

Board Meeting (Time approximate following City Council meeting which starts at 6:00 p.m.)

A. Welcome & Roll Call

B. Public Comment

(This is an opportunity to address the Riverdale Redevelopment Agency regarding your concerns or ideas. Please try to limit your comments to three minutes.)

C. Presentations & Reports

1. [Discussion regarding proposed West Bench RDA Participation Agreement with Riverdale Commercial Holdings, LLC.](#)

D. Consent Items

E. Action Items

1. Closed Executive Session pursuant to UCA 52-4-205 (d) and (e): Purchase, exchange, or lease of real property.

F. Comments

G. Adjournment

In compliance with the Americans with Disabilities Act, persons in need of special accommodation should contact the City Offices (801) 394-5541 X 1232 at least 48 hours in advance of the meeting. The Public is invited to attend City Council Meetings.

Certificate of Posting

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted on this 11th day of March, 2022 at the following places: 1)the Riverdale City Hall Noticing Board, 2) the Riverdale City Website at <http://www.riverdalecity.com/>, 3) the Public Notice Website: <http://www.utah.gov/pmn/index.html>, 4) the Standard-Examiner via email.

Michelle Marigoni
Riverdale City Recorder

The RDA meeting on March 15, 2022 is viewable and will be conducted electronically and may be accessed by clicking on the link below. The regular City Council Chambers will be available for in person participation with recommended social distancing followed. The agenda for the meeting is also attached above.

https://www.youtube.com/channel/UCegcYe-pIXSRZGd5llencvA/videos?view_as=subscriber



Redevelopment Agency Board Executive Summary

For the RDA Board meeting on: 3-15-2022

Petitioner: Riverdale Commercial Holdings, LLC
As represented by Ted Heap/Paul Willie

Summary of Proposed Action

The petitioners of this agenda item, Riverdale Commercial Holdings, LLC, have submitted a participation agreement proposal to the Redevelopment Agency of Riverdale City for our review and consideration. Riverdale Commercial Holdings, LLC has been working with Riverdale RDA staff and Adam Long (who is the City Redevelopment Agency attorney) to establish a participation agreement document reflecting policies, procedures, and direction to participants with Riverdale Commercial Holdings, LLC and Redevelopment Agency leadership and staff. The participation agreement document provided in the Council packet is the resultant product of many conversations and efforts put forward by all participating individuals, from both sides of the agreement, working together in crafting this document in its near final form.

Following the presentation and discussion of the proposal, the RDA Board may provide direction to Riverdale RDA staff and the petitioner group regarding next steps to take with the participation agreement proposal document. The RDA Board may also provide direction on a future timeline to consider approval of a final version of a participation agreement that would potentially work in the West Bench RDA Area. Based on direction from the RDA Board, the RDA staff would then continue to work with the petitioner group to finalize the participation agreement document and thereafter act accordingly in bringing it back to the RDA Board for final consideration discussions.

Title 10 Ordinance Guidelines (Code Reference)

The City Attorney/RDA Executive Director has also reviewed the proposed participation agreement and has discussed his concerns with the Riverdale Commercial Holdings team and with RDA Attorney Adam Long.

Staff would encourage the RDA Board to discuss this matter and then provide direction to the RDA staff as to next steps to take in working on this participation agreement proposal and regarding future consideration of the proposed participation agreement as it relates to the West Bench RDA Area.

General Plan Guidance (Section Reference)

There is no General Plan Guidance applicable to the Redevelopment Agency for this request.

Legal Comments – City Attorney

Steve Brooks, Attorney

Administrative Comments – City Administrator

Steve Brooks, City Administrator

PARTICIPATION AGREEMENT
by and between the
REDEVELOPMENT AGENCY OF RIVERDALE CITY
and
RIVERDALE COMMERCIAL HOLDINGS, LLC

THIS PARTICIPATION AGREEMENT (this “**Agreement**”), dated to be effective as of ~~October 5, 2021~~, 2022 (the “**Effective Date**”), is entered into by and between the **REDEVELOPMENT AGENCY OF RIVERDALE CITY**, a political subdivision of the State of Utah (the “**Agency**”), and **RIVERDALE COMMERCIAL HOLDINGS, LLC**, a Utah limited liability company (“**Participant**”). The Agency and Participant may also be individually referred to as “**Party**” and collectively as “**Parties**”. The Parties hereby agree as follows:

1. SUBJECT OF AGREEMENT

1.1. Purpose of the Agreement

The purpose of this Agreement is to carry out in part the West Bench Redevelopment Project Area Plan (the “**Plan**”) by incentivizing the development of a high-quality commercial flex-use development, substantially according to the Concept Plan attached hereto as **Exhibit A** (the “**Project**”) within the Project Area (as defined in the Plan). The land on which the Project is to be located is referred to as the “**Site**” in this Agreement. Accordingly, this Agreement sets forth the terms and conditions pursuant to which the Agency will provide certain infrastructure reimbursements in support of the development and operation of the Project.

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

This Agreement is in the vital and best interests of Riverdale City (the “**City**”), and the health, safety and welfare of its residents, and in accord with public purposes. This Agreement is carried out pursuant to the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, 17C *et seq*, Utah Code Annotated, as amended (the “**Act**”).

1.3. The Project Area

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

1.4. The Project Area Budget

Pursuant to the Act, a Project Area Budget has been adopted by the Agency for the Project Area (the “**Budget**”), a copy of which is attached as **Exhibit B**. Pursuant to the Budget, the Agency is entitled to collect one hundred percent (100%) of the tax increment generated by development within the Project Area (the “**Agency Share**”) for the term of the Tax Increment collection period

under the Budget, which currently is up to seventeen (17) years (the “**Tax Increment Term**”). For informational purposes, the initial 17-year Tax Increment Term is calculated as the original 15-year term under the Budget plus an additional two-year extension period provided under authority of Agency resolution enacted under Section 17C-1-416 of the Act. Any subsequent extension of the Tax Increment collection period under the Budget will also result in a similar extension of the payment period under this Agreement. Under the Budget, the Agency may begin collecting tax increment from the Project Area for any year up to and including 2025.

1.4.1. Commencement of Tax Increment Term

The decision as to the commencement of the Tax Increment Term shall be made in the Agency’s sole discretion; notwithstanding the foregoing clause, the Agency will take such actions as necessary so that the Tax Increment Term commences no later than January 1, 2025.

1.5. The Project Area Plan

This Agreement is subject to the provisions of the Plan as adopted by the Agency and the City Council in accordance with the Act.

1.6. Description of the Site

The site of the Project (the “**Site**”) consists of the real property depicted on the Concept Plan and as described in the legal description attached hereto as **Exhibit C**. The Site comprises a large portion, but less than all, of the Project Area.

1.7. Description of the Project

Pursuant to the terms of this Agreement, Participant shall develop the Project within the Site. Development of the Project will involve significant private capital investment over several years, which includes the installation of far more than Eight Million Dollars (\$8,000,000.00) of infrastructure improvements (the “**Investment**”).

1.8. The Reimbursement

As used in this Agreement, the term “**Reimbursement**” means the amount(s) to be paid to Participant upon compliance with the terms and conditions of this Agreement. The Reimbursement shall be based on the total Investment by Participant and the reimbursement for Infrastructure Improvements described in Article 2.

1.9. Party Addresses

1.9.1. The Agency

The address of the Agency for purposes of this Agreement is: 4600 S Weber River Dr., Riverdale UT 84405. With a copy to: Smith Hartvigsen PLLC, Attn: Adam S. Long, 257 East 200 South, Suite 500, Salt Lake City, UT 84111

1.9.2. Participant

Participant's address for purposes of this Agreement is: Riverdale Commercial Holdings, LLC, 95 W 100 S Suite 340, Logan UT 84321.

1.10. Assignment

1.10.1. Restrictions on Assignment without Agency Consent

Except as permitted by Section 1.8.2 hereof, Participant agrees for itself and any successor in interest that during the term of this Agreement, Participant shall not assign or transfer or attempt to assign or transfer all or any part of its obligations under this Agreement without the prior written consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed.

1.10.2. Permitted Transfers

[Intentionally omitted].

1.10.3. Continuing Obligations

Except as otherwise provided herein, and except for a transfer or assignment of this Agreement which has been consented to by the Agency, no assignment or transfer of this Agreement, any part hereof, any right herein, or approval hereof, by the Agency shall be deemed to relieve Participant from any obligation under this Agreement. Upon the Agency's consent to an assignment of this Agreement (if such consent is required), the assigning Participant will be relieved of all obligations under this Agreement arising from and after the date of such assignment and the Agency shall look solely to the assignee for performance of the obligations under this Agreement from and after the date of such assignment. All of the terms, covenants, and conditions of this Agreement shall be binding upon and shall inure to the benefit of Participant and its permitted successors and assigns.

1.10.4. Payment of Tax Increment After Transfer

In the event that any portion of this Agreement is assigned or transferred as described in Sections 1.10.1 or 1.10.2, the Agency shall pay the entire Reimbursement (as defined in Section 2.1) to the person or entity that is a party to this Agreement following such assignment and is Participant for purposes of this Agreement as set forth in Section 2.1 (except as set forth below).

1.10.5. Transfer to Tax Exempt Organization

Notwithstanding anything in this Agreement to the contrary, any attempt by Participant or its Agency-approved transferee or assignee to transfer any of the real or personal property within the Site to a tax-exempt organization or otherwise to exempt any of the taxable property within the Site from ad valorem property taxation without the prior written consent of the Agency will entitle the Agency, at its sole discretion, to immediately and without prior notice terminate this Agreement, cease further payments under this Agreement to Participant or its successors or assigns, and seek repayment of all amounts paid to Participant under this Agreement.

2. REIMBURSEMENT

2.1. Reimbursement of Certain Costs

So long as all conditions precedent described in Section 2.3 are satisfied, the Agency will pay to Participant the Reimbursement. The cumulative amount of Reimbursement paid to Participant shall not exceed the total amount of Reimbursement Funds during the Tax Increment Term.

In the event that the amount of Reimbursement Funds received by the Agency is greater than the Reimbursement that has been requested by Participant as of a particular date, the Agency shall hold such excess Reimbursement Funds through the Term of this Agreement and shall use such funds for the payment of future Reimbursement in accordance with this Agreement.

If all conditions precedent described in Section 2.3 are met, the Agency shall make the requested payment to Participant representing the Reimbursement, or portion thereof, within sixty (60) days of the Request for Payment, as defined in Section 2.3.6., below.

2.1.1. Calculation of the Reimbursement

The amount of the Reimbursement shall be limited to the amounts invested by Participant into infrastructure improvements as listed on **Exhibit D** (the “**Infrastructure Improvements**”) and as further described in **Exhibits D-1 through D-~~22~~-6**. The amounts shown for each particular improvement in Exhibit D shall be used as the costs of Infrastructure Improvements for purposes of this Agreement. The parties acknowledge that Participant’s actual costs for such Infrastructure Improvements may be more or less than the costs listed in Exhibit D. The Reimbursement for any particular Infrastructure Improvement shall only be paid once that particular Infrastructure Improvement has been fully completed, and, if applicable, accepted by the City.

2.1.2. Funding for the Reimbursement

The Reimbursement contemplated in this Agreement will be funded solely by Tax Increment, as that phrase is defined and used in the Act in compliance with the provisions of the Act, generated by development within the entire Project Area (and not just the Site), subject to Section 2.1.3., below: (the “Reimbursement Funds”).

The amount available to pay the Reimbursement shall be ninety percent (90%) of the Agency Share (the “**Reimbursement Funds**”). For purposes of clarification, the Reimbursement will include Tax Increment collected from the entire Project Area and not just the Site.

2.1.3. Agency Reimbursement

The Agency Share consists of the tax increment generated by development of the Project (the “**RCH Increment**”) and the tax increment generated by development and taxable value growth within the portions of the Project Area other than the Site (the “**Other Increment**”). Beginning immediately, One hundred percent (100%) of the RCH Increment is available to pay the Reimbursement. However, One hundred percent (100%) of the Other Increment funds shall be retained by the Agency, and therefore not be part of the Reimbursement Funds, until the cumulative amount of Other Increment retained by the Agency equals one million six hundred twenty thousand dollars (\$1,600,020,000.00) (the “**Agency Reimbursement Amount**”). After the Agency Reimbursement Amount has been met, the remaining Other Increment shall be used in the calculation of the Reimbursement Funds and ninetyOne hundred percent (100%) of the remaining Other Increment will be available to pay the Reimbursement as contemplated in. To be clear, this Agreement means that after the Agency Reimbursement Amount has been retained by the Agency, then 100% of all Tax Increment within the Project Area (and not just from the Project or Site) will be available to pay the Reimbursement to the Participant.

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2.2. Limitations on Reimbursement

The Reimbursement is expressly subject to and limited to the amounts available after the limitations and reductions described in this Agreement. The Agency must pay to Participant the Reimbursement only to the extent that Tax Increment is actually generated from development within the Project Area and that the Agency Share is actually paid to and received by the Agency. Tax Increment from the Project Area received by the Agency is the only funding source available or obligated under this Agreement. Participant acknowledges and agrees that the Agency has no funds or revenue to make payments under this Agreement other than the Agency Share. The Agency has no obligation to remit to Participant the Reimbursement unless and until the Participant has paid or caused to be timely paid all personal property or real property taxes due for the Site and Project for which Participant is seeking payment. If the Agency pays the Participant more than the Reimbursement Cap, the Participant agrees to promptly refund such excess amount to the Agency. All payment obligations of the Agency to the Participant under this Agreement will immediately and automatically terminate if and when the Agency has paid the Participant an amount equal to the Reimbursement Cap (it being acknowledged that the Reimbursement Cap is not a guaranteed amount, but is instead a maximum amount to be paid as described in this Agreement).

2.2.1. Reimbursement Cap

In no event will the cumulative amount of Reimbursement paid to the Participant under this Agreement exceed ~~eight~~the difference between nine million dollars (\$~~8~~9,000,000.00) and the cumulative Agency Retention Amount actually retained by the Agency (the “**Reimbursement Cap**”).

2.2.2. Reimbursement Term

The Reimbursement shall not be paid for any period beyond the end of the Tax Increment Term.

2.3. Conditions Precedent to the Payment of the Reimbursement

In addition to other provisions in this Agreement, the Agency has no obligation to remit to Participant the Reimbursement unless and until all the following conditions precedent (each a “**Condition Precedent**” and together “**Conditions Precedent**”), as detailed in the following subsections, are satisfied:

2.3.1 Agency is Entitled to Receive the Agency Share

The Agency is not obligated to pay to Participant the Reimbursement unless the Agency is legally entitled to receive the Agency Share pursuant to the Budget (as extended from time to time, including, without limitation, pursuant to Section 17C-1-416 of the Act). The Agency agrees not to amend the Budget in a way that would reduce, or would potentially reduce, the Agency Share available to pay the Reimbursement without the prior written consent of Participant.

2.3.2 Agency has Actually Received the Agency Share Payment

The Agency is obligated to pay to Participant the Reimbursement only to the extent the Agency has actually received the Agency Share payment(s) from the entity charged with collecting property taxes.

2.3.3 Operation of Project

The Agency is not obligated to pay to Participant the Reimbursement unless Participant has continuously operated the Project as described in Section 2.19.

2.3.4 Payment of Taxes

Participant shall not receive any payments (including payments representing the Reimbursement) from the Agency for any period until the Agency has received documentation from Participant that all real property and ad valorem taxes applicable to the Site have been paid by Participant. Notwithstanding the foregoing, Participant may at its cost and expense petition to have the assessed valuation of the Site reduced or may initiate proceedings to contest the real property taxes. Participant acknowledges that any reduction in assessed value of the Site or Project Area will result

in a corresponding reduction in the Agency Share. Upon the final determination of any proceeding or contest, Participant shall immediately pay the real property taxes due, together with all costs, charges, interest, and penalties incidental to the proceedings.

2.3.5 Request for Participant's Tax Increment Share

The Agency is not obligated to pay the Reimbursement to Participant unless Participant has made a Request for Payment in writing pursuant to Section 2.5.

2.4. Effect of Failure to Meet Conditions Precedent to Payment of Reimbursement

In the event that the conditions precedent as described in Section 2.3 are not fully met for any given tax year during the term of this Agreement and the Participant is thus not entitled to receive the Reimbursement attributable to that tax year, but is otherwise not in default under this Agreement, such failure shall not be a breach of this Agreement. Notwithstanding anything to the contrary or otherwise stated herein, in no event will the Participant be subject to a clawback or repayment of any portion of Reimbursement that has already been paid to the Participant, unless such repayment is necessary to correct for an administrative or clerical error that resulted in an overpayment to the Participant or pursuant to a default under this Agreement by Participant.

2.5. Request for Payment

Participant shall submit in writing a request for payment (the "**Request for Payment**") for any Infrastructure Improvements for which Participant seeks reimbursement. Each Request for Payment shall be in substantially the form attached hereto as **Exhibit E** and shall include, at a minimum, the information listed in **Exhibit E**. In the event that the Agency determines that a Request for Payment is incomplete or otherwise deficient, the Agency shall notify Participant within thirty (30) days of the Agency's receipt of the Request for Payment. A Request for Payment shall only be made upon full completion of the Infrastructure Improvement(s) for which Reimbursement is sought.

2.6. Payment of Taxes

During the term of this Agreement, to the extent applicable, Participant and any of its successors-in-interest in any portion of the Project Area agree to pay, prior to delinquency, all undisputed real property and other *ad valorem* taxes and assessments assessed against any property within the Project Area to the extent owned by Participant or any of its successors-in-interest; provided, however, that Participant expressly retains any and all rights to: (a) challenge, object to, or appeal any real property or personal property and other *ad valorem* taxes and assessments; and (b) petition for the reduction thereof.

2.7. Reduction or Elimination of Reimbursement

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

2.8. Dispute over Receipt of Payment of Reimbursement

In the event a dispute arises as to the person or entity entitled to receive the Reimbursement under this Agreement due to a claimed assignment by Participant or claimed successor-in-interest of Participant to the Reimbursement or portion thereof, the Agency may withhold payment of the Reimbursement and may refrain from taking any other action required of it by this Agreement until the dispute is resolved either by agreement or by a court of competent jurisdiction and sufficient evidence of such resolution is provided to the Agency. The Agency shall be entitled to deduct from its payment of the Reimbursement any costs or expenses, including reasonable attorney fees, incurred by the Agency due to the dispute.

2.9. Nature of Participant’s Obligations and Limitations

To qualify to receive the Reimbursement as set forth herein, Participant shall fulfill all of its obligations as set forth in this Agreement. The failure of Participant to fulfill its obligations may result in a failure to qualify to receive the Reimbursement, trigger withholding of an unpaid portion of the Reimbursement, allow the Agency to reacquire the Agency Land as described in Article 3, or result in termination of this Agreement but shall not give rise to any other right or remedy in favor of the Agency. The Agency shall have no right to compel Participant to install any necessary improvements or otherwise develop or construct the Project.

2.10. Appeals of Property Tax Assessments

Participant may at its cost and expense petition to have the assessed valuation of the Site and/or Project reduced or may initiate proceedings to contest such property taxes, and Participant acknowledges that any reduction in assessed value of the property located in the Project Area will result in a corresponding reduction in the Reimbursement. Regardless of whether Participant files an appeal to contest the value of its real or personal property, Participant shall pay the real and personal property taxes based on the assessed value. Upon the final determination of any such proceeding or contest, Participant shall be paid a refund for any reduction in value or pay all property taxes due, together with interest and penalties properly assessed, if any. In the event the County Assessor, County Board of Equalization, Utah State Tax Commission or any lawful entity authorized by law to determine the personal property or real property taxes against the property within the Site adjusts the assessed or taxable value of such property through an appeal, an audit or similar action, the Reimbursement shall be proportionately increased or decreased, which may result in a refund from Participant to the Agency, or an increased amount of Reimbursement from the Agency to Participant. Any such payment based on the change in personal property or real property taxes must be paid within thirty (30) days after the additional taxes are paid by Participant or refund for overpayment of taxes is received by Participant. Notwithstanding Section 2.1 of this Agreement, the Agency, in its sole discretion, may delay the final payment of the Reimbursement until all deadlines to contest or appeal the assessed value of taxable property within the Site have expired; in the event of such a decision by the Agency, the final Reimbursement payment will be made no later than sixty (30) days after such deadlines have passed.

2.11. Reduction of or Elimination of Tax Increment

Subject to Participant’s rights to challenge any such action, if the provisions of Utah law which govern the payment of Tax Increment to the Agency are changed or amended so as to reduce or eliminate the amount paid to the Agency under the Budget, the Agency’s obligation to pay the Reimbursement, as applicable, will be proportionately reduced or eliminated. Notwithstanding any change in law, Participant specifically reserves and does not waive any right it may have to challenge, at Participant’s sole cost and expense, the constitutionality of any law change(s) that would reduce or eliminate the payment of Tax Increment to the Agency and/or the Reimbursement

and nothing herein shall be construed as an estoppel, waiver, or consent to reduce or eliminate payment of Tax Increment to the Agency and/or the Reimbursement. Participant acknowledges, understands, and agrees that the Agency is under no obligation to challenge the validity, enforceability, or constitutionality of a change in law that reduces or eliminates the payment of Tax Increment to the Agency and/or the Reimbursement, or to otherwise indemnify or reimburse Participant for its actions to independently do so; provided, the Agency will not oppose Participant if Participant challenges a change in the law that reduces or eliminates the payment of Tax Increment to the Agency.

2.12. Declaration of Invalidity

In the event a court of competent jurisdiction after final adjudication (by the highest court to which the matter may be appealed) (i) declares that the Agency cannot receive Tax Increment or reimburse Participant from Tax Increment funds as provided in this Agreement, (ii) invalidates the Project Area, the Plan, or the Budget, or (iii) takes any other action that eliminates or reduces the amount of Tax Increment paid to the Agency, the Agency's obligation to pay the Reimbursement to Participant hereunder shall be accordingly reduced or eliminated to the extent required by law. Participant specifically reserves and does not waive hereunder any right it may have to challenge a ruling, decision or order by any court that would reduce or eliminate the payment of Tax Increment to the Agency. Participant acknowledges, understands and agrees that the Agency is under no obligation to challenge a ruling, decision or order by any court that reduces or eliminates the payment of Tax Increment to the Agency; provided, the Agency will not oppose Participant if Participant challenges such a ruling by any court. In no event shall Agency be liable to Participant for consequential, special, incidental, indirect, exemplary, or punitive damages of any kind (including, but not limited to, loss of profits, loss of reputation, or loss of current or prospective business advantage, even where such losses are characterized as direct damages) arising out of or in any way related to any of the foregoing, regardless of whether the claim under which damages are sought is based upon contract, tort, negligence (of any kind), willful misconduct, strict liability or otherwise, and regardless of whether the parties have been advised of the possibility of such damages at the time of contracting or otherwise.

2.13. Funding Responsibility

The Parties understand and agree that the Agency shall not be liable or responsible for providing, obtaining, or guaranteeing any financing for the construction of the Project or other improvements.

2.14. Agency's Encumbrance of Tax Increment

The Agency agrees that it shall not, without the prior written consent of Participant, issue any bonds or other indebtedness that may be secured by Tax Increment which are payable senior to or have priority over any obligation of the Agency to reimburse Participant for amounts due as provided in this Agreement.

2.15. Development and Operation of the Project

Participant shall develop and operate the Project in a commercially reasonable manner and in accordance with industry standards. For purposes of this Agreement, “**Operating**”, “**Operational**,” or “**Operations**” of the Project shall mean when the following conditions are satisfied: (1) Participant has invested at least three million dollars (\$3,000,000.00) into Infrastructure Improvements; (2) either (a) Participant has constructed a building or buildings with total interior space of at least one hundred and seventy thousand (170,000) square feet or (b) one or more building lots have been leased to tenant(s) or sold to third-parties; and (3) Participant continuously uses commercially reasonable efforts to develop the Project and to attract tenants to the Project. For purposes of this Section, Participant shall be deemed to have continuously Operated the Project if the foregoing standards are substantially met or exceeded, notwithstanding temporary cessation of Operations for inspection, maintenance, repair, replacement, and/or events of *force majeure* or destruction.

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2.16. Commencement of Operations

Operations of the Project as described in Section 2.15 shall begin no later than January 1, 2027. For purposes of this Section, the Project shall be deemed Operational if the conditions and standards in Section 2.15 are met. If Participant fails to commence Operations of the Project as required by this Section for any reason other than events of *force majeure*, the Agency shall have the right to terminate this Agreement upon written notice to Participant, subject, however, to any notice and cure periods set forth in Article 5.

2.17. Continuing Operations

Operations of the Project as described in Section 2.15 shall be commenced as described in this Section 2.17 and shall continue throughout the term of this Agreement as set forth in Article 4. For purposes of this Section, the Project shall be considered to be in Operation if the Project is Operating as described in Section 2.15 of this Agreement.

2.18. Cessation of Operations

If Participant ceases to Operate the Project for any reason other than events of *force majeure* or destruction (“**Cessation**”), such Cessation shall be a default subject to the provisions of Article 5.

