASATCH PROPERTIES  
MIDWAY LANE COMMERCIAL CENTER

COVER

**BERG ENGINEERING**  
RESOURCE GROUP, P.C.  
389 E Main St. Suite 204,  
Midway, UT 84049  
ph. (435) 657-9749

HEBER CITY ENGINEER APPROVAL

BART L. MUMFORD DATE:

DESIGN BY: PDB DATE: 13 APR 2017  
DRAWN BY: CNB REV:

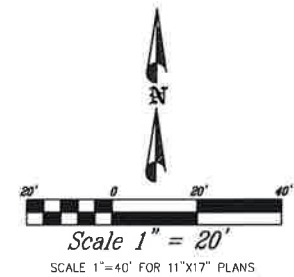
SHEET  
0



**COMMERCIAL CONCEPT PLAN AMENDMENT**  
 COMMERCIAL CONCEPT PLAN APPROVAL WAS PREVIOUSLY GRANTED BY THE HEBER CITY PLANNING COMMISSION ON JAN 12, 2017. THIS REVISED PLAN HAS THE SAME BUILDINGS BUT INCLUDES THE EXISTING ANIMAL HOSPITAL ON A SUBDIVISION LOT INSTEAD OF ON A COMMERCIAL PAD. THE PARKING HAS ALSO BEEN RECONFIGURED.

**PARKING CALCS**

<b>ANIMAL CLINIC (BUILDING 1)</b> (3 DOCTORS x 4 SPACES PER DOCTOR= 12 SPACES) (8 EMPLOYEES x 1 SPACE PER EMPLOYEE=8 SPACES) REQUIRED PARKING =20 SPACES PROVIDED PARKING =23 SPACES	
<b>8,000 SF (RESTAURANT &amp; OFFICE)</b> (8,000 SF / 1 PER 200 SF) REQUIRED SPACES = 40 SPACES PROPOSED SPACES = 54 SPACES	<b>40 SPACES</b> <b>53 SPACES</b> <b>54 SPACES</b>



THIS DOCUMENT IS INCOMPLETE AND IS RELEASED TEMPORARILY FOR INTERIM REVIEW ONLY. IT IS NOT INTENDED FOR CONSTRUCTION BIDDING, OR PERMIT PURPOSES.  
 PAUL D. BERG, P.E.  
 SERIAL NO. 295585  
 DATE: 13 APR 2017

HEBER CITY ENGINEER APPROVAL

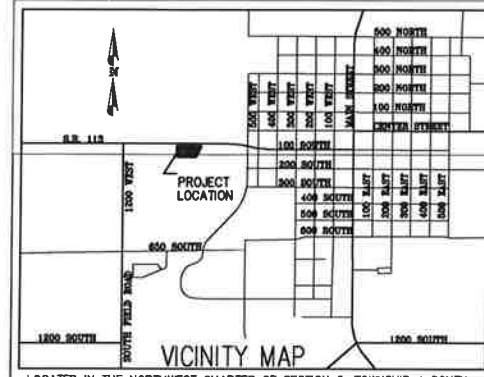
BART L. MUMFORD DATE

WSI WASATCH PROPERTIES  
 MIDWAY LANE COMMERCIAL CENTER

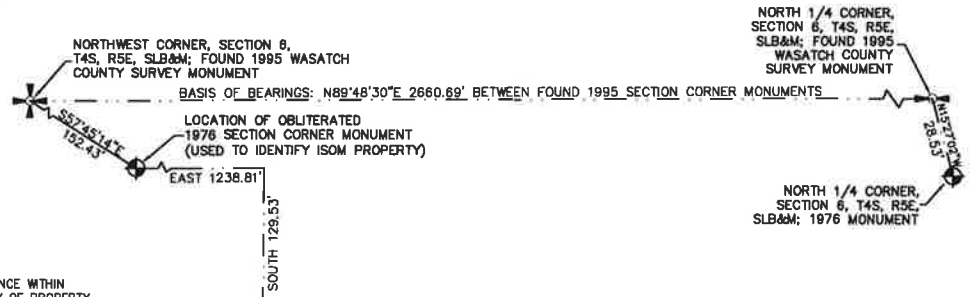
MASTER PLAN

**BERG ENGINEERING**  
 RESOURCE GROUP P.C.  
 380 E Main St. Suite B,  
 Midway, Ut 84049  
 ph. (435) 657-9749

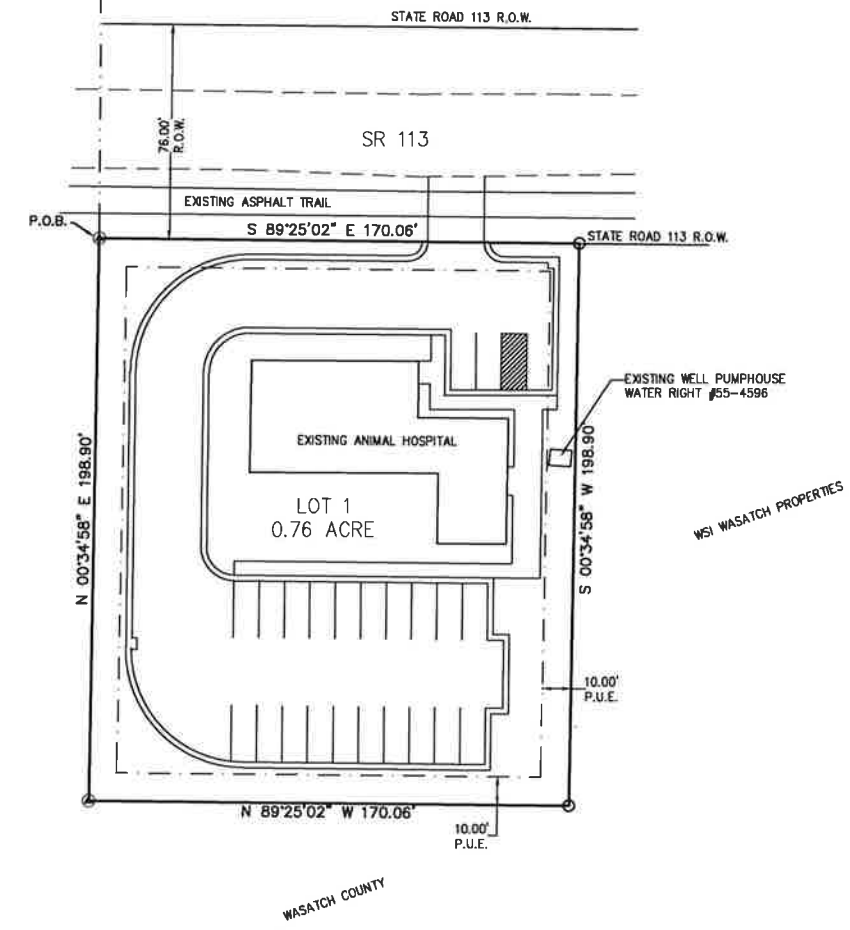
DESIGN BY: PDB DATE: 13 APR 2017  
 DRAWN BY: CNB REV: SHEET 1



LOCATED IN THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.



**UTILITY NOTES:**  
 1. ALL STORM DRAIN UTILITIES AND THEIR MAINTENANCE WITHIN PRIVATE PROPERTY SHALL BE THE RESPONSIBILITY OF PROPERTY OWNER.  
 2. SEWER LATERALS AND THEIR MAINTENANCE TO THE PUBLIC SEWER MAIN SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER.



MIDWAY LANE COMMERCIAL CENTER LOT 1 - 13 APRIL 2017

**SURVEYOR**  
 BING CHRISTENSEN, R.L.S.  
 P.O. BOX 176  
 HEBER CITY, UTAH 84032  
 PHONE: (435) 654-9229

DATE OF SURVEY: APRIL 2008

**BASIS OF BEARING**

THE BASIS OF BEARINGS FOR THIS SURVEY WAS ESTABLISHED AS NORTH 89°48'30" EAST 2660.69' BETWEEN FOUND 1995 WASATCH COUNTY SURVEY MONUMENTS FOR THE NORTHWEST AND NORTH ONE-QUARTER CORNERS OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN, IN CONFORMANCE WITH UTAH COORDINATE 1983 CENTRAL ZONE BEARINGS.

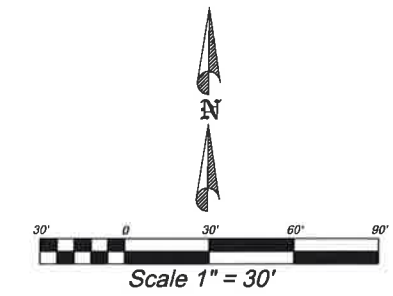
**SURVEYOR'S CERTIFICATE**

IN ACCORDANCE WITH SECTION 10-90-603 OF THE UTAH CODE, I, BING CHRISTENSEN, DO HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR HOLDING LICENSE NUMBER 145796 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS LICENSING ACT.  
 I FURTHER CERTIFY THAT I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THE PLAT IN ACCORDANCE WITH SECTION 17-23-17 OF THE UTAH CODE, AND HAVE VERIFIED ALL MEASUREMENTS, AND HAVE PLACED MONUMENTS AS REPRESENTED ON THE PLAT.

