



MEMORANDUM

TO: Mayor and City Council

FROM: Matthew J. Dixon, City Manager

RE: **Sept. 1, 2020 Council Meeting**

DISCUSSION/ACTION ITEMS

- **Ordinance 20-21 – Closure of Lincoln Ave. between 36th Street and Riverdale Rd.** During the council meeting, there will be a public hearing to allow the public an opportunity to provide input related to the indefinite closure of this portion of Lincoln Ave. This ordinance is in support of the redevelopment of this area to include additional parking for Costco and the construction of 181 multi-family apartment units that is projected to be constructed on the east side of Lincoln Ave. Staff's recommendation is that the council have any discussion you would like to have related to this ordinance but that the council's official vote to approve this ordinance be tabled until such time as it can be determined that the project is substantially feasible. When the developer finalizes the financing for this project and once it can be determined that the project will move forward the city council will be asked to officially approve Ordinance 20-21 to close Lincoln Ave. Adam Long, CDRA attorney, will be attending the meeting and will help answer any questions you may have regarding this ordinance and the process of closing Lincoln and supporting the redevelopment project being contemplated.
- **Resolution 20-28 – Approving an inter-county Automatic Aid Agreement.** This agreement allows our fire department to both support other departments, as requested and needed, on large structure fires, as well as allow South Ogden to rely on other departments to respond to assist our city with the same. This agreement has been in place since 2008. Chief West recommends approval of this agreement. You may also refer to his report in the packet for additional information.
- **Resolution 20-29 – Approving an agreement with Granite Inliner, LLC for 40th Street sewer line project.** During the review of the utilities in 40th Street when the city widened the street, it was determined that the sewer line would not need to be replaced but that the best option would be to reline the sewer. This is an incredible process that allows the line to essentially have a new line put through the old line. This process will occur from Adams Ave. to 900 East. The project will not require the cutting or tearing up the street and is done from manhole to manhole along the corridor. After soliciting competitive bids staff only had one contractor submit a proposal for the work (Granite In-Liner, LLC). The city engineer reviewed their proposal, checked references and is recommending approval of this contract to Granite In-Liner, LLC in the amount of \$283,150. This project will be paid for by the Sewer Utility Fund. The work is to be completed within 30 days of the Notice to Proceed.

E mdixon@southogdencity.com

O 801-622-2702

F 801-622-2713

3950 Adams Ave. Suite 1

South Ogden City, UT 84403

SouthOgdenCity.com

- ***Resolution 20-30 – Approving an agreement with Staker Parson for waterline replacement and water tank project.*** This resolution is in relation to the waterline replacement project the city has been planning on doing below the water tanks at 5600 S. Harrison Blvd. Originally this project was designed and bid out as a project that was going to simply replace two old waterlines; One 10” and one 14” line between Combe Road and the water tanks. Competitive bids were solicited and it was determined that Staker Parson was the lowest qualified bidder. A contract was awarded to Staker Parson for approximately \$220,000. As the city engineer and the contractor were reviewing the project and preparing to get started, the city engineer felt like it would be in the city’s best interest to replace the two lines with one large 20” line. Additionally, the city currently has no way of isolating one of the water tanks from the other requiring that both tanks be taken off line whenever there is work to be done or problems with one of the tanks, etc. The engineer recommended that the scope of this project should also include making it possible for this to happen. The result of making these changes nearly doubled the original project cost from \$227,669 to \$425,295. With this increase being consider a material increase, Mr. Bradshaw recommended that the council review and approve this as a new project with a total project cost of \$425,295. These improvements will allow the ability to keep the city’s water supply online and functional when one of the tanks goes out of service and will replace some very old water lines. Staff recommends approval of this project and award to Staker Parson. This project is paid for out of the Water Utility Fund.
- ***Resolution 20-31 – Approving an agreement with the South Ogden Community Development and Renewal Agency for the Lease of Lincoln Ave.*** This lease agreement is in support of the redevelopment project to add an additional 181 new multi-family apartment units and parking for Costco on Lincoln Ave. between 36th Street and Riverdale Rd. In the event that the developer is successful in securing the required funding for this project, and once the city council approves ordinance 20-21 (see above), this lease will take affect between the city and the CDRA. This lease will enable the CDRA to work with the developer in providing the needed parking for both the new housing project and Costco. Similar to other leases the city has approved with property owners, this is a 99 year lease with automatic renewals every 5 years thereafter unless either party provides 60 days notice prior to the expiration of the lease. This lease does not take effect until such time that the city council votes to indefinitely close this portion of Lincoln Ave. and submission of proof of the financial wherewithal to develop the proposed project (181 apartments). Once these conditions are met, the Mayor will have the authorization to execute the lease agreement on behalf of the city. One request that may make a change to this agreement as currently drafted is that the period of time for the developer to provide proof of financial wherewithal to be extended to March 1, 2021. This is due to the fact that it may take several months for him to know if HUD will finance the project. Currently the agreement has an expiration date of Dec. 1, 2020. The developer has provided a copy of a singed LOI from Costco (in packet) showing their support of this project and their agreement to take advantage of the provided parking.

DISCUSSION ITEMS

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- ***Discussion and possible referral for review by the Planning Commission of disposal of certain real property owned by the city.*** The city is working with Sky Hazelhurst (Colliers), on the redevelopment of a parcel of property owned by the city and currently being used as a storm water detention basin. The property is on Wasatch Drive at 5800 South (see aerial photo in packet). The proposal is for the city to gift the property to the CDRA with a directive and promissory note for the CDRA to work with the developer for the construction of housing on this property. A preliminary site plan (see your packet) shows this property could be developed to include 39 new multi-family housing units. The developer would take over the liability, operation and maintenance of the city's storm water detention needs and would pay to put the storm water storage under the parking lot of the housing complex. This eliminates the city's liability and the O&M costs the city has in having to maintain this property. In order for this project to move forward, the Planning Commission would first review the proposal to declare the real property surplus to the city's needs and make a recommendation to the city council regarding the disposition of this property. This agenda item is intended for the council to discuss and direct the Planning Commission to review this proposal (to declare this property surplus) and make a recommendation for the council to consider in a future meeting. This is a very unique project and one that has been done in other states to support the need for additional housing and to reduce/eliminate some of the city's O&M costs and liability. This proposal and the agreements that would need to be in place has been reviewed by legal counsel and, council desiring, can move forward.



**NOTICE AND AGENDA
SOUTH OGDEN CITY COUNCIL
WORK SESSION**

TUESDAY, SEPTEMBER 1, 2020

WORK SESSION – 5 PM

COUNCIL MEETING - 6 PM

Notice is hereby given that the South Ogden City Council will hold their regularly scheduled work session at 5 pm Tuesday, September 1, 2020. The meeting will be located at City Hall, 3950 Adams Ave., South Ogden, Utah, 84403, in the city council chambers. The meeting is open to the public; however, the city will abide by all COVID-19 restrictions in place at the time of the meeting, including social distancing and number of people allowed to gather at one time. No action will be taken on any items discussed during pre-council work sessions. Discussion of agenda items is for clarification only. Some members of the council may be attending the meeting electronically.

WORK SESSION AGENDA

I. CALL TO ORDER – Mayor Russell Porter

II. REVIEW OF AGENDA

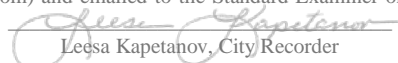
III. DISCUSSION ITEMS

A. City Property on 40th and Evelyn

IV. ADJOURN

Posted to the State of Utah Website August 28, 2020.

The undersigned, duly appointed City Recorder, does hereby certify that a copy of the above notice and agenda was posted at the Municipal Center (1st and 2nd floors), on the City's website (southogdencity.com) and emailed to the Standard Examiner on August 28, 2020. Copies were also delivered to each member of the governing body.


Leesa Kapetanov, City Recorder

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the meeting should notify the City Recorder at 801-622-2709 at least 48 hours in advance.



NOTICE AND AGENDA SOUTH OGDEN CITY COUNCIL MEETING

TUESDAY, SEPTEMBER 1, 2020

WORK SESSION – 5 PM

REGULAR COUNCIL MEETING - 6 PM

Notice is hereby given that the South Ogden City Council will hold their regularly scheduled work session at 5 pm Tuesday, September 1, 2020. The meeting will be located at City Hall, 3950 Adams Ave., South Ogden, Utah, 84403, in the city council chambers. The meeting is open to the public; however, the city will abide by all COVID-19 restrictions in place at the time of the meeting, including social distancing and number of people allowed to gather at one time. No action will be taken on any items discussed during pre-council work sessions. Discussion of agenda items is for clarification only. Some members of the council may be attending the meeting electronically.

CITY COUNCIL MEETING AGENDA

I. OPENING CEREMONY

- A. **Call to Order** – Mayor Russell Porter
- B. **Prayer/Moment of Silence** -
- C. **Pledge of Allegiance** – Council Member Susan Stewart

- II. **PUBLIC COMMENTS** – This is an opportunity to address the mayor and council with any concerns, suggestions, or praise. No action can or will be taken at this meeting on comments made.
Please limit your comments to three minutes.

III. RESPONSE TO PUBLIC COMMENT

IV. RECOGNITION OF SCOUTS AND STUDENTS

V. CONSENT AGENDA

- A. Approval of August 18, 2020 Council Minutes

VI. PUBLIC HEARING

To Receive and Consider Comments on the Indefinite Closing of Lincoln Avenue between 36th Street and Riverdale Road

VII. DISCUSSION / ACTION ITEMS

- A.** Consideration of **Ordinance 20-21** – Indefinitely Closing a Portion of Lincoln Avenue Between 36th Street and Riverdale Road
- B.** Consideration of **Resolution 20-28** – Approving an Intercounty Automatic Aid Agreement
- C.** Consideration of **Resolution 20-29** – Approving an Agreement with Granite Inliner LLC for 40th Street Sewer Line Project
- D.** Consideration of **Resolution 20-30** – Approving an Agreement with Staker Parsons for Work on Water Tanks
- E.** Consideration of **Resolution 20-31** – Approving an Agreement with Community Development and Renewal Agency for the Lease of Lincoln Avenue

VIII. DISCUSSION ITEM

Discussion and Possible Referral for Review by Planning Commission of Disposal of Certain Real Property Owned by the City

IX. RECESS CITY COUNCIL MEETING AND CONVENE INTO COMMUNITY DEVELOPMENT AND RENEWAL AGENCY BOARD MEETING

See separate agenda

X. RECONVENE CITY COUNCIL MEETING

XI. REPORTS/DIRECTION TO CITY MANAGER

- A.** City Council Members
- B.** City Manager
- C.** City Attorney
- D.** Mayor

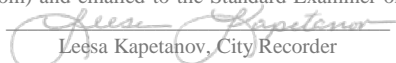
XII. RECESS CITY COUNCIL MEETING AND CONVENE INTO AN EXECUTIVE SESSION

Pursuant to UCA §52-4-205 1(c) to discuss pending or reasonably imminent litigation

XIII. ADJOURN EXECUTIVE SESSION, RECONVENE CITY COUNCIL MEETING, AND ADJOURN

Posted to the State of Utah Website August 28, 2020.

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Leesa Kapetanov, City Recorder

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MINUTES OF THE SOUTH OGDEN CITY COUNCIL WORK SESSION AND CITY COUNCIL MEETING

TUESDAY, AUGUST 18, 2020

WORK SESSION – 5 PM IN COUNCIL ROOM

COUNCIL MEETING – 6 PM IN COUNCIL ROOM

WORK SESSION MINUTES

COUNCIL MEMBERS PRESENT

Mayor Russell Porter, Council Members Sallee Orr, Brent Strate, Susan Stewart, Mike Howard, and Jeanette Smyth Note: Council Members Strate, Howard, and Smyth joined the meeting via the Zoom meeting app.

STAFF MEMBERS PRESENT

City Manager Matt Dixon, City Attorney Ken Bradshaw, Assistant City Manager Doug Gailey, Finance Director Steve Liebersbach, Parks and Public Works Director Jon Andersen, Fire Chief Cameron West, Police Chief Darin Parke, Information Services Manager Brian Minster, Special Events Coordinator Jamie Healy, and Recorder Leesa Kapetanov Note: City Attorney Ken Bradshaw, Assistant City Manager Doug Gailey, Parks and Public Works Director Jon Andersen, and Police Chief Darin Parke joined the meeting via Zoom.

CITIZENS PRESENT

No one else was present for the work session

Note: The time stamps indicated in blue correspond to the audio recording of this meeting, which can be found by clicking the link

https://www.southogdencity.gov/document_center/Sound%20Files/2020/CC200818_1703.mp3

or by requesting a copy from the office of the South Ogden City Recorder.

I. CALL TO ORDER

- Mayor Porter called the meeting to order at 5:05 pm and entertained a motion to begin.

00:00:00

Council Member Howard so moved, followed by a second from Council Member Orr. Council Members Orr, Strate, Stewart, Howard, and Smyth all voted aye.

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II. REVIEW OF AGENDA

Council Member Orr asked some questions concerning the Blue Lube development agreement
00:00:20

III. DISCUSSION ITEMS

- A. FY2021 Budget
- Overview by Finance Director Steve Liebersbach
00:11:40
 - Discussion
00:16:52

IV. ADJOURN

At 5:58 pm, Mayor Porter called for a motion to adjourn the work session.

Council Member Stewart moved to adjourn, followed by a second from Council Member Howard. The voice vote was unanimous in favor of the motion.
00:54:08

COUNCIL MEETING MINUTES

COUNCIL MEMBERS PRESENT

Mayor Russell Porter, Council Members Sallee Orr, Brent Strate, Susan Stewart, Mike Howard, and Jeanette Smyth Note: Council Members Strate, Howard, and Smyth joined the meeting via the Zoom meeting app.

STAFF MEMBERS PRESENT

City Manager Matt Dixon, City Attorney Ken Bradshaw, Assistant City Manager Doug Gailey, Finance Director Steve Liebersbach, Parks and Public Works Director Jon Andersen, Fire Chief Cameron West, Police Chief Darin Parke, Information Services Manager Brian Minster, Special Events Coordinator Jamie Healy, and Recorder Leesa Kapetanov Note: City Attorney Ken Bradshaw, Assistant City Manager Doug Gailey, Parks and Public Works Director Jon Andersen, and Police Chief Darin Parke joined the meeting via Zoom.

CITIZENS PRESENT

Jeremy Draper, Taber Cope, Bruce & Joyce Hartman, Justin Stephens

Note: The time stamps indicated in blue correspond to the audio recording of this meeting, which can be found by clicking this link

https://www.southogdencity.gov/document_center/Sound%20Files/2020/CC200818_1801.mp3
or by requesting a copy from the office of the South Ogden City Recorder.

I. OPENING CEREMONY

A. Call To Order

- Mayor Porter called the meeting to order at 6:03 pm and called for a motion to convene

00:01:07

Council Member Howard so moved, followed by a second from Council Member Strate. In a voice vote Council Members Orr, Strate, Stewart, Howard, and Smyth all voted aye.

B. Prayer/Moment of Silence

The mayor led those present in a moment of silence.

C. Pledge Of Allegiance

Council Member Brent Strate led the Pledge of Allegiance.

103 **II. PUBLIC COMMENTS**

104 No one present at the meeting had comments. The mayor left online comments open until 6:15 pm.

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106 **III. RESPONSE TO PUBLIC COMMENT**

107 Not relevant at this time.

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110 **IV. RECOGNITION OF SCOUTS/STUDENTS PRESENT**

111 No scouts or students were present.

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114 **V. CONSENT AGENDA**

- 115 A. Approval of August 4, 2020 Special Council Meeting and Regular Council Meeting Minutes
- 116 • Mayor Porter read the consent agenda and asked if there were any questions or comments.
- 117 No one responded. He then called for a motion.

118 00:02:45

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120 Council Member Howard moved to approve the consent agenda. The motion was

121 seconded by Council Member Smyth. The voice vote was unanimous in favor of the motion.

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125 **VI. DISCUSSION/ACTION ITEMS**

- 126 A. Consideration of Ordinance 20-20 - Approving a Development Agreement with Blue Lube LLC
- 127 for the Property Located at 1498 E 5600 S
- 128 • Staff Overview 00:03:15
- 129 • Discussion 00:10:07
- 130 • During the discussion, Taber Cope, representing Blue Lube LLC, answered questions from
- 131 the council 00:13:27
- 132 • Motion 00:16:07

133
134 Council Member Smyth moved to approve the development agreement with Blue Lube LLC

135 with the addition of windows similar to Exhibit A on the street facing side. Council Member

136 Howard seconded the motion. Mayor Porter asked if there was further discussion. Council

137 Member Stewart reiterated Planner Vlasic's concern that too many exceptions and variations to the

138 code be allowed without having projects that adhere to it. Soon the code would be the exception,

139 not the rule. The mayor then called the vote:

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141 Council Member Smyth - Yes

142 Council Member Howard - Yes

143 Council Member Stewart- Yes

144 Council Member Strate - Yes

145 Council Member Orr - Yes

The motion stood.

Note: An Exhibit A already existed in the development agreement, so “Exhibit A” from the motion actually became “Exhibit D” in the agreement.

- At this point in the meeting, the mayor asked if any online public comments had been submitted. Communications Specialist Brian Minster informed him no comments had been made.

B. Consideration of Resolution 20-24 – Adopting the FY2021 Budget

- The mayor introduced this item and asked if any members of the council had comments
00:17:51
- Comments by Council Member Strate
00:18:27
- Comments by Council Member Orr
00:19:44
- Motion
00:20:39

Council Member Strate moved to adopt Resolution 20-24, followed by a second from Council Member Howard. After determining there was no more discussion, the mayor called the vote:

Council Member Strate-	Yes
Council Member Orr-	No
Council Member Howard-	Yes
Council Member Stewart-	No
Council Member Smyth-	Yes

The FY2021 budget was adopted.

C. Consideration of Resolution 20-25 – Approving an Agreement with Potable Divers Inc. for Water Tank Cleaning

- Staff overview
00:21:17
- Council discussion
00:23:29
- Motion
00:23:48

Council Member Howard moved to approve Resolution 20-25. The motion was seconded by Council Member Orr. There was no other discussion. Mayor Porter called the vote:

Council Member Stewart-	Yes
Council Member Smyth-	Yes
Council Member Orr-	Yes
Council Member Howard-	Yes
Council Member Strate-	Yes

Resolution 20-25 was adopted.

D. Consideration of Resolution 20-26 – Approving an Agreement with Ormond Construction For 675 East Road Project

- Staff overview 00:24:16
- Council discussion 00:25:43
- Motion 00:26:22

Council Member Smyth moved to adopt Resolution 20-26. Council Member Howard seconded the motion. After determining there were no more comments, Mayor Porter called the vote:

Council Member Orr -	Yes
Council Member Strate -	Yes
Council Member Stewart -	Yes
Council Member Howard -	Yes
Council Member Smyth -	Yes

The agreement was approved.

E. Consideration of Resolution 20-27 – Approving an Agreement with Gold Cross Services for Ambulance Billing

- Staff overview 00:26:59
- Council discussion 00:29:28
- Motion 00:30:39

Council Member Howard moved to adopt Resolution 20-27. The motion was seconded by Council Member Strate. The mayor asked if there were any further discussion, and seeing none, he called the vote:

Council Member Stewart -	Yes
Council Member Smyth -	Yes

228 Council Member Orr - Yes
229 Council Member Howard - Yes
230 Council Member Strate - Yes
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232 Resolution 20-27 was approved.
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235 **VIII. REPORTS/DIRECTION TO CITY MANAGER**

- 236 A. City Council Members
237 • Council Member Howard - nothing to report
238 • Council Member Stewart - 00:31:36
239 • Council Member Smyth - 00:33:28
240 • Council Member Orr - 00:34:15
241 • Council Member Strate - 00:42:52
242 B. City Manager 00:44:15
243 C. City Attorney nothing to report
244 D. Mayor Porter 00:50:44
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248 **IX. RECESS CITY COUNCIL MEETING AND CONVENE INTO AN EXECUTIVE SESSION**

249 Pursuant to UCA §52-4-205 1(c) to Discuss Pending or Reasonably Imminent Litigation

- 250 • City Manager Dixon questioned Attorney Ken Bradshaw whether having the executive session
251 would be of value. Mr. Bradshaw said it would probably be better to wait and it was
252 recommended that this item be tabled.
253 00:55:11
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255 • Motion to table the executive session
256 00:56:13
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258 Council Member Orr moved to table the executive session to discuss pending or reasonably
259 imminent litigation, followed by a second from Council Member Smyth. Council Members
260 Orr, Strate, Stewart, Howard, and Smyth all voted aye.
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263 **X. ADJOURN**

264 At 6:59 pm, Mayor Porter called for a motion to adjourn.
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266 Council Member Smyth so moved, followed by a second from Council Member Orr. The voice
267 vote was unanimous in favor of the motion.
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Not Approved

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Pre-Council Work Session and Council Meeting held Tuesday, August 18, 2020.


Kapetanov, City Recorder

Leesa
Date Approved by the City Council

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EXHIBIT A

Window Example for Blue Lube Development Agreement

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**SOUTH OGDEN CITY
ORDINANCE NO. 20-21**

**AN ORDINANCE INDEFINITELY CLOSING LINCOLN AVENUE BETWEEN 36TH
STREET AND RIVERDALE ROAD**

WHEREAS, South Ogden City (“**City**”) is a municipal corporation, duly organized and existing under the laws of the State of Utah; and

WHEREAS, the City owns, maintains, and exercises jurisdiction over Lincoln Avenue between 36th Street and Riverdale Road within the City’s limits (the “**Street**”), which is shown in the map attached hereto as **Exhibit A**; and

WHEREAS, Seasons on Riverdale, LLC has purchased property on the east side of the Street and is developing the property into residential units and intends to use a portion of the Street for public parking, which will benefit nearby retail and residential developments and the public generally (“**Development**”); and

WHEREAS, the Street is considered a “class C” road because it is a city street; and

WHEREAS, Utah Code §§ 72-5-105(3)(c)(iii), (d)(i) permits the City to temporarily close a class C road and convert the class C road into a separate public use or purpose if “closure of all or part of a class C road is necessary to mitigate unsafe conditions,” and the new “public use or purpose [is] related to the mitigation of the unsafe condition,” and

WHEREAS, Utah Code § 72-5-105(7) permits the City to “close to vehicular travel and convert to another public use or purpose a highway, road, or street over which the local highway authority has jurisdiction, for an indefinite period of time;” and

WHEREAS, as a result of the Development, the City has found that the Street is no longer necessary for vehicular travel as 36th Street and Riverdale Road provide, and will continue to provide for the foreseeable future, adequate access to the Development; and

WHEREAS, the City has also found that additional parking for the Development will alleviate unsafe traffic patterns and mitigate the risk of accidents at the intersection of 36th Street and Lincoln Ave. and Riverdale Rd. and Lincoln Avenue, both of which are intersections with major thoroughfares without traffic lights; and

WHEREAS, closing the Street and leasing the Street to be used for public parking will promote the health, safety, and the general welfare of the community.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH OGDEN THAT:

1. The City hereby finds as follows:

- a. Riverdale Road and 36th Street provide adequate access to all Development along the Street and in other areas adjacent to the Street
- b. As a result of the Development, the Street is not necessary for vehicular travel
- c. Closing of the Street is in the best interest of and benefits the resident of South Ogden City and the public generally
- d. Closing of the Street will reduce through traffic and therefore the risk of accidents at the intersections at the north end and the south end of the street

2. The City shall close the Street and permit the Street to be converted into a public use as required by Utah law, which may include the lease of the Street to the South Ogden City Community Development and Renewal Agency.

3. City staff are authorized to take such actions as may be necessary to accomplish the purposes of this ordinance.

4. All orders, ordinances, and resolutions regarding the subject matter of this ordinance that have been adopted by the City, or parts, which conflict with this ordinance, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order, or resolution, or part, that has been previously repealed.

5. The body and substance of any and all prior ordinances and resolutions, with their specific provisions, where not otherwise in conflict with this ordinance, are reaffirmed and readopted.

6. If any provision of this ordinance shall be held or deemed or shall be invalid, inoperative, or unenforceable, such reason shall not have the effect of rendering any other provision or provisions invalid, inoperative, or unenforceable to any extent whatsoever, this ordinance being deemed the separate, independent, and severable act of the City Council of South Ogden City.

7. This ordinance takes effect upon its publication and recording, but not sooner than 15 days from this date.

DATED this 1st day of September, 2020.

Mayor Russell L. Porter

Attest:

Leesa Kapetanov, City Recorder

This aerial map shows a commercial area in Wallingford, CT. A red-shaded parcel is located at the intersection of Lincoln Ave and Riverdale Rd. The parcel is labeled with the address 3601 Lincoln Ave. Surrounding the parcel are various commercial buildings, parking lots, and other streets including Wall Ave, Chimes Way, and Chimes View Cir. Lot numbers and street names are visible throughout the map.

STAFF REPORT



SUBJECT: Intercounty Automatic Aid Fire Agreement
AUTHOR: Cameron West
DEPARTMENT: Fire
DATE: September 1, 2020

RECOMMENDATION

City Staff is recommending that the Mayor and City Council approve the Intercounty Automatic Aid Fire Agreement.

BACKGROUND

Automatic aid agreements with all the fire jurisdictions in Weber County have been in effect since before 2008. This agreement builds on the current agreement in Weber County which allows all agencies to receive the necessary personnel and apparatus coverage to meet NFPA guidelines. Without these agreements, South Ogden Fire would not be able to effectively mitigate a structure fire effectively.

ANALYSIS

In order for most departments including South Ogden Fire to reach the minimum of 16 personnel on a structure fire within nine minutes, it is necessary to have automatic help with neighboring jurisdictions. Having an automatic aid agreement in place is necessary to get the required resources en-route and on scene within nine minutes.

SIGNIFICANT IMPACTS

South Ogden will receive additional personnel and apparatus from other agencies in response to incidents. South Ogden will also have apparatus called to other jurisdictions which may result in a temporary reduction of personnel and apparatus at one of our two fire stations. Incidents of long duration outside South Ogden could have a negative impact on the budget.

ATTACHMENTS

None

RESOLUTION NO. 20-28

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERCOUNTY AGREEMENT BETWEEN SOUTH OGDEN CITY, WEBER COUNTY CITIES AND WEBER COUNTY AND DAVIS COUNTY CITIES AND DAVIS COUNTY FOR CREATION OF AND PARTICIPATION IN A MULTI JURISDICTION AUTOMATIC AID FIRE AGREEMENT; AUTHORIZING THE CITY MANAGER TO SIGN SUCH AN AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

SECTION 1 - RECITALS

WHEREAS, the City of South Ogden (“City”) is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code (“UC”) §10-3-717, the City Council as the governing body of the City may exercise all administrative powers by resolution; and,

WHEREAS, the City Council finds that under the Utah Intercounty Co-operation Act UC §11-13-1, et seq., Utah Code Ann., 1953, as amended, (the “Act”), any power or powers, privileges or authority exercised or capable of exercise by a public agency of the state (defined as any political subdivision of the state, including municipalities and special districts of various kinds) may be exercised and enjoyed jointly with any other public agency, and that any two or more public agencies may contract with one another that will benefit their citizens and make the most efficient use of their resources; and,

WHEREAS, the City Council finds that in conformance with UC §10-3-717, the City Council as the governing body of the City may exercise all administrative powers by resolution; and,

WHEREAS, the City Council finds that in conformance with UC §11-13-1, the City may enter into Intercounty Cooperation Agreements; and,

WHEREAS, the City Council finds that UC §11-13-2 requires that governing bodies of governmental units adopt resolutions approving an Intercounty Agreement before such agreements may become effective; and,

WHEREAS, the City Council finds that Ogden City Corporation, Roy City Corporation, South Ogden City Corporation, Riverdale City Corporation, Washington Terrace City, North View Fire District, Weber Fire District, South Weber City Corporation, Clinton City Corporation, Layton City Corporation, Kaysville City Corporation, Syracuse City Corporation, Farmington City Corporation, North Davis Fire District, South Davis Metro Fire Service Area (“Parties”) have negotiated an Agreement for the provision of a Multi Jurisdiction Automatic Aid Fire Agreement; and

WHEREAS, the City Council finds that the Parties find that mutual benefit and cost-effective provision of these much needed services and funds can be achieved through this Intercounty Agreement; and,

WHEREAS, the City Council finds that entering and supporting the Agreement is in the best interest of the citizens of South Ogden; and,

WHEREAS, the City Council finds it will be beneficial to the City to enter a contractual relationship with the other parties for the provision of these mutually beneficial services; and,

WHEREAS, such agreements require the signature of an authorized official of the City; and,

WHEREAS, the City Manager of South Ogden is the chief administrative officer and representative of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH OGDEN UTAH THAT:

The Governing Body of South Ogden City, State of Utah, adopts and authorizes entry into the attached " Intercounty Automatic Aid Fire Agreement" (**Attachment "A"**); and authorizes the City Manager to sign any documents necessary to consummate said agreement; and, authorizes the City Recorder to sign any documents as required attesting to the City Manager having been duly authorized to enter into such arrangements for the City.

BE IT FURTHER RESOLVED this Resolution shall become effective immediately upon its passage.

SECTION 2 - REPEALER OF CONFLICTING ENACTMENTS:

All orders and resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Resolution, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part repealed.

SECTION 3 - PRIOR RESOLUTIONS:

The body and substance of all prior Resolutions, with their specific provisions, where not otherwise in conflict with this Resolution, are reaffirmed and readopted.

SECTION 4 - SAVINGS CLAUSE:

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such reason shall not render any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution and this Resolution being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION 5 - DATE OF EFFECT:

This Resolution shall be effective on the 1st day of September, 2020, and after publication or posting as required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY,
STATE OF UTAH, on this 1st day of September, 2020.

SOUTH OGDEN CITY

Russell Porter
Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT “A”

RESOLUTION NO. 20-28

A Resolution Approving And Authorizing The Execution Of An Intercounty Agreement Between South Ogden City, Weber County Cities And Weber County And Davis County Cities And Davis County For Creation Of And Participation In A Multi Jurisdiction Automatic Aid Fire Agreement; Authorizing The City Manager To Sign Such An Agreement; And Providing For An Effective Date

01 Sep 20

INTERCOUNTY AUTOMATIC AID FIRE AGREEMENT

THIS AGREEMENT made and entered into this _____ day of _____, 2020 (“effective date”), pursuant to the provisions of the Interlocal Cooperation Act, by and between **OGDEN CITY CORPORATION**, a municipal corporation of the State of Utah, **ROY CITY CORPORATION**, a municipal corporation of the State of Utah, **SOUTH OGDEN CITY CORPORATION**, a municipal corporation of the State of Utah, **RIVERDALE CITY CORPORATION**, a municipal corporation of the State of Utah, **WASHINGTON TERRACE CITY**, a municipal corporation of the State of Utah, **NORTH VIEW FIRE DISTRICT**, a political subdivision of the State of Utah, and the **WEBER FIRE DISTRICT**, a political subdivision of the State of Utah, **SOUTH WEBER CITY CORPORATION**, a municipal corporation of the State of Utah, **CLINTON CITY CORPORATION**, a municipal corporation within the State of Utah, **LAYTON CITY CORPORATION**, a municipal corporation within the State of Utah, **KAYSVILLE CITY CORPORATION**, a municipal corporation within the State of Utah, **SYRACUSE CITY CORPORATION**, a municipal corporation within the State of Utah, **FARMINGTON CITY CORPORATION**, a municipal corporation within the State of Utah, **NORTH DAVIS FIRE DISTRICT**, a political subdivision of the State of Utah, **SOUTH DAVIS METRO FIRE SERVICE AREA**, a political subdivision of the State of Utah.

WITNESSETH:

WHEREAS, the parties are desirous of entering an agreement for providing automatic mutual aid for fire protection and emergency medical response among the parties; and

WHEREAS, such agreement is in furtherance of the purposes of Section 11-7-1, Utah Code Annotated, 1953, as amended; and

WHEREAS, each party desires to cooperate with and assist the other for fire protection, emergency medical response at the receipt of such an alarm where resources within their county are exhausted; and

WHEREAS, this Agreement is intended to “enhance” but not replace existing “Mutual Aid Agreements or within County Automatic Aid Agreements.”

NOW, THEREFORE, it is hereby agreed:

1. Upon request from an on-scene incident for intercounty resources the 911 Public Safety Answering Point (PSAP) responsible for the incident will make the request to the neighboring County within this agreement as described by the “intercounty response plan” as determined by the fire chiefs of each participating party. Fire chiefs within each County will develop a coordinated “intercounty response plan” reviewed and approved by respective fire chiefs of each participating party within their county. Upon request from on-scene incident commander for intercounty resources, the neighboring county’s 911 PSAP will be contacted specifying intercounty resource request. Only those pre-identified resource units within the response plan will be dispatched by the neighboring county to the requesting county’s incident location. Once intercounty resources are sent by their respective 911 PSAP, while en-route,

responding units will report to the requesting 911 PSAP to confirm radio communication and notification of en-route status. Once assigned to a neighboring county's incident all radio communication will occur on the requesting 911 PSAP talk groups and their status managed by the requesting 911 PSAP. Upon completion of incident assignment, release by the incident commander, neighboring county units will return to radio communication with their primary PSAP.

2. Any dispatch of equipment and personnel pursuant to this Agreement is subject to the following conditions:

- a. The "Automatic Aid" fire company being requested must be currently in an "available" status.
- b. The responding company must be a "pumping" apparatus of Class A engine type or "quint" style aerial device with Class A engine specifications, water tender, a NWCG classified Type 1-6 wildland fire suppression unit, an incident commander staff member and vehicle, or a state licensed medical unit either as either a rescue or ambulance. Such responding company must respond with no fewer than two firefighters/EMS certified personnel on board.
- c. The "Automatic Aid" fire company must respond immediately from the fire station to which they are assigned immediately upon receipt of the alarm. All such responders must ride in the emergency vehicle to the incident. None shall respond by private vehicle.
- d. Dispatch will issue the following information to the responding "Automatic Aid" fire company:
 - i. Address of incident;
 - ii. Type of incident;
 - iii. Talk Group and 911 PSAP Assignment
 - iv. Incident command designation; and
 - v. Commander's name or unit when available.
- e. All parties under this agreement will function under the Incident Command System as taught by the National Fire Academy and as practiced under Weber/Davis area local guidelines and standard operating procedures (SOP's). The responding "Automatic Aid" fire company shall report by radio to the Incident Commander or staging officer at the location to which the equipment was requested and shall be subject to the orders of that commander.
- f. The responding "Automatic Aid" company shall be released by the requesting organization when the services of the "Automatic Aid" fire company are determined to not be required or when the "Automatic Aid" fire company is needed to provide protection to its own jurisdiction, such need to be the sole determination of the responding organization. This agreement is intended for

initial response only. Time commitment for the “Automatic Aid” companies shall not extend beyond eight (8) hours after initial dispatch time.

- g. Assistance under this Agreement may be refused by the supervising shift officer or any of the parties if, in the supervisor’s best judgment, it is determined that the party is unable to reasonably respond.

3. Each party waives all claims against the other for compensation for any loss, damage, personal injury, or death occurring because of performing this Agreement.

4. Neither party shall be reimbursed by the other party for any costs incurred pursuant to this Agreement.

5. All privileges and immunities from liability which surround the activities of any firefighting force or fire department, when performing its functions within the other party’s territorial limits, shall apply to the activities of that other party’s firefighting department while furnishing fire protection outside its territorial limits under this Agreement.

6. The effect of the death or injury of any firefighter, who is killed or injured while responding to an incident outside the territorial limits of the firefighter department of which the firefighter is a member and while that department is functioning pursuant to this Agreement, shall be the same as if the firefighter were killed or injured while that department was functioning within its own territorial limits, and such death or injury shall be considered to be in the line of duty.

7. There is no separate legal entity created by this Agreement to carry out its provisions; and to the extent that this Agreement requires administration other than as is set forth herein, it shall be administered by the governing bodies of the parties acting as a joint board. There shall be no real or personal property acquired jointly by the parties as a result of this Agreement.

8. This Agreement shall not relieve any party of any obligation or responsibility imposed upon any of the parties by law, except that the performance of a responding party may be offered in satisfaction of any such obligation or responsibility to the extent of actual and timely performance thereof by the responding party.

9. This Agreement shall be effective for a period of five (5) years from the effective date. Any party may terminate its obligations under this Agreement after giving thirty (30) days advance written notice of termination to the other parties. Such termination shall not modify the Agreement as between any of the remaining parties, except only to exclude the terminating part from the obligations created herein.

10. This Agreement shall become affective as set out above provided it has been approved as appropriate by the above-mentioned parties, and in accordance with the provisions of Section 11-13-101 et seq., Utah Code Annotated, 1953, as amended. In accordance with the provisions of Section 11-13-202.5(3), this Agreement shall be submitted to the attorney authorized to represent each party for review as to proper form and compliance with applicable law before this agreement may take effect.

OGDEN CITY CORPORATION, a
Utah Municipal Corporation

By: _____
Title: _____
Date: _____

ATTEST:

City Recorder

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

City Attorney

ROY CITY CORPORATION, a
Utah Municipal Corporation

By: _____
Title: _____
Date: _____

ATTEST:

City Recorder

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

City Attorney

WEBER FIRE DISTRICT

By: _____
Title: _____
Date: _____

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

Attorney for Weber Fire District

SOUTH OGDEN CITY CORPORATION, a
Utah Municipal Corporation

By: _____
Title: _____
Date: _____

ATTEST:

City Recorder

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

City Attorney

NORTH VIEW FIRE DISTRICT

By: _____
Title: _____
Date: _____

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

Attorney for North View Fire District

RIVERDALE CITY, a
Utah Municipal Corporation

By: _____
Title: _____
Date: _____

ATTEST:

City Recorder

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

City Attorney

SOUTH WEBER CITY CORPORATION, a
Utah Municipal Corporation

By: _____
Title: _____
Date: _____

ATTEST:

City Recorder

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

City Attorney

CLINTON CITY CORPORATION, a
Utah Municipal Corporation

By: _____
Title: _____
Date: _____

ATTEST:

City Recorder

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

City Attorney

LAYTON CITY CORPORATION, a
Utah Municipal Corporation

By: _____
Title: _____
Date: _____

ATTEST:

City Recorder

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

City Attorney

KAYSVILLE CITY CORPORATION, a
Utah Municipal Corporation

By: _____
Title: _____
Date: _____

ATTEST:

City Recorder

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

City Attorney

SYRACUSE CITY CORPORATION, a
Utah Municipal Corporation

By: _____
Title: _____
Date: _____

ATTEST:

City Recorder

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

City Attorney

FARMINGTON CITY CORPORATION, a
Utah Municipal Corporation

By: _____
Title: _____
Date: _____

ATTEST:

City Recorder

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

City Attorney

NORTH DAVIS FIRE DISTRICT

By: _____
Title: _____
Date: _____

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

Attorney for North Davis Fire District

SOUTH DAVIS FIRE DISTRICT

By: _____
Title: _____
Date: _____

APPROVED AS TO FORM AND AS
COMPATIBLE WITH STATE LAW:

Attorney for South Davis Fire District

STAFF REPORT



SUBJECT: 40th Street Sewer Reline
AUTHOR: Jon Andersen
DEPARTMENT: Public Works
DATE: 9-1-2020

RECOMMENDATION

City Staff recommends the approval of the contract with Granite In-Liner for the relining of the sewer on 40th st.

BACKGROUND

South Ogden City rebuilt 40th Street and the project was completed in 2019. In the initial assessment of the project, all of the utilities were reviewed for their current condition. It was determined at that time not to do a complete replacement of the sewer line. It was decided that the best option to improve the sewer would be to reline it after the projects completion. The reline of the sewer will make the pipe like new for many years to come. It can also be done without any trenching by using the current manholes. The liner will be installed at different locations throughout the sewer line and it will be one solid piece once the lining is completed. The sewer will be relined from Adams going East to approximately 900 E. on 40th Street.

ANALYSIS

In July South Ogden City solicited bids for the relining of the sewer located on 40th Street. The City received one qualified bidder for the project. After checking references the City Engineer and staff recommends moving forward with the project.

Granite In-Liner	\$283,150
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SIGNIFICANT IMPACTS

An impact of \$283,150 to the sewer fund, which has been budgeted for in the current budget.

ATTACHMENTS

None

RESOLUTION NO. 20-29

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN SOUTH OGDEN CITY AND GRANITE INLINER, LLC. AUTHORIZING THE REPAIR AND REHABILITATION OF SEWER LINES IN THE CITY; AUTHORIZING THE CITY MANAGER'S APPROVAL AND SIGNATURE OF THAT AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

SECTION 1 - RECITALS

WHEREAS, the City of South Ogden ("City") is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code ("UC") §10-3-717, the City Council as the governing body of the City may exercise all administrative powers by resolution; and,

WHEREAS, the City Council finds that certain sewer lines throughout the city are, and have been, in need of repair and rehabilitation; and,

WHEREAS, the City Council finds that such services are available from Granite Inliner, LLC (Granite); and,

WHEREAS, the City Council finds that the City has need for these services to be performed and completed before the winter weather sets in; and,

WHEREAS, the City Council finds that signing the Agreement is in the best interest of the citizens of South Ogden; and,

WHEREAS, such agreements require the signature of an authorized official of the City; and,

WHEREAS, the City Manager of South Ogden is the chief administrative officer and representative of the City;

WHEREAS, these actions required signature and submission during a time between city council meetings,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH OGDEN UTAH THAT:

The Governing Body of South Ogden City, State of Utah, authorizes entry into any agreement with Granite; and authorizes the City Manager, or his designee, to sign any contracts, agreements, or other documents necessary to consummate said agreement; and, authorizes the City Recorder to sign any documents as required attesting to the City Manager has been duly authorized to enter into such arrangements for the City including any signed applications or agreements.

The foregoing recitals are incorporated.

BE IT FURTHER RESOLVED this Resolution shall become effective immediately upon its passage.

SECTION 2 - REPEALER OF CONFLICTING ENACTMENTS:

All orders and resolutions regarding the changes enacted and adopted which have heretofore been adopted by the City, or parts, which conflict with this Resolution, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part repealed.

SECTION 3 - PRIOR RESOLUTIONS:

The body and substance of any prior Resolutions, with their specific provisions, where not otherwise in conflict with this Resolution, are reaffirmed and readopted.

SECTION 4 - SAVINGS CLAUSE:

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable for any reason, such reason shall not render any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution and this Resolution being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION 5 - DATE OF EFFECT:

This Resolution shall be effective on the 1st day of September, 2020, and after publication or posting as required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY,
STATE OF UTAH, on this 1st day of September, 2020.

SOUTH OGDEN CITY

Russell Porter
Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT “A”

RESOLUTION NO. 20-29

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION
OF AN AGREEMENT BETWEEN SOUTH OGDEN CITY AND GRANITE
INLINER, LLC. AUTHORIZING THE REPAIR AND REHABILITATION
OF SEWER LINES IN THE CITY; AUTHORIZING THE CITY
MANAGER'S APPROVAL AND SIGNATURE OF THAT AGREEMENT;
AND PROVIDING FOR AN EFFECTIVE DATE**

01 Sep 20

[Attachment to be provided by Public Works Director]

CONTRACT AGREEMENT

TIDS AGREEMENT is by and between **SOUTH OGDEN CITY CORPORATION** (hereinafter called OWNER) and **Granite Inliner, LLC** (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1- WORK

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The work consists of rehabilitating approximately 2,820 feet of 8" diameter sewer pipe using UV light, cured-in-place pipe. The work also includes: pipe cleaning and all other preparatory work; video inspections; re-instatement of sewer laterals; traffic control; public coordination and notices, and all other related work as indicated in the Contract Documents.

ARTICLE 2-THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

40th STREET SEWER LINING PROJECT

ARTICLE 3- ENGINEER

3.01 The Project has been designed by Wasatch Civil Consulting Engineering, who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4- CONTRACT TIMES

4.01 *Time of the Essence:* All time limits for completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Dates/or Completion and Final Payment:* The Work will be completed within **30** days following Notice to Proceed.

4.03 *Liquidated Damages:* CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof,

OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$200.00 for each day that expires after the time specified in paragraph 4.02 for Completion until the Work is accepted.

ARTICLE 5-CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to the paragraph below:

For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item as measured in the field.

UNIT PRICE WORK

<u>No.</u>	<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Amount</u>
1	Mobilization:	1	L.S.	\$20,000.00	\$20,000.00
2	Traffic Control and Public Coordination:	1	L.S.	\$35,000.00	\$35,000.00
3	Furnish and Install 8-Inch Diameter UV Light CIPP:	2,820	L.F.	\$74.00	\$208,680.00
4	Re-Establish Sewer Lateral Connections:	24	Each	\$400.00	\$9,600.00
5	Final Video Inspection of Sewer Line:	2,820	L.F.	\$3.50	\$9,870.00

TOTAL OF ALL UNIT PRICES TWO HUNDRED EIGHTY-THREE THOUSAND ONE HUNDRED FIFTY DOLLARS AND 00/100 (\$283,150.00).

As provided in paragraph I1.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph I1.03 of the General Conditions.

ARTICLE 6- PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments:* CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

6.02 *Progress Payments; Retainage:* OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment on or about the **15th** day of each month during performance of the Work as provided in paragraphs 6.02.A. 1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work, based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

I. Prior to Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions:

A. 95% of Work completed (with the balance being retained). If the Work has been 50% completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER, on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed less the aggregate of payments previously made; and

B. 25% of cost of materials and equipment not incorporated in the Work (with the balance being retained).

2. Upon Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 100% of the Work completed, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02.B.5 of the General Conditions.

6.03 *Final Payment:* Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

ARTICLE 7- INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 1% per annum.

ARTICLE 8- CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. CONTRACTOR has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in paragraph 4.06 of the General Conditions.

E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto

F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.

H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9- CONTRACT DOCUMENTS

9.01 Contents:

A. The Contract Documents consist of the following:

1. This Agreement;
2. Performance Bond;
3. Payment Bond;
4. Bid Bond;
5. General Conditions;
6. Supplementary Conditions;
7. Specifications as listed in the table of contents of the Project Manual;
8. Drawings as listed in the table of contents of the Project Manual;
9. Addendum (N/A);
10. Exhibits this Agreements;

L Notice to Proceed;

2. CONTRACTOR' s Bid;

3. Documentation submitted by CONTRACTOR prior to Notice of Award;

11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

Written Amendments;

Work Change Directives;
Change Order(s).

- B. The documents listed in paragraph 9.01 A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.05 of the General Conditions.

ARTICLE 10- MISCELLANEOUS

10.01 *Terms*: Terms used in this Agreement will have the meanings indicated in the General Conditions.

10.02 *Assignment of Contract*: Assignment by a party hereto of any rights under or interests in the Contract will not be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*: OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*: Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

This Agreement will be effective on _____, 2020, (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR:

SOUTH OGDEN CITY CORPORATION

GRANITE INLINER LLC

By: _____

By: _____

Attest _____

Attest _____

Address for giving notices:

Address for giving notices:

(If CONTRACTOR is a corporation or a partnership, attach evidence of authority to sign)

Designated Representative:

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

STAFF REPORT



SUBJECT: Steel Tanks Waterline Replacement
AUTHOR: Jon Andersen
DEPARTMENT: Public Works
DATE: 9-1-2020

RECOMMENDATION

City Staff recommends the approval of the contract with Staker-Parsons for the waterline replacement project located at the steel tanks in South Ogden City.

BACKGROUND

This project came to City staff's attention with the new development that has been proposed to be built below the steel water tanks located on Harrison Blvd. The developer approached the City to build and the City expressed concern with the existing water lines that feed the City from the tanks. It was decided to have the developer bid the project and have the City over see it. After bids were collected the developer handed the project over to the City to get completed. In review with City Engineer and staff of the initial project it was determined that while a qualified contractor is on site, other improvements in the Steel tank area should be completed with this project. Currently, the City has no way to isolate one of the tanks so both have to be shut down if work is needed. This change order will have some work completed in the steel tank area that will allow the City to isolate the tanks and still feed the city water from one, two, or directly from Weber Basin if needed. The original project will replace a 14" transit line and a 12" ductile line to one 20" C900 pvc line from the steel tanks down the hill going south to Combe road, which is where the line will be split back to the 12' and the 14" connections. Both of the lines are original lines with one being installed in the 1970's and the steel line installed in the 1990's.

ANALYSIS

The developers original bids:

Staker Parsons	\$227,669.00
Sunroc	\$305,535.00
SIRI Contracting	\$317,393.56

Staker Parson W/Change Order	\$425,295.00
------------------------------	--------------

SIGNIFICANT IMPACTS

There will be an impact to the water budget of \$425,295.00

ATTACHMENTS

Change Order 1

Three Bids from the Developer

Bid with Change Order 1

RESOLUTION NO. 20-30

RESOLUTION OF SOUTH OGDEN CITY APPROVING AN AGREEMENT WITH STAKER PARSONS FOR WATER TANK WORK, AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AND FINAL PASSAGE.

WHEREAS, the City Council finds that the City of South Ogden ("City") is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code ("UC") § 10-3-717 the governing body of the city may exercise all administrative powers by resolution including, but not limited to regulating the use and operation of municipal property and programs; and,

WHEREAS, the City Council finds it necessary to address certain Water Tank Work needs within the city; and,

WHEREAS, the City Council finds that the city staff recommends that the city ratify the contract with Staker Parsons for the Water Tank Work; and,

WHEREAS, the City Council finds that Staker Parsons has the professional ability to provide for these services to meet the city's needs; and,

WHEREAS, the City Council finds that City now desires to further those ends by contracting with, Staker Parsons to provide such services; and,

WHEREAS, the City Council finds that the public convenience and necessity requires the actions contemplated,

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF SOUTH OGDEN AS FOLLOWS:

SECTION II - CONTRACT AUTHORIZED

That The "**Contract Agreement**" For The Water Tank Work, Attached Hereto As **Attachment "A"** And By This Reference Fully Incorporated Herein, Is Hereby Approved And Adopted; And That The City Manager Is Authorized To More Fully Negotiate Any Remaining Details Under The Agreement On Behalf Of The City And Then To Sign, And The City Recorder Authorized To Attest, Any And All Documents, Reasonably Necessary To Effect This Authorization And Approval.

The foregoing Recitals are incorporated herein.

SECTION III - PRIOR ORDINANCES AND RESOLUTIONS

The body and substance of all prior Resolutions, with their provisions, where not otherwise in conflict with this Resolution, are reaffirmed and readopted.

SECTION IV - REPEALER OF CONFLICTING ENACTMENTS

All orders, and Resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Resolution, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part repealed.

SECTION V - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall not render any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION VI - DATE OF EFFECT

This Resolution shall be effective on the 1st day of September, 2020, and after publication or posting as required by law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY,
STATE OF UTAH**, on this 1st day of September, 2020.

SOUTH OGDEN CITY

Russell Porter
Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT “A”

RESOLUTION NO. 20-30

Resolution Of South Ogden City Approving An Agreement With Staker Parsons For Water Tank Work, And Providing That This Resolution Shall Become Effective Immediately Upon Posting And Final Passage.

01 Sep 20

[Attachment to be provided by Public Works Director]

CONTRACT AGREEMENT

THIS AGREEMENT is by and between **SOUTH OGDEN CITY CORPORATION** (hereinafter called OWNER) and **STAKER PARSON COMPANIES** (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The work consists of reconstruction replacing l.f. of existjng water line with a single 20" PVC waterline along an existeing gravel access road. The work also includes constructing new waterline and valving around the existing steel culinary water storage tanks and all other related items and appurtenances as directed in the Project Drawings

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

STEEL TANKS WATERLINE REPLACEMENT PROJECT

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by Wasatch Civil Consulting Engineering, who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 *Time of the Essence:* All time limits for completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Dates for Completion and Final Payment:* The Work specified in the Contract Documents shall be completed within 90 days following the Notice to Proceed.

4.03 *Liquidated Damages:* CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof,

OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$1000.00 for each day that expires after the time specified in paragraph 4.02 for completion until the Work is accepted.

ARTICLE 5 - CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to the paragraph below:

For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item as measured in the field.

UNIT PRICE WORK

<u>No.</u>	<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Amount</u>
1	Mobilization:	1	L.S.	\$28,820.00	\$28,820.00
2	20-inch Waterline:	1	L.S.	\$150,160.00	\$150,160.00
3	Traffic Control and Barricades;	1	L.S.	\$5,000.00	\$5,000.00
4	Combe Road Connection:	1	L.S.	\$51,275.00	\$51,275.00
5	Tank Yard Piping::	1	L.S.	\$126,450.00	\$126,450.00
6	Tank Yard Vault:	1	L.S.	\$68,150.00	\$68,150.00

TOTAL OF ALL UNIT PRICES FOUR HUNDRED TWENTY-FIVE THOUSAND TWO HUNDRED NINETY-FIVE DOLLARS AND 00/100 (\$425,295.00).

As provided in paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03 of the General Conditions.

ARTICLE 6 - PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments:* CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

6.02 *Progress Payments; Retainage:* OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment on or about the **15th** day of each month during performance of the Work as provided in paragraphs 6.02.A. 1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work, based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions:

A. 95% of Work completed (with the balance being retained). If the Work has been 50% completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER, on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed less the aggregate of payments previously made; and

B. 25% of cost of materials and equipment not incorporated in the Work (with the balance being retained).

2. Upon Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 100% of the Work completed, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02.B.5 of the General Conditions.

6.03 *Final Payment:* Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

ARTICLE 7 - INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 1% per annum.

ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. CONTRACTOR has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in paragraph 4.06 of the General Conditions.

E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto

F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.

H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 *Contents:*

A. The Contract Documents consist of the following:

1. This Agreement;
2. Performance Bond;
3. Payment Bond;
4. Engineering General Conditions;
6. South Ogden City Specifications;
8. Project Drawings;
10. Addenda No.;
11. Exhibits this Agreements;

1. Notice to Proceed;
2. CONTRACTOR's Bid;

12. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

Written Amendments;
Work Change Directives;
Change Order(s).

- B. The documents listed in paragraph 9.01 A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.05 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 *Terms:* Terms used in this Agreement will have the meanings defined by Engineers Joint Contract Documents Committee STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT.

10.02 *Assignment of Contract:* No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without

limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*: OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*: Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

This Agreement will be effective on August 28, 2020, (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR:

SOUTH OGDEN CITY CORPORATION

STAKER PARSON COMPANIES

By: _____

By: _____

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

Attest _____

Address for giving notices:

Address for giving notices:

(If CONTRACTOR is a corporation or a partnership, attach evidence of authority to sign)

Designated Representative:

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

NOTICE TO PROCEED

DATED August 28, 2020

TO: Staker Parson Companies

ADDRESS: 2350 South 1900 West, West Haven, UTAH 84401

PROJECT: Steel Tanks Waterline Replacement Project

You are notified that the Contract Times under the above contract will commence to run on _____. By that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 4 of the Agreement the date of Completion is on, or before _____. Thereafter, liquidated damages will be assessed at the rate of \$1000.00 per calendar day.

Before starting any Work at the Site, you must provide certificates of insurance to the owner, as required by the Supplementary Conditions. Also, you must notify the City's designated Public Works Inspector, prior to commencement of construction activities.

South Ogden City Corporation
(OWNER)

(AUTHORIZED SIGNATURE)

(TITLE)



STAKER PARSON
MATERIALS & CONSTRUCTION
A CRH COMPANY

Staker Parson Materials & Construction
A CRH Company

Ogden - 2350 S. 1900 W. Ogden, UT 84401 | P: (801) 731-1111 F: (801) 731-8800
Brigham City - PO Box 517 Brigham City, UT 84302 | P: (435) 723-5216 F: (435) 723-9343
Smithfield - PO Box 65 Smithfield, UT 84335 | P: (435) 563-3242 F: (435) 563-9480

*The Preferred Source for quality sand, rock, landscape products,
ready mix concrete, asphalt, paving & construction services.*

To:	South Ogden City	Contact:	Brad Jensen
Address:	560 39Th Street South Ogden, UT 84405	Phone:	(801) 622-8585
Project Name:	1 East Harrison City Waterline	Fax:	
Project Location:	5600 S Harrison Blvd, South Ogden, UT	Bid Number:	
Attachments:	Standard Terms & Conditions Eff 4-1-19.pdf	Bid Date:	1/24/2020

JOB SPECIFICATION AND PRICE:

(IF UNIT PRICES ARE QUOTED, UNITS WILL BE MEASURED ON COMPLETION AND INVOICED AT UNIT PRICES QUOTED).

IF OWNER ELECTS TO EXECUTE OWN CONTRACT AGREEMENT, THIS PROPOSAL IS TO BECOME PART OF AND ATTACHED TO OWNERS CONTRACT

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
901	Mobilization	1.00	LS	\$28,820.00	\$28,820.00
903	20 Inch Waterline	1.00	LS	\$150,600.00	\$150,600.00
904	Combe Road Connection	1.00	LS	\$51,275.00	\$51,275.00
905	Tank Yard Piping	1.00	LS	\$126,450.00	\$126,450.00
906	Tank Yard Vault	1.00	LS	\$68,150.00	\$68,150.00
Total Price for above Items:					\$425,295.00

Total Base Bid Price: \$425,295.00

City Waterline Replacement

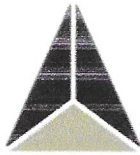
501	City Waterline Mobilization And Asbestos Removal At 2 Tie In Locations	-1.00	LS	\$21,235.00	(\$21,235.00)
502	City Waterline 14 Inch C900 DR 18 (DR14 Called Out On Plans Not Available)	-1.00	LS	\$95,535.00	(\$95,535.00)
503	City Waterline 12 Inch C900	-1.00	LS	\$92,130.00	(\$92,130.00)
Total Price for above City Waterline Replacement Items:					(\$208,900.00)

Notes:

- Additional work and work in excess of that specified and described above will be handled as a Change Order. Additional work **MUST BE APPROVED** by owner and contractor prior to construction.
- Bid DOES NOT include engineering, layout or testing unless otherwise stated.
- Bid includes only the items as specified and described above.
- Bid does not include traffic control except where specified.
- General Contractor, owner or developer is responsible for Storm Water Prevention Plan.
- No SWPPP included due to no plan.
- Bid does not include UDOT permits.
- Please Review attached TERMS & CONDITIONS. Upon Signature Of Proposal Purchaser Is Bound To All Terms And Conditions Of Agreement. Original Copy Of Proposal Must Be Signed And On File Prior To Commencement Of Work.

Payment Terms:

Refer to attached Terms & Conditions. Please note***Effective March 1, 2019, payment by credit card will no longer be allowed on Construction Service Invoices***



STAKER PARSON
MATERIALS & CONSTRUCTION
A CRH COMPANY

Staker Parson Materials & Construction
A CRH Company

Ogden - 2350 S. 1900 W. Ogden, UT 84401 | **P:** (801) 731-1111 **F:** (801) 731-8800
Brigham City - PO Box 517 Brigham City, UT 84302 | **P:** (435) 723-5216 **F:** (435) 723-9343
Smithfield - PO Box 65 Smithfield, UT 84335 | **P:** (435) 563-3242 **F:** (435) 563-9480

*The Preferred Source for quality sand, rock, landscape products,
ready mix concrete, asphalt, paving & construction services.*

To:	South Ogden City	Contact:	Brad Jensen
Address:	560 39Th Street South Ogden, UT 84405	Phone:	(801) 622-8585
Project Name:	1 East Harrison City Waterline	Fax:	
Project Location:	5600 S Harrison Blvd, South Ogden, UT	Bid Number:	
Attachments:	Standard Terms & Conditions Eff 4-1-19.pdf	Bid Date:	1/24/2020

ACCEPTED:

The above prices, specifications and conditions are satisfactory and are hereby accepted.

Buyer: _____

Signature: _____

Date of Acceptance: _____

CONFIRMED:

STAKER | PARSON COMPANIES

Authorized Signature: _____

Estimator: Ryan Thain
ryan.thain@stakerparson.com



To: Matt Dixon, City Manager
South Ogden City Corporation

From: Brad C. Jensen, P.E. 
Wasatch Civil Consulting Engineering

Date: August 26, 2020

Subject: Steel Tank Waterline Project - Change Order No. 1

On June 29, 2020, South Ogden City signed a contract for Staker Parson Companies to replace two existing culinary water feeder lines between the existing steel culinary water storage tanks and Combe Road (attached). However, in discussions between our office and South Ogden Public Works, it was decided that this would be a good time to upgrade the waterlines and valving around the steel tanks. The contractor would already be on-site and would have already mobilized to complete the waterline replacement project. This would potentially provide a savings to the City.

As indicated, the purpose for the additional cost is to change the piping and valving configuration around the storage tanks. This new configuration will allow each of the tanks to individually provide water to the system, allow the tanks to individually be taken off-line for maintenance/repair or allow the tanks to be isolated and feed the system directly from the Weber Basin Water Improvement District Connection. The current configuration does not adequately provide these capabilities.

We recommend accepting the attached Change Order No. 1. If you have any questions or require additional information, please don't not hesitate to contact me.

CHANGE ORDER

No. 1

PROJECT:	Steel Tank Waterline Project	DATE OF ISSUANCE:	8/26/2020
OWNER:	South Ogden City Corporation	OWNER'S PROJECT NO.:	
CONTRACTOR:	Staker Parson Companies 2350 South 1900 West Ogden, UT 84401	ENGINEER:	Wasatch Civil Consulting Engineering 1150 Depot Drive Suite 225 Ogden, Utah 84404
CONTRACT FOR:	Steel Tank Waterline Project	ENGINEER'S PROJECT NO.:	

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

DESCRIPTION: Increase the Scope of Work for the Steel Tanks Waterline Replacement Project to include revisions and modifications to waterlines and valving around two existing culinary water storage tanks (steel tanks).

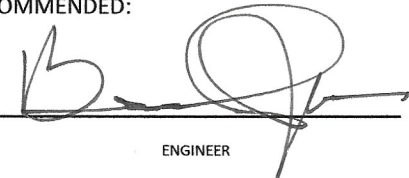
PURPOSE: To change the Contract Time stated in the Contract Agreement for all work stated in the Contract Documents.

Attachments

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIME
Original Contract Price: \$227,669.00	Original Contract Time: NA Days or date
Previous Change Orders 0 to 0 0	Net Change from Previous Change Orders: NA Days
Contract Price Prior to this Change Order \$227,669.00	Contract Time Prior to this Change Order NA Days or Date
Net Increase (Decrease) of this Change Order \$197,626.00	Net Increase (Decrease) of this Change Order NA Days
Contract Price with all Approved Change Orders \$425,295.00	Contract Time with all Approved Change Orders: NA Days or Date

RECOMMENDED:

BY



ENGINEER

APPROVED:

BY

OWNER

EJCDC No. 1910-8-B

Prepared by the Engineers' Joint Contract Documents Committee and endorsed by The Associated General Contractors of America.



STAKER PARSON
MATERIALS & CONSTRUCTION
A CRH COMPANY

Staker Parson Materials & Construction
A CRH Company

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*The Preferred Source for quality sand, rock, landscape products,
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To:	South Ogden City	Contact:	Matt Dixon
Address:	560 39Th Street South Ogden, UT 84405	Phone:	(801) 622-8585
Project Name:	1 East Harrison City Waterline	Fax:	
Project Location:	5600 S Harrison Blvd, South Ogden, UT	Bid Number:	
Attachments:	Standard Terms & Conditions Eff 4-1-19.pdf	Bid Date:	1/24/2020

JOB SPECIFICATION AND PRICE:

(IF UNIT PRICES ARE QUOTED, UNITS WILL BE MEASURED ON COMPLETION AND INVOICED AT UNIT PRICES QUOTED).

IF OWNER ELECTS TO EXECUTE OWN CONTRACT AGREEMENT, THIS PROPOSAL IS TO BECOME PART OF AND ATTACHED TO OWNERS CONTRACT

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
City Waterline Replacement					
1	Bonds	1.00	LS	\$5,569.00	\$5,569.00
501	City Waterline Mobilization And Asbestos Removal At 2 Tie In Locations	1.00	LS	\$21,235.00	\$21,235.00
502	City Waterline 14 Inch C900 DR 18 (DR14 Called Out On Plans Not Available)	1.00	LS	\$95,535.00	\$95,535.00
503	City Waterline 12 Inch C900	1.00	LS	\$92,130.00	\$92,130.00
504	Access Road Replacement From ROW In Parking Lot To North End Of Waterline Replacement. Assumed 6" Thick Road Base And 3" Thick Asphalt. 13' Wide.	3,300.00	SF	\$4.00	\$13,200.00

Total Price for above City Waterline Replacement Items: \$227,669.00

Notes:

- Additional work and work in excess of that specified and described above will be handled as a Change Order. Additional work **MUST BE APPROVED** by owner and contractor prior to construction.
- Bid DOES NOT include engineering, layout or testing unless otherwise stated.
- Bid includes only the items as specified and described above.
- Bid does not include traffic control except where specified.
- General Contractor, owner or developer is responsible for Storm Water Prevention Plan.
- No SWPPP included due to no plan.
- Bid does not include UDOT permits.
- Please Review attached TERMS & CONDITIONS. Upon Signature Of Proposal Purchaser Is Bound To All Terms And Conditions Of Agreement. Original Copy Of Proposal Must Be Signed And On File Prior To Commencement Of Work.

Payment Terms:

Refer to attached Terms & Conditions. Please note***Effective March 1, 2019, payment by credit card will no longer be allowed on Construction Service Invoices***

<p>ACCEPTED:</p> <p>The above prices, specifications and conditions are satisfactory and are hereby accepted.</p> <p>Buyer: South Ogden City</p> <p>Signature: <i>Matthew J. Dixon</i></p> <p>Date of Acceptance: 06/29/2020</p>	<p>CONFIRMED:</p> <p>STAKER PARSON COMPANIES</p> <p>Authorized Signature: _____</p> <p>Estimator: Ryan Thain ryan.thain@stakerparson.com</p>
--	--



Siri Contracting, LLC
4275 N Thanksgiving Way
Suite 400
Lehi, UT 84043
801-386-3008

BID PROPOSAL

Project Name: South Ogden City Steel Waterline Replacement Project

Location: Harrison Blvd and Combe Road, South Ogden, UT

Submitted To: Jared Payne

Company: Urban Land Holdings

Date: May 12, 2020

Estimator: Ted Siri

SCOPE OF WORK: WATER LINE

ITEM NO.	MOBILIZATION AND SITE DEMOLITION ITEM DESCRIPTION	BID QUANTITY	UNITS	UNIT PRICE	TOTAL AMOUNT
SCOPE OF WORK:					
1	12" Diameter DR14 C900 with Tracer Wire	815.00	LF	\$85.58	\$69,747.70
2	14" Diameter DR14 C900 with Tracer Wire	820.00	LF	\$100.33	\$82,270.60
3	Connection to Existing Pipe	4.00	EA	\$1,548.87	\$6,195.48
4	12" Butterfly Valve with Collar	2.00	EA	\$3,301.13	\$6,602.26
5	14" Butterfly Valve with Collar	1.00	EA	\$4,229.27	\$4,229.27
6	12" 45 Bend	4.00	EA	\$1,085.76	\$4,343.04
7	12" 90 Bend	1.00	EA	\$1,167.59	\$1,167.59
8	14" 22.5 Bend	1.00	EA	\$1,820.81	\$1,820.81
9	14" 45 Bend	5.00	EA	\$1,593.50	\$7,967.50
10	12" Coupler	2.00	EA	\$874.83	\$1,749.66
11	14" Coupler	2.00	EA	\$1,248.90	\$2,497.80
12	Fire Hydrant Assembly	1.00	EA	\$5,894.49	\$5,894.49
13	Remove and Replace Asphalt Access Road	1,110.00	SY	\$45.44	\$50,438.40
14	Abandon Existing Waterlines In-Place with Concrete Plugs	1.00	LS	\$2,475.00	\$2,475.00
15	Granular Trench Backfill (If Required)	3,600.00	TN	\$18.69	\$67,284.00
16	Removal and Replacement of Chain Link Fence and Posts	24.00	LF	\$40.00	\$960.00
17	Removal and Replacement of Concrete Sidewalk	12.00	LF	\$83.33	\$999.96
18	Finish Grading and Reseeding Hillside	1,500.00	SF	\$0.50	\$750.00
Steel Tank Waterline Total:					\$317,393.56

Total Project: \$317,393.56

EXCLUSIONS:

- 1 Survey, layout, construction staking, grade verification, engineering
- 2 Testing, Dewatering
- 3 Building Permits and fees
- 4 Hazardous Material, Debris Handling and Disposal

SPECIAL PROVISIONS:

- 1 Water required for compaction and dust control will be available on-site at no charge.
- 2 All on-site excavated material is considered suitable for use as structural backfill.
- 3 Any insurance requirements over \$2 Million will be extra and are not included in the base price.
- 4 This bid proposal excludes winter conditions costs and snow / frost removal or replacement with dry structural fill.
- 5 Light poles, electrical trenches and bollards are by others.
- 6 This bid proposal is based on the acceptance of all items detailed above. This proposal is strictly limited to the scope of work outline above, and defined by this proposal. If accepted, this proposal will be included in, and become part of any subcontract.
- 7 This bid is based on the cost of fuel and oil prices on bid day. Any increase in oil prices will be passed through to the owner.
- 8 Siri Contracting retains all salvage rights on the demolition at the condition during the bidding process.
- 9 This bid is based on a site visit and plans by
- 10 Earthwork quantities calculated from drawings listed above. No other survey or measurement were performed.
- 11 This bid is valid for 30 days from date of bid.

- 12 **THIS PROPOSAL IS BASED ON USING THE EXISTING SOILS AS BACKFILL.**
- 13 **THIS PROPOSAL DOES NOT INCLUDE A LOOP WHERE THE WATERLINES CROSS.**



Sunroc Corporation

Construction Division

525 WEST ARROWHEAD TRAIL, SPANISH FORK, UTAH 84660 (801) 722-2100 (801) 722-2130 (FAX)

3850 SOUTH 1825 EAST, ST GEORGE, UTAH 84770 (435) 634-2260 (435) 652-9889 (FAX)

CONTRACT PROPOSAL

CUSTOMER: URBAN LAND HOLDINGS, LLC

DATE: 4-13-2020

ADDRESS:

CITY, STATE:

PHONE:

FAX:

ATTN: JARED PAYNE

ADDENDUM:

JOB NAME: STEEL TANK WATERLINE

SUNROC CORPORATION MAY WITHDRAW THIS PROPOSAL IF WRITTEN ACCEPTANCE IS NOT RECEIVED FROM THE BUYER WITHIN 30 DAYS OF THE PROPOSAL DATE

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
*** CULINARY WATER TOTAL ***					
2010	14" C-900	815.00	LF	62.00	50,530.00
2020	12" C-900	820.00	LF	47.00	38,540.00
2030	CONNECT TO EXISTING	4.00	EA	1,350.00	5,400.00
2040	12" MJ BUTTERFLY VALVE	2.00	EA	3,500.00	7,000.00
2050	14" MJ BUTTERFLY VALVE	1.00	EA	4,500.00	4,500.00
2060	12" MJ 45	4.00	EA	1,450.00	5,800.00
2070	12" MJ 90	1.00	EA	1,500.00	1,500.00
2080	14" MJ 22	1.00	EA	4,000.00	4,000.00
2090	14" MJ 45	5.00	EA	2,300.00	11,500.00
3000	12" MJ LONG SLEEVE	2.00	EA	1,600.00	3,200.00
3010	14" MJ LONG SLEEVE	2.00	EA	1,650.00	3,300.00
3020	FIRE HYDRANT ASSEMBLY	1.00	EA	7,500.00	7,500.00
3030	REMOVE & REPLACE ASPHALT ROAD (1/2" PG58-25)	1,110.00	SY	72.00	79,920.00
3040	ABANDON EXISTING WATERLINES	1.00	LS	2,400.00	2,400.00
3050	GRANULAR TRENCH BACKFILL	3,600.00	TON	21.00	75,600.00
3060	REMOVE CHAIN LINK FENCE	24.00	LF	95.00	2,280.00
3070	REMOVE CONCRETE SIDEWALK	12.00	LF	120.00	1,440.00
3080	FINISH GRADING HILLSIDE & RE-SEEDING	1,500.00	SF	0.75	1,125.00
GRAND TOTAL					\$305,535.00

NOTES:

EARTHWORK QUANTITIES ARE BASED ON GRADES AS SHOWN ON THE DRAWINGS. IF THE ONSITE GRADES VARY FROM THE GRADES ON THE PLANS, WE RESERVE THE RIGHT TO ADJUST OUR PRICING ACCORDINGLY.

EXCLUDES: SURVEY, SWPPP/NOI PERMIT/EROSION CONTROL INSPECTIONS, SWEEPING, VAPOR BARRIER, ENGINEERING, TESTING, LAYOUT, FEES, PERMITS, BONDS, DEWATERING, TRAFFIC CONTROL, SAW CUTTING,

ADDITIONAL TERMS AND CONDITIONS OF AGREEMENT

1. Purchaser represents to be the record owner or authorized agent of the record owner of the real property that shall be improved pursuant to this Agreement (the "Property") with authority to enter into contractual agreements and to grant SUNROC authority to perform the work identified herein. The Purchaser agrees that all materials in this Agreement will be used in the construction, alteration, or improvement of the Property. Purchaser shall not use this document to acquire financing.
2. This Contract Proposal/Agreement shall only be modified by written change order signed by SUNROC and Purchaser. Oral requests for change shall not be binding on SUNROC unless reduced to writing by change order.
3. Purchaser shall assume full responsibility for the accuracy of all lines, levels, quantities, locations and measurements and their relation to the work to be performed by SUNROC. No representation or warranty, express or implied, is made as to the quantities, sizes, grades, specifications, or other matters relating to the needs of the project. In all cases where dimensions are governed by conditions, already established or otherwise, the responsibility for coordination of such conditions as it relates to SUNROC's work shall rest entirely on the Purchaser. It is the Purchaser's sole responsibility to compare the items on this Contract Proposal/Agreement with plans and specifications for accuracy and completeness. Any variations or modifications from specified lines, grades or dimensions required shall be the responsibility of the Purchaser and subject to a change order should additional work be required of SUNROC.
4. In the event the record owner of the Property sells, mortgages, or otherwise transfers or encumbers the Property, the total amount herein provided shall become immediately due and payable as to any and all amounts then unpaid.
5. Purchaser agrees that all alleged defects in work, material or labor shall be made in writing to SUNROC within ten (10) calendar days of the date of the billing invoice for the work performed. If said writing has not been made within the time period specified herein, Purchaser waives any right to claim defects and/or offsets for these alleged defects. In the event of defective work, SUNROC's sole and exclusive liability shall be to repair or replace defective work at its discretion. In no event shall SUNROC be liable for special, incidental, or consequential damages, including, but not limited to, loss of good will, loss of profits, or loss of use.
6. In the event that material costs on which this Contract Proposal/Agreement is based rise in excess of fifteen percent (15%) during the course of work, Purchaser agrees that these increased costs, in their entirety, shall be billed to Purchaser as an automatic adjustment to the Contract Proposal/Agreement.
7. To the extent that the contracted price is based on a specified unit or square foot price, Purchaser agrees that the number of units or square feet indicated is an approximation, and that SUNROC shall be paid in full for the actual units or square feet completed as determined by field measurement by SUNROC.
8. SUNROC shall not be liable for failure of performance or failure of delay in delivery by reason of any event beyond the control of SUNROC, including, but not limited to, strikes; labor disputes; fire; flood; weather; embargo; war or other hostilities; government authority or regulation; acts of God; shortage of material or fuel; as a result of actions of Purchaser, record owner, or any other person; or as a result of the extension of time granted by Purchaser. Upon the occurrence of such delay, SUNROC shall receive an equitable extension of time for completion of the Agreement. SUNROC shall not be entitled to any damages or compensation as a result of said delay except to the extent that said delay was caused by the Purchaser, record owner, or persons employed by the Purchaser or record owner.
9. SUNROC assumes no risk of non-disclosed or unforeseen conditions of the Property, including, but not limited to, hazardous substances (as defined by applicable law). In the event that hazardous substances are present on the Property (other than hazardous substances introduced by SUNROC), Purchaser agrees to indemnify SUNROC and its officers, directors, employees, agents, representatives, and subcontractors from and against any and all losses, claims, damages, fines, penalties, liabilities, injuries, costs and expenses (including all attorney fees and costs incurred in any civil, criminal, or administrative proceeding) arising from such hazardous substances, including, but not limited to, the presence or use, generation, storage, treatment, containment, release, threatened release, disposal of, exposure, or threatened exposure.
10. Unless otherwise noted, all federal, state, and other taxes of any nature related to this Agreement shall be borne by Purchaser.
11. SUNROC warrants that all materials covered by this Agreement shall conform to industry standards. No implied warranties of fitness or merchantability are given and are expressly disclaimed by SUNROC.
12. The parties agree that the prevailing party in any lawsuit arising from or as a result of this Agreement, whether the action is based on the Agreement's terms and provisions or on any other theory of liability, shall be entitled to an award of attorney fees and costs incurred in said action.
13. This Contract Proposal/Agreement is the total agreement and supersedes all negotiations, representations, prior discussions, and preliminary agreements between the Parties hereto, whether oral or written. This Agreement shall be construed and interpreted as if drafted equally by all Parties hereto.
14. This Agreement shall be governed by the laws of the Local State where the project resides, without regard to its choice of law provisions.

ACCEPTED:

The above prices and specifications
are satisfactory and hereby accepted.

Buyer _____

Signature _____

Date of Acceptance _____

CONFIRMED:

Sunroc Corporation

Authorized

Signature _____

Estimator: **Brannon Burton**

**SOUTH OGDEN CITY
RESOLUTION NO. 20-31**

**A RESOLUTION AUTHORIZING A LEASE OF PROPERTY TO THE SOUTH OGDEN
CITY COMMUNITY DEVELOPMENT AND RENEWAL AGENCY**

WHEREAS, South Ogden City (“**City**”) is a municipal corporation, duly organized and existing under the laws of the State of Utah; and

WHEREAS, the City has created the South Ogden City Community Development and Renewal Agency (“**Agency**”) and the Agency continues to operate pursuant to Utah Code Ann. § 17C-1-101 *et seq.*, the Limited Purpose Local Government Entities – Community Reinvestment Agency Act (the “**Act**”); and

WHEREAS, the Agency is authorized to provide for project area development and carry out the purposes of the Act as described therein; and

WHEREAS, the City owns, maintains, and exercises jurisdiction over the portion of Lincoln Avenue between 36th Street and Riverdale Road within the City’s limits (“**Street**”), which is shown in the map attached as **Exhibit A**; and

WHEREAS, the City anticipates passing an ordinance closing the Street to vehicular traffic so that the Street could be converted into parking and to alleviate unsafe conditions caused by traffic patters and automobile accidents; and

WHEREAS, the City is authorized to lease property to the Agency and provide for other assistance to the Agency as set forth in Utah Code § 17C-1-207; and

WHEREAS, the City is authorized to lease property to the Agency for less than fair market value or for no consideration per Utah Code § 17C-1-207(1)(b); and

WHEREAS, the City desires to lease the Street to the Agency in order to facilitate project area development.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF SOUTH OGDEN THAT:**

1. The City finds that the lease of the Street to the Agency is in the best interests of the City and its residents.

1. The City will lease the Street to the Agency pursuant to a lease agreement, in a form reasonably acceptable to the City substantially as attached hereto as **Exhibit B**.

2. Upon closure of the Street by an ordinance of the City and submission of proof of financial wherewithal to develop the proposed project by the developer, the Mayor shall execute

the lease agreement on behalf of the City, with such minor changes as may be deemed necessary by the Mayor in consultation with legal counsel.

3. The approval of the lease agreement as granted by this resolution shall expire if the Street has not been closed by the City on or before December 1, 2020.

4. The approval of the lease agreement as granted by this resolution shall expire if the City has not received adequate proof of financial ability to develop the project on or before December 1, 2020.

5. City staff are authorized to take such actions as may be necessary to accomplish the purposes of this Resolution.

6. This Resolution will take effect immediately upon its adoption.

DATED this 1st day of September, 2020.

Mayor Russell L. Porter

Attest:

Leesa Kapetanov, City Recorder

EXHIBIT A
Map of Street

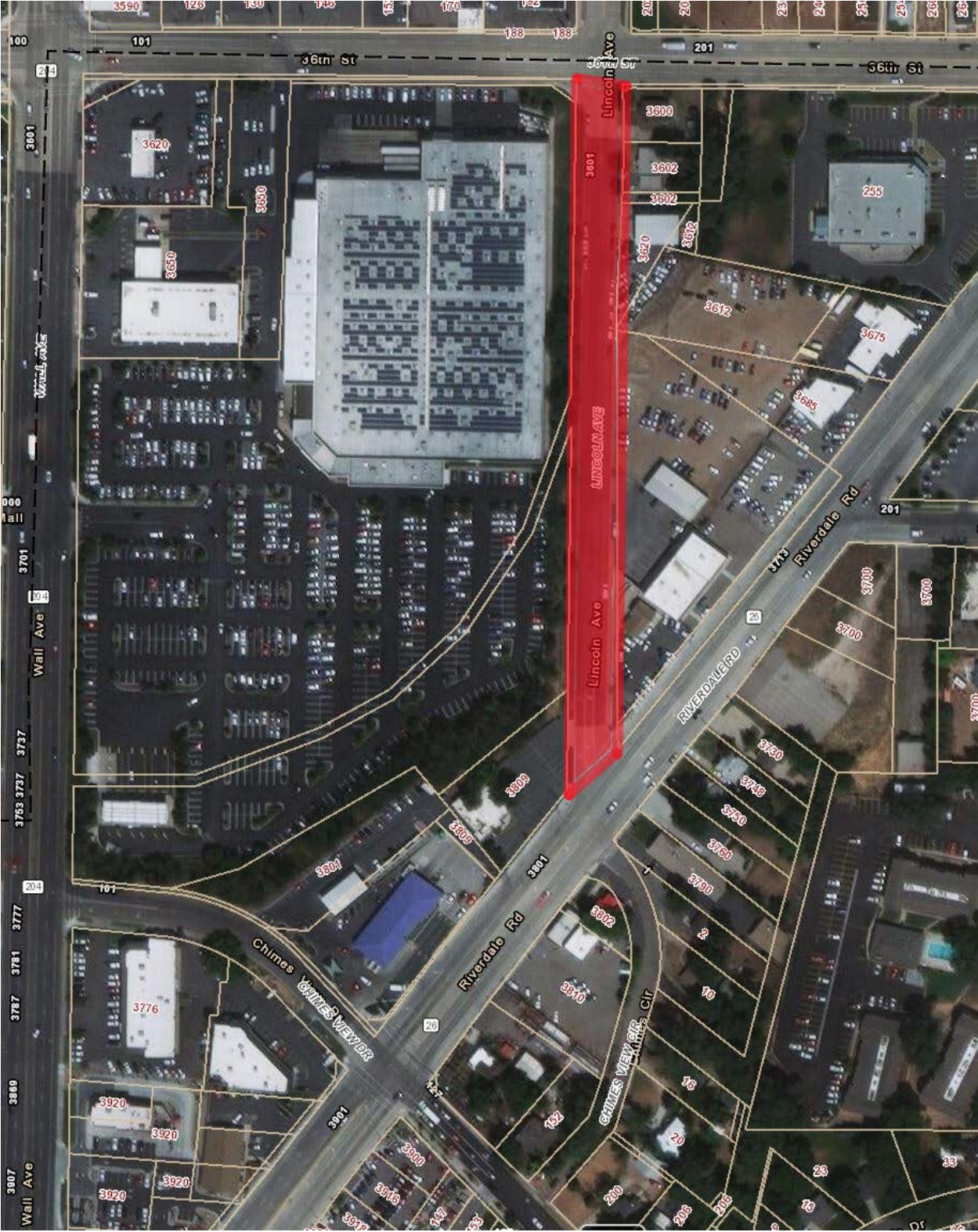


EXHIBIT B
Form of Lease Agreement

LEASE AGREEMENT

This Lease Agreement (the “**Lease**”) is made effective this ___ day of _____, 2020 (the “**Effective Date**”) by and between South Ogden City, a municipal corporation in the State of Utah, with a principal address of 3950 South Adams Ave., South Ogden, Utah 84403 (“**Lessor**”), and the South Ogden City Community Development and Renewal Agency, a political subdivision of the State of Utah, with a principal address of 3950 South Adams Ave., South Ogden, Utah 84403 (“**Lessee**”). Lessor and Lessee are sometimes referred to herein individually as a “**Party**” and together as the “**Parties**.”

RECITALS

WHEREAS, Lessor manages, and maintains Lincoln Avenue as a public street between 36th Street and Riverdale Road (“**Street**”), as depicted on the attached **Exhibit A**, which is located within South Ogden City; and

WHEREAS, pursuant to Utah Code §§ 72-5-105(3), (4), and (7), Lessor has indefinitely closed the Street and authorized the Street to be converted to one or more public uses, including public parking; and

WHEREAS, Lessor desires to lease to Lessee and Lessee desires to lease from Lessor the Street (“**Leased Land**”) to be converted into public parking.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants and conditions provided in this Lease, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Lease. Lessor hereby leases the Leased Land to Lessee for the “Lease Term,” as defined below. This Lease is made subject to any and all currently existing restrictions, easements, and rights-of-way of record or enforceable in equity.

2. Term. The term of this Lease shall commence on _____ (the “**Commencement Date**”) and, unless sooner terminated as hereinafter provided, shall end on the date which is ninety-nine (99) years after the Commencement Date (“**Lease Term**”). The Lease will automatically renew for successive renewal terms of five (5) years each unless either party provides written notice of cancellation no later than 60 days prior to the expiration of the Lease Term or a renewal term.

3. Scope. The Leased Land may only be used for public uses or purposes in accordance with applicable Utah law, including for public parking. If the Leased Land is not used for a public use or purpose, Lessor may terminate the Lease upon written notice to Lessee and following a reasonable cure period that in no event shall be less than the cure period afforded to a

sublessee of Lessee (a “**Sublessee**”). Lessor has no obligation, whatsoever, as to parking enforcement within or on the Leased Land.

4. Rent. Lessee will pay to Lessor lease payments equal to one hundred percent (100%) of any payments received by Lessee pursuant to a sublease agreement or similar arrangement.

5. Operation/Compliance with Law. Lessee shall not do or permit to be done on the Leased Land anything which is prohibited by or will in any way conflict with any law, statute, ordinance, or rule, regulation, order, or requirement now in force or which may hereafter be enacted, nor shall Lessee or its agents, contractors, employees, or invitees cause, maintain, or permit any nuisance in, on, or about the Leased Land or commit or suffer to be committed any waste in, on, or about the Leased Land.

6. Taxes and Assessments. To the extent that taxes and or assessments are specifically applicable to the Leased Land, Lessee agrees that it will at all times during the Lease Term pay, on or before their due date, all taxes and assessments which are levied or assessed against the Leased Land, and all equipment, fixtures or improvements located on or associated with the Premises to the extent of Lessee’s ownership interest in the same. Lessee shall not permit any tax or assessment to become delinquent or allow any notice of tax sale against the Leased Land to be filed, but may in good faith contest or dispute any taxes or assessments levied against the Leased Land.

7. Termination. If Lessor acquires fee simple title to the Leased Land, it reserves the right to terminate this Lease and convey the land either to Lessee or any party who subleases the Leased Land from Lessee. Otherwise, this Lease may not be terminated unless both parties agree in writing to terminate the Lease.

8. Utilities. Lessor owns and maintains underground utilities across the Leased Land. Lessee agrees that it will not interfere with Lessor’s utilities in any way and that Lessor, or its agents, may access, maintain, and repair the utilities at any time with reasonable advanced notice to Lessee, except in the case of an emergency. Lessee also agrees that Lessor may install additional utilities under the Leased Land as necessary, provided that Lessor provides Lessee with reasonable advanced notice and repairs any excavation work. Lessor shall not unreasonably disturb Lessee or any Sublessee or the use of the Leased Land by Lessee or any Sublessee in the exercise of the Lessor’s rights set forth in this Section 8, and Lessor shall promptly repair any damage to the caused by Lessor in the course of accessing, maintaining or repairing underground utilities located across the Leased Land.

9. Notices. Any notice required or permitted by this Lease shall be deemed to have been properly given when delivered in person, sent by email, or mailed by certified or registered U.S. mail, return receipt requested, postage prepaid, and addressed to the respective party at the address set forth below or at such other address as such party may hereafter designate by written notice to the other party as herein provided.

To South Ogden City Community Development and Renewal Agency:

South Ogden City Community Development and Renewal Agency
Attn: Mathew J. Dixon
3950 South Adams Ave.
South Ogden, UT 84403

To South Ogden City:

South Ogden City
Attn: Mathew J. Dixon, City Manager
3950 South Adams Ave.
South Ogden, UT 84403

10. Assignment and Subleasing. Lessee may assign or sub-lease its interest in this Lease voluntarily and without notice to Lessor, subject to the assignee or sublessee using the Street for public purposes, including public parking.

11. Authority. Each individual executing this Lease on behalf of Lessee or Lessor represents and warrants that he or she is authorized to sign on behalf of such Party.

12. Attorneys' Fees. In the event of any action or proceeding at law or in equity between Lessor and Lessee to enforce any provision of this Lease or to protect or establish any right or remedy of either Lessor or Lessee hereunder, each Party shall bear its own costs and expenses, including reasonable attorneys' fees, incurred in such action or proceeding and in any appeal in connection therewith.

13. Governing Law; Binding Effect. This Lease shall be governed by the laws of the State of Utah, and may be enforced solely in courts located in such state.

14. Waiver. No waiver of any default of Lessee hereunder shall be implied from any omission by Lessor to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated.

15. Severability. In the event a court of competent jurisdiction determines any provision of this Lease to be void or unenforceable, such provision shall be deemed reformed so as to be valid or enforceable to the maximum extent possible, and the remaining provisions shall remain in full force and effect.

16. Section Headings. The title or headings to the Sections of this Lease are not a part of this Lease and shall have no effect on the construction or interpretation of any part of this Lease.

17. Entire Agreement. This Lease contains the entire agreement between the Parties.

18. Construction. Each Party recognizes that this is a legally binding contract and acknowledges and agrees that it has had the opportunity to consult with legal counsel of its choice. Each Party has cooperated in the drafting, negotiation, and preparation of this Lease. Therefore, this Lease shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

19. Additional Documents. The Parties agree to execute and deliver such further and additional documents as may be necessary or appropriate to implement the intent of the Parties as set forth in this Lease.

20. Time of the Essence. Time is of the essence in the performance of all obligations under this Lease.

IN WITNESS WHEREOF, the Parties hereto have entered into this Lease as of the first date written above.

LESSOR:

SOUTH OGDEN CITY

By: _____
Russell L. Porter, Mayor

ATTEST:

Leesa Kapetanov, City Recorder

LESSEE:

**SOUTH OGDEN CITY COMMUNITY
DEVELOPMENT AND RENEWAL
AGENCY**

By: _____
Russell L. Porter, Chair

ATTEST:

Leesa Kapetanov, Secretary

EXHIBIT A

Description of the leased land

[INSERT]

DRAFT

August 18, 2020

Costco Wholesale Corporation
999 Lake Drive
Issaquah, Washington 98027

RE: Costco located at 3656 Wall Avenue, South Ogden, Utah 84405 ("**South Ogden Costco**")
Letter of Intent Regarding the South Ogden Costco and the MSPM Property

Dear Costco:

Seasons on Riverdale, LLC., a Utah Limited Liability Company, or an affiliated entity, or a designated entity owned or organized by it or its affiliate (the "**Developer**"), is the owner of real property¹ (the "**Developer Property**"), which Developer Property is located adjacent to and directly to the east of the South Ogden Costco ("**Costco Property**") owned by YFP Ogden LLC ("**Landlord**"), and ground leased by Costco Wholesale Corporation ("**Costco**"). Developer intends to construct a multi-family residential project on the Developer Property (the "**Developer Project**").

In connection with the development of the Developer Project, Developer intends to cause to be constructed a parking area on the northern portion of the Developer Project at the approximate location identified in the site plan attached hereto as Exhibit "A" [Needs to be updated.] (the "**North Parking Area**"). The parking stalls within the North Parking Area are identified as "Costco Parking" (the "**North Parking Stalls**"). It is currently anticipated that there will be approximately 70 separate North Parking Stalls within the North Parking Area.

Costco is in need of further parking to service the Costco Property, and desires to and is prepared to obtain such parking rights in the North Parking Area under the following terms and conditions:

1. PARKING RIGHTS: Costco desires to obtain the exclusive use of, and access to, the North Parking Stalls located within the North Parking Area, for use by Costco's employees.
2. PARKING AGREEMENT: The terms and conditions under which Costco shall have rights to the North Parking Stalls and North Parking Area shall be documented by a mutually executed Parking Agreement (the "**Parking Agreement**"). The Parking Agreement shall address (i) the terms applicable to Costco's parking rights set forth elsewhere herein; (ii) that Costco's rights to and

¹ Specifically, parcels have the Parcel Nos. 051370010, 051370002, 051220013, 051220013, 051220021, 051220020, 051220012, 051220018, and 051220011.

use of the North Parking Stalls and North Parking Area are exclusive; (iii) Costco's access rights and locations; (iv) Costco's indemnification of Developer from Costco-caused damaged or liabilities, it being understood and agreed that Costco shall be solely and separately liable for, and shall indemnify Developer from, any and all damages, costs, claims, or liabilities caused by or related to a Costco user of the North Parking Stalls or North Parking Area, and any accesses thereto; (v) Developer's obligation to maintain and repair the North Parking Area, subject to reimbursement from Costco as set forth herein; (vi) Developer's obligation to manage the North Parking Area in a manner that minimizes the use of the North Parking Stalls by apartment dwellers and visitors, while maximizing the availability of the North Parking Stalls for use by Costco employees; and (vii) other terms and conditions as may be negotiated by and among the parties.

3. TERM:

Costco parking rights as contemplated herein shall commence upon completion by Developer of the North Parking Area and a reasonable access thereto ("**Commencement Date**") and shall terminate five years from the Commencement Date; provided, however, that unless Costco is in default under the terms of the Parking Agreement, Costco shall have the right to extend the term of the Parking Agreement for five additional periods of five years each. Notwithstanding anything to the contrary herein, in the event the Commencement Date does not occur on or before the date that is eighteen (18) months after the mutual execution of the Parking Agreement, Costco shall have the right to terminate the Parking Agreement by written notice to Developer.

4. PARKING CHARGES:

During the term of the Parking Agreement, Costco shall be obligated to pay Developer in equal monthly installments a parking fee in an amount equal to \$555.00 per exclusive stall per annum ("**Base Parking Charges**"). For example if Costco is able to use 70 exclusive stalls, then the Base Parking Charges would be:

- Years 1-5: \$38,850 per annum
- Years 6-10 \$41,764 per annum
- Years 11-15: \$44,896 per annum
- Years 16-20: \$48,263 per annum

- Years 21-25: \$51,883 per annum
- Years 26-30: \$55,774 per annum

Further, during the term of the Parking Agreement, Costco shall be obligated to pay Developer in equal monthly installments a maintenance in an amount equal to \$133.00 per exclusive stall per annum ("**Maintenance Charges**"). For example if Costco is able to use 70 exclusive stalls, then the Maintenance Charges would be:

- Years 1-5: \$9,310 per annum
- Years 6-10: \$10,008 per annum
- Years 11-15: \$10,759 per annum
- Years 16-20: \$11,566 per annum
- Years 21-25: \$12,433 per annum
- Years 26-30: \$13,366 per annum

5. LINCOLN AVENUE:

Currently, there is a South Ogden city road named "Lincoln Avenue" separating the Costco Property and the Developer Property ("**Lincoln Ave.**"). In connection with the continued operation and parking needs of the Costco Property and the development of the Developer's Project, South Ogden City has indicated that it will lease to Developer the entirety of Lincoln Ave. that is between Riverdale Road and 36th Street ("**Leased Lincoln Ave.**"). In consideration for the parking rights granted to Costco hereunder, Costco acknowledges and agrees that in connection with the transactions contemplated herein, Costco will use commercially reasonable efforts to cause Landlord to consent to the contemplated lease transaction between South Ogden City with respect to Leased Lincoln Ave.; it being understood that Costco will not be required to pay Landlord any consideration as part of such efforts.

6. CONDITIONS OF APPROVAL:

As soon as possible, but in no event later than forty-five (45) days after mutual execution of this Letter of Intent, Costco and Developer shall negotiate the Parking Agreement, and place the same into escrow, with direction to the escrow agent that the Parking Agreement shall be held in escrow until Developer has successfully closed on the purchase of the Developer's Property. Nothing herein shall obligate Developer in any way with respect to the acquisition of the Developer's Property, and Developer shall

have no obligation with respect to Costco unless and until Developer has acquired title to the Developer's Property.

7. COSTS:

Each party will be responsible for and pay for the fees of its respective counsel, and any fees incurred by it with respect to the transactions contemplated herein.

8. DOCUMENTATION:

Within fourteen (14) business days of acceptance of this proposal by Costco, Developer shall cause to be prepared a Parking Agreement setting forth in detail the terms and conditions of the terms of this Agreement.

This letter of intent does not constitute a binding agreement, but rather is an outline of the general proposed business terms and conditions under which the Developer may be willing to grant parking rights to Costco as further contemplated herein, and which may or may not become part of final and definitive documentation. Any such transaction shall be subject to negotiation and execution of final and definitive documentation, which final and definitive documentation will include other terms, conditions, and elements not contemplated or set forth herein. This letter of intent is not based on any agreement between the parties and is not intended to impose any obligation whatsoever on either party.

To be clear, the provisions of this Letter of Intent do not constitute and shall not give rise to any legally binding obligation on the part of any party, and no party shall assert or claim anything to the contrary except by and through a legally binding contract which may be entered into in the future by and between the parties hereto. Accordingly, either party may unilaterally withdraw from negotiation or dealing at any time for any reason at the withdrawing party's sole discretion. The exchange of documents or draft agreements subsequent to the execution or upon the execution of this tentative non-binding Letter of Intent shall not be deemed to create any legal or binding obligation on either party. The parties do not intend to be bound by any agreement until both agree to and sign formal final and definitive documentation, and neither party may reasonably rely on any representations or inferences inconsistent with this paragraph.

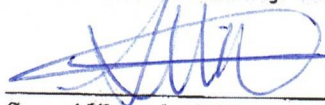
Each party shall be responsible for paying their respective fees, costs, and expenses incurred prior to the execution of formal final and definitive documentation, including but not limited to any attorneys' fees and costs incurred prior to the date the formal final and definitive documentation is signed by both parties. Neither party shall be entitled to seek reimbursement from the other party for such fees, costs, and expenses. This paragraph supersedes all other conflicting language.

[Signatures follow.]

If the terms and conditions set forth herein meet with your approval, please so indicate by signing where provided below and returning a copy of this letter to me no later than **Friday, August 21, 2020**, at 5:00 PM MST, after which time the proposal contained herein shall automatically expire and be null and void.

Very truly yours,

Seasons on Riverdale, LLC
A Utah Limited Liability Company

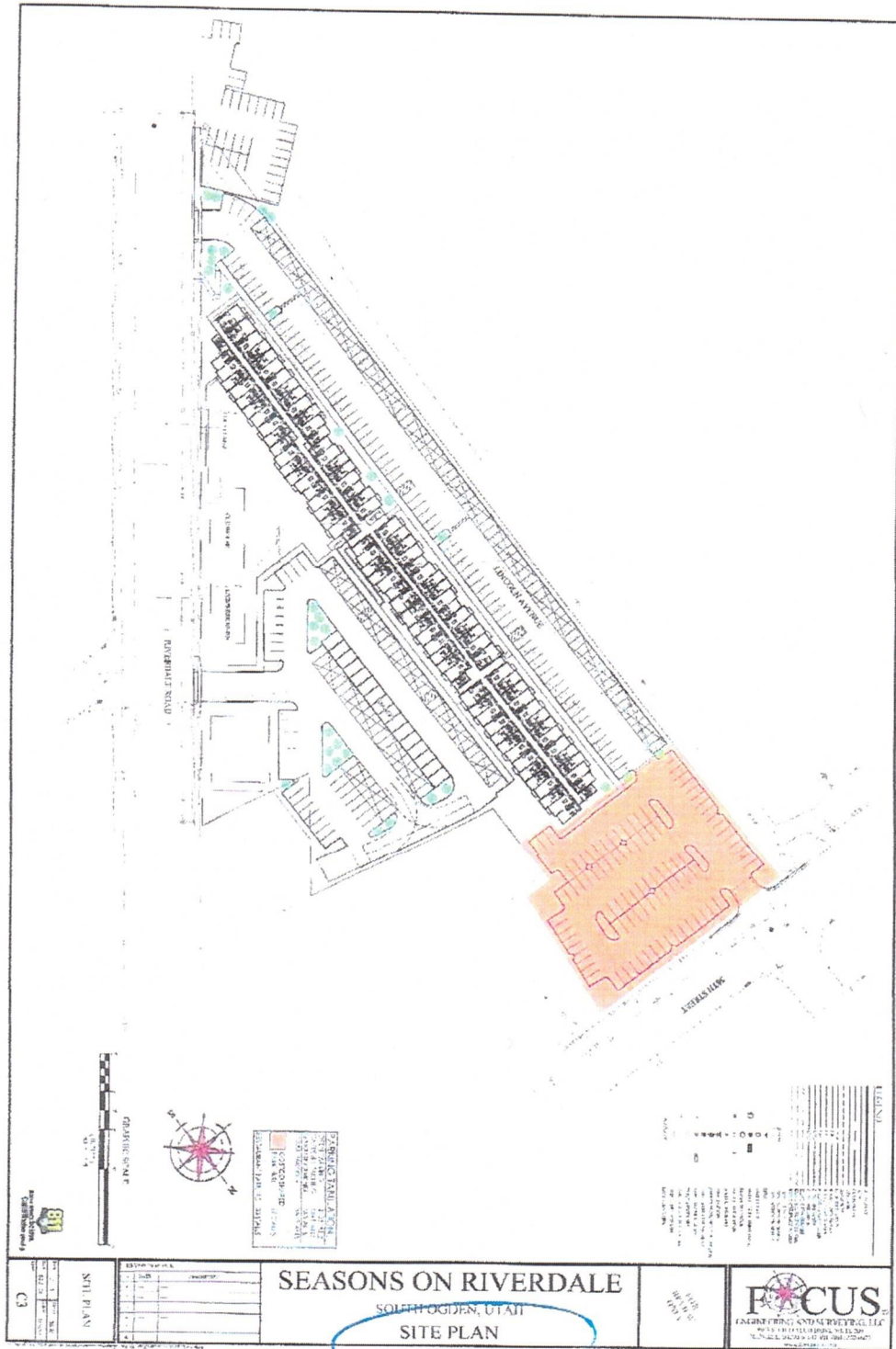

Sean Alibrando, Manager

Agreed and approved this 18th day of August, 2020, and I further certify and warrant that I am duly authorized on behalf of Costco to execute this letter of intent and to enter into an agreement for the parking rights as contemplated herein.

COSTCO WHOLESALE CORPORATION

By: 
Name: Bruce J. Carter
Title: AVM CORP COUNSEL

EXHIBIT A SITE PLAN



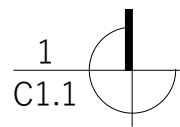
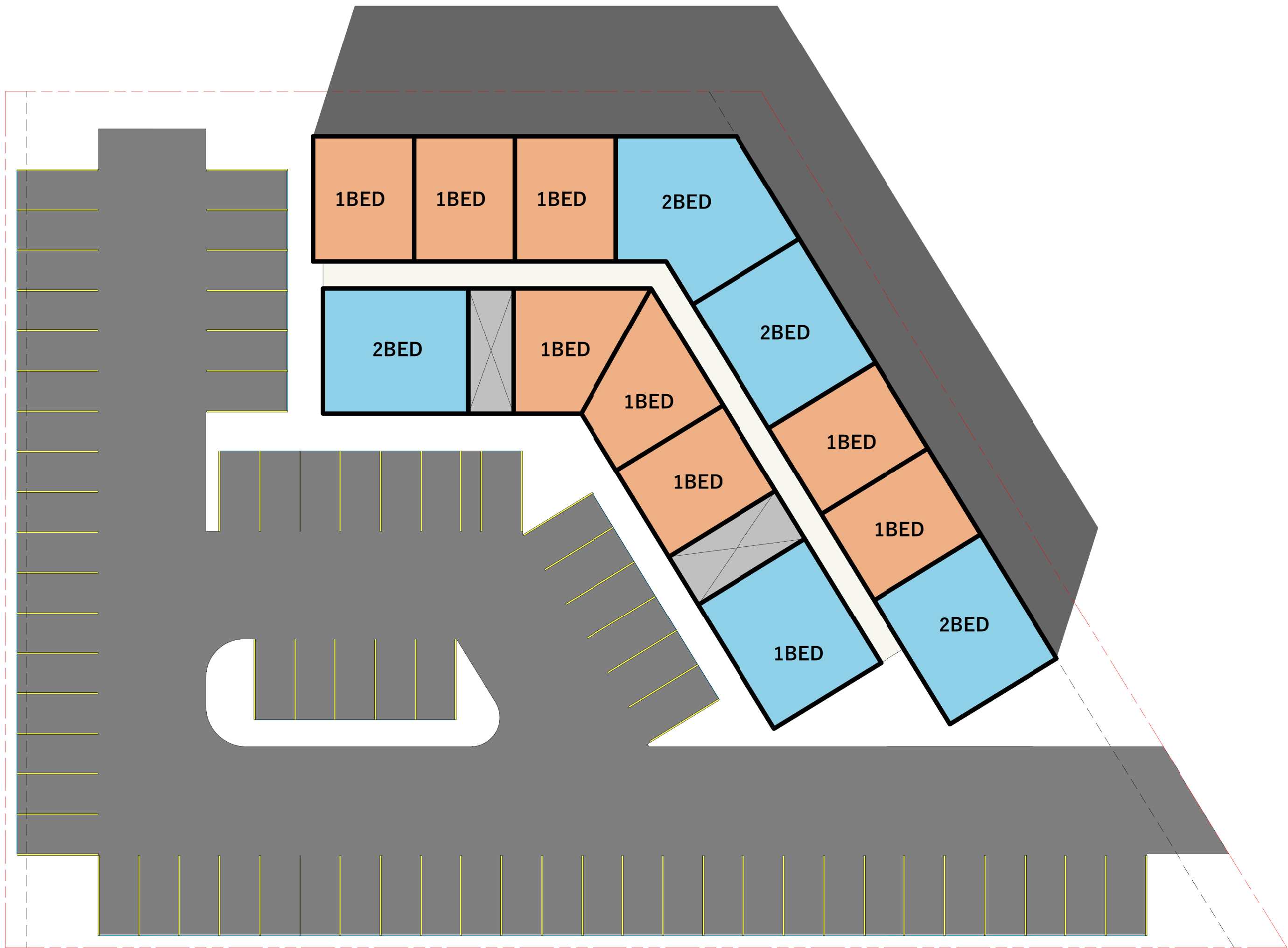
UPDATE

Wasatch Detention Basin

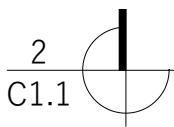
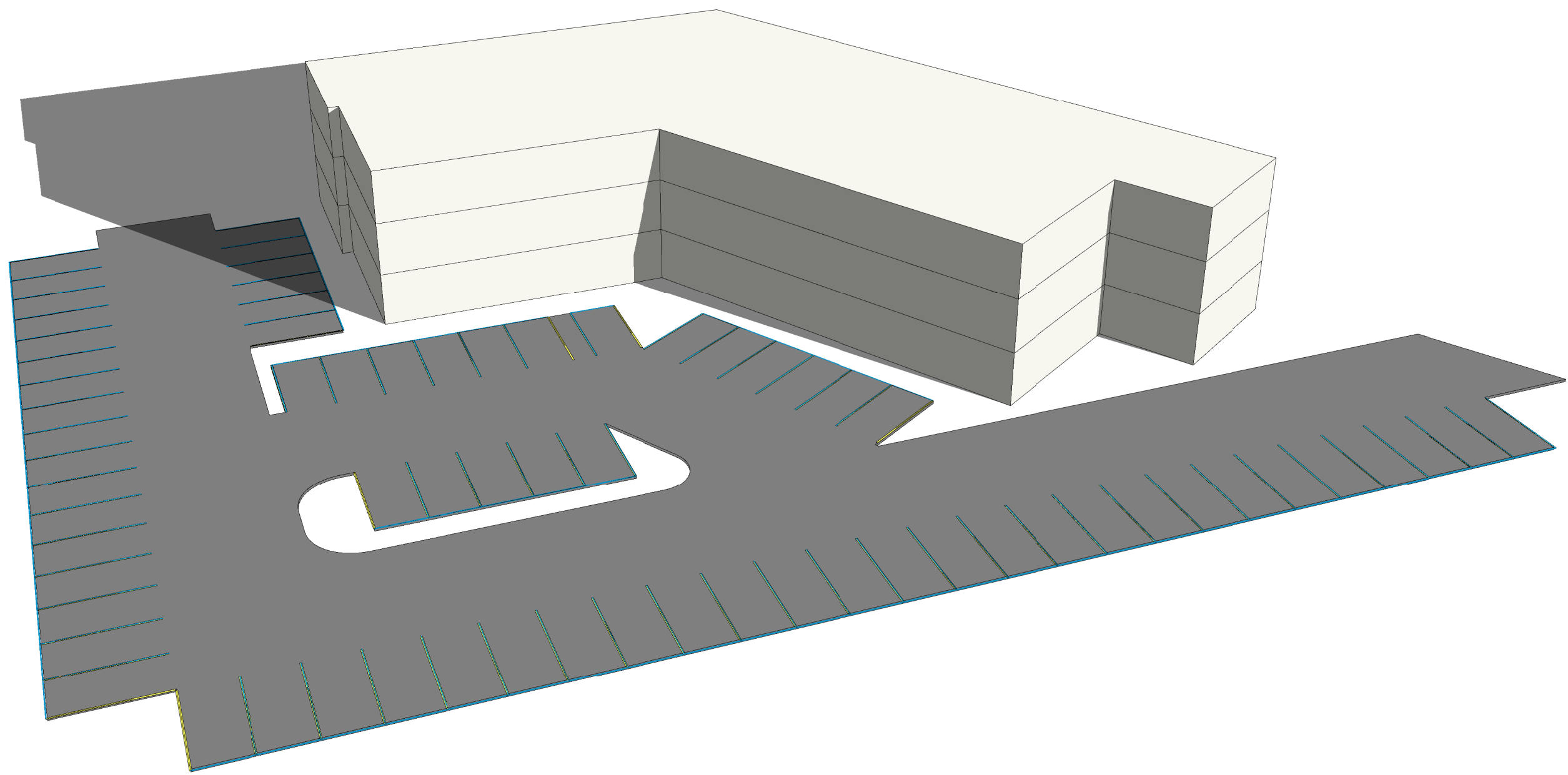
0.90 acres

Legend

-  Feature 1
-  Feature 2
-  Get Away Today Vacations
-  Harrison Blvd @
-  Jiffy Lube 2020
-  Sally Beauty Supply
-  Top of Utah Properties - Keller Williams Realtor



SITE PLAN
1" = 20'-0"



3D MASSING

GENERAL GATEWAY ZONING: GENERAL STOOP BUILDING

MINIMUM LOT AREA	NA
MINIMUM LOT WIDTH	NA
MAXIMUM BUILDING HEIGHT	3 STORIES
MINIMUM FRONT YARD	0'-10'
MINIMUM REAR YARD	5'
MINIMUM INTERIOR SIDE YARD	0'

PARKING REQUIREMENTS:

2 STALLS PER 2 BED
1.5 STALLS PER 1 BED

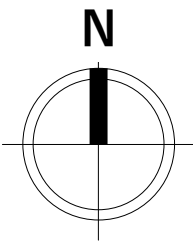
UNIT MIX:	1 BED	2 BED	TOTAL	UNIT AREAS:
FLOOR 1	8	5	13	1 BEDROOM - 653 SF
FLOOR 2	8	5	13	2 BEDROOM - 943 SF
FLOOR 3	8	5	13	
TOTALS:	24	15	39	39 UNITS - 54 BEDROOMS

PARKING REQUIRED:

(24) 1-BED @ 1.5 STALLS PER =	36 STALLS
(15) 2-BED @ 2 STALLS PER =	30 STALLS
TOTAL STALLS REQUIRED =	66 STALLS

LINETYPE LEGEND

---	PROPERTY LINE
- - -	SITE SETBACK/EASEMENT LINES
---	SITE FEATURES
---	ROOF FEATURES
---	MAJOR EXISTING TOPOGRAPHY
---	MINOR EXISTING TOPOGRAPHY
---	MAJOR PROPOSED TOPOGRAPHY
---	MINOR PROPOSED TOPOGRAPHY





NOTICE AND AGENDA

SOUTH OGDEN CITY COMMUNITY DEVELOPMENT AND RENEWAL AGENCY BOARD MEETING

TUESDAY, SEPTEMBER 1, 2020 – 6:00 P.M.

Notice is hereby given that the South Ogden City Community Development and Renewal Agency Board will hold a meeting on, Tuesday, September 1, 2020 beginning at 5:00 p.m. in the Council Chambers located at 3950 So. Adams Avenue, South Ogden, Utah. The meeting is open to the public; however, the city will abide by all COVID-19 restrictions in place at the time of the meeting, including social distancing and number of people allowed to gather at one time. Some members of the council may be attending the meeting electronically.

I. CALL TO ORDER – Chairman Russell Porter

II. CONSENT AGENDA

- A.** Approval of August 4, 2020 CDRA Minutes

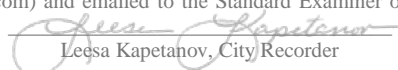
III. DISCUSSION/ACTION ITEMS

- A.** Consideration of **CDRA Resolution 20-12** – Approving an Agreement with South Ogden City for Lease of Lincoln Avenue
- B.** Consideration of **CDRA Resolution 20-13** – Approving a Sub-Lease Agreement with Seasons on Riverdale for Lease of Lincoln Avenue

IV. ADJOURN

Posted to the State of Utah Website August 28, 2020

The undersigned, duly appointed Board Secretary, does hereby certify that a copy of the above notice and agenda was posted at the Municipal Center (1st and 2nd floors), on the City's website (southogdencity.com) and emailed to the Standard Examiner on August 28, 2020. Copies were also delivered to each member of the governing body.


Leesa Kapetanov, City Recorder

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the meeting should notify the City Recorder at 801-622-2709 at least 48 hours in advance.



**MINUTES OF THE
SOUTH OGDEN CITY COMMUNITY DEVELOPMENT
AND RENEWAL AGENCY BOARD MEETING**

TUESDAY, AUGUST 4, 2020 – 5:00 P.M.

COUNCIL CHAMBERS, CITY HALL

BOARD MEMBERS PRESENT

Chairman Russell Porter, Board Members Sallee Orr, Brent Strate, Susan Stewart, Mike Howard, and Jeanette Smyth Note: Board Members Strate, Howard, and Smyth joined the meeting via the Zoom meeting app.

STAFF MEMBERS PRESENT

City Manager Matt Dixon, City Attorney Ken Bradshaw, Parks and Public Works Director Jon Andersen, Fire Chief Cameron West, Police Chief Darrin Parke, Information Services Manager Brian Minster, Special Events Coordinator Jaime Healy, and Recorder Leesa Kapetanov Note: City Attorney Ken Bradshaw, Chief Darrin Parke, and City Recorder Leesa Kapetanov joined the meeting via Zoom.

CITIZENS PRESENT

No one else was present for this meeting.

Note: The time stamps indicated in blue correspond to the audio recording of this meeting, which can be found by clicking this link

https://www.southogdencity.gov/document_center/Sound%20Files/2020/CC200804_1659.mp3
or by requesting a copy from the office of the South Ogden City Recorder.

Motion from council meeting to enter CDRA Board Meeting:

00:11:16

Council Member Orr moved to enter into a Community Development and Renewal Agency Board Meeting, followed by a second from Council Member Strate. All present voted aye.

I. CALL TO ORDER

Chair Porter called the meeting to order at 5:12 pm and moved to the consent agenda.

II. CONSENT AGENDA

A. Approval of June 16, 2020 CDRA Minutes

- The chair asked if there were any questions concerning the minutes. After determining there were no comments, he called for a motion to approve the consent agenda.

00:11:38

Board Member Howard so moved. Board Member Smyth seconded the motion. All present voted aye.

III. DISCUSSION/ACTION ITEMS

A. Consideration of CDRA Resolution 20-11 – Approving a Letter of Intent for Tax Increment Funding for Seasons on Riverdale

- Staff overview 00:12:16
- Discussion 00:23:51
- Motion 00:52:43

Board Member Howard moved to adopt CDRA Resolution 20-11. The motion was seconded by Board Member Strate. There was no further discussion. The mayor called the vote:

Board Member Strate-	Yes
Board Member Orr-	No
Board Member Howard-	Yes
Board Member Smyth-	Yes
Board Member Stewart-	Yes

The letter of intent was approved.

IV. ADJOURN

- Chair Porter called for a motion to adjourn

00:53:50

Board Member Howard moved to adjourn the CDRA Board meeting and reconvene as the South Ogden City Council, followed by a second from Board Member Smyth. All present voted aye.

The meeting adjourned at 5:54 pm.

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Community Development and Renewal Agency Board Meeting held Tuesday, August 4, 2020.


Leesa Kapetanov, City Recorder, Board Secretary

Date Approved by Board

CDRA Resolution No. 20-12

**A RESOLUTION OF THE SOUTH OGDEN CITY COMMUNITY DEVELOPMENT
AND RENEWAL AGENCY APPROVING A LEASE AGREEMENT WITH SOUTH
OGDEN CITY FOR THE PORTION OF LINCOLN AVENUE BETWEEN 36TH STREET
AND RIVERDALE ROAD**

WHEREAS, South Ogden City (“**City**”) anticipates authorizing the indefinite closure of Lincoln Avenue between 36th Street and Riverdale Road (“**Street**”) in the near future; and

WHEREAS, in closing the Street, the City intended and intends that the Street be converted to, and used for, a public purpose, including but not limited to public parking; and

WHEREAS, the Street is within the boundaries of the South Ogden City Center Community Reinvestment Project Area (the “**Project Area**”); and

WHEREAS, the Agency has the authority and the responsibility to engage in project area development activities within the Project Area pursuant to the Utah Limited Purpose Local Government Entities - Community Reinvestment Agency Act (the “**Act**”); and

WHEREAS, the Agency is authorized by the Act to enter into the Lease; and

WHEREAS, the Project proposes that the Street be converted to use for a public purpose, including but not limited to use as parking; and

WHEREAS, the City approved the lease agreement attached hereto as **Exhibit A** (“**Lease**”), which leases the Street to the Agency to be used for public parking; and

WHEREAS, the Agency has reviewed the Lease and desires to enter into the Lease to facilitate the development within the Project Area.

**THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH
OGDEN CITY COMMUNITY DEVELOPMENT AND RENEWAL AGENCY THAT:**

1. The execution of the Lease and the development of the Project Area are in the best interests of South Ogden City and its residents.
2. Contingent on the closure of the Street and approval of the Lease by the City, the Agency is hereby authorized to execute the Lease, with such minor changes as may be deemed necessary by the Chair in consultation with legal counsel.
3. The approval of the Lease as granted by this resolution shall expire if the Street has not been closed or the Lease has not been executed by the City before December 1, 2020.
4. The Agency is hereby authorized to take such steps as may be necessary to carry out the obligations of the Agency under the Lease.

5. This resolution is effective upon its adoption.

APPROVED AND ADOPTED this 1st day of September, 2020.

Russell L. Porter, Chair
*South Ogden City Community Development
and Renewal Agency*

Attest:

Leesa Kapetanov, Secretary

EXHIBIT A

Lease Agreement

LEASE AGREEMENT

This Lease Agreement (the “**Lease**”) is made effective this ___ day of _____, 2020 (the “**Effective Date**”) by and between South Ogden City, a municipal corporation in the State of Utah, with a principal address of 3950 South Adams Ave., South Ogden, Utah 84403 (“**Lessor**”), and the South Ogden City Community Development and Renewal Agency, a political subdivision of the State of Utah, with a principal address of 3950 South Adams Ave., South Ogden, Utah 84403 (“**Lessee**”). Lessor and Lessee are sometimes referred to herein individually as a “**Party**” and together as the “**Parties**.”

RECITALS

WHEREAS, Lessor manages, and maintains Lincoln Avenue as a public street between 36th Street and Riverdale Road (“**Street**”), as depicted on the attached **Exhibit A**, which is located within South Ogden City; and

WHEREAS, pursuant to Utah Code §§ 72-5-105(3), (4), and (7), Lessor has indefinitely closed the Street and authorized the Street to be converted to one or more public uses, including public parking; and

WHEREAS, Lessor desires to lease to Lessee and Lessee desires to lease from Lessor the Street (“**Leased Land**”) to be converted into public parking.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants and conditions provided in this Lease, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Lease. Lessor hereby leases the Leased Land to Lessee for the “Lease Term,” as defined below. This Lease is made subject to any and all currently existing restrictions, easements, and rights-of-way of record or enforceable in equity.

2. Term. The term of this Lease shall commence on _____ (the “**Commencement Date**”) and, unless sooner terminated as hereinafter provided, shall end on the date which is ninety-nine (99) years after the Commencement Date (“**Lease Term**”). The Lease will automatically renew for successive renewal terms of five (5) years each unless either party provides written notice of cancellation no later than 60 days prior to the expiration of the Lease Term or a renewal term.

3. Scope. The Leased Land may only be used for public uses or purposes in accordance with applicable Utah law, including for public parking. If the Leased Land is not used for a public use or purpose, Lessor may terminate the Lease upon written notice to Lessee and following a reasonable cure period that in no event shall be less than the cure period afforded to a

sublessee of Lessee (a “**Sublessee**”). Lessor has no obligation, whatsoever, as to parking enforcement within or on the Leased Land.

4. Rent. Lessee will pay to Lessor lease payments equal to one hundred percent (100%) of any payments received by Lessee pursuant to a sublease agreement or similar arrangement.

5. Operation/Compliance with Law. Lessee shall not do or permit to be done on the Leased Land anything which is prohibited by or will in any way conflict with any law, statute, ordinance, or rule, regulation, order, or requirement now in force or which may hereafter be enacted, nor shall Lessee or its agents, contractors, employees, or invitees cause, maintain, or permit any nuisance in, on, or about the Leased Land or commit or suffer to be committed any waste in, on, or about the Leased Land.

6. Taxes and Assessments. To the extent that taxes and or assessments are specifically applicable to the Leased Land, Lessee agrees that it will at all times during the Lease Term pay, on or before their due date, all taxes and assessments which are levied or assessed against the Leased Land, and all equipment, fixtures or improvements located on or associated with the Premises to the extent of Lessee’s ownership interest in the same. Lessee shall not permit any tax or assessment to become delinquent or allow any notice of tax sale against the Leased Land to be filed, but may in good faith contest or dispute any taxes or assessments levied against the Leased Land.

7. Termination. If Lessor acquires fee simple title to the Leased Land, it reserves the right to terminate this Lease and convey the land either to Lessee or any party who subleases the Leased Land from Lessee. Otherwise, this Lease may not be terminated unless both parties agree in writing to terminate the Lease.

8. Utilities. Lessor owns and maintains underground utilities across the Leased Land. Lessee agrees that it will not interfere with Lessor’s utilities in any way and that Lessor, or its agents, may access, maintain, and repair the utilities at any time with reasonable advanced notice to Lessee, except in the case of an emergency. Lessee also agrees that Lessor may install additional utilities under the Leased Land as necessary, provided that Lessor provides Lessee with reasonable advanced notice and repairs any excavation work. Lessor shall not unreasonably disturb Lessee or any Sublessee or the use of the Leased Land by Lessee or any Sublessee in the exercise of the Lessor’s rights set forth in this Section 8, and Lessor shall promptly repair any damage to the caused by Lessor in the course of accessing, maintaining or repairing underground utilities located across the Leased Land.

9. Notices. Any notice required or permitted by this Lease shall be deemed to have been properly given when delivered in person, sent by email, or mailed by certified or registered U.S. mail, return receipt requested, postage prepaid, and addressed to the respective party at the address set forth below or at such other address as such party may hereafter designate by written notice to the other party as herein provided.

To South Ogden City Community Development and Renewal Agency:

South Ogden City Community Development and Renewal Agency
Attn: Mathew J. Dixon
3950 South Adams Ave.
South Ogden, UT 84403

To South Ogden City:

South Ogden City
Attn: Mathew J. Dixon, City Manager
3950 South Adams Ave.
South Ogden, UT 84403

10. Assignment and Subleasing. Lessee may assign or sub-lease its interest in this Lease voluntarily and without notice to Lessor, subject to the assignee or sublessee using the Street for public purposes, including public parking.

11. Authority. Each individual executing this Lease on behalf of Lessee or Lessor represents and warrants that he or she is authorized to sign on behalf of such Party.

12. Attorneys' Fees. In the event of any action or proceeding at law or in equity between Lessor and Lessee to enforce any provision of this Lease or to protect or establish any right or remedy of either Lessor or Lessee hereunder, each Party shall bear its own costs and expenses, including reasonable attorneys' fees, incurred in such action or proceeding and in any appeal in connection therewith.

13. Governing Law; Binding Effect. This Lease shall be governed by the laws of the State of Utah, and may be enforced solely in courts located in such state.

14. Waiver. No waiver of any default of Lessee hereunder shall be implied from any omission by Lessor to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated.

15. Severability. In the event a court of competent jurisdiction determines any provision of this Lease to be void or unenforceable, such provision shall be deemed reformed so as to be valid or enforceable to the maximum extent possible, and the remaining provisions shall remain in full force and effect.

16. Section Headings. The title or headings to the Sections of this Lease are not a part of this Lease and shall have no effect on the construction or interpretation of any part of this Lease.

17. Entire Agreement. This Lease contains the entire agreement between the Parties.

18. Construction. Each Party recognizes that this is a legally binding contract and acknowledges and agrees that it has had the opportunity to consult with legal counsel of its choice. Each Party has cooperated in the drafting, negotiation, and preparation of this Lease. Therefore, this Lease shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

19. Additional Documents. The Parties agree to execute and deliver such further and additional documents as may be necessary or appropriate to implement the intent of the Parties as set forth in this Lease.

20. Time of the Essence. Time is of the essence in the performance of all obligations under this Lease.

IN WITNESS WHEREOF, the Parties hereto have entered into this Lease as of the first date written above.

LESSOR:

SOUTH OGDEN CITY

By: _____
Russell L. Porter, Mayor

ATTEST:

Leesa Kapetanov, City Recorder

LESSEE:

**SOUTH OGDEN CITY COMMUNITY
DEVELOPMENT AND RENEWAL
AGENCY**

By: _____
Russell L. Porter, Chair

ATTEST:

Leesa Kapetanov, Secretary

EXHIBIT A

Description of the leased land

[INSERT]

DRAFT

CDRA Resolution No. 20-13

**A RESOLUTION OF THE SOUTH OGDEN CITY COMMUNITY DEVELOPMENT
AND RENEWAL AGENCY APPROVING A SUBLEASE AGREEMENT FOR A
PORTION OF LINCOLN AVENUE**

WHEREAS, South Ogden City (“**City**”) and the South Ogden City Community Development and Renewal Agency (“**Agency**”) approved a Lease Agreement on August 18, 2020 whereby the Agency will lease from the City the portion of Lincoln Avenue between 36th Street and Riverdale Road (“**Street**”); and

WHEREAS, pursuant to the Lease Agreement with the City, the Street must be used for a public purpose; and

WHEREAS, multi-family residential housing is proposed to be developed on the east side of the Street (the “**Project**”); and

WHEREAS, as part of the Project, the Street is proposed to be used, in part, for parking that will benefit the public; and

WHEREAS, the Agency desires to sublease the Street to the developer of the Project to allow the Street to be used for such purposes; and

WHEREAS, the Agency has reviewed the Sublease Agreement that is attached hereto as **Exhibit A**, and desires to approve the Sublease Agreement.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH OGDEN CITY COMMUNITY DEVELOPMENT AND RENEWAL AGENCY THAT:

1. The execution of the Sublease Agreement and the development of the Project are in the best interests of South Ogden City and its residents.
2. Upon the indefinite closure of the portion of Lincoln Avenue between 36th Street and Riverdale Road and the execution of the lease for the Street from the City, the Agency is hereby authorized to execute the Sublease Agreement, which is attached hereto as **Exhibit A** and incorporated herein by reference.
3. Prior to execution of the Sublease Agreement, the Chair, in consultation with legal counsel, is authorized to make such changes to the Sublease Agreement as deemed necessary.
4. If the lease for the Street from the City has not been executed prior to December 1, 2020, the approval of the Sublease Agreement granted by this resolution shall be null and void.
5. The approval of the Sublease Agreement as granted by this resolution shall expire if the Agency has not received adequate proof of financial ability to develop the project on or before December 1, 2020.

6. The Agency is hereby authorized to take such steps as may be necessary to carry out the obligations of the Agency under this resolution and the Sublease Agreement.

7. This resolution is effective as of the date of its adoption.

APPROVED AND ADOPTED this 1st day of September, 2020.

Russell L. Porter, Chair
*South Ogden City Community Development
and Renewal Agency*

Attest:

Leesa Kapetanov, Secretary

EXHIBIT A

Sublease Agreement

SUBLEASE AGREEMENT

This Sublease Agreement (the “**Sublease**”) is made effective this __ day of _____, 2020 (the “**Effective Date**”) by and between the South Ogden City Community Development and Renewal Agency, a political subdivision of the State of Utah, with a principal address of 3950 South Adams Ave., South Ogden, Utah 84403 (“**Agency**” or “**Sublessor**”), Seasons on Riverdale, LLC, a Utah limited liability company, with a principal address of 1463 Thomas Drive, Kaysville, Utah 84037 (“**Sublessee**”). Sublessor and Sublessee are sometimes referred to herein individually as a “**Party**” and together as the “**Parties**.”

RECITALS

WHEREAS, on _____, South Ogden City and the Agency entered into a Lease Agreement, attached as **Exhibit A**, whereby the Agency leased a portion of Lincoln Avenue between 36th Street and Riverdale Road (“**Leased Land**”); and

WHEREAS, the Leased Land under the Lease Agreement is legally described on **Exhibit B**, and comprises approximately _____ acres; and

WHEREAS, Sublessor desires to lease to Sublessee and Sublessee desires to lease from Sublessor the Leased Land to be used for public purposes as described herein.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants and conditions provided in this Sublease, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions.

a. “**Applicable Environmental Law**” means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sections 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901, et seq., the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251 et seq., the Clean Air Act, 42 U.S.C. Sections 7401, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Sections 5101 et seq., the Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq., the Safe Drinking Water Act, 42 U.S.C. Sections 300f through 300j-26, and the Utah Solid and Hazardous Waste Management Act, Sections 19-6-101 et seq., Utah Code Annotated, as such acts have been or are hereafter amended from time to time; any so called superfund or super lien law; and any other federal, state and local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of

conduct concerning any hazardous, toxic or dangerous waste, substance or material as now or any time hereafter in effect.

b. **“Claims”** means any and all obligations, debts, costs, and liabilities and any and all demands, causes of action, and claims, of every type, kind, nature or character, direct or indirect, known or unknown, absolute or contingent, determined or speculative, at law, in equity or otherwise, including reasonable attorneys’ fees and litigation and court costs. Without limiting the generality of the foregoing, Claims also includes third party claims for personal injury or real or personal property damage, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities, interest or losses (including, without limitation, diminution in value of the Subleased Property, damages, and sums paid in settlement of claims, reasonable attorney’s fees, consultant fees, expert fees and any reasonable fees and expenses incurred in enforcing an indemnity obligation.

c. **“Commencement Date”** means the date this Sublease is signed by all Parties.

d. **“Governmental Authorities”** means the State of Utah, Weber County, South Ogden City, and any other political subdivision, court, or agency having jurisdiction over the Leased Land, whether federal, state, or local.

e. **“Hazardous Substance”** means any hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental authority, the State of Utah, or the United States Government, including, without limitation, (a) any substance, chemical or waste that is or shall be listed or defined as hazardous, toxic or dangerous under Applicable Environmental Law; (b) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any federal, state or local governmental authority pursuant to any environmental, health and safety or similar law, code, ordinance, rule, regulation, order or decree and which may or could pose a hazard to the health and safety of occupants or users of the Leased Land or any part thereof or any adjoining property or cause damage to the environment; (c) PCBs; (d) leaded paint; (e) coal fly ash; and (f) asbestos and asbestos containing materials.

f. **“Leased Land”** means the land described in Exhibit A, which consists of the ground only; all buildings, improvements, alterations, and fixtures installed or constructed in the future located thereon are owned in fee simple by Sublessor.

g. **“Permitted Use”** means the development, construction, maintenance, repair, replacement, and removal of a parking lot and related infrastructure to be used solely in connection with providing public parking. For the avoidance of doubt, no portion of the Leased Land may be used for any commercial purposes other than a parking lot.

h. **“Person”** means any natural person, any unincorporated association, any corporation, any partnership, any joint venture, any limited liability company, any trust, any other legal entity, and any governmental authority.

i. **“Sublease”** means this Sublease, as the same may be amended, supplemented, and renewed from time to time according to the provisions of the Sublease.

j. **“Sublessee Improvements”** means only the parking areas that Sublessee will construct on the Leased Land and any and all necessary accessories for the parking areas. Sublessee Improvements do not include temporary or portable structures or other fixtures and items of personal property that are not intended as permanent improvements to the Leased Land.

k. **“Sublessor Indemnities”** means Sublessor and its employees, agents, elected and appointed officials, successors and assigns and South Ogden City and its employees, agents, elected and appointed officials, successors, and assigns.

2. **Lease.** Subject to the terms and conditions of the Lease Agreement, Sublessor leases the Leased Land to Sublessee for the lease term as set forth in Section 3 below. This Sublease allows Sublessee to use the Leased Land only for Permitted Uses. This Lease is made subject to any and all currently existing restrictions, easements, and rights-of-way of record or enforceable in equity.

3. **Term.** The term of this Sublease shall commence on the Commencement Date and, unless sooner terminated as hereinafter provided, shall end on the date that is ninety-nine (99) years after the Commencement Date (as may be extended, the **“Sublease Term”**). The Sublease will automatically renew for successive renewal terms of five (5) years each unless either party provides written notice of cancellation no later than sixty (60) days prior to the expiration of the Lease Term or the renewal term.

4. **Use of Leased Land.** The Leased Land shall be used in accordance with the site plan and the various conditions and restrictions as set forth in **Exhibit C**. Use of the Leased Land as contemplated by this Sublease shall commence in accordance with the deadline set forth in Exhibit C. Failure to commence or continue such use shall be a Default subject to the provisions of Section 28 of this Sublease.

5. **Obligations on Sublease Expiration or Termination.** Upon the expiration or termination of this Sublease, Sublessee shall, within a reasonable amount of time not to exceed ninety (90) days, return the Leased Land to roughly the same condition of the city street that existed prior to this Sublease, including installing asphalt, curbing, gutters, and park strips; preparing the parks strips for grass; and planting grass or laying sod in the parks strips. Once the Leased Land is restored to the required condition, Sublessee shall promptly surrender peaceable possession of the Leased Land, including any improvements then located thereon, to Sublessor. From and after the date of such surrender, Sublessor or its subsequent sublessee shall assume, and release

Sublessee from, all obligations for continued operation, maintenance, and repair of any improvements on the Leased Lands, including without limitation all obligations to comply with any and all associated contracts, applicable laws, regulations, permits, licenses, and entitlements.

6. Holding Over. If Sublessee should remain in possession of the Leased Land after cancellation of this Sublease, then such holding over shall be construed as a tenancy from month-to-month, subject to all the covenants, terms, provisions, and obligations of this Sublease. Sublessee shall indemnify the Sublessor Indemnitees for, from, and against any Claims resulting from delay by Sublessee in so surrendering the Subleased Premises, including without limitation, any claims made by any succeeding sublessee based on such delay. For the avoidance of doubt, Sublessee's performance of the work described in Section 5 above shall not be construed as Sublessee remaining in possession of the Leased Land.

7. Rent. Sublessee will pay to Sublessor annual rent of ten dollars (\$10.00). Sublessee must make the initial rent payment within ten (10) days after the Commencement Date. Rent for future years shall be paid on or before the anniversary of the Commencement Date.

8. Operation/Compliance with Law. Lessee shall not do or permit to be done on the Leased Land anything which is prohibited by or will in any way conflict with any law, statute, ordinance, or rule, regulation, order, or requirement now in force or which may hereafter be enacted, nor shall Lessee or its agents, contractors, employees, or invitees cause, maintain, or permit any nuisance in, on, or about the Leased Land or commit or suffer to be committed any waste in, on, or about the Leased Land.

9. Taxes and Assessments. To the extent that taxes and or assessments are specifically applicable to the Leased Land, Lessee agrees that it will at all times during the Sublease Term pay, on or before their due date, all taxes and assessments which are levied or assessed against the Leased Land, and all equipment, fixtures or improvements located on or associated with the Premises to the extent of Lessee's ownership interest in the same. Lessee shall not permit any tax or assessment to become delinquent or allow any notice of tax sale against the Leased Land to be filed, but may in good faith contest or dispute any taxes or assessments levied against the Leased Land.

10. Maintenance. During the Sublease Term, Sublessee shall be solely responsible for maintenance, upkeep, and repair of the Leased Land, except as set forth in Section 25 hereof.

11. Insurance. During the Sublease Term, Lessee shall procure, provide, and pay for insurance on the Leased Land of the following types and in the following amounts:

12. Environmental Compliance.

a. Fill Materials and Waste. Sublessee shall not allow any deposit of ballast, refuse, garbage, waste matter, chemical, biological, or other wastes or pollutants within or upon the Leased Land, except as approved in writing by the Sublessor. If the Sublessee fails to remove all non-approved fill material, wastes, or materials described above from the Leased Land, Sublessor may at its option remove such materials and charge the Sublessee for the cost of removal and disposal.

b. Intermediate Reclamation. Upon completion of construction of Sublessee Improvements on the Leased Land, Sublessee shall use reasonable efforts to reclaim disturbed areas not required for continuing operations by leveling, reseeding, and other reasonably necessary steps to prevent soil erosion, promote the establishment of suitable vegetation, and control noxious weeds and pests.

c. Restrictions on Hazardous Substances; Remedial Work. Sublessee shall not cause or permit any Hazardous Substances to be brought, kept, or used in or about the Leased Land by Sublessee, its officers, directors, owners, agents, employees, contractors, or subcontractors except in commercial quantities not in violation of Applicable Environmental Law and similar to those quantities usually kept in similar premises by others similarly situated. Sublessee, its officers, directors, owners, agents, employees, contractors, and subcontractors shall use and dispose of such materials in compliance with all applicable federal, state, and local laws, including, without limitation, Applicable Environmental Law. If the presence of any Hazardous Substance on, in, or under the Leased Land caused by Sublessee, its officers, directors, owners, agents, employees, contractors, or subcontractors results in any contamination of the Leased Land, Sublessee shall promptly take all actions, at its sole expense, as are reasonably necessary to return the affected area to the condition existing prior to the introduction of any such Hazardous Substance, including, without limitation, any investigation or monitoring of site conditions or any clean up, remediation, response, removal, encapsulation, containment, or restoration work required by Applicable Environmental Law because of the presence of any such Hazardous Substance on, in or under the Leased Land or any release or suspected release or threat of release of any such Hazardous Substance in the air, soil, surface water or ground water (collectively, the “**Remedial Work**”). Sublessee shall obtain all necessary licenses, manifests, permits and approvals to perform the Remedial Work. Sublessee shall promptly perform all Remedial Work and the disposal of all waste generated by the Remedial Work in accordance with all Applicable Environmental Law.

d. Indemnification. Sublessee shall indemnify, save harmless, and defend the Sublessor for, from, and against any and all Claims incurred by, sought from, or asserted directly or indirectly against any Indemnitee during or after the term of this Sublease resulting from the presence of any Hazardous Substance on, in, or under the Leased Land or any release, during the Sublease Term, of any Hazardous Substance into the air, soil,

surface water, or ground water, to the extent such Hazardous Substance was brought, kept, or used in or about the Leased Land by Sublessee or its sub-sublessee, its officers, directors, owners, employees, agents, contractors or subcontractors.

13. Design and Construction. All Sublessee Improvements must be designed, constructed, and maintained at the sole cost and expense of Sublessee by duly licensed and reputable contractors, in a first-class workmanlike manner, and in full compliance with the requirements of any and all laws, ordinances, permits, licenses, and regulations applicable thereto, including without limitation zoning and building code requirements of all Governmental Authorities at the time said Sublessee Improvements are constructed. All such Sublessee Improvements must be designed, constructed to, and operated in accordance with the then applicable industry standards for like projects. Sublessee must obtain and maintain, at no cost to Sublessor, any and all bonds, letters of credit or other assurances of completion reasonably required by any Governmental Authorities in connection with the construction of any Sublessee Improvements and must provide copies of such items to Sublessor upon written request from Sublessor.

14. Ownership and Removal of Sublessee Improvements. All Sublessee Improvements, and all alterations and additions thereto constructed by or on behalf of Sublessee, are and will remain the exclusive property of Sublessee during this Sublease Term. Unless otherwise directed in writing by Sublessor, prior to the expiration or termination of this Sublease, all such Sublessee Improvements (excluding roads, utilities, and necessarily permanent improvements) will be removed from the Leased Land at Sublessee's expense and Sublessee will restore the Leased Land to the condition as of the Commencement Date, to the extent commercially practicable and reasonable. Unless otherwise directed in writing by Sublessor, Sublessee will also remove, upon expiration or termination of this Sublease, any and all temporary or portable structures or other fixtures and items of personal property then located on the Leased Land.

15. Development at Sublessee's Expense. Sublessee will bear all expenses in connection with the design, pre-development, improvement, alteration and repair of the Leased Land and all Sublessee Improvements thereon and shall indemnify, defend, and hold the Sublessor Indemnitees and Leased Lands harmless for, from, and against any and all Claims associated therewith or arising therefrom.

16. No Management Responsibilities. Sublessor will have no management responsibilities with respect to the activities or operations of Sublessee under this Sublease.

17. Nuisances. Sublessee agrees not to conduct or permit to be conducted any public or private nuisance on or from the Leased Lands. Sublessee agrees not to permit or commit any waste of the Leased Land.

18. Indemnity.

a. General Indemnity. Sublessee covenants and agrees to indemnify and save Sublessor and the Sublessor Indemnitees entirely harmless for, from, and against each and every Claim arising out of any accident or other occurrence causing injury to or death of persons or damage to property by reason of construction or maintenance of any Sublessee Improvements, of any additions, alterations, or renovations thereto, or due to the condition of the Leased Land or any Sublessee Improvements thereon, or the use or neglect thereof by Sublessee or any agent, employee, invitee, contractor, or customer of Sublessee, or any other person, or otherwise occurring upon the Leased Land or any improvements thereon.

b. Provisions Relating to All Indemnities. Each provision of this Sublease imposing an indemnification obligation on either Party is in addition to all other indemnification provisions and shall not be construed in a manner that modifies or limits any other indemnification provision in this Sublease. All indemnification provisions in this Sublease survive the expiration or earlier termination of this Sublease as to claims arising or accruing prior to the expiration or earlier termination of this Sublease. The indemnification provided by Sublessee in this Section 17 and elsewhere in this Sublease must not be construed or interpreted as in any way restricting, limiting, or modifying Sublessees' insurance or other obligations under this Sublease, and such indemnification provisions are independent of such insurance and other obligations. Compliance with the insurance requirements and other obligations under this Sublease does not in any way restrict, limit, or modify Sublessees' indemnification obligations under this Sublease.

19. Damage or Destruction. If any Sublessee Improvements are damaged or destroyed during this Sublease, Sublessee will either repair such Sublessee Improvements to the extent necessary to make them safe and secure or remove such Sublessee Improvements from the Leased Land after consultation with Sublessor.

20. Assignment and Subleasing.

a. Generally. Sublessee shall not directly or indirectly, voluntarily or by operation of law, sell, assign, encumber, pledge, or otherwise transfer or hypothecate all or any part of the Leased Land or Sublessee's leasehold interest hereunder (collectively an "**Assignment**"), or permit the Leased Land to be occupied by anyone other than Sublessee and its Affiliates or sublet the Leased Land or any portion thereof (collectively "**Sublease**"), without Sublessor's prior written consent.

b. No Release; Assignment or Sublease Void. No consent by Sublessor to any Assignment or Sublease by Sublessee will relieve Sublessee of any obligation to be performed by Sublessee under this Sublease, whether arising before or after the Assignment of Sublease. The consent by Sublessor to any Assignment or Sublease will not relieve Sublessee of the obligation to obtain Sublessor's express written consent to any Assignment or Sublease. Any Assignment or Sublease that is not in compliance with this Section is absolutely null and void, and, at the option of Sublessor, entitles Sublessor to immediately terminate the Sublease.

21. No Encumbrances. Except as otherwise provided herein, Sublessee shall not cause or permit any lien, claim, charge, mortgage, or encumbrance of any nature or description whatsoever to attach to or encumber the Leased Land or Sublessee's leasehold interest in the Leased land or any part of either thereof.

22. No Acceptance of Surrender. Any acceptance by Sublessor of surrender of the Subleased Premises by Sublessee shall only arise from, and must be evidenced by, written acknowledgment of acceptance of surrender signed by Sublessor. No other act or conduct of Sublessor will be deemed to be or constitute an acceptance by Sublessor of the surrender of the Leased Land prior to the expiration of the Term or any renewal term.

23. Representations.

a. Ownership Status of Leased Land. Sublessor leases the Leased Land from the City of South Ogden pursuant to the Lease Agreement attached as Exhibit A. The Leased Land is a public street. The City of South Ogden does not own fee simple title to the Leased Land. Instead, pursuant to Utah Code §§ 72-5-105(3), (4), and (7), the City of South Ogden has indefinitely closed the portion of the public road that is the Leased Land.

b. Public Use. Pursuant to Utah law, neither Sublessor nor the City of South Ogden have the power to use the Leased Land or lease the Leased Land for any use other than a public use. Accordingly, Sublessee will only use the Leased Land for uses that qualify as a public use under Utah law.

c. Acknowledgement of Ownership. Sublessee acknowledges that Sublessor and the City of South Ogden, who leased the Leased Land to Sublessor, do not own fee title to the Leased Land. As a result, Sublessee acknowledges that the Sublease is limited by the extent of the City of South Ogden's interest in the Leased Land.

d. HUD Approval. HUD has approved all provisions of this Sublease and is satisfied that this Sublease satisfies federal law, federal regulations, and HUD's policies.

24. Notice of Legal Action. If any person or entity objects to or initiates legal action to challenging or seeking to prevent or invalidate this Sublease, the Lease, the indefinite closure of Lincoln Avenue, or the use of the Leased Land as contemplated in this Sublease, Sublessor shall notify Sublessee of the objection or legal action in writing within five (5) days of receiving notice of such action. Sublessee has the right to defend against any and all objections or legal claims, or both. Sublessee agrees that Sublessor has no obligation whatsoever to defend against any or all objections or legal claims, or both; provided, however, that Sublessor, at its sole and absolute discretion, may defend against such claims if, but only if, Sublessee agrees in writing to pay for attorney fees and costs of such defense and advances funds reasonably sufficient to cover such fees and costs in advance of the commencement of any defense by Sublessor.

25. Utilities. The City of South Ogden owns and maintains underground utilities across and within the Leased Land. Sublessee agrees that it will not interfere with the City's utilities in any way and that the City of South Ogden, or its agents, may access, maintain, and repair the utilities at any time with reasonable advanced notice to Sublessee, except in the case of an emergency. Sublessee also agrees that the City of South Ogden may install additional underground utilities on the Leased Land as necessary.

26. Parking Enforcement. Sublessee is solely responsible for parking enforcement for the parking lot that will be constructed on the Leased Land. Neither Sublessor nor the City of South Ogden will have any responsibility for parking enforcement.

27. Gates Prohibited. Sublessee shall not install or erect gates or otherwise prevent the public from accessing the parking lot on the Leased Land and travelling across the Leased Land from Riverdale Road to 36th Street or vice versa.

28. Default; Cure Rights; Termination. Sublessor may terminate this Sublease prior to the expiration day of the full term of this Sublease after a Sublessee default under this Sublease ("**Sublease Event of Default**"), but only under the following circumstances and procedures.

a. Notice of Default. If any Sublease Event of Default occurs, then and in any such event, Sublessor shall at any time thereafter during the continuance of such Sublease Event of Default and prior to any cure, give written notice of such default(s) ("**Notice of Default**") to Sublessee, specifying the Sublease Event of Default and the methods of cure, or declaring that a Sublease Event of Default is incurable. If the Sublease Event of Default is a failure to pay money, Sublessor must specify and itemize the amounts of such default. Failure to pay money must be specified as a separate default and not combined with a non-monetary Sublease Event of Default.

b. Sublessee's Cure Period. Within 60 days from the date of giving Notice of Default to Sublessee, Sublessee must cure a monetary default by paying Sublessee all amounts specified in the Notice of Default and must cure any specified Sublease Event of Default that is capable of being cured within such period.

c. Termination based on Conveyance. While neither Sublessor nor the City of South Ogden currently own the Leased Land, there is a possibility that the City of South Ogden may acquire fee title to the Leased Land in the future. If the City of South Ogden acquires fee title to the Leased Land and conveys fee title to the Leased Land to Sublessee, this Sublease will automatically terminate.

d. Result of Adverse Legal Determination. This Sublease shall automatically terminate in the event of a judgment or other determination by an adjudicative body negating or prohibiting the indefinite closure of Lincoln Avenue or the use of the Leased Land as contemplated in this Sublease.

e. Result of Non-Defense. This Sublease shall automatically terminate in the event of any legal action as contemplated by Section 24 for which Sublessee does not agree to pay for the costs of any defense against such action or for which Sublessee does not advance funds to cover the expected costs thereof as contemplated in Section 24.

f. No Other Termination. Except as otherwise provided in this Section 28, Sublessor has no right to terminate this Sublease.

29. Ownership Restrictions. Notwithstanding any other provisions of this Sublease, neither HUD nor any other person or entity may obtain any ownership or leasehold interest in this Sublease or in the Leased Land without also owning the multifamily residential development adjacent to the Leased Land and which benefits from the parking areas on the Leased Land.

30. No Merger. There may be no merger of this Sublease or the leasehold estate created by this Sublease with the fee estate of the Leased Land or of the Sublessee Improvements or any interest therein by reason of the fact that the same person or entity may acquire or hold, directly or indirectly, this Sublease or the leasehold estate hereby created or any interest therein and the fee estate of the Leased Land or of the Sublessee Improvements.

31. Estoppel Certificate. Upon a reasonable request from Sublessee, Sublessor agrees to promptly provide from time to time an estoppel certificate to confirm that the Sublease is in full force and effect, there are no defaults or pending defaults under the Sublease or conditions that would give rise to defaults given the passage of time, and that the legal description of the Leased Land is correct.

32. Notices. Notices must be in writing and be given by (a) personal delivery, (b) electronic mail, (c) deposit in the United States mail, certified mail, return receipt requested (which receipt must be preserved as evidence of delivery), postage prepaid, or (d) overnight express delivery service, addressed or transmitted to Sublessor and Sublessee at the following addresses, or to such other addresses as either party may designate to the other in a writing delivered in accordance with the provisions of this Section:

To South Ogden City Community Development and Renewal Agency:

South Ogden City Community Development and Renewal Agency
Attn: Matt Dixon
3950 South Adams Ave.
South Ogden, UT 84403

To Seasons on Riverdale, LLC:

Seasons on Riverdale, LLC
c/o Christopher Sean Alibrando
1463 Thomas Drive
Kaysville, UT 84037

33. Authority. Each individual executing this Sublease on behalf of Sublessor and Sublessee represent and warrants that he or she is authorized to sign on behalf of such Party. Sublessee further represents that such entity (a) is duly incorporated or organized and validly existing under the laws of the state of organization, (b) is qualified to do business in the State of Utah, (c) has full corporate right and authority to enter into this Sublease and to perform all of its obligations hereunder, (d) has duly authorized the individual(s) signing on its behalf to execute and deliver this Sublease on behalf of said entity, and (e) is bound by this Sublease in accordance with its terms.

34. Attorney Fees. In the event of any action or proceeding at law or in equity between Sublessor and Sublessee to enforce any provision of this Sublease or to protect or establish any right or remedy of either Sublessor or Sublessee hereunder, the prevailing Party is entitled to its reasonable costs, including reasonable attorney fees, incurred in such action or proceeding and in any appeal in connection therewith.

35. Governing Law; Binding Effect. Subject to any provision hereof restricting assignment or subletting by Sublessee, this Sublease shall bind the Parties and their respective successors and assigns. This Sublease shall be governed by the laws of the State of Utah, and may be enforced solely in courts located in such state.

36. Waiver. No waiver of any default of Sublessee hereunder shall be implied from any omission by Sublessor to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated.

37. Severability. In the event a court of competent jurisdiction determines any provision of this Sublease to be void or unenforceable, such provision shall be deemed reformed so as to be valid or enforceable to the maximum extent possible, and the remaining provisions shall remain in full force and effect.

38. Section Headings. The title or headings to the Sections of this Sublease are not a part of this Sublease and shall have no effect on the construction or interpretation of any part of this Sublease.

39. Entire Agreement. This Sublease contains the entire agreement between the Parties.

40. Construction. Each Party recognizes that this is a legally binding contract and acknowledges and agrees that it has had the opportunity to consult with legal counsel of its choice. Each Party has cooperated in the drafting, negotiation, and preparation of this Sublease. Therefore, this Sublease shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

41. Additional Documents. The Parties agree to execute and deliver such further and additional documents as may be necessary or appropriate to implement the intent of the Parties as set forth in this Sublease.

42. Resolution of Disputes. The Parties agree to resolve any disputes arising under this Sublease through formal mediation prior to filing a lawsuit.

43. Claim of Joint Venture, Partnership or Agency. This Sublease shall not be interpreted or construed to create an association, joint venture or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or act as or be an agent of or representative of, or to otherwise bind the other Party.

44. Amendment. This Sublease may only be amended if both Parties agree to the amendment in writing.

45. Certification. Each signatory below hereby certifies that each of their statements and representations contained in this Sublease and all their supporting documentation thereto are true, accurate, and complete.

46. Time of the Essence. Time is of the essence in the performance of all obligations under this Sublease.

IN WITNESS WHEREOF, the Parties hereto have entered into this Sublease as of the first date written above.

SUBLESSOR:

SUBLESSEE:

**SOUTH OGDEN CITY COMMUNITY
DEVELOPMENT AND RENEWAL
AGENCY**

SEASONS ON RIVERDALE, LLC

By: _____
Russell L. Porter, Chair

By: _____
[INSERT], [INSERT TITLE]

ATTEST:

ATTEST:

Title: Leesa Kapetanov, Secretary

Title: _____

EXHIBIT A

Lease agreement

EXHIBIT B

Description of the leased land

EXHIBIT C

Site plan and use restrictions

Commencement Deadlines:

1. Sublessee shall submit proof of financial ability to complete the proposed multifamily residential development on or before _____. Such proof shall be in a form reasonably acceptable to Sublessor; proof of approved construction financing in an amount sufficient to cover the expected costs of the project shall be considered adequate proof.
2. The project (consisting of at least _____ residential units) shall be completed and operational no later than _____. For purposes of this paragraph, “operational” shall mean that a majority of the planned residential units are leased or available to be leased and that all material amenities proposed for the project have been installed.

Use Requirements:

1. As shown on the Site Plan below in red, at least _____ parking spaces must be available as parking for Costco employees. In the event that Sublessee is unable to come to an acceptable agreement with Costco (or the Costco lessor) to reserve these parking spaces for Costco employees, these parking spaces shall be available for use by the general public.
2. As shown on the site plan below in blue, all other areas of the Leased Land shall be used for parking (including related uses such as curb, gutter, and landscaping).
3. Except for carports or similar non-enclosed facilities to provide covered parking, no structures shall be constructed on any portion of the Leased Land.

Site Plan:

