
PUBLIC NOTICE

Notice is hereby given that the Tooele City Council & Municipal Building Authority (MBA) will meet in a Business Meeting on Wednesday, June 21, 2023, immediately following the RDA meeting that begins at the hour of 7:00 p.m. The meeting will be held in the Tooele City Hall Council Chambers, located at 90 North Main Street, Tooele, Utah. The complete public notice is posted on the Utah Public Notice Website www.utah.gov, the Tooele City Website www.tooelecity.org, and at Tooele City Hall. To request a copy of the public notice or for additional inquiries please contact Michelle Pitt, City Recorder at (435)843-2111 or michellep@tooelecity.org

*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 Community Recognition Awards**
Presented by Debbie Winn, Mayor
4. **Public Comment Period**
5. **Public Hearing & Motion on Resolution 2023-46** A Resolution of the Tooele City Council Adopting a Proposed Tax Rate for Fiscal Year 2023-2024
Presented by Shannon Wimmer, Finance Director
6. **Public Hearing & Motion on Resolution 2023-47** A Resolution of the Tooele City Council Adopting a Tentative Budget for Tooele City for Fiscal Year 2023-2024
Presented by Shannon Wimmer, Finance Director
7. **Public Hearing & Motion on Resolution 2023-48** A Resolution of the Tooele City Council Approving Budget Amendments for Fiscal Year 2022-2023
Presented by Shannon Wimmer, Finance Director
8. **Public Hearing & Motion on Ordinance 2023-30** An Ordinance of Tooele City Reassigning the Land Use Designation for Approximately 2 Acres of Property Located at 602 West 3 O'clock Drive From High Density Residential (HDR) to Regional Commercial (RC)
Presented by Andrew Aagard, Community Development Director
9. **Public Hearing & Motion on Ordinance 2023-31** An Ordinance of Tooele City Reassigning the Land Use Designation for Approximately 0.39 Acres of Property Located at 105 East 1000 North From Regional Commercial (RC) to Medium Density Residential (MDR)
Presented by Andrew Aagard, Community Development Director

10. **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 (*was tabled on 05/03/2023*)
Presented by Andrew Aagard, Community Development Director
11. **Ordinance 2023-24** An Ordinance of Tooele City Amending the Tooele City Personnel Policies and Procedures Manual
Presented by Kami Perkins, Human Resources Director
12. **Resolution 2023-38** A Resolution of the Tooele City Council Adopting the Modified Public Employees Health Program (PEHP) IRC Section 125 Cafeteria Prototype Plan for Tooele City's Cash-In-Lieu / Waiver Program
Presented by Kami Perkins, Human Resources Director
13. **Resolution 2023-49** A Resolution of the Tooele City Council Approving an Agreement with RH Borden and Company LLC for Sewer Line Transmissive Acoustics Assessment Services
Presented by Jamie Grandpre, Public Works Director
14. **Resolution 2023-50** A Resolution of the Tooele City Council Approving an Agreement with TecServ, Inc. for Computer Network Maintenance Services
Presented by Chris Nielson, IT Director
15. **Resolution 2023-51** A Resolution of the Tooele City Council Approving a Change Order #2 with Broken Arrow Inc. for the 2022 Seventh Street Road and Utility Improvement Project
Presented by Paul Hansen, City Engineer
16. **Invoices & Purchase Orders**
Presented by Michelle Pitt, City Recorder
17. **Minutes**
~June 7, 2023 City Council Work Meeting
~June 7, 2023 City Council Business Meeting
~June 7, 2023 MBA Business Meeting
18. **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

RESOLUTION 2023-46

A RESOLUTION OF THE TOOELE CITY COUNCIL ADOPTING A PROPOSED TAX RATE FOR FISCAL YEAR 2023-2024.

WHEREAS, Utah Code §10-6-133 requires cities to set by ordinance or resolution the real and personal property tax levy, or certified tax rate, for various municipal purposes; and,

WHEREAS, the general tax rate has been calculated preliminarily by the Utah State Tax Commission to be .002301 for Fiscal Year 2023-2024 (compared to 0.002411 for Fiscal Year 2022-2023); and,

WHEREAS, the actual certified tax rate will be established at the time of the City Council's approval of the final Fiscal Year 2023-2024 budget, on August 2, 2023; and,

WHEREAS, the City Council proposes to not adopt the Tax Commission certified tax rate but to adopt the proposed tax rate for Fiscal Year 2023-2024 in order to prevent the historic decline of the certified tax rate; and,

WHEREAS, the City Council convened a public hearing on the proposed tax rate on June 21, 2023, together with the public hearing on the new tentative budget:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the Tooele City proposed real and personal property tax levy, or proposed tax rate, is hereby set at **0.002411** for Fiscal Year 2023-2023.

This Resolution shall become effective on the date of passage 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

Approved as to form:

Roger Evans Baker, Tooele City Attorney

TOOELE CITY CORPORATION

RESOLUTION 2023-47

A RESOLUTION OF THE TOOELE CITY COUNCIL ADOPTING A TENTATIVE BUDGET FOR TOOELE CITY FOR FISCAL YEAR 2023-2024.

WHEREAS, the Tooele City Council adopted the budget officer's tentative budget for fiscal year 2023-2024 on May 3, 2023, and established June 21, 2023, as the date for a public hearing for the final budget, as required by U.C.A. Chapter 10-6; and,

WHEREAS, the City Council convened a public hearing on June 21, 2023, as required by U.C.A. §10-6-114; and,

WHEREAS, the City Council desires to adopt a new tentative budget based on a proposed increase in the certified tax rate; and,

WHEREAS, the City Council is required to adopt the final budget pursuant to U.C.A. §10-6-118 by June 30 or September 1, as applicable; and,

WHEREAS, the City Council will hold a truth-in-taxation public hearing on August 2, 2023, prior to adopting the final budget and new certified tax rate; and,

WHEREAS, the fiscal year 2023-2024 budget adoption process has followed the requirements of Utah Code Title 10, Chapter 6:

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOOELE CITY COUNCIL that a new Tooele City tentative budget for fiscal year 2023-2024 is hereby adopted.

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

S E A L

Approved as to form:

Roger Evans Baker, City Attorney

TOOELE CITY CORPORATION

RESOLUTION 2023-48

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 June 21, 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
BUDGET AMENDMENTS
FISCAL YEAR ENDING 06/30/2023

06/16/23
11:37 AM

	ACCT NUMBER		ACCOUNT NAME	CURRENT	AMENDMENT	AMENDED	
	ANIMAL CONTROL						
64	10 3830 000		CONTRIBUTIONS - OTHER FUNDS	(163,800)	(220)	(164,020)	Donation used for medical care of two senior dogs
	10 4253 482008		VACCINATIONS/NEUTER	4,200	220	4,420	
	FIRE DEPARTMENT						
65	10 3890 000		APPROPRIATION FUND BALANCE	(2,715,234)	(10,000)	(2,725,234)	Fire Department utility overages
	10 4222 281000		ROCKY MOUNTAIN POWER	3,000	2,000	5,000	
	10 4222 282000		QUESTAR GAS	6,500	8,000	14,500	
	POLICE DEPARTMENT						
66	10 3830 000		CONTRIBUTIONS - OTHER FUNDS	(164,020)	(11,450)	(175,470)	Transfer SWAC Donations to expense account for FY23 expenses
	10 4211 481100		SHOP WITH A COP	0	11,450	11,450	
	AQUATIC CENTER						
67	10 3830 000		CONTRIBUTIONS - OTHER FUNDS	(175,470)	(2,050)	(177,520)	Tooele Swim Club fees transfer to cover expenses
	10 4562 483019		TSC SWIM CLUB	0	2,050	2,050	
	POLICE DEPARTMENT						
68	10 3830 000		CONTRIBUTIONS - OTHER FUNDS	(177,520)	(5,200)	(182,720)	Transfer for police department vending expenses from vending revenue
	10 4211 481010		VENDING	0	5,200	5,200	
	ADMINISTRATION						
69	10 3830 000		CONTRIBUTIONS - OTHER FUNDS	(182,720)	(7,108)	(189,828)	Mayor's Golf Tournament proceeds to expense to cover tournament expenses
	10 4131 541000		COMMUNITY EVENTS	21,300	7,108	28,408	
	ANIMAL SHELTER						
70	10 3830 000		CONTRIBUTIONS - OTHER FUNDS	(189,828)	(1,475)	(191,303)	Transfer from trust fund to cover adoption and spay/neuter fees
	10 4253 252000		OPERATION & MAINTENANCE	22,800	1,475	24,275	
	ANIMAL SHELTER						
71	10 3830 000		CONTRIBUTIONS - OTHER FUNDS	(191,303)	(4,200)	(195,503)	Transfer from trust fund to cover adoption and spay/neuter fees
	10 4253 482008		VACCINATIONS/NEUTER	4,200	4,200	8,400	
	AQUATIC CENTER						
72	10 3890 000		APPROPRIATION FUND BALANCE	(2,725,234)	(15,700)	(2,740,934)	Emergency leisure pool drain grate repair
	10 4562 252000		OPERATION & MAINTENANCE	85,000	15,700	100,700	

AQUATIC CENTER

73	10	3890	000	APPROPRIATION FUND BALANCE	(2,740,934)	(19,775)	(2,760,709)	Repair drain and floor in life guard room and storage room
	10	4562	271000	BUILDING OPERATION & MAINTENANCE	42,000	19,775	61,775	

GOLF COURSE

74	10	3471	105	GOLF - CONCESSIONS & RESALE	(95,000)	(25,000)	(120,000)	Golf resale and concession items expenses covered by additional revenue from sales
	10	4565	482013	RESALE ITEMS/CONCESSIONS	50,000	25,000	75,000	

CEMETERY

75	10	3890	000	APPROPRIATION FUND BALANCE	(2,760,709)	(6,800)	(2,767,509)	Failed drive approach repair and lot markers
	10	4590	252000	OPERATION & MAINTENANCE	32,352	6,800	39,152	

REDEVELOPMENT AGENCY

76	75	3890	000	APPROPRIATION FUND BALANCE	(3,722,297)	(59,100)	(3,781,397)	RDA professional & technical expenses
	75	4621	311000	PROFESSIONAL & TECHNICAL	100,000	59,100	159,100	

ADMINISTRATION

77	10	3416	106	ADMINISTRATION/SUNDRY FEES	(20,000)	(12,000)	(32,000)	Downtown Fest and buffalo art paid from revenue for buffaloes
	10	4131	483024	DOWNTOWN ALLIANCE	500	12,000	12,500	

NON-DEPARTMENTAL

78	10	3312	123	AMERICAN RESCUE PLAN ACT FUNDS	0	(185,390)	(185,390)	Expend ARPA funds Murdock impact fees and Boys & Girls Club permits
	10	4150	481009	AMERICAN RESCUE PLAN ACT EXPENSES	786,450	185,390	971,840	

NON-DEPARTMENTAL

79	10	3890	000	APPROPRIATION FUND BALANCE	(2,767,509)	(48,115)	(2,815,624)	Adjust insurance budget to actual amount
	10	4150	511000	INSURANCE	270,000	48,115	318,115	

SHOPS

80	10	3890	000	APPROPRIATION FUND BALANCE	(2,815,624)	(7,500)	(2,823,124)	Shops operation & maintenance to actual
	10	4440	252000	OPERATION & MAINTENANCE	38,000	7,500	45,500	

LIBRARY

81	10	3340	111	UTAH STATE LIBRARY GRANTS	(38,372)	(5,000)	(43,372)	Utah State library grant received
	10	4580	486087	UTAH STATE GRANTS	9,454	5,000	14,454	

COMMUNITY DEVELOPMENT

82	10	3890	000	APPROPRIATION FUND BALANCE	(2,823,124)	(5,000)	(2,828,124)	Medical insurance to actual
	10	4620	132000	MEDICAL & LIFE INSURANCE	160,548	5,000	165,548	

SOLID WASTE

83	53	3770	530	WASTE COLLECTION FEES	1,750,000	(21,000)	1,729,000	Garbage cans purchases FY23 to actual
	53	5300	481000	SPECIAL DEPARTMENT SUPPLIES	135,000	21,000	156,000	

SOLID WASTE

84	53	3770	531	RECYCLING COLLECTION FEES	(210,000)	(15,000)	(225,000)	Recycling hauling fees and dump fees to actual
	53	5350	621000	HAULING FEE	210,000	10,000	220,000	
	53	5350	621000	HAULING FEE	25,000	5,000	30,000	

NON-DEPARTMENTAL

85	10	3312	123	AMERICAN RESCUE PLAN ACT FUNDS	(185,390)	(1,945,809)	(2,131,199)	ARPA funds budget corrections
	10	3890	000	APPROPRIATION FUND BALANCE	(2,828,124)	945,809	(1,882,315)	
	10	4810	911041	TRANSFER - CAPITAL PROJECTS FUND (41)	3,248,749	1,000,000	4,248,749	
	41	3813	000	TRANSFER FROM GENERAL FUND (10)	(3,248,749)	(1,000,000)	(4,248,749)	

TOOELE CITY CORPORATION

ORDINANCE 2023-30

AN ORDINANCE OF TOOELE CITY REASSIGNING THE LAND USE DESIGNATION FOR APPROXIMATELY 2 ACRES OF PROPERTY LOCATED AT 602 WEST 3 O'CLOCK DRIVE FROM HIGH DENSITY RESIDENTIAL (HDR) TO REGIONAL COMMERCIAL (RC).

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 Land Use Map amendment for 2 acres of property located at 602 West 3 O’Clock Drive on May 2, 2023, requesting that the Subject Property be reassigned from the HDR Land Use designation to the RC Regional Commercial Land Use designation (see Amendment Petition and map attached as Exhibit A, and Staff Report attached as Exhibit B); and,

WHEREAS, the Subject Properties are owned by Leisure Villas and are currently designated as High Density Residential in the Land Use Element of the General Plan; and,

WHEREAS, the High Density Residential land use designation includes the MR-8, MR-12, MR-16 and MR-20 Multi-Family Residential Zoning districts; and,

WHEREAS, the MR Multi-Family Residential zones permit exclusively three or more attached residential units such as townhomes, condominiums and apartments; and,

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

WHEREAS, on June 14, 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 June 21, 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 provide an expansion to the City's commercial tax base; and,
2. the Land Use map is hereby amended reassigning the Land Use designation to Regional Commercial for approximately 2 acres of property located at 602 West 3 O'Clock Drive, 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

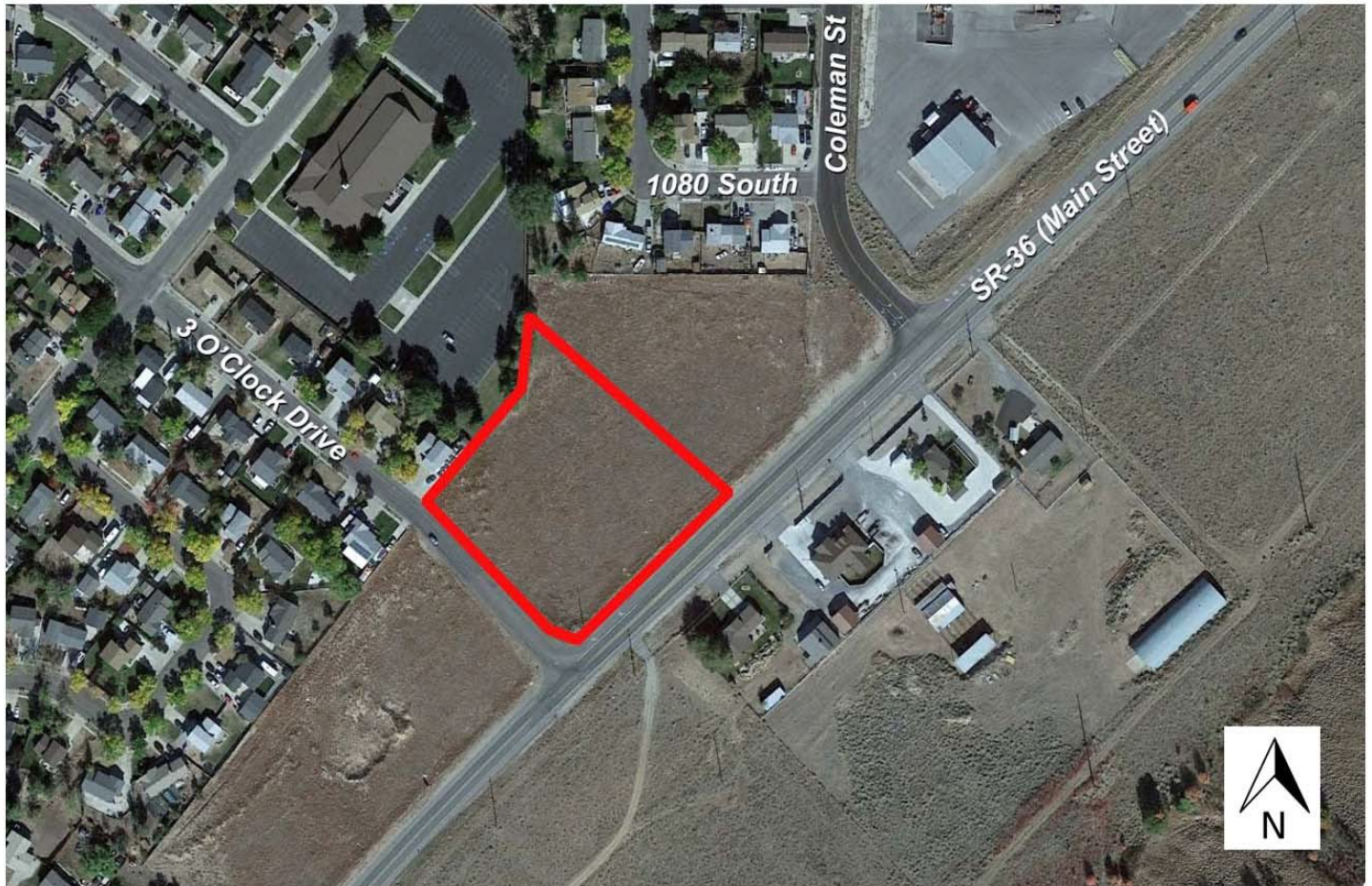
Exhibit A

Petition and Mapping Pertinent to Zoning Map Amendment

EXHIBIT A

**MAPPING PERTINENT TO THE WAGSTAFF INVESTMENTS LLC TOOEELE SOUTH
LAND USE MAP AMENDMENT**

Wagstaff Investments Tooele South Land Use Map Amendment



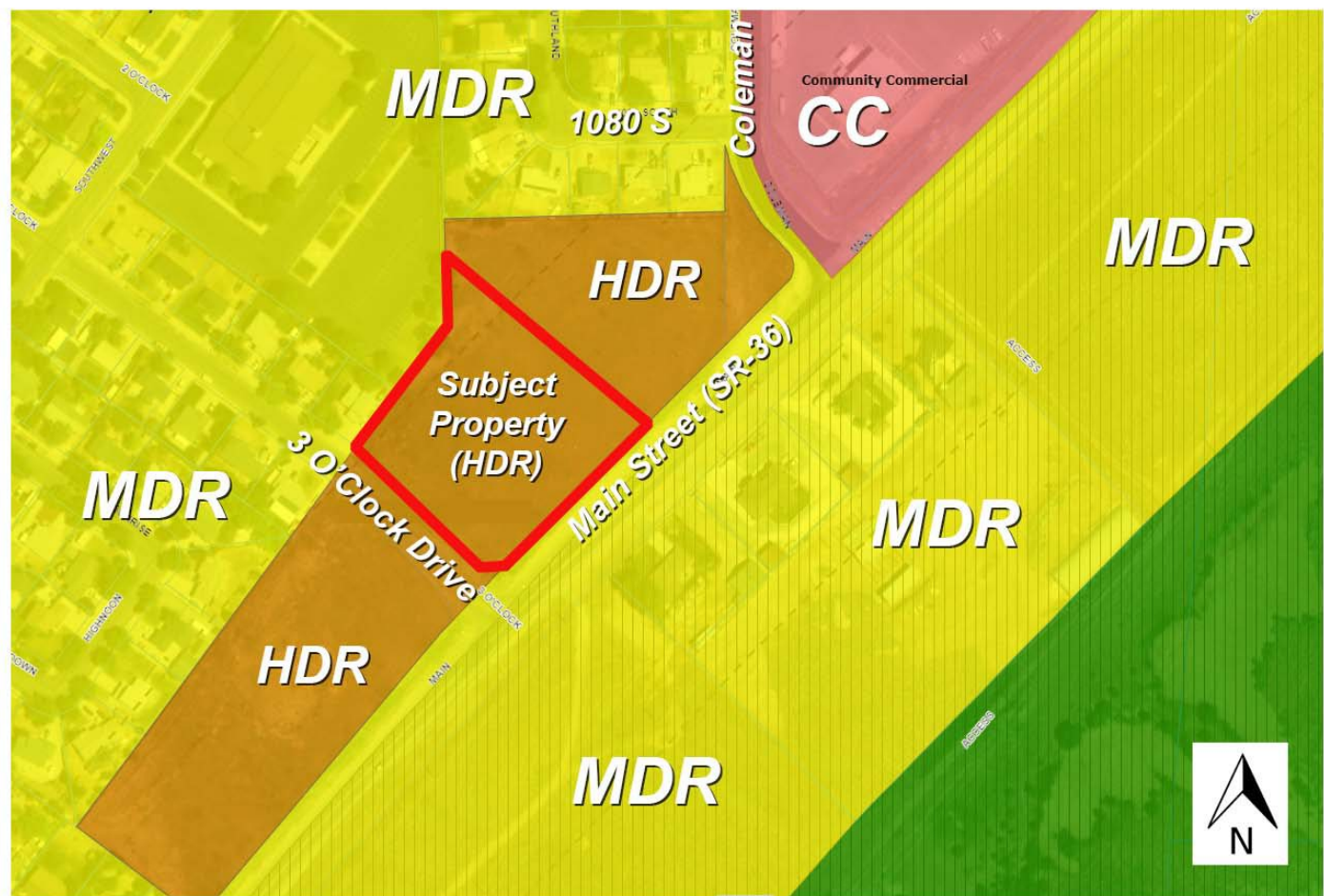
Aerial View

Wagstaff Investments Tooele South Land Use Map Amendment



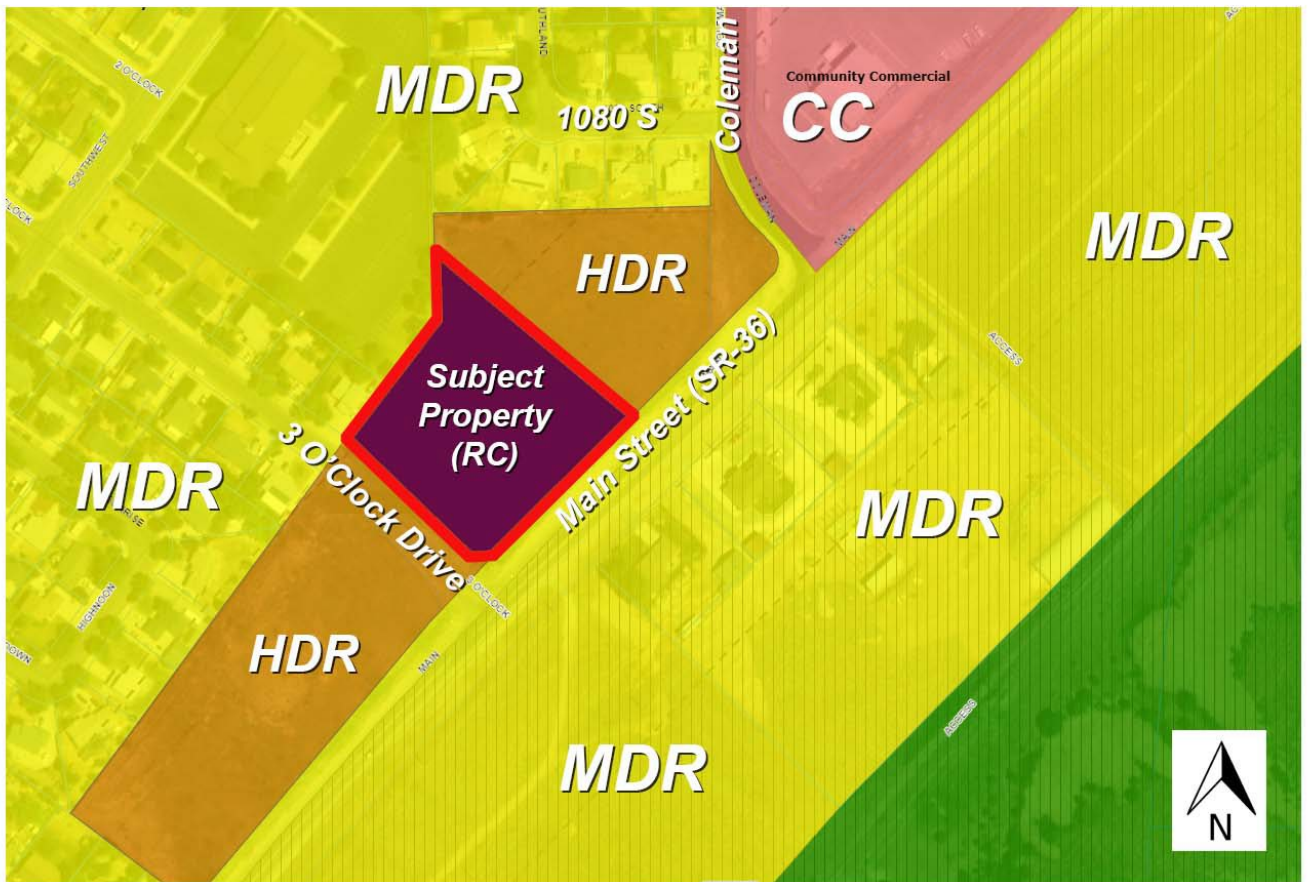
Current Zoning

Wagstaff Investments Tooele South Land Use Map Amendment



Current Land Use

Wagstaff Investments Tooele South Land Use Map Amendment



Proposed Land Use

Exhibit B

Staff Report

STAFF REPORT

June 8, 2023

To: Tooele City Planning Commission
Business Date: June 14, 2023

From: Planning Division
Community Development Department

Prepared By: Andrew Aagard, City Planner / Zoning Administrator

Re: Wagstaff Investments LLC Tooele South – Land Use Map Amendment Request

Application No.: P23-483
Applicant: Brent Neel, representing Wagstaff Investments, LLC
Project Location: Approximately 602 West 3 O'Clock Drive
Zoning: MR-12 Multi-Family Residential Zone
Acreage: 2 Acres (Approximately 87,120 ft²)
Request: Request for approval of a Land Use Map Amendment to re-assign approximately 2 acres of property from the High Density Residential (HDR) land use to the Regional Commercial (RC) land use designation.

