



**THE CITY OF WEST JORDAN
REDEVELOPMENT AGENCY MEETING
COUNCIL CHAMBERS 3rd FLOOR
8000 SOUTH REDWOOD ROAD
MARCH 27, 2019**

"In accordance with the Americans with Disabilities Act, the City of West Jordan will make reasonable accommodations for participation in the meeting. Request for assistance can be made by contacting the City Clerk/Recorder at 801-569-5115, providing at least three working days' advance notice of the meeting."

6:00 P.M. REDEVELOPMENT AGENCY MEETING

1. CALL TO ORDER

2. BUSINESS ITEMS

- a. Approve the minutes of January 9, 2019 as presented (Melanie Briggs)
- b. Discussion and possible action regarding Resolution No. 213, approving a Participation Agreement for the West Jordan 90th & Redwood Shopping Plaza #1 Community Reinvestment Project Area (CRA #1) (Jeremy Olsen)
- c. Discussion and possible action regarding Resolution No. 214, authorizing the Redevelopment Agency purchase real property within RDA #6, parcel #21-34-251-006 (Jeremy Olsen)

3. ADJOURN

DATE/TIME **March 22, 2019**
POSTED: **5:00 p.m.**

By: **Melanie S Briggs, MMC**
 City Clerk

I, Melanie S Briggs, certify that I am the City Clerk of the City of West Jordan, Utah, and that the foregoing Redevelopment Agency agenda was faxed/emailed to the Salt Lake Tribune, Deseret News, and the West Jordan Journal. The agenda was also posted at the following locations on the date and time as posted above: City Hall on the 1st floor; outside the Council Chambers on the 3rd floor, on the City's website www.westjordan.utah.gov and the State Public Meeting Notice website at <http://pmn.utah.gov>

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**MINUTES OF THE WEST JORDAN CITY
REDEVELOPMENT AGENCY MEETING**

Wednesday, January 9, 2019

6:00 p.m.

Council Chambers

8000 South Redwood Road

West Jordan, Utah 84088

BOARD: Chair Jim Riding, and Board Members Alan Anderson, Dirk Burton, Zach Jacob, Chad R. Lamb, Chris M. McConnehey, and Kayleen Whitelock.

STAFF: David R. Brickey, City Manager; Korban Lee, Assistant City Manager; Rob Wall, City Attorney; Jamie Brooks, Deputy City Clerk; Scott Langford, Community Development Director; David Naylor, Interim Parks Director; David Zobell, City Treasurer, Brian Clegg, Public Works Director; Derek Maxfield, Fire Chief; Ken Wallentine, Police Chief; Brock Hudson, Community Preservation Director; Kent Andersen, Economic Development Director; Paul Coates, Business Development Manager; Jeremy Olsen, Redevelopment Program Manager; David Murphy, Engineering Manager for Capital Improvement Projects; Duncan Murray, Assistant City Attorney; Jared Tingey, Assistant City Attorney; Justin Stoker, Deputy Public Works Director; Eric Okerlund, Budget Officer; Chris Trevino, Battalion Chief; Steve Holmes, Battalion Chief; Larry Gardner, City Planner; Kim Wells, Public Information Manager; Paul Wellington, Purchasing Agent; Judy Hansen, Planning Commissioner; Heather Everett, Senior Executive Assistant, and various firefighters.

I. CALL TO ORDER

Chair Jim Riding called the Redevelopment Agency meeting to order at 6:02 p.m.

II. PUBLIC HEARING

**RECEIVE PUBLIC COMMENTS REGARDING AMENDMENT TO EDA #4 AND
THE FISCAL YEAR 2018-2019 FOR THE REDEVELOPMENT AGENCY**

Kent Andersen explained that the process prescribed in state law regarding economic development projects utilizing tax increment financing was found in the Community Reinvestment Agency Act (Title 17C). For the Redevelopment Agency to create a project area, the Agency must first adopt a survey area resolution and then hold duly-noticed public hearings for the Project Area Plan and the Project Area Budget.

Project Survey Area

On February 10, 2010, the Redevelopment Agency of West Jordan (Agency) adopted a survey resolution, authorizing the preparation of a draft project area plan for Economic Development Project Area No. 4 – Fairchild (EDA #4).

Project Area Plan

After holding the required public hearing, the Project Area Plan for EDA #4 was adopted by the Agency Board on April 14, 2010, to provide Fairchild Semiconductor an incentive for a remodel of the manufacturing facility located at 3333 W 9000 South. The project area included 59.84 acres of industrial zoned land with an existing 293,500 square foot industrial facility.

Project Area Budget

After holding a public hearing, the Project Area Budget for EDA #4 was approved by the Agency Board on April 14, 2010. The Project Area Budget allowed the Redevelopment Agency to utilize tax increment financing to provide incentives for the redevelopment of the project area. The original Project Area Budget for EDA #4 allowed funds to be awarded for the retention of 473 existing jobs, the creation of 16 new jobs, and a personal property investment of approximately \$52 million at the project site.

Agreement for the Development of Land

An Agreement for the Development of Land was adopted by the Agency Board on April 14, 2010, allowing for a rebate of property tax increment to Fairchild Semiconductor (later On Semiconductor) for new personal property investment at the site. Following the closure of the Fairchild Facility in late 2014, this agreement was placed on hold indefinitely.

Property Acquisition & Sale

On November 20, 2017, the Agency acquired the property located at 3333 W 9000 South from On Semiconductor for redevelopment of the site. On March 5, 2018 the Agency sold the property to Aligned Energy to develop the site as a data center. Aligned Energy was now the owner of the property, and subleased space to data center tenants.

Municipal Energy Tax Participation Agreement

On December 20, 2017, the Agency Board approved a participation agreement with Aligned Energy for the repurposing of the former Fairchild building located at 3333 W 9000 South. The agreement provided a rebate of Municipal Energy Tax (MET) to Aligned Energy for a ten-year period, which was capped at an amount of \$5.0 Million. The MET was a sales and use tax imposed on utility rate payers in the city, assessed at a rate of 6% of monthly electrical charges. The funding for this participation agreement came through an interlocal agreement between the City and the Agency.

Taxing Entity Committee

Due to the limits in both the number of years and budget authority remaining in the existing project area, an amended budget was necessary to generate sufficient funds to satisfy the proposed Participation Agreement. Modification of a project area budget also required the consent of the Taxing Entity Committee (TEC).

The West Jordan TEC met on December 17, 2018 and approved the amended project area budget. Following approval by the TEC, the Agency must decide whether to grant final approval to the

project area budget amendment, after which the participation agreement with PayPal may be approved.

Amended Project Area Budget

In fall 2017, PayPal engaged city staff requesting Agency participation for a tax rebate of a portion of the personal property taxes paid by the company at the project site as a tenant of Aligned Energy. The proposed Participation Agreement with PayPal included a rebate of personal property taxes for a ten-year period, with a cap of \$6.8 million. PayPal anticipated a total investment within the Project Area of approximately \$663 million over a ten-year period.

Due to the limited budget authority in the original project area budget and the details of this proposal, the proposed rebate would require amending the existing budget to provide a new 10-year collection period with a corresponding budget cap of \$6.8 million. The proposed rebate would allocate 60% of all new tax increment funds generated by PayPal's server equipment to the Agency, while the remaining 40% would be directed to the taxing entities. Of the Agency's allocation, 10% would be utilized for housing funds, 3% would be provided for administration costs, and the remainder would be available to rebate to the company.

PayPal was a tenant of Aligned Energy and the proposed rebate applied only to PayPal's personal property, and did not apply to any real property, or to any additional personal property beyond that which was owned or controlled by PayPal. This represented a change from the original budget, which collected all real and personal property taxes generated in the entirety of the Project Area.

Councilmember Burton inquired about water usage for the new/current tenant of the building. Kent Andersen responded that water discharge was significantly less than with Fairchild, but usage was unclear since the tenants had not yet begun operations.

Councilmember Jacob asked for clarification regarding the 60% of tax increments that would go back to the RDA.

Kent Andersen explained that the proposal was to first have 60% of all the tax increment generated. 87% of the 60% would then be rebated back to PayPal, 10% would be retained for housing and other RDA activities in any of the various redevelopment areas, and 3% would go to the administrative costs.

Councilmember Jacob explained to the public that residents did not have to pay taxes on personal property—only businesses were required to do that. He wished to make it clear that this discussion was about the “things” *inside* the building/business.

Mayor Riding opened the public hearing.

Jonathan Rogers, West Jordan resident, stated that he had met with some City Councilmembers and had seen the PowerPoint slides in advance of the meeting which he appreciated. He felt that residents were not informed of this project in advance. He asked that the Board vote against the development because he felt the project would have an adverse impact on nearby neighborhoods, both environmentally and economically. He also suggested that the City had not sufficiently investigated a variety of issues pertaining to the project.

Steven Van Maren, Sandy City resident, approved of many aspects of the project. However, he was not in favor of the plan itself as it was dated 2010 and was no longer relevant. Additionally, he was concerned that the budget was insufficient for the long run.

There was no one else who wished to speak, and Mayor Riding closed the public hearing.

Board member Burton asked that Kent Andersen respond to Mr. Van Maren's concerns.

Kent Andersen responded that although the plan which was adopted in 2010, was used only to establish the project area and the budget would drive the administration of how the funds would be utilized. Staff recognized that an amendment to the plan was not necessary—just an amendment to the budget and a participation agreement which reflected that budget.

III. BUSINESS ITEMS

APPROVE THE MINUTES OF DECEMBER 12, 2018 AS PRESENTED

MOTION: Board Member McConnehey moved to approve the minutes of December 12, 2018 as presented. The motion was seconded by Board Member Burton.

A roll call vote was taken:

Board Member Anderson	Yes
Board Member Burton	Yes
Board Member Jacob	Yes
Board Member Lamb	Yes
Board Member McConnehey	Yes
Board Member Whitelock	Yes
Chair Riding	Yes

The motion passed 7-0.

DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION NO. 211, ADOPTING THE AMENDED PROJECT AREA BUDGET FOR THE FAIRCHILD

ECONOMIC DEVELOPMENT PROJECT AREA (EDA #4)

Board member Anderson pointed out the EPA-approved upgrades that had been made to the facility and explained that noise and air emissions were regulated by the County and the State rather than the City. The facility was required to meet current government regulations.

Kent Andersen agreed that Utah Department of Air Quality had deemed that each generator had the best available technology with the lowest emissions of any diesel engine. Also, the Jordan Valley Water Reclamation reported that at its peak, Fairchild Semiconductor had discharged 500,000 gallons of water per day and that Alliant Energy would use significantly less.

Board Member Whitelock stated that she had attended a town hall meeting attended by just three City residents, including Mr. Rogers. Of the three, only Mr. Rogers opposed the project.

