



**RIVERDALE CITY COUNCIL AGENDA
CIVIC CENTER - 4600 S. WEBER RIVER DR.
TUESDAY – AUGUST 6, 2019**

5:30 p.m. – Work Session (City Council Conference Room)

No motions or decisions will be considered during this session, which is open to the public.

6:00 p.m. – Council Meeting (Council Chambers)

A. Welcome & Roll Call

B. Pledge of Allegiance

C. Moment of Silence

D. Public Comment

(This is an opportunity to address the City Council regarding your concerns or ideas. No action will be taken during public comment. Please try to limit your comments to three minutes.)

E. Presentations and Reports

1. Mayor's Report

2. Council Reports.

F. Consent Items

1. Consideration to approve meeting minutes from:

July 16, 2019 City Council Work Session

July 16, 2019 City Council Regular Session

2. Appoint Shalee Evans as the city recorder.

G. Discussion Item:

1. Zoning Code Discussion item for Title 10 Chapter 14 Section 11 item A, regarding the request to adjust the setback location for a swimming pool from 7 feet to 5 feet in the rear yard.

H. Action Item

1. Consideration of Resolution 2019-20 Review Contract with Weber Basin water for water treatment.

Presenter: Rodger Worthen, City Administrator.

I. Discretionary Items

J. Adjournment

In compliance with the Americans with Disabilities Act, persons in need of special accommodation should contact the City Offices (801) 394-5541 at least 48 hours in advance of the meeting.

Certificate of Posting

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted within the Riverdale City limits on this 2nd day of August, 2019 at the following locations: 1) Riverdale City Hall Noticing Board 2) the City website at <http://www.riverdalecity.com/> 3) the Public Notice Website: <http://www.utah.gov/pmn/index.html> and 4) A copy was also provided to the Standard-Examiner.

Shalee Evans

Riverdale City Recorder

**RIVERDALE CITY
CITY COUNCIL AGENDA
August 6, 2019**

AGENDA ITEM: F1

SUBJECT: Consideration to approve meeting minutes.

PRESENTER: Shalee Evans, City Recorder

INFORMATION: [a. July 16, 2019 City Council Work Session](#)
[b. July 16, 2019 City Council Regular Session](#)

[BACK TO AGENDA](#)

Minutes of the **Work Session** of the **Riverdale City Council & RDA** Tuesday, July 16, 2019 at 5:30 p.m., at the Civic Center in the Administrative Offices, 4600 S Weber River Dr., Riverdale City, Weber County, Utah.

Present:

City Council:	Norm Searle, Mayor Braden Mitchell, Councilmember Brent Ellis, Councilmember Alan Arnold, Councilmember Cody Hansen, Councilmember Bart Stevens, Councilmember
City Employees:	Rodger Worthen, City Administrator Steve Brooks, City Attorney Scott Brenkman, Chief of Police-5:37p.m. Shalee Evans, Acting City Recorder

The Work Session meeting began 5:30 p.m. Mayor Searle welcomed the Council Members stating for the record that all were in attendance.

Public Comment:

It was noted there may be property owners for the rezone request.

Presentations and Reports:

Rodger Worthen briefly spoke about employee recognition with the fire department and how the 5 year employees may or may not be attending.

Mayor Searle asked Rodger Worthen to explain the Draft Memorandum of Understanding and Cooperation between Riverdale City and Weber School District with the group. Councilmember Stevens asked about domain rights and expansion. Mr. Worthen asked for any suggestions.

Consent Items:

Mayor Searle invited corrections or comments for the work session and regular meeting minutes for the City Council meeting held on June 18, 2019. Councilmember Hansen stated that the RDA minutes were attached to the regular meeting minutes needed to be separated from the regular minutes. Rodger Worthen noted that the RDA minutes have been corrected.

Action Items:

Mayor Searle invited discussion regarding the first action item, consideration of City Ordinance 911 amending the zoning of property and the city's land use map, to change the land use designation of land located at 863 and 881 West and 4400 South from R-2 to R-1-6. Councilmember Ellis asked about the map in the packet. Mike Eggett explained that the question about the map was an RDA area. Councilmember Arnold and Mike Eggett discussed the application within the packet. Mr. Arnold wanted to make sure it was transparent that the re-zone was the only thing being considered.

Mayor Searle invited discussion regarding the second action item, consideration of Resolution 2019-19, authorizing execution of an agreement with Stauffer's Towing for non-consent vehicle towing services within Riverdale city. Councilmember Mitchell clarified what the towing was for, Mr. Brenkman explained they tow at the request of the city.

Mayor Searle invited comment on third action item, consideration of Resolution 2019-19, proposed changes to the Riverdale City consolidated fee schedule. Mayor Searle asked Rodger Worthen to briefly explain the changes.

Discretionary:

There were no discretionary items.

RDA AGENDA Items

Consent Items:

Mayor Searle invited discussion regarding the first consent item, consideration to approve the RDA meeting minutes of the RDA meeting held on June 18, 2019.

Rodger Worthen spoke briefly on the second consent item, receiving RDA board consent on TEC agenda item for upcoming committee meeting and vote.

Action Items:

No RDA Action Items.

