



CITY COUNCIL AGENDA

Wednesday, February 08, 2023

NOTICE IS HEREBY GIVEN that the Herriman City Council shall assemble for a meeting in the City Council Chambers, located at
5355 WEST HERRIMAN MAIN STREET, HERRIMAN, UTAH

5:30 PM – WORK MEETING: (Fort Herriman Conference Room)

1. Council Business

- 1.1. Review of this Evening's Agenda
- 1.2. Future Agenda Items
- 1.3. Council discussion of future citizen recognitions

2. Administrative Reports

- 2.1. Discussion and consideration of a lease contract with Scenic Property Management, LLC – Cody Stromberg, Deputy Chief of Police
- 2.2. Fee Waiver Policy Discussion – Wendy Thomas, Assistant City Manager
- 2.3. Fleet Vehicle Purchasing Update – Monte Johnson, Operations Director
- 2.4. Partnership Request for the 2023 Utah Warriors Regular Season and the Collegiate Rugby Shield – Wendy Thomas, Assistant City Manager
- 2.5. Legislative Update – Roundtable Discussion

3. Adjournment

7:00 PM – GENERAL MEETING:

4. Call to Order

4.1. Invocation/Thought/Reading and Pledge of Allegiance

4.2. City Council Comments and Recognitions

5. Public Comment

Audience members may bring any item to the City Council's attention. Comments will be limited to two minutes. State Law prohibits the Council from acting on items that do not appear on the agenda. Public comments for this meeting will also be conducted electronically. Any person interested in addressing the Council may submit a comment by emailing recorder@herriman.org or by visiting Herriman.org/agendas-and-minutes, where there is a link to fill out an online public comment form. Your statement will be incorporated into the public record.

6. City Council Reports

6.1. Councilmember Jared Henderson

6.2. Councilmember Teddy Hodges

6.3. Councilmember Sherrie Ohrn

6.4. Councilmember Steven Shields

7. Mayor Report

8. Consent Agenda

8.1. Per State statute, City Council to ratify the Mayor's selection for Justice Court Judge

8.2. Council acceptance of a new City Organization Chart

8.3. Approval of a lease contract for Herriman Animal Services with Scenic Property Management, LLC

8.4. Approval of the January 11, 2023 Special City Council Work Meeting minutes and the January 11, 2023 City Council meeting minutes

9. Discussion and Action Items

9.1. Ordinance updating the City's surplus property ordinance - Nathan Cherveski, City Manager

10. Future Meetings

- 10.1. Next Planning Meeting: February 15, 2023
- 10.2. Next City Council Meeting: February 22, 2023

11. Closed Session

The Herriman City Council may temporarily recess the City Council meeting to convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual, pending or reasonable imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205

12. Adjournment

13. Recomence to Work Meeting (If Needed)

In accordance with the Americans with Disabilities Act, Herriman City will make reasonable accommodation for participation in the meeting. Request assistance by contacting Herriman City at (801) 446-5323 and provide at least 48 hours advance notice of the meeting.

ELECTRONIC PARTICIPATION: Members of the City Council may participate electronically via telephone, Skype, or other electronic means during this meeting.

PUBLIC COMMENT POLICY AND PROCEDURE: The purpose of public comment is to allow citizens to address items on the agenda. Citizens requesting to address the Council will be asked to complete a written comment form and present it to the City Recorder. In general, the chair will allow an individual two minutes to address the Council. A spokesperson, recognized as representing a group in attendance, may be allowed up to five minutes. At the conclusion of the citizen comment time, the chair may direct staff to assist the citizen on the issue presented; direct the citizen to the proper administrative department(s); or take no action. This policy also applies to all public hearings. Citizens may also submit written requests (outlining their issue) for an item to be considered at a future council meeting. The chair may place the item on the agenda under citizen comments; direct staff to assist the citizen; direct the citizen to the proper administrative departments; or take no action.

I, Jackie Nostrom, certify the foregoing agenda was emailed to at least one newspaper of general circulation within the geographic jurisdiction of the public body, at the principal office of the public body, on the Utah State Public Notice website www.utah.gov/pmn/index.html and on Herriman City's website at www.herriman.org. Posted and dated this 2nd day of February, 2023.
/s/ Jackie Nostrom, City Recorder



STAFF REPORT

DATE: January 26, 2023

TO: The Honorable Mayor and City Council

FROM: Cody Stromberg

SUBJECT: Discussion and consideration of a lease contract with Scenic Property Management, LLC

RECOMMENDATION:

Staff recommendation is to enter into a lease contract with Scenic Property Management, LLC for approximately 6000 square feet of tenant space located at approximately 15856 South Rockwell Park Cove.

ISSUE BEFORE COUNCIL:

Should the City enter into a lease contract for tenant space for Animal Services or explore other options?

BACKGROUND/SUMMARY:

When the Herriman Animal Services unit was created in 2019, the City entered into an agreement with South Jordan City to shelter animals seized by or surrendered to Herriman Animal Services. That agreement has expired and our partners are unable to continue providing us that service due to their own growth and internal needs. We currently operate a temporary transfer station of approximately 350 square feet at the J. Lynn Crane Park; space that was provided to the new Animal Services unit by the Parks Department in 2019. This amount of space is insufficient for adequate animal sheltering and we have a need to locate additional space to use for Animal Services shelter operations. We have an obligation to provide Animal Services sheltering in a professional, humane environment, which could be accomplished by leasing temporary shelter space while we explore future best fit and need for a permanent Animal Services facility as part of the Capital Improvement Plan.

DISCUSSION:

We have an opportunity to lease approximately 6,000 square feet of tenant space at Rockwell Landing that could be improved to operate as a temporary shelter. This is a tenant space located in a single unit of the Rockwell Landing business park. Leasing this space for shelter operations

would result in a capital project for tenant improvements. The property owner has indicated that this would be a compatible use for the tenant space, provided the City take reasonable steps to mitigate issues such as sound and smell. We anticipate utilizing this space for approximately seven with a renewal option. Additionally, if construction of a permanent Animal Services facility is accelerated through the Capital Improvement Plan, the multi-use capability of this space could provide for additional operational benefits for other City departments. Tenant improvements made to this space would include construction for sheltering operations and office space for Animal Services employees. Sheltering services at this facility would exclude large animals or livestock, which would continue to be sheltered at Butterfield Park.

ALTERNATIVES:

In addition to the identified lease opportunity, other options the Council could explore include:

1. Dissolve the Herriman City Animal Services unit and contract services with another entity. When the City terminated its previous contract with Salt Lake County Animal Services, the basis for this decision was an increasing contract cost based on population growth. The 2018 contract totaled \$279,500.00 and was for response service only, meaning that there was not an Animal Services officer physically stationed in Herriman City. Provided that the County agreed to enter into the contract, based on current census data, this would result in a contract fee of approximately \$492,937.00. The current budget for Herriman Animal Services, including amendments approved by the Council in the January 25th meeting, is \$470,817.00.

2. Construct a facility

This option would provide a permanent or semi-permanent shelter facility for the City and its future needs. This facility would likely be constructed at Butterfield Park, which is an appropriate site for a facility of this size and service. However, construction of any facility at Butterfield Park will need to include capital infrastructure improvements, as some utility services at the park are currently operating at or above capacity, as explored during the previous Public Works Facility project alternatives. At the time that information was presented to Council in July of 2021, the infrastructure costs associated with adding utilities to Butterfield Park were estimated at \$1,736,180.00. At that time, the cost estimates completed through the schematic design process resulted in a total cost of approximately \$704,909.00 to construct a 5,000 square foot facility (or approximately \$141.00 per square foot).

3. Do nothing

Although this would eliminate any capital costs, the current service level provided by Herriman Animal Services is unsustainable without some expansion of infrastructure. We currently utilize a temporary (usually 4 hours or less) transfer station out of a single, 350 square foot room located at the J. Lynn Crane park. This space was built for the Parks and Events Department and was reassigned to Animal Services in 2019. Animals that need to be sheltered overnight or for longer periods of time are typically moved from the transfer station to the South Jordan shelter. The Council could choose not to lease space or construct a facility, but then we would need to discuss level of service options or other alternatives.

4. Service Sharing

5355 W. Herriman Main St. • Herriman, Utah 84096
(801) 446-5323 office • (801) 446-5324 fax • herriman.org

At the Council's direction, we have also explored service sharing with neighboring cities. The response from these discussions has generally been positive and there are cost-sharing opportunities in the very early stages of development. However, in order to implement any potential service sharing model, the capital infrastructure costs would still have to be funded initially, either through lease options or construction of a facility. We would then look to the shared services model to assist in covering the costs of ongoing maintenance and administrative overhead.

FISCAL IMPACT:

Fiscal impacts will exist in every available option as presented.

The lease option at Rockwell Landing will carry an annual cost of \$86,400.00 (\$61,200.00 lease plus \$25,200.00 CAM). The initial rough cost of Tenant Improvements that will need to be funded through a capital project were estimated at \$656,700.00. Staff is currently working with various contractors on maximizing available space options and partial-finish options to reduce the TI costs and provide a more accurate estimate of price per square foot.

Contracting with Salt Lake County or another entity would likely result in a net increase to the Animal Services fund of a minimum of \$22,120.00 to cover the cost of services, assuming that the contract could obtain the same or similar fee assessed currently and based on the underestimated population of Herriman City as outlined in the 2020 Census. The level of service would also likely be reduced from what is currently provided in Herriman City.

Constructing a facility at Butterfield Park, including necessary utility infrastructure improvements, was estimated at \$2,441,089.00 in 2021. That cost will need to be adjusted for inflation and the project would have to be re-submitted through design/development. Staff would work to identify reductions in the finished space or use of the facility to reduce the overall cost, but the utility infrastructure will be needed regardless of the size or use of the facility.

Service sharing will likely allow the City to recoup some costs associated with annual lease and CAM. Based on preliminary discussions, staff estimates receiving between \$40,000.00 to \$180,000.00 annually if all services were provided by Herriman City. Depending on the service model implemented, there will be associated administrative, staffing, and equipment costs of providing full or partial service to those partner areas.

ATTACHMENTS:



STAFF REPORT

DATE: December 21, 2022

TO: The Honorable Mayor and City Council

FROM: Wendy Thomas, Assistant City Manager

SUBJECT: Fee Waiver Policy

RECOMMENDATION:

Discussion of a policy for Fee Waiver requests for Herriman City facility rental fees, banner fees, special event permit fees and fees associated with programs.

ISSUE BEFORE COUNCIL:

Does the Council want to establish a policy for the waiver of fees for facility rental fees, banner fees, special event permit fees and fees associated with programs?

BACKGROUND/SUMMARY:

Herriman City receives several requests annually to waive fees associated with special events, facility rental, banner fees and fees associated with programs. There is not a standard policy to help guide staff in how to handle these requests. Staff are seeking Council direction in how to proceed with handling these requests.

DISCUSSION:

Staff have received requests to waive fees in the past for facility rentals, banner fees, special events permits and fees associated with programs. Some examples include:

- Schools requesting to hang banners outside their schools on Herriman owned street poles
- Waiver of special event permit fees and rental fees for events that are intended to support a local cause
- Intergovernmental fees associated with utilizing the ice ribbon for an event

ALTERNATIVES :

There are any number of alternatives to this issue. City Council could elect to not allow any fee waivers or to allow fee waivers for certain circumstances.

FISCAL IMPACT:

No known impacts at this time.

ATTACHMENTS:

Draft Fee Waiver Policy

Document #	Title: Fee Waiver Policy – Facility Fees, Special Event Permitting Fees and Banner Fees	Print Date:
Revision # 1.0	Prepared By: Wendy Thomas, Assistant City Manager	Date Prepared: 1/3/2023
Effective Date:	Reviewed By: Nathan Cherpesci, City Manager Todd Sheeran, City Attorney Kyle Maurer, Finance Director	Date Reviewed: 01/25/2023

Policy: Facility fees, special event permitting fees, fees associated with the Ice Ribbon rentals and skating, program registration and banner fees may be waived by Herriman City in certain limited cases. Any applicant requesting such a waiver must submit the appropriate documents demonstrating that the applicant or intended use fall within the following categories:

- 1.) Official Herriman City Partner or City Co-sponsored Event – Any event sponsored by Herriman City including, but not limited to, City Council, Planning Commission, Friends of Herriman Parks, Trails, Arts and Culture, City sponsored/co-sponsored or hosted programs, events and public meetings.

Purpose: The purpose of this policy is to establish guidelines to be used to evaluate requests for fee waivers and to implement a structure and process through which consistent information for fee waiver requests will be collected and evaluated.

This policy is only applicable to fees related to facility rentals, special event permits and associated costs with a special event permit, ice ribbon rentals and program registration fees and the display of banners on City owned street poles.

Scope: Parks, Recreation and Events Department, Public Works Department, Finance Department

Policy:

1.0 PROCESS FOR THE APPROVAL OF A FEE WAIVER

- 1.1 Herriman City recognizes the value of partnering with other governmental agencies and official Herriman City Partners and Co-Sponsored Events to provide services beneficial to the community. In an effort to provide support to these organizations and agencies that provide community benefit, the following procedures have been established for determining when fees or other department-specific charges may be waived by the City.

- 1.2 All fee waiver requests related to events, programs and activities taking place on Herriman City Property must be reviewed by the applicable Department Head, the Assistant City Manager and the City Manager for approval or denial.
- 1.3 Any applicant requesting consideration of their waiver must complete the following:
 - 1.3.1 Submit a letter and the appropriate application (special event permit application, banner hanging application, etc.) via email to the Parks, Recreation and Events Department (events@herriman.org) outlining the specific fee waiver request. The letter from the authorized applicant shall include, at a minimum:
 - 1.3.1.1 Application Information: applicant/organization legal name, address, phone number, and email address;
 - 1.3.1.2 Request Information: outline your request for waiver in detail. List all dates, times, locations;
 - 1.3.2 Submit proof or request of being an official Herriman City Partner or Co-sponsored Event.
 - 1.3.3 Submit a copy of the applicant's appropriate insurance.
 - 1.3.3.1 Minimum coverage of \$1 Million per occurrence, with \$2 Million general aggregate.
 - 1.3.3.2 Insurance must be issued by an insurance company licensed to do business in Utah and either currently rated A- or better by AM Best Company or listed in the United States Treasury Department current listing of approved sureties.
 - 1.3.3.3 The policy or endorsement must name as an additional insured the City, its officers and employees and agents, and as required, any other public entity involved in the event.
 - 1.3.3.4 If any work for the event is subcontracted to a separate company, the Sponsor must require all subcontractors to provide the same insurance as provided herein.
 - 1.3.3.5 The certificate and policy must provide that coverage will not be canceled or modified without providing 30 days prior written notice to the City in a manner approved by the City Attorney.
- 1.4 Fee waivers and Herriman City Co-sponsorships will not be approved for the following, but not limited to:
 - 1.4.1 Events scheduled to compete against Herriman City Events,
 - 1.4.2 Events sponsored by private individuals,
 - 1.4.3 Events or activities that are not open to the public,
 - 1.4.4 Events that are political in nature or by individuals seeking political office or elected officials for the purpose of an election campaign,
 - 1.4.5 Religious organizations seeking space or facilities for religious services,
 - 1.4.6 Organizations based outside of Herriman City.

References:

Form #	Record/Form/Activity Name	Satisfies Clause
Required by Standard		
XXXXX	Record	
Other Forms/Records		
XXXXX	Record	
XXXXX	Record	
XXXXX	Record	

DRAFT



STAFF REPORT

DATE: 02/08/2023

TO: Honorable Mayor and Council

FROM: Monte Johnson, Director of Operations

SUBJECT: Fleet Vehicle Purchasing Update

RECOMMENDATION: Report only

ISSUE BEFORE COUNCIL: Report on current vehicle purchases

BACKGROUND/SUMMARY: Ordering and receiving vehicles has been challenging over the last two years. Below is a list of vehicle orders by budget year and the status of the order.

