PROVO MUNICIPAL COUNCIL

Work Meeting

11:30 AM, Tuesday, April 18, 2023
Council Chambers (Room 100)
Hybrid meeting: 445 W. Center Street, Provo, UT 84601 or
https://www.youtube.com/provocitycouncil

The in-person meeting will be held in the **Council Chambers**. The meeting will be available to the public for live broadcast and on-demand viewing on YouTube and Facebook at: youtube.com/provocitycouncil and facebook.com/provocouncil. If one platform is unavailable, please try the other. If you do not have access to the Internet, you can join via telephone following the instructions below.

To listen to the meeting by phone: April 18 Work Meeting: Dial 346-248-7799. Enter Meeting ID 876 8866 7696 **and press #. When asked for a participant ID, press #.**

Agenda

Roll Call
Prayer

Approval of Minutes

February 28, 2023 Council Meeting
March 14, 2023 Work Meeting
March 14, 2023 Council Meeting
March 28, 2023 Council Meeting

Business

1. An ordinance amending Provo City code to prohibit the issuance of administrative approvals for noncompliant properties or businesses. (PLOTA20230048)

2. An ordinance approving the petition to annex approximately 106 acres of property located at approximately 225 S 950 E. East Bay Neighborhood (PLANEX20220317)

3. An ordinance amending Zone Map classification of approximately 0.84 acres of real property, generally located at 141 E 500 N, from Residential Conservation (RC) to Medium Density Residential (MDR) & authorizing a related development agreement. Joaquin Neighborhood. (PLRZ20220343)

4. An ordinance amending the Zone Map classification of approximately 0.48 acres of real property, located at 734 S Utah Ave, from Heavy Commercial (CM) to One Family Residential (R1.8). Provost Neighborhood. (PLRZ20230019)

5. A Resolution to place the vacant property known as a "proposed tennis court" in Block "A" Vivian Park Subdivision on the Surplus Property List. (23-040)

6. A presentation regarding the proposed Annual Action Plan funding for the 2023-2024 year. (23-027)

7. An ordinance granting FIF Utah LLC, DBA Utah Broadband, a nonexclusive franchise to operate a telecommunications network in Provo, Utah. (23-039)

8. An ordinance amending Provo City code regarding micromobility devices. Citywide application. (23-022)

9. A presentation regarding the FY2024 Budget- Legal (23-008)

10. A presentation regarding the FY2024 Budget- Council Office (23-008)

11. A presentation regarding the FY2024 Budget - Library (23-008)

12. A presentation regarding the FY2024 Budget - Energy (23-008)

13. A presentation regarding the FY2024 Budget - Customer Service (23-008)

14. A presentation regarding vehicle replacement and fleet management. (23-008)

15. A presentation regarding the FY2024 Airport Budget and a general airport update. (23-008)

16. A presentation regarding flood mitigation and Spring run-off. (23-041)

Closed Meeting

The Municipal Council or the Governing Board of the Redevelopment Agency will consider a motion to close the meeting for the purposes of holding a strategy session to discuss pending or reasonably imminent litigation, and/or to discuss the purchase, sale, exchange, or lease of real property, and/or the character, professional competence, or physical or mental health of an individual in conformance with 52-4-204 and 52-4-205 et. seq., Utah Code.

Adjournment

If you have a comment regarding items on the agenda, please contact Councilors at council@provo.org or using their contact information listed at: provo.org/government/city-council/meet-the-council

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The next Work Meeting will be held on Tuesday, May 2, 2023. The meeting will be held in the Council Chambers, 445 W. Center Street, Provo, UT 84601 with an online broadcast. Work Meetings generally begin between 12 and 4

PM. Council Meetings begin at 5:30 PM. The start time for additional meetings may vary. All meeting start times are noticed at least 24 hours prior to the meeting.

Notice of Compliance with the Americans with Disabilities Act (ADA)

In compliance with the ADA, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting are invited to notify the Provo Council Office at 445 W. Center, Provo, Utah 84601, phone: (801) 852-6120 or email evanderwerken@provo.org at least three working days prior to the meeting. Council meetings are broadcast live and available for on demand viewing at youtube.com/ProvoCityCouncil.

Notice of Telephonic Communications

One or more Council members may participate by telephone or Internet communication in this meeting. Telephone or Internet communications will be amplified as needed so all Council members and others attending the meeting will be able to hear the person(s) participating electronically as well as those participating in person. The meeting will be conducted using the same procedures applicable to regular Municipal Council meetings.

Notice of Compliance with Public Noticing Regulations

This meeting was noticed in compliance with Utah Code 52-4-207(4), which supersedes some requirements listed in Utah Code 52-4-202 and Provo City Code 14.02.010. Agendas and minutes are accessible through the Provo City website at agendas.provo.org. Council meeting agendas are available through the Utah Public Meeting Notice website at utah.gov/pmn, which also offers email subscriptions to notices.

PENDING APPROVAL

Please Note – These minutes have been prepared with a timestamp linking the agenda items to the video discussion. Electronic version of minutes will allow citizens to view discussion held during council meeting.

PROVO MUNICIPAL COUNCIL

Regular Meeting Agenda
5:30 PM, Tuesday, February 28, 2023
Council Chambers (Room 100)
Hybrid meeting: 445 W. Center Street, Provo, UT 84601 or
https://www.youtube.com/provocitycouncil

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Councilor Shannon Ellsworth	Councilor Bill Fillmore
Councilor George Handley	
Councilor Katrice MacKay	Councilor David Shipley
Councilor Rachel Whipple	Chief Administrative Officer Wayne Parker
City Attorney Brian Jones	Council Executive Director Justin Harrison
Council Executive Director Justin Harrison	

Conducting: Chair Katrice MacKay

Prayer – Becky Bogdin (6:23)

Pledge of Allegiance – Chair MacKay (7:03)

Public Comment (7:38)

Chair MacKay opened public comment. With none, she closed public comment.

Presentations, Proclamations, and Awards

1. A presentation of the Giving Machine donations to local non-profit organizations. (23-011) (9:00)

Presented by Karen Ellingson, Utah County Communications Council for the Church of Jesus Christ of Latter-Day Saints. Ms. Ellingson introduced other members of the Communications Council.

Carl Cheney, of the Missionary Department of the Church of Jesus Christ of Latter-Day Saints, said his primary responsibility is to manage the worldwide efforts of the 'Light the World' giving machines initiative. He shared that worldwide there were approximately 425,000 people who purchased goods from a giving machine. There were approximately 75,000 people in Orem who donated and that 38,000 items were purchased. He explained the items purchased included meals, hygiene kits, clothing, school supplies, etc. He presented plaques to Bill Hulterstrom from the United Way of Utah County, Tom Hogan from Community Action Services and Food Bank, and Brent Crane from Provo Food and Care Coalition.

Chair MacKay thanked Carl for the presentation and extended her gratitude to members of the community who donated.

Action Agenda

2. A resolution transferring money from the General Fund to the Airport Fund for an interfund loan payment to Energy (23-029) (17:22)

Motion: An implied motion to approve Resolution 2023-9, as currently constituted, has been made by council rule.

John Borget, Director of Administrative Services, reminded council and attendees that this item was discussed in the work session. He explained the purpose for the loan and how it is to be paid.

Chair MacKay opened public comment. With none, she closed public comment. She then called for a vote on the implied motion.

Vote: The motion was approved 6:0 with Councilors Ellsworth, Fillmore, Handley, Mackay, Shipley, and Whipple in favor. Councilor Hoban excused.

3. An ordinance amending Provo City code regarding standards for conditional uses- dance halls. Citywide Application. (PLOTA20220404) (20:17)

Motion: An implied motion to approve an Ordinance, as currently constituted, has been made by council rule.

Aaron Ardmore, City Planner, presented. He discussed that the property owner applied for a business license for an event center and dance hall but were denied the license. After working with the Development Services staff on different options, the owner decided to apply for the text amendment. Mr. Ardmore explained that the text amendment would apply to more than just the property applying for the change. He then discussed the proposed amendments and the staff concerns associated with the request.

Councilor Ellsworth asked how frequently the city gets complaints from or about dance halls.

Mr. Ardmore responded that there is another event center that has caused frequent police calls, littering, and nuisance with noise complaints for the last few months. He said the city is trying to figure out strategies to combat and resolve the issues. He added that while not all are problematic, the potential to be is there.

Councilor Shipley asked for the rationale for the expansion of the boundary by a few hundred feet and what it would accomplish.

Mr. Ardmore said he believes it is due to noise and parking concerns.

Councilor Whipple asked why the outermost corners were included in the border. She said by doing so, it has a larger impact on homes.

Councilor Handley asked for clarification between a dance hall and a dance studio.

Councilor Fillmore asked about the vote from the planning commission and asked for the reasoning behind their vote.

Mr. Ardmore said the vote was five to two votes against. He said the reasons included best use of property for this area and the adverse impacts on the neighborhoods of residential properties nearby.

Vice-Chair Whipple asked if there was feedback provided from the neighborhood chair.

Mr. Ardmore said there was not any feedback given but notice was sent. He added that it was sent around the restructuring of the neighborhood program so that could be a reason why feedback was not provided.

Chair MacKay invited the applicant to share.

David Kang discussed the plans for property and shared it would be used for ballroom dance lessons and competitions.

Councilor Shipley asked if the applicant recommended the change of 200 to 100 ft barrier.

Councilor Fillmore asked if the applicant had explored other options besides a dance hall given the prime location of the property.

Mr. Kang explained they are open to other options. He expressed his desire to help build the future of this area, especially once something is done with the property of the old city center, but as a small business owner, it makes the most sense to start with something that the building could be used for as it currently stands. He said they have owned the property for eighteen months and they have obligations to make payments on the building.

Sean Kang discussed the process of how they got to this point and the difficulties they have faced along the way.

Councilor Handley asked Mr. Ardmore why it is not considered a dance studio instead of dance hall.

Mr. Ardmore said the applicant would be using the space as a dance studio during the day and as an event center on nights and weekends.

Councilor Whipple asked if it would be permitted for the applicant to use the space for dance lessons. After a nod from Mr. Ardmore, she asked if the applicant could use the space for dance lessons with competitions. Again, Mr. Ardmore nodded yes. She determined the text amendment request was only for the use as an event space.

Councilor Ellsworth asked if there are other event spaces downtown. She then asked for some examples of some others for comparison.

Chair MacKay stated there is The White Shanty and The Blake.

Councilor Ellsworth asked for others along Center Street.

Mr. Ardmore mentioned the Bell Tower.

Councilor Whipple added Southworth Hall.

Mr. Ardmore said that the problem the applicants are running up against is they can not apply for the conditional use permit needed due to the distance requirements for other uses.

Sean Kang added that the applicants are willing to adjust the boundaries so it would only include the two blocks that touch Center Street directly.

Chair MacKay opened item for public comment.

Becky Bogdin, of Provo, shared she has received a number of complaints from neighbors over the years regarding noise. She said her preference as a resident is to not have anything close to her home or within more than 400 feet.

With no other public comments, Chair MacKay closed public comment.

Councilor Whipple discussed the need for these types of venues in Provo.

Chair MacKay shared her experience with living close to Seven Peaks Waterpark and the noise levels. She shared it being a big deal that affects the quality of life for residents.

Councilor Ellsworth said this seems like this would be a good fit for the area. She expressed her opinion of downtown being the urban center of city. She said her hope is that homebuyers who are purchasing residences near the downtown area would have some concept of urban living. She wished the council would be able to find a better solution for the property owners.

Councilor Fillmore shared he wants to see the applicants being successful, but he cannot turn away from the recommendations of the Planning Commission and staff. He urged them to explore other options.

Councilor Handley said he is comfortable with the use that is proposed. He added that he would be comfortable with the text amendment with some minor adjustments. He stated property owners should have the ability to do what they want with the property and he does not see any problem with a dance studio.

Chair MacKay agreed with Councilor Handley. She said she likes that it would be used for ballroom dance, since there is not a space for that currently but there are a lot of ballroom people in the city that would make use of it. She asked about max capacity for an event in that building.

Mr. Ardmore answered that based on the off-street parking and the parking regulations of Provo for that use, it would be 76 occupants.

Councilor Whipple asked about the max occupancy based on fire code.

Mr. Ardmore said he did not have that information.

Councilor Shipley expressed his concern is reducing the buffer to one hundred feet for the entire zone and shared he has no other reservations.

Councilor Whipple said she would like to see a larger map to view the potential impact of this change and how many residents it could affect.

Councilor Handley shared a message from Quinn Peterson, neighborhood chair. He then shared his desire to propose an amendment to the text amendment that would shrink the space on the northern and southern boundaries.

Councilor Whipple shared support to minor adjustment proposed by Councilor Handley.

Councilor Ellsworth also shared support to the adjustment. She also shared her desire to modernize city code.

Councilor Shipley said he would not be voting yes unless he was able to get additional information on the hundred-foot buffer.

Council discussed items that they would like staff to explore and bring back to future meeting. They encouraged applicant to continue working with planning staff to address some of their concerns.

Councilor Ellsworth asked if specific conditions could be added later during the applicants petition for a conditional use permit.

Mr. Ardmore said there is room for flexibility and things could be added.

Chair Mackay asked if there were two or more councilors who wanted to continue the item. Councilor Ellsworth and Councilor Handley both expressed the desire to continue.

4. A request for approval of a Zone Map Amendment from the ITOD zone to the DT1 (General Downtown) zone in order to construct a new apartment building, at 466 South 100 West. Downtown Neighborhood. PLRZ20220220 (1:04:27)

Motion: An implied motion to approve Ordinance 2023-4, as currently constituted, has been made by council rule.

Dustin Wright, City Planner, discussed the proposed amendment.

Chair MacKay opened public comment. With none, she closed public comment and brought discussion back to council.

Chair Ellsworth asked about the advantages or disadvantages of having an ITOD zone vs the DT1 zone.

Mr. Wright said they are comparable. He said the applicant chose DT1 due to most of the property already being DT1. He added that the developer will be combining the properties into one parcel and this change would allow for one congruent zone for the entire parcel.

Chair MacKay asked for the recommendation of the Planning Commission.

Mr. Wright said the Planning Commission recommended approval.

Councilor Shipley asked why a developer would want a different zone and what is their motivation.

Mr. Wright said they submitted their plan, the staff realized there were multiple zones and instructed them to change it to one.

Jason Miller, developer, stated that out of the six properties involved, five of them were already DT1 and the other one was ITOD. He said the change they requested made the most sense for their project.

Chair MacKay called for a vote.

Vote: The motion was approved 5:0 with Councilors Ellsworth, Handley, Mackay, Shipley, and Whipple in favor. Councilors Fillmore and Hoban excused.

Adjournment

The meeting was adjourned by unanimous consent at approximately 6:37 p.m.

Pending minutes – awaiting approval

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PROVO MUNICIPAL COUNCIL
Work Meeting Minutes

11:00 AM, Tuesday, March 14, 2023
Council Chambers
Hybrid meeting: 445 W. Center Street, Provo, UT 84601 or
https://www.youtube.com/provocitycouncil

Agenda (0:00:00)

Roll Call (0:13:05)

The following elected officials participated:

Council Chair Katrice MacKay, conducting
Council Vice-chair Rachel Whipple
Councilor George Handley
Councilor Bill Fillmore
Councilor Shannon Ellsworth
Councilor Travis Hoban
Councilor David Shipley
Mayor Michelle Kaufusi, arrived 11:43 AM

Prayer

The prayer was given by Scott Bunker.

Approval of Minutes (0:14:50)

February 28, 2023
Approved by unanimous consent.

Business

1. A discussion regarding water management and conservation policies in Provo City. (23-031) (0:15:00)

Michael Sanders, Policy Analyst, introduced the presentation. Mr. Sanders reviewed a brief history of water issues in recent years, starting with the governor's 2021 declaration of a drought (which had previously happened in 2018). Mr. Sanders highlighted several key criteria that were implicated in these policy discussions. Mr. Sanders then outlined the flow of the rest of the presentation, which would include presenters from a number of different agencies.

Rick Maloy, Water Conservation Manager, and Savannah Peterson, Water Conservation Programs Manager, both from Central Utah Water Conservancy District, presented. Ms. Peterson highlighted several programs the district runs that include various incentives for homeowners to

utilize more waterwise landscaping. Ms. Peterson clarified that water saved by these programs stays in the City, it does not go back to the District. She also clarified they have requirements about plant cover, which does not include the tree canopy and homeowners are required to put in plants (not just rocks) to qualify for the programs. Mr. Maloy outlined CUWCD's landscape leadership grant and other rebate programs, which incentivize local businesses and commercial users to update to more waterwise landscaping. Mr. Maloy explained that water conservation was important so that water consumption does not outpace the availability of water sources.

Hannah Salzl, Sustainability Coordinator, presented. She introduced a program which was developed jointly among City staff with the Public Works, Parks and Recreation, Energy, and Development Services departments. Staff want to make sure that a city response on water conservation is done in a way that plays to Provo's strengths. Ms. Salzl outlined data regarding Provo's water use in recent years, which already complied with the State's conservation goals. Ms. Salzl reviewed some of the benefits of using water in park strips with turf grass, which can provide essential water for street trees and has other benefits. The standard size for park strips in Provo is 7-feet wide, in order to better support street trees. Ms. Salzl reviewed details of the Provo-specific water conservation program, which is designed to preserve Provo's ecosystem, particularly its urban street trees. Elements of the program include incentives for smart controllers and high-efficiency sprinkler heads, education materials and classes, pre-approved waterwise landscape plans, increasing the number of trees the City provides, addressing removal of turf in park strips narrower than four feet, and turf trade-in for drought tolerant grass seed.

Scott Bunker, Provo Power Assistant Director, addressed street trees in the city and the huge benefit these provide to the City. They think the best approach is to tailor a program that will meet Provo's unique needs. Mr. Bunker reviewed some of the history of Provo's street trees, which help combat urban heat islands and other impacts. Provo has planted over 33,000 trees. Provo has also achieved the state's goals for water conservation. Mr. Bunker highlighted elements of Provo's proposed water conservation program and how the elements of the program could support the urban forest while still promoting water conservation.

Dave Decker, Public Works Director, presented. They have taken certain elements of the existing programs in the state of Utah to craft a hybrid approach for Provo that meets the City's needs while promoting water conservation. Mr. Decker referenced the street trees program operated by Provo Power which is very successful. He also highlighted several programs being implemented by Public Works including smart irrigation controllers, a turf trade program, education classes about soil health, landscaping, and irrigation options, rebates for high efficiency sprinkler heads, and graywater systems. Mr. Decker shared some of the key principles which differentiate the city's program, including an emphasis on tree-planting and care, emphasis on soil health, amount of coverage, discouraging of rock mulch/encouraging organic matter, encouraging advanced irrigation, and emphasis on multiple turf options and flexibility. Mr. Decker reviewed a graph that illustrated Provo's water sources versus consumption.

Bill Peperone, Development Services Director, presented. Mr. Peperone referenced the previous presenters and the noteworthy success of Provo with regard to water conservation. Many city departments deal more directly with water issues than Development Services, but he appreciated the collaborative approach the City has taken involving all these stakeholders within the City

organization. As droughts worsen in Utah, more solutions are needed. Mr. Peperone noted his concern with CUWCD's standards given that Provo generally has 7-foot park strips. He thought staff have acted responsibly to propose a realistic and achievable plan for Provo.

Eileen Miller, Utah Valley Home Builders, presented. Ms. Miller said their organization includes representatives in the homebuilding industry from several different organizations. She shared the perspectives of builders and developers on this issue. She read a quotation from the minutes of a February 1 meeting about waterwise landscaping, which included frustration with xeriscaping, drip irrigation, and the maintenance needed.

Neil Hansen presented; he is a soil scientist and BYU professor who works in agricultural irrigation. He appreciated the opportunity to listen and participate in this discussion. He emphasized the importance of talking about water conservation in Provo. All hands are needed in cities and the agricultural realm. An adversarial dialogue will not advance anyone's goals; rather, collaboration is important to realizing everyone's goals. How we talk about water use versus actual water consumption is a key distinction. Unprecedented low water levels in many lakes and reservoirs indicate that we are overconsuming the water supply we have. Addressing the heat island effect is so important as well. He thought Provo needed to rally with other water users to address this new problem of intense water scarcity; Provo has an opportunity to expand on its successes to make even more of an impact. Rather than focusing on water per capita use or even total water use, he recommended examining the overall hydrological system and the water we can put back into the system to keep the state and its ecosystems whole.

Councilor George Handley asked Dr. Hansen about the impact to Provo's tree population and health of different types of landscaping ordinances. He wondered specifically whether changing to drip systems put trees at risk, since they may already be vulnerable because of drought and climate change. Dr. Hansen said that water efficiency would stress a tree; trees in narrow areas already have limited root systems. There is plenty of evidence in urban areas in the western US showing that we go beyond the amount of water applied to maximize the health of trees. It is important to deliver water to the best health of the tree and not overdo it. He felt that the term drip irrigation is misleading; micro-irrigation is a better term that describes a system of delivering water in a precise way to the plant to achieve better results.

Mr. Handley asked how much water from a homeowner's outdoor water use makes it back to the aquifer. Dr. Hansen did not have specific details, but he said if a homeowner reduced their outdoor water use by 50%, he did not think the water savings to the downstream flow would equal 50%; conserving and using this water wisely was still important as some of water savings may be from existing inefficiencies (where water is not making it back into the water system). He noted that outdoor water use was the most important use in addressing downstream water issues like the Great Salt Lake. Indoor water efficiency is good and this water already returns to the system; the most important thing with outdoor water use is increasing efficiency to ensure that this water is returned to the water system.

Councilor Katrice MacKay asked CUWCD about their existing programs for Provo residents. Mr. Maloy reiterated their programs available to Provo residents, including toilets and smart controller rebates. He noted the smart controller rebate program has been available for the last 8

years; this has an ongoing funding source at the State level and will continue to be available to Provo residents, regardless of the Council's decisions today. Ms. MacKay also asked which agency was the most junior partner—Mr. Maloy said that CUWCD was the most junior partner for water rights in the Colorado River water system and they provide water to the Wasatch Front. Ms. MacKay asked if Provo citizens could access all their classes; Mr. Maloy indicated yes. They offer 40-50 classes per year, many of them taught by BYU or Utah State professors or other experts. The classes are available to anyone who is interested. Ms. MacKay also clarified that none of the water conserved by Provo has to be returned to CUWCD for the City to participate in those programs and Mr. Maloy indicated that was correct.

Councilor Rachel Whipple asked if Provo Public Works had contemplated creating an education landscape like other water conservation demonstration gardens. She asked where it would be located, how much it would cost, and how long it would take to establish the plants. Mr. Decker said they have had some internal discussions about such a program, but he did not have enough details at this time to identify a location, cost, or other specific plans. Ms. Whipple suggested incorporating this into the landscaping for the new water treatment plant. Mr. Decker said that is something they have considered. Completion of the water treatment plant is about 2.5 years away. Mr. Decker suggested that if the Council was interested in a demonstration garden, perhaps to plan for one elsewhere in addition to at the water treatment plant.

Ms. Whipple asked about current design standards for development landscapes. She asked whether it would make sense to adjust the code so they keep at least 35% vegetation coverage but with less of that percentage allocated to turf. Mr. Peperone said the last update to that ordinance was about 10 years ago and they are due to revisit it in light of these discussions to determine whether that standard still makes sense.

Ms. Whipple asked about the cost of making drip systems; she wondered whether drip systems required more maintenance than a regular sprinkler irrigation system. Mr. Robins responded and indicated that any kind of drip system will require a bit more maintenance and observation—with an overhead irrigation system, it is easy to see if things are working properly. It is more difficult to see if drip systems are working since water is delivered at a slower rate. Areas without turf grass might have some time and labor savings with a drip system; it mainly depends on where and how a homeowner wants to target their water use.

Ms. Whipple asked if Provo's program could be designed to assist in addressing existing defective landscapes, such as those with all rocks or overcome by weeds. Ms. Salzl said they could tailor this program to whatever deficiencies or needs are seen in Provo. Ms. Whipple asked about multifamily homes. Ms. Salzl clarified that CUWCD's program addressed turf coverage in new multifamily homes (20% turf coverage limit). Mr. Maloy answered about what they can do for multifamily or townhomes for flip the strip—they offer programs for commercial, industrial, residential, and multi-family uses. They also have programs for new construction or rehabilitated construction for areas where there is no existing turf.

Mr. Bunker appreciated this discussion. He said that existing park strips caused many problems; he noted that Provo Power has a forthcoming grant that will be able to address park strip issues without requiring any money from the City. He also highlighted an issue with drip systems; these

systems are typically initially installed to match the size of small trees. As tree roots grow, it is important to maintain drip systems to increase their capacity to match the size of the trees.

Mr. Handley suggested updating recommended tree planting materials to reflect climate tolerance of different trees. He suggested water conservation be listed as one of the criteria for the Provo program. Mr. Handley also wanted to know how much water the City would be saving. He indicated that improving water consumption in a way that is in harmony with the other criteria is important, but for him overall water conservation is driving much of the concern. In response to a comment by Mr. Handley, Mr. Maloy indicated that a number of church meetinghouse properties of the Church of Jesus Christ of Latter-day Saints in Provo had done some work with waterwise landscaping in the last year. Mr. Handley shared additional comments on the grants and rebate programs. Councilor Bill Fillmore said he was impressed by the interdepartmental coordination that was taking place.

Ms. MacKay asked about the discussion at the homebuilders meeting about requiring new homes to have landscaping installed before occupancy is granted. Ms. Miller said one of the biggest issues is requiring landscaping bonds—with more requirements, ultimately the homeowner ends up shouldering the cost. Ms. Whipple asked if the City is underpricing its water resources. Mr. Decker said they could share some recommendations on the utility rates. Ms. MacKay emphasized that street trees add to a positive quality of life in the City. Ms. Ellsworth agreed that street trees are important to quality of life. She also noted that street trees and water conservation were not mutually exclusive things and she would love to see both prioritized. Councilor Travis Hoban shared comments based on his experience owning two homes with very different landscaping setups. He was nervous about implementing across-the-board mandates for new developments. He also wondered if water was too expensive. He thought people would do what is easiest for them such as installing rocks or concrete; this is what concerns him about implementing a mandate. Ms. MacKay was impressed by the data that a smart controller can save as much money in a month as flipping-the-strip can save in a year. She commented on several commercial/non-residential users and landscaping she has observed on these properties. Mr. Handley asked what the next steps were to move this discussion forward.

Motion: Katrice MacKay moved motion that Provo city is managing this. Pursue an approach that is Provo-specific. Seconded by Bill Fillmore.

Mr. Handley asked for clarification on her motion. Ms. MacKay said she was open to implementing more solutions for commercial properties, but she did not want to impose any mandates on citizens. Mr. Fillmore suggested selecting some of the ideas they supported from CUWCD and other entities. Mr. Hoban was supportive of the motion; he wanted to see data and information as well as understand what the City would spend, how adoption of a program would work, and what the anticipated impact would be. Ms. Whipple noted that the CUWCD standard stipulates that there should not be turf in areas 8 feet wide or less; Provo's standard of 7-foot park strips is incompatible with this standard. She wondered if CUWCD would change their standard to 6 feet wide. She supported a Provo-specific program but would want to review the landscaping standards. Mr. Shipley was ready to vote and he agreed with the ideas to move forward with a City-specific plan and try to adopt what could work from the CUWCD standards. He also suggested reviewing the tiered water rates as it has been about 4 years since the Council

reviewed these in-depth. He thought the best way to motivate people to use less water was to charge a little more for it; he thinks that is a practical approach.

Amended motion: Katrice MacKay amended her motion to direct staff to prepare a presentation for the Council about options for a Provo-specific plan where they also review landscaping standards/code and specifically address the financial implications on the city. Seconded by Bill Fillmore.

Ms. MacKay clarified that the timeline should be before or by the end of April. Ms. Salzl indicated that staff have already reviewed the landscaping standards and code and they would be prepared to address that as well. Ms. MacKay asked if Provo did not do a mandate, whether there was any application through CUWCD for homeowners. Mr. Maloy indicated they did not currently have anything but could discuss with their staff to see what is available without Provo adopting their standards.

Mr. Handley was opposed to the motion because he wanted more to be done. He was concerned about commercial and non-residential properties and hoped to include those in Provo's program.

Vote: Approved 6:1, with George Handley opposed.

2. An ordinance amending the Zone Map of approximately 11.71 acres generally located at 5515 N Edgewood Dr from MDR and A1 to PO and authorizing a Development Agreement - Riverbottoms Neighborhood. (PLRZ20220005) (2:02:53)

Aaron Ardmore, Planning Supervisor, presented. This is a follow-up to a general plan map amendment approved in 2022. This rezone is related to that application; they also have a concept plan and conditional use permit which were approved by the Planning Commission. There is also a street vacation application that is part of this project. Councilor David Shipley asked if there is another property in conjunction with this that the Council needs to rezone. Mr. Ardmore showed a map of the properties; the other parcel is already zoned MDR. ***Presentation only. This item was already scheduled for the Council Meeting on March 14, 2023.***

3. A discussion regarding impact fees for detached ADUs (23-034) (2:04:43)

Bill Peperone, Development Services Director, presented. He shared background information on this item, which was also distributed to the Council in a brief memo. There was a recent application for an accessory dwelling unit and the way the fees are listed in the city code would only factor the water impact fee as if it were the impact fee for a new single-family house. They have consulted with the various City departments to review the impact fee schedule for detached accessory dwelling units in Provo and are bringing this recommendation to the Council.

Councilor Katrice MacKay asked if a homeowner were putting in a whole new sewer line from the main whether that would change those prices. Mr. Peperone indicated that cities without fees for wastewater require ADUs to bring the wastewater line off the lateral line running to the house. This new proposal would allow doing the wastewater lateral off the main line for a reduced cost. Allowing ADUs to take wastewater off the house is not currently contemplated in

the city code. Mr. Peperone said he would prefer that, but Public Works has been resistant to that so he deferred to them for more information. Councilors were interested in more feedback from Public Works. Gary Calder, Water Resources Division Director, explained the reason they are opposed is due to the slopes required to make a secondary wastewater line off the house functional. They prefer and recommend a straight line off the lateral, rather than creating turns to go off the house, which can result in more maintenance needs in the future. Ms. MacKay asked if the City would be losing money for these new wastewater lines to come off the lateral. Mr. Calder explained the cost will be borne by the property owner.

Councilor Rachel Whipple asked about the differences in parks fees for multifamily versus single-family homes. Mr. Peperone said single-family is $300 more than multi-family; the ADU rate is similar to the multi-family fee. He noted that Provo's parks impact fee is structured similar to Salt Lake's impact fees. Mr. Peperone indicated that the Council would not vote on this tonight—it would come back to the Council in a couple of weeks. Ms. MacKay thanked Mr. Peperone for bringing this to the Council's attention. ***Presentation only.***

4. A discussion of revised west side FEMA maps (23-028) (2:27:44)

Jamie Huff, Holly Strand, and Tracie Harrison of the Utah Division of Emergency Management presented. Ms. Huff briefed the Council on the background of the study which was conducted. Flood risk is not a static issue; it changes over time. It is important to review these studies periodically in order to appropriately plan for risk. The flood risk information used since 1988 was in paper form until 2020 when it was digitized. Ms. Huff reviewed more of the history of including the Provo River in a new study conducted by FEMA. There is a levee identified on the maps and levees must be certified in order to be included on FEMA maps. The existing levees were not able to be certified and the study scope was revised to perform the study without levee analysis. The local levee partnership team is comprised of a number of stakeholders and was organized to involve these different stakeholders in the study.

Three jurisdictions are included in the analysis, including Utah County, Provo City, and Orem City. The Provo River, airport, and Lakewood subdivision levees are not certified. This study effort is not to certify the levees—the intent is to show the current risk assessment of the river today within FEMA standards. Uncertified levees cannot be shown on any FEMA maps as providing protections. Even certified levees can have some level of risk of failure or compromise during a flood event. The study was conducted from the mouth of Provo Canyon down to Utah Lake. Ms. Huff reviewed the data sets they collected and that informed the risk assessment, including new Lidar data (digital topography), Provo River field survey, hydrology information on Provo River, and hydraulics of water entering the ground. For Utah Lake, they conducted field studies including hydrology, wind, and wave analysis.

Councilor David Shipley asked how they account for these levees and the dams upstream. At some point the idea is that those dams have to release water and he wondered how it is determined what is released and when. Ms. Huff said they account for the discharge rates stated in the operating agreements of the reservoirs. Tom Wright, AECOM Lead Project Engineer, said they hoped the two reservoirs would agree to cooperate with flood storage commitments. They look at the gauge data about how filled the reservoirs are and use a standardized statistical

analysis and could lower the 100 year flow in Provo from the original mapping to account for that additional capacity, if agreements on storage commitments were revised. Mr. Shipley asked if a more coordinated plan could result in a more aggressive reduction of flood flows. Mr. Wright indicated this was generally the case but it depended on many factors. Ms. Huff explained that initially they were not going to study Utah Lake but since it would have a downstream impact they did look at this. She noted that the area hydrology impacts how water moves downriver.

Ms. Huff shared the draft maps, noting the areas being changed or revised. Several areas are being reduced in risk. Ms. MacKay said it looks like a significant reduction in some of those areas, which Ms. Huff indicated was correct. The majority of the changes are occurring west of I-15. The areas in blue as well as those shown in red and blue along the river are the most significant changes. The yellow- and green-striped areas are also changing.

Councilor Rachel Whipple asked for some clarification about whether the levees can be factored in as providing any protection whatsoever, even if they are uncertified. Ms. Huff indicated that they did a natural valley analysis which considers the topography and therefore registers the topographic presence of the levees but may not account for everything (such as either the height or condition of the levee being deficient). Ms. Huff noted that they also did an analysis on the type of vegetation that is in and around the levees.

Ms. Huff continued and shared background information about the work they have been doing with local stakeholders in order to be transparent about the process. They hope to start public meetings in May and June, especially allowing impacted residents to view the maps and changes. There will be additional public meetings in the fall to comply with FEMA process criteria. Councilor Bill Fillmore asked about alternative solutions to this issue. Ms. Huff explained that in order to show the levees on a FEMA map, the levee has to be certified. That is the only possible method for changing the mapping itself—it is possible but very costly. Ms. Harrison said that many flood insurance providers do take into consideration the unaccredited levees, so they anticipate that will help lower flood insurance rates for homeowners.

Mr. Fillmore asked if there was funding for building new levees. Ben Rood, engineering consultant for Public Works, said Public Works has applied for BRIC and FMA grants—they talked about this in more detail at the last Work Meeting. There is a 25% local match, which combined with the grant would total $60 million. Depending on the city's grant awards, they will probably continue to apply for these year after year.

Ms. Whipple asked more about insurance ratings. Ms. Harrison said the new insurance rating system has 15 variables, including the first-level height of the house, building structure, and a number of other variables. The prior method of rating policies did not account for the unaccredited levees, so that is a helpful change. Accredited levees would have a higher rating, but unaccredited levees do afford some protection which will be factored in. Ms. Whipple asked about what analysis has been done on the protection offered by the unaccredited levees. Ms. Harrison indicated that there is a national levee database system through the Army Corp of Engineers. This database is updated when levees become accredited and the insurance companies use this database for information. Ms. Whipple also asked if they anticipate any changes being made based public comments. Ms. Huff explained that these are still draft maps that are being

taken through the review process. In order to change or update the maps, they need technical information to show that their analysis was incomplete, wrong, or inaccurate. FEMA also has a required public outreach process with a 90-day comment period. Ms. Huff clarified that the public opinions about the map do not necessarily impact the map's contents.

Councilor David Shipley asked for data on how many households are impacted by the changing maps. Ms. Huff indicated that there are approximately 166 homes moving into the flood hazard area. Their analysis was based on 2021 aerial photos; any developments built since then in the affected areas will also be included. She directed them to the City for more detailed parcel data. Mr. Shipley asked if there was still a cap on the coverage amount for insurance or whether that changed. Ms. Harrison indicated that Congress sets that coverage limit; the limit is still $250,000 for residential and $500,000 for commercial properties. She noted that there is a private market for supplemental insurance to insure homes beyond $250,000. Homeowners can also go straight to the private market. Mr. Shipley asked how they could give an accurate assessment of the impact if they did not have exact numbers regarding parcels and homeowners affected; Ms. Harrison said they would be working with the city to get more of that data.

Ms. Huff shared more on the public outreach. They have had ongoing monthly meetings, public meetings, a future open house, many fact sheets, and various information being shared via social media. Ms. MacKay noted that insurance is the biggest issue for homeowners and residents. Mr. Fillmore asked if the potential for flooding this year would impact the maps; Ms. Huff explained that the maps are only as good as the data that has informed the development of the maps.

Holly Strand presented. She shared a website that has information about the risk mapping. They have put out a lot of information on their site that is not readily accessible on the FEMA website. They also produced their first video at DEM about the Provo levees. This is made for property owners who are not familiar with the levee system. Ms. Strand thanked Melissa McNalley for her help and cooperation in informing them about Provo's levee system. Ms. Strand shared another website, floodhazards.utah.gov. ***Presentation only.***

5. A presentation regarding the FY2024 Budget- Public Works (23-008) (4:39:10)

Jimmy Mc Knight, Public Works Budget Analyst, presented. He reviewed an organizational chart for the department to help illustrate how the Public Works department is organized and how funds within the department are programmed. Public Services includes several divisions, including sanitation, fleet, streets, and stormwater. As they reviewed each fund, Mr. McKnight highlighted potential rate increases and the justification and explanations of increased costs. They have tried to identify in detail specific areas where costs are increasing.

Mr. McKnight reviewed sanitation operations and changes to costs for which they are proposing a 7% rate increase. There are increased costs at the South Utah Valley Solid Waste District, which impacts Provo's sanitation operations and costs. Additional increases include compost yard improvements, new can purchases due to plastic cost increases, and increased costs of garbage trucks. Councilor George Handley asked about contamination rates of recycling at SUVSWD. There has been a decrease from 30% contamination. Mr. McKnight continued, noting a potential purchase fee increase for the compost provided by the city, as this is a very popular

service and always sells out. Shane Winters, Public Services Division director, said they handle residential waste pickup. Ms. Whipple asked about Center Street garbage cans. Wayne Parker, CAO, said that years ago the former iteration of Downtown Provo, Inc. was responsible. When DPI was created, the Council at the time decided to categorize Center Street and University Avenue as linear parks, so these are handled by the Parks and Recreation Department similar to other parks. Mr. Parker said that decision was made over a decade ago, so the questions are definitely worth closer examination but that was the genesis of that arrangement. Mr. McKnight highlighted revenues and expenditures of the sanitation fund.

Mr. McKnight moved on to covering the Fleet operation within Public Services. They will do a separate presentation on vehicle replacement. He highlighted proposed increases to their costs and to the hourly rate charged to departments. Ms. Whipple asked if they were working with IS on their software replacement and Mr. McKnight indicated that was the case.

The streets operation includes snow plowing, signage and paint, street repairs and maintenance, street sweeping, and weed abatement. They have had an above-average snow year so they are over-budget with salt expenses so will be bringing an appropriation to the Council at a future time. They budget for an average year, so this is normal given the large snowfall this year. He highlighted several supplemental budget requests for streets. Councilor Katrice MacKay asked about gutter cleaning for parking spaces. Mr. Winters responded to this question and noted some of the challenges for street sweeping and some solutions they are exploring. Councilor Bill Fillmore asked about salt and its corrosive impact on asphalt. Mr. Winters said that pre-wetting salt reduces the amount of salt they use, reduces damage to bridges and roadways, as well as minimizes the salt that enters the storm drain system and ends up in the lake. Mr. McKnight highlighted some of the major services provided by the stormwater division. Mr. McKnight highlighted a list of capital project needs, included the currently unfunded levee plan project.

The Engineering Division has an operating component as well as several capital funds. Mr. McKnight highlighted a couple of supplemental requests from Engineering. Their operating budget receives revenues from fees and inspections. For capital projects in Engineering, B&C road funds are spent here. They also have a substantial unfunded project list. One of the most critical things they try to cover is the maintenance of existing roads. Ms. MacKay said she receives a lot of questions about street overlays. She noted that 3700 North was done four years ago and already has many potholes; she wondered if there was an accountability process in place for contractors who did these overlays. Gordon Haight, Engineering Division Director, said they had some experiences with bad workmanship, so they were able to negotiate on those costs. They have also changed the material required for overlays as well as the details and design specifications, so they are hoping to see some improvement with this. Mr. Haight provided additional context on the maintenance overlays. They also require developers to bond with the City so the city can overlay the road after the heavy construction is completed. This adds significantly to the life to the road.

Dave Decker, Public Works Director, continued with the presentation. He highlighted the Engineering projects list, noting the unfunded projects in yellow. The major unfunded item in this division are the roads and sidewalks related to the Regional Sports Park. They are recommending a phased approach over the next couple of fiscal years. They also have suggested

a couple of potential funding sources, including about $3 million from the General Fund. They also have impact fees and tourism tax revenue as funding sources for the project. Mr. Decker noted there are two traffic signals included in that project, on Lakeview Parkway at the western and eastern boundaries of the park. The Utility Transportation Fund is one of the revenue sources for Engineering; they are proposing a 5% rate increase. Mr. Decker noted those rates have not increased since the UTF was put in place in 2013. Ms. Ellsworth asked a clarifying question and Mr. Decker indicated the recent ruling was favorable to the City using the UTF. In response to a question from Ms. Whipple, he thought ADUs would fall under multifamily, but he noted that the presentation on ADUs by Mr. Peperone was focused on impact fees, not monthly fees.

For Wastewater, they are recommending a 3% rate increase to cover rising chemical costs for processing at the treatment plant. He noted other budget increases as well as supplemental requests for the division. Councilor David Shipley asked about the increases for Public Works—these seemed like mainly cost-of-business increases. He noted a strategy of increasing fees more in the past to help with long-term ongoing needs. He wondered if it would make sense to consider another such plan about rate increases to address needs over the next 10 years, rather than considering inflationary increases only on an annual basis. Mr. Decker said one of Mr. McKnight's primary job responsibilities include budget forecasting and projections regarding future capital improvements. Given the economic climate, they are considering some other actions the City could take. Mr. Decker thought it would be helpful to review this information with the Council; he noted they review these things internally on an annual basis. In 2015, they implemented a seven-year rate increase plan, which concluded last year. Mr. Decker noted when they don't keep up with rising costs on an annual basis, it can leave the City in a vulnerable position. Mr. Shipley appreciated the proactive planning seven years ago and he was interested in going through that exercise again. Ms. MacKay also supported that request. Mr. Decker noted that some of the cost estimates that informed those previous review processes have also experienced significant increases, so that was something for them to keep in mind. He thought that would be an excellent review for the Council. In response to a question from Ms. Whipple about discrepancies in utility usage and base rates on utility bills, Mr. Decker indicated that Customer Service would be better suited to respond.

Mr. Decker shared a summary of wastewater CIP projects. Mr. Decker noted a unique aspect of the wastewater budget, which was that in their budget there are two different revenue lines in order to differentiate between the utility revenue and the state loan reimbursement they are receiving. The intent here is to clarify the utility revenue versus the state loan which is the funding source for the wastewater treatment plant.

Mr. Decker highlighted major services of the Water Resources division, which includes water sources and water distribution. He noted some increasing costs. They have two supplemental requests—an IS position dedicated to Public Works (given to the increasing needs in the IS area related to the airport and wastewater treatment plant) and modification of an existing position to create an Assistant Department Director position. Mr. Decker has been with the City since 2012, and Public Works has relied mainly on division directors. There is a significant increase in the administrative duties of their department and these demands are increasing. They are also recommending an increase of 5% to water rates. He shared a graph displaying these proposed fee changes. He also shared the list of CIP projects for the upcoming fiscal year. They have several

savings accounts for ongoing reservoir replacement and other capital improvements. These projects are based on older cost estimates—the main concern is whether they are saving enough money given the various inflationary and other increases they are experiencing. There are a couple areas in Public Works they will cover later, including the airport and fleet (vehicle replacement). Mr. Decker invited questions from the Council. He noted that the IS needs at the airport do not merit a full-time position specific to the airport—that is why they are requesting a Public Works IS staff to address all their department's technology needs. ***Presentation only.***

6. A presentation regarding the FY2024 Budget-IS and Cybersecurity (23-008) (3:22:33)

Josh Ihrig, IS Division Director, presented. He shared an anecdote that illustrated the importance of using the proper tools and using them correctly and in a sustainable manner in order to have the greatest impact on business operations. Investing in the proper technology is a huge asset to the organization, in order to accomplish more with fewer resources. Mr. Ihrig highlighted some of the accomplishments of the department and the broader community regarding technology and access to technology. Provo was recognized as a trailblazer in digital inclusion. The new public safety building and city hall has been a huge achievement for IT—they had a huge amount of equipment and infrastructure to move and install to make the facility operational. The Provo Airport was also a huge accomplishment of the IT division in order to support the airport operations. The consolidation of the Provo and Orem dispatch facilities was also a very resource-intensive project for IS. Their division has also supported over 22 mapping projects, including the Council's redistricting process. Mr. Ihrig shared a list of their supplemental requests from the previous fiscal year. He outlined their continuing supplemental requests and shared details about each, including the cost, priority level, and other information.

Councilor Rachel Whipple asked if the airport gets billed for their demands on IT resources. Mr. Ihrig explained that they already pay a portion for IT resources, but right now they are just using much more of that. Mr. Ihrig explained why this was a centralized IT service and how this impacts the airport operations.

Mr. Ihrig highlighted how the Council's priorities and Mayor's big 6 list are supported by IT operations, including mapping for the many long-range plans, housing audit, sidewalk repair and replacement, and others. Infrastructure projects such as the airport expansion and fire station 1 have various technological components that require IT services. A new city website will also involve the IS operations and ensure there is a positive impact for residents. Mr. Ihrig highlighted some of the metrics that the IS division measures. They want their metrics to be useful to the public, while also not releasing information that could make the City vulnerable to attack. Mr. Ihrig responded to a question from Ms. MacKay about some of the metrics and what they have been tracking.

Councilor George Handley asked about the consultant's recommendations. Mr. Ihrig said many of the recommendations from the consultant are consistent with their department's goals and much of what they hope to do. Ms. Whipple noted that the IT consultant recommendations did not address security in detail. She asked if the IS Division's supplemental requests would cover the security risks they are concerned about. Mr. Ihrig explained that they have done some security assessments, but technology changes rapidly. If the Council is able to fund all their

supplemental requests, then he sees the utility and necessity of doing a more detailed risk assessment. John Borget, Administrative Services Director, said they are reviewing the Hartman group's recommendations and will be coming back to the Council at a later time about that. They think it would be very helpful to have a closed meeting on cybersecurity issues.

Tyler Dennis, Cybersecurity Analyst, presented. He noted that some of the Council's questions would need to be addressed in a closed meeting due to security issues. He highlighted some of the division's accomplishments during fiscal year 2023, including cybersecurity program improvements and the City's participation in an annual nationwide cybersecurity review for the first time. This review provides metrics the City can use to evaluate their cybersecurity effectiveness; this also fulfills requirements to make the City eligible for cybersecurity grants from the Department of Homeland Security. He highlighted their requests for the coming fiscal year and shared details on each, including an email security gateway (which remains the City's greatest vulnerability to cyber-attacks), patch/endpoint management tools, internal threat prevention, access control upgrade, and a cybersecurity analyst. There is a lot of work still to be done in cybersecurity and threats continue to grow, so they want to make sure they continue to have the appropriate resources to address these issues.

Mr. Dennis highlighted the consultant recommendations regarding evolving the City's security program. They are supportive of the Administration as they review the recommendations and determine the direction to take the City. He noted a few items have been addressed from the recommendations which they could cover in a closed meeting. He also highlighted their performance measures. Many of these performance measures that are public relate to successes; they do not necessarily want to highlight the existing vulnerabilities publicly. Many of their metrics relate to employee training, creating, and updating security policies and procedures, and performing phishing campaigns.

Ms. Whipple thanked the IS division for their very data-driven presentation and well-written and easily understandable materials. Mr. Ihrig indicated they had been prepared in-house by the IS team and thanked the Council for their support. Mr. Borget indicated they could do a 45-minute presentation on cyber-security in a closed meeting. ***Presentation only.***

7. A presentation reviewing the 5-Year CIP Report and Revenue Update (23-008) (4:24:23)

Kelsey Zarbock, Budget Officer, presented. She reviewed the 5-year capital improvement plan. She noted that revenue updates would be reviewed another time. Ms. Zarbock indicated that the departments contribute a great deal of work with providing the information for the CIP. Andrea Wright, Budget Analyst, compiled the report based on these submissions. Ms. Zarbock reviewed the general report structure, including urgency or priority level, new projects, funding status, impacts to operating budgets, and projects that might be of particular interest to the Council. Ms. Zarbock reviewed the classification for project urgency and highlighted what each of the levels or designations meant. Ms. Zarbock also highlighted information about the designation for each capital project and whether projects have an impact to ongoing operating budgets. The "A" status means that the operating budget will decrease, "B" means little to no impact, and "C" means that the operating budget will increase.

Ms. Zarbock displayed an example of a page in the CIP showing all these data points, how the funding is allocated over several years, and how the various project impacts are shown. There are also detail pages showing more information about each project, including the funding source and where this is being programmed. Ms. Zarbock shared a list of projects that were of specific interest to the Council and she noted the funding status of these projects as listed in the current CIP. Ms. Zarbock invited questions and noted that several departments had representatives present who could also respond to questions.

Councilor David Shipley asked about the extension of 2000 North to Lakeview Parkway from Geneva Road and the delay on the traffic signal at Geneva Road. Gordon Haight, Engineering Division Director, said that UDOT plans to have this signal installed but there have been a few logistical delays. They anticipate this being done this spring. Mr. Shipley thanked him; many constituents have asked him about that.

Mr. Shipley also noted that the Regional Sports Park status art shows as unfunded. He invited ideas from departments about how to fund these needs and keep the project on schedule. Ms. Zarbock indicated that for the roads servicing the Regional Sports Park, the current thought is to use a multi-pronged approach for funding, including a general fund transfer, some local/county funds, and perhaps an interfund loan. Ms. Zarbock indicated one of the roads is internal but some of the roads are outside the park. John Borget, Administrative Services Director, explained that they would suggest having a portion of the sales tax revenue for highways and roads be dedicated to that project over the next 10 years—they could do an internal loan to cover the difference, and then use that revenue source to repay the loan. These roads are critical to the viability of the Regional Sports Park. ***Presentation only.***

Closed Meeting (5:26:30)

The Municipal Council or the Governing Board of the Redevelopment Agency will consider a motion to close the meeting for the purposes of holding a strategy session to discuss pending or reasonably imminent litigation, and/or to discuss the purchase, sale, exchange, or lease of real property, and/or the character, professional competence, or physical or mental health of an individual in conformance with 52-4-204 and 52-4-205 et. seq., Utah Code.

Gary Millward, Assistant City Attorney, said that the purpose for the request is character and competency of several individuals which was an appropriate basis for the closed meeting.

Motion: Rachel Whipple moved to close the meeting. Seconded by David Shipley.
Vote: Approved 6:0, with Travis Hoban excused.

Adjournment

Adjourned by unanimous consent.

PENDING APPROVAL - DRAFT MINUTES

Please Note – These minutes have been prepared with a timestamp linking the agenda items to the video discussion. Electronic version of minutes will allow citizens to view discussion held during council meeting.

PROVO MUNICIPAL COUNCIL

Regular Meeting Agenda

5:30 PM, Tuesday, March 14, 2023
Council Chambers (Room 100)
Hybrid meeting: 445 W. Center Street, Provo, UT 84601 or
https://www.youtube.com/provocitycouncil

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Councilor Shannon Ellsworth
Councilor George Handley
Councilor Katrice MacKay
Councilor Rachel Whipple
City Attorney Brian Jones
Council Executive Director Justin Harrison
Councilor Bill Fillmore
Councilor Travis Hoban, joined late
Councilor David Shipley
Mayor Michelle Kaufusi
Chief Administrative Officer Wayne Parker

Conducting: Chair Katrice MacKay

Prayer – Reverend Daniella Lee

Pledge of Allegiance – Councilor Whipple

Public Comment (3:17)

Chair MacKay read the public comment preamble and opened the public comment period. With none, she closed public comment.

Action Agenda

1. A resolution appropriating $373,545 in the General Fund for the Recreation Facilities Capital Fund and a transfer of $373,545 from the General Fund to the Parks & Recreation Capital Improvement Project (CIP) fund. (23-006) (4:34)

Motion: An implied motion to approve Resolution 2023-10, as currently constituted, has been made by council rule.

Doug Robins, Assistant Director of Parks and Recreation, provided an update on the accomplishments that the department has had over the last 10 years. He asked that the Capital Replacement Fund appropriation be restored to allow for more continued growth and success.

John Borget, Director of Administrative Services, explained the proposed appropriation and provided history of the Parks and Recreation Capital Improvement Fund. He suggested looking into changing the budget ordinance to accommodate these types of changes. He read "If the Recreation Center net

income is less than $400,000, and if the Parks and Recreation Department has remaining budget available in the Recreation Center function or any of the department's other General Fund functions, the Director may carry over budget to the Recreation Facilities Capital Fund, up to the total of $400,000 including the portion contributed from net income."

Chair MacKay opened the item for public comment. With none, she closed public comment.

Councilor Fillmore shared his support for the resolution.

Chair MacKay commended the parks and recreation department for their great statistics. She then called for a vote.

Vote: The motion was approved 6:0 with Councilors Ellsworth, Fillmore, Handley, Mackay, Shipley, and Whipple in favor. Councilor Hoban excused.

2. A public hearing regarding the HOME ARP Allocation Plan draft (23-027) (17:17)

Melissa McNalley, Community Grant Administrator, presented. She stated that the public comment period will continue until March 28 and explained the various ways residents could provide feedback. She discussed portions of the plan and shared where the plan draft could be found online.

Councilor Handley asked what she would like to receive from council.

Ms. McNalley said any feedback that they had would be appreciated. She said she would have a more finalized plan to discuss in the work session on March 28th.

Chair MacKay opened public comment.

John Salzman, of Provo, said he would like to see a proposal that supports homeowners instead of rentals.

Robert Todd, of Provo, asked how this plan is funded and who makes the decisions on how the funds are used.

Chair MacKay answered.

Ms. McNalley provided more information about the HOME ARP funds including the populations the funding is to support. She added that the funds are to be used for all of Utah County, not just Provo City.

Chair MacKay closed public comment.

Councilor Whipple asked for clarification on the statistics in the plan.

3. A resolution authorizing the issuance of up to $36,750,000 of water revenue bonds. (23-035) (25:30)

Motion: An implied motion to approve Resolution 2023-11, as currently constituted, has been made by council rule.

Dave Decker, Director of Public Works, presented. He discussed the Aquifer Storage and Recovery Projects. He shared the cost estimates including the funding sources available. He also shared that this would allow for long term storage.

Dan Follett, Director of Finance, provided details on how the loan would be repaid and what the interest rate would be. He emphasized that this bond would not increase property taxes.

Chair MacKay opened the item for public hearing.

Robert Todd, of Provo, asked how the bond would be paid from revenues without the rates being increased.

Mr. Decker answered that the current rates have anticipated this project. He added that there is other water revenue that could be used. He shared that the financial planning that their department does is always forward looking.

John Christopherson, of Provo, asked if this project will enhance or detract from a personal well that he depends on watering his livestock.

Mr. Decker responded that the aquifer does not distinguish between public or private wells. He added that this means it should be an overall enhancement for all wells.

John Salzman, of Provo, asked if the aquifer is shared with other municipalities. After sharing that he is in the bond market, he asked where the city is going to get $36 million dollars at a one-percent interest rate.

Ken Forrester, of Provo, shared his frustration at the transparency in this process. He said it appears like rates were raised years ago to fund this project without anyone knowing.

John Yardley, of Provo, asked why the amount of the loan was not lower after the city received grant money.

David Kang, of Provo, asked what percentage of water usage will be benefited by this project.

Robert Daniels asked if commercial businesses pay more for water than residents. He also asked who is insuring the loan.

Mr. Decker responded to each of the questions asked.

Councilor Handley asked for Mr. Decker to remind the council about the fees that were increased for the Water Treatment Plant.

Councilor Shipley asked about the water rights that this project would provide.

Councilor Whipple asked about the different levels of aquifers.

Mr. Decker provided an explanation for each of the questions asked by council.

Councilor Shipley shared his excitement for this project.

Councilor Fillmore commended public works for jumping on this project to secure the water for the future.

Chair MacKay called for a vote.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, Mackay, Shipley, and Whipple in favor.

4. An ordinance amending Provo City code regarding standards for conditional uses- dance halls. Citywide Application. (PLOTA20220404) (1:06:30)

Motion: An implied motion to approve Ordinance 2023-5, as currently constituted, has been made by council rule.

Aaron Ardmore, City Planner, presented. He responded to concerns brought up at the last council meeting.

Councilor Handley asked why there is a need for a zone change if the two intended uses for the space are already allowed. He also asked if the staff recommendations had changed.

Mr. Ardmore answered that the staff had not changed their recommendation with the current proposal.

Chair MacKay asked when it was determined that the building did not have an adequate sprinkling system and if the applicant was made aware of that.

Mr. Ardmore said he learned about the sprinklers after the last hearing when he met with the Fire Marshal, who was doing inspections in the building for a remodel. He said he assumed the applicant was made aware.

Councilor Shipley questioned the reasoning behind allowing a reception, which is likely to have a dance with it, but not allowing a dance hall.

Mr. Ardmore responded by saying the standard land use code makes it difficult in these types of situations because it is so specific. He mentioned that staff often times have a difficult time establishing permitted uses and it is dependent on how things are worded on applications. He said if things are worded one way, it might be denied, but if the wording is changed, it could be permitted.

David Kang, the applicant, stated the meeting hall for rent has been their intended use from the beginning. He said he was not aware of the building not having a sprinkling system and said they would be getting one installed to allow for more than 49 people.

Councilor Shipley asked if the application still needed to be addressed after determining the intended uses were already allowed.

Mr. Ardmore suggested the council continue this item indefinitely. He also recommended that staff work with the property owner to find a path forward.

Councilor Whipple confirmed that Mr. Ardmore felt comfortable with the outcome and that a change to code was not required. She thanked the applicant for going through this process that provided education to the council so they may serve the city better going forward.

Motion: Councilor Handley made a motion to continue this item indefinitely. Councilor Shipley seconded the motion.

Chair MacKay called for a vote on the motion.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, Mackay, Shipley, and Whipple in favor.

5. An ordinance amending the Zone Map of approximately 11.71 acres generally located at 5515 N Edgewood Dr from MDR and A1 to PO and authorizing a Development Agreement - Riverbottoms Neighborhood. (PLRZ20220005) (1:25:14)

Motion: An implied motion to approve Ordinance 2023-6, as currently constituted, has been made by council rule.

Aaron Ardmore, City Planner, presented. He reminded council that the start of this project was approved back in October and mentioned the project plans submitted were approved. He said this rezone is related to the plan to build office buildings. He stated the proposal went through the planning commission and was approved. He also said the last item will be the street vacation of a portion of Edgewood Drive, which will be presented at the March 28 meeting.

Councilor Whipple asked if the number of parking spaces required is calculated by the square footage of the building spaces.

Councilor Ellsworth asked if access to the river trails will be included in the development agreement.

Mr. Ardmore shared that there would be two separate development agreements, one for the residential side and one for the commercial side. He said that none of this property is along the river frontage, so it was not addressed in the development agreement on the commercial side.

Councilor Ellsworth also asked about the location of the parking garage. She said she is looking forward to the city having better ordinances to guide development near and adjacent to the river, so things are not built adjacent to where people gather to enjoy nature.

Councilor Fillmore asked if the property owner of the adjacent parcel had any plans to develop the area along the river.

Mr. Ardmore said the applicants tried to acquire that part of the adjacent parcel but were unsuccessful. He said he was not aware of any plans on that property.

Councilor Fillmore also asked for an update on the part of the project that is in Orem.

Chair MacKay suggested the Redevelopment Agency or Provo City look at making the area into a park.

Jim Ivory, of Foulger-Pratt, addressed some of the concerns surrounding parking, river access, and the triangular piece of open space. He also shared renderings of the proposed development.

Councilor Hoban asked if there will be EV charging stations in the parking lot.

Chair MacKay opened the item for public comment. With none, she closed public comment and called for a vote.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, Mackay, Shipley, and Whipple in favor.

Adjournment

The meeting was adjourned by unanimous consent at approximately 7:15 p.m.

PENDING APPROVAL - DRAFT MINUTES

Please Note – These minutes have been prepared with a timestamp linking the agenda items to the video discussion. Electronic version of minutes will allow citizens to view discussion held during council meeting.

PROVO MUNICIPAL COUNCIL

Regular Meeting Agenda

5:30 PM, Tuesday, March 28, 2023
Council Chambers (Room 100)
Hybrid meeting: 445 W. Center Street, Provo, UT 84601 or
https://www.youtube.com/provocitycouncil

Roll Call

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Councilor Shannon Ellsworth
Councilor George Handley
Councilor Katrice MacKay
Councilor Rachel Whipple
City Attorney Brian Jones
Council Executive Director Justin Harrison
Councilor Bill Fillmore
Councilor Travis Hoban
Councilor David Shipley
Mayor Michelle Kaufusi
Chief Administrative Officer Wayne Parker

Conducting: Chair Katrice MacKay

Prayer – Becky Bogdin

Pledge of Allegiance – Councilor Shipley

Public Comment (10:10)

Chair MacKay read the public comment preamble and opened the public comment period.

David Faith-Farlow, of Provo, said he is opposed to and recommends against constructing a homeless shelter in Provo. He discussed the potential problems shelters pose, even those that are well-maintained. He believes a shelter will not help homeless people who are not willing to change their behavior. He stated a shelter would be bad for the city, bad for residents, and bad for the homeless.

With no other comments, Chair MacKay closed public comment.

Action Agenda

1. A resolution consenting to the appointment of an individual to the Library Board. (23-005) (13:35)

Motion: An implied motion to approve Resolution 2023-12, as currently constituted, has been made by council rule.

Mayor Kaufusi presented. She recommended Shannon Ellsworth to fill the vacancy left by Councilor Shipley on the Library Board.

With no council discussion, Chair MacKay called for a vote.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, Mackay, Shipley, and Whipple in favor.

2. A resolution authorizing the Mayor to approve an interlocal agreement with Utah County to conduct a vote-by-mail election for the Municipal Primary and General Elections to be held in Provo City in 2023. (23-038) (14:56)

Motion: An implied motion to approve Resolution 2023-13, as currently constituted, has been made by council rule.

Heidi Allman, City Recorder, presented. She said there are four open council seats that will be part of this year's election. The primary election will be held on August 15 and the general election will be on November 7. She discussed the duties that each party would be responsible for.

