

PUBLIC NOTICE

Notice is Hereby Given that the Tooele City Council will meet in a Business Meeting on Wednesday, May 3, 2023, immediately following the Redevelopment Agency Meeting which begins at 7:00 p.m. The meeting will be held at the Tooele City Hall Council Chambers, located at 90 North Main Street, Tooele, Utah.

We encourage you to join the City Council meeting electronically by visiting the **Tooele City YouTube Channel**, at <https://www.youtube.com/@tooelecity> or by going to YouTube.com and searching "Tooele City Channel". If you are attending electronically and would like to submit a comment for the public comment period or for a public hearing item, please email cmpubliccomment@tooelecity.org anytime up until the start of the meeting. Emails will be read at the designated points in the meeting.

AGENDA

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Mayor's Youth Recognition Awards**
Presented by Debbie Winn, Mayor
4. **Public Comment Period**
5. **Public Hearing & Motion on Ordinance 2023-18** An Ordinance of Tooele City Adopting a Wastewater Impact Fee Facilities Plan and a Wastewater Impact Fee Analysis, and Amending Tooele City Code Chapter 4-15
Presented by Jamie Grandpre, Public Works Director
6. **Public Hearing on the Community Development Block Grant (CDBG) Second Public Hearing**
Presented by Jared Stewart, Economic Development Director
7. **Public Hearing & Motion on Resolution 2023-30** A Resolution of the Tooele City Council Approving Budget Amendments for Fiscal Year 2022-2023
Presented by Shannon Wimmer, Finance Director
8. **Resolution 2023-27** A Resolution of the Tooele City Council Consenting to Mayor Winn's Appointment of Andrew Aagard to the Position of Director of the Community Development Department
Presented by Debbie Winn, Mayor
9. **Swearing In** of Andrew Aagard as the New Community Development Director
Presented by Michelle Pitt, City Recorder
10. **Public Hearing & Motion on Ordinance 2023-16** An Ordinance of Tooele City Reassigning the Land Use Designation for Approximately 25 Acres of Property Located at Approximately 450 South Tooele Boulevard From Regional Commercial to Light Industrial
Presented by Andrew Aagard, Community Development Director
11. **Public Hearing & Motion on Ordinance 2023-17** An Ordinance of Tooele City Reassigning the Zoning for Approximately 25 Acres of Property Located at Approximately 450 South Tooele Boulevard From RD Research and Development to LI Light Industrial
Presented by Andrew Aagard, Community Development Director
12. **Public Hearing & Motion on Ordinance 2023-19** An Ordinance of Tooele City Reassigning the Land Use Designation for Approximately 0.28 Acres of Property Located at 248 North Garden Street From Medium Density Residential to Community Commercial
Presented by Andrew Aagard, Community Development Director
13. **Public Hearing & Motion on Ordinance 2023-20** An Ordinance of Tooele City Reassigning the Zoning for Approximately 0.39 Acres of Property Located at 60 South Main Street From GC General Commercial to MU-G Mixed Use General
Presented by Andrew Aagard, Community Development Director

14. **Five Star Minor Subdivision Request** by Cameron Dortch to Create 4 Industrial Lots and 4 Accompanying Railroad Parcels for Approximately 19.4 Acres Located at Approximately 1471 West L Avenue
Presented by Andrew Aagard, Community Development Director
15. **Resolution 2023-36** A Resolution of the Tooele City Council Tentatively Adopting the Budget Officer's Tentative Budget for Tooele City Fiscal Year 2023-2024, and Establishing the Time and Place of a Public Hearing to Consider its Adoption
Presented by Debbie Winn, Mayor
16. **Resolution 2023-24** A Resolution of the Tooele City Council Approving the Form of a Lease Agreement with Hoot Owl Leasing LLC for a Cell Tower Site
Presented by Roger Baker, City Attorney
17. **Resolution 2023-29** A Resolution of the Tooele City Council Approving a Franchise Agreement with All West/Utah for Cable Television Services
Presented by Roger Baker, City Attorney
18. **Resolution 2023-25** A Resolution of the Tooele City Council Approving an Agreement with Hansen Allen & Luce for a Lead and Copper Rule Service Line Inventory
Presented by Jamie Grandpre, Public Works Director
19. **Resolution 2023-31** A Resolution of the Tooele City Council Approving and Ratifying an Agreement with Broken Arrow Construction to Install a Duro-Last Membrane Roof on the Public Works Shop Building
Presented by Jamie Grandpre, Public Works Director
20. **Resolution 2023-34** A Resolution of the Tooele City Council Approving a Change Order with Beck Construction & Excavation, Inc., for the Main Street Parking Project
Presented by Jamie Grandpre, Public Works Director
21. **Resolution 2023-35** A Resolution of the Tooele City Council Approving a Contract With PNL Construction, Inc. for the Iron Street Sewer Line & Manhole Replacement Project
Presented by Paul Hansen, City Engineer
22. **Resolution 2023-33** A Resolution of the Tooele City Council Approving and Ratifying an Agreement with Dave's Custom Concrete for the Pratt Aquatics Center Concrete Park Strip Project
Presented by Darwin Cook, Parks & Recreation Director
23. **Resolution 2023-26** A Resolution of the Tooele City Council Adopting the Voter Participation Area Map
Presented by Michelle Pitt, City Recorder
24. **Resolution 2023-32** A Resolution of the Tooele City Council Authorizing an Interlocal Election Agreement with Tooele County for 2023 Tooele City Elections
Presented by Michelle Pitt, City Recorder
25. **Invoices & Purchase Order**
Presented by Michelle Pitt, City Recorder
26. **Minutes**
27. **Adjourn**

Michelle Y. Pitt, Tooele City Recorder

Pursuant to the Americans with Disabilities Act, Individuals Needing Special Accommodations Should Notify Michelle Y. Pitt, Tooele City Recorder, at 435-843-2111 or michellep@tooelecity.org, Prior to the Meeting.

TOOELE CITY CORPORATION

ORDINANCE 2023-18

AN ORDINANCE OF TOOELE CITY ADOPTING A WASTEWATER IMPACT FEE FACILITIES PLAN AND A WASTEWATER IMPACT FEE ANALYSIS, AND AMENDING TOOELE CITY CODE CHAPTER 4-15.

WHEREAS, Tooele City (the “City”) is a political subdivision of the State of Utah, authorized and organized under the provisions of Utah law; and,

WHEREAS, the City has legal authority, pursuant to Title 11, Chapter 36 Utah Code, Annotated, as amended (“Impact Fees Act” or “Act”), and pursuant to Tooele City Code Chapter 4-15, to impose development Impact Fees as a condition of development approval, which Impact Fees are used to defray capital infrastructure costs attributable to growth activity; and,

WHEREAS, the City has historically assessed Impact Fees as a condition to development approval in order to assign capital infrastructure costs to development in an equitable and proportionate manner; and,

WHEREAS, on February 17, 2010, the City Council approved Ordinance 2010-04, adopting an Impact Fee Facilities Plan (“Plan”) and Impact Fee Analysis (“Analysis”), and enacted an amended impact fee, for expansion of the City’s wastewater treatment facility (aka water reclamation facility) (“Facility”) due to growth; and,

WHEREAS, on January 3, 2018, the City Council approved Ordinance 2018-02, making certain corrections to the wastewater impact fee analysis and computation; and,

WHEREAS, on March 20, 2019, the City Council approved Resolution 2019-23, announcing its intention to retain the firm of Lewis Young Robertson & Burningham (LYRB) to prepare the updated wastewater Plan and Analysis (among others), consistent with and in compliance with the Impact Fees Act (U.C.A. 11-36-101, *et seq.*); and,

WHEREAS, among other things, the Plan and Analysis establish that a change to Tooele City’s sanitary sewer impact fee from \$2,290 to \$4,731 is necessary to achieve an equitable allocation of the costs borne in the past and to be borne in the future, in comparison to the benefits already received and yet to be received, and the change needs to be reflected in an amendment to TCC Section 4-15-2; and,

WHEREAS, LYRB has provided the certifications required by U.C.A. §11-36a-306 (certifications included in Exhibit A); and,

WHEREAS, the Plan and Analysis, together with this Ordinance, were made available to the public and placed at the Tooele City Public Library as required by U.C.A. §11-36a-502, -504; and,

WHEREAS, a summary of the Plan and Analysis was made available to the public and placed at the Tooele City Public Library as required by U.C.A. §11-36a-502; and,

WHEREAS, the City Council convened a public hearing on May 3, 2023, in accordance with the provisions of U.C.A. §§11-36a-504, 10-9a-205, and 10-9a-502:

NOW THEREFORE, BE IT ORDAINED BY THE TOOEELE CITY COUNCIL that

1. The 2023 Wastewater Impact Fee Facilities Plan is hereby adopted (see Exhibit A); and,
2. The 2023 Wastewater Impact Fee Analysis is hereby adopted (see Exhibit A); and,
3. Tooele City Code Chapter 4-15 is hereby amended to enact a sanitary sewer impact fee of \$4,731, as shown in the attached Exhibit B; and,
4. The adoption of the Impact Fee Facilities Plan and Impact Fee Analysis, together with the revisions to Chapter 4-15, are hereby found to be in the public interest; and,
5. The adoption of Exhibit A is hereby made effective immediately, subject to U.C.A. §11-36a-401; and,
6. The amendment to Tooele City Code Section 4-15-2 is hereby made effective immediately, subject to U.C.A. §11-36a-401; and,
7. The revised sanitary sewer impact fee of \$4,731 per ERU shall take effect on August 1, 2023.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council
this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

EXHIBIT A

**2023 WASTEWATER IMPACT FEE FACILITIES PLAN
AND
2023 WASTEWATER IMPACT FEE ANALYSIS**

**IMPACT FEE FACILITIES PLAN (IFFP)
AND IMPACT FEE ANALYSIS (IFA)**
PURSUANT TO 11-36A, UTAH CODE

WASTEWATER FACILITIES

MARCH 2023

TOOELE CITY, UTAH





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IMPACT FEE FACILITIES PLAN & ANALYSIS CERTIFICATION

IFFP CERTIFICATION

LYRB certifies that the attached impact fee facilities plan:

1. includes only the costs of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
 - a. costs of operation and maintenance of public facilities;
 - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
 - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and,
3. complies in each and every relevant respect with the Impact Fees Act.

IFA CERTIFICATION

LYRB certifies that the attached impact fee analysis:

1. includes only the costs of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
 - a. costs of operation and maintenance of public facilities;
 - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
 - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
3. offsets costs with grants or other alternate sources of payment; and,
4. complies in each and every relevant respect with the Impact Fees Act.

LYRB makes this certification with the following caveats:

1. All of the recommendations for implementations of the IFFP made in the IFFP documents or in the IFA documents are followed by City Staff and elected officials.
2. If all or a portion of the IFFP or IFA are modified or amended, this certification is no longer valid.
3. All information provided to LYRB is assumed to be correct, complete, and accurate. This includes information provided by the City as well as outside sources.

LEWIS YOUNG ROBERTSON & BURNINGHAM, INC.



DEFINITIONS

The following acronyms or abbreviations may be used in this document:

- AAGR:** Average Annual Growth Rate
- AF:** Acre Foot
- ERU:** Equivalent Residential Units
- GAL:** Gallons
- GPM:** Gallons per Minute
- GPD:** Gallons per Day
- IFA:** Impact Fee Analysis
- IFFP:** Impact Fee Facilities Plan
- LOS:** Level of Service
- LYRB:** Lewis Young Robertson and Burningham, Inc.
- MG:** Million Gallons

SECTION 1: EXECUTIVE SUMMARY

The purpose of the Wastewater Impact Fee Facilities Plan (“IFFP”) and Analysis (“IFA”) is to fulfill the requirements established in Utah Code Title 11 Chapter 36a, the “Impact Fees Act”, and assist Tooele City (the “City”) in financing and constructing necessary capital improvements for future growth. This document will address the future wastewater infrastructure needed to serve the service area through the next ten years, as well as the appropriate impact fees the City may charge to new growth to maintain the existing level of service (“LOS”). This analysis was supported by the following documents:

- ☞ April 2009 Water Reclamation Facility Plan
- ☞ September 2022 Wastewater Collection System Master Plan
- ☞ November 2022 Memo updating the cost from the 2009 Water Reclamation Facility Plan
- ☞ November 2022 Memo Future Project List - Impact Fee Eligibilities

From these reports, along with information provided by the City, the impact fee facilities plan and analysis identified the following key elements:

- ☞ **Impact Fee Service Area:** The service area for wastewater impact fees includes all areas within the City.
- ☞ **Demand Analysis:** The demand units utilized in this analysis are based on typical usage patterns measured in peak and average gallons per day (“gpd”) and equivalent residential units (“ERUs”) generated from land-use types. As residential and commercial growth occurs within the City, additional ERUs will be generated. The wastewater capital improvements identified in this study are based on maintaining the existing LOS.
- ☞ **Level of Service:** The proposed LOS is based on the various system requirements for treatment and collection. **SECTION 3** of this report further explains the LOS.
- ☞ **Excess Capacity:** A buy-in component for treatment and collections is included in this analysis.
- ☞ **Capital Facilities Analysis:** Approximately \$12.3M in new treatment and collection system improvement costs are included in the calculation of the impact fee. All these costs are considered system improvements necessary to maintain the proposed LOS and meet the anticipated development activity over that same period.
- ☞ **Funding of Future Facilities:** This analysis assumes future growth-related facilities will be funded on a pay-as-you-go basis, utilizing impact fee and utility fee revenues.

PROPOSED WASTEWATER IMPACT FEE

The IFFP must meet the legislative requirements found in the Impact Fee Act if it is to serve as a working document in the calculation of impact fees. The calculation of impact fees relies upon the information contained in this analysis. Impact fees are then calculated based on many variables centered on proportionality share and LOS. The table below illustrates the appropriate buy-in fee, the fee associated with projects occurring in the next ten years, and other costs related to the wastewater impact fee. The proportionate share analysis determines the proportionate cost assignable to new development based on the proposed capital projects and the estimated ERU demand served by the proposed projects.

TABLE 1.1: IMPACT FEE PER ERU

	TOTAL COST	% TO GROWTH	COST TO GROWTH	% TO IFFP GROWTH	COST TO IFFP GROWTH	DEMAND SERVED	COST PER ERU	% OF TOTAL
Buy-In								
Treatment	\$27,009,507	22%	\$5,905,629	94%	\$5,559,907	4,117	\$1,350	28.53%
Collection	\$11,158,121	41%	\$4,596,665	41%	\$1,875,939	4,117	\$456	9.64%
Subtotal: Buy-In	\$38,167,628				\$7,435,846		\$1,806	38.17%
Future Facilities								
Treatment	\$52,235,000	95.78%	\$50,032,552	16%	\$7,789,940	4,117	\$1,892	39.99%
Collection	\$10,211,620	44.00%	\$4,492,959	100%	\$4,492,959	4,117	\$1,091	23.06%
Impact Fee Interest Credit	(\$250,000)	100.00%	(\$250,000)	100%	(\$250,000)	4,117	(\$61)	-1.29%
Professional Expense	\$11,626	100.00%	\$11,626	100%	\$11,626	4,117	\$3	0.06%
Subtotal: Future Facilities	\$62,208,246				\$12,044,525		\$2,925	61.83%
Total	\$100,375,874				\$19,480,371		\$4,731	100.00%
						Treatment Total	\$3,203	67.70%
						Collection Total	\$1,528	32.30%



NON-STANDARD WASTEWATER IMPACT FEES

The City reserves the right under the Impact Fees Act¹ to assess an adjusted fee that more closely matches the true impact that the land use will have upon the City's wastewater system. The adjustment for non-standard wastewater impact fees could result in a different impact fee if evidence suggests a particular user will create a different impact than what is standard for its category. A developer may submit studies and data for a particular development and request an adjustment. The impact fee for non-standard development would be determined based on LOS variables presented in this report, calculated on a case-by-case basis.

FORMULA FOR NON-STANDARD WASTEWATER IMPACT FEES:

Treatment: (Total Average Daily Demand (GPD) / 170 (GPD)) * Treatment Impact Fee/ERU (\$3,203) = Treatment Fee

Collection: (Total Peak Daily Demand (GPD) / 230 (GPD)) * Collection Impact Fee/ERU (\$1,528) = Collection Fee

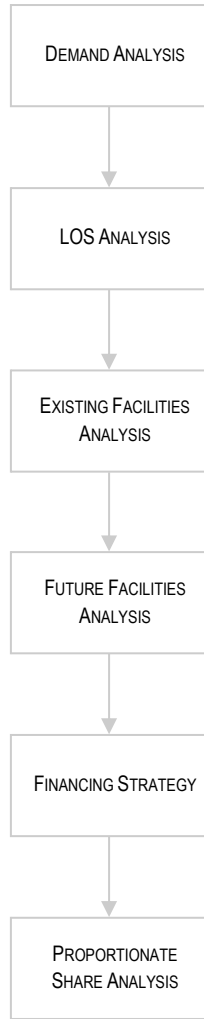
Treatment Fee + Collection Fee = Total Impact Fee

For purposes of impact fees, an ERU is defined as 170 GPD average demand for treatment and 230 GPD peak demand for collection.

¹ UC 11-36a-402(1)(c)

SECTION 2: GENERAL IMPACT FEE METHODOLOGY

FIGURE 2.1: IMPACT FEE METHODOLOGY



The purpose of this study is to fulfill the requirements of the Impact Fees Act regarding the establishment of an IFA². The sections of this report identify the demands placed upon the City's existing facilities by future development and evaluate how these demands will be met by the City, as well as the future improvements required to maintain the existing LOS. The purpose is to proportionately allocate the cost of the new facilities and any excess capacity to new development, while ensuring that all methods of financing are considered. The following elements are important considerations when completing an IFA.

DEMAND ANALYSIS

The demand analysis serves as the foundation for this analysis. This element focuses on a specific demand unit related to each public service – the existing demand on public facilities and the future demand as a result of new development that will impact system facilities.

LEVEL OF SERVICE ANALYSIS

The demand placed upon existing public facilities by existing development is known as the existing LOS. Through the inventory of existing facilities, combined with population growth assumptions, this analysis identifies the LOS which is provided to a community's existing residents and ensures that future facilities maintain these standards.

EXISTING FACILITY INVENTORY

In order to quantify the demands placed upon existing public facilities by new development activity, the IFFP provides an inventory of the City's existing system improvements. The inventory does not include project improvements. The inventory of existing facilities is important to properly determine the excess capacity of existing facilities and the utilization of excess capacity by new development. Any excess capacity identified within existing facilities can be apportioned to future new development.

FUTURE CAPITAL FACILITIES ANALYSIS

The demand analysis, existing facility inventory and LOS analysis allow for the development of a list of capital projects necessary to serve new growth and to maintain the existing system. This list includes any excess capacity of existing facilities as well as future system improvements necessary to maintain the LOS. Any demand generated from new development that overburdens the existing system beyond the existing capacity justifies the construction of new facilities.

FINANCING STRATEGY

This analysis must also include a consideration of all revenue sources, including impact fees, debt issuance, alternative funding sources, and the dedication (aka donations) of system improvements, which may be used to finance system improvements.³ In conjunction with this revenue analysis, there must be a determination that impact fees are necessary to achieve an equitable allocation of the costs of the new facilities between the new and existing users.⁴

PROPORTIONATE SHARE ANALYSIS

The written impact fee analysis is required under the Impact Fees Act and must identify the impacts placed on the facilities by development activity and how these impacts are reasonably related to the new development. The written impact fee analysis must include a proportionate share analysis, clearly detailing each cost component and the methodology used to calculate each impact fee. A local political subdivision or private entity may only impose impact fees on development activities when its plan for financing system improvements establishes that impact fees are necessary to achieve an equitable allocation of the costs borne in the past and to be borne in the future (UCA 11-36a-302).

² UC 11-36a-301,302,303,304

³ UC 11-36a-302(2)

⁴ UC 11-36a-302(3)



SYSTEM VS. PROJECT IMPROVEMENTS

System improvements are defined as existing and future public facilities designed and intended to provide services to service areas within the community at large.⁵ Project improvements are improvements and facilities that are planned and designed to provide service for a specific development (resulting from a development activity) and considered necessary for the use and convenience of the occupants or users of that development.⁶ References to facilities, amenities, projects, etc. within this analysis are referring to System Improvements unless otherwise stated.

⁵ UC 11-36a-102(20)

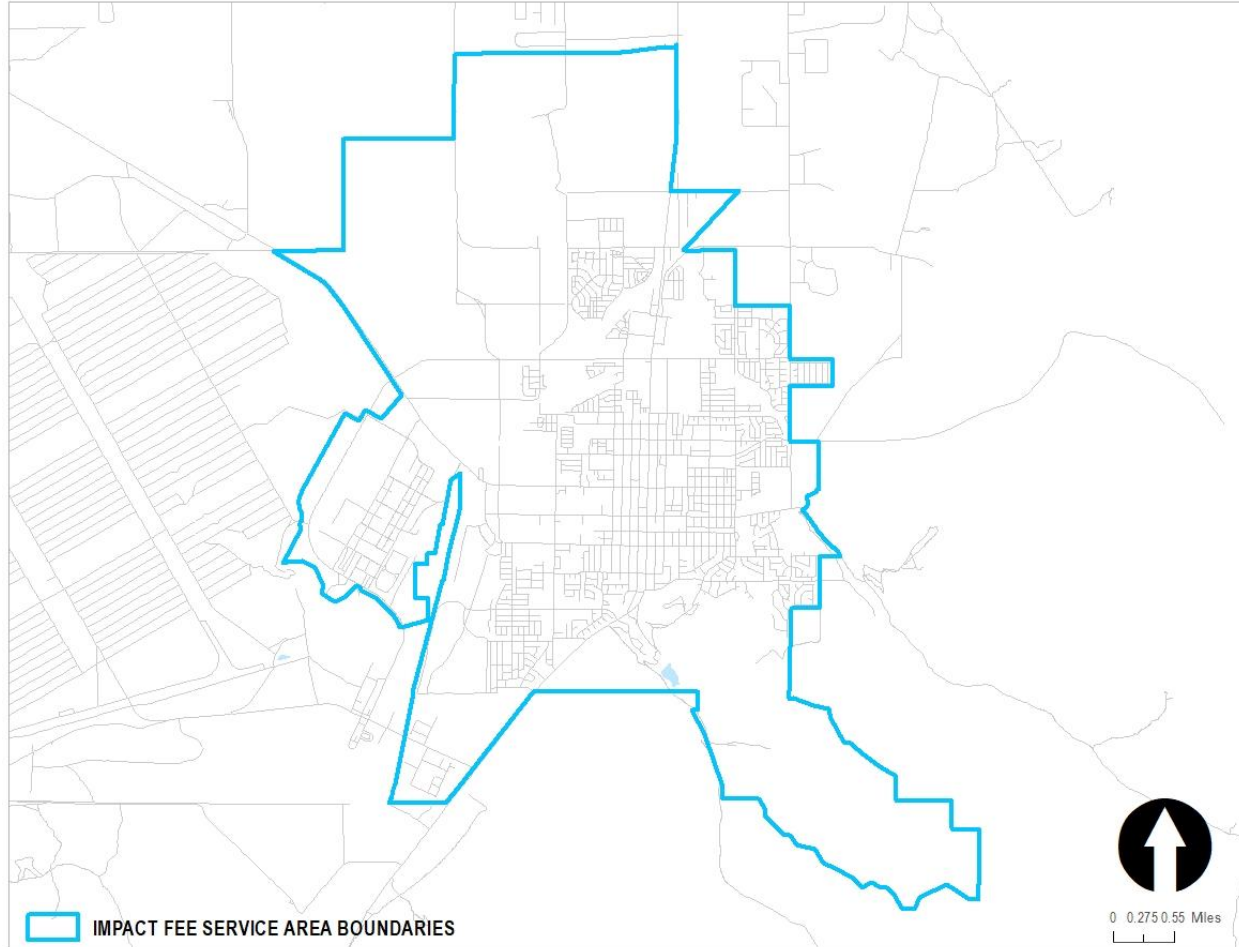
⁶ UC 11-36a102(13)

SECTION 3: OVERVIEW OF SERVICE AREA, DEMAND, AND LOS

SERVICE AREAS

Utah Code requires the impact fee enactment to establish one or more service areas within which impact fees will be imposed.⁷ The impact fees identified in this document will be assessed to a single, city-wide service area.

FIGURE 3.1: WASTEWATER SERVICE AREA



It is anticipated that the growth projected over the next ten years, and through buildout, will impact the City's existing services. wastewater infrastructure will need to be expanded in order to maintain the existing level of service ("LOS"). Impact fees are a logical and sound mechanism for funding growth-related infrastructure. The IFFP and this analysis are designed to accurately assess the true impact of a particular user upon the City's infrastructure and prevent existing users from subsidizing new growth. This analysis also ensures that new growth is not paying for existing system deficiencies. Impact fees should be used to fund the costs of growth-related capital infrastructure based upon the historic funding of the existing infrastructure and the intent of the City to equitably allocate the costs of growth-related infrastructure in accordance with the true impact that a user will place on the system.

⁷ UC 11-36a-402(a)

DEMAND UNITS

As shown in **TABLE 3.1**, the growth in ERUs is expected to reach 18,517 units by 2030. This represents an increase of 4,117 ERUs.

TABLE 3.1: CITY-WIDE ERU PROJECTIONS

YEAR	PROJECTED ERUs
2020	14,400
2030	18,517
2060	24,488
IFFP Increase	4,117

Source: Tooele City Wastewater Collection Master Plan 2022 Appendix B

LEVEL OF SERVICE STANDARDS

Impact fees cannot be used to finance an increase in the LOS to current or future users of system improvements. Therefore, it is important to identify the wastewater LOS currently provided within the City to ensure that the new capacities of projects financed through impact fees do not exceed the established standard.

The treatment LOS is determined based on average flow generation expressed in gpd. In addition, the Master Plan considered a peaking factor of 1.54 for wastewater. The total system capacity will be considered for each component,

compared to the requirements needed to maintain the identified performance standard for existing development. If the existing system capacity is less than the performance standard, it represents a deficiency. If it is greater than the performance standard, it may indicate excess capacity. The Master Plan also considers infiltration and inflow impacts when determining facility sizing.

TABLE 3.2: MASTER PLAN LOS VARIABLES

TREATMENT PLANT	1/1/2019
Gallons (1 Month)	74,899,594
GPD	2,416,116
ERUs	14,400
GPD per ERU	167.79
Hydraulic Loading (GPD/ERU)	170.00
Treatment LOS (GPD/ERU)	170.00
Collection (Peak) LOS	230.00

Source: Tooele Wastewater Collection System Master Plan, p. 4-1 and 4-2

SECTION 4: EXISTING FACILITIES & EXCESS CAPACITY

EXISTING FACILITIES

The City's existing system is defined by the capacity variables found in **TABLE 4.1**.

TABLE 4.1: SUMMARY OF EXISTING FACILITIES

COMPONENT	CAPACITY	UNIT	EXISTING VALUE*	SOURCE
Treatment	3.40	MGD	\$27,009,507	Tooele City Wastewater Master Plan 2022, p. 2-1, LYRB
Collection	The existing Tooele City wastewater collection system consists of nearly 175 miles of pipeline and over 3,300 manholes. The pipe sizes range from 6-inch diameter to 30-inch diameter pipe.		\$11,158,121	Tooele City Wastewater Master Plan 2022, p. 2-1, LYRB

*Based on Original Value Found in City's Depreciation Schedule, including any interest related to debt service.

EXCESS CAPACITY

The intent of the equity buy-in component is to recover the costs of the unused capacity in existing infrastructure from new development. This section addresses any excess capacity within the wastewater system.

TREATMENT

The City's current treatment capacity is 3.4 MGD. Existing development requires 2.66 MGD, leaving 0.74 MGD of excess capacity (or 21.9 percent of the total system). The excess capacity can serve another 4,373 ERUs.

The treatment buy-in component is calculated using the original cost of existing assets as presented in the City's financial records. The total value of existing treatment facilities is estimated at \$27,009,507, with \$5,905,629 allocated to buy-in as shown in **TABLE 4.2** and **4.4**.

TABLE 4.2: CALCULATION OF EXCESS TREATMENT CAPACITY

Design Capacity (MGD)	3.40
Total Existing Demand (MGD)	2.66
Excess/(Deficiency) (MGD)	0.74
Excess/(Deficiency) as % of Total Reliable Capacity	21.9%
Total ERUs Served by Excess Capacity	4,373
Total Value of Treatment System	\$27,009,507
Excess Capacity Value	\$5,905,629
IFFP Demand	4,117
IFFP Demand as % of New Growth	94%
Value to IFFP Demand	\$5,559,907

TABLE 4.4: VALUATION OF EXISTING TREATMENT FACILITIES

Original Value	\$21,587,709
Interest Paid on Treatment Plant	
Series 1997B	\$2,776,448
Series 2010 (Taxable)	\$497,818
Series 2011 Refunding	\$2,147,532
Total Interest	\$5,421,797
Total Treatment Value	\$27,009,507

TABLE 4.3: CALCULATION OF EXCESS COLLECTION CAPACITY

Collection System Value	\$21,119,827
Eligible System Improvements	\$11,158,121
Total ERUs Served	24,488
New Growth Through Buildout	10,088
Growth as % of Buildout	41%
Cost to Growth	\$4,596,665
IFFP Demand	4,117
IFFP Demand as % of New Growth	41%
Value to IFFP Demand	\$1,875,939

COLLECTION SYSTEM

The collection system is evaluated based on providing benefit to development through buildout. The total ERUs served from the collection system is 24,488. New growth through buildout represents 41 percent of the total demand, with the IFFP demand a fraction of the new development through buildout. **TABLE 4.3** illustrates the calculation of the collection system buy-in.

MANNER OF FINANCING EXISTING PUBLIC FACILITIES

The City has funded its existing capital infrastructure through a combination of different revenue sources, including impact fees, user fees, dedications, the issuance of debt, and grant monies. This analysis has removed all funding that has come from federal grants and donations to ensure that none of those infrastructure items are included in the LOS.

SECTION 5: CAPITAL FACILITY ANALYSIS

The estimated costs attributed to new growth were analyzed based on existing development versus future development patterns, as well as through an analysis of flow data. From this analysis, a portion of future infrastructure costs were attributed to new growth and included in this impact fee analysis as shown in **TABLE 5.1 AND 5.2**. The costs of capital projects related to curing existing deficiencies cannot be funded through impact fees and were not included in the calculation of the impact fees. A four percent annual construction inflation adjustment is applied to projects completed after 2022 (the base year cost estimate).

TABLE 5.1: ILLUSTRATION OF WASTEWATER COLLECTION SYSTEM CAPITAL IMPROVEMENTS

PROJECT ID	DESCRIPTION	COST ¹	YEAR	CONSTRUCTION YEAR COST	GROWTH RELATED	GROWTH RELATED COST	% IFFP ELIGIBLE	COST TO IFFP
E-1	Remove and upgrade existing 8" gravity line to 200 ft of 10" gravity line.	\$120,000	2024	\$129,792	41%	\$53,469	100%	\$53,469
E-2	Remove and upgrade existing 12" gravity line to 2,100 ft of 15" gravity line.	\$1,260,000	2025	\$1,417,329	41%	\$583,878	100%	\$583,878
E-3	Remove and upgrade existing 12" gravity line to 2,550 ft of 15" gravity line.	\$1,520,000	2026	\$1,778,185	41%	\$732,536	100%	\$732,536
E-4	Remove and upgrade existing 18" and 21" gravity line to 6,500 ft of 24" gravity line. Contains 36" bore for 115 ft under railroad tracks.	\$5,260,000	2027	\$6,399,594	41%	\$2,636,357	100%	\$2,636,357
F-1	Remove and upgrade existing 30" gravity line to 160 ft of 36" gravity line.	\$450,000	2024	\$486,720	100%	\$486,720	100%	\$486,720
Total		\$8,610,000		\$10,211,620		\$4,492,959		\$4,492,959

¹All costs include 25% for engineering, administrative costs, and contingencies. Costs are shown in 2022 dollars.

Source: Tooele Wastewater Collection System Master Plan, p. 8-2 and 8-3

Notes: These projects have capacity to serve existing demand and demand through 2060

The City has identified additional treatment improvements that will be needed to maintain the total capacity of the facility and provide necessary system redundancy. The total growth-related cost is estimated at \$12.6M. Based on the total capacity added by the proposed improvements, the fee per GPD is \$11.13 or a cost of \$1,892 per ERU.

TABLE 5.2: ILLUSTRATION OF WASTEWATER TREATMENT SYSTEM CAPITAL IMPROVEMENTS

PROJECT DESCRIPTION	COST	ADDITIONAL CAPACITY (MGD)	YEAR	CONSTRUCTION YEAR COST	GROWTH RELATED	GROWTH RELATED COST	% IN IFFP PLANNING HORIZON	IFFP COSTS	\$/GPD
Biosolids Drying Process + Dewatering Equipment	\$10,513,000	1.40	2024	\$11,370,861	41%	\$4,662,053	100%	\$4,662,053	\$8.12
Waste Solids Holding/Digestion + Thickener Replacement	\$2,289,000	1.40	2025	\$2,574,814	41%	\$1,055,674	100%	\$1,055,674	\$1.84
Tertiary Filter Retrofit	\$1,763,000	6.70	2023	\$1,833,520	77%	\$1,411,810	100%	\$1,411,810	\$0.27
New Headworks Building and Equipment	\$7,318,000	8.50	2023	\$7,610,720	72%	\$5,479,718	100%	\$5,479,718	\$0.90
Oxidation Ditch (1.7 MGD basis)	\$19,600,000	1.70	2028	\$24,800,253	100%	\$24,800,253	0%	\$0	\$0.00
Aeration Support Facilities	\$2,126,000	1.70	2025	\$2,391,461	100%	\$2,391,461	0%	\$0	\$0.00
Clarifiers 4 and 5, Piping, and Splitter Structure	\$5,626,000	1.70	2026	\$6,581,624	100%	\$6,581,624	0%	\$0	\$0.00
New RAS/WAS Pumping Facilities	\$3,000,000	1.70	2027	\$3,649,959	100%	\$3,649,959	0%	\$0	\$0.00
Total Estimated Project Costs	\$52,235,000	24.80		\$60,813,211		\$50,032,552		\$12,609,255	\$11.13
								LOS (GPD/ERU)	170.00
								Cost per ERU	\$1,892.14

Source: Memo Future Project List - Impact Fee Eligibilities, Table 1

The IFFP has determined the projects included in this analysis using capital project and engineering data, planning analysis and other information. The accuracy and correctness of this plan is contingent upon the accuracy of the data and assumptions. Any deviations or changes in the assumptions due to changes in the economy or other relevant information used by the City for this study may cause this plan to be inaccurate and may require modifications.

SYSTEM VS. PROJECT IMPROVEMENTS

System improvements are defined as existing and future public facilities that are intended to provide services to service areas within the community at large.⁸ Project improvements are improvements and facilities that are planned and designed to provide service for a specific development and considered necessary for the use and convenience of the occupants or users of that specific development.⁹ This analysis only includes the costs of system improvements related to new growth within the proportionate share analysis.

FUNDING OF FUTURE FACILITIES

The IFFP must also include a consideration of all revenue sources, including impact fees and the dedication (donations) of system improvements, which may be used to finance system improvements.¹⁰ In conjunction with this revenue analysis, there must be a determination that impact fees are necessary to achieve an equitable allocation of the costs of the new facilities between the new and existing users.¹¹

In considering the funding of future facilities, the City has determined the portion of future projects that will be funded by impact fees as growth-related, system improvements. Impact fees are an appropriate funding and repayment mechanism of the growth-related improvements. Where applicable, impact fees will offset the cost of future facilities. However, impact fees cannot be used to fund non-qualified expenses (i.e. the costs to cure existing deficiencies, to raise the LOS, to recoup more than the actual cost of system improvements, or the cost to fund overhead). Other revenues such as utility rate revenue, property taxes, grants, or loans can be used to fund these types of expenditures, as described below.

UTILITY RATE REVENUES

Utility rate revenues serve as the primary funding mechanism within enterprise funds. Rates are established to ensure appropriate coverage of all operations and maintenance expenses, as well as all non-growth related debt service and capital project needs.

PROPERTY TAX REVENUES

Property tax revenues are not specifically identified in this analysis as a funding source for growth-related capital projects, but inter-fund loans may be made from the general fund which will ultimately include some property tax revenues. Interfund loans will be repaid once sufficient impact fee revenues have been collected. The City follows Utah Code 10-6-132 which requires interest to be accrued on interfund loans. Property tax revenue are generally not used to support enterprise funds.

GRANTS AND DONATIONS

Grants and donations are not currently contemplated in this IFFP. However, the impact fees will be adjusted if grants become available to reflect the grant monies received. A donor and the City may enter into a Development Agreement which may entitle the donor to a reimbursement for the value of the system improvements, up to the LOS, funded through impact fees if donations are made by new development.

IMPACT FEE REVENUES

Impact fees are charged to ensure that new growth pays its proportionate share of the costs for the development of public infrastructure. Impact fee revenues can also be attributed to the future expansion of public infrastructure if the revenues are used to maintain an existing LOS. Increases to an existing LOS cannot be funded with impact fee revenues. Impact fee revenues are generally considered non-operating revenues and help offset future capital costs.

DEBT FINANCING

In the event the City has not accumulated sufficient impact fees to pay for the construction of time-sensitive or urgent capital projects needed to accommodate new growth, the City must look to revenue sources other than impact fees for funding. The Impact Fees Act allows for the costs related to the financing of future capital projects to be legally included in the impact fee. This

⁸ UC 11-36a-102(20)

⁹ UC 11-36a102(13)

¹⁰ UC 11-36a-302(2)

¹¹ UC 11-36a-302(3)

allows the City to finance and quickly construct infrastructure for new development and reimburse itself later from impact fee revenues for the costs of principal, interest, and costs of issuance.

This analysis assumes future growth-related facilities will be funded on a pay-as-you-go basis, utilizing impact fee and utility fee revenues.

EQUITY OF IMPACT FEES

Impact fees are intended to recover the costs of capital infrastructure that relate to future growth. The impact fee calculations are structured for impact fees to fund 100 percent of the growth-related facilities identified in the proportionate share analysis as presented in the impact fee analysis. Even so, there may be years that impact fee revenues cannot cover the annual growth-related expenses. In those years, growth-related projects may be delayed, or other revenues such as general fund revenues or other fund's revenues and/or fund balance reserves may be used to make up any annual deficits. Any borrowed funds are to be repaid in their entirety through subsequent impact fees.

NECESSITY OF IMPACT FEES

An entity may only impose impact fees on development activity if the entity's plan for financing system improvements establishes that impact fees are necessary to achieve parity between existing and new development. This analysis has identified the improvements to public facilities and the funding mechanisms to complete the suggested improvements. Impact fees are identified as a necessary funding mechanism to help offset the costs of capital improvements related to new growth. In addition, alternative funding mechanisms are identified to help offset the cost of future capital improvements.

SECTION 6: WASTEWATER IMPACT FEE CALCULATION

PROPOSED WASTEWATER IMPACT FEE

The IFFP must properly complete the legislative requirements found in the Impact Fee Act if it is to serve as a working document in the calculation of appropriate impact fees. The improvements identified in this IFFP are necessary for new development to maintain the existing LOS. The total system costs are divided by the total demand units the projects are designed to serve.

COMBINED WASTEWATER IMPACT FEE CALCULATION

The wastewater impact fees proposed in this analysis will be assessed within all areas of the City. **TABLE 6.1** below illustrates the appropriate buy-in component, the fee associated with projects occurring in the next ten years and the applicable planning and interest costs. The proportionate share analysis determines the proportionate cost assignable to new development based on the proposed capital projects and the estimated ERU demand served by the proposed projects, in this case, the ERUs over the next ten years, which are illustrated in **TABLE 3.1**.

TABLE 6.1: CALCULATION OF PROPORTIONATE IMPACT FEE

	TOTAL COST	% TO GROWTH	COST TO GROWTH	% TO IFFP GROWTH	COST TO IFFP GROWTH	DEMAND SERVED	COST PER ERU	% OF TOTAL
Buy-In								
Treatment	\$27,009,507	22%	\$5,905,629	94%	\$5,559,907	4,117	\$1,350	28.53%
Collection	\$11,158,121	41%	\$4,596,665	41%	\$1,875,939	4,117	\$456	9.64%
Subtotal: Buy-In	\$38,167,628				\$7,435,846		\$1,806	38.17%
Future Facilities								
Treatment	\$52,235,000	95.78%	\$50,032,552	16%	\$7,789,940	4,117	\$1,892	39.99%
Collection	\$10,211,620	44.00%	\$4,492,959	100%	\$4,492,959	4,117	\$1,091	23.06%
Impact Fee Interest Credit	(\$250,000)	100.00%	(\$250,000)	100%	(\$250,000)	4,117	(\$61)	-1.29%
Professional Expense	\$11,626	100.00%	\$11,626	100%	\$11,626	4,117	\$3	0.06%
Subtotal: Future Facilities	\$62,208,246				\$12,044,525		\$2,925	61.83%
Total	\$100,375,874				\$19,480,371		\$4,731	100.00%
						Treatment Total	\$3,203	67.70%
						Collection Total	\$1,528	32.30%

NON-STANDARD WASTEWATER IMPACT FEES

The City reserves the right under the Impact Fees Act¹² to assess an adjusted fee that more closely matches the true impact that the land use will have upon the City's wastewater system. The adjustment for non-standard wastewater impact fees could result in a different impact fee if evidence suggests a particular user will create a different impact than what is standard for its category. A developer may submit studies and data for a particular development and request an adjustment. The impact fee for non-standard development would be determined based on LOS variables presented in this report, calculated on a case-by-case basis.

FORMULA FOR NON-STANDARD WASTEWATER IMPACT FEES:

Treatment: (Total Average Daily Demand (GPD) / 170 (GPD)) * Treatment Impact Fee/ERU (\$3,203) = Treatment Fee

Collection: (Total Peak Daily Demand (GPD) / 230 (GPD)) * Collection Impact Fee/ERU (\$1,528) = Collection Fee

Treatment Fee + Collection Fee = Total Impact Fee

For purposes of impact fees, an ERU is defined as 170 GPD average demand for treatment and 230 GPD peak demand for collection.

CONSIDERATION OF ALL REVENUE SOURCES

The Impact Fees Act requires the proportionate share analysis to demonstrate that impact fees paid by new development are the most equitable method of funding growth-related infrastructure. See **SECTION 5** for further discussion regarding the consideration of revenue sources.

¹² UC 11-36a-402(1)(c)

EXPENDITURE OF IMPACT FEES

Legislation requires that impact fees should be spent or encumbered with six years after each impact fee is paid. Impact fees collected should be spent only on those projects outlined in the IFFP as growth related costs to maintain the LOS.

PROPOSED CREDITS OWED TO DEVELOPMENT

Credits may be applied to developers who have constructed and donated system facilities to the City that are included in the IFFP in-lieu of impact fees. Credits for system improvements may be available to developers up to, but not exceeding, the amount commensurate with the LOS identified within this IFA. Credits will not be given for the amount by which system improvements exceed the LOS identified within this IFA. This situation does not apply to developer exactions or improvements required to offset density or as a condition of development. Any project that a developer funds must be included in the IFFP if a credit is to be issued.

In the situation that a developer chooses to construct system facilities found in the IFFP in-lieu of impact fees, the decision must be made through negotiation with the developer and the City on a case-by-case basis.

GROWTH-DRIVEN EXTRAORDINARY COSTS

The City does not anticipate any extraordinary costs necessary to provide services to future development.

SUMMARY OF TIME PRICE DIFFERENTIAL

The Impact Fees Act allows for the inclusion of a time price differential to ensure that the future value of costs incurred at a later date are accurately calculated to include the costs of construction inflation. A four percent annual construction inflation adjustment is applied to projects completed after 2022 (the base year cost estimate).

EXHIBIT B

TOOELE CITY CODE CHAPTER 4-15 (AMENDED)

Chapter 15. Development Impact Fees

- 4-15-1 Definitions.**
- 4-15-2 Assessment of Impact Fees.**
- 4-15-3 Exemption from Impact Fees.**
- 4-15-4 Credits.**
- 4-15-5 Waiver.**
- 4-15-6 Appeals.**
- 4-15-7 Establishment of Impact Fees Accounts.**
- 4-15-8 Refunds.**
- 4-15-9 Use of Funds.**
- 4-15-10 Independent Fee Calculations.**

4-15-1 Definitions.

(1) Except as expressly provided in this Section, words and phrases used in this Chapter shall have the meaning given to them in U.C.A. 11-36a-102, as amended (the "Impact Fees Act").

(2) "Eligible affordable housing units" means

(a) Single-family and two-family dwellings that are:

(i) constructed, rented, and sold in partnership with the Tooele County Housing Authority (the "Authority"); and,

(ii) deed restricted, on a form approved by the City Attorney, in such a manner that:

(A) dwellings are available for purchase or rent-to-own only by those purchasers or tenants whose combined household annual gross income per dwelling is verified by an Authority to be 60% or less of the Tooele County area median income;

(B) dwellings are rent-restricted according to a formula established by an Authority based in part on numbers of dwelling unit bedrooms and on tenant incomes;

(C) dwellings are subject to a compliance period of at least 15 years as part of an extended use period of at least 50 years;

(D) dwellings are maintained in good condition;

(E) dwellings are fully insured for hazards and liability;

(F) requires compliance with the terms and covenants of the deed restriction; and,

(G) requires compliance with Section 42 of the Internal Revenue Code, as amended.

(b) Multi-family dwellings that:

(i) are constructed and rented in partnership with an Authority; and,

(ii) are deed restricted, on a form approved by the City Attorney, in such a manner that:

(A) dwellings are available for rent only by tenants whose combined household annual gross income per unit is verified by the Authority to be 60% or

less of the Tooele County area median income; and,

(B) dwellings comply with the requirements of subsection (2)(a)(ii)(B)-(G), above.

3. "Eligible public facility" means a structure that is owned or leased by the state of Utah, the Tooele County school district, a charter school, Tooele County, Tooele City, the Tooele City municipal building authority, the Tooele City redevelopment agency, or other similar entity conducting development activity with a broad public purpose.

(Ord. 2019-30, 11-20-2019) (Ord. 2012-02, 03-07-2012) (Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001) (Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

4-15-2 Assessment of Impact Fees.

(1) Assessment of Impact Fees.

(a) Culinary Water Impact Fee.

(i) The City shall collect a culinary water impact fee from any applicant seeking a building permit, in the amount of \$7,805 per Equivalent Residential Connection (ERC), as defined in the Drinking Water System Master Plan (2021).

(ii) The service area for purposes of the culinary water impact fee shall be the entire area within the corporate boundary of Tooele City Corporation.

(iii) Non-Standard Impact Fee. The City reserves the right under the Impact Fees Act to assess an adjusted impact fee that more closely matches the true impact that a building or land use will have upon the City's culinary water system. This adjustment may result in a higher than normal impact fee if the City determines that a particular user may create a greater impact than what is standard for its land use. The formula for determining a non-standard culinary water impact fee is contained in the combined Culinary Water Facilities Impact Fee Facilities Plan and Impact Fee Analysis (2022).

(b) Sanitary Sewer Impact Fee.

(i) The City shall collect a sanitary sewer impact fee from any applicant seeking a building permit, as follows:

~~(A) Residential. the base fee shall be \$4,731 2,290 per Equivalent Residential Unit (ERU), as defined in the documents comprising the 2023 Wastewater Impact Fee Facilities Plan and Impact Fee Analysis. 2010 Waste Water Capital Facilities Plan (impact fee facilities plan).~~

~~(B) Non-residential. as determined under Figure 4.5 (Impact Fee ERU Multipliers) of the 2010 Sewer Treatment and Collections Impact Fee Analysis.~~

(ii) The service area for purposes of the sanitary sewer impact fee shall be the entire area within the corporate boundary of Tooele City Corporation.

(iii) Non-Standard Impact Fee. The City

reserves the right under the Impact Fees Act to assess an adjusted impact fee that more closely matches the true impact that a building or land use will have upon the City's waste water system. This adjustment may result in a higher than normal impact fee if the City determines that a particular user may create a greater impact than what is standard for its land use. The formula for determining a non-standard sanitary sewer impact fee is contained on page 14 in Figure 4.6 (~~Calculation of Non-Standard Sewer Impact Fee~~) of the ~~2023 Wastewater Impact Fee Facilities Plan and Impact Fee Analysis~~2010 Sewer Treatment and Collections Impact Fee Analysis.

(c) Parks and Recreation Impact Fee.

(i) The City shall collect a parks and recreation impact fee from any applicant seeking a building permit for a new dwelling unit, as follows:

(A) Single-Family Residential: \$3,194 per dwelling unit. For purposes of this Section, Single-Family Residential includes detached single-family units and attached single-family units, including townhouses, condominiums, and duplexes.

(B) Multi-Family Residential: \$2,252 per dwelling unit. For purposes of this Section, Multi-Family Residential means apartment buildings with three or more units per building.

(ii) The service area for purposes of the park and special purpose recreation facilities impact fee shall be the entire area within the corporate boundary of Tooele City Corporation.

(d) Public Safety Impact Fee: Fire.

(i) The City shall collect a public safety-fire impact fee from any applicant seeking a building permit for a new building, as follows:

(A) Residential, single-family: \$255.90 per dwelling unit.

(B) Residential, multi-family: \$188.80 per dwelling unit.

(C) Commercial: \$187.40 per 1,000 square-feet of building.

(D) Industrial: \$111.40 per 1,000 square-feet of building.

(ii) The service area for purposes of the public safety-fire impact fee shall be the entire area within the corporate boundary of Tooele City Corporation.

(iii) Non-Standard Impact Fee. The City reserves the right under the Impact Fees Act to assess an adjusted impact fee that more closely matches the true impact that a building or land use will have upon the City's public safety fire facilities. This adjustment may result in a higher than normal impact fee if the City determines that a particular user may create a greater impact than what is standard for its land use. The formula for determining a non-standard public safety-fire impact fee is contained in the Public Safety Impact Fee Facilities Plan and Impact Fee Analysis (February 2012).

(e) Public Safety Impact Fee: Police.

(i) The City shall collect a public safety-police impact fee from any applicant seeking a building permit for a new building, as follows:

(A) Residential, single-family: \$216.90 per dwelling unit.

(B) Residential, multi-family: \$221.00 per dwelling unit.

(C) Commercial: \$164.70 per 1,000 square-feet of building.

(D) Industrial: \$17.40 per 1,000 square-feet of building.

(ii) The service area for purposes of the public safety-police impact fee shall be the entire area within the corporate boundary of Tooele City Corporation.

(iii) Non-Standard Impact Fee. The City reserves the right under the Impact Fees Act to assess an adjusted impact fee that more closely matches the true impact that a building or land use will have upon the City's public safety police facilities. This adjustment may result in a higher than normal impact fee if the City determines that a particular user may create a greater impact than what is standard for its land use. The formula for determining a non-standard public safety-police impact fee is contained in the Public Safety Impact Fee Facilities Plan and Impact Fee Analysis (February 2012).

(2) Collection. Impact fees shall be collected from the applicant prior to issuing the building permit, using the impact fee in effect on the date of filing a complete application for the building permit.

(3) Adjustment of impact fees. Impact fees may be adjusted at the time the fees are charged, as follows:

(a) to ensure that the impact fees are imposed fairly;

(b) to respond to
(i) unusual circumstances in specific cases;

or,
(ii) a request for a prompt and individualized impact fee review for the development activity of the state or a school district or charter school;

and,
(c) if the Building Official determines that a user would create a greater than normal impact on any system improvement.

(4) Existing Buildings.

(a) Where a building alteration or change of use requires a new building permit or a new occupancy permit, and the building alteration or change of use is anticipated to result in increased impacts to City systems and facilities, the applicant shall pay, as a condition of permit approval, additional impact fees corresponding to the increased impacts.

(b) Where a building or use of a building incorporates technologies or processes designed to

decrease impacts to City systems and facilities, and those technologies or processes fail or cease to be used, for any reason or to any degree, the City may assess additional impact fees corresponding to the increased impacts resulting from such failure or cessation of use. Such fees shall be invoiced to the building water account through the regular monthly city water bill.

(c) Should any developer undertake development activities such that the ultimate density, intensity, or other impact of the development activity is not revealed to the City, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the impact fee is not initially charged against all units or the total density or intensity within the development, the City shall be entitled to assess an additional impact fee to the development or other appropriate person covering the density or intensity for which an impact fee was not previously paid. Such fees shall be invoiced to the development water account through the regular monthly city water bill.

(d) The Building Official shall determine the extent to which the payment of additional impact fees is required.

(Ord. 2022-12, 04-06-2022) (Ord. 2020-31, 07-15-2020)
(Ord. 2012-02, 03-07-2012) (Ord. 2010-04, 02-17-2010)
(Ord. 2007-10, 03-21-2007) (Ord. 2001-36, 01-23-2001)
(Ord. 2001-35, 01-23-2001) (Ord. 1999-36, 12-16-1999)
(Ord. 1999-10, 4-21-1999) (Ord. 1996-16, 11-20-1996)
(Ord. 1996-15, 06-05-1996)

4-15-3 Exemptions from Impact Fees.

(1) The following development activities shall be exempt from the payment of all or a portion of the impact fees:

(a) Replacement of a primary structure with a new primary structure of the same use at the same site or lot when such replacement:

(i) does not result in the construction of an additional dwelling unit or a change in use; and,

(ii) does not increase the demand for municipal services or the impact upon system improvements.

(b) Alterations to, or expansion, enlargement, remodeling, rehabilitation, or conversion of, an existing primary structure that does not increase the demand for municipal services or the impact upon system improvements.

(2) The Building Official shall determine whether a particular structure falls within an exemption identified in this Section or any other section. The Building Official shall issue a written determination, stating the basis for the exemption, and which shall be subject to the appeals procedures set forth herein.

(Ord. 2015-16, June 3, 2015) (Ord. 2012-02, 03-07-2012)
(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001)
(Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

4-15-4 Credits.

(1) A developer may be allowed a credit against impact fees for any dedication of or improvement to land or new construction of system improvements provided by the developer, provided that they are (i) identified in the applicable capital facilities plan, (ii) offset the need for a system improvement, and (iii) required by the City as a condition of approving the development activity. Otherwise, no credit may be given.

(2) For each request for a credit, unless otherwise agreed by the City, the fee payer shall retain an appraiser approved by the Building Official to determine the value of the land or construction dedicated.

(3) The fee payer shall pay the cost of the appraisal.

(4) After receiving the appraisal, the Building Official shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, where applicable, the legal description of the land donated, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating the applicant's agreement to the terms of the letter or certificate, and return such signed document to the Building Official before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 30 days shall nullify the credit.

(5) Any claim for a credit must be made not later than the time of application for building permit. Any claim not so made shall be deemed waived.

(6) Determinations made by the Building Official pursuant to this section shall be subject to the appeals procedure set forth herein.

(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001)
(Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

4-15-5 Waiver.

(1) The City Council may, but is not required to, waive the imposition of impact fees for:

(a) Construction of eligible affordable housing units (up to \$10,000 per dwelling unit); or,

(b) Construction of an eligible public facility.

(2) Upon allowing a full or partial waiver under this Section for an eligible public facility, the City Council shall establish one or more sources of funds other than impact fees to pay the amount of impact fees waived for that facility.

(Ord. 2019-30, 11-20-2019) (Ord. 2010-04, 02-17-2010)
(Ord. 2001-36, 01-23-2001) (Ord. 2001-35, 01-23-2001)
(Ord. 96-15, 06-05-96)

4-15-6 Appeals.

(1) A fee payer may appeal the impact fees imposed or other determinations which the Building Official is authorized to make pursuant to this Chapter. However, no appeal shall be permitted unless and until the impact fees

at issue have been paid.

(2) Appeals shall be taken within the time constraints identified in U.C.A. Section 11-36a-702, as amended. Appellants shall specify the grounds for the appeal, and deposit the necessary appeal fee, which is set forth in the Tooele City Fee Schedule for appeals of land use decisions.

(3) Appeals shall be filed with the City Recorder. The City Recorder shall fix a time for the hearing of the appeal and give notice to the parties in interest. At the hearing, any party may appear in person or by agent or attorney.

(4) The City Council, or such other body as the City Council shall designate, shall make a decision within 30 days after the appeal is filed. The City Council shall make findings of fact regarding the applicability of the impact fees to a given development activity. The decision of the City Council shall be final, and may be appealed to the Third Judicial District Court for Tooele County.

(5) Certain impact fee payers may request mediation or arbitration under the state Impact Fees Act, U.C.A. 11-36-101 *et. seq.*, as amended.
(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001)
(Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

4-15-7 Establishment of Impact Fees Accounts.

(1) The City will establish a separate interest-bearing ledger account for the Impact Fees collected pursuant to this Ordinance and will conform to the accounting requirements provided in the Impact Fees Act. All interest earned on the collection of Impact Fees shall accrue to the benefit of the segregated account. Impact Fees collected prior to the effective date of this Ordinance need not meet the requirements of this Section.

(2) At the end of each fiscal year, the City shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned, and received by the fund or account and each expenditure from the fund or account.

(3) The City may expend Impact Fees only for system improvements that are (i) public facilities identified in the City's capital facilities plans, and (ii) of the specific public facility type for which the fee was collected. Impact fees will be expended on a first-in first-out basis.

(4) Impact Fees collected pursuant to the requirements of this Ordinance are to be expended, dedicated, or encumbered for a permissible use within six (6) years of the receipt of those funds by the City, except as provided in Subsection (5).

(5) The City may hold previously dedicated or unencumbered fees for longer than six (6) years if it identifies in writing (i) an extraordinary and compelling reason why the fees should be held longer than six years, and (ii) an absolute date by which the fees will be expended.
(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001)

(Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

4-15-8 Refunds.

(1) If the City fails to disburse, expend, or encumber the impact fees within 6 years of when the fees were paid, or such other time periods as justified by an extraordinary or compelling reason, the person who paid the impact fees may request a refund of such fees. In determining whether impact fees have been disbursed, expended, or encumbered, such fees shall be considered disbursed, expended, or encumbered on a first-in, first-out basis.

(2) Persons seeking a refund of impact fees must submit a written request for a refund of the fees to the Building Official within 120 days of the date that the right to claim the refund arises.

(3) Any impact fees for which no application for a refund has been made within this 120 day period shall be retained by the City and expended on the type of public facilities for which they were collected.

(4) Refunds of impact fees under this section shall include any interest earned on the impact fees.

(5) When the City seeks to terminate any or all components of an impact fee program, any funds not disbursed, expended, or encumbered from any terminated component or components, including interest earned shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination, and the availability of refunds, in a newspaper of general circulation at least 2 times. All funds available for refund shall be retained for a period of 120 days. At the end of the 120 day period, any remaining funds shall be retained by the City, but must be expended on the type of public facilities for which they were collected.

(6) The City shall refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees attributable to the particular development activity, within 1 year of the date that a right to claim the refund arises, if (i) the development activity for which the impact fees were imposed did not occur, (ii) no impact resulted, (iii) the impact fees have not been spent or encumbered, and (iv) the owner makes written request for a refund within 120 days of the expiration or abandonment of the permit for development activity.

(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001)
(Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

4-15-9 Use of Funds.

(1) Pursuant to this Chapter, impact fees:
(a) shall be used for public facilities that reasonably benefit the new development;
(b) shall not be imposed to make up for deficiencies in public facilities serving existing developments; and,
(c) shall not be used for maintenance or operation of public facilities.

(2) Impact fees may be used to recoup costs of designing, constructing, and acquiring public facilities in anticipation of new growth and development to the extent that the development activity will be served by the previously-constructed improvements or the previously-incurred costs. Impact fees may be used for environmental mitigation.

(3) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public facilities for which impact fees may be expended, impact fees may be used to pay debt service on such bonds, or similar debt instruments, to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the development activity.

(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001)

(Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

4-15-10 Independent Fee Calculations.

(1) If a fee payer believes that a fee should be charged, different than the impact fees determined according to this Chapter, then the fee payer may prepare and submit to the Building Official an independent fee calculation for the impact fees associated with the development activity for which a Building Permit is sought. The documentation submitted shall contain studies and data showing the basis upon which the independent fee calculation was made. The Building Official is not required to accept any documentation which the Building Official reasonably deems to be inaccurate, unsubstantiated, or unreliable and may require the fee payer to submit additional or different documentation prior to the Building Official's consideration of an independent fee calculation.

(2) Any fee payer submitting an independent fee calculation shall pay an administrative processing fee, per calculation, of \$100.

(3) Based on the information within the Building Official's possession, the Building Official may recommend, and the Mayor is authorized to adjust, the impact fee to the specific characteristics of the development activity, and according to principles of fairness. Such adjustment shall be preceded by written findings justifying the fee.

(4) Determinations made by the Building Official pursuant to this section may be appealed subject to the procedures set forth herein.

(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001)

(Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

TOOELE CITY CORPORATION

RESOLUTION 2023-30

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING BUDGET AMENDMENTS FOR FISCAL YEAR 2022-2023.

WHEREAS, the City Council finds it necessary and prudent to re-open the 2022-2023 fiscal year budget to make amendments, pursuant to U.C.A. §§10-6-124-128, in order to more efficiently utilize funds to be received, said amendments being shown in the attached Exhibit A; and,

WHEREAS, the City Council convened a duly-noticed public hearing on May 3, 2023, pursuant to the requirements of U.C.A. §§10-6-113-114:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the budget amendments for fiscal year 2022-2023 as shown on Exhibit A, which is attached hereto and made a part hereof, are hereby approved.

This Resolution shall be effective immediately upon passage, without further publication, by authority of the Tooele City Charter.

Passed this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

ABSTAINING: _____

MAYOR OF TOOELE CITY

(For)

(Against)

_____	_____
-------	-------

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Fiscal Approval: _____
Shannon Wimmer, Director of Finance

Approved as to Form: _____
Roger Evans Baker, City Attorney

Exhibit A

Budget Amendments

TOOELE CITY CORPORATION

RESOLUTION 2023-27

A RESOLUTION OF THE TOOELE CITY COUNCIL CONSENTING TO MAYOR WINN'S APPOINTMENT OF ANDREW AAGARD TO THE POSITION OF DIRECTOR OF THE COMMUNITY DEVELOPMENT DEPARTMENT.

WHEREAS, Section 2-06 of the Tooele City Charter (amended 2006) states that "The Mayor, shall, with the consent of a majority of the Council, designate a head of each department of City government"; and,

WHEREAS, under Tooele City Code §1-6-4(2), the Mayor exercises "direct supervision and responsibility over operations in the . . . Community Development Department," including the appointment of qualified employees (§1-6-4(1)); and,

WHEREAS, Mayor Winn desires to appoint Andrew Aagard to the position of Director of the Community Development Department, his employment as Director beginning April 17, 2023;

WHEREAS, Mr. Aagard earned a Bachelor of Science degree from Utah State University in Landscape Architecture and Environmental Planning (2000), and a Master of Public Administration degree from the University of Utah (2005); Mr. Aagard holds a certification from the American Institute of Certified Planners (2008); and, Mr. Aagard has worked as a city planner for 21 years, the last five of which have been for Tooele City:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that consent is hereby given by the City Council to Mayor Debra E. Winn's appointment of Andrew Aagard to the position of Director of the Community Development Department, effective immediately.

This Resolution shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

TOOELE CITY CORPORATION

ORDINANCE 2023 - 16

AN ORDINANCE OF TOOELE CITY REASSIGNING THE LAND USE DESIGNATION FOR APPROXIMATELY 25 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 450 SOUTH TOOELE BOULEVARD FROM REGIONAL COMMERCIAL TO LIGHT INDUSTRIAL.

WHEREAS, Utah Code §10-9a-401, *et seq.*, requires and provides for the adoption of a “comprehensive, long-range plan” (hereinafter the “General Plan”) by each Utah city and town, which General Plan contemplates and provides direction for (a) “present and future needs of the community” and (b) “growth and development of all or any part of the land within the municipality”; and,

WHEREAS, the Tooele City General Plan includes various elements, including water, sewer, transportation, and land use. The Tooele City Council adopted the Land Use Element of the Tooele City General Plan, after duly-noticed public hearings, by Ordinance 2020-47, on December 16, 2020, by a vote of 5-0; and,

WHEREAS, the Land Use Element (hereinafter the “Land Use Plan”) of the General Plan establishes Tooele City’s general land use policies, which have been adopted by Ordinance 2020-47 as a Tooele City ordinance, and which set forth appropriate Use Designations for land in Tooele City (e.g., residential, commercial, industrial, open space); and,

WHEREAS, the Land Use Plan reflects the findings of Tooele City’s elected officials regarding the appropriate range, placement, and configuration of land uses within the City, which findings are based in part upon the recommendations of land use and planning professionals, Planning Commission recommendations, public comment, and other relevant considerations; and,

WHEREAS, Utah Code §10-9a-501, *et seq.*, provides for the enactment of “land use [i.e., zoning] ordinances and a zoning map” that constitute a portion of the City’s regulations (hereinafter “Zoning”) for land use and development, establishing order and standards under which land may be developed in Tooele City; and,

WHEREAS, a fundamental purpose of the Land Use Plan is to guide and inform the recommendations of the Planning Commission and the decisions of the City Council about the Zoning designations assigned to land within the City (e.g., R1-10 residential, neighborhood commercial (NC), light industrial (LI)); and,

WHEREAS, the City received an Amendment Petition for a Land Use Map amendment for 25 acres of property located at approximately 450 South Tooele Boulevard on April 13, 2023, requesting that the Subject Property be reassigned from the Regional Commercial designation to the Light Industrial designation (see Amendment Petition and map attached as Exhibit A, and Staff Report attached as Exhibit B); and,

WHEREAS, the Subject Property is owned by the Tooele City RDA and is currently designated as Regional Commercial; and,

WHEREAS, the Regional Commercial designation includes the RC Regional Commercial and RD Research and Development zoning districts; and,

WHEREAS, the Light Industrial designation includes the LI Light Industrial zoning and IS Industrial Service zoning districts; and,

WHEREAS, the applicant wishes to utilize the 25 acres of property to construct a light manufacturing business and cannot do so in the RD Research and Development zone; and,

WHEREAS, all changes to the Zoning Map must first comply with the Land Use Map of the Tooele City General Plan ; and,

WHEREAS, on April 26, 2023, the Planning Commission convened a duly noticed public hearing, accepted written and verbal comment, and voted to forward its recommendation to the City Council (see Planning Commission minutes attached as Exhibit C); and,

WHEREAS, on May 3, 2023, the City Council convened a duly-noticed public hearing:

NOW, THEREFORE, BE IT ORDAINED BY THE TOOEELE CITY COUNCIL that:

1. this Ordinance and the Land Use Map amendment proposed therein is in the best interest of the City in that it will create additional opportunities for employment of City residents and expand the City's commercial tax base; and,
2. the Land Use Map is hereby amended reassigning the land use designation for approximately 25 acres of property located at approximately 450 South Tooele Boulevard to the Light Industrial land use designation, according to the map attached as Exhibit A and staff report attached as Exhibit B.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective immediately upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council this ____ day of _____, 20__.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Pitt, City Recorder

S E A L

Approved as to Form: _____
Roger Baker, Tooele City Attorney

Exhibit A

Petition and Mapping Pertinent to Zoning Map Amendment

Exhibit B

Staff Report

Exhibit C

Planning Commission Minutes

STAFF REPORT

April 18, 2023

To: Tooele City Planning Commission
Business Date: April 26, 2023

From: Planning Division
Community Development Department

Prepared By: Andrew Aagard, City Planner / Zoning Administrator

Re: Leitner-Poma Development – Land Use Map Amendment Request

Application No.: P23-339
Applicant: Jared Stewart, representing the Tooele City RDA
Project Location: Approximately 450 South Tooele Boulevard
Zoning: RD Research and Development Zone
Acreage: 25 Acres (Approximately 1,089,000 ft²)
Request: Request for approval of a Land Use Map Amendment in the RD Research and Development zone to re-assign the land use designation from Regional Commercial (RC) to Light Industrial (LI).

BACKGROUND

This application is a request for approval of a Land Use Map Amendment for approximately 25 acres located at approximately 450 South Tooele Boulevard. The property is currently zoned RD Research and Development. The applicant is requesting that a Land Use Map Amendment be approved to allow for the development of the currently vacant site as an office building. The applicant is requesting that a Land Use Map Amendment be approved to re-assign the land use designation of the property to Light Industrial (LI) in order to facilitate the construction of a light manufacturing and assembly business.

ANALYSIS

The Land Use Map of the General Plan calls for the Regional Commercial land use designation for the subject property. The property has been assigned the RD Research and Development zoning classification. The RD Research and Development zoning designation is identified by the General Plan as a preferred zoning classification for the Regional Commercial land use designation. Properties to the north of the subject property are zoned IS Industrial Service and LI Light Industrial. Properties to the east are zoned RD Research and Development as are properties to the south. Properties to the west are zoned both RD and IS. Mapping pertinent to the subject request can be found in Exhibit “A” to this report.

The proposed land use map amendment involves the 25 acre parcel located at approximately 450 South Tooele Boulevard. The property currently bears the Regional Commercial land use designation. This designation recommends the Regional Commercial and Research and Development zoning districts. These two zoning districts permit larger commercial activities that are specific to regional and larger scale commercial uses such as business parks and other large commercial centers. The Research and Development zoning district permits some commercial uses but is more oriented to educational and research facilities, medical office and higher end commercial activities. Both of these zones are not industrial zones and do not permit many of the industrial uses that are prevalent in the Light Industrial and Industrial Service zones.

The applicant wishes to have the land use designation of the 25 acre parcel re-assigned to the Light Industrial designation. The Light Industrial designation recommends both the LI Light Industrial zoning district as well as the IS Industrial Service zoning district. Both of these zoning districts are oriented towards lighter manufacturing that generate little in terms of impact to adjacent properties. These zones do permit heavier commercial uses along with some medical and research and development activities as well. The Light Industrial land use designation does not incorporate the I Industrial zoning district.

The property is currently under the ownership of the Tooele City RDA. The RDA is looking to sell the property to a business which wishes to utilize the property as a light manufacturing and assembly business that specializes in the construction and assembly of parts for tramways, gondolas, ski lifts, elevators, etc. This use is not permitted in the RD Research and Development zone but is permitted in the LI Light Industrial zone. The use is also permitted in the IS Industrial Service zoning district. Both zones require a Conditional Use Permit to approve any associated accessory outside storage.

Site Plan Layout. A site plan has not been provided during this stage of the development of this parcel. A site plan application will be conducted later.

Subdivision Layout. These are existing parcels of record. A subdivision plat does not exist for these parcels.

Criteria For Approval. The criteria for review and potential approval of a Land Use Map Amendment request is found in Sections 7-11-6, 8 and 9 of the Tooele City Code. This section depicts the standard of review for such requests as:

- (1) In considering a proposed amendment to the Tooele City General Plan, the applicant shall identify, and the City Staff, Planning Commission, and City Council may consider, the following factors, among others:
 - (a) The effect of the proposed amendment on the character of the surrounding area;
 - (b) Consistency with the General Plan Land Use Map and the goals and policies of the General Plan and its separate elements;
 - (c) Consistency and compatibility with the existing uses of adjacent and nearby properties;
 - (d) Consistency and compatibility with the possible future uses of adjoining and nearby properties as identified by the General Plan;
 - (e) The suitability of the properties for the uses requested viz. a viz. the suitability of the properties for the uses identified by the General Plan; and
 - (f) The overall community benefit of the proposed amendment.

REVIEWS

Planning Division Review. The Tooele City Planning Division has completed their review of the Land Use Map Amendment submission and has issued the following comments:

1. There are no residential uses in immediate vicinity of the subject property.

Engineering Review. The Tooele City Engineering Division did not issue any comments regarding the proposed Land Use Map Amendment.

Public Works Review. The Tooele City Public Works Division have completed their reviews of the Land Use Map Amendment submission and completed their review without providing comments.

Noticing. The applicant has expressed their desire to re-assign the land use for the subject property and do so in a manner which is compliant with the City Code. As such, notice has been properly issued in the manner outlined in the City and State Codes.

STAFF RECOMMENDATION

Staff recommends the Planning Commission carefully weigh this request for a Land Use Map Amendment according to the appropriate tenets of the Utah State Code and the Tooele City Code, particularly Section 7-1A-7(1) and render a decision in the best interest of the community with any conditions deemed appropriate and based on specific findings to address the necessary criteria for making such decisions.

Potential topics for findings that the Commission should consider in rendering a decision:

1. The effect of the proposed application on the character of the surrounding area.
2. The degree to which the proposed application is consistent with the intent, goals, and objectives of any applicable master plan.
3. The degree to which the proposed application is consistent with the intent, goals, and objectives of the Tooele City General Plan.
4. The degree to which the proposed application is consistent with the requirements and provisions of the Tooele City Code.
5. The suitability of the properties for the uses proposed.
6. The degree to which the proposed application will or will not be deleterious to the health, safety, and general welfare of the general public or the residents of adjacent properties.
7. The degree to which the proposed application conforms to the general aesthetic and physical development of the area.
8. Whether a change in the uses allowed for the affected properties will unduly affect the uses or proposed uses for adjoining and nearby properties.
9. The overall community benefit of the proposed amendment.
10. Whether or not public services in the area are adequate to support the subject development.
11. Other findings the Commission deems appropriate to base their decision upon for the proposed application.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the City Council for the Leitner-Poma Development Land Use Map Amendment Request by Jared Stewart, representing the Tooele City RDA, to re-assign the land use for the 25 acre parcel from Regional Commercial to Light Industrial, application number P23-339, based on the findings and subject to the conditions listed in the Staff Report dated April 18, 2023:”

1. List any additional findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the City Council for the Leitner-Poma Development Land Use Map Amendment Request by Jared Stewart, representing the Tooele City RDA, to re-assign the land use for the 25 acre parcel from Regional

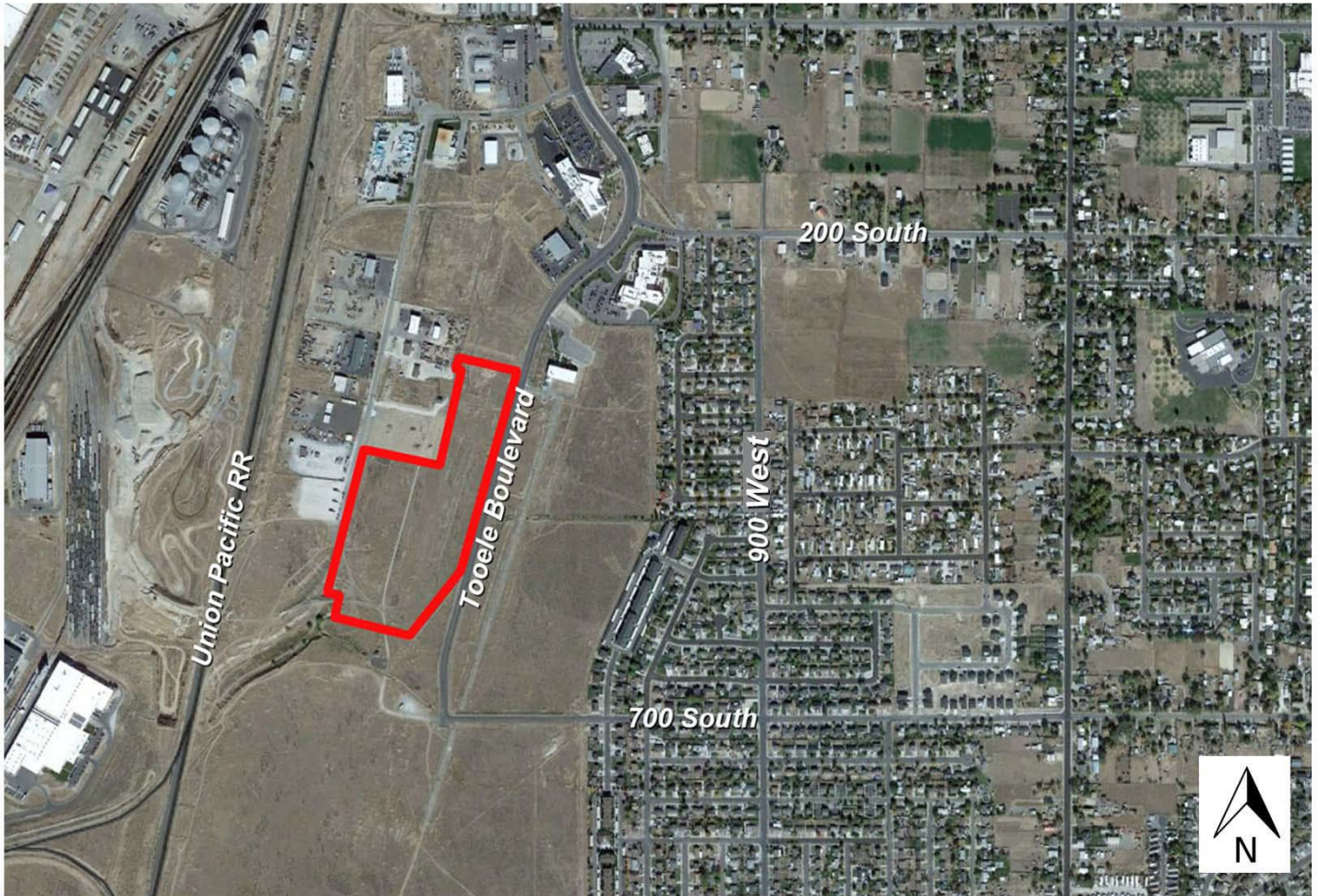
Commercial to Light Industrial, application number P23-339, based on the following findings:”

1. List findings...

EXHIBIT A

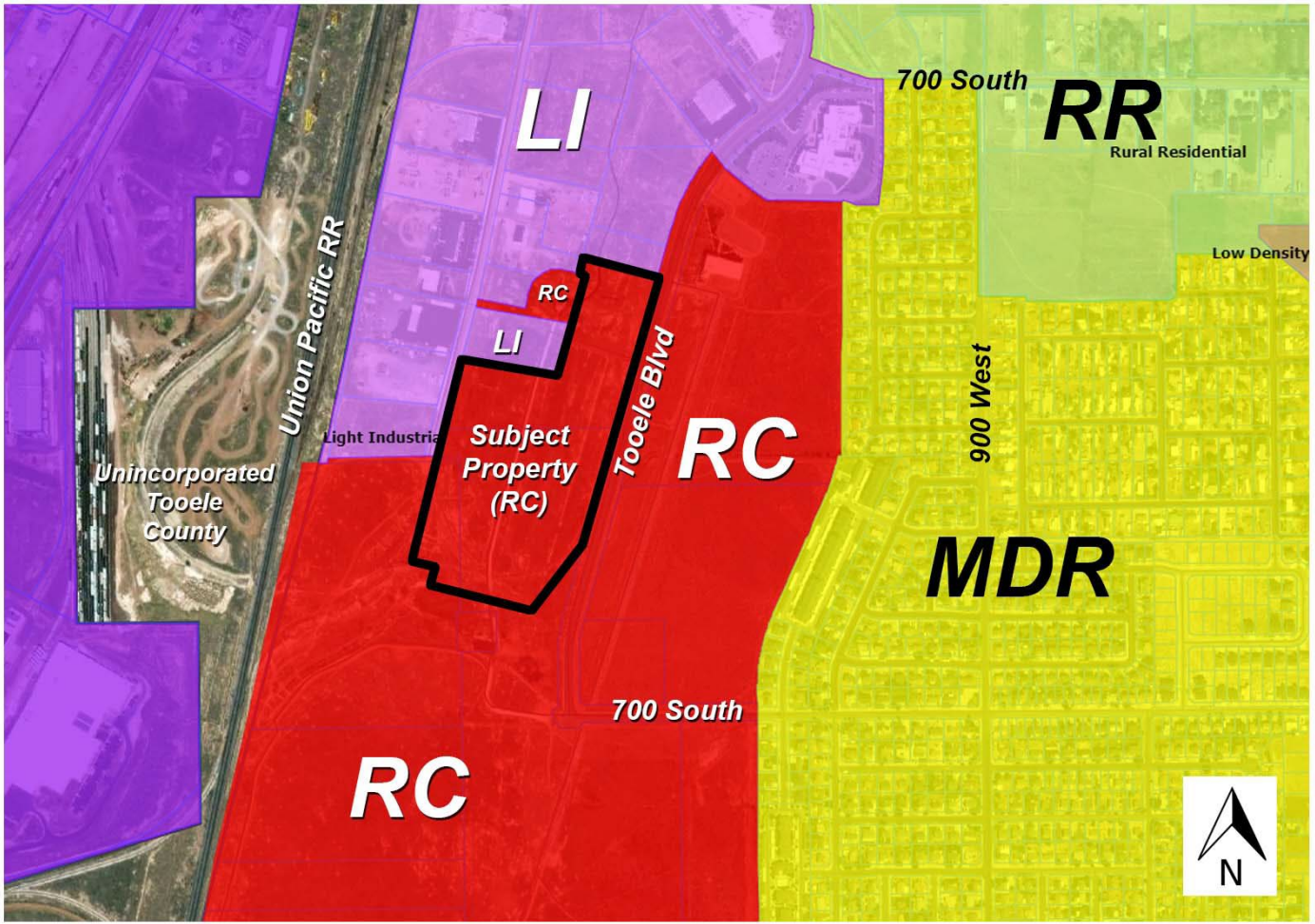
MAPPING PERTINENT TO THE LEITNER-POMA DEVELOPMENT LAND USE MAP AMENDMENT

Leitner-Poma Land Use Map Amendment



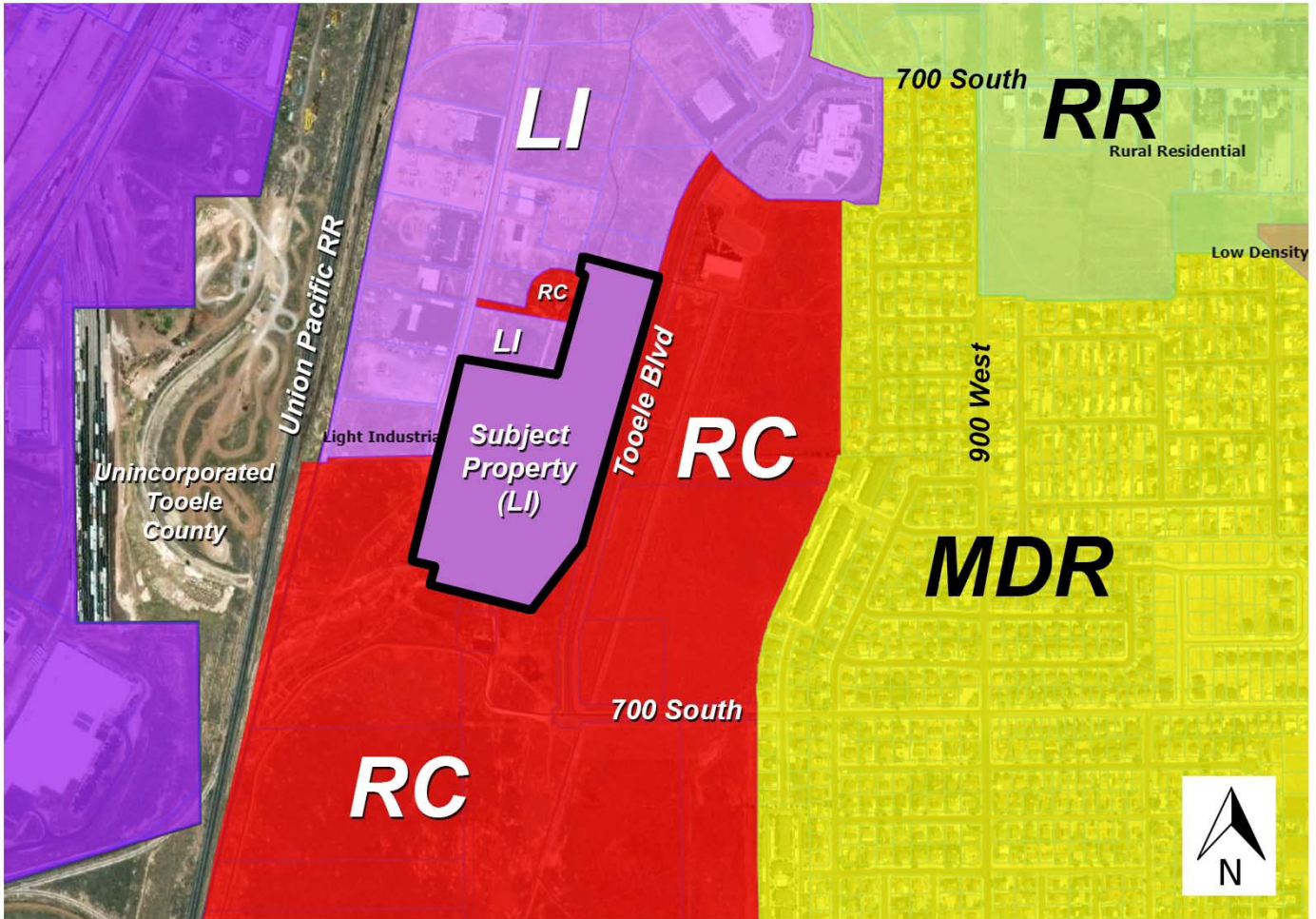
Aerial View

Leitner-Poma Land Use Map Amendment



Current Land Use

Leitner-Poma Land Use Map Amendment



Proposed Land Use

EXHIBIT B

APPLICANT SUBMITTED INFORMATION

Zoning, General Plan, & Master Plan Map Amendment Application

Community Development Department
90 North Main Street, Tooele, UT 84074
(435) 843-2132 Fax (435) 843-2139
www.tooelecity.org



Notice: The applicant must submit copies of the map amendment proposal to be reviewed by the City in accordance with the terms of the Tooele City Code. Once plans for a map amendment proposal are submitted, the plans are subject to compliance reviews by the various city departments and may be returned to the applicant for revision if the plans are found to be inconsistent with the requirements of the City Code and all other applicable City ordinances. All submitted map amendment proposals shall be reviewed in accordance with the Tooele City Code. Submission of a map amendment proposal in no way guarantees placement of the application on any particular agenda of any City reviewing body. It is **strongly** advised that all applications be submitted well in advance of any anticipated deadlines.

Project Information			
#23-339			
Date of Submission: April 13, 2023	Current Map Designation: RC	Proposed Map Designation: L1	Parcel #(s): 02-009-0-0115
Project Name: Leitner-Poma Development (Land Use Map)			Acres: 25
Project Address: Approx. 450 S Tooele Blvd.			
Proposed for Amendment: <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> General Plan <input type="checkbox"/> Master Plan: _____			
Brief Project Summary: Leitner-Poma is in a sales agreement with the Redevelopment Agency to purchase 25 acres of land for light manufacturing and assembly. They will have in-door manufacturing with outdoor storage (CUP) and no anticipated impacts on neighboring properties. The business would result in approx. 100 new jobs.			
Property Owner(s): RDA		Applicant(s): RDA	
Address:		Address: 90 N Main Street	
City:	State:	Zip:	City: Tooele
			State: UT
			Zip: 84074
Phone:		Phone: 435-843-2169	
Contact Person: Jared Stewart		Address:	
Phone: 435-843-2169		City:	
		State:	
		Zip:	
Cellular: 801-834-3858	Fax:	Email: Jared_S@TooeleCity.org	

*The application you are submitting will become a public record pursuant to the provisions of the Utah State Government Records Access and Management Act (GRAMA). You are asked to furnish the information on this form for the purpose of identification and to expedite the processing of your request. This information will be used only so far as necessary for completing the transaction. If you decide not to supply the requested information, you should be aware that your application may take a longer time or may be impossible to complete. If you are an "at-risk government employee" as defined in *Utah Code Ann.* § 63-2-302.5, please inform the city employee accepting this information. Tooele City does not currently share your private, controlled or protected information with any other person or government entity.

Note to Applicant:

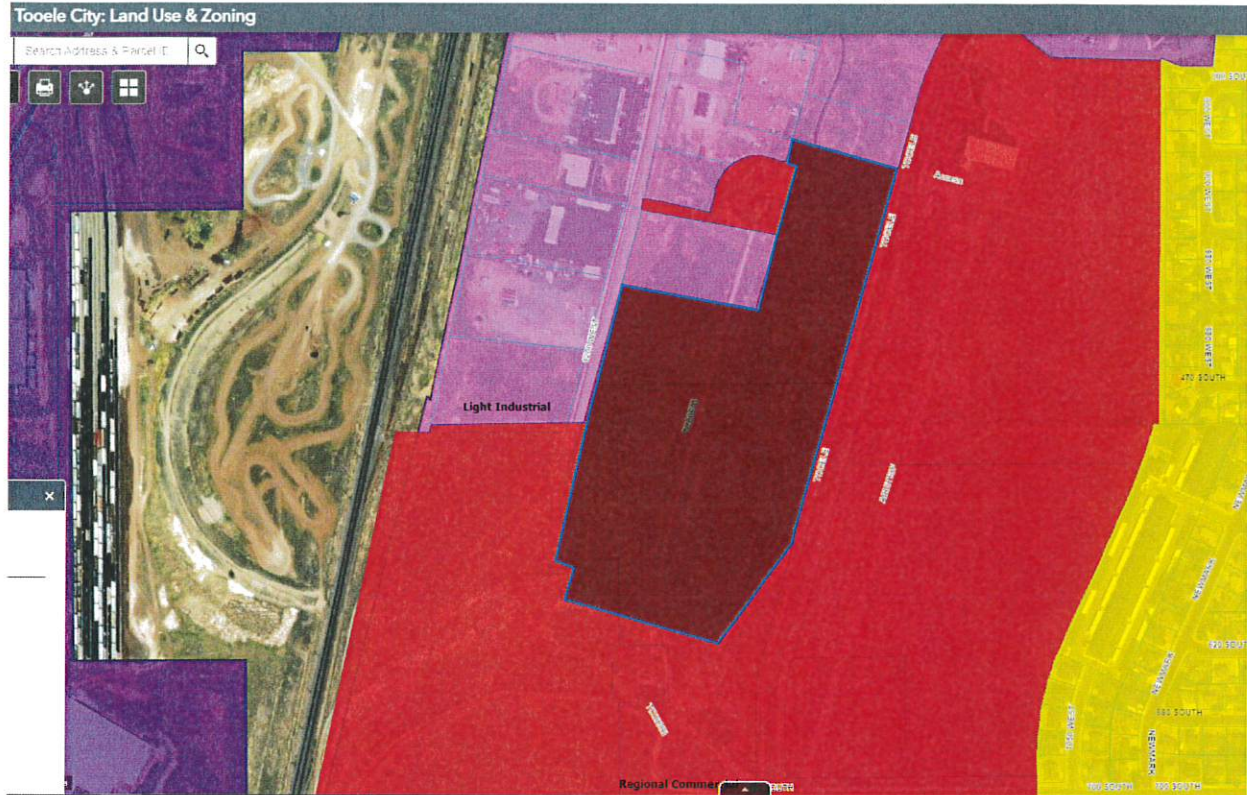
Zoning and map designations are made by ordinance. Any change of zoning or map designation is an amendment the ordinance establishing that map for which the procedures are established by city and state law. Since the procedures must be followed precisely, the time for amending the map may vary from as little as 2½ months to 6 months or more depending on the size and complexity of the application and the timing.

For Office Use Only			
Received By:	Date Received:	Fees:	App. #:

Land Use Map Amendment Application: Leitner-Poma Development (RDA), 25 acres

What is the present land use designation of the subject property?

Currently the General Plan's Future Land Use Map designates this property as Regional Commercial.



Explain how the proposed land use designation is similar or compatible with the other land use designations in the surrounding area.

The proposed use designation is Light Industrial (LI). The neighboring area of 1200 W, other sections to the north are already designated LI. There are no residential or uses with major conflicts. The LI designation matches plans for development of the property (light manufacturing and assembly) and within the 200+ acres that the Tooele City RDA and other private owners have for areas to the south.

What do you anticipate the land being used for?

The RDA has a purchase and sale agreement in place for these 25 acres to Leitner-Poma, whose business consists of manufacturing and assembly of cables and other equipment used at ski resorts across the globe. The business will result in approximately 100 new jobs, accomplishing economic development objectives of Tooele City. Outdoor storage of equipment and materials will be needed (requiring a CUP in the LI zone).

Explain how the proposed land use designation would affect the property, surrounding properties, and Tooele City.

The land is currently vacant. The proposed use would allow development and expansion of a business and is supported by the State of Utah with income tax incentives. This land use map amendment would

provide consistency in the land use map with the amendments made on adjacent properties. It would be consistent with development trends in the area and is driven by market interest. The proposed use is expected to increase property values (tax revenue) and have a positive benefit to surrounding properties and to Tooele City.

Explain how the proposed land use designation promotes the goals and objectives of Tooele City.

The Tooele City RDA and Tooele City's intent has been to use land in the Tooele Business Park area to create new jobs for residents with the goal of reducing the need for many residents to commute to the Salt Lake Valley for employment. This proposed land use amendment supports business expansion and job creation. A Light Industrial designation on the land use map (along with other amendments to zoning and the futured conditional use permit) will allow Leitner-Poma to operate within their intended scope.

Legal Description of the parcel: This parcel recently was approved for a Parcel Boundary Adjustment (recorded at Tooele County on 4/10/2023). The new description results in 25 acres.

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 29, AND THE NORTHWEST QUARTER OF SECTION 32, THE NORTHEAST QUARTER OF SECTION 31, AND THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE & MERIDIAN, AND BEING DESCRIBED BY SURVEY AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 29, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE & MERIDIAN, THENCE NORTH 00°05'41" WEST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 29.95 FEET; THENCE SOUTH 89°43'19" WEST, A DISTANCE OF 117.24 FEET TO THE EAST RIGHT-OF-WAY LINE OF 1200 WEST

STREET (E-300524); THENCE NORTH 15°38'12" EAST ALONG SAID EAST LINE, A DISTANCE OF 501.19 FEET; THENCE SOUTH 79°18'33" EAST, A DISTANCE OF 485.95 FEET; THENCE NORTH 16°07'20" EAST, A DISTANCE OF 523.28 FEET; THENCE NORTH 73°52'43" WEST, A DISTANCE OF 39.53 TO THE EAST LINE OF INNOVATIVE SUBDIVISION (ENTRY NO. 396498); THENCE NORTH 16°07'17" EAST ALONG SAID EAST LINE, A DISTANCE OF 84.41 FEET; THENCE SOUTH

73°52'40" EAST, A DISTANCE OF 390.65 FEET TO THE WEST LINE OF TOOELE BOULEVARD (ENTRY NO. 401144); THENCE SOUTH 16°07'20" WEST ALONG SAID WEST LINE, A DISTANCE OF 1265.84 FEET; THENCE SOUTH 37°50'37" WEST, A DISTANCE OF 521.54 FEET TO THE NORTH LINE OF A STORM DRAIN EASEMENT (E-558505); THENCE NORTH 74°31'43" WEST ALONG SAID NORTH LINE, A DISTANCE OF 487.52 FEET TO THE EAST LINE OF A POND EASEMENT (E-558507); THENCE NORTH 30°27'04" EAST ALONG SAID POND EASEMENT, A DISTANCE OF 89.74 FEET; THENCE NORTH 51°56'35" WEST, A DISTANCE OF 181.71 FEET TO THE PROJECTED EAST RIGHT-OF-WAY LINE OF 1200 WEST STREET (E-300524); THENCE NORTH 15°38'12" EAST ALONG SAID PROJECTED

EAST LINE, A DISTANCE OF 415.06 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE & MERIDIAN; THENCE NORTH 89°43'00" EAST ALONG SAID NORTH LINE, A DISTANCE OF 125.69 FEET TO THE POINT OF BEGINNING.

CONTAINS: 1,086,922 SQ.FT. OR 24.952 ACRES +/-

TOOELE CITY CORPORATION

ORDINANCE 2023 - 17

AN ORDINANCE OF TOOELE CITY REASSIGNING THE ZONING FOR APPROXIMATELY 25 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 450 SOUTH TOOELE BOULEVARD FROM RD RESEARCH AND DEVELOPMENT TO LI LIGHT INDUSTRIAL.

WHEREAS, Utah Code §10-9a-401, *et seq.*, requires and provides for the adoption of a “comprehensive, long-range plan” (hereinafter the “General Plan”) by each Utah city and town, which General Plan contemplates and provides direction for (a) “present and future needs of the community” and (b) “growth and development of all or any part of the land within the municipality”; and,

WHEREAS, the Tooele City General Plan includes various elements, including water, sewer, transportation, and land use. The Tooele City Council adopted the Land Use Element of the Tooele City General Plan, after duly-noticed public hearings, by Ordinance 2020-47, on December 16, 2020, by a vote of 5-0; and,

WHEREAS, the Land Use Element (hereinafter the “Land Use Plan”) of the General Plan establishes Tooele City’s general land use policies, which have been adopted by Ordinance 2020-47 as a Tooele City ordinance, and which set forth appropriate Use Designations for land in Tooele City (e.g., residential, commercial, industrial, open space); and,

WHEREAS, the Land Use Plan reflects the findings of Tooele City’s elected officials regarding the appropriate range, placement, and configuration of land uses within the City, which findings are based in part upon the recommendations of land use and planning professionals, Planning Commission recommendations, public comment, and other relevant considerations; and,

WHEREAS, Utah Code §10-9a-501, *et seq.*, provides for the enactment of “land use [i.e., zoning] ordinances and a zoning map” that constitute a portion of the City’s regulations (hereinafter “Zoning”) for land use and development, establishing order and standards under which land may be developed in Tooele City; and,

WHEREAS, a fundamental purpose of the Land Use Plan is to guide and inform the recommendations of the Planning Commission and the decisions of the City Council about the Zoning designations assigned to land within the City (e.g., R1-10 residential, neighborhood commercial (NC), light industrial (LI)); and,

WHEREAS, the City received an Amendment Petition for a Zoning Map amendment for 25 acres of property located at approximately 450 South Tooele Boulevard on April 13, 2023, requesting that the Subject Property be reassigned from the RD Research and Development zone to the LI Light Industrial zone (see Amendment Petition and map attached as Exhibit A, and Staff Report attached as Exhibit B); and,

WHEREAS, the Subject Property is owned by the Tooele City RDA and is currently zoned as RD Research and Development; and,

WHEREAS, the Land Use Map designates the property as Light Industrial; and,

WHEREAS, the Light Industrial zoning district complies with the Light Industrial designation of the Land Use Map; and,

WHEREAS, on April 26, 2023, the Planning Commission convened a duly noticed public hearing, accepted written and verbal comment, and voted to forward its recommendation to the City Council (see Planning Commission minutes attached as Exhibit C); and,

WHEREAS, on May 3, 2023, the City Council convened a duly-noticed public hearing:

NOW, THEREFORE, BE IT ORDAINED BY THE TOOEELE CITY COUNCIL that:

1. this Ordinance and the Land Use Map amendment proposed therein is in the best interest of the City in that it will create additional opportunities for employment of City residents and expand the City's commercial tax base; and,
2. the Zoning Map is hereby amended reassigning the zoning for approximately 25 acres of property located at approximately 450 South Tooele Boulevard to the LI Light Industrial zoning district, according to the map attached as Exhibit A and staff report attached as Exhibit B.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective immediately upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council this ____ day of _____, 20__.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Pitt, City Recorder

S E A L

Approved as to Form: _____
Roger Baker, Tooele City Attorney

Exhibit A

Petition and Mapping Pertinent to Zoning Map Amendment

Exhibit B

Staff Report

Exhibit C

Planning Commission Minutes

STAFF REPORT

April 18, 2023

To: Tooele City Planning Commission
Business Date: April 26, 2023

From: Planning Division
Community Development Department

Prepared By: Andrew Aagard, City Planner / Zoning Administrator

Re: Leitner-Poma Development – Zoning Map Amendment Request

Application No.: P23-341
Applicant: Jared Stewart, representing Tooele City RDA
Project Location: Approximately 450 South Tooele Boulevard
Zoning: RD Research and Development Zone
Acreage: 25 Acres (Approximately 1,089,000 ft²)
Request: Request for approval of a Zoning Map Amendment in the RD Research and Development zone requesting re-assignment of the zoning to the LI Light Industrial zoning district.

BACKGROUND

This application is a request for approval of a Zoning Map Amendment for approximately 25 acres located at approximately 450 South Tooele Boulevard. The property is currently zoned RD Research and Development. The applicant is requesting that a Zoning Map Amendment be approved to re-assign the zoning to the LI Light Industrial zoning district.

ANALYSIS

General Plan and Zoning. The Land Use Map of the General Plan calls for the Regional Commercial land use designation for the subject property. The property has been assigned the RD Research and Development zoning classification. The RD Research and Development zoning designation is not identified by the General Plan as a preferred zoning classification for the Light Industrial land use designation. Properties to the north of the subject property are zoned IS Industrial Service and LI Light Industrial. Properties to the east are zoned RD Research and Development as are properties to the south. Properties to the west are zoned both RD and IS. Mapping pertinent to the subject request can be found in Exhibit “A” to this report.

The purpose of the RD zoning district is intended to combine certain elements of the General Commercial and Light Industrial zoning districts while excluding other elements. The intent of the RD zone is to allow for a professional business park within the City where businesses may locate in an environment that allows a mix of certain small commercial and light industrial uses. It is not intended for large commercial or industrial uses or for intensive retail or manufacturing activities. The prevalence of the RD zoning district in the area is a result of what was, at one time, going to be a large Utah State University Tooele Campus. Those plans have not come to fruition and it is not known if Utah State University has abandoned those plans. What is known is that the University has not expanded into those areas previously intended for the school’s growth.

The applicant is requesting that the property be rezoned to the LI Light Industrial zone. The purpose of

the Light Industrial (LI) District is to provide locations for light industrial assembly and manufacturing uses that produce no appreciable negative impact to adjacent properties. This District encourages clean, light industrial and manufacturing uses which provide employment opportunities for city residents, strengthen the city's tax base and diversify the local economy.

Although staff often avoids focusing on a specific use that triggers the need for a zoning map amendment, it should be noted that the applicant, the Tooele City RDA, is seeking to sell the property to a light manufacturing and assembly business that specializes in the construction and assembly of parts for tramways, gondolas, ski lifts, elevators, etc. The use is prohibited in the RD district but is a permitted use in the LI Light Industrial zone.

It should also be noted that when changing the zoning of a property from one specific zone to another specific zone that the change in the zoning also brings along every potential use that can occur in that zone. Even though this application is specific to one business, every use permitted in the IS zoning district can occur on this property.

Surrounding land uses are predominantly light industrial, heavy commercial and educational facilities. The nearest residential uses are located approximately 1000 feet to the east.

Site Plan Layout. A site plan has not been provided during this stage of the development of this parcel. A site plan application will be conducted later.

Subdivision Layout. These are existing parcels of record. A subdivision plat does not exist for these parcels.

Criteria For Approval. The criteria for review and potential approval of a Land Use Map Amendment request is found in Sections 7-11-6, 8 and 9 of the Tooele City Code. This section depicts the standard of review for such requests as:

- (1) In considering a proposed amendment to the Tooele City General Plan, the applicant shall identify, and the City Staff, Planning Commission, and City Council may consider, the following factors, among others:
 - (a) The effect of the proposed amendment on the character of the surrounding area;
 - (b) Consistency with the General Plan Land Use Map and the goals and policies of the General Plan and its separate elements;
 - (c) Consistency and compatibility with the existing uses of adjacent and nearby properties;
 - (d) Consistency and compatibility with the possible future uses of adjoining and nearby properties as identified by the General Plan;
 - (e) The suitability of the properties for the uses requested viz. a viz. the suitability of the properties for the uses identified by the General Plan; and
 - (f) The overall community benefit of the proposed amendment.

REVIEWS

Planning Division Review. The Tooele City Planning Division has completed their review of the Land Use Map Amendment submission and has issued the following comments:

1. There are no residential uses in immediate vicinity of the subject property.

Engineering Review. The Tooele City Engineering Division did not issue any comments regarding the

proposed Land Use Map Amendment.

Public Works Review. The Tooele City Public Works Division have completed their reviews of the Land Use Map Amendment submission and completed their review without providing comments.

Noticing. The applicant has expressed their desire to re-assign the zoning for the subject property and do so in a manner which is compliant with the City Code. As such, notice has been properly issued in the manner outlined in the City and State Codes.

STAFF RECOMMENDATION

Staff recommends the Planning Commission carefully weigh this request for a Land Use Map Amendment according to the appropriate tenets of the Utah State Code and the Tooele City Code, particularly Section 7-1A-7(1) and render a decision in the best interest of the community with any conditions deemed appropriate and based on specific findings to address the necessary criteria for making such decisions.

Potential topics for findings that the Commission should consider in rendering a decision:

1. The effect of the proposed application on the character of the surrounding area.
2. The degree to which the proposed application is consistent with the intent, goals, and objectives of any applicable master plan.
3. The degree to which the proposed application is consistent with the intent, goals, and objectives of the Tooele City General Plan.
4. The degree to which the proposed application is consistent with the requirements and provisions of the Tooele City Code.
5. The suitability of the properties for the uses proposed.
6. The degree to which the proposed application will or will not be deleterious to the health, safety, and general welfare of the general public or the residents of adjacent properties.
7. The degree to which the proposed application conforms to the general aesthetic and physical development of the area.
8. Whether a change in the uses allowed for the affected properties will unduly affect the uses or proposed uses for adjoining and nearby properties.
9. The overall community benefit of the proposed amendment.
10. Whether or not public services in the area are adequate to support the subject development.
11. Other findings the Commission deems appropriate to base their decision upon for the proposed application.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the City Council for the Leitner-Poma Development Zoning Map Amendment Request by Jared Stewart, representing the Tooele City RDA to re-assign the zoning for the 25 acre parcel from the RD Research & Development zone to the LI Light Industrial zone, application number P23-341, based on the findings and subject to the conditions listed in the Staff Report dated April 18, 2023:”

1. List any additional findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the

City Council for the Leitner-Poma Development Zoning Map Amendment Request by Jared Stewart, representing the Tooele City RDA to re-assign the zoning for the 25 acre parcel from the RD Research & Development zone to the LI Light Industrial zone, application number P23-341, based on the following findings:”

1. List findings...

EXHIBIT A

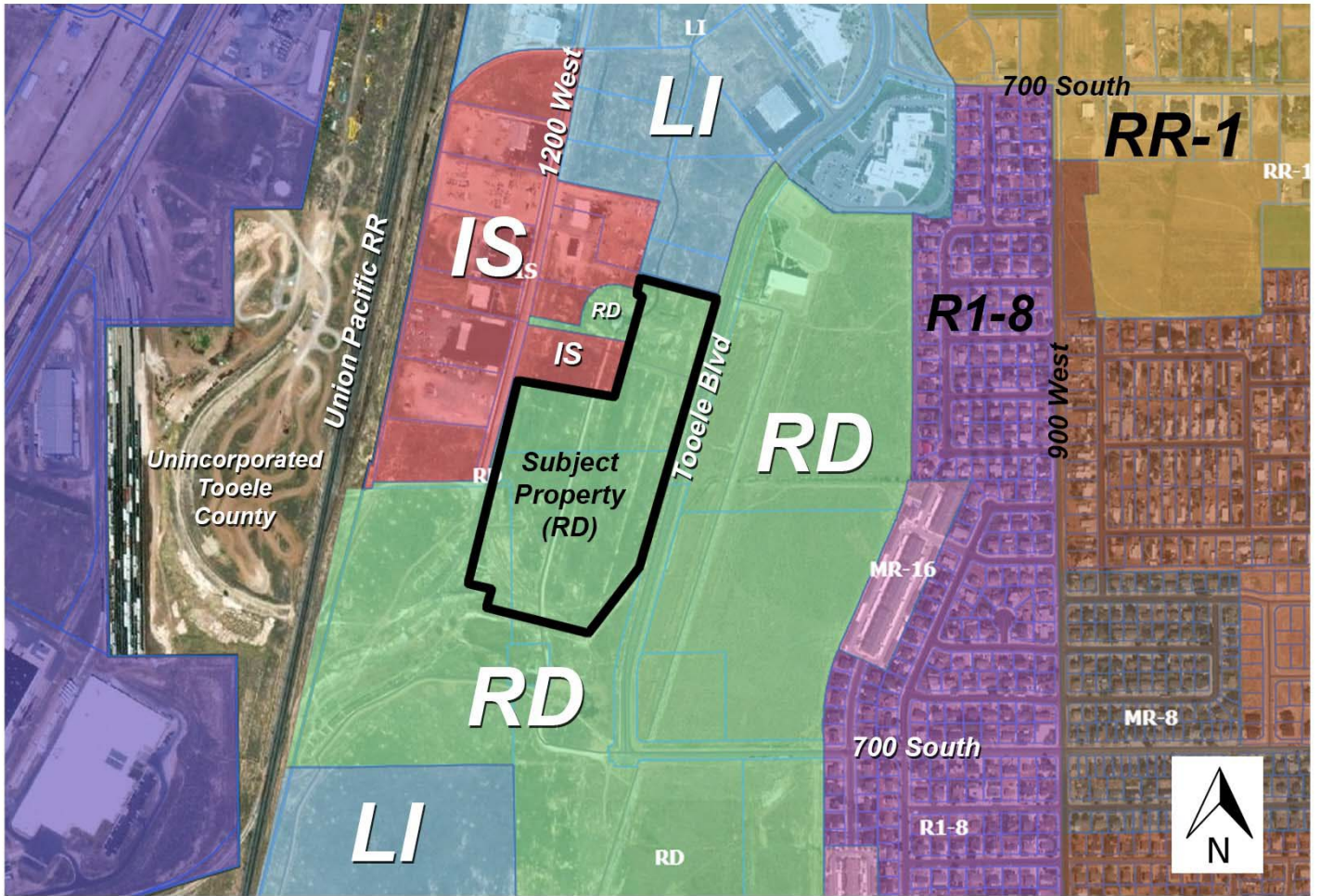
MAPPING PERTINENT TO THE LEITNER-POMA DEVELOPMENT ZONING MAP AMENDMENT

Leitner-Poma Zoning Map Amendment



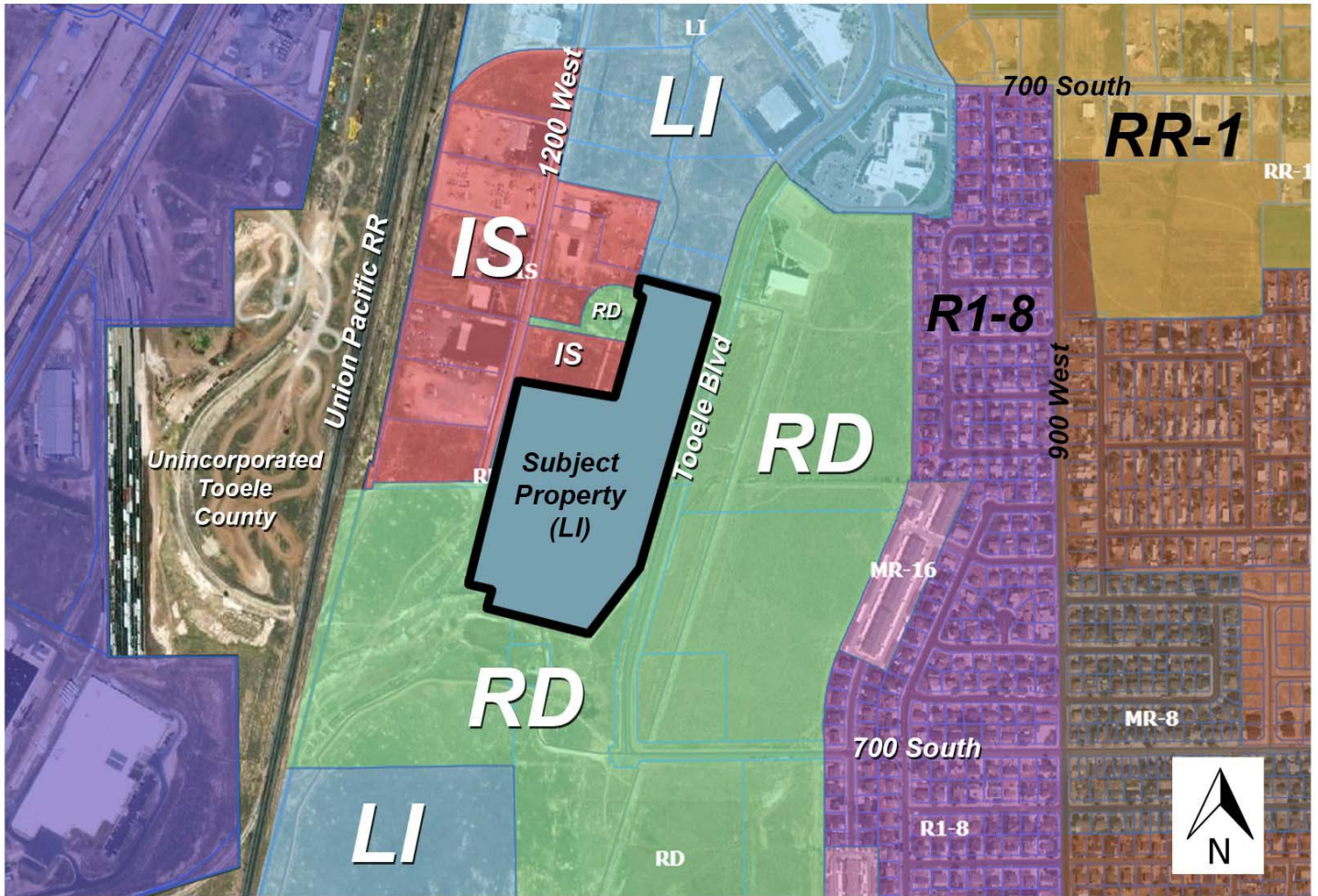
Aerial View

Leitner-Poma Zoning Map Amendment



Current Zoning

Leitner-Poma Zoning Map Amendment



Proposed Zoning

EXHIBIT B

APPLICANT SUBMITTED INFORMATION

TOOELE CITY CORPORATION

ORDINANCE 2023 - 19

AN ORDINANCE OF TOOELE CITY REASSIGNING THE LAND USE DESIGNATION FOR APPROXIMATELY 0.28 ACRES OF PROPERTY LOCATED AT 248 NORTH GARDEN STREET FROM MEDIUM DENSITY RESIDENTIAL TO COMMUNITY COMMERCIAL.

WHEREAS, Utah Code §10-9a-401, *et seq.*, requires and provides for the adoption of a “comprehensive, long-range plan” (hereinafter the “General Plan”) by each Utah city and town, which General Plan contemplates and provides direction for (a) “present and future needs of the community” and (b) “growth and development of all or any part of the land within the municipality”; and,

WHEREAS, the Tooele City General Plan includes various elements, including water, sewer, transportation, and land use. The Tooele City Council adopted the Land Use Element of the Tooele City General Plan, after duly-noticed public hearings, by Ordinance 2020-47, on December 16, 2020, by a vote of 5-0; and,

WHEREAS, the Land Use Element (hereinafter the “Land Use Plan”) of the General Plan establishes Tooele City’s general land use policies, which have been adopted by Ordinance 2020-47 as a Tooele City ordinance, and which set forth appropriate Use Designations for land in Tooele City (e.g., residential, commercial, industrial, open space); and,

WHEREAS, the Land Use Plan reflects the findings of Tooele City’s elected officials regarding the appropriate range, placement, and configuration of land uses within the City, which findings are based in part upon the recommendations of land use and planning professionals, Planning Commission recommendations, public comment, and other relevant considerations; and,

WHEREAS, Utah Code §10-9a-501, *et seq.*, provides for the enactment of “land use [i.e., zoning] ordinances and a zoning map” that constitute a portion of the City’s regulations (hereinafter “Zoning”) for land use and development, establishing order and standards under which land may be developed in Tooele City; and,

WHEREAS, a fundamental purpose of the Land Use Plan is to guide and inform the recommendations of the Planning Commission and the decisions of the City Council about the Zoning designations assigned to land within the City (e.g., R1-10 residential, neighborhood commercial (NC), light industrial (LI)); and,

WHEREAS, the City received an Amendment Petition for a Land Use Map amendment for .28 acres of property located at 248 North Garden Street on April 10, 2023, requesting that the Subject Property be reassigned from the Medium Density Residential designation to the Community Commercial designation (see Amendment Petition and map attached as Exhibit A, and Staff Report attached as Exhibit B); and,

WHEREAS, the Subject Property is owned by Godelio Eleuterio Palomino and Vichez and Juana Ventura Cruz and is currently designated as Medium Density Residential; and,

WHEREAS, the Medium Density Residential designation includes the R1-7, R1-8 and R1-10 Residential zoning districts; and,

WHEREAS, the Community Commercial designation includes the GC General Commercial and the NC Neighborhood Commercial zoning districts; and,

WHEREAS, the applicants wish to construct a commercial business on the currently vacant land; and,

WHEREAS, on April 26, 2023, the Planning Commission convened a duly noticed public hearing, accepted written and verbal comment, and voted to forward its recommendation to the City Council (see Planning Commission minutes attached as Exhibit C); and,

WHEREAS, on May 3, 2023, the City Council convened a duly-noticed public hearing:

NOW, THEREFORE, BE IT ORDAINED BY THE TOOEELE CITY COUNCIL that:

1. this Ordinance and the Land Use Map amendment proposed therein is in the best interest of the City in that it will create additional opportunities for employment of City residents and expand the City's commercial tax base; and,
2. the Land Use Map is hereby amended reassigning the land use designation for approximately 0.28 acres of property located at 248 North Garden Street to the Community Commercial designation, according to the map attached as Exhibit A and staff report attached as Exhibit B.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective immediately upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council this ____ day of _____, 20__.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Pitt, City Recorder

S E A L

Approved as to Form: _____
Roger Baker, Tooele City Attorney

Exhibit A

Petition and Mapping Pertinent to Zoning Map Amendment

Exhibit B

Staff Report

Exhibit C

Planning Commission Minutes

STAFF REPORT

April 17, 2023

To: Tooele City Planning Commission
Business Date: April 26, 2023

From: Planning Division
Community Development Department

Prepared By: Andrew Aagard, City Planner / Zoning Administrator

Re: Palomino - Cruz – Land Use Map Amendment Request

Application No.: P23-337
Applicant: Godelio Palomino & Vilchez Cruz
Project Location: 248 North Garden Street
Zoning: R1-7 Residential Zone
Acreage: .28 Acres (Approximately 14,113,440 ft²)
Request: Request for approval of a Land Use Map Amendment in the R1-7 Residential zone regarding re-assigning the land use designation for .28 acres.

BACKGROUND

This application is a request for approval of a Land Use Map Amendment for approximately .28 acres located at approximately 248 North Garden Street. The property is currently zoned R1-7 Residential. The applicant is requesting that a Land Use Map Amendment be approved to re-assign the land use designation from Medium Density Residential (MDR) to Community Commercial (CC).

ANALYSIS

General Plan and Zoning. The Land Use Map of the General Plan calls for the Medium Density Residential land use designation for the subject property. The property has been assigned the R1-7 Residential zoning classification, supporting approximately dwelling units per acre. The R1-7 Residential zoning designation is identified by the General Plan as a preferred zoning classification for the Medium Density Residential land use designation. Properties to the north, east and west are all zoned R1-7 Residential. Property to the west is zoned GC General Commercial. Mapping pertinent to the subject request can be found in Exhibit “A” to this report.

The applicant is requesting the Land Use Map amendment in order to facilitate a change in the zoning of the property to a commercial zone. In order to accomplish the commercial zoning the Land Use Map must first be approved as City ordinance requires that all zoning changes must first comply with the Land Use Map. The applicant wishes to eventually develop the property as a laundry and beauty salon facility and needs the commercial zoning to do so.

The current Land Use Designation is MDR. MDR is a residential designation that requires the R1-7, R1-8 or the R1-10 zoning districts. The property as it is currently zoned is in compliance with the Land Use Map and as such the property owner is limited to developing the property as single-family residential.

The applicant is requesting the CC land use designation. The CC designation includes or requires the GC General Commercial zoning district or the NC Neighborhood Commercial zoning district. The CC land

use designation is oriented strictly for commercial development and does not permit residential.

Currently Garden Street is the boundary between the GC zoning district and the R1-7 zoning district and extends all the way from Utah Avenue to 700 North. Garden Street is also the boundary between the CC Land Use and the MDR Land Use designations. The subject property is currently surrounded by residential zones but the homes on the adjacent properties front onto and access 100 East.

The issue that needs to be discussed with this application is whether this property is more appropriately utilized as a commercial property or as a residential property and where the City should limit the expanse of commercial zoning into designated residential areas. As of today the property sits vacant and undeveloped occasionally storing trailers or vehicles. Is development of this property with a contributing business better than what exists there currently?

Site Plan Layout. A site plan has not been provided. This application is only looking at the use of the property as either residential or as commercial.

Subdivision Layout. This is an existing parcel of record and is not located within a subdivision.

Criteria For Approval. The criteria for review and potential approval of a Land Use Map Amendment request is found in Section 7-1A-3 of the Tooele City Code. This section depicts the standard of review for such requests as:

- (1) In considering a proposed amendment to the Tooele City General Plan, the applicant shall identify, and the City Staff, Planning Commission, and City Council may consider, the following factors, among others:
 - (a) The effect of the proposed amendment on the character of the surrounding area;
 - (b) Consistency with the General Plan Land Use Map and the goals and policies of the General Plan and its separate elements;
 - (c) Consistency and compatibility with the existing uses of adjacent and nearby properties;
 - (d) Consistency and compatibility with the possible future uses of adjoining and nearby properties as identified by the General Plan;
 - (e) The suitability of the properties for the uses requested viz. a viz. the suitability of the properties for the uses identified by the General Plan; and
 - (f) The overall community benefit of the proposed amendment.

REVIEWS

Planning Division Review. The Tooele City Planning Division has completed their review of the Land Use Map Amendment submission and has issued the following comments concerning this application:

1. The property is surrounded by residential zones but will access Garden Street which fronts onto commercially zoned and utilized property.
2. Adjacent residential uses front onto and access 100 East.
3. Is commercial the highest and best use for this property compared to what is currently being done on the property?
4. Is the City comfortable with expanding commercial land use beyond the established commercial boundary of Garden Street?

Engineering and Public Works Review. The Tooele City Engineering and Public Works Divisions have completed their reviews of the Land Use Map Amendment submission and have not issued any comments

on this application.

Tooele City Fire Department Review. The Tooele City Fire Department has completed their review of the Land Use Map Amendment submission and has not issued any comments on this application.

Noticing. The applicant has expressed their desire to re-assign the land use for the subject property and do so in a manner which is compliant with the City Code. As such, notice has been properly issued in the manner outlined in the City and State Codes.

STAFF RECOMMENDATION

Staff recommends the Planning Commission carefully weigh this request for a Land Use Map Amendment according to the appropriate tenets of the Utah State Code and the Tooele City Code, particularly Section 7-1A-7(1) and render a decision in the best interest of the community with any conditions deemed appropriate and based on specific findings to address the necessary criteria for making such decisions.

Potential topics for findings that the Commission should consider in rendering a decision:

1. The effect of the proposed application on the character of the surrounding area.
2. The degree to which the proposed application is consistent with the intent, goals, and objectives of any applicable master plan.
3. The degree to which the proposed application is consistent with the intent, goals, and objectives of the Tooele City General Plan.
4. The degree to which the proposed application is consistent with the requirements and provisions of the Tooele City Code.
5. The suitability of the properties for the uses proposed.
6. The degree to which the proposed application will or will not be deleterious to the health, safety, and general welfare of the general public or the residents of adjacent properties.
7. The degree to which the proposed application conforms to the general aesthetic and physical development of the area.
8. Whether a change in the uses allowed for the affected properties will unduly affect the uses or proposed uses for adjoining and nearby properties.
9. The overall community benefit of the proposed amendment.
10. Whether or not public services in the area are adequate to support the subject development.
11. Other findings the Commission deems appropriate to base their decision upon for the proposed application.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the City Council for the Palomino - Cruz Land Use Map Amendment request by Godelio Palomino and Vilchez Cruz, to re-assign the land use for .28 acres from Medium Density Residential to Community Commercial, application number P23-337, based on the findings and subject to the conditions listed in the Staff Report dated April 17, 2023:”

1. List any additional findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the City Council for the Palomino - Cruz Land Use Map Amendment request by Godelio Palomino and Vilchez Cruz, to re-assign the land use for .28 acres from Medium Density Residential to Community Commercial, application number P23-337, based on the following findings:”

1. List findings...

EXHIBIT A

MAPPING PERTINENT TO THE PALOMINO - CRUZ LAND USE MAP AMENDMENT

Palomino - Cruz Land Use Map Amendment



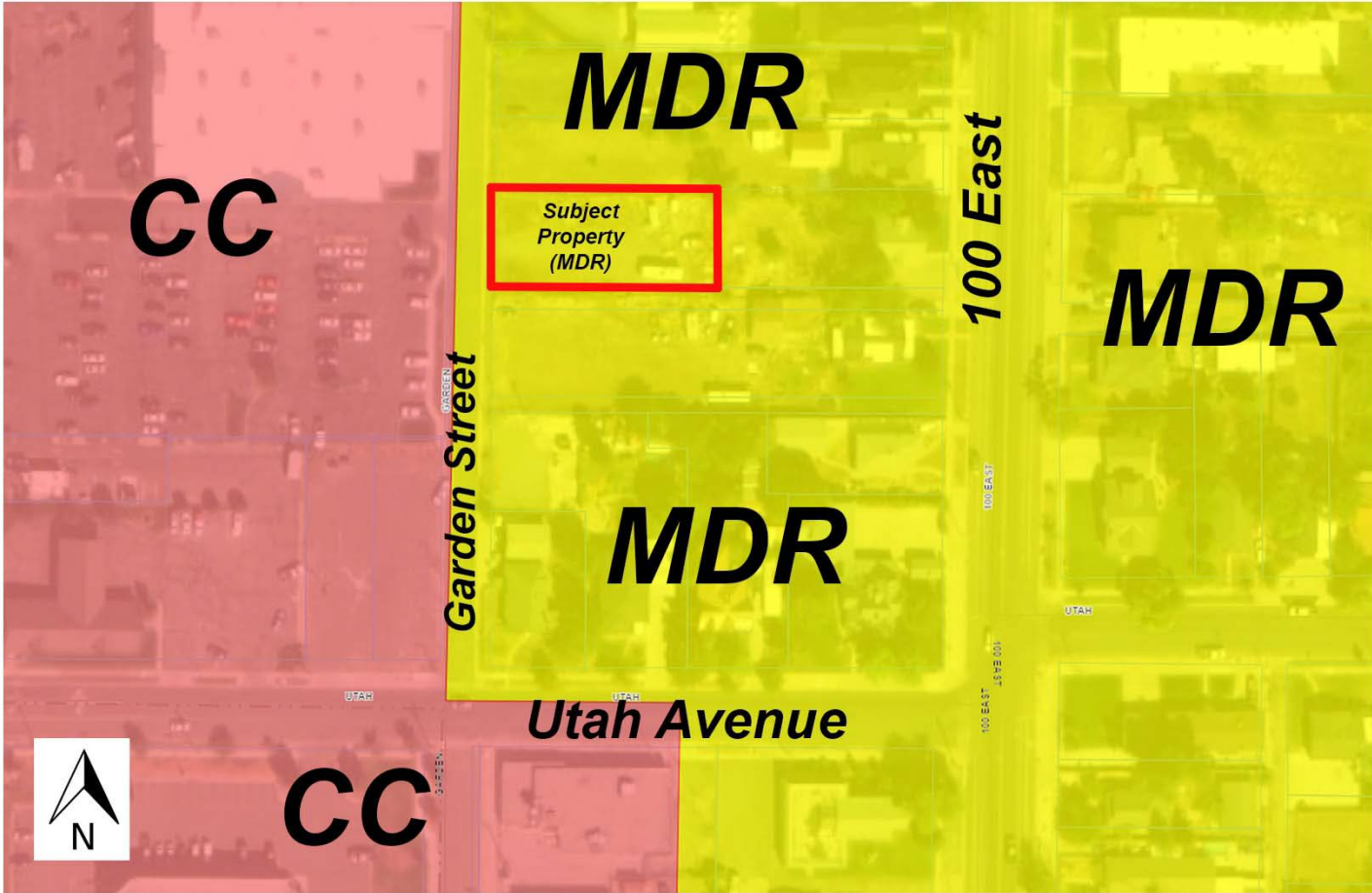
Aerial View

Palomino - Cruz Land Use Map Amendment



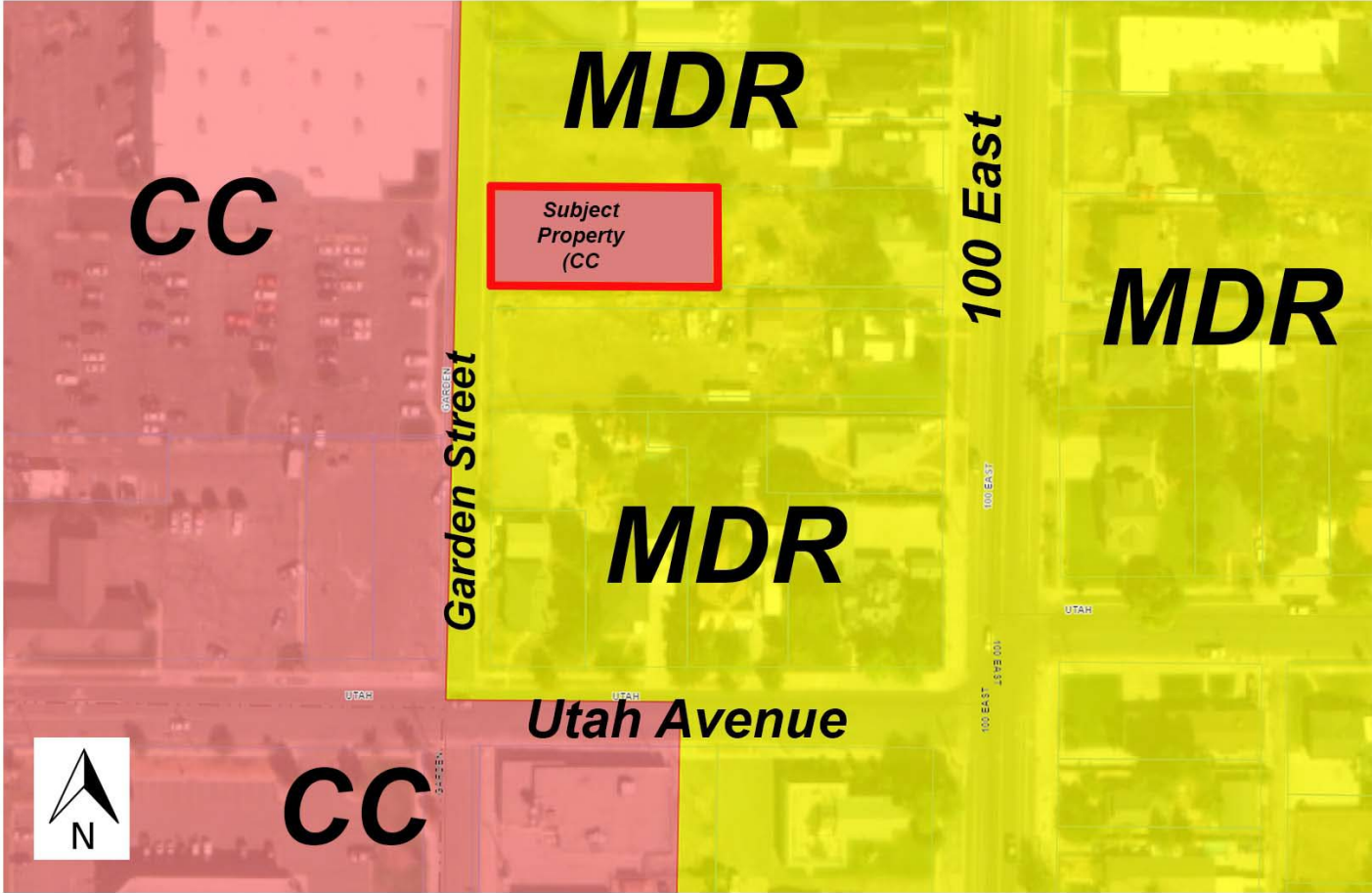
Current Zoning

Palomino - Cruz Land Use Map Amendment



Current Land Use

Palomino - Cruz Land Use Map Amendment



Proposed Land Use

EXHIBIT B

APPLICANT SUBMITTED INFORMATION

Zoning, General Plan, & Master Plan Map Amendment Application

Community Development Department
90 North Main Street, Tooele, UT 84074
(435) 843-2132 Fax (435) 843-2139
www.tooelecity.org



Notice: The applicant must submit copies of the map amendment proposal to be reviewed by the City in accordance with the terms of the Tooele City Code. Once plans for a map amendment proposal are submitted, the plans are subject to compliance reviews by the various city departments and may be returned to the applicant for revision if the plans are found to be inconsistent with the requirements of the City Code and all other applicable City ordinances. All submitted map amendment proposals shall be reviewed in accordance with the Tooele City Code. Submission of a map amendment proposal in no way guarantees placement of the application on any particular agenda of any City reviewing body. It is **strongly** advised that all applications be submitted well in advance of any anticipated deadlines.

Project Information				23-337			
Date of Submission: 04/10/2023		Current Map Designation: Medium Density Residential		Proposed Map Designation: Community Commercial		Parcel #(s): 02-034-0-0008	
Project Name: Laundry & Beauty Salon						Acres: .28 Acres	
Project Address: 248 North Garden Street, Tooele, UT 84074							
Proposed for Amendment: <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> General Plan <input type="checkbox"/> Master Plan: <u>Land Use Map</u>							
Brief Project Summary: We want to build and operate a laundry service & beauty salon							
Property Owner(s): Godelio Eleuterio Palomino- Vilchez & Juana R. Ventura Cruz				Applicant(s): Godelio Eleuterio Palomino- Vilchez & Juana R. Ventura Cruz			
Address: 7159 West Antelope Road				Address: 7159 West Antelope Road			
City: West Valley City		State: UT		Zip: 84128		City: West Valley City	
Phone: 801-458-0842				Phone: 801-458-0842			
Contact Person: Godelio Eleuterio Palomino- Vilchez				Address:			
Phone: 801-458-0842				City:		State: Zip:	
Cellular: 801-458-0842		Fax:		Email: godeliopalomino@yahoo.com			

*The application you are submitting will become a public record pursuant to the provisions of the Utah State Government Records Access and Management Act (GRAMA). You are asked to furnish the information on this form for the purpose of identification and to expedite the processing of your request. This information will be used only so far as necessary for completing the transaction. If you decide not to supply the requested information, you should be aware that your application may take a longer time or may be impossible to complete. If you are an "at-risk government employee" as defined in *Utah Code Ann. § 63-2-302.5*, please inform the city employee accepting this information. Tooele City does not currently share your private, controlled or protected information with any other person or government entity.

Note to Applicant:

Zoning and map designations are made by ordinance. Any change of zoning or map designation is an amendment the ordinance establishing that map for which the procedures are established by city and state law. Since the procedures must be followed precisely, the time for amending the map may vary from as little as 2½ months to 6 months or more depending on the size and complexity of the application and the timing.

For Office Use Only				2230363			
Received By:		Date Received: 4/11/23		Fees: 1100.00		App. #: 555256	

General Plan Map

1. What is the present land use designation of the subject property(s)?

Medium Density Residential

2. Explain how the proposed land use designation is similar or compatible with the other land use designations in the surrounding area.

Lot is situated in the middle of the city, across the street is a commercial area that includes Vasa Gym, Wells Fargo, Twisted Piston & RW Auto Sales. The block where my land is situated is Medium Density Residential and is mostly vacant on the east side of Garden Street, the nearest Residence on the same side of the block is about 150 feet away.

3. What do you anticipate the land being used for?

We want to build and operate a laundry service & Beauty Salon

4. Explain how the proposed land use designation would affect property, surrounding properties, and Tooele City.

The update of the zoning will allow the neighborhood to have a facility to service the community with cleaning and personal Care service that is not noisy and is very useful for the city Bringing efficient and effective Services.

5. Explain how the proposed land use designation promotes the goals and objectives of Tooele City.

Our plan and objective will update and stimulate growth, will promote a strong Community providing employment opportunities that will improve the quality of life of the residents of Tooele.

TOOELE CITY CORPORATION

ORDINANCE 2023 - 20

AN ORDINANCE OF TOOELE CITY REASSIGNING THE ZONING FOR APPROXIMATELY 0.39 ACRES OF PROPERTY LOCATED AT 60 SOUTH MAIN STREET FROM GC GENERAL COMMERCIAL TO MU-G MIXED USE GENERAL.

WHEREAS, Utah Code §10-9a-401, *et seq.*, requires and provides for the adoption of a “comprehensive, long-range plan” (hereinafter the “General Plan”) by each Utah city and town, which General Plan contemplates and provides direction for (a) “present and future needs of the community” and (b) “growth and development of all or any part of the land within the municipality”; and,

WHEREAS, the Tooele City General Plan includes various elements, including water, sewer, transportation, and land use. The Tooele City Council adopted the Land Use Element of the Tooele City General Plan, after duly-noticed public hearings, by Ordinance 2020-47, on December 16, 2020, by a vote of 5-0; and,

WHEREAS, the Land Use Element (hereinafter the “Land Use Plan”) of the General Plan establishes Tooele City’s general land use policies, which have been adopted by Ordinance 2020-47 as a Tooele City ordinance, and which set forth appropriate Use Designations for land in Tooele City (e.g., residential, commercial, industrial, open space); and,

WHEREAS, the Land Use Plan reflects the findings of Tooele City’s elected officials regarding the appropriate range, placement, and configuration of land uses within the City, which findings are based in part upon the recommendations of land use and planning professionals, Planning Commission recommendations, public comment, and other relevant considerations; and,

WHEREAS, Utah Code §10-9a-501, *et seq.*, provides for the enactment of “land use [i.e., zoning] ordinances and a zoning map” that constitute a portion of the City’s regulations (hereinafter “Zoning”) for land use and development, establishing order and standards under which land may be developed in Tooele City; and,

WHEREAS, a fundamental purpose of the Land Use Plan is to guide and inform the recommendations of the Planning Commission and the decisions of the City Council about the Zoning designations assigned to land within the City (e.g., R1-10 residential, neighborhood commercial (NC), light industrial (LI)); and,

WHEREAS, the City received an Amendment Petition for a Zoning Map amendment for .39 acres of property located at 60 South Main Street on April 10, 2023, requesting that the Subject Property be reassigned from the GC General Commercial zoning district to the MU-G Mixed Use General zoning district (see Amendment Petition and map attached as Exhibit A, and Staff Report attached as Exhibit B); and,

WHEREAS, the Subject Property is owned by Holly Jones and is currently zoned GC

General Commercial; and,

WHEREAS, the subject property is currently designated as Mixed Use on the Land Use Map of the Tooele City General Plan and all zoning map amendments shall comply with the Land Use Map of the General Plan; and,

WHEREAS, the Mixed Use land use designation includes the MU-G Mixed Use General and the MU-B Mixed Broadway zoning districts; and,

WHEREAS, the petition to reassign the zoning to the MU-G Mixed Use General is in compliance with the Mixed Use designation of the Land Use Map; and,

WHEREAS, on April 26, 2023, the Planning Commission convened a duly noticed public hearing, accepted written and verbal comment, and voted to forward its recommendation to the City Council (see Planning Commission minutes attached as Exhibit C); and,

WHEREAS, on May 3, 2023, the City Council convened a duly-noticed public hearing:

NOW, THEREFORE, BE IT ORDAINED BY THE TOOEELE CITY COUNCIL that:

1. this Ordinance and the Zoning Map amendment proposed therein is in the best interest of the City in that it will create additional opportunities for employment of City residents and provide additional opportunities for housing in the City's downtown area and residential facilities for treatment and housing of the disabled; and,
2. the Zoning Map is hereby amended reassigning the zoning to MU-G Mixed Use General for approximately 0.39 acres of property located at 60 South Main Street, according to the map attached as Exhibit A and staff report attached as Exhibit B.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective immediately upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council this ____ day of _____, 20__.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Pitt, City Recorder

S E A L

Approved as to Form: _____
Roger Baker, Tooele City Attorney

Exhibit A

Petition and Mapping Pertinent to Zoning Map Amendment

Exhibit B

Staff Report

Exhibit C

Planning Commission Minutes

STAFF REPORT

April 17, 2023

To: Tooele City Planning Commission
Business Date: April 26, 2023

From: Planning Division
Community Development Department

Prepared By: Andrew Aagard, City Planner / Zoning Administrator

Re: Beacon House – Zoning Map Amendment Request

Application No.: P23-333
Applicant: Holly Jones
Project Location: 60 South Main Street
Zoning: GC General Commercial Zone
Acreage: .39 Acres (Approximately 16,988 ft²)
Request: Request for approval of a Zoning Map Amendment to re-assign the zoning from GC General Commercial to MU-G Mixed Use General.

BACKGROUND

This application is a request for approval of a Zoning Map Amendment for approximately .39 acres located at approximately 60 South Main Street. The property is currently zoned GC General Commercial. The applicant is requesting that a Zoning Map Amendment be approved to re-assign the property from the GC General Commercial zoning district to the MU-G Mixed Use General zoning district.

ANALYSIS

General Plan and Zoning. The Land Use Map of the General Plan calls for the Mixed Use land use designation for the subject property. The property has been assigned the GC General Commercial zoning classification. The GC General Commercial zoning designation is not identified by the General Plan as a preferred zoning classification for the Mixed Use land use designation. All properties surrounding the subject property are currently zoned GC General Commercial. Mapping pertinent to the subject request can be found in Exhibit “A” to this report.

The applicant completed a Land Use Map amendment in March of 2023 where the subject property’s land use designation was changed from Community Commercial to Mixed Use. This Zoning Map amendment is the follow-up to that application and proposes to re-assign the zoning to MU-G Mixed Use General.

The applicant is requesting the zoning be re-assigned in order to conduct the use of “Residential Treatment Facility” inside of the existing structure. Facilities such as this are not permitted in the GC General Commercial zone but are permitted as a conditional use in the MU-G zone. It is the applicant’s intention to convert the upper two floors of the building into a facility that provides residential treatment to those needing care related to addiction recovery and other related issues.

The GC zoning district is a zone that is specific to local commercial activities and uses. Typical uses in this zone are retail, business and professional offices, food services, entertainment, and personal services. Residential uses are extremely limited, usually to situations of a caretaker apartment associated with a hotel or similar use.

The MU-G zone is a hybrid of the GC zone and all residential zones. The MU-G zone permits many, though not all, of the commercial uses currently permitted in the GC zone. However, almost all commercial uses in the MU-G zone require a conditional use permit. The MU-G zone also permits single family residential, duplexes and multi-family residential permitting a maximum unit density of up to 16 units per acre for multi-family.

The property also currently has an overlay attached to it known as the Downtown Overlay. The Tooele City Downtown Overlay District (DO) is formulated to encourage and provide opportunities for various retail, service and other uses within the existing Main Street “downtown” area of the City. This area is generally characterized and recognized by two story buildings constructed to the front property line. It is the goal of the Downtown Overlay to recognize the existing development pattern of the area and allow for the strengthening of the character, vitality and amenities of the Downtown area through specific downtown site planning and building standards and requirements. The Downtown Overlay District (DO) allows and requires the establishment of uses that work to reinforce the existing Main Street through special standards for building location, parking, uses, signage and other considerations. Please note that the Downtown Overlay does not have any bearing on the uses permitted in the zoning district. Uses are determined by the GC General Commercial zoning district or by the Mixed Use General zoning district if approved, not by the overlay itself. The downtown overlay will not be affected if the zoning is changed and will remain in tact as is.

It should be noted and emphasized that when a zoning is re-assigned that all uses permitted within that zone then become entitled for that property. If the zoning is changed to MU-G all uses, including residential, would be entitled for this property. The applicant as the property owner has the right to change the plans, sell the property or convert to a different use permissible in the MU-G zone.

The question of spot zoning may come to the Commission’s minds as, if the zoning is changed, the property would be a single parcel of MU-G surrounded on all sides by properties zoned GC. Yes, this is a spot zone. However, spot zoning is not illegal and, contrary to popular belief, spot zoning is a valuable tool that City’s have to limit uses to some areas and permit other uses in other areas that need them or that can benefit from them. Don’t look at the spot zone as a problem but try to see it as a tool in your tool belts for molding certain areas of a City to specific land use types.

Site Plan Layout. A site plan has not been submitted as this is an existing structure and site. The aerial view provided in this staff report provides details for the site.

Subdivision Layout. This is an existing parcel of record and is not included in a subdivision plat.

Criteria For Approval. The criteria for review and potential approval of a Zoning Map Amendment request is found in Section 7-1A-7 of the Tooele City Code. This section depicts the standard of review for such requests as:

- (1) No amendment to the Zoning Ordinance or Zoning Districts Map may be recommended by the Planning Commission or approved by the City Council unless such amendment or conditions thereto are consistent with the General Plan. In considering a Zoning Ordinance or Zoning Districts Map amendment, the applicant shall identify, and the City Staff, Planning Commission, and City Council may consider, the following factors, among others:
 - (a) The effect of the proposed amendment on the character of the surrounding area.
 - (b) Consistency with the goals and policies of the General Plan and the General Plan Land Use Map.

- (c) Consistency and compatibility with the General Plan Land Use Map for adjoining and nearby properties.
- (d) The suitability of the properties for the uses proposed viz. a. viz. the suitability of the properties for the uses identified by the General Plan.
- (e) Whether a change in the uses allowed for the affected properties will unduly affect the uses or proposed uses for adjoining and nearby properties.
- (f) The overall community benefit of the proposed amendment.

REVIEWS

Planning Division Review. The Tooele City Planning Division has completed their review of the Zoning Map Amendment submission and has issued the following comments:

- 1. This request is a spot zone, but, spot zones are not illegal and can be utilized by City’s to determine where they want to put specific land uses.
- 2. The MU-G zoning district permits all forms of residential housing.
- 3. This is an existing built out site so there is not any new external development proposed on the site.

Engineering and Public Works Review. The Tooele City Engineering and Public Works Divisions have completed their review of the Zoning Map Amendment submission and have not issued any comments.

Tooele City Fire Department Review. The Tooele City Fire Department has completed their review of the Zoning Map Amendment submission and has not issued any comments.

Noticing. The applicant has expressed their desire to rezone the subject property and do so in a manner which is compliant with the City Code. As such, notice has been properly issued in the manner outlined in the City and State Codes.

STAFF RECOMMENDATION

Staff recommends the Planning Commission carefully weigh this request for a Land Use Map Amendment according to the appropriate tenets of the Utah State Code and the Tooele City Code, particularly Section 7-1A-7(1) and render a decision in the best interest of the community with any conditions deemed appropriate and based on specific findings to address the necessary criteria for making such decisions.

Potential topics for findings that the Commission should consider in rendering a decision:

- 1. The effect of the proposed application on the character of the surrounding area.
- 2. The degree to which the proposed application is consistent with the intent, goals, and objectives of any applicable master plan.
- 3. The degree to which the proposed application is consistent with the intent, goals, and objectives of the Tooele City General Plan.
- 4. The degree to which the proposed application is consistent with the requirements and provisions of the Tooele City Code.
- 5. The suitability of the properties for the uses proposed.
- 6. The degree to which the proposed application will or will not be deleterious to the health, safety, and general welfare of the general public or the residents of adjacent properties.
- 7. The degree to which the proposed application conforms to the general aesthetic and physical development of the area.

8. Whether a change in the uses allowed for the affected properties will unduly affect the uses or proposed uses for adjoining and nearby properties.
9. The overall community benefit of the proposed amendment.
10. Whether or not public services in the area are adequate to support the subject development.
11. Other findings the Commission deems appropriate to base their decision upon for the proposed application.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the City Council for the Beacon House Zoning Map Amendment request by Holly Jones, re-assigning the zoning for .39 acres from the GC General Commercial zone to the MU-G Mixed Use General zone, application number P23-333, based on the findings and subject to the conditions listed in the Staff Report dated April 17, 2023:”

1. List any additional findings and conditions...

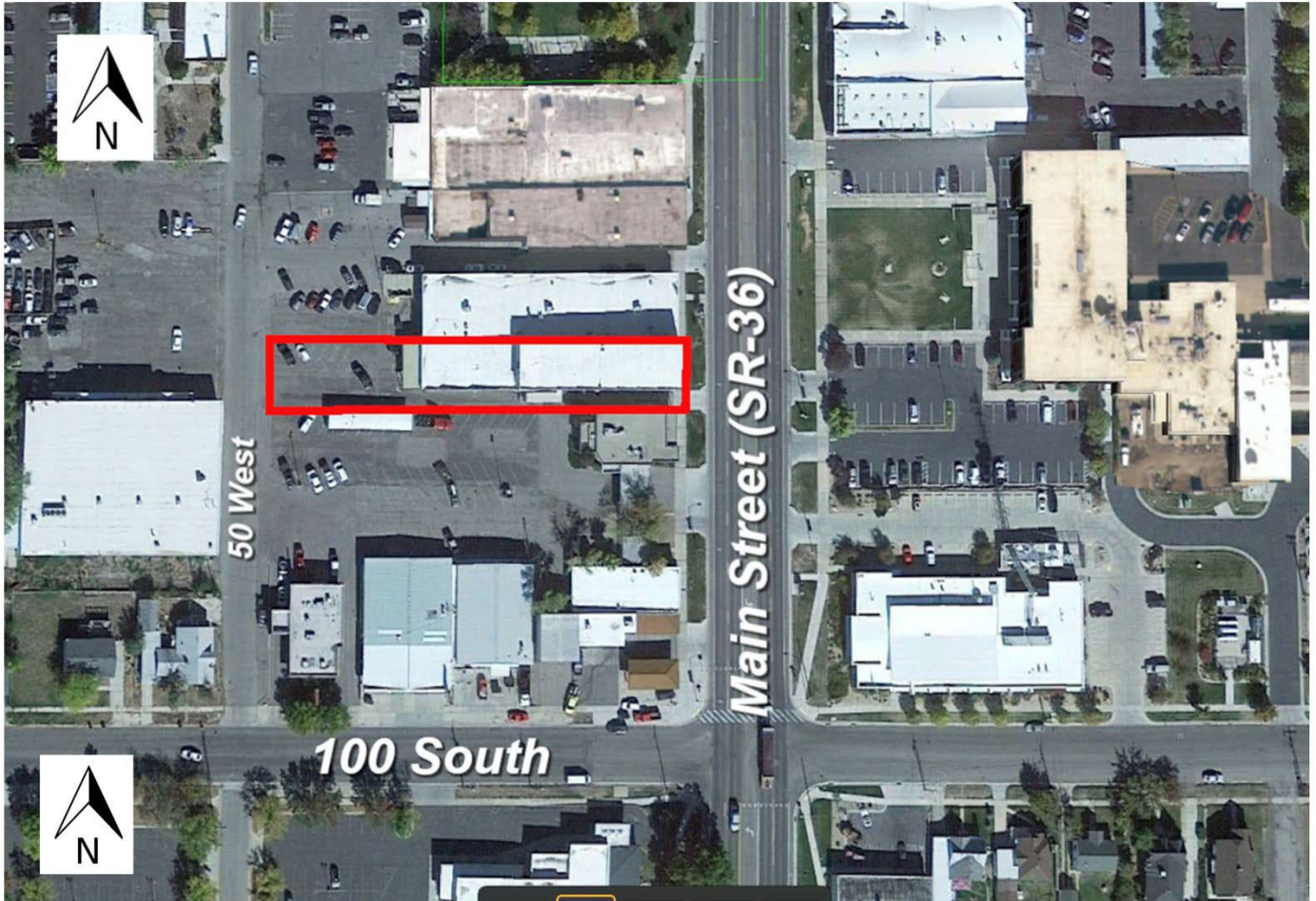
Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the City Council for the Beacon House Zoning Map Amendment request by Holly Jones, re-assigning the zoning for .39 acres from the GC General Commercial zone to the MU-G Mixed Use General zone, application number P23-333, based on the following findings:”

1. List findings...

EXHIBIT A

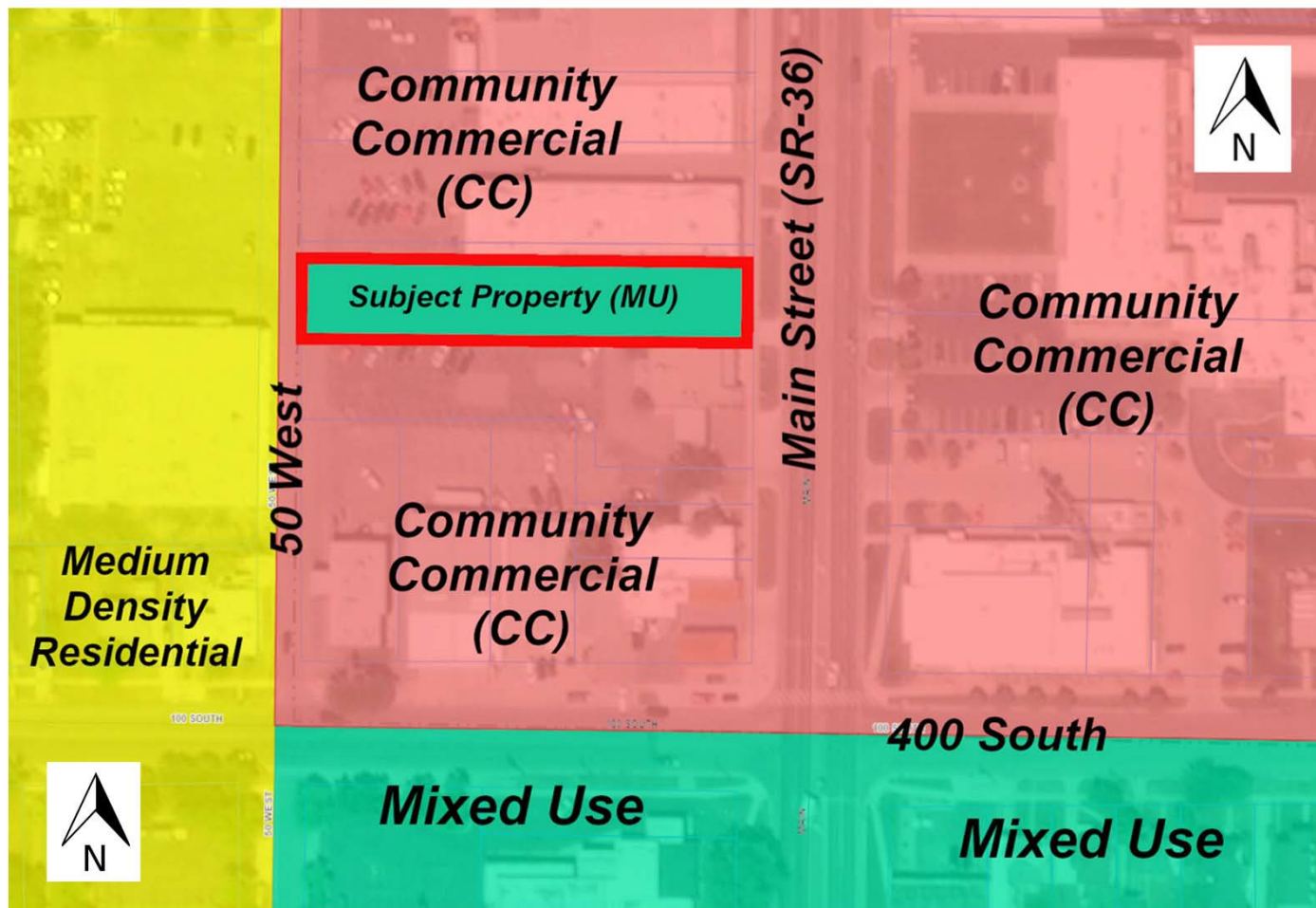
MAPPING PERTINENT TO THE BEACON HOUSE ZONING MAP AMENDMENT

Beacon House Zoning Map Amendment



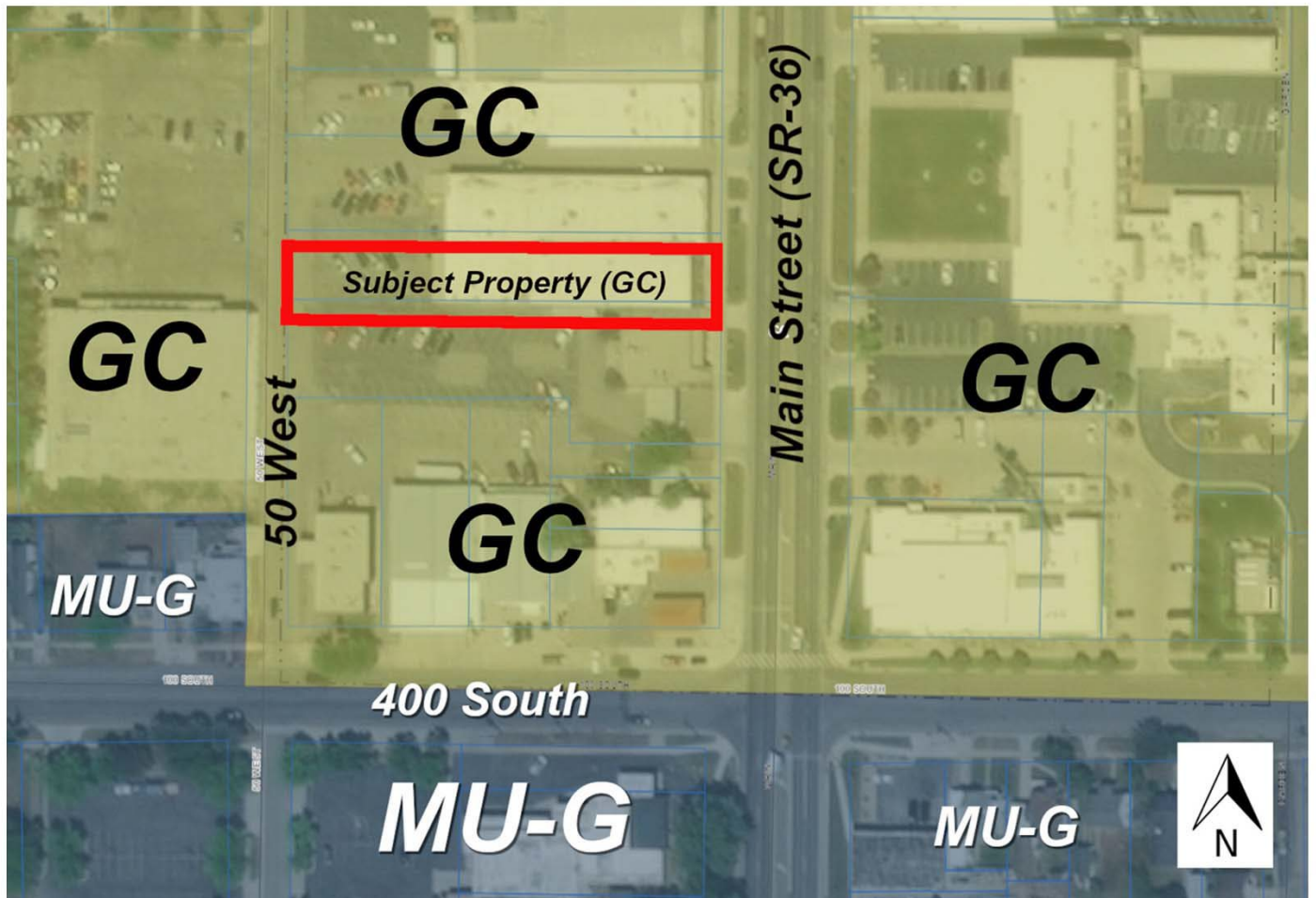
Aerial View

Beacon House Zoning Map Amendment



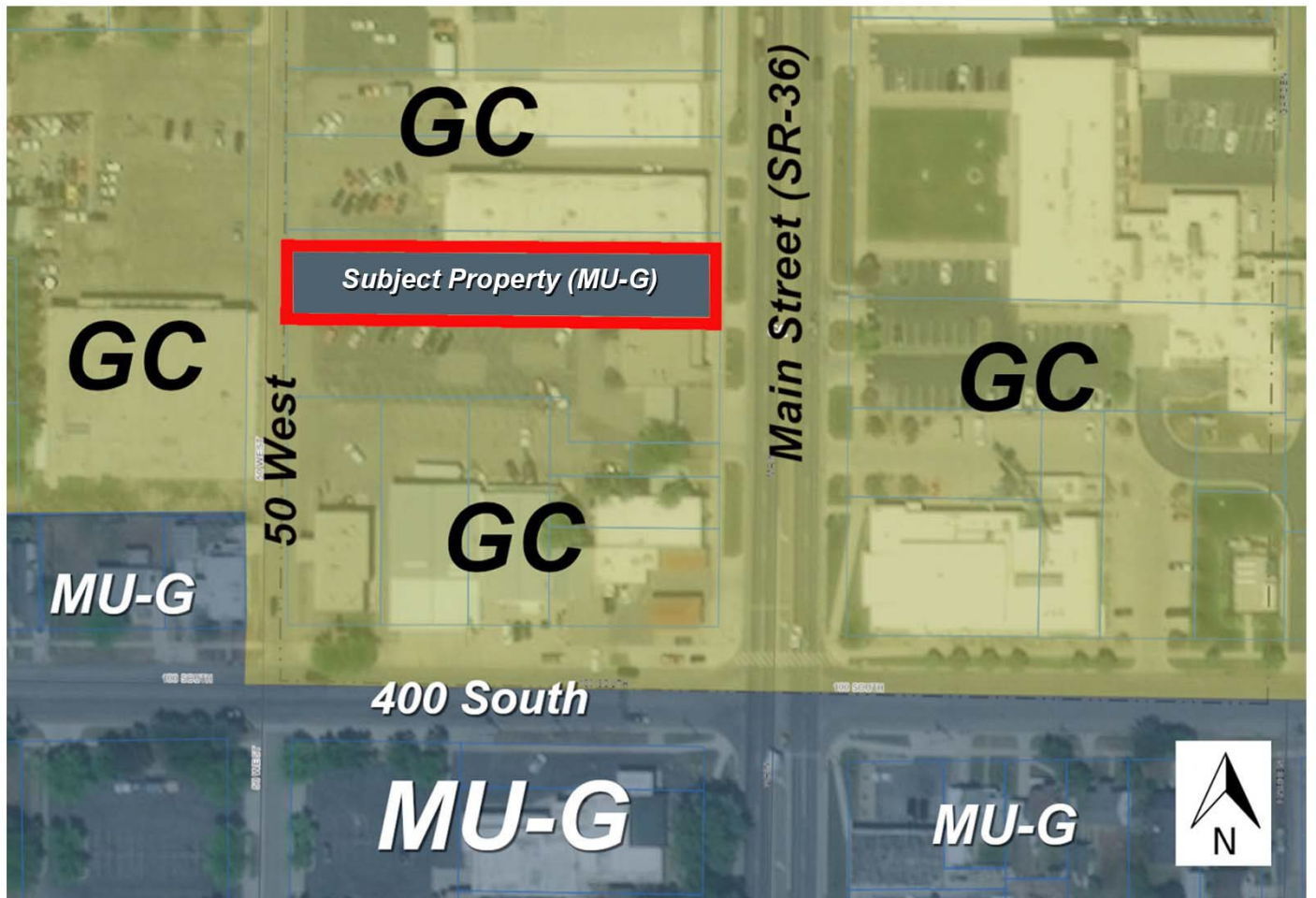
Aerial View

Beacon House Zoning Map Amendment



Current Zoning

Beacon House Zoning Map Amendment



Current Zoning

EXHIBIT B

APPLICANT SUBMITTED INFORMATION

Zoning, General Plan, & Master Plan Map Amendment Application

Community Development Department
90 North Main Street, Tooele, UT 84074
(435) 843-2132 Fax (435) 843-2139
www.tooelecity.org



Notice: The applicant must submit copies of the map amendment proposal to be reviewed by the City in accordance with the terms of the Tooele City Code. Once plans for a map amendment proposal are submitted, the plans are subject to compliance reviews by the various city departments and may be returned to the applicant for revision if the plans are found to be inconsistent with the requirements of the City Code and all other applicable City ordinances. All submitted map amendment proposals shall be reviewed in accordance with the Tooele City Code. Submission of a map amendment proposal in no way guarantees placement of the application on any particular agenda of any City reviewing body. It is **strongly** advised that all applications be submitted well in advance of any anticipated deadlines.

Project Information						23-333		
Date of Submission: 4/10/2023		Current Map Designation: General Commercial		Proposed Map Designation: Mixed-Use General		Parcel #(s): 02-028-0-0010		
Project Name: Beacon House		MIXED USE				Acres: 0.39		
Project Address: 60 south Main St. Tooele Utah 84074								
Proposed for Amendment: <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> General Plan <input type="checkbox"/> Master Plan: _____								
Brief Project Summary: Residential Treatment Facility for the Recovery of Substance use disorder and/or Behavioral health disorders.								
Property Owner(s): Holly Jones				Applicant(s): Holly Jones				
Address: PO 443				Address: PO 443				
City: Grantsville		State: UT	Zip: 84029		City: Grantsville		State: UT	Zip: 84029
Phone: 435-840-2602				Phone: 435-840-2602				
Contact Person: Holly Jones				Address: PO 443				
Phone: 435-840-2602				City: Grantsville		State: UT	Zip: 84029	
Cellular: 435-840-2602		Fax:			Email: hollyjoneshomes@gmail.com			

*The application you are submitting will become a public record pursuant to the provisions of the Utah State Government Records Access and Management Act (GRAMA). You are asked to furnish the information on this form for the purpose of identification and to expedite the processing of your request. This information will be used only so far as necessary for completing the transaction. If you decide not to supply the requested information, you should be aware that your application may take a longer time or may be impossible to complete. If you are an "at-risk government employee" as defined in *Utah Code Ann.* § 63-2-302.5, please inform the city employee accepting this information. Tooele City does not currently share your private, controlled or protected information with any other person or government entity.

Note to Applicant:

Zoning and map designations are made by ordinance. Any change of zoning or map designation is an amendment the ordinance establishing that map for which the procedures are established by city and state law. Since the procedures must be followed precisely, the time for amending the map may vary from as little as 2½ months to 6 months or more depending on the size and complexity of the application and the timing.

For Office Use Only				2230359	
Received By: 4/10/23		Date Received: 4/10/23		Fees: 1100.00	App. #: _____

RECEIPT # 555077



To: Tooele City Planning Commission Business Date: April 10, 2023

From: Beacon House
60 South Main ST. Tooele, UT 84074

Prepared By: Holly, Jones, Owner

Re: Residential Treatment Facilities and Programs – MAP Amendment Application

Application No.: P22-1178 Applicant: Holly Jones

Request: Request for approval of a MAP Amendment regarding the permissibility of Spot Zoning parcel 02-028-0-0010 from Community Commercial (GC) to Mixed-Use-General (MU-G).

BACKGROUND

The Spot Zoning request of Parcel 02-028-0-0010 has been brought before the City Council Meeting Dated 2/15/2023, as well as The Planning & Zoning Meeting Dated 3/15/2023 in which both meetings voted & approved the spot zoning of the parcel from Community Commercial (GC) to Mixed-Use General (MU-G). The intended purpose is to open a Residential Treatment Facility to serve the public.

ZONING MAP

1. What is the present zoning of the property?
 - a. Community Commercial (GC)
2. Explain how the proposed zoning is consistent with the current land use designation.
 - a. The Downtown area buildings contain commercial & residential mixed-use facilities.
3. Explain how the proposed zoning is similar or compatible to the zoning in the surrounding area.
 - a. The proposed MU-G spot zoning parcel is 150 LF to the nearest MU-G zoning area.
4. Explain how the proposed zoning is suitable for the existing uses of the subject property(s).
 - a. The existing building has a conditional mixed-use permit. The existing mixed-use permit does not allow Residential Treatment Facilities labeled on the Table of Use Charts. The proposed MU-G zoning does allow Residential Treatment Facilities.
5. Explain how the proposed zoning promotes the goals and objectives of Tooele City.
 - a. The proposed new zoning brings new services to Tooele City and surrounding areas.

EXHIBIT A
RESIDENTIAL TREATMENT FACILITIES AND PROGRAMS CITY CODE TEXT AMENDMENT
UTAH CODE

Title 62A. Utah Human Services Code
Chapter 2. Licensure of Programs and Facilities

62A-2-101. Definitions.

- (41) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.
- (b) "Residential treatment" does not include a:
 - (i) boarding school;
 - (ii) foster home; or
 - (iii) recovery residence.
- (42) "Residential treatment program" means a program or facility that provides:
 - (a) residential treatment; or
 - (b) intermediate secure treatment.

TOOELE CITY CODE

Chapter 16. Zoning District Purpose and Intent. Mixed Use, Commercial, Industrial and Special Purpose Districts

TABLE 1
TABLE OF USES

DEVELOPMENT REQUIREMENT	DISTRICT								
	Mixed Use - Broadway (MU-B)	Mixed Use - General (MU-G)	Neighborhood Commercial (NC)	General Commercial (GC)	Regional Commercial (RC)	Light Industrial (LI)	Industrial Service (IS)	Industrial (I)	Research & Development (RD)
<i>Residential Treatment Facilities and Programs</i>		<u>C</u>							

STAFF REPORT

April 4, 2023

To: Tooele City Planning Commission
Business Date: April 12, 2023

From: Planning Division
Community Development Department

Prepared By: Andrew Aagard, City Planner / Zoning Administrator

Re: Five Star Subdivision – Minor Subdivision Request

Application No.: P23-25
Applicant: Cameron Dortch
Project Location: Approximately 1471 West L Avenue
Zoning: PID Industrial Zone
Acreage: 19.4 Acres (Approximately 845,064 ft²)
Request: Request for approval of a Minor Subdivision in the PID Industrial zone regarding the creation of four industrial lots and four accompanying railroad parcels.

BACKGROUND

This application is a request for approval of a Minor Subdivision for approximately 19.4 acres located at approximately 1471 West L Avenue. The property is currently zoned PID Industrial. The applicant is requesting that a Minor Subdivision be approved to split the existing 19.4 acre parcel of record into a platted subdivision consisting of four lots and four railroad parcels. The subdivision is proposed for ownership purposes only and does not propose new development.

ANALYSIS

General Plan and Zoning. The Land Use Map of the General Plan calls for the Industrial land use designation for the subject property. The property has been assigned the PID Industrial zoning classification. The PID Industrial zoning designation is identified by the General Plan as a preferred zoning classification for the Industrial land use designation. Properties to the north, west and south are all zoned PID Industrial. Properties to the east are zoned I Industrial. Mapping pertinent to the subject request can be found in Exhibit “A” to this report.

The applicant is requesting approval of a minor subdivision for the purposes of dividing an existing parcel of record into four lots and four accompanying railroad parcels. Each lot will incorporate an existing warehouse building as well as the accompanying railroad parcel. The subdivision is being creating to facilitate the sale of each individual building to another owner. The subdivision itself does not result in any new development or impacts to the City beyond what is already there.

Subdivision Layout. The current parcel of record includes four large warehouse type buildings and is surrounded by Iron Street, Garnet Street, L Avenue and J Avenue. Iron Street, L Avenue and J Avenue are private streets. Garnet Street is a dedicated public right-of-way. The subdivision plat proposes to subdivide the existing parcel of record into four lots, each lot being very close to 3.8 acres or 165,536 square feet. Each lot incorporates one building as well as sections of the private roads. The plat also indicates that each railroad parcel will accompany the adjacent lot when that lot sells.

There are no lot size minimum requirements in the PID Industrial zone and lot width in the PID and I zoning districts is required to be 80 feet at the front setback line. Each lot and parcel complies with the minimum lot width requirement of the Industrial zoning district.

Criteria For Approval. The procedure for approval or denial of a Minor Subdivision follows the same process as that of a Subdivision Preliminary Plat request, as well as the information required to be submitted for review as a complete application is found in Sections 7-19-8 and 9 of the Tooele City Code.

REVIEWS

Planning Division Review. The Tooele City Planning Division has completed their review of the Minor Subdivision submission and has issued a recommendation for approval for the request.

Engineering and Public Works Review. The Tooele City Engineering and Public Works Divisions have completed their reviews of the Minor Subdivision submission and have issued a recommendation for approval for the request.

Tooele City Fire Department Review. The Tooele City Fire Department has completed their review of the Minor Subdivision submission and has issued a recommendation for approval for the request.

STAFF RECOMMENDATION

Staff recommends approval of the request for a Minor Subdivision by Cameron Dortch, application number P23-25, subject to the following conditions:

1. That all requirements of the Tooele City Engineering and Public Works Divisions shall be satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.
2. That all requirements of the Tooele City Building Division shall be satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.
3. That all requirements of the Tooele City Fire Department shall be satisfied throughout the development of the site and the construction of all buildings on the site.
4. That all requirements of the geotechnical report shall be satisfied throughout the development of the site and the construction of all buildings on the site.

This recommendation is based on the following findings:

1. The proposed development plans meet the intent, goals, and objectives of the Tooele City General Plan.
2. The proposed development plans meet the requirements and provisions of the Tooele City Code.
3. The proposed development plans will not be deleterious to the health, safety, and general welfare of the general public nor the residents of adjacent properties.
4. The proposed development conforms to the general aesthetic and physical development of the area.
5. The public services in the area are adequate to support the subject development.
6. The lots and parcels proposed in the subdivision meet or exceed lot width and size requirements as found in the PID Industrial and Industrial zoning districts.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the City Council for the Five Star Subdivision Minor Subdivision Request by Cameron Dortch, application number P23-25, based on the findings and subject to the conditions listed in the Staff Report dated April 4, 2023:”

1. List any additional findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the City Council for the Five Star Subdivision Minor Subdivision Request by Cameron Dortch, application number P23-25, based on the following findings:”

1. List findings...

EXHIBIT A

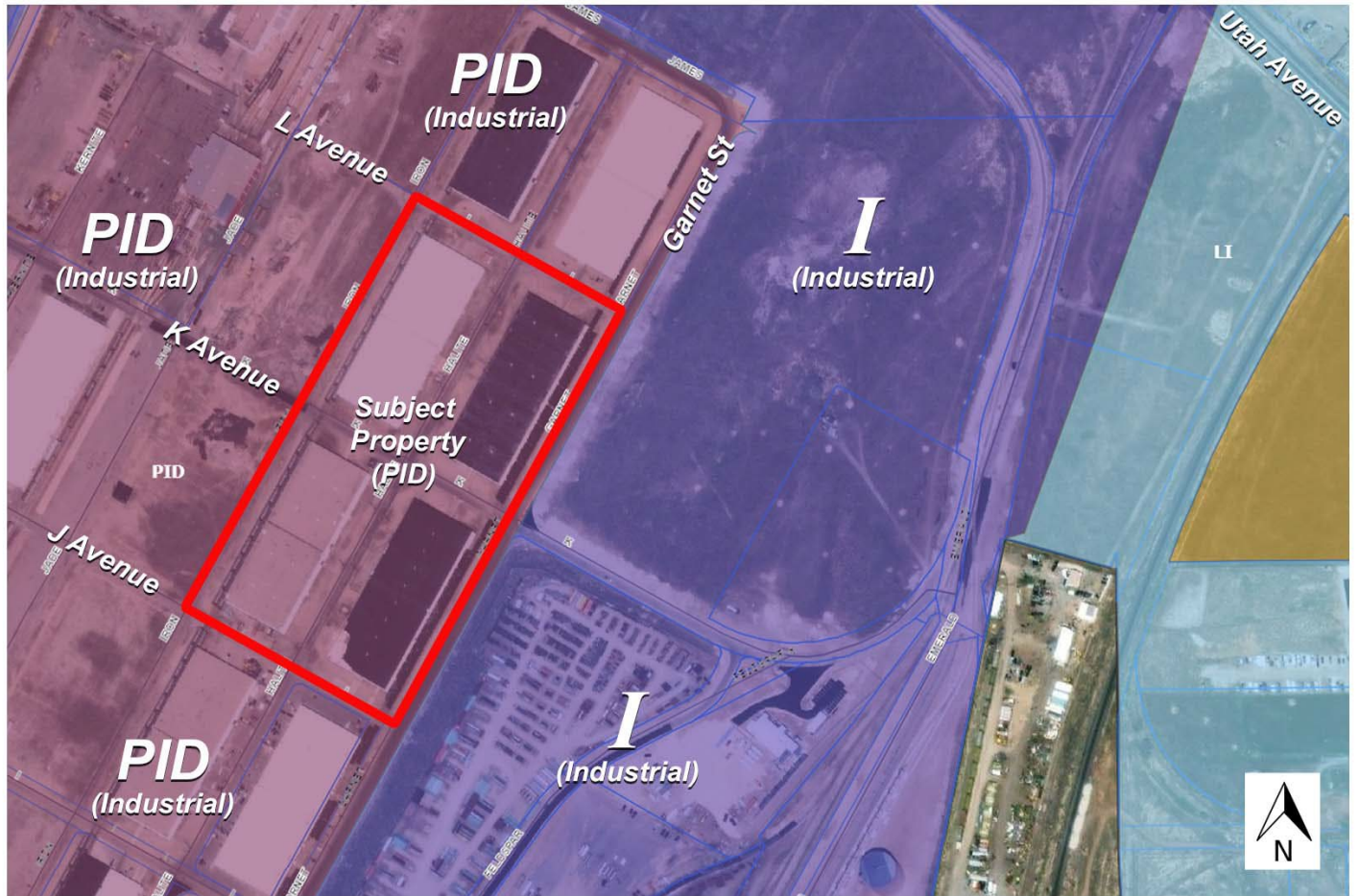
MAPPING PERTINENT TO THE FIVE STAR SUBDIVISION MINOR SUBDIVISION

Five Star Subdivision Minor Subdivision



Aerial View

Five Star Subdivision Minor Subdivision

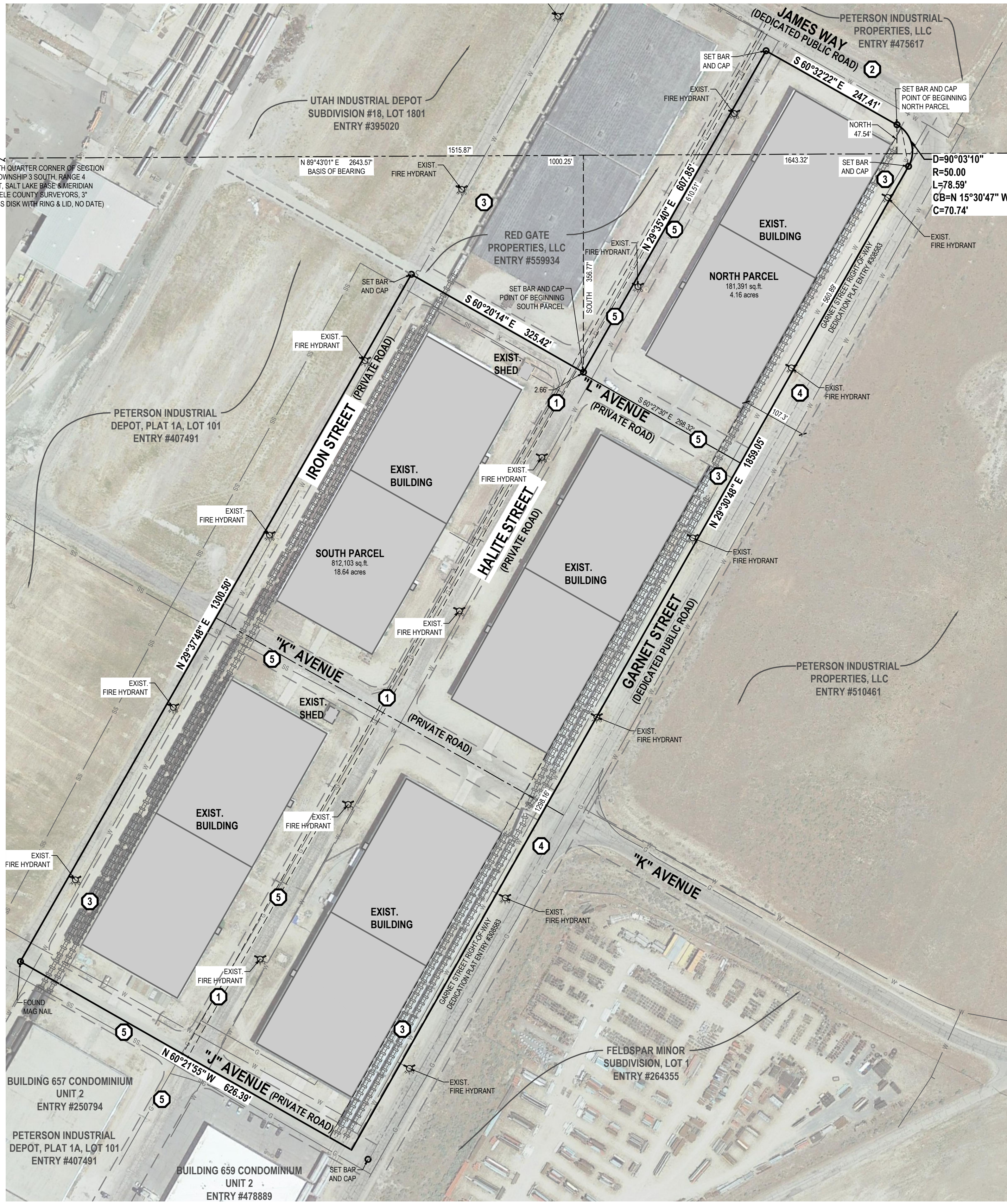


Current Zoning

EXHIBIT B

**PROPOSED DEVELOPMENT PLANS &
APPLICANT SUBMITTED INFORMATION**

811
CALL BLUESTAKES
@ 811 AT LEAST 48 HOURS
PRIOR TO THE
COMMENCEMENT OF ANY
CONSTRUCTION.
Know what's below.
Call before you dig.



SURVEYORS CERTIFICATE
I, Douglas J. Kinsman, do hereby certify that I am a Professional Land Surveyor, and that I hold Certificate No. 334575 in accordance with Utah Code, Title 58, Chapter 22 - Professional Engineers and Professional Land Surveyors Licensing Act, as prescribed by the laws of the state of Utah.

SURVEYORS NARRATIVE
This survey was performed to trace the boundary and provide that information to a client. The collected field data is shown hereon. I found a map nail in the Southwest corner of this property. Based on the Peterson Industrial Depot, Plat 1A, Entry No. 407491 I was able to determine that to be an accurate corner. From there I input that plat and rotated it to match with our basis of bearing. That gave me the South and West line of this property. I then input the old deed and used the Garnet Street plat, Entry No. 308583 to give me the East line of these parcels. I then used the James Way dedication plat, Entry No. 313010 to establish the North line. For the private roads I used a mixture of the stated plats and the existing concrete to establish a centerline, thus being able to offset that and establishing the right of way lines.
The Basis of Bearing for this survey is the line between the found monuments at the North Quarter Corner and Northeast Corner of Section 30, Township 3 South, Range 4 West, Salt Lake Base and Meridian, which bears North 89°43'01" East 2643.57 feet.

RECORD DESCRIPTION NORTH PARCEL
Commencing at the South Quarter corner of Section 19, Township 3 South, Range 4 West, Salt Lake Base and Meridian, as represented by a Tooele County Surveyor's brass cap consistent with the Tooele County Surveyor's 1982 Dependent Resurvey Amended in 2000, and running thence North 89°43'08" East 996.92 feet along the South line of said Section; thence South 0°15'25" East 359.42 feet to the point of beginning; thence South 60°32'15" East 331.50 feet; thence North 29°30'55" East 653.00 feet; thence North 60°29'05" West 331.50 feet; thence South 29°30'55" West 653.00 feet to the point of beginning.

AS SURVEYED DESCRIPTION NORTH PARCEL
A parcel of land, situate in the Northeast Quarter of Section 30 and the Southeast Quarter of Section 19, Township 3 South, Range 4 West, Salt Lake Base and Meridian. The Basis of Bearing for this survey is the line between the found monuments at the North Quarter Corner and Northeast Corner of Section 30, Township 3 South, Range 4 West, Salt Lake Base and Meridian, which bears North 89°43'01" East 2643.57 feet. Said parcel also located in Tooele City, Tooele County, Utah, more particularly described as follows:
Beginning at a point being North 89°43'01" East 1515.67 feet along the section line and North 47.54 feet to the southwesterly right-of-way line of James Way from the North Quarter Corner of Section 30, Township 3 South, Range 4 West, Salt Lake Base and Meridian, and running:
thence Southerly 78.59 feet along the arc of a 50.00 foot radius tangent curve to the right (center bears South 29°27'38" West and the long chord bears South 15°30'47" East 70.74 feet through a central angle of 90°03'10") to the West line of the Garnet Street Right of Way Dedication Plat, Entry No. 308583;
thence South 29°30'48" West 560.89 feet along said West line to the centerline of L Avenue;
thence North 60°27'30" West 298.32 feet along said centerline to the centerline of Halite Street;
thence North 29°35'42" East 610.51 feet along said centerline to the southwest right-of-way line of James Way;
thence South 60°32'22" East 247.41 feet along said right-of-way to the said West right-of-way of Garnet Street to the Point of Beginning.

RECORD DESCRIPTION SOUTH PARCEL
A TRACT OF LAND SITUATED IN PART OF SECTIONS 19 AND 30, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE AND MERIDIAN, TOOELE COUNTY, UTAH, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE CENTERLINE INTERSECTION OF TWO STREETS AT A POINT THAT IS 87'5624 W 1034.41 FEET FROM THE TOOELE COUNTY BRASS CAP MONUMENT AT THE NORTHEAST CORNER OF SECTION 30, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE AND MERIDIAN, FROM WHICH MONUMENT THE TOOELE COUNTY BRASS CAP MONUMENT AT THE SOUTHEAST CORNER OF SAID SECTION 30 BEARS S 0°05'16" E S 293.32 FEET (BASIS OF BEARING); THENCE ALONG THE CENTERLINE OF A STREET S 29°34'48" W 1951.22 FEET; THENCE ALONG THE CENTERLINE OF A STREET N 60°21'48" E 697.72 FEET; THENCE ALONG THE CENTERLINE OF A STREET N 29°31'35" E 1949.22 FEET; THENCE ALONG THE CENTERLINE OF A STREET S 60°32'15" E 656.52 FEET TO THE POINT OF BEGINNING.
LESS AND EXCEPTING:
COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE AND MERIDIAN, AS REPRESENTED BY A TOOELE COUNTY SURVEYOR'S BRASS CAP CONSISTENT WITH THE TOOELE COUNTY SURVEYOR'S 1982 DEPENDANT RESURVEY AMENDED IN 2000, AND RUNNING THENCE NORTH 89°43'08" EAST 996.92 FEET ALONG THE SOUTH LINE OF SAID SECTION, THENCE SOUTH 0°15'25" EAST 359.42 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 60°32'15" EAST 331.50 FEET; THENCE NORTH 29°30'55" EAST 653.00 FEET; THENCE NORTH 60°29'05" WEST 331.50 FEET; THENCE SOUTH 29°30'55" WEST 653.00 FEET TO THE POINT OF BEGINNING.
THE ABOVE MEETS AND BOUNDS DESCRIPTIONS INTENDED TO DESCRIBE THE EXISTING NORTHWEST WAREHOUSE AT THE STREET INTERSECTION OF JAMES WAY (ALSO KNOWN AS "M AVE") AND HALITE STREET, BUILDING NUMBER 697, IN THE UTAH INDUSTRIAL DEPOT, LOCATED IN TOOELE, UTAH.
ALSO LESS AND EXCEPTING:
COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE AND MERIDIAN, AS REPRESENTED BY A TOOELE COUNTY SURVEYOR'S BRASS CAP CONSISTENT WITH THE TOOELE COUNTY SURVEYOR'S 1982 DEPENDANT RESURVEY AMENDED IN 2000, AND RUNNING THENCE NORTH 89°43'08" EAST 996.92 FEET ALONG THE SOUTH LINE OF SAID SECTION, THENCE SOUTH 0°15'25" EAST 359.42 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 60°32'15" EAST 331.50 FEET; THENCE NORTH 29°30'55" EAST 653.00 FEET; THENCE NORTH 60°29'05" WEST 331.50 FEET; THENCE SOUTH 29°30'55" WEST 653.00 FEET TO THE POINT OF BEGINNING.
THE ABOVE DESCRIPTION DESCRIBED THE EXISTING NORTHEAST WAREHOUSE AT THE STREET INTERSECTION OF JAMES WAY AND GARNET STREET IN THE UTAH INDUSTRIAL DEPOT, LOCATED IN TOOELE, UTAH.
Tax Parcel No. 02-017-0-007

AS SURVEYED DESCRIPTION SOUTH PARCEL
A parcel of land, situate in the Northeast Quarter of Section 30 and the Southeast Quarter of Section 19, Township 3 South, Range 4 West, Salt Lake Base and Meridian. The Basis of Bearing for this survey is the line between the found monuments at the North Quarter Corner and Northeast Corner of Section 30, Township 3 South, Range 4 West, Salt Lake Base and Meridian, which bears North 89°43'01" East 2643.57 feet. Said parcel also located in Tooele City, Tooele County, Utah, more particularly described as follows:
Beginning at a point being North 89°43'01" East 1000.25 feet along the section line and South 356.77 feet to the centerline of Halite Street from the North Quarter Corner of Section 30, Township 3 South, Range 4 West, Salt Lake Base and Meridian, and running:
thence South 29°29'52" West 2.66 feet along said centerline to the centerline of L Avenue;
thence North 60°27'30" West 298.32 feet along said centerline to the West line of the Garnet Street Right of Way Dedication Plat, Entry No. 308583;
thence South 29°30'48" West 16 feet along said right-of-way line to the centerline of J Avenue and to a North line of the Peterson Industrial Depot, Entry No. 407491;
thence North 60°21'55" West 626.39 feet along said centerline of J Avenue and said North line to the centerline of Iron Street;
thence North 29°37'48" East 1300.50 feet along said centerline of Iron Street;
thence South 60°20'14" East 325.42 feet to the Point of Beginning.

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APPROVED
P Hansen
City Engineer
03/06/2023

APPROVED
N Wall
Fire Marshall
03/08/2023

APPROVED
A Aagard
City Planner
03/14/2023

LEGEND
SECTION CORNER
MONUMENT
EXIST REBAR AND CAP
SET 5/8" X 24" REBAR WITH YELLOW PLASTIC CAP OR NAIL STAMPED "ENSGN ENG. & LAND SURV."
ADJACENT RIGHT OF WAY
RIGHT OF WAY
CENTERLINE
PROPERTY LINE
ADJACENT PROPERTY LINE
FENCE
EDGE OF ASPHALT
BUILDING
PUBLIC EASEMENT

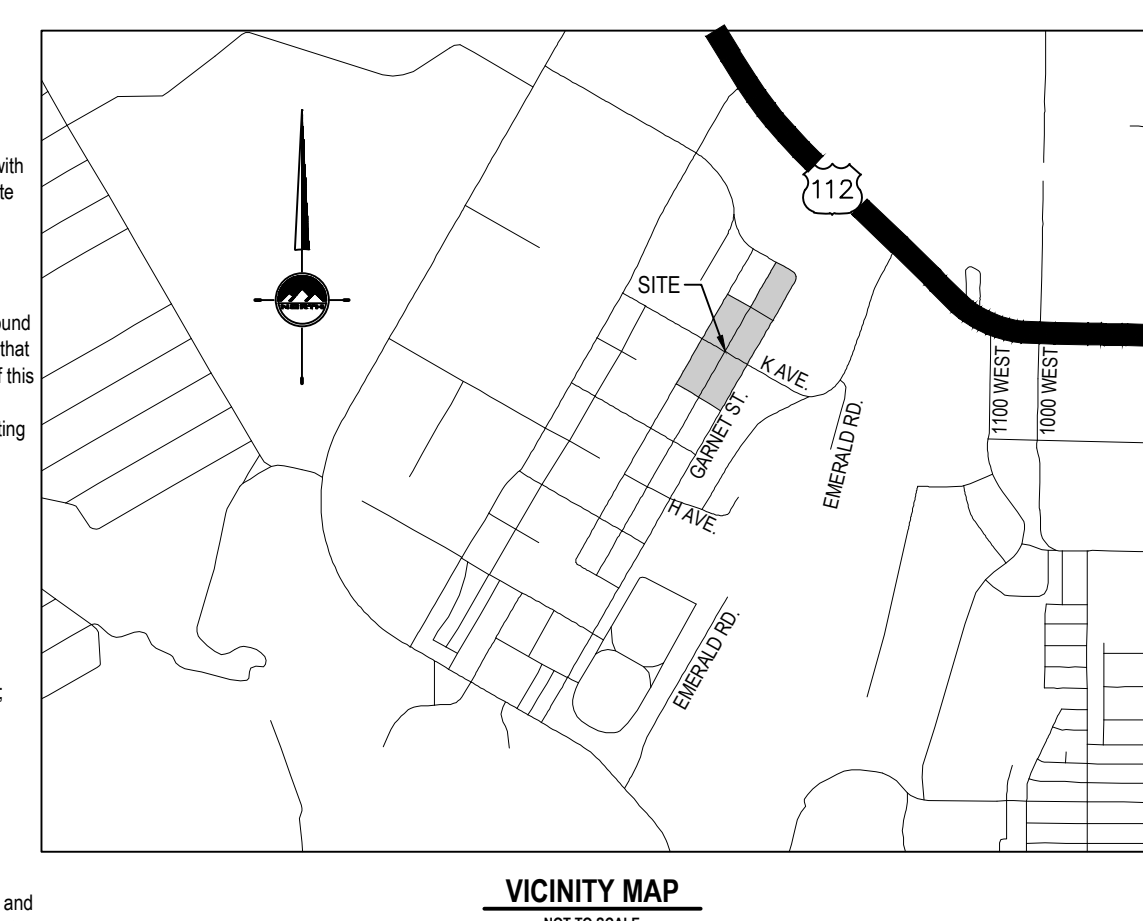
FIRE REVIEW WILL OCCUR WITH INDIVIDUAL BUILDING PERMITS

TOOELE CITY DEVELOPMENT REVIEW
Submittal # 2 03/03/2023

HORIZONTAL GRAPHIC SCALE
0 50 100 200
(IN FEET)
HORZ: 1 inch = 100 ft

LOCATED IN THE NORTHEAST QUARTER OF SECTION 30 AND THE SOUTHEAST QUARTER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE AND MERIDIAN, TOOELE, TOOELE COUNTY, UTAH.

NOTE: MAY CONTAIN SYMBOLS THAT ARE NOT USED IN THIS PLAN SET.



EXCEPTION NOTES FOR NORTH PARCEL
1. ITEMS 1-10, 17-28, AND 30, SCHEDULE B, PART 2, OF THE TITLE REPORT ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY, UNDER FILE #NCS-1144124-MPLS, COMMITMENT DATE: AUGUST 31, 2022, AT 7:30 AM, ARE ALL GENERAL IN NATURE, AND/OR ARE NOT PLOTTABLE.
2. ITEM 11 IS A DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS RELATING TO COMMON AREAS, SUCH AS ROADS, UTILITIES, CURB, GUTTER, ETC. AND TO EASEMENTS AS STATED AND IS PLOTTED, SEE KEY NOTES.
3. ITEM 12 IS A PLOTTABLE EASEMENT, BUT IT DOES NOT EXTEND TO THIS PROPERTY, THEREFORE IT HAS NOT BEEN PLOTTED.
4. ITEMS 14 AND 29 ARE AN EASEMENT GRANTED TO PACIFICORP RECORDED JULY 8, 2005, BUT IT DOES NOT CONTAIN ANY OF THIS PROPERTY THEREFORE IT IS NOT PLOTTED.
5. ITEM 15 IS A CONVEYANCE OF EASEMENT WHICH INCLUDES ITEM 16, SCHEDULE B, PART 2 OF THE ABOVE REFERENCED TITLE REPORT AND IS PLOTTED, SEE KEY NOTES.
6. ITEMS 13, 16, AND 31-32, SCHEDULE B, PART 2 OF THE ABOVE REFERENCED TITLE REPORT IS PLOTTED, SEE KEY NOTES.

EXCEPTION NOTES FOR SOUTH PARCEL
1. ITEMS 1-10, 17-28, AND 30, SCHEDULE B, PART 2, OF THE TITLE REPORT ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY, UNDER FILE #NCS-1144124-MPLS, COMMITMENT DATE: AUGUST 31, 2022, AT 7:30 AM, ARE ALL GENERAL IN NATURE, AND/OR ARE NOT PLOTTABLE.
2. ITEM 11 IS A DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS RELATING TO COMMON AREAS, SUCH AS ROADS, UTILITIES, CURB, GUTTER, ETC. AND TO EASEMENTS AS STATED AND IS PLOTTED, SEE KEY NOTES.
3. ITEM 12 IS A PLOTTABLE EASEMENT, BUT IT DOES NOT EXTEND TO THIS PROPERTY, THEREFORE IT IS NOT PLOTTED.
4. ITEM 14 IS A CONVEYANCE OF EASEMENT, SCHEDULE B, PART 2 OF THE ABOVE REFERENCED TITLE REPORT AND IS PLOTTED, SEE KEY NOTES.
5. ITEMS 13 AND 30, SCHEDULE B, PART 2 OF THE ABOVE REFERENCED TITLE REPORT IS PLOTTED, SEE KEY NOTES.

KEY NOTES NORTH/SOUTH PARCEL
1. ITEM 13 OF #114124 (NORTH PARCEL) AND #114125 (SOUTH PARCEL): RIGHT OF WAY EASEMENT FOR ELECTRICAL TRANSMISSION AND DISTRIBUTION LINES GRANTED TO PACIFICORP RECORDED JULY 8, 2005 AS ENTRY # 243228.
2. ITEM 32 OF #114124 (NORTH PARCEL): RIGHT OF WAY DEDICATION FOR JAMES WAY, RECORDED AUGUST 29, 2008 AS ENTRY # 313010.
3. ITEM 16 OF #114124 (NORTH PARCEL) AND ITEM 14 OF #114125 (SOUTH PARCEL): RAIL EASEMENT FOR RAILROAD LINES RECORDED SEPTEMBER 16, 2009 AS ENTRY # 334654.
4. ITEM 31 OF #114124 (NORTH PARCEL) AND ITEM 30 OF #114125 (SOUTH PARCEL): RIGHT OF WAY DEDICATION FOR GARNET STREET, RECORDED JUNE 4, 2008 AS ENTRY # 308583.
5. ITEM 11 OF BOTH TITLE REPORTS AND ITEM 15 OF #114124 (NORTH PARCEL) AND ITEM 14 OF #114125 (SOUTH PARCEL): DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS RELATING TO COMMON AREAS, SUCH AS ROADS, UTILITIES, CURB & GUTTER, ETC. AND TO EASEMENTS AS STATED AND IS PLOTTED, SEE KEY NOTES.

ENSGN
THE STANDARD IN ENGINEERING

SALT LAKE CITY
45 W. 10000 S., Suite 500
Sandy, UT 84070
Phone: 801.255.0529

LAYTON
Phone: 801.547.1100

TOOELE
Phone: 435.843.3590

CEDAR CITY
Phone: 435.865.1453

RICHFIELD
Phone: 435.896.2983

WWW.ENSGNENG.COM

FOR:
FIVE STAR GENERAL INDUSTRIAL, INC.
557 CHRISTOPHER STREET
STANBURY PARK, UTAH 87074

CONTACT:
CAMERON DORTCH
PHONE: 801-787-4780

**FIVE STAR GENERAL
ALTA/NSPS SURVEY
K AVENUE AND HALITE STREET
TOOELE, UTAH 84074**

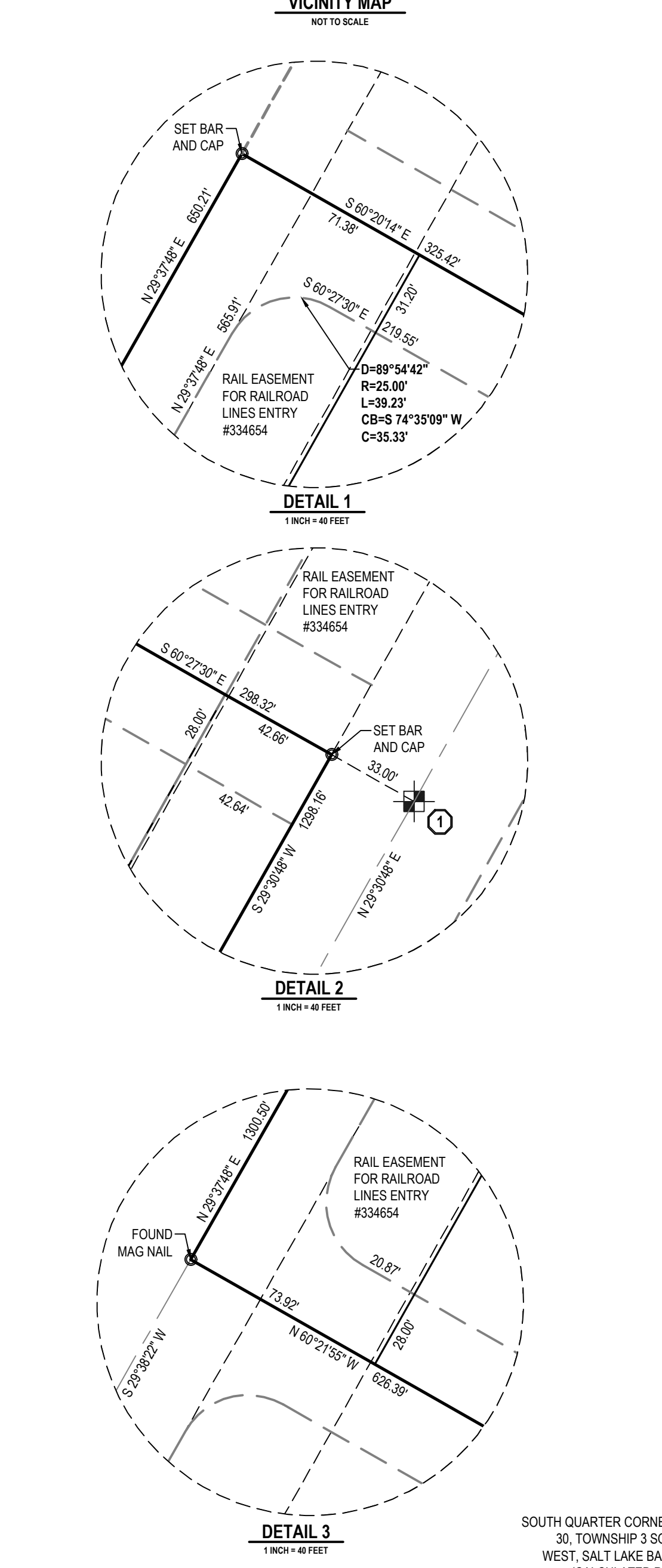
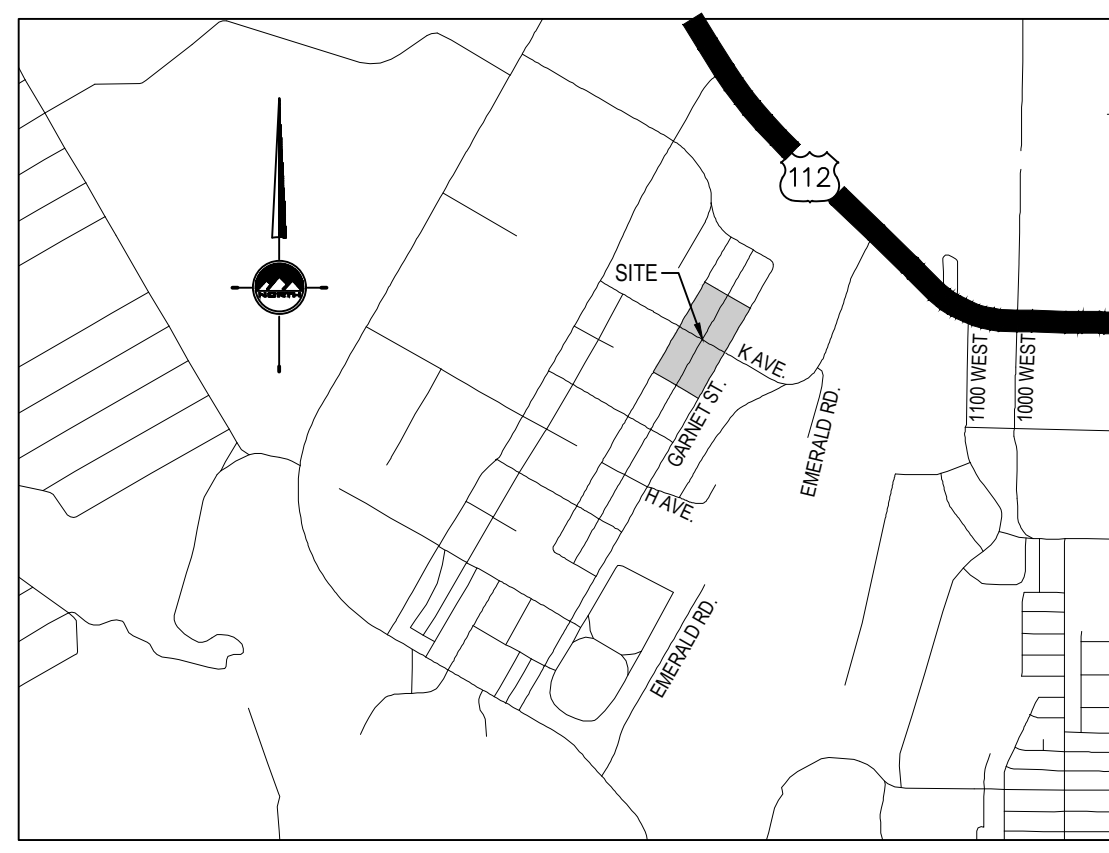
TOOELE CITY DEVELOPMENT REVIEW
Submittal # 2 03/03/2023

ALTA/NSPS SURVEY

PROJECT NUMBER 9456Q PRINT DATE 3/2/23
DRAWN BY T. HUSSEY CHECKED BY D. KINSMAN
PROJECT MANAGER D. KINSMAN

1 OF 1

811
CALL BLUESTAKES
@ 811 AT LEAST 48 HOURS
PRIOR TO THE
COMMENCEMENT OF ANY
CONSTRUCTION.
Know what's below.
Call before you dig.

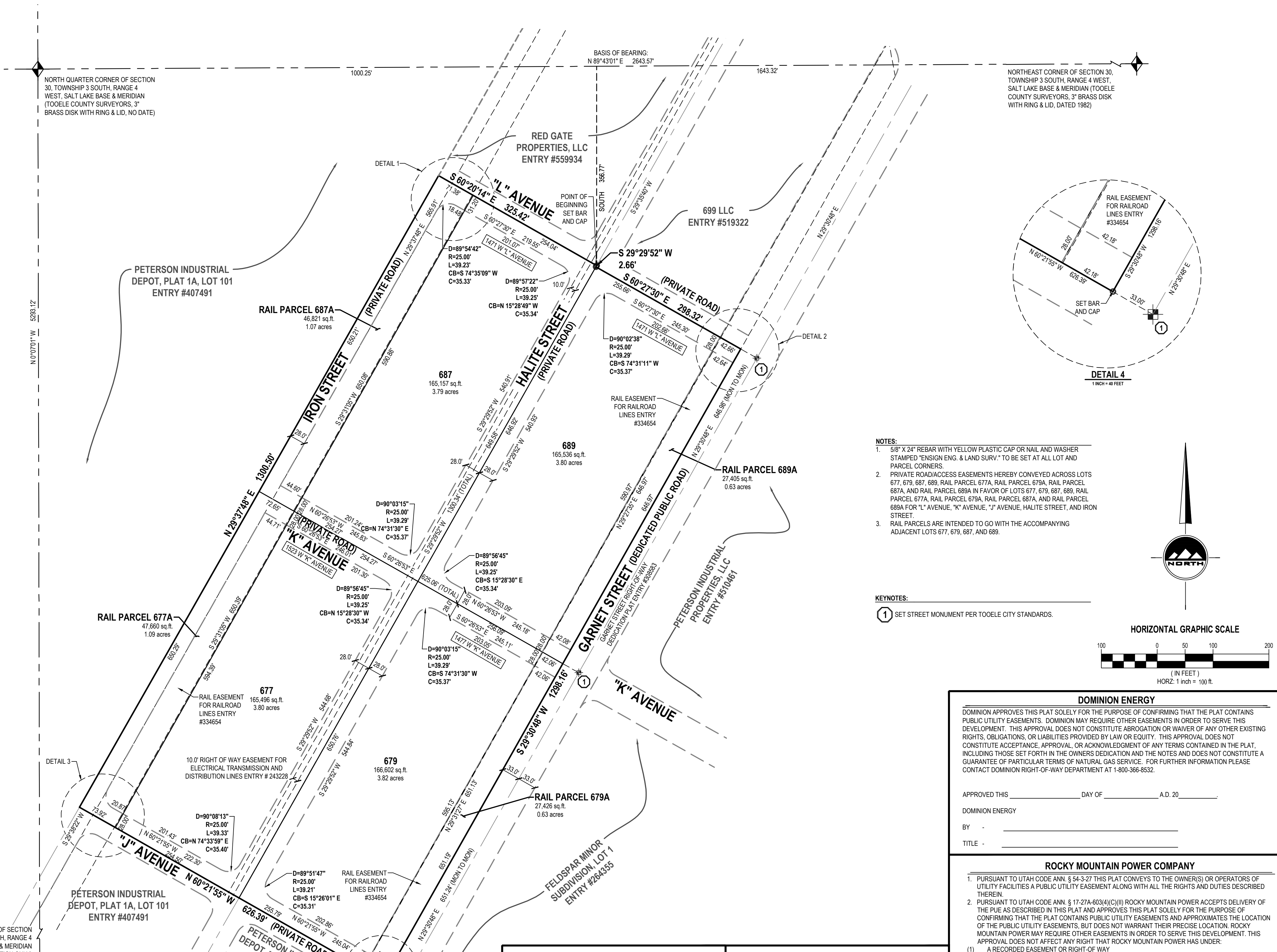


ENSIGN
TOOELE
169 North Main Street Unit 1
Tooele, Utah 84074
Phone: 435.843.3590
Fax: 435.578.0108
WWW.ENSIGNENG.COM

SALT LAKE CITY
Phone: 801.251.0201
LAVTON
Phone: 801.541.1152
CEDAR CITY
Phone: 435.863.1453
RICHFIELD
Phone: 435.886.2563

FINAL PLAT FIVE STAR SUBDIVISION

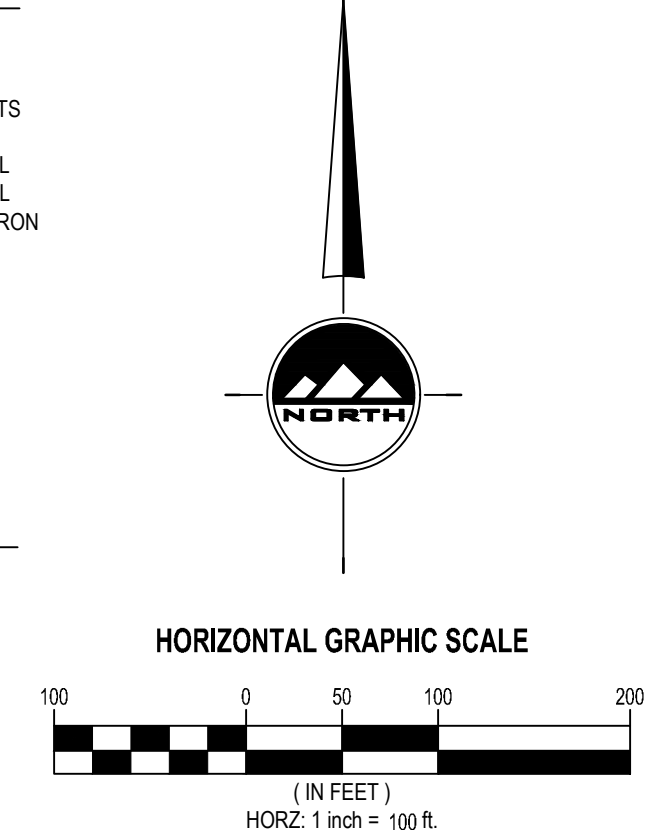
LOCATED IN THE NORTHEAST QUARTER OF
SECTION 30, TOWNSHIP 3 SOUTH, RANGE 4
WEST, SALT LAKE BASE AND MERIDIAN,
TOOELE CITY, TOOELE COUNTY, UTAH



- NOTES:**
- 5/8" X 24" REBAR WITH YELLOW PLASTIC CAP OR NAIL AND WASHER STAMPED "ENGIN ENG. & LAND SURV." TO BE SET AT ALL LOT AND PARCEL CORNERS.
 - PRIVATE ROAD/ACCESS EASEMENTS HEREBY CONVEYED ACROSS LOTS 677, 679, 687, 689, RAIL PARCEL 677A, RAIL PARCEL 679A, RAIL PARCEL 687A, AND RAIL PARCEL 689A IN FAVOR OF LOTS 677, 679, 687, 689, RAIL PARCEL 677A, RAIL PARCEL 679A, RAIL PARCEL 687A, AND RAIL PARCEL 689A FOR "L" AVENUE, "K" AVENUE, "J" AVENUE, HALITE STREET, AND IRON STREET.
 - RAIL PARCELS ARE INTENDED TO GO WITH THE ACCOMPANYING ADJACENT LOTS 677, 679, 687, AND 689.

KEYNOTES:

- SET STREET MONUMENT PER TOOELE CITY STANDARDS.



SURVEYOR'S CERTIFICATE
I, Douglas J. Kinsman do hereby certify that I am a Professional Licensed Land Surveyor, and that I hold certificate No. 334575 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 subdivision plat in accordance with section 17-23-17, have verified all measurements, and have subdivided said tract of land into lots, hereafter to be known as Five Star Subdivision, and that the same has been correctly surveyed and staked on the ground as shown on this plat. I further certify that all lots meet frontage width and area requirements of the applicable zoning ordinances.

AS SURVEYED DESCRIPTION
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thence South 60°20'14" East 325.42 feet to the Point of Beginning.

Contains 812,103 square feet or 18.64 acres, 4 lots and 4 railroad parcels.

MARCH 2, 2023
Date
Douglas J. Kinsman
License no. 334575

OWNER'S DEDICATION
Known all men by these presents that the undersigned are the owner(s) of the above described tract of land, and hereby cause the same to be divided into lots, together with easements as set forth to be hereafter known as

FIVE STAR SUBDIVISION

The undersigned owner(s) hereby convey to Tooele City and to any and all public utility companies a perpetual, non-exclusive easement over the private road easements shown on this plat, the same to be used for public drainage, private ingress and egress, and the installation, maintenance and operation of utility lines and facilities. The undersigned owner(s) also hereby convey any other easements as shown on this plat to the parties indicated and for the purposes shown and for noted hereon.

In witness whereof I/we have hereunto set our hand (s) this _____ day of _____ A.D. 20____

By: Five Star General Industrial, Inc.
Cameron Dorch

CORPORATE ACKNOWLEDGMENT
STATE OF UTAH
County of TOOELE
J.S.S.
On the _____ day of _____ A.D. 20____ personally appeared before me, the undersigned Notary Public, in and for said County of _____ personally appeared before me, the undersigned Notary Public, in and for said County of _____ in the State of Utah, who after being duly sworn, acknowledged to me that He/She is the owner of _____ and that He/She signed the Owner's Dedication freely and voluntarily for and in behalf of said Corporation by authority of a resolution of its Board of Directors for the purposes therein mentioned and acknowledged to me that said Corporation executed the same.

MY COMMISSION EXPIRES: _____
RESIDING IN _____ COUNTY.

NOTARY PUBLIC

FINAL PLAT FIVE STAR SUBDIVISION

LOCATED IN THE NORTHEAST QUARTER OF SECTION 30,
TOWNSHIP 3 SOUTH, RANGE 4 WEST, SALT LAKE BASE AND
MERIDIAN, TOOELE CITY, TOOELE COUNTY, UTAH

DEVELOPER
FIVE STAR GENERAL
INDUSTRIAL INC.
557 CHRISTOPHER STREET
STANBURY PARK, UT 84074
801-787-4780

SHEET 1 OF 1
PROJECT NUMBER: 94560
MANAGER: D. KINSMAN
DRAWN BY: T. HUSSEY
CHECKED BY: D. KINSMAN
DATE: 3/2/2023

COUNTY TREASURER APPROVAL
APPROVED AS TO FORM THIS _____ DAY OF _____ 20____
BY THE TOOELE COUNTY TREASURER.

CITY ATTORNEY'S APPROVAL
APPROVED AS TO FORM ON THIS _____ DAY OF _____ A.D. 20____

CITY ENGINEER'S APPROVAL
APPROVED AS TO FORM ON THIS _____ DAY OF _____ A.D. 20____

COMMUNITY DEVELOPMENT APPROVAL
APPROVED AS TO FORM ON THIS _____ DAY OF _____ A.D. 20____

PLANNING COMMISSION APPROVAL
APPROVED THIS _____ DAY OF _____ 20____
BY TOOELE CITY PLANNING COMMISSION.

COUNTY SURVEY DEPARTMENT APPROVAL
APPROVED THIS _____ DAY OF _____ 20____
BY TOOELE COUNTY SURVEY DEPARTMENT.
RECORD OF SURVEY FILE # _____

TOOELE COUNTY RECORDER
RECORDED # _____
STATE OF UTAH, COUNTY OF TOOELE, RECORDED AND FILED AT THE
REQUEST OF: _____
DATE: _____ TIME: _____ BOOK: _____ PAGE: _____
FEES TOOELE COUNTY RECORDER

COUNTY HEALTH DEPARTMENT
APPROVED THIS _____ DAY OF _____ 20____
BY TOOELE COUNTY HEALTH DEPARTMENT.

CITY COUNCIL
APPROVED THIS _____ DAY OF _____ 20____
BY TOOELE CITY COUNCIL.

DOMINION ENERGY
DOMINION APPROVES THIS PLAT SOLELY FOR THE PURPOSE OF CONFIRMING THAT THE PLAT CONTAINS PUBLIC UTILITY EASEMENTS. DOMINION MAY REQUIRE OTHER EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS APPROVAL DOES NOT CONSTITUTE A WAIVER OF ANY OTHER EXISTING RIGHTS, OBLIGATIONS, OR LIABILITIES PROVIDED BY LAW OR EQUITY. THIS APPROVAL DOES NOT CONSTITUTE ACCEPTANCE, APPROVAL, OR ACKNOWLEDGMENT OF ANY TERMS CONTAINED IN THE PLAT, INCLUDING THOSE SET FORTH IN THE OWNERS DEDICATION AND THE NOTES AND DOES NOT CONSTITUTE A GUARANTEE OF PARTICULAR TERMS OF NATURAL GAS SERVICE. FOR FURTHER INFORMATION PLEASE CONTACT DOMINION RIGHT-OF-WAY DEPARTMENT AT 1-800-366-6532.

APPROVED THIS _____ DAY OF _____ A.D. 20____
BY _____

ROCKY MOUNTAIN POWER COMPANY
1. PURSUANT TO UTAH CODE ANN. § 54-3-27 THIS PLAT CONVEYS TO THE OWNER(S) OR OPERATORS OF UTILITY FACILITIES A PUBLIC UTILITY EASEMENT ALONG WITH ALL THE RIGHTS AND DUTIES DESCRIBED THEREIN.
2. PURSUANT TO UTAH CODE ANN. § 17-27A-603(A)(C)(II) ROCKY MOUNTAIN POWER ACCEPTS DELIVERY OF THE PUE AS DESCRIBED IN THIS PLAT AND APPROVES THIS PLAT SOLELY FOR THE PURPOSE OF CONFIRMING THAT THE PLAT CONTAINS PUBLIC UTILITY EASEMENTS AND APPROXIMATES THE LOCATION OF THE PUBLIC UTILITY EASEMENTS, BUT DOES NOT WARRANT THEIR PRECISE LOCATION. ROCKY MOUNTAIN POWER MAY REQUIRE OTHER EASEMENTS IN ORDER TO SERVE THIS DEVELOPMENT. THIS APPROVAL DOES NOT AFFECT ANY RIGHT THAT ROCKY MOUNTAIN POWER HAS UNDER:
(1) A RECORDED EASEMENT OR RIGHT-OF-WAY
(2) THE LAW APPLICABLE TO PRESCRIPTIVE RIGHTS
(3) TITLE 54, CHAPTER 6A, DAMAGE TO UNDERGROUND UTILITY FACILITIES OR
(4) ANY OTHER PROVISION OF LAW.

APPROVED THIS _____ DAY OF _____ 20____
BY _____

TOOELE CITY CORPORATION

RESOLUTION 2023-36

A RESOLUTION OF THE TOOELE CITY COUNCIL TENTATIVELY ADOPTING THE BUDGET OFFICER'S TENTATIVE BUDGET FOR TOOELE CITY FISCAL YEAR 2023-2024, AND ESTABLISHING THE TIME AND PLACE OF A PUBLIC HEARING TO CONSIDER ITS ADOPTION.

WHEREAS, U.C.A. §10-6-111 requires that on or before the first regularly scheduled meeting of the governing body in May of each year, the budget officer (Tooele City Mayor) shall prepare for the ensuing year, and file with the governing body (City Council) a tentative budget for each fund for which a budget is required; and,

WHEREAS, the Mayor has filed the tentative budget for Fiscal Year 2023-2024 with the City Council along with the required budget message; and,

WHEREAS, the tentative budget sets forth the actual revenues and expenditures in the last completed fiscal year, the estimated total revenues and expenditures for the current fiscal year, and the Mayor's estimates of revenues and expenditures for the budget year (the upcoming fiscal year); and,

WHEREAS, the City Council has received the tentative budget and desires to tentatively adopt the same and to establish the time and place of a public hearing to consider its final adoption:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the tentative budget for each fund for the ensuing fiscal year, 2023-2024, is hereby tentatively adopted.

IT IS FURTHER RESOLVED that a public hearing to consider the final adoption of the Tooele City budget for 2023-2024 shall be held on the 21st day of June, 2023, at 7:00 p.m., at Tooele City Council Chambers located at 90 North Main Street, Tooele, Utah.

The City Recorder shall cause notice of a public hearing to consider its adoption to be published at least seven (7) days prior to the hearing by 1) posting notice of the public hearing in at least three public places within Tooele City, and 2) publishing notice on the Utah Public Notice Website, and 3) and on the home page of the Tooele City website, as required by U.C.A. §10-6-113.

The City Recorder shall cause the tentative budget approved hereby to be available for public inspection at least ten (10) days before the adoption of the final budget, as required by U.C.A. §10-6-112.

This Resolution shall be effective immediately upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this
____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(For)

(Against)

ATTEST:

Michelle Y. Pitt, City Recorder

SEAL

Approved as to Form: _____
Roger Evans Baker, City Attorney

TOOELE CITY CORPORATION

RESOLUTION 2023-24

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING THE FORM OF A LEASE AGREEMENT WITH HOOT OWL LEASING LLC FOR A CELL TOWER SITE.

WHEREAS, Hoot Owl Leasing LLC desires to locate a wireless telecommunications tower on a 30' x 30' pad (900 square-feet) within Tooele City's former sewer plant property in a location and manner to which the City Administration has no objection (see illustration attached as Exhibit A); and,

WHEREAS, Hoot Owl proposes to lease the pad for \$750 per month (\$9,000 per year) for up to 30 years, with a 2% rent increase every two years (see the form lease agreements attached as Exhibit B);

WHEREAS, pursuant to Tooele City Code Chapter 7-27, wireless telecommunications service providers are encouraged to locate their towers on public property; and,

WHEREAS, the City Administration believes that the tower will not significantly alter the appearance or detract from the general aesthetics of the area or of Tooele City; and,

WHEREAS, the City Council finds that increased wireless communications capacity in Tooele City is in the best interest of Tooele City and its residents and businesses:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the form of lease agreement documents (Exhibit B) is hereby approved, and that the Mayor is hereby authorized to sign, on behalf of Tooele City Corporation, the final lease agreement documents, to lease to Hoot Owl Leasing LLC a 900 square-foot parcel of Tooele City property (reference Exhibit A), plus access and utility easements, where Hoot Owl will construct a wireless telecommunications tower, antennae, base, fence, and attendant facilities.

This Resolution is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

Exhibit A

Cell Tower Site Illustration



PHOENIX COPPER CANYON LLC
02-002-0-0081
R097892

700 West

650 North

City of Phoenix

Shay Ln

Key Ln

Maricopa County GIS

Permitted access road and route for utilities (power/fiber)

30x30 proposed lease area (can be 20x20 if needed)

TR

ROBERT M CLEGG SUCR TRUSTEE
02-002-0-0003
R004401

TOOELE CITY
02-002-0-0007
R020508

NARWHAL LLC
12-049-0-0000
R013025

GLASER, KIM DEAN TRUSTEE
14-018-0-0002
R005458

SEAN HEAP JT
07-002-0-0047
R078253

Exhibit B

Lease Agreement Documents

LEASE AGREEMENT

THIS LEASE AGREEMENT (“*Lease*”) is made as of the Effective Date by and between Landlord (as identified in Section 1.2) and **Hoot Owl Leasing, LLC**, a Utah limited liability company (“*Tenant*”).

WHEREAS, Landlord owns certain real property located in the County of Tooele, in the State of Utah, that is more particularly described or depicted in the attached **Exhibit 1** (the “*Property*”); and

WHEREAS, Tenant desires to obtain the right to lease from Landlord (i) a certain portion of the Property of approximately 900 square feet (the “*Tower Compound*”) for wireless communications and related purposes and (ii) an appurtenant, non-exclusive leasehold easement (the “*Access and Utility Easement*”) over certain portions of the Property to access the Tower Compound (the Tower Compound and the Access and Utility Easement being more particularly described on **Exhibit 2**, depicted on the survey attached as **Exhibit 3**, and collectively referred to hereinafter as the “*Premises*”).

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree:

1. **BUSINESS TERMS AND INFORMATION.** For purposes of this Lease, in addition to the defined terms elsewhere in this Lease, including the recitals above, the following capitalized terms or information have the meanings set forth in this Section 1:

1.1 **Tenant’s Notice Address:** Hoot Owl Leasing, LLC
Attn: Managing Member
30 South Tooele Boulevard
Tooele, UT 84074

with a copy to: Hoot Owl Leasing, LLC
Attn: Registered Agent
30 South Tooele Boulevard
Tooele, UT 84074

1.2 **Landlord:** Tooele City Corporation, a municipal corporation.

1.3 **Landlord’s Notice Address:** Tooele City Corporation
Attn: Mayor
90 North Main Street
Tooele, UT 84074

with a copy to: Tooele City Corporation
Attn: City Attorney
90 North Main Street
Tooele, UT 84074

1.4 **Communications Facility:** The radio and communications towers, transmitting and receiving equipment, antennas, dishes, mounting structures, buildings, optional backup generators and any other ancillary equipment related thereto.

1.5 **Testing Period:** That certain period of time, consisting of the Initial Testing Period and any effective Testing Period Renewal Term, that occurs immediately prior to the commencement of the leasehold and

during which Tenant may investigate the feasibility of constructing and operating a wireless telecommunications facility on the Premises as further provided in Section 2.

1.6 **Initial Testing Period:** A period of one year, commencing on the Effective Date.

1.7 **Testing Period Renewal Term:** A period of one year, commencing on the day after the expiration of the Initial Testing Period (as further provided in Section 2.3).

1.8 **Term:** The term of the leasehold granted by Landlord to Tenant pursuant to this Lease, which consists of the Initial Term and any effective Renewal Term.

1.9 **Commencement Date:** The first day of the possessory leasehold under this Lease, which is the date that Tenant begins visible construction at the Premises (inclusive of site preparation) consistent with the terms of this Lease.

1.10 **Initial Term:** The term commencing on the Commencement Date and continuing through the last day of the 120th full calendar month after the Rent Accrual Commencement Date.

1.11 **Renewal Term:** As provided in Section 3, each of the 4 successive periods of 5 years each, with the first Renewal Term commencing upon the expiration of the Initial Term and each subsequent Renewal Term commencing upon the expiration of the immediately preceding Renewal Term.

1.12 **Rent Accrual Commencement Date:** Provided the Commencement Date occurs between the 1st and the 15th day of a calendar month, then the Rent Accrual Commencement Date is retroactive to the first day of the calendar month in which the Commencement Date occurs; and otherwise, the Rent Accrual Commencement Date is the first day of the calendar month immediately following the Commencement Date.

1.13 **Rent:** The annual amount of \$9,000.00, payable in equal monthly payments of \$750.00. Rent will escalate 2% every two years, beginning on the 2nd anniversary of the commencement date of this lease.

1.14 **Additional Rent:** The amount of compensation payable in addition to Rent for antennae collocations occurring after the Commencement Date, equal to 10% of the gross revenue from those collocations.

2. RIGHT TO LEASE / TESTING PERIOD.

2.1 Landlord grants to Tenant the right to lease the Tower Compound and the Access and Utility Easement, which easement is to install and maintain utility services to and serving the Tower Compound and vehicular and pedestrian access from a public right-of-way serving the Property to the Tower Compound.

2.2 During the Testing Period, Tenant and its agents, employees, engineers, surveyors and other representatives have the right to enter upon the Property: (i) to inspect and examine the Premises; (ii) to conduct and perform soil borings, drainage testing, material sampling, and other geological or engineering tests or studies of the Premises and the Property (collectively, the "**Tests**"), subject to Utah blue stakes laws; (iii) to apply for and obtain licenses, permits, approvals, or other relief required or deemed necessary or appropriate for Tenant's use of the Premises including, applications for zoning variances, zoning ordinances, amendments, conditional use permits, and building permits (collectively, the "**Government**

Approvals"); (iv) to initiate, order and/or schedule utilities; and (v) otherwise to do those things on or off the Premises that, in the discretion, opinion or judgment of Tenant, are necessary or desirable to determine the physical condition of the Premises, the environmental history of the Premises, Landlord's title to the Property and the feasibility or suitability of the Premises for Tenant's use of the Premises for a Communications Facility, all at Tenant's sole expense. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property, regardless of whether such defect or condition is disclosed by Tenant's inspection. A pre-existing defect or condition is one that exists both (i) prior to the Effective Date, and (2) independent of Tenant's activities on the Property. At the conclusion of the Testing Period, to the extent Tenant may alter or damage the Property as a result of its activities on the Property during the Testing Period, Tenant will restore the Property to its condition as it existed at the Effective Date, reasonable wear and tear and casualty not caused by Tenant excepted. Subject to the foregoing, Tenant shall indemnify, defend

and hold Landlord harmless from and against any and all injury, loss, damage or claims arising directly out of or as a result of Tenant conducting the Tests and its entry onto the Property during the Testing Period.

2.3 Tenant may extend the Testing Period for the Testing Period Renewal Term upon written notification to Landlord given prior to the expiration of the Initial Testing Period.

2.4 During the Testing Period, Tenant may commence the Initial Term by obtaining a building permit for and commencing visible construction of the Communications Facility at the Premises. Tenant shall notify Landlord in writing of the commencement of the Initial Term within 15 days of the Commencement Date. Immediately upon Tenant commencing visible construction as aforesaid, without further act or deed, the Testing Period will terminate, the Initial Term commences and Landlord leases the Premises to Tenant subject to the terms and conditions of this Lease. If Tenant does not obtain a building permit and commence visible construction of the Communications Facility at the Premises prior to the expiration of the Testing Period, this Lease will terminate and the parties will have no further liability to each other except for the indemnity and restoration obligations imposed by Tenant under Section 2.1.

2.5 During the Testing Period, Tenant reserves the right (i) to revise the legal description of the Tower Compound and the Access and Utility Easement to conform the same to a survey of the Premises to be procured by Tenant from a licensed surveyor and attach such revised legal description as Exhibit 2 to this Lease and (ii) to procure a survey of the Premises by a licensed surveyor if a survey or depiction of the Premises is not, at the execution of this Lease, attached as Exhibit 3. Upon completion of such survey and revision of the aforesaid legal descriptions based thereupon, (i) the revised legal descriptions of the Tower Compound and the Access and Utility Easement will be attached to this Lease as Exhibit 2 and made a part hereof (superseding any prior Exhibit 2), the survey will be attached to this Lease as Exhibit 3 and made a part hereof (superseding any prior Exhibit 3), and Tenant shall promptly provide to Landlord notice of and copies of the revised legal descriptions of the Tower Compound and the Access and Utility Easement and of the survey.

3. **TERM.** The term of the leasehold granted by Landlord to Tenant hereunder commences on the Commencement Date, which Tenant shall confirm in writing to Landlord as provided in Section 2.4, and continues through the Term. Tenant shall have the option to extend the term of this Lease for each of the Renewal Terms. Each Renewal Term will commence automatically,

without further act or deed, unless Tenant delivers written notice to Landlord of Tenant's intent not to renew the Term for the next available Renewal Term, such notice to be delivered not less than 30 days prior to the end of the then-current term (*i.e.*, the Initial Term or the then-effective Renewal Term).

4. **RENT AND ADDITIONAL RENT.**

4.1 Rent. Tenant shall pay Rent to Landlord accruing and beginning as of the Rent Commencement Date. The Rent is payable in advance, on or before the 5th day of each calendar month. Payments will be made via electronic funds transfer directly to Landlord's bank account unless otherwise directed by Landlord. Rent will be equitably prorated for any partial calendar month. Notwithstanding the foregoing, Tenant will tender to Landlord the initial Rent payment within 30 days after the Commencement Date.

4.2 Additional Rent. In addition to Rent, Tenant shall pay Additional Rent to Landlord in the amount of 10% of gross revenues derived from the collocation of additional antennae on the Communications Facility at any time after the Commencement Date. The Additional Rent is payable following Landlord's receipt of collocation revenues. Payments will be made via electronic funds transfer directly to Landlord's bank account unless otherwise directed by Landlord.

4.3 Documentation. Rent and Additional Rent amounts shall be segregated by rent type on Tenant's payment documentation.

5. **TAXES AND CHARGES.**

5.1 Tenant shall pay any personal property taxes assessed on, or any portion of such taxes directly attributable to, the Communications Facility. Landlord shall pay prior to delinquency all real property taxes and all other fees and assessments attributable to the Property and Premises. Tenant shall reimburse Landlord for any increase in real property taxes levied against the Premises which are directly attributable to the presence or operation of the Communications Facility on the Premises (but not, however, taxes attributable to periods prior to the Commencement Date such as roll-back or greenbelt assessments) if and only if Landlord furnishes proof of such increase to Tenant within 2 months of Landlord's first notice of such increase. If Landlord fails to pay prior to delinquency any taxes which are a lien against the Premises, Tenant shall have the right, but not the obligation, to pay such taxes and deduct the full amount of the taxes and any interest and penalties thereof paid by Tenant on Landlord's behalf from future installments of Rent.

5.2 Landlord shall pay promptly, when due, any other amounts or sums due and owing with respect to its ownership and operation of the Property, including, judgments, liens, mortgage payments and other similar encumbrances. If Landlord fails to make any payment required of it under this Lease required to assure that Tenant is not disturbed in its possession of the Tower Compound, such as the payment of real estate taxes and assessments, or breaches any other obligation or covenant under this Lease, Tenant may (without obligation), after providing 10 days' prior written notice to Landlord, make such payment or perform such obligation on behalf of Landlord. Landlord shall pay or reimburse Tenant for the full amount of any costs or expenses so incurred by Tenant (including any attorneys' fees incurred in connection with Tenant performing such obligation) with interest at the statutory rate thereon, or at Tenant's election, may be offset against the Rent.

6. USE.

6.1 During the Term, Tenant may use the Premises for the erection, operation and maintenance of a Communications Facility (the "**Permitted Use**"). Tenant may make improvements, alterations and modifications to the Premises as are deemed appropriate by Tenant consistent with the Permitted Use, including the right to clear the Premises of any vegetation, undergrowth or other obstructions which, in Tenant's sole opinion, interferes with the Permitted Use. Tenant shall have the exclusive right to install upon the Tower Compound communications towers, buildings, equipment, antennas, dishes, fencing, and other accessories related thereto, and to alter, supplement, and/or modify same as may be necessary or desirable in Tenant's sole judgment, but subject to compliance with all applicable laws, statutes, rules and regulations of any jurisdictions and to the Communications Facility standards and specifications approved by the Parties and attached to this Agreement.

6.2 During the Term, Landlord further grants Tenant (i) the right on the Property to clear undergrowth or other obstructions and to trim, cut and keep trimmed and cut all tree limbs, which in either case may interfere with or fall upon the Communications Facility or the Premises; (ii) a non-exclusive easement in, over, across and through the Property and other adjoining real property owned by Landlord as reasonably required for the construction, installation, maintenance, and operation of the Communications Facility and the access thereto.

6.3 Landlord acknowledges that Tenant is in the business of subleasing all or portions of the Tower Compound and the Communications Facility to its tenants, licensees or customers pursuant to separately negotiated subleases or licenses entered into between Tenant and such tenant, licensee or customer. Tenant may enter into any

sublease or license without the consent of Landlord, provided that, notwithstanding the terms of that certain sublease or license, Tenant shall remain liable for all of the terms and conditions of this Lease and Tenant shall fulfill each covenant contained herein. Tenant shall remain liable for and hereby indemnifies and shall protect and defend Landlord from and against all costs, damages or liability (including reasonable attorneys' fees) resulting from any act or omission of such subtenant or licensee to the extent such act or omission is permitted by Tenant but is contrary to or inconsistent with the terms of this Lease.

6.4 Tenant and its customers, lessees, licensees, employees, agents, invitees, contractors, successors and assigns shall have access to the Premises 7 days a week, 24 hours a day. Tenant shall have the exclusive right to sublease or grant licenses to use the Communications Facility or portions thereof, but no such sublease or license shall relieve or release Tenant from its obligations under this Lease. If at any time during the term of this Lease, the Federal Aviation Administration, Federal Communications Commission or other governmental agency changes, amends or modifies its regulations and requirements, issues new regulations or requirements, or otherwise takes any action, the result of which reasonably inhibits Tenant's use of the Premises or any portion of the Communications Facility for the Permitted Use, or if technological changes render the Permitted Use of the Premises obsolete or impractical, or if Tenant otherwise determines, in its sole and absolute discretion, with or without cause, that the Premises is no longer suitable or desirable for the Permitted Use, Tenant shall have the right to terminate this Lease upon written notice to Landlord and effective on the earlier of the date set forth in the notice of termination or 30 days after the date of deemed receipt of such notice by Landlord.

6.5 Landlord hereby authorizes Tenant and its employees, representatives, agents and consultants to prepare, execute, submit, file and present on behalf of Landlord building, permitting, zoning or land-use applications with the appropriate local, state and/or federal agencies necessary to obtain land use changes, zoning variances, conditional use permits, administrative permits, operation permits and/or building permits consistent with the Permitted Use. At no additional cost to Tenant, Landlord shall cooperate with Tenant in any effort by Tenant to obtain certificates, permits, licenses and other approvals that may be required by any governmental authorities and agrees to execute any necessary applications, consents or other documents as may be reasonably necessary for Tenant to apply for and obtain the proper zoning approvals and other permits required to use and maintain the Premises and the Communications Facility. Landlord shall not do or permit anything that will interfere with or negate any conditional use permit or approval pertaining to the Premises or cause any portion of

the Communications Facility located on the Premises to be in nonconformance with applicable local, state, or federal laws.

6.6 It is intended that the legal description of the Premises accurately reflect an "as-built" survey of the location of the Tower Compound, the communications tower located thereon, and the Access and Utility Easement. Accordingly the parties agree that, if any part of such tower, buildings, roadways, utilities, guy wires or anchors related to the Communications Facility located on the Premises is located beyond the legal description of the Premises, the Lease is hereby amended to provide that the Premises includes the existing location of any such improvements as part of the Premises demised in the Lease to the extent that such improvements are located on real property owned by Landlord, and Exhibit 2 and Exhibit 3 to this Lease shall be modified to reflect the "as-built" locations of the Tower Compound and the Access and Utility Easement. Tenant shall seek Landlord's written consent, which consent shall not be unreasonably withheld, conditioned or delayed, prior to causing any portions of the Communications Facility or Tower Compound to leave the defined Premises.

7. ACCESS AND UTILITIES. During the Term, Landlord for itself, its successors and assigns, hereby leases to Tenant, its customers, lessees, licensees, employees, agents, invitees, contractors, successors and assigns, as an appurtenance to the Tower Compound, the Access and Utility Easement for ingress and egress for the benefit of and access to the Tower Compound as well as for the construction, installation, operation and maintenance of overhead and underground electric, gas and other utility facilities (including wires, poles, guys, cables, conduits and appurtenant equipment), with the right to reconstruct, improve, add to, enlarge, change, remove and replace such facilities, over, across and through the Access and Utility Easement for the benefit of and access to the Tower Compound, subject to the terms and conditions herein set forth. The rights granted to Tenant herein include the right to partially assign its rights hereunder to any public or private utility company or authority to facilitate the uses contemplated herein, and all other rights and privileges reasonably necessary for Tenant's safe and efficient use and enjoyment of the Access and Utility Easement for the Permitted Use.

8. EQUIPMENT, FIXTURES AND SIGNS.

8.1 All improvements, equipment or other property attached to or otherwise brought onto the Premises shall at all times be the personal property of Tenant and/or its customers, tenants and licensees. Tenant and its customers, tenants and licensees shall have the right to erect, install, maintain, and operate on the Premises such equipment, structures, fixtures, signs, and personal

property as Tenant may deem necessary or appropriate, provided they comply with the generally-applicable enacted regulations of Landlord, and such property shall not be deemed to be part of the Premises, but shall remain the property of Tenant or its customers, tenants and licensees. At any time during the Term and within a reasonable time after the expiration or earlier termination of the Term, Tenant and its customers, tenants and licensees shall remove their equipment, structures, fixtures, signs, and personal property from the Premises as set forth below.

8.2 **Removal; Abandonment.** Within one hundred twenty (120) days of the expiration or earlier termination of this Lease for any reason, Tenant, at its sole cost and expense, shall remove from the Premises all of the improvements constituting the Communications Facility, including, without limitation to the generality of the foregoing, all equipment, personal property, antennas and other improvements (provided that Tenant shall not be required to remove any equipment platforms, slabs, concrete pads, foundations, below-grade improvements, underground utilities, or related infrastructure or replace any trees, shrubs or other vegetation) and shall repair any damage to the Premises caused by the removal of the Communications Facility, equipment, personal property, antenna facilities and ground facilities, normal wear and tear excepted. Any such personal property not removed from the Premises within one hundred and twenty (120) days after the expiration or earlier termination hereof shall be conclusively deemed to have been abandoned, and Landlord may remove and dispose of such personal property as Landlord deems fit without incurring any liability whatsoever therefor to Tenant, and Tenant shall reimburse Landlord for all such actual and reasonable third-party expenses and costs, as additional Rent hereunder, that Landlord incurs on account of such removal and disposal within thirty (30) days of receipt of an itemized invoice from Landlord therefor. If Tenant fails to remove those portions of the Communications Facility required to be removed pursuant to this Section 8, within one hundred twenty (120) days after the expiration or earlier termination of this Lease, Landlord may send to the Tenant a notice requesting such removal. If Tenant fails to comply with such notice within thirty (30) days of receipt thereof, all structures, buildings, facilities and equipment remaining at the Premises shall be conclusively deemed to have been abandoned and Landlord may dispose of or remove from the Premises such structures, buildings, and equipment as Landlord deems fit without incurring any liability whatsoever therefor to Tenant, and Tenant shall reimburse Landlord for all such actual third party expenses and costs, as additional Rent hereunder that Landlord incurs on account of such removal and disposal within thirty (30) days of receipt of an itemized invoice from

Landlord therefor, along with reasonable documentation of the cost incurred by Landlord.

9. **ASSIGNMENT.** Tenant may assign this Lease to any person or entity at any time without the prior written consent of Landlord. After delivery by Tenant to Landlord of an instrument of assumption by an assignee that assumes all of the obligations of Tenant under this Lease, Tenant will be relieved of all liability hereunder thereafter accruing. Landlord may assign this Lease, in whole or in part, to any person or entity (i) who or which acquires fee title to the Premises, and/or (ii) who or which agrees to be subject to and bound by all provisions of this Lease. Except for the foregoing, assignment of this Lease by Landlord must be approved by Tenant, in Tenant's sole discretion.

10. **COVENANTS, WARRANTIES AND REPRESENTATIONS.** Landlord covenants, warrants and represents the following:

10.1 Landlord is the owner in fee simple of the Premises, free and clear of all liens and encumbrances except as to those which may have been disclosed to Tenant in writing prior to the execution of this Lease; that it alone has full right to let the Premises for the Term set out herein; and that Tenant, on paying the Rent and performing its obligations hereunder, shall peaceably and quietly hold and enjoy the Premises for the Term.

10.2 Landlord has complied with, and will continue to comply with, all environmental, health, and safety laws with respect to the Premises other than those which arise out of Tenant's use of the Tower Compound for a Communications Facility (which compliance obligation is to be borne by Tenant), and no action, suit, proceeding, hearing, investigation, charge, complaint, claim, demand, or notice has been filed or commenced against Landlord or regarding the Premises alleging any failure to so comply. Without limiting the generality of the preceding sentence, at the commencement of the Term, Landlord and the Premises are in compliance with all environmental, health, and safety laws; no asbestos-containing thermal insulation or products containing PCB, formaldehyde, chlordane, or heptachlor or other hazardous materials have been placed on or in the Premises by Landlord or, to the knowledge of Landlord, by any prior owner or user of the Premises; and to the knowledge of Landlord, there has been no release of or contamination by hazardous materials on the Premises.

10.3 All utilities in place upon the commencement of the Term and serving the Property enter through adjoining public streets or, if they pass through an adjoining private tract, do so in accordance with valid public easements. All utilities are installed and operating and all installation and connection charges have been paid in full.

10.4 Landlord has no knowledge of any fact or condition that could result in the termination or reduction of the current access from the Premises to existing highways and roads or to utility services serving the Premises.

10.5 The Premises abuts on and has direct vehicular access to a public road or has access to a public road via a permanent, irrevocable, appurtenant easement benefiting the Property, and access to the Property is provided by paved public right-of-way.

10.6 With respect to the Premises, except as disclosed by Landlord in writing to Tenant prior to the execution hereof, (i) there currently exist no licenses, sublicenses, or other agreements, written or oral, granting to any party or parties the right of use or occupancy of any portion of the of Tower Compound; (ii) there are no outstanding options or rights of first refusal to purchase the Premises or any portion thereof or interest therein; and (iii) there are no parties (other than Landlord) in possession of the Premises.

11. **HOLD OVER TENANCY.** Should Tenant or any assignee, sublessee or licensee of Tenant hold over the Premises or any part thereof after the expiration of the Term, such holdover shall constitute and be construed as a tenancy from month-to-month only, but otherwise upon the same terms and conditions.

12. **INDEMNITIES.** Each of Landlord and Tenant agree to indemnify, defend and hold harmless the other party, its parent company or other affiliates, successors, assigns, officers, directors, shareholders, agents and employees (each, an "**Indemnified Persons**"), from and against all claims and liabilities (including reasonable attorneys' and fees court costs) asserted by a third party against an Indemnified Person caused by or arising out of (i) such indemnifying party's breach of any of its obligations, covenants, or warranties contained herein, or (ii) such indemnifying party's negligent or willful acts or omissions with regard to the Lease. However, in the event of an Indemnified Person's contributory negligence or other fault, the Indemnified Person shall not be indemnified hereunder to the extent that the Indemnified Person's negligence or other fault caused such claim or liability.

13. **WAIVERS.**

13.1 Landlord hereby waives any and all lien rights it may have, statutory or otherwise, in and to the Communications Facility or any portion thereof or any equipment located upon the Premises, regardless of whether such Communications Facility or equipment is deemed real or personal property under applicable laws. Landlord will not assert any claim whatsoever against Tenant for loss of anticipatory profits or any other indirect,

special, incidental or consequential damages incurred by Landlord as a result of the construction, maintenance, operation or use of the Premises by Tenant.

13.2 EACH OF LANDLORD AND TENANT WAIVES ANY AND ALL CLAIMS AGAINST THE OTHER FOR ANY LOSS, COST, DAMAGE, EXPENSE, INJURY OR OTHER LIABILITY WHICH IS IN THE NATURE OF INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES AND WHICH IS SUFFERED OR INCURRED AS THE RESULT OF, ARISE OUT OF, OR ARE IN ANY WAY CONNECTED TO THE PERFORMANCE OF THE OBLIGATIONS OF A PARTY UNDER THIS LEASE.

14. INSURANCE.

14.1 Tenant shall insure against property damage and bodily injury arising by reason of occurrences on or about the Premises in the amount of not less than \$2,000,000. The insurance coverage provided for herein may be maintained pursuant to master policies of insurance covering other Communications Facility locations of Tenant and its affiliates. Tenant shall maintain all insurance policies required of it to be maintained hereunder with responsible insurance companies, authorized to do business in the state where the Premises are located if required by law, and which policies will include a provision for cancellation only upon 30 days' prior written notice to Landlord. Tenant shall evidence such insurance coverage by delivering to Landlord a copy of all such policies or, at Tenant's option, certificates in lieu thereof issued by the insurance companies underwriting such risks.

14.2 Landlord shall carry, at no cost to Tenant, general liability insurance and property casualty insurance appropriate for Landlord's improvements on the Property and in such amounts to cause the replacement / restoration of the Property (excluding Tenant's improvements and personal property) in the event of casualty.

14.3 Landlord and Tenant release each other and their respective officers, directors and employees and agents from any claims for any injury to any person or any property damage caused by, or that result from, risks insured against under any property or casualty insurance policies carried by such insured party and in force at the time of any such injury or damage to the extent that such release and waiver does not invalidate any insurance policy held by such insured party. Landlord and Tenant shall exercise commercially reasonable efforts to cause each insurance policy it obtains to provide that the insurance carrier waives all right of recovery by way of subrogation against the other in connection with any injury or damage covered by any such property or casualty insurance policy.

15. **INTERFERENCE.** During the Term, Landlord, its successors and assigns will not grant any ground lease, license, easement or other rights with respect to the Property or any land adjacent to the Premises (i) for the Permitted Use; or (b) if such lease, license, easement or other right would detrimentally impact Tenant's Communications Facility or Tenant's use thereof. Landlord shall not cause or permit the construction of radio or communications towers on the Property or on any other property of Landlord and its controlled entities and affiliates adjacent or contiguous to or within a radius of 1/2 mile of the Property except for towers constructed by Tenant.

16. **LIMITED RIGHT OF FIRST REFUSAL.** Notwithstanding anything to the contrary contained herein, this section shall not apply to any fee simple sale of the Property by Landlord to any prospective purchaser that is not a Third Party Competitor (as herein defined). If Landlord receives an offer or desires to accept an offer to (i) sell or convey any interest (including leaseholds or easements) in any real property of which the Tower Compound is a part to any person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure or lands on which such wireless telecommunications infrastructure is located (any such person or entity, a "*Third Party Competitor*") or (ii) assign all or any portion of Landlord's interest in this Lease to a Third Party Competitor (any such offer, the "*Offer*"), Landlord shall serve a written notice upon Tenant stating that Landlord desires to accept such Offer and the exact terms of the Offer (including the nature of title being conveyed to the Third Party Competitor), and provide with such notice a copy of such Offer (the "*Transfer Notice*"). Tenant shall have the right, exercisable in Tenant's sole and absolute discretion, of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant shall provide Landlord with written notice of its election not later than 30 days after Tenant receives the Transfer Notice. The closing of the purchase and sale or conveyance of the Premises pursuant to the Offer shall occur at the time set forth in the Offer provided that Tenant shall not be required to close before the 15th day following the date of Tenant's acceptance of the Offer. If Tenant elects not to exercise Tenant's right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the Lease. Tenant's failure to give a timely acceptance or its rejection of the Offer is deemed a waiver of its right to exercise its right of first refusal to accept the

Offer, but will not constitute or be deemed a waiver of its right of first refusal with respect to any modification to the Offer or any future Offer that Landlord may receive. Landlord hereby acknowledges and agrees that this limited right of first refusal runs with and is appurtenant to the Property and that any sale or conveyance by Landlord in violation of this Section 16 is null and void and of no force and effect. To the extent that a statutory or common law rule against perpetuities applies to limit the term or period of duration of this limited right of first refusal, then the period or term of this limited right of first refusal commences upon the Effective Date and expires on earlier of (i) the expiration or earlier termination of this Lease and (ii) the day immediately before the day that but for this sentence, such limited right of first refusal would be rendered void or unenforceable due to a violation of a statutory or common law rules against perpetuities. To the extent that the Term is extended such that the limited right of first refusal described in this Section 16 would otherwise expire prior to the expiration or earlier termination of the Term as a result of the application of the immediately prior sentence, Tenant shall have the right to renew successively this limited right of first refusal upon the payment by Tenant to Landlord of the sum of \$10.00, at which time, this limited right of first refusal is renewed for an additional term commencing from the date of such payment to Landlord until the earlier of (i) the expiration or earlier termination of this Lease and (ii) the day immediately before the day that but for this sentence, such extended limited right of first refusal would be rendered void or unenforceable due to a violation of a statutory or common law rules against perpetuities.

17. **SECURITY.** The parties recognize and agree that Tenant shall have the right to safeguard and protect its Communications Facility located upon or within the Premises. Consequently, Tenant may elect, at its expense, to construct such enclosures and/or fences as Tenant reasonably determines to be necessary to secure the Communications Facility, including the tower(s), building(s), guy anchors, and related improvements situated upon the Premises. Tenant may also undertake any other appropriate means to restrict access to its Communications Facility.

18. **FORCE MAJEURE.** The time for performance by Landlord or Tenant of any term, provision, or covenant of this Lease is to be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, floods, material or labor restrictions by governmental authority, and any other cause not within the control of Landlord or Tenant, as the case may be.

19. **CONDEMNATION.** Notwithstanding any provision of the Lease to the contrary, in the event of condemnation of the Premises or any portion thereof, Landlord and Tenant shall be entitled to separate awards

with respect to the Premises, in the amount determined by the court conducting such condemnation proceedings based upon Landlord's and Tenant's respective interests in the Premises. If a separate condemnation award is not determined by such court, Landlord shall permit Tenant to participate in the allocation and distribution of the award. In no event shall the condemnation award to Landlord exceed the unimproved value of the Premises, without taking into account the improvements located thereon, and in no event shall the Lease be terminated or modified (other than an equitable abatement or adjustment of Rent) due to a condemnation without the prior written consent of Tenant.

20. **DEFAULT.** Should Landlord or Tenant fail to perform any of its respective covenants or obligations imposed upon it or breach any of its respective representations or warranties under this Lease (a "**Non-Performing Party**"), then the other party shall give the Non-Performing Party written notice of such breach or failure, at which time the Non-Performing Party shall be in default under this Lease; provided, however, to the extent such default is susceptible of being cured or remedied, the Non-Performing Party shall have the Cure Period to remedy such breach or failure prior to the Non-Performing Party being in default under this Lease. For purposes hereof, the "**Cure Period**" is a period 30 days, measured from the date of the Non-Performing Party's receipt of such notice of breach or failure; provided, if such breach or failure cannot reasonably be cured within such 30-day period and the Non-Performing Party proceeds promptly after the receipt of such notice of such breach or failure to commence to remedy same and pursue curing such breach or failure with due diligence, Cure Period is extended for such period of time as may be necessary to complete such curing, not to exceed 60 days from the Non-Performing Party's receipt of such written notice of such breach or failure or such longer period of time as agreed by the other party. Upon a default by the Non-Performing Party that is not susceptible of being cured or if it is susceptible of being cured, that is not cured within the Cure Period will give rise to the other party being able to assert against the Non-Performing Party any remedies available at law or in equity, including the right to terminate this Lease, subject to Section 13.2. Notwithstanding the foregoing, should a Non-Performing Party fail to perform any of its obligations imposed upon it under this Lease and irreparable and immediate harm may befall the other party as a result of such failure, the other party may pursue injunctive relief immediately without the passage of the Cure Period.

21. **ATTORNEY'S FEES.** If any legal proceeding between Landlord and Tenant arise from, out of or based on this Lease, the unsuccessful party to such action or proceeding shall pay to the prevailing party all costs and expenses, including reasonable attorney's fees and disbursements, incurred by such prevailing party in such

action or proceeding and in any appeal in connection therewith. If such prevailing party recovers a judgment in any such action, proceeding or appeal, such costs, expenses and attorney's fees and disbursements shall be included in and be taxed to the unsuccessful party as a part of such judgment.

22. SUBORDINATION AND TENANT'S LENDER.

22.1 This Lease is subordinate to all deeds of trust, mortgages and ground leases now or hereafter encumbering the Premises or Landlord's interest therein (collectively, "**Encumbrances**" and each, an "**Encumbrance**") provided Landlord, its lenders and other tenants (i) are bound by the terms of the Lease; (ii) agree not to disturb or disrespect Tenant's use or possession of the Premises or Tenant's other rights granted under this Lease in the event of a foreclosure of such Encumbrance so long as Tenant is not in default hereunder beyond any applicable cure period; and (iii) agree not to join Tenant as party defendant in any such foreclosure proceeding taken by it unless otherwise required by applicable law. With regard to any Encumbrance, Landlord covenants and agrees that, upon the request of Tenant, it shall use its best efforts to cause the beneficial holder of such Encumbrance to execute a customary subordination, non-disturbance and attornment agreement with regard to this Lease. In addition, each of Landlord and Tenant will, within 10 days after the request of the other party, execute and deliver to the other party, an estoppel letter as to such factual matters relating to the Lease as are reasonably requested by such other party, its lender or prospective successor-in-interest.

22.2 Landlord consents to the granting by Tenant of a lien and security interest in Tenant's interest in the Lease and all of Tenant's personal property and fixtures attached to the Premises, and furthermore consents to the exercise by Tenant's lender ("**Tenant's Lender**") of its rights of foreclosure with respect to its lien and security interest in Tenant's interest therein. Landlord agrees to recognize Tenant's Lender as the tenant under this Lease upon any such exercise by Tenant's Lender of its rights of foreclosure. Landlord hereby (i) agrees that any lien or security interest in favor of Landlord which arises by law or pursuant to the Lease is subordinate to the lien and security interest of Tenant's Lender in the collateral securing all indebtedness at any time owed by Tenant to Tenant's Lender (the "**Collateral**"), and (ii) furthermore agrees that upon an event of default under the loan documents between Tenant and Tenant's Lender or the Lease, Tenant's Lender shall be fully entitled to exercise its rights against the Collateral prior to the exercise by Landlord of any rights which it may have therein, including entry upon the Premises and removal of the Collateral free and clear of Landlord's lien and security interest.

22.3 To the extent that Tenant or Tenant's Lender has given notice to Landlord of Tenant's Lender's security interest in the Lease and other Collateral and an address to which Landlord is to provide notices to Tenant's Lender, (i) Landlord agrees to give Tenant's Lender written notice of any breach, failure or default of the terms of the Lease within 15 days after the occurrence thereof, at such address as is specified to Landlord by Tenant's Lender; (ii) Landlord agrees that no default under the Lease is deemed to have occurred unless notice of such breach, failure or default is also given to Tenant's Lender and any applicable cure period has passed; and (iii) in the event of any such breach, failure or default under the terms of the Lease, Tenant's Lender shall have the right, to the same extent, for the same period and with the same effect, as Tenant, plus an additional 90 days after any applicable cure period to cure or correct any such breach, failure or default (whether the same shall consist of the failure to pay rent or the failure to perform), and Landlord agrees to accept such payment or performance on the part of Tenant's Lender as though the same had been made or performed by Tenant. Landlord agrees that it shall not exercise its right to terminate the Lease or any of its other rights under the Lease upon breach or default of the terms of the Lease without so affording Tenant's Lender the foregoing notice and periods to cure any default or breach under the Lease. In the case of termination of this Lease for any reason or if this Lease is rejected or disaffirmed pursuant to any bankruptcy, insolvency or other law affecting creditor's rights, (i) Landlord shall give prompt notice thereof to Tenant's Lender consistent with this Section 22.3; and (ii) on written request of Tenant's Lender made any time within 30 days after the giving of such notice by Landlord, Landlord shall promptly execute and deliver a new lease of the Premises to Tenant's Lender or its designee or nominee for the remainder of the Term (as if this Lease were not terminated, rejected or disaffirmed) upon all the covenants, conditions, limitations and agreements contained herein (including options to extend the Term) except for such provisions which must be modified to reflect such termination, rejection or disaffirmance and the passage of time, provided that Tenant's Lender (A) shall pay to Landlord, simultaneously with the delivery of such new lease, all unpaid rent due under this Lease up to and including the date of the commencement of the term of such new lease and all reasonable expenses, including reasonable attorneys' fees and disbursements and court costs, incurred by Landlord in connection with the default by Tenant, the termination of this Lease and the preparation of the new lease, and (B) shall cure all defaults existing under this Lease which are susceptible to being cured by Tenant's Lender promptly and with due diligence after the delivery of such new lease. Notwithstanding anything to the contrary contained herein, provided Tenant's Lender shall have otherwise complied with the provisions of this Section 22.3, Tenant's Lender shall have no obligation to

cure any defaults which are not susceptible to being cured by such Lender (for example, the bankruptcy of Tenant). For so long as Tenant's Lender shall have the right to enter into a new lease with Landlord pursuant to this Section 22.3, Landlord shall not enter into a new lease of the Premises with any person or entity other than Tenant's Lender without the prior written consent of Tenant's Lender.

22.4 The provisions of Section 22.3 shall survive the termination, rejection or disaffirmance of this Lease and will continue in full force and effect thereafter to the same extent as if Section 22.3 was a separate and independent contract made among Landlord, Tenant and Tenant's Lender and, from the effective date of such termination, rejection or disaffirmance of this Lease to the date of execution and delivery of such new lease, Tenant's Lender may use and enjoy the leasehold estate created by this Lease without hindrance by Landlord. The aforesaid agreement of Landlord to enter into a new lease with Tenant's Lender is deemed a separate agreement between Landlord and Tenant's Lender, separate and apart from this Lease as well as a part of this Lease and is unaffected by the rejection of this Lease in any bankruptcy proceeding by any party.

22.5 Upon the execution and delivery of a new lease under Section 22.3, all subleases which theretofore have been assigned to, or made by, Landlord with respect to the Communications Facility shall be assigned and transferred, without recourse, by Landlord to the tenant named in such new lease or a third-party manager capable of administering such subleases. Between the date of termination of this Lease and the date of execution of the new lease, if a Tenant Lender shall have requested a new lease as provided in Section 22.3, Landlord shall not cancel any subleases or accept any cancellation, termination or surrender thereof (unless such termination shall be effected as a matter of law on the termination of this Lease) without the consent of Tenant's Lender.

22.6 If Landlord has been given notice of Tenant's Lender as provided in Section 22.3, (i) this Lease shall not be modified or amended by the parties hereto, or terminated or surrendered by Tenant, nor shall Landlord accept any such termination or surrender of this Lease by Tenant, without the prior written consent of Tenant's Lender and (ii) Landlord shall not have the right to terminate this Lease in the event of a casualty or condemnation without the prior written consent of Tenant's Lender.

22.7 The provisions of this Section 22 are for the benefit of Tenant's Lender and may be relied upon and shall be enforceable by Tenant's Lender as if Tenant's Lender were a party to this Lease. Notwithstanding the foregoing, Landlord acknowledges that nothing contained

herein is deemed or to be construed to obligate Tenant's Lender to take any action hereunder or to perform or discharge any obligation, duty or liability of Tenant under this Lease.

23. **NOTICES.** All notices under this Lease shall be in writing either personally delivered (with receipt for delivery); mailed via United States certified mail, return receipt requested; or transmitted by overnight courier for next business day delivery to the notice addresses of Landlord and Tenant set forth in Section 1. Notices will be deemed to have been given upon either receipt or rejection. The parties each reserve the right to modify or change their notice addresses set forth in Section 1 by providing notice to the other party as otherwise provided in this section, with such new notice address being effective 15 days after receipt by the other party.

24. **MISCELLANEOUS.**

24.1 Each party hereto warrants and represents that it has the necessary power and authority to enter into and perform its respective obligations under this Lease.

24.2 If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.

24.3 All attached exhibits are hereby incorporated by this reference as if fully set forth herein.

24.4 Failure of party to insist on strict performance of any of the conditions or provisions of this Lease or failure to exercise any of a party's rights hereunder, shall not waive such rights.

24.5 This Lease is to be governed by and construed in accordance with the laws of the state in which the Premises are located.

24.6 This Lease constitutes the entire Lease and understanding of the parties and supersedes all offers, negotiations and other lease agreements with regard to the Premises or the subject matter hereof. There are no representations or understandings of any kind not set forth herein. Any amendment to this Lease must be in writing and executed by both parties.

24.7 This Lease is an appurtenance of and runs with the land and is binding upon and inures to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

24.8 A short-form memorandum of this Lease substantially in the form as depicted in Exhibit 4 attached hereto may be recorded at Landlord or Tenant's option and at the expense of the requesting party.

24.9 This Lease may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. Any counterpart delivered by facsimile, pdf, commercially available electronic e-signature software or other electronic means shall have the same import and effect as original or manually signed counterparts and shall be valid, enforceable and binding for the purposes of this Lease

24.10 The pronouns of any gender shall include the other gender, and either the singular or the plural shall include the other, as the context requires. "Include" and "including" and their derivatives are to be construed as illustrative but not limiting. References in this Lease to sections refer to those sections of this Lease unless the context expressly requires otherwise. Headings of

sections are for convenience only and are not be considered in construing the meaning of the contents of such sections.

24.11 **WAIVER OF TRIAL BY JURY.** It is mutually agreed by and between Landlord and Tenant that the respective parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, and/or any claim of injury or damage, or for the enforcement of any remedy under any statute, law, rule, regulation or otherwise.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK,
SIGNATURES BEGIN ON NEXT PAGE]**

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the date last signed by a party hereto.

LANDLORD:

Tooele City Corporation, a municipal corporation

By: _____

Name: _____

Title: _____

Date: _____

TENANT:

Hoot Owl Leasing, LLC, a Utah limited liability company

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT 1

Description of Parent Tract

EXHIBIT 2

The Premises is described as follows, subject to replacement by a surveyed legal description when available:

I. Tower Compound Legal Description:

II. Access and Utility Easement Legal Description:

EXHIBIT 3

Survey (depicting Tower Compound and Access and Utility Easement(s))

[attach survey, when completed]

EXHIBIT 4

MEMORANDUM OF LEASE

[TO BE CONFORMED TO PROVISIONS OF LEASE WHEN FULLY NEGOTIATED]
[FORM ONLY – DO NOT EXECUTE]

Prepared by and return to:
Hoot Owl Leasing, LLC
30 South Tooele Boulevard
Tooele, UT 84074

MEMORANDUM OF LEASE

This Memorandum of Lease evidences a Lease ("**Lease**") dated as of _____ between _____ ("**Landlord**"), whose address is _____ and **Hoot Owl Leasing, LLC**, a Utah limited liability company, whose mailing address is 30 South Tooele Boulevard, Tooele, Utah 84074 ("**Tenant**"), with regard to that certain real property (the "**Premises**") as described on Exhibit 1 attached hereto, which Premises are located upon a tract of real property owned by Landlord and more particularly described on Exhibit 2 attached hereto (the "**Property**"). The leasehold of the Premises commences on the date Tenant begins visible construction at the Premises (the "**Commencement Date**"), which Commencement Date is to be confirmed in writing from Tenant to Landlord, but shall occur no later than 2 years after the date of the Lease.

Landlord ratifies, restates and confirms the Lease and hereby leases to Tenant (i) that certain portion of the Property (the "**Tower Compound**") for communications and related purposes as more particularly described in the Lease and (ii) an appurtenant, non-exclusive leasehold easement (the "**Access and Utility Easement**") over certain portions of the Property to access the Tower Compound (the Tower Compound and the Access and Utility Easement being more particularly described on Exhibit 1.

The Lease provides for the lease by Landlord to Tenant of the Premises for [an initial] term of 10 years, commencing on the Commencement Date, with 4 renewal options of an additional 5 years each, for a maximum term (including renewal terms) of 30 years. The Lease further provides for the following:

1. Landlord will attorn to any lender of Tenant and will subordinate any Landlord's lien upon the Premises or property located thereon, to the liens of Tenant's lender.

2. The Lease restricts Landlord's ability to utilize or allow the utilization of its adjacent property for the construction, operation and/or maintenance of communications towers and related facilities.

3. The Access and Utility Easement is a non-exclusive grant of an easement from Landlord to Tenant between a public right of way abutting the Property, for the purpose of ingress and egress for the benefit of, and access to,

the Tower Compound, as well as for the construction, installation, operation and maintenance of overhead and underground electric, gas and other utility facilities (including wires, poles, guys, cables, conduits and appurtenant equipment), with the right to reconstruct, improve, add to, enlarge, change, remove and replace such facilities.

4. The Tower Compound may be used by Tenant for all legal purposes, including erecting, installing, operating and maintaining radio and communications towers, buildings, and related equipment, and accessing the same from a public right-of-way.

5. Tenant is entitled, without the consent of Landlord, to sublease and/or sublicense the Premises, or portions thereof, including any communications tower located thereon.

6. Under certain circumstances, Tenant has a right of first refusal to acquire the Premises from Landlord.

7. This Memorandum of Lease does not restate the Lease, and in the event of any conflict between the terms of this Memorandum of Lease and the Lease, the terms of the Lease shall govern.

*[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK,
SIGNATURES BEGIN ON NEXT PAGE]*

IN WITNESS WHEREOF, the parties hereto have executed this MEMORANDUM OF LEASE as of the date last signed by a party hereto.

LANDLORD:

By: _____

Name: _____

Title: _____

Date: _____

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public for _____ County, _____, do hereby certify that Debra E. Winn personally appeared before me this day and acknowledged she, as Mayor of Tooele City Corporation, being duly authorized to do so, executed the foregoing instrument on behalf of such entity.

Witness my hand and official seal, this the ____ day of _____, 2023.

(Signature of Notary)

Notary Public

My commission expires: _____

TENANT:

Hoot Owl Leasing, LLC,
a Utah limited liability company

By: _____

Name: _____

Title: _____

Date: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public for _____ County, Utah, do hereby certify that _____ personally appeared before me this day and acknowledged he/she, as _____ of Hoot Owl Leasing, LLC, a Utah limited liability company, and that he/she as _____, being authorized to do so, executed the foregoing instrument on behalf of the corporation.

Witness my hand and official seal, this the ____ day of _____, 2023.

(Signature of Notary)

Notary Public

My commission expires: _____

EXHIBIT 1 TO MEMORANDUM OF LEASE

Description of the Premises

The Premises is described or depicted as follows and shall be replaced with a surveyed legal description when available:

Tower Compound Legal Description:

Access and Utility Easement Legal Description:

EXHIBIT 2 TO MEMORANDUM OF LEASE

Description of the Property

TOOELE CITY CORPORATION

RESOLUTION 2023-29

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING A FRANCHISE AGREEMENT WITH ALL WEST/UTAH FOR CABLE TELEVISION SERVICES.

WHEREAS, on February 4, 2015, the City Council approved Resolution 2015-11, approving a new cable franchise agreement with Comcast; and,

WHEREAS, on December 7, 2022, the City Council approved Resolution 2022-101, approving a fiber-optic franchise agreement with All West/Utah; and,

WHEREAS, All West/Utah has requested a cable TV franchise agreement, as required by law for a cable TV franchisee, irrespective of the use of already-installed fiberoptic infrastructure; and,

WHEREAS, the Tooele City Council finds it to be in the best interest of Tooele City to grant a cable television franchise to Comcast and to sign the franchise agreement attached hereto as Exhibit A:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the Franchise Agreement attached as Exhibit A is hereby approved and authorized for the Mayor's signature.

This Resolution shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form: _____
Roger Evans Baker, City Attorney

Exhibit A

Franchise Agreement

**FRANCHISE AGREEMENT BETWEEN THE TOOEELE CITY CORPORATION AND
ALL WEST/UTAH, INC. REGARDING OPERATION OF A CABLE TELEVISION
SYSTEM WITHIN THE CITY OF TOOEELE**

This Franchise Agreement Between Tooele City Corporation and All West/Utah, Inc., Regarding Operation of a Cable Television System within the City of Tooele (“Franchise Agreement”) is made this _____ day of _____, 2023, by and between the Tooele City Corporation, a municipal subdivision of the State of Utah (the “City”) and All West/Utah, Inc., a Utah corporation (“All West” or “Grantee”), and for the purpose of granting to All West the non-exclusive right to operate and maintain a cable television system in, on, over, upon, along, and across the public rights of way of the City of Tooele, and for the purpose of identifying and prescribing certain rights, duties, terms, and conditions with respect thereto.

Section 1. Definitions. When used in this Franchise Agreement, unless the context otherwise requires, the following terms and their derivatives shall have the meaning herein given (and when not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural):

- (1) "Basic Cable Service" means any service tier of Cable Service which includes the retransmission of local television broadcast signals by the Grantee.
- (2) “Cable Act” means the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer protection and Competition Act of 1992, the Telecommunications Act of 1996 and any amendments thereto.
- (3) “Cable Service” means: (a) the one-way transmission to Subscribers of video programming or other programming service; and (b) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- (4) "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community as defined in the Cable Act. A Cable System may be composed of, without limitation, antenna, cables, wires, lines, fibers, towers, wave guides, or any other conductors, converters, equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing cable radio, television or other electronic or electrical signals to and from persons, Subscribers and locations in the Franchise Area.
- (5) "City" means the City of Tooele.
- (6) "Council" means the governing body of the City.
- (7) "Franchise Area" means that area within the corporate limits of the City as now or hereafter constituted.

(8) "Grantee" means All West/Utah, Inc., its successors and assigns ("All West").

(9) "Grantee Property" means all property owned, installed or used by the Grantee in the provision of Cable Service in the City as described in Section 2.

(10) "Gross Subscriber Revenues" means all remuneration received directly by the Grantee from Subscribers in payment for regularly furnished Cable Service, but shall not include any franchise fee or taxes on services furnished by the Grantee imposed on any Subscriber or user by any government, governmental unit, political subdivision, agency or instrumentality, and collected by the Grantee.

(11) "Person" means any natural person, company or entity of any kind.

(12) "Street" means the surface of and the space above and below any public street, way, place, right of way, road, highway, freeway, bridge, tunnel, lane, path, bike path, alley, court, sidewalk, parkway, drive, boulevard, communications or utility easement, by whatever name called, now or hereafter existing as such within the Franchise Area.

(13) "Subscriber" means any person or entity who lawfully receives any Cable Service.

Section 2. Grant of Authority. There is hereby granted by the City to the Grantee the right and privilege to engage in the business of operating and providing a Cable System in the City, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, and retain in, on, over, under, upon, across and along any Street or Streets laid out or dedicated and all extensions thereof and additions thereto in the Franchise Area, such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the Cable System (collectively "Grantee Property"); and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, including but not limited to any public utility or other Grantee franchised or permitted to do business in the City.

Section 3. Non-Exclusive Grant. The right to use and occupy said Streets for the purposes herein set forth, shall not be exclusive to the Grantee. The City agrees that any grant of additional franchises or other authorizations by the City to any other entity to provide video or other services similar to those provided by Grantee pursuant to this Franchise Agreement and over which the City has regulatory authority shall require that service be provided for the same territorial area of the City as required by this Franchise Agreement and shall not be on terms and conditions more favorable or less burdensome to the grantee of any such additional franchise than those which are set forth herein.

Section 4. Term of Franchise. The franchise and rights herein granted shall commence on the date of the final passage hereof and shall continue in force and effect for fifteen (15) years after said effective date, subject to such modifications as to which the City and the Grantee may hereafter agree. Thereafter, the franchise and rights granted herein shall automatically renew for

successive five (5) year periods unless the City revokes such franchise and rights by ordinance on or before the expiration of the initial term or any renewal period hereof.

Section 5. Conditions of Street Occupancy. (1) All transmission and distribution structures, poles, lines, and equipment installed or erected by the Grantee within the Franchise Area shall be so located as to cause minimum interference with the proper use of Streets and with the rights and reasonable convenience of property owners who adjoin any of said Streets. The Cable System shall be constructed and operated in compliance with applicable governmental construction and electrical codes.

(2) In case of disturbance of any Street or paved area, the Grantee shall, at its expense and in accordance with generally accepted construction practices, replace and restore such Street or paved area in as good condition as theretofore.

(3) The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same Street or other public place, or remove from the Street or other public place, any Grantee Property when lawfully required by the City by reason of traffic conditions, public safety, Street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, or water pipes, or any other type of structures or improvements by the City; but, the Grantee shall in all cases have the right of abandonment of Grantee Property, subject to City ordinances, and if public funds are available to any utility company for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the Grantee.

(4) The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings, provided: (a) The expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such payment in advance; and (b) The Grantee is given not less than three (3) business days advance notice to arrange for such temporary wire changes.

(5) The Grantee shall have the authority to trim trees overhanging any Streets in the Franchise Area so as to prevent branches from coming in contact with the Grantee's wires and cables, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the Grantee's expense.

(6) Subject to any applicable state or federal regulations or tariffs, the City shall have the right to make additional use, for any public purpose, of any poles or conduits controlled or maintained exclusively by or for the Grantee in any Street, provided: (a) such use by the City does not interfere with the use by the Grantee; (b) such use by the City does not commercially compete with the Grantee; and (c) the City holds the Grantee harmless against and from all claims, demands, causes of actions, suits, actions, proceedings, damages, costs or liabilities of every kind and nature whatsoever arising out of such use of said poles or conduits.

Section 6. Safety Requirements. (1) The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(2) All structures and all lines, equipment and connections in, over, under and upon all Streets of the Franchise Area shall be kept and maintained in a safe and suitable condition and in good order and repair.

Section 7. System Construction and Extension. The Grantee is hereby authorized to extend the system within the Franchise Area to the extent that such extension is or may become technically and economically feasible. Nothing in this agreement requires Grantee to build to all areas of the Franchise Area. Grantee retains discretion to determine the scope, location, and timing of the design and construction of its network.

Section 8. Operational Standards; Force Majeure. (1) The Grantee shall operate and maintain its Cable System in full compliance with the standards set forth by the Federal Communications Commission.

(2) The Grantee shall have no obligation to construct or extend the system, nor to provide, repair, replace, maintain or operate Cable Service, for any cause beyond Grantee's control, including, without limitation, acts of God, fire, flood, earthquakes, hurricane, unavoidable casualty, extraordinary delays in transportation, strikes, lockouts, picketing, boycotts, embargoes, government orders or other requirements, acts of civil or military authorities, governmental restrictions, regulations or controls, enemy or hostile governmental action, civil commotion, energy shortages, acts or omissions of carriers, or activities or other emergency conditions including weather conditions incompatible with good quality workmanship.

Section 9. Office; Complaints. The Grantee shall maintain a business office or agent which Subscribers may telephone during regular business hours without incurring added message or toll charges, so that complaints regarding cable television operations may be promptly reported to the Grantee.

Section 10. Franchise Payments. (1) The Grantee shall pay the City the maximum payments allowed by Utah law, as of the Effective Date a sum equal to three and one-half percent (3.5%) of the Gross Subscribers Revenues per annum derived by the Grantee from all Subscribers located within the City.

(2) Within 60 days after the first day of July of each year, during the term of this Franchise Agreement, the Grantee shall file with the City a report of such revenues as described within this section for the next preceding twelve (12) month period, which report shall include a computation of the franchise payment due. The City shall determine the accuracy of the franchise payment computation, and if it finds any errors, shall report the same to Grantee for correction. The records of the Grantee reflecting the information relevant in determining revenues described in this section shall be available for inspection by the City Council or its duly

authorized representative at all reasonable hours and upon reasonable notice of not less than 15 days.

(3) The payments described in this section shall be in lieu of any and all other franchise, occupation, privilege, pole, wire, instrument, excise or other taxes except general ad valorem property taxes, sales taxes, City license tax and other special improvement taxes lawfully levied by the City or any other subdivision of the State of Utah pursuant to law.

(4) The business of cable television is hereby classified as a "retail business" for licensing purposes and the Grantee shall pay the annual license fee for such business at the rate in effect each year for such businesses, but it will not be singled out for tax treatment different from other members of that general class of business. The Grantee is authorized to charge and collect this franchise fee from the Subscribers in addition to the charges for Cable Services heretofore or hereafter approved by the City in the same manner as such billing and collection is authorized under the utility franchises issued by the City.

Section 11. Indemnification of City. (1) The Grantee shall at all times protect and hold the City harmless from all claims, actions, suits, liability, loss, expense or damages of every kind and description, including investigation costs, court costs, and reasonable attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence of the Grantee in the ownership, construction, repair, replacement, maintenance and operation of said Cable System and by reason of any license, copyright, property right or patent of any article or system used in the construction or use of said system, provided the City gives the Grantee prompt notice of any such claims, actions, and suits, without limitation, in writing. The Grantee shall maintain in full force and effect during the life of any franchise, comprehensive general liability insurance with limits inclusive of umbrella or excess liability coverage of not less than (a) \$2,000,000 for bodily injury or death to each person; and (b) \$3,000,000 for property damages resulting from any one accident.

(2) The City may require that any and all investigation of claims made by any person against the City arising out of any use or misuse of privileges granted to the Grantee hereunder shall be made by, or at the expense of the Grantee or its insurer. The Grantee may bring its obligations to carry any insurance required hereby within the coverage of any so-called blanket policy or policies of insurance now or hereafter carried, by appropriate amendment, endorsement or otherwise, provided, however, the interests of the City shall be as fully protected thereby as if the Grantee had obtained individual policies of insurance.

Section 12. Procedures. (1) Any inquiry, proceeding, investigation or other action to be taken or proposed to be taken by the City in regard to the operations of the Grantee's Cable System, shall be taken only after thirty (30) days written notice to the Grantee of such action or proposed action, and the Grantee has been given an opportunity to respond in writing and at any hearing which may be specified by the City.

(2) The notice required by this section shall state clearly the action or proposed action to be taken, the time provided for response and the person or persons in authority to whom such

responses should be addressed, and such other procedures as may be specified by the City. If a hearing is to be held, the notice shall give the date and the time of such hearing, whether public participation will be allowed and the procedures by which such participation may be obtained. The company shall be a necessary party to any hearing conducted in regard to its operations.

Section 13. Procedure Upon Termination. Upon expiration of the Franchise Agreement, if the Grantee shall not have acquired an extension renewal thereof and accepted the same, it may have and it is hereby granted, the right to enter upon the Streets or other property of the City, for the purposes of removing therefrom any or all of its Grantee Property or otherwise. In so removing said Grantee Property, the Grantee shall refill, at its expense, any excavation that it shall make and shall leave said Streets in as good condition as that prevailing prior to the Grantee's removal of Grantee Property.

Section 14. Approval of Transfer. The Grantee shall not sell or transfer its plant or Cable System to another, other than a person controlling, controlled by or under common control with the Grantee, nor transfer any rights under this Franchise Agreement to another, without prior written notification to the City. No sale or transfer of the Grantee's assets used in the performance of this Franchise Agreement shall be effective until the vendee, assignee or lessee has filed in the office of the City clerk an instrument duly executed reciting the fact of such sale, assignment or lease, accepting the terms of the Franchise Agreement and agreeing to perform all the conditions thereof. Neither this section nor other sections of this Franchise Agreement shall preclude the mortgaging, hypothecating, or assigning of rights in the Cable System, or the pledge of stock by the Grantee for the purpose of financing.

Section 15. Miscellaneous Provisions. (1) When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the City clerk.

(2) The Grantee shall assume the cost of publication of this Franchise Agreement when such publication is required by law. A bill for publication costs shall be presented to the Grantee by the City clerk.

(3) In the case of any emergency or disaster, the Grantee shall, upon request of the City make available its facilities to the City for emergency use during the emergency or disaster period.

Section 16. Compliance with Applicable Laws and Ordinances. The Grantee shall at all times during the life of this Franchise Agreement be subject to all lawful exercise of the police power by the City. The City reserves the right to adopt from time to time in addition to the provisions herein contained such ordinances as may be necessary to the exercise of police power. Such regulation shall be reasonable and not in derogation of the rights herein granted, nor in conflict with the laws of the state or other local or federal laws or regulations.

Section 17. Violations; Penalties. (1) From and after the effective date of this title, it shall be unlawful for any person to construct, install or maintain within any public Street in the City, or within any other public property of the City, or within any privately-owned area within the City which has not yet become a public Street but is designated or delineated as a proposed public

Street on any tentative subdivision map approved by the City, any equipment or facilities for distributing any television signals or radio signals through a Cable System, unless a franchise authorizing such use of such Street or property or area has first been obtained, and unless such franchise is in full force and effect.

(2) It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the franchised Cable System within this City for the purpose of enabling anyone to receive any television signal, radio signal, picture, sound, or other transmission, without payment to the Grantee.

(3) It shall be unlawful for any person, without the consent of the owner, willfully to tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, sound or other transmission.

(4) Any person violating or failing to comply with any of the provisions of this section shall be guilty of a class C misdemeanor.

Section 18. Line Severing. If at any time the Grantee's cable and/or other equipment is disturbed, damaged, or severed the cost of repair shall be paid by the party responsible for said damage. The Grantee may charge the responsible party for the time and materials expended for repair of said damage. The City will cooperate with the Grantee to assist in enforcing any charge or penalty arising from cable severing or other damage to Grantee Property.

Section 19. Separability. If any part of this Franchise Agreement is for any reason held invalid by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions. The invalidity of any portion of this Franchise Agreement shall not abate, reduce or otherwise affect any consideration or other obligation required of the Grantee.

Section 20. Approval by City Council and Effective Date. This Franchise Agreement shall be effective upon execution by the Grantee and the City's Mayor and the prior approval of this Franchise Agreement by resolution of the City Council adopted at a public meeting duly noticed under Utah law.

[SIGNATURE PAGE TO FOLLOW]

AGREED TO this ____ day of _____, 20__.

CITY OF _____

By: _____
Its: Mayor

ATTEST:

City Clerk

ALL WEST/UTAH, INC.

By: _____
Its: _____

TOOELE CITY CORPORATION

RESOLUTION 2023-25

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING AN AGREEMENT WITH HANSEN ALLEN & LUCE FOR A LEAD AND COPPER RULE SERVICE LINE INVENTORY.

WHEREAS, Tooele City owns and operates a culinary water distribution system/public drinking water system; and,

WHEREAS, the U.S. Environmental Protection Agency and the Utah Division of Drinking Water require the City to complete a lead a copper rule service line inventory, i.e., which water service lines are made with lead or copper; and,

WHEREAS, the City desires to contract with Hansen Allen & Luce (HAL) to conduct the inventory (see agreement and proposal attached as Exhibit A); and,

WHEREAS, the City Code requires all claims against the City over \$30,000 to be approved by the City Council, and the HAL agreement is in the amount of \$38,000; and,

WHEREAS, as an engineering design contract, the agreement does not require competitive bidding under Utah law, but is subject to Tooele City procurement policies; and,

WHEREAS, the City Administration recommends entering into the agreement with HAL for the inventory:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the agreement (Exhibit A) with Hansen Allen & Luce for the Lead and Copper Rule Service Line Inventory is hereby approved.

This Resolution shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this _____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, Tooele City Attorney

Exhibit A

HAL Agreement and Proposal



DESIGN PROFESSIONAL AGREEMENT

TOOELE CITY CORPORATION, a municipal corporation of the State of Utah, (hereinafter "City"), and **Hansen, Allen & Luce, Inc.** [NAME] of **859 W South Jordan Parkway, Ste. 200 South Jordan, Utah 84095** [ADDRESS], a(n) **company** [individual/company type], (hereinafter "Contractor") enter into this Agreement on the **4th** day of **May, 2023** (the "Effective Date").

Now, therefore, in consideration of the promises contained in this Agreement, the City and the Contractor agree to the following:

1. Services (Scope of Work). The Contractor shall provide the following services to the City:
See attached scope of work for the Tooele City Lead and Copper Rule Revisions and Service Line Inventory Assistance

2. Disclaimer of Right of Control. Contractor shall perform its duties competently. The City disclaims any right to control the Contractor's performance of the Services.
3. Compensation.
 - a. Rate. The City shall pay the Contractor the sum of **\$38,000** for fully performing the Services, pursuant to invoice.
 - b. Total Cost Contract. This Agreement is a "Total Cost Contract." The contract Rate includes all costs and expenses associated with the provision of the Services.
 - c. No Benefits. The parties specifically agree that as an independent contractor, Contractor neither claims nor is entitled to benefits accorded City employees.
4. Term of Agreement. Contractor shall fully perform the Services by **December 31, 2023** [DATE].
5. Termination. The City may terminate this Agreement at any time. Should the City terminate this Agreement prior to the Services being fully performed, the City shall pay for those Services performed.
6. Indemnification and Insurance.
 - a. Contractor Liability Insurance. Contractor shall obtain and maintain liability insurance in the amount of at least \$250,000.
 - b. Contractor Indemnification. Contractor shall indemnify and hold the City and its agents harmless from all claims of liability for injury or damage caused by any breach of contract, negligence, recklessness, or intentional act or omission of Contractor or its agents in performance of this Agreement.
 - c. Contractor Workers Compensation Insurance. Contractor shall purchase and maintain workers compensation insurance for all of its employees. If Contractor is a sole proprietor, Contractor shall purchase and maintain workers compensation insurance or obtain an exclusion from Workers Compensation Fund of Utah.

- d. Evidence of Contractor Insurance. Contractor shall provide written evidence of liability insurance and workers compensation insurance or exclusion to the City within ten (10) days of the Effective Date. The City will not make any payments under this Agreement until it receives from Contractor the evidence of insurance.
 - e. Status Verification Indemnification. Contractor shall indemnify and hold the City and its agents harmless from all claims resulting from any violation of immigration status verification obligations contained in U.C.A. §63G-11-103 et seq.
 - f. Post-Retirement Release. Contractor shall release the City from all claims related to any alleged violation of State of Utah post-retirement employment rules, and shall complete and return to the City the attached certification and release.
7. Business License. If required by Tooele City Code §5-1-1 *et seq.*, Contractor shall obtain a Tooele City business license.
 8. Complete Agreement. This Agreement is the only agreement or understanding between the parties, and may be modified or amended only by a written document signed by both parties.
 9. Waiver of Jury Trial. The Parties irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or relating to this contract and the transactions contemplated.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

TOOELE CITY CORPORATION

CONTRACTOR

Debra E. Winn, Tooele City Mayor

Signature
Print Name/Title: _____

Attest:

Michelle Y. Pitt, Tooele City Recorder

SEAL

Approved as to form:

Roger Evans Baker, Tooele City Attorney

(Revised 06/27/2022)



**UTAH RETIREMENT SYSTEMS
POST-EMPLOYMENT/POST-RETIREMENT
RESTRICTIONS ACT CERTIFICATION & RELEASE**

Tooele City is a Utah Retirement System (URS) participating agency. As a participating agency, post-retirement employment/vendor/contractor rules apply. Post-retirement employment means returning to work either on our payroll or as a vendor/contractor for a URS participating employer following your retirement date with the Utah Retirement Systems. Different standards apply depending on whether you return to work within one year or after one year from your retirement date with URS.

You must separate from employment (including part-time and vendor/contractor arrangements) with any participating employer for one year following your retirement date with URS, unless eligible exclusions apply.

You are responsible for understanding post-retirement employment rules and ensuring there is no violation of such rules by providing services to Tooele City Corporation. **If you have any questions, call the URS office at 801-366-7770 or 800-695-4877 before you begin any work for or provide any services to Tooele City.**

CHECK APPLICABLE BOX:

- Contractor (a sole proprietor) certifies that he or she is NOT a Utah State Retirement Systems (URS) retiree and acknowledges that should he/she retire from the URS system in the future, he/she assumes all responsibility for compliance with post-retirement reemployment restrictions, notifications, and/or penalties that may occur at any time in the future.
- Contractor (on behalf of a partnership, LLC, company, or corporation) certifies that NO officer or principal is a Utah State Retirement Systems (URS) retiree and acknowledges that should he/she retire from the URS system in the future, he/she assumes all responsibility for compliance with post-retirement reemployment restrictions, notifications, and/or penalties that may occur at any time in the future.
- Contractor certifies that following contractor(s), officer(s) or principal(s) of the business ARE Utah State Retirement Systems (URS) retiree(s). Contractor further certifies that the URS office has been properly notified of post-retirement reemployment of such individuals. Contractor assumes all responsibility for compliance with post-retirement reemployment restrictions, notifications, and or/penalties that may occur at any time in the future if found to be in violation. URS Retirees:

Name: _____ Social Security Number: _____

Name: _____ Social Security Number: _____

[State law requires that the City, through Human Resources, provide such information to URS.]

As a condition of doing business with Tooele City, you hereby accept responsibility and waive all claims of joint liability against Tooele City for any violations of the URS post-retirement re-employment/vendor/contractor rules.

Contractor Signature

Date



SALT LAKE AREA OFFICE
859 W. South Jordan Parkway, Ste. 200
SOUTH JORDAN, UTAH 84095
PHONE: (801) 566-5599
FAX: (801) 566-5581
www.hansenalenuce.com

Mr. Chris Johnson
Tooele City Water Department
90 North Main
Tooele, Utah 84074

March 28, 2023

Subject: Proposal – Tooele City – Lead and Copper Rule Revisions
Service Line Inventory Assistance

Dear Chris:

Hansen, Allen & Luce (HAL) appreciates the opportunity to provide this proposal to assist Tooele City prepare the Utah Division of Drinking Water's (UDDW) Lead and Copper Rule Service Line Inventory. The USEPA and the UDDW are promulgating rules that require public water systems to complete a lead service line inventory. This inventory requires that public water systems collect and evaluate data from available sources to identify lead services lines. The inventory is a tool to assist the water system reduce the risk of lead exposed to the water customers.

A recommended scope of work is as follows:

SCOPE OF WORK

TASK 100 SERVICE LINE INVENTORY ASSISTANCE

HAL will assist Tooele City gather data and create a GIS database of water service lines.

Activities:

101. Project management, communication and coordination. This item is for miscellaneous communication and project management activities.
102. Start-up Meeting. Meet with Tooele City personnel to discuss available data, project goals and state requirements, etc.
103. Data Request, Receipt and Review. HAL will prepare a list of needed and helpful data. Tooele City will collect available data from City records. It is initially anticipated that the City will provide one year of water billing data with account numbers and addresses. The City may also provide building permit or construction data that indicates service line materials or dates. Relevant available City GIS data will be provided as available. Other data may be requested as well.

104. GIS Data Collection and Database Creation. HAL will collect publicly available GIS data and create a GIS database with ESRI ArcMap.
105. Geocode Billing Data. Billing data addresses for active water accounts will be geographically referenced through a GIS geocoding process.
106. Review of Aerial Photography. Aerial photography will be reviewed to determine which lots within the City were constructed before and after 1989. Water service lines constructed after 1989 are assumed to be lead free. A GIS shapefile and map will be prepared showing areas that are assumed to be lead free based on these criteria.
107. Review of Available Records. If requested, HAL will assist Tooele City review available building permit or other records to identify service line materials. Since the time need to perform this work is unknown, it will be performed on a time and materials basis.
108. Prepare Initial Draft of the UDDW Service Line Inventory. Work with Tooele City to prepare the service line inventory template forms. Set-up a spreadsheet or GIS table to collect service line data fields as desired by the City.

Output:

- Service Line Inventory GIS mapping, data and draft template.

SCHEDULE

It is anticipated that this work can be completed within 6 months of receiving a notice to proceed and receipt of data.

ENGINEERING FEE

Hansen, Allen & Lucus, Inc. (HAL) proposes an initial estimated engineering budget of \$38,000 for the project. The City will be notified once engineering costs are expected to exceed this amount. Charges to the project will be based on actual expenses in accordance with HAL's Fee Schedule, a copy of which is attached.

ASSUMPTIONS

1. The project will be authorized within 30 days of receiving this proposal.
2. The amount of time needed to collect and assess data is not known as this time. During the project, HAL personnel will coordinate with the City to determine the amount of effort needed to perform the work.

Mr. Chris Johnson
March 28, 2023
Page 3 of 3


Please contact us if you have any questions about our proposal.

Sincerely,

HANSEN, ALLEN & LUCE, INC.



Benjamin D. Miner, P.E.
Principal

VENDOR #	_____
P.O.#	_____
DEPT.#	51-5100-311000
DATE	03/29/2023
AMOUNT	\$38,000.00
SIGNATURE	

HAL PROPOSAL SPREADSHEET



CLIENT: Tooele City
 PROJECT: Lead Service Line Inventory Assistance

Pha Task #	Task Activity	Hours										Total Hours	Labor Cost	Communications / Office Expense	Miles Travel	Direct Expense	Expense Cost	Total HAL Cost with Contingency & Rate Inc.	COMMENT		
		Billing Period	M/P3 Greg	M/P1 Ben	SP1 Kaylen	Prof2 Dan	Prof1 Kristyn	Field Tech/CAD	Admin Asst												
100	Lead Service Line Inventory Assistance	1	4																		
101	General project management, communication and																				
102	Startup Meeting			10																	
103	Date Request, Receipt and Review			4																	
104	GIS Data Collection and Database Creation			4																	
105	Geocode Billing Data			2																	
106	Review of Aerial Photography			2																	
107	Review of Available Reports			4																	
108	Prepare Initial Draft of UDDW Service Line Inventory			4																	
109				4																	
110	Quality Control / Quality Assurance			4																	
159				4																	
SUBTOTAL:				\$680.00		\$680.00		\$1,870.00		\$12,672.00		\$0.00	\$73.00								
SUBTOTAL:				\$680.00		\$680.00		\$1,870.00		\$12,672.00		\$0.00	\$73.00								
SUBTOTAL:				\$680.00		\$680.00		\$1,870.00		\$12,672.00		\$0.00	\$73.00								
SUBTOTAL:				\$680.00		\$680.00		\$1,870.00		\$12,672.00		\$0.00	\$73.00								

TOTAL HOURS BY EMPLOYEE:

PHASE	Task	Labor Costs	Direct Exp Cost	Subtotal w/Contingency	Subcontractor Costs	Subtotal with Contingency
100	Lead Service Line Inventory Assistance	\$34,503.00	\$1,896.00	\$36,399.00	\$0.00	\$36,399.00
	TOTAL w/Contingency:	\$36,399.00	\$1,896.00	\$38,295.00	\$0.00	\$38,295.00

**STANDARD FEE SCHEDULE
2023**

PERSONNEL CHARGES

Client agrees to reimburse Hansen, Allen & Luce, Inc. (HAL), for personnel hourly rates related to the completion of the project, in accordance with the following:

Managing Professional III	\$220
Managing Professional II	\$211
Managing Professional I	\$200
Senior Professional III	\$189
Senior Professional II	\$180
Senior Professional I	\$167
Professional III.....	\$157
Professional II.....	\$141
Professional I.....	\$132
Professional Intern.....	\$120
Environmental Scientist I	\$115
Environmental Scientist II	\$128
Engineering Student Intern	\$64
Water Resource Specialist	\$154
Professional Geologist.....	\$155
Senior Designer.....	\$140
Designer.....	\$122
Senior Field Technician	\$126
Field Technician	\$104
CAD Operator.....	\$104
Public Relations Specialist.....	\$152
Administrative Assistant.....	\$73
Professional Land Surveyor.....	\$150
1 Man GPS Surveying Services.....	\$168
Drone Pilot	\$202
Expert Legal Services.....	\$338

DIRECT CHARGES

Client also agrees to reimburse HAL for all other costs related to the completion of the project. Charges shall include, but not be limited to, the following:

Communication, Computer, Reproduction	\$7 per labor hour
Out-of-town per diem allowance (lodging not included)	\$64 per day
Vehicle	\$0.70 per mile
Outside consulting and services	Cost plus 10%
Other direct expenses incurred during the project.....	Cost plus 10%
Trimble GPS Unit.....	\$150 per day
Data Logger/Transducer.....	\$150 per week

INTEREST CHARGE AFTER 30 DAYS FROM INVOICE DATE..... 1.5% per month

Note: Annual adjustments to personnel and expense charges will occur in January of each year. Mileage rate changes are based on fuel prices.

TOOELE CITY CORPORATION

RESOLUTION 2023-31

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING AND RATIFYING AN AGREEMENT WITH BROKEN ARROW CONSTRUCTION TO INSTALL A DURO-LAST MEMBRANE ROOF ON THE PUBLIC WORKS SHOP BUILDING.

WHEREAS, Tooele City owns and operates a Public Works shops building at 1015 Coleman Street, whose roof is in dire need of replacement; and,

WHEREAS, Duro-Last is a roofing system proven to last for long periods of time on flat roof installations, is specifically designed to handle the freeze-thaw conditions of Northern Utah, and has a 15-year warranty; and,

WHEREAS, the City bid the roof replacement project pursuant to City procurements policies (the anticipated project cost did not trigger state bidding requirements); and,

WHEREAS, Broken Arrow was the lowest responsive responsible bidder, with a bid of \$62,550; and,

WHEREAS, Broken Arrow Construction is a Duro-Last authorized installer in the Tooele area, has been the City's contractor to install several building roofs in recent years, including at the Pratt Aquatics Center and Parks and Recreation Building, has provided competitive pricing, and has provided excellent service and repair in a timely manner; and,

WHEREAS, the City Administration recommends approving and ratifying an agreement with Broken Arrow for the public works shop roof replacement project, at the price of \$62,550 (see the agreement attached as Exhibit A):

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the Agreement (Exhibit A) with Broken Arrow Construction, for the Public Works shops building roof replacement project, is hereby approved and ratified, in the amount of \$62,550.

This Resolution is in the best interest of the health, safety, and general welfare of Tooele City and its residents and visitors, and shall become effective immediately upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

Exhibit A

Agreement with Broken Arrow Construction



AGREEMENT

TOOELE CITY CORPORATION, a municipal corporation of the State of Utah, (hereinafter "City"), and Broken Arrow [NAME] of PO Box 580, Tooele UT [ADDRESS], a(n) [individual/company type], (hereinafter "Contractor") enter into this Agreement on the 12th day of April, 2023 (the "Effective Date").

Now, therefore, in consideration of the promises contained in this Agreement, the City and the Contractor agree to the following:

1. Services (Scope of Work). The Contractor shall provide the following services to the City:
Tooele City Shops Emergency Roof Repair

2. Disclaimer of Right of Control. Contractor shall perform its duties competently. The City disclaims any right to control the Contractor's performance of the Services.
3. Compensation.
 - a. Rate. The City shall pay the Contractor the sum of \$ 02,550.00 for fully performing the Services, pursuant to invoice.
 - b. Total Cost Contract. This Agreement is a "Total Cost Contract." The contract Rate includes all costs and expenses associated with the provision of the Services.
 - c. No Benefits. The parties specifically agree that as an independent contractor, Contractor neither claims nor is entitled to benefits accorded City employees.
4. Term of Agreement. Contractor shall fully perform the Services by July 31, 2023 [DATE].
5. Termination. The City may terminate this Agreement at any time. Should the City terminate this Agreement prior to the Services being fully performed, the City shall pay for those Services performed.
6. Indemnification and Insurance.
 - a. Contractor Liability Insurance. Contractor shall obtain and maintain liability insurance in the amount of at least \$1,000,000.
 - b. Contractor Indemnification. Contractor shall indemnify and hold the City and its agents harmless from all claims of liability for injury or damage caused by any act or omission of Contractor or its agents in performance of this Agreement.
 - c. Contractor Workers Compensation Insurance. Contractor shall purchase and maintain workers compensation insurance for all of its employees. If Contractor is a sole proprietor, Contractor shall purchase and maintain workers compensation insurance or obtain an exclusion from Workers Compensation Fund of Utah.

- d. Evidence of Contractor Insurance. Contractor shall provide written evidence of liability insurance and workers compensation insurance or exclusion to the City within ten (10) days of the Effective Date. The City will not make any payments under this Agreement until it receives from Contractor the evidence of insurance.
 - e. Status Verification Indemnification. Contractor shall indemnify and hold the City and its agents harmless from all claims resulting from any violation of immigration status verification obligations contained in U.C.A. §63G-11-103 et seq.
 - f. Post-Retirement Release. Contractor shall release the City from all claims related to any alleged violation of State of Utah post-retirement employment rules, and shall complete and return to the City the attached certification and release.
7. Business License. If required by Tooele City Code §5-1-1 *et seq.*, Contractor shall obtain a Tooele City business license.
 8. Complete Agreement. This Agreement is the only agreement or understanding between the parties, and may be modified or amended only by a written document signed by both parties.
 9. Waiver of Jury Trial. The Parties irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or relating to this contract and the transactions contemplated.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

TOOELE CITY CORPORATION

CONTRACTOR

Debra E. Winn, Tooele City Mayor

Signature
Print Name/Title: _____

Attest:

Michelle Y. Pitt, Tooele City Recorder

SEAL

Approved as to form:



Roger Evans Baker, Tooele City Attorney



UTAH RETIREMENT SYSTEMS POST-EMPLOYMENT/POST-RETIREMENT RESTRICTIONS ACT CERTIFICATION & RELEASE

Tooele City is a Utah Retirement System (URS) participating agency. As a participating agency, post-retirement employment/vendor/contractor rules apply. Post-retirement employment means returning to work either on our payroll or as a vendor/contractor for a URS participating employer following your retirement date with the Utah Retirement Systems. Different standards apply depending on whether you return to work within one year or after one year from your retirement date with URS.

You must separate from employment (including part-time and vendor/contractor arrangements) with any participating employer for one year following your retirement date with URS, unless eligible exclusions apply.

You are responsible for understanding post-retirement employment rules and ensuring there is no violation of such rules by providing services to Tooele City Corporation. **If you have any questions, call the URS office at 801-366-7770 or 800-695-4877 before you begin any work for or provide any services to Tooele City.**

CHECK APPLICABLE BOX:

- Contractor (a sole proprietor) certifies that he or she is NOT a Utah State Retirement Systems (URS) retiree and acknowledges that should he/she retire from the URS system in the future, he/she assumes all responsibility for compliance with post-retirement reemployment restrictions, notifications, and/or penalties that may occur at any time in the future.
- Contractor (on behalf of a partnership, LLC, company, or corporation) certifies that NO officer or principal is a Utah State Retirement Systems (URS) retiree and acknowledges that should he/she retire from the URS system in the future, he/she assumes all responsibility for compliance with post-retirement reemployment restrictions, notifications, and/or penalties that may occur at any time in the future.
- Contractor certifies that following contractor(s), officer(s) or principal(s) of the business ARE Utah State Retirement Systems (URS) retiree(s). Contractor further certifies that the URS office has been properly notified of post-retirement reemployment of such individuals. Contractor assumes all responsibility for compliance with post-retirement reemployment restrictions, notifications, and or/penalties that may occur at any time in the future if found to be in violation. URS Retirees:

Name: _____ Social Security Number: _____

Name: _____ Social Security Number: _____

[State law requires that the City, through Human Resources, provide such information to URS.]

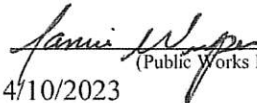
As a condition of doing business with Tooele City, you hereby accept responsibility and waive all claims of joint liability against Tooele City for any violations of the URS post-retirement re-employment/vendor/contractor rules.

Contractor Signature

Date

MEMORANDUM

To: Mayor Debra Winn
Cc: Michelle Pitt, Recorder
From: Jamie Grandpre


(Public Works Director Signature)

Date: 4/10/2023
Subject: Tooele City Shop Emergency Roof Repair
Pages: 1

I am writing to request approval for the emergency repair of the Tooele City Shops roof.

The Shops roof is in dire need of replacement. The weather damage has significantly deteriorated the integrity of the roof and is now threatening damage to shop equipment. The current roof is not in structurally sound condition to employ a patch job. The entire roof is overdue of replacement. Delay of this repair will increase the chance of further cost to Tooele City as leakage continues to run into the CMU block cavity.

Publics Work Department received two bids for the roof repair:

1. Broken Arrow \$62,550.00
2. Ron Case \$96,440.00

Public Works did not receive any additional bids. Each bid includes entire replacement of the existing roof including removal of membrane and build-up of the existing roof.

If the repair is not completed as soon as possible, additional damage will continue to occur not only to the roof but to City Shops equipment, which is currently being threatened. Safety of city employees is also of great concern.

I appreciate your prompt consideration of this urgent request.



P.O. Box 580, Tooele, UT 84074 435-882-3942
Salt Lake City Phone, 801-355-0527

February 20, 2023

RE: Roof bid for Tooele City Shop located at 1015 Coleman, Tooele UT 84074

Jamie:

We appreciate the opportunity to provide you with a bid on the roof work at the project listed above. The bid price includes:

- Remove ballast rock
- Remove and dispose of EPDM roof membrane
- Remove and dispose of existing built-up roof system
- Fully adhere 1 ½" polyisocyanurate insulation to concrete deck
- Fully adhere ½" primed densdeck on top of ISO
- Fully adhere 50 mil PVC Duro-Last X roofing system on deck and parapets
- Provide and flash all penetrations and curbs with pre-manufactured Duro-Last membrane
- Install Duro-Last drain boots with dome strainer on each drain
- Mechanically 2-piece compression metal on tops of parapets for edge detail
- Upon completion of the job a manufacture's technical representative will inspect the roof and issue a 15-year NDL warranty

TOTAL BID PRICE: \$62,550.00

The bid price is valid through May 30th, 2023. If this quote is acceptable, please forward subcontractor agreement. Please sign the form and email to dthomas@brokenarrowusa.com. Thanks for your help and consideration.

Sean Johnson _____
Sean Johnson
Broken Arrow Const. Corp.

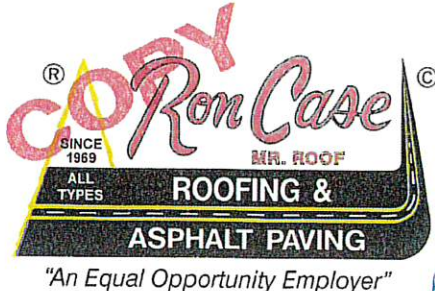
Approved Date

Date: 3-23-23

Name: Toode City

Address: 1015 So Coleman

Phone: Scott 435 241-2173



PROPOSAL AND CONTRACT NO. _____
THIS DOCUMENT, INCLUDING THE PROVISIONS ON THE REVERSE HERE OF, WHEN EXECUTED CONSTITUTES A BINDING AND THE TOTAL AGREEMENT.

PLEASE READ BEFORE SIGNING.
Proposal by: Christian Case

Built Up & Gravel Roof

Call: 801 573 6592

1. Remove existing roofing materials down to ^{Insulation}substrate and haul debris away.
2. Inspect ^{Insulation}sheeting for damage and re-sheet if needed at \$2.49 per square foot per 1/2" thick, to be added to price below.
3. ~~Mechanically fasten vapor barrier red rosin paper over entire decking.~~
4. ~~Mechanically fasten ASTM base sheet.~~ *Install 1/2" Insulation over entire Base Deck strip in All Concrete T Joints with one ply membrane with hot tar*
5. Mop 3 additional plies type IV to the base sheet with approximately 25 lbs. Per 100 square feet per ply of hot asphalt.
6. ~~Install new Kynar-coated custom gravel stop at perimeters, mechanically fastened. Apply asphalt primer followed by 3 ply-reinforced membrane set in hot asphalt. All joints and corners of eaves have 1 additional layer 5x12 mineral surfaced pad set in hydro seat.~~
7. Install a fibered cant strip in all 90-degree angles and mop all plies to 2" above the top of cant strip.
8. Base and wall flashings to consist of one ply of type IV felt and 1 ply of SBS mineral surfaced cap sheet set in hot asphalt and extending down onto the roof approximately 6".
9. Install new all metal sewer vent pipe flashings on the top of all plies and strip in with 2 additional plies of type IV felt.
10. Embed approximately 450 lbs. of washed pea gravel in approximately 60 lbs. of hot asphalt per 100 sq. ft. of roof area.
11. Coat all base flashings, pipes, etc. with reflective aluminum re-saturate for protection from UV radiation.
12. Install a new surface mounted counter flashing over the wall flashings, as needed.
13. Perform careful cleanup of grounds and area on a daily basis. *Base Price: \$96,440.00*

One-half of the contract price is payable as down payment before work is scheduled. The balance of contract price is payable immediately upon completion.

All Types Roofing Inc, DBA
Ron Case Roofing & Asphalt Paving

Install wood framing on 5 I Beams to improve Rafter/Petrol making it waterproof.

PRICE: _____
BID must be accepted within 10 days

SUBJECT TO APPROVAL BY: _____
CONTRACTOR

Date Contract Accepted: _____

BY: _____
AGENT FOR OWNERS OR OWNER

Down Payment: _____

BY: _____
AGENT FOR OWNERS OR OWNER

Non-Refundable

*Ron Case is an equal opportunity employer

TOOELE CITY CORPORATION

RESOLUTION 2023-34

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING A CHANGE ORDER WITH BECK CONSTRUCTION & EXCAVATION, INC., FOR THE MAIN STREET PARKING PROJECT.

WHEREAS, on September 21, 2022, the City Council approved Resolution 2022-87 and an Agreement with Beck Construction & Excavation, Inc., (“Beck”) for the Main Street/State Route-36 Parking Project (\$78,071); and,

WHEREAS, the Utah Department of Transportation has agreed to allow Tooele City to install parking stalls in UDOT’s Main Street right-of-way in the City’s Downtown, in addition to those called for in the 2022 Beck agreement; and,

WHEREAS, with the City already doing a Main Street parking project with Beck (which has done other large concrete contracts with Tooele City, e.g., Smelter Road Sidewalk Project, for \$351,350), the City Administration recommends retaining Beck for the expanded Main Street Parking Project, by way of a change order to the 2022 agreement, in the amount of \$39,243.25 (see the change order attached as Exhibit A); and,

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the change order (Exhibit A) with Beck Construction & Excavation, Inc., in the amount of \$39,243.25, for the Main Street Parking Project, is hereby approved.

This Resolution is in the best interest of the health, safety, and general welfare of Tooele City and its residents and visitors, and shall become effective immediately upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

Exhibit A

Change Order



1194 South Jordan Parkway, Suite A
 PO Box 95026
 South Jordan UT 84095
 Office: 801-870-7922

To: Tooele City	Contact:
Address: 90 North Main Street Tooele, UT 84074	Phone: (435) 843-2100
Project Name: Tooele - Main Street/State Route-36 Parking Project	Fax:
Project Location:	Bid Number:
	Bid Date: 9/1/2022

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
01	Additional Traffic Control	1.00	LS	\$833.25	\$833.25
02	Remove Tree	1.00	EACH	\$3,165.00	\$3,165.00
03	Remove Tree Stump	1.00	EACH	\$1,135.00	\$1,135.00
04	Clear And Grub Grassy Area	1,800.00	SF	\$2.95	\$5,310.00
05	Install 6" Patterned Colored Concrete W/ 4" UTBC	1,800.00	SF	\$16.00	\$28,800.00
Total Price for above Items:					\$39,243.25

Total Bid Price: \$39,243.25

<p>ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted.</p> <p>Buyer: _____</p> <p>Signature: _____</p> <p>Date of Acceptance: _____</p>	<p>CONFIRMED: Beck Construction & Excavation, Inc</p> <p>Authorized Signature: _____</p> <p>Estimator: Kyle MacArthur (801) 870-7922 kyle@beckconstruct.com</p>
--	---

TOOELE CITY CORPORATION

RESOLUTION 2023-35

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING A CONTRACT WITH PNL CONSTRUCTION, INC. FOR THE IRON STREET SEWER LINE & MANHOLE REPLACEMENT PROJECT.

WHEREAS, an existing portion of the sanitary sewer line within Iron Street is in need of replacement due to age and unstable pipe conditions; and,

WHEREAS, the City Administration has accepted bids for the Iron Street Sewer Line & Manhole Replacement Project in accordance with the procedures of §11-39-101 et seq., Utah Code Annotated, as amended; and,

WHEREAS, PNL Construction, Inc. has submitted a cost proposal for the Iron Street Sewer Line & Manhole Replacement Project of Three Hundred Thirty-Nine Thousand Six Hundred Twenty Dollars (\$339,620.00), which is the lowest responsible responsive bid. A copy of the Bid Tabulation is attached as Exhibit A; and,

WHEREAS, the City Administration requests an additional appropriation of 5% in the amount of Seventeen Thousand Dollars (\$17,000.00) as contingency for change orders for changed conditions which may arise during the project, as reviewed and authorized by the Mayor:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the City Council hereby approves an agreement (attached as Exhibit B) with PNL Construction, Inc. in the amount of Three Hundred Thirty-Nine Thousand Six Hundred Twenty Dollars (\$339,620.00) for completion of the Iron Street Sewer Line & Manhole Replacement Project, and hereby allocates an additional Seventeen Thousand Dollars (\$17,000.00) contingency which may be used for changed conditions, as authorized by the Mayor.

This Resolution shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this _____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, Tooele City Attorney

EXHIBIT A

Bid Tabulation

Iron Street Sewer Line & Manhole Replacement Project

BID TABULATION

Bid Opening Date: April 11, 2023

Item No.	Description	Estimated Quantity	Unit	PNL Construction, Inc.	
				Bid Price	Total
1.	Mobilization	1	LS	\$34,000.00	\$34,000.00
2.	Remove and Dispose Existing Concrete Road and Base	1,900	SF	\$3.45	\$6,555.00
3.	Remove and Dispose Existing Asphalt Road and Base	5,000	SF	\$2.95	\$14,750.00
4.	Remove and Dispose Existing Sewer Line and Manholes	1	LS	\$6,000.00	\$6,000.00
5.	Furnish and Install New 8" Sewer Line	720	LF	\$225.50	\$162,360.00
6.	Furnish and Install New 4' Diameter Manhole	5	Each	\$8,650.00	\$43,250.00
7.	Furnish and Install New 5' Diameter Manhole	1	Each	\$9,500.00	\$9,500.00
8.	Connect Existing Sanitary Sewer Laterals	10	Each	\$1,750.00	\$17,500.00
9.	Furnish and Install 2-foot Square Storm Drain Box	1	LS	\$4,650.00	\$4,650.00
10.	Furnish and Install 8" Base and 4" Asphalt Road	6,900	SF	\$5.95	\$41,055.00
				Total Bid	\$339,620.00

EXHIBIT B

Agreement

DOCUMENT 00 52 00

AGREEMENT

PART 1 GENERAL

1.1 CONTRACTOR

- A. Name: PNL Construction, Inc
- B. Address: 713 South 500 West, Payson, Utah 84651
- C. Telephone number: (385) 225-2865
- D. Facsimile number: _____
- E. E-Mail: Oswaldo.pnl04@gmail.com

1.2 OWNER

- A. The name of the OWNER is Tooele City Corporation

1.3 CONSTRUCTION CONTRACT

- A. The Construction Contract is known as

**Iron Street Sewer Line &
Manhole Replacement Project**

1.4 ENGINEER

- A. Paul Hansen Associates, L.L.C. is the OWNER's representative and agent for this Construction Contract who has the rights, authority and duties assigned to the ENGINEER in the Contract Documents.

PART 2 TIME AND MONEY CONSIDERATIONS

2.1 CONTRACT PRICE

- A. The Contract Price includes the cost of the Work specified in the Contract Documents, plus the cost of all bonds, insurance, permits, fees, and all charges, expenses or assessments of whatever kind or character.

- B. The Schedules of Prices awarded from the Bid Schedule are as follows.
1. Base Bid.
 2. _____
 3. _____
 4. _____
- C. An Agreement Supplement [_____] is, [] is not attached to this Agreement.
- D. Based upon the above awarded schedules and the Agreement Supplement (if any), the Contract Price awarded is: Three Hundred Thirty Nine Thousand Six Hundred Twenty Dollars (\$339,620.00)

2.2 CONTRACT TIME

- A. Substantial Completion of the Work shall occur by September 30, 2023 and Final Completion by October 15, 2023.

2.3 PUNCH LIST TIME

- A. The Work will be complete and ready for final payment within 5 days after the date CONTRACTOR receives ENGINEER's Final Inspection Punch List unless exemptions of specific items are granted by ENGINEER in writing or an exception has been specified in the Contract Documents.
- B. Permitting the CONTRACTOR to continue and finish the Work or any part of the Work after the time fixed for its completion, or after the date to which the time for completion may have been extended, whether or not a new completion date is established, shall in no way operate as a waiver on the part of the OWNER of any of OWNER's rights under this Agreement.

2.4 LIQUIDATED DAMAGES

- A. Time is the essence of the Contract Documents. CONTRACTOR agrees that OWNER will suffer damage or financial loss if the Work is not completed on time or within any time extensions allowed in accordance with Part 12 of the General Conditions. CONTRACTOR and OWNER agree that proof of the exact amount of any such damage or loss is difficult to determine. Accordingly, instead of requiring any such proof of damage or specific financial loss for late completion, CONTRACTOR agrees to pay the following sums to the OWNER as liquidated damages and not as a penalty.

1. Late Contract Time Completion:

Five Hundred dollars and 00 cents (\$ 500.00) for each day or part thereof that expires after the Contract Time until the Work is accepted as Substantially Complete as provided in Article 14.5 of the General Conditions.

2. Late Punch List Time Completion:

50% of the amount specified for Late Contract Time Completion for each day or part thereof if the Work remains incomplete after the Punch List Time. The Punch List shall be considered delivered on the date it is transmitted by facsimile, hand delivery or received by the CONTRACTOR by certified mail.

3. Interruption of Public Services:

No interruption of public services shall be caused by CONTRACTOR, its agents or employees, without the ENGINEER's prior written approval. OWNER and CONTRACTOR agree that in the event OWNER suffers damages from such interruption, the amount of liquidated damages stipulated below shall not be deemed to be a limitation upon OWNER's right to recover the full amount of such damages.

Five Hundred dollars and 00 cents (\$ 500.00) for each day or part thereof of any utility interruption caused by the CONTRACTOR without the ENGINEER's prior written authorization.

4. Survey Monuments:

No land survey monument shall be disturbed or moved until ENGINEER has been properly notified and the ENGINEER's surveyor has referenced the survey monument for resetting. The parties agree that upon such an unauthorized disturbance it is difficult to determine the damages from such a disturbance, and the parties agree that CONTRACTOR will pay as liquidated damages the sum of (\$500.00) to cover such damage and expense.

5. Deduct Damages from Moneys Owed CONTRACTOR:

OWNER shall be entitled to deduct and retain liquidated damages out of any money which may be due or become due the CONTRACTOR. To the extent that the liquidated damages exceed any amounts that would otherwise be due the CONTRACTOR, the CONTRACTOR shall be liable for such amounts and shall return such excess to the OWNER.

PART 3 EXECUTION

3.1 EFFECTIVE DATE

A. OWNER and CONTRACTOR execute this Agreement and declare it in effect as of the _____ day of _____, 2023.

3.2 CONTRACTOR'S SUBSCRIPTION AND ACKNOWLEDGMENT

A. CONTRACTOR's signature: _____

B. Please print name here: _____

C. Title: _____

D. CONTRACTOR's Utah license number: _____

Acknowledgment

State of _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023.

by _____
(person acknowledging and title or representative capacity, if any).

Notary's signature

Residing at

My commission expires:

Notary's seal

3.3 OWNER'S SUBSCRIPTION AND ACKNOWLEDGMENT

A. OWNER's signature: _____

B. Please print name here: _____

C. Title: _____

ATTEST:

Michelle Y. Pitt
Tooele City Recorder

S E A L

APPROVED AS TO FORM

Roger Evans Baker
Tooele City Attorney

END OF DOCUMENT

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TOOELE CITY CORPORATION

RESOLUTION 2023-33

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING AND RATIFYING AN AGREEMENT WITH DAVE’S CUSTOM CONCRETE FOR THE PRATT AQUATICS CENTER CONCRETE PARK STRIP PROJECT.

WHEREAS, Tooele City owns and operates the Pratt Aquatics Center, including a public pool and grounds, on 200 West Street between Vine Street and Utah Avenue; and,

WHEREAS, the City Administration and City Council desire the installation of 600 square-feet of colored stamped concrete park strip plus 3,750 square-feet of brushed park strip concrete; and,

WHEREAS, the City bid the project pursuant to City procurements policies (the anticipated project cost did not trigger state bidding requirements); and,

WHEREAS, Dave’s Custom Concrete was the lowest responsive responsible bidder, with a bid of \$41,300 (see bid tabulation attached as Exhibit A); and,

WHEREAS, the City Administration recommends approving and ratifying an agreement with Dave’s Custom Concrete for the project (see the agreement attached as Exhibit B):

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the Agreement (Exhibit B) with Dave’s Custom Concrete, for the Pratt Aquatics Center Concrete Park Strip Project, in the amount of \$41,300.

This Resolution is in the best interest of the health, safety, and general welfare of Tooele City and its residents and visitors, and shall become effective immediately upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

Exhibit A

Bid Tabulation

Exhibit B

Agreement

Pratt Aquatics Center Park Strip Project, Bid Results

CONTRACTOR	BID AMOUNT
SFT Concrete	\$53,180.00
England Construction	\$64,265.00
Dave's Custom Concrete	\$41,300.00



AGREEMENT

TOOELE CITY CORPORATION, a municipal corporation of the State of Utah, (hereinafter “City”), and DAVE’S CUSTOM CONCRETE of 994 White Pine Drive, Tooele, Utah 84074 (hereinafter “Contractor”) enter into this Agreement on the 25th day of April, 2023 (the “Effective Date”).

Now, therefore, in consideration of the promises contained in this Agreement, the City and the Contractor agree to the following:

1. Services (Scope of Work). The Contractor shall provide the following services to the City for the **Pratt Aquatic Center Concrete Park Strip Project**:

Furnish and install approximately 600 square feet of 6-inch thick colored stamped concrete and approximately 3,750 square feet of 6-inch thick broom finished concrete, complete, within the existing park strip and adjacent landscape areas located adjacent to 200 West and as shown on the Project Drawings. **The Contractor is responsible to field verify all dimensions as this project is bid as a “Total Cost Contract.”**

2. Disclaimer of Right of Control. Contractor shall perform its duties competently. The City disclaims any right to control the Contractor’s performance of the Services.
3. Compensation.
 - a. Rate. The City shall pay the Contractor the lump sum of Forty One Thousand Three Hundred Dollars (\$41,300.00) for fully performing the Services, pursuant to invoice.
 - b. Total Cost Contract. This Agreement is a “Total Cost Contract.” The contract Rate includes all costs and expenses associated with the provision of the Services.
 - c. No Benefits. The parties specifically agree that as an independent contractor, Contractor neither claims nor is entitled to benefits accorded City employees.
4. Term of Agreement. Contractor shall fully perform the Services by May 31, 2023.
5. Termination. The City may terminate this Agreement at any time. Should the City terminate this Agreement prior to the Services being fully performed, the City shall pay for those Services performed.
6. Indemnification and Insurance.
 - a. Contractor Liability Insurance. Contractor shall obtain and maintain liability insurance in the amount of at least \$250,000.
 - b. Contractor Indemnification. Contractor shall indemnify and hold the City and its agents harmless from all claims of liability for injury or damage caused by any act or omission of Contractor or its agents in performance of this Agreement.
 - c. Contractor Workers Compensation Insurance. Contractor shall purchase and maintain workers compensation insurance for all of its employees. If Contractor is a sole proprietor, Contractor shall purchase and maintain workers compensation insurance or obtain an exclusion from Workers Compensation Fund of Utah.
 - d. Evidence of Contractor Insurance. Contractor shall provide written evidence of liability insurance and workers compensation insurance or exclusion to the City within ten (10) days of the Effective Date. The City will not make any payments under this Agreement until it receives from Contractor the evidence of insurance.


- e. Status Verification Indemnification. Contractor shall indemnify and hold the City and its agents harmless from all claims resulting from any violation of immigration status verification obligations contained in U.C.A. §63G-11-103 et seq.
 - f. Post-Retirement Release. Contractor shall release the City from all claims related to any alleged violation of State of Utah post-retirement employment rules, and shall complete and return to the City the attached certification and release.
7. Business License. Contractor shall obtain a Tooele City business license as required by Tooele City Code §5-1-1 et seq.
8. Complete Agreement. This Agreement is the only agreement or understanding between the parties, and may be modified or amended only by a written document signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

TOOELE CITY CORPORATION

DAVE'S CUSTOM CONCRETE

Debra E. Winn, Tooele City Mayor



Signature
Print Name/Title: David McGuffin
owner

Attest:

Michelle Y. Pitt, Tooele City Recorder

SEAL

Approved as to form:

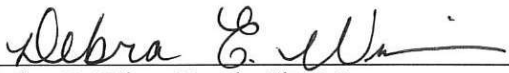
Roger Evans Baker, Tooele City Attorney

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TOOELE CITY CORPORATION

DAVE'S CUSTOM CONCRETE


 Debra E. Winn, Tooele City Mayor


 Signature
 Print Name/Title: _____

Attest:


 Michelle Y. Pitt, Tooele City Recorder



Approved as to form:


 Roger Evans Baker, Tooele City Attorney



**UTAH RETIREMENT SYSTEMS
POST-EMPLOYMENT/POST-RETIREMENT
RESTRICTIONS ACT CERTIFICATION
& RELEASE**

Tooele City is a Utah Retirement System (URS) participating agency. As a participating agency, post-retirement employment/vendor/contractor rules apply. Post-retirement employment means returning to work either on our payroll or as a vendor/contractor for a URS participating employer following your retirement date with the Utah Retirement Systems. Different standards apply depending on whether you return to work within one year or after one year from your retirement date with URS.

You must separate from employment (including part-time and vendor/contractor arrangements) with any participating employer for one year following your retirement date with URS, unless eligible exclusions apply.

You are responsible for understanding post-retirement employment rules and ensuring there is no violation of such rules by providing services to Tooele City Corporation. **If you have any questions, call the URS office at 801-366-7770 or 800-695-4877 before you begin any work for or provide any services to Tooele City.**

CHECK APPLICABLE BOX:

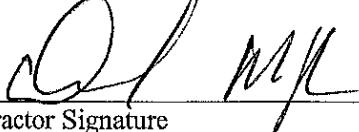
- Contractor (a sole proprietor) certifies that he or she is NOT a Utah State Retirement Systems (URS) retiree and acknowledges that should he/she retire from the URS system in the future, he/she assumes all responsibility for compliance with post-retirement reemployment restrictions, notifications, and/or penalties that may occur at any time in the future.
- Contractor (on behalf of a partnership, LLC, company, or corporation) certifies that NO officer or principal is a Utah State Retirement Systems (URS) retiree and acknowledges that should he/she retire from the URS system in the future, he/she assumes all responsibility for compliance with post-retirement reemployment restrictions, notifications, and/or penalties that may occur at any time in the future.
- Contractor certifies that following contractor(s), officer(s) or principal(s) of the business ARE Utah State Retirement Systems (URS) retiree(s). Contractor further certifies that the URS office has been properly notified of post-retirement reemployment of such individuals. Contractor assumes all responsibility for compliance with post-retirement reemployment restrictions, notifications, and or/penalties that may occur at any time in the future if found to be in violation. URS Retirees:

Name: _____ Social Security Number: _____

Name: _____ Social Security Number: _____

[State law requires that the City, through Human Resources, provide such information to URS.]

As a condition of doing business with Tooele City, you hereby accept responsibility and waive all claims of joint liability against Tooele City for any violations of the URS post-retirement re-employment/vendor/contractor rules.



Contractor Signature

4-25-2023

Date

TOOELE CITY CORPORATION

RESOLUTION 2023-26

A RESOLUTION OF THE TOOELE CITY COUNCIL ADOPTING THE VOTER PARTICIPATION AREA MAP

WHEREAS, during the 2019 Legislative General Session, HB119 was adopted relating to Initiatives, Referenda, and other Political Activities; and,

WHEREAS, HB 119 included the requirement for municipalities to divide the City into four contiguous and compact "Voter Participation Areas" of substantially equal population for the purpose of obtaining signatures for initiatives and referenda; and,

WHEREAS, HB 119 enacted numerous amendments to the Utah Code, including UCA Section 20A-7-401.3 (containing the criteria for establishing voter participation areas) and UCA Chapter 20A-7 Part 6 (containing the local referendum process); and,

WHEREAS, on March 4, 2020, the Tooele City Council approved Resolution 2020-54 and adopted the Voter Participation Area map as prepared by the Tooele City Recorder; and,

WHEREAS, Tooele County recently updated their voting precinct boundaries after redistricting, which requires amendments to be made to Tooele City's adopted Voter Participation Area Map; and,

WHEREAS, the Tooele City Recorder has prepared an updated Voter Participation Area Map, attached as Exhibit A, which divides the City into four contiguous and compact areas of substantially equal population, and includes Tooele County's voting precinct boundary updates:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the Voter Participation Area Map (Exhibit A) prepared by the Tooele City Recorder is hereby adopted.

This Resolution shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

Debra E. Winn, Mayor

Debra E. Winn, Mayor

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form: _____
Roger Evans Baker, City Attorney

Exhibit A

Voter Participation Area Map

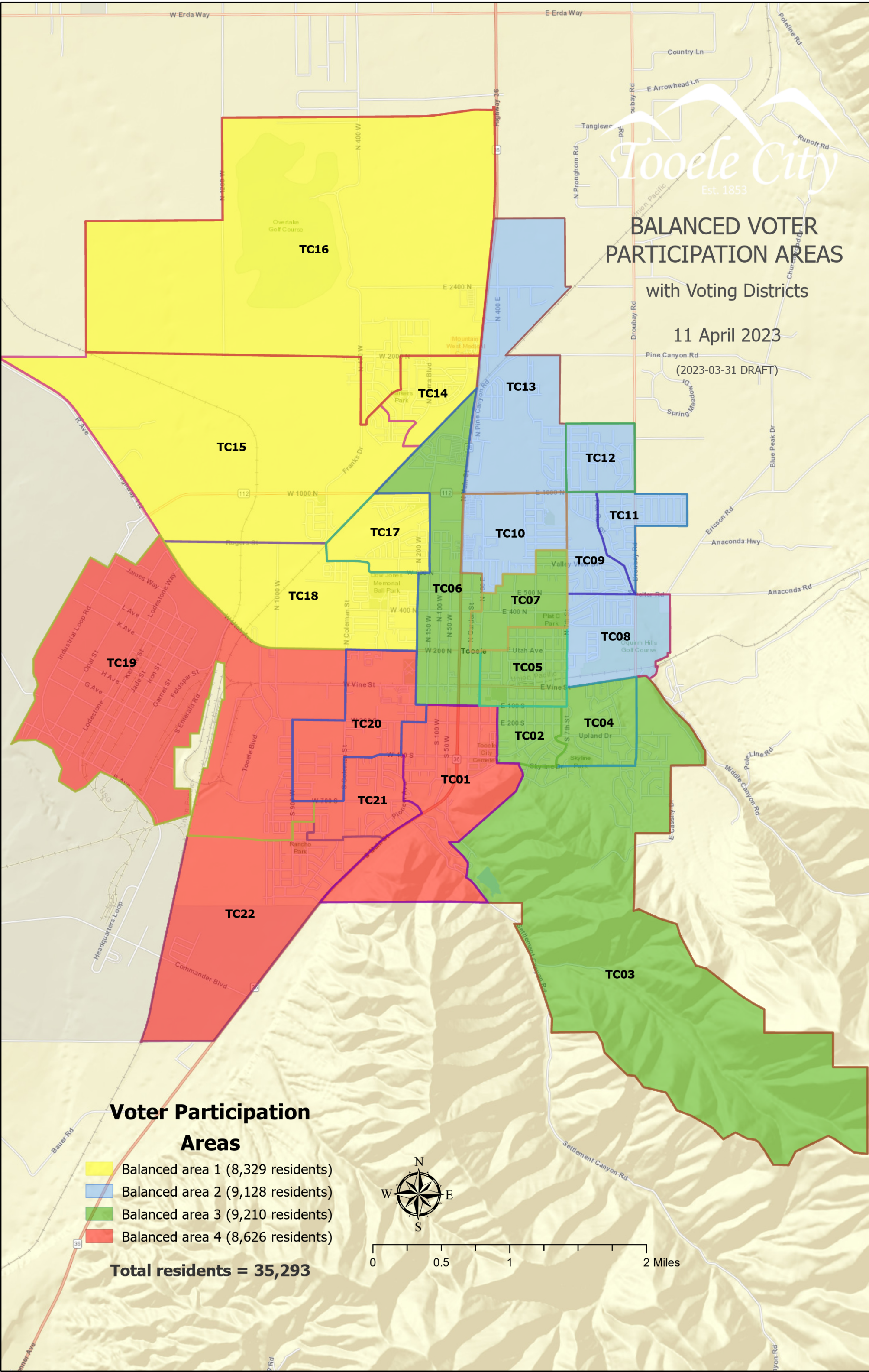


BALANCED VOTER PARTICIPATION AREAS

with Voting Districts

11 April 2023

(2023-03-31 DRAFT)



Voter Participation Areas

- Balanced area 1 (8,329 residents)
- Balanced area 2 (9,128 residents)
- Balanced area 3 (9,210 residents)
- Balanced area 4 (8,626 residents)

Total residents = 35,293



TOOELE CITY CORPORATION

RESOLUTION 2023-32

A RESOLUTION OF THE TOOELE CITY COUNCIL AUTHORIZING AN INTERLOCAL ELECTION AGREEMENT WITH TOOELE COUNTY FOR 2023 TOOELE CITY ELECTIONS.

WHEREAS, Tooele City is required to conduct regular municipal elections each odd-numbered year (U.C.A. §20A-1-101 *et seq.*); and,

WHEREAS, the Tooele County Clerk's Office has traditionally assisted Tooele City with municipal elections by programming and testing ballot files, providing electronic ballot files for Optical Scan Ballot printing, preparing and mailing ballots, publishing legal notices, etc., on a cost reimbursement basis; and,

WHEREAS, the County and the City desire to formalize with a written agreement the responsibilities of each party with respect to city elections, and propose the 2023 Interlocal Election Agreement attached as Exhibit A; and,

WHEREAS, the estimated cost to be paid by the City to the County for the County's assistance for the 2023 City elections is \$2.00 per ballot, or \$33,938.00 per election; and,

WHEREAS, the City Administration, including the City Recorder, believes it to continue to be in Tooele City's best interest to receive the County's assistance due to its elections experience, personnel, materials, and equipment:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the 2023 Interlocal Election Agreement attached as Exhibit A is hereby approved.

This Resolution shall become effective upon passage, without further publication, by authority of the Tooele City Charter.

IN WITNESS WHEREOF, this Resolution is passed by the Tooele City Council this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

Debra E. Winn

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, City Attorney

Exhibit A

2023 Interlocal Election Agreement With Cost Estimate

2023 INTERLOCAL ELECTION AGREEMENT TOOELE CITY

AGREEMENT dated this 25th day of April, 2023, by and between Tooele County (“County”) and Tooele City (“City”), both being political subdivisions of the State of Utah.

WHEREAS, state law requires municipalities, towns and local districts to hold elections each odd-numbered year; and

WHEREAS, County has the equipment and resources needed to conduct such elections, and is willing to make such equipment and resources available assist City in its 2023 elections;

NOW THEREFORE, the parties mutually agree as follows:

1. For the primary (if applicable) and general elections in 2023, County agrees to:
 - provide program and test ballot files;
 - provide electronic ballot files for optical scan ballot printing;
 - provide information systems assistance, including election programming, tabulation, programmer and technician services, and elections results reports;
 - determine the number of optical scan ballots to be printed and mailed;
 - conduct the public demonstration of the tabulation equipment;
 - publish county-level legal notices, including notices of polling locations and sample ballots, audit notices, and any other required notices;
 - post on the county website a link to the State’s posting of candidate profiles, ballot issues, and financial reports, if applicable; and
 - conduct an election audit.

2. For the primary (if applicable) and general elections in 2023, City agrees to:
 - timely provide ballot information for candidate filings and ballot issues, if applicable;
 - publish municipal-level legal notices including election notices, candidate filing notices, canvass notices, and any other required notices;
 - proof and approve ballot formats;
 - according to the estimates in Exhibit A, pay County for costs and labor arising from city-specific ballot races and issues.

3. For the primary (if applicable) and general elections in 2023, both parties agree to conduct the election according to applicable statutes, rules, executive orders, and policies of the Lieutenant Governor as the Chief Elections Officer.

4. This term of this Agreement is April 1, 2023, through December 31, 2023.
5. This Agreement shall be jointly administered by the Tooele County Clerk and the Tooele City Recorder.

TOOELE COUNTY:

TOOELE CITY:

James A. Welch
County Manager

Debbie Winn
Mayor

APPROVED AS TO FORM:

ATTEST:

Colin Winchester
Deputy County Attorney

Roger Baker
Tooele City Attorney

ATTEST:

Michelle Pitt
Tooele City Recorder

Exhibit A

Estimated Election Costs	
Estimated per ballot cost	\$2/ballot
Estimated # of registered voters as of 4/21/2023	16,969
Total estimated cost per election:	$\$2 \times 16,969 = \$33,938$
Total estimated cost for Primary (if applicable) and General Elections:	$\$33,938 \times 2 \text{ elections} = \$67,876$

TOOELE CITY CORPORATION
FISCAL NOTE TO PROPOSED EXPENDITURE

04/27/23

DESCRIPTION OF EXPENDITURE:

VENDOR: CJ TRUCKING & EXCAVATING V# 09300

DISPATCH SERVICES 1ST QUARTER 2023

Replace waterline & existing fire hydrant

REVENUE LINE ITEM:	ACCOUNT NUMBER	CURRENT BUDGET	RECEIPTS TO DATE	ADDITIONAL FUNDING	TOTAL FUNDING
					0.00

EXPENDITURE LINE ITEM	ACCOUNT NUMBER	ADJUSTED BUDGET	Y. T. D. EXPENSES	PROPOSED EXPENSE	BUDGET BALANCE
WATERLINE REPLACEMENT	151 5120 731101	732,000.00	233,703.00	53,837.50	444,459.50
TOTAL:				53,837.50	

REQUESTED Jamie Grandpre
DEPARTMENT HEAD

REVIEWED Shannon Wimmer
FINANCE DIRECTOR

APPROVED _____
MAYOR

APPROVED _____
COUNCIL CHAIRMAN

**TOOELE CITY CORPORATION
FISCAL NOTE TO PROPOSED EXPENDITURE**

04/27/23

DESCRIPTION OF EXPENDITURE:

VENDOR: TOOELE MOTOR COMPANY V# 09865

2020 RAM 5500 WHITE BRUSH TRUCK

REVENUE LINE ITEM:	ACCOUNT NUMBER	CURRENT BUDGET	RECEIPTS TO DATE	ADDITIONAL FUNDING	TOTAL FUNDING
					0.00

EXPENDITURE LINE ITEM	ACCOUNT NUMBER	ADJUSTED BUDGET	Y. T. D. EXPENSES	PROPOSED EXPENSE	BUDGET BALANCE
AUTOS & TRUCKS	141 4620 748000	1,050,000.00	1,129,107.00	64,400.00	(143,507.00)
TOTAL:				64,400.00	

*Will do a line item adjustment to cover overage

REQUESTED Chief McCar DEPARTMENT HEAD

REVIEWED Sharon Usimien FINANCE DIRECTOR

APPROVED _____ MAYOR

APPROVED _____ COUNCIL CHAIRMAN



1141 N Main St Tooele UT 84074

V#09865

Date 4/26/2023

Salesperson Nathan Shepard

Company Tooele City Corporation
 Address 90 NORTH MAIN STREET RM 227
 City Tooele State UT
 County TOOELE Zip 84074
 Home _____ Bus Phone (435) 241-2173
 Cell Phone (435) 843-2110
 Email _____

<input type="checkbox"/> New	<input type="checkbox"/> Demo	<input type="checkbox"/> Rental Unit	<input checked="" type="checkbox"/> Used
Year <u>2020</u>	Make <u>RAM</u>	Stock _____	
Model <u>5500</u>	Body <u>CREW CAB TRADESMAN 8' 4...</u>		
Color <u>WHITE</u>	Top _____	Trim _____	
VIN <u>3C7WRNFL2LG310474</u>	Miles <u>37342</u>		

*Added Equipment:

CASH OPTION	
Total	<u>\$64,400.00</u>
Rebate	<u>\$0.00</u>

TRADE IN (1)	
Year	Make
Model	
VIN	
Miles	
Stock	
TRADE IN (2)	
Year	Make
Model	
VIN	
Miles	
Stock	
Allowance	
Rebate	<u>\$0.00</u>
Cash Due	<u>\$0.00</u>
Deposit	<u>\$0.00</u>
TOTAL CREDITS	<u>\$0.00</u>

PURCHASE	
Market Value	<u>\$64,400.00</u>
Price	<u>\$64,400.00</u>
Added Equip*	<u>\$0.00</u>
SUBTOTAL	<u>\$64,400.00</u>
Sales Tax	<u>\$0.00</u>
TOTAL CASH PRICE	<u>\$64,400.00</u>
Total Credits	<u>(\$0.00)</u>
TRADE-IN PAYOFF	<u>\$0.00</u>
BALANCE DUE	<u>\$64,400.00</u>

Customer

Sales Manager

This is not a contract

Prepared by Nathan Shepard

**Tooele City Council and the Tooele City Redevelopment Agency
Work Meeting Minutes**

Date: Wednesday, April 5, 2023

Time: 5:30 p.m.

Place: Tooele City Hall, Council Chambers
90 North Main Street, Tooele, Utah

City Council Members Present:

Justin Brady

Maresa Manzione

David McCall

Tony Graf

Ed Hansen

City Employees Present:

Mayor Debbie Winn

Adrian Day, Police Department Chief

Roger Baker, City Attorney

Darwin Cook, Parks and Recreation Director

Jim Bolser, Community Development Director

Jamie Grandpre, Public Works Director

Michelle Pitt, City Recorder

Holly Potter, Deputy City Recorder

Minutes prepared by Katherin Yei

1. Open City Council Meeting

Chairman Brady called the meeting to order at 5:30 p.m.

2. Roll Call

Justin Brady, Present

Maresa Manzione, Present

David McCall, Present

Tony Graf, Present via phone at 5:35

Ed Hansen, Present via phone

3. Mayor's Report

Mayor Winn reported on the following:

The library is re-open with temporary cameras in place. Permanent cameras will be installed with an invoice amount of \$27,490. There are sand bags available for the community to use and prepare for flooding.

4. Council Member's Report

The Council Members reported on the events they attended during the week.

5. Discussion Items

A. Request to Renew Cell Tower Lease Option at Elton Park

Presented by Roger Baker, City Attorney

Mr. Baker presented a request to renew Cell Tower lease option at Elton Park. In 2011, the City Council approved a lease option for one year, which was renewed for another year. The company obtained two amendments to the lease option, each for an additional year. The lease option then expired. In 2019, the City approved a lease agreement with a different company, with a one-year testing period, which was renewed for another year. The company obtained one amendment to the lease agreement, extending the testing period for one year, and now seeks a second amendment to extend the testing period for one additional year. The City is not receiving revenue during the testing period.

The Council would not like to see the contract renewed until a company is ready to build or an offer of compensation for the renewals is received.

Mr. Baker stated he would inform the company.

B. Ordinance 2023-13 An Ordinance of Tooele City Amending Tooele City Code Section 10-3-31 Regarding Service of Notice of Parking Violations

Presented by Roger Baker, City Attorney

Mr. Baker presented an Ordinance of Tooele City Amending Tooele City Code Section 10-3-31 regarding service of notice of parking violations. When police officers issue parking tickets during snow events, it is not practical to leave a ticket on the window of a car because it may be under deep snow. The State requires a vehicle owner to have a current address on file; that address is where a ticket can be mailed or placed very visible at the residence. This is a tool to help police officers deliver tickets. Under this proposed ordinance, the officers can put it on the car, deliver it in person to the car owner, attach it to the house where the car is registered, or send it through the mail to where the car is registered.

The Council asked the following questions:

The delivery method is the real issue; when does the 15 days begin?

Are the officers trying to knock on the door or automatically send it in the mail?

Are there arrangements made if someone is unable to pay in the 15-days?

Can they take off the doubling of payment?

Mr. Baker addressed the Council's questions. The finance department sends a letter to the vehicle owner informing them of the ticket and telling them how to pay. The parking ticket has a \$100 penalty, but the City tries to incentivize prompt payment by cutting the fine in half to \$50 if paid within 15 days. The 15 days begins when the ticket is delivered. For tickets that are mailed, delivery is presumed to be on the third day after mailing. The finance department enters into payment arrangements, and perhaps could do so with parking fines.

C. Resolution 2023-21 A Resolution of the Tooele City Council Approving an Agreement with Nelson Brothers Construction Company for the Water Reclamation Facility Headworks Project

Presented by Jamie Grandpre, Public Works Director

Mr. Grandpre presented an agreement with Nelson Brothers Construction Company for the Water Reclamation Facility Headworks project. The new building will be located on the same property, just closer to the work building. It will be equipped with odor control, skylights, equipment access hatches, fan room, and screening bays. The new headworks building will be larger, being able to handle more intake. The project went to bid and received three contractor bids. The base bid from Nelson Brother's Construction Company in the amount of \$8,484,029 with a contingency of \$715,000. The funds will be coming from ARPA, the sewer funds, and the impact fees.

The Council asked the following questions:

Does the headworks building separate the garbage from what needs to go on?

What is the lifespan of this building?

This is one of the projects the City asked for a grant, but did not receive one.

Mr. Grandpre addressed the Council's questions. The system does take the garbage and grit out allowing the water to go forward. Each channel is rated for 3.4 million gallons per day. With it being a water quality project, grants are hard to come by.

D. Resolution 2023-22 A Resolution of the Tooele City Council Approving an Agreement with Kilgore Contracting for the 2023 Roadway Reconstruction and Water Line Replacement Project

Presented by Jamie Grandpre, Public Works Director

Mr. Grandpre presented an agreement with Kilgore Contracting for the 2023 roadway reconstruction and water line replacement project. The roads for this project include 1220 South, Clifford Drive, and Lisa Way. Any location in the City with a six-inch water line, the City is replacing to an eight-inch pipe. Four bids were received with Kilgore Contracting coming in the lowest in the amount of \$1,666,967 with a contingency of \$83,000. The funds will be coming from the water enterprise account and Road C. They are looking at doing storm rains and chip seal at a later time in the year.

E. Wastewater Facilities Impact Fee Facilities Plan & Impact Fee Analysis Draft

Presented by Jamie Grandpre, Public Works Director

Mr. Grandpre presented Wastewater Facilities Impact Fee Facilities Plan & Impact Fee Analysis. The purpose on the plan is to fulfill the state requirements and help the City know what impact fees can and should be.

The Council is in support of the impact fee update.

F. Secondary Class Roads Standards

Presented by Jim Bolser, Community Development Director

Mr. Bolser presented the secondary class road standards. There has been discussion on improving subclass roads, referred to as alleys, when development occurs. Staff is taking a direct survey of those corridors. A table was received of what the existing travel surface is, if it has curb and gutter, sidewalk, and added notes. As well as maps identifying 33 feet or 49 ½ feet of right-of-way. There are recommendations including keeping asphalt at 30 feet which is currently required, require curb and gutter, and a notation that allows them to include the curb and gutter into the 33 feet if needed.

Mayor Winn addressed the Council. The files and presentation can be sent to the Council to look at the project closely. The City is trying to bring the gutters and roads to standards for fire and emergency vehicles.

The Council asked the following questions:

Since these are secondary roads, are sidewalks required?

Can an ordinance be written to prohibit parking on street?

Can these alleys be turned into walk-ways instead of roads, like Erda has done with Rabbit Lane?

Mr. Bolser addressed the Council. If there are not sidewalks there currently, they did not put a recommendation. If there are sections, they are recommending the continuation of the sidewalks. They are trying to plan for the future development as well. There is a possibility to make the walk ways, but could be problematic because it sometimes provides access to the deep and narrow lots.

G. Commercial Special District Zoning

Presented by Maresa Manzione, RDA Chair

Board Member Manzione presented commercial special district zoning. They have begun to market to potential buyers for the business park. Mr. Stewart reached out to surrounding properties, and owners support the City's plan. Due to paying for a plan, they want to lay it out Heavy industrial on one side and light-industrial on the other with no grass. They have the features and how buildings will look, architecture standards, business, and types of business allow have been updated.

The Council is in favor.

6. Closed Meeting - Litigation, Property Acquisition, and/or Personnel

The meeting was recessed at 6:55.

The work meeting reconvened at approximately 7:45pm for a closed meeting.

Council Member McCall moved to close the meeting to discuss personnel. Council Chairman Brady seconded the motion. The vote was as follows: Council Member McCall “Aye,” Council Member Manzione “Aye,” Council Member Graf “Aye,” and Chairman Brady “Aye.”

Those in attendance during the closed session was: Mayor Debbie Winn, Council Member McCall, Council Member Manzione, Council Member Graf (by phone), and Chairman Brady.

No minutes were taken during the closed meeting.

7. Adjourn

Chairman Brady adjourned the meeting at 8:26 p.m.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

Approved this ____ day of May, 2023

Justin Brady, City Council Chair

Tooele City Council Business Meeting Minutes

Date: Wednesday, April 5, 2023

Time: 7:00 p.m.

Place: Tooele City Hall, Council Chambers
90 North Main Street, Tooele, Utah

City Council Members Present:

Ed Hansen

Justin Brady

Maresa Manzione

Tony Graf

Dave McCall

City Employees Present:

Mayor Debbie Winn

Jim Bolser, Community Development Director

Adrian Day, Police Department Chief

Roger Baker, City Attorney

Michelle Pitt, City Recorder

Holly Potter, Deputy City Recorder

Jamie Grandpre, Public Works Director

Paul Hansen, City Engineer

Darwin Cook, Parks and Recreation Director

Minutes prepared by Katherin Yei

Chairman Brady called the meeting to order at 7:00 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Chairman Brady.

2. Roll Call

Tony Graf, Present via phone

Ed Hansen, Present, via phone

Justin Brady, Present

Maresa Manzione, Present

Dave McCall, Present

3. Child Abuse Prevention Month Proclamation

Presented by Debbie Winn, Mayor

Mayor and the City Council on behalf of the residents of Tooele City citizens, proclaim April 2023 as Child Abuse Prevention Month.

4. Mayor's Youth Recognition Award

Mayor Winn presented the Mayor's Youth Recognition Award to the following:

Lillian Hanes
Dillian Fillipi
Nate Vinandol

5. Public Comment Period

The public hearing was opened. No one came forward. The public hearing was closed.

6. Public Hearing & Motion on Ordinance 2023-14 An Ordinance of the Tooele City Council Vacating a Portion of the 2000 North Dedicated Right-of-Way, Between Progress Way and State Road 36

Presented by Jim Bolser, Community Development Director

Mr. Bolser presented an Ordinance of the Tooele City Council vacating a portion of the 2000 North dedicated right-of-way, between Progress Way and State Road 36. The applicant sent a request to have the piece vacated so they can expand their parking area. There are two subdivisions that take in account, the land will have to equal parts go to the land owners. The Ordinance that has been repaired are set up to address the state code. The applicant has received all the utility letters needed. The City would have an easement to maintain the full right to maintain the utility lines under the road.

The public hearing was opened. No one came forward. The public hearing was closed.

Council Member Manzione motioned to approve Ordinance 2023-14 An Ordinance of the Tooele City Council Vacating a Portion of the 2000 North Dedicated Right-of-Way, Between Progress Way and State Road 36. Council Member McCall seconded the motion. The vote was as follows: Council Member Hansen, "Aye," Council Member Graf, "Aye," Council Member Brady, "Aye," Council Member Manzione, "Aye," Council Member McCall, "Aye." The motion passed.

7. Subdivision Preliminary Plan Request by RMO Properties, LLC for the Proposed Vista Meadows Subdivision to Include 47 Single-Family Residential Lots on 9.8 Acres Located at Approximately 450 West 600 North in the R1-7 Residential Zoning District

Presented by Jim Bolser, Community Development Director

Mr. Bolser presented a subdivision preliminary plan request for the existing vacant property near the rodeo grounds. The property is zoned R1-7. The preliminary plan shows three-rows of properties. Planning Commission has heard this item and forwarded a unanimous positive recommendation.

Council Member McCall motioned to approve Subdivision Preliminary Plan Request. Chairman Brady seconded the motion. The vote was as follows: Council Member Hansen,

“Aye,” Council Member Graf, “Aye,” Council Member Brady, “Aye,” Council Member Manzione, “Aye,” Council Member McCall, “Aye.” The motion passed.

8. Hunter Minor Subdivision Request by Kathy Curtis to Create 3 Lots on 0.82 Acres Located at 240 West Utah Avenue in the R1-7 Residential Zoning District

Presented by Jim Bolser, Community Development Director

Mr. Bolser presented a minor subdivision request for the property on Utah Ave and 200 West. They are proposing to create three properties and remove some accessories dwellings. It is zoned R1-7. The subdivision meets all requirements. The applicant does have adequate water rights. The Planning Commission heard this item a year ago and forwarded a positive recommendation.

Chairman Brady motioned to approve Hunter Minor Subdivision Request by Kathy Curtis to Create 3 Lots on 0.82 Acres Located at 240 West Utah Avenue in the R1-7 Residential Zoning District. Council Member Manzione seconded the motion. The vote was as follows: Council Member Hansen, “Aye,” Council Member Graf, “Aye,” Council Member Brady, “Aye,” Council Member Manzione, “Aye,” Council Member McCall, “Aye.” The motion passed.

9. Ordinance 2023-13 An Ordinance of Tooele City Amending Tooele City Code Section 10-3-31 Regarding Service of Notice of Parking Violations

Presented by Presented by Roger Baker, City Attorney

Mr. Baker presented an Ordinance of Tooele City Amending Tooele City Code Section 10-3-31 regarding service of notice of parking violations. This is a tool to help police officers deliver parking tickets. They can put it on the car, deliver it to the car owner, attach it to the house where the car is registered, or sent it through the mail to the address where the car is registered.

Council Member Manzione motioned to approve Ordinance 2023-13 An Ordinance of Tooele City Amending Tooele City Code Section 10-3-31 Regarding Service of Notice of Parking Violations. Council Member McCall seconded the motion. The vote was as follows: Council Member Hansen, “Aye,” Council Member Graf, “Aye,” Council Member Brady, “Aye,” Council Member Manzione, “Aye,” Council Member McCall, “Aye.” The motion passed.

10. Resolution 2023-20 A Resolution of the Tooele City Council Approving an Agreement with Tooele County for Dispatch Services for Fiscal Year 2023-2024

Presented by Adrian Day, Police Chief

Chief Day presented an agreement with Tooele County for dispatch services for police and fire. It is a base and usage fee totaling \$331,368.

Chairman Brady motioned to approve Resolution 2023-20. Council Member Manzione seconded the motion. The vote was as follows: Council Member Hansen, “Aye,” Council Member Graf, “Aye,” Council Member Brady, “Aye,” Council Member Manzione, “Aye,” Council Member McCall, “Aye.” The motion passed.

11. Resolution 2023-21 A Resolution of the Tooele City Council Approving an Agreement with Nelson Brothers Construction Company for the Water Reclamation Facility Headworks Project

Presented by Jamie Grandpre, Public Works Director

Mr. Grandpre presented an agreement with Nelson Brothers Construction Company for the Water Reclamation Facility Headworks project. This item was presented during the work meeting. The base bid from Nelson Brother's Construction Company in the amount of \$8,484,029 with a contingency of \$715,000. The funds will be coming from ARPA, the sewer funds, and the impact fees.

Council Member Manzione motioned to approve Resolution 2023-21 A Resolution of the Tooele City Council Approving an Agreement with Nelson Brothers Construction Company for the Water Reclamation Facility Headworks Project. Council Member McCall seconded the motion. The vote was as follows: Council Member Hansen, "Aye," Council Member Graf, "Aye," Council Member Brady, "Aye," Council Member Manzione, "Aye," Council Member McCall, "Aye." The motion passed.

12. Resolution 2023-22 A Resolution of the Tooele City Council Approving an Agreement with Kilgore Contracting for the 2023 Roadway Reconstruction and Water Line Replacement Project

Presented by Jamie Grandpre, Public Works Director

Mr. Grandpre presented an agreement with Kilgore Contracting for the 2023 roadway reconstruction and water line replacement project. The roads for this project include 1220 South, Clifford Drive, and Lisa Way. Any location in the City with a six-inch water line, the City is replacing to an eight-inch pipe. Four bids were received with Kilgore Contracting coming in the lowest in the amount of \$1,666,967 with a contingency of \$83,000.

Chairman motioned to approve Resolution 2023-22. Council Member McCall seconded the motion. The vote was as follows: Council Member Hansen, "Aye," Council Member Graf, "Aye," Council Member Brady, "Aye," Council Member Manzione, "Aye," Council Member McCall, "Aye." The motion passed.

13. Invoices & Purchase Orders

There are no invoices & purchase orders to present for approval.

Codale Electrical for new fire station electrical work in the amount of \$52,359.

Cummings Sales and Service for new fire station emergency power generation system in the amount of \$75,398.

Dowdle Studios, LLC for the remainder of the puzzle contract in the amount of \$95,292.

Intermountain Bobcat for WRF S86 T4 Bobcat Skid Steer Loader for the waste water plant in the amount of \$45,869.48.

Tooele Flats, LLC for water rights credits for 37.12-acre feet at \$35,000 per acre feet, for a total of \$1,299,200.00.

Council Member McCall motioned to approve the invoices. Council Member Manzione seconded the motion. The vote was as follows: Council Member Hansen, “Aye,” Council Member Graf, “Aye,” Council Member Brady, “Aye,” Council Member Manzione, “Aye,” Council Member McCall, “Aye.” The motion passed.

14. Minutes

There are no changes to the minutes.

Chairman Brady motioned to approve Minutes. Council Member McCall seconded the motion. The vote was as follows: Council Member Hansen, “Aye,” Council Member Graf, “Aye,” Council Member Brady, “Aye,” Council Member Manzione, “Aye,” Council Member McCall, “Aye.” The motion passed.

15. Adjourn

Chairman Brady adjourned the meeting at 7:44pm.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

Approved this ___ day of May, 2023

Justin Brady, City Council Chair