Budget FYE 2022

Department	Vehicle Type	Status Report
Streets	F-550 Dump	Waiting for chassis
Storm Water	F-350 Utility	Waiting for chassis
Parks	F-550 Dump	Waiting for chassis
Water	F-350 Utility	Waiting for chassis
Water	F-350 Utility	Chassis at up-fitter, build in progress
Streetlights	F-550 Bucket Truck	Waiting for chassis
Streetlights	F-350 Pickup	Waiting for vehicle
Parks	F-350 Pickup	Waiting for vehicle
Police	F-350 Pickup	Waiting for vehicle

Budget FYE 2023

Department	Vehicle Type	Status Report
Water	Freightliner Hydro X	Chassis is at Vactor, build in progress
Streets	Freightliner Dump	Chassis is at Semi Service, build is scheduled for April
Parks	Freightliner Dump	Chassis is at Semi Service, build is scheduled for April
Parks	F-150 Pickup	Vehicle is in shipment
Water	F-150 Pickup	Vehicle is at dealership in prep for delivery
Water	F-150 Pickup	Vehicle is at dealership in prep for delivery

Water	F-150 Pickup	Vehicle is at dealership in prep for delivery
Water	F-150 Pickup	Vehicle is at dealership in prep for delivery
Streets	F-150 Pickup	Vehicle is at dealership in prep for delivery
Facilities	F-150 Pickup	Vehicle has been delivered
Building	Escape	Not ordered
Police	F-150 Pickup	Vehicle has been delivered
Police	F-150 Pickup	Vehicle is at dealership in prep for delivery
Police	F-150 Pickup	Vehicle is at dealership in prep for delivery
Police	F-150 Pickup	Vehicle is at dealership in prep for delivery
Police	F-150 Pickup	Vehicle is at dealership in prep for delivery
Police	F-150 Pickup	Vehicle is at dealership in prep for delivery
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Police	F-150 Pickup	Vehicle is at dealership in prep for delivery
Police	F-150 Pickup	Vehicle is at dealership in prep for delivery
Police	F-150 Pickup	Vehicle is at dealership in prep for delivery
Police	F-150 Pickup	Vehicle is at dealership in prep for delivery
Police	F-150 Pickup	Vehicle is at dealership getting bed liner installed
Police	F-150 Pickup	Vehicle is at dealership getting bed liner installed
Police	F-150 Pickup	Vehicle is in shipment
Police	Expedition	Waiting for vehicle
Police	Expedition	Waiting for vehicle

Budget FTE 2024

Department	Vehicle Type	Status Report
Fleet	Escape	Not ordered
Streets	F-350 Utility	Not ordered
Streets	F-150 Pickup	Ordered, build scheduled
Streets	Freightliner Hook Lift	Build slot reserved
Engineering	F-150 Pickup	Ordered, build scheduled
Engineering	F-150 Pickup	Ordered, build scheduled
Parks	F-150 Pickup	Ordered, build scheduled
Water	F-550 Valve Truck	Not ordered
Water	F-350 Utility	Not ordered
Water	F-150 Pickup	Ordered, build scheduled
GIS	Van	Not ordered
Police	Expedition	Not ordered
Police	Expedition	Not ordered
Police	F-150 Pickup	Ordered, build scheduled
Police	F-150 Pickup	Ordered, build scheduled
Police	F-150 Pickup	Ordered, build scheduled
Police	F-150 pickup	Ordered, build scheduled
Police	F-150 Pickup	Ordered, build scheduled
Police	F-150 Pickup	Ordered, build scheduled

The vehicles listed in budget FYE 22, are the Super Duty vehicles and chassis that were canceled and reordered.

Vehicles in budget FYE 23 show signs of improvement and are currently on schedule.

The vehicles in budget FYE 24 that show not ordered are waiting for the order slot to open. The F-150 orders are expected to arrive before the end of this budget year.

DISCUSSION: With all the delays and issues with orders we decided to look at other dealerships and brands. The information we received was very similar to the same issues we were currently dealing with.

Dodge/RAM announced they were experiencing unprecedeted demand and closed ordering windows early. They also stated that they would not guarantee production nor offer price protection.

GMC/Chevrolet implemented shortened order windows and order cancelations. They also announced that government orders will be restricted with an allocation program, and they would not offer price protection.

Ford canceled orders and required us to reorder the next model year and would not guarantee price protection. They have given canceled orders a priority build slot.

We also reached out to other Fleet Managers and found they are all experiencing the same delays and issues.

On the brighter side, we are hearing and seeing signs of improvement. Ordered vehicles are showing scheduled build dates. Retail sales are starting to soften due to higher interest rates.

ALTERNATIVES: N/A

FISCAL IMPACT: N/A



STAFF REPORT

DATE: January 26, 2023

TO: The Honorable Mayor and City Council

FROM: Wendy Thomas, Assistant City Manager

SUBJECT: Utah Warriors and Collegiate Rugby Shield Sponsorship Requests

RECOMMENDATION:

Direct staff to add this item to a future budget amendment for approval.

ISSUE BEFORE COUNCIL:

Does the City Council want to be the premier partner with the 2023 Collegiate Rugby Shield and for the 2023 Utah Warriors Season? Does Herriman City want to “plant the flag” for Major League Rugby in Utah?

BACKGROUND/SUMMARY:

Herriman City was the 2022 Collegiate Rugby Shield Premier Partner. The Utah Warriors and the Collegiate Rugby Shield are requesting an expanded partnership to include an official partnership with the Utah Warriors for the amount paid for the Collegiate Rugby Shield that was paid in 2022, \$25,000.

DISCUSSION:

Collegiate Rugby Shield :

- Original broadcast on Fox Sports 1 (FS1) with approximately 250,000 households viewing. The broadcast was aired an additional eight times following the original broadcast. Viewership can be compared to a Premier League day game.
- FS1 is secured again for this year for Thursday, July 13, 2023 at 6:00 PM MST.
- In addition to the game, a documentary is planned to be filmed following the players and the Collegiate Rugby Shield.
- IG Reach 63,039 Engagement 15,300
- FB Reach 25,225 Engagement 2,200
- Twitter Impressions 106,800 Engagement 1,081

Average Utah Warriors attendance: 3,275 x 8 home games.

Television broadcasts: KMYU

Jr. Warriors (data from August 2022):

- The goal this year was 1,000 participants and they currently sit at 1,400 participants in only six months
- The 2023 goal will be 5,000 participants county wide
- The Warriors have a new partnership in place with Salt Lake County Recreation, and they will activate programs this summer throughout Salt Lake County, which will bring participants and their families to Herriman for at least one game.

ALTERNATIVES:

Alternative	Benefit	Challenge
Partner with the Utah Warriors and the Collegiate Rugby Shield for \$25,000	Showcases Herriman City to a larger audience with consistency Community pride with major league team	Financial expenditure
Partner at a lower amount	Smaller scale exposure Still community pride with major league team	Financial expenditure
Do not partner	No financial expenditure	Does not provide any additional exposure for the City and misses the partnership with a major league team

FISCAL IMPACT:

\$25,000 from the General Fund



STAFF REPORT

DATE: January 24, 2023

TO: The Honorable Mayor and City Council

FROM: Nathan Cherveski

SUBJECT: Ratifying the selection of a Justice Court Judge.

RECOMMENDATION:

Move to approve the attached resolution ratifying the Mayor's selection of Lisa Garner as Justice Court Judge.

ISSUE BEFORE COUNCIL:

Per state Statute the City Council must ratify the Mayor's selection for municipal court judge.

BACKGROUND/SUMMARY:

Per state statute, a nominating committee is formed under the direction of the Administrative Office of the Court. Applications were sought and the committee reviewed all of the applications and interviewed selected candidates. From that process the committee forwards no less than 3 candidates for the Local Government Executive, in Herriman that is the Mayor, to make a selection. The Mayor must select only from the list of the candidates forwarded.

DISCUSSION:

The Judicial Nominating Committee forwarded five highly qualified candidates to Mayor Palmer for consideration as Herriman's new Justice Court Judge. After interviewing the candidates, Mayor Palmer has selected Lisa Garner as the new Justice Court Judge for Herriman. Ms. Garner was also recently selected to serve as Draper's Justice Court Judge. Ms. Garner has extensive legal experience as a defense counsel, City Prosecutor and City Attorney.

Per Utah 78A-7-202(2)(f)(iii) the Mayor makes the selection and the City Council ratifies that selection.

Once ratified, City Staff will work with Draper City on an interlocal agreement as Judge Garner will be working in both jurisdictions.

ALTERNATIVES:

1. Ratify the Mayor's selection for Justice Court Judge.
2. Decline to act and give staff further direction.

FISCAL IMPACT:

Not applicable to this action

ATTACHMENTS:

Resoultion

RESOLUTION NO. 2023-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERRIMAN, UTAH,
APPOINTING A PART-TIME JUDGE TO THE HERRIMAN JUSTICE COURT.**

WHEREAS, the City of Herriman (the “City”) has established a Herriman Justice Court pursuant to the laws of the State of Utah; and

WHEREAS, Utah Code § 78A-7-202(2) requires that the appointment of a judge be “ratified by the local legislative body;” and

WHEREAS, the Herriman City Council (the “City Council”) finds Lisa Garner qualified to serve as Herriman’s next part-time justice court judge.

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

SECTION 1. Ratification. The City Council hereby ratifies the appointment of Lisa Garner as Herriman’s Justice Court Judge.

SECTION 2. Effective Date. This Resolution shall become effective immediately upon passage.

APPROVED BY THE CITY COUNCIL OF THE CITY OF HERRIMAN, UTAH, ON THIS _____ DAY OF _____, 2023.

HERRIMAN CITY COUNCIL

Mayor: _____
Lorin Palmer

Attest: _____
Jackie Nostrom, City Recorder

EXHIBIT A

(Interlocal Agreement)



STAFF REPORT

DATE: January 24, 2023

TO: The Honorable Mayor and City Council

FROM: Nathan Cherveski

SUBJECT: Accepting revisions to the City's Organizational Chart

RECOMMENDATION:

Adopt the attached resolution accepting changes to the City's organizational Chart.

ISSUE BEFORE COUNCIL:

Should the City Council accept the proposed changes to the City's Organizational Chart?

BACKGROUND/SUMMARY:

Per City Ordinance, the Council is required to accept changes to the City's Organizational Chart.

DISCUSSION:

Attached is the proposed City Organizational Chart. Not every position shown on the chart is currently staffed. Ultimate staffing will depend upon available funding.

ALTERNATIVES:

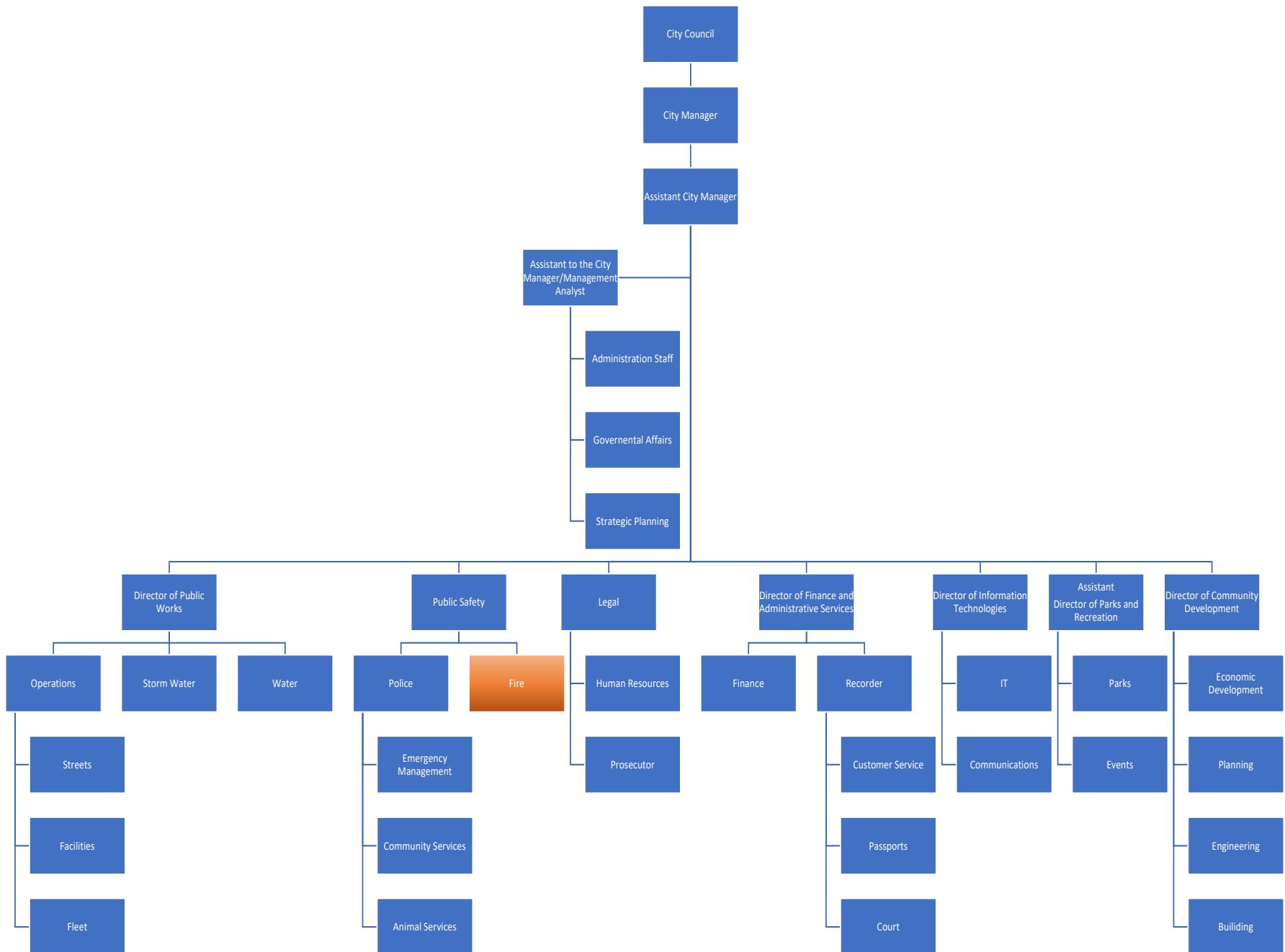
1. Adopt the resolution accepting changes to the City's Organizational Chart.
2. Decline to act and give staff further direction.

FISCAL IMPACT:

This action does not create any specific financial impact.

ATTACHMENTS:

Resolution



RESOLUTION NO. 2023-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERRIMAN, UTAH,
ADOPTING A NEW ORGANIZATIONAL CHART.**

WHEREAS, Herriman City Code requires Herriman City to have a graphically depicted organizational chart; and

WHEREAS, from time to time, the chart needs updating in accordance with changes made to department structure and staffing needs;

WHEREAS, in conjunction with the Mayor and Council, the City Manager has developed a new organizational chart for the Council to approve; and

WHEREAS, the Council finds that the attached organizational chart represents the organizational structure that the Council desires to implement.

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

SECTION 1. Chart Adoption. The Council hereby approves and adopts the organizational chart depicted in Exhibit A as the management structure for Herriman City.

SECTION 2. Effective Date. This Resolution shall become effective immediately upon passage.

**APPROVED BY THE CITY COUNCIL OF THE CITY OF HERRIMAN, UTAH, ON
THIS _____ DAY OF _____, 2023.**

HERRIMAN CITY COUNCIL

Mayor: _____
Lorin Palmer

Attest: _____
Jackie Nostrom, City Recorder

EXHIBIT A

(Organizational Chart)



STAFF REPORT

DATE: January 31, 2023

TO: The Honorable Mayor and City Council

FROM: Cody Stromberg

SUBJECT: Approval of a lease contract for Herriman Animal Services with Scenic Property Management, LLC

RECOMMENDATION:

Staff recommendation is to approve a lease contract with Scenic Property Management, LLC for approximately 6000 square feet of tenant space located at approximately 15856 South Rockwell Park Cove.

ISSUE BEFORE COUNCIL:

Should the City enter into a lease contract for tenant space for Animal Services with Scenic Property Management, LLC?

BACKGROUND/SUMMARY:

As discussed in the previous item, the Animal Services unit is in need of space to shelter animals received or seized by the City. Our current agreement has expired and the space to shelter these animals is necessary to continue providing high quality services to Herriman residents. Should the City Council choose to lease temporary space, staff recommendation is to move forward with the current lease opportunity in the Rockwell Landing business park and construct tenant improvements within the space to facilitate the safe and healthy sheltering of animals.

DISCUSSION:

Upon receiving notice of our current agreement's expiration, staff began exploring lease opportunities with various partners within the City. The Rockwell Landing tenant space is the most amenable to the Department's mission and is available immediately. The tenant space at Rockwell Landing is approximately 6000 square feet and would provide enough space for Animal Services operations for several years until the City can complete and implement a permanent master facilities plan. The tenant space would need to be improved in order to function appropriately for the sheltering of animals, necessitating a Request For Proposals process for construction.

ALTERNATIVES:

As indicated in the previous item, the Council could choose not to lease tenant space at Rockwell Landing and lease space at another location, provide capital funding for a permanent facility, or explore other contracting options for Animal Services.

FISCAL IMPACT:

Should the Council choose to approve the lease agreement with Scenic Property Management, LLC, tenant improvements would need to be constructed within the leased space. These improvements will necessitate a budget amendment for capital projects. Initially, the rough cost estimates for finishing the space totaled approximately \$656,700.00. However, after discussions with the Council and City Manager, those cost estimates could be reduced to approximately \$350,000.00. Additionally, leasing tenant space at Rockwell Landing will carry an on-going annual cost of \$86,400.00 (\$61,200.00 lease plus \$25,200.00 for Common Area Maintenance).

ATTACHMENTS:

RESOLUTION NO. 2023-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERRIMAN, UTAH,
[DESCRIPTION].**

WHEREAS, the City of Herriman (the “City”) has contracted with South Jordan to shelter animals for the past couple of years; and

WHEREAS, South Jordan needs additional at its animal shelter and requested for Herriman to transition its animals to another facility; and

WHEREAS, There are limited options in Herriman that can accommodate its needs that is in an appropriate location. Notwithstanding, staff found a facility off of Porter Rockwell Blvd and Mountain View Corridor, which meets the needs of the police department; and

WHEREAS, the Herriman City Council (the “Council”) finds that animal services are an integral and necessary service for the residents and find that the City should lease the property in accordance with the terms in the attached Agreement..