With no council discussion, Councilor MacKay called for a vote.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, Mackay, Shipley, and Whipple in favor.

3. An ordinance amending Provo City Code regarding citywide fireworks regulation. (23-024) (17:19)

Motion: An implied motion to approve Ordinance 2023-6, as currently constituted, has been made by council rule.

Lynn Schofield, Fire Battalion Chief, presented. He said the three proposed amendments include adding Spring Creek to the list of designated parks, opening designated parks for New Year's Eve, New Year's Day, and Chinese New Year holidays, and adding licensing requirements to obtain a permit for fireworks displays.

Chair MacKay opened public comment. With none, she closed public comment. With no council discussion, she called for a vote.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, Mackay, Shipley, and Whipple in favor.

After Chair MacKay realized there was not a public comment period for agenda item 2, she opened the item for public comment. With none, she continued to item 4.

4. An ordinance amending Provo City Code regarding fire plan review fee updates. Citywide application. (23-037) (21:35)

Motion: An implied motion to approve Ordinance 2023-7, as currently constituted, has been made by council rule.

Chief Schofield presented. He explained that the third party planner review service that the Fire Department uses increased their rates. He said the proposed rates match the percentage change of the third party's rate increase. He provided data for the year 2022 and compared the numbers to what it would be with this increase.

Chair MacKay opened public comment. With none, she closed public comment. With no council discussion, she called for a vote.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, Mackay, Shipley, and Whipple in favor.

5. A resolution approving a substantial amendment to the program year 2021 Annual Action Plan incorporating funds for HOME-ARP and approve the HOME-ARP allocation. (23-027) (23:39)

Motion: An implied motion to approve Resolution 2023-14, as currently constituted, has been made by council rule.

Melissa McNalley, Community Grant Administrator, presented. She discussed where the funds came from and the process in determining how the funds would be used. She said that funds for supportive services and tenant based rental assistance would be the most beneficial.

Councilor Shipley asked if it would require the Council to hear this item again if funds were reallocated down the road. After a verbal yes from Ms. McNalley, he asked if there is a planned timeframe to review the allocations and adjust as needed.

Ms. McNalley said that there is no specified timeframe to evaluate. She determined that six to twelve months would be a realistic time to review. She said she would be presenting to council again once a third-party entity, who would be managing the use of funds, was decided.

Councilor Handley suggested aiming for one year to evaluate the success of the plan.

Chair MacKay opened the item for public comment. With none, she closed public comment.

Councilor Ellsworth thanked Melissa for all the work she has put into this plan.

With no other council discussion, Chair MacKay called for a vote.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, Mackay, Shipley, and Whipple in favor.

6. A discussion regarding micro mobility devices. (23-022) (33:02)

Continued

7. An ordinance amending the list of appendices included in the Provo City General Plan. Citywide Application. (Related to PLGPA20210364) (33:08)

Motion: An implied motion to approve Ordinance 2023-8, as currently constituted, has been made by council rule.

Brandon Larsen, Planning Supervisor, presented. He shared this item is part of a code clean up effort. He said that when the General Plan was approved in January, an old list of appendices was added to the new plan, instead of the updated list.

Chair MacKay opened public comment. With none, she closed public comment. With no council discussion, she called for a vote.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, Mackay, Shipley, and Whipple in favor.

8. An ordinance requesting a street vacation for Edgewood drive from 5400 North to 5600 North. Riverbottoms Neighborhood. (PLSV20220006) (37:59)

Motion: An implied motion to approve Ordinance 2023-9, as currently constituted, has been made by council rule.

Aaron Ardmore, Planning Supervisor, presented. He said this would be the last legislative part of the River District Development. He said staff reviewed the proposal and felt comfortable that the change would still allow for emergency vehicles, utility vehicles, and traffic to flow through the parking lot.

Chair MacKay opened public comment. With none, she closed public comment. With no council discussion, she called for a vote.

Vote: The motion was approved 7:0 with Councilors Ellsworth, Fillmore, Handley, Hoban, Mackay, Shipley, and Whipple in favor.

****CONTINUED** Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon Rd. The subject property lies adjacent to the North Timpview Neighborhood. (PLANEX20230020)**

****CONTINUED** An ordinance amending the Zone Map of approx. 5.7 acres, located at 4093 N 100 E, from Low Density Residential (LDR) to Medium Density Residential (MDR) and authorizing a related Development Agreement. Riverbottoms Nbhd. (PLRZ20220345)**

Adjournment

The meeting was adjourned by unanimous consent at approximately 6:05 p.m.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: SWILMOTH
Department: Development Services
Requested Meeting Date: 04-18-2023

SUBJECT: An ordinance amending Provo City code to prohibit the isuance of administrative approvals for noncompliant properties or businessess. (PLOTA20230048)

RECOMMENDATION: To be heard at the April 18, 2023 Work & Council Meeting. Please see supporting documents.

BACKGROUND: Provo City Development Services is proposing amendments to Section 17.03.100 of the Provo City Code. The proposed amendments have been developed through working with the City Administration and Provo Legal Department; and would be applicable citywide.
The proposed amendments add “administrative approvals” to the title and goes on to improve and clarify the language to allow the City to withhold approvals for properties that have been found to have a current code violation.

FISCAL IMPACT:

PRESENTER’S NAME: Aaron Ardmore (801) 852-6404 aardmore@provo.org

REQUESTED DURATION OF PRESENTATION: 10 min

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLOTA20230048

ORDINANCE 2023-.

AN ORDINANCE AMENDING PROVO CITY CODE TO PROHIBIT THE ISSUANCE OF ADMINISTRATIVE APPROVALS FOR NONCOMPLIANT PROPERTIES OR BUSINESSES. (PLOTA20230048)

WHEREAS, it is proposed that Provo City Code Chapter 17.03 (Administrative Abatement) be amended to address the issuance of municipal permits and administrative approvals for properties, businesses, and other applications where there is a current violation of city ordinances; and

WHEREAS, Provo City Code Section 17.03.100 currently prohibits the issuance of various licenses and permits in situations where there is a violation of City ordinances; and

WHEREAS, it is proposed that Provo City Code Section 17.03.100 be amended to clarify and expand the prohibition on the issuance of licenses and permits, and require that the City also not process any requests or applications, proceed with any review or approval process, or grant an approval of any type in relation to a property, business, use, or structure where a notice of violation has been issued; and

WHEREAS, on March 22, 2023, the Planning Commission held a duly noticed public hearing to consider the proposed amendment, and after such meeting, the Planning Commission recommended approval to the Municipal Council by a vote of 5:0; and

WHEREAS, on April 18, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council finds that (i) Provo City Code Section 17.03.100 should be amended as set forth below in order to prohibit the issuance of certain municipal permits and administrative approvals, and (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Section 17.03.100 is hereby amended as follows:

17.03.100 Prohibition Against Issuance of Municipal Permits and Administrative Approvals.

The City shall withhold business licenses; permits for kennels; any~~or~~ permits or approvals for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property; ~~or~~ and any permits or approvals pertaining to the use and development of the real property or the structure where a violation is located. Where a notice of violation has been issued, the City shall not process any requests or applications, proceed with any review or approval process, or grant an approval

of any type in relation to the property, business, use, or structure with which the violation is associated. The City shall withhold such permits and approvals until a notice of compliance has been issued by the Director. The City shall not withhold permits or approvals when necessary to obtain a notice of compliance or to correct serious health and safety violations.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report Hearing Date: March 22, 2023

***ITEM #2** Provo City Development PLOTA20230048 Services requests an Ordinance Text Amendment to Section 17.03.100 (Prohibition Against Issuance of Municipal Permits) to add language for administrative approvals. Citywide Application. Aaron Ardmore (801) 852-6404 aardmore@provo.org

Applicant: Provo City Development Services

Staff Coordinator: Aaron Ardmore

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 12, 2023, at 6:00 P.M.*

2. **Recommend Denial** of the requested Ordinance Text Amendment. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Relevant History: Provo City Legal has been working with Development Services staff and Administrative staff on developing stronger regulatory language for properties in violation of City Codes.

Summary of Key Issues:

Section 17.03.100 comprises the authority of the City to withhold permits, licenses, and other approvals for properties that have been found to be in violation of City Codes.

Current code only relates to "municipal permits" pertaining to the use and development on property in violation.

The proposal adds "administrative approvals" to the list of items the City may withhold for such properties.

The language has also been amended to provide more clarity on the process of withholding a city approval or permit.

Staff Recommendation: That the Planning Commission recommend approval of the proposed text amendments to the City Council.

OVERVIEW

Provo City Development Services is proposing amendments to Section 17.03.100 of the Provo City Code. The proposed amendments have been developed through working with the City Administration and Provo Legal Department; and would be applicable citywide.

The proposed amendments add “administrative approvals” to the title and goes on to improve and clarify the language to allow the City to withhold approvals for properties that have been found to have a current code violation.

FINDINGS OF FACT

The text amendments being proposed are to help clarify standards for approvals on land use and development applications for the public and City Staff to encourage resolution for those properties that have been found to be in violation of City Code. As with all text amendments, the City must present findings related to Section 14.020.020(2) criteria to determine consistency with the General Plan. Section 14.020.020(2) establishes criteria for the amendments to the zoning title as follows: **(Staff response in bold type)**

(a) Public purpose for the amendment in question.

Staff response: To clarify regulations and give the City staff authority to withhold approvals as a way to resolve code violations on properties within Provo City.

(b) Confirmation that the public purpose is best served by the amendment in question.

Staff response: The language proposed has been crafted by Provo City Legal and will best serve the public purpose stated above.

(c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.

Staff response: Chapter Three of the General Plan identifies goals in land use. Specifically, this amendment relates to goal 3a, to “simplify zoning and codes to be more user friendly” and also helps to “further establish Provo as an attractive, healthy, and high-functioning city” as staff finds ways to resolve violations on private properties.

(d) Consistency of the proposed amendment with the General Plan’s “timing and sequencing” provisions on changes of use, insofar as they are articulated.

Staff response: There are no timing and sequencing issues related to this request.

(e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.

Staff response: The proposed amendments will not hinder or obstruct attainment of any of the General Plan policies.

(f) Adverse impacts on adjacent land owners.

Staff response: There should be no adverse impacts on land owners as a result of these amendments, but land owners should see improved enforcement of violations.

(g) Verification of correctness in the original zoning or General Plan for the area in question.

Staff response: Not applicable.

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

Staff response: No such conflict exists.

CONCLUSIONS

Staff have brought forward these amendments to strengthen and clarify codes relating to approving additional permits or licenses to properties in violation. Staff hope that the proposed enhancements to this section will enable staff to help rectify issues in a more efficient manner.

ATTACHMENTS

1. Proposed Amendments

ATTACHMENT 1 – PROPOSED AMENDMENTS

17.03.100 Prohibition Against Issuance of Municipal Permits and Administrative Approvals.

The City shall withhold business licenses; permits for kennels; any~~or~~ permits or approvals for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property; ~~or~~ and any permits or approvals pertaining to the use and development of the real property or the structure where a violation is located. Where a notice of violation has been issued, the City shall not process any requests or applications, proceed with any review or approval process, or grant an approval of any type in relation to the property, business, use, or structure with which the violation is associated. The City shall withhold such permits and approvals until a notice of compliance has been issued by the Director. The City shall not withhold permits or approvals when necessary to obtain a notice of compliance or to correct serious health and safety violations.

Provo City Planning Commission

Report of Action

March 22, 2023

*ITEM 2	Provo City Development Services requests an Ordinance Text Amendment to Section 17.03.100 (Prohibition Against Issuance of Municipal Permits) to add language for administrative approvals. Citywide application. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLOTA20230048

The following action was taken by the Planning Commission on the above described item at its regular meeting of March 22, 2023:

RECOMMENDED APPROVAL

On a vote of 5:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Robert Knudsen
Second By: Jeff Whitlock
Votes in Favor of Motion: Robert Knudsen, Jeff Whitlock, Lisa Jensen, Raleen Wahlin, Melissa Kendall
Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

TEXT AMENDMENT
The text of the proposed amendment is attached as Exhibit A.

STAFF PRESENTATION
The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES
- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

NEIGHBORHOOD MEETING DATE
- City-wide application; all Neighborhood Chairs received notification.

NEIGHBORHOOD AND PUBLIC COMMENT
- This item was City-wide or affected multiple neighborhoods.

CONCERNS RAISED BY PUBLIC
Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following: None

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following: The Planning Commission discussed the proposal, stating it was logical and will be helpful for staff to better enforce city codes. Lisa Jensen also had staff provide an example of how the language would be applied.

Lisa Jensen

Planning Commission Chair

Bill Peperone

Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to Development Services, 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A

17.03.100 Prohibition Against Issuance of Municipal Permits and Administrative Approvals.

The City shall withhold business licenses; permits for kennels; any~~or~~ permits or approvals for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property;~~, or~~ and any permits or approvals pertaining to the use and development of the real property or the structure where a violation is located. Where a notice of violation has been issued, the City shall not process any requests or applications, proceed with any review or approval process, or grant an approval of any type in relation to the property, business, use, or structure with which the violation is associated. The City shall withhold such permits and approvals until a notice of compliance has been issued by the Director. The City shall not withhold permits or approvals when necessary to obtain a notice of compliance or to correct serious health and safety violations.

ITEM 2*

Provo City Development Services requests an Ordinance Text Amendment to Section 17.03.100 (Prohibition Against Issuance of Municipal Permits) to add language for administrative approvals.

Citywide Application

PLOTA20230048

Proposal

17.03.100 Prohibition Against Issuance of Municipal Permits and Administrative Approvals.

The City shall withhold business licenses; permits for kennels; any~~or~~ permits or approvals for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property; ~~or~~ and any permits or approvals pertaining to the use and development of the real property or the structure where a violation is located. Where a notice of violation has been issued, the City shall not process any requests or applications, proceed with any review or approval process, or grant an approval of any type in relation to the property, business, use, or structure with which the violation is associated. The City shall withhold such permits and approvals until a notice of compliance has been issued by the Director. The City shall not withhold permits or approvals when necessary to obtain a notice of compliance or to correct serious health and safety violations.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: SWILMOTH
Department: Development Services
Requested Meeting Date: 04-18-2023

SUBJECT: An ordinance approving the petition to annex approximately 106 acres of property located at approximately 225 S 950 E. East Bay Neighborhood PLANEX20220317

RECOMMENDATION: To be heard at the April 18, 2023 Work & Council Meeting. Please see supporting documents.

BACKGROUND: This item is an annexation request for property located at 2800 S 750 E. The total acreage is approximately 106.19 contiguous acres. The subject area is located just south of the Timpanogos Golf Club. Interstate 15 lies immediately to the west and 950 East lies immediately to the east. The Pacific States industrial property lies immediately east of 950 East. Springville City lies immediately to the south of the subject property. The property lies approximately one-half mile north of 1400 North in Springville City.

FISCAL IMPACT:

PRESENTER'S NAME: Brandon Larson, (801) 852-6408, jblarsen@provo.org

REQUESTED DURATION OF PRESENTATION: 10 min

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLANEX20220317

ORDINANCE 2023-___.

AN ORDINANCE APPROVING THE PETITION TO ANNEX APPROXIMATELY 106 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 2550 SOUTH 950 EAST. EAST BAY NEIGHBORHOOD. (PLANEX20220317)

WHEREAS, on February 14, 2023, the Municipal Council approved a resolution accepting an annexation petition for further consideration with regard to annexing approximately 106 acres of property generally located at 2550 South Kuhni Road, as shown in the attached Exhibit A; and

WHEREAS, pursuant to Utah Code 10-2-407(6), if no timely protests against the proposed annexation have been filed, the Municipal Council may approve the annexation; and

WHEREAS, no timely protests were filed against the proposed annexation; and

WHEREAS, on March 22, 2023, the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended approval to the Municipal Council in a 5:0 vote; and

WHEREAS, on April 18, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts and comments presented to the Municipal Council, the Council finds that approval of this annexation would reasonably further the health, safety, and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

The Municipal Council hereby approves the annexation of approximately 106 acres of property generally located at 2550 South Kuhni Road, as shown in the attached Exhibit A.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged

to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

Exhibit A

Provo Map
I-15
I-15
2718
2712
2713
Provo City
provo
0 0.05 0.1 0.2 mi
Author: Provo City
Date: 3/14/2023
This map is for graphical representation only and not for construction or defining feature locations.

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: March 22, 2023

***ITEM 1**	Tara Riddle requests annexation of approximately 106 acres located at approximately 2800 S 750 E. The subject property lies adjacent to the East Bay Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20220317

Applicant: Tara Riddle

Staff Coordinator: Brandon Larsen

Property Owners: Provo City

Parcel ID#: 22:053:0038, 22:053:0039, 22:053:0041, 22:053:0043, 22:053:0047, and 22:053:0072

Acreage: 106.19 acres

Number of Properties: 6

General Plan Designation: Parks, Recreation, and Open Space

Related Applications: None

Alternative Actions:

Continue to a future date to obtain additional information or to further consider information presented. The next available meeting date is April 12, 2023, at 6:00 P.M.

Recommend Denial of the proposed annexation. This recommendation would be inconsistent with the staff report. The Planning Commission must make specific findings that the proposal does not meet City Code requirements.

Relevant History: None

Neighborhood Issues: None

Summary of Key Issues:
Approximately 106.19 acres is proposed to be annexed into Provo City.
Provo City desires to include this land within its boundaries, so it can better patrol it.

Recommended Action:
Recommend approval to the Municipal Council of the proposed Scotty Dog Annexation of approximately 106.19 acres, located at approximately 2800 S 750 E.

OVERVIEW

This item is an annexation request for property located at 2800 S 750 E. The total acreage is approximately 106.19 contiguous acres. The subject area is located just south of the Timpanogos Golf Club. Interstate 15 lies immediately to the west and 950 East lies immediately to the east. The Pacific States industrial property lies immediately east of 950 East. Springville City lies immediately to the south of the subject property. The property lies approximately one-half mile north of 1400 North in Springville City.

The proposed annexation is located within "Area Two" on the city's Annexation Policy Map. A portion of Appendix C: Annexation Map and Policies sets forth the following regarding "Area Two":

> *"Area Two is bounded by I-15 on the west, existing Provo City limits on the north and east, and the Provo/Springville City Boundary Agreement Line on the south. The General Plan Map calls for an Industrial designation for land between 950 East on the west and Tracy Hall Parkway on the east, and between the Provo/Springville City Boundary Agreement Line on the south and to approximately Lakeview Parkway on the north. A Parks, Recreation, and Open Space designation is prescribed for the area lying between 1-15 on the west and 950 East on east, and the Provo/Springville City Boundary Agreement Line on the south and to the southern boundary of the Provo Bay Addition to the north. Provo City has electrical lines in this area and has extended sewer lines as far south as the Timpanogos Golf Course. Water and sewer line extensions would be required to continue annexation south of the Timpanogos Golf Course and east of the railroad tracks."*

§14.02.080 provides the following regarding the zoning of annexed property: *"any property in the process of annexation, or annexed to or consolidated to Provo City subsequent to the effective date of this Section, shall be deemed to be classified in accordance with the lowest density zone allowed by the land use designation set forth for the subject property in the Provo City General Plan."*

The subject land has a *Parks, Recreation, and Open Space* land use designation, as per the General Plan Map. The lowest density zone allowed per this land use designation is the *Open Space, Park, and Recreation* (OSPR) Zone. This OSPR Zone is a desirable zone for this property considering the subject land generally appears to be vacant land, inundated with water, and habit for waterfowl.

The Coordinator's Review Committee reviewed the subject annexation and had no issues with it. There are no development plans associated with this application. The city desires to bring this land into its boundaries to better patrol it. There appear to be no plans to extend utilities to the subject property.

FINDINGS OF FACT

- The subject property is within "Area Two" of the Provo City Annexation Policy Map.
- The majority of the subject land is designated as "Parks, Recreation, and Open Space" on the Provo City General Plan Map.

- The Open Space, Parks, and Recreation Zone is the desired zone for this property, which is in harmony with the policies of the General Plan.
- Utilities are not proposed to be extended to this property through this proposal.

CONCLUSIONS

In its review and evaluation of this request, Development Services Staff believes the proposed annexation is substantially consistent with the adopted Annexation Plan, the General Plan Map, and will be a benefit to Provo City.

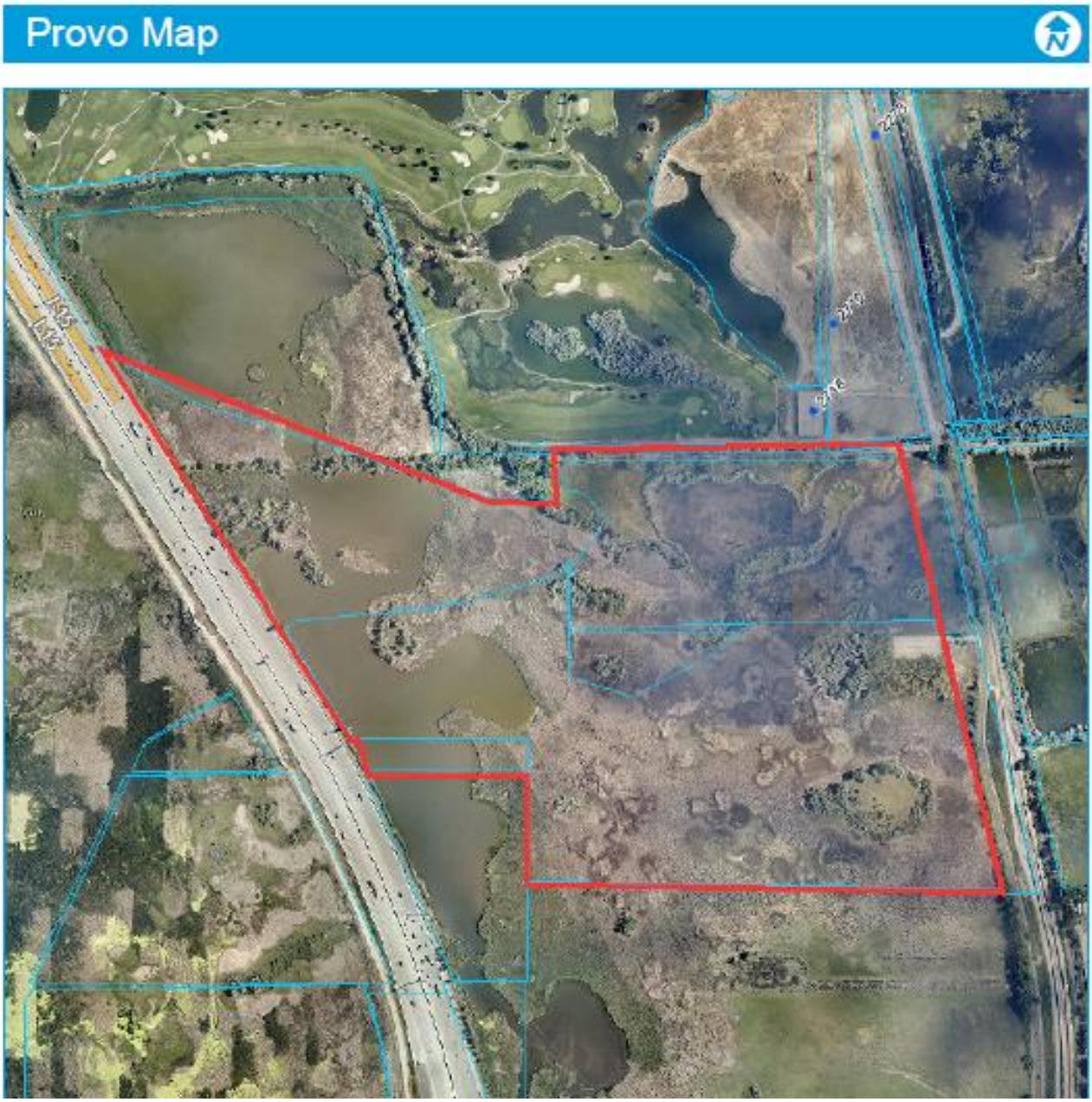
RECOMMENDATION

Recommend Approval to the Municipal Council of the proposed Scotty Dog Annexation of approximately 106.19 acres, located at approximately 2800 S 750 E.

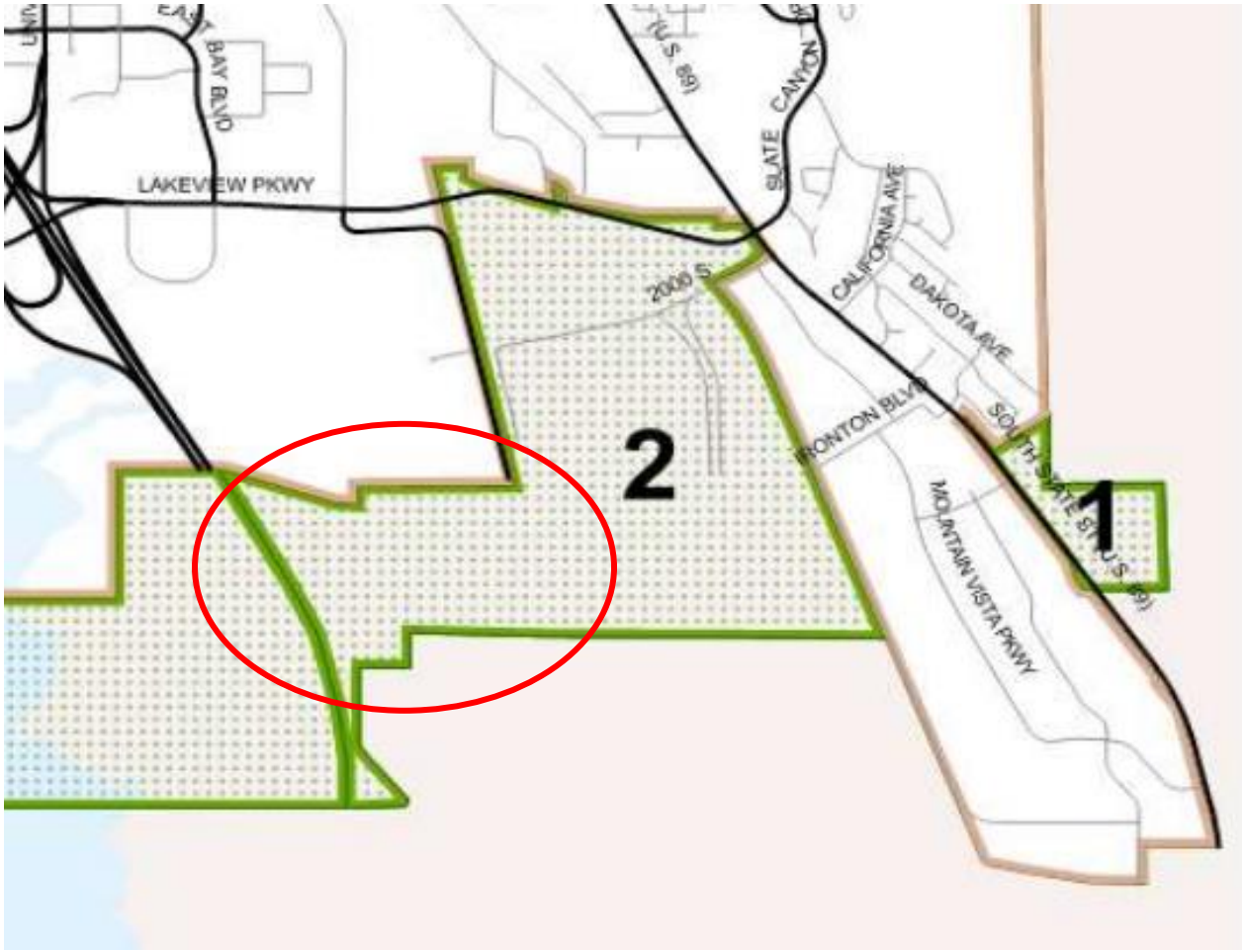
ATTACHMENTS

1. Location Map
2. Annexation Policy Map
3. Annexation Plat Map
4. General Plan Map

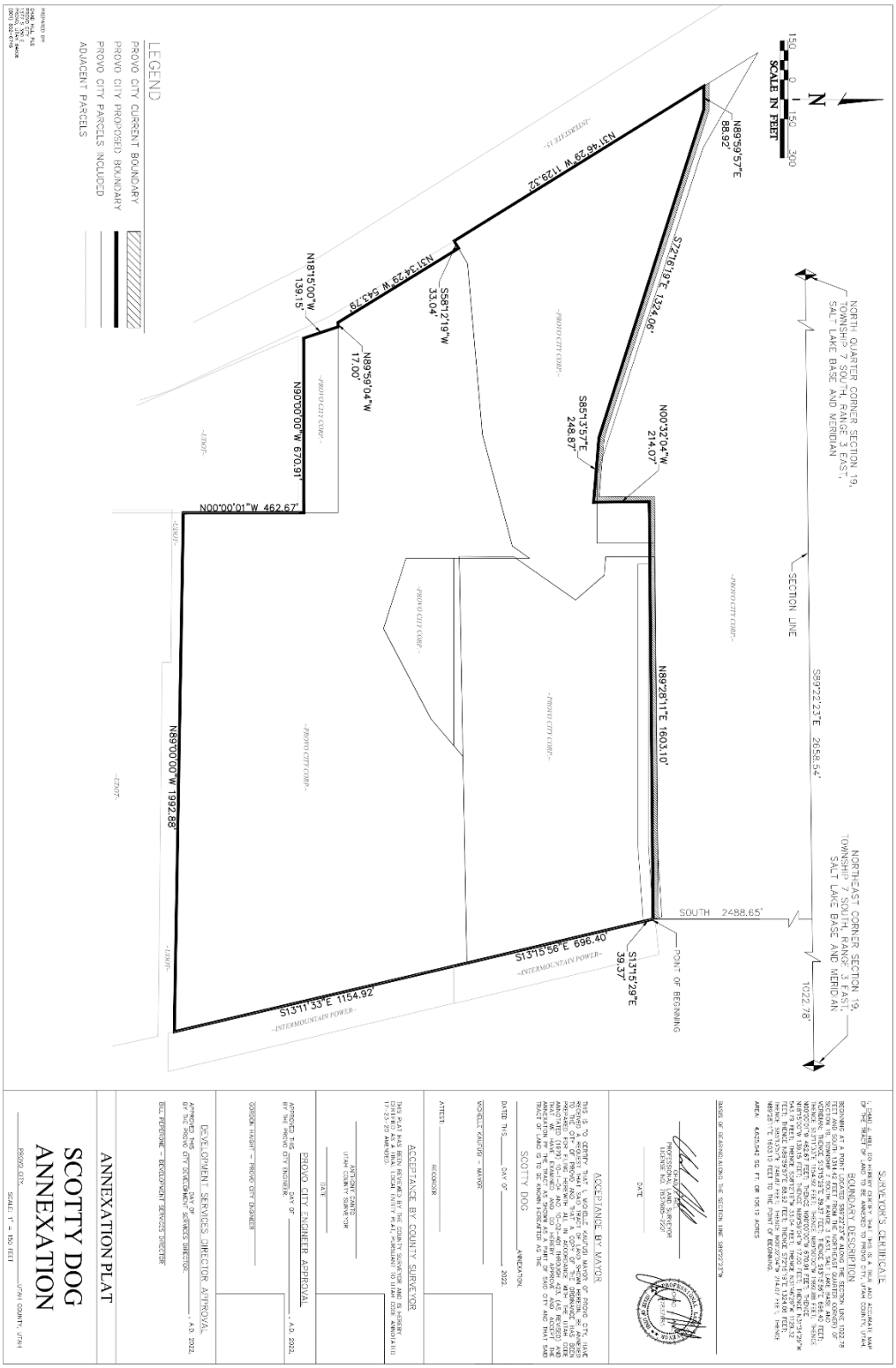
Attachment 1: Location Map



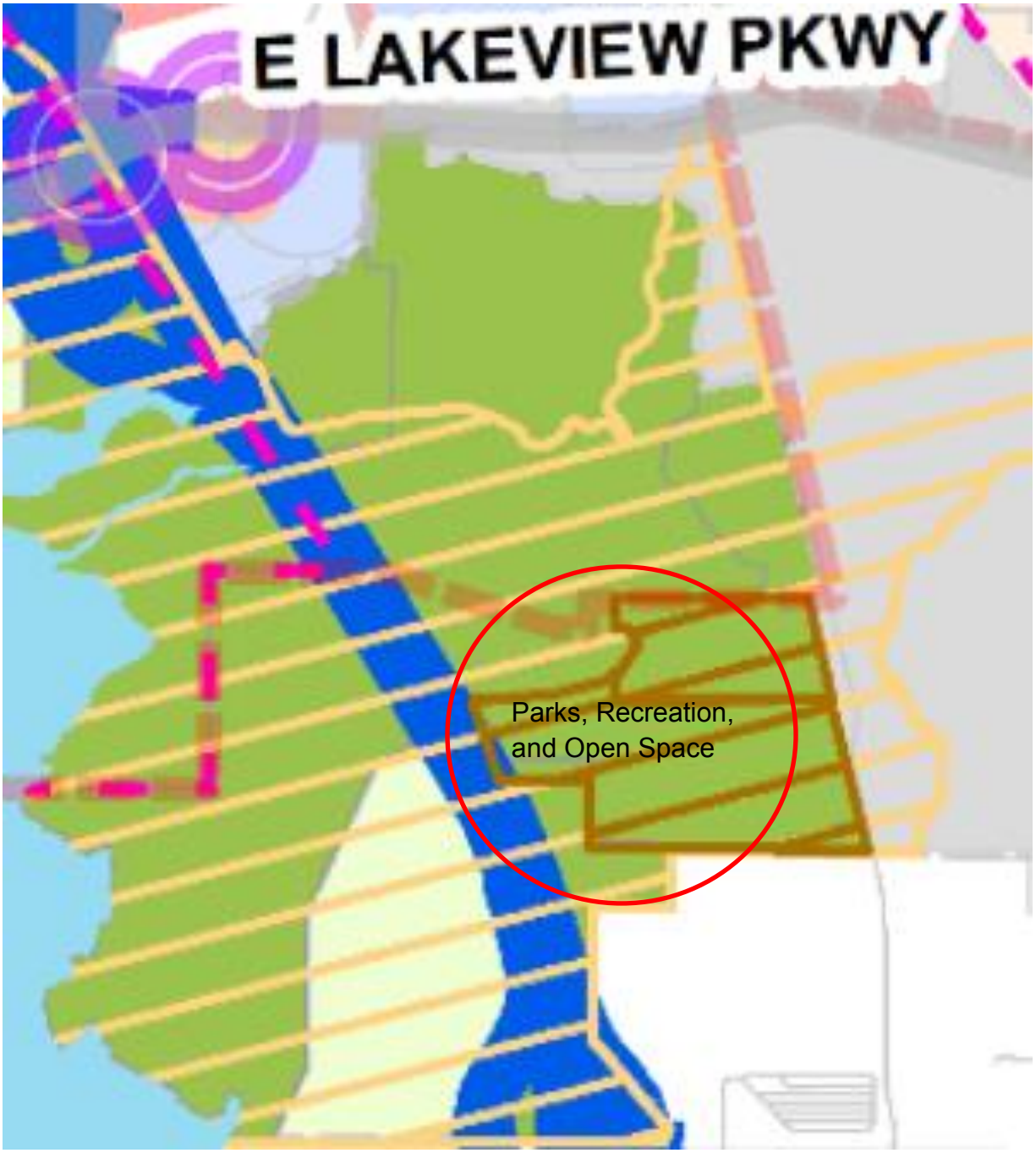
Attachment 2: Annexation Policy Map



Attachment 3: Annexation Plat Map



Attachment 4: General Plan Map



Provo City Planning Commission

Report of Action

March 22, 2023

*ITEM 1	Tara Riddle requests annexation of approximately 106 acres located at approximately 2800 S 750 E. The subject property lies adjacent to the East Bay Neighborhood. Brandon Larsen (801) 852-6408 PLANEX20220317

The following action was taken by the Planning Commission on the above-described item at its regular meeting of March 22, 2023:

RECOMMENDED APPROVAL

On a vote of 5:0, the Planning Commission recommended that the Municipal Council approve the above-noted application.

Motion By: Robert Knudsen
Second By: Raleen Wahlin
Votes in Favor of Motion: Lisa Jensen, Melissa Kendall, Robert Knudsen, Jeff Whitlock, and Raleen Wahlin.

Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE ANNEXED

- The property to be annexed is described in the attached Exhibit A.

STAFF PRESENTATION

- The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

- No city department issues were raised.

NEIGHBORHOOD AND PUBLIC COMMENT

- The District Chair was not present or did not address the Planning Commission during the hearing.

CONCERNS RAISED BY PUBLIC

- No members of the public commented or raised concerns at this meeting.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- The applicant was not present.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Kendall asked staff what the tax impact to the citizens would be for the proposed annexation. Staff stated any tax impact would be minimal considering the size of the annexation area compared to the rest of the city.
- Commissioner Kendall questioned why not bring in the rest of Annexation Policy Area #2 with the proposed land (staff had shown a picture of Annexation Policy Area #2 to the Planning Commission). Staff explained that some or all the rest of Policy Area #2 may be proposed for annexation in the near future. However, there may be environmental/industrial concerns with some of this land, so the city will want to be judicious in annexing this area.
- Commissioner Knudsen wanted to know what plans the city has for this property if it is annexed. Staff explained the city has no development plans for the subject property.
- The Planning Commission acted to recommend approval of the proposed annexation to the City Council. The vote was 5-0.

Lisa Jensen

Planning Commission Chair

Bill Peperone

Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to the Development Services Department, 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A

BEGINNING AT A POINT LOCATED S89°22'23"W ALONG THE SECTION LINE 1022.78 FEET AND SOUTH 1314.42 FEET FROM THE NORTHEAST QUARTER CORNER) OF SECTION 19, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; THENCE S13°15'29"E 39.37 FEET; THENCE S13°15'56"E 696.40 FEET; THENCE S13°11'33"E 1154.92 FEET; THENCE N89°00'00"W 1992.88 FEET; THENCE N00°00'01"W 462.67 FEET; THENCE N90°00'00"W 670.91 FEET; THENCE N18°15'00"W 139.15 FEET; THENCE N89°59'04"W 17.00 FEET; THENCE N31°34'29"W 543.79 FEET; THENCE S58°12'19"W 33.04 FEET; THENCE N31°46'29"W 1129.32 FEET; THENCE N89°59'57"E 88.92 FEET; THENCE S72°16'19"E 1324.06 FEET; THENCE S85°13'57"E 248.87 FEET; THENCE N00°32'04"W 214.07 FEET; THENCE N89°28'11"E 1603.10 FEET TO THE POINT OF BEGINNING.

AREA: 4,625,542 SQ. FT. OR 106.19 ACRES

ITEM 1*

Tara Riddle requests annexation of approximately 106 acres located at approximately 2800 S 750 E. The subject property lies adjacent to the East Bay Neighborhood.

Citywide Application

PLANEX20220317

Vicinity

Scotty Dog Annexation

Lines

Override 1

Parcel

0 0.125 0.25 0.5 mi

Author: Provo City Date: 2/14/2023

This map is for graphical representation only and not for construction or defining feature locations.

Site

Scotty Dog Annexation

Lines

Override 1

Parcel

provo

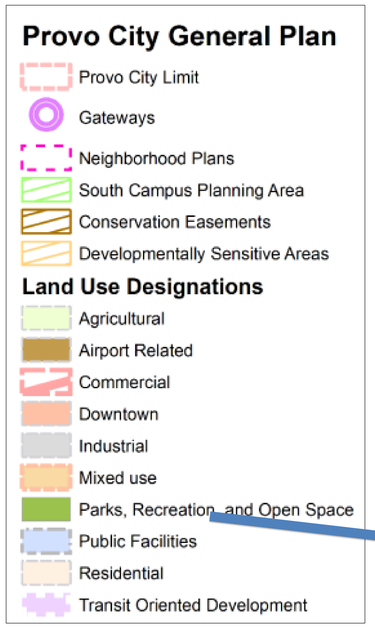
0 0.05 0.1 0.2 mi

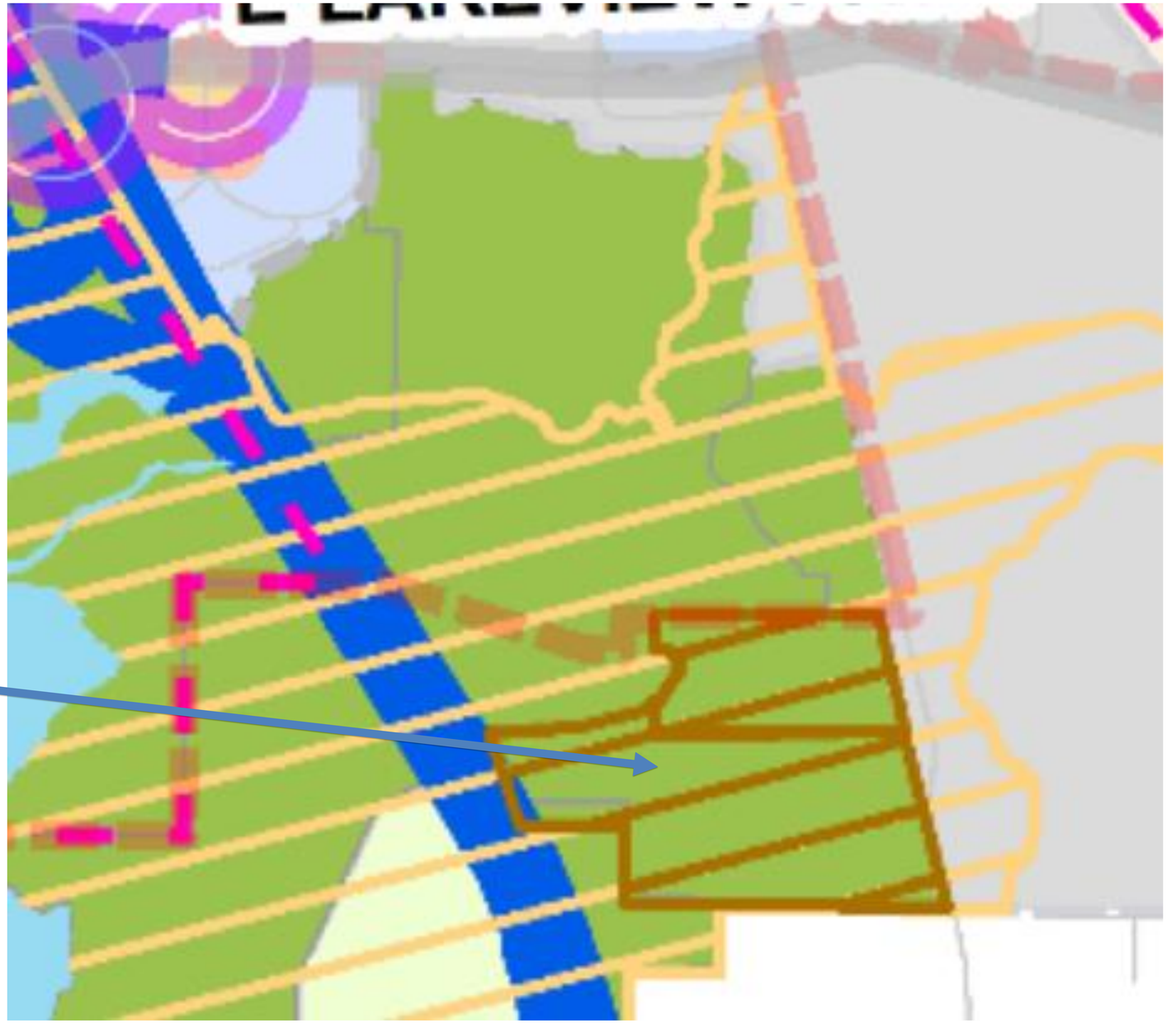
Author: Provo City Date: 2/14/2023

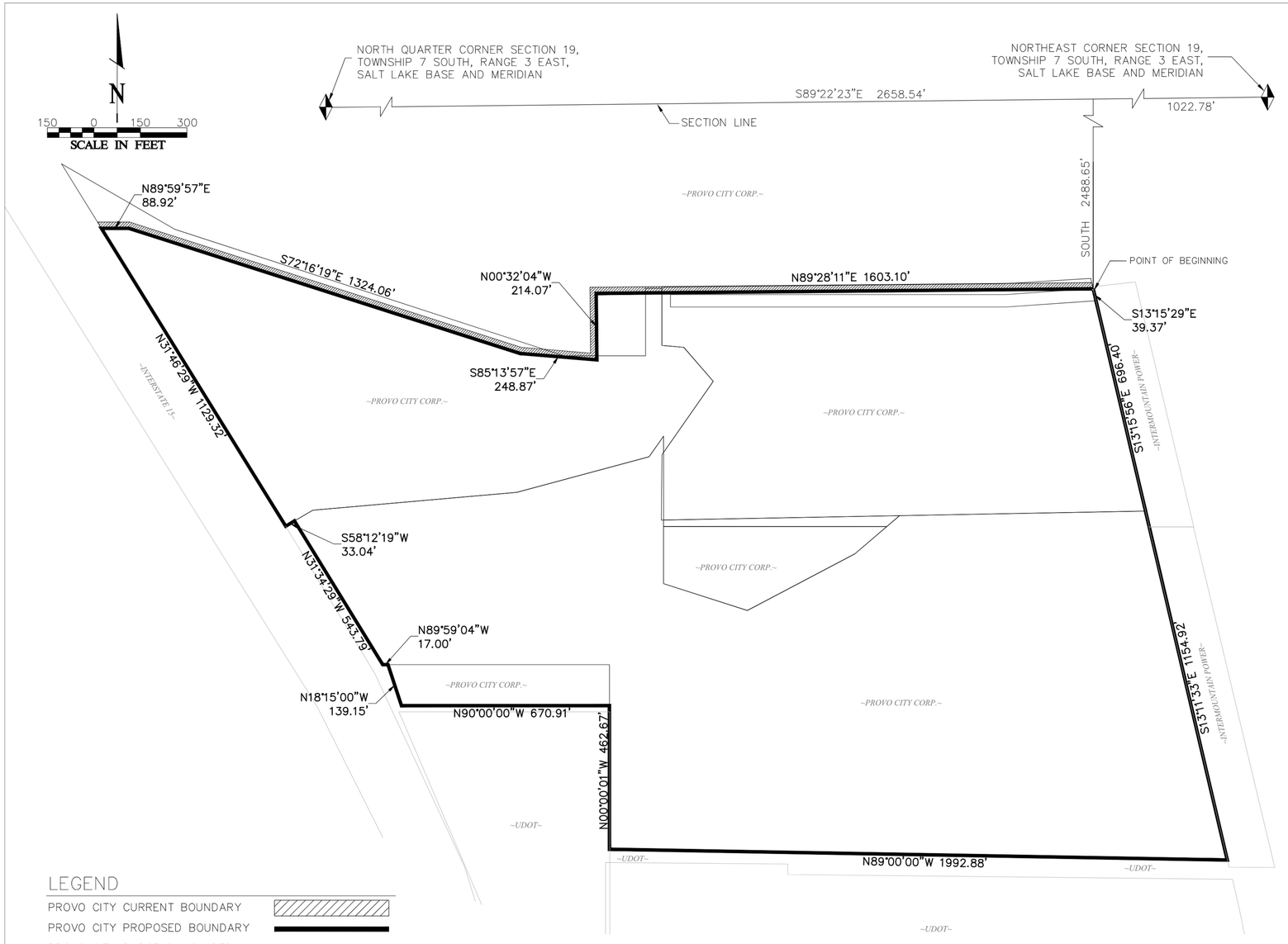
This map is for graphical representation only and not for construction or defining feature locations.

Annexation Policy Map

General Plan Map







PREPARED BY:

CHAD HILL, PLS
PROVO CITY
1377 S 350 E
PROVO, UTAH 84606
(801) 852-6746

SURVEYOR'S CERTIFICATE

I, CHAD J. HILL, DO HEREBY CERTIFY THAT THIS IS A TRUE AND ACCURATE MAP OF THE TRACT OF LAND TO BE ANNEXED TO PROVO CITY, UTAH COUNTY, UTAH.

BOUNDARY DESCRIPTION

BEGINNING AT A POINT LOCATED S89°22'23"W ALONG THE SECTION LINE 1022.78 FEET AND SOUTH 1314.42 FEET FROM THE NORTHEAST QUARTER CORNER) OF SECTION 19, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; THENCE S13°15'29"E 39.37 FEET; THENCE S13°15'56"E 696.40 FEET; THENCE S13°11'33"E 1154.92 FEET; THENCE N89°00'00"W 1992.88 FEET; THENCE N00°00'01"W 462.67 FEET; THENCE N90°00'00"W 670.91 FEET; THENCE N18°15'00"W 139.15 FEET; THENCE N89°59'04"W 17.00 FEET; THENCE N31°34'29"W 543.79 FEET; THENCE S58°12'19"W 33.04 FEET; THENCE N31°46'29"W 1129.32 FEET; THENCE N89°59'57"E 88.92 FEET; THENCE S72°16'19"E 1324.06 FEET; THENCE S85°13'57"E 248.87 FEET; THENCE N00°32'04"W 214.07 FEET; THENCE N89°28'11"E 1603.10 FEET TO THE POINT OF BEGINNING.

AREA: 4,625,542 SQ. FT. OR 106.19 ACRES

BASIS OF BEARING: ALONG THE SECTION LINE S89°22'23"W

CHAD J. HILL
PROFESSIONAL LAND SURVEYOR
LICENSE NO. 7837685-2201

DATE

ACCEPTANCE BY MAYOR

THIS IS TO CERTIFY THAT I, MICHELLE KAUFUSI MAYOR OF PROVO CITY, HAVE RECEIVED A REQUEST THAT SAID TRACT OF LAND SHOWN HEREON, BE ANNEXED TO THE CITY OF PROVO AND THAT A COPY OF THE ORDINANCE HAS BEEN PREPARED FOR FILING HEREWITH ALL IN ACCORDANCE WITH THE UTAH CODE ANNOTATED (1979) 10-1-04 AND 10-02-401 THROUGH 423, (AS REVISED) AND THAT WE HAVE EXAMINED AND DO HEREBY APPROVE AND ACCEPT THE ANNEXATION PF THE TRACT AS SHOWN AS A PART OF SAID CITY AND THAT SAID TRACT OF LAND IS TO BE KNOWN HEREAFTER AS THE

SCOTTY DOG ANNEXATION.

DATED THIS _____ DAY OF _____, 2022.

MICHELLE KAUFUSI – MAYOR

ATTEST: _____
RECORDER

ACCEPTANCE BY COUNTY SURVEYOR

THIS PLAT HAS BEEN REVIEWED BY THE COUNTY SURVEYOR AND IS HEREBY CERTIFIED AS A FINAL LOCAL ENTITY PLAT, PURSUANT TO UTAH CODE ANNOTATED 17-23-20 AMENDED.

ANTHONY CANTO
UTAH COUNTY SURVEYOR

DATE

PROVO CITY ENGINEER APPROVAL

APPROVED THIS _____ DAY OF _____, A.D. 2022, BY THE PROVO CITY ENGINEER.

GORDON HAIGHT – PROVO CITY ENGINEER

DEVELOPMENT SERVICES DIRECTOR APPROVAL

APPROVED THIS _____ DAY OF _____, A.D. 2022, BY THE PROVO CITY DEVELOPMENT SERVICES DIRECTOR.

BILL PEPERONE – DEVELOPMENT SERVICES DIRECTOR

ANNEXATION PLAT

SCOTTY DOG ANNEXATION

PROVO CITY, _____ UTAH COUNTY, UTAH

SCALE: 1" = 150 FEET

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© 2023 Google

Provo Wetland Wildlife
Protection Area
Visit by Appointment
801-852-6606

© 2023 Google

TO:

UTAH LIEUTENANT GOVERNOR'S OFFICE
350 North State Street, Suite 220
P.O. Box 142325
Salt Lake City, Utah 84114-2325

NOTICE OF IMPENDING BOUNDARY ACTION

Scotty Dog Annexation to Provo City

Please take notice of the Provo City Scotty Dog Annexation. The Annexation was approved by Ordinance No. _____, and was adopted on the ____ day of _____, 2023, by the Provo City Council, as per § 10-2-407(6), UCA. As required by § 67-1a-6.5(3)(e)(i), UCA, we certify that Provo City has met all requirements for approval of the Annexation. Accordingly, we request the Lieutenant Governor to issue a certificate of annexation, as per § 67-1a-6.5(2), UCA.

As per §10-2-425(3) & (4)(b), UCA, the subject annexation shall become effective on the ____ day of _____, 2023, the date of the Lieutenant Governor's issuance of a certificate of annexation.

ATTEST:

_____
Heidi Pepinos, City Recorder

PROVO CITY COUNCIL:

_____
Katrice MacKay, Chair

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: SWILMOTH
Department: Development Services
Requested Meeting Date: 04-18-2023

SUBJECT: An ordinance amending Zone Map classification of approx. 0.84 acres of real property, located at 141 E 500 N, from Residential Conservation (RC) to Medium Density Residential (MDR) & authorizing a related dev. agreement. Joaquin Nbhd. (PLRZ20220343)

RECOMMENDATION: To be heard at the April 18, 2023 Work & Council Meeting. Please see supporting documents.

BACKGROUND: Nathan Turner is requesting approval of a concept plan for overall site improvements over five properties and conversion of a single-family home on one of the properties in the Joaquin neighborhood, along 500 North. Specifically, the request is to improve landscaping throughout the five properties and install a volleyball court, fire pit, picnic areas, and basketball court. The concept plan also includes the conversion of the single-family home at 141 East 500 North to a two-family dwelling and adding the additional parking for that new unit on the northeast corner of the site. To enable these changes and to conform with the neighborhood plan Mr. Turner has also requested a zone change from the RC zone to the MDR zone.

The existing site has some nonconformities with the MDR zone that would continue to exist with the concept plan provided, including parking and setbacks. While there is a long-range concept plan submitted there is no timeline or plans from this owner to move forward with redevelopment of the corner in the near future. Staff did some preliminary evaluation of the long-term concept plan for a twenty-seven-unit, three-story apartment building that could fit on the property and comply with MDR zone standards. However, for the purpose of this application, staff is only evaluating and providing information on the immediate concept plan.

FISCAL IMPACT:

PRESENTER'S NAME: Aaron Ardmore (801) 852-6404 aardmore@provo.org

REQUESTED DURATION OF PRESENTATION: 10 min

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLRZ20220343

ORDINANCE 2022-.

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY 0.84 ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 141 EAST 500 NORTH, FROM RESIDENTIAL CONSERVATION (RC) TO MEDIUM DENSITY RESIDENTIAL (MDR) AND AUTHORIZING A RELATED DEVELOPMENT AGREEMENT. JOAQUIN NEIGHBORHOOD. (PLRZ20220343)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 0.84 acres of real property, generally located at 141 East 500 North (an approximation of which is shown or described in Exhibit A and a more precise description of which will be attached hereto as Exhibit B after the Zone Map has been updated), be amended from Residential Conservation (RC) to Medium Density Residential (MDR); and

WHEREAS, on March 22, 2023, the Planning Commission held a duly noticed public hearing to consider the proposal and after such hearing the Planning Commission recommended approval to the Municipal Council by a 5:0 vote; and

WHEREAS, the Planning Commission's recommendation was based on the project design presented to the Commission; and

WHEREAS, on April 18, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) the Zone Map of Provo, Utah, should be amended as described herein; and (ii) the proposed zone map classification amendment for the real property described herein reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

The Mayor is hereby authorized to negotiate and execute a development agreement as proposed by the applicant for this zone change, consistent with those commitments described in the concept plan and the representations made by the applicant and the applicant's representatives

in the Council Meeting of April 18, 2023 and in form substantially similar to the draft attached hereto as Exhibit C, an executed copy of which shall be attached hereto as Exhibit D after execution.

PART II:

The classification on the Zone Map of Provo, Utah is hereby amended from the Residential Conservation (RC) Zone to the Medium Density Residential (MDR) Zone for approximately 0.84 acres of real property generally located at 141 East 500 North, as described herein. The effective date of this zone map change shall be the date of final execution of the development agreement described in Part I.

PART III:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Zone Map of Provo City, Utah be updated and codified to reflect the provisions enacted by this ordinance.

D. Except as otherwise stated in Part II, this ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

E. Notwithstanding any provision or language to the contrary in this ordinance, if the Development Agreement authorized in Part I has not been fully executed by the necessary parties within one year from the date of the Municipal Council's approval of this ordinance, the entire ordinance shall expire, becoming null and void as if it had never been approved. Because the zone classification change contemplated in Part II cannot come into effect if the Development Agreement is not executed, neither the applicant nor any successor(s) in interest shall have any vested rights under this ordinance if it expires.

END OF ORDINANCE

EXHIBIT A – ZONE MAP

1
140
142
158
102
144
680
542
524
141
488
182
134
142
144
158
168

EXHIBIT B – LEGAL DESCRIPTION

Commencing at the Northwest corner of lot 4, block 27, plat C, Provo city survey; East 12 rods; South 3 rods; West 3 rods; South 1 rod; West 9 rods; North 4 rods to the beginning; (.22 acres)

AND

Commencing at the Southwest corner of block 27, plat C, Provo city survey; North 8 rods East 5 rods; South 8 rods; West 5 rods to the beginning; (.25 acres)

AND

Commencing at the East 5 rod and North 6 rod from the Southwest corner of block 27, plat C, Provo city survey; East 3 rods; North 2 rods; West 3 rods; South 2 rods to the beginning; (.038 acres)

AND

Commencing at the East 5 rods from the Southwest corner of block 27, plat C, Provo city survey; North 6 rods; East 3 rods; South 6 rods; West 3 rods to the beginning; (.113 acres)

AND

Commencing at the Southeast corner of Lot 3, block 27, plat C, Provo city survey; North 9 rods; West 3 rods; South 1 rod; West 1 rod; South 8 rods; East 4 rods to the beginning. (.22 acres)

Totaling 0.84 acres

Legal Description

1 - 542 N 100 E, Provo, UT 84606
Parcel # 05:071:0008 (.22 acres)
2 - 520 N / 522 N / 524 N 100 E, Provo, UT
Parcel # 05:071:0005 (.25 acres)
3 - 121 E 500 N, Provo, UT
Parcels # 05:071:0017 & # 05:071:0018 (.15 acres)
4 - 141 E 500 N, Provo, UT
Parcel # 05:071:0007 (.22 acres)

EXHIBIT C – DRAFT DEVELOPMENT AGREEMENT

DEVELOPMENT AGREEMENT
FOR
Nathan Turner Rezone

141 East 500 North

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the _____ day of _____, 2023 (the "Effective Date"), by and between the CITY OF PROVO, a Utah municipal corporation, hereinafter referred to as "City," and Nathan Turner, hereinafter referred to as "Developer." The City and Developer are hereinafter collectively referred to as "Parties."

RECITALS

A. Developer is the owner of approximately 0.84 acres of land located within the City of Provo as is more particularly described on EXHIBIT A, attached hereto and incorporated herein by reference (the "Property").

B. On _____, the City Council approved Ordinance _____, vesting zoning (the "Vesting Ordinance"), based on the Concept Plan set forth on EXHIBIT B ("Concept Plan"), attached hereto and incorporated herein by reference, which will govern the density, development and use of the Property (said density, development, and use constituting the "Project").

C. Developer is willing to design and construct the Project in a manner that is in harmony with and intended to promote the long range policies, goals, and objectives of the City's general plan,

zoning and development regulations in order to receive the benefit of vesting for certain uses and zoning designations under the terms of this Agreement as more fully set forth below.

D. The City Council accepted Developer's proffer to enter into this Agreement to memorialize the intent of Developer and City and decreed that the effective date of the Vesting Ordinance be the date of the execution and delivery of this Agreement and the recording thereof as a public record on title of the Property in the office of the Utah County Recorder.

E. The City Council further authorized the Mayor of the City to execute and deliver this Agreement on behalf of the City.

F. The City has the authority to enter into this Agreement pursuant to Utah Code Section 10-9a-102(2) and relevant municipal ordinances, and desires to enter into this Agreement with the Developer for the purpose of guiding the development of the Property in accordance with the terms and conditions of this Agreement and in accordance with applicable City Ordinances.

G. This Agreement is consistent with, and all preliminary and final plats within the Property are subject to and shall conform with, the City's General Plan, Zoning Ordinances, and Subdivision Ordinances, and any permits issued by the City pursuant to City Ordinances and regulations.

H. The Parties desire to enter into this Agreement to specify the rights and responsibilities of the Developer to develop the Property as expressed in this Agreement and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this Agreement.

I. The Parties understand and intend that this Agreement is a "development agreement" within the meaning of, and entered into pursuant to, the terms of Utah Code Ann., §10-9a-102.

J. The Parties intend to be bound by the terms of this Agreement as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Developer hereby agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are hereby incorporated into this Agreement, as a substantive part hereof.

2. Zoning. The Property shall be developed in accordance with (i) the requirements of the MDR Zone, (ii) all other features as generally shown on the Concept Plan, and (iii) this Agreement. The Developer shall not seek to develop the Property in a manner that deviates materially from the Concept Plan as permitted by the aforementioned zoning designations for the Property.

3. Governing Standards. The Concept Plan, the Vesting Ordinance and this Agreement establish the development rights for the Project, including the use, maximum density, intensity and general configuration for the Project. The Project shall be developed by the Developer in accordance

with the Concept Plan, the Vesting Ordinance and this Agreement. All Developer submittals must comply generally with the Concept Plan, the Vesting Ordinance and this Agreement. Non-material variations to the Concept Plan, as defined and approved by the City's Community Development Director, such as exact building locations, exact locations of open space and parking may be varied by the Developer without official City Council or Planning Commission approval. Such variations however shall in no way change the maximum density, use and intensity of the development of the Project.

4. Additional Specific Developer Obligations. As an integral part of the consideration for this agreement, the Developer voluntarily agrees as follows:

a. That the site amenities will be built and maintained as shown in the attached concept plan (EXHIBIT B).

5. Construction Standards and Requirements. All construction on the Property at the direction of the Developer shall be conducted and completed in accordance with the City Ordinances, including, but not limited to setback requirements, building height requirements, lot coverage requirements and all off-street parking requirements.

6. Vested Rights and Reserved Legislative Powers.

a. Vested Rights. As of the Effective Date, Developer shall have the vested right to develop and construct the Project in accordance with the uses, maximum permissible densities, intensities, and general configuration of development established in the Concept Plan, as supplemented by the Vesting Ordinance and this Agreement (and all Exhibits), subject to compliance with the City Ordinances in existence on the Effective Date. The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §10-9a-509.

i. Examples of Exceptions to Vested Rights. The Parties understand and agree that the Project will be required to comply with future changes to City Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the City that would be applicable to the Project:

1. Developer Agreement. Future laws that Developer agrees in writing to the application thereof to the Project;

2. Compliance with State and Federal Laws. Future laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

3. Safety Code Updates. Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes,

such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or,

4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated.