BACKGROUND

This application is a request for approval of a Land Use Map Amendment for approximately 2 acres located at approximately 602 West 3 O'Clock Drive. The property is currently zoned MR-12 Multi-Family Residential. The applicant is requesting that the land use designation be re-assigned from HDR to RC in order to facilitate a Zoning Map amendment to a zoning district that will ultimately permit the construction of a Holiday Oil convenience store with gasoline services.

ANALYSIS

General Plan and Zoning. The Land Use Map of the General Plan calls for the High Density Residential land use designation for the subject property. The property has been assigned the MR-12 Multi-Family Residential zoning classification, supporting approximately 12 dwelling units per acre. The MR-12 Multi-Family Residential zoning designation is identified by the General Plan as a preferred zoning classification for the High Density Residential land use designation. Properties to the north and west are currently zoned R1-7 Residential. Properties to the south are zoned MR-12 and properties to the east are zoned R1-7 and RR-1 Residential. Mapping pertinent to the subject request can be found in Exhibit "A" to this report.

Tooele City ordinance 7-1A-5 requires that amendments to the zoning map shall be "consistent with the adopted Tooele City General Plan." There are many elements to the General Plan that need to be considered but when it comes to Zoning Map amendments the element is the Land Use Map of the General Plan. Thus, before any zoning changes can be considered the proposed zoning change must first comply with the Land Use Map.

The applicant is proposing that approximately two acres of property highlighted in red on the attached aerial photograph and included maps be re-assigned from the HDR land use designation to the RC land use. The applicant wishes to ultimately construct a Holiday Oil convenience store with gasoline services on the property.

The property is current designated as HDR, a land use designation that is specific to multi-family residential. This land use designation enables the MR-8, MR-12, MR-16 and MR-20 zoning districts. Each of these zones permits the construction of multi-family residential dwellings of 3 attached units or more including townhomes, condominiums and rental apartments. These zones do not permit the construction of single-family residential or duplex type housing. These zones also prohibit commercial and industrial uses.

The RC designation is regional commercial and it is specific to the RC Regional Commercial and RD Research and Development zoning districts. These zones are oriented towards commercial uses that would be considered to involve more of a regional network. Higher end commercial, business parks, research parks and educational facilities are common uses found in areas with the RC land use designation. Residential of all types, other than a few minor exceptions for caretaker apartments, are prohibited in RC areas.

This property was originally zoned NC Neighborhood Commercial. It was only rezoned to MR-12 within the last year and a half as it was anticipated the property would develop as townhomes. Economic reasons and water availability have altered the plans of the developers who pursued those zoning map amendments and the property is again on the market for sale. It should be noted that a convenience store with gasoline services requires a CUP in the RC Regional Commercial zone as well as the NC Neighborhood Commercial zone. If the Regional Commercial land use designation is determined to be too intense for this area the Planning Commission may also forward an alternative recommendation. The NC Neighborhood Commercial zone falls under the Community Commercial land use designation.

A Land Use Map amendment is the right time to consider the highest and best use for a particular parcel of land and if that use is in the best interest of the City. The south end of the City could use a gasoline station as the closest other facility is the Gofer foods, about two miles to the east. Attempts have been made to develop the properties as multi-family residential and those attempts have not been successful.

It should be noted that the Land Use map was just recently amended for this property. However, the Tooele City code does not place restrictions on the number of times a property can be re-assigned land use or zoning, nor does the code prohibit the City from re-assigning the land use back to what it was previously. Land Use map amendments are legislative in nature and this enable a City to make land use determinations decisions whenever necessary or as circumstances change.

Traffic Studies. Previous developers attempting to develop these properties as town homes conducted traffic studies to determine what improvements, if any, to SR-36 and 3 O'Clock Drive would be needed to ease traffic concerns on these streets and to mitigate any potential impacts to road systems generated by new residential development. The traffic studies confirmed that new development on these parcels did not warrant any changes to SR-36 or 3 O'Clock Drive.

This use, however, is not residential and may have different traffic parameters that need to be considered. One of those being a potential access onto Coleman Street located to the north east. Location of this access and safety concerns of an access at this point will need to be addressed. At this point the applicant has not provided a traffic study addressing the impacts of a commercial gasoline station on the existing road systems or the potential access to Coleman Street.

Site Plan Layout. A site plan has not been provided.

Subdivision Layout. This is an existing parcel of record.

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 regarding this request:

1. Traffic studies conducted previously were done under the assumption the properties would develop as multi-family residential townhomes.
2. There are no limitations on the number of times a City may consider a Land Use Map amendment and no limitations on the City re-assigning a land use designation back to what the property was previously designated.
3. This Land Use Map amendment does not grant zoning approvals. The applicant will still need to conduct a Zoning Map amendment application.

Engineering and Public Works Divisions Review. The Tooele City Engineering and Public Works Divisions have completed their reviews of the Land Use Map Amendment submission and have issued the following comment:

1. An access onto Coleman Street will require a traffic study to confirm location and safety of an access at that location.

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 concerning this request.

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 Wagstaff Investments LLC Tooele South Land Use Map Amendment request by Brent Neel, representing Wagstaff Investments, LLC to re-assign the land use from High Density Residential to Regional Commercial, application number P23-483, based on the findings listed in the Staff Report dated June 8, 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 Wagstaff Investments LLC Tooele South Land Use Map Amendment request by Brent Neel, representing Wagstaff Investments, LLC to re-assign the land use from High Density Residential to Regional Commercial, application number P23-483, based on the following findings:”

1. List findings...

EXHIBIT B

APPLICANT SUBMITTED INFORMATION

Exhibit C

Planning Commission Minutes

TOOELE CITY CORPORATION

ORDINANCE 2023-31

AN ORDINANCE OF TOOELE CITY REASSIGNING THE LAND USE DESIGNATION FOR APPROXIMATELY .39 ACRES OF PROPERTY LOCATED AT 105 EAST 1000 NORTH FROM REGIONAL COMMERCIAL (RC) TO MEDIUM DENSITY RESIDENTIAL (MDR).

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 Land Use Map amendment for approximately .39 acres of property located at 105 East 1000 North on May 18, 2023, requesting that the Subject Property be reassigned from the Regional Commercial Land Use designation to the Medium Density Residential Land Use designation (see Amendment Petition and map attached as Exhibit A, and Staff Report attached as Exhibit B); and,

WHEREAS, the Subject Properties are owned by Betty S Johnson and Cindy McInnes and are currently designated as Regional Commercial in the Land Use Element of the General Plan; and,

WHEREAS, the Regional Commercial land use designation includes the RC Regional Commercial and RD Research and Development Zoning districts; and,

WHEREAS, the RC and RD zones permit exclusively regional type of commercial uses, business and office parks, research facilities and educational land uses; and,

WHEREAS, the Medium Density Residential land use designation includes the R1-7, R1-8 and R1-10 residential zoning districts and are exclusive to single-family residential and duplex type residential uses; and,

WHEREAS, it is the property owner's intent to subdivide .39 acres from the larger 5.5 acre parcel in order to maintain the existing home on its own lot and enable the sale of the remaining 5 acres for commercial purposes; and,

WHEREAS, on June 14, 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 June 21, 2023, the City Council convened a duly-noticed public hearing:

NOW, THEREFORE, BE IT ORDAINED BY THE TOOELE 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 an opportunity for an existing resident to maintain ownership of their home on its own lot and enable the sale of the remaining 5 acres for commercial purposes; and,
2. the Land Use map is hereby amended reassigning the Land Use designation to Medium Density Residential for approximately .39 acres of property located at 105 East 1000 North, 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

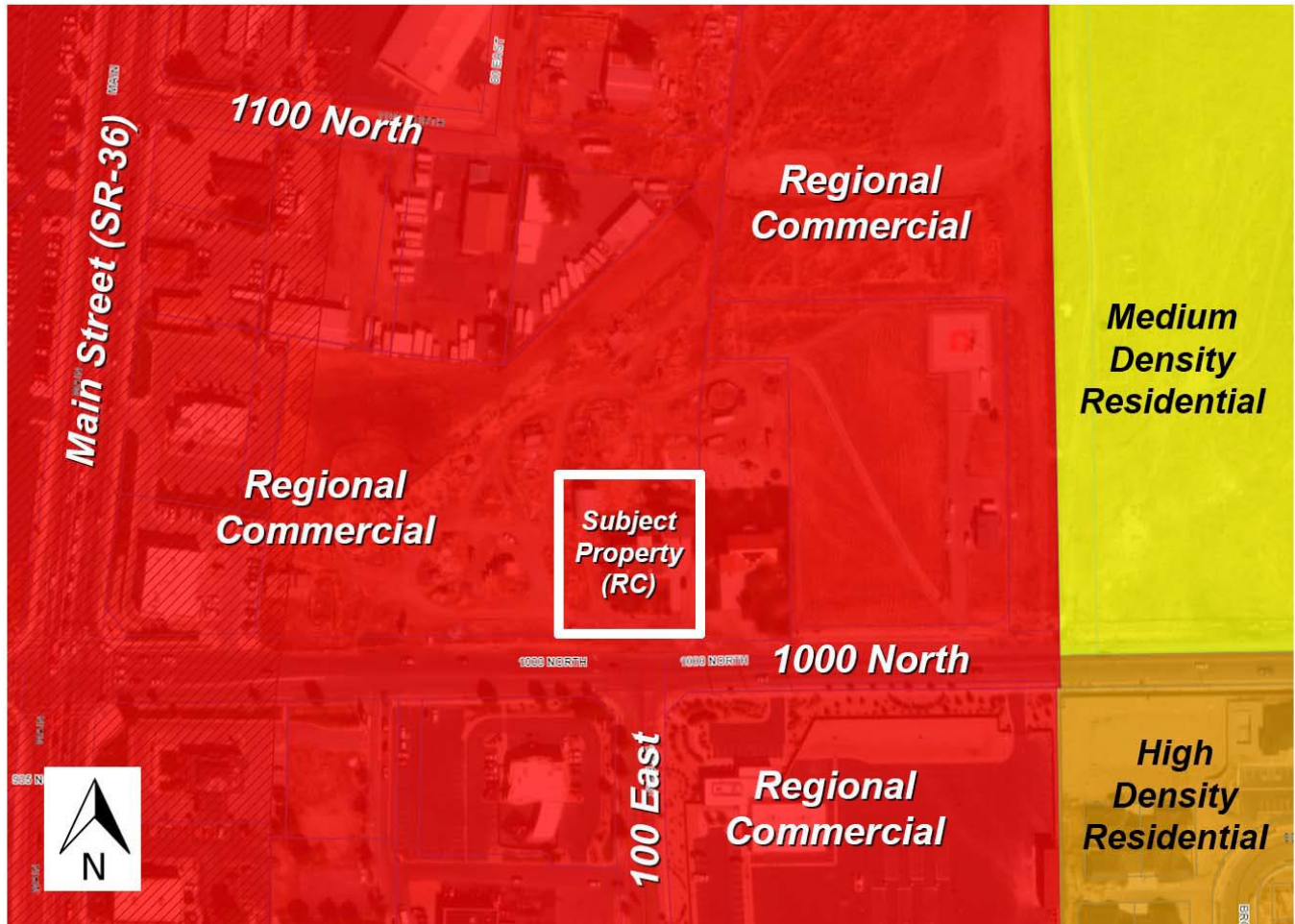
S E A L

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

Exhibit A

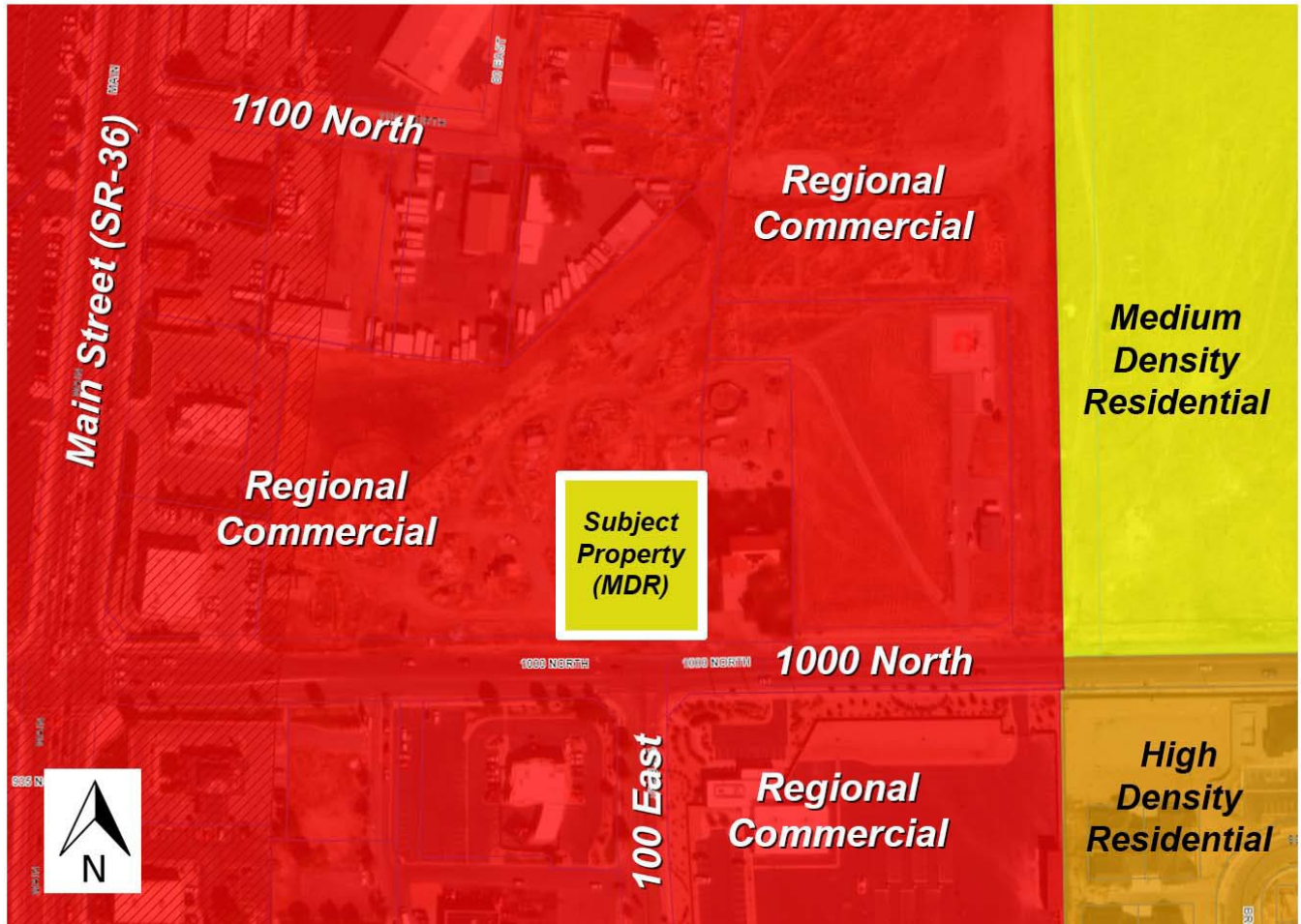
Petition and Mapping Pertinent to Zoning Map Amendment

McInnes Land Use Map Amendment



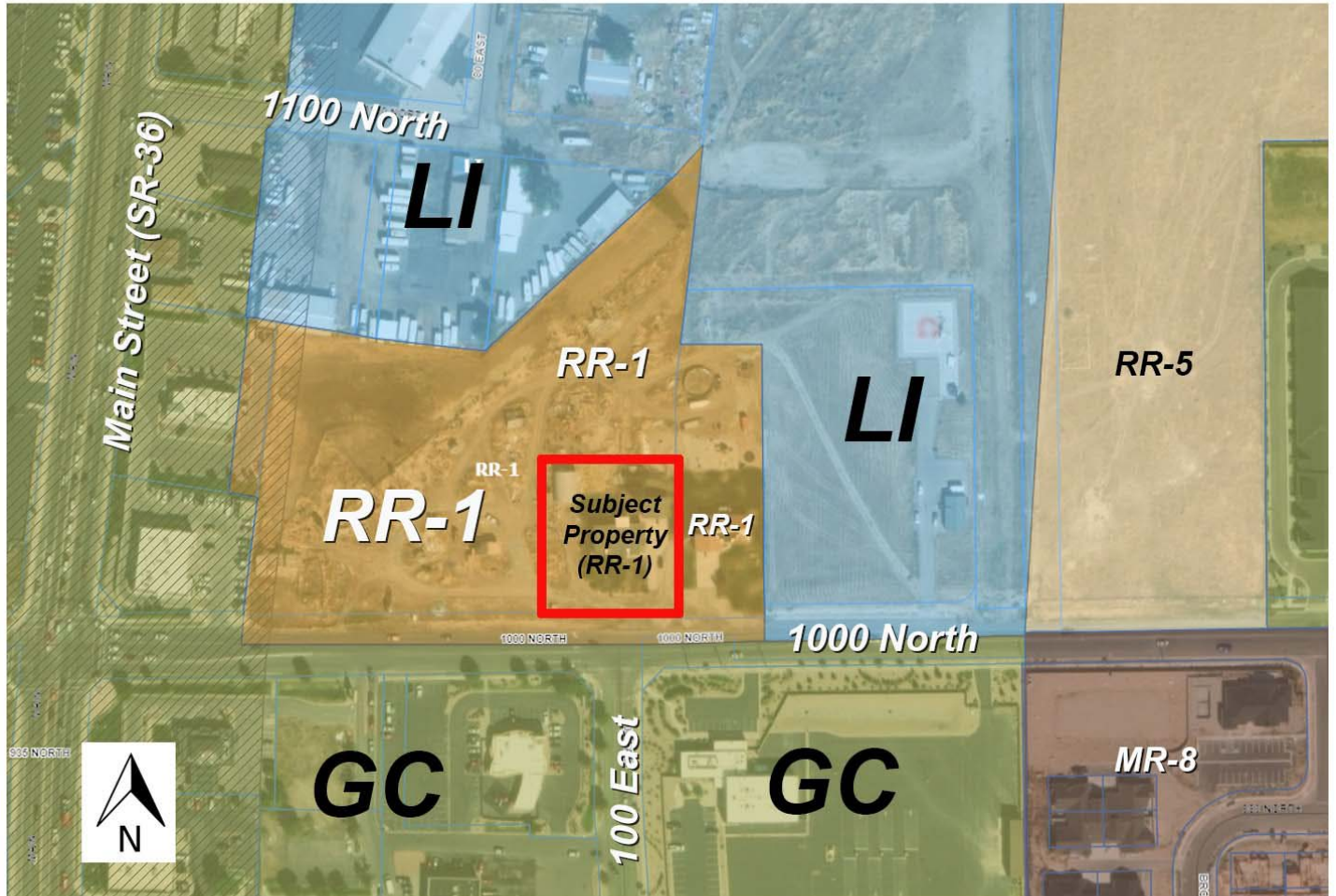
Current Land Use

McInnes Land Use Map Amendment



Proposed Land Use

McInnes Land Use Map Amendment



Current Zoning

EXHIBIT A

MAPPING PERTINENT TO THE MCINNES LAND USE MAP AMENDMENT

McInnes Land Use Map Amendment



Aerial View

Exhibit B

Staff Report

STAFF REPORT

June 1, 2023

To: Tooele City Planning Commission
Business Date: June 14, 2023

From: Planning Division
Community Development Department

Prepared By: Andrew Aagard, City Planner / Zoning Administrator

Re: **McInnes – Land Use Map Amendment Request**

Application No.: P23-454
Applicant: Cindy McInnes
Project Location: 105 East 1000 North
Zoning: RR-1 Residential Zone
Acreage: .39 Acres (Approximately 16,988 ft²)
Request: Request for approval of a Land Use Map Amendment in the RR-1 Residential zone regarding re-assigning the land use designation to Medium Density Residential (MDR).

BACKGROUND

This application is a request for approval of a Land Use Map Amendment for approximately .39 acres located at approximately 105 East 1000 North. The property is currently zoned RR-1 Residential. The applicant is requesting that a Land Use Map Amendment be approved to re-assign the land use for the desired .39 acres to the MDR land use designation. Changing the land use designation to MDR will enable consideration and possibly approval of a zoning change to R1-7, R1-8 or R1-10. These zones permit smaller single-family residential lots.

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 RR-1 Residential zoning classification, supporting approximately one dwelling unit per acre. The RR-1 Residential zoning designation is not identified by the General Plan as a preferred zoning classification for the Regional Commercial land use designation. All properties surrounding the subject property are designated as Regional Commercial. Mapping pertinent to the subject request can be found in Exhibit “A” to this report.

The applicant’s home is currently located on a large 5.57 acre parcel of record. The home is located at the south east corner of the parcel and fronts onto 1000 North with the front yard of the home aligning perfectly with 100 East. The applicant wishes to subdivide a .39 acre parcel from the larger 5.57 acre parcel in order to maintain ownership of the home on its own lot and enable the sale and possible development of the larger 5 acre parcel. In order to accomplish this a few land use approvals need to be obtained.

In order to subdivide and create a .39 acre lot, zoning needs to be in place that will permit a lot to be as small as .39 acres. The RR-1 zoning district which the property is currently zoned requires a minimum lot size of 1 acre. The applicant could subdivide a 1 acre lot from the 5.57 acre parcel without conducting

a Land Use Map and Zoning Map Amendment. However, the applicant does not desire to maintain a 1 acre lot and desires a smaller and more manageable lot size. There are three residential zones that will permit a .39 acre lot. Those zones are the R1-7, R1-8 and R1-10 permitting minimum lot sizes of 7,000, 8,000 and 10,000 square feet, respectively. Any one of these three zoning districts would accomplish the applicants desire of a .39 acre lot.

Here in lies the need for the Land Use Map Amendment. The property currently bears the RC land use designation. The RC designation requires commercial zones and thus commercial development and does not permit residential development. In order to obtain one of the three single-family residential zones that will permit a .39 acre lot the Land Use Map needs to be amended re-assigning the property from RC to MDR. Once the MDR land use designation is re-assigned to MDR the applicant could then proceed with a Zoning Map amendment request for one of the three single-family residential zoning districts.

In consideration of this Land Use Map amendment the Commission and City Council need to consider the future use of this property and also surrounding land uses, development patterns, traffic needs and so forth. The entire area is currently designated as RC Regional Commercial. The RC designation emphasizes and requires the RC Regional Commercial and the RD Research and Development zoning districts. Both of these zoning districts are oriented towards larger, more regional type of commercial uses such as large scale commercial, research and business parks, office parks, etc. The property's close proximity to SR-36, a regional transportation corridor and 1000 North, also a regional transportation corridor make this area a respectable candidate for large scale commercial type of business activity. The proximity to these transportation corridors also brings into question the viability of single-family residential in the area. One will also note that the property has one additional single-family residential use to its east. All other surrounding land uses are commercial, industrial or office. The nearest residential development is the Country View Villages retirement community located 500 feet to the east.

The MDR land use designation is a land use that requires single-family and two-family residential. The zones permitted in the MDR areas are the R1-7, R1-8 and R1-10 residential zones. These zones do not permit any commercial other than the commercial activities that are permitted by Tooele City code as home occupations. Even with a home occupation, the primary use of the structure is residential.

It should also be noted that the property lines up directly with 100 East and is in a prime location for a point of ingress and egress if the larger 5 acre parcel were ever to develop. The home in its current location would need to be removed or relocated in favor of full motion signalized access into the larger 5 acre parcel. If the home remains the access to the 5 acre parcel for future development becomes more complicated and limited by restrictions, planned medians, and alignment with other points of access. The property owner has a right to maintain and keep their home where it is and this paragraph should not be construed to say otherwise or as a recommendation against the home staying. Staff is just pointing out the particulars of the situation to help the Commission and City Council understand the situation that presents itself in this complicated area of the City. City staff have personally met with the applicant and other property owners and have discussed the safety situation related to the intersection of 100 East and 1000 North and discussed the installation of a traffic signal with the property owners, so they are aware of these issues.

