



**CITY COUNCIL MEETING AGENDA  
MAY 25, 2021 AT 6:00 PM  
505 EAST 2600 NORTH  
NORTH OGDEN, UT 84414**

**PUBLIC CAN ATTEND BY:**

Register here to attend in-person. Limited to 15 participants.

Click the link below to join the webinar: <https://us02web.zoom.us/j/82332740465> Webinar ID: 823 3274 0465

Or Telephone Dial: 1 346 248 7799 or 1 669 900 9128 or 1 253 215 8782 or 1 312 626 6799

YouTube: <https://www.youtube.com/channel/UCrigbePBxTucXEzRr6fclhQ/videos>

**Welcome:** Mayor Berube

**Invocation & Pledge of Allegiance:** Council Member Ekstrom

**Swearing in of Officer Gabriel Mata III**

**CONSENT AGENDA**

1. Call for conflict of interest disclosure
2. Discussion and/or action to consider April 27, 2021 City Council meeting minutes
3. Appointment of Jay D. Dalpiaz, Chairman for the Economic Development Committee

**ACTIVE AGENDA**

4. Public Comments
5. Discussion and/or action on a Resolution authorizing the issuance and sale of Sales Tax Revenue Bonds for the purpose of financing the Public Safety Building  
Presenter: Jon Call, City Manager/Attorney
6. Discussion and/or action to consider an amendment to the Patriot Pointe site plan related to setbacks between buildings and from the property line  
Presenter: Jon Call, City Manager/Attorney
7. Discussion and/or action on request for financial assistance from the citizen sponsored Cherry Days Parade  
Presenter: Mark Miller, Public Citizen
8. Discussion and/or action to consider an Ordinance annexing 1.14 acres located at 1700 North Fruitland Drive  
Presenter: Susan Nance, Deputy City Recorder
  - a. Public Hearing to receive comments on a petition to consider annexing property
  - b. Discussion and/or action to consider an Ordinance annexing 1.14 acres located at 1700 North Fruitland Drive
9. Discussion and/or action to consider an Ordinance annexing 1.83 acres located at 304 East 2000 North  
Presenter: Susan Nance, Deputy City Recorder
  - a. Public Hearing to receive comments on a petition to consider annexing property

***\*Please see notes regarding Public Comments rules and procedure***

The Council at its discretion may rearrange the order of any item(s) on the agenda. Final action may be taken on any item on the agenda. In compliance with the American with Disabilities Act, needing special accommodation (including auxiliary communicative aids and service) during the meeting should notify the City Recorder at 801-782-7211 at least 48 hours prior to the meeting. In accordance with State Statute, City Ordinance, and Council Policy, one or more Council Members may be connected via speakerphone or may by two-thirds vote to go into a closed meeting.

**CERTIFICATE OF POSTING**

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted within the North Ogden City limits on this 21st day of May, 2021 at North Ogden City Hall, on the City Hall Notice Board, on the Utah State Public Notice Website, and at [www.northogdencity.com](http://www.northogdencity.com). The 2021 meeting schedule was also provided to the Standard Examiner on December 12, 2020. Katie Gerard, City Recorder

- b. Discussion and/or action to consider an Ordinance annexing 1.83 acres located at 304 East 2000 North
  - 10. Discussion and/or action on contract for city auditor  
Presenter: Jon Call, City Manager/Attorney
  - 11. Discussion and/or action on contract for city financial advisor  
Presenter: Jon Call, City Manager/Attorney
  - 12. Discussion and/or action on city provided cell phones for Council Members  
Presenter: Council Member Swanson and Jon Call, City Manager/Attorney
  - 13. Discussion and/or action to approve the Local Transportation Funding Agreement  
Presenter: Jon Call, City Manager/Attorney
  - 14. Council Department Reports:
    - a. Council Member Cevering – Public Works
    - b. Council Member Ekstrom – Parks and Recreation
    - c. Council Member Stoker - Police
  - 15. Public Comments
  - 16. Council/Mayor/Staff Comments
  - 17. Closed meeting
  - 18. Adjournment
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### **Public Comments/Questions**

- a. Time is made available for anyone in the audience to address the Council and/or Mayor concerning matters pertaining to City business.
- b. When a member of the audience addresses the Mayor and/or Council, he or she will come to the podium and state his or her name and address.
- c. Citizens will be asked to limit their remarks/questions to five (5) minutes each.
- d. The Mayor shall have discretion as to who will respond to a comment/question.
- e. In all cases the criteria for response will be that comments/questions must be pertinent to City business, that there are no argumentative questions and no personal attacks.
- f. Some comments/questions may have to wait for a response until the next Regular Council Meeting.
- g. The Mayor will inform a citizen when he or she has used the allotted time.

**NORTH OGDEN CITY COUNCIL  
MEETING MINUTES**

April 27, 2021

The North Ogden City Council convened in a meeting on April 27, 2021 at 6:00 p.m.  
<https://us02web.zoom.us/j/8166334992> ID: 816 6334 9922 Or Telephone Dial: US +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 or +1 312 626 6799 YouTube:  
<https://www.youtube.com/channel/UCriqbePBxTucXEzRr6fclhQ/videos>. Notice of time, place, and agenda of the meeting was posted on the bulletin board at the municipal office and posted to the Utah State Website on April 23, 2021. Notice of the annual meeting schedule was published in the Standard-Examiner on December 13, 2020.

PRESENT:	S. Neal Berube	Mayor
	Ryan Barker	Council Member
	Blake Cevering	Council Member
	Charlotte Ekstrom	Council Member (participated via Zoom)
	Cheryl Stoker	Council Member
	Phillip Swanson	Council Member

STAFF PRESENT:	Jon Call	City Manager/Attorney
	Clark Crowther	Lieutenant
	Dave Espinoza	Public Works Director
	Lorin Gardner	City Engineer
	Katie Gerard	City Recorder
	Jami Jones	HR/Treasurer
	Chelsea Nelson	
	Evan Nelson	Finance Director
	Jamie Rasmussen	
	Rob Scott	City Planner
	Tiffany Staheli	Parks and Recreation Director
	Dirk Quinney	Police Chief

VISITORS:	Brenda Ashdown	Jay D. Dalpias	Jerry Shaw
	Dallin Barker	Brett Hamblin	Jeanette Sweet
	Melanie Barker	John Hansen	Jennie Taylor
	Rod Barker	Marc Hansen	Mary Wright
	Brittany Bennett	Susan Kilborn	
	Geneva Blanchard	Terri McCulloch	
	Sean Casey	Jocelyn Michael	
	Stefanie Casey	Phil Nelsen	
	Kim Christensen	Doug Nandell	
	Susan Clements	David Rady	
	Brian Cowan	Rick Scadden	

Mayor Berube called the meeting to order and indicated Council Member Ekstrom will be participating via Zoom. Council Member Swanson offered the invocation and led the audience in the Pledge of Allegiance.

Mayor Berube then invited City Recorder Gerard to administer the Oath of Office for a recently hired Police Officer. Mayor Berube then welcomed the new officer to North Ogden City; he commented on the high-risk nature of a law enforcement officer's job and thanked the entire Police force for the service they provide to the community. He then invited Chief Quinney to introduce the Department's new K-9 officer, Mila. Chief Quinney stated the Department's former police dog recently retired and efforts have been underway to recruit and train a new K-9 officer. This K-9 will be single-purpose in nature, with the charge of detecting drugs.

**CONSENT AGENDA**

**1. CALL FOR CONFLICT OF INTEREST DISCLOSURE.**

Mayor Berube asked if any Councilmember had any conflict of interest to disclose. Council Member Cevering stated he had a conflict of issue for the matters listed under agenda item three related to the Northampton Estates final inspection report.

**2. DISCUSSION AND/OR ACTION TO CONSIDER MARCH 23, 2021 CITY COUNCIL MEETING MINUTES.**

**Council Member Swanson motioned to approve the March 23, 2021 City Council meeting minutes as presented. Council Member Cevering seconded the motion.**

**Voting on the motion:**

<b>Council Member Barker</b>	<b>aye</b>
<b>Council Member Cevering</b>	<b>aye</b>
<b>Council Member Ekstrom</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>

**The motion passed unanimously.**

**3. FINAL INSPECTION REPORTS**

**Council Member Barker motioned to approve the final inspection of the Oakmont Estates property and the conditional inspections for the Northampton Estates, Northwood Hills Phase 1, Northwood Hills Phase 2, and Pheasant Landing properties. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Barker</b>	<b>aye</b>
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<b>Council Member Cevering</b>	<b>abstained</b>
<b>Council Member Ekstrom</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>

**The motion passed unanimously.**

**ACTIVE AGENDA**

**4. PUBLIC COMMENTS**

Doug Nandell, North Ogden resident, stated he is here tonight to discuss a concern he has and to offer a solution; he lives just off 1700 North and he received a visit from a Code Enforcement Officer regarding a code violation on his property related to his motorhome. When he was building his home a few years ago he asked Code Enforcement about the rules for parking a motorhome on his property and he was told that so long as the motorhome is not parked on or blocking the sidewalk, it is not a problem. However, the Officer neglected to tell him about City Code 11-10-22, which is the section of the Code governing motorhomes; this Section states that such vehicles must be located no closer to the property line than 10-feet. He stated this Code was written 18 years ago and since then the City has grown and lot sizes have decreased; at the time the Code was written, a 10-foot setback may have been reasonable, but with smaller lot sizes it is nearly impossible to comply with that requirement. Anyone who owns a trailer or motorhome will likely be required to extend their property or store the vehicle offsite. Right now, storage is very expensive, and it would cost him \$120 per month. He stated that he formerly served on the Planning Commission in Roy City and he understands land use ordinances; he recommended the City Council consider a code text amendment that would adjust the required setback while still preserving any sight triangle for vehicles and pedestrians. He added he would also suggest an amendment that removes the restriction on parking a motorhome on a private driveway, and stated he feels this should be allowed during winter months so long as the motorhome is not parked on a public street.

Rod Barker, North Ogden resident, stated that he and his family appreciate the service provided by the Mayor and City Council; he cares a great deal about the land next to his home, which is commonly referred to as ‘the hollow’ at Barker Park. This property was owned by his family for a long period of time dating back 100 years and he provided a photograph of the property in its present condition to illustrate the fact that the north side of the hollow is still not being taken care of. Whatever the City or its contractor – Visionary Homes – has tried to improve or maintain the property is not working; the debris on the property was left there by adults who refuse to clean up after themselves. Visionary Homes is essentially ‘thumbing their nose’ at the City by refusing to clean the area. He referenced an offer he made last year to purchase the property to make it part of his own property and properly maintain it. He understands why his offer was rejected, but noted that one comment that was made during the discussion of his offer was that the City would maintain the property in a pristine fashion. This is not the case, and it is very upsetting to him after his efforts over many years to keep the property clean and

presentable. He stated that Visionary Homes is essentially disrespecting the land and this has led to damages to adjacent private properties. He stated that the solution he would suggest includes a fine being issued to Visionary Homes for their damages to the hollow and adjacent properties. Additionally, the City could refuse to inspect the homes being built there until the nuisances are corrected. Parks and Recreation staff could be directed to clean the property and a bill could be sent to Visionary Homes for that work. He stated he sees people walking on the walking trail every day and it is sad that they are witnessing the current state of the property. He concluded that Visionary Homes should have a better vision for how North Ogden should look.

Melanie Barker, North Ogden resident, added to her husband's comments by referencing the Village at Prominence Point project; Visionary Homes is also building in that project area and she suggested that they will also not care for or take care of the creek running through that property. The City has every right to keep Visionary Homes from working in North Ogden if they refuse to keep the City clean while they are working on various projects.

Jeanette Sweet, North Ogden resident, stated that she lives below the construction on the hillside and one of her biggest concerns is the lack of communication from the City; she did not intend to be a long-term resident of North Ogden, but she has now been here long enough to gain an understanding that communication is a serious issue. She relocated here from Alaska because her father was experiencing harassment by youth in the community. She has contacted the Police Department several times over the years about youth turning off her father's electricity in the middle of the night, which has caused freezing conditions in the winter and loss of power for his oxygen machine. The Police Department was initially great at following up and responding to her, but after the youth were identified she was not given the opportunity to learn about that identification or address them. Additionally, last summer when the City Hall building and Police Station were closed and she only had the option of calling to lodge a complaint, she found voice mail boxes constantly full. Trying to address the issue of solicitors that were very aggressive and threatening to her and her father was nearly impossible. She was finally able to voice her concerns to Council Member Swanson and via a Facebook post, but it took a few months for the City to respond and to provide advice to residents throughout the City; however, the proper actions have not been taken by the City to prevent aggressive soliciting from occurring again this spring and summer. Recently, all of the neighbors living near her have been complaining about the trash and debris left behind by contractors working on construction on the hillside. They have also clogged storm water drains because they have refused to clean the sites or remove dirt/mud. She asked that the City make the proper efforts to address life/safety issues throughout the City – namely the Washington Boulevard/2600 North widening project; it is necessary for the City to open channels of communication and respond to messages that are left by residents about concerning issues in the community. She and others are frustrated by the lack of communication and response from the City, and this has led to contentious conversations and interactions on social media. She is very worried that someone will be killed by

unsafe conditions that are not being addressed by City leaders and by the Utah Department of Transportation (UDOT).

Phil Nielsen, North Ogden business owner, referenced the agenda item regarding the 2021 Cherry Days celebration. He has communicated with the Council through email after watching the April 13 City Council meeting; he was shocked with the casual nature of the cancellation of Cherry Days events. He is very sensitive to these kinds of actions because he teaches history on the subject matter; as every person should be aware, Independence Day celebrations started with John Adams in 1776 after he declared that July 4 should be celebrated as the greatest epithet in human history. It should be celebrated through pomp and parade and through illuminations from one coast to another from this time forever more. He was surprised that the City cancelled the Independence Day parade as Americans do not and have not cancelled Independence Day over the course of history – event during wars when people were actively killing each other. Once unifying principal is that all Americans like freedom from tyranny and that is why Independence Day is celebrated. Even when the Mormon pioneers came to Utah after being chased and disenfranchised by the federal government, they still celebrated Independence Day. He realizes there are some unique challenges in North Ogden at the present time, he does not feel that the City's Independence Day celebrations should be cancelled. He advised the City to assemble a committee and figure out how to hold a parade; residents just finished a year of suffering petty tyranny more than any other time in their life and they should be allowed to celebrate. He noted the Parks and Recreation Director has indicated she has heard from the local Health Department that they would not issue a special event permit unless regulations are put in place to require social distancing and opportunities for contact tracing, and he cited the irony of those types of regulations for an Independence Day celebration. He has talked to the County Attorney and has forwarded his comments on to the City Attorney, and he believes the City can legally hold its Independence Day celebration. He asked the Council to reconsider the decisions they made on April 13 and hold the Cherry Days events. He concluded by referencing a principle known as the anti-commandeering doctrine; as he listened to the Council discuss what the County had told staff about not holding the parade he heard them concede that they had no other option than to follow the County. There is an understanding that the laws of higher levels of government trump those below them; however, the City has a duty and constitutional obligation to question laws and directives that are 'stupid'; the anti-commandeering doctrine indicates that cities cannot be forced to do stupid things. He offered kudos to Pleasant View City for opposing the restrictions the County was trying to impose; they proceeded with holding their Easter egg hunt after being told they should cancel it. He encouraged the North Ogden City Council to consider these issues with greater depth rather than simply conforming with County directives.

Dallin Barker, North Ogden resident, stated that after his presentation during the April 13 meeting he was disappointed by the comments made by Council Member Ekstrom and Parks and Recreation Director Staheli. These comments made him feel as if his concerns were not valid. Even after 'jumping through the hoops' required by Council Member

Ekstrom, she still did not want him to make a presentation to the entire Council and the public. And, for the Parks and Recreation Director to state that the City has exceptional parks, was upsetting to him because it is his opinion that the City does not have exceptional parks. He stated there are likely many more residents who are unhappy with the state of the City's parks. North Ogden spends far more on City parks than any other nearby city, but North Ogden's parks are 'crap'. He stated he knows this is an opinion, but North Ogden's parks look and feel like junk; it appears as if the City does not care about the parks and the amount of construction debris that is being left on several City properties and eventually onto private properties give the indication that the City does not care. He knows that the Council really cares, but they need to do better at making it known that they care.

Susan Kilborn, North Ogden resident, thanked the City Council for their bravery and doing their jobs in a professional manner and 'biting their tongues' during times that they would like to speak more frankly. The first duty that the Mayor and City Council have to their constituents is to make decisions that protect and provide safety and assurances to residents; these decisions should be based upon what is in the best interest of the City regardless of the popularity of the decision. This includes the Cherry Days parade and celebrations. She referenced updated guidance provided by the Centers for Disease Control (CDC) regarding mask wearing; some of the things specifically mentioned in this guidance include mass gatherings – parades – where it is difficult for people to social distance even though they are outdoors. She stated she wants to speak for those in the community that she has connected with who are comfortable cancelling the Cherry Days celebration for another year in order for everyone to live safely for another year and eventually gather to celebrate as they have in the past.

Kim Christensen, North Ogden resident, offered her support for the comments made by Rod and Melanie Barker about the condition of the hollow; she has also found construction trash in the hollow as well as in her own backyard. This is a concern that is affecting those who live in the neighborhood and those who walk on the walking path in the area. She asked that the City Council work with Visionary Homes to ensure they are being respectful of North Ogden property.

5. **WEBER-MORGAN HEALTH DEPARTMENT PRESENTATION**  
**PRESENTER: BRIAN COWAN**

Weber-Morgan Health Department Executive Director Brian Cowan provided information on the Department's guidance to government entities regarding holding special events; the Department has asked cities to complete a form or application providing information about any special event and to acknowledge the COVID-19 guidelines that have been enacted via the public health order. Planners are advised to plan their events as if current restrictions will still be in place at the time of the event. He feels it is best public health practice to advise community members to plan for the worst because it is hard to predict what the future may hold. The Department tried to communicate to North Ogden City staff the need to plan Cherry Days events in a manner



that allows for crowd control, mask use, and social distancing. There is a chance that restrictions will change before July 4, but planning should be carried out under current restrictions. The state-wide mask mandate was lifted except for in instances where a group is larger than 50 people. The state public health order attempted to clarify this guidance and identifies three criteria for when the health order will expire:

- A 14-day case rate less than 191 per 100,000 people (currently 167);
- A 7-day average COVID-19 ICU utilization less than 15% (currently 11.9%); and
- More than 1,633,000 prime doses of COVID-19 vaccine allocated to the state (1,656,025).

Mr. Cowan stated he believes the state will reach the allocation of prime doses within three weeks. These three markers will continue to be monitored and he is unsure the same numbers will be in place during the summer months of 2021. However, the health order will expire on July 1 and there is some uncertainty about whether a new health order will be enacted. For this reason, local Health Departments are trying to work with event planners to plan events that observe the current guidance and criteria, recognizing that adjustments may be adjusted as the date of the event is approaching.

Mayor Berube asked Mr. Cowan for confirmation that Health Department staff had told the City's Parks and Recreation Director and her staff that contact tracing would be required for Cherry Days events. Mr. Cowan stated that is one of the current regulations and requirements; anyone hosting an event that will exceed 50 people is required to track the participants of the event. This is in the case of an outbreak it will be possible to contact all participants to inform them of potential exposure. He stated he wants COVID-19 to be a non-issue, but there is still some work and due diligence needed before the 'finish line' is crossed.

The Council discussed the terms of the current public health order and the likelihood of the issuance of another health order on July 1, 2021. Mr. Cowan stated that if the State does not issue a state-wide health order, local Health Departments may work with their local legislative bodies to issue a public health order that would enact new or ongoing restrictions.

Mayor Berube then stated he wished to state his opinion; while he agrees that COVID-19 has caused a great deal of anxiety and everyone is ready for it to be over, he is not in the habit of telling government authorities that they are 'stupid' and that he or the City will not follow their rules. If the City cannot follow rules of other agencies, it cannot expect residents to follow North Ogden rules. He noted he respects Mr. Nielsen's position, but it is his opinion that the City must follow laws that have been enacted.

**6. DISCUSSION AND/OR ACTION ON CHERRY DAYS**  
**PRESENTER: JON CALL, CITY MANAGER/ATTORNEY**

City Manager/Attorney Call referenced several of the events that have been part of past Cherry Days celebrations; some groups that sponsor various events have indicated they will not sponsor an event in 2021 because of concerns about COVID-19. Currently, there is a focus on proceeding with the events that the Council indicated should take place during the 2021 celebration; this includes the medallion search, the 5k run, and Cherry Days fireworks. He asked if the Council wants to reconsider the decision made during the April 13 meeting prior to Administration proceeding with advertising the 2021 celebration calendar and schedule.

Mayor Berube asked if the City has received the permit to hold the Cherry Days parade on Washington Boulevard given that a previous decision was made to move the parade route back to Washington Boulevard. Mr. Call stated the permit was requested, but has not been issued by UDOT; there has been some discussion about holding parades along different routes in the City to allow for social distancing, but Administration has adjusted their focus on the parade and the required permit given the action taken by the Council during the April 13 meeting.

The Council debated the topic of the cancellation of Cherry Days events; Council Member Barker expressed his disdain for receiving emails from residents who used profanity to communicate their opposition to the Council's decision. He then noted that he acknowledges the sentiment that those residents who do not want to attend the parade are not required to, but that same logic does not apply to staff, and he is concerned about making a decision that puts staff in an unsafe situation. He stated that if the parade can be held with volunteer organization or support, he would consider changing the decision that was made. Mayor Berube stated that even if the parade is held and organized by volunteers, the City's first responders and public safety personnel will be required to patrol it. Council Member Barker stated that he is still leaning towards upholding the decision made on April 13. Council Member Covering agreed; he also looks forward to the day when the COVID-19 pandemic is no longer an issue, but for the time being it is still a problem, and he feels his main responsibility as a Council Member is to make decisions that protect the safety, health, and welfare of citizens. Because he is not an expert in epidemiology, he must trust in the advice provided by experts. He would love to be able to move forward with traditional Cherry Days celebrations, but he is concerned about doing something risky that would cause greater concerns for the entire community.

Mayor Berube asked if a group of citizens or volunteers would be able to secure a permit for the parade, to which Mr. Call answered yes.

Council Member Stoker stated she has also put a lot of thought into this issue; everyone has strong opinions regarding this issue, which she accepts and understands, but she also does not appreciate the vulgar language included in some of the communication sent to the Council. She has wondered if other events could be added to the calendar in observance of Independence Day, such as the flag ceremony; however, she feels it is appropriate to uphold the decision to cancel the parade in observance of the public health order and guidance that the City has received from experts in the field. She does not feel

that going one more year without a parade will cause long term damage to any resident of the City. Council Member Swanson stated that he is always hesitant to legislate based upon the input provided by the most vocal members of the community; the Council is elected to do things for and in behalf of the residents of the community. He feels the founding fathers of this country would be rolling in their graves in light of the things that have occurred in this period of time where some find causes for revolution and sedition. In this case, that cause for division is a parade. Most communities in America do not have a community sponsored parade, but that does not mean they are unpatriotic and should be kicked out of the country. They should not be denigrated and castigated for their decisions and he thinks it is disgusting for some to find petty reasons to divide and enrage the community; it is unamerican. He asked if any person in the City will fail to observe the 4<sup>th</sup> of July if the City does not host a parade. He noted he will be lighting off fireworks and the City will be doing the same. He stated North Ogden is a very patriotic town and for someone to make the claim otherwise simply because the Council is following Health Department guidelines is disgraceful. The cause of most wars that have occurred in history is people seeking power and spending time dividing the communities and the countries they live in. North Ogden will be just fine if there is no parade this year and next year the parade can be better than before; the constitution will still stand, this is not the thread that will unravel the constitution. He concluded that the City's Parks and Recreation Director made the correct recommendation based upon the information she received from the Health Department.

Council Member Ekstrom added that the Council did not make their decision about Cherry Days events lightly or in a flippant manner; she apologized if she came across that way and noted she is personally very upset that it is necessary to cancel major events for a second year. Personally, she and five members of her family have COVID-19 and one of them is on oxygen and she can attest to the fact that the virus is very dangerous and still very present. She stated she supports the decision to cancel the parade and she trusts that residents will celebrate Independence Day in their own way, which is very heartwarming to her. She looks forward to being able to resume Cherry Days again next year.

Mayor Berube called for a vote on whether to overturn the decision made on April 13, 2021 to cancel the Cherry Days parade:

**Voting on holding the Cherry Days Parade:**

<b>Council Member Barker</b>	<b>no</b>
<b>Council Member Cevering</b>	<b>no</b>
<b>Council Member Ekstrom</b>	<b>no</b>
<b>Council Member Stoker</b>	<b>no</b>
<b>Council Member Swanson</b>	<b>no</b>

7. **ARTS GUILD STATUS REPORT AND GOALS**  
**PRESENTER: JAMIE RASMUSSEN**

Jamie Rasmussen stated the Arts Guild will present on three different events they would like to host this year: Monday Music Nights, Movies in the Park, and a Youth Summer Camp. She and members of the Arts Guild expounded on the details of each event, noting that the group has developed a budget for each event. The cost of each event is very low, but can yield a great community turnout and increase the level of service of the Barker Park Amphitheater. The Guild is working with Parks and Recreation staff to pursue grant funding that will cover the costs of each event.

Mayor Berube asked if it is possible to observe COVID-19 guidelines, such as social distancing and contact tracing, for each event. Ms. Rasmussen stated the Guild will continue to monitor the COVID-19 situation and determine what guidelines the City will need to follow in response to any public health order that is in place at the time of the event.

Council Member Swanson asked if the Guild has spoken with the Parks and Recreation Department to ensure they are willing and able to assist with the registration process for the youth summer camp. Ms. Rasmussen answered yes; the Department has assisted in the past and has indicated a willingness to provide that support again this year.

Mayor Berube thanked Ms. Rasmussen and other members of the Guild for the information provided tonight and for their efforts to pursue arts programming in the community.

8. **DISCUSSION AND/OR ACTION TO CONSIDER ACCEPTING AN**  
**ANNEXATION PETITION FOR A PARCEL LOCATED AT APPROXIMATELY**  
**2200 NORTH 150 EAST**  
**PRESENTER: SUSAN NANCE, DEPUTY CITY RECORDER**

A staff memo from Deputy City Recorder Nance explained John Hansen has submitted an application for Anthony and Shawna Bown to petition for annexation of 12.23 Acres located at approximately 2200 North 150 East in Weber County, Utah. As required by Utah State Code the Weber County Surveyor has reviewed and given conditional approval of the annexation plat map to Great Basin Engineering. The property being proposed for annexation is within the North Ogden City's Annexation Declaration Policy Map. The Petitioner is requesting the R-1-8 Zone, which the Planning Commission will review and make recommendation to the City Council at a later date. The petitioner meets all the requirements to start the annexation process and it is recommended that the City Council accept the petition to start the annexation process.

City Manager/Attorney Call reviewed the staff memo.

**Council Member Cevering motioned to accept the annexation petition for property located at approximately 2200 North 150 East, and to refer the petition to the City Recorder’s Office for certification. Council Member Barker seconded the motion.**

**Voting on the motion:**

<b>Council Member Barker</b>	<b>yes</b>
<b>Council Member Cevering</b>	<b>yes</b>
<b>Council Member Ekstrom</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>
<b>Council Member Swanson</b>	<b>yes</b>

**The motion passed.**

**9. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE TO REZONE PROPERTY FOR LAND LOCATED AT APPROXIMATELY 3625 NORTH 950 EAST FROM HILLSIDE PROTECTION (HP-3) TO HILLSIDE PROTECTION (HP-2).**  
**PRESENTER: ROB SCOTT, CITY PLANNER**

A staff memo from Planning Director Scott explained when the City is considering a legislative matter, the Planning Commission is acting as a recommending body to the City Council. The City has wide discretion in taking legislative action. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically, the criteria for making a decision related to a legislative matter, requires compatibility with the general plan and existing codes.

The applicant is requesting a zone change for the property located at approximately 3625 North 950 East from Hillside Protection (HP-3) to Hillside Protection (HP-2). The rezone is a precursor to a subdivision consideration. The adjoining property to the south was recently rezoned with the HP-2 zone designation.

The Planning Commission conducted a public hearing on this request on April 7, 2021. The applicant was present; no one else spoke at the meeting.

The HP zones rezone requirement states “the developer landowner shall provide site specific studies addressing the geomorphology, geology, faults, hydrology, slopes, soils, recharge, vegetation and wildlife, fire, and utility and parks constraints of the site.” This property has been included in the previous general North Hillside Development Study. The City Engineer has reviewed the study and found that there are no study recommendations that would preclude the rezone from HP-3 to HP-2. The HP-2 requirements are the same as the HP-3 requirements, which includes detailed site-specific studies that will be applied at the time of subdivision review.

On February 9, 2021, the City Council approved a similar rezone from HP-3 to HP-2 on property to the south of this application.

Staff discovered that the property at the intersection of Mountain Road and Dillon way was not included in that application. If this property is not included, it will leave a 1-acre island of HP-3 zoning. The property owner, Eric Thomas, and this applicant have agreed that the 1-acre parcel should be included with this application. Commissioner Thomas declared a conflict of interest and recused himself from the hearing.

### **CONFORMANCE WITH GENERAL PLAN**

The proposed subdivision meets the requirements of applicable North Ogden City ordinances and conforms to the North Ogden City General Plan. The General Plan map calls for this property to be developed as residential hillside which is defined as “areas with significant slopes and associated issues with proximity to the mountains, where particular land use controls are necessary to assure appropriate development. The property is within the Hillside Neighborhood.

### **Zoning and Land-Use Policy**

The following policy consists of general statements to be used as guidelines. Such guidelines may on occasion conflict when several are compared. In such cases, the Planning Commission should prioritize the guidelines as they pertain to the specific parameters of the issue which is pending. All zoning requests should first be evaluated for their compliance with the General Plan.

#### ***General Guidelines:***

- A definite edge should be established between the types of uses to protect the integrity of each use, except where the mixing of uses is recommended in the General Plan.  
**Staff Comment:** The future use of this property is residential with consistent zoning designations.
- Zoning should reflect the existing use of property to the greatest extent possible, unless the area is in transition or is in conflict with the General Plan.  
**Staff Comment:** This parcel is transitioning from vacant to residential.
- Where possible, properties which face each other across a local street, should be the same or a similar zone. Collector and arterial roads may be sufficient buffers to warrant different zones.  
**Staff Comment:** These properties will have the same zone designation across all streets.
- Zoning boundaries should not cut across individual lots or developments (i.e., placing the lot in two separate zones). Illogical boundaries should be redrawn to follow property or established geographical lines.  
**Staff Comment:** The proposed zone change and subsequent subdivision lots will be in the same zone.

#### ***Residential Guidelines:***

- Avoid isolating neighborhoods.  
**Staff Comment:** The proposed zone change will not isolate the existing neighborhood.

- Require excellence in design.  
**Staff Comment:** A building permit will be processed for the future home and accessory building meeting city standards.
- Consider development agreements to assure higher quality development.  
**Staff Comment:** No development agreement is proposed.

The memo offered the following summary of potential Planning Commission considerations:

- Is the proposal consistent with the General Plan?
- How does the proposal relate to the Zoning and Land Use Policy guidelines?

The memo concluded the Planning Commission on 4 to 0 to 1 (abstention by Planning Commission Chairman Thomas) vote recommends approval of the rezone from HP-3 to HP-2. The Planning Commission found that this application is consistent with the General Plan.

Mr. Scott reviewed his staff memo.

Council Member Cevering inquired as to the date this rezone application was made. He stated he was under the impression that the City Council would not be considering zone change applications until receiving a recommendation from the General Plan Advisory Committee regarding comprehensive changes to the General Plan. Mr. Scott stated the application was approved approximately two months ago and a similar application was approved on February 9, 2021. Council Member Barker stated that he is comfortable acting on this rezone application based upon the decision that was made to change the zoning of an adjacent property on February 9; this is mainly a ‘clean-up’ item and one that he does not feel the General Plan Advisory Committee would be opposed to.

**Council Member Barker motioned to approve Ordinance 2021-08 rezoning property for land located at approximately 3625 N. 950 E. from Hillside Protection (HP-3) to Hillside Protection (HP-2). Council Member Swanson seconded the motion.**

**Voting on the motion:**

<b>Council Member Barker</b>	<b>yes</b>
<b>Council Member Cevering</b>	<b>no</b>
<b>Council Member Ekstrom</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>no</b>
<b>Council Member Swanson</b>	<b>yes</b>

**The motion passed 3-2.**

**10. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE TO REZONE PROPERTY FOR LAND LOCATED AT APPROXIMATELY 281 EAST PLEASANT VIEW DRIVE FROM SUBURBAN RESIDENTIAL (RE-20) TO MULTI-FAMILY**

**RESIDENTIAL (R-3)**  
**PRESENTER: ROB SCOTT, CITY PLANNER**

A staff memo from Planning Director Scott explained when the City is considering a legislative matter, the Planning Commission is acting as a recommending body to the City Council. The City has wide discretion in taking legislative action. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically, the criteria for making a decision related to a legislative matter, requires compatibility with the general plan and existing codes.

The applicant is requesting a zone change for the property located at approximately 281 East Pleasant View Drive from Suburban Residential (RE-20) to Multi-family Residential (R-3). The properties currently have a horse barn and fields. The request is a precursor to a subdivision and site plan applications for a townhome project that will be subject to Planning Commission approval.

The Planning Commission conducted a public hearing on March 17, 2021. The applicant and three citizens made comments at the meeting. Two residents were in opposition with the current property owner in support.

The Planning Commission considered the General Plan for this property and how it is transitions from the Downtown to bordering single family neighborhoods. A development agreement is being recommended to ensure that the project design effectively makes an appropriate transition. The General Plan Advisory Committee recommendation should also be sought.

The concept plan consists of 16 buildings with 84 townhomes. (See Exhibit B) There are 7 6-unit buildings, 6 5-unit buildings, and 3 4-unit buildings. The applicant has provided three building elevation examples. The density is 13.2 units per acre. The future 300 East extension is shown on the concept plan. The rezone application will determine the range of uses for this property.

The site plan for this project could also benefit from the Land Use Code project. Among those are revisions to the R-3, R-4, and PUD provisions. These proposals will be forthcoming to the Planning Commission and City Council.

One example is that there be more of a distinction between the R-3 and R-4 zones. Currently the density is the same formula with difference being the maximum number of units per building. The recommendation will be to a maximum units per acre designation.

In addition, the PUD design provisions could provide for some flexibility, e.g., when a project limits direct access onto a street and has back loaded garage units a reduced front setback could be allowed. This project would benefit from both of these revisions.



## CONFORMANCE WITH THE GENERAL PLAN

The proposed project conforms to the North Ogden City General Plan. The General Plan map calls for this property to be developed as downtown mixed use which is described as “an area with mixed use characteristics that includes grid type blocks where walkability is a primary focus of the area.”

The Downtown Area map shows that downtown mixed use is located on the east side of the future 300 East and has a small single-family designation on the west. The property is within the Old Town Neighborhood.

The project property is on the edge of the Downtown where it transitions to single family neighborhoods. Care must be taken to ensure that this transition takes place in a well-designed manner. The property sits between two collector streets, Lomond View on the north and Pleasant View Drive on the south. The former Public Works facility is to the east and agricultural / residential land is to the west.

The Downtown map also calls for consideration of the extension of a park along Pleasant View Drive. This is an opportunity for the City to work with the applicant regarding this potential amenity.

The following excerpts are taken from the Housing Element and Downtown Elements of the General Plan.

## HOUSING

### Section 1.01 Goals

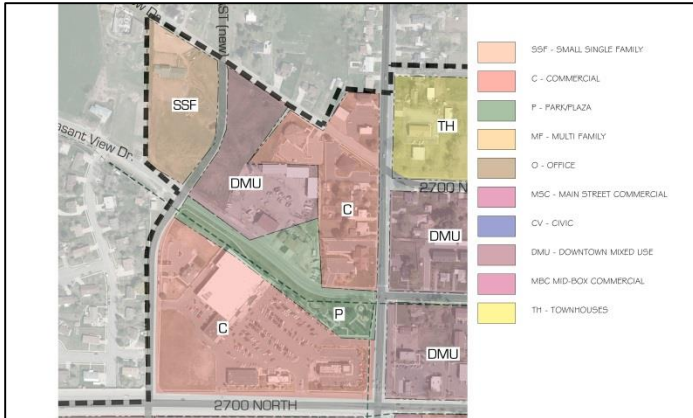
#### *Goal #1 – Increase housing quality and variety.*

- Encourage adequate housing types which accommodate lifecycle transitions and changing population norms.
- Encourage housing that provides broad based support for a more stable and diversified tax base and a strong and diverse commercial sector.
- Establish and adhere to high quality building and design standards for all housing types so that development enhances the community character.

#### *Strategies*

- Implement the mixed-use plans for the North Ogden Downtown and Southtown centers.
- Locate higher density housing in or near the Downtown and Southtown downtown areas. This will strengthen the business corridor and improve walkability while reducing traffic impacts on existing neighborhoods.

### **2650 North Street on the West Side of Washington Boulevard (the Northwest quadrant).**



The northwest corner of 2600 North and Washington Boulevard is a long established general commercial district. Extending the existing segment of 300 East Street to the north allowing additional easterly connections to Washington Boulevard, in conjunction with the proposed extension southward to 2550 North Street, would allow access to relatively undeveloped properties and reduce congestion at the intersection of 2600 North and Washington Boulevard. It also would allow for a bypass and alternate route to Washington Boulevard.

Residential uses are encouraged to the north and west to support existing commercial uses and generate additional commercial demand. Such uses include small lot residential and medium density concepts, but the immediate area around 300 East and Pleasant View Drive could support additional limited commercial growth. A potential expansion of the Bicentennial Park (which includes water features and the “Stump”) could be realized by closing Pleasant View Drive. Such a closure could direct traffic north and south along an improved and extended 300 East.

EXPANDED BICENTENIAL PARK CONCEPT  
SCALE: 1"=40'



## Zoning and Land-Use Policy

The following policy consists of general statements to be used as guidelines. Such guidelines may on occasion conflict when several are compared. In such cases, the Planning Commission should prioritize the guidelines as they pertain to the specific parameters of the issue which is pending. All zoning requests should first be evaluated for their compliance with the General Plan.

### *General Guidelines:*

- A definite edge should be established between the types of uses to protect the integrity of each use, except where the mixing of uses is recommended in the General Plan.  
**Staff Comment:** This project has street edges to the north and south with the former Public Works facility to the east and agriculture / residential to the west.
- Zoning should reflect the existing use of property to the greatest extent possible, unless the area is in transition or is in conflict with the General Plan.  
**Staff Comment:** This parcel is transitioning from agriculture to residential.
- Where possible, properties which face each other across a local street, should be the same or a similar zone. Collector and arterial roads may be sufficient buffers to warrant different zones.  
**Staff Comment:** Lomond View Drive is a collector street that separates this project from the residential to the north. Pleasant View Drive is a collector street that separates the property from commercial / residential to the south.
- Zoning boundaries should not cut across individual lots or developments (i.e., placing the lot in two separate zones). Illogical boundaries should be redrawn to follow property or established geographical lines.  
**Staff Comment:** The proposed zone change, and subsequent project will be in the same zone.

### *Residential Guidelines:*

- Avoid isolating neighborhoods.  
**Staff Comment:** The proposed zone change will not isolate the existing neighborhood.
- Require excellence in design.  
**Staff Comment:** A subdivision and site plan review will be processed that will address the project design and subsequent building permits will be processed for the future buildings meeting city standards.
- Consider development agreements to assure higher quality development.  
**Staff Comment:** No development agreement is proposed.

The memo offered the following summary of potential Land Use Authority considerations:

- Is the proposal consistent with the General Plan?
- How does the proposal relate to the Zoning and Land Use Policy guidelines?

The memo concluded the Commission conduct the public hearing and receive public comment, consider the General Plan along with the rezoning guidelines, and make a

recommendation to the City Council regarding the rezone from RE-20 to R-3. The Planning Commission can find that this application is consistent with the General Plan and recommend that the General Plan be followed.

Mr. Scott reviewed his memo.

Mayor Berube invited input from the applicant.

Applicant John Hansen approached; he indicated the owner of the property is Jerry Shaw and he is interested in selling his property because he no longer wants to farm it. This is a big decision for him as the property has been in his family since 1905. He then reviewed the proposed site plan for the project, identifying road layout and traffic configurations; he referenced the closure of the intersection of Washington Boulevard and Pleasant View Drive and indicated he feels this project will provide another traffic option for the area. None of the buildings will back onto Lomond View or Pleasant View Drive; rather, they will front the roads and the architecture of each of the units will be very aesthetically pleasing. He will vet a builder that can bring the highest quality to the project. He added that the project will provide for trail connectivity in the area. He then referenced the well on the northeast end of the property; he met with Public Works staff onsite to evaluate the well and indicated it is a very powerful well, generating approximately 25 gallons per minute. He indicated Public Works Director Espinoza suggested that the water be rerouted in a way that it can provide fresh water to the pond at the Patriot Pointe project. He stated that he understands the concerns that have been expressed about the increase in townhome projects throughout North Ogden and other communities but indicated he will provide a nice development that looks much different than other townhome projects. There is a great deal of demand for this type of project in the current housing market and this project will provide homes for young families to live in.

Mayor Berube inquired as to the sales price per unit. Mr. Hansen stated that the cost of construction has risen dramatically over the past year and he believes it will be necessary to charge up to \$400,000 per unit in order for the project to be high quality and having the ability to make a positive contribution to the community. He presented sample conceptual plans for the project and indicated he will include additional architectural elements on this project to increase the quality.

Mr. Shaw added that there are actually three sources of water on the property, eventually running under Pleasant View Drive to the canal. There are viable opportunities to divert the water to other areas of the City as mentioned by Mr. Hansen or to beautify the property in some way.

Mayor Berube invited input from Stefanie Casey, Chair of the General Plan Advisory Committee. Ms. Casey indicated that a sub-committee of that group met with City Manager/Attorney Call earlier today to discuss this application. She stated the group will be making a recommendation for long range planning for this area, which is right on the edge of the area where the Committee feels mixed-use and low-density land uses are appropriate. The final recommendation of the General Plan Advisory Committee will be presented to the

Council at the first meeting in June. She feels that what Mr. Hansen has proposed for the property is in-line with the Committee's ideas for the area, but she cannot speak for the group in certain terms until they have voted on the formal recommendation they will send to the Council.

Council Member Swanson stated he feels the Council should consider whether the proposed use is a good transition for the area; to the north are single family homes on large lots and to the south are also single-family homes on large lots. The same is true for most of the area to the east and he is having a hard time considering R-3 zoning to be a good transition from large lots on either side of the subject property. He referenced a recent action to approve R-1-12.5 zoning on Lomond View Drive and noted that is not very far from this subject property. He cannot make a decision until he hears more from the General Plan Advisory Committee regarding their ideas for the future land use of the area. He would prefer to table this application until that recommendation is available.

**Council Member Swanson motioned to table this application and discuss further after receiving a formal recommendation from the General Advisory Plan Committee. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Barker</b>	<b>aye</b>
<b>Council Member Cevering</b>	<b>aye</b>
<b>Council Member Ekstrom</b>	<b>aye</b>
<b>Council Member Stoker</b>	<b>aye</b>
<b>Council Member Swanson</b>	<b>aye</b>

**The motion passed unanimously.**

Mayor Berube stated that he has discussed this project with Mr. Hansen and has communicated his thoughts on the proposed land use. It is his opinion the City needs to carefully consider smart growth and it seems that the City continues to get out of balance in terms of the ratio of residential uses to commercial uses. If the City does not start supporting commercial development, the City will be in a difficult situation. He acknowledged that the zone change would result in a dramatic adjustment in the possible density of the subject property, and he feels it is appropriate to consider the right transition for the area and he believes the Council will consider that when they further deliberate regarding this application. He stated in his conversations with Mr. Hansen, Mr. Hansen has indicated that younger people do not want large lots and that is why this type of product is in demand; however, he recently read a study that indicated that young people have the goal of eventually owning a large parcel of ground and he feels it is appropriate to consider that type of information when planning for the future of this area. Council Member Stoker agreed and suggested the Council carefully consider the appropriate locations in the City for higher density residential development; she noted she is unsure the subject property is the right location as it is situated among larger single-family properties.

Mr. Scott indicated he will no longer be employed with the City in June when this application is considered further. He presented the aerial photograph of the subject property and the surrounding developments; he identified the location of larger single-family lots, commercial zoned properties, and vacant/undeveloped properties. The City will be making decisions about how those parcels will eventually develop and this area is truly one that is in transition; it is appropriate to consider how this property will be developed in a way that it can provide a transitional buffer between intense commercial uses and single-family residential areas. He suggested that each Council Member take the time to visit the area on their own and envision how it should develop in the future.

Mayor Berube recessed the meeting at 8:22 p.m.; the meeting reconvened at 8:27 p.m.

Mayor Berube then noted that an ordinance was prepared for the requested rezone of this application and the motion to table should reference that ordinance number. He called for an additional motion on the application.

11. **PUBLIC HEARING TO RECEIVE COMMENTS ON PROPOSED BUDGET AMENDMENTS FOR FISCAL YEAR 2020-2021.**  
**PRESENTER: EVAN NELSON, FINANCE DIRECTOR**

A staff memo from Finance Director Nelson explained Administration is proposing several amendments to the City Budget and the Redevelopment Agency Budget for Fiscal Year 2021. Two public hearings will be held to take comment on the proposed changes. One of the most significant proposals is to fully pay off the debt on the Aquatic Center. This is advisable in light of considerations to bond for the financing of the new Public Safety Building. The RDA Fund has sufficient balance to pay off the debt in full.

Mr. Nelson reviewed his memo as well as a spreadsheet document outlining the proposed budget changes.

Mayor Berube asked for an explanation of the additional funding for Cherry Days. Mr. Nelson stated that the initial budget was \$15,000, but Parks and Recreation Director Staheli asked for an additional \$10,000 to cover the fireworks show, medallion search, and 5K run. The total budget will be \$25,000 if this action is approved. Council Member Ekstrom stated that part of the original fireworks display was intended for a location where it should be shot at a lower height; but it was necessary to find another location for the show and this new location will require fireworks that are shot higher into the air and that is the reason for the increased cost.

Mr. Nelson then identified an error in the spreadsheet for the item dealing with audit fees; the number should be changed to \$35,287. Mayor Berube asked if this covers the audit and consulting with Christensen, Ambrose, and Palmer. Mr. Nelson answered yes. Mayor Berube inquired as to the total net increase in the budget if all amendments are approved. Mr. Nelson stated he can total the budget amendments before the Council takes action.

Mayor Berube stated that in the past the City has had some support from local businesses for Cherry Days events and he asked if anyone has approached businesses to solicit donations for the increase in the cost of fireworks. Parks and Recreation Director Staheli stated she has not secured a sponsor for the fireworks; now that there is a final decision on exactly which events will be held, she will begin to aggressively pursue sponsorships. Mayor Berube asked the Council to help Ms. Staheli with those endeavors and to reach out to their business contacts.

Mr. Nelson then noted the total fiscal impact of all proposed budget amendments is a net increase of \$2,123,837; \$1,019,000 is associated with the payoff of the aquatic center debt. There are offsetting revenue increases that result in a balanced budget.

**Mayor Berube opened the public hearing at 8:49 p.m.**

There were no persons appearing to be heard.

**Council Member Swanson motioned to close the public hearing. Council Member Stoker seconded the motion.**

**Voting on the motion:**

<b>Council Member Barker</b>	<b>yes</b>
<b>Council Member Cevering</b>	<b>yes</b>
<b>Council Member Ekstrom</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>
<b>Council Member Swanson</b>	<b>yes</b>

**The motion passed.**

**Council Member Swanson motioned to approve Ordinance 2021-09 approving amendments for the Fiscal Year 2020-2021 budget. Council Member Cevering seconded the motion.**

**Voting on the motion:**

<b>Council Member Barker</b>	<b>yes</b>
<b>Council Member Cevering</b>	<b>yes</b>
<b>Council Member Ekstrom</b>	<b>yes</b>
<b>Council Member Stoker</b>	<b>yes</b>
<b>Council Member Swanson</b>	<b>yes</b>

**The motion passed.**

**Council Member Swanson motioned to recess the City Council Meeting and convene in the RDA. Council Member Stoker seconded the motion.**

**12. PUBLIC HEARING TO RECEIVE COMMENTS ON PROPOSED BUDGET AMENDMENTS FOR FISCAL YEAR 2020-2021  
PRESENTER: EVAN NELSON, FINANCE DIRECTOR**

Finance Director Nelson indicated that this action is related to the action taken by the Council to amend the City budget; there will be a transfer from the RDA Fund to the General Fund for debt service for the Aquatic Center and other miscellaneous projects.

**Mayor Berube opened the public hearing at 9:02 p.m.**

There were no persons appearing to be heard.

**Board Member Swanson motioned to close the public hearing. Board Member Cevering seconded the motion.**

**Voting on the motion:**

<b>Board Member Barker</b>	<b>yes</b>
<b>Board Member Cevering</b>	<b>yes</b>
<b>Board Member Ekstrom</b>	<b>yes</b>
<b>Board Member Stoker</b>	<b>yes</b>
<b>Board Member Swanson</b>	<b>yes</b>

**The motion passed.**

**Board Member Barker motioned to approve RDA Ordinance 2021-10 approving amendments for the RDA Fiscal Year 2020-2021 budget. Board Member Cevering seconded the motion.**

**Voting on the motion:**

<b>Board Member Barker</b>	<b>yes</b>
<b>Board Member Cevering</b>	<b>yes</b>
<b>Board Member Ekstrom</b>	<b>yes</b>
<b>Board Member Stoker</b>	<b>yes</b>
<b>Board Member Swanson</b>	<b>yes</b>

**The motion passed.**

**Board Member Stoker motioned to recess the RDA and reconvene in the City Council Meeting. Council Member Barker seconded the motion.**



13. **DISCUSSION OF THE FISCAL YEAR 2020 AUDITED FINANCIAL STATEMENTS**  
**PRESENTER: COUNCIL MEMBER SWANSON**

Council Member Swanson reported on his assignment with the City's Audit Committee; the City's most recent audit was very interesting. The City changed audit firms and the new auditor found a number of things that the City was either doing incorrectly or not doing at all. He referenced page nine of the audit document, which includes a list of findings and recommendations, including items like a deficit fund balance in the general fund; excess general fund balances; a significant deficiency related to presentation of quarterly financial reports; failure to post approved meeting minutes within three days of approval, or not at all. He stated his interpretation of these findings is that the City's finance division needs to grow and improve in comparison with the growth of the City. The City must pursue internal changes and provide needed training to finance staff; staff can also rely upon the professional assistance of Keddington and Christensen, LLC.

Mayor Berube added another issue is that the City's annual audit was submitted to the State later than required. He agreed with Council Member Swanson that the City needs to make proper investment in City staff to ensure that improving internal expertise is keeping pace with growth in the City. He looks forward to the deficiencies being corrected in the next audit period. Council Member Swanson then emphasized that the audit findings were not a result of any intentional or nefarious activity; rather, they resulted from City staff simply not knowing or understanding certain requirements. Now that they do know about the requirements, they will take corrective action to ensure it does not occur again. He thanked staff for their hard work throughout the audit process. Mayor Berube also thanked the Audit Committee for their service.

14. **DISCUSSION OF GENERAL FUND DEPARTMENTS FOR THE FISCAL YEAR 2022 BUDGET.**  
**PRESENTER: EVAN NELSON, FINANCE DIRECTOR**

Finance Director Nelson presented the draft budget for the General Fund, Aquatic Center Fund, and the Motor Pool Funds. The City Council members have worked with staff to develop these proposals. The City Council will discuss the Fiscal Year 2022 Budget on April 27th, again on May 4th, and again on May 11th. The Tentative Budget will be adopted on May 11<sup>th</sup>.

**Budget Highlights:**

The Council has identified a new Public Safety Building as a high priority. It was requested that \$500,000 be set aside in the budget to go toward this project. The draft of the budget being presented is short of this goal by \$121,898. Staff is seeking Council direction on modifications to the budget to be able to reach this goal. Here are some key elements that are reflected in the proposed draft:

- Health insurance has been bid out. The details of the plan have not been finalized, but a 4.5% savings in premium rates is expected, plus a one-time \$35,000 rebate. It is expected that the network will be similar enough to the current network that it will cause very little disruption.
- Wage increases are included at 3%, to be allocated according to department needs. Some certification and targeted market increases are also included.
- Leave payout is included at 40 hours, same as current year.
- One new full-time Police officer is budgeted to start in January 2022.
- One part-time Accountant at 10 hours/week.
- \$500,000 for Public Safety building down-payment.
- One new snowplow on a 6-year lease. \$41,025/year.
- One mini excavator on a 5-year lease. \$25,450/year.
- Parts Washer for the Shop to meet OSHA requirements. \$14,000.
- Vehicle rotation net cost is \$8,879.
- One Parks mower at \$15,000.
- One football field reel mower at \$15,000.
- One Parks trailer at \$7,000.
- Update Parks sprinkler clocks at \$10,000.
- 4 Police vehicles replaced.
- 1 new Police vehicle for new officer.
- The Aquatic Center has an RDA operational subsidy of \$189,786.