5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

b. Reserved Legislative Powers. The Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 10-9a-509 of the Municipal Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under state or federal law.

7. Default. An "Event of Default" shall occur under this Agreement if any party fails to perform its obligations hereunder when due and the defaulting party has not performed the delinquent obligations within sixty (60) days following delivery to the delinquent party of written notice of such delinquency. Notwithstanding the foregoing, if the default cannot reasonably be cured within that 60-day period, a party shall not be in default so long as that party commences to cure the default within that 60-day period and diligently continues such cure in good faith until complete.

a. Remedies. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to exercise all of the following rights and remedies against the defaulting party:

1. All rights and remedies available at law and in equity, including injunctive relief, specific performance, and termination, but not including damages or attorney's fees.

2. The right to withhold all further approvals, licenses, permits or other rights associated with the Project or development activity pertaining to the defaulting party as described in this Agreement until such default has been cured.

3. The right to draw upon any security posted or provided in connection with the Property or Project by the defaulting party.

The rights and remedies set forth herein shall be cumulative.

8. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer: _____
Attn: _____
_____
_____
Phone: _____

To the City: City of Provo
Attention: City Attorney
445 W Center
Provo, UT 84601
Phone: (801) 852-6140

9. General Term and Conditions.

a. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

b. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (to the extent that assignment is permitted). Without limiting the generality of the foregoing, a "successor" includes a party that succeeds to the rights and interests of the Developer as evidenced by, among other things, such party's submission of land use applications to the City relating to the Property or the Project.

c. Non Liability of City Officials and Employees. No officer, representative, consultant, attorney, agent or employee of the City shall be personally liable to the Developer, or any successor in interest or assignee of the Developer, for any default or breach by the City, or for any amount which may become due to the Developer, or its successors or assignees, or for any obligation arising under the terms of this Agreement. Nothing herein will release any person from personal liability for their own individual acts or omissions.

d. Third Party Rights. Except for the Developer, the City and other parties that may succeed the Developer on title to any portion of the Property, all of whom are express intended beneficiaries of this Agreement, this Agreement shall not create any rights in and/or obligations to any other persons or parties. The Parties acknowledge that this Agreement refers to a private

development and that the City has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements

e. Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

f. Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the City and the Developer.

g. Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Utah County Recorder against the Property and is intended to and shall be deemed to run with the land, and shall be binding on and shall benefit all successors in the ownership of any portion of the Property.

h. Performance. Each party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay, disrupt or inconvenience any other party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy or other approvals associated therewith.

i. Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Utah.

j. Construction. This Agreement has been reviewed and revised by legal counsel for both the City and the Developer, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

k. Consents and Approvals. Except as expressly stated in this Agreement, the consent, approval, permit, license or other authorization of any party under this Agreement shall be given in a prompt and timely manner and shall not be unreasonably withheld, conditioned or delayed. Any consent, approval, permit, license or other authorization required hereunder from the City shall be given or withheld by the City in compliance with this Agreement and the City Ordinances.

l. Approval and Authority to Execute. Each of the Parties represents and warrants as of the Effective Date this Agreement, it/he/she has all requisite power and authority to execute and deliver this Agreement, being fully authorized so to do and that this Agreement constitutes a valid and binding agreement.

m. Termination.

i. Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the final plat for the Property has not been

recorded in the Office of the Utah County Recorder within ten (10) years from the date of this Agreement (the "Term"), or upon the occurrence of an event of default of this Agreement that is not cured, the City shall have the right, but not the obligation, at the sole discretion of the City Council, to terminate this Agreement as to the defaulting party (*i.e.*, the Developer). The Term may be extended by mutual agreement of the Parties.

ii. Upon termination of this Agreement for the reasons set forth herein, following the notice and process required hereby, the obligations of the City and the defaulting party to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner.

10. Assignability. The rights and responsibilities of Developer under this Agreement may be assigned in whole or in part by Developer with the consent of the City as provided herein.

a. Notice. Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

b. Partial Assignment. If any proposed assignment is for less than all of Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this Agreement to which the assignee succeeds. Upon any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

c. Grounds for Denying Assignment. The City may only withhold its consent if the City is not reasonably satisfied of the assignee's reasonable financial ability to perform the obligations of Developer proposed to be assigned.

d. Assignee Bound by this Agreement. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition precedent to the effectiveness of the assignment.

11. Sale or Conveyance. If Developer sells or conveys parcels of land, the lands so sold and conveyed shall bear the same rights, privileges, intended uses, configurations, and density as applicable to such parcel and be subject to the same limitations and rights of the City as when owned by Developer and as set forth in this Agreement without any required approval, review, or consent by the City except as otherwise provided herein.

12. No Waiver. Any party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. The provisions may be waived only in writing by the party intended to be benefited by the provisions, and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions.

13. Severability. If any portion of this Agreement is held to be unenforceable for any reason, the remaining provisions shall continue in full force and effect.

14. Force Majeure. Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

15. Amendment. This Agreement may be amended only in writing signed by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

CITY:

CITY OF PROVO

ATTEST:

By: _____ By:_____
City Recorder Mayor Michelle Kaufusi

DEVELOPER:

_____, a Utah limited liability company

By: _____
Name: _____
Title: _____

STATE OF UTAH)
:ss
COUNTY OF UTAH)

On the ____ day of _____, 2023, personally appeared before me _____, who being by me duly sworn, did say that he is the _____ of _____, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said limited liability company with proper authority and duly acknowledged to me that he executed the same.

_____
Notary Public
Residing at:

Exhibit A

Legal Description of the Property

1 - 542 N 100 E, Provo, UT 84606
Parcel # 05:071:0008 (.22 acres)
2 - 520 N / 522 N / 524 N 100 E, Provo, UT
Parcel # 05:071:0005 (.25 acres)
3 - 121 E 500 N, Provo, UT
Parcels # 05:071:0017 & # 05:071:0018 (.15 acres)
4 - 141 E 500 N, Provo, UT
Parcel # 05:071:0007 (.22 acres)

Exhibit B

Concept Plan

DAVIS Landscape Architecture
S OGDEN, UT
801.200.9696
Consultant

Seal

Description
By
Date
Rev

Project Name: NATE TURNER
100 E 500 N PROVO, UT, 84606
Sheet Title: LANDSCAPE PLAN

Drawn/Checked By: JB/BD
Date: 02/15/2022
Project Number: 2022121601
Sheet Number: L 1.01

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: March 22, 2023

***ITEM #4** Nathan Turner requests approval of a Zone Map Amendment from the RC (Residential Conservation) zone to the MDR (Medium Density Residential) zone in order to make site improvements over multiple properties and convert a single-family home to a two-family home, located at 141 East 500 North. Joaquin Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20220343

Applicant: Nathan Turner

Staff Coordinator: Aaron Ardmore

Property Owner: Nathan and Cassie Turner

Parcel ID#: 05:071:0005; 05:071:0007; 05:071:0008; 05:071:0017; 05:071:0018

Acreage: 0.84 acres

Number of Unis: 7

Number of Lots: 5

Current Zone: RC

Proposed Zone: MDR

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 12, 2023, at 6:00 P.M.*

2. **Recommend Denial** of the requested zone map amendment. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Current Legal Use: The properties currently contain seven residential units with a three-unit building at 520 N 100 E, a two-family dwelling at 121 E 500 N, a single-family home at 542 N 100 E, and a single-family home at 141 E 500 N.

Relevant History: Mr. Turner recently acquired the five properties at the corner of 500 North and 100 East and approached staff on a concept for site improvements and converting one of the homes to a duplex. After working with staff through a number of revisions between November 2022-February 2023, a short-term concept and long-term concept were prepared to go with this rezone request to the MDR zone.

Neighborhood Issues: This item was discussed at the November 29th Joaquin neighborhood meeting (report attached) and there was some concern about the existing parking and access.

Summary of Key Issues:
The short-term proposes improvements in landscaping, residential amenities, and parking; as well as converting 141 E 500 N to a duplex.
The long-term concept is to show what could be done in the future with the MDR zone.
The MDR zone complies with the Future Land Use plan in the Joaquin Neighborhood Plan (appendix of the General Plan).

Staff Recommendation: Staff recommends that the Planning Commission recommend approval of the zone map amendment to the City Council.

OVERVIEW

Nathan Turner is requesting approval of a concept plan for overall site improvements over five properties and conversion of a single-family home on one of the properties in the Joaquin neighborhood, along 500 North. Specifically, the request is to improve landscaping throughout the five properties and install a volleyball court, fire pit, picnic areas, and basketball court. The concept plan also includes the conversion of the single-family home at 141 East 500 North to a two-family dwelling and adding the additional parking for that new unit on the northeast corner of the site. To enable these changes and to conform with the neighborhood plan Mr. Turner has also requested a zone change from the RC zone to the MDR zone.

The existing site has some nonconformities with the MDR zone that would continue to exist with the concept plan provided, including parking and setbacks. While there is a long-range concept plan submitted there is no timeline or plans from this owner to move forward with redevelopment of the corner in the near future. Staff did some preliminary evaluation of the long-term concept plan for a twenty-seven-unit, three-story apartment building that could fit on the property and comply with MDR zone standards. However, for the purpose of this application, staff is only evaluating and providing information on the immediate concept plan.

The property surrounding the applicant's land is primarily zoned RC (Residential Conservation) with the exception of the Provo City Library to the west in the DT1 (General Downtown) zone. The uses on the same block as the concept area include the Campus Way Apartments (24 units), the Presidio Condos (14 units), the Fernwood Condos (21 units), the Newport Condos (10 units), the Bostonian Condos (20 units), two duplexes, and one, three-unit dwelling. In total the block (including the subject property) contains 107 residential units. Moving outside of the block the majority surrounding blocks are also zoned RC and have a mix of single-family homes, duplexes, and apartments buildings.

FINDINGS OF FACT

1. The current zone for the properties is RC (Chapter 14.32, Provo City Code).
2. The proposed zone for the properties is MDR (Chapter 14.14B)
3. The General Plan for the properties is Residential – MDR.
4. The current density for the properties is eight (8) units/acre.
5. The proposed density for the properties is nine and a half (9.5) units/acre.
6. The current parking count for the site is twenty-six (26) spaces (3.7/unit).
7. The proposed parking count for the site is thirty (30) spaces (3.75/unit).
8. The required parking count is three (3) stalls per unit (Section 14.37, Provo City Code).

ANALYSIS

Staff is supportive of the zone change because it meets the goals of the Joaquin Neighborhood Plan. Provo City Code Section 14.020.020(2) establishes criteria for staff to analyze amendments to the zoning title as follows: **(Staff response in bold type)**

> Before recommending an amendment to this Title, the Planning Commission shall determine whether such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. The following guidelines shall be used to determine consistency with the General Plan:
>
> (a) Public purpose for the amendment in question.

Staff response: The applicant stated the public purpose for this amendment is to "allow for this area to be improved and revitalized, so that the parcels can be brought together to form a beautiful medium-density community for college student housing." Staff would add that the zone change provides potential for more housing in an area with high demand.

> (b) Confirmation that the public purpose is best served by the amendment in question.

Staff response: Staff believes that the proposed zone change and related concept plan do help to meet the stated purposes above.

> (c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.

Staff response: Chapter Four identifies goals for housing related to the proposal, including "allow for different types of housing in neighborhoods and allow for a mix of home sizes at different price points". The initial plans to convert a home to a duplex while improving the overall site helps to achieve this goal. Additionally, the Joaquin Neighborhood Plan states a goal to "amend the zoning map to be consistent with the future land use map." This has been proactively done by staff for the CMU area without immediate development proposals, and this request is similar to that in that there are no immediate plans to redevelop the subject properties.

> (d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.

Staff response: There are no timing and sequencing provisions related to this request.

> (e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.

Staff response: The proposed zone change will not hinder or obstruct attainment of the General Plan policies, but as noted above, will help to meet the goals of both the General Plan and the Joaquin Neighborhood Plan.

(f) Adverse impacts on adjacent landowners.

Staff response: Staff does not anticipate any adverse impacts on adjacent landowners, but neighbors should actually notice the property being beautified and managed in a positive way.

(g) Verification of correctness in the original zoning or General Plan for the area in question.

Staff response: Staff has verified the zoning and General Plan for the area.

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

Staff response: There is no such conflict.

In addition to Section 14.02.020(2) analysis, the General Plan identifies a set of questions to help staff and the City Council evaluate rezone applications for housing on page 45, as follows: **(staff responses in bold)**

- Would the rezone promote one of the top 3 housing strategies?
  - Promote a mix of home types, sizes, and price points
  - Support zoning to promote ADUs and infill development
  - Recognize the value of single-family neighborhoods

Staff response: As noted earlier in this report, the proposal will help to promote a mix of home types, sizes, and price points through the variety of housing; and the MDR zone would potentially allow for ADUs.

- Are utilities and streets currently within 300 feet of the property proposed for rezone?

Staff response: Yes, in 500 North and 100 East.

- Would the rezone exclude land that is currently being used for agricultural use?

Staff response: Not applicable, there is no agricultural use near the proposal.

- Does the rezone facilitate housing that has reasonable proximity (1/2 mile) to public transit stops or stations?

Staff response: Yes, the closest transit stop at 600 N University Avenue is approximately 1/8 mile away.

- Would the rezone encourage development of environmentally or geologically sensitive, or fire or flood prone, lands? If so, has the applicant demonstrated these issues can reasonably be mitigated?

Staff response: No, there are no hazards on or near the subject properties.

- Would the proposed rezone facilitate the increase of on-street parking within 500 feet of the subject property? If so, is the applicant willing to guarantee use of a TDM in relation to the property to reduce the need for on-street parking?

Staff response: No, the site is parked at a rate higher than what code would require, providing 3.7 spaces per unit.

- Would the rezone facilitate a housing development where a majority of the housing units are owner-occupied? Is the applicant willing to guarantee such?

Staff response: No, this area of Joaquin is intended for student housing and as such would not be encouraging owner-occupancy.

- Would the proposed rezone facilitate a housing development where at lest 10% of the housing units are attainable to those making 50-79% AMI? Is the applicant willing to guarantee such?

- **Staff response: This is rental housing with market-rate rents.**

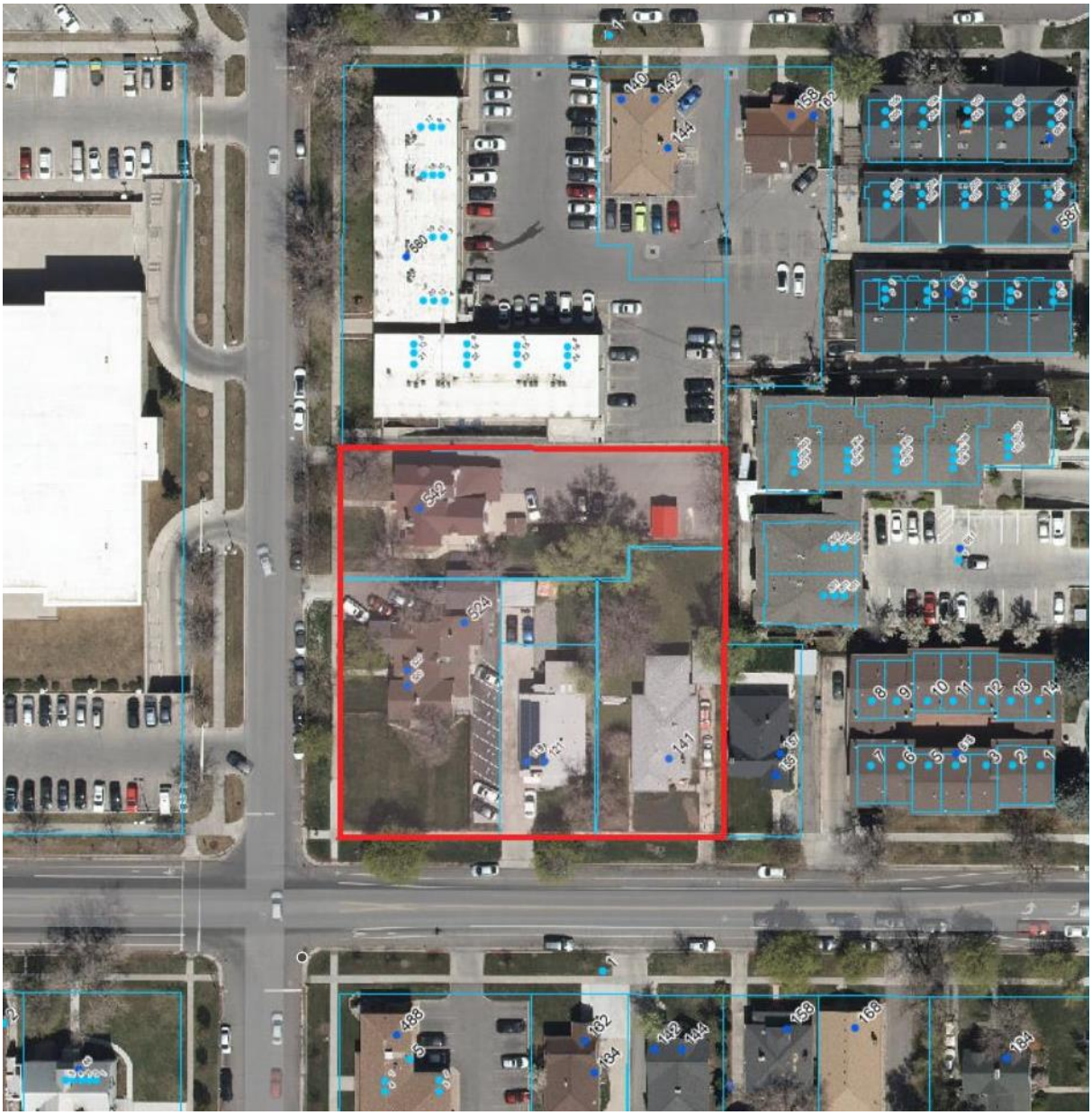
CONCLUSIONS

Staff is pleased to see a portion of area planned for MDR zoning in the Joaquin Plan to be proposed for that zone. The short-term plan will result in an increase of amenities livability for the tenants of these properties. Adding trees and improving overall appearance while rezoning the site to meet the goals of the Joaquin Neighborhood Plan is supported by staff. When the time comes for the property to redevelop, staff is supportive and confident that the MDR zone will provide a good product and what is expected for this portion of the neighborhood.

ATTACHMENTS

1. Area Map
2. Concept Plan
3. Joaquin Future Land Use Map
4. Applicants Statement
5. Neighborhood Meeting Report

ATTACHMENT 1 – AREA MAP



ATTACHMENT 2 – CONCEPT PLAN

ATTACHMENT 3 – JOAQUIN FUTURE LAND USE MAP

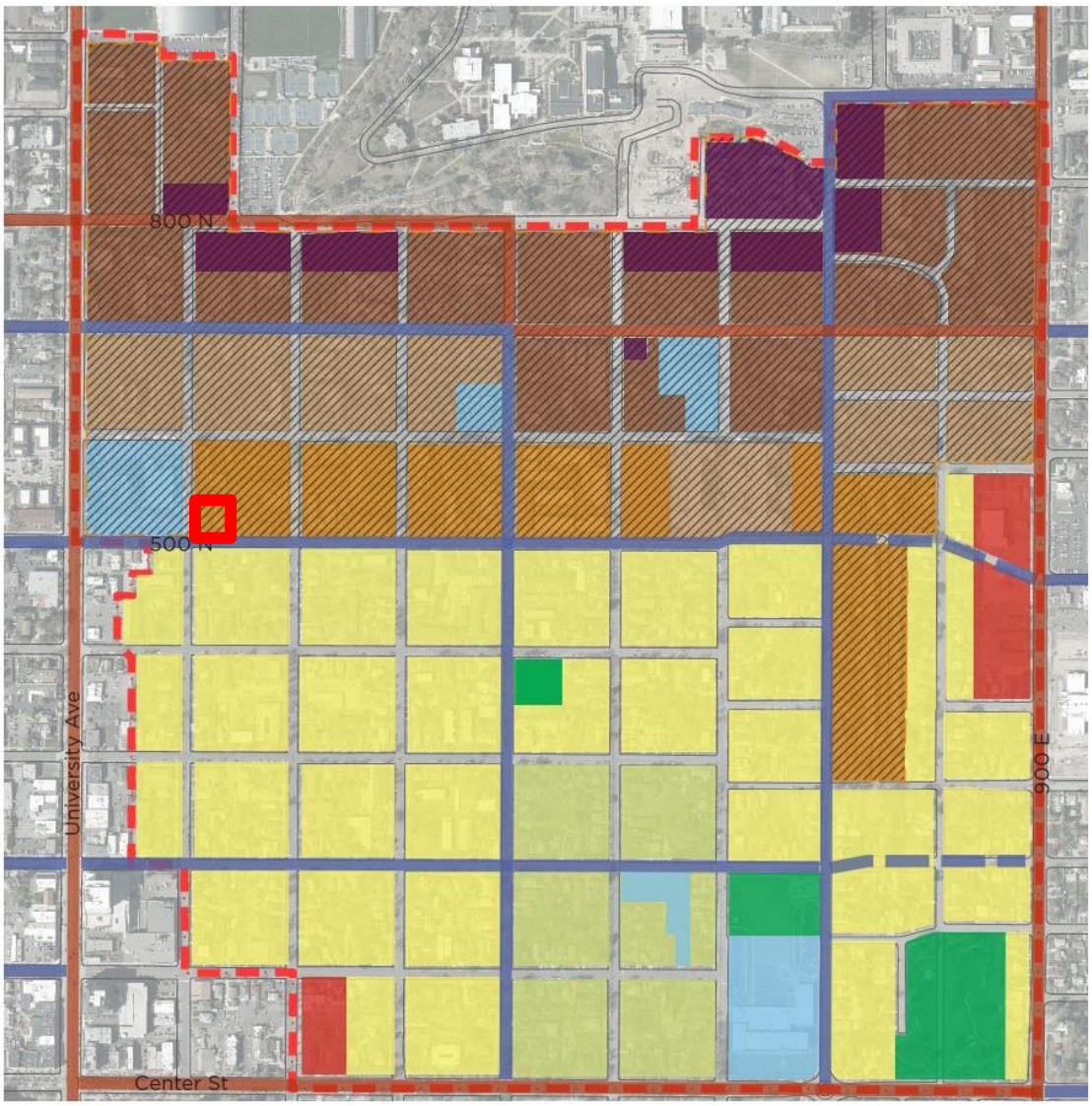


Figure 3.3 - Joaquin Neighborhood Future Land Use

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ATTACHMENT 4 – APPLICANTS STATEMENT

Nate Turner
141 E 500 N
Provo, UT 84606

Phone: 801-835-3697
E-mail:
nateturner8@gmail.com

25 October 2022

Dear Provo City,

This is a petition to amend the zoning of 5 adjoining parcels located at the northeast corner at the intersection of 100 E and 500 N in Provo. A foregoing legal description of the specific parcels has been provided.

Current Designation

The current designation for each parcel is also summarized below as follows:

Parcel	Address	Current Zoning By Parcel
1	542 N 100 E	Single Family, or 6 singles
2	520 / 522 / 524 N 100 E	Legal Triplex
3	121 E 500 N	Single Family, w/ legal accessory apartment
4	141 E 500 N	Single Family

Proposed Designation

It is proposed that the current zoning be amended from a RC Zone (Residential Conservation Zone) to a MDR Zone (Medium Density Residential Zone), consistent with both the long-term plan for this area and the existing zoning of surrounding properties. Under the MDR classification, I am requesting that each parcel be recognized as follows:

Parcel	Address	Proposed Rezone By Parcel
1	542 N 100 E	Single Family, or 6 singles
2	520 / 522 / 524 N 100 E	Legal Triplex
3	121 E 500 N	Legal Duplex
4	141 E 500 N	Legal Duplex

In Exhibit A attached to this letter, you will see a copy of a page from the long-term Joaquin neighborhood plan, which indicates that the MDR Zone classification is consistent with the long-term plan for these parcels.

This rezone will allow for this area (the landscaping and existing structures) to be improved and revitalized, so that the parcels can be brought together to form a beautiful medium-density residential community for college student housing. In recent history these parcels have unfortunately been subject to neglect, causing an eyesore along

Provo's very visible 500 N thoroughfare. By allowing these parcels to be zoned as legal multifamily buildings, the property will be able to provide comfortable, affordable housing for many BYU/UVU students in a conveniently situated location in Provo. The newly remodeled landscape will provide residents ample green space and amenities for recreation as well as enough parking spaces for each resident to park his/her own vehicle on the property. This rezone will make these renovations possible, which will allow for better long-term upkeep of the properties, helping to maintain an appealing visual aesthetic of the land and existing structures.

It is proposed that the landscaping that connects these parcels be remodeled and the existing buildings be renovated expeditiously, with the intention of completing these property updates before the end of 2022 (except for certain landscaping items that cannot be completed until March or April of 2023).

Concept Plans

Accompanying this rezone application, you will find the following documents:

- General site plan for landscaping remodel
- Custom interior renovations plan to convert 141 E 500 N Provo, UT into a legal duplex with modern rough in and finishes
- Floor plan drawings for existing main floor and basement apartments of 121 E 500 N Provo, UT, which is to be converted to a legal duplex

Thank you in advance for taking the time to review this proposal. I enthusiastically look forward to this opportunity to beautify and revitalize this highly visible area of Provo.

Sincerely,

Nate Turner
nateturner8@gmail.com
801-835-3697

ATTACHMENT 5 – NEIGHBORHOOD MEETING REPORT

Neighborhood: Joaquin
Date & Time: Tuesday, November 29, 2022; 7-8 PM
Location: Provo City Library
Attendees: 11 (NHC Leo Lines, Leo's wife, 3 Joaquin residents, Nathan Turner, Nathan's wife and 2 kids, Nathan's contractor, me)

Topics: Nathan Turner requests Concept Plan approval for site improvements over multiple properties and a conversion of a single-family home to a two-family home in a proposed MDR (Medium Density Residential) zone, located at 141 East 500 North, Joaquin Neighborhood (PLCP20220351); Nathan Turner requests approval of a Zone Map Amendment from the RC (Residential Conservation) zone to the MDR (Medium Density Residential) zone in order to make site improvements over multiple properties and convert a single-family home to a two-family home, located at 141 East 500 North, Joaquin Neighborhood (PLRZ20220343).

Handouts: attached (aerial view, current designation comparison with surrounding zoning, Joaquin Neighborhood future land use, site plan)

Pros: The Joaquin residents really liked all the green space and parking. They loved that it wasn't a huge apartment building.

Cons: The Joaquin residents were concerned about the safety of people backing out of the parking spaces onto 500 N (especially spaces 4-10). Leo suggested putting a hammerhead by parking space 3 (contractor said there might be a tree in the way and Chaz Addis loves that tree). Nathan said he used to live there, and it wasn't a problem backing out onto 500 N.

ITEM 4*

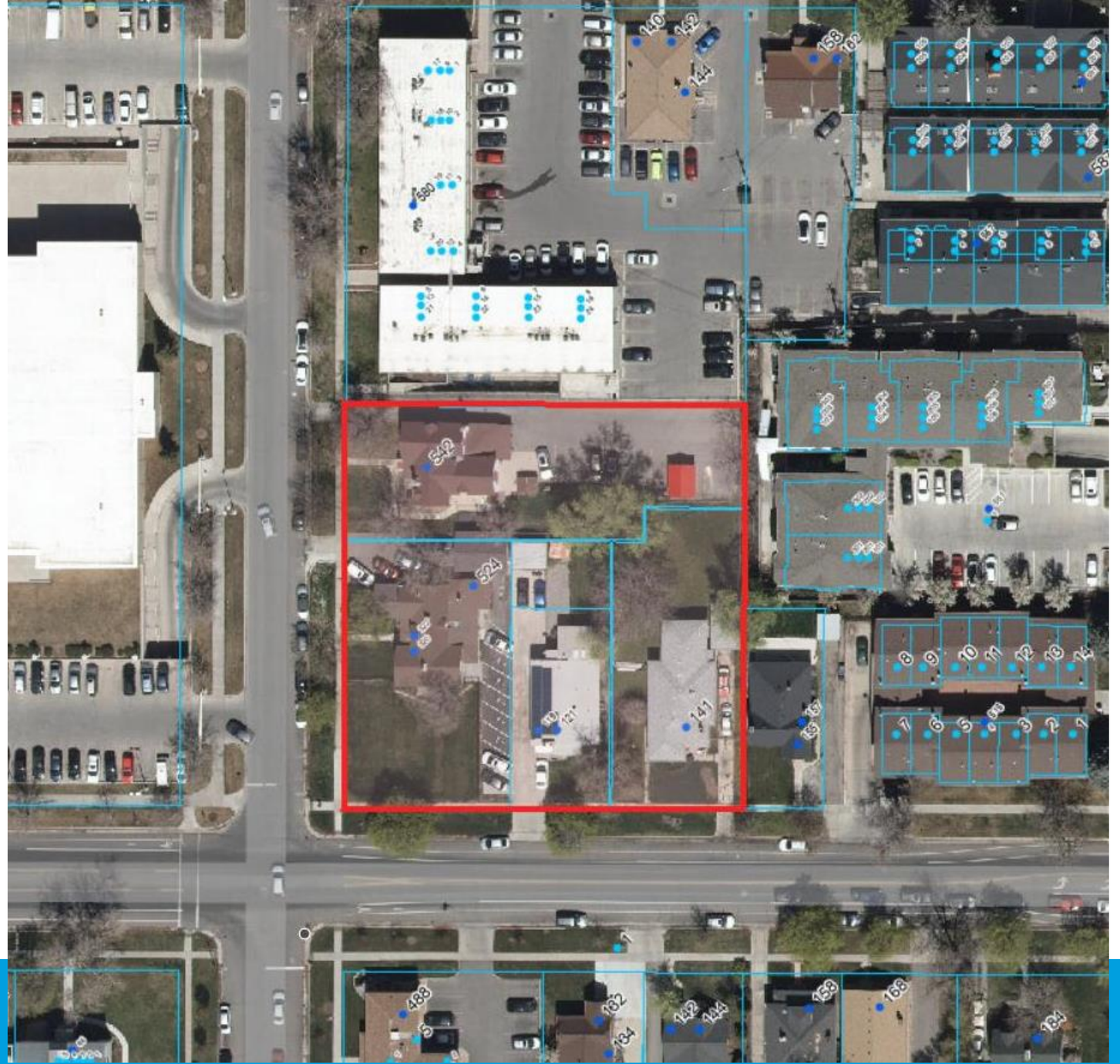
Nathan Turner requests approval of a Zone Map Amendment from the RC (Residential Conservation) zone to the MDR (Medium Density Residential) zone in order to make site improvements over multiple properties & convert a single-family home to a two-family home, located at 141 East 500 North.

Joaquin Neighborhood

PLRZ20220343

100 E 500 N

- Current Zone: RC
- Current # of Units: 7



100 E 500 N

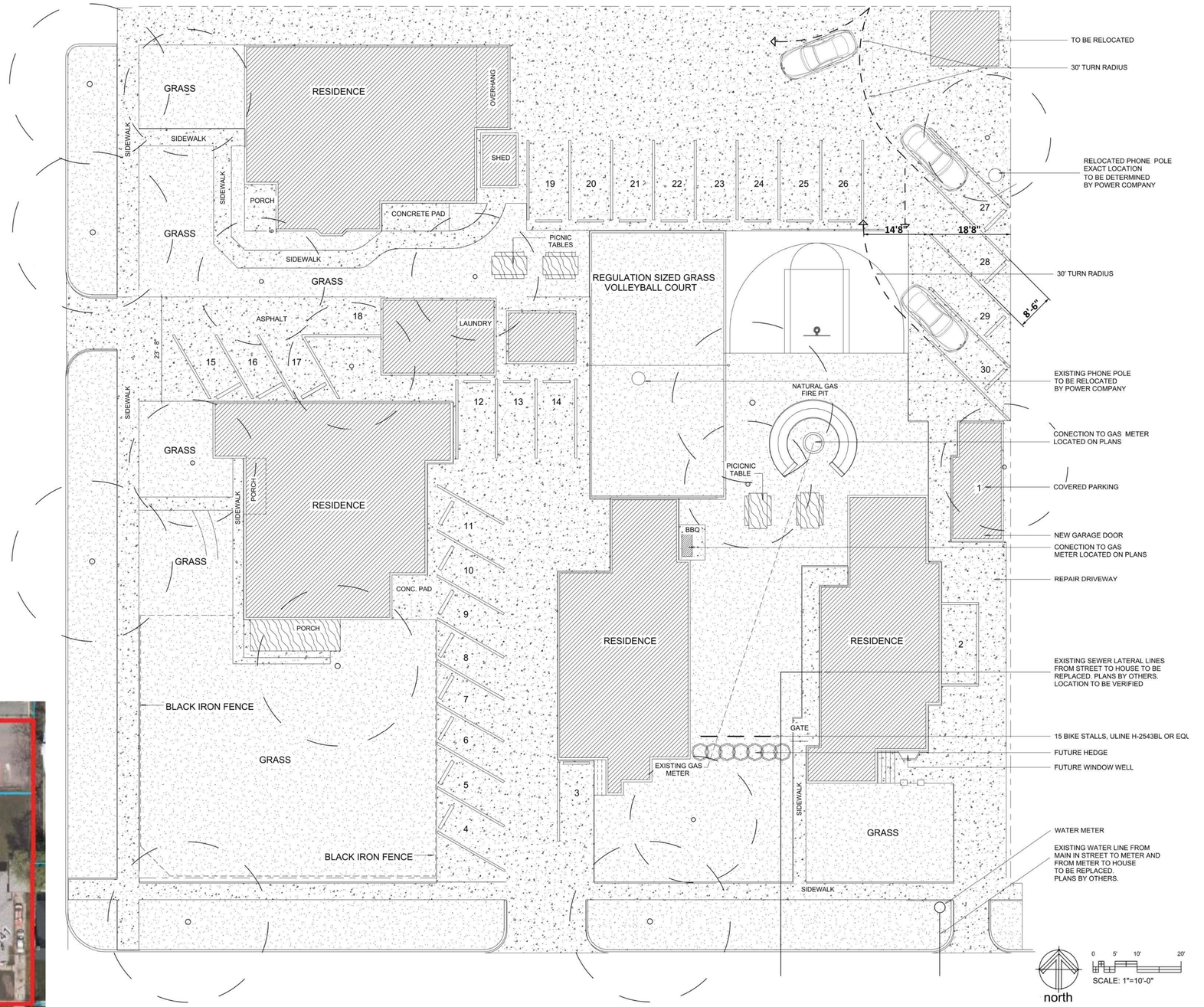
- Current Zone: RC
- Current # of Units: 7

- Proposed Zone: MDR
- Proposed # of Units: 8
- Proposed Changes:
  - New Volleyball Court
  - New Basketball Court
  - New BBQ Area
  - Improved Landscape
  - Convert SFR to Duplex

100 E 500 N

- Current Zone: RC
- Current # of Units: 7

- Proposed Zone: MDR
- Proposed # of Units: 8
- Proposed Changes:
  - New Volleyball Court
  - New Basketball Court
  - New BBQ Area
  - Improved Landscape
  - Convert SFR to Duplex

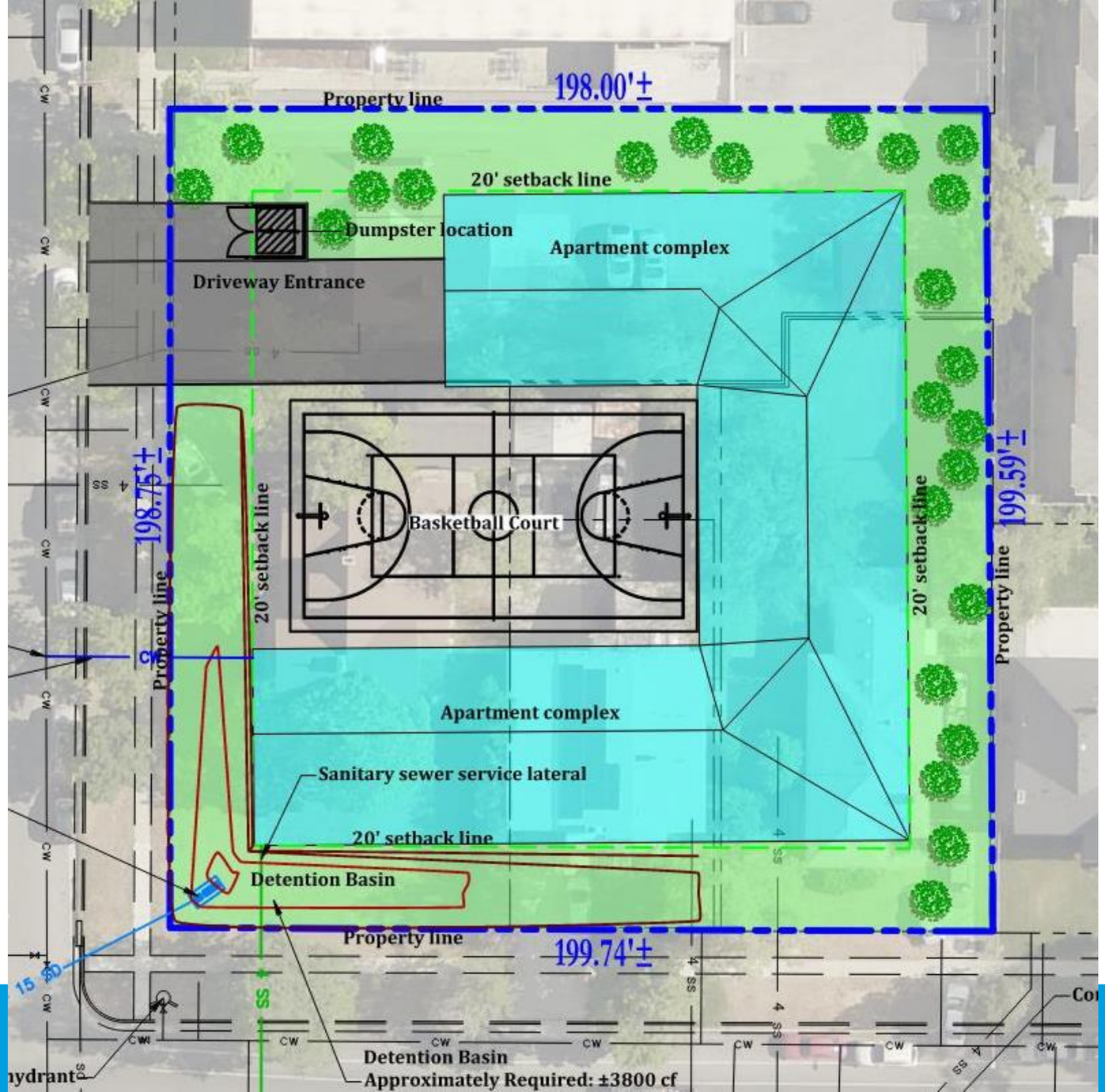


100 E 500 N

- Current Zone: RC
- Current # of Units: 7

- Proposed Zone: MDR
- Proposed # of Units: 8

- Long-Range Plan: MDR Apartment Complex



100 E 500 N

- Current Zone: RC
- Current # of Units: 7

- Proposed Zone: MDR
- Proposed # of Units: 8

- Long-Range Plan: MDR Apartment Complex

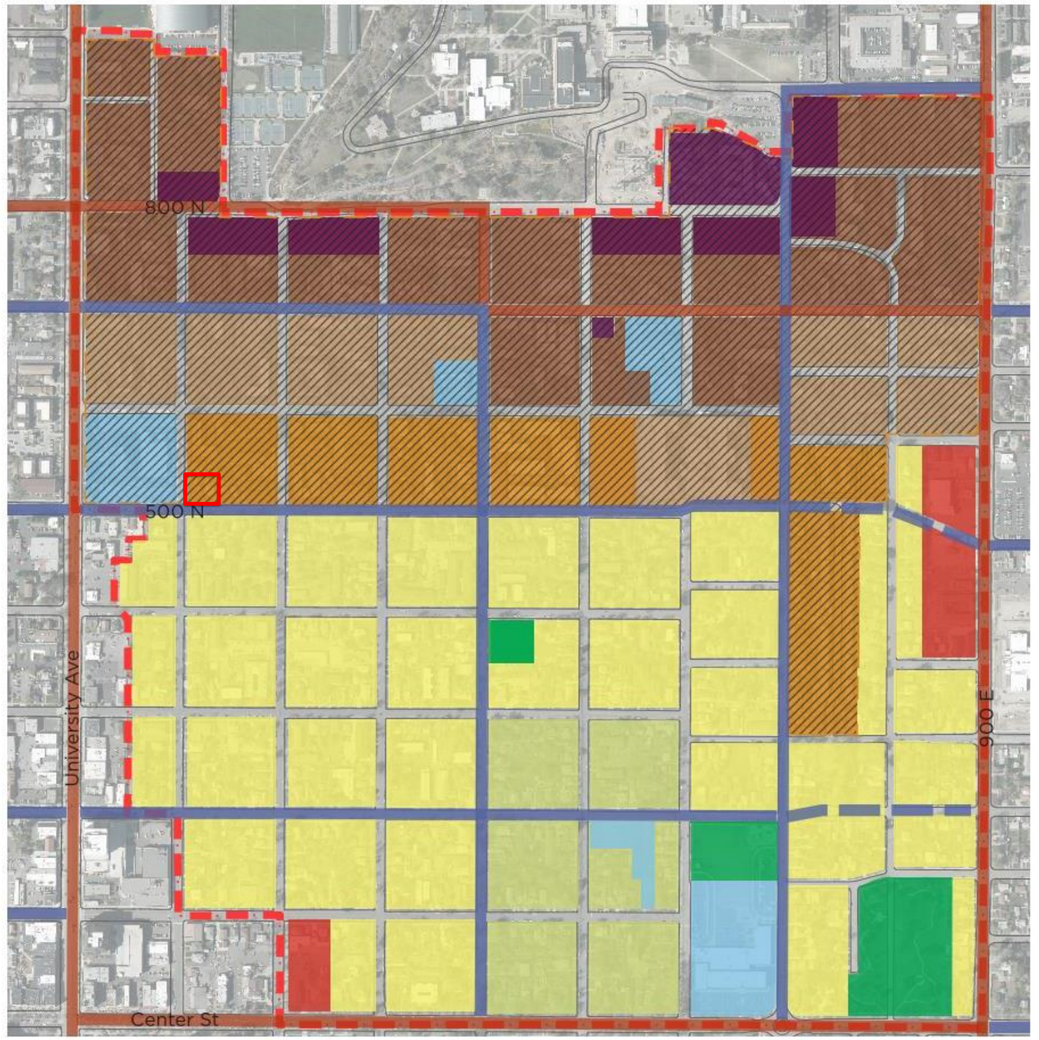


Figure 3.3 - Joaquin Neighborhood Future Land Use

Provo City Planning Commission

Report of Action

March 22, 2023

*ITEM 4	Nathan Turner requests approval of a Zone Map Amendment from the RC (Residential Conservation) zone to the MDR (Medium Density Residential) zone in order to make site improvements over multiple properties and convert a single-family home to a two-family home, located at 141 East 500 North. Joaquin Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20220343

The following action was taken by the Planning Commission on the above described item at its regular meeting of March 22, 2023:

RECOMMENDED APPROVAL

On a vote of 5:0, the Planning Commission recommended that the Municipal Council approve the above noted application and suggested that the concept plan amenities are guaranteed.

Motion By: Raleen Wahlin
Second By: Jeff Whitlock
Votes in Favor of Motion: Raleen Wahlin, Jeff Whitlock, Lisa Jensen, Melissa Kendall, Robert Knudsen
Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE REZONED

The property to be rezoned to the MDR Zone is described in the attached Exhibit A.

RELATED ACTIONS

The related concept plan (PLCP20220351) was approved by the Planning Commission (Item #3, March 22, 2023 hearing).

APPROVED/RECOMMENDED OCCUPANCY

*8Total Units

APPROVED/RECOMMENDED PARKING

*30 Total parking stalls provided

DEVELOPMENT AGREEMENT

- May apply with future approvals.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held on 11/29/2022.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood Chair was not present or did not address the Planning Commission during the hearing.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following: None.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Nathan Turner explained his desire for a cohesive community with future development potential. He stated that the duplex conversion allows him the funds to reinvest into amenities for the tenants.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Commission confirmed the parking count for the properties and that no buildings are being demolished initially with the concept plan. The parking supply will be an improvement.
- The Commission had staff explain the nonconformities on the properties and that the zone change will help the property be able to improve and resolve nonconformities.
- The Planning Commission will see the future Project Plan when the properties are redeveloped.
- The request aligns with the General Plan and provides improved amenities. They are appreciative of the owner wanting to improve the existing property, he is essentially asking to improve the space and the possibilities of that are positive.
- The surrounding properties are already at MDR-type densities and the zone should work well in the block without adverse impacts.
- The Commission requested direction for how to guarantee the site improvements shown on the concept plan and made a strong recommendation to carry out amenities as shown at the hearing with the motion to recommend approval of the zone change.

Lisa Jensen

Planning Commission Chair

Bill Peperone

Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

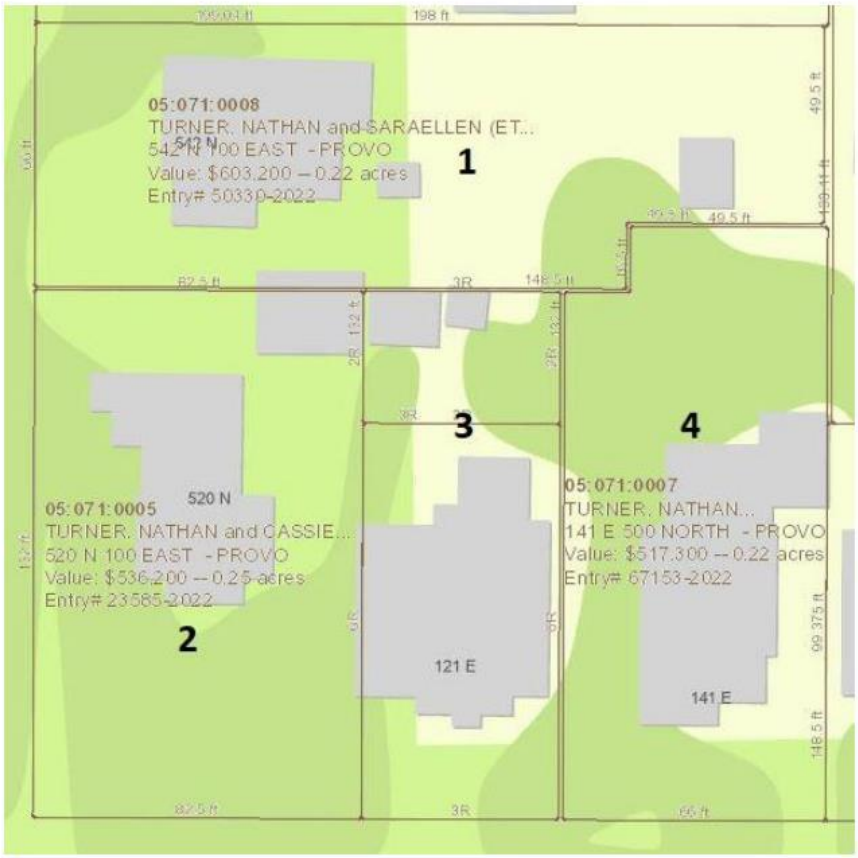
Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to Development Services, 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A

Legal Description

1 - 542 N 100 E, Provo, UT 84606
Parcel # 05:071:0008 (.22 acres)
2 - 520 N / 522 N / 524 N 100 E, Provo, UT
Parcel # 05:071:0005 (.25 acres)
3 - 121 E 500 N, Provo, UT
Parcels # 05:071:0017 & # 05:071:0018 (.15 acres)
4 - 141 E 500 N, Provo, UT
Parcel # 05:071:0007 (.22 acres)



PLRZ20220343 - Joaquin Neighborhood

April 13, 2023, 11:28 AM

Contents

i. Summary of statements 2

ii. Individual statements 3

PLRZ20220343 - Joaquin Neighborhood

What do you think of the proposed Zone Map Amendment to make site improvements over multiple properties and convert a single-family home to a two-family home at 141 E 500 N?

Summary Of Statements

As of April 13, 2023, 11:28 AM, this forum had:		Topic Start	Topic End
Attendees:	7	March 23, 2023, 12:51 PM	April 12, 2023, 11:59 PM
Statements:	1		
Minutes of Public Comment:	2		

PLRZ20220343 - Joaquin Neighborhood

What do you think of the proposed Zone Map Amendment to make site improvements over multiple properties and convert a single-family home to a two-family home at 141 E 500 N?

Individual Statements

David Keller
inside City Boundary
March 30, 2023, 5:18 PM

The applicant showed his plans at a Joaquin Neighborhood meeting, fielded questions, and considered suggestions from neighbors in attendance. Neighbors at the meeting expressed their belief that the planned improvements and conversion of one single-family home to a two-family home fits very well with the Joaquin Neighborhood Plan.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: SWILMOTH
Department: Development Services
Requested Meeting Date: 04-18-2023

SUBJECT: An ordinance amending the Zone Map classification of approx. 0.48 acres of real propery, located at 734 S Utah Ave, from Heavy Commercial (CM) to One Family Residential (R1.8). Provost Neighborhood. (PLRZ20230019)

RECOMMENDATION: To be heard at the April 18, 20223 Work & Council Meeting. Please see supporting documents.

BACKGROUND: Janet Dolen is requesting a Zone Map Amendment from the CM zone to the R1.8 zone for property that belongs to her family trust, at 735-737 South State Street and 734 South Utah Avenue. The proposed amendment is just for approximately six-thousand square feet of the CM zone to be converted to the R1.8 zone, matching the current zoning for the home at 734 S Utah Ave.
The reason for the amendment is to have the correct zoning align with a proposed realignment of the property lines belonging to the Lucille Moore Trust. A final subdivision application has gone through staff review and is ready for approval subject to this zone change being approved. This will allow the applicant to have clean lot lines for the subject parcels, and zoning that matches the use on the ground.
There is no development or concept plan with this rezone request, so staff did not complete an in-depth analysis of surrounding uses. Future owners would need to comply with the underlying zoning on the properties or request zone changes of their own. The property proposed for the zone change has been historically used for residential purposes, which can be seen from the aerial imagery showing fence lines and yard use. The existing uses are intended to continue, according to the applicant.

FISCAL IMPACT:

PRESENTER'S NAME: Aaron Ardmore (801) 852-6404 aardmore@provo.org

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: PLRZ20230019

ORDINANCE 2022-.

AN ORDINANCE AMENDING THE ZONE MAP CLASSIFICATION OF APPROXIMATELY 0.48 ACRES OF REAL PROPERTY, GENERALLY LOCATED AT 734 SOUTH UTAH AVENUE, FROM HEAVY COMMERCIAL (CM) TO ONE FAMILY RESIDENIAL (R1.8). PROVOST NEIGHBORHOOD. (PLRZ20230019)

WHEREAS, it is proposed that the classification on the Zone Map of Provo for approximately 0.48 acres of real property, generally located 734 South Utah Avenue (an approximation of which is shown or described in Exhibit A and a more precise description of which will be attached hereto as Exhibit B after the Zone Map has been updated), be amended from Heavy Commercial (CM) to One Family Residential (R1.8); and

WHEREAS, on March 22, 2023, the Planning Commission held a duly noticed public hearing to consider the proposal, and after such hearing the Planning Commission recommended approval of the proposal to the Municipal Council by a 5:0 vote; and

WHEREAS, the Planning Commission's recommendation was based on the project design presented to the Commission; and

WHEREAS, on April 18, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the Planning Commission's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) the Zone Map of Provo, Utah should be amended as described herein; and (ii) the proposed zone map classification amendment for the real property described herein reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

The classification on the Zone Map of Provo, Utah is hereby amended from the Heavy Commercial (CM) Zone to the One Family Residential (R1.8) Zone for approximately 0.48 acres of real property generally located at 734 South Utah Avenue, as described herein.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Zone Map of Provo City, Utah be updated and codified to reflect the provisions enacted by this ordinance.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE

EXHIBIT A – ZONE MAP

EXHIBIT B – LEGAL DESCRIPTION

A PARCEL OF LAND THAT LIES FULLY WITHIN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN. SUBJECT PARCEL CONTAINS 0.50 OF AN ACRE OF LOT 4 OF THE CHAPEL DOWNS PLAT "A" AS FOUND IN THE UTAH COUNTY RECORDER'S OFFICE MAP NO. 569 AND A PORTION OF THE WARRANTY DEEDS AS FOUND IN SAID OFFICE ENTRY NO'S. 38497:2021 AND 104557:2021. BASIS OF BEARING FOR SUBJECT PARCEL IS NORTH AS DETERMINED BY GPS OR S 89° 09' 39" W 2662.41 FEET BETWEEN THE EAST QUARTER CORNER AND THE CENTER CORNER OF SAID SECTION 7. SUBJECT PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE NORTHEAST CORNER OF LOT 4 OF THE CHAPEL DOWNS PLAT "A" AS FOUND IN THE UTAH COUNTY RECORDER'S OFFICE MAP NO. 569, SAID CORNER LIES 949.77 FEET S 89° 09' 39" W ALONG THE SECTION LINE AND 129.36 FEET SOUTH FROM THE EAST QUARTER CORNER OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; RUNNING THENCE ALONG SAID SUBDIVISION THE FOLLOWING (4) FOUR COURSES: (1) SOUTHERLY 94.23 FEET ALONG THE ARC OF A 270 FOOT RADIUS CURVE TO THE LEFT THROUGH A DELTA ANGLE OF 19° 59' 48" (NOTE: CHORD BEARS S 03° 51' 09" E 93.75 FEET (S 2° 57' E 93.76 FEET BY REOCRD)), (2) S 78° 53' 48" W 106.70 FEET (N 79° 49' E BY RECORD), (3) S 15° 49' 12" E 38.60 FEET (S 14° 54' E BY RECORD), (4) S 73° 28' 48" W 69.01 FEET (S 74° 24' W BY RECORD) TO AN AGREED UPON BOUNDARY LINE; THENCE N 20° 35' 39" W 155.89 FEET TO AN OLD ESTABLISHED FENCE LINE AS CALLED OUT IN RECORD DESCRIPTION WARRANTY DEED ENTRY NO 38497:2021 AS FOUND IN THE UTAH COUNTY RECORDER'S OFFICE, THENCE ALONG SAID OLD ESTABLISHED FENCE LINE THE FOLLOWING (3) THREE COURSES, (1) N 69° 34' 38" E 35.72 FEET, (2) S 16° 07' 22" E 26.81 FEET, (3) N 77° 10' 48" E 61.25 FEET TO THE NORTHWEST CORNER OF SAID LOT 4; THENCE N 77° 10' 48" E 111.00 FEET (N 78° 06' E BY RECORD) ALONG SAID LOT 4 TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 20,920 SQUARE FEET OR 0.480 ACRES.

DEVELOPMENT SERVICES

Planning Commission Hearing Staff Report
Hearing Date: March 22, 2023

***ITEM #6** Janet Dolen requests approval of a Zone Map Amendment from the CM (Heavy Commercial) zone to the R1.8 (One Family Residential) zone for a portion of residential property in order to complete a lot line adjustment, located at 737 S State Street. Provost Neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20230019

Applicant: Janet Lee Dolen

Staff Coordinator: Aaron Ardmore

Property Owner: Lucille S Moore Trust 02-05-2020 (ET AL)

Parcel ID#: 22:035:0022; 22:035:0023; 36:070:0004; 22:035:0025

Acreage: 1.14 acres

Number of Properties: 3

Number of Parcels: 4

ALTERNATIVE ACTIONS

1. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is April 12, 2023, at 6:00 P.M.*

2. **Recommend Denial** of the requested Zone Map Amendment. *This action would not be consistent with the recommendations of the Staff Report. The Planning Commission should state new findings.*

Current Legal Use: The legal uses for properties involved in the zone change include (1) a single-family home at 734 S Utah Ave, (2) an electronics supply outlet at 735 S State Street, and (3) a mixed-use building at 739 S State Street.

Relevant History: The applicant is part of the trust that oversees these properties. She applied for a final subdivision approval in 2022 to clean up the property lines of the five properties owned by Lucille Moore Trust. As part of that review, it was found the new lot lines for the home at 734 S Utah Ave. encompassed two different zones, the CM and R1.8. Staff directed her to request a zone change to align with the proposed lot line adjustments.

Neighborhood Issues: This was discussed at the February 9th District Four neighborhood meeting. Nobody at the meeting was opposed and it was stated that there would be no difference on the ground.

Summary of Key Issues:

The applicant is trying to clean up property lines for her family.

The extension of the residential property boundary at 734 S Utah Avenue creates a zoning issue with two zones on one property.

The amendment from CM to R1.8 for the increased residential property conforms to the use of the land.

Staff Recommendation: That the Planning Commission recommend approval of the proposed zone change from CM to R1.8 to the City Council.

OVERVIEW

Janet Dolen is requesting a Zone Map Amendment from the CM zone to the R1.8 zone for property that belongs to her family trust, at 735-737 South State Street and 734 South Utah Avenue. The proposed amendment is just for approximately six-thousand square feet of the CM zone to be converted to the R1.8 zone, matching the current zoning for the home at 734 S Utah Ave.

The reason for the amendment is to have the correct zoning align with a proposed realignment of the property lines belonging to the Lucille Moore Trust. A final subdivision application has gone through staff review and is ready for approval subject to this zone change being approved. This will allow the applicant to have clean lot lines for the subject parcels, and zoning that matches the use on the ground.

There is no development or concept plan with this rezone request, so staff did not complete an in-depth analysis of surrounding uses. Future owners would need to comply with the underlying zoning on the properties or request zone changes of their own. The property proposed for the zone change has been historically used for residential purposes, which can be seen from the aerial imagery showing fence lines and yard use. The existing uses are intended to continue, according to the applicant.

FINDINGS OF FACT

1. The existing use of the property to be rezoned is residential.
2. The current zoning for the property is CM.
3. The proposed zoning for the property is R1.8
4. The proposed boundaries for the residential lot extension (734 S Utah Ave.) would meet all R1.8 standards, except for two small accessory sheds with nonconforming setbacks. (Chapter 14.10, Provo City Code)
5. The proposed boundaries for the commercial lot reduction (735 S State St.) would meet all CM standards. (Chapter 14.24, Provo City Code)

ANALYSIS

Staff sees this zone map amendment request as a clean-up action. However, all rezone requests are required to be judged on specific criteria found in Section 14.02.020 of the Provo City Code to determine if the amendment is in the interest of the public and consistent with City goals and policies. The following guidelines from subsection 14.02.020(2) are used to make that determination: **(staff responses in bold).**

(a) Public purpose for the amendment in question.

Staff response: To better align the zoning to the use of the property for current and future owners.

(b) Confirmation that the public purpose is best served by the amendment in question.

Staff response: This small shift between the CM zone and the R1.8 zone will enable the property to be used to its full potential, benefiting the neighborhood and future owners of

the property.

(c) Compatibility of the proposed amendment with General Plan policies, goals, and objectives.

Staff response: This rezone request most closely aligns with land use goals in Chapter Three of the General Plan. Specifically, it helps to maintain "single-family home[s]" in key areas of the City as stated in goal 1a of the Land Use chapter.

(d) Consistency of the proposed amendment with the General Plan's "timing and sequencing" provisions on changes of use, insofar as they are articulated.

Staff response: There are no timing and sequencing provisions related to this request.

(e) Potential of the proposed amendment to hinder or obstruct attainment of the General Plan's articulated policies.

Staff response: The proposed rezone should not hinder or obstruct attainment of the General Plan's policies since there will be no change in use or density of the properties.

(f) Adverse impacts on adjacent land owners.

Staff response: As stated above, since there is nothing changing on the ground there will not be any adverse impacts on adjacent land owners.

(g) Verification of correctness in the original zoning or General Plan for the area in question.

Staff response: Staff has verified the zoning and General Plan.

(h) In cases where a conflict arises between the General Plan Map and General Plan Policies, precedence shall be given to the Plan Policies.

Staff response: This rezone aligns with the policies of the General Plan.

CONCLUSIONS

Adjusting the zone boundaries to fit the historic use of the property and proposed new lot lines will enable the owners to make the best use of their properties. Staff supports making this small adjustment between the two zones to allow the owners to make better use of the property now and provide cleaner properties for future sales.

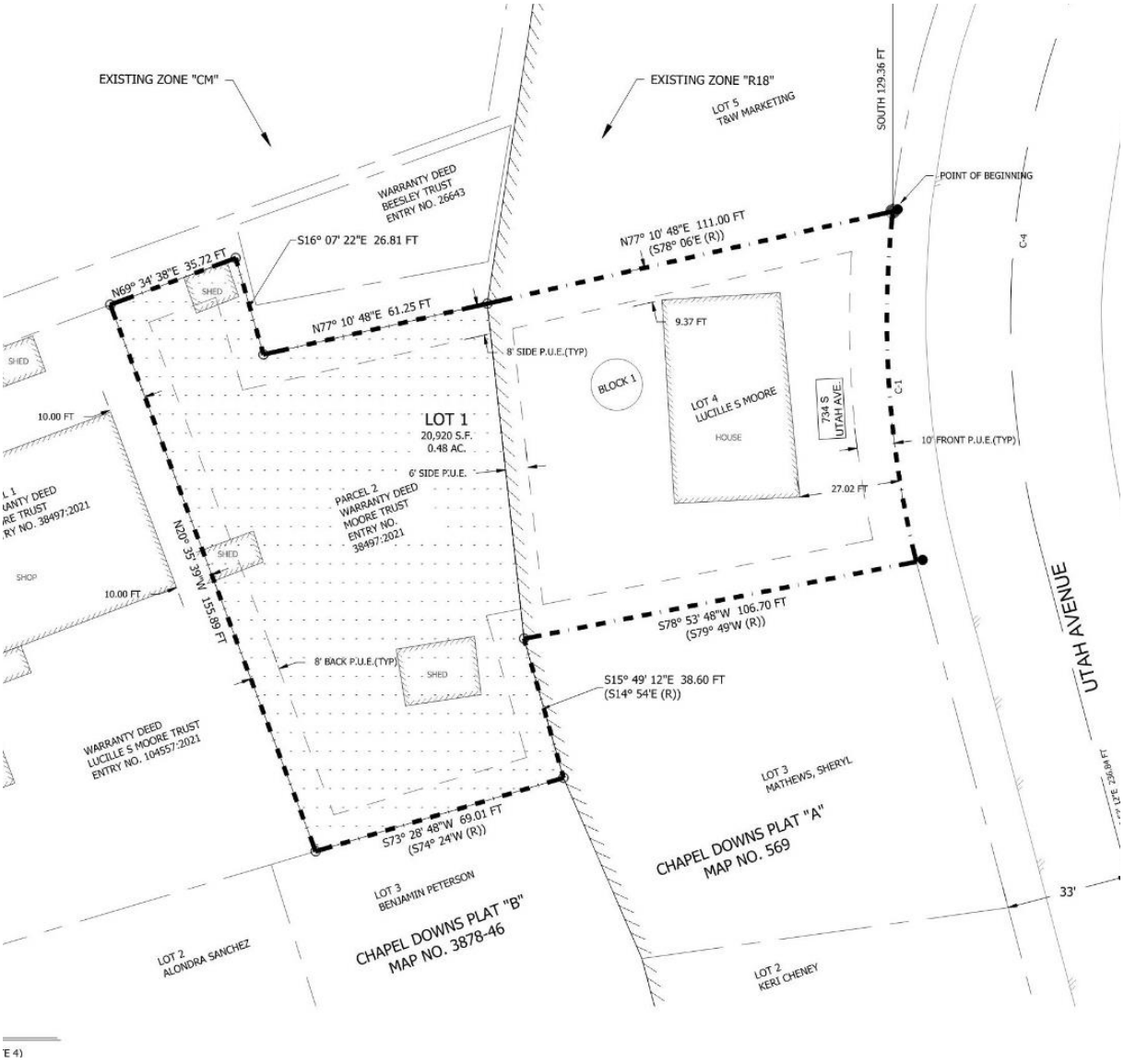
ATTACHMENTS

1. Area Map
2. Current Zone Map
3. Proposed Zone Map
4. Applicant Statement
5. Property Photos

ATTACHMENT 1 – AREA MAP

ATTACHMENT 2 – CURRENT ZONE MAP

ATTACHMENT 3 – PROPOSED ZONE MAP



ATTACHMENT 4 – APPLICANT STATEMENT

Dear Planning Commissioners:

We are requesting a rezoning of approximately 0.48 acres located at 734 South Utah Avenue. The property is currently in a CM and R18 zone. The master plan calls for residential R18 in this area. The said property line has been adjusted to adjust two separate parcels. The newly adjusted parcel at 734 South Utah Avenue is proposed to be fully within said R18 residential zone while leaving the adjusted parcel at 735 S State Street in the CM zone.

