



## **CENTERVILLE CITY COUNCIL AGENDA**

**NOTICE IS HEREBY GIVEN THAT THE CENTERVILLE CITY COUNCIL WILL HOLD ITS REGULAR PUBLIC MEETING AT 7:00 PM ON SEPTEMBER 21, 2021 AT CENTERVILLE CITY HALL COUNCIL CHAMBERS, 250 N. MAIN STREET, CENTERVILLE, UTAH. THE AGENDA IS SHOWN BELOW.**

*Meetings of the City Council of Centerville City may be conducted via electronic means pursuant to Utah Code Ann. 52-4-207, as amended. In such circumstances, contact will be established and maintained via electronic means and the meeting will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.*

*Centerville City, in compliance with the Americans With Disabilities Act, provides accommodations and auxiliary communicative aids and services for all those citizens in need of assistance, including hearing devices. Persons requesting these accommodations for City-sponsored public meetings, services, programs, or events should call Jacob Smith, Administrative Services Director, at 801-295-3477, giving at least 24 hours notice prior to the meeting.*

*The full packet of backups materials can be found at <http://centerville.novusagenda.com/agendapublic>.*

**A. ROLL CALL**

**B. PRAYER OR THOUGHT**

Councilwoman Stephanie Ivie

**C. PLEDGE OF ALLEGIANCE**

**D. OPEN SESSION (This item allows for the public to comment on any subject of municipal concern, including agenda items that are not scheduled for a public hearing. Citizens are encouraged to limit their comments to two (2) minutes per person. Citizens may request a time to speak during Open Session by calling the City Recorder's office at 801-295-3477, or may make such request at the beginning of Open Session.) Please state your name and city of residence.**

**E. BUSINESS**

1. Public Hearing - FY2022 Budget Amendments  
Consider Resolution No. 2021-37 regarding amendments to the FY2022 Budget
2. DWS Water Assistance Program Agreement  
Consider Memorandum of Understanding with Utah Department of Workforce

Services for Participation in Water Assistance Program

3. Deferral Agreement for Installation of Public Improvements - 20 South 400 East - Montoya  
Consider Public Improvements Deferral Agreement between the City and Kari Jo Montoya for the deferral of sidewalk and parkstrip improvements along the frontage of Center Street
4. Real Estate Purchase Contract and Funding for Purchase of Caleb Holdings, LLC Property  
Consider Real Estate Purchase Contract and funding for purchase of Caleb Holdings, LLC property
5. Minutes Review and Acceptance  
September 7, 2021 Work Session Minutes  
September 7, 2021 City Council Minutes
6. City Council Report  
Councilman George McEwan
7. Mayor's Report
8. City Manager's Report

**F. CLOSED SESSION (Closed Meeting, if necessary, for reasons allowed by State Law, including, but not limited to, the provisions of section 52-4-205 of the Utah Open and Public Meetings Act, and for the Attorney-Client matters that are privileged pursuant to Utah Code ann. 78B-1-137, as amended)**

Discuss the Professional Character or Competence of an Individual  
Discuss the Purchase or Sale of Real Property

**G. ADJOURNMENT**

Jennifer Hansen  
Centerville City Recorder

**CENTERVILLE**

**Staff Backup Report  
9/21/2021**

Item No.

Short Title: Councilwoman Stephanie Ivie

Initiated By:

Staff Representative:

**SUBJECT**

RECOMMENDATION

BACKGROUND

**CENTERVILLE  
CITY COUNCIL  
Staff Backup Report  
9/21/2021**

Item No. 1.

Short Title: Public Hearing - FY2022 Budget Amendments

Initiated By: Nate Plaizier, Finance Director

Staff Representative: Nate Plaizier, Finance Director

**SUBJECT**

Consider Resolution No. 2021-37 regarding amendments to the FY2022 Budget

**RECOMMENDATION**

Approve Resolution No. 2021-37 regarding amendments to the FY2022 budget.

**BACKGROUND**

A budget amendment is being proposed for the following purposes:

**General Fund**

- Roll-forward the remaining available funds from Police Donation
- Roll-forward the remaining available funds from the Police Citizen Academy
- Roll-forward Police F-150 - This vehicle was budgeted and ordered in FY21, but has not arrived yet.
- Roll-forward Parks Jacobsen HR700 Mower - This equipment was budgeted and ordered in FY21, but has not arrived yet.

**PARKS FUND**

- Roll-forward remaining funds for the Smith Park expansion and improvements

**NOTE:**

Also attached is a summary of an internal transfers executed in September 2021. These transfers do not result in an overall increase in revenue or expenses and are done internally to shore up individual departmental budgets.

While these transfers are done administratively, we felt it would be of interest to the Council to note that an increase in Police salaries was proposed as part of this transfer.

**Public Safety Employees - Total Compensation Costs**

Pay Increases	Pay	FICA	Retirement	LTD	Workers Comp
\$ 57,000.00	\$ 32,958.54	\$ 4,360.50	\$ 19,402.80	\$ 193.80	\$ 84.36

In order to fund this increase of \$57,000, \$48,925 was removed from Police Capital Equipment (Item 6) for the Staffing Analysis, as well as \$8,075 from Police Overtime Pay - Bailiff.

**ATTACHMENTS:**

## Description

- ▣ Resolution No. 2021-37 - Budget Amendment (FY2022)
- ▣ FY2022 Budget Amendments
- ▣ FY2022 Budget Amendments - Internal
- ▣ Police Salary Adjustments

**RESOLUTION NO. 2021-37**

**A RESOLUTION AMENDING THE FY2022 BUDGET OF FUNDS AND ACCOUNTS FOR CENTERVILLE CITY, UTAH**

**WHEREAS**, in order to conform with Utah State Code and Accounting Procedures as outlined in the Uniform Accounting Manual, it is necessary to amend the budget of funds and accounts for Centerville City for the Fiscal Year ending June 30, 2022, as more particularly provided herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, AS FOLLOWS:**

**Section 1. Amendment.** The FY2022 Budget of Funds and Accounts for Centerville City is hereby amended as shown in **Exhibit A** as attached and incorporated herein by reference.

**Section 2. Severability.** If any section, part or provision of this Resolution is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Resolution, and all sections, parts and provisions of this Resolution shall be severable.

**Section 3. Effective Date.** This Resolution shall become effective immediately upon its passage.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, THIS 21<sup>st</sup> DAY OF SEPTEMBER 2021.**

**CENTERVILLE CITY**

By: \_\_\_\_\_  
Mayor Clark A. Wilkinson

I hereby certify that the above Resolution entitled "A Resolution Amending the FY2022 Budget of Funds and Accounts for Centerville City, Utah" is a true and accurate copy of the Resolution passed on the 21<sup>st</sup> day of September 2021.

**ATTEST:**

\_\_\_\_\_  
Jennifer Hansen, City Recorder

## CERTIFICATE OF PASSAGE AND EFFECTIVE DATE

According to the provisions of the U.C.A. § 10-3-719, as amended, resolutions may become effective without publication or posting and may take effect on passage or at a later date as the governing body may determine; provided, resolutions may not become effective more than three months from the date of passage. I, the municipal recorder of Centerville City, hereby certify that foregoing resolution was duly passed by the City Council and became effective upon passage or a later date as the governing body directed as more particularly set forth below.

\_\_\_\_\_  
Jennifer Hansen, City Recorder

DATE: \_\_\_\_\_

EFFECTIVE DATE: \_\_\_\_ day of \_\_\_\_\_, 2021.

## **EXHIBIT A**

### **FY2022 APPROVED BUDGET AMENDMENT #1**

## FY2022 Budget Amendments

### GENERAL FUND

#### Revenue

<u>Account</u>	<u>Description</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase/Decrease</u>	<u>Comment</u>
10-39-250000	USE OF FUND BALANCE	-	134,716	134,716	Roll-forward amounts
			Total	134,716	

#### Expenses

<u>Account</u>	<u>Description</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase/Decrease</u>	<u>Comment</u>
<b>Police</b>					
10-4210-752	GRANT/DONATION PURCHASES	7,500	10,633	3,133	Police Donation Roll-forward
10-4210-610	CITIZEN ACADEMY	400	2,077	1,677	Roll-forward from previous FY
10-4210-740	CAPITAL EQUIPMENT	396,625	436,625	40,000	F150 ordered in FY21
<b>Parks</b>					
10-4510-740	CAPITAL EQUIPMENT	120,500	210,406	89,906	Jacobsen HR700 Mower ordered in FY21
			Total	134,716	

### PARKS FUND

#### Revenue

<u>Account</u>	<u>Description</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase/Decrease</u>	<u>Comment</u>
45-39-250000	USE OF FUND BALANCE	-	16,784	16,784	Roll-forward from previous FY
			Total	16,784	

#### Expenses

<u>Account</u>	<u>Description</u>	<u>Current Budget</u>	<u>Amended Budget</u>	<u>Increase/Decrease</u>	<u>Comment</u>
45-4810-120	FOUNDERS PARK IMPROVEMENTS	-	16,784	16,784	Roll-forward from previous FY
			Total Expenses	16,784	

## FY2022 Budget Amendments (Internal)

### GENERAL FUND

Expenses	Account	Description	Current Budget	Amended Budget	Increase/Decrease	Comment
City Council and Mayor	10-4111-314	COMPUTER SERVICES	-	375	375	Microsoft 365 Licenses
Admin	10-4130-110	SALARIES AND WAGES	374,300	370,229	(4,071)	Unfilled position
	10-4130-330	EDUCATION AND TRAINING	15,000	19,000	4,000	Rec Cord. Training
	10-4130-755	WEBSITE	11,000	14,000	3,000	Old website data migration
Finance	10-4140-313	AUDIT SERVICES	20,500	16,500	(4,000)	ARPA Funds will pay for Single Audit
	10-4140-511	INSURANCE - LIABILITY	40,000	36,346	(3,654)	Reflects actual cost
Police	10-4210-110	SALARIES AND WAGES	1,461,900	1,493,509	31,609	Increase Police Salaries
	10-4210-115	OVERTIME PAY-BAILIFF	11,300	3,225	(8,075)	Move to Police Salaries - Court currently not in-person
	10-4210-130	FICA	111,900	116,161	4,261	Increase Police Salaries
	10-4210-131	RETIREMENT	491,600	510,601	19,001	Increase Police Salaries
	10-4210-134	LONG TERM DISABILITY	7,200	7,394	194	Increase Police Salaries
	10-4210-135	WORKERS COMPENSATION	37,700	37,785	85	Increase Police Salaries
	10-4210-740	CAPITAL EQUIPMENT	396,625	347,700	(48,925)	Move to Police Salaries - Remove Staffing Analysis
D.A.R.E.	10-4225-110	SALARY & WAGES	53,600	54,950	1,350	Increase Police Salaries
	10-4225-130	FICA	4,100	4,200	100	Increase Police Salaries
	10-4225-131	RETIREMENT	18,800	19,200	400	Increase Police Salaries
Public Works	10-4405-512	INSURANCE - AUTO LIABILITY	1,800	1,000	(800)	Reflects actual cost
Parks	10-4510-512	INSURANCE	2,000	1,500	(500)	Reflects actual cost
Parks & Recreation Facility	10-4595-514	INSURANCE	1,200	1,550	350	Reflects actual cost
Public Works Facility	10-4596-514	INSURANCE	850	1,850	1,000	Reflects actual cost
Public Works Storage	10-4598-514	INSURANCE	2,300	2,700	400	Reflects actual cost
Whitaker Home	10-4599-482	BUILDING MAINT & REPAIR	850	4,250	3,400	A/C Unit replacement
Streets	10-4410-314	COMPUTER SERVICES	-	125	125	Microsoft 365 Licenses
Community Development	10-4610-264	COMPUTER MAINTENANCE	-	375	375	Microsoft 365 Licenses
General Fund Net Change					-	

### DRAINAGE FUND

Expenses	Account	Description	Current Budget	Amended Budget	Increase/Decrease	Comment
	53-4000-314	COMPUTER SUPPORT	3,700	6,700	3,000	Compliance GO
	53-4000-330	EDUCATION & TRAINING	1,600	5,100	3,500	MS4 Training
	53-4000-750	MISC. PROJECTS	318,011	311,511	(6,500)	ITEM 2 - Curb and Gutter Replacements
					-	

**Public Safety Employees - Total Compensation Costs**

Pay Increases	Pay	FICA	Retirement	LTD	Workers Comp
\$57,000.00	\$32,958.54	\$4,360.50	\$19,402.80	\$193.80	\$84.36

Funded by:

<b><u>Account</u></b>	<b><u>Description</u></b>	<b><u>Current Budget</u></b>	<b><u>Amended Budget</u></b>	<b><u>Increase/Decrease</u></b>	<b><u>Comment</u></b>
10-4210-115	OVERTIME PAY-BAILIFF	11,300	3,225	(8,075)	Move to Police Salaries - Court currently not in-person
10-4210-740	CAPITAL EQUIPMENT	396,625	347,700	(48,925)	Move to Police Salaries - Remove Staffing Analysis

**CENTERVILLE  
CITY COUNCIL  
Staff Backup Report  
9/21/2021**

Item No. 2.