Reductions:

- Originally the new officer was to begin in July, but we backed it off until January.
- Moving a part-time planner/building inspector to full-time was proposed, but currently remains part-time.
- Victim Advocate was proposed to go full-time, but currently remains part-time.
- Public Works proposed 2 snowplow truck leases. One was removed.
- Public Works proposed a new tire changer/balancer for \$23K. This was removed.
- Police proposed to replace one unmarked vehicle. This was removed.

Other possible reductions:

Staff and Councilmembers have discussed various other possible ways to bring revenues and expenditures into alignment. Here are some of those ideas, although, more significant measures would be needed to reach the \$500,000 goal:

- Implement a credit card service charge on various City fees. \$11,000.
- Increase building permit revenue estimates.
- Add revenue for water at Barker Park. \$2,500.
- Modify health insurance benefits.
- Eliminate Microsoft Office Training. \$800.
- Eliminate 72-hour Kits. \$2,000.
- Eliminate painting of the Parks and Recreation building. \$6,500.
- Eliminate half of the Christmas decoration expense. \$4,500.

- Eliminate half of the candlestick barricades. \$1,200.
- Eliminate Traffic School budget. \$7,000.

Council discussion centered on the work done by each of the Departments in the City to prepare a reasonable and balanced budget; each Department Head has been as conservative as possible in order to save money for the Public Safety building project that is desperately needed in the City. There was a brief focus on the possible adjustments to the Public Works snow removal approach; certain adjustments will make it possible to ‘push’ the entire City within four hours, but it is necessary for the Council to consider the increased costs associated with that adjustment and determining the appropriate level of service for the City in terms of snow removal services. Public Works Director Espinoza indicated he has requested a new snow removal wing truck for the seventh snow removal route in the City; this will make it possible to assign an older truck to the southern area of the City, which is flatter and snow removal is easier. These requests are responsive to growth in the City; since the last study of snow removal services, the amount of roads in the City that need to be cleared in a snowstorm has grown by 10 percent. The Council discussed the request briefly and concluded they support including the cost to purchase an additional truck in the FY 2021-2022 budget.

Discussion then shifted to the budget item relating to building permit revenue fees; the FY 2020-2021 budget includes a revenue projection of just over \$700,000, but the draft FY 2021-2022 budget includes a revenue projection of just over \$400,000 and Council Member Swanson inquired as to the reason the projection is so much lower than the current year. Mr. Nelson stated the projection was determined earlier in the year before the City became aware that revenues in the current year would exceed \$700,000; it is appropriate to adjust that projection upwards, but he is always concerned about making long term budget decisions based on such a high permit revenue projection because he anticipates that revenue will eventually dip. This led to a high-level philosophical discussion and debate regarding the factors that are contributing to the spike in residential construction and, ultimately, permit revenues. The Council indicated that it is appropriate to be conservative, while it is realistic to expect that revenues will be higher for the next year or two, they would prefer to include a lower projection in the FY 2021-2022 budget.

Council Member Swanson then discussed employee benefits; the City has heard from a consultant that the City’s benefits package is ‘generous and rich’ and he wondered if it is appropriate to consider an adjusted package that would result in a cost savings for the City. This led to high level discussion of the details of the benefits package and the negative impacts that would result from a change to the benefits offered to employees; the Mayor and several Council Members expressed a concern about harming City employees for a minor cost savings. Treasurer Jones stated that she supports the benefits package that is being offered; the package will give options to employees, but she cannot comment on whether the adjusted plans offered to employees will have a negative impact on employees until after the open enrollment period. Several Department Heads indicated the needs of each of their employees and their families are different in terms of medial coverage and they are unaware

of how the adjustment to the City's traditional plans will impact their employees until open enrollment concludes. Council Member Swanson stated that he would like each Department Head to spend the next week talking to their employees about whether the proposed adjustments will negatively impact them; he asked them to report back to the Council in the next week to help the Council make a final decision on the benefits package that will be offered. Mayor Berube stated that he would also like Department Heads to ask their employees if a cash incentive would make it easier for them to move to the less expensive medical plan.

Council Member Swanson then referenced the budget for a full-time events coordinator, and he asked Parks and Recreation Department for an overview of the duties performed by the employee in that position. Ms. Staheli indicated the coordinator is responsible for the website updates for the Department; he schedules events; coordinates the calendar for rentals of various facilities; and he writes grants for the Department. Council Member Swanson facilitated discussion among the Council regarding the coordinator position; there was a discussion about the tangible work product being generated by the employee in that position, with Council Member Barker noting that it is not the employee's fault that he was hired during the pandemic when all special events were being cancelled. Council Member Swanson agreed and stated the discussion should be about the position rather than the employee and whether the position is needed based upon providing a return on the investment. Council Member Ekstrom stated it appears that there may not be as strong a need for the position now and into the near future given that much of the arts programming duties are being shifted to the Arts Guild; however, she would defer to Ms. Staheli to provide more clear direction on that matter and assess whether the employee position could be reassigned to another area of her Department. Council Member Swanson asked that the Council further consider the matter of the coordinator position and be prepared to discuss it in greater detail in the next budget discussion. Mr. Call added it is necessary for the Council to keep in mind that if the position is eliminated, any of the duties being performed by the employee will ultimately be placed upon Ms. Staheli's shoulders, which would be overly burdensome. Also, while some programming duties are being shifted to the Arts Guild, the coordinator is and will still be performing approximately 85 percent of the work associated with those endeavors. Council Member Swanson asked Ms. Staheli to email her thoughts to the entire Council about the position and be prepared to discuss it in greater depth in a future budget discussion.

Council Member Barker stated he would like to have more detailed discussion about the option for employees to cash out unused vacation; he would like to expand the buyout option from 40 hours to 80 hours. Mayor Berube expressed concern about a more significant buyout because people will opt for the money rather than taking their time off, which leads to burn-out. Council Member Swanson agreed and stated that it may also incentivize employees to come to work sick rather than take time off when needed. Mayor Berube stated he is willing to discuss it further, but noted it is important to consider that expanding the buy out to 80 hours will result in an additional \$45,000 budgeted expenditure.

Mr. Nelson concluded there will be additional budget discussions and he reviewed the budget calendar, noting adoption of the final budget should take place by the end of June.

Chief Quinney referenced the discussion regarding a leave buy-out; he indicated he has family members who work in the private sector and while they do not have the option to cash out their leave, they do receive a quarterly bonus. Many City employees view the leave buy out as a bonus and he would hate to take that option away from his employees. Mayor Berube stated that is good information for the Council to consider between now and the next time the budget is discussed. He also asked the Council to consider the appropriate budget reduction goal for Department Heads to reach; the dollar amount that has been discussed is \$500,000 and the Council needs to determine whether that is feasible or if adjustments should be considered. If the \$500,000 target is not reached, it may be necessary for the City to consider a tax increase to generate enough funding for the Public Safety facility project. Council Member Swanson asked that each Council Member email him their input on that matter by Thursday night so that he can forward additional information to the Mayor by Friday.

Council Member Stoker briefly reviewed the budget proposal for the Police Department; she supports the increases requested for Department training, postage, policy manual amendments, improvements to technology utilized by the Department, a trust fund for spouses and families who lose a family member in the line of duty, victims advocate services, and miscellaneous expenses. Mayor Berube stated that a great deal of additional training for Police Officers will be required as a result of legislation intended to regulate police activities. Additionally, given the current national climate and sentiment regarding public safety officials, he anticipates it will be necessary to increase wages for public safety employees. The City has already experienced a dramatic reduction in qualified employees for any public safety position that has been vacant in the recent months and years. He inquired as to the overall budget adjustment in the Police Department. Mr. Nelson stated the bottom line is a \$191,000 increase when compared to the Department's amended FY 2020-2021 budget. Chief Quinney noted this includes one new officer and all of that officer's equipment.

**Council Member Swanson then motioned postpone agenda items 15 and 18 until the May 11, 2021 Council Meeting. Council Member Barker seconded the motion; all voted in favor.**

15. **COUNCIL DEPARTMENT REPORTS:**

- a. Council Member Cevering – Public Works
- b. Council Member Ekstrom – Parks and Recreation
- c. Council Member Stoker – Police

These reports were tabled until May 11, 2021.

16. **PUBLIC COMMENTS**

Brett Hamblin, North Ogden resident, stated there were comments made by Council Member Ekstrom and Council Member Swanson that he felt the need to respond to. He stated that in September of 1972, the United States was still heavily involved in the Vietnam War; that month he was drafted into the U.S. Army and for the next two Independence Days he was out of the country in support of the United States. He did not feel less supportive of this county as a result of his inability to participate in or watch an Independence Day parade. In fact, the opposite was true; he felt more pride as a result of his role in the military in the situation the county was dealing with at that time. Today, the country is dealing with COVID-19 and the pandemic has not been entirely eradicated. He is not bothered by the cancellation of special events in order to get through the pandemic in a quicker fashion. He has very much appreciated everything the Council has done in that direction. He understands that the City has heard some negative comments, but he supports the decision that has been made as he feels it is the correct decision.

17. **COUNCIL/MAYOR/STAFF COMMENTS**

Public Works Director Espinoza commented on the retirement of Scott Felter; he has been employed by the City for 30 years and has provided a great deal of service to the City.

Mayor Berube also commented on the retirement of Planning Director Scott; he wished him well in his retirement and thanked him for his service to the City. He then responded to Mr. Hamblin's comments about the City's response to the COVID-19 pandemic; the Council and staff is anxious to get back to normal but has been prudent in recommending reasonable solutions to current conditions.

18. **CLOSED MEETING: DISCUSSION AND/OR ACTION TO CONSIDER ENTERING INTO A CLOSED MEETING TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL 52-4-205 (1)(A).**

This item was tabled until May 11, 2021.

19. **ADJOURNMENT**

Council Member Ekstrom motioned to adjourn the meeting. Council Member Stoker seconded the motion; all voted in favor.

**The meeting adjourned at 10:59 p.m.**

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S. Neal Berube, Mayor

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Katie Gerard, City Recorder

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Date Approved

## Staff Report to the North Ogden City Council

### SYNOPSIS

Description: Consideration of acceptance of a bond parameter resolution establishing the maximum amount of bond the Council could issue in the future. **This resolution does not actually issue the bond.**

Date: May 21, 2021

### STAFF INFORMATION

Jon Call  
[jcall@nogden.org](mailto:jcall@nogden.org)  
801-737-9846

### QUESTION FOR COUNCIL

Should the City set the maximum limit for municipal bonds and set a public hearing date of June 22, 2021 to receive public comments on issuing the municipal bonds for the public safety building?

### BACKGROUND

The Council has been considering and recently approved moving forward with the construction of a new public safety building. In order to accomplish this the Council has recommended looking at providing some bond financing to construct the building in the near future. In order to issue bonds, the Council must pass a bond resolution, which establishes the maximum amount of bond they could later actually commit to. **This resolution does not actually obligate the City to any bond payments, or to actually issue bonds. It is one of the first steps in the process, and starts the opportunity for residents who oppose issuing a bond to file a petition to object to it.**

After the Council approves this resolution there will be some public notices published which will trigger the 30 day period for somebody to begin the process to challenge the issuance of any bonds to pay for the public safety building by starting a petition and collection signatures. The documents for them to begin the signature process are attached to the bond resolution.

### RECOMMENDATION

I am recommending the Council pass the bond parameters resolution and set the public hearing for June 22, 2021 so the City can start the notices and other paperwork to move the process along

### EXHIBITS

- 1) Bond Resolution and attached Exhibits
  - a) **Several of the exhibits for the Bond Resolution will not be available until Monday 24, 2021 at which point the bond resolution exhibits will be updated in the packet.**



**RESOLUTION 05-2021**

A Resolution authorizing the issuance and the sale of not to exceed \$10,500,000 aggregate principal amount of Sales Tax Revenue Bonds for the purpose of financing the acquisition and construction of a new public safety building; and related matters.

\*\*\*            \*\*\*            \*\*\*

WHEREAS, North Ogden City, Weber County, Utah (the “City”) considers it necessary and desirable and for the benefit of the City to issue its sales tax revenue bonds as hereinafter provided for the purpose of (a) financing all or a portion of the cost of the acquisition, construction and improvement of a new public safety building in the City (the “Project”), (b) funding any necessary reserves in connection with the Bonds, and (c) paying the costs incurred in connection with the issuance and sale of the Bonds pursuant to authority contained in the Local Government Bonding Act, Chapter 14 of Title 11 (the “Act”), Utah Code Annotated 1953, as amended (the “Utah Code”), and other applicable provisions of law;

WHEREAS, for the purposes set forth above, the City has determined (a) to issue its Sales Tax Revenue Bonds in an aggregate principal amount not to exceed \$10,500,000 (the “Bonds”) pursuant to the Master Indenture of Trust, as amended and supplemented to the date hereof (the “Master Indenture”), and a Supplemental Indenture of Trust (the “Supplemental Indenture” and, together with the Master Indenture, the “Indenture”), and (b) to cause the proceeds of the sale of the Bonds to be applied in accordance with the Indenture;

WHEREAS, the City is authorized by the Utah Code to acquire, construct and improve the Project, to enter into the Indenture, and to issue the Bonds to finance a portion of the cost of acquisition, construction and improvement of the Project, to fund any necessary reserves, and to pay all related costs authorized by law;

WHEREAS, in the opinion of the City, it is in the best interests of the City that the Designated Officer (defined below) be authorized to approve the final terms and provisions relating to the Bonds and to execute the Certificate of Determination (defined below) containing such terms and provisions, all as provided herein;

WHEREAS, Section 11-14-316 of the Utah Code provides for the publication of a Notice of Bonds to be Issued (the “Notice of Bonds”) and the running of a 30-day contest period, and the City desires to cause the publication of such Notice of Bonds at this time in compliance with said section with respect to the Bonds;

WHEREAS, Section 11-14-318 of the Act requires that a public hearing be held to receive input from the public with respect to the issuance of Bonds and the potential economic impact that the Project will have on the private sector and that notice of such public hearing be given as provided by law and, in satisfaction of such requirement, the City desires to publish a Notice of

Public Hearing and Intent to Issue Sales Tax Revenue Bonds (the “*Notice of Public Hearing*”) pursuant to such Section;

WHEREAS, Section 11-14-307(7) of the Act requires the City to submit the question of whether or not to issue the Bonds to voters for their approval or rejection if, within 30 calendar days after the publication of the Notice of Public Hearing, a written petition requesting an election and signed by at least 20% of the registered voters in the City is filed with the City;

WHEREAS, the City desires (a) to provide for the holding of a public hearing and (b) to direct the publication of the Notice of Public Hearing and to provide for the form of the written petition requesting an election, as required by law; and

WHEREAS, a portion of the expenditures relating to the Project (the “*Expenditures*”) (i) have been paid by the City within the sixty days prior to the passage of this Resolution or (ii) will be paid by the City on or after the passage of this Resolution and prior to the issuance of the Bonds;

NOW, THEREFORE, BE IT RESOLVED by the City Council of North Ogden City, Weber County, Utah, as follows:

*Section 1. Issuance of Bonds.* (a) For the purposes set forth above, there is hereby authorized and directed the execution, issuance, sale and delivery of the Bonds in the aggregate principal amount not to exceed \$10,500,000. The Bonds shall be dated as of the date of the initial delivery thereof. The Bonds shall be in authorized denominations, shall be payable, and shall be executed and delivered all as provided in the Indenture. The Bonds shall be subject to redemption prior to maturity as provided in the Indenture.

(b) The form of the Bonds set forth in the Supplemental Indenture, subject to appropriate insertions and revisions in order to comply with the provisions of the Indenture, is hereby approved.

(c) The Bonds shall be special obligations of the City, payable from and secured by a pledge and assignment of the Revenues (as defined in the Indenture) received by the City and of certain other moneys held under the Indenture on a parity with any other Bonds (as defined in the Indenture) issued from time to time under the Master Indenture. The Bonds shall not be obligations of the State or any other political subdivision thereof, other than the City, and neither the faith and credit nor the ad valorem taxing or appropriation power of the State or any political subdivision thereof, including the City, is pledged to the payment of the Bonds. The Bonds shall not constitute general obligations of the City or any other entity or body, municipal, state or otherwise.

*Section 2. Bond Details; Delegation of Authority.* (a) The Bonds shall mature in the years and in the principal amounts, and shall bear interest (calculated on the basis of a year of 360 days consisting of twelve 30-day months) from the Closing Date, payable semiannually each year, and at the rates per annum and commencing on the dates, all as provided in that certain Certificate of Determination, a form of which is attached hereto as *Exhibit B*, of the Designated Officer delivered pursuant to this Section 2, setting forth certain terms and provisions of the Bonds (the “*Certificate of Determination*”).

(b) There is hereby delegated to the Designated Officer, subject to the limitations contained in this resolution, the power to determine and effectuate the following with respect to the Bonds and the Designated Officer are hereby authorized to make such determinations and effectuations:

(i) the principal amount of each series of the Bonds necessary to accomplish the purpose of the Bonds set forth in the recitals hereto and the aggregate principal amount of each series of the Bonds to be executed and delivered pursuant to the Indenture; *provided* that the aggregate principal amount of the Bonds shall not exceed \$10,500,000;

(ii) the maturity date or dates and principal amount of each maturity of the Bonds to be issued; *provided, however*, that the Bonds mature over a period of not to exceed 21 years from their date or dates;

(iii) the interest rate or rates of the Bonds and the date on which payment of such interest commences, *provided, however*, that the interest rate or rates to be borne by any Bond shall not exceed 5.00% per annum;

(iv) the sale of the Bonds and the purchase price to be paid by the purchaser or underwriter of such Bonds; *provided, however*, that the discount from par of each series of the Bonds shall not exceed 2.00% (expressed as a percentage of the principal amount);

(v) the Bonds, if any, to be retired from mandatory sinking fund redemption payments and the dates and the amounts thereof;

(vi) the time and redemption price at which the Bonds may be called for redemption prior to their maturity at the option of the City;

(vii) the amount of reserves, if any, necessary to be maintained in connection with the Bonds, if any;

(viii) the use and deposit of the proceeds of the Bonds; and

(ix) any other provisions deemed advisable by the Designated Officer not materially in conflict with the provisions of this resolution and the Parameters Resolution.

For purposes of this resolution and the Bonds, “*Designated Officer*” means the (i) City Manager, or (ii) in the event of the absence or incapacity of the City Manager, the Finance Director, or (iii) in the event of the absence or incapacity of both the City Manager and the Finance Director, the Mayor.

Following the sale of the Bonds, the Designated Officer shall obtain such information as they deem necessary to make such determinations as provided above and shall make such determinations as provided above and shall execute the Certificate of Determination containing such terms and provisions of such series of the Bonds, which execution shall be conclusive evidence of the action or determination of the Designated Officer as to the matters stated therein.

The provisions of the Certificate of Determination shall be deemed to be incorporated into this Section 2.

*Section 3. Approval and Execution of the Master Indenture and the Supplemental Indenture.* The Master Indenture, in substantially the form attached hereto as *Exhibit B*, and the Supplemental Indenture, in substantially the form attached hereto as *Exhibit C*, are hereby authorized and approved, and the Mayor or the Deputy Mayor is hereby authorized, empowered and directed to execute and deliver the Master Indenture and the Supplemental Indenture on behalf of the City, and the City Recorder or any Deputy City Recorder is hereby authorized, empowered and directed to affix to the Master Indenture and the Supplemental Indenture the seal of the City and to attest such seal and countersign such Master Indenture and the Supplemental Indenture, with such changes to the Master Indenture and the Supplemental Indenture from the form attached hereto as are approved by the Mayor or the Deputy Mayor, his or her execution thereof to constitute conclusive evidence of such approval. The provisions of the Master Indenture and the Supplemental Indenture, as executed and delivered, are hereby incorporated in and made a part of this resolution. The Master Indenture and the Supplemental Indenture shall constitute a “system of registration” for all purposes of the Registered Public Obligations Act of Utah.

*Section 4. Other Certificates and Documents Required to Evidence Compliance with Federal Tax and Securities Laws.* Each of the Mayor or the Deputy Mayor, the City Recorder or any Deputy City Recorder, the City Manager and the City Treasurer or the Finance Director of the City is hereby authorized and directed to execute (a) such certificates and documents as are required to evidence compliance with the federal laws relating to the tax-exempt status of interest on the Bonds and (b) a Continuing Disclosure Agreement and such other certificates and documents as shall be necessary to comply with the requirements of Rule 15c2-12 of the Securities and Exchange Commission and other applicable federal securities laws.

*Section 5. Other Actions With Respect to the Bonds.* The officers and employees of the City shall take all action necessary or reasonably required to carry out, give effect to, and consummate the transactions contemplated hereby and shall take all action necessary in conformity with the Act to carry out the issuance of the Bonds, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the sale and delivery of the Bonds. If (a) the Mayor, (b) the City Recorder, (c) the Finance Director or (d) the City Manager shall be unavailable or unable to execute or attest and countersign, respectively, the Bonds or the other documents that they are hereby authorized to execute, attest and countersign, the same may be executed, or attested and countersigned, respectively, (i) by the Deputy Mayor, (ii) by any Deputy City Recorder, (iii) by the City Treasurer or (iv) an Assistant City Manager. Without limiting the generality of the foregoing, the officers and employees of the City are authorized and directed to take such action as shall be necessary and appropriate to issue the Bonds.

*Section 6. Prior Acts Ratified, Approved and Confirmed.* All acts of the officers and employees of the City in connection with the issuance of the Bonds are hereby ratified, approved and confirmed.

*Section 7. Notice of Bonds to be Issued; Contest Period.* In accordance with the provisions of Section 11-14-316 of the Utah Code, the City Recorder shall cause the Notice of Bonds, in substantially the form attached hereto as *Exhibit D*, to be posted on the State Public Notice Website.

For a period of thirty (30) days from and after posting of the Notice of Bonds, any person in interest shall have the right to contest the legality of this Resolution (including the Bond Resolution and the form of the Supplemental Indenture attached hereto) or the Bonds hereby authorized or any provisions made for the security and payment of the Bonds. After such time, no one shall have any cause of action to contest the regularity, formality or legality of this Resolution (including the Bond Resolution and the Supplemental Indenture) or the Bonds or any provisions made for the security and payment of the Bonds for any cause.

*Section 8. Publication of Notice of Public Hearing.* The City Recorder shall post or cause to be posted the Notice of Public Hearing on the State Public Notice Website. Such notice shall be posted at least 14 days prior to the date set for the public hearing. The Notice of Public Hearing shall be in substantially the form attached hereto as *Exhibit E*.

*Section 9. Form of Petition.* The form of the petition to be used by registered voters in requesting that an election be called to authorize the Bonds shall be in substantially the form attached hereto as *Exhibit F*.

*Section 10. Reimbursement of Expenditures.* The City reasonably expects to reimburse the Expenditures with proceeds of the Bonds.

*Section 11. Resolution Irrepealable.* Following the execution and delivery of the Supplemental Indenture, this resolution shall be and remain irrepealable until all of the Bonds and the interest thereon shall have been fully paid, cancelled, and discharged.

*Section 12. Severability.* If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.

*Section 13. Effective Date.* This resolution shall be effective immediately upon its approval and adoption.

*(Signature page follows.)*

ADOPTED AND APPROVED by the City Council of North Ogden City, Weber County, Utah,  
this May 25, 2021.

NORTH OGDEN CITY, WEBER COUNTY, UTAH

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Mayor

ATTEST:

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City Recorder

**EXHIBIT A**

**[ATTACH FORM OF MASTER INDENTURE OF TRUST]**

**EXHIBIT B**

**[ATTACH FORM OF SUPPLEMENTAL INDENTURE OF TRUST]**



**EXHIBIT C**

**[ATTACH FORM OF CERTIFICATE OF DETERMINATION]**

## EXHIBIT D

### NOTICE OF BONDS TO BE ISSUED

NOTICE IS HEREBY GIVEN pursuant to the provisions of Section 11-14-316, Utah Code Annotated 1953, as amended, that on May 25, 2021, the City Council (the “*Council*”) of North Ogden City, Utah (the “*City*”), adopted a resolution (the “*Resolution*”) in which it authorized and approved the issuance of its Sales Tax Revenue Bonds (the “*Bonds*”), in an aggregate principal amount of not to exceed Ten Million Five Hundred Thousand dollars to bear interest at a rate or rates of not to exceed five percent per annum and to mature not later than twenty-one years from their date or dates and to be sold at a discount from par not to exceed two percent. The Bonds shall be subject to such optional and mandatory redemption and other provisions as are contained in the Master Indenture of Trust, described below, and the final form of the Bonds and Supplemental Indenture, described below.

Pursuant to the Resolution, the Bonds are to be issued for the purpose of financing all or a portion of the cost of acquiring, constructing and improving a new public safety building in the City (the “*Project*”), (b) funding all or a portion of any necessary reserves in connection with the Bonds, and (c) paying all or a portion of the costs incurred in connection with the issuance and sale of the Bonds. The Bonds are to be issued and sold by the City pursuant to the Resolution and copies of a Master Indenture of Trust (the “*Master Indenture*”) and a Supplemental Indenture of Trust (the “*Supplemental Indenture*”) that were before the Council and attached to the Resolution at the time of the adoption of the Resolution. The Council will adopt the bond resolution and the City will cause the Master Indenture and the Supplemental Indenture to be executed and delivered, in each case in such form and with such changes thereto as the Council shall approve upon the adoption of the bond resolution, *provided* that the principal amount, interest rate or rates, maturity and discount, if any, will not exceed the respective maximums described above.

The repayment of the Bonds will be secured by a pledge of the legally available revenues from the Local Sales and Use Taxes received by the City pursuant to Title 59, Chapter 12, Part 2, Utah Code (the “*Pledged Taxes*”).

The City currently has no bonds currently outstanding that are secured by the Pledged Taxes. More detailed information relating to the City’s outstanding bonds can be found in the City’s most recent Comprehensive Annual Financial Report that is available on the Office of the Utah State Auditor’s website ([www.sao.state.ut.us](http://www.sao.state.ut.us)). The estimated total cost to the City of the proposed Bonds that will be used to finance the costs of the Project, if the Bonds are held until maturity and based on estimated interest rates currently in effect, is \$13,023,937.

A copy of the Resolution (including the drafts of the Supplemental Indenture and a copy of the Master Indenture attached to the Resolution) is on file in the office of the City Recorder at 505 East 2600 North, in North Ogden, Utah, where the Resolution may be examined during regular business hours of the City Recorder from 8:00 a.m. to 5:00 p.m. The Resolution shall be so available for inspection for a period of at least thirty (30) days from and after the date of the publication of this notice.

NOTICE IS FURTHER GIVEN that, pursuant to law, for a period of thirty (30) days from and after the date of the publication of this notice, any person in interest shall have the right to contest the legality of the Resolution (including the Supplemental Indenture attached thereto) of the City or the Bonds authorized thereby or any provisions made for the security and payment of the Bonds. After such time, no one shall have any cause of action to contest the regularity, formality or legality of the Resolution, the Bonds or any provisions made for their security and payment for any cause.

DATED May 25, 2021.

NORTH OGDEN CITY, UTAH

**EXHIBIT E**

**NORTH OGDEN CITY, UTAH  
NOTICE OF PUBLIC HEARING AND INTENT TO ISSUE  
SALES TAX REVENUE BONDS**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council (the “*Council*”) of North Ogden City, Utah (the “*City*”), shall hold a public hearing to receive input from the public with respect to the issuance of its Sales Tax Revenue Bonds (the “*Bonds*”) to finance all or a portion of the cost of acquiring, constructing and improving a new public safety building in the City (the “*Project*”) and the potential economic impact that the Project will have on the private sector, pursuant to the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended (the “*Act*”).

**PURPOSE FOR ISSUING BONDS**

The City intends to issue the Bonds for the purpose of (1) financing all or a portion of the costs of the acquisition, construction and improvement of the Project, (2) funding any necessary reserves and contingencies in connection with the Bonds, and (3) paying the costs incurred in connection with the issuance and sale of the Bonds.

**MAXIMUM PRINCIPAL AMOUNT OF THE BONDS**

The City intends to issue the Bonds in an aggregate principal amount not exceeding Ten Million Five Hundred Thousand Dollars (\$10,500,000).

**SALES TAXES PROPOSED TO BE PLEDGED**

The City proposes to pledge to the payment of the Bonds all of the legally available revenues from Local Sales and Use Taxes received by the City pursuant to Title 59, Chapter 12, Part 2, Utah Code.

**TIME, PLACE AND LOCATION OF PUBLIC HEARING**

The City will hold a public hearing during its City Council meeting that begins at \_\_\_\_\_ p.m. on \_\_\_\_\_, 2021. The public hearing will be held at the regular meeting place of the Council at 505 East 2600 North, in North Ogden, Utah. All members of the public are invited to attend and participate in the public hearing. Written comments may be submitted to the City, to the attention of the City Recorder, prior to the public hearing.

**PURPOSE FOR HEARING**

The purpose of the hearing is to receive input from the public with respect to the issuance of the Bonds and the potential economic impact that the Project will have on the private sector.

**NOTICE OF RIGHT TO FILE PETITION TO HOLD AN ELECTION**

NOTICE IS FURTHER GIVEN that pursuant to Section 11-14-307(7), Utah Code, if within 30 calendar days of the posting of this notice on \_\_\_\_\_, 2021, a written petition requesting an election and signed by at least twenty percent (20%) of the registered voters of the City is filed with the City, then the City shall submit the question of whether or not to issue the Bonds to the voters of the City for their approval or rejection.

If no written petition is filed or if fewer than 20% of the registered voters of the City sign a written petition, in either case, within 30 calendar days of the posting of this notice on \_\_\_\_\_, 2021, the City may proceed to issue the Bonds without an election.

DATED \_\_\_\_\_, 2021.

NORTH OGDEN CITY, UTAH

**EXHIBIT F**

**PETITION**

To: City Recorder  
North Ogden City, Utah

We, the undersigned citizens and registered voters of North Ogden City, Utah, respectfully request that an election be called by the City Council (the "*City Council*") of North Ogden City, Utah (the "*City*"), pursuant to the provisions of Section 11-14-307(7), Utah Code Annotated 1953, as amended, to authorize the issuance by North Ogden City, Utah, of its Sales Tax Revenue Bonds, in a maximum principal amount not exceeding \$10,500,000, as to which notice of intention to issue was posted on \_\_\_\_\_, 2021, pursuant to the provisions of a resolution passed by the City Council at a regular meeting of the City Council held on May 25, 2021, and each for himself or herself says: I have personally signed this petition; I am a registered voter of North Ogden City, Utah; my residence and post office address are correctly written after my name:



STATE OF UTAH            )  
                                      : ss.  
COUNTY OF WEBER        )

I, \_\_\_\_\_, of \_\_\_\_\_, hereby certify that I am a registered voter of North Ogden City, Utah, that all the names which appear on this sheet were signed by persons who professed to be the persons whose names appear thereon, and each of them signed his or her name thereto in my presence, I believe that each has printed and signed his or her name, and written his or her post office address and residence correctly, and that each signer is a registered voter of North Ogden City, Utah.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Notary Public (or other official title)



## RESOLUTION

A Resolution authorizing the issuance and the sale of not to exceed \$10,500,000 aggregate principal amount of Sales Tax Revenue Bonds for the purpose of financing the acquisition and construction of a new public safety building; and related matters.

\*\*\*                      \*\*\*                      \*\*\*

WHEREAS, North Ogden City, Weber County, Utah (the “City”) considers it necessary and desirable and for the benefit of the City to issue its sales tax revenue bonds as hereinafter provided for the purpose of (a) financing all or a portion of the cost of the acquisition, construction and improvement of a new public safety building in the City (the “Project”), (b) funding any necessary reserves in connection with the Bonds, and (c) paying the costs incurred in connection with the issuance and sale of the Bonds pursuant to authority contained in the Local Government Bonding Act, Chapter 14 of Title 11 (the “Act”), Utah Code Annotated 1953, as amended (the “Utah Code”), and other applicable provisions of law;

WHEREAS, for the purposes set forth above, the City has determined (a) to issue its Sales Tax Revenue Bonds in an aggregate principal amount not to exceed \$10,500,000 (the “Bonds”) pursuant to the Master Indenture of Trust, as amended and supplemented to the date hereof (the “Master Indenture”), and a Supplemental Indenture of Trust (the “Supplemental Indenture” and, together with the Master Indenture, the “Indenture”), and (b) to cause the proceeds of the sale of the Bonds to be applied in accordance with the Indenture;

WHEREAS, the City is authorized by the Utah Code to acquire, construct and improve the Project, to enter into the Indenture, and to issue the Bonds to finance a portion of the cost of acquisition, construction and improvement of the Project, to fund any necessary reserves, and to pay all related costs authorized by law;

WHEREAS, in the opinion of the City, it is in the best interests of the City that ~~(a) the Designated Officer (defined below) be authorized to approve the final terms and provisions relating to the Bonds and to execute the Certificate of Determination (defined below) containing such terms and provisions; and (b) the Mayor be authorized to execute the Official Statement with respect to the Bonds~~, all as provided herein;

WHEREAS, Section 11-14-316 of the Utah Code provides for the publication of a Notice of Bonds to be Issued (the “Notice of Bonds”) and the running of a 30-day contest period, and the City desires to cause the publication of such Notice of Bonds at this time in compliance with said section with respect to the Bonds;

WHEREAS, Section 11-14-318 of the Act requires that a public hearing be held to receive input from the public with respect to the issuance of Bonds and the potential economic impact that the Project will have on the private sector and that notice of such public hearing be given as provided by law and, in satisfaction of such requirement, the City desires to publish a Notice of

Public Hearing and Intent to Issue Sales Tax Revenue Bonds (the “*Notice of Public Hearing*”) pursuant to such Section;

WHEREAS, Section 11-14-307(7) of the Act requires the City to submit the question of whether or not to issue the Bonds to voters for their approval or rejection if, within 30 calendar days after the publication of the Notice of Public Hearing, a written petition requesting an election and signed by at least 20% of the registered voters in the City is filed with the City;

WHEREAS, the City desires (a) to provide for the holding of a public hearing and (b) to direct the publication of the Notice of Public Hearing and to provide for the form of the written petition requesting an election, as required by law; and

WHEREAS, a portion of the expenditures relating to the Project (the “*Expenditures*”) (i) have been paid by the City within the sixty days prior to the passage of this Resolution or (ii) will be paid by the City on or after the passage of this Resolution and prior to the issuance of the Bonds;

NOW, THEREFORE, BE IT RESOLVED by the City Council of North Ogden City, Weber County, Utah, as follows:

*Section 1. Issuance of Bonds.* (a) For the purposes set forth above, there is hereby authorized and directed the execution, issuance, sale and delivery of the Bonds in the aggregate principal amount not to exceed \$10,500,000. The Bonds shall be dated as of the date of the initial delivery thereof. The Bonds shall be in authorized denominations, shall be payable, and shall be executed and delivered all as provided in the Indenture. The Bonds shall be subject to redemption prior to maturity as provided in the Indenture.

(b) The form of the Bonds set forth in the Supplemental Indenture, subject to appropriate insertions and revisions in order to comply with the provisions of the Indenture, is hereby approved.

(c) The Bonds shall be special obligations of the City, payable from and secured by a pledge and assignment of the Revenues (as defined in the Indenture) received by the City and of certain other moneys held under the Indenture on a parity with any other Bonds (as defined in the Indenture) issued from time to time under the Master Indenture. The Bonds shall not be obligations of the State or any other political subdivision thereof, other than the City, and neither the faith and credit nor the ad valorem taxing or appropriation power of the State or any political subdivision thereof, including the City, is pledged to the payment of the Bonds. The Bonds shall not constitute general obligations of the City or any other entity or body, municipal, state or otherwise.

*Section 2. Bond Details; Delegation of Authority.* (a) The Bonds shall mature in the years and in the principal amounts, and shall bear interest (calculated on the basis of a year of 360 days consisting of twelve 30-day months) from the Closing Date, payable semiannually each year, and at the rates per annum and commencing on the dates, all as provided in that certain Certificate of Determination, a form of which is attached hereto as *Exhibit B*, of the Designated Officer delivered pursuant to this Section 2, setting forth certain terms and provisions of the Bonds (the “*Certificate of Determination*”).

(b) There is hereby delegated to the Designated Officer, subject to the limitations contained in this resolution, the power to determine and effectuate the following with respect to the Bonds and the Designated Officer are hereby authorized to make such determinations and effectuations:

(i) the principal amount of each series of the Bonds necessary to accomplish the purpose of the Bonds set forth in the recitals hereto and the aggregate principal amount of each series of the Bonds to be executed and delivered pursuant to the Indenture; *provided* that the aggregate principal amount of the Bonds shall not exceed \$10,500,000;

(ii) the maturity date or dates and principal amount of each maturity of the Bonds to be issued; *provided, however*, that the Bonds mature over a period of not to exceed 21 years from their date or dates;

(iii) the interest rate or rates of the Bonds and the date on which payment of such interest commences, *provided, however*, that the interest rate or rates to be borne by any Bond shall not exceed 5.00% per annum;

(iv) the sale of the Bonds and the purchase price to be paid by the purchaser or underwriter of such Bonds; *provided, however*, that the discount from par of each series of the Bonds shall not exceed 2.00% (expressed as a percentage of the principal amount);

(v) the Bonds, if any, to be retired from mandatory sinking fund redemption payments and the dates and the amounts thereof;

(vi) the time and redemption price at which the Bonds may be called for redemption prior to their maturity at the option of the City;

(vii) the amount of reserves, if any, necessary to be maintained in connection with the Bonds, if any;

(viii) the use and deposit of the proceeds of the Bonds; and

(ix) any other provisions deemed advisable by the Designated Officer not materially in conflict with the provisions of this resolution and the Parameters Resolution.

For purposes of this resolution and the Bonds, “*Designated Officer*” means the (i) City Manager, or (ii) in the event of the absence or incapacity of the City Manager, the Finance Director, or (iii) in the event of the absence or incapacity of both the City Manager and the Finance Director, the Mayor.

Following the sale of the Bonds, the Designated Officer shall obtain such information as they deem necessary to make such determinations as provided above and shall make such determinations as provided above and shall execute the Certificate of Determination containing such terms and provisions of such series of the Bonds, which execution shall be conclusive evidence of the action or determination of the Designated Officer as to the matters stated therein.

The provisions of the Certificate of Determination shall be deemed to be incorporated into this Section 2.

*Section 3. Approval and Execution of the Master Indenture and the Supplemental Indenture.* The Master Indenture, in substantially the form attached hereto as *Exhibit B*, and the Supplemental Indenture, in substantially the form attached hereto as *Exhibit C*, are hereby authorized and approved, and the Mayor or the Deputy Mayor is hereby authorized, empowered and directed to execute and deliver the Master Indenture and the Supplemental Indenture on behalf of the City, and the City Recorder or any Deputy City Recorder is hereby authorized, empowered and directed to affix to the Master Indenture and the Supplemental Indenture the seal of the City and to attest such seal and countersign such Master Indenture and the Supplemental Indenture, with such changes to the Master Indenture and the Supplemental Indenture from the form attached hereto as are approved by the Mayor or the Deputy Mayor, his or her execution thereof to constitute conclusive evidence of such approval. The provisions of the Master Indenture and the Supplemental Indenture, as executed and delivered, are hereby incorporated in and made a part of this resolution. The Master Indenture and the Supplemental Indenture shall constitute a “system of registration” for all purposes of the Registered Public Obligations Act of Utah.

~~*Section 4. Preliminary Official Statement.* The use and distribution of the Official Statement in preliminary form (the “Preliminary Official Statement”), in substantially the form presented at this meeting and in the form attached hereto as *Exhibit D*, is hereby authorized and approved, with such changes, omissions, insertions and revisions as the Mayor shall deem advisable. The Mayor and the City Manager are, and each of them is, hereby authorized to do or perform all such acts and to execute all such certificates, documents and other instruments as may be necessary or advisable to deem final the Preliminary Official Statement within the meaning and for purposes of paragraph (b)(1) of Rule 15c2-12 of the Securities and Exchange Commission, subject to completion thereof with the information established at the time of the sale of the Bonds.~~

~~*Section 5. Final Official Statement.* The Official Statement of the City is hereby authorized in substantially the form presented at this meeting and in the form attached hereto as *Exhibit D* with such changes, omissions, insertions and revisions as the Mayor shall deem advisable, including the completion thereof with the information established at the time of the sale of the Bonds by the Designated Officer and set forth in the Certificate of Determination. The Mayor shall sign and deliver the Official Statement to the underwriter of the Bonds for distribution to prospective purchasers of the Bonds and other interested persons. The approval of the Mayor of any such changes, omissions, insertions and revisions shall be conclusively established by the Mayor’s execution of the Official Statement.~~

~~*Section 6.4. Other Certificates and Documents Required to Evidence Compliance with Federal Tax and Securities Laws.* Each of the Mayor or the Deputy Mayor, the City Recorder or any Deputy City Recorder, the City Manager and the City Treasurer or the Finance Director of the City is hereby authorized and directed to execute (a) such certificates and documents as are required to evidence compliance with the federal laws relating to the tax-exempt status of interest on the Bonds and (b) a Continuing Disclosure Agreement and such other certificates and documents as shall be necessary to comply with the requirements of Rule 15c2-12 of the Securities and Exchange Commission and other applicable federal securities laws.~~

*Section ~~75~~. Other Actions With Respect to the Bonds.* The officers and employees of the City shall take all action necessary or reasonably required to carry out, give effect to, and consummate the transactions contemplated hereby and shall take all action necessary in conformity with the Act to carry out the issuance of the Bonds, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the sale and delivery of the Bonds. If (a) the Mayor, (b) the City Recorder, (c) the Finance Director or (d) the City Manager shall be unavailable or unable to execute or attest and countersign, respectively, the Bonds or the other documents that they are hereby authorized to execute, attest and countersign, the same may be executed, or attested and countersigned, respectively, (i) by the Deputy Mayor, (ii) by any Deputy City Recorder, (iii) by the City Treasurer or (iv) an Assistant City Manager. Without limiting the generality of the foregoing, the officers and employees of the City are authorized and directed to take such action as shall be necessary and appropriate to issue the Bonds.

*Section ~~86~~. Prior Acts Ratified, Approved and Confirmed.* All acts of the officers and employees of the City in connection with the issuance of the Bonds are hereby ratified, approved and confirmed.

*Section ~~97~~. Notice of Bonds to be Issued; Contest Period.* In accordance with the provisions of Section 11-14-316 of the Utah Code, the City Recorder shall cause the Notice of Bonds, in substantially the form attached hereto as *Exhibit ~~ED~~*, to be posted on the State Public Notice Website.

For a period of thirty (30) days from and after posting of the Notice of Bonds, any person in interest shall have the right to contest the legality of this Resolution (including the Bond Resolution and the form of the Supplemental Indenture attached hereto) or the Bonds hereby authorized or any provisions made for the security and payment of the Bonds. After such time, no one shall have any cause of action to contest the regularity, formality or legality of this Resolution (including the Bond Resolution and the Supplemental Indenture) or the Bonds or any provisions made for the security and payment of the Bonds for any cause.

*Section ~~108~~. Publication of Notice of Public Hearing.* The City Recorder shall post or cause to be posted the Notice of Public Hearing on the State Public Notice Website. Such notice shall be posted at least 14 days prior to the date set for the public hearing. The Notice of Public Hearing shall be in substantially the form attached hereto as *Exhibit ~~FE~~*.

*Section ~~119~~. Form of Petition.* The form of the petition to be used by registered voters in requesting that an election be called to authorize the Bonds shall be in substantially the form attached hereto as *Exhibit ~~GE~~*.

*Section ~~1210~~. Reimbursement of Expenditures.* The City reasonably expects to reimburse the Expenditures with proceeds of the Bonds.

*Section ~~1311~~. Resolution Irrepealable.* Following the execution and delivery of the Supplemental Indenture, this resolution shall be and remain irrepealable until all of the Bonds and the interest thereon shall have been fully paid, cancelled, and discharged.

*Section ~~4~~12.* *Severability.* If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.

*Section ~~4~~13.* *Effective Date.* This resolution shall be effective immediately upon its approval and adoption.

*(Signature page follows.)*

ADOPTED AND APPROVED by the City Council of North Ogden City, Weber County, Utah,  
this May 25, 2021.

NORTH OGDEN CITY, WEBER COUNTY, UTAH

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Mayor

ATTEST:

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City Recorder

**EXHIBIT A**

**[ATTACH FORM OF MASTER INDENTURE OF TRUST]**



**EXHIBIT B**

**[ATTACH FORM OF SUPPLEMENTAL INDENTURE OF TRUST]**

**EXHIBIT C**

**[ATTACH FORM OF CERTIFICATE OF DETERMINATION]**

**EXHIBIT D**

~~[ATTACH FORM OF PRELIMINARY OFFICIAL STATEMENT]~~

**EXHIBIT E**

**NOTICE OF BONDS TO BE ISSUED**

NOTICE IS HEREBY GIVEN pursuant to the provisions of Section 11-14-316, Utah Code Annotated 1953, as amended, that on May 25, 2021, the City Council (the “*Council*”) of North Ogden City, Utah (the “*City*”), adopted a resolution (the “*Resolution*”) in which it authorized and approved the issuance of its Sales Tax Revenue Bonds (the “*Bonds*”), in an aggregate principal amount of not to exceed Ten Million Five Hundred Thousand dollars to bear interest at a rate or rates of not to exceed five percent per annum and to mature not later than twenty-one years from their date or dates and to be sold at a discount from par not to exceed two percent. The Bonds shall be subject to such optional and mandatory redemption and other provisions as are contained in the Master Indenture of Trust, described below, and the final form of the Bonds and Supplemental Indenture, described below.

Pursuant to the Resolution, the Bonds are to be issued for the purpose of financing all or a portion of the cost of acquiring, constructing and improving a new public safety building in the City (the “*Project*”), (b) funding all or a portion of any necessary reserves in connection with the Bonds, and (c) paying all or a portion of the costs incurred in connection with the issuance and sale of the Bonds. The Bonds are to be issued and sold by the City pursuant to the Resolution and copies of a Master Indenture of Trust (the “*Master Indenture*”) and a Supplemental Indenture of Trust (the “*Supplemental Indenture*”) that were before the Council and attached to the Resolution at the time of the adoption of the Resolution. The Council will adopt the bond resolution and the City will cause the Master Indenture and the Supplemental Indenture to be executed and delivered, in each case in such form and with such changes thereto as the Council shall approve upon the adoption of the bond resolution, *provided* that the principal amount, interest rate or rates, maturity and discount, if any, will not exceed the respective maximums described above.

The repayment of the Bonds will be secured by a pledge of the legally available revenues from the Local Sales and Use Taxes received by the City pursuant to Title 59, Chapter 12, Part 2, Utah Code (the “*Pledged Taxes*”).

The City currently has no bonds currently outstanding that are secured by the Pledged Taxes. More detailed information relating to the City’s outstanding bonds can be found in the City’s most recent Comprehensive Annual Financial Report that is available on the Office of the Utah State Auditor’s website ([www.sao.state.ut.us](http://www.sao.state.ut.us)). The estimated total cost to the City of the proposed Bonds that will be used to finance the costs of the Project, if the Bonds are held until maturity and based on estimated interest rates currently in effect, is \$13,023,937.

A copy of the Resolution (including the drafts of the Supplemental Indenture and a copy of the Master Indenture attached to the Resolution) is on file in the office of the City Recorder at 505 East 2600 North, in North Ogden, Utah, where the Resolution may be examined during regular business hours of the City Recorder from 8:00 a.m. to 5:00 p.m. The Resolution shall be so available for inspection for a period of at least thirty (30) days from and after the date of the publication of this notice.

NOTICE IS FURTHER GIVEN that, pursuant to law, for a period of thirty (30) days from and after the date of the publication of this notice, any person in interest shall have the right to contest the legality of the Resolution (including the Supplemental Indenture attached thereto) of the City or the Bonds authorized thereby or any provisions made for the security and payment of the Bonds. After such time, no one shall have any cause of action to contest the regularity, formality or legality of the Resolution, the Bonds or any provisions made for their security and payment for any cause.

DATED May 25, 2021.

NORTH OGDEN CITY, UTAH

**EXHIBIT ~~FE~~**

**NORTH OGDEN CITY, UTAH  
NOTICE OF PUBLIC HEARING AND INTENT TO ISSUE  
SALES TAX REVENUE BONDS**

PUBLIC NOTICE IS HEREBY GIVEN that the City Council (the “*Council*”) of North Ogden City, Utah (the “*City*”), shall hold a public hearing to receive input from the public with respect to the issuance of its Sales Tax Revenue Bonds (the “*Bonds*”) to finance all or a portion of the cost of acquiring, constructing and improving a new public safety building in the City (the “*Project*”) and the potential economic impact that the Project will have on the private sector, pursuant to the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended (the “*Act*”).

**PURPOSE FOR ISSUING BONDS**

The City intends to issue the Bonds for the purpose of (1) financing all or a portion of the costs of the acquisition, construction and improvement of the Project, (2) funding any necessary reserves and contingencies in connection with the Bonds, and (3) paying the costs incurred in connection with the issuance and sale of the Bonds.

**MAXIMUM PRINCIPAL AMOUNT OF THE BONDS**

The City intends to issue the Bonds in an aggregate principal amount not exceeding Ten Million Five Hundred Thousand Dollars (\$10,500,000).

**SALES TAXES PROPOSED TO BE PLEDGED**

The City proposes to pledge to the payment of the Bonds all of the legally available revenues from Local Sales and Use Taxes received by the City pursuant to Title 59, Chapter 12, Part 2, Utah Code.

**TIME, PLACE AND LOCATION OF PUBLIC HEARING**

The City will hold a public hearing during its City Council meeting that begins at \_\_\_\_\_ p.m. on \_\_\_\_\_, 2021. The public hearing will be held at the regular meeting place of the Council at 505 East 2600 North, in North Ogden, Utah. All members of the public are invited to attend and participate in the public hearing. Written comments may be submitted to the City, to the attention of the City Recorder, prior to the public hearing.

**PURPOSE FOR HEARING**

The purpose of the hearing is to receive input from the public with respect to the issuance of the Bonds and the potential economic impact that the Project will have on the private sector.

**NOTICE OF RIGHT TO FILE PETITION TO HOLD AN ELECTION**

NOTICE IS FURTHER GIVEN that pursuant to Section 11-14-307(7), Utah Code, if within 30 calendar days of the posting of this notice on \_\_\_\_\_, 2021, a written petition requesting an election and signed by at least twenty percent (20%) of the registered voters of the City is filed with the City, then the City shall submit the question of whether or not to issue the Bonds to the voters of the City for their approval or rejection.

If no written petition is filed or if fewer than 20% of the registered voters of the City sign a written petition, in either case, within 30 calendar days of the posting of this notice on \_\_\_\_\_, 2021, the City may proceed to issue the Bonds without an election.

DATED \_\_\_\_\_, 2021.

NORTH OGDEN CITY, UTAH

EXHIBIT **GF**

PETITION

To: City Recorder  
North Ogden City, Utah

We, the undersigned citizens and registered voters of North Ogden City, Utah, respectfully request that an election be called by the City Council (the "*City Council*") of North Ogden City, Utah (the "*City*"), pursuant to the provisions of Section 11-14-307(7), Utah Code Annotated 1953, as amended, to authorize the issuance by North Ogden City, Utah, of its Sales Tax Revenue Bonds, in a maximum principal amount not exceeding \$10,500,000, as to which notice of intention to issue was posted on \_\_\_\_\_, 2021, pursuant to the provisions of a resolution passed by the City Council at a regular meeting of the City Council held on May 25, 2021, and each for himself or herself says: I have personally signed this petition; I am a registered voter of North Ogden City, Utah; my residence and post office address are correctly written after my name:





STATE OF UTAH        )  
                              : ss.  
COUNTY OF WEBER    )

I, \_\_\_\_\_, of \_\_\_\_\_, hereby certify that I am a registered voter of North Ogden City, Utah, that all the names which appear on this sheet were signed by persons who professed to be the persons whose names appear thereon, and each of them signed his or her name thereto in my presence, I believe that each has printed and signed his or her name, and written his or her post office address and residence correctly, and that each signer is a registered voter of North Ogden City, Utah.

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2021.