We believe the subdivision plat is consistent with the design guidelines and objectives of the south state street master plan and request your recommendation for the zone change and your approval of this site plan.

Sincerely,

Jan Dolen

ATTACHMENT 5 – PROPERTY PHOTOS

ITEM 6*

Janet Dolan requests approval of a Zone Map Amendment from the CM (Heavy Commercial) zone to the R1.8 (One Family Residential) zone for a portion of residential property in order to complete a lot line adjustment, located at 737 S State Street.

Provost Neighborhood

PLRZ20230019

734 S Utah Ave

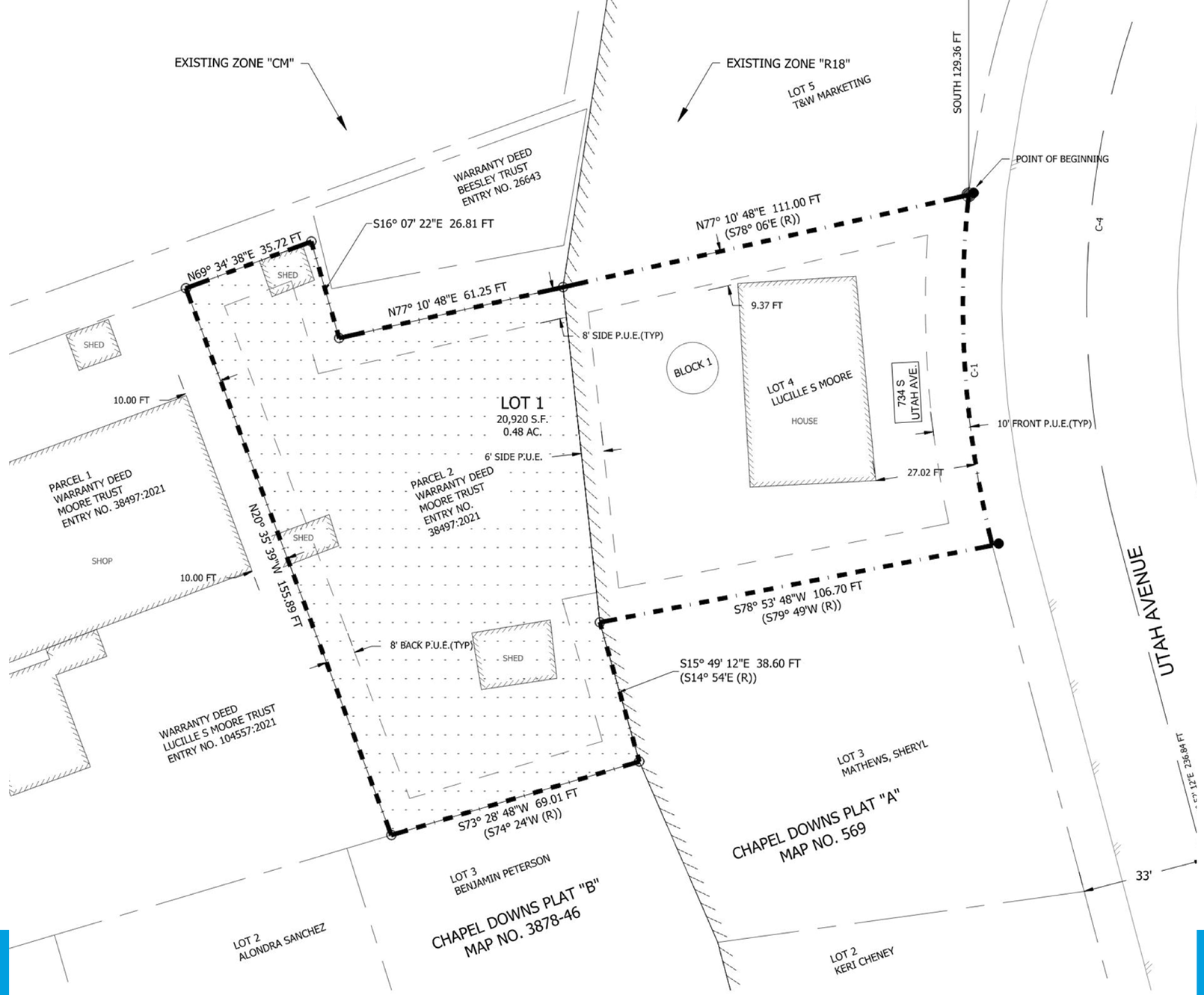
- Current Zone: R1.8 / CM

734 S Utah Ave

- Current Zone: R1.8 / CM
- Proposed Zoning: adjust boundary of R1.8 / CM
- Purpose: to align with use of properties and proposed plat.

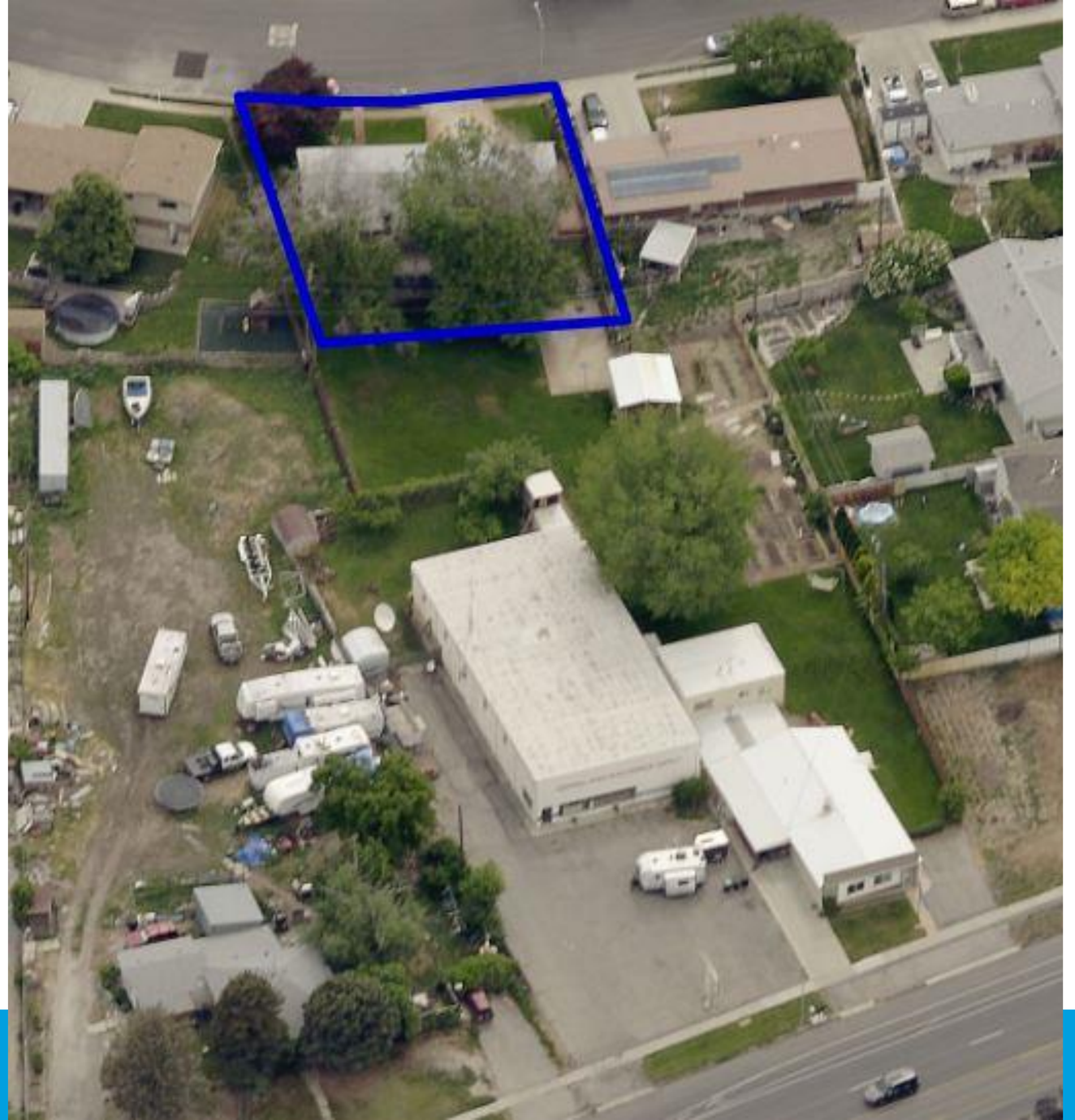
734 S Utah Ave

- Current Zone: R1.8 / CM
- Proposed Zoning: adjust boundary of R1.8 / CM
- Purpose: to align with use of properties and proposed plat.
- Proposal changes +/- 11,325 sq. ft. (0.26 acres) of CM to R1.8 zone



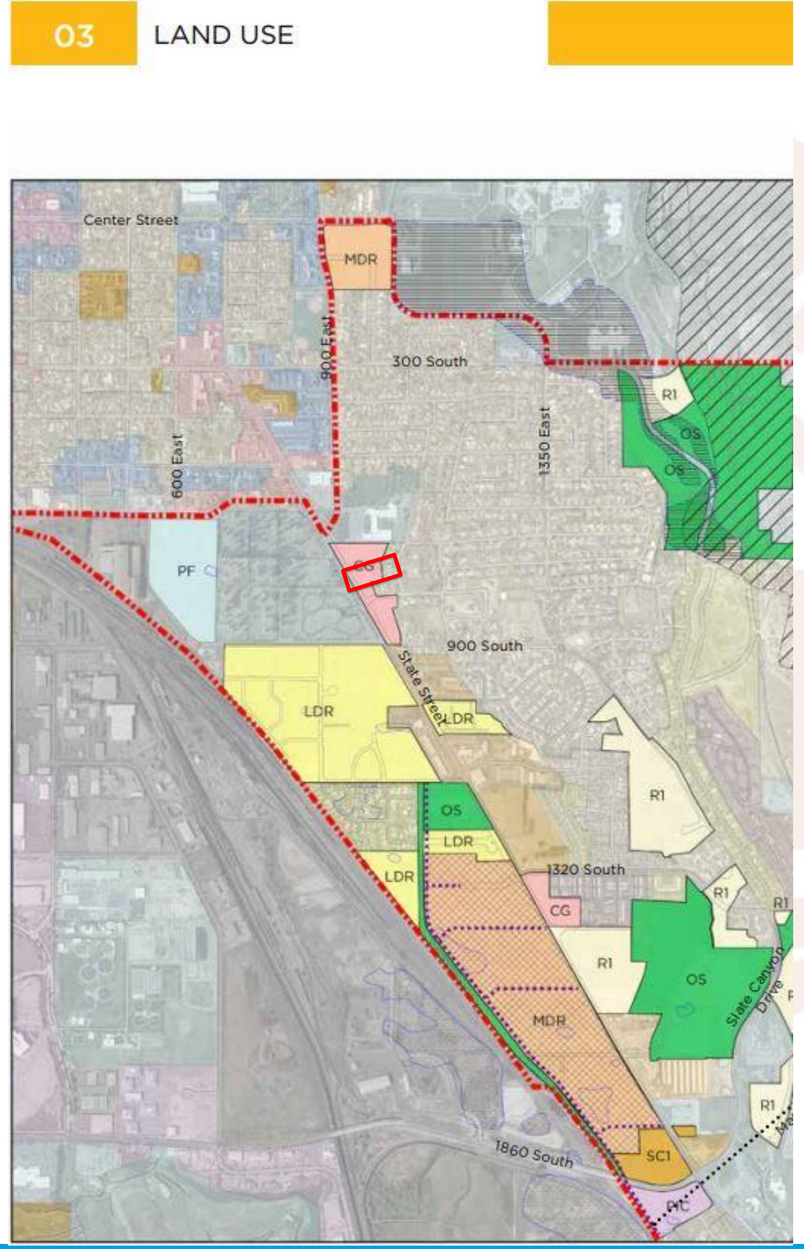
734 S Utah Ave

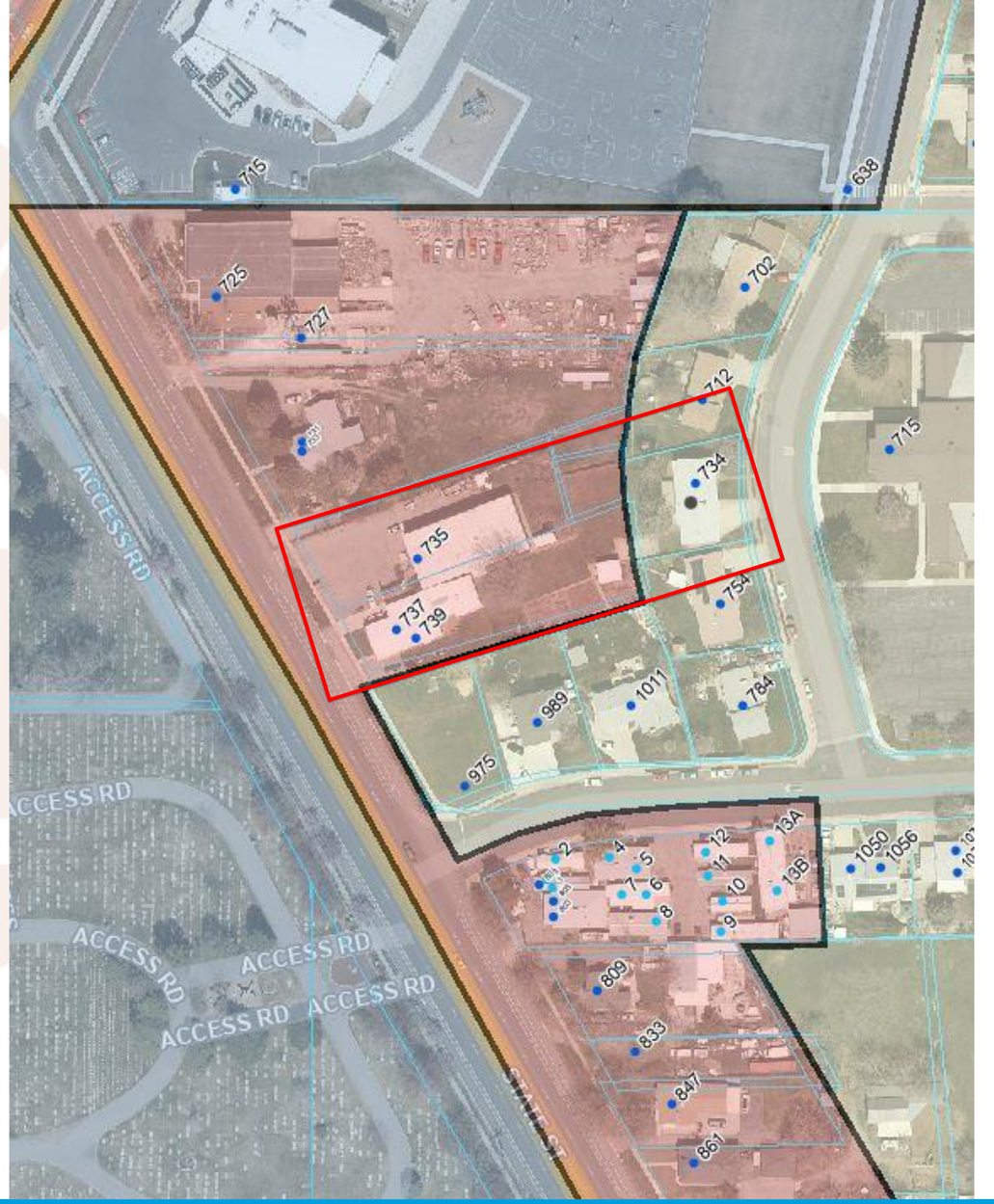
- Current Zone: R1.8 / CM
- Proposed Zoning: adjust boundary of R1.8 / CM
- Purpose: to align with use of properties and proposed plat.



734 S Utah Ave

- Current Zone: R1.8 / CM
- Proposed Zoning: adjust boundary of R1.8 / CM
- Purpose: to align with use of properties and proposed plat.
- Future Land Use Map (Southeast Area Plan) and General Plan show area split between CG and Res





734 S Utah Ave

- Current Zone: R1.8 / CM
- Proposed Zoning: adjust boundary of R1.8 / CM
- Purpose: to align with use of properties and proposed plat.

Provo City Planning Commission

Report of Action

March 22, 2023

*ITEM 6	Janet Dolan requests approval of a Zone Map Amendment from the CM (Heavy Commercial) zone to the R1.8 (One Family Residential) zone for a portion of residential property in order to complete a lot line adjustment, located at 737 S State Street. Provost neighborhood. Aaron Ardmore (801) 852-6404 aardmore@provo.org PLRZ20230019

The following action was taken by the Planning Commission on the above described item at its regular meeting of March 22, 2023:

RECOMMENDED APPROVAL

On a vote of 5:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Robert Knudsen
Second By: Melissa Kendall
Votes in Favor of Motion: Robert Knudsen, Melissa Kendall, Lisa Jensen, Raleen Wahlin, Jeff Whitlock
Lisa Jensen was present as Chair.

- Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted; Planning Commission determination is generally consistent with the Staff analysis and determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE REZONED

The property to be rezoned to the R1.8 Zone is described in the attached Exhibit A.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

- The Coordinator Review Committee (CRC) has reviewed the application and given their approval.

NEIGHBORHOOD MEETING DATE

- A neighborhood meeting was held on 02/09/2023.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood Chair was not present or did not address the Planning Commission during the hearing.
- Neighbors or other interested parties were present or addressed the Planning Commission.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Katherine Hall stated support from the neighborhood district via an email.
- Jenny Peterson stated her support for the request.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Janet Dolen gave an overview of the history for the properties and the reasons for the request.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- The Commission confirmed with staff that the residential lot would not be able to be subdivided due to lot standards; they also confirmed that the setbacks would not cause any issues.
- The Commission appreciated the request and noted that it will set clear boundaries between the residential and commercial areas.

Lisa Jensen

Planning Commission Chair

Bill Peperone

Director of Development Services

See Key Land Use Policies of the Provo City General Plan, applicable Titles of the Provo City Code, and the Staff Report to the Planning Commission for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

Legislative items are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to Development Services, 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A

BOUNDARY DESCRIPTION

A PARCEL OF LAND THAT LIES FULLY WITHIN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN. SUBJECT PARCEL CONTAINS 0.50 OF AN ACRE OF LOT 4 OF THE CHAPEL DOWNS PLAT "A" AS FOUND IN THE UTAH COUNTY RECORDER'S OFFICE MAP NO. 569 AND A PORTION OF THE WARRANTY DEEDS AS FOUND IN SAID OFFICE ENTRY NO'S. 38497:2021 AND 104557:2021. BASIS OF BEARING FOR SUBJECT PARCEL IS NORTH AS DETERMINED BY GPS OR S 89° 09' 39" W 2662.41 FEET BETWEEN THE EAST QUARTER CORNER AND THE CENTER CORNER OF SAID SECTION 7. SUBJECT PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE NORTHEAST CORNER OF LOT 4 OF THE CHAPEL DOWNS PLAT "A" AS FOUND IN THE UTAH COUNTY RECORDER'S OFFICE MAP NO. 569, SAID CORNER LIES 949.77 FEET S 89° 09' 39" W ALONG THE SECTION LINE AND 129.36 FEET SOUTH FROM THE EAST QUARTER CORNER OF SECTION 7, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; RUNNING THENCE ALONG SAID SUBDIVISION THE FOLLOWING (4) FOUR COURSES: (1) SOUTHERLY 94.23 FEET ALONG THE ARC OF A 270 FOOT RADIUS CURVE TO THE LEFT THROUGH A DELTA ANGLE OF 19° 59' 48" (NOTE: CHORD BEARS S 03° 51' 09" E 93.75 FEET (S 2° 57' E 93.76 FEET BY REOCRD)), (2) S 78° 53' 48" W 106.70 FEET (N 79° 49' E BY RECORD), (3) S 15° 49' 12" E 38.60 FEET (S 14° 54' E BY RECORD), (4) S 73° 28' 48" W 69.01 FEET (S 74° 24' W BY RECORD) TO AN AGREED UPON BOUNDARY LINE; THENCE N 20° 35' 39" W 155.89 FEET TO AN OLD ESTABLISHED FENCE LINE AS CALLED OUT IN RECORD DESCRIPTION WARRANTY DEED ENTRY NO 38497:2021 AS FOUND IN THE UTAH COUNTY RECORDER'S OFFICE, THENCE ALONG SAID OLD ESTABLISHED FENCE LINE THE FOLLOWING (3) THREE COURSES, (1) N 69° 34' 38" E 35.72 FEET, (2) S 16° 07' 22" E 26.81 FEET, (3) N 77° 10' 48" E 61.25 FEET TO THE NORTHWEST CORNER OF SAID LOT 4; THENCE N 77° 10' 48" E 111.00 FEET (N 78° 06' E BY RECORD) ALONG SAID LOT 4 TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 20,920 SQUARE FEET OR 0.480 ACRES.

Katherine Hall | 3-22-23
Neighborhood District 2 Chair

District has reviewed Ms. Dolan's request and whole heartedly give our support.

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: TARAR
Department: Development Services
Requested Meeting Date: 04-18-2023

SUBJECT: A Resolution to place the vacant property known as a "proposed tennis court" in Block "A" Vivian Park Subdivision on the Surplus Property List.

RECOMMENDATION: Approval of the resolution to place a 0.12 acre parcel of ground located generally in the Vivian Park Subdivision along Fairfax Drive.

BACKGROUND: In 1970, Provo City received a deed for this subject property along with five (5) other lots to run a water line through the Vivian Park Subdivision. Since then, another water line was installed in the street, off of this location. Several years ago, we surplused and sold the other parcels for development. The subject property has been retained because it is not developable because of the designation of the property as a "Tennis Court" on the subdivision plat. We have now received an offer to purchase the property "as is" with the understanding that it cannot be developed. The departments have reviewed the potential sale of the property and there are no further needs of the city identified for the property, so it would be appropriate to surplus and sell. We have had the property appraised and it indicated the value of $35,000 for this 0.12 acre parcel.

FISCAL IMPACT: Revenue of $35,000

PRESENTER'S NAME: Tara Riddle

REQUESTED DURATION OF PRESENTATION: 10 Minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:
This property is located in Utah County. The purpose for which it was acquired has changed, so it would be appropriate to surplus and sell to rid the city of any maintenance responsibilities or liability on the property.

CITYVIEW OR ISSUE FILE NUMBER:

RESOLUTION 2023 -

Approved as to form: __

A RESOLUTION TO PLACE THE VACANT PROPERTY KNOWN AS A "PROPOSED TENNIS COURT" IN BLOCK "A" VIVIAN PARK SUBDIVISION ON THE SURPLUS PROPERTY LIST.

WHEREAS, Provo City (the "City") owns a 0.12 acre parcel of ground located generally in the Vivian Park Subdivision along Fairfax Drive and identified as a "Proposed Tennis Court" with the Utah County Tax ID # 54:037:0175, which is further described in Exhibit A and Exhibit B; and,

WHEREAS, this property is vacant and has not been identified for future use by Provo City; and

WHEREAS, Provo City is desirous of selling this property as an undevelopable parcel; and

WHEREAS, the Mayor has recommended that this parcel be placed on the surplus property list and sold subject to the conditions set in Provo City Code 3.04.030; and

WHEREAS, on April 18, 2023, the Municipal Council held a duly noticed public meeting to receive public comment and ascertain the facts regarding this matter, which facts and comments are found in the meeting record; and,

WHEREAS, after considering the Mayor's recommendation, and facts and comments presented to the Municipal Council, the Council finds (i) the real Property described in Exhibit A should be added to the Surplus Property List for sale subject to the conditions set forth below, and (ii) the sale of such Property reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it resolved by the Municipal Council of Provo City, Utah, as follows:

PART I:

1. The real Property described in the attached Exhibit "A" is hereby placed on the Surplus Property list and the Mayor is authorized to dispose of the property by selling the property subject to the conditions in Provo City Code 3.04.030.

PART II:

This resolution shall take effect immediately.

END OF RESOLUTION.

EXHIBIT A

Commencing at the Northerly corner of the intersection between the basketball corner and the corner of Lot 44, Block "A", Vivian Park; thence along Fairfax drive northwesterly 55 feet; thence South 32° 27' West 110 feet, more or less to the Southline of the Block; thence along said South line 69° 38' East 20 feet; thence along said line South 58° East 28.16 feet to the Lot line of lot 44; thence along said lot line North 32° 27' East 113.2 feet to the point of beginning.

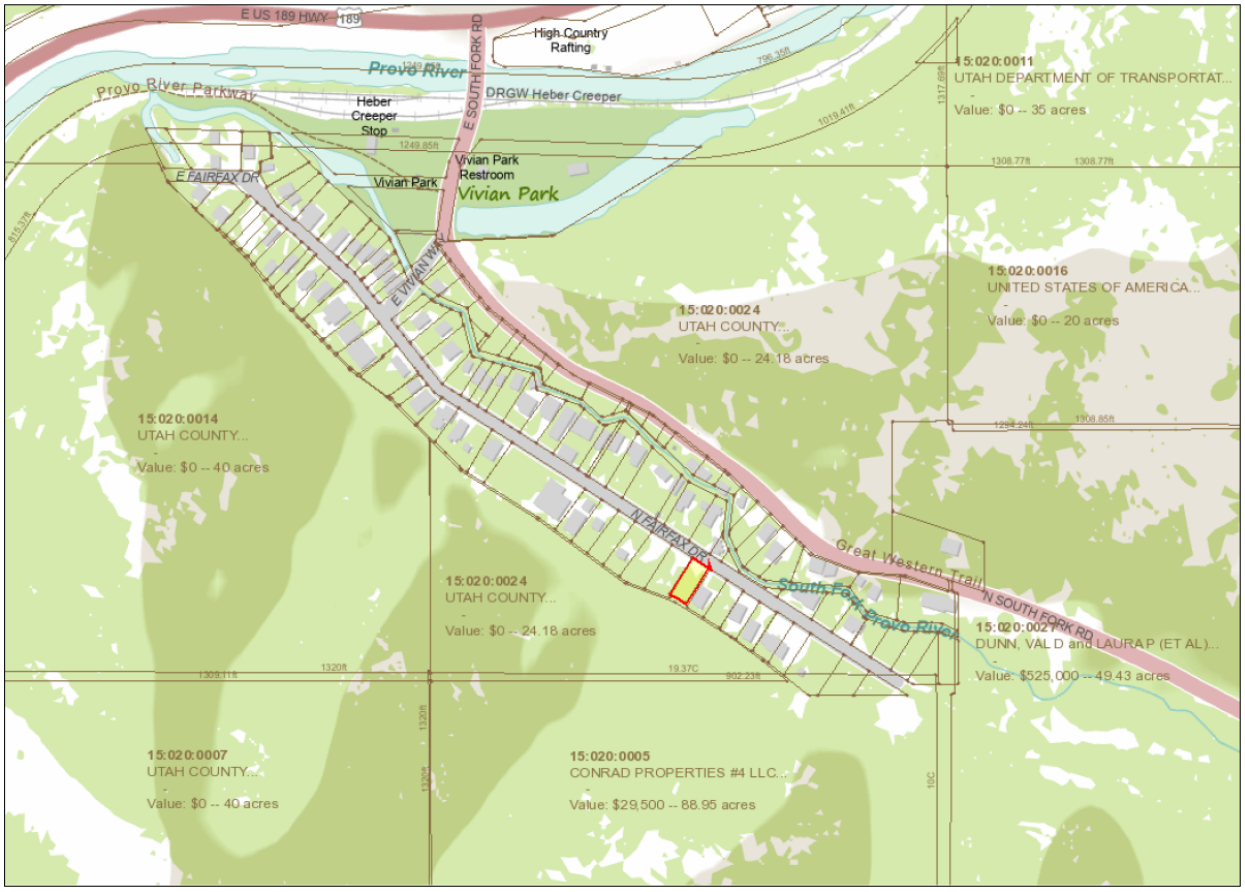
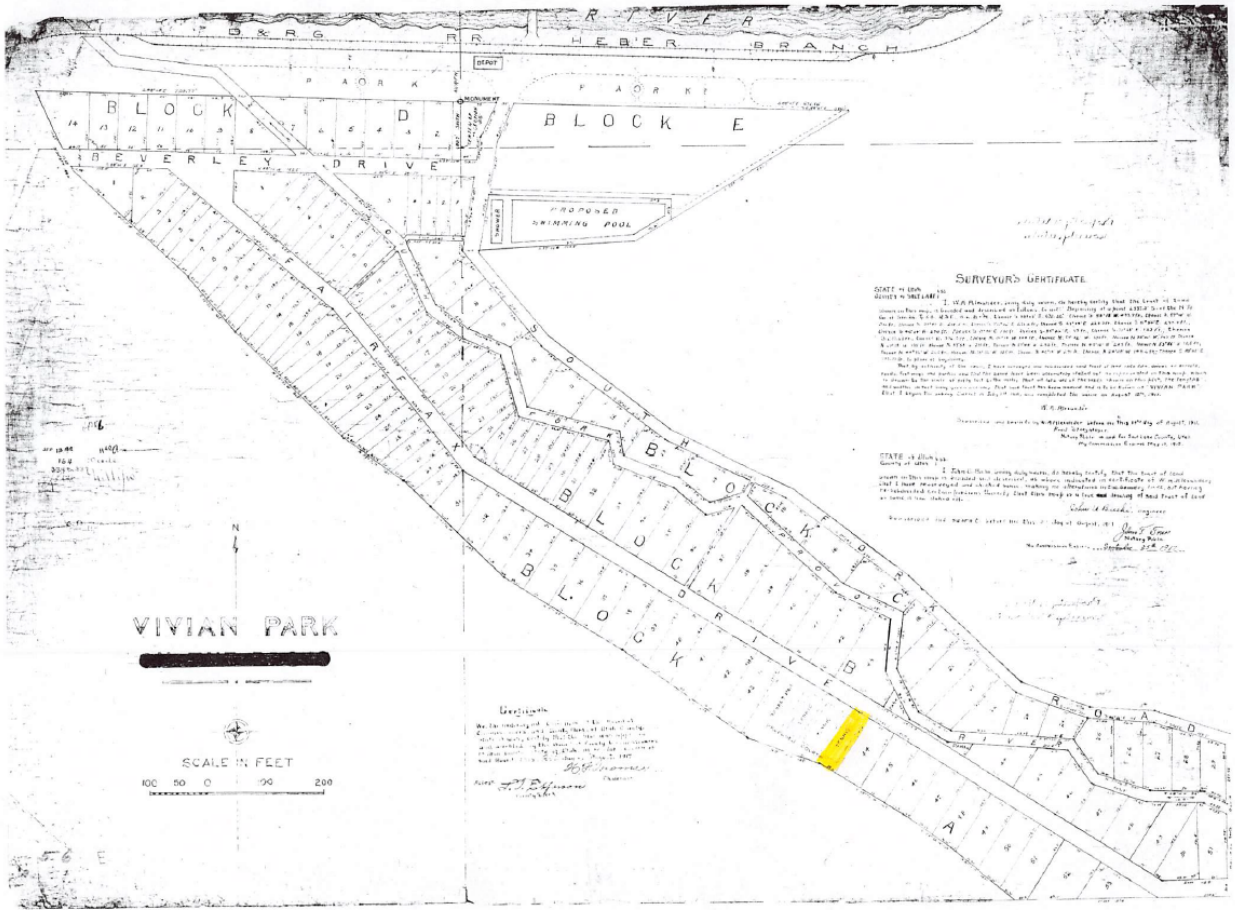
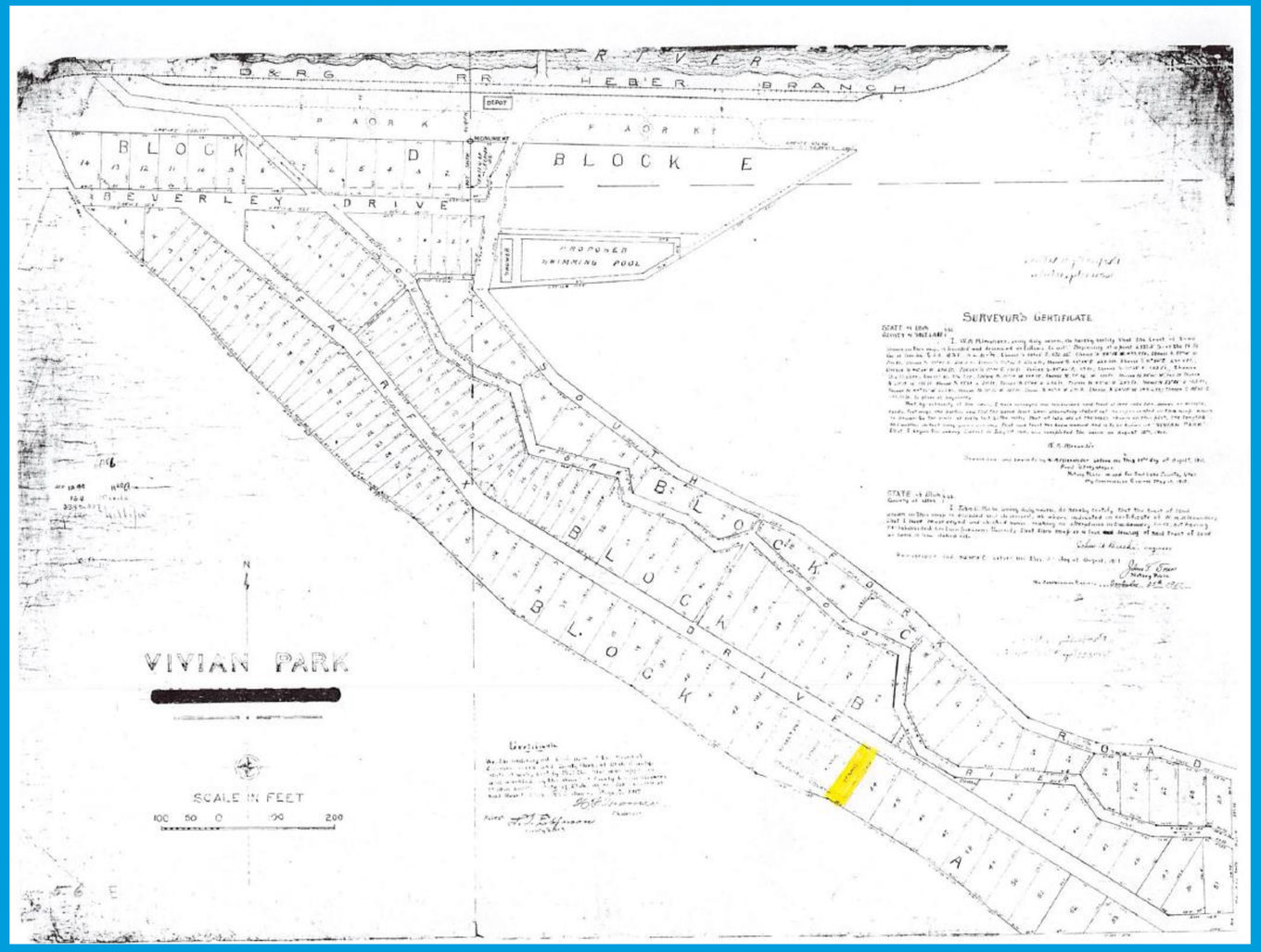


EXHIBIT B


R I V E R
HEBER BRANCH
BLOCK D
BLOCK E
BEVERLEY DRIVE
PROPOSED SWIMMING POOL
SHOWER
SURVEYOR'S CERTIFICATE
BLOCK A
BLOCK B
BLOCK C
BLOCK D
BLOCK DRIVE
ROAD
VIVIAN PARK
SCALE IN FEET
100 50 0 100 200

Subject Property was acquired along with several other lots in 1970 to accommodate a water line through Vivian Park



provo
WELCOME HOME

History of Lots in Vivian Park

- The water line was upgraded and moved several years ago
- Departmental review indicated no future need for the property
- Other city-owned lots were surplused and sold in 1999

provo
WELCOME HOME

Terms of Sale

- Sales price will be based on appraised value of $35,000
- No city water will be provided to the lot
- No septic tank will be installed on the lot
- Buyer acknowledges that there is an abandoned water line on the property and that due to the dedication as a “proposed tennis court” on the subdivision plat, parcel cannot be developed into a residential lot

provo
WELCOME HOME

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MMCNALLEY
Department: Development Services
Requested Meeting Date: 04-18-2023

SUBJECT: A presentation regarding the proposed Annual Action Plan funding for the 2023-2024 year. (23-027)

RECOMMENDATION: Presentation only.

BACKGROUND: This is ann overview of the 2023-2024 Annual Action plan funding prior to opening a public comment period in the April 18, 2023 Regular Council Meeting.

FISCAL IMPACT:

PRESENTER'S NAME: Melissa McNalley, Community Grant Administrator

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-027

Year Four, Annual Action Plan

July 1, 2023, through June 30, 2024

of the 2020-2024 Five-Year Consolidated Plan

as Amended

City of Provo (City)
Utah Valley HOME Consortium (UVHC)
Provo City Corporation – Development Services
445 West Center
Provo, Utah 84601
https://www.provo.org/departments/development/cdbg-home/cdbg-home-documents

AP-05 EXECUTIVE SUMMARY - 91.200(C), 91.220(B)

1. Introduction

The City of Provo/Utah Valley HOME Consortium Program Year 2023 Annual Action Plan (2023-AAP) is the Fourth Year Action Plan of the 2020-2024 Five-Year Consolidated Plan (ConPlan), as amended. It is a product of a planning and coordination process to identify housing and community development needs. The process forms the framework for a community-wide dialogue to establish priorities and create strategies to address those needs, especially for low- and moderate-income households. This plan is intended to be an informative and useful tool for the residents, organizations and businesses committed to continued growth in our community.

The Annual Action Plan includes the City's application for the federal grants received from the U.S. Department of Housing and Urban Development (HUD) and administered by the Office of Community Planning and Development (CPD), a division of HUD, through which the City receives an annual allocation, or formula grant, from the CPD programs:

- **Community Development Block Grant (CDBG)**
  The CDBG program's primary objective is to promote the development of viable urban communities by providing decent housing, suitable living environments and expanded economic activities to persons of low and moderate income.

- **Home Investment and Partnerships Program (HOME)**
  The primary objective of the HOME Program is to create affordable housing for low-income households. Communities often partner with nonprofit and for-profit organizations to fund a wide variety of activities including building, buying and/or rehabilitating affordable housing for rent or homeownership or provide direct rental assistance to low-income people.

The City of Provo has designated its Development Services Department to manage and administer all funding received from HUD.

The Utah Valley HOME Consortium is an inter-jurisdictional partnership between the Cities of Provo, Orem, Lehi and Utah County, formed to receive HOME Program funds directly from HUD. The Cities of Orem and Lehi receive their own CDBG entitlement allocation and Utah County, as a qualified Urban County, also receives its own allocation of CDBG funding. All jurisdictions within Utah County, which have signed an Interlocal Agreement to receive CDBG funding through Utah County, are also eligible to benefit

from HOME funds. As the designated Lead Entity for the Consortium, The City of Provo administers the HOME Program.

Regulations in the HOME Program establish that Participating Jurisdictions (PJs) are provided affordable homeownership limits annually by HUD, however the regulations also allow PJs to determine these limits on their own through a local market analysis. The Consortium now conducts such an analysis annually and determines its own affordable homeownership limits. The process and results are outlined in Section AP-90-Program Specific Requirements of this Action Plan, by completing a market analysis ensuring enough recent housing sales are included in the survey.

2. Summarize the objectives and outcomes identified in the Plan

As a result of citizens' and City Council's input The City of Provo will prioritize its activities and projects in three categories of Locally Targeted Objectives: Decent Housing, Suitable Living Environment, and Creating Economic Opportunities.

Housing – Assist in the expansion of housing opportunities, particularly for low- and moderate-income households and encouraging diversification of housing stock.

- Support down payment assistance programs that provide access to home ownership.
- Support housing programs to address the needs of updating aging housing stock through emergency, spot, and full rehabilitation.
- Support rental assistance programs to special needs populations, including efforts to assist families more rapidly from homelessness into permanent housing.
- Support development of new affordable housing to increase the number, types, affordability, and condition of both rental and homeownership housing.

Public Services – Support public service agencies that assist low- and moderate-income persons.

- Support organizations that provide services to populations with special needs (e.g., elderly, persons with disabilities, homeless persons, victims of domestic violence, etc.).
- Support organizations that provide education, including job training.
- Support organizations that provide services to seniors.
- Support organizations that provide healthcare services and health education.
- Support organizations that assist at-risk youth (e.g., after-school programs, recreations programs, mentoring programs.
- Support organizations that provide housing services.

Economic Opportunities

- Support local small businesses and entrepreneurs by providing mentoring and technical assistance, including support to Microenterprise Development.
- Utilize, when available, Section 108 Loan Guarantees.

- Support improvement visibility of small business storefronts in the Central Business District.

Public Facilities

- Support creation and improvement of public facilities and improvements (i.e., streets, sidewalks, curb & gutter, and sewer/water improvements).
- Support creation and improvement of public and nonprofit neighborhood community facilities and health centers.

3. Evaluation of past performance

The CDBG and HOME investments have been used to make long lasting improvements serving low-income residents. Past programs have focused on community needs that continue to exist including affordable housing, neighborhood improvements, and public service support for low-income residents.

At the conclusion of each program year the City of Provo prepares its Consolidated Annual Performance Evaluation Report (CAPER) which is submitted to HUD within 90 days of the end of the Program Year (PY).

While specific accomplishment data for Program Year 2022 (PY2022), third year of the 2020-24 ConPlan, are not yet available we believe the programs and projects carried out have benefited greatly and assisted in meeting community needs as projects are moving forward to provide more affordable housing choices throughout Utah County as well as funding used this Program Year to help make various public services available to low-income individuals and assist those with disabilities.

4. Summary of Citizen Participation Process and consultation process

An integral part of the ConPlan planning process is Citizen Participation as it provides for goals and priorities that are defined in the context of community needs and preferences. In addition, the citizen participation process provides a format to educate the community about the federal grants received by City of Provo and the Consortium. To this end the City solicited involvement from a diverse group of stakeholders and community members during the development of the 2020-2024 ConPlan, as amended. A comprehensive public engagement process included stakeholder meetings, citizen's survey available in both English and Spanish, public hearings, committee meetings and a public comment period.

The City received input from residents, stakeholders and other interested parties including service providers through a survey conducted in the fall of 2022 to determine

funding priorities. Through the AAP planning process citizen advisory committees met several times to hear presentations and discuss the needs of the City and make recommendations for funding. All public notices for the Annual Action Plan were published in the Daily Herald newspaper as well as the City website.

Funding recommendations by Citizen's committees will be presented to the Municipal Council in two public hearings conducted on April 18th and June 6th, 2023, with recommended funding amounts available for review by the public, Citizen's committees and boards, and applicants. Provo City's Municipal Council adopted the Final Draft of the 2023-AAP at the public hearing held on June 6th, 2023.

5. Summary of public comments

Comments included in Appendix to 23-24 Annual Action Plan.

6. Summary of comments or views not accepted and the reasons for not accepting them

All Comments were considered in the 23-24 Annual Action Plan

7. Summary

The Annual Action Plan provides for the allocation of CDBG and HOME funds for Program Year 2023 (PY2023) and the reprogramming of existing funds. It also reflects the coordinated efforts of local governments and citizens, as well as the wide network of housing and human service providers in Utah County.

PR-05 LEAD & RESPONSIBLE AGENCIES - 91.200(B)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
Lead Agency	PROVO	DEVELOPMENT SERVICES
CDBG Administrator	PROVO	DEVELOPMENT SERVICES
HOME Administrator	PROVO	DEVELOPMENT SERVICES
CDBG Administrator	OREM	CITY OF OREM
CDBG Administrator	UTAH COUNTY	MOUNTAINLAND ASSOCIATION OF GOVERNMENTS

Table 1 – Responsible Agencies

2. Narrative

Provo City (City) is the Lead Agency of entitlement programs regulated by the Office of Community Planning and Development (CPD) of the United States Department of Housing and Urban Development (HUD). The City's Housing Division in the Department of Development Services (DS) is responsible for the administration of CPD-HUD entitlement grants which include the Community Development Block Grant (CDBG), and the HOME Investment Partnerships Program (HOME). The City is also responsible for the preparation of the Consolidated Plan (ConPlan), Annual Action Plans (AAP) and Consolidated Annual Performance Evaluation Reports (CAPER) for Provo City and The Utah Valley HOME Consortium. The City of Orem administers its own CDBG program and Mountainland Association of Governments administers the City of Lehi and Utah County's CDBG Programs.

3. Consolidated Plan Public Contact Information

Provo City and its CDBG entitlement partners welcome questions and/or comments regarding this Annual Action Plan update. Please contact the following:

Provo City CDBG & Utah Valley HOME Consortium
Melissa McNalley, Community Grants Administrator
Development Services, Provo City
445 West Center Street
Provo, UT 84601
801-852-6164
mmcnalley@provo.org

City of Orem CDBG
Kena Mathews, Community Services Manager, City of Orem
56 North State Street
Orem, UT 84057
801-229-7023
kjmathews@orem.org

City of Lehi and Utah County CDBG
Jessica DeLora, Community and Economic Development Director, Mountainland Association of Governments
586 East 800 North
Orem, UT 84097
801-229-3831
jdelora@mountainland.org

AP-10 CONSULTATION - 91.100, 91.200(B), 91.215(L)

1. **Introduction**

   Provo City, along with City of Orem and MAG, engaged in a collaborative effort to consult with City departments, representatives of low-income neighborhoods, non-profit and for-profit housing developers, service providers, lenders, public service agencies, homeless service providers, faith-based organizations, supportive housing and service providers, community stakeholders, community partners, and beneficiaries of entitlement programs to inform and develop the priorities and strategies contained within the ConPlan.

a. Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l)).

In preparing the Program Year 2023 Annual Action Plan the City held consultations with various organizations which provide services throughout Utah County, including local leaders, housing providers, and service providers.

Provo City also participates in regular meetings with other CDBG grantees in Utah County to streamline and simplify the process for new and renewing applicants.

b. Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

The vision of the Mountainland Region Continuum of Care (CoC) is to provide decent, safe and affordable housing and effective support services to homeless, chronic homeless families and individuals including—initial stabilization, transitional housing, permanent housing, access to mainstream resources and independence from governmental assistance. United Way of Utah County (United Way) leads the CoC, of which the City of Provo is a member, represented by several City departments including Fire, Police, and Development Services among them. The CoC is an organized body of local jurisdictions, government agencies, local nonprofit organizations, faith-based service and housing organizations, and other agencies and partners seeking to maximize resources and avoid duplication of services while providing consistent and unified planning in Utah County.

As it annually does, the CoC led the efforts for the point in time count, in which volunteers participated in an outreach to find homeless individuals. The event was advertised in the Daily Herald (local paper), the Provo Mayor's blog, and the United Way Facebook page.

c. Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS.

Neither the City of Provo, nor any other jurisdiction with membership in the HOME Consortium receives ESG funding.

2. Agencies, groups, organizations and others who participated in the process and consultations

1	**Agency/Group/Organization**	**Rocky Mountain University of Health Professionals**
	Agency/Group/Organization Type	Health Agency
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the 2020 ConPlan Discussion. Continue to make available financial support to provide services.
2	**Agency/Group/Organization**	**Fresh Start Ventures**
	Agency/Group/Organization Type	Services-Housing Services-Homeless
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
3	**Agency/Group/Organization**	**Center for Women & Children in Crisis**
	Agency/Group/Organization Type	Housing Services – Housing Services – Children Services – Victims of Domestic Violence Services – Homeless Services – Education
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs

		Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
4	**Agency/Group/Organization**	**Community Action Services & Food Bank**
	Agency/Group/Organization Type	Services – Housing Services – Children Services - Homeless Services – Education
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
5	**Agency/Group/Organization**	**Community Health Connect**
	Agency/Group/Organization Type	Services – Health
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
	Agency/Group/Organization	**Family Support & Treatment Center**

6	**Agency/Group/Organization Type**	Services – Children Services – Education Services – Victims
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
7	**Agency/Group/Organization**	**Food & Care Coalition**
	Agency/Group/Organization Type	Services – Housing Services – Persons with Disabilities Services – Health Services – Homeless Services – Education
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
8	**Agency/Group/Organization**	**Friends of UT County Children's Justice Ctr.**
	Agency/Group/Organization Type	Services – Children Services – Victims
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis

	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
9	**Agency/Group/Organization**	**Mountainland Head Start**
	Agency/Group/Organization Type	Services – Children Services – Education
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
10	**Agency/Group/Organization**	**Centro Hispano**
	Agency/Group/Organization Type	Services – Health Services – Education Services – Employment
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
11	**Agency/Group/Organization**	**Housing Authority of Utah County**
	Agency/Group/Organization Type	PHA
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs

		Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
12	**Agency/Group/Organization**	**NeighborWorks Provo**
	Agency/Group/Organization Type	Housing Services – Education
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
13	**Agency/Group/Organization**	**Mountainlands Community Health Center**
	Agency/Group/Organization Type	Health Agency
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
14	**Agency/Group/Organization**	**Mountainland Continuum Of Care**
	Agency/Group/Organization Type	Services – Homeless

	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
15	**Agency/Group/Organization**	**Project Read**
	Agency/Group/Organization Type	Services – Elderly Persons Services – Education Services – Employment
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
16	**Agency/Group/Organization**	**Provo City Housing Authority**
	Agency/Group/Organization Type	PHA
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.

17	**Agency/Group/Organization**	**Rural Housing Development Corporation**
	Agency/Group/Organization Type	Housing
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.
18	**Agency/Group/Organization**	**Wasatch Mental Health**
	Agency/Group/Organization Type	Other Government: State Services – Persons with Disabilities
	What Section of the Plan was addressed	Housing Need Assessment Public Housing Needs Homeless Needs (All) Non-Homeless Special Needs Market Analysis
	How was the Agency/Group/Organization consulted, and what are the anticipated outcomes of the consultation or areas for improved coordination?	The organization responded to the survey and participated in the ConPlan Discussion. Continue to make available financial support to provide services.

Table 2 – Agencies, groups, organizations who participated

a. Identify any Agency Types not consulted and provide rationale for not consulting

The Annual Action Plan process provided an opportunity and invited participation comments from all relevant organizations and agencies.

b. Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care Plan	United Way of Utah County	Assist persons who are homeless and at risk of homelessness
Analysis of Impediments-2019 Utah Valley	Provo City Corporation	Affirmatively Furthering Fair Housing
Housing Needs Assessment-2019 Utah Valley	Provo City Corporation	Housing Needs
Housing Market Analysis 2019 Utah Valley	Provo City Corporation	Non-Housing Needs
Affordable Housing Report-2019	State of Utah	Housing Affordability
CASFB Community Needs Assessment 2019	Community Action Services and Food Bank	Income, Employment and Housing
The Market Pulse-September 2019	CoreLogic	Housing Market

Table 3 – Other local / regional / federal planning efforts

c. Describe cooperation and coordination with other public entities, including the State and any adjacent units of general local government, in the implementation of the Consolidated Plan (91.215(l)).

As Lead Entity of the Utah Valley HOME Consortium, the City of Provo engages with other Consortium members discussing community needs and long-term housing strategies. The City of Provo is also an active member of the Mountainland Continuum of Care and the Utah County Council of Governments. In preparing for the upcoming plan year Provo City engaged with Orem City and Mountainland Association of Governments, who administers both Lehi City's and Utah County's CDBG Programs, in offering better funding opportunities to Public Services providers by creating a unified application process requiring less duplicative efforts from both CDBG entitlements and Subrecipients. The focus of these efforts is to provide a more immediate and complete impact for public services in need of capital improvement funding as well as a better application/reporting/monitoring system. Efforts are also joined to gather regional data and provide wholistic analyses of the regional housing needs, housing market and barriers to affordable housing.

AP-12 Participation - 91.401, 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation

Summarize citizen participation process and how it impacted goal-setting

The City sought out public participation in the development of this plan from citizens at large, non-profit organizations, elected officials and other interested parties through public meetings, public hearings and surveys.

Citizen Advisory Committees and Boards met to evaluate applications and listen to presentations from agencies seeking funding from both CDBG and HOME programs. Residents were invited to participate in the Public Hearings where the projects and/or programs for the fourth year Action Plan were presented as well as provide input in its adoption.

The Public Comment Period to this Plan will run from April 18, 2023, to June 6, 2023. Comments are solicited in person during the Council Public Hearings on April 18, and June 6, 2023. Interested parties can also provide input through email to the CDBG & HOME Administrator for the City of Provo: mmcnalley@provo.org; by phone: 801-850-6164; through the Provo City website and by mail: to Provo City Corporation, ATTN: PY-2023 Annual Action Plan, Development Services 445 West Center Street, Provo, Utah, 84601.

Citizen Participation Outreach

Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
Survey Online through website and Social Media Platforms	Non-Targeted / Broad Community	See Appendix			
Public Hearing	City Officials Non-targeted /Broad Community				
Public Hearing	City Officials Non-targeted /Broad Community				

Table 4 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources - 91.420(b), 91.220(c)(1,2)

1. Introduction

The following table summarizes the anticipated resources.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 4				Expected Amount Available Reminder of ConPlan	Description
			Annual Allocation	Program Income	Prior Year Resources	Total		
CDBG	Public Federal	Acquisition Admin and Planning Economic Development Housing Land Acquisition Public Improvements Public Services	$1,337,813	$2,813	$148,051	$1,488,677	$1,337,813	Amount for remainder of ConPlan is estimated as same amount as Year 4 allocation.
HOME	Public Federal	Acquisition Homebuyer Assistance Homeowner rehab Multifamily rental new construction New construction for ownership TBRA	$1,589,819	$396,041	$0	$1,985,860	$1,589,819	Amount for remainder of ConPlan is estimated as same as Year 4 allocation. Program Income is typically generated from housing loan repayment

Table 5 - Expected Resources – Priority Table

2. Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

Provo City's Public Facilities and Parks projects use CDBG funding as gap financing allowing leveraging of other sources of funds.

HOME funding is also used to leverage private funding, frequently in addition to the 25 percent Match required by the program. Match is met through a combination of private financing, cash contributions, donated material, services, and labor.

3. **If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan**

N/A

ANNUAL GOALS AND OBJECTIVES

AP-20 Annual Goals and Objectives - 91.420, 91.220(c)(3)&(e)

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Homeowner/Homebuyer	2020	2024	Affordable Housing	City/ Consortium Wide	Affordable Housing	CDBG: $36,000 HOME: $1,826,878	Homeowner Housing Constructed: **5** Homeowner Housing-Rehabilitated: **7** Direct Financial Assistance to Homebuyers: **37**
2	Rental Housing	2020	2024	Affordable Housing	City/ Consortium Wide	Affordable Housing		Tenant Based Rental Assistance: **0**
3	Public Facilities	2020	2024	Non-Housing Community Development	City/ Consortium Wide	Suitable Living Environments	CDBG: $606,442 CDBG: $ 6,000	Public Facility or Infrastructures Activities other than Low/Moderate Income Housing Benefit: **4988;** PF for Low/Mod **1**
4	Public Services	2020	2024	Homelessness Non-Homeless Special Needs	City/ Consortium Wide	Suitable Living Environments	CDBG: $200,672	Public Service Activities other than Low/Moderate Income Housing Benefit: **12,510**
5	Stimulate Economic Growth	2020	2024	Non-Housing Community Development	City Wide	Economic Development	CDBG: $372,000	Façade treatment/business building Rehabilitation Jobs Created/Retained Businesses Assisted: **2/4**
6	Administration	2020	2024	Non-Housing Community Development	City Wide	All	CDBG: $267,563 HOME: $158,982	

Table 6 – Goals Summary

Goal Descriptions

1	**Goal Name**	Homeowner/Homebuyer Affordability
	Goal Description	The purpose of this goal is to increase the affordability, availability, accessibility and sustainability of owner-occupied housing.
2	**Goal Name**	Rental Housing Affordability
	Goal Description	The purpose of this goal is to increase the affordability, availability, accessibility and sustainability of rental housing.
3	**Goal Name**	Public Facilities
	Goal Description	This goal strives to improve neighborhood infrastructure and access to basic services for low--income and special needs populations
4	**Goal Name**	Public Services
	Goal Description	This goal consists of activities to help low--income individuals and families as well as individuals with special needs receive, therapy, supportive services, education, medical assistance, and other needed services
5	**Goal Name**	Stimulate Economic Growth
	Goal Description	This goal includes activities that create or retain jobs, foster entrepreneurship and increase access to employment centers for low- and moderate-income populations

Table 7 – Goals Summary

AP-35 Projects - 91.420, 91.220(d)

Introduction

Five different entitlement allocations from HUD for PY2023 come to Consortium members. For CDBG Programs City of Provo will receive $1,337,813, Utah County's allocation is $1,422,713, City of Orem expects to receive $632,646 and Lehi's allocation is estimated at $333,305. Additionally, the HOME Consortium expects to receive $1,589,819 in HOME funds. To these amounts Provo City adds $398,854 in Program Income and $148,051 reprogrammed funding from previous years. Provo City's total available for funding is $3,474,537 (CDBG: $1,488,677; HOME: $1,985,860).

#	Project Name
1	CDBG: Administration
2	CDBG: 108 Loan Repayment
3	CDBG: Community Action Services & Food Bank – Homebuyer Class
4	CDBG: Community Action Services & Food Bank—Circles Program
5	CDBG: Community Action Services & Food Bank – Community Garden
6	CDBG: The Refuge
7	CDBG: Children's Justice Center
8	CDBG: Project Read
9	CDBG: Provo City Police Victim Services
10	CDBG: Recreation and Habilitation Services (RAH)
11	CDBG: Alpine House Capital Improvements – Slurry Seal
12	CDBG: Business Façade Rehabilitation
13	CDBG: Neighborhood Revitalization Program
14	CDBG: Public Works – Joaquin Neighborhood Improvements
15	CDBG: Public Works – Wasatch and Foothills Neighborhood Improvements
16	CDBG: Emergency Home Repair – Program Delivery
17	CDBG: Egress Window – Program Delivery
18	HOME: Administration
19	HOME: Rural Housing Development Corporation-Mutual Self-Help Program, Santaquin
20	HOME: Neighborworks – Mountain Crest Manor - Orem
21	HOME: Home Purchase Plus Down Payment Assistance Program
22	HOME: Loan to Own – Down Payment Assistance Program

Table 8 Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs.

The City is taking a strategic approach to direct funding. Priorities include expanding affordable housing opportunities throughout the Consortium, providing critical services for the most vulnerable residents, expanding self-sufficiency for at-risk populations, and improving neighborhood conditions in concentrated areas of poverty.

AP-38 Project Summary

Project Summary Information

1	**Project Name**	**CDBG: Administration**		
	Target Area	Serving Provo City Residents		
	Goals Supported	Homeownership Rental Housing Public Facilities Public Services Economic Development		
	Needs Addressed	Housing Public Facilities Public Services Economic Development		
	Funding	CDBG: $267,563		
	Description	CDBG Administration budgets are determined by 20% of the Entitlement. DS staff personnel and overhead costs to administer the CDBG and HOME programs.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities			
	Location Description	445 West Center, Provo, UT, 84601		
	Planned Activities	Manage and Monitor CDBG and HOME Programs		
	Matrix Code	21A General Program Administration		
	Objective	Decent Housing ☐	Suitable Living Environment ☐	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☐	Affordability ☐	Sustainability ☐
2	**Project Name**	**CDBG: Section 108 Loan Repayment**		
	Target Area	Provo City		
	Goals Supported	Economic Development		

	Needs Addressed	Economic Development		
	Funding	CDBG: $314,000		
	Description	Funds will be used to repay the Section 108 loan that was used to cover costs associated with building/updating infrastructure at the Provo City Airport		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities			
	Location Description	3421 Mike Jensen Parkway Provo, UT 84601		
	Planned Activities	Payment of Principal and Interest		
	Matrix Code	19F Planned Repayment of Section 108 Loans 24A Payment of Interest on Section 108 Loans		
	Objective	Decent Housing ☐	Suitable Living Environment ☒	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability ☐	Sustainability ☐
3	**Project Name**	**CDBG: Community Action Services& Food Bank – Homebuyer Class**		
	Target Area	Serving Residents throughout Utah County		
	Goals Supported	Public Services		
	Needs Addressed	Public Services		
	Funding	CDBG: $9,500		
	Description	Provide first time homebuyer financial education		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	Programs will serve approximately of 24 LMI beneficiaries, of which about 10 will be Provo residents.		