Short Title: DWS Water Assistance Program Agreement

Initiated By: Nate Plaizier, Finance Director

Staff Representative: Nate Plaizier, Finance Director

**SUBJECT**

Consider Memorandum of Understanding with Utah Department of Workforce Services for Participation in Water Assistance Program

**RECOMMENDATION**

Approve Memorandum of Understanding with Utah Department of Workforce Services for Participation in Water Assistance Program subject to minor non-substantive corrections

**BACKGROUND**

The DWS Water Assistance Program will be implemented by the State on October 1, 2021. This program is similar to the HEAT energy assistance program and is intended to provide assistance to low-income families that are not able to pay their water bill. In order for our residents to take advantage of the benefits of this program, the City must enter into an agreement with DWS for participation in the program. Payments under the program must go directly from the State to the City as a designated water provider. The Model State Plan for the program is out for public comment and can be accessed on the DWS website. Any employee or volunteer with access to customer information will need to sign the attached Non-Disclosure Agreement and a copy placed in their personnel file.

**ATTACHMENTS:**

Description

- ☐ Memorandum of Understanding with DWS for Water Assistance Program
- ☐ Non-Disclosure Agreement



MEMORANDUM OF UNDERSTANDING  
FOR LIHEAP REQUIREMENTS  
BETWEEN THE  
UTAH DEPARTMENT OF WORKFORCE SERVICES  
AND  
WATER PROVIDERS

This Agreement is entered into between Utah Department of Workforce Services, hereinafter referred to as the Department or DWS, and the organization listed below, hereinafter referred to as Water Provider, collectively referenced as PARTIES:

\_\_\_\_\_  
Organization

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

Now therefore, the PARTIES agree as follows:

**PURPOSE OF ATTACHMENT:**

On December 27, 2020, the Consolidated Appropriations Act, 2021 was signed into law. This authorizing legislation included funding in emergency spending to assist low-income households with water and wastewater bills. On March 11, 2021, additional funding was appropriated in the American Rescue Plan Act (ARP) of 2021 in emergency spending to assist low-income households with water and wastewater bills. Eligible households are defined as those meeting the criteria set forth in the Water Assistance Policy Manual (incorporated by reference as *Attachment D*), issued by the Utah DWS Department of Workforce Services, Water Assistance Program. This contract incorporates the requirements that must be met by WATER PROVIDERS as payments are made directly by DWS to WATER PROVIDERS.

**SCOPE:**

- A. DWS will make payments directly to a WATER PROVIDER provided that:

1. WATER PROVIDER charges the household in WATER PROVIDER'S normal billing process.
2. WATER PROVIDER bills the household no more than the cost of the water/wastewater minus the cost of the payments received or expected from DWS.
3. WATER PROVIDER does not discriminate against or treat adversely any eligible household for any reason in relation to terms and conditions of service, sale, credit, delivery, or price, including service charges, reconnection charges and payment plan arrangements due to their participation in the water assistance program.
4. WATER PROVIDER agrees not to discontinue water service for at least 30 days after receiving verification of payment from DWS. Examples of valid water payment verifications will be available upon request from DWS.
5. WATER PROVIDER agrees to waive any security deposit billed to households approved for the Water Program. This does not apply to service initiation fees routinely charged by a WATER PROVIDER to both renters and owners alike as a condition of service.
6. WATER PROVIDER agrees to reconnect the client within 24 hours upon receiving verbal or written commitment of payment from DWS.
7. If a WATER PROVIDER is a utility regulated by the Public Service Commission of Utah, a WATER PROVIDER will supply energy in accordance with provisions of Utah residential Utility Service Regulation R746-200, as adopted by the Public Service Commission of Utah.
8. A WATER PROVIDER will ensure that payment by DWS is credited toward the household's water and wastewater costs.
9. If the water assistance benefit was paid in error or if fraud is determined, upon request, the WATER PROVIDER agrees to return the Water Assistance Benefit to DWS.

- B. DWS will include a list of eligible households and amounts paid on behalf of households with each warrant paid to a WATER PROVIDER via the Water Vendor Portal.

C. CREDIT BALANCES

- 1. If a household discontinues service with a WATER PROVIDER, the WATER PROVIDER must return any water benefit credit remaining on the account to DWS with the Return Funds to State Form.
  - a. If the household opens a new water utility account for a Utah address, the WATER PROVIDER may transfer the remaining credit balance directly to the new WATER PROVIDER without notifying DWS.
  - b. A WATER PROVIDER may not return credit balances directly to the client.

- D. In the event a WATER PROVIDER erroneously returns funds to DWS, DWS shall remit such funds to the WATER PROVIDER within 30 days after a determination that such return was in error.

E. RELEASE OF INFORMATION:

- 1. The WATER PROVIDER named above is a Retail Water Provider who represents and warrants that it is authorized to receive payment from DWS on behalf of a customer determined by DWS under the Water Assistance Guidelines to be an eligible Water Assistance applicant. A WATER PROVIDER will, with reference to an eligible Water Assistance applicant:
  - a. Upon verbal or written request from DWS, provide at no cost to DWS the eligible Water Assistance applicant's billing and usage history for the previous twelve (12) months. A WATER PROVIDER will transmit such billing history via electronic mail or facsimile by requested date each year.
  - b. WATER PROVIDER agrees to provide relevant account information including account balance, utility number, and a copy of recent utility bills when requested by DWS.

F. Water Type(s) provided (please check all that apply):

- ☐ Drinking Water
- ☐ Wastewater
- ☐ Stormwater
- ☐ Ground-water

DRAFT

**Contact Information**

Department of Workforce Services

Water Provider

Name:

Name

Position: Water Assistance Vendor  
Specialist

Position

Address: 140 E 300 S

Address

City, State Zip: Salt Lake City, UT 84111

City, State Zip

Phone:

Phone

Email:

Email

This Agreement and all documents incorporated by reference constitute the entire Agreement between the PARTIES and supersede all prior negotiations, representations, or Agreements, either written or oral between the PARTIES relating to the subject matter of this Agreement.

**Signatures and Acknowledgement**

By signing below, the following officials acknowledge that they understand and agree to all of the terms and responsibilities set forth herein and cause this Agreement to be executed.

**APPROVED FOR Water Provider:**

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Signature

Date

---

Print Name /Title

**APPROVED FOR DWS:**

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Casey Cameron, Executive Director

Date

Agreement # \_\_\_\_\_

## ATTACHMENT \_\_\_\_\_

### NON-DISCLOSURE AGREEMENT

Each **Contractor/Grantee** employee or volunteer and each **Sub-Contractor/Grantee** employee or volunteer who has access to Customer personal information must sign this Non-Disclosure Agreement at the beginning of the grant or upon hire. A signed copy of this Agreement must be in each employee's/volunteer's file subject to inspection and review by the Department of Workforce Services (DWS).

The **Contractor/Grantee** and its employees and volunteers will comply with the following measures to protect the privacy of the information released under this agreement against unauthorized access or disclosure.

1. The information shall be used only to the extent necessary to assist in the purposes identified within this Agreement and shall not be re-disclosed for any purposes not specifically authorized in this contract.
2. The information shall be stored in a place physically secure from access by unauthorized persons.
3. Information in electronic format shall be stored and processed in such a way that unauthorized persons cannot retrieve the information by computer, remote terminal or any other means.
4. Precautions shall be taken to ensure that only authorized personnel are given access to on-line files.
5. The Contractor/Grantee has provided me instruction regarding the private nature of the information and I understand I am subject to State and Federal law penalties for unauthorized disclosure of information.

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Signature

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Date

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Print Name

**CENTERVILLE  
CITY COUNCIL  
Staff Backup Report  
9/21/2021**

Item No. 3.

Short Title: Deferral Agreement for Installation of Public Improvements - 20 South 400 East - Montoya

Initiated By: Kari and Dustin Montoya

Staff Representative: Lisa Romney, City Attorney

**SUBJECT**

Consider Public Improvements Deferral Agreement between the City and Kari Jo Montoya for the deferral of sidewalk and parkstrip improvements along the frontage of Center Street

**RECOMMENDATION**

Staff does not recommend entering into the Deferral Agreement for reasons presented in the September 7, 2021 City Council meeting.

**BACKGROUND**

Kari and Dustin Montoya own property located at 20 South 400 East. They have requested deferral of installation of public improvements along their frontage on Center Street. Under existing City Ordinances, unless otherwise deferred by the Council, the property owner must install all required public improvements associated with the property in order to obtain a building permit. Deferral of public improvements is regulated by CMC 10.04.170 as attached. Pursuant to CMC 10.04.170, the City Council must determine there is good cause for the deferral and that the deferral meets the requirements of CMC 10.04.170(f). The City Council discussed this item on September 7, 2021 and directed Staff to prepare the attached Deferral Agreement for Council consideration.

**ATTACHMENTS:**

Description

- Deferral Agreement - Montoya
- Request for Deferral - Montoya
- CMC 10.04.170 - Deferral of Public Improvements

**WHEN RECORDED, RETURN TO:**

Centerville City Recorder  
250 North Main Street  
Centerville, Utah 84014

Affects Parcel No.: 02-103-0046

**PUBLIC IMPROVEMENTS DEFERRAL AGREEMENT  
OBLIGATION FOR FUTURE CONSTRUCTION OF IMPROVEMENTS  
AND WAIVER OF PROTEST TO SPECIAL IMPROVEMENT DISTRICT**

**(20 South 400 East)**

**THIS AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between **CENTERVILLE CITY**, a municipal corporation, whose address is 250 North Main Street, Centerville, Utah, 84014 (hereinafter referred to as "City"), and **KARI JO MONTOYA**, whose address is 20 South 400 East, Centerville, Utah, 84014 (hereinafter referred to as "Owner").

**RECITALS:**

**WHEREAS**, Owner has applied for land use approval for the construction of a new single family dwelling on property located at approximately 20 South 400 East, Centerville, Utah, which property is more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference (hereinafter referred to as the "Property"); and

**WHEREAS**, the Property is located at the corner of Center Street and 400 East which are improved public streets, including curb, gutter, and asphalt improvements; and

**WHEREAS**, the frontage of the Property on Center Street does not have sidewalk or parkstrip improvements as required by City ordinances;

**WHEREAS**, the City is willing to grant Owner a deferral of the obligation to install sidewalk and parkstrip improvements along a portion of the Property's Center Street frontage in exchange for Owner's agreement to pay for and install such public improvements in the future and for Owner's agreement to waive the right to vote against a special improvement district in the event the City elects to create such a district in the future to construct public improvements benefitting the Property as more particularly provided in and subject to the terms and conditions set forth in this Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**1. Deferral of Installation of Public Improvements.** The City hereby grants Owner a temporary deferral of the obligation to install public improvements required for development of the Property to include the deferral of the installation of sidewalk and parkstrip improvements along the northern portion of the Property's frontage along Center Street, Centerville City, Davis County, Utah ("Public Improvements"). Such deferral is granted until such time: (1) the City provides written request and demand to the Owner to install the Public Improvements; or (2) written notice of the City's intent to proceed with the installation of the Public Improvements and to charge the Owner for such costs associated with installation of the Public Improvements. If the City requests the Owner to install the Public Improvements, Owner shall have 180 days from the date of written request and demand from the City to install the improvements. If the City decides to install the improvements and to charge the Owner for the costs associated with installation, the City may proceed with installing such improvements within 30 days from the date of written notice and Owner shall be required to pay the City the actual cost of installing the Public Improvements within 180 days from the date of written notice. Owner, or Owner's successor in interest as Owner of the Property, hereby agree to install the Public Improvements required for the Property at their sole cost and expense upon written request and demand by the City or to pay the City the amount due and owing for the City to install or have installed the Public Improvements, as directed by the City and provided herein.