Notary Public (or other official title)

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**MASTER TRUST INDENTURE**

**BETWEEN**

**NORTH OGDEN CITY, UTAH**

**AND**

**[TRUSTEE]**

**AS TRUSTEE**

**DATED AS OF [DATE], 2021**

**PROVIDING FOR THE ISSUANCE OF**

**SALES TAX REVENUE BONDS**

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## MASTER TRUST INDENTURE

THIS MASTER TRUST INDENTURE, dated as of [Date], 2021, by and between the North Ogden City, Utah, a municipal corporation and political subdivision of the State of Utah (the “City”), and [Trustee], a national banking association duly organized and qualified under the laws of the United States to accept and administer the trust hereby created, and having a place of business in Salt Lake City, Utah (the “Trustee”):

### WITNESSETH:

WHEREAS, the City desires to undertake the acquisition, improvement or extension of one or more improvements, facilities or property (or interests therein) which the City is authorized by law to acquire and to finance the cost of such acquisition, improvement or extension by the issuance of sales tax revenue bonds as authorized by law, all payable on a parity as to Revenues of the City as provided herein;

NOW, THEREFORE, the City and the Trustee agree as follows for the benefit of the other and for the benefit of the owners of the Bonds issued pursuant to this Indenture:

### NOW, THEREFORE, THIS MASTER TRUST INDENTURE WITNESSETH:

#### GRANTING CLAUSE

In order to secure the payment of Principal, Redemption Price and interest on the Bonds and of Repayment Obligations in accordance with their terms and the provisions of the Indenture, and to secure the observance and performance of all the covenants contained herein, in the Bonds and in the Repayment Obligations, the City hereby assigns and pledges to the Trustee and grants to the Trustee a security interest in all right, title and interest of the City in and to (1) the proceeds of sale of the Bonds, (2) the Revenues, and (3) all Funds established or confirmed by the Indenture (except for any Rebate Fund), including the investments, if any, thereof, subject to any required rebate of all or a portion of the earnings on such investments to the United States of America pursuant to the requirements of Section 148(f) of the Code, and all other rights hereinafter granted for the further securing of said Bonds and Repayment Obligations (collectively, the “Trust Estate”), subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein; such Trust Estate to be held:

FIRST, for the equal and proportionate benefit, security and protection of all Bondholders and all Security Instrument Issuers, without preference, priority or distinction as to security or otherwise of any of the Bonds or Security Instrument Repayment Obligations over any of the others, except as otherwise expressly provided in or permitted by the Indenture, by reason of time of issuance, sale, delivery, maturity or expiration thereof or otherwise for any cause whatsoever; and

SECOND, for the equal and proportionate benefit, security and protection of all Reserve Instrument Issuers, without preference, priority or distinction as to security or otherwise of any Reserve Instrument Repayment Obligations over any of the others by reason of time of issuance, delivery or expiration thereof or otherwise for any cause whatsoever.

PROVIDED, HOWEVER, that if the City, its successors or assigns, shall well and truly pay, or cause to be paid, the principal and premium, if any, on the Bonds and the interest due or to become due thereon, at the times and in the manner mentioned in the Bonds, all Security Instrument Repayment Obligations, according to the true intent and meaning thereof and all Reserve Instrument Repayment Obligations, according to the true intent and meaning thereof, or shall provide, as permitted by this Indenture, for the payment thereof as provided in Article XI hereof, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions of this Indenture, then upon such final payments or provisions for such payments by the City, this Indenture, and the rights hereby granted, shall terminate; otherwise this Indenture shall remain in full force and effect.

The terms and conditions upon which the Bonds are to be executed, authenticated, delivered, secured and accepted by all persons who from time to time shall be or become Registered Owners thereof, and the trusts and conditions upon which the Revenues are to be held and disposed, which said trusts and conditions the Trustee hereby accepts, are as follows:

## ARTICLE I

### DEFINITIONS, STATUTORY AUTHORITY AND EQUALITY OF BONDS

**Section 1.01. Definitions.** Unless the context otherwise requires, the terms in this Section defined shall, for all purposes of the Indenture and of any certificate, opinion or other document herein mentioned, have the meanings herein specified.

*“Accountant’s Certificate”* means a certificate signed by an Independent Public Accountant.

*“Accreted Amount”* means, with respect to Capital Appreciation Bonds of any Series and as of the date of calculation, the amount established pursuant to the Supplemental Indenture authorizing such Capital Appreciation Bonds as the amount representing the initial public offering price, plus the accumulated and compounded interest on such Bonds.

*“Accrued Debt Service”* means, as of any date of calculation, the amount of Debt Service that has accrued with respect to any Series of Bonds and any related Security Instrument Repayment Obligations, calculating the Debt Service that has accrued with respect to each Series of Bonds and any related Security Instrument Repayment Obligations as an amount equal to the sum of (a) the interest on the Bonds of such Series and on any related Security Instrument Repayment Obligations that has accrued and is unpaid and that will have accrued by the end of the then-current calendar month, and (b) that portion of all Principal Installments payable within the 12-month period following the date of calculation for the Bonds of such Series and on any related



Security Instrument Repayment Obligations that would have accrued, if deemed to accrue in the same manner as interest accrues, by the end of the then current calendar month.

“*Act*” means the Local Government Bonding Act, Chapter 14 of Title 11, Utah Code Annotated 1953, as amended, and, to the extent applicable, the Registered Public Obligations Act, Chapter 7 of Title 15, Utah Code Annotated 1953, as amended, and the Utah Refunding Bond Act, Chapter 27 of Title 11, Utah Code Annotated 1953, as amended, and all laws amendatory thereof or supplemental thereto.

“*Agent*” or “*Agents*” means the Trustee, the Paying Agents, any Transfer Agent, any Depository, or any or all of them, as may be appropriate.

“*Aggregate Debt Service*” means, as of any date of calculation and with respect to any period, the sum of the amounts of Debt Service for (a) all Series of Bonds then Outstanding and (b) any Repayment Obligations then outstanding.

“*Amortized Value*” means par, if an obligation was purchased at par or, when used with respect to an obligation purchased at a premium above par or at a discount below par, means the value as of any given date obtained by dividing the total amount of the premium or discount at which such obligation was purchased by the number of days remaining to the maturity of such obligation on the date of such purchase and by multiplying the amount thus calculated by the number of days having passed since the date of such purchase and: (a) in the case of an obligation purchased at a premium, by subtracting the product thus obtained from the purchase price to obtain Amortized Value, or (b) in the case of an obligation purchased at a discount, by adding the product thus obtained to the purchase price to obtain Amortized Value.

“*Authorized Amount*” means, with respect to a Commercial Paper Program, the maximum principal amount of commercial paper which is then authorized by the City to be outstanding at any one time pursuant to such Commercial Paper Program.

“*Authorized Officer*” means the Mayor, the City Manager, the City Treasurer, the City Recorder, the Finance Director and any other person duly authorized to perform the act or sign the document in question.

“*Average Aggregate Debt Service*” means, as of any date of calculation, the sum of the amounts of Aggregate Debt Service for each Fiscal Year during which any Series of Bonds is Outstanding divided by the number of such Fiscal Years.

“*Balloon Bonds*” means Bonds, other than Bonds which mature within one year of the date of issuance thereof, 25% or more of the Principal Installments on which (a) are due or, (b) at the option of the Holder thereof may be redeemed, during any period of a Year.

“*Bond Service Account*” means the Bond Service Account in the Principal and Interest Fund established in Section 5.03.

“*Bondholder*,” “*Holder*,” “*Owner*” or “*Registered Owner*,” or any similar term, means the owner of any Bond or Bonds. In the case of a fully-registered Bond, Bondholder means the registered owner of such Bond.

“*Bonds*” means bonds, notes, commercial paper or other obligations (other than Repayment Obligations) authorized by and at any time Outstanding pursuant to the Indenture. The term Bonds includes Construction Bonds and Refunding Bonds.

“*Business Day*” means a day of the year which is not a Saturday, Sunday or legal holiday in New York, New York, or a day on which the Trustee, any Depository and any Security Instrument Issuer are authorized or obligated to close.

“*Calendar Year*” means the period commencing on January 1 of each year and terminating on the next succeeding December 31.

“*Capital Appreciation Bonds*” means Bonds the interest on which (a) is compounded and accumulated at the rates and on the dates set forth in the Supplemental Indenture authorizing the issuance of such Bonds and designating them as Capital Appreciation Bonds, and (b) is payable upon maturity or redemption of such Bonds.

“*City*” means the North Ogden City, Utah, a municipal corporation and political subdivision of the State, and its successors and assigns.

“*City Recorder*” means the City Recorder of the City, or in the event of his or her disability or absence, a Deputy City Recorder or other person duly authorized to perform the duties of the City Recorder.

“*City Treasurer*” means the City Treasurer of the City, or in the event of his or her disability or absence, the Deputy City Treasurer or other person duly authorized to perform the duties of the City Treasurer.

“*Code*” means the Internal Revenue Code of 1986, as amended and supplemented from time to time. Each reference to a section of the Code shall be deemed to include the United States Treasury Regulations, including temporary and proposed regulations, relating to such section which are applicable to tax-exempt bonds.

“*Commercial Paper Program*” means commercial paper obligations with maturities of not more than one Year from the dates of issuance thereof which are issued and reissued by the City from time to time pursuant to Article II hereof and are outstanding up to an Authorized Amount.

“*Construction Bonds*” means all Bonds, whether issued in one or more Series, authenticated and delivered pursuant to Section 2.03, and any Bonds thereafter authenticated and delivered in lieu thereof or in substitution therefor pursuant to Article III or Section 4.04 or Section 8.06.

“*Construction Fund*” means the fund by that name established in Section 5.03.

“*Cost of Construction*” means the costs of the City properly attributable to the financing, acquisition, construction, reconstruction, modification or improvement of facilities, property or improvements (or interests therein) which the City is authorized by law to acquire, as identified for a particular Project, and all expenses preliminary and incidental thereto incurred by the City in connection therewith and in the issuance of the Bonds, including all engineering, fiscal and legal expenses and costs of issuance, printing and advertising for which funds may be disbursed from the Construction Fund and the establishment of necessary reserves and payment of interest during construction, including but not limited to:

- (1) Payment of the costs of acquiring, constructing, reconstructing, modifying, or improving a Project.
- (2) Payment of the initial or acceptance fee of the Trustee.
- (3) Payment to the City of such amounts, if any, as shall be necessary to reimburse the City in full for advances and payments theretofore made or costs theretofore incurred by the City for any item of Cost of Construction.
- (4) Costs for the obtaining of any insurance policies or surety bonds with respect to a Project by the City during the acquisition, construction, reconstruction, modification or improvement of such Project.
- (5) Payment of audit fees and expenses for maintenance of construction records required to be kept with respect to a Project.
- (6) Payment of the costs of any necessary litigation and the obtaining of all necessary permits, licenses and rulings.
- (7) Payment of the costs of issuance of the Bonds including legal, accounting, fiscal agent and underwriting fees and expenses, payments and fees due under any agreement pursuant to which any Series of Bonds is sold, premiums, fees or other charges for or under any Security Instrument or Reserve Instrument, bond discount, printing and engraving costs, and fees of rating agencies, incurred in connection with the authorization, sale and issuance of the Bonds and preparation of the Indenture and Supplemental Indenture pursuant to which the Bonds will be issued.
- (8) Payment of interest on the Bonds estimated to fall due during the period of construction of a Project and for up to twelve (12) months thereafter (or such different period as may then be permitted by law).
- (9) The amount, if any, to be deposited into any Series Subaccount in the Debt Service Reserve Account pursuant to paragraph (10) of Section 2.02(a).
- (10) Working capital determined by the City to be necessary or desirable in connection with a Project and payment of any other costs and expenses relating to a Project,

including fees and expenses of the Trustee during the acquisition, construction, reconstruction, modification or improvement of a Project.

“*Council*” means the City Council of the City, or any other governing body of the City hereafter provided for pursuant to law.

“*Cross-over Date*” means with respect to Cross-over Refunding Bonds the date on which the Principal portion of the related Cross-over Refunded Bonds is to be paid or redeemed from the proceeds of such Cross-over Refunding Bonds.

“*Cross-over Refunded Bonds*” means Bonds refunded by Cross-over Refunding Bonds.

“*Cross-over Refunding Bonds*” means Refunding Bonds if the proceeds of such Cross-over Refunding Bonds are irrevocably deposited in escrow to secure the payment on an applicable redemption date or maturity date of the Cross-over Refunded Bonds (subject to possible use to pay Principal of the Cross-over Refunding Bonds under certain circumstances) and the earnings on such escrow deposit are required to be applied to pay interest on the Cross-over Refunding Bonds until the Cross-over Date.

“*Current Interest Bonds*” means Bonds not constituting Capital Appreciation Bonds. Interest on Current Interest Bonds shall be payable periodically on the interest payment dates provided therefor in a Supplemental Indenture.

“*Debt Service*” means, for any particular Fiscal Year and for any Series of Bonds and any Repayment Obligations, an amount equal to the sum of:

- (a) all interest (net of any amounts deposited with the Trustee from the proceeds of the sales of a Series of Bonds) payable during such Fiscal Year on such Bonds then Outstanding and such Repayment Obligations then outstanding, plus
- (b) the Principal Installments payable during such Fiscal Year on (i) such Bonds Outstanding, calculated on the assumption that Bonds Outstanding on the day of calculation cease to be Outstanding by reason of, but only by reason of, payment either upon maturity or application of any Sinking Fund Installments required by the Indenture, and (ii) such Repayment Obligations then outstanding;

*provided, however* that for purposes of Sections 2.02, 2.03 and 2.04,

- (1) when calculating the Principal Installments payable during such Fiscal Year, there shall be treated as payable in such Fiscal Year the amount of Principal Installments which would have been payable during such Fiscal Year had the Principal of each Series of Balloon Bonds Outstanding been amortized, from their date of issuance over a period of 30 years, on a level debt service basis at an interest rate equal to the rate borne by such Balloon Bonds on the date of calculation, *provided* (A) that if the date of calculation is within twelve months before the actual maturity of such Balloon Bonds, the full amount of Principal

payable at maturity shall be included in such calculation, and (B) that if there is any Security Instrument Repayment Obligation relating to such Balloon Bonds, the amount of Principal to be taken into account shall be the principal component of such Security Instrument Repayment Obligation;

(2) when calculating interest payable during such Fiscal Year for any Series of Variable Rate Bonds or Repayment Obligations bearing interest at a variable rate that cannot be ascertained for any particular Fiscal Year, (A) it shall be assumed that such Series of Variable Rate Bonds or Repayment Obligations will bear interest at the average of the variable rates applicable to such Series of Variable Rate Bonds or Repayment Obligations during any consecutive 12-month period during the immediately preceding 24 months (or a shorter period, commencing on the date of issuance of the Series of Variable Rate Bonds or the date of incurring such Repayment Obligations and ending within 30 days prior to the date of computation), or, (B) with respect to any Series of Variable Rate Bonds or Repayment Obligations for which such an average of variable rates cannot be determined, (i) at a rate equal to 110% of the most recent Bond Market Association Municipal Swap Index theretofore published in *The Bond Buyer*, or (ii) if *The Bond Buyer* is no longer published or no longer publishes the Bond Market Association Municipal Swap Index, at a rate certified by the City's financial advisor, underwriter or other agent, including a Remarketing Agent, to be the rate of interest such Series of Variable Rate Bonds or Repayment Obligations would bear if issued on the date of computation in the same amount, with the same maturity or maturities, with the same security, and bearing interest at a variable rate;

(3) when calculating interest payable during such Fiscal Year for any Variable Rate Bonds that are issued with an Interest Rate Swap in which the City has agreed to pay a fixed rate, such Series of Variable Rate Bonds shall be deemed to bear interest at such fixed rate as a result of such Interest Rate Swap; *provided* that such fixed rate may be utilized so long as such Interest Rate Swap is contracted to remain in full force and effect;

(4) when calculating interest payable during such Fiscal Year for any Bonds which are issued with a fixed interest rate and with respect to which an Interest Rate Swap is in effect in which the City has agreed to pay a variable rate, such Series of Bonds shall be deemed to be Variable Rate Bonds bearing interest at such variable rate as a result of such Interest Rate Swap; *provided* that such amounts may be utilized only so long as such Interest Rate Swap is contracted to remain in full force and effect;

(5) when calculating interest payable during such Fiscal Year with respect to any Commercial Paper Program, "*Debt Service*" shall mean an amount equal to the sum of all principal and interest payments that would be payable during such Fiscal Year assuming that the Authorized Amount of such Commercial Paper Program is amortized on a level debt service basis over a period of 30 years beginning on the date of calculation or the period during which obligations can be

issued under such Commercial Paper Program, and bearing interest (A) at an interest rate equal to the average of the interest rates applicable to such Commercial Paper Program during any consecutive 12-month period during the immediately preceding 24 months (or a shorter period, commencing on the date obligations are first issued under the Commercial Paper Program) ending within 30 days prior to the date of computation, or (B) with respect to any Commercial Paper Program for which such an average of the interest rates cannot be determined, (i) at a rate equal to 110% of the most recent Bond Market Association Municipal Swap Index theretofore published in *The Bond Buyer*, or (ii) if *The Bond Buyer* is no longer published or no longer publishes the Bond Market Association Municipal Swap Index, at an interest rate certified by the City's financial advisor, underwriter or other agent, including a Remarketing Agent, to be the rate of interest that obligations of the Commercial Paper Program would bear if issued on the date of computation in the Authorized Amount, with the same security, bearing interest at a variable rate and maturing over a period of 30 years beginning on the date of calculation; and

(6) when calculating interest payable on Bonds that are Paired Obligations, the interest rate on such Bonds shall be the resulting linked rate or effective fixed interest rate to be paid by the City with respect to such Paired Obligations;

and *further provided, however*, that there shall be excluded from "*Debt Service*" (1) interest on Bonds (whether Cross-over Refunding Bonds or Cross-over Refunded Bonds) to the extent that Escrowed Interest is available to pay such interest, (2) Principal on Cross-over Refunded Bonds to the extent that the proceeds of Cross-over Refunding Bonds are on deposit in an irrevocable escrow in satisfaction of the requirements of Section 11-27-3, Utah Code Annotated 1953, as amended, and such proceeds or the earnings thereon are required to be applied to pay such Principal (subject to the possible use to pay the Principal of the Cross-over Refunding Bonds under certain circumstances) and such amounts so required to be applied are sufficient to pay such Principal, (3) Repayment Obligations to the extent that payments on Pledged Bonds relating to such Repayment Obligations satisfy the City's obligation to pay such Repayment Obligations, and (4) any termination payments with respect to an Interest Rate Swap.

"*Debt Service Reserve Account*" means the Debt Service Reserve Account in the Principal and Interest Fund established in Section 5.03.

"*Debt Service Reserve Requirement*" means, with respect to any Series Subaccount that has been established in the Debt Service Reserve Account, the amount specified in a Supplemental Indenture as being required to be on deposit in such Series Subaccount.

"*Depository*" means any bank or trust company selected by the City as a depository of moneys and securities held under the provisions of the Indenture and may include the Trustee.

"*Escrowed Interest*" means amounts irrevocably deposited in escrow in accordance with the requirements of Section 11-27-3, Utah Code Annotated 1953, as amended, in connection with

the issuance of Bonds or Cross-over Refunding Bonds secured by such Cross-over Refunding Bonds or earnings on such amounts which are required to be applied to pay interest on such Cross-over Refunding Bonds or the related Cross-over Refunded Bonds.

*“Estimated Completion Date”* means the estimated date upon which a Project will have been substantially completed in accordance with the plans and specifications applicable thereto as that date shall be set forth in a Written Certificate of the City.

*“Event of Default”* has the meaning specified in Section 9.01.

*“Fiscal Year”* means the annual accounting period of the City as from time to time in effect, initially a period commencing on July 1 of each Calendar Year and ending on the next succeeding June 30.

*“Fitch”* means Fitch Ratings, a corporation organized and existing under the laws of the State of New York, its successors and assigns, and, if such corporation shall no longer perform the functions of a securities rating agency, *“Fitch”* shall be deemed to refer to another nationally recognized securities rating agency, if any, designated by the City.

*“Fund”* means one of the funds confirmed or established pursuant to Section 5.03, including the Construction Fund, the Principal and Interest Fund and the Revenue Fund.

*“Government Obligations”* means:

- (i) Direct obligations of or obligations guaranteed by the United States of America;
- (ii) Any other evidences of an ownership interest in obligations or in specified portions thereof (which may consist of specified portions of the interest thereon) of the character described in clause (i) above; and
- (iii) Any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (a) which are not callable at the option of the obligor or otherwise prior to maturity or as to which irrevocable notice has been given by the obligor to call such bonds or obligations on the date specified in the notice, (b) which are fully secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or bonds or other obligations of the character described in clause (i) or clause (ii) above, which fund may be applied only to the payment of interest when due, principal of and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (c) as to which the principal of and interest on the bonds and obligations of the character described in clause (i) or clause (ii) above, which have been deposited in such fund along with any cash on deposit in such fund is sufficient to pay interest when due, principal of and redemption premium, if any, on the bonds or other obligations described in this clause (iii) on the

maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (a) of this clause (iii), as appropriate.

“*Indenture*” means this Master Trust Indenture, as from time to time amended or supplemented by Supplemental Indentures.

“*Independent Public Accountant*” means any certified public accountant or firm of such accountants appointed and paid by the City, and who, or each of whom: (1) is in fact independent and not under domination of the City; (2) does not have any substantial interest, direct or indirect, with the City; and (3) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or other audits of the books of or reports to the City. The Trustee shall be entitled to rely on the written statement of a certified public accountant or firm of such accountants as to his or its compliance with the terms of this definition.

“*Interest Rate Swap*” means an “interest rate contract” within the meaning of the State Money Management Act or other similar agreement related to Bonds of one or more Series, *provided* that such agreement satisfies the requirements of the State Money Management Act or other applicable provision of State law.

“*Investment Securities*” means any of the following securities, if and to the extent that the same are at the time legal for investment of City funds:

(i) any investment authorized from time to time by the provisions of the State Money Management Act, including without limitation the Treasurer’s Investment Fund;

(ii) The following investments fully insured by the Federal Deposit Insurance Corporation: (a) certificates of deposit, (b) savings accounts, (c) deposit accounts, or (d) depository receipts of a bank, savings and loan associations and mutual savings banks;

(iii) Certificates of deposit properly secured at all times by collateral security consisting of Government Obligations;

(iv) Government Obligations;

(v) Bonds, debentures or notes or other evidence of indebtedness issued by any one or a combination of any of the following federal agencies: the Export-Import Bank of the United States; the Government National Mortgage Association; the Federal Financing Bank; the Farmer’s Home Administration; the Federal Housing Administration; the Maritime Administration; or the Public Housing Authority;

(vi) Repurchase agreements collateralized by Government Obligations or obligations described in clause (v) of this definition with any registered broker/dealer subject to Securities Investors’ Protection Corporation jurisdiction, which has an uninsured, unsecured and unguaranteed obligation rated “*Prime-1*” or “*A3*” or better by Moody’s and “*A-1*” or “*A*” or better by S&P Corporation, or any commercial bank with the above ratings, *provided*:



- (a) a master repurchase agreement or specific written repurchase agreement governs the transaction,
- (b) the securities are held free and clear of any lien by the Trustee or an independent third party acting solely as agent for the Trustee, and such third party is (1) a Federal Reserve Bank, (2) a bank which is a member of the Federal Deposit Insurance Corporation and which has combined capital, surplus and undivided profits of not less than \$25,000,000, or (3) a bank approved in writing for such purpose by each Security Instrument Issuer which at the time has a Security Instrument outstanding on which there is no payment default, and the Trustee shall have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Trustee,
- (c) a perfected first security interest under the Uniform Commercial Code, or book entry procedures prescribed at 31 CFR 306.1 et seq. or 31 CFR 350.0 et seq. (or similar successor provision of law) in such securities is created for the benefit of the Trustee,
- (d) the repurchase agreement has a term of 30 days or less, or the Trustee will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within two business day of such valuation,
- (e) the repurchase agreement matures at least ten days (or other appropriate liquidation period) prior to the date when liquidation is required, and
- (f) the fair market value of the securities in relation to the amount of the repurchase obligation is equal to at least 100%;
- (vii) Money market funds rated AAA by Fitch or Aaa by Moody's or AAA by S&P, including such funds from which the Trustee or its affiliates derive a fee for investment advisory or other services to the fund;
- (viii) Direct and general obligations of any state within the territorial United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, *provided* that at the time of their purchase under the Indenture, such obligations are rated in either of the two highest rating categories by a Rating Agency;
- (ix) Commercial paper rated "first tier" by two Ratings Agencies, one of which must be Moody's or S&P, and having a remaining term to maturity of 270 days or less;
- (x) Refunded municipal obligations rated at the time of purchase in the highest rating category by a Rating Agency; and
- (xi) Investment agreements permitted by the State Money Management Act.

“*Issue Date*” means (i) the first day of any calendar month, or (ii) any other date, established in a Supplemental Indenture with respect to a Series of Bonds.

“*Mayor*” means the Mayor of the City, or in the event of his or her disability or absence, the Mayor Pro Tem or other person duly authorized to perform the duties of the Mayor.

“*Maximum Annual Debt Service*” means the greatest amount of Aggregate Debt Service coming due in any Fiscal Year, less any adjustments thereto as provided in Section 2.03(d).

“*Moody’s*” means Moody’s Investors Service Inc., its successors and assigns, and, if such corporation shall no longer perform the functions of a securities rating agency, “*Moody’s*” shall be deemed to refer to another nationally recognized securities rating agency, if any, designated by the City.

“*Opinion of Bond Counsel*” means an Opinion of Counsel from counsel of nationally recognized standing in the field of law relating to municipal bonds.

“*Opinion of Counsel*” means a written opinion of counsel selected by the City and satisfactory to the Trustee. Any Opinion of Counsel may be based, insofar as it relates to factual matters, on information with respect to which is in the possession of the City, upon a Written Certificate of the City, unless such counsel knows, or in the exercise of reasonable care should have known, that such Written Certificate is erroneous.

“*Outstanding*” means with respect to the Bonds, as of any date of calculation (subject to the provisions of Section 8.04), all Bonds which have been duly authenticated and delivered by the Trustee except: (a) Bonds theretofore cancelled by the Trustee or delivered to the Trustee for cancellation; (b) Bonds for the payment or redemption of which cash funds or Investment Securities shall have theretofore been deposited with the Trustee (whether upon or prior to the maturity or redemption date of any such Bonds), *provided* that, if such Bonds are to be redeemed, notice of such redemption has been duly given pursuant to the provisions of the Indenture or arrangements satisfactory to the Trustee shall have been made therefor, or waiver of such notice satisfactory in form to the Trustee shall have been filed with the Trustee; (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated or delivered pursuant to the terms of Section 3.07 as permitted by the Indenture; and (d) the Principal amount of any Bond issued pursuant to a Supplemental Indenture authorizing partial payment without cancellation if payment is noted on a payment record attached to such Bond *provided* that such payment has been made and duly noted on the payment record attached to such Bond.

“*Paired Obligations*” means any Series (or portion thereof) of Bonds designated as Paired Obligations in the Supplemental Indenture authorizing the issuance or incurrence thereof, which are simultaneously issued or incurred and (i) the principal of which is of equal amount maturing and to be redeemed (or cancelled after acquisition thereof) on the same dates and in the same amounts, and (ii) the interest rates which, taken together, result in an irrevocably fixed interest rate obligation of the City for the terms of such Bonds.

“*Paying Agent*” means any bank or trust company designated as paying agent for the Bonds of any Series, and its successor or successors hereinafter appointed in the manner provided in Section 7.02 of the Indenture.

“*Pledged Bonds*” means any Bonds that have been pledged or in which any interest has otherwise been granted to a Security Instrument Issuer as collateral security for Security Instrument Repayment Obligations.

“*Principal*” means (a) with respect to any Capital Appreciation Bond, the Accreted Amount thereof (the difference between the stated amount to be paid at maturity and the Accreted Amount being deemed unearned interest), except as used in connection with the authorization and issuance of Bonds and with the order of priority of payment of Bonds after an Event of Default, in which case “*Principal*” means the initial public offering price of a Capital Appreciation Bond (the difference between the Accreted Amount and the initial public offering price being deemed interest), and (b) with respect to any Current Interest Bond, the principal amount of such Bond payable at maturity.

“*Principal and Interest Fund*” means the fund by that name established in Section 5.03.

“*Principal Installment*” means, as of any date of calculation, (a) with respect to any Series of Bonds, so long as any Bonds thereof are Outstanding, (1) the Principal amount of Bonds of such Series due on a certain future date for which no Sinking Fund Installments have been established, or (2) the unsatisfied balance (determined as provided in the definition of “*Sinking Fund Installment*” in this Section) of any Sinking Fund Installment due on a certain future date for Bonds of such Series, plus the amount of the sinking fund redemption premiums, if any, which would be applicable upon redemption of such Bonds on such future date in a Principal amount equal to such unsatisfied balance of such Sinking Fund Installment, or (3) if such future dates coincide as to different Bonds of such Series, the sum of such Principal amount of Bonds and of such unsatisfied balance of such Sinking Fund Installment due on such future date plus such applicable redemption premiums, if any, and (b) with respect to any Repayment Obligations, the principal amount of such Repayment Obligations due on a certain future date.

“*Project*” means the acquisition, construction, improvement or extension of improvements, facilities or property (or an interest therein) which the City is authorized by law to acquire, regardless of whether the City shall hold title thereto, if and to the extent that the same shall be designated by the City as a Project by a Supplemental Indenture.

“*Project Account*” means the separate account for each Project in the Construction Fund pursuant to Section 5.04.

“*Put Bond*” means any Bond which is part of a Series of Bonds which is subject to purchase by the City, its agent or a third party from the Holder of the Bond pursuant to provisions of the Supplemental Indenture authorizing the issuance of the Bond and designating it as a “*Put Bond*.”

“*Rating Agency*” means Fitch, Moody’s or S&P.

“*Rating Category*” means one or more of the generic rating categories of a Rating Agency, without regard to any refinement or gradation of such rating category or categories by a numerical modifier or otherwise.

“*Rebate Fund*” means any fund established with respect to a Series of Bonds issued under the Indenture to provide for the payment of arbitrage rebate pursuant to the Code.

“*Record Date*” means, with respect to any interest payment date for any Series of Bonds, the date specified as the Record Date in the Supplemental Indenture authorizing the issuance of such Series of Bonds.

“*Redemption Price*” means, with respect to any Bond, the Principal thereof plus the applicable premium, if any, payable upon redemption thereof pursuant to any Supplemental Indenture.

“*Refunded Bonds*” means all or a part of the Outstanding Bonds of one or more Series or all or part of any other bonds, notes or other borrowing or obligations of the City or its Municipal Building Authority to be refunded or refinanced by the issuance of Refunding Bonds.

“*Refunding Bonds*” means all Bonds, whether issued in one or more Series, authenticated and delivered pursuant to Section 2.04, and any Bonds thereafter authenticated and delivered in lieu thereof or in substitution therefor pursuant to Article III or Section 4.04 or Section 8.06.

“*Remarketing Agent*” means a remarketing agent appointed by the City pursuant to Section 7.09 and its successors under the Indenture.

“*Repayment Obligations*” means, collectively, all outstanding Security Instrument Repayment Obligations and Reserve Instrument Repayment Obligations.

“*Reserve Instrument*” means an instrument or other device issued by a Reserve Instrument Issuer to satisfy all or any portion of the Debt Service Reserve Requirement, if any, for a Series of Bonds. The term “*Reserve Instrument*” includes, by way of example and not of limitation, letters of credit, bond insurance policies, standby bond purchase agreements, lines of credit and other security instruments and other devices; *provided, however*, that no such device or instrument shall be a “*Reserve Instrument*” for purposes of this Indenture unless specifically so designated in the Supplemental Indenture authorizing the use of such device or instrument.

“*Reserve Instrument Agreement*” means any agreement entered into by the City and a Reserve Instrument Issuer pursuant to a Supplemental Indenture and providing for the issuance by such Reserve Instrument Issuer of a Reserve Instrument.

“*Reserve Instrument Costs*” means, with respect to any Reserve Instrument, any fees, premiums, expenses and similar costs, other than Reserve Instrument Repayment Obligations, required to be paid to a Reserve Instrument Issuer pursuant to a Reserve Instrument Agreement or the Supplemental Indenture authorizing the use of such Reserve Instrument. Such Reserve

Instrument Agreement or Supplemental Indenture shall specify any fees, premiums, expenses and costs constituting Reserve Instrument Costs.

*“Reserve Instrument Coverage”* means, as of any date of calculation and with respect to any Reserve Instrument, the amount available to be paid under such Reserve Instrument into the related Series Subaccount in the Debt Service Reserve Account to satisfy all or any portion of the Debt Service Reserve Requirement.

*“Reserve Instrument Issuer”* means any bank, savings and loan association, savings bank, thrift institution, credit union, insurance company, surety company or other institution issuing a Reserve Instrument.

*“Reserve Instrument Limit”* means, as of any date of calculation and with respect to any Reserve Instrument, the maximum amount available to be paid under such Reserve Instrument into the related Series Subaccount in the Debt Service Reserve Account to satisfy all or any portion of the Debt Service Reserve Requirement, assuming for purposes of such calculation that the amount initially available under each Reserve Instrument has not been reduced or that the amount initially available under each Reserve Instrument has only been reduced as a result of the payment of Principal on the corresponding Series of Bonds.

*“Reserve Instrument Repayment Obligations”* means, as of any date of calculation and with respect to any Reserve Instrument, any outstanding amounts payable by the City under the Reserve Instrument Agreement or the Supplemental Indenture authorizing the use of such Reserve Instrument to repay the Reserve Instrument Issuer for payments previously made by it pursuant to a Reserve Instrument. There shall not be included in the calculation of Reserve Instrument Repayment Obligations any Reserve Instrument Costs. Each Reserve Instrument Agreement or the Supplemental Indenture providing for the use of such Reserve Instrument shall specify any amounts payable under it which, when outstanding, shall constitute Reserve Instrument Repayment Obligations and shall specify the portions of any such amounts that are allocable as principal of and as interest on such Reserve Instrument Repayment Obligations.

*“Revenue Fund”* means the fund by that name established in Section 5.03.

*“Revenues”* means (a) 100% of the Local Sales and Use Tax revenues received by the City pursuant to Title 59, Chapter 12, Part 2, Utah Code Annotated 1953, as amended and (b) any interest subsidy with respect to Bonds paid or payable to or for the account of the City by any governmental body or agency that are available to pay interest on a Series of Bonds

*“S&P”* means Standard & Poor’s Credit Market Services, a division of The McGraw-Hill Companies, Inc., its successors and assigns, and, if such corporation shall no longer perform the functions of a securities rating agency, *“S&P”* shall be deemed to refer to another nationally recognized securities rating agency, if any, designated by the City.

*“Security Instrument”* means an instrument or other device issued by a Security Instrument Issuer to pay, or to provide security or liquidity for, a Series of Bonds. The term *“Security Instrument”* includes, by way of example and not of limitation, letters of credit, bond insurance

policies, standby bond purchase agreements, lines of credit and other security instruments and credit enhancement or liquidity devices; *provided, however*, that no such device or instrument shall be a “*Security Instrument*” for purposes of this Indenture unless specifically so designated in a Supplemental Indenture authorizing the use of such device or instrument.

“*Security Instrument Agreement*” means any agreement entered into by the City and a Security Instrument Issuer pursuant to a Supplemental Indenture providing for the issuance by such Security Instrument Issuer of a Security Instrument.

“*Security Instrument Costs*” means, with respect to any Security Instrument, all fees, premiums, expenses and similar costs, other than Security Instrument Repayment Obligations, required to be paid to a Security Instrument Issuer pursuant to a Security Instrument Agreement or the Supplemental Indenture authorizing the use of such Security Instrument. Such Security Instrument Agreement or Supplemental Indenture shall specify any fees, premiums, expenses and costs constituting Security Instrument Costs.

“*Security Instrument Issuer*” means any bank, savings and loan association, savings bank, thrift institution, credit union, insurance company, surety company or other institution issuing a Security Instrument that is in full force and effect with respect to any Series of Bonds Outstanding.

“*Security Instrument Repayment Obligations*” means, as of any date of calculation and with respect to any Security Instrument, any outstanding amounts payable by the City under the Security Instrument Agreement or the Supplemental Indenture authorizing the use of such Security Instrument to repay the Security Instrument Issuer for payments previously or concurrently made by the Security Instrument Issuer pursuant to a Security Instrument. There shall not be included in the calculation of the amount of Security Instrument Repayment Obligations any Security Instrument Costs. Each Security Instrument Agreement or the Supplemental Indenture providing for the use of such Security Instrument shall specify any amounts payable under it which, when outstanding, shall constitute Security Instrument Repayment Obligations and shall specify the portions of any such amounts that are allocable as principal of and as interest on such Security Instrument Repayment Obligations.

“*Series*” means all of the Bonds designated as being of the same Series authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu thereof or in substitution therefor pursuant to Article III or Section 4.04 or Section 8.06.

“*Series Subaccount*” means the separate subaccount created for each Series of Bonds in the Bond Service Account pursuant to Section 5.07 or in the Debt Service Reserve Account pursuant to Section 5.08, as appropriate.

“*Sinking Fund Installment*” means an amount so designated which is established pursuant to Section 2.02(a)(8). The portion of any such Sinking Fund Installment remaining after the deduction of any such amounts credited pursuant to Sections 5.08(c) or 5.09 toward the same (or the original amount of any such Sinking Fund Installment if no such amounts shall have been

credited toward the same) shall constitute the unsatisfied balance of such Sinking Fund Installment for the purpose of calculation of Sinking Fund Installments due on a future date.

“*State*” means the State of Utah.

“*State Money Management Act*” means the State Money Management Act, Title 51, Chapter 7, Utah Code Annotated 1953, as amended, and any applicable regulations and rules promulgated thereunder.

“*Supplemental Indenture*” means any indenture supplemental hereto or amendatory hereof that is in full force and effect and has been duly executed and delivered by the City and the Trustee in accordance with the provisions hereof.

“*Tax Certificate*” means any agreement or certificate of the City that the City may execute in order to establish and maintain the excludability of interest on a Series of Bonds from gross income of the owners thereof for federal income tax purposes.

“*Transfer Agent*” means, as the agent of the City, the Trustee and each and every additional agent appointed from time to time as the agent of the City pursuant to Section 7.10 for the transfer and authentication of Bonds for so long as such appointment shall continue in effect.

“*Treasurer’s Investment Fund*” means the fund held by the Treasurer of the State and commonly known as the Utah State Public Treasurer’s Investment Fund.

“*Trust Estate*” has the meaning specified in the Granting Clause.

“*Trustee*” means the trustee identified in the preamble hereof and appointed by the City pursuant to Section 7.01, its successors and assigns, and any other corporation or association which may at any time be substituted in its place as provided herein.

“*Variable Rate Bonds*” means, as of any date of calculation, Bonds the terms of which on such date of calculation are such that interest thereon for any future period of time is expressed to be calculated at a rate which is not susceptible of a precise determination.

“*Written Certificate of the City,*” “*Written Request of the City*” and “*Written Statement of the City*” means an instrument in writing signed on behalf of the City by an Authorized Officer thereof. Any such instrument and any supporting opinions or certificates may, but need not, be combined in a single instrument with any other instrument, opinion or certificate, and the two or more so combined shall be read and construed so as to form a single instrument. Any such instrument may be based, insofar as it relates to legal, accounting or engineering matters, upon the opinion or certificate of counsel, consultants, accountants or engineers, unless the Authorized Officer signing such Written Certificate or Request or Statement knows, or in the exercise of reasonable care should have known, that the opinion or certificate with respect to the matters upon which such Written Certificate or Request or Statement may be based, as aforesaid, is erroneous. The same Authorized Officer, or the same counsel, consultant, accountant or engineer, as the case may be, need not certify to all of the matters required to be certified under any provision of the

Indenture, but different Authorized Officers, counsel, consultants, accountants or engineers may certify to different facts, respectively. Every Written Certificate or Request or Statement of the City, and every certificate or opinion of counsel, consultants, accountants or engineers provided for herein shall include:

(a) a statement that the person making such certificate, request, statement or opinion has read the pertinent provisions of the Indenture to which such certificate, request, statement or opinion relates;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the certificate, request, statement or opinion is based;

(c) a statement that, in the opinion of such person, he has made such examination or investigation as is necessary to enable him to express an informed opinion with respect to the subject matter referred to in the instrument to which his signature is affixed; and

(d) with respect to any statement relating to compliance with any provision hereof, a statement whether or not, in the opinion of such person, such provision has been complied with.

“Year” means any period of twelve consecutive months.

**Section 1.02. Construction.** This Indenture, except where the context by clear implication herein otherwise requires, shall be construed as follows:

(a) The terms “hereby,” “hereof,” “herein,” “hereto,” “hereunder”, and any similar terms used in this Indenture shall refer to this Indenture in its entirety unless the context clearly indicates otherwise.

(b) Words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, trusts, corporations or governments or agencies or political subdivisions thereof.

(c) Words in the masculine gender include the feminine and the neuter, and when the sense so indicates, words of the neuter gender refer to any gender.

(d) Articles, sections, subsections, paragraphs and subparagraphs mentioned by number, letter, or otherwise, correspond to the respective articles, sections, subsections, paragraphs and subparagraphs hereof so numbered or otherwise so designated.

(e) The titles or leadlines applied to articles, sections and subsections herein are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provisions of this Indenture.



**Section 1.03. Authority for the Indenture.** The Indenture is executed and delivered pursuant to the provisions of the Act.

**Section 1.04. Special Obligations.** The Bonds and the Repayment Obligations are special obligations of the City payable from and secured by the Revenues, moneys, securities and funds pledged therefor.

## ARTICLE II

### AUTHORIZATION AND ISSUANCE OF BONDS

**Section 2.01. Authorization of Bonds.** Bonds designated as “*Sales Tax Revenue Bonds*” (or “*Sales Tax Revenue Notes*” or “*Sales Tax Revenue Obligations*,” as appropriate) are hereby authorized to be issued by the City under the Indenture. The maximum Principal amount of the Bonds which may be issued hereunder is not limited; however, the City reserves the right to limit or restrict the aggregate Principal amount of the Bonds which may at any time be issued or Outstanding hereunder. Bonds may be issued in such Series as from time to time shall be established and authorized by the City. The Bonds may be issued in one or more Series pursuant to one or more Supplemental Indentures. The designation of the Bonds shall include, in addition to the name “*Sales Tax Revenue Bonds*” (or “*Sales Tax Revenue Notes*” or “*Sales Tax Revenue Obligations*,” as appropriate), such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series as the City may determine. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs. Each Bond shall recite in substance that it, including the interest thereon, is payable solely from the Revenues and other funds of the City pledged for the payment thereof and that it does not constitute a debt of the City within the meaning of any constitutional or statutory limitations or provisions.

**Section 2.02. General Provisions for the Issuance of Bonds.**

(a) Whenever the City shall determine to issue any Series of Bonds, the City shall execute and deliver a Supplemental Indenture which shall specify the following:

- (1) The purpose for which such Series of Bonds is to be issued, which shall be for a purpose set forth in Section 2.03 or Section 2.04, or a combination of such purposes;
- (2) The authorized Principal amount and Series designation of such Series of Bonds;
- (3) The Issue Date and the maturity date or dates of the Bonds of such Series;
- (4) The interest rate or rates (including a zero interest rate) of the Bonds of such Series, or the manner of determining such rate or rates, *provided* that the Supplemental Indenture shall specify the maximum rate that the Bonds of such Series may bear if such Bonds are Variable Rate Bonds, and the interest payment dates of the Bonds of such Series;

(5) The authorized denominations of the Bonds of such Series;

(6) Any Paying Agents and the places of payment of the Principal and Redemption Prices, if any, of, and interest on, the Bonds of such Series, and, if other than the Trustee, any Transfer Agents and the places where Bonds may be registered for transfer or exchange;

(7) The Redemption Prices, if any, and subject to Article IV, the redemption terms, if any, for the Bonds of such Series;

(8) The amount and due date of each Sinking Fund Installment, if any, for the Bonds of such Series;

(9) The Record Date for the Bonds of such Series;

(10) Any Debt Service Reserve Requirement for such Series of Bonds pursuant to Section 5.08(a) and the amount, if any, to be deposited from the proceeds of such Series of Bonds into any Series Subaccount in the Debt Service Reserve Account established for such Series of Bonds;

(11) The amount, if any, to be deposited from any legally available source into the Construction Fund;

(12) The forms of the Bonds of such Series;

(13) Unless otherwise identified in the Security Instrument Agreement or Reserve Instrument Agreement, as applicable, and to the extent applicable, the obligations payable under any Security Instrument Agreement or Reserve Instrument Agreement entered into in connection with the issuance of the Bonds of such Series which, when outstanding, shall constitute Security Instrument Repayment Obligations or Reserve Instrument Repayment Obligations, as the case may be, and which portions of such Security Instrument Repayment Obligations or Reserve Instrument Repayment Obligations, as the case may be, are to be attributed to principal of and to interest on such Repayment Obligations; and

(14) Any further covenants by the City required by any Security Instrument Issuer, Reserve Instrument Issuer or purchaser of Bonds deemed necessary or desirable by the City in connection with the sale of such Series of Bonds.

(b) The Bonds of any Series shall be executed by the City for issuance under the Indenture and delivered to the Trustee and thereupon shall be authenticated by the Trustee and by it delivered to the City or upon the Written Request of the City but only upon receipt by the Trustee of the following documents or moneys or securities, all of such documents dated or certified, as the case may be, as of the date of such delivery by the Trustee (unless the Trustee shall accept any of such documents bearing a prior date):

(1) An executed copy of the Supplemental Indenture relating to the issuance of the Bonds of such Series;

(2) A Written Request of the City as to the delivery of the Bonds of such Series;

(3) An Opinion of Bond Counsel to the effect that (i) the City has the power under the Act, as amended to the date of such Opinion, to issue the Bonds of such Series and to execute and deliver the Indenture, and the Indenture has been duly and lawfully executed and delivered by the City, is in full force and effect and is valid and binding upon the City and enforceable in accordance with its terms, and no other authorization for the Indenture is required; (ii) the Indenture creates the valid pledge which it purports to create of the Revenues, Funds, moneys, securities and funds held or set aside under the Indenture, subject to the application thereof to the purposes and on the conditions permitted by the Indenture; (iii) the Bonds of such Series are valid and binding special obligations of the City, enforceable in accordance with their terms and the terms of the Indenture and are entitled to the benefits of the Indenture and the Act, as amended to the date of such Opinion; and (iv) the Bonds of such Series have been duly and validly authorized and issued in accordance with law and the Indenture; *provided* that such Opinion of Counsel may contain limitations acceptable to the purchaser of such Series of Bonds, including limitations as to enforcement by bankruptcy or similar laws, equity principles, sovereign police powers, and federal powers;

(4) A Written Certificate of the City setting forth (A) the principal amount of the Bonds, (B) the Debt Service for each Fiscal Year of the Bonds of such Series and (C) the Aggregate Debt Service for all Outstanding Bonds, including such Series of Bonds being issued, for each Fiscal Year;

(5) A Written Certificate of the City demonstrating compliance with the requirements of Section 11-14-17.5(4) of the Utah Municipal Bond Act; *provided, however,* that the requirements of this subparagraph (5) shall at all times be deemed to conform to, and shall without further action by the City be amended or supplemented so as to conform to, any applicable debt service coverage requirements imposed by the Utah Municipal Bond Act upon bonds payable from and secured by a pledge of tax revenues under the Local Sales and Use Tax Act and *provided further* that if said Section 11-14-17.5(4) shall be repealed without replacement, it shall not be necessary for the City to comply with this subparagraph (5);

(6) The amounts, if any, necessary for deposit into the Construction Fund, the Revenue Fund, and any Series Subaccount in the Debt Service Reserve Account for such Series of Bonds; and

(7) Such further documents, moneys and securities as are required by the provisions of Section 2.03 or Section 2.04, or of any Supplemental Indenture.

(c) The City may authorize by Supplemental Indenture the delivery to the Trustee of one or more Security Instruments with respect to any Series of Bonds and the execution and delivery of any Security Instrument Agreements deemed necessary in connection therewith.

(d) The City may authorize by Supplemental Indenture the issuance and delivery to the Trustee of one or more Reserve Instruments and the execution and delivery of any Reserve Instrument Agreements deemed necessary in connection therewith.

(e) The City may authorize by Supplemental Indenture the issuance of Put Bonds; *provided* that any obligation of the City to pay the purchase price of any such Put Bonds shall not be secured by a pledge of Revenues on a parity with the pledge contained in Section 5.01. The City may provide for the appointment of such Remarketing Agents, indexing agents or other agents as the City may determine.

(f) The City may authorize by Supplemental Indenture such other provisions relating to a Series of Bonds as are permitted by law and are consistent with the provisions of the Indenture.

(g) After the original issuance of the Bonds of any Series, no Bonds of such Series shall be issued except in lieu of or in substitution for other Bonds of such Series pursuant to Article III, Section 4.04 or Section 8.06.

(h) Notwithstanding any provision of this Section 2.02 to the contrary, a Supplemental Indenture may provide for the delivery of a Series of Bonds, issued in the form of a single Bond, in installments to be noted by the Trustee in a delivery schedule on the reverse side thereof or attached thereto.

(i) The City shall not issue any bonds, notes or other indebtedness payable on a priority to the pledge of Revenues for the payment of the Bonds herein without the prior written consent of the Bondholders of 100% of the Outstanding Bonds.

***Section 2.03. Special Provisions for the Issuance of Construction Bonds.***

(a) One or more Series of Construction Bonds may be authenticated and delivered upon original issuance from time to time in such principal amount for each such Series as may be determined by the City for the purpose of paying or providing for the payment of all or a portion of the Cost of Construction of a Project. Each such Series shall be in such principal amount which, when taken together with funds previously used or to be provided by the City for such Project, will provide the City with sufficient funds to pay the estimated Cost of Construction of such Project, as set forth in the Written Certificate of the City furnished pursuant to Section 2.03(c).

(b) Each Supplemental Indenture authorizing the issuance of a Series of Construction Bonds:

(1) shall specify the Project for which the proceeds of such Series of Construction Bonds will be applied; and

(2) may provide for the deposit of a specified amount of money from the proceeds of the sale of such Series of Construction Bonds or from other legally available sources into a Project Account in the Construction Fund to pay when due (together with any investment earnings available for such purpose) all or a portion of the interest on such Series of Construction Bonds accrued and to accrue to the Estimated Completion Date, plus interest to accrue on such Series of Construction Bonds after the Estimated Completion Date for up to one Year (or such different period as may then be permitted by law).

(c) Each Series of Construction Bonds shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02) of a Written Certificate of the City which shall:

(1) set forth the then Estimated Completion Date and the then estimated Cost of Construction of the Project being financed by such Series of Bonds;

(2) state that, upon the authentication and delivery of the Bonds of such Series, no event will have occurred which, with the passage of time or the giving of notice, or both, would give rise to an Event of Default under the Indenture;

(3) set forth, for any Year within the twenty-four (24) calendar months next preceding the authentication and delivery of such Series of Construction Bonds, the Revenues for such period;

(4) set forth the Maximum Annual Debt Service on all Outstanding Bonds upon the issuance of the proposed Series of Construction Bonds, together with any adjustments to the Maximum Annual Debt Service permitted by Section 2.03(d); and

(5) demonstrate that the Revenues set forth in (3) above are equal to or greater than 200% of the Maximum Annual Debt Service set forth in (4) above.

Notwithstanding any other provisions of the Indenture, the provisions of this Section 2.03 shall not apply to the first series of Bonds issued under the Indenture.

(d) In determining the Maximum Annual Debt Service on all Outstanding Bonds, the City may reduce the Debt Service on any Series of Bonds for any Fiscal Year by the amount of capitalized interest available to pay the interest on such Bonds in such Fiscal Year pursuant to Section 2.03(b)(2).

(e) The proceeds, including accrued interest, of the Construction Bonds of each Series shall be deposited simultaneously with the delivery of such Bonds into the Construction Fund and, to the extent permitted by law and the provisions of the Indenture, in any other Funds or Accounts or such other funds or accounts as may be established by the Supplemental Indenture authorizing the issuance of such Series of Construction Bonds in such amounts as may be provided in such Supplemental Indenture;

(f) There may also be deposited from any legally available source, to the extent permitted by law and the provisions of the Indenture, in the Funds and Accounts or such other funds or accounts as may be established by the Supplemental Indenture, such amounts, if any, as may be provided in the Supplemental Indenture authorizing the issuance of such Series of Construction Bonds; and

(g) Notwithstanding any other provisions of the Indenture, the provisions of this Section 2.03 shall not apply to the first series of Bonds issued under the Indenture.

***Section 2.04. Special Provisions for the Issuance of Refunding Bonds.***

(a) One or more Series of Refunding Bonds may be issued in such principal amount which, when taken together with other legally available funds, will provide the City with funds which will be sufficient to accomplish the refunding of the Refunded Bonds including the payment of all expenses and the establishment of any reserves in connection with such refunding.

(b) Each Supplemental Indenture authorizing the issuance of a Series of Refunding Bonds shall specify the Refunded Bonds to be refunded.

(c) Each Series of Refunding Bonds shall be authenticated and delivered by the Trustee only upon receipt by the Trustee (in addition to the documents required by Section 2.02) of the following documents or moneys or securities (or if such documents or moneys or securities are to be delivered to the trustee or debtor for the other borrowings, to such trustee or debtor, with a copy or other evidence of such delivery to the Trustee):

(1) Either

(A) for Refunded Bonds originally issued pursuant to the provisions of the Indenture, a Written Certificate of the City which shall:

(i) set forth the Aggregate Debt Service on the Refunded Bonds for each Fiscal Year to and including the scheduled final maturity date thereof,

(ii) set forth the Aggregate Debt Service on the Refunding Bonds for each Fiscal Year to and including the scheduled final maturity date thereof, and

(iii) demonstrate that the Aggregate Debt Service on the Refunding Bonds for each such Fiscal Year set forth pursuant to clause (ii) is no greater than one hundred percent (100%) of the Aggregate Debt Service on the Refunded Bonds for each such Fiscal Year set forth pursuant to clause (i), and containing such additional statements as may be reasonably necessary to show compliance with the requirements of the Indenture;

or

(B) A Written Certificate of the City which shall:

(i) set forth, for any Year within the twenty-four (24) calendar months next preceding the authentication and delivery of such Series of Refunding Bonds, the Revenues for such period;

(ii) set forth the Maximum Annual Debt Service upon the issuance of the proposed Series of Refunding Bonds, together with any adjustments to the Maximum Annual Debt Service permitted by Section 2.03(d); and

(iii) demonstrate that the Revenues set forth in (i) above are equal to or greater than 200% of the Maximum Annual Debt Service set forth in (ii) above.

(2) Irrevocable instructions to the Trustee (or such trustee or lender or its designee, as appropriate), satisfactory to it, to give due notice of redemption of all the Refunded Bonds on the redemption date or dates specified in such instructions;

(3) If the Refunded Bonds are not by their terms subject to redemption within the next succeeding ninety (90) days, irrevocable instructions to the Trustee (or such trustee or lender or its designee, as appropriate), satisfactory to it, to mail the notice provided for in Section 11.01(b) (or any similar provision for other borrowings, as appropriate) to the holders of the Refunded Bonds;

(4) Either (A) moneys in an amount sufficient to effect payment at the applicable redemption price of the Refunded Bonds, together with accrued interest to the redemption date, which moneys shall be held by the Trustee or any one or more of the Paying Agents (or such trustee or lender or its designee, as appropriate) in a separate account irrevocably in trust for and assigned to the respective holders of the Refunded Bonds, or (B) Government Obligations (or similar investments as provided for in the documents relating to other borrowings, as appropriate) in such principal amounts, of such maturities, bearing such interest, and otherwise having such terms and qualifications and any moneys, as shall be necessary to comply with the provisions of Section 11.01(b) (or any similar provision for other borrowings, as appropriate), which Government Obligations and moneys shall be held in trust and used only as provided in such Section.

(d) A Series of Refunding Bonds may be combined with a Series of Construction Bonds.

**Section 2.05. Provisions Regarding Bonds Secured by a Security Instrument.**

(a) The City may include such provisions in a Supplemental Indenture authorizing the issuance of a Series of Bonds secured by a Security Instrument as the City deems appropriate, including:

(1) So long as the Security Instrument is in full force and effect, and payment on the Security Instrument is not in default, (A) the Security Instrument Issuer shall be deemed to be the Holder of the Outstanding Bonds of such Series when the approval, consent or action of the Bondholders for such Series of Bonds is required or may be exercised under the Indenture and following an Event of Default and (B) the Indenture may not be amended in any manner which affects the rights of such Security Instrument Issuer without its prior written consent.

(2) In the event that the Principal and Redemption Price, if applicable, and interest due on any Series of Bonds Outstanding shall be paid under the provisions of a Security Instrument, all covenants, agreements and other obligations of the City to the Bondholders of such Series of Bonds shall continue to exist and such Security Instrument Issuer shall be subrogated to the rights of such Bondholders in accordance with the terms of such Security Instrument.

(b) In addition, such Supplemental Indenture may establish such provisions as are necessary to provide relevant information to the Security Instrument Issuer and to provide a mechanism for paying Principal Installments and interest on such Series of Bonds from the Security Instrument.

**ARTICLE III**

**TERMS AND PROVISIONS OF BONDS**

**Section 3.01. Terms of Bonds.**

(a) The Principal and Redemption Price of the Bonds shall be payable in lawful money of the United States of America at the principal corporate trust operations office of the Trustee, or at the principal office of any Paying Agent, or otherwise as provided in a Supplemental Indenture with respect to any Series of Bonds. Unless otherwise provided in a Supplemental Indenture with respect to a Series of Bonds, payment of interest on any Bond shall be made to the person who is the registered owner thereof as of the close of business on the Record Date and shall be paid by check mailed to the registered owner thereof at the address of such registered owner as it appears on the registration books of the City maintained by the Trustee or at such other address as is furnished to the Trustee in writing by such registered owner prior to the Record Date.

(b) Unless otherwise provided in a Supplemental Indenture authorizing a Series of Bonds, the Bonds of any Series shall be issued in fully registered form without coupons. Each Series of Bonds shall be in such denominations as may be authorized by the Supplemental Indenture authorizing the issuance of the Bonds of such Series. A Supplemental Indenture may



provide for the delivery of a Series of Bonds, issued in the form of a single fully registered Bond, in installments to be noted by the Trustee in a delivery schedule attached to such Bond. Anything in this Indenture to the contrary notwithstanding, a Supplemental Indenture may provide that Bonds issued in such single fully registered form may be submitted to the Trustee for notation of payment of installments and for notation of transfer, without requiring cancellation of such single fully registered Bond. Such Supplemental Indenture may provide for transfer of such Bonds to a new Holder by delivery after such notation, and without cancellation.

(c) The Bonds shall be dated as of the Issue Date specified in the Supplemental Indenture pursuant to which the Series of Bonds is issued. Unless otherwise provided in a Supplemental Indenture authorizing a Series of Bonds, each fully-registered Bond of any Series shall bear interest from the interest payment date next preceding the date of registration and authentication thereof unless it is registered as of an interest payment date, in which event it shall bear interest from the date thereof, or unless it is registered prior to the first interest payment date, in which event it shall bear interest from its date, or unless, as shown by the records of the Trustee, interest on the Bonds of such Series shall be in default, in which event it shall bear interest from the date to which interest has been paid in full.

(d) The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of the Indenture as may be necessary or desirable to comply with the Act, custom, the rules of any securities exchange or commission or brokerage board, or otherwise, as may be determined by the City prior to the authentication and delivery thereof.

(e) From and after the issuance of the Bonds of any Series, the findings and determinations of the Council respecting that Series shall be conclusive evidence of the existence of the facts so found and determined in any action or proceeding in any court in which the validity of such Bonds is at issue, and no bona fide purchaser of any such Bonds shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceeding required prior to such issuance, or to the application of the purchase price paid for such Bonds. The validity of the issuance of any Series of Bonds shall not be dependent on or affected in any way by (1) any proceedings taken by the City for the planning, acquisition or construction of a Project, or (2) any contracts made by the City in connection therewith, or (3) the failure to complete the planning, acquisition or construction of a Project. The recital contained in the Bonds that the same are issued pursuant to the Act shall be conclusive evidence of their validity and of the regularity of their issuance and all the Bonds shall be incontestable from and after their issuance. Bonds shall be deemed to be issued, within the meaning of the Indenture, whenever the definitive Bonds, or any temporary Bonds exchangeable therefor, have been delivered to the purchasers thereof, and the purchase price thereof received, or in the case of Bonds to be refunded through exchange, whenever such exchange has been made.

(f) Subject to any limitations contained in a Supplemental Indenture, the City may provide a Security Instrument for any Series of Bonds (or may substitute one Security Instrument for another) if the City has provided to the Trustee written evidence satisfactory to the Trustee from each Rating Agency then having a rating in effect for any Series of Bonds then Outstanding to the effect that the Rating Agency has reviewed the proposed Security Instrument and that the

use of such Security Instrument (or the substitution of one Security Instrument for another, as appropriate) will not, by itself result in a reduction or withdrawal of such Rating Agency's rating of such Series of Bonds.

***Section 3.02. Execution of Bonds; Limited Obligations.***

(a) The Bonds shall be signed on behalf of the City by the manual or facsimile signature of its Mayor and attested and countersigned by the manual or facsimile signature of its City Recorder, and its seal shall be thereunto affixed by its City Recorder, which may be by a facsimile of the City's seal imprinted upon the Bonds. The Bonds shall then be delivered to the Trustee for manual authentication by it or by any Transfer Agent. In case any officer who shall have signed or attested any of the Bonds shall cease to be such officer before the Bonds so signed or attested shall have been authenticated or delivered by the Trustee or by any Transfer Agent or issued by the City, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issuance, shall be as binding upon the City as though such person who signed or attested the same had continued to be such officer of the City. Also, any Bond may be signed, countersigned or attested on behalf of the City by any person who on the actual date of the execution of such Bond shall be the proper officer of the City, although on the nominal date of such Bond any such person shall not have been such officer of the City.

(b) Only such of the Bonds as shall bear thereon a certificate of authentication, executed by the Trustee or by any Transfer Agent, shall be valid or obligatory for any purpose or entitled to the benefits of the Indenture, and such certificate of the Trustee or of any Transfer Agent shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered under, and are entitled to the benefits of, the Indenture and that the Holder thereof is entitled to the benefits of the Indenture.

(c) The Bonds, together with interest thereon, and all Repayment Obligations shall be limited obligations of the City payable solely from the Revenues (except to the extent paid out of moneys attributable to the Bond proceeds or other funds created hereunder or the income from the temporary investment thereof) as provided herein. The issuance of the Bonds and delivery of any Security Instrument Agreement or Reserve Instrument Agreement shall not, directly, indirectly or contingently, obligate the City or any agency, instrumentality or political subdivision thereof to levy any form of ad valorem taxation therefore.

(d) The provisions of this Section relating to the execution of Bonds may be changed as they apply to the Bonds of any Series by the Supplemental Indenture authorizing such Series of Bonds.

***Section 3.03. Transfer of Bonds.*** Unless otherwise provided in a Supplemental Indenture authorizing a Series of Bonds:

(a) Any Bond may, in accordance with its terms, be transferred, upon the books required to be kept pursuant to the provisions of Section 3.06, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation or, if applicable, notation of the new Holder together with the signature of

the Trustee or any applicable Transfer Agent on the back of such Bond or on a form of record attached to such Bond for such purpose, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed. No transfer will be effective until entered upon the books required to be kept pursuant to the provisions of Section 3.06.

(b) Whenever any Bond shall be surrendered for transfer, the Trustee or any Transfer Agent shall authenticate and deliver a new fully registered Bond or Bonds duly executed by the City or, if applicable, shall deliver the same Bond, duly annotated with the new Holder and signed by the Trustee or any applicable Transfer Agent on the back of such Bond or on a form of record attached to such Bond for such purpose, for like aggregate principal amount. The Trustee or any Transfer Agent shall require the payment by the Bondholder requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

(c) The City, the Trustee and any Transfer Agent shall not be required (1) to issue, register the transfer of or exchange any Bond during a period beginning at the opening of business 15 days before the date of the mailing of a notice of redemption of Bonds selected for redemption under Article IV and ending at the close of business on the day of such mailing, or (2) to register the transfer of or exchange any Bond so selected for redemption in whole or in part, except the unredeemed portion of Bonds being redeemed in part.

(d) The City, the Trustee and any Transfer Agent may treat and consider the person in whose name each Bond is registered upon the books required to be kept pursuant to Section 3.06 as the Holder and absolute owner of such Bond for the purpose of payment of Principal of and interest on such Bond and for all other purposes whatsoever.

**Section 3.04. Exchange of Bonds.** Fully-registered Bonds may be exchanged at the principal corporate trust operations office of the Trustee or of any Transfer Agent for a like aggregate Principal amount of fully-registered Bonds of the same Series and maturity of authorized denominations. The Trustee or any Transfer Agent shall require the payment by the Bondholder requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. Except as otherwise provided in a Supplemental Indenture authorizing a Series of Bonds, no such exchange shall be required to be made subsequent to the Record Date.

**Section 3.05. Form of Bonds.** The Bonds of each Series of Bonds shall be in substantially the forms thereof set forth in the Supplemental Indenture authorizing the issuance of such Bonds, with such omissions, insertions and variations not inconsistent with the terms hereof as may be necessary, desirable, authorized and permitted hereby.

**Section 3.06. Bond Registration Books.** The Trustee will keep or cause to be kept, at its principal corporate trust operations office, sufficient books for the registration and transfer of Bonds, which shall at all times be open to inspection by the City; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Bonds as hereinbefore provided.

**Section 3.07. Bonds Mutilated, Lost, Destroyed or Stolen.** If any Bond shall become mutilated, the City, at the expense of the Holder of such Bond, shall execute, and the Trustee or any Transfer Agent shall, at the expense of the Holder of such Bond, thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee or any Transfer Agent of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee or to any Transfer Agent shall be cancelled by it and delivered to, or upon the order of, the City. If any Bond issued hereunder shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the City and the Trustee and, if such evidence be satisfactory to both and indemnity as required by the Act or State law and satisfactory to the Trustee shall be given, the City, at the expense of the Holder of such Bond, shall execute, and the Trustee shall, at the expense of the Holder of such Bond, thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond the Trustee may pay the same without surrender thereof). Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an additional contractual obligation of the City, and shall be equally and proportionately entitled to the benefits of the Indenture with all other Bonds of the same Series secured by the Indenture. Neither the City nor the Trustee shall be required to treat both the original Bond and any duplicate Bond as being Outstanding for the purpose of determining the Principal amount of Bonds which may be issued hereunder or for the purpose of determining any percentage of Bonds Outstanding hereunder, but both the original and duplicate Bond shall be treated as one and the same.

## ARTICLE IV

### REDEMPTION OF BONDS

**Section 4.01. Privilege of Redemption of Bonds.** Any Series of Bonds subject to redemption prior to maturity pursuant to a Supplemental Indenture shall be redeemable, upon notice being given, at such times, at such Redemption Prices and upon such terms as provided in this Article and (in addition to and consistent with the terms contained in this Article) in the Supplemental Indenture authorizing the issuance of the Bonds of such Series.

**Section 4.02. Selection of Bonds for Redemption.** Except as otherwise provided in a Supplemental Indenture:

(a) If less than all of the Bonds of any Series are called for redemption and if the Bonds of such Series shall mature on more than one date, the Bonds of such Series shall be redeemed from the Outstanding Bonds of such Series in inverse order of maturities.

(b) If less than all of the Bonds of any Series maturing on any single date are called for redemption, the Trustee shall select the Bonds to be redeemed, from the Outstanding Bonds of such Series maturing on that date not previously called for redemption, in such manner as in the Trustee's sole discretion it shall deem appropriate and fair; *provided, however*, that subject to other applicable provisions of the Indenture or of any Supplemental Indenture, the portion of any Bond to be redeemed shall be in a

Principal amount equal to a denomination in which Bonds of such Series are authorized to be issued. In selecting Bonds for redemption the Trustee shall treat each Bond as representing the number of Bonds which is obtained by dividing the Principal amount of each Bond by the minimum denomination in which such Series of Bonds is authorized to be issued. If part but not all of a Bond shall be selected for redemption, the Holder thereof or his attorney or legal representative shall present and surrender such Bond to the Trustee for payment of the Principal amount thereof so called for redemption and the redemption premium, if any, on such Principal amount. The City shall execute and the Trustee or any Transfer Agent shall authenticate and deliver to or upon the order of such Holder or his legal representative, without charge therefor, a Bond or Bonds of the same maturity and bearing interest at the same rate as the Bond so surrendered for the unredeemed portion of the surrendered Bond. The Trustee shall promptly notify the City in writing of the Bonds or portions thereof selected for redemption.

**Section 4.03. Notice of Redemption.** Except as otherwise provided in a Supplemental Indenture authorizing a Series of Bonds:

(a) Notice of redemption shall be given by first class mail, postage prepaid, not less than 30 nor more than 60 days prior to the redemption date, to the registered owner of such Bond, at his address as it appears on the bond registration books of the Trustee or at such address as he may have filed with the Trustee for that purpose, but neither failure to mail any such notice nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the redemption of any of the Bonds. Each notice of redemption shall state the redemption date, the place of redemption, the source of the funds to be used for such redemption, the Principal amount and, if less than all of the Bonds of any like Series and maturity are to be redeemed, the distinctive numbers of the Bonds to be redeemed, and shall also state that the interest on the Bonds or portions thereof in such notice designated for redemption shall cease to accrue from and after such redemption date and that on said date there will become due and payable on each of said Bonds the Redemption Price thereof and interest accrued thereon to the redemption date.

(b) Notice of redemption shall be given by the Trustee for and on behalf and at the expense of the City, at the Written Request of the City given to the Trustee at least 60 days prior to the date fixed for redemption. The City shall deposit with, or otherwise make available to, the Trustee the money required for payment of the Redemption Price of and the accrued interest to the redemption date on all Bonds then to be called for redemption at least two Business Days before the date fixed for such redemption.

(c) If at the time of mailing of notice of redemption there shall not have been deposited with the Trustee moneys sufficient to redeem all Bonds called for redemption, such notice may state that it is conditional upon the deposit of moneys sufficient to redeem all Bonds with the Trustee not later than the redemption date, and such notice shall be of no effect unless such moneys are so deposited. If the notice contains such condition and if moneys sufficient to redeem all Bonds called for redemption have not been deposited with the Trustee by the redemption date, the notice of redemption shall be rescinded, none of the Bonds described in such notice shall be redeemed, the Redemption Price shall not be

due and payable under the Indenture, and the Trustee shall, as soon as possible after the redemption date, give notice for and on behalf and at the expense of the City, by first class mail, postage prepaid, to the registered owners of the Bonds called for redemption of the rescission of such notice of redemption.

**Section 4.04. *Partial Redemption of Bonds; Disposition of Redeemed Bonds.*** Except as otherwise provided in a Supplemental Indenture authorizing a Series of Bonds:

(a) Upon surrender of any Bond redeemed in part only, the City shall duly execute and the Trustee or any Transfer Agent shall authenticate and deliver to the registered owner thereof, at the expense of the City, a new Bond or Bonds of the same Series and maturity and of authorized denominations equal in aggregate Principal amount to the unredeemed portion of the Bond surrendered.

(b) All Bonds redeemed in whole or in part pursuant to the provisions of this Article shall be cancelled by the Trustee or any Transfer Agent and shall thereafter be delivered to, or upon the order of, the City.

**Section 4.05. *Effect of Redemption.*** Except as otherwise provided in a Supplemental Indenture authorizing a Series of Bonds, if notice of redemption has been duly given as aforesaid, and moneys for payment of the Redemption Price, together with interest to the redemption date on the Bonds so called for redemption, are held by the Trustee, then such Bonds shall, on the redemption date designated in such notice, become due and payable at the Redemption Price specified in such notice and interest accrued thereon to the redemption date; and from and after the date so designated interest on the Bonds so called for redemption shall cease to accrue.

## ARTICLE V

### PLEDGE OF REVENUES; ESTABLISHMENT OF FUNDS AND APPLICATION THEREOF

**Section 5.01. *The Pledge Effected by the Indenture.*** The Bonds and the Repayment Obligations are special obligations of the City payable from and secured by the Revenues, moneys, securities and funds pledged therefor. There are hereby pledged for the payment of Principal, Redemption Price and interest on the Bonds and of Repayment Obligations in accordance with their terms and the provisions of the Indenture, subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture (1) the proceeds of sale of the Bonds, (2) the Revenues, and (3) the Construction Fund, Principal and Interest Fund, Revenue Fund and any other Funds hereafter established or confirmed by the Indenture (except for any Rebate Fund) and pledged for the payment of Principal, Redemption Price and interest on the Bonds and of Repayment Obligations, including the investments, if any, thereof, subject to any required rebate of all or a portion of the earnings on such investments to the United States of America pursuant to the requirements of Section 148(f) of the Code.

**Section 5.02. *Perfection of Security Interest.***

(a) This Indenture creates a valid and binding pledge and assignment of and security interest in all of the Revenues pledged under this Indenture in favor of the Trustee as security for payment of the Bonds, enforceable by the Trustee in accordance with the terms thereof.

(b) Under the laws of the State, such pledge and assignment and security interest is automatically perfected by Section 11-14-28, Utah Code Annotated 1953, as amended, and hereafter has priority against all parties having claims of any kind in tort, contract, or otherwise against the City, regardless of whether or not the parties have notice of the lien created hereunder.

***Section 5.03. Establishment of Funds.***

(a) The following Funds are hereby established:

(1) Revenue Fund, to be held by the City;

(2) Construction Fund, to be held by the Trustee, in which the Trustee shall establish a Project Account for each Project; and

(3) Principal and Interest Fund, to be held by the Trustee, consisting of

(A) a Bond Service Account, in which the Trustee shall establish a separate Series Subaccount for each Series of Bonds, and

(B) a Debt Service Reserve Account, in which the Trustee may establish a separate Series Subaccount for one or more Series of Bonds.

(c) The City may, by Supplemental Indenture, establish one or more additional Funds, accounts or subaccounts, including, but not limited to, a Rebate Fund.

***Section 5.04. Construction Fund.***

(a) There shall be paid into the Construction Fund the amounts required to be so paid by the provisions of the Indenture or any Supplemental Indenture.

(b) The Trustee shall establish within the Construction Fund a separate Project Account for each Project and may establish one or more subaccounts in each Project Account.

(c) Amounts in each Project Account established for a Project shall be applied to pay the Cost of Construction of the Project. In the event and to the extent that proceeds of the sale of Bonds were deposited in a Project Account to provide for the payment of capitalized interest, the Trustee shall, during the period for which such interest was capitalized, transfer from such Project Account, to the appropriate Series Subaccount in the Bond Service Account, the amounts required to pay interest on the Bonds when due, subject to any limitations contained in the Supplemental Indenture authorizing such Bonds.

(d) Before any payment is made from any Project Account by the Trustee (except for transfers into Series Subaccounts in the Bond Service Account to pay interest on the Bonds as contemplated in (c) above), the City shall file with the Trustee a Written Request of the City, in substantially the form attached hereto as *Exhibit A*, showing with respect to each payment to be made, the name of the person to whom payment is due and the amount to be paid with payment instructions, and stating that the obligation to be paid was incurred and is a proper charge against the Project Account. Each such Written Request shall be sufficient evidence to the Trustee that obligations in the stated amounts have been incurred by the City and that each item thereof is a proper charge against the applicable Project Account.

(e) Upon receipt of each such Written Request, the Trustee shall pay the amounts set forth therein as directed by the terms thereof.

(f) The City shall maintain on file with the Trustee a schedule of dates on which the City estimates that money in each Project Account will be expended and the amounts estimated to be required on those dates. The City may revise such schedule at any time to reflect changes in the estimated dates and amounts. Amounts in the Construction Fund shall be invested and reinvested by the Trustee, in accordance with instructions received from an Authorized Officer of the City, to the fullest extent practicable in Investment Securities (or, to the extent permitted by a Supplemental Indenture executed and delivered pursuant to Section 10.02(a)(3), in other investments) maturing in such amounts and at such times as may be necessary to make funds available when needed. The Trustee may, and to the extent required for payments from the Construction Fund shall, sell any such Investment Securities at any time, and the proceeds of such sale, and of all payments at maturity and upon redemption of such investments, shall be held in the applicable Project Account in the Construction Fund.

(g) Unless otherwise provided in a Supplemental Indenture authorizing a Series of Construction Bonds, all net income earned on any moneys or investments in the Project Account established in the Construction Fund for a Project shall be held in such Project Account and applied to pay the Costs of Construction.

(h) The substantial completion of construction of each Project shall be evidenced by a Written Certificate of the City, which shall be filed with the Trustee. Upon the filing of such Certificate, the balance in the Project Account in the Construction Fund in excess of the amount, if any, stated in such Certificate shall, to the extent permitted under applicable law and covenants, including any covenants contained in any Tax Certificate, regarding the use of proceeds of the Bonds, and as directed in such Written Certificate or in a Supplemental Indenture, be (i) used to purchase Bonds as provided in Section 5.09, (ii) deposited into the Debt Service Reserve Account to fund any amounts required to be deposited therein, (iii) deposited into the Bond Service Account, (iv) transferred into another Project Account to pay Costs of Construction of a Project or (v) used for any other purpose for which proceeds of Bonds may be used under applicable law and covenants regarding the use of proceeds of Bonds. If subsequent to the filing of such Certificate, a supplemental Written Certificate of the City is filed with the Trustee stating that the balance of the money remaining in the Construction Fund is no longer needed to pay Costs of Construction of such Project, any remaining balance in the Project Account in the Construction Fund shall, to the extent permitted under applicable law and covenants, including any covenants contained in



any Tax Certificate, regarding the use of proceeds of the Bonds and as directed in such supplemental Written Certificate or in a Supplemental Indenture, be (i) used to purchase Bonds as provided in Section 5.09, (ii) deposited into the Debt Service Reserve Account to fund any amounts required to be deposited therein, (iii) deposited into the Bond Service Account, (iv) transferred into another Project Account to pay Costs of Construction of a Project or (v) used for any other purpose for which proceeds of Bonds may be used under applicable law and covenants regarding the use of proceeds of Bonds.

***Section 5.05. Revenues; Revenue Fund.***

(a) All Revenues shall be promptly deposited by the City to the credit of the Revenue Fund. There shall also be deposited into the Revenue Fund all amounts required to be so deposited by the Indenture, including, but not limited to, Section 10.02.

(b) Following the deposits required by Section 5.06(a), there shall be retained in the Revenue Fund, to the extent such amounts are not otherwise required to be transferred from the Revenue Fund pursuant to the provisions of Section 5.06, the amount estimated to be required for deposit into the Principal and Interest Fund in the next succeeding month; *provided, however*, for purposes of calculating the interest payable for the next succeeding month for any Series of Variable Rate Bonds or Repayment Obligations bearing interest at a variable rate that cannot be ascertained for any such month, it shall be assumed that such Series of Variable Rate Bonds or Repayment Obligations will bear interest at the greater of (i) the maximum interest rate permitted under the applicable Supplemental Indenture authorizing the issuance of such Series of Variable Rate Bonds, (ii) the maximum interest rate permitted under any Reserve Instrument Agreement then in effect with respect to such Series of Variable Rate Bonds, or (iii) the maximum interest rate permitted under any Security Instrument Agreement then in effect with respect to such Series of Variable Rate Bonds, as applicable.

***Section 5.06. Flow of Funds.***

(a) On or before the last Business Day prior to the end of each month the City shall transfer from the Revenue Fund, to the extent of moneys available therein, and deposit, in the following order:

(1) for credit to the Bond Service Account, the amount, if any, required so that the balance in each of the Series Subaccounts in the Bond Service Account shall equal the Accrued Debt Service on the Series of Bonds and, to the extent that the Supplemental Indenture creating such Series Subaccount authorizes the use of a Security Instrument, on any Security Instrument Repayment Obligations for which such Series Subaccount was established; *provided* that if there are not sufficient moneys to satisfy the requirements of this subsection (i) with respect to all Series Subaccounts in the Bond Service Account, all moneys available for distribution among such Series Subaccounts shall be deposited into the Bond Service Account and distributed on a pro rata basis to the deficient Series Subaccounts in the Bond Service Account, such distribution to be determined by multiplying the amount available for distribution by the proportion that the deficiency for each Series Subaccount bears to the total deficiency for all Series Subaccounts; and

*provided further*, that in the event and to the extent moneys have been deposited in any Project Account to provide for the payment of capitalized interest, such moneys shall be transferred from the appropriate Project Account and deposited into the appropriate Series Subaccount in the Bond Service Account in an amount sufficient to cause the balance in such Series Subaccount to equal the interest component of Accrued Debt Service on the Series of Bonds; and

(2) for credit to the Debt Service Reserve Account, without priority or preference as between subsections (A) or (B):

(A) if, after the issuance of a Series of Bonds, an amount equal to the Debt Service Reserve Requirement is not on deposit in the Series Subaccount established in the Debt Service Reserve Account for such Series of Bonds because sufficient moneys for that purpose were not required by a Supplemental Indenture to be deposited into the Debt Service Reserve Account pursuant to the provisions of Section 2.02(a)(10), such amount as shall be required by the Supplemental Indenture authorizing such Series of Bonds, in not to exceed sixty (60) approximately equal monthly installments commencing no later than the Business Day immediately preceding the first Interest Payment Date of such Series of Bonds, computed as of the contemplated date of issuance of such Series of Bonds, necessary to cause the balance in such Series Subaccount to equal the Debt Service Reserve Requirement; and

(B) if moneys shall ever have been paid out of any Series Subaccount in the Debt Service Reserve Account for the purpose specified in Section 5.08(b) or if for any other reason moneys in any Series Subaccount in the Debt Service Reserve Account shall have been removed and in either case if such moneys shall not have been replaced from any source, such amount as shall be necessary to cause either the amount so paid out of or removed from such Series Subaccount in the Debt Service Reserve Account to be replaced, or the amount to be on deposit in such Series Subaccount to be equal to the Debt Service Reserve Requirement attributable to the corresponding Series of Bonds, whichever is less;

*provided* that if there are not sufficient moneys in the Revenue Fund to satisfy the requirements of this subsection (2), all moneys available for distribution among the Series Subaccounts in the Debt Service Reserve Account shall be deposited into the Debt Service Reserve Account and distributed pro rata based on the amount of the deficiencies to the deficient Series Subaccounts in the Debt Service Reserve Account.

*provided, however*, that so long as there shall be held in the Principal and Interest Fund, excluding any Reserve Instrument Coverage, an amount sufficient to pay in full all Outstanding Bonds and all outstanding Repayment Obligations in accordance with their terms (including Principal or applicable sinking fund Redemption Price and interest thereon), no deposits shall be required to be made into the Principal and Interest Fund.

(b) Amounts remaining in the Revenue Fund at the end of each month after payment of the amounts required by subsection (a) of this Section may be applied by the City, free and clear of the lien of the Indenture, to any one or more of the following, to the extent permitted by law: (1) the purchase or redemption of any Bonds and payment of expenses in connection therewith; (2) payments of Principal or redemption price of and interest on any bonds, including general obligation or junior lien revenue bonds of the City; (3) payments into any Project Account or Accounts established in the Construction Fund for application to the purposes of such Accounts; and (4) any other lawful purpose of the City.

(c) Upon any purchase or redemption, pursuant to subsection (b) of this Section, of Bonds of any Series and maturity for which Sinking Fund Installments shall have been established, the principal amount of such Bonds shall be credited toward such Sinking Fund Installments as directed in a Written Certificate or Request of the City, unless the City shall elect to have the Sinking Fund Installments next due credited as provided in Section 5.07(c).

***Section 5.07. Principal and Interest Fund - Bond Service Account.***

(a) Each Supplemental Indenture providing for the issuance of a Series of Bonds shall establish a separate Series Subaccount in the Bond Service Account for each such Series of Bonds issued; *provided, however*, that such a separate Series Subaccount need not be established in the Principal and Interest Fund for a Series of Bonds if such Series of Bonds is secured by a Series Subaccount in the Debt Service Reserve Account that also secures one or more other Series of Bonds as contemplated by Section 5.08(a) (in which case the Supplemental Indenture may provide for the payment of principal and interest on such Series of Bonds from the same Series Subaccount in the Principal and Interest Fund as the principal and interest on such other Series of Bonds are payable from). There shall be deposited into each Series Subaccount the amounts required to be so deposited pursuant to Section 5.06(a)(1)(A)(i). Any payments made by a Security Instrument Issuer with respect to a Series of Bonds shall be deposited into the Series Subaccount in the Bond Service Account relating to such Series of Bonds, subject to the provisions of the Supplemental Indenture authorizing the issuance of such Series of Bonds.

(b) The Trustee shall pay out of the appropriate Series Subaccount in the Bond Service Account to the respective Paying Agent (1) on or before each interest payment date for each Series of Bonds, the amount required for the interest payable on such date; (2) on or before each Principal Installment due date, the amount required for the Principal Installment payable on such due date; and (3) on or before any redemption date for each Series of Bonds, the amount required for the payment of Redemption Price of and accrued interest on such Bonds then to be redeemed. Such amounts shall be applied by the Paying Agents to pay Principal Installments and Redemption Price of, and interest on the related Series of Bonds. The Trustee shall pay out of the appropriate Series Subaccount in the Bond Service Account to the Security Instrument Issuer, if any, that has issued a Security Instrument with respect to such Series of Bonds an amount equal to any Security Instrument Repayment Obligation then due and payable to such Security Instrument Issuer. If payment is so made on Pledged Bonds held for the benefit of the Security Instrument Issuer, a corresponding payment on the Security Instrument Repayment Obligation shall be deemed to have been made (without requiring an additional payment by the City) and the Trustee shall keep its records accordingly.

(c) Except as otherwise provided in a Supplemental Indenture authorizing a Series of Bonds, amounts accumulated in any Series Subaccount in the Bond Service Account with respect to any Sinking Fund Installment (together with amounts accumulated therein with respect to interest on the Bonds for which such Sinking Fund Installment was established) shall, if so directed by the City in a Written Request not less than 30 days before the due date of such Sinking Fund Installment, be applied by the Trustee to (1) the purchase of Bonds of the Series and maturity for which such Sinking Fund Installment was established, (2) the redemption at the applicable sinking fund Redemption Price of such Bonds, if then redeemable by their terms, or (3) any combination of (1) and (2). The applicable sinking fund Redemption Price (or Principal amount of maturing Bonds) of any Bonds so purchased or redeemed shall be deemed to constitute part of the Bond Service Account until such Sinking Fund Installment date for the purpose of calculating the amount of such Account. As soon as practicable after the 60th day preceding the due date of any such Sinking Fund Installment, the Trustee shall proceed to call for redemption on such due date, by giving notice as required by the Indenture, Bonds of the Series and maturity for which such Sinking Fund Installment was established (except in the case of Bonds maturing on a Sinking Fund Installment date) in such amount as shall be necessary to complete the retirement of the unsatisfied balance of such Sinking Fund Installment. The Trustee shall pay out of the appropriate Series Subaccount in the Bond Service Account to the appropriate Paying Agents, on or before such redemption date (or maturity date), the amount required for the redemption of the Bonds so called for redemption (or for the payment of such Bonds then maturing), and such amount shall be applied by such Paying Agents to such redemption (or payment).

***Section 5.08. Principal and Interest Fund - Debt Service Reserve Account.***

(a) Each Supplemental Indenture providing for the issuance of a Series of Bonds shall establish in the Debt Service Reserve Account a separate Series Subaccount for each such Series of Bonds issued *provided, however*, that such a separate Series Subaccount need not be established in the Principal and Interest Fund for a Series of Bonds if such Series of Bonds is secured by a Series Subaccount in the Debt Service Reserve Account that also serves one or more other Series of Bonds. Such Supplemental Indenture shall also specify the Debt Service Reserve Requirement to be on deposit in such Series Subaccount.

(b) If on the third Business Day prior to the end of any month, after the deposit of moneys required by Section 5.06(a)(1)(A)(i), the amount in any Series Subaccount in the Bond Service Account shall be less than the amount required to be in such Series Subaccount, the Trustee shall (1) apply amounts from the corresponding Series Subaccount, if any, in the Debt Service Reserve Account to the extent necessary to make good the deficiency; and (2) to the extent that moneys and investments available in the corresponding Series Subaccount, if any, in the Debt Service Reserve Account are not sufficient to eliminate the deficiency in the Series Subaccount in the Bond Service Account and Reserve Instruments are in effect for the corresponding Series of Bonds, immediately make a demand for payment on all such Reserve Instruments, to the maximum extent authorized by such Reserve Instruments, in the amount necessary to make up such deficiency, and immediately deposit such payment upon receipt thereof in the appropriate Series Subaccount in the Bond Service Account.

(c) Whenever the moneys on deposit in a Series Subaccount in the Debt Service Reserve Account, including investment earnings and Reserve Instrument Coverage with respect thereto, shall exceed the Debt Service Reserve Requirement for such Series Subaccount, such excess shall be transferred by the Trustee to the corresponding Series Subaccount in the Bond Service Account and shall be used to pay Debt Service on the related Bonds, subject to any limitations contained in the Tax Certificate relating to such Bonds.

(d) Whenever the amount in a Series Subaccount in the Debt Service Reserve Account, excluding any Reserve Instrument Coverage, together with the amount in the corresponding Series Subaccount in the Bond Service Account for a Series of Bonds, is sufficient to pay in full all Outstanding Bonds of such Series and related Repayment Obligations in accordance with their terms (including Principal or applicable sinking fund Redemption Price and interest thereon), the funds on deposit in such Series Subaccount in the Debt Service Reserve Account shall be transferred to the corresponding Series Subaccount in the Bond Service Account and no deposits shall be required to be made into such Series Subaccount in the Debt Service Reserve Account.

(e) Unless otherwise provided in a Supplemental Indenture authorizing a Series of Bonds, in calculating the amount on deposit in a Series Subaccount in the Debt Service Reserve Account, the amount of the Reserve Instrument Coverage for the corresponding Series of Bonds will be treated as an amount on deposit in such Series Subaccount in the Debt Service Reserve Account. The City may deposit a Reserve Instrument into any Series Subaccount in the Debt Service Reserve Account to satisfy all or a portion of the Debt Service Reserve Requirement with respect to the Series of Bonds for which such Series Subaccount was established and upon such deposit may withdraw any moneys in such Series Subaccount in excess of such Debt Service Reserve Requirement.

(f) Unless otherwise specified in the Supplemental Indenture authorizing a Series of Bonds, no Reserve Instrument for such Series of Bonds shall be allowed to expire unless and until cash has been deposited into the appropriate Series Subaccount in the Debt Service Reserve Account, or a new Reserve Instrument has been issued in place of the expiring Reserve Instrument, in an amount or to provide coverage at least equal to the Debt Service Reserve Requirement for the corresponding Series of Bonds.

**Section 5.09. Purchase of Bonds.** The City may, to the extent permitted under applicable law and covenants, including any covenants contained in any Tax Certificate, purchase Bonds of any Series from any available funds at public or private sale, as and when and at such prices as the City may in its discretion determine. All Bonds so purchased shall at such times as shall be selected by the City be delivered to and cancelled by the Trustee or any Registrar and shall thereafter be delivered to, or upon the order of, the City, and no Bonds shall be issued in place thereof. In the case of the purchase of Bonds of a Series and maturity for which Sinking Fund Installments shall have been established, the City shall, by a Written Request of the City delivered to the Trustee, elect the manner in which the Principal amount of such Bonds shall be credited toward Sinking Fund Installments, consistent with the procedures of Section 5.07(c).

## ARTICLE VI

### GENERAL COVENANTS

**Section 6.01. Punctual Payment of Bonds.** The City will punctually pay or cause to be paid, solely from the Revenues and funds pledged therefor pursuant to the Indenture, the principal or Redemption Price and the interest to become due in respect of all the Bonds in strict conformity with the terms of the Bonds and the City will punctually pay or cause to be paid all Sinking Fund Installments which may be established for any Series of Bonds.

**Section 6.02. Construction of Projects.** Once the City has determined to construct a Project and issued Bonds with respect to such Project, the City will promptly commence, or cause to be commenced, the construction of such Project and will continue, or cause to be continued, the same to completion with all practicable dispatch, and such Project will be constructed in a sound and economic manner.

**Section 6.03. No Impairment of Revenues.** Pursuant to Section 11-14-17.5(2)(d) of the Utah Municipal Bond Act, (i) the ordinances, resolutions or other enactments of the Council imposing the sales taxes constituting the Revenues and pursuant to which such sales taxes are being collected and (ii) the obligation of the City to levy, collect and allocate the sales taxes constituting the Revenues and to apply the Revenues as provided in the Indenture, shall be irrevocable so long as the Bonds are Outstanding and are not subject to amendment in any manner which would impair the rights of the Bondholders or which would in any way jeopardize the timely payment of the principal of or interest on the Bonds when due.

**Section 6.04. Against Encumbrances; Further Assurances.**

(a) The City will not sell, convey, mortgage, encumber, pledge or otherwise dispose of any part of the Revenues except as provided in the Indenture; *provided, however*, that nothing contained herein shall prevent the City from issuing, if and to the extent permitted by law, indebtedness having a lien on Revenues subordinated to that of the Bonds..

(b) The City will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further accounts, instruments and transfers as may be reasonably required for the better assuring, pledging and confirming to the Trustee all and singular the Revenues and the other amounts pledged hereby to the payment of the principal of, Redemption Price and interest on the Bonds.

**Section 6.05. Covenant of State of Utah.** Pursuant to Section 11-14-17.5(3) of the Utah Municipal Bond Act, the State pledges and agrees with the Bondholders, Security Instrument Issuers and Reserve Instrument Issuers that the State will not alter, impair or limit the Revenues in a manner that reduces the amounts to be rebated to the City which are devoted or pledged by the Indenture until the Bonds, together with applicable interest, are fully met and discharged; *provided, however*, that nothing shall preclude such alteration, impairment or limitation if and when adequate provision shall be made by law for the protection of the Bondholders, Security Instrument Issuers and Reserve Instrument Issuers.

**Section 6.06. Accounts and Reports.**

(a) The City will at all times keep, or cause to be kept, proper books of record and accounts, separate and apart from all other records and accounts of the City, in which complete and accurate entries shall be made of all transactions relating to the Revenues. Such books of record and accounts shall at all times during business hours be subject to the inspection of the Trustee, the Holders of not less than five percent (5%) of any Series of Bonds then Outstanding, any Security Instrument Issuer, any Reserve Instrument Issuer, any party specified by a Supplemental Indenture, or their representatives authorized in writing.

(b) The City will place on file with any party specified by a Supplemental Indenture annually within six (6) months after the close of each Fiscal Year, a financial statement in reasonable detail for the preceding Fiscal Year showing the receipt and disposition of all Revenues and the balances of all Funds as of the end of each Fiscal Year, which financial statement and balance sheet shall be accompanied by an Accountant's Certificate. Each such financial statement, in addition to whatever matters may be thought proper by the Independent Public Accountant to be included therein, shall include the following:

(1) An analysis of all Funds provided for herein, setting out as to each all deposits and disbursements made during the Fiscal Year and the amount in each Fund at the end of the Fiscal Year; and

(2) Such other matters as may be required by Supplemental Indenture.

Simultaneously with the filing of such financial statement, there shall be filed with any party specified by a Supplemental Indenture a report of indenture compliance review conducted by the firm of Independent Public Accountants which signed the Accountants' Certificate accompanying the financial statement.

(c) The reports, statements and other documents required to be furnished to the Trustee pursuant to any provisions of the Indenture shall be available for inspection of Bondholders, Security Instrument Issuers and Reserve Instrument Issuers at the principal corporate trust office of the Trustee and, upon the Written Request of the City, shall be mailed to each Bondholder, Security Instrument Issuer and Reserve Instrument Issuer who shall file a written request therefor with the City.

(d) The City shall file with the Trustee and with any party specified by a Supplemental Indenture (1) immediately upon becoming aware of any Event of Default or other default in the performance by the City of any covenant, agreement or condition contained in the Indenture, a Written Certificate of the City specifying such default; and (2) not later than six (6) months following the end of each Fiscal Year a Written Certificate of the City stating that, to the best of the knowledge and belief of the Authorized Officer of the City executing such Written Certificate, except for any default then existing which shall have been specified in the Written Certificate of the City referred to in (1) above, the City has kept, observed, performed and fulfilled each and every one of its covenants and obligations contained in the Indenture and there does not exist at the date of such Written Certificate any default by the City under the Indenture or any Event of

Default or other event which, with the lapse of time specified in Section 9.01, would become an Event of Default, or, if any such default or Event of Default or other event shall so exist, specifying the same and the nature and status thereof.

**Section 6.07. Maintenance of Paying Agents.** The Trustee shall pay to each Paying Agent, to the extent of the moneys held by the Trustee for such payment, funds for the prompt payment of the principal and Redemption Price of and interest on the Bonds of such Series presented at any such place of payment.

**Section 6.08. Compliance with Indenture.** The City will not issue any Bonds in any manner other than in accordance with the provisions of the Indenture and will not suffer or permit any default to occur under the Indenture, but will faithfully observe and perform all the covenants, conditions and requirements hereof. The City will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of the Indenture, and for the better assuring and confirming unto the Holders of the Bonds, the Security Instrument Issuers and the Reserve Instrument Issuers of the rights, benefits and security provided in the Indenture. The City for itself, its successors and assigns, represents, covenants and agrees with the Holders of the Bonds, the Security Instrument Issuers and the Reserve Instrument Issuers as a material inducement to the purchase of the Bonds and the issuance of the Security Instruments and the Reserve Instruments, that so long as any of the Bonds shall remain Outstanding and the principal or Redemption Price thereof or interest thereon shall be unpaid or unprovided for, it will faithfully perform all of the covenants and agreements contained in the Indenture and the Bonds.

**Section 6.09. Power to Issue Bonds and Pledge Revenues and Other Funds.** The City is duly authorized under all applicable laws to create and issue the Bonds and to adopt the Indenture and to pledge the Revenues and other moneys, securities and funds purported to be pledged by the Indenture in the manner and to the extent provided in the Indenture. The Bonds and the provisions of the Indenture are and will be the valid and legally enforceable obligations of the City in accordance with their terms and the terms of the Indenture. The City shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Revenues and other moneys, securities and Funds pledged under the Indenture and all the rights of the Bondholders, the Security Instrument Issuers and the Reserve Instrument Issuers under the Indenture against all claims and demands of all persons whomsoever.

**Section 6.10. General.**

(a) The City shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the City under the provisions of the Act and the Indenture.

(b) The City covenants that upon the date of authentication and delivery of any of the Bonds, all acts, conditions and things required by law and the Indenture to exist, to have happened and to have been performed precedent to and in the issuance of such Bonds shall exist, have happened and have been performed in regular and in due time, form and manner as required by law and the City will have duly and regularly complied with all applicable provisions of law and



will be duly authorized to issue the Bonds under the Act in the manner and upon the terms as in the Indenture provided.

## ARTICLE VII

### THE TRUSTEE, THE PAYING AGENTS AND THE TRANSFER AGENTS

#### *Section 7.01. Trustee.*

(a) The City hereby appoints [Trustee], as the initial Trustee hereunder to act as the legal depository of the City for the purpose of receiving all moneys which the City is required to pay to the Trustee hereunder and to hold, allocate, use and apply the same as provided in the Indenture. The Trustee hereby accepts and agrees to execute the trusts hereby created upon the terms set forth herein. The Trustee shall act as the legal depository of the City for the purpose of receiving all moneys which the City is required to pay to the Trustee hereunder, and to hold, allocate, use and apply the same as provided in the Indenture. The Trustee shall also act as registrar and Transfer Agent for the Bonds, with the duties herein provided, and shall also act in accordance with the duties specified in Section 3.02(a). In acting as registrar and Transfer Agent, the Trustee shall be the agent of the City.

(b) The Trustee may at any time resign or be discharged of its duties and obligations hereby created by giving not less than 60 days' written notice to the City, specifying the date when such resignation shall take effect, and mailing notice thereof to the Holders of all Bonds then Outstanding, and such resignation shall take effect on the day specified in such notice unless previously a successor shall have been appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor; *provided, however,* that such resignation of the Trustee shall in no event take effect until such successor shall have been appointed and accepted the duties of Trustee.

(c) The City may at any time remove the Trustee initially appointed or any successor thereto by a Written Certificate of the City providing for such removal, for the appointment of a successor, and for the effective date of the change of Trustee; *provided, however,* that such removal of the Trustee shall in no event take effect until such successor shall have been appointed and accepted the duties of Trustee by the execution of a Supplemental Indenture. A copy of such Written Certificate of the City shall be mailed by first class mail to the Trustee.

(d) Notice of the resignation or removal of the Trustee and the appointment of a successor shall be mailed by first class mail to the registered Holders of all Bonds then Outstanding and to each Security Instrument Issuer and Reserve Instrument Issuer then having a Security Instrument or Reserve Instrument outstanding, within 30 days after delivery of the Written Certificate of the City providing for such appointment. Any successor Trustee appointed by the City subsequent to the issuance of the first Series of Bonds issued hereunder shall be a bank or trust company with a capital, undivided profits and surplus of not less than \$50,000,000.

(e) If no successor Trustee shall have been appointed and shall have accepted appointment within 45 days of giving notice of the resignation or removal of the Trustee as aforesaid, the Trustee or any Bondholder (on behalf of himself and all other Bondholders) may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee.

**Section 7.02. Paying Agents; Appointment and Acceptance of Duties; Removal.** The City shall appoint Paying Agents for the Bonds of each Series pursuant to Supplemental Indentures. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by the Indenture by executing and delivering to the City and to the Trustee a written acceptance thereof. The City may remove any Paying Agent and any successor thereto, and appoint a successor or successors thereto; *provided, however*, that any such Paying Agent designated by the City shall continue to be a Paying Agent of the City for the purpose of paying the Principal and Redemption Price of and interest on the Bonds until the designation of a successor as such Paying Agent. Each Paying Agent is hereby authorized to redeem Bonds when duly presented to it for payment or redemption, which Bonds shall thereafter be delivered to the Trustee for cancellation.

**Section 7.03. Terms and Conditions of the Trusts.** Notwithstanding any other provision of this Indenture to the contrary, the Trustee shall, prior to an Event of Default, and after the curing of all Events of Default which may have occurred, perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations of the Trustee shall be read into this Indenture. Subject to Article IX and Section 7.03(l) hereof, the Trustee shall, during the existence of any Event of Default (which has not been cured), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his own affairs. The Trustee shall perform such duties, rights and powers only upon and subject to the following express terms and conditions:

(a) The Trustee shall perform such duties and only such duties as are specifically set forth in the Indenture. The duties and obligations of the Trustee shall be determined solely by the express provisions of the Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in the Indenture, and no implied covenants or obligations shall be read into the Indenture against the Trustee.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall not be answerable for the conduct of any of the same who have been selected by it with ordinary care in accordance with the standard specified above, and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney for the City or any other attorneys, if, in the case of such other attorneys, they are approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage

resulting from any action or non-action in good faith in reliance upon such opinion or advice. The Trustee shall not be liable for any error of judgment made in good faith by any of its officers or employees unless it shall be proved that the Trustee was negligent in ascertaining pertinent facts.

(c) The Trustee shall not be responsible for any recital herein, or in the Bonds (except in respect to the certificate of authentication of the Trustee endorsed on the Bonds), or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the City herein set forth; but the Trustee may require of the City full information and advice as to the performance of the covenants, conditions and agreements aforesaid. The Trustee shall have no obligation to perform any of the duties of the City under the Indenture.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder. The Trustee may become the owner or pledgee of Bonds secured hereby with the same rights which it would have if not Trustee. To the extent permitted by law, the Trustee may also receive tenders and purchase in good faith Bonds from itself, including any department, affiliate or subsidiary, with like effect as if it were not Trustee.

(e) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to the Indenture, upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Bond, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof. The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority in Principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under the Indenture.

(f) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a Written Certificate of the City as sufficient evidence of the facts therein contained and shall also be at liberty to accept a similar Written Certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of the City Recorder to the effect that a resolution in the form therein set forth has been adopted by the City as conclusive evidence that such resolution has been duly adopted, and is in full force and effect.

(g) The permissive right of the Trustee to do things enumerated in the Indenture shall not be construed as a duty and it shall not be answerable for other than its gross negligence or willful default.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except:

(1) Failure by the City to cause to be made any of the payments to the Trustee required to be made pursuant to Article V;

(2) Failure of the City to file with the Trustee any document required by the Indenture to be so filed prior to or subsequent to the issuance of the Bonds; or

(3) Any default with respect to a Security Instrument Agreement or a Reserve Instrument Agreement as to which any of the parties thereto has notified the Trustee in writing;

*provided* that the Trustee shall be required to take notice or be deemed to have notice of any default hereunder if specifically notified in writing of such default by the Holders of not less than 10% in aggregate Principal amount of Bonds then Outstanding, by any Security Instrument Issuer or by any Reserve Instrument Issuer, and all notices or other instruments required by the Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the principal corporate trust office of the Trustee and in the absence of such notice, the Trustee may conclusively assume there is no default except as aforesaid;

(i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect any and all books, papers and records of the City pertaining to the Revenues and the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in the Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds or any action whatsoever within the purview of the Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee reasonably deemed desirable by it for the purpose of establishing the right of the City to the authentication of any Bonds or the taking of any other action by the Trustee.

(l) The Trustee shall be under no obligation to exercise any of the trusts or powers vested in it by the Indenture at the request, order or direction of any of the Bondholders, Security Instrument Issuers or Reserve Instrument Issuers pursuant to the provisions of the Indenture, unless such Bondholders, Security Instrument Issuers or Reserve Instrument Issuers shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred therein or thereby.

(m) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by mandatory provisions of law.

(n) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, appraisal, Bond or other paper or document, unless requested in writing to do so by (i) the Holders of not less than 25% in aggregate Principal amount of the Bonds then Outstanding, (ii) any Security Instrument Issuer of a Security Instrument then in full force and effect and not in default on a payment obligation or (iii) any Reserve Instrument Issuer of a Reserve Instrument then in full force and effect and not in default on a payment obligation; *provided*, that, if the payment within a reasonable time to the Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security afforded to it by the terms of the Indenture, the Trustee may require reasonable indemnity against such expenses or liabilities as a condition to so proceeding. The reasonable expense of every such inquiry or examination shall be paid by the City or, if paid by the Trustee, shall be repaid by the City.

(o) The Trustee shall not be liable for any action taken by it in good faith and reasonably believed by it to be authorized or within the discretion, rights or powers conferred upon it by the Indenture.

(p) None of the provisions contained in the Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers, if there is reasonable ground for believing that the repayment of such funds or liability is not reasonably assured to it.