Minutes of the Regular Meeting of the Riverdale City Council held Tuesday, July 16, 2019, at 6:00 p.m., at the Civic Center, 4600 S Weber River Dr., Riverdale City, Weber County, Utah.

Present: City Council: Norm Searle, Mayor
Braden Mitchell, Councilmember
Brent Ellis, Councilmember
Alan Arnold, Councilmember
Cody Hansen, Councilmember
Bart Stevens, Councilmember

City Employees: Rodger Worthen, City Administrator
Steve Brooks, City Attorney
Mike Eggett, Community Development
Scott Brenkman, Police Chief
Jared Sholly, Fire Chief
Shalee Evans, Acting City Recorder

Excused:

Visitors:	David L. Leahy	Lorri Thurgood	Hugh Parke
	Mike Loughton	Ashley Andersen	Abigail Anderson
	Trent Nelson	Jessica Fiveash	Time Fiveash

A. Welcome & Roll Call

The City Council meeting began at 6:00 p.m. Mayor Searle called the meeting to order and welcomed all in attendance, including all Council Members and all members of the public.

B. Pledge of Allegiance

Mayor Searle invited Mike Eggett to lead the Pledge of Allegiance.

C. Moment of Silence

Mayor Searle called for a moment of silence and asked everyone to remember our police officers, fire fighters, U.S. Military service members, and members of the City Council as they make decisions this evening.

D. Public Comment

Mayor Searle invited any member of the public with questions or concerns to address the Council and asked that they keep their comments to approximately three minutes. No action will be taken during public comment. Mike Loughton came up to the microphone, he stated that he and his wife are wanting to put in a swimming pool in their backyard. He asked of the council if the city could consider changing the setback requirement from 7 feet to 5 feet. Councilmember Arnold asked that we put the request on the agenda to be considered.

No other public comment made.

E. Presentations and Reports

1. Mayors Report

Mayor Searle thanked all the employees and volunteers that helped with Old Glory Days. He noted to the public that there will be a band for the 24th of July, with free admission, and invited all to attend.

Mayor Searle announced that Gordman's is having a grand re-opening on July 25th at 9:00 a.m.

2. City Administration Report

City Administrator Rodger Worthen presented the City Administration report to the City Council. Administrator Worthen discussed the month of June Department reports, focusing on Mr. Rich Taylor, the City's Community Services Director for his work and his service for Old Glory days and helping put on a great fireworks show.

Mr. Worthen welcomed Shalee Evans as the new City Recorder, he noted that she will be appointed at the next City Council meeting. He mentioned there are four 5 year service awards for Jordan Cubbedge, Michael Payne, Joshua Wead and Steven Whetton, in the fire department. They were not present to receive their awards.

F. Consent Items

- 1. Consideration to approve the City Council meeting minutes from: June 18, 2019 Work Session, and June 18, 2019 Regular and City Council Work Session.**

Mayor Searle invited any corrections or comments regarding the above referenced meeting minutes. No changes were requested.

MOTION: Councilmember Mitchell moved to approve the consent items as amended. Councilmember Ellis seconded the motion. There was not any discussion regarding this motion. The motion passed unanimously in favor.

G. Action Items

- 1. Consideration to adopt Ordinance 911, amending the zoning of property and the city's land use map, to change the land use designation of land located at 863 and 881 West and 4400 South from R-2 to R-1-6;**

Mike Eggett in Community Development, summarized the executive summary which explained.

On July 9, 2019, this matter came before the Planning Commission for discussion and a recommendation consideration for City Council; at the conclusion of the discussion, the Planning Commission sent a favorable recommendation to City Council for approval of the proposed rezone request as submitted to the City. There is a correction in the property that was in the packet. He went over the 2 phone inquiries he received in regards to the rezone request and stated that they were both positive.

Councilmember Arnold noted that the re-zone is the only item that is being considered at this time.

MOTION: Councilmember Hansen moved to approve Ordinance 911, adopting the amendment of zoning property and city's land use map, to change the land use designation of land located at 863 and 881 West and 4400 South from R-2 to R-1-6. Councilmember Mitchell seconded the motion.

Mayor Searle invited discussion regarding the motion. There was no discussion regarding this motion.

ROLL CALL VOTE: Councilmembers Arnold, Hansen, Stevens, and Mitchell all voted in favor. Councilmember Ellis voted opposed to the motion. Motion passed, 4-1.

- 2. Consideration to adopt Resolution 2019-18, authorizing execution of an agreement with Stauffer's Towing for non-consent vehicle towing services within Riverdale city.**

Scott Brenkman, Chief of Police, summarized the executive summary which explained.

Stauffer's Towing has been the contracted provider and has provided excellent service to the police department and city. Stauffer's has the resources needed to handle any type of call and has always provided timely, efficient service to the city with very little complaint from the public.

Councilmember Mitchell clarified that it would not need to be noted on the record that it was for a 2 year extension.

MOTION: Councilmember Arnold moved to approve Resolution 2019-18, authorizing execution of an agreement with Stauffer's Towing for non-consent vehicle towing services within Riverdale city. Councilmember Ellis seconded the motion.

Mayor Searle invited discussion regarding the motion. There was no discussion regarding this motion.

