



3200 W 300 N, West Point, UT 84015

WEST POINT CITY COUNCIL MEETING NOTICE & AGENDA November 1st, 2022

Mayor: Brian Vincent
Council
Gary Petersen, Mayor Pro Tem
Annette Judd • Jerry Chatterton
Brad Lee • Michele Swenson
City Manager: Kyle Laws

THIS PUBLIC MEETING WILL BE HELD IN-PERSON AT WEST POINT CITY HALL AND ALSO ELECTRONICALLY:

- Join via Zoom: <https://us02web.zoom.us/j/89380092498> • Telephone: 1(669) 900-6833 – Meeting ID: 893 8009 2498
- To Submit Citizen Comment PRIOR to the meeting via email: Email: carnold@westpointcity.org
- Subject Line: "Citizen Comment – Meeting Date" • Email Body: **Must** include First & Last Name, Address & Succinct Statement

ADMINISTRATIVE SESSION – 6:00 PM

1. Discussion Regarding a Resolution Stating that the City Council Supports the Terms of the Agreement for the CDRA to Purchase Property from the Davis Board of Education – Mr. Kyle Laws [pg. 4](#)
2. Discussion Regarding a Super Parameters Resolution in Anticipation of Bonding to Purchase Property – Mr. Ryan Harvey [pg. 16](#)
3. Discussion Regarding a Budget Amendment Regarding ARPA Funds – Mr. Ryan Harvey [pg. 115](#)
4. Discussion Regarding Proposed Changes to Business License Renewal Dates – Mrs. Bryn MacDonald [pg. 117](#)
5. Discussion Regarding a Proposed Text Change for Subdivision Phasing and Second Accesses – Mrs. Bryn MacDonald [pg. 121](#)
6. Other Items

COMMUNITY DEVELOPMENT & RENEWAL AGENCY MEETING OF WEST POINT CITY

1. Call to Order of Board
2. Consideration of Resolution No. R11-01-2022A, Approving Contract for Purchase of Real Property with the Davis Board of Education for Property Located at Approximately 4000 W 700 S – Mr. Kyle Laws [pg. 124](#)
3. Consideration of Resolution No. R11-01-2022B, Authorizing the Issuance & Sale of Not More than \$6,900,000 Aggregate Principal Amount of Its Sales Tax Revenue Bonds, Series 2022 (The "Bonds"); Fixing the Maximum Aggregate Principal Amount of the Bonds, the Maximum Number of Years Over Which the Bonds May Mature, the Maximum Interest Rate Which the Bonds May Bear, & the Maximum Discount from Par at Which the Bonds May Be Sold; Delegating To Certain Officers of the Agency the Authority To Approve the Final Terms & Provisions of the Bonds Within the Parameters Set Forth Herein; Providing for the Publication of a Notice of Interlocal Agreement & Bonds To Be Issued; Providing for the Running of a Contest Period; Authorizing & Approving the Execution of a General Indenture of Trust, a Supplemental Indenture, a Sales Tax Interlocal Pledge Agreement, a Bond Purchase Agreement, & Other Documents Required In Connection Therewith; & Related Matters. – Mr. Ryan Harvey [pg. 16](#)
4. Motion to Adjourn

GENERAL SESSION – 7:00 PM

1. Call to Order
2. Pledge of Allegiance
3. Prayer or Inspirational Thought (Contact the City Recorder to request meeting participation by offering a prayer or inspirational thought)
4. Communications & Disclosures from City Council & Mayor
5. Communications from Staff
6. Citizen Comment - Clearly state your name & address. Please keep comments to 2 ½ minutes & do not repeat positions already stated. If attending in-person, please approach the podium. If attending electronically, use the "raise hand" icon or dial *9. the meeting host will unmute you.
7. Youth Council Update
8. Consideration of Approval of the Minutes from the May 3rd, 2022 West Point City Council Meeting
9. Consideration of Resolution No. 11-01-2022A, Agreeing to the Terms of the Real Estate Purchase Contract Between the CDRA of West Point City & the Davis Board of Education – Mr. Kyle Laws [pg. 4](#)
10. Consideration of Resolution No. 11-01-2022B, Authorizing the Execution & Delivery of a Bond Purchase Agreement & a Sales Tax Interlocal Pledge Agreement Between the City & the Community Development & Renewal Agency of West Point City, Utah (The "Agency") In Connection With the Issuance By the Agency of Its Sales Tax Revenue Bonds, Series 2022, In the Aggregate Principal Amount of Not To Exceed \$6,900,000, In One Or More Series, & With Such Additional Or Alternate Designations As the Agency May Determine; & Related Matters – Mr. Kyle Laws [pg. 4](#)
11. Consideration of Resolution No. 11-01-2022C, Approving a Boundary Line Agreement with Ross Adams – Mr. Boyd Davis [pg. 134](#)
12. Consideration of Approval to Place the Westlake Subdivision Phase 2 on One-Year Warranty – Mr. Boyd Davis [pg. 138](#)
13. Consideration of Approval to Remove the Littlefield Subdivision Phase 2 from One-Year Warranty – Mr. Boyd Davis [pg. 147](#)
14. Consideration of Approval of a Contract with Andersen Asphalt for Crack-Sealing of City Streets – Mr. Boyd Davis [pg. 139](#)
15. Consideration of Ordinance No. 11-01-2022A, Amending WPC Section 17.70.100 to Allow Chickens in the R-4 Zone – Mrs. Bryn MacDonald [pg. 143](#)
 - a. Public Hearing
 - b. Action
16. Motion to Adjourn the General Session

Posted this 28th day of October, 2022 by:


CASEY ARNOLD, CITY RECORDER

TENTATIVE UPCOMING ITEMS

Date: 11/15/2022

Administrative Session – 6:00 pm

1. Code Enforcement Update – Mr. Bruce Dopp
2. Quarterly Financial Update – Mr. Ryan Harvey
3. Discussion Regarding the 2023 City Council Meeting Schedule – Ms. Casey Arnold
4. Discussion Regarding a Proposed Rezone of Property Located at Approximately 1800 N 4300 W – Mrs. Bryn MacDonald
5. Discussion Regarding a Cell Tower Contract – Mr. Kyle Laws

General Session – 7:00 pm

1. Consideration of Approval of Ordinance No. 11-15-2022A, Approving the 2023 West Point City Council Meeting Schedule – Ms. Casey Arnold
2. Consideration of Approval of Resolution No. 11-01-2022B, Approving an Amendment to the FY2023 Budget – Mr. Ryan Harvey
 - a. Public Hearing
 - b. Action
3. Consideration of Approval of Ordinance No. 11-15-2022B, Amending Section *** of the WPCC Regarding Subdivision Phases and Second Accesses – Mrs. Bryn MacDonald
 - a. Public Hearing
 - b. Action

Date: 12/20/2022

Administrative Session – 6:00 pm

General Session – 7:00 pm

Date: 01/03/2023

Administrative Session – 6:00 pm

1. Discussion Regarding **

General Session – 7:00 pm

1. Youth Council Update
-

Date: 01/17/2023

Administrative Session – 6:00 pm

1. Discussion Regarding **

General Session – 7:00 pm

1. Youth Council Update

Date: 12/06/2022

Administrative Session – 6:00 pm

1. Discussion Regarding **

General Session – 7:00 pm

1. Youth Council Update
 2. Davis County Sheriff's Office Quarterly Update
-



WEST POINT CITY 2022 CALENDAR

2022

IMPORTANT DATES

JANUARY

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

JULY

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

JANUARY

3	Swearing-In Ceremony - 12 PM
4	City Council - 6 PM
10	Senior Lunch - 11:30 AM
11	Council/Staff Lunch - 11:30 AM
13	Planning Commission - 6 PM
17	MLK Jr. Day - CLOSED
18	City Council - 6 PM
27	Planning Commission - 6 PM

JULY

2 & 4	PARTY AT THE POINT EVENTS
11	Senior Lunch - 11:30 AM
14	Planning Commission - 6 PM
16	MOVIE IN THE PARK - DUSK
19	City Council - 6 PM
25	Pioneer Day Holiday - CLOSED
28	Planning Commission - 6 PM

FEBRUARY

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

AUGUST

SUN	MON	TUE	WED	THU	FRI	SAT
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

FEBRUARY

1	City Council - 6 PM
4-5	City Council Planning & Visioning Session
10	Planning Commission - 6 PM
14	Senior Lunch - 11:30 AM
15	City Council - 6 PM
21	President's Day - CLOSED
24	Planning Commission - 6 PM

AUGUST

2	City Council - 6 PM
8	Senior Lunch - 11:30 AM
11	Planning Commission - 6 PM
12	Summer Party 6:30 - 8:30 PM
13	MOVIE IN THE PARK - DUSK
16	City Council - 6 PM
25	Planning Commission - 6 PM

MARCH

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

SEPTEMBER

SUN	MON	TUE	WED	THU	FRI	SAT
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

MARCH

1	City Council - 6 PM
10	Planning Commission - 6 PM
15	City Council - 6 PM
21	Senior Lunch - 11:30 AM
24	Planning Commission - 6 PM

SEPTEMBER

5	Labor Day - CLOSED
6	City Council - 6 PM
8	Planning Commission - 6 PM
12	Senior Lunch - 11:30 AM
20	City Council - 6 PM
22	Planning Commission - 6 PM

APRIL

SUN	MON	TUE	WED	THU	FRI	SAT
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

OCTOBER

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

APRIL

5	City Council - 6 PM
11	Senior Lunch - 11:30 AM
14	Planning Commission - 6 PM
16	EASTER EGG HUNT - 10 AM
19	City Council - 6 PM
22-23	ANNUAL SPRING CLEAN-UP
28	Planning Commission - 6 PM

OCTOBER

4	City Council - 6 PM
6	CEMETERY CLEANING
10	Employee Training - CLOSED
13	Planning Commission - 6 PM
13-15	ANNUAL FALL CLEAN-UP
18	Senior Lunch - 11:30 AM
18	City Council - 6 PM
22	HALLOWEEN CARNIVAL - 6-8 PM
25	Council/Staff Lunch - 11:30 AM
27	Planning Commission - 6 PM

MAY

SUN	MON	TUE	WED	THU	FRI	SAT
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

NOVEMBER

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

MAY

3	City Council - 6 PM
5	CEMETERY CLEANING
9	Senior Lunch - 11:30 AM
10	Council/Staff Lunch - 11:30 AM
12	Planning Commission - 6 PM
14	TAKE PRIDE IN WEST POINT
17	City Council - 6 PM
26	Planning Commission - 6 PM
30	Memorial Day - CLOSED

NOVEMBER

1	City Council - 6 PM
3	FLAGS ON VETERANS' GRAVES
8	ELECTION DAY
10	Planning Commission - 6 PM
11	Veterans Day - CLOSED
15	Senior Lunch - 11:30 AM
15	City Council - 6 PM
24/25	Thanksgiving - CLOSED
28	CITY HALL LIGHTING - 6 PM

JUNE

SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

DECEMBER

SUN	MON	TUE	WED	THU	FRI	SAT
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

JUNE

4	MISS WEST POINT PAGEANT
6	Senior Lunch - 11:30 AM (Loy Blake)
7	City Council - 6 PM
9	Planning Commission - 6 PM
10	MOVIE IN THE PARK - DUSK
20	JUNETEENTH (OBSERVED) - CLOSED
21	City Council - 6 PM
23	Planning Commission - 6 PM

DECEMBER

2	Christmas Party - 7 PM
6	CHILD REMEMBRANCE - 7 PM
6	City Council - 6 PM
8	Planning Commission - 6 PM
13	Senior Lunch - 11:30 AM
20	City Council - 6 PM
22	Planning Commission - 6 PM
23	CEMETERY LUMINARY - 4 PM
26-27	Christmas Holiday - CLOSED



Subject: Davis School District Property Purchase
Author: Kyle Laws
Department: Executive
Meeting Date: November 1, 2022

Background

For the last year, the City has been working with the Davis School District (DSD) to move the location of the newly proposed Jr High. These efforts have been successful, and the new Jr High will be located on the southeast corner of 4500 W and 700 S. The original location was on the northeast corner of Cold Springs Road (4000 W) and 700 South. The school no longer needs this 24-acre parcel of property and has expressed that it is their policy to give the City the first option to purchase. Staff has been in negotiations with DSD to determine a fair and equitable price.

Analysis

Earlier this year the DSD had the property appraised, and this was used as a baseline for negotiations. This property is in a future commercial district right off of the future interchange of West Davis Highway and SR193. The attached purchase contract outlines the terms of the purchase and can be summarized as follows:

- Purchase price is \$5.75 per square foot (\$250,470.00 per acre) for 24 acres, which totals \$6,011,280.00
- The City agrees to waive all city-related impact fees for the new Jr High as well as the new Elementary school that is currently under construction.
- The City also agrees to exclude this 24-acre parcel from any future Community Development Areas (CDAs), allowing the DSD to realize the full property tax value of this property when development occurs.

These last two terms allowed us to negotiate a lower price per square foot than was originally proposed by DSD.

You will notice that the second bullet point above is a clause that only the City Council can approve. And while the purchase contract is with the Community Development and Renewal Agency (CDRA), the City Council must authorize and approve a resolution indicating their support of the terms of this contract, specifically, that the City agrees to waive all city-related impact fees for the two new schools being built in the City (junior high and elementary).

Recommendation

Staff recommends the Council approve the attached Resolution, authorizing the Mayor to sign and execute the agreements for the purchase of this property.

Significant Impacts

This is a great opportunity for the City to purchase property adjacent to this major interchange and get us to the table with developers to ensure we get the kind of development we want for this area.

Attachments

- Resolution

West Point, Utah

November 1, 2022

The City Council (the “Council”) of West Point City, Utah (the “City”), met in regular public session at the regular meeting place of the Council in West Point City, Utah, on Tuesday, November 1, 2022, at the hour of 7:00 p.m., with the following members of the Council being present:

Brian Vincent	Mayor
Jerry Chatterton	Councilmember
Michele Swenson	Councilmember
Brad Lee	Councilmember
Gary Petersen	Councilmember
Annette Judd	Councilmember

Also present:

Kyle Laws	City Manager
Casey Arnold	City Recorder

Absent:

After the meeting had been duly called to order and after other matters not pertinent to this resolution had been discussed, there was presented to the Council a Certificate of Compliance with Open Meeting Law with respect to this November 1, 2022, meeting, a copy of which is attached hereto as Exhibit A.

The following resolution was then introduced in written form, was fully discussed, and pursuant to motion duly made by Councilmember _____ and seconded by Councilmember _____, was adopted by the following vote:

AYE:

NAY:

The resolution is as follows:

RESOLUTION NO. 11-01-2022A

A RESOLUTION OF THE CITY COUNCIL OF WEST POINT CITY, UTAH (THE “CITY”) AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AGREEMENT AND A SALES TAX INTERLOCAL PLEDGE AGREEMENT BETWEEN THE CITY AND THE COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF WEST POINT CITY, UTAH (THE “AGENCY”) IN CONNECTION WITH THE ISSUANCE BY THE AGENCY OF ITS SALES TAX REVENUE BONDS, SERIES 2022, IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$6,900,000, IN ONE OR MORE SERIES, AND WITH SUCH ADDITIONAL OR ALTERNATE DESIGNATIONS AS THE AGENCY MAY DETERMINE; AND RELATED MATTERS.

WHEREAS, pursuant to the Limited Purpose Local Government Entities—Community Reinvestment Agency Act, Title 17C, Utah Code Annotated 1953, as amended (the “Redevelopment Act”), West Point City, Utah is authorized to grant or contribute funds to the Community Development and Renewal Agency of West Point City, Utah (the “Agency”), for redevelopment projects; and

WHEREAS, the Agency has determined that it would be in furtherance of its public purposes to issue its Sales Tax Revenue Bonds, Series 2022 (the “Series 2022 Bonds”) (to be issued in one or more series and with such additional or alternate designations as the Agency may determine) in an amount not to exceed \$6,900,000 to provide funds to (i) finance the acquisition of land to benefit the 300 North Community Development Project Area (the “Project”), (ii) fund a deposit to a debt service reserve fund, if necessary, and (iii) pay costs associated with the issuance of the Series 2022 Bonds; and

WHEREAS, the City desires to pledge certain local sales and use tax moneys (the “Sales Taxes”) to be received by the City to repay the Series 2022 Bonds pursuant to a Sales Tax Interlocal Pledge Agreement by and between the City and the Agency (the “Interlocal Agreement”), a copy of which is attached hereto as Exhibit B; and

WHEREAS, the Agency and desires to sell the Series 2022 Bonds to a purchaser to be selected by the Agency (the “Purchaser”) pursuant to a Bond Purchase Agreement (the “Bond Purchase Agreement”) to be entered into between the Purchaser and the Agency, and acknowledged by the City, a copy of which is attached hereto as Exhibit C; and

WHEREAS, the City and the Agency have found and determined that the City’s commitments under the Interlocal Agreement serve a municipal purpose that will promote the health, safety and welfare of the City and its inhabitants and are in the best interest of the City and its inhabitants;

NOW, THEREFORE, it is hereby resolved by the City Council of West Point City, Utah, as follows:

Section 1. All actions not inconsistent with the provisions of this resolution heretofore taken by the City are hereby ratified, approved and confirmed.

Section 2. The Interlocal Agreement, in substantially the form presented to this meeting as Exhibit B, is hereby approved, and the Mayor and City Recorder of the City are hereby authorized and directed to execute and deliver the Interlocal Agreement, in substantially the form presented to this meeting, its execution constituting conclusive evidence of the City's approval thereof.

Section 3. The Series 2022 Bonds shall be sold to the Purchaser in accordance with the Bond Purchase Agreement. Said Bond Purchase Agreement in the form attached hereto as Exhibit C is hereby authorized and approved, and, to the extent requested, the Mayor is hereby authorized to acknowledge said Bond Purchase Agreement on behalf of the City.

Section 4. The Interlocal Agreement and Bond Purchase Agreement authorized and approved hereby are authorized and approved with such additions, modifications, deletions and changes thereto as may be deemed necessary or appropriate and approved by the Mayor of the City and the Executive Director of the Agency (so long as such changes do not increase the maximum annual commitment of Sales Taxes made thereunder), whose execution thereof on behalf of the City and the Agency, respectively, shall conclusively establish such necessity, appropriateness and approval with respect to all such additions, modifications, deletions and changes incorporated therein.

Section 5. The City and the Agency shall cause a notice of the Interlocal Agreement to be (i) posted on the Utah Public Notice Website (<http://pmn.utah.gov>) and (ii) published in a newspaper of general circulation in the City.

Section 6. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Resolution shall be in full force and effect immediately upon its approval and adoption.

Section 7. If any provision of this resolution shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions hereof invalid.

APPROVED AND ADOPTED this November 1, 2022.

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
City Recorder

(Other business not pertinent to the foregoing appears in the minutes of the meeting.)

Upon the conclusion of all business on the Agenda, the meeting was adjourned.

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
City Recorder

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

I, Casey Arnold, the duly appointed and qualified City Recorder of West Point City, Utah (the “City”), do hereby certify according to the records of the City Council of the City (the “Council”) in my official possession that the foregoing constitutes a true and correct excerpt of the minutes of the meeting of the Council held on November 1, 2022, including a resolution (the “Resolution”) adopted at said meeting as said minutes and Resolution are officially of record in my possession.

IN WITNESS WHEREOF, I have hereunto subscribed my signature and impressed hereon the official seal of said City, this November 1, 2022.

(SEAL)

By: _____
City Recorder

EXHIBIT A

CERTIFICATE OF COMPLIANCE WITH
OPEN MEETING LAW

I, Casey Arnold, the undersigned City Recorder of West Point City, Utah (the “City”), do hereby certify, according to the records of the City in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-202, Utah Code Annotated, 1953, as amended, I gave not less than twenty-four (24) hours public notice of the agenda, date, time and place of the November 1, 2022, public meeting held by the City Council of the City (the “Council”) as follows:

(a) By causing a Notice, in the form attached hereto as Schedule 1, to be posted at the principal offices of the City at least twenty-four (24) hours prior to the convening of the meeting, said Notice having continuously remained so posted and available for public inspection until the completion of the meeting;

(b) By causing a copy of such Notice, in the form attached hereto as Schedule 1, to be posted on the Utah Public Notice Website (<http://pmn.utah.gov>) at least twenty-four (24) hours prior to the convening of the meeting; and

(c) By causing a copy of such Notice, in the form attached hereto as Schedule 1, to be delivered to The Salt Lake Tribune pursuant to its subscription to the Utah Public Notice Website (<http://pmn.utah.gov>) at least twenty-four (24) hours prior to the convening of the meeting.

In addition, the Notice of 2022 Annual Meeting Schedule for the Council (attached hereto as Schedule 2) was given specifying the date, time, and place of the regular meetings of the Council to be held during the year, by causing said Notice to be (a) posted on _____ at the principal office of the City, (b) published on the Utah Public Notice Website (<http://pmn.utah.gov>) during the current calendar year and (c) provided to at least one newspaper of general circulation within the geographic jurisdiction of the City pursuant to its subscription to the Utah Public Notice Website (<http://pmn.utah.gov>).

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this November 1, 2022.

(SEAL)

By: _____
City Recorder

SCHEDULE 1
NOTICE OF MEETING

SCHEDULE 2
ANNUAL MEETING SCHEDULE

EXHIBIT B

FORM OF INTERLOCAL AGREEMENT

EXHIBIT C

FORM OF BOND PURCHASE AGREEMENT



Subject: CDRA Bonding for Property Purchase
Author: Ryan Harvey
Department: Administrative Services
Meeting Date: November 1, 2022

Background

The City has come to an agreement for purchase of the property in a future commercial district right off of the future interchange of West Davis Highway and SR193. The total amount will not be more than \$6.9 Million which will require the CDRA to issue bonds for the purchase of the property.

Analysis

The Community Development and Renewal Agency (CDRA) of West Point City, Utah was set up to spur economic development throughout the City. With the School District Property becoming available, it is a perfect opportunity for the CDRA to purchase the property in order to assure that it develops in a way that will be beneficial to the City. The CDRA will issue bonds in order to purchase the property.

Currently the CDRA has a project area where the Smith's and surrounding retail was developed at the corner of 2000 West and 300 North. That current project area will benefit from this purchase because it will:

- Bring more people into the City, thus increasing the customer base that will shop and eat there due to the close proximity to this property
- Increase the commercial viability of the City
- It will spur more economic development within the City that we anticipate will complement the current project rather than compete with it.

The attached Parameters Resolution outlines how the bonds will be issued. These particular bonds will be callable so that the CDRA can pay them off early when the property is sold.

Recommendation

Staff recommends the Council approve the attached Parameters Resolution

Significant Impacts

The CDRA will be issuing the bonds for not more than \$6.9 Million

Attachments

- Parameters Resolution RDA (super) - West Point 2022
- City Resolution Approving Interlocal Agreement - West Point 2022
- General Indenture - West Point RDA Sales Tax Bonds 2022
- Bond Purchase Agreement - West Point CDRA Sales Tax Rev Bonds 2022
- Interlocal Pledge Agreement - (Sales Tax) West Point -CDRA 2022
- First Supplemental Indenture - West Point Sales Tax Bonds 2022

NOTICE OF SPECIAL MEETING

TO THE MEMBERS OF THE BOARD OF DIRECTORS OF THE COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF WEST POINT CITY, UTAH:

NOTICE IS HEREBY GIVEN that a special meeting of the Board of Directors (the “Board”) of the Community Development and Renewal Agency of West Point City, Utah (the “Agency”) will be held at the Board’s regular meeting place at 7:00 p.m. or as soon thereafter as possible following the City Council meeting on November 1, 2022, for the purpose of authorizing the issuance and sale of the Agency’s Sales Tax Revenue Bonds, Series 2022, and for the transaction of such other business incidental to the foregoing as may come before said meeting.

Secretary

ACKNOWLEDGMENT OF NOTICE
AND CONSENT TO SPECIAL MEETING

We, the Chair and Boardmembers of the Board of Directors of the Community Development and Renewal Agency of West Point City, Utah, do hereby acknowledge receipt of the foregoing Notice of Special Meeting, and we hereby waive any and all irregularities, if any, in such notice and in the manner of service thereof upon us and consent and agree to the holding of such special meeting at the time and place specified in said notice, and to the transaction of any and all business which may come before said meeting.

Chair

Boardmember

Boardmember

Boardmember

Boardmember

Boardmember

West Point, Utah

November 1, 2022

The Board of Directors (the “Board”) of the Community Development and Renewal Agency of West Point City, Utah (the “Agency”), met in special public session at the regular meeting place of the Board in West Point, Utah, on November 1, 2022, at the hour of 7:00 p.m. or as soon thereafter as possible following the City Council meeting, with the following members of the Board being present:

Brian Vincent	Chair
Jerry Chatterton	Boardmember
Michele Swenson	Boardmember
Brad Lee	Boardmember
Gary Petersen	Boardmember
Annette Judd	Boardmember

Also present:

Kyle Laws	Executive Director
Casey Arnold	Secretary

Absent:

After the meeting had been duly called to order and after other matters not pertinent to this Resolution had been discussed, the following Resolution was introduced in written form along with a Certificate of Compliance with Open Meeting Law with respect to this November 1, 2022, meeting, a copy of which is attached hereto as Exhibit A.

The following resolution was then introduced in writing, was fully discussed, and pursuant to motion duly made by Boardmember _____ and seconded by Boardmember _____, was adopted by the following vote:

AYE:

NAY:

The resolution was then signed by the Chair and recorded in the official records of the Agency. The Resolution is as follows:

RESOLUTION NO. R11-01-2022B

A RESOLUTION OF THE BOARD OF DIRECTORS (THE “BOARD”) OF THE COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF WEST POINT CITY, UTAH (THE “AGENCY”), AUTHORIZING THE ISSUANCE AND SALE OF NOT MORE THAN \$6,900,000 AGGREGATE PRINCIPAL AMOUNT OF ITS SALES TAX REVENUE BONDS, SERIES 2022 (THE “BONDS”); FIXING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF THE BONDS, THE MAXIMUM NUMBER OF YEARS OVER WHICH THE BONDS MAY MATURE, THE MAXIMUM INTEREST RATE WHICH THE BONDS MAY BEAR, AND THE MAXIMUM DISCOUNT FROM PAR AT WHICH THE BONDS MAY BE SOLD; DELEGATING TO CERTAIN OFFICERS OF THE AGENCY THE AUTHORITY TO APPROVE THE FINAL TERMS AND PROVISIONS OF THE BONDS WITHIN THE PARAMETERS SET FORTH HEREIN; PROVIDING FOR THE PUBLICATION OF A NOTICE OF INTERLOCAL AGREEMENT AND BONDS TO BE ISSUED; PROVIDING FOR THE RUNNING OF A CONTEST PERIOD; AUTHORIZING AND APPROVING THE EXECUTION OF A GENERAL INDENTURE OF TRUST, A SUPPLEMENTAL INDENTURE, A SALES TAX INTERLOCAL PLEDGE AGREEMENT, A BOND PURCHASE AGREEMENT, AND OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND RELATED MATTERS.