**2. Installation of Public Improvements.** If the Public Improvements are installed by the Owner, Owner's authorized agents, representatives, or contractors, shall install the Public Improvements in strict accordance with all applicable City standards, specifications, ordinances, rules, and regulations regarding sidewalks, parkstrips, landscaping, and public improvements, including compliance with all permit requirements for work within the public right-of-way, which are in effect at the time the Public Improvements are installed. The Public Improvements shall be installed in accordance with the City standard street cross section in effect at the time the Public Improvements are installed. It is expressly understood and agreed that the City is granting this temporary extension of time to install the Public Improvements to Owner conditioned upon and subject to the agreed future performance by Owner to install the Public Improvements or to pay the City to install the Public Improvements as more particularly provided in this Agreement. It is further expressly acknowledged by Owner that in order to install the Public Improvements described herein, certain improvements and work may have to be done on Owner's Property to accommodate the installation of the Public Improvements. Owner's obligation to install the Public Improvements or to pay for such improvements installed by the City shall include any and all work within the public right-of-way as well as on Owner's Property necessary to install the Public Improvements, such as grading, retaining walls, landscaping, irrigation or utility line removal or relocation, etc. No vertical landscaping or structures, such as bushes, trees, fences, retaining walls, or retaining slopes, shall be allowed in the public right-of-way or within the area eight feet back of curb and cutter, whichever is greater.

**3. Failure to Install or Pay for Public Improvements.** If, for any reason, Owner does not install and complete the Public Improvements or pay the City the amount due and owing for the City to install the Public Improvements within 180 days after having been requested in writing by City to do so, the City is hereby authorized to install and/or complete the Public Improvements at the sole expense of the Owner at that time and to charge the Owner and/or the Property with the cost of said installation and completion. The costs incurred by the City to install and complete the Public Improvements shall be an obligation of the Owner and

shall be promptly paid by the Owner. Upon the failure of Owner to install the Public Improvements or to pay the City the amount due for the City's installation, these costs shall become a charge on the Property described herein and shall be a continuing lien upon the Property, together with interest thereon at ten percent (10%) per annum, and all costs and reasonable attorney's fees incurred by the City. The City may commence an action against the Owner to collect the foregoing charges and to foreclose the lien against the Property. Upon foreclosure of the lien provided herein by the City, should any deficiency remain, Owner shall remain liable for payment of the deficiency.

**4. Fee Title Owner.** Owner hereby represents and warrants that Owner owns fee title interest to the Property and further hereby confesses judgment for Owner, Owner's heirs, representatives, successors in interest, future Owners, and assigns for the total of any and all amounts expended by City for the installation and completion of the Public Improvements and any expenses related thereto.

**5. Covenants to Run with the Land.** The foregoing covenants in each and every particular are and shall be construed as real covenants and shall run with the land, and the same are hereby made binding upon the heirs, representatives, devisees, assigns, future Owners and successors in interest of the parties hereto.

**6. Default.** The parties herein each agree that should they default in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including reasonable attorney's fees which may arise or accrue from enforcing this Agreement, or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah, whether such remedy is pursued by filing suit or otherwise, and whether such costs and expenses are incurred with or without suit or before or after judgment.

**7. Amendments.** Any amendment, modification, termination, or rescission (other than by operation of law) which affects this Agreement shall be made in writing, signed by the parties, and attached hereto.

**8. Successors.** This Agreement shall be binding upon and inure to the benefit of the legal representatives, subsequent Owners, successors, and assigns of the parties hereto.

**9. Notices.** Any notice required or desired to be given hereunder shall be deemed sufficient if sent by certified mail, postage prepaid, addressed to the respective parties at the addresses shown in the preamble or at the respective parties' known address at the time of notice.

**10. Severability.** If any portion of this Agreement is for any reason declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

**11. Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

**12. Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving party.

**13. Captions.** The captions preceding the paragraphs of this Agreement are for convenience only and shall not affect the interpretation of any provision herein.

**14. Integration.** This Agreement, together with its exhibits, contains the entire and integrated agreement of the parties regarding the deferral and installation of the Public Improvements as of the date hereof, and no prior or contemporaneous promises, representations, warranties, inducements, or understandings between the parties pertaining to the subject matter hereof which are not contained herein shall be of any force or effect.

**15. Exhibits.** Any exhibit(s) to this Agreement are incorporated herein by this reference, and failure to attach any such exhibit shall not affect the validity of this Agreement or of such exhibit. An unattached exhibit is available from the records of the parties.

**16. Recording.** This Agreement shall be recorded with the Davis County Recorder's Office for all parcels or lots within the Property as notice of the required Public Improvements.

**17. Waiver of Protest.** Owner agrees to waive the right to vote against a special improvement district in the event the City elects to create such a district to construct public improvements benefitting the Property.

**IN WITNESS WHEREOF,** the parties have executed this Agreement the day and year first hereinabove written.

**"CENTERVILLE CITY"**

ATTEST:

\_\_\_\_\_  
Mayor Clark A. Wilkinson

\_\_\_\_\_  
Jennifer Hansen, City Recorder

**"OWNER"**

By: \_\_\_\_\_  
Kari Jo Montoya

STATE OF UTAH            )  
                                      :ss.  
COUNTY OF DAVIS        )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2021, personally appeared before me, **CLARK A. WILKINSON**, who being duly sworn, did say that he is the Mayor of Centerville City, a municipal corporation, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said Clark A. Wilkinson acknowledged to me that said municipal corporation executed the same.

\_\_\_\_\_  
Notary Public

My Commission Expires

Residing at:

\_\_\_\_\_

\_\_\_\_\_

STATE OF UTAH            )  
                                      :ss.  
COUNTY OF DAVIS        )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2021, personally appeared before me Kari Jo Montoya, who being duly sworn, did say that she is the Owner of the subject property and that the foregoing instrument was duly signed by her.

\_\_\_\_\_  
Notary Public

My Commission Expires

Residing at:

\_\_\_\_\_

\_\_\_\_\_



## **Request for Deferral of Sidewalk at 20 South 400 East Centerville, UT 84014**

**Applicant:** Kari and Dustin Montoya  
6464 S. 4160 W.  
West Jordan UT 84084

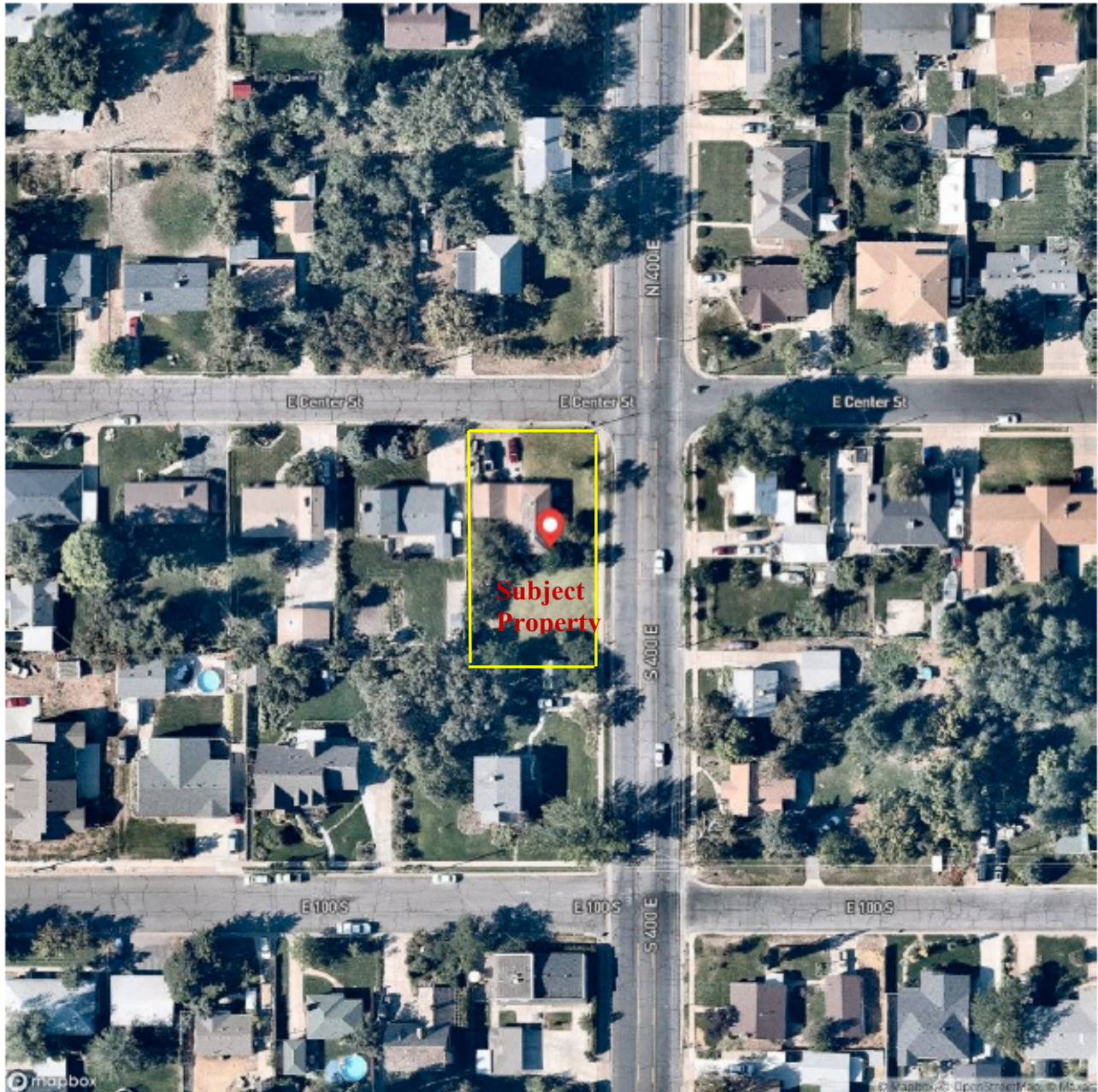
Summary of the evidence in support of the request and analysis of the factors required to qualify for the deferral as set forth in Subsection (f); Required Factors for Deferral. In order to qualify for the deferral of public improvements, the City Council must determine that there is good cause for the deferral and that the application complies with the following requirements:

- 1. The property is a legally conforming lot or parcel as defined and regulated by the Centerville Zoning Code and applicable provisions of CMC 15 (Subdivisions):** Yes.
- 2. The lot or parcel has frontage on a public street:** The parcel has frontage on a public street on both the East (400 E) and South (20 S/Center St.) sides of the lot.
- 3. No street improvements exist on the same side of the street contiguous to the lot or parcel in one or both directions, unless otherwise approved by the City Council based on good cause, or the lot or parcel is in an area of the City specifically designated as an area where sidewalks are not required:** On the residential properties, there are no sidewalks on the North or South side of 20 South/Center St. Sidewalks begin on 20 South/Center St. on the South side at 41 E. Center St. and on the North side at 71 E. Center St.
- 4. The lot or parcel is not within a recorded subdivision, unless otherwise approved by the City Council based on good cause; provided, no deferral of improvements shall be allowed as part of a new subdivision development.** This property is not within a recorded subdivision and will not be a part of a new subdivision development.
- 5. Name and current address of applicant:** Kari and Dustin Montoya- 6464 S. 4160 W. West Jordan UT 84084
- 6. Address of Subject Property:** 20 South 400 East Centerville, UT 84014
- 7. Legal Description:** BEGINNING AT THE NORTHEAST CORNER OF LOT 4, BLOCK 25, PLAT "A", CENTERVILLE TS, SAID POINT BEING SOUTH 00 19'54" WEST 25.27 FEET ALONG THE CENTER LINE OF ROAD AND NORTH 89 40'06" WEST 33.00 FEET FROM THE CENTER OF THE INTERSECTION OF CENTER STREET AND 400 EAST STREET AND RUNNING THENCE SOUTH 00 19'54" WEST 144.86 FEET ALONG THE WESTERLY LINE OF 400 EAST STREET; THENCE SOUTH 89 51'25" WEST 90.03 FEET; THENCE NORTH 00 16'49" EAST 7.00 FEET; THENCE NORTH 89 51'25" EAST 80.04 FEET; THENCE NORTH 00 19'54" EAST 127.86 FEET; THENCE SOUTH 89 52'06" WEST 80.15 FEET; THENCE NORTH 00 16'49" EAST 10.00 FEET TO A POINT ON THE SOUTHERLY LINE OF CENTER STREET; THENCE NORTH 89 52'06" EAST 90.16 FEET ALONG SAID SOUTHERLY LINE TO THE POINT OF BEGINNING.
- 8. Parcel number of Subject Property:** 021030046