Subdivision Layout. A subdivision plat has not been provided. Ultimately, if the Land Use Map and Zoning map are amended as requested by the applicant, a subdivision will need to be conducted. The Land Use Map and Zoning Map will then, at that time, be amended to accurately reflect the .39 acre lot.

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:

1. The property is surrounded entirely by commercial land uses.
2. The property currently aligns with 100 East and will block the most ideal point of access for a commercial development at this location.
3. The nearest residential development is 500 feet to the east.
4. The .39 acre lot has not been created as the current zoning does not permit a lot size smaller than 1 acre.

Engineering & Public Works Division Review. The Tooele City Engineering and Public Works Divisions have completed their reviews of the Land Use Map Amendment submission and have issued the following comments:

1. The home in its current location will have an impact on the City's ability to turn this intersection into a signalized intersection.

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 comment regarding the request.

Noticing. The applicant has expressed their desire to re-assign the land use designation 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 McInnes Land Use Map Amendment request by Cindy McInnes, to re-assign the land use for approximately .39 acres from Regional Commercial to Medium Density Residential, application number P23-454, based on the findings and subject to the conditions listed in the Staff Report dated June 1, 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 McInnes Land Use Map Amendment request by Cindy McInnes, to re-assign the land use for approximately .39 acres from Regional Commercial to Medium Density Residential, application number P23-454, based on the following findings:”

1. List findings...

Exhibit C

Planning Commission Minutes

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

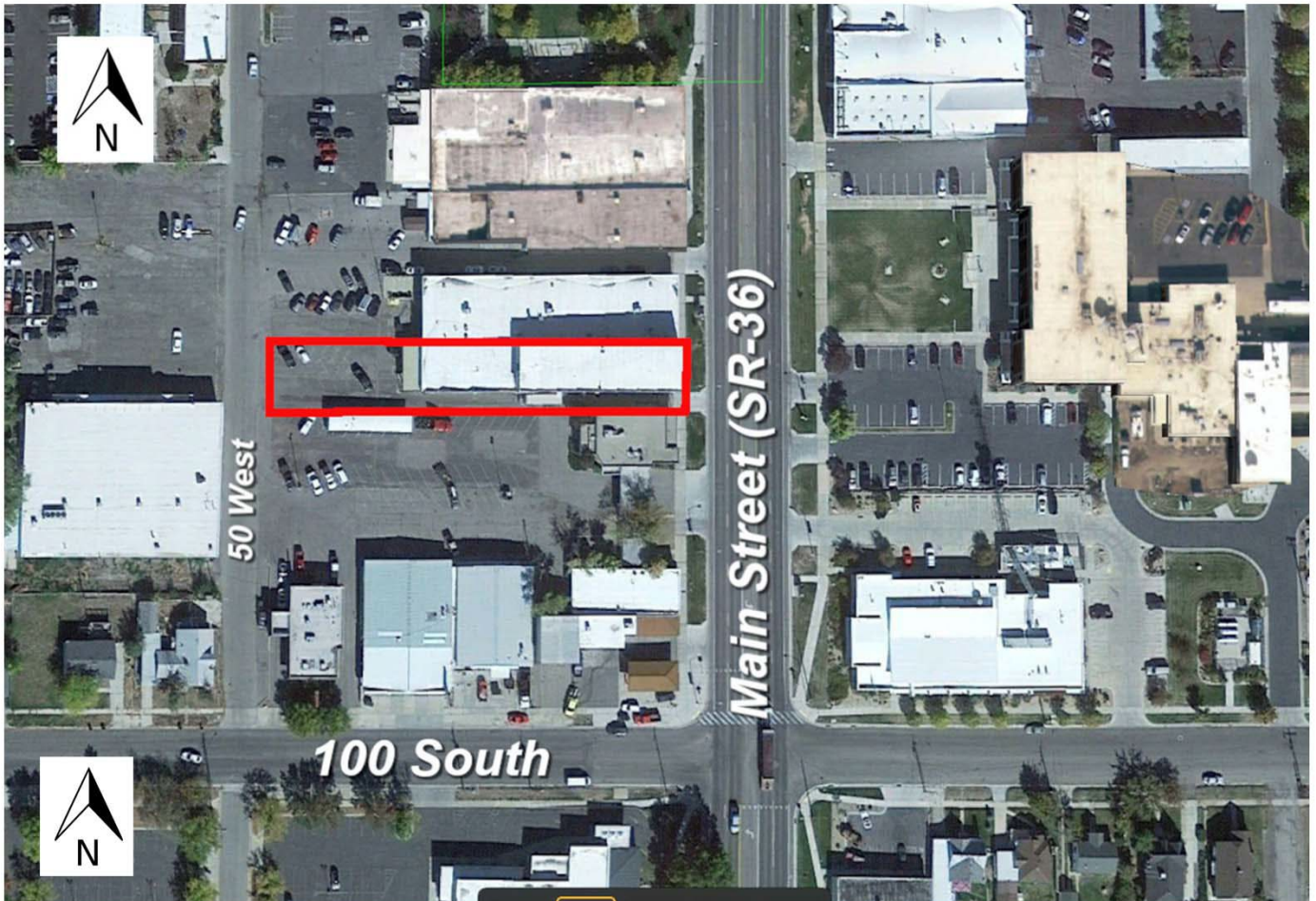
Exhibit A

Petition and Mapping Pertinent to Zoning Map Amendment

EXHIBIT A

MAPPING PERTINENT TO THE BEACON HOUSE ZONING MAP AMENDMENT

Beacon House Zoning Map Amendment



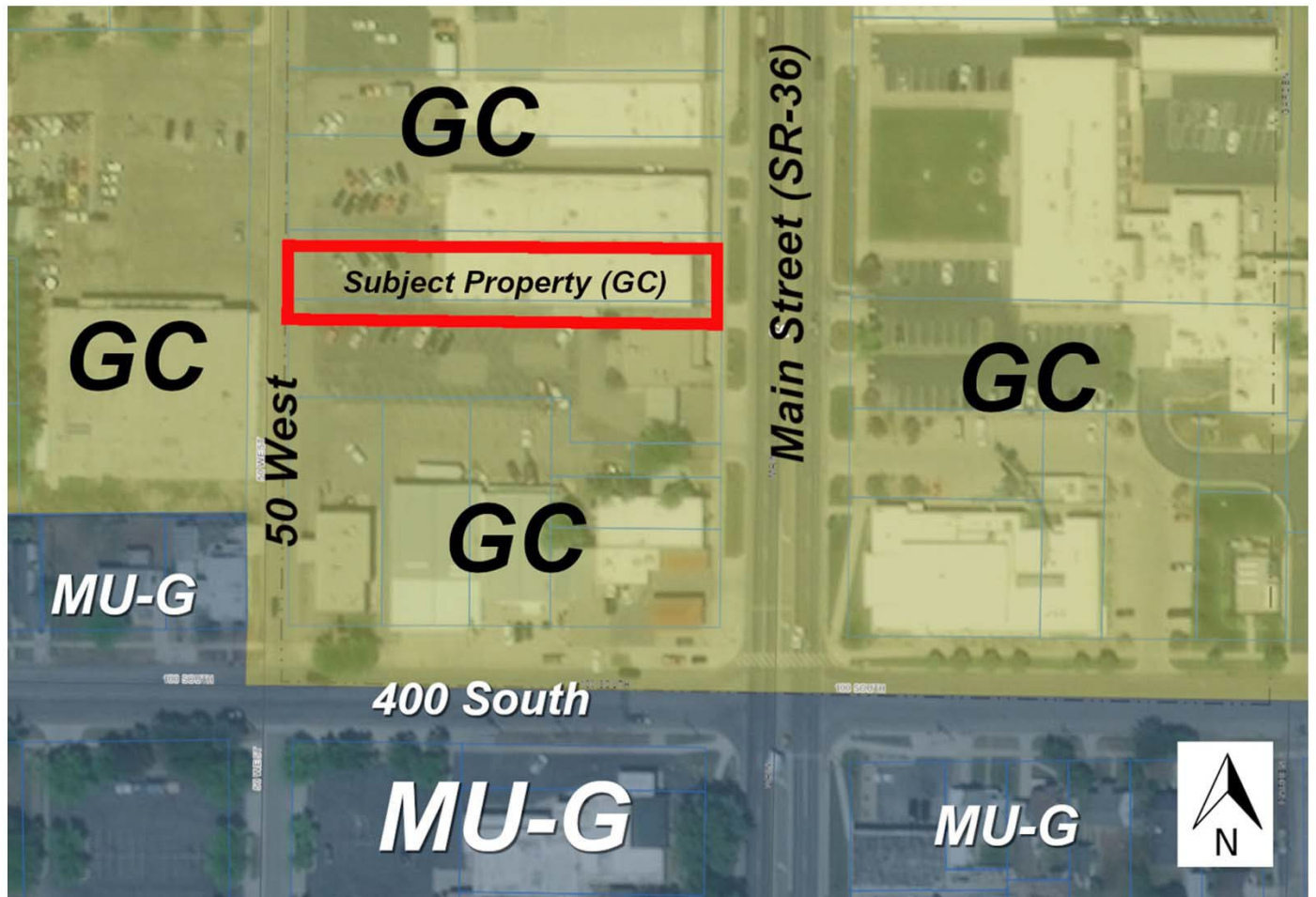
Aerial View

Beacon House Zoning Map Amendment



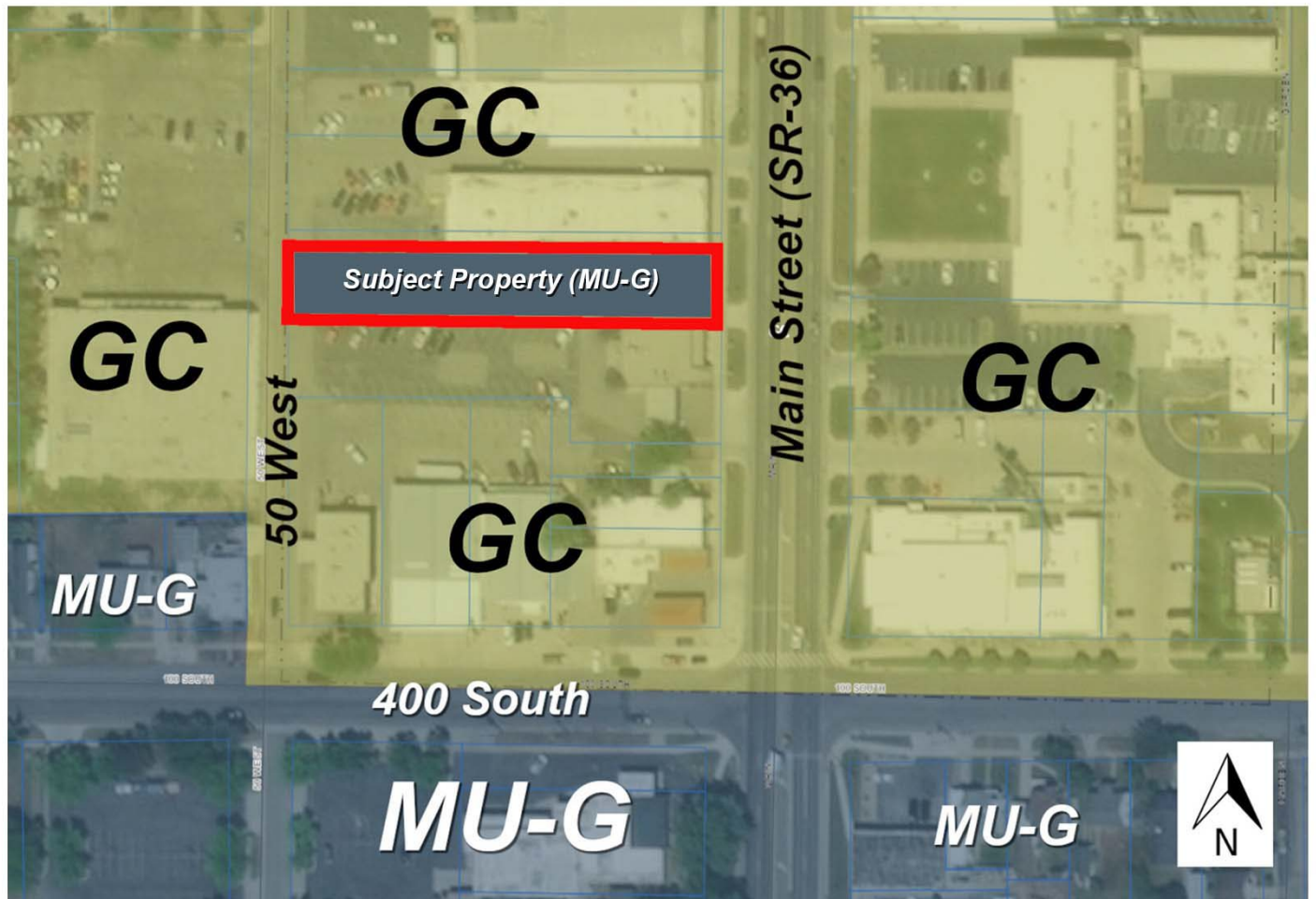
Aerial View

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				22303590			
Received By: 4/10/23		Date Received: 4/10/23		Fees: 1100.00		App. #:	

Receipt # 555077



Community Development Department

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)
<u>Residential Treatment Facilities and Programs</u>		<u>C</u>							

Exhibit B

Staff Report

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 C

Planning Commission Minutes

**Tooele City Planning Commission
Business Meeting Minutes**

Date: Wednesday, April 26, 2023

Time: 7:00 p.m.

Place: Tooele City Hall Council Chambers
90 North Main Street, Tooele Utah

Commission Members Present:

Melanie Hammer
Jon Proctor
Chris Sloan
Matt Robinson
Weston Jensen
Melodi Gochis
Alison Dunn

Commission Members Excused:

Tyson Hamilton
Doug Newel

City Council Members Present:

Ed Hansen
Maresa Manzione

City Employees Present:

Andrew Aagard, City Planner
Paul Hansen, City Engineer
Roger Baker, City Attorney
Darwin Cook, Parks and Recreation Director
Jared Stewart, Economic Development Director

Minutes prepared by Katherin Yei

Commissioner Sloan called the meeting to order at 7:00 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Commissioner Dunn.

2. Roll Call

Melanie Hammer, Present
Jon Proctor, Present
Matt Robinson, Present
Weston Jensen, Present
Chris Sloan, Present

Melodi Gochis, Present
Alison Dunn, Present
Doug Newell, Excused
Tyson Hamilton, Excused

3. Public Hearing and Decision on a Conditional Use Permit request by Natsu Healthcare to authorize the use of “Residential Treatment Facility” for properties located at 491 South Main Street and 461 South Main Street on 2.5 acres in the MU-G Mixed Use General zoning district.

Mr. Aagard presented a Conditional Use Permit for Residential Treatment Facilities at 491 South Main Street and 461 South Main Street. The two hotel buildings will be converted to treatments centers. The property is Mixed-Use General, allowing a mix of commercial and residential uses. There is existing fencing on the site. Notices were sent out to property owners within 200 feet of the property. Staff is recommending approval with two conditions listed in the staff report. The applicant is willing to comply with all conditions.

The public hearing was opened.

Jeremy Harris shared concerns and asked questions on behalf of himself and local business. Additional fencing, public access/open campus, security around property, is this a local or residential area, what is the recourse to alleviate the problem if it becomes one.

Victor Garcia addressed the public's questions and concerns. The property will be enclosed with additional fencing and gating. Many of the clients are coming from a variety of areas including the Tooele community. The clinic takes in many from the Native American Tribes and medicate. This is a volunteer facility. The patients that come in are wanting to get help. The facilities will be separated by male and female. There are about 80 employees, with 50 of them from Tooele.

The Planning Commission asked the following questions:

What is their business motto?

Is there financial assistance?

Who are they governed by?

Are there current residents?

What is the duration of the residents stay?

Are people who are on probation allowed to attend?

How are they going to protect people in the community?

Does the facility have a security system internally and externally?

Will you be moving all of the operations to this location?

Is there continuing fencing throughout the property?

How many residents will be there at one time?

Mr. Garcia addressed the Commission's questions. Private insurances are not excepted. The facility is governed by IHS, Indian Health Service. They were previously located across from the Hospital. By moving to this location, it allows them to expand and provide more treatment.

Treatment lasts about 60 days for the first step of the program. It progresses onto phase two which helps them back into society getting jobs, schooling, and other outpatient services. The clients they focus on are the people in the community. They do have an updated security system. As well as, a full security team. The administrative offices and outpatient services will stay at the current location. There is plenty of parking for employees. Patients do not often have vehicles. The only time they tend to see vehicles is for outpatient service. They will have 60 male and 60 females at one time.

The public hearing was closed.

Mr. Baker addressed the Commission. From his understanding, the facility is governed by Indian Affairs, but they still have to comply with City codes. The Code does allow the Commission to take the time they need to make a proper decision. The applicant will have to have building permits and fire inspections. Mr. Baker is not familiar with tribal regulations and licensing.

Commissioner Gochis motioned to table the Conditional Use Permit until the following information is found or provided: Regarding Indian Health Services in how it relates to state and local coded having an impact to adjacent properties. Commissioner Hammer seconded the motion. The vote was as follows: Commissioner Hammer, “Nay”, Commissioner Proctor, “Nay”, Commissioner Sloan, “Nay”, Commissioner Dunn, “Nay”, Commissioner Jensen, “Nay”, Commissioner Robinson, “Nay”, and Commissioner Gochis, “Nay”. The motion did not pass.

Commissioner Proctor motioned to approve a Conditional Use Permit request by Natsu Healthcare to authorize the use of “Residential Treatment Facility” for properties located at 491 South Main Street and 461 South Main Street on 2.5 acres in the MU-G Mixed Use General zoning district based on the findings and subject to conditions listed in the staff report including surrounding property fencing. Commissioner Dunn seconded the motion. The vote was as follows: Commissioner Hammer, “Aye”, Commissioner Proctor, “Aye”, Commissioner Sloan, “Aye” Commissioner Dunn, “Aye”, Commissioner Jensen, “Aye”, Commissioner Robinson, “Aye”, and Commissioner Gochis, “Nay”. The motion passed.

4. Public Hearing and Decision on a Conditional Use Permit request by Kim Gibson to authorize a home-based day-care business involving the care of 8 to 16 children at 822 Cedarview Circle in the R1-8 Residential zone on .3 acres.

Mr. Aagard presented a home-based daycare holding the care of 8-12 children. The property is zoned R1-8. The applicant did provide a traffic and parking plan with drop off and pick up times are usually staggered. No written or verbal comments have been received. Staff is recommending approval with the conditions listed in the staff report.

The public hearing was opened. No one came forward. The public hearing was closed.

Commissioner Dunn motioned to approve a Conditional Use Permit request by Kim Gibson to authorize a home-based daycare business involving the care of 8 to 16 children at 822 Cedarview Circle in the R1-8 Residential zone on .3 acres based on the findings and conditions listen in the staff report. Commissioner Jensen seconded the motion. The vote was as follows: Commissioner Hammer, “Aye”, Commissioner Proctor, “Aye”, Commissioner Sloan, “Aye” Commissioner Dunn, “Aye”, Commissioner Jensen, “Aye”, Commissioner Robinson, “Aye”, and Commissioner Gochis, “Aye”. The motion passed.

5. Public Hearing and Recommendation on a Zoning Map Amendment request by Holly Jones to re-assign the zoning for .39 acres located at 60 South Main Street from GC General Commercial zoning district to the MU-G Mixed Use General zoning district.

Mr. Aagard presented a Zoning Map Amendment for the old Gordan Furniture building. It is zoned GC, General Commercial. A Land Use Map amendment was done in early March changing the Land Use to Mixed-Use. The applicant is requesting to amend the zoning to the MU-G Mixed Use General zoning district for a treatment facility.

The public hearing was opened.

Ms. Jones addressed the Commission. The facility serves private insurance. The reason is for the Mixed-Use General to allow residential areas above the outpatient services on the main floor.

The public hearing was closed.

Commissioner Jensen motioned to forward a positive recommendation a Zoning Map Amendment request by Holly Jones to re assign the zoning for .39 acres located at 60 South Main Street from GC General Commercial zoning district to the MU-G Mixed Use General zoning district based on the findings and conditions listen in the staff report. Commissioner Robinson seconded the motion. The vote was as follows: Commissioner Hammer, “Aye”, Commissioner Proctor, “Aye”, Commissioner Sloan, “Aye” Commissioner Dunn, “Aye”, Commissioner Jensen, “Aye”, Commissioner Robinson, “Aye”, and Commissioner Gochis, “Aye”. The motion passed.

6. Public Hearing and Recommendation on a Land Use Map Amendment request by Godelio Palomino and Juana Cruz to re-assign the land use designation for .28 acres located at 248 North Garden Street from Medium Density Residential to Community Commercial

Mr. Aagard presented a Land Use Map amendment for the property located east of Garden Street. It is zoned R1-7. The property bares the Medium Density Residential. The applicant would like to add a laundromat and beauty salon on the property.

The Public hearing was opened.

Ken shared concerns of the buffer zone between residential and commercial areas, parking on the roads, and having commercial sharing a fence to residential property.

Glenda Palmedo shared the intention of rezoning the property. The intention was to build a home when they bought the property, but with the commercial in the area, they decided to go that direction.

Planning Commission asked the following questions:
Did any other property owners bring concerns forward?
How long ago did the buffer line occur?

Mr. Aagard addressed the Commission. No comments were received.

Mr. Baker addressed the Commission. Spot zoning used to be a concern, but it is no longer a concern. The question is if the rezone is in the City's interest. It is no longer an illegal thing to spot zone.

The public hearing was closed.

Council Member Manzione addressed the Commission. The discussion of the buffer zone may have occurred during the general plan.

Commissioner Sloan motioned to forward a positive recommendation on a Land Use Map Amendment request by Godelio Palomino and Juana Cruz to re-assign the land use designation for .28 acres located at 248 North Garden Street from Medium Density Residential to Community Commercial based on the findings and conditions listen in the staff report. Commissioner Jensen seconded the motion. The vote was as follows:

Commissioner Hammer, "Aye", Commissioner Proctor, "Aye", Commissioner Sloan, "Aye" Commissioner Dunn, "Aye", Commissioner Jensen, "Aye", Commissioner Robinson, "Aye", and Commissioner Gochis, "Nay". The motion passed.

7. Public Hearing and Recommendation on a Land Use Map Amendment request by the Tooele City RDA to re-assign the land use designation for approximately 25 acres located at approximately 450 South Tooele Boulevard from Regional Commercial to Light Industrial.

Mr. Aagard presented a Land Use Map amendment for the 25-acre parcel near Tooele Boulevard and the railroad. The property is owned by the RDA and bares the RC, Regional Commercial designation. The business that is interested in purchasing the property needs the map changed to LI, Light Industrial Zone in order to operate their business. This is a zone that allows business that do not have a large impact. A comment was received from USU expressing the noise disrupting the classes, safety of students, and the front landscape match theirs. The small piece of RC, is a City well.

The public hearing was opened.

Mr. Stewart addressed the Commission. The City is working to be mindful of the surrounding area. The interested party manufactures cables and products for Ski Resorts. They operate things indoors with internal noise. They do intend to have outdoor storage which requires a Conditional Use Permit. This is a small portion of the large 300-acre project. Light industrial will have limited impacts to the area. Landscaping requirements will be addressed making this area of the City to be unique and be esthetically appealing and a benefit to the City.

Sharlynn Mueller asked the following questions:

Will there be large trucks?

Will air brakes be restricted in this area?

Mr. Aagard addressed the Commission. The City Council can put a condition on the approval to mitigate any issues.

The public hearing was closed.

The planning Commission asked the following:

Does it need to be discussed to have a condition placed on the use of wind turbines?

Mr. Baker addressed the Commission. A wind turbine is not allowed in any of the zones today.

Commissioner Robinson motioned to forward a positive recommendation on a Land Use Map Amendment request by the Tooele City RDA to re-assign the land use designation for approximately 25 acres located at approximately 450 South Tooele Boulevard from Regional Commercial to Light Industrial based on the findings and conditions listen in the staff report. Commissioner Gochis seconded the motion. The vote was as follows:

Commissioner Hammer, “Aye”, Commissioner Proctor, “Aye”, Commissioner Sloan, “Aye” Commissioner Dunn, “Aye”, Commissioner Jensen, “Aye”, Commissioner Robinson, “Aye”, and Commissioner Gochis, “Aye”. The motion passed.

Mr. Baker addressed the Commission in regards to the Noise Ordinance.

8. Public Hearing and Recommendation on a Zoning Map Amendment request by the Tooele City RDA to re-assign the zoning for approximately 25 acres located at approximately 450 South Tooele Boulevard from the RD Research & Development zoning district to LI Light Industrial zoning district

Mr. Aagard presented a Zoning Map Amendment request by the Tooele City RDA for the property located at 450 South Tooele Boulevard. The property is zoned RD, Research and Development. The request is to rezone it to LI, Light Industrial.