ROLL CALL VOTE: Councilmembers Hansen, Stevens, Ellis, Mitchell and Arnold all voted in favor of the motion.

3. Consideration of Resolution 2019-19, Propsed changes to the Riverdale City consolidated fee schedule.

Rodger Worthen, City Administrator, summarized the executive summary which explained.

The amendments are proposed for council consideration by various City Staff members; the purposes of which are being in compliance with State Code, impacts of inflationary increases, and compliance with state and national building inspection organizations.

Councilmember Mitchell asked questions in regards to building permits and if the price would go down if the new homes were built larger instead of smaller. Mr. Mitchell also asked if Riverdale could add into the fee schedule to give incentives to residents to build larger homes instead of on the smaller side.

MOTION: Councilmember Arnold moved to approve Resolution 2019-19, adopting proposed changes to the Riverdale City consolidated fee schedule.
Councilmember Hansen seconded the motion.

Mayor Searle invited discussion regarding the motion. There was no discussion regarding this motion.

ROLL CALL VOTE: Councilmembers Stevens, Ellis, Arnold and Hansen all voted in favor of the motion.
Councilmember Mitchell voted opposed the motion.
Motion passed, 4-1.

H. Discretionary Items

Mayor Searle asked for any discretionary items. Councilmember Arnold inquired about Coleman Farms. He was concerned about the rock wall on the property. Mr. Worthen noted that the problem has been address, and all building permits are on hold, but inspections are occurring on existing permits until the problem gets resolved. Councilmember Arnold wanted to acknowledge Jessica Fiveash, who is running for City Council.

Mayor Searle did mention that the contract the city has had with the Second District Juvenile Court for graffiti cleanup was no longer active. He also noted that any city property that has been graphitized, will be fixed up by Sean Douglas, Public Works Director.

Hugh Parke addressed the council, he wanted to clarify with Councilmember Arnold his comments on the re-zone request that had passed.

I. Adjournment.

MOTION: Having no further business to discuss, Councilmember Mitchell moved to adjourn. The motion was seconded by Councilmember Arnold; all voted in favor. The meeting was adjourned at 6:46 p.m.

Norm Searle, Mayor

Shalee Evans, Acting City Recorder

Date Approved: July 16, 2019

Discretionary Items:

There were no RDA discretionary items.

Adjournment:

Having no further business to discuss the Council adjourned at 6:00 p.m. to convene into their Regular City Council Meeting.

**RIVERDALE CITY
CITY COUNCIL AGENDA
August 6, 2019**

AGENDA ITEM: F2

SUBJECT: Consideration to approve meeting minutes.

PRESENTER: Shalee Evans, City Recorder

INFORMATION: [a. Appoint Shalee Evans as the city recorder.](#)

[BACK TO AGENDA](#)

**RIVERDALE CITY
CITY COUNCIL AGENDA
August 6, 2019**

AGENDA ITEM: G1

SUBJECT: Discussion of Zoning Code item for Title 10 Chapter 14 Section 11 item A, regarding the request to adjust the setback location for a swimming pool from 7 feet to 5 feet in the rear yard.

PRESENTER: Mike Eggett, Community Development

INFORMATION: [a. Executive Summary](#)

[BACK TO AGENDA](#)



City Council Executive Summary

For the Council meeting on: 8-6-2019

Petitioner: None (public commentary driven)

Summary of Proposed Action

During the last City Council meeting on July 16, 2019, public commentary was provided by resident Mike Loughton regarding the swimming pool ordinances, as found in Title 10, Chapter 14, Section 11. During his commentary he requested that the City reevaluate the setback requirement for the location of a swimming pool on a residential dwelling lot. He requested that the City consider changing the setback standard from 7 feet to 5 feet from any interior property line.

At the conclusion of his commentary, the Council was asked for a consent vote to decide if this would be a matter for further discussion in the future—for this reason this matter is now before the Council for discussion this evening.

Following discussion of the matter, the City Council may take action to request that the Planning Commission review the swimming pool standards to determine if Mr. Loughton's request could be a reasonable adjustment to Title 10, Chapter 14, Section 11 of the City Code. Should this request be made, the Planning Commission would then proceed through a typical Title 10 City Code revision process.

Title 10 Ordinance Guidelines (Code Reference)

Swimming Pool, Swim Spa, and Hot Tubs for Family requests are regulated under City Code Title 10, Chapter 14, Section 11. A copy of this code is included herein below for your use and review:

10-14-11: SWIMMING POOL, SWIM SPA AND HOT TUB, FAMILY:

A family above or in ground swimming pool, swim spa and hot tub shall be permitted in the rear yard of a dwelling as an accessory use, provided the following requirements are met:

- A. **Location:** The location of such family swimming pool, swim spa, hot tub or accessory machinery shall not be less than seven feet (7') from any interior property line or if an easement exists on the property the pool, spa or tub must be completely off the easement. On corner lots, the distance from said pool to the property line facing on a street shall not be less than the required side yard for an accessory building in that zone.
- B. **Enclosure; Lighting:** An outside family swimming pool shall be completely enclosed by a substantial fence of not less than six feet (6') in height and any lights used to illuminate said pool or its accessories shall be so arranged as to reflect the light away from the adjoining premises.
- C. **Pool Covers:** In addition to the setback and fencing requirements set forth herein, it is strongly recommended that pool owners utilize pool covers that comply with the most current personal liability insurance standards.
- D. **Side Yard Location:** If a property has sufficient side yard to accommodate a pool, spa or hot tub in meeting all of the above requirements while also maintaining the required side yard setback (from

property line to any portion of the structure) for the zone it is located in, then the pool, spa or hot tub may be located in the side yard. (Ord. 818, 10-2-2012)

Staff would encourage the City Council to discuss this matter and then take appropriate action, if desired in this matter, to request that the Planning Commission review the City swimming pool standards to determine if Mr. Loughton's request could be a reasonable adjustment to Title 10, Chapter 14, Section 11 of the City Code.