WHEREAS, the Agency is a Community Development and Renewal Agency (a public body, corporate and politic) duly created, established, and authorized to transact business and exercise its powers, pursuant to the Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C, Utah Code Annotated 1953, as amended (the “Act”); and

WHEREAS, a community development plan for the Agency’s 300 North Community Development Project Area (the “Project Area”) has heretofore been adopted and approved and all requirements of law for, and precedent to, the adoption and approval of said plan have been duly complied with; and

WHEREAS, the Agency desires to acquire certain real property located near the Project Area (the “Property”), which the Board concludes will enhance commercial activity in the Project Area thereby benefiting the Project Area; and

WHEREAS, in order to finance the purchase of the Property, the Agency has determined that it would be in furtherance of its public purposes to issue its Sales Tax Revenue Bonds, Series 2022 (to be issued in one or more series and with such other series or title designation as may be determined by the Agency) (the “Series 2022 Bonds”) in an amount not to exceed Six Million Nine Hundred Thousand Dollars (\$6,900,000), to provide funds to (a) finance the purchase of the Property to benefit the Project Area (the “Project”),

(b) fund a debt service reserve fund, if necessary, and (c) pay costs associated with the issuance of the Series 2022 Bonds; and

WHEREAS, the Series 2022 Bonds shall be issued pursuant to a General Indenture of Trust, as supplemented by a Supplemental Indenture, each by and between the Agency and a trustee (collectively, the “Indenture”), in substantially the form attached hereto as Exhibit B and a related Sales Tax Interlocal Pledge Agreement (the “Interlocal Agreement”) between the Agency and West Point City, Utah (the “City”) in substantially the form attached hereto as Exhibit D; and

WHEREAS, pursuant to the Interlocal Agreement, the City agrees to pledge to the Agency certain sales tax revenues (the “Sales Tax Revenues”) and the Agency desires to pledge the Sales Tax Revenues to the payment of the Series 2022 Bonds authorized hereunder; and

WHEREAS, there has been presented to the Board at this meeting a form of a bond purchase agreement (the “Bond Purchase Agreement”) to be entered into between the Agency and the purchaser or underwriter selected by the Agency for the Series 2022 Bonds (the “Purchaser/Underwriter”), in substantially the form attached hereto as Exhibit C; and

WHEREAS, the Agency desires to publish a Notice of Interlocal Agreement and Bonds to be Issued with respect to the Interlocal Agreement and Series 2022 Bonds in compliance with the Act; and

WHEREAS, in order to allow the Agency (with the consultation and approval of the Agency’s financial advisor, Lewis Young Robertson & Burningham (the “Financial Advisor”)) flexibility in setting the pricing date of the Series 2022 Bonds to minimize debt service costs to the Agency, the Board desires to grant to any two of the following: the Chair, the Executive Director or the City’s Administrative Services Director (the “Designated Officers”), who may act on behalf of the Board, the authority to select the Purchaser/Underwriter, approve the final interest rates, principal amounts, terms, maturities, redemption features, and purchase price at which the Series 2022 Bonds shall be sold, to determine whether all or a portion of the Series 2022 Bonds should be sold pursuant to a private placement or a public offering (including via a negotiated underwriter or public bid), and any changes with respect thereto from those terms which were before the Board at the time of adoption of this Resolution, provided such terms do not exceed the parameters set forth for such terms in this Resolution (the “Parameters”).

NOW, THEREFORE, it is hereby resolved by the Board of Directors of the Community Development and Renewal Agency of West Point City, Utah, as follows:

Section 1. All terms defined in the foregoing recitals hereto shall have the same meanings when used herein.

Section 2. The Board hereby finds and determines that the purchase of the Property will enhance commercial activity in the Project Area thereby benefiting the Project Area.

Section 3. For the purpose of (a) financing the Project, (b) funding a deposit to a debt service reserve fund, if necessary, and (c) paying costs of issuance of the Series 2022 Bonds, the Agency hereby authorizes the issuance of the Series 2022 Bonds which shall be designated “Community Development and Renewal Agency of West Point City, Utah Sales Tax Revenue Bonds, Series 2022” (to be issued from time to time as one or more series and with such other series or title designation as may be determined by the Agency) in the initial aggregate principal amount of not to exceed Six Million Nine Hundred Thousand Dollars (\$6,900,000). The Series 2022 Bonds shall mature in not more than fifteen (15) years from their date or dates, shall be sold at a price not less than ninety-seven percent (97.00%) of the total principal amount thereof, shall bear interest at a net effective rate of not to exceed five percent (5.00%) per annum, as shall be approved by the Designated Officers, all within the Parameters set forth herein. The issuance of the Series 2022 Bonds shall be subject to the final approval of Gilmore & Bell, P.C., Bond Counsel to the Agency, and to the approval of the attorney for the Agency.

Section 4. The final interest rate or rates for the Series 2022 Bonds shall be set by the Designated Officers, in consultation with the Financial Advisor, at the rate or rates which, taking into account the purchase price offered by the Purchaser/Underwriter of the Series 2022 Bonds, will, in the opinion of the Designated Officers and the Financial Advisor result in the lowest cost of funding reasonably achievable given the manner of offering the Series 2022 Bonds at the time of the sale of the Series 2022 Bonds. The approval of the Designated Officers shall be evidenced by the execution of the Bond Purchase Agreement.

Section 5. The Indenture, the Bond Purchase Agreement and the Interlocal Agreement in substantially the forms presented to this meeting and attached hereto as Exhibits B, C and D, respectively, are hereby authorized, approved, and confirmed. The Executive Director and Secretary are hereby authorized to execute and deliver the Indenture, the Bond Purchase Agreement and the Interlocal Agreement in substantially the forms and with substantially the content as the forms presented at this meeting for and on behalf of the Agency, with final terms as may be established by the Designated Officers, in consultation with the Financial Advisor, within the Parameters set forth herein, and with such alterations, changes or additions as may be necessary or as may be authorized by Section 6 hereof. The Designated Officers are each hereby authorized to select the Purchaser/Underwriter and to specify and agree as to the final principal amounts, terms, discounts, maturities, interest rates, redemption features, and purchase price with respect to the Series 2022 Bonds for and on behalf of the Agency, provided that such terms are within the Parameters set by this Resolution.

Section 6. The Designated Officers and other appropriate officials of the Agency are authorized to make any alterations, changes or additions to the Indenture, the Series 2022 Bonds, the Bond Purchase Agreement, the Interlocal Agreement, or any other document herein authorized and approved which may be necessary to conform the same to the final terms of the Series 2022 Bonds (within the Parameters set by this Resolution), to conform to any applicable bond insurance or reserve instrument or to remove the same, to correct errors or omissions therein, to complete the same, to remove ambiguities therefrom, or to conform the same to other provisions of said instruments, to the provisions of this

Resolution or any resolution adopted by the Board or the provisions of the laws of the State of Utah or the United States.

Section 7. The form, terms, and provisions of the Series 2022 Bonds and the provisions for the signatures, authentication, payment, registration, transfer, exchange, redemption, and number shall be as set forth in the Indenture. The Executive Director and Secretary are hereby authorized and directed to execute and seal the Series 2022 Bonds and to deliver said Series 2022 Bonds to the Trustee for authentication. The signatures of the Executive Director and Secretary may be by facsimile or manual execution.

Section 8. The Executive Director and Secretary and other appropriate officials of the Agency are hereby authorized and directed to execute and deliver to the Trustee the written order of the Agency for authentication and delivery of the Series 2022 Bonds in accordance with the provisions of the Indenture.

Section 9. Upon their issuance, the Series 2022 Bonds will constitute special limited obligations of the Agency payable solely from and to the extent of the sources set forth in the Series 2022 Bonds and the Indenture. No provision of this Resolution, the Indenture, the Series 2022 Bonds, or any other instrument, shall be construed as creating a general obligation of the Agency, or of creating a general obligation of the State of Utah or any political subdivision thereof, or as incurring or creating a charge upon the general credit of the Agency or its taxing powers.

Section 10. The Designated Officers and other appropriate officials of the Agency, and each of them, are hereby authorized and directed to execute and deliver for and on behalf of the Agency any or all additional certificates, documents and other papers (including, without limitation, any escrow deposit agreements, insurance or reserve instrument guaranty agreements permitted by the Indenture) and to perform all other acts they may deem necessary or appropriate in order to implement and carry out the matters authorized in this Resolution and the documents authorized and approved herein.

Section 11. After the Series 2022 Bonds are delivered by the Trustee to the Purchaser/Underwriter, and upon receipt of payment therefor, this Resolution shall be and remain irrevocable until the principal of, premium, if any, and interest on the Series 2022 Bonds are deemed to have been duly discharged in accordance with the terms and provisions of the Indenture.

Section 12. In accordance with the provisions of the Act, the Secretary shall cause the following “Notice of Interlocal Agreement and Bonds to be Issued” to be (i) published one (1) time in the Standard-Examiner, a newspaper of general circulation in the City, (ii) posted on the Utah Public Notice Website created under Section 63A-16-601, Utah Code Annotated 1953, as amended, and (iii) posted on the Utah Legal Notices website (www.utahlegals.com) created under Section 45-1-101, Utah Code Annotated 1953, as amended, and shall cause a copy of this Resolution (together with all exhibits hereto) to be kept on file in the Secretary’s office in West Point, Utah, for public examination during the regular business hours of the Board until at least thirty (30) days from and after the date of

publication thereof. The “Notice of Interlocal Agreement and Bonds to be Issued” shall be in substantially the following form:

NOTICE OF INTERLOCAL AGREEMENT AND BONDS TO BE ISSUED

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C, Utah Code Annotated 1953, as amended, that on November 1, 2022, the Board of Directors (the “Board”) of the Community Development and Renewal Agency of West Point City, Utah (the “Agency”) adopted a resolution (the “Resolution”) authorizing the issuance and sale of the Agency’s Sales Tax Revenue Bonds, Series 2022 (to be issued in one or more series from time to time and with such other series or title designation as may be determined by the Agency) (the “Bonds”).

PURPOSE FOR ISSUING THE BONDS

The Bonds will be issued for the purpose of (a) financing the purchase of land (the “Project”), (b) funding a debt service reserve fund, if necessary, and (c) paying costs associated with the issuance of the Bonds.

REVENUES PROPOSED TO BE PLEDGED

The Bonds shall constitute special limited obligations of the Issuer and, except as otherwise provided in the herein referenced Indenture, are secured by an irrevocable pledge of, and shall be payable as to principal, premium, if any, and interest solely from sales tax revenues received from and pledged by West Point City, Utah.

INTERLOCAL AGREEMENT

The Agency and West Point City, Utah (the “City”) have approved a Sales Tax Interlocal Pledge Agreement (the “Interlocal Agreement”). The Interlocal Agreement provides that the City will pledge to the Agency local sales and use tax revenues to pay debt service on the Bonds, plus any additional payment obligations of the Agency, under the Indenture (defined herein), including the obligation to replenish any reserve funds or to deposit amounts to any reserve instrument fund thereunder, if necessary. The term of the Interlocal Agreement shall commence upon the issuance of the Bonds and unless amended, shall terminate no later than fifteen (15) years from such date.

PARAMETERS OF THE BONDS

The Agency intends to issue its Bonds in the aggregate principal amount of not more than Six Million Nine Hundred Thousand Dollars (\$6,900,000), to mature in not more than fifteen (15) years from their date or dates, to be sold at a price not less than ninety-seven percent (97%) of the total principal amount thereof, and to bear interest at a net effective rate of not to exceed five percent (5.0%) per annum. The Bonds are to be issued and sold by the Agency pursuant to the Resolution, including as part of said Resolution, a General Indenture of Trust and a Supplemental Indenture (collectively, the “Indenture”) which were before the Board and attached to the Resolution in substantially final form at the time of the adoption of the Resolution, and said Indenture is to be executed by the Board in such form and with such changes thereto as shall be approved by the authorized

officers; provided that the principal amount, interest rate or rates, maturity, and discount from par of the Bonds shall not exceed the maximums set forth above.

A copy of the Resolution, Interlocal Agreement and the Indenture are on file in the office of the Agency, at 3200 West 300 North, West Point, Utah, where they may be examined during regular business hours of the Agency, Monday through Friday from 8:00 a.m. to 5:00 p.m., for a period of at least thirty (30) days from and after the date of publication of this notice.

NOTICE IS FURTHER GIVEN that a period of thirty (30) days from and after the date of the publication of this notice is provided by law during which any person in interest shall have the right to contest the legality of the Resolution, the Indenture, the Interlocal Agreement or the Bonds, or any provision made for the security and payment of the Bonds, and that after such time, no one shall have any cause of action to contest the regularity, formality, or legality thereof for any cause whatsoever.

DATED this November 1, 2022.

COMMUNITY DEVELOPMENT AND
RENEWAL AGENCY OF WEST POINT
CITY, UTAH

/s/ Casey Arnold

Secretary

Section 13. The Agency hereby reserves the right to opt not to issue all or any portion of the Series 2022 Bonds for any reason.

Section 14. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Resolution shall be in full force and effect immediately upon its approval and adoption.

APPROVED AND ADOPTED this November 1, 2022.

COMMUNITY DEVELOPMENT AND
RENEWAL AGENCY OF WEST POINT
CITY, UTAH

(SEAL)

By: _____
Chair

ATTEST:

By: _____
Secretary

(Other business not pertinent to the foregoing appears in the minutes of the meeting.)

Upon the conclusion of all business on the Agenda, the meeting was adjourned.

(SEAL)

By: _____
Chair

ATTEST:

By: _____
Secretary

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

I, the duly appointed and qualified Secretary of the Community Development and Renewal Agency of West Point City, Utah (the “Agency”), do hereby certify according to the records of said Agency in my official possession that the foregoing constitutes a true and correct excerpt of the minutes of the meeting of the Board of Directors held on November 1, 2022, including a resolution (the “Resolution”) adopted at said meeting as said minutes and Resolution are officially of record in my possession.

I further certify that the Resolution, with all exhibits attached, was deposited in my office on November 1, 2022, and that pursuant to the Resolution, there was published a Notice of Interlocal Agreement and Bonds to be Issued (a) one time in the Standard-Examiner, a newspaper having general circulation in West Point City, Utah, with the affidavit of such publication attached hereto upon availability, (b) on the Utah Public Notice Website created under Section 63A-16-601, Utah Code Annotated 1953, as amended, and (c) on the Utah Legal Notices website (www.utahlegals.com) created under Section 45-1-101, Utah Code Annotated 1953, as amended.

IN WITNESS WHEREOF, I have hereunto subscribed my signature and impressed hereon the official seal of said Agency, this November 1, 2022.

(SEAL)

By: _____
Secretary

EXHIBIT A

CERTIFICATE OF COMPLIANCE WITH
OPEN MEETING LAW

I, the undersigned Secretary of the Community Development and Renewal Agency of West Point City, Utah (the “Agency”), do hereby certify, according to the records of the Agency in my official possession, and upon my own knowledge and belief, that in accordance with the requirements of Section 52-4-202, Utah Code Annotated, 1953, as amended, there was not less than twenty-four (24) hours public notice of the agenda, date, time and place of the November 1, 2022, public meeting held by the Agency as follows:

(a) By causing a Notice, in the form attached hereto as Schedule 1, to be posted at the Agency’s principal offices at least twenty-four (24) hours prior to the convening of the meeting, said Notice having continuously remained so posted and available for public inspection until the completion of the meeting;

(a) By causing a copy of such Notice, in the form attached hereto as Schedule 1, to be posted on the Utah Public Notice Website (<http://pmn.utah.gov>) at least twenty-four (24) hours prior to the convening of the meeting; and

(b) By causing a copy of such Notice, in the form attached hereto as Schedule 1, to be delivered to the Standard-Examiner pursuant to its subscription to the Utah Public Notice Website (<http://pmn.utah.gov>) at least twenty-four (24) hours prior to the convening of the meeting.

The Agency meets on “as needed” basis.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature this November 1, 2022.

(SEAL)

By: _____
Secretary

SCHEDULE 1

NOTICE OF MEETING

(attach Proof of Publication of
Notice of Interlocal Agreement and Bonds to be Issued)

EXHIBIT B
FORM OF INDENTURE

EXHIBIT C

FORM OF BOND PURCHASE AGREEMENT

EXHIBIT D

FORM OF INTERLOCAL AGREEMENT

SALES TAX REVENUE BONDS

GENERAL INDENTURE OF TRUST

Dated as of _____, 2022

between

COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF
WEST POINT CITY, UTAH

and

as Trustee

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THIS GENERAL INDENTURE OF TRUST, dated as of _____, 2022, by and between the Community Development and Renewal Agency of West Point City, Utah, a public body established under the laws of the State of Utah (the “Agency”), and _____, a national banking association duly organized and existing under the laws of the United States of America, authorized by law to accept and execute trusts and having a corporate trust office in Salt Lake City, Utah, as trustee (the “Trustee”),

WITNESSETH:

WHEREAS, the Agency is a redevelopment agency (a public body, corporate and politic) duly created, established by the City of West Point City, Utah (the “City”) and authorized to transact business and exercise its powers, all under and pursuant to the Limited Purpose Local Government Entities—Community Development and Renewal Agencies Act, Title 17C, Utah Code Annotated 1953, as amended (the “Redevelopment Act”), and the powers of the Agency include the power to issue bonds for any of its corporate purposes; and

WHEREAS, a redevelopment plan (the “Redevelopment Plan”) for the Agency’s 300 North Community Development Project Area (the “Redevelopment Project Area”) has heretofore been adopted and approved and all requirements of law for, and precedent to, the adoption and approval of the Redevelopment Plan have been duly complied with; and

WHEREAS, it is intended that this General Indenture be supplemented by one or more Supplemental Indentures (each a “Supplemental Indenture”) containing specific provisions for a designated series of Bonds; and

WHEREAS, pursuant to a Sales Tax Interlocal Pledge Agreement (the “Interlocal Agreement”), the City has pledged to the Agency its Sales and Use Tax Revenues (as defined herein) as described in the Interlocal Agreement, for the payment of Bonds and other obligations described therein and herein; and

WHEREAS, the City has entered into obligations, and may issue bonds or enter into obligations in the future, secured by the Sales and Use Tax Revenues on a parity basis with the lien of the Bonds on the Sales and Use Tax Revenues; and

NOW, THEREFORE, THIS INDENTURE OF TRUST WITNESSETH:

For and in consideration of the premises, the mutual covenants of the Agency and the Trustee, the purchase from time to time of the Bonds by the Registered Owners thereof, the issuance by Security Instrument Issuers from time to time of Security Instruments and the issuance by Reserve Instrument Providers from time to time of Reserve Instruments, and in order to secure the payment of the principal of and premium, if any, and interest on the Bonds, of all Repayment Obligations according to their tenor and effect and the performance and observance by the Agency of all the covenants expressed or implied herein, in the Bonds, in all Security Instrument Agreements and in all Reserve Instrument Agreements, the Agency does hereby convey, assign and pledge unto the Trustee and unto its successors in trust forever all right, title and interest of the Agency in and to (i) the

Pledged Revenues, (ii) all moneys in funds and accounts held by the Trustee hereunder (except the Rebate Fund), and (iii) all other rights hereinafter granted, first, for the further securing of the Bonds and all Security Instrument Repayment Obligations, and second, for the further security of all Reserve Instrument Repayment Obligations, subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in this Indenture;

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby and hereafter conveyed and assigned, or agreed or intended so to be, to the Trustee and its respective successors and assigns in such trust forever;

IN TRUST NEVERTHELESS, upon the terms and trust set forth in this Indenture, FIRST, for the equal and proportionate benefit, security and protection of all Registered Owners of the Bonds issued pursuant to and secured by this Indenture and all Security Instrument Issuers without privilege, priority or distinction as to the lien or otherwise of any Bond or Security Instrument Issuer over any other by reason of time of issuance, sale, delivery or maturity or expiration thereof or otherwise for any cause whatsoever, except as expressly provided in or permitted by this Indenture; and SECOND, for the equal and proportionate benefit, security and protection of all Reserve Instrument Providers, without privilege, priority or distinction as to the lien or otherwise of any Reserve Instrument Repayment Obligation over any of the others by reason of time of issuance, delivery or expiration thereof or otherwise for any cause whatsoever;

PROVIDED, HOWEVER, that if the Agency, its successors or assigns, shall well and truly pay, or cause to be paid, the principal and premium, if any, on the Bonds and the interest due or to become due thereon, at the times and in the manner mentioned in the Bonds, all Security Instrument Repayment Obligations, according to the true intent and meaning thereof, and all Reserve Instrument Repayment Obligations, according to the true intent and meaning thereof, or shall provide, as permitted by this Indenture, for the payment thereof as provided in Article X hereof, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions of this Indenture, then upon such final payments or provisions for such payments by the Agency, this Indenture, and the rights hereby granted, shall terminate; otherwise this Indenture shall remain in full force and effect.

The terms and conditions upon which the Bonds are to be executed, authenticated, delivered, secured and accepted by all persons who from time to time shall be or become Registered Owners thereof, and the trusts and conditions upon which the Pledged Revenues are to be held and disposed, which said trusts and conditions the Trustee hereby accepts, are as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. As used in this Indenture, the following terms shall have the following meanings unless the context otherwise clearly indicates:

“Accreted Amount” means, with respect to Capital Appreciation Bonds of any Series and as of the date of calculation, the amount representing the initial public offering price, plus the accumulated and compounded interest on such Bonds, as established pursuant to the Supplemental Indenture authorizing such Capital Appreciation Bonds.

“Additional Bonds” means all Bonds issued under this Indenture other than the Initial Bonds.

“Administrative Costs” means all Security Instrument Costs, Reserve Instrument Costs and Rebutable Arbitrage.

“Agency” means the Community Development and Renewal Agency of West Point City, Utah.

“Aggregate Annual Debt Service Requirement” means the total Debt Service (including any Repayment Obligations) for any one Bond Fund Year (or other specific period) on all Series of Bonds Outstanding or any specified portion thereof.

“Authorized Amount” means, with respect to a Commercial Paper Program, the maximum Principal amount of commercial paper which is then authorized by the Agency to be outstanding at any one time pursuant to such Commercial Paper Program.

“Authorized Representative” means the Chair or Secretary of the Agency or any other officer of the Agency certified in writing to the Trustee by the Agency.

“Average Aggregate Annual Debt Service Requirement” means the total of all Aggregate Annual Debt Service Requirements divided by the total Bond Fund Years of the Bonds Outstanding or any specified portion thereof.

“Base Year” means the year upon which taxable values are set for purposes of determining available tax revenues, all pursuant to the Redevelopment Plan.

“Bond Fund” means the Community Development and Renewal Agency of West Point City, Utah Sales Tax Revenue Bond Fund created in Section 3.2 hereof to be held by the Trustee and administered pursuant to Section 6.3 hereof.

“Bond Fund Year” means the 12-month period beginning July 1 of each year and ending on the next succeeding June 30, except that the first Bond Fund Year shall begin on the date of delivery of the Initial Bonds and shall end on the next succeeding June 30.

“Bondholder,” “Bondowner,” “Registered Owner” or “Owner” means the registered owner of any Bonds herein authorized according to the registration books of the Agency maintained by the Trustee as Registrar.

“Bonds” means bonds, notes, commercial paper or other obligations (other than Repayment Obligations) authorized by and at any time Outstanding pursuant to this Indenture, including the Initial Bonds and any Additional Bonds.

“Business Day” means (i) any day (a) on which banking business is transacted, but not including any day on which banks are authorized to be closed in New York City or in the city in which the Trustee has its Principal Corporate Trust Office or, with respect to a related Series of Bonds, in the city in which any Security Instrument Issuer has its principal office for purposes of such Security Instrument and (b) on which the New York Stock Exchange is open, or (ii) as otherwise provided in a Supplemental Indenture.

“Capital Appreciation Bonds” means Bonds, the interest on which (i) is compounded and accumulated at the rates and on the dates set forth in the Supplemental Indenture authorizing the issuance of such Bonds and designating them as Capital Appreciation Bonds, and (ii) is payable upon maturity or prior redemption of such Bonds.

“Chair” means the Chair of the Agency or any other authorized representative or successor to the duties of such office.

“City” means West Point City, Utah.

“Code” means the Internal Revenue Code of 1986, as amended.

“Commercial Paper Program” means commercial paper obligations with maturities of not more than two hundred seventy (270) days from the dates of issuance thereof which are issued and reissued by the Agency from time to time pursuant to Article II hereof and are outstanding up to an Authorized Amount.

“Construction Fund” means the Community Development and Renewal Agency of West Point City, Utah Sales Tax Revenue Construction Fund created in Section 3.1 hereof to be held by the Trustee and administered pursuant to Section 6.1 hereof.

“Cost” or “Costs” or “Cost of Completion”, or any phrase of similar import, in connection with a Project or with the refunding of any bonds, means all costs and expenses which are properly chargeable thereto under generally accepted accounting principles or which are incidental to the financing, acquisition and construction of a Project, or the refunding of any bonds, including, without limiting the generality of the foregoing:

(a) amounts payable to contractors and costs incident to the award of contracts;

(b) cost of labor, facilities and services furnished by the Agency and its employees or others, materials and supplies purchased by the Agency or others and permits and licenses obtained by the Agency or others;

(c) engineering, architectural, legal, planning, underwriting, accounting and other professional and advisory fees;

(d) premiums for contract bonds and insurance during construction and costs on account of personal injuries and property damage in the course of construction and insurance against the same;

(e) interest expenses, including interest on the Series of Bonds relating to a Project;

(f) printing, engraving and other expenses of financing, including fees of financial rating services and other costs of issuing the Series of Bonds (including costs of interest rate caps and costs related to Interest Rate Swaps (or the elimination thereof));

(g) costs, fees and expenses in connection with the acquisition of real and personal property or rights therein, including premiums for title insurance;

(h) costs of furniture, fixtures, and equipment purchased by the Agency and necessary to construct a Project;

(i) amounts required to repay temporary or bond anticipation loans or notes made to finance the costs of a Project;

(j) cost of site improvements in anticipation of, and infrastructure improvements related to, a Project;

(k) moneys necessary to fund the funds created under this Indenture;

(l) costs of the capitalization with proceeds of a Series of Bonds issued hereunder of any operation and maintenance expenses and other working capital appertaining to any facilities to be acquired for a Project and of any interest on a Series of Bonds for any period not exceeding the period estimated by the Agency to effect the construction of a Project plus one year, as herein provided, of any discount on bonds or other securities, and of any reserves for the payment of the principal of and interest on a Series of Bonds, of any replacement expenses and of any other cost of issuance of a Series of Bonds or other securities, Security Instrument Costs and Reserve Instrument Costs;

(m) costs of amending any indenture or other instrument authorizing the issuance of or otherwise appertaining to a Series of Bonds;

(n) all other expenses necessary or desirable and appertaining to a Project, as estimated or otherwise ascertained by the Agency, including costs of contingencies for a Project; and

(o) payment to the Agency of such amounts, if any, as shall be necessary to reimburse the Agency in full for advances and payments theretofore made or costs theretofore incurred by the Agency for any item of Costs.