2.19. Funding Responsibility

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

2.20. Responsibility for Development Plans and Permits

The Agency shall not have any responsibility to obtain permits, licenses, or other approvals for any development within or relating to the Project Area, provided, however, Agency will reasonably cooperate in providing any consents or acknowledgments as may be required to obtain the same.

2.21. Other Terms

2.23.1 City Land Use Authority

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

2.23.2 Restriction Against Parcel Splitting

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

2.23.3 Restriction Against Housing Development

During the term of this Agreement, Participant shall not construct or install any housing development including, but not limited to, housing structures, buildings, or residential units within the Site without the written consent of the Agency, which consent may be withheld at the sole and absolute discretion of the Agency.

2.23.4 Deannexation

Participant agrees that it will not cooperate with any person, group, or municipality in any effort to remove, deannex, disconnect, or disincorporate the Project Area or any portion thereof from the City during the Term of this Agreement. In the event that the Site or a portion thereof is disconnected, deannexed, disincorporated, or otherwise removed from the municipal boundaries of the City, the Agency's obligations to pay the Reimbursement shall immediately cease. Further, Participant shall not seek to nor support any legislation that would (i) restrict or eliminate the City's land use authority over any portion of the Project Area or (ii) allow for any portion of the funds that comprise Agency Share to be paid to any other person or entity.

2.23.5 Indemnification

Participant agrees to and shall indemnify, defend, and hold the Agency and its directors, officers, agents, employees, and representatives harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorney fees and court costs) arising from or as a result of the death of any person, or any accident, injury, loss, or damage whatsoever caused to any third party person or to the property of any third party person, directly or indirectly caused by any acts done or any errors or omissions of Participant or its directors, officers, agents, employees, consultants, and contractors except for willful misconduct or negligent acts or omissions of the Agency, the City, or their respective officials, directors, officers, agents, employees, contractors, and consultants. Likewise, the Agency agrees to and shall indemnify, defend, and hold Participant and its directors, officers, agents, employees, and representatives harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person, or any accident, injury, loss, or damage whatsoever caused to any third party person or to the property of any third party person, directly or indirectly caused by any acts done or any errors or omissions of the Agency, the City, or their respective directors, officers, agents, employees, contractors and consultants except for willful misconduct or negligent acts or omissions of Participant or its directors, officers, agents, employees, consultants, and contractors.

2.23.7 Limits on Liability

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

2.23.8 Rights of Access

Representatives of the Agency shall have the right of reasonable access to the Site for purposes of inspection only as may be reasonably required to verify compliance with this Agreement. Such access shall be allowed with reasonable and prior written notice (but in no event less than 24 hours prior), and without charges or fees, during normal business hours or as otherwise agreed to, subject, however, to the rules, regulations, security protocols and other access limitations for safety and security purposes as required by Participant.

2.23.9 Responsibility of the Agency

The Agency shall not have any obligation under this Agreement other than those specifically provided for herein. Likewise, the Participant shall not have any obligation under this Agreement other than those specifically provided for herein. Except as expressly provided for in this

Agreement, nothing herein shall be construed as requiring the Agency to pre-approve or prejudge any matter, or as otherwise binding the Agency's discretion or judgment on any issue prior to an appropriate hearing (if required), review, or compliance with any other requirement.

3. AGENCY CONTRIBUTION OF LAND

3.1. Agency Land.

The Agency owns certain real property located in the Project Area, within the Site, that the Agency desires to see developed as a part of the Project (the "Agency Land"). The Agency Land is particularly described in the attached **Exhibit F**. The Agency agrees to convey good, indefeasible and marketable title to the Agency Land to the Participant, by Special Warranty Deed, promptly after the City and the Participant have entered into a Development Agreement, as described in Section 2.2.5 of this Agreement, relating to the development of the Project by the Participant, on terms acceptable to the City and the Participant in their sole discretion.

3.2. Repurchase Option.

In the event that the Agency Land is not developed (as described below) within forty eight (48) months of the Effective Date of this Agreement, upon request by the Agency made within seventy two (72) months of the date of this letter, Participant shall convey the Agency Land back to the Agency via special warranty deed, in a form reasonably acceptable to the Agency, at no cost to the Agency except that the Agency will be required to reimburse the Participant for the cost of all Infrastructure Improvements made or installed on the Agency Land.

For purposes of this Section 3.2 and Section 3.3 only, the Agency Land shall be considered "developed" if a commercial building or buildings, totaling at least thirty thousand (30,000) square feet of interior space, as evidenced by certificates of occupancy issued by the City, has/have been substantially constructed on any portion of the Agency Land. The Agency's rights under this Section 3.2 will terminate immediately and automatically once the Agency land has been developed.

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3.3. Right of First Refusal.

Further, for a period commencing on the Effective Date and ending on the date that the Agency Land has been developed, as described in Section 3.2., the Agency shall have a right of first refusal to buy the Agency Land under the same terms and conditions as offered by a bona fide third party seeking to purchase the Agency Land for a use other than as part of the Project as contemplated by this Agreement. The Agency's rights under this Section 3.3 will terminate immediately and automatically once the Agency Land has been developed as described in Section 3.2.

3.4. Notice of Interest.

At its discretion and its sole cost, the Agency may record a notice of interest or similar document(s) against the Agency Land to provide notice of the Agency's repurchase option and right of first refusal relating to the Agency Land. Upon termination of all interest referenced in the notice of interest, the Agency agrees to promptly record a full release of the same.

3.5. Other Terms.

3.5.1. Agency Representations Relative to Agency Land.

The Agency does not have knowledge of any material contracts or agreements affecting the ownership or operation of the Agency Land that would bind Participant other than as disclosed in writing by the Agency to the Participant. The Agency is not a party to any reciprocal easement agreements, agreements with governmental authorities or rights of first offer, rights of first refusal or option agreements or similar agreements affecting the Agency Land. The Agency represents and warrants that no other party has any right to own, lease, use or develop the Agency Land. The consideration for conveyance of the Agency Land by the Agency to the Participant is the Participant's agreement to develop and improve of the Project as required by this Agreement and the City Development Agreement. All risk of loss to the Agency Land, including physical damage or destruction to the Agency Land or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by the Agency until the recording of the deed from the Agency to the Participant.

3.5.2. Closing Costs Relative to Agency Land.

The Participant agrees to pay all title and escrow costs for closing, settlement, recording, and other costs relative to the conveyance of the Agency Land by the Agency to the Participant.

3.5.3. Documents Relating to Agency Land.

The Agency agrees to promptly provide to the Participant all of the following, relative to the Agency Land, that is in the custody, possession or control of the Agency: consultant reports and work product (including environmental reports), geotechnical reports, and all other material information pertinent to Participant's evaluation of the Agency Land.

3.5.4. Inspection Rights Relative to Agency Land.

The Agency grants the Participant the non-exclusive right and license for Participant and Participant's representatives, agents, and contractors to enter upon the Agency Land for the purposes of investigating and inspecting the Agency Land and performing tests, studies and analyses with respect to the Agency Land. The Agency shall have the right, in its discretion and exercised by providing written notice to the Participant, to have a representative present for all such activities. In addition to the foregoing, prior to entering the Agency Land, Participant shall provide to the Agency, by email to the person then serving as Executive Director of the Agency

(or any other Agency official as designated by the Executive Director of the Agency), proof of insurance satisfactory to the Agency that Participant has in effect, at all times when Participant is authorized to come on the Agency Land, commercial general liability insurance in a minimum amount of \$1,000,000, combined single limit per occurrence, insuring Participant against claims for personal injury, death, and property damage or destruction. The Agency shall be named as an additional insured on such policy. Participant agrees to indemnify, defend, and hold harmless the Agency for, from, and against any and all claims, actions, damages or liabilities of any kind arising out of Participant's exercise of the rights granted by this paragraph, including, without limitation, any Claims relating to mechanics' or materialmen's liens.

4. EFFECT AND DURATION OF COVENANTS; TERM OF AGREEMENT

The covenants, including but not limited to conformance with federal, local, and state laws, established in this Agreement shall, without regard to technical classification and designation, be binding on the Parties and any successors-in-interest during the term of this Agreement, which shall terminate on the date that is 180 days after the final payment is made to Participant pursuant to this Agreement, unless earlier terminated by written agreement of the Parties or pursuant to the terms of Article 5 (the "**Term**"). All of the rights and benefits associated with this Agreement shall only inure to the benefit of the Participant and any Agency-approved transferee or assignee.

5. DEFAULTS, REMEDIES, AND TERMINATION

5.1. Default

If either the Agency or Participant fails to perform or delays performance of any material term or provision of this Agreement, such conduct not cured within the applicable cure period set forth in this Section 4 constitutes a default of this Agreement ("**Default**"). The Party in default shall immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy within the periods provided in Section 4.3 hereof. However, notwithstanding any of the foregoing, no employee, officer, representative, or agent of the Agency will consider or treat the Participant in Default under this Agreement unless the governing board of the Agency has first adopted a resolution making a finding of the specific reason or reasons why the Agency believes the Participant is in Default and provided a copy of the resolution to the Participant; the Agency agrees to provide the Participant with at least fourteen days' advance written notice before any meeting of the governing board at which such a resolution will appear on the agenda

5.2. Notice

If a Default under this Agreement occurs, the non-defaulting Party shall give written notice (a "**Default Notice**") of the Default to the defaulting Party, specifying the nature of the Default. Failure or delay in giving such notice shall not constitute a waiver of any Default, nor shall it change the time of Default, nor shall it operate as a waiver of any rights or remedies of the non-

defaulting Party; but the non-defaulting Party shall have no right to exercise any remedy hereunder without delivering the Default Notice as provided herein. Delays by either Party in asserting any of its rights and remedies shall not deprive the other Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

5.3. Cure Period

If the Agency is the defaulting party, the Participant will have no right to exercise a right or remedy hereunder unless the subject Default continues uncured for a period of sixty (60) days after delivery of the Default Notice. If the Agency's Default is not timely cured then the Participant, at its option, may pursue such rights and remedies as it may have under this Agreement, at law or in equity. If the Participant is the defaulting party, the Agency will have no right to exercise a right or remedy hereunder unless the subject Default continues uncured for a period of sixty (60) days after delivery of the Default Notice. If the Participant's Default is not timely cured, the Agency, at its option, may pursue such rights and remedies as it may have under this Agreement, at law or in equity.

5.3.1. Rights and Remedies

Upon the occurrence of a Default (following the expiration of the applicable cure period provided herein or by law), the non-defaulting Party shall have all rights and remedies against the defaulting Party as may be available at law or in equity to cure, correct or remedy any Default, to terminate this Agreement, to recover damages for any default, or to obtain any other remedy consistent with the purposes of this Agreement. Such rights and remedies are cumulative, and the exercise of one or more of such rights or remedies shall not preclude the exercise, at the same or different times, of any other rights or remedies for the same Default or any other Default by the defaulting Party.

5.3.2. Legal Actions

5.3.2.1. Venue

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

5.3.2.2. Service of Process

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

5.3.2.3. Applicable Law

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

5.3.2.4. Waiver of Jury Trial

Each Party hereto hereby irrevocably waives any and all rights it may have to demand that any action, proceeding or counterclaim arising out of or in any way related to this Agreement be tried by jury. This waiver extends to any and all rights to demand a trial by jury arising from any source, including but not limited to the Constitution of the United States, the Constitution of any state, common law or any applicable statute or regulation. Each Party hereby acknowledges that it is knowingly and voluntarily waiving the right to demand trial by jury.

6. GENERAL PROVISIONS

6.1. Authority

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

6.2. Notices, Demands, and Communications between the Parties

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

6.3. Severability

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

6.4. Nonliability of Officials and Employees

No director, officer, agent, employee, representative, contractor, attorney or consultant of the Agency shall be personally liable to Participant, or any successor in interest, in the event of any default or breach by the Agency or for any amount which may become due to Participant or to its successor, or on any obligations under the terms of this Agreement. No director, officer, agent, employee, representative, contractor, attorney or consultant of Participant shall be personally liable to the Agency, or any successor in interest, in the event of any default or breach by Participant or for any amount which may become due to Agency or to its successor, or on any obligations under the terms of this Agreement.

6.5. Enforced Delay; Extension of Time and Performance

In addition to the specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or Defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of a public enemy; terrorist activity; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or suppliers; acts of the other Party; or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent, whether on the part of the Agency's Executive Director or its governing board or on the part of Participant, to the other Party within 28 days of actual knowledge of the commencement of the cause. Time of performance under this Agreement may also be extended in writing by the Agency and Participant by mutual agreement.

6.6. Approvals

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

6.7. Time of the Essence

Time is of the essence in the performance of this Agreement.

6.8. Interpretation

The Parties hereto agree that they intend by this Agreement to create only the contractual relationship established herein, and that no provision hereof, or act of either Party hereunder, shall be construed as creating the relationship of principal and agent, or a partnership, or a joint venture or enterprise between the Parties hereto. Neither Party shall be deemed the drafter of this Agreement.

6.9. No Interest

No interest shall accrue or be paid on any amounts to be paid or received by either Party under this Agreement.

6.10. No Third-Party Beneficiaries

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

6.11. Incorporation of Exhibits

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

6.12. Mediation

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

6.13. Dispute Over Agreement

In the event a dispute arises with respect to this Agreement, the prevailing party shall be entitled to any reasonable costs or expenses, including reasonable attorneys' fees, incurred related to the dispute.

6.14. Headings

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

6.15. Contra Proferentum

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

6.16. Further Assurances

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

6.17. Confidentiality

The Parties acknowledge and agree that this Agreement shall become a public record under Utah law, and that discussion regarding this Agreement shall take place before the Agency board in open session. The Agency acknowledges that Participant considers all of the information provided to the Agency in connection with this Agreement is protected under the Utah Governmental Records Access and Management Act, § 63-2-101 et seq. (“GRAMA”) under a claim of “business confidentiality” so long as Participant complies with the applicable requirements in making a claim of business confidentiality under § 63G-2-309(1)(a)(i)(A) & (B).

7. DUPLICATION, INTEGRATION, WAIVERS, AND AMENDMENTS

7.1. Duplicate Originals; Electronic Signatures

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

7.2. Integration

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

7.3. Waivers and Amendments

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

8. MORTGAGEE PROTECTIONS; ESTOPPEL

8.1. No Limitation on Encumbrances

The Parties hereto agree that this Agreement shall not prevent or limit Participant from encumbering the Project or any estate or interest therein, portion thereof, or any improvement thereon, in any manner whatsoever by one or more mortgages, deeds of trust, sale and leaseback, or other form of secured financing (“**Mortgage**”) with respect to the construction, development,

use or operation of the Project and parts thereof. The Agency acknowledges that the lender(s) providing such Mortgages may require certain interpretations and modifications to this Agreement and the Agency agrees, upon request, from time to time, to meet with Participant and representatives of such lender(s) to negotiate in good faith any such request for interpretation or modification. The Agency will not unreasonably withhold its consent to any such requested interpretation or modification, provided such interpretation or modification is consistent with the intent and purposes of this Agreement.

8.2. No Obligations of Mortgagee

Notwithstanding any of the provisions of this Agreement to the contrary, the holder of a Mortgage (a “**Mortgagee**”) shall not have any obligation or duty pursuant to the terms set forth in this Agreement to perform the obligations of Participant or other affirmative covenants of Participant hereunder, or to guarantee such performance.

8.3. Notices to Mortgagee

The Mortgagee of any Mortgage or deed of trust encumbering the Project, or any part or interest thereof, that has submitted a request in writing to the Agency in the manner specified herein for giving notices shall be entitled to receive written notification from the Agency of any notice of non-compliance by Participant in the performance of Participant’s obligations under this Agreement. If the Agency timely receives a request from a Mortgagee requesting a copy of any notice of non-compliance given to Participant under the terms of this Agreement, the Agency shall provide a copy of that notice to the Mortgagee within ten days of sending the notice of non-compliance to Participant. The Mortgagee shall have the right, but not the obligation, to cure the non-compliance for a period of 120 days after the Mortgagee receives such written notice.

8.4. Estoppel Certificates

At any time, and from time to time, Participant may deliver written notice to the Agency, and the Agency may deliver written notice to Participant, requesting that such Party certify in writing that, to the knowledge of the certifying Party (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended, or if amended, the identity of each amendment, (iii) the requesting Party is not then in breach of this Agreement, or if in breach, a description of each such breach, and (iv) any other factual matters reasonably requested (an “**Estoppel Certificate**”). The Executive Director of the Agency shall be authorized to execute, on behalf of the Agency, any Estoppel Certificate requested by Participant which complies with this Section 7.5 within 14 days of a written request for such Estoppel Certificate. The Agency’s failure to furnish an Estoppel Certificate within 14 days after request therefor shall be conclusively presumed that: (a) this Agreement is in full force and effect without modification in accordance with the terms set forth in the request; and (b) that there are no breaches or defaults on the part of Participant. The Agency acknowledges that an Estoppel Certificate may be relied upon by

| **Participant draft ~~20211030~~2022.01.25**

transferees or successors in interest to Participant and by Mortgagees holding an interest in the Property.

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

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**REDEVELOPMENT AGENCY OF
RIVERDALE CITY**

By: _____
Norm Searle, _____, Chair

Attest:

Secretary

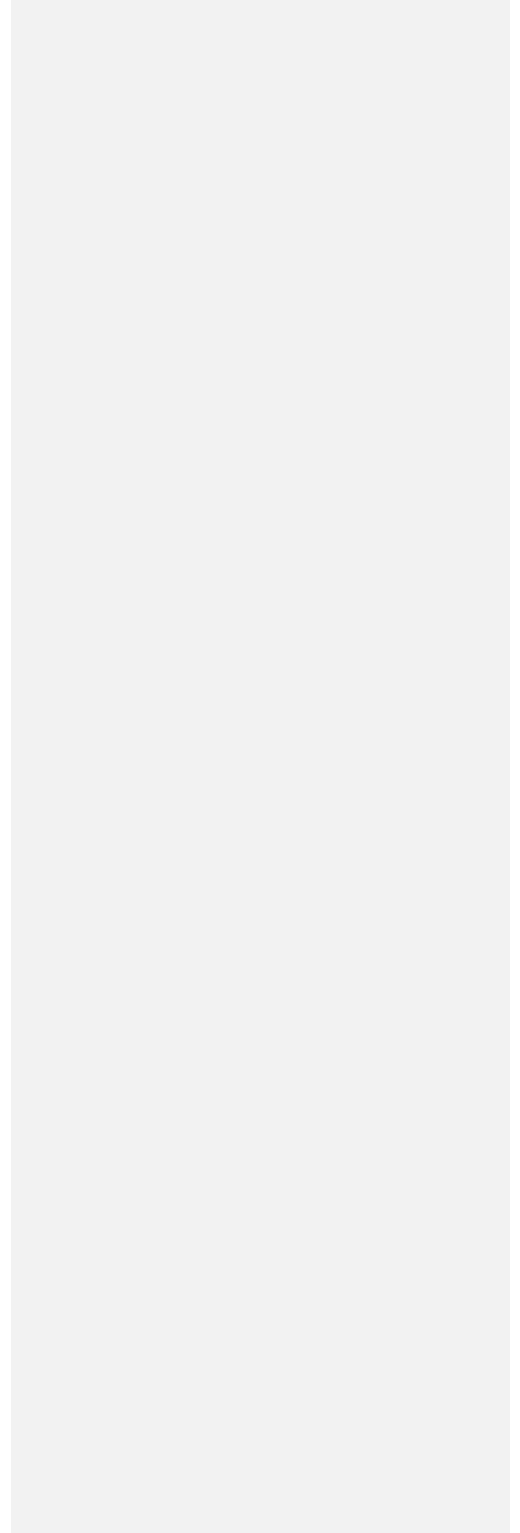
**RIVERDALE COMMERCIAL HOLDINGS,
LLC**

By: _____
Name: _____
Title: _____

| Participant draft ~~20211030~~2022.01.25

Exhibit A

Project Concept Plan



| Participant draft ~~20211030~~2022.01.25

Exhibit B

Project Area Budget

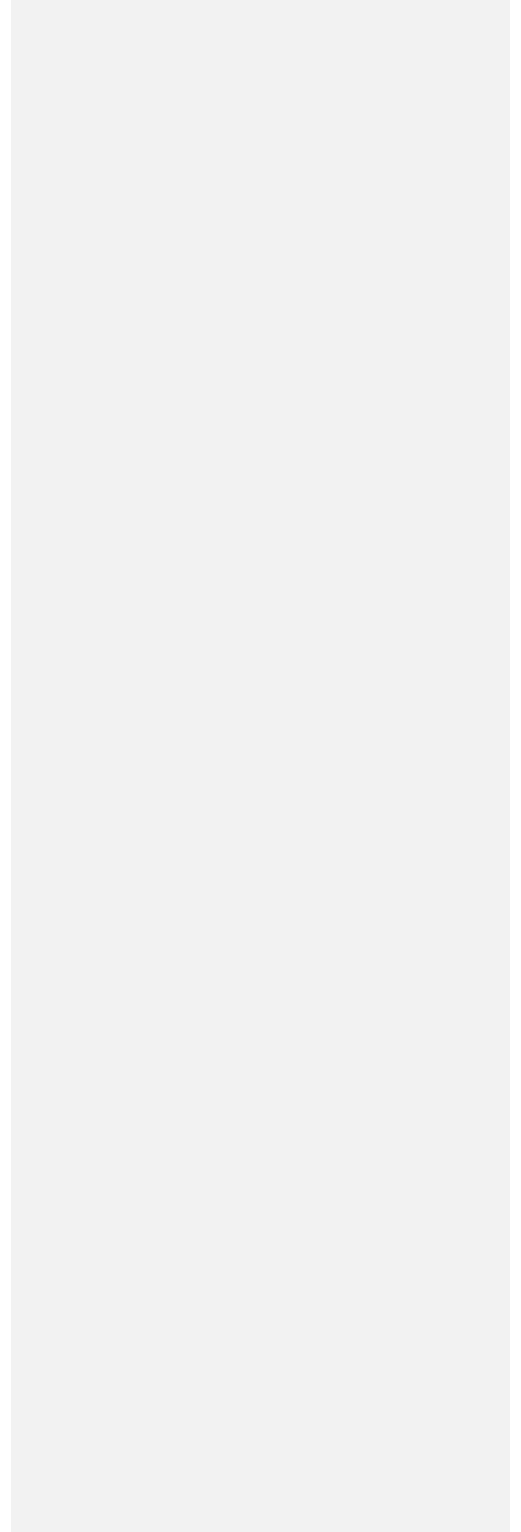


Exhibit C

Site Legal Description

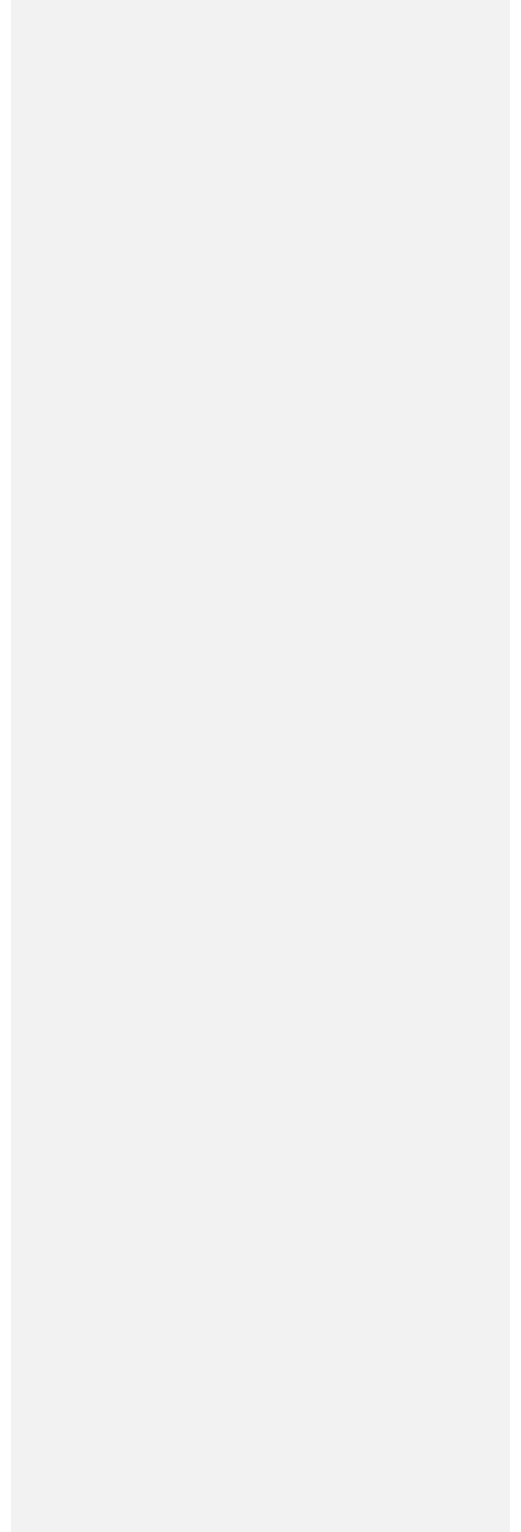


Exhibit D

Infrastructure Improvements

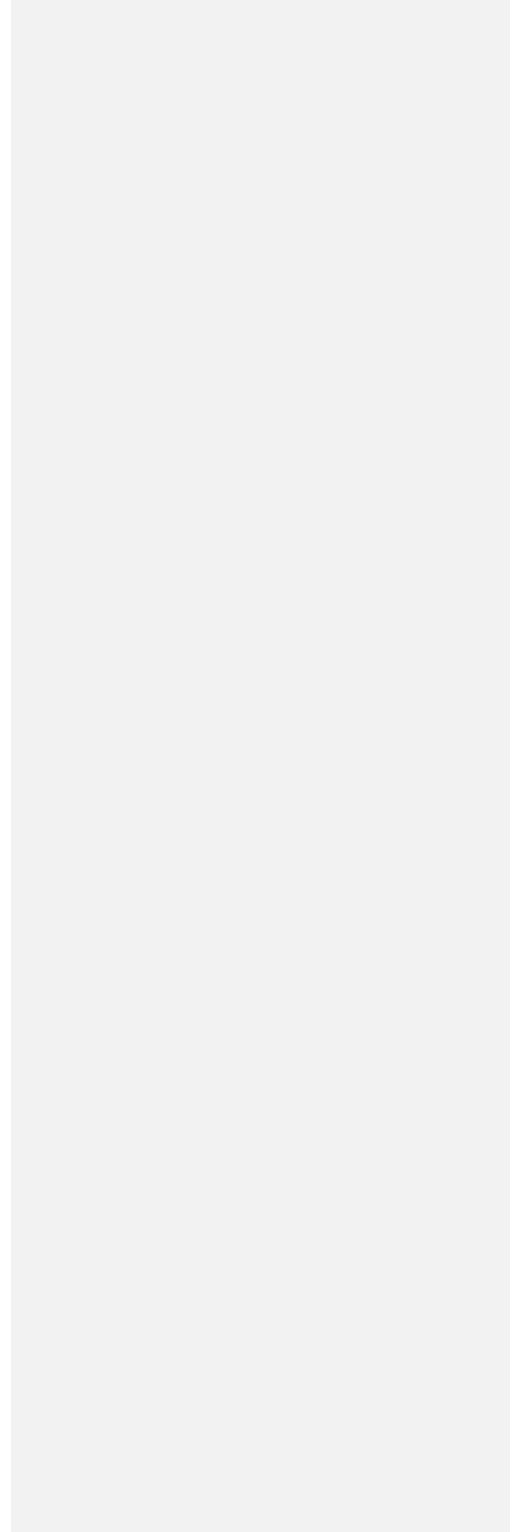
Infrastructure Improvements means the following:

1. Road improvements to 4800 South and 1500 West as shown on Exhibit D-1.
2. 10" sewer main extension as described on Exhibit D-2.
3. New 8" sewer line as described on Exhibit D-3.
4. New 8" water line as described on Exhibit D-4.
5. Relocation of the existing dual-circuit Rocky Mountain Power transmission line as described on Exhibit D-5.
6. 20" water main loop as described on Exhibit D-6.