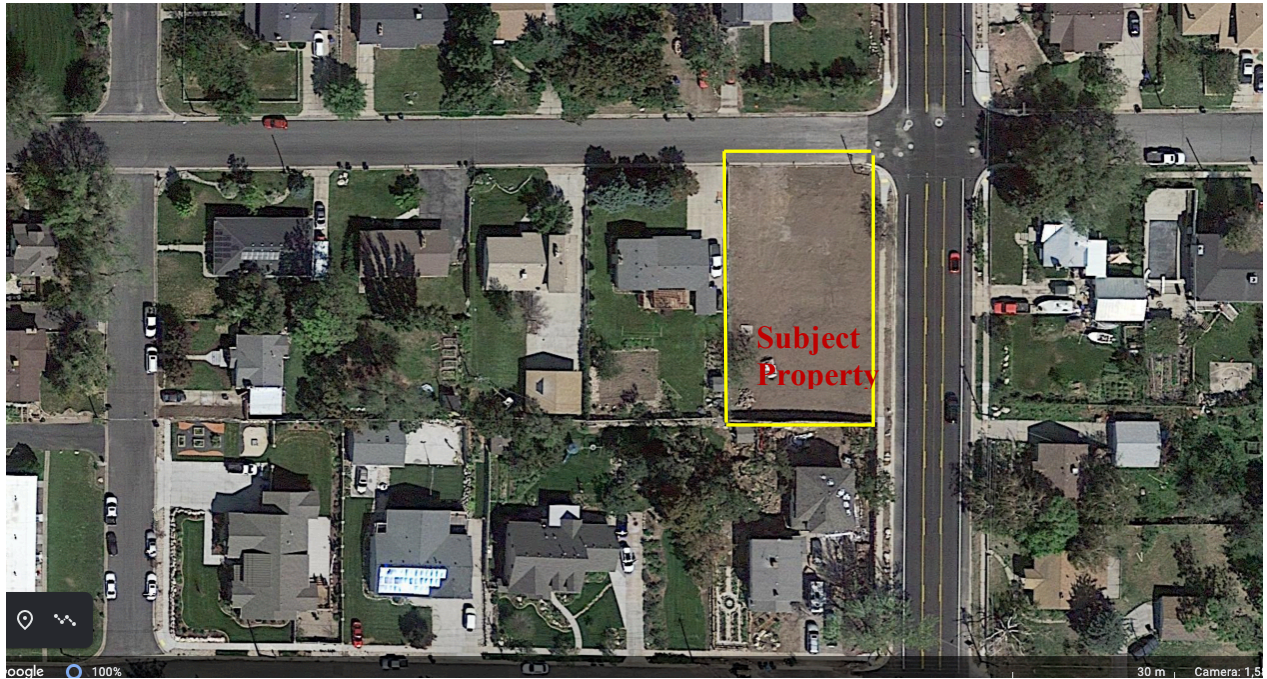
9. Aerial view of subject property and adjacent properties showing existing infrastructure:

UtahRealEstate.com - Tax Data

Property Location:



Current Aerial view:



## **10.04.170 Deferral Of Public Improvements**

- (a) Request for Deferral. In limited circumstance, upon request of the applicant, the City may defer or waive the installation of any required public improvements when deemed appropriate in accordance with the provisions of this Section. The applicant must submit a written request for deferral of public improvements with the Public Works Director. Such written request must include the following:
- (1) Summary of the evidence in support of the request and analysis of the factors required to qualify for the deferral as set forth in Subsection (f);
  - (2) Name and address of applicant;
  - (3) Address, legal description, and parcel number of subject property;
  - (4) Aerial view of subject property and adjacent properties showing existing infrastructure; and
  - (5) Application fee and professional services deposit for deferral agreements as set forth in the City Fee Schedule.
- (b) Public Works Director Review. The Public Works Director shall review the request for deferral of public improvements and confer with other departments or officials as deemed necessary. The Public Works Director shall thereafter prepare a Staff Report and recommendation to the City Council regarding the request.
- (c) City Council Review. The City Council shall review and approve or deny the requested deferral of public improvements based on the factors set forth in Subsection (f).
- (d) Payment of Costs or Deferral Agreement. If the deferral is approved by the City Council, the applicant shall pay his or her share of the costs of such future improvements according to the reasonable estimate of the City Engineer, or may enter into a Deferral Agreement satisfactory to the City assuring completion of said improvements upon the demand of the City. No permit shall be issued until the appropriate costs required herein are deposited with the City or a Deferral Agreement has been executed between the parties and recorded against the property assuring the completion of such improvements upon demand of the City.
- (e) No Temporary Certificate of Occupancy Required. No Temporary Certificate of Occupancy shall be required when the appropriate costs required herein are deposited with the City or a Deferral Agreement has been executed between the parties and recorded against the property for the deferral of specified public improvements.
- (f) Required Factors for Deferral. In order to qualify for the deferral of public improvements, the City Council must determine that there is good cause for the deferral and that the application complies with the following requirements:

- (1) The property is a legally conforming lot or parcel as defined and regulated by the Centerville Zoning Code and applicable provisions of CMC 15 (Subdivisions);
- (2) The lot or parcel has frontage on a public street;
- (3) No street improvements exist on the same side of the street contiguous to the lot or parcel in one or both directions, unless otherwise approved by the City Council based on good cause, or the lot or parcel is in an area of the City specifically designated as an area where sidewalks are not required; and
- (4) The lot or parcel is not within a recorded subdivision, unless otherwise approved by the City Council based on good cause; provided, no deferral of improvements shall be allowed as part of a new subdivision development.

(g) Veterans and First Responder Expedited Application Procedure. A veteran or service member of the armed forces or any public safety first responder that sustains a service connected disability that requires adjustment to his or her primary residence as a result of the service connected disability, shall be eligible for an expedited review and approval process for any request for deferral application as provided herein. The veteran, service member or first responder shall provide sufficient evidence of applicable employment status, service connected disability, property ownership and primary residence status with the written request for deferral application.

- (1) For purposes of this Section, "veteran or service member of the armed forces" shall include any veteran or service member of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or the reserve component of any such forces. For purposes of this Section, "public safety first responder" shall include any law enforcement officer or fire safety personnel of any city, county, local district, or other governmental agency.
- (2) In order to qualify for this expedited process, the veteran, service member, or first responder applying for the deferral agreement must have sustained a service connected permanent disability. The home or residence must be in the veteran, service member or first responder's name and must be his or her "primary residence" defined as the principal place where one actually lives.
- (3) Any veteran or service member of the armed forces or any public safety first responder that sustains a service connected disability that requires adjustment to his or her primary residence as a result of the service connected disability, shall be eligible for an expedited review and approval process for deferral agreement applications allowing for final approval of such application by the City Manager (rather than having to go to the City Council for final approval). All other application requirements and procedures set forth in this Section shall apply. The Public Works Director shall still conduct the applicable review of the application and provide a recommendation to the City Manager in accordance with the provisions of Subsection (b). The City Manager shall thereafter conduct the final

review and approval of the application based on the factors set forth in Subsection (f) and shall be authorized to enter into the deferral agreement on behalf of the City.

- (4) Any veteran, service member, or first responder adversely affected by a final decision of the City Manager under this Subsection (g) regarding the approval or denial of a deferral agreement application may appeal such decision to the City Council by filing a written appeal to the City Recorder within 30 days from the date of the City Manager's decision. The appeal to the City Council shall be expedited to the extent feasible.

#### HISTORY

*Adopted by Ord. [2017-03](#) on 4/4/2017*

*Amended by Ord. [2018-01](#) on 1/16/2018*

**CENTERVILLE  
CITY COUNCIL  
Staff Backup Report  
9/21/2021**

Item No. 4.

Short Title: Real Estate Purchase Contract and Funding for Purchase of Caleb Holdings, LLC Property

Initiated By: Brant Hanson, City Manager

Staff Representative: Lisa Romney, City Attorney

**SUBJECT**

Consider Real Estate Purchase Contract and funding for purchase of Caleb Holdings, LLC property

**RECOMMENDATION**

Ratify Real Estate Purchase Contract and approve funding for purchase of Caleb Holdings, LLC property.

**BACKGROUND**

The City Council previously directed the City Manager and Mayor to negotiate and enter into a Real Estate Purchase Contract (REPC) with the owners of the Bangerter property located at the end of Oakridge Drive and owned by Caleb Holdings, LLC. The City has since entered into the REPC and would like direction from the City Council regarding funding for the purchase. The City Manager will report on recommendations for the approved funding sources for purchase of the property.

**ATTACHMENTS:**

Description

- ▢ Real Estate Purchase Contract - Bangerter (2021)



## REAL ESTATE PURCHASE CONTRACT FOR LAND

This is a legally binding Real Estate Purchase Contract ("REPC"). If you desire legal or tax advice, consult your attorney or tax advisor.

### OFFER TO PURCHASE AND EARNEST MONEY DEPOSIT

On this 9th day of July, 2021 ("Offer Reference Date") Centerville City ("Buyer") offers to purchase from Caleb Holdings LLC ("Seller") the Property described below and ☐ delivers to the Buyer's Brokerage with this offer, or ☒ agrees to deliver no later than four (4) calendar days after Acceptance (as defined in Section 23), Earnest Money in the amount of \$ 500 in the form of a check to be deposited with brokerage or title company. After Acceptance of the REPC by Buyer and Seller, and receipt of the Earnest Money by the Brokerage, the Brokerage shall have four (4) calendar days in which to deposit the Earnest Money into the Brokerage Real Estate Trust Account.

Buyer's Brokerage \_\_\_\_\_ Phone: \_\_\_\_\_

Received by: \_\_\_\_\_ on \_\_\_\_\_ (Date)  
(Signature above acknowledges receipt of Earnest Money)

### OTHER PROVISIONS

1. **PROPERTY:** Parcel No. 02-007-0002 (approximately 1.0 acre) and Parcel No. 02-007-0003 (approximately 3.27 acres) also described as: \_\_\_\_\_  
City of Centerville County of Davis, State of Utah, Zip 84014 (the "Property").  
Any reference below to the term "Property" shall include the Property described above, together with the Included Items and water rights/water shares, if any, referenced in Sections 1.1, and 1.3.

1.1 **Included Items (specify)** \_\_\_\_\_

1.2 **Excluded Items (specify)** \_\_\_\_\_

1.3 **Water Service.** The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from this sale: \_\_\_\_\_

2. **PURCHASE PRICE.** The Purchase Price for the Property is \$ 250,000. Except as provided in this Section, the Purchase Price shall be paid as provided in Sections 2(a) through 2(d) below. Any amounts shown in 2(b) and 2(d) may be adjusted as deemed necessary by Buyer and the Lender.

\$ <u>500</u>	(a) <b>Earnest Money Deposit.</b> Under certain conditions described in the REPC, this deposit may become totally non refundable.
\$ _____	(b) <b>New Loan.</b> Buyer may apply for mortgage loan financing (the "Loan") on terms acceptable to Buyer.
\$ _____	(c) <b>Seller Financing</b> (see attached Seller Financing Addendum)
\$ <u>249,500</u>	(d) <b>Balance of Purchase Price in Cash at Settlement</b>
\$ <u>250,000</u>	<b>PURCHASE PRICE. Total of lines (a) through (d)</b>

### 3. SETTLEMENT AND CLOSING.

3.1 **Settlement.** Settlement shall take place no later than the Settlement Deadline referenced in Section 24(d), or as otherwise mutually agreed by Buyer and Seller in writing. "Settlement" shall occur only when all of the following have been completed: (a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by the REPC, by the Lender, by the title insurance and escrow/closing offices, by written escrow instructions (including any split closing instructions, if applicable), or by applicable law; (b) any monies required to be paid by Buyer or Seller under these documents (except for the proceeds of any new loan) have been delivered by Buyer or Seller to the other party, or to the escrow/closing office, in the form of cash, wire transfer, cashier's check, or other form acceptable to the escrow/closing office.

**3.2 Prorations.** All prorations, including, but not limited to, homeowner's association dues, property taxes for the current year, rents, and interest on assumed obligations, if any, shall be made as of the Settlement Deadline referenced in Section 24(d), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The provisions of this Section 3.2 shall survive Closing.

