



COMBINED
CITY COUNCIL AND REDEVELOPMENT AGENCY
MEETING AGENDA
AUGUST 6, 2019
6:30 PM

Notice is hereby given that the South Jordan City Council will hold a Combined City Council and Redevelopment Agency meeting **Tuesday, August 6, 2019**, in the City Council Chambers at 1600 W. Towne Center Drive, South Jordan, Utah. In compliance with the American Disabilities Act, any individual who may need special accommodations including auxiliary communicative aides and services during this meeting shall notify the City Manager at 801-254-3742 at least 24 hours prior to the meeting. The order of Agenda Items may be changed if deemed appropriate by the Mayor or City Council. An Executive Session may be held at the end of the meeting, if needed. Timings listed are approximate and may be accelerated or delayed.

REGULAR MEETING

6:30 p.m. **A. Welcome and Roll Call** – *Mayor Dawn Ramsey*

6:35 p.m. **B. Invocation** – *By Strategic Services Director, Don Tingey*

6:40 p.m. **C. Pledge of Allegiance**

6:45 p.m. **D. Minute Approval**

D.1. July 16, 2019 Council Study Meeting

D.2. July 16, 2019 City Council Meeting

6:50 p.m. **E. Public Comment:** This is the time and place for any person who wishes to comment on items not scheduled on the Agenda for Public Hearing. Any person or group wishing to comment on any item not otherwise scheduled for Public Hearing on the Agenda may address the City Council at this point by stepping to the microphone and giving his or her name for the record. Comments should be limited to not more than three (3) minutes, unless additional time is authorized by the Governing Body. Groups wishing to comment will be asked to appoint a spokesperson. Items brought forward to the attention of the City Council will be turned over to staff to provide a response outside of the City Council meeting. Time taken on non-agenda items, interrupts the process of the noticed Agenda. In rare cases where it is determined appropriate to address items raised from Public Comments, these items will be noted and may be brought back at the conclusion of the printed agenda.

7:00 p.m. **F. Mayor and Council Reports**

7:45 p.m. **G. Presentation:** Merit Medical employees honored by The American Heart Association for saving co-workers life with AED. (*By Laura Western, AHA Executive Director*)

8:00 p.m. **H. Public Hearing:** Ordinance 2019-12, amending the Small Cell Infrastructure Design Guideline and City Code Section 82 of Title 5, Wireless Communication Services. (*By Engineering Director, Brad Klavano*) **RCV**

RECESS CITY COUNCIL AND MOVE TO REDEVELOPMENT AGENCY MEETING (RDA)

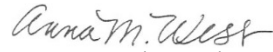
- 8:15 p.m. **I. RDA Action Item:** Redevelopment Agency Resolution RDA2019-08, approving a Moderate Income Housing Agreement for Workforce Housing between South Jordan City and Ivory Development, LLC. (*By City Commerce Director, Brian Preece*) **RCV**

ADJOURN RDA MEETING AND RETURN TO CITY COUNCIL MEETING

- 8:45 p.m. **J. Staff Reports and Calendaring Items**

ADJOURNMENT

I, Anna M. West, the duly appointed and qualified City Recorder of South Jordan City, Utah, certify that the foregoing City Council Agenda was emailed to at least one newspaper of general circulation within the geographic jurisdiction of the public body. The agenda was also posted at the principal office of the public body and also posted on the Utah State Public Notice Website <http://www.utah.gov/pmn/index.html> and on South Jordan City's website at www.sjc.utah.gov.
Published and posted August 2, 2019.



Anna M. West, City Recorder

MINUTE APPROVAL - D.1. 07-16-19 CC STUDY MTG

SOUTH JORDAN CITY
CITY COUNCIL STUDY MEETING

July 16, 2019

Present: Mayor Dawn Ramsey, Council Member Patrick Harris, Council Member Brad Marlor, Council Member Jason McGuire, Council Member Don Shelton, Council Member Tamara Zander, CM Gary Whatcott, ACM Dustin Lewis, City Commerce Director Brian Preece, Engineering Director Brad Klayano, City Attorney Ryan Loose, City Council Secretary MaryAnn Dean

STUDY MEETING

Mayor Ramsey welcomed everyone present.

A. Invocation: *By Council Member Don Shelton*

Council Member Shelton offered the invocation.

B. Mayor and Council Coordination

Council Member Zander said at the last City Council meeting, the city attorney talked about waiving the fees for the residents on the Rocky Mountain Power issue. City Attorney Loose said they anticipated a large bill from Mr. Hall. The residents paid an \$819 deposit to do the appeal. The total cost is about \$3000, and the bulk of the bills have been received. He said there might be more bills coming, but the total is far less than expected. Staff thought the total could be \$8,000-\$10,000. The total amount did end up coming in as expected and according to the fee schedule. They can still waive the fee, based on the controversial nature of the application, and the outcome.

Council Member Zander strongly recommended they waive the remainder of the fee. They can also refund what has already been paid. She said the residents have worked on this issue since last August.

City Attorney Loose said they will be going out to bid for legal services. They are going to include a broad scope for appeals. They are asking for a per-type of appeal rate, rather than a per hour rate. They feel it will give them more predictability and consistency. They are being told by attorneys that the per-type of appeal rate could be hard to quantify.

Mayor Ramsey said she has concern about spending tax dollars paying back the residents for something they chose to do.

City Attorney Loose said they have waived fees in the past.

Council Member Marlor asked what they anticipate the fee for this type of appeal will be in the future? City Attorney Loose said they estimate \$3000 at the most for a Conditional Use Permit.

He said when they have a for sure fee, they will ask for the full fee at the time the application is submitted.

City Attorney Loose said he told Mrs. Holdemeyer that the cost was estimated at \$3000. Staff Attorney Sheeran said a follow up email was also sent with the attorney's hourly rate and the estimated cost at \$3000. The email was sent before the appeal was filed.

City Attorney Loose said the fee schedule was changed not long ago, and they will be changing the way they do fees again. This would be the one application that falls under this specific fee schedule.

Council Member Zander said as the process ensued, Mr. Hall communicated with the residents' attorney, not the residents, so they also had to pay for an attorney on the other side. City Attorney Loose said that is common practice. He said they had a clear process, but they did not have a clear end fee. Staff gave an estimate, which was close the cost. He said one reason for recommending a reimbursement is because it is not the same fee process that has been used in the past, and they are changing it again.

CM Whatcott said there has been some indication from the residents that they will sue the city. He said they may want to wait and see what happens with that before they waive the fees. Council Member Marlor asked how long the residents have to file a lawsuit? City Attorney Loose said he is unsure. It is hard to speculate because they are not sure what the claim will be. He estimated that the residents could have 3 years to file.

Council Member Shelton said he would have loved to see the power corridor go somewhere else, but the city could not justify the cost to make that happen. The residents were respectful, thoughtful, and thorough. He is concerned about a potential lawsuit. Council Member Zander said she does not feel the lawsuit will happen.

Council Member McGuire said the residents knew there was a fee for this process. What is the justification for waiving the fee? City Attorney Loose said for him, it is because the city previously paid the fees and now they are going to another new system. This is the only application in the middle. They have waived fees in the past.

Council Member Marlor concurred that they should waive it because they are going to change the process. In the future, the applicants will pay the fee up front. The residents already paid the \$800 deposit, and he is okay with that. He recommended they waive the balance. Mayor Ramsey said with the additional information given tonight, she is okay with waiving the balance. Council Member Zander concurred. Mayor Ramsey said the residents worked hard against a large company and there was not much the city could do. It is a unique situation on how it falls between the fee schedule processes. She trusts City Attorney Loose's recommendation. Council Member Shelton said he is okay with the compromise position to waive the remaining \$2200.

Mayor Ramsey said she spoke with Soren Simonson, Executive Director of the Jordan River Commission. He was wondering if the City Council would be interested in floating in the river.

They discussed whether to make it a public event or a City Council event. Strategic Services Director Tingey said it would be tricky to do as a public event because there is not a port to dock. They are not quite ready for that level of an event. The City Council determined to tell Mr. Simonson they are interested in doing it for the City Council and senior staff.

Mayor Ramsey indicated that there is a constituent that would like to see South Jordan pass a Resolution that the city is pro-life. City Attorney Loose said a few years ago, the city wrote a letter that outlined a similar position.

Council Member Shelton and Council Member Marlor said they would prefer to legislate those things that they have authority over. Council Member Harris said he would not like to take a stand, regardless of their position, when they have no direct influence over it.

Mayor Ramsey said Mayor Wilson would like to join the steering committee for the Southwest Mayor's group.

Mayor Ramsey noted a breakfast meeting with the President of the U of U. They brought their entire administrative staff. There were Daybreak representatives there. She asked that the City Council communicate if they are unable to attend such events. Council Member McGuire was there, but he said the initial invitation said it was for Herriman City so there was some confusion. Council Member Zander asked that the City Council be made aware if it is an event they need to prioritize for.

C. Discussion/Review of Regular Council Meeting

Council Member McGuire said he would like to introduce the Sound of Music presentation.

The City Council discussed item H. There is a small piece of land by a fence. They are trading land with Riverton City. It is essentially an equal trade. It is also on Riverton City's agenda.

They discussed item I. on tonight's agenda. That issue goes hand in hand with the Ordinance that was passed previously. It allows the companies to have easier access to the right of way.

D. Discussion Item: Potential RDA Housing Fund Programs. (By City Commerce Director, Brian Preece)

City Commerce Director Preece reviewed a prepared presentation (Attachment A). He distributed a handout outlining potential workforce housing and other eligible projects for the RDA housing money (Attachment B), and a memorandum from J. Craig Smith regarding affordable and income-targeted workforce housing (Attachment C).

It was noted that South Jordan is a target for not having affordable housing stock. They are short on affordable housing units, largely based on the cost of land in South Jordan.

Mr. Preece said potential project 1 has been reviewed but has not been considered because of the cost. Mr. Preece said he feels potential project 2 is a reasonable request. They have looked at city

employees and it is estimated that less than 10 percent of employees would qualify. They received similar numbers for the Jordan School District. He indicated that the School District showed more interest in affordable housing options for non-teacher employees. They feel there is a much higher percentage of those employees that would qualify. He said with the smaller numbers, they would anticipate opening up potential program 1 to anyone that qualifies, and not limit it to city employees or school employees. He reviewed potential program 2. One advantage to that program is it keeps property values in the city up.

Council Member Harris said he likes potential programs 1 and 2 because 100 percent of the money goes to the homeowners. The money for the other projects do not go directly to who is buying the home.

Council Member Marlor said they should consider increasing potential programs 1 and 2.

Council Member Marlor asked on potential project 3, is that a good place to develop housing, or do they redevelop the area as commercial? Mr. Preece said they looked at commercial for that site, but it shows no viability for commercial. CM Whatcott said potential project 3 is a redevelopment focus. Council Member Marlor said he is willing to do a higher density product for potential project 3.

Council Member Marlor said he feels they can get some assistance from Salt Lake County for potential project 1. CM Whatcott said if potential project 1 is a legitimate project, they would have to take it to the voters or do a bond.

Council Member Marlor said he does not want the State Legislature to take their RDA money because they are not spending it. City Attorney Loose said there has been some talk of that, but he is not sure if that would happen next year.

CM Whatcott said they can buy down the lot price from the developers and bring the house price down. Mr. Preece said that is similar to the down payment option.

The City Council determined to put this item as an additional discussion item in the regular City Council meeting.

ADJOURNMENT

Council Member McGuire made a motion to adjourn. Council Member Shelton seconded the motion. The vote was unanimous in favor.

The July 16, 2019 study meeting adjourned at 6:29 p.m.

MINUTE APPROVAL - D.2. 7-16-2019 CC MEETING MINUTES

SOUTH JORDAN CITY
CITY COUNCIL MEETING

July 16, 2019

Present: Mayor Dawn Ramsey, Council Member Patrick Harris, Council Member Brad Marlor, Council Member Jason McGuire, Council Member Don Shelton, Council Member Tamara Zander, CM Gary Whatcott, Administrative Services Director Spencer Kyle, City Commerce Director Brian Preece, Finance Director Sunil Naidu, Strategic Services Director Don Tingey, ACM Dustin Lewis, City Attorney Ryan Loose, Police Chief Jeff Carr, Fire Chief Chris Dawson, Planning Director Steven Schaefermeyer, Engineering Director Brad Klavano, Public Works Director Jason Rasmussen, IT Director Jon Day, City Council Secretary MaryAnn Dean

Others: Attachment A

REGULAR MEETING

A. Welcome and Roll Call – *Mayor Dawn Ramsey*

Mayor Ramsey welcomed everyone present. All members of the City Council were present.

B. Invocation – *By Mayor Dawn Ramsey*

Mayor Ramsey offered the invocation.

C. Pledge of Allegiance

Jayden Willden, Scout Troop 1608, led the audience in the Pledge of Allegiance.

D. Minute Approval

D.1. June 18, 2019 Council Study Meeting

D.2. June 18, 2019 City Council Meeting

Council Member Marlor made a motion to approve the June 18, 2019 Council Study meeting minutes, and the June 18, 2019 City Council meeting minutes, as printed. Council Member Zander seconded the motion. The vote was unanimous in favor.

Council Member Harris made a motion to amend the agenda to continue item D. from the study session to be discussed after Action Item I. on this agenda. Council Member Zander seconded the motion. The vote was unanimous in favor.

E. Presentation: Arts Council Presentation from the Community Production “The Sound of Music.”

Council Member McGuire thanked the Arts Council and the Arts Council Chair. He said they have been sharing the Community Center space with the Seniors. It is hard work cleaning up chairs and taking down the set after each production. He said they have talented actors.

Some of the cast of the Sound of Music performed some songs from their production.

F. Public Comment:

Denise Larsen, 9539 S. Loch Awe Dr., thanked the city for their partnership with the Arts Council. She has a son in the Sound of Music. She asked that they continue to have open dialog with the Arts Council and the Senior Center on how they can improve, and she asked that they continue to keep it going.

G. Mayor and Council Reports

Council Member Shelton said he attended the senior advisory committee meeting. They are doing great things there. He attended the grand opening of the all abilities park. He attended the Tax Task Force meeting, representing small business owners. He thanked the Fire Department for the door hangers that they distributed this year regarding firework restrictions in the area. He said he also attended the ground breaking for the new fire station/police precinct in the Daybreak area.

Council Member Harris said he also attended the Fire Station ground breaking. He attended the grand opening of the all-inclusive park, and that was a great event. He said the Historical Committee worked hard, and were successful in getting 9800 South renamed as Fullmer Lane.