	Location Description	815 S Freedom Blvd Ste 100, Provo, UT 84601		
	Planned Activities	Homebuyer Education Classes		
	Matrix Code	05U Housing Counseling		
	Objective	Decent Housing ☐	Suitable Living Environment ☒	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability ☐	Sustainability ☐
4	**Project Name**	**CDBG: Community Action and Food Bank Services—Circles Program**		
	Target Area	Serving Provo City Residents		
	Goals Supported	Public Services		
	Needs Addressed	Public Services		
	Funding	CDBG: $10,000		
	Description	Participants (Circle leaders) establish goals and plans and learn new tools, assisted by Allies, and Coaches to secure and sustain better jobs and break out of generational poverty.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	The Center anticipates it will assist about 6 LMI households, of which at least two will be Provo residents.		
	Location Description	815 South Freedom Blvd. Provo, UT 84601		
	Planned Activities	Partial payment of salaries for Coach and an Assistant Coach		
	Matrix	05 Other Public Services Not Listed		
	Objective	Decent Housing ☐	Suitable Living Environment ☒	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability ☐	Sustainability ☐
5	**Project Name**	**CDBG: Community Action Service & Food Bank – Community Garden**		
	Target Area	Serving Provo City Residents		

	Goals Supported	Public Services		
	Needs Addressed	Public Services		
	Funding	CDBG: $10,000		
	Description	Funds used to provide community garden and gardening education.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	21 beneficiaries, all of which will be Provo residents.		
	Location Description	815 S Freedom Blvd. Ste 100 Provo, UT 84601		
	Planned Activities	Salaries for personnel and supplies		
	Matrix	05 Other Public Services		
	Objective	Decent Housing ☐	Suitable Living Environment ☒	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability ☐	Sustainability ☐
6	**Project Name**	**CDBG: The Refuge**		
	Target Area	Serving Provo Residents		
	Goals Supported	Public Services		
	Needs Addressed	Public Services		
	Funding	CDBG: $40,000		
	Description	Funds will be used for costs associated with providing services to victims of abuse and domestic violence.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	Approximately 700 beneficiaries will be served with this funding. Of which, 250 will be residents of Provo City.		

	Location Description	1433 East 840 North Orem, UT 84097		
	Planned Activities	Provide financial assistance to sustain facilities, maintain equipment, and support overall operating costs.		
	Matrix	05G Services for abused spouses and their families.		
	Objective	Decent Housing ☐	Suitable Living Environment ☒	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability ☐	Sustainability ☐
7	**Project Name**	**CDBG: Children's Justice Center**		
	Target Area	Serving Residents throughout Utah County		
	Goals Supported	Public Services		
	Needs Addressed	Public Services		
	Funding	CDBG: $57,000		
	Description	Funds will be used to provide trauma specific mental health treatment for child abuse victims and families residing in Utah County.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	Approximately 800 individuals will receive assistance, of which about 150 will be Provo residents.		
	Location Description	315 South 100 East Provo, UT 84606		
	Planned Activities	Mental Health therapy for children of abuse and their families.		
	Matrix	05N Services for Abused Children		
	Objective	Decent Housing ☐	Suitable Living Environment ☒	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability ☐	Sustainability ☐
8	**Project Name**	**CDBG: Project Read**		
	Target Area	Serving Provo Residents		

	Goals Supported	Public Services		
	Needs Addressed	Public Services		
	Funding	CDBG: $10,210		
	Description	Help adults achieve self-sufficiency by helping them acquire literacy and life skills.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	Illiterate adults are identified as presumed eligible, however Project Read will serve approximately 100 LMI persons, of which about 50 will be Provo residents.		
	Location Description	550 North University Ave #215, Provo, UT 84601		
	Planned Activities	Literacy Lab, digital literacy/technology, health literacy and education, writing labs.		
	Matrix	05H Employment Training		
	Objective	Decent Housing ☐	Suitable Living Environment ☒	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability ☐	Sustainability ☐
9	**Project Name**	**CDBG: Provo Police –Victim Services**		
	Target Area	Serving Provo residents		
	Goals Supported	Public Services		
	Needs Addressed	Public Services		
	Funding	CDBG: $30,124		
	Description	Funds will be used for program delivery of services offered to victims of domestic violence and/or abuse.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	While victims of domestic violence/abuse are presumed eligible, PPD will provide services to approximately 1,500 persons.		

	Location Description	445 West Center Street Provo, UT 84601		
	Planned Activities	Referrals to resources, court counseling, assistance in interviews with responding officers, emergency sheltering placement.		
	Matrix	05G Services for victims of domestic violence, dating violence sexual assault or stalking.		
	Objective	Decent Housing ☐	Suitable Living Environment ☒	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability ☐	Sustainability ☐
10	**Project Name**	**CDBG: Recreation and Habilitation Services (RAH)**		
	Target Area	Serving Provo residents		
	Goals Supported	Public Services		
	Needs Addressed	Public Services		
	Funding	CDBG: $33,838		
	Description	Funds used to provide educational and recreational opportunities to persons with disabilities to improve their lives through the ABLE Project.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	Approximately 129 LMI persons will be served, of which about 32 will be Provo residents.		
	Location Description	815 N 800 W Provo, UT 84604		
	Planned Activities	Educational and Recreational activities for LMI individuals with physical and mental disabilities.		
	Matrix	05B Services for Persons with Disabilities.		
	Objective	Decent Housing ☐	Suitable Living Environment ☒	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability ☐	Sustainability ☐
	Project Name	**CDBG: Alpine House**		

11	**Target Area**	Serving Provo residents		
	Goals Supported	Public Services		
	Needs Addressed	Public Services		
	Funding	CDBG: $6,000		
	Description	Provide a slurry seal to the existing driveway to preserve life of asphalt.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	It is estimated that physical therapy will be provided for about 20 LMI individuals, all of which are Provo residents.		
	Location Description	156 South 300 West Provo, UT 84601		
	Planned Activities	Driveway and parking repair		
	Matrix	14B Rehabilitation: Multi-Unit Residential		
	Objective	Decent Housing x	Suitable Living Environment ☒	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability ☐	Sustainability x
12	**Project Name**	**CDBG: Business Façade Rehabilitation**		
	Target Area	Provo City		
	Goals Supported	Economic Development		
	Needs Addressed	Economic Development		
	Funding	CDBG: $50,000 - Façade Renovations CDBG: $8,000 - Program Delivery		
	Description	Funds will be used to provide matching grants for commercial façade renovation and program delivery, leading to job creation for LMI.		
	Target Date	6/30/2024		

	Estimate the number and type of families that will benefit from the proposed activities	About one façades will be rehabilitated creating approximately two jobs for LMI Persons.		
	Location Description	445 West Center Provo, UT 84601		
	Planned Activities	Façade renovation and rehabilitation – Job Creation		
	Matrix	14E Rehabilitation; Publicly or Privately Owned Commercial		
	Objective	Decent Housing	Suitable Living Environment ☐	Economic Opportunity x
	Outcome	Availability/Accessibility	Affordability ☐	Sustainability x
13	**Project Name**	**CDBG: Neighborhood Revitalization Program**		
	Target Area	Serving Provo City Residents		
	Goals Supported	Public Facilities		
	Needs Addressed	Public Facilities		
	Funding	CDBG: $25,000		
	Description	Funds will be used to uplift neighborhoods through installation/repair of curb & gutter, parks/equipment, safety crossings, pathways/lighting.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	Approximately 1,000 LMI Provo residents will benefit from this project.		
	Location Description	CDBG Eligible Neighborhoods in Provo		
	Planned Activities	Curb & Gutter/Sidewalk/Safety Crossings/Lighting, etc.		
	Matrix	03K Street Improvements/03L Sidewalks		

	Objective	Decent Housing	Suitable Living Environment x	Economic Opportunity ☐
	Outcome	Availability/Accessibility	Affordability ☐	Sustainability x
14	**Project Name**	**CDBG: Provo Public Works – Joaquin Neighborhood Improvements**		
	Target Area	Joaquin Neighborhood		
	Goals Supported	Public Facilities		
	Needs Addressed	Public Facilities		
	Funding	CDBG: $221,442		
	Description	Funds will be used to make safety improvements such as safe routes to school, ADA Ramps, Bulb outs, and lighting.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	Approximately 5,784 Provo residents will benefit from this project.		
	Location Description	Joaquin Neighborhood		
	Planned Activities	Install and replace sidewalks in need, crosswalks, signage, and ADA ramps and panels.		
	Matrix	03L Sidewalks		
	Objective	Decent Housing ☐	Suitable Living ☒ Environment	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability ☐	Sustainability ☐
15	**Project Name**	**CDBG: Provo Public Works**		
	Target Area	Wasatch and Foothills Neighborhoods		
	Goals Supported	Public Facilities		
	Needs Addressed	Public Facilities		
	Funding	CDBG: $360,000		
	Description	Wasatch and Foothills Neighborhood safety improvements		
	Target Date	6/30/2024		

	Estimate the number and type of families that will benefit from the proposed activities	Approximately 7,386 Provo residents will benefit from this project.		
	Location Description	Provo Wasatch and Foothills neighborhoods		
	Planned Activities	Install and replace sidewalks in need, crosswalks, signage, and ADA ramps and panels.		
	Matrix	03L Sidewalks		
	Objective	Decent Housing ☐	Suitable Living Environment x	Economic Opportunity
	Outcome	Availability/Accessibility ☐	Affordability ☐	Sustainability ☒
16	**Project Name**	**CDBG: Emergency Home Repair**		
	Target Area	City of Provo		
	Goals Supported	Homeownership		
	Needs Addressed	Housing		
	Funding	CDBG: $ 4,500 – Program Delivery		
	Description	Program Delivery for Emergency home repairs.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	It is expected to serve about eight low-income households.		
	Location Description	Eligible single-family properties in Provo City.		
	Planned Activities	Rehabilitation of heating/air conditioning, water, electrical, plumbing systems; roof leaks; sewer. May include other repairs to ensure a healthy/sanitary living environment.		
	Matrix	14A Rehabilitation: Single-Unit Residential		
	Objective	Decent Housing ☒	Suitable Living Environment ☐	Economic Opportunity ☐

	Outcome	Availability/Accessibility ☐	Affordability ☒	Sustainability ☐
17	**Project Name**	**CDBG: Egress Windows**		
	Target Area	Provo City		
	Goals Supported	Homeownership		
	Needs Addressed	Housing		
	Funding	CDBG: $6,500 – Program Delivery		
	Description	Funding will be used to assist low-income homeowners needing to bring bedroom windows up to code.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	About nine LMI households will be served.		
	Location Description	Eligible single-family properties in Provo City.		
	Planned Activities	Installation of Egress Windows		
	Matrix	14A Rehabilitation: Single-Unit Residential		
	Objective	Decent Housing ☒	Suitable Living Environment ☐	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☐	Affordability ☒	Sustainability ☐
18	**Project Name**	**HOME: Administration**		
	Target Area	Consortium wide		
	Goals Supported	Homeownership Rental Housing		
	Needs Addressed	Housing		
	Funding	HOME: $158,982		
	Description	Funds will be used to pay for administration costs of the activities for the Utah Valley HOME Consortium.		
	Target Date	6/30/2024		

	Estimate the number and type of families that will benefit from the proposed activities			
	Location Description	445 West Center Provo, UT 84601		
	Planned Activities	Administration and planning		
	Matrix	21A General Program Administration		
	Objective	Decent Housing ☐	Suitable Living Environment ☒	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☐	Affordability ☐	Sustainability ☒
19	**Project Name**	**HOME: RHDC – Self Help Homes**		
	Target Area	Santaquin, Utah		
	Goals Supported	Homeownership		
	Needs Addressed	Housing		
	Funding	HOME: $531,641 CHDO: $119,236		
	Description	Funds will be used for acquisition of approximately 8.32 acres in Santaquin for the development of about 29 residential single-family homes.		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	Approximately 3 HOME-assisted units will benefit LMI eligible households.		
	Location Description	North Fox Avenue and Dasher Drive (close to 1000 South) Santaquin, UT 84665		
	Planned Activities	Land acquisition, predevelopment costs, lot improvements and new construction of affordable single-family housing.		
	Matrix	12 Construction of Housing		

	Objective	Decent Housing x	Suitable Living Environment	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☐	Affordability x	Sustainability ☒
20	**Project Name**	**HOME: Mountain Country Home Solutions**		
	Target Area	Orem City		
	Goals Supported	Housing		
	Needs Addressed	Housing		
	Funding	HOME: $656,763.58 CHDO: $119,236		
	Description	Funds will be used to build a single level four-plex in Orem.		
	Target Date	7/31/2024		
	Estimate the number and type of families that will benefit from the proposed activities	Approximately 4 LMI Households will benefit from this project.		
	Location Description	672 East 1700 South Orem, UT 84097		
	Planned Activities	Construction of 4 affordable rental units.		
	Matrix	12 Construction of Housing		
	Objective	Decent Housing x	Suitable Living Environment	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☒	Affordability x	Sustainability ☐
21	**Project Name**	**HOME: Home Purchase Plus**		
	Target Area	Provo City		
	Goals Supported	Homeownership		
	Needs Addressed	Housing		
	Funding	HOME: $200,000 CDBG: $12,500		

	Description	HOME funds to provide down payment assistance and closing costs loans to eligible low-income households. Up to $12,500 in CDBG funds will be used for Program Delivery		
	Target Date	6/30/2024		
	Estimate the number and type of families that will benefit from the proposed activities	Approximately 5 households will receive down payment and closing cost assistance loans.		
	Location Description	Throughout Provo City		
	Planned Activities	Down payment assistance and closing costs loans. Program Delivery		
	Matrix	13B Homeownership Assistance – excluding Housing Counseling		
	Objective	Decent Housing x	Suitable Living Environment ☐	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☐	Affordability x	Sustainability ☐
22	**Project Name**	**HOME: Loan to Own**		
	Target Area	Throughout Utah County		
	Goals Supported	Homeownership		
	Needs Addressed	Housing		
	Funding	HOME: $200,000 CDBG: $ 12,500		
	Description	HOME funds to provide down payment assistance and closing costs loans to eligible low-income households. Up to $12,500 in CDBG funds will be used for Program Delivery		
	Target Date	6/30/2024		

	Estimate the number and type of families that will benefit from the proposed activities	Approximately 5 households will receive down payment and closing cost assistance loans.		
	Location Description	Eligible cities throughout Utah County		
	Planned Activities	Down payment assistance and closing costs loans. Program Delivery		
	Matrix	13B Homeownership Assistance – excluding Housing Counseling		
	Objective	Decent Housing ☒	Suitable Living Environment ☐	Economic Opportunity ☐
	Outcome	Availability/Accessibility ☐	Affordability ☒	Sustainability ☐

AP-50 Geographic Distribution - 91.420, 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

At this time neither the City of Provo nor the Consortium is establishing specific geographic areas of service.

Geographic Distribution

Target Area	Percentage of Funds

Table 5 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

Discussion

N/A

AFFORDABLE HOUSING

AP-55 Affordable Housing - 91.420, 91.220(g)

Introduction

One Year Goals for the Number of Households to be Supported
Homeless
Non-Homeless
Special-Needs
Total

Table 5 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through
Rental Assistance
The Production of New Units
Rehab of Existing Units
Acquisition of Existing Units
Total

Table 7 - One Year Goals for Affordable Housing by Support Type

Discussion

AP-60 Public Housing - 91.420, 91.220(h)

Introduction

Actions planned during the next year to address the needs to public housing

Actions to encourage public housing residents to become more involved in management and participate in homeownership

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

Discussion

AP-65 Homeless and Other Special Needs Activities - 91.420, 91.220(i)

Introduction

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

Addressing the emergency shelter and transitional housing needs of homeless persons

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

Discussion

AP-75 Barriers to affordable housing -91.420, 91.220(j)

Introduction

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

Discussion

AP-85 Other Actions - 91.420, 91.220(k)

Introduction

Actions planned to address obstacles to meeting underserved needs

Actions planned to foster and maintain affordable housing

Actions planned to reduce lead-based paint hazards

Actions planned to reduce the number of poverty-level families

Actions planned to develop institutional structure

Actions planned to enhance coordination between public and private housing and social service agencies

Discussion

Program Specific Requirements

AP-90 Program Specific Requirements - 91.420, 91.220(l)(1,2,4)

Introduction

Community Development Block Grant Program (CDBG)
Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan
3. The amount of surplus funds from urban renewal settlements
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan.
5. The amount of income from float-funded activities

Total Program Income

Other CDBG Requirements

1. The amount of urgent need activities

HOME Investment Partnership Program (HOME)
Reference 24 CFR 91.220(l)(2)

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:

2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MGRIFFITHS
Department: Recorder
Requested Meeting Date: 01-01-2018

SUBJECT: An ordinance granting FIF Utah LLC DBA Utah Broadband a nonexclusive franchise to operate a telecommunications network in Provo, Utah. (23-039)

RECOMMENDATION: Council approval for franchise agreement needed. Requested for the work and council meeting on April 18.

BACKGROUND: FIF Utah (aka Utah Broadband, a high-speed internet provider) asked Engineering for a permit to run conduit in the City. We subsequently discovered that they also intend to sell service to Provo City residents. A franchise agreement with the City is therefore required. We provided a template, which FIF filled out and signed. Per City ordinance, the agreement requires Council approval and the Mayor's signature.

FISCAL IMPACT:

PRESENTER'S NAME: Matthew Griffiths, Assistant City Attorney

REQUESTED DURATION OF PRESENTATION: 10 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-039

ORDINANCE 2023-__.

AN ORDINANCE GRANTING FIF UTAH LLC, DBA UTAH BROADBAND, A NONEXCLUSIVE FRANCHISE TO OPERATE A TELECOMMUNICATIONS NETWORK IN PROVO, UTAH. (23-039)

WHEREAS, FIF Utah, LLC, a Delaware limited liability company, dba Utah Broadband ("Utah Broadband"), desires to obtain a nonexclusive franchise to have the right and privilege to operate a telecommunications network in Provo, Utah; and

WHEREAS, Provo City and Utah Broadband have negotiated a nonexclusive franchise agreement ("Franchise Agreement") setting forth Utah Broadband's rights and duties with respect to its operation of a telecommunications network in Provo, Utah, as set forth in the attached Exhibit A; and

WHEREAS, on April 18, 2023, the Provo Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council finds: (i) the attached Franchise Agreement should be approved, thereby granting Utah Broadband a franchise to operate a telecommunications network in Provo, Utah, on the terms set forth in the Franchise Agreement; and (ii) such action furthers the health, safety, and welfare, and the best interests of the citizens of Provo.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

The attached Franchise Agreement between Provo City and Utah Broadband is hereby approved and Utah Broadband is hereby granted a franchise to operate a telecommunications network in Provo, Utah, pursuant to the Franchise Agreement. The Mayor is hereby authorized to execute the Franchise Agreement, as set forth in the attached Exhibit A; provided, however, that the Mayor is also hereby authorized to amend the Franchise Agreement as may be needed to meet the requirements of applicable law.

The franchise granted herein shall be effective upon the date on which all parties have signed the Franchise Agreement. If the Franchise Agreement has not been fully executed within

one hundred twenty (120) days after the passage of this ordinance by the City, this ordinance and the rights granted herein shall be null and void.

PART II:

A. If a provision of this Ordinance conflicts with a provision of a previously adopted ordinance concerning the same franchising act as described herein, this Ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that this Ordinance remain uncodified.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

PROVO CITY AND UTAH BROADBAND
TELECOMMUNICATIONS FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT is made and entered into on March 17, 2023 by and between the City of Provo, Utah, (hereinafter "City") and FIF Utah, LLC, a Delaware limited liability company, dba Utah Broadband (hereinafter "Company").

WITNESSETH:

WHEREAS, Provo City Code Chapter 6.24 "Telecommunications Rights-of-Way" provides for the use of the City's Rights-of-Way for the installation, construction, and maintenance of systems in the City's Rights-of-Way,

WHEREAS, the Company desires to provide certain telecommunication services within the City and in connection therewith to establish a telecommunications network in, under, along, over, and across present and future streets, alleys, easements, and Rights-of-Way of the City, consisting of telecommunication lines, cables, and all necessary appurtenances; and

WHEREAS, the City, in exercise of its ownership rights over and in the public streets, alleys, easements, and Rights-of-Way, believes that it is in the best interest of the public to provide to the Company and its successors a non-exclusive franchise to operate its business within the City; and

WHEREAS, the City and the Company have negotiated an arrangement whereby the Company may provide its services within the City, pursuant to the terms and conditions outlined in this Agreement and in Provo City Code Chapter 6.24, and subject to the further reasonable regulation under its police and other regulatory power;

NOW, THEREFORE, in consideration of the mutual convents and agreements of the parties contained herein, and other good and valuable consideration, City and Company agree as follows:

ARTICLE I

FRANCHISE AGREEMENT AND ORDINANCE

1.1 **Agreement.** Upon approval by the City Municipal Council, this Franchise Agreement shall be deemed to constitute a contract by and between City and Company.

1.2 **Ordinance.** Previously, the City adopted Chapter 6.24 "Telecommunications Rights-of-Way" (the "Ordinance"), and such Ordinance is incorporated herein by reference and made an integral part hereof.

1.3 Grant of Franchise. The City hereby grants to Company and its successors and assigns the non-exclusive right, privilege, and franchise (the "Franchise") to construct, maintain, and operate a telecommunications network (hereinafter "Network") in, under, along, over, and across the present and future streets, alleys, easements and Rights-of-Way of the City. The Franchise does not grant to the Company the right, privilege or authority to engage in the community antenna (or cable) television business although nothing contained herein shall preclude the Company from (1) permitting those lawfully engaged in such business to utilize Company's facilities within the City for such purposes, or (2) from providing such service if an appropriate Franchise is obtained and all other legal requirements have been satisfied. If state or federal law permits Company to operate an open video system without obtaining a separate franchise from City to provide video services, Company nevertheless acknowledges that Chapter 6.22 of the Provo City Code regulates and governs the provisions of multichannel video services, and in providing video services to Customers within City, Company shall be subject to the customer service and consumer protection provisions of that Chapter.

1.4 Financial Capability. Company warrants that it has the financial capability to construct, maintain, and operate a telecommunications network and to otherwise comply with the provisions of this Agreement.

1.5 Relationship; Joint Facilities Agreement. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in a manner that would indicate any such relationship with the other. The Franchise does not grant Company the right to use City poles, conduit, or other facilities. The use of such facilities shall be governed by a separate Pole Attachment and Conduit Occupancy Agreement.

1.6 Records Inspection. The records of the Company pertaining to the reports, plans, designs, and payments required by this Franchise, including, but not limited to, any records deemed necessary or useful by the City to calculate or confirm Gross Revenues, as defined herein, shall be open for inspection by the City and its duly authorized representatives at all reasonable business hours of the Company, provided Company is given reasonable notice. Such records may be copied by the City and the copies may be removed from the premises, provided that reasonable arrangements are made to protect the confidentiality of such records.

1.7 Definitions. The words, terms, and phrases which are used herein and in the Ordinance shall have their ordinary plain meaning unless the word, term, or phrase is expressly defined herein. Words, terms, and phrases which are not specifically defined herein, but are defined in 47 U.S.C. ' 153, or its successor, shall have the technical meaning provided by that section as of the date of this agreement. The following words, terms, and phrases when used herein shall have the following meanings:

"City Council" means the Provo City Municipal Council.

"Customer" means a person or user of the Company's telecommunications Network who lawfully receives telecommunications services or other services therefrom with the Company's authorized permission, including, but not limited to, other companies utilizing Company's Network to provide services to customers of those companies.

"Gross Revenues" means any and all revenues of the Company derived from the sale of telecommunications services to its Customers within the City, without regard to the billing address of the Customer; and to the extent such services utilize the herein-referenced fiber-optic, copper, or other cable; except that the term "Gross Revenue" shall not include revenue from sources excluded by law, or revenue derived by the Company from services provided to its parent, subsidiaries of its parent, or affiliated companies of the Company.

"Network" means a Network of telecommunications lines and cables (including without limitation fiber-optic and copper lines and cables), together with necessary and desirable appurtenances (including underground and above-ground conduits and structures, poles, towers, wire, and cable) for its own use for the purpose of providing telecommunications services to the City, the inhabitants thereof, and persons and corporations beyond the limits thereof.

"Public Improvement" means any existing or contemplated public facility, building, or capital improvement project, including without limitation streets, alleys, sidewalks, sewer, water drainage, Right-of-Way improvements, poles, lines, wires, conduits, and Public Projects.

"Public Project" means any project planned or undertaken by the City or any governmental entity for construction, reconstruction, maintenance, or repair of public facilities or improvements, or any other purpose of a public nature.

"Rights-of-Way" includes present and future City streets, alleys, rights-of-way, and public easements, including easements dedicated in plats of the City.

ARTICLE II

TERM AND RENEWAL

2.1 **Term and Renewal.** The Franchise granted to Company shall be for a period of five (5) years commencing on the date this Agreement is executed, unless this Franchise be sooner terminated as herein provided. At the end of the initial five (5) year term the Franchise may be renewed by Company upon the same terms and conditions as contained in this Agreement, so long as Company is in compliance with the provisions of this Agreement, for an additional five (5) year term, by providing to the City's representative, not less than ninety (90) calendar days before the expiration of the initial franchise term, written notice of Company's intent to renew. If the statutory limit imposed on the Franchise Fee by Utah Code ' 11-26-1 et seq., or any successor provision, is changed, the parties shall amend, upon its renewal, this Agreement to conform to the new statutory limit.

2.2 **Rights of Company Upon Expiration or Revocation.** Upon expiration of the Franchise, whether by lapse of time, by agreement between Company and the City, or by revocation or forfeiture thereof, the Company shall have the right to remove any and all of its facilities, but in such event, it shall be the duty of the Company, immediately upon such removal, to restore the streets, avenues, alleys, and other public ways and grounds from which such facilities are removed to as good condition as the same were before the removal was effected.

2.3 **Rights of City Upon Expiration or Revocation.** Upon expiration of the term of this Franchise, forfeiture, or lawful revocation of this Franchise, and if no renewal or extension thereof is agreed upon, Company may, at the discretion of the City Council, be required, in part or entirely, to remove all its wires, poles, fixtures, and other facilities or equipment installed or used in the enjoyment of the Franchise. Alternatively, the removal, or sale of such facilities and equipment may be directed, limited, or conditioned by the City by agreement or through means of other lawful municipal power or right. The City may continue to invoke any or all provisions of this Franchise against Company or any successor entity enjoying de facto franchise privileges after expiration or revocation. The City and the Company will work together to take all other actions deemed necessary and proper by the City to accommodate the transition to any successor as may be in the best interest of the City or its inhabitants and the Company.

ARTICLE III

CONSIDERATION AND PAYMENT

3.1 **Franchise Fee.** For and in consideration of the Franchise, and as fair and reasonable compensation to the City for the use by the Company of the City's Rights-of-Way, the

Company agrees:

a. To pay to the City an annual franchise fee (the "Franchise Fee"), in an amount equal to, and consisting of, the municipal telecommunications license tax (the "Municipal Telecommunications Tax") authorized pursuant to the Utah Municipal Telecommunications License Tax Act, Title I 0, Chapter 1, Part 4, Utah Code Annotated 1953, as amended, and imposed and levied pursuant to Provo City Code, Chapter 5.07, (collectively the "Municipal Telecommunications Tax Laws"). Such Franchise Fee shall be calculated in the manner provided in the Municipal Telecommunications Tax Laws, and shall be paid by the Company to the Utah State Tax Commission, as agent for the City under an Interlocal Cooperation Agreement by and among the City, the Utah State Tax Commission, and others, at the times and in the manner prescribed in the Municipal Telecommunications Tax Laws, and any rules and regulations promulgated thereunder. Compliance by the Company with the terms and provisions of the Municipal Telecommunications Tax Laws, and any rules and regulations promulgated thereunder, shall satisfy all requirements of this Agreement with respect to the calculation and payment of the Franchise Fee.

b. Notwithstanding the provisions of Section 3.l(a) above, the Franchise Fee shall be calculated and payable as described therein only so long as the Company and the services provided within the City by the Company by means of the Company Facilities are subject to the Municipal Telecommunications Tax. In the event all or any portion of the Company Facilities ceases to be used by the Company to provide services subject to the Municipal Telecommunications Tax, the Company shall pay, in lieu of the Franchise Fee, a charge with respect to such portion of the Company Facilities, payable from and after the (i) the date Company ceases to provide such services, or (ii) the date the Municipal Telecommunications Tax ceases to apply to the services provided by the Company, which shall be calculated in the same manner as the charge then imposed by the City on other Companies occupying the Right-of-Way with similar facilities, and which do not provide telecommunication services subject to the Municipal Telecommunications Act. The City and the Company agree to negotiate in good faith any amendments to this Agreement as shall be necessary to accommodate a change in the Municipal Telecommunications Tax Laws, including payment provisions; provided such new or changed provisions shall conform substantially with the provisions contained in any permits held by other similarly situated companies.

3.2 Reconciliation. Within 30 calendar days after the filing of any report or the making of any payment, or within such reasonable additional time as the City may request, the City shall examine such report or payment, determine the accuracy thereof, and, if the City finds any errors, report such errors to the Company for correction. If the Franchise Fee as paid shall be found deficient, the Company shall promptly remit the difference, and if the Franchise Fee as paid shall be found excessive, the City shall promptly refund the

difference. In the event of a disagreement, the Company shall make payment under protest pending the resolution of the dispute between the parties or through the courts. Neither payment of the Franchise Fee nor failure to make such investigation shall be deemed to estop the City or the Company in any way or prevent subsequent investigation by either and collection or return of any amount properly due. No acceptance of any payment by the City shall be construed as a release of, or an accord or satisfaction of, any claim the City might have for further or additional sums payable under the terms of this Agreement for the performance of any other obligation of the Company hereunder.

3.3 Extensions Not Statute of Limitation or Repose. The aforesaid 30-day notice period is not intended and shall not act as a statute of limitation or repose, which limitation periods shall be governed by Utah Law.

3.4 Delinquency. Any payment not paid when due shall be subject to a delinquency penalty charge often percent (10%) of the payment. Failure to make any payment and penalty charges within thirty (30) calendar days of the applicable payment date shall constitute breach of the terms of the this Agreement and constitute just cause for termination, and such unpaid amount shall bear interest until paid at the rate of an additional ten percent (10%) per annum until paid.

3.5 Revenue Report Following Termination. In the event this Agreement or the Franchise should be terminated, forfeited, or determined to be void or invalid by any order or decree by a court of competent jurisdiction, the Company, not later than thirty (30) calendar days following such termination, forfeiture, or determination, shall submit to the City a report prepared as before required, showing the Gross Revenues of the Company for the time elapsed since the last period for which the Company has paid the Franchise Fee. Coincidental with the submission of the report, the Company shall pay to the City the Franchise Fee due and owing to the City for such period.

3.6 Audits. For the purpose of verifying the correct amount of the franchise fee, the books and records of Company pertaining thereto shall be open to inspection or audit by duly authorized representatives of Provo City at all reasonable times, but not more than once a year, upon giving reasonable notice of the intention to inspect or audit said books and records. The Company agrees to reimburse the City the reasonable costs of an audit if the audit discloses that the Company has paid ninety-five percent (95%) or less of the compensation due the City for the period of such audit. In the event the accounting rendered to the City by the Company herein is found to be incorrect, then payment shall be made on the corrected amount within thirty (30) calendar days of written notice, it being agreed that the City may accept any amount offered by the Company, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

ARTICLE IV

USE AND RELOCATION OF FACILITIES IN THE PUBLIC RIGHT-OF-WAY

4.1 Franchise Rights to Use the Public Right-of-Way. The Company shall have the right to use the public Rights-of-Way within the City to construct and maintain its Network subject to the conditions set forth in this Agreement, including the provisions of Chapters 6.24 and 15.11 of the Provo City Code, which are hereby incorporated by reference; provided, however, that the Company shall not, pursuant to this Agreement, place any new poles, mains, cables, structures, pipes, conduits, or wires on, over, under, or within any Right-of-Way, City park, pleasure ground, or other recreational area currently existing or developed in the future without a permit from the City Representative. Nothing contained herein shall preclude the City from granting a revocable permit for such purpose. In addition, Company shall have the right to utilize any easements across private property granted to the City for utility purposes, provided the City's written permission is obtained in each case and the documents granting such easements to the City authorize such use. Company specifically understands and acknowledges that certain City easements and Rights-of-Way may be prescriptive in nature, and that nothing in this Franchise extends permission to use the easement or Right-of-Way beyond the extent that the City may have acquired, and such easements and Rights-of-Way may be subject to third party prior or after-acquired interests. Company is cautioned to examine each individual easement and Right-of-Way and the legal arrangement between the City and adjacent property owners. The City assumes no duty or obligation to defend any interest in any easement or Right-of-Way and Company remains solely responsible to make any arrangements required as a result of other persons claiming an interest in the City easement or Right-of-Way.

4.2 Company Duty to Relocate; Subordination to City Use. Whenever the City, for any lawful public purpose, shall require the relocation or reinstallation of any property of the Company or its successors in any of the streets, alleys, Rights-of-Way, or public property of the City, it shall be the obligation of the Company, upon notice of such requirement and written demand made of the Company, and within a reasonable time thereof, but not less than thirty (30) calendar days, to remove and relocate or reinstall such facilities as may be reasonably necessary to meet the requirements of the City. Such relocation, removal, or reinstallation by the Company shall be at no cost to the City; provided, however, that the Company and its successors and assigns may maintain and operate such facilities, with the necessary appurtenances, in the new location or locations without additional payment, if the new location is a public place. Notwithstanding the foregoing, the duty of the Company to install or relocate its lines underground shall be subject to the provisions of paragraph 5.3 below. Any money and all rights to reimbursement from the State of Utah or the federal government to which the Company may be entitled for work done by Company pursuant to this paragraph shall be the property of the Company. The City shall assign or otherwise transfer to the Company all rights the City may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement. In the event the City has required

the Company to relocate its facilities to accommodate a private third party, the City shall use good faith to require such third party to pay the costs ofrelocation. Notwithstanding anything to the contrary herein, the Company's use of the Right-of-Way shall in all matters be subordinate to the City's use of the Right-of-Way for any public purpose. The City and Company shall coordinate the placement of their respective facilities and improvements in a manner which minimizes adverse impact on each other. Where placement is not otherwise regulated, the facilities shall be placed with adequate clearance from such Public Improvements so as not to impact or be impacted by such Public Improvements.

4.3 Duty to Obtain Approval to Move Company Property; Emergency. Except as otherwise provided herein, the City, without the prior written approval of the Company, shall not intentionally alter, remove, relocate, or otherwise interfere with any Company facilities. However, if it becomes necessary (in the judgment of the Mayor, City Council, City Engineer, Fire Chief, Police Chief, Energy Director, or their designees) to cut, move, remove, or damage any of the cables, appliances, or other fixtures of the Company because of a fire, emergency, disaster, or imminent threat thereof, these acts may be done without prior written approval of the Company, and the repairs thereby rendered necessary shall be made by the Company, without charge to the City. Should the City take actions pursuant to this section, the Company shall indemnify, defend, and hold the City harmless from and against any and all claims, demands, liens, or liability for (a) loss or damage to the Company's property and/or (b) interruptions of telecommunications services provided by the use of or through the Company's property (including telecommunications services provided by the Company to the Company's Customers), whether such claims, demands, liens, or liability arise from or are brought by the Company, its insurers, the Company's Customers, or third parties. If, however, the City requests emergency funding reimbursement from federal, state or other governmental sources, the City shall include in its request the costs incurred by the Company to repair facilities damaged by the City in responding to the emergency. Any funds received by the City on behalf of Company shall be paid to the Company within thirty (30) business days.

4.4 Dedication of Facilities. In consideration of this Agreement, the Company shall, during the term of this Agreement, provide City with the exclusive use of four (4) strands of single mode fiber (dark fiber) in its fiber optic cables which are located within the City, excluding drop cables to individual buildings or customer premises.

ARTICLE V

PLAN, DESIGN, CONSTRUCTION, INSTALLATION OF COMPANY FACILITIES

5.1 Coordination of Construction and Joint Use. On or before February 28, May 31, August 31, and November 30 of each calendar year, or such other date the Company and City may agree upon from year to year, the Company's and the City's representatives will

meet (the "Quarterly Coordination Meeting") for the purpose of exchanging information and documents regarding future construction of Company's facilities within the City, with a view toward coordinating their respective activities. Documents and information to be exchanged shall include, without limitation, engineering drawings or other detailed maps of the proposed locations of construction or installation of telecommunication facilities. The Company, and the City Energy Director shall thereafter in good faith exchange other information and documents regarding the proposed construction for the purpose of coordinating the joint and respective activities within the City. Any significant construction or installation of new facilities by the Company or other franchised telecommunication companies not presented at the Quarterly Coordination Meeting shall only be commenced upon approval of the City Energy Director. Upon request, information regarding future capital improvements involving land acquisition or construction or installation of telecommunication facilities shall be treated with confidentiality as governed, and to the extent authorized, by City ordinance and the Government Records Access and Management Act.

5.2 Conditions of Public Utility Easement, Right-of-Way and Street Occupancy.

a. Except as provided below, the Company shall not erect, authorize, or permit others to erect any poles within the streets of the City for the operation of Company's Network, but shall use the existing poles and facilities of the City Energy Department and other telecommunication providers under such terms as the Company negotiates with City and these other entities in separate "joint facilities" agreements. City shall cooperate with Company in its negotiating with other telecommunication providers.

b. The Company may request, in writing, that it be authorized to erect poles or place conduit or other facilities within the streets of the City for the operation of its Network. Such consent shall be entirely discretionary with the City and shall be given upon such terms and conditions as the City Council, in its sole discretion, may prescribe, which shall include a requirement that the Company perform, at its sole expense, all tree trimming required as a result of the Company's presence to maintain the line or facilities clear of obstructions. With respect to any poles or wire-holding structures that the Company is authorized to construct and install within the City, a public utility or public utility district serving the City may, if denied the privilege of utilizing such pole or facility by the Company, apply for such permission to the City Council. If the City Council finds that such use would enhance the public convenience and would not unduly interfere with the Company's present and future operations, the City Council may authorize such use subject to such terms and conditions as may reasonably be agreed between the parties. Such authorization shall include the condition that the public utility district pay to the Company any and all actual and necessary costs incurred by the Company in permitting such use, and shall indemnify the Company and City from and against any claims or causes of action brought about due to such use.

c. No cables, equipment, or wires for construction, maintenance, and operation of the Network shall be installed or the installation thereof commence on any existing pole within the City until the proposed location, specifications, and manner of installation of such cables, equipment, and wires are set forth upon an engineering drawing, plot, or map showing the existing poles, streets, alleys, or highways where such installations are proposed. The drawing, plot, or map shall be submitted to the City Engineer and the City Energy Director and reviewed for approval or disapproval within a reasonable time in writing. Such approval shall not be unreasonably withheld. The Company shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the system, including but not limited to any necessary approvals from persons and/or the City to use private property, easements, poles and conduits.

d. If, in the conduct of its business, the Company is required to locate facilities in the streets of the City, other than facilities that may be attached to utility poles, the nature of such facilities shall be disclosed to the City for prior review and approval as to the need thereof and as to the location within the street. The installation shall be made under such conditions as the City Engineer shall prescribe.

e. The Company, at its own expense, may, and is solely responsible to, trim trees overhanging the public Rights-of- Way of the City to prevent the branches of such trees from coming in contact with the Company's wires and cable. Prior to the Company attempting to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City, the Company shall obtain approval from, and be under the supervision of, the City official to whom such duties have been or may be delegated in accordance with the applicable provisions of the municipal code of the City. Company shall immediately remove the trimmings and restore the area to its previous condition.

f. The Company, on the request of any person holding a building moving permit issued by the City, shall temporarily raise or lower its wires to permit the moving of such building. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Company may require such payment in advance. The City agrees to provide prior written notice of the necessity to move the wires as far in advance as possible; provided in no event shall the City give less than forty-eight (48) hours advance notice. In the event of a disagreement between the Company and the holder of a permit, such disagreement shall be resolved by the City.

5.3 Duty to Underground. The Company shall be required to comply with the rules and regulations of the Public Service Commission in regard to the installation of underground

lines. In addition, the Company shall comply with rules and regulations adopted by the City for the placement of newly constructed Network lines underground; provided, however, Company shall only be required to place newly constructed Network lines underground to the extent that underground placement is also required of all other existing and newly constructed lines of other telecommunication companies at that location with the City. If all other electric utilities or telephone utilities are located or relocated underground in any place within the City after the Company has installed its facilities, the Company shall thereafter remove and relocate its facilities underground in such places. Where utilities are underground, the Company may locate certain equipment above ground upon a showing of necessity and with the written approval from the City.

5.4 Company Duty to Comply with Rules and Regulations. Facilities located on, upon, over, and under property in which the City has an ownership interest shall be constructed, installed, maintained, cleared of vegetation, renovated, or replaced in accordance with such rules and regulations as the City may issue. The Company shall acquire permits in accordance with such rules and regulations and the City may inspect the manner of such work and require remedies as may be necessary to assure compliance. It is understood that this work involves the health, safety, and welfare of the community, and from time to time, must be done under circumstances that may make prior acquisition of a permit infeasible.

5.5 Compliance with Pollution Laws. Company shall ensure that its facilities within the City meet the standards required by applicable federal and state air and water pollution laws. Upon the City's request, the Company shall provide the City with a status report of such measures.

5.6 Compliance with Applicable Laws. All telecommunications lines, poles, towers, pipes, conduits, equipment, property, and other structures or assets installed, used, maintained, relocated, or dismantled under color of this Agreement shall be so installed, used, operated, tested, maintained, relocated, or dismantled in accordance with applicable present and future federal, state, and City law and regulations, including but not limited to the most recent editions of the National Electrical Code, the National Electrical Safety Code, and the Fiber Optic Cable Installation Standard of the Telecommunications Industry Committee, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this Agreement may be additional to or stricter than such minimum standards.

5.7 Location to Minimize Interference. All lines, poles, towers, pipes, conduits, equipment, property, structures, and assets of the Company shall be located so as to minimize interference with the use of streets, alleys, Rights-of-Way, and public property by others and shall reasonably avoid interference with the rights of owners of property that abuts any of said streets, alleys, Rights-of- Way, or public property.

5.8 Repair of Damage. If during the course of work on its facilities, the Company causes damage to or alters any street, alley, Rights-of-Way, sidewalk, utility, Public Improvement, or other public property, the Company (at its own cost and expense and in a manner approved by the City) shall promptly and completely restore such street, alley, Rights-of- Way, sidewalk , utility, Public Improvement or other public property to its previous condition, in accordance with applicable City ordinances, policies, and regulations relating to repair work of similar character to the reasonable satisfaction of the City. Except in case of emergency, the Company, prior to commencing work in the public way, street, or public property, shall make application for a permit to perform such work from the City Engineer or other department or division designated by the City. Such permit shall not be unreasonably withheld. The Company shall abide by all reasonable regulations and requirements of the City for such work.

5.9 Guarantee of Repairs. For a period of one year following the completion of the repair work performed pursuant to Section 5.8, the Company shall maintain, repair, and keep in good condition those portions of said streets, alleys, Rights-of- Way, or public property restored, repaired, or replaced to the satisfaction of the City.

5.10 Safety Standards. The Company's work, while in progress, shall be properly protected at all times with suitable barricades, flags, lights, flares, or other devices as are reasonably required by applicable safety regulations , or standards imposed by law including, but not limited to, signing in conformance with the Federal and State of Utah manuals on Uniform Traffic Control Devices.

5.11 Supervision by the City.

a. The Company shall construct, operate, and maintain the Network within the City in strict compliance with all laws, ordinances, rules, and regulations of the City and any other agency having jurisdiction over the operations of the Company.

b. The Company's Network and all parts thereof within the City shall be subject to the right of periodic inspection by the City; provided that such inspection shall be conducted at reasonable times and upon reasonable notice to the Company.

5.12 Company's Duty to Remove Its Network.

a. The Company shall promptly remove, at its own cost and expense, from any public property within the City, all or any part of the Network when one or more of the following conditions occur:

(1) The Company ceases to operate the Network for a continuous period of twelve months, and does not respond to written notice from the City within thirty (30) days after receiving such notice following any such cessation, except when the cessation of service is a direct result of a natural or man-made disaster;

(2) The Company fails to construct said Network as herein provided and does not respond to written notice from the City within thirty (30) days after receiving such notice following any such failure;

(3) The Franchise is terminated or revoked pursuant to notice as provided herein; or

(4) The Franchise expires pursuant to this Agreement.

b. The Company's removal of any or all of the Network that requires trenching or other opening of the City's streets shall be done only after the Company obtains prior written notice and approval from the City.

c. The Company shall receive notice, in writing from the City, setting forth one or more of the occurrences specified in Subsection 5.12(a) above and shall have ninety (90) calendar days from the date upon which said notice is received to remove or abandon such facilities.

5.13 Notice of Closure of Streets. Except in cases of emergency, the Company shall notify the City not less than three (3) working days in advance of any construction, reconstruction, repair, or relocation of facilities which would require any street closure which reduces traffic flow to less than two lanes of moving traffic. Except in the event of an emergency, as reasonably determined by the Company, no such closure shall take place without prior authorization from the City. In addition, all work performed in the traveled way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected as required by Section 5.10, above.

ARTICLE VI

POLICE POWER

6.1 Reservation of Police Power. The City expressly reserves, and the Company expressly recognizes, the City's right and duty to adopt, from time to time, in addition to the provisions herein contained, such ordinances and rules and regulations as the City may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties.

6.2 Other Regulatory Approval. The Company and the City shall at all times during the life of this Franchise, comply with all federal, state, and City laws and regulations and with such reasonable and lawful regulation as the City now or hereafter shall provide, including all lawful and reasonable rules, regulations, policies, resolutions and ordinances

now or hereafter promulgated by the City relating to permits and fees, sidewalk and pavement cuts, attachment to poles, utility location, construction coordination, beautification, and other requirements on the use of the Right-of-Way. The terms of this Franchise shall apply to all the Company's facilities used, in whole or part, in the provision of telecommunications services in newly annexed areas upon the effective date of such annexation. Company shall provide no service regulated by the Federal Communications Commission (FCC) or Utah Public Service Commission (PSC) until it has received all necessary approvals and permits from said commissions. Nothing in this Agreement shall constitute a waiver of either party's right to challenge any portion of this Agreement which is not in accordance with applicable federal, state and local laws.

ARTICLE VII

CITY REPRESENTATIVES

7.1 **Mayor's Duties and Responsibilities.** The Mayor is hereby designated as the "City Representative" with full power and authority to take appropriate action for and on behalf of the City and its inhabitants to enforce the provisions of this Agreement and to investigate any alleged violations or failures of the Company to comply with said provisions or to adequately and fully discharge its responsibilities and obligations hereunder. The Mayor may delegate to others, including but not limited to, the City Attorney, City Engineer, City Finance Director, and City Energy Director, the various duties and responsibilities of City Representative. The failure or omission of the Mayor or the Mayor's designee(s) as City Representative to act shall not constitute any waiver or estoppel.

7.2 **Company Duty to Cooperate.** In order to facilitate such duties of the City Representative, the Company agrees to allow the City Representative reasonable access to any part of the Company's Network within the City's public Rights-of-Way.

7.3 **City Financial Review.** With regard to financially related matters, the Mayor or the Mayor's designee, as City Representative may undertake a financial review of Company's payment of its Franchise fees and other fees and obligations under this agreement. The failure or omission to conduct a financial review shall not constitute any waiver or estoppel.

7.4 **No Waiver or Estoppel.** Neither the City nor the Company shall be excused from complying with any of the terms and conditions of this Agreement by any failure of the other or any of its officers, employees, or agents, upon any one or more occasions, to insist upon or to seek compliance with any of such terms and conditions.

ARTICLE VIII

TRANSFER OF FRANCHISE

8.1 Written Approval Required. The Company shall not transfer or assign the Franchise or any rights under this Agreement to another entity, unless the City shall first give its approval in writing, which approval shall not be unreasonably withheld or delayed. Any attempted assignment or transfer without such prior written consent shall constitute a Default of the Franchise. In the event of such a Default, City shall proceed according to the procedure set forth in this Agreement, and any applicable state or federal law.

8.2 Procedure for Obtaining Approval for Transfer. At least ninety (90) calendar days before a proposed assignment or transfer of Company's Franchise is scheduled to become effective, Company shall petition in writing for the City Council's written consent for such a proposed assignment or transfer. The City will not unreasonably withhold its consent to such an assignment or transfer. However, in making such a determination, the City Council may consider any or all of the following:

(a) experience of proposed assignee or transferee (including conducting an investigation of proposed assignee or transferee's service record in other communities);
(b) qualifications of proposed assignee or transferee;
(c) legal integrity of proposed assignee or transferee;
(d) financial ability and stability of the proposed assignee or transferee;
(e) the corporate connection, if any, between the Company, and proposed assignee or transferee; and
(f) any other aspect of the proposed assignee's or transferee's background which could affect the health, safety, and welfare of the citizenry of the City as it relates to the operation of a telecommunications network.

8.3 Certification of Assignee. Before an assignment or transfer is approved by the City Council, the proposed assignee or transferee shall execute an affidavit, acknowledging that it has read, understood, and intends to abide by the applicable Franchise Agreement and all applicable laws, rules, and regulations.

8.4 Effect of Approval. In the event of any approved assignment or transfer, the assignee or transferee shall assume all obligations and liabilities of Company, except an assignment or transfer shall not relieve the Company of its liabilities under the Franchise Agreement until the assignment actually takes place, unless specifically relieved by federal, or state law, or unless specifically relieved by the City Council at the time an assignment or transfer is approved.

8.5 Transfer Upon Revocation by City. Company and City agree that in the case of a lawful revocation of the Franchise, at Company's request, which shall be made in its sole discretion, Company shall be given a reasonable opportunity to effectuate a transfer of its

Network to a qualified third party. City further agrees that during such a period of time, it shall authorize the company to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period greater than six (6) months from the effective date of such revocation. If at the end of that time, Company is unsuccessful in procuring a qualified transferee or assignee of its Network which is reasonably acceptable to the City, Company and City may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that Company's continued operation of its Network during the six (6) month period shall not be deemed to be a waiver, nor an extinguishment, of any rights of either the City or the Company. Notwithstanding anything to the contrary set forth herein, neither City nor Company shall be required to violate federal or state law.

8.6 Abandonment of Facilities by Company. The Company, with the written consent of the City, may abandon any underground facilities in place, subject to the requirements of the City. In such an event, after receiving the written consent of the City, the abandoned Network shall become the property of the City, and the Company shall have no further responsibilities or obligations concerning those facilities.

ARTICLE IX

ACCEPTANCE BY THE COMPANY OF FRANCHISE

Company Duty to Approve Franchise Agreement. If the Company has not duly executed this Agreement prior to the City Council's adoption of the corresponding ordinance, then within sixty (60) calendar days after the effective date of the City Council's adoption of the ordinance, the Company shall execute this Agreement and file an unqualified acceptance of the ordinance in writing with the City Recorder of the City in a form approved by the City Attorney; otherwise, this Agreement and any ordinance adopted relating thereto and all rights granted hereunder shall be null and void.

ARTICLEX

EXTENSION OF CITY LIMITS

Annexations. Upon the annexation of any territory to the City, all rights hereby granted and the Franchise shall extend to the territory so annexed to the extent the City has authority. All

facilities owned, maintained, or operated by the Company located within, under, or over streets of the territory so annexed shall thereafter be subject to all terms hereof.

ARTICLE XI

EARLY TERMINATION OR REVOCATION OF FRANCHISE

11.1 Grounds for Termination. The City may terminate or revoke this Agreement and all rights and privileges herein provided for any of the following reasons:

a. The Company fails to make timely payments of the Franchise Fee as required under Article III of this Agreement and does not correct such failure within thirty (30) business days after written notice by the City of such failure;

b. The Company, by act or omission, materially violates a duty or obligation herein set forth in any particular within the Company's control, and with respect to which redress is not otherwise herein provided. In such event, the City, acting by or through its City Council, may determine, after hearing, that such failure is of a material nature, and, thereupon, after written notice giving the Company notice of such determination, the Company, within thirty (30) calendar days of such notice, shall commence efforts to remedy the conditions identified in the notice and shall have ninety (90) calendar days from the date it receives notice to remedy the conditions. After the expiration of such ninety-day period and failure to correct such conditions, the City may declare the Franchise forfeited, and, thereupon, the Company shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and, provided further, that in the event such failure is of such nature that it cannot be reasonably corrected within the ninety-day time period provided above, the City shall provide additional time for the reasonable correction of such alleged failure if the reason for the non-compliance was not the intentional or negligent act or omission of the Company;

c. The Company becomes insolvent, unable, or unwilling to pay its debts; is adjudged bankrupt; or all or part of its facilities should be sold under an instrument to secure a debt and is not redeemed by the Company within thirty (30) calendar days; or

d. In furtherance of the Company policy or through acts or omissions done within the scope and course of employment, a director or officer of the Company knowingly engages in conduct or makes a material misrepresentation with or to the City that is fraudulent or in violation of a felony criminal statute of the State of Utah.

11.2 **Reserved Rights.** Nothing contained herein shall be deemed to preclude the Company from pursuing any legal or equitable rights or remedies it may have to challenge the action of the City.

ARTICLE XII

INSURANCE AND INDEMNIFICATION

12.1 **No City Liability.** Except as otherwise specifically provided herein, the City shall in no way be liable or responsible for any loss or damage to property, including financial or other business loss (whether direct, indirect, or consequential), or any injury to or death of any person that may occur in the construction, operation, or maintenance by the Company of its lines and appurtenances hereunder, except to the extent of the City's negligence or willful misconduct.

12.2 **Company Indemnification of City.** The Company shall indemnify, and at the City's option defend, and hold the City, and the officers, agents and employees thereof, harmless from and against any and all claims, suits, actions, liability and judgments for damages or otherwise harmless from and against claims, demands, liens, and all liability or damage of whatsoever kind on account of, or arising from, the exercise by the Company of the rights related to this Agreement, or from the operations of the Company within the City, and shall pay the costs of defense plus reasonable attorneys' fees. Said indemnification shall include, but not be limited to, the Company's negligent acts or omissions pursuant to its use of the rights and privileges of this Agreement, including construction, operation, and maintenance of telecommunications lines and appurtenances, whether or not any such use, act, or omission complained of is authorized, allowed , or prohibited by this Agreement.

12.3 **Notice of Indemnification.** The Company shall give prompt written notice to the City of any claim, demand, or lien that may result in a lawsuit against the City. City shall give written notice to Company promptly after City learns of the existence of Claim for which City seeks indemnification; provided, however, the failure to give such notice shall not affect the rights of City, except and only to the extent the Company is prejudiced by such failure. The Company shall have the right to employ counsel reasonably acceptable to the City to defend against any such Claim. If such counsel will represent both the Company and City, there may be no conflict with such counsel' s representation of both. Company must acknowledge in writing its obligation to indemnify the City for the entire amount of any Loss relating thereto. No settlement of a Claim may seek to impose any liability or obligation upon the City other than for money damages. If Company fails to acknowledge in writing its obligation to defend against or settle such Claim within fifteen (15) days after receiving notice thereof from the City (or such shorter time specified in the notice as the circumstances of the matter may dictate), the City shall be free to

dispose of the matter, at the expense of Company (but only if indemnification is adjudged to be proper), in any way in which the City deems to be in its best interest. Notwithstanding any provision hereof to the contrary, the Company shall not be obligated to indemnify, defend, or hold the City harmless to the extent any claim, demand, or lien arises out of or in connection with a breach by the City of any obligation under this Agreement or any negligent or otherwise tortious act or failure to act of the City or any of its officers or employees or agents.

12.4 Insurance. Company shall file a certificate of insurance with the City, and at all times thereafter maintain in full force and effect at its sole expense, an acceptable policy or policies which have one of the three highest or best ratings from the Alfred M. Best Company of liability insurance, including comprehensive general liability insurance. The policy or policies shall name as additional insured the City, and in their capacity as such, its officers, agents and employees. Policies of insurance shall be in the minimum single limit amount of two million dollars ($2,000,000) per occurrence. The insurer or insurers shall be authorized to write the required insurance in the State of Utah. The policy or policies of insurance shall be maintained by the Company in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of the Company or for other reasons, except after thirty (30) calendar days advance written notice mailed by the insurer to the City, and that such notice shall be transmitted postage prepaid.

12.5 City's Right to Intervene. In any suit in which the City is named as a party and seeks indemnification from the Company, and in which the City in its own reasonable discretion believes that a conflict of interest with Company exists, the City sha.11 have the right to provide its own defense in connection with the same. In such event, in addition to being reimbursed for any such judgment that may be rendered against the City which is subject to indemnification hereunder, together with all court costs incurred therein, the Company shall reimburse the City for all reasonable attorney's fees, including those employed by the City in such case or cases, as well as all reasonable expenses incurred by the City by reason of undertaking the defense of such suit or suits, whether such suit or suits are successfully defended, settled, compromised, or fully adjudicated against the City.

12.6 No Creation of a Private Cause of Action. The provisions set forth herein are not intended to create liability for the benefit of third parties but is solely for the benefit of the Company and the City. In the event any claim is made against the City that falls under these indemnity provisions and a Court of competent jurisdiction should adjudge, by final decree, that the City is liable therefore, the Company shall indemnify and hold the City harmless of and from any such judgment or liability, including any court costs, expenses, and attorney fees incurred by the City in defense thereof. Nothing herein shall be deemed to prevent the parties indemnified and held harmless herein from participating in the defense of any litigation by their own counsel at their own expense. Such

participation shall not under any circumstances relieve the Company from its duty of defense against liability or paying any judgment entered against such party.

12.7 Performance Bonds and Other Surety. To ensure completion of the Company's performance of its obligations hereunder, Company shall furnish to the City a performance bond, that is substantially similar in form to the surety guarantee bond that is attached hereto as Exhibit 1, from an insurer or guarantor that is acceptable to the City.

ARTICLE XIII

REMEDIES

13.1 Duty to Perform. The Company and the City agree to take all reasonable and necessary actions to assure that the terms of this Agreement are performed.

13.2 Remedies at Law. In the event the Company or the City fail to fulfill any of their respective obligations under this Agreement the City or the Company, whichever the case may be, shall have a breach of contract claim and remedy against the other in addition to any other remedy provided by law, provided that no remedy that would have the effect of amending the specific provisions of this Agreement shall become effective without such action that would be necessary to formally amend the Agreement.

13.3 Third Party Beneficiaries. The benefits and protection provided by this Agreement shall inure solely to the benefit of the City and the Company. This Agreement shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

13.4 Force Majeure. The Company shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control, but the Company shall not be relieved of any of its obligations to comply promptly with any provision of this Franchise contract by reason of any failure of the City to enforce prompt compliance. Nothing herein shall be construed as to imply that City waives any right, payment, or performance based on future legislation where said legislation impairs this contract in violation of the United States or Utah Constitutions.

ARTICLE XIV

NOTICES

City and Company Designees and Addresses. Unless otherwise specified herein, all notices between the City and the Company pursuant to or concerning this Agreement or the Franchise shall be delivered to (or to such other offices as the City or Company may designate by written notice to the other Party):

City:

Provo City Corporation
445 West Center Street
Provo, UT 84601
Attention: Finance Department

Company:

FIF Utah, LLC
14015 S Minuteman Dr
Draper Utah 84020

With copies to (which shall not constitute notice):

Provo City Attorney's Office
445 West Center Street
Provo, UT 84601
Attention: City Attorney

AND

Provo City Energy Department
PO Box 658
Provo, UT 84603
Attention: Energy Department Director

With a copy to (which copy will not constitute notice):

ARTICLE XV

CHANGING CONDITIONS

Meet to Confer. The Company and the City recognize that many aspects of the telecommunications business are currently the subject of discussion, examination, and inquiry by different segments of the industry and affected regulatory authorities, and that these activities may ultimately result in fundamental changes in the way the Company conducts its business. In recognition of the present state of uncertainty respecting these matters, the Company and the

City each agree, on request of the other during the term of this Agreement, to meet with the other and discuss in good faith whether it would be appropriate, in view of developments of the kind referred to above during the term of this Agreement, to amend this Agreement or enter into separate, mutually satisfactory arrangements to effect a proper accommodation of any such developments.

ARTICLE XVI

AMENDMENT AND GENERAL PROVISIONS

16.1 **Duty to Negotiate.** At any time during the term of this Agreement, the City, through the City Council, or the Company may propose amendments to this Agreement by giving thirty (30) calendar days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, shall negotiate, within a reasonable time, in good faith in an effort to agree upon mutually satisfactory amendment(s).

16.2 **Written Approval to Amend Agreement Required.** No amendment or amendments to this Agreement shall be effective until mutually agreed upon by the City and the Company, and an ordinance or resolution approving such amendments is approved by the City Council.

16.3 **Entire Agreement.** This Agreement and all attachments hereto represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, and can be amended, supplemented, modified, or changed only by the written agreement of the parties, including the formal approval of the City Council.

16.4 **Governing Law.** This Agreement and any action related to this Agreement will be governed the laws of the State of Utah.

16.5 **Joint Drafting.** The Parties acknowledge that this Agreement has been drafted jointly by the Parties and agree that this Agreement will not be construed against either Party as a result of any role such Party may have had in the drafting process.

ARTICLE XVII

SEVERABILITY

17.1 **Conditions.** If any section, sentence, paragraph, term, or provision of this Agreement or the Ordinance is for any reason determined to be or rendered illegal, invalid, or superseded by other lawful authority including any state or federal, legislative, regulatory, or administrative authority having jurisdiction thereof or determined to be unconstitutional, illegal, or invalid by any court of competent jurisdiction, such portion

shall be deemed a separate, distinct, and independent provision, and such determination shall have no effect on the validity of any other section, sentence, paragraph, term, or provision hereof or thereof, all of which shall remain in full force and effect for the term of this Agreement and the Ordinance or any renewal or renewals thereof, except for Article III hereof. The parties do not waive their right to assert that the obligations contained herein, including those obligations contained in Article III arise as a matter of contract and are not otherwise conditioned.

17.2 Conflicts. In the event of a conflict between any provision of this Agreement and the Ordinance, the provisions of the Ordinance in effect at the time the Agreement is entered into shall control.

17.3 Fee Article Non-Severable. Article III hereof is essential to the adoption of this Agreement, and should it be challenged by the Company or determined to be illegal, invalid, unconstitutional, or superseded, in whole or in part, the entire Agreement and the Franchise shall be voided and terminated, subject to the following provisions of this Article. In the event of a judicial, regulatory, or administrative determination that Article III is illegal, invalid, unconstitutional, or superseded, such termination shall be effective as of the date of a final appealable order, unless otherwise agreed upon by the City and the Company. In the event of any legislative action that renders Article III unconstitutional, illegal, invalid, or superseded, such termination shall be effective as of the effective date of such legislative action.