(q) The Trustee shall not be obligated to take or omit to take any action hereunder if, upon the basis of advice of counsel selected by it, the Trustee determines it would be unlawful to take or omit to take such action.

(r) The Trustee shall have no responsibility with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to any Series of Bonds.

(s) The Trustee shall not be liable for actions taken at the direction of Bondholders or Security Instrument Issuer pursuant to the provisions of Article IX.

**Section 7.04. Intervention by the Trustee.** In any judicial proceeding to which the City is a party and which in the opinion of the Trustee has a substantial bearing on the interests of Holders of the Bonds, the Trustee may intervene on behalf of Bondholders and shall do so if requested in writing by (i) the Holders of a majority of the aggregate Principal amount of Bonds then Outstanding or (ii) any Security Instrument Issuer of a Security Instrument then in full force and

effect and not in default on a payment obligation. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction.

**Section 7.05. Successor Trustee.** Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business or assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall be and become a successor Trustee hereunder and vested with all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of the Trustee or the City, anything herein to the contrary notwithstanding.

**Section 7.06. Concerning Any Successor Trustee.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor and also to the City a Supplemental Indenture accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the Written Request of the City, or of its successor, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its or his successor. Should any instrument in writing from the City be required by any successor Trustee for more fully and certainly vesting in such successor the estates, properties, rights, powers, trusts, duties and obligations hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City. Any Trustee ceasing to act shall, nevertheless, retain a lien upon all property or funds held or collected by such Trustee to secure any amounts then due it pursuant to the provisions of Section 7.07 hereof.

**Section 7.07. Compensation of the Trustee and Its Lien.** The City covenants and agrees to pay to the Trustee from time to time and the Trustee shall be entitled to, reasonable compensation and, except as otherwise expressly provided, the City covenants and agrees to pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any of the provisions of the Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all persons not regularly in its employ including but not limited to any Paying Agent, Transfer Agent or Depository) except any such expense, disbursement or advance as may arise from its negligence or bad faith. The City also covenants to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on the part of the Trustee, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim of liability in the premises. The obligations of the City under this Section to compensate and indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall constitute additional indebtedness hereunder and shall survive the satisfaction and discharge of the Indenture. Such additional indebtedness shall be secured by a lien prior to that of the Bonds upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of particular Bonds.

**Section 7.08. Appointment of Co-Trustee.** It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation under the Indenture, and in particular in case of the enforcement thereof on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate or co-trustee. The following provisions of this Section are adapted to these ends.

In the event that the Trustee appoints an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by the Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them.

Should any instrument in writing from the City be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such estates, properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City. In case any separate trustee or co-trustee, or a successor to either of them shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

**Section 7.09. Appointment, Duties and Term of Remarketing Agent.** The City may pursuant to a Supplemental Indenture appoint one or more Remarketing Agents from time to time to purchase or remarket Put Bonds.

**Section 7.10. Appointment, Duties and Term of Additional Transfer Agents.** The City may appoint one or more Transfer Agents from time to time in addition to the Trustee to transfer and authenticate Bonds. Each appointment of a Transfer Agent other than the Trustee shall be made by a Supplemental Indenture which shall, among other things, specify the duties, qualifications and term of such Transfer Agent and the conditions under which such Transfer Agent may resign, be removed or be replaced. Each Transfer Agent other than the Trustee shall signify its acceptance of the duties imposed upon it pursuant to the Indenture by depositing with the City and the Trustee a written acceptance of such duties, together with a certificate stating that the Transfer Agent is duly qualified to perform such duties under the terms of the Indenture and under all applicable local, state and federal laws.

## ARTICLE VIII

### MODIFICATION OR AMENDMENT OF INDENTURE

#### *Section 8.01. Amendments Permitted.*

(a) The Indenture or any Supplemental Indenture and the rights and obligations of the City and of the Holders of the Bonds may be modified or amended at any time by a Supplemental Indenture and pursuant to the affirmative vote at a meeting of Bondholders, or with the written consent without a meeting, (1) of the Holders of at least a majority in Principal amount of the Bonds then Outstanding, and (2) in case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of at least a majority in Principal amount of the Bonds of each Series so affected and then Outstanding, and (3) in case the modification or amendment changes the terms of any Sinking Fund Installment, of the Holders of at least a majority in Principal amount of the Bonds of the particular Series and maturity entitled to such Sinking Fund Installment and then Outstanding; *provided, however*, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified Series remain Outstanding, the consent of the Holders of Bonds of such Series shall not be required and Bonds of such Series shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section.

(b) The Indenture or any Supplemental Indenture and the rights and obligations of the City, the Holders of the Bonds, the Security Instrument Issuers and the Reserve Instrument Issuers may also be modified or amended at any time by a Supplemental Indenture, without notice to or the consent of any Bondholders for any of the following purposes:

(1) to add to the covenants and agreements of the City contained in the Indenture, to add other covenants and agreements thereafter to be observed, to pledge or provide additional security hereunder or to surrender any right or power herein reserved to or conferred upon the City;

(2) to make such provisions for the purpose of curing any ambiguity, or of curing or correcting any defective provision contained in the Indenture or in regard to questions arising under the Indenture, as the City may deem necessary or desirable, and which shall not adversely affect the interests of the Holders of the Bonds;

(3) to provide for the issuance of a Series of Bonds in accordance with the provisions of Article II;

(4) to provide for the issuance of the Bonds pursuant to a book-entry system or as uncertificated registered public obligations pursuant to the provisions of the Registered Public Obligations Act, Chapter 7 of Title 15 of the Utah Code Annotated 1953, as amended, or any successor provision of law or to modify or eliminate the book-entry registration system for any of the Bonds;



(5) to confirm, as further assurance, any pledge of or lien on the Revenues or any other moneys, securities or funds subject or to be subjected to the lien of this Indenture;

(6) to comply with the requirements of the Trust Indenture Act of 1939, as from time to time amended;

(7) to modify, alter, amend or supplement this Indenture or any Supplemental Indenture in any other respect which in the judgment of the Trustee is not materially adverse to the Holders of the Bonds; *provided, however*, that any such modification, alteration, amendment or supplement pursuant to this Section 8.01(b)(7) shall not take effect until the Security Instrument Issuers at the time providing Security Instruments which are in full force and effect and not in default on any payment obligation thereunder shall have consented in writing to such modification, alteration, amendment or supplement; *provided further* that in determining whether any such modification, alteration, amendment or supplement is materially adverse to the Holders of the Bonds, the Trustee shall consider the effect on the Holders as if there were no Security Instrument with respect to the Bonds;

(8) to make any change which in the judgment of the Trustee shall not materially adversely affect the rights or interests of the Holders of any Outstanding Bonds requested by a Rating Agency in order to obtain or maintain any rating on the Bonds or by a Security Instrument Issuer or Reserve Instrument Issuer in order to insure or provide other security for any Bonds;

(9) to make any change necessary (A) to establish or maintain the exemption from federal income taxation of interest on any Series of Bonds as a result of any modifications or amendments to Section 148 of the Code (or any successor provision of law) or interpretations thereof by the Internal Revenue Service, or (B) to comply with the provisions of Section 148(f) of the Code (or any successor provision of law), including provisions for the payment of all or a portion of the investment earnings of any of the Funds established hereunder to the United States of America;

(10) if the Bonds affected by such change are rated by a Rating Agency, to make any change which does not result in a reduction of the rating applicable to any of the Bonds so affected, *provided* that if any of the Bonds so affected are secured by a Security Instrument, such change must be approved in writing by the related Security Instrument Issuer;

(11) if the Bonds affected by such change are secured by a Security Instrument, to make any change approved in writing by the related Security Instrument Issuer, *provided* that if any of the Bonds so affected are rated by a Rating Agency, such change shall not result in a reduction of the rating applicable to any of the Bonds so affected;

(12) to the extent permitted by a Supplemental Indenture authorizing a Series of Bonds, the designation of the facilities to constitute a Project by such Supplemental Indenture may be modified or amended if the City delivers to the Trustee (1) a Supplemental Indenture designating the facilities to comprise the Project and (2) a Written

Certificate of the City setting forth the costs of the Project and an Estimated Completion Date and certifying that such amendment will not adversely affect the City's ability to comply with the provisions of the Indenture;

(13) to provide for the appointment of a successor Trustee, a Paying Agent, a separate or co-trustee pursuant to Section 7.08, a Remarketing Agent or a Transfer Agent;

(14) to provide for uncertificated Bonds or for the issuance of coupons and bearer Bonds or Bonds registered only as to principal, but only to the extent that such would not adversely affect the Tax-Exempt status of the Bonds;

(15) to provide the procedures required to permit any Holder to separate the right to receive interest on the Bonds from the right to receive principal thereof and to sell or dispose of such right as contemplated by Section 1286 of the Code;

(16) to provide for the appointment or replacement of a Security Instrument Issuer or a Reserve Instrument Issuer or for an additional Security Instrument Issuer or an additional Reserve Instrument Issuer following the occurrence of an event of default under the respective Security Instrument or Reserve Instrument, as applicable, or to provide for an additional Security Instrument Issuer following the withdrawal or suspension or reduction below the Rating Category of AAA, Aaa or any equivalent rating by any rating agency of the long-term ratings of the Security Instrument Issuer provided that the Security Instrument provided by the replacement or additional Security Instrument Issuer would result in a long-term rating on the Bonds equal to the Rating Category of AAA, Aaa or any equivalent rating by any Rating Agency;

(17) to provide for the pledge of additional monies, funds or other assets to secure payment of one or more Series of Bonds; and

(18) to correct any references contained herein to provisions of the Act, the Code or other applicable provisions of law that have been amended so that the references herein are incorrect.

No modification or amendment shall be permitted pursuant to subparagraph (1), (7), (8), (10), (11), (12) or (16) unless the City delivers to the Trustee an Opinion of Counsel of nationally recognized standing in the field of law relating to municipal bonds to the effect that such modification or amendment will not adversely affect the tax-exempt status or validity of any Bonds affected by such modification or amendment.

(c) No modification or amendment permitted by this Section shall (1) extend the fixed maturity of any Bond, or reduce the Principal amount or Redemption Price thereof, or reduce the rate or extend the time of payment of interest thereon, without the consent of the Holder of each Bond so affected, or (2) reduce the aforesaid percentage of Bonds required for the affirmative vote or written consent to an amendment or modification of the Indenture, without the consent of the Holders of all of the Bonds then Outstanding, or (3) without its written consent thereto, modify any of the rights or obligations of the Trustee.

(d) Each Supplemental Indenture authorized by this Section shall become effective as of the date of its execution and delivery or such other date as shall be specified in such Supplemental Indenture.

(e) No amendment shall be permitted pursuant to this Section 8.01 which shall affect (1) the rights or duties of a Security Instrument Issuer or Reserve Instrument Issuer of a Security Instrument or a Reserve Instrument as the case may be, then in full force and effect and not in default on a payment obligation, or (2) the Series of Bonds for which a Security Instrument Issuer or Reserve Instrument Issuer provides security, without the consent of such Security Instrument Issuer or Reserve Instrument Issuer as the case may be.

(f) Notwithstanding any provisions of the Indenture to the contrary, a Supplemental Indenture providing for the issuance by a Security Instrument Issuer of a Security Instrument in connection with a Series of Bonds issued under the Indenture may provide, among other provisions, that the Security Instrument Issuer shall at all times, so long as the Series of Bonds remains Outstanding, be deemed to be the exclusive owner of all of the Bonds of such Series for the purpose of consenting to the execution and delivery of a Supplemental Indenture pursuant to the provisions of Section 8.01(a).

***Section 8.02. Bondholders' Meetings.***

(a) The Trustee may, and upon the Written Request of the City shall, at any time, call a meeting of the Holders of Bonds, to be held at such place as may be selected by the Trustee and specified in the notice calling such meeting. Written notice of such meeting, stating the time and place of the meeting and in general terms the business to be submitted, shall be mailed by the Trustee, postage prepaid, not less than 30 nor more than 60 days before such meeting, to any Security Instrument Issuer or Reserve Instrument Issuer that is in full force and effect with respect to any Series of Bonds Outstanding and to each registered owner of Bonds then Outstanding at his address, if any, appearing upon the Bond register of the City. The cost and expense of the giving of such notice shall be borne by the City, and the Trustee shall be reimbursed by the City for any expense incurred by it.

(b) Prior to calling any meeting of the Holders of Bonds, the Trustee shall adopt regulations for the holding and conduct of such meeting, and copies of such regulations shall be filed at the principal corporate trust office of the Trustee and at the office of the City and shall be open to the inspection of all Bondholders. The regulations shall include such provisions as the Trustee may deem advisable for evidencing the ownership of Bonds, for voting in person or by proxy, for the selection of temporary and permanent officers to conduct the meeting and inspectors to tabulate and canvass the votes cast thereat, the adjournment of any meeting and the records to be kept of the proceedings of such meeting, including rules of order for the conduct of such meeting and such other regulations as, in the opinion of the Trustee, may be necessary or desirable.

(c) No resolution adopted by such meeting of Bondholders shall be binding unless and until a valid Supplemental Indenture has been executed and delivered containing the modifications or amendments authorized by the resolution adopted at such meeting. Such Supplemental

Indenture shall become effective upon the filing with the Trustee of the resolution adopted at such meeting and such Supplemental Indenture.

**Section 8.03. Amendment by Written Consent.** The City may at any time execute and deliver a valid Supplemental Indenture amending the provisions of the Bonds or of the Indenture or any Supplemental Indenture, to the extent that such an amendment is permitted by this Article, to become effective when and as approved by written consent of the Bondholders, and any necessary Security Instrument Issuers and Reserve Instrument Issuers, and as provided in this Section. Such Supplemental Indenture shall not be effective unless there shall have been filed with the City or the Trustee the written consents of the necessary number of Holders of the Bonds then Outstanding and the consents of any necessary Security Instrument Issuers and Reserve Instrument Issuers, and a notice shall have been published as hereinafter in this Section provided. It shall not be necessary for any consent under this Section to approve the particular form of any proposed Supplemental Indenture, but it shall be sufficient if such consent shall approve the substance thereof. Each consent of a Bondholder shall be effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof shall be such as is permitted by Section 12.04. Any such consent shall be binding upon the Holder of the Bonds giving such consent and on any subsequent Holder thereof (whether or not such subsequent Holder has notice thereof) unless such consent is revoked in writing by the Holder of the Bonds giving such consent or a subsequent Holder thereof by filing such revocation with the City and the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed. Notice of the execution and delivery of such Supplemental Indenture shall be mailed by the City to Bondholders (but failure to mail copies of such notice shall not affect the validity of the Supplemental Indenture when assented to by the requisite percentage of the Holders of the Bonds as aforesaid) and to each Security Instrument Issuer and Reserve Instrument Issuer of a Security Instrument or a Reserve Instrument as the case may be, then in full force and effect and not in default in a payment obligation.

**Section 8.04. Disqualified Bonds.** Bonds owned or held by or for the account of the City shall not be deemed Outstanding for the purpose of any vote, consent or other action or any calculation of Outstanding Bonds in this Article provided for, and neither the City nor any owner or Holder of such Bonds shall be entitled to vote or consent to, or to take, any other action provided for in this Article. Any Pledged Bonds shall be deemed Outstanding and, for the purposes of any vote, shall be considered to be owned by the appropriate Security Instrument Issuer.

**Section 8.05. Effect of Modification or Amendment.** When any Supplemental Indenture modifying or amending the provisions of the Indenture or any Supplemental Indenture shall become effective, as provided in this Article, the Indenture or such Supplemental Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, duties and obligations under the Indenture or such Supplemental Indenture of the City, the Trustee, any Security Instrument Issuer, any Reserve Instrument Issuer, and all Holders of Bonds Outstanding hereunder shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be and be deemed to be part of the terms and conditions of the Indenture or the modified or amended Supplemental Indenture for any and all purposes.

**Section 8.06. Endorsement or Replacement of Bonds Issued After Amendments.** The City or the Trustee may determine that Bonds executed and delivered after the effective date of a Supplemental Indenture executed and delivered as provided in this Article shall bear a notation, by endorsement or otherwise, in form approved by the City, as to the modification or amendment provided for by such Supplemental Indenture. In that case, upon demand of the Holder of any Bond Outstanding at such effective date and presentation of his Bond for the purpose at the principal corporate trust operations office of the Trustee or at such other office as the Trustee may select and designate for that purpose, a suitable notation shall be made on such Bond. The City may determine that new Bonds, so modified as in the opinion of the City is necessary to conform to such Supplemental Indenture, shall be prepared, executed and delivered. In that case, upon demand of the Holder of any Bond then Outstanding, such new Bonds shall be exchanged at the principal corporate trust operations office of the Trustee without cost to any Bondholder, for Bonds then Outstanding, upon surrender of such Bonds.

**Section 8.07. Irrevocable Consent.** Subject to Section 8.03, any consent pursuant to the provisions of this Article by any Holder of a Bond shall be irrevocable, and shall be conclusive and binding upon all future Holders of the same Bond delivered on transfer thereof or in exchange therefor or in replacement thereof.

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES OF BONDHOLDERS

**Section 9.01. Events of Default.** The occurrence of one or more of the following events shall constitute an “*Event of Default*”:

- (a) failure by the City to make the due and punctual payment of the Principal or Redemption Price of any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for redemption or otherwise;
- (b) failure by the City to make the due and punctual payment of any installment of interest on any Bond or any Sinking Fund Installment when and as such interest installment or Sinking Fund Installment shall become due and payable;
- (c) failure by the City to observe any of the covenants, agreements or conditions on its part contained in the Indenture or in the Bonds contained, and failure to remedy the same for a period of 30 days after written notice thereof, specifying such failure and requiring the same to be remedied, shall have been given to the City by the Trustee, or to the City and the Trustee by the Holders of not less than 25% in aggregate principal amount of the Bonds at the time Outstanding;
- (d) bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, including without limitation proceedings under Chapter 9 of Title 11, United States Code (as the same may from time to time be hereafter amended), or other proceedings for relief under any federal or state bankruptcy law or similar law for the relief

of debtors are instituted by or against the City and, if instituted against the City, said proceedings are consented to or are not dismissed within 30 days after such institution; or

(e) any event specified in a Supplemental Indenture as constituting an Event of Default under the Indenture;

*provided* that any failure by the City to make payment as described in subparagraph (a) or (b) of this Section shall not constitute an Event of Default with respect to any Bond if the Supplemental Indenture authorizing the issuance of such Bond provides that due and punctual payment by a Security Instrument Issuer or a Reserve Instrument Issuer shall not give rise to an Event of Default and such payment is, in fact, duly and punctually made.

The Trustee shall give notice to any Security Instrument Issuer or Reserve Instrument Issuer of any Event of Default known to the Trustee within 30 days after it has knowledge thereof.

***Section 9.02. Remedies.***

(a) Upon the occurrence and continuance of an Event of Default:

(i) the Trustee may proceed, and

(ii) upon the written request of (x) the Holders of a majority of the Principal amount of the Outstanding Bonds, (y) Security Instrument Issuers at the time providing Security Instruments which are in full force and effect and not in default on any payment obligation and which secure a majority in aggregate Principal amount of the Bonds then Outstanding, or (z) any combination of Bondholders and Security Instrument Issuers described under clauses (x) and (y) representing a majority in aggregate Principal amount of the Bonds at the time Outstanding, shall proceed,

to protect and enforce its rights and the rights under the Indenture of the Bondholders, the Security Instrument Issuers and the Reserve Instrument Issuers forthwith by any available remedy, including, without limitation, suit or suits in equity or at law, whether for the payment of any amount due hereunder or on the Bonds, or for the specific performance of any covenant herein contained, or in aid of the execution of any power herein granted or any remedy granted under the Act, or for an accounting against the City, as if the City were the trustee of an express trust, or in the enforcement of any other legal or equitable right, as the Trustee, being advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under the Indenture.

(b) All rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto. Any suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining any Holders or other parties as plaintiffs or defendants.

(c) No delay in exercising or omission to exercise any remedy, right or power accruing upon any Event of Default shall impair that remedy, right or power or shall be construed to be a waiver of any default or Event of Default or acquiescence therein. Every remedy, right and power may be exercised from time to time and as often as may be deemed to be expedient.

(d) In case the Trustee shall have proceeded to enforce any remedy, right or power under this Indenture in any suit, action or proceedings, and the suit, action or proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then the City, the Trustee, the Bondholders, the Security Instruments Issuers and the Reserve Instrument Issuers shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as if no suit, action or proceedings had been taken.

**Section 9.03. Accounting and Examination of Records After Default.** The City covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and accounts of the City and all other records of the City relating to the Revenues shall at all times be subject to the inspection and use of the Trustee and of its agents and attorneys. The City covenants that if an Event of Default shall happen and shall not have been remedied, the City, upon demand of the Trustee, will account, as if it were the trustee of an express trust, for all Revenues and other moneys, securities and funds pledged or held under the Resolution for such period as shall be stated in such demand.

**Section 9.04. Application of Revenues and Other Moneys after Default.**

(a) During the continuance of an Event of Default, the Trustee shall apply Revenues and such moneys, securities and funds and the income therefrom as follows and in the following order, *provided* that moneys held in any Series Subaccount in the Bond Service Account or in the Debt Service Reserve Account or received under any Security Instrument shall not be used for purposes other than payment of the interest and Principal or Redemption Price then due on the Series of Bonds corresponding to such Series Subaccount or such Security Instrument in accordance with paragraph (3) of this Section:

(1) to the payment of the reasonable and proper charges and expenses of the Trustee and the reasonable fees and disbursements of its counsel;

(2) to the payment of the interest and Principal or Redemption Price then due on the Bonds and Security Instrument Repayment Obligations, as follows:

FIRST: To the payment to the persons entitled thereto of all installments of interest then due on the Bonds and the Security Instrument Repayment Obligations in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

SECOND: To the payment to the persons entitled thereto of the unpaid Principal or Redemption Price of any Bonds and Security Instrument Repayment Obligations which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the Bonds and Security Instrument Repayment Obligations due on any date, then to the payment thereof ratably, according to the amounts of Principal or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference.

(3) to the payment of all obligations owed to all Reserve Instrument Issuers according to the amounts due without any discrimination or preference.

(b) If and whenever all overdue installments of interest on all Bonds and Repayment Obligations, together with the reasonable and proper charges and expenses of the Trustee, and all other sums payable by the City under the Indenture, including the Principal and Redemption Price of and accrued unpaid interest on all Bonds and Repayment Obligations which shall then be payable, shall either be paid by or for the account of the City, or provision satisfactory to the Trustee shall be made for such payment, and all defaults under the Indenture or the Bonds shall be made good or secured to the satisfaction of the Trustee and the Repayment Obligations shall be made good or secured to the satisfaction of the Security Instrument Issuers and the Reserve Instrument Issuers as appropriate, or provision deemed by the Trustee and, in the case of Repayment Obligations, to the Security Instrument Issuers and the Reserve Instrument Issuers, as appropriate, to be adequate shall be made therefor, the Trustee shall pay over to the City all such Revenues then remaining unexpended in the hands of the Trustee (except Revenues deposited or pledged, or required by the terms of the Indenture to be deposited or pledged, with the Trustee), and thereupon the City and the Trustee shall be restored, respectively, to their former positions and rights under the Indenture, and all Revenues shall thereafter be applied as provided in Article V. No such payment over to the City by the Trustee or resumption of the application of Revenues as provided in Article V shall extend to or affect any subsequent default under the Indenture or impair any right consequent thereon.

***Section 9.05. Rights and Remedies of Bondholders.***

(a) No Holder of any Bond, any Security Instrument Issuer or Reserve Instrument Issuer shall have any right to institute any proceeding, judicial or otherwise, with respect to this Indenture, or for the appointment of a receiver or trustee, or for any other remedy hereunder, unless:

(1) such Holder, Security Instrument Issuer or Reserve Instrument Issuer has previously given written notice to the Trustee of a continuing Event of Default;

(2) either (x) the Holders of not less than 25% in aggregate Principal amount of the Outstanding Bonds, (y) Security Instrument Issuers at the time providing Security Instruments which are in full force and effect and not in default on any payment obligation



and which secure 25% in aggregate Principal amount of the Bonds at the time Outstanding, or (z) any combination of Bondholders and Security Instrument Issuers described in clauses (x) and (y) representing not less than 25% in aggregate Principal amount of the Bonds at the time Outstanding, shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(3) such Holders or Security Instrument Issuers have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;

(4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceedings; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60 day period by (1) the Holders of a majority in Principal amount of the Outstanding Bonds, (2) Security Instrument Issuers at the time providing Security Instruments which are in full force and effect and not in default on any payment obligation and which secure a majority in aggregate Principal amount of the Bonds then Outstanding, or (3) any combination of Bondholders and Security Instrument Issuers described in clauses (1) and (2) representing a majority in aggregate Principal amount of the Bonds at the time Outstanding;

it being understood and intended that no one or more Holders of Bonds or Security Instrument Issuers shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the rights of any other such parties, or to obtain or to seek to obtain priority or preference over any other such parties or to enforce any right under this Indenture, except in the manner herein and therein provided and for the equal and ratable benefit of all such parties in accordance with the provisions of the Indenture.

(b) Notwithstanding any other provision in this Indenture, the Holder of any Bond shall have the right which is absolute and unconditional to receive payment of the Principal of, Redemption Price and interest on such Bond on the respective stated maturities expressed in such Bond (or, in the case of redemption, on the redemption date of such Bond) and to institute suit for the enforcement of any such payment, subject only to any conditions of any Security Instrument Issuer providing a Security Instrument securing such Bond. Such right to receive payment shall not be impaired without the consent of such Holder.

(c) (i) The Holders of a majority of the Principal amount of the Outstanding Bonds, (ii) Security Instrument Issuers at the time providing Security Instruments which are in full force and effect and not in default on any payment obligation and which secure a majority in aggregate Principal amount of the Bonds then Outstanding, or (iii) any combination of Bondholders and Security Instrument Issuers described under clauses (i) and (ii) representing a majority in aggregate Principal amount of the Bonds at the time Outstanding, shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee, *provided* that:

- (1) such direction shall not be in conflict with any rule of law or this Indenture,
- (2) the Trustee shall not determine that the action so directed would be unjustly prejudicial to the Holders and Security Instrument Issuers not taking part in such direction, and
- (3) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction.

**Section 9.06. Appointment of Receiver.** Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondholders, the Security Instrument Issuers and the Reserve Instrument Issuers, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the trust estate created hereby, including, without limitation, the proceeds of the sale of the Bonds, the Revenues and the Funds, including the investments, if any, thereof, pending such proceedings, with such powers as a court making such appointments shall confer.

**Section 9.07. Non-Waiver.** Nothing in this Article or in any other provision of the Indenture or in the Bonds shall affect or impair the obligation of the City, which is absolute and unconditional, to pay the Principal and Redemption Price of and interest on the Bonds and the Repayment Obligations to the respective Holders of the Bonds, the Security Instrument Issuers and the Reserve Instrument Issuers, as appropriate, at the respective dates of maturity, or upon call for redemption, as herein provided, out of the Revenues, Funds and other moneys, securities and funds herein pledged for such payment, or affect or impair the right of action, which is also absolute and unconditional, of such Holders, Security Instrument Issuers or Reserve Instrument Issuers, as appropriate, to institute suit to enforce such payment by virtue of the contract embodied in the Bonds and Repayment Obligations. No delay or omission of the Trustee or of any Holder of the Bonds or, with respect to Repayment Obligations, of any Security Instrument Issuer or Reserve Instrument Issuer as appropriate, to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article to the Trustee or to the Holders of Bonds or, with respect to Repayment Obligations, to Security Instrument Issuers and Reserve Instrument Issuers, as appropriate, may be exercised from time to time and as often as shall be deemed expedient by the Trustee, the Holders of the Bonds, the Security Instrument Issuers and the Reserve Instrument Issuers.

**Section 9.08. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Trustee or to the Holders of Bonds or, with respect to Repayment Obligations, to Security Instrument Issuers and Reserve Instrument Issuers, as appropriate, is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised at any time or from time to time, and as often as may be necessary, by the Trustee, the Holder of any one or more of the Bonds or, with respect to Repayment Obligations, by Security Instrument Issuers and Reserve Instrument Issuers, as appropriate. Nothing herein contained shall permit the levy of any attachment or execution upon any of the properties of the City, nor shall any properties of the City be subject to forfeiture by reason of any

default hereunder, it being expressly understood and agreed by each and every Bondholder by the acceptance of any Bond and by each and every Security Instrument Issuer and Reserve Instrument Issuer by entering into Security Instrument Agreements and Reserve Instrument Agreements, as appropriate, that the rights of all such Bondholders, Security Instrument Issuers and Reserve Instrument Issuers are limited and restricted to the use and application of Revenues, Funds and other moneys, securities and funds pledged under the Indenture in accordance with the terms of the Indenture.

**Section 9.09. Waivers of Events of Default.** The Trustee:

- (i) may waive, and
- (ii) upon the written direction of (x) the Holders of a majority of the Principal amount of the Outstanding Bonds, (y) Security Instrument Issuers at the time providing Security Instruments which are in full force and effect and not in default on any payment obligation and which secure a majority in aggregate Principal amount of the Bonds then Outstanding, or (z) any combination of Bondholders and Security Instrument Issuers described under clauses (x) and (y) representing a majority in aggregate Principal amount of the Bonds at the time Outstanding, shall waive,

any Event of Default hereunder and its consequences; *provided, however*, that (x) there shall not be waived any Event of Default specified in Section 9.01(a) or Section 9.01(b) hereof unless prior to such waiver the City shall have caused to be deposited with the Trustee a sum sufficient to pay all matured installments of interest upon all Bonds and the Principal of any and all Bonds which shall have become due (with interest upon such Principal and, to the extent permissible by law, on overdue installments of interest, at the rate per annum specified in the Bonds) and (y) no Event of Default shall be waived unless (in addition to the applicable conditions as aforesaid) there shall have been deposited with the Trustee such amounts as shall be sufficient to cover reasonable compensation and reimbursement of expenses payable to the Trustee. No such waiver shall extend to or shall affect any subsequent default or Event of Default or shall impair any remedy, right or power consequent thereon.

## ARTICLE X

### DEPOSITS AND INVESTMENT OF FUNDS

**Section 10.01. Deposits.**

(a) All moneys held by the Trustee under the provisions of the Indenture shall be deposited with the Trustee. All moneys held by the City under the Indenture shall be deposited in the name of the City in the Treasurer's Investment Fund or in one or more Agents. All moneys deposited under the provisions of the Indenture with the Trustee or any Agent shall be held in trust and applied only in accordance with the provisions of the Indenture, and each of the Funds established by the Indenture shall be a trust fund for the purposes thereof.

(b) Each Agent (other than the Trustee) shall be a bank or trust company organized under the laws of any state of the United States of America or a national banking association, having deposits insured by an agency of the United States of America, having capital stock, undivided profits and surplus aggregating at least \$25,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to act in accordance with the provisions of the Indenture. Each Agent (other than the Trustee) shall signify its acceptance of the duties imposed upon it pursuant to the Indenture by depositing with the Trustee a written acceptance of such duties, together with a certificate stating that it is duly qualified to perform such duties under the terms of the Indenture and under all applicable local, state and federal laws.

(c) All Revenues and other moneys held by any Agent under the Indenture may be placed on demand or time deposit, if and as directed by the City, *provided* that such deposits shall permit the moneys so held to be available for use at the time when needed. The City and the Trustee shall not be liable for any loss or depreciation in value resulting from any investment made pursuant to the Indenture. Any such deposit may be made in the commercial banking department of any Agent which may honor checks and drafts on such deposit with the same force and effect as if it were not such Agent. All moneys held by any Agent, as such, may be deposited by such Agent in its banking department on demand or, if and to the extent directed by the City and acceptable to such Agent, on time deposit, *provided* that such moneys on deposit be available for use at the time when needed. Such Agent shall allow and credit on such moneys such interest, if any, as it customarily allows upon similar funds of similar size and under similar conditions or as required by law.

(d) All moneys deposited with the Trustee and each Agent shall be credited to the particular Fund or account to which such moneys belong; *provided, however*, nothing herein contained shall prohibit the City from directing the Trustee or a Agent by a Written Request of the City to make inter-Fund or account transfers of investments at the market value of the investments so transferred, as such market value shall be determined by the City at the time of transfer and set forth in the Written Request. The Trustee shall be entitled to rely on the determination set forth in the Written Request.

***Section 10.02. Investment of Funds.***

(a) Moneys held in any Fund or account shall be invested and reinvested by the City or the Trustee to the fullest extent practicable in Investment Securities which mature not later than such times as shall be necessary to provide moneys when needed for payments to be made from such Fund or account, subject to the following:

(1) the Trustee shall make such investments only in accordance with written instructions received from an Authorized Officer of the City;

(2) any Supplemental Indenture authorizing a Series of Bonds may impose additional restrictions on moneys held in any Fund or account; and

(3) any Supplemental Indenture authorizing a Series of Bonds may authorize the investment of moneys to be held in any Project Account, Series Subaccount in the Bond Service Account or Series Subaccount in the Debt Service Account created by such

Supplemental Indenture and relating to such Series of Bonds in such other investments as may be specified by the Supplemental Indenture.

(b) Subject to any required rebate of earnings on investments in any Fund or account to the United States of America pursuant to Section 148(f) of the Code and except as otherwise provided in a Supplemental Indenture establishing a Project Account or a Series Subaccount: (i) all moneys earned as an investment of moneys in the Construction Fund shall be retained therein; (ii) net income earned on any moneys or investments in the Revenue Fund and the Bond Service Account shall remain in or be transferred to the Revenue Fund; (iii) whenever a Series Subaccount in the Debt Service Reserve Account is in its full required amount, net income earned on any moneys or investments in such Series Subaccount shall be transferred to the corresponding Series Subaccount in the Bond Service Account as provided in Section 5.08(c), otherwise, to be retained therein.

(c) The Trustee shall have no liability or responsibility for any loss or for failure to maximize earnings resulting from any investment made in accordance with the provisions of this Section 10.02. The Trustee shall be entitled to assume, absent receipt by the Trustee of written notice to the contrary, that any investment which at the time of purchase is an Investment Security, remains an Investment Security thereafter.

(d) The Trustee may make any and all investments permitted by the provisions of this Section 10.02 through its own investment department or that of its affiliates. As and when any amount invested pursuant to this Article X may be needed for disbursement, the Trustee may cause a sufficient amount of such investments to be sold and reduced to cash to the credit of such funds. The City acknowledges that to the extent that regulations of the Comptroller of the Currency or other applicable regulatory agency grant the City the right to receive brokerage confirmations of security transactions, the City waives receipt of such confirmations. The Trustee shall furnish to the City periodic statements that include detail of all investment transactions made by the Trustee.

**Section 10.03. Arbitrage Covenant.** The City covenants that moneys on deposit in any Fund, whether or not such moneys were derived from proceeds of sales of Bonds or from any other sources, will not be used in a manner which will cause any Bonds, the interest on which is to be exempt from federal income taxation under the Code, to be “arbitrage bonds” within the meaning of Section 148 of the Code; *provided, however*, that this covenant shall not prevent the issuance of a Series of Bonds the interest on which is subject to Federal income taxation under the Code.

## ARTICLE XI

### DEFEASANCE

#### **Section 11.01. Discharge of Indebtedness.**

(a) If the City shall pay or cause to be paid, or there shall otherwise be paid, subject to any limitations contained in a Supplemental Indenture with respect to a Series of Bonds, to the Holders of all Bonds the Principal or Redemption Price, if applicable, and interest due or to become

due thereon, at the times and in the manner stipulated therein and in the Indenture and if all Repayment Obligations owed to Security Instrument Issuers and Reserve Instrument Issuers shall have been paid in full, then the pledge of any Revenues and other moneys, securities and Funds pledged under the Indenture and all covenants, agreements and other obligations of the City to the Bondholders, Security Instrument Issuers and Reserve Instrument Issuers shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the City to be prepared and filed with the City and, upon the request of the City, shall execute and deliver to the City all such instruments as may be desirable to evidence such discharge and satisfaction, and the Agents shall pay over or deliver to the City all moneys or securities held by them pursuant to the Indenture which are not required for the payment of Principal or Redemption Price, if applicable, and interest on Bonds not theretofore surrendered for such payment or redemption. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of any Outstanding Bonds the Principal or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Indenture, such Bonds shall cease to be entitled to any lien, benefit or security under the Indenture, and all covenants, agreements and obligations of the City to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

(b) Bonds or interest installments for the payment or redemption of which moneys shall have been set aside and shall be held in trust by the Trustee (through deposit by the City of funds for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this Section, unless otherwise provided in a Supplemental Indenture with respect to a Series of Bonds. Subject to any further conditions in a Supplemental Indenture with respect to a Series of Bonds, all Outstanding Bonds of any Series shall prior to the maturity or redemption date thereof be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this Section if:

(1) in case any of said Bonds are to be redeemed on any date prior to their maturity, the City shall have given to the Trustee in form satisfactory to it irrevocable instructions to mail as provided in Article IV notice of redemption of such Bonds on said date;

(2) there shall have been deposited with the Trustee either moneys in an amount which shall be sufficient, or noncallable Government Obligations (including any Government Obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient, to pay when due the Principal or Redemption Price, if applicable, and interest due and to become due on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be; and

(3) in the event said Bonds are not by their terms subject to redemption within the next succeeding 90 days, the City shall have given the Trustee in form satisfactory to it irrevocable instructions to mail, first class postage prepaid, a notice to the Holders of

such Bonds that the deposit required by (2) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Section and stating such maturity or redemption date upon which moneys are to be available for the payment of the Principal or Redemption Price, if applicable, on said Bonds.

Neither Government Obligations nor moneys deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Government Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Principal or Redemption Price, if applicable, and interest on said Bonds; *provided* that any cash received from such principal or interest payments on such Government Obligations deposited with the Trustee, if not then needed for such purpose, shall, to the extent practicable, be reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the Principal or Redemption Price, if applicable, and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the City, as received by the Trustee, free and clear of any trust, lien or pledge.

**Section 11.02. Unclaimed Moneys.** Anything in the Indenture to the contrary notwithstanding, any moneys held by an Agent in trust for the payment and discharge of any of the Bonds which remain unclaimed for four years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Agent at such date, or for four years after the date of deposit of such moneys if deposited with the Agent after the said date when such Bonds become due and payable, shall, at the Written Request of the City, be repaid by the Agent to the City, as its absolute property and free from trust, and the Agent shall thereupon be released and discharged with respect thereto and the Bondholders shall look only to the City for the payment of such Bonds.

## ARTICLE XII

### MISCELLANEOUS

**Section 12.01. Limited Liability of City.** Notwithstanding anything in the Indenture contained, the City shall not be required to advance any moneys derived from any source of income other than the Revenues and other moneys, securities and Funds pledged under the Indenture for the payment of the Principal or Redemption Price of or interest on the Bonds, for Repayment Obligations. Nevertheless, the City may, but shall not be required to, advance for any of the purposes hereof any funds of the City which may be available to it for such purposes.

**Section 12.02. Benefits of Indenture Limited to Parties.** Nothing in the Indenture, expressed or implied, is intended to give to any person other than the City, the Trustee, any Paying Agent, any Transfer Agent, any Remarketing Agent, any Depositary, the Holders of the Bonds, any Security Instrument Issuer or any Reserve Instrument Issuer, any right, remedy or claim under or by reason of the Indenture. Any covenants, stipulations, promises or agreements in the Indenture contained by and on behalf of the City shall be for the sole and exclusive benefit of the

Trustee, the Paying Agents, any Transfer Agent, any Remarketing Agent, any Depository, the Holders of the Bonds, any Security Instrument Issuer and any Reserve Instrument Issuer.

**Section 12.03. Successor is Deemed Included in All References to Predecessor.** Whenever in the Indenture the City, the Trustee, any Paying Agent, any Transfer Agent, any Remarketing Agent, any Depository, any Security Instrument Issuer or any Reserve Instrument Issuer is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in the Indenture contained by or on behalf of the City, the Trustee, any Transfer Agent, any Paying Agent, any Remarketing Agent, any Depository, any Security Instrument Issuer or any Reserve Instrument Issuer shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

**Section 12.04. Execution of Documents by Bondholders.** Any request, declaration or other instrument which the Indenture may require or permit to be executed by Bondholders may be in one or more instruments of similar tenor, and shall be executed by Bondholders in person or by their attorneys appointed in writing.

Except as otherwise expressly provided, the fact and date of the execution by any Bondholder or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

The ownership of the Bonds and the amount, maturity, number and date of holding the same shall be proved by the Bond register.

Any request, declaration or other instrument or writing of the Holder of any Bond shall bind all future Holders of such Bond in respect of anything done or suffered to be done by the City or the Trustee in good faith and in accordance therewith or in reliance thereon.

**Section 12.05. Waiver of Notice.** Whenever in the Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice, and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

**Section 12.06. Cremation or Destruction of Cancelled Bonds.** Whenever in the Indenture provision is made for the surrender to the City of any Bonds which have been paid or cancelled pursuant to the provisions of the Indenture, the City may, by a Written Request of the City, but shall not unless otherwise provided by law be required to, direct the Trustee to cremate or destroy such Bonds and to furnish to the City a certificate of such cremation or destruction.

**Section 12.07. Payments Due on Other Than Business Days.** Except as otherwise provided in a Supplemental Indenture, in any case where the date of payment of principal, premium, if any, or interest on the Bonds or the date fixed for redemption of any Bonds, on the date for performing



any act or exercising any right, shall be a day other than a Business Day, then payment of interest or principal and premium, if any, or the performance of such act or exercise of such right need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if it had been made on the date scheduled for such payment, performance, or exercise.

**Section 12.08. Governing Law.** The Indenture shall be governed by and construed in accordance with the laws of the State.

**Section 12.09. System of Registration.** This Indenture shall constitute a system of registration within the meaning and for all purposes of the Registered Public Obligations Act, Chapter 7 of Title 15, Utah Code Annotated 1953, as amended.

**Section 12.10. Plan of Financing.** This Indenture shall constitute a plan of financing within the meaning and for all purposes of Section 11-14-14(3), Utah Code Annotated 1953, as amended.

**Section 12.11. Article and Section Headings.** All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding articles, sections or subdivisions of the Indenture, and the words “hereby,” “herein,” “hereof,” “hereunder” and other words of similar import refer to the Indenture as a whole and not to any particular article, section or subdivision hereof. The headings or titles of the several articles and sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of the Indenture.

**Section 12.12. Partial Invalidity.** If any one or more of the covenants or agreements, or portions thereof, provided in the Indenture to be performed shall be contrary to law, then such covenant or covenants, such agreement or agreements, or such portions thereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of the Indenture or of the Bonds; but the Bondholders, any Security Instrument Issuer and any Reserve Instrument Issuer shall retain all the rights and benefits accorded to them under the Act or any other applicable provisions of law.

**Section 12.13. Notices.** Except as otherwise provided herein, all notices, requests, demands and other communications required or permitted under this Indenture shall be deemed to have been duly given if delivered or mailed, first class, postage prepaid, as follows:

- (i) IF TO THE CITY:  
North Ogden City  
505 East 2600 North  
North Ogden, Utah 84414  
Attention: City Manager
  
- (ii) IF TO THE TRUSTEE:  
[Trustee], as Trustee  
[Address]  
[City, State, Zip]  
Attention: Corporate Trust Department

or to such other person or addresses as the respective party hereafter designates in writing to the City and the Trustee.

**Section 12.14. Counterparts.** This Indenture may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the same instrument.

**Section 12.15. Effective Date.** This Indenture shall become effective immediately.

**Section 12.16. Compliance with Municipal Bond Act and Refunding Bond Act.** It is hereby declared by the Council that it is the intention of the City by the execution of this Indenture to comply in all respects with the applicable provisions of the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended, and the Utah Refunding Bond Act, Title 11, Chapter 27, Utah Code Annotated 1953, as amended, and other applicable provisions of law.

*(Signature page follows.)*

IN WITNESS WHEREOF, the City has caused this Indenture to be executed by the Mayor and countersigned by the City Recorder, and its official seal to be hereunto affixed and attested by the City Recorder, and to evidence its acceptance of the trusts hereby created, [Trustee], has caused this Indenture to be executed by one of its Trust Officers, all as of the date hereof.

NORTH OGDEN CITY, UTAH

By \_\_\_\_\_  
Mayor

COUNTERSIGN:

By \_\_\_\_\_  
City Recorder

[SEAL]

[TRUSTEE],  
as Trustee

By \_\_\_\_\_  
Trust Officer

EXHIBIT A

FORM OF WRITTEN REQUEST

WRITTEN REQUEST OF THE CITY  
FOR PAYMENT FROM CONSTRUCTION FUND

To: [Trustee], as Trustee under that certain Master Trust Indenture, dated as of \_\_\_\_\_ 1, 2021, as amended and supplemented to the date hereof, in connection with the \$ \_\_\_\_\_ Sale Tax Revenue Bonds, Series \_\_\_\_\_, of the North Ogden City, Utah

DATE: \_\_\_\_\_

WRITTEN REQUEST NO.: \_\_\_\_\_

The undersigned Authorized Officer of the North Ogden City, Utah (the "City"), does hereby certify and request to [Trustee], as trustee (the "Trustee"), as follows:

1. I have read the provisions of Sections 1.01 (Written Certificate of the City, Written Request of the City, Written Statement of the City) and 5.03(d) of the Master Trust Indenture, dated as of [Date], 2021, as amended and supplemented to the date hereof and as further amended and supplemented by the \_\_\_\_\_ Supplemental Trust Indenture, dated \_\_\_\_\_ (collectively, the "Indenture"), each between the City and the Trustee, and in connection therewith have undertaken an examination and investigation of the facts and circumstances on which this Written Request of the City is based in order to make the request and certification contained herein, and in my opinion this Written Request of the City complies with the provisions of Sections 1.01 (Written Certificate of the City, Written Request of the City, Written Statement of the City) and 5.03(d) of the Indenture.

2. Pursuant to the provisions of Section 5.03(d) of the Indenture, the undersigned hereby requests and authorizes a payment from the \_\_\_\_\_ Project Account in the Construction Fund to pay the amounts shown on the Payment Schedule, attached hereto as *Schedule I*, to or on behalf of the City, representing payments heretofore made or to be made by the City to the persons listed thereon.

3. Each payment proposed to be made as set forth on the Payment Schedule has been incurred and is a proper charge against the Construction Fund as a Cost of Construction of the \_\_\_\_\_ Project of the City.

4. The items for which payment is requested in the foregoing Written Request of the City for payment from the \_\_\_\_\_ Project Account in the Construction

Fund are within the now effective construction budget for the acquisition and construction of the \_\_\_\_\_ Project of the City.

5. To the extent that the Payment Schedule attached to the foregoing Written Request of the City covers payments for work, materials, equipment or supplies relating to the acquisition of the \_\_\_\_\_ Project of the City:

a. Each item set forth on the Payment Schedule is a proper charge and in a reasonable amount against the \_\_\_\_\_ Project Account in the Construction Fund and has not been heretofore included in a prior Written Request of the City; and

b. Such work was actually performed or such materials, equipment or supplies were actually installed in furtherance of the acquisition of the \_\_\_\_\_ Project or delivered at the site of the \_\_\_\_\_ Project for that purpose or delivered for storage or fabrication at a place or places approved by me or as a progress payment due on the equipment being fabricated to order.

6. To the extent that the payment of any item set forth on the Payment Schedule is for other than work, materials, equipment or supplies relating to the acquisition of the \_\_\_\_\_ Project of the City, in connection with the foregoing authorization and request, the undersigned certifies that each payment proposed to be made on the Payment Schedule is a proper charge and in a reasonable amount against the Construction Fund and has not been heretofore included in a prior Written Request of the City for Payment from Construction Fund.

7. This Written Request is sufficient evidence to the Trustee that:

a. obligations in the stated amounts have been incurred by the City and that each item thereof is a proper charge against the \_\_\_\_\_ Project Account in the Construction Fund; and

b. there has not been filed with or served upon the City notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to any of the persons named herein which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen's or mechanics' liens accruing solely by operation of law.

8. This Written Request of the City, including the Payment Schedule attached hereto, shall be conclusive evidence of the facts and statements set forth herein.

The terms used herein which are defined in the Indenture shall have the respective meanings therein assigned to them.

NORTH OGDEN CITY, UTAH

By \_\_\_\_\_  
Authorized Officer

**SCHEDULE I**  
**PAYMENT SCHEDULE**

---

PERSON  
OR  
FIRM

AMOUNT

PURPOSE

---

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**FIRST SUPPLEMENTAL TRUST INDENTURE**

**BETWEEN**

**NORTH OGDEN CITY, UTAH**

**AND**

**[TRUSTEE],  
AS TRUSTEE**

**DATED AS OF [DATE], 2021**

**[\$[PRINCIPAL]  
SALES TAX REVENUE BONDS  
SERIES 2021**

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**INDENTURE**

THIS FIRST SUPPLEMENTAL TRUST INDENTURE (the “*First Supplemental Indenture*”), dated as of [Date], 2021, between North Ogden City, Utah, a municipal corporation and political subdivision of the State of Utah (the “*City*”), and [Trustee], a national banking association duly organized and qualified under the laws of the United States of America, authorized by law to accept and execute trusts and having an office in Salt Lake City, Utah (the “*Trustee*”):

**WITNESSETH**

**WHEREAS**, the City has entered into a Master Trust Indenture, dated as of [Date], 2021, as heretofore amended and supplemented with the Trustee;

**WHEREAS**, the City considers it necessary and desirable and for the benefit of the City and its residents to issue Sales Tax Revenue Bonds pursuant to the Indenture and as hereinafter provided for the purpose of (i) paying all or part of the costs of the acquisition, construction, maintenance and improvement of parks and park facilities and (ii) paying all related costs authorized by law, all pursuant to authority contained in the Local Government Bonding Act, Chapter 14 of Title 11, Utah Code Annotated 1953, as amended (the “*Utah Code*”) and Title 11, Chapter 24 of the Utah Code;

**WHEREAS**, the Series 2021 Bonds will be authorized, issued and secured under the Indenture on a parity with all other Bonds issued and outstanding from time to time thereunder;

**WHEREAS**, no other Bonds have heretofore been issued and delivered under the provisions of the Indenture;

**WHEREAS**, the execution and delivery of the Series 2021 Bonds and of this First Supplemental Indenture have in all respects been duly authorized and all things necessary to make the Series 2021 Bonds, when executed by the City and authenticated by the Trustee, the valid and binding legal obligations of the City and to make this First Supplemental Indenture a valid and binding agreement have been done;

NOW, THEREFORE, THIS FIRST SUPPLEMENTAL TRUST INDENTURE WITNESSETH:

The terms and conditions upon which the Series 2021 Bonds are to be executed, authenticated, delivered, secured and accepted by all persons who from time to time shall be or become Registered Owners thereof are as follows:

**ARTICLE I**  
**DEFINITIONS**

***Section 101. Definitions.***

(a) Except as provided in subparagraph (b) of this Section, all defined terms contained in the Indenture when used in this First Supplemental Indenture shall have the same meanings as set forth in the Indenture.

(b) As used in this First Supplemental Indenture, unless the context shall otherwise require, the following terms shall have the following meanings:

*“Bond Counsel”* means Chapman and Cutler LLP, or other counsel of nationally recognized standing in matters pertaining to the issuance of obligations by states and their political subdivisions and the tax-exempt status thereof, duly admitted to the practice of law before the highest court of any state of the United States.

*“Indenture”* means the Master Indenture as amended and supplemented by the First Supplemental Indenture and as from time to time hereafter amended and supplemented by Supplemental Indentures.

*“Issue Date”* means the date of issuance and delivery of the Series 2021 Bonds, as provided in Section 203 hereof.

*“Master Indenture”* means the Master Trust Indenture, dated as of [Date] 1, 2021, as heretofore amended and supplemented, between the City and the Trustee.

*“Purchaser”* means \_\_\_\_\_, as purchaser of the Series 2021 Bonds.

*“Record Date”* means, with respect to any interest payment date for the Series 2021 Bonds, the fifteenth day preceding such interest payment date or, if such day is not a Business Day, the Business Day immediately preceding such day.

*“Series 2021 Bonds”* means the \$[Principal] Sales Tax Revenue Bonds, Series 2021 of the City authorized by this First Supplemental Indenture.

*“Series 2021 Project Account”* means the Series 2021 Project Account established in the Construction Fund pursuant to Section 5.03 of the Indenture and Section 301 hereof.

*“Trustee”* means [Trustee], Salt Lake City, Utah, and its successors and permitted assigns under the Indenture.

The terms *“hereby,” “hereof,” “hereto,” “herein,” “hereunder,”* and any similar terms as used in this First Supplemental Indenture refer to this First Supplemental Indenture.

**Section 102. Authority for First Supplemental Indenture.** This First Supplemental Indenture is adopted pursuant to the provisions of the Act and the Indenture.

## ARTICLE II

### AUTHORIZATION, TERMS AND ISSUANCE OF SERIES 2021 BONDS

**Section 201. Authorization of Series 2021 Bonds, Principal Amount, Designation and Series.** A Series of Sales Tax Revenue Bonds is hereby authorized to be issued for the purpose specified in Section 202 in the aggregate principal amount of \$[Principal] in accordance with and subject to the terms, conditions and limitations established in the Indenture and this First Supplemental Indenture. Such Series of Bonds shall be designated “Sales Tax Revenue Bonds, Series 2021.”