General Plan Guidance (Section Reference)

The General Plan is not applicable to this request other than this area is Master Planned for "Residential - Low Density" use.

Legal Comments - City Attorney

Steve Brooks, Attorney

Administrative Comments - City Administrator

Rodger Worthen, City
Administrator

**RIVERDALE CITY
CITY COUNCIL AGENDA
August 6, 2019**

AGENDA ITEM: H1

SUBJECT: Consideration of Resolution 2019-20, Review Contract with Weber Basin water for water treatment

PRESENTER: Rodger Worthen, City Administrator

ACTION REQUESTED: Consideration to approve

INFORMATION:

- a. [Executive Summary](#)
- b. [Resolution 2019-20](#)
- c. [Water Exchange Agreement](#)

[BACK TO AGENDA](#)



City Council Executive Summary

For the Council meeting on:
August 6, 2019

Presenter(s):
Rodger Worthen, City Administrator &
Shawn Douglas, City Public Works Director

Summary of Proposed Action

Review and approval of contract agreement for exchange and treatment of water by Weber Basin Water Conservancy District in behalf of Riverdale City.

Summary of Supporting Facts & Options

City Staff have been working with officials from Weber Basin Water Conservancy District for the last two years exploring ways to increase City Water capacity and treatment options. Initially, the drilling of new water wells was thought to be the best answer for ongoing needs. However, alternative ideas to treat existing City water and actively acquire surface water rights was agreed to be a less costly and a more efficient option. To this end, City staff and Council have made recent changes to City code requiring conveyance of surface water rights connected with development of land; secondly, the City has instituted changes to the Water Utility Ordinance for acquisition of water rights and improves capacity allowing City staff to seek out and acquire water shares useable to the City.

One of the final pieces of this strategic enhancement is consideration of the attached agreement to treat currently held surface water rights or shares; thus increasing the City's water capacity. In this particular agreement the City is requesting a total acre foot of water to be treated at approximately 826 acre feet. Other significant enhancements to be realized are lower ongoing water costs, eliminate overage costs, elimination of peaking charges, and being more efficient with current resource capacity (including FTE). The agreement will allow flexibility to add acquired water in the future as the City deems necessary or when significant surface water is obtained. Cooperation via approval of this agreement will be a major cost savings to Riverdale City Water users. WBWCD will treat one acre foot of our surface water at \$135.00 versus the current block purchase rate of \$572.90 per acre foot annually. The City saves \$437.90 per acre-foot or \$361,705.40 annually, less the minor cost of annual maintenance fees to the irrigation companies.

Attached is the agreement for council review, City Staff recommends approval of the agreement.

Legal Comments – City Attorney

This "Contract" is completely slanted in favor the Weber Basin. The benefit to the city should be extreme to enter into something like this.

Steve Brooks,
Attorney

Fiscal Comments – Finance Director

Cody Cardon, Finance Director

Administrative Comments – City Administrator

Rodger Worthen, City Administrator



RESOLUTION NO. 2019-20

A RESOLUTION OF RIVERDALE CITY APPROVING A CONTRACT BETWEEN RIVERDALE CITY AND WEBER BASIN WATER CONSERVEVANCY DISTRICT, TO PROVIDE TREATMENT TO CURRENTLY HELD SURFACE WATER RIGHTS OR SHARES; AUTHORIZING THE MAYOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the City's desire to increase the City's water and water treatment capacity; and

WHEREAS, Weber Basin Water Conservancy District (herein WBWCD) has the ability and means to provide water and water treatment for city water; and

WHEREAS, the parties desire to enter into a contract between Riverdale City and WBWCD, to provide treatment to currently held surface water rights or shares; and

WHEREAS, the City Council of Riverdale City, Utah has reviewed the attached Agreement between Riverdale City and WBWCD and agrees to all the terms and conditions contained therein; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE RIVERDALE CITY, UTAH:

Section 1: That the City Council of Riverdale City does hereby approve the new contract between Riverdale City and the Weber Basin Water Conservancy District, attached hereto as Exhibit A.

Section 2: That the Council hereby authorizes the Mayor, or his designee, to execute the appropriate and necessary documents.

Section 3: This Resolution shall become effective immediately upon its passage.

RESOLVED AND ADOPTED by the City Council of Riverdale City, Utah, on the 6th day of August, 2019.

