MIDVALE CITY COUNCIL MEETING
AGENDA
March 27, 2018

PUBLIC NOTICE IS HEREBY GIVEN that the Midvale City Council will hold a regular meeting on the 27th day of March 2018 at Midvale City Hall, 7505 South Holden Street, Midvale, Utah as follows:

6:30 PM
INFORMATIONAL ITEMS

I. DEPARTMENT REPORTS

II. CITY MANAGER BUSINESS

7:00 PM
REGULAR MEETING

III. GENERAL BUSINESS
A. WELCOME AND PLEDGE OF ALLEGIANCE
B. ROLL CALL
C. Proclamation Declaring April as National Child Abuse Prevention Month

IV. PUBLIC COMMENTS
Any person wishing to comment on any item not otherwise on the Agenda may address the City Council at this point by stepping to the microphone and giving his or her name for the record. Comments should be limited to not more than three (3) minutes, unless additional time is authorized by the Governing Body. Citizen groups will be asked to appoint a spokesperson. This is the time and place for any person who wishes to comment on non-hearing, non-Agenda items. Items brought forward to the attention of the City Council will be turned over to staff to provide a response outside of the City Council meeting.

V. COUNCIL REPORTS
A. Councilmember Dustin Gettel
B. Councilmember Paul Glover
C. Councilmember Quinn Sperry
D. Councilmember Bryant Brown
E. Councilmember Paul Hunt

VI. MAYOR REPORT
A. Mayor Robert Hale

VII. CONSENT AGENDA
A. Consider Minutes of March 6 & 13, 2018 [Rori Andreason, HR Director/City Recorder]

VIII. ACTION ITEMS
A. Approve Revel Park Final Subdivision Plat (formerly Olson Amended Subdivision) for an 8-lot subdivision located at 7054-7088 South 300 East [Alex Murphy, Associate Planner]
B. **Approve Resolution No. 2018-R-12 authorizing the Mayor to enter into the TIGER Stakeholder Agreement with UTA [Lisa Garner, City Attorney]**

IX. **ADJOURN**

In accordance with the Americans with Disabilities Act, Midvale City will make reasonable accommodations for participation in the meeting. Request assistance by contacting the City Recorder at 801-567-7207, providing at least three working day notice of the meeting. TTY 711

A copy of the foregoing agenda was provided to the news media by email and/or fax. The agenda was also posted at the following locations on the date and time as posted above: City Hall Lobby, on the City’s website at www.midvalecity.org and the State Public Notice Website at http://pmn.utah.gov. Council Members may participate in the meeting via electronic communications. Council Members’ participation via electronic communication will be broadcast and amplified so other Council Members and all other persons present in the Council Chambers will be able to hear or see the communication.

**PLEASE MAKE SURE ALL CELL PHONES ARE TURNED OFF DURING THE MEETING**

DATE POSTED: MARCH 23, 2018

RORI L. ANDREASON, MMC
H.R. DIRECTOR/CITY RECORDER
Mayor Hale called the meeting to order at 6:33 p.m.

I. INFORMATIONAL ITEMS
A. DEPARTMENT REPORTS

Chief Randy Thomas recognized Officer Fenton for his great police work. He reported on the call volume for the last month as well as a shooting that just took place on a domestic violence case.

Chief Brad Larson said one of his inspectors was seriously injured just before the meeting, so he asked to be excused after his report. He reported on the past months call volume. He reported the Utah Naloxone, a non-profit organization, has provided naloxone kits to all UFA stations. They are available to pick up from the public as needed. The kits reverse the effects of an overdose. They are going through the budgeting process and planning for the upcoming fiscal year. The budget will be very transparent. On April 3, the chief will present the proposed budget to the finance committee, and on the 19th to adopt the finalized budget proposal. The fireworks legislation, House Bill 38, passed. It shortens the days to discharge fireworks from 14 to 8 days. The penalties are stiffer and have strict liability.

Councilmember Dustin Gettel asked what the process was to obtain a naloxone kit. Chief Larson said he would find out and report back.

Laurie Harvey said she is attending a bond trip in San Francisco tomorrow with a few other staff members. She thanked Phillip Hill for his service to Midvale City and said she enjoyed working with him for the last 18 years and will miss him.
Phillip Hill said the Planner I position has been filled with Jana Ward who was an intern with Cottonwood Heights City. Today the Site Coordinator started who will oversee the development on the Jordan Bluffs. Her name is Jordan Vaughn and is extremely qualified. The development site plan has been forwarded to EPA. He discussed the process from this point. Staff has been working with Kevin Murray, Adjunct professor at U of U, helping him with his Master of Real Estate Course that they will be finishing up with a mock planning commission meeting at city hall. He thanked the Council and staff and said it would be hard to leave, but he is excited as well.

Councilmember Paul Hunt thanked Phil for his vast knowledge and for everything he has done for the City.

Mayor Hale also expressed his appreciation as did Councilmember Glover, Sperry and Gettel.

Kane Loader said Phillip has done a fabulous job here at Midvale City. He is irreplaceable. He really cares and will do a great job. He thanked Phil for his service to Midvale City.

Matt Dahl said next week the details of the main street small area plan and project will be discussed. They had very good attendance at the open house and over 400 people filled out the survey. He said he was very disappointed to see Phil leave but wished him the best.

Councilmember Bryant Brown said the snow plows are turning before the circle ends on Coolidge which creates a snow row that people are having to plow through. Larry Wright said he would look into it.

Rori Andreason wished Laurie Harvey a Happy Birthday tomorrow and expressed her appreciation to Phillip Hill for all he has done for the City.

Lisa Garner said Fawn Hullinger was hired as the Procurement/Contract Analyst and started at the City last week.

II. CITY MANAGER'S REPORT
Kane Loader said he was staying home from the bond trip to make sure he was available for the end of the state legislative session on Thursday. He discussed the potential bills that could impact the City. He said apparently there won’t be a Cinco de Mayo celebration this year in the City. The committee said it’s just become too much for them to put it on. They are talking about holding bingo Friday night but that is it.

III. GENERAL BUSINESS
A. Welcome and Pledge of Allegiance

B. Roll Call – Council Members Quinn Sperry, Paul Glover, Paul Hunt, Bryant Brown and Dustin Gettel were present at roll call.

C. Salt Lake County Animal Control Annual Report/Presentation
Carrie Sibert discussed the Annual Animal Control report in detail with the Council. They responded to 1600 calls in Midvale over the last year and presented valuable information.
Kane Loader said he and Laurie Harvey attended their last advisory meeting. At that time, they had taken in over 200 animals including reptiles and exotic animals. He said the City could not have handled this type of situation on our own. Their service is the best.

IV. PUBLIC COMMENTS
Sophia Hawes-Tingey, Vice-Chair Community Council, said she is a firm believer in no-kill shelters. She said she too will miss Phillip Hill. She commended UFA for their response to the recent fire in Midvale City.

Malia Joy said she is asking for a signal that can be seen.

Mayor Hale asked if the location was at 995 East Fort Union Boulevard heading East making a right turn into the shopping center?

Ms. Joy said yes. She received a citation there and felt the “no turn on red” sign was not visible enough.

Councilmember Quinn Sperry said there are several signs in that location already.

Ms. Joy said yes but it’s not working. It’s not creating the visibility needed.

V. COUNCIL REPORTS
A. Councilmember Dustin Gettel – said there are some things he would like to see in the next fiscal year. He asked about the process for the budget retreat.

Kane Loader said the budget retreat is normally for the departments to make requests for items they need and then ask the Council what their priorities are based on what they have seen.

Councilmember Dustin Gettel said he would like to see the funding for live streaming for Council meetings. He also thought paid parental leave may assist with attracting better candidates for employment.

B. Councilmember Paul Glover – said a gentleman came into his business and said he would be moving out of Midvale because of the homeless. He doesn’t feel safe letting his kids walk home anymore because of the needles on the ground, etc.

C. Councilmember Quinn Sperry – had nothing to report.

D. Councilmember Bryant Brown – said the townhomes on Center Street need to be reminded to keep snow off the sidewalks. There are a lot of intersections in his neighborhood (Grant and Roosevelt) that do not have handicap ramps. He felt these should be looked in to, possibly at the budget retreat.

Kane Loader said any kind of overlay or rebuild requires the replacement of those ramps. He said he would have the City Engineer look at that.

E. Councilmember Paul Hunt – discussed an app for the phone that will tell you what the air quality is. It is a great benefit for those with asthma, etc.
VI. MAYOR REPORT

Mayor Robert M. Hale – said on April 19th the Canyon School District Education Foundation will have a fundraiser. They want to increase their donations to the school district through this Gala. They have several different layers of sponsorship. Maybe it can be discussed at the budget retreat. He asked the Council to let him, Kane or Laurie know if they are aware of anyone that is an auditor and would be willing to serve on the Audit Committee. He also asked each Council member to find a couple or person from their district who would like to be involved in the Harvest Days Committee.

MOTION: Councilmember Paul Glover MOVED to open the public hearing. Councilmember Quinn Sperry SECONDED the motion. Mayor Hale called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

VII. PUBLIC HEARING(S)

A. CONSIDER A TEXT AMENDMENT TO CLARIFY IMPLEMENTATION OF SINGLE FAMILY SETBACK AND RESIDENTIAL BUFFER STANDARDS IN TRANSIT ORIENTED DEVELOPMENT (TOD) AND TRANSIT ORIENTED DEVELOPMENT OVERLAY (TODO) ZONES

Lesley Burns said in 2017, the City adopted a land use ordinance which made some changes to the Transit Oriented Development (TOD) Zone and created the Transit Oriented Development Overlay (TODO) Zone. As the City has begun reviewing projects under these land use regulations, a question has arisen regarding the required “single family setback”. The “single family setback” is one of the development standards for TOD and TODO projects that provides distance and buffering between TOD/TODO buildings and single family residential zones. The standard requires a greater distance between the two as building height increases. The current language is as follows:

Single Family Setback. The minimum setback from the property line, when adjacent to a single family residential zone, is fifteen feet, subject to the following exceptions.

a. Three-story structures must be set back thirty-seven feet; four-story structures must be set back sixty-six feet; five-story structures must be set back eighty-three feet; six-story structures must be set back one hundred feet; and seven-story structures must be set back one hundred sixteen feet.

There is some ambiguity in what was intended by “adjacent to a single family residential zone”. Does this setback requirement apply when a TOD/TODO project abuts a roadway, canal or rail line that borders a single family residential zone, or only when a TOD/TODO project directly abuts a single family residential zone parcel? See attached examples. There are also some potential conflicting development standards regarding the “build-to line” and the “residential buffer” when applying the single family residential setback standard to projects that abut a roadway bordering a single family residential zone. Without some amending language, it could be interpreted a seven-foot wall adjacent to the roadway needs to be constructed. This would defeat some of the architectural and safety standards required for the building.

This proposed text amendment is intended to merely clarify the current language, so the original intent of the single-family setback requirement is correctly applied to TOD/TODO projects. The
The Planning Commission conducted a public hearing on the proposed text amendment on February 14, 2018 and considered clarifying language that defines “adjacent to a single family residential zone” as a TOD/TODO property sharing a property boundary with a property in a single family residential zone or sharing a property boundary with a roadway, canal or rail line that borders a single family residential zone. This language also clarified the “build-to line” and “residential buffer” standards so these standards would not conflict with other development standards in the zone. After reviewing the proposed clarifying language and the related locations, the Planning Commission forwarded a recommendation to the City Council to approve this language with a change that would allow the single-family setback to be reduced by the width of the adjacent roadway, canal or rail line to not penalize properties adjacent to a roadway, canal or rail line but still maintain the distance from the single family residential zones required by the setback.

The Planning Commission’s recommendation is included in Option 1 of the proposed ordinance and allows the single-family setback to be reduced by the width of the adjacent roadway, canal or rail line. The original clarifying language is included in Option 2 of the proposed ordinance.

Councilmember Paul Glover said the Council spent many months on this language and option 1 would take them back to where they were before it was changed.

The Council discussed the available options.

Mayor Hale opened the hearing to public comment. There was no one present who desired to speak on this issue.

MOTION: Councilmember Paul Glover MOVED to close the public hearing. Councilmember Dustin Gettel SECONDED the motion. Mayor Hale called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

ACTION: CONSIDER ORDINANCE 2018-O-03 ADOPTING A TEXT AMENDMENT TO CLARIFY IMPLEMENTATION OF SINGLE FAMILY SETBACK AND RESIDENTIAL BUFFER STANDARDS IN TRANSIT ORIENTED DEVELOPMENT (TOD) AND TRANSIT ORIENTED DEVELOPMENT OVERLAY (TODO) ZONES

MOTION: Councilmember Paul Glover MOVED to adopt Ordinance No. 2018-O-03 with Option 2 attachment, clarifying the implementation of the single-family setback and residential buffer standards in the Transit Oriented Development (TOD) and Transit Development Overlay (TODO) Zones. The motion was SECONDED by Councilmember Bryant Brown. Mayor Hale called for discussion on the motion. There being none, he called for a roll call vote. The voting was as follows:
VIII. CONSENT AGENDA
A. CONSIDER MINUTES OF FEBRUARY 20, 2018

MOTION: Councilmember Paul Glover MOVED to approve the consent agenda. The motion was SECONDED by Councilmember Quinn Sperry. Mayor Hale called for discussion on the motion. There being none, he called for a roll call vote. The voting was as follows:

Council member Quinn Sperry  Aye
Council member Paul Glover  Aye
Council member Paul Hunt  Aye
Councilmember Bryant Brown  Aye
Council member Dustin Gettel  Aye

The motion passed unanimously.

IX. DISCUSSION ITEMS
A. LAND-USE TRAINING
Lisa Garner introduced Craig Call, shareholder with Anderson Call & Wilkinson.

Craig Call said he has always been a fan of the City’s downtown. He was very impressed with the new development in the City. He discussed legislative and administrative decisions. He said the Council is required to follow the laws and you took an oath to do so. It’s a legislative’s body’s prerogative to determine public policy, a judicial body’s job to interoperate the policy, and administrative body’s job to enforce policy. Establishing zoning classifications reflects a legislative policy decision with which courts will not interfere except in the most extreme cases. He has found no Utah case nor a case from any other jurisdiction in which a zoning classification that was reversed on grounds of being arbitrary capricious. In a legislative context, when someone needs a zone change, to change the general plan, amend the ordinance, or to annex those kinds of decisions, then it is a matter of policy and the council’s decision will be upheld unless it is illegal. The council is required to follow the law. You run a risk of legal consequences when you don’t follow your own rules and ordinances. In the context of the administrative acts, the question you need to ask yourself is does the application comply with the ordinance that was in place when the application was submitted, if the application complies it must to be approved.

Administrative Acts
• Building Permits
• Site Plan Review
• Subdivisions
• Conditional Use Permits
• Master Planned Developments
Administrative review involves an analysis of the application to determine only if it complies with the ordinances in place at the time the complete application was submitted. If the application complies, it must be approved. Decisions must comply with relevant local, state and federal laws.

**Legislative Acts**
- General Plan Amendments
- Zone Changes
- Ordinance Amendments
- Annexation

A legislative decision is a policy decision, subject only to the requirement that it must be reasonably debatable that the decision advances the purposes of the State Land Use Statute. Must comply with relevant local, state and federal laws.

Craig Call discussed Land-Use in detail with the Council.

**B. DISCUSS AMENDMENTS TO THE MIDVALE CITY PURCHASING ORDINANCE**

Laurie Harvey discussed proposed amendments to the Midvale City Purchasing Ordinance as follows:

**Improving Midvale’s Purchasing process**
- Contracts/procurement Specialist position authorized for FY 2018
  - Shane Clement – 9/2017 to 12/2017
  - Fawn Hullinger – 2/26/2018
- Responsibilities include:
  - Managing contracts database
  - Approving purchase requisitions
  - Providing staff assistance with quotes and bids
  - Reviewing/approving all Requests for Proposal and/or Invitations to Bid
  - Reviewing/approving all Contracts

**Balancing Regulations and Efficiency**
- Last review of City’s Purchasing Ordinance – 2004
- Due diligence for all purchasing is vital
  - Keeps costs as low as possible
  - Keep employees and vendors honest
- Strict regulations can result in a bottleneck for staff
  - Approval for purchases after quotes are received takes 3-5 days

**Time and paperwork for small purchases**
- 363 requisitions for purchase orders processed in last 12 months
  - 40% (147) between $1,000 - $3,000
  - 39% (140) between $3,000 - $25,000
  - 21% (76) greater than $25,000
- $22,249,400 total amount of requisitions entered
  - 6% ($1,382,300) between $1,000 - $3,000
  - 4% ($935,300) between $3,000 - $25,000
• 90% ($19,931,800) greater than $25,000

**Increase “small purchase” classification from $1,000 to $3,000**
• Reduce number of requisitions processed by 40% (363 to 216)
• Reduce $ amount of open market quotes by only 6% ($1,382,300)
• Purchases less than $3,000
  • Computer equipment
  • Wiring projects for electronics
  • Contract labor small jobs – paving and concrete, auto repair
  • Supplies for buildings, grounds, utilities maintenance

**COMPARISON OF CITIES**
Small purchases exempt from open market solicitation

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<th>City</th>
<th>1,000</th>
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<td>Riverton (42,838)</td>
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<td>Sandy (95,836)</td>
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<td>South Salt Lake (24,620)</td>
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<td>Draper (47,328)</td>
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<td>South Jordan (69,034)</td>
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**COMPARISON OF CITIES**
Threshold for sealed bid requirement

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**PROPOSED MODIFICATIONS FOR SMALL PURCHASES**

**Existing Ordinance**
• No solicitation required for purchases under $1,000
• 3 bids required for purchases between $1,000 and $25,000
  • Oral for <$10,000
  • Written for $10,000 - $25,000
PROPOSED ORDINANCE

• No solicitation required for purchases under $3,000
• 3 written quotes required for purchases between $3,000 and $25,000

PROPOSED MODIFICATIONS TO “PIGGY-BACKING” ON OTHER GOVERNMENT CONTRACTS

Existing Ordinance
• Allows joining any existing state of Utah contract (Utah.gov website)
• Allows joining Interlocal (other than state of Utah) contract WITH resolution of City Council

Proposed Ordinance
• Allows joining any existing Utah state/county/municipality contract w/ approval of Procurement Officer/City Mgr.
• Allows joining ANY out-of-state Interlocal contract with approval of Procurement Officer/City Mgr.

Next steps
• Resolution considered March 27, 2018
• Additional training for departments
• Review of other proposed amendments with Procurement Officer

Councilmember Bryant Brown would like to look at what other cities do regarding joining existing Utah state/county/municipality contracts with approval of the procurement officer/city manager.

Councilmember Quinn Sperry asked what limit the state has on purchases.

Councilmember Paul Glover asked staff to spot check purchases under $3,000 to ensure the City is getting the best pricing available.

X. CLOSED SESSION TO DISCUSS PENDING OR REASONABLY IMMINENT LITIGATION

MAYOR: Mayor Robert M. Hale

COUNCIL MEMBERS: Council Member Dustin Gettel
Council Member Paul Glover
Council Member Quinn Sperry
Council Member Bryant Brown
Council Member Paul Hunt

STAFF: Lisa Garner, City Attorney

MOTION: Councilmember Paul Hunt MOVED to go into closed session to discuss pending or reasonably imminent litigation. The motion was SECONDED by Councilmember Dustin Gettel. Mayor Hale called for discussion on the motion. There being none, he called for a roll call vote. The voting was as follows:
Council member Quinn Sperry    Aye
Council member Paul Glover    Aye
Council member Paul Hunt    Aye
Councilmember Bryant Brown    Aye
Council member Dustin Gettel    Aye
The motion passed unanimously.

The Council recessed at 9:29 p.m. and reconvened in closed session at 9:50 p.m.

MOTION: Councilmember Paul Hunt MOVED to reconvene into open session. The motion was SECONDED by Councilmember Quinn Sperry. Mayor Hale called for discussion on the motion. There being none, he called for a roll call vote. The voting was as follows:
- Council member Quinn Sperry    Aye
- Council member Paul Glover    Aye
- Council member Paul Hunt    Aye
- Councilmember Bryant Brown    Aye
- Council member Dustin Gettel    Aye
The motion passed unanimously.

The Council reconvened into open session at 11:00 p.m.

XI. ADJOURN

MOTION: Councilmember Paul Glover MOVED to adjourn the meeting. Councilmember Paul Hunt SECONDED the motion. Mayor Hale called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

The meeting adjourned at 11:00 p.m.

Rori L. Andreason, MMC
H.R. DIRECTOR/CITY RECORDER

Approved this 27th day of March 2018.
COUNCIL MEETING
Minutes
Tuesday March 13, 2018
Council Chambers
7505 South Holden Street
Midvale, Utah 84047

MAYOR: Mayor Robert M. Hale

COUNCIL MEMBERS: Council Member Dustin Gettel
Council Member Paul Glover
Council Member Quinn Sperry - Excused
Council Member Bryant Brown
Council Member Paul Hunt

STAFF: Kane Loader, City Manager; Laurie Harvey, Asst. City Manager/Admin. Services Director; Rori Andreason, H.R. Director/City Recorder; Lisa Garner, City Attorney; Larry Wright, Public Works Director; Matt Dahl, Redevelopment Agency Director; Laura Magness, Communications Specialist; Lesley Burns, City Planner; and Matthew Pierce, IT Manager.

Mayor Hale called the meeting to order at 7:00 p.m.

I. GENERAL BUSINESS
A. Welcome and Pledge of Allegiance

B. Roll Call – Council Members Paul Glover, Paul Hunt, Bryant Brown and Dustin Gettel were present at roll call. Council Member Quinn Sperry was excused.

MOTION: Councilmember Paul Glover MOVED to open the public hearing. Councilmember Paul Hunt SECONDED the motion. Mayor Hale called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

II. PUBLIC HEARING
A. PUBLIC HEARING TO ALLOW PUBLIC INPUT REGARDING (A) THE ISSUANCE AND SALE OF NOT MORE THAN $13,000,000 AGGREGATE PRINCIPAL AMOUNT OF WATER, SEWER, AND STORM WATER REVENUE AND REFUNDING BONDS, SERIES 2018 ;(B) ANY POTENTIAL ECONOMIC IMPACT THAT THE PROJECT DESCRIBED HEREIN TO BE FINANCED WITH THE PROCEEDS OF THE SERIES 2018 BONDS ISSUED UNDER THE ACT MAY HAVE ON THE PRIVATE SECTOR AND RELATED MATTERS

Laurie Harvey said the City is considering issuing Revenue Bonds to fund the following projects:
- A direct connection of our water system to Jordan Valley Water Conservancy District
- Improvements to the City’s water meter reading system
- Improvements to the water, sewer, and storm water system infrastructure
• Upgrades to grit and phosphorous removal equipment at South Valley Water Reclamation Facility, of which the City is a partial owner

SERIES 2018 REVENUE BOND PROJECTS

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<th>Project Description</th>
<th>Amount</th>
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<td>JVWCD pipeline connections</td>
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<td>Replacement of Union area meters</td>
<td>195,000</td>
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<tr>
<td>Fixed read system</td>
<td>90,000</td>
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<td>Water Smart software</td>
<td>40,000</td>
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<td>Sewer system projects</td>
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<td>Water system projects</td>
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<tr>
<td>SVWRF phosphorous/grit removal</td>
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<td><strong>Total</strong></td>
<td><strong>$6,265,300</strong></td>
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TERMS OF BOND ISSUANCE - PROCEEDS
Par amount not to exceed $7 million
• Project costs $6,265,000
• Underwriters discount $25,600
• Costs of issuance $145,000
• Total $6,435,600

TERMS OF BOND ISSUANCE – INTEREST RATE
Interest rate not to exceed 6%
• Expected true interest cost 3.83%
• Bonds may be issued with a higher coupon rate and sold at a premium

TERMS OF BOND ISSUANCE – TERM
Maturity may not exceed 27 years
• Anticipated maturity is 25 years
• Last payment due October 2043

DEBT SERVICE
Debt service is estimated at $382,000 - $387,000 per year
• Allocated to fund where proceeds were spent

NEXT STEPS
• Tonight’s public hearing to receive comment from the public
• 30-day contest period begins
• Marketing of bonds in mid-April
• Closing in late April

A parameters resolution was adopted on February 20, 2018, authorizing the issuance of bonds not to exceed:
• $7 million par amount for the above projects
• An interest rate of six percent (6.0%) (allowing for the ability to price with original issue premium)
• A maximum length to maturity of twenty-seven (27) years
• A three percent (3%) discount from par

The resolution also authorizes officers of the City to approve the final terms and provisions of the bonds within the parameters set forth.

A notice of intent to issue bonds was published in the newspapers on February 24 and March 5, 2018. The notice included the date, time and place of tonight’s public hearing. The purpose of this public hearing is to receive input from the public with respect to the issuance of the Bonds and the potential economic impact that the Project will have on the private sector. A 30-day contest period will follow the public hearing.

**FISCAL IMPACT:**
We anticipate that the issuance of the bonds will provide construction funds of $7 million. Based upon a term of twenty-seven years, estimated debt service is about $390,000 per year. We plan to service the debt with utility user fee revenue from water, sewer, and storm water charges.

Councilmember Dustin Gettel asked if the smart system software could be made available to apartment residents.

Laurie Harvey said the only way to do so was to have a separate meter for every apartment. It will be available to the property owner.

Mayor Hale opened the public hearing to public comment. There was no one who desired to speak to this issue.

**MOTION:** Councilmember Paul Glover MOVED to close the public hearing. Councilmember Bryant Brown SECONDED the motion. Mayor Hale called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

**III. ADJOURN**

**MOTION:** Councilmember Paul Glover MOVED to adjourn the meeting. Councilmember Dustin Gettel SECONDED the motion. Mayor Hale called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

The meeting adjourned at 7:13 p.m.

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Rori L. Andreason, MMC
H.R. DIRECTOR/CITY RECORDER

Approved this 27th day of March 2018.
MIDVALE CITY  
CITY COUNCIL WORKSHOP MEETING  
Minutes  
Tuesday, March 13, 2018  
Council Chambers  
7505 S. Holden Street  
Midvale, Utah 84047

MAYOR: Robert M. Hale

COUNCIL MEMBERS: Council Member Dustin Gettel  
Council Member Paul Glover  
Council Member Quinn Sperry - Excused  
Council Member Bryant Brown  
Council Member Paul Hunt

STAFF: Kane Loader, City Manager; Laurie Harvey, Asst. City Manager/Admin. Services Director; Rori Andreason, H.R. Director/City Recorder; Matt Dahl, Redevelopment Agency Director; Lisa Garner, City Attorney; Larry Wright, Public Works Director; Laura Magness, Communications Specialist; Lesley Burns, City Planner; and Matthew Pierce, IT Manager.

Mayor Hale called the meeting to order at 6:32 p.m.

I. DISCUSSION ITEMS

A. OPEN MEETINGS ACT TRAINING
Lisa Garner introduced David Church, Attorney for the Utah League of Cities and Towns, who conducted the Open Meetings Act Training.

David Church provided Open Meetings Act Training. He said the open and public meetings act requires every public body to be trained annually to comply with the act. The act in the Utah Code has a policy and purpose statement. The statement requires us to take the actions and conduct it openly. Conducting is where it becomes more difficult. The reason for this is that we are faced with hard decisions. Hard decisions are easier to make if you can have private consultation. The act applies to all bodies of state government. The act requires that all the meetings be public meetings. The act defines a meeting; the convening of a public body when a quorum is present. The act defines convening; if you’re not convened you’re not in a meeting. The act defines public body; a body created by an ordinance, resolution, constitution, or any other official thing that consists of two or more persons that is supported by public money. The city council is a public body. If three council members, a quorum, get together to discuss city council business you have been convened, and there is a quorum present, the law would define this as a meeting of the city council. The act also states that a meeting may be held in person or electronically. To be convened electronically, the legislature added that nothing in this chapter can be construed to restrict a member of the public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting. The act does not keep you from emailing, texting, or Facebook posts. The act keeps you from purposely doing this at a set time at a group that would constitute a quorum. If you set a time to discuss topics, it clearly
is a meeting. Texting, emailing, and Facebook posts during a public meeting is against the law. These dialogues should not be going on during an open meeting, because they appear secret. The solution to this is to turn your phones off. The exceptions to this act to allow you to deliberate in a closed session. In order to do this, it has to start out as an open meeting, then you have to motion to go into a closed session, identify this in the minutes, and have a roll call vote with a 2/3 majority vote to go into a closed session. The purposes for going into a closed session are intended to be restrictive not descriptive.

The meeting agenda notice must include an agenda for the meeting. The agenda must also provide enough detail to notify the public as to the topics to be discussed and the decisions that may be made. If an item is not on the agenda, no final action can be taken on that item. However, at the discretion of the chair of the meeting, an item not on the agenda, brought up by the public, can be discussed, if no final action is taken on the matter. While “final action” is not defined in the Act, the Act is very clear that no ordinance, resolution, rule, regulation, contract, or appointment can be approved except at a public meeting.

The Council Recessed at 7:00 p.m. to convene into a regular meeting and reconvened at 7:49 p.m.

B. LEGISLATIVE UPDATE
Kane Loader updated the Council on the recent Legislative Session as follows:

Legislation with Impacts to Cities
- HB 38 Fireworks Restrictions
  - Makes changes to current law-decreases days of discharge
- HB 336 (2nd Sub.) Fine Amendments
  - Imposes limits on penalties for overdue fines
- HB 373 (1st Sub.) Waste Management Amendments
  - Sets annual fee schedule for landfills (13 cents/ton + fee based on total tons)
  - Requires landfills to self-inspect and report to the State
- HB 462 (3rd Sub.) Homeless Services Amendments
  - Appropriates $6.6 million for homeless service programs
- SB 120 Local Government Fees and Taxes Amendments
  - Limits charging counties a Transportation Utility Fee
- HB 361(2nd Sub.) Billboard Amendments
  - Make changes to current law and acquisition requirements
- SB 136 (6th Sub.) Transportation Governance Amendments
  - Changes governance of UTA
  - Makes changes to registration fees (electric/hybrid)
  - Allows for counties and cities to impose a Sales and Use Tax for transportation
Creates deadlines for imposing tax

SB 154 (3rd Sub.) Prohibition of Law Enforcement Quotas
- Allows for agencies to look at “traffic contacts” when evaluating officers

SB 235 (6th Sub.) Homeless Shelter Funding Amendments
- Funding for Public Safety for cities with Homeless Shelters

SB 233 (1st Sub.) Sales and Use Tax Amendments
- Other legislation

SB 189 (3rd Sub.) Small Wireless Facilities Deployment Act
- Allows for State and Local governments right of ways to be used for small cell deployment

HJR 20 Joint Resolution Submitting a Question to the Voters
- 10 Cent increase in the Motor Fuel Tax
- State’s portion would generate $100 million offset for education
- Local Government’s portion into B&C Road Funding

SB 234 (4th Sub.) Inland Port Authority
- Creates a 20,000-acre development area (northwest quadrant of SLC, WVC and SLCO)
- Takes planning and zoning authority away from cities and gives it to a Port Authority Board

Two Bills for Housing
- HB 259 (2nd Sub.) Moderated Income Housing
- HB 430 (2nd Sub.) Affordable Housing Amendments

C. DISCUSS STRATEGIC COMMUNICATIONS PLAN
Laura Magness discussed the strategic communications plan. She said she was hired as the new “communications specialist”; a position that was created by the City Council to improve communications with our community.

Over the past few months, she conducted an audit of the City’s current communication tools and is in the process of drafting a Strategic Communications Plan.

Four Key Objectives

Build trust
- Provide relevant, timely communication
- Increase transparency

Encourage active community participation and involvement
- Provide opportunities for two-way communications
- Increase citizens’ access to government
- Build relationships with citizens, partners & stakeholders
Enhance the reputation and image of the City
- Showcase projects and programs
- Branding

Provide Better Customer Service
Communication Tools
Understanding what communication tools are available, and which are actually used by community members, is essential for making sure we reach our community. Every City is different. Through anecdotal interviews we have determined that these are the most effective communications tools in Midvale City.
- Social media
- Midvale City Journal
- Press Releases (media)
- Presentation to the community
- Emails to a specific distribution list
- Utility billing inserts
- Video content
- Digital or Print Ads
- Brochures
- Canyons School District Peach Jar
- E-notify

The goal is to always drive traffic to the Midvale City website for more information.

Selected Social Media Platforms
- Facebook
- Twitter
- LinkedIn
- YouTube
- Instagram

Video Content
- Facebook Live (Streaming council meetings & special events)
- Program specific videos (Ex: Bulky item/Green Waste)
- Job specific videos (Ex: Snow Plows)
- Education (How does local government work?)

D. DISCUSS SOCIAL MEDIA POLICY/SOCIAL MEDIA TRAINING
Laura Magness discussed social media policy and training.

Social Media Objectives
- Create a new dynamic/interactive presence on the web
- Disseminate timely information through a variety of social media platforms
- Engage in online interaction with community members to improve outreach and efficiency
- Encourage two-way communication

Social Media Strategies
• Utilize social media ads and videos to increase following on social media platforms
• Monitor social media to respond in a timely manner
• Create a baseline to measure successes
• Trust is currency
• Authentic and credible; informal tone

Media Objectives
• Proactive rather than reactive media relations
• Expand professional relationships with member of the media
• Develop a reputation as a “media friendly” City of accessible experts
• Provide high-quality services to the media
• Ensure information being disseminated is consistent and timely, spoken with ‘one voice’

Media Strategies
• Develop comprehensive media lists
• Provide routine press releases and photo opportunities
• Furnish tailored pitches to media contacts
• Monthly meetings with local reporters
• Develop media kit folders for public events
• Editorial Calendar monitoring of monthly magazines for feature possibilities
• Continue routine communication/coordination of information with Canyons School District, Unified Fire Authority, Unified Police Department, UDOT and major private sector employers.

Branding Objectives
• Building on its rich history, create a refreshed and progressive identity for the City to assist with strategic goals including economic development
• Branding is more than just a logo

Branding Strategies
• Create a style guide to establish the consistent use of the official Midvale City logo, color, palette, typeface and tagline “In the Middle of Everything”
• Create key brand descriptors
• Review the City’s website to ensure we are consistent with our branding

Social Media Training
Social Networking Stats
• 81% of the US Population has at least one social media profile
• 67% report receiving their news from social media
• 91% of social media users are accessing social channels via mobile devices
• Facebook and YouTube dominate this landscape
• Online video drives better engagement, live video is seeing huge response rates, 80% of all internet traffic will be video by 2019

Benefits of Social Media
Timely and cost effective
• Allows the public a direct link to government
• Residents & government agencies can save time

Increased Public Participation
• “The new public sphere” creates an easy way for the public to participate
• Education
• Bring awareness on a particular issue or initiative in the community

Publicize meetings and hearings
• Supplement more traditional methods of notifying residents of upcoming meetings and events.

Public safety information
• Governments use social media to inform citizens of emergency or public safety information

Economic Development
• Promote the City to attract tourism and businesses

Challenges of Social Media

Viral Deception (aka “Fake News”)
• False information on the social media network travels six times faster than the truth and reaches far more people.
• The average false story takes about 10 hours to reach 1,500 Twitter users, versus about 60 hours for the truth.
• On average, false information reaches 35% more people than true news.

Third-party content
• Two-way communication makes it possible for commenters to share offensive, defamatory, or otherwise undesirable content
• City representatives who are not trained in communications can expose the City to messaging that is inconsistent with the City’s voice

Legal Issues
• First Amendment issues relating to restrictions on speech
• Open Meeting Law issues
• Public records retention issues
• Use of public resources
• Employee use of social media
• Equal access/Section 508 (disability access) issues
• Procurement, gift & contract issues
• Other employment-related social media issues

Legal Issues First Amendment
• Social media platforms offer interactivity and the ability of the public to comment on official posts.
• When a public entity creates a social media presence that invites public commentary, it has established a public forum protected by the First Amendment.
• The scope of the forum can be contractually limited by the terms of service, which bind all users of the site.
• When establishing a social media presence, a public entity should clearly indicate that it intends to create a “limited” public forum—as opposed to a traditional open public forum akin to a public park or street corner.
• Open public forum” - speech restrictions are subject to the highest level of scrutiny and must be narrowly drawn to effectuate a compelling government interest.
• “Limited public forum” - a public entity has somewhat greater latitude to regulate speech. However, any restrictions still must be reasonable and neutral as to the speaker’s viewpoint.

Examples of content that will NOT be allowed:
• Profane language or content; Sexual content or links to sexual content;
• Content that promotes, fosters, or perpetuates discrimination based on race, creed, color, age, religion, gender, marital status, or status with regard to public assistance, national origin, physical or mental disability or sexual orientation, as well as any other category protected by federal, state, or local laws;
• Solicitations of commerce;
• Conduct or encouragement of illegal activity;
• Violent or threatening content;
• Does “Blocking” people on social media impose an unconstitutional restriction on their participation in a “designated public forum”?
• A federal judge in Virginia said that a local politician had violated the First Amendment rights of a constituent because the politician briefly banned the constituent from the politician's personal Facebook account.
• Last Thursday, a US District Judge recommended that President Trump mute rather than block some of his critics from following him on Twitter to resolve a First Amendment lawsuit that was filed last year by the Knight First Amendment Institute at Columbia University and seven people rejected by Trump after criticizing the president.
• Several municipalities have been sued regarding this issue.

Legal Issues GRAMA & Records Retention
Records Retention Schedule
• City must archive social media content
  (Midvale City uses a third-party service)

Are personal social media accounts “GRAMA”able?
• Several municipalities have been sued over this issue.

Legal Issues Open & Public Meetings Law
• The policy behind open meetings laws is that government decision-making should be made openly, and not behind closed-doors, so the public can be fully informed and provide input. Therefore, open meetings laws require that all meetings of decision-making bodies provide notice and be open to the public (with very few exceptions).
• Communications which take place on a social media platform have the potential to run afoul of open meeting laws.
• While it may seem behind the times or even counter to the concept of enhanced public transparency, such communications nonetheless present significant risks of Open Meeting Law violations.
• Given the potential for criminal penalties, government officials are advised to avoid contemporaneous discussions of public business, and should ensure that their social networking interactions comply with open meeting laws

Hypothetical: Could a Facebook discussion be considered a “meeting”?  
• The topic of an upcoming City Council agenda item is mentioned on Facebook…  
• A city councilmember posts a comment about the item  
• A second city councilmember also posts a comment  
• And a third city councilmember responds to the first two councilmembers  
• This could be considered a “meeting” because 3 councilmembers (a quorum) are in “attendance” and they are deliberating on a topic within the subject matter jurisdiction of the Council. It could be a violation of the Open Meeting Law because they did not notify the public about the “meeting”.

What does it mean to “Like” something on Facebook?  
• Clicking “like” below a post on Facebook is an easy way to communicate approval without leaving a comment.  
• Clicking the “like” button on Facebook is speech. Bland v. Roberts, 730 F. 3d 368 (4th Cir. 2013)  
• A single click is speech, and on a post about a topic within an elected official’s subject matter jurisdiction could be found to form a part of the deliberative process  
• A single click by a few Facebook “friends” that constitute the majority of a legislative body could be found to be an Open Meeting Law

Legal Issues Use of Public Resources  
Can a council member share City “resources” (video, graphics, content, etc.) on their social media?  
• Yes, but be sure to LINK the information.  
• Melanie Stambaugh, a Washington State legislator, uses social media to engage with her constituents. But Stambaugh’s use of social media suffered a setback when the state Legislative Ethics Board last year said she violated the rules 44 times by posting state-funded photos and videos on her campaign Facebook page. The board ruling carried $220,000 in fines and an order to remove the videos. If she had just provided a link that brought the viewer back to the state’s website, the whole mess would have been avoided.

Lessons Learned  
• A social media presence is safe. But, we recommend maintaining separate personal and “City Council member” social media sites  
• Keep your “City Council member” social media accounts open to the public. Do not block users.  
• Posting general city information without personal comment or opinion is acceptable as it is likely posted publicly elsewhere. Posting a picture of the council member at a city event without comment on any other city affairs is a safe bet too. But a seemingly innocent engagement in public or private social media discussion online may find the council member charged with an Open Meeting Law violation.
• Council members should avoid commenting, liking, tweeting, retweeting, or posting regarding topics within the jurisdiction of Midvale City.
• Avoid online communication with fellow members on matters that will be discussed and voted on at a public meeting, or offering opinions on social media sites regarding matters within the board’s jurisdiction

Next Steps:

Social Media Policy Examples:

City Council use of Social Media: Disclaimer policy (City of Kirkland, WA)
Council members may post to social media sites such as Facebook, Twitter, and online forums, as long as a disclaimer about their views is included. The disclaimer ensures the view expressed in the comment is that of the member; not of the full council. The disclaimer also acknowledges that comments by other council members regarding the same issue are limited by the Open Public Meetings Act (OPMA) which requires public noticing of a quorum of council members discussing official city business. Specifically, if more than three council members are involved in a conversation via a social media forum, it could be considered a meeting; and if no notice was given regarding the meeting, it would not be in compliance with the Open Public Meetings Act.

Social media sites may not be used by council members to conduct city council business, particularly legal and fiscal matters that have not already been released to the public. Posts by council members regarding quasi-judicial issues, where the Council acts in a manner similar to a judge, are prohibited. All city council communications including, but not limited to, email, social media posts, and text messages may be subject to the Public Records Act.

City Council use of Social Media: Disclaimer policy (City of Kirkland, WA) Cont.
Specifically, the policy states the following disclaimers should be included in whole or referenced with a link to the disclaimers for all communications initiated by Councilmembers in open forums: The views expressed represent the views of the author and may not reflect the views of the Kirkland City Council. Responses to this communication by other Councilmembers may be limited by the provisions of the Open Public Meetings Act under which a policy discussion must be held in an open public meeting if a quorum of the City Council participates.

Comments posted in response to a Councilmember-initiated communication may be subject to public disclosure under the Public Records Act.

City of Shoreline, WA - “Councilmembers, Commissioners and other officials and appointed volunteers (i.e., members of the Planning Commission, PRCS Board, Library Board, Economic Development Advisory Committee and ad hoc appointed citizen advisory committees) should not comment or otherwise communicate on the City’s Social Media sites; participating in online discussions may constitute a meeting under the Open Public Meetings Act.”

City of Yakima, WA - “City employees and/or elected officials are discouraged from using personal equipment and/or personal accounts to post information to official City social media sites.
City employees and/or elected officials are similarly discouraged from using personal equipment and/or personal accounts to post information regarding official City business on other social media sites. All social media site posts by City employees and/or elected officials regarding official City business are subject to Washington State public disclosure laws, open meetings laws, and all other applicable laws, rules, and regulations.”

**Aliso Viejo** - “City Council members should take caution in responding to any published postings, or using the City social media sites or any other form of electronic communication to respond to, blog or otherwise discuss, deliberate, or express opinions on any issue within the subject matter jurisdiction of the Council because such responses may create a meeting in violation of the Brown Act.”

**West Hollywood, CA** - “Members of the City Council, Commissions and/or Boards shall not respond to, ‘like’, ‘share’, retweet or otherwise participate in any published postings, or use the site or any form of electronic communication to respond to, blog or engage in serial meetings, or otherwise discuss, deliberate, or express opinions on any issue within the subject matter jurisdiction of the body.”

**Eagle Mountain, UT Draft Social Media Policy**

Elected officials should refrain from making posts or posting comments related to City business specifically regarding items being discussed on the agenda.

Operate under the assumption that any discussion of City business on social media is considered open to the public, even if it is on your private page.

Refrain from using social media, email, or texting during a City Council or open meeting. Do not use personal email accounts to conduct City businesses.

Ms. Magness said on Facebook, elected officials should establish a verified government fan page for their position and use that page for communication with residents, rather than their private pages. These official pages could be included in the City’s Archive Social account for records archival and retention, thus making personal pages less susceptible to records requests. This concept also applies to other social media accounts used for City business.

She suggested refraining from participating in closed groups online related to city matters as this could violate the Utah Open and Public Meetings Act. It is also problematic for record retention.

Councilmember Bryant Brown said he likes the idea of establishing a social media policy.

Councilmember Dustin Gettel asked what the next steps were. Ms. Magness said she could bring it back for more discussion and or action when the Council is ready.

The Council asked staff to schedule this item for additional discussion during a workshop. Lisa Garner asked for direction from the Council.
Councilmember Paul Glover suggested a workshop meeting to further discuss the policy.

Councilmember Dustin Gettel suggested a list of options to reference and discuss for the workshop. He said some of what Laura said contradicts with what David Church said in his open meetings act training.

Lisa Garner agreed and said that there is no Utah case law to refer to. She asked for some direction from the Council, so staff would be able to have language available for review at the workshop.

Councilmember Paul Glover said that there should be a disclaimer on social media posts.

Kane Loader said it is in our city code that the Mayor is the spokesperson for the city. He asked if the communications specialist and mayor be the only individuals to post on the city’s social media sites. The Council agreed.

Councilmember Dustin Gettel said the residents that live in apartments don’t always see the information the City provides. He asked about the next-door program. Laura Magness said you need to be a resident to post on that.

Councilmember Paul Glover suggested having the Community Council use Next-Door to get the word out.

II. ADJOURN
Mayor Hale adjourned the meeting at approximately 9:15 p.m.

Rori L. Andreason, MMC
H.R. DIRECTORY/CITY RECORDER

Approved this 27th day of March 2018
SUBJECT:

Final Subdivision Plat Approval for 8-Lot Olson Amended Subdivision located at 7054-7088 South 300 East

SUBMITTED BY:

Alex Murphy, Associate Planner

SUMMARY:

The proposed Revel Park (formerly Olson Amended) Subdivision plat consists of eight (8) proposed lots on a total of 0.87 acres located north of 7200 South on 300 East and has been submitted by Jill Kinder, owner of the property.

All subdivisions require a review and recommendation from the Planning Commission and approval from the City Council with public hearings held before each body. The Planning Commission conducted a public hearing on this subdivision plat on January 10, 2018 and recommended approval to the City Council. The City Council held a public hearing on the subdivision on February 6, 2018 and, based on compliance with the City’s zoning and subdivision requirements, approved the preliminary subdivision plat for the Olson Amended Subdivision (now identified as Revel Park Subdivision) with the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer, Fire Marshal, and City Council.
2. A minimum of four (4) additional street trees are required to be planted along 300 East. There shall be a note added to the plat requiring the trees to be planted prior to issuance of certificates of occupancy.
3. The applicant shall obtain duty to serve letters for water and sewer prior to the subdivision plat being recorded.
4. The applicant shall provide evidence that courtesy notices have been sent to Dominion Energy, Rocky Mountain Power, Xfinity, Utopia, and CenturyLink regarding the utility easements on the subdivision plat prior to final approval.
5. All new development on the flag lots shall comply with the flag lot requirements, i.e. setbacks, height (single story), parking, and 20-foot wide paved driveway. A note indicating these requirements shall be included on the final subdivision plat.
6. The flag lot driveway shall remain clear of overhanging vegetation and no parking signs posted. A note stating this shall be included on the final subdivision plat.
7. A minimum six-foot high screening fence shall be constructed and maintained around the exterior of the project. This fence shall be completed prior to certificates of occupancy being issued on the lots. A note indicating this requirement shall be included on the final subdivision plat. The owner will also work with the neighboring property in replacing or enhancing the existing fences or working with them, as needed.
8. The existing structures on the property will need to be demolished prior to the subdivision plat being recorded.

The applicant has prepared and submitted the final plat (see attached). The required notes have been added and the duty to serve letters and utility notices submitted.

The proposed subdivision plat was reviewed and approved by the Fire Marshall and City Engineer.

No demolition permits have been requested to remove any existing structures on the property.

**FISCAL IMPACT:** N/A

**STAFF RECOMMENDATION:**

Staff recommends the City Council approve the subdivision plat for the Revel Park Subdivision with the following conditions:

1. Any existing structures on the property shall be demolished prior to recording of the subdivision plat.
2. The applicant shall obtain all required signatures on the final subdivision plat Mylar.

**MOTION #1 – APPROVAL:**

“Based on demonstrated compliance with the requirements of the Midvale City Municipal Code, I move that we approve the subdivision plat for the Revel Park Subdivision with the following conditions:

1. Any existing structures on the property shall be demolished prior to recording of the subdivision plat.
2. The applicant shall obtain all required signatures on the final subdivision plat Mylar.”

**MOTION #2 – TABLE DECISION:**

“I move that we table decision on the proposed subdivision to address the following questions/comments:

1. …
2. …”

**ATTACHMENTS:**

- Vicinity Map
- Final Subdivision Plat
ITEM: Approve Resolution No. 2018-R-18, authorizing the Mayor to enter into a Stakeholder Agreement and Supplemental No. 1 to Stakeholder Agreement with UTA

SUBMITTED BY: Lisa A. Garner, City Attorney

SUMMARY:

In 2016, UTA, in cooperation with Midvale City and over 30 other public entities submitted a grant application to the United States Department of Transportation seeking a Transportation Investment Generating Economic Recovery (“TIGER”) discretionary grant. In July of 2016 the TIGER grant was awarded to UTA in the amount of $20 million. Midvale City desires to use the grant funds awarded under the TIGER Grant Program to improve its crosswalk near the UTA Trax crossing on Center Street. Midvale City must provide matching funds in the amount of approximately $40,000.00 to the project which is estimated to cost approximately $198,278.00. The Stakeholder Agreement and Supplemental No. 1 to the Stakeholder Agreement memorializes the agreement to install a Pedestrian Hybrid Beacon Crosswalk System also known as a HAWK Crossing.

Fiscal Impact: The fiscal impact to the City will involve the matching funds in the amount of $40,000.00.

STAFF’S RECOMMENDATION AND MOTION:

I move that we adopt a Resolution authorizing the Mayor to enter into the TIGER Stakeholder Agreement and Supplement No 1 to Stakeholder Agreement with Utah Transit Authority.
MIDVALE CITY, UTAH
RESOLUTION NO. 2018-R-12

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO TIGER STAKEHOLDER AGREEMENT AND SUPPLEMENT NO. 1 TO STAKEHOLDER AGREEMENT WITH UTAH TRANSIT AUTHORITY

WHEREAS, Wasatch Front Regional Council ("WFRC") and Mountainland Association of Governments ("MAG") are the Metropolitan Planning Organizations for the areas included within the UTA service district;

WHEREAS, in 2016, UTA, in cooperation with Midvale City, WFRC, MAG, the Utah Department of Transportation ("UDOT") and approximately 30 other public entities (collectively the "Stakeholders"), submitted a grant application (the "Grant Application") to the United States Department of Transportation seeking a Transportation Investment Generating Economic Recovery ("TIGER") discretionary grant;

WHEREAS, on or about July 29, 2016, the United States Department of Transportation published notice of its intent to award UTA a TIGER discretionary grant (the "TIGER Grant") in the amount of $20 million;

WHEREAS, the eligible scope of the TIGER Grant will be to fund a portion of the design and construction of several multimodal projects (the "TIGER Projects") that improve transportation connections to UTA’s commuter rail and light rail systems;

WHEREAS, Midvale City is a project funding partner with respect to one of the TIGER Projects;

WHEREAS, Midvale City desires participate in the TIGER Grant Program to improve its crosswalk near the UTA Trax crossing at approximately 7628 S. Center Street;

WHEREAS, Midvale City has committed to provide or secure local matching funds of approximately $40,000.00 for the TIGER Project identified as a Pedestrian Hybrid Beacon Crosswalk System also known as a HAWK Crosswalk System, the total cost of the project will be approximately $198,278.00; and

WHEREAS, Midvale City and UTA intend that the installation of the HAWK crossing will be coordinated and managed in a collaborative manner.

NOW THEREFORE BE IT RESOLVED, based on the foregoing, the Midvale City Council does hereby approve this agreement between Midvale City and UTA and authorizes the Mayor to sign the Stakeholder Agreement and the Supplement No. 1 to Stakeholder Agreement.

APPROVED AND ADOPTED this 27th day of March, 2018.

______________________________
Robert Hale, Mayor

ATTEST:

______________________________
Rori L. Andreason, MMC
City Recorder
<table>
<thead>
<tr>
<th>Voting by the City Council</th>
<th>“Aye”</th>
<th>“Nay”</th>
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<tr>
<td>Bryant Brown</td>
<td>_____</td>
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<td>Dustin Gettel</td>
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<td>Paul Glover</td>
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<td>Paul Hunt</td>
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<td>Quinn Sperry</td>
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</table>
This Stakeholder Agreement ("Agreement") is entered into this ___ day of ____________ 2018 by and between the Utah Transit Authority, a public transit district ("UTA") and Midvale City ("City").

RECITALS

WHEREAS, UTA provides public transit services in all or parts of Salt Lake, Davis, Weber, Box Elder, Utah and Tooele Counties, and certain interlocal public transit within portions of Summit County;

WHEREAS, Wasatch Front Regional Council ("WFRC") and Mountainland Association of Governments ("MAG") are the Metropolitan Planning Organizations for the areas included within the UTA service district;

WHEREAS, in 2016, UTA, in cooperation with the City, WFRC, MAG, the Utah Department of Transportation ("UDOT") and approximately 30 other public entities (collectively the “Stakeholders”), submitted a grant application (the “Grant Application”) to the United States Department of Transportation seeking a Transportation Investment Generating Economic Recovery ("TIGER") discretionary grant;

WHEREAS, on or about July 29, 2016, the United States Department of Transportation published notice of its intent to award UTA a TIGER discretionary grant (the “TIGER Grant”) in the amount of $20 million;

WHEREAS, the eligible scope of the TIGER Grant will be to fund a portion of the design and construction of several multimodal projects (the “TIGER Projects”) that improve transportation connections to UTA’s commuter rail and light rail systems;

WHEREAS, City is a project funding partner with respect to one or more of the TIGER Projects (such subset of the TIGER Projects hereinafter referred to as the “City Projects”) referenced in the Grant Application;

WHEREAS, City has committed to provide or secure local matching funds for the City Projects;

WHEREAS, several other Stakeholders have committed to provide local matching funds for additional TIGER Projects and it is contemplated that UTA will execute identical agreements with such other Stakeholders;

WHEREAS, UTA has committed to provide local matching funds for additional TIGER Projects to be constructed at UTA stations;

WHEREAS, it is economically and logistically in the best interests of UTA and City (as well as the Stakeholders with respect to other TIGER Projects) for UTA to complete both the City Projects and other TIGER Projects under one set of design and construction contracts, with UTA managing the TIGER Grant funds and managing the contractual relationships with selected contractors; and
WHEREAS, the parties and the other Stakeholders all intend that the TIGER Projects will be coordinated and managed in a collaborative manner that reflects good regional planning, the consistent treatment of all Stakeholders and the coordination of all TIGER Projects as one regional first/last mile connection strategy.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the mutual benefits to the parties to be derived herefrom, and for other valuable consideration, the receipt and sufficiency of which the parties hereto acknowledge, the parties agree as follows:

1. PROJECT DESCRIPTION.

   A. All of the Stakeholders intend to collaborate to complete the TIGER Projects (including the City Projects), over the course of approximately five (5) years, with UTA responsible for project management and TIGER Grant oversight.

   B. City has committed to provide funds and/or in-kind contributions, as more particularly set forth herein, for the City Projects.

2. PROJECT ADMINISTRATION AND MANAGER. UTA shall be responsible for administration of the design and construction contracts for the TIGER Projects, and any additional contracts as deemed necessary by UTA. In no event shall UTA be expected or required to enter into contracts, or to take on any obligations, committing UTA to pay amounts in excess of funds that have already been committed to the TIGER Projects. UTA shall administer these contracts in accordance with its procurement and contracting policies and all TIGER Grant requirements.

   UTA will assign a Project Manager to manage and administer the TIGER Projects. The Project Manager will be responsible to report to the Policy Committee for oversight and management of the TIGER Projects. The Project Manager shall be Richard Miller.

   City will assign a City Representative to coordinate with and participate in decisions with the Project Manager. The City Representative shall be as set forth in the introductory table of this Agreement. The City Representative will have the authority to approve design submittals and make or cause to be made the decisions required of City under this Agreement.

3. TERM. This Agreement shall remain in full force and effect until the TIGER Grant funds, together with the committed local funds, are fully expended and the TIGER Grant has been closed out.

4. PROJECT POLICY COMMITTEE. A Policy Committee has been established for the TIGER Projects, consisting of one individual from each of UTA, UDOT, WFRC, and MAG. The initial representatives are Jerry Benson for UTA, Carlos Braceras for UDOT, Andrew Gruber for WFRC, and Andrew Jackson for MAG. In the event one of the representatives leaves his or her position with an above-referenced agency, such agency will be responsible for appointing a new representative to the Policy Committee and communicating that to the Stakeholders. The Policy Committee will focus on the overall results and ongoing work of the TIGER Projects, will address any disputes among the Stakeholders involving the TIGER Projects, will seek additional funding as needed and will review and approve budgeting, accounting and other project oversight. All actions of the Policy Committee shall be taken by a majority determination of UTA, UDOT, WFRC, and MAG. All members of the Policy Committee shall be equal in authority. It is acknowledged that all actions of the Project Policy Committee must comply with applicable laws and with the scope, conditions and other requirements applicable to the TIGER Grant, as ultimately executed between UTA and the United States Department of Transportation.
5. **WORK SCOPE.** A general description of the City Projects to be included in the TIGER Projects, together with the City’s financial commitment to each of the City Projects, is set forth in Exhibit “A”, attached hereto and incorporated herein by this reference. Specific scopes of work will be developed for the City Projects and will be included in a separate Supplement to Stakeholder Agreement (“Supplement”), in the form of Exhibit “B”, attached hereto and incorporated herein by reference. The Supplement will identify a budget for design and construction (which shall include a reasonable apportionment of the project management and construction management costs, and a reasonable allocation of the total contingency budget for all TIGER Projects). The budget will be determined based upon information furnished by City and UTA will not be required to verify the accuracy or sufficiency of such information prior to commencing design of each City Project. Each Supplement will also identify a schedule for each City Project. Each Supplement will include appropriate national and/or local standards, including but not limited to NACTO, APWA, AASHTO, UDOT and MUTCD.

6. **PAYMENT/ACCOUNTING.** The local matching funds for each of the City Projects, for each fiscal year as committed by the Stakeholder, will be due to UTA in advance on July 1 of such year, or as otherwise designated in a Supplement. Funds shall be delivered to UTA, payable to “Utah Transit Authority”, and delivered c/o Chief Financial Officer, 669 West 200 South, Salt Lake City, Utah. Each specific City Project will not be commenced until the local matching funds for that City Project have been delivered to UTA. To the extent that the Supplement for a City Project indicates additional funding sources (in addition to the TIGER Grant proceeds and corresponding local matching funds), City shall also be responsible for ensuring that the proceeds from such additional funding sources are also delivered to UTA in advance on July 1 or as otherwise designated in a Supplement. UTA shall maintain a financial database of all City funds, additional funding source proceeds, and all expenditures toward the City Projects.

City shall be responsible for any cost overruns (to the extent such overruns are not mitigated by value engineering or scope modifications) with respect to the City Projects. Payment for any cost overruns, as well as any additional scope or modifications requested by City (as more specifically described in Section 11 of this Agreement), shall be made promptly, in the same manner as described herein, and in the case of modifications, in advance, upon receipt of an invoice for the same from UTA. UTA may defer or suspend performance with respect to any City Project for which UTA has not received payment as indicated above. If City is unable to either secure additional funding for a City Project or modify the scope of City Project to fit within the available funding, then City may request that UTA not move forward with the City Project. Upon receipt of such request, UTA shall employ commercially reasonable efforts to remove the City Project from the scope of TIGER Projects and mitigate the incurrence of further costs toward such City Project. City shall be responsible for all costs previously incurred with respect to the City Project and any change order costs or partial termination costs incurred in conjunction with the removal of the City Project from the scope of the TIGER Projects. As applicable, City shall be entitled to any engineering deliverables previously prepared with respect to such City Project in their then-current condition.

To the extent that the actual total cost of designing and constructing the City Projects (exclusive of apportioned project management and construction management costs) is less than the budget indicated in the Supplement, City shall be entitled to a proportionate refund of the local matching funds committed for design and construction costs pursuant to the Supplement. Any such refund shall be payable within a reasonable time after the TIGER Grant has been closed out.

7. **APPROVALS; FEES.** Throughout the Term hereof, City shall expedite any required processes or approval steps to facilitate commencement of work on the City Projects; and further shall pay or waive
any and all filing fees, impact fees, or other charges in completing the approvals and permitting necessary or required for a City Project.

8. TIGER PROJECTS CONTRACTOR; SELECTION. City acknowledges that, in accordance with the quantity and diversity of the TIGER Projects, a contractor or contractors shall be selected to complete the work contemplated hereunder. UTA, City, and the other Stakeholders anticipate selection of a contractor and a contracting method that will maximize efficiency in designing and constructing the various separate City Projects and TIGER Projects. UTA will prepare and distribute a Request for Qualifications and/or Request for Proposals for the TIGER Projects. UTA shall assemble a selection committee to review proposals by qualified firms and to select a designer and/or contractor to complete the TIGER Projects. The selection committee shall consist of representatives of UTA and one representative designated by each other member of the Policy Committee. The procurement and selection of a designer and/or contractors will be conducted in compliance with applicable state and federal procurement requirements, as well as applicable UTA policies and procedures for procurement. Negotiations will be conducted with the designer and/or contractor to establish a final work program and fee for the TIGER Projects. Upon selection of the designer and/or contractor, UTA will enter into a contract with the selected designer and/or contractor. UTA shall coordinate with the Policy Committee in such matters as issuing notices to proceed, change orders, accepting the work products of the designer and/or contractor, and similar items.

9. FEDERAL REQUIREMENTS. Any and all procurements, contracts and subcontracts related in any way to the City Projects shall be subject to all applicable state and federal laws, rules, regulations and requirements, including but in no way limited to, Buy-America requirements, payment of Davis-Bacon wages, Utah contractor insurance requirements, etc.

10. UTILITIES; RIGHT-OF-WAY. City and UTA do not contemplate any necessary property acquisitions or utility relocations for the City Projects. In the event any property acquisition or utility relocation is necessary, such acquisition or relocation shall be completed by City. Any such acquisitions or relocations shall be completed prior to such City Project being placed on that fiscal year’s project list; and further all such acquisitions shall be completed in accordance with all applicable federal and state property acquisition rules, regulations, and guidelines, including but not limited to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and regulations promulgated thereunder, and in accordance with UTA (and where applicable, UDOT) policies and procedures. Full documentation of the acquisition process shall be delivered to UTA prior to commencement of work on such City Project.

11. COMPLETION OF CITY PROJECTS; SCOPE MODIFICATIONS. No work shall be completed on any City Projects without a fully-executed Supplement, and without payment having been received for the same by UTA, in advance, as outlined herein. The Stakeholders acknowledge that, as a result of the number and scope of City Projects included within the TIGER Projects, any changes to standardized design and plans will likely result in increased costs and schedule impacts. Any changes or additions requested by a Stakeholder to any of the City Projects shall be reviewed by the Policy Committee, and in the Policy Committee’s sole discretion, unless necessitated by a critical safety concern, will only be approved if the Stakeholder requesting the change enters into a Modification Supplement, substantially in the form attached hereto as Exhibit “C”, agreeing to pay one hundred percent of the cost of such change.

12. COORDINATION. City and UTA shall keep each other, and other Stakeholders as appropriate, abreast of substantive communications and activities related to the City Projects.
13. TIGER FUNDING A CONDITION PRECEDENT. The terms of this Agreement, and the commitments and obligations hereunder, are conditioned upon and subject to UTA executing a final grant agreement with the Federal Transit Administration, committing the TIGER Grant funds. UTA and the City agree to execute amendments to any Supplement executed pursuant to this Agreement that may be necessary to conform to the final requirements of the TIGER Grant agreement.

14. AMENDMENTS. Alterations, extensions, supplements or modifications to the terms of this Agreement as detailed herein shall be agreed to in writing by the parties concerned, incorporated as amendments to this Agreement, and made a part hereof.

15. COMPLETION/CONTINUING CONTROL. UTA and City acknowledge that the City Projects are being or will be constructed on City (or, in the case of certain roadway rights-of-way, County or State) property. Except as otherwise indicated in a Supplement, UTA will not have title to any of such property. Nevertheless, the Federal Transit Administration rules and regulations require that UTA, as “grantee” under the TIGER Grant, maintain continuing control over the City Projects. Upon completion of each of the City Projects, UTA will prepare a proposed bill of sale transferring to City (or, if appropriate, the County or State) ownership and maintenance responsibility with respect to the improvements constructed as part of the City Projects and providing for the City’s acceptance of such improvements. Final transfer of the improvements will be subject to FTA approval. The bill of sale will contain an acknowledgement and agreement by City to operate, maintain and repair the improvements constructed as part of City Projects in a manner that protects FTA’s investment in the City Projects (for the full useful life of such improvements as defined in FTA Circular 5010.1E, and set forth in the bill of sale). Thereafter, City shall provide UTA with an annual report, in the form attached hereto as Exhibit “D”, throughout the life of the City Projects (as further described on the report) that will (a) account for the City Projects and include City Project inventory records, (b) detail procedures for asset management and adequate maintenance of equipment and facilities that are a part of the City Projects, (c) ensure that effective and continuing control and accountability are maintained by City for all City Projects, and (d) ensure that the City Projects are properly used and safeguarded, and used solely for their authorized and intended purposes. In the event City shall not complete and provide UTA with the annual report, or in the event City shall not properly maintain the City Projects throughout the life of such City Projects, City shall reimburse the depreciated amount of TIGER Grant funds remaining in the City Projects. Upon completion, any warranty provided by the contractor or manufacturer of any materials, as applicable, shall be transferred to City.

16. RECORDS. The Stakeholders acknowledge disclosure and retention of records pursuant to this Agreement is subject to the Utah Government Records Access and Management Act, Utah Code Ann. §63G-7-101, et seq.
IN WITNESS WHEREOF, UTA and City have entered into this Agreement effective the date first set forth herein.

UTAH TRANSIT AUTHORITY

By _________________________________
Title _______________________________
Date: _______________________________

By _________________________________
Title _______________________________
Date: _______________________________

Approved as to Form:

__________________________
UTA Legal Counsel

MIDVALE CITY

By _________________________________
Title _______________________________
Date: _______________________________

By _________________________________
Title _______________________________
Date: _______________________________
EXHIBIT “A”

TIGER Projects
City Projects/Financial Commitments
EXHIBIT “B”

Form of Supplement to Stakeholder Agreement
SUPPLEMENT NO. __ TO
STAKEHOLDER AGREEMENT
_______ CITY

TIGER GRANT

<table>
<thead>
<tr>
<th>TIGER 2016 GRANT NO.</th>
<th>UTA CONTRACT NO.</th>
<th>STAKEHOLDER CONTRACT NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>SUMMARY OF CITY PROJECTS INCLUDED IN THIS SUPPLEMENT:</td>
<td>VALUE OF CITY PROJECTS $</td>
<td>CITY REPRESENTATIVE:</td>
</tr>
</tbody>
</table>

THIS SUPPLEMENT NO. __ TO STAKEHOLDER AGREEMENT ("Supplement"), made and entered into this ___ day of _____________, 201_, by and between UTAH TRANSIT AUTHORITY, a public transit district ("UTA"), and ___________________________ ("City").

The parties hereto entered in to a Stakeholder Agreement dated __________________, (the "Agreement"), which Agreement contemplated execution of this Supplement outlining specific details for the City Projects to be completed thereunder. All definitions and terms of the Agreement remain in full force and effect unless otherwise specified herein.

The parties hereto agree to the specific City Projects, including scope, schedule and budget as follows:

Description of work to be performed, including proposed location:
(Plans/Plan Sheets Attached)

Anticipated duration of work:

Estimated Total Cost of Work:
(Detailed Estimate Attached)

ESTIMATED BUDGET OF THIS SUPPLEMENT: $______________

ESTIMATED AMOUNT OF TIGER GRANT PARTICIPATION: $______________

ESTIMATED AMOUNT OF CITY PARTICIPATION: $______________

ADDITIONAL FUNDING SOURCES: $______________

Upon full execution of this Supplement and receipt by UTA of the City participation funds to UTA, the contractor will be authorized to proceed with the work covered herein.
IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized officers as of the day and year first written above.

UTAH TRANSIT AUTHORITY

By___________________________________________
Title__________________________________________
Date:______________________

By___________________________________________
Title__________________________________________
Date:______________________

Approved as to Form:

__________________
UTA Legal Counsel

_______ CITY

By___________________________________________
Title__________________________________________
Date:______________________

By___________________________________________
Title__________________________________________
Date:______________________
EXHIBIT “C”

Form of Modification Supplement
MODIFICATION SUPPLEMENT TO
STAKEHOLDER AGREEMENT

This Modification Supplement to Stakeholder Agreement ("Modification") is made and entered into this ___ day of __________ 2018 by and between Utah Transit Authority, a public transit district ("UTA"), and _______________________________ City, a political subdivision of the laws of the State of Utah (the “City”). UTA and the City are hereinafter collectively referred to as the “parties” and either may be referred to individually as “party,” all as governed by the context in which such words are used.

RECITALS

WHEREAS, the parties hereto entered into a Stakeholder Agreement dated __________________, (the “Agreement”) regarding the construction of TIGER Projects;

WHEREAS, the Agreement contemplated execution of this Supplement outlining specific details for the City Projects to be completed as part of the TIGER Projects;

WHEREAS, the City desired to enhance, modify and/or increase the scope of certain of one or more of the City Projects (the “Modifications”);

WHEREAS, UTA, as the contracting party for the TIGER Projects, is willing to cause the TIGER Projects contractor to complete the Modifications provided that the City pay for the incremental costs associated with the Modifications; and

WHEREAS, this Modification is consistent with, and entered in accordance with, the Agreement.

AGREEMENT

NOW THEREFORE, on the stated Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereinafter set forth, the mutual benefits to the Parties to be derived herefrom, and for other valuable consideration, the receipt and sufficiency of which the Parties acknowledge, it is hereby agreed as follows:

1. __________ Modifications. The City desires to include additional Modifications to the City Projects described and set forth in Supplement No. ___ to the Agreement, as such Modifications are described on Schedule 1, attached hereto and by this reference made a part hereof. UTA will manage and monitor the work consistent with the other construction performed in conjunction with the TIGER Projects.

[ALTERNATIVE PARAGRAPH 1 – 1. __________ Modifications. Contractor and/or UTA have determined that the City ____________________

2. Costs of Modifications. The City will be solely responsible for all actual, allocable and reasonable incremental costs attributable to the Modifications including, without limitation, labor, materials, construction, administrative overhead, taxes and other out of pocket expenses. Payment shall be made to UTA as described in the Agreement; or in the event that such modifications occur or arise as a result of changed conditions, (including by way of example only, soil conditions affecting footings, unidentified utilities, schedule delays, contractor-
requested change orders, etc.), within thirty (30) days of execution of this Modification Supplement.

IN WITNESS WHEREOF, the parties hereto have caused this Modification Supplement to be executed in duplicate as of the date first herein written.

UTAH TRANSIT AUTHORITY

By: _______________________________
Title: _______________________________

By: _______________________________
Title: _______________________________

Reviewed and Approved as to Form

UTA Engineering

UTA Legal

(CITY)

By: _______________________________
Title: _______________________________

ATTESTED AND COUNTERSIGNED

By: _______________________________
EXHIBIT “D”

Annual City Projects Maintenance Report

This report shall be submitted on an annual basis, addressed to UTA as follows:

Utah Transit Authority
Asset Management Group
669 West 200 South
Salt Lake City, UT 84101

This report shall be submitted for ten years from the completion of the City Property, or such longer period as may be requested by UTA.

This report will include the following information submitted in a format reasonably acceptable to UTA:

- A description of the assets constructed as part of the City Project.
- Current photographs of such assets.
- Most recent inspection date.
- Summary of maintenance activities conducted since last report.
- Summary of long term maintenance and capital replacement plan.