Council Member Marlors said he met with the Compensation Committee. He also met with the Architectural Review Committee; there continues to be a lot of good developments in the city. He met with former Planning Commission Chair Mark Woolley and gave him his plaque. Mr. Woolley is doing well and is in good spirits. He said he attended the all abilities park grand opening. He noted the new public safety building and said there will be development all around it. He said he is looking forward to the Sound of Music production. He attended a Chamber of Commerce event. They had a discussion about having someone from the City Council be a liaison to the Chamber of Commerce. Mayor Ramsey said she is the liaison, unofficially. Council Member Marlors also expressed a willingness to attend those events as needed.

Council Member Zander thanked Council Member Shelton for representing small business owners at the Tax Task Force meeting. She said the new public safety building took a lot of effort from staff and the City Council. It was the right thing to do. She said she attended the SOJO Glow 5k/10k race. She noted that South Jordan has a well organized and well executed race series.

Council Member McGuire gave an Arts Council update, including the Sound of Music and some murals that they are looking to do in the city. He attended the all abilities park grand opening. He also attended the ground breaking for the fire station. He thanked staff for making the city events

family friendly. He said he also attended a breakfast with the U of U President and their Senior staff. The U of U has invested and wants to continue to invest in the city.

Mayor Ramsey said she attended the compensation committee meeting. She also attended the all-inclusive park ribbon cutting. She attended the U of U breakfast with President Watkins. She attended the ground breaking for the public safety building. She said that building will help them maintain public safety standards. She said she attended the sewer board meeting. She attended the Lt. Governors birthday party. She noted the opening of a new Costa Vida. She attended the Jordan Education Foundation golf tournament. She met with the Southwest Mayors, and they will be meeting again next Monday. They are moving along on their visioning project. She attended the Movies in the Moonlight, Christmas in July sponsored by the city. She is excited for the Sound of Music. She thanked Tom Volt, fleet manager, who helped the Sewer District in dealing with their surplus property. She said Governor Herbert is hosting the National Governors Association conference. She has been asked to speak and participate in a panel on women in government and the 19th amendment. She thanked staff and the former City Council for the approval of the remodel of city hall and the new City Council chambers.

H. Action Item: Resolution R2019-31, advertising South Jordan's intent to adjust the Boundary between the City of South Jordan and Riverton City. *(By Engineering Director, Brad Klavano)*

Engineering Director Brad Klavano showed the subject property on the map and reviewed the properties that will be exchanged (Attachment B). He said both cities are adopting the same Resolution. The land swap is essentially a wash. Both property owners are in agreement. There is no dispute.

Council Member Zander made a motion to approve Resolution R2019-31. Council Member McGuire seconded the motion. The vote was unanimous in favor.

I. Action Item: Resolution R2019-37, approve the Franchise and License Agreement Template, which allows wireless facility providers to install small cell facilities in the City's Right-Of-Way. *(By Strategic Services Director, Don Tingey)*

Strategic Services Director Don Tingey reviewed the background information on this item.

Council Member Marlor asked if they are requiring any co-location? Mr. Tingey said that was initially their preference but it became problematic on who would own and maintain the tower, etc. He said they have the option of co-locating, but he guessed it would not happen often. The standard has not changed since they approved the Ordinance.

City Attorney Loose said the city is pre-empted on a lot of this. He anticipates that they will see a lot of these poles appearing. Mr. Tingey concurred, and said they will be on major corridors.

Council Member Zander asked if they have to accept all federal regulations? City Attorney Loose said yes. It was noted that any applications would go through the encroachment permit process. It was also noted that the towers can be up to 50 ft., with a 6 ft. antenna.

Council Member Shelton asked if they can install their units on the city utility poles? Mr. Tingey said yes and Rocky Mountain utility poles. If they co-locate, there is a separate agreement for that co-location. Attorney Sheeran said if they co-locate on a street, the cell phone company has to retain ownership. He said this is a field that is not settled yet. They anticipate a lot of changes over the years.

Council Member McGuire made a motion to approve Resolution R2019-37. Council Member Shelton seconded the motion. The vote was unanimous in favor.

J. Continuation of Discussion of Housing Funding Program Potential Options

The City Council continued a discussion of housing funding program potential options for the RDA funds as outlined in a prepared presentation (Attachment C).

Mayor Ramsey asked if there are any federal or state funding programs to help bring down the cost of the senior center option? Mr. Preece said maybe CDBG funds. He said federal funds come with so many strings and regulations, it can add to the cost. Finance Director Naidu said they receive approximately \$250,000 a year in CDBG funds that is dispersed to various uses. He said they could possibly accumulate CDBG funds over 4-5 years to put towards a senior center.

Mayor Ramsey said the senior center option is one of a variety of projects that they are looking at. The City has no plans to build this. Mr. Preece said funding has been an issue in the past. CM Whatcott said they have looked for funds in the past, but they can look again. He feels there is limited opportunities to get funding for this project, but they will look again.

Mr. Preece explained how the housing portion of this project would be able to pay for a small portion of the senior center. That is accounted in the numbers. Council Member Harris asked if they had a partner for the housing portion, wouldn't that pay for a portion of the senior center. Mr. Preece said they were going to take the value of the land and use that as part of the money. Council Member Harris said he thought they were getting the housing at a discounted rate. Mr. Preece said that could help cover some of the costs.

CM Whatcott said the best possible solution for potential project 1 is if the City Council work with the County, offer to donate the land, and ask the County to help with part of the cost. He said the staff hit the end of the road with the County staff.

It was noted that there is just a little over \$11 million available in RDA funds. Mr. Preece said the idea was to do apartments for seniors that are under the 80 percent AMI.

Mayor Ramsey asked that staff schedule a meeting with Mayor Wilson and members of the City council and initiate that discussion with the County.

Mayor Ramsey asked if item K. on tonight's agenda commits any RDA money to that project? Mr. Preece said no. It just commits that the RDA Board will look into it further.

Council Member Zander said she would endorse a meeting with Salt Lake County. She said she loves the idea of potential program 1. She said the land for potential project 2 is debilitated. The residents in the area would like to see this happen. She feels it is a viable project.

It was noted that if item K. on tonight's agenda is not approved, the timeframe on that project will be exhausted.

Mr. Preece said they would pursue the senior center with the County. They will lock down details on program 1 and 2 and bring it back to the City Council. Council Member Marlor said he would like to see all \$11 million of RDA funds spent in the city.

K. Public Hearing: BLR Subdivision (Bingham Court), 1414 West 11400 South –

- Resolution R2019-28, authorizing the City and the Developer to enter into a Development Agreement pertaining to the Development of the property generally located at 1414 West and 11400 South; and authorizing the Mayor to sign the Development Agreement. Skylar Tolbert, Ivory Homes (Applicant). *(By Planning Director, Steven Schaefermeyer)*
- Resolution R2019-29, amending the future Land Use Plan Map of the General Plan from Office Use to Medium Density Residential on property generally located at 1414 West 11400 South. Skylar Tolbert, Ivory Homes (Applicant). *(By Planning Director, Steven Schaefermeyer)*
- Rezone Ordinance, 2019-03-Z, amending the Revised Ordinances of the City and changing the Zoning Map from the R-1.8 and R-2.5 Zone to the R-M-PD Zone on property generally located at 1414 West and 11400 South. Skylar Tolbert, Ivory Homes (Applicant). *(By Planning Director, Steven Schaefermeyer)*

Planning Director Schaefermeyer reviewed the background information on this item. He reviewed a prepared presentation (Attachment D). He said the concerns expressed by the Planning Commissioners that opposed this centered around changing the land use and wanting to leave the area office. There were also general questions with the RDA, how it would work, and what the priority would be.

Skylar Tolbert, Ivory Homes, said this project is important to the City, the neighbors, and the landowners. This project is unique. It helps solve the housing shortage and the workforce housing issue. He noted that Ivory Homes is pledging money this year and next towards the State's affordable housing issue. He said they are coming to an end of the timeline with the owners. They have made some concessions in the plan, based on input from the neighbors. He showed renderings of potential homes styles (part of Attachment D). He also reviewed their landscape standards.

Mayor Ramsey opened the public hearing regarding Resolution R2019-29.

Ken Margetts, 11342 S. Blue Rutt Cove, said he lives north of the proposed development. He said they would love for the property to be a park or 1/3 acre lots. The idea of office warehouse terrifies them. He said Ivory Homes has done a good job working with their concerns.

Mayor Ramsey closed the public hearing.

Council Member Harris said the ultimate cost for RDA funds is \$900,000, and that will subsidize 9 units. Each unit is being subsidized \$60,000 to the end user. The other \$360,000 is listed as redevelopment costs. Where is that money going?

Mr. Tolbert said there are different size units at different costs. There is another \$100,000 that will go to the price differential. He said those 9 property owners will also share common areas, private roads, community fencing, etc. It was noted that the first proposal had a higher density. It was suggested that they do less density with the city contributing more. The rest of the money would be used to subsidize land value.

Mr. Preece said they are also paying for housing that they are demolishing and hauling off.

Council Member Zander said it will take effort to clear the property. Ivory Homes made a lot of concessions. She feels there are a lot of wins with this opportunity.

Council Member Harris said he will vote in favor of this, but he is paying attention to other RDA projects. He said there are no residents in opposition to this and noted that the developer reduced the density.

Council Member Shelton said they are voting on the land use and zoning. They are not spending any RDA funds tonight. He said the lack of neighbor opposition is a credit to the neighbors and developers.

Planning Director Schaefermeyer said the code does not allow a 6 ft. masonry fence. A semi private shorter fence is required by code. The additional landscaping requirements from the developers were also noted. It was also noted that there will be curb, gutter, and sidewalk on both sides.

Council Member Zander asked if a toddler went out the front of the townhomes, would the fence be enough to stop them? Mr. Tolbert said they are planning standard wrought iron with approximately a 5 inch gap.

Council Member Marlor said this is a unique opportunity for people who need this benefit. A lot of work has been done on the project.

Mayor Ramsey opened the public hearing regarding Rezone Ordinance 2019-03-Z. There were no comments. She closed the public hearing.

Council Member Zander made a motion to approve Resolution R2019-28. Council Member Marlor seconded the motion. Roll call vote. The vote was unanimous in favor.

Council Member Shelton made a motion to approve Resolution R2019-29. Council Member Zander seconded the motion. Roll call vote. The vote was unanimous in favor.

Council Member Zander made a motion to approve Rezone Ordinance 2019-03-Z. Council Member McGuire seconded the motion. Roll call vote. The vote was unanimous in favor.

L. Staff Reports and Calendaring Items

L.1. McKee Farms Traffic Study (*Brad Klavano*)

Engineering Director Klavano reviewed the traffic study results for McKee Farms (Attachment E). He recommended that they take no action at this time. He has received no complaints from residents. They will keep monitoring the situation and review it again in a year. If the service level changes, they will look at traffic calming measures. Council Member McGuire said he has not received any complaints regarding traffic either.

L.2. Project Update (*Brad Klavano*)

Engineering Director Klavano gave a capital improvements project update to the City Council. He said not all projects are budgeted or currently being worked on (Part of Attachment B – digital and Attachment F – hard copy).

Council Member Zander requested that the pickle ball courts be done by May 1st.

Council Member Marlor said he feels the trees along 2200 West are problematic. They make a huge mess and have damaged the sidewalks, and the trees are not even half grown. Council Member Harris concurred. Public Works Director Rasmussen said they would have their urban forester look at it and give a recommendation.

Engineering Director Klavano said it is taking a significant amount of time to get steel for traffic signals, and that is delaying projects.

Council Member Marlor said on the Welby Canal trail, is the city going to place signs outlining the leash laws, no motorized vehicles, etc. Engineering Director Klavano said they can. Council Member Marlor asked CM Whatcott to make contact with the residents regarding the signage.

Council Member Zander said she would like to make an event around the opening of the pickle ball courts in the city park. It is estimated to be complete in October.

It was noted that the city may be able to get a grant for the Midas Creek trail project. It was also noted that staff is working on a GIS format for updates on all capital projects. It was further noted that they will be resyncing all of the lights on 11400 South. There is a consultant studying that.

Engineering Director Klavano reviewed a map of the Town Meadows/Peach Blossom subdivision (Part of Attachment B). There is only one exit onto Redwood Road, and that is problematic. CM Whatcott said they would like to work with Merit Medical and get some more

right-of-way. They need 16 ft. from Merit Medical's project to make a normal road width. The project cost is \$110,000, not including right of way costs.

CM Whatcott said he and Public Works Director Rasmussen will be going to Arizona for a water reuse presentation. Mayor Ramsey said the city may need to get a Conditional Use Permit for the water reuse project.

ADJOURNMENT

Council Member Marlor made a motion to adjourn. Council Member Zander seconded the motion. The vote was unanimous in favor.

The July 16, 2019 City Council meeting adjourned at 10:19 p.m.

UNAPPROVED

PUBLIC HEARING - H: ORDINANCE 2019-12 AMENDING
SMALL CELL INFRASTRUCTURE DESIGN GUIDELINE AND
CITY CODE

SOUTH JORDAN CITY CITY COUNCIL REPORT

Council Meeting Date: August 6, 2019

Issue: An Ordinance of the City Council of the City of South Jordan, Utah, amending the Small Cell Infrastructure Design Guideline and City Code Section 82 of Title 5, Wireless Communication Services.

Submitted By: Jeremy Nielson

Department: Engineering

Staff Recommendation (Motion Ready): Approve Ordinance 2019-12 amending the Small Cell Infrastructure Design Guideline and City Code Section 82 of Title 5, Wireless Communication Services.

BACKGROUND:

Currently, the City Code and Small Cell Design Guidelines have a high preference for providers to collocate small cells on street lights. After considering several small cell applications and the challenges of collocating city infrastructure with multiple carriers and other third parties, City staff is recommending that we change the site preference to have a high preference for free-standing poles and a low preference for collocation on City owned poles (streetlights). Other minor changes were made to the design guideline as redlined in the attached Exhibit A.

TEAM FINDINGS, CONCLUSIONS & RECOMMENDATIONS:

FINDINGS:

Below are the main reasons staff is recommending a higher priority be placed on free-stranding poles over collocation on City owned poles (streetlights):

- Ownership and maintenance of the pole will be clear – carriers will have their own freestanding installation and the City's streetlights will remain separate. If the streetlight is combined, then the City may get into a position where they would need to coordinate with multiple carriers and other third parties for maintenance.
- Street architecture will be more consistent – If the streetlights are combined with the small cell pole then the luminaire will be attached to a side arm that would look odd and it may stand out more than just a separate vertical pole. Another option would be to have a cobra head off of the small cell, but that doesn't match the street architecture either.