In the case of refunding or redeeming any bonds or other obligations, “Cost” includes, without limiting the generality of the foregoing, the items listed in (c), (e), (f), (i), (k), (l), (m) and (o) above, advertising and other expenses related to the redemption of such bonds to be redeemed and the redemption price of such bonds (and the accrued interest payable on redemption to the extent not otherwise provided for).

“Cross-over Date” means, with respect to Cross-over Refunding Bonds, the date on which the Principal portion of the related Cross-over Refunded Bonds is to be paid or redeemed from the proceeds of such Cross-over Refunding Bonds.

“Cross-over Refunded Bonds” means Bonds or other obligations refunded by Cross-over Refunding Bonds.

“Cross-over Refunding Bonds” means Bonds issued for the purpose of refunding Bonds or other obligations if the proceeds of such Cross-over Refunding Bonds are irrevocably deposited in escrow in satisfaction of the requirements of Section 11-27-3, Utah Code, to secure the payment on an applicable redemption date or maturity date of the Cross-over Refunded Bonds (subject to possible use to pay Principal of the Cross-over Refunding Bonds under certain circumstances) and the earnings on such escrow deposit are required to be applied to pay interest on the Cross-over Refunding Bonds until the Cross-over Date.

“Current Interest Bonds” means all Bonds other than Capital Appreciation Bonds. Interest on Current Interest Bonds shall be payable periodically on the Interest Payment Dates provided therefor in a Supplemental Indenture.

“Debt Service” means, for any particular Bond Fund Year and for any Series of Bonds and any Repayment Obligations, an amount equal to the sum of (i) all interest payable during such Bond Fund Year on such Series of Bonds plus (ii) the Principal Installments payable during such Bond Fund Year on (a) such Bonds Outstanding, calculated on the assumption that Bonds Outstanding on the day of calculation cease to be Outstanding by reason of, but only by reason of, payment either upon maturity or application of any Sinking Fund Installments required by the Indenture, and (b) such Repayment Obligations then outstanding;

provided, however, for purposes of Section 2.13 hereof,

(1) when calculating interest payable during such Bond Fund Year for any Series of Variable Rate Bonds or Repayment Obligations bearing interest at a variable rate which cannot be ascertained for any particular Bond Fund Year, it shall be assumed that such Series of Variable Rate Bonds or related Repayment Obligations will bear interest at such market rate of interest applicable to such Series of Variable Rate Bonds or related Repayment Obligations, as shall be established for this purpose in the opinion of the Agency’s financial advisor, underwriter or similar agent (which market rate of interest may

be based upon a recognized comparable market index, an average of interest rates for prior years or otherwise);

(2) when calculating interest payable during such Bond Fund Year for any Series of Variable Rate Bonds which are issued with a floating rate and with respect to which an Interest Rate Swap is in effect in which the Agency has agreed to pay a fixed interest rate, such Series of Variable Rate Bonds shall be deemed to bear interest at the effective fixed annual rate thereon as a result of such Interest Rate Swap; provided that such effective fixed annual rate may be utilized only if such Interest Rate Swap does not result in a reduction or withdrawal of any rating then in effect with respect to the Bonds and so long as such Interest Rate Swap is contracted to remain in full force and effect;

(3) when calculating interest payable during such Bond Fund Year for any Series of Bonds which are issued with a fixed interest rate and with respect to which an Interest Rate Swap is in effect in which the Agency has agreed to pay a floating amount, Debt Service shall include the interest payable on such Series of Bonds, less fixed amounts to be received by the Agency under such Interest Rate Swap plus the amount of the floating payments (using the market rate in a manner similar to that described in (1) above, unless another method of estimation is more appropriate, in the opinion of the Agency's financial advisor, underwriter or similar agent with the approval of each Rating Agency, for such floating payments) to be made by the Agency under the Interest Rate Swap; provided that the above described calculation of Debt Service may be utilized only if such Interest Rate Swap does not result in a reduction or withdrawal of any rating then in effect with respect to the Bonds and so long as such Interest Rate Swap is contracted to remain in full force and effect; and

(4) when calculating interest payable during such Bond Fund Year with respect to any Commercial Paper Program, Debt Service shall include an amount equal to the sum of all principal and interest payments that would be payable during such Bond Fund Year assuming that the Authorized Amount of such Commercial Paper Program is amortized on a level debt service basis over a period of ten years beginning on the date of calculation or, if later, the last day of the period during which obligations can be issued under such Commercial Paper Program, and bearing interest at such market rate of interest applicable to such Commercial Paper Program as shall be established for this purpose in the opinion of the Agency's financial advisor, underwriter or similar agent (which market rate of interest may be based upon a recognized comparable market index, an average of interest rates for prior years or otherwise);

and further provided, that there shall be excluded from Debt Service (a) interest on Bonds (including Cross-over Refunding Bonds or Cross-over Refunded Bonds) to the extent that Escrowed Interest or capitalized interest is available to pay such interest, (b) Principal on Cross-over Refunded Bonds to the extent that the proceeds of Cross-over Refunding Bonds are on deposit in an irrevocable escrow in satisfaction of the requirements of Section 11-27-3, Utah Code, as amended, and such proceeds or the earnings thereon are required to be applied to pay such Principal (subject to the possible use to pay the Principal of the Cross-over Refunding Bonds under certain circumstances) and such amounts so required to be applied are sufficient to pay such Principal, (c) Repayment Obligations to the extent that

payments on Pledged Bonds relating to such Repayment Obligations satisfy the Agency's obligation to pay such Repayment Obligations, and (d) all interest on Bonds to the extent of Direct Payments attributable to Debt Service on Outstanding Bonds or Additional Bonds proposed to be issued.

"Debt Service Reserve Fund" means the Community Development and Renewal Agency of West Point City, Utah Sales Tax Revenue Debt Service Reserve Fund created in Section 3.4 hereof to be held by the Trustee and administered pursuant to Section 6.5 hereof.

"Debt Service Reserve Requirement" means, with respect to each Series of Bonds issued pursuant to this Indenture, the amount, if any, specified in the related Supplemental Indenture. Each account of the Debt Service Reserve Fund shall only be used with respect to the related Series of Bonds.

"Direct Obligations" means noncallable Government Obligations.

"Direct Payments" means the interest subsidy payments received by the Agency from the Internal Revenue Service pursuant to Direct Payment Bonds, Section 6431 of the Code, or other similar programs with respect to Bonds issued hereunder.

"Direct Payment Bonds" means the interest subsidy bonds issuable by the Agency under Sections 54AA and 6431 of the Code and a "qualified bond" under Section 54AA(g)(2) of the Code or such other tax credit bonds of substantially similar nature which may be hereafter authorized.

"Escrowed Interest" means amounts irrevocably deposited in escrow in accordance with the requirements of Section 11-27-3, Utah Code, in connection with the issuance of refunding bonds or Cross-over Refunding Bonds secured by such amounts or earnings on such amounts which are required to be applied to pay interest on such Cross-over Refunding Bonds or the related Cross-over Refunded Bonds.

"Event of Default" means with respect to any default or event of default hereunder any occurrence or event specified in and defined by Section 7.1 hereof.

"Fitch" means Fitch Ratings.

"Governing Body" means the Board of Directors of the Agency.

"Government Obligations" means one or more of the following:

- (a) State and Local Government Series issued by the United States Treasury ("SLGS");
- (b) United States Treasury bills, notes and bonds, as traded on the open market;
- (c) Zero Coupon United States Treasury Bonds; and

(d) Any other direct obligations of or obligations fully and unconditionally guaranteed by, the United States of America (including, without limitation, obligations commonly referred to as “REFCORP strips”).

“Indenture” means this General Indenture of Trust as from time to time amended or supplemented by Supplemental Indentures in accordance with the terms of this Indenture.

“Initial Bonds” means the first Series of Bonds issued under this Indenture.

“Interest Payment Date” means the stated payment date of an installment of interest on the Bonds.

“Interest Rate Swap” means an agreement between the Agency or the Trustee and a Swap Counterparty related to a Series of Bonds whereby a variable rate cash flow (which may be subject to any interest rate cap) on a principal or notional amount is exchanged for a fixed rate of return on an equal principal or notional amount. If the Agency or the Trustee enters into more than one Interest Rate Swap with respect to a Series of Bonds, each Interest Rate Swap shall specify the same payment dates.

“Interlocal Agreement” means that certain Sales Tax Interlocal Pledge Agreement dated as of _____, 2022, entered by and between the Agency and the City pursuant to which the City has pledged to the Agency its Sales and Use Tax Revenues as provided therein.

“Investment Income” means the net gain derived from the investment of moneys held in the Bond Fund and the Rebate Fund created in this Indenture.

“Moody’s” means Moody’s Investors Service, Inc.

“MSRB” means the Municipal Securities Rulemaking Board.

“Outstanding” or “Bonds Outstanding” means at any date all Bonds which have not been canceled which have been or are being authenticated and delivered by the Trustee under this Indenture, except:

(a) Any Bond or portion thereof which at the time has been paid or deemed paid pursuant to Article X of this Indenture; and

(b) Any Bond in lieu of or in substitution for which a new Bond shall have been authenticated and delivered hereunder, unless proof satisfactory to the Trustee is presented that such Bond is held by a bona fide holder in due course.

“Owner(s)” or “Registered Owner(s)” means the registered owner(s) of the Bonds according to the registration books of the Agency maintained by the Trustee as Registrar for the Bonds pursuant to Sections 2.6 and 11.5 hereof.

“Paying Agent” means the Trustee, appointed as the initial paying agent for the Bonds pursuant to Section 11.5 hereof, and any additional or successor paying agent appointed pursuant hereto.

“Pledged Bonds” means any Bonds that have been (i) pledged or in which any interest has otherwise been granted to a Security Instrument Issuer as collateral security for Security Instrument Repayment Obligations or (ii) purchased and held by a Security Instrument Issuer pursuant to a Security Instrument.

“Pledged Revenues” means 100% of the Sales and Use Tax Revenues received by the Agency and the Investment Income.

“Principal” means (i) with respect to any Capital Appreciation Bond, the Accreted Amount thereof (the difference between the stated amount to be paid at maturity and the Accreted Amount being deemed unearned interest), except as used in connection with the authorization and issuance of Bonds and with the order of priority of payment of Bonds after an Event of Default, in which case “Principal” means the initial public offering price of a Capital Appreciation Bond (the difference between the Accreted Amount and the initial public offering price being deemed interest), and (ii) with respect to any Current Interest Bond, the principal amount of such Bond payable at maturity.

“Principal Corporate Trust Office” means, with respect to the Trustee, the office of the Trustee at _____, or such other or additional offices as may be specified by the Trustee.

“Principal Installment” means, as of any date of calculation, (i) with respect to any Series of Bonds, so long as any Bonds thereof are Outstanding, (a) the Principal amount of Bonds of such Series due on a certain future date for which no Sinking Fund Installments have been established, or (b) the unsatisfied balance of any Sinking Fund Installment due on a certain future date for Bonds of such Series, plus the amount of the sinking fund redemption premiums, if any, which would be applicable upon redemption of such Bonds on such future date in a Principal amount equal to such unsatisfied balance of such Sinking Fund Installment and (ii) with respect to any Repayment Obligations, the principal amount of such Repayment Obligations due on a certain future date.

“Project” shall mean the Project as defined in each Supplemental Indenture, provided that such Project is a permitted purpose for use of the Pledged Revenues.

“Put Bond” means any Bond which is part of a Series of Bonds which is subject to purchase by the Agency, its agent or a third party from the Owner of the Bond pursuant to provisions of the Supplemental Indenture authorizing the issuance of the Put Bond and designating it as a “Put Bond”.

“Qualified Investments” means any of the following securities:

- (a) Government Obligations;

(b) Obligations of any of the following federal agencies which obligations represent full faith and credit obligations of the United States of America including: the Export-Import Bank of the United States; the Government National Mortgage Association; the Federal Financing Bank; the Farmer's Home Administration; the Federal Housing Administration; the Maritime Administration; General Services Administration, Small Business Administration; or the Department of Housing and Urban Development (PHA's);

(c) Money market funds rated "AAAm" or "AAAm-G" or better by S & P and/or the equivalent rating or better of Moody's (if so rated), including money market funds from which the Trustee or its affiliates derive a fee for investment advisory services to the fund;

(d) Commercial paper which is rated at the time of purchase in the single highest classification, "P-1" by Moody's or "A-1+" by S & P, and which matures not more than 270 days after the date of purchase;

(e) Bonds, notes or other evidences of indebtedness rated "AAA" by S & P and "Aaa" by Moody's issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;

(f) U.S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks, including the Trustee and its affiliates, which have a rating on their short-term certificates of deposit on the date of purchase of "A-1" or "A-1+" by S & P and "P-1" by Moody's and maturing no more than 360 days after the date of purchase (ratings on holding companies are not considered as the rating of the bank);

(g) The fund held by the Treasurer for the State of Utah and commonly known as the Utah State Public Treasurer's Investment Fund; and

(h) Any other investments or securities permitted for investment of public funds under the State Money Management Act of 1974, Title 51, Chapter 7, Utah Code, Annotated 1953, as amended, including investments contracts permitted by Section 51-7-17(2)(d) thereof.

"Rating Agency" means Fitch, Moody's or S & P and their successors and assigns, but only to the extent such rating agency is then providing a rating on a Series of Bonds issued hereunder at the request of the Agency. If any such Rating Agency ceases to act as a securities rating agency, the Agency may designate any nationally recognized securities rating agency as a replacement.

"Rating Category" or "Rating Categories" mean one or more of the generic rating categories of a Rating Agency, without regard to any refinement or gradation of such rating category or categories by a numerical modifier or otherwise.

“Rebatable Arbitrage” means with respect to any Series of Bonds where (i) the interest thereon is intended to be excludable from gross income for federal income tax purposes or (ii) Direct Payments are applicable, the amount (determinable as of each Rebate Calculation Date) of rebatable arbitrage payable to the United States at the times and in the amounts specified in Section 148(f)(3) of the Code and Section 1.148-3 of the Regulations.

“Rebate Calculation Date” means, with respect to any Series of Bonds where (i) the interest thereon is intended to be excludable from gross income for federal income tax purposes or (ii) Direct Payments are applicable, the Interest Payment Date next preceding the fifth anniversary of the issue date of such Series of Bonds, each fifth anniversary of the initial rebate calculation date for such Series of Bonds, and the date of retirement of the last Bond for such Series.

“Rebate Fund” means the Community Development and Renewal Agency of West Point City, Utah Sales Tax Revenue Rebate Fund created in Section 3.7 hereof to be held by the Trustee and administered pursuant to Section 6.7 hereof.

“Redevelopment Act” means the Limited Purpose Local Government Entities—Community Reinvestment Agency Act, Title 17C, Utah Code Annotated 1953, as amended.

“Redevelopment Plan” means the redevelopment plan for the Redevelopment Project Area first approved and adopted by the legislative body of West Point City, Utah on _____, pursuant to Ordinance No. _____, and includes any amendment of said plan hereafter made pursuant to law.

“Redevelopment Project Area” means the 300 North Community Development Project Area, as described and defined in the Redevelopment Plan.

“Registrar” means the Trustee (or other party designated as Registrar by Supplemental Indenture), appointed as the registrar for the Bonds pursuant to Sections 2.6 and 11.5 hereof, and any additional or successor registrar appointed pursuant hereto.

“Regular Record Date” means, unless otherwise provided by Supplemental Indenture for a Series of Bonds, the fifteenth day immediately preceding each Interest Payment Date.

“Regulations,” and all references thereto means the applicable final, proposed and temporary United States Treasury Regulations promulgated with respect to Sections 103 and 141 through 150 of the Code, including all amendments thereto made hereafter.

“Remarketing Agent” means the remarketing agent or commercial paper dealer appointed by the Agency pursuant to a Supplemental Indenture.

“Repayment Obligations” means, collectively, all outstanding Security Instrument Repayment Obligations and Reserve Instrument Repayment Obligations.

“Reserve Instrument” means a device or instrument issued by a Reserve Instrument Provider to satisfy all or any portion of the Debt Service Reserve Requirement applicable to a Series of Bonds. The term “Reserve Instrument” includes, by way of example and not of limitation, letters of credit, bond insurance policies, surety bonds, standby bond purchase agreements, lines of credit and other devices.

“Reserve Instrument Agreement” means any agreement entered into by the Agency and a Reserve Instrument Provider pursuant to a Supplemental Indenture (including the applicable portions of a Supplemental Indenture) and providing for the issuance by such Reserve Instrument Provider of a Reserve Instrument.

“Reserve Instrument Costs” means all fees, premiums, expenses and similar costs, other than Reserve Instrument Repayment Obligations, required to be paid to a Reserve Instrument Provider pursuant to a Reserve Instrument Agreement. Each Reserve Instrument Agreement shall specify the fees, premiums, expenses and costs constituting Reserve Instrument Costs.

“Reserve Instrument Coverage” means, as of any date of calculation, the aggregate amount available to be paid to the Trustee pursuant hereto under all Reserve Instruments.

“Reserve Instrument Fund” means the Community Development and Renewal Agency of West Point City, Utah Sales Tax Revenue Reserve Instrument Fund created in Section 3.5 hereof to be held by the Trustee and administered pursuant to Section 6.6 hereof.

“Reserve Instrument Limit” means, as of any date of calculation and with respect to any Reserve Instrument, the maximum aggregate amount available to be paid under such Reserve Instrument into the Debt Service Reserve Fund assuming for purposes of such calculation that the amount initially available under each Reserve Instrument has not been reduced or that the amount initially available under each Reserve Instrument has only been reduced as a result of the payment of principal of the applicable Series of Bonds.

“Reserve Instrument Provider” means any bank, savings and loan association, savings bank, thrift institution, credit union, insurance company, surety company or other institution issuing a Reserve Instrument.

“Reserve Instrument Repayment Obligations” means, as of any date of calculation and with respect to any Reserve Instrument Agreement, those outstanding amounts payable by the Agency under such Reserve Instrument Agreement to repay the Reserve Instrument Provider for payments previously made by it pursuant to a Reserve Instrument. There shall not be included in the calculation of Reserve Instrument Repayment Obligations any Reserve Instrument Costs.

“Revenue Fund” means the Community Development and Renewal Agency of West Point City, Utah Sales Tax Revenue Fund created in Section 3.3 hereof to be held by the Agency and administered pursuant to Section 6.2 hereof.

[“Sales and Use Tax Revenues” means, as described in the Interlocal Agreement, the City’s local sales and use tax revenues received by the City pursuant to Title 59, Chapter 12, Part 2, Utah Code Annotated 1953, as amended, which are also pledged on a parity with the City’s outstanding sales tax revenue obligations and bonds, as the same may be issued by the City from time to time.]

“S&P” means S&P Global Ratings.

“Secretary” means the Secretary of the Agency and any deputy to the Secretary or any successor to the duties of such office.

“Security Instrument” means an instrument or other device issued by a Security Instrument Issuer to pay, or to provide security or liquidity for, a Series of Bonds. The term “Security Instrument” includes, by way of example and not of limitation, letters of credit, bond insurance policies, standby bond purchase agreements, lines of credit and other security instruments and credit enhancement or liquidity devices (but does not include a Reserve Instrument); provided, however, that no such device or instrument shall be a “Security Instrument” for purposes of this Indenture unless specifically so designated in a Supplemental Indenture authorizing the use of such device or instrument.

“Security Instrument Agreement” means any agreement entered into by the Agency and a Security Instrument Issuer pursuant to a Supplemental Indenture (including the applicable portions of a Supplemental Indenture) providing for the issuance by such Security Instrument Issuer of a Security Instrument.

“Security Instrument Costs” means, with respect to any Security Instrument, all fees, premiums, expenses and similar costs, other than Security Instrument Repayment Obligations, required to be paid to a Security Instrument Issuer pursuant to a Security Instrument Agreement or the Supplemental Indenture authorizing the use of such Security Instrument. Such Security Instrument Agreement or Supplemental Indenture shall specify any fees, premiums, expenses and costs constituting Security Instrument Costs.

“Security Instrument Issuer” means any bank or other financial institution, insurance company, surety company or other institution issuing a Security Instrument.

“Security Instrument Repayment Obligations” means, as of any date of calculation and with respect to any Security Instrument Agreement, any outstanding amounts payable by the Agency under the Security Instrument Agreement or the Supplemental Indenture authorizing the use of such Security Instrument to repay the Security Instrument Issuer for payments previously or concurrently made by the Security Instrument Issuer pursuant to a Security Instrument. There shall not be included in the calculation of the amount of Security Instrument Repayment Obligations any Security Instrument Costs.

“Series” means all of the Bonds authenticated and delivered on original issuance and identified pursuant to the Supplemental Indenture authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu thereof or in substitution therefor.

“Sinking Fund Account” means the Community Development and Renewal Agency of West Point City, Utah Sales Tax Revenue Sinking Fund Account of the Bond Fund created in Section 3.4 hereof to be held by the Trustee and administered pursuant to Section 6.4 hereof.

“Sinking Fund Installment” means the amount of money which is required to be deposited into the Sinking Fund Account in each Bond Fund Year for the retirement of Term Bonds as specified in the Supplemental Indenture authorizing said Term Bonds (whether at maturity or by redemption), and including the redemption premium, if any.

“Special Record Date” means such date as may be fixed for the payment of defaulted interest on the Bonds in accordance with this Indenture.

“State” means the State of Utah.

“Supplemental Indenture” means any supplemental indenture between the Agency and the Trustee entered into pursuant to and in compliance with the provisions of Article IX hereof.

“Swap Counterparty” means a member of the International Swap Dealers Association rated in one of the three top Rating Categories by at least one of the Rating Agencies and meeting the requirements of applicable laws of the State.

“Swap Payments” means as of each payment date specified in an Interest Rate Swap, the amount, if any, payable to the Swap Counterparty by the Agency. Swap Payments do not include any Termination Payments.

“Swap Receipts” means as of each payment date specified in an Interest Rate Swap, the amount, if any, payable for the account of the Agency by the Swap Counterparty. Swap Receipts do not include amounts received with respect to the early termination or modification of an Interest Rate Swap.

“Term Bonds” means the Bonds which shall be subject to retirement by operation of mandatory sinking fund redemptions from the Sinking Fund Account.

“Termination Payments” means the amount payable to the Swap Counterparty by the Agency with respect to the early termination or modification of an Interest Rate Swap. Termination Payments may only be payable from and secured by Pledged Revenues after payment of all amounts then due pursuant to the Indenture.

“Trustee” means _____, Corporate Trust Department, _____, or any successor corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at any time serving as successor trustee hereunder.

“Utah Code” means Utah Code Annotated 1953, as amended.

“Variable Rate Bonds” means, as of any date of calculation, Bonds, the interest on which for any future period of time, is to be calculated at a rate which is not susceptible to a precise determination.

Section 1.2 Indenture to Constitute Contract. In consideration of the purchase and acceptance from time to time of any and all of the Bonds authorized to be issued hereunder by the Registered Owners thereof, the issuance from time to time of any and all Security Instruments by the Security Instrument Issuers, and the issuance from time to time of any and all Reserve Instruments by Reserve Instrument Providers pursuant hereto, this Indenture shall be deemed to be and shall constitute a contract between the Agency and the Owners from time to time of the Bonds, the Security Instrument Issuers and the Reserve Instrument Providers; and the pledge made in this Indenture and the covenants and agreements herein set forth to be performed by or on behalf of the Agency shall be, FIRST, for the equal benefit, protection and security of the Owners of any and all of the Bonds and the Security Instrument Issuers of any and all of the Security Instruments all of which, regardless of the time or times of their issuance and delivery or maturity or expiration, shall be of equal rank without preference, priority or distinction of any of the Bonds or Security Instrument Repayment Obligations over any others, except as expressly provided in or permitted by this Indenture, and SECOND, for the equal benefit, protection and security of the Reserve Instrument Providers of any and all of the Reserve Instruments which, regardless of the time or times of their issuance, delivery or termination, shall be of equal rank without preference, priority or distinction of any Reserve Instrument over any other thereof.

Section 1.3 Construction. This Indenture, except where the context by clear implication herein otherwise requires, shall be construed as follows:

- (a) The terms “hereby,” “hereof,” “herein,” “hereto,” “hereunder”, and any similar terms used in this Indenture shall refer to this Indenture in its entirety unless the context clearly indicates otherwise.
- (b) Words in the singular number include the plural, and words in the plural include the singular.
- (c) Words in the masculine gender include the feminine and the neuter, and when the sense so indicates, words of the neuter gender refer to any gender.
- (d) Articles, sections, subsections, paragraphs and subparagraphs mentioned by number, letter, or otherwise, correspond to the respective articles, sections, subsections, paragraphs and subparagraphs hereof so numbered or otherwise so designated.
- (e) The titles or leadlines applied to articles, sections and subsections herein are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provisions of this Indenture.

ARTICLE II

THE BONDS

Section 2.1 Authorization of Bonds There is hereby authorized for issuance hereunder Bonds which may, if and when authorized by Supplemental Indenture, be issued in one or more separate Series. Each Series of Bonds shall be authorized by a Supplemental Indenture, which shall state the purpose or purposes for which each such Series of Bonds is being issued. The aggregate principal amount of Bonds which may be issued shall not be limited except as provided herein or as may be limited by law provided that the aggregate principal amount of Bonds of each such Series shall not exceed the amount specified in the Supplemental Indenture authorizing each such Series of Bonds.

Section 2.2 Description of Bonds; Payment.

(a) Each Series of Bonds issued under the provisions hereof may be issued only as registered bonds. Unless otherwise specified in the Supplemental Indenture authorizing such Series of Bonds, each Series of Bonds shall be in the denomination of Five Thousand Dollars (\$5,000) each or any integral multiple thereof, shall be numbered consecutively from R-1 upwards and shall bear interest payable on each Interest Payment Date.

(b) Each Series of Bonds issued under the provisions hereof shall be dated, shall bear interest at a rate or rates not exceeding the maximum rate permitted by law on the date of initial issuance of such Series, shall be payable on the days, shall be stated to mature on the days and in the years and shall be subject to redemption prior to their respective maturities, all as set forth in the Supplemental Indenture authorizing such Series of Bonds. Each Series of Bonds shall be designated “[Federally Taxable] Sales Tax Revenue [Refunding] [Exchange] Bonds, Series __,” in each case inserting the year in which the Bonds are issued and, if necessary, an identifying Series letter.

(c) Both the principal of and the interest on the Bonds shall be payable in lawful money of the United States of America. Payment of the interest on any Bond shall be made to the person appearing on the Bond registration books of the Registrar hereinafter provided for as the Registered Owner thereof by check or draft mailed on the Interest Payment Date to the Registered Owner at his address as it appears on such registration books or to owners of \$1,000,000 or more in aggregate principal amount of Bonds (or owners of 100% of any Series then Outstanding) by wire transfer to a bank account located in the United States of America designated by the Registered Owner in written instructions furnished to the Trustee no later than the Regular Record Date for such payment. Unless otherwise specified in the related Supplemental Indenture, the interest on Bonds so payable and punctually paid and duly provided for on any Interest Payment Date will be paid to the person who is the Registered Owner thereof at the close of business on the Regular Record Date for such interest immediately preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided

for shall forthwith cease to be payable to the registered owner of any Bond on such Regular Record Date, and may be paid to the person who is the Registered Owner thereof at the close of business on a Special Record Date for the payment of such defaulted interest to be fixed by the Trustee, notice thereof to be given to such Registered Owner not less than ten (10) days prior to such Special Record Date. The principal of and premium, if any, on Bonds are payable upon presentation and surrender thereof at the Principal Corporate Trust Office of the Trustee as Paying Agent, except as otherwise provided by Supplemental Indenture. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(d) The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions hereof as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission or brokerage board or otherwise, as may be specified in the Supplemental Indenture authorizing such Series of Bonds.