Board Member Jacob stated this was purely a financial decision at this point. The Board was not debating whether a data center should be allowed on the site—current zoning already permitted it and the data center was already in existence. The Board was only addressing whether to accept PayPal as an occupant of the facility in exchange for certain tax incentives they had requested. Providing these incentives would increase City revenues and he was firmly in support of doing so.

Board Member McConnehey stated that perhaps Mr. Rogers was correct that the human element had been missed. However, this project would be very significant and beneficial for the City.

MOTION: Board Member McConnehey moved to approve Resolution No. 211, adopting the amended Project Area Budget for the Fairchild Economic Development Project Area (EDA #4). Board Member Lamb seconded the motion.

A roll call vote was taken

Board Member Anderson	Yes
Board Member Burton	Yes
Board Member Jacob	Yes
Board Member Lamb	Yes
Board Member McConnehey	Yes
Board Member Whitelock	Yes
Chair Riding	Yes

The motion passed 7-0.

DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION NO. 212, AUTHORIZING THE CHAIR TO EXECUTE A PARTICIPATION AGREEMENT FOR THE FAIRCHILD ECONOMIC DEVELOPMENT

PROEJCT AREA (EDA #4)

Kent Andersen explained that the process prescribed in state law regarding economic development projects utilizing tax increment financing was found in the Community Reinvestment Agency Act (Title 17C). For the Redevelopment Agency to create a project area, the Agency must first adopt a survey area resolution and then hold duly-noticed public hearings for the Project Area Plan and the Project Area Budget.

Project Survey Area

On February 10, 2010, the Redevelopment Agency of West Jordan (Agency) adopted a survey resolution, authorizing the preparation of a draft project area plan for Economic Development Project Area No. 4 – Fairchild (EDA #4).

Project Area Plan

After holding the required public hearing, the Project Area Plan for EDA #4 was adopted by the Agency Board on April 14, 2010, to provide Fairchild Semiconductor an incentive for a remodel of the manufacturing facility located at 3333 W 9000 South. The project area included 59.84 acres of industrial zoned land with an existing 293,500 square foot industrial facility.

Project Area Budget

After holding a public hearing, the Project Area Budget for EDA #4 was approved by the Agency Board on April 14, 2010. The Project Area Budget allowed the Redevelopment Agency to utilize tax increment financing to provide incentives for the redevelopment of the project area. The original Project Area Budget for EDA #4 allowed funds to be awarded for the retention of 473 existing jobs, the creation of 16 new jobs, and a personal property investment of approximately \$52 million at the project site.

Agreement for the Development of Land

An Agreement for the Development of Land was adopted by the Agency Board on April 14, 2010, allowing for a rebate of property tax increment to Fairchild Semiconductor (later, On Semiconductor) for new personal property investment at the site. Following the closure of the Fairchild Facility in late 2014, this agreement was placed on hold indefinitely.

Property Acquisition & Sale

On November 20, 2017, the Agency acquired the property located at 3333 W 9000 South from On Semiconductor for redevelopment of the site. On March 5, 2018 the Agency sold the property to Aligned Energy to development the site as a data center. Aligned Energy was now the owner of the property, and subleased space to data center tenants.

Municipal Energy Tax Participation Agreement

On December 20, 2017, the Agency Board approved a participation agreement with Aligned Energy for the repurposing of the former Fairchild building located at 3333 W 9000 South. The agreement

provided a rebate of Municipal Energy Tax (MET) to Aligned Energy for a ten-year period, which was capped at an amount of \$5.0 Million. The MET was a sales and use tax imposed on utility rate payers in the city, assessed at a rate of 6% of monthly electrical charges. The funding for this participation agreement came through an interlocal agreement between the City and the Agency.

Taxing Entity Committee

Due to the limits in both the number of years and budget authority remaining in the existing project area, an amended budget was necessary to generate sufficient funds to satisfy the proposed Participation Agreement. Modification of a project area budget also required the consent of the Taxing Entity Committee (TEC).

The West Jordan TEC met on December 17, 2018 and approved the amended project area budget. Following approval by the TEC, the Agency must decide whether to grant final approval to the project area budget amendment, after which the participation agreement with PayPal may be approved.

REQUESTED ACTION:

Personal Property Tax

In fall 2017, PayPal engaged City staff requesting Agency participation for a tax rebate of a portion of the personal property taxes paid by the company at the project site as a tenant of Aligned Energy. The attached Participation Agreement was consistent with the terms discussed with City staff at that time.

The amended Budget would provide to the Agency 60% of all new personal property taxes from PayPal personal property only, while the remaining 40% would be regularly distributed to taxing entities.

Of the project area funds received by the Agency, 87% would be provided to PayPal under the terms of the Participation Agreement, 10% would be directed to the Agency housing allocation, and 3% was retained for Agency administration.

The amount of increment generation would vary according to the timing and level of investment by PayPal, and by the calculated depreciation of the equipment, but the total amount the Agency might receive was limited to a cap of \$6.8 million and a period of 10 years. The estimated amount of the rebate to PayPal, based on a ten-year investment schedule consisting of \$663 million, and after subtracting for administration and housing fund allocations, was \$5.9 million. The property tax rebate was to be distributed annually on a post-performance basis; if the investment schedule was not met as estimated, the awarded funds were similarly reduced.

MOTION: Board Member McConnehey moved to approve Resolution No. 212 (as provided in hard-copy form to the Board), authorizing the Chair to execute a

Participation Agreement for the Fairchild Economic Development Project (EDA #4). Board Member Anderson seconded the motion.

A roll call vote was taken

Board Member Anderson	Yes
Board Member Burton	Yes
Board Member Jacob	Yes
Board Member Lamb	Yes
Board Member McConnehey	Yes
Board Member Whitelock	Yes
Chair Riding	Yes

The motion passed 7-0.

III. ADJOURN

MOTION: Board Member McConnehey moved to adjourn the RDA meeting and reconvene the City Council meeting. The motion was seconded by Board Member Burton and passed unanimously.

The meeting adjourned at 6:33 p.m.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

JIM RIDING
Chair

ATTEST:

DAVID R BRICKEY
Executive Director

Approved this day of 2019

REQUEST FOR AGENCY ACTION

SUBJECT: Consideration of a participation agreement between the Agency and Sportsman's Warehouse.

SUMMARY: Final approval of the agreement will authorize a fifteen-year agreement between the Redevelopment Agency (RDA) and Sportsman's Warehouse for relocation of its corporate headquarters to a site located in Community Reinvestment Area No. 1 – 90th & Redwood Shopping Plaza (CRA #1).

**FISCAL/ASSET
IMPACT:**

The proposed agreement includes an annual payment of \$50,000 over a ten-year period, for a total of \$500,000. Funds for the annual payment will be transferred from Redevelopment Project Area #4.

STAFF

RECOMMENDATION: Staff recommends approval of the resolution authorizing a participation agreement between the Agency and Sportsman's Warehouse.

MOTION

RECOMMENDED: "I move to approve Resolution No. 213 authorizing the Chair of the Redevelopment Board to sign a Participation Agreement with Sportsman's Warehouse for the relocation and operation of its corporate headquarters to West Jordan."

Roll Call vote required

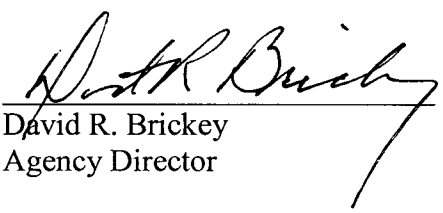
Prepared and to be Presented by:


Jeremy Olsen
RDA Program Manager

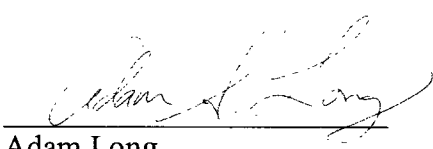
Recommended by:


Korban Lee
Assistant City Manager

Authorized for Agency Consideration:


David R. Brickey
Agency Director

Reviewed for Legal Sufficiency:


Adam Long
Redevelopment Agency Counsel

BACKGROUND DISCUSSION:

Redevelopment Project Process

The process prescribed in state law regarding economic development projects utilizing tax increment financing is found in the Community Reinvestment Agency Act (Title 17C). For the Redevelopment Agency to create a project area, the Agency must first adopt a survey area resolution and then hold duly-noticed public hearings for the Project Area Plan and the Project Area Budget.

Project Survey Area

On July 12, 2017, the Redevelopment Agency of West Jordan (Agency) adopted a survey resolution, authorizing the preparation of a draft project area plan for Community Reinvestment Area No. 1 – 90th & Redwood Shopping Plaza (CRA #1).

Project Area Plan

After holding the required public hearing, the Project Area Plan for CRA #1 was adopted by the Agency Board on August 29, 2017. The project area was originally created to provide Smith & Edwards an incentive for a remodel of the vacant retail building located at 9010 S Redwood Road. The project area includes 67 acres of commercially zoned land and is located on the south side of 9000 South from approximately Redwood Road to 1300 West.

Project Area Budget

The Project Area Budget for CRA #1 was also approved by the Agency Board at its August 27, 2017 meeting. The Project Area Budget allows the Redevelopment Agency to utilize sales tax increment financing received from an interlocal agreement with the City of West Jordan to provide incentives for the redevelopment of the project area. These funds were used to provide a rebate of \$150,000 to Smith & Edwards to offset site improvement costs.

REQUESTED ACTION:

Participation Agreement

In late 2018, representatives with Sportsman's Warehouse engaged city staff requesting Agency participation to help offset some of the costs of property improvements to the site of their future corporate headquarters, located at 1475 W 9000 South. The property consists of 4.38 acres and has an existing retail building approximately 71,590 square feet in size. The company has proposed to repurpose the structure as an office building with a small retail component. Due to the costs associated with remodeling the building and associated site improvements, the company requested an incentive to make the site competitive with other locations along the Wasatch Front.

According to the terms of the proposed Participation Agreement, the total amount the Agency may distribute to Sportsman's Warehouse is limited to a cap of \$500,000 and a period not to exceed 10 years. The agreement contemplates annual payments of \$50,000 each year for a ten-year period and requires that the company initially invest at least \$2.0 M in the site and begin operations as a corporate headquarters by April 1, 2020. The total investment required at the site by 2023 is \$3.5 M, and it must be continuously operated as a corporate headquarters for a fifteen-year period, failure to meet these terms by the company will result in termination of the agreement. Funds for the annual payment will be drawn from available funds in the immediately adjacent Redevelopment Area #4.

THE REDEVELOPMENT AGENCY OF WEST JORDAN CITY

Resolution No. 213

DATE: March 27, 2019

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF WEST JORDAN CITY APPROVING A PARTICIPATION AGREEMENT FOR THE WEST JORDAN 90th & REDWOOD SHOPPING PLAZA #1 COMMUNITY REINVESTMENT PROJECT AREA (CRA #1).