The other changes that are included in the attached exhibits are to either align the design guideline with current state law or make the requirements more clear to providers.

CONCLUSIONS:

Ordinance 2019-12 will update the small cell requirements so that street architecture is more uniform and long term maintenance of small cells will be improved.

RECOMMENDATIONS:

City staff is recommending that the City Council approve Ordinance 2019-12 amending the Small Cell Infrastructure Design Guideline and City Code Section 82 of Title 5, Wireless Communication Services.

FISCAL IMPACT:

- None

ALTERNATIVES:

- Deny Ordinance 2019-12.

SUPPORT MATERIALS:

- Ordinance 2019-12
 - Exhibit A – Small Cell Infrastructure Design Guidelines
 - Exhibit B – Amendments to Chapter 82 of Title 5

City Council Action Requested: Bud Klawans 7/30/19
Department Head Date

ORDINANCE NO. 2019 - 12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, AMENDING THE SMALL CELL INFRASTRUCTURE DESIGN GUIDELINES AND CITY CODE SECTION 82 OF TITLE 5, WIRELESS COMMUNICATION SERVICES.

WHEREAS, Utah Code § 10-9a-102 grants the City Council of the City of South Jordan (the “City Council”) authority to enact ordinances that it considers necessary or appropriate for the use and development of land in the City of South Jordan (the “City”); and

WHEREAS, the proposed changes allow wireless providers more clarity and predictability for installation and design of small cells and distributed antenna systems, while enabling the City to promote the management of the City’s right-of-way in the overall interests of the public health, safety, and welfare; and

WHEREAS, the City Council held a public hearing and reviewed the subject text amendment; and

WHEREAS, the City Council finds that the subject text amendment will enhance the public health, safety and welfare of the residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH:

SECTION 1. Amendment. The City Council hereby adopts the changes to City Code as shown in Exhibit A (Infrastructure Design Guidelines) and Exhibit B (Chapter 5.82 - Wireless Communication Services), listed below.

SECTION 2. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all sections, parts, provisions and words of this Ordinance shall be severable.

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon publication or posting as required by law.

[SIGNATURE PAGE FOLLOWS]

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS _____ DAY OF _____, 2019 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	_____	_____	_____	_____
Bradley Marlor	_____	_____	_____	_____
Donald Shelton	_____	_____	_____	_____
Tamara Zander	_____	_____	_____	_____
Jason McGuire	_____	_____	_____	_____

Mayor: _____
Dawn R. Ramsey

Attest: _____
City Recorder

Approved as to form:

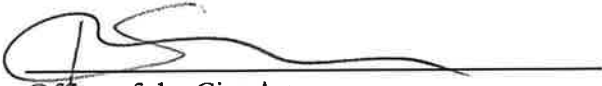

Office of the City Attorney

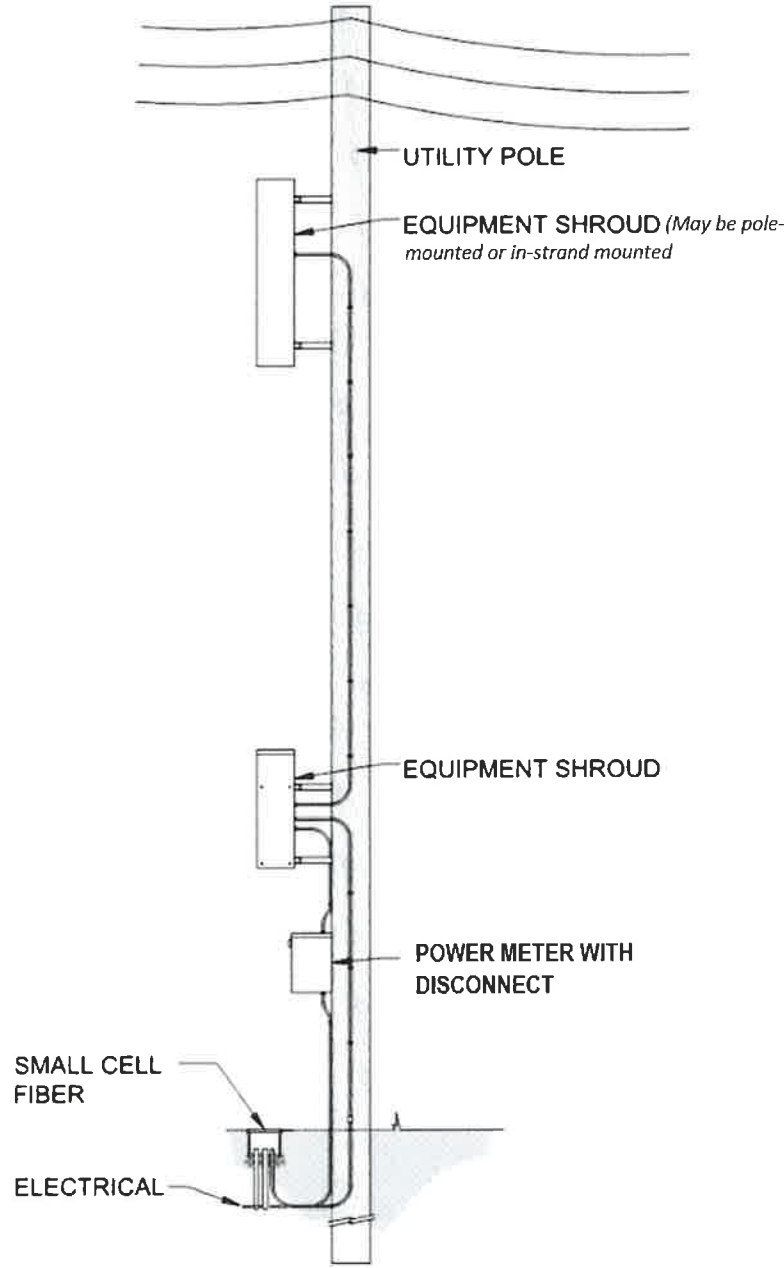
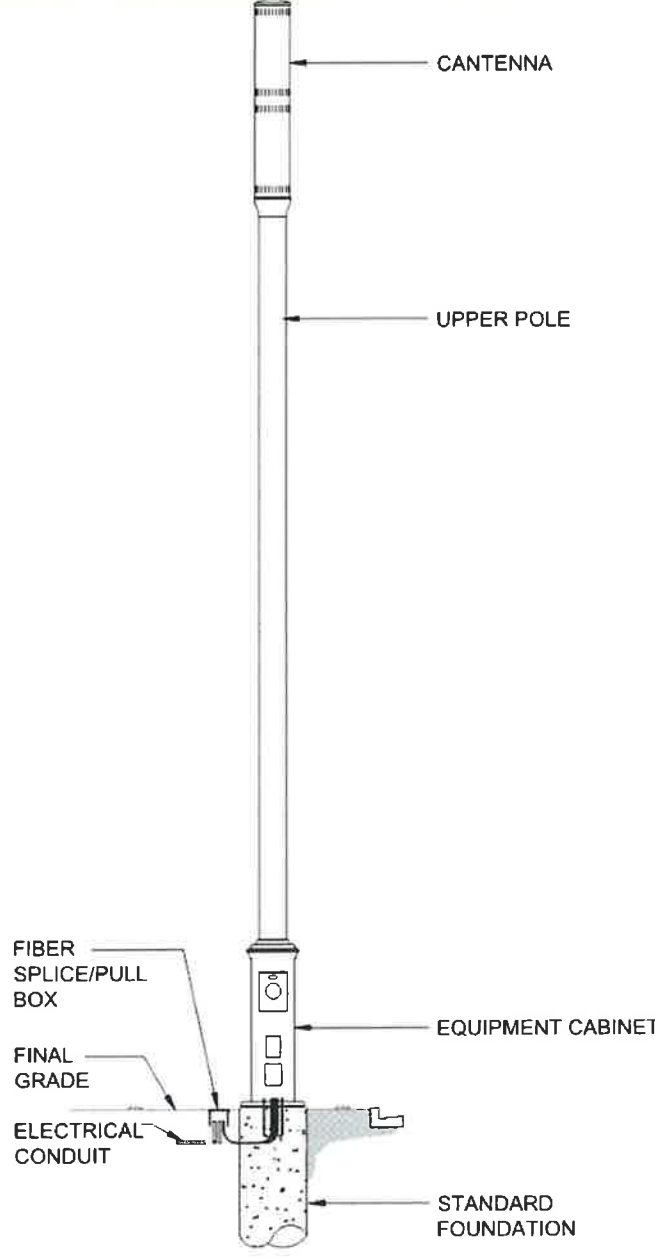
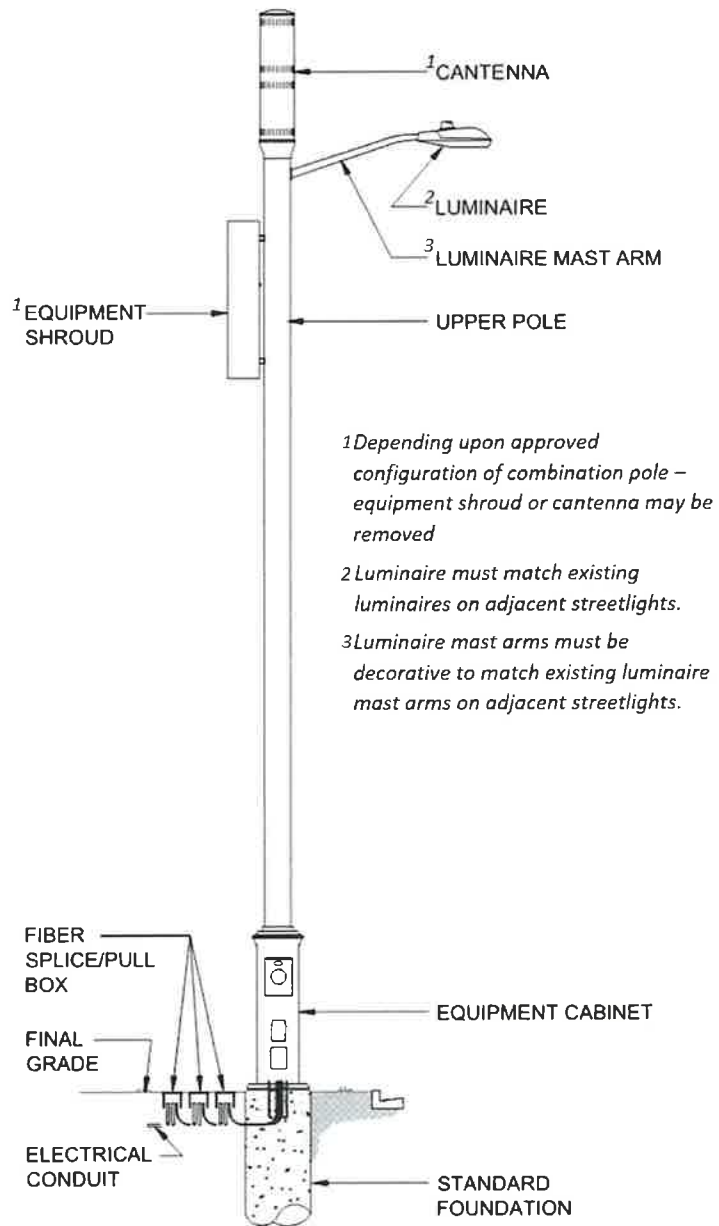
EXHIBIT A

South Jordan City

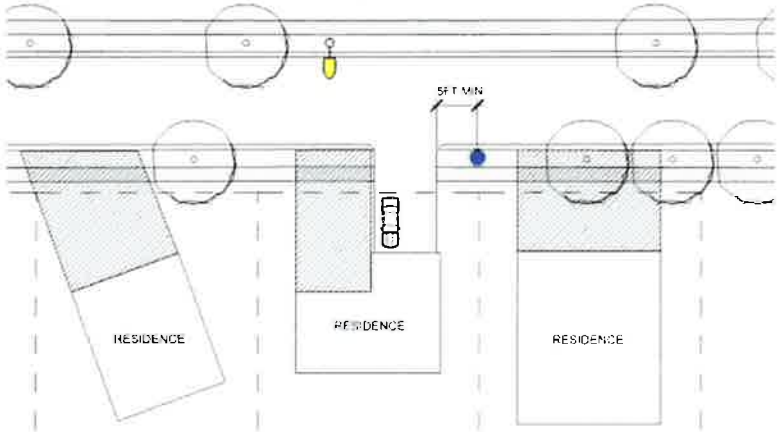
Small Cell Infrastructure Design ~~Guidelines~~Requirements

(Proposed language in underline, proposed deletions in ~~strike through~~)

Three different types of small cell installations are permitted within South Jordan City. These types include attachments to utility poles and utility lines (Type I), new freestanding installations (Type II), and removal and replacement of existing streetlights (Type III), ~~and new freestanding installations (Type III)~~. When small wireless facilities are to be constructed in a right-of-way, the city's order of preference for a provider is 1) To install in-strand antennas (Type I), 2) To collocate on existing poles (Type I), 3) to collocate on new poles (Type II), or 34) To collocate on replacement poles in the same or nearly the same location (Type III), or 3) to collocate on new poles (Type III). Deviations from this guideline shall be approved on a case-by-case basis by South Jordan City Engineer prior to installation.