The public hearing was opened. No one came forward. The public hearing was closed.

Commissioner Gochis motioned to forward a positive recommendation on a Zoning Map Amendment request by the Tooele City RDA to re-assign the zoning for approximately 25 acres located at approximately 450 South Tooele Boulevard from the RD Research & Development zoning district to LI Light Industrial zoning district. Commissioner Dunn seconded the motion. The vote was as follows: Commissioner Hammer, “Aye”, Commissioner Proctor, “Aye”, Commissioner Sloan, “Aye” Commissioner Dunn, “Aye”, Commissioner Jensen, “Aye”, Commissioner Robinson, “Aye”, and Commissioner Gochis, “Aye”. The motion passed.

9. City Council Reports

There was not a City Council meeting held last week. There is nothing to report.

10. Review and Approval of Planning Commission Minutes for the meeting held on March 22, 2023.

There were no changes to the minutes.

Commissioner Jensen motioned to approve the minutes. Commissioner Robinson seconded the motion. The vote was as follows: Commissioner Hammer, “Aye”, Commissioner Proctor, “Aye”, Commissioner Sloan, “Aye” Commissioner Dunn, “Aye”, Commissioner Jensen, “Aye”, Commissioner Robinson, “Aye”, and Commissioner Gochis, “Aye”. The motion passed.

11. Adjourn

Chairman Hamilton adjourned the meeting at 8:15 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 10th day of May, 2023

Tyson Hamilton, Tooele City Planning Commission Chair

TOOELE CITY CORPORATION

ORDINANCE 2023-24

AN ORDINANCE OF TOOELE CITY AMENDING THE TOOELE CITY PERSONNEL POLICIES AND PROCEDURES MANUAL.

WHEREAS, Section 40 of the Tooele City Policies and Procedures manual (the "Manual") provides that the Manual "may be amended by the two-thirds vote of the Policies and Procedures Recommendation Committee and the subsequent approval of the Mayor and City Council" by ordinance of the City Council; and,

WHEREAS, the Policies and Procedures Recommendation Committee has studied, prepared, solicited employee comment regarding, and voted to recommend amendments to the Manual, namely:

- Section 2: Equal Employment Opportunity & Workplace Accommodations. Editorial revisions noting City compliance with new legislation: Federal Pregnant Workers Fairness Act (PWFA) and Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act. The provisions required under these laws were already required under Utah State law. (Exhibit A)
- Section 14: Outside Employment. Editorial revisions. (Exhibit B)
- Section 29: Benefits. Removes part-time Council Members' ability to participate in the Tooele City Group Health or Waiver program; clarifies hour calculation for variable hour employees Patient Protection and Affordable Care Act (PPACA) eligibility to include all hours paid (even if not worked); adds cash-in-lieu/waiver information to policy and makes editorial revisions to Section 125 plan narrative; adds information regarding Health Savings Plan (HSA) eligibility and employer contributions; makes revisions to the Utah Retirement System benefit regarding Tier 2 benefit protection contracts to comply with Utah State law requiring benefit protection for sworn police officers and firefighters whose line-of-duty long-term disability benefits extend beyond workers compensation, if applicable; and, includes information regarding eligibility for exemption from vesting requirements of the Tier 2 plan for certain eligible employees. (Exhibit C)
- Section 30: Retiring & Retiree Benefits. Modifies the Public Safety Mental Health Retiree Benefit provision due to changes to Utah Code Title 54, Chapter 21 passed in the 2023 legislative session including expansion of coverage to certain non-sworn positions; clarifies that Tooele City will comply with the provisions of the law by providing eligible retirees with mental health benefits through Tooele

City's Employee Assistance Program for three years following their date of retirement and thereafter with access to a peer support specialist/program if requested. (Exhibit D)

WHEREAS, the Mayor has approved the amendments recommended by the Policies and Procedures Recommendation Committee; and,

WHEREAS, the Administration distributed the proposed policy amendments via e-mail to all City employees, received oral and written comments to the proposed amendments, and incorporated as many comments as deemed possible and appropriate for the City's business needs; and,

WHEREAS, the Administration and Council find that the amendments are in the best interest of Tooele City Corporation and its employees; and,

WHEREAS, subsequent to the adoption of the above-listed amendments, Kami Perkins, Tooele City Human Resources Director, will make reasonable efforts to inform all employees of the amended policies, and the new policies will be placed on the City website for employee and public access:

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

1. the Tooele City Policies and Procedures Manual is hereby amended as set forth in Exhibits A through E;
2. the revisions shall take effect June 25, 2023, and,
3. previous versions of the amended provisions of the Tooele City Policy and Procedures Manual shall be repealed and superseded upon the amendments in this Ordinance taking effect.

This Ordinance is necessary for the immediate preservation of the peace, health, safety, or welfare of Tooele City and shall become effective upon passage or otherwise, as indicated above, 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 _____, 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

EQUAL EMPLOYMENT OPPORTUNITY & WORKPLACE ACCOMODATIONS

Revised ~~December 2022~~ July 2023

SECTION: 2

A. EQUAL EMPLOYMENT OPPORTUNITY

Tooele City's goal is to foster a workplace culture that values diversity and provides equal opportunities in all aspects of employment. To help achieve this, all employees are expected to comply with:

1. Title VII of The Civil Rights Act of 1964, as amended, the Age Discrimination Act, as amended, and the Utah Antidiscrimination Act, as amended, and not discriminate in employment opportunities or practices on the basis of: race, color, religion, sex, pregnancy, pregnancy-related conditions, childbirth, national origin, age, if the individual is 40 years of age or older, gender identity, or sexual orientation;
2. The Equal Pay Act and not base pay decision on the basis of race, color, religion, sex, national origin, age, or disability. Tooele City policies provide those employees be compensated on the basis of equal pay for equal work;
3. The Americans with Disabilities Act of 1990 (ADA), as amended, and the Utah Antidiscrimination Act, as amended, and not discriminate against any individual with a disability in the admission or access to, employment, work programs, or activities;
4. The Genetic Information Nondiscrimination Act of 2008 (GINA) and not use genetic information of an individual in the hiring process or to affect the terms, conditions, privileges, benefits, or termination of employment unless there is a legitimate job related need that is consistent with business necessity or as otherwise mandated by law. Tooele City will not require collection or disclosure of genetic information prior to a conditional offer of employment. "Genetic information" is information about genes, gene products or inherited characteristics that may derive from the individual or a family member;
5. The Uniform Services Employment and Reemployment Rights Act and not deny initial employment, reemployment, promotion, or any benefit of employment to a person who is obligated to perform in a uniformed service;
6. Titles VI and VIII of the Civil Rights Act of 1964 and not excluded individuals from participating in, be denied the benefits of, or be otherwise subjected to discrimination on the grounds of race, color, or national origin, under any program or activities for which Tooele City has received any federal financial assistance; and,
7. Any other law that provides for non-discrimination or equal opportunity.

EQUAL EMPLOYMENT OPPORTUNITY & WORKPLACE ACCOMODATIONS

Revised ~~December 2022~~ July 2023

SECTION: 2

B. WORKPLACE ACCOMODATIONS

1. Tooele City provides reasonable workplace accommodations in the following circumstances:
 - a. Religious Accommodation. Tooele City respects the sincerely held religious beliefs and practices of all employees and will make, on request, a reasonable accommodation(s) for such observances when a reasonable accommodation is available and does not create an undue hardship for the City. *Title VII & Utah Antidiscrimination & Workplace Accommodation Act*
 - b. Disability Accommodation. Tooele City recognizes some qualified individuals with disabilities (meaning the employee has a mental or physical impairment substantially limiting one or more of the major life activities) may need reasonable accommodation to perform the essential functions of his/her position, to make the workplace readily accessible and usable for the employee, or to otherwise allow the employee to enjoy equal benefits and privileges of employment. Tooele City will make, on request, a reasonable accommodation when doing so does not create an undue hardship to the City. ~~Americans'~~ Americans with Disabilities Act, as amended
 - c. Pregnancy Accommodation. Tooele City will make, on request, a reasonable accommodation(s) to qualified individuals related to pregnancy, childbirth, or related conditions when a reasonable accommodation is available and does not create an undue hardship for the City. *Utah Antidiscrimination & Workplace Accommodation Act & Federal Pregnant Workers Fairness Act (PWFA)*
 - d. Breastfeeding Accommodation. Unless compliance would create an undue hardship, Tooele City will, on request, provide for at least one year after the birth of a public employee's child: reasonable breaks (see Section herein for information regarding paid vs. unpaid break) for each time the public employee needs to breast feed or express milk; a room or other location, other than a bathroom or toilet stall, that is clean and sanitary, provides privacy shielded from view of and intrusion from coworkers or the public, and that has an outlet; and a reasonable means of storage. The City is not required to permit an employee to have the employee's child at the workplace for purposes of accommodation. *Utah Antidiscrimination & Workplace Accommodation Act and Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act*
2. To request an accommodation consideration, employees should discuss the circumstances with his/her supervisor or contact the City's Human Resource Director to begin the discussion/interactive process. This may include discussing specific needs, limitations, and possible accommodations that may be needed. Tooele City reserves the right to require documentation or more information to

EQUAL EMPLOYMENT OPPORTUNITY & WORKPLACE ACCOMODATIONS

Revised ~~December 2022~~July 2023

SECTION: 2

assist us in evaluating accommodation requests including, but not limited to, verification from religious leaders or medical providers; guidance from job accommodation consultants and advocates; and tools available under the Family and Medical Leave Act including obtaining 1st, 2nd, and 3rd opinions.

C. FEDERAL CONTRACTS

In employing persons to carry out a federal contract, Tooele City, when contracting with the United States, will take affirmative action to employ and advance in employment qualified disabled individuals and qualified disabled veterans and veterans of the Vietnam era.

D. FILING A COMPLAINT OF DISCRIMINATION OR FAILURE TO REASONABLY ACCOMMODATE WITH TOOEELE CITY

1. An employee who believes he/she has been discriminated against or that the City has failed to provide a reasonable accommodation in violation of this Section or law may file a discrimination complaint with Tooele City pursuant to Tooele City's Grievance Procedure herein this Manual; or,
2. An employee who believes that the nature of the complaint is harassment or retaliation may instead choose to file a complaint pursuant to Tooele City's Anti-Harassment policy (i.e. Sexual and Other Forms of Harassment) herein this Manual.

OUTSIDE EMPLOYMENT
Revised ~~December 2022~~ July 2023

SECTION: 14

A. POLICY

1. Employees may engage in employment outside of their City work hours if such employment:
 - a. Does not interfere with the proper and effective performance of their official duties or adversely affect their independence of judgment in the exercise of ~~their~~ official~~those~~ duties;
 - b. Does not have the potential to impair physical and mental capability of the employee to perform their official duties nor have the potential to create a safety ~~concern~~ risk (such as insufficient sleep, etc.); and,
 - c. Does not present actual or potential conflict of interest for the employee or Tooele City.
2. Employee must give priority to their employment with Tooele City.
3. The Police Department Policies & Procedures Manual may provide additional information regarding outside employment of sworn law enforcement officers.

B. DEFINITIONS

For purposes of Section, “outside employment & employed/employment” means the receipt of wages, compensation or other consideration of value from another employer, organization, or individual other than Tooele City for services, product(s) or benefits rendered. It also includes those employees who are self-employed, and/or have a substantial interest or ownership in a business. This does not include volunteer services.

C. DISCLOSURE REQUIREMENTS

The Utah Municipal Officers’ and Employees’ Ethics Act, as amended, requires public officials and employees of the municipality to make certain disclosures both prior to and annually thereafter certain actions. Outside employment, in some circumstances, falls under this requirement. (See Section 0: Ethics & Conflicts of Interest herein this Manual)

To comply with State Code and ensure compliance with Tooele City’s Outside Employment policy, employees considering or engaged in outside employment shall complete and submit to their department head the Outside Employment Disclosure Form which provides certification that the outside employment complies with State Code and this policy.

Employees shall submit a new Disclosure if the circumstances relevant to the original disclosure change.

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D. DENIAL OR REVOKATION OF PRIOR APPROVAL

In the event Tooele City determines that outside employment does not comply with State Code or this policy, a statement of the reason and/or notice of policy violation shall be given to the employee.

Tooele City reserves the right to revoke any previous approval at any time. Notice of revocation shall be provided to the employee in writing with an explanation.

E. WORKING OUTSIDE EMPLOYMENT WHILE ABSENT FROM TOOEELE CITY

Employees should reference appropriate policies regarding paid leave benefits to determine any limitation on use of paid leave benefits while working outside employment.

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A. PURPOSE

1. The purposes of this Section are to:
 - a. Provide employees with some information about the Tooele City benefit package;
 - b. Summarize employee benefit eligibility;
 - c. Establish City policy regarding certain elements of the benefit package; and,
 - d. Comply with federal notification requirements.
2. This Section does not:
 - a. Establish a contract with employees regarding future benefit coverage or eligibility. Tooele City reserves the right to change, modify, and/or otherwise discontinue the benefit package for any or all employees at any time in the future (See Section 0: About This Manual, or as amended, herein this Manual for more information on contractual limitations);
 - b. Provide employees with specific information about all benefits. Tooele City utilizes third-party benefits administrators for many of the benefits offered to employees. In cooperation with the Tooele City human resource department, the third-party administrator will make available summary plan descriptions and employee information. This information can be obtained from the human resource department, by contacting the insurance provider's customer service, or through various websites. Additional Sections in this Manual may also provide more detailed information regarding specific benefits;
 - c. Provide a guarantee of benefit coverage, payment, or any other term or condition that is otherwise determined by a benefit provider. Benefits may change as providers, rules, or plans change. In the event of a conflict between this Section and the insurance providers' documents or contracts, the providers' documents or contracts will prevail; and,
 - d. Provide important detailed information regarding benefits. These documents are available from the human resource office, directly from the insurance provider, or through providers' websites.

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B. BENEFIT ELIGIBILITY

Benefit eligibility is determined by the employee's employment status, schedule status, and benefit provider contracts. In general, eligibility is as follows:

Full-Time Employees			
	Full-time Regular or Appointed		Full-time Mayor
	40 Hours	30-39.75 Hours	
401K	Yes	Yes	Yes
Annual Leave	Yes	Prorated	N/A
Dental	Yes	Yes	Yes
EAP Program	Yes	Yes	Yes
Flexible Spending Account	Yes	Yes	Yes
Holiday Pay	Yes	Prorated	N/A
IRA/Roth IRA	Yes	Yes	Yes
Leave, Misc. Paid – Funeral, Jury & Witness, and Military	Yes	Prorated	N/A
Life Insurance & AD&D	Yes	Yes	Yes
Long-term Disability	Yes	Yes	Yes
Medical – Health Insurance or Waiver payment -in lieu of coverage if evidence of other coverage is provided to Tooele City	Yes	Yes	Yes
Short-term Disability	Yes	Yes	No
Sick Leave	Yes	Prorated	N/A
	Yes	Yes	Yes
State Retirement Benefits			
Vision	Yes	Yes	Yes
Wellness/Recreation Pass	Yes	Yes	Yes
Worker's Compensation	Yes	Yes	Yes

Prorated = Benefits are prorated as percentage of hours worked as compared to a 40 hour schedule. See specific policies regarding paid leave and holiday for additional information.

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(BENEFIT ELIGIBILITY CONTINUED)

Part-time Employees				
	Part-time Regular or Appointed		Part-time Elected Officials	
	20-29.75 hours	1-19.75 hours	Part-time Mayor	Part-time Council Member
401K	Yes but no City Contribution	Yes but no City Contribution	Yes	Yes
Annual Leave	Prorated	Prorated	No	No
Dental	No	No	Yes	Yes
EAP Program	No	No	Yes	Yes
Flexible Spending Account	Yes	No	Yes	Yes
Holiday Pay	Prorated	Prorated	N/A	N/A
IRA/Roth IRA	Yes	Yes	Yes	Yes
Leave, Misc. Paid – Paid – Funeral, Jury & Witness, and Military	Prorated	Prorated	N/A	N/A
Life Insurance & AD&D	No	No	Yes	Yes
Long-term Disability	Yes	No	Tier 1 = Yes, If salary meets URS eligibility criteria	
			Tier 2 = No	
Medical – Health Insurance, or Waiver payment -in lieu of coverage if evidence of other coverage is provided to Tooele City	No <i>*See Variable Hour Employee Table for calculation of eligibility due to PPACA, if deemed applicable to a part-time employee)</i>	No	Yes	Yes No <i>*Council policy change effective July 2023 and moved waiver equivalent to compensation.</i>
Short-term Disability	No	No	No	N/A
Sick Leave	Prorated	Prorated	N/A	N/A
State Retirement Benefits	Yes	No	Tier 1 = Yes, If salary meets URS eligibility criteria	
			Tier 2 = No, but equivalent URS rate is put into 401k plan as defined in this Section	
Vision	No	No	Yes	Yes
Wellness/Recreation Pass	No	No	Yes	Yes
Worker's Compensation	Yes	Yes	Yes	Yes

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Prorated = Benefits are prorated as percentage of hours worked as compared to a ~~40 hour~~40-hour schedule. See specific policies regarding paid leave and holiday for additional information.

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(BENEFIT ELIGIBILITY CONTINUED)

Variable Hour Employees Contingent: Temporary, Seasonal, Cyclical, or On-call	
401K	Yes, may make personal contributions but not eligible for any City Contribution
IRA/Roth IRA	Yes, may make personal contributions
Medical – Health Insurance	<p>No, except an employee may become eligible pursuant to the Patient Protection and Affordable Care Act (PPACA) which requires coverage if an employee's average workweek was greater than or equal to 30 hours/week following certain measurement periods. Tooele City has adopted the PPACA Safe Harbor provision for calculating the average workweek for variable hour employees as it applies to PPACA. The average workweek will be calculated as follows:</p> <p>New Hires - A newly hired employee's average workweek will be calculated following an Initial Measurement Period of 12-month from date of hire. It will be calculated by adding all hours paid (even if not worked) hours worked + overtime hours + comp time paid, and dividing the sum by 52. If the employee is deemed eligible, an administrative period will be applied from the end of the initial measurement period through the end of the second full pay period beginning after the end of the initial measurement period to provide time to facilitate enrollment. The employee remains eligible for coverage for a 42-month 12-month Stabilization Period provided employee premiums are paid and the employee remains an employee, or is on seasonal layoff status on payroll and employee premiums are paid.</p> <p>Ongoing - Once the Initial Measurement Period has passed, employee's future eligibility will be determined pursuant to the City's Standard Measurement Period which coincides with the City's fiscal budget preparation each year. The average workweek will be calculated by adding all hours paid (even if not worked) worked + overtime hours + comp-time paid during the period of April 1st of the prior year and March 31 of the current year, and dividing the sum by 52. If the employee is deemed eligible pursuant to PPACA, an administrative period will be applied from April to June 30 to provide time to facilitate enrollment. Coverage becomes effective July 1 and the employee remains eligible for coverage for a 42-month 12-month Stabilization Period (the fiscal year) provided employee premiums are paid and the employee remains an employee, or is on seasonal layoff status on payroll and employee premiums are paid. Future eligibility will be determined by recalculating the Standard Measurement Period each respective year.</p> <p>Tooele City's Cash-in-Lieu (Health Insurance Waiver) Payment is not available to Variable Hour employees who become eligible for health insurance coverage due to PPACA but decline coverage.</p> <p>Plan eligibility and premiums are established with each fiscal year budget.</p>
State Retirement	No
Worker's Compensation	Yes
No other benefits are offered to variable hour employees.	

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C. SECTION 125 / FLEX / CAFETERIA PLANS

Pursuant to Section 125 of the Internal Revenue Code, Tooele City has adopted plans which provide employees an opportunity to choose between cash and receiving certain qualified benefits on a pretax basis. Pretax means an amount is withheld from an employee's gross pay before any taxes are calculated. These deductions reduce employee's taxable income meaning they owe less income taxes. At the end of the year, an employee's W-2 statement will show the reduced net amount of salary for purposes of computing taxes. Because Social Security taxes are reduced, some employees might experience a slight reduction in Social Security benefits when they become eligible to receive them.

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Tooele City utilizes a third-party benefits administrator. In cooperation with Tooele City human resource department, the third-party administrator will make available rules, guidelines, and information pertaining to the Plan. Plan documents for the following plans can be obtained from the human resource department and may change as plan guidelines change, tax laws, and/or administration guidelines change:

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C. Premium Only Plan. PREMIUM ONLY PLAN

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1. Pursuant to Section 125 of the Internal Revenue Code, Tooele City has adopted a Premium Only Plan which This plan allows employees to participate in the City's certain medical, dental, accident, vision, or other benefit programs allowable under the Code, and to pay their required portion of the eligible premium with pre-tax dollars. insurance premiums to be excluded from the employees' income for tax purposes. Eligible employees are automatically enrolled in the Section 125 Premium Only Plan. If an employees desire not to participate in this component, they may do so by signing a declination form available from the human resource office.29

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2. **FLEX /Cafeteria Health Care Reimbursement Account.** This plan allows eligible employees to make contributions to a special account pre-tax and the contributions can then be used to pay for certain out-of-pocket health care costs such as co-payments, deductibles, co-insurance and other eligible expenses incurred during the Plan Year. The Plan Year is July 1 to June 30. Employees may participate in the Flexible Spending Health Care Reimbursement Account Plan by completing an enrollment form each Plan Year. The Plan Year election amount is pre-funded to the employee's Health Care Reimbursement Account at the beginning of the Plan Year and equal installments are withheld each pay period from the employee's paycheck. Once enrolled, an employee may not make a change during the Plan Year unless the employee has a qualifying life event. The maximum allowed contribution for medical reimbursement is set by the IRS each calendar year. Any money employees elect to have deducted and deposited into the Cafeteria Health Care Reimbursement Account, in excess of the IRS allowed rollover amount, are forfeited if an employee is unable or chooses not to claim it within the plan claim period guidelines.

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3. **Limited FLEX /Cafeteria Health Care Reimbursement Account.** This plan differs

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from the FLEX/Cafeteria Health Care Reimbursement Account in that contributions are limited to non-health care related expenses such as dental and vision only. The Limited FLEX is generally used by employees who participate in a Health Savings Account and are therefore not eligible for the full benefits of the regular FLEX/Cafeteria Health Care Reimbursement Account.

4. **FLEX / Cafeteria Cash-in-Lieu/Waiver.** This plan allows eligible employees to elect to receive cash-in-lieu of participating in a Tooele City group health insurance plan. Tooele City's plan is a "qualified plan." Employees may participate in the Cash-in-Lieu/Waiver Plan by completing an enrollment form and attaching proof of other qualifying coverage each Plan Year. The Cash-in-Lieu payment is made in two equal installments the first pay period of June and the first pay period of July and is prorated for situations such as new hire, termination, or change in health insurance eligibility. Employees covered under Medicare or Medicaid are not required to enroll in Tooele City's group health insurance but are ineligible for participation in the FLEX Cash-in-Lieu/Waiver program as these programs prohibit employers from offering a cash incentive for not enrolling an otherwise eligible employee in their group health insurance plan. The cash is taxable income (unlike other Section 125 benefits) and is not retirement eligible wages.

5. **FLEX / Cafeteria Dependent Care Reimbursement Account.** This plan allows eligible employees to make contributions to a special account pre-tax and the contributions can then be used by an employee to pay for qualified dependent care expenses incurred during the Plan Year. The Plan Year is July 1 to June 30. Employees may participate in the Flexible Spending Dependent Care Reimbursement Account Plan by completing an enrollment form each Plan Year. The Plan Year election amount is NOT pre-funded to the employee's Dependent Care Reimbursement Account. Equal installments are withheld each pay period from the employee's paycheck and deposited to their Flexible Spending Dependent Care Reimbursement Account no later than once per month. Once enrolled, an employee may not make a change during the Plan Year unless the employee has a qualifying life event. The maximum allowed contribution for dependent care reimbursement is set by the Internal Revenue Service each calendar year. Any money employees elect to have deducted and deposited into the Dependent Care Reimbursement Account, in excess of the IRS allowed rollover amount, are forfeited if an employee is unable or chooses not to claim it within the plan claim period guidelines.

D. FLEXIBLE SPENDING ACCOUNT (FSA)

Pursuant to Section 125 of the Internal Revenue Code the Flexible Spending Plan includes dependent care reimbursement and medical reimbursement components. Eligible employees may obtain tax-advantaged opportunities by paying for eligible expenses with pre-tax dollars.

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1. ~~Dependent Care and Medical Reimbursement. Eligible employees may participate in the Flexible Spending Dependent Care or Medical Plan by completing an enrollment form each Plan Year. The Plan Year is July 1 to June 30 of each fiscal year. Once enrolled, an employee may not make a change during the Plan Year unless the employee has a qualifying life event. The maximum allowed contribution for dependent care or medical reimbursement is set by the Internal Revenue Service each calendar year.~~

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2. ~~Plan Administration. Tooele City utilizes a third-party benefits administrator. In cooperation with Tooele City human resource department, the third-party administrator will make available rules, guidelines, and information pertaining to the Plan. This information can be obtained from the human resource department and may change as plan guidelines change, tax laws, and/or administration guidelines change.~~

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E.D. HEALTH SAVINGS ACCOUNT (HSA)

Tooele City has adopted a Health Savings plan option for eligible employees who are:

- Enrolled in a qualifying high deductible plan;
- Have no other insurance coverage other than those specifically allowed by the IRS (i.e. another qualifying high deductible health plan); and,
- May not be claimed as a dependent on someone else's tax return.

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Employees are encouraged to consult with a tax advisor about eligibility and tax implications relative to participating in the Health Savings Account.

Such accounts are individual trusts or custodial accounts, each established and maintained by the employee with a qualified trustee/custodian. Tooele City will withhold contributions from the employee's paycheck and forward the contributions to the trustee/custodian on behalf of the employee. Tooele City may make an employer contribution to eligible employee's HSA accounts as determined during the fiscal year budget process.

The employee is responsible for using their account in compliance with all IRS regulations. Review plan documents for using HSA funds for dependent expenses.

~~–Tooele City utilizes a third-party benefits administrator to assist with administering the HSA account. In cooperation with Tooele City human resource department, the third-party administrator will make available rules, guidelines, and information pertaining to the Plan. This information can be obtained from the human resource department and may change as plan guidelines change, tax laws, and/or administration guidelines change.~~

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~~F.E.~~ UTAH STATE RETIREMENT PLAN

1. The Utah State Retirement program laws and regulations determine which retirement plan an employee is enrolled in. In summary, the plans are:
 - a. Tier 1 *(For employees enrolled in the Utah State Retirement System prior to July 1, 2011)*
 - 1) Public Employees' Contributory Retirement Plan
 - 2) Public Employees' Non-Contributory Retirement Plan
 - 3) Public Safety Employees' Non-Contributory Retirement Plan
 - 4) Firefighter's Non-Contributory Retirement Plan

Tier 1 plans include a benefits protection contract between the Utah State Retirement Office and Tooele City that provides for continued service accrual in the event of a period of leave that is covered by worker's compensation insurance, Tooele City's group short-term disability insurance, or Tooele City's group long-term disability insurance, when approved for applicable benefit coverage.

- 5) Exemption from participation. Elected officials and appointed department heads eligible for enrollment in the Tier 1 Utah State Retirement System plan may file a formal request for exemption from membership in the retirement plan. In such cases, Tooele City will contribute to the employee's 401(k) plan, an amount equivalent to the Utah Retirement System's Total Cost Rate (URS normal cost + URS amortization of UAAL) for the respective plan applicable to the employee had he/she not exempted from participation. This amount is subject to change each year and is based on the rates established by the Utah Retirement System. This contribution must be included with any other Employer's 401(k) contributions in meeting the Internal Revenue Service (IRS) contribution limitations and therefore, may be limited if IRS limitations apply.

Employees who exempt from participation in Tier 1 plans are not covered by benefit protection with the Utah State Retirement System. Tooele City, by policy, however, provides for continued benefit contributions in the event of a period of leave that is covered by short-term disability insurance and for a period of up to 3 months when leave is covered by worker's compensation insurance. In the event such employee is approved for long-term disability benefits (LTD) or the leave exceeds 3 months, benefit continuation/contributions will cease at the end of the pay period following LTD benefit approval or the ~~3-month~~ 3-month maximum, except as required by law.

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b. Tier 2 *(For employees first entering the Utah State Retirement System after July 1, 2011)*

- 1) Public Employees' Defined Contribution Plan Only
- 2) Public Employees' Hybrid Retirement Plan
- 3) Public Safety & Firefighter Employees' Defined Contribution Plan Only
- 4) Public Safety & Firefighter Employees' Hybrid Retirement Plan

Tier 2 plans include a benefit protection contract between the Utah State Retirement Office and Tooele City that provides for continued service accrual/URS required contribution in the event of a period of leave that is covered by Tooele City's worker's compensation insurance or Tooele City's group short-term disability insurance, when approved for applicable benefit coverage.

Tier 2 plans do not include a benefit protection contract between the Utah State Retirement Office and Tooele City that provides for continued service accrual in the event of a period of leave that is covered by long-term disability (LTD); except as required by law for sworn police officers and firefighters whose line-of-duty LTD benefits extend beyond workers compensation. In the event an employee in Tier 2 plans is approved for long-term disability benefits, benefit continuation/contributions will cease at the end of the pay period in which the LTD benefits were approved and became effective.

Tier 2 plans include a benefit protection contract between the Utah State Retirement Office and Tooele City that provides for continued service accrual/URS required contribution in the event of a period of leave that is covered by Tooele City's worker's compensation insurance or Tooele City's group short-term disability insurance, when approved for applicable benefit coverage.

- 5) Exemption from Vesting. The Utah Retirement System allows certain positions to be exempt from the vesting requirements of Tier 2 plans. Tooele City has designated full-time, benefit eligible Mayoral Appointed Department Heads as eligible for exemption from the DC four-year vesting requirements if they desire. Exemption rules and limitations are complex. Employees desiring to exempt must contact the URS office to determine how exemption applies to their individual circumstances and the deadlines and method to request exemption. Tier 2 full-time elected officials are only eligible for the Defined Contribution Plan and are automatically exempt from the DC four-year vesting requirements.

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c. Tier 2 Part-time Elected Officials Equalization Benefit

Tier 2 part-time elected officials are not eligible to participate in the URS plans pursuant to Utah State law. To equalize benefits for both Tier 1 and Tier 2 part-time elected officials, Tier 2 part-time elected officials who enroll in the URS 401(k) plan will receive a City contribution that is equal to the Utah Retirement System's Tier 2 Normal Cost Rate. This amount is subject to change each year. This contribution must be included with any other Employer's 401(k) contributions in meeting the Internal Revenue Service (IRS) contribution limitations and therefore, may be limited if IRS limitations apply.

2. Due to the complexity of the plans, employees should refer to the highlights handbooks prepared by the Utah State Retirement Office regarding questions concerning the systems. Employees can also contact the Utah State Retirement Office, 540 East 200 South, Salt Lake City, Utah 84102. Their telephone number is available from the Human Resource Department.
3. In all circumstances, Utah State Retirement benefit programs will be in compliance with established law and regulations of the Utah State Retirement Office.

G.F. 401(k) PLAN

Pursuant to Section 401(k) of the Internal Revenue Code, Tooele City offers eligible employees the opportunity to participate in a 401(k) plan.

1. Plan enrollment for eligible employees is as follows:
 - a. If enrolled in John Hancock 401(k) plan before June 30, 2011.
 - 1) If prior to June 30, 2011, an employee is enrolled in the Tooele City Employees' 401(k) Plan administered by John Hancock Financial, and remains an active status employee, he/she may continue to participate in the Plan.
 - 2) Employees may elect to discontinue making any future contributions to John Hancock and enroll in and contribute to the Utah Retirement 401(k) Plan. This is a one-time change. If an employee discontinues contributing to John Hancock and instead contributes to the Utah Retirement 401(k) Plan, he/she may not change back to John Hancock at a later time. IRS regulations specify whether or not account balances may be rolled from one plan to another. Employees are advised to carefully consider their options regarding each plan prior to making a decision. Employees may not contribute to both John Hancock and the Utah Retirement 401(k) Plan.

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- b. Employees who enroll in a 401(k) plan on or after July 1, 2011 may enroll ONLY in the Utah Retirement 401(k) Plan.
2. Enrollment Date. Employees may enroll upon eligibility. There is no waiting period for enrollment in a 401(k) Plan.
3. Employee Contributions. Eligible employees may have a portion of wages deducted from his/her paycheck and deposited into the 401(k) plan. These contributions are known as employee contributions or deferrals. Employee contributions are subject to each Plan's Adoption Agreement and limitations established by the IRS.
4. City/Employer Contributions. Employer contributions (~~City Contributions~~) to employees' 401k accounts are determined each year as part of the City's fiscal budget. Employer contributions to the 401k Plan may differ based on each employee's respective Utah State Retirement (URS) plan enrollment. ~~City's~~ Employer contributions will be submitted as pre-tax traditional contributions and will be sent to the plan consistent with the employees' last employee contribution (i.e. John Hancock or URS).
5. Plan Administration and Summary Plan Descriptions. The 401(k) Plans are administered in compliance with applicable IRS code regulations, the respective adoption agreements, and the provider's policies & procedures. Summary Plan Descriptions for each 401(k) plan are available from the human resource office.
6. Self Directed Plans. Neither Tooele City, nor any employee, may provide tax, legal, investment or any other advice or consultation to any employee regarding their 401(k) plan. Any communications, information, or assistance is provided for administrative and/or educational purposes only. Employees needing tax, legal, investment, or any other advice or consultation are encouraged to seek assistance from a licensed professional of their choosing.

~~H.G.~~ HEALTH INSURANCE

1. Premiums. Premiums are established with the fiscal budget and may vary based on employment and schedule status. Failure to pay premiums by the due date may result in cancelation of coverage.
2. Automatic Enrollment/Default Plan. Employees eligible for medical insurance will be automatically enrolled in the least expensive plan offered to Tooele City employees at the time of eligibility unless the employee declines, waives, or makes another health insurance election within 60 days of eligibility.

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I. COBRA CONTINUATION COVERAGE

If a qualifying event occurs that causes an insured employee, spouse, or dependent to lose coverage under Tooele City's group health or dental plan, they have a legal right under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) to purchase a temporary extension of health coverage (herein called continuation coverage). This notice is intended to inform employees, in a summary fashion, of their rights and obligations under COBRA. Employees are encouraged to share this notice with their spouse.

1. Health, dental, or flexible spending account benefits may be continued through COBRA.
2. Employees and dependents can elect continuation coverage if one of the following qualifying events occurs:
 - a. Voluntary or involuntary termination of employment for reasons other than gross misconduct; or
 - b. Voluntary or involuntary reduction of work hours below the level required for participation in the group health and/or plan.
3. The spouse of an employee or other individual covered by Tooele City's group health care plan can elect continuing coverage if one of the following qualifying events occurs:
 - a. The death of the employee or other covered individual;
 - b. A termination of the employee's employment for reasons other than gross misconduct, or a reduction in the employee's hours of work below the level required for participation in the group health plan;
 - c. A divorce or legal separation from the employee; or
 - d. A retired employee's enrollment in Medicare.
4. The dependent child of an employee or other individual covered by Tooele City's group health care plan can elect continuing coverage if one of the following qualifying events occurs:
 - a. The death of the parent employee or other covered individual;
 - b. The termination of employment or reduction of work hours of the parent employee;
 - c. The divorce or legal separation of the parents, if this causes the dependent child to lose coverage under Tooele City's group health plan;
 - d. The enrollment in Medicare of the retired parent or employee; or
 - e. The child's loss of dependent status due to attainment of the maximum age for coverage under the group health plan.

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5. The employee or other covered individual has the responsibility to inform the Tooele City Human Resource Department of a divorce, legal separation, or a child's loss of dependent status within 60 days of the qualifying event or the date on which group coverage would be lost because of the event. If an employee fails to provide the proper notice within 60 days, continuation coverage might not be available.
6. When a qualifying event occurs, a written reminder of the right to elect continuation coverage will be sent to the address on file. There is a 60 days grace period to elect continuation coverage. If it is decided not to continue coverage, either through formal declination or lack of written response, group health insurance coverage will end effective the date of the qualifying event. If coverage is continued, the coverage will be identical to the coverage provided to similarly situated active employees and family members. If an employee had family coverage at the time of the qualifying event, family coverage or a less broad category of coverage may be elected.
7. Continuation coverage is available for up to 18 months if the qualifying event is the termination or reduction in work hours of the employee. If an employee or family member is disabled under the rules for Social Security Disability Benefits, the worker and family members are eligible for an additional 11 months of continuation coverage, for a total of 29 months. For other qualifying events, the spouse or dependent children are eligible for up to 36 months of continuation coverage. Furthermore, the 18-month period for termination or reduced work hours can be extended to 36 months for family members if a second qualifying event-for example, divorce, death, Medicare entitlement-occurs during the 18-month period. Continuation coverage can be cut short of the full coverage period when:
 - a. Tooele City no longer provides group health coverage to employees;
 - b. The premium for continuation coverage is not paid in a timely fashion;
 - c. The covered individual becomes covered or is eligible for coverage under another group health plan that does not penalize or subject the insured to restricted or limited coverage due to a preexisting medical condition;
 - d. The insured becomes entitled to Medicare;
 - e. The disabled individual is no longer defined as disabled under Social Security rules during the 11 months of extended continuation coverage.
8. There is no required evidence of insurability. However, the insured is responsible for premium payment for the coverage and is allowed a 30-day grace period for timely payments. The premium will include the portion an employee now pays, plus the amount the City contributes, plus a two percent administrative fee. At the end of the 18, 29, or 36 months of continuation coverage, the insured may be allowed to enroll in an individual conversion health plan provided under Tooele City's group health plan.
9. Questions regarding COBRA should be directed to the human resource department.

RETIRING & RETIREE BENEFITS

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A. RETIREMENT NOTIFICATION

1. Employees are asked to notify their department head and the human resource office of their intent to retire at least 90 days prior to their retirement date to allow time to facilitate insurance matters and to address staffing needs.
2. Notification to Tooele City does not constitute notification to the Utah State Retirement office or to other benefit providers. Employees must contact the Utah State Retirement office or the respective retirement plan to begin the retirement process.

B. LIFETIME PASS TO CITY RECREATION FACILITIES

An employee who retires from Tooele City Corporation as their last employer and is credited with at least 10 years of service as a Tooele City full-time regular or appointed status employee is provided a lifetime individual wellness/recreation card, the use of which is to be consistent with Section 31 herein this Manual. The pass is non-transferrable.

C. COBRA CONTINUATION COVERAGE UPON RETIREMENT

Retirees may be eligible to continue certain benefits pursuant to COBRA continuation coverage. COBRA continuation is described in Section 29: Benefits, herein this Manual.

D. HEALTH & LIFE INSURANCE FOR RETIREES & RETIREE'S DEPENDENTS

Prior to retiring, employees are encouraged to carefully evaluate their rights and responsibilities regarding continuation of health insurance or other benefits following retirement. Although it is the intent of Tooele City to maintain insurance coverage as specified below, it is understood that insurance providers may change eligibility or coverage provisions for retirees at any time. Tooele City will make reasonable effort to include coverage in negotiations with 2nd party insurance carriers; however, if such carriers refuse to provide coverage on terms deemed reasonable by Tooele City, or if coverage is not available, the provisions below are subject to change and may impact past, current, and future retirees. If coverage lapses or changes, Tooele City will make reasonable effort to notify affected retirees.

1. **Eligible Retiree.**

Some retirees are provided with health and life insurance benefits after they retire from Tooele City. For purposes of this Section, these retirees are defined as an "Eligible Retiree" and must meet the following criteria:

- a. Was not involuntarily dismissed from employment, with the exception of appointed employees;
- b. Did not voluntarily separate employment from Tooele City Corporation

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before being eligible for and electing to retire;

Example: An employee quit (did not retire from Tooele City), accepted a position with the County, worked for the County for a period of time, and retires. The employee retired from the County and is therefore, not eligible for benefits offered by Tooele City to an Eligible Retiree.

- c. Has been eligible to participate in the Tooele City health and life insurance plans for an equivalent of at least ten (10) years. Tooele City's policy regarding reinstatement of service will be used to determine equivalent and credited years should an employee encounter a break in service or changes in health/life insurance eligibility (i.e. change to part-time);
- d. Is a bona fide retiree under the Utah State Retirement System pension plan, or if participating in a 401K plan only due to Exemption or the employee elected to participate in the URS Tier 2 Defined Contribution (401k) Only Plan- is eligible to withdraw from the retiree's 401K account as an eligible retiree, penalty free, as specified by the IRS;
- e. Is not retiring under a medical retirement (i.e. long-term disability) plan;
- f. Is not an elected city council member; and,
- g. Ensures that the required premium payments are made.

2. **Earned Premium Credit (EPC).**

At the time of retirement, Tooele City will calculate an Earned Premium Credit (EPC) that will equal 1 year for every 5 full years of service as a benefit eligible employee with Tooele City. Tooele City's policy regarding reinstatement of service will be used to determine equivalent and credited years should an employee encounter a break in service or changes in health/life eligibility status (i.e. went part-time). Service credited by the Utah Retirement System for pension calculation purposes, but not actually rendered to Tooele City, is not considered service with Tooele City for purposes of the EPC calculation.

- a. The EPC represents:
 - (1) The time the City will pay for a City-sponsored single insurance plan for the Eligible Retiree, a City-sponsored Medicare Supplement Plan for the Eligible Retiree, or the Waiver Payback to an Eligible Retiree in lieu of coverage.
 - (2) The time period an Eligible Retiree is eligible to remain on the group life insurance policy and the time period Tooele City will pay

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for such plan.

- (3) The time period an Eligible Retiree is eligible to continue their group voluntary/supplemental spouse or dependent life insurance policy.

- b. If during the EPC period, an Eligible Retiree passes away, the EPC ends. There is no transferability of the EPC.
- c. If the Eligible Retiree returns to employment with the City as an active benefit eligible employee, the EPC is put on hold and the remaining EPC balance is again made available to the Eligible Retiree when no longer eligible for coverage as an active benefit eligible employee.

3. **Health Insurance.**

- a. An Eligible Retiree may remain covered under the City group health plan through their EPC, provided he/she was covered on the last day worked, is not Medicare eligible, and is under age 65. *(Tooele City modified the continuation policy effective June 2022. Eligible Retirees who were covered under the City group health plan with an expired EPC prior to this date were authorized to remain on the City group health plan until age 65 or upon becoming Medicare eligible, provided coverage remains continuous and premiums are remitted.)*
- b. At expiration of EPC, age 65, or upon becoming Medicare eligible, an Eligible Retiree may no longer remain covered under the City group health plan (COBRA eligibility may apply). Such Eligible Retirees are encouraged to contact the Utah State Retirement Office to determine if a Medicare Supplemental Insurance plan is available.
- c. Coverage may not be reinstated if an Eligible retiree at any time, declines coverage, drops coverage, or has coverage cancelled for non-payment.

4. **Life Insurance.** *(Some provisions apply to married couples both retired from Tooele City. Specific plan documents and contracts will apply and may limit the following benefits.)*

- a. An Eligible Retiree may remain covered under the City group basic life insurance plan and group basic dependent life insurance plan during their EPC, as allowed by the insurance provider.
- b. An Eligible Retiree may continue their group voluntary/supplementary employee, spouse, and dependent life coverage during their EPC, as allowed by the insurance provider.

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Once the EPC period has expired, Tooele City will maintain and pay for a \$5,000 basic life policy on the Eligible Retiree and if coverage was in effect during the EPC, a \$2,500 basic life policy on their spouse until the Eligible Retiree dies or the legal relationship ends, as allowed by the insurance provider.

- c. All dependent life coverage discontinues at the time of the Eligible Retiree's death.

E. RETIREE SICK LEAVE CONVERSION

1. There is no minimum service requirement for retiree sick leave conversion. A retiree may convert his/her sick leave provided that the employee is retiring from Tooele City and will be eligible to receive pension payments from the Utah State Retirement System or the City sponsored 401K plan(s) without IRS penalty within 30 days of separation.
2. Retiring employees may convert their sick leave as follows:

Hours of Sick Leave at Retirement	Converted Cash Payout	Convert to Purchase Years Under the Utah State Retirement System, if applicable
0 - 250 Hours	(# Hours * .05) * Hourly Rate at retirement	(# Hours * .20) * Hourly Rate at time of payment
251 - 400	(# Hours * .07) * Hourly Rate at retirement	(# Hours * .25) * Hourly Rate at time of payment
400 - 600	(# Hours * .10) * Hourly Rate at retirement	(# Hours * .30) * Hourly Rate at time of payment
601- 1000	(# Hours * .15) * Hourly Rate at retirement	(# Hours * .35) * Hourly Rate at time of payment
1001-1500	(# Hours * .20) * Hourly Rate at retirement	(# Hours * .40) * Hourly Rate at time of payment
1501 - 2000	(# Hours * .25) * Hourly Rate- at retirement	(# Hours * .45) * Hourly Rate at time of payment
2000+ up to a maximum of 2500	(# Hours * .30) * Hourly Rate -at retirement	(# Hours * .50) * Hourly Rate at time of payment

3. Special Requirements if Converting to Buy Years to Retire -

RETIRING & RETIREE BENEFITS

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- a. Retirees may provide Tooele City with documentation from the Utah Retirement Office (URS) substantiating their desire to purchase years for the purpose of retiring at a specified date. When such documentation is provided and intent to retire is official, the employee may convert his/her sick leave to a cash payment, contingent upon employee purchasing years and retiring as specified in the documentation. Payment is made to the employee within the time period required by the URS Office and the employee then remits payment to the URS office. Employee are encouraged to consult with a tax advisor and the URS office about the possibility of deferring this payment to a URS 401k plan and the possibility of in-service transfer from plan to plan at the URS level.
- b. If the employee fails to retire as committed, the employee is responsible for reversing such payment within 2 weeks and will be responsible for any taxes, fees, penalties, etc. incurred to do so.

F. PUBLIC SAFETY MENTAL HEALTH RETIREE BENEFITS

Consistent with Utah Code ~~Title 54, Chapter 21~~ Section 50, Chapter 20, Mental Health Resources for First Responders, Tooele City provides mental health resources through our Employee Assistance Program (EAP) benefits to eligible first responders and the spouses of retired first responders (Example: crime scene tech, police officers, full-time firefighter, forensic) who have retired from Tooele City on or after May 15, 2022 for three years from the date of retirement. If mental health resources are requested thereafter, Tooele City will provide mental health resources through a peer support specialist who is qualified to provide peer support services under the Act for up to three years following the request.

TOOELE CITY CORPORATION

RESOLUTION 2023-38

A RESOLUTION OF THE TOOELE CITY COUNCIL ADOPTING THE MODIFIED PUBLIC EMPLOYEES HEALTH PROGRAM (PEHP) IRC SECTION 125 CAFETERIA PROTOTYPE PLAN FOR TOOELE CITY'S CASH-IN-LIEU/WAIVER PROGRAM.

WHEREAS, in November 2021, Goldenwest Insurance notified Tooele City that they were reevaluating their ongoing administration of Section 125 Cafeteria Programs and began discussions to transition our plan administration to the Public Employees Health Program (PEHP); and,

WHEREAS, on May 18, 2022, Tooele City adopted Resolution 2022-34 the PEHP Prototype Plan documents for administration of our Section 125 Cafeteria programs; and,

WHEREAS, after adoption, Tooele City administration realized that the adopted Prototype Plan documents did not include the Cash-in-lieu/Waiver plan component which allows Tooele City the ability to provide eligible employees with the opportunity to choose between taxable Compensation and Qualified Benefits made available under or in conjunction with the Plan without impacting the favorable tax status of our group health plan premiums, as permitted by Section 125 of the Internal Revenue Code ("IRC") as amended; and,

WHEREAS, Tooele City administration worked with PEHP legal counsel to modify their Section 125 Cash-in-Lieu Cafeteria Prototype Plan document for Tooele City's Cash-in-lieu/waiver plan; and,

WHEREAS, Tooele City desires to adopt the modified Prototype Plan documents for administration of our IRC Section 125 Cash-in-Lieu Cafeteria Programs effective July 1, 2022, the date Tooele City transitioned the ongoing administration of our Section 125 Cafeteria plan to PEHP.

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the document attached as Exhibit A is duly adopted by Tooele City as the Plan Documents to be used for the administration of Tooele City's IRC Section 125 Cash-in-Lieu/Waiver Cafeteria Program.

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: _____

TOOELE CITY MAYOR

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form:

Roger Evans Baker, Tooele City Attorney

Exhibit A

IRC SECTION 125 CAFETERIA PLAN FOR
TOOELE CITY'S CASH-IN-LIEU/WAIVER
PROGRAM.

125 CAFETERIA PLAN

FOR TOOELE CITY

ARTICLE 1 PURPOSE

- 1.1 Purpose of Plan.** The purpose of the Plan is to provide Eligible Employees of Tooele City, Utah ("Employer") with the opportunity to choose between taxable Compensation and Qualified Benefits made available under or in conjunction with the Plan as permitted by Section 125 of the Internal Revenue Code ("IRC") as amended. Such Qualified Benefits shall be as described in the Benefit Programs outlined herein, which Benefit Programs are incorporated herein and form part of the Plan.
- 1.2 Effective Date.** The effective date of this Plan is July 1, 2022.
- 1.3 Source of Funds.** The Plan and Benefit Programs forming part of the Plan shall be funded and maintained by contributions from Employer.
- 1.4 Tax Compliance.**
- (a) The Plan, and certain or all of the Benefit Programs forming part of the Plan, are intended to result in favorable tax treatment to Participants, Beneficiaries or the Employer, as the case may be. The Plan is therefore intended to comply with any requirements of the Internal Revenue Code (the "Code") and regulations there under which impose conditions to such favorable tax treatment. The Plan is specifically intended to qualify as a "cafeteria Plan" under Section 125 of the Code.
- (b) To the extent that any Benefit Program or other feature of the Plan is required to satisfy a standard or other prerequisite to favorable tax treatment, the Plan is intended to facilitate and ensure compliance therewith. Notwithstanding any other terms of the Plan, as with respect to any Benefit Program subject to such prerequisites, the terms of such Benefits Program, including those relating to coverage and Benefits, are hereby intended to be legally enforceable, and each such Benefit Program is intended to be maintained for the exclusive benefit of Eligible Employees.
- (c) Each Benefit Program or other component of the Plan may be

deemed to be, and shall be treated as, a separate Plan to the extent required or permitted by law, as determined by the Plan Administrator or other legal authority. In the event a Benefit Program, or any portion thereof, is determined to have failed to comply with one or more prerequisites to favorable tax treatment as prescribed under the Code or applicable regulations, that Benefit Program or portion thereof shall be deemed to be and shall be treated as a separate benefit Plan, and the remaining Benefit programs, or portions thereof, shall not be affected by such non-compliance.

(d) The Plan is intended not to discriminate in favor of Highly Compensated Individuals as to eligibility to participate, contributions and Benefits, and to comply in this respect with the requirements of the Code. If, in the judgment of the Plan Administrator, the operation of the Plan in any Plan Year would result in such discrimination, then the Plan Administrator shall select and exclude from coverage under the Plan such Highly Compensated Individuals who are Plan Participants, and/or reduce contributions and/or Benefits under the Plan by Highly Compensated Individuals who are Plan Participants, to the extent necessary to assure that, in the judgment of the Plan Administrator, the Plan does not discriminate against any individuals.

ARTICLE 2 DEFINITIONS

When used in the Plan, certain terms are capitalized and shall have the respective meanings set forth in this Article or in certain other Articles of the Plan.

Beneficiary. “Beneficiary” means a person who is eligible to receive Benefits under a Benefit Program maintained under the Plan by reason of another individual’s active or former service with the Employer.

Benefits. “Benefits” means any amounts paid to a Participant for Qualified Benefits available from time to time under the Plan.

Benefit Program. “Benefit Program” means the Health Care Reimbursement Program, Premium Payment Plan, and the Dependent Day Care Assistance Program as set forth in this Plan.

COBRA. “COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended from time to time.

Code. “Code” means the Internal Revenue Code of 1986, as amended from time to time.

Compensation. An Eligible Employee’s “Compensation” for any Plan Year means the Compensation paid to the Eligible Employee by the Employer during that period which is currently treated as wages for income tax withholding purposes pursuant to Code Section 3401(a) (determined without regard to any rules under said Code Section that limit the remuneration included in wages based on the nature or location of the employment or the services performed), plus all other payments of Compensation to the Eligible Employee by the Employer for such period which is not included above, but which is subject to reporting under Code Section 6401(d) and 6051(a)(3), and further including amounts contributed by the Eligible Employee under a salary reduction agreement with the Employer which are excludable from taxable income under Code Section 125, 457, 402(g), and 414(h).

Dependent. Except as otherwise provided under the Plan, the term “Dependent” with respect to a Participant (or, if the Participant is married, by the Participant and Spouse) shall have the meaning of that term given by section 152 of the Code, as amended from time to time. Solely for purposes of the Medical Expense Reimbursement Program, Dependent includes a child (son, daughter, stepson, stepdaughter, or child legally adopted) of a participant, who has not attained age 27 as of the end of the taxable year, regardless of whether that child is married or meets the residency, support, and other tests described in IRC §152(c) for a dependent.

Eligible Employee. Eligible Employee means any benefit eligible Employee working for and compensated by Employer, who satisfies the eligibility requirements of the Plan as prescribed in Section 3.1 and as defined by the Employer.

Employee. For purposes of this document, Employee means an individual who works for the Employer in an **active** Employee-Employer relationship, including any elected or appointed official; is eligible to participate in the group health insurance plan offered by Employer and receives wages for employment with the Employer.

Employer. “Employer” means Tooele City, which has taken all necessary steps to adopt this Cafeteria Plan.

Enrollment. “Enrollment” shall be the period beginning on May 1st of each Plan Year and ending on June 15th of each Plan Year. In the case of an Employee who first becomes eligible to participate in a Plan after the commencement of a Plan Year, such Employee shall have sixty (60) days following the date the Employee commences work to complete the Salary Reduction agreement and deliver them to Employer.

Health Care Reimbursement Program. The “Health Care Reimbursement Program” is a Benefit Program, the terms and conditions of which are set forth in this plan document.

Highly Compensated Employee. “Highly Compensated Employee” means, with respect to any Plan year, an Employee of the Employer who meets the definition of highly compensated in Code Section 414(q) and Section 125 (b)(1) and (d), as amended from time to time.

Key Employee. A “Key Employee” is any current or former Employee of the Employer (and the Beneficiaries of such Employee) who at anytime during the determination period was an Employee that met or meets the definition of a Key Employee in Code Section 416(i)(I), as amended from time to time.

Participant. A “Participant” is a current Eligible Employee who has elected to participate and has enrolled in the Plan for the Plan Year pursuant to the procedures prescribed in Article 4.

Plan. “Plan” means the Cafeteria Plan created by this document, including all Benefit Programs hereunder, and all documents associated with the Plan or any Benefit Program.

Plan Administrator. The “Plan Administrator” is the person, committee, entity or other third party designated under Article 6.1 to serve as administrator of the Plan. In the absence of such designation, the Employer shall serve as the Plan Administrator.

Plan Year. “Plan Year” means the 12-month participation period beginning on July 1st and ending on June 30th.

Qualified Benefits. “Qualified Benefits” means a benefit under the Benefit Program[s] described herein.

Qualified Expense. “Qualified Expense” means any amount paid or

incurred by a Participant for Qualified Benefits not otherwise reimbursed under any other source.

Salary Reduction Agreement. “Salary Reduction Agreement” means a voluntary agreement whereby an Employee agrees to reduce his or her Compensation for the forthcoming Plan Year (or if the agreement becomes effective after the beginning of the Plan Year, for the balance of the Plan Year), for purposes of obtaining the Qualified Benefits offered by the Plan.

Spending Account[s]. “Spending Account[s]” means the account[s] established in the Participant’s name and which is used to record amounts allocated to a Participant for a Benefit Program and their expenditure for Qualified Benefits.

Spouse. “Spouse” means a person to whom a Participant is legally married. An individual shall be deemed to be a “Spouse” of a Participant as with respect to any expense which is payable or reimbursable under the Plan if that individual is legally married to the Participant at the time the expense is incurred.

Status Change, Family Status Change, and/or Employment Status Change. “Status Change, Family Status Change and/or Employment Change” means a change in status, family status or employment status as defined in Article 4.5 of this Plan.

ARTICLE 3 ELIGIBILITY AND PARTICIPATION

3.1 Eligibility Requirements.

- (a) Each Eligible Employee shall be eligible to become a Participant on the first day of employment.
- (b) The Eligible Employee must have other group-sponsored insurance coverage which meets the minimum essential coverage requirement of the Affordable Care Act (ACA).
 - (i) Insurance coverage that is ineligible and does not satisfy the group-sponsored insurance provision includes, but is not limited to: an individual plan, either on or off the exchange; government-sponsored Medicare; government-sponsored Medicaid; a Tricare plan that does not meet the minimum essential coverage requirement of the Affordable Care Act (ACA); health insurance provided to school/college students through a higher education program; or, coverage provided by Tooele City's group health plan as an insured on another employee's policy for reasons such as, both spouses are employed or the employee is covered under their City-employee parent's plan.
- (c) An Eligible Employee shall have thirty (30) days following the date the Employee commences work to complete the Cash-In Lieu of Health Plan/Waiver Form, provide the required proof of other qualifying coverage, and to deliver the same to Employer's Plan Administrator. If the Plan Administrator does not receive the Enrollment Waiver form within sixty (60) days of employment, the Employee shall not be eligible to participate in the Plan until the next Plan Year.

3.2 Cessation of Participation Generally. A Participant shall cease to be a Participant in the Plan as of the earliest of:

- (a) the first day of a Plan Year for which the Participant does not elect to participate in any Benefit Program;
- (b) the date a Participant ceases to be an Eligible Employee and thereafter fails to make required or voluntary contributions under the Plan; or
- (c) the date on which the Plan is terminated.

3.3 Family Medical Leave. A Participant who takes an unpaid leave of absence under the Family and Medical Leave Act of 1993 ("FMLA Leave") may

revoke election to participate under any Benefit Program offered under this Plan, for the remainder of the Plan Year in which such leave of absence commences. Such revocation shall be in accordance with such procedures as prescribed by the Plan Administrator.

ARTICLE 4

PARTICIPATION ELECTIONS PROCEDURES

4.1 Election Rights. Each Eligible Employee who has satisfied the eligibility requirements of Section 3.1 may elect to decline health insurance coverage under the Plan and instead receive a cash payment by completing and delivering a Cash-In-Lieu of Health Plan/Waiver Form as prescribed under Section 4.4. An Employee's participation status shall be renewed through the same process during open enrollment.

4.2 Payment in Lieu of Participation. Employer shall provide a contribution to Eligible Employees in a cash payment through payroll. If the Eligible Employee receives a cash payment, the cash payment shall be treated as compensation and income and will be reported on all applicable tax forms as income.

4.3 Election procedures.

(a) At least 60 days prior to the commencement of each Plan Year, the Plan Administrator shall make available to each Eligible Employee a Cash-In-Lieu of Health Plan/Waiver Form in electronic or paper form in regard to participation in the Plan for the next Plan Year. In the case of an Employee who first becomes eligible to participate in the Plan after the commencement of a Plan Year, such participation Cash-In-Lieu of Health Plan/Waiver Form shall be made available as prescribed under Section 3.1.

(b) Each Eligible Employee who desires to participate in a Benefit Program for a Plan Year shall so designate such on the Cash-In-Lieu of Health Plan/Waiver Form .

(c) To be effective for any Plan Year, a Cash-In-Lieu of Health Plan/Waiver Form must be completed and returned to the Plan Administrator or its delegate at least fifteen (15) days prior to the first day of that Plan Year. If an Eligible Employee fails to deliver a Cash-In-Lieu of Health Plan/Waiver Form to the Plan Administrator prior to the first day of a Plan Year, the Eligible Employee shall not be eligible to participate in any Benefit Program for that Plan Year.

(d) An Eligible Employee must complete and deliver a Cash-In-Lieu of Health Plan/Waiver Form to the Plan Administrator for each Plan Year for each Benefit Program in which the Eligible Employee desires to participate.

4.4 Irrevocable Status of Elections. Except as otherwise provided in this Article 4 and Article 3.3, any election made or deemed to have been made by an Eligible Employee with regard to participating or declining to participate in any Benefit Program offered within the Plan and with respect to any Plan Year shall be irrevocable for the duration of that Plan Year. During Family Medical Leave, a Participant may exercise whatever rights such Participant has under the Family Medical Leave Act and regulations promulgated thereunder as more fully set forth in Article 3.3.

4.5 Status Changes, Family or Employment Status Changes.

(a) Notwithstanding Section 4.4 above, a Participant may revoke the Cash-In-Lieu of Health Plan/Waiver Form with respect to a Benefit Program in effect for a Plan Year or, alternatively, may modify a prior election to take effect for the remainder of the Plan Year, if the revocation and the new election or modification, as the case may be, is on account of and consistent with a Status Change, Family Status Change or Employment Status Change. In this regard, a benefit election revocation or modification shall be deemed to be consistent with a Status Change, Family Status Change and/or Employment Change only if the revocation or modification is necessary or appropriate as a result of the Status Change, Family Status Change and/or Employment Change.

(b) For purposes of subsection (a) above, a “Family Status Change,” “Employment Status Change,” and/or “Status Change” as with respect to a Participant shall include the following:

- (i) the marriage, divorce or legal separation of the Participant;
- (ii) the death of the Participant’s Spouse or Dependent;
- (iii) the birth or adoption of a child of the Participant;
- (iv) the commencement or termination of employment of the Participant’s Spouse;
- (v) a change from part-time to full-time employment status (or vice versa) by the Participant or the Participant’s Spouse;
- (vi) the taking of an approved unpaid leave of absence by the Participant or the Participant’s Spouse which leave shall include entering into or returning from “uniformed service” as defined under the Uniformed Services Employment and Reemployment Rights Act

of 1994 (USERRA); or the occurrence of a special Enrollment period as defined in Section 9801(f) of the Code);

(vii) a significant change in the health coverage of the Participant or the Participant's Spouse attributable to the Spouse's employment; or

(viii) such other events that the Plan Administrator determines will permit a change or revocation of an election during a Plan Year under regulations and rulings of the Internal Revenue Service.

(c) Any new election made under subsection (a) above shall be effective at such time as the Plan Administrator shall prescribe, but not earlier than the date of the Family Status Change and/or Employment Status Change form is completed and returned to the Plan Administrator or its delegate. Status Change, Family Status Change and/or Employment Change elections must be made and received by the Plan Administrator within 30 days of when the event occurred. If the Status Change, Family Status Change and/or Employment Status Change form is not received by the Plan Administrator within 30 days of the Family Status Change, the Status Change, and/or Employment Status Change request shall be denied.

4.6 Effect of Separation from Service.

(a) Except as specifically provided under the Plan, a Participant who separates from service during a Plan Year shall not receive any additional payment during the Plan Year.

(b) A Participant whose benefit election[s] for a Plan Year are revoked under subsection (a) shall not be entitled to make any new benefit elections in regard to the remaining portion of that Plan Year of separation. A former Participant, who returns to service as an Eligible Employee within 30 days, may have the previous election reinstated for the remainder of that Plan Year. If the former Participant returns to service as an Eligible Employee after 30 days, that Employee may make a new election or resume the previous election for the remainder of that Plan Year.

4.7 Payment of Contributions While on FMLA Leave.

A Participant who takes unpaid FMLA Leave and who elects to continue participation under this Plan shall not continue to receive payment during the FMLA period.

4.8 Uniformed Service Under USERRA. A Participant who is absent from employment with the Employer on account of being in "uniformed service," as

that term is defined by the USERRA, may elect to continue participation in the Plan. The coverage period shall be in accordance with USERRA § 4317, as amended from time to time.

4.9 Changes by a Plan Administrator. The Employer may adopt such rules and take such actions as it deems necessary or desirable to assure that the various statutory or other limitations on Benefits provided to the Eligible Employees are satisfied. Such action may include a modification of any election made by a Participant as to the amount of salary reduction contributions to be made by the Participant under the Plan during a Plan Year.

ARTICLE 5 NONDISCRIMINATION AND APPEALS

5.1 Nondiscrimination. Notwithstanding any provision of the Plan to the contrary, in no event shall the aggregate amount of reimbursements or other Benefits provided to Key Employees under the Plan for a Plan Year exceed twenty-five percent (25%) of the aggregate amount of such reimbursements or other Benefits provided to all Participants for such Plan Year. The Plan Administrator may adopt such rules as it deems necessary or desirable to assure that the foregoing limitation is satisfied, including imposing restrictions on the amount of contributions a Key Employee may elect to receive under the Plan for a Plan Year. Any such rules shall be uniformly applied to similarly situated individuals.

5.2 Appeals Procedure.

(a) Any Participant or other person who believes that a benefit is then due to such person under the Plan (a "claimant"), including one greater than that initially determined by the Plan Administrator, may file an appeal in writing with the Plan Administrator.

(b) The Plan Administrator shall within ninety (90) days of the receipt of an appeal either allow or deny the appeal in writing. A denial of an appeal shall be written in a manner calculated to be understood by the claimant and shall include:

- (i) the specific reason or reasons for the denial;
- (ii) specific references to pertinent Plan provisions on which the denial is based;
- (iii) a description of any additional material or information necessary for

- the claimant to perfect the claim for the benefit believed due and an explanation of why such material or information is necessary; and
- (iv) an explanation of the Plan's claim review procedure.

(c) A claimant whose appeal is denied (or the claimant's duly authorized representative) may, within sixty (60) days after receipt of denial of the appeal:

- (i) submit a written request for review to the Plan Administrator;
- (ii) submit pertinent documents; and
- (iii) submit issues and comments in writing.

(d) The Plan Administrator shall notify the claimant in writing of its decision on review within sixty (60) days of receipt of a request for review. The decision on review shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provision on which the decision is based.

(e) The 90-day and 60-day periods described in subsections (b) and (d), respectively, may be extended at the discretion of the Plan Administrator for a second ninety (90) or sixty (60) day period, as the case may be, provided that written notice of the extension is furnished to the claimant prior to the termination of the initial period, indicating the special circumstances requiring such extension of time and the date by which a final decision is expected.

(f) A claimant may state the reason or reasons forming the basis of the Plan Administrator review to a benefit under the Plan and may submit written evidence in support of the this review made under and in accordance with the procedures set forth in this Section. Such action is not required. However, the failure to state a reason or to submit written evidence in support of a Plan Administrator review shall permanently bar the claimant from raising such reason or submitting such evidence in any forum at a later date.

(g) Participants and Beneficiaries shall not be entitled to challenge the Plan Administrator's determinations in judicial or administrative proceedings without first complying with the procedures in this Article. The decisions made pursuant to this Section are intended to be final and binding on Participants, Beneficiaries and others.

ARTICLE 6 ADMINISTRATION OF THE PLAN

6.1 Plan Administrator. The Employer has determined to act as the Plan Administrator and named fiduciary of the Plan.

6.2 Powers and Duties of Plan Administrator. Except as specifically provided otherwise, the Plan Administrator shall have final and binding discretionary authority to control and manage the operation and administration of the Plan, including all rights and powers necessary or convenient to the carrying out all of its functions hereunder, whether or not such rights and powers are specifically enumerated herein. In exercising its responsibilities hereunder, the Plan Administrator may manage and administer the Plan through the use of agents (who may include Employees of the Employer). Without limiting the generality of the foregoing, and in addition to the other powers set forth in this Article 9, the Plan Administrator shall have the following express authorities:

- (a) To construe and interpret the Plan, decide all questions of eligibility and determine the amount, manner and time of payment of any Benefits hereunder, all in the sole discretion of the Plan Administrator. Any such construction, interpretation, etc., shall be final and binding on Participants, Beneficiaries and all other persons.
- (b) To prescribe procedures to be followed by Participants in filing requests for reimbursements of proper expenses, and to authorize payment of such expense reimbursements.
- (c) To prepare and distribute, in such manner as the Plan Administrator determines to be appropriate, information explaining the Plan.
- (d) To receive from the Employer, and from Participants and Beneficiaries, such information, and to maintain records concerning such information, as shall be necessary for the proper administration of the Plan.
- (e) To furnish the Employer upon request such annual and other reports with respect to the administration of the Plan as are reasonable and appropriate.
- (f) To review and decide claims for Benefits, and the review of the denial of any such claims, pursuant to and to the extent provided in Article 7, including any interpretations of the Plan, which decisions and interpretations the Plan Administrator shall have full discretion and authority to make hereunder.

6.3 Consultation With Advisors. Except as specifically provided herein, the Plan Administrator (or any other fiduciary designated pursuant to Section 6.5) may employ one or more persons to render advice with regard to any responsibility it may have under the Plan. The Plan Administrator may consult with counsel, actuaries, accountants, physicians or other advisors (who may be counsel, actuaries, accountants, physicians or other advisors for the Employer) and may also from time to time utilize the services of Employees and agents of the Employer in the discharge of its responsibilities.

6.4 Records and Reports. The Plan Administrator and Employer shall take all such action as it deems necessary or appropriate to comply with governmental laws and regulations relating to the maintenance of records, notifications to Participants, filings with the Internal Revenue Service and U.S. Department of Labor, and all other such requirements applicable to the Plan.

6.5 Designation of Other Fiduciaries. The Employer may designate in writing other persons to carry out a specified part or parts of the Plan Administrator's responsibilities hereunder (including the power to designate other persons to carry out a part of such designated responsibility); provided, however, that such designation may not include any power to manage or control assets of the Plan, or to amend the Plan. Any such designation must be accepted by the designated person, who shall acknowledge in writing that such person is a fiduciary with respect to the Plan.

6.6 Obligations of Plan Administrator and Employers.

(a) The Plan Administrator shall make such determinations as are necessary to accomplish the purposes of the Plan with respect to individual Participants or classes of such Participants.

(b) The Employer shall notify the Plan Administrator of facts relevant to such determinations, including without limitation, length of service, compensation for services, date of death, permanent disability, granting or terminating of leave of absence, age, retirement, termination of service for any reason (but indicating such reason), and termination of participation. The Employer shall also notify the Plan Administrator of all other facts that may be necessary for the Plan Administrator to discharge its responsibilities hereunder.

ARTICLE 7 AMENDMENT OR TERMINATION

7.1 Amendment or Termination of Plan.

(a) The Employer reserves the right at any time and from time to time to amend or terminate in whole or in part any of the provisions of the Plan or Benefit Program.

(b) Any such amendment or termination shall be effective as of the date specified by the Employer. An amendment may be affected by establishment, modification, or termination of a Benefit Program by Employer. Any such amendment or termination may take effect retroactively or otherwise.

(c) In the event of a termination or reduction of Benefits under the Plan or any Benefit Program, the Plan shall be liable only for benefit payments due and owing as of the effective date of such termination or reduction, and no payments scheduled to be made on or after such effective date shall result in any liability to the Plan, the Plan Administrator, the Employer, or any agent thereof.

7.2 Form of Amendment or Termination. Any amendment or termination of the Plan or any part of the Plan shall be made by an instrument in writing, duly certified, reflecting that such change has been authorized by Employer or the Plan Administrator.

ARTICLE 8 MISCELLANEOUS

8.1 Exemption for ERISA. This Plan is exempt from the Employers Retirement Income Security Act of 1974 pursuant to 29 U.S.C. 1003(b).

8.2 No Guarantee of Employment, etc. Neither the maintenance of the Plan nor any part thereof shall be construed as giving any Participant hereunder or other Employees any right to remain in the employ of the Employer and none of the terms hereof shall be construed as an express or implied contract between the Employer and any Participant or Beneficiary. All terms and conditions of this Plan are subject to unilateral modification, or termination by Employer. No commissioner, officer, or Employee of the Employer in any way guarantees to any Participant or Beneficiary the payment of any benefit or amount that may become due in accordance with the terms of the Plan.

8.3 Required Information to Be Furnished.

(a) Each Participant and Beneficiary will furnish to the Plan Administrator such information as the Plan Administrator considers necessary or desirable for purposes of administering the Plan, and the provisions of the Plan respecting any payments hereunder are conditional upon the prompt submission by the Participant or Beneficiary of such true, full, and complete information as the Plan Administrator may request.

(b) Any communication, statement or notice to a Participant and Beneficiary addressed to the last post-office address filed with the Plan Administrator, or if no such address was filed with the Plan Administrator, then to the last post-office address of the Participant or Beneficiary as shown on the Employer's records, will be binding on the Participant or Beneficiary for all purposes of this Plan and neither the Plan Administrator nor the Employer shall be obliged to search for or ascertain the whereabouts of any Participant or Beneficiary.

8.4 Nonalienation. To the fullest extent permitted by law, Participants and Beneficiaries shall have no right to assign, transfer, hypothecate, encumber, commute or anticipate an interest in any Benefits under the Plan, and the payment of Benefits shall in no way be subject to any legal process to levy upon or attach the same for payment of any claim against any Participant or Beneficiary.

8.5 Recovery of Overpayments. Notwithstanding any other provision of the Plan to the contrary, the Plan Administrator shall be authorized on behalf of the Plan to institute or cause to be instituted action to recover an overpayment of Benefits made pursuant to the Plan to any Participant or Beneficiary as authorized by the Code.

8.6 Payment of Benefits to Persons Under Legal Disability. Whenever and as often as any person entitled to payments under the Plan shall be determined to be a minor or under other legal disability or otherwise incapacitated in any way so as to be unable to manage such person's financial affairs, or otherwise incapable of giving a valid receipt and discharge for any payment, the Plan Administrator, in its sole discretion, may direct that all or any portion of such payments be made (i) to such person, (ii) to such person's legal guardian or conservator, or (iii) to such person's Spouse or to any other person, in any manner the Plan Administrator considers advisable, to be expended for the person's benefit. The decision of the Plan Administrator shall, in each case, be final and binding upon all persons. Any payment made pursuant to the power herein conferred shall operate as a complete discharge of the obligations under

the Plan in respect thereof of the Plan, the Employer, and the Plan Administrator.

8.7 Controlling Law. To the extent not preempted by the law of the United States of America, the laws of the State of Utah shall be the controlling law in all matters relating to the Plan and shall apply.

8.8 Severability. If any provision of the Plan is held to be illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of the Plan, but the Plan shall be construed and enforced as if said illegal and invalid provision had never been included herein.

8.9 Limitations on Provisions. The provisions of the Plan and any Benefits provided by the Plan shall be limited as described herein. Any benefit payable under any other Employee Benefit Plan maintained by the Employer shall be paid solely in accordance with the terms and provisions of such Plan, and nothing in this Plan shall operate or be construed in any way to modify, amend, or affect the terms and provisions of such other Plan.

8.10 Gender and Number. Masculine gender shall include the feminine and neuter, the singular shall include the plural, and the plural shall include the singular, unless the context clearly indicates otherwise.

8.11 Headings. All article and section headings in the Plan are intended merely for convenience and shall in no way be deemed to modify or supplement the actual terms and provisions set for thereunder.

8.12 Counterparts. This Plan may be executed in several counterparts, and each shall be an original without reference to the others.

IN WITNESS WHEREOF, I certify that I have authority to do hereby execute the Plan on behalf of Employer:

Name: _____

Title: _____

Signature

Date

TOOELE CITY CORPORATION

RESOLUTION 2023-49

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING AN AGREEMENT WITH RH BORDEN AND COMPANY LLC FOR SEWER LINE TRANSMISSIVE ACOUSTICS ASSESSMENT SERVICES.

WHEREAS, the health of the Publicly Owned Treatment Works (POTW), including the sewer collection system, requires periodic inspection and maintenance, which protect the POTW, public health, and private property; and,

WHEREAS, on July 6, 2022, the City Council approved Resolution 2022-62, approving an agreement with RH Borden and Company LLC for sewer line inspection services using a technique known as transmissive acoustics, with good results; and,

WHEREAS, the Public Works Department proposes to retain RH Borden and Company LLC for additional sewer line transmissive acoustics inspection services; and,

WHEREAS, the services rendered will include inspections and reports necessary for system improvement recommendations; and,

WHEREAS, attached as Exhibit A are the agreement documents with RH Borden, in the amount of \$57,700.00 for the services described in more detail therein; and,

WHEREAS, the City Council is required by TCC Chapter 1-5 to approve all claims against the City exceeding \$30,000.00:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the Agreement attached as Exhibit A with RH Borden and Company LLC in the amount of \$57,700.00 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, City Attorney

Exhibit A

Agreement Documents



AGREEMENT

TOOELE CITY CORPORATION, a municipal corporation of the State of Utah, (hereinafter “City”), and **RH Borden and Company LLC of 2961 W Maple Loop Dr Ste 230 Lehi, Utah 84043**, a company, (hereinafter “Contractor”) enter into this Agreement on the **26th day of June, 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 Sewer Collections System Service Agreement (dated June 14, 2023), Quotation (dated March 1, 2023), and InfoSense letter (dated March 18, 2021) for transmissive acoustics assessments and manhole inspections.**
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 **\$57,700.00** 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 **September 6th, 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 \$1,000,000. Contractor shall list the City as an additional insured on endorsements issued under its liability insurance policy. Contractor shall require that all of its subcontractors list the City as an additional insured on endorsements issued under their respective liability insurance policies, with respect to the Services rendered under this Agreement.
 - 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 intentional or negligent act or omission of Contractor and/or its agents and subcontractors arising out of or related to this Agreement.
 - c. **Contractor Workers’ Compensation Insurance.** Contractor shall purchase and maintain workers compensation insurance for all of its employees. In the alternative, assuming eligibility, Contractor may obtain a Workers’ Compensation Coverage Waiver from the Utah Labor Commission. Contractor shall verify that all its subcontractors have purchased

and do maintain workers compensation insurance for their employees or have obtained an exclusion, and shall indemnify the City against claims resulting from a failure to obtain and maintain the insurance.

- d. Evidence of Contractor Insurance. Contractor shall provide written evidence of liability insurance, including all Contractor and subcontractor endorsements, 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 04/27/2023)



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



**Transmissive Acoustics Assessments
and Manhole Inspections**

This agreement made this 14 day of June 2023, by and between Tooele City with primary business address of 90 North Main Street Tooele, UT 84074 hereinafter referred to as The Customer, and RH Borden and Company, LLC with primary business address of 1659 West Cornerstone Drive, South Jordan, UT 84095, hereinafter referred to as The Provider. These parties jointly are hereinafter referred to as The Parties.

1. The Parties hereby agree to the following:

a. The Customer will provide to The Provider:

- i. Permission to open manholes and make assessments. By execution of this agreement permission is hereby granted.
- ii. A map of all manholes and sewer lines to be assessed including manhole locations and which sewer line segments are to be assessed.
- iii. Ability to access the desired manhole locations.
- iv. Traffic Control assistance for roads that are greater than two lanes or with speed limits greater than 30 mile per hour. All required traffic control permits shall be the responsibility of the Customer.

b. The Provider will conduct sewer line inspections using transmissive acoustics for the Customer as follows:

- i. Sewer line Acoustic Transmissive Inspection services as specified in ASTM F3220 – 17 “Standard Practice for Prioritizing Sewer Pipe Cleaning Operations by Using Transmissive Acoustic Inspection”. These services will be accomplished by using the systems provided by InfoSense, Inc. using equipment known as Sewer Line Rapid Assessment Tools (SL-RAT).
- ii. A detailed summary of each sewer line assessed including the following:
 - i. Unique Measurement Identification Number
 - ii. Time and Date of Measurement
 - iii. Length of pipe segment measured as measured by available Global Positioning Services (GPS).
 - iv. GPS Location of Transmitter and Receiver at the time of measurement
 - v. The Condition of the pipe will be reported on a scale including but not limited to a score of 0-10 as shown below:
 - a. 10 = Good - No significant obstructions within the pipe
 - b. 7-10 = Good – Minor impediments within the pipe such as joint offsets, partial sags, protruding laterals, debris, minor grease, and/or minor root fibers and/or other obstructions that could affect the score.
 - c. 4-6 = Impediments within the pipe such as joint offsets, partial sags, protruding laterals, debris, grease, and/or root fibers. Single or multiple occurrences and/or other obstructions that could affect the score.
 - d. 1-3 = Significant impediments within the pipe such as multiple joint offsets, near full pipe sag, multiple protruding laterals, significant debris, significant grease, significant root fibers and/or root balls. Single or multiple occurrences and/or other obstructions that could affect the score.
 - e. 0 = Full pipe sag, single or multiple obstructions within the pipe reaching or nearly reaching the flow and/or other obstructions that could affect the score.
- iii. The format of the final report shall be provided electronically as a hosted GIS dashboard.

c. The Provider will perform a visual manhole inspection for each manhole for Customer as follows:

- i. Each manhole will be visually inspected and rated as Good, Poor, or Fair for the following attributes:
 - i. Proper seating of manhole lid
 - ii. Condition of manhole collar
 - iii. Condition of overall interior manhole structure
 - iv. Condition of manhole shelf
 - v. Presence of infiltration
- ii. Data from manhole inspections shall be added as attribute data along with the acoustic assessments in the GIS dashboard.

2. In consideration of the foregoing, The Parties agree that:

- a. The Provider will ensure that all assessment equipment will be used properly, as prescribed by the manufacturer, to collect assessment data.
- b. Provider will follow the acoustic assessment process as specified in ASTM F3220 – 17 as noted above.
- c. Data provided indicates the pipe and manhole condition at the time of measurement and does not include any factors or conditions that arise after the time of the inspection.
- d. Provider does not warrant or otherwise guarantee collection system performance or structural condition.
- e. Each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence, reckless misconduct, or willful misconduct of the indemnifying Party, its employees, contractors, or agents, except to the extent such claims or damages may be due to or caused by the negligence, reckless misconduct, or willful misconduct of the other Party, or its employees, contractors, or agents. The indemnified Party will provide the indemnifying Party with prompt, written notice of any claim covered by this indemnification; provided that any failure of the indemnified Party to provide any such notice, or to provide it promptly, shall not relieve the indemnifying Party from its indemnification obligation in respect of such claim, except to the extent the indemnifying Party can establish actual prejudice and direct damages as a result thereof. The indemnified Party will cooperate appropriately with the indemnifying Party in connection with the indemnifying Party's defense of such claim. The indemnifying Party shall defend any indemnified Party, at the indemnified Party's request, against any claim with counsel reasonably satisfactory to the indemnified Party. The indemnifying Party shall not settle or compromise any such claim or consent to the entry of any judgment without the prior written consent of each indemnified Party and without an unconditional release of all claims by each claimant or plaintiff in favor of each indemnified Party.
- f. Nothing in this Agreement shall be construed to create a partnership, joint venture, or employment relationship. Notwithstanding any provision herein to the contrary, Customer assumes no responsibility for any damage or loss that may occur to Provider's property, except for willful or intentional damage to the property of Provider caused by the Customer. Customer has no responsibility for any maintenance of Provider's equipment, or for Provider's employees.

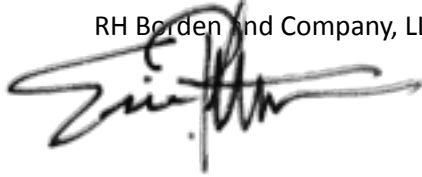
3. Customer agrees to pay Provider a standard fee of \$0.18 per foot assessed with the SL-RAT for assessment and \$10.00 per manhole that is visually inspected for services specified herein. This fee shall apply to manholes located in the main thoroughfare and with straightforward access. Manholes that are not easily accessed such as those off the main road, in easements, back yards, alley ways, fields or other such difficult to access locations shall be charged an additional rate of \$10.00 per manhole when the manhole. The Provider will make a reasonable efforts to locate and access all manholes to conduct the inspection. If one or more manholes are buried, unknown, blocked, on private property or for any reason inaccessible, the Provider will skip the assessments of these segments and communicate the manhole status to the Customer. The Customer shall have the option to locate the manholes themselves and relay this information to the Provider to perform the assessments. If the Provider's attendance is requested as the manholes are being located, the Customer agrees

to pay a wait fee of \$150.00 per hour while the customer locates and makes the manhole(s) accessible.

4. The term of this agreement shall be for 3 years following the first date of service. During the term Provider shall conduct acoustic assessments each year and provide results to Customer.
5. The Parties agree that this Service Agreement constitutes the entire agreement and understanding between them and supersedes any other written or oral agreement now in place pertaining to this subject. It is understood that this agreement is legally binding upon each Party, their successors, and assigns. Any change or modification hereto may only be made in writing and agreed to by an officer or owner of each Party.

In agreement hereof and in recognition that we are authorized to execute agreements for our respective Party, we hereto set our signatures:

RH Borden and Company, LLC Tooele City



by _____

June 14, 2023 Date _____

RH Borden and Company LLC
2961 W Maple Loop Dr Ste 230
Lehi, UT 84043 US

Quotation

ADDRESS

Jamie Grandpre
Tooele City
90 North Main Street
Tooele, UT 84074

QUOTATION # 1877

DATE 03/01/2023

EXPIRATION DATE 09/01/2023

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	Acoustic Assessment Service - UT TD	Acoustic assessment of sewer line pipes utilizing Transmissive Acoustic Inspection Rapid Assessment Technology (SL-RAT). Service includes full assessment of designated pipes and delivery of assessment data in RH Borden Online ArcGIS Dashboard with additional ability to download data in .csv and .shp formats. Final cost based on actual footage assessed.	265,000	0.18	47,700.00
	Level 1 Manhole Inspection - UT TD	Manholes will be assessed and prioritized based on manhole condition and incorporated into acoustic assessment data set. Manhole assessments will include a 3-point risk scale (Low, Medium, High) across 5 sections of the manhole (Lid, Collar, Main Body, Trough, Overall Condition). Data captured and included in RH Borden Online ArcGIS Dashboard with filtering and reporting capability. Final cost based on actual number of manholes assessed.	1,000	10.00	10,000.00

YEAR 2 OF 3

TOTAL

\$57,700.00

Accepted By

Accepted Date



InfoSense, Inc.
Innovating Acoustic Inspection Technology

877-PIPECHIK (877-747-3245)
www.infosense.com

8116 South Tryon Street
Suite B3-203
Charlotte, NC 28273 USA

March 18th, 2021

To Whom It May Concern:

InfoSense, Incorporated in Charlotte, North Carolina is the sole supplier manufacturer, and distributor of the Sewer Line Rapid Assessment Tool or SL-RAT[®] and its supporting software the Sewer Line Data Organizer or SL-DOG[®]. RH Borden and Company LLC is the exclusive manufacturer's representative for the states of Utah, Idaho, Arizona, Nevada, and Wyoming. You may contact RH Borden and Company LLC at (385) 228-5350 or email Jon Borden at jon.borden@rhborden.com.

The SL-RAT[®] line of acoustic pipe inspection equipment is patent-protected under U.S. Patent #8220484 and other pending patents. InfoSense manufactures the only product that uses Active Acoustic transmissions between a transmitter and a receiver in adjacent pipes to provide an aggregate blockage assessment.

The SL-RAT[®] makes use of the fact that water and air flow similarly within a pipe. Our proprietary algorithms exploit this fact to assess blockage within a pipe segment – typically within 3 minutes or less and with no flow contact.

Sincerely,

Alex Churchill
CEO
InfoSense, Inc.
Past Winner WEF Innovative Technology Award

TOOELE CITY CORPORATION

RESOLUTION 2023-50

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING AN AGREEMENT WITH TECSERV, INC. FOR COMPUTER NETWORK MAINTENANCE SERVICES.

WHEREAS, the Tooele City Administration finds it necessary to contract services for the purpose of providing computer network maintenance, troubleshooting, and consultant services for Tooele City's computer network; and,

WHEREAS, TecServ, Inc., has proposed to provide these services and the Administration wishes to enter into the agreement with TecServ, Inc.; and,

WHEREAS, the proposed agreement is attached hereto as Exhibit A; and,

WHEREAS, the agreement amount shall not exceed \$62,000 for the one-year term of the agreement, invoiced at the regular contract rate of \$155.00 per hour, and at the rate of \$175.00 per hour for additional work; and,

WHEREAS, the term of the agreement shall be one year beginning July 1, 2023:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that an agreement with TecServ, Inc. (see Exhibit A) is hereby approved, for computer network, maintenance, troubleshooting, and consultant services for a sum not to exceed \$62,000.

This Resolution shall become effective immediately upon passage 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

TecServe Agreement

Monthly Network Services Agreement

This agreement dated 2/09/2023 is made by and between Tooele City Corporation (Client) whose address is 90 North Main, Tooele, Utah 84071 and TecServ, Inc (Consultant) whose corporate address is 358 Rio Grande St. Suite 250 Salt Lake City, Utah 84101.

1. *Consultation Services.* Client hereby employs the Consultant to perform the following services in accordance with the terms and conditions set forth in this agreement. The Consultant will perform computer network maintenance activities for Client and will consult with the offices and employees of Client concerning matters relating to the management of Client's computer network. The Scope of Work to be performed by consultant is defined in Attachment A.
2. *Terms of Agreement.* This agreement will be in effect for 12 Month(s) (July 1, 2023, to June 30, 2024). In the event that client has insufficient funds, by appropriation, by appropriation limitation or grant, to continue payments under this Agreement, Client may terminate this Agreement by giving TecServ not less than thirty (30) days prior written notice.
3. *Time Devoted by Consultant.* The term of this contract is based upon consultant committing to perform activities to maintain Client computer network and handle computer network emergencies. Consultant will spend 5 hours per week of consulting services on Client's behalf for computer network maintenance activities. This can be adjusted at any time by Tooele City.
4. *Schedule.* The work performed by consultant will be for on-site services at Client's facilities and may occasionally include remote connectivity to Client's network. These hours will be worked on a schedule to be set at by both parties at a later date. Schedule may be altered with mutual agreement from both parties.
5. *Additional Time.* Consultant will respond to Client emergencies within 2 hours and spend sufficient time to resolve such emergencies. The fees for emergency server services are covered within the plan from the 5 hours per week. Emergencies are defined as computer network issues that directly prevent the operation of business by Client. Computer network issues that do not prevent business operations shall be handled during the on-site maintenance service schedule. If Client requests maintenance services outside the maintenance schedule, and these services are clearly not emergencies, Consultant will bill Client for these hours at the standard client rate. \$175.00 per hour or \$262.50 after regular business hours, weekends and holidays. This includes computer network projects that cannot be completed within the regularly scheduled time.
6. *Payment to Consultant.* The amount paid to consultant for this contract shall not exceed \$62,000.00 annually. Consultant will invoice Client on the 1st of each month, this will be at the contract rate of \$155.00 per hour \$3,358.33 per month. All additional work will be invoiced on the last day of that month. Payment is due upon receipt of invoice.
Additional project work is not covered within this scheduled maintenance contract. This additional time will be billed at \$175 per hour or \$262.50 after regular business hours, weekends and holidays. Product purchases are not considered part of monthly contracts or other consulting services. Work Terms on Product Sales are considered "due upon receipt".
7. *Independent Consultant.* Both Client and the Consultant agree that the Consultant will act as an independent agency in the performance of its duties under this contract. Accordingly, the Consultant shall be responsible for payment of all taxes including Federal, State and local taxes arising out of the Consultants activities in accordance with this contract, including by way of illustration but not limitation, Federal and State income tax, Social Security tax, Unemployment.
8. *Confidential Information.* The Consultant agrees that any information received by the Consultant during this contract, which concerns the personal, financial or other affairs of Client and its agents and employees will be

treated by the Consultant in full confidence and will not be revealed to any other persons, firms or organizations.

9. *Employment of Others.* Client may from time-to-time request that the Consultant arrange for the services of others outside of the employ of TecServ. All costs to the Consultant for those services will be paid by Client, but in no event shall the Consultant employ others without the prior authorization of Client.
10. *Non-Solicitation of Employees.* Client agrees that it will not solicit TecServ's employees to seek full or part time employment or other contractual arrangement with its company during the term of this Agreement or for twelve (12) months after the last invoice date from TecServ to Client. Client agrees that TecServ employees are not "contract for hire". Client shall not attempt to engage, contract or hire TecServ employees, TecServ's contractors or other assignees independently of this Agreement without prior written consent from TecServ.

Client may be released from such restriction under the following terms and with written approval from TecServ:

- The payment of \$50,000.00 to TecServ for each employee hired by Client, and
- Each TecServ employee hired by Client has performed services for Client under this Agreement for twelve (12) consecutive months or more.

_____ Initial of Client demonstrating that Client understands and fully accepts the Non-Solicitation Covenant and terms and agrees to such terms should Client seek to hire or directly contract TecServ employees, contractors or other assignees.

11. *Liability.* With regard to the services to be performed by the Consultant pursuant to the terms of this agreement, the Consultant shall be liable to Client, or to anyone who may claim any right due to any relationship with the Client, for any acts or omissions in the performance of service on the part of the Consultant or on the part of the agents or employees of the Consultant when said acts or omissions of the Consultant are due to willful or intentional misconduct or due to gross or simple negligence.
12. *Venue.* This agreement and its performances there under shall be governed by the laws of the state of Utah. In the event that litigation results from or arises out of this Agreement or the performance thereof, the parties agree to reimburse the prevailing party's reasonable attorney's fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing party may be entitled.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement.

TecServ, Inc.

By: Charles VanAusdal

Title: Owner _____

Date: 06/08/2023 _____

Client

By: _____

Title: _____

Date: _____

Attachment A Scope of Work

Services include:

- Ongoing technical consulting
- Onsite maintenance every month for applying software patches, checking backups, updating virus definitions, and troubleshooting problems
- Preferred pricing on all hardware and software with best pricing available from vendors that offer government pricing.
- Access to TecServ's extensive knowledge base and technical staff.
- Services provided by a CIO level resource including budgeting, strategic planning, policy setting for architecture and security, and project management.

Services to be performed

- 5 hours maintenance per week until adjusted by Tooele City.
- Emergency response time: 2 hour onsite, 30 minutes for remote administration (when applicable).*
- Phone support available 24 hours a day 7 days a week.
- Large scale projects that are performed in addition to ongoing maintenance will be billed at \$175 per hour.
- Remote monitoring of servers and routers 24 hours a day 7 days a week.

Travel Cost: If more than one onsite visit occurs per week, one way travel time will be billed.

*Onsite response will be guaranteed only within 20 miles of our offices, for guaranteed response time see section 5 above. For remote administration a high speed internet connection and terminal environment are required. Remote administration will be utilized when situations permit it.

TOOELE CITY CORPORATION

RESOLUTION 2023-51

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING CHANGE ORDER #2 WITH BROKEN ARROW INC. FOR THE 2022 SEVENTH STREET ROAD AND UTILITY IMPROVEMENT PROJECT.

WHEREAS, by Resolution 2022-38, on May 18, 2022, Tooele City retained Broken Arrow Inc. for completion of the 2022 Seventh Street Road and Utility Improvement Project; and,

WHEREAS, by Resolution 2022-64, on July 6, 2022, Tooele City issued Change Order No. 1 for the reconstruction of the existing parking lot, storm drain, and curb and gutter facilities at the new Parks Building; and,

WHEREAS, during execution of the Work, two (2) separate underground utility conflicts have been identified that involve both Rocky Mountain Power and Lumen (aka CenturyLink); and,

WHEREAS, the first utility conflict is for Rocky Mountain Power underground utility line relocation, which is not covered within the terms of the franchise agreement, and results in the need to install conduit across Seventh Street at three (3) separate locations and also provide electrical vaults, associated appurtenances, and restoration of infrastructure; and,

WHEREAS, Broken Arrow has provided a cost estimate to complete this additional scope of work in the amount of \$54,904.83. A copy of their Estimate is attached as Exhibit A; and,

WHEREAS, the second utility conflict is for mitigation of a Lumen underground utility conduit bank that was not identified by BlueStakes, but which was discovered by Broken Arrow during progress of the work; and,

WHEREAS, in talking with Lumen representatives, the time required to mitigate the utility conflict on their part would result in significant delays to Broken Arrow, resulting in potential delay damages to the City, and further delay completion of the Work; and,

WHEREAS, the City has worked with Broken Arrow to provide a modified design for the storm drain installation that can avoid the Lumen utility conflict, but which will require the need to provide a new 8' deep drop storm drain manhole and a new storm drain collection box which would allow the City's storm drain pipe to pass below the Lumen utility conflict; and,

WHEREAS, Broken Arrow has estimated that the cost for the new facilities will be less than \$10,000.00, and that by providing the new manhole and box the Project could be completed without further delay; and,

WHEREAS, the Administration requests a contract Change in Price adjustment of \$65,000.00, which cost would allow for mitigation of both the Rocky Mountain and the Lumen utility conflicts, and also requests an additional \$5,000 contingency for further unanticipated conflicts:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the City Council hereby approves the Contract Change Order (see Exhibit B) with Broken Arrow Inc. in the amount of Sixty-Five Thousand Dollars (\$65,000.00) for the additional utility conflict mitigation, and approves an additional Five Thousand Dollars (\$5,000.00) for further changed conditions at the discretion of 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

Broken Arrow Inc. Cost Proposal

BROKEN ARROW ESTIMATE
2022 Seventh Street Road and Utility
Improvement - Conduit Crossings
06/13/2023



8960 Clinton Landing Road
Lake Point, UT, 84074

Tooele City Corporation
Paul Hansen
90 North Main Street
Tooele, UT, 84074
(435) 843-2132
PaulH@TooeleCity.org

Estimator Contact Information:
Travis Loader
Office: 801-355-0527
Mobile: 435-840-4727
tloader@brokenarrowusa.com

SUMMARY OF SERVICES

Broken Arrow is pleased to submit this estimate for the scope of work outlined below. Our estimate is based upon PacifiCorp drawings; CC# 11446; WO#/REQ# 008289911; Dated 10/24/2022

EXCLUSIONS:
CQC Testing & Inspection
Surveying
Permits and/or Bonds
Dewatering
Construction Water

SUMMARY OF BID ITEMS

Description	Total Estimate	Job
100 SITE WORK	\$54,904.83	100.00%
Total Estimate	\$54,904.83	100.00%

Estimate Table

Description	Quantity	Unit	Unit Price	Total Estimate
100 SITE WORK				
Provide & Install 4" Conduit Crossing (Includes: Traffic Control, Saw Cut Existing Asphalt, Demo & Dispose of Asphalt, Demo & Dispose of Existing Sidewalk, Removal & Replacement of Existing Fence, Removal & Replacement of Existing Landscape, Excavation, Haul Off & Dispose of Trench Waste, Pipe Bedding, 4" PVC Conduit & Fiberglass Bends, Import Backfill, Road Base, New 6" Thick Sidewalk, & New 4" Thick Asphalt Tooele City Spec)	3.00	EA	18,301.61	54,904.83

BROKEN ARROW ESTIMATE
2022 Seventh Street Road and Utility
Improvement - Conduit Crossings
06/13/2023



8960 Clinton Landing Road
Lake Point, UT, 84074

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. Broken Arrow Inc. is authorized to proceed with the work as specified. Payments shall follow the contract terms upon an executed contract. otherwise, all payments on completed work will be net 30 days. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. Late payments shall be subject to a 2% monthly (24 % annual) interest fee. All collection costs incurred on delinquent account shall be paid by the customer.

Approved By: _____

Date: _____

EXHIBIT B

Change Order No. 2

CHANGE ORDER

No. 2

DATE OF ISSUANCE: June 21, 2023

EFFECTIVE DATE: June 21, 2023

OWNER: Tooele City

CONTRACTOR: Broken Arrow Inc.

Contract:

Project: 2022 SEVENTH STREET ROAD AND UTILITY IMPROVEMENT PROJECT

ENGINEER: Paul Hansen

You are directed to make the following changes in the Contract Documents.

Description: Modification of the Contract amount by \$65,000 for utility mitigation of underground utilities and extends the contract completion time.

Reason Change Order: There are three (3) Rocky Mountain underground conflicts and a conflict with Lumen (aka CenturyLink) with the storm drain line as designed. The Change will mitigate the conflict and allow the project to proceed. Also accounts for delays due to weather conditions.

Attachments: (List documents supporting change) Broken Arrow Inc. cost proposal dated June 13, 2023

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIME
Original Contract Price	Original Contract Time:
<u>\$1,151,617.07</u>	Substantial Completion: <u>October 1, 2022</u>
	Ready for final payment: <u>October 15, 2022</u>
	days or date
Net Increase (Decrease) from <u>No. 0</u> <u>No. 1</u>	Net Change from Previous Change Orders No. <u>-</u> to No. <u>-</u> :
<u>\$ 149,964.16</u>	Substantial Completion: <u>0</u>
	Ready for final payment: <u>0</u>
	days
Contract Price Prior to this Change Order:	Contract Times Prior to this Change Order:
<u>\$1,301,581.23</u>	Substantial Completion: <u>October 1, 2022</u>
	Ready for final payment: <u>October 15, 2022</u>
	days or date
Net Increase (Decrease) of this Change Order:	Net Increase (Decrease) of this Change Order:
<u>\$65,000.00</u>	Substantial Completion: <u>365</u>
	Ready for final payment: <u>365</u>
	days
Contract Price with all Approved Change Orders:	Contract Time with all Approved Change Orders:
<u>\$1,366,581.23</u>	Substantial Completion: <u>October 1, 2023</u>
	Ready for final payment: <u>October 15, 2023</u>
	days or date

RECOMMENDED:

by _____

Engineer (Authorized Signature)

APPROVED:

by _____

Owner (Authorized Signature)

APPROVED:

by _____

Contractor (Authorized Signature)

Date: _____

Date: _____

Date: _____

**Tooele City Council and the Tooele City Redevelopment Agency
Work Meeting Minutes**

Date: Wednesday, June 7, 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
Ed Hansen

City Council Members Excused:

Tony Graf

City Employees Present:

Mayor Debbie Winn
Adrian Day, Police Department Chief
Roger Baker, City Attorney
Shannon Wimmer, Finance Director
Michelle Pitt, City Recorder
Holly Potter, Deputy City Recorder
Jamie Grandpre, Public Works Director
Paul Hansen, City Engineer
Jared Stewart, Economic Development Director

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
Ed Hansen, Present
Tony Graf, Excused

3. Mayor's Report

Mayor Winn reported on the following:

An accident occurred at Settlement Canyon Reservoir over the weekend. The first responders were amazing in rescuing the 12-year-old girl that was trapped in the vehicle submerged in

water. There were 20 individuals that participated in the Fire Academy within Tooele County. Six of them were from Tooele City.

4. Council Member's Report

The Council Members reported on the events they attended during the week.

5. Discussion Items

A. Ordinance 2023-25 An Ordinance of Tooele City Enacting Tooele City Code Section 8-4-7 to Reinstate Civil Penalties for Public Nuisances

Presented by Roger Baker, City Attorney

Mr. Baker presented civil penalties for public nuisances. After discussion with the Mayor and staff, the City would like to reinstate the ability to give a ticket for public nuisance. The first interaction is a warning citation with a two-week time frame. If it does not get cleaned up within the time frame, they will receive fines. The first fine is \$50. For continuous violations, it is a more aggressive amount with a one-week time frame. There are appeal provisions if the public seeks that route. The changes to the Ordinance are in section 8, section 4, and section 5 assigning guidelines, expectations, definitions, and authority of action for police officers and code enforcement officers.

The City Council asked the following:

How will the public be notified if they are not in compliance?

How do you determine the amount of the fine after the first citation?

Is there a process to appeal?

Are there resources to help someone clean up?

Mr. Baker addressed the Council. The methods of serving citations has been expanded similar to parking citations. If the property owner does not clean it up within the weeks following the first and second citation, a third citation is \$200, fourth time \$500 fine, etc. They are allowed to appeal any violation or ticket following the administrative hearing officer procedure. The police department has discretion to obtain compliance with criminal law. Staff will use discretion to help as needed. Reinstating civil citations and penalties will give the Administration the flexibility of three tools for eliminating nuisances.

Mayor Winn addressed the Council. There is urgency to get this approved, to help clean up the City before the summer is over. The item will be back for vote in the business meeting.

The Council is in support of this item.

B. Payment of a Fee-in-Lieu of Water Rights Conveyance Request for the Flex Spaces Project

Presented by Jared Stewart, Economic Development Director

Mr. Stewart presented a request by Property Elevated for flex spaces project. They are asking for 2.3 acre/feet water with an estimated \$7 million value post construction. They estimate to

support over 100 jobs. There will be 33 units in the flex space with partial restrooms. They estimate 0.9 acre/feet to be used within the building. The other amount is for outdoor irrigation.

The City Council asked the following questions:
Can they decrease the amount of water usage for outdoor irrigation?

Mr. Stewart addressed the Council. Staff can discuss reducing the outdoor irrigation with the applicant.

Mayor Winn addressed the Council. The landscape changes being approved, will address reducing that number.

The Council shows support, but would like to see a building design and have discussion on the outdoor irrigation.

C. Budget Discussion

Ms. Wimmer presented adjustments to the budget. As well as a beginning discussion on the tax rate. The adjustments to the budget include the following:

An increased amount of \$3600 for HR department's software, Line of duty benefits. The reallocation of benefits for the City Council, Police salary, increase in benefits, and an additional \$30,000 to the 41-fund for City projects.

The tax rate value came in at over \$3 billion. The Council can accept the rate as is, and the rate will decrease by 4.6%. They can choose to raise the rate 3%-5% to keep up with cost and inflation. Raising the certified tax rate by 3% is about \$19 a year for a home owner with a value of \$500,000 on their home. With an increase of 4.78%, the increase would be about \$30 a year.

The Council had a discussion on the following:
Keeping the current tax, moving forward with 3%, and truth and taxation.

Ms. Wimmer addressed the Council. Tort Liability or the Judgment Levy is allowing the City to separate the tax rate to pay the lawsuit bonds. Staff will take the rate the Council decides, deduct the amount they need for the bonds to show how the tax money is being spent. The State says the City does need to go through truth and taxation to change the future tax rate for the amount needed to pay the bond. When the bond is paid off, the rate would go down.

6. Closed Meeting - Litigation, Property Acquisition, and/or Personnel

There was no closed meeting.

7. Adjourn

Chairman Brady adjourned the meeting at 6:30 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 June, 2023

Justin Brady, City Council Chair

DRAFT

Tooele City Council Business Meeting Minutes

Date: Wednesday, June 7, 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
Andrew Aagard, Community Development Director
Adrian Day, Police Department Chief
Roger Baker, City Attorney
Shannon Wimmer, Finance Director
Michelle Pitt, City Recorder
Holly Potter, Deputy City Recorder
Jamie Grandpre, Public Works Director
Paul Hansen, City Engineer
Jared Stewart, Community Engagement

Minutes prepared by Katherin Yei

Chairman Brady called the meeting to order at 7:19 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Chairman Brady.

2. Roll Call

Tony Graf, Present
Ed Hansen, Present
Justin Brady, Present
Maresa Manzione, Present
Dave McCall, Present

3. Public Comment Period

The public hearing was opened. No one came forward. The public hearing was closed.

4. Resolution 2023-28 A Resolution of the Tooele City Council Consenting to the Mayor's Appointment of Chase Noble Randall as Library Director

Presented by Debbie Winn, Mayor

Mayor Winn presented the appointment of Chase Noble Randall as the Library Director.

Council Member Graf motioned to approve Resolution 2023-28; A Resolution of the Tooele City Council Consenting to the Mayor's Appointment of Chase Noble Randall as Library Director. 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.

5. Swearing in of Chase Noble Randall as the Library Director

Presented by Michelle Pitt, City Recorder

Ms. Pitt swore in Chase Noble Randall as the Library Director.

6. Public Hearing & Motion on Ordinance 2023-21 An Ordinance of the Tooele City Council Amending Tooele City Code Chapter 4-8 Regarding Local Streets and Substandard Local Streets

Presented by Paul Hansen, City Engineer

Mr. Hansen presented an amendment to City code chapter 4-8 regarding local streets and substandard roads. There are streets located within the City that are considered substandard roads, meaning they are old historic street that fall less than the 60-foot right of way. Due to House Bill 406, municipalities are now prohibited from requiring asphalt widths more than 32 feet for local class residential streets. As well as needing some miscellaneous corrections within the code.

The primary focus are the substandard roads located 150 west, 50 west, and 50 east of Garden Street. The standard used to be long narrow lots. Now, it is common to see those lots split with primary housing be built. Staff has created table 4-8-2.6, a table of substandard local street requirements. It establishes right-of-way sections, right of way widths for each section, unified asphalt width requirements, curb and gutter requirements, and where sidewalks will be required. The 30-foot requirement reflects accessing fire hydrants. It does remove the park strip requirements on the roads, reducing the local street pavement widths from 34 feet to 32 feet. It reduces the associated right of way width from 60 feet to 58 feet.

If the Council moves forward, any new plat can request the option to drop it down to the smaller width. It does apply city wide. As well as appealing the in-fill overlay district street design section of the code, creates a new code section for each function street classification, and editorial changes.

The public hearing was opened. No one came forward. The public hearing was closed.

Council Member Manzione motioned to adopt an Ordinance 2023-21; An Ordinance of the Tooele City Council Amending Tooele City Code Chapter 4-8 Regarding Local Streets and

Substandard Local Streets. 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. Public Hearing & Motion on Ordinance 2023-22 An Ordinance of the Tooele City Council Amending Provisions of the Tooele City Code Related to Landscaping and Water Conservation

Presented by Andrew Aagard, Community Develop Director

Mr. Aagard presented provisions to the City code in regards to landscaping and water conservation. The purpose behind the changes to help conserve water, participate ‘flip your strip’, and clarify dry-scape elements. The Planning Commission has heard this item and forwarded a positive recommendation.

The City Council asked the following questions:

What is the average size of a park strip?

Are no drought plants allowed in exhibit A?

How do these are stay maintained?

Does weed barrier help?

Where does side yard start?

Mr. Aagard addressed the Council’s questions. The ordinance says the tree should go behind the sidewalk line on the property if the park strip is not big enough. The amendment does not have enforcement for these items, but nuisance could be considered. Weed barrier is a temporary solution. It works for about a year. A side yard starts at the front plain, going down the side, ending at the back plain.

Mr. Baker addressed the Council. The Code allows for shrubs and water-wise plants.

The public hearing was opened. No one came forward. The public hearing was closed.

Council Member McCall motioned to approve Ordinance 2023-22. Council Member Graf 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. Public Hearing & Motion on Ordinance 2023-26 An Ordinance of the Tooele City Council Vacating a Dedicated Public Utility and Drainage Easement on Lot 24 of the Gordon Hollows Phase 1 Subdivision

Presented by Andrew Aagard, Community Develop Director

Mr. Aagard presented the vacation of a dedicated public easement. The lot has utility and drainage area. There is a Rocky Mountain line located there. He has submitted the letters needed from the utility companies. Tooele city has provided a letter of approval.

The public hearing was open. No one came forward. The public hearing was closed.

Council Member Hansen motioned to approve Ordinance 2023-26. 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. Public Hearing & Motion on Ordinance 2023-27 An Ordinance of the Tooele City Council Amending the Tooele City General Plan Land Use Map for the Tooele City Business Park Zoning District, and Designating the District as a Light Industrial Land Use Category

Presented by Andrew Aagard, Community Development Director

Mr. Aagard presented an amendment to the Tooele City General Plan Land Use Map. They are designated as Regional Commercial. This designation prohibits industrial zones and land uses. It will propose a number of industrial uses. The change will be from Regional Commercial to Light Industrial.

The public hearing was opened. No one came forward. The public hearing was closed.

Council Member Manzione motioned to approve Ordinance 2023-27 An Ordinance of the Tooele City Council Amending the Tooele City General Plan Land Use Map for the Tooele City Business Park Zoning District, and Designating the District as a Light Industrial Land Use Category. Council Member Hansen 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. Public Hearing & Motion on Ordinance 2023-28 An Ordinance of the Tooele City Council Enacting Tooele City Code Chapter 7-16B, Amending Section 7-13-1, Creating the Tooele City Business Park Zoning District, and Amending the Tooele City Zoning Map Accordingly

Presented by Andrew Aagard, Community Development Director

Mr. Aagard presented the zoning map amendment and creation of a new zoning district, adopting development standards. The current zoning is RD, Research and Development and LI Light Industrial with a rezone to TCBP, Tooele City Business Park. There were many public comments and concerns of having industrial near residential zones. To help mitigate those concerns, there are three sections to the new zone.

Section A, the closest to the residential area, is limited to commercial and office type businesses only. Building height is limited to 35 feet and required additional architecture with pitched roofs and all mechanical being in the building or on the ground. It is designed to be a buffer, minimizing the impact to the surrounding areas. Section B has lighter industrial uses, prohibiting heavy industrial. The building height allows up to 50 feet with flat roof being permitted.

Mechanical is allowed on the roof with decoration hiding it from public view. They will have access to the railroad. Section C is the farthest from residential, would allow heavy industrial. Building height would be permitted up to 70 feet with the same architecture requirements as section b.

The new code will establish architecture standards, fencing standards, signs, prohibits bill boards along the future Mid-valley Highway, and limits wind turbines to section B & C with size limitations. It will include a table of uses for the Tooele City Business Park. Many heavy uses such as hazardous material, recycling places, and auto wrecking yards are not permitted in the new zone. The Planning Commission has heard and forwarded a positive recommendation.

The Council asked the following questions:
Are the different areas based off of property lines?
Could a property owner be a part of two different zones?
Does it limit the amount of wind turbines in the project?

Mr. Aagard addressed the Council's questions. A business could be a part of two zones, but it would have to go through regular approval process. It is self-limiting because the restriction itself depends on property.

Mr. Baker addressed the Council. CRS railroad design has been merged into the zoning map.

The public hearing was opened. No one came forward. The public hearing was closed.

Council Member Manzione motioned to approve Ordinance 2023-28. Council Member Hansen 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. Preliminary Subdivision Plan Request by Kurti Halim for the Proposed Halim Subdivision to Include Three Single-Family Residential Lots on Approximately 3.37 Acres Located at Approximately 400 East 1000 North in the R1-8 Residential Zoning District
Presented by Andrew Aagard, Community Development Director

Mr. Aagard presented a preliminary plan request to include 3 single-family residential lots on the property located near 100 north and 400 east. It is zoned R1-8. The application proposes to create three individual lots. The middle canyon drainage ditch does run near the property and will not be tampered with. There will be a storm water detention basin. The project does meet all standards. Staff is recommending approval with the conditions listed in the staff report.

The Council asked the following questions:
Is there a way to preserve a section for a trail or put asphalt where the sidewalk would cross the trail?

Mr. Aagard addressed the Council. This process was started a couple years ago by the applicant. He has reached out to the applicant about easements and a trail in the future, but has not heard back. There is a park strip and sidewalk on that road, they could put in an asphalt trail.

Council Member Hansen motioned to approve Preliminary Subdivision Plan Request by Kurti Halim for the Proposed Halim Subdivision to Include Three Single-Family Residential Lots on Approximately 3.37 Acres Located at Approximately 400 East 1000 North in the R1-8 Residential Zoning District. 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. Ordinance 2023-25 An Ordinance of Tooele City Enacting Tooele City Code Section 8-4-7 to Reinstate Civil Penalties for Public Nuisances

Presented by Roger Baker, City Attorney

Mr. Baker presented civil penalties for public nuisances. After discussion with the Mayor and staff, the City would like to reinstate the ability to give a ticket for public nuisances. The first interaction is a warning citation with a two-week time frame. If the nuisance does not get cleaned up within the time frame, the property owner will receive further citations and fines. The first fine is \$50. For continuous violations, it is a more aggressive amount with a one-week time frame for compliance. There are appeal provisions if the public seeks that route. The Code sections amended are Chapter 8, Section 4 regarding nuisance definitions (making graffiti an immediate nuisance instead of needing to wait 15 days, and making junk cars an immediate nuisance instead of needing to wait 3 days), Section 5 regarding the respective authority of police officers and code enforcement officers, and Section 7 regarding civil penalties.

Council Member Graf motioned to approve Ordinance 2023-25 An Ordinance of Tooele City Enacting Tooele City Code Section 8-4-7 to Reinstate Civil Penalties for Public Nuisances. 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.

13. 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

Mr. Baker presented a lease agreement with Hoot Owl Leasing LLC to build a cell phone tower on the former sewer treatment plant site. They are currently operating a temporary tower under a temporary license contract. They will pay a \$750 a month under both the license and the lease. There are deadlines and extension periods in the contract they can invoke.

Council Member McCall motioned to approve Ordinance 2023-24. 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.

14. Resolution 2023-44 A Resolution of the Tooele City Council Approving an Agreement with SKM for Water System PLC and SCADA Upgrade

Presented by Jamie Grandpre, Public Works Director

Mr. Grandpre presented an upgrade for the water system's PLC and SCADA. For culinary water, existing radios are obsolete. This project would allow them to update the radios preparing them for fiber communications in the future. The SCADA system will be more secure being brought through the police department tower instead of the public works facility. The cost is \$210,322.80, with the finds coming from the water department budget.

Chairman Brady motioned to approve Resolution 2023-44, A Resolution of the Tooele City Council Approving an Agreement with SKM for Water System PLC and SCADA Upgrade. 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. Resolution 2023-45 A Resolution of the Tooele City Council Amending the Tooele City Fee Schedule Regarding Bulk Secondary Water Fees

Presented by Jamie Grandpre, Public Works Director

Mr. Grandpre presented bulk-secondary water fees. Currently the fee is \$1.50 per 750 gallons. The bulk water system is now metered allowing a more accurate feed. They are asking to raise the fee to \$4.50 for 1000 gallons.

The Council asked the following questions:
How do other Cities do it?

The Council showed favor to raising the fee to \$5. They would like to revisit the cost once the new Headworks building is complete.

Mr. Grandpre addressed the Council. They will buy a large amount and have a pin that they can use until the water is gone. It is different from other Cities, because Tooele is getting the water to a re-use standard.

Mr. Baker addressed the Council. When a city provides a service, the fees have to be a reasonable proximation of what it costs the city to provide the service. A product is different. Water is similar to a product, allowing them to sell it for more than mere cost. Mr. Grandpre has been conservative in his estimate of the cost of producing treated waste water.

Council Member McCall motioned to approve Ordinance 2023-45, with a \$5 cost. 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.

16. Resolution 2023-43 A Resolution of the Tooele City Council Approving Insurance Coverage for Insurance Period 2023-2024

Presented by Michelle Pitt, City Recorder

Tooele City employs a comprehensive risk management strategy to avoid harm to persons and property and to decrease claims against the general funds of the City. The City has been insured by the Utah Local Governments Trust since 2018. Since we've been with the Trust, we've had a 33% increase in vehicles, 67% increase in payroll, 40% increase in full time employees, and 167% increase in part time employees. The premium for 2021-2022 was \$268,924. For the 2023-2024 insurance period, the premium will be \$290,862, comprised of \$185,880 for liability coverage, \$86,620 for property coverage, and \$18,362 for auto coverage.

Council Member Manzione motioned to approve Ordinance 2023-43; Tooele City Council Approving Insurance Coverage for Insurance Period 2023-2024. 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.

17. Invoices & Purchase Orders

Ms. Pitt presented the following invoices and purchase orders:

Tooele City was originally asked to pay 1/3 of the repairs for the culvert pipe, Settlement Canyon was going to pay 1/3, and Tooele County was going to pay 1/3. Tooele County has decided that they are not going to pay their 1/3, and so Tooele City is paying 2/3 of the costs of the repairs. Mayor Winn added that she is working with UDOT to possibly pay the other third of this invoice because they divert storm water in to this pipe. The invoice from Settlement Canyon Irrigation Company is in the amount of \$46,351.00

Ms. Pitt stated that there was an open and unfinished storm drain at 100 East that posed a safety threat. It needed to be repaired immediately. Ms. Pitt had emailed the Council to ask for a vote allowing the City to move ahead with the repairs. She was bringing back the invoice for those repairs to this meeting to ratify that decision. The amount of the invoice from Broken Arrow is in the amount of \$36,947.09.

Council Member Graf motioned to approve invoice & purchase orders. 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.

18. Minutes

The following changes need to be made to the work meeting minutes:

Jim Bolser needs to be removed. The closed meeting needs to have a vote added. Include P.M. at the end of the time.

The following changes need to be made to the business meeting minutes:
Correct the spelling of Captain Lonnie Collins

Chairman Brady motioned to approve Minutes with the corrections as stated. 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.

19. Adjourn

Chairman Brady adjourned the meeting at 8:40pm.

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 June, 2023

Justin Brady, City Council Chair

**Municipal Building Authority of
Tooele City, Utah**

Date: Wednesday, June 7, 2023

Time: 7:00 p.m.

Place: Tooele City Hall, Council Chambers
90 North Main Street, Tooele, Utah

Board Members Present:

Justin Brady

Maresa Manzione

Tony Graf

David McCall

Ed Hansen

City Employees Present:

Mayor Debbie Winn

Adrian Day, Police Department Chief

Roger Baker, City Attorney

Shannon Wimmer, Finance Director

Michelle Pitt, City Recorder

Holly Potter, Deputy City Recorder

Jamie Grandpre, Public Works Director

Paul Hansen, City Engineer

Jared Stewart, Economic Development Director

Minutes prepared by Katherin Yei

1. Open MBA Meeting

Chairman Brady called the meeting to order at 7:00p.m.

2. Roll Call

Tony Graf, Present

David McCall, Present

Justin Brady, Present

Maresa Manzione, Present

Ed Hansen, Present

3. Public Hearing on the New Fire Station #3 to Receive Input from the Public with Respect to (i) the Issuance of Bonds Not to Exceed a Maximum Principal of \$9,000,000 and (ii) any Potential Economic Impact that the Improvements, Facility, or Property Financed in Whole or in Part with the Proceeds of the Bonds may have on the Private Sector

Presented by Shannon Wimmer, Finance Director

Ms. Wimmer presented the New Fire Station #3 in regards to bonds.

The Tooele City Municipal Building Authority is applying for funding for the construction of Fire Station #3 through the Community Impact Board (CIB) in the amount of \$8,500,000. The purpose of the loan request is to construct a fire station to serve the growing community and to alleviate a critical need to have efficient access to needed fire equipment to serve our commercial and industrial businesses. Tooele City has experienced substantial growth both in commercial buildings and residential. With the increase in growth and changes in the community, Tooele City contracted with Center for Public Safety Management, LLC (CPSM) to conduct a public safety study for our fire department. This study confirmed the immediate need for a fire station on the north end of the City. Tooele City has been planning for a new fire station for many years and purchased the property for the site in 2010. Available funding has prevented the construction of this building but as the need has become critical the Tooele City Council has taken the steps to secure the funding for the project through a property tax rate increase.

The majority of growth within Tooele City has been on the north and northwest areas of the City. It is expected that nearly 90% of future growth will also be in this geographical area with the majority of available land for both residential and commercial falling within this area. With the commercial growth and growth in the industrial areas within the City, Tooele City purchased a ladder truck to serve the needs of this vital area of our community. However, our outdated Fire Station #1 cannot accommodate this asset and cannot be remodeled to house the vehicle so it is currently stationed at Fire Station #2, which adds significant response time to our critical industrial and commercial areas. The construction of the new facility will allow for critical assets to be placed in a location that will enhance our ability to respond to emergencies and significantly reduce critical response times.

Fire Station #3 will be constructed on property currently owned by Tooele City at approximately 145 East 1000 North. The property is approximately 2.5 acres and the proposed facility is 6,400 square feet. Tooele City currently operates with a full time Fire Chief and full time Fire Marshall with all other members of the department being volunteers. With the growth in the City, it is expected that a full-time fire department will be needed in the future. The new facility has been designed to accommodate this future need.

The City has considered other options for funding the facility, including the issuance of Sales Tax Revenue Bonds or Lease Revenue Bonds in the public bond market. The public market scenarios provide a payment higher than the City has budget for and would reduce the funds available for construction due to the increased financing costs. The CIB loan provides financing terms that allow the City to pay the bonds with current revenues allocated to the construction of the facility while also providing sufficient construction funds to complete the project in a desirable manner.

There are no additional tax increases expected to the residents of Tooele City to pay for this project. Funds have already been set aside for the payment of these bonds and the City has the required escrow payment that will be required at closing. If this project is funded by the CIB it is expected that the City will repay the loan at an estimated interest rate of 3% over a 30-year term with a yearly payment of approximately \$443,000. There will be no impact to the public as far as user fees, special assessments or any property taxes due on the project or property.

The public hearing was opened.

Andrew Lewis spoke on a case he was involved in where he was not pleased with the judicial system within the City.

The public hearing was closed.

4. Minutes

May 17, 2023 Municipal Building Authority Business Meeting

The following changes need to be made to the May 17 minutes:

Correct the year on the date, Remove Board Member Graf from roll, Remove Jim Bolser, correct presenters, and MBA chair.

Board Member McCall motioned to approve the minutes with the changes listed above.

Board Member Manzione seconded the motion. The vote was as follows: Board Member Hansen, "Aye," Board Member Manzione, "Aye," Board Member Graf, "Aye," Board Member Brady, "Aye," Board Member McCall, "Aye." The motion passed.

5. Adjourn

Chairman Brady adjourned the meeting at 7:10 pm.

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 June, 2023

Justin Brady, Municipal Building Authority Chair