DATE \_\_\_\_\_ SURVEYOR (SEE SEAL BELOW) \_\_\_\_\_

**BOUNDARY DESCRIPTION**

BEGINNING SOUTH 129.53 FEET AND EAST 1238.81 FEET FROM THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN;  
 THENCE SOUTH 89°25'02" EAST ALONG A FENCE LINE 170.06 FEET; THENCE SOUTH 00°34'58" WEST ALONG A FENCE LINE 198.90 FEET; THENCE NORTH 89°25'02" WEST 170.06 FEET; THENCE NORTH 00°34'58" EAST 198.90 FEET TO THE POINT OF BEGINNING.  
 CONTAINING: 0.76 ACRE



ADDRESS TABLE	
LOT	ADDRESS
1	895 WEST SR 113

**OWNER'S DEDICATION AND CONSENT TO RECORD**

KNOW ALL MEN BY THESE PRESENTS THAT, THE UNDERSIGNED OWNER(S) OF THE PROPERTY DESCRIBED HEREON, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOT(S), PRIVATE STREETS AND EASEMENTS, AND HEREBY DEDICATE THOSE AREAS LABELED AS PRIVATE STREETS AND EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC UTILITIES AND EMERGENCY VEHICLE ACCESS.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_

BY: \_\_\_\_\_  
 WSI WASATCH PROPERTIES

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ } s.s.  
 COUNTY OF \_\_\_\_\_ }  
 ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_ PERSONALLY APPEARED BEFORE ME, \_\_\_\_\_ WHO DULY ACKNOWLEDGED TO ME THAT HE/SHE DID EXECUTE THE SAME IN THE CAPACITY INDICATED.  
 MY COMMISSION EXPIRES \_\_\_\_\_ NOTARY PUBLIC \_\_\_\_\_

**ACCEPTANCE BY HEBER CITY**

THE CITY COUNCIL OF HEBER CITY, WASATCH COUNTY, STATE OF UTAH, HEREBY APPROVES THIS ONE LOT SUBDIVISION AND ACCEPTS THE DEDICATION OF EASEMENTS AND PUBLIC RIGHTS-OF-WAY HEREON SHOWN.  
 THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_  
 APPROVED \_\_\_\_\_ ATTEST \_\_\_\_\_  
 MAYOR CLERK-RECORDER  
 (SEE SEAL BELOW)  
 ATTEST \_\_\_\_\_  
 CITY ENGINEER  
 (SEE SEAL BELOW)

**PLANNING COMMISSION APPROVAL**

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 20\_\_\_\_ BY THE  
 \_\_\_\_\_ CITY PLANNING COMMISSION  
 CHAIRMAN, PLANNING COMMISSION \_\_\_\_\_

HEBER CITY ENGINEER APPROVAL  
 BART L. MUMFORD \_\_\_\_\_ DATE \_\_\_\_\_

COUNTY RECORDER  
 \_\_\_\_\_

COUNTY SURVEYOR'S CERTIFICATE  
 APPROVED AS TO FORM ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_  
 ROS# \_\_\_\_\_  
 \_\_\_\_\_  
 COUNTY SURVEYOR

**MIDWAY LANE COMMERCIAL CENTER LOT 1**

LOCATED IN THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN.  
 A COMMERCIAL PROJECT, \_\_\_\_\_ CITY, WASATCH COUNTY, STATE OF UTAH  
 SCALE: 1" = 30 FEET

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

# TAB 6

**There are no physical  
materials for this  
agenda item.**

# Tab 7

## Proposed Capital Improvement Plan (CIP) Summary



Airport: Heber City Municipal Airport - Russ McDonald Field			Airport Sponsor: Heber City					Date Form Completed: 5/25/2017				
Local Priority	Requested Fiscal Year	In Current CIP? (Y/N)	Project Description	Federal Funds		State Funds	Local Funds	Total Project Cost	Proposed Funding Allocation			Notes
				Entitlement	Other				Fed %	State %	Local %	
<b>Federally Funded Projects</b>												
	2017	Y	Apron Expansion Reimbursement Ph I	\$ 150,000		\$ 7,754	\$ 7,754	\$ 165,508	90.63%	4.685%	4.685%	FY17 entitlements
	2018	Y	Apron Expansion Reimbursement Ph II	\$ 31,260		\$ 1,616	\$ 1,616	\$ 34,492	90.63%	4.685%	4.685%	FY18 entitlements
	2019	N	Pavement Preservation - Runway	\$ 182,166		\$ 9,417	\$ 9,417	\$ 201,000	90.63%	4.685%	4.685%	\$118,740 of FY18 entitlements \$ 63,426 of FY19 entitlements
	2020	Y	Master Plan Update	\$ 218,418		\$ 11,291	\$ 11,291	\$ 241,000	90.63%	4.685%	4.685%	\$86,574 of FY19 entitlements \$131,844 of FY20 entitlements
	2022	N	Northeast Hangar Taxilane (Design and Construction)	\$ 256,483		\$ 13,259	\$ 13,259	\$ 283,000	90.63%	4.685%	4.685%	\$18,156 of FY20 entitlements \$150,000 of FY21 entitlements \$88,327 of FY 22 entitlements
	2024	N	Pavement Preservation - Runway, Aprons, and Taxilanes	\$ 361,673	\$ 23,505	\$ 19,911	\$ 19,911	\$ 425,000	90.63%	4.685%	4.685%	\$61,673 of FY 22 entitlements \$150,000 of FY 23 entitlements \$150,000 of FY24 entitlements \$23,505 of FY25 entitlements
<b>Totals:</b>				<b>\$ 1,200,001</b>		<b>\$ 63,248</b>	<b>\$ 63,248</b>	<b>\$ 1,350,000</b>				
<b>State Funded Projects</b>												
	2017	Y	Unicom Recorder			\$ 3,150	\$ 350	\$ 3,500		90.0%	10.0%	
	2019	Y	Pavement Preservation-Taxiway			\$ 137,700	\$ 15,300	\$ 153,000		90.0%	10.0%	
<b>Totals:</b>				<b>\$ -</b>		<b>\$ 140,850</b>	<b>\$ 15,650</b>	<b>\$ 156,500</b>				

## 2017 CIP JUSTIFICATIONS – HEBER CITY MUNICIPAL AIRPORT

<b>FY</b>	2017/2018	<b>Project Description</b>	Apron Expansion Reimbursement
<b>Scope</b>			
Apron Expansion Reimbursement.			
<b>Justification</b>			
Reimbursement for 2015 construction project.			

<b>FY</b>	2019	<b>Project Description</b>	Pavement Preservation –Runway
<b>Scope</b>			
Federal funds will be used for pavement maintenance of the runway consisting of seal coating and marking.			
<b>Justification</b>			
Recommended maintenance to extend the life of pavements. The Runway was reconstructed in 2015.			

<b>FY</b>	2019	<b>Project Description</b>	Pavement Preservation – Taxiway
<b>Scope</b>			
State funds will be utilized to crack seal, seal coat and mark the Taxiway for pavement maintenance.			
<b>Justification</b>			
Recommended maintenance to extend the life of pavements. In 2015, the taxiway PCI was at 94.			

<b>FY</b>	2020	<b>Project Description</b>	Master Plan Update
<b>Scope</b>			
Prepare an Airport Master Plan.			
<b>Justification</b>			
Previous full Master Plan is more than 14 years old. A Feasibility Study took place in 2003 that covered some information in a Master Plan Update. ALP drawings are out of date.			

<b>FY</b>	2022	<b>Project Description</b>	NE Hangar Taxiway Expansion
<b>Scope</b>			
The proposed project is an additional Taxiway in the North-East area of the Airport.			
<b>Justification</b>			
The additional taxiway will serve as the access for additional hangar area at the North-East area of the airport.			



<b>FY</b>	2024	<b>Project Description</b>	Pavement Preservation – Apron, Taxiway, & Runway
-----------	------	----------------------------	--

**Scope**

Pavement maintenance consisting of crack seal, seal coat and marking of the apron, taxiway, and runway pavements.

**Justification**

By this time, pavements will range from 8 to 13 years old and will need maintenance. Recommended maintenance to extend the life of pavements.



**2017 CIP UPDATE**  
**HEBER CITY MUNICIPAL AIRPORT**  
**HEBER CITY, UTAH**  
**FY 2019 PAVEMENT PRESERVATION - RUNWAY**

5/4/2017

Item No.	Item Description	Qty	Unit	Unit Cost	Total Cost
P-100	Mobilization	1	LS	\$ 19,000.00	\$ 19,000.00
P-608a	Emulsified Asphalt Seal Coat	55850	SY	\$ 0.90	\$ 50,265.00
P-608b	Sand	55850	SY	\$ 0.10	\$ 5,585.00
P-608c	Friction Survey Test	1	LS	\$ 5,500.00	\$ 5,500.00
P-620a	Temporary Painting	59400	SF	\$ 0.65	\$ 38,610.00
P-620b	Permanent Painting	59400	SF	\$ 0.60	\$ 35,640.00