WHEREAS, pursuant to the provisions of the Utah Limited Purpose Local Government Entities - Community Reinvestment Agency Act, specifically Utah Code Annotated § 17C-3, the Redevelopment Agency of West Jordan City (the “**Agency**”) created the West Jordan 90th & Redwood Shopping Plaza #1 Community Reinvestment Project Area (“**Project Area**”); and

WHEREAS, the Agency is authorized to enter into agreements with property owners, governmental entities, private entities and others; and

WHEREAS, the Agency finds the proposed participation agreement, attached as **Exhibit A** (the “**Participation Agreement**”), in harmony and consistent with the Plan for the Project Area and in the best interests of the Agency and the City of West Jordan; and

WHEREAS, the Agency now desires to approve the Participation Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE REDEVELOPMENT AGENCY OF WEST JORDAN CITY:

1. The Participation Agreement is approved, substantially in the form attached hereto as **Exhibit A** and with such non-substantive changes as may be deemed advisable or necessary by the Agency.
2. The Agency Executive Director is authorized execute the Participation Agreement on behalf of the Agency.
3. This resolution shall be effective upon adoption.

APPROVED AND ADOPTED by the governing board of the Redevelopment Agency of West Jordan City this 27th day of March, 2019.

Jim Riding, Chairperson

ATTEST:

Melanie Briggs, Secretary

Voting by the Agency Board:

Name	“YES”	“NO”	ABSENT	ABSTAIN
Chad Lamb	_____	_____	_____	_____
Kayleen Whitelock	_____	_____	_____	_____
Chris McConnehey	_____	_____	_____	_____
Dirk Burton	_____	_____	_____	_____
Zach Jacob	_____	_____	_____	_____
Alan Anderson	_____	_____	_____	_____
Jim Riding	_____	_____	_____	_____

EXECUTION VERSION

PARTICIPATION AGREEMENT by and between the REDEVELOPMENT AGENCY OF WEST JORDAN CITY and SPORTSMAN'S WAREHOUSE, INC.

for the WEST JORDAN 90th & REDWOOD SHOPPING PLAZA #1 COMMUNITY REINVESTMENT PROJECT AREA

This Participation Agreement (the “**Agreement**”) is made and entered into as of this 27th day of March, 2019 (the “**Effective Date**”), by and among the REDEVELOPMENT AGENCY OF WEST JORDAN CITY (the “**Agency**”), a political subdivision of the State of Utah operating under the Utah Community Reinvestment Agency Act (the “**Act**”; § 17C-1-101 *et seq.*, or its predecessor statutes), and SPORTSMAN'S WAREHOUSE, INC., a Utah corporation (“**Participant**”). Participant and the Agency may from time to time hereinafter be referred to individually as a “**Party**” and collectively as the “**Parties**.”

1. SUBJECT OF AGREEMENT

1.1. Purpose of the Agreement

The purpose of this Participation Agreement (the “**Agreement**”) is to carry out in part the Project Area Plan (the “**Plan**”) for the 90th & Redwood Shopping Plaza #1 Community Reinvestment Project Area (the “**Project Area**”) by providing for incentives to entice Participant to acquire property within the Project Area to serve as Participant's corporate headquarters, which is expected to bring between 150 and 200 jobs to the City of West Jordan (the “**City**”), many of which will pay at or above the median wage for Salt Lake County. The property acquired by the Participant is shown on **Exhibit A** (the “**Site**”). The Agreement is executed to specify the terms and conditions pursuant to which the Agency and Participant will cooperate in bringing about such investment by the Participant, which will benefit the Project Area and the City as a whole.

1.2. Agreement in the Best Interests of the City and Residents

This Agreement is in the vital and best interests of the City and the health, safety and welfare of its residents, and in accord with public purposes. This Agreement is carried out pursuant to the Act.

1.3. The Project Area

The Project Area is located within the boundaries of the City. The exact boundaries of the Project Area are specifically and legally described in the Plan.

EXECUTION VERSION

1.4. The Project Area Plan and Budget

This Agreement is subject to the provisions of the Plan, as adopted and ordained on August 29, 2017 by the Agency and the West Jordan City Council (the “**Council**”) in accordance with the Act and is incorporated herein by this reference. This Agreement is also subject to the provisions of the project area budget (the “**Budget**”), as adopted by the Agency on August 29, 2017.

1.5. Description of the Site and Facility

The Site is located within the Project Area and occupies a portion of the Project Area consisting of approximately 4.38 acres (the “**Site**”). The Site is shown in detail on the site map, attached hereto as **Exhibit A**. The sole building within the Site is a commercial building of approximately 71,590 square feet, which the Participant will operate as its corporate headquarters (and related uses) as described in Section 2.13 (the “**Facility**”). The Site is only a portion of the Project Area. Participant is under contract to purchase the Site and the Facility and anticipates to close on the purchase between May 15, 2019 and June 15, 2019.

1.6. Description of the Investment

Pursuant to the terms of this Agreement, Participant shall make improvements to the Site and the Facility, and acquire new personal property and install such property within the Site. Participant estimates that the value of Participant’s improvements to the Site and the Facility and the personal property installed in or around the Site (collectively, the “**Investment**”) will be at least \$3,500,000.00 by January 1, 2023.

1.7. The Incentive

As used in this Agreement, the term “**Incentive**” means the amount of \$50,000 per calendar year for a continuous ten-year period beginning on April 1, 2020 (the “**Incentive Term**”), for a total amount of \$500,000, subject to Participant’s compliance with the terms of this Agreement.

1.8. Parties to the Agreement

1.8.1. The Agency

The address of the Agency for purposes of this Agreement is:

Redevelopment Agency of West Jordan
Attn: Executive Director
8000 S. Redwood Rd.
West Jordan, UT 84088

With a copy to:

Adam S. Long
Smith Hartvigsen, PLLC

EXECUTION VERSION

257 East 200 South, Suite 500
Salt Lake City, UT 84111

1.8.2. The Participant

Participant's address for purposes of this Agreement is:

Sportsman's Warehouse, Inc.
Attn: Chief Financial Officer
1475 West 9000 South
West Jordan, UT 84088

With a copy to:

Ballard Spahr LLP
Attn: Debra K. Page
2000 IDS Center
80 South Eighth Street
Minneapolis, MN 55402

1.9. Prohibition against Certain Changes

1.9.1. Acknowledgement by Participant

Participant acknowledges the importance of the development of the Project Area to the general welfare of the community, the public assistance set forth in this Agreement that has been made available by law and by the Agency for the purpose of making the Investment within the Project Area possible, that a significant change in the identity of Participant, as prohibited by this Section 1.9, may be considered, for practical purposes, a transfer or disposition of the Site, the qualifications and identity of Participant are of particular concern to the Agency, and that it is because of such qualifications and identity that the Agency is entering into this Agreement with Participant.

1.9.2. Representation as to Investment Intent

Participant represents and agrees that its Investment in and use of the Site, and Participant's other undertakings reflected in this Agreement are and shall only be for the purpose of Participant's use of the Site and Facility as Participant's corporate headquarters and not for speculation in land holding or otherwise. This section shall not be interpreted to prohibit a sale/leaseback transaction involving the Site and Facility as described in Section 1.9.3.

1.9.3. Assignment or Transfer of Agreement

Participant represents and agrees for itself and its successors and assigns that, during the term of this Agreement and except as set forth in the following sentence, Participant will not assign or transfer or attempt to assign or transfer all or any part of this Agreement, or any rights herein or

EXECUTION VERSION

obligations hereunder, during the term of this Agreement except as explicitly allowed herein or as agreed to in a writing signed by the Parties.

The attempted or actual assignment or delegation of this Agreement in violation of the above provisions is a material Default that shall be subject to the provisions of Article 5 of this Agreement.

Notwithstanding the foregoing, Agency hereby acknowledges that Participant's practice is to improve real property for Participant's use and enter into a sale/leaseback transaction, whereby Participant sells the real property to a third party and leases the property from such third party. Agency hereby agrees that Participant may enter into such a sale/leaseback transaction for the Site and Facility, provided, however, (a) Participant's lease of the Site will be on triple net terms, such that Participant shall be solely responsible for the operation, maintenance and expenses of the Site and Facility; (b) the initial term of the lease shall be not less than the term of this Agreement; and (c) this Agreement shall not be assigned by reason of the sale/leaseback transaction, it being agreed that Participant shall retain all rights and responsibilities pursuant to this Agreement notwithstanding the sale/leaseback transaction. Upon completion of a sale/leaseback transaction, Participant shall provide to the Agency a copy of the lease for the Site as described in this paragraph.

1.9.4. Transfer to Tax-Exempt Organization

Notwithstanding anything in this Agreement to the contrary, any attempt by Participant or its successor(s) in interest to transfer any of the personal property within the Site to a tax-exempt organization or otherwise to exempt any of the personal property within the Project Area from *ad valorem* property taxation without the prior written consent of the Agency will entitle the Agency, at its sole discretion, to immediately and without prior notice terminate this Agreement and cease further payments under this Agreement to Participant or its successors or assigns.

1.9.5. Continuing Obligations

No assignment or transfer of this Agreement, in whole or in part, shall relieve Participant from any and all obligations under this Agreement without the express written consent of the Agency. Except as otherwise provided herein, all of the terms, covenants, and conditions of this Agreement are and will remain binding upon Participant and its successors and assigns until the expiration or termination of this Agreement.

2. OBLIGATIONS OF THE PARTIES

2.1. Payment of Incentive

2.1.1. Payment Obligation

So long as Participant fulfills all of its obligations under this Agreement, the Agency will pay to Participant the Incentive as described in Section 1.7. The contemplated payment of the Incentive

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shall be made by the Agency within ninety (90) days after the date on which all of the conditions precedent as set forth in Section 2.4 have been met.

2.2. Prepayment of Incentive

The Agency, at its sole discretion, may prepay all or a portion of the Incentive at any time during the Incentive Term. Such prepayment shall not relieve Participant of any obligations under this Agreement or shorten the Term as described in Article 4. Notwithstanding the other terms in this Agreement, if the Agency prepays the full amount of the contemplated Incentive as described in Section 1.7, the Agency may unilaterally terminate this Agreement at any time by providing written notice of such termination to Participant.

2.3. Tax Increment and Other Project Area Funds

Other than the Incentive, Participant is not, and shall not be, entitled to any other funds collected by the Agency for the Project Area, including sales tax or property tax.

2.4. Conditions Precedent to the Payment of the Incentive to Participant

In addition to other provisions in this Agreement, the Agency has no obligation to remit to Participant the Incentive unless and until all the following conditions precedent, as detailed in the following subsections, are satisfied:

2.4.1. Continued Operation of the Facility

The Agency is not obligated to pay to Participant the Incentive unless Participant has continuously Operated (defined in Section 2.13) the Facility as described in Section 2.15 for the entire year for which payment of the Incentive is being sought or, in the case of the first year of such Operation, for the portion of the year after the date of the initial start of Operations of the Facility.