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Exhibit D-1

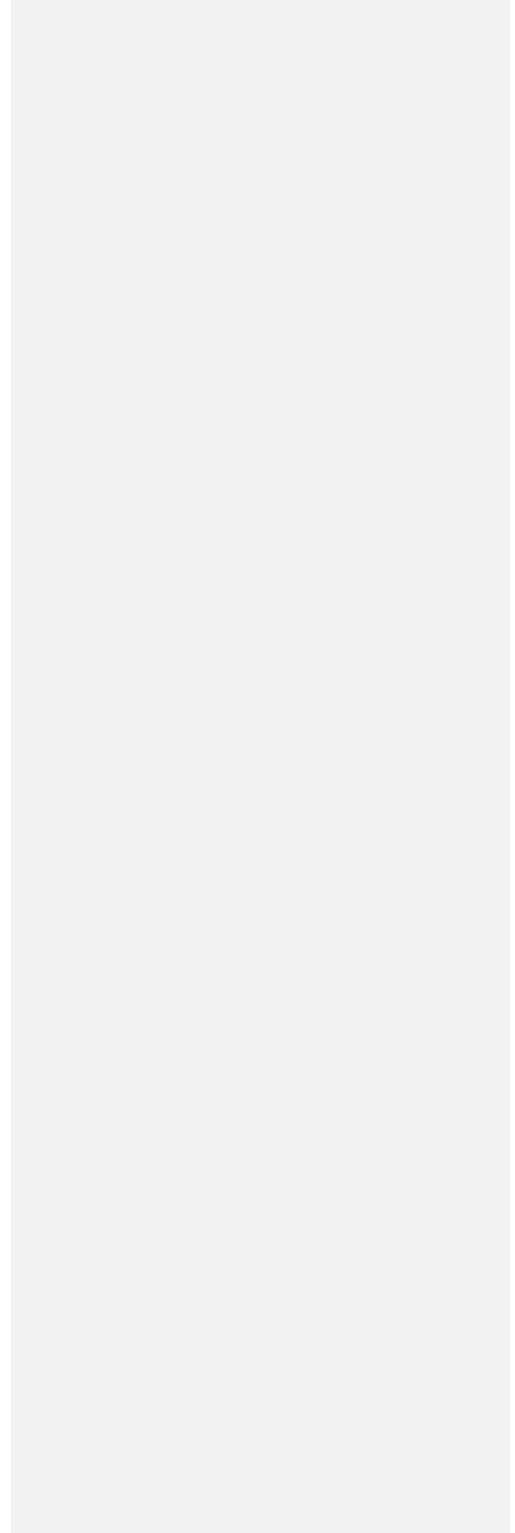
Road improvements to 4800 South and 1500 West



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Exhibit D-2

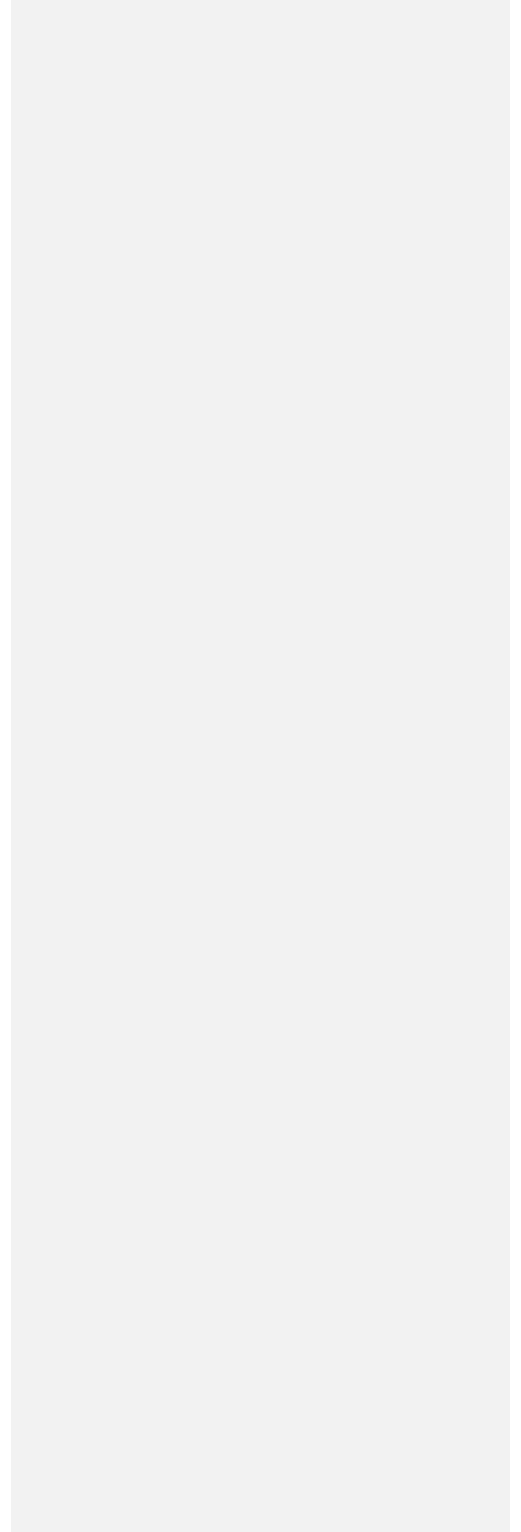
10-inch sewer main extension



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Exhibit D-3

New 8-inch sewer line



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Exhibit D-4

New 8-inch water line

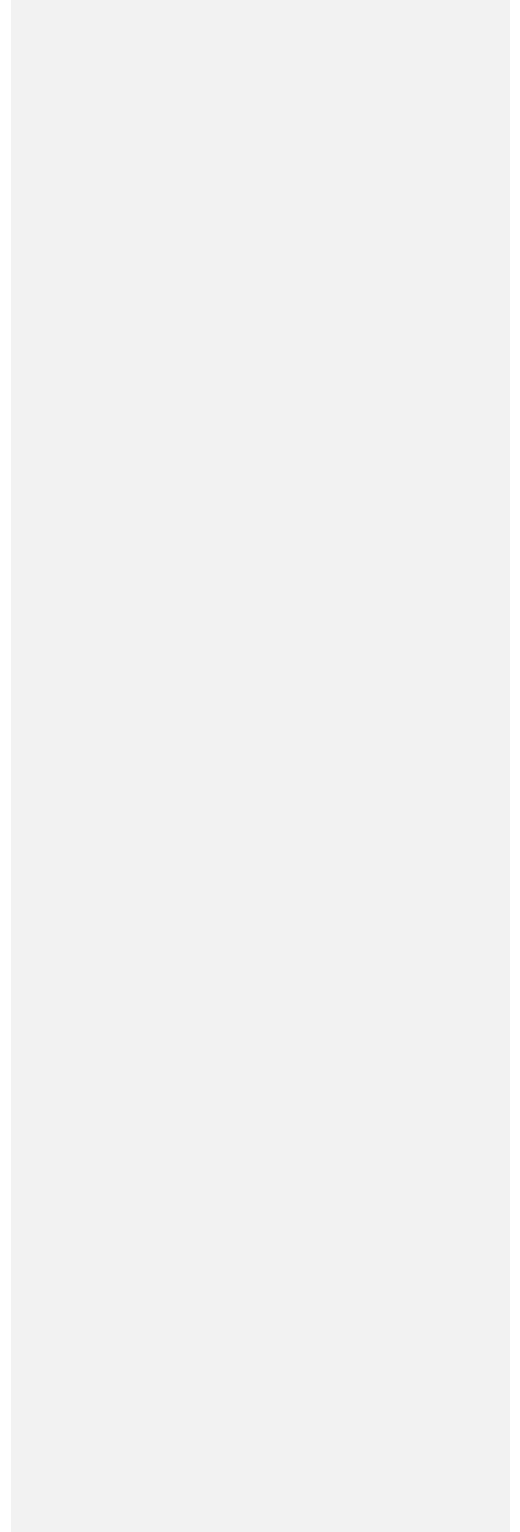
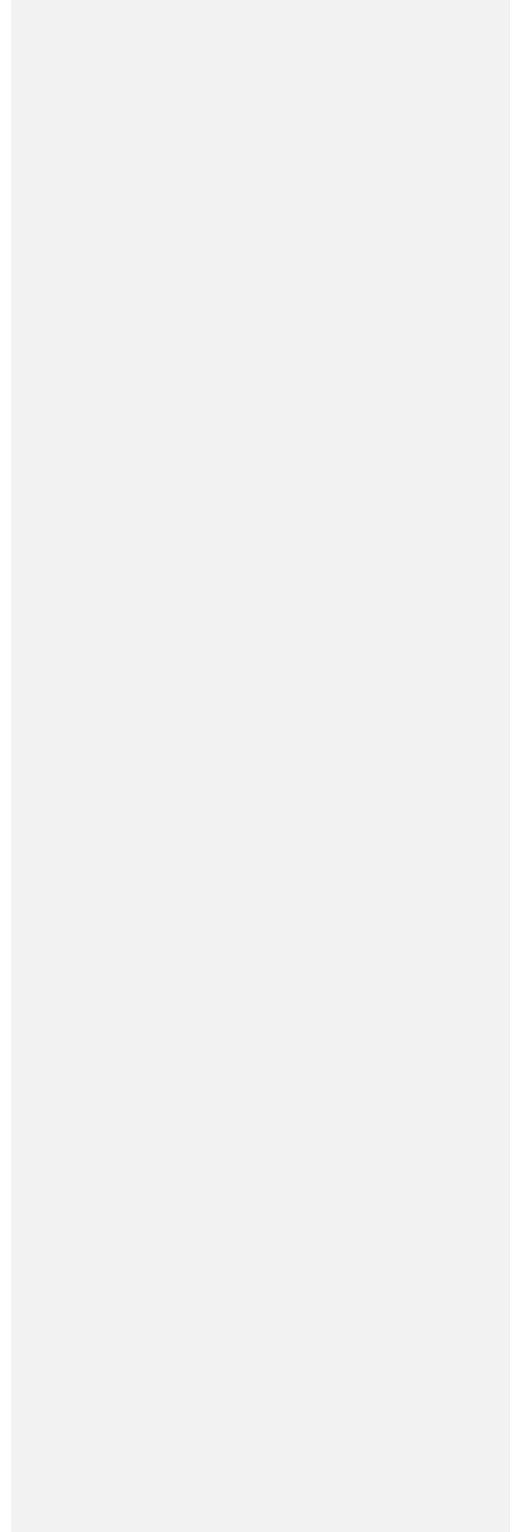


Exhibit D-5

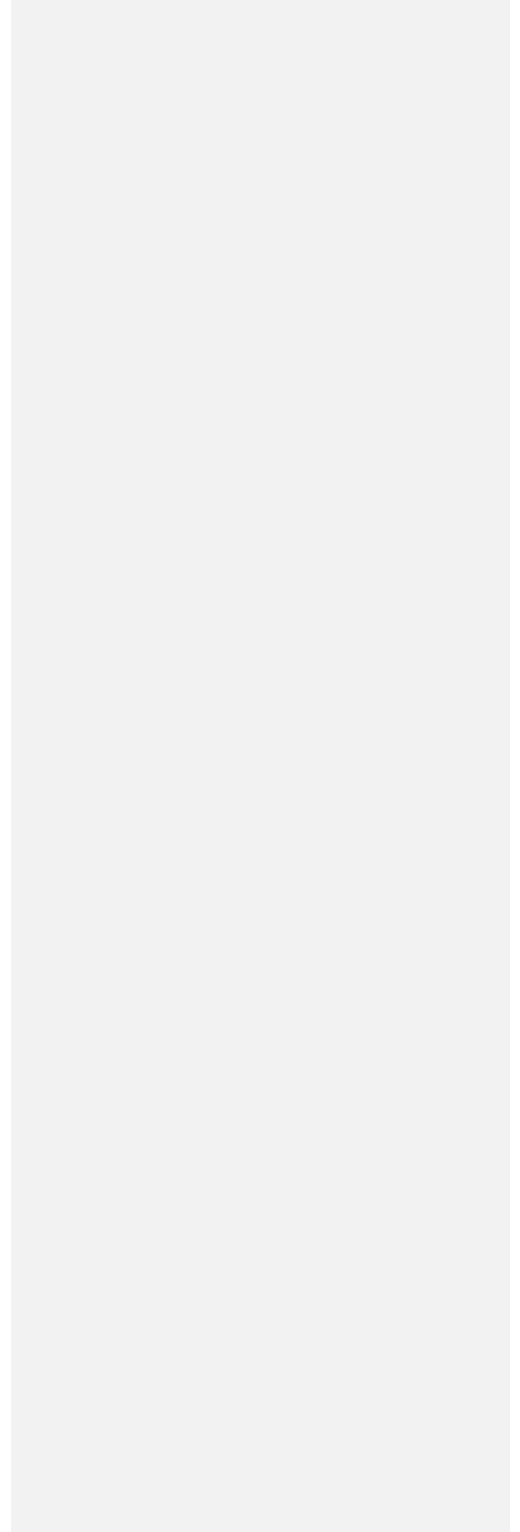
Electrical transmission line relocation



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Exhibit D-6

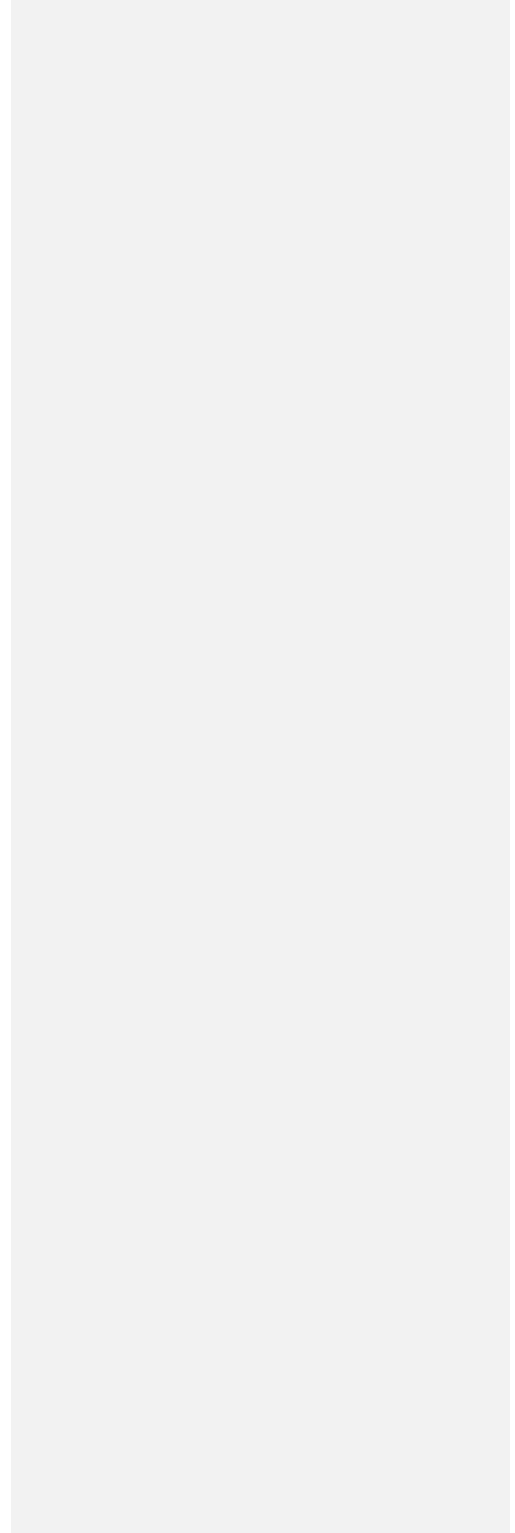
New 20-inch water main loop



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Exhibit E

Form of Request for Payment



REQUEST FOR PAYMENT

To: _____

From: _____

Re: Request for payment of Reimbursement pursuant to Participation Agreement

Date of Request: _____

As of the date of this request:

- Total completed interior square footage of buildings within the Site: _____
- Total cost of installed Infrastructure Improvements, as defined by the Participation Agreement, for the Site, as defined in the Participation Agreement and located within the West Bench Redevelopment Project Area: \$ _____
- Total amount of property taxes paid by Participant: \$ _____

Describe development within the Site (to date, or since the last request for payment, as applicable): _____

Describe Infrastructure Improvements completed (to date, or since the last request for payment, as applicable): _____

Signed: _____

Dated: _____

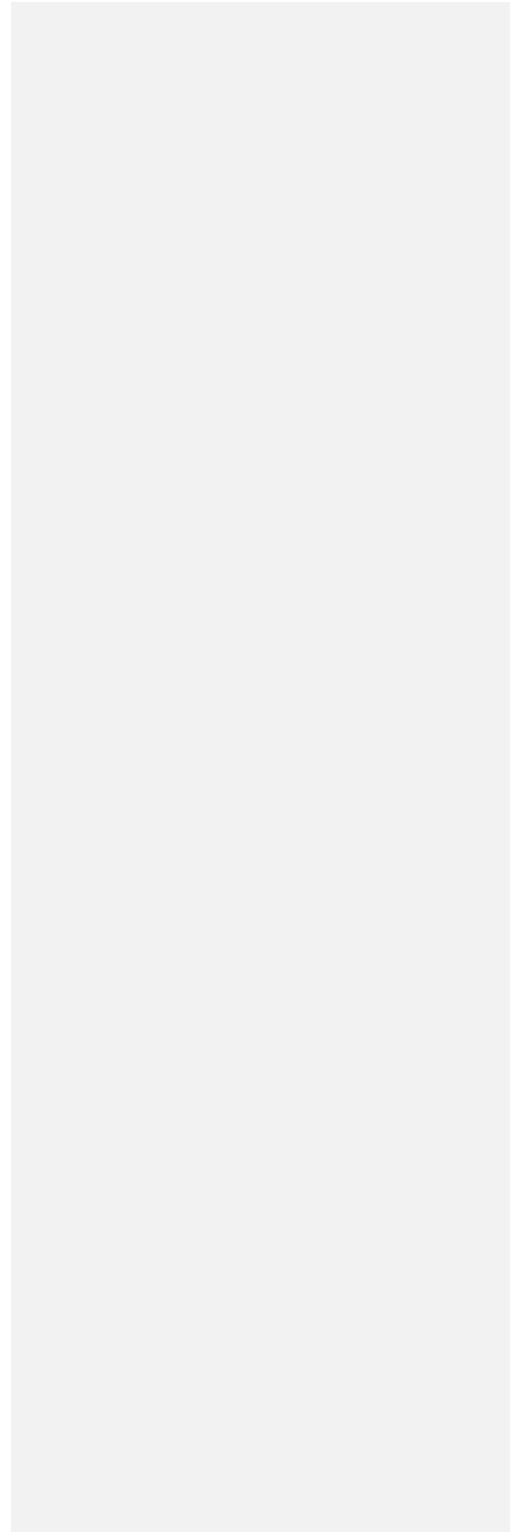


Exhibit F

Agency Land

TRACT OF LAND SITUATE IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN, WEBER COUNTY, UTAH, THE BOUNDARIES OF SAID TRACT ARE DESCRIBED AS FOLLOWS TO WIT:BEGINNING AT A POINT WHICH IS 2287.41 FEET NORTH 89D52'11" EAST ALONG THE SECTION LINE AND 33.00 FEET SOUTH 00D07'49" EAST FROM THE NORTHWEST CORNER OF SAID SECTION 13 AND RUNNING THENCE NORTH 89D52'11" EAST 283.64 FEET PARALLEL TO SAID SECTION LINE TO A POINT ON THE WEST RIGHT OF WAY LINE OF 1500 WEST STREET, THENCE SOUTH 00D19'00" EAST 404.96 FEET ALONG SAID WEST RIGHT OF WAY LINE TO A POINT ON A 1687.02-FOOT RADIUS CURVE TO THE LEFT, THENCE SOUTHEASTERLY 132.00 FEET ALONG ARC OF SAID CURVE AND SAID WEST RIGHT OF WAY LINE(CHORD BEARS SOUTH 02D29'30" EAST 131.97 FEET), THENCE NORTH 87D54'54" WEST 557.29 FEET TO THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE 15, THENCE NORTH 06D05'56" EAST 306.33 FEET ALONG SAID EASTERLY RIGHT OF WAY TO THE SOUTHWEST CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO ROCKY MOUNTAIN POWER COMPANY, THENCE SOUTH 83D54'04" EAST 209.00 FEET ALONG THE SOUTHERLY LINE OF SAID TRACT TO THE SOUTHEAST CORNER OF SAID TRACT, THENCE NORTH 06D05'56" EAST 234.82 FEET ALONG THE EASTERLY LINE OF SAID TRACT TO THE POINT OF BEGINNING.

Also known as Weber County Parcel # 081030075

PARTICIPATION AGREEMENT
by and between the
REDEVELOPMENT AGENCY OF RIVERDALE CITY
and
RIVERDALE COMMERCIAL HOLDINGS, LLC

THIS PARTICIPATION AGREEMENT (this “**Agreement**”), dated to be effective as of _____, 2022 (the “**Effective Date**”), is entered into by and between the **REDEVELOPMENT AGENCY OF RIVERDALE CITY**, a political subdivision of the State of Utah (the “**Agency**”), and **RIVERDALE COMMERCIAL HOLDINGS, LLC**, a Utah limited liability company (“**Participant**”). The Agency and Participant may also be individually referred to as “**Party**” and collectively as “**Parties**”. The Parties hereby agree as follows:

1. SUBJECT OF AGREEMENT

1.1. Purpose of the Agreement

The purpose of this Agreement is to carry out in part the West Bench Redevelopment Project Area Plan (the “**Plan**”) by incentivizing the development of a high-quality commercial flex-use development, substantially according to the Concept Plan attached hereto as **Exhibit A** (the “**Project**”) within the Project Area (as defined in the Plan). The land on which the Project is to be located is referred to as the “**Site**” in this Agreement. Accordingly, this Agreement sets forth the terms and conditions pursuant to which the Agency will provide certain infrastructure reimbursements in support of the development and operation of the Project.