17.4 Waiver of Non-Severability. Notwithstanding the foregoing, if the City stipulates in writing to judicial, administrative, or regulatory action that seeks a determination that Article III is invalid, illegal, superseded, or unconstitutional, then a determination that Article III is invalid, illegal, unconstitutional, or superseded shall have no effect on the validity or effectiveness of any other section, sentence, paragraph, term, or provision of this Agreement, which shall remain in full force and effect.

17.5 Lease Terms Upon Termination. In the event this Agreement is terminated pursuant to Section 17.3 hereof, the City grants to the Company a lease according to the same terms and conditions as set forth in this Agreement. Accordingly, the Company shall pay, as fair market rental value, the same amounts, at the same times, required for the payment of the Franchise Fee pursuant to Article III hereof and be bound by all other terms and conditions contained herein; provided, however, that in no event shall the Company be obligated to pay a higher percentage of Gross Revenues derived from the sale of telecommunications services within the City than is paid by other telecommunication companies serving within the City.

IN WITNESS WHEREOF, this Franchise Agreement is executed in duplicate originals as of the date first set forth above, to become effective on that date.

Provo City Corporation

By----------
Michelle Kaufusi, Mayor

ATTEST:

_____
Heidi Allman, City Recorder

FIF Utah, LLC

By: -_____
Tauny-l Martin, President

ATTEST:

_____
Secretary

APPROVED AS TO FINANCES:

_____
Chief Financial Officer

APPROVED AS TO FORM:

_____
General Counsel

STATE OF UTAH)
..54-t:rLlf Ke)ss.
COUNTY OF)

On the l } ·-r day of MA /2..CIf , 2023, personally appeared before me -,-4 IA.U Y4 MA (2..· 1 N , who being by me duly sworn did respectively say that he/she is the President of FIF Utah, LLC, and that the foregoing instrument was signed in behalf of said Company by authority of a resolution of its Managers; and he/ acknowledged to me that said Company executed the same.

MICHAEL OALINSKY
Notary Public

NOTARY PUBUC
MICHAEL OALINSKV
728801
MYCOMMISSION EXPIAES
JANUARY 13, 2027
STATE OF UTAH

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: EVANDERWERKEN
Department: Council
Requested Meeting Date:

SUBJECT: An ordinance amending Provo City code regarding micromobility devices. Citywide application. (23-022)

RECOMMENDATION: Presentation only. To be heard in Night Meeting.

BACKGROUND: The Administration has requested this item to discuss the emergence of new types of micro mobility devices, including, but not limited to, e-scooters, e-bikes, hoverboards, etc. and how these devices might be best regulated throughout the City.

FISCAL IMPACT:

PRESENTER'S NAME: Mary Ditto

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-022

ORDINANCE 2023-.

AN ORDINANCE AMENDING PROVO CITY CODE REGARDING MICROMOBILITY DEVICES. CITYWIDE APPLICATION.

WHEREAS, it is proposed that Provo City Code Sections 9.15.200 (Driving or Riding on Sidewalk), 9.32.020 (Riding a Bicycle, Skateboard, or Roller Skates on the Sidewalk), and 9.32.170 (Riding Skateboards, Roller Skates or Bicycles) be repealed and replaced with a single ordinance defining and governing micromobility devices; and

WHEREAS, the current version of Section 9.32.170 allows private property owners to either allow or prohibit the use skateboards, roller skates, and other similar devices on their property; and

WHEREAS, the proposed replacement version would allow property owners to allow the use of micromobility devices, but impose restrictions on the use, such as limiting the speeds at which such devices may be operated on the property; and

WHEREAS, the current version of Section 9.32.020 is repetitive to the proposed ordinance change in that it authorizes the City Traffic Engineer to erect signs to prohibit the use of bicycles on any sidewalk and does not address additional types of micromobility devices; and

WHEREAS, the proposed replacement version would combine both sections and address all types of micromobility devices; and

WHEREAS, the current version of Section 9.15.200 includes the term "self-propelled vehicles," which has not been defined in Provo Code. In addition, the content of this section is already prohibited in Utah Code Sections 41-6a-1702 and 72-7-105; and

WHEREAS, the proposed replacement version would include an extensive definition of micromobility devices; and

WHEREAS, on January 31, March 28, and April 18, 2023, the Municipal Council met to ascertain the facts regarding this matter and receive public comment, which facts and comments are found in the public record of the Council's consideration; and

WHEREAS, after considering the proposal and the facts and comments presented to the Municipal Council, the Council finds (i) Provo City Code should be amended as described herein and (ii) the proposed amendment reasonably furthers the health, safety and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:

PART I:

Provo City Code Sections 9.15.200, 9.32.020, and 9.32.170 are repealed in their entirety. A new Provo City Code Section 9.32.170 is enacted as set forth in Exhibit A.

PART II:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.

D. This ordinance shall take effect immediately after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.

Exhibit A

9.32.170 Micromobility devices

(1) (a) Micromobility device means a human-, motor-, or electric-powered transportation device that is driven by the user personally.

(b) Micromobility device includes, but is not limited to, the following as defined in Utah Code Section 41-6a-102:

(i) electric personal assistive mobility device;
(ii) electric assisted bicycle;
(iii) motor assisted scooter;
(iv) moped;
(v) bicycle; and
(vi) motor-driven cycle.

(c) Micromobility device includes, but is not limited to, any device that would be described in Subsection (1)(b) but for the fact that it is capable of speeds greater than those set forth in Utah Code Section 41-6a-102 in the relevant definition.

(d) Micromobility device includes, but is not limited to, skateboards, roller skates, roller blades, hoverboards, non-motor-assisted scooters, and any other small, lightweight, wheeled conveyance that meets the definition in Subsection (1)(a) and is not specifically excluded in this Section.

(e) Micromobility device does not include automobiles, motorcycles, golf carts, manual or electric wheelchairs, or other such vehicles.

(2) A person may not operate a micromobility device at a speed greater than 10 miles per hour on a public sidewalk. A violation of this subsection (2) is an infraction.

(3) It is unlawful to ride or use a micromobility device on a public street or sidewalk after dark unless the user is equipped with reflective material of sufficient size and reflectivity to be visible from both sides for five hundred (500) feet when directly in front of lawful lower beams of head lamps on a motor vehicle, or in lieu of reflective material, with a lighted lamp visible from both sides from a distance of at least five hundred (500) feet. “After dark” shall mean one-half (1/2) hour after sunset.

(4) It is unlawful to leave a micromobility device obstructing pedestrian travel on the sidewalk, in a pedestrian crosswalk, or in a roadway except in an area where it would be lawful to park a motor vehicle.

(5) Whenever any person is riding a micromobility device, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(6) A property owner may prohibit micromobility devices generally, specific types of micromobility devices, and/or specific uses of micromobility devices on the owner’s property by posting signs that give reasonable notice of the prohibited device(s) and/or use(s). It is unlawful to use a micromobility device on any property contrary to the prohibitions posted by the owner.

(7) It is unlawful for any company to provide micromobility device rentals for use upon City streets unless done on behalf of the City pursuant to a contract with the City.

(8) It is unlawful to operate any micromobility device described in Subsection (1)(c) on city sidewalks.

(9) No person shall ride a micromobility device upon a sidewalk contiguous to University Avenue between 400 North Street and 100 South Street, and on a sidewalk contiguous to Center Street between 100 East Street and 500 West Street.

Proposed Code Change 09.32.170

Micromobility

Devices

CURRENT CODE:
9.32.170 Riding Skateboards, Roller Skates or Bicycles.

(1) It shall be unlawful to ride or use a skateboard, roller-skates, roller-blades, or similar device on a public street or sidewalk after dark unless the user is equipped with reflective material of sufficient size and reflectivity to be visible from both sides for five hundred (500) feet when directly in front of lawful lower beams of head lamps on a motor vehicle, or in lieu of reflective material, with a lighted lamp visible from both sides from a distance of at least five hundred (500) feet. "After dark" shall mean one-half (1/2) hour after sunset.

(2) It shall be unlawful to ride or use a bicycle, skateboard, roller-skates, roller-blades, or similar device on the sidewalks, steps, or ramps adjacent to the Provo City Library.

(3) It shall be unlawful to use a skateboard, roller-skates, roller-blades, or similar device on private property or school property if the property owner has posted signs on the property prohibiting such conduct. Such signs shall be of reasonable size and number, and shall give notice that use of a skateboard, roller-skates, roller-blades, or similar device on the property is prohibited by this Section of the Provo City Code.
(Am 1989-62, Am 1999-09, Am 1999-11)

9.32.170 CONCERNS:

- **Definition—** Many more micromobility devices available now, need a broader definition.

- **Limitations on Property Owners**— They can only prohibit such devices; they cannot allow devices and impose restrictions on the use.

- **Narrow**—Additional needs of the City warrants additional changes to this section.

Additional Code Concerns:

9.15.200 Driving or Riding on Sidewalk. (1937)

It shall be unlawful for any person to drive a *self-propelled vehicle* or team, or lead, drive or ride any animal upon any sidewalk, except across a sidewalk at established crossings.

- *Self-propelled vehicle a problematic definition (not defined in Provo City Code or Utah State Code)*
- *These action are already prohibited in Utah Code Sections 41-6a-1702 and 72-7-105*

9.32.020: Riding a Bicycle, Skateboard or Roller Skates on the Sidewalk. (1987)

(1) No person shall ride a bicycle, skateboard or roller skates upon a sidewalk contiguous to University Avenue between 400 North Street and 100 South Street, and on a sidewalk contiguous to Center Street between 100 East Street and 500 West Street.

(2) *The City Traffic Engineer is authorized to erect signs* on any sidewalk or roadway *prohibiting the riding of bicycles thereon* by any person and when such signs are in place no person shall disobey the same.

(3) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

- *(2) is repetitive to the proposed ordinance change*
- *(1) and (3) can be included in the new proposed ordinance change*

Replace three ordinances with a single ordinance: 9.32.170– Micrombility Devices

Refer to ordinance exhibit

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MISANDERS
Department: Council
Requested Meeting Date: 04-18-2023

SUBJECT: A presentation regarding the FY2024 Budget- Legal (23-008)

RECOMMENDATION: Presentation Only

BACKGROUND: In preparation for the drafting and approval of the FY 2023-2024 budget, each department has been asked to present to the Council. In addition to identifying their priorities, needs, wants, and potential costs, their presentations should address the following questions:

- What were the most important accomplishments for your department from FY2023?
- What were your supplemental requests in FY2023, how did you compensate for those that were not funded?
- What needs are currently unfunded or underfunded in your department?
- The Council adopted several preliminary budget priorities for FY2024, please address those items relative to your department and how those priorities could be executed within your departmental budget.
- Are there other requests related to the FY2024 budget you would like to bring before the Council?
- Are there current budget constraints within your department that do not allow you to execute the city's long-term vision? What keeps you up at night?
- What are you asking for in your budget that will increase your department's ongoing operations and maintenance costs?
- What are your current department performance measures as reported in each fiscal year budget? What would you change?

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FISCAL IMPACT:

PRESENTER'S NAME: Brian Jones, City Attorney

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-008

City Attorney's Office Budget Presentation

2023-2024

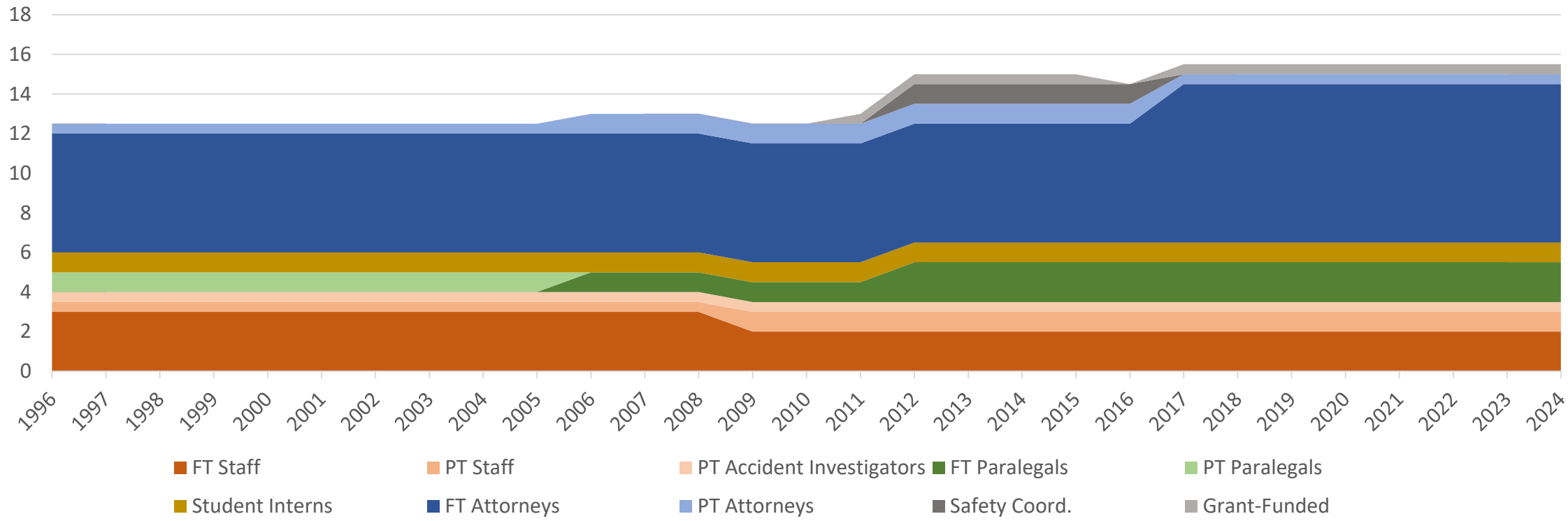
What We Do

- The **City Legal Services Division** provides legal counsel on a wide variety of issues. It researches legal questions and drafts memoranda, legal opinions, ordinances, resolutions, and policies. It assists with negotiating, drafting and enforcing contracts, deeds, and other similar documents. It participates in administrative hearings and assists with downtown redevelopment and other economic development projects.
- The **Claims, Litigation, Risk Management, and Safety Division** evaluates and works to minimize the City's legal risks, promotes and coordinates the safety of employees and City operations, and protects and enforces the interests of the City in state and federal courts. It receives, investigates, processes, negotiates, and undertakes the appropriate resolution of claims made against the City.
- The **Criminal Prosecution Division** prosecutes violations of law in the Provo Justice Court and the Utah 4th District Court. It works with various police agencies, victims, witnesses, defendants, clerks, attorneys, and others to resolve cases in the interests of justice. Prosecutors screen cases and decide what charges to file. They participate in hearings, pre-trials, trials, and appeals to seek justice, including appropriate restitution, rehabilitation, fines and/or jail time for those found guilty of violations of the law.

Personnel v. Operating Budget

Our Operating Budget (non-personnel) is approximately 5% of our overall budget.

Personnel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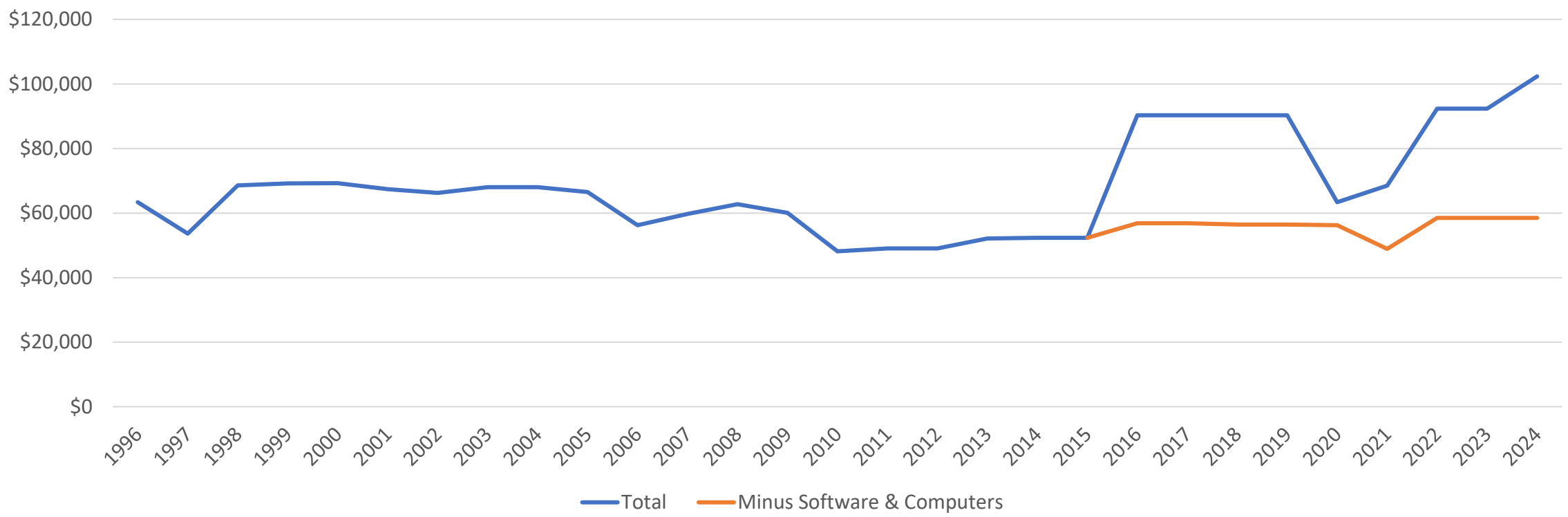
2024
FT Staff
PT Staff
PT Accident Investigators
FT Paralegals
PT Paralegals
Student Interns
FT Attorneys
PT Attorneys
Safety Coord.
Grant-Funded

Personnel Changes

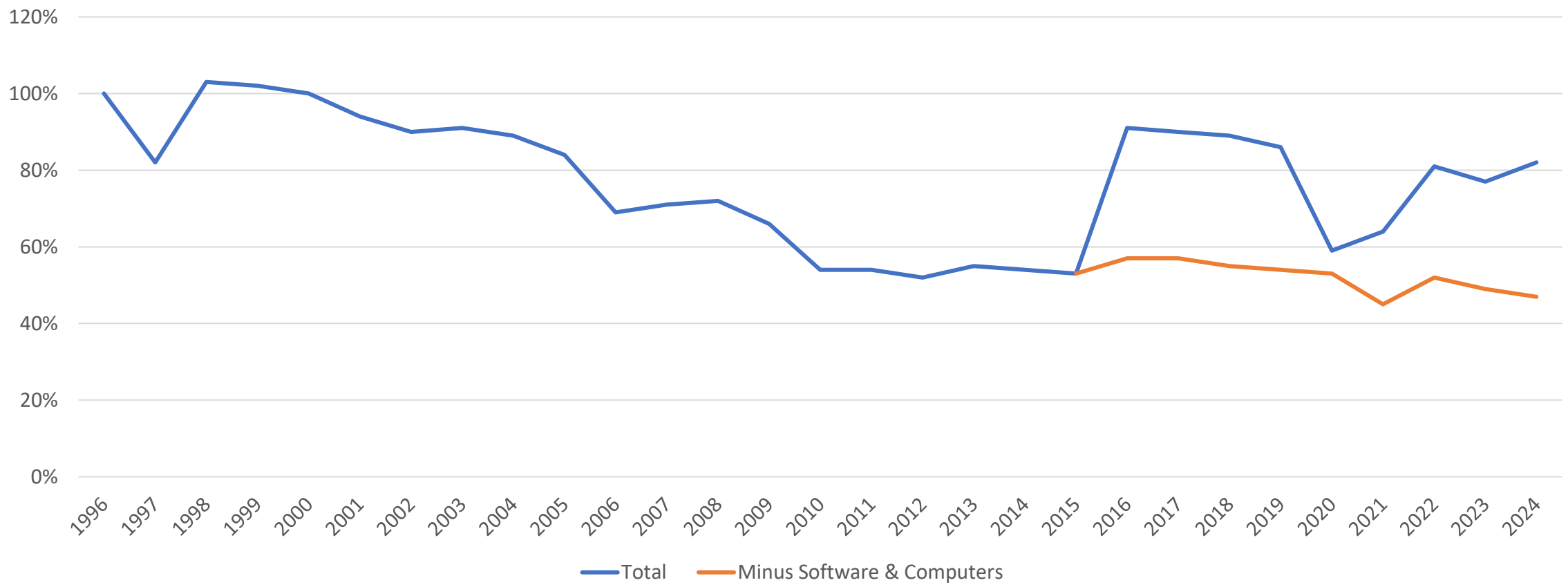
IN 28 YEARS, WE'VE ADDED 2 ATTORNEYS AND 1 PARALEGAL, WHILE REDUCING ½ FTE IN STAFF POSITIONS

IN THAT TIME, RESPONSIBILITY FOR THE COUNCIL OFFICE AND THE CITY SAFETY AND RISK MANAGEMENT PROGRAM HAS BEEN ADDED

Operating Budget



Operating Budget (% Adjusted for Inflation)



Challenges – FY 23

Personnel

Significant strains during the pandemic period:

- Hiring constraints
- Remote work

Full staffing now and the workload is challenging but manageable.

Unknowns on the horizon:

- DV grant funded position
- DV cases in District Court
- Class A misdemeanors

Equipment

25 current machines/only 8 currently in warranty

Copier/Printer – replace every 7 years

$7,020 (current “bank” budget)/only enough to replace 2 machines/year after copier set aside

Plan

- Reduce inventory to 19
- Using bank funds this year to reduce number out of cycle to 3 (replace those next year)
- Would require $17,000 annually to stay in cycle

Status – FY 23

Personnel

Full staffing didn't last very long. Lost two attorneys and a paralegal mid-year: family, advancement, and lateral.

Hiring replacements was difficult.

DV grant funded position – extended.

Equipment

Reduced inventory from 25 to 22 (further reductions planned)

Used bank funds end of FY22 to reduce number out of cycle to 6

Replaced 4 of those beginning of FY23

Challenges – FY 24

Personnel

Nearly back at full staffing. Playing catch up because of months understaffed.

Unknowns on the horizon:

- DV grant funded position – currently ends in December 2023
- Justice Court reform

Equipment

22 current machines/5 out of warranty (3 of those expired in March)

$7,020 (current “bank” budget)/less than needed to replace 3 machines. Need to replace 5-6/year to comply with City computer replacement policy and cybersecurity objectives.

Plan

- Continue to reduce inventory
- Request $10,000 addition to bank line item

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: JUHARRISON
Department: Council
Requested Meeting Date: 02-28-2023

SUBJECT: A presentation regarding the FY2024 Budget- Council Office (23-008)

RECOMMENDATION: Presentation and discussion.

BACKGROUND: In preparation for the drafting and approval of the FY 2023-2024 budget, each department has been asked to present to the Council. In addition to identifying their priorities, needs, wants, and potential costs, their presentations should address the following questions:

- What were the most important accomplishments for your department from FY2023?
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FISCAL IMPACT: Unknown at this time will depend on future decisions made by the Council.

PRESENTER'S NAME: Justin Harrison, Council Executive Director

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-008

FY2024
Council Office Budget

April 18, 2023

FY2023 Accomplishments

Policy

- ADU Code Updates
- General Plan Adoption
- Percent for the Arts Policy
- Redistricting

Budget

- Allocated $33M in ARPA Funds
- Balanced Budget (FY2023)

Infrastructure

- Airport Terminal
- City Hall & Public Safety Building

Community Connections

- Neighborhood District Program Updates
- New Staff

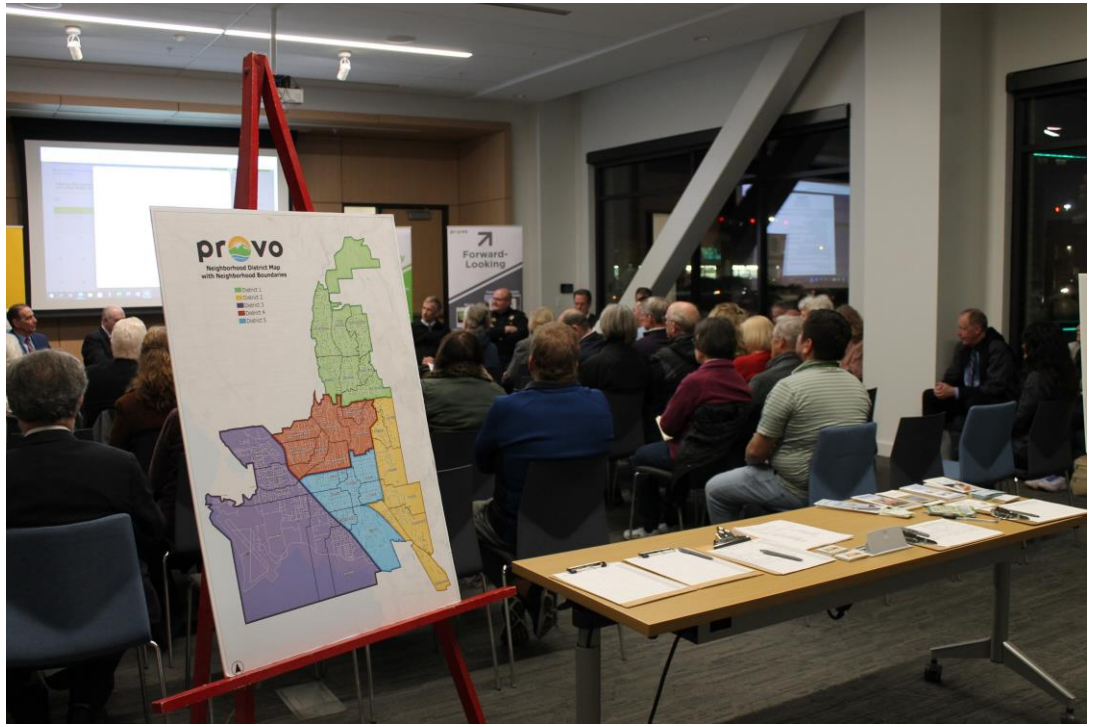
Supplemental Requests

FY2023

- N/A

FY2024

- Two supplemental requests
  - Recurring cost (Public Engagement and Neighborhood District Program)
  - One-time cost (Communications Consultant)



Performance Measures FY2023

Priority	Goal	Performance Measure	Annual Totals & 2023 Target
Healthy, Inviting Environment	Approve General Plan update along with 3 supplemental plans	Adoption of General Plan with all supplemental plans	Yes
Safe City	Increase compensation for sworn officers to stay competitive in labor market	Increase the number of FTEs for sworn officers	Yes
Responsible Government	Improve retention and recruitment of employees	Approve merit increase	Yes
Responsible Government	Improve retention and recruitment of employees	Approve healthcare insurance increase in new year budget	Yes
Community	Engage more citizens in the Neighborhood Program	Create consistent meeting and attendance	Yes

Performance Measures FY2024

Provo Pillars	Goal	Performance Measure	2023 Current	2023 Target	2024 Target
Healthy, Inviting Environment	Approve updates to long-range plans	Adopt new, and updates to, long-range plans	3	3	5
Safe City	Increase compensation for sworn officers to stay competitive in labor market	Increase the number of budgeted sworn officer FTEs	118	118	120
Responsible Government	Ensure Provo City remains competitive in the labor market	Approve merit increase for Provo City employees	2.5%	2.5%	2.5%
Community	Engage more citizens in the Neighborhood District Program	Appoint one resident from each neighborhood to their respective Neighborhood District Board	31	34	34

Council Preliminary Budget Priorities

- Long-Term Plans (Conservation & Resiliency, Canyons & Hillsides, River & Lakeshore, Gateways, etc.)
- Provo Specific Housing Audit/Study
- Five-Year Staffing Plan for Police and Fire
- IS/Cybersecurity Enhancements
- Employee Retention
- City Debt Reduction
- Provo App
- Implement Rock Canyon Master Plan
- Update and Implement Slate Canyon Master Plan
- Updates to Peaks Ice Arena/Fieldhouse
- Sidewalk Repair and Replacement
- Traffic Calming
- Center Street Improvements
- Southeast Grocery Store
- Preserve Open Space by Identifying Potential Conservation Easements

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MISANDERS
Department: Council
Requested Meeting Date: 04-18-2023

SUBJECT: A presentation regarding the FY2024 Budget - Library (23-008)

RECOMMENDATION: Presentation Only

BACKGROUND: In preparation for the drafting and approval of the FY 2023-2024 budget, each department has been asked to present to the Council. In addition to identifying their priorities, needs, wants, and potential costs, their presentations should address the following questions:

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FISCAL IMPACT:

PRESENTER'S NAME: Carla Gordon, Library Director

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER:

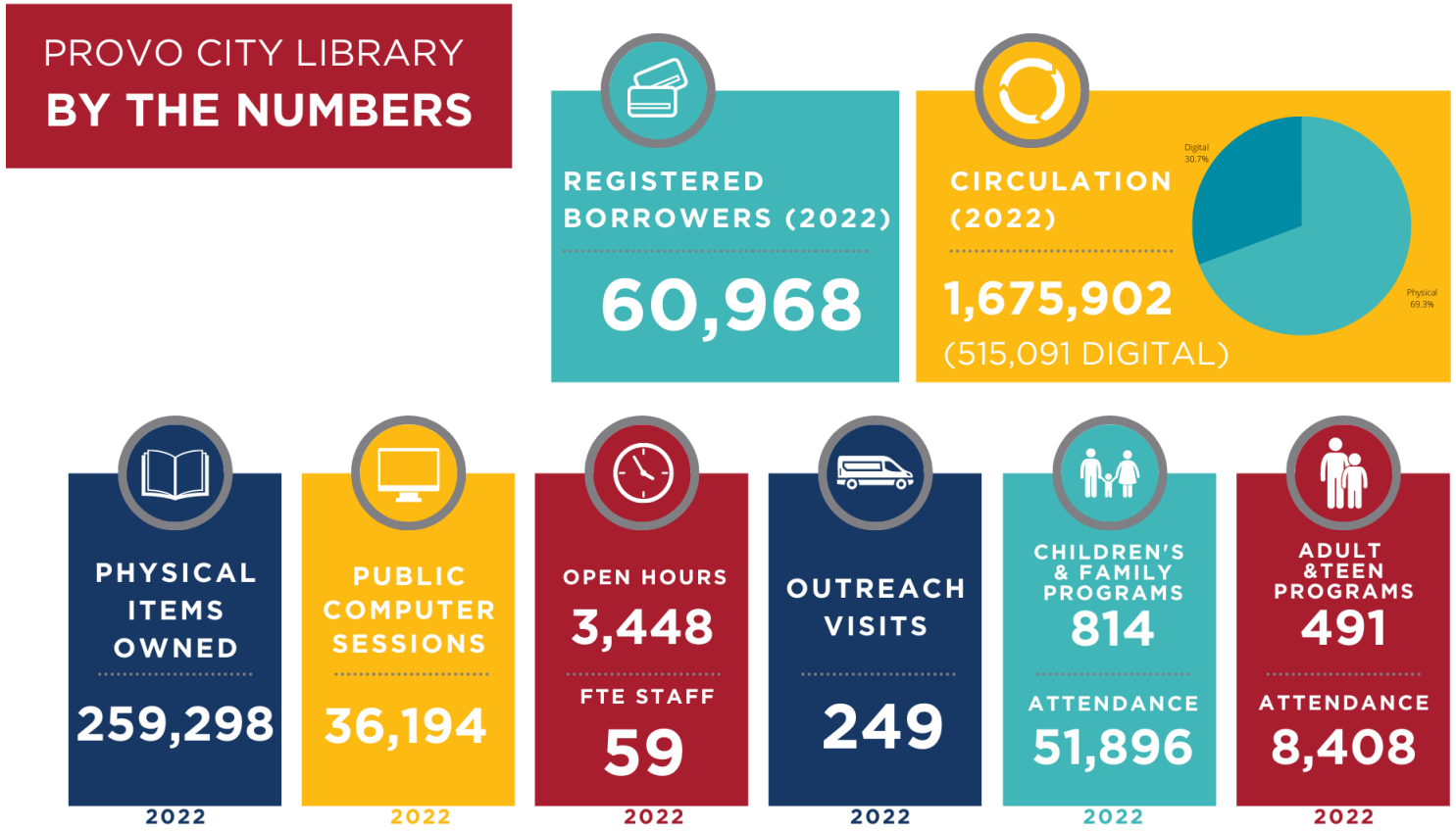
provo

CITY LIBRARY

at ACADEMY SQUARE

Provo City Library

By the Numbers

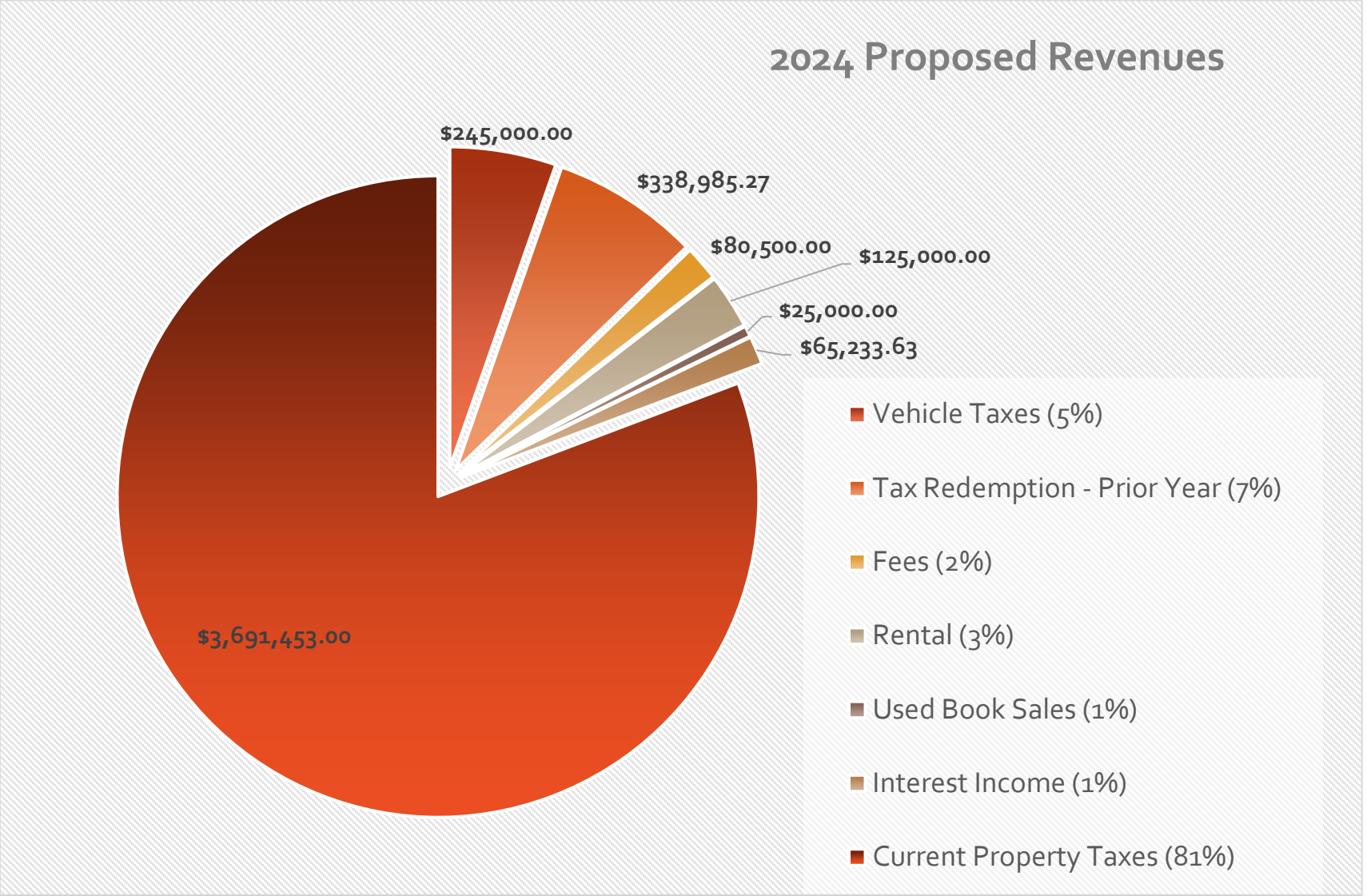


Accomplishments

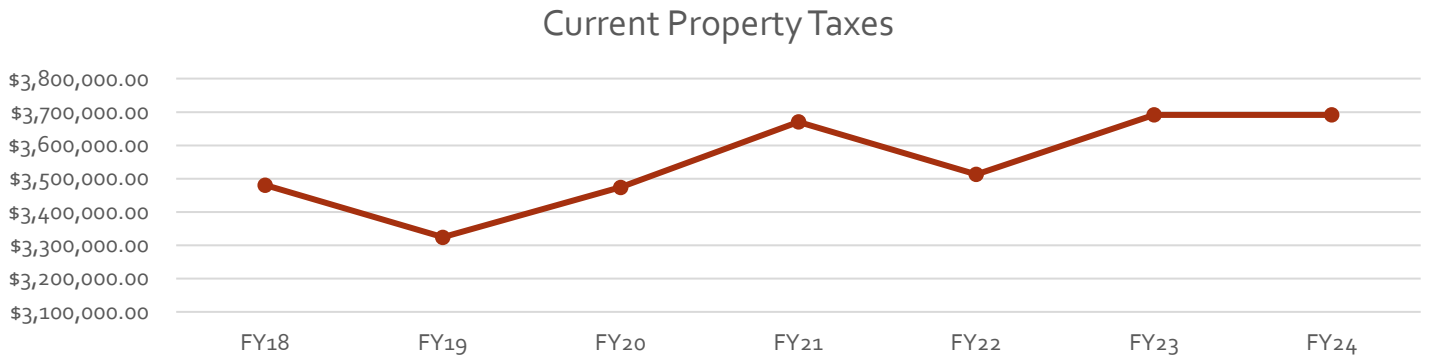
2023 Library Accomplishments

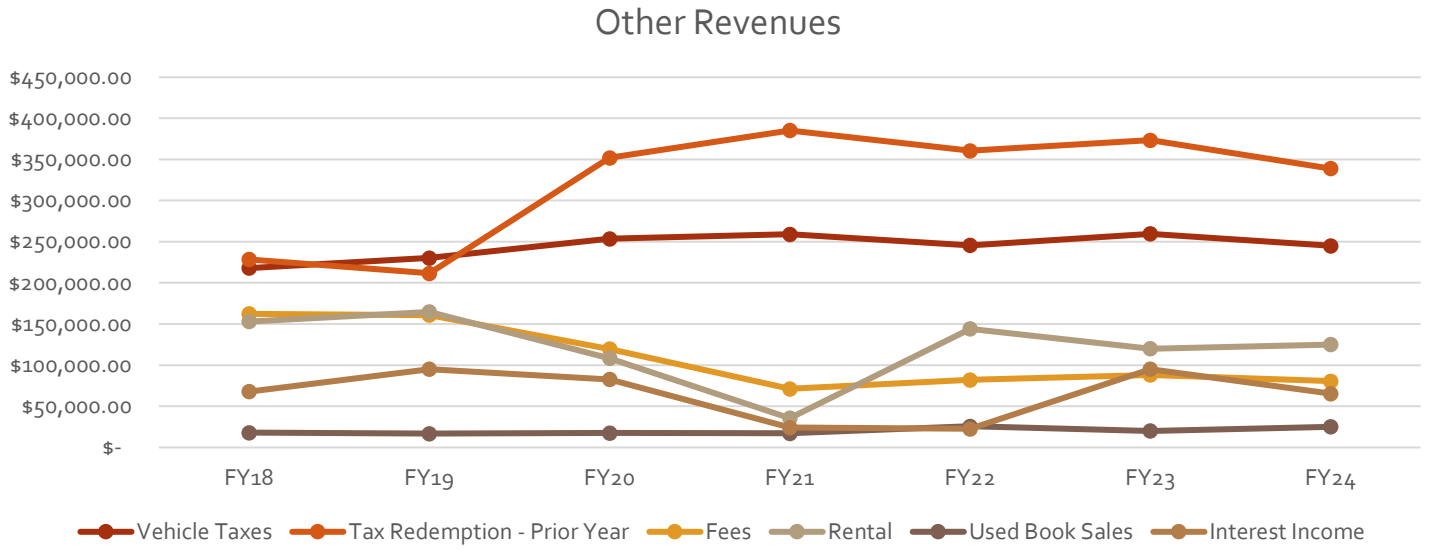
- Onboarded a new Library Director
- Part-time salary review
- Outreach Services Introduced
  - Preschool visits (7 schools, 77 visits, 104 story time performances)
  - Assisted Living Facilities (8 centers/homes, 87 visits)
  - Farmers Markets
  - Freedom Pre-parade
  - More!
- New Programs
  - Cuentitos (Book Babies program in Spanish)
  - Additional Spanish Programming (movie nights, crafts, story times)
  - Creator kits & new escape room
  - Virtual Reality Experiences (139 sessions so far)
  - Tween Minecraft
  - Interactive Movies
- Rental space back to pre 2020 revenues
- First Annual Report distributed in September to cardholders

Library Revenues

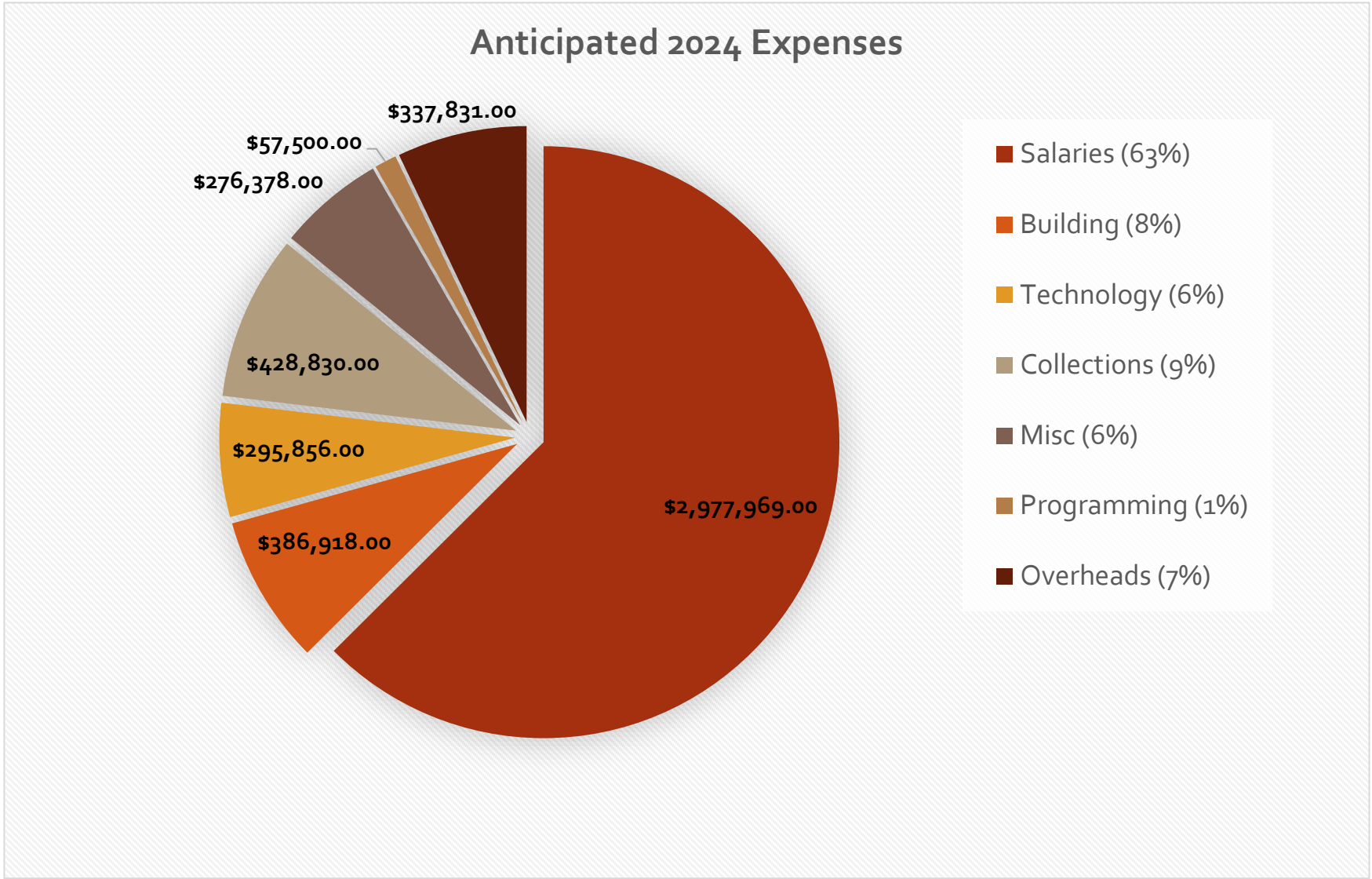


Library Revenues

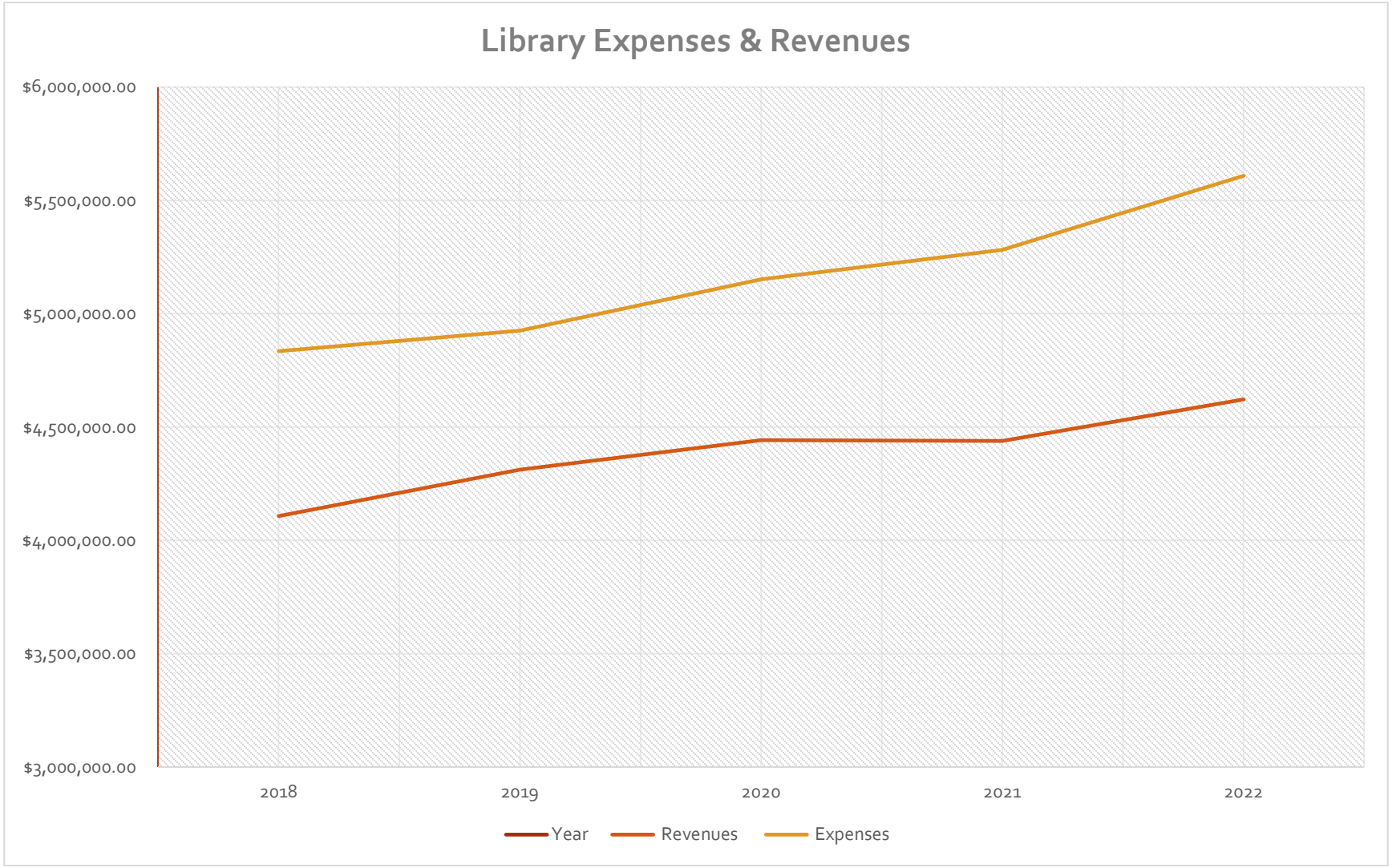




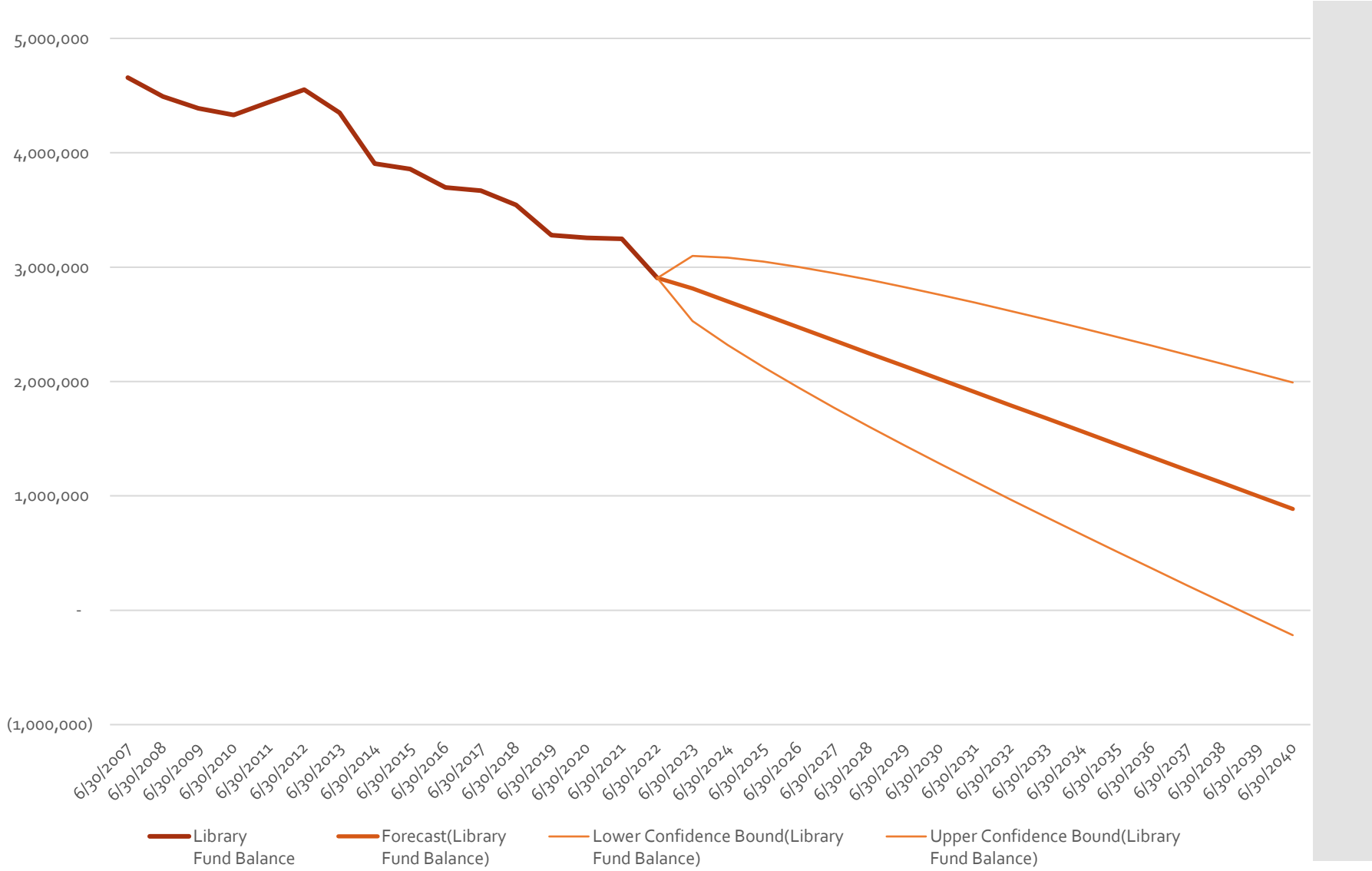
Library Expenses



Library Expenses & Revenues



Ending Fund Balance



2022 Property Tax - Library Revenue

Maximum Property Tax Revenue	$9,714,350	Rate – 0.100%
Current Property Tax Revenue	$3,691,453	Rate – 0.038%

Household Impact

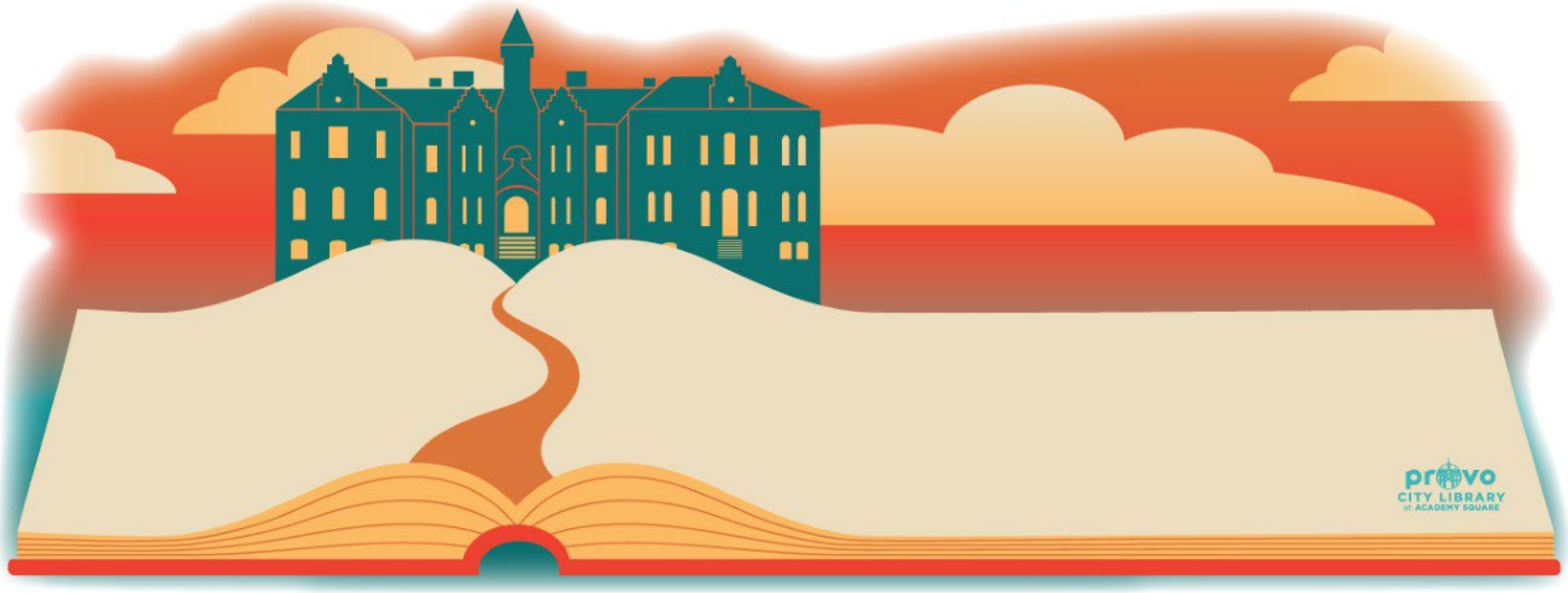
$400,000 Home

Current Portion taxed for Library	$83.60
Maximum tax for Library	$220.00

Library Revenue Increase	$100,000
Annual Household Impact	$2.26

Library Recommendation

- $100,000 budget increase each year for the next 5 years.
- After that, annual evaluations of revenues and expenses to keep up with inflation and increased costs.



Questions?

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MISANDERS
Department: Council
Requested Meeting Date: 04-18-2023

SUBJECT: A presentation regarding the FY2024 Budget - Energy (23-008)

RECOMMENDATION: Presentation Only

BACKGROUND: In preparation for the drafting and approval of the FY 2023-2024 budget, each department has been asked to present to the Council. In addition to identifying their priorities, needs, wants, and potential costs, their presentations should address the following questions:

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FISCAL IMPACT:

PRESENTER'S NAME: Travis Ball, Energy Director

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

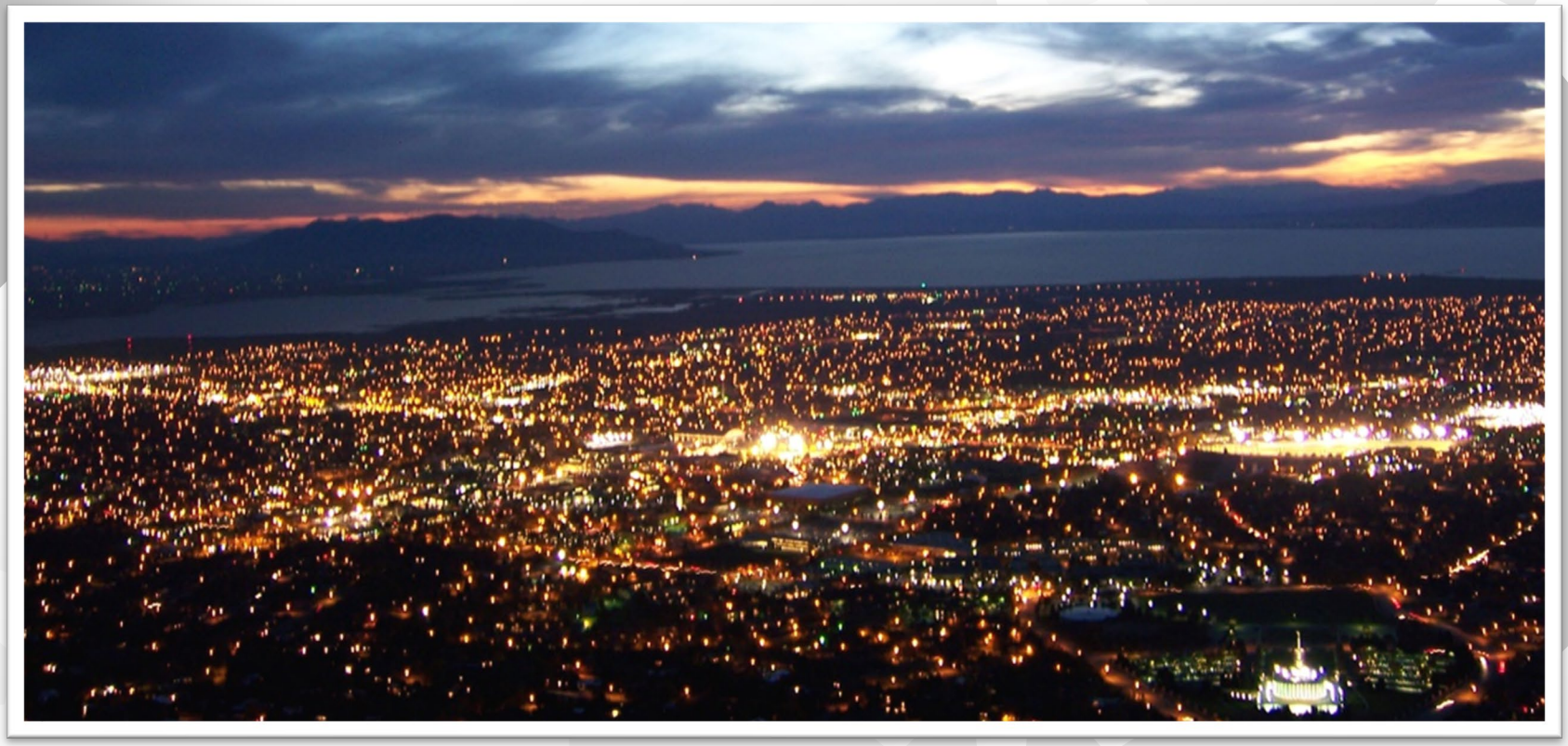
CITYVIEW OR ISSUE FILE NUMBER: 23-008

Provo City Power FY24 Budget

April 18, 2023

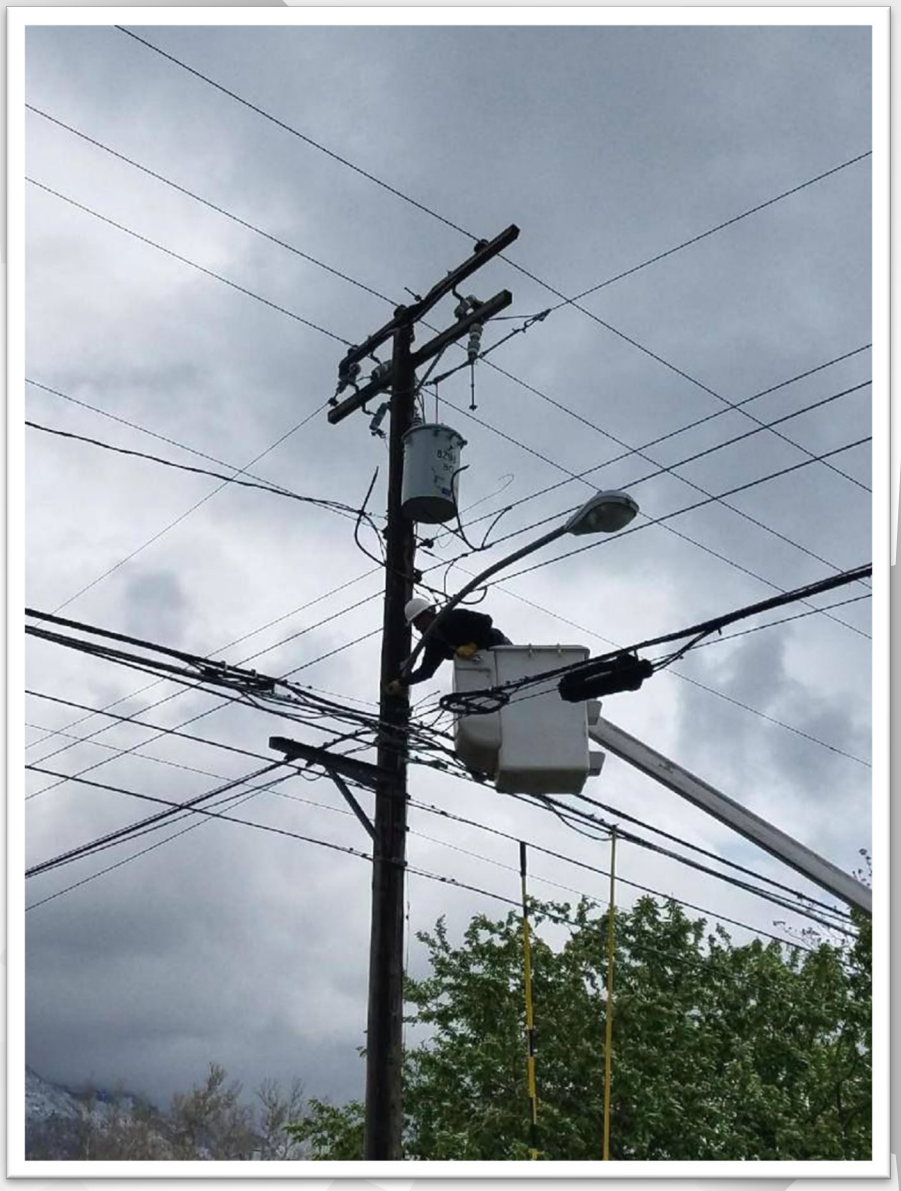
Provo City Power BHAG

To be the most reliable provider of power in the country while providing a safe environment for employees



Agenda

- Strategic Plan
- Reliability
- Value Added Services
- Budget



Provo Power's Strategic Plan

Strategic Plan | Reliability | Services | Budget

Provo Power's Vision Statement

Provo Power shall be at the forefront of providing reliable energy services enhancing the quality of life for our community.

- Empowering Provo

Provo Power's Mission Statement

We provide reliable energy services through investing in employees, infrastructure, and community outreach.

We are proactive in adapting to environmental and technological changes while maintaining our fiscal responsibility to the citizens of Provo.

Provo Power's Core Values

Customer Care – We strive to provide sound solutions through innovation, education, and continuous improvement to care for our customers' needs and expectations.

Financial Stability – We proactively set an equitable rate structure that allows us to invest wisely in day to day operations, new technologies, and infrastructure, while contributing to the general fund.

Valued Workforce – We care for our employees and their development. We provide advancement opportunities, are concerned for their personal and family wellness, and strive to create a respectful and positive work environment.

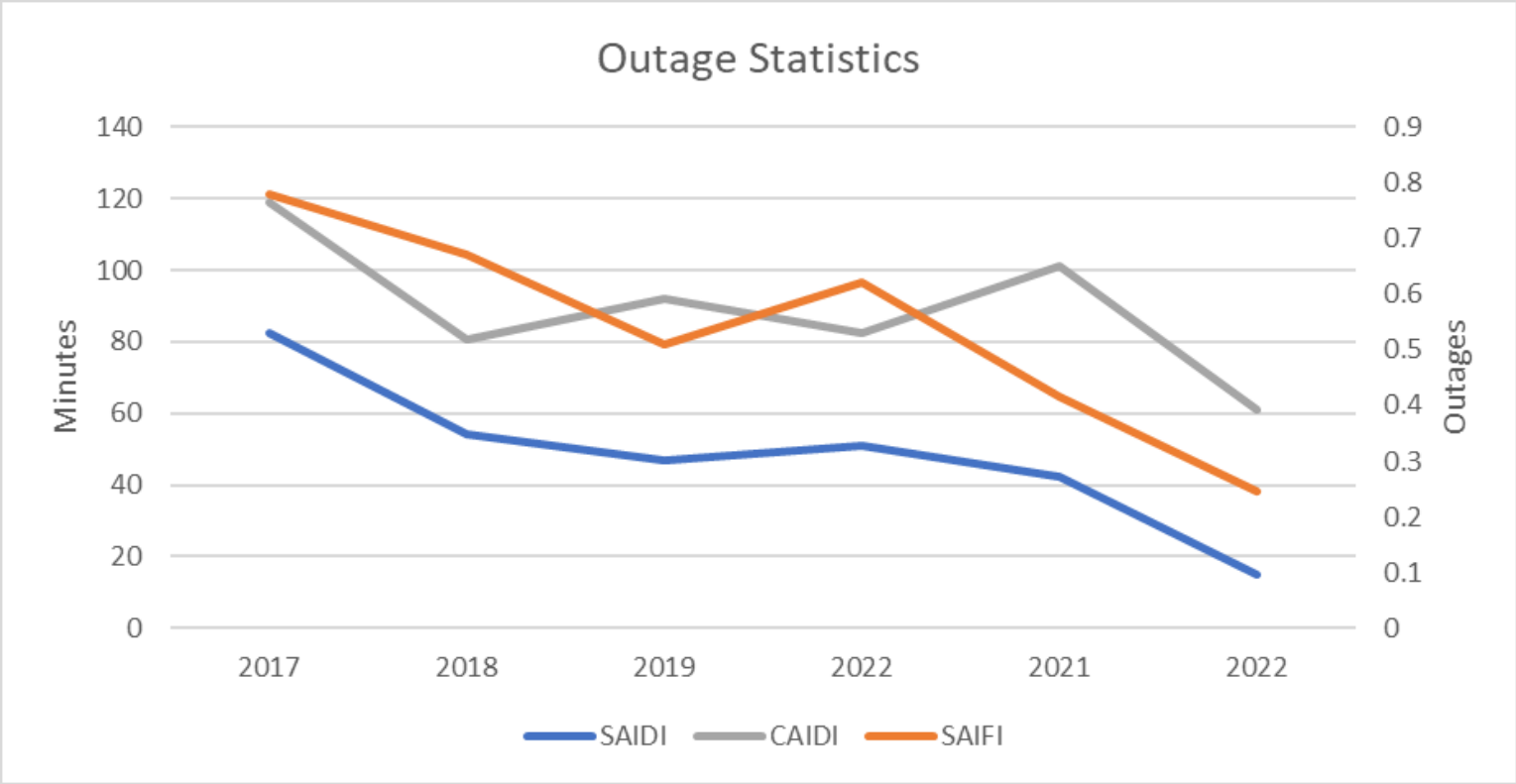
Community Resource - We are the community resource for energy services, information, and education.

Safety – We are committed to protecting our employees and the public through a proactive safety culture.

Innovation - We use advanced infrastructure and technology to enhance our operations to provide reliable energy services to our community.

General Plan Questions

•What were the most important accomplishments for your department from FY23?



Strategic Plan | Reliability | Services | Budget

General Plan Questions

•What are your supplemental requests, unfunded budgets, and new requests for funding from the Council? **No new requests from the Energy Department and budgets have been fully funded in the past.**

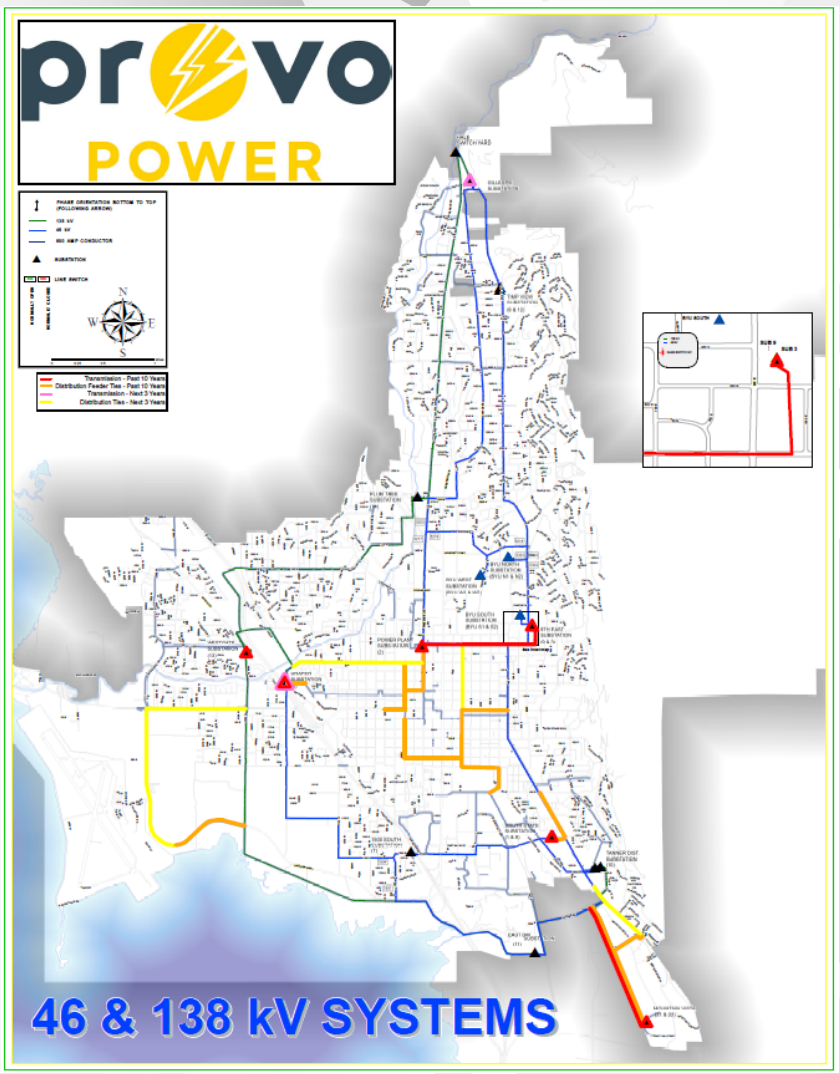
•Are there current budget constraints within your department that do not allow you to execute the city's long-term vision? What keeps you up at night? **No, Resource cost increases and Supply chain issues increasing the time to get materials keep me up.**

•What are you asking for in your budget that will increase your department's ongoing operations and maintenance costs? **5% increase in generation cost from UMPA.**

•What are your current department performance measures as reported in each fiscal year budget? What would you change? **We report each month a page full of indices including reliability, financial and safety indices to the Energy Board. We will report on any indices the board requests. A few of those numbers will be presented later.**

Capital Improvement Plan

Provo City Power has invested over $60 million into capital projects over the last ten years



Capital Improvement Plan

Capital Improvement Summary
Energy

Funded Projects			FY 2023-2024 Estimate	FY 2024-2025 Estimate	FY 2025-2026 Estimate	FY 2026-2027 Estimate	FY 2027-2028 Estimate	Total
Funding Sources								
Grants			-	-	-	-	-	-
Transfers			-	-	-	-	-	-
City Labor			1,001,000	826,000	826,000	826,000	826,000	4,305,000
Impact Fees			-	-	-	-	-	-
Bonds			-	-	-	-	-	-
Fund Balance			6,921,622	6,551,088	11,942,642	10,964,574	5,587,650	42,145,695
Total Funding Sources			**$ 7,922,622**	**$ 7,377,088**	**$ 12,768,642**	**$ 11,790,574**	**$ 6,413,650**	**$ 46,272,576**
Project Costs								
Job Group	Project Description	Priority Level	Project is New or has Significantly Changed					
9001	9001.01 - Distribution - New & Replacement Meters	2	No	$ 544,940	$ 500,000	$ 500,000	$ 500,000	$ 500,000	$ 2,544,940
9001	9001.02 - Distribution - New Development Materials and Supplies	2	No	600,000	600,000	600,000	600,000	600,000	3,000,000
9001	9001.03 - Distribution - Distribution Upgrade	2	No	2,312,000	2,370,000	2,129,575	1,818,750	1,793,525	10,423,850
9001	9001.04 - Distribution - Pole Treatment Program	2	No	120,000	10,000	10,000	10,000	10,000	160,000
9001	9001.05 - Distribution - Distribution Automation	2	No	275,000	275,000	275,000	275,000	275,000	1,375,000
9001	9001.06 - Distribution - Electric Service Connections	2	No	145,000	145,000	145,000	145,000	145,000	725,000
9002	9002.01 - Transmission System - RTU System	2	No	180,000	40,000	40,000	40,000	40,000	340,000
9002	9002.02 - Transmission System - Rebuild & Upgrade System	2	No	251,000	251,000	251,000	651,000	226,000	1,630,000
9003	9003.01 - Substation Construction - Transmission	2	No	462,000	512,000	5,512,620	3,307,000	187,000	9,980,620
9003	9003.02 - Substation Construction - Distribution	2	No	112,500	412,500	1,049,000	2,192,062	1,262,500	5,028,562
9004	9004.01 - City Projects - Street Lights	2	No	180,000	180,000	180,000	180,000	180,000	900,000
9004	9004.02 - City Projects - Designated City Projects	2	No	550,000	325,000	325,000	325,000	325,000	1,850,000
9005	9005.01 - SCADA Software	2	No	500,000	500,000	500,000	500,000	500,000	2,500,000
9006	9006.01 - Administrative - Buildings - Administrative Improvements	2	No	30,000	10,000	10,000	10,000	10,000	70,000
9006	9006.02 - Administrative – Engineering Software	2	No	10,000	10,000	10,000	10,000	10,000	50,000
9006	9006.03 - Administrative – Appropriated Contingency	2	No	300,000	300,000	300,000	300,000	300,000	1,500,000
9006	9006.04 - Administrative – Major Computer System Replacement	2	No	325,682	131,588	179,447	176,762	44,625	987,721
9006	9006.05 - Administrative - New and Replacement Equip. - Non-vehicle	2	No	114,500	15,000	12,000	-	5,000	195,002
9006	9006.06 - Administrative - New and Replacement Vehicles	2	No	910,000	790,000	740,000	750,000	-	3,190,000
				$ 7,922,622	**$ 7,377,088**	**$ 12,768,642**	**$ 11,790,574**	**$ 6,413,650**	**$ 46,272,576**

Projects

Gillespie Substation

Distribution Automation

Misc. City Projects –
Second Duncan Aviation Feed and Sports Park

Metrics

City Priority	Department Goal	Performance Measures	Annual Totals			
			2022	2023		2024
			Actual	Current	Target	Target
Safe City	Safe Employees	Injuries	4	1	0	0
		Hours Worked Without Injury	168,469	299,491	1,000,000	1,000,000
		Vehicle Accidents	1	1	0	0
Responsible Government	Healthy Financials	Days Cash on Hand	133	90	120	120
		Debt Service Coverage: Reserves Divided by Debt	1.54	1.38	2.00	2.00
		Rate Stabilization Fund	$22,885,805	$18,287,107	$25,000,000	$25,000,000
		Total Fund Balance	$36,775,109	$35,937,552	$35,000,000	$35,000,000
	Efficient Operations	Overtime as percent of Operating Expenses	0.2%	0.2%	<3%	<3%
		Connections per Employee	571	575	>400	>400
		Operating Cost per Customer	$186	$147	$350	$350
Community	Minimize Credit Shut Offs	Delinquent Revenue as percent of Total Revenue	0.3%	0.2%	<1%	<1%
Healthy, Inviting Environment	Sustainability	Green Energy Sources as percent of Total Energy Sources	33%	38%	40%	45%
	Reliable Power	CAIDI: Minutes per Outage	78	76	<120	<120
		SAIDI: Outage Minutes per Customer	1	2	<12	<12
		SAIFI: Outages per Customer	0.02	0.03	<0.11	<0.11
		Load: Actual kWh as percent of Max Possible kWh	71%	63%	>65%	>65%

Valuable Services Provided by Provo Power

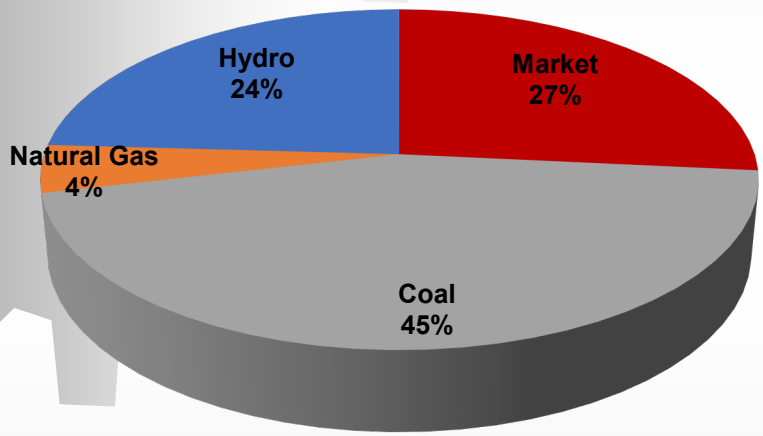
- Conservation
- Rebates
- Street Lights
- City Trees
- 11% Transfer

Energy Conservation and Sustainability

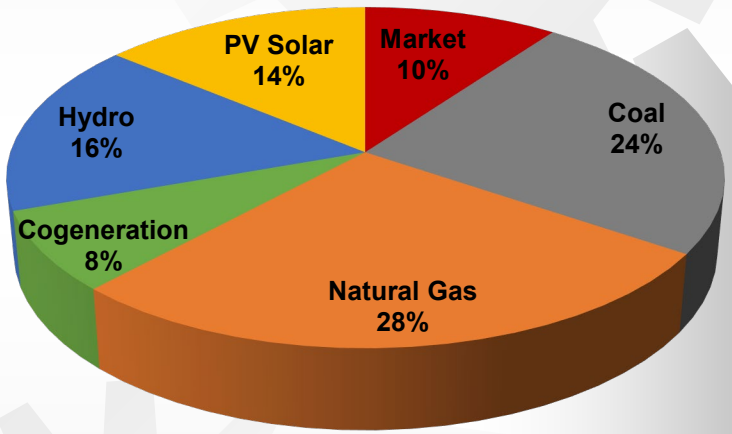
- LEED Gold Energy Building
- RenewChoice
- Public Charging Stations
- UMPA Solar Contract: 84 MW
- Tree/Conservation Planting

Energy Conservation and Sustainability

FY20 Resource Mix MWh



FY24 Resource Mix MWh



Energy Conservation Rebates and Programs

GreenXchange Program

Type	Total Programs Utilized	Total Rebates Issued
Lawn Mowers	902	$266,071
Snow Blowers	108	$32,161
Grass Trimmers	45	$2,246
Leaf Blowers	16	$800
Total	**1071**	**$301,278**

Energy Conservation Rebates and Programs

SharedSolar
Community-Owned Solar

- 87 registered customers
- 268 blocks (53,600 kWh's)
- 2 Commercial Costomers@100%

Conserve
Energy Conservation Resources

- Offering $500 rebate for Ductless Heat Pump
- Offering $1,000 rebate for Ducted Heat Pump
- $17,500 rebates paid to date

City Street Lights

5,934 city lights powered at no charge to Provo's General Fund

City Trees

Forestry Program

- Prune 10,000 trees annually
- Plant 1,000 trees annually

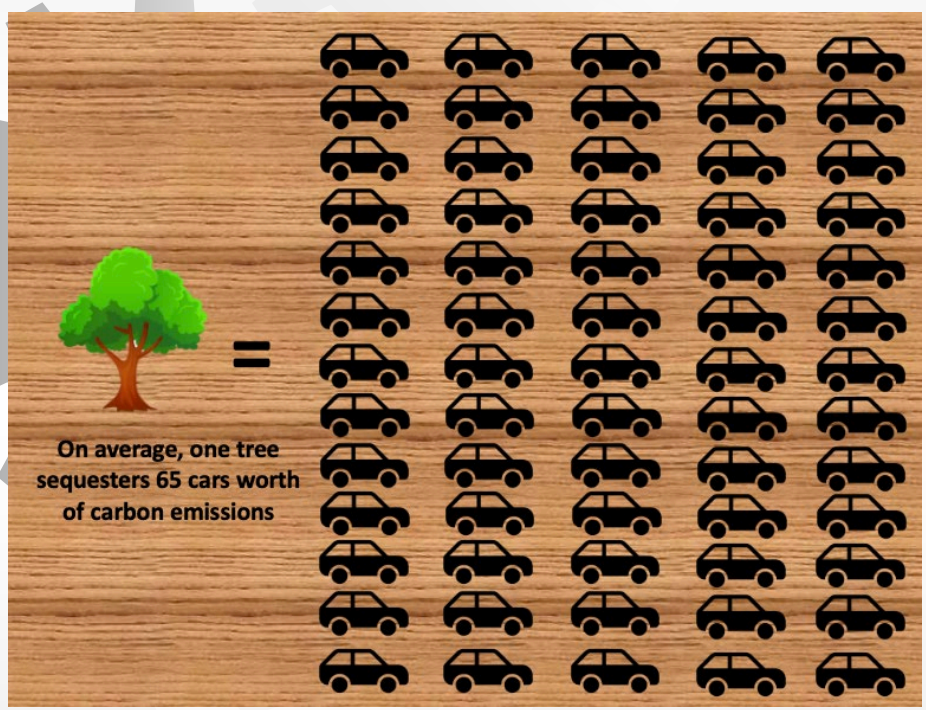
Utility Forestry Division

- Tree Line USA – 26 Years
- 40,000 Utility Trees

City Forestry Division

- Tree City USA – 38 Years
- 17,000 Street Trees

City Trees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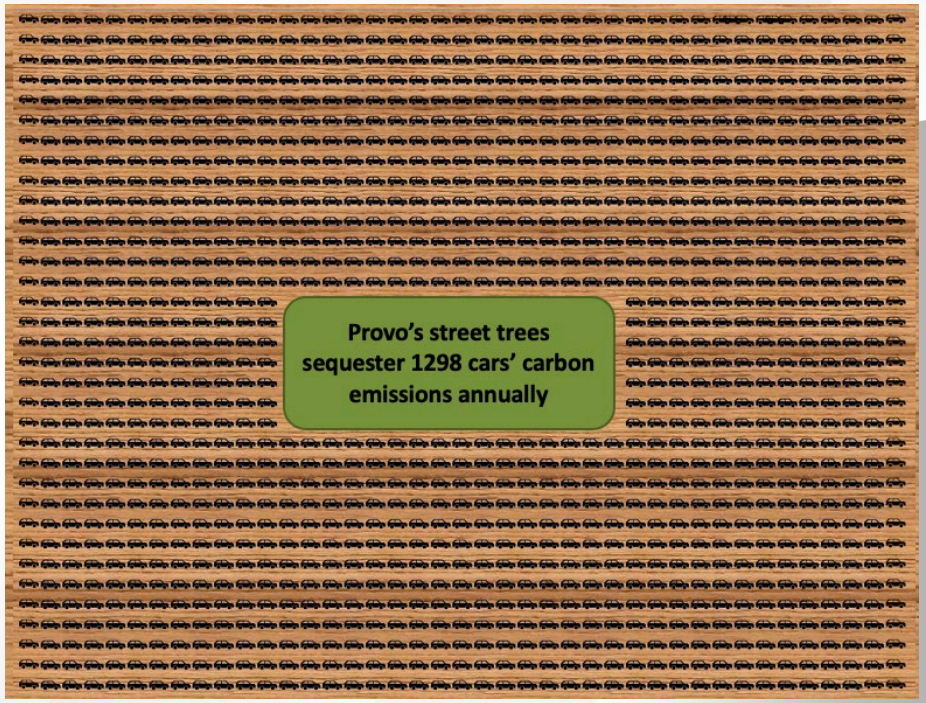
On average, one tree sequesters 65 cars worth of carbon emissions


Provo's street trees sequester 1298 cars' carbon emissions annually

Transfer to General Fund

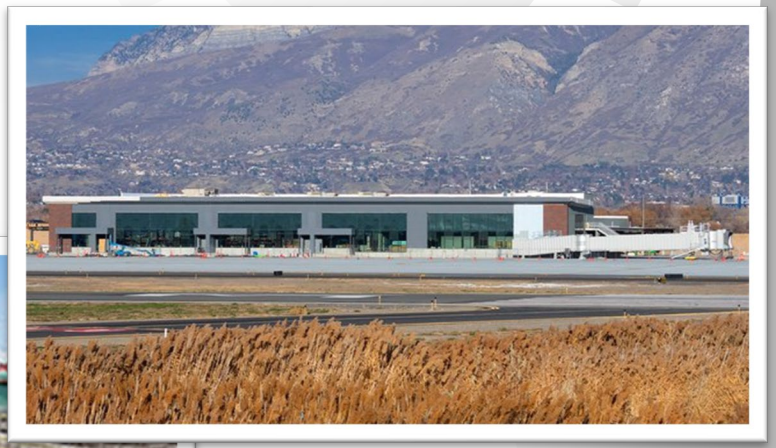
Provo City Power anticipates transferring $7,982,874 to the General Fund based on 11% of projected energy sales revenue plus an additional $7,105,493 in chargebacks and transfers for a total of 20% of operating revenue

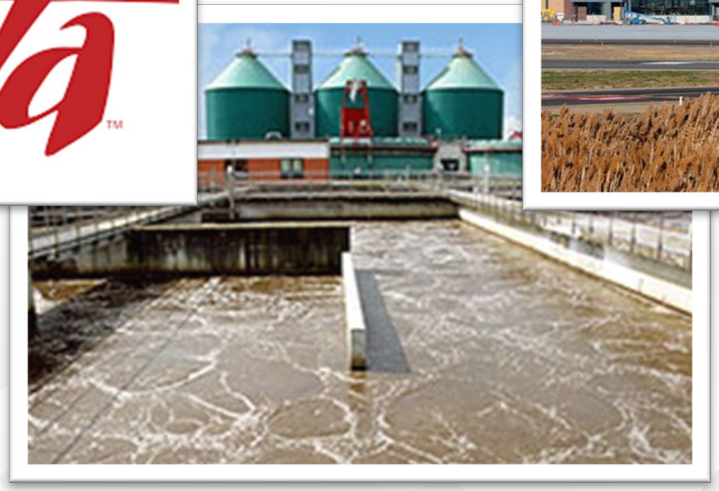
Strategic Plan | Reliability | Services | Budget

Interfund Loans

Provo City Power has lent $17,595,693 to other city funds since FY20

- $2,198,269 to 332 ERP Debt Service
- $1,420,185 to 520 Wastewater
- $13,977,239 to 540 Airport





Budget Proposal

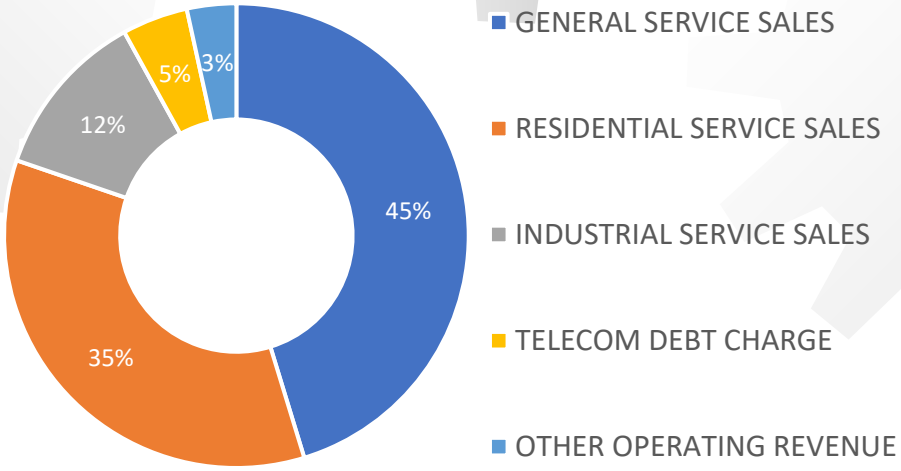
- Revenues
- Expenditures
- Rate Analysis
- Rate Comparison

Fund	530 - Power
Current Fiscal Year	2022
Dept. Function	2701 ENERGY ADMINISTRATION
Scenario	1

	2021 Actual	2022 Actual	2022 Commitments	2022 Total	2023 Operational Budget	2023 Adjustment Budget	2023 Total Budget	2022 Budget	2021 Budget
Target Budget Number									
Difference							59043176		
Create new account line below ↓									
Total Sum	**-$ 58,455,875**	**-$ 49,795,855**	**$ 8,889**	**-$ 49,786,965**	**-$ 59,043,176**	**$ 0**	**-$ 59,043,176**	**-$ 56,892,479**	**-$ 55,411,747**
+ 300 - TAXES	$ 0	$ 0	$ 0	$ 0	**-$ 1,000**	$ 0	-$ 1,000	-$ 1,000	-$ 1,000
3054 - FRANCHISE FEE - PROVO CITY UTI	$ 0	$ 0	$ 0	$ 0	**-$ 1,000**	$ 0	-$ 1,000	-$ 1,000	-$ 1,000
+ 301 - LICENSE	$ 0	$ 0	$ 0	$ 0	**$ 0**	$ 0	$ 0	-$ 1,000	-$ 1,000
3107 - LICENSE	$ 0	$ 0	$ 0	$ 0	**$ 0**	$ 0	$ 0	-$ 1,000	-$ 1,000
+ 303 - CHARGES FOR SERVICES	-$ 875	-$ 375	$ 0	-$ 375	**-$ 126,000**	$ 0	-$ 126,000	-$ 46,000	-$ 46,000
3251 - UTILITY INSTALL FEES	$ 0	$ 0	$ 0	$ 0	**-$ 125,000**	$ 0	-$ 125,000	-$ 45,000	-$ 45,000
3401 - FEES	-$ 875	-$ 375	$ 0	-$ 375	**-$ 1,000**	$ 0	-$ 1,000	-$ 1,000	-$ 1,000
+ 305 - INVESTMENT INCOME	-$ 226,489	-$ 187,285	$ 0	-$ 187,285	**-$ 335,000**	$ 0	-$ 335,000	-$ 220,000	-$ 443,696
3501 - INTEREST INCOME	-$ 138,321	-$ 113,852	$ 0	-$ 113,852	**-$ 250,000**	$ 0	-$ 250,000	-$ 120,000	-$ 400,000
3504 - INTEREST PAYMENTS	$ 0	$ 0	$ 0	$ 0	**$ 0**	$ 0	$ 0	-$ 100,000	-$ 43,696
3505 - INTERFUND INTEREST	-$ 88,168	-$ 73,433	$ 0	-$ 73,433	**-$ 85,000**	$ 0	-$ 85,000	$ 0	$ 0
+ 306 - UTILTIES REVENUE	-$ 73,760,011	-$ 60,685,777	$ 0	-$ 60,685,777	**-$ 72,500,000**	$ 0	-$ 72,500,000	-$ 71,583,408	-$ 70,380,271
3551 - GENERAL SERVICE SALES	-$ 33,213,993	-$ 29,077,768	$ 0	-$ 29,077,768	**-$ 33,500,000**	$ 0	-$ 33,500,000	-$ 33,583,711	-$ 32,990,584
3552 - RESIDENTIAL SERVICE SALES	-$ 27,264,809	-$ 22,199,394	$ 0	-$ 22,199,394	**-$ 27,000,000**	$ 0	-$ 27,000,000	-$ 25,520,323	-$ 25,069,605
3553 - INDUSTRIAL SERVICE SALES	-$ 9,575,370	-$ 6,368,807	$ 0	-$ 6,368,807	**-$ 8,500,000**	$ 0	-$ 8,500,000	-$ 9,019,374	-$ 8,860,082
3554 - TELECOM DEBT CHARGE	-$ 3,494,632	-$ 2,868,109	$ 0	-$ 2,868,109	**-$ 3,250,000**	$ 0	-$ 3,250,000	-$ 3,250,000	-$ 3,250,000
3556 - SECURITY LIGHT SALE	-$ 210,223	-$ 170,733	$ 0	-$ 170,733	**-$ 250,000**	$ 0	-$ 250,000	-$ 210,000	-$ 210,000
3652 - MISC UTILITY REVENUE	-$ 984	-$ 966	$ 0	-$ 966	**$ 0**	$ 0	$ 0	$ 0	$ 0
+ 307 - OTHER FINANCING	-$ 11,737	$ 750	$ 0	$ 750	**-$ 1,000**	$ 0	-$ 1,000	-$ 1,000	-$ 1,000
3703 - LEASE INCOME	-$ 11,737	$ 750	$ 0	$ 750	**-$ 1,000**	$ 0	-$ 1,000	-$ 1,000	-$ 1,000
+ 308 - MISCELLANEOUS	-$ 1,207,161	-$ 1,349,734	$ 0	-$ 1,349,734	**-$ 785,000**	$ 0	-$ 785,000	-$ 1,564,381	-$ 1,135,000
3753 - COMMUNICATION ATTACHMENTS	-$ 668,071	-$ 706,861	$ 0	-$ 706,861	**-$ 650,000**	$ 0	-$ 650,000	-$ 850,000	-$ 850,000
3803 - CONNECTION FEES	-$ 220,049	-$ 152,840	$ 0	-$ 152,840	**$ 0**	$ 0	$ 0	$ 0	$ 0

Revenue

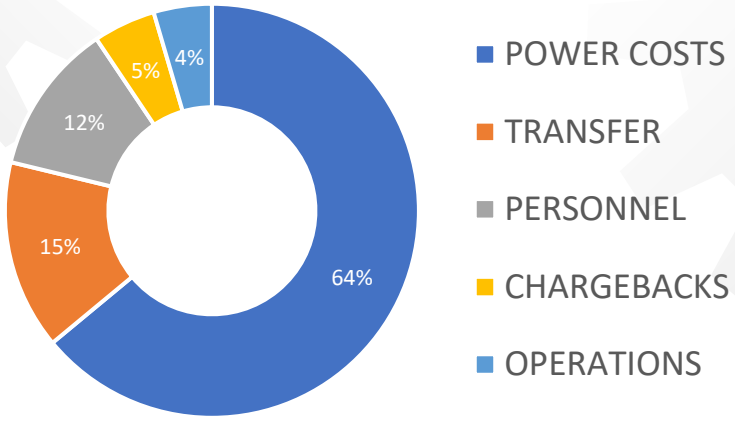
Estimated **$1,481,416** O&M revenue increase



ACCOUNT	BUDGET	PERCENT
GENERAL SERVICE SALES	34,620,000	45%
RESIDENTIAL SERVICE SALES	26,740,000	35%
INDUSTRIAL SERVICE SALES	8,970,000	12%
TELECOM DEBT CHARGE	3,500,000	5%
OTHER OPERATING REVENUE	2,626,000	3%
Total	**76,456,000**	**100%**

Expenditures

Estimated **$3,153,108** O&M expenditure increase



ACCOUNT	BUDGET	PERCENT
POWER COSTS	49,029,550	64%
TRANSFER	11,350,442	15%
PERSONNEL	9,058,361	12%
CHARGEBACKS	3,737,925	5%
OPERATIONS	3,486,452	5%
Total	**76,662,730**	**100%**

O&M Total

Estimated **$206,730** O&M budget deficit

ACCOUNT	FY23	FY24	DIFF	% INC
REVENUE				
GENERAL SERVICE SALES	33,946,964	34,620,000	673,036	2%
RESIDENTIAL SERVICE SALES	26,217,763	26,740,000	522,237	2%
INDUSTRIAL SERVICE SALES	9,156,857	8,970,000	-186,857	-2%
TELECOM DEBT CHARGE	3,500,000	3,500,000	0	0%
OTHER OPERATING REVENUE	1,868,000	2,626,000	758,000	41%
TOTAL REVENUE	**74,689,584**	**76,456,000**	**1,766,416**	**2%**
EXPENSES				
POWER COSTS	46,338,914	49,029,550	2,690,636	6%
TRANSFER	11,190,014	11,350,442	160,428	1%
PERSONNEL	8,815,685	9,058,361	242,676	3%
CHARGEBACKS	3,673,335	3,737,925	64,590	2%
OPERATIONS	3,491,675	3,486,452	-5,223	0%
TOTAL EXPENDITURES	**73,509,622**	**76,662,730**	**3,153,108**	**4%**
TOTAL SURPLUS (DEFICIT)	**$ 1,179,962**	**$ (206,730)**	**$(1,386,692)**	**-118%**

FY24 Total

Estimated **$5,724,352** total budget deficit

ACCOUNT	FY23	FY24	DIFF	% INC
REVENUE				
O&M	74,689,584	76,456,000	1,766,416	2%
CIP	2,635,000	2,405,000	-230,000	-9%
TOTAL REVENUE	**77,324,584**	**78,861,000**	**1,536,416**	**2%**
EXPENSES				
O&M	73,509,622	76,662,730	3,153,108	4%
CIP	8,934,604	7,922,622	-1,011,981	-11%
TOTAL EXPENDITURES	**82,444,226**	**84,585,352**	**2,141,126**	**3%**
TOTAL SURPLUS (DEFICIT)	**$ (5,119,642)**	**$(5,724,352)**	**$ (604,710)**	**12%**

Rate Analysis

In response to UMPA raising our power costs by 6% for FY24, the Energy Board recommended a 2% rate increase to be implemented in September FY24

	FY24 Budgeted	FY24 Rate Increase	Difference	% Change
General Service Sales	$ 34,620,000	$ 35,314,762	$694,762	2%
Residential Service Sales	$ 26,740,000	$ 27,278,725	$538,725	2%
Industrial Service Sales	$ 8,970,000	$ 9,068,045	$98,045	1%
Total	**$70,330,000**	**$71,661,532**	**$1,331,532**	**2%**
General Fund Transfer	$7,736,300	$7,882,769	$146,469	2%
O&M Surplus (Deficit)	**($277,491)**	**$907,573**		
O&M + CIP Surplus (Deficit)	**($5,795,113)**	**($4,610,050)**		

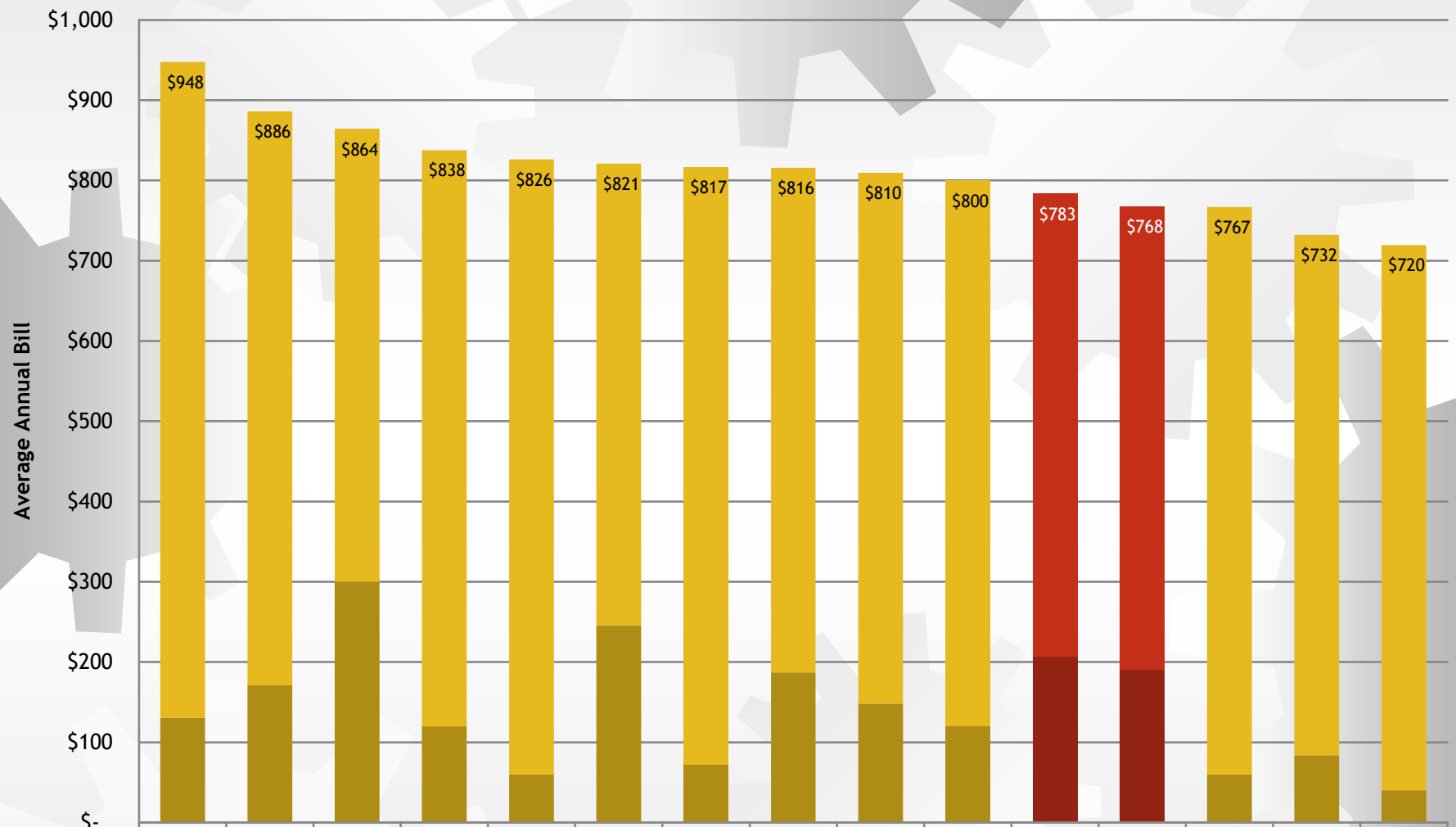
Rate Analysis

Proposed rate changes by customer class

RESIDENTIAL	2023	2024	$ CHANGE
Base charge	$ 15.92	$ 17.19	$ 1.27
Energy charge			
Block 1 (1st 500 kwh)	$0.0734	$0.0734	$ -
Block 2 (2nd 500 kwh)	$0.1019	$0.1019	$ -
Block 3 (above 1K kwh)	$0.1209	$0.1209	$ -
INDUSTRIAL			
Base charge	$232.38	$232.38	$ -
Energy charge	$0.0375	$0.0383	$ 0.0008
Demand charge	$ 15.09	$ 15.09	$ -

SMALL COMMERCIAL	2023	2024	$ CHANGE
Base charge	$ 30.16	$ 30.16	$ -
Energy charge	$0.0453	$0.0453	$ -
Demand charge			
Block 1 (1st 5 kW)	$ 8.18	$ 8.76	$ 0.57
Block 2 (above 5 kW)	$ 14.36	$ 14.93	$ 0.57
LARGE COMMERCIAL			
Base charge	$ 30.16	$ 30.16	$ -
Energy charge	$0.0453	$0.0453	$ -
Demand charge	$ 13.33	$ 14.05	$ 0.72

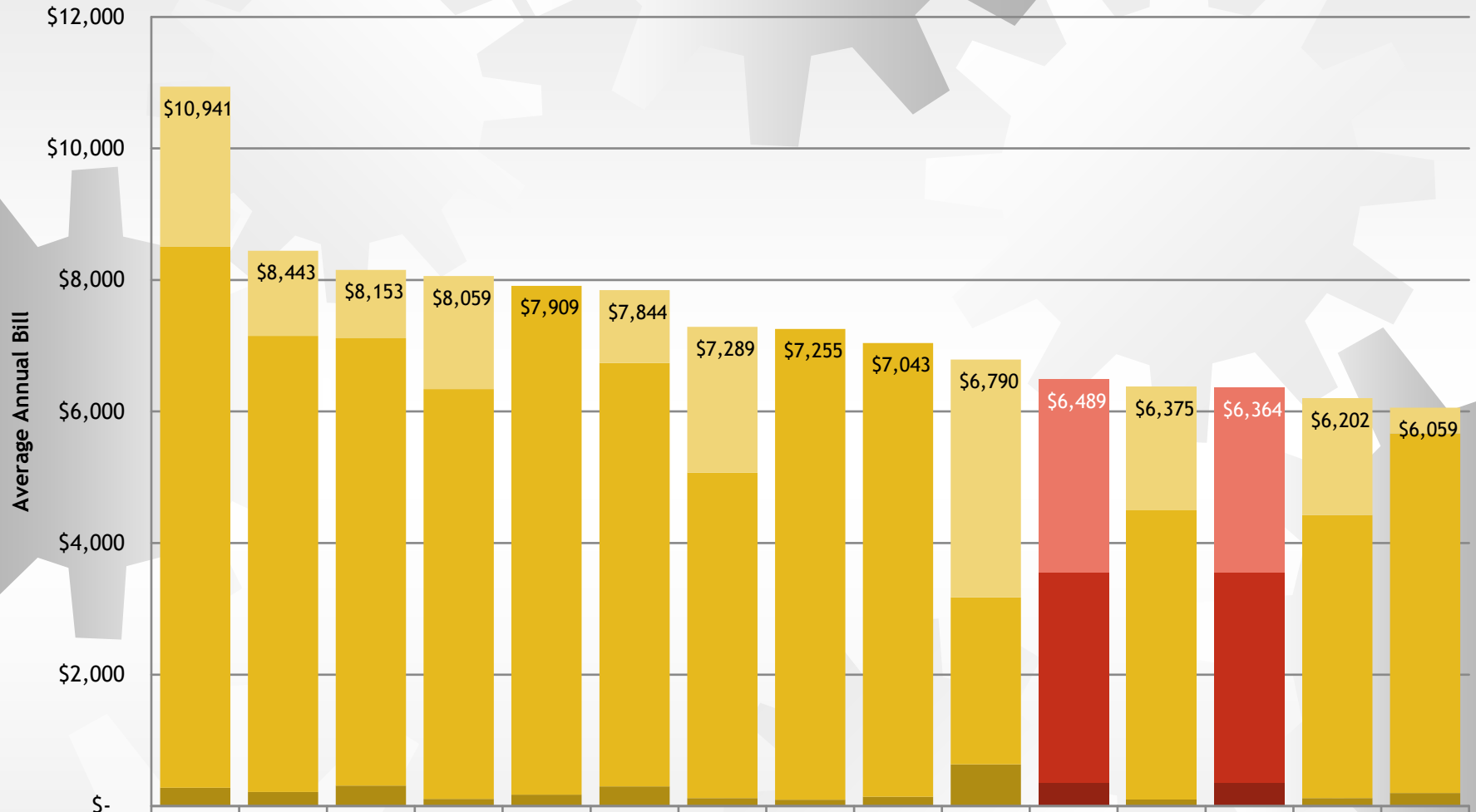
Residential Rate Comparison



	Payson	Salem	St. George	Levan	Lehi	Spanish Fork	Manti	Springville	Bountiful	RMP	New Provo	Provo	Logan	Nephi	Murray
Energy	$817	$715	$564	$718	$766	$575	$745	$629	$661	$680	$577	$577	$707	$648	$679
Base	$131	$171	$300	$120	$60	$246	$72	$187	$148	$120	$206	$191	$60	$84	$40

Strategic Plan | Reliability | Services | Budget

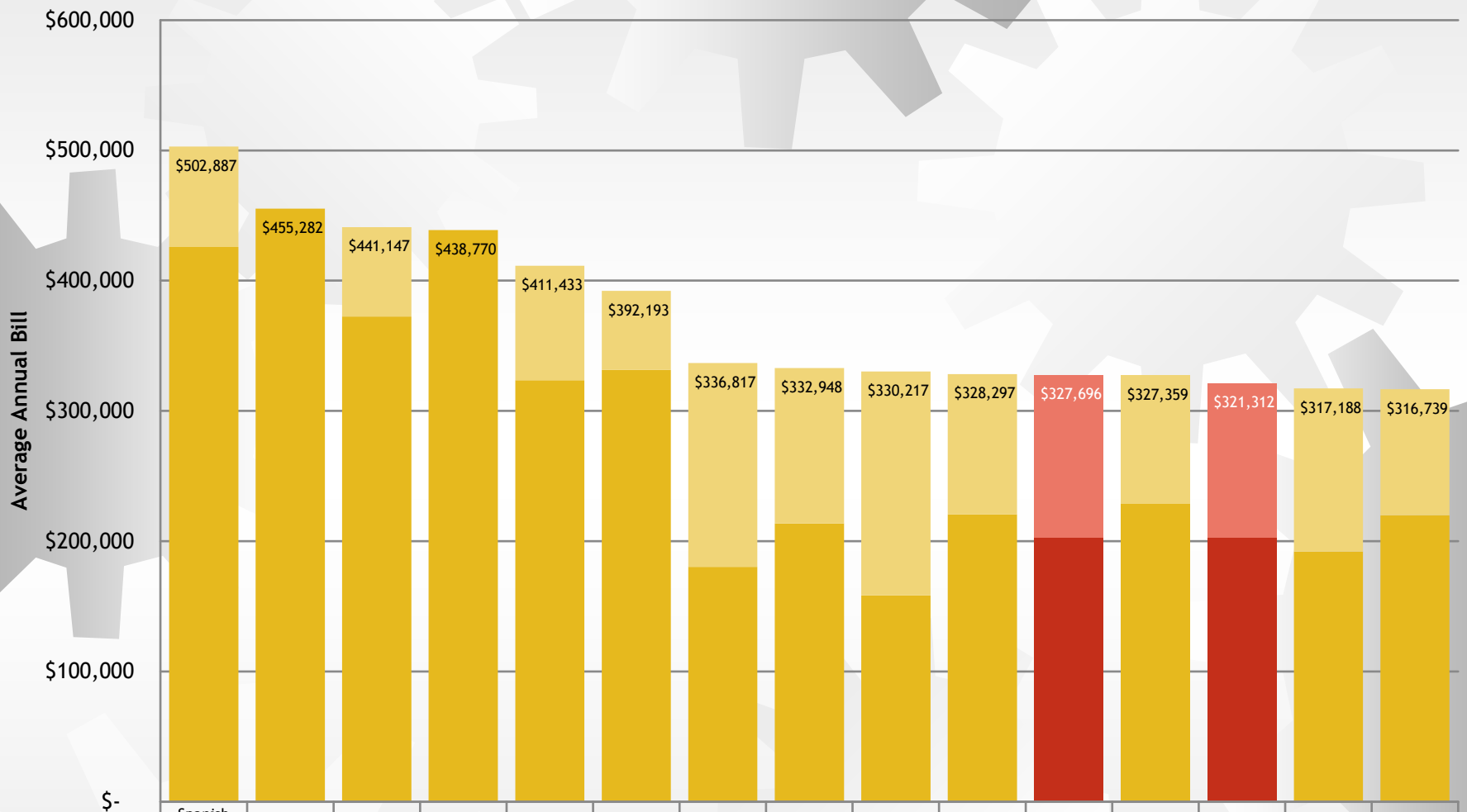
Small Commercial Rate Comparison



	Salem	Spanish Fork	Springville	Lehi	Payson	St. George	Nephi	Manti	Levan	RMP	New Provo	Murray	Provo	Logan	Bountiful
Demand	$2,437	$1,294	$1,038	$1,719	$-	$1,107	$2,218	$-	$-	$3,616	$2,941	$1,874	$2,814	$1,779	$392
Energy	$8,225	$6,933	$6,804	$6,233	$7,736	$6,437	$4,952	$7,159	$6,899	$2,538	$3,187	$4,401	$3,189	$4,303	$5,469
Base	$278	$216	$311	$108	$173	$300	$120	$96	$144	$636	$362	$101	$362	$120	$198

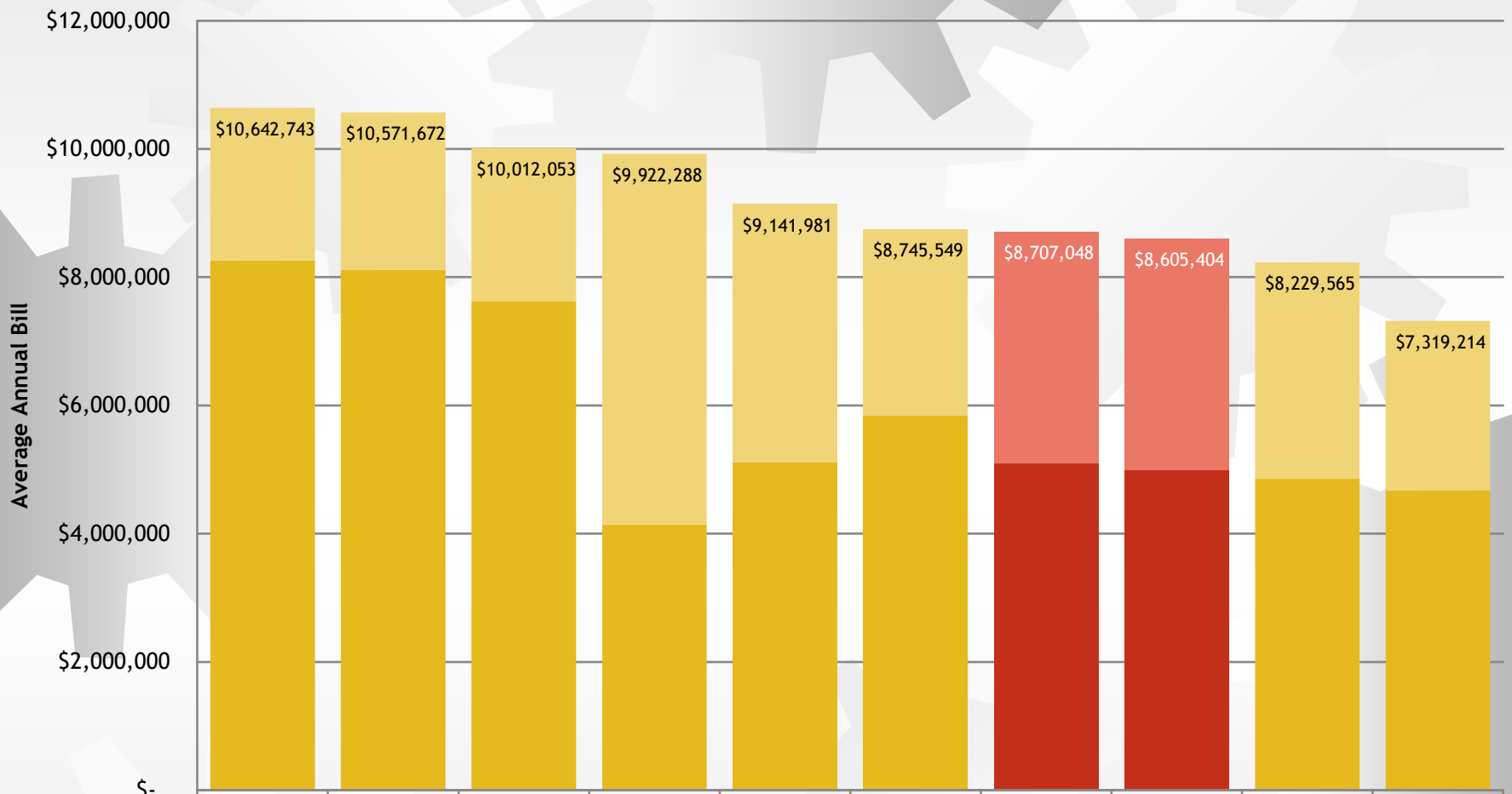
Strategic Plan | Reliability | Services | Budget

Large Commercial Rate Comparison



	Spanish Fork	Manti	Lehi	Levan	Payson	Springville	Bountiful	St. George	RMP	Murray	New Provo	Salem	Provo	Nephi	Logan
Demand	$77,061	$-	$68,719	$-	$87,894	$60,768	$156,597	$119,439	$171,869	$107,734	$124,582	$98,424	$118,197	$125,025	$96,877
Energy	$425,441	$455,186	$372,319	$438,626	$323,139	$331,005	$179,478	$212,661	$157,496	$220,311	$202,752	$228,305	$202,752	$191,563	$219,682
Base	$384	$96	$108	$144	$400	$420	$742	$848	$852	$252	$362	$630	$362	$600	$180

Industrial Rate Comparison



	Springville	Payson	Spanish Fork	RMP	Logan	Murray	New Provo	Provo	Nephi	Salem
Demand	$2,380,20	$2,456,13	$2,392,16	$5,780,41	$4,033,18	$2,901,71	$3,608,76	$3,608,76	$3,372,94	$2,645,73
Energy	$8,261,88	$8,114,20	$7,619,29	$4,138,68	$5,108,79	$5,843,58	$5,095,49	$4,993,84	$4,856,01	$4,672,11
Base	$660	$1,332	$600	$3,192	$-	$252	$2,789	$2,789	$600	$1,369

Questions?

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: MISANDERS
Department: Council
Requested Meeting Date: 01-01-2018

SUBJECT: A presentation regarding the FY2024 Budget - Customer Service (23-008)

RECOMMENDATION: Presentation Only

BACKGROUND: In preparation for the drafting and approval of the FY 2023-2024 budget, each department has been asked to present to the Council. In addition to identifying their priorities, needs, wants, and potential costs, their presentations should address the following questions:

- What were the most important accomplishments for your department from FY2023?
- What were your supplemental requests in FY2023, how did you compensate for those that were not funded?
- What needs are currently unfunded or underfunded in your department?
- The Council adopted several preliminary budget priorities for FY2024, please address those items relative to your department and how those priorities could be executed within your departmental budget.
- Are there other requests related to the FY2024 budget you would like to bring before the Council?
- Are there current budget constraints within your department that do not allow you to execute the city's long-term vision? What keeps you up at night?
- What are you asking for in your budget that will increase your department's ongoing operations and maintenance costs?
- What are your current department performance measures as reported in each fiscal year budget? What would you change?

The full budget that was approved for Provo City for FY 2022-2023 can be found here: https://www.provo.org/home/showpublisheddocument/20680/637956540216500000

FISCAL IMPACT:

PRESENTER'S NAME: Amber Reese, Customer Service Executive Assistant

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-008

Council Budget Presentation

provo 311

CUSTOMER SERVICE

April 2023

Services Offered

- Provo311 Opened in March 2012
- Customer Service is an Internal Service Department
- Hours: Monday through Friday, 8 a.m. to 6 p.m.

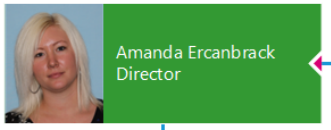
City Services

- 311 Call Center
- Utility Billing
- Business Licensing
- Special Events
- Rental Dwelling Licensing
- Chicken Registration
- Airport Security Badging
- Parking Citations (Payments)
- Fingerprinting
- Passport Services
- Park Pavilion Reservations
- General City Information
- Non-emergency Service Requests

provo 311 CUSTOMER SERVICE

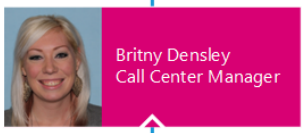
provo 311 CUSTOMER SERVICE

Our Team

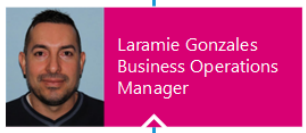


Amanda Ercanbrack
Director

Amber Reese
Executive Office Asst.

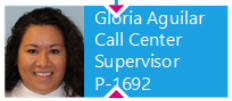


Britny Densley
Call Center Manager



Laramie Gonzales
Business Operations Manager

Annalee Larsen
Billing Manager



Gloria Aguilar
Call Center Supervisor
P-1692

Lindsey Rassmussen
Quality And Training Coord.

Caitlin Roach
Billing Analyst

Anthony Palmer
FT CSR | P-1687

Kevin Estrada
FT CSR | P-1661T

Laura Lopez
FT CSR | P-16191

Hollean Horstmanshoff
FT CSR | P-1653

Ashley Menlove
FT CSR | P-290

Chris Thurman
FT CSR | P-1100

Kristen Butler
FT CSR | P-3089

Vacant
FT CSR | P-1688

Andrea Arce
FT CSR | P-1191

Brittany Richardson
PT CSR | P- 3217

Pearl Spencer
FT CSR | P-1010

Jack Henjum
PT CSR | P-1643

Jessi Ferrin
PT CSR | P-1655

Teyneh Vaofusi
PT CSR | P-1596

Vacant
PT CSR | P-1676

Call Center

Tia Woolsey
PT RPS Clerk

Nancy Davis
Billing Editor

Bridgett Pace
Billing Editor

Julie Giles
Sr. Acct. Tech

Nate Black
Billing Editor

Billing

FY2023 Accomplishments:

- Acquired New Processes:
  - Business Licensing*
  - Rental Dwelling*
  - Special Events*
  - Chicken Registration
  - City Vehicle Reservations
- Repurposed Positions
  - Added Quality and Training Coord.
  - PT RPS Clerk
- Created a Peer Committee
- Refreshed Branding
- Implemented Q-Minder for Lobby
- Formed Executive Assistant Committee
- Two Service Activities
- Went Live on Ring Central (Chat Coming Soon)
  - Added a Billing Queue for CSRs
  - Added a Spanish Speaking Queue

Billing Metrics

provo 311 CUSTOMER SERVICE

- 28,171 Total Disconnects Generated
  - 4,688 Disconnected
- 8,717 Service Start/Stop Orders
- $83,037.91 Debt Collected In-House (4,324 Accounts)
- Average $5.3M Processed by RPS per Month
- Increased Billing Accounts per Cycle from 89% to 99%
- Documented All Job Processes
- Introduced Internal Billing Queue, Answering ~143 Questions/Month

Call Center Metrics

Call Volume
(Calls answered)

Calendar Year

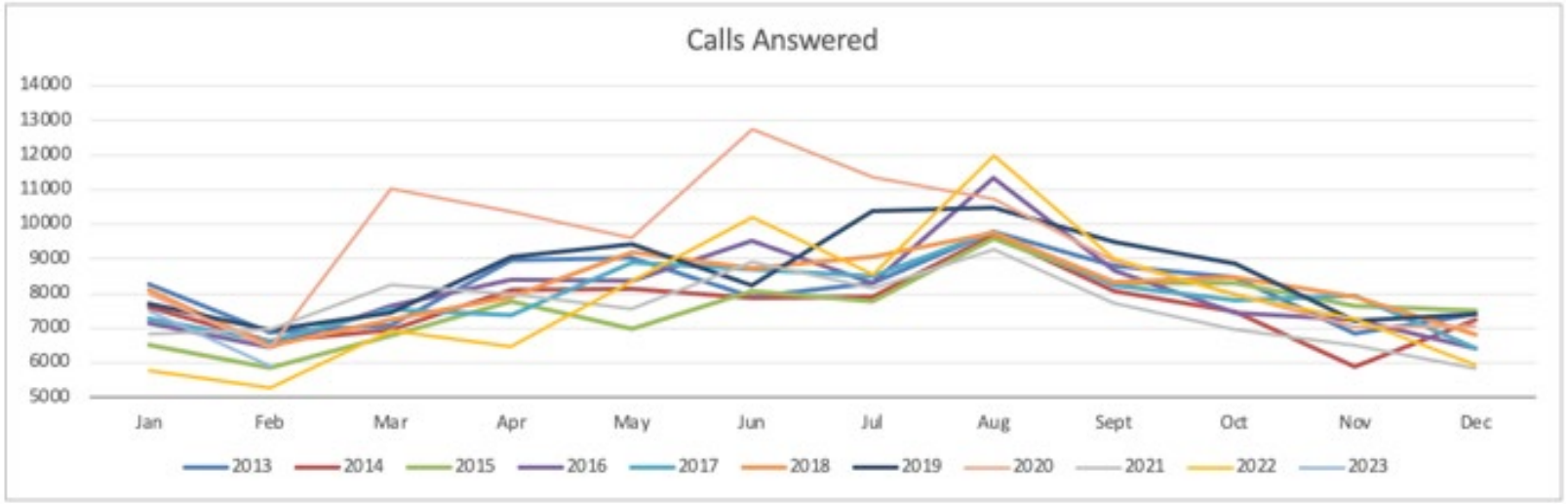
	2017	2018	2019	2020	2021	2022	2023
Calls Answered	95,196	97,929	102,650	111,278	91,036	93,731	13,405***
Increase		2.9%	4.8%	8.4%*	-18.2%**	3.0%	

* Increase in calls due to rate increases, weather, covid-19 and new billing system.