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

SECTION 1. Authority to Sign. The Council hereby authorizes the City Manager to negotiate the final terms of the Agreement and execute the same.

SECTION 2. Effective Date. This Resolution shall become effective immediately upon passage.

**APPROVED BY THE CITY COUNCIL OF THE CITY OF HERRIMAN, UTAH, ON
THIS _____ DAY OF _____, 2023.**

HERRIMAN CITY COUNCIL

Mayor: _____
Lorin Palmer

Attest: _____
Jackie Nostrom, City Recorder

EXHIBIT A

(Lease Agreement)

LEASE AGREEMENT

By and between

SCENIC PROPERTY MANAGEMENT, LLC

as Landlord

and

HERRIMAN CITY

as Tenant

for property located at:

Rockwell Landing Business Park, Unit B
15856 Rockwell Park Cove, Herriman, Utah 84065

THIS LEASE AGREEMENT (the “Lease”) is made and entered into this _____ day of February 2023, by and between SCENIC PROPERTY MANAGEMENT, LLC, a Utah limited liability company, whose address is 14572 S 790 W A100 Bluffdale Utah, 84065 (the “Landlord”), and HERRIMAN CITY, a Utah municipal corporation, whose address is 5355 W Herriman Main St, Herriman, UT 84096 (the “Tenant”).

WITNESSETH:

In consideration of the rents, covenants and agreements hereinafter set forth, Landlord and Tenant mutually agree as follows:

ARTICLE 1: PREMISES

1.1. Description of the Premises. Landlord hereby leases and demises to Tenant and Tenant hereby leases from Landlord Suite B (the “Premises”) of a building located in the Rockwell Landing Business Park known by the street address 15856 Rockwell Park Cove, Herriman, Utah 84096 (the “Building”) as shown in Exhibit A.

1.2. On the date of this Lease, the Premises consists of approximately 6,000 SF of leasable space billed.

ARTICLE 2: TERM

2.1. The term (the “Term”) of this Lease shall commence on April 1, 2023 (the “Commencement Date”), and shall end at 11:59 p.m. on March 31, 2030 or unless sooner terminated pursuant to the terms, covenants and conditions of this Lease or pursuant to law.

2.2. Option. Tenant shall have the option to extend the Lease for two (2) two (2?) year terms (the “Option Terms”), provided that Tenant (i) provides Landlord written notice of its election to extend the Term not less than one hundred eighty (180) days prior to the end of the initial Term, and (ii) is not in default under this Lease at the time of election to extend the Term. Monthly Rent shall increase 3% per annum during the “Option Term(s)”.

2.3. The premises is currently occupied by a Tenant whose Lease expires on May 31, 2026. Landlord is working with Tenant to terminate the current Lease and expects Tenant to vacate the premises on or before February 28, 2023. In the event the current Tenant has not vacated the premises on or before March 1, 2023, the commencement date shall be on such date that the premises has been vacated by current Tenant and Landlord can turn the space over to Herriman City.

ARTICLE 3: MONTHLY RENT AND CAM FEE

3.1. Monthly Rent. From and after the Commencement Date, Tenant shall pay to Landlord, in advance on or before the first day of each calendar month during the Term of this Lease, \$5,100.00 per month (the “Monthly Rent”). If there are any discrepancies in this paragraph regarding the Monthly Rent, the Monthly Rent Schedule subsequent this paragraph

will prevail. The Monthly Rent is established from the square footages set forth in the Architectural Plans. The Monthly Rent shall increase three percent (3%) per annum commencing on the first anniversary of the Commencement Date and continuing the same day of each year thereafter during the Term as shown below in the “Monthly Rent Schedule”. If the Commencement Date falls on a day other than the first day of the month, the Monthly Rent shall be prorated based on the number of days in such month. The Monthly Rent and CAM Fee (as defined below) do not include utility or telecommunications charges, certain repairs or other expense items for which Tenant is responsible as outlined in this Lease.

Lease Year	Monthly Rent Schedule
Year 1	\$5,100.00
Year 2	\$5,253.00
Year 3	\$5,410.59
Year 4	\$5,572.91
Year 5	\$5,740.09
Year 6	\$5,912.30
Year 7	\$6,089.67

3.2. CAM Fee. Tenant shall pay to Landlord, in advance on or before the first day of each calendar month during the Term of this Lease starting on the Commencement Date, a common area maintenance charge of \$2,100.00 per month (the “CAM Fee”). The CAM Fee covers all common area maintenance charges attributable to the Premises (i.e., real property taxes, Building operating expenses, property management, snow removal, and landscaping maintenance). The Monthly Rent and CAM Fee do not cover any expense items for which Tenant is responsible as outlined in this Lease (i.e., utilities and certain repairs). The CAM Fee shall be adjusted to reflect the Tenant’s tax exempt status if (or when) Salt Lake County applies such status to the Premises. The CAM Fee may increase or decrease annually by the actual increase or decrease in taxes and other expenses comprising such CAM Fee. However, in no event shall the CAM Fee be increased more than 5% per year. Landlord shall provide Tenant a 60-day notice of any increase in the CAM Fee. Additionally, Landlord shall notify Tenant of any shortfall for CAM collected by March 31 for the previous calendar year. Such amount shall be due and payable by Tenant within 30 calendar days of notice of receipt.

3.3. First Month’s Rent and CAM Fee. Tenant shall deliver payment of the Monthly Rent and CAM Fee for the first month in accordance with the commencement date as described in Article 2 and prior to occupying the premises.

ARTICLE 4: LATE CHARGES AND INTEREST

4.1. If Tenant fails to pay any Monthly Rent, CAM Fee or any other amounts or charges payable under this Lease when due, Landlord shall assess and collect a late fee charge equal to five percent (5%) of each payment of Monthly Rent, CAM Fee or other payment not received on its due date.

4.2. Furthermore, and in addition to any late charges payable pursuant to the provisions of this Article, to the extent that any payment of Monthly Rent, CAM Fee or any other amount payable to Landlord by Tenant pursuant to any provision of this Lease is past due, Tenant shall pay Landlord interest at the rate of ten percent (10%) per annum on all such past due amounts from the date on which such payment is due until Landlord receives payment in full.

ARTICLE 5: SECURITY DEPOSIT

5.1. Concurrently with Tenant's execution of this Lease, Tenant shall deposit with Landlord the sum of \$14,400.00 in immediately available funds as the Security Deposit (the "Security Deposit"). The Security Deposit is derived from two times the monthly rent (2 x Monthly Rent and CAM). Tenant's delivery of the Security Deposit is a condition precedent to the effectiveness of this Lease. Failure to provide the Security Deposit makes this lease voidable at the option of the Landlord. Landlord shall hold the Security Deposit for the faithful performance by Tenant of all of the terms, covenants, and conditions of this Lease to be kept and performed by Tenant during the Term of this Lease. If Tenant defaults with respect to any provision of this Lease, including, but not limited to, the provisions relating to the payment of Monthly Rent, and any costs, expenses, and charges payable under the provisions of this Lease, Landlord may, but shall not be obligated to use, apply or retain all or a part of the Security Deposit for the payment of any amount which Landlord may spend by reason of Tenant's default, or, to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion of the Security Deposit is so used or applied, Tenant shall, within five (5) days after written demand, deposit with Landlord an amount sufficient to restore the Security Deposit to its original amount; and Tenant's failure to do so shall be a material breach of this Lease. Landlord shall not be required to keep the Security Deposit separate from Landlord's general funds, and Tenant shall not be entitled to interest on the Security Deposit. Tenant shall fully and faithfully perform every provision of this Lease, to be performed by Tenant. If Tenant is not then in default under the Lease, the Security Deposit shall be returned to Tenant within thirty (30) days of the end of the Term; provided, however, that Landlord shall retain ten percent (20%) of the Security Deposit. Landlord will also deduct 16% per day of the Security Deposit as a payment to the Landlord for each consecutive day the premises is not in a lease-able state after the Termination Date of the Lease. In the event of termination of Landlord's interest in this Lease, Landlord shall transfer the Security Deposit to Landlord's successor-in- interest whereupon Tenant agrees to release Landlord from liability for the return of the Security Deposit or any accounting therefor.

ARTICLE 6: QUIET ENJOYMENT

6.1. Landlord hereby covenants to Tenant that, subject to Tenant's compliance with the terms and provisions of this Lease, Tenant shall peaceably and quietly hold and enjoy the full possession and use of the Premises during the Term.

ARTICLE 7: [RESERVED]

ARTICLE 8: UTILITIES

8.1. Utilities other than Telephone and Internet. The Monthly Rent and CAM Fee do not include any utilities for the Premises. Tenant shall contact all utility companies and have the utilities for the Premises placed in Tenant's name and pay all utilities for the Premises from and after the Commencement Date. Landlord shall not be liable for damages on any failure or interruption in the supply of any utility services to the Premises. Tenant agrees that it will not install any equipment which will exceed or overload the capacity of any utility facilities and that if any equipment installed by Tenant shall require additional utility facilities, the same shall be installed at Tenant's expense in accordance with plans and specifications to be approved in writing by Landlord. In addition to the foregoing, Tenant shall pay its prorated share of sewer and water fees assessed to Landlord within ten (10) days of receipt of an invoice, if not included in the CAM Fee. Landlord reserves the right to impose a fee of twice the amount of any utility costs that accrue if tenant fails to put utilities in their name.

8.2. Telephone and Other Communications Systems. Tenant is responsible for securing all telecommunications, internet and data services to the Premises (the "Communication Services"). Tenant hereby agrees to not assert any claims, or seek any damages, from Landlord, its managers, members, employees, agents, affiliates, successors or assigns for any failure in service, lost data or any losses, claims or damages relating to such Communications Services. If Tenant's Communication Services require the installation of dishes or other equipment on the Building, Tenant shall be responsible for all costs associated with making any repairs to the Building at the end of the Lease to restore the Building to its prior condition.

ARTICLE 9: INSURANCE

9.1. Tenant's Insurance Coverage. Tenant shall, at all times during the term of this Lease, and at Tenant's own cost and expense, procure and continue in force the following insurance coverage:

9.1.1. Comprehensive liability insurance with limits of not less than \$1,000,000.00 per person / \$1,000,000.00 per occurrence and \$2,000,000.00 per aggregate insuring against any and all liability of the insured with respect to the Premises or arising out of the maintenance, use or occupancy thereof, and property damage liability insurance with a limit of not less than \$250,000.00 per accident or occurrence.

9.1.2. Insurance covering any of Tenant's leasehold improvements and personal property in or upon the Premises in an amount not less than one hundred percent (100%) of full replacement cost providing protection against any peril generally included within the classification "Fire and Extended Coverage", together with insurance against, vandalism and malicious mischief and a standard inflation guard endorsement. Tenant hereby assigns Landlord any and all proceeds payable with respect to such policies except to the extent such proceeds are payable with respect to any property that would remain the property of Tenant upon the termination of this

Lease; provided, however, that to the extent required pursuant to the provisions of Article XIV, such proceeds shall be applied to the repair and restoration of the Premises. Landlord shall also carry Insurance Coverage that will provide for 100% replacement cost of the Premises, which will not include coverage of Tenant's personal property.

9.2. Proof of Insurance. Tenant is required to provide proof of insurance as described in Article 9 prior to occupying premises.

9.3. Insurance Policies. The minimum limits of insurance policies as set forth in Section 9.1 shall in no event limit the liability of Tenant hereunder. The insurance policies shall name Landlord as an additional insured and loss payee on leasehold improvements and shall be with companies having a rate of not less than an "A" company rating and a Financial Rating of Class VI in "Best's Insurance Reports." Tenant shall furnish from the insurance companies or cause the insurance companies to furnish to Landlord a certificate of coverage. No such policy shall be cancelable or subject to reduction of coverage or other modification or cancellation except after thirty (30) days' prior written notice to Landlord by the insurer. All such policies shall be written as primary policies, not contributing with and not in excess of any coverage which Landlord may carry. Tenant shall at least twenty (20) days prior to the expiration of such policies furnish Landlord with renewals or binders. If Tenant does not procure and maintain such insurance, Landlord may, but is not obligated to, procure such insurance on Tenant's behalf and all sums paid by Landlord shall bear interest at the rate of ten percent (10%) per annum and shall be immediately due and payable. All insurance policies obtained by Tenant shall contain a waiver of subrogation against any insurance policies held by Landlord.

Additional Insured Information:

Scenic Property Management, LLC
14572 South 790 West, Ste. A100
Bluffdale, Utah 84065

9.4. Waiver of Subrogation. With respect to any insurance policies obtained by Landlord, Tenant hereby waives any and all right of recovery against Owners, Landlord or against the officers, employees, agents and representatives of Landlord, on account of loss or damage occasioned to Tenant or its property, or the property of others under its control to the extent that such loss or damage is insured against under any fire and extended coverage insurance policy which Landlord may have in force at the time of such loss or damage.

ARTICLE 10: USE OF PREMISES

10.1. Use. The Premises shall be used and occupied by Tenant solely as city offices, animal services and training, police services, equipment storage, and other reasonably related uses. Any uses outside the permitted uses herein shall require the written consent of Landlord, which shall not be unreasonably withheld as long as such other uses are permitted within

applicable city ordinances. Tenant is responsible for applying for and obtaining the necessary business license or other permission from the appropriate governmental agency for Tenant's intended use. Landlord does not warrant that the Tenant's intended use will be approved by any governmental permitting agency.

10.2. Suitability. Tenant acknowledges that neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Premises or, with respect to the suitability of the Premises for the conduct of Tenant's business, nor has Landlord agreed to undertake any modification, alteration or improvement to the Premises except as specifically provided in this Lease. Landlord shall not be responsible for any unknown latent defects or deficiencies in the construction of the Premises or any improvements or fixtures therein.

10.3. Prohibited Uses.

10.3.1. Tenant shall not do or permit anything to be done in or about the Premises, nor bring or keep anything therein which will cause a cancellation of any insurance policy covering the Premises. Nor shall Tenant sell or permit to be kept, used or sold in or about the Premises any articles which may be prohibited by a standard form policy of fire insurance unless Tenant provides additional insurance coverage extending protection to cover all risks associated with these articles.

10.3.2. Tenant shall not use the Premises or permit anything to be done in or about the Premises, which will in any way conflict with any law, statute, ordinance or governmental rule or regulation or requirement of duly constituted public authorities now in force or, which may hereafter be enacted, promulgated or created. Tenant shall, at Tenant's sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force and with the requirements of any board of fire underwriters or other similar body now or hereafter constituted relating to or affecting the use or occupancy of the Premises, including structural changes that relate to or affect the use.

10.3.3. Tenant shall comply with all requirements of the Declaration of Covenants, Conditions, and Restrictions (the "Declaration") governing the Premises, if any, and any rules promulgated by any association created under such Declaration.

10.3.4. Tenant shall not take any action that shall cause noise, nuisance or interference with any other tenants or occupants of the Building that is beyond reasonable expected use listed in Section 10.1.

10.3.5. Tenant shall not permit smoking on the Premises or in the parking or common areas at any time.

10.3.6. Outdoor Storage. No stock piling or storage of materials / supplies of any kind on the premises or surrounding areas is allowed. A fee of \$50 per day shall be assessed for violations.

10.3.7. Overnight Parking. No overnight parking is allowed on the premises or surrounding property except as constituted in Section 22.2.

10.3.8. Any violation of the forgoing will be constituted as a violation of this lease and may lead to eviction of Tenant at Landlords discretion.

ARTICLE 11: MAINTENANCE AND REPAIRS

11.1. Tenant Maintenance and Repairs. During the Term of the Lease, Tenant, at Tenant's expense, shall keep the Premises in good order and condition and shall maintain and shall make any and all repairs and replacements to the interior surfaces of the Premises (including, but not limited to, floor coverings, window coverings, and wall coverings), all windows and glass which are part of the Premises, all light fixtures (including replacement of light bulbs to same color and lumens, and fluorescent lighting ballasts), all doors to the Premises (i.e. overhead door, motor, store fronts, man doors, and all components of each), all plumbing fixtures and equipment, and all HVAC fixtures and equipment. Tenant shall place chair mats under all chairs to help prevent wear on carpet floorings. Tenant must have floor coverings professionally cleaned (1) time per year and provide Landlord with a copy of cleaning invoice on each occurrence. Upon occupancy of the Premises, Landlord acknowledges that all lighting, plumbing and HVAC fixtures are in good working order. After the Commencement Date, Tenant assumes responsibility for damage and maintenance to said fixtures, as well as any damage(s) caused by said fixtures (i.e. damage from any leaks) Additionally, Tenant agrees to repair damage from clogged drains or toilets. Tenant shall, at all times, and at Tenant's expense, keep the Premises in a neat, clean, and sanitary condition and shall comply with all federal, state, county and city laws and ordinances, as well as all rules and regulations of any duly constituted authority, present or future, affecting or respecting the use or occupancy of the Premises by Tenant. Tenant, at Tenant's expense, shall also repair any structural damage to the Premises caused by Tenant, or Tenant's employees, agents, contractors, invitees, licensees, customers, or clients. Tenant shall be required to supply and change the furnace filters each ninety (90) days.