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

This Agreement is in the vital and best interests of Riverdale City (the “**City**”), and the health, safety and welfare of its residents, and in accord with public purposes. This Agreement is carried out pursuant to the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, 17C *et seq*, Utah Code Annotated, as amended (the “**Act**”).

1.3. The Project Area

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

1.4. The Project Area Budget

Pursuant to the Act, a Project Area Budget has been adopted by the Agency for the Project Area (the “**Budget**”), a copy of which is attached as **Exhibit B**. Pursuant to the Budget, the Agency is entitled to collect one hundred percent (100%) of the tax increment generated by development within the Project Area (the “**Agency Share**”) for the term of the Tax Increment collection period

under the Budget, which currently is up to seventeen (17) years (the “**Tax Increment Term**”). For informational purposes, the initial 17-year Tax Increment Term is calculated as the original 15-year term under the Budget plus an additional two-year extension period provided under authority of Agency resolution enacted under Section 17C-1-416 of the Act. Any subsequent extension of the Tax Increment collection period under the Budget will also result in a similar extension of the payment period under this Agreement. Under the Budget, the Agency may begin collecting tax increment from the Project Area for any year up to and including 2025.

1.4.1. Commencement of Tax Increment Term

The decision as to the commencement of the Tax Increment Term shall be made in the Agency’s sole discretion; notwithstanding the foregoing clause, the Agency will take such actions as necessary so that the Tax Increment Term commences no later than January 1, 2025.

1.5. The Project Area Plan

This Agreement is subject to the provisions of the Plan as adopted by the Agency and the City Council in accordance with the Act.

1.6. Description of the Site

The site of the Project (the “**Site**”) consists of the real property depicted on the Concept Plan and as described in the legal description attached hereto as **Exhibit C**. The Site comprises a large portion, but less than all, of the Project Area.

1.7. Description of the Project

Pursuant to the terms of this Agreement, Participant shall develop the Project within the Site. Development of the Project will involve significant private capital investment over several years, which includes the installation of far more than Eight Million Dollars (\$8,000,000.00) of infrastructure improvements (the “**Investment**”).

1.8. The Reimbursement

As used in this Agreement, the term “**Reimbursement**” means the amount(s) to be paid to Participant upon compliance with the terms and conditions of this Agreement. The Reimbursement shall be based on the total Investment by Participant and the reimbursement for Infrastructure Improvements described in Article 2.

1.9. Party Addresses

1.9.1. The Agency

The address of the Agency for purposes of this Agreement is: 4600 S Weber River Dr., Riverdale UT 84405. With a copy to: Smith Hartvigsen PLLC, Attn: Adam S. Long, 257 East 200 South, Suite 500, Salt Lake City, UT 84111

1.9.2. Participant

Participant's address for purposes of this Agreement is: Riverdale Commercial Holdings, LLC, 95 W 100 S Suite 340, Logan UT 84321.

1.10. Assignment

1.10.1. Restrictions on Assignment without Agency Consent

Except as permitted by Section 1.8.2 hereof, Participant agrees for itself and any successor in interest that during the term of this Agreement, Participant shall not assign or transfer or attempt to assign or transfer all or any part of its obligations under this Agreement without the prior written consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed.

1.10.2. Permitted Transfers

[Intentionally omitted].

1.10.3. Continuing Obligations

Except as otherwise provided herein, and except for a transfer or assignment of this Agreement which has been consented to by the Agency, no assignment or transfer of this Agreement, any part hereof, any right herein, or approval hereof, by the Agency shall be deemed to relieve Participant from any obligation under this Agreement. Upon the Agency's consent to an assignment of this Agreement (if such consent is required), the assigning Participant will be relieved of all obligations under this Agreement arising from and after the date of such assignment and the Agency shall look solely to the assignee for performance of the obligations under this Agreement from and after the date of such assignment. All of the terms, covenants, and conditions of this Agreement shall be binding upon and shall inure to the benefit of Participant and its permitted successors and assigns.

1.10.4. Payment of Tax Increment After Transfer

In the event that any portion of this Agreement is assigned or transferred as described in Sections 1.10.1 or 1.10.2, the Agency shall pay the entire Reimbursement (as defined in Section 2.1) to the person or entity that is a party to this Agreement following such assignment and is Participant for purposes of this Agreement as set forth in Section 2.1 (except as set forth below).

1.10.5. Transfer to Tax Exempt Organization

Notwithstanding anything in this Agreement to the contrary, any attempt by Participant or its Agency-approved transferee or assignee to transfer any of the real or personal property within the Site to a tax-exempt organization or otherwise to exempt any of the taxable property within the Site from ad valorem property taxation without the prior written consent of the Agency will entitle the Agency, at its sole discretion, to immediately and without prior notice terminate this Agreement, cease further payments under this Agreement to Participant or its successors or assigns, and seek repayment of all amounts paid to Participant under this Agreement.

2. REIMBURSEMENT

2.1. Reimbursement of Certain Costs

So long as all conditions precedent described in Section 2.3 are satisfied, the Agency will pay to Participant the Reimbursement. The cumulative amount of Reimbursement paid to Participant shall not exceed the total amount of Reimbursement Funds during the Tax Increment Term.

In the event that the amount of Reimbursement Funds received by the Agency is greater than the Reimbursement that has been requested by Participant as of a particular date, the Agency shall hold such excess Reimbursement Funds through the Term of this Agreement and shall use such funds for the payment of future Reimbursement in accordance with this Agreement.

If all conditions precedent described in Section 2.3 are met, the Agency shall make the requested payment to Participant representing the Reimbursement, or portion thereof, within sixty (60) days of the Request for Payment, as defined in Section 2.3.6., below.

2.1.1. Calculation of the Reimbursement

The amount of the Reimbursement shall be limited to the amounts invested by Participant into infrastructure improvements as listed on **Exhibit D** (the “**Infrastructure Improvements**”) and as further described in **Exhibits D-1 through D-6**. The amounts shown for each particular improvement in Exhibit D shall be used as the costs of Infrastructure Improvements for purposes of this Agreement. The parties acknowledge that Participant’s actual costs for such Infrastructure Improvements may be more or less than the costs listed in Exhibit D. The Reimbursement for any particular Infrastructure Improvement shall only be paid once that particular Infrastructure Improvement has been fully completed, and, if applicable, accepted by the City. To be eligible for reimbursement by the Agency as part of the Reimbursement contemplated by this Agreement, an Infrastructure Improvement must be fully completed on or before December 31, 2031.

2.1.2. Funding for the Reimbursement

The Reimbursement contemplated in this Agreement will be funded solely by Tax Increment, as that phrase is defined and used in the Act in compliance with the provisions of the Act, generated

by development within the entire Project Area (and not just the Site), subject to Section 2.1.3., below (the “**Reimbursement Funds**”).

2.1.3. Agency Reimbursement

The Agency Share consists of the tax increment generated by development of the Project (the “**RCH Increment**”) and the tax increment generated by development and taxable value growth within the portions of the Project Area other than the Site (the “**Other Increment**”). Beginning immediately, one hundred percent (100%) of the RCH Increment is available to pay the Reimbursement. However, one hundred percent (100%) of the Other Increment funds shall be retained by the Agency, and therefore not be part of the Reimbursement Funds, until the cumulative amount of Other Increment retained by the Agency equals one million twenty thousand dollars (\$1,020,000.00) (the “**Agency Reimbursement Amount**”). After the Agency Reimbursement Amount has been met, the remaining Other Increment shall be used in the calculation of the Reimbursement Funds and one hundred percent (100%) of the remaining Other Increment will be available to pay the Reimbursement. To be clear, this means that after the Agency Reimbursement Amount has been retained by the Agency, then one hundred percent (100%) of all Tax Increment within the Project Area (and not just from the Project or Site) will be available to pay the Reimbursement to the Participant.

2.2. Limitations on Reimbursement

The Reimbursement is expressly subject to and limited to the amounts available after the limitations and reductions described in this Agreement. The Agency must pay to Participant the Reimbursement only to the extent that Tax Increment is actually generated from development within the Project Area and that the Agency Share is actually paid to and received by the Agency. Tax Increment from the Project Area received by the Agency is the only funding source available or obligated under this Agreement. Participant acknowledges and agrees that the Agency has no funds or revenue to make payments under this Agreement other than the Agency Share. The Agency has no obligation to remit to Participant the Reimbursement unless and until the Participant has paid or caused to be timely paid all personal property or real property taxes due for the Site and Project for which Participant is seeking payment. If the Agency pays the Participant more than the Reimbursement Cap, the Participant agrees to promptly refund such excess amount to the Agency. All payment obligations of the Agency to the Participant under this Agreement will immediately and automatically terminate if and when the Agency has paid the Participant an amount equal to the Reimbursement Cap (it being acknowledged that the Reimbursement Cap is not a guaranteed amount, but is instead a maximum amount to be paid as described in this Agreement).

2.2.1. Reimbursement Cap

In no event will the cumulative amount of Reimbursement paid to the Participant under this Agreement exceed the difference between nine million dollars (\$9,000,000.00) and the cumulative Agency Retention Amount actually retained by the Agency (the “**Reimbursement Cap**”).

2.2.2. Reimbursement Term

The Reimbursement shall not be paid for any period beyond the end of the Tax Increment Term.

2.3. Conditions Precedent to the Payment of the Reimbursement

In addition to other provisions in this Agreement, the Agency has no obligation to remit to Participant the Reimbursement unless and until all the following conditions precedent (each a “**Condition Precedent**” and together “**Conditions Precedent**”), as detailed in the following subsections, are satisfied:

2.3.1 Agency is Entitled to Receive the Agency Share

The Agency is not obligated to pay to Participant the Reimbursement unless the Agency is legally entitled to receive the Agency Share pursuant to the Budget (as extended from time to time, including, without limitation, pursuant to Section 17C-1-416 of the Act). The Agency agrees not to amend the Budget in a way that would reduce, or would potentially reduce, the Agency Share available to pay the Reimbursement without the prior written consent of Participant.

2.3.2 Agency has Actually Received the Agency Share Payment

The Agency is obligated to pay to Participant the Reimbursement only to the extent the Agency has actually received the Agency Share payment(s) from the entity charged with collecting property taxes.

2.3.3 Operation of Project

The Agency is not obligated to pay to Participant the Reimbursement unless Participant has continuously operated the Project as described in Section 2.19.

2.3.4 Payment of Taxes

Participant shall not receive any payments (including payments representing the Reimbursement) from the Agency for any period until the Agency has received documentation from Participant that all real property and ad valorem taxes applicable to the Site have been paid by Participant. Notwithstanding the foregoing, Participant may at its cost and expense petition to have the assessed valuation of the Site reduced or may initiate proceedings to contest the real property taxes. Participant acknowledges that any reduction in assessed value of the Site or Project Area will result in a corresponding reduction in the Agency Share. Upon the final determination of any proceeding

or contest, Participant shall immediately pay the real property taxes due, together with all costs, charges, interest, and penalties incidental to the proceedings.

2.3.5 Request for Participant's Tax Increment Share

The Agency is not obligated to pay the Reimbursement to Participant unless Participant has made a Request for Payment in writing pursuant to Section 2.5.

2.4. Effect of Failure to Meet Conditions Precedent to Payment of Reimbursement

In the event that the conditions precedent as described in Section 2.3 are not fully met for any given tax year during the term of this Agreement and the Participant is thus not entitled to receive the Reimbursement attributable to that tax year, but is otherwise not in default under this Agreement, such failure shall not be a breach of this Agreement. Notwithstanding anything to the contrary or otherwise stated herein, in no event will the Participant be subject to a clawback or repayment of any portion of Reimbursement that has already been paid to the Participant, unless such repayment is necessary to correct for an administrative or clerical error that resulted in an overpayment to the Participant or pursuant to a default under this Agreement by Participant.

2.5. Request for Payment

Participant shall submit in writing a request for payment (the "**Request for Payment**") for any Infrastructure Improvements that have been fully completed and for which Participant seeks reimbursement. Each Request for Payment shall be in substantially the form attached hereto as **Exhibit E** and shall include, at a minimum, the information listed in **Exhibit E**. In the event that the Agency determines that a Request for Payment is incomplete or otherwise deficient, the Agency shall notify Participant within thirty (30) days of the Agency's receipt of the Request for Payment. A Request for Payment shall only be made upon full completion of the Infrastructure Improvement(s) for which Reimbursement is sought. The Agency shall not accept any Request for Payment after December 31, 2032.

2.6. Payment of Taxes

During the term of this Agreement, to the extent applicable, Participant and any of its successors-in-interest in any portion of the Project Area agree to pay, prior to delinquency, all undisputed real property and other *ad valorem* taxes and assessments assessed against any property within the Project Area to the extent owned by Participant or any of its successors-in-interest; provided, however, that Participant expressly retains any and all rights to: (a) challenge, object to, or appeal any real property or personal property and other *ad valorem* taxes and assessments; and (b) petition for the reduction thereof.

2.7. Reduction or Elimination of Reimbursement

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

2.8. Dispute over Receipt of Payment of Reimbursement

In the event a dispute arises as to the person or entity entitled to receive the Reimbursement under this Agreement due to a claimed assignment by Participant or claimed successor-in-interest of Participant to the Reimbursement or portion thereof, the Agency may withhold payment of the Reimbursement and may refrain from taking any other action required of it by this Agreement until the dispute is resolved either by agreement or by a court of competent jurisdiction and sufficient evidence of such resolution is provided to the Agency. The Agency shall be entitled to deduct from its payment of the Reimbursement any costs or expenses, including reasonable attorney fees, incurred by the Agency due to the dispute.

2.9. Nature of Participant's Obligations and Limitations

To qualify to receive the Reimbursement as set forth herein, Participant shall fulfill all of its obligations as set forth in this Agreement. The failure of Participant to fulfill its obligations may result in a failure to qualify to receive the Reimbursement, trigger withholding of an unpaid portion of the Reimbursement, allow the Agency to reacquire the Agency Land as described in Article 3, or result in termination of this Agreement but shall not give rise to any other right or remedy in favor of the Agency. The Agency shall have no right to compel Participant to install any necessary improvements or otherwise develop or construct the Project.

2.10. Appeals of Property Tax Assessments

Participant may at its cost and expense petition to have the assessed valuation of the Site and/or Project reduced or may initiate proceedings to contest such property taxes, and Participant acknowledges that any reduction in assessed value of the property located in the Project Area will result in a corresponding reduction in the Reimbursement. Regardless of whether Participant files an appeal to contest the value of its real or personal property, Participant shall pay the real and personal property taxes based on the assessed value. Upon the final determination of any such proceeding or contest, Participant shall be paid a refund for any reduction in value or pay all property taxes due, together with interest and penalties properly assessed, if any. In the event the County Assessor, County Board of Equalization, Utah State Tax Commission or any lawful entity authorized by law to determine the personal property or real property taxes against the property within the Site adjusts the assessed or taxable value of such property through an appeal, an audit or similar action, the Reimbursement shall be proportionately increased or decreased, which may result in a refund from Participant to the Agency, or an increased amount of Reimbursement from the Agency to Participant. Any such payment based on the change in personal property or real property taxes must be paid within thirty (30) days after the additional taxes are paid by Participant or refund for overpayment of taxes is received by Participant. Notwithstanding Section 2.1 of this Agreement, the Agency, in its sole discretion, may delay the final payment of the Reimbursement until all deadlines to contest or appeal the assessed value of taxable property within the Site have expired; in the event of such a decision by the Agency, the final Reimbursement payment will be made no later than sixty (30) days after such deadlines have passed.

2.11. Reduction of or Elimination of Tax Increment

Subject to Participant's rights to challenge any such action, if the provisions of Utah law which govern the payment of Tax Increment to the Agency are changed or amended so as to reduce or eliminate the amount paid to the Agency under the Budget, the Agency's obligation to pay the Reimbursement, as applicable, will be proportionately reduced or eliminated. Notwithstanding any change in law, Participant specifically reserves and does not waive any right it may have to challenge, at Participant's sole cost and expense, the constitutionality of any law change(s) that would reduce or eliminate the payment of Tax Increment to the Agency and/or the Reimbursement

and nothing herein shall be construed as an estoppel, waiver, or consent to reduce or eliminate payment of Tax Increment to the Agency and/or the Reimbursement. Participant acknowledges, understands, and agrees that the Agency is under no obligation to challenge the validity, enforceability, or constitutionality of a change in law that reduces or eliminates the payment of Tax Increment to the Agency and/or the Reimbursement, or to otherwise indemnify or reimburse Participant for its actions to independently do so; provided, the Agency will not oppose Participant if Participant challenges a change in the law that reduces or eliminates the payment of Tax Increment to the Agency.

2.12. Declaration of Invalidity

In the event a court of competent jurisdiction after final adjudication (by the highest court to which the matter may be appealed) (i) declares that the Agency cannot receive Tax Increment or reimburse Participant from Tax Increment funds as provided in this Agreement, (ii) invalidates the Project Area, the Plan, or the Budget, or (iii) takes any other action that eliminates or reduces the amount of Tax Increment paid to the Agency, the Agency's obligation to pay the Reimbursement to Participant hereunder shall be accordingly reduced or eliminated to the extent required by law. Participant specifically reserves and does not waive hereunder any right it may have to challenge a ruling, decision or order by any court that would reduce or eliminate the payment of Tax Increment to the Agency. Participant acknowledges, understands and agrees that the Agency is under no obligation to challenge a ruling, decision or order by any court that reduces or eliminates the payment of Tax Increment to the Agency; provided, the Agency will not oppose Participant if Participant challenges such a ruling by any court. In no event shall Agency be liable to Participant for consequential, special, incidental, indirect, exemplary, or punitive damages of any kind (including, but not limited to, loss of profits, loss of reputation, or loss of current or prospective business advantage, even where such losses are characterized as direct damages) arising out of or in any way related to any of the foregoing, regardless of whether the claim under which damages are sought is based upon contract, tort, negligence (of any kind), willful misconduct, strict liability or otherwise, and regardless of whether the parties have been advised of the possibility of such damages at the time of contracting or otherwise.

2.13. Funding Responsibility

The Parties understand and agree that the Agency shall not be liable or responsible for providing, obtaining, or guaranteeing any financing for the construction of the Project or other improvements.

2.14. Agency's Encumbrance of Tax Increment

The Agency agrees that it shall not, without the prior written consent of Participant, issue any bonds or other indebtedness that may be secured by Tax Increment which are payable senior to or have priority over any obligation of the Agency to reimburse Participant for amounts due as provided in this Agreement.

2.15. Development and Operation of the Project

Participant shall develop and operate the Project in a commercially reasonable manner and in accordance with industry standards. For purposes of this Agreement, “**Operating**”, “**Operational**,” or “**Operations**” of the Project shall mean when the following conditions are satisfied: (1) Participant has invested at least three million dollars (\$3,000,000.00) into Infrastructure Improvements; (2) either (a) Participant has constructed a building or buildings with total interior space of at least one hundred and seventy thousand (170,000) square feet or (b) one or more building lots have been leased to tenant(s) or sold to third-parties; and (3) Participant continuously uses commercially reasonable efforts to develop the Project and to attract tenants to the Project. For purposes of this Section, Participant shall be deemed to have continuously Operated the Project if the foregoing standards are substantially met or exceeded, notwithstanding temporary cessation of Operations for inspection, maintenance, repair, replacement, and/or events of *force majeure* or destruction.

2.16. Commencement of Operations

Operations of the Project as described in Section 2.15 shall begin no later than January 1, 2027. For purposes of this Section, the Project shall be deemed Operational if the conditions and standards in Section 2.15 are met. If Participant fails to commence Operations of the Project as required by this Section for any reason other than events of *force majeure*, the Agency shall have the right to terminate this Agreement upon written notice to Participant, subject, however, to any notice and cure periods set forth in Article 5.

2.17. Continuing Operations

Operations of the Project as described in Section 2.15 shall be commenced as described in this Section 2.17 and shall continue throughout the term of this Agreement as set forth in Article 4. For purposes of this Section, the Project shall be considered to be in Operation if the Project is Operating as described in Section 2.15 of this Agreement.

2.18. Cessation of Operations

If Participant ceases to Operate the Project for any reason other than events of *force majeure* or destruction (“**Cessation**”), such Cessation shall be a default subject to the provisions of Article 5.

2.19. Funding Responsibility

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

2.20. Responsibility for Development Plans and Permits

The Agency shall not have any responsibility to obtain permits, licenses, or other approvals for any development within or relating to the Project Area, provided, however, Agency will reasonably cooperate in providing any consents or acknowledgments as may be required to obtain the same.

2.21. Other Terms

2.23.1 City Land Use Authority

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

2.23.2 Restriction Against Parcel Splitting

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

2.23.3 Restriction Against Housing Development

During the term of this Agreement, Participant shall not construct or install any housing development including, but not limited to, housing structures, buildings, or residential units within the Site without the written consent of the Agency, which consent may be withheld at the sole and absolute discretion of the Agency.

2.23.4 Deannexation

Participant agrees that it will not cooperate with any person, group, or municipality in any effort to remove, deannex, disconnect, or disincorporate the Project Area or any portion thereof from the City during the Term of this Agreement. In the event that the Site or a portion thereof is disconnected, deannexed, disincorporated, or otherwise removed from the municipal boundaries of the City, the Agency's obligations to pay the Reimbursement shall immediately cease. Further, Participant shall not seek to nor support any legislation that would (i) restrict or eliminate the City's land use authority over any portion of the Project Area or (ii) allow for any portion of the funds that comprise Agency Share to be paid to any other person or entity.

2.23.5 Indemnification

Participant agrees to and shall indemnify, defend, and hold the Agency and its directors, officers, agents, employees, and representatives harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorney fees and court costs) arising from or as a result of the death of any person, or any accident, injury, loss, or damage whatsoever caused to any third party person or to the property of any third party person, directly or indirectly caused by any acts done or any errors or omissions of Participant or its directors, officers, agents, employees, consultants, and contractors except for willful misconduct or negligent acts or omissions of the Agency, the City, or their respective officials, directors, officers, agents, employees, contractors, and consultants. Likewise, the Agency agrees to and shall indemnify, defend, and hold Participant and its directors, officers, agents, employees, and representatives harmless from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person, or any accident, injury, loss, or damage whatsoever caused to any third party person or to the property of any third party person, directly or indirectly caused by any acts done or any errors or omissions of the Agency, the City, or their respective directors, officers, agents, employees, contractors and consultants except for willful misconduct or negligent acts or omissions of Participant or its directors, officers, agents, employees, consultants, and contractors.

2.23.7 Limits on Liability

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

2.23.8 Rights of Access

Representatives of the Agency shall have the right of reasonable access to the Site for purposes of inspection only as may be reasonably required to verify compliance with this Agreement. Such access shall be allowed with reasonable and prior written notice (but in no event less than 24 hours prior), and without charges or fees, during normal business hours or as otherwise agreed to, subject, however, to the rules, regulations, security protocols and other access limitations for safety and security purposes as required by Participant.

2.23.9 Responsibility of the Agency

The Agency shall not have any obligation under this Agreement other than those specifically provided for herein. Likewise, the Participant shall not have any obligation under this Agreement other than those specifically provided for herein. Except as expressly provided for in this

Agreement, nothing herein shall be construed as requiring the Agency to pre-approve or prejudice any matter, or as otherwise binding the Agency's discretion or judgment on any issue prior to an appropriate hearing (if required), review, or compliance with any other requirement.

3. AGENCY CONTRIBUTION OF LAND

3.1. Agency Land.

The Agency owns certain real property located in the Project Area, within the Site, that the Agency desires to see developed as a part of the Project (the "**Agency Land**"). The Agency Land is particularly described in the attached **Exhibit F**. The Agency agrees to convey good, indefeasible and marketable title to the Agency Land to the Participant, by Special Warranty Deed, promptly after the City and the Participant have entered into a Development Agreement, as described in Section 2.2.5 of this Agreement, relating to the development of the Project by the Participant, on terms acceptable to the City and the Participant in their sole discretion.

3.2. Repurchase Option.

In the event that the Agency Land is not developed (as described below) within forty eight (48) months of the Effective Date of this Agreement, upon request by the Agency made within seventy two (72) months of the date of this letter, Participant shall convey the Agency Land back to the Agency via special warranty deed, in a form reasonably acceptable to the Agency, at no cost to the Agency except that the Agency will be required to reimburse the Participant for the cost of all Infrastructure Improvements made or installed on the Agency Land.

For purposes of this Section 3.2 and Section 3.3 only, the Agency Land shall be considered "developed" if a commercial building or buildings, totaling at least thirty thousand (30,000) square feet of interior space, as evidenced by certificates of occupancy issued by the City, has/have been substantially constructed on any portion of the Agency Land. The Agency's rights under this Section 3.2 will terminate immediately and automatically once the Agency land has been developed.

3.3. Right of First Refusal.

Further, for a period commencing on the Effective Date and ending on the date that the Agency Land has been developed, as described in Section 3.2., the Agency shall have a right of first refusal to buy the Agency Land under the same terms and conditions as offered by a bona fide third party seeking to purchase the Agency Land for a use other than as part of the Project as contemplated by this Agreement. The Agency's rights under this Section 3.3 will terminate immediately and automatically once the Agency Land has been developed as described in Section 3.2.