Norm Searle
Mayor, Riverdale City

Attest:

Shalee Evans
City Recorder

CONTRACT FOR THE EXCHANGE AND TREATMENT OF
WATER BETWEEN RIVERDALE CITY AND
THE WEBER BASIN WATER CONSERVANCY DISTRICT

THIS CONTRACT is made this __Day of____, 2019 and between the WEBER BASIN WATER CONSERVANCY DISTRICT, a water conservancy district organized under the laws of the State of Utah, with its principal place of business being in Davis County, Utah, hereinafter referred to as the "District," and RIVERDALE CITY, a municipal corporation of the State of Utah, hereinafter referred to as the "City." (Weber Basin and the City may also be referred to herein individually as a "Party" or collectively as the "Parties.")

RECITALS

WHEREAS, the City desires to more effectively use their surface water shares and their groundwater rights; and

WHEREAS, it is anticipated that the City and the District may enter into separate agreements to utilize both types of water; and

WHEREAS, the District and City desire to enter into a contract, whereby the District would divert the City's surface water, treat it, and deliver it to the City; and

WHEREAS, the City has existing water supply contracts with Weber Basin authorizing the use of 1,165 acre-feet of Weber Basin water on a take or pay basis (the "Existing Water Contracts"), and;

WHEREAS, the City anticipates entering into a separate contract with Weber Basin for the rehabilitation of certain wells and for the use of Water Right Number 35-449, a16717 (the "Agreement for Well Rehabilitation and Use of Ground Water Right"), and;

WHEREAS, Weber Basin, as a Water Conservancy District, has the authority under Utah law and the Act to, inter alia, enter into this Agreement with City for the purposes stated herein, and;

WHEREAS, the Parties agree that it is in their joint mutual interest to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual and dependent stipulations and covenants herein contained and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby mutually agreed by and between the parties hereto as follows:

AGREEMENT

1. Water Exchange. Hereafter, the City will release to the District, as outlined herein below, all of the water available to the City under its shares in three different irrigation companies, as follows: 200 shares in the Weber River Water Users Association; 28 shares in the Davis & Weber Counties Canal Company; and 916 shares in the Riverdale Bench Canal Company (these water shares will be collectively referred to herein as the “City Shares”). Although the City shall retain the title and ownership of the City Shares, the District shall be entitled to the use, as outlined herein below, of the full volume of water approved for use by the Utah State Engineer, as documented by its approval of any necessary change applications to facilitate use of City Shares within the District’s service area. The District’s use of the said City Shares shall be in the sole and absolute discretion of the District, and at no cost to the District, as outlined further below. In exchange for the ongoing beneficial use of the water represented by the City Shares, the District shall provide treated municipal water to the City, such treated municipal water to be beneficially used at the City’s discretion, upon the terms and conditions set forth herein below. The City agrees that the District shall be entitled to vote the City Shares, as represented by each irrigation company, for the duration of this agreement. The City assigns its voting rights to the District, and agrees to cooperate with the District and with any individual irrigation company to ensure that the District can vote the shares, as the District determines in the District’s sole and absolute discretion.

2. Water Exchange Additions. From time-to-time the City may come into possession of additional irrigation shares in the previously identified entities. These shares may, as determined by the City, be added to the City Shares total annually, as outlined in this paragraph, below. Such added shares shall thereafter be considered part of the City Shares, as that term is defined herein, and shall thereafter receive the same treatment as such City Shares by the District and the City under the terms of this agreement. Such additional shares will be identified by the City every January 1st, and, at that same time, the City will have 30-thirty days to direct in writing to the District whether those newly acquired shares will be added to the previously conveyed City Shares, and if they are so added, those new City Shares shall thereafter become subject to the terms and conditions of this contract.

3. Points of Release and Delivery. The City will direct the Weber River Commissioner to assign the City Shares to the District, which water associated with the City Shares will be diverted at the District’s existing point of diversion on the Weber River, located at approximately South 1250 feet West 1600 feet from the Northwest Corner of Section 14, Township 5 North, Range 1 West, SLB&M. The District will deliver the treated municipal water to the District’s existing delivery points to the City, located at (1) approximately 100 feet east and 15 feet north of the southwest corner of Section 8, T5N, R1W, SLB&M, (2) approximately 1,400 feet east and 20 feet north of the southwest corner of Section 8, T5N, R1W, SLB&M, and (3) approximately 2,705 feet east and 70 feet south of the northwest corner of section 18, T5N, R1W, SLB&M, or at such other point or points as may be

mutually agreed upon by the parties in writing

4. Change Applications. The City, working with the District will be responsible for obtaining a shareholder change application with approval from the State Engineer. This shareholder change application shall document the change in place of use, point of diversion and any other changes to the existing water right approvals to facilitate use of City Shares by the District. It is anticipated that this will be needed for the Riverdale Bench Irrigation Company shares. The District will cooperate with and support the City's Change Application contemplated herein.

5. Agreement to Take and Account for Water. The District will make reasonable effort to ensure use of the water associated with the City Shares provided to it each year. The District shall meter all municipal water that it provides to the City. At the end of each calendar year, the District shall prepare an accounting and report of the water under the City Shares used by the District during that year. The District shall also prepare an accounting and report outlining the amount of its municipal water that was used by the City. Upon request the City shall have access, when accompanied by District personnel, to all District meter stations to verify meter readings.