11.2. Landlord Maintenance and Repairs. Subject to the provisions of Article 14 below, Landlord shall, during the Term of this Lease, maintain and make necessary structural repairs to the Premises not included as Tenant's responsibility pursuant to the provisions of Section 11.1, 14.1. Tenant shall promptly notify Landlord in writing of any condition requiring maintenance or repair and Tenant shall also immediately notify Landlord by telephone in the case of an emergency. Landlord shall make the repairs required under this Section in a reasonable time, within fourteen (14) working days, after receiving written notice by Tenant.

ARTICLE 12: HAZARDOUS SUBSTANCES

12.1. Environmental Compliance. Tenant (a) shall at all times comply with, or cause to be complied with, any "Environmental Law" (hereinafter defined) governing the Premises or the use thereof by Tenant or any of Tenant's employees, agents, contractors, invitees, licensees, customers, or clients, (b) shall not use, store, generate, treat, transport, or dispose of, or permit any of Tenant's employees, agents, contractors, invitees, licensees, customers, or clients to use, store, generate, treat, transport, or dispose of, any "Hazardous Substance" (hereinafter defined) on the Premises without first obtaining Landlord's written approval, (c) shall promptly and completely respond to, and clean up, in accordance with applicable laws and regulations, any Release (as hereinafter defined) occurring on the Premises as a direct result of actions of Tenant or Tenant's employees or authorized agents; and (d) shall pay all costs incurred as a result of any failure by Tenant to comply with any Environmental Law, which failure results in a Release or other change in the environmental state, condition, and quality of the Premises necessitating action under applicable Environmental Laws, including, without limitation, the costs of any Environmental Cleanup Work (hereinafter defined and the preparation of any closure or other required plans (all of the foregoing obligations of Tenant in this Section 12.1 are hereinafter referred to collectively as "Tenant's Environmental Obligations"). Landlord hereby releases and indemnifies Tenant from and against any and all claims, damages, or liabilities (including, without limitation, attorneys' fees and reasonable investigative and discovery costs) resulting from the environmental condition or quality of the Premises prior to the Commencement Date or from actions of Landlord or its agents or employees. The provisions of this Article 12 shall survive the expiration or other termination of this Lease.

12.2. Definitions. As used in this Lease (a) "Hazardous Substance" shall mean (1) any "hazardous waste", "hazardous substance", and any other hazardous, radioactive, reactive, flammable, infectious, solid wastes, toxic or dangerous substances or materials, or related materials, as defined in, regulated by, or which form the basis of liability now or hereafter under any Environmental Law; (2) asbestos, (3) polychlorinated biphenyl's (PCBs); (4) petroleum products or materials; (5) underground storage tanks, whether empty or filled or partially filled with any substance; (6) flammable explosives; (7) any substance the presence of which on the Premises is or becomes prohibited by Environmental Law; (8) urea formaldehyde foam insulation; and (9) any substance which under Environmental Law requires special handling or notification in its use, collection, storage, treatment or disposal; (b) "Environmental Cleanup Work" shall mean an obligation to perform work, cleanup, removal, repair, remediation, construction, alteration, demolition, renovation or installation in or in connection with the Premises in order to comply with any Environmental Law; (c) "Environmental Law" shall mean any federal, state or local law, regulation, ordinance or order, whether currently existing or hereafter enacted, concerning the environmental state, condition or quality of the Premises or use, generation, transport, treatment, removal, or recovery of Hazardous Substances, including building materials, and including, but not limited to, the following: (1) the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), as amended, and all regulations promulgated thereunder; (2) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, et seq.), as amended, and all regulations

promulgated thereunder; (3) the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), as amended, and all regulations promulgated thereunder; (4) the Toxic Substances Control Act (15 U.S.C. Section 2601, et seq.), as amended, and all regulations promulgated thereunder; (5) the Clean Air Act (42 U.S.C. Section 7401, et seq.), as amended, and all regulations promulgated thereunder; (6) the Federal Water Pollution Control Act (33 U.S.C. Section 1251, et seq.), as amended, and all regulations promulgated thereunder; and (7) the Occupational Safety and Health Act (29 U.S.C. Section 651, et seq.), as amended, and all regulations promulgated thereunder; and (d) "Release" means any actual or threatened spilling, leaking, pumping, pouring, emptying, dumping on or from the Premises or adjacent property, or disposing of Hazardous Substances into the environment.

ARTICLE 13: FIXTURES AND ALTERATIONS

13.1. **Alterations.** Tenant shall not make any physical alterations in the Premises or any of the fixtures located therein or install or cause to be installed any trade fixtures, exterior signs, interior signs, floor coverings, interior or exterior lighting, plumbing fixtures, shades or awnings or make any changes to the Premises exterior without first obtaining the written consent of Landlord. Tenant shall present to Landlord plans and specifications for the installation of any improvements or fixtures at the time approval is sought from Landlord. Any physical change and all rearrangements, which are made by Tenant with the approval of Landlord, shall be made at Tenant's expense. Such alterations, decorations, additions and improvements shall not be removed from the Premises. Upon expiration of this Lease all such alterations, decorations, additions and improvements shall become the property of Landlord.

13.2. **Conditions and Limitations.** Landlord may impose as a condition to granting any consent required by Section 13.1, such requirements, restrictions and limitations as Landlord may deem necessary in Landlord's sole discretion, including, without limitation, the manner in which the work is done, the contractors by whom it is performed, and the time during which the work is accomplished.

13.3. **Contractors and Materialmen.** If any fixtures, alterations or improvements are allowed by Landlord, Tenant shall promptly pay all contracts and materialmen so as to eliminate the possibility of a lien attaching to the Premises, and should any such lien be made or filed by reason of any fault of Tenant, Tenant shall bond against or discharge the same within ten (10) days after written request by Landlord. Landlord shall have the right, but not the obligation, to pay and discharge any such lien that attaches to the Premises and Tenant shall reimburse Landlord for any such sums paid together with interest at the rate of ten percent (10%) per annum within fifteen (15) days after written demand by Landlord.

ARTICLE 14: DAMAGE OR DESTRUCTION

14.1. **Landlord to Repair Premises.** Subject to the provisions of Sections 11.1; 14.2 and 14.3, if during the Term of this Lease any of the Premises are damaged or destroyed by fire or other casualty, Landlord shall repair or restore the Premises. The work of repair or restoration, which shall be completed with due diligence, shall be commenced within a

reasonable time after the damage or loss occurs. To the extent that such damage or destruction interferes with Tenant's ability to use the Premises, as reasonably determined by Landlord and Tenant, rent shall be partially or totally abated after the damage or destruction of the Premises until the repair or restoration of the Premises has been completed.

14.2. Option to Terminate Lease. Notwithstanding anything to the contrary in this Article 14, in the event that any of the Premises are damaged or destroyed by fire or other casualty, Landlord or Tenant shall have the right, to terminate this Lease, which termination shall be deemed to be effective as of the date of such casualty, upon the occurrence of any of the following events:

14.2.1. Insurance proceeds payable with respect to such damage or destruction are not sufficient to pay for the repair and/or restoration of the Premises;

14.2.2. Repair and restoration of the Premises cannot be completed within sixty (60) days after the occurrence of the casualty causing such damage or destruction; or

14.2.3. More than thirty percent (30%) of the Premises have been damaged or destroyed by such casualty.

Landlord's option to terminate the Lease pursuant to the provisions of this Section 14.2 must be exercised within thirty (30) days of the date of the casualty causing such damage or destruction by written notice from Landlord to Tenant. In the event that Landlord elects to terminate the Lease pursuant to this Section 14.2, Tenant shall immediately surrender possession of the Premises to Landlord and shall assign to Landlord (or if the same has already been received by Tenant, pay to Landlord) all of Tenant's right, title, and interest in and to the insurance proceeds payable with respect to the Premises.

14.3. Tenant's Option to Terminate Lease. If no default by Tenant under this Lease has occurred and is then continuing and if no event has occurred and is then continuing which, with the giving of notice or lapse of time, or both, would become such a default, Tenant shall, if the Premises are damaged or destroyed by fire or other casualty and repair or restoration of the Premises cannot be completed within sixty (60) days following the occurrence of the casualty causing such damage or destruction, have the option of terminating this Lease by written notice to Landlord, which termination shall be deemed to be effective as of the date of the casualty. Tenant's option to terminate the Lease pursuant to the provisions of this Section 14.3 must be exercised within thirty (30) days of the date of the casualty causing such damage or destruction. In the event that Tenant elects to terminate this Lease pursuant to this Section 14.3, Tenant shall immediately surrender possession of the Premises to Landlord and shall assign to Landlord (or if the same has already been received by Tenant, pay to Landlord) all of Tenant's right, title, and interest in and to the insurance proceeds payable with respect to the Premises.

ARTICLE 15: CONDEMNATION

15.1. If all or any part of the Premises is taken or appropriated for public or quasi-public use by right of eminent domain with or without litigation, or transferred by agreement in connection with such public or quasi-public use, Landlord and Tenant shall each have the right within thirty (30) days of receipt of notice of taking, to terminate this Lease as of the date possession is taken by the condemning authority; provided, however, that before Tenant may terminate this Lease by reason of taking or appropriation, such taking or appropriation shall be of such an extent and nature as to substantially handicap, impede or impair Tenant's use of the Premises. No award for any partial or entire taking shall be apportioned, and Tenant hereby assigns to Landlord any award, which may be made in such taking or condemnation, together with any and all rights of Tenant now or hereafter arising in or to the award or any portion thereof; provided, however, that nothing contained herein shall be deemed to give Landlord any interest in or to require Tenant to assign to Landlord any award made to Tenant for the taking of personal property and fixtures belonging to Tenant, or for the interruption of or damage to Tenant's business. In the event of a partial condemnation which does not result in a termination of this Lease, rent shall be abated in the proportion which the part of the Premises so made unusable bears to the rented area of the Premises immediately prior to the taking. No temporary taking of the Premises or Tenant's right therein or under this Lease shall terminate this Lease or give Tenant any right to any abatement of rent thereunder; and any award made to Tenant by reason of any such temporary taking shall belong entirely to Tenant, and Landlord shall not be entitled to any portion thereof.

ARTICLE 16: ASSIGNMENT AND SUBLetting

16.1. Landlord's Consent Required. Tenant shall not assign, transfer, mortgage, pledge, hypothecate or encumber this Lease or any interest therein, either voluntarily or involuntarily by operation of law or otherwise, and Tenant shall not sublet the Premises or any part thereof, without the prior written consent of Landlord and any attempt to do so without such consent being first had and obtained shall be void and shall constitute a breach of this Lease, such consent may be withheld for any reason by Landlord.

16.2. No Release of Tenant. No consent by Landlord to any assignment or subletting by Tenant shall relieve Tenant of any obligation to be performed by Tenant under this Lease, whether occurring before or after such consent, assignment or subletting, or any release of the Guaranty (as defined below). The consent by Landlord to any assignment or subletting shall not relieve Tenant from the obligation to obtain Landlord's express written consent to any other assignment or subletting.

16.3. Increased Expenses; Monthly Rent. Tenant shall pay Landlord the amounts of any increase in costs or expenses incident to the occupancy of Premises by such assignee or subtenant, including, but not limited to, reasonable attorneys' fees incurred in connection with giving such consent. Moreover, if Tenant subleases the Premises for an amount that exceeds the Monthly Rent hereunder, Landlord, if consent to assignment is provided, shall be entitled to receive all increases in Monthly Rent.

ARTICLE 17: SUBORDINATION, ATTORNMENT, AND ESTOPPEL CERTIFICATES

17.1. **Subordination.** This Lease at Landlord's option shall be subject and subordinate to the lien of any mortgages or deeds of trust in any amount or amounts whatsoever now or hereafter placed on or against the Premises, or on or against Landlord's interest or estate therein, without the necessity of the execution and delivery of any further instruments on the part of Tenant to effectuate such subordination. Notwithstanding anything to the contrary in this Article 17, this Lease shall remain in full force and effect for the full term hereof, including any extensions, so long as Tenant is not in default hereunder.

17.2. **Subordination Agreements.** Tenant shall execute and deliver upon demand without charge therefore, such further instruments evidencing such subordination of this Lease to the lien of any such mortgages or deeds of trust, as may be required by Landlord.

17.3. **Attornment.** In the event of any foreclosure or the exercise of the power of sale under any mortgage or deed of trust made by Landlord covering the Premises, Tenant shall attorn to the purchaser upon any such foreclosure or sale and recognize such purchaser as the Landlord under this Lease.

17.4. **EstoppeL Certificates.** Tenant shall, from time to time and within ten (10) days from receipt of prior written notice from Landlord, execute, acknowledge and deliver to Landlord a statement in writing (a) certifying that this Lease is unmodified and in full force and effect, or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect and the date to which the rent and other charges are paid in advance, if any, (b) certifying that the Lease and any modifications of this Lease constitute the entire agreement between Landlord and Tenant with respect to the Premises and, except as set forth in this Lease and any modification of this Lease, Tenant does not claim any right, title, or interest in or to the Premises or any part thereof, (c) certifying such other matters with respect to the Lease and/or the Premises as Landlord may reasonably request.

17.5. **Failure to Deliver Certificate.** If Tenant fails to deliver such statement within the time period referred to in Section 17.4 above, it shall be deemed conclusive upon Tenant that the (a) this Lease is unmodified and in full force and effect, (b) this Lease constitutes the entire agreement between Landlord and Tenant with respect to the Premises and, except as set forth in this Lease, Tenant does not claim any right, title, or interest in or to the Premises or any part thereof, (c) there are no uncured defaults in Landlord's performance of Landlord's obligations under this Lease, and (d) not more than one month's Monthly Rent has been paid in advance.

17.6. **Transfer of Landlord's Interest.** In the event of a sale or conveyance by Landlord of Landlord's interest in the Premises other than a transfer for security purposes only, Landlord shall be relieved from and after the date specified in any such notice of transfer of all obligations and liabilities to Tenant which accrue after such sale or conveyance on the

part of Landlord, provided that any funds in the possession of Landlord at the time of transfer in which Tenant has an interest shall be delivered to the successor Landlord. This Lease shall not be affected by any such sale or transfer. Tenant shall attorn to the purchaser or other transferee and shall recognize such purchaser or transferee as the Landlord under this Lease.

ARTICLE 18: DEFAULT AND REMEDIES

18.1. Default. The occurrence of any of the following shall constitute a material default and breach of the Lease by Tenant:

18.1.1. Any failure by Tenant to pay the Monthly Rent, CAM Fees or any other monetary sums required to be paid under this Lease on the date such payments are due (whether to Landlord or a third party for utilities or other Tenant expenses);

18.1.2. Any material false statement made by Tenant to Landlord or its agents in any document delivered to Landlord in connection with negotiations of this Lease;

18.1.3. The abandonment or vacation of the Premises by Tenant;

18.1.4. A failure by Tenant to observe and perform any other non-monetary term, covenant or condition of this Lease to be observed or performed, by Tenant, where such failure continues for five (5) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of the default is such that the default cannot reasonably be cured within the five (5) day period, Tenant shall not be deemed to be in default if Tenant shall within the five (5) day period commence action to cure the default and thereafter diligently prosecute the same to completion; or

18.1.5. The making by Tenant or any Guarantor(s)(s) (as defined below) of any general assignment or general arrangement for the benefit of creditors; the filing by or against Tenant or any Guarantor(s) of a petition to have Tenant or any Guarantor(s) adjudged a bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant or any Guarantor(s), the same is dismissed within thirty (30) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within fifteen (15) days; or the attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within fifteen (15) days or the appointment of a trustee or receiver to take possession of substantially all of any Guarantor(s)'s assets, where possession is not restored to such Guarantor(s) within thirty (30) days; or the attachment, execution, or other judicial seizure of substantially all of any Guarantor(s)'s assets, where such seizure is not discharged within thirty (30) days.

18.2. Nonexclusive Remedies. In the event of any such material default or breach by Tenant, Landlord shall have, in addition to any other remedies provided in this Lease, the following nonexclusive remedies:

18.2.1. At Landlord's option and without waiving any default by Tenant, Landlord shall have the right to continue this Lease in full force and effect and to collect all Monthly Rent, CAM Fees and any other amounts to be paid by Tenant under this Lease as and when due. During any period that Tenant is in default, Landlord shall have the right, pursuant to legal proceedings or pursuant to any notice provided for by law, to enter and take possession of the Premises, without terminating this Lease, for the purpose of reletting the Premises or any part thereof and making any alterations and repairs that may be necessary in connection with such reletting. Any such reletting or relettings may be for such term or terms (including periods that exceed the balance of the term of this Lease), and upon such other terms, covenants and conditions as Landlord may in Landlord's sole discretion deem advisable. Upon each and any such reletting, the rent or rents received by Landlord from such reletting shall be applied as follows: (1) to the payment of any indebtedness (other than rent) due hereunder from Tenant to Landlord; (2) to the payment of costs and expenses of such reletting, including brokerage fees, court costs, and costs of any alterations or repairs; and (3) to the payment of future Monthly Rent, CAM Fees and any other amounts as they become due and payable hereunder. If the rent or rents received during any month and applied as provided above shall be insufficient to cover all such amounts including the Monthly Rent, CAM Fees and any other amounts to be paid by Tenant pursuant to this Lease for such month, Tenant shall pay to Landlord any deficiency; such deficiencies shall be calculated and paid monthly. No entry or taking possession of the Premises by Landlord shall be construed as an election by Landlord to terminate the Lease, unless Landlord gives written notice of such election to Tenant or unless such termination shall be decreed by a court of competent jurisdiction. Notwithstanding any reletting by Landlord without termination, Landlord may at any time thereafter terminate this Lease for such previous default by giving written notice thereof to Tenant.