3.4. Notice of Interest.

At its discretion and its sole cost, the Agency may record a notice of interest or similar document(s) against the Agency Land to provide notice of the Agency's repurchase option and right of first refusal relating to the Agency Land. Upon termination of all interest referenced in the notice of interest, the Agency agrees to promptly record a full release of the same.

3.5. Other Terms.

3.5.1. Agency Representations Relative to Agency Land.

The Agency does not have knowledge of any material contracts or agreements affecting the ownership or operation of the Agency Land that would bind Participant other than as disclosed in writing by the Agency to the Participant. The Agency is not a party to any reciprocal easement agreements, agreements with governmental authorities or rights of first offer, rights of first refusal or option agreements or similar agreements affecting the Agency Land. The Agency represents and warrants that no other party has any right to own, lease, use or develop the Agency Land. The consideration for conveyance of the Agency Land by the Agency to the Participant is the Participant's agreement to develop and improve of the Project as required by this Agreement and the City Development Agreement. All risk of loss to the Agency Land, including physical damage or destruction to the Agency Land or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by the Agency until the recording of the deed from the Agency to the Participant.

3.5.2. Closing Costs Relative to Agency Land.

The Participant agrees to pay all title and escrow costs for closing, settlement, recording, and other costs relative to the conveyance of the Agency Land by the Agency to the Participant.

3.5.3. Documents Relating to Agency Land.

The Agency agrees to promptly provide to the Participant all of the following, relative to the Agency Land, that is in the custody, possession or control of the Agency: consultant reports and work product (including environmental reports), geotechnical reports, and all other material information pertinent to Participant's evaluation of the Agency Land.

3.5.4. Inspection Rights Relative to Agency Land.

The Agency grants the Participant the non-exclusive right and license for Participant and Participant's representatives, agents, and contractors to enter upon the Agency Land for the purposes of investigating and inspecting the Agency Land and performing tests, studies and analyses with respect to the Agency Land. The Agency shall have the right, in its discretion and exercised by providing written notice to the Participant, to have a representative present for all such activities. In addition to the foregoing, prior to entering the Agency Land, Participant shall provide to the Agency, by email to the person then serving as Executive Director of the Agency

(or any other Agency official as designated by the Executive Director of the Agency), proof of insurance satisfactory to the Agency that Participant has in effect, at all times when Participant is authorized to come on the Agency Land, commercial general liability insurance in a minimum amount of \$1,000,000, combined single limit per occurrence, insuring Participant against claims for personal injury, death, and property damage or destruction. The Agency shall be named as an additional insured on such policy. Participant agrees to indemnify, defend, and hold harmless the Agency for, from, and against any and all claims, actions, damages or liabilities of any kind arising out of Participant's exercise of the rights granted by this paragraph, including, without limitation, any Claims relating to mechanics' or materialmen's liens.

4. EFFECT AND DURATION OF COVENANTS; TERM OF AGREEMENT

The covenants, including but not limited to conformance with federal, local, and state laws, established in this Agreement shall, without regard to technical classification and designation, be binding on the Parties and any successors-in-interest during the term of this Agreement, which shall terminate on the date that is 180 days after the final payment is made to Participant pursuant to this Agreement, unless earlier terminated by written agreement of the Parties or pursuant to the terms of Article 5 (the "**Term**"). All of the rights and benefits associated with this Agreement shall only inure to the benefit of the Participant and any Agency-approved transferee or assignee.

5. DEFAULTS, REMEDIES, AND TERMINATION

5.1. Default

If either the Agency or Participant fails to perform or delays performance of any material term or provision of this Agreement, such conduct not cured within the applicable cure period set forth in this Section 4 constitutes a default of this Agreement ("**Default**"). The Party in default shall immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy within the periods provided in Section 4.3 hereof. However, notwithstanding any of the foregoing, no employee, officer, representative, or agent of the Agency will consider or treat the Participant in Default under this Agreement unless the governing board of the Agency has first adopted a resolution making a finding of the specific reason or reasons why the Agency believes the Participant is in Default and provided a copy of the resolution to the Participant; the Agency agrees to provide the Participant with at least fourteen days' advance written notice before any meeting of the governing board at which such a resolution will appear on the agenda

5.2. Notice

If a Default under this Agreement occurs, the non-defaulting Party shall give written notice (a "**Default Notice**") of the Default to the defaulting Party, specifying the nature of the Default. Failure or delay in giving such notice shall not constitute a waiver of any Default, nor shall it change the time of Default, nor shall it operate as a waiver of any rights or remedies of the non-

defaulting Party; but the non-defaulting Party shall have no right to exercise any remedy hereunder without delivering the Default Notice as provided herein. Delays by either Party in asserting any of its rights and remedies shall not deprive the other Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

5.3. Cure Period

If the Agency is the defaulting party, the Participant will have no right to exercise a right or remedy hereunder unless the subject Default continues uncured for a period of sixty (60) days after delivery of the Default Notice. If the Agency's Default is not timely cured then the Participant, at its option, may pursue such rights and remedies as it may have under this Agreement, at law or in equity. If the Participant is the defaulting party, the Agency will have no right to exercise a right or remedy hereunder unless the subject Default continues uncured for a period of sixty (60) days after delivery of the Default Notice. If the Participant's Default is not timely cured, the Agency, at its option, may pursue such rights and remedies as it may have under this Agreement, at law or in equity.

5.3.1. Rights and Remedies

Upon the occurrence of a Default (following the expiration of the applicable cure period provided herein or by law), the non-defaulting Party shall have all rights and remedies against the defaulting Party as may be available at law or in equity to cure, correct or remedy any Default, to terminate this Agreement, to recover damages for any default, or to obtain any other remedy consistent with the purposes of this Agreement. Such rights and remedies are cumulative, and the exercise of one or more of such rights or remedies shall not preclude the exercise, at the same or different times, of any other rights or remedies for the same Default or any other Default by the defaulting Party.

5.3.2. Legal Actions

5.3.2.1. Venue

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

5.3.2.2. Service of Process

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

5.3.2.3. Applicable Law

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

5.3.2.4. Waiver of Jury Trial

Each Party hereto hereby irrevocably waives any and all rights it may have to demand that any action, proceeding or counterclaim arising out of or in any way related to this Agreement be tried by jury. This waiver extends to any and all rights to demand a trial by jury arising from any source, including but not limited to the Constitution of the United States, the Constitution of any state, common law or any applicable statute or regulation. Each Party hereby acknowledges that it is knowingly and voluntarily waiving the right to demand trial by jury.

6. GENERAL PROVISIONS

6.1. Authority

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

6.2. Notices, Demands, and Communications between the Parties

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

6.3. Severability

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

6.4. Nonliability of Officials and Employees

No director, officer, agent, employee, representative, contractor, attorney or consultant of the Agency shall be personally liable to Participant, or any successor in interest, in the event of any default or breach by the Agency or for any amount which may become due to Participant or to its successor, or on any obligations under the terms of this Agreement. No director, officer, agent, employee, representative, contractor, attorney or consultant of Participant shall be personally liable to the Agency, or any successor in interest, in the event of any default or breach by Participant or for any amount which may become due to Agency or to its successor, or on any obligations under the terms of this Agreement.

6.5. Enforced Delay; Extension of Time and Performance

In addition to the specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or Defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of a public enemy; terrorist activity; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or suppliers; acts of the other Party; or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent, whether on the part of the Agency's Executive Director or its governing board or on the part of Participant, to the other Party within 28 days of actual knowledge of the commencement of the cause. Time of performance under this Agreement may also be extended in writing by the Agency and Participant by mutual agreement.

6.6. Approvals

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

6.7. Time of the Essence

Time is of the essence in the performance of this Agreement.

6.8. Interpretation

The Parties hereto agree that they intend by this Agreement to create only the contractual relationship established herein, and that no provision hereof, or act of either Party hereunder, shall be construed as creating the relationship of principal and agent, or a partnership, or a joint venture or enterprise between the Parties hereto. Neither Party shall be deemed the drafter of this Agreement.

6.9. No Interest

No interest shall accrue or be paid on any amounts to be paid or received by either Party under this Agreement.

6.10. No Third-Party Beneficiaries

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

6.11. Incorporation of Exhibits

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

6.12. Mediation

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

6.13. Dispute Over Agreement

In the event a dispute arises with respect to this Agreement, the prevailing party shall be entitled to any reasonable costs or expenses, including reasonable attorneys' fees, incurred related to the dispute.

6.14. Headings

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

6.15. Contra Proferentum

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

6.16. Further Assurances

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

6.17. Confidentiality

The Parties acknowledge and agree that this Agreement shall become a public record under Utah law, and that discussion regarding this Agreement shall take place before the Agency board in open session. The Agency acknowledges that Participant considers all of the information provided to the Agency in connection with this Agreement is protected under the Utah Governmental Records Access and Management Act, § 63-2-101 et seq. (“GRAMA”) under a claim of “business confidentiality” so long as Participant complies with the applicable requirements in making a claim of business confidentiality under § 63G-2-309(1)(a)(i)(A) & (B).

7. DUPLICATION, INTEGRATION, WAIVERS, AND AMENDMENTS

7.1. Duplicate Originals; Electronic Signatures

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

7.2. Integration

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

7.3. Waivers and Amendments

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

8. MORTGAGEE PROTECTIONS; ESTOPPEL

8.1. No Limitation on Encumbrances

The Parties hereto agree that this Agreement shall not prevent or limit Participant from encumbering the Project or any estate or interest therein, portion thereof, or any improvement thereon, in any manner whatsoever by one or more mortgages, deeds of trust, sale and leaseback, or other form of secured financing (“**Mortgage**”) with respect to the construction, development,

use or operation of the Project and parts thereof. The Agency acknowledges that the lender(s) providing such Mortgages may require certain interpretations and modifications to this Agreement and the Agency agrees, upon request, from time to time, to meet with Participant and representatives of such lender(s) to negotiate in good faith any such request for interpretation or modification. The Agency will not unreasonably withhold its consent to any such requested interpretation or modification, provided such interpretation or modification is consistent with the intent and purposes of this Agreement.

8.2. No Obligations of Mortgagee

Notwithstanding any of the provisions of this Agreement to the contrary, the holder of a Mortgage (a “**Mortgagee**”) shall not have any obligation or duty pursuant to the terms set forth in this Agreement to perform the obligations of Participant or other affirmative covenants of Participant hereunder, or to guarantee such performance.

8.3. Notices to Mortgagee

The Mortgagee of any Mortgage or deed of trust encumbering the Project, or any part or interest thereof, that has submitted a request in writing to the Agency in the manner specified herein for giving notices shall be entitled to receive written notification from the Agency of any notice of non-compliance by Participant in the performance of Participant’s obligations under this Agreement. If the Agency timely receives a request from a Mortgagee requesting a copy of any notice of non-compliance given to Participant under the terms of this Agreement, the Agency shall provide a copy of that notice to the Mortgagee within ten days of sending the notice of non-compliance to Participant. The Mortgagee shall have the right, but not the obligation, to cure the non-compliance for a period of 120 days after the Mortgagee receives such written notice.

8.4. Estoppel Certificates

At any time, and from time to time, Participant may deliver written notice to the Agency, and the Agency may deliver written notice to Participant, requesting that such Party certify in writing that, to the knowledge of the certifying Party (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended, or if amended, the identity of each amendment, (iii) the requesting Party is not then in breach of this Agreement, or if in breach, a description of each such breach, and (iv) any other factual matters reasonably requested (an “**Estoppel Certificate**”). The Executive Director of the Agency shall be authorized to execute, on behalf of the Agency, any Estoppel Certificate requested by Participant which complies with this Section 7.5 within 14 days of a written request for such Estoppel Certificate. The Agency’s failure to furnish an Estoppel Certificate within 14 days after request therefor shall be conclusively presumed that: (a) this Agreement is in full force and effect without modification in accordance with the terms set forth in the request; and (b) that there are no breaches or defaults on the part of Participant. The Agency acknowledges that an Estoppel Certificate may be relied upon by

transferees or successors in interest to Participant and by Mortgagees holding an interest in the Property.

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

DRAFT

**REDEVELOPMENT AGENCY OF
RIVERDALE CITY**

By: _____
_____, Chair

Attest:

Secretary

**RIVERDALE COMMERCIAL HOLDINGS,
LLC**

By: _____
Name: _____
Title: _____

DRAFT

Exhibit A

Project Concept Plan

DRAFT

Exhibit B

Project Area Budget

DRAFT

Exhibit C

Site Legal Description

DRAFT

Exhibit D

Infrastructure Improvements

Infrastructure Improvements means the following:

1. Road improvements to 4800 South and 1500 West as shown on Exhibit D-1.
2. 10" sewer main extension as described on Exhibit D-2.
3. New 8" sewer line as described on Exhibit D-3.
4. New 8" water line as described on Exhibit D-4.
5. Relocation of the existing dual-circuit Rocky Mountain Power transmission line as described on Exhibit D-5.
6. 20" water main loop as described on Exhibit D-6.

Exhibit D-1

Road improvements to 4800 South and 1500 West

DRAFT

Exhibit D-2

10-inch sewer main extension

DRAFT

Exhibit D-3

New 8-inch sewer line

DRAFT

Exhibit D-4

New 8-inch water line

DRAFT

Exhibit D-5

Electrical transmission line relocation

DRAFT

Exhibit D-6

New 20-inch water main loop

DRAFT

Exhibit E

Form of Request for Payment

DRAFT

REQUEST FOR PAYMENT

To: _____

From: _____

Re: Request for payment of Reimbursement pursuant to Participation Agreement

Date of Request: _____

As of the date of this request:

- Total completed interior square footage of buildings within the Site: _____
- Total cost of installed Infrastructure Improvements, as defined by the Participation Agreement, for the Site, as defined in the Participation Agreement and located within the West Bench Redevelopment Project Area: \$ _____
- Total amount of property taxes paid by Participant: \$ _____

Describe development within the Site (to date, or since the last request for payment, as applicable): _____

Describe Infrastructure Improvements completed (to date, or since the last request for payment, as applicable): _____

Signed: _____
Dated: _____

Exhibit F

Agency Land

TRACT OF LAND SITUATE IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN, WEBER COUNTY, UTAH, THE BOUNDARIES OF SAID TRACT ARE DESCRIBED AS FOLLOWS TO WIT: BEGINNING AT A POINT WHICH IS 2287.41 FEET NORTH 89D52'11" EAST ALONG THE SECTION LINE AND 33.00 FEET SOUTH 00D07'49" EAST FROM THE NORTHWEST CORNER OF SAID SECTION 13 AND RUNNING THENCE NORTH 89D52'11" EAST 283.64 FEET PARALLEL TO SAID SECTION LINE TO A POINT ON THE WEST RIGHT OF WAY LINE OF 1500 WEST STREET, THENCE SOUTH 00D19'00" EAST 404.96 FEET ALONG SAID WEST RIGHT OF WAY LINE TO A POINT ON A 1687.02-FOOT RADIUS CURVE TO THE LEFT, THENCE SOUTHEASTERLY 132.00 FEET ALONG ARC OF SAID CURVE AND SAID WEST RIGHT OF WAY LINE (CHORD BEARS SOUTH 02D29'30" EAST 131.97 FEET), THENCE NORTH 87D54'54" WEST 557.29 FEET TO THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE 15, THENCE NORTH 06D05'56" EAST 306.33 FEET ALONG SAID EASTERLY RIGHT OF WAY TO THE SOUTHWEST CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO ROCKY MOUNTAIN POWER COMPANY, THENCE SOUTH 83D54'04" EAST 209.00 FEET ALONG THE SOUTHERLY LINE OF SAID TRACT TO THE SOUTHEAST CORNER OF SAID TRACT, THENCE NORTH 06D05'56" EAST 234.82 FEET ALONG THE EASTERLY LINE OF SAID TRACT TO THE POINT OF BEGINNING.

Also known as Weber County Parcel # 081030075

14 February 2022

Riverdale City
4600 South Weber River Drive
Riverdale, Utah 84405

Attn: Mike Eggett, Community Development Director/RDA Deputy Executive Director
Proj: **Crossroads Center at Riverdale**
4850 South 1500 West
Riverdale, Utah 84405
Subj: Review – Riverdale Business Park RDA Quantity Summary

Dear Mike,

We have reviewed the **“Riverdale Business Park RDA Quantity Summary”** dated 1/18/2022 for the Crossroads Center at Riverdale prepared by AWA Engineering. We have found the quantities for the improvements to match the design drawings for the RDA and public improvements agreed upon.

We have reviewed the estimated construction costs for the improvements and have found the costs to be representative of the current bidding market (note that current costs are not held for very long time periods due to the market).

I would recommend approval of the cost estimate.

If you have any questions, feel free to contact our office.

Sincerely,
CEC, Civil Engineering Consultants, PLLC.



R. Todd Freeman, P.E., S.E.
City Engineer

Cc. Shawn Douglas, Riverdale City Public Works Director
Jeff Woody, Riverdale City Building Official and Inspector



1/18/2022

Riverdale City
4600 Weber River Dr.
Riverdale, UT 84405

Attn: Mike Eggett

Re: Riverdale Business Park RDA Quantity Summary

Dear Mike,

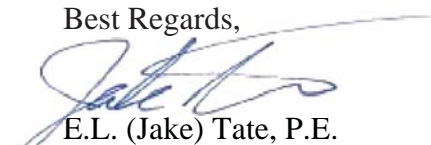
This letter is provided to the City to give a summary of the proposed RDA improvements and to identify the parties benefitted by each of the proposed improvements.

- | | |
|--|----------------|
| 1. Roadway Infrastructure – 1500 West Street & 4800 South Street | \$3,884,574.17 |
| o Benefitting Parties – Maverik, Gibby Floral, Riverdale Business Park (RBP), Motel 6, Brook Haven Office Park, RDA Parcel | |
| 2. 10” Sewer Main Extension – 1,743 LF | \$160,656.92 |
| o Benefitting Parties – Maverik, Gibby Floral, RBP, Motel 6, Brook Haven Office Park, RDA Parcel | |
| 3. Overhead Power Transmission Line Relocation | \$3,672,000.00 |
| o Benefitting Parties – Maverik, Gibby Floral, RBP, RDA Parcel | |
| 4. Weber Basin Water Relocation | \$901,449.23 |
| o Benefitting Parties – RBP, City of Riverdale, Weber Basin Water, Riverdale City Properties along I-15 | |
| o Includes upsizing watermain to 24”, New City connections, Upsizing city meters, New Meters, upsizing main serving I-15 Properties to 10” main. | |
| 5. City Repayment of RDA Funds | \$1,020,000.00 |
| o Benefitting Party – City of Riverdale | |
| 6. Soft Costs – Design, Testing, SWPPP/EC, Traffic Control, Etc. | \$256,879.76 |

PROJECT TOTAL \$9,895,560.08

If you have any questions about these quantities, cost estimates or about the project in general, please feel free to call me at 801-410-8505.

Best Regards,



E.L. (Jake) Tate, P.E.
Project Manager

(1) Roadway Infrastructure - 1500 West Improvements

Cost Estimate

This is a Preliminary Estimate prepared from preliminary design plans and will change upon final design completion.

1500 West & 4800 South Street Improvements

Item No.	Description	Quantity	Unit Price	Cost
1	Demolition	1 LS	\$25,000.00	\$25,000.00
2	Heavy Duty Paving & Base	72,000 SF	\$3.50	\$252,000.00
3	Fine Grade	72,000 SF	\$0.20	\$14,400.00
4	Pavement Message Signs	2 EA	\$200.00	\$400.00
5	Striping	8,200 LF	\$1.50	\$12,300.00
6	30" Conc. Curb and Gutter	3,000 LF	\$18.00	\$54,000.00
7	Concrete Sidewalk	11,800 SF	\$4.00	\$47,200.00
8	Concrete Paving	2,500 SF	\$15.00	\$37,500.00
9	ADA Ramps	10 EA	\$900.00	\$9,000.00
10	Light Poles on 1500 West	6 EA	\$8,000.00	\$48,000.00
Subtotal				\$499,800.00

Misc.

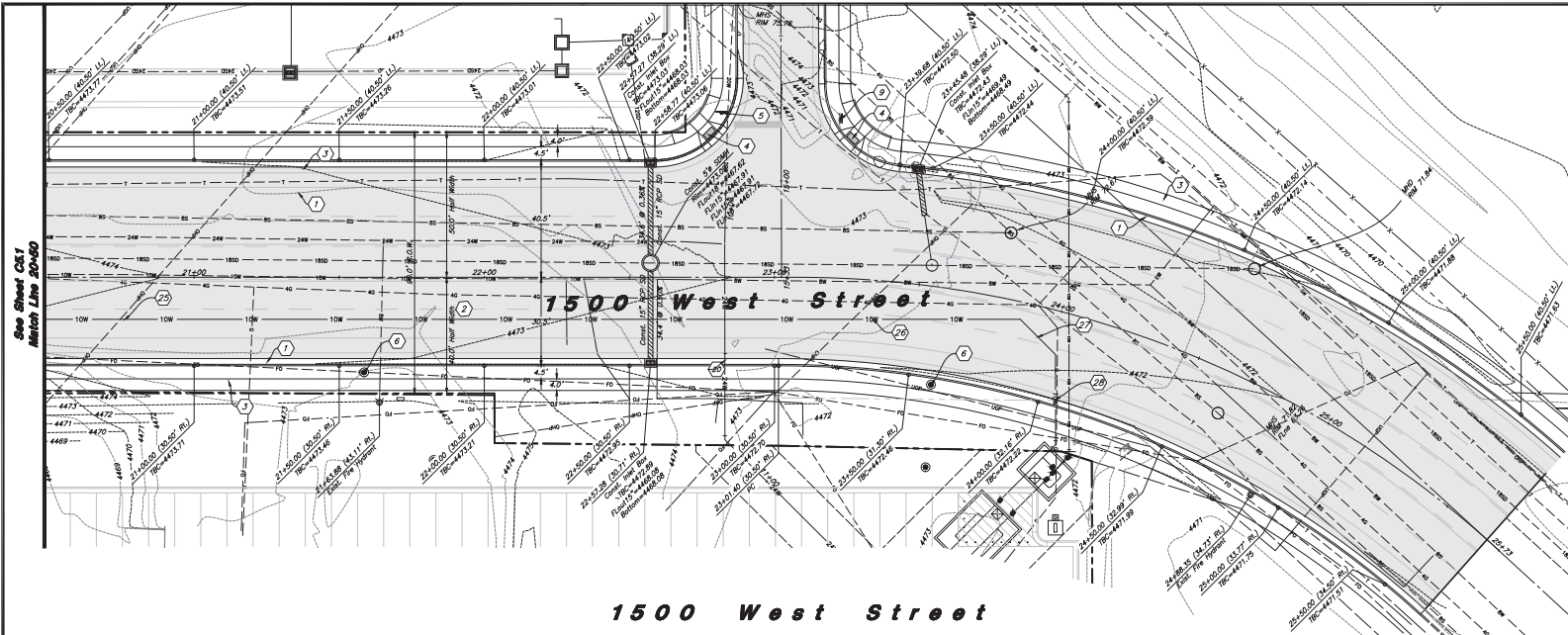
Item No.	Description	Quantity	Unit Price	Cost
11	Earthwork Excavated Material (Cut, Place & Compact onsite)	52,000 CY	\$20.00	\$1,040,000.00
12	Earthwork Import (Fill)	16,000 CY	\$20.00	\$320,000.00
13	Retaining Wall	11,000 SFF	\$76.00	\$836,000.00
Subtotal				\$2,196,000.00

RDA Utility Relocations & Upgrades

Item No.	Description	Quantity	Unit Price	Cost
14	8" PVC (waterline)	2,202 LF	\$37.00	\$81,474.00
15	10" PVC (waterline)	1,453 LF	\$42.00	\$61,026.00
16	6" PVC (Fireline)	61 LF	\$37.00	\$2,257.00
17	8" Gate Valve	11 EA	\$2,000.00	\$22,000.00
18	10" Gate Valve	5 EA	\$2,200.00	\$11,000.00
19	10" Fittings	7 EA	\$1,200.00	\$8,400.00
20	8" Tee	10 EA	\$900.00	\$9,000.00
21	8" Bends	6 EA	\$900.00	\$5,400.00
22	6" gate valve	3 EA	\$1,500.00	\$4,500.00
23	Fire Hydrant	5 EA	\$4,000.00	\$20,000.00
24	Weber Basin Adjust to Grade	1 LS	\$25,000.00	\$25,000.00
25	8" Sewer Main	2,438 LF	\$42.00	\$102,396.00
26	Manhole (Sewer)	12 EA	\$4,000.00	\$48,000.00
27	6" Sewer Lateral	55 LF	\$42.00	\$2,310.00
28	Existing Storm Removal	1 LS	\$10,000.00	\$10,000.00
29	Inlet Box (Storm)	3 EA	\$3,000.00	\$9,000.00
30	Manhole (Storm)	2 EA	\$4,000.00	\$8,000.00
31	15" RCP (Storm)	198 LF	\$33.00	\$6,534.00
32	Adjust Util to Grade	1 LS	\$1,200.00	\$1,200.00
33	Gas Line Alterations	1 LS	\$10,000.00	\$10,000.00
34	Century Link Phone and Cable Service	1 LS	\$10,000.00	\$10,000.00
Subtotal				\$457,497.00