Section 2.3 Execution; Limited Obligation. Unless otherwise specified in the related Supplemental Indenture, the Bonds of any Series shall be executed on behalf of the Agency with the manual or official facsimile signature of its Chair, countersigned with the manual or official facsimile signature of the Secretary, and shall have impressed or imprinted thereon the corporate seal or facsimile thereof of the Agency. In case any officer, the facsimile of whose signature shall appear on the Bonds, shall cease to be such officer before the delivery of such Bonds, such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

The Bonds, together with interest thereon, and all Repayment Obligations shall be limited obligations of the Agency payable solely from the Pledged Revenues (except to the extent paid out of moneys attributable to the Bond proceeds or other funds created hereunder (except the Rebate Fund) or the income from the temporary investment thereof). The Bonds shall be a valid claim of the Registered Owners thereof only against the Pledged Revenues and other moneys in funds and accounts held by the Trustee hereunder (except the Rebate Fund) and the Agency hereby pledges and assigns the same for the equal and ratable payment of the Bonds and all Repayment Obligations, and the Pledged Revenues shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Bonds and to pay the Repayment Obligations, except as may be otherwise expressly authorized herein or by Supplemental Indenture. The issuance of the Bonds and delivery of any Security Instrument Agreement or Reserve Instrument Agreement shall not, directly, indirectly or contingently, obligate the Agency or any agency, instrumentality or political subdivision thereof to levy any form of ad valorem taxation therefor. The Bonds, the interest thereon, the Accreted Value, as applicable, and any premium or Accreted Value, as applicable, payable upon the redemption, if any, thereof are not a general obligation or debt of the City, the State of Utah or any of its political subdivisions; and neither such city, such state nor any of its political subdivisions is liable on them, and in no event shall the Bonds, such interest or premium or Accreted Value, as applicable, give rise to a general obligation or liability of the City, the State or any of its political subdivisions or a charge against their general credit or taxing power or be payable out of

any funds or properties other than those of the Agency as in this General Indenture or in any Supplemental Indenture set forth. The Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Neither the members of the Agency nor any persons executing the Bonds are liable personally on the Bonds by reason of their issuance. Except as otherwise provided in any Supplemental Indenture, the Bonds shall be and are equally secured by an irrevocable and first lien pledge of the Pledged Revenues and other funds as hereinafter provided, without priority for series, number, date of sale, date of execution, or date of delivery. Nothing in this General Indenture shall preclude the payment of the Bonds from the proceeds of refunding bonds issued pursuant to law. Except as hereinabove set forth, nothing in this Indenture shall prevent the Agency from making advances of its own funds, howsoever derived, to any of the uses and purposes mentioned in this Indenture.

Section 2.4 Authentication and Delivery of Bonds.

(a) The Agency shall deliver executed Bonds of each Series to the Trustee for authentication. Subject to the satisfaction of the conditions for authentication of Bonds set forth herein, the Trustee shall authenticate such Bonds and deliver them upon the order of the Agency to the purchasers thereof (or hold them on their behalf) upon the payment by the purchasers of the purchase price therefor to the Trustee for the account of the Agency. Delivery by the Trustee shall be full acquittal to the purchasers for the purchase price of such Bonds, and such purchasers shall be under no obligation to see to the application of said purchase price. The proceeds of the sale of such Bonds shall, however, be disposed of only as provided herein and in the related Supplemental Indenture.

(b) No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit hereunder, unless and until a certificate of authentication on such Bond substantially in the form set forth in the Supplemental Indenture authorizing such Bond shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered hereunder. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

(c) Prior to the authentication by the Trustee of each Series of Bonds there shall have been filed with the Trustee:

(i) A copy of this Indenture (to the extent not theretofore so filed) and the Supplemental Indenture authorizing such Series of Bonds;

(ii) A copy, certified by the Secretary, of the proceedings of the Agency's Governing Body approving the execution and delivery of the instruments specified in Section 2.4(c)(i) above and the execution and delivery of such Series of Bonds, together with a certificate, dated as of the

date of authentication of such Series of Bonds, of the Secretary that such proceedings are still in force and effect without amendments except as shown in such proceedings;

(iii) A request and authorization of the Agency to the Trustee to authenticate such Series of Bonds in the aggregate principal amount therein specified and deliver them to purchasers therein identified upon payment to the Trustee for account of the Agency of the sum specified therein;

(iv) An opinion of bond counsel dated the date of authentication of such Series of Bonds to the effect that (a) this Indenture has been duly authorized, executed and delivered by the Agency and is a valid and binding obligation of the Agency; (b) this Indenture creates the valid pledge which it purports to create of the Pledged Revenues; and (c) the Bonds of such Series are valid and binding special limited obligations of the Agency;

(d) The Agency may provide by Supplemental Indenture for the delivery to the Trustee of one or more Security Instruments with respect to any Series of Bonds and the execution and delivery of any Security Instrument Agreements deemed necessary in connection therewith; (or may substitute one Security Instrument for another);

(e) The Agency may provide by Supplemental Indenture for the issuance and delivery to the Trustee of one or more Reserve Instruments and the execution and delivery of any Reserve Instrument Agreements deemed necessary in connection therewith;

(f) The Agency may authorize by Supplemental Indenture the issuance of Put Bonds; provided that any obligation of the Agency to pay the purchase price of any such Put Bonds shall not be secured by a pledge of Pledged Revenues on a parity with the pledge herein to pay principal of and interest on the Bonds. The Agency may provide for the appointment of such Remarketing Agents, indexing agents, tender agents or other agents as the Agency may determine;

(g) The Agency may include such provisions in a Supplemental Indenture authorizing the issuance of a Series of Bonds secured by a Security Instrument as the Agency deems appropriate, including:

(i) So long as the Security Instrument is in full force and effect, and payment on the Security Instrument is not in default, (I) the Security Instrument Issuer shall be deemed to be the Owner of the Outstanding Bonds of such Series (a) when the approval, consent or action of the Bondowners for such Series of Bonds is required or may be exercised under the Indenture and (b) following an Event of Default and (II) the Indenture may not be amended in any manner which affects the rights of such Security Instrument Issuer without its prior written consent; and

(ii) In the event that the Principal and redemption price, if applicable, and interest due on any Series of Bonds Outstanding shall be paid under the provisions of a Security Instrument, all covenants, agreements and other obligations of the Agency to the Bondowners of such Series of Bonds shall continue to exist and such Security Instrument Issuer shall be subrogated to the rights of such Bondowners in accordance with the terms of such Security Instrument; and

(iii) In addition, such Supplemental Indenture may establish such provisions as are necessary to provide relevant information to the Security Instrument Issuer and to provide a mechanism for paying Principal Installments and interest on such Series of Bonds from the Security Instrument.

(h) The Agency may provide for the execution of an Interest Rate Swap in connection with any Series of Bonds issued hereunder. The obligation of the Agency to pay Swap Payments may be secured with (A) a lien on the Pledged Revenues on a parity with the lien thereon of Debt Service on the related Bonds and may be net of Swap Receipts or (B) a subordinate lien on the Pledged Revenues and may be net of Swap Receipts. Such obligations may also be secured by other legally available moneys of the Agency, all as established in the Supplemental Indenture for the related Series of Bonds. Termination Payments may only be payable from and secured by Revenues after payment of all amounts then due pursuant to the Indenture.

Section 2.5 Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, the Agency may execute and the Trustee may authenticate a new Bond of like date, Series, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together in all cases with indemnity satisfactory to the Trustee and the Agency. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, the Trustee may pay the same without surrender thereof upon compliance with the foregoing. The Trustee may charge the Registered Owner of such Bond with its reasonable fees and expenses in connection therewith. Any Bond issued pursuant to this Section 2.5 shall be deemed part of the Series of Bonds in respect of which it was issued and an original additional contractual obligation of the Agency.

Section 2.6 Registration of Bonds; Persons Treated as Owners. The Agency shall cause the books for the registration and for the transfer of the Bonds to be kept by the Trustee which is hereby constituted and appointed the Registrar of the Agency with respect to the Bonds, provided, however, that the Agency may by Supplemental Indenture select a party other than the Trustee to act as Registrar with respect to the Series of Bonds issued under said Supplemental Indenture. Upon the occurrence of an Event of Default which would require any Security Instrument Issuer to make payment under a Security Instrument Agreement, the Registrar shall make such registration books available to the Security

Instrument Issuer. Any Bond may, in accordance with its terms, be transferred only upon the registration books kept by the Registrar, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Registrar, duly executed. No transfer shall be effective until entered on the registration books kept by the Registrar. Upon surrender for transfer of any Bond at the Principal Corporate Trust Office of the Trustee, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Trustee and duly executed by, the Registered Owner or his attorney duly authorized in writing, the Agency shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees, a new Bond or Bonds of the same Series and the same maturity for a like aggregate principal amount as the Bond surrendered for transfer. Bonds may be exchanged at the Principal Corporate Trust Office of the Trustee for a like aggregate principal amount of Bonds of the same Series and the same maturity. The execution by the Agency of any Bond of any authorized denomination shall constitute full and due authorization of such denomination, and the Trustee shall thereby be authorized to authenticate and deliver such Bond. Except as otherwise provided in a Supplemental Indenture with respect to a Series of Bonds, the Agency and the Trustee shall not be required to transfer or exchange any Bond (i) during the period from and including any Regular Record Date, to and including the next succeeding Interest Payment Date, (ii) during the period from and including the day fifteen days prior to any Special Record Date, to and including the date of the proposed payment pertaining thereto, (iii) during the period from and including the day fifteen days prior to the mailing of notice calling any Bonds for redemption, to and including the date of such mailing, or (iv) at any time following the mailing of notice calling such Bond for redemption.

The Agency, the Registrar and the Paying Agent may treat and consider the person in whose name each Bond is registered on the registration books kept by the Registrar as the holder and absolute owner thereof for the purpose of receiving payment of, or on account of, the principal or redemption price thereof and interest due thereon and for all other purposes whatsoever, and neither the Agency, nor the Registrar nor the Paying Agent shall be affected by any notice to the contrary. Payment of or on account of either principal of or interest on any Bond shall be made only to or upon order of the Registered Owner thereof or such person's legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

The Trustee shall require the payment by the Bondholder requesting exchange or transfer of Bonds of any tax or other governmental charge and by the Agency of any service charge of the Trustee as Registrar which are required to be paid with respect to such exchange or transfer and such charges shall be paid before such new Bond shall be delivered.

Section 2.7 Redemption Provisions. The Term Bonds of each Series of Bonds shall be subject, to the extent provided in the Supplemental Indenture authorizing each such Series of Bonds, to redemption prior to maturity by operation of Sinking Fund Installments required to be made to the Sinking Fund Account. The Bonds of each Series shall further

be subject to redemption prior to maturity at such times and upon such terms as shall be fixed by such Supplemental Indenture. Except as otherwise provided in a Supplemental Indenture, if fewer than all Bonds of a Series are to be redeemed, the particular maturities of such Bonds to be redeemed and the Principal amounts of such maturities to be redeemed shall be selected by the Agency. If fewer than all of the Bonds of any one maturity of a Series shall be called for redemption, the particular units of Bonds, as determined in accordance with Section 2.9 herein, to be redeemed shall be selected by the Trustee by lot in such manner as the Trustee, in its discretion, may deem fair and appropriate.

Section 2.8 Notice of Redemption.

(a) In the event any of the Bonds are to be redeemed, the Registrar shall cause notice to be given as provided in this Section 2.8. Unless otherwise specified in the Supplemental Indenture authorizing the issuance of the applicable Series of Bonds, notice of such redemption (i) shall be filed with the Paying Agent designated for the Bonds being redeemed; and (ii) shall be mailed by first class mail, postage prepaid, to all Registered Owners of Bonds to be redeemed at their addresses as they appear on the registration books of the Registrar at least thirty (30) days but not more than sixty (60) days prior to the date fixed for redemption. Such notice shall state the following information:

(i) the complete official name of the Bonds, including Series, to be redeemed, the identification numbers of Bonds and the CUSIP numbers, if any, of the Bonds being redeemed, provided that any such notice shall state that no representation is made as to the correctness of CUSIP numbers either as printed on such Bonds or as contained in the notice of redemption and that reliance may be placed only on the identification numbers contained in the notice or printed on such Bonds;

(ii) any other descriptive information needed to identify accurately the Bonds being redeemed, including, but not limited to, the original issue date of, and interest rate on, such Bonds;

(iii) in the case of partial redemption of any Bonds, the respective principal amounts thereof to be redeemed;

(iv) the date of mailing of redemption notices and the redemption date;

(v) the redemption price;

(vi) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date; and

(vii) the place where such Bonds are to be surrendered for payment, designating the name and address of the redemption agent with the name of a contact person and telephone number.

(b) In addition to the foregoing, further notice of any redemption of Bonds hereunder shall be given by the Trustee, simultaneous with the mailed notice to Registered Owners, by registered or certified mail or overnight delivery service, to the MSRB and all registered securities depositories (as reasonably determined by the Trustee) then in the business of holding substantial amounts of obligations of types comprising the Bonds and to at least two national information services that disseminate notices of redemption of obligations such as the Bonds. Such further notice shall contain the information required in Section 2.8(a) above. Failure to give all or any portion of such further notice shall not in any manner defeat the effectiveness of a call for redemption.

(c) Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(d) If at the time of mailing of any notice of optional redemption there shall not be on deposit with the Trustee moneys sufficient to redeem all the Bonds called for redemption, such notice shall state that such redemption shall be conditioned upon receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of and interest on such Bonds to be redeemed and that if such moneys shall not have been so received said notice shall be of no force and effect and the Agency shall not be required to redeem such Bonds. In the event that such moneys are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, one time, in the same manner in which the notice of redemption was given, that such moneys were not so received.

(e) A second notice of redemption shall be given, not later than ninety (90) days subsequent to the redemption date, to Registered Owners of Bonds or portions thereof redeemed but who failed to deliver Bonds for redemption prior to the 60th day following such redemption date.

(f) Any notice mailed shall be conclusively presumed to have been duly given whether or not the owner of such Bonds receives the notice. Receipt of such notice shall not be a condition precedent to such redemption, and failure so to receive any such notice by any of such Registered Owners shall not affect the validity of the proceedings for the redemption of the Bonds.

(g) In case any Bond is to be redeemed in part only, the notice of redemption which relates to such Bond shall state also that on or after the redemption date, upon surrender of such Bond, a new Bond in principal amount equal to the unredeemed portion of such Bond will be issued.

Section 2.9 Partially Redeemed Fully Registered Bonds. Unless otherwise specified in the related Supplemental Indenture, in case any registered Bond shall be redeemed in part only, upon the presentation of such Bond for such partial redemption, the Agency shall execute and the Trustee shall authenticate and shall deliver or cause to be delivered to or upon the written order of the Registered Owner thereof, at the expense of the Agency, a Bond or Bonds of the same Series, interest rate and maturity, in aggregate principal amount equal to the unredeemed portion of such registered Bond. Unless otherwise provided by Supplemental Indenture, a portion of any Bond of a denomination of more than the minimum denomination of such Series specified herein or in the related Supplemental Indenture to be redeemed will be in the principal amount of such minimum denomination or an integral multiple thereof and in selecting portions of such Bonds for redemption, the Trustee will treat each such Bond as representing that number of Bonds of such minimum denomination which is obtained by dividing the principal amount of such Bonds by such minimum denomination.

Section 2.10 Cancellation. All Bonds which have been surrendered for payment, redemption or exchange, and Bonds purchased from any moneys held by the Trustee hereunder or surrendered to the Trustee by the Agency, shall be canceled and cremated or otherwise destroyed by the Trustee and shall not be reissued; provided, however, that one or more new Bonds shall be issued for the unredeemed portion of any Bond without charge to the Registered Owner thereof.

Section 2.11 Nonpresentation of Bonds. Unless otherwise provided by Supplemental Indenture, in the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the Agency to the Registered Owner thereof for the payment of such Bond shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability to the Registered Owner of such Bond for interest thereon, for the benefit of the Registered Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part hereunder or on, or with respect to, said Bond. If any Bond shall not be presented for payment within four years following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall, to the extent permitted by law, repay to the Agency the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Agency, and the Registered Owner thereof shall be entitled to look only to the Agency for payment, and then only to the extent of the amount so repaid, and the Agency shall not be liable for any interest thereon and shall not be regarded as a trustee of such money. The provisions of this Section 2.11 are subject to the provisions of Title 67, Chapter 4a, Utah Code Annotated 1953, as amended.

Section 2.12 Initial Bonds. Subject to the provisions hereof, the Initial Bonds may be authenticated and delivered by the Trustee upon satisfaction of the conditions specified in Section 2.4(c) hereof and any additional conditions specified in the Supplemental Indenture authorizing such Series of Bonds.

Section 2.13 Issuance of Additional Bonds. No additional indebtedness, bonds or notes of the Agency secured by a pledge of the Pledged Revenues senior to the pledge of Pledged Revenues for the payment of the Bonds and the Security Instrument Repayment Obligations herein authorized shall be created or incurred without the prior written consent of the Owners of 100% of the Outstanding Bonds and the Security Instrument Issuers. In addition, no Additional Bonds or other indebtedness, bonds or notes of the Agency payable on a parity with the Bonds and the Security Instrument Repayment Obligations herein authorized out of Pledged Revenues shall be created or incurred, unless the following requirements have been met:

(a) No Event of Default shall have occurred and be continuing hereunder on the date of authentication of any Additional Bonds. This Section 2.13(a) shall not preclude the issuance of Additional Bonds if (i) the issuance of such Additional Bonds otherwise complies with the provisions hereof and (ii) such Event of Default will cease to continue upon the issuance of Additional Bonds and the application of the proceeds thereof; and

(b) A certificate shall be delivered to the Trustee by an Authorized Representative to the effect that the Pledged Revenues for any consecutive 12 month period in the 24 months immediately preceding the proposed date of issuance of such Additional Bonds were at least equal to 200% of the sum of (x) the maximum Aggregate Annual Debt Service Requirement on all Bonds and Additional Bonds to be Outstanding following the issuance of the Additional Bonds, after deducting from any applicable Bond Fund Year amounts held in the Debt Service Reserve Fund that are expected to be used for Debt Service payments on the Bonds in such year, plus (y) the maximum annual installments due on all Reserve Instrument Repayment Obligations to be outstanding following the issuance of such Additional Bonds; and

provided, however, that such Pledged Revenue coverage test set forth above shall not apply to the issuance of any Additional Bonds to the extent (i) they are issued for the purpose of refunding Bonds issued hereunder, (ii) the Average Aggregate Annual Debt Service for such Additional Bonds does not exceed the then remaining Average Aggregate Annual Debt Service for the Bonds being refunded therewith, and (iii) the maximum Aggregate Annual Debt Service Requirement for such Additional Bonds is less than or equal to the maximum Aggregate Annual Debt Service Requirement for the Bonds being refunded therewith; and

(c) All payments required by this Indenture to be made into the Bond Fund must have been made in full, and there must be on deposit in each account of the Debt Service Reserve Fund (taking into account any Reserve Instrument coverage) the full amount required to be accumulated therein at the time of issuance of the Additional Bonds; and

(d) The proceeds of the Additional Bonds must be used (i) to refund Bonds issued hereunder or any other obligations (including tax sharing agreements) of the Agency or the City (including the funding of necessary reserves and the

payment of costs of issuance) and/or (ii) to finance or refinance a Project (including the funding of necessary reserves and the payment of costs of issuance); and

(e) Notwithstanding anything to the contrary herein, the City shall be entitled to issue bonds or enter into debt or other obligations secured by the Sales and Use Tax Revenues in the manner allowed under the Interlocal Agreement and the indenture pursuant to which such bonds are issued.

Section 2.14 Form of Bonds. The Bonds of each Series and the Trustee's Authentication Certificate shall be in substantially the forms thereof set forth in the Supplemental Indenture authorizing the issuance of such Bonds, with such omissions, insertions and variations as may be necessary, desirable, authorized and permitted hereby.

Section 2.15 Covenant Against Creating or Permitting Liens. Except for the pledge of Sales and Use Tax Revenues to pay obligations of the City and Pledged Revenues to secure payment of the Bonds and Repayment Obligations hereunder, the Pledged Revenues are and shall be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto; provided, however, that nothing contained herein shall prevent the Agency from issuing, if and to the extent permitted by law, indebtedness having a lien on Pledged Revenues subordinate to that of the Bonds and Repayment Obligations.

Section 2.16 Open Market Purchases of Bonds. Purchases of Outstanding Bonds on the open market may be made by the Agency at public or private sale as and when and at such prices as the Agency may in its discretion determine. Any accrued interest payable upon the purchase of Bonds may be paid from the amount reserved in the Bond Fund for the payment of interest on such Bonds on the next following interest payment date. Any Bonds so purchased shall be cancelled by the Trustee forthwith and surrendered to the Agency or destroyed and shall not be reissued.

ARTICLE III

CREATION OF FUNDS AND ACCOUNTS

Section 3.1 Creation of Construction Fund. There is hereby created and ordered established in the custody of the Trustee the Construction Fund. There is hereby created and ordered established in the custody of the Trustee a separate account within the Construction Fund for each Project to be designated by the name of the applicable Project or Series of Bonds and, if applicable, a separate account for each Series of Bonds and for all grant moneys or other moneys to be received by the Agency for deposit in the Construction Fund.

Section 3.2 Creation of Bond Fund. There is hereby created and ordered established in the custody of the Trustee the Bond Fund.

Section 3.3 Creation of Revenue Fund. There is hereby created and ordered established with the Agency the Revenue Fund. For accounting purposes, the Revenue Fund may be redesignated by different account names by the Agency from time to time.

Section 3.4 Creation of Sinking Fund Account. There is hereby created and ordered established in the custody of the Trustee as a separate account within the Bond Fund the Sinking Fund Account.

Section 3.5 Creation of Debt Service Reserve Fund. There is hereby created and ordered established in the custody of the Trustee the Debt Service Reserve Fund.

Section 3.6 Creation of Reserve Instrument Fund. There is hereby created and ordered and established in the custody of the Trustee the Reserve Instrument Fund.

Section 3.7 Creation of Rebate Fund. There is hereby created and ordered established in the custody of the Trustee the Rebate Fund.

Section 3.8 Creation of Funds and Accounts. Notwithstanding anything contained herein to the contrary, the Trustee need not create any of the funds or accounts referenced in this Article III until such funds or accounts shall be utilized as provided in a Supplemental Indenture. The Agency may, by Supplemental Indenture, authorize the creation of additional funds and additional accounts within any fund.

ARTICLE IV

PLEDGED REVENUES; AGENCY COVENANTS

Section 4.1 Pledged Revenues. The Pledged Revenues with respect to each Series of Bonds, are hereby irrevocably allocated and pledged in their entirety to the payment of the principal of, interest, if applicable, on, and premium payable upon redemption of, the Bonds and until all of said Bonds and all interest, thereon, have been paid (or until moneys for that purpose have been irrevocably set aside) the Pledged Revenues (except as otherwise provided in Indenture) shall be applied solely to the payment of said Bonds, the interest, if applicable, thereon, and premium, if any, as in the Indenture provided. Such allocation and pledge is for the exclusive benefit of the Owners of the Bonds, and shall be irrevocable. At the time of issuance of any Series of Bonds the definition of Pledged Revenues may be expanded or restricted with respect to such Series of Bonds as provided in the Supplemental Indenture under which such Series of Bonds is issued.

Section 4.2 First Lien Bonds; Equality of Liens. The Bonds and any Security Instrument Repayment Obligations constitute an irrevocable first lien upon the Pledged Revenues. The Agency covenants that the Bonds and Security Instrument Repayment Obligations hereafter authorized to be issued and from time to time outstanding are equitably and ratably secured by a first lien on the Pledged Revenues and shall not be entitled to any priority one over the other in the application of the Pledged Revenues regardless of the time or times of the issuance of the Bonds or delivery of Security Instruments, it being the intention of the Agency that there shall be no priority among the Bonds or the Security Instrument Repayment Obligations regardless of the fact that they may be actually issued and/or delivered at different times.

Any assignment or pledge from the Agency to a Reserve Instrument Provider of proceeds of the issuance and sale of Bonds, Pledged Revenues, or Funds established hereby, including investments, if any, thereof, is and shall be subordinate to the assignment and pledge effected hereby to the Registered Owners of the Bonds and to the Security Instrument Issuers.

Section 4.3 Payment of Principal and Interest. The Agency covenants that it will punctually pay or cause to be paid the Principal of and interest on every Bond issued hereunder, any Security Instrument Repayment Obligations and any Reserve Instrument Repayment Obligations, in strict conformity with the terms of the Bonds, this Indenture, any Security Instrument Agreement and any Reserve Instrument Agreement, according to the true intent and meaning hereof and thereof. The Principal of and interest on the Bonds, any Security Instrument Repayment Obligations and any Reserve Instrument Repayment Obligations are payable solely from the Pledged Revenues (except to the extent paid out of moneys attributable to Bond proceeds or other funds created hereunder or the income from the temporary investment thereof), which Pledged Revenues are hereby specifically pledged and assigned to the payment thereof in the manner and to the extent herein specified, and nothing in the Bonds, this Indenture, any Security Instrument Agreement or

any Reserve Instrument Agreement should be considered as pledging any other funds or assets of the Agency for the payment thereof.

Section 4.4 Performance of Covenants; Agency. The Agency covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained herein, and in any and every Bond, Security Instrument Agreement and Reserve Instrument Agreement. The Agency represents that it is duly authorized under the Constitution of the State to issue the Bonds authorized hereby and to execute this Indenture, that all actions on its part for the issuance of the Bonds and the execution and delivery of this Indenture have been duly and effectively taken, and that the Bonds in the hands of the Registered Owners thereof are and will be valid and enforceable obligations of the Agency according to the import thereof.

Section 4.5 Covenants of the Agency. The Agency shall preserve and protect the security of the Bonds and the rights of the Bondowners and defend their rights against all claims and demands of all persons. Until such time as an amount has been set aside sufficient to pay at maturity, or redemption prior to maturity, the principal of all outstanding Bonds plus unpaid interest, if applicable, thereon to maturity, or to the redemption date, and any redemption premium, the Agency will (through its proper members, officers, agents or employees) faithfully perform and abide by all of the covenants, undertakings and provisions contained in the Indenture or in any Bond issued hereunder, including the following covenants and agreements for the benefit of the Bondowners:

(a) The Agency covenants and agrees that the Redevelopment Plan may be amended as provided in the Redevelopment Act but no amendment shall be made which would materially impair the security of the Bonds or the rights of the Bondowners.