18.2.2. Terminate Tenant's right to possession by notice to Tenant, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including without limitation the following: (1) all unpaid rent which has been earned at the time of such termination plus (2) the amount by which the unpaid rent which would have been earned after termination exceeds the amount of such rental loss that is proved could have been reasonably avoided; plus (3) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease, or in addition to or in lieu of the foregoing such damages as may be permitted from time to time under applicable Utah law. Upon any such re-entry Landlord shall have the right to make any reasonable

repairs, alterations or modifications to the Premises, which Landlord in Landlord's sole discretion deems reasonable, prudent and necessary.

ARTICLE 19: ENTRY BY LANDLORD

19.1. Landlord shall, during the Term of this Lease, have the right to enter the Premises during normal business hours and upon reasonable notice to Tenant, to inspect or to show to prospective tenants or purchasers, or to make necessary repairs. For purposes of this Article, twenty-four (24) hours is deemed to be reasonable notice. In the event of an emergency, however, Landlord shall not be required to give Tenant such notice, provided, that Landlord furnishes Tenant with the reason for the emergency entry within three (3) days of such entry. Notwithstanding any other provision in this Lease to the contrary, notice under this provision may be provided by email.

ARTICLE 20: INDEMNITY

20.1. Tenant shall indemnify, defend and hold Landlord harmless, and release Landlord from any and all claims of liability for any injury or damage to any person or property whatsoever occurring in, on or about the Premises or any part thereof during the Term of this Lease. Tenant shall further indemnify, defend and hold Landlord harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act or negligence of Tenant, or any of Tenant's agents, contractors, employees licensees or invitees and from and against all costs, reasonable attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon. Tenant shall not, however, be liable for damage or injury occasioned by the negligence, intentional acts, or omissions of Landlord and Landlord's designated agents or employees. Tenant's obligations under this Article 20 shall survive the expiration or other termination of this Lease.

ARTICLE 21: SURRENDER

21.1. Surrender. Upon the expiration or other termination of this Lease, Tenant shall quit and surrender to Landlord the Premises, together with the Premises and all other property affixed to the Premises, excluding Tenant's fixtures that do not become part of the Premises according to the terms of this Lease, in good order and condition, ordinary wear and tear excepted. Tenant shall, prior to the expiration or other termination of this Lease, remove all personal property belonging to Tenant and failing to do so, Landlord may cause all of such personal property to be removed at the cost and expense of Tenant. Tenant's obligation to observe and perform this covenant shall survive the expiration or other termination of this Lease. In the alternative, if Tenant has not removed its personal property after 10 days notice from Landlord to do so, Landlord may, at Landlord's option, treat any and all items not removed by Tenant on or before the date of expiration or of the termination of this Lease as having been relinquished by Tenant and such items shall become the property of Landlord with the same force and effect as if Tenant had never owned or otherwise had any interest in such items. Although, if it is an item that requires specialized movers, Tenant will provide in

writing to Landlord all dialogue it has had with such movers. Landlord, at Landlord's discretion, reserves a right to impose a reasonable fee until such item(s) is removed.

21.2. Hazardous Substances. No spill, deposit, emission, leakage or other release of Hazardous Substance in the soils, groundwaters or waters shall be deemed to result in either (a) wear and tear that would be normal for the term of the Lease; or (b) a casualty to the Premises. Tenant shall be responsible to promptly and completely cleanup any Release occurring on the Premises during the Term of the Lease which directly results from the actions of Tenant or its employees or authorized agents. Tenant shall surrender the Premises free of any contamination or other damage caused by such a Release during the Term of the Lease. Tenant's obligation to clean up the Premises pursuant to the provisions of this Article 21 shall survive the expiration or other termination of this Lease.

ARTICLE 22: MISCELLANEOUS

22.1. Signs. Tenant may not place any signs outside of the Premises without the prior written consent of Landlord, which shall not be unreasonably withheld. Notwithstanding the foregoing, Landlord grants Tenant permission to install an internally-illuminated exterior pan channel letter sign on the front of the Premises in accordance with the Governing City ordinances and plans to be submitted by Tenant and approved by Landlord. Such signs shall utilize a raceway mount.

22.2. Parking Spaces. Tenant may utilize up to 10 unreserved parking spaces in the parking lot of the Building. Any vehicles or trailers found to be in violation will be towed at the owner's expense. Landlord is not liable for towing charges or fees associated with violating vehicles or trailers.

22.3. Entire Agreement. This instrument along with any exhibits and attachments hereto constitutes the entire agreement between Landlord and Tenant relative to the Premises and this Lease and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant. All prior or contemporaneous oral agreements between and among Landlord and Tenant and their agents or representatives relative to the leasing of the Premises are merged in or revoked by this Lease.

22.4. Severability. If any term or provision of this Lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.

22.5. Cost of Suit. If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of rent or possession of the Premises, the losing party shall pay the successful party reasonable attorney's fees and costs whether or not such action is prosecuted to judgment.

22.6. Time and Remedies. Time is of the essence of this Lease and every provision hereof. All rights and remedies of the parties shall be cumulative and nonexclusive of any other remedy at law or in equity.

22.7. Binding Effect, Successors and Choice of Law. All time provisions of this Lease are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate Section of this Lease. Subject to any provisions restricting assignment or subletting by Tenant as set forth in Article XVI, all of the terms hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Lease shall be governed by the laws of the State of Utah.

22.8. Waiver. No term, covenant or condition of this Lease shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver of the breach of any term, covenant or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other term, covenant or condition. Acceptance by landlord of any performance by Tenant after the time the same shall have become due shall not constitute a waiver by Landlord of the breach or default of any term, covenant or condition unless otherwise expressly agreed to by Landlord in writing.

22.9. Holding Over. If Tenant remains in possession of all or any part of the Premises after the expiration of the Term of this Lease without the written consent of Landlord, such tenancy shall be from month to month only, and not a renewal hereof or an extension for any further term, and in such case, rent and other sums due hereunder shall be payable at one hundred twenty-five percent (125%) of the Monthly Rent and CAM Fees in effect immediately prior to such holdover period.

22.10. Notice. Any notice required to be given under this Lease shall be given by email to the email on file with Landlord, and/or writing and shall be delivered in person or by registered or certified mail, postage prepaid, and addressed to the addresses for Landlord and Tenant set forth above or the physical address of the Premises, if different. Such notice shall be deemed delivered when sent electronically or when personally delivered (or delivery is refused) or two (2) days after depositing of the notice in the United States mail in the manner provided above.

22.11. No Partnership. Landlord does not, as a result of entering into this Lease, in any way or for any purpose become a partner of Tenant in the conduct of Tenant's business, or otherwise, or joint venturer or a member of a joint enterprise with Tenant.

22.12. Personal Guaranty. [REDACTED] (the "Guarantor(s)") absolutely and unconditionally, guarantees the payment and performance of all obligations of Tenant under this Lease in the form attached hereto as Exhibit B (the "Guaranty"). Guarantor(s)'s execution and delivery of the Guaranty is a condition precedent to the effectiveness of this Lease.

22.13. Real Estate Representation. Landlord is represented by Braiden Rindlisbacher (License # 11880531-SA00), with Scenic Property Management LLC (License # 12685418-MN00) (the Landlord's Agent). Real Estate Commission. Each party pays their own Broker/Agent any real estate commissions that they may have negotiated by private agreement.

22.14. Authority. Each of the undersigned has the authority to enter into this Lease. In the case of an entity, the undersigned has the authority to bind such entity.

22.15. Locks. If tenant at any time during the term of this lease elects to change any locks on the premises (i.e.) store front doors, man doors on the side or rear of the building, or any interior door locks, tenant will bear all costs. Tenant is required to contact Landlord and receive written permission prior to changing any locks or hardware. In addition, Tenant is required to use Landlords designated Lock Smith for any and all changes made and provide Landlord with keys to any locks that have been modified.

22.16. Lease Renewals or Amendments. There is a \$250.00 charge for any lease renewal or amendment.

22.17. Lease Agreement. Violation by Tenant of any provisions of this Lease Agreement constitutes a Tenant default.

22.18. Counterparts. This Lease may be executed in counterparts, all of which when taken together will be one and the same document. Email or facsimile signatures are acceptable and will be deemed originals for all purposes.

22.19. Onsite Dumpster(s). The Business Park provides an onsite dumpster for general office waste which is included in the Monthly CAM Fee. If Tenant operates an entity or business that produces anything other than general office waste, they agree to either supply their own dumpster which must be placed inside their warehouse or dispose of the waste at another offsite facility. Landlord reserves the right to impose a \$100.00 dollar fee per violation / occurrence.

ARTICLE 23: DESIGN AND CONSTRUCTION OF TENANT IMPROVEMENTS

23.1. Tenant may at Tenants sole cost and expense install certain improvements provided that Landlord approves all drawings by signed agreement before the commencement of construction. Tenant will take all necessary steps to ensure no disruptions occur to neighboring Tenants at any point during the Term (i.e. during construction, noise from animals, etc.). If disruptions do occur, Tenant at its sole cost and expense will mitigate the issue. Tenant is responsible for any and all permitting from all governing agencies.

23.2. As part of the construction there are certain contractors that Tenant will be required to use on the building. Highmark Electric for any electrical work and Redd Roofing for any roof repairs.

[SIGNATURE PAGE FOLLOWS]

WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first written.

LANDLORD:

Signature: _____

Name: _____

Title: _____

Date: _____

TENANT:

Signature: _____

Name: _____

Title: _____

Date: _____

Exhibit A

(Site Plan of the Premises)

Exhibit B

(Form of Guaranty)

GUARANTY

____ (“Guarantor(s)”) in consideration of and in order to induce _____ (the “Landlord”), to enter into that certain Lease Agreement dated _____ (“Lease”), with Co. a Utah corporation (“Tenant”), does hereby, subject to the terms hereof, unconditionally guarantee the payment of rent and all other amounts and the performance of all obligations to be performed by Tenant under the terms and provisions of the Lease, including payment of damages for any breach of the Lease (collectively the “Lease Obligations”).

Whether or not any existing relationship between Guarantor(s) and Tenant has been changed or ended, Landlord may, but shall not be obligated to, enter into transactions resulting in the creation or continuance of the Lease Obligations without any consent or approval by Guarantor(s) and without any notice to Guarantor(s). The liability of Guarantor(s) shall not be affected or impaired by any of the following acts or things (which Landlord is expressly authorized to do, omit or suffer from time to time): (i) any one or more extensions or renewals of the Lease Obligations (whether or not for longer than the original period) or any modification of the contractual terms applicable to Lease Obligations; (ii) any waiver or indulgence granted to Tenant, any delay or lack of diligence in the enforcement of the Lease Obligations, or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any other person liable in respect of any of the Lease Obligations, or (iii) any full or partial release of, settlement with, or agreement not to sue, Tenant or any other Guarantor(s) or other person liable in respect of any of the Lease Obligations.

Guarantor(s) hereby waives notice of acceptance hereof, or any action taken or omitted in reliance hereof, or notice of any default of Tenant under the Lease.

Guarantor(s) shall promptly furnish Landlord, from time to time, with personal financial statements or cause Tenant to deliver financial statements regarding the performance of the business operated on the leased premises at the times and in the forms required by Landlord. Guarantor(s) also shall deliver Guarantor(s)’s personal financial statements on demand.

Guarantor(s) agrees that this Guaranty shall be for the benefit of Landlord, its successors and assigns, and that this Guaranty is absolute and complete, shall be a continuing one through the term, including renewals, of the Lease and any holdover tenancy by Tenant and no notice of any renewal, extension, change, modification, or assignment of the Lease or forbearance by Landlord of notice of default by Tenant need be given to Guarantor(s).

Guarantor(s) agrees to pay all costs and expenses, including reasonable attorney fees, incurred by Landlord in connection with the protection, defense, or enforcement of this Guaranty or Landlord’s rights under the Lease.

Signature: _____

Name: _____

Social Security Number: _____

Drivers License Number: _____

Date of Birth: _____

Date: _____

Landlord: _____ Tenant: _____

Exhibit C

(Move Out Checklist)

All items are to be done according to the lease and to normal industry standards

If during inspection any items are incomplete, a new inspection date will need to be scheduled

Call 3-5 days prior to your move-out to schedule your inspection

Complete

Yes / No

1. / All areas/offices/closets must be broom swept clean, mopped, and vacuumed
2. / All stains in flooring must be removed (i.e. tile, carpet, etc.)
3. / Break Room(s) must be move-in clean (microwave, fridge, sink, cupboards, etc.)
4. / All Bathroom(s) must be completely clean (i.e. sink, base cabinet, toilet, floor etc.)
5. / All holes/dings made in walls must be repaired and inconspicuous
6. / All walls must be cleaned and painted the same color as before tenancy began.(Unless Tenant has been given prior written permission from Landlord) If it is visible where repainting has been done, you will be required to paint corner to corner on applicable walls
7. / Vacuum and professionally clean any/all carpet(s)
8. / Repair or replace any damaged floor coverings (i.e. tile, carpet, etc.)
9. / Clean all windows and frames
10. / If applicable, all blinds and window coverings must be cleaned and dusted
11. / Remove all your personal possessions and belongings.
12. / If applicable, all exterior areas shall be cleaned of debris and left clean
13. / All light fixtures are to work properly with working light bulbs and ballasts
(Including bay lights in warehouse if applicable)
14. / All electrical is to work properly
15. / All plumbing is to be free of any leaks or blockages
16. / All heating is to be working properly
17. / Air filter in HVAC unit replaced with a new filter
18. / All baseboards and/or chair rail cleaned and dusted
19. / All damage on doors, casings, and baseboards must be repaired and inconspicuous
20. / All smoke alarm(s) and carbon monoxide alarm(s) shall be working properly
21. / Leave ALL utilities on until your move-out inspection has been completed
22. / If applicable, any office furnishings of Landlords (i.e. conference tables, chairs, desks, décor) must have any damage repaired, and any stains removed
23. / Warehouse must be broom swept clean and free of any belongings.
24. / All warehouse walls/doors etc. must have any damage repaired



CITY COUNCIL MINUTES

Wednesday, January 11, 2023
Awaiting Formal Approval

The following are the minutes of the City Council meeting of the Herriman City Council. The meeting was held on **Wednesday, January 11, 2023, at 5:30 p.m.** in the Herriman City Council Chambers, 5355 West Herriman Main Street, Herriman, Utah. Adequate notice of this meeting, as required by law, was posted in the City Hall, on the City's website, and delivered to members of the Council, media, and interested citizens.

Presiding: Mayor Lorin Palmer

Councilmembers Present: Jared Henderson, Teddy Hodges, Sherrie Ohrn, Steven Shields

Staff Present: City Manager Nathan Cherveski, Assistant City Manager Tami Moody, Assistant City Manager Wendy Thomas, Deputy City Recorder Wendy Thorpe, Finance Director Kyle Maurer, Director of Operations Monte Johnson, Public Works Director Justun Edwards, Communications Manager Jonathan LaFollette, City Planner Michael Maloy, Police Chief Troy Carr, Deputy Chief Cody Stromberg, Community Development Director Blake Thomas, Unified Fire Authority Assistant Chief Anthony Widdison, City Attorney Todd Sheeran, Assistant City Engineer Bryce Terry, and Building Official Cathryn Nelson.

5:30 PM – WORK MEETING: (Fort Herriman Conference Room)

1. Council Business

Mayor Lorin Palmer called the meeting to order at 5:31 PM.

1.1. Review of this Evening's Agenda

Council and Staff briefly reviewed the agenda.

1.2. Future Agenda Items

Councilmember Teddy Hodges stated he had gone to Mountain Ridge High School and reported he enjoyed the entrance and exit design of the facility. He knew the solution was temporary but wanted to see what options and responsibility were for traffic and safety with the new roads and development in the area. Community Development Director Blake Thomas stated the Traffic Committee met once a month and this issue was a standing item on the agenda. Councilmember Steve Shields added the hardest part was determining what was warranted and discussed the challenge he had tasked the committee with was finding what solutions they could possibly implement, as they had done for the signs at Fort Herriman.

Mayor Palmer commented a flex school had been mentioned and they were trying to figure out what worked best for them to create the best traffic pattern. Councilmember Hodges suggested staggering start times. Mayor Palmer stated this was a bigger issue and might need to engage in regular meetings with Assistant City Engineer Bryce Terry. Community Development Director Thomas recommended sending out the drones and acquiring footage to review the actual traffic patterns. City Manager Nathan Cherpesci expressed concern on both loading and unloading times.

Councilmember Shields stated he had received a lot of questions and comments about potholes and requested an update on timeframes. Assistant City Manager Tami Moody stated staff was creating a webpage dedicated to this specific issue. She explained the site would be advertised through the social media outlets and would discuss the process and the current situation to keep residents up to date.