SUB TOTAL	\$3,153,297.00
15% Contingency	\$472,994.55
SUBTOTAL	\$3,626,291.55

TOTAL	\$3,626,291.55
G.C. (3.5%)	\$126,920.20
O.H. & P. (3.5%)	\$131,362.41
Grand TOTAL	\$3,884,574.17



Horizontal Scale: 1" = 20'
 Vertical Scale: 1" = 2'

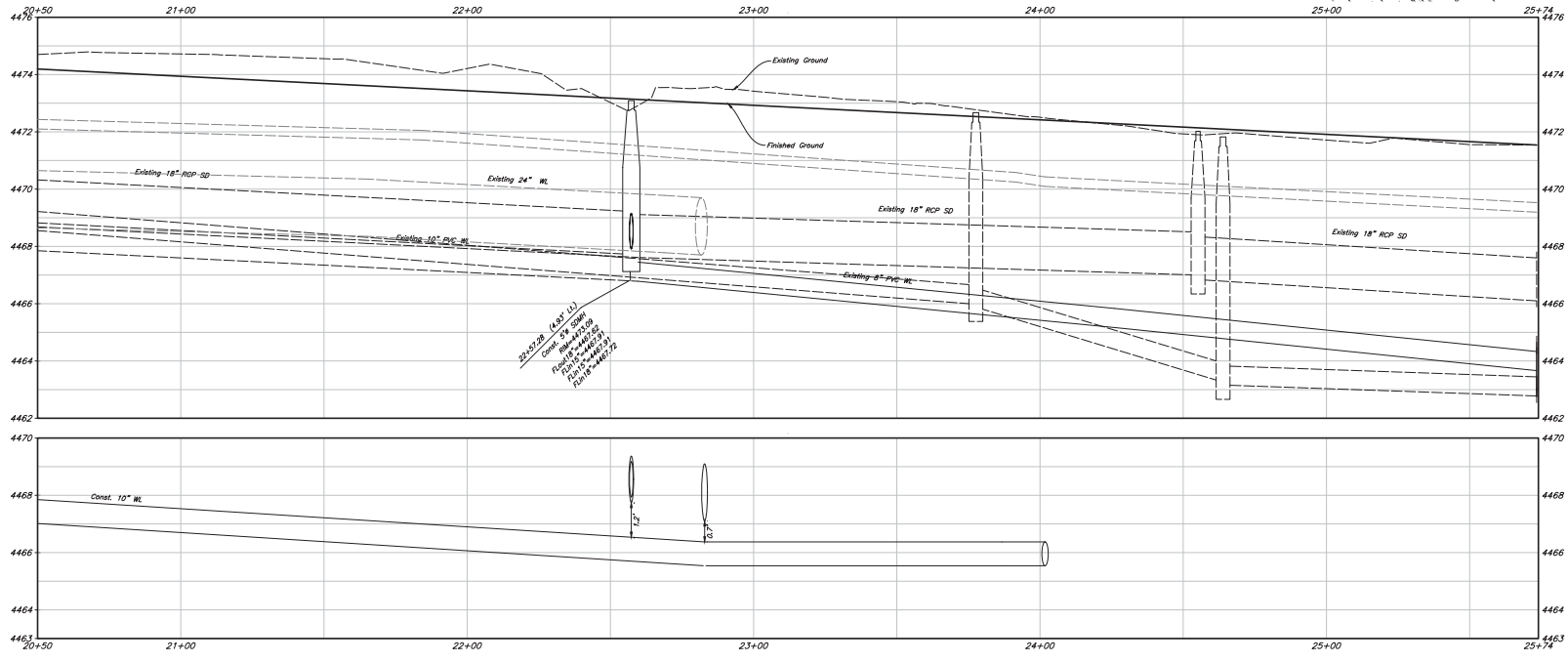
Plan & Profile Construction Notes

- 1 Const. 30" Curb & Gutter per City Stds.
- 2 Const. Asphalt Paving
- 3 Const. Concrete Sidewalk per City Stds.
- 4 Const. Accessible Ramps per City Stds.
- 5 Const. 30" Stop Sign per City MUTCD R1-1
- 6 Const. Street Light per City Stds.
- 7 Const. Storm Drain Manhole per City Stds.
- 8 Const. Inlet Box per City Stds.
- 9 Const. Street Coordinate Sign per City Stds.

Const. 10" PVC C900
 DR 18 Water Line

Key Note	Length
25	413.44'
26	101.83'
27	17.13'
28	31.08'

1500 West Street



Storm Drain & Sanitary Sewer Notes
 All Storm Drainage & Sanitary Sewer Pipe Lengths and Slopes are from Center of Structure to Center of Structure



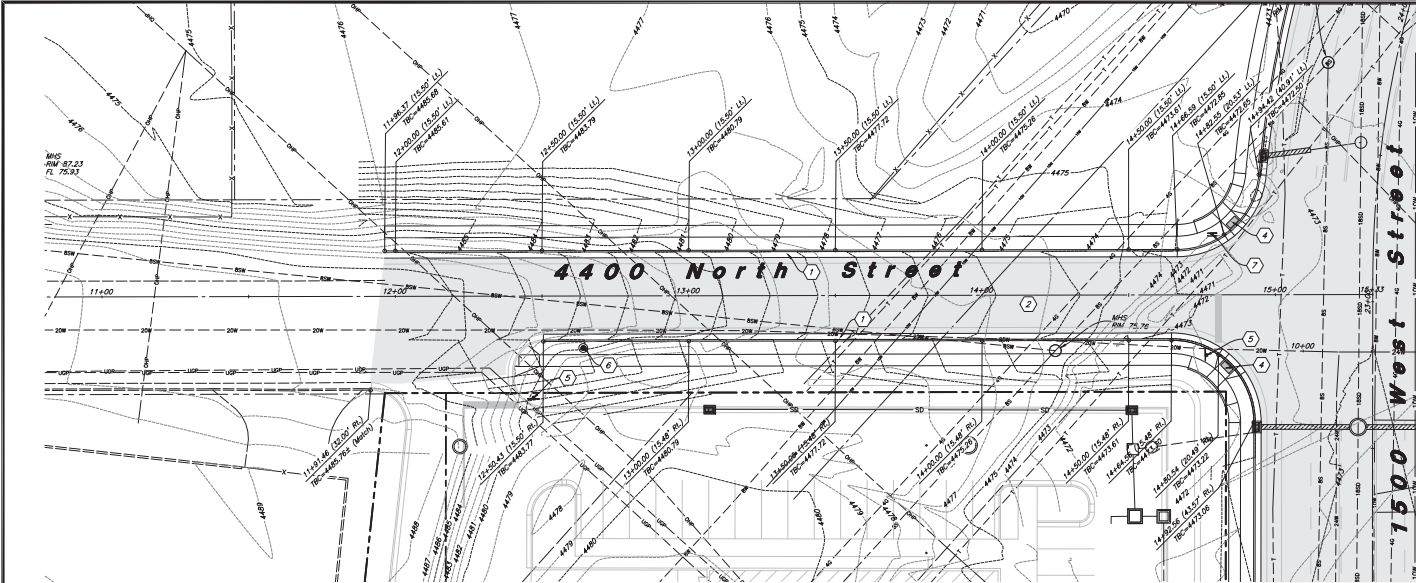
DESIGNED BY: JF
DRAWN BY: KJL
CLIENT NAME: Riverdale Commercial Holdings, LLC
PROJECT NO: 21-105 PP
DATE: 12/28/2021

ANNA
 ANDERSON WAHLEN & ASSOCIATES
 2010 North Riverdale Road, Salt Lake City, Utah 84116
 (801) 521-8529 - anna@ahwa.com

Improvement Plan - 1500 West Street
Crossroads Center at Riverdale
 4850 South 1500 West
 Riverdale, UT



28 Dec, 2021
 SHEET NO: **C5.2**

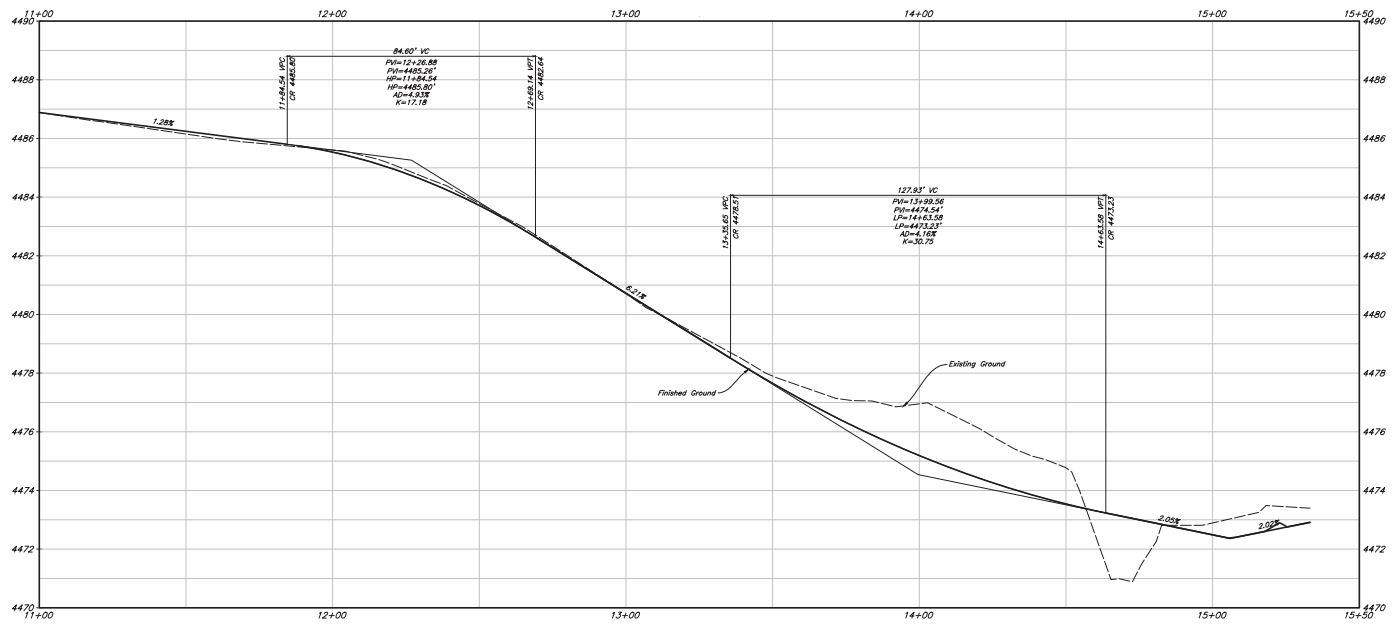


4400 North Street


Horizontal Scale: 1" = 20'
Vertical Scale: 1" = 2'

- Plan & Profile Construction Note**
- ① Const. 30" Curb & Gutter per City Side.
 - ② Const. Asphalt Paving
 - ③ Const. Concrete Sidewalk per City Side.
 - ④ Const. Accessible Ramps per City Side.
 - ⑤ Const. 30" Step Sign per City MUTCD R1-1
 - ⑥ Const. Street Light per City Side.
 - ⑦ Const. Street Coordinate Sign per City Side.

Storm Drain & Sanitary Sewer Notes
 All Storm Drainage & Sanitary Sewer Pipe Lengths and Slopes are from Center of Structure to Center of Structure



Designed by: JT
 Drafted by: KJL
 Client Name: Riverdale Commercial Holdings, LLC
 21-105 PP

ANNA
 ANDERSON WAHLEN & ASSOCIATES
 2010 North Riverdale Road, Salt Lake City, Utah 84116
 (801) 521-8529 - anna@anwa.com

Improvement Plan - 4400 North Street
Crossroads Center at Riverdale
 4850 South 1500 West
 Riverdale, UT

NO. 7884935
 11/11/2021
 Not Later Than
 State of Utah
 Board of Engineers

28 Dec, 2021
 SHEET NO.
C5.3

(2) 10" Sewer Main Extension

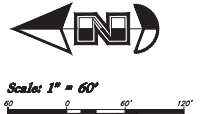
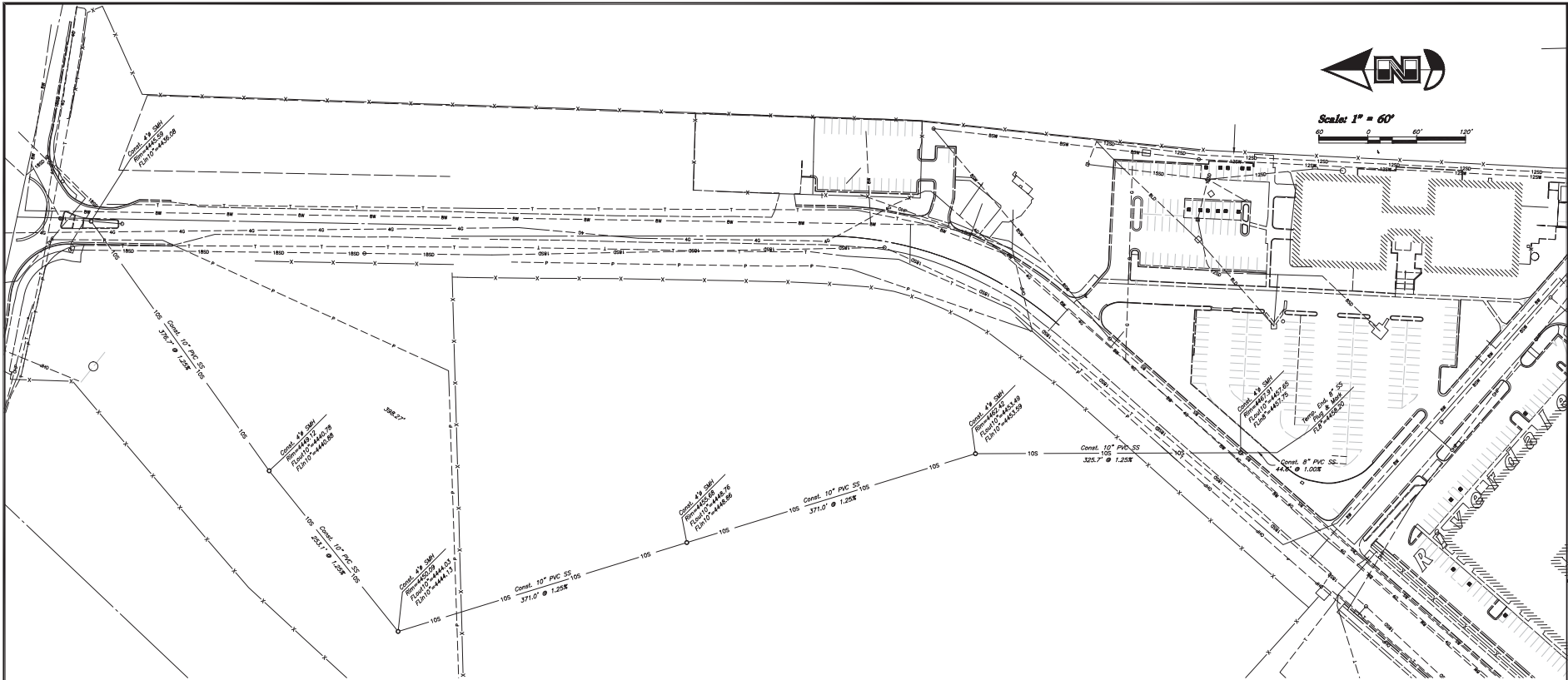
Cost Estimate

This is a Preliminary Estimate prepared from preliminary design plans and will change upon final design completion.

Item No.	Description	Quantity		Unit Price		Cost
1	10" Sewer Main	1,743	LF	\$51.00	LF	\$88,893.00
2	5' Sewer Manhole	6	EA	\$4,500.00	EA	\$27,000.00
3	Excavation	484	CY	\$10.00	CY	\$4,840.00
4	Backfill	355	CY	\$20.00	CY	\$7,100.00
5	Bedding Material	129	CY	\$20.00	CY	\$2,580.00
Subtotal						\$130,413.00

SUB TOTAL	\$130,413.00
15% Contingency	\$19,561.95
SUBTOTAL	\$149,974.95

TOTAL	\$149,974.95
G.C. (3.5%)	\$5,249.12
O.H. & P. (3.5%)	\$5,432.84
Grand TOTAL	\$160,656.92



Utility Piping Materials

All piping materials shall be per local agency standards or the specifications below at a minimum. All utility piping shall be installed per manufacturers recommendations. Refer to project specifications for more detailed information regarding materials, installation, etc.

- Culinary Service Laterals**
1. Polyethylene (PE) Water Pipe (up to 3 inches diameter), ANWA C901, PE 3405, SDR 9 (200 wall)
 2. Copper Pipe (up to 3 inches diameter); Type 'K'
- Water Main Lines and Fire Lines**
1. Polyvinyl Chloride (PVC) (4 inches to 12 inches diameter); ANWA C900, Class 200
- Sanitary Sewer Lines**
1. All sewer piping to be Polyvinyl Chloride (PVC) sewer pipe, ASTM D3034, Type FSM, SDR 35
- Storm Drain Lines**
1. 12" pipes or smaller - Polyvinyl Chloride (PVC) sewer pipe, ASTM D3034, Type FSM, SDR 35
 2. 15" pipes or larger - Reinforced Concrete Pipe, ASTM C76, Class III

Storm Drains & Sanitary Sewer Note
All Storm Drainings & Sanitary Sewer Pipe
Lengths and Slopes are from
Center of Structure to Center of Structure

General Utility Notes

1. All sewer and water facilities shall be constructed per local jurisdiction standards and specifications. Contractor is responsible to obtain standards and specifications.
2. Coordinate all utility connections to building with plumbing plans and building contractor.
3. Verify depth and location of all existing utilities prior to constructing any new utility lines. Notify Civil Engineer of any discrepancies or conflicts prior to any connections being made.
4. All catch basin and inlet box grates are to be biotech proof.
5. Refer to the site electrical plan for details and locations of electrical lines, transformers and light poles.
6. Gas lines, telephone lines, and cable TV lines are not a part of these plans.
7. Water meters are to be installed per city standards and specifications. It will be the contractor's responsibility to install all items required.
8. Water lines, valves, fire hydrants, fittings etc. are to be constructed as shown. Contractor is responsible, at no cost to the owner, to construct any vertical adjustments necessary to clear sewer, storm drain, or other utilities as necessary including valve boxes and hydrant spools to proper grade.
9. Contractor shall install a 12" concrete collar around all manholes, valves, catch basins, cleanouts & any other structures located within the approach.

CAUTION :
 The locations and/or elevations of existing utilities as shown on these plans are based on records of the various utility companies and, where possible, measurements taken in the field. The information is not to be relied on as being exact or complete.

- Ordnance Utility Connection Notes:**
1. Contractor shall field verify all utility connection elevations prior to any utility construction has begun.
 2. Contractor shall construct utility lines into site prior to any onsite utility construction. Gravity lines are to be constructed starting at the lowest point and be installed prior to any waterline installation.
 3. Construction of any ordnance utilities prior to the offsite connection will be done at the contractors risk.



DESIGNED BY: JF
 DRAFTED BY: KSJ
 CLIENT NAME: Riverdale Commercial Holdings, LLC
 21-105 UT

ANWA
ANDERSON WAHLEN & ASSOCIATES
 2010 North Research Road, Salt Lake City, Utah 84116
 (801) 521-8529 - anwa@anwa.net

4400 South Sewer Extension
Crossroads Center at Riverdale
 4850 South 1500 West
 Riverdale, UT

NO. 7884935
 11/1/2021
 Seal Later
 Title of Job
 Date of Issue

28 Dec, 2021
 SHEET NO:
C3.5

(3) Overhead Power Transmission Line Relocation

Cost Estimate

This is a Preliminary Estimate prepared from preliminary design plans and will change upon final design completion.

Transmission Power Relocation

Item No.	Description	Quantity	Unit	Price	Cost
1	Overhead Power Realignment	1	LS	\$3,000,000.00	\$3,000,000.00
2	Underground Power/ Transformer Relocation at 1500 West	1	LS	\$60,000.00	\$60,000.00
Subtotal					\$3,060,000.00

SUB TOTAL	\$3,060,000.00
20% Contingency	\$612,000.00
SUBTOTAL	\$3,672,000.00

TOTAL	\$3,672,000.00
Grand TOTAL	\$3,672,000.00

**ESTIMATING AGREEMENT FOR RELOCATION WORK
BETWEEN
ROCKY MOUNTAIN POWER
AND
RIVERDALE COMMERCIAL HOLDINGS, LLC**

This ESTIMATING AGREEMENT FOR RELOCATION WORK (“Agreement”), entered into between PacifiCorp, an Oregon corporations doing business in Utah as Rocky Mountain Power (“Rocky Mountain Power”), and Riverdale Commercial Holdings, LLC, a Utah limited liability company (“Requestor” or “Customer”), for estimating the cost to remove and replace certain Rocky Mountain Power facilities. Rocky Mountain Power and Requestor are each sometimes referred to herein as “Party” or collectively as “Parties.”

WHEREAS, Requestor plans to develop an area in or near Riverdale, Utah on which Rocky Mountain Power has installed certain facilities (the “Existing Facilities”). The Existing facilities must be moved in order for construction to proceed; and

WHEREAS, Requestor desires that Rocky Mountain Power provide a non-binding estimate of the scope and cost for Rocky Mountain Power to remove the Existing Facilities and install new facilities that will not interfere with Requestor’s planned construction (the “Replacement Facilities”); and

WHEREAS, Rocky Mountain Power will incur certain costs in developing this estimate, which the parties intend should be borne by Requestor; and

WHEREAS, this Agreement provides only a facilities relocation design and cost estimate without binding either Party to perform the work that is the subject matter of the estimate; and

WHEREAS, the Parties intend that this Agreement more specifically address their responsibilities to one another in this regard.

NOW, THEREFORE, the Parties hereto agree as follows:

SECTION 1: DEFINITIONS

“Completion Date” means the date upon which Rocky Mountain Power tenders to Requestor the Facilities Relocation Estimate.

“Facilities Relocation Estimate” means the design and cost estimate that Rocky Mountain Power will prepare under this Agreement to remove the Existing Facilities and install the Replacement Facilities.

“Existing Facilities” means the Rocky Mountain Power facilities to be removed; the Existing Facilities are identified in Exhibit A.

“Project Costs” means all reasonable costs, charges, and expenses incurred by Rocky Mountain Power in preparing the Facilities Relocation Estimate, including all of Rocky Mountain Power’s internal costs, third party costs, an allocation for overhead and administrative expenses, and any other amounts owed to Rocky Mountain Power under the terms of this Agreement.

“Replacement Facilities” means the facilities which Rocky Mountain Power determines would be required to replace the Existing Facilities; the Replacement Facilities will be identified in the Facilities Relocation Estimate.

SECTION 2: PURPOSE; COMPLETION; TERM

2.1 Facilities Relocation Estimate Only. This Agreement provides only for the preparation and delivery of the Facilities Relocation Estimate. It is not intended to obligate the parties to perform the work identified within the Facilities Relocation Estimate. Under this Agreement, Rocky Mountain Power is not obligated to perform construction work, acquire easements or permits, or order materials. In order to obligate Rocky Mountain Power to perform the work contemplated in the Facilities Relocation Estimate, Requestor must enter into a new contract within ninety (90) days after the Completion Date.

2.2 Rocky Mountain Power Obligations. Rocky Mountain Power will use commercially reasonable efforts to develop the Facilities Relocation Estimate in accordance with the Scope of Work attached hereto as Exhibit A, and by this reference made a part hereof. During the course of developing the Facilities Relocation Estimate, Rocky Mountain Power may alter the proposed Replacement Facilities, if any are generally described in Exhibit B, to meet Rocky Mountain Power’s engineering standards. Rocky Mountain Power shall tender to Requestor the Facilities Relocation Estimate upon its completion.

2.3 Scope of the Facilities Relocation Estimate. The Facilities Relocation Estimate is not intended to provide a final buildable plan for construction. The Facilities Relocation Estimate shall be based on a reasonable analysis of known conditions. The Facilities Relocation Estimate will not take into account all factors affecting the potential cost of the relocation work, for to do so would (a) require significant additional detailed engineering and design, surveys of actual ground conditions, and right of way acquisition; (b) would add considerably to the cost of the Facilities Relocation Estimate; (c) would take substantially longer to develop; or (d) would require a substantial cost contingency to be added to the Facilities Relocation Estimate. Requestor acknowledges the Facilities Relocation Estimate will provide only an approximation of the actual cost to perform the work described therein and the actual cost is very likely to differ.

2.4 Estimated Time of Completion. Provided that Customer executes this Agreement on or before November 1, 2021, Rocky Mountain Power shall use commercially reasonable efforts to complete the Facilities Relocation Estimate, on or before 90 business days

after the Agreement is executed by both Parties. Rocky Mountain Power shall not be liable for delays.