2.4.2. Payment of Taxes

Participant shall not receive any payments from the Agency for any period until the Agency has received documentation from Participant that all real and personal property taxes attributable to the Site and Facility have been paid for the particular year of the Incentive Term. Documentation contemplated by this Subsection 2.4.2. shall include copies of all forms or other documents sent to the Salt Lake County Assessor or the Utah State Tax Commission for the purpose of reporting personal property owned by Participant within the Site. Such documentation shall be provided to the Agency by March 31 of the year following the year for which the Incentive is sought.

2.4.3. Request for Payment by Participant

The Agency is not obligated to pay the Incentive to Participant unless Participant has made a Request for Payment in writing pursuant to Section 2.7 for the year for which payment of the Incentive is being sought. Such request shall be made no later than March 31 of the year following the year for which payment of the Incentive is sought.

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2.4.4. Minimum Investment Amounts

The Agency is not obligated to pay the Incentive to Participant unless Participant has commenced Operating and met the investment requirements set forth in Section 3.1 of this Agreement. Participant's total Investment shall be reported annually with the Request for Payment as described in Section 2.7. Such documentation shall be provided to the Agency by March 31 of the year following the year for which the Incentive is sought. Participant shall provide additional detail as to the Investment upon request from the Agency.

2.5. Effect of Failure to Meet Conditions Precedent to Payment of Incentive

In the event that the conditions precedent as described in Section 2.4 are not met for any given calendar year during the term of this Agreement, and Participant is thus not entitled to receive the Incentive attributable to that calendar year, but is otherwise not in default under this Agreement, such failure shall not constitute a Default under this Agreement. Such failure shall result in the forfeiture by Participant of the Incentive for that particular calendar year.

2.6. Limitations on Incentive

The Incentive shall not be paid for a period of greater than ten years from the date for which Participant first receives the Incentive (the "**Incentive Term**"). The total amount of the Incentive paid to Participant under this Agreement shall not exceed \$500,000.00 (the "**Incentive Cap**").

Participant further acknowledges that the Incentive paid by the Agency to Participant under this Agreement is limited by the Incentive Term and the Incentive Cap. Participant further acknowledges that the Agency does not guarantee that Participant will receive a minimum dollar amount during the Incentive Term.

2.7. Request for Incentive

Participant shall submit in writing a request for payment to the Agency by March 31st of the year following the calendar year for which payment of the Incentive is sought (the "**Request for Payment**"). The Participant shall include in the request proof of payment of all *ad valorem* personal property taxes subject to and as described in Section 2.4.2. Unless the Agency sends written notice to Participant of deficiency in the Request for Payment within thirty (30) days of receipt of a Request for Payment, such Request for Payment shall be deemed complete. Participant shall have a reasonable time not to exceed thirty (30) days in which to rectify any deficiencies specified in a notice, and the Request for Payment shall be deemed timely delivered in the event any such deficiencies are rectified within that period.

2.8. Payment of Taxes

During the term of this Agreement, to the extent applicable, Participant and any of its successors-in-interest in any portion of the Leased Space agree to pay, prior to delinquency, all undisputed real property and other *ad valorem* taxes and assessments assessed against any portion of the

EXECUTION VERSION

Leased Space or any other taxable property, including personal property, located within the Leased Space to the extent owned by Participant or any of its successors-in-interest; provided, however, that Participant expressly retains any and all rights to: (a) challenge, object to, or appeal any real property or personal property and other *ad valorem* taxes and assessments; and (b) petition for the reduction thereof.

2.9. Reduction or Elimination of Incentive

The Parties agree that Participant assumes and accepts the risk of possible alteration of Federal or State statute, regulation, or adjudication rendering unlawful or impractical the collection, receipt, disbursement, or application of the Incentive to the Agency as contemplated in and by this Agreement. If the provisions of Utah law which govern the payment of the Incentive are changed or amended so as to reduce or eliminate the Incentive, the Agency's obligation to pay Participant annually the Incentive, as applicable, will be proportionately reduced or eliminated, but only to the extent necessary to comply with the changes in such law. Further, Participant agrees and acknowledges that it has made such investigations as necessary and assumes all risk as to whether the Project Area, the Plan, and the Budget were properly approved, adopted and made effective. Notwithstanding any change in law, Participant specifically reserves and does not waive any right it may have to challenge, at Participant's cost and expense, the constitutionality of any law change(s) that would reduce or eliminate the payment of Incentive to the Agency and/or Participant and nothing herein shall be construed as an estoppel, waiver or consent to reduce or eliminate payment of the Incentive to the Agency and/or Participant. Participant acknowledges, understands, and agrees that the Agency is under no obligation to challenge the validity, enforceability, or constitutionality of a change in law that reduces or eliminates the payment of Incentive to the Agency and/or Participant, or to otherwise indemnify or reimburse Participant for its actions to independently do so.

2.10. Declaration of Invalidity

In the event any legal action is filed in a court of competent jurisdiction that seeks to invalidate the Project Area or this Agreement or that otherwise seeks to or would have the possible result of reducing or eliminating the payment of the Incentive, the Agency shall provide written notice of such legal action to Participant. In the event such an action is filed, the Agency shall have no obligation to challenge that action or defend itself against such action. Participant specifically reserves and does not waive any right it may have to intervene, at Participant's cost and expense, in any such legal action and challenge the basis for any causes of action or any remedy sought that would reduce or eliminate the payment of the Incentive to the Agency and/or Participant, and nothing herein shall be construed as an estoppel, waiver or consent to reduce or eliminate payment of the Incentive to the Participant. In the event that the court declares that the Participant cannot receive the Incentive, invalidates the Project Area or this Agreement, or takes any other action which eliminates or reduces the amount of Incentive, and the grounds for the legal determination cannot reasonably be addressed by the Agency, the Agency's obligation to annually pay to Participant the Incentive in accordance with this Agreement will be reduced or eliminated to the extent necessary to comply with the order of the court.

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2.11. Dispute over Receipt of Payment of the Incentive

If not due to the act, error or omission of the Agency, in the event a dispute arises as to the person or entity entitled to receive the Incentive under this Agreement due to a claimed assignment or claimed successor-in-interest to the Incentive or otherwise, the Agency may withhold payment of the Incentive and may refrain from taking any other action required of it by this Agreement until the dispute is resolved either by agreement or by a court of competent jurisdiction and sufficient evidence of such resolution is provided to the Agency. The Agency shall be entitled to deduct from its payment of the Incentive any costs or expenses, including reasonable attorney fees, incurred by the Agency due to the dispute.

2.12. Nature of Participant's Obligations and Limitation

To qualify to receive the Incentive as set forth herein, Participant shall fulfill all of its obligations as set forth in this Agreement. The failure of Participant to fulfill its obligations may result in a failure to qualify to receive the Incentive or termination of this Agreement but shall not give rise to any other right or remedy in favor of the Agency.

2.13. Operation of the Facility

Participant shall utilize the Site and the Facility as Participant's corporate headquarters and uses related to Participant's business. For purposes of this Agreement, "**Operating**", "**Operational**" or "**Operations**" of the Site and Facility shall mean when the following conditions are satisfied: (1) any required permits, licenses, or other approval have been obtained for Participant to occupy the Facility; (2) Participant shall have made an initial Investment of at least \$2,000,000 in the Site and Facility; (3) Participant shall have received a business license issued by the City; and (4) Participant's executive management and key managerial and support staff are permanently located in the Facility. For purposes of this Section, Participant shall be deemed to have continuously Operated the Facility if the foregoing standards are substantially met or exceeded, notwithstanding temporary cessation of Operations for inspection, maintenance, repair, replacement, line downtime, and/or events of *force majeure* or destruction, as further described in Section 2.15. Nothing in this Section 2.13 shall be interpreted to prohibit the use of portions of the Facility for other purposes relating to Participant's business in addition to use of the Facility as Participant's corporate headquarters, as described above.

2.14. Commencement of Operations

Operations of the Facility as described in Section 2.13 shall begin no later than April 1, 2020. For purposes of this Section, the Facility shall be deemed Operational if the conditions and standards in Section 2.13 are met. If Participant fails to commence Operations of the Facility as required by this Section for any reason other than events of *force majeure*, the Agency shall have the right to terminate this Agreement upon written notice to Participant, subject, however, to any notice and cure periods set forth in Article 5.

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2.15. Continuing Operations

Operations of the Facility as described in Section 2.13 shall be commenced as described in Section 2.14 and shall continue throughout the term of this Agreement as set forth in Article 4. For purposes of this Section, the Facility shall be considered to be in Operation if the Facility is Operating as described in Section 2.13 of this Agreement. If Participant ceases to Operate the Facility for a continuous period of more than three months for any reason other than events of *force majeure* or destruction, the Agency shall have the right to terminate this Agreement upon written notice to Participant at any time during such cessation of Operations.

2.16. Funding Responsibility

The Parties understand and agree that funding for the Investment comes entirely from Participant's internal capital or from financing obtained by Participant. The Agency shall not be liable or responsible for providing, obtaining, or guaranteeing such financing.

3. ADDITIONAL TERMS

3.1. Investment

Participant will at all times be responsible for its Investment at the Facility. Recognizing the level of Investment by Participant, the Agency has determined that it is in the best interests of the residents of the City to provide the Incentive to Participant as an incentive to occupy and operate the Facility and undertake the continued Operation and Investment requirements as contemplated in this Agreement. Participant's total Investment shall be at least \$3,500,000.00, which shall be calculated without accounting for depreciation. The Investment shall be made according to the schedule attached as **Exhibit B**.

Only "hard costs" shall be used in computing the Investment. For purposes of this Agreement, Hard Costs shall be defined as all costs incurred by Participant in making improvements to the Site and the Facility including costs of construction materials, equipment and fixtures to be incorporated into the improvements constructed and the costs of labor and administration of such construction, as paid to a contractor or contractors for such construction, and shall not mean or include such soft costs as architects, legal, consulting, financing, or overhead expenses.

3.2. Responsibility for Development Plans and Permits

The Agency shall not have any responsibility to obtain permits, licenses, or other approvals for Participant's Operation of the Facility.

3.3. Other Terms

3.3.1. City Land Use Authority

Participant acknowledges that nothing in this Agreement shall be deemed to supersede, waive, or replace the City's authority over land use, zoning, and permitting within the City.