**Section 202. Findings and Purpose.** The City hereby finds, determines and declares that:

(a) In connection with the issuance of the Series 2021 Bonds, the City has complied with all of the requirements of Section 11-14-318 of the Utah Code.

(b) The requirements of Sections 2.02 of the Indenture will have been complied with upon the delivery of the Series 2021 Bonds. The Series 2021 Bonds are the first Series of Bonds issued pursuant to the Indenture and therefore the City is not required to comply with the provisions of Section 2.04.

(c) The Series 2021 Bonds are being issued for the purpose of paying all or part of the costs of the acquisition, construction, maintenance and improvement of parks and park facilities.

(d) Except for the Series 2021 Bond authorized by this First Supplemental Indenture, the City has no outstanding bonds, notes or other obligations issued pursuant to the Indenture and there are no other outstanding bonds, notes or other obligations payable from the Revenues.

**Section 203. Issue Date.** The Issue Date of Series 2021 Bonds shall be the date of original issuance and delivery thereof.

**Section 204. Date, Maturities and Interest.** The Series 2021 Bonds shall be dated as of the Issue Date, and shall mature on June 15 in the years and in the amounts and shall bear interest from the Issue Date, payable semiannually on June 15 and December 15 in each year, beginning December 15, 2021, at the rates per annum as set forth below:

JUNE 15 OF THE YEAR	AMOUNT MATURING \$	INTEREST RATE %
------------------------	--------------------------	-----------------------

JUNE 15  
OF THE YEAR

AMOUNT  
MATURING

INTEREST  
RATE

Interest shall be calculated on the basis of a year of 360 days comprised of twelve 30-day months.

**Section 205. Denominations and Numbers.** The Series 2021 Bonds shall be issued only in fully-registered form, without coupons. The Series 2021 Bonds shall be issued in the denomination of \$5,000 or any integral multiple thereof. The Series 2021 Bonds shall be numbered from one (1) consecutively upwards in order of authentication and delivery by the Trustee.

**Section 206. Paying Agent.** [Trustee], Salt Lake City, Utah, is hereby appointed the Paying Agent for the Series 2021 Bonds, subject to the Paying Agent executing and delivering an acceptance to the City and the Trustee as contemplated in Section 7.02 of the Indenture. Principal of the Series 2021 Bonds shall be payable at the principal corporate trust office of the Paying Agent or of any successor as Paying Agent in any coin or currency which on the date of payment is legal tender for the payment of debts due the United States of America. Payment of interest on any Series 2021 Bonds shall be (a) made to the registered owner thereof and shall be paid by check or draft mailed to the registered owner thereof as of the close of business on the Record Date at his address as it appears on the registration books of the City maintained by the Trustee or at such other address as is furnished to the Trustee in writing by such registered owner or (b) made by wire transfer to the registered owner upon written notice by such owner to the Trustee given not less than 15 days prior to such interest payment date, subject to the provisions of Section 3.01 of the Indenture. In the written acceptance of each Paying Agent referred to in Section 7.02 of the Indenture, such Paying Agent shall agree to take all action necessary for all representations of the City in the Representation Letter with respect to the Paying Agent to at all times be complied with.

**Section 207. Limited Obligation.** The Series 2021 Bonds, together with interest thereon, shall be limited obligations of the City payable solely from the Revenues (except to the extent paid out of moneys attributable to the Series 2021 Bonds proceeds or other funds created hereunder or under the Indenture or the income from the temporary investment thereof).

**Section 208. Book-Entry System.**

(a) Except as provided in paragraphs (b) and (c) of this Section 208 the Registered Owner of all Series 2021 Bonds shall be and the Series 2021 Bonds shall be registered in the name of Cede & Co. (“Cede”), as nominee of The Depository Trust Company, New York, New York (together with any substitute securities depository appointed pursuant to paragraph (c)(ii) of this Section 208, “DTC”). Payment of the interest on any Series 2021 Bond shall be made in

accordance with the provisions of this First Supplemental Indenture to the account of Cede on the interest payment dates for the Bonds at the address indicated for Cede in the registration books of the Registrar.

(b) The Series 2021 Bonds shall be initially issued in the form of a separate single, fully registered Bond in the amount of each separate stated maturity of the Series 2021 Bonds. Upon initial issuance, the ownership of each such Series 2021 Bond shall be registered in the registration books of the City kept by the Registrar, in the name of Cede, as nominee of DTC. With respect to Series 2021 Bonds so registered in the name of Cede, the City, Registrar and any Paying Agent shall have no responsibility or obligation to any DTC participant or to any beneficial owner of any of such Series 2021 Bonds. Without limiting the immediately preceding sentence, the City, Registrar and any Paying Agent shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede or any DTC participant with respect to any beneficial ownership interest in the Series 2021 Bonds, (ii) the delivery to any DTC participant, beneficial owner or other person, other than DTC, of any notice with respect to the Series 2021 Bonds, including any notice of redemption, or (iii) the payment to any DTC participant, beneficial owner or other person, other than DTC, of any amount with respect to the principal or redemption price of, or interest on, any of the Series 2021 Bonds. The City, the Registrar and any Paying Agent may treat DTC as, and deem DTC to be, absolute owner of each Series 2021 Bond for all purposes whatsoever, including (but not limited to) (A) payment of the principal or redemption price of, and interest on, each Series 2021 Bond, (B) giving notices of redemption and other matters with respect to such Series 2021 Bonds and (C) registering transfers with respect to such Bonds. So long as the Series 2021 Bonds are registered in the name of Cede & Co., the Paying Agent shall pay the principal or redemption price of, and interest on, all Series 2021 Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to satisfy fully and discharge the City's obligations with respect to such principal or redemption price, and interest, to the extent of the sum or sums so paid. Except as provided in paragraph (c) of this Section 208, no person other than DTC shall receive a Bond evidencing the obligation of the City to make payments of principal or redemption price of, and interest on, any such Bond pursuant to this First Supplemental Indenture. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede, and subject to the transfer provisions of this First Supplemental Indenture, the word "Cede" in this First Supplemental Indenture shall refer to such new nominee of DTC.

Except as provided in paragraph (c)(iii) of this Section 208, and notwithstanding any other provisions of this First Supplemental Indenture, the Series 2021 Bonds may be transferred, in whole but not in part, only to a nominee of DTC, or by a nominee of DTC to DTC or a nominee of DTC, or by DTC or a nominee of DTC to any successor securities depository or any nominee thereof.

(c) (i) DTC may determine to discontinue providing its services with respect to the Series 2021 Bonds at any time by giving written notice to the City, the Registrar, and the Paying Agent, which notice shall certify that DTC has discharged its responsibilities with respect to the Series 2021 Bonds under applicable law.

(ii) The City, in its sole discretion and without the consent of any other person, may, by notice to the Registrar, terminate the services of DTC with respect to the Series 2021 Bonds if the City determines that the continuation of the system of book-entry-only transfers through DTC is not in the best interests of the beneficial owners of the Series 2021 Bonds or the City; and the City shall, by notice to the Registrar, terminate the services of DTC with respect to the Series 2021 Bonds upon receipt by the City, the Registrar, and the Paying Agent of written notice from DTC to the effect that DTC has received written notice from DTC participants having interests, as shown in the records of DTC, in an aggregate principal amount of not less than fifty percent (50%) of the aggregate principal amount of the then outstanding Series 2021 Bonds to the effect that: (A) DTC is unable to discharge its responsibilities with respect to the Series 2021 Bonds; or (B) a continuation of the requirement that all of the outstanding Series 2021 Bonds be registered in the registration books kept by the Registrar in the name of Cede, as nominee of DTC, is not in the best interests of the beneficial owners of the Series 2021 Bonds.

(iii) Upon the termination of the services of DTC with respect to the Series 2021 Bonds pursuant to subsection (c)(ii)(B) hereof, or upon the discontinuance or termination of the services of DTC with respect to the Series 2021 Bonds pursuant to subsection (c)(i) or subsection (c)(ii)(A) hereof the City may within 90 days thereafter appoint a substitute securities depository which, in the opinion of the City, is willing and able to undertake the functions of DTC hereunder upon reasonable and customary terms. If no such successor can be found within such period, the Series 2021 Bonds shall no longer be restricted to being registered in the registration books kept by the Registrar in the name of Cede, as nominee of DTC. In such event, the City shall execute and the Registrar shall authenticate Series 2021 Bond certificates as requested by DTC of like principal amount, maturity and Series, in authorized denominations to the identifiable beneficial owners in replacement of such beneficial owners' beneficial interest in the Series 2021 Bonds.

(iv) Notwithstanding any other provision of this First Supplemental Indenture to the contrary, so long as any Series 2021 Bond is registered in the name of Cede, as nominee of DTC, all payments with respect to the principal or redemption price of, and interest on, such Series 2021 Bond and all notices with respect to such Series 2021 Bond shall be made and given, respectively, to DTC.

(v) In connection with any notice or other communication to be provided to Owners of Series 2021 Bonds registered in the name of Cede pursuant to this First Supplemental Indenture by the City or the Registrar with respect to any consent or other action to be taken by such Owners, the City shall establish a record date for such consent or other action by such Owners and give DTC notice of such record date not less than fifteen (15) days in advance of such record date to the extent possible.

**Section 209. Optional Redemption.** The Series 2021 Bonds maturing on or after June 15, 2020, are subject to redemption at the option of the City on June 15, \_\_\_\_\_ (the "*First Redemption Date*"), and on any date thereafter prior to maturity, in whole or in part, from such maturities or parts thereof as may be selected by the City, upon notice as contained in the Indenture, at a redemption price equal to 100% of the principal amount of the Series 2021 Bonds to be

redeemed plus accrued interest thereon to the date fixed for redemption. Series 2021 Bonds maturing prior to the First Redemption Date are not subject to optional redemption.

**Section 210. Mandatory Sinking Fund Redemption**

(a) The Series 2021 Bonds maturing on June 15, \_\_\_\_\_ are subject to mandatory redemption by operation of Sinking Fund Installment, in such manner as the Trustee may determine, at a price equal to one hundred percent (100%) of the principal amount thereof plus accrued interest to the redemption date, on the dates and in the principal amounts as follows:

REDEMPTION DATE (JUNE 1)	PRINCIPAL AMOUNT
*	\$ *

---

\* Stated Maturity

(b) The Series 2021 Bonds maturing on June 15, \_\_\_\_\_ are subject to mandatory redemption by operation of Sinking Fund Installment, in such manner as the Trustee may determine, at a price equal to one hundred percent (100%) of the principal amount thereof plus accrued interest to the redemption date, on the dates and in the principal amounts as follows:

REDEMPTION DATE (JUNE 1)	PRINCIPAL AMOUNT
*	\$ *

---

\* Stated Maturity

**Section 211. Execution and Delivery of Series 2021 Bonds.**

(a) The Series 2021 Bonds shall be executed on behalf of the City by the Mayor by manual or facsimile signature, and attested and countersigned by the City Recorder by manual or facsimile signature, and the City’s seal shall be affixed to, or a facsimile thereof shall be imprinted upon, the Series 2021 Bonds. The Series 2021 Bonds shall then be delivered to the Trustee (or any Transfer Agent appointed pursuant to Section 7.10 of the Indenture) and manually authenticated by it.

(b) The Series 2021 Bonds shall be delivered to the Purchaser, upon compliance with the provisions of Section 3.02 of the Indenture.



**Section 212. Initial Registration of Series 2021 Bonds.** Upon initial issuance, the ownership of each such Series 2021 Bond shall be registered in the registration books of the City kept by the Trustee in the name of the Purchaser.

### ARTICLE III

#### ESTABLISHMENT OF SERIES 2021 BOND SERVICE SUBACCOUNT AND SERIES 2021 PROJECT ACCOUNT; APPLICATION OF SERIES 2021 BOND PROCEEDS; PROVISIONS FOR TRANSFERS OF FUNDS

**Section 301. Establishment of Series 2021 Project Account and Series 2021 Debt Service Subaccount.** (a) There is hereby established a Project Account in the Construction Fund designated as the “*Series 2021 Project Account*,” moneys in which shall be used for the purposes and as authorized by Section 5.04 of the Indenture.

(b) Pursuant to the provisions of Sections 5.03 and 5.07 of the Indenture there is hereby established in the Bond Service Account in the Principal and Interest Fund a separate Series Subaccount for the Series 2021 Bonds designated as the “*Series 2021 Bond Service Subaccount*.”

**Section 302. Application of Proceeds; Interest During Construction.** The proceeds of the sale of the Series 2021 Bonds shall be paid to the Trustee for deposit into the Series 2021 Project Account.

**Section 303. No Series 2021 Debt Service Reserve Requirement.** There is no Debt Service Reserve Requirement for the Series 2021 Bonds.

### ARTICLE IV

#### FORM OF SERIES 2021 BONDS

**Section 401. Form of Series 2021 Bonds.** Subject to the provisions of the Indenture, each Series 2021 Bond shall be, respectively, in substantially the following form, with such insertions or variations as to any redemption or amortization provisions and such other insertions or omissions, endorsements and variations as may be required or permitted by the Indenture:

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Issuer or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

REGISTERED

REGISTERED

No. R- \_\_\_\_\_

\$ \_\_\_\_\_

**UNITED STATES OF AMERICA**

**STATE OF UTAH**

**NORTH OGDEN CITY, UTAH  
SALES TAX REVENUE BOND  
SERIES 2021**

INTEREST RATE	MATURITY DATE	ISSUE DATE	CUSIP NUMBER
_____ %	_____, ____	_____ 1, 2021	

Registered Owner: CEDE & CO.

Principal Amount: ----- DOLLARS -----

KNOW ALL MEN BY THESE PRESENTS that North Ogden City, Utah (the "City"), a municipal corporation and political subdivision of the State of Utah, acknowledges itself indebted and for value received hereby promises to pay, but solely in the manner and from the revenues and sources hereinafter provided, to the registered owner identified above, or registered assigns, on the maturity date specified above, upon presentation and surrender hereof, the principal amount identified above, and to pay to the registered owner hereof interest on the balance of said principal amount from time to time remaining unpaid from the interest payment date next preceding the date of registration and authentication of this Bond, unless this Bond is registered and authenticated as of an interest payment date, in which event this Bond shall bear interest from such interest payment date, or unless this Bond is registered and authenticated prior to the first interest payment date, in

which event this Bond shall bear interest from the issue date specified above (the “*Issue Date*”), or unless, as shown by the records of [Trustee], Salt Lake City, Utah, as Trustee (as hereinafter defined), interest on the hereinafter referred to Bonds shall be in default, in which event this Bond shall bear interest from the date to which interest has been paid in full, or unless no interest has been paid on this Bond, in which event it shall bear interest from its Issue Date, at the interest rate per annum (calculated on the basis of a year of 360 days consisting of twelve 30-day months), payable semi-annually on June 15 and December 15 commencing December 15, 2021, until payment in full of such principal, and to pay interest on overdue principal of this Bond at the interest rate borne by this Bond. Principal of this Bond shall be payable at the principal corporate trust office of [Trustee], Salt Lake City, Utah, a paying agent of the City, or its successor as such paying agent, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts; and payment of the interest hereon shall be (a) made to the registered owner hereof and shall be paid by check or draft mailed to the person who is the registered owner of record as of the close of business on the fifteenth day of the calendar month preceding each interest payment date (or if such fifteenth day is not a business day, the next preceding business day) at the address of such registered owner as it appears on the registration books of the City maintained by the Trustee, or at such other address as is furnished in writing by such registered owner to the Trustee as provided in the Indenture or (b) made by wire transfer to such registered owner upon written notice by such owner to the Trustee given not less than 15 days prior to such interest payment date, subject to the provisions of the Indenture.

This Bond is a special obligation of the City and is one of the Sales Tax Revenue Bonds of the City (the “*Bonds*”) and is issued under the provisions of the Local Government Bonding Act, Title 11, Chapter 14, Utah Code Annotated 1953, as amended, Title 11, Chapter 27, Utah Code Annotated 1953, as amended, and other applicable provisions of law (the “*Act*”), for the purpose of (a) paying all or part of the cost of the acquisition, construction, maintenance and improvement of parks and park facilities and (b) paying the costs incurred in connection with the issuance and sale of the Bonds.

The Bonds are issued under and pursuant to a Master Trust Indenture, dated as of [Date], 2021, as previously amended and supplemented (the “*Master Indenture*”), between the City and [Trustee], as trustee (said trustee and any successor thereto under the Master Indenture being herein referred to as the “*Trustee*”), as further amended and supplemented by a First Supplemental Trust Indenture, dated as of [Date], 2021, (the “*First Supplemental Indenture*”), between the City and the Trustee (such Master Indenture, as amended and supplemented by the First Supplemental Indenture and as hereafter amended and supplemented, being herein referred to as the “*Indenture*”).

The City is obligated to pay principal of and interest on this Bond solely from excise tax revenues received by the City pursuant to the Local Sales and Use Tax Act, Title 59, Chapter 12, Part 2, Utah Code Annotated 1953, as amended (the “*Revenues*”) and other funds of the City pledged therefor under the terms of the Indenture. This Bond is not a debt of the City within the meaning of any constitutional or statutory limitation of indebtedness or a pledge of the general credit of the City. Pursuant to the Indenture, sufficient Revenues have been pledged and will be set aside into special funds by the City to provide for the prompt payment of the principal of and interest on this Bond and all Bonds of the series of which it is a part.

As provided in the Indenture, Bonds may be issued from time to time in one or more series in various principal amounts, may mature at different times, may bear interest at different rates, and may otherwise vary as provided in the Indenture, and the aggregate principal amount of Bonds which may be issued is not limited. All Bonds issued and to be issued under the Indenture and certain other obligations entered into or to be entered into by the City under the Indenture are and will be equally and ratably secured by the pledge of Revenues and covenants made therein, except as otherwise expressly provided or permitted in or pursuant to the Indenture.

This Bond is one of a total authorized issue of Bonds of \$[Principal] (the “*Series 2021 Bonds*”) designated as “*Sales Tax Revenue Bonds, Series 2021,*” dated as of the Issue Date, and duly issued under and by virtue of the Act and under and pursuant to the Indenture. Copies of the Indenture are on file at the office of the City Recorder and at the principal corporate trust office of the Trustee, and reference to the Indenture and to the Act is made for a description of the pledge and covenants securing the Bonds, the nature, manner and extent of enforcement of such pledge and covenants, the terms and conditions upon which the Series 2021 Bonds are issued and additional bonds and other obligations payable from the Revenues may be issued thereunder on a parity with the Series 2021 Bonds, and a statement of the rights, duties, immunities and obligations of the City and of the Trustee. Such pledge and other obligations of the City under the Indenture may be discharged at or prior to the maturity of the Bonds upon the making of provisions for the payment thereof on the terms and conditions set forth in the Indenture.

To the extent and in the respects permitted by the Indenture, it may be modified or amended by action on behalf of the City taken in the manner and subject to the conditions and exceptions prescribed in the Indenture.

This Bond is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the principal corporate trust office of the Trustee, by the registered owner hereof in person or by his attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer in a form approved by the Trustee, duly executed by the registered owner or his duly authorized attorney, and thereupon the City shall issue in the name of the transferee a new registered Series 2021 Bond or Bonds of the same aggregate principal amount, denominations, Series designation and maturity as the surrendered Series 2021 Bond, all as provided in the Indenture and upon the payment of the charges therein prescribed. The City, the Trustee, and any paying agent may treat and consider the person in whose name this Series 2021 Bond is registered as the holder and absolute owner hereof for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon and for all other purposes whatsoever.

The Series 2021 Bonds are issuable in the form of fully-registered Bonds, without coupons, initially in the denomination of \$5,000 and any integral multiple thereof.

Except as otherwise provided herein and unless the context clearly indicates otherwise, words and phrases used herein shall have the same meanings as such words and phrases in the Indenture.

The Series 2021 Bonds maturing on or after June 15, 2020, are subject to redemption at the option of the City on June 15, 2019 (the “*First Redemption Date*”), and on any date thereafter prior to maturity, in whole or in part, from such maturities or parts thereof as may be selected by the City, upon notice as contained in the Indenture, at a redemption price equal to 100% of the principal amount of the Series 2021 Bonds to be redeemed plus accrued interest thereon to the date fixed for redemption. Series 2021 Bonds maturing prior to the First Redemption Date are not subject to optional redemption.

The Series 2021 Bonds maturing on June 15, \_\_\_\_\_ are subject to mandatory redemption by operation of Sinking Fund Installment, in such manner as the Trustee may determine, at a price equal to one hundred percent (100%) of the principal amount thereof plus accrued interest to the redemption date, on the dates and in the principal amounts as follows:

REDEMPTION DATE (JUNE 1)	PRINCIPAL AMOUNT
*	\$ *

---

\* Stated Maturity

The Series 2021 Bonds maturing on June 15, \_\_\_\_\_ are subject to mandatory redemption by operation of Sinking Fund Installment, in such manner as the Trustee may determine, at a price equal to one hundred percent (100%) of the principal amount thereof plus accrued interest to the redemption date, on the dates and in the principal amounts as follows:

REDEMPTION DATE (JUNE 1)	PRINCIPAL AMOUNT
*	\$ *

---

\* Stated Maturity

Any Series 2021 Bond subject to redemption shall be redeemed as provided in and subject to the terms of the Indenture.

This Bond and the issue of Series 2021 Bonds of which it is a part are issued in conformity with and after full compliance with the Constitution of the State of Utah and pursuant to the provisions of the Act and all other laws applicable thereto.

Pursuant to Section 11-14-307(3) of the Act, the State of Utah pledges and agrees with the holders of the Series 2021 Bonds that the State of Utah will not alter, impair or limit the Revenues, in a manner that reduces the amounts to be rebated to the City which are devoted or pledged by the Indenture until the Series 2021 Bonds, together with applicable interest, are fully met and discharged; *provided, however*, that nothing shall preclude such alteration, impairment or

limitation if and when adequate provision shall be made by law for the protection of the holders of the Series 2021 Bonds.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of Utah or by the Act or the Indenture to exist, to have happened or to have been performed precedent to or in the issuance of this Series 2021 Bond exist, have happened and have been performed and that the issue of the Series 2021 Bonds, together with all other indebtedness of the City, is within every debt and other limit prescribed by said Constitution and statutes.

This Bond shall not be valid until the Certificate of Authentication hereon shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, NORTH OGDEN CITY, UTAH, has caused this Bond to be signed in its name and on its behalf by the Mayor and its corporate seal to be impressed hereon, attested by the City Recorder, all as of the Issue Date specified above.

NORTH OGDEN CITY, UTAH

---

Mayor

COUNTERSIGN AND ATTEST:

---

City Recorder

[SEAL]

**[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]**

This Bond is one of the Series 2021 Bonds described in the within-mentioned Indenture and is one of the Sales Tax Revenue Bonds, Series 2021, of North Ogden City, Utah.

Date of registration and authentication: [Date]9, 2021.

[TRUSTEE],  
as Trustee

By \_\_\_\_\_  
Trust Officer

[FORM OF ASSIGNMENT]

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to the applicable laws or regulations.

TEN COM	—	as tenants in common	UNIF TRAN MIN ACT—
TEN ENT	—	as tenants by the entirety	_____ Custodian _____
JT TEN	—	as joint tenants with right of survivorship and not as tenants in common	(Cust) (Minor) under Uniform Transfers to Minors Act of _____  (State)

Additional abbreviations may also be used though not in the above list.

FOR VALUE RECEIVED \_\_\_\_\_ hereby sells, assigns and transfers unto

Insert Social Security or Other  
Identifying Number of Assignee

\_\_\_\_\_  
(Please Print or Typewrite Name and Address of Assignee)

the within Bond of North OGDEN CITY, UTAH, and hereby irrevocably constitutes and appoints \_\_\_\_\_ Attorney to register the transfer of said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

SIGNATURE GUARANTEED:  
\_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by an “eligible guarantor institution” that is a member of or a participant in a “signature guarantee program” (e.g., the Securities Transfer Agents Medallion Program, the Stock Exchange Medallion Program or the New York Stock Exchange, Inc. Medallion Signature Program).

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.



## ARTICLE V

### THE TRUSTEE

**Section 501. Appointment of Trustee.** For the benefit and protection of the holders of the Series 2021 Bonds and any other Bonds hereafter issued pursuant to the Indenture, [Trustee], a national banking association having trust power, doing business and having its corporate trust office in Salt Lake City, Utah, is hereby appointed as Trustee, Paying Agent and Transfer Agent. [Trustee], shall signify acceptance of the duties and obligations imposed upon it by the Indenture by executing and delivering to the City a written acceptance thereof prior to the delivery of the Series 2021 Bonds.

## ARTICLE VI

### MISCELLANEOUS

**Section 601. System of Registration.** The Indenture shall constitute a system of registration within the meaning and for all purposes of the Registered Public Obligations Act, Chapter 7 of Title 15, Utah Code.

**Section 602. Article and Section Headings.** The headings or titles of the several articles and sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this First Supplemental Indenture.

**Section 603. Partial Invalidity.** In any one or more of the covenants or agreements, or portions thereof, provided in this First Supplemental Indenture to be performed shall be contrary to law (other than the provisions of the Indenture limiting the liability of the City to make payments on the Bonds solely from Revenues and other amounts pledged therefor by the Indenture), then such covenant or covenants, such agreement or agreements, or such portions thereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of this First Supplemental Indenture or of the Series 2021 Bonds; but the Holders of the Series 2021 Bonds and any Security Instrument City and any Reserve Instrument City shall retain all the rights and benefits accorded to them under the Act or any other applicable provisions of law.

**Section 604. Counterparts.** This First Supplemental Indenture may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the same instrument.

**Section 605. Effective Date.** This First Supplemental Indenture shall take effect immediately.

*(Signature page follows.)*

IN WITNESS WHEREOF, the City has caused this First Supplemental Indenture to be executed by the Mayor and countersigned by the City Recorder, and its official seal to be hereunto affixed and attested by the City Recorder, and to evidence its acceptance of the trusts hereby created, [Trustee], has caused this First Supplemental Indenture to be executed by one of its Trust Officers, all as of the date hereof.

NORTH OGDEN CITY, UTAH

By \_\_\_\_\_  
Mayor

ATTEST:

By \_\_\_\_\_  
City Recorder

[SEAL]

[TRUSTEE]  
as Trustee

By \_\_\_\_\_  
\_\_\_\_\_

## Staff Report to the North Ogden City Council

### SYNOPSIS / APPLICATION INFORMATION

Application Request: Consideration and action on a legislative application to consider an amendment to the Patriot Pointe site plan related to setbacks between buildings and from the property line

Date: May 21, 2021

Applicant: Patriot Pointe LLC

File Number: SPR 2021-04

### PUBLIC NOTICE:

Mailed Notice: N/A

Newspaper: N/A

City Website: April 30, 2021

### PROPERTY INFORMATION

Address: Approximately 150 East and 2225 N.

Project Area: Approximately 20 Acres

Existing Land Use: Vacant

Proposed Land Use: Residential

Parcel ID: 181630001

### ADJACENT LAND USE

North: Residential

East: Residential

South: Residential / Vacant

West: Residential

### STAFF INFORMATION

Jon Call  
[jcall@nogden.org](mailto:jcall@nogden.org)  
801-737-9846

### APPLICABLE ORDINANCES

North Ogden City Zoning Ordinance 11-7-K Master Planned Community Zone (PP)

### BACKGROUND

Patriot Pointe LLC is currently beginning construction of the first few phases of their townhome project at 2225 N. 150 East. In obtaining the building permits and beginning construction it was discovered by the building department that the building plans submitted are larger than the plans proposed in the original site plan approval. In fact, two of the footings and foundations were poured resulting in a reduced setback on the eastern property line of approximately three feet.

To resolve this issue the developer has two options 1) request a site plan amendment and get council approval for modification of the setback numbers 2) redo all, or a portion of the footings and foundations.

For some additional background information, the building permits were approved by the building department. When the footings were inspected the contractors were informed that the setbacks couldn't be verified and that they were pouring at their own risk. When the foundation walls were formed up the

building inspectors were able to get accurate enough measurements to reach the conclusion that the foundations and footings were off by three feet and were not approved and again be “poured at their own risk”. The error apparently came as a result in drafting the original site plan and using footprints that were 4.5 inches smaller per unit than they were supposed to be. On an 8 unit building this ends up being 3 feet.

The Planning Commission reviewed the setbacks and has made a recommendation for the Council to just approve the setback on buildings 1 and 2 so the project may continue to work forward while working through all the other setbacks.

One planning commissioner expressed concerns that amending this setback could be seen as setting a bad precedence for setbacks in the city moving forward. The Council should discuss this concern and if the Council supports the change, provide some reasoning to help clarify future situations. On items mentioned by the Planning Commission was the eastern setback concern was not as big of a deal since the fence was coming down along that property line and that the same landowners own both projects.

As a legislative decision the Council has the ability to make any decision it feels best fits the goals and needs of the city.

The following setbacks would be approved based on that recommendation.

- Building 1
  - Reduction in east setback by 3 feet.
    - Original distance to property line was 11.3 feet, proposed 8.3.
    - Original distance to neighboring building was 41.3 feet, proposed 38.3.
  - Increase in south setback by 5.2 feet.
  - Increase in west setback, from 150 East, by 1.5 feet to 20.4 feet.
  - North setback to the road from 2225 North would stay at 20 feet.
- Building 2
  - Reduction in east setback by 3 feet.
    - Original distance to property line was 13.8 feet, proposed 10.8 feet
    - Original distance to neighboring building was 43.7 feet, proposed 40.8
  - South setback to the road from 2225 North would stay at 20 feet.
  - Reduction in west setback, from 150 East, by 1 feet to 20.1 feet.
  - North setback would be 24.4 feet between a new building in the next phase of work.

The City Council should review the site plan and determine whether or not the site plan should be amended to include the proposed revisions. This will require an amendment to the development agreement. I’ve attached a copy of what that provision would look like and the Council should discuss the project and any potential friction points with the current development agreement and other agreements related to this project.

The proposed development agreement changes include language related to timeline adjustments and language clarifications in the original Double Ott Ranch Agreement. This Amendment would be added to the Patriot Pointe development agreement as a modification between North Ogden City and Patriot Pointe LLC. Please see the attached Exhibit C.

## **RECOMMENDATION**

This is a Legislative Decision so the Council has wide discretion on whether or not to accept the proposed change and whether or not any other considerations should be resolved at this time as well. The Council should weigh its options and make a decision which they feel is the best for the City, residents, landowners, and other stakeholders.

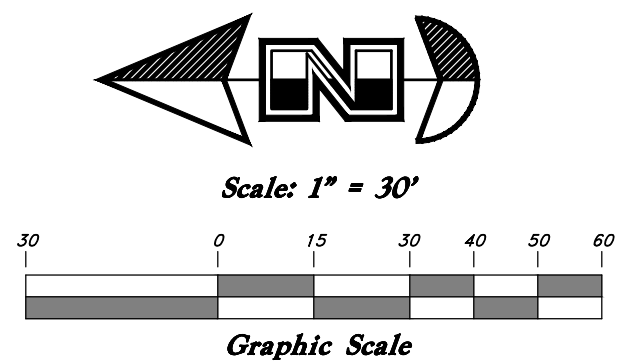
## **EXHIBITS**

- A. Application
- B. Site Plan with new measurements and building locations, in Green and originals in Red
- C. Proposed Development Agreement Amendment

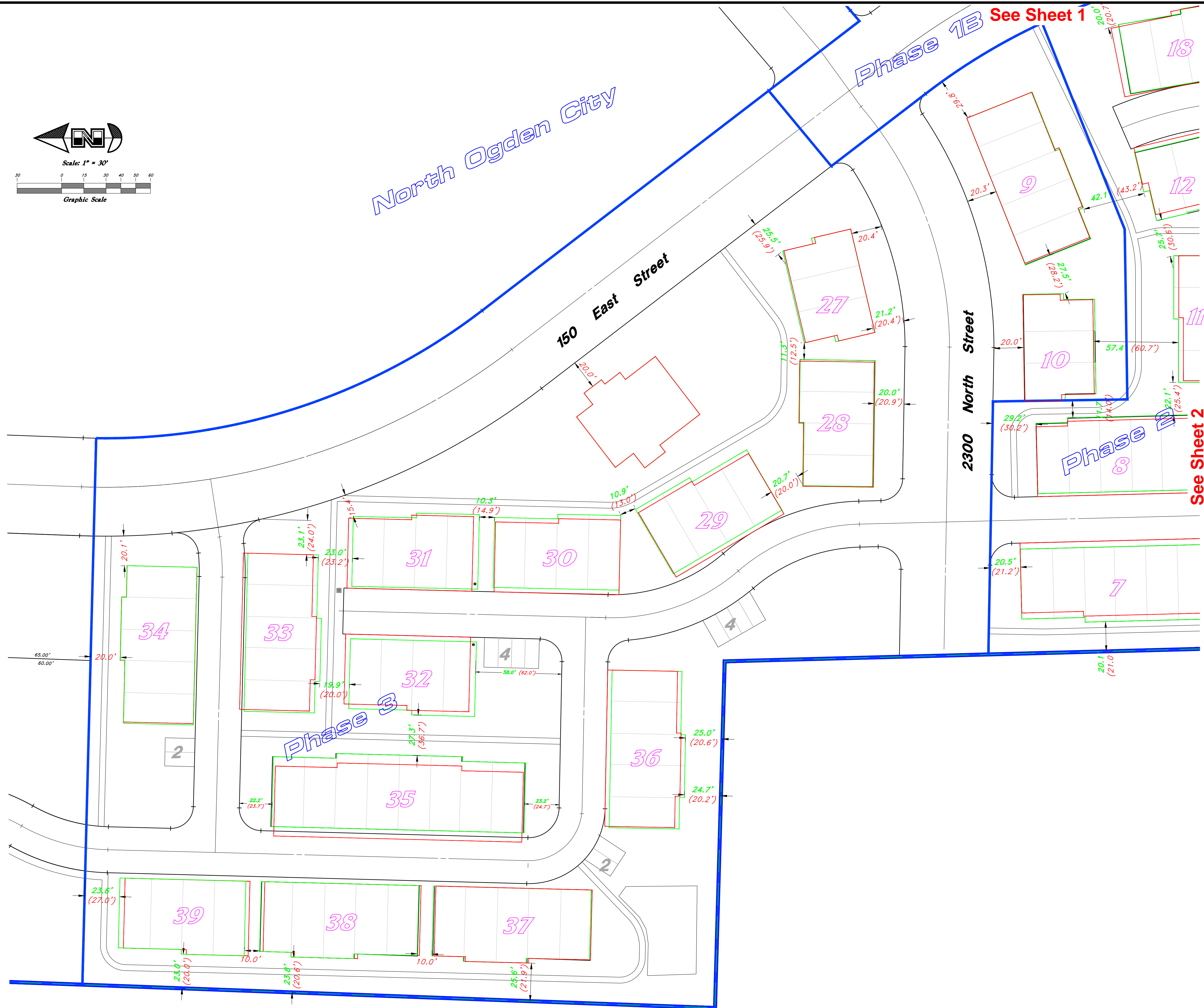








Building Number	Original	New	Difference
1	41.3	38.3	-3
	11.3	8.3	-3
	50.6	55.8	5.2
	18.9	18.9	0
2	13.8	10.8	-3
	43.7	40.8	-2.9
	21.1	21.1	0
	27.6	27.2	-0.4
3	20	22.4	2.4
	20.1	20.1	0
4	14.7	13.9	-0.8
	10	10	0
	20.3	23.7	3.4
5	20.1	25.1	5
6	20.8	20	-0.8
7	21	20.1	-0.9
	21.2	20.5	-0.7
8	30.2	29.2	-1
	14	11.7	-2.3
	21	18.8	-2.2
	25.4	22.1	-3.3
9	28.2	27.5	-0.7
10	20	20	0
11	60.7	57.4	-3.3
	30.6	25.7	-4.9
12	43.2	42.1	-1.1
13	24.4	16.5	-7.9
14	29.8	16.6	-13.2
15	54	43.8	-10.2
16	19.4	18.5	-0.9
17	20	17	-3
18	20	20.1	0.1
	18.9	19.6	0.7
	20.7	20	-0.7
	20.6	20	-0.6
19	5.1	10.8	5.7
20	34.3	27.4	-6.9
21	28.6	28.6	0
22	37.3	35.3	-2
	16.3	16.2	-0.1
23	22.3	15.4	-6.9
24	22.4	22.5	0.1
25	26.6	27.9	1.3
26	25.9	25.5	-0.4
27	12.5	11.3	-1.2
	20.4	21.2	0.8
28	20.9	20	-0.9
29	20	20.7	0.7
	13	10.9	-2.1
30	14.9	10.3	-4.6
31	N/A	15.4	
	23.2	23	-0.2
32	62	58	-4
	36.7	27.3	-9.4
33	20	19.9	-0.1
	24	23.1	-0.9
34	20.1	20.1	0
35	36.7	27.3	-9.4
	24.7	23.2	-1.5
	23.7	22.2	-1.5
36	20.6	25	4.4
	20.2	24.7	4.5
37	21.9	25.6	3.7
38	20.6	23.8	3.2
39	27	23.6	-3.4
	20	23	3



REV	DATE	DESCRIPTION

**GREAT BASIN ENGINEERING**

5746 SOUTH 1475 EAST, DORRIN, UTAH 84403  
 MAIN (801)394-4515, S.L.C. (801)521-0222, FAX (801)392-7544  
 WWW.GREATBASINENGINEERING.COM

**Building Layout Exhibit**

**Patriot Pointe**  
 Approximately 150 East 2300 North  
 North Ogden City, Weber County, Utah  
 A part of Section 32, T7N, R1W, SLB&M, U.S. Survey

7 May, 2021

SHEET NO.  
**3**

## **Request for Formal Committee Adoption and Pledge of Funds**

Dear Mayor Berube and North Ogden City Council,

As you are aware, two weeks ago the council voted to cancel the traditional Cherry Days parade and park activities under looming concerns of COVID and overworking the City staff. Historically, these events have been the quintessential celebration of our first freedoms as Americans here in North Ogden.

Although there are various reasons for the council's decision, the community that has voiced an opinion still overwhelmingly wants to have a parade and park activities.

While growing up in North Ogden the community was always the leading force for Cherry Days and the city recognized that. As recently as 2011, Mayor Brent Taylor organized an arm of community volunteers to be a huge part of organizing Cherry Days. All of you know that Cherry Days is the time when our community focuses on the blessings of our freedoms, the beauty of our area, and the strength and character of our people.

Given the intergenerational and historic meaning of Cherry Days in North Ogden and Weber County, I request that the Mayor and City Council resolve to formally adopt our committee for this year to organize, plan, and take the lead in carrying out Cherry Days events for this year. Depending on the outcome of this year, our committee is happy to become a way of moving forward to save the City money and relieve undue stress around what should be exuberant celebrations in the future.

Subsequently, we formally request a financial pledge of \$15,000 from allocated funds for Cherry Days in the City's annual budget to ensure we keep this tradition alive and to work together in making this wonderful community tradition happen this Independence Day (Saturday, July 3, 2021) and in the future!

We recognize the vast amount of work and pressure put on City staff to carry out these events, and we hope that we can assist in leading out to ensure that Cherry Days will continue to be an inspiring celebration for everyone involved.

As of today, our committee has grown a list of over 80 volunteers who are standing by willing to help. We have found performers and food vendors, businesses, and some sponsors to bring this together - even with a tight schedule and a limited budget.

The permits are being procured and all plans are being made with pure hearts and good intentions. We do not want to have to do this alone. Your formal recognition, committee adoption, and pledge of financial support will be critical in unifying our community.

Respectfully,

Mark E. Miller (Volunteer Director)





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## NORTH OGDEN CITY STAFF REPORT

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**TO: MAYOR & CITY COUNCIL**  
**FROM: SUSAN NANCE, DEPUTY CITY RECORDER**  
**DATE: MAY 18, 2021**  
**SUBJECT: ANNEXATION PETITION**

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Jeffrey and Padma Randall submitted an application (Exhibit A) on March 10, 2021 petitioning for annexation of approximately 1.14 acres located at 1700 North Fruitland Drive in North Ogden, Utah. The annexation process requires the City Council to accept the petition for annexation so that the annexation process can begin, which was done on March 23, 2021. The Weber County Surveyor has reviewed the annexation plat map and approved it on April 2, 2021 (Exhibit B). This property is within North Ogden City Annexation Declaration Policy (Exhibit C). The petitioner is requesting the zoning of R-1-8, which the Planning Commission has recommended on April 7, 2021 (Exhibit D). The Utah State Code requires that the City give notice of an annexation for (3) consecutive weeks in a newspaper of local circulation (Exhibit E) no later than 10 days after the City Council receives notice of certification which was certified by the City Recorder on April 5, 2021 (Exhibit F). A Public Hearing is required and was noticed on May 14 and May 21, 2021 (Exhibit G). Written protests to this annexation were to be filed no later than May 17, 2021. No written protests have been submitted as of the date of this staff report. This annexation meets all the requirements to be annexed and before the City Council is an Ordinance for your consideration annexing this property into North Ogden City.

## **ORDINANCE 2021-14**

**AN ORDINANCE DECLARING THE ANNEXATION OF TERRITORY TO THE MUNICIPALITY OF NORTH OGDEN CITY. THE PROPERTY IS 1.14 ACRES IN AREA AND IS LOCATED AT 1700 NORTH FRUITLAND DRIVE, NORTH OGDEN CITY AND OWNED BY JEFFREY AND PADMA RANDALL.**

**WHEREAS;** Jeffrey and Padma Randall owns property located within the North Ogden City annexation policy plan; and

**WHEREAS;** Jeffrey and Padma Randall desires to have her property annexed into the corporate limits of North Ogden City; and

**WHEREAS;** Jeffrey and Padma Randall submitted a petition with an accurate plat or map of the territory to be annexed prepared under the supervision of the city engineer or a competent surveyor and certified by the engineer or surveyor; and

**WHEREAS;** Jeffrey and Padma Randall owns the land petitioned to be annexed into the City; and

**WHEREAS;** The Chairman of the Planning Commission of the township where North Ogden property is located has been notified of this annexation petition and has recommended the City Council that it be annexed; and

**WHEREAS;** The Weber County Clerk/Surveyor was notified on February 26, 2021 of the North Ogden City petition.

**Be it ordained by the governing body of the municipality of NORTH OGDEN CITY.**

**SECTION 1. TERRITORY ANNEXED.** The following territory, legally described as follows, is hereby annexed into the corporate limits of North Ogden City, Utah:

A part of the Northeast Quarter of Section 4, Township 6 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey: Beginning at a point on the existing North Ogden City Limits according to Annexation Plat 16-097 of Weber County Records, which is

South 0°17'02" West (being the basis of bearing) 1160.92 feet to the old centerline of 1700 North street extended Easterly, North 89°14'28" West along said old centerline 583.67 feet and North 00°45'32" East 33.00 feet more or less to the intersection of a fence line extended Southerly and the old North right-of-way line of 1700 North Street, from the Northeast corner of said Section 4; and running thence North 0°24'59" West 157.12 feet along a fence line to a fence corner, thence South 89°11'00" East along another fence line 296.99 feet more or less to the West right-of-way of Fruitland Drive, thence South 14°53'45" East along said Fruitland Drive and the current city limits according to Annexation Plat 33-009 of Weber County Records 162.82 feet more or less to the intersection of said West line of Fruitland Drive and said old North line of 1700 North Street, thence along said old North line North 89°14'28" West 337.70 feet to the point of beginning.

Containing 1.14 acres, more or less.

**SECTION 2. ZONING CLASSIFICATION:** The entire area being annexed is zoned R-1-8

**SECTION 3. EFFECTIVE DATE:** This Ordinance shall take effect upon the recording of the Annexation plat.

**PASSED and ADOPTED this 25<sup>th</sup> day of May 2021.**

**North Ogden City:**

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**S. Neal Berube**  
**North Ogden City Mayor**

**CITY COUNCIL VOTE AS RECORDED:**

	<b>Aye</b>	<b>Nay</b>
<b>Council Member Barker:</b>	_____	_____
<b>Council Member Cevering:</b>	_____	_____
<b>Council Member Ekstrom:</b>	_____	_____
<b>Council Member Stoker:</b>	_____	_____
<b>Council Member Swanson:</b>	_____	_____

**(In event of a tie vote of the Council):**

<b>Mayor Berube:</b>	_____	_____
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**ATTEST:**

\_\_\_\_\_  
**Katie Gerard**  
**City Recorder**



## PETITION FOR ANNEXATION

505 E. 2600 North, North Ogden, Utah 84414  
 Phone: 801-782-7211 | FAX: 801-737-2219

Petition No. \_\_\_\_\_  
 Filed in the Office of the City Recorder

Desired Zoning Classification: 1-8

Fee: \$935 Check #: \_\_\_\_\_

Property Address (approx.): 1700 Fruitland Drive

Reason for annex request: Subdivide the 1-acre Weber County lot into 3 North Ogden City lots.

### TO THE NORTH OGDEN CITY COUNCIL:

The undersigned real property owners respectfully petition for the described lands and territory in Weber County, Utah, attached hereto as Exhibit A, be immediately annexed to North Ogden City.

In support of this petition, the petitioners respectfully declare and represent that they are a majority of the owners of the private real property located within the above-described territory and are the owners of not less than one-third (1/3) in value of all said territory as shown by the last assessment rolls of Weber County, State of Utah, and that the said territory lies contiguous to the Corporate limits of North Ogden City, a Municipal Corporation of Utah.

SIGNATURE	PRINTED NAME	ADDRESS
<i>Jeffrey W. Randall</i>	Jeffrey W Randall	1700 Fruitland Dr, Ogden UT 84414
<i>Padma Randall</i>	Padma P Randall	1700 Fruitland Dr, Ogden UT 84414

I acknowledge that I will be charged for any fees incurred for the annexation review by the City including; City Engineer; publication in the local newspaper, and City staff time.

Property Owner Signature: *Jeffrey W. Randall* Date: 2/26/2021

Property Owner Signature: *Padma Randall* Date: 2-26-2021

Contact Person (Sponsor): Jeffrey Randall Phone: 801-300-6397

E-mail Address: Jeffrandall99@gmail.com

(A copy of this petition is to be submitted by the petitioner to the Weber County Surveyor the same day it is filed with North Ogden City.)



**LANDOWNER ANNEXATION PETITION  
NORTH VIEW FIRE DISTRICT**

We, the undersigned, represent that we own real property located within the boundaries of the area in Weber County, Utah which is described and depicted on Exhibit "A" attached hereto (the "proposed annexation area") and that the proposed annexation area is located, in its entirety, either in unincorporated Weber County or in \_\_\_\_\_ (insert name of municipality). Each person signing this petition requests annexation of the proposed annexation area into the North View Fire District pursuant to Utah Code Ann. § 17B-1-401, et seq.

As required by Utah Code Ann. § 17B-1-404(1)(d), the following signers of this Petition are hereby designated as sponsors (no more than three sponsors may be named), with the first designated sponsor to serve as the contact sponsor.

Contact Sponsor:

Name: Jeffrey Randall  
 Mailing Address: 1700 Fruitland Dr  
 Telephone No.: Ogden UT 84414

Additional Sponsors:

Name: Padma Randall  
 Mailing Address: 1700 Fruitland Dr  
 Telephone No.: Ogden UT 84414

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Telephone No.: \_\_\_\_\_

<p>1. <u>Jeffrey Randall</u>                  Owner's Name [please print or type]</p> <p><u>1700 Fruitland Dr, Ogden UT 84414</u>                  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. if known)</p>	<p style="text-align: center;"><i>Jeffrey W. Randall</i></p> <p>Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p style="text-align: center;"><u>1700 Fruitland Dr.</u></p> <p>Signer's Current Residence Address</p>
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<p>2. <u>Padma Randall</u>  Owner's Name [please print or type]</p> <p><u>1700 Fruitland Dr, Ogden UT 84414</u>  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. If known)</p>	<p><u>Padma Randall</u>  Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p><u>1700 Fruitland Dr</u>  Signer's Current Residence Address</p>
<p>3. _____  Owner's Name [please print or type]</p> <p>_____  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. If known)</p>	<p>_____  Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p>_____  Signer's Current Residence Address</p>
<p>4. _____  Owner's Name [please print or type]</p> <p>_____  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. If known)</p>	<p>_____  Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p>_____  Signer's Current Residence Address</p>
<p>5. _____  Owner's Name [please print or type]</p> <p>_____  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. If known)</p>	<p>_____  Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p>_____  Signer's Current Residence Address</p>
<p>6. _____  Owner's Name [please print or type]</p> <p>_____  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. If known)</p>	<p>_____  Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p>_____  Signer's Current Residence Address</p>

**EXHIBIT "A" TO LANDOWNER ANNEXATION PETITION  
IDENTIFICATION OF PROPOSED ANNEXATION AREA**

The proposed annexation area is located in Weber County, Utah and is generally bounded by N/A Street on the north, 1700 North street on the south, Fruitland Drive Street on the east and N/A Street on the west (or where the prospective named streets would be located if extended), which area is depicted in the attachment to this Exhibit "A" and is more particularly described as follows:

[Insert legal description of the proposed annexation area -  
including parcel Tax ID numbers whenever possible and attach  
a map of the boundaries of the area proposed to be annexed]

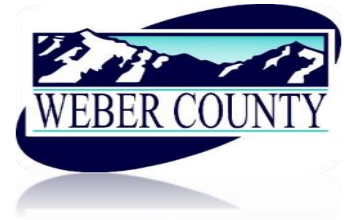
Parcel ID # 11-003-0043

A part of the Northeast Quarter of Section 4, Township 6 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey: Beginning at a point on the existing North Ogden City Limits according to Annexation Plat 16-097 of Weber County Records, which is South 0°17'02" West (being the basis of bearing) 1160.92 feet to the old centerline of 1700 North street extended Easterly, North 89°14'28" West along said old centerline 583.67 feet and North 00°45'32" East 33.00 feet more or less to the intersection of a fence line extended Southerly and the old North right-of-way line of 1700 North Street, from the Northeast corner of said Section 4; and running thence North 0°24'59" West 157.12 feet along a fence line to a fence corner, thence South 89°11'00" East along another fence line 296.99 feet more or less to the West right-of-way of Fruitland Drive, thence South 14°53'45" East along said Fruitland Drive and the current city limits according to Annexation Plat 33-009 of Weber County Records 162.82 feet more or less to the intersection of said West line of Fruitland Drive and said old North line of 1700 North Street, thence along said old North line North 89°14'28" West 337.70 feet to the point of beginning.

Containing 1.14 acres, more or less.

April 2 2021

Shaun Rose  
Weber County Surveyor's  
2380 Washington BLVD., Suite 370  
Ogden, Utah 84401



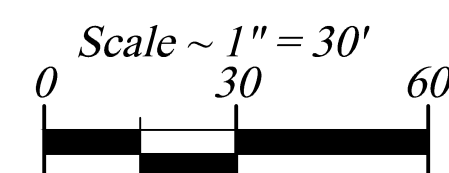
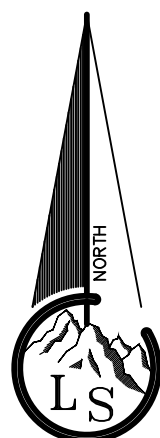
To Whom It May Concern:

Based upon state code [17-23-20] the Weber County Surveyor's office has reviewed the proposed plat Annexation to North Ogden City and all conditions for approval by this office at this time have been satisfied. Signatures and platting requirements will be reviewed at the time of final submittal of mylar to this office for approval and county surveyor signature. If any additional changes are made to the attached plat, another review will be required by this office for approval.