2.5 Term of Agreement. This Agreement shall be effective upon the date executed by both Parties and shall terminate upon the Completion Date, unless terminated earlier pursuant to Section 3.3 or until each Party has satisfied its obligations to the other, including without limitation any payment obligations.

2.6 Third-Party Relocation Costs. The Facilities Relocation Estimate will not contain an estimate to relocate facilities owned by third parties, including third-party equipment attached to the Existing Facilities. Requestor shall be solely responsible for obtaining cost estimates from any third parties and for making all necessary arrangements to transfer third-party facilities to the Replacement Facilities, or any other necessary accommodations.

SECTION 3: COST OF SERVICES

3.1 Estimated Project Costs. Rocky Mountain Power estimates that the Project Costs will be approximately \$50,000 (the “Estimated Project Costs”). In the event that actual Project Costs exceed such amount, Rocky Mountain Power shall request written approval from Requestor to proceed with additional work and Requestor shall be responsible for the cost of additional work performed. Requestor shall pay Rocky Mountain Power for all Project Costs incurred, subject to the terms of this Agreement.

3.2 Prepayment. Upon execution of this Agreement by both Parties, Rocky Mountain Power shall provide Customer with an invoice in the amount of the Estimated Costs set forth in Section 3.1. Rocky Mountain Power’s obligation to proceed with the activities described in Exhibit A shall be contingent upon receipt of such payment. In the event Rocky Mountain Power determines that actual Project Study Costs may exceed the Estimated Costs, Rocky Mountain Power may require an additional prepayment to cover the estimated cost of additional work. After the Completion Date, Rocky Mountain Power shall refund the amount of any prepayments in excess of actual total Project Costs.

3.3 Additional Work. If the parties determine additional work is necessary, Requestor shall provide written approval to proceed with additional work and Requestor shall be responsible for the cost of such work performed. In the event Rocky Mountain Power determines the cost of such work may exceed the Estimated Project Costs, Rocky Mountain Power may require an additional payment to cover the work. After the Completion Date, Rocky Mountain Power shall refund the amount of any payments in excess of actual Project Costs and shall invoice Requestor for any deficiency. Requestor shall promptly pay such invoices.

3.4 Right to Stop Work. Requestor reserves the right, upon seven (7) days advance written notice to Rocky Mountain Power, to require Rocky Mountain Power at any time to stop all work by Rocky Mountain Power pursuant to this Agreement. Issuance of such stop-work order shall terminate this Agreement, subject to the provisions of Section 3. Upon issuance of such stop-work order Requestor shall pay upon demand, without deduction, offset, or allowance, the Project Costs Rocky Mountain Power (a) incurs prior to the stoppage of work,

and (b) reasonably incurs in winding up work, including, without limitation, the costs incurred in connection with the cancellation of any third-party contracts.

SECTION 4: LIMITATIONS ON LIABILITY

Under no circumstances shall either Party be liable to the other Party for any lost or prospective profits or any other special, punitive, exemplary, consequential, incidental or indirect losses or damages (in tort, contract or otherwise) under or in respect of this Agreement or for any failure of performance related hereto howsoever caused, whether or not arising from sole, joint or concurrent negligence; and without affecting any other limitations of this Agreement, each Party's liability to each other shall in every event be limited to the payment or refund of amounts due hereunder. Requestor shall indemnify, defend, and hold harmless Rocky Mountain Power with respect to all other claims that arises in any way from preparation or delivery of the Facilities Relocation Estimate.

SECTION 5: FORCE MAJEURE

Neither Party shall be subject to any liability or damages for failure to perform their respective obligations hereunder to the extent that such failure shall be due to causes beyond the control of the Party claiming force majeure protection, including but not limited to the following: (a) the operation and effect of any rules, regulations and orders promulgated by any commission, municipality, or governmental agency of the United States, or subdivision thereof; (b) restraining order, injunction or similar decree of any court; (c) war; (d) flood; (e) earthquake; (f) act of God; (g) sabotage; or (h) strikes or boycotts. The Party claiming Force Majeure under this provision shall make every reasonable attempt to remedy the cause thereof as diligently and expeditiously as possible, except that the obligation to pay amounts due shall not be excused by events of Force Majeure.

SECTION 6: WAIVER OF JURY TRIAL

To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

SECTION 7: NOTICE

Any notice required to be given hereunder shall be deemed to have been given when it is sent, with postage prepaid, by registered or certified mail, return receipt requested, to the Parties hereto at their respective addresses as follows:

To Requestor:

Riverdale Commercial Holdings, LLC
Attention: Ted Heap
95 W 100 S, Suite 340
Logan, UT 84321

To Rocky Mountain Power:

Rocky Mountain Power
Attention: Kirk Nigro
Regional Business Manager
1438 W 2550 S
Ogden, UT 84401
Phone: 801-629-4210

SECTION 8: INTEGRATION

This Agreement replaces and supersedes in the entirety all prior agreements among the Parties related to the same subject matter.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized officers as of the dates set forth below.

RIVERDALE COMMERCIAL HOLDINGS, LLC

ROCKY MOUNTAIN POWER

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

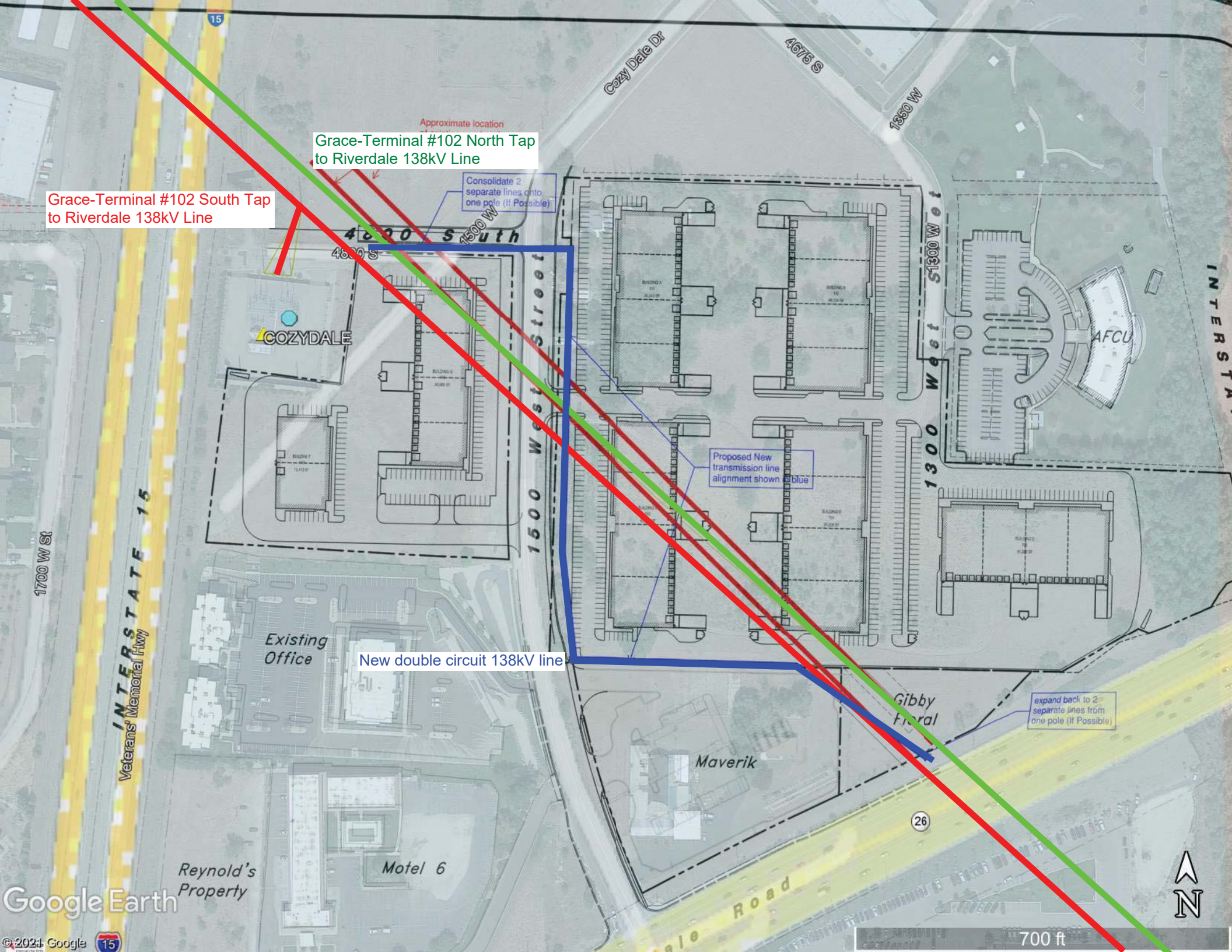
Date: _____

Date: _____

APPENDIX A

SCOPE OF WORK AND DESCRIPTION OF THE EXISTING FACILITIES

Create a transmission line design and estimate for rebuilding the Grace-Terminal #102 South Tap to Riverdale and Grace-Terminal #102 North Tap to Riverdale 138kV lines as a double circuit, single pole line from Cozydale Substation to Riverdale Road. The new double circuit line will follow the property lines of the new Ellis Orchard Development and any angle/deadend structures will be self-supporting steel with concrete pier foundations. All existing distribution underbuild will be transferred to the new transmission structures along the new line route. Riverdale Commercial Holdings is responsible for all project costs. Refer to the map at the end of the document for the new proposed line route.



Grace-Terminal #102 South Tap to Riverdale 138kV Line

Approximate location
Grace-Terminal #102 North Tap to Riverdale 138kV Line

Consolidate 2 separate lines onto one pole (If Possible)

Proposed New transmission line alignment shown in blue

New double circuit 138kV line

expand back to 2 separate lines from one pole (If Possible)



(4) Weber Basin Water Relocation

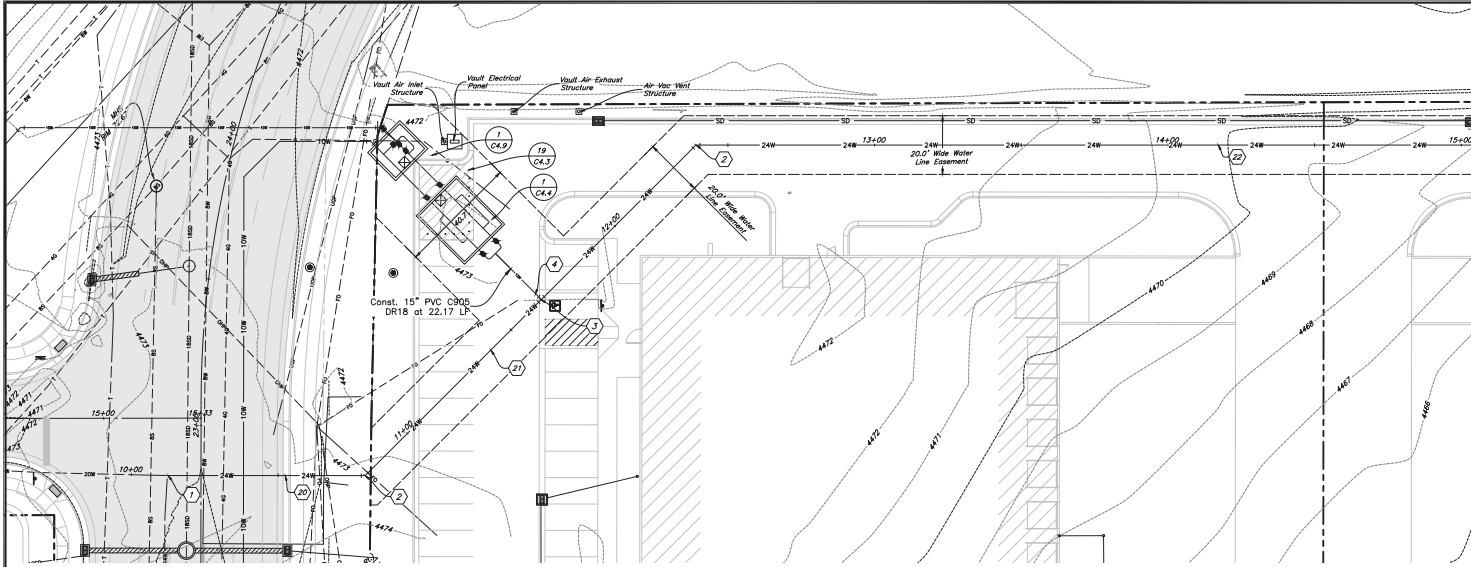
Cost Estimate

This is a Preliminary Estimate prepared from preliminary design plans and will change upon final design completion.

Item No.	Description	Quantity		Unit Price		Cost
1	24" Weber Basin Water Main Relocation	1,061	LF	\$300.00	LF	\$318,300.00
2	24" Tee	1	EA	\$1,500.00	EA	\$1,500.00
3	24" Bends	4	EA	\$1,500.00	EA	\$6,000.00
4	24" Valves	1	EA	\$3,200.00	EA	\$3,200.00
5	Thrust Blocks	5	EA	\$250.00	EA	\$1,250.00
6	Joint Restraints	1	EA	\$1,500.00	EA	\$1,500.00
7	Weber Basin 10" Meter w/ Vault	1	EA	\$300,000.00	EA	\$300,000.00
8	10" PRV w/ Vault	1	EA	\$100,000.00	LF	\$100,000.00
Subtotal						\$731,750.00

SUB TOTAL	\$731,750.00
15% Contingency	\$109,762.50
SUBTOTAL	\$841,512.50

TOTAL	\$841,512.50
G.C. (3.5%)	\$29,452.94
O.H. & P. (3.5%)	\$30,483.79
Grand TOTAL	\$901,449.23



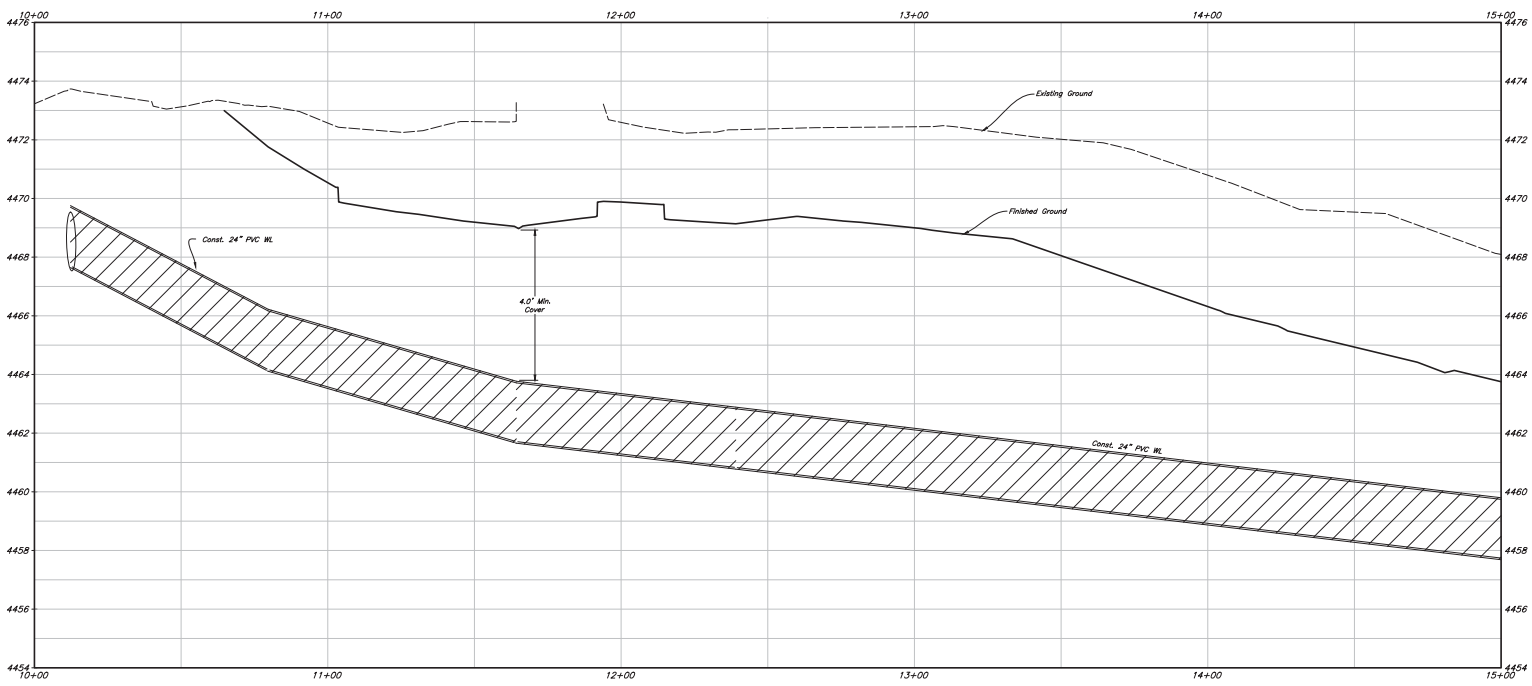
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Vertical Scale 1" = 2'

- Plan & Profile Construction Notes**
- ① Const. Tie In into Existing 24" Tee
 - ② Const. 24" 45° Bend
 - ③ Const. 24"x24"x15" Tee
 - ④ Const. 15" Butterfly Valve

Match Line 15+00
 See Sheet C5.5

24" Water Line

- 20 Const. 24" PVC C900 DR-18 Water Line at 67.38 LF
- 21 Const. 24" PVC C900 DR-18 Water Line at 159.42 LF
- 22 Const. 24" PVC C900 DR-18 Water Line at 686.81 LF



DESIGNED BY: JF
 DRAFTED BY: KQJ
 CLIENT NAME:
 Riverdale Commercial Holdings, LLC
 21-105 RP

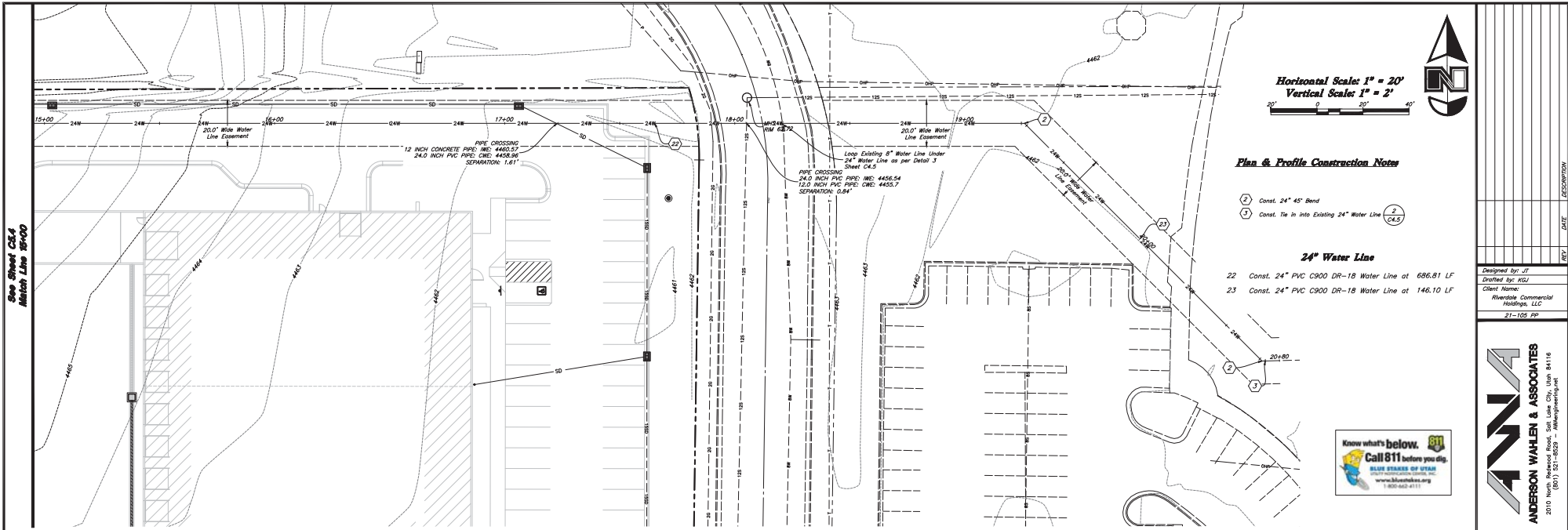
ANNA
ANDERSON WAHLEN & ASSOCIATES
 2010 North Riverdale Road, Salt Lake City, Utah 84118
 (801) 521-8529 - anna@engineering.net

Water Line Plan & Profile
Crossroads Center at Riverdale
 4850 South 1500 West
 Riverdale, UT



28 Dec, 2021
 SHEET NO.
C5.4

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Horizontal Scale: 1" = 20'
Vertical Scale: 1" = 2'



Plan & Profile Construction Note

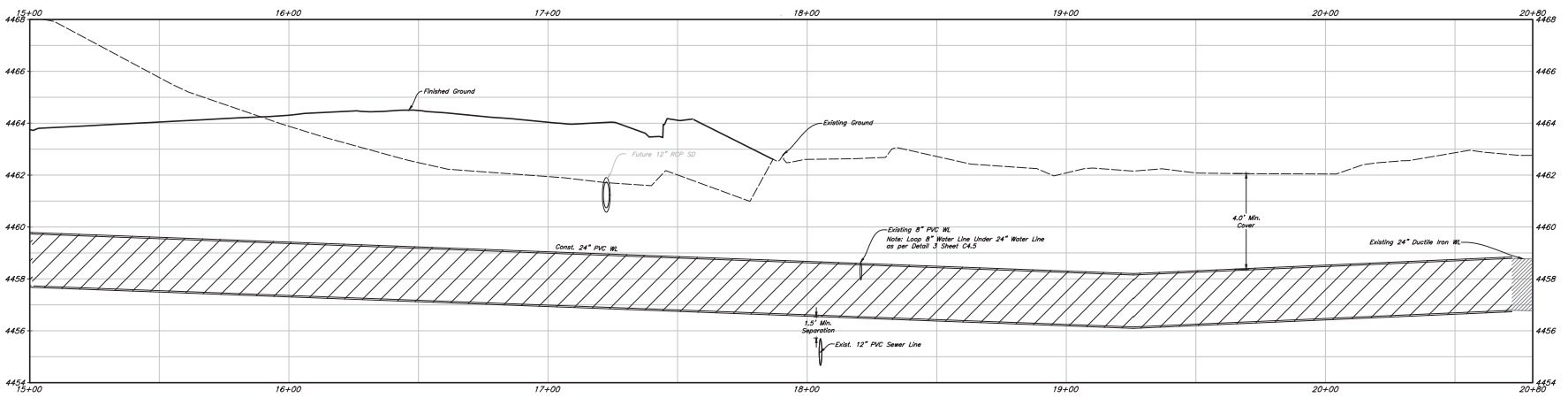
- ② Const. 24" 45' Bend
- ③ Const. Tie into Existing 24" Water Line

24" Water Line

- 22 Const. 24" PVC C900 DR-18 Water Line at 686.81 LF
- 23 Const. 24" PVC C900 DR-18 Water Line at 146.10 LF



See Sheet C5.4
Match Line 8+00



DESIGNED BY	KSJ
DRAWN BY	KSJ
CHECKED BY	
DATE	
PROJECT NO.	
CLIENT NAME	Riverdale Commercial Holdings, LLC
CLIENT ADDRESS	21-105 PP

ANNA
ANDERSON WAHLEN & ASSOCIATES
2010 North Research Road, Salt Lake City, Utah 84116
(801) 521-8529 - anna@ahw.com

Water Line Plan & Profile
Crossroads Center at Riverdale
4850 South 1500 West
Riverdale, UT

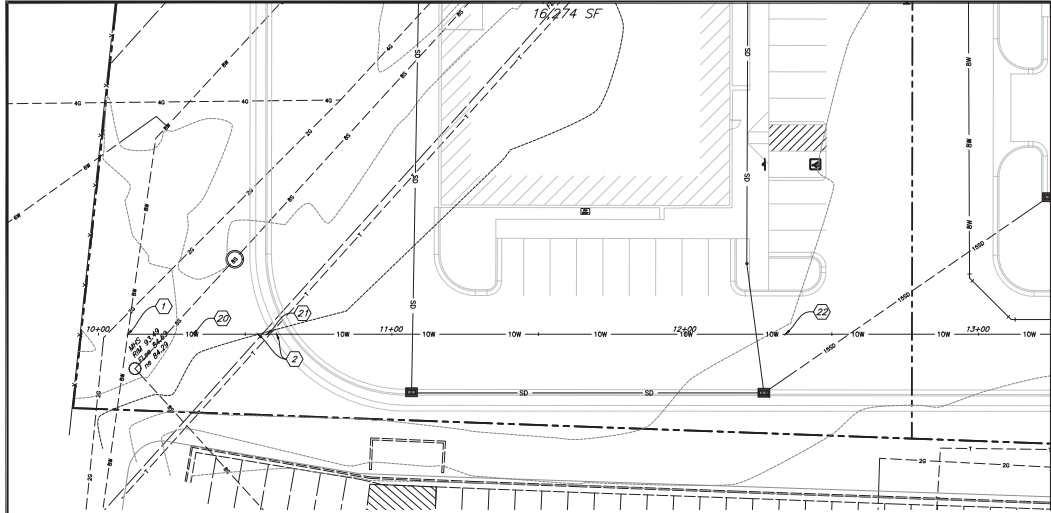


28 Dec, 2021

SHEET NO.