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3.3.2. Restriction Against Parcel Splitting

If applicable, during the term of this Agreement, Participant shall not, without the prior written approval of the Agency, (a) convey its interest in the Site or any portion thereof, if any, in such a way that a parcel of real property would extend outside the Project Area, or (b) construct or install any building or structure within the Project Area in such a way that any portion of the Facility or structure would extend outside of the Project Area. Participant understands and acknowledges that these requirements are intended to avoid the splitting of any parcels of real property within the Project Area and to avoid the joining of any parcels of real property inside of the Project Area with parcel(s) outside of the Project Area in such a way that Salt Lake County could no longer identify the periphery of the Project Area by distinct parcels.

3.3.3. Indemnification

Participant agrees to and shall indemnify, defend, and hold the Agency and its directors, officers, agents, employees, and representatives harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorney fees and court costs) arising from or as a result of the death of any person, or any accident, injury, loss, or damage whatsoever caused to any third party person or to the property of any third party person, directly or indirectly caused by any acts done or any errors or omissions of Participant or its directors, officers, agents, employees, consultants, and contractors on the Facility or the Site.

3.3.4. Limits on Liability

In no event shall one Party be liable to the other(s) for consequential, special, incidental, indirect, exemplary, or punitive damages of any kind (including, but not limited to, loss of profits, loss of reputation, or loss of current or prospective business advantage, even where such losses are characterized as direct damages) arising out of or in any way related to the relationship or dealings between Participant and the Agency, regardless of whether the claim under which damages are sought is based upon contract, tort, negligence (of any kind), willful misconduct, strict liability or otherwise, and regardless of whether the Parties have been advised of the possibility of such damages at the time of contracting or otherwise.

3.3.5. Local, State, and Federal Laws

Participant shall make the Investment and utilize the Site and Facility in conformity with all applicable laws; provided, however, that unless otherwise addressed elsewhere in this Agreement, nothing herein shall limit the right of Participant to properly challenge any such law or the applicability of such law.

3.3.6. Rights of Access

Representatives of the Agency shall have the right of reasonable access to the Facility for purposes of inspection, with reasonable and prior written notice (but in no event less than 48 hours prior), and without charges or fees, during normal business hours or as otherwise agreed to in writing by Participant, subject, however, to the rules, regulations, security protocols and other access

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limitations for safety and security purposes as required by Participant. Agency acknowledges that representatives inspecting the Facility may have access to certain valuable and proprietary financial, business and technical information, and/or trade secrets belonging to Participant (“**Confidential Information**”). Agency and its representatives shall (a) retain the Confidential Information in the strictest confidence; (b) not modify, disseminate, or in any way disclose to any third party the Confidential Information; and (c) not use the Confidential Information for any purpose.

3.3.7. Responsibility of the Agency

The Agency shall not have any obligation under this Agreement other than those specifically provided for herein. Except as expressly provided for in this Agreement, nothing herein shall be construed as requiring the Agency to pre-approve or prejudge any matter, or as otherwise binding the Agency’s discretion or judgment on any issue prior to an appropriate hearing (if required), review, or compliance with any other requirement.

3.3.8. Non-waiver of Governmental Immunity

Nothing in this Agreement shall be construed as a waiver of any immunity, protection, or rights granted to the Agency under the Governmental Immunity Act of Utah, Utah Code 63G-7-101, *et seq.*

4. EFFECT AND DURATION OF COVENANTS; TERM OF AGREEMENT

The covenants, including but not limited to conformance with federal, local, and state laws, established in this Agreement shall, without regard to technical classification and designation, be binding on the Parties and any successors-in-interest for the benefit of each of the respective Parties, their successors and assigns during the term of this Agreement, which shall terminate on March 31, 2035, unless terminated earlier by written agreement signed by the Parties hereto.

Notwithstanding any other provisions in this Agreement to the contrary, this Agreement shall automatically terminate on April 2, 2020 if Participant has not acquired title to the Site and the Facility by that date. The preceding sentence shall not be interpreted to prohibit a sale/leaseback transaction as described in Section 1.9.3. after Participant has acquired title to the Site and Facility.

5. DEFAULTS, REMEDIES, AND TERMINATION

5.1. Default

If either the Agency or Participant fails to perform or delays performance of any material obligation of this Agreement and fails to cure as provided for in this Article 5, such conduct constitutes a default of this Agreement (“**Default**”). The Party in default must immediately commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction, or remedy within the periods provided in Section 5.3 hereof.

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5.2. Notice

If a Default under this Agreement occurs, the non-defaulting Party shall give written notice (a “**Default Notice**”) of the Default to the defaulting Party, specifying the nature of the Default. Failure or delay in giving such notice shall not constitute a waiver of any Default, nor shall it change the time of Default, nor shall it operate as a waiver of any rights or remedies of the non-defaulting Party; but the non-defaulting Party shall have no right to exercise any remedy hereunder without delivering the Default Notice as provided herein. Delays by either Party in asserting any of its rights and remedies shall not deprive the other Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

5.3. Cure Period

The non-defaulting Party shall have no right to exercise a right or remedy hereunder unless the subject Default continues uncured for a period of thirty (30) days after delivery of the Default Notice with respect thereto, or, where the default is of a nature which cannot be cured within such thirty (30) day period, the defaulting Party fails to commence such cure within thirty (30) days and to diligently proceed to complete the same. A Default which can be cured by the payment of money is understood and agreed to be among the types of defaults which can be cured within thirty (30) days. If the Default is not cured, or commenced to be cured if such default is of a nature which cannot be cured within thirty (30) days, by such Party within thirty (30) days of delivery of the Default Notice, such failure to cure shall be an Event of Default, and the non-defaulting Party may pursue such other rights and remedies as it may have, except, however, if Participant fails to commence or continue Operations as required by Sections 2.13 and 2.14, above, then in such case Agency’s sole remedy shall be to terminate this Agreement (for clarity, Agency may not commence an action against Participant for specific performance to commence or continue Operations). Further, in the event of a Default by Participant, past all applicable cure periods, Agency’s sole remedy shall be to terminate this Agreement.

5.3.1. Rights and Remedies

Upon the occurrence of a Default (following the expiration of the applicable cure period provided herein or by law, whichever is longer), the non-defaulting Party shall have all remedies provided for in this Agreement and shall have the right to obtain specific performance, unless otherwise limited by the express remedies set forth in this Agreement. Such remedies are cumulative, and the exercise of one or more of such rights or remedies shall not preclude the exercise, at the same or different times, of any other rights or remedies for the same Default or any other Default by the defaulting Party.

Notwithstanding to foregoing, the Agency shall not have to right to compel, through a remedy of specific performance or otherwise, the Participant to make any investment within the Project Area or to Operate the Facility as contemplated by this Agreement.

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5.3.2. Legal Actions

5.3.2.1. Venue

All legal actions between the Parties, arising under this Agreement, shall be conducted exclusively in the Third District Court for the State of Utah located in Salt Lake County, Utah, unless they involve a case with federal jurisdiction, in which case they shall be conducted exclusively in the Federal District Court for the District of Utah.

5.3.2.2. Service of Process

Service of process on the Agency shall be made by personal service upon the Chairman or Executive Director of the Agency or in such other manner as may be provided by law. Service of process on Participant shall be by personal service upon its Registered Agents, or in such other manner as may be provided by law, whether made within or without the State of Utah.

5.3.2.3. Applicable Law

The laws of the State of Utah shall govern the interpretation and enforcement of this Agreement.

6. GENERAL PROVISIONS

6.1. Authority

Each Party hereby represents and warrants to the other that the following statements are true, complete, and not misleading as regards to the representing and warranting party: (a) such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder; (b) those executing this Agreement on behalf of each Party do so with the full authority of the Party each represents; (c) this Agreement constitutes a legal, valid, and binding obligation of each Party, enforceable in accordance with its terms.

6.2. Notices, Demands, and Communications between the Parties

Formal notices, demands, and communications between the Agency and Participant shall be sufficiently given if emailed and: (1) personally delivered; or (2) if dispatched by registered or certified mail, postage prepaid, return-receipt requested, to the principal offices of the Agency and Participant, as designated in Sections 1.8.1 and 1.8.2 hereof. Such written notices, demands, and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by formal notice hereunder. Delivery of notice shall be complete upon mailing or making physical delivery of the writing containing the notice.

6.3. Severability

In the event that any condition, covenant or other provision herein contained is held to be invalid or void by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained unless such severance shall have a material effect on the terms of this Agreement. If

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such condition, covenant, or other provision shall be deemed invalid due to its scope, all other provisions shall be deemed valid to the extent of the scope or breadth permitted by law.

6.4. Nonliability of Officials and Employees

No director, officer, agent, employee, representative, contractor, attorney, or consultant of the Parties hereto shall be personally liable to any other Party hereto, or any successor-in-interest thereof, in the event of any Default or breach by a Party hereto or for any amount which may become due to a Party hereto or to its successor, or on any obligations under the terms of this Agreement.

6.5. Enforced Delay; Extension of Time and Performance

In addition to the specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of a public enemy, terrorist activity, epidemics, quarantine restrictions, freight embargoes, lack of transportation, unusually severe weather, or any other causes beyond the reasonable control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent, whether on the part of the Agency's Executive Director or its governing board or on the part of Participant, to the other Party within thirty (30) days of actual knowledge of the commencement of the cause. Time of performance under this Agreement may also be extended in writing by the Agency and Participant by mutual agreement.

6.6. Approvals

Whenever the consent or approval is required of any Party hereunder, except as otherwise herein specifically provided, such consent or approval shall not be unreasonably withheld, delayed, or conditioned.

6.7. Time of the Essence

Time shall be of the essence in the performance of this Agreement.

6.8. Attorney Fees

In the event of any litigation arising from or related to this Agreement, the prevailing Party shall be entitled to recover from the non-prevailing party all reasonable costs and attorney fees related to such litigation.

6.9. Interpretation

The Parties hereto agree that they intend by this Agreement to create only the contractual relationship established herein, and that no provision hereof, or act of either Party hereunder, shall

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be construed as creating the relationship of principal and agent, or a partnership, or a joint venture, or an enterprise between the Parties hereto.

6.10. No Third-Party Beneficiaries

It is understood and agreed that this Agreement shall not create for either Party any independent duties, liabilities, agreements, or rights to or with any third party, nor does this Agreement contemplate or intend that any benefits hereunder accrue to any third party.

6.11. Mediation

In the event a dispute arises between the parties with respect to the terms of this Agreement or the performance of any contractual obligation by one or both of the parties, the parties agree to submit the matter to formal and confidential non-binding mediation before any judicial action may be initiated, unless an immediate court order is needed or a statute of limitations period will run before mediation can be reasonably completed. A mediator will be selected by mutual agreement of the parties. The parties must mediate in good faith to resolve the dispute in a timely manner. Each party will be responsible for its own costs and one-half of the cost of the mediator. The place of mediation shall be West Jordan, Utah.

6.12. Headings

Article and Section titles, headings or captions are inserted only as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision hereof.