** Decrease in calls due to stabelized billing questions, online traffic use and increase in IVR payments due to new Covid 19 habbits.

*** Increase in calls of 21.3% from this time last year

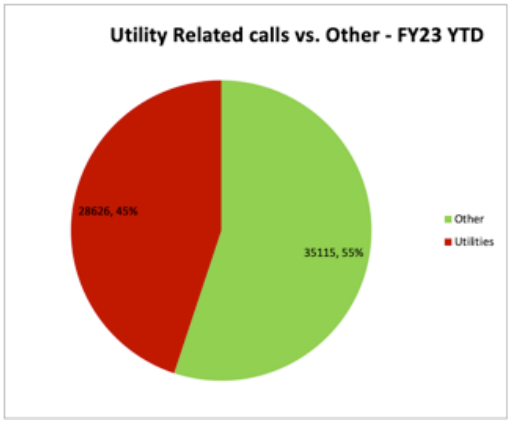
Note: Reason for calls average 60% utility related and 25% other.
(Other = General city information, licensing, parking tickets, sanitation, Parks, Etc...)

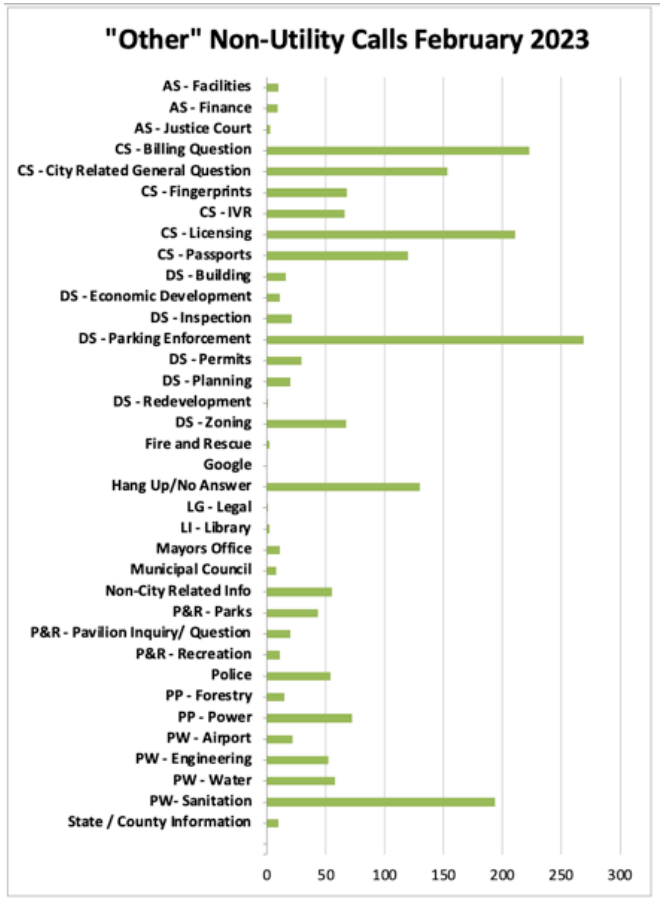


Call Center Metrics

CALL DISTRIBUTION

Total Dispositioned Calls YTD	
Other	35,115
Utilities	28,626
Total	63,741





Call Center Metrics

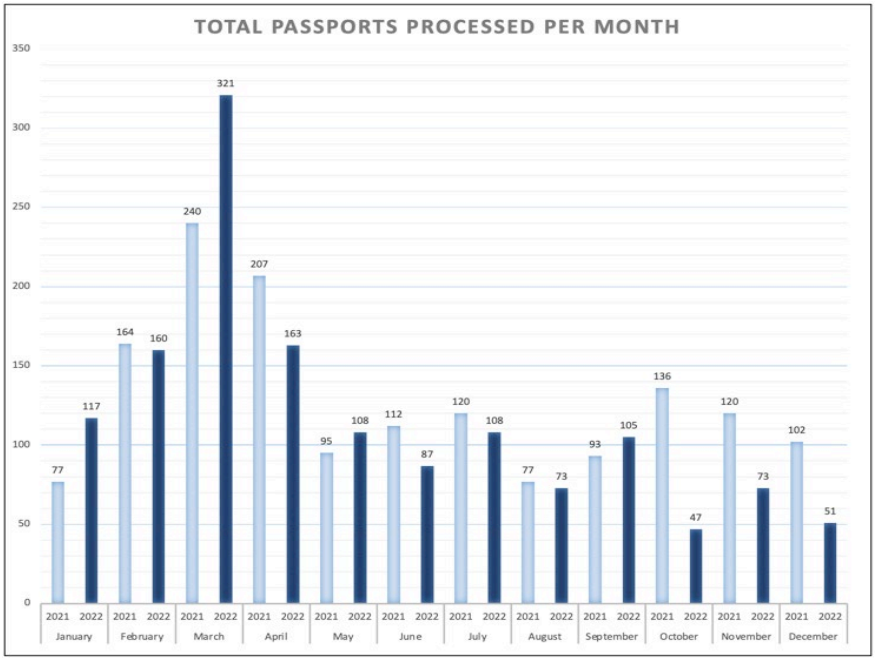
PASSPORT SERVICES

	FY2019		FY2020		FY2021		FY2022		FY2023	
	qty	*$*	*qty*	*$*	*qty*	*$*	*qty*	*$*	*qty*	*$*
Year Total	1140	$39,983	1172	$41,071	980***	$34,406	1604	$56,275		
July - Feb	650	$22,793	1013	$35,506	326**	$11,450	925	$32,465	825*	$28,980*

*** Increase in Service and Revenue of 27% from FY2019 to FY2023**
(FY2019 First year Pasport Services offered)

** Services not available, resumed January 2021

*** 3 months no services offered due to Covid.



provo 311 CUSTOMER SERVICE

Call Center Metrics

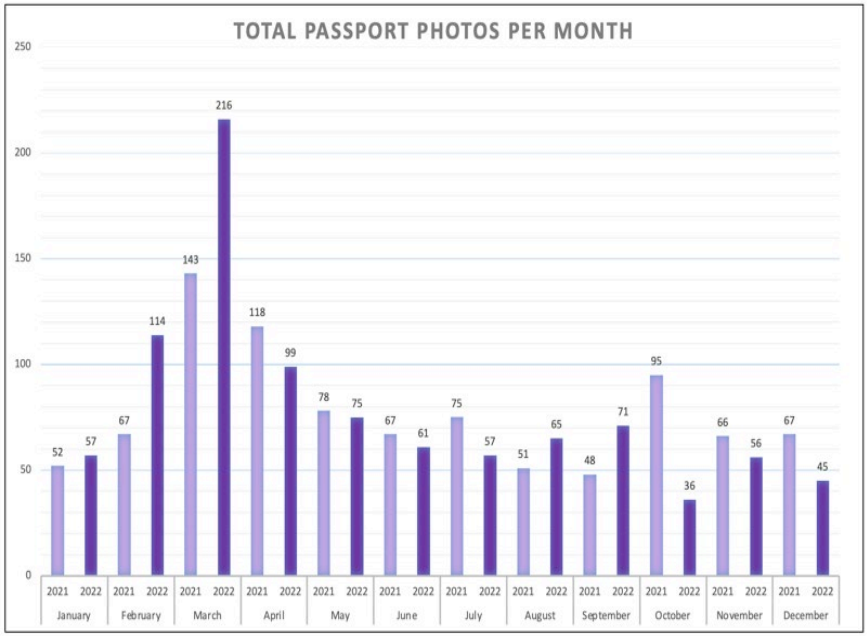
PASSPORT PHOTO SERVICES

	FY2019		FY2020		FY2021		FY2022		FY2023	
	qty	*$*	*qty*	*$*	*qty*	*$*	*qty*	*$*	*qty*	*$*
Year Total	492	$7,365	476	$7,175	591***	$8,900	1024	$15,405		
July - Feb	285	$4,250	404	$6,090	185**	$2,795	573	$8,630	573*	$8,595*

*** Increase in Service and Revenue of 100% from FY2019 to FY2023**
(FY2019 First year Pasport Services offered)

** Services not available, resumed January 2021

*** 3 months no services offered due to Covid.



provo 311 CUSTOMER SERVICE

Call Center Metrics

FINGERPRINTING SERVICES

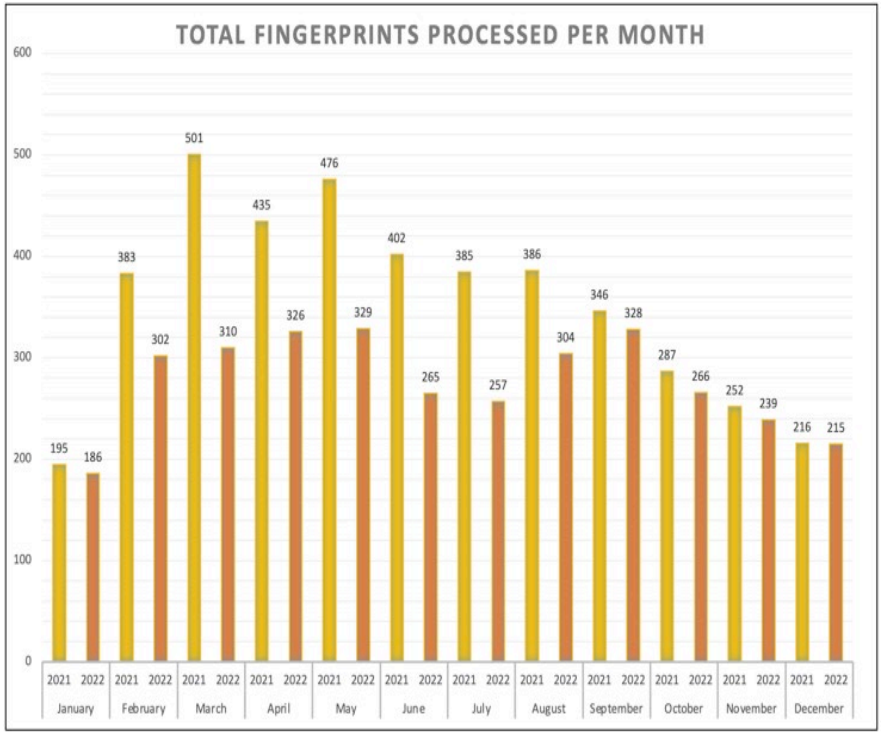
	FY2019		FY2020		FY2021		FY2022		FY2023	
	qty	*$*	*qty*	*$*	*qty*	*$*	*qty*	*$*	*qty*	*$*
Year Total	4953	$49,540	4804	$48,070	3823***	$38,254	3590	$35,905		
July - Feb	3171	$31,725	3679	$36,810	2009**	$20,109	2360	$23,605	2183*	$21,830*

*** Decrease in Service and Revenue of 26% from FY2019 to FY2022**
Increase of 17% from FY2021 to FY2022
Decrease of 8% from FY2022 to FY2023

** Services not available, resumed January 2021

*** 3 months no services offered due to Covid.

Note: Fingerprints for City employees are not included as there is no charge for this internal service.

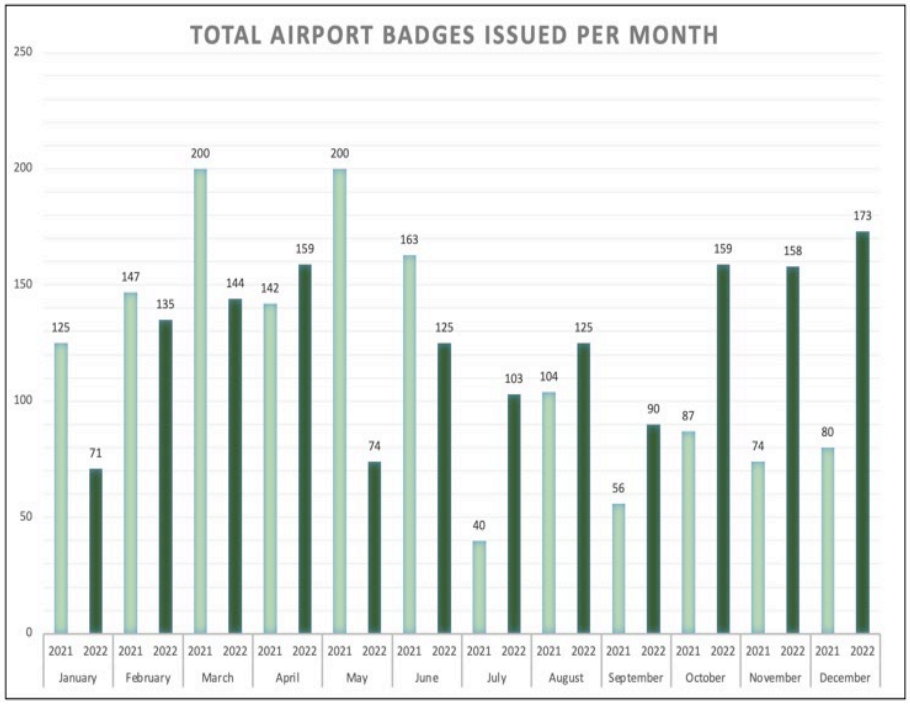


Call Center Metrics

AIRPORT BADGES ISSUED

	FY2022 *qty*	FY2023 *qty*
Year Total	1149	
July - Feb	647	1156*

*** Increase in Service of 79% from FY2022 to FY2023**



Note: Badges issued include New, Renewals, and Replacements (effort / process is the same for each).

Budget & Supplementals

provo 311 CUSTOMER SERVICE

- No supplemental requests in FY23
- No increase to the overall budget for FY24
- Possible needs: funding for system upgrades and app/website integrations

provo 311 CUSTOMER SERVICE

Budget

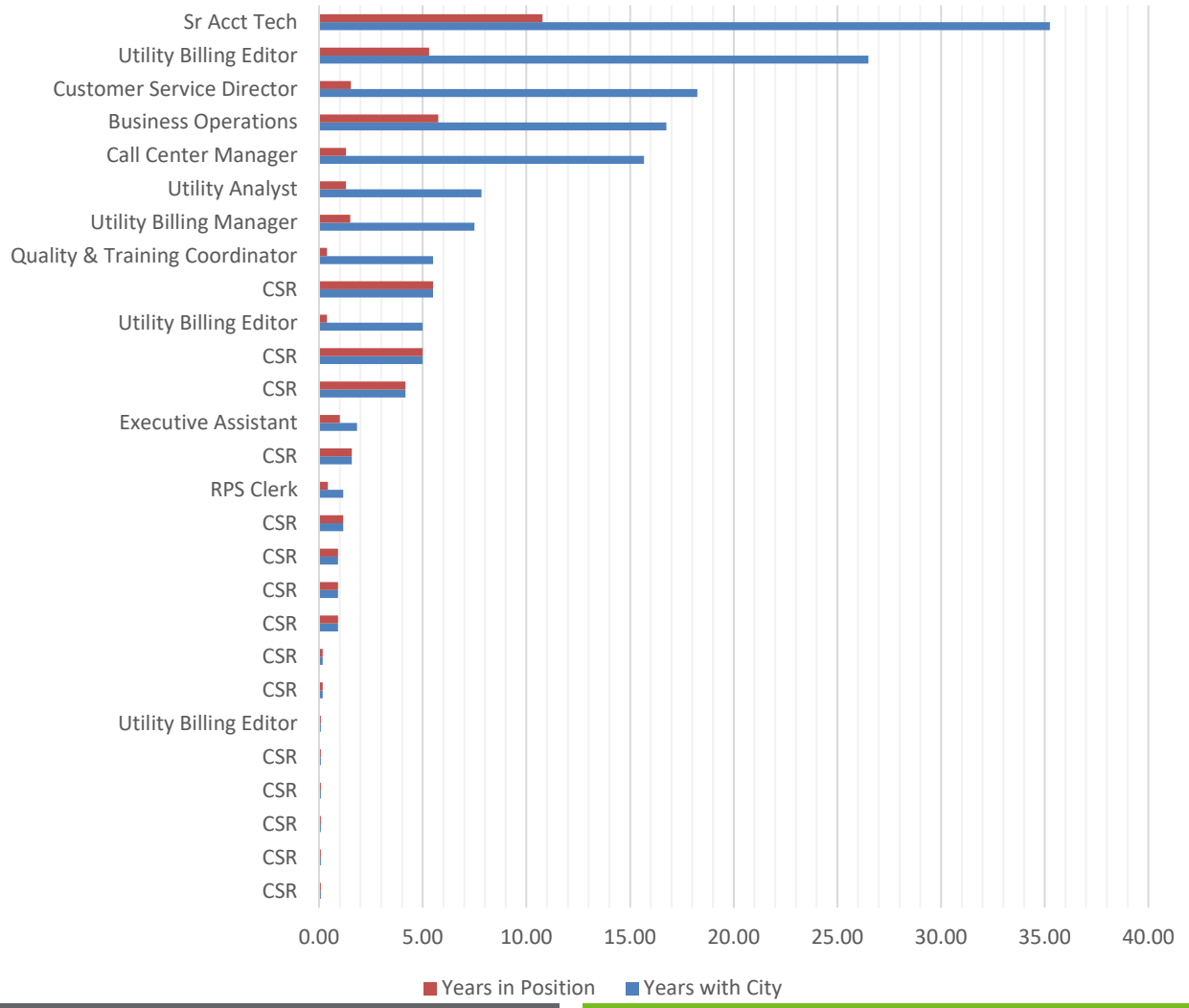
Customer Service Department New Budget Year Comparrison

		Adopted FY 22-23	Proposed FY 23-24	Change	Notes
Administration		$977,508	$215,820		
	Personnel	$408,892	$0		
	O&M	$329,837	$215,820	($114,017)	$110,000 of last years budget was rollover project money to finish the ERP project remainer is facility charges.
	Chage Backs	$238,779	$0		
Utility Billing		$1,319,111	$725,880		
	Personnel	$593,231	$0		
	O&M	$725,880	$725,880		No change.
Information Technology		$248,513	$249,431		
	O&M	$248,513	$249,431	$918	Vendor and maintenance contracts are 74% ($185,000) of this sections budget.
Call Center		$993,509	$32,540		
	Personnel	$960,962	$0		
	O&M	$32,547	$32,540		No change.
Business Licensing		$26,470	$26,470		
	Personnel	$0	$0		Note: Never received Personnel dollars, one Position elliminated (absorbed) by moving to CS.
	O&M	$26,470	$26,470		No change. (note: one Position elliminated by moving to CS)
TOTAL O&M		$1,363,247	$1,250,141	($113,106)	
TOTAL CUSTOMER SERVICE		$3,538,641	$1,223,671		
Increase / Decrease					

Challenges – Recruitment & Retention

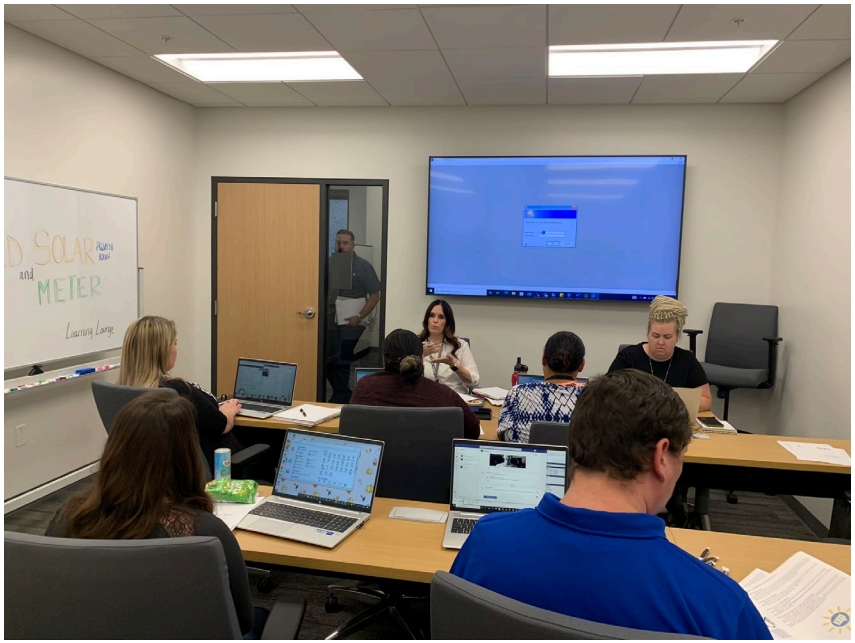
Length of Employment	
Longest	35.25
Shortest	.08
Average Time with City	6.01
Average Time in Position	1.88

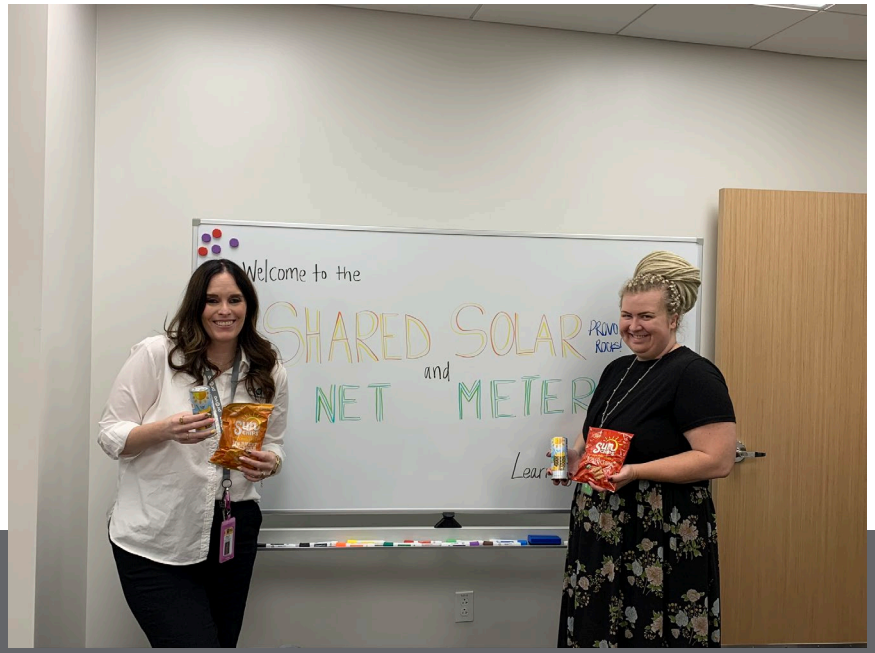
Reasons for leaving in the past 36 months:	
Retired	3
Quit/Terminated	16
Different Department	7
Another City	1



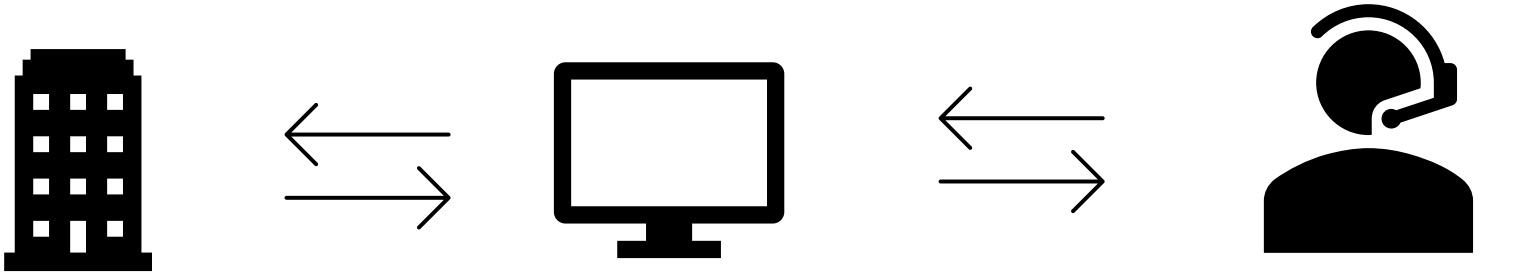
Solutions – Recruitment & Retention

- Timing – Job Market & Reorganization ‘21
- Gamification and Incentives
- Hybrid Work Schedule (draft)
- Peer Committee & Activities
- Weekly Employee Blog
- Consideration of Career Series Advancement
- Enhanced Learning Opportunities
  - Learning Lounge
  - Dedicated Trainer





Challenges – Department Participation



Solutions in Progress:

- PIO
- Executive Assistant Peer Committee

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: JMCKNIGHT
Department: Public Works
Requested Meeting Date: 04-18-2023

SUBJECT: A presentation regarding vehicle replacement and fleet management. (23-008)

RECOMMENDATION: Informational presentation for the upcoming budget

BACKGROUND: The Fleet section of the Public Works Department manages the vehicle replacement for the City in conjunction with representatives from other City departments that take part in the Fleet Advisory Committee (FLAC). This presentation will show the FY24 budget recommendations from that committee.

FISCAL IMPACT: Yes

PRESENTER'S NAME: Warren Merritt, Fleet Manager

REQUESTED DURATION OF PRESENTATION: 30 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-008

VEHICLE REPLACEMENT FY 2024 BUDGET

4/18/23

provo
PUBLIC WORKS

Fleet Advisory Committee

- Members
  - Representation from City Departments representing General, Internal and Enterprise Funds
    - Police
    - Fire
    - Parks and Recreation
    - Public Works
    - Energy
    - Finance
- Roles
  - Evaluate, Prioritize, and Forecast Vehicle Replacement Needs
    - Age, mileage, cost of operation

Best Practices – Vehicle Replacement Cycles

- Mercury and Associates utilization study was done to determine correct fleet size, vehicle and equipment replacement cycle based on mileage/hours, age, and duty cycle
  - For example, due to the extreme duty cycles that are demanded of a Ford Explorer patrol vehicle it will have a shorter service life than an Explorer used for administrative purposes
- Using this data the Fleet Advisory Committee members are able to evaluate their department fleet needs for the next 5 years.

Challenges Impacting Fleet Funding

- Current demand for vehicles far outweighs supply and has contributed to increasing inflation costs
  - Inflation from FY21 to FY22 was between 4% and 12%, inflation from FY22 to FY23 has averaged between 8% and 18%

	2022	2023	Increase
• Ford Escape	$24,269	$27,500	13%
• Ford Explorer	$39,500	$46,000	16%
• Ford F350	$43,500	$52,460	20%
• Sanitation Truck	$171,757	$223,982	30%

  - Forecasting 10% annual inflation on vehicle and upfit costs for FY24 and beyond
  - Significant delays in ordering, production, and delivery of new vehicles
  - Vehicles are being pushed beyond replacement life resulting in increased maintenance, repair costs, and downtime.

Hybrid and Electric Vehicles

- We currently have 1 electric vehicle in Development Services, 1 electric vehicle in Energy, 2 hybrid trucks in Engineering and 32 hybrids in Police

  *Note: FY23 originally planned for 20 additional Ford Explorer Hybrids for the Police Department. This order was placed with Ford on 8/16. 4 weeks later I was notified that Ford had canceled all 20 orders due to lack of needed materials. We were fortunate enough to secure 20 Dodge Durango's equipped the Police Pursuit package as replacements

- FY24 - budget includes 20 additional Police hybrids, pending availability

- There is a need for additional conversations with the Energy department regarding infrastructure needs for further deployment of electric vehicles; charging stations, etc.

5 Year General Fund Replacement List by Department

Department	FY24	FY25	FY26	FY27	FY28
City Pool	2				
Development Services	3				3
Engineering		2	1		
Fire	3	3	2	3	5
Parks	7	6	14	5	6
Police	20	20	20	20	20
Streets	3	3	3	3	3
Total	**38**	**34**	**40**	**31**	**37**

General Fund Impact

Project Title	FY 2023-2024 Estimate	FY 2024-2025 Estimate	FY 2025-2026 Estimate	FY 2026-2027 Estimate	FY 2027-2028 Estimate	Total
CITY POOL	$ 79,200	$ -	$ -	$ -	$ -	$ 79,200
DEV SERVICES	143,660	-	-	-	135,119	278,779
ENGINEERING	-	98,384	40,452	-	-	138,836
FIRE	537,900	482,768	492,561	475,143	888,566	2,876,938
PARKS	533,700	566,062	591,656	581,828	588,990	2,862,236
POLICE	1,490,500	1,600,456	1,407,486	1,738,477	1,596,974	7,833,893
STREETS	747,900	926,628	747,478	870,737	1,076,236	4,368,979
Total Project Costs	**$ 3,532,860**	**$ 3,674,298**	**$ 3,279,633**	**$ 3,666,185**	**$ 4,285,885**	**$ 18,438,861**
General Fund Loan Payments	$3,697,278	$4,062,216	$4,276,747	$4,959,584	$5,138,968	
FY23 Funding Level	$3,309,382	$3,309,382	$3,309,382	$3,309,382	$3,309,382	
Difference	**($387,896)**	**($752,834)**	**($967,365)**	**($1,650,202)**	**($1,829,586)**	

Recommendation

- Requesting additional $388K added to base budget to cover recommended General Fund fleet replacements in FY24.
- FY25 would increase at least $365,000
- FY26 would increase at least $215,000

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: JMCKNIGHT
Department: Public Works
Requested Meeting Date: 04-18-2023

SUBJECT: A presentation regarding the FY2024 Airport Budget and a general airport update. (23-008)

RECOMMENDATION: Informational Only

BACKGROUND: In preparation for the drafting and approval of the FY 2023-2024 budget, each department has been asked to present to the Council. In addition to identifying their priorities, needs, wants, and potential costs, their presentations should address the following questions:

- What were the most important accomplishments for your department from FY2023?
- What were your supplemental requests in FY2023, how did you compensate for those that were not funded?
- What needs are currently unfunded or underfunded in your department?
- The Council adopted several preliminary budget priorities for FY2024, please address those items relative to your department and how those priorities could be executed within your departmental budget.
- Are there other requests related to the FY2024 budget you would like to bring before the Council?
- Are there current budget constraints within your department that do not allow you to execute the city's long-term vision? What keeps you up at night?
- What are you asking for in your budget that will increase your department's ongoing operations and maintenance costs?
- What are your current department performance measures as reported in each fiscal year budget? What would you change?

The full budget that was approved for Provo City for FY 2022-2023 can be found here: https://www.provo.org/home/showpublisheddocument/20680/637956540216500000

FISCAL IMPACT: Yes

PRESENTER'S NAME: Dave Decker, Public Works Director

REQUESTED DURATION OF PRESENTATION: 60 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-008

AIRPORT FY 2024 BUDGET

4/18/23

provo PUBLIC WORKS

Outline

- Current Budget and Revenue Review
- Marketing/Air Service Development
- Terminal Expansion
- Review of Proposed FY24 Budget
- FY24 Immediate CIP

Current Budget and Revenue Review

FY23 Financial Review

	Airfield	Tower	Terminal	Total
Revenues	2,330,725			2,330,725
General Fund Transfer	894,229			894,229
Total Rev & Transfers In	3,224,954			3,224,954
Personnel	1,486,823			1,486,823
Operating	263,827	48,117	441,000	752,944
Chargebacks	416,285			416,285
Other	568,465			568,465
Total Expenses	*2,735,400*	*48,117*	*441,000*	*3,224,517*

FY23 Financial Review

Terminal Facility Lease	
Period	2023
1	
2	
3	$2,920
4	$1,810
5	$8,467
6	$1,810
7	$8,955
8	$11,884
9	$25,780
10	$1,800
11	$1,800
12	$1,800
Total	$67,026
9 Mo. Actual	$61,626
Budget	$20,000
Forecast	$67,026
Variance	**$47,026**

Landing Fees	
Period	2023
1	
2	
3	$22,601
4	
5	$26,197
6	
7	
8	$45,951
9	$17,806
10	
11	
12	$20,000
Total	$132,555
9 Mo. Actual	$112,555
Budget	$72,000
Forecast	$132,555
Variance	**$60,555**

Terminal Use Fees	
Period	2023
1	
2	
3	$50,693
4	
5	$56,693
6	
7	
8	$102,747
9	$88,968
10	
11	
12	$50,000
Total	$349,101
9 Mo. Actual	$299,101
Budget	$195,000
Forecast	$349,101
Variance	**$154,101**

Customer Facility Charge	
Period	2023
1	
2	
3	
4	
5	
6	$10,941
7	$9,141
8	$19,198
9	$4,196
10	$9,000
11	$9,000
12	$9,000
Total	$70,475
9 Mo. Actual	$43,475
Budget	$160,000
Forecast	$70,475
Variance	**($89,525)**

State Fuel Tax Reimbursement	
Period	2023
1	
2	
3	$33,966
4	
5	
6	$24,914
7	
8	
9	$53,395
10	
11	
12	
Total	$112,275
9 Mo. Actual	$112,275
Budget	$37,000
Forecast	$112,275
Variance	**$75,275**

Fuel Flowage Fees	
Period	2023
1	$2,347
2	$26,788
3	$22,280
4	$18,233
5	$21,357
6	$14,064
7	$50,901
8	$8,415
9	$1,626
10	$12,500
11	$12,500
12	$12,500
Total	$203,510
9 Mo. Actual	$166,010
Budget	$150,000
Forecast	$203,510
Variance	**$53,510**

Parking	
Period	2023
1	$18,969
2	$0
3	$56,096
4	$114,169
5	$139,531
6	$124,926
7	$147,656
8	$184,277
9	$245,000
10	$100,000
11	$100,000
12	$100,000
Total	$1,330,623
9 Mo. Actual	$1,030,623
Budget	$600,000
Forecast	$1,330,623
Variance	**$730,623**

Retail Concessions	
Period	2023
1	
2	
3	
4	
5	$10,246
6	$911
7	$4,337
8	$5,924
9	$6,118
10	$1,000
11	$1,000
12	$1,000
Total	$30,536
9 Mo. Actual	$27,536
Budget	$10,000
Forecast	$30,536
Variance	**$20,536**

Rental Car Concessions	
Period	2023
1	
2	
3	
4	
5	
6	$4,133
7	$9,761
8	$37,950
9	$11,017
10	$4,000
11	$4,000
12	$4,000
Total	$74,861
9 Mo. Actual	$62,861
Budget	$190,000
Forecast	$74,861
Variance	**($115,139)**

Tie Down/T-Hangar/Ground Lease Fees	
Period	2023
1	$51,187
2	$22,648
3	$18,732
4	$26,755
5	$26,301
6	$26,258
7	$94,740
8	$28,409
9	$44,898
10	$18,000
11	$18,000
12	$18,000
Total	$393,927
9 Mo. Actual	$339,927
Budget	$350,000
Forecast	$393,927
Variance	**$43,927**

Badging Fees	
Period	2023
1	$800
2	$1,300
3	$825
4	$686
5	$950
6	$1,000
7	$625
8	$1,275
9	$1,300
10	
11	
12	
Total	$8,761
9 Mo. Actual	$8,761
Budget	
Forecast	$8,761
Variance	**$8,761**

Misc Revenue	
Period	2023
1	
2	$2,964
3	
4	$2,216
5	$7,651
6	$2,216
7	$11,980
8	
9	$9,769
10	
11	
12	
Total	$36,796
9 Mo. Actual	$36,796
Budget	$25,000
Forecast	$36,796
Variance	**$11,796**

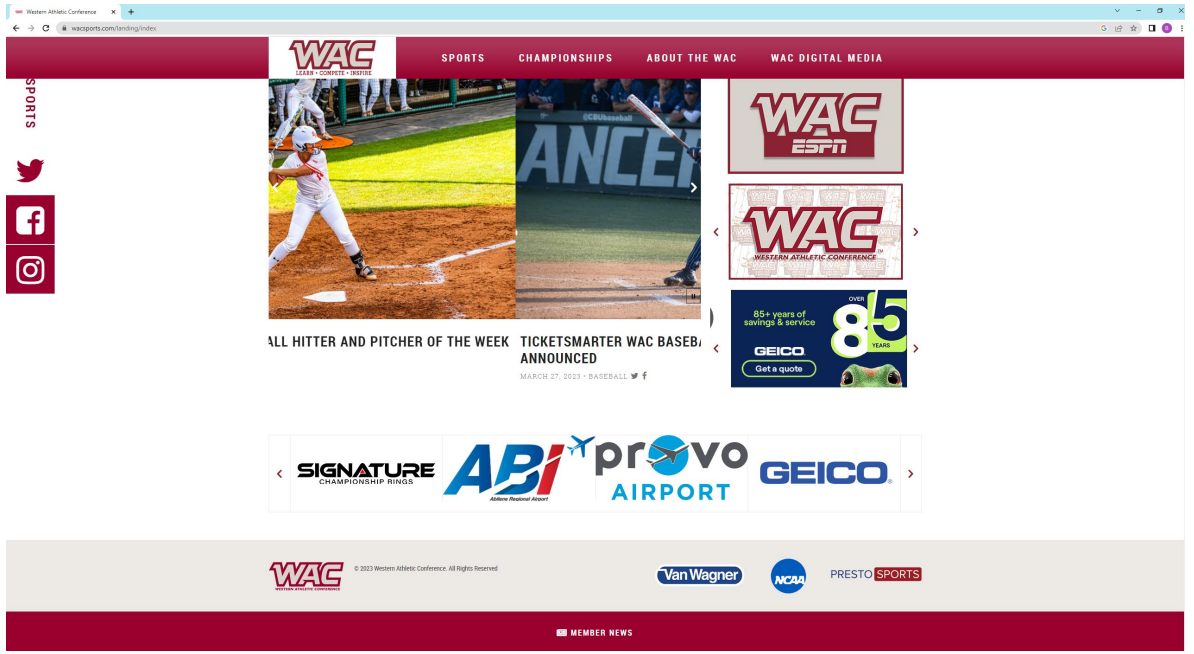
Marketing/Air Service Development

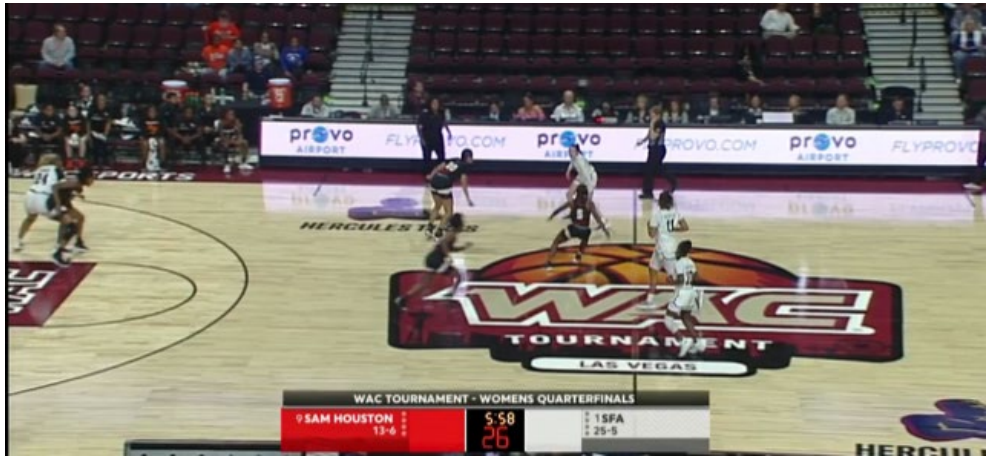
Airline Update/Marketing

Explore Utah Valley Partnership

Airline Update/Marketing

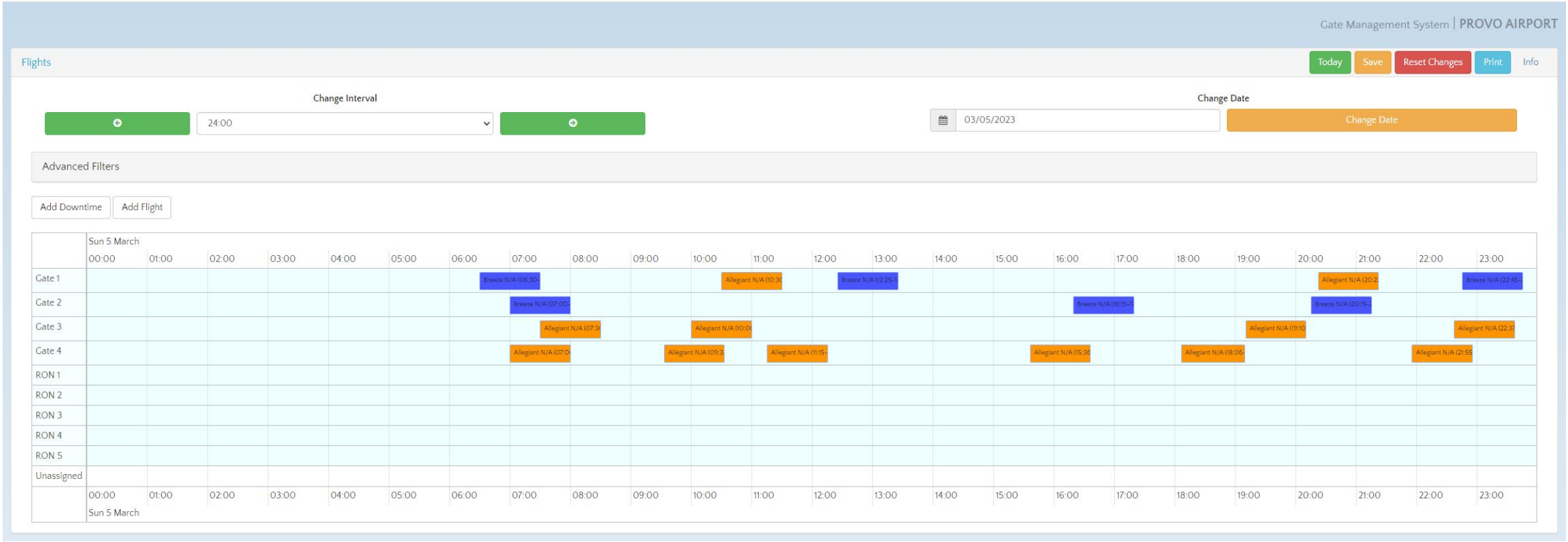
Official Sponsor of the Western Athletic Conference





Airline Update/Marketing

Commercial Operations – Since July 13, 2022



Airline Update/Marketing

Commercial Operations – Since July 13, 2022

Allegiant

Total Flights:	2052
Total Enplaned PAX:	154,471
Total PAX:	302,640

Breeze

Total Flights:	538
Total Enplaned PAX:	22,324
Total PAX:	44,232

Total

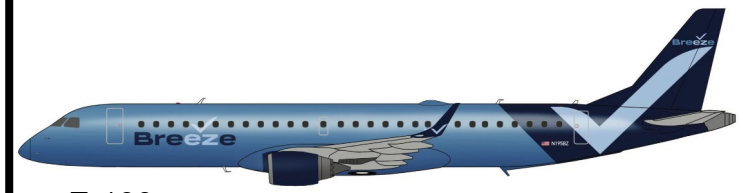
Total Flights:	2590
Total Enplaned PAX:	176,795
Total PAX:	346,872

General Fund Impact Goals (ARFF Index)

ARFF Index B Aircraft

90 ft - 126 ft

Average Daily Departures



E-190 → 1

A-319 & A-320 → 6

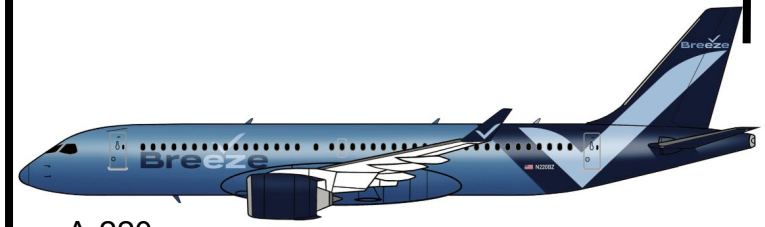
Total

7

ARFF Index C Aircraft

126 ft – 159 ft

Average Daily Departures



A-220 → 2

B-737 Max → 0

Total

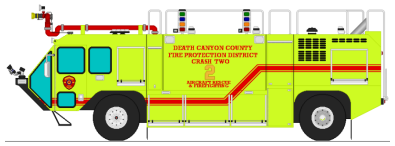
2

Less than 5

More than 5

ARFF Index B Requirement

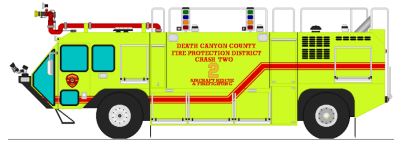
FF FF — 3 MINUTES



ARFF Index C Requirement

FF — 3 MINUTES

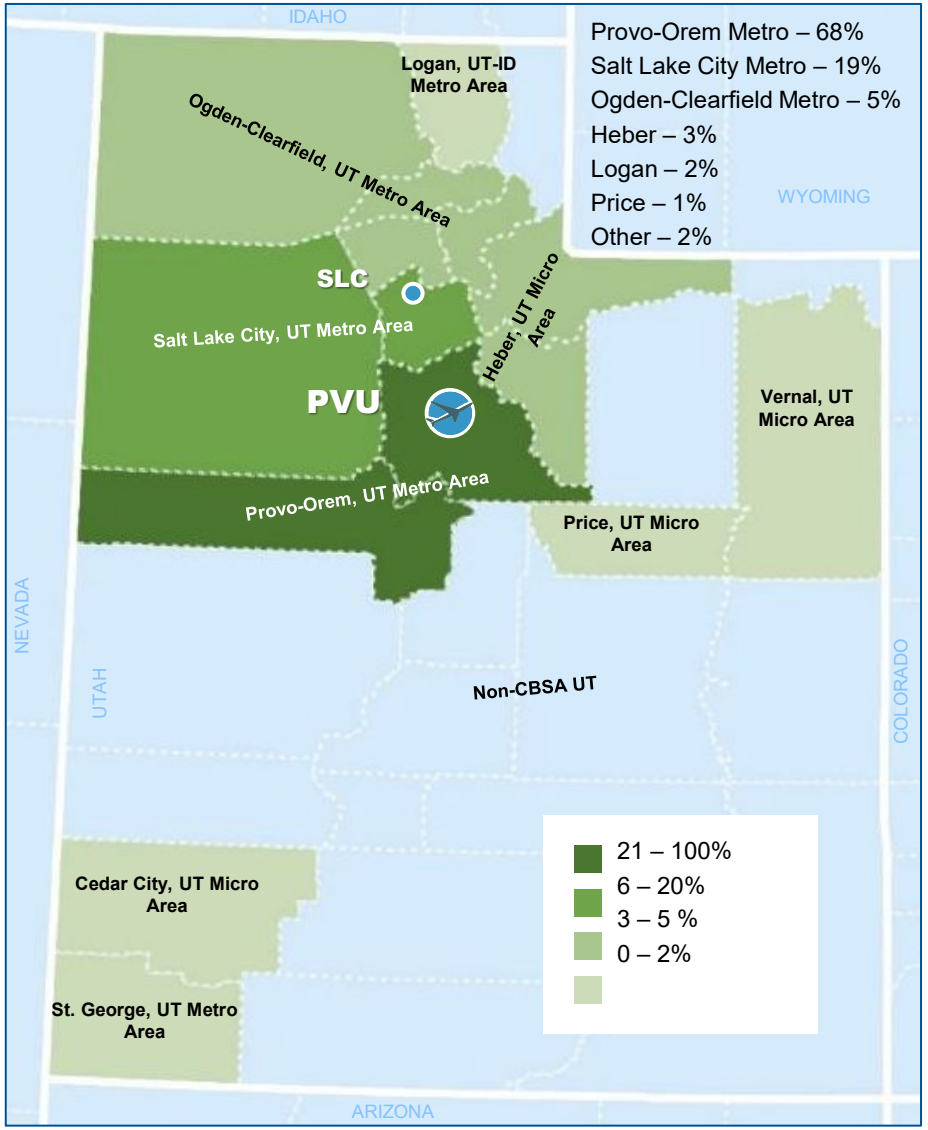
AO — 4 MINUTES



AO — 4 MINUTES

Airline Update/Marketing

PVU Commercial Passengers



*Primary Service area is the Provo-Orem MSA

Source: Placer ai data, PVU/Meehan Aviation Group Leakage Study

Airline Update/Marketing

Air Service Development

PVU's Current Airline Carriers

allegiant

Breeze

PVU's focus for new air service development: Major Network Carriers with daily service

UNITED

SkyWest AIRLINES

American Airlines

Southwest

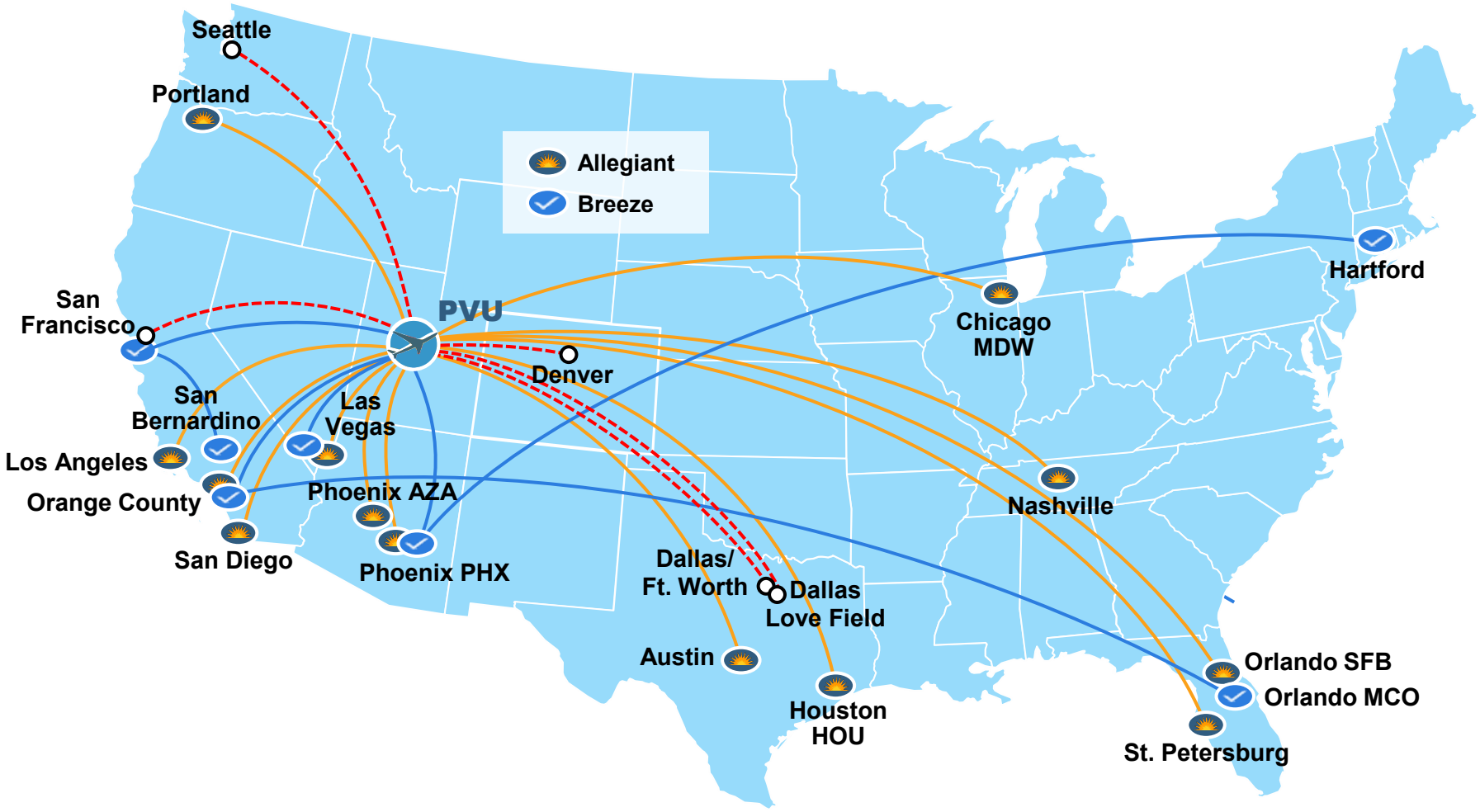
Alaska

Provo's Top 20 Domestic Markets
CY 2021

O&D Rank	City	O&D Passengers from Provo Catchment Area			Capture Rate	Percent of Total
		Using PVU	Using SLC	Total		
1	Phoenix	127,889	151,786	279,675	45.7%	10%
2	Los Angeles	9,118	136,628	145,746	6.3%	5%
3	Denver	2,678	126,305	128,983	2.1%	5%
4	Orlando	0	107,560	107,560		4%
5	New York	0	100,992	100,992		4%
6	Dallas/Fort Worth	0	97,666	97,666		3%
7	Las Vegas	225	92,549	92,774	0.2%	3%
8	Seattle/Tacoma	0	92,019	92,019		3%
9	San Diego	0	79,771	79,771		3%
10	Orange County	19,156	53,383	72,539	26.4%	3%
11	Chicago	0	69,588	69,588		2%
12	Atlanta	0	61,603	61,603		2%
13	Houston	2,325	58,081	60,406	3.8%	2%
14	Portland	0	54,096	54,096		2%
15	Boston	0	48,931	48,931		2%
16	San Francisco	0	47,819	47,819		2%
17	Honolulu	0	43,938	43,938		2%
18	Oakland	0	41,224	41,224		1%
19	Washington	0	40,912	40,912		1%
20	Austin	1,958	36,169	38,127	5.1%	1%
	Other	11,691	1,089,919	1,101,610	1.1%	39%
	Total	**175,040**	**2,630,940**	**2,805,980**	**6.2%**	**100%**

Airline Update/Marketing

Commercial Operations – Since July 13, 2022



Airline Update/Marketing

PVU Business Travel Task Force

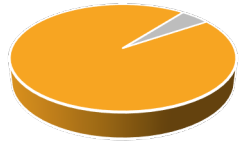
262
Surveys Completed

118
Respondents offered to Participate on the Task Force

SEA and SFO are in the top 15 destinations

Dallas and DEN are top unserved destinations

95%



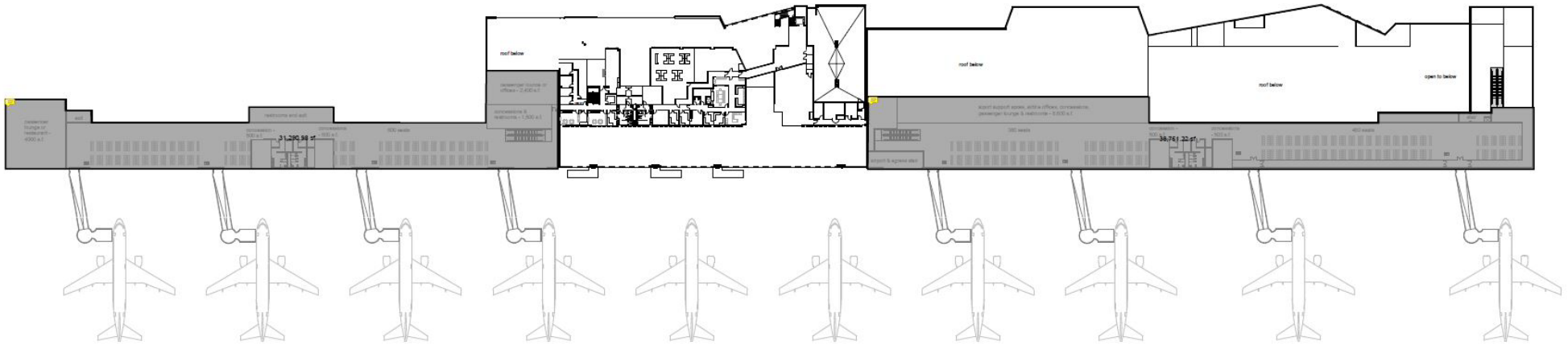
of respondents would use PVU if competitive service was obtained

Source: Meehan Aviation Group

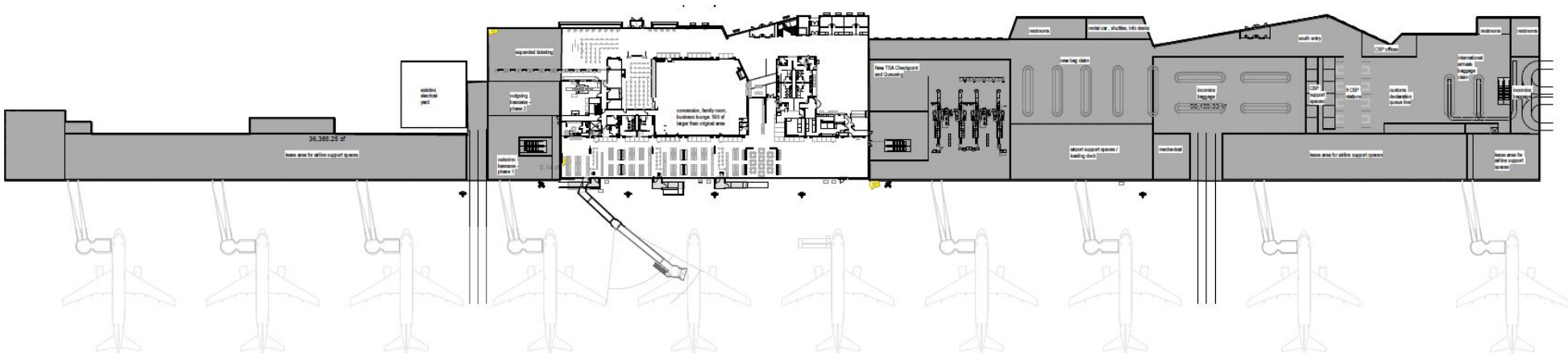
Terminal Expansion

Terminal Expansion Update

Terminal Expansion Update

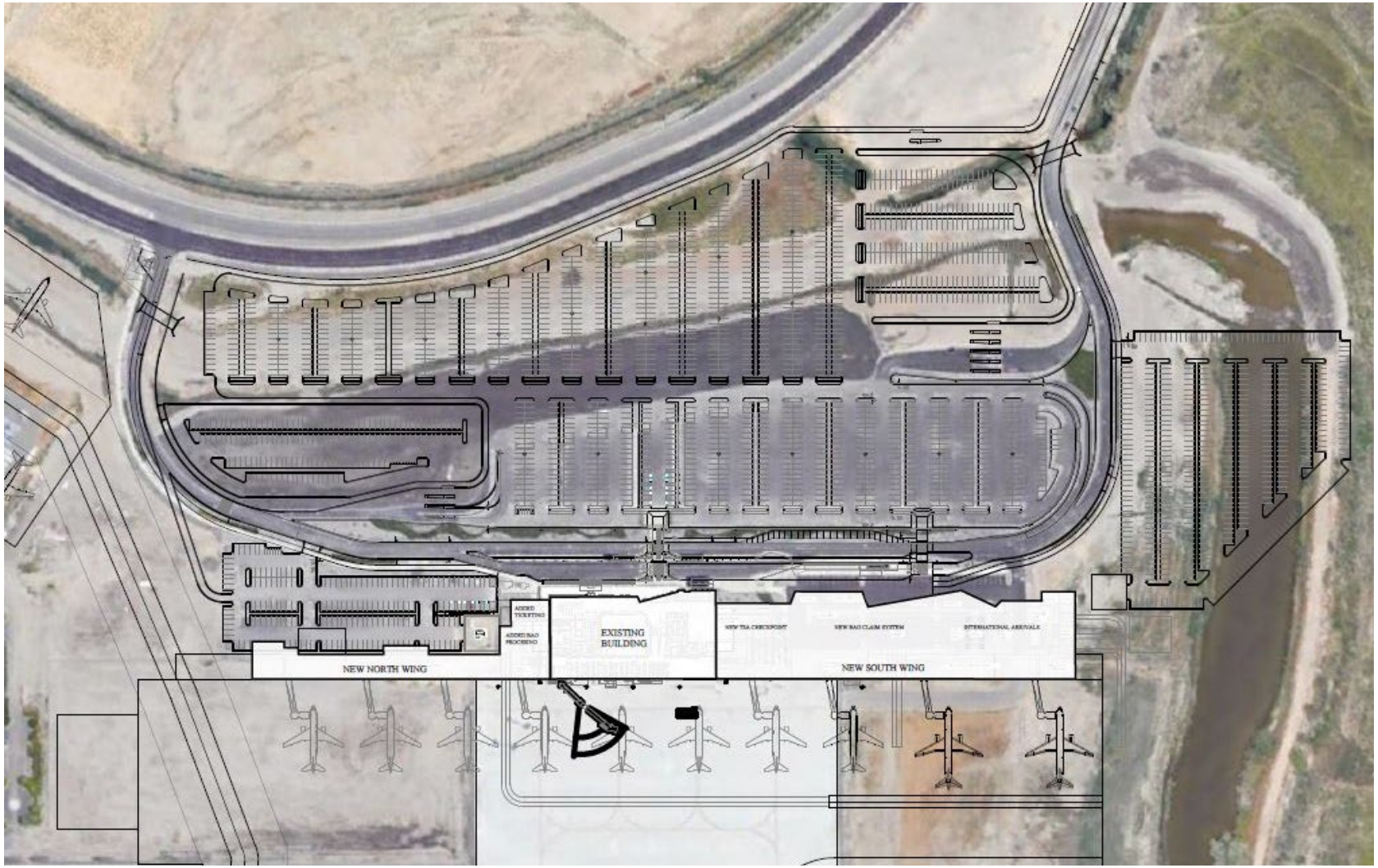


SECOND LEVEL - GATES
70,000 S.F.



MAIN LEVEL - ENTRY, BAGGAGE & INTERNATIONAL ARRIVALS
135,000 S.F.

Terminal Expansion Update



Review of Proposed FY24 Budget

Fee Changes

- Daily parking rate increase from $10 to $12
- Landing Fee increase from $0.97 to $1.03 per 1,000 pounds
- Terminal Fee from $1.83 to $1.95 per enplaned passenger
- New Passenger Facility Charge $4.50 per passenger

FY24 Immediate CIP

Upcoming CIP (no FAA Funding)

- Runway 13-31 Rubber Removal and Re-Striping - $465,000
- Snow Removal Equipment (SRE) and Operations Building - $1,500,000
- Security Badging Software System - $200,000
- Security Badging Office Space - $300,000
- Terminal Parking Lot Expansion - $2,500,000
  - New Parking Toll System - $300,000
- North Taxiway C Hangar Expansion
  - Land Purchase - $1,200,000
  - Taxiway, Roadway and Utility Improvements - $6,000,000 (PPP)

PROVO MUNICIPAL COUNCIL STAFF REPORT

Submitter: JUHARRISON
Department: Council
Requested Meeting Date: 04-18-2023

SUBJECT: A presentation regarding flood mitigation and Spring run-off. (23-041)

RECOMMENDATION: Presentation

BACKGROUND: Presentation regarding flood mitigation and Spring run-off.

https://www.provo.org/departments/development/planning/flood-information
https://www.provo.org/departments/public-works/storm-water

FISCAL IMPACT: N/A

PRESENTER'S NAME: Dave Decker, Director of Public Works

REQUESTED DURATION OF PRESENTATION: 20 minutes

COMPATIBILITY WITH GENERAL PLAN POLICIES, GOALS, AND OBJECTIVES:

CITYVIEW OR ISSUE FILE NUMBER: 23-041