C5.5

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Main Line 10" DR 18
See Sheet C617



Horizontal Scale: 1" = 20'

Vertical Scale: 1" = 4'



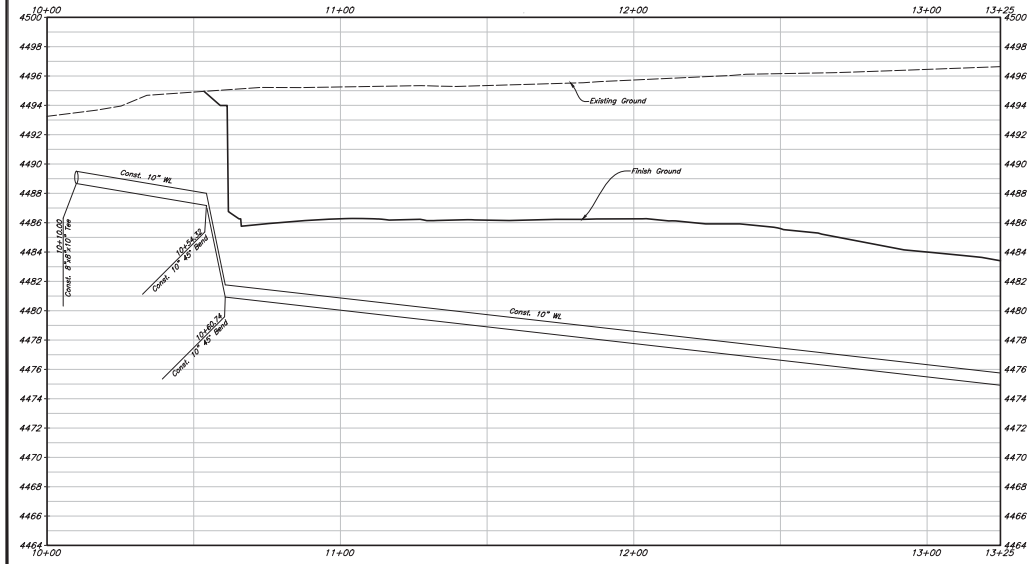
Plan & Profile Construction Notes

- ① Const. 8" x 10' Tee
- ② Const. 10" 45' Bend

Const. 10" PVC C900
DR 18 Water Line

Key Note	Length
①	44.32'
②	6.42'
③	543.05'

Storm Drain & Sanitary Sewer Note
All Storm Drainage & Sanitary Sewer Pipe
Lengths and Slopes are from
Center of Structure to Center of Structure



NO.	DATE	BY	DESCRIPTION

Designed by: JT
Drafted by: KJJ
Client Name:
Riverdale Commercial
Holdings, LLC
21-105-PP



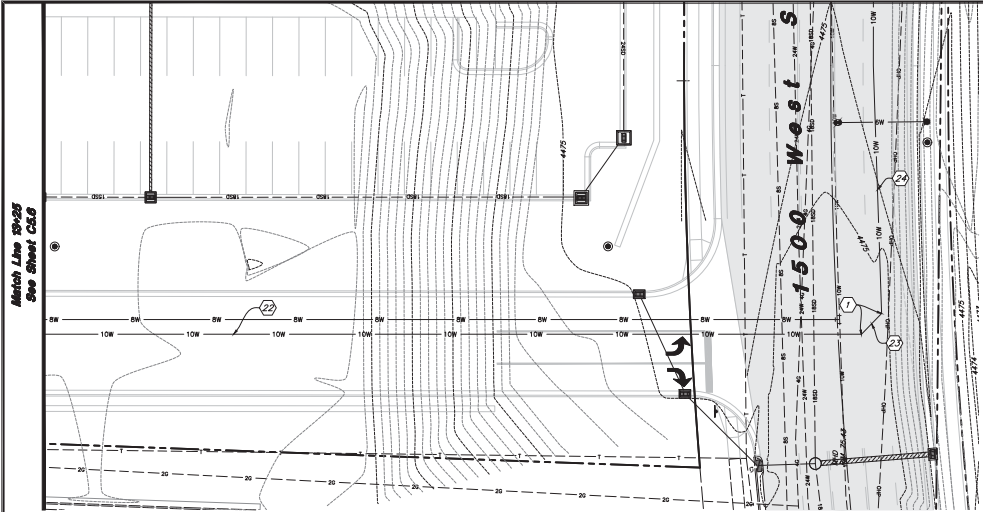
Water Line Plan and Profile
Crossroads Center at Riverdale
 4850 South 1500 West
 Riverdale, UT



28 Dec, 2021

SHEET NO.
C5.6

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Horizontal Scale: 1" = 20'
Vertical Scale: 1" = 4'



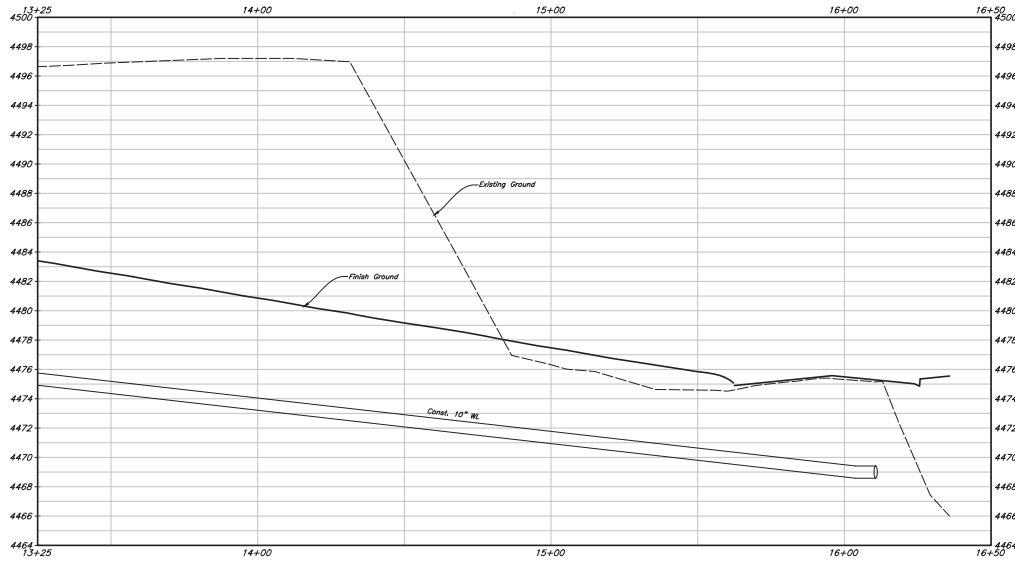
Plan & Profile Construction Notes

(1) Const. 10" 45" Bend

Const. 10" PVC C900
DR 18 Water Line

Key Note	Length
(22)	543.05'
(23)	9.85'
(24)	84.51'

Storm Drain & Sanitary Sewer Notes
All Storm Drainage & Sanitary Sewer Pipe
Lengths and Slopes are from
Center of Structure to Center of Structure



ANNA
ANDERSON WAHLEN & ASSOCIATES
2010 North Riverdale Road, Salt Lake City, Utah 84116
(801) 521-8529 ~ anna@engineering.com

Water Line Plan and Profile
Crossroads Center at Riverdale
4850 South 1500 West
Riverdale, UT



28 Dec, 2021

SHEET NO.

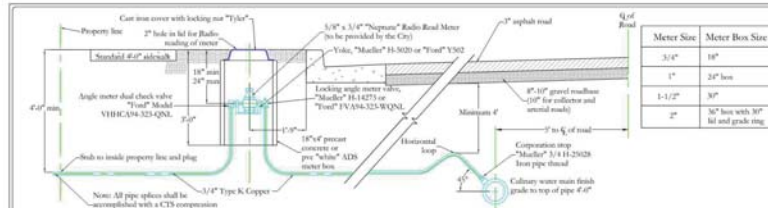
C5.7

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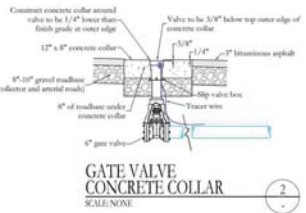
Designed by: JT
Drafted by: KSJ
Client Name:
Riverdale Commercial
Holdings, LLC
21-105-PP



Meter Size	Meter Box Size
3/4"	10"
1"	24" box
1-1/2"	30"
2"	36" box with 30" lid and grade ring

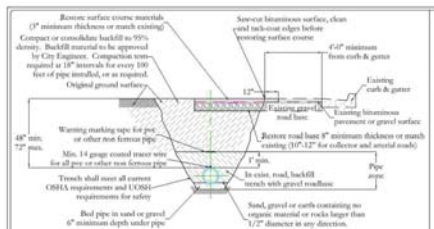
TYPICAL WATER CONNECTION
SCALE: NONE

- NOTES:**
- Backfill: Install backfill in lifts not exceeding 18" after compaction. Compact each lift to an average dry density of 95% with an density test result less than 12%.
 - Residential water meters provided by City. Commercial and industrial water meters to be approved by City.
 - Pipe: Type K copper pipe.
 - Placement: All meters are to be connected in the park strip and must be placed near midpoint of the lot. Meters must not be located in a driveway, or in a sidewalk, and must be 20' away from driveway approaches.
 - Property owner is responsible for service line from property side of meter.
 - Types to PVC C900 require brass double stop-welds. Direct taps not allowed in PVC. Direct taps to ductile iron are allowed.
 - Back flow prevention devices not required.
 - 1-1/2" and 2" meters require a meter water Mueller H1423 with Mueller H11528 fittings or approved equal.
 - All meters over 1" to be equipped to have a bypass.
 - Water meter size shall be the same size as the supply line into site.
 - Any standards and specifications not shown shall follow all APWA specifications.

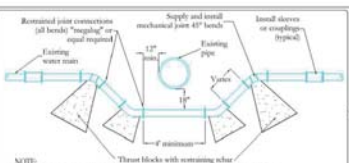


GATE VALVE CONCRETE COLLAR
SCALE: NONE

4 Riverdale City Water Connection and Gate Valve Details
Not to Scale

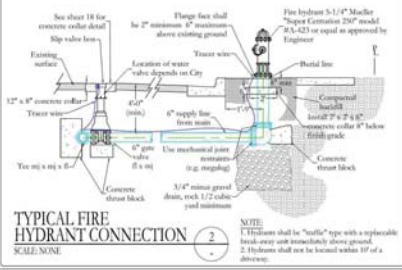


CULINARY WATER TRENCH CROSS-SECTION
SCALE: NONE



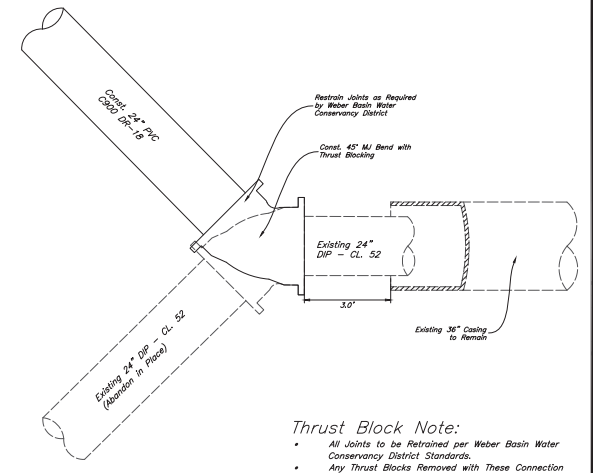
TYPICAL WATER LOOP
SCALE: NONE

- WATER LINE PIPING AND MISCELLANEOUS NOTES:**
- Water lines 12 inches and larger shall be ductile iron class 50. Water lines 10 inches and smaller shall be per C900 DR 18 or ductile iron Class 30. All waterlines shall be a minimum of 6 inches in diameter.
 - Valves larger than 12 inches shall be butterfly valves. Concrete collars required around all valve boxes.
 - Ductile iron pipe and fittings shall be wrapped with polyethylene and have cathodic protection where required.
 - Whenever possible "tee" tap connections required. Use tap valve to be supported during connection. Contractor to notify City 24-hours in advance of making connection.
 - Contractor shall contact property owners 48-hours in advance with written notice for shutting off water.
 - Pipe sizes shall be backfilled with sand or material as approved by project engineer.
 - The following tests must be passed before the waterline is connected for service. All distribution and testing shall follow all APWA specifications and standards (see the Technical Specifications discharge of water test):
 - Pipeline inspection - alignment, grade, class of pipe, & brass welds installation.
 - Pressure Test - Must keep a minimum of 200 PSI for 2 hours.
 - Chlorination Test - Must keep a minimum of 30 PPM for 24 hours.
 - Clear Water Test
 - Backflow Test - 2 tests are required. The 2nd test must be taken 24-hours after the 1st test is performed. (See Technical Specifications for additional detail information).
 - Upon completion of a new waterline a sampling tap valve shall be installed on the blow-off pipe at the south of the pipe to aid with the water sampling and test run as required in Item 7 above.
 - Termination for tracer wire for pipe piling is to be located at the surface of valve boxes. The wire is to be brought on the outside of the bottom section of the water valve box and brought inside through the top section of the box. Tracer wire shall be extended to the ground surface adjacent fire hydrants.
 - A fire hydrant (the pipeline flushing) shall be installed at the end of all cul-de-sacs & dead-end streets.



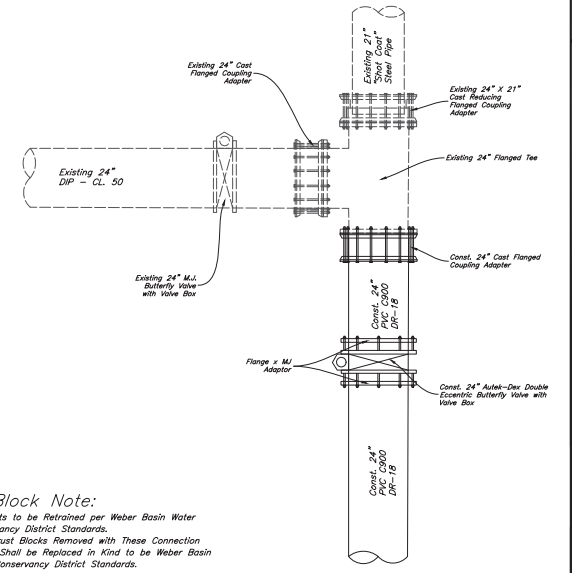
TYPICAL FIRE HYDRANT CONNECTION
SCALE: NONE

3 Riverdale City Trench, Hydrant, and Water Loop Details
Not to Scale



2 Existing Bend Connection at AFCU Campus Detail
Not to Scale

- Thrust Block Note:**
- All Joints to be Retained per Weber Basin Water Conservancy District Standards.
 - Any Thrust Blocks Removed with These Connection Details Shall be Replaced in Kind to be Weber Basin Water Conservancy District Standards.



1 Existing Tee in 1500 West Street Connection Detail
Not to Scale

- Thrust Block Note:**
- All Joints to be Retained per Weber Basin Water Conservancy District Standards.
 - Any Thrust Blocks Removed with These Connection Details Shall be Replaced in Kind to be Weber Basin Water Conservancy District Standards.

CIVIL ENGINEERING
CONCRETE, PAVEMENT, & WATER RESISTANT MATERIALS
1700 W. 15TH ST. SUITE 100
DENVER, CO 80202
TEL: 303.733.1111
WWW.PENNYENGINEERING.COM

CONSULTING & DEVELOPMENT STANDARDS
RIVERDALE CITY WATER & SEWER DEPARTMENT
CULINARY WATER TRENCH & FIRE HYDRANT WATER LOOP DETAILS
17 of 18

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RIVERDALE CITY WATER & SEWER DEPARTMENT
CULINARY WATER TRENCH & FIRE HYDRANT WATER LOOP DETAILS
16 of 18

Designed by: JT
Drafted by: KSJ
Client Name: Riverdale Commercial Holdings, LLC
21-105 DTJ

ANZA
ANDERSON WAHLEN & ASSOCIATES
2010 North Revere Road, Salt Lake City, Utah 84116
(801) 521-8529 - anzaengineering.net

Water Meter Vault Details

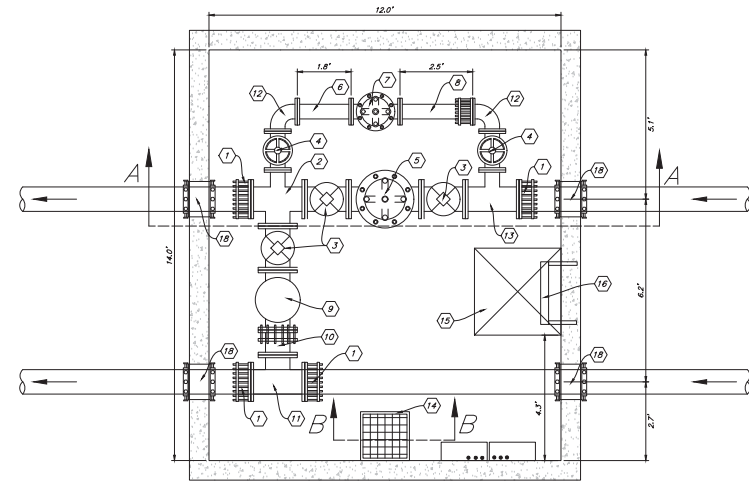
Crossroads Center at Riverdale
4850 South 1500 West
Riverdale, UT

NO. 784935
10/15/2021
SHEET NO. 10
DATE OF ISSUE

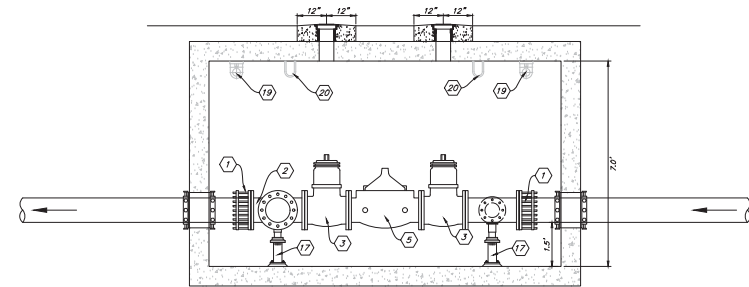
28 Dec, 2021
SHEET NO. **C4.8**

NOTES:

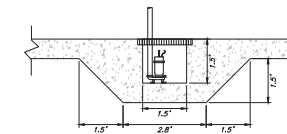
- ALL EXPOSED PIPE INSIDE THE VAULT SHALL BE PRIMED AND PAINTED WITH TWO (2) COATS OF ALL EXPOSED PIPE INSIDE THE VAULT SHALL BE PRIMED AND PAINTED WITH TWO (2) COATS OF EPOXY PAINT. COLOR TO BE ROYAL BLUE.
- VAULT SHALL BE SUPPLIED WITH POWER FOR ALL EQUIPMENT WHERE SHOWN AND/OR NOTED, FOR VAULT SHALL BE SUPPLIED WITH POWER FOR ALL EQUIPMENT WHERE SHOWN AND/OR NOTED, FOR A COMPLETE AND OPERABLE INSTALLATION. CUSTOMER/CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING WITH THE POWER COMPANY AND PROVIDING POWER SOURCE.
- PLC AND ASSOCIATED TELEMETERING EQUIPMENT SHALL BE SUPPLIED AND INSTALLED BY THE PLC AND ASSOCIATED TELEMETERING EQUIPMENT SHALL BE SUPPLIED AND INSTALLED BY THE CONTRACTOR IN COORDINATION WITH THE DISTRICT. CONTRACTOR SHALL FURNISH ABOVE GRADE CONTROL BOX AS SHOWN AND NOTED, AND SHALL INSTALL ALL NECESSARY WIRING FROM CONTROL BOX TO VAULT, LEAVING ONE (1) PULL STRING IN CONDUIT.
- ABOVE GRADE ACCESS HATCH SHOWN FOR CLARITY. ACCESS HATCH SHALL BE DESIGNED AND ABOVE GRADE ACCESS HATCH SHOWN FOR CLARITY. ACCESS HATCH SHALL BE DESIGNED AND LOCATED ACCORDING TO SPECIFIC PROJECT REQUIREMENTS.
- ALL CONNECTIONS TO ELECTRICAL ENCLOSURES TO BE BY A WATER-TIGHT 3-PIECE GASKETED ALL CONNECTIONS TO ELECTRICAL ENCLOSURES TO BE BY A WATER-TIGHT 3-PIECE GASKETED HUB, ALL PENETRATIONS THROUGH CONCRETE AND ELECTRICAL FITTINGS THAT ARE DIRECT BURIED SHALL BE PVC COATED GRC TO A MINIMUM OF 12 INCHES BEYOND THE OUTSIDE WALL OF THE VAULT. TAPED FITTINGS WILL NOT BE ALLOWED.
- GROUND RING TO BE TIED TO TWO SEPARATE REBARS IN VAULT FOOTING. PLC POWER PANEL GROUND RING TO BE TIED TO TWO SEPARATE REBARS IN VAULT FOOTING. PLC POWER PANEL GROUND AND FLOW METER GROUNDS TO BE BONDED TO GROUND RING.
- INSTALL LINK-SEAL WITH BOLT HEADS INSIDE VAULT. BOLTS SHALL BE STAINLESS STEEL. INSTALL LINK-SEAL WITH BOLT HEADS INSIDE VAULT. BOLTS SHALL BE STAINLESS STEEL.



Plan View



Section View A-A



Section View B-B

Key Note	Qty.	Description
(1)	4	10" M.J. X Flange Adaptor
(2)	1	10"x10"x10"x6" Flanged Cross
(3)	3	10" Gate Valve with 2"x2" Operating Nut with
(4)	2	6" Gate Valve W/Handwheel Operator
(5)	1	10" Pressure Reducing Valve
(6)	1	6" FlxFL Spool
(7)	1	6" Pressure Reducing Valve
(8)	1	6" FlxPE Spool
(9)	1	10" FlxFL Check Valve
(10)	1	10" Dismantling Joint Romac DJ400
(11)	1	10"x10"x10" FlxFlxFL Tee
(12)	2	6" FlxFL 90° Bend
(13)	1	10"x10"x6" FlxFlxFL Tee
(14)	1	18"x18"x18" Sump W/Grate & Sump Pump.
(15)	1	36"x36" Water-Tight Aluminum Access Hatch.
(16)	1	Access Ladder With Extending Safety Post.
(17)	4	Pipe Support
(18)	4	Link-Seal Tripac W/ Thrust Restraint- Steel Plate With Megalug Style Joint Restraint Or Approved Equal On Inside & Outside Of The Vault.
(19)	2	Vapor Tight Led Light Fixture
(20)	2	Cast-In Eye-Bolts Sized & Located For Removal Of Components During Maintenance.
(21)	3	Valve Box with Concrete Collar

1

PRV Vault Detail

Not to Scale

DESIGNED BY: JF
 DRAFTED BY: KJG
 CLIENT NAME:
 Riverdale Commercial
 Holdings, LLC
 21-105 DT2

ANNA
ANDERSON WAHLEN & ASSOCIATES
 2010 North Research Road, Salt Lake City, Utah 84116
 (801) 521-8529 - anna@anwa.net

PRV Vault Detail
Crossroads Center at Riverdale
 4850 South 1500 West
 Riverdale, UT



28 Dec, 2021

SHEET NO.

C4.9

(5) City Repayment of RDA Funds

Cost Estimate

This is a Preliminary Estimate prepared from preliminary design plans and will change upon final design completion.

Item No.	Description	Quantity	Unit	Price	Cost
1	Riverdale Road RDA Repayment	1	LS	\$720,000.00	\$720,000.00
2	City Hard & Soft Costs	1	LS	\$300,000.00	\$300,000.00
Subtotal					\$1,020,000.00

Grand TOTAL	\$1,020,000.00
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(6) Soft Costs

Cost Estimate

This is a Preliminary Estimate prepared from preliminary design plans and will change upon final design completion.

Item No.	Description	Quantity	Unit	Price	Cost
1	Power Relocation 3rd Party Engineering Fees	1	LS	\$50,000.00	\$50,000.00
2	Surveying	1	LS	\$15,000.00	\$15,000.00
3	Materials Testing	1	LS	\$15,000.00	\$15,000.00
4	Traffic Control	1	LS	\$10,000.00	\$10,000.00
5	Erosion Control / SWPPP	1	LS	\$8,000.00	\$8,000.00
6	RDA Geotech	1	LS	\$30,000.00	\$30,000.00
7	Engineering Fees	1	LS	\$90,000.00	\$90,000.00
Subtotal					\$218,000.00

SUB TOTAL	\$218,000.00
10% Contingency	\$21,800.00
SUBTOTAL	\$239,800.00

TOTAL	\$239,800.00
TOTAL	\$0.00
G.C. (3.5%)	\$8,393.00
O.H. & P. (3.5%)	\$8,686.76
Grand TOTAL	\$256,879.76