6.13. Contra Proferentum

This is an arm's-length Agreement: The Parties have read this Agreement and have executed it voluntarily after having been apprised of all relevant information and the risks involved and having had the opportunity to obtain legal counsel of their choice. Consequently, no provision of this Agreement shall be strictly construed against either Party.

6.14. Further Assurances

The Parties shall cooperate, take such additional actions, sign such additional documentation, and provide such additional information as reasonably necessary to accomplish the objectives set forth in this Agreement.

6.15. Incorporation of Recitals and Exhibits

All recitals and exhibits attached hereto are incorporated into this Agreement as if fully set forth herein.

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6.16. Governmental Records and Management Act

The Agency acknowledges that Participant considers all of the information provided to the Agency in connection with this Agreement is protected under the Utah Governmental Records Access and Management Act, § 63-2-101 *et seq.* (“**GRAMA**”) under a claim of “business confidentiality” so long as Participant complies with the applicable requirements in making a claim of business confidentiality under § 63G-2-309(1)(a)(i)(A) & (B).

7. DUPLICATION, INTEGRATION, WAIVERS, AND AMENDMENTS

7.1. Duplicate Originals

This Agreement may be executed in duplicate originals, each of which shall be deemed an original. Electronic pdf signatures shall be considered original signatures.

7.2. Integration

This Agreement (including its exhibits) constitutes the entire understanding and agreement of the Parties regarding the subject matter thereof. When executed by the Parties, this Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to the subject matter thereof.

7.3. Waivers and Amendments

All waivers of the provisions of this Agreement must be in writing. This Agreement and any provisions hereof may be amended only by mutual written agreement between Participant and the Agency.

[Remainder of page intentionally left blank; signature pages follow]

EXECUTION VERSION

**REDEVELOPMENT AGENCY OF WEST
JORDAN CITY**

By: _____
David R. Brickey, Executive Director

Attest:

By: Melanie Briggs, Secretary

STATE OF UTAH)
)
) : ss.
)
COUNTY OF SALT LAKE)

In the County of Salt Lake, State of Utah, on this ____ day of _____, 201__, before me, the undersigned notary, personally appeared David R. Brickey, the executive director of the Redevelopment Agency of West Jordan City, who is personally known to me or who proved to me his identity through documentary evidence to be the person who signed the preceding document in my presence and who swore or affirmed to me that his signature is voluntary and on behalf of the Redevelopment Agency of West Jordan City by authority of its Board of Directors.

Notary signature and seal

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SPORTSMAN'S WAREHOUSE, INC.

By: _____
Name: Kevan P. Talbot
Title: Chief Financial Officer

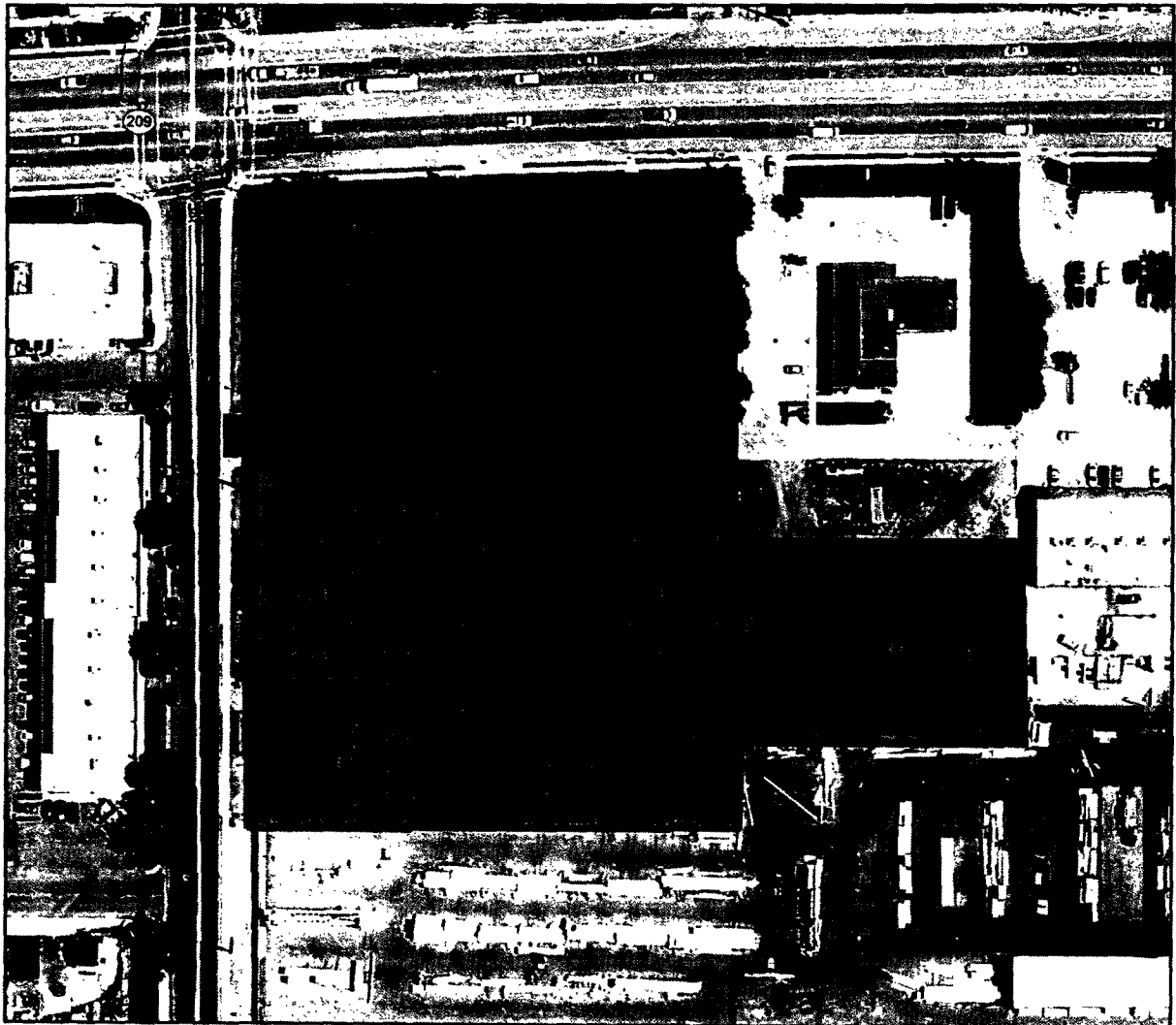
STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

In the County of Salt Lake, State of Utah, on this _____ day of _____, 2019, before me, the undersigned notary, personally appeared Kevan P. Talbot, the Chief Financial Officer of Sportsman's Warehouse, Inc., who is personally known to me or who proved to me his identity through documentary evidence to be the person who signed the preceding document in my presence and who swore or affirmed to me that his signature is voluntary and on behalf of Sportsman's Warehouse, Inc.

Notary signature and seal

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Exhibit A
To SW Participation Agreement
Site



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Exhibit B
To SW Participation Agreement

Investment Schedule

<u>Date</u>	<u>Minimum Investment (Cumulative)</u>
January 1, 2020	\$2,000,000
January 1, 2021	\$2,750,000
January 1, 2022	\$3,250,000
January 1, 2023	\$3,500,000

REQUEST FOR AGENCY ACTION

SUBJECT: Acquisition of parcel # 21-34-251-006.

SUMMARY: Agency staff have identified an opportunity to purchase available property inside the project area boundary of RDA #6 – Briarwood.

**FISCAL/ASSET
IMPACT:** The proposed purchase contract for the property is \$340,000 Funds for the purchase will be received from project area revenues.

**STAFF
RECOMMENDATION:** Staff recommends approval of the resolution authorizing the purchase of the subject property.

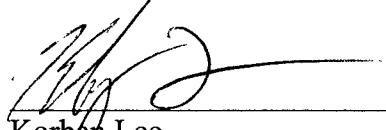
**MOTION
RECOMMENDED:** "I move to approve Resolution No. 214 authorizing the Agency to acquire parcel #21-34-251-006."

Roll Call vote required

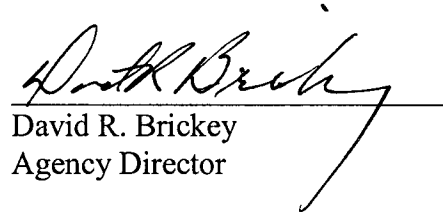
Prepared and to be Presented by:


Jeremy Olsen
RDA Program Manager

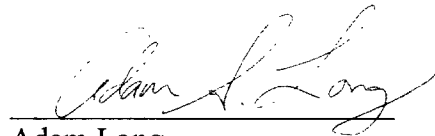
Recommended by:


Korban Lee
Assistant City Manager

Authorized for Agency Consideration:


David R. Brickey
Agency Director

Reviewed for Legal Sufficiency:


Adam Long
Redevelopment Agency Counsel

BACKGROUND DISCUSSION:

Property Availability

Earlier this year, a property located in the boundaries of Redevelopment Area #6 was listed for sale by owner. The subject property is approximately 0.49 acres in size and represents an opportunity for the agency to acquire property in anticipation of the redevelopment of the area.

Purchase Contract

Agency staff have negotiated for the purchase of the property at a price of \$340,000. In addition to the land, the property also includes a structure used as a residence and associated detached buildings incidental to the residential unit. The contract includes a purchase date of no later than March 29, 2019. Funds for the acquisition of the property will be allocated from Redevelopment Area #6.

REDEVELOPMENT AGENCY OF WEST JORDAN CITY

RESOLUTION NO. 214

Date: March 27, 2019

**A RESOLUTION AUTHORIZING THE AGENCY TO PURCHASE REAL
PROPERTY WITHIN RDA #6**

WHEREAS, the Agency created RDA #6 - Briarwood Redevelopment Project Area (the “**Project Area**”) in 2003 in order to address blight and to engage in project area development within the Project Area; and

WHEREAS, among other things, the Agency is authorized to acquire property within the Project Area in order to accomplish the goals of the Project Area; and

WHEREAS, the Agency has identified property, the acquisition of which would be beneficial to the Project Area and allow the Agency to promote development within the Project Area.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF
THE REDEVELOPMENT AGENCY OF WEST JORDAN CITY, THAT:**

1. The Agency shall acquire the parcel # 21-34-251-006 at a cost of approximately \$340,000 (the “**Property**”).
2. The Agency Board finds that the acquisition of the Property will further the goals set forth in the Plan for the Project Area and will allow the Agency to engage in beneficial project area development within the Project Area as described in the Community Reinvestment Agency Act as set forth in Utah Code Title 17C.
3. The Executive Director is authorized and directed to execute such documents and take such actions as reasonably necessary to complete the purchase of the Property.
4. This Resolution shall take effect immediately upon adoption.

Approved and adopted by the Board of Directors of the Redevelopment Agency of West Jordan City this 27th day of March, 2019.

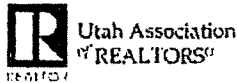
Jim Riding, Chairperson

ATTEST:

Melanie Briggs, Secretary

Voting by the Agency Board:

Name	"YES"	"NO"	ABSENT	ABSTAIN
Chad Lamb	_____	_____	_____	_____
Kayleen Whitelock	_____	_____	_____	_____
Chris McConnehey	_____	_____	_____	_____
Dirk Burton	_____	_____	_____	_____
Zach Jacob	_____	_____	_____	_____
Alan Anderson	_____	_____	_____	_____
Jim Riding	_____	_____	_____	_____



COMMERCIAL REAL ESTATE PURCHASE CONTRACT



This is a legally binding contract. It has been prepared by the Utah Association of REALTORS® for the use of its members only, in their transactions with clients and customers. Parties to this Commercial Real Estate Contract ("Contract") may agree, in writing, to alter or delete provisions of this Contract. Seek advice from your attorney or tax advisor before entering into a binding contract.

EARNEST MONEY RECEIPT

On this 8th day of February, 2019 ("Offer Reference Date") Wasatch Industrial, LLC ("Buyer") offers to purchase from Emory E. Logan & Velma L. Logan Family Trust ("Seller") the Property described below and hereby delivers to the Brokerage or Title/Escrow Company, as Earnest Money, the amount of \$10,000. in the form of Check which, upon Acceptance of this offer by all parties (as defined in Section 23), shall be deposited in accordance with state law.

Brokerage or Title/Escrow Company _____ Address _____

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

OFFER TO PURCHASE

1. **PROPERTY (General Description):** Residential Lot 0.49 acres

Address 8065 S Redwood Rd City West Jordan

County Salt Lake State of Utah, ZIP 84088

County Tax I.D. # 21-34-251-006-0000 (the "Property")

For a legal description (Check Applicable Box): ☐ SEE ADDENDUM # _____ ☒ COMMITMENT FOR TITLE INSURANCE as provided in Section 7(b).

1.1 INCLUDED ITEMS: Unless excluded herein, this sale includes all fixtures presently attached to the Property. The following personal property shall also be included in this sale and conveyed under separate Bill of Sale with warranties as to title:

1.2 Excluded Items. These items are excluded from this sale:

2. **PURCHASE PRICE** The Purchase Price for the Property is \$340,000.

The Purchase Price will be paid as follows:

- \$10,000. (a) Earnest Money Deposit.
\$0 (b) New Loan. Buyer will apply for one or more of the following loans: ☐ Conventional ☐ SBA ☐ Other (specify) _____ Buyer shall have the right to approve the terms and conditions of the new loan as provided in Section 8 (f).
\$0 (c) Loan Assumption Addendum (see attached Assumption Addendum if applicable)
\$0 (d) Seller Financing (see attached Seller Financing Addendum if applicable)
\$0 (e) Other (specify) _____
\$330,000. (f) Balance of Purchase Price in Cash at Settlement

\$340,000. **PURCHASE PRICE. Total of lines (a) through (f)**

3. SETTLEMENT AND CLOSING. Settlement shall take place on the Settlement Deadline referenced in Section 24(c), or on a date upon which Buyer and Seller agree in writing. "Settlement" shall occur only when all of the following have been completed: (a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by this Contract, by the lender, by written escrow instructions or by applicable law; (b) any monies required to be paid by Buyer under these documents (except for the proceeds of any new loan) have been delivered by Buyer to Seller or to the escrow/closing office in the form of collected or cleared funds; and (c) any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the escrow/closing office in the form of collected or cleared funds. Seller and Buyer shall each

pay one-half (½) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Taxes and assessments for the current year, rents, and interest on assumed obligations shall be prorated at Settlement as set forth in this Section. Tenant deposits (including, but not limited to, security deposits and prepaid rents) shall be paid or credited by Seller to Buyer at Settlement. Prorations set forth in this Section shall be made as of the Settlement Deadline date referenced in Section 24(c), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. For purposes of this Contract, "Closing" means that: (i) Settlement has been completed; (ii) the proceeds of any new loan have been delivered by the lender to Seller or to the escrow/closing office; and (iii) the applicable Closing documents have been recorded in the office of the county recorder.

4. POSSESSION. Seller shall deliver physical possession to Buyer within: ☒ 2 HOURS AFTER CLOSING; ☐ ____ DAYS AFTER CLOSING; ☐ OTHER (SPECIFY) _____

Any rental of the Property prior to or after Closing, between Buyer and Seller, shall be by separate written agreement.

5. CONFIRMATION OF BROKERAGE FEES & AGENCY DISCLOSURE. Buyer and Seller acknowledge prior receipt of written agency disclosure provided by their respective Buyer's Agent or Seller's Agent that has disclosed the agency relationships that are confirmed below. Buyer and Seller further acknowledge that Brokerage Fees due as a result of this transaction are being paid based upon the terms of a separate written agreement. At the signing of this Contract:

Seller's Agent, N/A represents ☐ Seller ☐ Buyer ☐ both Buyer and Seller
as a Limited Agent;

Seller's Brokerage, N/A represents ☐ Seller ☐ Buyer ☐ both Buyer and Seller
as a Limited Agent;

Buyer's Agent, _____ represents ☐ Seller ☒ Buyer ☐ both Buyer and Seller
as a Limited Agent;

Buyer's Brokerage, _____ represents ☐ Seller ☒ Buyer ☐ both Buyer and Seller
as a Limited Agent;

6. TITLE TO PROPERTY & TITLE INSURANCE.

(a) Seller represents that Seller has fee simple title to the Property and will convey good and marketable title to Buyer at Closing by: ☒ GENERAL WARRANTY DEED ☐ SPECIAL WARRANTY DEED, free of financial encumbrances except as provided under Section 10.1.

(b) At Settlement, Seller agrees to pay for a standard-coverage owner's policy of title insurance insuring Buyer in the amount of the Purchase Price. The title policy shall conform with Seller's obligations under Section 10.1 and with the Commitment for Title Insurance as agreed to by Buyer under Section 8.

(c) ☒ BUYER ELECTS TO OBTAIN A FULL-COVERAGE EXTENDED ALTA POLICY OF TITLE INSURANCE. The cost of this coverage (including the ALTA survey), above that of the standard-coverage Owner's policy, shall be paid for at Settlement by: ☒ BUYER ☐ SELLER ☐ OTHER _____

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

(a) a Seller property condition disclosure for the Property, signed and dated by Seller;

(b) a Commitment for Title Insurance on the Property;

(c) a copy of all leases and rental agreements now in effect with regard to the Property together with a current rent roll;

(d) operating statements of the Property for its last N/A full fiscal years of operation plus the current fiscal year through _____ certified by the Seller or by an independent auditor;

(e) copies in Seller's possession, if any, of any studies and/or reports which have previously been done on the Property, including without limitation, environmental reports, soils studies, site plans and surveys;

(f) written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations; and

(g) Other (specify) _____

8. BUYER'S RIGHT TO CANCEL BASED ON BUYER'S DUE DILIGENCE. Buyer's obligation to purchase under this Contract (check applicable boxes):

(a) ☒ IS ☐ IS NOT conditioned upon Buyer's approval of the content of all the Seller Disclosures referenced in Section 7;

(b) ☒ IS ☐ IS NOT conditioned upon Buyer's approval of a physical condition inspection of the Property;

(c) ☐ IS ☒ IS NOT conditioned upon Buyer's approval of a survey of the Property by a licensed surveyor ("Survey");

(d) ☒ IS ☐ IS NOT conditioned upon Buyer's approval of applicable federal, state and local governmental laws, ordinances and regulations affecting the Property; and any applicable deed restrictions and/or CC&R's (covenants, conditions and restrictions) affecting the Property;

- (e) ☐ IS ☒ IS NOT conditioned upon the *Property* appraising for not less than the Purchase Price.
- (f) ☐ IS ☒ IS NOT conditioned upon Buyer's approval of the terms and conditions of any mortgage financing referenced in Section 2.
- (g) ☒ IS ☐ IS NOT conditioned upon Buyer's approval of the following tests and evaluations of the *Property*. (specify)
Phase I Environmental and any other tests or evaluations required by Buyer for its intended use.

If any of the items 8(a) through 8(g) are checked in the affirmative, then Sections 8.1, 8.2, 8.3 and 8.4 apply; otherwise, they do not apply. The items checked in the affirmative above are collectively referred to as "Buyer's Due Diligence." Unless otherwise provided in this Contract, the Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Buyer shall conduct Buyer's Due Diligence in such manner as not to unreasonably disrupt the activities and business of Seller, and shall indemnify Seller and hold Seller harmless from and against any and all liability, claim, or damages which arise from, is caused by, or is in any manner connected with Buyer's Due Diligence, including without limitation, claims for payment for inspection services, claims for mechanics liens, and physical damage to the *Property*. Seller agrees to cooperate with Buyer's Due Diligence and with a site inspection under Section 11.

8.1 Due Diligence Deadline. No later than the Due Diligence Deadline referenced in Section 24(b) Buyer shall: (a) complete all of Buyer's Due Diligence; and (b) determine if the results of the Buyer's Due Diligence are acceptable to Buyer.

8.2 Right to Cancel or Object. If Buyer, in Buyer's sole discretion, determines that the results of the Buyer's Due Diligence are unacceptable, Buyer may, no later than the Due Diligence Deadline, either: (a) cancel this Contract by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer; or (b) provide Seller with written notice of objections.

8.3 Failure to Respond. If by the expiration of the Due Diligence Deadline, Buyer does not: (a) cancel this Contract as provided in Section 8.2; or (b) deliver a written objection to Seller regarding the Buyer's Due Diligence, the results of the Buyer's Due Diligence shall be deemed approved by Buyer; and the contingencies referenced in Sections 8(a) through 8(g), including but not limited to, any financing contingency, shall be deemed waived by Buyer.

8.4 Response by Seller. If Buyer provides written objections to Seller, Buyer and Seller shall have 3 CALENDAR DAYS after Seller's receipt of Buyer's objections (the "Response Period") in which to agree in writing upon the manner of resolving Buyer's objections. Except as provided in Section 10, Seller may, but shall not be required to, resolve Buyer's objections. If Buyer and Seller have not agreed in writing upon the manner of resolving Buyer's objections, Buyer may cancel this Contract by providing written notice to Seller no later than **THREE CALENDAR DAYS** after expiration of the *Response Period*; whereupon the *Earnest Money Deposit* shall be released to Buyer. If this Contract is not canceled by Buyer under this Section 8.4, Buyer's objections shall be deemed waived by Buyer. This waiver shall not affect those items warranted in Section 10.

