

PUBLIC NOTICE

Notice is hereby given that the Tooele City Council will meet in a Business Meeting on Wednesday, January 16, 2019 at the hour of 7:00 P.M. The meeting will be held in the Tooele City Hall Council Room located at 90 North Main Street, Tooele, Utah.

- 1. Pledge of Allegiance
- 2. Roll Call
- 3. Election of Council/Chair & Board/Committee Assignments
- 4. Mayor's Youth Recognition Awards
- 5. Public Comment Period
- 6. Resolution 2019-01 A Resolution of the Tooele City Council Consenting to the Mayor's Appointments to the Tooele Valley Museum Advisory Board Presented by Mayor Debbie Winn
- 7. PUBLIC HEARING and MOTION on Resolution 2019-06 A Resolution of the Tooele City Council Approving the Sale of the Dow James Baseball Field to the Tooele County School District Presented by Mayor Debbie Winn
- 8. Resolution 2019-04 A Resolution of the Tooele City Council Approving a Form Pole Attachment Agreement for Small Wireless Facilities Attached to Tooele City Utility Poles in the Public Rights-of-Way

Presented by Roger Baker

- 9. Resolution 2019-05 A Resolution of the Tooele City Council Amending the Tooele City Fee Schedule Regarding Small Wireless Facilities Pole Attachments in the Public Rights-of-Way Presented by Roger Baker
- 10. Readopt Resolution 2018-30 A Resolution of the Tooele City Council Approving the Annexation of 7.85 Acres of Providence Tooele LLC Property into the North Tooele City Special Service District

Presented by Michelle Pitt

11. Preliminary Subdivision Plan for Sunset Estates, Phase 8, a 24-lot Subdivision on 10.7 Acres at Approximately 2300 North 400 West

Presented by Jim Bolser

12. Preliminary Subdivision Plan for Country View Villas, a 136-lot Subdivision on 26.6 Acres at Approximately 200 East 1000 North

Presented by Jim Bolser

13. Resolution 2019-07 A Resolution of the Tooele City Council Approving an Interlocal Agreement for Tax Increment Participation with the Redevelopment Agency of Tooele City, Utah ("RDA") for the 1000 North Retail Community Reinvestment Project Area, and Authorizing the Mayor to Sign the Same

Presented by Randy Sant



14. Resolution 2019-08 A Resolution of the Tooele City Council Approving an Interlocal Agreement for Tax Increment Participation with the Redevelopment Agency of Tooele City, Utah, ("RDA") for the Broadway Community Development Project Area, and Authorizing the Mayor to Sign the Same

Presented by Randy Sant

- 15. Resolution 2019-09 A Resolution of the Tooele City Council Approving a Contract with Hansen Allen & Luce for an Update of the Culinary Water System Master Plan Presented by Paul Hansen
- 16. Resolution 2019-10 A Resolution of the Tooele City Council Approving a Contract with Hansen Allen & Luce for an Update of the Wastewater Collection System Master Plan Presented by Paul Hansen
- 17. Minutes
 December 19, 2018
- 18. Invoices
- 19. 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 843-2110 or michellep@tooelecity.org, Prior to the Meeting.



TOOELE CITY COUNCIL COMMISSION & BOARD APPOINTMENTS 2018 Revised July 12, 2018

Commission / Board	Number	Term	Appointed By	Council Appointee
City Council	5	4	Electorate	Chair: Steve Pruden Vice Chair: Scott Wardle
Planning Commission	7	4	Mayor Appoints 4; Council Appoints 3; Council Liaison	Liaison: David McCall Liaison: Melodi Gochis
Library Board	5 – 9	3	Mayor (with Council consent); 1 Appointee may be a Councilperson	David McCall
Redevelopment Agency	5 (Council)	_	-	Chair: Brad Pratt Vice Chair: Scott Wardle
RDA Taxing Entity Committee	8	_	Council ("legislative body") Appoints 2	Brad Pratt Glenn Caldwell
Municipal Building Authority	6 (Council & Mayor)	_	-	N/A
Council of Governments	13	_	Mayor Appoints 2 (with Council consent)	Mayor Debbie Winn Dave McCall
Museum Advisory Board	7 – 14	3	Mayor (with Council consent); Mayor is a Member	Mayor Debbie Winn David McCall
Employee Grievance Appeal Board	5	2	3 by Vote of Full-Time City Employees; Council Appoints 2 of its own Members	Scott Wardle David McCall
Historical Preservation Commission	5	_	Mayor (with Council consent)	N/A
Accessibility Committee	3	2	Mayor (with Council consent); 1 Member from Engineering	N/A
Local Boundary Commission	7	4	Mayors of Municipalities Appoint 2 Elected Municipal Officials	Brad Pratt Scott Wardle
North Tooele City Special Service District	6	4	City Council Appoints 5 Residents of the District and 1 Ex Officio Councilperson	Melodi Gochis
PAR Tax Board	5 (Council)	_		Chair: Steve Pruden
Arts Council Board	7	4	2 City Council Members	Melodi Gochis Steve Pruden
Board of Appeals (UBC)	None Specified; Must be Qualified	No Term Limit	City Council	N/A
Communities That Care (CTC)	25	1	CTC Coordinator	Brad Pratt
Economic Development Corporation (inactive)	16	_	Mayor Appoints 1 (with Council consent)	N/A
Council on Aging (Senior Citizen Center)	_	_	County Commission	

USU Board	_	_	City Council	Scott Wardle
Homeless Coordination			City Council	David McCall
Committee	_	_	City Council	David McCall
Utah League of Cities and				Steve Pruden
Towns Legislative Policy	_	_	City Council / Mayor	
Committee				Roger Baker
Tooele City Water Special	5		City Coursell	Chaire Chave Davides
Services District	(Council)	_	City Council	Chair: Steve Pruden
Pre-Disaster Mitigation	1		City Council	David McCall
Planning Team	(Council)	_	City Council	David McCall

TOOELE CITY CORPORATION

RESOLUTION 2019-01

A RESOLUTION OF THE TOOELE CITY COUNCIL CONSENTING TO THE MAYOR'S APPOINTMENTS TO THE TOOELE VALLEY MUSEUM ADVISORY BOARD.

WHEREAS, Tooele City Code Chapter 2-2 governs the Mayor's appointments to the Tooele Valley Museum Advisory Board ("Board") and prescribes, among other things: a Board of 7 to 14 members, one of whom is the Mayor (or designee); Board members being appointed for terms of three years; and, Council consent to the Mayor's Board appointments; and,

WHEREAS, the Mayor has appointed to the Board those persons shown on the table below, with their terms, and seeks the Council's consent; and,

WHEREAS, attached as Exhibit A is a list of Board member qualifications and relevant interests:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that consent is hereby given to Mayor Winn's appointments of the persons named below to the Tooele Valley Museum Advisory Board, who shall serve three-year terms effective January 1, 2019.

Board Members	Appointed	Term Expiration
Lloyd L. Statz	01-01-19	12-31-21
Ruth Criner	01-01-19	12-31-21
Brent Johnson	01-01-19	12-31-21
Jacob Lyman	01-01-19	12-31-21
Morgan Rivera	01-01-19	12-31-21
Carl Justesen	01-01-19	12-31-21
Kenneth Spence	01-01-19	12-31-21

This Resolution	is necessary	for the peace, health,	safety, and welfare of the
residents of Tooele Cit	ty and shall bed	come effective immedia	ately upon passage, without
further publication, by	authority of the	Tooele City Charter.	
Passed this	_ day of	, 2019	

TOOELE CITY COUNCIL

(For)				(Against)
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		-		
	· · · · · · · · · · · · · · · · · · ·	-		
		-		
		-		
ABSTAINING:				_
	MAYO	R OF TOOL	ELE CITY	
(For)				(Against)
		-		
ATTEST:				
Michelle Y. Pitt, City Rec	order	-		
SEAL				
Approved as to Form:	Daw	na Dalaa	Tagala City Attage	
	Koger Eva	ans baker,	Tooele City Attorney	

Exhibit A

Board Member Qualifications

Tooele Valley Museum Board Recommendations 2019

Name	Address	Highlights from Resume
Lloyd L. Statz	592 North 780 East, Tooele	Officer in the Army Corps of Engineers and served in Vietnam
		Bachelor's Degree in Landscape Architecture from UW, Madison
		 Proficient in welding, carpentry, plumbing, and electrical
		 Volunteer for the Tooele County Transportation and Senior Center
Ruth Criner	636 Grandview Circle, Tooele	 Active member of the community and would love the chance to be a part of the organization 4th Grade teacher at Willow Elementary School
		•
		 Has written a placed-based teaching plan for field trips to the museum Is the City's Landscape Specialist
Brent Johnson	421 Lakeview Ave., Tooele	Art Major at BYU Salt Lake Center, U of U, and SLCC
Dient Johnson	421 Lakeview Ave., 100ele	Teaches watercolor for the Tooele City Arts Council
		Employed at Home Depot
Jacob Lyman	1348 E. 700 S., Tooele	Current student at U of U
Jacob Lyman	1348 L. 700 3., 100ele	Member of the Tooele City Preservation Commission
		Moderator of the Tooele History Facebook group
		Contributing author, editor, and Facebook page admin on the Desert Empire
		Project; a blog dedicated to railroad history in the intermountain west.
		Fluent in Spanish
		Eagle Scout
Morgan Rivera	342 Fairlane Drive, Tooele	Passionate history teacher at Tooele Jr. High School
O	,	Degree from Weber State University
		Teaches Utah, Tooele, and United States History
Carl Justesen	613 Pioneer Ave., Tooele	Owner of Mario's Tires
	,	Accounting Clerk Certificate from Salt Lake Community College
		Great at observing and advising
		Thrives in a public environment
		Enjoys taking part in service projects
Kenneth Spence	494 S. Pioneer Ave., Tooele	Associate Degree in Architectural Technology
		 Has served on Tooele City Building Board of Appeals, Accessibility Committee,
		and Planning Commission
		Currently a retired architect

TOOELE CITY CORPORATION

RESOLUTION 2019-06

A RESOLUTION OF THE TOOELE CITY COUNCIL SURPLUSING AND APPROVING THE SALE OF THE DOW JAMES BASEBALL FIELD TO THE TOOELE COUNTY SCHOOL DISTRICT.

WHEREAS, Tooele City (the "City") owns and operates a baseball field and associated facilities on approximately five acres located on 400 North Street and commonly known as the Dow James Baseball Field (the "Field"; formerly known as the American Legion baseball field and Tooele Old Timers baseball field) as part of the Dow James recreation complex owned and operated by the City, being comprised of a baseball field; and,

WHEREAS, because the Field is used primarily by the Tooele High School baseball team, the Tooele County School District ("District") desires to purchase the Field from the City, and the City desires to sell the Field to the District; and,

WHEREAS, in 2018 the City installed a new irrigation system for the Field at a cost of \$87,421 and constructed a new concessions building/restroom at a cost of \$179,000, both for the Field, and due to the District's heavy use of the Field, the District agreed to pay one-half of the costs of the irrigation and building improvements (or \$133,210); and,

WHEREAS, the City desires to eliminate the general fund costs of maintaining the Field and its associated irrigation system and buildings; and,

WHEREAS, the District has offered to pay the City \$1,070,000 for Field and its appurtenances, the payment of which price would terminate the District's commitment to pay the City \$133,210 toward the new irrigation system and concession/restroom building; and,

WHEREAS, as a matter of general Utah law, Utah Code Section 10-8-2 and Utah Supreme Court opinions require the City to receive fair value for sales of City property, and given the unique nature of and limited market for a public baseball field, the City Council believes that the purchase price of \$1,070,000 is fair value in satisfaction of Utah law; and,

WHEREAS, any sale and conveyance to the District will reserve to the City all necessary easements for access and utilities; and,

WHEREAS, Utah Code Section 10-8-2(4)(a) requires Utah municipalities to hold a public hearing prior to the disposition of significant parcels of real property, with 14 days notice of the hearing; and,

WHEREAS, Tooele City Code Section 1-25-1 defines "significant parcel of real property" to mean "a single parcel of real property owned by Tooele City regardless of size or value"; and,

WHEREAS, on January 16, the City Council convened a public hearing and accepted public comments regarding the City's sale of the Field:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the Field is hereby surplused and authorized for sale to the District for the purchase price of \$1,070,000, reserving to the City all necessary access and utility easements.

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

IN WITNES	WHEREOF, this Resolution is passed by the Tooele City Coun	cil this
day of	, 2019.	

(For)	TOOELE CI	TY COUNCIL	(Against)
[D-100	
ABSTAINING:			
(Approved)	MAYOR OF T	OOELE CITY	(Disapproved)
ATTEST:			
Michelle Y. Pitt, City Re	ecorder		
SEAL			
Approved as to Form:	Roger Evans Bak	ser, City Attorney	

TOOELE CITY CORPORATION

RESOLUTION 2019-04

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING A FORM POLE ATTACHMENT AGREEMENT FOR SMALL WIRELESS FACILITIES ATTACHED TO TOOELE CITY UTILITY POLES IN THE PUBLIC RIGHTS-OF-WAY.

WHEREAS, the Tooele City Council approved Ordinance 2018-16 enacting Tooele City Code Chapter 5-27 regarding small wireless communication services and facilities; and,

WHEREAS, the Tooele City Council approved Resolution 2018-57, approving a form franchise agreement for small wireless communication facilities in the public rights-of-way, pursuant to TCC Chapter 5-27, which requires such franchises; and,

WHEREAS, Chapter 5-27 and the franchise agreement contemplate requiring a pole attachment agreement specifying the terms and conditions upon which a wireless communication service provider can attached a wireless communication facility to a Tooele City utility pole; and,

WHEREAS, the City Council approved Resolution 2018-58 approving a pole colocation rate of \$50 per utility pole upon which a wireless communication facility is colocated; and,

WHEREAS, Article XI Section 5 of the Utah Constitution grants to charter cities "the authority to exercise all powers relating to municipal affairs, and to adopt and enforce within its limits, local police, sanitary and similar regulations not in conflict with the general law" including "to grant local public utility franchises and within its powers regulate the exercise thereof"; and,

WHEREAS, it is in Tooele City's interest, and the interest of wireless communication service providers, to approve a standardized pole attachment agreement form, attached hereto as Exhibit A:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the Pole Attachment Agreement substantially in the form attached as Exhibit A is hereby approved for use in Tooele City.

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

IN WITI	NESS WHEREOF, this Resolution	is passed by the Tooele City Council this
day of	, 2019.	,

TOOELE CITY COUNCIL

(For)			(Against)
ABSTAINING:			
(For)	AYOR OF TOOEL	E CITY	(Against)
ATTEST:			
Michelle Y. Pitt, City Recorder			
SEAL			
Approved as to form:	r Evans Baker. To	ooele City Attorne	_ V

Exhibit A

Pole Attachment Agreement Form

POLE ATTACHMENT AGREEMENT

This Pole Attachment Agreement ("Agreement") dated this day of	, 20
("Effective Date") by and between Tooele the City Corporation, a charte	r city and political
subdivision of the State of Utah ("the City") and [specify	business name and
type] ("Licensee").	

RECITALS

Whereas, Licensee proposes to install and maintain Wireless Communication Facilities ("WCFs") and associated equipment on the Poles to provide Wireless Communication Services to the public; and,

Whereas, the City is willing, when it may lawfully do so, to issue Permits authorizing the installation of Licensee's WCF Attachments on the Poles, provided, however, that the City may refuse, on a nondiscriminatory basis, to issue a Permit where there is insufficient Capacity or for reasons relating to safety, reliability, generally applicable engineering concerns, and/or any other Applicable Standard; and,

Whereas, the parties intend that this Agreement will supersede and replace any and all existing agreements between the parties related to the subject matter hereof, but shall not supersede or replace any franchise agreement; and,

Therefore, in consideration of the mutual covenants, terms, conditions, and remunerations herein provided, and the rights and obligations created hereunder, the parties hereto agree as follows:

AGREEMENT

Article 1—Definitions

For the purposes of this Agreement, the following terms, phrases, and words, and their derivations, shall have the meaning given herein, unless more specifically defined within a specific Article or Paragraph of this Agreement. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

Affiliate: when used in relation to Licensee, another entity that owns or controls, is owned or controlled by, or is under common ownership or control with Licensee.

Applicable Standards: all applicable engineering and safety standards governing the installation, maintenance, and operation of WCFs and the performance of all work in or around electric facilities, including the most current versions of National Electric Safety Code ("NESC"), the National Electrical Code ("NEC"), and the regulations of the Occupational Safety and Health Administration ("OSHA"), each of which is incorporated by reference in this Agreement, and/or

other reasonable safety and engineering requirements of the City or other federal, state, or local authority with jurisdiction over the City Facilities.

Assigned Space: space on the Poles that can be used, as defined by the Applicable Standards, for the attachment or placement of WCFs and associated equipment for the provision of Wireless Communication Service or electric service. Any neutral zone or safety space, as determined by the City, is not considered Assigned Space.

Attaching Entity: any public or private entity, other than the City or Licensee, which, pursuant to a license or franchise agreement with the City, places an Attachment on or within a Pole to provide Service.

Attachment: each point of contact between Licensee's WCFs and Poles, including the WCFs themselves, whether placed directly on Poles or Overlashed onto an existing Attachment, but not including a Riser or a service drop attached to a single Pole where Licensee has an existing Attachment on such Pole.

Capacity: the ability of a Pole segment to accommodate an Attachment, based on Applicable Standards, including space and loading considerations.

Climbing Space: that portion of a Pole's surface and surrounding space that is free from encumbrances so as to enable the City's employees and contractors to safely climb, access, and work on Facilities and other equipment.

Common Space: space on Poles that is not used for the placement of WCFs, wires, or cables but which jointly benefits all users of the Poles by supporting the underlying structure and/or providing safety clearance between Attachments and Facilities.

Facilities: all personal property and real property owned or controlled by the City and associated with Poles, including decorative arms, power wires and conduits, bulbs, globes, and the Poles themselves.

Make-Ready Work: all work, as reasonably determined by the City, required to accommodate Licensee's Attachments and/or to comply with all Applicable Standards. Such work includes, but is not limited to, Pre-Construction Survey, rearrangement and/or transfer of Facilities or Attachments, inspections, engineering work, permitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), or Pole replacement and construction.

Nonfunctional Attachment: an Attachment or any part thereof that becomes nonfunctional and no longer fit for service in view of the City upon evaluation using the Applicable Standards.

Occupancy: the use or specific reservation of Assigned Space for Attachments on the same Pole. Also known as collocation.

Overlash: to place an additional WCF onto an existing Attachment owned by Licensee.

Pedestals/Vaults/Enclosures: above- or below-ground housings that are used to enclose power supplies and WCF-related devices.

Permit: written or electronic authorization of the City for Licensee to make or maintain Attachments to Poles pursuant to the requirements of this Agreement, including a Permit Application signed by the City.

Pole or Utility Pole: is defined in Utah Code Ann. § 54-21-101(28), as amended.

Pole Attachment Fee: that fee identified in the Tooele City Fee Schedule charged for Attachments to Poles, as described herein.

Post-Construction Inspection: the inspection required by the City to determine and verify that Attachments have been made in accordance with Applicable Standards and the Permit.

Pre-Construction Survey: all work or operations required by Applicable Standards and/or the City to determine the potential Make-Ready Work necessary to accommodate Licensee's WCFs on a Pole. Such work includes field inspection and administrative processing. The Pre-Construction Survey shall be coordinated with the City and include Licensee's professional engineer.

Reserved Capacity: capacity or space on a Pole that the City has identified and reserved for its own utility and decoration requirements.

Riser: metallic or plastic encasement materials placed on the Pole to guide and protect wires and cables associated with a WCF, including a service drop.

Unauthorized Attachment Fee: that fee identified in the Tooele City Fee Schedule charged for unpermitted Attachments, as described herein.

Wireless Communication Facility, or WCF: is defined in Utah Code Ann. § 54-21-101(29), as amended.

Wireless Communication Service, or Service: any telecommunications or communications services provided by a provider within the City that the provider is authorized to provide under federal, state, and local law, and any equipment and/or facilities required for and integrated with the services provided within the City, except that these terms do not include "cable service" as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. Section 521, et seq.), and the Telecommunications Act of 1996.

Article 2—Scope of Agreement

2.1 Grant of License. Subject to the provisions of this Agreement, the City hereby grants Licensee a revocable, nonexclusive license authorizing Licensee to install and maintain WCFs and

Attachments to the Poles. This license is separate from the license granted by any franchise agreement.

- **2.2 Parties Bound by Agreement.** Licensee and the City agree to be bound by all provisions of this Agreement.
- **2.3 Permit Issuance Conditions.** The City will issue a Permit to Licensee only when the City determines, in its sole judgment, exercised reasonably, that (i) it has sufficient Capacity to accommodate the requested Attachments, (ii) Licensee meets all requirements set forth in this Agreement, and (iii) the Permit complies with all Applicable Standards.
- **2.4 Reserved Capacity.** Access to Assigned Space on Poles will be made available to Licensee with the understanding that such access is to the Reserved Capacity only. On giving Licensee at least 30 calendar days prior notice, the City may reclaim such Reserved Capacity anytime following the installation of Licensee's Attachment if required for the City's own reasonable use. The City shall give Licensee the option to remove its Attachments from the affected Poles or to pay for the cost of any Make-Ready Work needed to expand Capacity so that Licensee can maintain its Attachment on the affected Poles. The allocation of the cost of any such Make-Ready Work (including the transfer, rearrangement, or relocation of third-party Attachments) shall be determined in accordance with Article 9.
- 2.5 No Interest in Property. No use, however lengthy, of any Poles or Facilities, and no payment of any fees or charges required under this Agreement, shall create or vest in Licensee any easement or other ownership or property right of any nature in any portion of any Facilities. Neither this Agreement, nor any Permit granted under this Agreement, shall constitute an assignment of any of the City's rights to the Poles or Facilities. Notwithstanding anything in this Agreement to the contrary, Licensee shall, at all times, be and remain a licensee only.
- **2.6** Licensee's Right to Attach. Nothing in this Agreement, other than a Permit issued pursuant to Article 6, shall be construed as granting Licensee any right to attach Licensee's WCFs to any Pole.
- **2.7 The City's Rights over Poles.** The parties agree that this Agreement does not in any way limit the City's right to locate, relocate, operate, maintain, or remove its Poles in the manner it deems compatible with the City's best interest.
- **2.8 Expansion of Capacity.** The City will take reasonable steps to expand Capacity when necessary to accommodate Licensee's request for Attachment. Notwithstanding, nothing in this Agreement shall be construed to require the City to install, retain, extend, or maintain any Pole for use by licensees.
- **2.9 Other Agreements.** Except as provided herein, nothing in this Agreement shall limit, restrict, or prohibit the City from fulfilling any agreement or arrangement regarding Poles into which the City has previously entered, or may enter in the future, with others not party to this Agreement.

- **2.10 Permitted Uses.** This Agreement is limited to the uses specifically stated in the Recitals stated above and in the Permit, and no other use shall be allowed without the City's express written consent to such use. Nothing in this Agreement shall be construed to require the City to allow Licensee to use the Poles after the termination of this Agreement.
- **2.11 Overlashing.** The following provisions will apply to Overlashing:
 - **2.11.1** A Permit shall be obtained for each Overlashing pursuant to Article 6. Absent such authorization, Overlashing constitutes an unauthorized Attachment and is subject to the Unauthorized Attachment Fee specified in the Tooele City Fee Schedule (see Appendix A).
 - **2.11.2** If Licensee demonstrates that the Overlashing of Licensee's Attachments is required in order to accommodate Licensee's WCFs, the City shall not withhold Permits for such Overlashing if it can be done consistent with Paragraph 2.3. Overlashing performed pursuant to this Paragraph 2.11.2 shall not increase the Pole Attachment Fee established in the Tooele City Fee Schedule. Licensee, however, shall be responsible for all Make-Ready Work and other charges associated with the Overlashing but shall not be required to pay a separate Pole Attachment Fee for such Overlashed Attachment.
 - **2.11.3** If Overlashing is required to accommodate facilities of a third party, the third party must enter into a pole attachment agreement with the City and obtain Permits and must pay a separate Pole Attachment Fee as well as the costs of all necessary Make-Ready Work required to accommodate the Overlashing. No such Permits to third parties may be granted by the City allowing Overlashing of Licensee's WCFs unless Licensee has consented in writing to such Overlashing. Overlashing performed under this Paragraph 2.11.3 shall not increase the fees and charges paid by Licensee pursuant to the Tooele City Fee Schedule. Nothing in this Agreement shall prevent Licensee from seeking a contribution from an Overlashing third party to defray fees and charges paid by Licensee.
 - **2.11.4** Make-Ready Work procedures set forth in Article 7 shall apply, as necessary, to all Overlashing.
- **2.12 Enclosures.** Licensee shall not place Pedestals, Vaults, and/or other Enclosures on or within four (4) feet of any Pole or other Facilities without the City's prior written permission. If permission is granted, all such installations shall be per the Specifications and Drawings in Appendix D. Such permission shall not be unreasonably withheld.

Article 3—Fees and Charges

- **3.1** Payment of Fees and Charges. Licensee shall pay to the City the fees and charges established in the Tooele City Fee Schedule.
- **3.2 Payment Period.** Unless otherwise expressly provided, Licensee shall pay any invoice it receives from the City pursuant to this Agreement within 30 calendar days after the invoice issuance date.

- **3.3 Billing of Pole Attachment Fee.** The City shall invoice Licensee for Pole Attachment Fees, per Attachment, annually. The City will submit to Licensee an invoice for the annual Pole Attachment Fee period by November 30 of each year. The initial annual license period shall commence upon the execution of this Agreement and conclude on December 31 of the then-current year, and each subsequent annual license period shall commence on January 1 of the following year and conclude on December 31 of that year. The invoice shall set forth the total number of Poles on which Licensee was issued and/or holds a Permit for Attachments during such annual license period, including any previously authorized and valid Permits.
- **3.4 Refunds.** No fees and charges shall be refunded on account of any surrender of a Permit granted hereunder. No refund shall be owed if a Pole is abandoned or removed by the City during the annual license period. No proration shall be made for the partial license years.
- **3.5 Payment for Work.** Licensee will be responsible for payment to the City for all work the City or the City's contractors perform pursuant to this Agreement to accommodate Licensee's WCFs.
- **3.6** Advance Payment. At the discretion of the City, Licensee may be required to pay in advance all reasonable costs, including but not limited to administrative, construction, inspections, and Make-Ready Work expenses, in connection with the initial installation or rearrangement of Licensee's WCFs pursuant to the procedures set forth in Articles 6 and 7 below.
- 3.7 True Up. Wherever the City, at its discretion, requires advance payment of estimated costs prior to undertaking an activity on behalf of Licensee and the actual cost of the activity exceeds the advance payment of estimated costs, Licensee agrees to pay the City for the difference in cost. To the extent that the actual cost of the activity is less than the estimated cost, the City agrees to refund to Licensee the difference in cost.
- **3.8 Determination of Charges.** Wherever this Agreement requires Licensee to pay for work done or contracted by the City, the charge for such work shall include all reasonable material, labor, engineering, administrative costs, and applicable overhead costs. The City shall bill its services based upon actual costs, and such costs will be determined in accordance with the City's cost accounting systems used for recording capital and expense activities. All such invoices shall include an itemization of dates of work, location of work, and cost of labor, equipment, and materials. If Licensee was required to perform work and fails to perform such work, necessitating its completion by the City, the City may either charge an additional 10% to its costs or assess the penalty specified in the Tooele City Fee Schedule.
- **3.9 Work Performed by the City.** Wherever this Agreement requires the City to perform any work, Licensee acknowledges and agrees that the City, at its sole discretion, may utilize its employees or contractors, or any combination of the two, to perform such work, at Licensee's expense.
- **3.10 Default for Nonpayment.** Nonpayment of any amount due under this Agreement beyond 90 calendar days shall constitute a material default of this Agreement.

Article 4—Specifications

- 4.1 Installation/Maintenance of Wireless Communications Facilities. When a Permit is issued pursuant to this Agreement, Licensee's WCFs shall be installed and maintained in accordance with the requirements and specifications of Appendix D. All of Licensee's WCFs must comply with all Applicable Standards. Licensee shall be responsible for the installation and maintenance of its WCFs. Licensee, at its own expense, shall make and maintain its Attachments in safe condition and good repair, in accordance with all Applicable Standards. Notwithstanding anything in this Agreement to the contrary, Licensee is not required to update or upgrade its Attachments where not required by either the NESC or the NEC.
- **4.2 Interference.** Licensee shall not allow its WCFs to impair the ability of the City or any third party to use the Poles, nor shall Licensee allow its WCFs to interfere with the operation of any Facilities.
- **4.3 Protective Equipment.** Licensee, and its employees and contractors, shall utilize and install adequate protective equipment to ensure the safety of people and property. Licensee, at its own expense, shall install protective devices designed to handle the voltage and current impressed on its WCFs in the event of a contact with the supply conductor. Except as provided in Paragraph 16.1, the City shall not be liable for any actual or consequential damages to, or arising from damage to, Licensee's WCFs.
- **4.4 Violation of Specifications.** If Licensee's Attachments, or any part thereof, are installed, used, or maintained in violation of this Agreement, and Licensee has not corrected any violation within 30 calendar days from receipt of written notice of the violation from the City, the City at its option may correct the violation. The City will attempt to notify Licensee in writing prior to performing such corrective work whenever practicable. When the City believes, however, that a violation poses an immediate threat to the safety of any person, the City may perform such work and/or take such action as it deems necessary without first giving written notice to Licensee. As soon as practicable thereafter, the City will advise Licensee of the work performed or the action taken.
- 4.5 Effect of Failure to Exercise Access Rights. If Licensee does not exercise any access right granted pursuant to this Agreement and/or a Permit within 90 calendar days of the effective date of such right and any extension thereof, the City may use the space scheduled for Licensee's Attachments for its own needs or other Attaching Entities. In such instances, the City shall endeavor to make other space available to Licensee, upon written application per Article 6, as soon as reasonably possible and subject to all requirements of this Agreement, including the Make-Ready Work provisions.
- **4.6 Removal of Nonfunctional Attachments.** At its sole expense, Licensee shall remove any of its Attachments or any part thereof that becomes nonfunctional and no longer fit for service ("Nonfunctional Attachment") as provided in this Paragraph 4.6. A Nonfunctional Attachment that Licensee has failed to remove as required in this Paragraph 4.6 shall constitute an unauthorized Attachment and is subject to the Unauthorized Attachment Fee. Except as otherwise provided in

this Agreement, Licensee shall remove Nonfunctional Attachments within one year of the Attachment becoming nonfunctional, unless Licensee receives written notice from the City that removal is necessary to accommodate the City's or another Attaching Entity's use of the affected Poles, in which case Licensee shall remove the Nonfunctional Attachment within 60 calendar days of receiving the notice. Where Licensee has received a Permit to Overlash a Nonfunctional Attachment, such Nonfunctional Attachment may remain in place until the City notifies Licensee that removal is necessary to accommodate the City's or another Attaching Entity's use of the affected Poles. Licensee shall give the City notice of any Nonfunctional Attachments as provided in Article 15.

Article 5—Private and Regulatory Compliance

- **5.1 Necessary Authorizations.** Licensee shall be responsible for obtaining from the appropriate public and/or private authority or other appropriate persons any required authorization to construct, operate, and/or maintain its WCFs on public and/or private property before it occupies any portion of the Poles. The City retains the right to require evidence that appropriate authorization has been obtained before any Permit is issued to Licensee. Licensee's obligations under this Article 5 include, but are not limited to, its obligation to obtain all necessary approvals to occupy public/private rights-of-way and to pay all costs associated therewith. Licensee shall defend, indemnify, and reimburse the City for all loss and expense, including reasonable attorney's fees, that the City may incur as a result of claims by governmental bodies, owners of private property, or other persons that Licensee does not have sufficient rights or authority to attach Licensee's WCFs on the Poles.
- **5.2** Lawful Purpose and Use. Licensee's WCFs must at all times serve a lawful purpose, and the use of WCFs must comply with all applicable federal, state, and local laws, including the Applicable Standards.
- 5.3 Forfeiture of the City's Rights. No Permit granted under this Agreement shall extend to any Pole on/in which the Attachment of Licensee's WCFs would result in a forfeiture of the City's rights. Any Permit that on its face would cover Attachments that would result in forfeiture of the City's rights is void. Further, if any of Licensee's existing WCFs, whether installed pursuant to a valid Permit or not, would cause such forfeiture, Licensee shall promptly remove its Attachments upon receipt of written notice from the City. The City may perform such removal at Licensee's expense not sooner than the expiration of 30 calendar days from the City's issuance of the written notice.
- **5.4 Effect of Consent to Construction/Maintenance.** Consent by the City to the construction or maintenance of any one or more specific Attachments by Licensee shall not be deemed consent, authorization, or an acknowledgment that Licensee has the authority to construct or maintain any other Attachments. It is Licensee's responsibility to obtain all necessary approvals and permits for each Attachment from all appropriate parties or agencies.

Article 6—Permit Application Procedures

- **6.1 Permit Required.** Licensee shall not install any Attachment on any Pole without first applying for and obtaining a Permit pursuant to the requirements of this Agreement and the procedures contained in Appendix B.
- **6.2 Permits for Overlashing.** As set out in Paragraph 2.11, Permits are required for any Overlashing allowed under this Agreement. Licensee, Licensee's Affiliate, and any third party, as applicable, shall pay any necessary Make-Ready Work costs to accommodate such Overlashing.
- **6.3 Professional Certification.** Unless otherwise waived in writing by the City, as part of the Permit application process and at Licensee's sole expense, a qualified and experienced professional engineer, or an employee or contractor of Licensee who has been approved by the City, must participate in the Pre-Construction Survey, conduct the Post-Construction Inspection, and certify that Licensee's WCFs can be and were installed on the identified Poles in compliance with the Applicable Standards referenced in Paragraph 4.1, with Appendix D, and in accordance with the Permit. The professional engineer's qualifications must include experience performing such work, or substantially similar work, on small wireless antenna systems and electric power systems. The City, at its discretion, may waive the requirements of this Paragraph 6.3, with respect to Risers and service drops.
- **6.4 City Review of Permit Application.** Upon receipt of a properly executed Permit Application, the form of which is contained in Appendix C, which shall include the Pre-Construction Survey, certified per Paragraph 6.3 above, and detailed plans for the proposed Attachments in the form specified in Appendix D, the City will review the Permit Application as promptly as possible, and discuss any issues with Licensee, including engineering or Make-Ready Work requirements associated with the Permit Application. The City's acceptance of the submitted design documents does not relieve Licensee of full responsibility for any errors and/or omissions in the engineering analysis.
- **6.5 Permit as Authorization to Attach.** After demonstrating compliance with the terms of this Agreement, and upon receipt of payment for any necessary Make-Ready Work, the City will sign and return the Permit Application, which shall serve as the Permit and authorization for Licensee to make its Attachments.

Article 7—Make-Ready Work/Installation

- 7.1 Estimate for Make-Ready Work. In the event the City determines that it can accommodate Licensee's request for Attachments, including Overlashing of an existing Attachment, it will, upon request, advise Licensee of any estimated Make-Ready Work charges necessary to accommodate the Attachments.
- **7.2 Payment of Make-Ready Work.** Licensee shall retained a licensed electrical or other contractor, acceptable to the City, to perform any required Make-Ready Work. The cost of any required Make-Ready Work shall be borne by Licensee. Alternatively, the City may perform the Make-Ready Work. For Make-Ready Work performed by the City, the City shall invoice Licensee

for the City's actual cost of such Make-Ready Work. Or, the City, at its discretion, may require payment in advance for Make-Ready Work based upon the estimated cost of such work. In such case, upon completion of the Make-Ready Work Licensee shall pay the City's actual cost of the Make-Ready Work. The costs of the work shall be itemized as per Paragraph 3.9 and trued up as per Paragraph 3.8.

7.3 Written Approval of Installation Plans Required. Before making any Attachments to the Poles, including Overlashing of existing Attachments, the applicant must obtain the City's written approval of detailed plans for the Attachments. Such detailed plans shall accompany a Permit Application as required under Paragraph 6.4.

7.4 Licensee's Installation/Removal/Maintenance Work.

- **7.4.1** All of Licensee's installation, removal, and maintenance work shall be performed at Licensee's sole cost and expense, in a good and workmanlike manner, and must not adversely affect the structural integrity of the Poles or other Facilities or other Attaching Entity's facilities or equipment attached thereto. All such work is subject to the insurance requirements of Article 18.
- **7.4.2** All of Licensee's installation, removal, and maintenance work performed on the Poles or in the vicinity of the City Facilities, either by its employees or contractors, shall be in compliance with all applicable regulations specified in Paragraph 4.1. Licensee shall assure that any person installing, maintaining, or removing its WCFs is fully qualified and familiar with all Applicable Standards, the provisions of Article 17, and the Minimum Design Specifications contained in Appendix D.

Article 8—Relocations

- 8.1 Required Relocations of Licensee's Wireless Communications Facilities. If the City reasonably determines that a relocation of Licensee's Attachment(s) is necessary, Licensee agrees to allow the relocation. Licensee agrees to perform any relocation at its own expense within 30 calendar days after receiving notice from the City. If Licensee fails to relocate its Attachment(s) within 30 calendar days after receiving notice from the City, the City shall have the right to relocate Licensee's Attachments using its personnel and/or contractors at Licensee's expense plus the penalty specified in the Tooele City Fee Schedule. The City shall not be liable for damage to Licensee's WCFs except to the extent provided in Paragraph 16.1. The written advance notice requirement of this Paragraph 8.1 shall not apply to emergency situations, in which case the City shall provide such advance notice as is practical given the urgency of the particular situation. The City shall then provide written notice of any such actions taken within 10 calendar days of the occurrence. Irrespective of who owns them, Licensee is responsible for the relocation of Attachments that are overlashed onto Licensee's other Attachments.
- **8.2 Billing for Relocations Performed by the City.** If the City performs the relocation, the City will bill Licensee for actual costs per Paragraph 3.9. Licensee shall reimburse the City within 30 calendar days of the receipt of the invoice.

Article 9—Pole Modifications And/Or Replacements

- **9.1 Licensee's Action Requiring Modification/Replacement.** In the event any Pole to which Licensee desires to make an Attachment is unable to support or accommodate the additional burdens in accordance with all Applicable Standards, the City will notify Licensee of the necessary Make-Ready Work to provide an adequate Pole, including but not limited to replacement of the Pole and rearrangement of City Facilities. Licensee shall be responsible for separately entering into an agreement with other Attaching Entities concerning the allocation of costs for the relocation or rearrangement of such entities' existing Attachments. If Licensee elects to go forward with the necessary changes, Licensee shall perform or pay for the Make-Ready Work pursuant to Paragraph 7.2. Licensee shall also be responsible for obtaining, and furnishing to the City before the commencement of any Make-Ready Work, agreements between Licensee and the other Attaching Entities (including Overlashers) concerning the relocation or rearrangement of their Attachments and the costs involved.
- 9.2 Treatment of Multiple Requests for Same Pole. If the City receives Permit Applications for the same Pole from two or more prospective licensees within 60 calendar days of each other, and approving their applications would require modifications to or replacement of the Pole, the applicants shall be required to enter into a written agreement as between themselves, with the City as third-party beneficiary, for them to perform and pay for the required modifications or replacement.
- **9.3 Guying.** The use of guy wires/guying to accommodate Licensee's Attachments shall not be allowed.
- **9.4** Allocation of Costs. The costs for any rearrangement or relocation of Licensee's Attachments, or the replacement of a Pole (including any related costs for tree cutting or trimming required to prepare the new location) shall be allocated to the City and/or Licensee and/or other Attaching Entity on the following basis:
 - **9.4.1** If the City intends to modify or replace a Pole solely for its own requirements, it shall be responsible for the costs related to the modification/replacement of the Pole. Licensee, however, shall be responsible for all costs associated with the rearrangement or relocation of Licensee's WCFs. Prior to making any such modification or replacement, the City shall provide Licensee written notification of its intent in order to allow Licensee a reasonable opportunity to elect to modify or add to its existing Attachments. Should Licensee so elect, it must seek the City's written permission per this Agreement. The notice requirement of this Paragraph 9.4.1 shall not apply to routine maintenance or emergency situations. If Licensee elects to modify or add to its existing Attachments, Licensee shall bear the total incremental costs incurred by the City in making the space on the Poles accessible to Licensee.
 - **9.4.2** If the modification or the replacement of a Pole is the result of an additional Attachment or the modification of an existing Attachment sought by an Attaching Entity other than the City or Licensee, the Attaching Entity requesting the additional or modified Attachment shall bear the entire cost of the modification or Pole replacement, as well as

the costs for rearranging or relocating Licensee's WCFs. Licensee shall cooperate with Attaching Entity to determine the costs of rearranging or relocating Licensee's Attachments.

- **9.4.3** If the Pole must be modified or replaced for other reasons unrelated to the use of the Pole by Licensee or Attaching Entities (*e.g.*, storm, accident, vandalism), the City shall pay the costs of such modification or replacement; provided, however, that Licensee shall be responsible for the costs of rearranging or transferring its WCFs. Further, the City expressly disclaims responsibility for damage to Attachments caused by storm, accident, or vandalism.
- **9.4.4** If the modification or replacement of a Pole is necessitated by the requirements of Licensee, Licensee shall be responsible for the costs related to the modification or replacement of the Pole and for the costs associated with the relocation or rearrangement of its and Attaching Entity's Attachments. Licensee shall submit to the City evidence, in writing, that it has made arrangements to reimburse all affected Attaching Entities for the cost to relocate or rearrange affected Attaching Entities' Attachments at the time Licensee submits a Permit Application to the City. The City shall not be obligated in any way to enforce or administer Licensee's responsibility for the costs associated with the relocation or rearrangement of another Attaching Entity's Attachments pursuant to this Paragraph 9.4.4.
- **9.5** The City Not Required to Relocate. No provision of this Agreement shall be construed to require the City to relocate its Facilities or modify/replace its Poles for the benefit of Licensee; provided, however, that any denial by the City for modification of a Pole is based on nondiscriminatory standards of general applicability.

Article 10—Abandonment or Removal of the City Poles

- 10.1 Notice of Abandonment or Removal of the City Poles. If the City desires at any time to abandon or remove any Pole to which Licensee's WCFs are attached, it shall give Licensee notice in writing to that effect at least 60 calendar days prior to the date on which it intends to abandon or remove the Pole. Notice may be limited to 30 calendar days if the City is required to remove or abandon its Pole as the result of the action of a third party and the greater notice period is not practical. The notice shall indicate whether the City is offering Licensee an option to purchase the Pole. If, at the end of the 30 calendar days, Licensee has not yet removed and/or relocated all of its Attachments therefrom and has not entered into an agreement to purchase the City's Pole pursuant to Paragraph 10.2, the City shall have the right, subject to any applicable laws and regulations, to have Licensee's Attachments removed from the Pole at Licensee's expense. The City shall give Licensee prior written notice of any such removal of Licensee's Attachments.
- **10.2 Option to Purchase Abandoned Poles.** Should the City desire to abandon any Pole, the City, at its sole discretion, may grant Licensee the option of purchasing the Pole at a rate established by the City. Licensee must notify the City in writing within 30 calendar days of the date of the City's notice of abandonment that Licensee desires to purchase the abandoned Pole. Thereafter, Licensee must also secure and deliver proof of all necessary governmental approvals

and easements allowing Licensee to independently own and access the Pole within 45 calendar days. Should Licensee fail to secure the necessary governmental approvals, or should the City and Licensee fail to enter into an agreement for Licensee to purchase the Pole prior to the end of the 45 calendar days, Licensee must remove its Attachments as required under Paragraph 10.1. The City is under no obligation to sell to Licensee any Poles that it intends to remove or abandon.

Article 11—Removal of Licensee's Facilities on Expiration/Termination

At the expiration or other termination of this Agreement or any individual Permit, Licensee shall remove its WCF and all other Attachments from the affected Poles at its own expense. If Licensee fails to remove its Attachments within 60 calendar days of expiration or termination, or some greater period as allowed by the City, the City shall have the right to have the Attachments removed at Licensee's expense.

Article 12—Termination of Permit

- **12.1 Automatic Termination of Permit.** Any Permit issued pursuant to this Agreement shall automatically terminate when Licensee ceases to have authority to construct and operate its WCFs at the location of the Poles covered by the Permit.
- 12.2 Surrender of Permit. Licensee may at any time surrender any Permit for Attachments and remove its Attachments from the affected Poles; provided, however, that before commencing any the removal Licensee must obtain the City's written approval of Licensee's plans for removal, including the name of the party performing the work and the dates and times during which the work will be completed. All such work is subject to the insurance requirements of Article 18. No refund of any fees or costs will be made upon the event of removal. If Licensee surrenders a Permit pursuant to the provisions of this Article 12, but fails to remove its Attachments from the Poles within 30 calendar days of Permit surrender, the City shall have the right to remove Licensee's Attachments at Licensee's expense.

Article 13—Inspection of Licensee's Facilities

- 13.1 Inspections. The City may conduct an inventory and inspection of any Attachments at any time. Licensee shall correct all Attachments that are found not to be in compliance with Applicable Standards within 30 calendar days of notification. If it is found that Licensee has made an Attachment without a Permit, Licensee shall pay a fee as specified the Fee Schedule in addition to other applicable fees and charges. If it is found that 5% or more of Licensee's Attachments are either in non-compliance or not permitted, Licensee shall pay, in addition to all other applicable fees and charges, the City's costs of the inspection.
- **13.2 Notice.** The City will give Licensee reasonable advance written notice of inspections, except in those instances where safety considerations justify the need for inspection without the delay of waiting until written notice has been received.
- 13.3 No Liability. Inspections performed under this Article 13, or the failure to so inspect, shall not operate to impose upon the City any liability of any kind whatsoever or relieve Licensee of

any responsibility, obligation, or liability, whether contained in this Agreement or otherwise existing.

13.4 Attachment Records. Notwithstanding the above inspection provisions, Licensee is obligated to furnish to the City, on an annual basis, an up-to-date map depicting the locations of its Attachments, in an electronic format specified by the City.

Article 14—Unauthorized Occupancy or Access

- **14.1 Unauthorized Access Fee.** If any of Licensee's Attachments are found occupying any Pole for which no Permit has been issued, the City, without prejudice to its other rights or remedies under this Agreement, may assess an Unauthorized Access Fee. In the event Licensee fails to pay this Fee within 30 calendar days of receiving notification thereof, the City has the right to remove unauthorized or unlicensed Attachments at Licensee's expense.
- 14.2 No Ratification of Unlicensed Use. No act or failure to act by the City with regard to any unlicensed use shall be deemed as ratification of the unlicensed use, and if any Permit should be subsequently issued, such Permit shall not operate retroactively or constitute a waiver by the City of any of its rights or privileges under this Agreement or otherwise; provided, however, that Licensee shall be subject to all liabilities, obligations, and responsibilities of this Agreement in regards to the unauthorized or unlicensed use from its inception.

Article 15—Reporting Requirements

Concurrently with Licensee's payment of the Pole Attachment Fees and using the reporting form contained in Appendix E, Licensee shall report the following to the City.

- **15.1** The Poles on which Licensee has installed, during the relevant reporting period, Risers and service drops where no Permit was required.
- 15.2 All Attachments that have become nonfunctional during the relevant reporting period. The report shall identify the Pole on which the Nonfunctional Attachment is located, describe the nonfunctional equipment, and indicate the approximate date the Attachment became nonfunctional.
- 15.3 Any equipment Licensee has removed from Poles during the relevant reporting period. The report shall identify the Pole from which the equipment was removed, describe the removed equipment, and indicate the approximate date of removal. This requirement does not apply where Licensee is surrendering a Permit pursuant to Paragraph 12.2.

Article 16—Liability and Indemnification

16.1 Liability. The City reserves to itself the right to maintain and operate its Poles in such a manner as will best enable it to fulfill its needs. Licensee agrees to use the Poles at Licensee's sole risk. Notwithstanding the foregoing, the City shall exercise reasonable precaution to avoid damaging Licensee's Attachments, and shall report to Licensee the occurrence of any such damage

caused by the City's employees, agents, or contractors. Subject to Paragraph 16.5, the City agrees to reimburse Licensee for all reasonable costs incurred by Licensee for the physical repair of such facilities damaged by the gross negligence or willful misconduct of the City; provided, however, that the aggregate liability of the City to Licensee in any fiscal year for any other fines, penalties, claims, or damages stemming from interruption of Licensee's service or interference with the operation of Licensee's WCFs (including special, indirect, punitive, and consequential damages) shall not exceed the amount of the total annual Pole Attachment Fees paid by Licensee to the City for that year as calculated based on the number of Attachments under Permit at the time of the damage.

- 16.2 Indemnification. Licensee, and any agent, contractor, or subcontractor of Licensee, shall defend, indemnify, and hold harmless the City and its officials, representatives, employees, agents, and contractors against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, payments (including payments made by the City under any Workers Compensation laws or under any plan for employee disability and death benefits), and expenses (including reasonable attorney's fees of the City and all other costs and expenses of litigation) ("Covered Claims") arising in any way, including any act, omission, failure, negligence, or willful misconduct, in connection with the construction, maintenance, repair, presence, use, relocation, transfer, removal, or operation by Licensee, or by Licensee's officers, directors, employees, agents, or contractors, of Licensee's WCFs, except to the extent of the City's negligence or willful misconduct giving rise to such Covered Claims. Such Covered Claims include, but are not limited to, the following:
 - **16.2.1** Intellectual property infringement, libel and slander, trespass, unauthorized use of television or radio broadcast programs and other program material, and infringement of patents;
 - **16.2.2** Cost of work performed by the City that was necessitated by Licensee's failure, or the failure of Licensee's officers, directors, employees, agents, or contractors, to install, maintain, use, transfer, or remove Licensee's WCFs in accordance with the requirements and specifications of this Agreement, or from any other work this Agreement authorizes the City to perform on Licensee's behalf;
 - **16.2.3** Damage to property or injury to or death of any person arising out of the performance or nonperformance of any work or obligation undertaken by Licensee, or Licensee's officers, directors, employees, agents, or contractors, pursuant to this Agreement;
 - **16.2.4** Liabilities incurred as a result of Licensee's violation, or a violation by Licensee's officers, directors, employees, agents, or contractors, of any law, rule, or regulation of the United States, State of Utah, County of Tooele, the City of Tooele, or any other governmental entity or administrative agency.

16.3 Procedure for Indemnification.

16.3.1 The City shall give prompt notice to Licensee of any claim or threatened claim, specifying the factual basis for such claim and the amount of the claim. If the claim relates

to an action, suit, or proceeding filed by a third party against the City, the City shall give the notice to Licensee no later than 10 calendar days after the City receives written notice of the action, suit, or proceeding.

- **16.3.2** The City's failure to give the required notice will not relieve Licensee from its obligation to indemnify the City unless Licensee is materially prejudiced by such failure.
- 16.3.3 Licensee will have the right at any time, by notice to the City, to participate in or assume control of the defense of the claim with counsel of Licensee's choice, which counsel must be reasonably acceptable to the City. The City agrees to cooperate fully with Licensee in the defense of any third-party claim. If Licensee so assumes control of the defense of any third-party claim, the City shall have the right to participate in the defense at its own expense. If Licensee does not so assume control or otherwise participate in the defense of any third-party claim, Licensee shall be bound by the results obtained by the City with respect to the claim.
- **16.3.4** If Licensee assumes the defense of a third-party claim as described above, then in no event will the City admit any liability with respect to, or settle, compromise, or discharge, any third-party claim without Licensee's prior written consent, and the City will agree to any settlement, compromise, or discharge of any third-party claim which Licensee may recommend which releases the City completely from such claim.
- 16.4 **Environmental Hazards.** Licensee represents and warrants that its use of the Poles will not generate any hazardous substances, that it will not store or dispose on or about the Poles or transport to the Poles any hazardous substances, and that Licensee's WCFs will not constitute or contain and will not generate any hazardous substance in violation of federal, state, or local law, now or hereafter in effect including any amendments. "Hazardous Substance" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, dangerous radio frequency radiation, or other similar terms by any federal, state, or local laws, regulations, or rules now or hereafter in effect including any amendments. Licensee further represents and warrants that in the event of breakage, leakage, incineration, or other disaster, its WCFs would not release any Hazardous Substances. Licensee and its agents, contractors, and subcontractors shall defend, indemnify, and hold harmless the City and its respective officials, representatives, employees, agents, and contractors against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, punitive damages, expenses (including reasonable attorney's fees and all other costs and expenses of litigation) arising from or due to the release, threatened release, storage, or discovery of any Hazardous Substances on, under, or adjacent to the Poles attributable to Licensee's use of the Poles. Should the Poles be declared to contain hazardous substances, the City, Licensee, and all Attaching Entities shall share proportionately in the cost of disposal of the affected Poles based on each entity's individual percentage use of same. For Attaching Entities, such percentage shall be derived from the sum of Assigned Space occupied by each Attaching Entity plus its share of the Common Space. For the City, such percentage shall be equal to the space above the NESC 40-inch neutral zone or safety space plus its share of the Common Space; provided, however, if the source or presence of the hazardous substance is attributable to particular parties, such costs shall be borne solely by those parties.

- **16.5 Municipal Liability Limits.** No provision of this Agreement is intended or shall be construed to be a waiver for any purpose by the City of any applicable state limits on municipal liability. No indemnification provision contained in this Agreement under which Licensee indemnifies the City shall be construed in any way to limit any other indemnification provision contained in this Agreement.
- **16.6 Attorney's Fees.** If the City brings a successful action in a court of competent jurisdiction to enforce this Agreement, Licensee shall pay the City's reasonable attorney's fees and court costs.

Article 17—Duties, Responsibilities, and Exculpation

- **17.1 Duty to Inspect.** Licensee acknowledges and agrees that the City does not warrant the condition or safety of the City's Poles, or the premises surrounding the Poles, and Licensee further acknowledges and agrees that it has an obligation to inspect the Poles and/or premises surrounding the Poles, prior to commencing any work on the Poles or entering the premises surrounding such Poles.
- 17.2 Knowledge of Work Conditions. By executing this Agreement, Licensee warrants that it has acquainted, or will fully acquaint, itself and its employees and/or contractors and agents with the conditions relating to the work that Licensee will undertake under this Agreement and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.
- 17.3 DISCLAIMER. THE CITY MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO THE CITY'S POLES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND THE CITY MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH IN THIS AGREEMENT. THE CITY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- 17.4 Duty of Competent Supervision and Performance. Licensee shall ensure that its employees, agents, contractors, and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of the City, and the general public from harm or injury while performing work permitted pursuant to this Agreement. In addition, Licensee shall furnish its employees, agents, contractors, and subcontractors competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner.
- 17.5 Interruption of Service. In the event that Licensee causes an interruption of street light service by damaging or interfering with any City Facilities, Licensee at its expense shall immediately do all things reasonable to restore service, to avoid injury or damages, and to notify the City.

Article 18—Insurance

- **18.1 Policies Required.** At all times during the term of this Agreement, Licensee shall keep in force and effect all insurance policies as described below:
 - **18.1.1 Workers Compensation and Employer Liability Insurance.** Statutory workers compensation benefits and employer liability insurance with a limit of liability no less than that required by Utah law at the time of the application of this provision for each accident. This policy shall be endorsed to include a waiver of subrogation in favor of the City. Licensee shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.
 - **18.1.2** Commercial General Liability Insurance. General liability insurance policy to provide coverage for, but not limited to, premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, and independent contractor's coverage with limits of liability not less than \$5,000,000 general aggregate, \$5,000,000 products/completed operations aggregate, \$5,000,000 personal injury, and \$5,000,000 each occurrence.
 - **18.1.3** Automobile Liability Insurance. Business automobile policy covering all owned, hired, and non-owned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence and \$1,000,000 aggregate.
 - **18.1.4 Property Insurance.** Each party will be responsible for maintaining property insurance on its own Poles, Attachments, WCFs, and associated facilities, equipment, and other improvements that may be placed on, within, or around the City Poles to fully protect against hazards of fire, vandalism, and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as "extended coverage" insurance.
- **18.2 Qualification; Priority; Contractors' Coverage.** The insurer must be authorized to do business under the laws of the State of Utah and have an "A" or better rating in Best's Guide. In all cases, Licensee's insurance will be primary. All contractors and all of their subcontractors who perform work on behalf of Licensee shall carry, in full force and effect, workers compensation, employer liability, comprehensive general liability, and automobile liability insurance coverages of the type that Licensee is required to obtain under this Article 18 with the same limits.
- 18.3 Certificates of Insurance; Other Requirements. Prior to the execution of this Agreement and prior to each insurance policy expiration date during the term of this Agreement, Licensee will furnish the City with certificates of insurance ("Certificates") and, upon request, certified copies of the required insurance policies. The Certificates shall reference this Agreement and workers compensation and property insurance waivers of subrogation required by this Agreement. The City shall be given 30 calendar days advance notice of cancellation or nonrenewal of insurance during the term of this Agreement. The City, its officials, employees, and representatives (collectively, "Additional Insureds") shall be named as Additional Insureds under all of the policies, except workers compensation, which shall be so stated on the Certificates. All

policies, other than workers compensation, shall be written on an occurrence and not on a claims-made basis. All policies may be written with deductibles not to exceed \$100,000, or such greater amount as expressly allowed in writing by the City. Licensee shall defend, indemnify, and hold harmless the City and the Additional Insureds from and against payment of any deductible and payment of any premium on any policy required under this Article 18. Licensee shall obtain Certificates from its agents, contractors, and their subcontractors, and shall provide copies of such Certificates to the City upon request.

- **18.4 Limits.** The limits of liability set out in this Article 18 may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of federal, state, or other governmental compensation plans or laws which would materially increase or decrease Licensee's exposure to risk.
- 18.5 Prohibited Exclusions. No policies of insurance required to be obtained by Licensee or its contractors or subcontractors under this Article 18 shall contain provisions that: (1) exclude coverage of liability assumed by this Agreement with the City except as to infringement of patents or copyrights or for libel and slander in program material; (2) exclude coverage of liability arising from excavating, collapse, or underground work; (3) exclude coverage for injuries to the City's employees or agents; (4) exclude coverage of liability for injuries or damages caused by Licensee's contractors or the contractors' employees or agents; (5) exclude coverage for environmental contamination caused by Licensee or its agents in City rights-of-way. This list of prohibited provisions shall not be interpreted as exclusive.
- **18.6 Deductible/Self-insurance Retention Amounts.** Licensee shall be fully responsible for any deductible or self-insured retention amounts contained in its insurance program or for any deficiencies in the amounts of insurance maintained.

Article 19—Authorization Not Exclusive

The City shall have the right to grant, renew, and extend rights and privileges, by contract or otherwise, to others not party to this Agreement to use the Poles. Such rights shall not interfere with the rights granted to Licensee by the specific Permits issued pursuant to this Agreement.

Article 20—Assignment

- **20.1 Limitations on Assignment.** Licensee shall not assign its rights or obligations under this Agreement, in full or in part, without the prior written consent of the City, which consent shall not be unreasonably withheld. It shall be unreasonable for the City to withhold consent without cause to an assignment of all of Licensee's interests in this Agreement to Licensee's Affiliate.
- **20.2 Obligations of Assignee/Transferee and Licensee.** No assignment or transfer under this Article 20 shall be allowed until the assignee or transferee becomes a signatory to this Agreement and assumes all obligations of Licensee arising under this Agreement. Licensee shall furnish the City with prior written notice of the transfer or assignment, together with the name and address of the transferee or assignee. Notwithstanding any assignment or transfer, Licensee shall remain fully

liable under this Agreement and shall not be released from performing any of the terms, covenants, or conditions of this Agreement without the express written consent to the release of Licensee by the City.

20.3 Sub-licensing. Without the City's prior written consent, Licensee shall not sub-license or lease to any third party, including, but not limited to, allowing third parties to place Attachments on the Poles or Attachments, including Overlashing, or to place Attachments for the benefit of such third parties on the Poles or Attachments. Any such action shall constitute a material breach of this Agreement. The use of Licensee's WCFs by third parties that involves no additional Attachment or Overlashing is not subject to this Paragraph 20.3.

Article 21—Failure to Enforce

Failure of the City or Licensee to take action to enforce compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect until terminated in accordance with this Agreement.

Article 22—Termination of Agreement

- **22.1** Notwithstanding the City's rights under Article 12, the City shall have the right, pursuant to the procedure set out in Paragraph 22.2, to terminate this entire Agreement, or any Permit issued pursuant to the terms of this Agreement, whenever Licensee is in default of any term or condition of this Agreement, including but not limited to the following circumstances:
 - **22.1.1** Construction, operation, or maintenance of Licensee's WCFs in violation of law or in aid of any unlawful act or undertaking;
 - **22.1.2** Construction, operation, or maintenance of Licensee's WCFs after any authorization required of Licensee has lawfully been denied or revoked by any governmental or private authority, or violation of any other agreement with the City; or,
 - **22.1.3** Construction, operation, or maintenance of Licensee's WCFs without the insurance coverages required under Article 18.
- 22.2 The City will notify Licensee in writing within 15 calendar days, or as soon as reasonably practicable, of any conditions applicable to Paragraph 22.1 above. Licensee shall take immediate corrective action to eliminate any such conditions within 15 calendar days, or such longer period mutually agreed to by the parties, and shall confirm in writing to the City that the cited conditions have ceased or been corrected. If Licensee fails to discontinue or correct such conditions)and/or fails to give the required confirmation, the City may immediately terminate this Agreement and any Permits. In the event of termination of this Agreement or any of Licensee's rights, privileges, or authorizations hereunder, the City may seek removal of Licensee's Attachments, including expressly Licensee's WCFs, pursuant to the terms of Article 11, provided that Licensee shall be

liable for and pay all fees and charges pursuant to the terms of this Agreement to the City until Licensee's Attachments are actually removed.

Article 23—Term of Agreement

- 23.1 This Agreement shall become effective upon its execution and, if not terminated in accordance with other provisions of this Agreement, shall continue in effect for a term of five years. Either party may terminate this Agreement at the end of the initial five-year term by giving to the other party written notice of an intention to terminate this Agreement at least 90 calendar days prior to the end of the term. If no such notice is given, this Agreement shall automatically be extended for an additional five-year term. Either party may terminate this Agreement at the end of the second five-year term by giving to the other party written notice of an intention to terminate this Agreement at least 90 calendar days prior to the end of the second term. Upon failure to give such notice, this Agreement shall automatically continue in force until terminated by either party after 90 calendar days written notice.
- 23.2 Even after the termination of this Agreement, Licensee's responsibility and indemnity obligations shall continue with respect to any claims or demands related to Licensee's WCFs, as provided for in Article 16.

Article 24—Amending Agreement

Notwithstanding other provisions of this Agreement, the terms and conditions of this Agreement shall not be amended, changed, or altered except in writing and with approval by authorized representatives of both parties.

Article 25—Notices

25.1 Wherever in this Agreement notice is required to be given by either party to the other, such notice shall be in writing and shall be effective when personally delivered to, or when mailed by certified mail, return receipt requested, with postage prepaid and, except where specifically provided for elsewhere, properly addressed as follows:

If to the City, at:

Director, Community Development Department Tooele City Corporation 90 North Main Street Tooele, UT 84074

With copy to Tooele City Attorney

f to L	лсеп	iscc,	, at.		

or to such other address as either party, from time to time, may give the other party in writing.

25.2 Licensee shall maintain a staffed 24-hour emergency telephone number, not available to the general public, where the City can contact Licensee to report damage to Licensee's Attachments and associated facilities or other situations requiring immediate communications between the parties. Such contact person shall be qualified and able to respond to the City's concerns and requests. Failure to maintain an emergency contact shall subject Licensee to a penalty of One Hundred Dollars (\$100) per incident, and shall eliminate the City's liability to Licensee for any actions that the City deems reasonably necessary given the specific circumstances.

Article 26—Entire Agreement

This Agreement supersedes all previous agreements, whether written or oral, between the City and Licensee for placement and maintenance of Licensee's WCFs on the Poles within the geographical service area covered by this Agreement. There are no other provisions, terms, or conditions to this Agreement except as expressed herein.

Article 27—Severability

If any provision, or portion thereof, of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Agreement to either party, such provision shall not render unenforceable this entire Agreement. Rather, it is the intent of the parties that this Agreement be administered as if not containing the invalid provision.

Article 28—Governing Law

The validity, performance, and all matters relating to the effect of this Agreement and any amendment hereto shall be governed by the laws (without reference to choice of law) of the State of Utah.

Article 29—Incorporation of Recitals and Appendices

The recitals stated above and all appendices to this Agreement are incorporated into and constitute part of this Agreement.

Article 30—Force Majeure

- **30.1** In the event that either the City or Licensee is prevented or delayed from fulfilling any term or provision of this Agreement by reason of fire, flood, earthquake, or like acts of nature, wars, civil commotion, explosion, acts of terrorism, embargo, acts of the government in its sovereign capacity, material changes of laws or regulations, labor difficulties, including, without limitation, strikes, slowdowns, picketing or boycotts, unavailability of equipment of vendor, or any other such cause not attributable to the negligence or fault of the party delayed in performing the acts required by the Agreement, then performance of such acts shall be excused for the period of the unavoidable delay, and such party shall endeavor to remove or overcome such inability as soon as reasonably possible.
- **30.2** The City shall not impose any charges on Licensee stemming solely from Licensee's inability to perform required acts during a period of unavoidable delay as described in Paragraph 30.1, provided that Licensee shall present the City with a written description of such *force majeure* within a reasonable time after occurrence of the event or cause relied upon, and further provided that this provision shall not operate to excuse Licensee from the timely payment of any fees or charges due the City under this Agreement.

Article 31—Waiver of Jury Trial

To the fullest extent possible, the Parties irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement and the transactions contemplated herein.

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

TOOELE CITY CORPORATION	LICENSEE
By: Debra E. Winn, Mayor	By:
ATTEST:	APPROVED AS TO FORM:
Tooele City Recorder	Tooele City Attorney

State of		
: ss		
County of		
I, the undersigned, a Notary Public	in and for the State of	, hereby certify
that on the day of	, 20, personally	appeared before me [LICENSEE
NAME]	_ [TITLE]	, to me known to be the
individual described in and who exe	ecuted the foregoing instr	ument and acknowledged that they
signed and sealed the same as their	free and voluntary act ar	nd deed, for the uses and purposes
therein mentioned. GIVEN under m	ry hand and official seal th	e day and year above written.

TOOELE CITY CORPORATION

RESOLUTION 2019-05

A RESOLUTION OF THE TOOELE CITY COUNCIL AMENDING THE TOOELE CITY FEE SCHEDULE REGARDING SMALL WIRELESS FACILITIES POLE ATTACHMENTS IN THE PUBLIC RIGHTS-OF-WAY.

WHEREAS, Senate Bill 189 of the 2018 Utah Legislative Session ("SB 189"), which took effect on September 1, 2018, enacted Utah Code Chapter 54-21, entitled the Small Wireless Facilities Deployment Act, accomplishing the following:

- allowing a wireless provider to deploy a small wireless facility and any associated utility pole within a public right-of-way
- allowing a municipality to establish a permitting process for the deployment of a small
 - wireless facility and any associated utility pole
- establishing a wireless provider's access to a municipal utility pole within a rightof-way
- setting rates and fees for the placement of a small wireless facility and a utility pole within a right-of-way
- allowing a municipality to adopt indemnification, insurance, and bonding requirements for a small wireless facility permit for a small wireless facility and a utility pole within a right-of-way
- allowing a municipality to enact design standards for a small wireless facility and a utility pole within a right-of-way

WHEREAS, Tooele City Code §1-26-1 authorizes the City Council to establish City fees by resolution for activities regulated by the City and services provided by the City; and.

WHEREAS, under the Council-Mayor form of municipal government, established and governed by the Tooele City Charter (2006) and Utah Code §10-3b-201 et seq., the Mayor exercises all executive and administrative powers; however, it has been the practice of Tooele City for all fees proposed by the Mayor and City Administration to be approved by the City Council; and,

WHEREAS, the Tooele City Council has approved Ordinance 2018-16, which enacted Tooele City Code Chapter 5-27 to regulate small wireless facilities in the public rights-of-way in Tooele City; and,

WHEREAS, the recitals of Ordinance 2018-16 are incorporated herein; and,

WHEREAS, the Small Wireless Facilities Deployment Act set the maximum fees and rates a municipality may charge for the collocation of small wireless facilities on utility poles in the public rights-of-way, including pole collocation rates (aka pole attachment fees), as follows:

5-27-12. Compensation.

As fair and reasonable compensation for any wireless franchise granted pursuant to this Chapter, a provider shall have the following obligations:

(4) Authority Pole Collocation Rate. The City adopts the authority pole collocation rate of \$50 per pole per year as established in Utah Code Ann. § 54-21-504, as amended.

WHEREAS, the City Council has approved Resolution 2018-53 amending the Tooele City Fee Schedule to include fees for small wireless communications facilities; and,

WHEREAS, the City Council has approved Resolution 2019-04 approving a form Pole Attachment Agreement, which agreement calls for various fees associated with small wireless communication facilities attached to City utility poles (see below); and,

WHEREAS, the City Administration recommends that the Tooele City Fee Schedule be amended to include the fees associated with pole attachment agreements:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the Tooele City Fee Schedule is hereby amended to include the following fees and rates for pole attachments for small wireless communication facilities in the public rights-of-way:

Pole Collocation Rate (aka Pole Attachment Fee): \$50 per year per City-owned utility pole Make Ready Work Charges: see Pole Attachment Agreement for calculation method Miscellaneous Charges: see Pole Attachment Agreement for calculation method Inspection Fees: see Pole Attachment Agreement for calculation method

Unauthorized Attachment Fee: \$150 per occurrence

Failure to maintain current emergency contact information penalty: \$100

Failure to timely relocate, abandon, or remove facilities penalty:

\$10 per day, per pole, first 30 days;

\$50 per day, per pole, second 30 days and thereafter.

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

IN WITNE:	SS WHEREOF, this Resolutio	n is passed by the	Tooele City	Council this
day of	, 2019.			

TOOELE CITY COUNCIL

(For)					(Against)
ABSTAINING:					
(For)	MAYO	R OF TOOEL	E CITY		(Against)
ATTEST:					
Michelle Y. Pitt, City Reco	order	-			
SEAL					
Approved as to form:	Roger Eva	ns Baker To	poele City Atto	ornev	

TOOELE CITY CORPORATION

RESOLUTION 2018-30

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING THE ANNEXATION OF 7.85 ACRES OF PROVIDENCE TOOELE LLC PROPERTY INTO THE NORTH TOOELE CITY SPECIAL SERVICE DISTRICT.

WHEREAS, the creation of special service districts is governed by U.C.A. Chapter 17D-1 Part 2; the procedure for annexing additional property into an existing special service district is the same as for the existing special service district's original creation; and,

WHEREAS, on June 16, 1999, the City Council approved Resolution 1999-29 for the creation of the North Tooele City Special Service District ("District") for the purpose of maintaining several unique public amenity features of the Overlake subdivisions; and,

WHEREAS, Tooele City has received a Petition from Howard J. Schmidt on behalf of Providence Tooele, LLC ("Petitioner") to annex the 7.85-acre Providence at Overlake subdivision (the "Property") into the District (see the Petition, property maps, and legal description attached hereto as Exhibit A), which Property is adjacent to portions of Overlake Estates phases 1C and 1D subdivisions; and,

WHEREAS, the Administrative Control Board of the District voted unanimously on May 9, 2018, to recommend annexation of the Property into the District; and,

WHEREAS, because the Property is held in common ownership by Petitioner, Tooele City and the Petitioner are relieved of complying with the Notice, Protest, and Public Hearing requirements of U.C.A. Sections 17D-1-205, 206, and 207, and the annexation may be approved simply by approving this Resolution, obtaining a Certificate of Incorporation from the Utah Lt. Governor, and recording the required documents with the Office of the Tooele County Recorder; and,

WHEREAS, the purpose of the District in annexing the Property will be to maintain within the Property those special features and amenities related to the unique design of public street lighting, public signage, public drainage and flood control, public recreation properties, public street design and traffic calming features, and associated and integral public landscaping (the "Amenities") located within the District; and,

WHEREAS, in addition to the above purposes, annexation of the Property into the District will also allow Tooele City to impose upon and enforce within the Property the construction and maintenance of Amenities design standards common to the District, including the privately-owned and privately-maintained privacy fence along 400 West Street right-of-way property line, rather than defaulting to Tooele City's regular design standards, including double-frontage lot standards, for such features and Amenities; and,

WHEREAS, the District will maintain only those Amenities formally accepted by and dedicated to Tooele City in the land use approval process; and,

WHEREAS, the City Council finds that it is in the best interest of the City in general and of District residents in particular, including the future residents of the Property, to annex the Property into the District; and,

WHEREAS, to the best of the City's knowledge, all requirements of the law precedent to the approval of this Resolution have been fully met:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the annexation of the Property into the District is hereby approved, and that the City Recorder is hereby instructed to file and record the necessary documents with the Utah Lt. Governor and the Tooele County Recorder.

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 Depthylogy, 2018.

(For)	TOOELE CITY COUNCIL	(Against)
SIN	MCACC	
Mundi	ud Nas	
Dro	frutt	
Melod	i M. Atchis	
ABSTAINING:		
	MAYOR OF TOOELE CITY	
(Approved)		(Disapproved)
(Approved)	E. Wi	(Disapproved)
	E. Wi	(Disapproved)
Debia	Aiu	(Disapproved)
Alebia ATTEST: Micheu	Aiu	(Disapproved)

TOOELE CITY COUNCIL (For) (Against) ABSTAINING: MAYOR OF TOOELE CITY (Approved) (Disapproved) ATTEST: Michelle Y. Pitt, City Recorder SEAL Approved as to Form: Roger Evans Baker, City Attorney

Exhibit A

Petition, Property Maps, and Legal Description of the Property

LANDOWNER ANNEXATION PETITION NORTH TOOELE SPECIAL SERVICE DISTRICT

The undersigned represents that **PROVIDENCE TOOELE**, **L.L.C.**, a Utah limited liability company, owns, in its entirety, the real property located within the boundaries of the area in Tooele City, Utah which is described and depicted on Schedule A attached hereto (the "Proposed Annexation Area") and that the Proposed Annexation Area is located, in its entirety, in incorporated Tooele City. Each person/entity signing this petition requests annexation of the Proposed Annexation Area into the North Tooele Special Service District pursuant to <u>Utah Code Ann.</u> § 17B-1-401, et seq.

As required by <u>Utah Code Ann.</u> § 17B-1-404(1)(d), the following signer(s) of this Petition are hereby designated as the sponsors, with the designated sponsor to serve as the contact sponsor.

CONTACT SPONSOR:

Name: Howard J. Schmidt Mailing Address: 1694 East Torrey Pines Circle Draper, Utah 84020 Telephone No. 801-859-9449

OWNER:

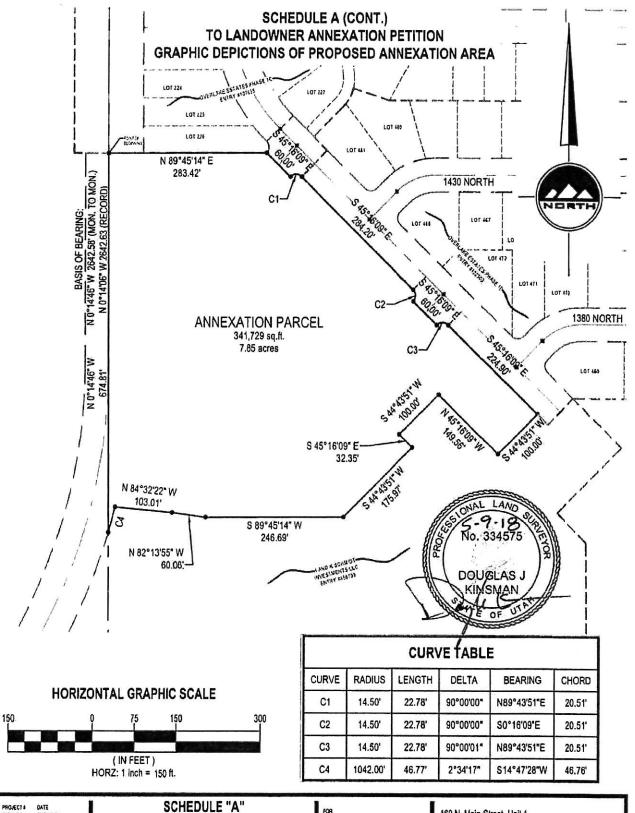
PROVIDENCE TOOELE, L.L.C. A Utah limited liability company

Howard J. Schmidt, Manager

Mailing Address: P.O. Box 95410

South Jordan, Utah, 84095 Telephone No. 801-859-9449

Dated: 5-9-18

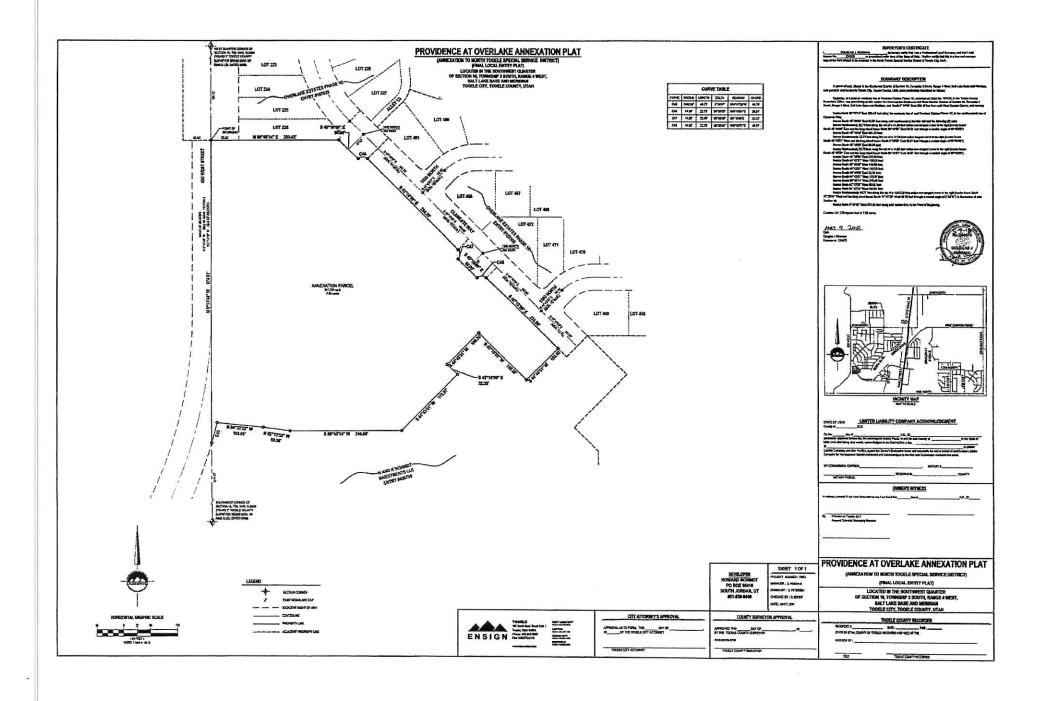


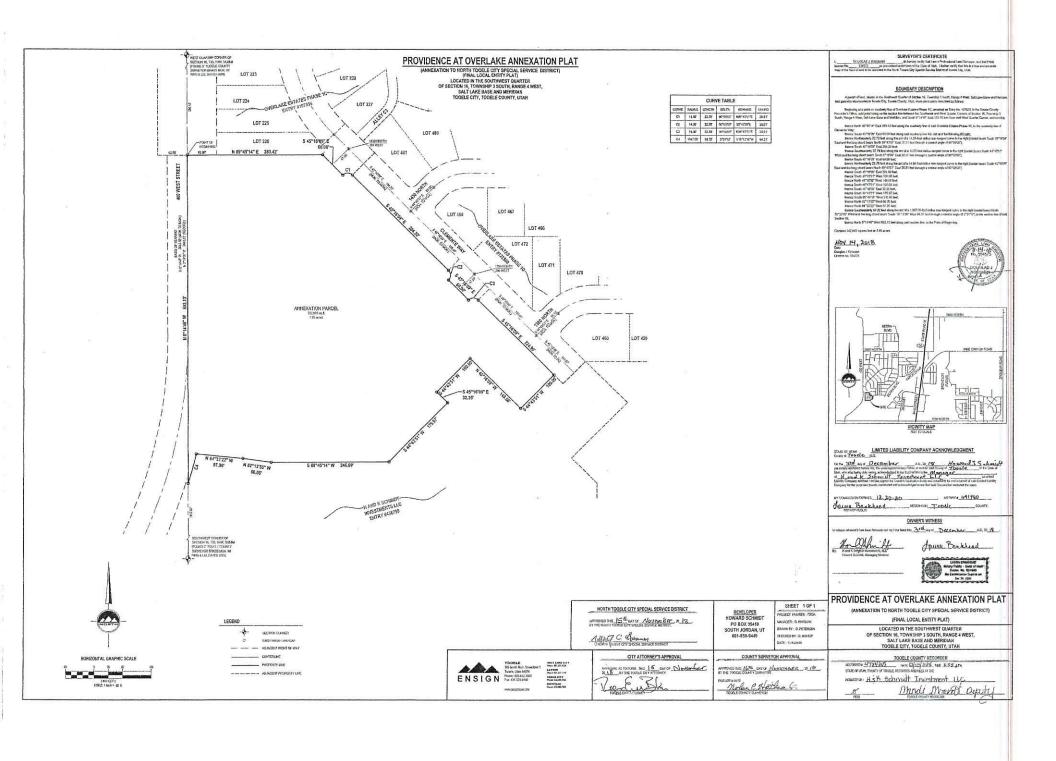


PROVIDENCE AT OVERLAKE ANNEXATION INTO NORTH TOOELE SPECAIL SERVICE DISTRICT

HOWARD SCHMIDT PO BOX 95410 SOUTH JORDAN, UT 84095 PHONE: 801-859-9449 169 N. Main Street, Unit 1 Tooele, Utah 84074 Phone:435.843.3590 Fax: 435.578.0108 www.ensigneng.com







SCHEDULE A TO LANDOWNER ANNEXATION PETITION IDENTIFICATION OF PROPOSED ANNEXATION AREA

The proposed Providence at Overlake addition to the North Tooele Special Service District consists of Tooele County Tax Identification Numbers 02-126-0-0034 and is generally bounded as follows: on the south by the proposed remaining phases of Providence at Overlake, on the west by 400 West Street, on the north by Overlake Estates Phase 1C, and on the east by Overlake Estates Phase 1D and is more particularly described as follows:

A parcel of land, situate in the Southwest Quarter of Section 16, Township 3 South, Range 4 West, Salt Lake Base and Meridian, said parcel is also located in Tooele City, Tooele County, Utah, more particularly described as follows:

Beginning at a point on southerly line of Overlake Estates Phase 1C, recorded as Entry No. 107635, in the Tooele County Recorder's Office, said point being on the section line between the Southwest and West Quarter Corners of Section 16, Township 3 South, Range 4 West, Salt Lake Base and Meridian, and South 0°14'46" East 350.10 feet from said West Quarter Corner, and running:

thence North 89°45'14" East 283.42 feet along the southerly line of said Overlake Estates Phase 1C, to the southerly line of Clemente Way;

thence South 45°16'09" East 60.00 feet along said southerly line this call and the following (6) calls:

thence Northeasterly 22.78 feet along the arc of a 14.50-foot radius non-tangent curve to the right (center bears South 45°16'09" East and the long chord bears North 89°43'51" East 20.51 feet through a central angle of 90°00'00");

thence South 45°16'09" East 284.20 feet;

thence Southeasterly 22.78 feet along the arc of a 14.50-foot radius tangent curve to the right (center bears South 44°43'51" West and the long chord bears South 0°16'09" East 20.51 feet through a central angle of 90°00'00");

thence South 45°16'09" East 60.00 feet;

thence Northeasterly 22.78 feet along the arc of a 14.50-foot radius non-tangent curve to the right (center bears South 45°16'09" East and the long chord bears North 89°43'51" East 20.51 feet through a central angle of 90°00'00");

thence South 45°16'09" East 224.90 feet;

thence South 44°43'51" West 100.00 feet;

thence North 45°16'09" West 149.56 feet;

thence South 44°43'51" West 100.00 feet:

thence South 45°16'09" East 32.35 feet;

thence South 44°43'51" West 175.97 feet;

thence South 89°45'14" West 246.69 feet;

thence North 82°13'55" West 60.06 feet;

thence North 84°32'22" West 103.02 feet;

thence Southwesterly 46.77 feet along the arc of a 1,042.00-foot radius non-tangent curve to the right (center bears North 76°29'40" West and the long chord bears South 14°47'28" West 46.76 feet through a central angle of 2°34'17") to the section of said Section 16;

thence North 0°14'46" West 674.81 feet along said section line; to the Point of Beginning.

Contains 341,729 square feet or 7.85 acres.

Parcel is located at approximately 400 West 1200 North Tooele City, Utah

ANNEXATION DESCRIPTION

A parcel of land, situate in the Southwest Quarter of Section 16, Township 3 South, Range 4 West, Salt Lake Base and Meridian, said parcel is also located in Tooele City, Tooele County, Utah, more particularly described as follows:

Beginning at a point on southerly line of Overlake Estates Phase 1C, recorded as Entry No. 107635, in the Tooele County Recorder's Office, said point being on the section line between the Southwest and West Quarter Corners of Section 16, Township 3 South, Range 4 West, Salt Lake Base and Meridian, and South 0°14'46" East 350.10 feet from said West Quarter Corner, and running:

thence North 89°45'14" East 283.42 feet along the southerly line of said Overlake Estates Phase 1C, to the southerly line of Clemente Way;

thence South 45°16'09" East 60.00 feet along said southerly line this call and the following (6) calls;

thence Northeasterly 22.78 feet along the arc of a 14.50-foot radius non-tangent curve to the right (center bears South 45°16'09" East and the long chord bears North 89°43'51" East 20.51 feet through a central angle of 90°00'00");

thence South 45°16'09" East 284.20 feet;

thence Southeasterly 22.78 feet along the arc of a 14.50-foot radius tangent curve to the right (center bears South 44°43'51" West and the long chord bears South 0°16'09" East 20.51 feet through a central angle of 90°00'00");

thence South 45°16'09" East 60.00 feet;

thence Northeasterly 22.78 feet along the arc of a 14.50-foot radius non-tangent curve to the right (center bears South 45°16'09" East and the long chord bears North 89°43'51" East 20.51 feet through a central angle of 90°00'00");

thence South 45°16'09" East 224.90 feet;

thence South 44°43'51" West 100.00 feet;

thence North 45°16'09" West 149.56 feet;

thence South 44°43'51" West 100.00 feet;

thence South 45°16'09" East 32.35 feet;

thence South 44°43'51" West 175.97 feet;

thence South 89°45'14" West 246.69 feet;

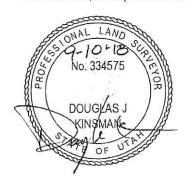
thence North 82°13'55" West 60.06 feet;

thence North 84°32'22" West 97.96 feet;

thence Southwesterly 64.32 feet along the arc of a 1,047.00-foot radius non-tangent curve to the right (center bears North 76°32'00" West and the long chord bears South 15°13'36" West 64.31 feet through a central angle of 3°31'12") to the section line of said Section 16;

thence North 0°14'46" West 692.13 feet along said section line; to the Point of Beginning.

Contains 342,003 square feet or 7.85 acres.





STAFF REPORT

December 31, 2018

To: Tooele City Planning Commission

Business Date: January 9, 2019

From: Planning Division

Community Development Department

Prepared By: Andrew Aagard, City Planner / Zoning Administrator

Re: Sunset Estates Phase 8 – Preliminary Plan Request

Application No.: P18-368

Applicant: Russ Tolbert, representing Hallmark Homes

Project Location: Approximately 400 W 2300 N Zoning: R1-10 Residential Zone Acreage: 10.7 Acres (466,092 ft²)

Request: Request for approval of a Preliminary Plan in the R1-10 Residential zone

regarding a 24 lot single-family residential subdivision.

BACKGROUND

This application is a request for approval of a Preliminary Plan for approximately 10.7 acres located at approximately 400 W 2300 N. The property is currently zoned R1-10 Residential. The applicant is requesting that a Preliminary Plan be approved to allow for the development of the currently vacant site 10,000 square foot single-family residential lots.

ANALYSIS

General Plan and Zoning. The Land Use Map of the General Plan calls for the Medium Density Residential land use designation for the subject property. The property has been assigned the R1-10 Residential zoning classification, supporting approximately four dwelling units per acre. The purpose of the R1-10 zone is to "provide a range of housing choices to meet the needs of Tooele City residents, to offer a balance of housing types and densities, and to preserve and maintain the City's residential areas as safe and convenient places to live. These districts are intended for well-designed residential areas free from any activity that may weaken the residential strength and integrity of these areas. Typical uses include single family dwellings, two-family dwellings and multi-family dwellings in appropriate locations within the City. Also allowed are parks, open space areas, pedestrian pathways, trails and walkways, utility facilities and public service uses required to meet the needs of the citizens of the City." The R1-10 Residential zoning designation is identified by the General Plan as a preferred zoning classification for the Medium Density Residential land use designation. To the north of the subject parcel property is zoned R1-10. Property to the east is also zoned R1-10 as are properties to the south. To the west property is zoned R1-7 Residential.

<u>Subdivision Layout</u>. The proposed Sunset Estates Phase 8 subdivision is proposed to consist of 24 single-family lots ranging in size from 10,000 square feet up to 14,000 square feet. The subdivision will have access to 400 West, a public right-of-way, through the existing Sunset Estates Phase 7 subdivision. Roads within the subdivision will be public rights-of-way and will stub at the eastern edge anticipating future connections.



There are double fronting lots against 400 West and 2400 North that will be required to install park strip landscaping, trees and appropriate double fronting lot fencing. City ordinance requires solid masonry fencing for double fronting lots.

There is a 1.12 acre storm water detention basin located at the north west corner and will ultimately be dedicated to Tooele City. When storm water basins like this are dedicated to Tooele City it is a requirement of the applicant to landscape the basin according to city standards prior to the City taking over ownership and maintenance of the basin. A landscape plan will need to be submitted for review during the final plat subdivision application.

<u>Fencing</u>. Double fronting lots are required by ordinance to have 6 foot solid masonry or pre-cast concrete fencing installed on the rear frontages.

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

REVIEWS

<u>Planning Division Review</u>. The Tooele City Planning Division has completed their review of the Preliminary Plan submission and has issued a recommendation for approval for the request with the following proposed conditions:

- 1. A landscape and irrigation plan for the storm water detention basin will need to be submitted and reviewed as part of the phase 8 final plat subdivision application.
- 2. A landscape, irrigation and fencing plan concerning the double fronting lots along 400 West and 2400 North will need to be submitted and reviewed as part of the phase 8 final plat subdivision application.

<u>Engineering Review</u>. The Tooele City Engineering and Public Works Divisions have completed their reviews of the Preliminary Plan submission and have issued a recommendation for approval for the request.

STAFF RECOMMENDATION

Staff recommends approval of the request for a Preliminary Plan by Russ Tolbert, representing Hallmark Homes, application number P18-368, subject to the following conditions:

- 1. That all requirements of the Tooele City Engineering and Public Works Divisions shall be satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.
- 2. That all requirements of the Tooele City Building Division shall be satisfied throughout the development of the site and the construction of all buildings on the site, including permitting.
- 3. That all requirements of the Tooele City Fire Department shall be satisfied throughout the development of the site and the construction of all buildings on the site.
- 4. That all requirements of the geotechnical report shall be satisfied throughout the development of the site and the construction of all buildings on the site.
- 5. The applicant shall submit a landscape and irrigation plan for the storm water detention basin as part of the Sunset Estates Phase 8 Final Plat Subdivision application.
- 6. The applicant shall submit a landscape, irrigation and fencing plan for the double fronting



lot park strips along 400 West and 2400 North as part of the Sunset Estates Phase 8 Final Plat Subdivision application.

This recommendation is based on the following findings:

- 1. The proposed development plans meet the intent, goals, and objectives of the Tooele City General Plan.
- 2. The proposed development plans meet the requirements and provisions of the Tooele City Code.
- 3. The proposed development plans will not be deleterious to the health, safety, and general welfare of the general public nor the residents of adjacent properties.
- 4. The proposed development conforms to the general aesthetic and physical development of the area.
- 5. The public services in the area are adequate to support the subject development.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – "I move we forward a positive recommendation to the City Council for the Sunset Estates Phase 8 Preliminary Plan Request by Russ Tolbert, representing Hallmark Homes, application number P18-368, based on the findings and subject to the conditions listed in the Staff Report dated December 31, 2018:"

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 Sunset Estates Phase 8 Preliminary Plan Request by Russ Tolbert, representing Hallmark Homes, application number P18-368, based on the following findings:"

1. List any findings...

EXHIBIT A

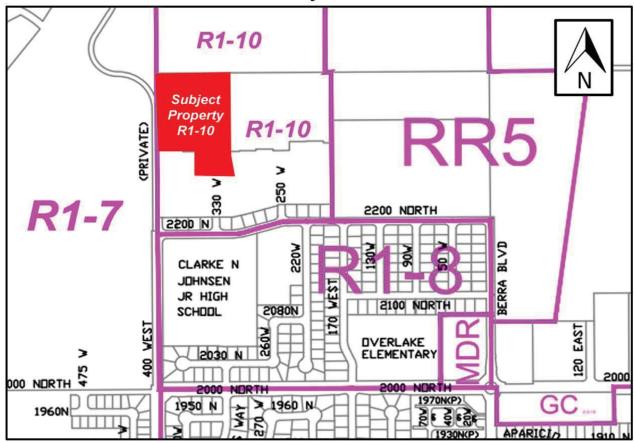
MAPPING PERTINENT TO THE SUNSET ESTATES PHASE 8, PRELIMINARY PLAN

Sunset Estates Phase 8 Preliminary Plan



Aerial View

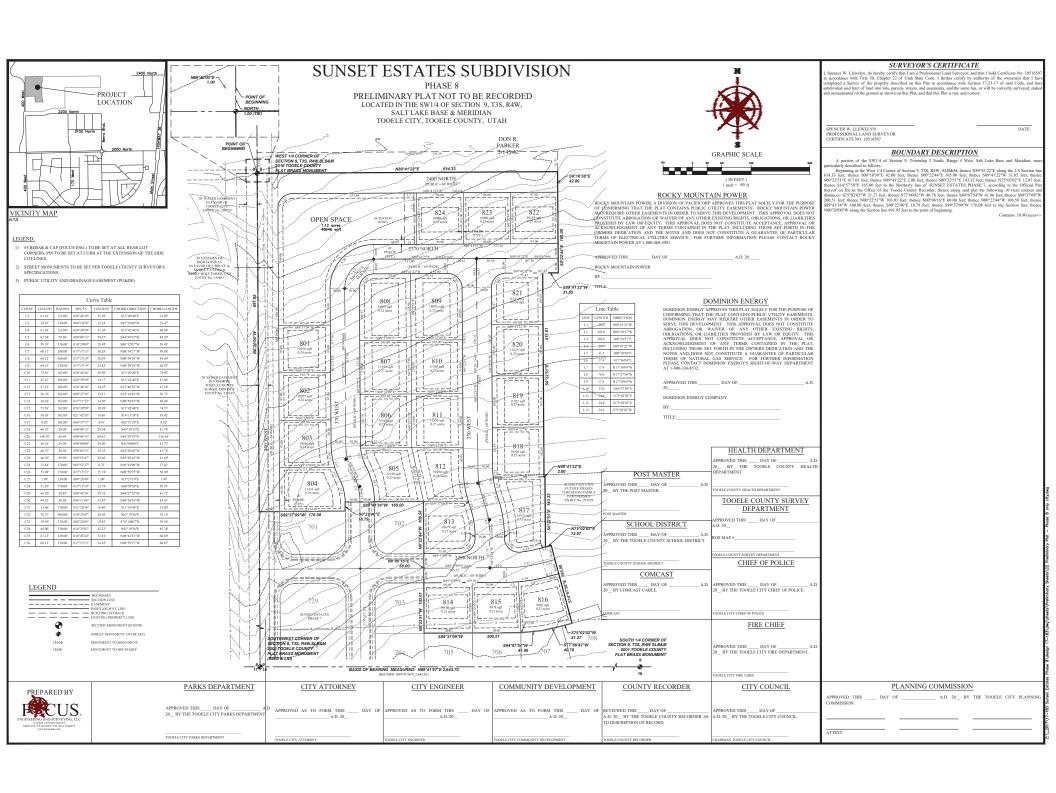
Sunset Estates Phase 8 Preliminary Plan



Current Zoning

EXHIBIT B

PROPOSED DEVELOPMENT PLANS APPLICANT SUBMITTED INFORMATION





STAFF REPORT

December 31, 2018

To: Tooele City Planning Commission

Business Date: January 9, 2019

From: Planning Division

Community Development Department

Prepared By: Andrew Aagard, City Planner / Zoning Administrator

Re: <u>Country View Villas – Preliminary Plan Request</u>

Application No.: P18-277

Applicant: Dave Erickson, representing Irish Creek LLC

Project Location: 1000 N 200 E

Zoning: MDR PUD Medium Density Residential zone

Acreage: 26.6 Acres (1,161,745 square feet)

Request: Request for approval of a Preliminary Plan in the MDR PUD

Medium Density Residential Planned Unit Development zoning

district for a 136 lot residential development.

BACKGROUND

This application is a request for approval of a Preliminary Plan for approximately 27 acres located at 1000 N 200 E. The property is currently zoned MDR PUD Medium Density Residential Zone. The applicant is requesting that a Preliminary Plan be approved to allow for the development of the currently vacant site to be subdivided into 136 lots. Each lot will eventually hold a four dwelling unit building that is exclusive to senior populations. The property does have a PUD overlay attached to it that provides reduced setbacks and lot widths.

ANALYSIS

General Plan and Zoning. The Land Use Map of the General Plan calls for the Residential land use designation for the subject property. The property has been assigned the MDR PUD Medium Density Residential zoning classification, supporting 8 dwelling units per acre. The purpose of the MDR zone is to "provide a range of housing choices to meet the needs of Tooele City residents, to offer a balance of housing types and densities, and to preserve and maintain the City's residential areas as safe and convenient places to live. These districts are intended for well-designed residential areas free from any activity that may weaken the residential strength and integrity of these areas. Typical uses include single family dwellings, two-family dwellings and multi-family dwellings in appropriate locations within the City. Also allowed are parks, open space areas, pedestrian pathways, trails and walkways, utility facilities and public service uses required to meet the needs of the citizens of the City." The MDR Medium Density Residential zoning designation is identified by the General Plan as a preferred zoning classification for the Residential land use designation. Properties to the north are zoned GC General Commercial and RR-5 Residential. Properties to the east and the south are zoned R1-7 Residential and properties to the west are zoned GC General Commercial and HDR High Density Residential. Mapping pertinent to the subject request can be found in Exhibit "A" to this report.

<u>Subdivision Layout</u>. The preliminary plan contains 136 lots that will eventually include 1 four dwelling building for senior residents. The subdivision is laid out with lots being essentially the individual unit foot prints. The area between the lots is common area / open space that will be maintained by the

community HOA. Lots within the subdivision are permitted by the PUD provisions to be reduced to 48 feet for the conjoined units.

Access into the subdivision is primarily from 1000 North with stubs at the southern property line and at the western property line. The stub at the western property line will connect with a road that will connect to 100 East. The roads within this development will be public rights-of-way.

The development is proposed to be split in to three phases and each phase will be required to obtain final plat approval. The first final plat phase will need to be submitted within one year of preliminary plan approval or the preliminary plan approval will lapse.

There will a club house and guest parking located at the north west corner next to a storm water management pond that will be maintained by the development HOA.

<u>Fencing</u>. Fencing may be required along the western property line where adjacent to the Dominion Energy and Scholar Academy properties. Both properties are zoned GC General Commercial and when residential is adjacent to commercial the Planning Commission may require solid barrier style fencing.

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

REVIEWS

<u>Planning Division Review</u>. The Tooele City Planning Division has completed their review of the Preliminary Plan submission and has issued a recommendation for approval of the request.

<u>Engineering Review</u>. The Tooele City Engineering and Public Works Divisions have completed their reviews of the Preliminary Plan submission and have issued a recommendation for approval of the request.

STAFF RECOMMENDATION

Staff recommends approval of the request for a Preliminary Plan by Dave Erickson, representing Irish Creek LLC, application number P18-277, subject to the following conditions:

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

This recommendation is based on the following findings:

1. The proposed development plans meet the intent, goals, and objectives of the Tooele City General Plan.

- 2. The proposed development plans meet the requirements and provisions of the Tooele City Code.
- 3. The proposed development plans will not be deleterious to the health, safety, and general welfare of the general public nor the residents of adjacent properties.
- 4. The proposed development conforms to the general aesthetic and physical development of the area.
- 5. The public services in the area are adequate to support the subject development.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – "I move we forward a positive recommendation to the City Council for the Country View Villas Preliminary Plan Request by Dave Erickson, representing Irish Creek LLC, application number P18-277, based on the findings and subject to the conditions listed in the Staff Report dated December 31, 2018:"

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 Country View Villas Preliminary Plan Request by Dave Erickson, representing Irish Creek LLC, application number P18-277, based on the following findings:"

1. List any findings...

EXHIBIT A

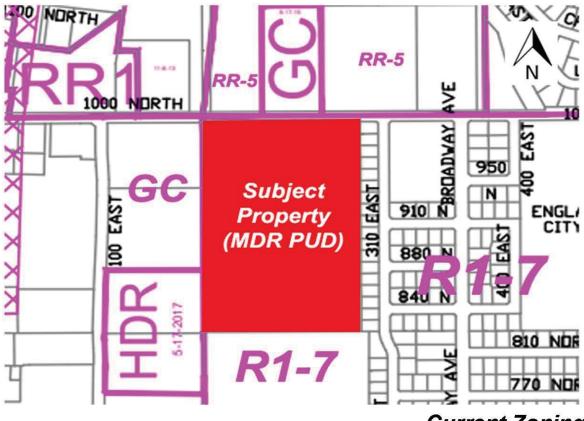
MAPPING PERTINENT TO THE COUNTRY VIEW VILLAS, PRELIMINARY PLAN

Country View Villas Subdivision Preliminary Plan



Current Zoning

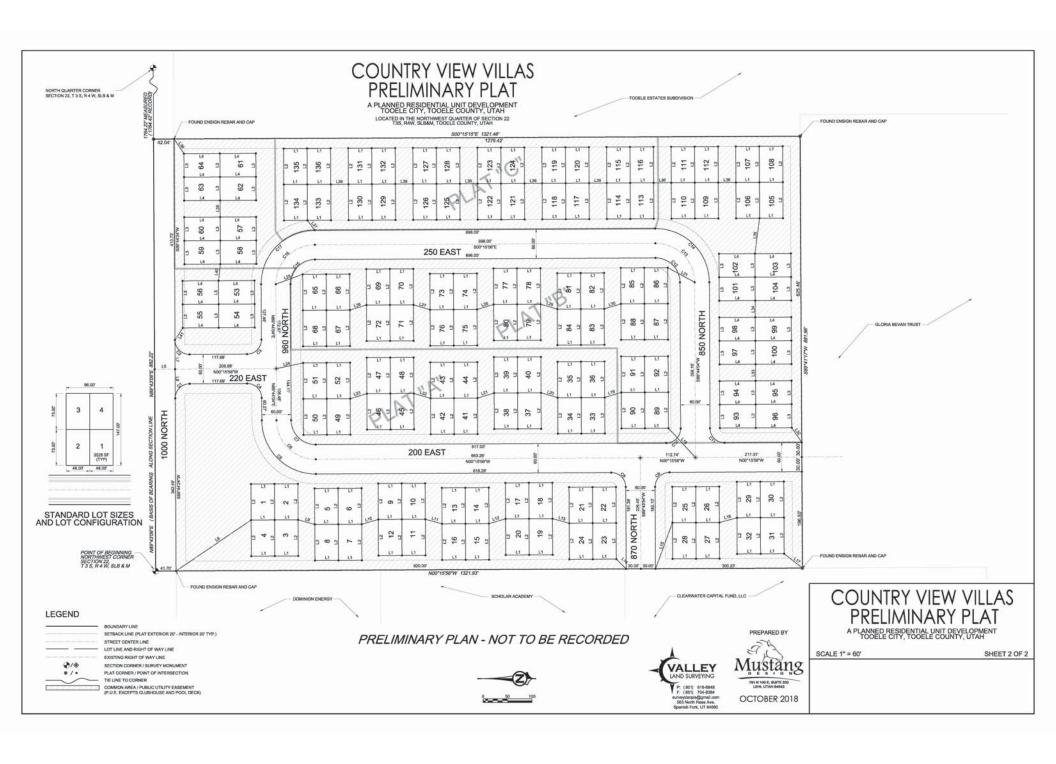
Country View Villas Subdivision Preliminary Plan

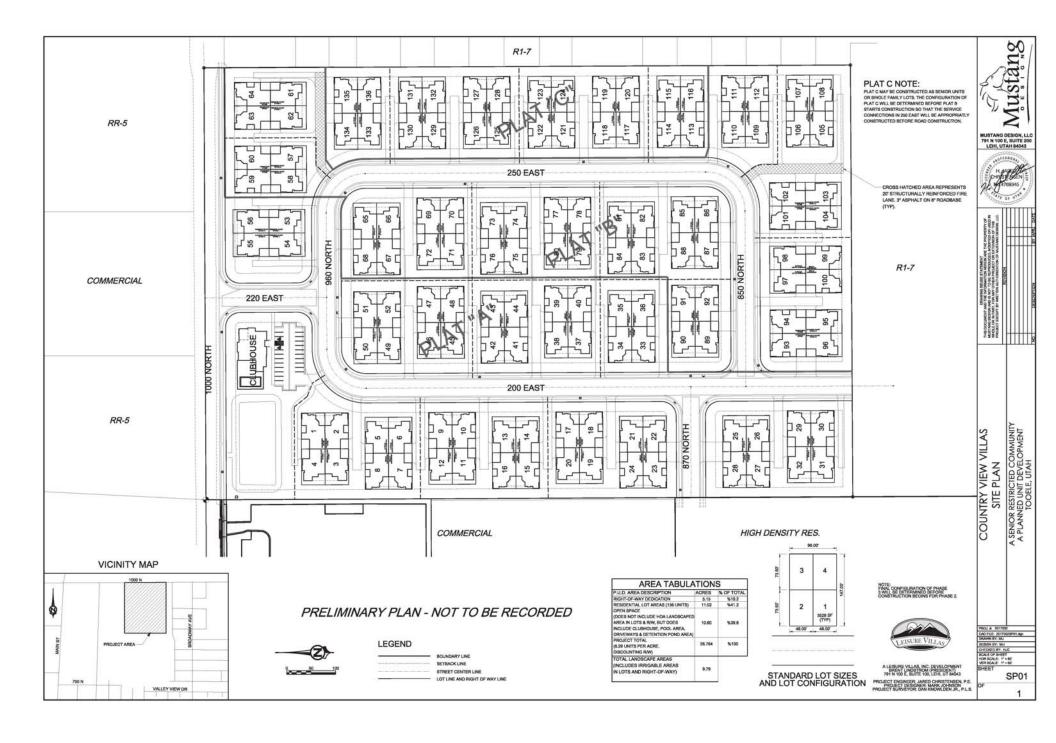


Current Zoning

EXHIBIT B

PROPOSED DEVELOPMENT PLANS & APPLICANT SUBMITTED INFORMATION





TOOELE CITY CORPORATION

RESOLUTION 2019-07

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT **FOR** TAX INCREMENT **PARTICIPATION** WITH THE REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH, ("RDA") FOR THE 1000 NORTH RETAIL COMMUNITY REINVESTMENT PROJECT AREA. AND AUTHORIZING THE MAYOR TO SIGN THE SAME.

WHEREAS, the RDA was created and organized pursuant to the provisions of the statutes currently codified as the Limited Purpose Local Government Entities — Community Reinvestment RDA Act, Title 17C of the Utah Code Annotated, as amended from time to time (the "Act"), and is authorized and empowered under the Act to undertake, among other things, various community development and reinvestment activities pursuant to the Act, including, among other things, assisting Tooele City in development activities that are likely to advance the policies, goals, and objectives of the City's general plan, contributing to capital improvements which substantially benefit the City, creating economic benefits to the City, and improving the public health, safety, and welfare of its citizens; and,

WHEREAS, the RDA has created the 1000 North Community Reinvestment Project Area (the "Project Area"), through the adoption of the 1000 North Community Reinvestment Project Area Plan (the "Project Area Plan"), located within Tooele County; and,

WHEREAS, the Project Area contains a significant amount of vacant and underutilized parcels, which are anticipated to be developed, with encouragement and planning by the RDA and the City, into a mixed use commercial and affordable residential development. The RDA has not entered into any participation or development agreements with participants but anticipates that prior to development of the Project Area, the RDA may enter into one or more agreements, including without limitation Participation Agreement(s) (as that term is defined in the Act), with one or more participants (as that term is defined in the Act) which will provide certain terms and conditions upon which the Project Area will be developed, using, in part, increased property tax revenues, referred to as "Tax Increment", generated from the Project Area; and,

WHEREAS, the City proposes to enter into an Interlocal Agreement with the RDA, pursuant to the provisions of the Act and the Interlocal Cooperation Act, Utah Code Ann. Title 11, Chapter 13; and,

WHEREAS, as explained further in the Project Area Plan, the RDA and/or participant(s) will incur significant costs and expenses relating to land assembly and/or to provide infrastructure improvements to promote higher and more beneficial uses of land within the Project Area; and,

WHEREAS, the RDA has requested that the City, the School District, and other taxing entities within the Project Area participate in the promotion of development in the Project

Area by agreeing to remit to the RDA for a specified period of time specified portions of the Tax Increment which will be generated from within the Project Area; and,

WHEREAS, the City has determined to remit such payments to the RDA, as specified herein, in order to permit the RDA to leverage private development of the Project Area; and,

WHEREAS, RS Contract Management, an independent consulting firm with substantial experience regarding community development projects and tax increment financing across the State of Utah, prepared the Project Area Plan and provided a report regarding the need and justification for the investment of tax increment within the Project Area; and,

WHEREAS, the RDA has prepared the 1000 North Community Reinvestment Project Area Budget (the "Project Area Budget"), which, generally speaking, outlines the anticipated generation, payment, and use of tax increment within the Project Area:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the Interlocal Agreement attached as Exhibit A is hereby approved and that the Mayor is hereby authorized to execute the same.

This Resolution shall take effect immediately upon approval.

	IN WITNESS	WHEREOF, this Resolution is passed by the Tooele City Cou	ıncil
this _	day of	, 2019.	

TOOELE CITY COUNCIL (For) (Against) ABSTAINING: MAYOR OF TOOELE CITY (For) (Against) ATTEST: Michelle Y. Pitt, City Recorder SEAL Approved as to Form: Roger Evans Baker, City Attorney

Exhibit A

Interlocal Agreement: City-RDA

INTERLOCAL COOPERATION AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT is entered into effective as of
2019, by and between REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH a political subdivision of
the State of Utah (the "Agency"), and TOOELE CITY CORPORATION, a Utah municipal corporation and
charter city (the "City") as follows:

Recitals

- A. The Agency was created and organized pursuant to the provisions of the statutes currently codified as the Limited Purpose Local Government Entities Community Reinvestment Agency Act, Title 17C of the Utah Code Annotated (the "Act" as amended from time to time), and is authorized and empowered under the Act to undertake, among other things, various community development and reinvestment activities pursuant to the Act, including, among other things, assisting the City in development activities that are likely to advance the policies, goals and objectives of the City's general plan, contributing to capital improvements which substantially benefit the City, creating economic benefits to the City, and improving the public health, safety and welfare of its citizens.
- B. This Agreement is made pursuant to the provisions of the Act and the Interlocal Cooperation Act, Utah Code Ann. Title 11, Chapter 13 (the "Cooperation Act").
- C. WHEREAS, the Agency has created the 1000 North Retail Community Reinvestment Project Area (the "**Project Area**"), through the adoption of the 1000 North Retail Community Reinvestment Project Area Plan (the "**Project Area Plan**"), located within the City, the boundaries of which Project Area are described in Exhibit "A" attached hereto and incorporated herein by this reference; and
- D. WHEREAS, the Project Area contains a significant amount of vacant and underutilized parcels, which are anticipated to be developed, with encouragement and planning by the Agency, into a mixed use commercial and residential development. The Agency has not entered into any participation or development agreements with Participants but anticipates that prior to development of the Project Area, the Agency may enter into one or more agreements, including without limitation Participation Agreement(s) (as that term is defined in the Act), with one or more Participants (as that term is defined in the Act) which will provide certain terms and conditions upon which the Project Area will be developed using, in part, increased property tax revenues, referred to as "Tax Increment", generated from the Project Area; and
- E. As explained further in the Project Area Plan, the Agency and/or Participant(s) will incur significant costs and expenses relating to land assembly and/or to provide infrastructure improvements to promote higher and more beneficial uses of land within the Project Area; and
- F. The Agency has requested that the City, the City, and other taxing entities within the Project Area, participate in the promotion of development in the Project Area by agreeing to remit to the Agency for a specified period of time specified portions of the Tax Increment which will be generated from within the Project Area.
- G. The City has determined to remit such payments to the Agency, as specified herein, in order to permit the Agency to leverage private development of the Project Area; and
- H. RS Contract Management, an independent consulting firm with substantial experience regarding community development projects and Tax Increment financing across the State of Utah, prepared the Project Area Plan and provided a report regarding the need and justification for the investment of Tax Increment within the Project Area. A copy of the report is included in the Project Area Plan attached as Exhibit "B".
- I. The Agency has prepared the 1000 North Retail Community Reinvestment Project Area Budget (the "Project Area Budget"), a copy of which is attached as <a href="Exhibit" "C", which Project Area Budget, generally speaking, outlines the anticipated generation, payment and use of Tax Increment within the Project Area (for

purposes of clarification, the Project Area Budget is provided in form only, it being acknowledged that the Project Area Budget is not statutorily required as provided under Section 17C-4-204 of the Act, and the Agency may amend the Project Area Budget from time to time in its discretion, subject to the provisions of the Act and this Agreement).

Agreement Terms

- 1. Tax Increment. This Agreement refers to "Tax Increment" which is a term defined by Utah Code Ann. § 17C-1-102(60) (2018). The term tax increment has the same meaning as defined by that statute (as amended, replaced or superseded from time to time). The parties acknowledge that tax increment generally refers to the additional ad valorem tax revenues generated by the increase in value of taxable real and personal property within the Project Area resulting from new development and improvements on real property located within the Project Area. The City has determined to allow the Agency to receive and retain specified portions of the City's portion of Tax Increment (the "City's Tax Increment Share") in order for the Agency to offset costs and expenses which will be incurred by the Agency and/or the Participant(s) administration and development of the Project Area, including for administration costs and costs for the construction and installation of infrastructure improvements and other development related costs, expenses, and incentives needed to serve the Project Area, to the fullest extent permitted by the Act.
- 2. <u>Base Year and Base Year Value.</u> The Base Year (as that term is defined in the Act), for purposes of calculation of the Base Taxable Value (as that term is defined in the Act), is 2017, meaning the Base Taxable Value shall, to the extent and in the manner defined by the Act, be equal to the equalized taxable value shown on the 2017 Tooele City assessment rolls for all property located within the Project Area.
- 3. Agreement(s) with Participant(s). The Agency is authorized, in the Agency's sole discretion, to enter, or not enter, into one or more agreements with one or more Participants which may provide for the payment of certain amounts of Tax Increment, including the portion of the City's Tax Increment Share paid to the Agency, (to the extent such Tax Increment is actually paid to and received by the Agency from year to year) to the Participant(s), conditional upon the Participant(s)'s meeting of certain performance measures as outlined in said agreement. Any such agreement shall be consistent with the terms and conditions of this Agreement and shall require as a condition of payment to the Participant that the Participant, or other owner(s) of the Property, as applicable, shall pay any and all taxes and assessments which shall be assessed against the Property in accordance with levies made by applicable municipal entities in accordance with the laws of the state of Utah applicable to such levies, and such other performance measures as the Agency may deem appropriate.
- 4. <u>Payment Timeline.</u> The first year ("Year One") of payment of the City's Tax Increment Share shall be determined by the Agency. Each subsequent year, beginning with the first year after Year One, shall be defined in sequence as Year Two through Year Twenty. The Agency may trigger the collection of the City's Tax Increment Share by timely delivering a letter or other written request to the Tooele City Finance Department Director.
- 5. Payment to Agency. Subject to Section 7 below, the City agrees that Tooele County shall remit to the Agency annually, beginning with property tax receipts for Year One, and continuing through receipts for Year Twenty, 100% of the City's Tax Increment Share. Tooele County is authorized and instructed to pay 100% of the City's Tax Increment Share directly to the Agency annually for each of Years One through Twenty inclusive. Subject to Section 7 below, the Agency may use the City's Tax Increment Share for any of the purposes set forth in the Project Area Plan and Project Area Budget (as such may be amended from time to time under the applicable provisions of the Act).
- 6. Rebate to City. Before expending any of the City's Tax Increment Share received annually, the Agency must first pay to the City an amount equal to 25.0% of the City's Tax Increment Share received by the Agency. The intent of this paragraph is that the Agency will ultimately retain 75.0% of the City's Tax Increment Share.

- 7. Maximum Retained Increment. Despite anything in this Agreement to the contrary, the Agency will not retain, on a cumulative basis, more than \$2,000,000 of the City's Tax Increment Share. To be clear, the amount "retained" is the amount kept by the Agency after rebating the amounts due under Section 7 *above*. If the Agency receives more than \$2,000.000 that the Agency would otherwise be authorized to retain, then the Agency must promptly (i) pay to the City the amount in excess of the permitted \$2,000,000 cap, and (ii) notify Tooele City that the Agency's right to receive any further payment of the City's Tax Increment Share under this Agreement has terminated. The City makes no guarantee or assurance that \$2,000,000 of the City's Tax Increment Share will be available for the Agency to retain; the \$2,000,000 amount is solely a maximum collection cap, not a guaranteed amount.
- Property Tax Revenue/Rate Increase. This Agreement provides for the payment of Tax 8. Increment collected from the Project Area by Tooele County acting as the tax collection agency for the area. Real and personal property taxes which are the subject of this Agreement shall not include taxes collected from the Project Area by the County, acting in its capacity as the tax collection agency, which are to be paid to or utilized by abatement districts, special service or improvement districts or other entities for which the County acts as the tax collection agency, nor shall it include any component of real property taxes retained by the County as payment for costs incurred in the collection of real property taxes for itself or other applicable agencies. It is expressly understood that the real property taxes which are the subject of this Agreement are only those real and personal property taxes actually collected by the County on behalf of the County from the Project Area. Unless the City specifically consents in writing through an amendment to this Agreement or in a separate agreement, the Parties agree that the Agency will not be entitled to any portion of Tax Increment resulting from an increase in the tax rate of the City's tax levies that occurs after the Base Tax Year that is attributable to a tax rate increase enacted pursuant to the requirements of Utah Code Ann. § 59-2-919 (i.e., a Truth-in-Taxation tax rate increase); however, the rate attributable to the issuance of bonds is not considered a tax rate increase, and therefore the Agency will be entitled to that portion of Tax Increment resulting from bond levies, even if such levies were or are enacted after the Base Tax Year.
- 9. No Independent Duty. The City shall have no independent duty to pay any amount to the Agency other than to direct and cause the County to pay to the Agency the City's Tax Increment Share on an annual basis from and including Year One through and including Year Twenty.
- 10. <u>Authority to Bind</u>. Each individual executing this Agreement represents and warrants that such person is authorized to do so, and, that upon executing this Agreement, this Agreement shall be binding and enforceable in accordance with its terms upon the party for whom such person is acting.
- 11. <u>Further Documents and Acts</u>. Each of the parties hereto agrees to cooperate in good faith with the others, and to execute and deliver such further documents and perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement.
- 12. <u>Notices</u>. Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered to an officer or duly authorized representative of the other party in person or by Federal Express, private commercial delivery or courier service for next business day delivery, or by United States mail, duly certified or registered (return receipt requested), postage prepaid, and addressed to the party for whom intended, as follows:

If to the City: Tooele City Attn: Mayor 90 N Main Street Tooele UT 84074

If to Agency:
Tooele City RDA
Attn: Executive Director
90 N Main Street
Tooele UT 84074

Any party may from time to time, by written notice to the others as provided above, designate a different address which shall be substituted for that specified above. Notice sent by mail shall be deemed served or delivered seventy-two (72) hours after mailing. Notice by any other method shall be deemed served or delivered upon actual receipt at the address or facsimile number listed above. Delivery of courtesy copies noted above shall be as a courtesy only and failure of any party to give or receive a courtesy copy shall not be deemed to be a failure to provide notice otherwise properly delivered to a party to this Agreement.

- 13. Entire Agreement. This Agreement, including the recitals, is the final expression of and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by both parties, executed by an agent duly authorized to do so, or as otherwise expressly permitted herein. This Agreement, including the recitals, constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understandings of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.
- 14. <u>No Third-Party Benefit</u>. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto. There are no intended third-party beneficiaries to this Agreement.
- Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. In the event the date on which any of the parties is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.
- 16. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.
- 17. <u>Amendments</u>. No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing executed by each of the parties hereto.
- 18. <u>Counterparts.</u> This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.
- 19. <u>Waivers.</u> No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.
- 20. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Utah. In the event of any dispute hereunder, it is agreed that the sole and exclusive venue shall be in a court of competent jurisdiction in Tooele City, Utah, and the parties hereto agree to submit to the jurisdiction of such court.
- 21. <u>Declaration of Invalidity</u>. In the event that a court of competent jurisdiction declares that the City cannot pay and/or that the Agency cannot receive payments of the Tax Increment, declares that the Agency cannot pay the Tax Increment to Participant(s), or takes any other action which has the effect of eliminating or reducing the payments of Tax Increment received by the Agency, then the Agency, and the City shall take such steps as are reasonably required to not permit the payment and/or receipt of the Tax Increment to be declared invalid and to otherwise preserve the intent and effect of this Agreement to the maximum extent possible.

- 22. No Separate Legal Entity. No separate legal entity is created by this Agreement.
- 23. <u>Duration</u>. This Agreement shall terminate upon the first to occur of either (i) the final payment of Tax Increment to the Agency for Year Twenty, or (ii) the Agency has retained, as provided in Sections 6 and 7 *above*, the amount of \$3,800,000.00 from the City's Tax Increment Share.
- Assignment. No party may assign its rights, duties or obligations under this Agreement without the prior written consent first being obtained from all parties. Notwithstanding the foregoing, such consent shall not be unreasonably withheld or delayed so long as the assignee thereof shall be reasonably expected to be able to perform the duties and obligations being assigned.
- 25. <u>Termination</u>. Upon any termination of this Agreement resulting from the uncured default of any party, the order of any court of competent jurisdiction or termination as a result of any legislative action requiring such termination, then any funds received as a result of Tax Increment generated from the Project Area and held by the Agency and for which the Agency shall not be required to disburse to Participants in accordance with the agreements which govern such disbursement, then such funds shall be returned to the party originally remitting same to the Agency and upon such return this Agreement shall be deemed terminated and of no further force or effect. At the latest, this Agreement shall be fully fulfilled and thus terminate by December 31, 2043.
- 26. <u>Interlocal Cooperation Act</u>. In satisfaction of the requirements of the Cooperation Act in connection with this Agreement, the Parties agree as follows:
 - a. This Agreement shall be authorized and adopted by resolution of the legislative body of each party pursuant to and in accordance with the provisions of Section 11-13-202.5 of the Cooperation Act;
 - b. This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each party pursuant to and in accordance with the provisions of Section 11-13-202.5(3) of the Cooperation Act;
 - c. A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Cooperation Act;
 - d. The Redevelopment Director of the Agency is hereby designated the administrator for all purposes of the Cooperation Act, pursuant to Section 11-13-207 of the Cooperation Act;
 - e. Should a party to this Agreement desire to terminate this Agreement, in part or in whole, each party to the Agreement must adopt, by resolution, an amended Interlocal Cooperation Agreement stating the reasons for such termination. Any such amended Interlocal Cooperation Agreement must be in harmony with any development/participation agreement(s) entered into by the Agency as described in this Agreement;
 - f. Immediately after execution of this Agreement by both parties, the Agency shall, on behalf of both parties, cause to be published a notice regarding this Agreement pursuant to Section 11-13-219 of the Cooperation Act; and
 - g. This Agreement makes no provision for the parties acquiring, holding and disposing of real and personal property used in the joint undertaking as such action is not contemplated as part of this Agreement nor part of the undertaking. Any such provision would be outside the parameters of the current undertaking. However, to the extent that this Agreement may be construed as providing for the acquisition, holding or disposing of real and/or personal property, all such property shall be owned by the Agency upon termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Interlocal Cooperation Agreement on the day specified above.

	City:	TOOELE CITY CORPORATION
Attest:		By:Mayor
City Recorder		
Approved and reviewed as to pro	oper form and cor	mpliance with applicable law:
Attorney for City		
	Agency:	REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH
Attest:		By:Executive Director
Secretary		
Approved and reviewed as to pro	per form and con	npliance with applicable law:
Attorney for Agency		

$\begin{tabular}{l} EXHIBIT "A" \\ to \\ INTERLOCAL AGREEMENT \\ \end{tabular}$

Project Area Description

EXHIBIT "B" To INTERLOCAL AGREEMENT

Project Area Plan

EXHIBIT "C" $${\rm T}_{\rm 0}$$ INTERLOCAL AGREEMENT

Project Area Budget

TOOELE CITY CORPORATION

RESOLUTION 2019-08

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING AN INTERLOCAL AGREEMENT FOR TAX INCREMENT PARTICIPATION WITH THE REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH, ("RDA") FOR THE BROADWAY COMMUNITY DEVELOPMENT PROJECT AREA, AND AUTHORIZING THE MAYOR TO SIGN THE SAME.

WHEREAS, the RDA was created and organized pursuant to the provisions of the statutes currently codified as the Limited Purpose Local Government Entities — Community Reinvestment RDA Act, Title 17C of the Utah Code Annotated, as amended from time to time (the "Act"), and is authorized and empowered under the Act to undertake, among other things, various community development and reinvestment activities pursuant to the Act, including, among other things, assisting Tooele City in development activities that are likely to advance the policies, goals, and objectives of the City's general plan, contributing to capital improvements which substantially benefit the City, creating economic benefits to the City, and improving the public health, safety, and welfare of its citizens; and,

WHEREAS, the RDA has created the Broadway Community Development Project Area (the "Project Area"), through the adoption of the Broadway Community Development Project Area Plan (the "Project Area Plan"), located within Tooele County; and,

WHEREAS, the Project Area contains a significant amount of vacant and underutilized parcels, which are anticipated to be developed, with encouragement and planning by the RDA and the City, into a mixed use commercial and affordable residential development. The RDA has not entered into any participation or development agreements with participants but anticipates that prior to development of the Project Area, the RDA may enter into one or more agreements, including without limitation Participation Agreement(s) (as that term is defined in the Act), with one or more participants (as that term is defined in the Act) which will provide certain terms and conditions upon which the Project Area will be developed, using, in part, increased property tax revenues, referred to as "Tax Increment", generated from the Project Area; and,

WHEREAS, the City proposes to enter into an Interlocal Agreement with the RDA, pursuant to the provisions of the Act and the Interlocal Cooperation Act, Utah Code Ann. Title 11, Chapter 13; and,

WHEREAS, as explained further in the Project Area Plan, the RDA and/or participant(s) will incur significant costs and expenses relating to land assembly and/or to provide infrastructure improvements to promote higher and more beneficial uses of land within the Project Area; and,

WHEREAS, the RDA has requested that the City, the School District, and other taxing entities within the Project Area participate in the promotion of development in the Project

Area by agreeing to remit to the RDA for a specified period of time specified portions of the Tax Increment which will be generated from within the Project Area; and,

WHEREAS, the City has determined to remit such payments to the RDA, as specified herein, in order to permit the RDA to leverage private development of the Project Area; and,

WHEREAS, RS Contract Management, an independent consulting firm with substantial experience regarding community development projects and tax increment financing across the State of Utah, prepared the Project Area Plan and provided a report regarding the need and justification for the investment of tax increment within the Project Area; and,

WHEREAS, the RDA has prepared the Broadway Community Development Project Area Budget (the "Project Area Budget"), which, generally speaking, outlines the anticipated generation, payment, and use of tax increment within the Project Area:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that the Interlocal Agreement attached as Exhibit A is hereby approved and that the Mayor is hereby authorized to execute the same.

This Resolution shall take effect immediately upon approval.

	IN WITNESS	WHEREOF, this Resolution	is passed	by the	Tooele	City	Council
this _	day of	, 2019.				17.5	

TOOELE CITY COUNCIL (For) (Against) ABSTAINING: _____ MAYOR OF TOOELE CITY (For) (Against) ATTEST: Michelle Y. Pitt, City Recorder SEAL Approved as to Form: Roger Evans Baker, City Attorney

Exhibit A

Interlocal Agreement: City-RDA

INTERLOCAL COOPERATION AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT is entered into effective as of	
2019, by and between REDEVELOPMENT AGENCY OF TOOELE CITY UTAH a political subdiv	vision of
the State of Utah (the "Agency"), and TOOELE CITY CORPORATION, a Utah municipal corporation	ion and
charter city (the "City") as follows:	ion and

Recitals

- A. The Agency was created and organized pursuant to the provisions of the statutes currently codified as the Limited Purpose Local Government Entities Community Reinvestment Agency Act, Title 17C of the Utah Code Annotated (the "Act" as amended from time to time), and is authorized and empowered under the Act to undertake, among other things, various community development and reinvestment activities pursuant to the Act, including, among other things, assisting the City in development activities that are likely to advance the policies, goals and objectives of the City's general plan, contributing to capital improvements which substantially benefit the City, creating economic benefits to the City, and improving the public health, safety and welfare of its citizens.
- B. This Agreement is made pursuant to the provisions of the Act and the Interlocal Cooperation Act, Utah Code Ann. Title 11, Chapter 13 (the "Cooperation Act").
- C. WHEREAS, the Agency has created the Broadway Community Development Project Area (the "Project Area"), through the adoption of the Broadway Community Development Project Area Plan (the "Project Area Plan"), located within the City, the boundaries of which Project Area are described in <a href="Exhibit "A" attached hereto and incorporated herein by this reference; and
- D. WHEREAS, the Project Area contains parcels of property that are vacant and underutilized, which are anticipated to be developed, with encouragement and planning by the Agency, into a residential development. The Agency has not entered into any participation or development agreements with Participants but anticipates that prior to development of the Project Area, the Agency may enter into one or more agreements, including without limitation Participation Agreement(s) (as that term is defined in the Act), with one or more Participants (as that term is defined in the Act) which will provide certain terms and conditions upon which the Project Area will be developed using, in part, increased property tax revenues, referred to as "Tax Increment", generated from the Project Area; and
- E. As explained further in the Project Area Plan, the Agency and/or Participant(s) will incur significant costs and expenses relating to land assembly and/or to provide infrastructure improvements to promote higher and more beneficial uses of land within the Project Area; and
- F. The Agency has requested that the City, the City, and other taxing entities within the Project Area, participate in the promotion of development in the Project Area by agreeing to remit to the Agency for a specified period of time specified portions of the Tax Increment which will be generated from within the Project Area.
- G. The City has determined to remit such payments to the Agency, as specified herein, in order to permit the Agency to leverage private development of the Project Area; and
- H. RS Contract Management, an independent consulting firm with substantial experience regarding community development projects and Tax Increment financing across the State of Utah, prepared the Project Area Plan and provided a report regarding the need and justification for the investment of Tax Increment within the Project Area. A copy of the report is included in the Project Area Plan attached as Exhibit "B".
- I. The Agency has prepared the Broadway Community Developmet Project Area Budget (the "Project Area Budget"), a copy of which is attached as Exhibit "C", which Project Area Budget, generally speaking, outlines the anticipated generation, payment and use of Tax Increment within the Project Area (for purposes of clarification, the Project Area Budget is provided in form only, it being acknowledged that the Project Area Budget is

not statutorily required as provided under Section 17C-4-204 of the Act, and the Agency may amend the Project Area Budget from time to time in its discretion, subject to the provisions of the Act and this Agreement).

Agreement Terms

- 1. <u>Tax Increment.</u> This Agreement refers to "Tax Increment" which is a term defined by Utah Code Ann. § 17C-1-102(60) (2018). The term tax increment has the same meaning as defined by that statute (as amended, replaced or superseded from time to time). The parties acknowledge that tax increment generally refers to the additional *ad valorem* tax revenues generated by the increase in value of taxable real and personal property within the Project Area resulting from new development and improvements on real property located within the Project Area. The City has determined to allow the Agency to receive and retain specified portions of the City's portion of Tax Increment (the "City's Tax Increment Share") in order for the Agency to offset costs and expenses which will be incurred by the Agency and/or the Participant(s) administration and development of the Project Area, including for administration costs and costs for the construction and installation of infrastructure improvements and other development related costs, expenses, and incentives needed to serve the Project Area, to the fullest extent permitted by the Act.
- 2. <u>Base Year and Base Year Value.</u> The Base Year (as that term is defined in the Act), for purposes of calculation of the Base Taxable Value (as that term is defined in the Act), is 2017, meaning the Base Taxable Value shall, to the extent and in the manner defined by the Act, be equal to the equalized taxable value shown on the 2017 Tooele City assessment rolls for all property located within the Project Area.
- 3. Agreement(s) with Participant(s). The Agency is authorized, in the Agency's sole discretion, to enter, or not enter, into one or more agreements with one or more Participants which may provide for the payment of certain amounts of Tax Increment, including the portion of the City's Tax Increment Share paid to the Agency, (to the extent such Tax Increment is actually paid to and received by the Agency from year to year) to the Participant(s), conditional upon the Participant(s)'s meeting of certain performance measures as outlined in said agreement. Any such agreement shall be consistent with the terms and conditions of this Agreement and shall require as a condition of payment to the Participant that the Participant, or other owner(s) of the Property, as applicable, shall pay any and all taxes and assessments which shall be assessed against the Property in accordance with levies made by applicable municipal entities in accordance with the laws of the state of Utah applicable to such levies, and such other performance measures as the Agency may deem appropriate.
- 4. <u>Payment Timeline.</u> The first year ("Year One") of payment of the City's Tax Increment Share shall be determined by the Agency. Each subsequent year, beginning with the first year after Year One, shall be defined in sequence as Year Two through Year Ten. The Agency may trigger the collection of the City's Tax Increment Share by timely delivering a letter or other written request to the Tooele City Finance Department Director.
- 5. Payment to Agency. Subject to Section 7 below, the City agrees that Tooele County shall remit to the Agency annually, beginning with property tax receipts for Year One, and continuing through receipts for Year Ten, 100% of the City's Tax Increment Share. Tooele County is authorized and instructed to pay 100% of the City's Tax Increment Share directly to the Agency annually for each of Years One through Ten inclusive. Subject to Section 7 below, the Agency may use the City's Tax Increment Share for any of the purposes set forth in the Project Area Plan and Project Area Budget (as such may be amended from time to time under the applicable provisions of the Act).
- 6. Rebate to City. For Years One-Year 5, the Agency shall retain 100% of the City's Tax Increment share for any of the purposes set forth in the Project Area Plan and Project Area Budget (as such may be amended from time to time under the applicable provisions of the Act.) for Years 6-Year 10, The Agency shall pay the City an amount equal to 50% of the City's Tax Increment share.

- 7. Maximum Retained Increment. Despite anything in this Agreement to the contrary, the Agency will not retain, on a cumulative basis, more than \$125,000 of the City's Tax Increment Share. To be clear, the amount "retained" is the amount kept by the Agency after rebating the amounts due under Section 7 *above*. If the Agency receives more than \$125,000 that the Agency would otherwise be authorized to retain, then the Agency must promptly (i) pay to the City the amount in excess of the permitted \$125,000 cap, and (ii) notify Tooele City that the Agency's right to receive any further payment of the City's Tax Increment Share under this Agreement has terminated. The City makes no guarantee or assurance that \$125,000 of the City's Tax Increment Share will be available for the Agency to retain; the \$125,000 amount is solely a maximum collection cap, not a guaranteed amount.
- Property Tax Revenue/Rate Increase. This Agreement provides for the payment of Tax 8. Increment collected from the Project Area by Tooele County acting as the tax collection agency for the area. Real and personal property taxes which are the subject of this Agreement shall not include taxes collected from the Project Area by the County, acting in its capacity as the tax collection agency, which are to be paid to or utilized by abatement districts, special service or improvement districts or other entities for which the County acts as the tax collection agency, nor shall it include any component of real property taxes retained by the County as payment for costs incurred in the collection of real property taxes for itself or other applicable agencies. It is expressly understood that the real property taxes which are the subject of this Agreement are only those real and personal property taxes actually collected by the County on behalf of the County from the Project Area. Unless the City specifically consents in writing through an amendment to this Agreement or in a separate agreement, the Parties agree that the Agency will not be entitled to any portion of Tax Increment resulting from an increase in the tax rate of the City's tax levies that occurs after the Base Tax Year that is attributable to a tax rate increase enacted pursuant to the requirements of Utah Code Ann. § 59-2-919 (i.e., a Truth-in-Taxation tax rate increase); however, the rate attributable to the issuance of bonds is not considered a tax rate increase, and therefore the Agency will be entitled to that portion of Tax Increment resulting from bond levies, even if such levies were or are enacted after the Base Tax Year.
- 9. No Independent Duty. The City shall have no independent duty to pay any amount to the Agency other than to direct and cause the County to pay to the Agency the City's Tax Increment Share on an annual basis from and including Year One through and including Year Twenty.
- 10. <u>Authority to Bind</u>. Each individual executing this Agreement represents and warrants that such person is authorized to do so, and, that upon executing this Agreement, this Agreement shall be binding and enforceable in accordance with its terms upon the party for whom such person is acting.
- 11. <u>Further Documents and Acts</u>. Each of the parties hereto agrees to cooperate in good faith with the others, and to execute and deliver such further documents and perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement.
- 12. <u>Notices</u>. Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered to an officer or duly authorized representative of the other party in person or by Federal Express, private commercial delivery or courier service for next business day delivery, or by United States mail, duly certified or registered (return receipt requested), postage prepaid, and addressed to the party for whom intended, as follows:

If to the City: Tooele City Attn: Mayor 90 N Main Street Tooele UT 84074

If to Agency:
Tooele City RDA
Attn: Executive Director
90 N Main Street
Tooele UT 84074

Any party may from time to time, by written notice to the others as provided above, designate a different address which shall be substituted for that specified above. Notice sent by mail shall be deemed served or delivered seventy-two (72) hours after mailing. Notice by any other method shall be deemed served or delivered upon actual receipt at the address or facsimile number listed above. Delivery of courtesy copies noted above shall be as a courtesy only and failure of any party to give or receive a courtesy copy shall not be deemed to be a failure to provide notice otherwise properly delivered to a party to this Agreement.

- 13. Entire Agreement. This Agreement, including the recitals, is the final expression of and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by both parties, executed by an agent duly authorized to do so, or as otherwise expressly permitted herein. This Agreement, including the recitals, constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understandings of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.
- 14. <u>No Third-Party Benefit</u>. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto. There are no intended third-party beneficiaries to this Agreement.
- Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. In the event the date on which any of the parties is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.
- Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.
- 17. <u>Amendments</u>. No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing executed by each of the parties hereto.
- 18. <u>Counterparts.</u> This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.
- 19. <u>Waivers</u>. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.
- 20. <u>Governing Law.</u> This Agreement shall be governed by and construed under the laws of the State of Utah. In the event of any dispute hereunder, it is agreed that the sole and exclusive venue shall be in a court of competent jurisdiction in Tooele City, Utah, and the parties hereto agree to submit to the jurisdiction of such court.
- 21. <u>Declaration of Invalidity</u>. In the event that a court of competent jurisdiction declares that the City cannot pay and/or that the Agency cannot receive payments of the Tax Increment, declares that the Agency cannot pay the Tax Increment to Participant(s), or takes any other action which has the effect of eliminating or reducing the payments of Tax Increment received by the Agency, then the Agency, and the City shall take such steps as are reasonably required to not permit the payment and/or receipt of the Tax Increment to be declared invalid and to otherwise preserve the intent and effect of this Agreement to the maximum extent possible.

- 22. No Separate Legal Entity. No separate legal entity is created by this Agreement.
- 23. <u>Duration</u>. This Agreement shall terminate upon the first to occur of either (i) the final payment of Tax Increment to the Agency for Year Twenty, or (ii) the Agency has retained, as provided in Sections 6 and 7 *above*, the amount of \$3,800,000.00 from the City's Tax Increment Share.
- 24. <u>Assignment.</u> No party may assign its rights, duties or obligations under this Agreement without the prior written consent first being obtained from all parties. Notwithstanding the foregoing, such consent shall not be unreasonably withheld or delayed so long as the assignee thereof shall be reasonably expected to be able to perform the duties and obligations being assigned.
- 25. Termination. Upon any termination of this Agreement resulting from the uncured default of any party, the order of any court of competent jurisdiction or termination as a result of any legislative action requiring such termination, then any funds received as a result of Tax Increment generated from the Project Area and held by the Agency and for which the Agency shall not be required to disburse to Participants in accordance with the agreements which govern such disbursement, then such funds shall be returned to the party originally remitting same to the Agency and upon such return this Agreement shall be deemed terminated and of no further force or effect. At the latest, this Agreement shall be fully fulfilled and thus terminate by December 31, 2043.
- 26. <u>Interlocal Cooperation Act</u>. In satisfaction of the requirements of the Cooperation Act in connection with this Agreement, the Parties agree as follows:
 - a. This Agreement shall be authorized and adopted by resolution of the legislative body of each party pursuant to and in accordance with the provisions of Section 11-13-202.5 of the Cooperation Act;
 - b. This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each party pursuant to and in accordance with the provisions of Section 11-13-202.5(3) of the Cooperation Act;
 - c. A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Cooperation Act;
 - d. The Redevelopment Director of the Agency is hereby designated the administrator for all purposes of the Cooperation Act, pursuant to Section 11-13-207 of the Cooperation Act;
 - e. Should a party to this Agreement desire to terminate this Agreement, in part or in whole, each party to the Agreement must adopt, by resolution, an amended Interlocal Cooperation Agreement stating the reasons for such termination. Any such amended Interlocal Cooperation Agreement must be in harmony with any development/participation agreement(s) entered into by the Agency as described in this Agreement;
 - f. Immediately after execution of this Agreement by both parties, the Agency shall, on behalf of both parties, cause to be published a notice regarding this Agreement pursuant to Section 11-13-219 of the Cooperation Act; and
 - g. This Agreement makes no provision for the parties acquiring, holding and disposing of real and personal property used in the joint undertaking as such action is not contemplated as part of this Agreement nor part of the undertaking. Any such provision would be outside the parameters of the current undertaking. However, to the extent that this Agreement may be construed as providing for the acquisition, holding or disposing of real and/or personal property, all such property shall be owned by the Agency upon termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Interlocal Cooperation Agreement on the day specified above.

	City:	TOOELE CITY CORPORATION
Attest:		By:Mayor
City Recorder		
Approved and reviewed as to proper form	and con	npliance with applicable law:
Attorney for City	_	
A	gency:	REDEVELOPMENT AGENCY OF TOOELE CITY, UTAH
Attest:		By:Executive Director
Secretary		
Approved and reviewed as to proper form	ı and con	npliance with applicable law:
Attorney for Agency	_	

EXHIBIT "A" to INTERLOCAL AGREEMENT

Project Area Description

EXHIBIT "B" To INTERLOCAL AGREEMENT

Project Area Plan

EXHIBIT "C" T_0 INTERLOCAL AGREEMENT

Project Area Budget

TOOELE CITY CORPORATION

RESOLUTION 2019-09

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING A CONTRACT WITH HANSEN ALLEN & LUCE FOR AN UPDATE OF THE CULINARY WATER SYSTEM MASTER PLAN.

WHEREAS, Tooele City continues to experience growth in all aspects of development, including, but not limited to, residential, commercial, and industrial development; and,

WHEREAS, in order to meet the additional demand for culinary water and to maximize the potential for responsible development, it is necessary to perform an update to the current Culinary Water System Master Plan; and,

WHEREAS, the City has previously retained the engineering firm of Hansen, Allen & Luce to update the Culinary Water System Master Plan; and,

WHEREAS, Hansen, Allen & Luce has submitted a cost proposal of One Hundred Thirty-Five Thousand Four Hundred Dollars (\$135,400) to perform the updated Culinary Water System Master Plan study requested by the City; and,

WHEREAS, the scope and services of the Culinary Water System Master Plan study are as described in the attached Proposal dated January 2, 2019 (Exhibit "A"); and,

WHEREAS, funding for the study will be paid using revenue from the Culinary Water Impact fee fund, as the study will be used help the City meet future growth demands; and,

WHEREAS, it is anticipated that the updated Culinary Water System Master Plan will supply the foundation for culinary water impact fee facilities planning:

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that an agreement (Exhibit "B") with Hansen, Allen & Luce in the amount of One Hundred Thirty-Five Thousand Four Hundred Dollars (\$135,400) to perform the updated Culinary Water System Master Plan study requested by the City is hereby approved, and that the Mayor is hereby authorized to sign the same on behalf of Tooele City.

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	Counci
this	day of		2019.				8	

TOOELE CITY COUNCIL

(For)			(Against)
		And the second s	
		S	
		S ************************************	
ABSTAINING:			
(Approved)	AYOR OF TOOE	LE CITY	(Disapproved)
ATTEST:			
Michelle Y. Pitt, City Recorder			
SEAL			
Approved so to Form:		R	
Approved as to Form: Roge	Evans Baker, To	ooele City Attorne	у

Exhibit A

Hansen, Allen & Luce Engineering Proposal



SALT LAKE AREA OFFICE

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

Mr. Paul Hansen, P.E. Tooele City Contract Engineer 90 North Main Tooele, Utah 84074 January 2, 2019

Subject:

Proposal for the 2019 Water System Master Plan

Dear Paul:

Hansen, Allen & Luce (HAL) appreciates the opportunity to provide this proposal for a water system master plan. The purposes of the plan are to assess current conditions of the existing water system, identify needed improvements, and assist the City in planning future growth and developing a list of capital facilities that will be needed in support of this future growth. This proposal also includes consultation with City Staff on water rights as the City prepares an internal study of water rights.

A recommended scope of work for the water system master plan is as follows:

SCOPE OF WORK

TASK 100 Data Collection, Project Start-up and Data Assessment

Objective:

Project start-up, data collection, data review and assessment. Develop water

demand and production estimates.

- 1. Task 100 project management, communication and coordination.
- Start-up meeting with Tooele City personnel. This meeting will include a review
 of study objectives and schedules. This will also include a workshop with City
 personnel to discuss known water system problems and previously identified
 system needs.
- Additional operator workshop or site visit as needed (one day).
- 4. Review the existing water model, previous reports, related literature and available data.

- 5. Prepare population growth estimates based on the State of Utah projections with additional input from Tooele City.
- Obtain available SCADA data of water tank levels, system pressures, pumping rates and volumes, well water levels, pressure reducing valve settings and any other available data from Tooele City. Evaluate the data to determine average and peak production rates, and water well and storage tank utilization. If SCADA data is limited, estimates will be based on available data, typical values and state rules.
- Obtain billing and water use data (assumed monthly) by use type and address.
 Evaluate typical residential, commercial and industrial water demands. Evaluate winter vs. summer water use.
- 8. Obtain source water production summaries (at least monthly) and compare to billing data. Estimate non-billed water.
- Prepare an estimate of peak instantaneous, peak day, monthly and annual water demand. Determine average and peak demands per equivalent residential connection (ERC).
- 10. Attend a meeting with Tooele City personnel to present results. Discuss level of service criteria for pressure, supply, storage, and fire flow.
- 11. Prepare a technical memorandum describing the results.

Output:

Technical memorandum

TASK 200 Water Rights Consultation

Objective: The City is preparing a review of water rights. HAL has been asked to assist the City by providing water rights consultation.

Activities:

- 1. Task 200 project management, communication and coordination.
- 2. Meetings and consultation.

Output:

Water rights consultation.

TASK 300 Existing System Model Update

Objective:

The existing water system model will be updated based on input received during workshops with City personnel and other available data. While a significant amount of work has been done updating the model over the past few years, additional work is necessary in order to identify differences between the model and the water system and to reflect any recent changes. Pressure reducing valve settings need to be verified. Current settings are assumed to be provided by the City. Pump station information will be updated as needed. Additionally, the water system model will be moved from its current modeling software to EPANET. Once in EPANET, if desired, the model will be moved to the Aquaveo CityWater web application for access by Tooele City personnel.

- 1. Task 300 project Management, communication and coordination.
- Prepare extended period EPANET model based on Tooele City's existing system model.
- 3. Prepare the water demand distribution for the existing water system. This will be based on monthly billing data records. A City wide demand distribution will be prepared based on geocoded billing data which links actual water use to location. Average and peak demands will be assigned to the updated model based on this distribution. Depending on data availability, demands will be distributed based on aerial photography, current land use and zoning.
- 4. Attend a meeting with City personnel to review the model and identify any needed changes.
- 5. Calibrate the model based on SCADA data and field measurements. Field measurements include fire hydrant flow or pressure testing. It is assumed that calibration field work will be limited to a 2 day effort by HAL. Additional field work will be performed by City personnel and reported to HAL. The level of additional field work will be coordinated with Tooele City if needed.
- 6. Provide office support of City personnel performing flow and pressure testing.
- 7. Perform modeling and identify existing deficiencies in the distribution system based on flow and pressure.

Mr. Paul Hansen January 2, 2019 Page 4 of 8

- Perform a fire flow analysis and predict areas that will likely not meet fire flow requirements. It is assumed that Tooele City will provide required fire flow demand values at various zones in the City.
- 9. Prepare a list of existing deficiencies and a cost estimate for these facilities.

Output:

- Field test results
- Existing conditions calibrated hydraulic model
- List of deficiencies and a cost estimate.

TASK 400 Future Demand Projections and Future Model

Objective:

Prepare projections for future growth. Prepare a future model. Develop a project list with estimated costs and anticipated implementation dates for each project.

- 1. Task 400 project Management, communication and coordination.
- 2. Attend a planning workshop with Tooele City personnel to identify growth criteria including: 1) the anticipated future service boundary, 2) growth land use types, locations and densities, 3) Obligations to future development.
- Prepare average and peak demand projections. Future demands will be based on areas of growth, redevelopment and density changes. New demands will be based on the demands per unit area and land use type developed for existing conditions.
- Prepare an extended period EPANET future conditions capital facilities plan model. This will be a 20-year model and may be the basis for future impact fees determinations.
- Prepare extended period EPANET future conditions long term planning model.
 This will be a 40-year model.
- Perform modeling and identify needed improvements to the distribution system.
- 7. Prepare alternatives for key future infrastructure (20-year model). It is assumed that alternatives review effort is limited to the available budget. Attend a meeting with City personnel to review alternatives and select the preferred alternatives.

Mr. Paul Hansen January 2, 2019 Page 5 of 8

8. Prepare a future system capital facilities list and cost estimate.

Output:

- 20-year and 40-year hydraulic models
- Preferred alternatives
- Future capital facilities list and cost estimate

TASK 500 Evaluate Existing and Future Water Supply, Booster Station Capacity and Storage

Objective:

Evaluate existing and future water supply and storage. The locations of existing and potential future sources will be examined, including locations of City owned water in the Tooele and Rush Valleys. Storage locations will be examined to compare existing storage locations and volumes with needed locations and volumes.

- 1. Task 500 project Management, communication and coordination.
- Evaluate the adequacy of City sources based on state standards and projected needs, including consideration of the effects of conservation, indoor and outdoor water use and water rights. It is assumed that Tooele City will provide water production data and SCADA data.
- Evaluate the adequacy of City water storage to meet projected average and peak demands. This includes a review of tank levels throughout average and peak demand periods. It is assumed that Tooele City will provide SCADA data of tank levels.
- Conduct a source strategy workshop to identify and discuss potential future water sources, transmission methods and capacity, and locations of delivery.
- 5. Based on the workshop discussion prepare conceptual alternatives for future water development. Prepare conceptual cost estimates. It is assumed that work for this task will be limited to the available budget.
- 6. Conduct an alternatives workshop to discuss source development alternatives and costs. The preferred alternatives will be selected.

Mr. Paul Hansen January 2, 2019 Page 6 of 8

> Evaluate the adequacy of City booster stations to meet projected average and peak demands. The City will provide booster station pumping capacity data and a notice of any deficiencies or maintenance issue identified to date.

Output:

 Results of source, storage and booster station assessment. These results will be described in the master plan report.

TASK 600 Water System Optimization

Objective: Water system operations will be modeled and evaluated to determine if more energy efficient methods can be identified. Recommendations will be provided.

Activities:

- 1. Task 600 project Management, communication and coordination.
- Obtain power costs, source water costs and water quality data from Tooele City and review the data.
- 3. Using the model, analyze the water system facilities to identify areas of potential system operation and performance improvements.
- 4. Use the model to predict electricity use by water system facilities during various demand conditions. Identify facilities that appear to have unusually high electrical demand.
- 5. Use the model to analyze water quality of water system facilities during various demand conditions. Identify areas of predicted poor water quality.
- Based on the above analyses, develop recommendations for system operation that will potentially reduce system electrical consumption and improve water quality.
- Coordinate and facilitate loading existing system model onto Aquaveo -CityWater platform. Licensing fee allowance of \$5,000 included in proposal budget. Provide 4 hours of training to City personnel.

Output:

Recommendations to reduce electrical consumption and improve water quality.
 Recommendations will be included in the master plan report.

Mr. Paul Hansen January 2, 2019 Page 7 of 8

TASK 700 Prepare Capital Facilities Plan and Report

Objective: Prepare a capital facilities plan for the 20-year planning horizon. Prepare draft

and final reports. Present these to the Tooele City personnel and City Council.

Activities:

1. Task 700 project management, communication and coordination.

- Prepare a priority list of deficiency correction projects and future planning projects for the 20-year time frame. Provide an estimated schedule for facility construction. Include the cost estimates.
- 3. Prepare a draft report which describes methodology, results, findings, recommendations and selected alternatives. Provide a copy to Tooele City.
- Conduct a meeting with City personnel to review the draft plan and receive comments.
- 5. Present the water system master plan at a Tooele City Council meeting.
- 6. Prepare the final water master plan report. Prepare prints. Provide to Tooele City.

Output:

- Capital Facilities Plan
- Draft and Final Reports

SCHEDULE

It is anticipated that this work can be completed within 6 to 8 month of receiving a notice to proceed.

ENGINEERING FEE

Hansen, Allen & Luces, Inc. (HAL) proposes a professional "not to exceed" preliminary engineering budget of \$135,400 for the project. Charges to the project will be based on actual expenses in accordance with HAL's Fee Schedule, a copy of which is attached. If less effort is required by HAL to accomplish the tasks than is anticipated, the Client will only be invoiced for the actual effort required. A spreadsheet outlining estimated personnel costs by task and subtask is attached.

ASSUMPTIONS

- Tooele City will provide updated data on water system facilities and will provide billing, water production and SCADA data. Tooele City will also provide the needed fire flow in zones throughout the City.
- The master plan is intended to provide a basis for future impact fee determinations (not included in this scope of work) and to provide the City with planning guidance. Additional work will be needed to prepare impact fee documents.
- 3. Up to 5 hard copies and 1 PDF will be provided for the draft and final copy of the report. Other documents will be provided as PDF. Figures will be produces as 11 x 17s.

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

Sincerely,

HANSEN, ALLEN & LUCE, INC.

Benjamin D. Miner P.E.

Principal

STANDARD FEE SCHEDULE 2019

PERSONNEL CHARGES

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

Senior Managing Professional	\$188.50/hr
Managing Professional	\$164.50/hr
Senior Professional II	\$151.00/hr
Senior Professional I	
Professional III	
Professional II	
Professional I	
Professional Intern	
Engineering Student Intern	
Senior Designer	
Senior Field Technician	
Field Technician	\$85.85/hr
CAD Operator	\$85.85/hr
Secretary	
Professional Land Surveyor	
1 Man GPS Surveying Services	
Expert Legal Services	\$300.00/hr

DIRECT CHARGES

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

Communication, Computer, Reproduction	\$6.00 per labor hour
Out-of-town per diem allowance (lodging not included)	
Vehicle	
Outside consulting and services	
Other direct expenses incurred during the project	Cost plus 10%
Trimble GPS Unit	\$130.00 per day
Drone Unit\$500.00 per	r day plus data conversion costs
Data Logger/Transducer	\$125.00 per week

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

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



HAL PROPOSAL ESTIMATE

ALLEN & LUCE

CLIENT: Tooele City PROJECT: 2019 Water System Master Plan Communications Miles Direct Expense Pha Task Cost with Outside Expense COMMENT Billing Principal Manging Prof. Sr Prof II Sr Prof I Prof II PEI CAD Secretary Total Labor /Office Expense Expense Contingency Hours Cost & Rate Inc. 100 Data Collection, Project Start-up and Data Assessment \$0.00 \$0.00 \$0,00 \$0.00 Task project management, communication and coordination \$730,00 \$36,00 \$842.60 \$1,312.30 102 Start-up meeting \$36.00 \$604.00 \$1,208.00 \$24.00 \$48.00 100 500 \$589.00 103 Operator meeting/site visits Literature review \$48.00 51 381 60 Milage with previous task \$560,20 \$915,80 \$30.00 \$649.22 Prepare populations estimtes Obtain and evaluate SCADA, determine typical values \$48.00 SAR DO \$1,060,18 \$2,522,00 \$120.00 \$120.00 \$2,906.20 20 32 20 10 5 Obtain billing data, evaluate water demand by type, summer & winter Obtain source data and review \$3,663.20 \$192.00 \$192.00 \$4,240,72 \$2,240.80 \$120.00 \$2,596.88 Prepare average and peak values, determine ERCs Attend a meeting \$1,120.40 \$60,00 \$60.00 \$1,298.44 \$755.00 \$30.00 100 \$935.00 111 Prepare a technical memorandum \$1,271.40 \$66.00 Quality Control (QC) / Quality Assurance (QA)
SUBTOTAL HOURS/UNITS: \$66.00 \$1,471.14 \$679.00 \$24.00 \$773.30 \$377.00 \$0.00 \$7,701.00 \$0.00 \$0.00 \$4,927.50 \$3,138,30 50.00 \$126.00 \$16,269.80 \$130.00 \$500.00 \$1,428.00 \$19,467.58 \$0.00 Subconsultant Cost 200 Water Rights Consultation \$0.00 \$0.00 \$0.00 201 202 Task project management, communication and coordination Meetings and consultation \$0.00 2 24 \$302.00 \$12.00 \$12.00 \$345.40 27 \$4,189,50 \$162.00 \$162.00 Quality Control (QC) / Quality Assurance (QA) SUBTOTAL HOURS/UNITS: \$4,786,65 Assume meetings at HAL \$377.00 \$12.00 \$12.00 SUBTOTAL: \$942.50 \$0.00 \$3,926,00 \$0.00 \$0.00 \$4,868,50 \$0.00 \$186.00 \$0,00 \$186,00 \$5,559.95 300 Existing System Model Update \$0.00 \$0.00 \$0.00 \$0.00 301 Task project management, communication and coordination Prepare EPANET Model \$667.00 \$30,00 302 \$30.00 \$766.70 12 12 32 24 3 \$192.00 \$144.00 \$4,240.72 \$3,287.68 \$3,663,20 \$192.00 303 Prepare water demand distribution, undate mode Attend a meeting with City personnel \$453.00 \$18.00 \$18,00 At HAL 305 Calibrate the model 16 16 36 4 32 24 48 \$216.00 200 \$346.00 306 Provide office support for field work \$4 645 96 \$24.00 \$192.00 \$690.80 \$4,240.72 \$604.00 \$24.00 307 Perform modeling and identify deficiencies Perform fire flow moding and prepare a list of deficiencies 12 12 \$3,663,20 \$192.00 \$2 844 80 \$144.00 \$144.00 \$3,287.68 Prepare a list of deficiencies and a cost estimate Quality Control (QC) / Quality Assurance (QA) SUBTOTAL HOURS/UNITS: \$288.00 \$288,00 \$6,575,36 \$867,50 \$30,00 \$987.25 \$565.50 \$0,00 \$9.815.00 \$6,847.20 \$63,00 \$0.00 \$25,174.70 \$1,278.00 \$130.00 \$0.00 \$1,408.00 \$29,240.97 \$0,00 Subconsultant Cost 400 Future Demand Projections and Future Model 400 \$0.00 \$667.00 \$0.00 \$0.00 \$0.00 401 402 Task project management, communication and coordination \$30.00 \$30,00 \$766.70 \$935.00 Attend a planning workshop \$755.00 \$30.00 \$95.00 403 404 Prepare demand projections 5 28 36 36 26 32 At Tooele Utah \$3,059.20 \$168.00 \$216.00 \$168,00 \$3 549 92 Prepare a 20-year model \$3,877.60 \$3,877.60 \$216,00 \$4,502.96 405 406 \$216.00 \$216,00 \$4,502.96 Perform modeling and identify needed improvements \$2,757.20 \$3,663.20 \$156.00 \$3,204.52 \$192.00 \$192.00 \$4,240,72 Prepare future CIP and cost estimate 16 36 5 \$3,877.60 \$216.00 \$216.00 Quality Control (QC) / Quality Assurance (QA) SUBTOTAL HOURS/UNITS: \$4,502.96 \$867.50 \$30.00 209 SUBTOTAL: \$565.50 \$0.00 \$5,587,00 \$0.00 \$0.00 \$9,198.00 \$7,988.40 \$63.00 \$23,401,90 \$1,254.00 \$65.00 \$0.00 \$1,319.00 \$27,192.99 \$0.00 Subconsultant Cost

SUBTOTAL HOURS/UNITS: SUBTOTAL:		3 \$565,50	0 \$0.00	65 \$9,815.00	\$0.00	\$0.00	61 \$6,679.50	0 \$0.00	0 \$0.00	4 \$252.00	133	\$17,312.00	\$798.00 \$798.00	200 \$130.00	\$0.00	\$928.00	\$20,064.00	\$0.00 Subconsultant Cost
Conduct a review meeting with City personnel Present the plan to the Tooele City Council Prepare and distribut final plan Quality Control (QC) / Quality Assurance (QA)		3		5 10 12 2			5 12				10 10 24 5	\$1,302,50 \$1,510,00 \$3,126,00 \$867,50	\$60,00 \$60,00 \$144,00 \$30,00	100 100		\$125.00 \$125.00 \$144.00 \$30.00	\$1,570.25 \$1,798.50 \$3,597.00 \$987.25	Including presentation prep
700 Task project management, communication and coordinat 702 Prepare a priority list of existing future projects and scheo 703 Prepare a draft report				4 12 20			12 32			4	0 8 24 52	\$0.00 \$856,00 \$3,126,00 \$6,524,00	\$0.00 \$48.00 \$144.00 \$312.00			\$0.00 \$48.00 \$144.00 \$312.00	\$0.00 \$994.40 \$3,597.00 \$7,519.60	
SUBTOTAL: epare Capital Facilities Plan and Report		\$565.50	\$0.00	\$3,926.00	\$0.00	0 \$0.00	38 \$4,161.00	32 \$3,043.20	\$0.00	\$63.00	100	\$11,758,70	\$600,00 \$600,00	0 \$0,00	0 \$0.00	\$600.00	\$13,594.57	\$5,500.00 Subconsultant Cost
Task project management, communication and coordinate of the coord	on 1 1 1 1 1 1 1 1	3	0	4 2 2 2 2 2 4 8 2		741	6 8 8 8 8	8 8 8 8		1	0 5 8 18 18 18 20 8 5	\$0.00 \$667.00 \$959.00 \$1,938.80 \$1,938.80 \$1,938.80 \$2,240.80 \$1,208.00 \$867.50	\$0.00 \$30,00 \$48,00 \$108,00 \$108,00 \$108,00 \$120,00 \$48,00 \$30,00			\$0.00 \$30.00 \$48.00 \$108.00 \$108.00 \$108.00 \$120.00 \$48.00 \$30.00	\$0.00 \$766.70 \$1,107.70 \$2,251.48 \$2,251.48 \$2,251.48 \$2,596.88 \$1,381.60 \$987.25	\$5,500.00
SUBTOTAL HOURS/UNITS: SUBTOTAL:		3 \$565.50	0 \$0.00	9,060.00	0 \$0.00	\$0.00	17 \$1,861.50	12 \$1,141.20	0 \$0.00	1 \$63.00	5 93	\$867.50 \$12,691.20	\$30,00 \$558.00 \$558.00	200 \$130.00	\$0.00	\$30,00 \$688.00	\$987.25 \$14,717.12	\$0,00 Subconsultant Cost
101 Task project management, communication and coordinat 102 Evaluate existing and future sources 103 Evaluate exiting and future storage 104 Conduct source strategy workshop 105 Develop soruce alternatives and conceptual cost estimate 105 Conduct an alternatives workshop 107 Evaluate the booster stations 107 Evaluate the booster stations 108 Quality Control (QCJ / Quality Assurance (QA)	1			4 16 8 5 12 5			12 5	12		1	5 16 8 5 36 10 8	\$0.00 \$667.00 \$2,416.00 \$1,208.00 \$755.00 \$4,267.20 \$1,302.50 \$1,208.00	\$0,00 \$30,00 \$96,00 \$48,00 \$30,00 \$216,00 \$60,00 \$48,00	100		\$0.00 \$30.00 \$96.00 \$48.00 \$95.00 \$216.00 \$125.00 \$48.00	\$0.00 \$766.70 \$2,763.20 \$1,381.60 \$935.00 \$4,931.52 \$1,570.25 \$1,381.60	

PHASE	TASK	Labor	Direct Exp	Subtotal	Subconsultant	SubTotal	
Automotion -		Costs	Cost	w/Contingency	Costs	Subrotal	
	Data Collection, Project Start-up and Data Assessment	\$16,269,80	\$1,428,00	\$19,467,58	\$0.00	\$19,467,58	
	Water Rights Consultation	\$4,868.50	\$186.00	\$5,559.95	\$0.00	\$5,559.95	
	Existing System Model Update	\$25,174.70	\$1,408.00	\$29,240.97	\$0.00	\$29,240,97	
	Future Demand Projections and Future Model	\$23,401.90	\$1,319.00	\$27,192,99	\$0.00	\$27,192,99	
	Evaluate Existing and Future Source, Booster Stations and Storage	\$12,691.20	\$688,00	\$14,717.12	\$0,00	\$14,717,12	
600	Water System Optimization	\$11,758.70	\$600.00	\$13,594,57	\$5,500,00	\$19,094,57	
700	Prepare Capital Facilities Plan and Report	\$17,312.00	\$928,00	\$20,064.00	\$0.00	\$20,064.00	
	TOTAL:	\$111,476.80	\$6,557,00	\$129,837.18	\$5,500,00	\$135,337,18	

Exhibit B

Agreement

AGREEMENT

TOOELE CITY CORPORATION, a municipal corporation of the State of Utah, (hereinafter "City"), and HANSEN ALLEN & LUCE of 859 West Jordan Parkway, Suite 200, South Jordan, Utah 84095, a corporation, (hereinafter "Contractor") enter into this Agreement on the <u>20</u> day of <u>January</u>, 2019 (the "Effective Date").

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

- 1. <u>Services (Scope of Work).</u> The Contractor shall provide a **Culinary Water System Master Plan** as outlined in the attached scope of services letter dated <u>January 2, 2019</u>.
- 2. <u>Disclaimer of Right of Control.</u> Contractor shall perform its duties competently. The City disclaims any right to control the Contractor's performance of the Services.
- 3. <u>Compensation.</u>
 - Rate. The City shall pay the Contractor the not to exceed sum of One Hundred Thirty Five Thousand Four Hundred Dollars (\$135,400) for fully performing the Services, pursuant to invoice.
 - b. <u>Unit Cost Contract.</u> This Agreement is a Not to Exceed Cost Contract. The contract Rate includes all costs and expenses associated with the provision of the Services, inclusive of mobilization.
 - c. <u>No Benefits.</u> The parties specifically agree that as an independent contractor, Contractor neither claims nor is entitled to benefits accorded City employees.
- 4. <u>Term of Agreement.</u> Contractor shall fully perform the Services by <u>September 30, 2019</u>.
- 5. <u>Termination.</u> 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. <u>Contractor Liability Insurance</u>. Contractor shall obtain and maintain liability insurance in the amount of at least \$1,000,000.
 - b. <u>Contractor Indemnification</u>. Contractor shall indemnify and hold the City and its agents harmless from all claims of liability for injury or damage caused by any act or omission of Contractor or its agents in performance of this Agreement.
 - c. <u>Contractor Workers Compensation Insurance</u>. Contractor shall purchase and maintain workers compensation insurance for all of its employees. If Contractor is a sole proprietor, Contractor shall purchase and maintain workers compensation insurance or obtain an exclusion from Workers Compensation Fund of Utah.
 - d. <u>Evidence of Contractor Insurance</u>. Contractor shall provide written evidence of liability insurance and workers compensation insurance or exclusion to the City within ten (10) days of the Effective Date. The City will not make any payments under this Agreement until it receives from Contractor the evidence of insurance.
 - e. <u>Status Verification Indemnification</u>. 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.

- 7. <u>Permits.</u> Contractor shall obtain all permits required by Federal, State and Local laws.
- 8. <u>Complete Agreement.</u> This Agreement is the only agreement or understanding between the parties, and may be modified or amended only by a written document signed by both parties.

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

TOOELE CITY CORPORATION 90 North Main Tooele, Utah 84074	HANSEN ALLEN & LUCE 859 West So. Jordan Parkway, Suite 200 South Jordan, Utah 84095
Debra E. Winn, Tooele City Mayor	Signature Print Name/Title:
Attest:	
Michelle Pitt, Tooele City Recorder	
SEAL	
Approved as to form:	
Roger Baker, Tooele City Attorney	
(Revised 02/2018)	

TOOELE CITY CORPORATION

RESOLUTION 2019-10

A RESOLUTION OF THE TOOELE CITY COUNCIL APPROVING A CONTRACT WITH HANSEN ALLEN & LUCE FOR AN UPDATE OF THE WASTEWATER COLLECTION SYSTEM MASTER PLAN.

WHEREAS, Tooele City continues to experience growth in all aspects of development, including, but not limited to, residential, commercial and industrial development; and,

WHEREAS, in order to meet the additional demand for wastewater collection and to maximize the potential for responsible development, it is necessary to perform an update to the current Wastewater Collection System Master Plan; and,

WHEREAS, the City has previously retained the engineering firm of Hansen, Allen & Luce to update the Wastewater Collection System Master Plan; and,

WHEREAS, Hansen, Allen & Luce has submitted a cost proposal of One Hundred Eighteen Thousand Dollars (\$118,000) to perform the Wastewater Collection System study requested by the City; and,

WHEREAS, the scope and services of the Wastewater Collection System study are as described in the attached Proposal dated January 2, 2019 (Exhibit "A"); and,

WHEREAS, funding for the study will be paid using revenue from the Wastewater Impact fee fund, as the study will be used help the City meet future growth demands.

NOW, THEREFORE, BE IT RESOLVED BY THE TOOELE CITY COUNCIL that an agreement (Exhibit "B") with Hansen, Allen & Luce in the amount of One Hundred Eighteen Thousand Dollars (\$118,000) to perform the Wastewater Collection System study requested by the City is hereby approved, and that the Mayor is hereby authorized to sign the same on behalf of Tooele City.

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

	IN WITNESS	WHEREOF, 1	this Resolution	is passed	by the	Tooele	City	Counci
this _	day of	******	_, 2019.					

Michelle Y. Pitt, City Recorder

SEAL

ATTEST:

Approved as to Form:

Roger-Evans Baker, Tooele City Attorney

Exhibit A

Hansen, Allen & Luce Engineering Proposal



SALT LAKE AREA OFFICE

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

> January 2, 2019 February 16, 2018

Mr. Paul Hansen Tooele City Contract Engineer 90 North Main Tooele, Utah 84074

Subject:

Proposal for a Wastewater Collection System Master Plan

Dear Paul:

Hansen, Allen & Luce (HAL) appreciates the opportunity to provide this proposal for a wastewater collection system master plan. The purpose of the plan is to assess current conditions in the existing wastewater collection system, identify needed improvements, assist the City in planning for future growth and develop a list of capital facilities that will be needed in support of this future growth.

In order to implement this approach, a recommended scope of work is as follows:

SCOPE OF WORK

TASK 100 Data Collection, Flow Monitoring and Flow Characterization

Objective:

The first step in the master planning process is to collect and review available existing wastewater collection system data. This will include a review of previously completed work, meeting with City personnel, and conducting flow monitoring. Based on this information, the flow will be characterized.

Activities:

- 1. Task 100 project management, communication and coordination.
- Start-up meeting with Tooele City personnel. This meeting will include a review
 of study objectives and schedules, and will identify areas for flow monitoring.
 This will also include a workshop with City personnel to discuss known
 wastewater collection system problems and previously identified system needs.
- 3. Review previous studies, related literature, land use and zoning.
- Prepare population growth estimates.

- Perform flow monitoring at seven (7) locations for approximately one week each. The purpose of the flow monitoring is to identify typical and peak flows at key locations and to identify typical patterns and peaking factors for various types of land use. HAL will provide the flow monitoring equipment and personnel for the flow monitor program. Tooele City personnel will install the wet sensor within the pipe. It is assumed that the equipment will be installed on the first visit, with additional visits including equipment removal from one site and installation at the next site. Flow monitoring will be performed at each site sequentially. If Tooele City has flow monitoring equipment available, we expect that the time required for monitoring can be reduced.
- Evaluate flow monitoring data. Develop average and peak hydraulic loading values for each monitored zone. Develop a diurnal pattern for modeling based on the City data or other available data.
- Obtain paired flow and time data for the Tooele City Wastewater Treatment.
 Also, obtain winter water production data from Tooele City. Compare winter water production to treatment plant inflow data. Estimate infiltration/exfiltration for the City.
- Review available precipitation data and compare to flowrates at the Tooele City Wastewater Treatment Plant. To the extent feasible, use the available data to predict storm water inflow.
- Conduct a meeting with Tooele City personnel to present the data and discuss results of the monitoring. Alternative hydraulic loading calculation methods will be discussed. Tooele City will select the preferred method of loading for modeling and reporting.
- Prepare a technical memorandum describing results.

Output:

- Population Growth Estimates
- Flow monitoring data and evaluation.
- Technical memorandum describing flow monitoring methods and results.

TASK 200 Existing System Model Preparation and Identification of Deficiencies

Objective: A computer model was prepared for the previous wastewater collection system master plan (HAL, 2000). Due to changes in software and technology, the existing model is no longer operable. It will be necessary to develop a new model. It is anticipated that this model will be prepared using the Autodesk

Mr. Paul Hansen February 16, 2018 Page 3 of 6

Storm and Sanitary Analysis Software. This software provides a data file for the EPA SWMM software which is publically available.

A key aspect of model development is identifying the pipe diameters, rim and flowline elevations of manholes so that slopes and hydraulic performance can be established. We located elevation information for the major lines modeled in the 2000 master plan. While the elevation information has been adequate for the modeling work thus far, we recognize that the data set has limitations and in some cases is estimated based on nearby data. We anticipate that as the modeling progresses, the City may wish to survey areas in question or areas of expanded model coverage. We understand that you may wish to use design drawings as a data source when available.

Activities:

- 1. Task 200 project Management, communication and coordination.
- Receive elevation and location data on manhole, pipes, lift stations, diversions and other wastewater facilities from Tooele City. Review the data. Provide the City with a list of missing information.
- Identify tributary areas and points of connection within the model. Typically, the tributary areas will include less than 400 equivalent residential units (depending on available data). Develop average and peak hydraulic loading rates for each area.
- 4. Prepare the existing conditions model. Assign hydraulic loading values to the model.
- Perform modeling and calibration based on monitoring data. Identify deficiencies. Conduct a workshop with City personnel to discuss anticipated problems.
- Develop alternatives to address facility deficiencies. Prepare conceptual cost estimates of facility alternatives. It is assumed that the number of selected alternatives is limited to the available budget.
- 7. Conduct an alternatives workshop to review alternatives and select the preferred alternative.

Output:

- Hydraulic model
- List of Deficiencies, alternative solutions and cost estimates

Mr. Paul Hansen February 16, 2018 Page 4 of 6

TASK 300 Planning Future Facilities

Objective:

Once the existing conditions and facilities have been identified, future projections of wastewater production and growth areas will be prepared. Based on this planning work, future hydraulic models will be prepared and future infrastructure needs will be identified.

Activities:

- 1. Task 300 project Management, communication and coordination.
- Attend a workshop with City personnel to identify areas of in-fill, redevelopment, development and expansion. The City will provide guidance as to the type of development and expected densities.
- 3. Prepare new anticipated sub-basin boundaries, estimated densities and project flowrates. Flowrates will be extrapolated from the existing flow studies.
- 4. Prepare future hydraulic models for 10 years and 40 years. Perform analysis and predict needed infrastructure.
- Develop alternatives to address future needs. Prepare conceptual cost estimates of facility alternatives. It is assumed that the number of selected alternatives is limited by the available budget.
- Conduct an alternatives workshop to review alternatives and select the preferred alternative.

Output:

- Land planning assumptions
- Future hydraulic models
- Future capital facilities selected preferred alternatives and cost estimates

TASK 400 Prepare Capital Facilities Plan

Objective: Prepare a capital facilities plan, a draft and a final report. Present these to the Tooele City personnel and City Council.

Activities:

1. Task 400 project management, communication and coordination.

Mr. Paul Hansen February 16, 2018 Page 5 of 6

- Prepare a priority list of deficiency correction projects and future planning projects. Provide an estimated schedule for facility construction. Include the cost estimates.
- 3. Prepare a list and brief description of potential sources of funding.
- 4. Develop recommendations for reducing inflow and infiltration.
- 5. Prepare a draft report which describes methodology, results, findings, recommendations and selected alternatives. Provide a copy to Tooele City.
- Conduct a meeting with City personnel to review the draft plan and receive comments.
- 7. Present the master plan at a Tooele City Council meeting.
- 8. Prepare the final waste water master plan report. Prepare prints. Provide to Tooele City.

Output:

- Capital Facilities Plan
- Draft and Final Reports

SCHEDULE

It is anticipated that this work can be completed within 6 month of receiving a notice to proceed.

ENGINEERING FEE

Hansen, Allen & Luces, Inc. (HAL) proposes a professional "not to exceed" preliminary engineering budget of \$118,000 (one hundred and eighteen thousand dollars) for the project. Charges to the project will be based on actual expenses in accordance with HAL's Fee Schedule, a copy of which is attached. If less effort is required by HAL to accomplish the tasks than is anticipated, the Client will only be invoiced for the actual effort required. A spreadsheet outlining estimated costs is attached.

<u>ASSUMPTIONS</u>

- 1. Tooele City will provide data on pipe sizes, types, and elevations.
- 2. HAL will not monitor or evaluate the wastewater treatment plant or waste characteristics.
- 3. The flow monitoring will be performed with the HAL owned flowmeter. HAL will coordinate with Tooele City to determine if the City flowmeter may be used as well.

Mr. Paul Hansen February 16, 2018 Page 6 of 6

4. The master plan is intended to provide a basis for future impact fee determinations (not included in this scope of work) and to provide the City with planning guidance. Additional work may be needed as a condition of funding assistance from funding agencies. Environmental, historical and archaeological reviews will not be performed at this level.

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

Sincerely,

HANSEN, ALLEN & LUCE, INC.

Benjamin D. Miner, P.E.

Principal

STANDARD FEE SCHEDULE 2018

PERSONNEL CHARGES

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

Senior Managing Professional	\$179.50/hr
Managing Professional	\$156.50/hr
Senior Professional II	
Senior Professional I	\$136.10/hr
Professional III	\$126.20/hr
Professional II	
Professional I	\$105.30/hr
Professional Intern	\$95.10/hr
Engineering Student Intern	\$49.35/hr
Senior Designer	
Senior Field Technician	\$101.60/hr
Field Technician	\$82.55/hr
CAD Operator	\$82.55/hr
Secretary	\$60.75/hr
Professional Land Surveyor	
1 Man GPS Surveying Services – Surveying Technician	\$103.50/hr
1 Man GPS Surveying Services - PLS	\$137.90/hr
2 Man GPS Surveying Services - PLS	\$153.80/hr
Expert Legal Services	

DIRECT CHARGES

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

Communication, Computer, Reproduction	\$6.00 per labor hour
Out-of-town per diem allowance (lodging not inc	cluded) \$46.00 per day
Vehicle	\$0.65 per mile
Outside consulting and services	Cost plus 10%
Other direct expenses incurred during the project	ctCost plus 10%
Trimble GPS Unit	\$130.00 per day
Drone Unit\$5	00.00 per day plus data conversion costs
Data Logger/Transducer	

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

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



HAL PROPOSAL ESTIMATE



CLIENT: Tooele City
PROJECT: 2018 Wastewater Collection System Master Plan

· *	T-1.4-0.4-							VI DEM				Communications	Miles	Direct	Expense	Total HAL Cost with	Outside	
Task #	Task Activity	Billing Period	Principal	Manging Prof.	Sr Prof II	Sr Prof I	Prof II	Prof I	Secretary	Total Hours	Labor Cost	/Office Expense	Travel	Expense	Cost	Contingency & Rate Inc.	Expense (SEE NOTE)	COMMENT
ata Co	ollection, Flow Monitoring and Flow Characterization																	
100		10							Madazaa	0	\$0.00	\$0.00		50P5843250	\$0.00	\$0.00		
	Project management, communication and coordination					4		4	1	9	\$1,026.35	\$54.00		200	\$254.00	\$1,408.39		
	Start-up meeting					5		5		10	\$1,207.00	\$60,00	100		\$125.00	\$1,465.20		
	Review previous work					8		2		10	\$1,299.40	\$60.00			\$60,00	\$1,495.34		
	Population growth estimates Perform flow monitoring at 7 Sites					2		16		18	\$1,957.00	\$108,00			\$108.00	\$2,271.50		
	Evaluation flow monitoring at 7 Sites Evaluation flow monitoring results, develop diurnal					24		40		64	\$7,478.40	\$384.00	800	\$ 1,750.00	\$2,654.00	\$11,145.64		Flowmeter rental at \$250/week
	Evaluate winter water use							32 24		39	\$4,322.30	\$234.00			\$234.00	\$5,011.93		
	Review available precipitation data					0		16		32	\$3,616.00	\$192.00			\$192.00	\$4,188.80		
	Progress meeting	20.04				5		10		24 10	\$2,773.60 \$1.207.00	\$144.00			\$144.00	\$3,209.36		
	Prepare tech memo	5.34								8	\$904.00	\$60.00 \$48.00	100		\$125.00 \$48.00	\$1,465.20 \$1,047.20		
	Quality Control (QC) / Quality Assurance (QA)		3			2		2		7	\$1,021.30	\$42.00			\$48.00	\$1,047.20		
	SUBTOTAL HOURS/UNITS:		3	n	D	75	0	152	OR ALD DESIGNATION OF THE PERSON OF THE PERS	231	\$1,021.30	\$1,386,00	1000	1950	\$42.00	\$1,169,63	NAME OF TAXABLE PARTY.	
	SUBTOTAL:		\$538,50	\$0.00	\$0.00	\$10,207.50	\$0.00	\$16,005.60	\$60.75	231	\$26,812.35	\$1,386.00	\$650.00		\$3,986.00	\$33,878.19	60.00	S. b
			Complete State Com		40.00	410,207.00	50.00	\$10,003.00	\$00.75		\$20,012.33	\$1,366.00	3030.00	\$1,950.00	33,900.00	\$33,070.19	\$0.00	Subconsultant Cost
	g System Model Preparation and Identification of Defi	ciencies		<u> </u>														
200		100								0	\$0.00	\$0.00			\$0,00	\$0.00		
	Project management, communication and coordination	53 56 5				4		4	2	10	\$1,087.10	\$60.00			\$60.00	\$1,261.81		
	Evaluate existing model data	S 1 3 3				4		8		12	\$1,386.80	\$72.00			\$72.00	\$1,604.68		
	Identify tributary areas and hydraulic loading values					8		40		48	\$5,300.80	\$288.00			\$288.00	\$6,147.68		
	Prepare existing conditions model Perform modeling and calibration, Identify derficiencies					12		60		72	\$7,951.20	\$432.00			\$432.00	\$9,221.52		
	Develop alternatives and cost estimates					8		20		28	\$3,194,80	\$168.00			\$168,00	\$3,699.08		
	Conduct alternatives workshop, select prefered alts					10		40		56 10	\$6,389.60	\$336,00 \$60.00	100		\$336,00	\$7,398.16		
	Quality Control (QC) / Quality Assurance (QA)		4			3		3		10	\$1,207.00 \$1,200.80	\$48.00	100		\$125.00	\$1,465.20		
200	SUBTOTAL HOURS/UNITS:		4	D	0	59	0	179	2	244	\$1,200.60	\$1,464.00	100	0	\$48.00	\$1,373.68	POPO INCIDENCE UNO	
	SUBTOTAL:		\$718.00	\$0.00	\$0.00	\$8,029.90	\$0.00	\$18,848.70	\$121.50	244	\$27,718.10	\$1,464.00	\$65.00	\$0.00	\$1,529.00	\$32,171.81	\$0,00	Subconsultant Cost
Plannin	ng Future Facilities																	
300		1 5								0	\$0.00	\$0.00			\$0,00	\$0.00		BUSINESS TO SERVICE AND ADDRESS OF THE
301	Project management, communication and coordination	1				4		2	2	8	\$876.50	\$48.00			\$48.00	\$1,016,95		
	Attend planning workshop	1				5		5		10	\$1,207.00	\$60.00	100		\$125.00	\$1,465.20		
	Prepare future tributary areas and flow projections	1				12		40		52	\$5,845.20	\$312.00			\$312.00	\$6,772.92		
	Prepare 10-year and 40-year future models	1.00				12		40		52	\$5,845.20	\$312.00			\$312.00	\$6,772.92		
	Develop alternatives to address growth	1				16		32		48	\$5,547.20	\$288,00			\$288.00	\$6,418.72		
	Conduct alternatives workshop, select prefered alts	1				5		5		10	\$1,207.00	\$60,00	100		\$125.00	\$1,465.20		
399	Quality Control (QC) / Quality Assurance (QA) SUBTOTAL HOURS/UNITS:	Set neg	4			2		ACTO STORE	日本語の概念	7	\$1,095.50	\$42.00			\$42.00	\$1,251.25		
	SUBTOTAL HOURS/UNITS:		\$718.00	\$0.00	\$0.00	56 \$7,621.60	\$0.00	125 \$13,162.50	2 \$121.50	187	\$21,623.60	\$1,122.00 \$1,122.00	200 \$130.00	\$0.00	\$1,252.00	\$25,163,16	\$0.00	Subconsultant Cost
Capital	Facilities Plan																	
400	e de la companya del companya de la companya de la companya del companya de la co	25100	SEPARITA I			S. S				0	\$0.00	\$0.00			\$0.00	\$0.00		
401	Project management, communication and coordination	0.1				4		2	2	8	\$876,50	\$48.00			\$48.00	\$1,016,95		
402	Prepare priority list and schedule	1				12		40		52	\$5,845.20	\$312.00			\$312.00	\$6,772.92		
	Prepare listing of potential funding sources	1				12				12	\$1,633,20	\$72.00			\$72.00	\$1,875.72		
	Develop recommendations for I/I	1				4		2	The state of the s	6	\$755.00	\$36.00			\$36.00	\$870.10		
	Prepare draft report	1				24		50	A TELEPHONE	74	\$8,531.40	\$444.00			\$444.00	\$9,872.94		
	Conduct progress meeting	1				5				5	\$680,50	\$30,00	100		\$95,00	\$853,05		
	Present master plan at City Council meeting	1				5		5		10	\$1,207.00	\$60.00	100		\$125.00	\$1,465.20		
	Prepare final report	27.				8		12		20	\$2,352.40	\$120.00			\$120,00	\$2,719.64		
499	Quality Control (QC) / Quality Assurance (QA)	CO 1/10 S	4		OBMOBILIE NO	2		2	ALCOHOL: NAME OF THE PARTY OF	- 8	\$1,200.80	\$48.00	Y SHEY		\$48.00	\$1,373.68		
	SUBTOTAL HOURS/UNITS:		4	0	0	76	0	113	2	195	Y/0_/01	\$1,170.00	200	0				
	SUBTOTAL:		\$718.00	\$0.00	\$0.00	\$10,343.60	\$0.00	\$11,898.90	\$121.50		\$23,082.00	\$1,170.00	\$130.00	\$0.00	\$1,300.00	\$26,820.20	\$0.00	Subconsultant Cost

PHASE	TASK	Labor	Direct Exp	Subtotal	Subconsultant	SubTotal	
FHASE	IASK	Costs	Cost	w/Contingency	Costs		
100	Data Collection, Flow Monitoring and Flow Characterization	\$26,812.35	\$3,986.00	\$33,878,19	\$0.00	\$33,878.19	
200	Existing System Model Preparation and Identification of Def	\$27,718.10	\$1,529.00	\$32,171.81	\$0.00	\$32,171.81	
300	Planning Future Facilities	\$21,623.60	\$1,252.00	\$25,163.16	\$0.00	\$25,163,16	
400	Capital Facilities Plan	\$23,082.00	\$1,300.00	\$26,820.20	\$0.00	\$26,820.20	
	TOTAL:	\$99,236.05	\$8,067.00	\$118,033.36	\$0.00	\$118,033.36	

Exhibit B

Agreement

AGREEMENT

TOOELE CITY CORPORATION, a municipal corporation of the State of Utah, (hereinafter "City"), and HANSEN ALLEN & LUCE of 859 West Jordan Parkway, Suite 200, South Jordan, Utah 84095, a corporation, (hereinafter "Contractor") enter into this Agreement on the <u>20</u> day of <u>January</u>, 20<u>19</u> (the "Effective Date").

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

- 1. <u>Services (Scope of Work).</u> The Contractor shall provide a **Wastewater Collection System**Master Plan as outlined in the attached scope of services letter dated <u>January 2, 2019</u>.
- 2. <u>Disclaimer of Right of Control.</u> Contractor shall perform its duties competently. The City disclaims any right to control the Contractor's performance of the Services.
- 3. <u>Compensation.</u>
 - a. <u>Rate.</u> The City shall pay the Contractor the not to exceed sum of One Hundred Eighteen Thousand Dollars (\$118,000) for fully performing the Services, pursuant to invoice.
 - b. <u>Unit Cost Contract.</u> This Agreement is a Not to Exceed Cost Contract. The contract Rate includes all costs and expenses associated with the provision of the Services, inclusive of mobilization.
 - c. <u>No Benefits.</u> The parties specifically agree that as an independent contractor, Contractor neither claims nor is entitled to benefits accorded City employees.
- 4. <u>Term of Agreement.</u> Contractor shall fully perform the Services by <u>September 30, 2019</u>.
- 5. <u>Termination.</u> 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. <u>Contractor Liability Insurance</u>. Contractor shall obtain and maintain liability insurance in the amount of at least \$1,000,000.
 - b. <u>Contractor Indemnification</u>. Contractor shall indemnify and hold the City and its agents harmless from all claims of liability for injury or damage caused by any act or omission of Contractor or its agents in performance of this Agreement.
 - c. <u>Contractor Workers Compensation Insurance</u>. Contractor shall purchase and maintain workers compensation insurance for all of its employees. If Contractor is a sole proprietor, Contractor shall purchase and maintain workers compensation insurance or obtain an exclusion from Workers Compensation Fund of Utah.
 - d. <u>Evidence of Contractor Insurance</u>. Contractor shall provide written evidence of liability insurance and workers compensation insurance or exclusion to the City within ten (10) days of the Effective Date. The City will not make any payments under this Agreement until it receives from Contractor the evidence of insurance.
 - e. <u>Status Verification Indemnification</u>. 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.

- 7. <u>Permits.</u> Contractor shall obtain all permits required by Federal, State and Local laws.
- 8. <u>Complete Agreement.</u> This Agreement is the only agreement or understanding between the parties, and may be modified or amended only by a written document signed by both parties.

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

TOOELE CITY CORPORATION 90 North Main Tooele, Utah 84074	HANSEN ALLEN & LUCE 859 West So. Jordan Parkway, Suite 200 South Jordan, Utah 84095
Debra E. Winn, Tooele City Mayor	Signature Print Name/Title:
Attest:	
Michelle Pitt, Tooele City Recorder	
SEAL	
Approved as to form:	
Roger Baker, Tooele City Attorney	
(Revised 02/2018)	

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

Date: Wednesday, December 19, 2018

Time: 5:00 p.m.

Place: Tooele City Hall, Large Conference Room

90 North Main St., Tooele, Utah

City Council Members Present:

Steve Pruden, Chair Dave McCall Scott Wardle Brad Pratt

Melodi Gochis

City Employees Present:

Mayor Debbie Winn
Glenn Caldwell, Finance Director
Roger Baker, City Attorney
Michelle Pitt, Recorder
Jim Bolser, Community Development Director
Steve Evans, Public, Works Director
Paul Hansen, City Engineer
Randy Sant, Redevelopment Agency Director

Shannon Wimmer, Assistant Finance Director joined the meeting a 6:18 p.m.

Minutes prepared by Michelle Pitt

1. Open Meeting

Chairman Pruden called the meeting to order at 5:00 p.m.

2. Roll Call

Steve Pruden, Present Dave McCall, Present Scott Wardle, Present Brad Pratt, Present Melodi Gochis, Present

3. Discussion:

- Left Hand Fork Campground Area and Options

Presented by Steve Evans

Mr. Evans stated that the Left Hand Fork campground is located within Tooele City. There is an agreement, where Tooele City is the lessor and the Elks as the lessee. There is a campground in the east area which has a bridge, three tables, and one fire pit, and another campground in the west area which has six tables. The agreement says that there will be running water. Mr. Evans said that there is a stream on the property, with a pipe coming from a spring box. He wondered if the stream qualified as running water, as required by the agreement. Mr. Evans indicated that the picnic tables at the campgrounds are really old and need to be refurbished. There is also a lot of deadfall in that area.

Chairman Pruden suggested a proposal be prepared adding this property to our inventory as a facility that can be reserved. He added that some upgrades need to be made to make it usable. Mr. Hansen clarified that these campgrounds are classified as dry camping. There is no sanitary sewer or running water there. The Mayor stated that the City puts a port-a-potty there, and allows the public to reserve it. Council Member McCall said he didn't think Camp Wapiti was aware that they were supposed to take care of the upper areas or campgrounds. Mr. Baker said that the Elks are responsible for putting in running water, but the City is responsible for the upkeep of the campgrounds. Council Member McCall said that the Elks think the agreement is just for Camp Wapiti, not the upper portion of Left Hand Fork. If they knew that they were supposed to take care of the upper portion, they would monitor the gate.

Mr. Evans said that it is in the contract that the Elks would provide water to the campgrounds, but the maintenance is still in question of who is supposed to do that. Mr. Baker said that he and Mr. Evans are meeting to discuss the water issue. Chairman Pruden asked if the City could spend PAR money to do the upgrades. Council Member Wardle asked about applying for the matching grant to cover the fire pits, or to help prevent wildfires. He indicated he remember Bucky Whitehouse coming to the Council regarding the matching grant, saying that the City would be eligible if it was used to prohibited fires. Council Member McCall indicated that the Elks did that very thing outside of Camp Wapiti.

Council Member Wardle asked how many tables there were in the camp areas. Mr. Evans answered there were nine. Council Member Wardle thought the replacement of those would be between \$40-50,000. Mr. Baker said that the tables were usable, but rough. Chairman Pruden suggested that the parks department be tasked to get cost estimates for aluminum tables to replace the wooden tables, and to add pavilions. Council Member Wardle said that the replacement could be spanned out over a few years. Council Member Wardle added that there was a particular type of table that can be purchased that allows an easy cleanup of graffiti. Council Member McCall said that if there was an issue with the camp, he would contact the Elks about participating in the maintenance or replacement of the tables. The Council asked for a copy of the agreement.

Chairman Pruden asked for a proposal for ideas of what to do with this asset, and estimates for improvements.

Mr. Evans said that the wigwam is in bad shape. It is getting tested for asbestos, and then will be demolished. He asked how the Council felt about designating it as a usable recreation property by putting in a pavilion there and renting it out. Mr. Baker said he would look at the lease agreement to see if it was exclusive for use by the scouts, or if the City can rent it out. Mr. Baker said that the City only rents to one camper at a time at the Left Hand Fork campgrounds, even though the camp areas are large. Each campground is separated by about a quarter mile. Mr. Baker said that the City only charges \$5 per night to help fund the portapotty. The City may want to look at increasing the fee.

Mayor Winn indicated she has asked the parks department to put reservations of the campgrounds on hold. If people call to inquire about reserving the campground, names and phone numbers will be taken, but the Mayor wants to make sure that this is open for the public to use. She would like the campgrounds to be put on the website and reserved that way. The Mayor added that a proposal will be brought back to the Council.

 Settlement Canyon Grazing Lease Presented by Steve Evans

Mr. Evans said that there is a grazing lease for property above the Left Hand Fork property. Mr. Evans said he got involved because he was told that the pipe in that area was for the Settlement Land and Cattle users for grazing purposes. Mr. Evans said he wondered if there is water there, and if so, there is no language in the agreement about the water. The City owns 1700 acres in this area. Mr. Evans went on to say that the lease terminates on December 31, 2018. The lease says that 1 cow or horse is allowed for 30 acres, which equals 59 animals. The lease requires \$100 per month. The current grazing rates are \$18 - \$21 per head per month, which equals \$3,186. Mr. Evans added that there has not been an increase in this lease for 27 years. There was also a question of whether to increase the limit of one animal per 30 acres. Mr. Evans said that the agreement has traditionally been for a term of 2-5 years. Chairman Pruden said that he would like to see the cows out of the campground areas. He proposed that the rate stay at \$100 per month, but require Settlement Canyon to build a fence to keep the cows out of the campgrounds. Council Member McCall said that horse riders park below the camping area and then ride their horses up the road. He said that a fence might prohibit the horse riders. Chairman Pruden said that he was not as concerned about the revenue as keeping the cows out.

Council Member Pratt said that he liked the fence idea. Council Member Wardle suggested that the City designate where the fence needs to go.

Mayor Winn said that she would meet with Settlement Land and Cattle, who would be Ned Bevan, to see if they're interested in putting up a fence, and keeping their current rate. She will then bring information back to the Council.

 Irrigation Company Water Shares Presented by Steve Evans

Mr. Evans stated that there is a Middle Canyon irrigation diversion box at the Oquirrh Hills golf course which disperses water to different organizations. It is locked so that it can be dispersed to

the right entities at the right times. Tooele City owns 71% of the Middle Canyon shares, and 29% is owned by Pine Canyon. Mr. Evans wondered why there isn't a member from Tooele City on the Middle Canyon Irrigation board, when the City owns the majority of the shares. Mr. Evans indicated that he has spoken to Middle Canyon Irrigation, and they are supposed to let him know when they are going to vote in new members. Mr. Evans stated that he is willing to serve on that board. The Council indicated they may also want an elected official on the board.

Mr. Evans said that the irrigation season is over, and all excess water is currently going to Pine Canyon. Mr. Evans feels that the golf course ponds should be filled first, and then the excess water could go to Pine Canyon.

Mr. Evans indicated that he has tried to get a hold of Bob Clegg to talk about Settlement Canyon Irrigation, but hasn't been able to meet with hm. Tooele City owns 16% of those shares, making the City the second largest shareholder.

Mayor Winn said she was approached about obtaining a grant to put meters on irrigation water. Westin Jensen provided a quote of \$37,000 for 6-7 meters. She indicated that she believed that all the shareholders would pay for the meters. Council Member Wardle said that about 10 years ago he sat on a committee to apply for this grant for meters, but it was determined that it was cost prohibitive. He added that there is a question of whether agricultural shares and residential shares are treated the same. Council Member Wardle expressed reservation until there was a policy of how agricultural and residential shares would be treated. Council Member Wardle stated that he was not against the meters, but wanted a policy in place. Council Member McCall said that he was bothered by people that run their water all day because they own irrigation water shares.

Mr. Hansen said he appreciated this water discussion. He added that he would like to talk about how to credit irrigation shares at a future Council meeting. He explained that the City is currently allowing an exchange of credit, but he would like to have a policy discussion about how to best require water right requirements for new developments and new homes. Mr. Bolser stated that the City has been applying water rights towards a building permit.

The Mayor said that if irrigation water is turned off early because there isn't any more water, homeowners are using culinary water. She agreed that the City needs a good policy. Council Member Wardle felt that this was a good reason to have an elected official on the irrigation board to help develop policies.

 Water and Sewer Modeling Presented by Steve Evans

Mr. Evans stated that the purpose of a water plan is to access current conditions with the existing water.

He said that the City has been looking at hiring a water right consultation for 2 EPA net models, a hydraulic model, to prepare capital facilities plan and report. He said that the City budgeted \$120,000 for this project, and received a proposal for \$132,300. Mr. Evans explained that the

hydraulic model is very important. Pumping at night saves the City a lot of money. The water study can show water deficiencies. It will collect the million gallons pumped and look at which well is the cheapest to run at that capacity. It can list the wells in order, saying this well should be used first, second, and so on. The City could then rely on the water model to tell us how much water is left in the reservoir for development. Mr. Hansen added that this could be used from the impact fees budget. The last water model was done in 2006. Mr. Hansen went on to say that impact fees can only be encumbered for six years, so now is the time to do this. Although it is a lot of money, it is essential to have the information to size the pipes correctly. If a pipe is oversized even by one pipe size, it could be a cost of \$30,000. Mr. Hansen said that there are a number of developments and rezone requests coming to the City. The better the model is, the better prepared the Council will be to make informed decisions on these developments.

The Council authorized staff to move forward with getting contracts started. Mr. Baker said that it would be appropriate to follow up with an impact fees facilities plan and an impact fee analysis.

Street Design Standards
 Presented by Paul Hansen

Mr. Hansen explained that sometime in the past the City limited the cul de sac street length to 250 feet as a maximum. City staff is proposing that City Code 4-8-2(4) be modified to allow the City to approve cul de sacs greater than 250 feet in length, based upon site specific recommendations of the the Public Works Director. Mr. Hansen said that City staff is also proposing a modification to City Code 4-8-2(6). This section of the Code established a minimum street grade of 0.5%. Staff is proposing that the minimum street grade be increased to 1% unless approved by the Public Works Director based upon site specific conditions. Mr. Hansen stated that the reason for this change enhances storm water flow, the way the curb and gutter can be installed, and eliminates a lot of constructability challenges and storm water challenges. Mr. Hansen said that these two items would be brought back to the Council as a proposed Ordinance.

Mr. Bolser said that the City is seeing a lot of construction. A lot of contractors bring in large dumpsters which causes traffic issues and take chunks out of the roads when they get dumped. The City either needs to have the home owner or the developer fix the roads when damaged from a dumpster, or the dumpster needs to be placed on the property. He added that it would be easier to have them place the dumpsters on their own property rather than have to fix the roads.

Chairman Pruden said he liked the idea of putting the dumpster on the property being developed. Council Member McCall if they don't obey the ordinance, they should be cited and pay a fee. Chairman Pruden asked that a proposed Ordinance be brought before the Council.

 Ordinance 2018-26 An Ordinance of the Tooele City Council Amending the Tooele City Zoning Map for Property Located Near 300 West 400 North Reassigning 3.05 Acres of Property Currently Zoned R1-7 Residential to HDR High Density Residential

Presented by Jim Bolser

Mr. Bolser said that the Planning Commission has heard this Ordinance, and the City has heard a lot of positive feedback from property owners. Chairman Pruden added that it is a huge positive for infill. He asked if this would screen the skate park from the street. Mr. Bolser said that it would not.

The Council took a short break at 5:58 p.m.

Petersen Industrial Depot Final Plat – Amending Subdivision Plat 2C

AND

 Petersen Industrial Depot Building 659 Condominium – Final Plat Request Presented by Jim Bolser

Mr. Bolser stated that Petersen Industrial is proposing to take an existing lot which encompasses about 6-8 buildings, and carve off one of those buildings in the very corner of that lot on to its own property. The second application is a condo plat to draw a line of ownership down the middle of the building so that there can be two different owners, or tenants.

 Tooele 10th and Main Preliminary Subdivision Plan Presented by Jim Bolser

AND

 Tooele 10th and Main Master Site Plan Presented by Jim Bolser

Mr. Bolser stated that the 1000 North project is creating nine lots that coincide with the master plan layout, and two of those lots, the western lots, are intended to be used for residential use. The subdivision is the first step in developing the property. The master plan, is a master site plan. This will be reviewed by the Board as the RDA function, rather than as a Council function. The intent is to establish the baseline, for which the development approvals will happen. The site plan will be handled through the Planning Commission, so the Council will not see them. Mr. Bolser went on to say that this is the Council's opportunity as a board to see the overall proposal of the layout.

Mr. Baker said that this process is required by the contract, not City Code. Mr. Baker said that the City wanted to have approval of the site plan, so it was written in the contract that way. Mr. Sant explained that he asked Mr. Bolser to present these items, even though it is an RDA item. Mr. Sant expressed appreciation to Mr. Bolser, Mr. Hansen and staff for their work on this item.

 Resolution 2018-70 A Resolution of the Tooele City Council Approving a Memorandum of Understanding Between Tooele City and the Tooele Technical College for a Tooele Small Business Development Center Presented by Mayor Debbie Winn The Mayor stated that she met with Paul Hacking, President of the Tooele Technical College. Tooele City, Grantsville City, and Tooele County has supported a small business resource center for the last couple of years. The Tooele Technical College would like to expand the services that can be offered by putting together a small business development center. A director has been hired, Jess Clifford. Paul Hacking said that the development center will provide an accountability report each year. Funding assistance from the City has been given each year at \$15,000 and has come from the RDA budget. The same amount is being requested from Grantsville and Tooele County. The program is run through Utah State University, but housed at the TTC.

Mr. Sant said that Mr. Hacking told him that they are at capacity and almost to the point where they need a new building.

Audit for Fiscal Year 2017/2018
 Presented by WSRP Certified Public Accountants

Randy Jensen reviewed the financial statement and report. Mr. Jensen stated that every department in the City that was looked at is doing a good job. There was only one small finding of not abiding by the state law requiring minutes being posted within the specified time frame.

Steve Pruden thanked Mr. Caldwell and Ms. Wimmer for their work in the City's finances.

4. Close Meeting to Discuss Litigation and Property Acquisition

Council Member Pratt moved to close the meeting. Council Member McCall seconded the motion. The vote was as follows: Council Member McCall "Aye," Council Member Wardle "Aye," Council Member Pratt "Aye," Council Member Gochis "Aye," and Chairman Pruden "Aye."

The meeting closed at 6:38 p.m.

Council Member Pratt moved to recess, and reconvene the closed meeting. Council Member Gochis seconded the motion. The vote was as follows: Council Member McCall "Aye," Council Member Wardle "Aye," Council Member Pratt "Aye," Council Member Gochis "Aye," and Chairman Pruden "Aye."

The meeting recessed at 6:57 p.m.

The meeting reconvened in a City Council closed meeting at 8:55 p.m.

Council Member Pratt moved to close the City Council closed meeting, and to convene the RDA closed meeting. Council Member McCall seconded the motion. The vote was as follows: Council Member McCall "Aye," Council Member Wardle "Aye," Council Member Pratt "Aye," Council Member Gochis "Aye," and Chairman Pruden "Aye."

The RDA closed session began at 9:42 p.m.

Those in attendance during the closed sessions were: Mayor Debbie Winn, Glenn Caldwell, Paul Hansen, Michelle Pitt, Jim Bolser, Steve Evans, Roger Baker, Randy Sant, Council Member Wardle, Council Member Pratt, Council Member McCall, and Chairman Pruden.

No minutes were taken on the closed meetings.

5. Adjourn

RDA Member Wardle moved to adjourn the RDA meeting. RDA Member McCall seconded the motion. The vote was as follows: RDA Member McCall "Aye," RDA Member Wardle "Aye," RDA Member Pruden "Aye," RDA Member Gochis "Aye," and Chairman Pratt "Aye."

The meeting adjourned at 10:06 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 16th day of January, 2019

Steve Pruden, Tooele City Council Chair



Tooele City Council Business Meeting Minutes

Date: Wednesday, December 19, 2018

Time: 7:03 p.m.

Place: Tooele City Hall, Council Chambers

90 North Main Street, Tooele, Utah

City Council Members Present:

Steve Pruden Brad Pratt Dave McCall Scott Wardle Melodi Gochis

City Employees Present:

Mayor Debbie E. Winn
Jim Bolser, Community Development Director
Chief Ron Kirby, Police Department
Roger Baker, City Attorney
Glen Caldwell, Finance Director
Michelle Pitt, City Recorder
Paul Hanson, City Engineer
Stephen Evans, Public Works Director

Minutes prepared by Kelly Odermott

Chairman Pruden called the meeting to order at 7:03 p.m.

1. Pledge of Allegiance

The Pledge of Allegiance was led by Council Member Wardle.

2. Roll Call

Steve Pruden, Present Dave McCall, Present Scott Wardle, Present Brad Pitt, Present Melodi Gochis, Present



3. Mayor's Youth Recognition Awards

Presented by Mayor Winn, Stacy Smart, and Police Chief Ron Kirby.

Mayor Winn welcomed visitors for the Mayor's Youth Awards and introduced Tooele City Police Chief Ron Kirby and thanked him for his collaboration. Ms. Smart highlighted Communities That Care Programs including Second Step, QPR, and Guiding Good Choices.

Ms. Smart, Chief Kirby, and the Mayor then presented the Mayor's Youth Recognition Awards to the following students:

- Sadie Kunz
- Elijah Turner
- · Kenadi White
- Loren Tabor
- Tifa Kioa

4. Public Comment Period

Chairman Pruden invited comments from the public.

Ms. Emily Hamilton addressed the Council. She asked the Council when Scholar Academy would be receiving school zone signs, a crosswalk, and speed zone decrease. She stated that the school meets all state requirements for the zoning. For the placement of a crosswalk, she is recommending it should be placed on the east side of the school. She stated that there will be an increase in traffic with construction of condos to the south of the school. Ms. Hamilton further stated that the Council should be concerned about the school zone.

Chairman Pruden asked Mayor Debbie Winn to address the comments.

Mayor Debbie Winn stated that she with Chief Kirby, and Mr. Bolser have met with the principal of Scholar Academy, Ms. Sandy Shepard. She further stated that the codes for school zone signage are federal law and not state law. Any of the schools have to meet certain warrants to put in a crosswalk and signage. The City has a copy of the SNAP plan that the school has put together and in meeting with Ms. Shepard, the school does not meet the warrants for the federal regulations at this point. One of the reasons that this school is different, than other elementary schools in Tooele City is that it is a charter school. Charter schools allow for any child from the County to attend the school if the school can accommodate them. Non-charter schools are delineated by boundaries and children who live around the schools, attend the designated school. Students who live close to schools have the option to walk. There are some students at Scholar Academy that live close and they follow the SNAP plan that has been put into place. Mayor



Winn stated that Scholar Academy has an interesting video on their website, to inform parents of how to pick up and drop off their children. Most of the students who attend Scholar Academy are picked up and dropped off by parents in a car. Crosswalks are to be used for students who are walking. Students that traveling from the east do not have to cross a street. Students who may live to the West of the school would need to cross Main street if walking to school. The City was provided a list of approximately 32 students, who could walk from the west of the school. Any of those students that do walk and need to cross Main Street, will cross at 100 East or 700 North, which are intersection. Those intersections have had crosswalks painted, in the past but they have not been repainted since the road was refinished. Mayor Winn stated those intersections are in the plan to be repainted and will be when the weather permits.

Mayor Winn further stated that the request being made is that a crosswalk be put in front of the school. Mayor Winn stated that the parents pulling out of the parking lot would have to stop just a short distance away for the crosswalk and it will impede the traffic flow of the pick up or drop off students. Last year when construction was being done for the new school building the school was not able to implement the full pick up and drop off plan procedures. A temporary crosswalk was set up at that time for that reason only. The Police Chief and staff members have been to the school during the pickup and drop off routine to review procedures in place. Mayor Winn stated that the traffic plan implemented by Principal Shepard works wonderfully. The decision has been made with the Principal that the current plan is working, The City staff will be monitoring the situation and if at a later time there is a need for a crosswalk, the City can address the need. The police department employees care about the children and the decision that has been made is for the safety of the children, not the convenience of the parents.

Ms. Hamilton asked to rebuttal the comments made by Mayor Winn. Chairman Pruden stated that the Council meeting is not the right forum to have an open discussion about the issue. Chairman Pruden recommended that the Ms. Hamilton could make an appointment with the Mayor for further discussion.

Chairman Pruden asked if there were any further comments, there were none. Chairman Pruden closed the public comment period.

5. Presentation of Audit for Fiscal Year 2017/2018

Presented by WSRP Certified Public Accountants

The WSRP representative stated that WSRP is a regional accounting firm. They performed a rigorous audit in accordance with accounting principles and auditing standards required in the United States of America. The audit has issued an opinion and that the financial statements referred to in the report are fairly stated in all material respects, that includes the financial statements, the governmental, business, major and aggregate remaining funds. This is a clean or



unqualified opinion. There was a brief recap of the financial information comparing the prior year financial statements to the audited statements. All financial information can be found in the City financial statements or Management Discussion and Analysis.

The WSRP representative further stated that any readers would want to study the report in detail. WSRP is also required to study the compliance with federal and state compliance regulations. The City has no material instances of noncompliance. There were no instances of noncompliance in regard to federal regulations. In relation to state compliance, there was one instance of noncompliance with relation to publishing minutes of the meetings within 3 days. This is a small noncompliance. Basically, in relation to budgetary, federal and state regulations the City has done a good job.

Chairman Pruden stated they appreciated the WSRP team and looked forward to working with them in 2019.

Chairman Pruden asked if the Council if there were any comments or questions, there were none.

6. Resolution 2018-69 A Resolution of the Tooele City Council Acknowledging the Mayor's Appointment of Ray Smart to the Planning Commission.

Presented Mayor Debbie Winn

Mayor Winn stated that there is one alternate position available, currently on the Planning Commission. For the benefit of the public it was mentioned that the Mayor and the Council are each allowed to appoint Planning Commission members. The alternate position which is available is a Mayor designee position. Mayor Winn stated she would like to appoint Mr. Ray Smart to the Planning Commission. He has previously had a four-year term on the Commission but took a break and is now prepared to step back into that role.

Chairman Pruden asked the Council if there were any questions or comments, there were none.

Council Member Pratt moved to approve Resolution 2018-69. Council Member Gochis seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

7. Resolution 2018-70 A Resolution of the Tooele City Council Approving a Memorandum of Understanding Between Tooele City and Tooele Technical College for a Tooele Small Business Development Center.

Presented by Mayor Debbie Winn



Mayor Winn stated that Tooele City has a wonderful relationship and partnership with the Tooele Technical College. The College would not be there without the financial commitment from the City. The College serves a great asset to the community. One of the roles of the College has been providing is a business resource center. For the past several years Tooele City along with Grantsville City and Tooele County have opted to financially fund the position to provide those resources to the small businesses in the community. The Tooele Technical College has decided to expand and open up again a small business development center. They serve as way to promote the educational and economic benefit to the community and the small business owners who are in the community and those who would like to become small business owners. Small business is the backbone of America that is what has founded the businesses resources and financial stability for this country. Mayor Winn stated that we need to recognize the people who put their resources and everything they have on the line to make business work. The Technical College has hire Mr. Jess Clifford, who has been involved with the business resource center for the past several years, working specifically with the small business. They have hired him to be the new director of the small business development center. The president of the technical college is Mr. Paul Hacking and he has asked that the City sign a MOU and again participate with a \$15,000-dollar contribution on an annual basis for the next three years. The college will be providing records to the City, updates, reports, so the City knows who is visiting the office and types of businesses, asking for help. The funding has been set aside out of the RDA fund, but the MOU is with the Tooele City and the Technical College.

Chairman Pruden asked if the Council had any questions or comments.

Council Member Wardle asked if the RDA board needs to approve the funding.

Mr. Baker stated that it was a judgement call on his part. He stated that the relationship proposed by the TTC was between the City and the College, with the economic development arm of the Council, it was appropriate for the contract to be between the Council and the TATC, even if the RDA pays the blll.

Mayor Winn stated that the amount proposed is below the \$20,000 limit but would be willing to bring it to the RDA board. Mr. Baker stated that a journal entry can be done from the RDA to the City, for the City to pay the bill, to make the expenditure look clean.

Council Member Wardle motioned to approve Resolution 2018-70. Council Member Pratt seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

8. Ordinance 2018-27 An Ordinance of the Tooele City Council Establishing the Dates, Time, and Place of its Public Meetings in 2019.



Presented by Michelle Pitt

Mrs. Pitt stated that it is required by City Charter and City Code for the Council to approve the dates, times and place of all public meetings. There also needs to be at least one public meeting held each month. The City is proposing that the meetings are held in City Hall in the Council Chambers at 7:00 p.m. and set the schedule as

January 16, February 6, 20, March 6, 20, April 3, 17, May, 1, 15, June 5, 19, July, 17, August, 7, 21, September, 4, 18, October 2, 16, Nov 6, 20 December 4, 18. City council can amend this schedule as needed.

Chairman Pruden asked if Council had any comments or questions, there were none.

Council Member Pratt motioned to approve Ordinance 2018-27 for a future meeting. Council Member McCall seconded the motion. The vote was as follows; Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

9. Public Hearing and Motion on Ordinance 2018-26 An Ordinance of the Tooele City
Council Amending the Tooele City Zoning Map for Property Located Near 300 West 4000
North Reassigning 3.05 Acres of Property Currently Zones R1-7 Residential to HDR High
Density Residential.

Presented by Jim Bolser

Mr. Bolser stated this request is for a Zoning Map amendment. A map was shown on the screen. The Zoning Map identifies this property zoned as R1-7. Mr. Bolser apologized that he had unintentionally misled the Council during the study session. The question was asked if there would be anything built between 400 North and the stake park with this project. He stated that there is property between 400 North and the skate park, there are two parcels involved in the proposed project. The proposal is to reassign these parcels to the HDR, High Density Residential zoning district to develop the property in accordance with HDR requirements. It is surrounded by R1-7 properties, but in looking at the Zoning Map there are multiple properties that are non-confirming to R1-7 zoning and should probably be zoned HDR as well. Property to the west is the City's Dow James Facility. The Planning Commission has reviewed the application and forwarded an unanimous positive recommendation. During the public hearing there were several public comments in favor of the development.

Chairman Pruden asked if the developer was in attendance at the meeting. Mr. Bolser stated he was. Mr. Ted Payne, the developer stepped forward. Chairman Pruden asked if the buildings will be obscuring the skate park from view. Mr. Payne asked the view from where and Chairman Pruden clarified from 400 North. Mr. Payne stated that plan for the development is



that there will be open space behind the buildings. The hope is that it will be an exciting place to go. It would be nice if skate park was maintained a little better.

Chairman Pruden asked the Chief Kirby if there will be any issues for police who go by the skate park regularly. Chief Kirby responded no.

Chairman Pruden asked the Council if they had any questions or comments, there were one.

Chairman Pruden stated he believed this would be a great thing

Chairman Pruden opened the public hearing. There were no comments from public. Chairman Pruden closed the public hearing.

Council Member Gochis moved to approve Ordinance 2018-26. Council Member Pratt seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

10. Peterson Industrial Depot Final Plat- Amending Subdivision Plat 2c.

Presented by Jim Bolser

Mr. Bolser stated that this is very simply a plat amendment but falls under a final plat approval of an existing parcel. A map of the plat was shown on screen. Very simply there are three fingers off the main part of the property that stick to the northeast. The owners would like to split off the further east finger from the remainder of the property. The zoning falls under the Peterson Industrial Depot PUD classification. It fits in very cleanly with the neighboring properties, with their Industrial zoning classification. The aerial photo of the property was shown. The far-right finger has a building on it. The next item on the agenda deals with the property and gives the reason as to why the finger is being split off. Planning Commission has reviewed this and forwarded a unanimous positive recommendation.

Chairman Pruden asked if the Council had any questions or comments, there were none.

Council Member Gochis moved to accept the Final Plat – Amending Subdivision Plat 2c. Council Member Pratt seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

11. Peterson Industrial Depot Building 659 Condominium - Final Plat Request

Presented by Jim Bolser



Mr. Bolser stated that the map was just updated in the prior agenda item. A map of the property was shown on screen. The subject property has an existing building on the property. The owners would like to divide the ownership of that building, essentially cutting it in half. The two tenants will occupy and own separate spaces. The Planning Commission forwarded a unanimous positive recommendation.

Chairman Pruden asked if the spaces were occupied or empty. Mr. Bolser stated that he believed one was occupied and one is pending.

Chairman Pruden asked the Council if there were any questions or comments, there were none.

Council Member Pratt moved to approve final Plat request for Peterson Industrial Depot Building 659 Condominium. Council Member McCall seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

12. Tooele 10th & Main Preliminary Subdivision Plan.

Presented by Jim Bolser

Mr. Bolser stated that this is a long time coming. At the north end of the community at 1000 North and Main Street there is a large field owned by the City's Redevelopment Agency that currently surrounds the 7-11 and Wendy's property. An aerial view of the property was shown on screen. Currently the City is in negotiation with the M-53 Group to develop that property. The first step is to create a subdivision plat to establish the parcels that will go into that development. The property is currently zoned GC General Commercial as are the surrounding properties, except the west side which is the Copper Canyon subdivision, a residential development. The plat currently shows nine lots, with a dedicated road proposed diagonal through the center of the property. This property does not include the 7-11 and Wendy's property and will wrap around it. Denny's is also not included. The applicants are proposing a nine-lot subdivision. Development is proposed and will be presented in the RDA meeting as a master site plan. This is a step that needs to be taken by the City Council. It has gone through the Planning Commission and they have forwarded a unanimous positive recommendation.

Chairman Pruden wanted it noted that the road through the development will have a traffic light on Main Street. Mr. Bolser stated that he was going to address the access during the master site plan approval in the RDA meeting, but he could address them now as well. Both roads 1000 North and Main Street are sections of state high way which are governed by UDOT. The City has existing corridor access agreements with UDOT on both streets. One of the points on SR 36, Main Street, the City negotiated a traffic signal essentially right outside the Denny's front door, right on the edge of the subject property. That was negotiated some time ago with the



anticipation that this property would be getting to this point and that there would be signalized access into the project.

Chairman Pruden asked if the Council had any questions or comments, there were none.

Council Member Wardle moved to adopt the Preliminary Subdivision Plan. Council Member Pratt seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

13. Ordinance 2018-16 An Ordinance of the Tooele City Enacting Tooele City Code Chapter 5-27 Regarding Small Wireless Communication Services and Facilities in the Public Rightsof-Way.

Presented by Roger Baker

Mr. Roger Baker stated that this is the third time he has had the opportunity to discuss the item with the Council. This is a large and complex item and he wanted the opportunity to discuss it throughout the process. He was also able to discuss it with Planning Commission at their prior meeting.

Mr. Baker stated federal law already regulates the telecommunications industry, including wireless telecommunications and does not allow Cities and States to regulate these communications. Just this year, the Utah state passed a comprehensive new law implementing federal law with respect to small wireless facilities. The wireless communication industry is moving away from large cell towers which have high antennas to small antennas on small poles, to provide coverage for cell phones. The small poles that are being talked about are street lights. The state law has mandated that the small wireless industry has a right to attach small wireless facilities to poles owned by the City in the public rights-of-ways. The City cannot stop them. The state law does give some room to regulate and that is the purpose of the ordinances tonight. The City can regulate the design, the safety of the antennas, so they are put on and stay on the poles in a way that is safe for the public. The City can regulate the neighborhoods, the antennas can go in. They will not be placed in residential neighborhoods. The City can require that the wireless industry submit a detailed application for what they intend to do, pay fees for what is intended, provide insurance, bonding and indemnifications, so that if someone gets hurt, the wireless industry is responsible. This first item is a comprehensive ordinance that establishes the terms with how the City's rights-of-way can be used for small wireless antennas. Mr. Baker stated that he had mentioned design earlier and the last thing the City would want is large box equipment with wires that go everywhere. This ordinance requires that these antennas be fully enclosed so that there is no visible wiring. The City is allowed to set size limits, the size of the antennas can be no greater than six cubic feet on the poles. That is all of the antennas combined.



Once a single light pole reaches the six cubic feet, that is the end of the antennas for that pole. In addition, any associated ground equipment, meters, batteries, etc. cannot exceed 25 cubic feet. They cannot be on the sidewalks or on the streets.

Mr. Baker stated that this is probably the longest ordinance that he has ever compiled. He did not create it from scratch but borrowed from other Cities in the state and across the nation. This is the ordinance implementing the new state law implementing the use of the City's rights-of way for the wireless industry.

Chairman Pruden asked the Council if there were any questions or comments, there were none.

Council Member Wardle appreciates the work that has been done on this ordinance.

Council Member McCall moved to approve Ordinance 2018-16. Council Member Wardle seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

14. Resolution 2018-57 A Resolution of the Tooele City Council Approving a Form Franchise Agreement for Small Wireless Facilities in the Public Rights-of-Way.

Presented by Roger Baker

Mr. Baker stated that the Ordinance that was just approved calls for the City to utilize franchise agreements for the small wireless facilities. A franchise is giving to a company the right to enter the City public rights-of-way and do business in the rights-of-way. The companies don't own, lease, or have a property interest in the rights-of-way. The City is giving them a license, a permit to conduct business in the rights-of-way. That license or permit is called a franchise. A utility franchise is the right for a utility company to put their utility infrastructure in the City rights-of-way. It's important to have a franchise agreement, for everyone who would like to put small wireless facilities on poles, to sign the franchise agreements stating that they will be bound by the City's terms and conditions. This agreement covers the requirement that the company is insured and bonded and indemnifies the City. The franchise agreement is a mechanism to shift risk to the utility company. The agreement also governs items such as dealing with abandoned facilities. This agreement is an implementation of the ordinance that was just passed.

Chairman Pruden asked the Council if there were any questions or comments, there were none.

Council Member Pratt moved to approve Ordinance 2018-57. Council Member McCall seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.



15. Resolution 2018-58 A Resolution of the Tooele City Council Amending the Tooele City Fee Schedule Regarding Small Wireless Facilities in the Public Rights-of-Way.

Presented by Roger Baker

Mr. Baker stated that this resolution amends the fee schedule to charge the fees that are allowed by state law for small wireless facilities. State law actually told the City what can be charged. The City can charge \$100 per antenna. \$250 for each utility pole on which an antenna is placed; 3.5% of the gross revenues or \$250 per year depending on which is less. The City can charge a building permit fee under the building code for the staff time to review the application. There is a pole attachment rate per year for \$50 per pole. The City has charged the fees that the state has allowed.

Chairman Pruden asked the Council if there were any questions or comments, there were none.

Council Member Wardle moved to approve Ordinance 2018-58. Council Member McCall seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

16. Resolution 2018-64 A Resolution of the Tooele City Council Approving a Form Pole Attachment Agreement for Small Wireless Facilities Attached to Tooele City Utility Poles in the Public Rights-of-Way.

Presented by Roger Baker

Mr. Baker mentioned to Chairman Pruden earlier in the day that he would like to have this item tabled for a vote this evening, but he would like to explain it to the Council. The Council has adopted the statutory framework governing the facilities in the City. The Council has approved a franchise agreement which allows the utilities to use the right-of-way. The fees have been approved by the state. The Council has not approved a form agreement that allows the companies to physically attach the antennas to the poles. The City needs to have an agreement that addresses the attachment to the poles to ensure it is performed safely. It would also address abandonment of facilities, insurance, bonding, indemnification, damages and repairs, what if the company goes out of business. Mr. Baker is asking for this item to be tabled because he has not yet found a model to replicate.

Council Member Wardle asked if the franchise agreement in the right-of-way is the same thing as a pole attachment form. Mr. Baker stated that the franchise agreement gives a license to occupy the right-of-way. The pole attachment governs the mechanical attachment of the equipment to the pole. Mr. Baker wanted to explain why he had not found an agreement to model. Utah law does not allow the antennas to go on power poles. All the pole attachment



agreements he has been able to find are in the context of power companies, protecting the power infrastructure on the poles from the antennas on the poles. He is asking for a little more time to draft this agreement.

Chairman Pruden asked the Council if there were any questions or comments, there were none.

Council Member McCall moved to table Resolution 2018-64. Council Member Pratt seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

17. Ordinance 2018-17 An Ordinance of Tooele City Amending Tooele City Code Chapter 5-24 Regarding Telecommunications Rights-of-Way.

Presented by Roger Baker

Mr. Baker stated that the City has already approved utilities to use the rights-of-way and do business. There is one for cable, telephone, fiber optics. It would have been possible to merge the telecommunication utilities in one ordinance, but it would have been complicated. For the present, Mr. Baker is asking to amend the existing right-of-way ordinance to apply to all telecommunications excluding small wireless. The new state law is so detailed regarding wireless facilities, he is asking to have both on the books at the same time, but one addressing wireless and one addressing all other telecommunications.

Chairman Pruden asked the Council if there were any questions or comments, there were none.

Council Member Pratt moved to approve Ordinance 2018-17. Council Member McCall seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

18. Resolution 2018-63 A Resolution of the Tooele City Council Amending the Tooele City Fee Schedule Regarding Telecommunications on the Public Rights-of-Way.

Presented by Roger Baker

Mr. Baker stated that he realized that the City did not have in the fee schedule, fees for the non-wireless utility side. This is a cleanup of the fee schedule to put in the fees that already authorized by ordinance for the chapter 5-24, utilities franchise.

Chairman Pruden asked the Council if there were any questions or comments, there were none.



Council Member McCall moved to approve Ordinance 2018-63. Council Member Gochis seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

19. Resolution 2018-62 A Resolution of the Tooele City Council Approving a Form Franchise Agreement for Telecommunications Services and Facilities in the Public Rights-of-Way.

Presented by Roger Baker

Mr. Baker stated with developing a franchise agreement for the small wireless facilities, that gave the City the opportunity to develop a franchise agreement for the non-wireless telecommunication industry. This agreement tracks very closely to the small wireless agreement. The new state law regarding the wireless industry requires, the City to treat all industries alike and the City cannot impose more rules and regulations on the wireless industry. This resolution is to ensure that all telecommunication companies are treated the same. The City has approved parallel ordinances, parallel fees, and parallel franchises agreements.

Chairman Pruden asked the Council if there were any questions or comments, there were none.

Council Member Wardle moved to approve Ordinance 2018-62. Council Member Pratt seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

20. Minutes

Chairman Pruden asked if there were any comments or questions about the minutes from the City Council meeting dated December 5, 2018.

Council Member Wardle moved to approve minutes from the City Council meeting dated November 5, 2018. Council Member McCall seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

21. Approval of Invoices

Presented by Michelle Pitt

An invoice in the amount of \$125,245.88 to JRCA architects for police building design and construction administration.



Chairman Pruden asked if the Council if there were any questions or comments, there were none.

Council Member Pratt moved to approve payment of invoices. Council Member Gochis seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council Member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

Chairman Pruden asked Mayor Winn to share news of the application to the Community Impact Board by the City for the new police building.

Mayor Winn stated that the City had applied for a loan from the Community Impact Board. The City was granted the loan and will save about \$1.5 million in interest charges that would have been applied over the loan period. The City is grateful for the loan. She stated that this seems like a lot of money for architecture, but it is going very well. Mr. Paul Hansen reviews the invoices and ensures that they are correct.

Chairman Pruden thanked the staff for the effort for the loan.

22. Adjourn

Council Member Wardle moved to adjourn the City Council meeting. Council Member Pratt seconded the motion. The vote was as follows: Council Member McCall, "Aye," Council Member Wardle, "Aye," Council Member Pratt, "Aye," Council member Gochis, "Aye," Chairman Pruden, "Aye." The motion passed.

The meeting adjourned at 8:30 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 16th day of	January, 2019	
Steve Pruden, Tooele City	y Council Chair	