Section	Type I - Utility Pole Attachment	Type III – New Freestanding Installation	Type III – Streetlight Replacement (Combination Pole)
1. Typical Configuration	 UTILITY POLE EQUIPMENT SHROUD (May be pole-mounted or in-strand mounted) EQUIPMENT SHROUD POWER METER WITH DISCONNECT SMALL CELL FIBER ELECTRICAL	 CANTENNA UPPER POLE FIBER SPLICE/PULL BOX FINAL GRADE ELECTRICAL CONDUIT EQUIPMENT CABINET STANDARD FOUNDATION	 ¹ CANTENNA ² LUMINAIRE ³ LUMINAIRE MAST ARM ¹ EQUIPMENT SHROUD UPPER POLE FIBER SPLICE/PULL BOX FINAL GRADE ELECTRICAL CONDUIT EQUIPMENT CABINET STANDARD FOUNDATION <i>¹ Depending upon approved configuration of combination pole – equipment shroud or cantenna may be removed</i> <i>² Luminaire must match existing luminaires on adjacent streetlights.</i> <i>³ Luminaire mast arms must be decorative to match existing luminaire mast arms on adjacent streetlights.</i>
2. General Requirements	All attachments to existing utility poles within South Jordan City right of way require an <u>approved application and</u> encroachment permit, prior to installation.	- All freestanding small cell poles within South Jordan City right of way require an <u>approved application and</u> encroachment permit, prior to installation. - The pole design shall match the aesthetics of existing streetlights installed adjacent to the pole. The Carrier shall perform a visual	<u>All combination small cell and streetlight permitting replacement applications and aesthetics require an approved application and encroachment permit prior to installation.</u> ~~shall be approved by South Jordan City prior to installation.~~ All equipment shall meet South Jordan

Section	Type I - Utility Pole Attachment	Type II - New Freestanding Installation	Type III - Streetlight Replacement (Combination Pole)
	- A maximum of three enclosures including the disconnect and antenna shall be installed at each utility pole location. No ground-mounted enclosures, including backup power supply, shall be allowed. - All carrier equipment shall be removed and relocated at no cost to South Jordan City, if South Jordan City decides to underground the utility lines in the future. - No strand-mounted small cell devices shall be installed on poles with mounted streetlights. - Carrier shall submit evidence that the existing poles are appropriately sized and have sufficient strength to accommodate the additional small cell equipment loads. Carrier shall also submit a letter of approval from the pole owner for the small cell equipment to be installed on the specific pole. - Carrier shall certify that radiation is at safe levels by a non-ionizing radiation electromagnetic radiation report (NIER). The NIER report shall be endorsed by a qualified professional. Report shall be submitted to the pole owner and South Jordan City. It shall specify minimum approach distances to the general public as well as electrical and communication workers that are not trained for working in an RF environment (uncontrolled) when accessing the pole by climbing or bucket. - Carrier shall provide a disconnect so pole owners have the ability to easily shut off radio signals and power while working on the pole.	inspection (Online street images are acceptable) prior to submitting a permitting application to determine existing aesthetics. - All small cell carrier equipment shall be housed internal to the pole or hidden behind an exterior shroud. - The small cell components shall be sized to be visually pleasing. For a pole to be considered visually pleasing, the transition between the equipment cabinet and upper pole should be considered. A decorative transition shall be installed over the equipment cabinet upper bolts, or decorative base cover shall be installed to match the equipment cabinet size. - Each pole component shall be architecturally compatible to create a cohesive aesthetic. - Carrier shall certify that radiation is at safe levels by a non-ionizing radiation electromagnetic radiation report (NIER). The NIER report shall be endorsed by a qualified professional. Report shall be submitted to South Jordan City and it shall specify minimum approach distances to the general public. - City reserves the right to attach any sign (such as a no parking sign) on a freestanding installation within the right-of-way.	City's Construction Standards and Specifications ~~and comply with the City's Encroachment Permit Requirements.~~ - The same small cell pole aesthetic is to be used to match existing streetlights in the area and maintain a cohesive appearance. The Carrier shall perform a visual inspection (online street images are acceptable) prior to submitting a permitting application to determine existing aesthetics. - All small cell carrier equipment shall be housed internal to the pole or hidden behind an exterior shroud. - The small cell components shall be sized to be visually pleasing. For a combination pole to be considered visually pleasing, the transition between the equipment cabinet and upper pole should be considered. A decorative transition shall be installed over the equipment cabinet upper bolts, or decorative base cover shall be installed to match the equipment cabinet size. - Each pole component shall be architecturally compatible to create a cohesive aesthetic. - Three variations of Type III streetlight replacements will be considered for installation: - Type IIIa: Streetlight with a single antenna - Type IIIb: Streetlight with a single equipment shroud - Type IIIc: Streetlight with a cantenna and single exterior equipment shroud - Type IIIc installation will be allowed when multiple technologies offered by the same carrier are installed on a single pole and to qualify, the Network Provider must demonstrate that the additional technology cannot be integrated into the equipment cabinet or the cantenna. - All pole mounted enclosures shall be securely attached with hardware (not strapped). - Carrier shall certify that radiation is at safe levels by a non-ionizing radiation electromagnetic radiation report (NIER). The NIER report shall be endorsed by a qualified professional. Report shall be submitted to the pole owner and South Jordan City. It shall specify minimum approach distances to the general public as well as electrical and communication workers that are not trained for working in an RF environment (uncontrolled) when accessing the pole by climbing or bucket. - Carrier shall provide a disconnect so pole owners have the ability to easily shut off radio signals and power while working on the pole.
3. Placement Requirements	- Equipment is attached to existing pole. - Don't impede, obstruct or hinder ADA access, pedestrian or vehicular travel	~~No freestanding poles closer than 250 feet away, radially, from another freestanding small cell pole.~~ - Do not locate along the frontage of a Historic building, deemed historic on a federal, state, or local level. - Locate so as not to significantly create a new obstruction to property sight lines. - Locate between property lines as much as possible	- Poles can either be owned by South Jordan City or the applicant (as approved via ~~Encroachment Permit~~ Small Cell Application) - Don't impede, obstruct or hinder ADA access, pedestrian or vehicular travel - Locate in parkstrip (if possible) and in alignment with existing trees, utility poles and streetlights. - Locate equal distance between trees when possible, with a minimum of 15 feet separation.

Section	Type I - Utility Pole Attachment	Type II – New Freestanding Installation	Type III – Streetlight Replacement (Combination Pole)
		- For commercial areas - care should be taken to locate the small cell such that it does not negatively impact a business. Small cells shall not be located in-front of store front windows, primary walkways, primary entrances or exits, or in such a way that would impede deliveries. - Don't impede, obstruct or hinder ADA access, pedestrian or vehicular travel - Locate in parkstrip (if possible) and in alignment with existing trees, utility poles and streetlights. - Locate equal distance between trees when possible, with a minimum of 15 feet separation. - Provide required clearances from any existing utilities - Locate outside of 30 foot clear vision triangle at intersections. - Do not obstruct sight distance at driveways or other accesses on to roadway. - Freestanding installations are not allowed within a right-of-way that is 60 feet wide or less and adjacent to residential. - Shall not be located within 100 feet of the apron of a fire station or other adjacent emergency service facility. - For residential areas - do not locate within the perpendicular extension of the primary street-facing wall plane, as shown below. Do not locate a small cell in front of driveways, entrances or walkways.  Do not locate small cell in the perpendicular extension of the primary street-facing wall plane Do not locate small cell in front of driveways, entrances, or walkways	- Provide required clearances from any existing utilities - Locate outside of 30 foot clear vision triangle at intersections. - Do not obstruct sight distance at driveways or other accesses on to roadway. <u>Streetlight replacement installations are not allowed within a right-of-way that is 60 feet wide or less and adjacent to residential.</u>
4. Equipment Color	Visible attachments and hardware shall be colored to match pole, or colored gray (7047) if located on a wooden pole.	- Equipment cabinet and pole shall be galvanized in accordance with AASHTO M 111. - The pole ~~is painted to match existing streetlight aesthetics, paint~~ shall be powder coated <u>black</u> over zinc paint (Pole and equipment cabinet shall still be galvanized).	
5. Equipment Shroud / Cabinet	38”H x 16”W x 12”D maximum for pole-mounted equipment shroud. Strand-mounted equipment enclosures may not exceed 5.5 cubic feet. - All hardware attachments shall be hidden to the maximum extent possible.	16 inches (preferred), 20 inches maximum diameter. Maximum height of cabinet is 5’-8”. Cabinet to be round and installed below the pole. - Equipment cabinet and/or equipment cabinet cover shall not have a flat, horizontal surface larger than 1.5 inches. - All hardware attachments shall be hidden to the maximum extent possible.	16 inches (preferred), 20 inches maximum diameter. Maximum height of cabinet is 5’-8”. Cabinet to be round and installed below the pole. - If an antenna is located on the side of the pole, the antenna, radio equipment, brackets, and all other hardware required for a complete installation shall fit behind a 38”H x 16”W x 12”D maximum shroud, securely mounted (not strapped) to the pole.

South Jordan City

Small Cell Infrastructure Design ~~Guidelines~~Requirements

Section	Type I - Utility Pole Attachment	Type II – New Freestanding Installation	Type III – Streetlight Replacement (Combination Pole)
			- Equipment cabinet and/or equipment cabinet cover shall not have a flat, horizontal surface larger than 1.5 inches. - All hardware attachments shall be hidden to the maximum extent possible.
6. Cantenna	- If a cantenna is located on top of the pole the outer diameter shall be 14" maximum and the cantenna shall be no more than 5 feet tall, including antenna, radio head, mounting bracket, and all other hardware necessary for a complete installation. - If the cantenna is mounted to the side of the pole it shall be located inside a shroud of 5.5 cubic feet maximum. The width, depth, or diameter of the shroud size shall not be greater than 16" (maximum).	- The antenna and antenna pole attachment shall be shrouded to meet South Jordan City's aesthetics. A tapered transition between the upper pole and cantenna shall be included. 14-inch maximum outer diameter x 5' 8" maximum length. Antenna shroud shall be colored to match pole.	
7. Required Equipment	- Only one equipment shroud, containing all required small cell equipment, shall be installed per pole. Except, one additional equipment shroud shall be allowed per pole if the antenna is located within the second equipment shroud. Equipment shall be located such that it meets the Americans with Disabilities Act of 1990 and does not obstruct, impede, or hinder the usual pedestrian or vehicular travel way. - If applicable, only one strand-mount equipment shroud shall be installed per permit location	All equipment shall be located internal to the equipment cabinet or recessed in the equipment cabinet to meet Utility requirements or hidden behind the cantenna. All equipment shall be mounted per the Owner's requirements. Pole bases shall be sized to handle the listed equipment and all other equipment required by the Owner.	
8. Warning Labels	Carrier shall mark equipment with warning labels if required by NEC or other regulations.		
9. Owner Identification	A 4-inch by 6-inch (maximum) plate with the Carrier's name, location identifying information, and emergency telephone number shall be permanently fixed to the equipment shroud.		
10. Luminaire	<i>Not Applicable</i>	<i>Not Applicable</i>	Luminaire shall meet South Jordan City's Construction Standards and Specifications and shall match existing luminaires adjacent to permit location.
11. Luminaire Mast Arm	<i>Not Applicable</i>	<i>Not Applicable</i>	Match mast arms on adjacent streetlights or match aesthetics of adjacent streetlights. In any case, mast arms will be decorative.
12. Pole Size & Type	<i>Not Applicable</i>	~~Round, straight, galvanized steel.~~ Pole shall be architecturally compatible with the equipment cabinet <u>and shall be round, straight, galvanized steel with black powder coating.</u> - The upper pole shall be scaled to 0.5 to 0.75 times the size of the equipment cabinet with 10" minimum outer diameter. The pole diameter shall be scaled such that no flat, horizontal surface larger than 1.5 inches exists between the equipment cabinet and upper pole.	~~Round, straight, galvanized steel.~~ Pole shall be architecturally compatible with the equipment cabinet <u>and shall be round, straight, galvanized steel with black powder coating.</u> At least 15% of the pole design structural capacity shall be reserved for future City IOT installations. - The upper pole shall be scaled to 0.5 to 0.75 times the size of the equipment cabinet with 10" minimum outer diameter. The pole diameter shall be scaled such that no flat, horizontal surface larger than 1.5 inches exists between the equipment cabinet and upper pole.
13. Small Cell Height	- For a utility pole attachment that is located within a right-of-way that is 60 feet wide or less and adjacent to residential – the height of the existing utility pole shall not change. - For commercial or industrial areas or residential areas (within a right-of-way greater than 60 feet wide) - If a cantenna is located on top of the utility pole, the cantenna shall be no more than 5 feet tall, including antenna, radio head, mounting bracket, and all other hardware necessary for a complete installation.	- Pole height shall not exceed ~~30~~50 feet. Pole height shall be measured from the top of the foundation to the top of the cantenna. - Freestanding installations are not allowed within a right-of-way that is 60 feet wide or less and adjacent to residential.	~~Pole height shall not exceed 50 feet. Pole height shall be measured from the top of the foundation to the top of the cantenna.~~ ~~Freestanding installations are not allowed within a right-of-way that is 60 feet wide or less and adjacent to residential.~~ ~~Pole height shall be measured from the top of the foundation to the top of the highest point on the structure (cantenna or luminaire).~~ ~~For a streetlight replacement that is located within a right-of-way that is 60 feet wide or less and adjacent to residential – the height of the~~



Section	Type I - Utility Pole Attachment	Type II – New Freestanding Installation	Type III – Streetlight Replacement (Combination Pole)
			~~combination pole may not exceed the height of the existing streetlight pole that is being replaced.~~ ~~For a streetlight replacement that is located within a right-of-way that is greater than 60 feet wide and adjacent to residential – the height of the combination pole shall not exceed 30 feet.~~ ~~For commercial or industrial areas – Pole height shall not exceed 40 feet.~~
14. Electrical Separation	Not Applicable	If multiple carriers are present, separate conduits shall be provided to separate wiring by owner. An internal divider inside the structure shall separate electrical wiring and fiber, per Owner.	
15. Conduit Sweeps in Foundation	Not Applicable	Not Applicable	Conduit shall accommodate all equipment and include (4) spare 2” PVC sweeps for future service.
16. Design Wind Velocity	Withstand minimum wind speed of 115mph (3 second gust) – or as required by the City’s currently adopted International Building Code.		
17. Foundation	Not Applicable	Precast concrete or cast-in-place pole foundations shall be designed per the City standard to meet ACI 318. While the City accepts cast-in-place foundations, precast concrete foundations are preferred and should be installed whenever possible.	
18. Bolt Circle	Not Applicable	19.5-inch bolt circle when installing a 16-inch equipment cabinet. 23.5-inch bolt circle when installing a 20-inch equipment cabinet. Anchor bolts shall be hidden from view.	
19. Access Doors	Not Applicable	Lockable doors to be provided as needed in the equipment cabinet to maintain equipment.	- Lockable doors to be provided as needed in the equipment cabinet to maintain equipment. - A hand hole shall be provided at the top and bottom of the pole to maintain electrical service for streetlights and future IOT attachments.
20. Ventilation	Not Applicable	Passive louvers and/or other passive ventilation systems shall be provided as the primary means of temperature control. If required, fan(s) shall not emit noise greater than 30dBa at one meter (3.28 feet).	

Section	Type I - Utility Pole Attachment	Type II - New Freestanding Installation	Type III - Streetlight Replacement (Combination Pole)
21. Examples of Unacceptable Installations	Intentionally blank	 Cantenna must include a smooth transition between upper pole and cantenna Conduit, mounting bracket, and other hardware must be hidden behind a cantenna or in a shroud All conduit, wires, and other hardware shall be located internal to the upper pole	 Conduit, mounting bracket, and other hardware must be hidden from view Cantenna must include a smooth transition between upper pole and cantenna attachment Upper pole shall be smooth and straight, with 1.5-inch (max.) of flat surface where mounted to the equipment cabinet Equipment cabinet shall be round. 16-inch diameter is preferred, 20-inch diameter max.

Section	Type I - Utility Pole Attachment	Type II+ – New Freestanding Installation	Type III – Streetlight Replacement (Combination Pole)
22. Examples of Acceptable Installations	<i>Intentionally blank</i>		

EXHIBIT B

(Proposed language in underline, proposed deletions in ~~strike through~~)

Amendments to Chapter 82 of Title 5

5.82.270: SITE PREFERENCE:

When small wireless facilities are to be constructed in a right-of-way, the City's order of preference for a provider:

- A. To install in-strand antennas;
- B. To collocate on existing poles;
- ~~C. To collocate on replacement poles in the same or nearly the same location and with such heights as provided in this chapter, in the franchise or in the City's Standards and Specifications for Small Cell Infrastructure; and~~
- D.C. To collocate on new poles with such heights as provided in this chapter, in the franchise or in the City's Standards and Specifications; and
- D. To collocate on replacement poles in the same or nearly the same location and with such heights as provided in this chapter, in the franchise or in the City's Standards and Specifications.

REDEVELOPMENT AGENCY ACTION ITEM - I: RDA 2019-08

**SOUTH JORDAN CITY
REDEVELOPMENT AGENCY BOARD**

Meeting Date: 8/6/2019

Application: Ivory Homes Moderate Income Housing Agreement for Workforce Housing

Address: 1400 West 114000 South

Applicant: Skylar Tolbert, Ivory Homes

Submitted By: Brian A. Preece, MPA, Director of City Commerce/RDA Manager
J. Craig Smith, RDA Attorney

Presented By: Brian A. Preece, MPA, Director of City Commerce/RDA Manager

Staff Recommendation (Motion Ready): Based on the staff report and other information presented to the Redevelopment Agency Board during the meeting, I move that the Board **Approve Resolution RDA2019-08**, authorizing the Redevelopment Agency and Applicant to enter into the Moderate Income Housing Agreement (see attached).

STANDARD OF APPROVAL

Utah State Code 17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

- (1)** (a) An agency shall use the agency's housing allocation to:
- (i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;
 - (ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;
 - (iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;
 - (iv) plan or otherwise promote income targeted housing within the boundary of the agency;
 - (v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where a board has determined that a development impediment exists;
 - (vi) replace housing units lost as a result of the project area development;

- (vii) make payments on or establish a reserve fund for bonds:
 - (A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and
 - (B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

The remainder of Section (1) is omitted as not relevant to the matter at hand.

Applicable Goals from the South Jordan Housing Needs Study, September 2104

Goal 1: Encourage Development of Affordable Housing, Focusing at Transit Sites and Significant Transportation Corridors

- Responsible Parties: City Administration, Community Development, Planning Department and Planning Commission, Redevelopment Agency, Daybreak developers
- Timeline: 1-10 years

Goal 4: Eliminate Barriers to Affordable and Fair Housing

- Responsible Parties: City Administration, City Council, Planning Department, Community Development, Disability Law Center
- Timeline: 1-15 years

BACKGROUND

Ivory Homes (the “Applicant”) is proposing to construct a housing development per the Development Agreement entered into with the City on July 16, 2019. The approval and signing of the Moderate Housing Agreement is a condition set forth in the Development Agreement for it to be in force.

The City Council has met with representatives from Ivory Homes and City Staff in order determine an acceptable project, including layout and density. It was decided that nine units meeting the targeted housing requirements, a preference being given to critical workforce positions, including police, fire, public school teachers and staff and municipal employees, will be set aside and deed restricted within the Townhome area of the project.

This design has been used by Ivory Homes to determine reasonable cost to the project to make the nine Workforce Housing Units feasible. These costs include, but not limited to, a proportionate share of the redevelopment of the property and required new infrastructure, discounted sales prices to meet the affordable housing qualifications and reasonable profits.

Purchase of these nine units will be deed restricted for 50 years to those qualified under the rules set forth by the State (see Standard of Approval section above) for families making 80% of the Salt Lake County Median Income, as determined by HUD (see Exhibit "A" Moderate Housing Agreement).

An example of a Deed Restriction document is provided as Exhibit "D" of the agreement. This is an example from a project in Park City; however, RDA Staff is working on a Deed Restriction document that will be used for this project and will better suit the exact needs of South Jordan City .

FINDINGS, CONCLUSIONS & RECOMMENDATIONS

Findings:

1. Applicant's proposed project, as previously agreed to in the development agreement approved by the City Council on July 16, 2019 meets or exceeds the requirements of the Standard of Approval, as outlined above.
2. The purpose of the Redevelopment Agency (RDA) Moderate Housing Fund is to help families making 80% or less of the County Moderate Income purchase homes within the community.
3. The use of RDA Moderate Income Housing funds as outlined in the attached agreement (Exhibit "A") will further the Goals 1 and 4 of the City of South Jordan Housing Needs Study, jointly adopted by the RDA.

Fiscal Analysis:

The RDA currently has approximately \$11,000,000 in its Affordable Housing Fund. If funded, the \$900,000 request would not significantly impact this fund and other worthy projects, as are currently being developed by RDA Staff, as directed by the City Council, can be funded in the future.

Conclusion:

Based on the findings listed above, Staff concludes that:

- The proposed application complies with the Standards of Approval listed above;
- The Applicant's proposal will further the purposes of RDA Housing Funds the City of South Jordan Housing Needs Study; and
- The proposed agreement will not negatively affect the RDA Housing Fund for future projects.

Recommendation:

Based on the Findings and Conclusions listed above, Staff recommends that the RDA Board discuss this application with the Ivory Homes representative and **Approve Resolution RDA2019-08**; unless, during the meeting, facts are presented that contradict these findings or new facts are presented, either of which would warrant further review by Staff.

ALTERNATIVES:

- Deny the application
- Make modification(s) to the Moderate Housing Agreement
- Schedule the application for a decision at some future date

SUPPORT MATERIALS:

- Resolution RDA2019-08

Redevelopment Agency Board Action Requested:



Director of City Commerce

7/31/19
Date

RDA RESOLUTION RDA 2019-08

A RESOLUTION OF THE SOUTH JORDAN CITY REDEVELOPMENT AGENCY APPROVING A MODERATE INCOME HOUSING AGREEMENT, SOUTH JORDAN CITY AND IVORY DEVELOPMENT, LLC

WHEREAS, pursuant to the provisions of the Utah Limited Purpose Local Government Entities – Community Reinvestment Agency Act (the “**Act**”), specifically Utah Code Annotated (“**UCA**”) § 17C-1, the South Jordan City Redevelopment Agency (the “**Agency**”) may allocate funds for various purposes related to income-based housing plans; 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 Moderate Income Housing Agreement, attached as **Exhibit A** (the “**Ivory Housing Agreement**”), is in the best interests of the Agency and South Jordan City; and

WHEREAS, the Agency now desires to approve the Ivory Housing Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SOUTH JORDAN CITY REDEVELOPMENT AGENCY AS FOLLOWS:

1. The Ivory Housing Agreement is approved, substantially in the form attached hereto as Exhibit A and with such changes as may be deemed advisable or necessary by the Agency.
2. The Agency Chair and/or Executive Director is authorized to execute the Ivory Housing Agreement on behalf of the Agency.
3. This Resolution shall be effective upon adoption.

[continued on next page]

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF THE SOUTH JORDAN CITY REDEVELOPMENT AGENCY ON THIS ___th DAY OF AUGUST, 2019 BY THE FOLLOWING VOTE:

	Yes	No	Abstain	Absent
Patrick Harris	_____	_____	_____	_____
Brad Marlor	_____	_____	_____	_____
Donald Shelton	_____	_____	_____	_____
Tamara Zander	_____	_____	_____	_____
Jason McGuire	_____	_____	_____	_____

Dawn R. Ramsey, Chairperson
South Jordan City Redevelopment Agency

Attest:

Anna West, Agency Secretary

Approved as to form:



Agency Legal Counsel

Exhibit A

Ivory Housing Agreement

**MODERATE INCOME HOUSING AGREEMENT, SOUTH JORDAN CITY
REDEVELOPMENT AGENCY AND IVORY DEVELOPMENT, LLC**

This MODERATE INCOME HOUSING AGREEMENT, SOUTH JORDAN CITY REDEVELOPMENT AGENCY AND IVORY DEVELOPMENT, LLC ("**Agreement**") is made and entered into as of the ____ day of _____, 2019, by and between **Ivory Development, LLC** ("**Ivory**") and the **South Jordan City Redevelopment Agency**, a political subdivision of the State of Utah (the "**Agency**"). Ivory and the Agency are referred to jointly as "**Parties**" and singly as a "**Party**."

RECITALS

- A. Ivory owns and is developing a residential project on approximately 6.22 acres located at approximately 11400 South and 1400 West in the City of South Jordan, Salt Lake County, State of Utah ("**Residential Project**"). A map generally depicting the proposed Residential Project is attached as **Exhibit A**. A map generally depicting the Workforce Housing Units, defined below, is attached as **Exhibit B**;
- B. Ivory has received all necessary land use approvals from South Jordan City ("**City**") to develop the Residential Project;
- C. Ivory and the Agency share a goal of creating affordable housing in the City with a preference for the City's critical workforce which includes police, fire, emergency responders, public school teachers and staff and municipal employees, employed within the City; and.
- D. The Agency possesses certain Redevelopment Agency Affordable Housing funds ("**Housing Funds**") that may be used to promote affordable and income targeted housing within the Agency's boundaries as set forth in Utah Code Annotated ("**UCA**") §17C-1-412.

NOW, THEREFORE, in consideration of the foregoing recitals, the following mutual covenants and understandings, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

TERMS

1. **Workforce Housing**. Ivory agrees to designate nine (9) of the units depicted on Exhibit B as qualifying affordable housing units ("**Workforce Housing Units**"). First preference for purchase of the Workforce Housing Units will be given to the City's critical workforce, employed within the City including police, fire, emergency responders, teachers and staff in public schools, and municipal employees of the City (the "**Critical Workforce**"). This preference will be applied when the Workforce Housing Units are offered for sale by Ivory. In its advertising and marketing efforts, Ivory will identify the Workforce Housing Units and specify that members of the Critical Workforce will be given a preference to purchase such units. The

preference to purchase such units. The Workforce Housing Units will not be sold in excess of the maximum purchase price applicable to the sale as listed on **Exhibit C**. The Workforce Housing Units will be deed-restricted in such a manner to ensure that the Workforce Housing Units will continue to qualify as income targeted housing, as defined in UCA §17C-1-102(32), for a period of fifty (50) years. The restrictions in the deed will grant the Agency authority to enforce the restrictions. An example of the deed and required restrictions is attached as **Exhibit D**.

2. **Qualifications.** In order to qualify to purchase a Workforce Housing Unit, the purchasing household's annual income must be less than eighty percent (80%) of the Salt Lake County household median income as set forth in UCA §17C-1-102(32). Such a purchaser is a "**Qualified Purchaser**." The current qualifying household incomes are listed on Exhibit B.

3. **Critical Workforce Qualified Purchasers Favored.** If an offer to purchase a Workforce Housing Unit is received which is acceptable to Ivory, Ivory shall not accept the offer if it is not made by a Qualified Purchaser who is also a member of the Critical Workforce (a "**Critical Workforce Qualified Purchaser**") for a period of thirty (30) days to give a Critical Workforce Qualified Purchaser the opportunity to match the offer. If the offer is matched by a Critical Workforce Qualified Purchaser, Ivory shall sell the Workforce Housing Unit to the Critical Workforce Qualified Purchaser.

- a. If no matching offer is received, the Workforce Housing Unit may be sold to the original offeror who is a Qualified Purchaser but not a Critical Workforce Qualified Purchaser.
- b. The Agency may, at its option, submit a list of Critical Workforce Qualified Purchasers known to the Agency, which shall in no event be considered a complete or exhaustive list of eligible Critical Workforce Qualified Purchasers.

4. **Agency's Contribution.** In exchange for Ivory's construction, designation and sale of the Workforce Housing Units to Qualified Purchasers the Agency shall contribute Nine Hundred Thousand Dollars (\$900,000.00) (the "**Agency Contribution**") to the Residential Project to be used at Ivory's discretion in compliance with UCA §17C-1-412 to offset Ivory's cost in performing its obligations hereunder. Within thirty (30) days of the sale of a Workforce Housing Unit, Ivory will provide a written report to the Agency which demonstrates that the Unit was sold in compliance with this Agreement. The report will also indicate whether or not the Unit was sold to a member the City's Critical Workforce.

5. **Payment of Agency Contribution.** Within thirty (30) days of receipt of the written report from Ivory of the sale of a Workforce Housing Unit to a Qualified Purchaser, the Agency shall distribute a pro-rata portion of the Agency Contribution to Ivory. The pro-rata portion is one hundred thousand dollars (\$100,000.00) per Workforce Housing Unit sold to a qualified buyer.

GENERAL PROVISIONS

7. **Complete Agreement; Modifications.** This Agreement, and attached Exhibits and documents referred to herein or executed contemporaneously herewith, constitute the entire agreement between the parties with respect to the subject matter hereof, and may not be amended, altered or modified except in writing signed by the parties hereto. This Agreement supersedes all prior written, and all prior or contemporaneous oral agreements, representations, warranties, statements, promises and understandings with respect to the subject matter hereof.

8. **Further Instruments.** The Parties shall execute any and all other documents or instruments that may be necessary or required to carry out and effectuate all of the provisions hereof without any further cost and within a reasonable time.

9. **Counterparts.** This Agreement may be executed in any number of counterparts, and by facsimile, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

10. **Alterations and Waivers.** The waiver, amendment or modification of any provision of this Agreement or any right, power or remedy hereunder, whether by agreement of the parties or by custom, course of dealing or trade practice, shall not be effective unless in writing and signed by the party against whom enforcement of such waiver, amendment or modification is sought. No failure or delay by any part in exercising any right, power or remedy with respect to any of the provisions of this Agreement shall operate as a waiver of such provisions with respect to such failure or delay.

11. **Authority.** Each Party, by signing hereunder, represents and warrants that it has the requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder.

12. **Time is of the Essence.** Time is of the essence in performance of all obligations of this Agreement.

13. **Successors and Assigns.** This Agreement is to inure to the benefit of, and is binding upon, the Parties and their respective successors and permitted assigns.

14. **Assignment.** Neither party may assign its rights, obligations or interest in this Agreement to any other person or entity without first obtaining the prior written consent of the other Party which consent may be given or withheld in that Party's sole discretion.

15. **No Third-Party Beneficiaries.** The provisions of this Agreement are and will be for the benefit of Ivory and the Agency only and is not for the benefit of any third party. Accordingly, no third party shall have the right to enforce the provisions of this Agreement.

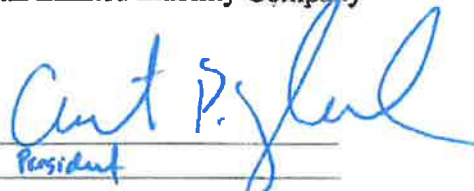
16. **Governing Law.** This Agreement is governed by and construed in accordance with the laws of Utah.

17. Warranty of Authority. Those executing this Agreement represent and warrant that the signer is duly authorized to execute the Agreement on behalf of the Party for which it is executing the Agreement.

18. Incorporation of Exhibits and Recitals. The Exhibits attached hereto and Recitals set forth above are incorporated into and are part of this Agreement as if fully set forth herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth above.

IVORY DEVELOPMENT, LLC
A Utah Limited Liability Company

By: 

Its: President

SOUTH JORDAN CITY REDEVELOPMENT AGENCY
A Political Subdivision of the State of Utah

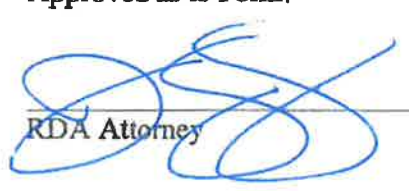
By: _____

Its: Chair

Attest:

Executive Director

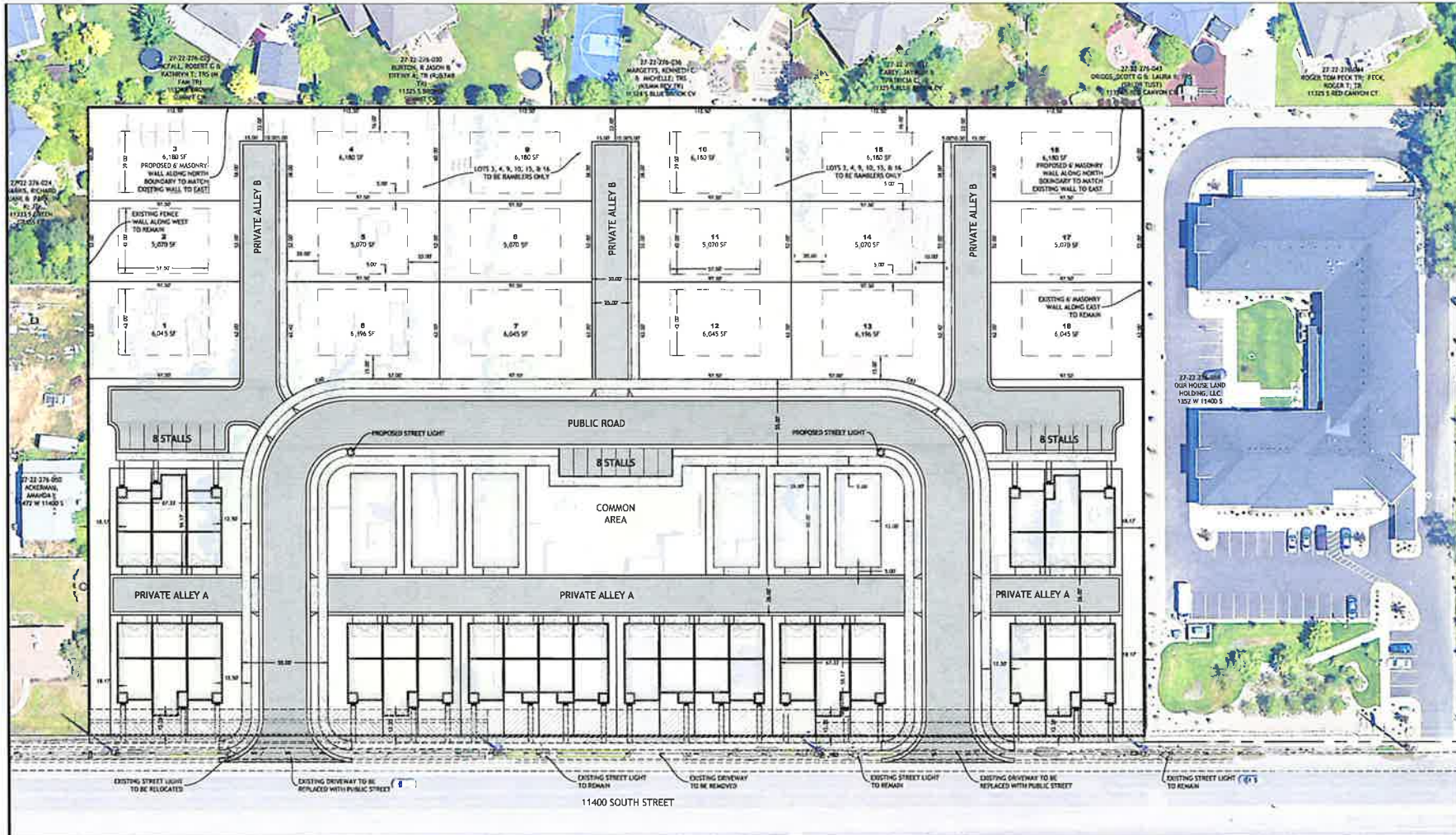
Approved as to Form:



RDA Attorney

Exhibit A

Map of Residential Project



3980 S 700 E, #22 Salt Lake City, UT 84107
(801) 305-4670 www.edmpartners.com



SCALE: 1" = 30'

DEVELOPER:
Jenny Development
975 East Woodland Lane
Salt Lake City, UT 84117
801-747-7000

IVORY HOMES
Utah's Number One Homebuilder

NOTES:

STATISTICS:

TOTAL AREA =	6.38 ACRES
P - COTTAGE LOTS =	18
C - COTTAGE LOTS =	6
TOWN HOME LOTS =	24
TOTAL LOTS =	50
DENSITY =	7.76 UNITS/ACRE

Bingham Court

Conceptual Site Plan

PROJECT:	NAME
DRAWN BY:	FMD
REVIEWED BY:	
DATE:	REMARKS

DATE: June 26, 2019

SHEET NUMBER:

O-1

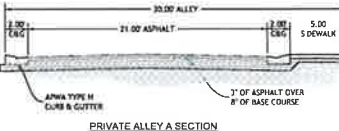
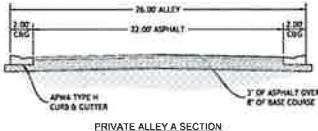
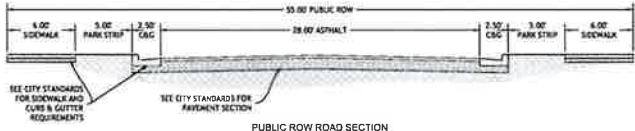


Exhibit B

Map of Workforce Housing Units





1000 S 100 E, #225 Salt Lake City, UT 84107
(801) 325-4572 www.edmpartners.com



SCALE: 1" = 30'

DEVELOPER:
Ivory Development
978 East Woodlark Lane
Salt Lake City, UT 84117
801-747-7000

IVORY HOMES
LIFE'S A Happier Colorful Place

NOTES:

STATISTICS	SQ. FT.
TOTAL AREA -	4.38 ACRES
P - COTTAGE LOTS -	18
C - COTTAGE LOTS -	6
TOWN HOME LOTS -	24
TOTAL LOTS -	50
DENSITY -	11.64 UNITS/ACRE

Bingham Court

Conceptual Site Plan

PROJECT:
DRAWN BY: NOOR
REVISIONS:
DATE: REDACTED

DATE: June 26, 2019

SHEET NUMBER:
O-1

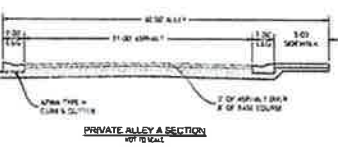
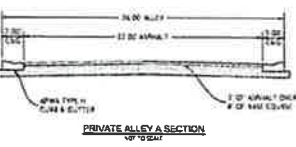
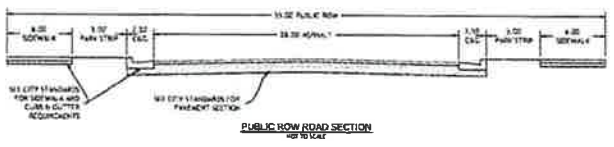


Exhibit C

Workforce Housing Units Sale Terms & Standards

80% of the household median income

	100% Area Income	1 Person	2 People	3 People	4 People	5 People	6 People	7 People	8 People
Salt Lake County	\$ 80,000.00	\$ 44,800.00	\$ 51,200.00	\$ 57,600.00	\$ 64,000.00	\$ 69,150.00	\$ 74,250.00	\$ 70,600.00	\$ 75,150.00
Maximum Purchase Price (5% Rate)		\$ 246,500.00	\$ 264,500.00	\$ 291,900.00	\$ 329,000.00	\$ 355,000.00	\$ 379,900.00	\$ 410,000.00	\$ 433,000.00
Monthly Payment (Including HOA and MI)		\$ 1,243.20	\$ 1,420.80	\$ 1,598.40	\$ 1,776.00	\$ 1,918.91	\$ 2,060.44	\$ 1,959.15	\$ 2,085.41

80% AMI	\$ 44,800.00	\$ 51,200.00	\$ 57,600.00	\$ 64,000.00	\$ 69,150.00	\$ 74,250.00	\$ 70,600.00	\$ 75,150.00
Monthly	\$ 3,733.33	\$ 4,266.67	\$ 4,800.00	\$ 5,333.33	\$ 5,762.50	\$ 6,187.50	\$ 5,883.33	\$ 6,262.50
DTI-45%	\$ 1,680.00	\$ 1,920.00	\$ 2,160.00	\$ 2,400.00	\$ 2,593.13	\$ 2,784.38	\$ 2,647.50	\$ 2,818.13
Taxes	\$ 143.79	\$ 154.29	\$ 170.28	\$ 191.92	\$ 207.08	\$ 221.61	\$ 239.17	\$ 252.58
Insurance	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00	\$ 50.00
MI	\$ 130.00	\$ 130.00	\$ 130.00	\$ 130.00	\$ 130.00	\$ 130.00	\$ 130.00	\$ 130.00
HOA	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00
Debts	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
PI	\$ 1,316.21	\$ 1,545.71	\$ 1,769.73	\$ 1,988.08	\$ 2,166.04	\$ 2,342.77	\$ 2,188.33	\$ 2,345.54
	\$245,185.42	\$287,937.05	\$329,667.23	\$370,343.38	\$403,493.74	\$436,414.36	\$407,646.27	\$436,931.29

*Based on 80% of HUD AMI #'s 2018

Exhibit D

Example of Restrictive Deed

WHEN RECORDED, RETURN TO:

City Recorder

Park City Municipal Corporation

PO Box 1480, 445 Marsac Avenue

Park City, UT 84068

ENTRY NO. 01012050

02/02/2015 11:27:16 AM B: 2277 P: 1536

Restrictive Covenants PAGE 1/18

MARY ANN TRUSSELL, SUMMIT COUNTY RECORDER

FEE 0.00 BY PARK CITY MUNICIPAL CORPORATION



**DEED RESTRICTIONS PROTECTING THE
AFFORDABILITY AND SUSTAINABILITY OF
AFFORDABLE HOMES AT
PARK CITY HEIGHTS**

This Deed Restrictions Concerning the Affordability and Sustainability of the affordable units at Park City Heights ("Agreement") is made and entered into as of this 29 day of January, 2015 (the "Effective Date"), by and between Ivory Development LLC, a Utah corporation ("Owner/Developer"), and Park City Municipal Corporation, a political subdivision of the State of Utah ("City").

RECITALS

A. Ivory Development LLC owns that certain property situated in Park City, Utah, as more particularly described in Exhibit A, which is attached hereto and incorporated herein by this reference.

B. The Owner/Developer submitted an affordable housing development plan (the "Plan") to the City that was approved by the City on July 17, 2014. The Plan includes the construction of 79 affordable housing units to be built in four phases (collectively, the "Units"; each individually, a "Unit"). These Units include 28 townhomes on lots T1 through T28, 35 homes located on lots 1 through 35, and 5 cottage homes. The initial cottage homes identified in phase I shall be located on lots 36, 39, 42, 54, and 75. The remaining 11 cottage home lots in future phases shall be identified in a separate deed restriction.

C. The Units identified herein are subject to the terms of this Agreement. The sole purpose of the Units governed by this Agreement is to provide owner-occupied affordable housing for use by qualified applicants as their primary residence.

AGREEMENT

IN WITNESS WHEREOF, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **DEFINITIONS:**

- 1.1. **Domicile.** The place where an individual has a fixed permanent home and principal establishment, to which the individual, if absent, intends to return, and in which the individual and his family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home for a minimum of nine months out of each calendar year.
- 1.2. **Event of Default.** Noncompliance with any part of this Agreement.
- 1.3. **Maximum Re-Sale Price.** The price above which no deed restricted unit may be sold as calculated by the Park City Finance Office based on the formula set forth in Section 3.9, below.
- 1.4. **Non-Qualified Buyer.** A buyer of a Unit that is not a Qualified Buyer.
- 1.5. **Owner-Occupied.** A Unit that is occupied by the title owner of record of the Unit as his primary residence.
- 1.6. **Primary Residence.** The place where a domicile has been established.
- 1.7. **Qualified Buyer.** A Qualified Buyer must meet the following criteria:
 - 1.7.1. Person(s) who does not own other real property; and
 - 1.7.2. A household with a minimum of one adult who meets one of the following criteria:
 - a) Full time (30 hours of employment per week) employees of entities located within the boundaries of the Park City School District; or
 - b) An owner or owner's representative of a business within the boundaries of the Park City School District.
- 1.8. **Sale.** The term "sale," or any derivative thereof (e.g., "sales," "sold," and "sell"), shall include any transfer of title of a Unit, regardless of whether or not any consideration is provided to the transferor in exchange. This shall include, but is not limited to, any gift, assignment, or other transfer.
- 1.9. **Units.** The 68 units to be built in phase I: 28 townhomes on lots T1 through T28, 35 homes located on lots 1 through 35, and 5 cottage homes including those located on lots 36, 39, 42, 54, and 75. The remaining 11 Units will be built in future phases.
2. **COVENANT TO RESTRICT SALES TO QUALIFIED BUYERS.** Except as otherwise agreed by the City and the Owner/Developer by amendment to this Agreement, Units shall only be sold to (1) Qualified Buyers who agree to use the Unit as their owner-occupied primary residence or (2) the City. If any Unit is sold to the City, the City shall also be bound by restrictions set forth in this Agreement. A Unit may be sold to a Non-Qualified Buyer only under the circumstances set forth in Section 3, below.