9. ADDITIONAL TERMS. There ☒ ARE ☐ ARE NOT addenda to this Contract containing additional terms. If there are, the terms of the following addenda are incorporated into this Contract by this reference: ☐ Addendum No. 1
☐ Seller Financing Addendum ☐ Assumption Addendum ☐ Lead-Based Paint Disclosure & Acknowledgement
☒ OTHER (specify) Notification buyer is a licensed Real Estate Broker/Agent

10. SELLER'S WARRANTIES & REPRESENTATIONS.

10.1 Condition of Title. Buyer agrees to accept title to the *Property* subject to the contents of the *Commitment for Title Insurance* as agreed to by Buyer under Section 8. Buyer also agrees to take the *Property* subject to existing leases affecting the *Property* and not expiring prior to Closing. Buyer agrees to be responsible for taxes, assessments, association fees and dues, utilities, and other services provided to the *Property* after Closing. Except for any loan(s) specifically assumed by Buyer under Section 2, Seller will cause to be paid off by Closing all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. Seller will cause all assessments to be paid current by Closing.

10.2 Condition of Property. Seller warrants that **ON THE DATE SELLER DELIVERS PHYSICAL POSSESSION TO BUYER**, the *Property* and improvements will be broom-clean and free of debris and personal belongings, and in the same general condition as they were on the date of *Acceptance*.

10.3 Other Seller Warranties. Seller further warrants that, to the best of Seller's knowledge, each of the following statements is true: (a) the consummation of the transactions contemplated by this Contract will not constitute a default or result in the breach of any term or provision of any contract or agreement to which Seller is a party so as to adversely affect the consummation of such transactions; (b) there is no action, suit, legal proceeding or other proceeding pending or threatened against Seller and/or the *Property* which may adversely affect the transactions contemplated by this Contract, in any court or before any arbitrator of any kind or before or by any governmental body which may adversely affect the transactions contemplated by this Contract; (c) all work which will be performed in, on or about the *Property* or materials furnished thereto which might in any circumstances give rise to a mechanic's or materialman's lien, will be paid and all necessary waivers of rights to a mechanic's or materialman's lien for such work will be obtained; (d) Seller has not received any written notice indicating that the *Property* is in violation of any Federal, State or local Environmental Law; (e) there are no Hazardous Substances on, under, or about the *Property*, nor has Seller undertaken, permitted, authorized or suffered, and will not undertake, permit, authorize or suffer the presence, use, manufacture, handling, generation, storage, treatment, discharge, release, burial or disposal on, under or about the *Property*, of any Hazardous Substances, or the transportation to or from the *Property*, of any Hazardous Substances. As used herein,

"Hazardous Substance" shall mean any substance, material or matter that may give rise to liability under any Federal, State, or local Environmental Laws; and (f) Seller is not a "foreign person" as that term is defined in Section 1445 of the U.S. Internal Revenue Code of 1986, as amended. (In that regard, Seller shall deposit into Escrow, at or prior to Closing, an affidavit in such form as may be required by the U.S. Internal Revenue Service, setting forth Seller's full name, address and taxpayer identification number and stating under penalty of perjury that Seller is not a "foreign person" as so defined).

11. FINAL PRE-CLOSING INSPECTION. Before Settlement, Buyer may, upon reasonable notice and at a reasonable time, conduct a final pre-closing inspection of the *Property* to determine only that the *Property* is "as represented," meaning that the items referenced in Sections 1.1, 8.4 and 10.2 and 10.3 ("the items") are respectively present, repaired/changed as agreed, and in the warranted condition. If the items are not as represented, Seller will, prior to Settlement, replace, correct or repair the items or, with the consent of Buyer (and Lender if applicable), escrow an amount at Settlement to provide for the same. The failure to conduct a final pre-closing inspection or to claim that an item is not as represented, shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented.

12. CHANGES DURING TRANSACTION. Seller agrees that from the date of Acceptance until the date of Closing, Seller shall not, without the prior written consent of Buyer: (a) make any changes in any existing leases; (b) enter into any new leases; (c) make any substantial alterations or improvements to the *Property*; or (d) incur any further financial encumbrances against the *Property*.

13. AUTHORITY OF SIGNERS. If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person executing this Contract on its behalf warrants his or her authority to do so and to bind Buyer and Seller. Seller further warrants that the execution and delivery of this Contract by Seller have been duly and validly authorized, and all requisite action has been taken to make this Contract binding upon Seller.

14. COMPLETE CONTRACT/ASSIGNMENT. This Contract together with its addenda, any attached exhibits, and Seller Disclosures, constitutes the entire Contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties. This Contract cannot be changed except by written agreement of the parties. This Contract ☒ **SHALL** ☐ **SHALL NOT** be assignable by Buyer. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties.

15. MEDIATION. Any dispute relating to this Contract that arise prior to or after Closing:

☐ **SHALL**

☒ **MAY AT THE OPTION OF THE PARTIES**

first be submitted to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved **THIRTY (30) CALENDAR DAYS** from the date written notice requesting mediation is sent by one party to the other(s). If mediation fails, the other procedures and remedies available under this Contract shall apply. Nothing in this Section 15 shall prohibit any party from seeking emergency equitable relief pending mediation.

16. DEFAULT. If Buyer defaults, Seller may elect either to retain the Earnest Money Deposit as liquidated damages, or to return it and sue Buyer to specifically enforce this Contract or pursue other remedies available at law. If Seller defaults, in addition to return of the Earnest Money Deposit, Buyer may elect either to accept from Seller a sum equal to the Earnest Money Deposit as liquidated damages, or may sue Seller to specifically enforce this Contract or pursue other remedies available at law.

17. ATTORNEY FEES AND COSTS. In the event of litigation or binding arbitration to enforce this Contract, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under Section 15.

18. NOTICES. Except as provided in Section 23, all notices required under this Contract must be: (a) in writing; (b) signed by the party giving notice; and (c) received by the other party or the other party's agent no later than the applicable date referenced in this Contract.

19. ABROGATION. Except for the provisions of Sections 8.4, 10.1, 10.3, 15 and 17 and any other express warranties made in this Contract, the provisions of this Contract shall not apply after Closing.

20. RISK OF LOSS. All risk of loss to the *Property*, including physical damage or destruction to the *Property* or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by Seller until Closing.

MF

2/12/19

ME

2/12/2019

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

22. FAX TRANSMISSION AND COUNTERPARTS. Facsimile (fax) transmission of a signed copy of this Contract, any addenda and counteroffers, and the retransmission of any signed fax shall be the same as delivery of an original. This Contract and any addenda and counteroffers may be executed in counterparts.

23. ACCEPTANCE. "Acceptance" occurs when Seller or Buyer, responding to an offer or counteroffer of the other: (a) signs the offer or counteroffer where noted to indicate acceptance; and (b) communicates to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

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

(a) Seller Disclosure Deadline 02/20/2019 (Date)
 (b) Due Diligence Deadline 03/20/2019 (Date)
 (c) Settlement Deadline 03/29/2019 (Date)

25. OFFER AND TIME FOR ACCEPTANCE. Buyer offers to purchase the Property on the above terms and conditions. If Seller does not accept this offer by: 5 : 00 [] AM [X] PM Mountain Time on 02/13/2019 (Date), this offer shall lapse; and the Brokerage on Title/Escrow Company shall return the Earnest Money Deposit to Buyer.

 (Buyer's Signature) (Title, if any) (Date) _____ (Buyer's Signature) (Title, if any) (Date)

 (Buyers' Names) (PLEASE PRINT) (Address) (Zip Code) (Phone) (Fax)

 (Buyers' Names) (PLEASE PRINT) (Address) (Zip Code) (Phone) (Fax)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

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

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

 (Seller's Signature) (Date) (Time) _____ (Seller's Signature) (Date) (Time)
Moreen Ellen Logan 2/13/2019 1:33 pm
Rick Wallace Logan 02-12-2019 6:32 pm

Julia Jayne Logan Nestor 76 E Benson Way, Sandy 84070 801-208-4375
 (Sellers' Names) (PLEASE PRINT) (Address) (Zip Code) (Phone) (Fax)

Rick Wallace Logan 8827 S. 1030 W. West Jordan, UT 84088-9061 801-566-8606
 (Sellers' Names) (PLEASE PRINT) (Address) (Zip Code) (Phone) (Fax)
Moreen Ellen Logan 1015 10th Street, Hermosa Beach 92542 310-937-9348

☐ **REJECTION:** Seller Rejects the foregoing offer.

 (Seller's Signature) (Date) (Time) _____ (Seller's Signature) (Date) (Time)

DOCUMENT RECEIPT

State law requires Broker to furnish Buyer and Seller with copies of this Contract bearing all signatures. (Fill in applicable section below.)

A. I acknowledge receipt of a final copy of the foregoing Contract bearing all signatures:

DocuSigned by:

Morven Ellen Logan

2/13/2019

(Buyer's Signature)

(Date)

(Buyer's Signature)

(Date)

(Seller's Signature)

(Date)

(Seller's Signature)

(Date)

B. I personally caused a final copy of the foregoing Contract bearing all signatures to be ☐ faxed ☐ mailed ☐ hand delivered on _____, postage prepaid, to the ☐ Seller ☐ Buyer.

Sent/Delivered by (specify) _____

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UAR FORM 3

ME

ME



ADDENDUM NO. 1 TO REAL ESTATE PURCHASE CONTRACT



THIS IS AN ☒ ADDENDUM ☐ COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 8th day of February, 2019 including all prior addenda and counteroffers, between Wasatch Industrial, LLC as Buyer, and Emory E. Logan & Velma L. Logan Family Trust as Seller, regarding the Property located at 8065 S Redwood Rd, West Jordan UT 84088

The following terms are hereby incorporated as part of the REPC:

Notice to Seller that buyer is a Licensed Real Estate Broker/Agent.

Buyer may extend the Due Diligence Deadline by 30 days by increasing Earnest Money by an additional \$10,000. The Closing will be 10 days from the expiration of the adjusted Due Diligence Deadline.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX): ☒ REMAIN UNCHANGED ☐ ARE CHANGED AS FOLLOWS:

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. ☒ Seller ☐ Buyer shall have until 5:00 ☐ AM ☒ PM Mountain Time on February 13, 2019 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

☐ Buyer ☐ Seller Signature (Date) (Time) ☐ Buyer ☐ Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

☒ ACCEPTANCE: ☐ Seller ☐ Buyer hereby accepts the terms of this ADDENDUM.

☐ COUNTEROFFER: ☐ Seller ☐ Buyer presents as a counteroffer the terms of attached ADDENDUM NO. ____.

Emory E. Logan 2/12/2019 7:40 pm Velma L. Logan 02-12-2019 7:41 pm
 (Signature) (Date) (Time) (Signature) (Date) (Time)
Morven Ellen Logan 2/13/2019 1:33 pm
 (Signature) (Date) (Time)

☐ REJECTION: ☐ Seller ☐ Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.