(b) The Agency covenants and agrees that the proceeds of the sale of said Bonds will be deposited and used as provided in this General Indenture and any Supplemental Indenture and that it will manage and operate all properties owned by it and comprising any part of the Projects or the Redevelopment Project Area in a sound and businesslike manner. The Agency shall complete the acquisition and construction of each Project with all practical dispatch and will cause all construction to be effected in a sound and economical manner.

(c) As more fully provided in Section 2.13 hereof and except as otherwise provided in this General Indenture or any Supplemental Indenture, the Agency covenants and agrees that it will not issue any other obligations payable as to the principal or interest, from the Pledged Revenues which have, or purport to have, any lien upon the Pledged Revenues superior to or on a parity with the lien of the Bonds herein authorized; provided, however, that nothing in this Indenture shall prevent the Agency from issuing and selling pursuant to law (i) refunding bonds or other refunding obligations payable from and having a lien upon the Pledged Revenues equal to that granted the Bonds if such refunding bonds or other refunding obligations are issued for the purpose of, and are sufficient for the

purpose of, refunding and defeasing all of the Bonds then outstanding under this Indenture for which such Pledged Revenues have been pledged, (ii) bonds payable from and having a lien on the Pledged Revenues expressly subordinate to the lien created with respect to the Bonds issued hereunder or (iii) Additional Bonds as permitted by this Indenture. The Agency and the Trustee acknowledge and agree that nothing contained in this Indenture shall prevent the Agency from issuing additional debt payable from sources other than the Pledged Revenues.

(d) The Agency covenants and agrees that it will from time to time pay and discharge, or cause to be paid and discharged, all payments, if any, in lieu of taxes, service charges, assessments or other governmental charges which may lawfully be imposed upon the Agency or any of the properties then owned by it in the Redevelopment Project Area, or upon the revenues and income therefrom and will pay all lawful claims for labor, material and supplies which if unpaid might become a lien or charge upon any of said properties, revenues or income or which might impair the security of the Bonds or the use of Pledged Revenues or other funds to pay the principal of and interest, if applicable, thereon, all to the end that the priority and security of said Bonds shall be preserved; provided that nothing in this paragraph shall require the Agency to make any such payment so long as the Agency in good faith shall contest the validity thereof.

(e) The Agency covenants and agrees that it will at all times keep, or cause to be kept, proper and current books and accounts (separate from all other records and accounts) in which complete and accurate entries shall be made of all transactions relating to the Projects, the Redevelopment Project Area and the Pledged Revenues and other funds herein provided for, and will prepare within 180 days after the close of each of its fiscal years a complete financial statement or statements for such year in reasonable detail covering such Projects, Redevelopment Project Area, Pledged Revenues and other funds and certified by a certified public accountant or firm of certified public accountants selected by the Agency, and will furnish a copy of such statement or statements to the Trustee each year.

(f) Within the meaning of the Utah Municipal Officers and Employees' Ethics Act (Title 10, Chapter 3, Part 13, Utah Code Annotated 1953, as amended), no "elected officer" or "appointed officer" of the Agency, or any member of the governing body of the Agency, has a "substantial interest" in or is an officer, director, agent, employee, investor in, or owner, or has any direct or indirect pecuniary interest in, or will receive or has agreed to receive any compensation with respect to, any contract, lease, purchase, sale, or employment made or to be made in connection with, the proposed transaction contemplated by this General Indenture.

(g) Upon the issuance of the first Series of Bonds hereunder, there will be no existing liens or encumbrances on or pledge of the Pledged Revenues except (i) those created pursuant to this Indenture and (ii) liens which are expressly subordinate to the lien created hereby.

(h) The Agency covenants and agrees that it will comply with all requirements and conditions of the Agency in the Interlocal Agreement and that it will cooperate with the City in accomplishing the objectives and purposes of the Interlocal Agreement.

Section 4.6 Perfection of Security Interest.

(a) The Indenture creates a valid and binding pledge and assignment of and security interest in the Pledged Revenues and the funds and accounts held by the Trustee under the Indenture (except the Rebate Fund) (collectively, the “Trust Estate”) in favor of the Trustee as security for payment of the Bonds, enforceable by the Trustee in accordance with the terms thereof.

(b) Under the laws of the State, such pledge and assignment and security interest is automatically perfected by Section 11-14-501, Utah Code Annotated 1953, as amended, and is and shall be prior to any judicial lien hereafter imposed on such Trust Estate to enforce a judgment against the Agency on a simple contract.

Section 4.7 List of Bondholders. The Trustee will keep on file at its Principal Corporate Trust Office a list of the names and addresses of the Registered Owners of all Bonds which are from time to time registered on the registration books in the hands of the Trustee as Registrar for the Bonds. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copied by the Agency or by the Registered Owners (or a designated representative thereof) of 10% or more in principal amount of Bonds then Outstanding, such ownership and the authority of any such designated representative to be evidenced to the reasonable satisfaction of the Trustee.

Section 4.8 Designation of Additional Paying Agents. The Agency hereby covenants and agrees to cause the necessary arrangements to be made through the Trustee and to be thereafter continued for the designation of alternate paying agents, if any, and for the making available of funds hereunder, but only to the extent such funds are made available to the Agency from Bond proceeds or other Funds created hereunder or the income from the temporary investment thereof, for the payment of such of the Bonds as shall be presented when due at the Principal Corporate Trust Office of the Trustee, or its successor in trust hereunder, or at the principal corporate trust office of said alternate Paying Agents.

Section 4.9 Tax Exemption of Bonds and Direct Payments. The Agency recognizes that Section 149(a) of the Code requires bonds to be issued and to remain in fully registered form in order that interest thereon is excluded from gross income for federal income tax purposes under laws in force at the time the bonds are delivered. Bonds issued pursuant to this Indenture, the interest on which is excludable from gross income for federal income tax purposes, are referred to in this Section 4.9 as “tax-exempt Bonds.” Pursuant to the provisions thereof, the Agency agrees that it will not take any action to permit tax-exempt Bonds issued hereunder to be issued in, or converted into, bearer or coupon form, unless the Agency first receives an opinion from nationally recognized bond counsel that

such action will not result in the interest on any Bonds becoming includible in gross income for purposes of federal income taxes then in effect.

The Agency's Chair and Secretary are hereby authorized and directed to execute such certificates as shall be necessary to establish that tax-exempt Bonds or Direct Payment Bonds issued hereunder are not "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations promulgated or proposed thereunder, including Treasury Regulation Sections 1.148-1 through 1.148-11, 1.149 and 1.150-1 through 1.150-2 as the same presently exist, or may from time to time hereafter be amended, supplemented or revised. The Agency covenants and certifies to and for the benefit of the Registered Owners of such Bonds that no use will be made of the proceeds of the issue and sale of such Bonds, or any funds or accounts of the Agency which may be deemed to be available proceeds of such Bonds, pursuant to Section 148 of the Code and applicable regulations (proposed or promulgated) which use, if it had been reasonably expected on the date of issuance of such Bonds, would have caused the Bonds to be classified as "arbitrage bonds" within the meaning of Section 148 of the Code. Pursuant to this covenant, the Agency obligates itself to comply throughout the term of such Bonds with the requirements of Section 148 of the Code and the regulations proposed or promulgated thereunder.

The Agency further covenants and agrees to and for the benefit of the Registered Owners that the Agency (i) will not take any action that would cause interest on tax-exempt Bonds issued hereunder to become includible in gross income for purposes of federal income taxation, (ii) will not take any action that would jeopardize the Direct Payments on Direct Payment Bonds issued under this Indenture, (iii) will not omit to take or cause to be taken, in timely manner, any action, which omission would cause the interest on the tax-exempt Bonds to become includible in gross income for purposes of federal income taxation, (iv) will not omit to take or cause to be taken, in timely manner, any action, which omission would jeopardize the Direct Payments on Direct Payment Bonds issued under this Indenture, and (v) to the extent possible, will comply with any other requirements of federal tax law applicable to the Bonds in order to preserve the excludability from gross income for purposes of federal income taxation of interest on tax-exempt Bonds and the Direct Payments on Direct Payment Bonds issued under this Indenture.

Section 4.10 Instruments of Further Assurance. The Agency and the Trustee mutually covenant that they will, from time to time, each upon the written request of the other, or upon the request of a Security Instrument Issuer or a Reserve Instrument Provider, execute and deliver such further instruments and take or cause to be taken such further actions as may be reasonable and as may be required by the other to carry out the purposes hereof; provided, however, that no such instruments or action shall involve any personal liability of the Trustee or members of the governing body of the Agency or any official thereof.

ARTICLE V

APPLICATION OF BOND PROCEEDS

Upon the issuance of each Series of Bonds, the proceeds thereof shall be deposited as provided in the Supplemental Indenture authorizing the issuance of such Series of Bonds.

ARTICLE VI

USE OF FUNDS

Section 6.1 Use of Construction Fund.

(a) So long as an Event of Default shall not have occurred and be continuing, and except as otherwise provided by Supplemental Indenture, moneys deposited in the appropriate account in the Construction Fund shall be disbursed by the Trustee to pay the Costs of a Project, in each case within three (3) Business Days (or within such longer period as is reasonably required to liquidate investments in the Construction Fund if required to make such payment) after the receipt by the Trustee of a written requisition approved by an Authorized Representative of the Agency in substantially the form as Exhibit A attached hereto, stating that the Trustee shall disburse sums in the manner specified by and at the direction of the Agency to the person or entity designated in such written requisition, and that the amount set forth therein is justly due and owing and constitutes a Cost of a Project based upon itemized claims substantiated in support thereof.

(b) Upon receipt of such requisition, the Trustee shall pay the obligation set forth in such requisition out of moneys in the applicable account in the Construction Fund. In making such payments the Trustee may rely upon the information submitted in such requisition. Such payments shall be presumed to be made properly and the Trustee shall not be required to verify the application of any payments from the Construction Fund or to inquire into the purposes for which disbursements are being made from the Construction Fund.

(c) The Agency shall deliver to the Trustee, within 90 days after the completion of a Project, a certificate executed by an Authorized Representative of the Agency stating:

(i) that such Project has been fully completed in accordance with the plans and specifications therefor, as amended from time to time, and stating the date of completion for such Project; and

(ii) that the Project has been fully paid for and no claim or claims exist against the Agency or against such Project out of which a lien based on furnishing labor or material exists or might ripen; provided, however, there may be excepted from the foregoing certification any claim or claims out of which a lien exists or might ripen in the event the Agency intends to contest such claim or claims, in which event such claim or claims shall be described to the Trustee.

(d) In the event the certificate filed with the Trustee pursuant to Section 6.1(c) above shall state that there is a claim or claims in controversy which create or might ripen into a lien, an Authorized Representative of the Agency shall file a

similar certificate with the Trustee when and as such claim or claims shall have been fully paid or otherwise discharged.

(e) The Trustee and the Agency shall keep and maintain adequate records pertaining to each account within the Construction Fund and all disbursements therefrom.

(f) Unless otherwise specified in a Supplemental Indenture, upon completion of a Project and payment of all costs and expenses incident thereto and the filing with the Trustee of documents required by this Section 6.1, any balance remaining in the applicable account in the Construction Fund relating to such Project shall, as directed by an Authorized Representative of the Agency, be deposited in the Bond Fund to be applied toward the redemption of the Series of Bonds issued to finance such Project or to pay principal and/or interest next falling due with respect to the Bonds.

(g) The Trustee shall, to the extent there are no other available funds held under the Indenture, use the remaining funds in the Construction Fund to pay principal and interest on the Bonds at any time in the event of a payment default hereunder.

Section 6.2 Application of Pledged Revenues.

(a) Unless otherwise provided herein, all Pledged Revenues shall be deposited in the Revenue Fund and shall be accounted for by the Agency separate and apart from all other moneys of the Agency.

(b) So long as any Bonds are Outstanding, as a first charge and lien on the Pledged Revenues, the Agency shall, at least semi-annually and at least fifteen (15) days before each Interest Payment Date, transfer from the Revenue Fund to the Trustee for deposit into the Bond Fund an amount equal to:

(i) the interest falling due on the Bonds on the next succeeding Interest Payment Date established for the Bonds (provided, however, that so long as there are moneys representing capitalized interest on deposit with the Trustee to pay interest on the Bonds next coming due, the Agency need not allocate to the Revenue Fund to pay interest on the Bonds); plus

(ii) one-half of the Principal and premium, if any, falling due in the current fiscal year, and in any event, an amount sufficient to pay the Principal and premium on the next succeeding Principal payment date established for the Bonds; plus

(iii) one-half of the Sinking Fund Installments, if any, falling due in the current fiscal year, and in any event, an amount sufficient to pay the Sinking Fund Installments on the next succeeding Sinking Fund Installment payment date (for deposit to the Sinking Fund Account within the Bond Fund);

the sum of which shall be sufficient, when added to the existing balance in the Bond Fund, to pay the principal of, premium, if any, and interest on the Bonds promptly on each such date as the same become due and payable. The foregoing provisions may be revised by a Supplemental Indenture for any Series of Bonds having other than semiannual Interest Payment Dates.

(c) As a second charge and lien on the Pledged Revenues (on a parity basis), the Agency shall make the following transfers to the Trustee on or before the fifteenth day prior to each Interest Payment Date:

(i) To the extent the Debt Service Reserve Requirement, if any, is not funded with a Reserve Instrument or Instruments, (A) to the accounts in the Debt Service Reserve Fund any amounts required hereby, and by any Supplemental Indenture to accumulate therein the applicable Debt Service Reserve Requirement with respect to each Series of Bonds at the times and in the amounts provided herein, and in any Supplemental Indenture and (B) if funds shall have been withdrawn from an account in the Debt Service Reserve Fund, or any account in the Debt Service Reserve Fund is at any time funded in an amount less than the applicable Debt Service Reserve Requirement, the Agency shall deposit Revenues in such account(s) in the Debt Service Reserve Fund sufficient in amount to restore such account(s) within one year with twelve (12) substantially equal payments during such period (unless otherwise provided for by the Supplemental Indenture governing the applicable Debt Service Reserve Requirement); or a ratable portion (based on the amount to be transferred pursuant to Section 5.2(d)(ii) hereof) of remaining Revenues if less than the amount necessary; and

(ii) Equally and ratably to the accounts of the Reserve Instrument Fund, with respect to all Reserve Instruments which are in effect and are expected to continue in effect after the end of an interest payment period, such amount of the remaining Revenues, or a ratable portion (based on the amount to be transferred pursuant to Section 5.2(d)(i) hereof) of the amount so remaining if less than the amount necessary, that is required to be paid, on or before the next such interest payment period transfer or deposit of Revenues into the Reserve Instrument Fund, to the Reserve Instrument Provider pursuant to any Reserve Instrument Agreement, other than Reserve Instrument Costs, in order to cause the Reserve Instrument Coverage to equal the Reserve Instrument Limit within one year from any draw date under the Reserve Instrument.

(d) Subject to making the foregoing deposits, the Agency may use the balance of the Pledged Revenues accounted for in the Revenue Fund for any of the following:

(i) redemption of Bonds;

- (ii) refinancing, refunding, or advance refunding of any Bonds;
- or
- (iii) for any other lawful purpose.

Section 6.3 Use of Bond Fund. The Agency may direct the Trustee, pursuant to a Supplemental Indenture, to create an account within the Bond Fund for a separate Series of Bonds under the Indenture.

(a) The Trustee shall make deposits to the Bond Fund, as and when received, as follows:

- (i) accrued interest, if any, received upon the issuance of any Series of Bonds;
- (ii) all moneys payable by the Agency as specified in Section 6.2(a) hereof;
- (iii) any amount in the Construction Fund to the extent required by or directed pursuant to Section 6.1(f) hereof upon completion of a Project;
- (iv) all moneys transferred from the Debt Service Reserve Fund or from a Reserve Instrument or Instruments then in effect as provided in Section 6.5 hereof; and
- (v) all other moneys received by the Trustee hereunder when accompanied by directions from the person depositing such moneys that such moneys are to be paid into the Bond Fund.

(b) Except as provided in Section 7.4 hereof and as provided in this Section 6.3 and except as otherwise provided by Supplemental Indenture, moneys in the Bond Fund shall be expended solely for the following purposes and in the following order of priority:

- (i) on or before each Interest Payment Date for each Series of Bonds, the amount required to pay the interest due on such date;
- (ii) on or before each Principal Installment due date, the amount required to pay the Principal Installment due on such due date; and
- (iii) on or before each redemption date for each Series of Bonds, the amount required to pay the redemption price of and accrued interest on such Bonds then to be redeemed.

Such amounts shall be applied by the Paying Agent to pay Principal Installments and redemption price of, and interest on the related Series of Bonds.

The Trustee shall pay out of the Bond Fund to the Security Instrument Issuer, if any, that has issued a Security Instrument with respect to such Series of Bonds an amount equal to any Security Instrument Repayment Obligation then due and payable to such Security Instrument Issuer. Except as otherwise specified in a related Supplemental Indenture all such Security Instrument Repayment Obligations shall be paid on a parity with the payments to be made with respect to principal and interest on the Bonds; provided that amounts paid under a Security Instrument shall be applied only to pay the related Series of Bonds. If payment is so made on Pledged Bonds held for the benefit of the Security Instrument Issuer, a corresponding payment on the Security Instrument Repayment Obligation shall be deemed to have been made (without requiring an additional payment by the Agency) and the Trustee shall keep its records accordingly.

The Agency hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay principal of and interest on the Bonds and on Security Instrument Repayment Obligations as the same become due and payable and to make said funds so withdrawn available to the Trustee and any Paying Agent for the purpose of paying said Principal and interest.

(c) After payment in full of the Principal of and interest on (i) all Bonds issued hereunder (or after provision has been made for the payment thereof as provided herein so that such Bonds are no longer Outstanding), (ii) all agreements relating to all outstanding Security Instrument Repayment Obligations and Reserve Instrument Repayment Obligations in accordance with their respective terms, and (iii) all fees, charges and expenses of the Trustee, the Paying Agent and any other amounts required to be paid hereunder or under any Supplemental Indenture and under any Security Instrument Agreement and under any Reserve Instrument Agreement, all amounts remaining in the Bond Fund shall be paid to the Agency.

Section 6.4 Use of Sinking Fund Account.

(a) The Trustee shall apply moneys in the Sinking Fund Account to the retirement of any Term Bonds required to be retired by operation of the Sinking Fund Account under the provisions of and in accordance with the Supplemental Indenture authorizing the issuance of such Term Bonds, either by redemption in accordance with such Supplemental Indenture or, at the direction of the Agency, purchase of such Term Bonds in the open market prior to the date on which notice of the redemption of such Term Bonds is given pursuant hereto, at a price not to exceed the redemption price of such Term Bonds (plus accrued interest which will be paid from moneys in the Bond Fund other than those in the Sinking Fund Account).

(b) On the maturity date of any Term Bonds, the Trustee shall apply the moneys on hand in the Sinking Fund Account for the payment of the principal of such Term Bonds.

Section 6.5 Use of Debt Service Reserve Fund. Except as otherwise provided in this Section 6.5 and subject to the immediately following sentence, moneys in each

account in the Debt Service Reserve Fund shall at all times be maintained in an amount not less than the applicable Debt Service Reserve Requirement, if any. In calculating the amount on deposit in each account in the Debt Service Reserve Fund, the amount of any Reserve Instrument Coverage will be treated as an amount on deposit in such account in the Debt Service Reserve Fund. Each Supplemental Indenture authorizing the issuance of a Series of Bonds shall specify the Debt Service Reserve Requirement, if any, applicable to such Series which amount shall be (i) deposited immediately upon the issuance and delivery of such Series from (a) proceeds from the sale thereof or from any other legally available source, or (b) by a Reserve Instrument or Instruments, or (c) any combination thereof or (ii) deposited from available Pledged Revenues over the period of time specified therein, or (iii) deposited from any combination of (i) and (ii) above; provided however, the foregoing provisions shall be subject to the requirements of any Security Instrument Issuer set forth in any Supplemental Indenture. If at any time the amount on deposit in any account of the Debt Service Reserve Fund is less than the minimum amount to be maintained therein under this Section 6.5, the Agency is required to deposit Pledged Revenues, to the extent available, totaling the amount of any such deficiency directly to the Trustee for deposit into the Debt Service Reserve Fund.

In the event funds on deposit in an account of the Debt Service Reserve Fund are needed to make up any deficiencies in the Bond Fund as aforementioned, and there is insufficient cash available in such account of the Debt Service Reserve Fund to make up such deficiency and Reserve Instruments applicable to such Series are in effect, the Trustee shall immediately make a demand for payment on such Reserve Instruments, to the maximum extent authorized by such Reserve Instruments, in the amount necessary to make up such deficiency, and immediately deposit such payment upon receipt thereof into the Bond Fund. Thereafter, the Agency shall be obligated to reinstate the Reserve Instrument from and to the extent of Pledged Revenues.

No Reserve Instrument shall be allowed to expire or terminate while the related Series of Bonds are Outstanding unless and until cash has been deposited into the related account of the Debt Service Reserve Fund, or a new Reserve Instrument has been issued in place of the expiring or terminating Reserve Instrument, or any combination thereof in an amount or to provide coverage, as the case may be, at least equal to the amount required to be maintained in the related account of the Debt Service Reserve Fund.

Moneys at any time on deposit in the account of the Debt Service Reserve Fund in excess of the amount required to be maintained therein (taking into account the amount of related Reserve Instrument Coverage) shall be transferred by the Trustee to the Bond Fund at least once each year.

Moneys on deposit in any account of the Debt Service Reserve Fund shall be used to make up any deficiencies in the Bond Fund only for the Series of Bonds secured by said account and any Reserve Instrument shall only be drawn upon with respect to Bonds for which such Reserve Instrument was obtained.

Section 6.6 Use of Reserve Instrument Fund. There shall be paid into the Reserve Instrument Fund the amounts required hereby and by a Supplemental Indenture to

be so paid. The amounts in the Reserve Instrument Fund shall, from time to time, be applied by the Trustee on behalf of the Agency to pay the Reserve Instrument Repayment Obligations which are due and payable to any Reserve Instrument Provider under any applicable Reserve Instrument Agreement. The Agency may, upon obtaining an approving opinion of bond counsel to the effect that such transaction will not adversely affect the tax-exempt status of any outstanding tax-exempt Bonds, replace any amounts required to be on deposit in the Debt Service Reserve Fund with a Reserve Instrument and use such amounts for the related Project or to pay principal on the related Bonds.

Section 6.7 Use of Rebate Fund.

(a) If it becomes necessary for the Agency to comply with the rebate requirements of the Code and the Regulations, the Trustee shall establish and thereafter maintain, so long as the Bonds which are subject to said rebate requirements are Outstanding, a Rebate Fund, which shall be held separate and apart from all other funds and accounts established under this Indenture and from all other moneys of the Trustee.

(b) All amounts in the Rebate Fund, including income earned from investment of the fund, shall be held by the Trustee free and clear of the lien of the Indenture. In the event the amount on deposit in the Rebate Fund exceeds the aggregate amount of Rebatable Arbitrage for one or more Series of Bonds, as verified in writing by an independent public accountant or other qualified professional at the time the Rebatable Arbitrage is determined, the excess amount remaining after payment of the Rebatable Arbitrage to the United States shall, upon the Agency's written request accompanied by the determination report, be paid by the Trustee to the Agency.

(c) The Agency shall determine the amount of Rebatable Arbitrage and the corresponding Required Rebate Deposit with respect to each Series of Bonds on each applicable Rebate Calculation Date and take all other actions necessary to comply with the rebate requirements of the Code and the Regulations. The Agency shall deposit into the Rebate Fund the Required Rebate Deposit, if any, with respect to each Series of Bonds (or instruct the Trustee to transfer to the Rebate Fund moneys representing such Required Rebate Deposit from the Funds and Accounts held under the Indenture other than the Rebate Fund) or shall otherwise make payment of the rebate to be paid to the United States at the times required by the Code and the Regulations. If applicable, the Agency shall instruct in writing the Trustee to withdraw from the Rebate Fund and pay any rebate over to the United States. The determination of Rebatable Arbitrage made with respect to each such payment date and with respect to any withdrawal and payment to the Agency from the Rebate Fund pursuant to the Indenture must be verified in writing by an independent public accountant or other qualified professional. The Trustee may rely conclusively upon and shall be fully protected from all liability in relying upon the Agency's determinations, calculations and certifications required by this Section 6.7 and the Trustee shall have no responsibility to independently make any

calculations or determination or to review the Agency's determinations, calculations and certifications required by this Section 6.7.

(d) The Trustee shall, at least 60 days prior to each Rebate Calculation Date, notify the Agency of the requirements of this Section 6.7. By agreeing to give this notice, the Trustee assumes no responsibility whatsoever for compliance by the Agency with the requirements of Section 148 of the Code or any successor. The Agency expressly agrees that (notwithstanding any other provision of the Indenture) any failure of the Trustee to give any such notice, for any reason whatsoever, shall not cause the Trustee to be responsible for any failure of the Agency to comply with the requirements of said Section 148 or any successor thereof.

(e) The provisions of this Section 6.7 may be amended or deleted without Bondowner consent or notice, upon receipt by the Agency and the Trustee of an opinion of nationally recognized bond counsel that such amendment or deletion will not adversely affect the excludability from gross income of interest on the Bonds or the status of the Bonds as Direct Payment Bonds.

Section 6.8 Investment of Funds. Any moneys in the Bond Fund, the Construction Fund, the Rebate Fund, the Reserve Instrument Fund and the Debt Service Reserve Fund shall, at the discretion and authorization of the Agency, be invested by the Trustee in Qualified Investments; provided, however, that moneys on deposit in the Bond Fund and the Reserve Instrument Fund may only be invested in Qualified Investments having a maturity date of one year or less. If no written authorization is given to the Trustee, moneys shall be held uninvested. Such investments shall be held by the Trustee, and when the Trustee determines it necessary to use the moneys in the Funds for the purposes for which the Funds were created, it shall liquidate at prevailing market prices as much of the investments as may be necessary and apply the proceeds to such purposes. All income derived from the investment of the Construction Fund, Bond Fund, the Reserve Instrument Fund and Rebate Fund shall be maintained in said respective Funds and disbursed along with the other moneys on deposit therein as herein provided. All income derived from the investment of the Debt Service Reserve Fund shall be disbursed in accordance with Section 6.5 hereof.

The Trustee shall have no liability or responsibility for any loss resulting from any investment made in accordance with the provisions of this Section 6.8. The Trustee shall be entitled to assume that any investment, which at the time of purchase is a Qualified Investment, remains a Qualified Investment thereafter, absent receipt of written notice or information to the contrary.

The Trustee may, to the extent permitted by the State Money Management Act of 1974, Title 51, Chapter 7, Utah Code make any and all investments permitted by the provisions of the Indenture through its own or any of its affiliate's investment departments.

The Agency acknowledges that to the extent regulations of the comptroller of the currency or any other regulatory entity grants the Agency the right to receive brokerage

confirmations of the security transactions as they occur, the Agency specifically waives receipt of such confirmations to the extent permitted by law. The Trustee shall furnish the Agency periodic cash transaction statements which include the detail for all investment transactions made by the Trustee hereunder.