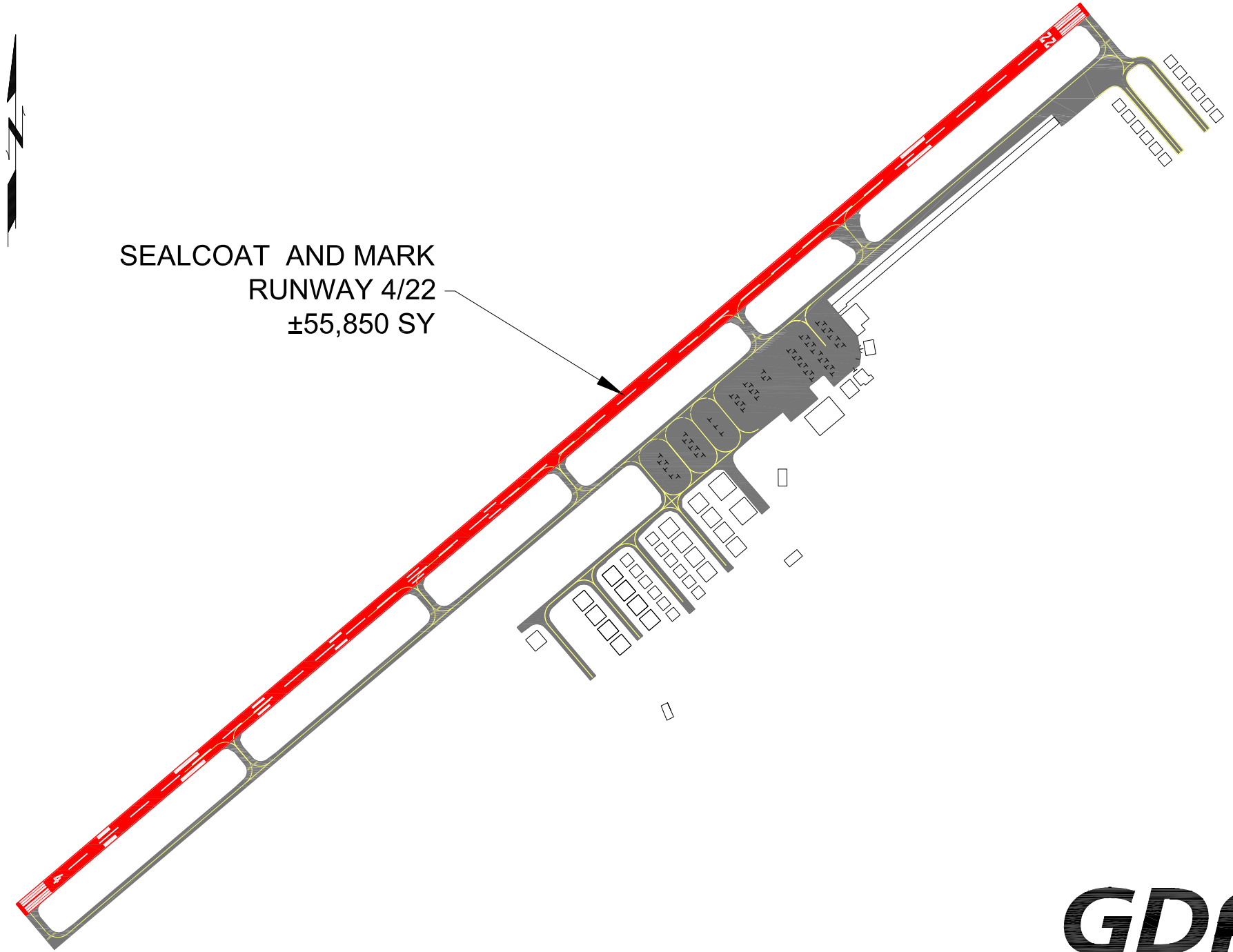
**Total: \$ 154,600.00**  
**Contingency (5%): \$ 7,730.00**  
**Engineering Design: \$ 16,233.00**  
**Construction Engineering: \$ 12,986.40**  
**Legal and Administrative: \$ 3,000.00**

	<u>Years</u>	<u>%/Year</u>	
<b>Inflation</b>	2	1.5%	<b>\$ 5,880.26</b>

**TOTAL: \$ 200,429.66**

<b>FOR ESTIMATE: \$ 201,000.00</b>
------------------------------------

R:\Transportation\Projects\Airports\CIP - ALL\2018\Heber City\Graphics\2019 FAA RW Pavement Preservation.dwg, 5/4/2017 9:42:47 AM, ii



PAVEMENT PRESERVATION - RUNWAY

FY 2019 - HEBER CITY MUNICIPAL AIRPORT 2017 CIP



ENGINEERING · SURVEYING · PLANNING



**2017 CIP UPDATE**  
**HEBER CITY MUNICIPAL AIRPORT**  
**HEBER CITY, UTAH**  
**FY 2019 PAVEMENT PRESERVATION-TAXIWAY**

5/2/2017

Item No.	Item Description	Qty	Unit	Unit Cost	Total Cost
P-100	Mobilization	1	LS	\$ 9,620.00	\$ 9,620.00
P-605a	Joint Sealing Filler	4	TN	\$ 3,645.00	\$ 14,580.00
P-605b	Joint Sealing Mastic	2	TN	\$ 5,500.00	\$ 11,000.00
P-605c	Crack Routing	25000	LF	\$ 0.60	\$ 15,000.00
P-608b	Emulsified Asphalt Seal Coat-Taxiway/Apron	42300	SY	\$ 1.00	\$ 42,300.00
P-620a	Temporary Painting	7400	SF	\$ 1.00	\$ 7,400.00
P-620b	Permanent Painting	7400	SF	\$ 0.80	\$ 5,920.00

**Total: \$ 105,820.00**

**Contingency (5%): \$ 5,291.00**

**Engineering Design: (16.2%) \$ 17,999.98**

**Construction Engineering: (14%) \$ 15,555.54**

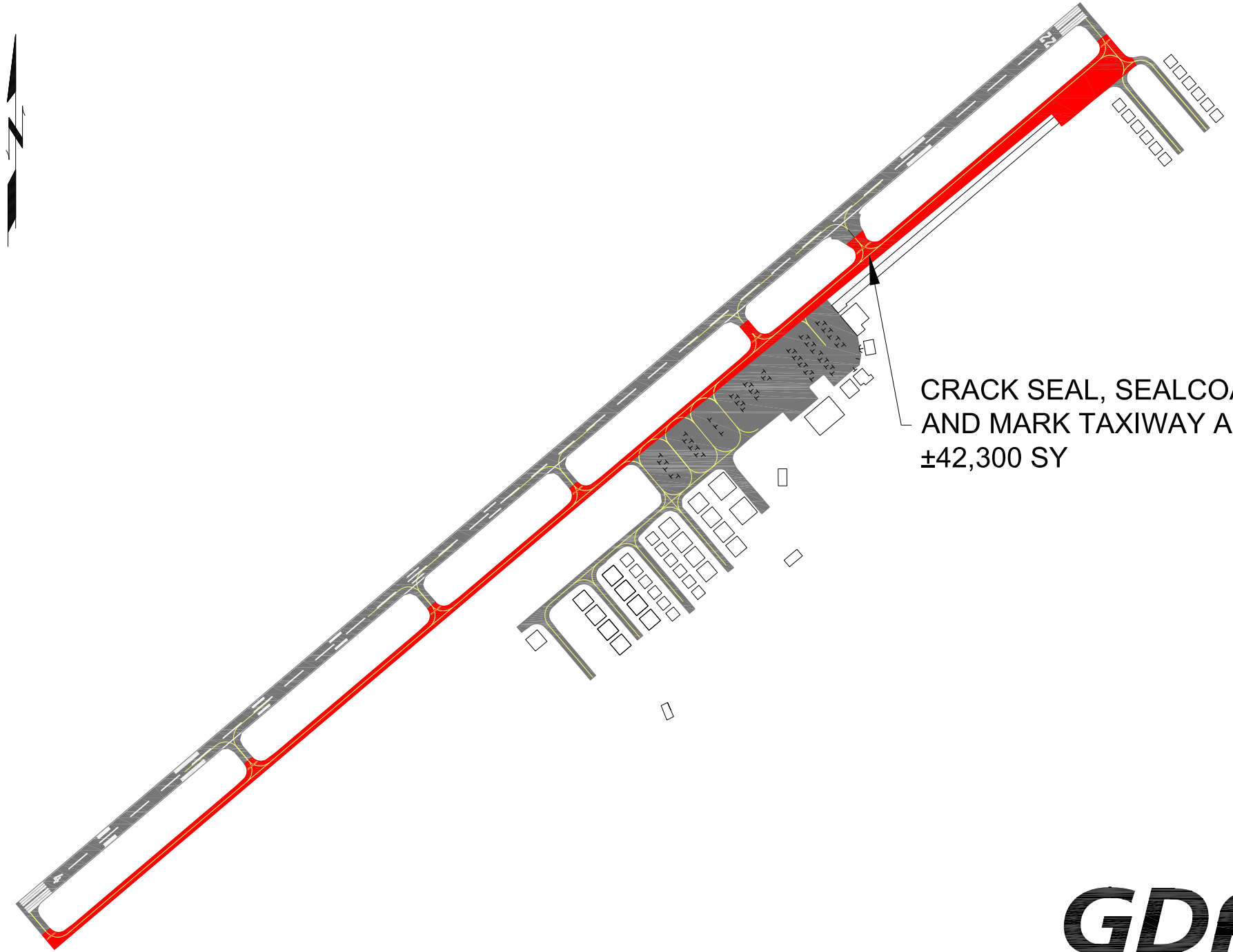
**Legal and Administrative: \$ 3,000.00**

<b>Assumptions</b>	-State funded project of pavement maintenance on Taxiway A -Assumed moderate cracking of pavement.
--------------------	---