6. Payment for Water.

(a) **Contracted Water.** The District and the City are parties to the Existing Water Contracts for the allotment of water provided by the District to the City for municipal use, which contracts are more particularly described in paragraph 35 below, under which the City is bound to purchase from the District on a yearly basis 1,165 acre-feet of municipal water. The City may enter into additional contracts with the District in the future for the purchase of water ("Subsequent Water Contracts"). The Existing Water Contracts and any Subsequent Water Contracts are hereinafter sometimes collectively referred to as the Contracted Water. The City shall pay for such Contracted Water according to the terms of the governing separate contracts.

(b) **Exchange Water.** The City shall pay the District for that amount of municipal water that the City takes from Weber Basin in any calendar year which is in excess of the amount of Contracted Water for that same year, but which is less than the amount of City Shares water actually diverted and used by the District in that same year, as established by the water accounting, report, and meter readings provided for above (hereinafter sometimes referred to as the "Exchange Water"). The City shall pay for the Exchange Water, on a per-acre-foot basis, at the prevailing exchange conversion rate plus the prevailing O&M and treatment rate, which said rates are determined by the Board of Trustees of the District from time to time (if requested by the City the District shall furnish to the City information supporting the magnitude of the said prevailing rates).

(c) **Overage Water.** The City shall pay the District for that

amount of municipal water that the City takes from the District in any calendar year which is in excess of the amount of City Shares actually diverted and used by the District in that same year (hereinafter sometimes referred to as the "Overage Water") i.e., the sum of the Contracted Water and the Exchange Water), as established by the accounting, report, and water meter readings provided for above. The City shall pay for the Overage Water, on a per-acre-foot basis, at the prevailing municipal water overage rate determined by the ~~Board of Trustees of the~~ District from time to time. In the event the City should use Overage Water during any two (2) consecutive calendar years, the City agrees to increase its Contracted Water by an amount sufficient to eliminate the use of any Overage Water in the following and succeeding years.

Excess City Shares Utilized by Weber Basin. In the event that the amount of municipal water that the City takes from Weber Basin under this Agreement (excluding water under the Existing Water Contracts) in any calendar year is less than the amount of water associated with the City Shares, the District shall be entitled to use, and direct the use of, those City Shares in the District's sole and absolute discretion and at no cost to the District. The District shall make available to the City, in any given year, an amount of water equal to the City Shares (at the Exchange Water rate as outlined above). The City shall not be required to pay any stand-by or other holding fee to the District for the right to use the City Shares in any given year (provided that, as outlined above, the District is entitled to use, and direct the use of, those City Shares that are unused by the City, in the District's sole and absolute discretion, at no cost to the District).

7. Penalty for Delinquency. Every installment or charge required to be paid to the District under this Contract which shall remain unpaid after its due date shall bear interest from date of delinquency at a rate of 18% APR.

8. Remedies of District in Case of Default. No water shall be delivered through District works to or for the City if it is in arrears in the payment of any amounts due under this Contract or relating to operation and maintenance charges or other charges due the District or in the event that the City shall violate any of the terms of this Contract (or any Existing Water Contracts). The provisions of this article are not exclusive and shall not in any manner prevent the District from exercising any other remedy given by this contract or by law to enforce the collection of any payments due under the terms of this contract.

9. Security. The District may, as a condition of this Contract, require security to be pledged and committed by the City in order to insure and secure payments required in this Contract. The sufficiency and form of security shall be determined by the District. In order to secure the annual payments called for by this Contract, the City agrees to impose and collect such fees or charges, including penalties and interest for delinquencies for any water, services, or facilities provided by it as shall always be sufficient to meet its annual operating and maintenance expenses and its obligations to the District in accordance with this Contract. In the event of a shortage of revenue for such obligations, The City agrees to pay the District first

out of revenues received. The District shall be paid out of these revenues prior to the City using or transferring those revenues for any other reason. If the proceeds of water sales are not adequate to pay the annual amounts due the District under this contract, the City shall annually levy such taxes and assessments as are provided by law upon the property within the boundaries of the City as may be required to meet such deficit.

10. Facilities. The City shall construct, operate and maintain, without cost to the District, all works and facilities necessary to distribute, deliver, take and utilize the water beyond the point of delivery to City and they shall be the sole responsibility of The City. The District does not guarantee pressures and is not responsible for fluctuations in pressure, whether or not caused by the failure of devices regulating pressure. The City shall provide sufficient storage, at its own expense, to maintain a near constant rate of flow from the District.

11. Peaking Factor. The City shall take and use water under this and all other previous contracts between The City and the District in accordance with normal annual demand patterns not to exceed a summer daily peaking factor of 2.0, which is determined by the maximum daily flow rate divided by the average daily flow rate. The average daily flow rate is the total annual contracted water under this and all other contracts between The City and the District divided by 365. If such demand pattern is exceeded, a capacity surcharge will be added to the cost of treatment and delivery. The surcharge will be established by the Board of Trustees and will be calculated as a percentage of the then current water rate per acre-foot of all contracted water multiplied by the difference between the actual daily summer peaking factor and the allowed daily summer peaking factor of 2.0. At such time that the City relies on the District as a sole source provider for water, peaking factors shall not be assessed. The City agrees to provide water storage that meets all applicable state requirements for storage capacity.