In the event the Agency shall be advised by nationally recognized municipal bond counsel that it is necessary to restrict or limit the yield on the investment of any moneys paid to or held by the Trustee in order to avoid the Bonds, or any Series thereof, being considered “arbitrage bonds” within the meaning of the Code or the Treasury Regulations proposed or promulgated thereunder, or to otherwise preserve the excludability of interest payable or paid on any Bonds from gross income for federal income tax purposes, the Agency may require in writing the Trustee to take such steps as it may be advised by such counsel are necessary so to restrict or limit the yield on such investment, irrespective of whether the Trustee shares such opinion, and the Trustee agrees that it will take all such steps as the Agency may require.

Section 6.9 Trust Funds. All moneys and securities received by the Trustee under the provisions of this Indenture shall be trust funds under the terms hereof and shall not be subject to lien or attachment of any creditor of the State or any political subdivision, body, agency, or instrumentality thereof or of the Agency and shall not be subject to appropriation by any legislative body or otherwise. Such moneys and securities shall be held in trust and applied in accordance with the provisions hereof. Except as provided otherwise in Section 6.7 hereof, unless and until disbursed pursuant to the terms hereof, all such moneys and securities (and the income therefrom) shall be held by the Trustee as security for payment of the principal of, premium, if any, and interest on the Bonds and the fees and expenses of the Trustee payable hereunder.

Section 6.10 Method of Valuation and Frequency of Valuation. In computing the amount in any fund or account, Qualified Investments shall be valued at market, exclusive of accrued interest. With respect to all funds and accounts, valuation shall occur annually, except in the event of a withdrawal from the Debt Service Reserve Fund, whereupon securities shall be valued immediately after such withdrawal.

ARTICLE VII

EVENTS OF DEFAULT; REMEDIES

Section 7.1 Events of Default. Each of the following events is hereby declared an “Event of Default”:

(a) if payment of any installment of interest on any of the Bonds shall not be made by or on behalf of the Agency when the same shall become due and payable, or

(b) if payment of the principal of or the redemption premium, if any, on any of the Bonds shall not be made by or on behalf of the Agency when the same shall become due and payable, either at maturity or by proceedings for redemption in advance of maturity or through failure to fulfill any payment to any fund hereunder or otherwise; or

(c) if the Agency shall for any reason be rendered incapable of fulfilling its obligations hereunder; or

(d) if an order or decree shall be entered, with the consent or acquiescence of the Agency, appointing a receiver or custodian for any of the Pledged Revenues of the Agency, or approving a petition filed against the Agency seeking reorganization of the Agency under the federal bankruptcy laws or any other similar law or statute of the United States of America or any state thereof, or if any such order or decree, having been entered without the consent or acquiescence of the Agency shall not be vacated or discharged or stayed on appeal within 30 days after the entry thereof; or

(e) if any proceeding shall be instituted, with the consent or acquiescence of the Agency, for the purpose of effecting a composition between the Agency and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any federal or state statute now or hereafter enacted, if the claims of such creditors are or may be under any circumstances payable from Pledged Revenues; or

(f) if (i) the Agency is adjudged insolvent by a court of competent jurisdiction, or (ii) an order, judgment or decree be entered by any court of competent jurisdiction appointing, without the consent of the Agency, a receiver, trustee or custodian of the Agency or of the whole or any part of the Agency’s property and any of the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within 60 days from the date of entry thereof; or

(g) if the Agency shall file a petition or answer seeking reorganization, relief or any arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof; or

(h) if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Agency or of the whole or any substantial part of the property of the Agency, and such custody or control shall not be terminated within 30 days from the date of assumption of such custody or control; or

(i) if the Agency shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or herein or any Supplemental Indenture hereof on the part of the Agency to be performed, other than as set forth above in this Section 7.1, and such Event of Default shall continue for 30 days after written notice specifying such Event of Default and requiring the same to be remedied shall have been given to the Agency by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of the Registered Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding hereunder; or

(j) the occurrence of any event specified in a Supplemental Indenture as constituting an Event of Default.

Section 7.2 Remedies; Rights of Registered Owners. Upon the occurrence of an Event of Default, the Trustee, upon being indemnified pursuant to Section 8.1 hereof, may pursue any available remedy by suit at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the Bonds then Outstanding or to enforce any obligations of the Agency hereunder.

If an Event of Default shall have occurred, and if requested so to do by (i) Registered Owners of not less than 25% in aggregate Principal amount of the Bonds then Outstanding, (ii) Security Instrument Issuers at that time providing Security Instruments which are in full force and effect and not in default on any payment obligation and which secure not less than 25% in aggregate Principal amount of Bonds at the time Outstanding, or (iii) any combination of Registered Owners and Security Instrument Issuers described in (i) and (ii) above representing not less than 25% in aggregate Principal amount of Bonds at the time Outstanding, and indemnified as provided in Section 8.1 hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Section 7.2 as the Trustee, being advised by counsel, shall deem most expedient in the interest of the Registered Owners and the Security Instrument Issuers.

No remedy by the terms hereof conferred upon or reserved to the Trustee (or to the Registered Owners or to the Security Instrument Issuers) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee, the Registered Owners or the Security Instrument Issuers or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any Event of Default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any Event of Default hereunder, whether by the Trustee or by the Registered Owners or the Security Instrument Issuers, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

Section 7.3 Right of Registered Owners to Direct Proceedings. Anything herein to the contrary notwithstanding, unless a Supplemental Indenture provides otherwise, either (i) the Registered Owners of a majority in aggregate Principal amount of the Bonds then Outstanding, (ii) the Security Instrument Issuers at the time providing Security Instruments which are in full force and effect and not in default on any payment obligation and which secure not less than 50% in aggregate Principal amount of Bonds at the time Outstanding, or (iii) any combination of Registered Owners and Security Instrument Issuers described in (i) and (ii) above representing not less than 50% in aggregate Principal amount of Bonds at the time Outstanding, shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions hereof, or for the appointment of a receiver or any other proceedings hereunder; provided, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

Section 7.4 Application of Moneys. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article VII shall, after payment of Trustee's fees and expenses including the fees and expenses of its counsel for the proceedings resulting in the collection of such moneys and of the expenses and liabilities and advances incurred or made by the Trustee, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund shall be applied in the following order:

(a) To the payment of the principal of, premium, if any, and interest then due and payable on the Bonds and the Security Instrument Repayment Obligations as follows:

(i) Unless the Principal of all the Bonds shall have become due and payable, all such moneys shall be applied:

FIRST—To the payment to the persons entitled thereto of all installments of interest then due on the Bonds and the interest component of any Security Instrument Repayment Obligations then due, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege; and

SECOND—To the payment to the persons entitled thereto of the unpaid Principal of and premium, if any, on the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions hereof), in the order of their due dates, and the Principal component

of any Security Instrument Repayment Obligations then due, and, if the amount available shall not be sufficient to pay in full all the Bonds and the Principal component of any Security Instrument Repayment Obligations due on any particular date, then to the payment ratably, according to the amount of Principal due on such date, to the persons entitled thereto without any discrimination or privilege.

(ii) If the principal of all the Bonds shall have become due and payable, all such moneys shall be applied to the payment of the Principal and interest then due and unpaid upon the Bonds and Security Instrument Repayment Obligations, without preference or priority of Principal over interest or of interest over Principal, or of any installment of interest over any other installment of interest, or of any Bond or Security Instrument Repayment Obligation over any other Bond or Security Instrument Repayment Obligation, ratably, according to the amounts due respectively for Principal and interest, to the persons entitled thereto without any discrimination or privilege.

(iii) To the payment of all obligations owed to all Reserve Instrument Providers, ratably, according to the amounts due without any discrimination or preference under any applicable agreement related to any Reserve Instrument Agreement.

Whenever moneys are to be applied pursuant to the provisions of this Section 7.4, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amounts of such moneys available for such application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal paid on such dates shall cease to accrue.

Section 7.5 Remedies Vested in Trustee. All rights of action (including the right to file proof of claims) hereunder or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings related thereto and any such suit or proceedings instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Registered Owners of the Bonds, and any recovery of judgment shall be for the equal benefit of the Registered Owners of the Outstanding Bonds.

Section 7.6 Rights and Remedies of Registered Owners. Except as provided in the last sentence of this Section 7.6, no Registered Owner of any Bond or Security Instrument Issuer shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement hereof or for the execution of any trust thereof or for the appointment of a receiver or any other remedy hereunder, unless an Event of Default has occurred of which the Trustee has been notified as provided in Section 8.1(g), or of which

by said Section it is deemed to have notice, nor unless also Registered Owners of 25% in aggregate principal amount of the Bonds then Outstanding or Security Instrument Issuers at the time providing Security Instruments which are in full force and effect and are not in default on any payment obligation and which secure not less than 25% in aggregate principal amount of Bonds at the time Outstanding shall have made written request to the Trustee and shall have offered reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, nor unless also they have offered to the Trustee indemnity as provided in Section 8.1 hereof nor unless the Trustee shall thereafter fail or refuse to exercise the powers hereinabove granted, or to institute such action, suit or proceeding in its own name or names. Such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and trust hereof, and to any action or cause of action for the enforcement hereof, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Registered Owner of the Bonds or Security Instrument Issuer shall have any right in any manner whatsoever to affect, disturb or prejudice the lien hereof by its action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Registered Owners of all Bonds then Outstanding and all Security Instrument Issuers at the time providing Security Instruments. Nothing herein contained shall, however, affect or impair the right of any Registered Owner or Security Instrument Issuer to enforce the covenants of the Agency to pay the principal of, premium, if any, and interest on each of the Bonds issued hereunder held by such Registered Owner and Security Instrument Repayment Obligations at the time, place, from the source and in the manner in said Bonds or Security Instrument Repayment Obligations expressed.

Section 7.7 Termination of Proceedings. In case the Trustee, any Registered Owner or any Security Instrument Issuer shall have proceeded to enforce any right hereunder by the appointment of a receiver, or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, the Registered Owner, or Security Instrument Issuer, then and in every such case the Agency and the Trustee shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 7.8 Waivers of Events of Default. Subject to Section 8.1(g) hereof, the Trustee may in its discretion, and with the prior written consent of all Security Instrument Issuers at the time providing Security Instruments, waive any Event of Default hereunder and its consequences and shall do so upon the written request of the Registered Owners of (a) a majority in aggregate principal amount of all the Bonds then Outstanding or Security Instrument Issuers at the time providing Security Instruments which are in full force and effect and are not in default on any payment obligation and which secure not less than 50% in aggregate Principal amount of Bonds at the time Outstanding in respect of which an Event of Default in the payment of principal and interest exist, or (b) a majority in aggregate principal amount of the Bonds then Outstanding or Security Instrument Issuers at the time providing Security Instruments which are in full force and effect and are not in default on any payment obligation and which secure not less than 50% in aggregate

Principal amount of Bonds at the time Outstanding in the case of any other Event of Default; provided, however, that there shall not be waived (i) any default in the payment of the principal of any Bonds at the date that a Principal Installment is due or (ii) any default in the payment when due of the interest on any such Bonds, unless prior to such waiver or rescission, all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds in respect of which such Event of Default shall have occurred on overdue installments of interest and all arrears of payments of principal and premium, if any, when due and all expenses of the Trustee, in connection with such Event of Default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such Event of Default shall have been discontinued or abandoned or determined adversely, then and in every such case the Agency, the Trustee, the Registered Owners and the Security Instrument Issuers shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Section 7.9 Cooperation of Agency. In the case of any Event of Default hereunder, the Agency shall cooperate with the Trustee and use its best efforts to protect the Registered Owners, Reserve Instrument Providers and the Security Instrument Issuers.

ARTICLE VIII

THE TRUSTEE

Section 8.1 Acceptance of the Trusts. The Trustee accepts the trusts imposed upon it hereby, and agrees to perform said trusts as a corporate trustee ordinarily would perform said trusts under a corporate indenture, but no implied covenants or obligations shall be read into this Indenture against the Trustee.

(a) The Trustee may execute any of the trusts or powers thereof and perform any of its duties by or through attorneys, agents, receivers or employees and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of counsel. The Trustee shall not be responsible for any loss or damage resulting from any action or non-action in good faith in reliance upon such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein, or in the Bonds (except in respect to the certificate of the Trustee endorsed on the Bonds), or collecting any insurance moneys, or for the validity of the execution by the Agency of this Indenture or of any supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements on the part of the Agency; but the Trustee may require of the Agency full information and advice as to the performance of the covenants, conditions and agreements aforesaid and as to the condition of the property herein conveyed. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with the provisions hereof. The Trustee shall have no responsibility with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the Bonds.

(c) The Trustee shall not be accountable for the use of any Bonds authenticated or delivered hereunder, except as specifically set forth herein. The Trustee may become the owner of Bonds secured hereby with the same rights which it would have if not Trustee.

(d) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant hereto upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Registered Owner of any Bond, shall be

conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(e) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed on behalf of the Agency by an Authorized Representative as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default of which the Trustee has been notified as provided in Section 8.1(g) herein, or of which by said Paragraph it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of an Authorized Representative of the Agency under its seal to the effect that a resolution in the form therein set forth has been adopted by the Agency as conclusive evidence that such resolution has been duly adopted, and is in full force and effect.

(f) The permissive right of the Trustee to do things enumerated herein shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(g) The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default hereunder, except an Event of Default described in Section 7.1(a) or 7.1(b), unless the Trustee shall be specifically notified in writing of such Default by the Agency, a Security Instrument Issuer or by the Registered Owners of at least 25% in the aggregate principal amount of any Series of the Bonds then Outstanding and all notices or other instruments required hereby to be delivered to the Trustee must, in order to be effective, be delivered at the Principal Corporate Trust Office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no Event of Default except as aforesaid.

(h) At any and all reasonable times and upon reasonable prior written notice, the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect all books, papers and records of the Agency pertaining to the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(i) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(j) Notwithstanding anything elsewhere herein contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview hereof, any showing,

certificates, opinions, appraisals, or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee, deemed desirable for the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(k) All moneys received by the Trustee or any Paying Agent shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

(l) If any Event of Default hereunder shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it hereby and shall use the same degree of care as a prudent man would exercise or use in the circumstances in the conduct of his own affairs.

(m) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Registered Owners, Security Instrument Issuers or Reserve Instrument Providers pursuant to the provisions of this Indenture, unless such Registered Owners, Security Instrument Issuers or Reserve Instrument Providers shall have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which may be incurred therein or thereby.

(n) The Trustee shall not be required to expend, advance, or risk its own funds or incur any financial liability in the performance of its duties or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or satisfactory indemnity against such risk or liability is not assured to it.

Section 8.2 Fees, Charges and Expenses of Trustee. The Trustee shall be entitled to payment and/or reimbursement for reasonable fees for its services rendered as Trustee hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent and Registrar for the Bonds as hereinabove provided. Upon an Event of Default, but only upon an Event of Default, the Trustee shall have a right of payment prior to payment on account of interest or principal of, or premium, if any, on any Bond for the foregoing advances, fees, costs and expenses incurred. The Trustee's rights under this Section 8.2 will not terminate upon its resignation or removal or upon payment of the Bonds and discharge of the Indenture.

Section 8.3 Notice to Registered Owners if Event of Default Occurs. If an Event of Default occurs of which the Trustee is by Section 8.1(g) hereof required to take notice or if notice of an Event of Default be given to the Trustee as in said Section provided, then the Trustee shall give written notice thereof by registered or certified mail to all Security Instrument Issuers or to Registered Owners of all Bonds then Outstanding shown on the registration books of the Bonds kept by the Trustee as Registrar for the Bonds.

Section 8.4 Intervention by Trustee. In any judicial proceeding to which the Agency is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interest of Registered Owners of the Bonds, the Trustee may intervene on behalf of such Owners and shall do so if requested in writing by the Registered Owners of at least 25% in aggregate principal amount of the Bonds then Outstanding. The rights and obligations of the Trustee under this Section 8.4 are subject to the approval of a court of competent jurisdiction.

Section 8.5 Successor Trustee. Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor Trustee hereunder and vested with all of the title to the whole property or trust estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed of conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 8.6 Resignation by the Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving written notice to the Agency, served personally or by registered or certified mail, and by registered or certified mail to each Reserve Instrument Issuer, Security Instrument Issuer and Registered Owner of Bonds then Outstanding, and such resignation shall take effect upon the appointment of and acceptance by a successor Trustee by the Registered Owners or by the Agency as provided in Section 8.8 hereof; provided, however that if no successor Trustee has been appointed within 60 days of the date of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice, if any, as it deems proper and prescribes, appoint a successor Trustee.

Section 8.7 Removal of the Trustee. The Trustee may be removed at any time, by an instrument or concurrent instruments (i) in writing delivered to the Trustee, and signed by the Agency, unless there exists any Event of Default, or (ii) in writing delivered to the Trustee and the Agency, and signed by the Registered Owners of a majority in aggregate principal amount of Bonds then Outstanding if an Event of Default exists; provided that such instrument or instruments concurrently appoint a successor Trustee meeting the qualifications set forth herein.

Section 8.8 Appointment of Successor Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Agency or if an Event of Default exists by the Registered Owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing signed by such Owners, or by their attorneys in fact, duly authorized; provided, nevertheless, that in case of such vacancy, the Agency by an instrument executed by an Authorized Representative under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed by the Registered Owners in the manner above provided; and any such temporary Trustee so appointed by the Agency shall immediately and without further act be superseded by the Trustee so appointed by such Registered Owners. Every successor Trustee appointed pursuant to the provisions of this Section 8.8 or otherwise shall be a trust company or bank in good standing having a reported capital and surplus of not less than \$50,000,000.

Each Reserve Instrument Provider and Security Instrument Issuer shall be notified by the Agency immediately upon the resignation or termination of the Trustee and provided with a list of candidates for the office of successor Trustee.

Section 8.9 Concerning Any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Agency an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Agency, or of the successor Trustee, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the Agency be required by any successor Trustee for more fully and certainly vesting in such successor the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Agency. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article VIII shall be filed and/or recorded by the successor Trustee in each recording office, if any, where the Indenture shall have been filed and/or recorded.

Section 8.10 Trustee Protected in Relying Upon Indenture, Etc. The indentures, opinions, certificates and other instruments provided for herein may be accepted by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for the release of property and the withdrawal of cash hereunder.

Section 8.11 Successor Trustee as Trustee of Funds; Paying Agent and Bond Registrar. In the event of a change in the office of Trustee, the predecessor Trustee which has resigned or been removed shall cease to be Trustee hereunder and Registrar for the Bonds and Paying Agent for principal of, premium, if any, and interest on the Bonds, and the successor Trustee shall become such Trustee, Registrar and Paying Agent for the Bonds.

Section 8.12 Trust Estate May Be Vested in Separate or Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that in case of litigation hereunder, and in particular in case of the enforcement of remedies on Event of Default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights, or remedies herein granted to the Trustee or hold title to the trust estate, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate or co-trustee. The following provisions of this Section 8.12 are adapted to these ends.

In the event that the Trustee appoints an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended hereby to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vested in such separate or co-trustee, but only to the extent necessary to enable the separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of them.

Should any deed, conveyance or instrument in writing from the Agency be required by the separate trustee or co-trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request of such trustee or co-trustee, be executed, acknowledged and delivered by the Agency. In case any separate trustee or co-trustee, or a successor to either, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

Section 8.13 Annual Accounting. The Trustee shall prepare an annual accounting for each Bond Fund Year by the end of the month following each such Bond Fund Year

showing in reasonable detail all financial transactions relating to the funds and accounts held by the Trustee hereunder during the accounting period and the balance in any funds or accounts created hereby as of the beginning and close of such accounting period, and shall mail the same to the Agency, and to each Reserve Instrument Provider requesting the same. The Trustee shall also make available for inspection by any Registered Owner a copy of said annual accounting (with the names and addresses of Registered Owners receiving payment of debt service on the Bonds deleted therefrom) and shall mail the same if requested in writing to do so by Registered Owners of at least 25% in aggregate principal amount of Bonds then Outstanding to the designee of said Owners specified in said written request at the address therein designated. On or before the end of the month following each Bond Fund Year, the Trustee shall, upon written request, provide to the Agency and the Agency's independent auditor representations as to the accuracy of the facts contained in the financial reports concerning the transactions described herein that were delivered by the Trustee during the Bond Fund Year just ended.

Section 8.14 Indemnification. To the extent permitted by law and subject to the provisions of Section 8.1(a) of this Indenture, the Agency shall indemnify and save Trustee harmless against any liabilities it may incur in the exercise and performance of its powers and duties hereunder, other than those due to its own negligence or willful misconduct.

Section 8.15 Trustee's Right to Own and Deal in Bonds. The bank or trust company acting as Trustee under this Indenture, and its directors, officers, employees or agents, may in good faith buy, sell, own, hold and deal in any of the Bonds issued hereunder and secured by this Indenture, and may join in any action which any Bondholder may be entitled to take with like effect as if such bank or trust company were not the Trustee under this Indenture.

Section 8.16 Direct Payment Authorization. The Agency hereby authorizes and directs the Trustee to take all necessary actions to effectively carry out the duties required to apply for and accept Direct Payments from the Internal Revenue Service on behalf of the Agency under Sections 54AA and 6431 of the Code or such other tax provisions of substantially similar nature which may be hereafter authorized, including, but not limited to, filing and signing IRS Form 8038-CP, receiving the Direct Payment on the Agency's behalf, and using such Direct Payment to pay Debt Service on the Bonds. For fixed rate bonds, the Trustee shall file the 8038-CP at least 50 days (but not more than 90 days) before the relevant Interest Payment Date (unless otherwise directed by a change in regulations). For variable rate bonds, the Trustee shall file the 8038-CP for reimbursements in arrears within 25 days after the last Interest Payment Date within the quarterly period for which reimbursement is being requested (unless otherwise directed by a change in regulations). The Agency hereby covenants that it will deposit the Direct Payments with the Trustee for use in paying Debt Service on the Bonds.

ARTICLE IX

SUPPLEMENTAL INDENTURES

Section 9.1 Supplemental Indentures Not Requiring Consent of Registered Owners, Security Instrument Issuers and Reserve Instrument Providers. The Agency and the Trustee may, without the consent of, or notice to, any of the Registered Owners or Reserve Instrument Providers, or Security Instrument Issuers, enter into an indenture or indentures supplemental hereto, as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

(a) To provide for the issuance of Additional Bonds in accordance with the provisions of Section 2.13 hereof;

(b) To cure any ambiguity or formal defect or omission herein;

(c) To grant to or confer upon the Trustee for the benefit of the Registered Owners, any Security Instrument Issuers and any Reserve Instrument Providers any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Registered Owners or any of them which shall not adversely affect the interests of any Reserve Instrument Providers or Security Instrument Issuers without its consent;

(d) To subject to this Indenture additional Pledged Revenues or other revenues, properties, collateral or security;

(e) To provide for the issuance of the Bonds pursuant to a book-entry system or as uncertificated registered public obligations pursuant to the provisions of the Registered Public Obligations Act, Title 15, Chapter 7 of the Utah Code, Annotated 1953, as amended, or any successor provisions of law;

(f) To make any change which shall not materially adversely affect the rights or interests of the Owners of any Outstanding Bonds, any Security Instrument Issuers or any Reserve Instrument Provider requested or approved by a Rating Agency in order to obtain or maintain any rating on the Bonds or requested or approved by a Security Instrument Issuer or Reserve Instrument Provider in order to insure or provide other security for any Bonds;

(g) To make any change necessary (A) to establish or maintain the excludability from gross income for federal income tax purposes of interest on any Series of Bonds as a result of any modifications or amendments to Section 148 of the Code or interpretations by the Internal Revenue Service of Section 148 of the Code or of regulations proposed or promulgated thereunder, or (B) to comply with the provisions of Section 148(f) of the Code, including provisions for the payment of all or a portion of the investment earnings of any of the Funds established hereunder to the United States of America, or (C) to establish or maintain the Direct Payments related to any Series of Bonds;

(h) If the Bonds affected by any change are rated by a Rating Agency, to make any change which does not result in a reduction of the rating applicable to any of the Bonds so affected, provided that if any of the Bonds so affected are secured by a Security Instrument, such change must be approved in writing by the related Security Instrument Issuer;

(i) If the Bonds affected by any change are secured by a Security Instrument, to make any change approved in writing by the related Security Instrument Issuer, provided that if any of the Bonds so affected are rated by a Rating Agency, such change shall not result in a reduction of the rating applicable to any of the Bonds so affected;

(j) Unless otherwise provided by a Supplemental Indenture authorizing a Series of Bonds, the designation of the facilities to constitute a Project by such Supplemental Indenture may be modified or amended if the Agency delivers to the Trustee (1) a Supplemental Indenture designating the facilities to comprise the Project and (2) an opinion of Bond Counsel to the effect that such amendment will not adversely affect the tax-exempt status (if applicable) or validity of the Bonds; and

(k) To correct any references contained herein to provisions of the Redevelopment Act, the Code or other applicable provisions of law that have been amended so that the references herein are correct.

Section 9.2 Supplemental Indentures Requiring Consent of Registered Owners and Reserve Instrument Providers; Waivers and Consents by Registered Owners. Exclusive of Supplemental Indentures covered by Section 9.1 hereof and subject to the terms and provisions contained in this Section 9.2, and not otherwise, the Registered Owners of 66 2/3% in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained herein to the contrary notwithstanding, to (i) consent to and approve the execution by the Agency and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Agency for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained herein or in any Supplemental Indenture, or (ii) waive or consent to the taking by the Agency of any action prohibited, or the omission by the Agency of the taking of any action required, by any of the provisions hereof or of any indenture supplemental hereto; provided, however, that nothing in this Section 9.2 contained shall permit or be construed as permitting (a) an extension of the date that a Principal Installment is due at maturity or mandatory redemption or reduction in the principal amount of, or reduction in the rate of or extension of the time of paying of interest on, or reduction of any premium payable on the redemption of, any Bond, without the consent of the Registered Owner of such Bond, or (b) a reduction in the amount or extension of the time of any payment required by any Fund established hereunder applicable to any Bonds without the consent of the Registered Owners of all the Bonds which would be affected by the action to be taken, or (c) a reduction in the aforesaid aggregate principal amount of Bonds, the Registered Owners of which are required to consent to any such waiver or Supplemental Indenture, or (d) affect the rights of the

Registered Owners of less than all Bonds then outstanding, without the consent of the Registered Owners of all the Bonds at the time Outstanding which would be affected by the action to be taken. In addition, no supplement hereto shall modify the rights, duties or immunities of the Trustee, without the written consent of the Trustee. If a Security Instrument or a Reserve Instrument is in effect with respect to any Series of Bonds Outstanding and if a proposed modification or amendment would affect such Series of Bonds, then, except as provided in Section 9.1, neither this Indenture nor any Supplemental Indenture with respect to such Series of Bonds shall be modified or amended at any time without the prior written consent of the related Security Instrument Issuer or Reserve Instrument Provider, as applicable.

If at any time the Agency shall request the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section 9.2, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such Supplemental Indenture to be given by registered or certified mail to the Bondholder of each Bond shown by the list of Bondholders required by the terms of Section 2.6 hereof to be kept at the office of the Trustee. Such notices shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the principal office of the Trustee for inspection by all Bondholders. At the time such notices are mailed by the Trustee, the Agency may, but is not required to, designate a reasonable time period for receipt of such consents and shall include such requirement in the notices sent to the Bondholders. If the Bondholders of not less than 66 2/3% in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Agency from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such Supplemental Indenture as in this Article IX permitted and provided, the Indenture shall be and be deemed to be modified and amended in accordance therewith.

ARTICLE X

DISCHARGE OF INDENTURE

If the Agency shall pay or cause to be paid, or there shall be otherwise paid or provision for payment made, to or for the Registered Owners of the Bonds, the principal of and interest due or to become due thereon at the times and in the manner stipulated therein, and shall pay or cause to be paid to the Trustee all sums of moneys due or to become due according to the provisions hereof, and to all Security Instrument Issuers and all Reserve Instrument Providers all sums of money due or to become due according to the provisions of any Security Instrument Agreements or Reserve Instrument Agreements, as applicable, then these presents and the estate and rights hereby granted shall cease, terminate and be void, whereupon the Trustee shall cancel and discharge the lien hereof, and release, assign and deliver unto the Agency any and all the estate, right, title and interest in and to any and all rights assigned or pledged to the Trustee, held by the Trustee, or otherwise subject to the lien hereof, except moneys or securities held by the Trustee for the payment of the principal of and interest on the Bonds, the payment of amounts pursuant to any Security Instrument Agreements or the payment of amounts pursuant to any Reserve Instrument Agreements.

Any Bond shall be deemed to be paid within the meaning of this Article X when payment of the principal of such Bond, plus interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided herein, or otherwise), either (a) shall have been made or caused to have been made in accordance with the terms thereof, or (b) shall have been provided by irrevocably depositing with or for the benefit of the Trustee, in trust and irrevocably setting aside exclusively for such payment, (i) moneys sufficient to make such payment, or (ii) Direct Obligations, maturing as to principal and interest in such amount and at such times as will ensure the availability of sufficient moneys to make such payment, and all necessary and proper fees, compensation and expenses of the Trustee, and any paying agent pertaining to the Bond with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Trustee. At such times as a Bond shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to the benefits hereof, except for the purposes of any such payment from such moneys or Direct Obligations.

Notwithstanding the foregoing, in the case of Bonds, which by their terms may be redeemed prior to their stated maturity, no deposit under the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until the Agency shall have given the Trustee, in form satisfactory to the Trustee, irrevocable instructions:

(a) stating the date when the principal of each such Bond is to be paid, whether at maturity or on a redemption date (which shall be any redemption date permitted hereby);

(b) directing the Trustee to call for redemption pursuant hereto any Bonds to be redeemed prior to maturity pursuant to Article II above; and

(c) directing the Trustee to mail, as soon as practicable, in the manner prescribed by Article II hereof, a notice to the Registered Owners of such Bonds and to each related Security Instrument Issuer that the deposit required by this Article X has been made with the Trustee and that such Bonds are deemed to have been paid in accordance with this Article X and stating the maturity or redemption date upon which moneys are to be available for the payment of the principal or redemption price, if applicable, on said Bonds as specified in Article II.

Any moneys so deposited with the Trustee as provided in this Article X may at the direction of the Agency also be invested and reinvested in Direct Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Direct Obligations in the hands of the Trustee pursuant to this Article X which is not required for the payment of the Bonds and interest thereon with respect to which such moneys shall have been so deposited, shall be deposited in the Bond Fund as and when realized and collected for use and application as are other moneys deposited in that fund; provided, however, that before any excess moneys shall be deposited in the Bond Fund, the Trustee shall first obtain a written verification from a certified public accountant that the moneys remaining on deposit with the Trustee and invested in Direct Obligations after such transfer to the Bond Fund shall be sufficient in amount to pay principal and interest on the Bonds when due and payable.

Notwithstanding any provision of any other Article hereof which may be contrary to the provisions of this Article X, all moneys or Direct Obligations set aside and held in trust pursuant to the provisions of this Article X for the payment of Bonds (including interest thereon) shall be applied to and used solely for the payment of the particular Bonds (including interest thereon) with respect to which such moneys or Direct Obligations have been so set aside in trust.

Anything in Article IX hereof to the contrary notwithstanding, if moneys or Direct Obligations have been deposited or set aside with the Trustee pursuant to this Article X for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment to the provisions of this Article X shall be made without the consent of the Registered Owner of each Bond affected thereby.

ARTICLE XI

MISCELLANEOUS

Section 11.1 Consents, Etc., of Registered Owners. Any consent, request, direction, approval, objection or other instrument required hereby to be executed by the Registered Owners, Security Instrument Issuers or Reserve Instrument Providers may be in any number of concurrent writings of similar tenor and may be executed by such Registered Owners, Security Instrument Issuers or Reserve Instrument Providers in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes hereof, and shall be conclusive in favor of the Trustee with regard to any action taken under such request or other instrument, namely, the fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

Section 11.2 Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any person other than the parties hereto, the Registered Owners of the Bonds, any Security Instrument Issuer and any Reserve Instrument Provider, any legal or equitable right, remedy or claim under or in respect hereto or any covenants, conditions and provisions herein contained, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto, the Registered Owners of the Bonds, any Security Instrument Issuer and the Reserve Instrument Providers as herein provided.

Section 11.3 Severability. If any provision hereof shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or Sections herein contained, shall not affect the remaining portions hereof, or any part thereof.

Section 11.4 Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper on the Agency if the same shall be duly mailed by registered or certified mail addressed to it at 3200 West 300 North, West Point, Utah 84015, Attention: Secretary, or to such address as the Agency may from time to time file with the Trustee. It shall be sufficient service of any notice or other paper on the Trustee if the same shall be duly mailed by registered or certified mail addressed to it

_____, Attention: Corporate Trust Department, or to such other address as the Trustee may from time to time file with the Agency.

Section 11.5 Trustee as Paying Agent and Registrar. Trustee is hereby designated and agrees to act as principal Paying Agent and Bond Registrar for and in respect to the Bonds.

Section 11.6 Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.7 Applicable Law. This Indenture shall be governed exclusively by the applicable laws of the State.

Section 11.8 Immunity of Officers and Directors. No recourse shall be had for the payment of the principal of or premium or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement herein contained against any past, present or future officer, or other public official, employee, or agent of the Agency.

Section 11.9 Holidays. If any date for the payment of principal of or interest on the Bonds is not a Business Day, then such payment shall be due on the first Business Day thereafter and no interest shall accrue for the period between such date and such first Business Day thereafter.

Section 11.10 Effective Date. This Indenture shall become effective immediately.

Section 11.11 Compliance with Act. It is hereby declared by the Agency's Governing Body that it is the intention of the Agency by the execution of this Indenture to comply in all respects with the provisions of the Redevelopment Act.

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be executed as of the date first written above.

COMMUNITY DEVELOPMENT AND
RENEWAL AGENCY OF WEST POINT
CITY, UTAH, as Agency

(SEAL)

Chair

ATTEST:

Secretary

_____,
as Trustee

By: _____

Title: _____

EXHIBIT A

FORM OF REQUISITION

RE: Community Development and Renewal Agency of West Point City, Utah
[Federally Taxable] Sales Tax Revenue [Refunding] [Exchange] Bonds, Series
_____ in the sum of \$ _____

Corporate Trust Department

You are hereby authorized to disburse from the 20____ Account of the
Construction Fund with regard to the above-referenced bond issue the following:

REQUISITION NUMBER: _____

NAME AND ADDRESS OF PAYEE: _____

AMOUNT: \$ _____

PURPOSE FOR WHICH EXPENSE HAS BEEN INCURRED: _____

Each obligation, item of cost, or expense mentioned herein has been properly incurred, is
a proper charge against the 20____ Account of the Construction Fund based upon audited,
itemized claims substantiated in support thereof, and has not been the basis for a previous
withdrawal.

DATED: _____

Authorized Representative

COMMUNITY DEVELOPMENT AND RENEWAL AGENCY
OF WEST POINT CITY, UTAH

\$ _____
Sales Tax Revenue Bonds, Series 2022

BOND PURCHASE AGREEMENT

_____, 2022

Community Development and Renewal Agency
of West Point City, Utah
3200 West 300 North
West Point, Utah 84015

The undersigned, _____ (the “Purchaser”) offers to purchase from the Community Development and Renewal Agency of West Point City, Utah (the “Issuer”), a redevelopment agency established under the Limited Purpose Local Government Entities-Community Reinvestment Agency Act, Title 17C, Chapter 1, Utah Code Annotated 1953, as amended, all (but not less than all) of the Issuer’s \$ _____ Sales Tax Revenue Bonds, Series 2022 (the “Series 2022 Bonds”), with delivery and payment at the offices of Gilmore & Bell, P.C. in Salt Lake City, Utah, based upon the covenants, representations, and warranties set forth below.

1. Upon the terms and conditions and upon the basis of the representations set forth herein, the Purchaser hereby agrees to purchase from the Issuer, and the Issuer hereby agrees to sell and deliver to the Purchaser, the Series 2022 Bonds on _____, 2022 (the “Closing Date”). Exhibit A, which is hereby incorporated by reference into this Bond Purchase Agreement, contains a brief description of the Series 2022 Bonds, the manner of their issuance, the purchase price to be paid, and the expected date of delivery and payment.

2. You represent and covenant to the Purchaser that (a) you have and will have on the Closing Date the power and authority to enter into and perform this Bond Purchase Agreement, to adopt the resolution dated [November 1], 2022 (the “Resolution”), to execute and deliver the General Indenture of Trust dated as of _____ 1, 20__, by and between the Issuer and _____, as trustee, and the First Supplemental Indenture of Trust dated as of _____, by and between the Issuer and the Trustee (together, the “Indenture”) and the Interlocal Agreement (as defined in the Indenture), and to deliver and sell the Series 2022 Bonds to the Purchaser, (b) this Bond Purchase Agreement, the Resolution, the Indenture, the Interlocal Agreement, and the Series 2022 Bonds do not and will not conflict with or create a breach or default under any existing law, regulation, order, or agreement to which the Issuer is subject or by which the Issuer is bound, (c) no governmental approval or authorization other than the Resolution is required in connection with the sale of the Series 2022 Bonds to the Purchaser, (d) this Bond Purchase Agreement,

the Indenture, the Interlocal Agreement, and the Series 2022 Bonds are and shall be on the Closing Date legal, valid, and binding obligations of the Issuer enforceable in accordance with their respective terms, subject only to applicable bankruptcy, insolvency, or other similar laws generally affecting creditors' rights, (e) no litigation in the State of Utah or federal courts has been served on the Issuer or, to the knowledge of the Issuer, is threatened against or affecting the Issuer or affecting the corporate existence of the Issuer or the titles of its officers to their respective offices or seeking to prohibit, restrain, or enjoin the sale, issuance, or delivery of the Series 2022 Bonds or in any way contesting or affecting the transactions contemplated hereby or the validity or enforceability of the Series 2022 Bonds, the Resolution, the Indenture, the Interlocal Agreement, or this Bond Purchase Agreement, or contesting the powers of the Issuer or any authority for the issuance, sale and delivery of the Series 2022 Bonds, the adoption of the Resolution, or the execution and delivery of the Indenture, the Interlocal Agreement, and this Bond Purchase Agreement, and (f) no material adverse change in the financial condition of the Issuer has occurred since the date of the Issuer's last financial statements delivered to the Purchaser.

3. As conditions to the Purchaser's obligations hereunder:

(a) From June 30, [2022], to the date of delivery of the Series 2022 Bonds, there shall not have been any material adverse change in the financial condition or general affairs of the Issuer.

(b) From the date of this Bond Purchase Agreement, there shall not be any international or national crisis, suspension of stock exchange trading, or banking moratorium materially affecting, in the Purchaser's opinion, the market price of the Series 2022 Bonds.

(c) At the Closing, the Issuer will deliver or make available to the Purchaser:

(i) Executed copies of the Resolution, the Indenture and the Interlocal Agreement;

(ii) The Series 2022 Bonds, in definitive form, duly executed;

(iii) A certificate from authorized officers of the Issuer, in form and substance acceptable to the Purchaser, to the effect that the representations and information of the Issuer contained in this Bond Purchase Agreement delivered to us with respect to the Issuer are true and correct when made and as of the Closing Date;

(iv) The approving opinion of Gilmore & Bell, P.C., Bond Counsel, satisfactory to the Purchaser, dated the Closing Date, substantially to the effect that the Series 2022 Bonds are valid and binding obligations of the Issuer and the interest of the Series 2022 Bonds is excludable from gross income for federal income tax purposes; and

(v) Such additional certificates, instruments, and other documents (including, without limitation, those set forth in Exhibit A, if any) as the Purchaser

may deem necessary with respect to the issuance and sale of the Series 2022 Bonds, all in form and substance satisfactory to the Purchaser.

At the Closing, all of the representations and warranties made in Section 2 shall be true and correct in all material respects.

4. The Issuer will pay the cost of the fees and disbursements of counsel to the Issuer, the Purchaser, the Trustee, the Municipal Advisor, and of Bond Counsel from proceeds of the Series 2022 Bonds.

5. This Bond Purchase Agreement is intended to benefit only the parties hereto, and the Issuer's representations and warranties shall survive any investigation made by or for the Purchaser, delivery, and payment for the Series 2022 Bonds, and the termination of this Bond Purchase Agreement.

6. The Purchaser hereby represents that it is acquiring the Series 2022 Bonds for their own account, and not with a view to, or for sale in connection with, any distribution of the Series 2022 Bonds or any part thereof. The Purchaser has not offered to sell, solicited offers to buy, or agreed to sell the Series 2022 Bonds or any part thereof, and has no present intention of reselling or otherwise disposing of the Series 2022 Bonds.

7. [The Series 2022 Bonds will not be (i) assigned a specific rating by any rating agency, (ii) registered with The Depository Trust Company or any other securities depository, (iii) issued pursuant to any type of official statement, private placement memorandum or other offering document, or (iv) assigned a CUSIP number.]

8. The Issuer acknowledges and agrees that (i) the purchase of the Series 2022 Bonds pursuant to this Bond Purchase Agreement is an arm's-length commercial transaction between the Issuer and the Purchaser, (ii) in connection with such transaction, the Purchaser is acting solely as a principal and not as an agent or a fiduciary of the Issuer, (iii) the Purchaser has not assumed (individually or collectively) an advisory or fiduciary responsibility in favor of the Issuer with respect to the Series 2022 Bonds, (iv) the Purchaser has financial and other interests that differ from those of the Issuer, and (v) the Issuer has consulted with its own legal and financial advisors to the extent it deemed appropriate in connection with the Series 2022 Bonds.

9. The Purchaser [(a) is a bank, any entity directly or indirectly controlled by the bank or under common control with the bank, other than a broker, dealer or municipal securities dealer registered under the Securities Exchange Act of 1934, or a consortium of such entities] and (b) has the present intent to hold the Series 2022 Bonds to maturity or earlier redemption or mandatory tender.

(Signature Page(s) Follow)

Sincerely,

[PURCHASER]

By: _____

Title: _____

COMMUNITY DEVELOPMENT AND
RENEWAL AGENCY OF WEST POINT
CITY, UTAH

By: _____
[Chair] [Executive Director]

(SEAL)

ATTEST AND COUNTERSIGN:

By: _____
Secretary

ACKNOWLEDGED:

WEST POINT CITY, UTAH

By: _____
Mayor

EXHIBIT A

DESCRIPTION OF SERIES 2022 BONDS

Issue Size: \$

Purchase Price: \$

Interest Payment Dates:

Interest Rate: _____ per annum

Final Maturity Date:

Dated Date: Initial delivery date of Series 2022 Bonds.

Form: Registered Bonds.

Closing Date: _____, 2022 (or such other date as agreed upon by the Purchaser and the Issuer).

Redemption:

[Mandatory Sinking Fund Redemption Schedule:]

Mandatory Sinking Fund Redemption Date (<u>November 1</u>)	Mandatory Sinking Fund <u>Redemption Amount</u>
--	--

* _____
Final maturity

SALES TAX INTERLOCAL PLEDGE AGREEMENT

This SALES TAX INTERLOCAL PLEDGE AGREEMENT (the “Agreement”) is entered into as of _____, 2022 pursuant to the provisions of the Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended (the “Interlocal Act”), by and between WEST POINT CITY, UTAH, a municipal corporation and political subdivision of the State of Utah (the “City”), and the COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF WEST POINT CITY, UTAH (the “Agency” and together with the City, the “Parties”), a redevelopment agency established under Limited Purpose Local Government Entities–Community Reinvestment Agency Act, Title 17C, Chapter 1, Utah Code Annotated 1953, as amended (the “Redevelopment Act”).

WITNESSETH:

WHEREAS, the Agency has been established by the City for the purpose of developing and redeveloping certain areas within the City in order to accomplish the purposes of the Redevelopment Act; and

WHEREAS, the City and the Agency have previously authorized the establishment of the 300 North Community Development Project Area (the “Project Area”) pursuant to a redevelopment plan adopted by the City and the Agency; and

WHEREAS, pursuant to the terms of a General Indenture of Trust dated as of _____, 2022, as supplemented by a First Supplemental Indenture dated as of _____, 2022 (together, the “Indenture”), both by and between the Agency and _____ (the “Trustee”), the Agency intends to issue its Sales Tax Revenue Bonds, Series 2022 (the “Series 2022 Bonds”) which are payable from sales and use taxes pledged pursuant to this Agreement to (a) finance the purchase of land to benefit the Project Area (the “Project”), (b) fund any necessary reserves and (c) pay costs associated with the issuance of the Series 2022 Bonds; and

WHEREAS, the City has agreed to enter into this Agreement with the Agency pursuant to Section 17C-1-207 and 17C-1-409 of the Redevelopment Act to pledge and lend to the Agency local sales and use tax revenues received by the City pursuant to Title 59, Chapter 12, Part 2, Utah Code Annotated 1953, as amended (the “Sales Tax Revenues”), to pay debt service on the Series 2022 Bonds and pay any obligation of the Agency under the Indenture, including without limitation, the obligation to replenish any debt service reserve fund or reserve instrument fund, if necessary, thereunder, which pledge is on a parity with payment by the City of any obligations payable from or secured by any portion of Sales Tax Revenues (“Sales Tax Obligations”) the City has issued or may issue in the future on a parity thereto, including, but not limited to the City’s obligation under the [Fiber Communications Service and Acquisition Contract dated as of June 10, 2019 and the Interlocal Sales Tax Pledge and Loan Agreement dated June 7, 2016 by and between the City and the Agency (the “Outstanding Obligations”)]; and

WHEREAS, the City recognizes that many benefits are flowing to the City because of the redevelopment performed by the Agency including, but not limited to, improved quality of life, increased employment opportunities within the City, increased ad valorem tax base, and increased Sales Tax Revenues to the City; and

WHEREAS, pursuant to the Redevelopment Act, the City is authorized to lend, grant, or contribute funds to the Agency for the Project Area development, including assigning revenue or taxes in support of an Agency bond or obligation; and

WHEREAS, the City and the Agency have found and determined that the contribution and pledge of City funds is a corporate purpose that will promote economic and community development and the health, safety, and welfare of the City and its inhabitants, result in interest savings with respect to the Series 2022 Bonds, and is in the best interest of the City and its inhabitants;

NOW, THEREFORE, in consideration of the mutual promises, the covenants contained herein, and other good and valuable consideration, the receipt of which is acknowledged, the parties hereto agree as follows:

Section 1. The Agency agrees that upon issuance of the Series 2022 Bonds it will use the net proceeds of such Series 2022 Bonds to finance the Project, fund any necessary reserve funds, and pay costs of issuance. As required by the Redevelopment Act, the Series 2022 Bonds shall be made payable as to both principal and interest solely from the Sales Tax Revenues received by the Agency and shall not be payable from funds directly paid by the City, except to the extent moneys are transferred by the City to the Agency pursuant to this Agreement.

Section 2. Pursuant to the Indenture, the Agency shall, on or prior to each [December 15 and June 15] of each year, commencing [December 15, 2022], determine (a) the amounts due with respect to the Series 2022 Bonds on the next succeeding [January 15 and July 15, as applicable]. In addition, the Agency shall, on or prior to each [December 15 and June 15] of each year, submit a request to the Chief Administrative Officer for Sales Tax Revenues equal to the amount of the payments due on the Series 2022 Bonds on the next succeeding [January 15 and July 15], plus any additional payment obligations of the Agency, under the Indenture, including the obligation to replenish any reserve funds or to deposit amounts to any reserve instrument fund thereunder, if necessary. The City agrees to pay such amounts directly to the Trustee not less than ten days prior to the next succeeding [January 15 and July 15], as applicable. The Agency covenants to take such other action as it lawfully may take to assure that Sales Tax Revenues for debt service on the Series 2022 Bonds are remitted by the City to the Agency pursuant to this Agreement.

Section 3. Pursuant to Section 17C-1-207 and Section 17C-1-409 of the Redevelopment Act, the City hereby pledges for the benefit of the holders of the Series 2022 Bonds and agrees to lend to the Agency, to the extent necessary during each Bond Year (as defined in the Indenture), Sales Tax Revenues sufficient to pay debt service on the Series 2022 Bonds, plus any additional payment obligations of the Agency under the Indenture, including the obligation to replenish any reserve funds or to deposit amounts to

any reserve instrument fund thereunder, if necessary (the “City Contribution”) on or before the date on which said moneys are due and owing during each Bond Year until the Series 2022 Bonds are paid in full, which pledge shall be on a parity with any Sales Tax Obligations the City may issue in the future.

The City hereby agrees and covenants that it will not issue any additional Sales Tax Obligations on a priority to the pledge of the Sales Tax Revenues hereunder. In addition, the City hereby agrees and covenants that it will not issue any Additional Sales Tax Obligations on a parity with its obligation under this Agreement, unless the requirements for the issuance of additional obligations under the Outstanding Obligations have been met.

Section 4. Nothing contained in this Agreement shall be construed to create a general obligation liability of the City. The Series 2022 Bonds shall not be a debt of the City pursuant to any constitutional or statutory debt limitations, and the issuance of the Series 2022 Bonds and the execution of this Agreement shall not require the City to levy any form of taxation or to appropriate any moneys for the payment of the Series 2022 Bonds or amounts otherwise due under this Agreement.

Section 5. This Agreement shall be effective upon the date it is executed by both parties and filed with the keeper of the records of each party and will remain in effect as long as the Series 2022 Bonds remain outstanding, but in no event more than fifteen (15) years from the effective date of this Agreement herein. The City’s obligation to make such payments and to perform and observe the other agreements and covenants on its part contained in this Agreement shall be absolute and unconditional, irrespective of any rights of set off, recoupment or counterclaim it might otherwise have against the Agency, the Trustee or any holder of the Series 2022 Bonds.

Section 6. Except as specifically provided herein, each party shall be responsible for its own costs of any action done pursuant to this Agreement, and for any financing of such costs. Pursuant to the Interlocal Act, the City and the Agency hereby designate the [City Administrative Services Director] as the Administrator responsible to administer this Agreement and the accomplishment of the purposes of the cooperative action contemplated hereby and specified herein. No real or personal property shall be acquired jointly by the Agency and the City as a result of this Agreement. To the extent that the City or Agency acquires, holds, or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, such party shall do so in the same manner that it deals with other property of such party.

Section 7. This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, representations and understandings of the Parties. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all the Parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. Notwithstanding anything to the contrary herein, while any of the Series 2022 Bonds are outstanding, this Agreement may only be amended,

modified or waived, if such amendment, modification or waiver does not materially impair the interests of the holders or beneficial owners of the Series 2022 Bonds.

Section 8. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 9. This Agreement shall be governed by the laws of the State of Utah.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year first written above.

WEST POINT CITY, UTAH

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
City Recorder

APPROVED AS TO FORM AND COMPLIANCE WITH APPLICABLE LAW:

By: _____
City Attorney

COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF WEST POINT CITY, UTAH

(SEAL)

By: _____
Executive Director

ATTEST:

By: _____
Secretary

APPROVED AS TO FORM AND COMPLIANCE WITH APPLICABLE LAW:

Community Development and Renewal Agency Attorney

CITY COUNCIL STAFF REPORT



Subject: Amended Budget
Author: Ryan Harvey
Department: Administrative Services
Meeting Date: November 1, 2022

Background

The City Council adopted the Final Budget for Fiscal Year 2023 in August, 2022. In order to make changes to that Budget, the City Council needs to adopt an Amended Budget by Resolution. This report summarizes the items that need to be amended in the current year budget.

Analysis

APRA Fund Accounts

The City has received both allocations from the Federal Government of these funds, totaling \$1,296,768. Staff created a new line item in the Special Revenue Fund called ARPA West Point City Direct to receive these funds. The City will also be receiving around \$25 Million from Davis County for the State and Local Fiscal Recovery Funds (SLFRF). This money was set up to be collected in the Special Revenue Fund under ARPA NEU Davis County. This money will be going toward the Sewer Project in the Annexation Area.

Upon further research and on the recommendation of our ARPA Consultants, the City needs to create two new fund accounts to receive and spend ARPA Funds. Staff proposes creating Fund 90 for the West Point City ARPA Funds, and Fund 95 for the Davis County ARPA Funds. The amounts that are currently budgeted in the Special Revenue Fund will just transfer to the new Funds.

West Point City ARPA Funds

As part of the application process for the County ARPA Funds, the City pledged \$100,000 per phase, totaling \$300,000 for the 3 phases that are planned for the Sewer Project. The remaining balance will be used to supplement government services under the following language from the Treasury Department:

Under the Final Rule, recipients can elect a one-time “standard allowance” of \$10 million (not to exceed the recipient’s award amount) to spend on the “provision of government services” during the period of performance.

Staff intends to use this money to pay for General Fund expenses for Salaries and Benefits, and then use the saved money to pay for the Sewer portion of the 2000 West Project.

Recommendation

No action required at this time. If the Council is supportive of these amendments, we will schedule a public hearing for consideration of approval.

Significant Impacts

The West Point City ARPA Funds will supplement Salaries and Benefits, which will in turn allow the City to finance the 2000 West Project.

Attachments

None

CITY COUNCIL STAFF REPORT

Subject: Business License Renewal Dates
Author: Bryn MacDonald
Department: Community Development
Date: November 1, 2022



Background

The current business license ordinance states that all licenses expire in December each year. The proposal is to have licenses renew each year in the month in which the license was originally issued.

Process

The proposed amendment is located in Title 5 of the West Point City Code. Since it is not in the Land Use and Development Code, it does not require a review or recommendation from the Planning Commission. There is no requirement for a public hearing. The City Council has to hold a public meeting and can either approve, modify, or deny the proposed text change.

Analysis

The City currently has 216 active business licenses. The majority of the businesses (184) are home occupations which do not pay a fee for their license or the renewal. Only the commercial businesses (32) pay a license and renewal fee. All of the licenses must be renewed each year in December. This requires the Business License Official to notify each of the business owners and process all of the renewals, including mailing new licenses, all in the same month.