City Manager Cherpesci added they had brought in extra crews aside from streets to do pothole repair, but it had already been a tough winter. Councilmember Shields understood some of the equipment was older than it should be because of supply chain issues, and he would like to understand if they had looked at or considered other vendors. Councilmember Henderson agreed and stated this was a compounding problem they needed to solve. Councilmember Shields stated they needed functioning equipment and he had not heard any discussion about alternatives, and he would like to understand that better.

Mayor Palmer asked if there was any desire to change committee assignments for the upcoming year. Assistant City Manager Moody clarified staff just needed to know every January if the Council would be making changes. Councilmember Hodges thought they should look over it because of impending staff changes and thought that an annual review would be beneficial. Councilmember Shields expressed he liked working with the mosquito district and thought it was run very well.

1.3. Council discussion of future citizen recognitions

Councilmember Hodges recognized Mount Ridge Girls Volleyball 6A champs and Kelly Dion

from Mount Ridge. Mayor Palmer suggested the Herriman Cross Country who had recently placed second nationally.

2. Administrative Reports

2.1. Collegiate Rugby Shield – Wendy Thomas, Assistant City Manager

Assistant City Manager Wendy Thomas stated the previous year Herriman had supported the collegiate broadcast of the Rugby Shield on FOX News, and after the first week of sponsorship they had received a good response and had drafted eleven players. She went on to say that the Warriors had come back to them to ask for another sponsorship of the Collegiate Rugby Shield, as well as a partnership with the Utah Warriors for \$25,000. Assistant City Manager Thomas introduced the representatives from the Warriors and invited them to present to Council.

Collegiate Rugby Representative Tom Schimpf stated they had a concept and an idea for something they felt was missing in major league rugby and said as the sport crew they wanted to bring all of the best of collegiate talent together to host a showcase in Herriman City. He stated the previous year's event had been an overwhelming success and so they wanted to continue to grow and ensure they delivered for Herriman.

Mr. Schimpf continued to state they had reviewed the elements proposed from the previous year and had found more opportunities to showcase the City, including having the Mayor on national television representing Herriman. He stated they had added 'Herriman City' to every jersey and set up some free clinics for the community and had included the City in the events planned throughout the entire week. He reiterated last year had been such a success and they were proud to have Herriman as that premier partner and wanted to invite them back to participate this year. The representative proposed extending that reach into the Utah Warriors organization and all their home games.

The founder of the event Nick Colling thanked the Mayor and Council for believing in them and for being a part of the team in becoming professional athletes. He said this event was about creating a pipeline for everyone to go from picking up a rugby ball to becoming a professional athlete, and he expressed with eleven players drafted it was an eye-opener for the rest of the country to realize that the collegiate rugby shield was where you needed to go if you wanted to be drafted into professional rugby.

Assistant City Manager Thomas stated there was an exciting announcement was waiting on final mayoral approval, but was able to announce they were embarking on a joint venture with a European rugby club which would be announced in France and would allow Herriman rugby to participate on a global level. The founder emphasized their goal was to make Herriman the epicenter of rugby in North America and said having an affiliation in France was very exciting. Mayor Palmer commented the announcement would be made on the 22nd and they would film the announcement the next day.

Assistant City Manager Thomas explained if Council was willing to move forward with this plan staff would work with Finance Director Kyle Maurer with the funding allocation. Councilmember Henderson asked where the money would be coming from, because the City was not in the business of helping people become professional athletes and he wondered if it was worth it for what the City would be getting in return. Mayor Palmer replied this was an economic driver. Councilmember Henderson understood, but they did not receive revenue for people visiting their website.

Councilmember Hodges asked if they had market statistics for the revenue brought in from the event. The Founder stated they were quoted by Sports Salt Lake that it would bring in around \$1 Million economically to the County of Salt Lake, with a majority of that being in Herriman. Councilmember Henderson asked what percentage of that the City would get because they were the ones spending the money, and he pointed out neighboring communities would benefit as well.

Councilmember Shields did not think the plan had been articulated well and emphasized he did not want to create the identity of Herriman as a recreation destination without expressly planning on doing so, and he pointed out they had never formally stated that was the direction they wanted to take as a City. He clarified he thought this partnership was great and he had no objections to sponsoring it, he just felt there needed to be a reason for it and it needed to be a part of a more meaningful strategic decision that would aid them in their long-term plans for the City.

Councilmember Henderson felt they should not be doing this and reiterated his concerns about money going to other communities. He said if they were going to do things like this it needed to make financial sense and need to show their taxpayers there was a return to the City. Councilmember Shields agreed and said he paid taxes in this City and wanted to make sure that his money was being used appropriately, and as a taxpayer he would want to have assurances that the City had minimized expenses everywhere else before the City reached further into his pockets. Councilmember Henderson commented it was a tradeoff, and argued there were many things the City should be spending money on first, for instance the cemetery, which needed a bathroom. He stated four years of this sponsorship would pay for the amenity and suggested to show City projects as a priority.

Councilmember Hodges said a son of one of his good friends had gotten drafted to the Warriors and discussed how it was going to change his life for the better. He thought the long-term benefit of having it be founded in Herriman, even if they only captured 10-percent of the \$1 Million, was it would incentive development down the road, and he added even 10-percent of \$1 Million would aid the City. He stated they needed a vision for five to ten years down the road and they were at the ground level for this. Councilmember Shields commented if they missed this opportunity, it would go elsewhere and they would not be

able to capitalize on this revenue down the road.

Mayor Palmer liked there to be more economic drivers over the long-term and pointed out the economic benefits would come because all of the games would be televised and the City would be seen on TV every week. The founder stated he appreciated the discussion and agreed they needed to think about how this would achieve the goals of the City. Mayor Palmer commented there was no way to quantify what the event had given back to the City because the free clinic which had seen over 100 kids was unquantifiable, and expressed he was willing to move forward.

Mayor Palmer asked when the deadline to commit would be. Assistant City Manager Thomas stated the Warriors needed \$5,000 now. The founder said they would work with the City to some extent, but they would need the money before the season started in mid-February and the event would be held in July. Assistant City Manager Thomas stated she would just need to move some money around from other places.

Councilmember Hodges stated he would like to see more data. The representative replied they utilized a platform called Relometrics which did exactly what they were asking for in that it gave the value for the sponsorship. He said as part of their proposal they could add the City to that for third party data and analytics which would provide them with the facts. Councilmember Shields thought this was data they needed to have before they wrote a check. Councilmember Henderson said they were generally supportive of this, but wanted some deliverables and they would need a whole plan by next year.

Councilmember Shields commented next year there might be new people in the Council seats and he wanted to make sure they had sufficient information to continue going forward. Assistant City Manager Thomas stated there had been recent discussions about what co-sponsorship meant and it was something they were working on. Mayor Palmer stated it sounded like this was something they would generally support but needed to come up with a marketing strategy and an implementation plan.

Councilmember Hodges asked how they would maintain the people which came into the City, and what they would do when they got all the attention on the City. The representatives suggested handing out vouchers for restaurants and sponsors. Assistant City Manager Thomas felt the amount of traffic an event like this would generate was considerable.

Mayor Palmer stated once they got a hotel in Herriman, they would need to work on having attendees stay within the City. The representative commented this had been a constructive conversation and said they would do everything on the collegiate rugby shield side to make this deal attractive to Herriman. He stated they should be good to go with Fox Sports 1 primetime, which was 6 PM MST, and he thought this would be good for viewership.

Assistant City Manager Thomas stated she had sent out a report on TV viewership a while ago so it should be in the Council's emails. Councilmember Shields thought there was an amount of value they had not quantified and needed to get it written down so they could show the taxpayers the value of their money.

Assistant City Manager Thomas stated she would get information back to them in the next couple of weeks.

2.2. Discussion regarding the request for the city to take ownership of a private road in the Lake Ridge Subdivision – Blake Thomas, Community Development Director

Community Development Director Thomas presented the information for the private road above Blackridge. He stated the request had come in from the HOA one and a half years ago for the City take over this private road and it had been determined at the time that the road needed to be brought up to City standards. Community Development Director Thomas stated the Engineering department had performed an audit which was then sent to the HOA, and he reported the HOA had sat on those results for a while before coming back to the City. He explained the HOA was concerned with the City's decision to only take over a portion of the road and did not want to widen the road and requested to know why the City would not take over the entire road.

Community Development Director Thomas commented on the timeline and showed an exhibit from the audit which had been performed which listed some of the key items which would need to be done to bring the road up to standards.

Community Development Director Thomas stated since the request had come in staff had determined the cost to maintain the road was \$11,000 per mile per year, and recommended the City pay the HOA around \$3,000 per year. He said the HOA had requested the City plow the entire road, but he discussed contracting with an HOA would be new for the City and would be rough on the City equipment as well.

City Manager Cherpesci explained what made this different from other HOAs was the City had created the issue. Councilmember Henderson commented the City had some responsibility in this request but emphasized the HOA had built a private road below City standards and said if the HOA brought the road up to City standard, he would be more likely to approve taking over the road. Councilmember Shields said it would cost \$1 Million to bring the road up to standard and it did not make sense for the few people that were in the HOA to come up with that money to fix the road. He thought they needed to compensate the HOA for the use of the lower section of the access road and advocated a discussion for how much impact the City had on the road.

Mayor Palmer stated he had lunch with the HOA president and they had discussed the cost to plow the road for them the previous year had been \$5,000, and their collective suggestion

was to pay the City based on the math Community Development Director Thomas had used to determine costs. Councilmember Shields stated he did not like the idea of City equipment and Staff being contracted to take care of private roads. He thought they had impact on the road and they should pay for their impact on the road but the City did not need to take over the entire road and leveraging City resources to maintain private facilities as it made him uncomfortable.

Councilmember Shields thought the City should assess the impact they have had on the road and pay them one lump sum for that impact. Community Development Director Thomas thought this was a good idea and stated he would come back with a figure for the budget.

2.3. Amending Herriman Code section 1-10-14 Disposal of surplus property – City Manager Nathan Cherpesci

City Manager Cherpesci reviewed the proposed changes to the disposal of surplus property. He stated staff had gone through to address the Code regarding surplus property related to personal property and the old code had required all surplus to come before Council so they had set up a process to offload items of minimal value without having to come to Council. The Council concurred they were okay with these changes.

2.4. Blackridge Reservoir Update – Wendy Thomas, Assistant City Manager

Assistant City Manager Thomas asked for direction because they had some people interested in running a concessionaire, and asked if Council was interested in pursuing an RFP process. Mayor Palmer did not have a problem going that route, although Councilmember Shields did not want to put anything there to make it a bigger draw. Assistant City Manager Thomas said they would be contracted to take care of trash and brought up the issue of parking.

Councilmember Shields asked what they would do if it turned into a nightmare, and if they be able to cancel any sort of contract. City Attorney Todd Sheeran stated there would be a cancellation term in any contract allowing the City to cancel if it became problematic.

Councilmember Sherrie Ohrn arrived at 6:23 PM.

Councilmember Shields anticipated there would be support for a concessionaire from people who utilized the reservoir, but for the people that lived around there the added impact would have a negative effect. He thought City Council did not want to allow concessions and drive more traffic in that area.

Assistant City Manager Thomas discussed expanding parking and stated the cost would be between \$500-\$900,000. She gave a breakdown of the costs for the creation of 54 stalls and then stated another option was to put in a separate parking lot for \$800,000. There was no interest from Council in expansion or the addition of a new parking lot.

Councilmember Ohrn stated this reservoir was a secondary reservoir and did not think they needed to highlight amenities. Assistant City Manager Thomas commented the water had been treated for snails and algae. Public Works Director Justun Edwards stated they were treating the water to maintain for secondary water and the chemical costs had gone up and they were treating more water.

Assistant City Manager Thomas asked if the Council wanted to stick with the current system of parking enforcement or if they wanted to implement a paid parking situation. The Council concurred to remain status-quo.

Communications Manager LaFollette presented the Blackridge neighborhood parking permit survey results. He said they had received 65 responses and went through some of the questions and results.

Councilmember Ohrn commented there had been a small handful of concerns and she did not think a policy overhaul was worth it to pacify a small handful, although their voices were important. Councilmember Henderson commented there had been issues in the area in 2016 and there was always going to be unintended consequences and there would never be a solution which would please everyone. He asked if there was a real problem they needed to address or if it was a small irritant to a couple of people and stated if there was a real problem then they could implement a system but by and large the permit system had solved a lot of the problems.

Communications Manager LaFollette continued with the survey results. Councilmember Ohrn stated when she got complaints, she always informed residents it was a secondary water reservoir.

2.5. Youth, Teen, and Active Aging Programming Discussion – Wendy Thomas, Assistant City Manager

Assistant City Manager Thomas stated this issue had been brought to staff by Councilmember Ohrn, who had asked about using the old facility for youth, teen, and active aging programs. Councilmember Shields wanted to hear more about costs. Councilmember Henderson commented this was similar to the rugby situation and felt although this was a good program they had to determine what the City's core responsibilities for cost would be. Director of Operations Johnson stated the costs would be around \$100,000 per year.

Councilmember Henderson asked if it would be the City's responsibility for all the resources which would be required to run a program like this. Assistant City Manager Thomas stated she did not want to get too far into a financial analysis, as Council was already set on selling the building. Councilmember Ohrn commented they would not be acquiring any more land and it was expensive to build facilities and they had a facility just sitting there. She stated she knew the building needed maintenance, but discussed there was a cost saving for the

City in providing activities for youth as it would keep them off the streets and out of trouble.

Councilmember Ohrn thought the County was offering too many services and she did not like paying taxes for all of those, but she thought they could get funding from some of these resources. She thought they were growing at a rate where these demographics needed to be addressed. Mayor Palmer referenced some examples from the County about possible resources. Assistant City Manager Thomas commented there were a lot of buckets to draw from.

Councilmember Shields clarified what the building would be used for and said they would need to determine what percentage of use would be covered by these programs. Assistant City Manager Thomas stated the information being requested would not be hard to get, she had done this for other cities she had worked for, but she did not want to go down that path if there was no interest in keeping the building. Councilmember Shields thought they should keep the building and repurpose it even if they did not use it for these programs. Assistant City Manager Thomas stated she would put some information together and come back to the Council. Director of Operations Johnson commented the figure they had come up with for a revamp was \$3.1 million.

Councilmember Ohrn moved to adjourn the work meeting at 6:52 PM to convene in the regular meeting. Councilmember Henderson seconded the motion, and all voted aye.

The Council reconvened the work meeting at 8:25 p.m.

2.6. Discuss Proposed amendments to the fiscal year 2023 budget – Kyle Maurer, Finance Director

Finance Director Maurer presented the proposed budget amendments. He stated they were waiting on some numbers, particularly for vehicle purchases, and he clarified anything highlighted in red had been changed in the packet.

Finance Director Maurer explained how he had tried to group the amendments and began his presentation. He discussed the CDRA settlement agreement from 2019 and some of the grant reimbursements they had received. He said the City needed to purchase two dump trucks and they would be using lease revenue, but the prices had gone up substantially.

Finance Director Maurer talked about the transfer in from High Country 2 and said they had discovered the Parks Department had been paying for water and so they needed to be reimbursed by the Homeowners Association. He continued with the presentation and said they had not received the vehicles they had planned for the year before so that cost had to carry over, but the prices had increased, so they needed adjust their vehicle purchase budget and acquisition.

Finance Director Maurer discussed the General Fund and Fund Balance. He said the State mandated they had at least 5-percent in the Fund Balance but they could go up to 35-percent, and reported they were currently at 23-percent. He said he would like to have a more in-depth conversation about where the City would like to be regarding the Fund Balance.

Finance Director Maurer continued with the presentation and discussed the Public Safety Fund and the creation of the fire safety areas and the increase of the general tax which had occurred to fund services. He discussed the police budget and explained the differences which had been made particularly relating to vehicle purchases.

Finance Director Maurer moved on to setting future budgets and determining future long-term fiscal stability.

Councilmember Shields requested clarification on the General Fund and the transfers between the HCSEA fund. City Manager Cherpesci clarified the HSCEA was a funding mechanism which went into the General Fund where all the purchases were made. Finance Director Maurer stated the biggest issues were the things which had been left out of the budget like the taser contract, and the shifting of vehicle purchases.

Operations Director Johnson commented one of the things with vehicle contracts was obtaining the vehicles. Police Chief Carr stated they wanted to spread out the costs by not acquiring multiple new cars at a time but with the supply chain issues, this staggering has become congested. Operations Director Johnson stated one of the factors was during Covid-19 the Council elected not to replace any vehicles, which pushed everything down the line. Police Chief Carr stated they were exploring different makes and models, but supply chain issues were occurring across the board.

Councilmember Hodges asked if there was a funding mechanism in place and if so, did it need to be adjusted. City Manager Cherpesci stated a further discussion was warranted because there has been an increase in Police salaries and vehicle costs. Property taxes received did not match inflated rates which was not sustainable. Finance Director Maurer stated the City needed to be very transparent with options and what a long-term projection outlined.

Finance Director Maurer stated in the fire service area, items had been left out of the budget including grounds and maintenance as well as professional fees. He said there would have to be a small Fund Balance adjustment, which would leave the actual Fund Balance at around \$2.7 Million.