12. Cross-Connection Control. The City shall be responsible to conduct and enforce an ongoing cross-connection control program throughout the City's service area. This is required so as to ensure good quality water is delivered to the City's residences, as well as to other District customers. The program must comply with State regulations.

13. Water Shortage. In the event there is a shortage of District water caused by drought, inaccuracy in distribution not resulting from negligence, hostile diversion, prior or superior claims, or other causes not within the control of the District, no liability shall accrue against the District or the United States or any of their officers, agents or employees or either of them for any damage, direct or indirect, arising therefrom and the payments to the District provided for herein shall not be abated or reduced because of any such shortage or damage. During periods of water shortage allocation of drinking water for municipal and domestic use and treated and untreated water for industrial use shall have first priority. If there should ever be any shortage of municipal water, deliveries to The City shall be reduced in the proportion that the number of acre-feet of such shortage as determined by the District bears to the total number of acre-feet allocated for municipal use.

14. Water Conservation. The City shall, at a minimum, take the following actions to

conserve and protect water: (i) prepare and maintain a current water conservation plan which shall meet the requirements of, and any standards set forth by, the Utah Division of Water Resources; (ii) enact a water conservation rate structure for water use throughout its retail system; (iii) enact a water use ordinance for landscape watering; (iv) enact appropriate water conservation landscape ordinances; and (v) evaluate and promote the use of metered secondary irrigation systems and water conservation measures within its jurisdiction.

15. Beneficial Use of Water. The basis, the measure, and limit of the right of the City to the use of District water shall rest perpetually in the City's efforts in the beneficial application thereof. The City accordingly agrees to put such water to beneficial use in accordance with law and acknowledges this as solely the obligation of the City.

16. Sale of District Water Limited. The City agrees not to sell the use of District water purchased under this contract to any person outside the boundaries of the City, as now or hereafter fixed, either on a permanent or temporary basis, without the advance consent in writing of the District.

17. Accounting and Water Supply Reports. On or before February 1st of each year, the District shall provide an annual report setting forth, in acre-feet, (1) the total amount of City Shares diverted and used by the District, and (2) the amount of the District's treated municipal water that was taken by the City per month. The City shall maintain a standard set of books (a) to account for money received and expended as provided by law and (b) to keep and furnish suitable records of water supply and the disposition thereof. The City shall make these records available to the District upon request.

18. Compliance with Law. The City agrees that it will comply fully with all applicable Federal laws, orders and regulations, and the laws of the State of Utah, all as administered by appropriate authorities, concerning the pollution of streams, reservoirs, ground water, or water courses with respect to thermal pollution or the discharge of refuse, garbage, sewage effluent, industrial waste, oil, mine tailings, mineral salts, or other pollutants.

19. Indemnification. The City agrees to indemnify, protect, and save and hold the District harmless against and in respect of any and all claims, losses, liabilities, damages, costs, deficiencies or expenses (including attorney's fees) resulting from any claim for any rights under the Contract by any prior purchaser under the Contract or from the non-fulfillment of any covenant or agreement on the part of The City under or relating to this instrument, and any and all actions, suits, proceedings, demands, assessments, judgments, costs, legal and accounting fees and other expenses incident to any of the foregoing.

20. Number and Joint Liability. In this instrument, the singular number includes the plural and the plural number includes the singular. If this instrument is executed by more than one person, firm, partnership or corporation, the obligations of each such person, firm, partnership or corporation hereunder shall be joint and several.

21. No Third-Party Beneficiaries. Nothing herein shall be interpreted or construed to confer any right or remedy upon, or any duty, standard of care, liability or inference of liability to or with reference to, any person other than the District and the City and their respective successors and permitted assigns.

22. Governing Law; Jurisdiction. This instrument shall be governed by and construed in accordance with the domestic laws of the State of Utah without giving effect to any choice or conflict of law provision or rule (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Utah. The City submits to the jurisdiction of the Second Judicial District Court of the State of Utah in any action or proceeding arising out of or relating to this instrument and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. The City waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety, or other security that might be required of the District with respect thereto.

23. Interpretation. In the event an ambiguity or question of intent or interpretation arises, no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this instrument. The paragraph headings contained herein are for purposes of reference only and shall not limit, expand, or otherwise affect the interpretation of any provision hereof. Whenever the context requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include the masculine, feminine and neuter gender, and the term "person" shall include any individual, firm, partnership (general or limited), joint venture, corporation, limited liability company, trust, association, or other entity or association or any combination thereof. If any provision of this instrument or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this instrument and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the extent permitted by applicable law.

24. Waiver. No failure or delay in exercising any right, power or privilege under this instrument, whether intentional or not, shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of a right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

25. Succession and Assignment. This contract shall be binding upon and inure to the benefit of the parties named herein and their respective successors and permitted assigns. The City may not assign the Contract or any of its rights, interests, or obligations thereunder without the prior written approval of the District.

26. Further Acts. The parties hereby agree for themselves, and for their successors and assigns, to execute any instruments and to perform any act which may be necessary or proper to carry out the purposes of the Contract.

27. Incorporation of Recitals. The recitals set forth in this instrument are incorporated herein by reference and made a part hereof.