Thank you

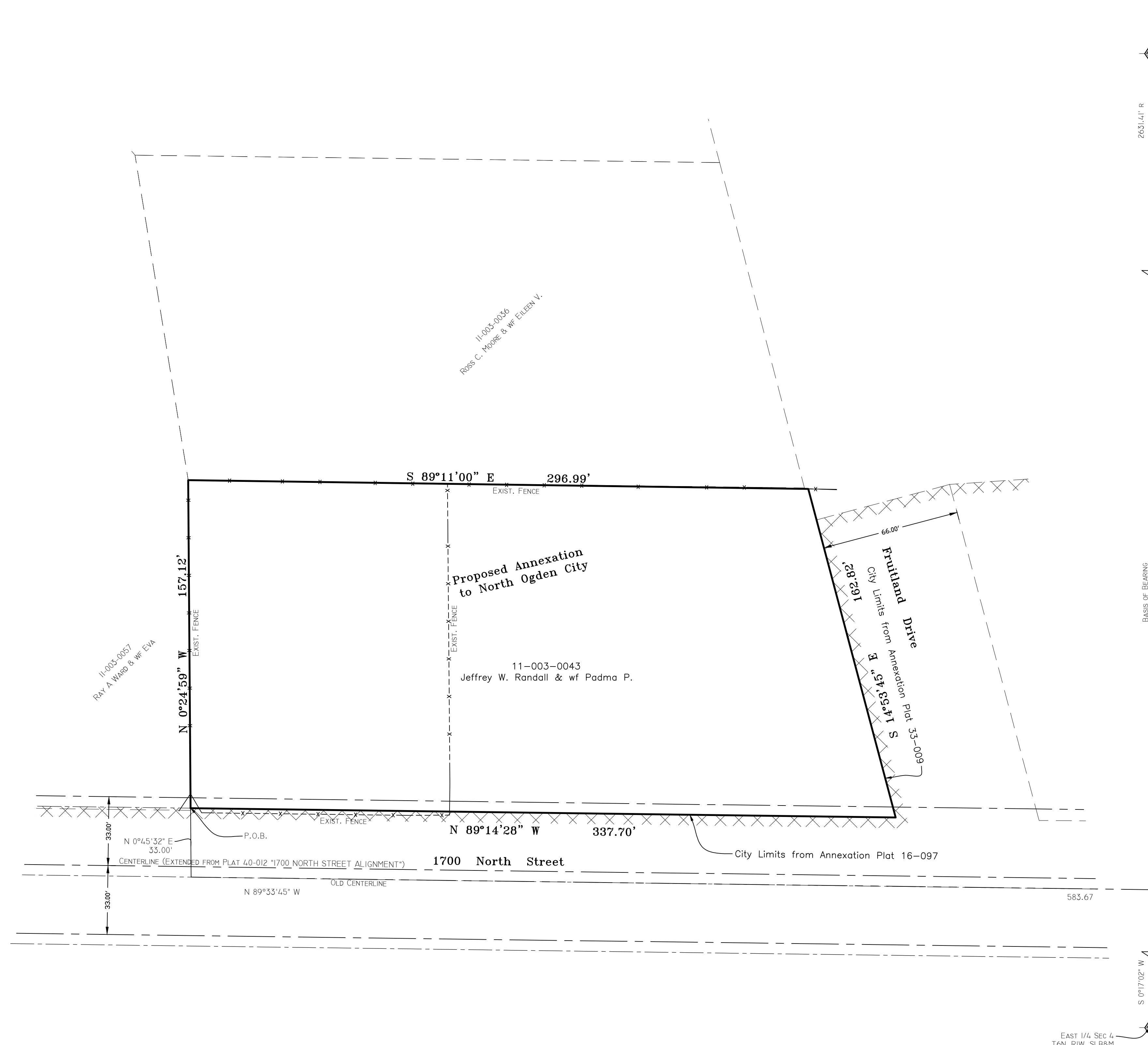
Weber County Surveyor's Office

**Annexation to North Ogden City Ordinance No. \_\_\_**  
**PART OF THE NE 1/4 OF SECTION 4, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN**  
**WEBER COUNTY, UTAH - PREPARED 2021**



**Legend**

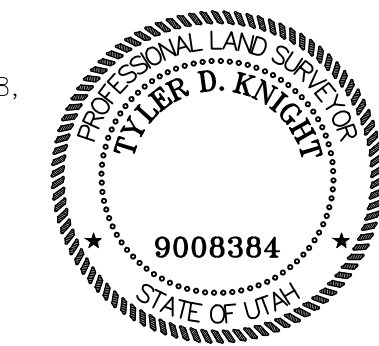
- EXISTING CITY BOUNDARY
- PROPOSED ANNEX LINE
- STREET CENTERLINE
- SECTION CORNER
- r and/or ( ) RECORD DATA



**ANNEXATION BOUNDARY DESCRIPTION**  
 A part of the Northeast Quarter of Section 4, Township 6 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey; Beginning at a point on the existing North Ogden City Limits according to Annexation Plat 16-097 of Weber County Records, which is South 0°17'02" West (being the basis of bearing) 1160.92 feet to the old centerline of 1700 North Street extended Easterly, North 89°14'28" West along said old centerline 583.67 feet and North 00°45'32" East 33.00 feet more or less to the intersection of a fence line extended Southerly and the old North right-of-way line of 1700 North Street, from the Northeast corner of said Section 4, and running thence North 0°24'59" West 157.12 feet along a fence line to a fence corner, thence South 89°11'00" East along another fence line 296.99 feet more or less to the West right-of-way of Fruitland Drive, thence South 14°53'45" East along said Fruitland Drive and the current city limits according to Annexation Plat 33-009 of Weber County Records 162.82 feet more or less to the intersection of said West line of Fruitland Drive and said old North line of 1700 North Street, thence along said old North line North 89°14'28" West 337.70 feet to the point of beginning.  
 Containing 1.14 acres, more or less.

**NARRATIVE**  
 This survey was requested by the property owner of shown property for the purpose of preparing an annexation plat of their property into the City of North Ogden as shown and described. A survey of the property revealed discrepancies between the Deed description location and the evidences of occupation on the ground. The description of this annexation plat is of the surveyed location of the property and the current locations of the City Boundary. The intent remains that all of parcel 11-003-0043 be annexed into North Ogden City. The basis of bearing is as shown between two Section Corners. The records of Weber County have been utilized in preparing this plat.

**SURVEYOR'S CERTIFICATE**  
 I, Tyler D. Knight, do hereby certify that I am a professional land surveyor in the State of Utah and hold certificate no. 9008384-2201 in accordance with Title 58, Chapter 22 known as the Professional Engineers and Land Surveyor's Licensing Act. That I have prepared this plat in accordance with UCA 17-23-20. That this plat and the description hereon are sufficient to enable the county surveyor to establish the boundary on the ground and sufficient to enable the county recorder to identify, for tax purposes, each tract or parcel included within the boundary.



**NORTH OGDEN CITY ACCEPTANCE**

I hereby certify that this annexation to the corporate limits of North Ogden City has been accepted by the Mayor and the City Council by Ordinance passed on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

In witness hereof I hereby set my hand and affix the corporate seal of the City of North Ogden.

Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
 Mayor

Attest: Katie Gerard, City Recorder

**WEBER COUNTY SURVEYOR'S CERTIFICATE**

I hereby certify that the Weber County Surveyor's Office has reviewed this plat and all conditions for approval by this office have been satisfied. The approval of this plat by the Weber County Surveyor does not relieve the Licensed Land Surveyor who executed this plat from the responsibilities and/or liabilities associated therewith.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
 Weber County Surveyor

<b>Landmark Surveying, Inc.</b> A Complete Land Surveying Service www.LandmarkSurveyUtah.com		4646 South 3500 West - #A-3 West Haven, UT 84401 801-731-4075	Weber County Recorder Entry no. _____ Filed for record and recorded ____ day of _____, 20__ at _____ in book _____ of official records, on page _____ County Recorder: Leann H Kilts By Deputy: _____ Fee paid: _____
<b>CLIENT: Jeff Randall</b> 1700 N. Fruitland Dr. North Ogden UT 84414		1	
NE 1/4 of Section 4, Township 6 North, Range 1 West, Salt Lake Base and Meridian.		<b>Annexation Plat</b>	
Revisions: _____ DRAWN BY: TDK CHECKED BY: TDK DATE: 3/30/2021 PROJ: 4149Annex			

This plat and associated documents are "PRELIMINARY NOT FINAL" and subject to change without a valid signature and date across the Professional Land Surveyor's seal in accordance with R156-22-601 of the Utah Administrative Code of the Utah Department of Commerce, Division of Occupational and Professional Licensing. If this document is unsigned it is a preliminary document(s) and is not intended for and shall not be used in construction, nor to be recorded or filed, nor implemented or used as a final product.

**COPY** ORDINANCE NO. 2003- 03

AN ORDINANCE ADOPTING THE NORTH OGDEN CITY ANNEXATION POLICY PLAN DATED JANUARY 28, 2003.

WHEREAS, The 2001 Utah Legislature required a city to adopt annexation policy plan before such city annexes any property after December 31, 2002; and

WHEREAS, The annexation *policy* plan requirements are contained in §§10-2-401.5 Utah Code; and

WHEREAS, North Ogden City developed an annexation policy plan in accordance with in §§10-2-401.5 Utah Code; and

WHEREAS, The North Ogden City Planning Commission, after meeting with the Harrisville and Pleasant View Planning Commissions, negotiated future annexation areas; and

WHEREAS, The North Ogden City Planning Commission advertised in the official newspaper of general circulation, *Standard Examiner*, on October 28, November 4, and 11, 2002, for a public hearing held on November 13, 2002; and

WHEREAS, The North Ogden City Planning Commission held a public hearing on November 13, 2002, and received no public comments; and

WHEREAS, The North Ogden City Planning Commission did not receive any written comments during the 10-day waiting period after the public hearing; and

WHEREAS, The North Ogden City Planning Commission recommended to the North Ogden City Council approval of the North Ogden City Annexation Policy Plan without any modifications;

WHEREAS, The North Ogden City Council advertised in the official newspaper of general circulation, *Standard Examiner*, on December 30, 2002, for a public hearing on the annexation policy plan to be held on January 14, 2003; and


IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF NORTH OGDEN CITY:

SECTION 1. The North Ogden City Annexation Policy Plan dated January 28, 2003 is hereby adopted.

PASSED AND ADOPTED this 28th day of January 2003.

FOR NORTH OGDEN CITY:

ATTEST:

  
Lynn C. Muirbrook, Mayor

53. fui. Spendlove  
S. Annette Spendlove,  
City Recorder

# NORTH OGDEN CITY



# ANNEXATION POLICY PLAN

January 28, 2003



# NORTH OGDEN CITY

## Annexation Policy Plan

### I. Introduction.

The North Ogden City Annexation Policy Plan is developed in accordance with Utah Code §10-2-401.5. In developing this plan, the North Ogden City Planning Commission and the North Ogden City Council considered all unincorporated areas between the City corporate boundaries and its neighboring communities. This plan attempts to avoid any overlaps with the expansion areas of other municipalities. The Planning Commission met with Pleasant View Planning Commission on September 5, 2002 and met with the Harrisville Planning Commission on September 25, 2002.

In developing this Annexation Policy Plan, North Ogden City considered the population growth projections for the city and adjoining areas for the next 20 years. Consideration was also given to the current and projected costs of infrastructure, urban services, and public facilities necessary.

The North Ogden City Annexation Policy Plan is to facilitate full development of the area within the current city boundaries and to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area. This plan is developed in conjunction with the North Ogden City General Plan, and the need over the next 20 years for additional land suitable for residential, commercial, and industrial development. Included in this plan are the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in and around the city.

The proposed annexation boundaries are drawn, as practicable and feasible, along the boundaries of existing special districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities. This plan is to eliminate islands and peninsulas of territory that are not receiving City services. The plan analyzed any overlapping functions to consider the consolidation of such functions so there is an efficient delivery of services and the City is equitable in its distribution of community resources and obligations.

### II. Criteria For Granting Future Annexation Petitions.

#### A. Character of the Community.

Historically, North Ogden City was an agricultural community settled in the mid-1800s. The community had many fruit orchards, but as time has moved on either the farmers have tired of farming or their heirs do not desire to farm. As a result, the orchards have been sold for residential development and North Ogden has become a bedroom community with its residents being employed in various employment centers along the Wasatch Front.

Today, North Ogden City is an open-space suburb and community that provides housing for people of all income levels and styles of living. The City's housing stock is largely single-family detached housing, however there is adequate attached housing to meet affordable housing needs. The community has two senior single-family detached housing subdivisions, a senior twin-home development, and one senior multi-family housing project.

The City has a commercial core that provides retail services for the community's daily needs. However, clothing and large item purchases, such as furniture, appliances, new vehicles (an used car lot does exist in the city), recreational vehicles, etcetera, must take place out of the city.

North Ogden City has very little industrial activity. Only one industrial operation, Slik-Pak, exists in the city.

**B. Municipal Services In Developed And Undeveloped Unincorporated Areas.**

North Ogden City provides culinary water, sanitary sewage collection, solid waste collection, and storm water drainage infrastructure services. The City also provides public safety services through its own police department. Fire safety and emergency medical services are provided by the North View Fire Department, which is a three-city fire department governed by the mayors of Harrisville, North Ogden, and Pleasant View. North Ogden City has a parks and recreation system operated by its own parks and recreation department. North Ogden also provides land use planning and protection services through its Planning Department.

The expansion and extension of municipal services are based on the following standards:

1. Adequate culinary water pressure and storage capacity is required for development to take place.
2. Along with the culinary water pressure and storage demands, fire flow standards in accordance with the Uniform Fire Code must also be met.
3. North Ogden City requires all sanitary sewer collection to be gravity flow. Individual homeowner owned and operated pump stations are permitted, but the City's wastewater collection system is to be free of pumping or lift stations.
4. Every development must accommodate the storm drainage demands for a five-year storm.
5. Every subdivision must have a second-access when at least one of the following exists:
  - A. A residential lot is more than 1600-feet from a through street;

B. More than 60-single-family residential lots, or 60-residential units; or 100,000 square feet of commercial or industrial space, whichever is less, are platted or developed.

6. North Ogden City wants land use control of the land fronting all streets in its corporate boundaries.

C. Financing of Services.

The developer of the land pays for the new public infrastructure. Impact fees are collected on building permits for new structures to pay the proportionate share of the impact new development has on capital improvements. The expansion of public services, such as the law enforcement, fire, and emergency medical services, administrative, and parks, and community development are paid through the property taxation of the land.

D. An estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area.

North Ogden City has performed studies to identify the impact of new development on the City. As a result of these studies, the City Council has adopted impact fee schedules to avoid the financial impact of new development on the existing residents. The impact fee studies also assure that the new development impact fee funds do not subsidize existing development. The monthly fee schedules on culinary water, sanitary sewer, and storm water provides for the on-going replacement costs, system upgrades, and maintenance of the respective infrastructure systems.

III. Special District and Public Service Franchise Area Boundaries.

Special districts serving the North Ogden City area are:

1. Weber County School District.
2. Ben Lomond Cemetery District.
3. Weber County Mosquito Abatement District.
4. Pine View Water Systems District.
5. North View Fire Department.
6. Central Weber Sewer Improvement District.
7. Bona Vista Water Improvement District.

Public service companies serving North Ogden City are:

1. Utah Power Company for electrical power.

2. Questar Gas Company for natural gas service.
3. Qwest for telecommunications service.
4. AT&T Broadband for cable television and telecommunications service.

All but two of the public service providers and special districts serve North Ogden City and the areas it plans to annex in the next 20-years. The two agencies having boundaries that do not include all of the present North Ogden City jurisdictional boundaries and the areas the City plans to annex are the Ben Lomond Cemetery District and the Bona Vista Water Company.

The Ben Lomond Cemetery District covers all of North Ogden City and its intended annexation area, except the Silver Springs Subdivision located west of Mountain Road at the 1510 North Street and 1525 North Street. The Silver Springs Subdivision is already located in North Ogden City. Annexation plans do not conflict with the Ben Lomond Cemetery District.

The Bona Vista Water Improvement District serves the Harrisville area, but its storage facilities are located east of Mountain Road in North Ogden City. Some residents south of 1700 North Street in North Ogden City are connected to the Bona Vista waterline, but since 1990, all new developments in the Bona Vista Water Company service area that is located in North Ogden City, must be connected to the North Ogden City Culinary Water System.

Justification for excluding from the expansion area any area containing urban development within one-half mile of the city boundary.

No unincorporated area within one-half mile of the North Ogden City boundary and not located in another incorporated city, is proposed to be excluded from this annexation policy plan, except land owned by the United States Department of Agriculture – Forest Service located north and east of North Ogden City.

III. A statement addressing any comments made by affected entities at or within ten days after the public meeting.

On November 13, 2002, the North Ogden Planning Commission held its public hearing and no comments were received. During the 10-day written comment period Pleasant View City submitted its annexation policy plan. The Pleasant View Annexation Policy Plan is in harmony with the boundaries agreed upon by both planning commissions on September 5, 2002.

IV. Map of The Expansion Area.

Attached is a map showing the proposed annexation area for North Ogden City. A narrative explanation of each area is provided below. No area outside of Weber County is proposed for annexation.

The Planning Commission reviewed the proposed annexation policy plan on September 24, 2002. Because Ogden City and North Ogden City have no unincorporated area between its

borders, a meeting between the two cities did not take place. The Pleasant View Planning Commission and the North Ogden Planning Commission met on September 5, 2002 and mutually agreed on what areas would be annexed into the respective cities. Because there are no cities north or east of North Ogden City within one-half mile of its current corporate boundaries, no other cities have been consulted.

#### Pleasant View City

The two areas of unincorporated property between North Ogden City and Pleasant View: (1) the unincorporated island located north of 3425 North and 3275 North, from 225 West Street to 100 East Street; and (2) the area north of the power line. The Pleasant View City Planning Commission and the North Ogden City Planning Commission met on September 5, 2002. Both Planning Commissions agreed with the following:

1. North Ogden City will annex the portion of the unincorporated island located north of 3425 North and 3275 North, from 225 West Street to 100 East Street, from the center of the canal, south. It is intended that Pleasant View City will annex north of the canal.
2. The second area of unincorporated land is located at the point where the two cities meet at the Utah Power Company power line parcel. Along with the Utah Power Company, there is private land located north of the power line parcel and south of the U.S. Forest Service land. North Ogden City plans to annex that area from its current northwest corner, north to the United States Department of Agriculture – Forest Service property, and east to the Forest Service property east of North Ogden City.

#### Harrisville City

Between Harrisville and North Ogden are two unincorporated areas. The first area is located along 2000 North Street and west of 400 East Street (Washington Boulevard). The second area is located west of 400 East Street at the 1500 North Street alignment north to approximately 200-feet south of 1900 North Street, and west to the 150 East Street alignments.

The Harrisville Planning Commission and North Ogden City Planning Commission met on September 25, 2002 to discuss the respective annexation policy plans. In the first area, North Ogden City intends to annex from the west of its present corporate boundaries as far west as the natural drainage will drain to the east. This area will be the area along the east and west of 150 East Street, from the Ben Lomond Golf Course to 2550 North Street.

In the second area, North Ogden City intends to annex all of the unincorporated area located west of 400 East Street, west to its present corporate border at the 150 East Street alignment, from approximately 1525 North Street, north to the present North Ogden City corporate boundaries south of 1900 North Street.

The North Ogden Planning Commission was unanimous on these areas intended for annexation. The North Ogden Planning Commission agreed with the Harrisville Planning Commission that any residential development in the area south of 1900 North Street, south

to the present Harrisville corporate boundary at approximately the 1500 North Street alignment, and from the 150 East Street alignment, east to 400 East Street should be commercial development and single-family residential lots with a minimum of 10,000 square foot lots. The North Ogden Planning Commission is recommending this stipulation if Harrisville City agrees to not place this area in its annexation policy plan.

Because there is no unincorporated private land between North Ogden City and Ogden City, there are no annexation plans between North Ogden City and Ogden City.

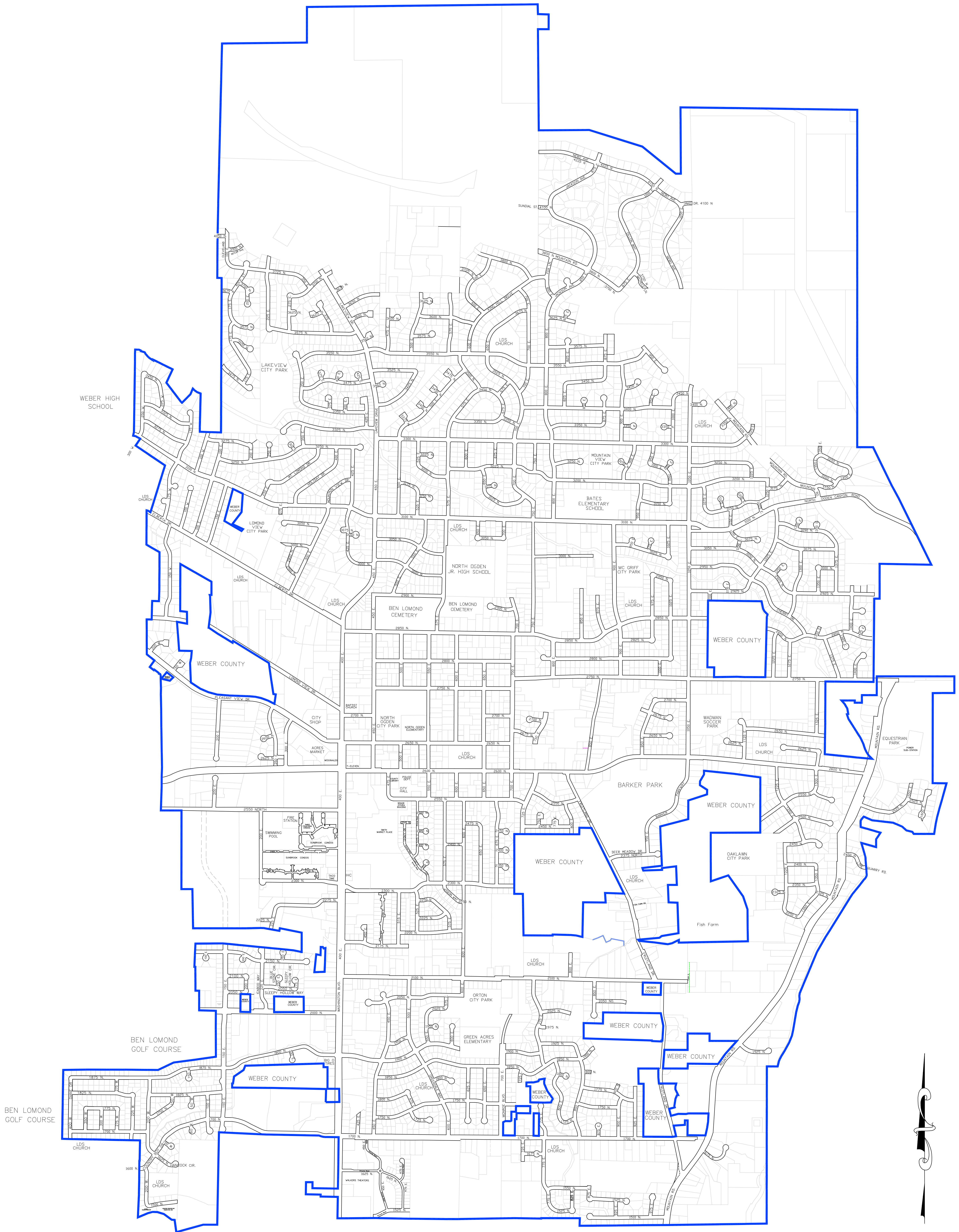
## PROCESS

The North Ogden City Planning Commission held a public hearing on November 13, 2002 and provided notice by advertising for at least 14-days. This public hearing allowed Harrisville, Ogden, and Pleasant View and Weber County to examine this proposed annexation policy plan and provide input on it. No input was provided at the public hearing.

Following the public hearing, the North Ogden Planning Commission will accept and consider any additional written comments from affected entities until November 25, 2002. No comments were received during this written comment period, therefore no modifications were made and subsequent public hearing held. The Planning Commission recommended approval of the Annexation Policy Plan to the City Council.

On January 14, 2003, the City Council held a public hearing, after advertising for at least 14-days and notifying Harrisville, Ogden, Pleasant View, and Weber County, on the planning commission's recommended annexation policy plan. The City Council adopted this plan without modification on January 28, 2003 by adopting ordinance #2003-02.

North Ogden City submitted a copy of this annexation policy plan to the Weber County Board of Commissioners of this annexation policy plan January 29, 2003, which was within 30 days of adoption.



ANNEXATION AREA  
**North Ogden City**

SCALE: NONE

REVISED March 18, 2015



Vice Chairman Mason stated that he was contacted by a resident several months ago about the land that will be discussed under agenda item 10; the resident asked him if he felt that the land could be used for a residential purpose. He stated that he provided his personal opinion that the property should remain in the hillside protection (HP) zoning designation. He stated he does not believe that conversation will have any bearing on the decision that will be made tonight.

Chairman Thomas noted that he has a conflict of interest related to agenda item 10; the subject property is the property adjacent to a property he is developing. If the zoning of the land is changed and the property become developable, he wants to ensure he has maintained an 'arm's length' distance from actions taken regarding that item. He stated he will abstain from discussing and voting on that matter, but he will still conduct the meeting for that agenda item. He then noted that the applicant under agenda item seven is a partner of his on another project, but he has nothing to do with the project that will be discussed tonight, and he has no conflict of interest.

No additional disclosures were made.

**5. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA**

There were no public comments.

**CONSENT AGENDA:**

**6. CONSIDERATION AND ACTION REGARDING ANNEXING PROPERTY LOCATED AT APPROX. 1700 N FRUITLAND DR AND TO ZONE THE PROPERTY R-1-8 PRESENTER: ROB SCOTT, PLANNING DIRECTOR**

A staff memo from Planning Director Scott explained when the City is considering a legislative matter, the Planning Commission is acting as a recommending body to the City Council. The City has wide discretion in taking legislative action. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically, the criteria for making a decision, related to a legislative matter, requires compatibility with the general plan and existing codes. The applicant has submitted an application to annex 1.11 acres of property at 1700 North Fruitland Drive. The property has an existing single-family home. The applicant will be submitting a subdivision for the property upon annexation and zone designation.

The adjacent properties are residential and agricultural. The applicant is requesting a R-1-8 zone. The properties in this area are a combination of R-1-8 and RE-20 zones.

**CONFORMANCE TO THE GENERAL PLAN**

The North Ogden General Plan Annexation Policy Declaration calls for this property to be annexed into North Ogden City. The property is within the Coldwater Creek Neighborhood. The General Plan map calls for this property to be developed as residential low density; the R-1-8 zone is consistent with this designation.

The memo offered the following summary of potential Land Use Authority considerations:

Is the annexation and zoning proposal consistent with the General Plan?

Is the property located within the North Ogden City annexation declaration boundary?



The memo concluded staff recommends that the Planning Commission recommend that the City Council annex this property and apply the R-1-8 zone.

Mr. Scott reviewed his staff memo.

Vice Chairman Mason asked if the Commission is forwarding a recommendation regarding the annexation as well as the zoning assignment, to which Mr. Scott answered yes. Vice Chairman Mason stated he is comfortable with the annexation but would like to understand the zoning of other properties in the area of the subject property. He expressed concern that moving from an R-1-8 zone to RE-20 is a rough transition. Mr. Scott stated the parcel to the north of the subject property is a County island that is zoned A-1; properties to the west are R-1-8, though some property to the west is located in Weber County. Properties to the south and east are RE-20, meaning this is definitely an area that is in transition.

**Vice Chairman Mason made a motion to forward a positive recommendation to the City Council to annex the property located at approximately 1700 North and Fruitland Drive and to zone the property R-1-8, based on the findings and subject to the conditions listed in the staff report. Commissioner Arner seconded the motion.**

**Voting on the motion:**

<b>Chairman Thomas</b>	<b>aye</b>
<b>Vice Chairman Mason</b>	<b>aye</b>
<b>Commissioner Arner</b>	<b>aye</b>
<b>Commissioner Barker</b>	<b>aye</b>
<b>Commissioner Lunt</b>	<b>absent</b>
<b>Commissioner Nancarrow</b>	<b>aye</b>
<b>Commissioner Webb</b>	<b>absent</b>

**The motion carried.**

**LEGISLATIVE ITEMS:**

10. **ZMA 2021-02 PUBLIC HEARING, CONSIDERATION AND RECOMMENDATION REGARDING REZONING PROPERTY LOCATED AT APPROX. 3625 N. 950 E. FROM HP-3 TO HP-2.**  
**PRESENTER: ROB SCOTT, PLANNING DIRECTOR**

A staff memo from Planning Director Scott explained when the City is considering a legislative matter, the Planning Commission is acting as a recommending body to the City Council. The City has wide discretion in taking legislative action. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically, the criteria for making a decision related to a legislative matter, requires compatibility with the general plan and existing codes.

## Standard-Examiner/Daily Herald Legals Print Ad Proof

ADNo: 7459 Customer Number: U00296  
 Customer Name: Company: NORTH OGDEN CITY  
 Address: 505 E 2600 N  
 City/St/Zip: NORTH OGDEN ,UT 84414  
 Phone: (801) 737-9835 Solicitor: JR  
 Category: 10 Class: 1000 Rate: LE-0 Start: 4-15-2021 Stop: 4-29-2021  
 Lines: 89 Inches: 9.27 Words: 469

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 Credit Card: Expire:  
 Order Number:  
 Cost: 1004.40 Extra Charges: .00 Adjustments: .00  
 Payments: .00 Discount: .00  
 Balance: 1004.40  
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**PUBLIC NOTICE**

**NOTICE IS HEREBY GIVEN** that the North Ogden City Council received an annexation petition from Jeffrey and Padma Randall to annex property into the corporate limits of North Ogden City. The property contains 1.14 acres in area and is located at 1700 North Fruitland Drive in North Ogden, Utah. The City Council received certification from Susan Nance, Deputy City Recorder on April 5, 2021. Copies of the proposed annexation are available from the City Recorder at 505 East 2600 North, North Ogden, Utah.

The legal description of the property petitioned for annexation is as follows:

A part of the Northeast Quarter of Section 4, Township 6 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point on the existing North Ogden City Limits according to Annexation Plat 16-097 of Weber County Records, which is South 0°17'02" West (being the basis of bearing) 1160.92 feet to the old centerline of 1700 North street extended Easterly, North 89°14'28" West along said old centerline 583.67 feet and North 00°45'32" East 33.00 feet more or less to the intersection of a fence line extended Southerly and the old North right-of-way line of 1700 North Street, from the Northeast corner of said Section 4; and running thence North 0°24'59" West 157.12 feet along a fence line to a fence corner, thence South 89°11'00" East along another fence line 296.99 feet more or less to the West right-of-way of Fruitland Drive, thence South 14°53'45" East along said Fruitland Drive and the current city limits according to Annexation Plat 33-009 of Weber County Records 162.82 feet more or less to the intersection of said West line of Fruitland Drive and said old North line of 1700 North Street, thence along said old North line North 89°14'28" West 337.70 feet to the point of beginning.

Containing 1.14 acres, more or less.

The City Council will receive written protests to this annexation from the legislative or governing bodies of the affected entities until May 17, 2021 at 5pm. Only written protests by legal owners will be considered. A written protest to this annexation must be

filed with the Weber County Board of County Commissioners, 2380 Washington Boulevard, Ogden, Utah 84401. A copy of said protest must also be provided to Katie Gerard, City Recorder, North Ogden City, 505 East 2600 North, North Ogden, Utah 84414 by May 17, 2021. If written protests are received, the City Council will evaluate and determine the validity of the protest and if the protests are from legal protesters. Upon the completion of such an evaluation and determination, the City Council may or may not adopt an Ordinance annexing this property on May 25, 2021.

Susan Nance  
North Ogden Deputy City Recorder

Legal Notice 7459 Published in  
Standard Examiner on April 15, 22, 29,  
2021

Exhibit F



**ANNEXATION PETITION CERTIFICATION**

**Whereas,** the City of North Ogden has adopted an Annexation Policy Plan by ordinance defining those areas that the City will consider for annexation and the process for consideration of annexation petitions, and

**Whereas,** the attached petition for annexation has been delivered to the City Recorder of North Ogden City consistent with the Annexation Policy Plan, and

**Whereas,** the County Surveyor has found no conditions that would not allow for annexation, and meets the requirements of Utah law for further consideration, and

**Whereas,** the City Recorder has received comments back from the City Planner, Building Official, Sanitary Sewer Superintendent, Storm Water Superintendent, Culinary Water Superintendent, and Weber County Surveyor, and has determined that the attached petition meets the conditions of Utah law for further consideration by North Ogden City.

**Now therefore,** the City Recorder hereby submits this Certification to the City Council of North Ogden City provided by Jeffrey and Padma Randall, owners of property located at approximately 1700 North Fruitland Drive, North Ogden, UT, containing 1.14 acres for further consideration consistent with the Annexation Policy Plan and Utah Law.

**CERTIFIED** this 5<sup>th</sup> day of April 2021.

Signed:   
Susan Nance, CMC  
North Ogden Deputy City Recorder

Date: 04/05/2021

Date of Delivery to Mayor and City Council: April 5, 2021

## Standard-Examiner/Daily Herald Legals Print Ad Proof

ADNo: 7720 Customer Number: U00296  
Customer Name: Company: NORTH OGDEN CITY  
Address: 505 E 2600 N  
City/St/Zip: NORTH OGDEN ,UT 84414  
Phone: (801) 737-9835 Solicitor: JR  
Category: 10 Class: 1000 Rate: LE-0 Start: 5-14-2021 Stop: 5-21-2021  
Lines: 22 Inches: 2.29 Words: 100

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Credit Card: Expire:  
Order Number:  
Cost: 165.60 Extra Charges: .00 Adjustments: .00  
Payments: .00 Discount: .00  
Balance: 165.60

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**PUBLIC HEARING  
NORTH OGDEN CITY**

The North Ogden City Council will hold a Public Hearing to consider an application for Annexation located at 1700 N Fruitland Drive in North Ogden, Utah and contains approximately 1.14 acres. The City Council will hold a Public Hearing on Tuesday, May 25, 2021 at 6pm or shortly after, in the City Council Chambers at 505 East 2600 North Street, North Ogden, Utah or electronically by zoom. All interested citizens are invited to attend.

Susan Nance  
North Ogden Deputy City Recorder

Legal Notice 7720 Published in  
Standard Examiner on May 14, 21,  
2021



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## NORTH OGDEN CITY STAFF REPORT

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**TO:                   MAYOR & CITY COUNCIL**  
**FROM:               SUSAN NANCE, DEPUTY CITY RECORDER**  
**DATE:               MAY 18, 2021**  
**SUBJECT:           ANNEXATION PETITION**

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Shawn Maynard submitted an application (Exhibit A) for Bryan and Deanna Rasmussen on March 31, 2021 petitioning for annexation of approximately 1.83 acres located at 304 E 2000 N in North Ogden, Utah. The annexation process requires the City Council to accept the petition for annexation so that the annexation process can begin, which was done on April 13, 2021. The Weber County Surveyor has reviewed the annexation plat map and approved it on March 30, 2021 (Exhibit B). This property is within North Ogden City Annexation Declaration Policy (Exhibit C). The petitioner is requesting the zoning of C-2 zone, which the Planning Commission has recommended on April 21, 2021 (Exhibit D). The Utah State Code requires that the City give notice of an annexation for (3) consecutive weeks in a newspaper of local circulation (Exhibit E) no later than 10 days after the City Council receives notice of certification which was certified by the City Recorder on April 20, 2021 (Exhibit F). A Public Hearing is required and was noticed on May 14 and May 21, 2021 (Exhibit G). Written protests to this annexation were to be filed no later than May 24, 2021. No written protests have been submitted as of the date of this staff report. This annexation meets all the requirements to be annexed and before the City Council is an Ordinance for your consideration annexing this property into North Ogden City.

## ORDINANCE 2021-15

**AN ORDINANCE DECLARING THE ANNEXATION OF TERRITORY TO THE MUNICIPALITY OF NORTH OGDEN CITY. THE PROPERTY IS 1.83 ACRES IN AREA AND IS LOCATED AT 304 East 2000 North, NORTH OGDEN CITY AND OWNED BY BRYAN AND DEANNA RASMUSSEN.**

**WHEREAS;** Bryan and Deanna Rasmussen owns property located within the North Ogden City annexation policy plan; and

**WHEREAS;** Bryan and Deanna Rasmussen desires to have her property annexed into the corporate limits of North Ogden City; and

**WHEREAS;** Bryan and Deanna Rasmussen submitted a petition with an accurate plat or map of the territory to be annexed prepared under the supervision of the city engineer or a competent surveyor and certified by the engineer or surveyor; and

**WHEREAS;** Bryan and Deanna Rasmussen owns the land petitioned to be annexed into the City; and

**WHEREAS;** The Chairman of the Planning Commission of the township where North Ogden property is located has been notified of this annexation petition and has recommended the City Council that it be annexed; and

**WHEREAS;** The Weber County Clerk/Surveyor was notified on March 16, 2021 of the North Ogden City petition.

**Be it ordained by the governing body of the municipality of NORTH OGDEN CITY.**

**SECTION 1. TERRITORY ANNEXED.** The following territory, legally described as follows, is hereby annexed into the corporate limits of North Ogden City, Utah:

A PARCEL OF LAND LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 7 NORTH, RANGE 1 WEST OF THE SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SLEEPY HOLLOW NORTH SUBDIVISION, PHASE 2, BEING LOCATED SOUTH 0°00'00" EAST 1437.86 FEET AND NORTH 90°00'00" EAST 1148.88 FEET FROM THE CENTER CORNER OF SAID SECTION; RUNNING THENCE ALONG SAID SOUTH LINE SOUTH 89°13'17" EAST 336.90 FEET TO THE WEST LINE OF MAJESTIC VIEW TOWNHOMES SUBDIVISION; THENCE ALONG SAID WEST LINE SOUTH 0°58'04" WEST 1.08 FEET; THENCE CONTINUING ALONG SAID WEST LINE AND THE WEST LINE OF C. CHRISTIAN SUBDIVISION SOUTH 0°05'13" WEST 235.13 FEET, MORE OR LESS, TO THE NORTH RIGHT-OF-WAY LINE OF 2000 NORTH STREET; THENCE ALONG SAID RIGHT-OF-WAY NORTH 89°01'50" WEST 341.23 FEET; THENCE NORTH 00°58'04" EAST 235.05 FEET, MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 79,885 SQ.FT. OR 1.83 ACRES, MORE OR LESS.

**SECTION 2. ZONING CLASSIFICATION:** The entire area being annexed is zoned C-2

**SECTION 3. EFFECTIVE DATE:** This Ordinance shall take effect upon the recording of the Annexation plat.

**PASSED and ADOPTED this 25<sup>th</sup> day of May 2021.**

**North Ogden City:**

---

**S. Neal Berube**  
**North Ogden City Mayor**



**CITY COUNCIL VOTE AS RECORDED:**

	<b>Aye</b>	<b>Nay</b>
<b>Council Member Barker:</b>	_____	_____
<b>Council Member Cevering:</b>	_____	_____
<b>Council Member Ekstrom:</b>	_____	_____
<b>Council Member Stoker:</b>	_____	_____
<b>Council Member Swanson:</b>	_____	_____

**(In event of a tie vote of the Council):**

<b>Mayor Berube:</b>	_____	_____
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**ATTEST:**

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**Katie Gerard**  
**City Recorder**



**PETITION FOR ANNEXATION**

505 E. 2600 North, North Ogden, Utah 84414  
Phone: 801-782-7211 | FAX: 801-737-2219

Petition No. \_\_\_\_\_ Desired Zoning Classification: C-2  
*Filed in the Office of the City Recorder*

Fee: \$935 Check #: \_\_\_\_\_

Property Address (approx.): 304 E 2000 N, OGDEN, UT

Reason for annex request: Site Development

TO THE NORTH OGDEN CITY COUNCIL:

The undersigned real property owners respectfully petition for the described lands and territory in Weber County, Utah, attached hereto as Exhibit A, be immediately annexed to North Ogden City.

In support of this petition, the petitioners respectfully declare and represent that they are a majority of the owners of the private real property located within the above-described territory and are the owners of not less than one-third (1/3) in value of all said territory as shown by the last assessment rolls of Weber County, State of Utah, and that the said territory lies contiguous to the Corporate limits of North Ogden City, a Municipal Corporation of Utah.

SIGNATURE	PRINTED NAME	ADDRESS
	Bryan Rasmussen	304 E 2000 N, Ogden, UT
	Deanna Rasmussen	304 E 2000 N, Ogden, UT

I acknowledge that I will be charged for any fees incurred for the annexation review by the City including; City Engineer; publication in the local newspaper, and City staff time.

Property Owner Signature:  Date: 3/11/2021

Property Owner Signature:  Date: 3/11/2021

Contact Person (Sponsor): Shawn Maynor Spencer Priest 801-737-4515  
Gardner Engineering

E-mail Address: Shawn@Bullfrogspasnor spencer@gecivil.com

(A copy of this petition is to be submitted by the petitioner to the Weber County Surveyor the same day it is filed with North Ogden City.)

**EXHIBIT A**

Legal Description of property to be annexed  
and  
Reduced size plat of property boundaries

ANNEXATION PARCEL BOUNDARY DESCRIPTION

A PARCEL OF LAND LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 7 NORTH, RANGE 1 WEST OF THE SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SLEEPY HOLLOW NORTH SUBDIVISION, PHASE 2, BEING LOCATED SOUTH 0°00'00" EAST 1437.86 FEET AND NORTH 90°00'00" EAST 1148.88 FEET FROM THE CENTER CORNER OF SAID SECTION; RUNNING THENCE ALONG SAID SOUTH LINE SOUTH 89°13'17" EAST 336.90 FEET TO THE WEST LINE OF MAJESTIC VIEW TOWNHOMES SUBDIVISION; THENCE ALONG SAID WEST LINE SOUTH 0°58'04" WEST 1.08 FEET; THENCE CONTINUING ALONG SAID WEST LINE AND THE WEST LINE OF C. CHRISTIAN SUBDIVISION SOUTH 0°05'13" WEST 235.13 FEET, MORE OR LESS, TO THE NORTH RIGHT-OF-WAY LINE OF 2000 NORTH STREET; THENCE ALONG SAID RIGHT-OF-WAY NORTH 89°01'50" WEST 341.23 FEET; THENCE NORTH 00°58'04" EAST 235.05 FEET, MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 79,885 SQ.FT. OR 1.83 ACRES, MORE OR LESS.

**LANDOWNER ANNEXATION PETITION  
NORTH VIEW FIRE DISTRICT**

We, the undersigned, represent that we own real property located within the boundaries of the area in Weber County, Utah which is described and depicted on Exhibit "A" attached hereto (the "proposed annexation area") and that the proposed annexation area is located, in its entirety, either in unincorporated Weber County or in n/a (insert name of municipality). Each person signing this petition requests annexation of the proposed annexation area into the North View Fire District pursuant to Utah Code Ann. § 17B-1-401, et seq.

As required by Utah Code Ann. § 17B-1-404(1)(d), the following signers of this Petition are hereby designated as sponsors (no more than three sponsors may be named), with the first designated sponsor to serve as the contact sponsor.

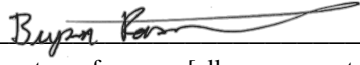
Contact Sponsor:

Name: Shawn Maynard  
 Mailing Address: 380 E 2000 N, North Ogden, UT 84414  
 Telephone No.: 801-737-4515

Additional Sponsors:

Name: Spencer Priest- Gardner Engineering  
 Mailing Address: 5150 S 375 E, Ogden UT  
 Telephone No.: 801-476-0202

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Telephone No.: \_\_\_\_\_

<p><u>1. Bryan Rasmussen</u>                  Owner's Name [please print or type]</p> <p><u>304 E 2000 N, OGDEN, UT</u>                  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. If known)</p>	<p style="text-align: center;">                  _____</p> <p>Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p><u>304 E 2000 N, Ogden, UT</u>                  Signer's Current Residence Address</p>
--	--

<p>2. <u>Deanna Rasmussen</u>  Owner's Name [please print or type]</p> <p><u>304 E 2000 N, OGDEN, UT</u>  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. If known)</p>	<p><u>Deanna Rasmussen</u>  Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p><u>304 E 2000 N, Ogden, UT</u>  Signer's Current Residence Address</p>
<p>3. _____  Owner's Name [please print or type]</p> <p>_____  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. If known)</p>	<p>_____  Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p>_____  Signer's Current Residence Address</p>
<p>4. _____  Owner's Name [please print or type]</p> <p>_____  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. If known)</p>	<p>_____  Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p>_____  Signer's Current Residence Address</p>
<p>5. _____  Owner's Name [please print or type]</p> <p>_____  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. If known)</p>	<p>_____  Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p>_____  Signer's Current Residence Address</p>
<p>6. _____  Owner's Name [please print or type]</p> <p>_____  Address of owner's real property which is included in the proposed annexation area (include Tax ID No. If known)</p>	<p>_____  Signature of owner - [all owners must sign] [if the owner is an entity, state the title of the signing authorized representative]</p> <p>_____  Signer's Current Residence Address</p>

**EXHIBIT "A" TO LANDOWNER ANNEXATION PETITION  
IDENTIFICATION OF PROPOSED ANNEXATION AREA**

The proposed annexation area is located in Weber County, Utah and is generally bounded by 2060 North Street on the north, 2000 North street on the south, Washington Blvd Street on the east and 225 East Street on the west (or where the prospective named streets would be located if extended), which area is depicted in the attachment to this Exhibit "A" and is more particularly described as follows:

[Insert legal description of the proposed annexation area -  
including parcel Tax ID numbers whenever possible and attach  
a map of the boundaries of the area proposed to be annexed]

A PARCEL OF LAND LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 7 NORTH, RANGE 1 WEST OF THE SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SLEEPY HOLLOW NORTH SUBDIVISION, PHASE 2, BEING LOCATED SOUTH 0°00'00" EAST 1437.86 FEET AND NORTH 90°00'00" EAST 1148.88 FEET FROM THE CENTER CORNER OF SAID SECTION; RUNNING THENCE ALONG SAID SOUTH LINE SOUTH 89°13'17" EAST 336.90 FEET TO THE WEST LINE OF MAJESTIC VIEW TOWNHOMES SUBDIVISION; THENCE ALONG SAID WEST LINE SOUTH 0°58'04" WEST 1.08 FEET; THENCE CONTINUING ALONG SAID WEST LINE AND THE WEST LINE OF C. CHRISTIAN SUBDIVISION SOUTH 0°05'13" WEST 235.13 FEET, MORE OR LESS, TO THE NORTH RIGHT-OF-WAY LINE OF 2000 NORTH STREET; THENCE ALONG SAID RIGHT-OF-WAY NORTH 89°01'50" WEST 341.23 FEET; THENCE NORTH 00°58'04" EAST 235.05 FEET, MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 79,885 SQ.FT. OR 1.83 ACRES, MORE OR LESS.

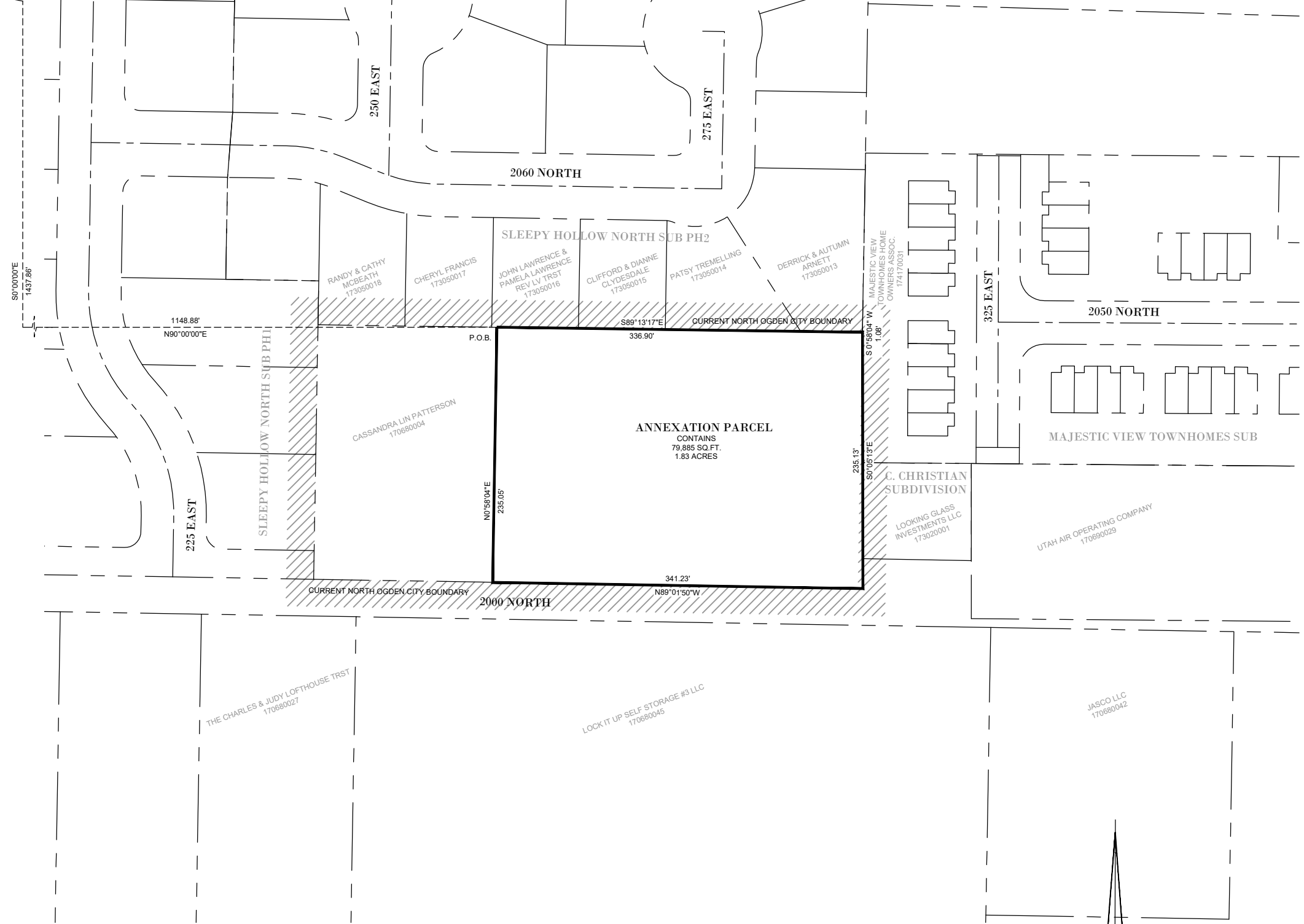
Parcel No. 170680001

**ANNEXATION TO NORTH OGDEN CITY  
ORDINANCE NO. \_\_\_\_\_  
LOCATED IN THE SOUTHEAST QUARTER OF SECTION 32,  
TOWNSHIP 7 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN,  
NORTH OGDEN CITY, WEBER COUNTY, UTAH  
FEBRUARY 2021**

NORTHEAST CORNER  
SEC. 32, T7N, R1W, SLB&M  
FOUND W.C. 3" BRASS CAP-1996  
IN MONUMENT BOX 0.5' BELOW  
SURFACE, GOOD COND.

CENTER CORNER  
SEC. 32, T7N, R1W, SLB&M  
FOUND W.C. 3" BRASS CAP-1974  
FLUSH W/GROUND, GOOD COND.

M45°47'04"E 3888.68'  
(BASIS OF BEARING)



**ANNEXATION PARCEL BOUNDARY DESCRIPTION**

A PARCEL OF LAND LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 7 NORTH, RANGE 1 WEST OF THE SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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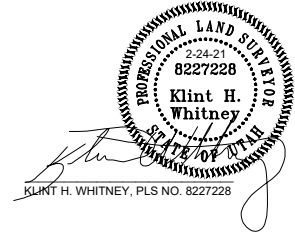
**NARRATIVE**

THE PURPOSE OF THIS SURVEY WAS TO ANNEX THE SUBJECT PARCELS INTO NORTH OGDEN CITY CORPORATION. THE SURVEY WAS ORDERED BY SHAWN MAYNARD. THE CONTROL USED TO ESTABLISH THE BOUNDARY WAS THE EXISTING WEBER COUNTY SURVEY MONUMENTATION AS SHOWN AND NOTED HEREON. THE BASIS OF BEARING IS THE LINE BETWEEN THE CENTER OF SECTION AND THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 7 NORTH, RANGE 1 WEST, OF THE SALT LAKE BASE AND MERIDIAN WHICH BEARS NORTH 45°47'04" EAST, WEBER COUNTY, UTAH NORTH NAD 83 STATE PLANE GRID BEARING.

**SURVEYOR'S CERTIFICATE**

I, KLINT H. WHITNEY, DO HEREBY CERTIFY THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH AND THAT I HOLD CERTIFICATE NO. 8227228 IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND LAND SURVEYORS ACT; I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS RECORD OF SURVEY PLAT IN ACCORDANCE WITH SECTION 17-23-20 AND HAVE VERIFIED ALL MEASUREMENTS; THAT THE REFERENCE MONUMENTS SHOWN ON THIS RECORD OF SURVEY PLAT ARE LOCATED AS INDICATED AND ARE SUFFICIENT TO RETRACE OR REESTABLISH THIS SURVEY; AND THAT THE INFORMATION SHOWN HEREIN IS SUFFICIENT TO ACCURATELY ESTABLISH THE LATERAL BOUNDARIES OF THE HEREIN DESCRIBED TRACT OF REAL PROPERTY.

SIGNED THIS 24TH DAY OF FEBRUARY, 2021.



**NORTH OGDEN CITY ACCEPTANCE**

I, \_\_\_\_\_ CERTIFY THAT I AM THE DULY APPOINTED, QUALIFIED CITY RECORDER OF NORTH OGDEN CITY, A MUNICIPAL CORPORATION OF UTAH, AND THAT THE ABOVE AND FOREGOING PLAT OF LAND SOUGHT TO BE ANNEXED TO SAID CITY WITH THE PETITION OF CERTAIN OWNERS OF REAL PROPERTY EMBRACED THEREIN FOR SUCH ANNEXATION WERE FILED IN MY OFFICE ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021, THAT THE QUESTION OF SUCH ANNEXATION WAS DULY SUBMITTED TO AND VOTED ON BY THE COUNCIL OF NORTH OGDEN CITY AT ITS MEETING DULY CONVENED AND HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021, THAT ON SUCH VOTE, MORE THAN TWO THIRDS OF ALL MEMBERS OF SAID COUNCIL WERE IN FAVOR OF SUCH ANNEXATION AND THAT THE FOREGOING PLAT IS THE VERY SAME PLAT REFERRED TO IN NORTH OGDEN CITY ORDINANCE NO. \_\_\_\_\_ DULY ORDAINED BY SAID COUNCIL ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021, DECLARING SUCH ANNEXATION.