	<u>Years</u>	<u>%/Year</u>	
<b>Inflation</b>	2	1.5%	<b>\$ 4,463.22</b>

**TOTAL: \$ 152,129.74**

<b>FOR ESTIMATE: \$ 153,000.00</b>
------------------------------------



CRACK SEAL, SEALCOAT,  
AND MARK TAXIWAY A  
±42,300 SY

PAVEMENT PRESERVATION - TAXIWAY

FY 2019 - HEBER CITY MUNICIPAL AIRPORT 2017 CIP



ENGINEERING · SURVEYING · PLANNING



**2017 CIP UPDATE**  
**HEBER CITY MUNICIPAL AIRPORT**  
**HEBER CITY, UTAH**  
**FY 2020 MASTER PLAN**

5/25/2017

Item No.	Item Description	Qty	Unit	Unit Cost	Total Cost
Master Plan	Airport Master Plan	1		\$ 227,000.00	\$ 227,000.00

**Total: \$ 227,000.00**

**Contingency (5%): \$ -**

**Engineering Design: \$ -**

**Construction Engineering: \$ -**

**Legal and Administrative: \$ 3,000.00**

	<u>Years</u>	<u>%/Year</u>	
<b>Inflation</b>	3	1.5%	<b>\$ 10,150.77</b>

**TOTAL: \$ 240,150.77**

<b>FOR ESTIMATE: \$ 241,000.00</b>
------------------------------------



**2017 CIP UPDATE  
 HEBER CITY MUNICIPAL AIRPORT  
 HEBER CITY, UTAH  
 FY 2022 NE HANGAR AREA TAXILANE**

5/25/2017

Item No.	Item Description	Qty	Unit	Unit Cost	Total Cost
P-100	Mobilization	1	LS	\$ 30,900.00	\$ 30,900.00
P-151	Clearing	3750	SY	\$ 1.30	\$ 4,875.00
P-152a	Unclassified Excavation	1670	CY	\$ 12.00	\$ 20,040.00
P-152b	Subgrade Prep	3750	SY	\$ 2.00	\$ 7,500.00
P-154	Subbase Course	530	CY	\$ 30.00	\$ 15,900.00
P-156	Temporary Air and Water Pollution, Soil Erosion, and Siltation Control	1	LS	\$ 1,500.00	\$ 1,500.00
P-209	Crushed Aggregate Base Course	630	CY	\$ 45.00	\$ 28,350.00
P-401a	Plant Mix Bituminous Pavements (4" thick)	630	Ton	\$ 60.00	\$ 37,800.00
P-401b	Bituminous Binder	44	Ton	\$ 850.00	\$ 37,400.00
P-620a	Temporary Painting	220	SF	\$ 2.50	\$ 550.00
P-620b	Permanent Painting	220	SF	\$ 2.40	\$ 528.00

<b>Assumptions</b>	-No tiedowns planned -Pavement section: 3" P-401, 6" P-209, 5" P-154 -Designed to TDG 1B and ADG II standards
--------------------	---

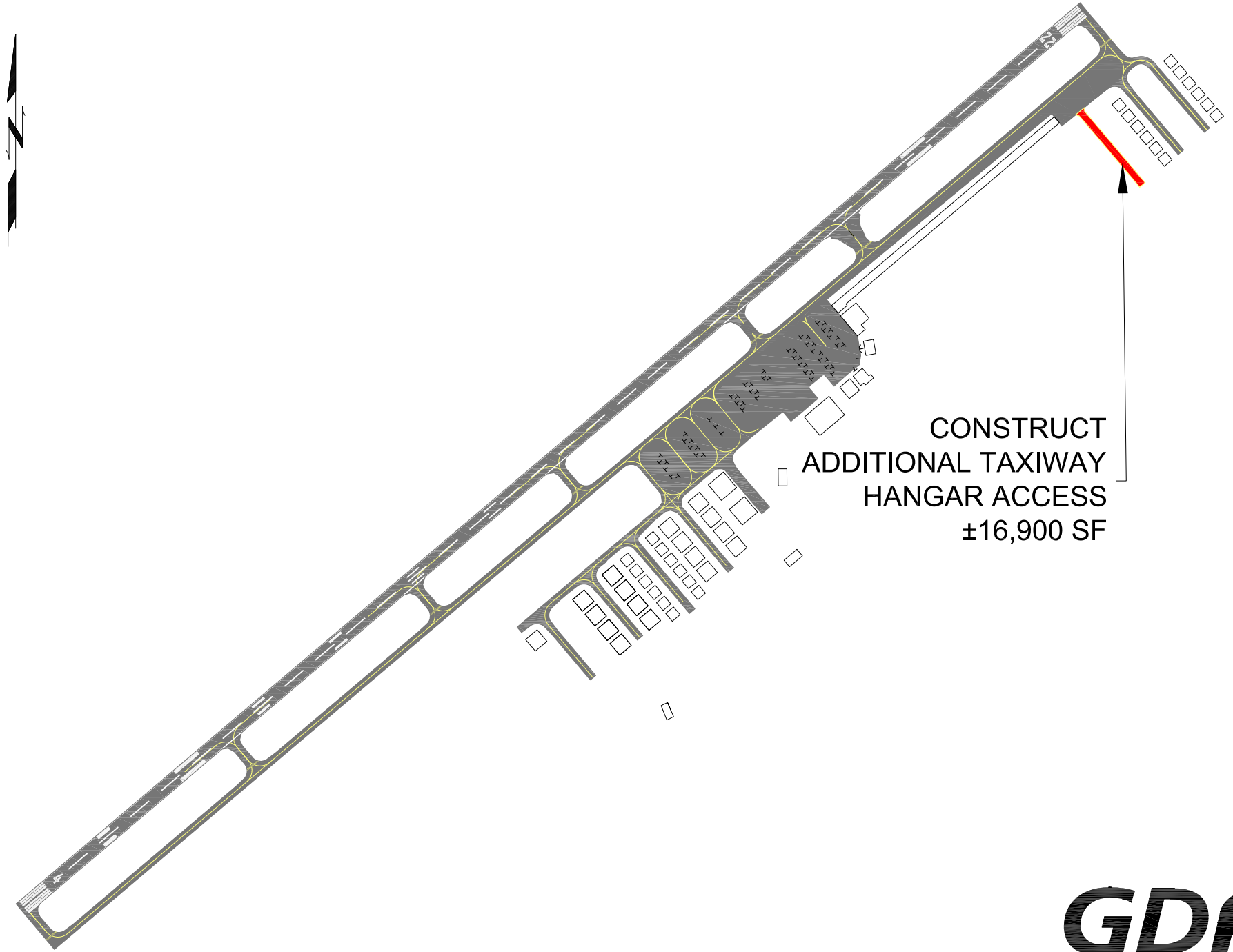
**Total: \$ 185,343.00**  
**Contingency (5%): \$ 9,267.15**  
**Engineering Design: (18%) \$ 35,029.83**  
**Construction Engineering: (15%) \$ 29,191.52**  
**Legal and Administrative: \$ 3,000.00**

	<u>Years</u>	<u>%/Year</u>	
<b>Inflation</b>	5	1.5%	<b>\$ 20,235.39</b>

**TOTAL: \$ 282,066.89**

<b>FOR ESTIMATE: \$ 283,000.00</b>
------------------------------------

R:\Transportation Projects\Airports\CIP - ALL\2018\Heber City\Graphics\2021 Construct Taxi Lane for NE Hangar Area Access.dwg, 5/4/2017 9:45:17 AM, it



CONSTRUCT  
ADDITIONAL TAXIWAY  
HANGAR ACCESS  
±16,900 SF

CONSTRUCT TAXI LANE FOR NE HANGAR AREA ACCESS

FY 2022 - HEBER CITY MUNICIPAL AIRPORT 2017 CIP



ENGINEERING · SURVEYING · PLANNING





**2017 CIP UPDATE**  
**HEBER CITY MUNICIPAL AIRPORT**  
**HEBER CITY, UTAH**  
**FY 2024 PAVEMENT PRESERVATION - RUNWAY, APRONS, AND TAXILANES**

5/25/2017

Item No.	Item Description	Qty	Unit	Unit Cost	Total Cost
P-100	Mobilization	1	LS	\$ 28,916.40	\$ 28,916.40
P-605a	Joint Sealing Filler	5	TN	\$ 3,645.00	\$ 18,225.00
P-605b	Joint Sealing Mastic	1	TN	\$ 5,500.00	\$ 5,500.00
P-605c	Crack Routing	27000	LF	\$ 0.60	\$ 16,200.00
P-608a	Emulsified Asphalt Seal Coat-Runway	57500	SY	\$ 1.20	\$ 69,000.00
P-608b	Emulsified Asphalt Seal Coat-Taxiway/Apron	65579	SY	\$ 1.00	\$ 65,579.00
P-620a	Temporary Painting	63700	SF	\$ 1.00	\$ 63,700.00
P-620b	Permanent Painting	63700	SF	\$ 0.80	\$ 50,960.00

Assumptions
-Pavement maintenance on Runway 4/22, Aprons, and Taxilanes.
-Assumed that cracking of Runway 4/22 to be limited due to age of pavement (constructed in 2015)

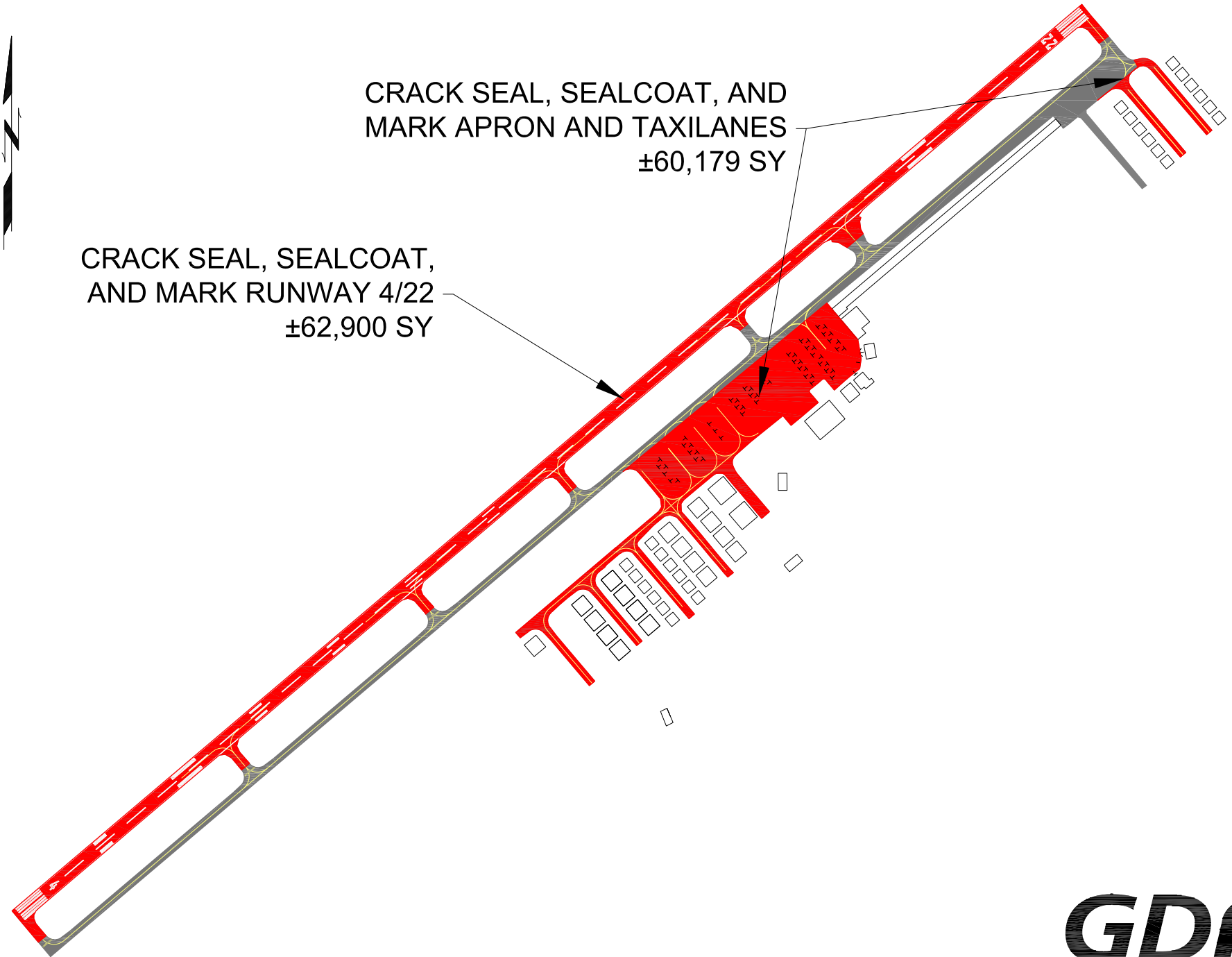
**Total: \$ 318,080.40**  
**Contingency (5%): \$ 15,904.02**  
**Engineering Design: (7%) \$ 23,378.91**  
**Construction Engineering: (6.5%) \$ 21,708.99**  
**Legal and Administrative: \$ 3,000.00**

	Years	%/Year	
<b>Inflation</b>	7	1.5%	<b>\$ 41,968.70</b>

**TOTAL: \$ 424,041.02**

<b>FOR ESTIMATE: \$ 425,000.00</b>
------------------------------------

R:\Transportation\Projects\Airports\CIP - ALL\2018\Heber City\Graphics\2023 RWY-Apron-TWY Pavement Preservation.dwg, 5/4/2017 12:158 PM, li



PAVEMENT PRESERVATION - RUNWAY, APRONS, AND TAXILANES

FY 2024 - HEBER CITY MUNICIPAL AIRPORT 2017 CIP



ENGINEERING · SURVEYING · PLANNING

## Mark Anderson

---

**From:** Kristin.Brownson@faa.gov  
**Sent:** Thursday, May 11, 2017 1:15 PM  
**To:** Mark Anderson; Denis Godfrey  
**Cc:** John.Bauer@faa.gov; John.Sweeney@faa.gov; jmcaster@gdaengineers.com; cbean@gdaengineers.com  
**Subject:** RE: Ramp Reimbursement

Mark and Denis,

I know you are working to solidify the ACIP for the Heber Airport so I wanted to touch base regarding which projects we would be willing to fund in the next 4-5 years.

Here are the projects we would suggest and would see as a priority:

In 2017, we see either the apron reimbursement or the Master Plan study as a priority. Whichever project is not undertaken in 2017, we would suggest completing in 2018.

We realize that the snow removal equipment is a priority for the airport so we would look at placing this after the Master Plan has been started. We also realize that the land acquisition is necessary and so we would look at this project after the Master Plan has been started. Both of these items can be reimbursed with your non-primary entitlements in the future if all federal procurement procedures are followed.

All of this is contingent on the sponsor continuing to work towards resolution of the pending compliance issues.

Please let me know if you would like to discuss this further.

Thank you,  
Kristin

Kristin Brownson, PE  
Utah State Engineer  
FAA Denver Airports District Office  
303-342-1279  
[Kristin.Brownson@faa.gov](mailto:Kristin.Brownson@faa.gov)

---

**From:** Mark Anderson [mailto:manderson@ci.heber.ut.us]  
**Sent:** Thursday, May 04, 2017 8:52 AM  
**To:** Brownson, Kristin (FAA)  
**Subject:** Ramp Reimbursement

Kristin:

It was good to speak with you yesterday about the eligibility of the ramp expansion reimbursement. Would you be willing to submit something to me in writing that confirms the FAA's commitment to reimburse the City for this improvement when funds become available as identified on an approved CIP? An email would be fine.

Thank you,

Mark

Mark K. Anderson  
Heber City Manager  
75 North Main  
Heber City, UT 84032  
phone 435-654-0757  
fax 435-654-2743



# Tab 8

**HEBER CITY MUNICIPAL AIRPORT**  
- Russ McDonald Field -

**Staff Report to the City Council, June 1, 2017**

**AGENDA ITEM: Airport AOA Vehicle Access Plan**

Airport Manager, Denis Godfrey

**Summary**

The Advisory Board (AAB) sent a Recommendation to the 4 May city council meeting. Part of that Recommendation included, "have an Assessment Done for a Vehicle Lane Along the FBO Ramp". The City Council concurred and directed the Airport Manager, with the assistance of the AAB, to develop a compromise aircraft ramp vehicle access plan for presentation at the June 1<sup>st</sup> city council meeting.

At the May 10<sup>th</sup> AAB meeting, the Board proposed the following:

*The airport will construct a vehicle lane that runs the length of the ramp in parallel with the main taxiway. This lane will convey traffic from one side of the field to the other. Vehicles will remain within the boundary of the lane unless there is a need to exit the lane to access a parked aircraft. This applies to the entire ramp.*

The Chairman scheduled a special airport advisory board meeting for May 24<sup>th</sup> to discuss the matter further after consulting the FBO and airport engineer.

The airport engineering consultant was tasked with providing guidance and developing a cost estimate to design and construct a designated vehicle lane.

The airport FBO, OK3 Air was notified of the AAB's recommendation and invited to comment on the matter. General Counsel to the FBO responded on May 15<sup>th</sup>. In summary, OK3 Air proposes:

*"...guarantee owners of aircraft that are parked on the OK3 ramp the ability to access the airport by automobile. This comports with common sense and would cost the City nothing to implement."*

The FBO opposes general vehicle transit across the aircraft ramp:

*"...there is a difference between automobile access to these aircraft on the one hand and traffic that is solely attributable to owners of roadway-accessible hangars or people just seeking a "shortcut" from one end of the Airport to the other on the other hand. It is well within your authority to limit the latter traffic. And it is this type of traffic about which the FBO has complained. There is no reasonable basis for it to continue on the ramp, with or without a dedicated traffic lane."*

Upon researching the matter, it was determined that a designated vehicle lane on the aircraft parking ramp was not possible due to the physical constraints of the airport and the inability for a lane to comport with FAA airport design standards within those constraints.

### **Compromise Solution**

The Airport Advisory Board recommends the following vehicle access plan to the City Council:

1. The airport would issue an annual aircraft operating area vehicle license
2. Licensee's must provide proof of insurance with limit of at least \$1million per occurrence and an endorsement naming the City
3. Basic AOA vehicle operating training and/or test
4. The license and training will specify an imaginary vehicle lane contiguous and parallel with the taxiway where the taxiway crosses directly in front of the main FBO aircraft parking ramp. Vehicle transit across the FBO main ramp is ~~prohibited~~ (*discouraged*). Other areas of the aircraft parking ramp are vehicle accessible and only subject to speed limits and similar operational regulation already specified in the Airport Rules & Regulations
5. Tiered schedule of penalties and fines

The need for a license is two-fold, a) to ensure annual certificates of insurance are on file with the airport and b) provide for enforcement. Auto insurance with at least a \$1 million occurrence and an endorsement may be difficult to enforce as this exceeds the minimum per occurrence for the state of Utah that is \$300,000.