28. Integration. This instrument sets forth the entire understanding of the parties with respect to the subject matter hereof, and all prior negotiations, correspondence, proposals, discussions, understandings, representations, inducements and agreements, whether oral or written and whether made by a party hereto or by any one acting on behalf of a party, shall be deemed to be merged in and superseded by this instrument and shall be of no further force or effect. There are no representations, warranties, or agreements, whether express or implied, or oral or written, with respect to the subject matter hereof, except as set forth herein, and no party has relied upon any representation, promise, assurance, covenant, omission or agreement not included in the terms hereof in making the decision to enter into this instrument. This instrument may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements among or between the parties.

29. Amendments. This instrument may not be modified, amended or changed by any oral agreement, either express or implied. No amendment, modification or change in this instrument shall be valid or binding unless reduced to writing and signed by both the District and the City. The provisions of this and the immediately preceding sentence themselves may not be amended or modified, either orally or by conduct, either express or implied, and it is the declared intention of the parties that no provisions of this instrument, including said two sentences, shall be modifiable in any way or manner whatsoever other than through a written document signed by both the District and the City.

30. Expenses of Enforcement. In any proceeding to enforce, interpret, rescind or terminate this instrument or in pursuing any remedy provided hereunder or by applicable law, the prevailing party shall be entitled to recover from the other party all costs and expenses, including a reasonable attorney's fee, whether such proceeding or remedy is pursued by filing suit or otherwise, and regardless of whether such costs, fees and/or expenses are incurred in connection with any bankruptcy proceeding. For purposes of hereof, the term "prevailing party" shall include, without limitation, a party who agrees to dismiss an action or proceeding upon the other's payment of the sums allegedly due or performance of the covenants allegedly breached, or who obtains substantially the relief sought. The provisions set forth in this paragraph shall survive the merger of these provisions into any judgment.

31. Effective Date. This contract shall become effective upon approval hereof by the District, as indicated by its endorsement herein below.

32. Reuse. The reuse of water delivered pursuant to this contract shall not be allowed without permission of the District. The waste, seepage, or return flow from water delivered pursuant to this contract shall belong to the United States or the District for the use and benefit of the District.

33. Notice. Any notice herein required to be given to the City shall be sufficiently given if sent by mail addressed to the City at the address listed below, or if sent by electronic mail addressed to the City at the email address listed below or through public notice, and to the District office if delivered to 2837 East Highway 193, Layton, Utah 84040.

34. Authorized Execution. The individuals signing below each represent and warrant (i) that they are authorized to execute this instrument for and on behalf of the party for whom they are signing; (ii) that such party shall be bound in all respects hereby; and (iii) that such execution presents no conflict with any other agreement of such party.

35. Existing Water Contracts. This contract is separate and distinct from contracts between the District and the City for allotments of water for municipal use as follows:

<u>Acre-Feet</u>	<u>Contract Date</u>	<u>District Approved</u>
300	August 13, 1954	December 31, 1954
200	June 24, 1966	August 26, 1966
50	September 16, 1969	September 26, 1969
75	October 21, 1969	November 21, 1969
90	February 8, 1973	March 30, 1973
5	May 18, 1977	June 24, 1977
99	March 19, 1980	April 24, 1980
81	February 19, 2002	March 22, 2002
200	May 8, 2003	May 30, 2003
65	February 28, 2008	March 27, 2008

This contract is for an allotment of water in excess of and in addition to Existing Water Contracts of the District referred to above. The forgoing Existing Water Contracts are all ratified and confirmed, and shall continue in full force and effect pursuant to their terms.

36. Water Quality. The treated municipal water delivered hereunder shall meet the then current standards for drinking water as established by the Utah Division of Drinking Water and the United States Environmental Protection Agency, effective on the date of delivery and as such standards may be amended in the future. The raw City Shares water shall be provided to the District on an "as is" basis with no representations as to its quality.

37. Termination of Contract. The duration of this agreement shall be fifty (50) years, at the end of which both parties shall have the right of renewal. In the case of default in payment of any of the charges provided for in this contract, the District, in addition to any other remedies for recovery of the amount in default and interest at the legal rate and collection costs, shall have the right to discontinue the treatment of the City water and to cease to deliver the same until the amount in default, together with interest and collection costs, has been paid by the City.

38. Specific Performance. Due to the importance of water and reliable water service to the citizens of the City and the District and the lack of available replacement water, in the event of a breach of this Agreement, the parties agree that monetary damages are insufficient to compensate the parties and that specific performance is an appropriate remedy for any breach which does or could result in non-delivery of water contemplated under this Agreement.

IN WITNESS WHEREOF the parties hereto have signed their names the day and year first above written.

WEBER BASIN WATER CONSERVANCY DISTRICT

By: _____
Paul C Summers, Board President

ATTEST:

By: _____
Tage I. Flint, General Manager

APPROVED AS TO FORM:

By: _____
District's Attorney

RIVERDALE CITY

Address: 4600 South Weber River Dr.
Riverdale UT 84405

By: _____
Norm Searle, Mayor

ATTEST:

By: _____
City Recorder

APPROVED AS TO FORM:

By: _____
City Attorney