Finance Director Maurer discussed the Park Impact Fee Fund and the Road Impact Fee Fund and talked about the Storm Drain Impact Fee Fund and General Capital Projects. He stated there was a negative Fund Balance issue according to audit but through various transfers, this issue would be resolved.

Finance Director Maurer stated staff had a fund set up for projects around City Hall and he had put in a large amount to prevent any under budget issues. He moved onto the Water Fund and stated they had not been budgeting their bond principal payments which could be made through gaps. He expressed concern about not allocating the principal payments into the budget. He stated the Water Fund needed an in-depth conversation and it was time for a new water rate study.

Mayor Palmer thanked Finance Director Maurer for all his hard work.

2.7. Streetlight Décor and Banner Discussion— Monte Johnson, Operations Director Operations Director Johnson reviewed the Christmas decorations and stated staff had installed and were now taking down around 200 decorations. He said staff usually tried to conduct this within a week, which required the rental of an additional bucket truck to allow two crews to remove decorations. He presented a map which illustrated where decorations were hung throughout the community.

Assistant City Manager Thomas commented HPD helped in areas where no shoulders were on the road. Operations Director Johnson estimated costs for the bucket trucks at \$2,250 for the week, fuel for the trucks were around \$800, and labor costs were \$14,000, setting a final cost at around \$17,000, not including the electricity or decorations. He said staff had started a conversation about the desire to continue spreading decorations around the City, or if it would be more reasonable to reduce the spread over time and focus on the main roads. He stated with the expansion of the City, staff would need to acquire more decorations along with additional storage. Over time, decorations would need to be replaced as they deteriorated, and outlined one proposal was to reduce the decorated area of the City.

Assistant City Manager Thomas stated staff had started reducing the size of the decorations themselves to around four feet in order to make for easier storage, and she said each of those decorations ran from \$500 to \$700. Councilmember Ohrn suggested to scale it down to the main roads and commented the City held a Christmas decoration contest and suggested to encourage residents to decorate more. Councilmember Shields agreed with decorating main roads only.

Assistant City Manager Thomas commented on the Spring Canyon Drive agreement. Operations Director Johnson stated the old city engineer had made a verbal agreement with the subdivision if the subdivision donated money for decorations, the City would decorate the street. He stated if staff decided to scale back decorating, he would approach the subdivision and have a conversation with them to agree to give back the donated decorations.

Mayor Palmer wanted to find a way to not need to rent an extra truck. The Council expressed support to look into available options and bring it back for further discussion on

consolidating the plan.

Operations Director Johnson moved onto a discussion about banners. He stated staff received a lot of requests from the schools and sports teams to hang banners which take a considerable number of staff hours to display and remove. He said some of issues to consider were the high school wanted the banners hung consistently, but the banners get weathered and there are scheduling conflicts for displays.

Operations Director Johnson stated there was a \$50 application fee and a \$22.50 fee to hang the banners. He said this rate had been the same since 2010. Councilmember Ohrn asked how much it cost to hang each banner. Operations Director Johnson stated it cost around \$10 to hang a banner. He said since the middle of December, staff had lost several streetlights due to a hit and run accident, and the City did not receive any reimbursement from insurance claims when people fled the scene of an accident.

Operations Director Johnson stated one of his biggest concerns was when nonprofits with conflicting views of the City came in and wanted to hang banners, it should be allowed. City Manager Cherpesci commented he did not think the City should be hanging banners for private groups. He said he had less concerns with working with the schools as they were public entities.

Operations Director Johnson presented a copy of the original ordinance and staff did not have a record of it being signed so it had never been codified properly. Councilmember Hodges asked if staff wanted to keep control as a City or if the task could be contracted out to the schools. Operations Director Johnson stated this approach was discussed; however, concerns arose due to liability issues. City Manager Cherpesci stated staff had discussed only allowing City co-sponsored entities to hang banners.

Council consensus was to adjust fees for banners, as well as things such as not waiving park fees. Councilmember Henderson commented to do whatever to limit liability and limit cost. Councilmember Ohrn was supportive of the schools paying fees to cover costs. Councilmember Shields thought generally, the City cannot be in the business of waiving fees as costs should be covered. Operations Director Johnson stated the poles were rated to hold banners; however, sometimes the banner arms break and become a safety hazard. Assistant City Manager Thomas said staff would draft a memo to outline everything discussed.

Councilmember Ohrn moved to temporarily recess the City Council work meeting at 9:30 p.m. to convene in a closed session to discuss pending or reasonable imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205 at 7:42 p.m. Councilmember Hodges seconded the motion.

The vote was recorded as follows:

<i>Councilmember Jared Henderson</i>	Yes
<i>Councilmember Teddy Hodges</i>	Yes
<i>Councilmember Sherrie Ohrn</i>	Yes
<i>Councilmember Steven Shields</i>	Yes
<i>Mayor Lorin Palmer</i>	Yes

The motion passed unanimously.

The Council reconvened the work meeting at 10:18 PM.

3. Adjournment

Councilmember Hodges moved to adjourn the city council work meeting at 10:18 p.m. Councilmember Ohrn seconded the motion, and all voted aye.

7:00 PM – GENERAL MEETING:

4. Call to Order

Mayor Palmer called the meeting to order at 7:05 p.m.

4.1. Invocation/Thought/Reading and Pledge of Allegiance

Mr. Luke Roth provided the invocation. Scout Troop #123 presented the colors and led the audience in the Pledge of Allegiance.

4.2. City Council Comments and Recognitions

Councilmember Ohrn received a public comment via the online process concerning parking. She explained the policy in the City which stated during snow events there was no parking allowed on the road, and she reported this resident felt this was not a good policy. She clarified this was not a new policy as it had been in place for some time, and added this policy was in place for safety purposes during snow events. Councilmember Ohrn acknowledged the growth in the City and its effect on parking.

Councilmember Hodges agreed with Councilmember Ohrn's comment and stated he and Mayor Palmer had gone out with the plow truck driver's and saw the parking problem during plowing. He thanked staff for their hard work. He stated an email was received from VECC regarding their holiday party and how well it had gone.

Councilmember Shields gave a shout out to the snow crews for their work during the City's recent snow events, despite equipment issues.

Mayor Palmer also extended appreciation for the plow crews and their hard work throughout the season and thanked them for the good job they were doing.

5. Public Comment

Deirdre Patterson thanked Council for their work on the road in the Lakewood subdivision. She stated this road should never have been a private road and she knew the City was aware of that, and she complained the City was now allowing people to trespass on private property. She said this was a special circumstance in which proper planning had not taken place and now they were left trying to find a resolution. Ms. Patterson acknowledged this had been discussed in the work meeting, but she worried the figure they had come up with in that meeting as a solution to pay for the road was not close to what was needed to maintain the wear and tear on the road. She argued since she and her neighbors' paid taxes to the City, the City should maintain the road. Ms. Patterson stated they had resurfaced the road and it had cost \$20,000 so the City would be acquiring a road in good shape with many more years of use in it, and she felt the proposal of \$6,000 for the City to take responsibility of the road was a small price to pay.

Jonathan Mitchell said he was having an issue with parking, and had been having this issue for years. He stated this had been brought to Council's attention for years and yet nothing seemed to be getting done. Mr. Mitchell added he had recently held a conversation with an officer who had told him there was no leeway for them in terms of parking, even when Mr. Mitchell pointed out there was nowhere else for them to park. He said the City really needed something to be done to address the issue of where they could park.

Dwayne Boring stated he had sent this comment via email and said he had listened to the work meeting, in which he had heard a lot about unintended consequences five to ten years down the road. He commented on the later discussion about the removal of committees from City Code and offered his idea as to how to maintain these committees going forward. Mr. Boring stated he was trying to protect existing committees so they were not arbitrarily disbanded.

Brock Hadley commented on the Lakeridge subdivision and said he and his neighbors had been maintaining the road. He appreciated the options staff came up with to mitigate this issue, and acknowledged they had not created the problem but were now tasked with creating a solution. He said it had been proposed in the work meeting to reimburse the HOA for the use of the access road, but he said the cost they had come up with in the meeting was much lower than it would cost for the HOA to maintain the road.

Kiara Su Nielson said she was a junior at Providence High School and wanted to address the issue of a crosswalk at their school. She stated the crosswalk was on Patriot Ridge Drive and connected the junior high and high school, and the crossing guard assigned to the location had recently been removed. Ms. Nielson stated this caused several safety concerns as well as traffic issues. She stated there was bad visibility which put students in danger, and she asked Council find a solution to make this crosswalk safer for students.

6. City Council Reports

6.1. Councilmember Jared Henderson

Councilmember Henderson had nothing to report.

6.2. Councilmember Teddy Hodges

Councilmember Hodges stated he had a Sewer Board Meeting the week after Christmas and the key topic was the expansion of the sewer district out west with the growth by Bacchus Highway and U-111.

6.3. Councilmember Sherrie Ohrn

Councilmember Ohrn reported on the Water Conservancy Board and stated Utah was getting a lot of water this winter season, which was a very good thing. She stated as of that morning, the snow water equivalent at Utah Lake was 15 inches which exceeded the typical peak. Councilmember Ohrn stated Utah receives around 100,000-acre feet of water, and the calculations for this year were at 200,00 acre feet, so it might have an opportunity to fill local reservoirs. She clarified while this was very positive, they were not out of a regional water crisis and encouraged everyone to continue water conservation efforts. She stated the growth coming with the western expansion did not come with any water conservation plans and so they needed to continue to conserve and use good water practices to utilize the surplus of snow that they had gotten this year. Councilmember Ohrn referenced the app www.windy.com, and commented on the atmospheric river which was occurring.

6.4. Councilmember Steven Shields

Councilmember Shields agreed with the conservation statements made by Councilmember Ohrn, and added the Olympia project would bring in a lot of people as would South Jordan as they added another 11,000 houses. He said both of those developments would use a lot of water and he encouraged people to continue to conserve. He commented on mosquito abatement and said there had only been two human cases of West Nile the previous year, but all the extra water would impact mosquito populations and he encouraged people to keep a lookout this spring and summer.

7. Mayor Report

Mayor Palmer had nothing to report.

8. Reports, Presentations and Appointments

8.1. Introduction of the Herriman City Royalty

Assistant City Manager Thomas introduced Kaitlin Shriner and Ryan Heston and acknowledged them for their service at city events and turned the time over to Ms. Shriner.

Ms. Shriner thanked the Council for having her there and said she was excited to be Miss Herriman for the year. She stated the Miss America project had always been very close to her heart, and at the core of the project was focused on community service and allowed for

participants to focus on issues which were special to them. Ms. Shriner stated her cause was youth and education and her platform was empowering the rising generation by giving them opportunities to expand their knowledge outside of the traditional classroom setting. She had partnered with local high schools and junior highs and was working on them on learner focus and looked forward to continue working with them.

Mayor Palmer expressed appreciation and encouraged them to let Council know how they could help them throughout their journey.

8.2. Recognition of Detective Chuck Malm by the Office of Congressman Burgess Owens – Alex Johnson, Office of Congressman Owens

Office of Congressman Owens Representative Alex Johnson expressed appreciation to the Mayor, Council, and staff. He recognized Detective Chuck Malm on behalf of Burgess Owens. He read the letter of Congressional Recognition and presented Detective Malm with a certificate.

Mayor Palmer stated he had been on a ride along with Detective Malm and expressed his appreciation for him and the Herriman Police Department.

8.3. 2022 Water Conservation Report – Justun Edwards, Public Works Director

Public Works Director Justun Edwards presented the 2022 Water Conservation Report. He gave an overview of the precipitation and temperature trends and the total water use throughout the city during the irrigation season of April thru October. Public Works Director Edwards acknowledged the decrease in water use due to conservation messaging and efforts and reviewed actions to continue to reduce water use. He commended the Parks Department for their decrease in water use and addressed methods they were taking to make reductions in their water use.

Public Works Director Edwards addressed the work which had been done by the communications department to get the message out about water conservation and actions which could be taken to reduce water use. He wrapped up his presentation and stated water conservation was key to ensure they had water for the future.

Councilmember Ohrn commended Public Works Director Edwards for all his hard work in leading the conservation effort. She appreciated seeing this type of report that validated people's efforts in the mission of conservation. Councilmember Ohrn stated there was a lot of money going into conservation efforts across the state and there were programs for new homebuilding that incentivized conservation and wise landscaping and she encouraged residents to take advantage of these programs.

9. Consent Agenda

- 9.1. Approval of a Resolution accepting a petition for annexation filed by Kennecott Utah Copper, LLC for further consideration and related matters
- 9.2. Approval of the monthly financial summary for November 2022
- 9.3. Approval of the December 12, 2022 City Council meeting minutes
- 9.4. Approval of a Franchise Agreement Template for Telecommunication Providers

Councilmember Hodges moved to approve the consent agenda as written. Councilmember Henderson seconded the motion.

The vote was recorded as follows:

Councilmember Jared Henderson	Yes
Councilmember Teddy Hodges	Yes
Councilmember Sherrie Ohrn	Yes
Councilmember Steven Shields	Yes
Mayor Lorin Palmer	Yes

The motion passed unanimously.

10. Discussion and Action Items

10.1. Discussion and consideration of an ordinance removing City Council Appointed Boards and Committees from Title 2 of Herriman City Code – Wendy Thomas, Assistant City Manager

Assistant City Manager Thomas brought the item for official vote. She stated this would remove all committees and boards except for Planning Commission and Youth Council from Herriman City Code Title 2.

Mayor Palmer referenced the public comment from Mr. Boring and asked if there was a way to do what Mr. Boring asked and codify the existing committees. Assistant City Manager Thomas stated the nonprofit was formed on four pillars: arts, trails, parks, and culture, and he said if Mr. Boring would like to continue his participation with the OHV trails, he would need to apply through the nonprofit to be a part of that committee. She stated there were different subcommittees under each board of director for each of the pillars.

Councilmember Ohrn asked if they made this change, and it did not work out if the Council would be able to reestablish the committees back to the City umbrella. Assistant City Manager Thomas responded in the affirmative and indicated there were advantages to being under the umbrella of a nonprofit. She stated donors were more likely to contribute to nonprofits over city programs.

Councilmember Ohrn asked if someone could specify what subcommittee would receive a donation. Assistant City Manager Thomas responded in the affirmative. It was reported the

non-profit had already raised \$60,000 and the City would get to see the results of this in the next week or two. Councilmember Ohrn said she was concerned because these committees were not accountable to them anymore, but she thought there was still an option for them to reach back out to the City. Assistant City Manager Thomas stated they would still be accountable to the City to use their equipment and facilities. Councilmember Shields wanted to clarify these committees would still be operating under Council purview.

Mayor Palmer stated this was the way for people in the community to get involved and all residents would need to do to get involved is go to www.friendsofherriman.org and fill out the application form. He asked how Council could ensure that these committees would be taken care of. Assistant City Manager Thomas stated they had been meeting with all the committees to bring them up to speed and all they would need to do is apply to the directors.

Councilmember Hodges asked if this would affect any of the preexisting events. Assistant Manager Thomas stated they anticipated a higher volunteer turnout which would hopefully reduce staff time. She said the first year would be a bit more labor intensive but overall down the road this would take some responsibility off of staff and city employees.

Councilmember Ohrn confirmed everything that was in existence had a subcommittee created for them. Assistant City Manager Thomas confirmed.

Councilmember Henderson reported there had been some concerns from people the City was relinquishing control and each committee would have control, and he clarified for the record that the City still had overall control.

Assistant City Manager Thomas stated she had seen this work in other communities, and staff had done a lot of research for this, and she was confident this would make a positive change for the future.

Councilmember Henderson moved to approve Ordinance No. 2022-01 removing City Council Appointed Boards and Committees from Title 2 of Herriman City Code relating to removing the Historical Society, Community Arts Council, Healthy Herriman Committee, Herriman Trails Committee, Veterans and Military Advisory Committee, Herriman Off-Highway Vehicle Committee, and the Diversity Inclusion Advisory Board. Councilmember Ohrn seconded the motion.

The vote was recorded as follows:

<i>Councilmember Jared Henderson</i>	<i>Yes</i>
<i>Councilmember Teddy Hodges</i>	<i>Yes</i>
<i>Councilmember Sherrie Ohrn</i>	<i>Yes</i>
<i>Councilmember Steven Shields</i>	<i>Yes</i>
<i>Mayor Lorin Palmer</i>	<i>Yes</i>

The motion passed unanimously.

10.2. Herriman Main Street Widening Construction Contract Approval

Discussion– Bryce Terry, Assistant City Engineer

Assistant City Engineer Terry reported House Bill 244 granted Herriman \$800,000 per year for 15 years for road development, and to make that most effective they had bonded for all of it up front. He stated staff had received bids for this project and they had ranked the contractors to determine the top four they wanted for the project. Assistant City Engineer Terry stated three of the top four had put in bids for the project. He explained the bonding process and said the lowest bid for the project was from Landmark Excavating, and it had come in significantly lower than all the other bids. He said there was usually some concern when a bid came in that much lower, so they had done a review of the bid items, but they did not find any concerns; their pricing was just more competitive.