3. SALES.

- 3.1. INITIAL SALES. The initial sales by the Owner/Developer shall be subject to the restrictions set forth in Section 2, above and shall be priced in accordance with the Housing Mitigation Plan approved by Park City Housing Authority on July 17, 2014.
- 3.2. PRICING OF INDIVIDUAL UNITS. The final sales price for each unit will be established at the time of sale of individual units in accordance with the Housing Mitigation Plan approved by Park City Housing Authority on July 17, 2014 and documented in a separate and amended Deed Restriction to be recorded prior to the sale of individual units.
- 3.3. RESALE OF UNIT. Following the initial sale by the Owner/Developer the Unit Owner shall notify the City's housing staff by delivering to the City a written notice of such intent. The Unit Owner shall not sell his interest in the Unit unless such notice has been provided to the City and the City has had an opportunity to exercise its option pursuant to Section 3.3, below. The date the Unit Owner delivers such notice to City shall be the "Offer Date".
- 3.4. OPTION TO THE CITY. The City shall have forty-five (45) days after the Offer Date ("Option Period") to either purchase the Unit ("Option"), assign the Option to a Qualified Buyer, or decline to purchase the Unit. The City shall deliver to the Unit Owner written notice of whether or not it will exercise its Option to buy ("Exercise Notice"). City shall use its best efforts to deliver the Exercise Notice to the Unit Owner regarding the City's plans to exercise the Option as early as possible within the Option Period.
 - 3.4.1. If the City elects to exercise its Option to buy the Unit or assigns the option to a Qualified Buyer, the City or the Qualified Buyer shall complete the acquisition of the Unit within sixty (60) days after delivering the Exercise Notice.
 - 3.4.2. If the City (i) notifies the Unit Owner in writing that it will not exercise the Option, (ii) fails to deliver the Exercise Notice to the Unit Owner within the Option Period, or (iii) exercises the Option or assigns the Option to a Qualified Buyer but the transaction fails to close within sixty (60) days after delivering the Exercise Notice, the Option shall automatically terminate with respect to such sale or offering for sale, without the need for further notice or documentation.
- 3.5. SALE TO A QUALIFIED BUYER. Upon expiration or other termination of an Option with respect to a particular Unit, the selling Unit Owner shall then offer the Unit for sale to Qualified Buyers through efforts such as: (i) advertising the sale through local media outlets such as the local newspaper and radio station; (ii) providing notice of the sale to the City Housing Office; (iii) listing the Unit for sale on the Mountainlands Community Housing Trust resale list; and (iv) listing the Unit for sale on other web-based outlets.
- 3.6. SALE TO A NON-QUALIFIED BUYER. If, after using reasonable efforts to sell the Unit to a Qualified Buyer, a Unit Owner is unable to sell the Unit, the Unit Owner shall

request that (i) the City purchase the Unit at a mutually agreed price or (ii) that the City permit a Non-Qualified Buyer purchase the Unit subject to the terms of these restrictions. "Reasonable efforts" shall mean conducting a minimum of the following for no less than 120 days: (i) advertising the sale through local media outlets such as the local newspaper and radio station; (ii) providing notice of the sale to the City Housing Office; (iii) listing the Unit for sale on the Mountainlands Community Housing Trust resale list; and (iv) listing the Unit for sale on other web-based outlets.

3.7. **RESALE FORMULA.** Following the initial sale of the Unit by the Owner/Developer, subsequent sales of Units shall be governed by a resale formula that establishes the maximum permitted resale price of the unit ("Maximum Sales Price"). In no event shall a Unit be sold by the initial buyer and subsequent buyers for an amount in excess of the Maximum Sales Price, which is equal to the actual purchase price (i) plus an increase of three percent (3%) per year from the date of purchase to the date of Unit Owner's notice of intent to sell, (ii) plus Permitted Capital Improvements, as defined in Exhibit B (iii) minus any reductions in price pursuant to Section 3.7.1, (iv) plus the sum of \$250.00 to the City or its designee upon each transfer of ownership of a Unit. The purchaser shall pay no more than the Maximum Sales Price. Real estate commissions, seller's closing costs and capital improvements that are not Permitted Capital Improvements as defined in Exhibit B shall not be added to the Maximum Sales Price.

3.7.1. **ADDING TO MAXIMUM SALES PRICE.** With the prior written approval of the City, as required pursuant to Exhibit B, a Unit Owner may add Permitted Capital Improvements, as defined in Exhibit B, which add up to a maximum of seven percent (7%) of the purchase price to the resale value. Each new owner can submit an application to the City for this seven percent (7%) capital improvement maximum to the resale value. In calculating such amount, only those Permitted Capital Improvements identified in Exhibit B hereto shall qualify for inclusion.

3.7.2. **OUT OF POCKET COSTS.** In calculating the costs under Sections 3.7.1, only the Unit Owner's actual out-of-pocket costs and expenses as evidenced by receipts shall be used to calculate sale price. Such amount shall not include an amount attributable to the Unit Owner's profit, labor ("sweat equity") or to any appreciation in the value of the improvements.

3.8. Nothing in this Agreement shall be construed to constitute a representation or a guarantee by the Owner/Developer or the City that any sale of a Unit by a Unit Owner shall obtain the Maximum Sales Price.

4. **PHYSICAL CONDITION OF UNITS**

4.1. **CHANGES AND/OR CAPITAL IMPROVEMENTS.** No substantial or non-cosmetic changes or capital improvements whatsoever may be made to any individual Unit without the prior approval of the City.

4.2. **MINIMUM STANDARDS OF PHYSICAL CONDITION.** A Unit Owner will be required to maintain a minimum standard of physical conditions, as set forth in

Exhibit C – Minimum Standards, for the Unit in order to receive full resale value. Prior to any sale of a Unit, the City or a designee will conduct an inspection and provide a list to the Unit Owner as to the items that need to be remedied prior to closing to bring the Unit to minimum standards and to get full resale value. If said inspection reflects items that do not meet the minimum standards for Unit Owner to receive full resale value pursuant to Exhibit C, the Unit Owner shall be required to either bring the Unit to minimum standards or an equal cost will be deducted from the Maximum Resale Price. If the Unit meets the minimum standards for Unit Owner to receive full resale value, the Unit shall be sold for the Maximum Resale Price. The City will determine the Maximum Sales Price according to the formula set forth in Section 3.7, above.

5. EVENTS OF DEFAULT

5.1. IT IS A CRIMINAL OFFENSE TO DISREGARD THE RESTRICTIONS HEREIN.

Ordinance 14-47 and Park City Municipal Code section 8-3-6 establish that it is a crime to commit affordable housing fraud. Ordinance 14-47 was ratified to “ensure that any fraud and unjust enrichment in the process is stopped and that buyers, sellers . . . and other intended beneficiaries of deed restricted affordable housing are protected from any fraudulent acts or statements.” Any violation of Ordinance 14-47 and Park City Municipal Code section 8-3-6 as amended in connection with any Unit is an Event of Default, and the responsible party is subject to criminal prosecution. The Ordinance is attached as Exhibit D.

5.2. OWNER OCCUPANCY. All Units shall be owner-occupied. Unit Owners shall occupy their Unit as their primary residence. Any exceptions to this requirement must be granted in writing by the City Housing office.

5.3. RENTAL OF UNITS. No Unit Owner may rent or lease their Unit unless the City at its sole discretion has provided prior written approval. Renting the Unit constitutes an Event of Default of the Unit Owner. If approval is granted in extenuating circumstances, it shall not total more than 12 months and the option shall not be exercised more than once. In no circumstances are nightly rentals allowed. If an owner is unable to sell after “reasonable effort” and more than 120 days of advertising, the City at its sole discretion may approve renting the unit. Reasonable effort shall constitute at minimum: advertising through the City’s Housing Office, Mountainlands Community Housing Trust, local media and other online resources.

5.4. LIMITATIONS ON REFINANCING. The Unit Owner shall not, under any circumstances, obtain any Financing or a combination of multiple rounds of Financing that, in the aggregate, exceeds the Maximum Resale Price at the time such Financing is completed. Doing so constitutes an event of default.

5.5. DEFAULT. As defined above, noncompliance with any part of this Agreement constitutes an Event of Default. Events of Default shall include but not be limited to: rental of the Unit without prior written approval of the City, obtaining Financing or a combination of multiple rounds of Financing that, in the aggregate, exceeds the Maximum Resale Price, not utilizing the Unit as an owner-occupied primary residence,

and noncompliance with any other part of this Agreement. Upon the occurrence of any Event of Default, a Unit Owner shall have 30 days to remedy the default, after which the City shall have the right to require that the Unit Owner sell the Unit in accordance with and subject to limitations of this Agreement.

5.6. PENALTIES. Upon the occurrence of any Event of Default, if the Unit Owner remains out of compliance and does not cure the default, monetary penalties shall be assessed against the Unit Owner at \$100 per day beginning on the 31st day after the Unit Owner is notified in writing of the Event of Default. The City reserves the right to seek judicial enforcement of these penalties, including seeking a judgment lien and foreclosure.

5.7. CITY'S RIGHT TO PURCHASE UNIT IN DEFAULT. If a Unit Owner is in default of or has failed to make timely payments with respect to any mortgage, deed of trust, or other financial arrangement secured by a Unit, the creditor secured by the Unit (the "Secured Creditor") shall provide the City with a written notice at least 30 days prior to initiating a trustee's sale, foreclosure proceeding, or remedy affecting title to the Unit. After receiving the notice from the Secured Creditor, the City or a designee shall have the right to purchase such Unit at a price equal to the amount of outstanding principal, accrued interest, and any other reasonable costs incurred by the Secured Creditor in connection with the Unit. The City may exercise its right to purchase the Unit by providing written notice of its intent to purchase to the Secured Creditor within 30 days after receipt of the Secured Creditor's notice. If the City or a designee does not provide the Secured Creditor notice of its intent to exercise its right to purchase within 30 days after receipt of the notice from the Secured Creditor, the City's right to purchase shall lapse. If the City's right to purchase lapses, the Secured Creditor may initiate a trustee's sale, foreclosure proceeding, or other remedy affecting the title to the Unit. If the ownership of the Unit is transferred as the result of a trustee's sale, foreclosure proceeding, or other remedy affecting the title to the Unit, all deed restrictions in this Agreement are removed with respect to that Unit.

6. OTHER MISCELLANEOUS ISSUES

6.1. TERM OF AGREEMENT. The term of this Agreement shall commence as of the date first set forth above and continue in full force and effect for a period not less than forty (40) years. Upon the expiration of the initial forty (40) year term, this Agreement shall be renewed for additional consecutive ten (10) year terms, unless the City shall determine, based on an independent market study, that the Unit is no longer necessary to satisfy the affordable or employee housing needs in of the City. The City Council of the City or its successor shall make the final determination of such continuing need.

6.2. ANNUAL COMPLIANCE REPORT. Each Unit Owner shall provide the City with an annual compliance report in a form specified by the City by November 30 of each year during the term of this Agreement. The annual compliance report shall include a signed

statement by the Unit Owner certifying that the Unit is in compliance with the terms of this Agreement.

- 6.3. WAIVERS. The Owner/Developer hereby waives any defenses, rights or remedies that it might otherwise assert against the City in connection with: (i) the application of the rule against perpetuities to this Agreement; or (ii) any claim that the covenants in this Agreement recorded against the Unit are not real covenants running with the land constituting the Unit. This waiver shall be binding upon and inure to the benefit of the successor and assigns of the Owner/Developer and the City.
- 6.4. DISCONTINUANCE OF LIABILITY AFTER CONVEYANCE. Following the recording of a deed conveying the Unit to a purchaser, the transferor of the Unit shall have no further liability under this Agreement respecting the Unit, except to the extent caused by the negligence or intentional misconduct of the transferor.
- 6.5. SALE AGAINST OWNER'S WILL. Nothing in this Agreement shall be interpreted to require a Unit Owner to sell the Unit against that Unit Owner's will unless the Unit Owner is in default pursuant to Section 5.4.
- 6.6. SEVERABLE OBLIGATIONS AND LIABILITIES. The parties understand that the Units may eventually be owned by different individuals and entities. The Unit Owner of any particular Unit, and that Unit itself, shall not be liable for, or encumbered by, the obligations or liabilities under this Agreement associated with any other Unit or Unit Owner.
- 6.7. NON-RECOURSE. The various owners, members, directors, officers, managers, employees, agents and contractors of the Owner/Developer shall have no personal liability, deficiency, or recourse liability under this Agreement. The Owner/Developer's liability under this Agreement shall be limited solely to the Owner/Developer's interest in each Unit and the proceeds therefrom.
- 6.8. NOTICES. Any and all notices and demands by any party to any other party required or desired to be given hereunder shall be in writing and shall be validly given or made if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested, sent by Federal Express or other similar courier service keeping records of deliveries and attempted deliveries, or served by facsimile transmission. Service by mail or courier shall be conclusively deemed made on the first business day delivery is attempted. Facsimile transmissions received during normal business hours on a business day shall be deemed made at the time of receipt. Facsimile transmissions not received during normal business hours on a business day shall be deemed made on the next business day. The parties may change their respective addresses for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the others, which notice of change of address, shall not become effective, however, until the actual receipt thereof by the others.

Any notice or demand to the Owner/Developer shall be addressed to the following address:

Ivory Development LLC
978 Woodoak Lane
Salt Lake City, UT 84117
Attn: President
Fax: (801) 747-7091

Any notice or demand to the City shall be addressed to the City at the following address:

Park City Municipal Corporation
P.O. Box 1480
445 Marsac Ave.
Park City, UT 84060
Attn: City Recorder and Housing Office
Fax: (435) 615-4903

- 6.9. SEVERABILITY. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law. If any provision of any of the foregoing Agreement shall be invalid or prohibited under applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions in this Agreement.
- 6.10. ATTORNEYS' FEES. If any party shall take or defend against any action for any relief against another party arising out of this Agreement, the prevailing party in such action or defense shall be entitled to reimbursement by the other party for all costs including, but not limited to, reasonable attorneys' fees and court costs incurred by the prevailing party in such action or defense and/or enforcing any judgment granted therein, all of which costs shall be deemed to have accrued upon the commencement of such action and/or defense and shall be paid whether or not such action or defense is prosecuted to judgment. Any judgment or order entered in such action or defense shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment.
- 6.11. CHOICE OF LAW. This Agreement shall be governed and construed in accordance with the laws of the State of Utah.
- 6.12. SUCCESSORS. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors, and assigns of the parties.
- 6.13. THIRD PARTY BENEFICIARY. This Agreement is not intended to confer rights on third parties.

- 6.14. PARAGRAPH HEADINGS. Paragraph or section headings within this Agreement are inserted solely for convenience of reference and are not intended to, and shall not, govern, limit or aid in the construction of any terms or provisions contained herein.
- 6.15. GENDER AND NUMBER. Whenever the context so requires herein, the neuter and gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.
- 6.16. MODIFICATIONS. The Parties agree that any modifications of this Agreement shall be effective only when made by writings signed by the parties, or their successors, hereto and recorded with the Clerk and Recorder of Summit County, Utah.
- 6.17. RECORDATION. Upon execution and delivery of this Agreement by the Owner/Developer and the City, the Owner/Developer shall cause this Agreement to be recorded and filed in the official public land deed records of Summit County, Utah, and shall pay all fees and charges incurred in connection therewith.
- 6.18. COVENANTS RUN WITH LAND. The Owner/Developer intends, declares and covenants, on behalf of itself, all future owners of the Units, and all parties that obtain any interest in any Unit that this Agreement and the covenants and restrictions set forth herein, regulating and restricting the rents, use, occupancy and transfer of the Units, shall be covenants running with the land and improvements constituting the Units, for the benefit of the City, shall encumber the Units, and shall be binding upon the Owner/Developer, all subsequent Unit Owners of the Units, and any other party with an interest in any Unit.
- 6.19. INTEGRATION. This Agreement constitutes the entire agreement between the parties with respect to the matters set forth herein.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Effective Date.

CITY:

Park City Municipal Corporation,
A political subdivision of the State of Utah

By: Jack Thomas

Name: Jack Thomas
Mayor

Attest:

M. St. Hill
City Recorder

Approved as to Form:

[Signature]
City Attorney



OWNER/DEVELOPER:

Ivory Development LLC

By: Christopher P. Gamvroulas

Name: Christopher P. Gamvroulas

Its: President

ACKNOWLEDGEMENT

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

The foregoing instrument was acknowledged before me this 22nd day of Jan 2015,
by Christopher P. Gamvroulas, in his/her capacity as President
Ivory Development, a corporation of the State of UT.

Brooke Siddoway
NOTARY PUBLIC
Residing at: Summit County

My Commission Expires:

12-20-17

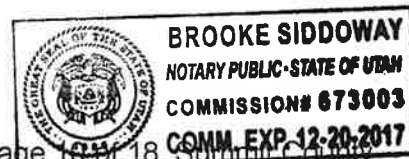


EXHIBIT A

The following described real Property is located in Summit County, Utah:

Lots T-1 through T-28, inclusive, 1 through 35, inclusive, 36, 39, 42, 54 and 75, PARK CITY HEIGHTS PHASE 1 SUBDIVISION, according to the official plat, on file and of record in the Summit County Recorder's office.

Parcel Numbers PCH-1-T1, PCH-1-T2, PCH-1-T3, PCH-1-T4, PCH-1-T5, PCH-1-T6, PCH-1-T7, PCH-1-T8, PCH-1-T9, PCH-1-T10, PCH-1-T11, PCH-1-T12, PCH-1-T13, PCH-1-T14, PCH-1-T15, PCH-1-T16, PCH-1-T17, PCH-1-T18, PCH-1-T19, PCH-1-T20, PCH-1-T21, PCH-1-T22, PCH-1-T23, PCH-1-T24, PCH-1-T25, PCH-1-T26, PCH-1-T27, PCH-1-T28, PCH-1-1, PCH-1-2, PCH-1-3, PCH-1-4, PCH-1-5, PCH-1-6, PCH-1-7, PCH-1-8, PCH-1-9, PCH-1-10, PCH-1-11, PCH-1-12, PCH-1-13, PCH-1-14, PCH-1-15, PCH-1-16, PCH-1-17, PCH-1-18, PCH-1-19, PCH-1-20, PCH-1-21, PCH-1-22, PCH-1-23, PCH-1-24, PCH-1-25, PCH-1-26, PCH-1-27, PCH-1-28, PCH-1-29, PCH-1-30, PCH-1-31, PCH-1-32, PCH-1-33, PCH-1-34, PCH-1-35, PCH-1-36, PCH-1-39, PCH-1-42, PCH-1-54, PCH-1-75

EXHIBIT B
PERMITTED CAPITAL IMPROVEMENTS

1. The term "Permitted Capital Improvement" as used in the Agreement shall only be allowed as they are consistent with the CCRs and design guidelines and shall only include the following:
 - a. Improvements or fixtures erected, installed or attached as permanent, functional, non-decorative improvements to real property, excluding repair, replacement and/or maintenance improvements.
 - b. Improvements for energy and water conservation;
 - c. Improvements for the benefit of seniors and/or handicapped persons;
 - d. Improvements for health and safety protection devices (including radon);
 - e. Improvements to add and/or finish permanent/fixed storage space; and/or
 - f. Improvements to finish unfinished space.
2. Permitted Capital Improvements as used in this Agreement shall NOT include the following:
 - a. Jacuzzis, saunas, steam showers and other similar items;
 - b. Upgrades or addition of decorative items, including lights, window coverings and other similar items.
 - c. Upgrades of appliances, plumbing and mechanical fixtures, carpets and other similar items included as part of the original construction of a unit and/or improvements required to repair and maintain existing fixtures, appliances, plumbing and mechanical fixtures, painting, and other similar items, unless replacement is energy efficient or for safety and health reasons.
3. All Permitted Capital Improvement items and costs shall be approved by the City in writing in order to be added to the Maximum Resale Price (up to 7% of the Maximum Resale Price, not including Permitted Capital Improvements) as defined in this Agreement. In order to get credit for Permitted Capital Improvement where a building permit is required, the improvement will not be counted unless it received a final inspection and is considered completed by the City Building Department.

EXHIBIT C
MINIMUM STANDARDS FOR
SELLER TO RECEIVE FULL RESALE VALUE

- Clean unit
- Carpets steam-cleaned two or three days prior to closing
- All scratches, holes, burned marks repaired in hardwood floors, linoleum, tile, counter tops etc.
- No broken or foggy windows
- All screens in windows (if screens were originally provided)
- All doors will be in working order with no holes
- All locks on doors will work
- All keys will be provided; e.g., door, mail box, garage
- All mechanical systems shall be in working order
- Walls paint ready
- Normal wear and tear on carpet; if carpet has holes, stains, etc., the carpet and padding shall be replaced or escrow funds at current market value per square foot for a comparable product shall be held at the time of closing to be used by the new buyer
- No leaks from plumbing fixtures
- Any safety hazard remedied prior to closing
- Satisfaction of radon issue if found at time of inspection
- All light fixtures shall be in working order
- All appliances that existed in the original Unit, remain and are in good working order and good condition

DEFINITIONS:

Clean Unit: All rooms will be cleaned as stated below:

Kitchen:

- Range – Inner and outer services will be cleaned.
- Range hood and Exhaust Fan
- Refrigerator and Freezer – Inner and outer surfaces of refrigerator and freezer will be clean. Freezer will be defrosted.
- Cabinets and Countertops – Exterior and interior surfaces of cabinets and drawers will be clean. Door and drawer handles, if provided, shall be clean and in place.
- Sink and Garbage Disposal – Sink and plumbing fixtures will be clean. Garbage disposal must be in working order.
- Dishwasher – Must be in working order and inner and outer surfaces shall be clean.

Blinds, Windows, Screens:

- Mini-blinds, Venetian Blinds, Vertical Blinds, and Pull Shades – Will be clean.
- Windows – All window surfaces, inside and outside of the window glass, shall be clean.
- Screens – Screens will be clean and in place with no holes or tears.

Closets: Closets, including floors, walls, hanger rod, shelves and doors, shall be clean.

Light Fixtures: Light fixtures will be clean and shall have functioning bulbs/florescent tubes.

Bathrooms:

- Bathtub, Shower Walls, Sinks – Bathtubs, shower walls and sinks shall be clean.
- Toilet and Water Closet – Water closets, toilet bowls and toilet seats will be clean. If the toilet seat is broken or peeling, the seat shall be replaced.
- Tile – All tile and grout will be clean.
- Mirrors and Medicine Cabinets – Mirrors and medicine cabinets shall be cleaned inside and out.
- Shelves and/or Other Cabinetry – All other shelving or cabinetry shall be cleaned inside and out.

Walls, Ceilings, Painted Doors and Baseboards: Painted surfaces must be cleaned with care to ensure the surface is clean without damaging the paint.

Floors: Floor cleaning includes sweeping and mopping and could include stripping, waxing and buffing. Types of floor surfaces include bamboo and marmoleum.

Interior Storage/Utility Rooms: Storage/utility rooms shall be cleaned. Properly cleaned storage/utility rooms will be free from odors, removable stains, grease marks or accumulations.

Washer/Dryer- Must be in working order and inner and outer surfaces shall be clean

Safety Hazard: Any item that provides a safety hazard shall be fixed. This would include, but is not limited to, exposed electrical wiring, satisfaction of any radon issue found, ventilation for gas hot water system, etc.

Walls Paint-Ready: All holes shall be patched; all posters, pictures, etc., shall be removed from all walls; all nails, tacks, tape, etc., shall be removed from all walls; and all walls shall be clean and ready for the new buyer to paint. If wallpaper has been placed on the wall and in good condition, the wallpaper can remain; if the wallpaper is peeling off, the wallpaper must be removed.

Windows: If a window is broken, including the locking mechanism, the window shall be replaced. If the window has a fog residue in the inside, it shall be replaced.

EXHIBIT D
ORDINANCE 14-47

Ordinance No. 14-47

**AN ORDINANCE AMENDING TITLE 8, CHAPTER 3 OF
THE MUNICIPAL CODE OF PARK CITY, UTAH TO INCLUDE
THE PROHIBITION OF AFFORDABLE HOUSING FRAUD**

WHEREAS, there exists, homes, deed restricted for affordability within the city limits of Park City; and

WHEREAS, Park City Municipal Corporation wishes to ensure that the deed restricted affordable housing units are meeting the needs of the target population, the homes remain viable and in good condition and remain affordable for the long term; and

WHEREAS, there have been acts in the past by owners, developers, buyers, sellers, real estate brokers and agents, appraisers, title companies, mortgage brokers and mortgage lenders, seeking to disregard the recorded deed restrictions and to sell, lease or finance said units at market value or rent a unit or not occupy a unit when owner-occupation and/or occupation as a primary residence is required; and

WHEREAS, Park City Municipal Corporation wants to ensure that any fraud and unjust enrichment in the process is stopped and that buyers, sellers, renters and other intended beneficiaries of deed restricted affordable housing are protected from any fraudulent acts or statements;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF PARK CITY, UTAH THAT:

Section I. Amendment. Title 8 Criminal Code of the Municipal Code of Park City is hereby amended to include Section 8-3-6, as follows:

8-3-6 AFFORDABLE HOUSING FRAUD

1. Definitions:

- a. **AFFIDAVIT OF COMPLIANCE.** Form sent annually to owners of property that is deed restricted for affordability requiring signature and notarization establishing compliance with the deed restrictions recorded against said property.
- b. **DEED RESTRICTED AFFORDABLE HOUSING UNIT.** Any housing unit that has deed restrictions recorded against the unit preserving affordability.
- c. **DOMICILE.** The place where an individual has a fixed permanent home and principal establishment; to which the individual if absent, intends to return; and in which the individual and his or her family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home for a minimum of nine months out of each calendar year.
- d. **MAXIMUM RESALE VALUE.** Maximum Resale Value is based on the resale formula established in the applicable deed restriction.

- e. PRIMARY RESIDENCE. The place where a domicile has been established.
2. Affordable Housing Fraud. A person commits the offense of Affordable Housing Fraud if the person does any of the following with the intent to defraud, mislead, receive unjust enrichment, or otherwise circumvent the proper application of recorded deed restrictions for affordable housing:
- a. Knowingly makes any material misstatement, misrepresentation, or omission during the purchase, sale, mortgage lending process, leasing, or other process involving a deed restricted affordable housing unit, intending that it be relied upon by a buyer, seller, mortgage lender, borrower, renter or any other party;
 - b. When dealing with a deed restricted affordable housing unit, knowingly:
 - i. Participates in or facilitates any contract or other agreement other than a standard Real Estate Purchase Agreement or other formal real estate contract or agreement for the real property, to sell or purchase improvements to the real property or personal property for a value in excess of the deed restricted maximum resale value;
 - ii. Obtains or facilitates financing of a deed restricted affordable housing unit at an amount greater than the deed restricted maximum resale value;
 - iii. Closes an escrow or facilitates a transfer of the property without fully complying with all requirements related to a transfer of the property;
 - iv. Leases an affordable unit without fully complying with the requirements set forth in the deed restrictions;
 - v. Fails to occupy his or her deed restricted affordable housing unit as his or her primary residence; or
 - vi. Fails to file or cause to be filed annually a signed and notarized affidavit of compliance, or provides false information on the affidavit of compliance;
 - c. Knowingly files or causes to be filed with any county recorder in Utah any document that the person knows contains a material misstatement, misrepresentation, or omission; or
 - d. Receives any proceeds or any compensation in connection with a sale, lease or financing of a deed restricted affordable housing unit that the person knows resulted from a violation of this section.
3. Penalty. Any person violating the provisions of this ordinance shall be guilty of a class B misdemeanor. Any person convicted of violating this section is disqualified from further participation in affordable housing programs within the city limits for a period of five (5) years following the date of such conviction; provided, however, this provision shall not be construed or interpreted to impair any existing contract to which the convicted person is a party.
4. Enforcement. The Park City Police Department shall have authority to investigate violations of this section and issue citations.

Section II. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent

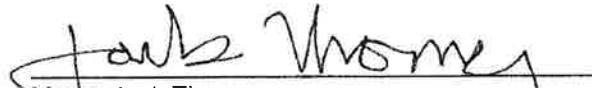
jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section III. Conflict with Existing Ordinances, Resolutions, or Policies. To the extent that any ordinances, resolutions, or policies of Park City Municipal Corporation conflict with the provisions of this ordinance, this ordinance shall prevail.

Section IV. Effective Date. This ordinance shall become effective upon publication.

PASSED AND ADOPTED BY THE Park CITY COUNCIL this 25 day of September, 2014.

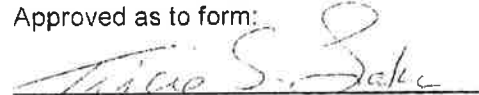
PARK CITY MUNICIPAL CORPORATION


Mayor Jack Thomas

Attest:

Marci Heil, City Recorder

Approved as to form:


Tricia S. Lake, Assistant City Attorney