WITNESS MY HAND AND OFFICIAL SEAL  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.

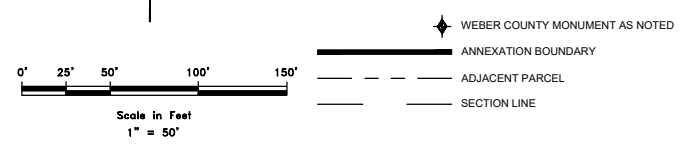
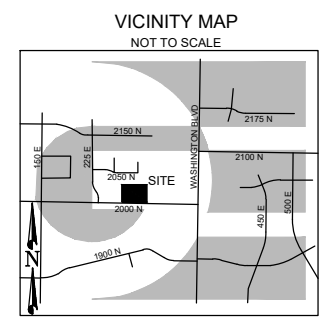
APPROVED - NORTH OGDEN CITY MAYOR \_\_\_\_\_ NORTH OGDEN CITY RECORDER \_\_\_\_\_

WEBER COUNTY SURVEYOR \_\_\_\_\_ OWNER'S AFFIDAVIT \_\_\_\_\_

THIS PLAT IS HEREBY APPROVED AS A FINAL LOCAL ENTITY PLAT AS REQUIRED BY UTAH CODE 17-23-20. I, THE UNDERSIGNED OWNER(S) OF THE HEREON DESCRIBED TRACT OF LAND, HAVING CAUSED THE SAME TO BE ANNEXED INTO NORTH OGDEN CITY.

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021. SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.

WEBER COUNTY SURVEYOR \_\_\_\_\_ BY: BRYAN RASMUSSEN \_\_\_\_\_  
BY: DEANNA RASMUSSEN \_\_\_\_\_



SCALE: 1:50 XREF	DATE: 2-23-2021
DESIGN: _____	DRAWN: SGP
CHECKED: KHW	

ANNEXATION PLAT  
304 E, 2000 N, NORTH OGDEN, UTAH  
LOCATED IN THE SOUTHEAST QUARTER OF SECTION 32  
TOWNSHIP 7 NORTH, RANGE 1 WEST, OF THE S.L.B.&M.

**GARDNER ENGINEERING**  
CIVIL/LAND PLANNING  
MUNICIPAL - LAND SURVEYING  
5150 SOUTH 375 EAST OGDEN, UT  
OFFICE: 801.476.0202 FAX: 801.476.0066

**COUNTY RECORDER**

ENTRY NO. \_\_\_\_\_ FEE PAID \_\_\_\_\_  
FILED FOR AND RECORDED \_\_\_\_\_  
AT \_\_\_\_\_ IN BOOK \_\_\_\_\_ OF OFFICIAL RECORDS, PAGE \_\_\_\_\_ RECORDED FOR \_\_\_\_\_  
COUNTY RECORDER \_\_\_\_\_  
BY: \_\_\_\_\_



March 30, 2021

Darrel Woodruff

Weber County Surveyor's  
2380 Washington BLVD., Suite 370  
Ogden, Utah 84401



To Whom It May Concern:

Based upon state code [17-23-20] the Weber County Surveyor's office has reviewed the proposed plat Annexation to North Ogden\_Rasmussen\_17-068-0001\_7N1W32NE. The attached plat submitted on 03/16/2021 has been reviewed and conditional approval by this office, at this time, has been satisfied. If any additional changes other than required redlines are made to the attached plat, another review will be required by this office for approval. Signatures and platting requirements will be reviewed at the time of final submittal of mylar to this office for approval and county surveyor signature.

Thank you,

Weber County Surveyor's Office

**COPY** ORDINANCE NO. 2003- 03

AN ORDINANCE ADOPTING THE NORTH OGDEN CITY ANNEXATION POLICY PLAN DATED JANUARY 28, 2003.

WHEREAS, The 2001 Utah Legislature required a city to adopt annexation policy plan before such city annexes any property after December 31, 2002; and

WHEREAS, The annexation *policy* plan requirements are contained in §§10-2-401.5 Utah Code; and

WHEREAS, North Ogden City developed an annexation policy plan in accordance with in §§10-2-401.5 Utah Code; and

WHEREAS, The North Ogden City Planning Commission, after meeting with the Harrisville and Pleasant View Planning Commissions, negotiated future annexation areas; and

WHEREAS, The North Ogden City Planning Commission advertised in the official newspaper of general circulation, *Standard Examiner*, on October 28, November 4, and 11, 2002, for a public hearing held on November 13, 2002; and

WHEREAS, The North Ogden City Planning Commission held a public hearing on November 13, 2002, and received no public comments; and

WHEREAS, The North Ogden City Planning Commission did not receive any written comments during the 10-day waiting period after the public hearing; and

WHEREAS, The North Ogden City Planning Commission recommended to the North Ogden City Council approval of the North Ogden City Annexation Policy Plan without any modifications;

WHEREAS, The North Ogden City Council advertised in the official newspaper of general circulation, *Standard Examiner*, on December 30, 2002, for a public hearing on the annexation policy plan to be held on January 14, 2003; and


IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF NORTH OGDEN CITY:

SECTION 1. The North Ogden City Annexation Policy Plan dated January 28, 2003 is hereby adopted.

PASSED AND ADOPTED this 28th day of January 2003.

FOR NORTH OGDEN CITY:

ATTEST:

  
Lynn C. Muirbrook, Mayor

53. fui. Spen-dlove  
S. Annette Spendlove,  
City Recorder

# NORTH OGDEN CITY



## ANNEXATION POLICY PLAN

January 28, 2003

# NORTH OGDEN CITY

## Annexation Policy Plan

### I. Introduction.

The North Ogden City Annexation Policy Plan is developed in accordance with Utah Code §10-2-401.5. In developing this plan, the North Ogden City Planning Commission and the North Ogden City Council considered all unincorporated areas between the City corporate boundaries and its neighboring communities. This plan attempts to avoid any overlaps with the expansion areas of other municipalities. The Planning Commission met with Pleasant View Planning Commission on September 5, 2002 and met with the Harrisville Planning Commission on September 25, 2002.

In developing this Annexation Policy Plan, North Ogden City considered the population growth projections for the city and adjoining areas for the next 20 years. Consideration was also given to the current and projected costs of infrastructure, urban services, and public facilities necessary.

The North Ogden City Annexation Policy Plan is to facilitate full development of the area within the current city boundaries and to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area. This plan is developed in conjunction with the North Ogden City General Plan, and the need over the next 20 years for additional land suitable for residential, commercial, and industrial development. Included in this plan are the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in and around the city.

The proposed annexation boundaries are drawn, as practicable and feasible, along the boundaries of existing special districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities. This plan is to eliminate islands and peninsulas of territory that are not receiving City services. The plan analyzed any overlapping functions to consider the consolidation of such functions so there is an efficient delivery of services and the City is equitable in its distribution of community resources and obligations.

### II. Criteria For Granting Future Annexation Petitions.

#### A. Character of the Community.

Historically, North Ogden City was an agricultural community settled in the mid-1800s. The community had many fruit orchards, but as time has moved on either the farmers have tired of farming or their heirs do not desire to farm. As a result, the orchards have been sold for residential development and North Ogden has become a bedroom community with its residents being employed in various employment centers along the Wasatch Front.

Today, North Ogden City is an open-space suburb and community that provides housing for people of all income levels and styles of living. The City's housing stock is largely single-family detached housing, however there is adequate attached housing to meet affordable housing needs. The community has two senior single-family detached housing subdivisions, a senior twin-home development, and one senior multi-family housing project.

The City has a commercial core that provides retail services for the community's daily needs. However, clothing and large item purchases, such as furniture, appliances, new vehicles (an used car lot does exist in the city), recreational vehicles, etcetera, must take place out of the city.

North Ogden City has very little industrial activity. Only one industrial operation, Slik-Pak, exists in the city.

**B. Municipal Services In Developed And Undeveloped Unincorporated Areas.**

North Ogden City provides culinary water, sanitary sewage collection, solid waste collection, and storm water drainage infrastructure services. The City also provides public safety services through its own police department. Fire safety and emergency medical services are provided by the North View Fire Department, which is a three-city fire department governed by the mayors of Harrisville, North Ogden, and Pleasant View. North Ogden City has a parks and recreation system operated by its own parks and recreation department. North Ogden also provides land use planning and protection services through its Planning Department.

The expansion and extension of municipal services are based on the following standards:

1. Adequate culinary water pressure and storage capacity is required for development to take place.
2. Along with the culinary water pressure and storage demands, fire flow standards in accordance with the Uniform Fire Code must also be met.
3. North Ogden City requires all sanitary sewer collection to be gravity flow. Individual homeowner owned and operated pump stations are permitted, but the City's wastewater collection system is to be free of pumping or lift stations.
4. Every development must accommodate the storm drainage demands for a five-year storm.
5. Every subdivision must have a second-access when at least one of the following exists:
  - A. A residential lot is more than 1600-feet from a through street;

B. More than 60-single-family residential lots, or 60-residential units; or 100,000 square feet of commercial or industrial space, whichever is less, are platted or developed.

6. North Ogden City wants land use control of the land fronting all streets in its corporate boundaries.

C. Financing of Services.

The developer of the land pays for the new public infrastructure. Impact fees are collected on building permits for new structures to pay the proportionate share of the impact new development has on capital improvements. The expansion of public services, such as the law enforcement, fire, and emergency medical services, administrative, and parks, and community development are paid through the property taxation of the land.

D. An estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area.

North Ogden City has performed studies to identify the impact of new development on the City. As a result of these studies, the City Council has adopted impact fee schedules to avoid the financial impact of new development on the existing residents. The impact fee studies also assure that the new development impact fee funds do not subsidize existing development. The monthly fee schedules on culinary water, sanitary sewer, and storm water provides for the on-going replacement costs, system upgrades, and maintenance of the respective infrastructure systems.

III. Special District and Public Service Franchise Area Boundaries.

Special districts serving the North Ogden City area are:

1. Weber County School District.
2. Ben Lomond Cemetery District.
3. Weber County Mosquito Abatement District.
4. Pine View Water Systems District.
5. North View Fire Department.
6. Central Weber Sewer Improvement District.
7. Bona Vista Water Improvement District.

Public service companies serving North Ogden City are:

1. Utah Power Company for electrical power.

2. Questar Gas Company for natural gas service.
3. Qwest for telecommunications service.
4. AT&T Broadband for cable television and telecommunications service.

All but two of the public service providers and special districts serve North Ogden City and the areas it plans to annex in the next 20-years. The two agencies having boundaries that do not include all of the present North Ogden City jurisdictional boundaries and the areas the City plans to annex are the Ben Lomond Cemetery District and the Bona Vista Water Company.

The Ben Lomond Cemetery District covers all of North Ogden City and its intended annexation area, except the Silver Springs Subdivision located west of Mountain Road at the 1510 North Street and 1525 North Street. The Silver Springs Subdivision is already located in North Ogden City. Annexation plans do not conflict with the Ben Lomond Cemetery District.

The Bona Vista Water Improvement District serves the Harrisville area, but its storage facilities are located east of Mountain Road in North Ogden City. Some residents south of 1700 North Street in North Ogden City are connected to the Bona Vista waterline, but since 1990, all new developments in the Bona Vista Water Company service area that is located in North Ogden City, must be connected to the North Ogden City Culinary Water System.

Justification for excluding from the expansion area any area containing urban development within one-half mile of the city boundary.

No unincorporated area within one-half mile of the North Ogden City boundary and not located in another incorporated city, is proposed to be excluded from this annexation policy plan, except land owned by the United States Department of Agriculture – Forest Service located north and east of North Ogden City.

III. A statement addressing any comments made by affected entities at or within ten days after the public meeting.

On November 13, 2002, the North Ogden Planning Commission held its public hearing and no comments were received. During the 10-day written comment period Pleasant View City submitted its annexation policy plan. The Pleasant View Annexation Policy Plan is in harmony with the boundaries agreed upon by both planning commissions on September 5, 2002.

IV. Map of The Expansion Area.

Attached is a map showing the proposed annexation area for North Ogden City. A narrative explanation of each area is provided below. No area outside of Weber County is proposed for annexation.

The Planning Commission reviewed the proposed annexation policy plan on September 24, 2002. Because Ogden City and North Ogden City have no unincorporated area between its

borders, a meeting between the two cities did not take place. The Pleasant View Planning Commission and the North Ogden Planning Commission met on September 5, 2002 and mutually agreed on what areas would be annexed into the respective cities. Because there are no cities north or east of North Ogden City within one-half mile of its current corporate boundaries, no other cities have been consulted.

#### Pleasant View City

The two areas of unincorporated property between North Ogden City and Pleasant View: (1) the unincorporated island located north of 3425 North and 3275 North, from 225 West Street to 100 East Street; and (2) the area north of the power line. The Pleasant View City Planning Commission and the North Ogden City Planning Commission met on September 5, 2002. Both Planning Commissions agreed with the following:

1. North Ogden City will annex the portion of the unincorporated island located north of 3425 North and 3275 North, from 225 West Street to 100 East Street, from the center of the canal, south. It is intended that Pleasant View City will annex north of the canal.
2. The second area of unincorporated land is located at the point where the two cities meet at the Utah Power Company power line parcel. Along with the Utah Power Company, there is private land located north of the power line parcel and south of the U.S. Forest Service land. North Ogden City plans to annex that area from its current northwest corner, north to the United States Department of Agriculture – Forest Service property, and east to the Forest Service property east of North Ogden City.

#### Harrisville City

Between Harrisville and North Ogden are two unincorporated areas. The first area is located along 2000 North Street and west of 400 East Street (Washington Boulevard). The second area is located west of 400 East Street at the 1500 North Street alignment north to approximately 200-feet south of 1900 North Street, and west to the 150 East Street alignments.

The Harrisville Planning Commission and North Ogden City Planning Commission met on September 25, 2002 to discuss the respective annexation policy plans. In the first area, North Ogden City intends to annex from the west of its present corporate boundaries as far west as the natural drainage will drain to the east. This area will be the area along the east and west of 150 East Street, from the Ben Lomond Golf Course to 2550 North Street.

In the second area, North Ogden City intends to annex all of the unincorporated area located west of 400 East Street, west to its present corporate border at the 150 East Street alignment, from approximately 1525 North Street, north to the present North Ogden City corporate boundaries south of 1900 North Street.

The North Ogden Planning Commission was unanimous on these areas intended for annexation. The North Ogden Planning Commission agreed with the Harrisville Planning Commission that any residential development in the area south of 1900 North Street, south



to the present Harrisville corporate boundary at approximately the 1500 North Street alignment, and from the 150 East Street alignment, east to 400 East Street should be commercial development and single-family residential lots with a minimum of 10,000 square foot lots. The North Ogden Planning Commission is recommending this stipulation if Harrisville City agrees to not place this area in its annexation policy plan.

Because there is no unincorporated private land between North Ogden City and Ogden City, there are no annexation plans between North Ogden City and Ogden City.

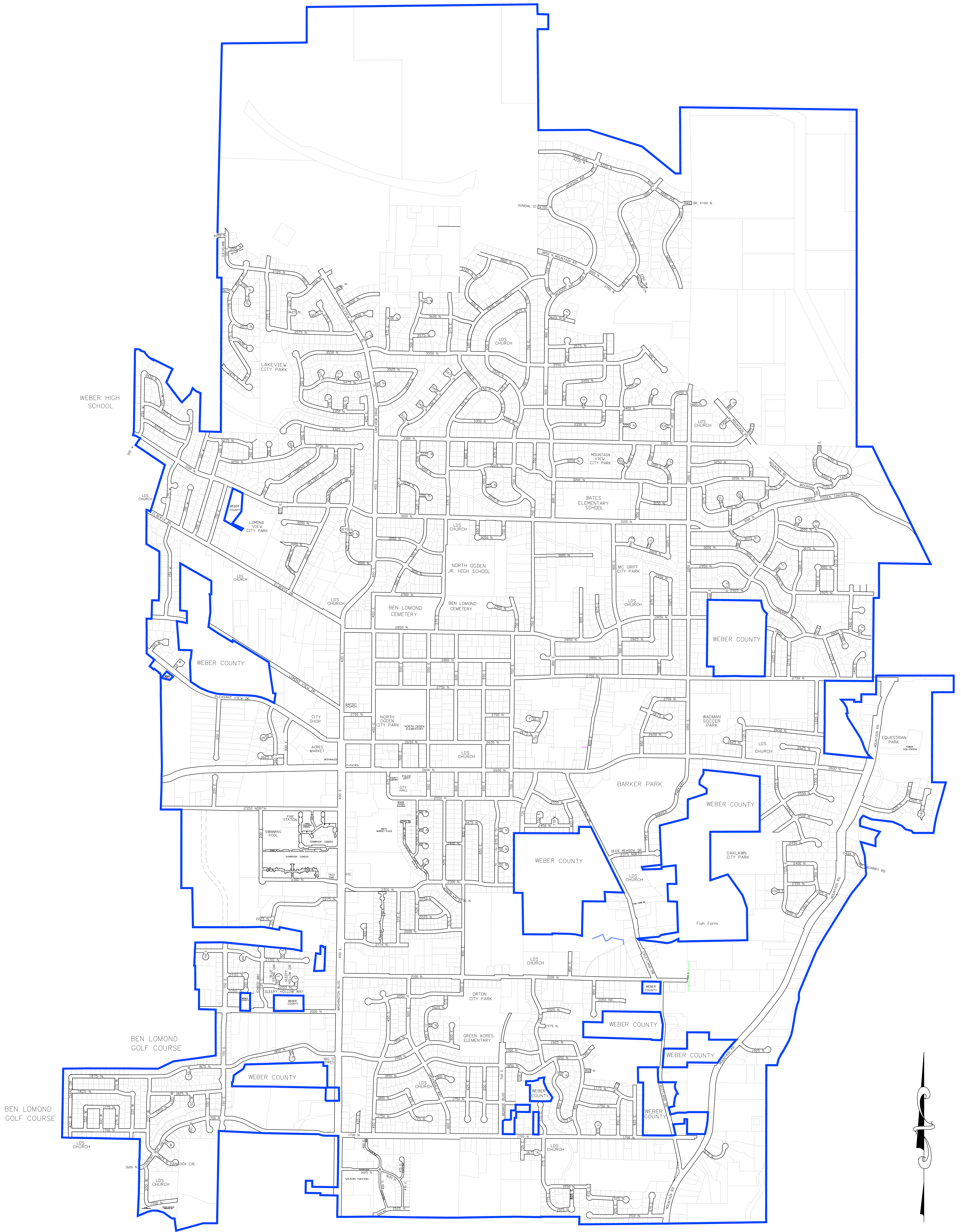
## PROCESS

The North Ogden City Planning Commission held a public hearing on November 13, 2002 and provided notice by advertising for at least 14-days. This public hearing allowed Harrisville, Ogden, and Pleasant View and Weber County to examine this proposed annexation policy plan and provide input on it. No input was provided at the public hearing.

Following the public hearing, the North Ogden Planning Commission will accept and consider any additional written comments from affected entities until November 25, 2002. No comments were received during this written comment period, therefore no modifications were made and subsequent public hearing held. The Planning Commission recommended approval of the Annexation Policy Plan to the City Council.

On January 14, 2003, the City Council held a public hearing, after advertising for at least 14-days and notifying Harrisville, Ogden, Pleasant View, and Weber County, on the planning commission's recommended annexation policy plan. The City Council adopted this plan without modification on January 28, 2003 by adopting ordinance #2003-02.

North Ogden City submitted a copy of this annexation policy plan to the Weber County Board of Commissioners of this annexation policy plan January 29, 2003, which was within 30 days of adoption.



ANNEXATION AREA  
**North Ogden City**

SCALE: NONE

REVISED March 18, 2015



Exhibit D

he invited Mr. Espinoza to address the Commission to provide that information. Mr. Espinoza indicated his willingness to work with the Planning Commission and City Council to pursue design standards that are aesthetically pleasing and improve the safety of a roadway, but he is concerned about requiring intensive improvements to the streetscape or center island of Monroe Boulevard given the cost associated with such improvements and the difficulty in requiring a developer to complete such improvements.

Chairman Thomas facilitated discussion among the Commission and staff regarding the implications for both the City and a developer of requiring certain design standards for streetscapes and trail improvements. Commissioner Thomas relayed the Commission's desires for improvements along Monroe Boulevard and Mountain Road, including planted medians, street trees, trails, and bulb-outs at intersections with the roads. Mr. Espinoza stated he will take that information under advisement and work with Mr. Scott to develop a recommendation for the Commission to consider. Any action taken by the Commission and ultimately the City Council will be used to inform the City's Capital Improvement Plan (CIP) planning process.

7. **CONSIDERATION AND ACTION REGARDING ANNEXING PROPERTY LOCATED AT APROX. 304 EAST 2000 NORTH AND TO ZONE THE PROPERTY C-2 PRESENTER: ROB SCOTT, PLANNING DIRECTOR**

A staff memo from Planning Director Scott explained when the City is considering a legislative matter, the Planning Commission is acting as a recommending body to the City Council. The City has wide discretion in taking legislative action. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically, the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes.

The applicant has submitted an application to annex 1.83 acres of property at 304 East 2000 North. The property has an existing single-family home. The applicant will be selling this property to Bull Frog Spas for eventual expansion. Mr. Maynard has indicated that there is the potential for mixed use although no firm plans have been made.

The adjacent properties are residential and commercial. The applicant is requesting a C-2 zone. The properties in this area are a combination of R-1-8, C-2, and MP-1.

**CONFORMANCE TO THE GENERAL PLAN**

The North Ogden General Plan Annexation Policy Declaration calls for this property to be annexed into North Ogden City. The property is within the Coldwater Creek Neighborhood.

The Planning Commission and City Council will decide if the zoning for this property is appropriate as part of the transition for this area and consistent with the surrounding uses.

**Zoning and Land-Use Policy**

The following policy consists of general statements to be used as guidelines. Such guidelines may on occasion conflict, when several are compared. In such cases, the Planning Commission will prioritize the guidelines as they pertain to the specific parameters of the issue which is pending. All zoning requests should first be evaluated for their compliance with the General Plan.

**General Guidelines:**

- A definite edge should be established between types of uses to protect the integrity of each use, except where the mixing of uses is recommended in the General Plan.  
**Staff Comment:** The General Plan map calls for this property to be developed as residential low density; properties to the east and south have a mixed-use designation. Across 2000 North to the south are storage units with MP-1 zoning. This area is a blend of commercial, manufacturing, and residential uses.  
This is a policy decision. The question before the Planning Commission and City Council is where should the transition be established between the mix of uses within this neighborhood and commercial district occur?
- Zoning should reflect the existing use of property to the greatest extent possible, unless the area is in transition or is in conflict with the General Plan.  
**Staff Comment:** This property is transitioning to a new use and the zoning will determine the range of uses.
- Where possible, properties which face each other, across a local street, should be the same or a similar zone. Collector and arterial roads may be sufficient buffers to warrant different zones.  
**Staff Comment:** 2000 North is a collector street. Having a commercial use across from the Manufacturing zone with storage units would be appropriate.
- Zoning boundaries should not cut across individual lots or developments (i.e., placing the lot in two separate zones). Illogical boundaries should be redrawn to follow property or established geographical lines.  
**Staff Comment:** The parcel will be entirely within one zone.
- The Planning Commission may choose to use mixed use, multiple family, or professional office zoning as a buffer between commercial and residential uses.  
**Staff Comment:** This policy reflects the need to determine the relationship between this mix of uses.
- Any non-residential zone abutting residential zones should be a mixed use, or planned zone (e.g., CP-2, MP- 1) to help minimize the impacts on residential zones. Transitions between uses should be carefully thought through.  
**Staff Comment:** The proposal is for this property should be weighed against the zoning standards for buffering, etc. The potential exists to identify and address buffering provisions and incorporate them into a development agreement.

**Commercial Guidelines:**

- Generally commercial zones should be located along Washington Blvd. and 2700 North streets, avoiding local streets which serve residential zones. Access to commercial zones should avoid local streets within residential zones.  
**Staff Comment:** Commercial and manufacturing zoning has also extended along 2000 North, a collector street.
- Adhere to the General Plan recommendations for the Downtown and Southtown.

**Staff Comment:** This property is adjacent to the Southtown boundary. The properties to the east have been identified as mixed use.

- If compatible with the General Plan, existing businesses on collectors and arterials should be allowed to expand while providing an adequate buffer with adjacent residential zones.

**Staff Comment:** Zoning for commercial would allow for the eventual expansion of the Bull Frog Spa business.

- Encourage commercial uses to be developed with a focus toward walkable streets, with buildings approaching the sidewalk, rather than as standard strip commercial with parking adjacent to the road.

**Staff Comment:** This policy could be incorporated into a development agreement that would incorporate these design principles into a future site plan.

- Consider development agreements to assure higher quality development.

**Staff Comment:** This is addressed in earlier comments and is a possibility to insure the appropriate transition and compatibility with the surrounding uses.

- Promote mixed use developments.

**Staff Comment:** This neighborhood already is a mixture of residential, commercial, and manufacturing uses.

The memo offered the following summary of potential Land Use Authority considerations:

- Is the annexation and zoning proposal consistent with the General Plan?
- Is the property located within the North Ogden City annexation declaration boundary?
- What is the appropriate zoning for this property?
- Where should the transition be established the mix of uses within this neighborhood and commercial district?

The memo concluded staff recommends that the Planning Commission recommend that the City Council annex this property. The Planning Commission should also make a recommendation on the appropriate zone.

Mr. Scott reviewed his staff memo.

Commissioner Nancarrow referenced the aerial photo of the subject property and stated it appears as if there are two parcels within the island of unincorporated Weber County property; she asked if the parcel to the east is the only parcel subject to this annexation. Mr. Scott answered yes. Commissioner Nancarrow asked if the other parcel is owned by the same property owner, to which Mr. Scott answered no and noted it contains a home.

Commissioner Barker asked if the recommendation of C-2 zoning would also include a requirement for a development agreement. Mr. Scott stated staff recommends both the C-2 zone and a development agreement. Commissioner Barker stated he wonders if that is truly a transitional zone for the property's surroundings.

Chairman Thomas invited input from the applicant.

Shawn Maynard stated he is the owner of The Cannery building and he has requested the C-2 zone; his plans are to expand the operations of The Cannery building onto the subject property. He originally had a contract to purchase the property to the north of his property, but for reasons that he does not understand, the City allowed that property to be developed as townhomes rather than commercial use. This is the only opportunity for The Cannery to expand and thrive. He understands it abuts residential uses and is prepared to provide appropriate buffering to address any concerns about that relationship.

Vice Chairman Mason asked if the development would promote walkability in the area. Mr. Maynard stated that the current sidewalk layout does not encourage walkability, but as development continues, he expects he will dedicate a defined amount of space for an appropriate setback to accommodate a park strip and improved sidewalk. He expects to engage in conversations about those issues, as well as landscaping, as the project moved forward.

There was a brief discussion about the ownership and uses of surrounding properties, after which the discussion recentered on the relationship between the subject property and the residential properties immediately to the west. Mr. Maynard reiterated he feels he can implement adequate buffering measures to limit the impact that his project will have on adjacent residential properties.

Chairman Thomas invited public input. There were no persons appearing to be heard.

**Vice Chairman Mason made a motion to forward a positive recommendation to the City Council to annex the property located at approximately 304 E. 2000 N. and to zone the property C-2, based on the findings and subject to the conditions listed in the staff report. Commissioner Lunt seconded the motion.**

Commissioner Barker asked if the motion includes a requirement for a development agreement. Vice Chairman Mason stated he left that out of his motion because he feels any concerns will be adequately addressed if the project conforms with the City's development standards for a C-2 property.

Commissioner Nancarrow stated that the General Plan calls for low-density residential for the subject property, but the applicant makes an excellent point that the highest and best use of the property is not single-family homes as it is surrounded by manufacturing uses. She feels the expansion of the businesses in The Cannery is an appropriate suggestion. Commissioner Barker agreed. Commissioner Nancarrow added, however, that she does feel it would be appropriate to include a recommendation for a development agreement in the motion.

**Commissioner Nancarrow offered a friendly amendment to suggest that the City Council consider negotiating a development agreement with the applicant.**

Vice Chairman Mason asked the applicant if he is willing to enter into a development agreement for the project. Mr. Maynard stated that he expects that what he will produce on the property will be better than what is currently there or other projects that could be allowed there. He would rather work through the defined application process to determine the design of the project rather than be constrained by a development agreement.

Chairman Thomas asked Commissioner Nancarrow to express the types of things she would like a development agreement to address. Commissioner Nancarrow stated that the development agreement would run with the land in perpetuity rather than just for this application. She stated that it may be the case that the applicant does not proceed with this current proposal and, instead, sells his property five or 10 years down the road; she would like for the City to be able to require a development agreement for other development proposals for the property. Chairman Thomas stated he would be open to recommending a development agreement that solely addresses walkability and frontage on 2000 North, but he feels that commercial development is appropriate for the area and it is not appropriate to negotiate a development agreement that addresses every single detail of the project. Mr. Scott added that a development agreement could also be used to determine the appropriate buffering between commercial zoning and the existing residential development to the west. This would give assurances to those property owners as well as the City. Mr. Maynard stated that he feels the City's land use code already includes mechanisms to ensure that level of protection. Chairman Thomas agreed and stated that he does not believe a development agreement is needed in this circumstance.

**Vice Chairman stated that he does not accept the friendly amendment to his motion based upon the conversation about the subject matter.**

Mr. Scott stated that Commissioner Nancarrow has the option to make a substitute motion that, if seconded, would be voted upon before the original motion. Commissioner Nancarrow stated she does not feel strongly enough about the issue, but since it was mentioned in the staff report she wanted to have the discussion.

**Voting on the original motion:**

<b>Chairman Thomas</b>	<b>aye</b>
<b>Vice Chairman Mason</b>	<b>aye</b>
<b>Commissioner Arner</b>	<b>aye</b>
<b>Commissioner Barker</b>	<b>aye</b>
<b>Commissioner Lunt</b>	<b>aye</b>
<b>Commissioner Nancarrow</b>	<b>aye</b>
<b>Commissioner Webb</b>	<b>absent</b>

**The motion carried.**

**LEGISLATIVE ITEMS:**

8. **ZTA 2018-03 CONSIDERATION AND RECOMMENDATION ON A LEGISLATIVE AMENDMENT TO CREATE A SENSITIVE LANDS CHAPTER, AMEND THE DEVELOPMENT CONSTRAINTS CHAPTER, AND AMEND THE DEFINITIONS CHAPTER**  
**PRESENTER: ROB SCOTT, PLANNING DIRECTOR**

A staff memo from Planning Director Scott explained when the City is considering a legislative matter, the Planning Commission is acting as a recommending body to the City Council. The City has wide discretion in taking legislative action. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning

Standard-Examiner/Daily Herald Legals Print Ad Proof

ADNo: 7536 Customer Number: U00296  
 Customer Name: Company: NORTH OGDEN CITY  
 Address: 505 E 2600 N  
 City/St/Zip: NORTH OGDEN ,UT 84414  
 Phone: (801) 737-9835 Solicitor: JR  
 Category: 10 Class: 1000 Rate: LE-0 Start: 4-23-2021 Stop: 5-7-2021  
 Lines: 87 Inches: 9.06 Words: 415

Credit Card: Expire:  
 Order Number:  
 Cost: 982.80 Extra Charges: .00 Adjustments: .00  
 Payments: .00 Discount: .00  
 Balance: 982.80

**PUBLIC NOTICE**

**NOTICE IS HEREBY GIVEN** that the North Ogden City Council received an annexation petition from Bryan and Deanna Rasmussen to annex property into the corporate limits of North Ogden City. The property contains 1.83 acres in area and is located at 304 East 2000 North in North Ogden, Utah. The City Council received certification from Susan Nance, Deputy City Recorder on April 20, 2021. Copies of the proposed annexation are available from the City Recorder at 505 East 2600 North, North Ogden, Utah.

The legal description of the property petitioned for annexation is as follows:

A PARCEL OF LAND LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 7 NORTH, RANGE 1 WEST OF THE SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 BEGINNING AT A POINT ON THE SOUTH LINE OF SLEEPY HOLLOW NORTH SUBDIVISION, PHASE 2, BEING LOCATED SOUTH 0°00'00" EAST 1437.86 FEET AND NORTH 90°00'00" EAST 1148.88 FEET FROM THE CENTER CORNER OF SAID SECTION; RUNNING THENCE ALONG SAID SOUTH LINE SOUTH 89°13'17" EAST 336.90 FEET TO THE WEST LINE OF MAJESTIC VIEW TOWNHOMES SUBDIVISION; THENCE ALONG SAID WEST LINE SOUTH 0°58'04" WEST 1.08 FEET; THENCE CONTINUING ALONG SAID WEST LINE AND THE WEST LINE OF C. CHRISTIAN SUBDIVISION SOUTH 0°05'13" WEST 235.13 FEET, MORE OR LESS, TO THE NORTH RIGHT-OF-WAY LINE OF 2000 NORTH STREET; THENCE ALONG SAID RIGHT-OF-WAY NORTH 89°01'50" WEST 341.23 FEET; THENCE NORTH 00°58'04" EAST 235.05 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 79,885 SQ.FT. OR 1.83 ACRES, MORE OR LESS.

The City Council will receive written protests to this annexation from the legislative or governing bodies of the affected entities until May 24, 2021 at 5pm. Only written protests by legal protesters will be considered. A written protest to this annexation must be filed with the Weber County Board of County Commissioners, 2380 Wash-



ington Boulevard, Ogden, Utah 84401. A copy of said protest must also be provided to Katie Gerard, City Recorder, North Ogden City, 505 East 2600 North, North Ogden, Utah 84414 by May 24, 2021. If written protests are received, the City Council will evaluate and determine the validity of the protest and if the protests are from legal protesters. Upon the completion of such an evaluation and determination, the City Council may or may not adopt an Ordinance annexing this property on May 25, 2021.

Susan Nance  
North Ogden Deputy City Recorder

Legal Notice 7536 Published in  
Standard Examiner on April 23, 30,  
May 7, 2021



**ANNEXATION PETITION CERTIFICATION**

**Whereas**, the City of North Ogden has adopted an Annexation Policy Plan by ordinance defining those areas that the City will consider for annexation and the process for consideration of annexation petitions, and


**Whereas**, the attached petition for annexation has been delivered to the City Recorder of North Ogden City consistent with the Annexation Policy Plan, and

**Whereas**, the County Surveyor has found no conditions that would not allow for annexation, and meets the requirements of Utah law for further consideration, and

**Whereas**, the City Recorder has received comments back from the City Planner, Building Official, Sanitary Sewer Superintendent, Storm Water Superintendent, Culinary Water Superintendent, and Weber County Surveyor, and has determined that the attached petition meets the conditions of Utah law for further consideration by North Ogden City.

**Now therefore**, the City Recorder hereby submits this Certification to the City Council of North Ogden City provided by Shawn Maynard for Bryan and Deanna Rasmussen, owners of property located at approximately 304 East 2000 North, North Ogden, UT, containing 1.83 acres for further consideration consistent with the Annexation Policy Plan and Utah Law.

**CERTIFIED** this 20<sup>th</sup> day of April 2021.

Signed:   
Susan Nance, CMC  
North Ogden Deputy City Recorder

Date: 04/20/2021

Date of Delivery to Mayor and City Council: April 20, 2021

Standard-Examiner/Daily Herald Legals Print Ad Proof

ADNo: 7721 Customer Number: U00296  
 Customer Name: Company: NORTH OGDEN CITY  
 Address: 505 E 2600 N  
 City/St/Zip: NORTH OGDEN ,UT 84414  
 Phone: (801) 737-9835 Solicitor: JR  
 Category: 10 Class: 1000 Rate: LE-0 Start: 5-14-2021 Stop: 5-21-2021  
 Lines: 22 Inches: 2.29 Words: 100

-----  
 Credit Card: Expire:  
 Order Number:  
 Cost: 165.60 Extra Charges: .00 Adjustments: .00  
 Payments: .00 Discount: .00  
 Balance: 165.60  
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**PUBLIC HEARING  
 NORTH OGDEN CITY**

The North Ogden City Council will hold a Public Hearing to consider an application for Annexation located at 304 E 2000 N in North Ogden, Utah and contains approximately 1.83 acres. The City Council will hold a Public Hearing on Tuesday, May 25, 2021 at 6pm or shortly after, in the City Council Chambers at 505 East 2600 North Street, North Ogden, Utah or electronically by zoom. All interested citizens are invited to attend.

Susan Nance  
 North Ogden Deputy City Recorder

Legal Notice 7721 Published in  
 Standard Examiner on May 14, 21,  
 2021



May 11, 2021

North Ogden City  
505 E 2600 N  
Ogden, UT 84414

We are pleased to confirm our understanding of the services we are to provide the North Ogden City for the year ended, June 30, 2021. We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements of the North Ogden City as of and for the year ended June 30, 2021. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the North Ogden City's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the North Ogden City's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's Discussion and Analysis
- 2) Schedule of revenues, expense and charges in net assets-budget to actual
- 3) Pension Disclosures

We have also been engaged to report on supplementary information other than RSI that accompanies North Ogden City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole, in a separate written report accompanying our auditor's report on the financial statements or in a report combined with our auditor's report on the financial statements:

- 1) Combining and individual non-major fund financial statements

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information.

- 1) Supplementary Schedules

## **Audit Objectives**

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards Generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of the accounting records of the North Ogden City and other procedures we consider necessary to enable us to express such opinions. We will issue a written report upon completion of our audit of the North Ogden City's financial statements. Our report will be addressed to governing body of the North Ogden City. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or may withdraw from this engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and on compliance and other matters will include a paragraph that states (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance, and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control on compliance, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The paragraph will also state that the report is not suitable for any other purpose. If during our audit we become aware that the North Ogden City is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

## **Audit Procedures—General**

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. Our

responsibility as auditors is limited to the period covered by our audit and does not extend to later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

### **Audit Procedures—Internal Control**

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

### **Audit Procedures—Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the North Ogden City's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

### **Management Responsibilities**

Management is responsible for establishing and maintaining effective internal controls, including evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; following laws and regulations; and ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles, for the preparation and fair presentation of the financial statements and all accompanying information in conformity with U.S. generally accepted accounting principles, and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants and for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts or grant agreements, or abuse that we report.

You are responsible for the preparation of the supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements and related notes and any other non-audit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and related notes and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the no audit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

### **Engagement Administration, Fees, and Other**

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

We will provide copies of our reports to the North Ogden City; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Gilbert & Stewart and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to a Cognizant or Oversight Agency for Audit or its designee, a federal agency providing direct or indirect funding, or the U.S. General Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Gilbert & Stewart personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the Cognizant or Oversight Agency for Audit or its designee. If we are aware that a federal awarding agency or auditee is contesting an audit finding, we will contact the parties contesting the audit findings for guidance prior to destroying the audit documentation.

We expect to begin our audit on approximately September 1 and to issue our reports no later than December 31, 2021. Ron Stewart is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed \$11,000 for the audit. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 90 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

We appreciate the opportunity to be of service to the North Ogden City and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

**Gilbert & Stewart**

RESPONSE:

This letter correctly sets forth the understanding of the North Ogden City.

**Management:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Those Charged with Governance:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_







April 27, 2021

Mayor and City Council  
North Ogden City

Dear Mayor and City Council,

We are pleased to provide you with our proposal for consulting for the North Ogden City. We feel that Keddington & Christensen has the experience and qualifications necessary to provide the services you require.

We propose to perform the following consulting services on for quarter one and three of your fiscal year starting with the first quarter of your 2021-2022 fiscal year.

1. Review City prepared bank reconciliations for all cash accounts.
2. Review City prepared reconciliations for all PTIF accounts.
3. Review all balance sheet accounts for all funds including payroll-related liability accounts.
4. Scanning detail of accounts to determine proper classification of revenues and expenditures.
5. Assist with tracking of construction costs and related revenues.
6. Creating and posting adjusting journal entries as needed.
7. Assist with any other accounting issues that may arise.
8. Attend Audit Committee meetings when requested.

Year End financial statements –

When preparing information for the external auditors, we provide all necessary information electronically, usually a week or so prior to their on-site fieldwork. This gives them the chance to do much of their work off-site which means less disruption for the City's staff. Some of the documentation we will provide to auditors include:

1. Year-end statements for all bank, PTIF, or other investment accounts.
2. Reconciliations or other explanation of balances for all balance sheet accounts.
3. Schedules supporting restricted balances (debt reserves, impact fees, etc.).
4. Fixed asset roll-forward schedules that reconcile to depreciation and fixed asset schedules.
5. Supporting documentation for all fixed asset additions and disposals.
6. Long-term debt roll-forward schedules for both business-type funds and general long-term debt, that reconcile to debt service and amortization schedules.
7. Compensated absences roll-forward schedules for both business-type and governmental activities.
8. Grouping schedules to ensure that the auditors are auditing the financial statements as prepared.
9. Completed financial statements, including MD&A, footnotes, supplementary information, and required supplementary information.
10. And many other documents and schedules.

In addition, we will be on-site when the auditors are on-site to answer any questions or discuss any issues that may arise during the audit.

The fee for the above-mentioned services will be \$2,000 a quarter with an additional \$10,500 at year end for the year end procedures.

For fiscal year 2020-2021 we will perform the Year End Financial Statements procedures noted above for the above-mentioned amount of \$10,500.

We are enthusiastic about the possibility of providing the services that you need on a continuous basis. Our experienced staff can give prompt response to any needs that may arise throughout the year. If you have any questions, please call Gary Keddington, Partner at (801) 699-2030 ([Gary@KCcpaoffice.com](mailto:Gary@KCcpaoffice.com)) or Marcus Arbuckle, Partner at (801)898-2863 ([Marcus@KCcpaoffice.com](mailto:Marcus@KCcpaoffice.com)).

Sincerely,

*Keddington & Christensen*

Keddington & Christensen, CPA's

## AGREEMENT A3-2021

### LOCAL TRANSPORTATION FUNDING AGREEMENT

This Agreement is made effective this \_\_\_\_\_ day of \_\_\_\_\_ 2021, by and between Weber County and North Ogden City (collectively the “Parties” or individually the “Party”), and witnesses that:

**WHEREAS**, Utah Code Annotated §59-12-2217, the County Option Sales and Use Tax for Transportation and Utah Code Annotated §72-2-117.5, the Local Transportation Corridor Preservation Fund provide the opportunity for a Council of Governments and the local legislative body to prioritize and approve funding for transportation projects that are included in the area’s Regional Transportation Plan; and

**WHEREAS**, the Weber Area Council of Governments (WACOG) is the council of governments with the authority to work with Weber County, the local legislative body, to prioritize and approve funding for such transportation projects; and

**WHEREAS**, The 400/450 East project in North Ogden City is among the qualified projects prioritized for funding by WACOG and the Weber County Commission; and

**WHEREAS**, North Ogden City intends to preserve right-of-way along 400/450 East from 2600 North to 3300 North; and

**WHEREAS**, North Ogden City originally submitted a timely and complete application/request to the WACOG, and accordingly such request was approved by the WACOG on September 8, 2014 and subsequently approved by the Weber County Commission on September 30, 2014; and

**WHEREAS**, North Ogden City submitted an amendment request for additional corridor preservation funds and such request was approved by WACOG on May 3, 2021; and

**WHEREAS**, North Ogden City was previously awarded \$2,846,160 in Corridor Preservation Funds to assist with right-of-way acquisition and related expenses programmed for calendar year 2016; and

**WHEREAS**, North Ogden City was previously awarded \$625,000 in Sales Tax Funds to assist with construction and construction related expenses programmed for 2021, which will be deferred to a future year for construction of phase 2 and 3 of the project; and

**WHEREAS**, North Ogden City has committed matching funds in the amount of \$250,000 for right-of-way acquisition and \$500,000 for construction; and

**WHEREAS**, Surface Transportation Funds (STP) have been committed in the amount of \$3,519,000 for construction of phase 1 of the project; and

**WHEREAS**, Revenue generated from leased property and property resale, related to the project, will be retained and used towards construction expenses of phase 2 and 3 of the project; and

**WHEREAS**, Weber County has committed to assist with additional right-of-way expenses up to an additional \$902,700 programmed for calendar year 2021; and

**WHEREAS**, Weber County and North Ogden City propose to enter into this Funding Agreement to establish the terms and conditions Weber County and North Ogden City will be bound to in regard to this agreement;

**NOW THEREFORE**, it is agreed by and between the parties hereto as follows:

## **SECTION ONE INTRODUCTION AND BACKGROUND**

### **A. Introduction and Project Background.**

In conjunction with the North Ogden City 2600 North project, this project intends to mitigate the bottle neck effect on the roadway where the major arterial 5 lane state highway segment of Washington Blvd. narrows at 2600 North to a 3 lane city street.

The continuation of Washington Boulevard north of 2600 North is 400/450 East. This street will eventually connect to Skyline Drive/Mountain Road which is at approximately 4300 North. 400/450 East is a major collector street that serves as a transportation backbone that receives and distributes traffic from other collector/arterial roads such as 2600 North, Elberta Drive, 3100 North, 3300 North and eventually Skyline Drive/Mountain Road.

Washington Blvd (450 East) is currently an LOS E and “over capacity” by almost 3,000 cars per day. Traffic is projected to worsen rapidly as thousands of new homes are built in North Ogden and Pleasant View on Mt. Ben Lomond.

South of 2650 North on 400/450 East (Washington Boulevard) there are two travel lanes in each direction. As 400/450 East reaches 2650 North Street it narrows down to one lane in each direction. This causes traffic congestion in both directions. This area has a current level of service of an ‘F’. Information about the level of service can be found in the North Ogden City 2008 Transportation Master Plan, InterPlan, Project Number 080204. The recommendation in the InterPlan report is to add additional lanes

by widening this section of roadway. The current right-of-way is 80 feet. An additional 22 feet of right-of-way (for a total of 102 feet) would accommodate two additional travel lanes. The expansion of 400/450 East (Washington Boulevard) is critical for future north-south traffic flow in North Ogden as well as for commercial purposes as 450 East will eventually connect to Skyline Drive and bring traffic from I-15, Hwy 89 and Pleasant View City.

This project will greatly enhance traffic flow on Washington Blvd and will resolve the safety concerns that exist currently where the road narrows at the end of the state highway. It is an important project for the citizens to improve the current LOS E to an acceptable LOS, but also for many residents of Pleasant View and Harrisville who use Washington Blvd./450 E for shopping, access to the Library, or commuting.

In 2014, WACOG approved \$2,846,160 in corridor preservation funds to begin purchasing right-of-way from Washington Blvd. to 3300 North.

Due to current market increases, the property values have been higher than what was originally estimated. The city submitted an amendment request seeking an additional \$902,700 in corridor preservation funds to acquire the remaining right-of-way needing up to 3100 North. WACOG approved this request May 3, 2021.

North Ogden City received a federal grant through the Wasatch Front Regional Council for the construction portion of the project. Due to increasing construction costs, phase 1 of the project will be constructed up to 2850 North.

During the acquisition process, the city acquired several homes that are being leased and generating lease revenue until the project is ready for construction. The city also anticipates that there will be revenue generated from the resale of some remnant properties. The city estimates that the total future 2024 generated revenue from this project will be around \$1.2 million.

North Ogden City requested to use the generated revenue toward the construction of phase 2 and 3 of the project from 2850 N. to 3300 N. These revenues will be combined with the \$625,000 in local sales tax funds that the project was awarded for construction, which will be deferred and used in a future year. WACOG approved this request May 3, 2021.

North Ogden will contribute a local match of \$250,000 total, towards the right-of-way acquisition portion of all the entire contemplated project and \$500,000 total towards the construction portion of the entire contemplated project.

**B. County Obligations.**

1. County agrees to reimburse up to an additional \$902,700, programmed for calendar year 2021 for the purchase of right-of-way, and right-of-way related expenditures from the Local Transportation Corridor Preservation Fund.
2. County's payment obligations will arise only after the submission, by North Ogden City, of appropriate evidence of expenditures that qualify for reimbursement under this agreement. If North Ogden City does not expend and seek reimbursement for the full amount approved, then the appropriate Weber County Local Transportation Fund will retain the remaining funds.
3. North Ogden City acknowledges that the County cannot guarantee the payment of funds not yet appropriated, including the funds described in paragraph B.1. While the County may not use those funds for purposes or projects that have not gone through the WACOG process, which is outlined in Utah Code Annotated § 59-12-2217, there is no guarantee that the applicable tax revenue will be sufficient to fund all approved projects. If there is a funding shortfall at the time the County prepares its budget for one of the years referenced in paragraph B.1 then notwithstanding any other provision of this Agreement, the County may, without penalty or liability of any kind, appropriate for the Project a proportional amount, as follows: the County shall calculate the ratio of money promised for this Project to the total promised money for WACOG approved projects for the year, and then the County shall multiply that ratio by the actual funds anticipated to be available for WACOG approved projects at the time the County prepares its budget for the year. Here is an example using hypothetical numbers:

Assume the County has promised \$1,250,000 for this Project for the year 2022. If the County promised a total of \$25,000,000 for WACOG approved projects for 2022, then the ratio would be 5%. If, at budget preparation time, the available funds were only anticipated to be \$15,000,000, then the County would only be obligated to pay 5% of the \$15,000,000 to this Project, or \$750,000.

If the County pays a reduced, proportional amount as set forth above, it shall continue to pay proportional amounts of the funds available for WACOG approved projects in subsequent years, and shall not approve new projects to use those funds for those years, until the full amount set forth in this Agreement has been paid. North Ogden specifically acknowledges and agrees that in the event of a funding shortfall, the County shall not be obligated to make up the difference using the County's general funds or any other funding source.

**C. City Obligations.**

1. North Ogden City shall ensure that all applicable Local, State and Federal guidelines are followed with respect to property acquisition, description and recording.
2. North Ogden City shall comply with all program policies that have been adopted by WACOG. Should any of them conflict with state or federal law, the conflicting provisions of state or federal law shall control.

**D. Joint Obligations.**

1. The County and North Ogden City agree to jointly develop accounting and reporting procedures for the use and distribution of transportation funds.

**E. Miscellaneous.**

1. Indemnification. Because the County is only providing funding for this project, North Ogden City agrees to hold harmless and indemnify Weber County, its officers, employees and agents from and against all claims, suits and costs, including attorney's fees for injury or damage of any kind, arising out of North Ogden City's acts, errors or omissions in the performance of this project.
2. Modification. This Agreement may be modified only upon the written agreement of both parties.
3. Applicable Law. This Agreement shall be administered and interpreted in accordance with the laws of the State of Utah.
4. Default. If North Ogden City fails to obtain or provide its share of the funding, or if the project changes in any material way from what WACOG approved, then the County may declare a default, terminate this Agreement, and cease further payments. Additionally, North Ogden City agrees to return all funds that have already been paid under this Agreement.
5. Term. This Agreement shall terminate after satisfaction of all obligations accrued or incurred hereunder, or upon completion or cancellation of the Project referenced herein.
6. Notice. Any notice or certification required or permitted to be delivered under this agreement shall be deemed to have been given when personally delivered, or if mailed, three business days after deposit of the same in the United States Mail, postage prepaid, certified, or registered, return receipt requested, properly addressed to the following respective addresses:



Board of Weber County Commissioners, 2380 Washington Blvd., Suite 320, Ogden, UT 84401

North Ogden City, 505 E. 2600 N., North Ogden City, UT 84414

7. Severability. If any provision of this Agreement is held to be invalid or unenforceable by a court of proper jurisdiction, the remaining provisions shall remain in full force and effect.
8. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one of the same instrument.
9. Entire Agreement. This Agreement contains the entire agreement between the Parties, and no statement, promises or inducements made by either Party or agents for either Party that are not contained in this Agreement shall be binding or valid.
10. Waiver. No failure to enforce any provision of this Agreement on account of any breach thereof, shall be considered as a waiver of any right to enforce provisions of this Agreement concerning any subsequent or continuing breach.
11. Dispute Resolution. If a dispute arises regarding this Agreement, the Parties shall first attempt informal negotiations to resolve the dispute before taking legal action. If that fails, then the Parties may, but are not required to, pursue other means of alternative dispute resolution before taking legal action. In any legal dispute, each party shall be responsible for paying its own costs, including attorneys' fees, regardless of the outcome of the dispute.

IN WITNESS THEREOF, the Parties hereto have caused these presents to be executed by their duly authorized officers as of the day, month, and year first above written.

BOARD OF COUNTY COMMISSIONERS  
OF WEBER COUNTY

By \_\_\_\_\_  
James H. Harvey, Chair

Commissioner Jenkins voted \_\_\_\_\_  
Commissioner Froerer voted \_\_\_\_\_  
Commissioner Harvey voted \_\_\_\_\_

ATTEST:

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Ricky Hatch, CPA  
Weber County Clerk/Auditor

NORTH OGDEN CITY

By \_\_\_\_\_  
Title: