

Mayor
Kenneth Romney

WEST BOUNTIFUL CITY

City Administrator
Duane Huffman

City Council
James Ahlstrom
James Bruhn
Kelly Enquist
Mark Preece
Andrew Williams

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355
www.WBCity.org

City Recorder
Cathy Brightwell

City Engineer
Ben White

Public Works Director
Steve Maughan

CITY COUNCIL MEETING

**THE WEST BOUNTIFUL CITY COUNCIL WILL HOLD A
REGULAR MEETING AT 7:30 PM ON TUESDAY, NOVEMBER 20, 2018
AT CITY HALL, 550 N 800 WEST**

Invocation/Thought – James Ahlstrom; Pledge of Allegiance – Mark Preece

1. Approve the Agenda.
2. Public Comment - two minutes per person, or five minutes if speaking on behalf of a group.
3. Public Hearing Regarding Vacating a Temporary Turnaround Easement at 2054 N 1000 W, Kinross Estates.
4. Consider 1st Amendment to Plat for Kinross Estates Subdivision.
5. Consider Plat Amendment for Mountain View Estates Subdivision.
6. Consider Plat Amendment for Onion Gardens Subdivision at 800 West and Pages Lane.
7. Consider Modification #3 to Highgate Estates Subdivision Final Plat.
8. Ratify Bond Agreement for Removal of Illegal Structure at 1035 W 600 North, dated October 25, 2018.
9. Consider Acceptance of Annexation Petition from Mike Cottle et al, for 1338 W 1200 North.
10. Public Works/Engineering Report.
11. Police Report.
12. Administrative Report.
13. Mayor/Council Reports.
14. Consider Approval of Minutes from the October 2, 2018 City Council Meeting.
15. Executive Session for the Purpose of Discussing Items Allowed Pursuant to UCA § 52-4-205.
16. Adjourn.

Those needing special accommodations can contact Cathy Brightwell at 801-292-4486 24-hrs prior to the meeting.

This agenda was posted on the State Public Notice website, the City website, emailed to the Mayor and City Council, and sent to the Clipper Publishing Company on November 15, 2018.

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NOTICE OF PUBLIC HEARING

A public hearing will be held by the West Bountiful City Council at its regular meeting on Tuesday, November 20, 2018 at the City offices, 550 N 800 West, beginning at 7:30 pm, or as soon thereafter as dictated by the agenda.

The purpose of the hearing is to receive public comment regarding the vacation of a Temporary Turn Around Easement on the east side of the street at 2054 North 1000 West, West Bountiful.

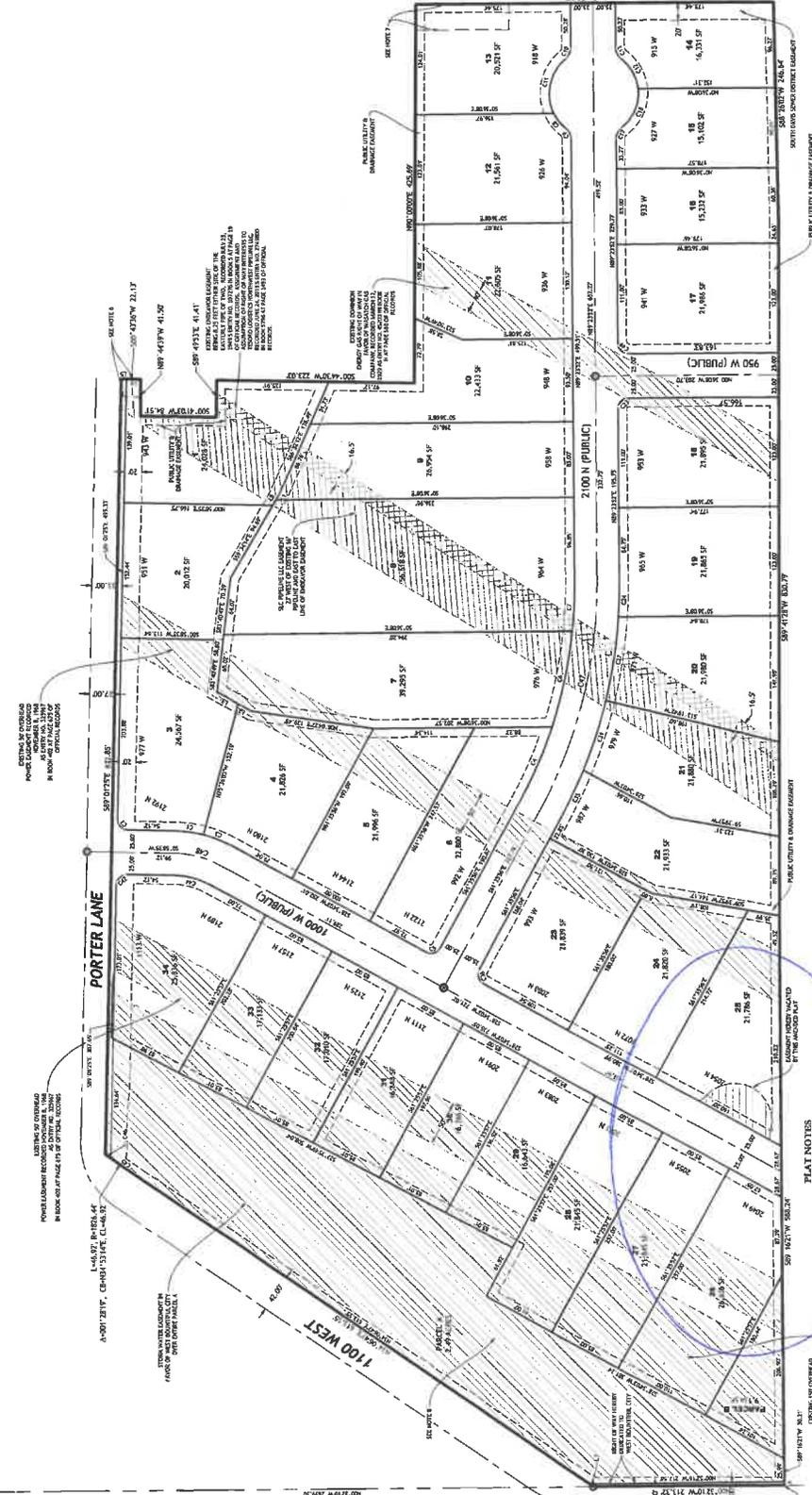
All interested parties are invited to participate in the hearing. Written comments may be submitted prior to the meeting.

Cathy Brightwell
City Recorder

KINROSS ESTATES 1st AMENDMENT

LYING WITHIN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 13, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN WEST BOUNTIFUL CITY, DAVIS COUNTY, UTAH

PORTER LANE
 1100 WEST
 2100 N (PUBLIC)
 950 W (PUBLIC)



- PLAT NOTES**
- ALL EASEMENTS ARE OF FORCE AND EFFECT UNLESS OTHERWISE NOTED.
 - APPROVAL OF THE SUBDIVISION PLAT DOES NOT CONSTITUTE AN ENDORSEMENT BY THE CITY OF BOUNTIFUL, UTAH, NOR DOES IT IMPLY ANY GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON.
 - INDIVIDUAL PROPERTY OWNERS ARE RESPONSIBLE FOR SURFACE EASEMENTS.
 - EXISTING EASEMENTS ON RECORD ARE SHOWN AND SHALL REMAIN UNLESS OTHERWISE NOTED.
 - EXISTING EASEMENTS ON RECORD ARE SHOWN AND SHALL REMAIN UNLESS OTHERWISE NOTED.
 - RIGHT-OF-WAY AND EASEMENT GRANT BY FAVOR OF UTAH POWER & LIGHT COMPANY, RECORDED OCTOBER 16, 1990 AS ENTRY NO. 90515 IN BOOK 4 AT PAGE 99 OF OFFICIAL RECORDS.
 - RIGHT-OF-WAY AND EASEMENT GRANT BY FAVOR OF UTAH POWER & LIGHT COMPANY, RECORDED JANUARY 14, 1977 AS ENTRY NO. 45169 IN BOOK 42 AT PAGE 53 OF OFFICIAL RECORDS.
 - UTAH POWER & LIGHT COMPANY HAS BEEN ADVISED BY THE PROPERTY OWNER THAT THE PROPERTY ACCTS MINIMUM RESIDENTIAL ENVIRONMENTAL STANDARDS.
 - PROPERTY OWNERS ARE ADVISED THAT THE PROPERTY IS SUBJECT TO THE CITY OF BOUNTIFUL, UTAH, AND THE CITY ENGINEER'S REQUIREMENTS FOR CONSTRUCTION.
 - NO TREES OR STRUCTURES OF ANY KIND SHALL BE REMOVED OR DESTROYED WITHOUT THE WRITTEN CONSENT OF THE CITY ENGINEER. ANY REMOVAL OF TREES OR STRUCTURES SHALL BE REPLACED AT THE OWNER'S EXPENSE.
 - THE CITY ENGINEER SHALL BE NOTIFIED IN WRITING OF ANY REMOVAL OF TREES OR STRUCTURES AT LEAST 30 DAYS PRIOR TO THE COMMENCEMENT OF SUCH REMOVAL.
 - THE CITY ENGINEER SHALL BE NOTIFIED IN WRITING OF ANY REMOVAL OF TREES OR STRUCTURES AT LEAST 30 DAYS PRIOR TO THE COMMENCEMENT OF SUCH REMOVAL.
 - ALL UTILITIES SHOWN ARE THE RESULT OF A SURVEY AND FIELD VERIFICATION. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS AND FIELD VERIFICATION OF THE UTILITIES SHOWN. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS AND FIELD VERIFICATION OF THE UTILITIES SHOWN.
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KINROSS ESTATES 1st AMENDMENT
 LYING WITHIN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 13, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN WEST BOUNTIFUL CITY, DAVIS COUNTY, UTAH

SHEET 2 OF 2

RECORDED IN STATE OF UTAH, COUNTY OF DAVIS, RECORD AND FILED AT THE REISTRY OF DEEDS, BOUNTIFUL CITY, DAVIS COUNTY, UTAH.
 DATE: _____ TIME: _____ BOOK: _____ PAGE: _____
 FEE: _____

EDM PARTNERS
 3908 S. 900 E., SUITE 100, BOUNTIFUL, UT 84007
 (801) 305-4270
 www.edm.com

DATE	BY

MEMORANDUM



TO: Mayor and City Council

DATE: November 14, 2018

FROM: Ben White, City Engineer

**RE: Kinross Estates 1st Amendment to Plat and
Public Hearing to Vacate Temporary Turnaround Easement**

Summary

The Kinross Estates subdivision was recorded on June 28th of this year. Subsequent to the plat recording, several requested changes are being proposed.

1. Tesoro pipeline company was desirous to have a wider easement which crosses Lots 1, 7, 8, 20 and 21. Developer has agreed to provide and depict the wider easement on the plat.
2. Lot lines for 1,2 and 3 were modified to maintain a buildable pad on Lot 1 and maintain a minimum of one-half acre on all three lots.
3. An error was made in establishing the right of way boundary of 1100 West (west of Lot 26)
4. The temporary turnaround easement on Lot 25 is being vacated due to the Mountain View Estates Subdivision construction.
5. 9134 square feet of Lot 26 is being deeded to the Mountain View Estates Lot 139.

Process

Utah State Code Section 10-9a-608 and 609.5 annotated outline a process where a municipal land use authority may amend or vacate a subdivision plat and adjust easements and right of ways. Per state code, staff has provided written notice to affected entities which includes utility companies and quasi-governmental agencies, and published notice of a public hearing. The public hearing is specifically to address vacating the temporary turnaround easement on Lot 25.

Analysis and Proposed Changes

1. No new lots are created with this amendment.
2. Each lot being adjusted meets the minimum requirements for the R-1-22 zone.
3. The temporary turnaround easement was contemplated to be vacated upon the road continuing southward.
4. Documentation confirming the width of the revised pipeline easement has been received.

Staff is recommending approval of the Kinross Estates 1st Amendment.

MEMORANDUM



TO: Mayor and City Council
DATE: November 15, 2018
FROM: Ben White, City Engineer
RE: Mountain View Estates Subdivision Amended Plat

Summary

The subdivision owners of Mountain View Estates and Kinross Estates have agreed and are desirous to modify plat boundaries such that the Mountain View Estates Lot 139 will become larger. Since adjusting the lot line of Lot 139 affects the boundary of the plat, a plat amendment is required.

Process

Utah State Code Section 10-9a-608 annotated outlines a process where a municipal land use authority may amend or vacate a subdivision plat. Per state code, staff has provided written notice to affected entities which includes utility companies and quasi-governmental agencies.

Analysis and Proposed Changes

1. No new lots are created with this amendment;
2. Each lot meets the minimum requirements for the R-1-22 zone;
3. The existing public utility easements are unaffected; and
4. A new ten-foot utility easement is granted along the revised north and west property line of Lot 139.

Staff is recommending approval of Mountain View Estates Subdivision Amended Plat as presented.

MOUNTAIN VIEW ESTATES

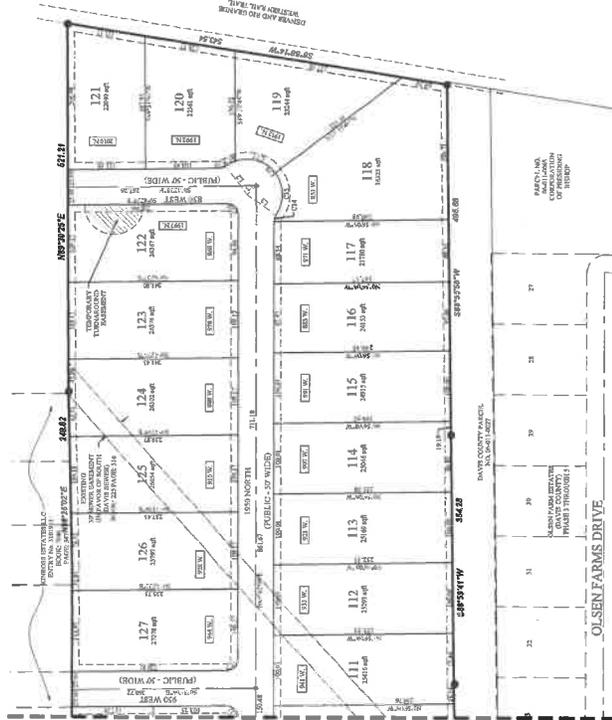
LOCATED IN THE NW 1/4 OF SECTION 13, T2N, R1W,
SALT LAKE BASE & MERIDIAN
WEST BOUNTIFUL CITY, DAVIS COUNTY, UTAH



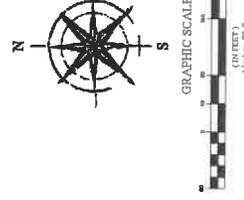
VICINITY MAP

- NOTES:**
1. PURCHASE OF THIS REAR FRONT, AND REAR YARDS, UNLESS OTHERWISE NOTED.
 2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS NOTED.
 3. REPAIR LANDSCAPING WHEN THE TEMPORARY DRIVEWAY IS REMOVED AND CONSIDER NOT REMOVING TEMPORARY TURNS AND CONSIDER NOT CURB AND SIDEWALK.
 4. CONSTITUTE ANY REPRESENTATION AS TO THE LOCATION OF ANY UTILITY OR EXISTING WATER TABLE. CONSULT THE GEOLOGICAL STUDY FOR THIS INFORMATION.
 5. MAINTENANCE FOR THE REAR YARD DRAINING AND 12" PRIVATE PROPERTY ARE THE RESPONSIBILITY OF THE PROPERTY OWNER.

- FEMA NOTES:**
1. THIS MAP IS BASED ON THE FEMA FLOOD ZONING MAPS (SHEETS 60100B01E AND 60100B02E) WITH FEMA ZONING AND ZONE X ACCORDING TO MAP SHEET 60100B01E.
 2. ZONE X (SHADED AREA) IS DEFINED AS SPECIAL HAZARD ZONE AND IS SUBJECT TO FLOODING BY THE 1% ANNUAL CHANCE FLOOD.
 3. ZONE X IS DEFINED AS AREAS DETERMINED TO BE AT RISK OF FLOODING BY THE 1% ANNUAL CHANCE FLOOD.



SEE SHEET 1 OF 2



GRAPHIC SCALE
(IN FEET)
1 inch = 80 ft.

CURVE	POINTS	BETA	LENGTH	CHORD BEARING	CHORD LENGTH
C25	133.00	171.00°	8.33	S81.123E	8.33
C26	133.00	171.00°	8.33	S81.123E	8.33
C27	133.00	171.00°	8.33	S81.123E	8.33
C28	133.00	171.00°	8.33	S81.123E	8.33
C29	133.00	171.00°	8.33	S81.123E	8.33
C30	133.00	171.00°	8.33	S81.123E	8.33
C31	133.00	171.00°	8.33	S81.123E	8.33
C32	133.00	171.00°	8.33	S81.123E	8.33
C33	133.00	171.00°	8.33	S81.123E	8.33
C34	133.00	171.00°	8.33	S81.123E	8.33
C35	133.00	171.00°	8.33	S81.123E	8.33
C36	133.00	171.00°	8.33	S81.123E	8.33
C37	133.00	171.00°	8.33	S81.123E	8.33
C38	133.00	171.00°	8.33	S81.123E	8.33
C39	133.00	171.00°	8.33	S81.123E	8.33
C40	133.00	171.00°	8.33	S81.123E	8.33
C41	133.00	171.00°	8.33	S81.123E	8.33
C42	133.00	171.00°	8.33	S81.123E	8.33
C43	133.00	171.00°	8.33	S81.123E	8.33
C44	133.00	171.00°	8.33	S81.123E	8.33
C45	133.00	171.00°	8.33	S81.123E	8.33
C46	133.00	171.00°	8.33	S81.123E	8.33
C47	133.00	171.00°	8.33	S81.123E	8.33
C48	133.00	171.00°	8.33	S81.123E	8.33
C49	133.00	171.00°	8.33	S81.123E	8.33
C50	133.00	171.00°	8.33	S81.123E	8.33
C51	133.00	171.00°	8.33	S81.123E	8.33
C52	133.00	171.00°	8.33	S81.123E	8.33
C53	133.00	171.00°	8.33	S81.123E	8.33
C54	133.00	171.00°	8.33	S81.123E	8.33
C55	133.00	171.00°	8.33	S81.123E	8.33
C56	133.00	171.00°	8.33	S81.123E	8.33
C57	133.00	171.00°	8.33	S81.123E	8.33
C58	133.00	171.00°	8.33	S81.123E	8.33
C59	133.00	171.00°	8.33	S81.123E	8.33
C60	133.00	171.00°	8.33	S81.123E	8.33
C61	133.00	171.00°	8.33	S81.123E	8.33
C62	133.00	171.00°	8.33	S81.123E	8.33
C63	133.00	171.00°	8.33	S81.123E	8.33
C64	133.00	171.00°	8.33	S81.123E	8.33
C65	133.00	171.00°	8.33	S81.123E	8.33
C66	133.00	171.00°	8.33	S81.123E	8.33
C67	133.00	171.00°	8.33	S81.123E	8.33
C68	133.00	171.00°	8.33	S81.123E	8.33
C69	133.00	171.00°	8.33	S81.123E	8.33
C70	133.00	171.00°	8.33	S81.123E	8.33
C71	133.00	171.00°	8.33	S81.123E	8.33
C72	133.00	171.00°	8.33	S81.123E	8.33
C73	133.00	171.00°	8.33	S81.123E	8.33
C74	133.00	171.00°	8.33	S81.123E	8.33
C75	133.00	171.00°	8.33	S81.123E	8.33
C76	133.00	171.00°	8.33	S81.123E	8.33
C77	133.00	171.00°	8.33	S81.123E	8.33
C78	133.00	171.00°	8.33	S81.123E	8.33
C79	133.00	171.00°	8.33	S81.123E	8.33
C80	133.00	171.00°	8.33	S81.123E	8.33
C81	133.00	171.00°	8.33	S81.123E	8.33
C82	133.00	171.00°	8.33	S81.123E	8.33
C83	133.00	171.00°	8.33	S81.123E	8.33
C84	133.00	171.00°	8.33	S81.123E	8.33
C85	133.00	171.00°	8.33	S81.123E	8.33
C86	133.00	171.00°	8.33	S81.123E	8.33
C87	133.00	171.00°	8.33	S81.123E	8.33
C88	133.00	171.00°	8.33	S81.123E	8.33
C89	133.00	171.00°	8.33	S81.123E	8.33
C90	133.00	171.00°	8.33	S81.123E	8.33
C91	133.00	171.00°	8.33	S81.123E	8.33
C92	133.00	171.00°	8.33	S81.123E	8.33
C93	133.00	171.00°	8.33	S81.123E	8.33
C94	133.00	171.00°	8.33	S81.123E	8.33
C95	133.00	171.00°	8.33	S81.123E	8.33
C96	133.00	171.00°	8.33	S81.123E	8.33
C97	133.00	171.00°	8.33	S81.123E	8.33
C98	133.00	171.00°	8.33	S81.123E	8.33
C99	133.00	171.00°	8.33	S81.123E	8.33
C100	133.00	171.00°	8.33	S81.123E	8.33

CURVE	POINTS	BETA	LENGTH	CHORD BEARING	CHORD LENGTH
C1	133.00	171.00°	8.33	S81.123E	8.33
C2	133.00	171.00°	8.33	S81.123E	8.33
C3	133.00	171.00°	8.33	S81.123E	8.33
C4	133.00	171.00°	8.33	S81.123E	8.33
C5	133.00	171.00°	8.33	S81.123E	8.33
C6	133.00	171.00°	8.33	S81.123E	8.33
C7	133.00	171.00°	8.33	S81.123E	8.33
C8	133.00	171.00°	8.33	S81.123E	8.33
C9	133.00	171.00°	8.33	S81.123E	8.33
C10	133.00	171.00°	8.33	S81.123E	8.33
C11	133.00	171.00°	8.33	S81.123E	8.33
C12	133.00	171.00°	8.33	S81.123E	8.33
C13	133.00	171.00°	8.33	S81.123E	8.33
C14	133.00	171.00°	8.33	S81.123E	8.33
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C17	133.00	171.00°	8.33	S81.123E	8.33
C18	133.00	171.00°	8.33	S81.123E	8.33
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C20	133.00	171.00°	8.33	S81.123E	8.33
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C23	133.00	171.00°	8.33	S81.123E	8.33
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C36	133.00	171.00°	8.33	S81.123E	8.33
C37	133.00	171.00°	8.33	S81.123E	8.33
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C44	133.00	171.00°	8.33	S81.123E	8.33
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C51	133.00	171.00°	8.33	S81.123E	8.33
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C60	133.00	171.00°	8.33	S81.123E	8.33
C61	133.00	171.00°	8.33	S81.123E	8.33
C62	133.00	171.00°	8.33	S81.123E	8.33
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C64	133.00	171.00°	8.33	S81.123E	8.33
C65	133.00	171.00°	8.33	S81.123E	8.33
C66	133.00	171.00°	8.33	S81.123E	8.33
C67	133.00	171.00°	8.33	S81.123E	8.33
C68	133.00	171.00°	8.33	S81.123E	8.33
C69	133.00	171.00°	8.33	S81.123E	8.33
C70	133.00	171.00°	8.33	S81.123E	8.33
C71	133.00	171.00°	8.33	S81.123E	8.33
C72	133.00	171.00°	8.33	S81.123E	8.33
C73	133.00	171.00°	8.33	S81.123E	8.33
C74	133.00	171.00°	8.33	S81.123E	8.33
C75	133.00	171.00°	8.33	S81.123E	8.33
C76	133.00	171.00°	8.33	S81.123E	8.33
C77	133.00	171.00°	8.33	S81.123E	8.33
C78	133.00	171.00°	8.33	S81.123E	8.33
C79	133.00	171.00°	8.33	S81.123E	8.33
C80	133.00	171.00°	8.33	S81.123E	8.33
C81	133.00	171.00°	8.33	S81.123E	8.33
C82	133.00	171.00°	8.33	S81.123E	8.33
C83	133.00	171.00°	8.33	S81.123E	8.33
C84	133.00	171.00°	8.33	S81.123E	8.33
C85	133.00	171.00°	8.33	S81.123E	8.33
C86	133.00	171.00°	8.33	S81.123E	8.33
C87	133.00	171.00°	8.33	S81.123E	8.33
C88	133.00	171.00°	8.33	S81.123E	8.33
C89	133.00	171.00°	8.33	S81.123E	8.33
C90	133.00	171.00°	8.33	S81.123E	8.33
C91	133.00	171.00°	8.33	S81.123E	8.33
C92	133.00	171.00°	8.33	S81.123E	8.33
C93	133.00	171.00°	8.33	S81.123E	8.33
C94	133.00	171.00°	8.33	S81.123E	8.33
C95	133.00	171.00°	8.33	S81.123E	8.33
C96	133.00	171.00°	8.33	S81.123E	8.33
C97	133.00	171.00°	8.33	S81.123E	8.33
C98	133.00	171.00°	8.33	S81.123E	8.33

MEMORANDUM



TO: Mayor and City Council
DATE: November 14, 2018
FROM: Ben White, City Engineer
RE: Onion Street Gardens Subdivision Amended

Summary

The property owners (Cris Hogan family) of Lot 1 and the adjoining property to the north desire to adjust the lot line between the two properties. Since adjusting the lot line of Lot 1 affects the boundary of the plat, a plat amendment is required.

Process

Utah State Code Section 10-9a-608 annotated outline a process where a municipal land use authority may amend or vacate a subdivision plat. Per state code, staff has provided written notice to affected entities which includes utility companies and quasi-governmental agencies.

Analysis and Proposed Changes

1. No new lots are created with this amendment.
2. Each lot meets the minimum requirements for their R-1-10 zone.
3. The existing public utility easements are unaffected
4. A ten-foot utility easement is granted across the front of Lot 102.
5. There is an existing house on Lot 102 that was originally constructed in 1919. The house conforms to zoning requirements for side and rear setbacks but is nonconforming with front setback. The front setback is approximately 22 feet. Staff considers the building's status as legal nonconforming due to the building being constructed prior to the city code's adoption.

Staff is recommending approval of Onion Street Gardens Subdivision Amended Plat as presented.

MEMORANDUM



TO: Mayor and City Council

DATE: November 15, 2018

FROM: Ben White

RE: Modification #3 to previously approved Highgate Estates Subdivision Final Plat

Mr. Al Jones and Onion Patch Securities, LLC are requesting to realign the 1450 West street which would also affect the boundary of the subdivision.

Background

- A. The Highgate plat has been previously approved by city council, and the developer is diligently working to install the infrastructure at this time.
- B. As part of a previously approved plat modification, the 1450 West street right of way was shifted east to be further away from the Jones' house currently being constructed.
- C. The "extra" property between the proposed 1450 West street right of way and Millcreek Meadows Lot 14 has been sold to the Lot 14 owner. That area is now not included in the plat.
- D. Bureau of Reclamation is requiring the development to provide storm detention prior to discharging into the A-1 drain. The detention basin is on Lot 23 with an easement in favor of the City with the HOA responsible for the detention basin maintenance. This maintenance requirement is now specified in the attached, revised CCRs.
- E. The Highgate plat is not recorded yet, so any proposed adjustments are simpler now than after the plat is recorded.

Outstanding Items

1. **Water Right Agreement.** Deeding water rights to the city, as required by city ordinance, was a previously imposed condition on the subdivision plat approval. The develop appears to own more than enough water right to meet their current obligation. However, they also own an additional 30 acres. In an effort to deed the minimum amount required to the City and maintain ownership of the maximum amount of water, the developer has requested a Change Application from the State Engineers' Office. This change application takes time. The Developer has requested to essentially bond for the water right like the recent McKean Subdivision. A copy of the proposed agreement is included.

2. Holly Drain Line Easement. The Developer has been working with Holly regarding the industrial wastewater line that travers through the site. Progress has been made in that the wastewater has been intercepted at 1100 West into a separate Sewer District owned pipe. The drain pipeline within the subdivision is currently decommissioned. Holly and the Developer are negotiating whether the existing pipeline and easement remain in their current location or if a new easement alignment is acceptable. An additional challenge is that the existing easement is a blanket easement without a defined width. Regardless of location, the easement width must be defined before a building permit for any lot should be issued.

Recommendation

Staff recommends approval of the modified subdivision as presented with the condition that the Holly drain line easement issue be resolved and defined to the satisfaction of the City Attorney.

Also, staff recommends approval of the Agreement to Record Subdivision Plat Prior to Transferring Water Rights as an acceptable means to ensure that the City's interests are protected.

West Bountiful City
Utah

Agreement to Record Subdivision Plat Prior to Transferring Water Rights

THIS AGREEMENT (hereinafter the "Agreement") is made this ____ day of ____, 20__, (the "Effective Date") by and between WEST BOUNTIFUL CITY, a municipal corporation, (hereinafter the "City"), and Blackgate Investments, LLC (hereinafter the "Property Owner"). The City and the Property Owner are sometimes hereinafter individually referred to as a "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

- A. The Property Owner desires to record the Highgate Subdivision plat prior to transferring to the City certain water rights.
- B. As part of the subdivision plat approval the Property Owner is required to transfer to the City the water rights equal to 0.45 acre-feet per equivalent residential connection of municipal water right.
- C. The City desires to have security enough to cover the value of the water rights and hold sufficient collateral to ensure the completion of transfer.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the City and the Property Owner agree as follows:

OPERATIVE PROVISIONS

**ARTICLE I
RESPONSIBILITIES OF THE PROPERTY OWNER**

1. The Property Owner's Responsibilities. The Property Owner shall provide the City a warranty deed and any other document necessary for the transfer, free and clear of any claims or encumbrances, of the required water rights (collectively, the "Transfer Documents"). In addition, the Property Owner will provide the City a cash bond totaling Twenty-Eight Thousand Eighty Dollars (\$28,080.00) (the "Water Right Bond"), which is deemed to be the current value of the water rights.
2. Property Owner's Security Acknowledgement. The subdivision will not be considered complete until the water rights are properly transferred to the City. The Property Owner agrees that the subdivision warranty bond of Two Hundred Forty-Eight Thousand Six Hundred Sixty-Six Dollars (\$248,666.00) (the "Warranty Bond") will not be released until the warranty period has expired and the required water rights have been properly transferred.

**ARTICLE II
RESPONSIBILITIES OF THE CITY**

1. Disclaimer of Responsibility: The City has no responsibility associated with the approvals of the Utah State Engineer's office or any other factors that may affect the Property Owner's ability to transfer the water rights to the City in a timely manner.

2. Release of Bond and Security. Upon receipt of the required Transfer Documents, the City will release the Water Right Bond to the party who posted the bond. If the warranty period for the public improvements has been completed at that time, the City will release the Warranty Bond to the party who posted the bond. If the Property Owner provides the City a properly executed third-party agreement transferring the rights to the bond monies to a party other than the party who posted the bond, the City will honor the terms of the third-party agreement and refund the bond proceeds accordingly. The City will have no liability to verify the authenticity or legal effect of any such third-party agreement, but may accept the agreement as genuine and legal on its face.

**ARTICLE III
ENFORCEMENT OF OBLIGATION TO TRANSFER WATER RIGHTS**

1. Water Right Bond Forfeiture. Commencing two years following the execution of this Agreement, if the Property Owner has not presented to the City the required Transfer Documents, the City will impose an annual assessment of twenty percent (20%) of the Water Right Bond as rental for the use of other City water rights to satisfy the water right requirements of the Highgate Subdivision (the "Subdivision"). This assessment will continue until the Water Right Bond proceeds have been exhausted. This assessment in no way reduces the obligation of any user of City water within the Subdivision to pay fees associated with such use.

2. Subdivision Warranty Bond. Notwithstanding any provision of this Agreement or the Warranty Bond to the contrary, if the water rights required for the Subdivision have not been properly transferred by the time the Water Right Bond proceeds have been exhausted, the City is hereby authorized to use the Warranty Bond proceeds to acquire water rights sufficient to supply the Subdivision. Any remaining proceeds after such acquisition will be refunded as provided in the Warranty Bond.

**ARTICLE IV
GENERAL PROVISIONS**

1. Notices. All notices required hereunder shall be given in writing to the following addresses or such other addresses, including email, as the parties may designate by written notice:

To the City:	West Bountiful City 550 N 800 W West Bountiful, Utah 84087 Attention: City Administrator
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To the Property Owner:

Blackgate Investments LLC
66 East 1200 South
Bountiful, UT 84010

Notice shall be deemed received as follows, depending upon the method of transmittal: by facsimile or email, as of the date and time sent; by messenger, as of the date delivered; and by U.S. Mail, certified, return receipt requested, as of 72 hours after deposit in the U.S. Mail. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

4. Authority to Enter Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right and authority to enter into this Agreement so as to bind each respective Party to perform the conditions contemplated herein.
5. Severability. If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.
6. Time is of the Essence. Time is of the essence in this Agreement, and all parties agree to execute all documents and to proceed with due diligence to complete all covenants and conditions set forth herein.
7. Entire Agreement. This Agreement contains the entire agreement of the Parties, and supersedes any prior or written statements or agreements between the Parties. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both Parties.
8. Incorporation of Recitals and Exhibits.
 - A. The "Recitals" constitute a material part hereof, and are hereby incorporated into the Agreement by reference as though fully set forth herein.
 - B. The "Exhibits" constitute a material part hereof, and are hereby incorporated into the Agreement by reference as though fully set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first written above.

DEVELOPER:

BLACKGATE INVESTMENTS, LLC

Jay Gough, Manager

ACKNOWLEDGMENT

STATE OF UTAH)
 : ss
COUNTY OF _____)

On the _____ day of _____, 2018, appeared before me *Jay Gough*, who, being duly sworn, did acknowledge that he is the *Manager of Blackgate Investments LLC*, the Developer named in the foregoing Agreement, and that he signed the Agreement as duly authorized by a resolution of its members and acknowledged to me that the LLC executed the same.

NOTARY PUBLIC

THE CITY:

WEST BOUNTIFUL CITY

Kenneth Romney, Mayor

ATTEST:

Cathy Brightwell, City Recorder

ACKNOWLEDGMENT

STATE OF UTAH)
 : ss
COUNTY OF DAVIS)

On the _____ day of _____, 2018, appeared before me *Kenneth Romney* and *Cathy Brightwell*, personally known to me or proved to me on the basis of satisfactory evidence to be the *Mayor and City Recorder*, respectively, of West Bountiful City, who duly acknowledged that the foregoing instrument was signed on behalf of the City by authority of a duly adopted resolution of its City Council, and that the City executed the same.

NOTARY PUBLIC

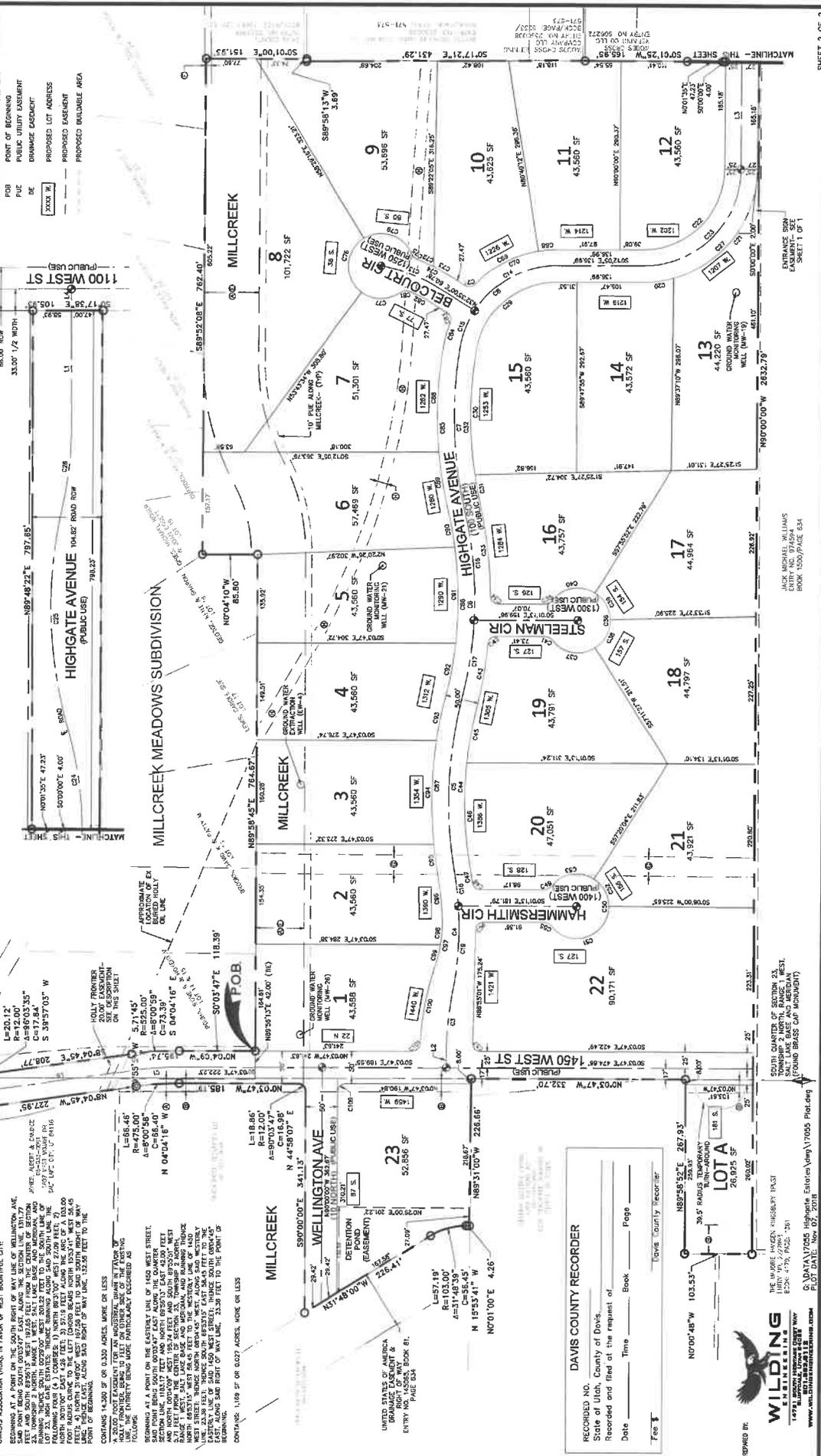
HIGHGATE ESTATES SUBDIVISION

LOCATED IN THE SOUTH HALF OF SECTION 23,
TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN
WEST BOUNTIFUL CITY, DAVIS COUNTY, UTAH

FINAL PLAN

SECTION 23
TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN
WEST BOUNTIFUL CITY, DAVIS COUNTY, UTAH

SECTION 23
TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN
WEST BOUNTIFUL CITY, DAVIS COUNTY, UTAH



DAVIS COUNTY RECORDER
RECORDED NO. _____
State of Utah, County of Davis
Recorded and filed at the request of _____
Date _____ Time _____ Book _____ Page _____
Fee \$ _____
Davis County Recorder

WILDLING ENGINEERS & SURVEYORS
1400 LAMAR AVENUE, SUITE 200
BOUNTIFUL, UTAH 84002
PHONE: 468-7700
WWW.WILDENGINEERS.COM

PLANNED BY: _____
DESIGNED BY: _____
DRAWN BY: _____
CHECKED BY: _____
DATE: _____

WHEN RECORDED, RETURN TO
Nate Whitaker
FRANCHISE & BUSINESS LAW GROUP
57 West 200 South, Ste 350
Salt Lake City, Utah 84101

DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR
HIGHGATE ESTATES

a Residential Community in West Bountiful City, Utah

**DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR
HIGHGATE ESTATES**

(a Residential Community in West Bountiful, Utah)

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR HIGHGATE ESTATES (this "Declaration") is made this ____ day of _____, 2018, by Blackgate Investments, LLC, a Utah limited liability company (the "Declarant").

RECITALS:

- A. Declarant owns or has the right to purchase certain real property located in West Bountiful, Davis County, State of Utah, as more particularly described on Exhibit A to this Declaration (the "Property"). The Property shall be, and hereby is, subject to the provisions of this Declaration.
- B. Declarant has recorded or intends to record a subdivision plat against the Property, creating twenty-five(25) building lots, namely Lots numbered 1 through 25, as part of a residential subdivision known as "Highgate Estates" (the "Subdivision" or the "Project"). All lots in the Subdivision shall be subject to, and governed by, the covenants, conditions and restrictions set forth in this Declaration, unless otherwise specified herein.

NOW THEREFORE, Declarant declares as follows:

All lots within the Property shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the protective covenants, conditions, restrictions and equitable servitude set forth in this Declaration, with exceptions granted specifically to Lots 7 and 9 from any and all rules and regulations herein. It is the intention of the Declarant in imposing these covenants, conditions and restrictions to create a general plan of development, to protect and enhance the property values and aesthetic values of the lots and homes in the Subdivision. The covenants, conditions and restrictions contained herein are intended to and shall run with the title of the land, and be binding upon the successors, assigns, heirs, and any other person holding any ownership or possessory interest in the Property, and shall inure to the benefit of all lots in the Subdivision.

The covenants, conditions, and restrictions shall be binding upon the Declarant and its successors in interest, and may be enforced by the Declarant or by any Owner, as hereinafter defined. Notwithstanding the foregoing, no provisions of this Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Declaration: (1) Installation and completion of the Improvements, as hereinafter defined; (2) Use of any lot owned by the Declarant as a model home, or for the placement of a temporary construction storage trailer without utility services; (3) Installation and maintenance of signs incidental to sales or construction, subject to applicable laws and ordinances; and (4) Assignment of Declarant's rights under this Declaration in whole or part to one or more builders intending to construct homes in the Subdivision.

The City is an intended third-party beneficiary of this Declaration. The Association shall not amend this Declaration in the future without the City's permission.

Notwithstanding any applicable theory relating to a mortgage, deed of trust or similar instrument, the term Lot Owner, Owner, or Owners shall not mean or include the mortgagee or beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

ARTICLE I
DEFINITIONS

Unless the context clearly requires otherwise, the following terms used in this Declaration shall have the following meanings:

1.1 “Act” means the Utah Community Association Act, Utah Code Ann. § 57-8a-101 *et seq.*, as amended from time to time.

1.2 “Assessment” means any of the fees, assessments, or payments required to be made by Owners of Lots within the Project, including the reinvestment fee, annual assessments, supplemental assessments, and special assessments, as more particularly described in Article 4.

1.3 “Association” means Highgate Estates Homeowners Association, Inc.

1.4 “Bylaws” means the *Bylaws of Highgate Estates Homeowners Association*. A copy of the Bylaws is attached hereto as Exhibit B.

1.5 “Board” means the Board of Directors of the Association.

1.6 “City” means the City of West Bountiful, a political subdivision of the State of Utah.

1.7 “Common Areas” mean the portions of the Project intended for common use by the Owners which are not included within the Lots and which are not dedicated or reserved for public use, as set forth on the Plat Map. The Common Areas are more particularly identified in Section 10.1.

1.8 “Common Expenses” means all sums lawfully assessed against the Lots or the Owners; all expenses of administration, maintenance, repair or replacement of the Common Areas; all expenses of management of the Association; all expenses allocated by the Association among the Owners; all expenses agreed upon as common expenses by the Association; and all expenses declared common expenses by this Declaration.

1.9 “County” means Davis County, Utah.

1.10 “County Recorder’s Office” means the Davis County Recorder’s office which maintains an official record of deeds and real property records and accepts such documents for recordation pursuant to Utah Code Ann. § 17-21-1.

1.11 “Covenants” means every covenant, condition, restriction, easement, and limitation set forth in this Declaration.

1.12 “Entrance Sign Easement” means the easement regarding the entrance sign on Lot 13 of the Plat. The Entrance Sign Easement is more specifically described in Section 10.9.

1.13 “Declarant” means Blackgate Investments, LLC, a Utah limited liability company, and its successors and assigns, and any assign or successor that acquires Declarant’s interest in the Property.

1.14 “Declaration” means this *Declaration of Covenants, Conditions, and Restrictions for Highgate Estates*, as it may be amended from time.

1.15 “Detention Basin” means the storm-water containment basin located within an easement on Lot 23 as shown on the Plat Map, which can fill completely during a 10-year or larger event.

1.16 “Dwelling” shall mean the single-family residence built or to be built on any Lot, including the attached garage.

1.17 “First Mortgage” means a recorded Mortgage or consensual lien granted by the Owner which is not subject to any senior lien or encumbrance except liens for taxes or other liens which are given priority by statute.

1.18 “First Mortgagee” means any person or entity named as a Mortgagee under a First Mortgage and any successor-in-interest to such Mortgagee.

1.19 “Improvement” means every structure, feature or improvement of any kind placed or constructed in the Project, including but not limited to any Dwelling, building, garage, lighting, deck, porch, patio, sidewalk, foundation, awning, fence, retaining wall, driveway, irrigation or drainage feature, storage structure or other product of construction and also includes landscaping.

1.20 “Lawn” means the front, back, and side areas of a Lot that are planted with grass.

1.21 “Lot” means a subdivided and individually numbered residential parcel as designated on the Plat Map recorded with the County Recorder’s Office. The term Lot includes any Dwelling or other Improvement constructed thereon.

1.22 “Member” means a person or entity who is a member of the Association.

1.23 “Mortgage” means any mortgage, deed of trust, or other document pledging any portion of a Lot or interest therein as security for the payment of a debt or obligation.

1.24 “Mortgagee” means the mortgage or beneficiary identified in a Mortgage.

1.25 “Owner” means the person or entity vested with legal, record fee simple title to any Lot. If there is more than one record holder of legal title to a Lot, each shall be an Owner.

1.26 “Period of Declarant’s Control” means the period of time during which Declarant shall have administrative control of the Association and the other rights and privileges as set forth in this Declaration. Following the recording of this Declaration, the Period of Declarant’s Control shall continue until such time as Declarant sees fit to, by written notice, transfer administrative control of the Association to the Owners, but in no event shall the Period of Declarant’s Control extend beyond the time when one hundred percent (100%) of the Lots in the Project have been conveyed by Declarant to Lot purchasers.

1.27 “Plat Map” or “Plat” means the plat map for the Project filed with the County Recorder’s Office and any plat incorporating additional real estate into the Project. A copy of the Plat current as of the date of this Declaration is attached hereto as Exhibit C. Declarant reserves the right to modify the terms of any revised or amend the plat for the Project. Any such revisions or amendments recorded in the County Recorder’s Office shall be deemed the Plat Map for purposes of this Declaration. Also, Declarant may expand the Project to include additional phases or additional lots for the Project. In the event the Project is expanded and one or more additional plats are recorded with the County Recorder’s Office, then the term Plat Map shall refer to all recorded plats for the Project.

1.28 “Project” means the Highgate Estates subdivision, including potential future phases thereof, as identified on the Plat Map. The Project is not a cooperative nor is it a condominium. The Project includes the Lots, Common Areas, and public areas within the boundaries of the Project as shown on the Plat Map.

1.29 “Property” means the real property situated in Davis County, State of Utah, as more particularly described in Exhibit A, against which this Declaration is recorded.

1.30 “Rules and Regulations” means the rules, regulations, and restrictions, not inconsistent with this Declaration or the Bylaws, duly adopted and promulgated by the Board.

1.31 “Subdivision Improvements” shall mean all improvements and facilities to be installed outside of the boundaries of Lots, as identified on the Plat, including those items that are necessary to provide access and utility service to the Lots and items required by the City as a condition of its approval of subdivision of the Property.

ARTICLE II RESTRICTIONS ON ALL LOTS

2.1 Zoning Regulations. The zoning ordinances of the City and any applicable building, fire, and health codes are in full force and effect in the Property, and no Lot may be occupied or used in a manner that is in violation of any such ordinance or Code.

2.2 Business or Commercial Uses. No portion of the Property may be used for any commercial, mining, or business use. Nothing in this provision is intended to prevent (a) the Declarant from using one or more Lots for purposes of a construction office during construction of the Subdivision Improvements or until the Lots are sold, whichever occurs later, or (b) the conduct of a home occupation entirely within a Dwelling. No home occupation will be permitted that requires or encourages clients, customers, patients or others to come to a Dwelling to conduct business, or that requires any employees outside of the Owner's immediate family or household.

2.3 Restriction on Signs. Signage shall be permitted only in accordance with City ordinances.

2.4 Completion Required Before Occupancy. No Dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by the City.

2.5 Dwelling to be Constructed First. No garage, storage unit, or other out-building may be constructed prior to the construction of the Dwelling on a Lot, with the exception of Lots 7 and 10, which shall be exempt from this restriction.

2.6 Underground Utilities. All gas, electrical, telephone, television, and any other utility lines in the Property are to be underground, including lines within any Lot which service Improvements within that Lot. No propane tanks or oil tanks may be installed on any Lot except for temporary heat during construction.

2.7 Service Yards. No clothes lines, service yards, or storage yards shall be permitted. Exterior mechanical equipment must be screened in a manner approved by the Committee so that it is not visible from adjoining Lots, except as provided herein.

2.8 Maintenance of Property. All Lots and the Improvements on them shall be maintained in a

clean, sanitary, and attractive condition at all times. No unsightliness is permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during construction of Improvements) open storage or parking of farm or construction equipment, boats, campers, camper shells, trailers, trucks larger than pick-up trucks (except during periods of actual loading and unloading) or inoperable motor vehicles; accumulations of Lawn or tree clippings or trimmings; accumulations of construction debris or waste; and household refuse or garbage except as stored in tight containers in an enclosure such as a garage or behind a fenced area. Sidewalks that front a lot shall be kept clear of snow and ice, which the Owner shall take care in a timely manner.

2.9 No Hazardous Activity. No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, that would cause the cancellation of conventional homeowners insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous materials in excess or those reasonable and customary for household uses, the discharge of firearms or fireworks other than in connection with celebration of the 4th of July and 24th of July holidays, and setting open fires (other than properly supervised and contained barbecues).

2.10 Fuel Storage. No fuel oil, gasoline, propane, or other fuel storage tanks may be installed or maintained on the property. Dwellings shall be heated with natural gas, solar, or electric heat. Propane or other such containerized fuels may be used only during construction of the Dwelling until the permanent heating system is installed and operational.

2.11 Recontouring. No lot shall be recontoured, including grading for purposes of basement construction, without the prior written approval of the City.

2.12 Drainage. No Owner shall alter the direction of natural drainage from his Lot, nor permit accelerated storm run-off to leave his Lot without first using reasonable means to dissipate the flow energy. Each Owner shall require its builder to deliver finished grades to streets and other common water carriers, such as trails, paths, creeks, canals or ditches. Owners shall not take any action that would cause water (from sprinklers or otherwise) to flow towards the foundations of the Dwellings on the Lots. Owners are responsible for keeping the private drain that has been installed along their property line in working order and free from blockage.

2.13 Sewer Connection Required. All Lots are served by sanitary sewer service, and no cesspools, septic tanks, or other types of waste disposal systems are permitted on any Lot. All Dwelling units must be connected to the sanitary sewer system.

2.14 Trash and Rubbish. All Lots (improved or unimproved) shall be kept free of rubbish, weeds, and other unsightly items, and shall be maintained in such a manner as not to detract from the residential quality of the Property. Trash, rubbish, garbage or other waste shall not be kept except in covered containers. Garbage and trash receptacles shall be permitted when stored inside a garage or behind a fenced area.

2.15 Parking and Storage of Vehicles. The storage of any automobiles, trucks, buses, tractors, trailers, camping vehicles, boats, boat trailers, snowmobiles, mobile homes, two and three wheeled motor vehicles, or other wheeled motor vehicles shall be prohibited unless such vehicles are stored in a garage or behind a fenced area.

2.16 Horses. Horses may be kept or maintained on the following Lots only, and no others, as designated by their Lot Numbers on the Subdivision Plat: 13,17,18,21,22.

ARTICLE III
DECLARANT CONTROL; ENFORCEMENT OF COVENANTS

3.1 Declarant Control. Declarant shall have control of the Association as defined in Section 1.23 above and as set forth in this Section 3.1. During the Period of Declarant's Control, Declarant shall have the right to amend this Declaration, and no amendment of this Declaration shall be valid unless approved in writing by Declarant. During the Period of Declarant's Control, Declarant shall also have the sole right to approve exceptions to (or variances from) any of the covenants contained herein, subject to City ordinances.

3.2 Right to Enforce Covenants. The Declarant, the Association, and each Owner shall have the right to enforce any of the covenants, conditions, and restrictions contained in this Declaration.

ARTICLE IV
ARCHITECTURAL CONTROLS

It is the intention and purpose of this Declaration to impose architectural standards on the Improvements to any Lot of a type and nature that result in buildings which are architecturally compatible in terms of lot coverage, proportion, materials, colors and general appearance, while at the same time allowing for appropriate diversity in style and design. To accomplish this goal, the Declarant hereby establishes the following architectural design standards. All Improvements on any Lot shall be subject to the following restrictions and architectural design standards:

4.1 Number of Dwellings. Only one single family residence may be constructed on any Lot. All Dwellings shall have an attached garage for at least three (3) vehicles. In addition, if Owners elect to construct an accessory building of any kind, it shall comply with the standards set forth in Section 4.5 below.

4.2 Dwelling Size. Dwelling size requirements are as follows:

- a. A Rambler, One-story home shall be not less than three thousand (3,000) square feet above grade.
- b. A two-story home shall have not less than three thousand (3,000) square feet of total square footage: at least three thousand (3,000) square feet on the main floor, before a second level is added the second level has no minimum requirement of square footage.

4.3 Ceiling Height. The ceiling of the main floor shall be a minimum of nine (9) feet in height.

4.4 Dwelling Height and Width. No structure shall exceed thirty-five (35) feet as measured from the lowest finished ground level to the highest part of the roof, except as otherwise provided in this Section. As an exception, the height of a main structure may be increased to a maximum of forty (40) feet if, for every foot of height in excess of thirty-five (35) feet, an additional foot of setback beyond the minimums required in this Article is provided on the front and each side of the structure. If public buildings or quasi-public buildings are allowed in the Community, they may be erected to a height greater than thirty-five (35) feet when approved as a conditional use by the planning commission.

4.5 Accessory Buildings. If an Owner elects to construct an accessory building of any kind on a Lot (for storage of boats, recreational vehicles, or other items), the accessory building shall satisfy the following standards:

- a. It shall have the same design and quality (in terms of architectural design, exterior features and materials, and roofing as the Dwelling constructed on the Lot.

4.6 Exterior Requirement. No structure shall be built with less than one hundred percent (100%) of all the faces of the structure of either brick, stone, cementitious siding or stucco (including the Dwelling and accessory building). Stone and masonry requirements shall be in accordance with the applicable City ordinances. The use of plastic soffit or fascia is prohibited. Exposed cement foundation height shall average not more than twenty-four (24) inches above finished grade on all sides.

4.7 Roof Design. All roofing materials must be of architectural grade. Wood roofing materials are prohibited.

4.8 Windows. All windows must be at least double glazed. Each side of the house must contain a minimum of one window.

4.9 Balconies and Decks. Any balcony or deck which is above the natural grade must be constructed in compliance with the following: All posts or pillars supporting any deck must be at least twelve (12) inches in width. The area under any deck must be either be landscaped or screened from view so that the view from adjoining Lots or streets is not of the unfinished underside of the deck. The area under any deck shall not be used for storage of equipment, firewood, building material, or similar material.

4.10 Driveways. Every garage shall be serviced by a driveway, which shall be of sufficient width and depth so as to park three (3) vehicles completely out of the street right of way. The maximum drive approach width shall be thirty-two feet (32'). The rest of the driveway on a Lot may be wider, but not the drive approach. All drivable surfaces must be paved with concrete.

4.11 Garages. The primary garage of each Dwelling shall not face the street in front of the Dwelling.

ARTICLE V CONSTRUCTION COVENANT

In order to minimize the inconvenience to neighboring Owners during periods of construction within the Property, the following construction regulations shall be enforced. These regulations shall be made a part of the construction contract between the Owner and the Builder of each Dwelling or other Improvements on a Lot. The Owner shall be bound by these regulations, and violations committed by the Builder or its employees, subcontractors or others shall be deemed a violation by the Owner for which Owner is liable.

5.1 Temporary Trailer. A builder or general contractor constructing a home on a Lot may utilize a trailer during the construction period only, subject to applicable City ordinances. The trailer must be located within the Owner's Lot. The temporary trailer may not be installed prior to the commencement of construction, and must be removed upon the first to occur of: (1) the issuance of a Certificate of Occupancy, (2) the termination, expiration, or cancellation of the Building Permit, (3) the suspension of

construction activities for a period of sixty {60} days, or (4) one year after the commencement of construction.

5.2 Construction Debris Removal. The Builder must comply with City ordinances requiring the placement and maintenance of a trash container or dumpster on the Lot. The Builder shall collect trash at the end of each work day and deposit construction trash, packing material, unusable scraps, and other debris in a suitable container, protected from the wind, and regularly serviced. No trash may be burned, buried, or otherwise disposed of within the Property. No concrete trucks may be cleaned out on the Lot or elsewhere within the Property.

5.3 Construction Area Appearance. The Lot must be maintained in a reasonably organized and neat condition at all times during the construction of a Dwelling or other Improvements. Once the Dwelling is enclosed, materials shall be stored inside, and out of sight, whenever practical and possible.

5.4 Sanitary Facilities. The Builder is responsible for the installation and maintenance of an approved portable toilet facility during construction.

5.5 Construction Sign. During periods of actual construction on the Dwelling, the Owner or Builder may install a sign not to exceed six (6) square feet in area identifying the Lot and the Builder. The sign must also comply with any sign ordinance enacted by the City after the date of this Declaration. The sign must be removed upon completion or abandonment of construction.

5.6 Hours of Work. Daily working hours on the site shall be limited to the period beginning at 7:00 AM and ending at 9:00 PM, or such lesser period as is allowed by City ordinances. The Builder is responsible for controlling noise emanating from the site.

5.7 Removal of Mud. The Builder is responsible for cleaning up and removing mud that is deposited on the roadways of the Property by their construction operation at least once each week.

5.8 Duration of Construction. No construction shall be undertaken without a building permit and all other necessary permits from the City and any other governmental entity having jurisdiction over construction on the site. No materials, tools, temporary offices or portable toilets, excavation or construction equipment, or similar materials or equipment may be delivered to this site prior to the issuance of the building permit. It is the obligation of the Owner to construction with all reasonable speed once construction has commenced, and in any event, all exterior surfaces of the building shall be substantially completed within a period of six (6) months from the date of the foundation is complete. All landscaping and soil stabilization work must be completed as soon as possible after completion of the exterior of the Dwelling, but in no event later than the summer following completion of the exterior of the Dwelling

5.9 Damage to Subdivision Improvements. Each builder or contractor who performs construction activity on a Lot shall be required at its own cost and expense to repair any damage caused by such builder or contractor to any of the Subdivision Improvements. If the Owner of such Lot is unable to cause the builder or contractor to repair such damage, then the Owner of such Lot shall be responsible to make the repairs at the Owner's cost and expense. This provision shall not be construed to prohibit or prevent such Owners from seeking to recover all such costs and expenses from the responsible builder or contractor.

5.10 Completion of Construction. Construction of a Dwelling must be substantially completed (meaning a certificate of occupancy has been issued for the Dwelling) within twenty-four (24) months following the purchase of the Lot by the Owner. If an Owner fails to comply with this requirement, the

Owner shall be responsible to pay a fine of one hundred dollars (\$100.00) per day to the Association for each day after the twenty-four (24) month period until the Dwelling receives a final certificate of occupancy. An exemption from this restriction is granted for Lots 7 and 10 only.

ARTICLE VI
LANDSCAPE STANDARDS

It is the intent of the Declarant to require appropriate landscaping of Lots following construction of any Improvements, and to encourage the use of appropriate plant materials. The use and Improvement of each Lot is subject to the following Landscape Standards:

6.1 Lawn and Landscaping Required. Lawns are to be installed as soon as practical following completion of the construction of the Dwelling, but in no event later than the summer immediately following completion of construction, or not later than twelve (12) months from the issuance of the Certificate of Occupancy.

6.2 Placement of Trees and Shrubs. Planting of a minimum of six (6) trees and a minimum of twelve (12) five-gallon shrubs in the front and/or visible side yard within each Lot is required. Conifers shall be a height of at least six (6) feet and deciduous trees shall be at least a two-inch (2") caliper. Only sod and trees shall be permitted to be planted in the parking strip. All trees in parking strip must be Chanticleer Pear and planted every 15' along the park strip. All trees must be approved by the Architecture design committee.

6.3 Fences. Fencing shall be permitted in the Property only in accordance with applicable City ordinances and must be decorative in nature. Barb wire and field fence on posts are prohibited. No chain link is permitted as cross-fencing or in back and side yards where it is visible from roads.

6.4 Regular Maintenance. With respect to his or her Lot, each Owner on a regular basis shall:

1. Mow the Lawn and ensure that the Lawn height does not exceed four inches;
2. Edge the Lawn and ensure that no part of the lawn runs onto paved surfaces such as sidewalk;
3. Water the Lawn sufficient to maintain a healthy, and green color (typically several inches of water a week);
4. Remove and replace any dead or missing patches of grass in the Lawn;
5. Water plants, trees, and shrubbery to maintain a healthy appearance;
6. Promptly remove weeds in the Lawn, gardens, sidewalks, and driveways;
7. Fertilize the Lawn;
8. Promptly remove plant clippings, fallen leaves, and trash cans from view from the front yard, except on trash pick-up day;
9. Promptly remove dead plants, shrubs, and trees, and debris from the Lot;
10. Remove and replace dead shrubs and trees of similar nature and scale;
11. Prune shrubs to a consistent level and in a manner consistent with the neighborhood; and
12. Prune trees as needed to be safe and presentable, including pruning back branches to allow pedestrian traffic to pass safely.

ARTICLE VII
RESTRICTED HOME BUILDERS; DESIGN REVIEW COMMITTEE

It is the intention of the Declarant to have high-quality, well-built homes in the Subdivision in order to create a community that will command and protect high property values. Accordingly, Declarant has chosen one or more home-builders who will be approved for use by Lot purchasers to build custom homes in the Subdivision. The following provisions shall apply:

7.1 Approved Home-Builder(s). Except as provided in Section 7.2 below, Lot owners shall be required to use a home builder approved by Declarant to construct a Dwelling on a Lot. Declarant has no obligation to provide more than one (1) approved builder for Lot owners to hire. Persons interested in purchasing a Lot are encouraged to review and approve the terms of the construction contract with the approved builder(s) prior to purchasing a Lot.

7.2 Buy-Out Option. Lot owners may use a different builder to construct a Dwelling on their Lot (i.e. a builder who is not already approved by Declarant) if and only if (i) the builder has successfully constructed at least six (6) custom homes of similar quality and size in other communities, and (ii) the Lot owners pay a buy-out fee to Declarant in an amount of \$20,000.00 per lot. Said buy-out fee must be paid to Declarant in full before home construction activity commences on the Lot. This Declaration hereby creates and imposes on each Lot a lien to secure payment of the buy-out fee, with the recording date of this Declaration being the priority date of the lien. The lien created by this Section 7.2 is automatically waived and released if the Lot owner uses a home builder approved by Declaration under Section 7.1 above to construct a Dwelling on the Lot.

7.3 Design Review Committee Approval Required. In order to create, maintain and improve the Subdivision as a desirable community, and to establish and preserve harmonious design for the community, no Improvements of any kind may be constructed within the Subdivision unless the plans and design for the same have been reviewed and approved by the Design Review Committee. The Design Review Committee shall be comprised of three (3) persons designated by Declarant, who may be related to or otherwise affiliated with Declarant and need not be Lot Owners. Only plans that comply with the terms of this Declaration and provide for high quality construction and design will be approved. Except as provided herein, no Improvements may be constructed or undertaken without Design Review Committee approval. The Design Review Committee may impose a charge of two hundred dollars (\$200.00) for the review and processing of plans.

7.4 Creation of the Design Review Committee. The concurrence or approval of at least two (2) of the three (3) members of the Design Review Committee shall be necessary to carry out the provisions applicable to the Committee. The members of the Design Review Committee will be appointed by Declarant and the members of the Design Review Committee may be changed by Declarant from time to time in Declarant's sole and absolute discretion. The Design Review Committee may designate representatives or agents to act on its behalf. In the event of the death, resignation, or incapacity of any member of the Design Review Committee, the vacancy must be filled by the Declarant. The Design Review Committee will cease to function at the conclusion of the Period of Declarant's Control.

7.5 Design Review Committee Duties. The Design Review Committee will be responsible for the review and, subject to compliance with this Declaration, approval of all plans for the construction of any Improvements upon any Lot. The Design Review Committee may enforce the provisions of this Declaration, including by legal action if necessary. In addition to the authority expressly granted herein, the Design Review Committee shall have all rights, powers and privileges as are reasonably necessary to give

effect to this Declaration and to enforce the terms of this Declaration.

7.6 Use of Consultants. The Design Review Committee is authorized to retain the services of one or more consulting architects, landscape architects, or designers qualified to practice in the State of Utah to assist the Design Review Committee in performing duties and responsibilities set forth in this Declaration.

ARTICLE VIII
ASSOCIATION AND MEMBERSHIP THEREIN

8.1 Membership. Each and every Owner, by accepting a deed for any Lot, whether or not it shall be so expressed in such deed, automatically becomes a Member of the Association, and agrees to be bound by the Covenants identified herein and by such reasonable Rules and Regulations as may, from time to time, be established by the Association. Membership is mandatory for all Owners. When more than one person or entity is an Owner of a Lot, all such persons or entities shall be Members. Membership shall be appurtenant to and may not be separated from ownership of a Lot. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way, except upon transfer of ownership of such Lot, whether by conveyance, intestate succession, testamentary disposition, foreclosure of a Mortgage, or such other legal processes as are now in effect or as may be hereafter established pursuant to the laws of the State of Utah. The foregoing is not intended to include persons or entities holding an interest merely as security for the performance of an obligation.

8.2 Transfer. Upon the transfer or conveyance of any Lot, the transferee or grantee shall become a Member, and the transferor or grantor shall immediately cease being a Member. The Board shall maintain a list of all Members and shall note each transfer of ownership on such list. Upon the transfer or conveyance of any Lot, the selling or transferring Owner shall promptly inform the Association of the name of the transferee or grantee. All transfers will be charged a transfer fee of \$200.00 payable at closing.

8.3 Voting Rights. The Owner or Owners of each Lot shall be entitled to one (1) vote for each Lot owned. The one (1) vote for such Lot shall be exercised as they, among themselves, determine. Where a Lot is owned by more than one Owner, the vote of any one of them shall be conclusively presumed to have been exercised as a result of an agreement among such Owners and in the event multiple Owners attempt to exercise a vote for such Lot on any question or issue, the Owners of such Lot will forfeit the right to vote on that question or issue. In no event shall more than one (1) vote be cast with respect to any Lot. With respect to any question or issue requiring a vote of the Association, vote of the Owners, or vote of the Members of the Association, the total number of votes cast shall not exceed the number of Lots in the Project. Unless otherwise required by this Declaration or the Bylaws, the number of affirmative votes required for approval of any matter submitted to vote of the Members shall be a majority of the votes cast with respect to such matter. All voting rights shall be subject to the restrictions and limitations provided herein and in the Bylaws.

8.4 Meetings. Unless otherwise provided by this Declaration or by the Bylaws, all matters requiring a vote of the Members of the Association shall be decided at a meeting of the Members held for that purpose. Except in the case of an emergency or other situation which requires shorter notice, written notice designating the time and place of such meeting shall be provided to each Member no less than ten (10) or more than sixty (60) days in advance of a meeting. Other provisions for giving notice of such meetings, determining a quorum, and tallying votes shall be included in the Bylaws, or shall be established by the Board. In lieu of attending a meeting held for the purpose of exercising voting rights, Members may exercise such voting rights in writing or through a proxy, if designated in writing before the time for such

vote. By attending a meeting where a vote is held, by exercising a vote in writing, or by designating a proxy, an Owner shall be conclusively deemed to have received adequate notice of such meeting or such vote.

8.5 Declarant Approval. Notwithstanding any other provision of this Declaration, during the Period of Declarant's Control all matters for which the Declaration or the Bylaws call for a vote of the Members of the Association may be decided solely by the Declarant with or without a meeting and with or without a vote of the Members. Any matters which are submitted to a vote of the Members during the Period of Declarant's control shall be approved and implemented if, and only if, the Declarant also approves such matters. After the Period of Declarant's Control, all such matters shall be submitted to a vote of the Members of the Association and shall be decided solely by the votes of the Members.

8.6 Board of Directors. The Board shall be the governing body of the Association. In addition to those set forth herein, the powers, rights, privileges, and duties of the Board shall be set forth in the Bylaws. During the Period of Declarant's Control, the Declarant shall appoint the members of the Board, which shall number no less than three (3) directors. After the Period of Declarant's Control, the members of the Board shall be chosen, removed, or replaced by the vote of the Members of the Association in accordance with the provisions of the Bylaws.

8.7 Professional Management. The Association may carry out the functions required of it pursuant to this Declaration, the Bylaws, or the Rules and Regulations, to the extent such functions are properly delegable, by and through a professional manager ("Manager"). If a Manager is engaged, the Manager shall be an independent contractor and not an employee of the Association, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by the Board, be authorized to perform any of the properly delegable functions or acts required or permitted or performed by the Association.

ARTICLE IX ASSOCIATION ASSESSMENTS

9.1 Covenant to Pay Assessments. The Owner of any Lot, excluding Declarant whose obligations regarding Assessments are set forth below, by accepting a Deed for said Lot, whether or not it shall be expressed in the deed, agrees and is deemed to have agreed to pay to the Association all fees, annual assessments, supplemental assessments, and special assessments as set forth in this Declaration.

9.2 Purpose of Assessments. The operations and obligations of the Association, as identified in the Act, this Declaration, and the Bylaws, shall be funded through fees, annual assessments, supplemental assessments, and special assessments levied against the Lots.

9.3 Types of Fees and Assessments. The Association may impose the following fees and assessments:

9.4 Annual Assessment. After the first calendar month of ownership, each Owner shall pay an annual assessment for each Lot owned by such Owner. The annual assessment shall be the Lot's share of the total annual amount necessary for the Association to perform all of its obligations, whether imposed by the Act, this Declaration, or the Bylaws. Without limitation, the annual assessment shall include each Lot's share of the Common Expenses including the cost to maintain and preserve the Common Areas, including insurance thereon, the amounts necessary to perform the Association's other maintenance obligations, the amounts necessary to fund the Association's reserve fund in a manner consistent with the Act, the

Association's administrative expenses, and the amount any obligations imposed on the Association by any applicable law, ordinances, or regulations, all of which shall be identified in the Association's budget. The annual assessment shall be fixed, and from time to time adjusted, by the Declarant during the Period of Declarant's Control and thereafter by the Board in accordance with the provisions of the Act. At a minimum, the Board or the Declarant shall review the annual assessment on an annual basis and make such adjustments as are necessary. The Declarant or the Board may require that the annual assessment attributable to each Lot be divided in twelve equal shares and paid in the form of a "monthly membership assessment," to be due and payable each month on a date fixed by the Board. Subject to the exemption for the Declarant set forth below, the amount of the annual assessment shall be fixed at a uniform rate for each Lot assessed and shall be a portion of the Association's annual Common Expenses determined by dividing the total Common Expenses by the number of Lots to which assessments are imposed. As additional Lots are constructed or conveyed to purchasers, the Declarant or the Board shall adjust the amount of the annual assessment accordingly. After the period of Declarant's Control, the Board may not increase the amount of an annual assessment for any fiscal year by more than twenty percent (20%) over the previous fiscal year's annual assessment without first obtaining the affirmative vote of a majority of a Quorum of the Members at a meeting of the Association called for such purpose.

9.5 Supplemental Assessment. In the event the annual assessment is insufficient to meet the Association's regular recurring obligations in any given fiscal year, the Declarant during the Period of Declarant's Control or the Board thereafter may assess a supplemental assessment against each Lot for a share of any supplemental amount necessary to meet the Association's annual obligations. Each Lot's share of a supplemental assessment shall be determined in the same manner as for annual assessments.

9.6 Special Assessment. The Declarant during the Period of Declarant's Control or the Board thereafter may assess a special assessment to pay for special, non-recurring, or emergency expenses of the Association or the Project which exceed the Association's annual budget for the fiscal year during which such expenses arise, including but not limited to expenses related to damage to the Project, unanticipated repairs, and Common Area improvements. Any special assessment shall represent the pro-rata share of such expenses attributable to the Lot or Lots benefited by such expenses, or to which such expenses apply. In the event such expenses apply to or benefit less than all the Lots in the Project, the Declarant or Board may impose a special assessment against less than all of the Lots in the Project.

9.7 Capital Improvements. Notwithstanding any other provision of this Declaration, after the Period of Declarant's Control, the Association shall not make any Capital Improvement without the authorization of sixty-seven (67%) of a Quorum of the Owners voting at a meeting called for the purpose of proposing such Capital Improvement. For purposes of this Section, a "Capital Improvement" shall mean the installation of new Improvement, or a major upgrade to an existing Improvement, located within a Common Area or other portion of the Project managed by the Association, for which funds are not otherwise identified in the Association's budget. If approved as provided in this Section, the cost of a Capital Improvement may be assessed to the Lots as a special assessment.

9.8 Budget. The annual assessment shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided that for the first fiscal year shall begin on the date of the conveyance of the first Lot by Declarant. On or before December 1 of each year thereafter, the Board shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated Common Expenses for such fiscal year, the anticipated receipts (if any), and any deficit or surplus from the prior operation period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as the major guideline under which the Project shall be operated during such annual period.

On or before December 1 of each year, the Board shall also notify each Owner of the amount of the following fiscal year's annual assessment for each Lot owned by such Owner.

9.9 Reserve Account. The Association must comply with the terms and provisions of the Act relating to a reserve analysis and the funding of a reserve account for those Common Areas of the Project, if any, for which the Association is required to maintain a reserve account. Any reserve account will be funded by assessments imposed in accordance with the terms of this Article 4.

9.10 Lien and Personal Obligation. The fees and assessments identified above, together with any applicable late payment fees, interest, costs, and reasonable attorney fees, shall be a charge and lien against the Lot against which such assessment is imposed. In addition, each Owner's obligation to satisfy such assessments is an independent and personal covenant of such Owner, with all amounts being due and payable without setoff or deduction when assessed. In the event of a failure to pay such assessments, or other default, the Association may pursue an action against the Owner to collect the assessment and enforce the lien against a Lot by foreclosure in the manner set forth below. The Association's lien shall be a continuing lien on each Lot and shall be subordinate to a First Mortgage, where the Mortgagee is a lender who loaned funds for the purchase of the Lot, and shall also be subordinate to a lien for property taxes or other public assessments, but the Association's lien shall be superior to all other liens, charges, or encumbrances of any sort which shall hereafter arise or be imposed on any Lot. The Association's lien shall not be affected by the sale or transfer of any Lot.

9.11 Statement and Evidence of Payment. Upon receipt of a written request by an Owner, or any other person or entity, the Board shall within a reasonable time issue to such Owner or other person or entity a written certificate stating, as applicable, (i) that all annual, special, and supplemental assessments (plus any applicable costs or fees) have been paid with respect to any specified Lot as of the date of the certificate, or (ii) if all assessments have not been paid, the amount of such outstanding annual, special, or supplemental assessments (plus any applicable costs or fees) due and payable as the date of the certificate. The Board may make a reasonable charge for issuing such certificates. Any such certificate, when issued as provided herein, shall be conclusive and binding with respect to any matter therein stated.

9.12 Declarant Exemption. There shall be no assessment for any Lot owned by the Declarant prior to sale to a purchaser. After the date the Lot is conveyed to a purchaser, the full amount of the assessment attributable to such Lot shall be imposed and collected from the new Owner in the manner set forth in this Declaration.

9.13 Effect of Non-Payment and Remedies.

a. Late Fees and Interest. Any assessment not paid within ten (10) days from the due date thereof shall be subject to a late payment fee in an amount to be determined by the Board. In addition, all fees and assessments not paid when due shall bear interest at the rate of eighteen percent (18%) per annum, or at such lesser rate as may be set from time to time by the Board.

b. Legal Remedies. The Association may bring an action at law against the Owner personally obligated to pay the same, and may foreclose the lien against such Owner's Lot in the manner provided by the laws of the State of Utah, and in the event a judgment is obtained, such judgment shall include interest on the assessment and reasonable attorney fees to be fixed by the court, together with the costs of the action. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose the Association's lien for any subsequent assessments, charges, costs or fees, which are not fully paid when due. The Association shall have the power and

right to bid on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the membership votes appurtenant to ownership of such Lot, and to convey or otherwise deal with such Lot. In addition to the other rights and remedies set forth herein, the Association shall have all of the rights and remedies pertaining to enforcement of assessment liens as set forth in, and to be exercised in accordance with, the provisions of the Act, including, without limitation, the provisions in Utah Code Ann. §§ 57-8a-302 and -303, as the same may be amended. To this end, the Declarant (and each Owner by acceptance of a deed to a Lot) hereby conveys and warrants pursuant to Utah Code Ann. §§ 57-1-20 and 57-8a-302 to Stewart Title Insurance Agency of Utah, as trustee, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of this Declaration. The Association shall have the right to substitute said trustee and appoint a successor trustee as provided by statute. The lien of the Association shall be superior and prior to all other liens and encumbrances except liens and encumbrances recorded prior to the recordation of this Declaration, a First Mortgage on a Lot, and assessments, liens, and charges in favor of the State of Utah or a political subdivision thereof imposed for taxes or other governmental assessments or charges past due and unpaid. In any action brought by the Association (or counterclaim or cross-claim brought by the Association) to collect assessments or to foreclose a lien for unpaid assessments, the Association shall be entitled to have a receiver of the Owner appointed to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's assessments of any kind or nature permitted hereunder.

ARTICLE X
EASEMENTS & RIGHTS OF WAY

10.1 Green-Strip Maintenance by Association. The Association directly, or through designated agents, will maintain the following right-of-way green spaces that are owned by the City:

1. The island on the west-side entrance of the Property from 1450 West Street;
2. The island on the east-side entrance of the Property from 1100 West Street;
3. The 3 green strips alongside the east-side entrance of the Property from 1100 West Street

10.2 Strip Maintenance by Owners. Each Owner is responsible for maintaining the right-of-way green spaces that are owned by the City along Highgate Avenue and that abut each respective Owner's Lot.

10.3 City Approval. The maintenance responsibilities described in Sections 10.1 and 10.2 may not be amended or removed from this Declaration in the future without the City's authorization.

10.4 No Obstruction. No person shall obstruct or permanently occupy any portion of the right-of-way green spaces described in Sections 10.1 and 10.2 without prior written permission of the Board.

10.5 City as Third-Party Beneficiary. The City is an intended third-party beneficiary of this Declaration. Notwithstanding any provision of this Declaration to the contrary: (1) neither the Declarant, the Association, nor any of the Owners shall amend this Declaration without the City's prior written consent; and (2) the City will be entitled to, but not required, to enforce this Declaration by any method, except the City will not be required to submit any dispute to arbitration or follow the pre-arbitration procedures of this Declaration.

10.6 Detention Basin of Lot 23. During the Period of Declarant's Control, the Declarant is responsible for the construction, grassing, and installation of an irrigation system for the Detention Basin. Thereafter, the Association shall maintain the Detention Basin on a regular basis, or as otherwise required by the City by advanced written notification, including (1) watering, weeding, fertilizing, and mowing the grass; (2) maintaining and upgrading the irrigation system; (3) removing debris and sediment as needed; and (4) maintaining the Detention Basin's original capacity and configuration. The Owner of Lot 23 shall provide unlimited and constant access of the Detention Basin to the Association for such maintenance. If such maintenance is not done according to the City's prior written specifications, the City may perform such maintenance and charge the cost thereof to the Association. The Detention Basin is part of Lot 23 of the Plat and the Owner of Lot 23 may enter the Detention Basin as part of the yard, but the easement on which the Detention Basin is located is in favor of the City. The Owners, Members, and the Association shall not build, place, or plant any structures, trees, shrubs, or other permanent objects within the Detention Basin.

10.7 Entrance Sign Easement on Lot 13. The Entrance Sign Easement is a part of Lot 13 of the Plat but is in favor of the Association and permits the Association to erect, maintain, and replace an entrance sign on Lot 13 of the Plat as described herein. The Owner of Lot 13 shall provide unlimited and constant access of the Entrance Sign Easement to the Association for maintenance. The Entrance Sign Easement is more specifically defined by the following legal description:

THE BASIS OF BEARING FOR THIS SURVEY IS SOUTH 00°03'47" EAST FROM THE CENTER OF SECTION 23, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN TO THE SOUTH QUARTER CORNER OF SAID SECTION 23.

BEGINNING AT A POINT ON THE SOUTH LINE OF HIGHGATE ESTATES SUBDIVISION, SAID POINT BEING SOUTH 00°03'47" EAST, ALONG THE SECTION LINE, 1951.20 FEET TO THE SOUTH LINE OF SAID HIGH GATE ESTATES AND EAST, ALONG SAID SOUTH LINE, 1302.43 FEET FROM THE CENTER OF SECTION 23, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 32.66 FEET TO THE SOUTH RIGHT OF WAY LINE OF HIGHGATE AVENUE; THENCE 105.17 FEET ALONG THE ARC OF A 175.00 FOOT RADIUS CURVE TO THE LEFT (CHORD BEARS SOUTH 72°47'00" EAST 103.59 FEET); THENCE SOUTH 2.00 FEET TO THE SOUTH LINE OF SAID HIGHGATE ESTATES; THENCE WEST, ALONG SAID SOUTH LINE, 98.95 FEET.

CONTAINS 1,171 SF, OR 0.027 ACRES, MORE OR LESS

ARTICLE XI GENERAL PROVISIONS

11.1 Violation Deemed a Nuisance. Any violation of these Covenants which remains on the property is deemed a nuisance, and is subject to abatement by any other Owner or by the Association.

11.2 Remedies.

a. Any single or continuing violation of the Covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the Owner of any Lot), by the Association, or by any other Owner. In any action brought to enforce these Covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including attorney fees and costs of court.

b. Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. These covenants, conditions and restrictions are to be construed as being in addition to those remedies available at law.

c. The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

d. The failure to take enforcement action shall not be construed as a waiver of the Covenants contained in this Declaration in the future or against other similar violations.

11.3 Severability. Each of the covenants, conditions and restrictions contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

11.4 Limited Liability. Neither the Declarant nor any other Owner shall have personal liability to any other Owner for actions or inactions taken under these Covenants, provided that any such action or inaction is the result of the good faith exercise of their judgment or authority, under these Covenants, and without malice.

11.5 Amendment. At any time while this Declaration is in effect, the Owners of sixty-six percent (66%) of the Lots may amend the provisions of this Declaration, subject to the City's prior written consent, provided that so long as Declarant owns any portion of the Property, Declarant's approval to any amendment shall be required. Any amendment must be in writing. No such amendment will be binding upon the holder of any mortgage or trust deed unless the holder joins in the amendment.

11.6 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Property is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the covenants, conditions, and restrictions contained herein against his or her Lot, whether or not there is any reference to this Declaration in the instrument by which he acquires his or her interest in any Lot.

11.7 Notices. All notices under this Declaration are deemed effective seventy-two (72) hours after mailing, whether delivery is proved or not, provided that any mailed notice must have postage prepaid and be sent to the last known address of the party to receive notice. Notices delivered by hand are effective upon delivery.

11.8 Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform plan for the development of the Property. Paragraph headings are inserted for convenience only.

ARTICLE XII DISPUTE RESOLUTION; MANDATORY BINDING ARBITRATION

12.1 Statement of Intent. As used in this Article 12, "Association" means the Association, the Design Review Committee, any other homeowners association specific to the Project which the Declarant organizes, or any association which the Owners, or any group of Owners, may form to control, manage, maintain or improve the Project or any portion of the Project. Prior to purchasing a Lot, every Owner is

capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, an inspection on any Lot that Owner is purchasing or any other aspect of the Project, including, without limitation, the Common Areas. Moreover, if any written warranty has been provided, it identifies the only items that are warranted by the Declarant or the Developer. Having had the ability to inspect prior to purchasing a Lot, having received a written warranty if any warranty is provided, and having paid market price for a Lot in the condition it and the Lots and Common Area are in at the time of purchase, it is acknowledged that it is unfair and improper to later seek to have the Declarant, Developer, and/or any subcontractor performing work in the Project to change, upgrade, or add additional work to the Project outside of any express warranty obligation. Moreover, the Owners (by purchasing a Lot) and the Declarant acknowledge and agree that litigation is an undesirable method of resolving disputes and conflicts in that it can be slow, expensive, uncertain, and can often negatively impact the sale value and ability to obtain financing for the purchase of Lots for years, unfairly prejudicing those Owners who must or want to sell their Lot during any period when litigation is pending. For this reason, the Owners, by purchasing a Lot, and the Declarant covenant and agree that claims and disputes shall not be pursued through court action, but shall be asserted and resolved only through the specific alternative dispute resolution mechanisms described below, and only after full disclosure, satisfaction of the right to cure periods, and knowing approval of the Owners, as set forth in the provisions of this Article 12. In addition, the Association and the Owners agree that they take ownership and possession of the Lots and Common Areas AS IS, with no warranties of any kind except as otherwise required as a matter of law. The Declarant disclaims any and all warranties of merchantability, fitness for a particular use, or of habitability, to the full extent allowed by law.

12.2 Binding Arbitration for All Disputes. To the fullest extent permitted by law, all claims and disputes of any kind that any Owner or the Association may have involving the Declarant, the Developer, or any agent, employee, executing officer, manager, affiliate or owner of the Declarant or Developer, or any engineer or contractor involved in the design or construction of the Project, which arise from or are in any way related to a Dwelling or other Improvement on a Lot, Common Area, Limited Common Area, or any other Improvement on or component of the Project (a “Dispute”), shall be submitted to final and binding arbitration. Binding arbitration shall be the sole remedy for resolving claims and disputes between or involving the Declarant or Developer and any Owner or between or involving the Declarant or Developer and the Association. Arbitration proceedings, however, shall not be commenced unless the Pre-Arbitration Requirements set forth in Section 12.3 below have been satisfied in full. Without in any way limiting the foregoing, Disputes subject to binding arbitration shall include the following:

- a. Any allegation that a condition in any of the Dwellings on the Lots, the Common Areas, the Limited Common Areas, or other Improvements in the Project is or involves a construction defect;
- b. Any disagreement as to whether an alleged construction defect has been corrected;
- c. Any claim or allegation that the Subdivision Improvements or Common Areas were not designed, constructed or installed correctly or that any Subdivision Improvements or Common Areas are defective in any manner;
- d. Any disagreement about whether any warranties, including implied warranties, are applicable to the subject matter of any Dispute;
- e. Any disagreement as to the enforceability of any warranties alleged to be applicable to the subject matter of any Dispute;
- f. Any disagreement about whether any warranty alleged to be applicable to the subject matter of any Dispute has been breached;

- g. Any alleged violations of consumer protection, unfair trade practice, or other statutes or laws;
- h. Any allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, and all other claims arising in equity or from common law;
- i. Any allegation that any condition existing in the Project or created by the Declarant, Developer, or any of contractors, including construction-related noise, dust, and traffic, is a nuisance, a defect, or a breach of any implied warranties of habitability or other implied warranties;
- j. Any disagreement concerning the scope of issues or claims that should be submitted to binding arbitration;
- k. Any disagreement concerning the timeliness of performance of any act to be performed by Declarant, Developer, or any contractors;
- l. Any disagreement as to the payment or reimbursement of any fees associated with binding arbitration;
- m. Any disagreement or dispute regarding management of the Association, or regarding reserve studies or funding of Association expenses; and
- n. Any other claim or disagreement arising out of or relating to the sale, design, or construction of any Improvement on the Lots, Common Areas, Limited Common Areas, off-site Improvements, management of the Association, or other claims regarding the Project.

12.3 Pre-Arbitration Requirements. An Owner or the Association may only pursue a claim against the Declarant in arbitration after all of the following efforts of dispute resolution have been completed: (a) Right to Cure: the claimant (e.g. the Owner or the Association) shall provide to the Declarant or Developer, as applicable, a written Notice of Claim (defined below) and permit the Declarant or Developer one hundred eighty (180) days to cure or resolve the claim or defect or to try to get the builder or the appropriate subcontractor to cure or resolve the claim or defect, prior to initiating any formal arbitration proceedings; and (b) if the dispute is not resolved within the 180-day Right to Cure period, the parties shall participate in formal mediation with a mutually-acceptable third-party mediator in an effort to resolve the Dispute prior to taking further action or commencing arbitration. If additional, different, or modified claims, damages, calculations, supporting information, or descriptions are added, provided to, or asserted against the Declarant or Developer that were not included in any previously submitted Notice of Claim, the Right to Cure period provided for in this Section shall immediately apply again and any pending action or proceedings, including any mediation or arbitration, shall be stayed during the 180-day period.

12.4 Notice of Claim. "Notice of Claim" shall mean and include the following information: (a) an explanation of the nature of the claim, (b) a specific breakdown and calculation of any alleged damages, (c) a specific description of the claim along with any supporting opinions, information, or factual evidence upon which the claim is based, (d) photographs of any alleged defective condition, if applicable, (e) samples of any alleged defective conditions or materials, if reasonably available, (f) an explanation of the efforts taken to avoid, mitigate, or minimize the claim or any alleged damages arising therefrom, and (g) the names, phone numbers, and address of each person providing factual information, legal or factual analysis, or legal or factual opinions related to the claim.

12.5 Member Approval; Legal Opinion; Arbitration. If a claim or dispute has not been resolved after satisfying and complying with the above-described “Pre-Arbitration Requirements,” then the claimant (Owner or Association) shall have the right to proceed with binding arbitration; however, the Association shall not pursue or commence binding arbitration unless such action is first approved by a majority of the total votes of the Association after the Association has obtained a written opinion from legal counsel advising the Association of the likelihood of success on the merits of the claims, the anticipated costs and legal fees, the anticipated expert witness fees, and the likelihood of recovery if the Association prevails. The written opinion from legal counsel, addressing these topics, must be provided to all Owners before the formal vote on whether to proceed with binding arbitration. The binding arbitration shall be conducted by a mutually-acceptable arbitrator (preferably a former judge), or, if an arbitrator cannot be mutually selected, then by a member of the National Panel of Construction ADR Specialists promulgated by Construction Dispute Resolution Services, LLC (“CDRS”). The binding arbitration shall be conducted according to the rules and procedures set forth in the Arbitration Rules and Procedures promulgated by CDRS. The award of the arbitrator shall be final and may be entered as a judgment by any court of competent jurisdiction.

12.6 Fees and Costs of Arbitration. Each party shall bear its own attorney fees and costs (including expert witness costs) for the arbitration. The arbitration filing fee and other arbitration fees shall be divided and paid equally as between the parties. The arbitrator shall not award attorney fees, expert witness fees or arbitration costs to the prevailing party.

12.7 No Waiver of Arbitration Right. If any Owner, the Association, or the Declarant files a proceeding in any court to resolve any Dispute, such action shall not constitute a waiver of the right of such party, or a bar to the right of any other party, to seek arbitration or to insist on compliance with the requirements set forth in this Article 10. If any such court action is filed, then the court in such action shall, upon motion of any party to the proceeding, stay the proceeding before it and direct that such Dispute be arbitrated in accordance with the terms set forth herein, including, without limitation, compliance with the Pre-Arbitration Requirements set forth above.

12.8 Waiver of Subrogation. The Association and each Owner waives any and all rights to subrogation against the Declarant, the Developer, and any builder, contractor, and engineer in the Project. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Owner or of the Association from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against the Declarant, the Project engineer, and builder, contractors of the Declarant and the builder, and their officers, employees, owners, and representatives. To the full extent permitted by law, the Association and Owners hereby release Declarant, the Project engineer, and builder, and their respective officers, employees, owners, contractors, insurers, and representatives from any and all liability to the Association and all Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss, injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of Declarant or builder, their officers, employees, owners, and representatives. The Association and each Owner agrees that all policies of insurance shall contain a clause or endorsement to the effect that this release and waiver of subrogation shall not adversely affect or impair such policies or prejudice the right of the Association or any Owner to recover thereunder. The Association and all Owners shall indemnify and defend the Declarant, the Developer, and any of their officers, employees, owners, contractors, or representatives from any claims barred or released by this provision, including but not limited to any claim brought under any right of subrogation.

Executed on the date stated above.

DECLARANT:

Blackgate Investments, LLC,
a Utah limited liability company

By: _____

Its: _____

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this ____ of _____, 2018, by
_____, as manager of Blackgate Investments, LLC.

SEAL:

NOTARY PUBLIC

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B

BYLAWS OF THE ASSOCIATION

EXHIBIT C
SUBDIVISION PLAT

RETURNED
OCT 25 2018

**BOND AGREEMENT
FOR REMOVAL OF ILLEGAL STRUCTURE
1035 West 600 North, West Bountiful, UT 84087**

06-042-0009

This Bond Agreement is made and entered into effective October 25, 2018, 2018 (the "**Effective Date**"), by and among **ROBERT FIELD** and **R'LEE FIELD** (collectively, "**Sellers**"), **CAMERON HALL** and **AMANDA HALL** (collectively, "**Buyers**"), and **WEST BOUNTIFUL CITY**, a municipal corporation organized and existing under the laws of the State of Utah (the "**City**").

Recitals

A. Sellers desire to sell to Buyers the real property located at 1035 West 600 North, West Bountiful, Utah 84087, which is more particularly described in the attached **Exhibit A** (the "**Property**").

B. The City has recorded a "Certificate of Non-compliance Zoning" (the "**Certificate of Non-compliance**") against the Property because a carport on the west side of the Property (the "**Carport**") does not comply with Section 17.24.050 of the West Bountiful Municipal Code, 2000, as amended (the "**Code**").

C. In order to complete the sale, Sellers and Buyers have agreed to remove the Carport, and the City is willing to release the Certificate of Non-compliance, according to the terms of this Agreement.

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. REMOVAL OF CARPORT. Sellers and Buyers will cause the Carport to be removed in accordance with the Code within 60 days after the Effective Date.

2. RELEASE OF CERTIFICATE OF NON-COMPLIANCE. Upon execution of this Agreement and deposit of the Bond (as defined below), the City will record a release of the Certificate of Non-compliance in the office of the Davis County Recorder.

3. BOND TO SECURE OBLIGATIONS OF SELLERS AND BUYERS. Sellers and Buyers will deliver to the City with this Agreement a cashier's check, made payable to the order of the City only, in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS (**\$2,500.00**) to secure the satisfactory performance of the obligations of Sellers and Buyers under this Agreement (the "**Bond**"). The City will hold the proceeds of the Bond (the "**Proceeds**") pending the City's written acceptance of the removal of the Carport; upon such written acceptance and satisfaction of Sellers' and Buyers' obligations under this agreement, the city will deliver any remaining Proceeds to Sellers. Sellers and Buyers hereby assign to the City all of their right, title, and interest in and to the principal amount of the Proceeds as an independent guaranty for the satisfactory removal of the Carport. The City will have immediate access to the Proceeds as provided in this Agreement, but Sellers and Buyers will remain fully liable to complete the removal of the Carport irrespective of whether the Proceeds are adequate to fully cover the cost of such removal.

4. PERMISSION TO ENTER. Sellers and Buyers hereby grant the City, its officers, employees, agents and contractors, the unrestricted right to enter upon the Property for purposes of inspecting and verifying the removal of the Carport or remedying any default as described below.

5. DEFAULT AND REMEDIES. Sellers and Buyers will be in default under this Agreement if the Carport is not removed in accordance with the Code within the timeframe provided in this Agreement. In the event of default, the City will be immediately entitled, without further notice, to pursue any or all remedies allowed under this Agreement, at law, or in equity, including the following:

a. Use of Proceeds. The City may use the Proceeds to remove the Carport. In the event the Proceeds exceed the City's cost to remove the Carport, the City will pay any such excess Proceeds plus any applicable interest to Sellers upon completion of the removal.

b. Removal of Carport. The City may dismantle, remove, or demolish the Carport. The City will have no liability to dispose of or remove the Carport materials from the Property. Sellers and Buyers hereby knowingly waive any claim against the City associated with property damage from dismantling, removing, or demolishing the Carport, except to the extent such claim arises out of the City's gross negligence. All costs the City incurs in dismantling, removing, or demolishing the Carport, including attorney fees, administrative fees, engineering fees, whether incurred in litigation or otherwise, will be included in the cost of the removal to which the Proceeds may apply.

c. Deficiency. Upon written notice including documentation reasonably supporting costs incurred, Sellers and Buyers will compensate the City for all costs the City incurs as a result of their default to the extent such costs are not covered by the Proceeds.

d. Specific Enforcement. The City may specifically enforce the obligations of Sellers and Buyers under this Agreement.

The City's remedies under this Agreement, at law, and in equity are cumulative. The City expressly reserves all rights to enforce the Code with respect to any other violation on or related to the Property.

6. MISCELLANEOUS PROVISIONS.

a. Covenants Run with the Land. Sellers and Buyers will not assign any rights or delegate any obligations under this Agreement without the City's prior written consent, except as otherwise provided in this Agreement. The covenants contained in this Agreement will be construed as covenants with respect to real property and will run with the land; accordingly, the City may record this Agreement or a memorandum of this Agreement. The covenants contained in this Agreement will be binding upon Sellers and Buyers' respective agents, legal representatives, successors in interest, and assigns.

b. Severability. The provisions of this Agreement are severable, and the invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of the remaining provisions.

c. Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original and all of which together will constitute one instrument. A signature transmitted by facsimile, e-mail, or other comparable means will be deemed an original.

d. Entire Agreement; Modification; Waiver. This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all previous or contemporaneous representations or agreements of the parties in that regard. No modification of this Agreement will be valid or binding unless made in writing and signed by both parties. Any waiver of any provision of this Agreement must be in writing and must be signed by the party waiving the provision.

e. No Third-Party Beneficiaries. This Agreement is made for the exclusive benefit of the parties and their respective heirs, successors, and assigns. No other person or entity, including lot purchasers, contractors, subcontractors, laborers, and suppliers, will have any interest under this Agreement or be classified as a third-party beneficiary. The City will not be liable to any claimant, in any way, for any obligation of Developer under this Agreement or otherwise.

f. Time of Essence. Time is of the essence in the performance of all obligations under this Agreement.

g. Governing Law. THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH, EXCEPT AS SUCH LAWS MAY BE PREEMPTED OR SUPERSEDED BY THE LAWS OF THE UNITED STATES. THE PARTIES HEREBY CONSENT TO THE JURISDICTION OF THE COURTS OF THE STATE OF UTAH, OR THE COURTS OF THE UNITED STATES OF AMERICA LOCATED IN THE STATE OF UTAH, AS THE CASE MAY BE, WITH VENUE IN DAVIS COUNTY, AS THE SOLE FORUM FOR ANY LITIGATION ARISING OUT OF THIS AGREEMENT.

h. No Partnership. The transactions contemplated under this Agreement are Developer's installation and warranty of the Improvements, and do not constitute a partnership, joint venture or other association between the parties.

i. Notices. All notices required under this Agreement must be in writing and will be deemed to have been sufficiently given or served when presented personally or when deposited in the United States Mail, by registered or certified mail, addressed as follows:

TO SELLERS: Robert & R'Lee Field
3218 Waverly
Idaho Falls, ID 83401

TO BUYERS: Cameron & Amanda Hall
1035 W 600 North
West Bountiful, UT 84087

TO CITY: West Bountiful City
Attention: City Administrator
550 North 800 West
West Bountiful, Utah 84087

A party may designate a different address by written notice to the other parties. Any notice given under this Agreement will be deemed given as of the date delivered or mailed.

j. Joint and Several Liability. The obligations of Sellers and Buyers under this Agreement are joint and several.

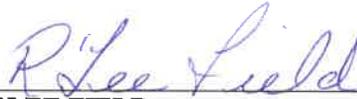
[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first written above.

SELLERS:



ROBERT FIELD



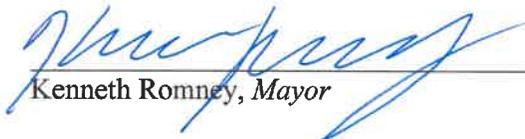
R'LEE FIELD

BUYERS:

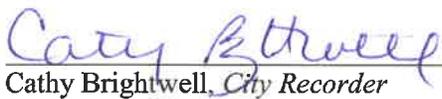

CAMERON HALL
AMANDA HALL

THE CITY:

WEST BOUNTIFUL CITY


Kenneth Romney, Mayor

ATTEST:


Cathy Brightwell, City Recorder

ACKNOWLEDGMENTS

STATE OF UTAH)
 : ss.
COUNTY OF Davis)

On the 10-25, 2018, appeared before me **Robert Field** and **R'Lee Field** who, being duly sworn, did acknowledge that they are the **Sellers** named in the foregoing Agreement, and that they signed the Agreement.

 *Patrice Twitchell*
NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF Davis)

On 10-24-18, 2018, appeared before me **Cameron Hall** and **Amanda Hall** who, being duly sworn, did acknowledge that they are the **Buyers** named in the foregoing Agreement, and that they signed the Agreement.

 *Patrice Twitchell*
NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On 10-25, 2018, appeared before me **Kenneth Romney** and **Cathy Brightwell**, personally known to me or proved to me on the basis of satisfactory evidence to be the Mayor and City Recorder, respectively, of West Bountiful City, who duly acknowledged that the foregoing instrument was signed on behalf of the City by authority of a duly adopted resolution of its City Council, and that the City executed the same.

 *Patrice Twitchell*
NOTARY PUBLIC

EXHIBIT A

Legal Description of the Property

- 1035 West 600 North, West Bountiful, UT 84087
- Parcel # 06-042-0009
- All of Lot 9, Marlinda Subdivision, Davis County, Utah, containing 0.401 acres

When Recorded return to:
West Bountiful City
550 N 800 West
West Bountiful, UT 84087
Phone: 801-292-4486

E 3125771 B 7131 P 743
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
10/30/2018 01:57 PM
FEE \$10.00 Pgs: 1
DEP RT REC'D FOR WEST BOUNTIFUL

SATISFACTION OF BOND AGREEMENT

RETURNED
OCT 30 2018

REGARDING:

PROPERTY: Parcel #06-042-0009, located at 1035 W 600 North, West Bountiful, UT 84087
Legal Description: All of Lot 9, Marlinda Subdivision, Davis County, Utah, containing 0.401 acres
West

BOND AGREEMENT recorded on October 25, 2018 at E 3124814 B 7128, Pages 383-388 of the Davis County, Utah, Recorder.

In accordance with a letter dated October 30, 2018, from the City Administrator of West Bountiful City (the "City") to Robert & R'Lee Field and Cameron & Amanda Hall, a copy of which is on file with the City, the City hereby certifies the obligations of the Bond Agreement for Removal of Illegal Structure at 1035 West 600 North, West Bountiful, Utah, have been satisfied and consents to the release of the Agreement on the above described property.

Dated: October 30, 2108

By: *Cathy Brightwell*
Cathy Brightwell, City Recorder,
On behalf of West Bountiful City

STATE OF UTAH)
 :SS
COUNTY OF DAVIS)

On October 30, 2018, Cathy Brightwell appeared before me and, being duly sworn, did acknowledge that she is the City Recorder, an authorized representative of the City of West Bountiful.



Patrice Twitchell
Patrice Twitchell, Notary Public

MEMORANDUM



TO: Mayor and City Council

DATE: November 15, 2018

FROM: Duane Huffman

RE: Annexation Petition – Cottle - 1338 W 1200 North

A Notice of Intent to Annex was submitted on August 14, 2018 by the Michael R. & Jennifer W. Cottle Trust & Adam Cottle for a 3.11 acre parcel of land they own that is not currently in West Bountiful City boundaries. The property is located at 1338 W 1200 North. Staff provided notice to each affected entity and property owners located within 300 ft of the area proposed to be annexed.

On October 22, 2018, the Cottle's filed an Annexation Petition for the above property. As required, notice of the Petition was mailed on October 29 to each affected entity and property owners located within 300 feet of the area proposed to be annexed.

Pursuant to UCA 10-2-405, the city council may accept or deny the Petition for further consideration. If accepted, the city recorder will Certify the Petition and publish notice in the newspaper once a week for three weeks after which the city council will hold a public hearing and approve or deny the Petition for Annexation.



ANNEXATION PETITION

West Bountiful City
Office of City Recorder
550 N 800 W
West Bountiful, UT 84087
(801) 292-4486,
www.wbcity.org

DATE: Oct. 22, 2018

PETITIONER/SPONSOR NAME: Michael R & Jennifer W. Cottle TRUST
~~Mike & Jennifer Cottle Trust & Adam Cottle~~ PHONE: 801-808-1735

ADDRESS/EMAIL: 817 W 1320 North, West Bountiful, UT 84087

LOCATION/SIZE OF PROPERTY TO BE ANNEXED:

Parcel 06-027-0051, located at 1338 W 1200 North consisting of 3.11 acres.

- ATTACH:**
- a) An accurate and recordable map/plat prepared by a licensed surveyor
 - b) Legal description of the property to be annexed

Property Owner's Statement:

The undersigned real property owners respectfully petition that the above described lands and territory in Davis County, Utah be immediately annexed to West Bountiful City. In support of this Petition, the petitioners respectfully declare and represent that they are a majority of the owners of the private real property located within the described territory and are owners of not less than one-third (1/3) in value of all said territory as shown by the last assessment rolls of Davis County, Utah, and that said territory lies contiguous to the corporate limits of West Bountiful City, a municipal corporation of Utah.

PROPERTY OWNER(s):

Name/Address:	<u>817 W. 1320 N. West Bountiful, UT 84087</u>	Signature:	<u>Mike Cottle</u>	<small>dotloop verified 09/25/18 12:48PM MDT</small>
Name/Address:	<u>817 W. 1320 N. West Bountiful, UT 84087</u>	Signature:	<u>Jennifer Cottle</u>	<small>dotloop verified 09/25/18 2:07PM MDT</small>
Name/Address:	<u>55-090 Kulanui Lane Laie, HI 96762</u>	Signature:	<u>Adam Cottle</u>	<small>dotloop verified 09/25/18 12:50PM MDT</small>

FOR OFFICIAL USE ONLY

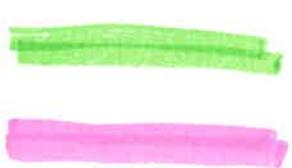
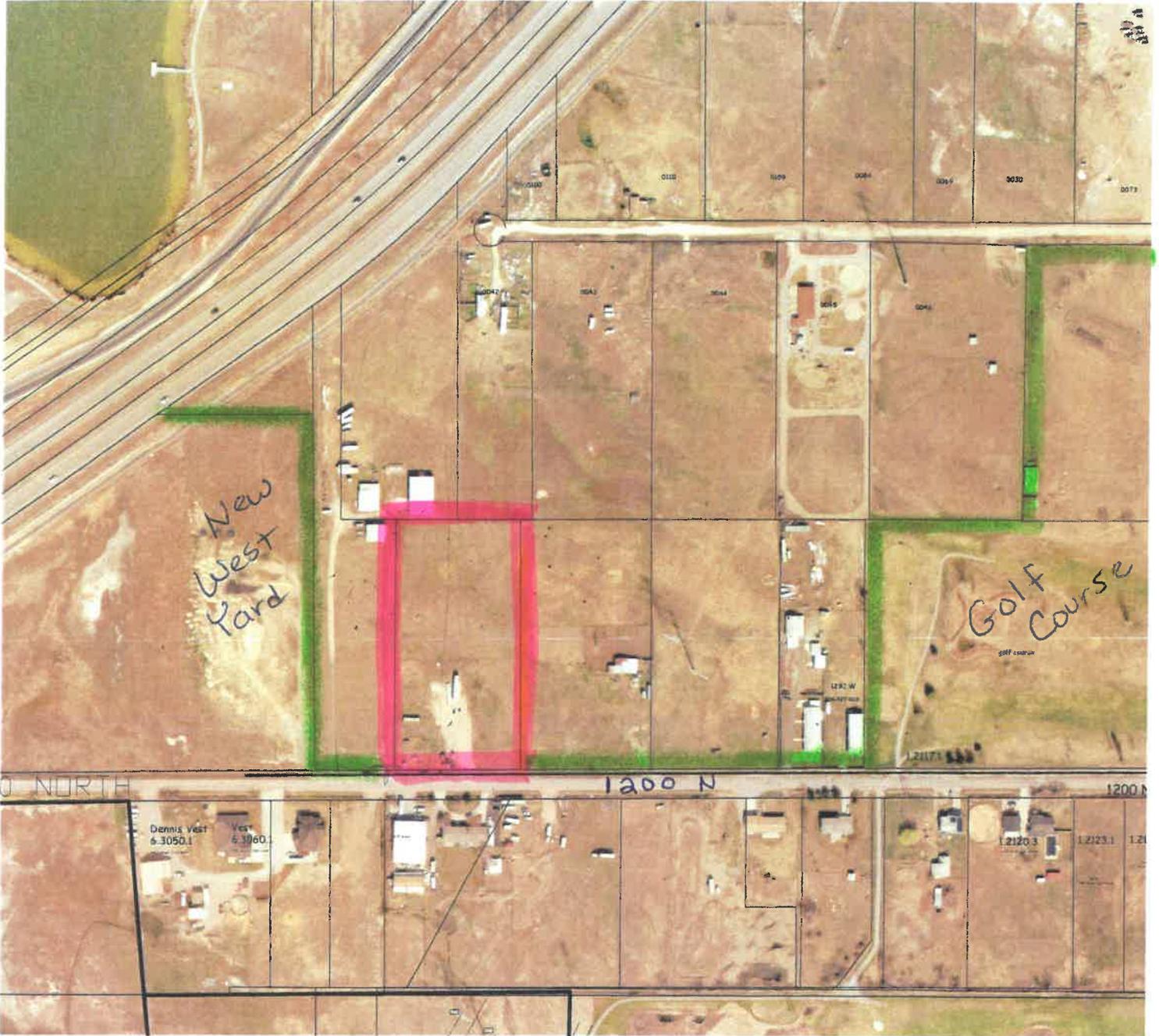
Date Received: N/A Fees Paid: \$200 pd. 8/13/2018

Exhibit A

Beginning at a point 1949.26 feet West and 1643.5 feet South and 258.26 feet West from the Northeast corner of the Southeast Quarter of Section 14, Township 2 North, Range 1 West, Salt Lake Base and Meridian, and running thence West 268 feet; thence South 506 feet, more or less, to the North line of a 60 foot road as conveyed to Davis County by Warranty Deed recorded October 15, 1965 in Book 329 at Page 236 of Official Records; thence East 268 feet along the North line of said road; thence North 506 feet, more or less, to the point of beginning.

06-027-0051

This commitment is invalid unless the insuring provisions and Schedules A and B are attached.
This page is only part of a 2016 ALTA Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions.



City Boundary

Annexation Area - Proposed

WEST BOUNTIFUL CITY POLICE DEPARTMENT

Todd L. Hixson
Chief of Police

550 North 800 West
West Bountiful, Utah 84087
Office 801- 292-4487/Fax 801 – 294-3590

Kenneth Romney
Mayor

West Bountiful City Council Report November 18, 2018

Statistics are from October 2018; the other information reported is collected between council meetings.

Crossing Guards

Doing a great job. We are fortunate to have very reliable and professional Crossing Guards.

Personnel

- Detective Chris Jacobson completed five years with West Bountiful November 9th.

EmPAC

EmPAC meeting will be held quarterly unless there is urgent business that needs attending. The next meeting will be February 19, 2018

The November 20th EmPAC meeting has been cancelled. Chief Hixson and Jason Meservy were not able to attend. We will reschedule the meeting later.

General Information

Winter parking restrictions began on November 15, 2018. We have posted information on the West Bountiful Police Facebook page. We will begin putting parking notices on vehicles to help them remember the parking restrictions are in place.

We hosted the Citizen's Academy graduation on November 15, 2018.

West Bountiful Police Department

Department Summary

10/1/2018 to 10/31/2018

Arrests	12	
Adult	12	100.0%

Activities	1,304	
Admin	186	14.3%
Assist	131	10.0%
Community Relations	19	1.5%
Deaths	1	0.1%
Investigation	114	8.7%
Patrol	148	11.3%
Property	5	0.4%
Security	335	25.7%
Service Call	89	6.8%
Suspicious Activity	40	3.1%
Traffic	223	17.1%
Vehicle Accident	13	1.0%

Shift Time and Percent Accounted	1498 hr. 29 min.	48.4%
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Reports	276	
CITATION REPORT	62	22.5%
INCIDENT REPORT	137	49.6%
OFFICER INFORMATION	75	27.2%
POLICE VEHICLE IMPOUND	2	0.7%

Department Summary

Crime Offenses

54

ASSAULT	5	9.3%
BURGLARY	2	3.7%
DAMAGE PROPERTY	4	7.4%
DEATH/INJURY	1	1.9%
FAMILY OFFENSE	3	5.6%
FRAUD	5	9.3%
PRIVACY VIOLATIONS	3	5.6%
PUBLIC PEACE	6	11.1%
SEX ASSAULT	1	1.9%
SEX OFFENSE	1	1.9%
THEFT	8	14.8%
TRAFFIC OFFENSE	8	14.8%
WARRANT SERVICE	7	13.0%

Accidents

14

Citation Violations

83

DUI	2	2.4%
Fix it	1	1.2%
Misdemeanor	8	9.6%
Traffic	49	59.0%
Warning	23	27.7%

Mayor
Kenneth Romney

**City Engineer/
Zoning
Administrator**
Ben White

City Recorder
Cathy Brightwell

**WEST BOUNTIFUL
PLANNING COMMISSION**

550 North 800 West
West Bountiful, Utah 84087

Phone (801) 292-4486
FAX (801) 292-6355

Chairman
Denis Hopkinson

Commissioners
Laura Charchenko
Mike Cottle
Alan Malan
Corey Sweat
Dennis Vest, Alternate

**THE WEST BOUNTIFUL PLANNING COMMISSION
WILL HOLD A REGULAR MEETING BEGINNING AT 7:30 PM
ON TUESDAY, OCTOBER 23, 2018 AT THE CITY OFFICES**

Prayer/Thought by Invitation

1. Accept Agenda.
2. Consider Conditional Use Application for an Accessory Dwelling Unit at 936 N 700 West for Steve Nordfors.
3. Discuss Proposed Changes to Title 16 – Subdivisions.
4. Staff report.
5. Consider Approval of Minutes from October 9, 2018 meeting.
6. Adjourn.

Individuals needing special accommodations including auxiliary communicative aids and services during the meeting should notify Cathy Brightwell at 801-292-4486 twenty-four (24) hours before the meeting.

This notice has been sent to the Clipper Publishing Company and was posted on the State Public Notice website and the City's website on October 19, 2018 by Cathy Brightwell, City Recorder.

**West Bountiful City
Planning Commission Meeting**

October 23, 2018

Posting of Agenda - The agenda for this meeting was posted on the State of Utah Public Notice website and on the West Bountiful City website on October 19, 2018 per state statutory requirement.

Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, October 23, 2018 at West Bountiful City Hall, Davis County, Utah.

Those in Attendance:

MEMBERS PRESENT: Chairman Denis Hopkinson, Alan Malan, Mike Cottle, Corey Sweat, Dee Vest (alternate) and Council member Kelly Enquist

STAFF PRESENT: Cathy Brightwell (Recorder) and Debbie McKean (Secretary)

MEMBERS/STAFF EXCUSED: Ben White (City Engineer) and Laura Charchenko

VISITORS: Gary Jacketta, Steve Nordfors, Jim Hadlow

The Planning Commission Meeting was called to order at 7:30 pm by Chairman Hopkinson. Dee Vest offered a prayer.

1. Accept Agenda

Chairman Hopkinson reviewed the agenda. Mike Cottle moved to accept the agenda as presented and Dee Vest seconded the motion. Voting was unanimous in favor among all members present.

2. Consider Conditional Use Application for an Accessory Dwelling Unit at 936 North 700 West for Steve Nordfors

Commissioner packets included a memorandum dated October 19, 2018 from Ben White and Cathy Brightwell regarding an Accessory Dwelling Unit at 936 North 700 West with an attached site plan of the property and a copy of city code 17.82-Accessory Dwelling Unit.

The memorandum addressed the following:

- Mr. Nordfors was issued a building permit to construct an addition onto his existing home in Moss Farms. This design constitutes a second dwelling unit (ADU) and requires a conditional use permit prior to occupancy.
- A list of development standards listed in WBMC 17.82.050
- Staff recommendations of findings and conditions to be applied to the conditional use permit

Chairman Hopkinson introduced the proposed ADU application. Cathy Brightwell noted that this building has not been built yet but needs to have a conditional use permit approved. She showed a view from Google Earth and reviewed the proposed conditions.

Commissioner Comments: No Comments made.

cover it. It was decided that the entity “trust” (meaning the manager of trust) should be added to the definition.

- Zoning Administrator could change. Currently it is Ben White. This language is flexible enough to cover whoever the Zone Administrator could be.

Mike Cottle

- Page 3- Transportation Map- “official map” asked if this is the defined wording in State Code. Yes, this wording will be consistent throughout the document.

Corey Sweat

- Page 6- last paragraph- “Administrative Body”- Asked Why we have this paragraph? Isn’t Planning Commission the land use authority? What is the State Law? Who is the authority of approval? Cathy Brightwell stated that this section is for administration and enforcement. Some discussion took place. It was decided that this language should remain as is in this document. There is flexibility in this type of language.

Denis Hopkinson

- Page 3- “Land use permit” all language redlined is per State Code. Commissioners reviewed and were comfortable with the language proposed. Alan Malan felt that the language did not make sense as it was written. Chairman Hopkinson noted that this is language for all Cities and may not quite conform to small Cities our size and refers more to State legislation. Chairman Hopkinson did not see a benefit to adding this in our City Code. Cathy will check it out with LUDMA and see if we can make it more specific to our City needs. **Further discussion needs to be given to this issue.**
- Page 4- Add “Trust” and subdivider definition to subdivision
- Page 5.c. – Language needs to include issues that arise where property owner’s property lines measured 40 years ago do not match the new digital GPS lines used to measure land today. Alan Malan felt like the property lines are determined and subdivided. Some discussion took place regarding this issue. Reword “resub divided”. **Further discussion will take place on this item.**

Councilmember Kelly Enquist

- Page 3- remove “City Council” from the last part of Planning Commission

In tonight’s discussion, Pages 1- 9 have been approved by the Commissioners and will be cleaned up. Sections designated for further discussion will be added to the next agenda.

4. Staff Report

Cathy Brightwell:

- November 3 will be the last Land Use Training of the year and will be held in Taylorsville. Let her know if you want to attend.

- Kinross Estates is finishing up concrete this week and having their ribbon cutting event his Friday. The model home is completed with approximately 14 homes under construction.
- Pages Lane project - finishing south side curb, gutter and sidewalk and they are trying to push hard on the North side to get all the concrete finished (weather permitting) and return in the spring to finish what could not be done. Landscapers are working and will be followed up by fencing.
- Mountain View Estates is pushing hard to finish hardscape and plans to continue work until weather forces them to stop.
- Wasatch Choice Phasing Workshop will be held at our City Hall from 4-6 pm on Tuesday October 30th. This a joint effort with lots of groups working together. Information will mostly consist of transportation needs.
- Youth Council will be holding a Trick or Treating Event for children 12 and under between 6-7 pm this Friday evening. For those 12 and older, there will be a haunted house inside City Chambers from 7:30-9:30 pm.

5. Consider Approval of Minutes from October 9, 2018 meeting.

ACTION TAKEN:

Mike Cottle moved to approve of the minutes of the October 9, 2018 meeting as corrected. Cory Sweat seconded the motion and voting was unanimous in favor.

6. Adjournment

ACTION TAKEN:

Alan Malan moved to adjourn the regular session of the Planning Commission meeting at 8:38 pm. Dee Vest seconded the motion. Voting was unanimous in favor.

.....

The foregoing was approved by the West Bountiful City Planning Commission on November 13, 2018 by unanimous vote of all members present.

Cathy Brightwell

 Cathy Brightwell – City Recorder



Mayor
Kenneth Romney

WEST BOUNTIFUL CITY

City Administrator
Duane Huffman

City Council
James Ahlstrom
James Bruhn
Kelly Enquist
Mark Preece
Andrew Williams

550 North 800 West
West Bountiful, Utah 84087

City Recorder
Cathy Brightwell

City Engineer
Ben White

Public Works Director
Steve Maughan

Phone (801) 292-4486
Fax (801) 292-6355
www.WBCity.org

September 25, 2018

Dear Mayor and City Council,

At your direction, the Planning Commission undertook the task to evaluate whether allowing covered patios in the rear yard setback would be permissible. If so, under what circumstances. A sketch provided by Mr. Steve Sundstrom was used as a visual example of what a covered patio may look like.

The opinion of the Planning Commission is that the rear building sets should stay as they are currently approved. Rational for leaving the setbacks unaltered include:

1. While a five- or ten-foot encroachment of a patio cover may not seem like an intrusive encroachment in some applications, any rear yard setback encroachment would be an intrusive encroachment in a different setting.
2. While an eight or ten foot high canopy may not be intrusive in one application, it could be in another.
3. Is any railing acceptable under a covered patio; screening for mosquitos or removable windows? Where does the boundary end?
4. Allowing patio roofs while restricting low to the ground deck roofs would be inconsistent.
5. The open area around homes is one of the desirable qualities contributing to the quality of life in West Bountiful. Reducing setbacks to allow larger structures has a similar negative impact as increasing development density.

The Planning Commission is not unanimous in its opinion. There is some support to consider covered patio encroachments into a rear yard setback as a conditional use with strict limitations, but not the majority. Unless the City Council requests the Planning Commission hold a public hearing on the matter, the Planning Commission considers its deliberation of the subject complete.

Respectfully,

Dennis Hopkinson, Chair
West Bountiful Planning Commission

1 **West Bountiful City**
2 **Planning Commission Meeting**

November 13, 2018

3

4

PENDING- Not Yet Approved

5 **Posting of Agenda** - The agenda for this meeting was posted on the State of Utah Public Notice website
6 and on the West Bountiful City website on November 9, 2018 per state statutory requirement.

7 Minutes of the Planning Commission meeting of West Bountiful City held on Tuesday, November 13,
8 2018 at West Bountiful City Hall, Davis County, Utah.

9 **Those in Attendance:**

10 **MEMBERS PRESENT:** Chairman Denis Hopkinson, Alan Malan, Mike Cottle, Corey Sweat, Laura
11 Charchenko, Dee Vest (alternate) and Council member Kelly Enquist

12 **STAFF PRESENT:** Ben White (City Engineer), Cathy Brightwell (Recorder) and Debbie McKean (Secretary)

13 **VISITORS:** Gary Jacketta, Roger Eggett

14

15 The Planning Commission Meeting was called to order at 7:30 pm by Chairman Hopkinson. Ben White
16 offered a prayer.

17 **1. Accept Agenda**

18 Chairman Hopkinson reviewed the agenda. Corey Sweat moved to accept the agenda as presented and
19 Alan Malan seconded the motion. Voting was unanimous in favor among all members present.

20

21 **2. Consider Conditional Use Application for TRAX Power Sports at 1125 West 500**
22 **South**

23 Commissioner packets included a memorandum dated November 9, 2018 from Cathy Brightwell and
24 Ben White regarding TRAX Power Sports, LLC with an attached permit application.

25 The memorandum addressed the following:

- 26
- TRAX Power Sports will handle short term rentals of power sports equipment (ATVs,
27 snowmobiles, boats, etc.) and then sell their used equipment every year.
 - WBC Code does not specifically list equipment rental as an allowable use but it does list motor
28 vehicle sales and service and outdoor storage of retail vehicle inventory and equipment sales
29 and service. It also allows for other commercial businesses which are like those listed as
30 conditional use which may be approved by the Planning Commission. Staff interprets this
31 request to be an allowed use in the CH zone.
 - List of suggested findings and conditions.
- 32
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34

35 Chairman Hopkinson introduced the application for Mr. Roger Eggett. Cathy Brightwell reported
36 that all documents have been received for his application. Roger Eggett was invited to take the
37 stand for questions from the Commissioners. He stated that he has other locations but most of the
38 office work will be done in this location and his used equipment will be sold in this West Bountiful
39 location. The main business is Rocky Mountain Ventures in Bear River.

40 Commissioners did not have any questions.

41 **ACTION TAKEN:**

42 *Corey Sweat moved to approve the conditional use permit for Roger Eggett for TRAX Power Sports of*
43 *Morgan, LLC, located at 1125 W 500 South with the following findings and conditions: the proposed*
44 *use at the particular location is necessary or desirable to provide a service or facility that will*
45 *contribute to the general well-being of the neighborhood and community; the proposed use will*
46 *provide for appropriate buffering of uses and buildings, proper parking and traffic circulation, the use*
47 *of building materials and landscaping which are in harmony with the area, and compatibility with*
48 *adjoining uses; and the following conditions will mitigate the reasonably anticipated detrimental*
49 *effects of the proposed use and accomplish the purposes of this subsection; and the proposed use is*
50 *approved as a conditional use under 17.34.030(N) "other commercial businesses which are similar to*
51 *those listed as conditional use." Conditions include providing proof of dealer license to sell equipment,*
52 *proof of insurance, fire inspection certificate, signage specific to city code WBMC 17.48, vehicles and*
53 *equipment on display must be operable and in sellable condition, and applicant must purchase a West*
54 *Bountiful City business license. Laura Charchenko seconded the motion and voting was unanimous in*
55 *favor.*

56

57 **3. Discuss Proposed Changes to Title 16- Subdivision**

58 A revised copy of the Subdivision 16 document dated 11/09/2018 was provided in the Commissioner's
59 packet.

60 Cathy Brightwell reviewed the changes made to Pages 1-9 that were suggested from last Commission
61 Meeting. She pointed out three sections that still need discussion. In Section 16.12.040, (A) is still not
62 clear and there was discussion about new language. Staff will continue to work on new language. (E)
63 has been changed to include a minimum of 200 feet before interior lots can have frontage on two
64 streets, and (H) required more discussion about the allowable size of remnant lots. It was decided to
65 leave this subsection in its original form.

66 Tonight's discussion will cover Page 10-31. Ben White reviewed the document with the Commissioners.

67 Page 11, Section 16.12.050(C) - "Special requirements may be imposed" was taken out because it is not
68 enforceable. There must be a standard and criteria in place in our Code and not left up to
69 interpretation.

70 Page 13 - Cleaned up language to match the practice that we have in place. Chairman Hopkinson
71 inquired about boundary and fence lines in (D) and if there could be language included that could help in
72 situations where old boundaries are not easily identifiable. Some discussion took place and it was

73 decided that this issue would have to be dealt with by the surveyor, and boundary disputes must be
74 resolved before preliminary plat can be approved.

75 Page 14-E. Standards have been added that are included that are in our code, and placement of
76 mailboxes added.

77 Page 15-Cleaned up process of what is current city practices. Section 16.16.030 Final Plat- language was
78 added to explain the period of time that approval begins.

79 Page 16-Document size consistent with recording requirements of Davis County Recorder.

80 Page 18- Clarification only.

81 Page 19- Changes made to define Warranty Bond and Improvement Bond percentages.

82 Page 21-Add "city engineer" in B.

83 Page 22-Cleans up the scaling requirements.

84 Page 24- E. Use "criteria" instead of conditions.

85 Page 30- Appeals language was removed as it is the same as in the other parts of the code. Chairman
86 Hopkinson would like a section left in for "Appeals" and reference it to where they would find it in the
87 Code.

88 Chairman Hopkinson asked for a clean electronic copy to be sent to all the Commissioners for their
89 thorough review. A public hearing will be scheduled for December 11th.

90

91 **4. Review of Property Ombudsman Advisory Opinion**

92 Ben White gave a brief presentation on an Ombudsman Advisory Opinion. He explained that an
93 Ombudsman is an attorney that operates outside of the law and offers opinions on various issues of land
94 use. He reviewed Opinion 191- Reeves Riverton Ranch in a Power Point presentation. This case dealt
95 with Conditional Use Permits. In brief, the material covered the following important issues: a
96 Municipality must adopt applicable standards and use them in imposing conditions. Vague standards
97 must be avoided in our code as they cannot be upheld if challenged. There needs to be direct
98 connections for each condition to supporting criteria. If it is not in our code, it cannot be required
99 unless the record supports health, safety and general welfare. We need to have goals and purposes as
100 to what we are trying to achieve in order to place conditions on the permit.

101 Chairman Hopkinson asked if conditions are listed in the minutes or the action taken when the
102 conditions were being approved was sufficient. Mr. White felt that if there were discussions pertaining
103 to that specific situation, then it would probably be acceptable. It is important to include goals and
104 purposes that make direct connections to the criteria.

105

106

107

108 **5. Staff Report**

109 **Ben White:**

- 110 a. Atwater Subdivision turned in plans this week and should be coming before them in the next
- 111 meeting for final plat approval.
- 112 b. Destination Homes- Ben referred to an email Duane sent to them about a meeting they had with
- 113 the Mayor last week. They will likely be asked to have some text change to the BU zone.
- 114 c. Pages Lane is not finished but is prepared for the winter. They will finish up the work in the spring.
- 115 d. Next week on City Council here is a request to amend a plat for Hogan. Several developers are
- 116 amending their plats and will be returning to City Council.

117 **Cathy Brightwell:**

118 Apologized that she forgot to submit their quarterly pay. They will receive their checks for third quarter
119 next week.

120 Dee Vest asked about the reverse 911 and how to get notification on cell phones. Cathy stated that this
121 issue will be addressed in the next Newsletter. He also asked if the signs could be taken down when the
122 roads are not closed around Pages Lane construction.

123

124 **6. Consider Approval of Minutes from October 23, 2018 meeting.**

125 **ACTION TAKEN:**

126 *Corey Sweat moved to approve of the minutes of the October 23, 2018 meeting as presented. Mike*
127 *Cottle seconded the motion and voting was unanimous in favor.*

128

129 **7. Adjournment**

130 **ACTION TAKEN:**

131 *Alan Malan moved to adjourn the regular session of the Planning Commission meeting at 9:25 pm.*
132 *Laura Charchenko seconded the motion. Voting was unanimous in favor.*

133

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136 *The foregoing was approved by the West Bountiful City Planning Commission on October 23, 2018 by*
137 *unanimous vote of all members present.*

138

139 _____

140 *Cathy Brightwell – City Recorder*

141

PENDING – Not Yet Approved

Minutes of the West Bountiful City Council meeting held at 7:30 p.m. on **Tuesday, October 2, 2018** at West Bountiful City Hall, 550 N 800 West, Davis County, Utah.

Those in attendance:

MEMBERS: Mayor Kenneth Romney, Council members James Bruhn, Kelly Enquist, Mark Preece, and Andy Williams

STAFF: Duane Huffman (City Administrator), Steve Doxey (City Attorney), Chief Hixson, Ben White (City Engineer), Steve Maughan (Public Works Director), Ben White (City Engineer), Cathy Brightwell (Recorder)

EXCUSED: James Ahlstrom will be late

VISITORS: Alan Malan, Gary Jacketta, Michael Hensley, Jessica Pitt, Debbie Smith, Will VanderToolen, April Vowles, Ryan Blackburn

Mayor Romney called the regular meeting to order at 7:30 pm. Kelly Enquist provided an invocation; James Bruhn led the Pledge of Allegiance.

1. Approve Agenda

MOTION: *James Bruhn made a Motion to approve the agenda as posted. Kelly Enquist seconded the Motion which PASSED by unanimous vote of all members present.*

2. Public Comment - Two minutes per person, or five minutes if speaking on behalf of a group.

Mike Hensley asked for an update on his remarks to the council from a few weeks ago when he asked for a 4-way stop at Pages Lane and 1100 West, for a solution to the rocks and gravel all over 1100 West, and for some kind of dust barrier between the homes just south of the canal and construction at Mountain View Estates.

Duane Huffman responded that the city staff agrees a 4-way stop at Pages and 1100 West is a good idea but is concerned about implementing a new traffic option during construction. There was also discussion about how speeding issues on 1100 West have been addressed by adding more speed limit signs, including purchasing signs that flash when the speed limit is exceeded. The goal is to change behavior and then move the signs to other problem locations.

Steve Maughan said he is watching dirt and gravel tracked on the road from construction and one contractor was shut down yesterday due to dirt on the roads. He said it would be nice if we could make it stop but it is hard to deal with all the contractors currently working in the city. When we see

46 problems, we are having them clean the streets, and we cleaned 1100 West gutter to gutter by the
47 canal after the last meeting. Regarding dust, he said he is working with contractors to keep the dust
48 down, but it is hard to stop the dust completely during construction.
49

50 Jessica Pitt (resident) said she is following up from her earlier request to address speed on
51 1100 West. She is happy to see the new signs but there is still a lot of speeding and she believes
52 speed bumps would be most effective.

53 Chief Hixson commented that he sent officers out the night she raised the issue at city council
54 meeting. They have been aggressively stopping a lot of drivers (92 vehicles from July 16 – August 5)
55 and giving warnings (60), and citations (32) depending on speed. He acknowledged the problem and
56 his department's efforts to focus on the area but they also have to spread out around the city and deal
57 with other police issues too.
58

59 **3. Presentation by Salt Lake Chamber of Commerce Regarding Housing Gap Coalition.**
60

61 Brynn Mortensen, representing the Salt Lake Chamber of Commerce, presented information
62 collected for the Utah Housing Gap Coalition. The following are highlights of her presentation.

63 The Salt Lake Chamber is a coalition of 8000+ members around the state. A new study shows
64 a shortage of 54k housing units for families, based on 2011-2017 data. This shortage drives up
65 median prices which could exceed \$700k in the next 26 years, pricing out many, including
66 occupations like teachers.

67 Other factors are contributing to the rising cost of homes, including land costs and
68 topography, construction worker shortages, demographic and economic growth (Utah currently leads
69 the nation in population growth), and NIMBYism (not in my back yard.)

70 The Housing Gap coalition, working with Wasatch Front Regional Council, Utah League of
71 Cities and Towns, and other groups, is attempting to address these issues before Utah become a
72 Seattle or San Francisco.

73 The chamber is visiting all cities to get the message out. Municipalities could review their
74 General Plans to include moderate income housing options, look at zoning and fees to see if there are
75 areas to improve, and sign the support resolution, which had not been provided to the city as of this
76 presentation. Ms. Mortensen said the coalition recognizes that every city is different and one of the
77 reasons they are visiting cities is to try to find out more about the individual needs so they can be
78 supportive.

79 Mayor Romney responded that West Bountiful is unique. West Bountiful has a very rural feel
80 and residents want horses, and animal property is in high demand right now. He said we try to
81 balance rural life with community needs. He added that he agrees that transportation hubs are a good
82 place to focus high density but unfortunately in West Bountiful those areas may be too close to
83 refineries for life safety issues.
84
85
86

87 **4. Discussion on City's General Plan.**

88

89 Duane Huffman recognized the members of the public here tonight that have stated they are
90 concerned that the discussion of the City's General Plan is tied to the Salt Lake Chamber's
91 presentation on Affordable Housing and assured them it is a matter of coincidence. He said the city
92 has been working for some time on the moderate-income housing report due later this year.

93 Mr. Huffman explained the city's last full General Plan update concluded in 2007 and while
94 state law does not require the plan be updated after any set number of years, it is wise to periodically
95 review and update the plan as necessary. Do the values expressed in the visioning statements still
96 accurately reflect the community? What progress has been made towards the stated goals and
97 objectives? Is there a need to fully or partially update anything?

98 There was discussion about current policies in the General Plan. For example, it contemplates
99 higher density such as townhouses and mixed use but mostly in perimeter areas like 500 West and
100 500 South

101 Mr. Huffman stated that one item we should add is a transportation map, also called an
102 official map, as defined by State Code. It is intended to be part of the General Plan that looks at
103 where/how roads will go in the future. This is critical with future west side development. He also
104 talked about the moderate-income housing requirements. We have always reviewed and submitted
105 required reports on moderate-incoming housing.

106 Mr. Huffman offered several ways to proceed. One extreme would be to hire a consultant to
107 engage in a comprehensive update, and the other extreme would be to update based on the recently
108 completed parks study, moderate income housing plans, and a transportation map.

109
110 Mayor Romney allowed comments from the public.

111

112 Jessica Pitt stated that she doesn't think it is necessary to pay someone to make small changes
113 to the General Plan. Most residents moved here because of the rural feel and want to keep it that way.
114 She asked if the General Plan included zoning regulations and Mr. Huffman responded that the
115 General Plan provides high level goals while the municipal code deals with details such as zoning.

116

117 Will VanderToolen said he has been a resident since early the 80's and came to see the
118 chamber presentation. He lives on 600 West and the traffic has increased so much that most parents
119 won't allow their children to play in the front yards any longer. He loves West Bountiful, thinks it is a
120 great place to be, but neighbors and those travelling to/from high density areas to the north and south
121 need to slow down.

122

123 April Vowles - 869 W 400 North has lived in the city for 4 years. She agrees traffic is a
124 problem. She said she must cross 400 N/800 W twice to get her kids to school, and it's a crazy
125 dangerous intersection. She has even been honked at for crossing the street with her kids. She asked
126 if there will be a time when we need to put in traffic lights? Mayor Romney responded that we're not
127 quite there yet. It probably could not be justified until we are fully built out to the west, but it would
128 be a good place to consider at that point. He added that crossings should improve at that intersection
129 when the new school is built.

130

131 Following discussion about the General Plan options there was agreement that no big changes
132 need to be made so the simple process would be the best route for updates. The planning commission
133 is asked to begin a minimal approach.

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Council Member Ahlstrom arrived.

5. Consider Approval of Purchase – Police Vehicle & Associated Equipment for \$49,292.60.

Chief Hixson explained they are replacing the old Dodge Charger with a new Ford Explorer. The purchase was approved as part of the budget process but needs to be formally approved now that we are ready to buy. There was some discussion about vehicle preferences and the Chief explained he prefers Ford Explorers for officers as they are easier to maneuver and trucks for Sergeants who have more equipment to carry.

MOTION: *Mark Preece made a Motion to Approve the Purchase of Police Vehicle and Associated Equipment for \$49,292.60. Andy Williams seconded the Motion which PASSED by unanimous vote of all present.*

6. Public Works Report (Steve Maughan)

- Thank you to Nate Buzbee whose last day was last week. We are advertising for a new hire and plan to review applications on October 15.
- Pages Lane construction has ramped up. Almost all concrete (curb, gutter, sidewalk) is done on the east end so now will be filling in asphalt on the edges. There is some sewer work ongoing.
- Kinross Estates – most infrastructure is in place.
- Mtn View Estates – they are bringing in a lot of fill to build roads up 3-6 feet. There was discussion about broken up concrete on the property and the need to make sure it gets hauled off and not buried. Sewer work is under way connecting to Kinross.
- Highgate Estates – sewer is complete and storm drain is close to being finished. They will begin installing water pipe in a week or so. The developer has reached an agreement with Holly regarding the existing sewer industrial waste line and it will be coming out.

Engineering Report (Ben White)

- Planning commission will hold a public hearing next week for Atwater Estates subdivision preliminary plat. They will also be considering updates to the subdivision code based on comments received from the consultant we hired last year to clean it up.
- Pages Lane construction– we won't finish this year; it may look like it's done, but they will just close things up for the winter. They'll be back next spring to clean it up and finish it.

7. Administrative Report (Duane Huffman)

- Financial auditors are here this week.
- Completed the Fall inspection for risk management today.
- Referenced a recent settlement with Volkswagen regarding fraud emissions that will bring money to the State. They intend to use the money to help public agencies replace larger diesel trucks by providing a 50% match.
- Working with Steve Doxey on franchise agreements. We discovered that Century Link's agreement expired 10 years ago.

- 181 • Wasatch Front Regional Council will hold a regional planning group meeting here on
182 October 30 beginning at 4pm.

183
184 **8. Mayor/Council Reports**

185
186 Kelly Enquist inquired about the economic status of the Commons as both Paradise Bakery
187 and Pei Wei are gone. Mr. Huffman responded that we have not heard directly from the developer.

188
189 Andy Williams – The Youth Council leadership retreat will be this weekend in Logan. They
190 are also planning a Halloween “Haunted Hall” in the city offices the end of October.

191
192 James Bruhn – Arts Council event next week will be cowboy poetry. Wasatch Integrated
193 continues work on the transfer station. He asked about delays with Pages Lane construction and
194 possible liquidated damages. Mr. Huffman responded that it will be discussed when the contractor
195 has more time, either this winter or after the project is complete.

196
197 Mark Preece commented that curb is going in on the north end of 600 West and it will be nice
198 to finally have it done. The sewer district is running algae tests – they are having better success at the
199 West Bountiful facility than the North Salt Lake facility.

200
201 James Ahlstrom – no report.

202
203 Mayor Romney – no report

204
205
206 **9. Approve Minutes from the September 18, 2018 City Council Meeting.**

207 **MOTION:** *James Bruhn made a Motion to approve the September 18, 2018 City*
208 *Council meeting minutes. Andy Williams seconded the Motion which*
209 *PASSED by unanimous vote of all members present.*

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212 **10. Executive Session, if necessary, for the Purpose of Discussing Items Allowed Pursuant to**
213 **Utah Code Annotated 52-4-205(1)(a).**

214
215 Mayor Romney asked for a closed meeting to discuss the character, professional competence,
216 or physical or mental health of an individual, and strategy related to the potential exchange of
217 land. Council member Ahlstrom stated he will not participate in the portion of closed meeting
218 regarding land.

219
220 **MOTION:** *James Ahlstrom made a Motion to go into Executive Session at 9:00 pm in*
221 *the Police Training Room to Discuss the Character, Professional*
222 *Competence, or Physical or Mental Health of an Individual, and Proposed*
223 *Exchange of Land. Andy Williams seconded the Motion which PASSED*
224 *with a Vote of 4-1.*

225

226 The vote was recorded as follows:
227 James Ahlstrom – Aye Mark Preece – Aye
228 James Bruhn – Aye Andy Williams - Aye
229 Kelly Enquist – Aye
230

231 **MOTION:** *James Bruhn made a Motion to close the Executive Session. Kelly Enquist*
232 *seconded the Motion which PASSED by unanimous vote of all members*
233 *present.*
234

235
236 **11. Adjourn Meeting.**

237 **MOTION:** *James Bruhn made a Motion to adjourn this meeting of the West Bountiful*
238 *City Council 9:34 pm. Mark Preece seconded the Motion which PASSED by*
239 *unanimous vote of all members present.*
240

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244
245 *The foregoing was approved by the West Bountiful City Council on October 16, 2018 by unanimous*
246 *vote of all members present.*
247

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249
250 _____
251 Cathy Brightwell (City Recorder)