Basic AOA training/test is both a safety measure and shows the City is being proactive on regulating vehicle traffic on the AOA.

Penalties and/or fines are necessary to make the above enforceable.

The Airport agrees with this plan but for one exception. There is no legitimate need for airport users to cross the main aircraft parking ramp directly in front of the FBO. Item 4 in the compromise solution originally prohibited vehicle transit across this section of ramp. The AAB replaced prohibit with "discourage". If this language is adopted, things remain essentially status quo. The AAB maintains two positions: a) the FBO lease has no provision that can restrict access to their leasehold. b) access can be regulated but not restricted on a public use aircraft ramp. Both are flawed. In any event, the FBO lease would not confer such power to the lessee as regulating vehicle traffic is a function of the airport proprietor. Yes, the aircraft ramp must be accessible to all aircraft operators but the FBO may charge for parking aircraft upon their leasehold. However, there is no equal right as it pertains to vehicles and the FAA grants airport operator's discretion to regulate or ban vehicles all together in certain sections for operational safety.

The Airport recommends retaining the word *prohibit* under item 4.

Upon approval the Airport will create the protocols and documents necessary to implement the new rule and return to the Airport Advisory Board with proposed amendments to the Airport Rules and Regulations.

# Tab 9



**There are no physical  
materials for this  
agenda item.**

# **Tab 10**



GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

# State of Utah Department of Commerce

## OFFICE OF THE PROPERTY RIGHTS OMBUDSMAN

FRANCINE A. GIANI  
*Executive Director*

BRENT N. BATEMAN  
*Lead Attorney, Office of the Property Rights Ombudsman*



### ADVISORY OPINION (PART 2)

Advisory Opinion Requested By: Wasatch School District

Local Government Entity: Heber City

Applicant for Land Use Approval: Wasatch School District

Type of Property: Multiple projects

Date of this Advisory Opinion: April 28, 2017

Opinion Authored By: Brent N. Bateman  
Office of the Property Rights Ombudsman

#### ISSUE

Do the various impact fees charged to the Wasatch School District by Heber City comply and conform to the Utah Impact Fees Act and the provisions of Utah law?

#### SUMMARY OF ADVISORY OPINION

Heber City has imposed various impact fees against school construction projects of the Wasatch School District. The District objects to those fees with a variety of arguments. Some of the imposed fees are valid under the Impact Fees Act, while others are not. Some will require further information and discussion between the parties.

A local government may charge an impact fee for development activity that impacts its system, even if outside of the designated impact fees service area. However, a local government may never impose an impact fee greater than the maximum fee permitted in its impact fee documentation, even if the fee is for extraterritorial development activity.

A local government may charge impact fees to a school district if the district's development activity directly results in the need for additional public facilities. Accordingly, impact fees cannot be assessed on impacts that occurred in the past. Moreover, impact fees for replacement schools can only be charged on the net increase in demand or need for additional facilities caused

by the new school. Impact fees for a replacement school will usually be unavailable for past demands or needs, or to rectify existing deficiencies.

And finally, a local government is free to discount or waive impact fees as long as any resulting deficiency is paid for by some means other than impact fees. Those fees may be paid from general funds or other sources. Doing so does not result in illegal double-taxation. Nevertheless, the fact that some impact fees may be inapplicable to schools under the Act does not mean that those fees are being discounted or waived, and certainly does not justify disregarding the plain provisions of the Act. The City is not discounting those fees, because it is not entitled to those fees. Local governments may charge what the Act and their documentation permits them to charge, which in the case of a school, may be different or less. This is not a discount or waiver.

## REVIEW

A Request for an Advisory Opinion may be filed at any time prior to the rendering of a final decision by a local land use appeal authority under the provisions of UTAH CODE § 13-43-205. An advisory opinion is meant to provide an early review, before any duty to exhaust administrative remedies, of significant land use questions so that those involved in a land use application or other specific land use disputes can have an independent review of an issue. It is hoped that such a review can help the parties avoid litigation, resolve differences in a fair and neutral forum, and understand the relevant law. The decision is not binding, but, as explained at the end of this opinion, may have some effect on the long-term cost of resolving such issues in the courts.

A Request for an Advisory Opinion was received from Mr. Jared L. Anderson, on behalf of the Wasatch County School District, on August 27, 2015. A copy of that request was sent via certified mail to Mayor David R. Phillips, Heber City, 75 North Main Street, Heber, Utah 84032.

## EVIDENCE

The Ombudsman's Office reviewed the following relevant documents and information prior to completing this Advisory Opinion:

1. Request for an Advisory Opinion submitted by Mr. Jared L. Anderson, on behalf of the Wasatch County School District, on August 27, 2015.
2. Letter submitted by Mr. Jared L. Anderson, received July 18, 2016, requesting the Office of the Property Rights Ombudsman proceed with the Advisory Opinion.
3. Response submitted by Mr. J. Mark Smedley, Attorney for Heber City, via email, on July 19, 2016.
4. Response submitted by Mr. Anderson, via email, on August 10, 2016.
5. Letter, dated August 5, 2016 and supplemental letter, dated August 9, 2016, submitted by Mr. Smedley on August 15, 2016.
6. Response submitted by Mr. Anderson, via email, on September 1, 2016.
7. Response submitted by Mr. Smedley, via email, on November 8, 2016.
8. Response submitted by Mr. Anderson, via email, on November 11, 2016.

## BACKGROUND

Wasatch County School District has multiple school-related construction and development projects underway both inside and outside the boundaries of Heber City, Utah. As Heber City has imposed various impact fees on the District's projects, multiple disputes have arisen. The District and the City have attempted over several months to resolve their disputes over the impact fees, but have been unsuccessful. The District has thus requested this Advisory Opinion.

Part 1 of this Advisory Opinion, dated November 30, 2016 and designated as Advisory Opinion #177, addressed the most time-sensitive issues. This Part 2<sup>1</sup> addresses the following remaining issues:

- Daniel Elementary lies adjacent to, but outside of, the boundaries of Heber City. Part 1 of this Advisory Opinion addressed whether Heber City had the discretion to deny Daniel Elementary's extraterritorial connection to its sewer system. Here Heber City seeks to charge Daniel Elementary an impact fee rate of 1.5 times the normal impact fee, as it has done with the extraterritorial service fee. Conversely, the District challenges whether Heber City is able to charge an extraterritorial impact fee at all.
- The District has constructed a bus garage in Heber City. The District argues that the garage will house the District's existing bus fleet only, previously stored outdoors at the same location. Thus, the District argues, the garage is not impacting Heber City streets – it will not result in any additional trips on Heber City roads – and the City cannot therefore charge road impact fees. The City points out that over time the District has added buses and bus trips, and thus has had an impact of Heber City roads. The City argues that construction of the bus garage is evidence of those impacts. Thus, since the City had no opportunity to charge impact fees at the time the impacts did occur, retroactive impact fees on the bus garage are legal and equitable.
- The District has relocated and reconstructed Wasatch High School. Although that project has been complete for some time, the parties still dispute the impact fees due. The District claims entitlement to a net credit on road impact fees once the impact fees are applied from the old Wasatch High to the new. Heber City strongly disputes that such credits are due and appropriate.
- The District has completed additions to Wasatch High School and Heber Valley Elementary School. The District feels that these additions have not added capacity to the schools, and thus have not added impacts for which the City can charge impact fees.
- Finally, the City argues that it is illegal and inequitable for it to adjust, discount, waive, or otherwise change any of the impact fees it has charged to the District, including if some fees are found to be inapplicable to the District. The City argues that because the City represents only a portion of the District's area, City residents will have to pay a disproportionate share

---

<sup>1</sup> Part 1 and Part 2 of this Advisory Opinion both represent full and separate Advisory Opinions under UTAH CODE § 13-43-205.

of the costs to assuage the District's impacts, since the City has no ability to recoup those costs from residents outside of City boundaries.

## ANALYSIS

### I. The Impact Fees Act

The Utah Impact Fees Act (Act), found in Chapter 11-36a of the Utah Code, defines an impact fee as "a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure." UTAH CODE § 11-36a-102(8)(a). Development activity, including the building of schools, causes an impact on public infrastructure. Impact fees are one way that development pays for what it consumes. *See* UTAH CODE § 11-36a-304(d).

Impact fees are an exaction, *Salt Lake County v. Bd. of Educ.*, 808 P.2d 1056, 1058 (Utah 1991), and must therefore be roughly proportional, both in nature and extent, to the impacts created by the development activity. *See* UTAH CODE § 10-9a-508(1). Impact fees are always a function of *impacts*. The amount of the fee must be roughly proportional to the amount of impact. As with all exactions, if development activity has no impacts, there can be no impact fee. *See B.A.M. Development, LLC v. Salt Lake County*, 2008 UT 74, ¶12 (holding that the exaction and the costs of assuaging the impact must be roughly equivalent); *see also* UTAH CODE § 11-36a-603(3). Moreover, an impact fee that requires a developer to pay more than its share, to pay disproportionately for impacts it did not create, is unconstitutional in violation of the takings clause. *See generally Call v. City of West Jordan*, 614 P.2d 1257 (Utah, 1980).

The Impact Fees Act contains multiple regulations and restrictions, all meant to ensure that impact fees are estimated, calculated, imposed, and spent in proportion to the impact upon public infrastructure. Because schools present particular needs and provide particular benefits to a community, schools have a unique impact. Accordingly, the Act contains several provisions specifically applicable to schools. Among them, UTAH CODE § 11-36a-202(2)<sup>2</sup> includes a

---

<sup>2</sup> UTAH CODE § 11-36a-202:

(2)(a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

....

(ii) on a school district or charter school for a park, recreation facility, open space, or trail;

(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and

(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;

....

(b)(i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:

(A) the school is intended to replace another school, whether on the same or a different parcel;

(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and

prohibition on charging any impact fees to schools that do not “directly result” in the need for “additional system improvements.” UTAH CODE § 11-36a-202(2)(a)(iii)(A). This statute also prohibits charging an impact fee to a replacement school unless the new school creates a “greater demand or need for public facilities than the school being replaced.” UTAH CODE § 11-36a-202(2)(b)(i)(B).

## II. The Principles of Statutory Construction

Examination of these matters also requires employment of the principles of statutory construction. When interpreting a statute, we look first to the plain language to determine its meaning. *Bd. of Educ. of Jordan Sch. Dist. v. Sandy City Corp.*, 2004 UT 37 ¶9. The primary goal of interpretation is “to give effect to the legislative intent, as evidenced by the plain language, in light of the purpose the statute was meant to achieve.” *Foutz v. City of South Jordan*, 2004 UT 75, ¶11. If the plain language of an ordinance is sufficiently clear, the analysis ends there. *General Construction & Development, Inc. v. Peterson Plumbing Supply*, 2011 UT 1, ¶8.

Further, “our interpretation of a statute requires that each part or section be construed in connection with every other part or section so as to produce a harmonious whole.” *State in Interest of J.M.S.*, 2011 UT 75 ¶13. In addition, “it is axiomatic that a statute should be given a reasonable and sensible construction and that the legislature did not intend an absurd or unreasonable result.” *State ex rel. Div. of Consumer Prot. v. GAF Corp.*, 760 P.2d 310, 313 (Utah 1988).

## III. Daniel Elementary

The District plans construction of Daniel Elementary on a parcel of land outside of the boundaries of Heber City, but adjacent to the boundary road. Daniel Elementary will use the boundary road as its primary access, and will connect to the Heber City-owned sewer main that exists beneath the road. Heber City has imposed sewer impact fees upon the District because of this connection. The District disputes these fees. The District challenges whether the City has the legal authority to impose impact fees outside of City boundaries. The District further argues that an impact fee is inappropriate because the City has excess capacity at the hookup point. The District also challenges the City’s decision to charge the District an extraterritorial rate of 1.5 times the normal impact fee, as it has done with the service fee.

### *A. Impact Fees Outside of the Service Area*

Heber City has established its city boundaries as the impact fees service area under UTAH CODE § 11-36a-402(1)(a). Thus, the District argues, the City has no legal basis for charging impact fees to properties outside of its service area. However, the triggering event for impact fees is impact. UTAH CODE § 11-36a-102(8)(a). The service area, while required under UTAH CODE § 11-36a-

---

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

402(1)(a) and important to establish areas where impact fees are imposed according to various categories, is not the critical factor in determining whether or not to impose impact fees. Many within a service area will not pay impact fees where the development activity has no impact. Conversely, some outside of a service area may need to pay impact fees if their development activity will impact the system.

This Office previously opined<sup>3</sup> that, because of its proximity to the available sewer line, Daniel Elementary is required to attach to that sewer line, and Heber City is required to accept that attachment. The school's attachment to that line will have an impact upon the Heber City sewer system. Impact is the triggering event. Accordingly, if there is an impact, the school must pay the impact fee.

Likewise, the fact that excess capacity exists at the point of connection does not excuse payment of an impact fee. Developers frequently pay impact fees as a buy-in to existing capacity. This is specifically contemplated and permitted under the Act. UTAH CODE § 11-36a-304.<sup>4</sup> The City is justified in charging an impact fee to pay for its existing capacity as that existing capacity is consumed by development activity. Accordingly, the District is not excused from paying the sewer impact fee for Daniel Elementary School.

#### *B. Extraterritorial Impact Fee Rate*

Heber City has proposed charging Daniel Elementary a monthly service fee of 1.5 times the normal service rate. This is not in dispute. The District does however dispute the City's decision to impose impact fees at a like 1.5 times the normal impact fee rate.

The Impact Fees Act requires that the impact fee be based upon "realistic estimates, and the assumptions underlying those estimates shall be disclosed in the impact fee analysis." UTAH CODE § 11-36a-305(2). Nothing in the Act justifies or permits charging an increased fee for development activity simply because that development activity takes place outside of the service area boundaries. Fees are based upon impacts, and any amount charged must be estimated and included in the Impact Fee documents. *Id.* An Impact Fee Analysis provides a maximum fee that can be charged per unit of impact. A municipality is not free under the Act to charge an impact fee that exceeds that maximum. UTAH CODE § 11-36a-401.

Accordingly, Heber City's plan to charge Daniel Elementary 1.5 times the normal impact fee rate is not permitted under the Impact Fees Act. *Id.* In order to do so, Heber City would need to justify the higher fee in their Impact Fee Analysis by disclosing and including the increased cost assumptions that make the higher fee necessary. A simple decision to increase those charges over

<sup>3</sup> Advisory Opinion #177.

<sup>4</sup> As will be discussed in further detail below, UTAH CODE § 11-36a-202(2)(a)(iii)(A) states that a City cannot charge an impact fee to a school district unless "the development resulting from the school district's or charter school's development activity directly results in a *need for additional system improvements* for which the impact fee is imposed." (emphasis added). This "need for additional system improvements" could include a need for either new construction of system improvements or a need to consume existing capacity. Existing capacity is an additional system improvement and is always an alternative to construction of new improvements. Statutes should be given a sensible construction in order to produce a harmonious whole. *Interest of J.M.S.*, 2011 UT 75 ¶13; *GAF Corp.*, 760 P.2d at 313.



the documented maximum will not do it. Accordingly, without a major revision of its documentation showing the increased costs, Heber City cannot charge Daniel Elementary school 1.5 times its maximum fee rate simply because the school is outside of the city boundaries.

#### IV. The Bus Garage

The District has constructed a new maintenance and storage facility for its school bus fleet. The new facility is located at the same location where the District currently stores and maintains its buses. According to the District, the facility is intended to house and service the current fleet of buses only. No excess capacity is included, nor new buses planned. Thus, the District argues that the bus garage will not create any additional impact upon Heber City roads. Nevertheless, Heber City has imposed significant road impact fees upon the District's new bus garage.

The City justifies the impact fees by noting that the district has increased the number of buses and bus trips over a course of years, and thus has had a gradual impact upon Heber City streets. The City points out that it has been unable to charge fees for increases in impacts every time the District adds a bus. The City feels that construction of the new bus garage is a triggering event for which it can charge fees for the previous impacts. In other words, the City is charging road impact fees today for impacts that have occurred in the past.

This violates the Impact Fees Act. Without examining whether under normal circumstances a City can charge impact fees for past impacts, the City's attempt to charge these impact fees to the District run afoul of the Act's specific provisions concerning schools. UTAH CODE § 11-36a-202(2)(a) states that a City cannot charge an impact fee to a school district unless "the development resulting from the school district's or charter school's development activity *directly results* in a need for *additional system improvements* for which the impact fee is imposed." *Id.* (emphasis added). By the Act's plain language, impact fees can only be charged to school districts for system improvements that directly result from the District's development activity. The meaning of *directly results* and *additional system improvements* is not vague. The words *results* and *additional* work in one direction – the development activity first, the need for additional system improvements resulting. The impacts must arise from the development activity. Impact fees cannot be charged to schools for past impacts. If the plain language of an ordinance is sufficiently clear, the analysis ends there. *General Construction & Development, Inc. v. Peterson Plumbing Supply*, 2011 UT 1, ¶ 8. Heber City can only charge the school district impact fees for additional road capacity needed as a *direct result* of the construction of the bus garage.

When impact fees are viewed as a simple square-footage based formula imposed upon any development activity within the City, the City's argument makes sense. Certainly the District has added buses over time, and certainly that has gradually had an impact upon Heber City roads. However, that view mischaracterizes impact fees. Impact fees are not automatic. Impact fees have specific requirements and limitations, and cannot be applied abstractly or by rote to every development application that comes in. Impact fees are a way to help pay for impacts from new development activity. But some development activity has little or no impact, and some impacts are not eligible for impact fees under the specific provisions of the Act. Thus, some impacts may need to be absorbed or paid in some other way. The bus garage illustrates this. Although the gradual addition of buses may have a real impact on Heber City, impact fees are not available

under the Act to pay for that impact. Accordingly, the development activity of the bus garage, to the extent not directly resulting in the need for additional roads but simply housing existing fleet, is not eligible for impact fees under the Act.

## V. The New Wasatch High School

The District has relocated and reconstructed Wasatch High School. Although that project has been complete for some time, the impact fees due for that project remain in dispute. The District claims entitlement to a credit for road impact fees once the impact fees are applied from the old Wasatch High to the new. Heber City strongly disputes that such credits are due and appropriate.

Under the plain language of the Act, a local government may assess impact fees only on the increase in demand or need for public facilities caused by the replacement school over the demand caused by the original school. UTAH CODE § 11-36a-202(2)(iii)(B).<sup>5</sup> This provision makes no distinction between types of impact fee. It is essentially a statement that a City cannot charge any impact fees to a new school in order to cure deficiencies in public facilities that existed under the old school. This is consistent with the Act's general prohibition against using impact fees to cure existing deficiencies. UTAH CODE § 11-36a-202(1)(a)(i).

Although not clear, the parties' dispute over this matter appears to arise over how the net increase in demand has been calculated. The District's position appears to be that the new school will not impose any more traffic than the old school, and thus no traffic impacts fees are due. The City's position appears to be that it already applied a credit to the new high school's impact fees based upon the old high school, but the new high school nevertheless required significant road widening and other expansion to accommodate the students.

The plain language of the Act indicates that the correct impact fee is probably somewhere in between. The Act bases impact fees upon the "demand or need that the new school creates for public facilities." The increase is not based on square footage or number of students, but a factor of "demand or need" for public facilities created by the new school over the old school. Thus, impact fees cannot be charged to the new school to pay for preexisting demand or need. If roads needed to be improved or widened before the replacement school was built, the replacement school does not pay impact fees therefor. But if the replacement school causes a road to be added or widened, and that addition or widening would not have been needed with the original school, those road costs could be included in the impact fees to the replacement school.

The parties have not provided sufficient information, and frankly this Office is not equipped to determine which new roads the new Wasatch High School required, and thus which impact fees the City can charge. As always with this kind of calculation, some communication and cooperation between the parties is needed to resolve the details of these fees in accordance with the plain language of the Act.

---

<sup>5</sup> UTAH CODE § 11-36a-202(2)(iii)(B): "[T]he impact fee [for a replacement school] shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities."

## **VI. Expansion of Wasatch High School and Heber Valley Elementary**

Two years after construction of its new high school, the District expanded the high school's cafeteria. The City imposed an additional street impact fee on the district as a result of that expansion. Also, the District recently completed an 8600 square foot addition to Heber Valley Elementary School. The District imposed significant road impact fees for that project, based upon the increase in square footage. The District disputes these fees because the District feels that these additions have not added any student capacity to the schools. Thus, the additions have not added impacts for which the City can charge impact fees.

The Act's provisions that apply to these fees have been discussed. Impact fees may only be charged on development activity where an impact arises, and cannot be charged by rote to all development activity based upon one factor such as square footage. *See* UTAH CODE § 11-36a-402 (requiring an impact fee enactment to contain provisions to allow adjustments in specific circumstances, to permit adjustment based upon submission of studies and data, to allow credits for dedication and construction of improvements to reduce impacts, and for fees to be imposed fairly). Where a school district believes that its impact requires a different calculation, the Act expressly entitles that district to provide information regarding that impact to the local government for adjustment of the fee. *Id.* at (1)(c)(i)(B). Most importantly, as discussed above, impact fees may only be charged to schools for additional public facilities that directly result from the school development activity. UTAH CODE § 11-36a-202(2)(iii)(B).

✓ Accordingly, these school additions must be examined further. If the additions increase need for an additional system improvement, then impact fees can be charged for those new facilities. A simple addition of square footage does not necessarily equate to an increase in need for additional system improvements, and so charging an impact fee based solely on square footage is inadequate. Whether either of these expansion projects do that is a question that requires honest examination by engineers, city, and school officials working together, or if they cannot do so, the factual discovery process in a court of law. We have neither the capacity nor expertise to decide such factual matters. We strongly urge, however, that the parties communicate about the straightforward effects of these expansions and whether they will directly create a need for additional system improvements.

## **VII. Double Assessment to Heber City Citizens**

Finally, the City has expressed a grave concern, and frankly these concerns appear to have prompted the City's position on many of these disputes, that asking it to waive or discount impact fees, even those impact fees found inapplicable to the District under the Act, would essentially result in a double assessment upon Heber City residents. The City has argued multiple times that this situation is at least inequitable, and perhaps even illegal. Thus, the City believes that it cannot reduce the assessed fees.

The City's concern essentially is that if the School District does not pay for these facilities, then its citizens must, and since much of these facilities are for the benefit of non-city residents, then Heber City citizens must pay for problems not their own. Such a concern is legitimate and

exactly the kind of concern that a conscientious City council will have for its citizens. However, that concern is misdirected.

In the experience of this Office, the situation that the City describes is common. In many cases, city residents must pay through taxation for facilities that could be paid through impact fees. Many communities do not charge impact fees. Many charge them or discount them or waive them, which is perfectly permissible under the Impact Fees Act. UTAH CODE § 11-36a-403. If impact fees are waived, the Act prohibits local governments from charging the shortfall to other new development activity. *Id.* But nothing prohibits the local government from paying for the waived fees in some other way, including through general funds. In reality, cities frequently waive impact fees. Citizens frequently pay for that waiver. Heber City may find this objectionable, but it is not illegal.

The provisions of the Act impose limits upon what can be charged, who can be charged, what types of facilities can be included, etc. A city may only charge impact fees in accordance with the Act's limitations. UTAH CODE § 11-36a-201. Where the Act prohibits charging an impact fee, the fee cannot be charged even if that means that all costs will not be paid. A city must make up any shortfall in some other way. Schools are entitled to special treatment that often makes certain impact fees inapplicable. The fact that those reduced fees result in an obligation by citizens to make up the difference is not relevant to whether or not the City can legally charge those fees to the District. If the Act prohibits those fees, the local government cannot charge them.

Nevertheless this discussion is academic, because the fact that certain fees or portions of fees are inapplicable to schools does not mean that not charging those fees is a discount or waiver of fees. The allocation of costs, and the fact that those costs are allocated differently to different uses, residential, commercial, schools, etc., is a part of the impact fee process. In other words, a City allocates impact fees in accordance with the Act, and may use collected fees to pay for the new infrastructure in compliance with the Act. In a perfect situation, the allocations to different users will be considered in the estimates, and the overall allocation will perfectly match the cost of needed infrastructure. Practically, this is unlikely. Nevertheless, the fact that a school may be charged a different fee than another use does not mean that the city has discounted or waived the fees charged to the school. The city is not discounting those fees, because it is not entitled to those fees.

## CONCLUSION

Heber City must charge impact fees in accordance with the Impact Fees Act. The Act allows some of the fees that the City has charged to the Wasatch School District, and prohibits others. The parties have long disputed impact fees. Careful examination of the fees and compliance with the Impact Fees Act, along with an effort to communicate and earnestly examine the effects of development activity on both sides, is needed to avoid further disputes.



Brent N. Bateman, Lead Attorney  
Office of the Property Rights Ombudsman

## MAILING CERTIFICATE

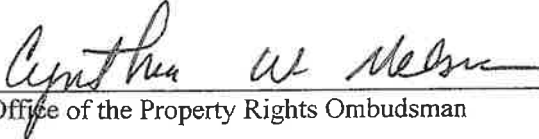
Section 13-43-206(10)(b) of the Utah Code requires delivery of the attached advisory opinion to the government entity involved in this matter in a manner that complies with UTAH CODE § 63-30d-401 (Notices Filed Under the Governmental Immunity Act).

These provisions of state code require that the advisory opinion be delivered to the agent designated by the governmental entity to receive notices on behalf of the governmental entity in the Governmental Immunity Act database maintained by the Utah State Department of Commerce, Division of Corporations and Commercial Code, and to the address shown is as designated in that database.

The person and address designated in the Governmental Immunity Act database is as follows:

Mayor Alan W. McDonald  
Heber City  
75 North Main Street  
Heber City, Utah 84032

On this 1<sup>st</sup> Day of May, 2017, I caused the attached Advisory Opinion to be delivered to the governmental office by delivering the same to the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the person shown above.

  
\_\_\_\_\_  
Office of the Property Rights Ombudsman

**NOTE:**

This is an advisory opinion as defined in § 13-43-205 of the Utah Code. It does not constitute legal advice, and is not to be construed as reflecting the opinions or policy of the State of Utah or the Department of Commerce. The opinions expressed are arrived at based on a summary review of the factual situation involved in this specific matter, and may or may not reflect the opinion that might be expressed in another matter where the facts and circumstances are different or where the relevant law may have changed.

While the author is an attorney and has prepared this opinion in light of his understanding of the relevant law, he does not represent anyone involved in this matter. Anyone with an interest in these issues who must protect that interest should seek the advice of his or her own legal counsel and not rely on this document as a definitive statement of how to protect or advance his interest.

An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to a dispute involving land use law. If the same issue that is the subject of an advisory opinion is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution.

Evidence of a review by the Office of the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action, except in small claims court, a judicial review of arbitration, or in determining costs and legal fees as explained above.

The Advisory Opinion process is an alternative dispute resolution process. Advisory Opinions are intended to assist parties to resolve disputes and avoid litigation. All of the statutory procedures in place for Advisory Opinions, as well as the internal policies of the Office of the Property Rights Ombudsman, are designed to maximize the opportunity to resolve disputes in a friendly and mutually beneficial manner. The Advisory Opinion attorney fees provisions, found in UTAH CODE § 13-43-206, are also designed to encourage dispute resolution. By statute they are awarded in very narrow circumstances, and even if those circumstances are met, the judge maintains discretion regarding whether to award them.

# **Tab 11**