Assistant City Engineer Terry stated the low bid was just over \$9 Million, and they were allowed to bond for around \$10.5 Million. He stated the MDA with Hidden Oaks required the City to maintain landscaping and the City had received some grant money from various sources and if they added up all of their budget sources, they had around \$13 million total available for this project. He said the \$9 Million bid was for the construction itself, but there was additional components which would need to be paid for outside of that figure.

Assistant City Engineer Terry stated any project should have a contingency built in, especially if it was a reconstruct with existing utilities, and 20-percent was a typical contingency. He said with that 20-percenet built in, the City was good to proceed with the project.

Councilmember Ohrn moved to approve the Herriman Main Street Widening Construction Contract. Councilmember Henderson seconded the motion.

The vote was recorded as follows:

Councilmember Jared Henderson	Yes
Councilmember Teddy Hodges	Yes
Councilmember Sherrie Ohrn	Yes
Councilmember Steven Shields	Yes
Mayor Lorin Palmer	Yes

The motion passed unanimously.

11. Future Meetings

11.1. Next Planning Meeting: January 25, 2023

11.2. Next City Council Meeting: January 18, 2023

12. Events

12.1. **January 12: Luau on Ice, hours vary depending on reservation time – Ice Ribbon at Crane Plaza**

12.2. **January 26: Super Heroes on Ice, hours vary depending on reservation time – Ice Ribbon at Crane Plaza**

13. Closed Session

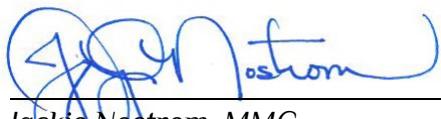
The Herriman City Council may temporarily recess the City Council meeting to convene in a closed session to discuss pending or reasonable imminent litigation, and the purchase, exchange, or lease of real property, as provided by Utah Code Annotated §52-4-205

14. Adjournment

Councilmember Ohrn moved to adjourn at 8:12 PM. Councilmember Shields seconded the motion, and all voted aye.

15. Recomence to Work Meeting (If Needed)

I, Jackie Nostrom, City Recorder for Herriman City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on January 11, 2023. This document constitutes the official minutes for the Herriman City Council Meeting.



Jackie Nostrom, MMC
City Recorder



SPECIAL CITY COUNCIL WORK MEETING MINUTES

Wednesday, January 11, 2023
Awaiting Formal Approval

The following are the minutes of the City Council meeting of the Herriman City Council. The meeting was held on **Wednesday, January 11, 2023, at 5:00 p.m.** in the Herriman City Hall Fort Herriman Conference Room, 5355 West Herriman Main Street, Herriman, Utah. Adequate notice of this meeting, as required by law, was posted in the City Hall, on the City's website, and delivered to members of the Council, media, and interested citizens.

Presiding: Mayor Lorin Palmer

Councilmembers Present: Jared Henderson, Teddy Hodges, Steven Shields

Councilmembers Excused: Sherrie Ohrn

Staff Present: City Manager Nathan Cherveski, Assistant City Manager Tami Moody, Assistant City Manager Wendy Thomas, Deputy City Recorder Wendy Thorpe, Finance Director Kyle Maurer, Director of Operations Monte Johnson, Public Works Director Justun Edwards, Communications Manager Jonathan LaFollette, City Planner Michael Maloy, Deputy Director of Parks, Finance Director Kyle Mauer, Police Chief Troy Carr, Community Development Director Blake Thomas, and Planning Manager Clint Spencer.

10:00 AM:

1. Call to Order

Mayor Lorin Palmer called the meeting to order at 5:07 p.m.

2. Administrative Reports

2.1. Game Pointe Property Amended Master Development Agreement Discussion – Tami Moody, Assistant City Manager

Assistant City Manager Tami Moody led the discussion pertaining to the amended master development agreement for the Game Pointe property. She recalled in November of 2019, the Council approved a

Master Development Agreement (MDA) for the Game Pointe Facility, which was a 40,000 square foot entertainment complex. She stated over the past few months there had been discussions about the change in the economy, so a new plan had been drawn up for the development with a mix of office, retail, and entertainment components. Assistant City Manager Moody stated the changes would require not just an amendment to the development agreement, but also a restatement so the Council had new renderings and a site plan to review as well as a very basic draft of the MDA to discuss.

Developer Aaron Osmond stated he and his associates had sat down with City Planner Michael Maloy to discuss the site plan and had the opportunity to hear feedback and noted his team had tried to reflect recommendations back to the Council. Mr. Osmond stated City Planner Maloy had requested a very significant outdoor landscaping and engagement strategy, and he discussed they were trying to be conservative with it from a cost perspective while also incorporating those elements into it as best they could.

Mr. Osmond stated the team included section examples from their designer in the appendix about how to accomplish outdoor seating, especially around the restaurant components of the project and showed images to illustrate this point. He elaborated the effort to balance some of the original site plan elements with the incorporation of the suggestions to increase the likelihood that this plan would get through the Planning Commission and back to Council for final approval.

City Planner Maloy stated he appreciated Mr. Osmond's courtesy, and thought the images being shown were fantastic. Councilmember Shields stated there was a restaurant he went to in Oswego that was two restaurants connected with a trellis and both had outdoor seating, and he thought it was fantastic concept. Mr. Osmond commented the tenants were loving the idea as well, and he thought they had a winning combination of interest. He stated the tenants liked the uniqueness of all the ideas in the same development.

Councilmember Henderson wanted to be sure the pictures presented were reflective of the actual finished project. It was stated the old plans would be replaced by the new plans. Councilmember Henderson expressed his approval. Mayor Palmer commented this was a unique design as they had no outdoor seating already in Herriman, and said he appreciated it.

Councilmember Henderson liked it did not have the appearance of a strip mall and there were distinct separate spaces. Councilmember Shields stated there was a demand for office space and asked if there had been any consideration about possibly creating a three story office space. Mr. Osmond replied it had not been talked about and he knew there was demand and they had a lot of space in the building, but if they were shown a high enough demand they would be interested in exploring that option. Councilmember Shields stated he did not have any data to present him but they just did not have office space anywhere.

City Attorney Todd Sheeran commented going too high could affect parking. City Planner Maloy stated they had a really good tool in the parking ordinance which allowed for a parking impact study and with office versus restaurant use. It also depicted the difference between daytime versus night-time trips

and the Planning Commission had always responded very well, as long as the study supported the request. Mr. Osmond commented the team had already reached out to the same parking study group who had done the parking study for the Automall, and they felt confident the project would be within the parameters.

City Planner Maloy stated through their discussions, Mr. Osmond had recognized the need to mature the concept but they had already spent quite a bit of money on the first iteration of this site and until there was a level of comfort from the Council they were concerned about refining the site plan. City Planner Maloy stated they would see further refinement as long as there was a significant level of comfort expressed from Council.

Councilmember Henderson stated if it took more time for them to get it done right, he was fine with that. Mr. Osmond replied staff had brought up some concerns about getting the plan through the Planning Commission because of the timeline, and so there had been some discussion about possibly keeping it within Council based on the MDA. He asked if Council was okay with keeping it in the Planning Commission with the current timeline. Community Development Director Thomas stated staff had not really looked at that yet and there were steps in between which would have to be conducted. Mr. Osmond stated the team had set a target date of April for completing the permit for the first building or two and that had already been signed in the repurchase option.

Community Director Thomas stated they might need to have a permit review before they had a site plan review and then they would need to go through a subdivision review. Mr. Osmond stated they wanted to get past the buyback option before investing any more time and money into the project.

Mayor Palmer expressed he was in favor of the project, but wanted to see the renderings referenced in the MDA and also wanted a guarantee that 35-percent would be for entertainment and restaurant. City Attorney Sheeran said it could be added into the draft.

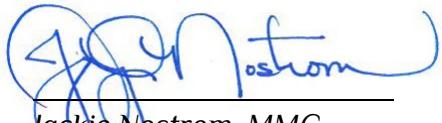
City Planner Maloy stated they could do the subdivision, site plan, and building elevation reviews concurrently. Assistant City Manager Moody confirmed the Council was okay with working with the developer to determine dates and bringing the MDA back.

City Attorney Sheeran thought it would be cleaner and easier to do a new MDA. Mr. Osmond asked what the step for signing a new MDA agreement would be. City Attorney Sheeran stated they would need to go through the Planning Commission first and then it would go to the City Council after that.

3. Adjournment

Councilmember Hodges moved to adjourn the special City Council meeting at 5:24 p.m. Councilmember Henderson seconded the motion, and all voted aye.

I, Jackie Nostrom, City Recorder for Herriman City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on January 11, 2023. This document constitutes the official minutes for the special Herriman City Council Meeting.



Jackie Nostrom, MMC
City Recorder



STAFF REPORT

DATE: January 24, 2023

TO: The Honorable Mayor and City Council

FROM: Nathan Cherveski

SUBJECT: Ordinance updating the City's surplus property ordinance

RECOMMENDATION:

Adopt the attached Ordinance amending Herriman Code section 1-10-14.

ISSUE BEFORE COUNCIL:

Should the City Council update the City's surplus property ordinance?

BACKGROUND/SUMMARY:

The City's surplus property ordinance dictates how the City designates surplus property, how that property is valued, and the methods of disposition. The ordinance needs to be updated to better reflect differences between real property vs. personal property and to remove some code sections that inhibit the City from receiving the highest value for surplus properties.

DISCUSSION:

With changes in staff over the last few years, City staff is undertaking a review of key ordinances to make sure they are up to date and reflect best practices. The surplus property ordinance needs to be updated to better reflect differences between real and personal property. Additionally, the current code states that surplus property should first be offered to City employees and contract providers. This doesn't represent best practice and seems to inhibit the City's ability to get a fair return. Such a practice would put those whose job it is to determine surplus status with the ability to purchase said property without an equal opportunity for the general public. Staff recommends removing those requirements.

ALTERNATIVES:

1. Approve the attached Ordinance
2. Approve the ordinance as amended by Council
3. Decline to act and give staff further direction.

FISCAL IMPACT:

The intent is to recover the highest value for City owned surplus property. While this will not have a direct impact today, these changes could result in additional funds to the city in the future..

ATTACHMENTS:

Ordinance

ORDINANCE NO. 2023-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERRIMAN, UTAH, AMENDING HERRIMAN CITY CODE 1-10-14 RELATING TO THE DISPOSAL OF SURPLUS PROPERTY

WHEREAS, Utah Code § 10-9a-102 grants the Herriman City (the “City”) authority to enact ordinances that the Herriman City Council (the “City Council”) considers necessary or appropriate; and

WHEREAS, the subject text amendment modifies and updates the City’s disposal of surplus property; and

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

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

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

SECTION 1. Text Amendment. The Council amends City Code § 1-10-14 as shown in Exhibit A.

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

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

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF HERRIMAN,
UTAH, ON THIS _____ DAY OF _____, 2023.**

HERRIMAN CITY COUNCIL

Mayor: _____
Lorin Palmer

Attest: _____
Jackie Nostrom, City Recorder

1-10-14: Disposal Of Surplus Property

- A. No City owned property, except property that is consumed in normal operations, shall be disposed of or released to ownership by anyone other than the City Council, except as provided in this section.
- B. Whenever property is surplus, unused, obsolete, unsuitable, or otherwise no longer needed and the estimated reasonable value of the property is ten thousand dollars (\$10,000.00) or less, the City Manager, or Assistant City ManagerDesignee may declare the property surplus and shall either establish a minimum bid for the sale of such property or declare that the property is of nominal value. If the City Manager, or Assistant City ManagerDesignee has declared the property to be surplus and established a minimum bid, then such property may only be sold for an amount equal to or more than the minimum bid based on the highest and best economic return to the city. If the city manager, or assistant city managerDesignee has declared the property to be surplus and declared that the property is of nominal value, then such property may be disposed of as determined by the city manager, or assistant city managerDesignee.
- C. Whenever city property is surplus, unused, obsolete, unsuitable or otherwise no longer needed and the estimated reasonable value is more than ten thousand dollars (\$10,000.00), the director or department manager having control of such property shall promptly so notify the city manager, or assistant city managerDesignee. The city manager, or assistant city managerDesignee then shall notify other city departments of the availability of such property. The city manager, or assistant city managerDesignee shall supervise the transfer of such property to the department requesting the property. If no use can be made or can be expected to be made within the reasonably foreseeable future, the property shall be disposed of in accordance with subsections D, E, F, and G of this section. (Ord. 2015-25A, 8-12-2015)
- D. The city manager, or assistant city managerDesignee shall prepare and present a listing to the city council of all city-owned real property which he the City Manager feels is no longer needed by the city and which can be declared surplus. The city council may declare the property surplus and shall establish a minimum bid for the sale of such propertyauthorize the City Manager to establish a base bid for the property in accordance with this section. Valuation for real property shall be through one of the following methods: 1) Appraisal by qualified appraiser, 2) Opinion of value from competent real estate professional, or 3) if adjacent or nearby property has been sold or listed, the city at its discretion may use that to set the minimum bid for surplus property.
- D.E. The City Manager shall prepare and present a listing to the City Council of all city-owned personal property that is no longer needed by the City along with estimated values. The Council may declare the property surplus and authorize the City Manager to establish minimum bids for said property. If the city council has declared the items to be surplus and established a minimum bid, then the city manager, or assistant city managerDesignee shall proceed to sell such surplus property for an amount equal to or more than the minimum bid based on the highest and best economic return to the city, except that consideration for surplus property conveyed may be based on other public policy factors if the city council makes a determination, pursuant to its legislative authority, that the consideration is adequate.
- E.F. Unless the city council has determined that consideration for the surplus property shall be based on other public policy factors, the highest and best economic return to the city, as referred to herein, shall be determined by one or more of the following methods: 1) competitive bid/auction; 2) evaluation by a qualified and disinterested appraiser(s); 3) other professional publication and valuation service; or 4) an informal market survey by the designee; 5) in the case of items of personal property possessing readily discernible market value; or 6) some other method as directed by the City Council.
- F. The method to determine the highest and best economic return to the city or if other public policies factors were considered shall be approved or identified by the city council at the time the minimum bid is established. (Ord. 2016-27, 8-24-2016)

G. Monetary proceeds from the sale or other disposition of such property pursuant to this section shall be credited to the appropriate fund.

~~H. Notwithstanding anything to the contrary herein, surplus property disposed of pursuant to this section shall first be offered to city employees and city contract providers, and if not disposed of (subject to the conditions of disposal pursuant to the provision of this section), then the surplus property shall be offered to the public (subject to the same such conditions). (Ord. 2015-25A, 8-12-2015)~~

1-10-14: Disposal Of Surplus Property

- A. No City owned property, except property that is consumed in normal operations, shall be disposed of or released to ownership by anyone other than the City Council, except as provided in this section.
- B. Whenever property is surplus, unused, obsolete, unsuitable, or otherwise no longer needed and the estimated reasonable value of the property is ten thousand dollars (\$10,000.00) or less, the City Manager, or Designee may declare the property surplus and shall either establish a minimum bid for the sale of such property or declare that the property is of nominal value. If the City Manager, or Designee has declared the property to be surplus and established a minimum bid, then such property may only be sold for an amount equal to or more than the minimum bid based on the highest and best economic return to the city. If the city manager, or Designee has declared the property to be surplus and declared that the property is of nominal value, then such property may be disposed of as determined by the city manager, or Designee.
- C. Whenever city property is surplus, unused, obsolete, unsuitable or otherwise no longer needed and the estimated reasonable value is more than ten thousand dollars (\$10,000.00), the director or department manager having control of such property shall promptly so notify the city manager, or Designee. The city manager, or Designee then shall notify other city departments of the availability of such property. The city manager, or Designee shall supervise the transfer of such property to the department requesting the property. If no use can be made or can be expected to be made within the reasonably foreseeable future, the property shall be disposed of in accordance with subsections D, E, F, and G of this section. (Ord. 2015-25A, 8-12-2015)
- D. The city manager, or Designee shall prepare and present a listing to the city council of all city-owned real property which the City Manager feels is no longer needed by the city and which can be declared surplus. The city council may declare the property surplus and authorize the City Manager to establish a base bid for the property in accordance with this section. Valuation for real property shall be through one of the following methods: 1) Appraisal by qualified appraiser, 2) Opinion of value from competent real estate professional, or 3) if adjacent or nearby property has been sold or listed, the city at its discretion may use that to set the minimum bid for surplus property.
- E. The City Manager shall prepare and present a listing to the City Council of all city-owned personal property that is no longer needed by the City along with estimated values. The Council may declare the property surplus and authorize the City Manager to establish minimum bids for said property. If the city council has declared the items to be surplus, then the city manager, or Designee shall proceed to sell such surplus property for an amount equal to or more than the minimum bid based on the highest and best economic return to the city, except that consideration for surplus property conveyed may be based on other public policy factors if the city council makes a determination, pursuant to its legislative authority, that the consideration is adequate.
- F. Unless the city council has determined that consideration for the surplus property shall be based on other public policy factors, the highest and best economic return to the city, as referred to herein, shall be determined by one or more of the following methods: 1) competitive bid/auction; 2) evaluation by a qualified and disinterested appraiser(s); 3) other professional publication and valuation service; 4) an informal market survey ;5) in the case of items of personal property possessing readily discernible market value; or 6) some other method as directed by the City Council.
- G. Monetary proceeds from the sale or other disposition of such property pursuant to this section shall be credited to the appropriate fund.