**3.3 Greenbelt.** If any portion of the Property is presently assessed as "Greenbelt" the payment of any roll-back taxes assessed against the Property shall be paid for by: ☒ Seller ☐ Buyer ☐ Split Equally Between Buyer and Seller ☐ Other (explain) \_\_\_\_\_

**3.4 Special Assessments.** Any assessments for capital improvements as approved by the HOA (pursuant to HOA governing documents) or as assessed by a municipality or special improvement district, prior to the Settlement Deadline shall be paid for by: ☒ Seller ☐ Buyer ☐ Split Equally Between Buyer and Seller ☐ Other (explain) \_\_\_\_\_

The provisions of this Section 3.4 shall survive Closing.

**3.5 Fees/Costs/Payment Obligations.** Unless otherwise agreed to in writing, Seller and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Tenant deposits (including any prepaid rents) shall be paid or credited by Seller to Buyer at Settlement. Buyer agrees to be responsible for homeowners' association and private and public utility service transfer fees, if any, and all utilities and other services provided to the Property after the Settlement Deadline. The escrow/closing office is authorized and directed to withhold from Seller's proceeds at Closing, sufficient funds to pay off on Seller's behalf all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. The provisions of this Section 3.5 shall survive Closing.

**3.6 Closing.** For purposes of the REPC, "Closing" means that: (a) Settlement has been completed; (b) the proceeds of any new loan have been delivered by the Lender to Seller or to the escrow/closing office; and (c) the applicable Closing documents have been recorded in the office of the county recorder. The actions described in 3.6 (b) and (c) shall be completed within four calendar days after Settlement.

**4. POSSESSION.** Seller shall deliver physical possession of the Property to Buyer as follows: ☒ Upon Closing; ☐ \_\_\_\_\_ Hours after Closing; ☐ \_\_\_\_\_ Calendar Days after Closing; ☐ Other (explain) \_\_\_\_\_

Any contracted rental of the Property prior to or after Closing, between Buyer and Seller, shall be by separate written agreement. Seller and Buyer shall each be responsible for any insurance coverage each party deems necessary for the Property. Seller agrees to deliver the Property to Buyer free of debris and personal belongings. The provisions of this Section 4 shall survive Closing.

**5. CONFIRMATION OF AGENCY DISCLOSURE.** Buyer and Seller acknowledge prior written receipt of agency disclosure provided by their respective agent that has disclosed the agency relationships confirmed below. At the signing of the REPC:

Seller's Agent Jeff Noall - Buy Utah Homes Realty, represents ☒ Seller ☐ both Buyer and Seller as a Limited Agent;  
Seller's Brokerage \_\_\_\_\_, represents ☐ Seller ☐ both Buyer and Seller as a Limited Agent;  
Buyer's Agent \_\_\_\_\_, represents ☐ Buyer ☐ both Buyer and Seller as a Limited Agent;  
Buyer's Brokerage \_\_\_\_\_, represents ☐ Buyer ☐ both Buyer and Seller as a Limited Agent.

**6. TITLE & TITLE INSURANCE.**

**6.1 Title to Property.** Seller represents that Seller has fee title to the Property and will convey marketable title to the Property to Buyer at Closing by general warranty deed. Buyer does agree to accept title to the Property subject to the contents of the Commitment for Title Insurance (the "Commitment") provided by Seller under Section 7, and as reviewed and approved by Buyer under Section 8. Buyer also agrees to accept title to the Property subject to any existing leases rental and property management agreements affecting the Property not expiring prior to Closing which were provided to Buyer pursuant to Section 7(e). The provisions of this Section 6.1 shall survive Closing.

**6.2 Title Insurance.** At Settlement, Seller agrees to pay for and cause to be issued in favor of Buyer, through the title insurance agency that issued the Commitment, the most current version of an ALTA standard coverage owner's policy of title insurance. Any additional title insurance coverage desired by Buyer shall be at Buyer's expense.

**7. SELLER DISCLOSURES.** No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents in hard copy or electronic format which are collectively referred to as the "Seller Disclosures":

- (a) a written Seller Property Condition Disclosure (Land) for the Property, completed, signed and dated by Seller as provided in Section 10.2;
- (b) a Commitment for Title Insurance as referenced in Section 6.1;
- (c) a copy of any restrictive covenants (CC&R's), rules and regulations affecting the Property;
- (d) a copy of the most recent minutes, budget and financial statement for the homeowners' association, if any;
- (e) a copy of any lease, rental, and property management agreements affecting the Property not expiring prior to Closing;

- (f) evidence of any water rights and/or water shares referenced in Section 1.3;
- (g) written notice of any claims and/or conditions known to Seller relating to environmental problems; and violation of any CC&R's, federal, state or local laws, and building or zoning code violations; and
- (h) Other (specify) \_\_\_\_\_

## 8. BUYER'S CONDITIONS OF PURCHASE.

**8.1 DUE DILIGENCE CONDITION.** Buyer's obligation to purchase the Property: ☒ IS ☐ IS NOT conditioned upon Buyer's Due Diligence as defined in this Section 8.1(a) below. This condition is referred to as the "Due Diligence Condition." If checked in the affirmative, Sections 8.1(a) through 8.1(c) apply; otherwise they do not.

**(a) Due Diligence Items.** Buyer's Due Diligence shall consist of Buyer's review and approval of the contents of the Seller Disclosures referenced in Section 7, and any other tests, evaluations and verifications of the Property deemed necessary or appropriate by Buyer, such as: the physical condition of the Property; the existence of any hazardous substances, environmental issues or geologic conditions; the square footage or acreage of the Property; the costs and availability of flood insurance, if applicable; water source, availability and quality; the location of property lines; regulatory use restrictions or violations; fees for services such as HOA dues, municipal services, and utility costs; convicted sex offenders residing in proximity to the Property; and any other matters deemed material to Buyer in making a decision to purchase the Property. Unless otherwise provided in the REPC, all of Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with Buyer's Due Diligence. Buyer agrees to pay for any damage to the Property resulting from any such inspections or tests during the Due Diligence.

**(b) Buyer's Right to Cancel or Resolve Objections.** If Buyer determines, in Buyer's sole discretion, that the results of the Due Diligence are unacceptable, Buyer may either: (i) no later than the Due Diligence Deadline referenced in Section 24(b), cancel the REPC by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller; or (ii) no later than the Due Diligence Deadline referenced in Section 24(b), resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence.

**(c) Failure to Cancel or Resolve Objections.** If Buyer fails to cancel the REPC or fails to resolve in writing any objections Buyer has arising from Buyer's Due Diligence, as provided in Section 8.1(b), Buyer shall be deemed to have waived the Due Diligence Condition.

**8.2 APPRAISAL CONDITION.** Buyer's obligation to purchase the Property: ☒ IS ☐ IS NOT conditioned upon the Property appraising for not less than the Purchase Price. This condition is referred to as the "Appraisal Condition." If checked in the affirmative, Sections 8.2(a) and 8.2(b) apply; otherwise they do not.

**(a) Buyer's Right to Cancel.** If after completion of an appraisal by a licensed appraiser, Buyer receives written notice from the Lender or the appraiser that the Property has appraised for less than the Purchase Price (a "Notice of Appraised Value"), Buyer may cancel the REPC by providing written notice to Seller (with a copy of the Notice of Appraised Value) no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

**(b) Failure to Cancel.** If the REPC is not cancelled as provided in this section 8.2(a), Buyer shall be deemed to have waived the Appraisal Condition.

**8.3 FINANCING CONDITION.** Buyer's obligation to purchase the property: ☐ IS ☒ IS NOT conditioned upon Buyer obtaining the Loan referenced in Section 2(b). This condition is referred to as the "Financing Condition." If checked in the affirmative, Sections 8.3(a) and 8.3(b) apply; otherwise they do not. If the Financing Condition applies, Buyer agrees to work diligently and in good faith to obtain the Loan.

**(a) Buyer's Right to Cancel Before the Financing & Appraisal Deadline.** If Buyer, in Buyer's sole discretion, is not satisfied with the terms and conditions of the Loan, Buyer may cancel the REPC by providing written notice to Seller no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

**(b) Buyer's Right to Cancel After the Financing & Appraisal Deadline.** If after expiration of the Financing & Appraisal Deadline referenced in Section 24(c), Buyer fails to obtain the Loan, meaning that the proceeds of the Loan have not been delivered by the Lender to Seller or to the escrow/closing office as required under Section 3.6 of the REPC, then Buyer or Seller may cancel the REPC by providing written notice to the other party; whereupon the Earnest Money Deposit, or Deposits, if applicable (see Section 8.4 below), shall be released to Seller without the requirement of further written authorization from Buyer. In the event of such cancellation, Seller agrees to accept as Seller's exclusive remedy, the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages. Buyer and Seller agree that liquidated damages would be difficult and impractical to calculate, and the Earnest Money Deposit, or Deposits, if applicable, is a fair and reasonable estimate of Seller's damages in the event Buyer fails to obtain the Loan.

**8.4 ADDITIONAL EARNEST MONEY DEPOSIT.** If the REPC has not been previously cancelled by Buyer as provided in Sections 8.1, 8.2 or 8.3(a), then no later than the Due Diligence Deadline referenced in Section 24(b), or the Financing & Appraisal Deadline referenced in Section 24(c), whichever is later, Buyer: ☐ WILL ☒ WILL NOT deliver to the Buyer's Brokerage, an Additional Earnest Money Deposit in the amount of \$\_\_\_\_\_. The Earnest Money Deposit and the Additional Earnest Money Deposit, if applicable, are sometimes referred to herein as the "Deposits". The Earnest Money Deposit, or Deposits, if applicable, shall be credited toward the Purchase Price at Closing.

**9. ADDENDA.** There ☐ ARE ☒ ARE NOT addenda to the REPC containing additional terms. If there are, the terms of the following addenda are incorporated into the REPC by this reference: ☐ Addendum No. \_\_\_\_\_  
☐ Seller Financing Addendum ☐ Other (specify) \_\_\_\_\_

**10. AS-IS CONDITION OF PROPERTY.**

**10.1 Condition of Property/Buyer Acknowledgements.** Buyer acknowledges and agrees that in reference to the physical condition of the Property: (a) Buyer is purchasing the Property in its "As-Is" condition without expressed or implied warranties of any kind; (b) Buyer shall have, during Buyer's Due Diligence as referenced in Section 8.1, an opportunity to completely inspect and evaluate the condition of the Property; and (c) if based on the Buyer's Due Diligence, Buyer elects to proceed with the purchase of the Property, Buyer is relying wholly on Buyer's own judgment and that of any contractors or inspectors engaged by Buyer to review, evaluate and inspect the Property.

**10.2 Condition of Property/Seller Acknowledgements.** Seller acknowledges and agrees that in reference to the physical condition of the Property, Seller agrees to: (a) disclose in writing to Buyer defects in the Property known to Seller that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent Buyer; (b) carefully review, complete, and provide to Buyer a written Seller Property Condition Disclosure (Land) as stated in Section 7(a); and (c) deliver the Property to Buyer in substantially the same general condition as it was on the date of Acceptance, as defined in Section 23. The provisions of Sections 10.1 and 10.2 shall survive Closing.

**11. FINAL PRE-SETTLEMENT INSPECTION.**

**11.1 Pre-Settlement Inspection.** At any time prior to Settlement, Buyer may conduct a final pre-Settlement inspection of the Property to determine only that the Property is "as represented," meaning that the items referenced in Sections 1.1, 1.3 and 8.1(b)(ii) ("the items") are respectively present, repaired or corrected as agreed. The failure to conduct a pre-Settlement inspection or to claim that an item is not as represented shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented. If the items are not as represented, Seller agrees to cause all applicable items to be corrected, repaired or replaced (the "Work") prior to the Settlement Deadline referenced in Section 24(d).

**11.2 Escrow to Complete the Work.** If, as of Settlement, the Work has not been completed, then Buyer and Seller agree to withhold in escrow at Settlement a reasonable amount agreed to by Seller, Buyer (and Lender, if applicable), sufficient to pay for completion of the Work. If the Work is not completed within thirty (30) calendar days after the Settlement Deadline, the amount so escrowed may, subject to Lender's approval, be released to Buyer as liquidated damages for failure to complete the Work. The provisions of this Section 11.2 shall survive Closing.

**12. CHANGES DURING TRANSACTION.** Seller agrees that from the date of Acceptance until the date of Closing, none of the following shall occur without the prior written consent of Buyer: (a) no changes in any leases, rental or property management agreements shall be made; (b) no new lease, rental or property management agreements shall be entered into; (c) no substantial alterations or improvements to the Property shall be made or undertaken; (d) no further financial encumbrances to the Property shall be made, and (e) no changes in the legal title to the Property shall be made.

**13. AUTHORITY OF SIGNERS.** If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person signing the REPC on its behalf warrants his or her authority to do so and to bind Buyer and Seller.

**14. COMPLETE CONTRACT.** The REPC together with its addenda, any attached exhibits, and Seller Disclosures (collectively referred to as the "REPC"), constitutes the entire contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties whether verbal or otherwise. The REPC cannot be changed except by written agreement of the parties.

**15. MEDIATION.** Any dispute relating to the REPC arising prior to or after Closing: ☐ SHALL ☒ MAY AT THE OPTION OF THE PARTIES first be submitted to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and share equally in the cost of such mediation. If mediation fails, the other procedures and remedies available under the REPC shall apply. Nothing in this Section 15 prohibits any party from seeking emergency legal or equitable relief, pending mediation. The provisions of this Section 15 shall survive Closing.

## 16. DEFAULT.

**16.1 Buyer Default.** If Buyer defaults, Seller may elect one of the following remedies: (a) cancel the REPC and retain the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages; (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Buyer to specifically enforce the REPC; or (c) return the Earnest Money Deposit, or Deposits, if applicable, to Buyer and pursue any other remedies available at law.

**16.2 Seller Default.** If Seller defaults, Buyer may elect one of the following remedies: (a) cancel the REPC, and in addition to the return of the Earnest Money Deposit, or Deposits, if applicable, Buyer may elect to accept from Seller, as liquidated damages, a sum equal to the Earnest Money Deposit, or Deposits, if applicable; or (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Seller to specifically enforce the REPC; or (c) accept a return of the Earnest Money Deposit, or Deposits, if applicable, and pursue any other remedies available at law. If Buyer elects to accept liquidated damages, Seller agrees to pay the liquidated damages to Buyer upon demand.

**17. ATTORNEY FEES AND COSTS/GOVERNING LAW.** In the event of litigation or binding arbitration to enforce the REPC, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under Section 15. This contract shall be governed by and construed in accordance with the laws of the State of Utah. The provisions of this Section 17 shall survive Closing.

**18. NOTICES.** Except as provided in Section 23, all notices required under the REPC must be: (a) in writing; (b) signed by the Buyer or Seller giving notice; and (c) received by the Buyer or the Seller, or their respective agent, or by the brokerage firm representing the Buyer or Seller, no later than the applicable date referenced in the REPC.

**19. NO ASSIGNMENT.** The REPC and the rights and obligations of Buyer hereunder, are personal to Buyer. The REPC may not be assigned by Buyer without the prior written consent of Seller. Provided, however, the transfer of Buyer's interest in the REPC to any business entity in which Buyer holds a legal interest, including, but not limited to, a family partnership, family trust, limited liability company, partnership, or corporation (collectively referred to as a "Permissible Transfer"), shall not be treated as an assignment by Buyer that requires Seller's prior written consent. Furthermore, the inclusion of "and/or assigns" or similar language on the line identifying Buyer on the first page of the REPC shall constitute Seller's written consent only to a Permissible Transfer.

## 20. INSURANCE & RISK OF LOSS.

**20.1 Insurance Coverage.** As of Closing, Buyer shall be responsible to obtain such casualty and liability insurance coverage on the Property in amounts acceptable to Buyer and Buyer's Lender, if applicable.

**20.2 Risk of Loss.** If prior to Closing, any part of the Property is damaged or destroyed by fire, vandalism, flood, earthquake, or act of God, the risk of such loss or damage shall be borne by Seller; provided however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the Purchase Price referenced in Section 2, Buyer may elect to either: (i) cancel the REPC by providing written notice to the other party, in which instance the Earnest Money, or Deposits, if applicable, shall be returned to Buyer; or (ii) proceed to Closing, and accept the Property in its "As-Is" condition.

**21. TIME IS OF THE ESSENCE.** Time is of the essence regarding the dates set forth in the REPC. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in the REPC: (a) performance under each Section of the REPC which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" and "calendar days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (e.g. Acceptance). Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to the REPC, except as otherwise agreed to in writing by such non-party.

**22. ELECTRONIC TRANSMISSION AND COUNTERPARTS.** Electronic transmission (including email and fax) of a signed copy of the REPC, any addenda and counteroffers, and the retransmission of any signed electronic transmission shall be the same as delivery of an original. The REPC and any addenda and counteroffers may be executed in counterparts.

**23. ACCEPTANCE.** "Acceptance" occurs only when all of the following have occurred: (a) Seller or Buyer has signed the offer or counteroffer where noted to indicate acceptance; and (b) Seller or Buyer or their agent has communicated to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

24. **CONTRACT DEADLINES.** Buyer and Seller agree that the following deadlines shall apply to the REPC:

(a) Seller Disclosure Deadline	August 2, 2021	(Date)
(b) Due Diligence Deadline	August 31, 2021	(Date)
(c) Financing & Appraisal Deadline	September 13, 2021	(Date)
(d) Settlement Deadline	September 30, 2021	(Date)

25. **OFFER AND TIME FOR ACCEPTANCE.** Buyer offers to purchase the Property on the above terms and conditions. If Seller does not accept this offer by: 5:00 [ ] AM [ x ] PM Mountain Time on July 12, 2021 (Date), this offer shall lapse; and the Brokerage shall return any Earnest Money Deposit to Buyer.

<u>Brian J. Hanton</u>	<u>07.09.2021</u>		
(Buyer's Signature)	(Offer Date)	(Buyer's Signature)	(Offer Date)
<u>Centerville City</u>	<u>250 North Main Street, Centerville, Utah</u>	<u>84014</u>	<u>(801) 295-3477</u>
(Buyer's Names) (PLEASE PRINT)	(Notice Address)	(Zip Code)	(Phone)

(Buyer's Names) (PLEASE PRINT)	(Notice Address)	(Zip Code)	(Phone)
--------------------------------	------------------	------------	---------

**ACCEPTANCE/COUNTEROFFER/REJECTION**

**CHECK ONE:**

[ ] **ACCEPTANCE OF OFFER TO PURCHASE:** Seller Accepts the foregoing offer on the terms and conditions specified above.

☒ **COUNTEROFFER:** Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified in the attached ADDENDUM NO. 1.

[ ] **REJECTION:** Seller rejects the foregoing offer.

<u><del>07.13.2021</del></u>	<u>Jul 13, 2021</u>		
(Seller's Signature)	(Date) (Time)	(Seller's Signature)	(Date) (Time)

(Seller's Names) (PLEASE PRINT)	(Notice Address)	(Zip Code)	(Phone)
---------------------------------	------------------	------------	---------

(Seller's Names) (PLEASE PRINT)	(Notice Address)	(Zip Code)	(Phone)
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UAR FORM 19

**ADDENDUM NO. 1**  
**TO**  
**REAL ESTATE PURCHASE CONTRACT**

**THIS IS AN** ☐ **ADDENDUM** ☒ **COUNTEROFFER** to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 9th day of July, 2021 including all prior addenda and counteroffers, between Centerville City as Buyer, and Caleb Holdings LLC as Seller, regarding the Property located at Parcel No. 02-007-0002 (approximately 1.0 acre) and Parcel No. 02-007-0003 (approximately 3.27 acres). The following terms are hereby incorporated as part of the REPC:  
1. In the event the appraisal comes in above contract price, both parties agree that the sales price can be renegotiated.

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. ☐ Seller ☒ Buyer shall have until 5:00 ☐ AM ☒ PM Mountain Time on July 14, 2021 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

DelRoy Bangerter  
DelRoy Bangerter (Jul 12, 2021 18:15 MDT)

Jul 12, 2021

☐ Buyer ☒ Seller Signature (Date) (Time) ☐ Buyer ☐ Seller Signature (Date) (Time)

**ACCEPTANCE/COUNTEROFFER/REJECTION**

**CHECK ONE:**

☒ **ACCEPTANCE:** ☐ Seller ☒ Buyer hereby accepts the terms of this ADDENDUM.

☐ **COUNTEROFFER:** ☐ Seller ☐ Buyer presents as a counteroffer the terms of attached ADDENDUM NO. \_\_\_\_.

Brautigan 07.13.2021 12:58PM  
(Signature) (Date) (Time) (Signature) (Date) (Time)

☐ **REJECTION:** ☐ Seller ☐ Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL,  
EFFECTIVE JANUARY 1, 2020. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.



5292 South College Drive #104  
Salt Lake City, UT 84123-2958  
Phone 801-270-9090  
Fax: 801-270-9091  
www.ptutah.com

## RECEIPT OF FUNDS

Date: July 16, 2021

File / Escrow Number: 142142SL

Property Address: Vacant Land, Centerville, UT 84014

Received From: Centerville City Corporation

Amount Received: \$500.00

Check Number: Check 09333

Received by: Ann Farr

Funds deposited in trust by check may not be available for immediate withdrawal.

The validity of this receipt, for the deposit referenced, is subject to clearance by the depository financial institution and credit to our account.

THE BACK OF THIS DOCUMENT HAS A VISIBLE ARTIFICIAL WATERMARK WHEN HELD AT AN ANGLE.

### CENTERVILLE CITY CORPORATION

250 NORTH MAIN  
CENTERVILLE, UTAH 84014  
(801) 295-3477

CENTERVILLE OFFICE  
WELLS FARGO BANK, N.A.  
32 W. Parrish Lane • Centerville, Utah 84014

File 142142SL 31-2971240

CHECK NO. 093333

DATE	AMOUNT
7/15/2021	***500.00**

PAY \*\*\*Five Hundred and 00/100 Dollars\*\*\*

TO THE ORDER OF PINNACLE TITLE

This Check issued According to Law and Within the Lawful Debit Limit of the Centerville City Corp. Utah. Void If Not Cashed Within 90 Days.

*Nathaniel Plagier*  
*Lauren Child*

THE FACE OF THIS DOCUMENT HAS MICROPRINT SIGNATURE LINES AND SAFETY AMOUNT BOX TO DISCOURAGE FRAUD.

⑈093333⑈ ⑆12400297⑆ 2240019618⑈

Deposit Report  
07/19/2021 to 07/19/2021

Date: 7/19/2021 5:43:22 PM (CST) Confirmation Code: 15601550 Item Count: 1 Amount: 500.00 Contact: Tyler

Deposit Splits

Account Description	Account Number	Amount
Pinnacle Title Insurance (9563)	xxxxxx	500.00

Batch No: 3178 Scanned: 07/19/2021 Total: 500.00 Contact: Tyler

Deposit Items

Check No:	Cust Acct No	Invoice No	Routing	Chk Acct No	Amount
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THE BACK OF THIS DOCUMENT HAS A VISIBLE ARTIFICIAL WATERMARK WHEN HELD AT AN ANGLE.

CENTERVILLE CITY CORPORATION  
850 NORTH MAIN  
CENTERVILLE, UTAH 84014  
(801) 835-3477

CHECK NO. 093333

DATE 7/15/2021 AMOUNT \$500.00\*\*

PAY \*\*\*Five Hundred and 00/100 Dollars\*\*\*

TO THE ORDER OF PINNACLE TITLE

*Nathanial Plager*  
*L. David Child*

THE FACE OF THIS DOCUMENT HAS MICROPRINT SIGNATURE LINES AND SAFETY AMOUNT BOX TO DISCOURAGE FRAUD.

@093333\* 012400297102240019618\*

093333	142142SL	124002971	2240019618	500.00
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**CENTERVILLE**

**Staff Backup Report  
9/21/2021**

Item No. 5.

Short Title: Minutes Review and Acceptance

Initiated By:

Staff Representative:

**SUBJECT**

September 7, 2021 Work Session Minutes  
September 7, 2021 City Council Minutes

**RECOMMENDATION**

**BACKGROUND**

**ATTACHMENTS:**

Description

- ▣ 9-7-21 WS Minutes
- ▣ 9-7-21 CC Minutes

Minutes of the Centerville **City Council work session** held Tuesday, September 7, 2021 at 6:00 p.m. with participants present at City Hall, 250 North Main Street, and remotely via Zoom.

**MEMBERS PRESENT**

Mayor Clark Wilkinson

Council Members Tamilyn Fillmore  
William Ince  
Stephanie Ivie  
George McEwan  
Robyn Mecham

**STAFF PRESENT**

Brant Hanson, City Manager  
Lisa Romney, City Attorney  
Jennifer Hansen, City Recorder  
Jacob Smith, Administrative Services Director  
Nate Plaizier, Finance Director  
Mike Carlson, Public Works Director  
Bryce King, Recreation Coordinator  
Paul Child, Centerville Police Chief  
Lt. Allen Ackerson, Centerville Police Department  
Cory Snyder, Community Development Director  
Bruce Cox, Parks and Recreation Director  
John Barton, Custodian

**PARKS AND RECREATION**

**COMMITTEE PRESENT** Julianne Zollinger  
Haley Turner, Chair  
Melissa Larsen

**HAZARD PAY DISCUSSION**

City Manager Brant Hanson reported approved uses of American Rescue Plan Act (ARPA) funds had been expanded to include hazard pay for City employees who made less than 150% of the annual wage in the County (\$77,000). He explained the suggestion from staff to amend the budget to reallocate funds set aside for a Police Department compensation study to an increase in Police Department compensation, and suggested the Council also consider use of ARPA funds for one-time hazard pay. Mr. Hanson said the City expected to receive \$2.1 million in ARPA funds. He explained that \$5,000 in hazard pay for all qualifying employees would total approximately \$254,000. Responding to a question from Councilmember Fillmore, Mr. Hanson said he believed there would be sufficient remaining ARPA funds to cover other City needs. Councilmember Fillmore said she hoped it would be possible to fund both an increase in police compensation and a Police Department compensation study.

Police Chief Paul Child said he felt a strong need to adjust officer compensation to be competitive with other agencies and retain existing employees. Mr. Hanson said he agreed with the need to adjust officer compensation and reduce the comparative disparity in pay. Chief Child expressed support for the proposed one-time hazard pay for his officers. He commented that the \$77,000 compensation maximum for use of ARPA funds for hazard pay would exclude some of the sergeants who worked the front lines for the community every day. He expressed the opinion

1 that excluding those employees from receiving the hazard pay would not be right. Mr. Hanson  
2 responded the Council could approve a budget amendment to fund hazard pay from the General  
3 Fund for officers who exceeded the \$77,000 ARPA maximum. He assured the Council that  
4 Centerville City would follow all rules for use of ARPA funds. A majority of the Council expressed  
5 willingness to consider a budget amendment for hazard pay.  
6

7 **JOINT DISCUSSION WITH PARKS AND RECREATION COMMITTEE**  
8

9 Parks and Recreation Director Bruce Cox introduced Parks and Recreation Committee  
10 Members in attendance: Julianne Zollinger, Haley Turner, and Melissa Larsen. He commented  
11 that many of the goals set out in the 2017 Parks Capital Improvement Plan had been completed,  
12 and suggested an update would be appropriate. The existing Parks Capital Improvement Plan  
13 priority list was reviewed. A Parks and Recreation Committee Member mentioned the importance  
14 of maintaining park amenities to keep the parks in good shape, and expressed a desire for  
15 improvements at Community Park to be a top priority. It was mentioned that citizens most often  
16 asked members of the Parks and Recreation Committee for more pickleball courts and a new  
17 playground at Community Park.  
18

19 Councilmember Fillmore expressed the opinion that pickleball courts at Community Park  
20 would geographically make sense. She spoke of the need for park amenities to be accessible to  
21 all areas of the city.  
22

23 **ADJOURNMENT**  
24

25 The work session was adjourned at 7:00 p.m.  
26  
27  
28

29 \_\_\_\_\_  
30 Jennifer Hansen, City Recorder  
31  
32  
33  
34

\_\_\_\_\_  
Date Approved  
35

\_\_\_\_\_  
Katie Rust, Recording Secretary

1 Minutes of the Centerville **City Council** meeting held Tuesday, September 7, 2021, at 7:00 p.m.  
2 with participants present at Centerville City Hall, 250 North Main Street, and electronically via  
3 Zoom.

4  
5 **MEMBERS PRESENT**

6  
7 Mayor Clark Wilkinson

8  
9 Council Members Tamilyn Fillmore  
10 William Ince  
11 Stephanie Ivie  
12 George McEwan  
13 Robyn Mecham

14  
15 **STAFF PRESENT**

16 Brant Hanson, City Manager  
17 Lisa Romney, City Attorney  
18 Jennifer Hansen, City Recorder  
19 Jacob Smith, Administrative Services Director  
20 Nate Plaizier, Finance Director  
21 Paul Child, Centerville Police Chief  
22 Lt. Allen Ackerson, Centerville Police Department  
23 Bryce King, Recreation/Events Coordinator  
24 John Barton, Custodian

25 **VISITORS**

Interested citizens

26  
27 **PRAYER OR THOUGHT**

Councilmember Ince

28  
29 **PLEDGE OF ALLEGIANCE**

30  
31 **OPEN SESSION**

32  
33 Gina Hurst, Centerville resident, said it was her understanding the Planning Commission  
34 had set a goal to rewrite the General Plan. She asked the Council to consider sending a letter of  
35 intent (due September 30<sup>th</sup>) to apply for a grant from Wasatch Front Regional Council to fund the  
36 General Plan rewrite, and spoke of application strategies. If received, grant funds would be  
37 available in July 2022.

38  
39 **PUBLIC HEARING – ZONING TEXT AMENDMENT – INTERNAL ADU**

40  
41 Community Development Director Cory Snyder explained that Senate Bill 82 of the 2021  
42 Legislative Session required cities to implement the allowance of interior accessory dwelling units  
43 (ADUs) as permitted uses within a municipality, with flexibility to regulate some conditions or  
44 terms. Mr. Snyder presented a proposed Internal Accessory Dwelling Ordinance, and explained  
45 the proposed owner occupancy requirement.

46  
47 Responding to a question from Councilmember Fillmore, Mr. Snyder explained the  
48 proposed requirement to remove one or more elements making up an internal ADU upon  
49 termination of use as an ADU. He said unregulated second kitchens were not allowed in single-  
50 family homes in Centerville without filing an affidavit. Councilmember Fillmore suggested adding  
51 language to the ordinance explaining a homeowner could alternatively file for a second kitchen  
52 allowance. She said she wanted to make the ordinance as user-friendly as possible.

1 Mr. Snyder explained that the State recategorized internal ADUs as single-family dwellings  
2 rather than two-family dwellings for purposes of the Construction Code, which removed many of  
3 the former cost-prohibitive requirements to establishing an internal ADU.

4  
5 Regarding parking, Mr. Snyder said the State allowed cities to require up to one off-street  
6 parking space specifically for an internal ADU. He discussed with the Council the tension that can  
7 develop in a neighborhood over parking issues.

8  
9 The proposed ordinance forwarded by the Planning Commission defined an owner “as a  
10 person occupying the premises as their sole primary residence and having at least 20% or greater  
11 ownership interest in the property”. Responding to a question from Councilmember Mecham, Mr.  
12 Snyder explained that staff had recommended requiring at least 50% ownership interest,  
13 consistent with other City ordinances. Councilmember Mecham said she would be comfortable  
14 increasing the percentage to 50%. Mr. Snyder said the Planning Commission had discussed  
15 scenarios in which several siblings may jointly inherit a residence with an internal ADU.  
16 Councilmember Ivie said she felt the 20% ownership requirement, combined with allowed  
17 absences, diluted the intent of owner occupancy.

18  
19 Councilmember Ince asked if the City could exclude cul-de-sacs from the parking  
20 requirements considering the fact that parking was at a premium in cul-de-sacs. Mr. Snyder said  
21 he advised against the appearance of resisting the State. Responding to a comment from  
22 Councilmember McEwan, Mr. Snyder reminded the Council they were required by the State to  
23 annually adopt at least three moderate-income housing goals.

24  
25 The Council and staff discussed setbacks and placement of ADU entries. Mr. Snyder  
26 pointed out that impact fees would not be collected for ADUs.

27  
28 Mayor Wilkinson opened a public hearing at 7:57 p.m.

29  
30 Heather Makenzie Campbell said a home next to her property had a second kitchen. She  
31 expressed the opinion that if a dwelling with an ADU were held by a trust with multiple owners, at  
32 least one of the owners should occupy the home regardless of their ownership percentage. She  
33 suggested the owner should occupy at least 50% of the floor space of the home. Ms. Campbell  
34 said she believed on-site parking should be required for an ADU, or ADU occupants should at  
35 least be prohibited from parking on the street in front of neighboring homes.

36  
37 Mayor Wilkinson closed the public hearing at 8:02 p.m. City Attorney Lisa Romney  
38 explained that State law prohibited cities from restricting the total lot size (beyond a minimum of  
39 6,000 square feet), street frontage, or size of an internal ADU in relation to the primary dwelling.

40  
41 Councilmember McEwan expressed the opinion that the proposed owner absence waiver  
42 was too wide and open to abuse. Councilmember Fillmore said she believed the more accurate  
43 control would be in the length of absence (three years and one month) rather than the reason.  
44 Councilmember McEwan said the intent of allowing internal ADUs was providing the opportunity  
45 for individual homeowners to augment their income. He said he would not want to enable a  
46 business opportunity for a trust owned by multiple individuals to purchase a whole street of homes  
47 and create ADUs without needing the dwellings to be owner-occupied for three years and one  
48 month. Councilmember Fillmore said she wanted those who had already been quietly operating  
49 ADUs in Centerville to be able to register their ADUs and operate openly. She said she would  
50 prefer the ordinance begin less restrictive, with the ability to deal with problems as they came up.

1 Mayor Wilkinson said he knew of situations in which a trust owned a home for an elderly  
2 occupant. Councilmember Mecham said she would be comfortable with changing the language  
3 to require occupancy of an owner with at least 50% ownership in a property, or occupancy of a  
4 participant in a trust owning at least 50%. She said she knew there were developers who would  
5 jump at the opportunity to use the Internal Accessory Dwelling Ordinance as a business  
6 opportunity. Councilmember Fillmore said she would be comfortable tightening the ownership  
7 percentage to 50%, knowing amendments could be made if needed.

8  
9 Councilmember Fillmore suggested reducing the proposed requirement that ground  
10 entrances and coverings would be prohibited on a wall façade facing a perimeter lot line, unless  
11 such wall façade was at least 10 feet from a perimeter, down to 8 feet from a perimeter, with  
12 coverings at least 6 feet from any perimeter lot line. Mr. Snyder explained Construction Code  
13 requirements for public safety access, and advised not reducing the 10-foot minimum.

14  
15 The Council discussed acceptable causes for temporary owner absence, and whether or  
16 not the owner should be allowed to rent out their portion of the dwelling in addition to the internal  
17 ADU during their absence. Councilmember Ince pointed out that the purpose of requiring owner  
18 occupancy was better maintenance of the home and property. Councilmember McEwan said he  
19 felt the list of acceptable causes for temporary absence should be reduced.

20  
21 Councilmember McEwan suggested removing designation of a "Unit B" from the address  
22 of a property if an ADU were not in use. Mr. Snyder said the requirement to remove ADU elements  
23 went to the definition of a dwelling. The Council and staff discussed possible internal ADU  
24 scenarios. Ms. Romney suggested putting the ordinance in place to comply with State law, with  
25 the intention to further discuss concerns within the next few months.

26  
27 The Council discussed allowing internal ADUs in single-family homes in all zones, and  
28 discussed possible concerns with staff. Councilmember Mecham suggested allowing internal  
29 ADUs in all Residential-Low and Residential-Medium Zones.

30  
31 Councilmember Ivie **moved** to adopt Ordinance No. 2021-18 regarding Internal Accessory  
32 Dwelling Units, increasing required ownership of owner-occupant to 50%, adding Residential-  
33 Medium to allowed zones, specifying the owner occupant was allowed one temporary absence,  
34 and directing staff to bring the issue back in the next couple months for further discussion.  
35 Councilmember Ince seconded the motion, which passed by unanimous vote (5-0).

### 36 37 **PUBLIC HEARING – ZONING CODE AMENDMENT – FENCES**

38  
39 Recently, the City Council directed the Planning Commission and staff to review and  
40 recommend potential changes for fencing limitations, specifically for situations involving corner  
41 lots along side street frontage. Mr. Snyder explained the Planning Commission recommendation.

42  
43 Mayor Wilkinson opened a public hearing at 8:47 p.m., and closed the public hearing  
44 seeing that no one wished to comment. Councilmember Fillmore expressed concern that fences  
45 allowed by the proposed amendment would break up the aesthetic of a neighborhood.  
46 Councilmember Ivie said that personally living on a corner lot, she appreciated the idea of being  
47 able to fence off her yard. Councilmember McEwan said he was comfortable with the four-foot  
48 and six-foot height restrictions.

49  
50 Councilmember Fillmore **moved** to deny the recommendation to accept Ordinance No.  
51 2021-19. The motion failed for lack of second. Councilmember Ivie **moved** to approve Ordinance  
52 No. 2021-19, with the 12-foot sight triangle amended. Councilmember Mecham seconded the  
53 motion, which passed by majority vote (4-1), with Councilmember Fillmore dissenting.

**REQUEST FOR DEFERRAL OF PUBLIC IMPROVEMENTS – 20 SOUTH 400 EAST –  
KARI AND DUSTIN MONTOYA**

Public Works Director Mike Carlson explained that Kari and Dustin Montoya owned a home and related property at 20 South 400 East. They requested deferral of installation of public improvements along the frontage of the property. Under existing City Ordinance, unless otherwise deferred by the Council, the property owner must install all required public improvements associated with a property in order to obtain a building permit. Mr. Carlson recommended the Council deny the deferral request for reasons of public safety.

Kari Montoya, applicant, said she and her husband inherited the property when her father passed away in 2019. She said it was her father's plan that she and her husband would demolish the existing home and build their dream home on the property to keep the property in the family. Ms. Montoya reported the home had been demolished, and said she was excited to move forward with the process. She gave the following reasons for requesting a deferral for installation of sidewalk: they did not want to be the first residents on the street to have sidewalk; grading the elevation change for sidewalk would be a large financial burden; most properties in the neighborhood did not have sidewalks, and seven properties had been granted deferrals for installation of sidewalk. Ms. Montoya stated that in a Facebook poll, a majority of respondents indicated they did not care if the property had sidewalk installed, and said a property owner in the neighborhood with sidewalk and absence of sidewalk on adjacent properties, reported no one walking down the street left the street to walk on the short portion of sidewalk. She requested the Council approve the request for deferral of installation of sidewalk.

Councilmember Ivie expressed the opinion that sidewalks were not part of the feeling of the historic neighborhood, and said she would vote in favor of approval. Councilmember McEwan commented that sidewalks were a desirable improvement in the creation of walkable communities. Mr. Snyder repeated Mr. Carlson's statement that the subject property was a corner lot off of a main street, and providing sidewalk for pedestrians around the intersection was a safety concern. He pointed out that the City had not made the decision to eliminate the requirement for sidewalk in the historic neighborhood, hence staff's recommendation to require the improvement one property at a time.

Councilmember Fillmore said she understood the pedestrian safety argument in favor of requiring sidewalk considering the location of the subject property. The Council reviewed a map of the historic neighborhood and locations of existing sidewalk deferrals. Councilmember Ivie commented there were not many pedestrians around the subject property, and said since the corner had never had sidewalk, she did not believe additional hazard would be created by allowing the deferral. Councilmember McEwan questioned whether the historical argument applied to the new-build situation.

Councilmember McEwan **moved** to direct staff to prepare and bring back documents for deferral of public improvements for property located at 20 South 400 East. Councilmember Ivie seconded the motion, which passed by majority vote (3-2), with Councilmembers Ince, Mecham, and Ivie in favor, and Councilmembers McEwan and Fillmore dissenting.

**INTERLOCAL COOPERATION AGREEMENT WITH DAVIS COUNTY AND DAVIS  
COUNTY CITIES FOR UPDES GENERAL PERMIT**

Ms. Romney presented an Interlocal Cooperation Agreement with Davis County and Davis County Cities to jointly provide storm water education and materials. She said staff recommended adoption of Resolution No. 2021-25. Councilmember Ivie **moved** to adopt Resolution No. 2021-25 approving the Interlocal Cooperation Agreement between Davis County and Davis County

Cities for UPDES General Permit. Councilmember Mecham seconded the motion, which passed by unanimous vote (5-0).

#### **STORM WATER FACILITIES MAINTENANCE AGREEMENT – THE HIVE**

City Attorney Lisa Romney explained that the proposed Storm Water Facilities Maintenance Agreement was required in accordance with Section 4.2.5 of the UPDES Permit for MS4 Systems, which required the City to provide a regulatory mechanism for post-construction storm water control measures on private properties that discharge into the City's MS4 System. The Agreement would be recorded against the subject property and would run with the land as an on-going obligation. The Agreement would also require the property owner to provide the City with an annual maintenance certification.

Councilmember McEwan **moved** to approve the Storm Water Facilities Maintenance Agreement between Centerville City and CW The Hive, LLC for The Hive development project. Councilmember Ivie seconded the motion, which passed by unanimous vote (5-0).

#### **CDBG SUBRECIPIENT AGREEMENT WITH DAVIS COUNTY FOR ADA PEDESTRIAN RAMPS**

The City applied to Davis County for the 2021 CDBG Program to receive funding for improvements to ADA pedestrian ramps within the City. Ms. Romney explained as part of the application process, the City was required to approve and enter into the proposed Subrecipient Agreement with Davis County for CDBG Program funds. The proposed project would consist of installation of approximately 18 ADA pedestrian ramps on 400 East from Parrish to Chase Lanes and from Porter Lane to Tobe Drive.

Councilmember McEwan **moved** to approve Resolution No. 2021-36 approving the Subrecipient Agreement with Davis County for CDBG Program funds for ADA pedestrian ramps in the amount of \$75,000. Councilmember Ince seconded the motion, which passed by unanimous vote (5-0).

#### **MUNICIPAL CODE AMENDMENTS – GOLF CARTS – CMC 14.07.240**

On August 3, 2021, the City Council discussed proposed Ordinance No. 2021-17, which would allow golf carts on City streets under limited circumstances. Based on City Council direction, the matter was tabled for further information and research by staff. Ms. Romney reported staff were unable to find any city ordinances in Davis County permitting the use of golf carts on city streets. She said proposed Ordinance No. 2021-17 was revised based on Council discussion.

Police Chief Paul Child said he thought the proposed ordinance had good language, and expressed support for prohibiting use on streets with greater than 8% grade. Chief Child expressed concern that the ordinance would open up a can of worms, and said his department would do their best to enforce if the ordinance passed. Councilmember Mecham suggested the ordinance should include a requirement that carts must have four wheels.

Councilmember Fillmore said she would consider allowing golf carts to cross busier streets. Chief Child stated he had safety concerns with golf carts crossing busy streets such as Main Street or Parrish Lane. Councilmember McEwan said it was an issue of acceleration.

Chief Child explained the impetus behind bringing the matter to the Council. Councilmember Ince shared a situation he recently witnessed involving children operating a

1 motor-augmented bicycle, and said his opinion had changed and he no longer felt inclined to  
2 encourage operation of golf carts by children on City streets. Councilmember Mecham said she  
3 would be comfortable not approving the ordinance because of her understanding that police  
4 officers had discretion when responding to individual situations. She said she believed there was  
5 no reason to adopt the proposed ordinance if the minimum driver age in the ordinance remained  
6 16. She said her concern was with younger children driving golf carts on City streets.

7  
8 Councilmember Fillmore pointed out operation of golf carts on City streets was currently  
9 illegal, and said she did not like the idea of selective enforcement. She said she would rather be  
10 as clear as possible with the message sent. Councilmember McEwan said he believed it was  
11 important to give officers discretion to allow them to do their jobs effectively and not create  
12 animosity. He said he agreed with Councilmember Fillmore that the officers needed the correct  
13 tools to be able to exercise discretion.

14  
15 Councilmember McEwan said he thought 18 as a minimum driver age made sense  
16 because of individual liability. He pointed out that parents would be the responsible party with any  
17 minimum age under 18. Councilmember Fillmore said she would be comfortable with 15 because  
18 15 was learner permit age.

19  
20 Councilmember McEwan **moved** to approve Ordinance No. 2021-17 with redlines  
21 presented, with minimum age reduced from 16 to 14, and specifying that the vehicle must have  
22 four wheels. Councilmember Ivie seconded the motion, which passed by majority vote (4-1), with  
23 Councilmember Ince dissenting.

#### 24 25 **MUNICIPAL CODE AMENDMENTS – BUDGET AND TAX LEVY – STATUTORY** 26 **UPDATES**

27  
28 Ms. Romney presented Municipal Code amendments proposed to bring Centerville  
29 ordinances into compliance with recent State law amendments. Councilmember Ivie **moved** to  
30 approve Ordinance No. 2021-20 amending various provisions of Title 5 (Revenue and Finance)  
31 to bring such provisions into compliance with State law. Councilmember Mecham seconded the  
32 motion, which passed by unanimous vote (5-0).

#### 33 34 **SUMMARY ACTION CALENDAR**

- 35  
36 1. Purchase of (3) Ford Police Interceptor Utility (PIU) vehicles and (1) unmarked  
37 2. Purchase of two budgeted Water Department trucks with shells and in-bed toolboxes  
38 3. Purchase of the budget item Caterpillar Model CB2.7 Paving Compaction Roller and  
39 trailer

40  
41 Councilmember Ivie **moved** to approve all three Summary Action items. Councilmember  
42 Fillmore seconded the motion, which passed by unanimous vote (5-0).

#### 43 44 **FINANCIAL REPORT**

45  
46 Financial statements for July 2021 were included with the meeting agenda on  
47 NovusAgenda.

#### 48 49 **MINUTES AND ACCEPTANCE**

50  
51 Minutes of the August 3, 2021 Work Session, Council Meeting, and Closed Session;  
52 August 7, 2021 Special Council Meeting; August 17, 2021 Council Meeting; and August 24, 2021  
53 Canvass of Election were reviewed. Councilmember Ivie **moved** to accept the minutes as

1 presented. Councilmember Mecham seconded the motion. Councilmember McEwan said he  
2 received citizen comments after the August 7, 2021 Special Council Meeting expressing concern  
3 that where they lived in the community would determine how seriously their comments would be  
4 considered. The motion passed by unanimous vote (5-0).

5  
6 **CITY COUNCIL REPORT**

7  
8 Councilmember Mecham provided an update regarding UTOPIA/UIA.  
9

10 **MAYOR'S REPORT**

11  
12 The Council discussed the upcoming CenterPoint Theatre Gala. It was suggested the  
13 RDA should have the opportunity to symbolically vote in favor of supporting the Gala every year.  
14

15 **CITY MANAGER'S REPORT**

16  
17 Mr. Hanson expressed appreciation to staff and the Council for discussions that took place  
18 during the meeting.  
19

20 **ADJOURNMENT**

21  
22 At 10:15 p.m., Councilmember Ivie **moved** to adjourn the meeting. Councilmember  
23 McEwan seconded the motion, which passed by unanimous vote (5-0).  
24  
25  
26

27 \_\_\_\_\_  
28 Jennifer Hansen, City Recorder  
29  
30  
31

\_\_\_\_\_ Date Approved

32 \_\_\_\_\_  
33 Katie Rust, Recording Secretary

**CENTERVILLE**

**Staff Backup Report  
9/21/2021**

Item No. 6.

Short Title: City Council Report

Initiated By:

Staff Representative:

**SUBJECT**

Councilman George McEwan

**RECOMMENDATION**

**BACKGROUND**

**CENTERVILLE**

**Staff Backup Report  
9/21/2021**

Item No. 7.

Short Title: Mayor's Report

Initiated By:

Staff Representative:

**SUBJECT**

RECOMMENDATION

BACKGROUND

**CENTERVILLE**

**Staff Backup Report  
9/21/2021**

Item No. 8.

Short Title: City Manager's Report

Initiated By:

Staff Representative:

**SUBJECT**

RECOMMENDATION

BACKGROUND

**CENTERVILLE  
CITY COUNCIL  
Staff Backup Report  
9/21/2021**

Item No.

Short Title: Discuss the Professional Character or Competence of an Individual

Initiated By:

Staff Representative:

**SUBJECT**

Staff recommends the City Council hold a closed session for the purpose of discussing the professional character or competence of an individual in accordance with applicable provisions of State law.

**RECOMMENDATION**

**BACKGROUND**

**CENTERVILLE  
CITY COUNCIL  
Staff Backup Report  
9/21/2021**

Item No.

Short Title: Discuss the Purchase or Sale of Real Property

Initiated By:

Staff Representative:

**SUBJECT**

Staff recommends the City Council hold a closed session for the purpose of discussing the purchase or sale of real property in accordance with provisions of State law.

**RECOMMENDATION**

**BACKGROUND**

**ATTACHMENTS:**

Description