The proposed ordinance (see attached) will change the renewal date for each business to the month the license was originally issued. This will spread the renewal dates throughout the year, and allow the Business License Official to only do a few each month, instead of all of them at one time.

Recommendation

This item is on for discussion only.

Attachments

Proposed Text

5.05.070 License fees.

License fees shall be established from time to time by the city council ~~by resolution~~. All annual license fees shall be due and payable ~~before the first day of January of each year~~ each year on or before the last day of the month in which the license was originally issued. License fees are ~~rebatale~~ nonrefundable.

5.05.080 Exemptions from fees.

A. No fees in this title shall be deemed or construed to apply to any person transacting and carrying on any business exempt by virtue of the Constitution or applicable statutes of the United States or the state of Utah from payment to municipal corporations of such fees as are prescribed in this title.

B. Any person claiming exemption pursuant to this section shall file a verified statement with the license officer stating the facts upon which exemption is claimed. The license officer shall, upon a proper showing contained in the verified statement, issue a license to a person claiming exemption under the provisions of this title without payment to the city of the license fee required by this title. Every person claiming exemption from payment of any license fee provided in this title upon the grounds of an imposition of such fee casts an unlawful burden upon his right to engage in commerce with foreign nations or among the several states or conflicts with the regulation with interstate commerce by the United States shall file a verified statement with the license officer disclosing the interstate or other character of the type of business entitling such exemption. Such statement shall state the name and location of the person for which the nearest local or state manager, if any, and his address, the kind of goods, wares, merchandise, or other service to be delivered, or performed, the method of solicitation or taking orders, the place from which the same are to be shipped or forwarded or the services performed, the location of any warehouse, factory or plant within the state of Utah, the method of delivery, the name and location of the residence of the applicant, and any other facts necessary to claim exemption. A copy of the order blank contract form, or other papers used by such person shall be attached to the verified statement. The license officer, after having a reasonable period of time to verify and review the information contained in the verified statement, shall establish a reasonable license fee. If the person claiming exemption refuses to pay this fee he shall be referred to the city attorney who shall review the information contained in his verified statement by the city license officer. [Code 2000 § 16-1-8].

5.05.090 Prorating fees.

~~The license officer shall prorate, on a quarterly basis for the balance of any license year, the license fee of any business commenced after the beginning of the license year.~~

5.05.100 Delinquent fees.

Annual license fees shall become delinquent ~~on the first day of January of each year.~~ each year on the first day of the month in which the license was originally issued. A delinquent fee of ~~\$10.00~~ shall be added after the due date for each month or part thereof the fee is not paid.

5.05.110 License application.

Every person required to procure a license under the provisions of this title or any ordinance or law of the city shall submit an application for such license to the license officer.

A. The application shall be a written statement, upon forms provided by the license officer, and shall include an affidavit, to be sworn by the applicant.

B. A duplicate license or special permit shall be issued by the license officer to replace any license previously issued, which has been lost, stolen, defaced, or destroyed, without any willful conduct on the part of the licensee, ~~upon the filing by the licensee of an affidavit sworn before a notary public attesting to such fact and the paying to the license officer a fee for reissuance.~~

C. The license officer shall, upon disapproving any application submitted under the provisions of this title, refund to the applicant all fees paid in advance, provided the applicant is not otherwise indebted to the city.

5.05.115 Compliance With Building, Zoning Regulations

No license shall be issued for the conduct of any business, and no permit shall be issued if the premises and building use do not fully comply with the city building and zoning ordinances.

5.05.120 License term.

All licenses shall be issued for a term not to exceed one calendar year and shall ~~expire at midnight on the thirty-first day of December in the year issued.~~ be renewed each year on or before the last day of the month in which the license was originally issued.

5.05.130 License form.

Each license issued hereunder shall state upon its face the following:

- A. The name of the licensee and any other name under which such business is to be conducted.
- B. The kind of each business so licensed.
- C. The address of each business so licensed.
- D. The amount of the license fee therefor.
- E. The dates of issuance and expiration thereof.
- F. Such information as the license officer shall determine.

5.05.140 Licensee standards.

The general standards herein set out relative to the qualifications of every applicant for a city license shall be considered and applied by the license officer. In addition, the applicant shall meet the following requirements:

- A. The applicant shall not be in default under the provisions of this chapter or indebted or obligated in any manner to the city except for current taxes and billing.
- B. Such business must not be for a proposed use of any premises which use is a violation of city zoning or other regulations or state or federal laws.

5.05.150 Licensee responsibilities.

Every licensee shall:

- A. Permit all reasonable inspections of his business premises by public authorities so authorized by law;
- B. Ascertain and at all times comply with all laws and regulations applicable to such licensed business;
- C. Avoid all forbidden, improper or unnecessary practices or conditions which do or may affect the public health, morals or welfare;
- D. Refrain from operating the licensed businesses on premises after the expiration of his license and during the period his license is revoked or suspended;
- E. Post and maintain such license upon the licensed premises in a place where it may be seen at all times;
- F. Not allow any license, special permit or insignia to remain posted, or displayed or used, after the period for which it was issued has expired, or when it has been suspended or revoked, or for any other reason become ineffective, but shall promptly return such inoperative license, special permit or insignia to the license officer;
- G. Not loan, sell, give or assign, to any other person, or allow any other person to use or display, or to destroy, damage or remove, or to have in his possession, except as authorized by the license officer or by law, any license, or insignia which has been issued to said licensee.

5.05.160 Transfer of licenses.

Licenses issued under this title shall not be transferable.

5.05.170 Change of business location.

A licensee shall have the right to change the location of the licensed business upon application and issuance of a new license for the new location.

CITY COUNCIL STAFF REPORT

Subject: Discussion - Subdivision Phasing and Second Access
Author: Bryn MacDonald
Department: Community Development
Date: November 1, 2022



Background

In response to a request from City Council, the Planning Commission has worked for the past few months on revisions to the subdivision code related to second access and phasing for developments.

Process

West Point City Land Use and Development Code 17.00.090 allows amendments to land use regulations. The Planning Commission must hold a public hearing and make a recommendation. The City Council then holds public hearing and makes a final decision.

The Planning Commission held a public hearing on September 22, 2022, and recommended approval of the proposed change. The City Council must now hold a public hearing and either approve, modify, or deny the request.

Analysis

The subdivision ordinance currently has a requirement for all developments with more than 30 lots to provide a second access. However, there is no definition of a second access and it is unclear if this can be a private access, an emergency access, or it must be a public access that is always open and available for use. The proposed changes include a definition of second access and greater clarity on when it is required.

The code also states that *"in no case shall more than two phases be development **consecutively.**"* It appears that the intent of the code was for this phrase to read CONCURRENTLY instead of CONSECUTIVELY, and it has been applied that way for many years. The code also allows the City Council to give an exception for multiple phases to be developed at the same time. There are no standards for allowing this exception, so it has been removed.

The proposed ordinance changes are below:

17.10.020 Definitions:

"Second access" means a public street or private road that connects to (and provides access) to an existing public street. A second access shall not be gated for emergency access only; but can be gated if accessible by all members living in the development.

"Private road" means a private street with a minimum of 50-foot right-of-way that includes curb, gutter, and sidewalk on both sides and meets the requirements found in the public works standard drawings. Private roads may terminate at a dead end but will be provided with a

dedicated turnaround and will be no longer than 600 feet in length. Private roads do not provide access to more than 30 units or lots.

17.130.090 Subdivision design standards.

A. Relation to Adjoining Street System

1. The arrangement of streets in new subdivisions shall make provisions for the continuation of the existing streets, curbs, gutters, and sidewalks in adjoining areas (or their proper protection where adjoining land is not subdivided) insofar as such may be deemed necessary by the planning commission for public requirements. The street arrangement must be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it.
2. Standard residential streets shall approach the arterial or collector streets at an angle of not less than 80 degrees.
3. A second access that connects to an existing public street shall be required for any development with more than:
 - a. 30 lots/units. This includes single family, two-family and townhouse developments; or
 - b. 100 multi-family units in a development. This includes developments such as apartments or condominiums.

E. Natural Drainage and Other Easements. The city shall require that easements for drainage through adjoining properties be provided by the developer; an easement for water, sewer, drainage, power lines, and other utilities shall be provided in the subdivision.

~~7. Developments over 30 lots shall be done in phases. A phase shall consist of no more than 30 lots unless specifically approved by the city. Each phase must be completed with both on- and off-site improvements within two years. The city shall not approve more than 30 lots in a development or single phase without requiring the construction of a second access road that connects to an existing public street.~~

~~8. When the off-site improvements have been 100 percent completed within the boundaries of the recorded plat of any phase and approved by the city, and on-site improvements have been 70 percent completed, and building permits have been issued on at least 50 percent of the lots, then the developer may record the plat for the next phase of the development.~~

~~9. In no case shall more than two phases be developed consecutively. The city council may grant exceptions to these rules if deemed appropriate.~~

G. Phasing

1. The division of a preliminary plat into two (2) or more phases must be approved by the Planning Commission as part of the preliminary plat approval. Single family, two-family and townhome developments over 30 lots/units shall be done in phases. The Planning Commission may impose such conditions upon the phases as it deems necessary to assure the orderly development of the preliminary plat. A phased development plan shall show:
 - a. The planned development of the entire site;
 - b. No phase shall consist of more than 30 lots;
 - c. The timing and sequencing of improvements to be completed with each phase, particularly amenities, open space, and public improvements.

2. When the off-site improvements have been 100 percent completed, inspected, and approved by the city, and on-site improvements have been 70 percent completed, inspected and approved by the City, then the developer may record the plat for the next sequential phase of the development.

Recommendation

This item is on for discussion only. A public hearing will be scheduled for a future meeting.

CDRA STAFF REPORT

Subject: Davis School District Property Purchase
Author: Kyle Laws
Department: Executive
Meeting Date: November 1, 2022



Background

For the last year, the City has been working with the Davis School District (DSD) to move the location of the newly proposed Jr High. These efforts have been successful, and the new Jr High will be located on the southeast corner of 4500 W and 700 S. The original location was on the northeast corner of Cold Springs Road (4000 W) and 700 South. The school no longer needs this 24-acre parcel of property and has expressed that it is their policy to give the City the first option to purchase. Staff has been in negotiations with DSD to determine a fair and equitable price.

Analysis

Earlier this year the DSD had the property appraised, and this was used as a baseline for negotiations. This property is in a future commercial district right off of the future interchange of West Davis Highway and SR193. The attached purchase contract outlines the terms of the purchase and can be summarized as follows:

- Purchase price is \$5.75 per square foot (\$250,470.00 per acre) for 24 acres, which totals \$6,011,280.00
- The City agrees to waive all city-related impact fees for the new Jr High as well as the new Elementary school that is currently under construction.
- The City also agrees to exclude this 24-acre parcel from any future Community Development Areas (CDAs), allowing the DSD to realize the full property tax value of this property when development occurs.

These last two terms allowed us to negotiate a lower price per square foot than was originally proposed by DSD.

The Davis Board of Education has agreed to these terms and will be approving this same contract on the same night, November 1, 2022, as the Community Development and Renewal Agency. After all signatures have been obtained, there will be a 60-day due diligence period before closing on the property.

During this 60-day period, the City will be working with Lewis Young Robertson & Burningham (LYRB), to obtain financing for this purchase. More information will be presented over the next two months regarding the financing and bonding for the property. One important point to make is that the bonds will be issued by the Community Development and Renewal Agency of West Point City. This allows more flexibility for development purposes than if the City purchased the property itself. This particular bond will have a call date that will be flexible, allowing the bonds to be paid off as quickly as possible. The intent is to purchase this property to allow for more control over the development of the property, and it is anticipated that the property will be sold in the fairly near future for commercial development purposes.

Recommendation

Staff recommends the Board approve the attached Resolution, authorizing the Board Chair to sign and execute the agreements for the purchase of this property.

Significant Impacts

This is a great opportunity for the City to purchase property adjacent to this major interchange and get us to the table with developers to ensure we get the kind of development we want for this area.

Attachments

- Resolution No 11-01-2022A
- Contract for Purchase of Real Property

required to be paid by Buyer under these documents (except for the proceeds of any new loan) have been delivered to Buyer to Seller or to the escrow/closing office in the form of collected or cleared funds; (c) any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the escrow/closing office in the form of collected or cleared funds. 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. Taxes and assessments for the current year, rents, and interest on assumed obligations shall be prorated at Settlement as set forth in this Section. Tenant deposits (including, but not limited to, security deposits and prepaid rents) shall be paid or credited by Seller to Buyer at Settlement. Prorations set forth in this Section shall be made as of the Settlement Deadline date referenced in *Section 24(c)*, unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. For purposes of this Contract, "Closing" means that: (i) Settlement has been completed; (ii) the proceeds of any new loan have been delivered by the lender to Seller or to the escrow/closing office; and (iii) the applicable Closing documents have been recorded in the office of the county recorder.

4. POSSESSION. Seller shall deliver physical possession to Buyer within **IMMEDIATELY UPON RECORDING;** **DAYS AFTER CLOSING;** **OTHER (SPECIFY)** _____
 _____ Any rental of the *Property* prior to or after Closing, between Buyer and Seller, shall be by separate written agreement.

5. CONFIRMATION OF BROKERAGE FEES & AGENCY DISCLOSURE. Buyer and Seller acknowledge prior receipt of written agency disclosure provided by their respective Buyer's Agent or Seller's Agent that has disclosed the agency relationships that are confirmed below. Buyer and Seller further acknowledge that a six percent (6.00%) Brokerage Fee due as a result of this transaction is being paid at closing by the Seller. At the signing of this Contract:

Seller's Agent,	<u>Brandon Wood</u> ,	represents	<input checked="" type="checkbox"/> Seller	<input type="checkbox"/> Buyer	<input type="checkbox"/> both Buyer and Seller as a Limited Agent;
Seller's Brokerage,	<u>Northwood Group</u> ,	represents	<input checked="" type="checkbox"/> Seller	<input type="checkbox"/> Buyer	<input type="checkbox"/> both Buyer and Seller as a Limited Agent;
Buyer's Agent,	<u>Chris Falk</u> ,	represents	<input type="checkbox"/> Seller	<input checked="" type="checkbox"/> Buyer	<input type="checkbox"/> both Buyer and Seller as a Limited Agent;
Buyer's Brokerage,	<u>Newmark</u> ,	represents	<input type="checkbox"/> Seller	<input checked="" type="checkbox"/> Buyer	<input type="checkbox"/> both Buyer and Seller as a Limited Agent;

6. TITLE TO PROPERTY & TITLE INSURANCE.

- a. Seller represents that Seller has fee simple title to the Property and will convey good and marketable title to Buyer at closing by: **GENERAL WARRANTY DEED** **SPECIAL WARRANTY DEED**, free of financial encumbrances except as provided under *Section 10.1*.
- b. At Settlement, Seller agrees to pay for a standard-coverage owner's policy of title insurance insuring Buyer in the amount of the Purchase Price. The title policy shall conform with Seller's obligations under *Section 10.1* and with the *Commitment for Title Insurance* as agreed to by Buyer under *Section 8*.
- c. **BUYER ELECTS TO OBTAIN A FULL-COVERAGE EXTENDED ALTA POLICY OF TITLE INSURANCE.** The cost of this coverage (including the ALTA survey), above that of the standard-coverage Owner's policy, shall be paid for at Settlement by: **BUYER** **SELLER** **[OTHER]** _____

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

- a. a Seller property condition disclosure for the *Property*, signed and dated by Seller;
- b. a *Commitment for Title Insurance* on the *Property*;
- c. a copy of all leases and rental agreements now in effect with regard to the *Property* together with a current rent roll;
- d. copies in Seller's possession, if any, of any studies and/or reports which have previously been done on the *Property*, including without limitation, environmental reports, soils studies, site plans and surveys;
- e. written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations; and

8. BUYER'S RIGHT TO CANCEL BASED ON BUYER'S DUE DILIGENCE. Buyer's obligation to purchase under this Contract (**check applicable boxes**):

- a. IS IS NOT conditioned upon Buyer's approval of the content of all the *Seller Disclosures* referenced in *Section 7*;
- b. IS IS NOT conditioned upon Buyer's approval of a physical condition inspection of the *Property*;
- c. IS IS NOT conditioned upon Buyer's approval of a survey of the *Property* by a licensed surveyor ("Survey");
- d. IS IS NOT conditioned upon Buyer's approval of applicable federal, state and local governmental laws, ordinances and regulations affecting the *Property*; and any applicable deed restrictions and/or CC&R's (covenants, conditions and restrictions) affecting the *Property*;
- e. IS IS NOT conditioned upon the *Property* appraising for not less than the Purchase Price;
- f. IS IS NOT conditioned upon Buyer's approval of the terms and conditions of any mortgage financing referenced in *Section 2*;
- g. IS IS NOT conditioned upon Buyer's approval of its municipal governing committees and internal approval(s) as necessitated

Upon written notice from the Buyer to the Seller on or prior to the expiration of the Due Diligence Period set forth in paragraph 24 that the Buyer elects to cancel this Agreement in accordance with this paragraph 8, the Earnest Money, together with any and all interest earned thereon, shall be disbursed immediately to the Buyer by the Escrow Agent.

9. ADDITIONAL TERMS. There ARE ARE NOT addenda to this Contract containing additional terms. If there are, the terms of the following addenda are incorporated into this Contract by this reference: Addendum No. 1 Seller Financing Addendum Assumption Addendum Lead-Based Disclosure & Acknowledgement Other (specify): _____

10. SELLER'S WARRANTIES & REPRESENTATIONS.

10.1 Condition of Title. Buyer agrees to accept title to the *Property* subject to the contents of the *Commitment for Title Insurance* as agreed to by Buyer under *Section 8*. Buyer also agrees to take the *Property* subject to existing leases affecting the *Property* and not expiring prior to Closing. Buyer agrees to be responsible for taxes, assessments, association fees and dues, utilities, and other services provided to the *Property* after Closing. Except for any loans(s) specifically assumed by Buyer under *Section 2*, Seller will cause to be paid off by Closing all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. Seller will cause all assessments to be paid current by Closing.

10.2 Condition of Property. Seller warrants that **ON THE DATE SELLER DELIVERS PHYSICAL POSSESSION TO BUYER**, the *Property* and improvements will be broom-clean and free of debris and personal belongings, and in the same general condition as they were on the date of *Acceptance*.

10.3 Other Seller Warranties. Seller further warrants that, to the best of Seller's knowledge, each of the following statements is true: (a) the consummation of the transactions contemplated by this Contract will not constitute a default or result in the breach of any term or provision of any contract or agreement to which Seller is a party so as to adversely affect the consummation of such transactions; (b) there is no action, suit, legal proceeding or other proceeding pending or threatened against Seller and/or the *Property* which may adversely affect the transactions contemplated by this Contract, in any court or before any arbitrator of any kind or before or by any governmental body which may adversely affect the transactions contemplated by this Contract; (c) all work which will be performed in, on or about the *Property* or materials furnished thereto which might in any circumstances give rise to a mechanic's lien or materialman's lien, will be paid and all necessary waivers of rights to a mechanic's or materialman's lien for such work will be obtained; (d) Seller has not received any written notice indicating that the *Property* is in violation of any Federal, State or local Environmental Law; (4) there are no Hazardous Substances on, under, or about the *Property*, nor has Seller undertaken, permitted, authorized or suffered, and will not undertake, permit, authorize or suffer the presence, use, manufacture, handling, generation, storage, treatment, discharge, release, burial or disposal on, under or about the *Property*, of any Hazardous Substances, or the transportation to or from the *Property*, of any Hazardous Substances. As used herein, "Hazardous Substance" shall mean any substance, material or matter that may give rise to liability under any Federal, State, or local

Environmental Laws; and (f) Seller is not a "foreign person" as that term is defined in Section 1445 of the U.S. Internal Revenue Code of 1986, as amended. (In that regard, Seller shall deposit into Escrow, at or prior to Closing, an affidavit in such form as may be required by the U.S. Internal Revenue Service, setting forth seller's full name, address and taxpayer identification number and stating under penalty of perjury that seller is not a "foreign person" as so defined).

11. FINAL PRE-CLOSING INSPECTION. Before Settlement, Buyer may, upon reasonable notice and at a reasonable time, conduct a final pre-closing inspection of the *Property* to determine **only** that the *Property* is "as represented," meaning that the items referenced in *Sections 1.1, 8 and 10.2 and 10.3* ("the items") are respectively present, repaired/changed as agreed, and in the warranted condition. If the items are not as represented, Seller will, prior to Settlement, replace, correct or repair the items or, with the consent of Buyer (and Lender if applicable), escrow an amount at settlement to provide for the same. The failure to conduct a final pre-closing 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.

12. CHANGES DURING TRANSACTION. Seller agrees that from the date of Acceptance until the date of Closing, Seller shall not, without the prior written consent of Buyer: (a) make any changes in any existing leases; (b) enter into any new leases; (c) make any substantial alterations or improvements to the *Property*; or (d) incur any further financial encumbrances against the *Property*.

13. AUTHORITY OF SIGNERS. If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person executing this Contract on its behalf warrants his or her authority to do so and to bind Buyer and Seller. Seller further warrants that the execution and delivery of this Contract by Seller have been duly and validly authorized, and all requisite action has been taken to make this Contract binding upon Seller.

14. COMPLETE CONTRACT/ASSIGNMENT. This Contract together with its addenda, any attached exhibits, and Seller Disclosures, constitutes the entire Contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties. This Contract cannot be changed except by written agreement of the parties. This Contract SHALL SHALL NOT be assignable by Buyer. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal representative, successors and assigns of the parties.

15. MEDIATION. Any dispute relating to this Contract that arises 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 will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved **THIRTY (30) CALENDAR DAYS** from the date written notice requesting mediation is sent by one party to the other(s). If mediation fails, the other procedures and remedies available under this Contract shall apply. Nothing in this *Section 15* shall prohibit any party from seeking emergency equitable relief pending mediation.

16. DEFAULT. If Buyer defaults, Seller may elect either to retain the Earnest Money Deposit as liquidated damages, or to return it and sue Buyer to specifically enforce this Contract or pursue other remedies available at law. If Seller defaults, in addition to return of the Earnest Money Deposit, Buyer may elect either to accept from Seller a sum equal to the Earnest Money Deposit as liquidated damages, or may sue Seller to specifically enforce this Contract or pursue other remedies available at law.

17. ATTORNEY FEES AND COSTS. In the event of litigation or binding arbitration to enforce this Contract, 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*.

18. NOTICES. Except as provided in *Section 23*, all notices required under this Contract must be: (a) in writing; (b) signed by the party giving notice; and (c) received by the other party or the other party's agent no later than the applicable date referenced in this Contract.

19. ABROGATION. Except for the provisions of *Sections 10.1, 10.3, 15 and 17* and any other express warranties made in this Contract, the provisions of this Contract shall not apply after Closing.

20. RISK OF LOSS. All risk of loss to the *Property*, including physical damage or destruction to the *Property* or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by seller until Closing.

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

22. FAX TRANSMISSION AND COUNTERPARTS. Facsimile (fax) transmission of a signed copy of this Contract, any addenda and counteroffers, and the retransmission of any signed fax shall be the same as delivery of an original. This Contract and any addenda and counteroffers may be executed in counterparts.

23. ACCEPTANCE. “Acceptance” occurs when Seller or Buyer, responding to an offer or counteroffer of the other: (a) signs the offer or counteroffer where noted to indicate acceptance; and (b) communicates 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 this Contract:

- a. Seller Disclosure Deadline 10 Days following Mutual Contract execution
- b. Due Diligence Deadline 60 Days following Mutual Contract execution
- c. Settlement Deadline 15 Days following the Due Diligence Deadline

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 _____ [] AM [] PM Mountain Time on _____ (Date), this offer shall lapse; and the Brokerage or Title/Escrow Company shall return the *Earnest Money Deposit* to Buyer.

(Buyer’s Signature) (Title, if any) (Date) (Time)

(Buyer’s Signature) (Title, if any) (Date) (Time)

(Buyers’ Names) (PLEASE PRINT) Address Zip Phone Fax

(Buyers’ Names) (PLEASE PRINT) Address Zip Phone Fax

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. _____

(Seller's Signature) (Date) (Time)

(Seller's Signature) (Date) (Time)

(Sellers' Names) (**PLEASE PRINT**) Address Zip Phone Fax

(Sellers' Names) (**PLEASE PRINT**) Address Zip Phone Fax

REJECTION: Seller rejects the foregoing offer.

(Seller's Signature) (Date) (Time)

DOCUMENT RECEIPT

State law requires Broker to furnish Buyer and seller with copies of this Contract bearing all signatures. (Fill in applicable section below.)

A. I acknowledge receipt of a final copy of the foregoing Contract bearing all signatures.

(Buyer's Signature) (Date) (Buyer's Signature) (Date)

(Seller's Signature) (Date) (Seller's Signature) (Date)

B. I personally caused a final copy of the foregoing Contract bearing all signatures to be [] **faxed** [] **mailed** [] **hand delivered** on _____ (Date), postage prepaid, to the [] **Seller** [] **Buyer**.

Sent/Delivered by (specify) _____

**ADDENDUM #1
TO
REAL ESTATE PURCHASE CONTRACT**

This is an ADDENDUM to the Contract with an Offer Referenced Date of October 1, 2022, including all addenda and counter offers, between West Point City and/ or Assigners as Buyer, and Board of Education of Davis School District, as Seller on the property located at Parcel No. 12-039-0043.

The following terms are hereby incorporated as part of the Contract, and to the extent these terms modify or conflict with any provisions of the Contract, these terms shall control. All other terms of the Contract not modified shall remain the same:

1. West Point City agrees to waive all West Point City Impact Fees associated with the new junior high and elementary school to be constructed on 4500 West to be further described in the documentation created pursuant to Section #3 of this Addendum.
2. West Point City will exclude the Property from any future CDRA(s) to be put in place in the surrounding area, therefore allowing the Davis County School District to collect its full percentage of property taxes to be realized for the parcel.
3. Prior to the termination of the Buyer's Due Diligence, both Seller and Buyer shall mutually agree to documentation outlining points 1 and 2 of Addendum 1. If additional time is needed to do so, Buyer's Due Diligence and Closing shall be addressed and extended accordingly.

Seller Buyer shall have until 5:00 A.M. P.M. Mountain Time, _____ to accept these terms in accordance with Section 24 of the Contract. Unless so accepted, this offer shall lapse.

 Buyer Seller _____ Date

ACCEPTANCE/REJECTION/COUNTER OFFER

CHECK ONE:

Acceptance: Seller Buyer hereby accepts these terms.

Counteroffer: Seller Buyer presents as a counteroffer the terms of the attached Addendum NO.____

 Buyer Seller _____ Date _____ Time

Rejection: Seller Buyer rejects these terms.

 Buyer Seller _____ Date _____ Time

CITY COUNCIL STAFF REPORT



Subject: Boundary Line Agreement
Author: Boyd Davis
Department: Engineering
Meeting Date: November 1, 2022

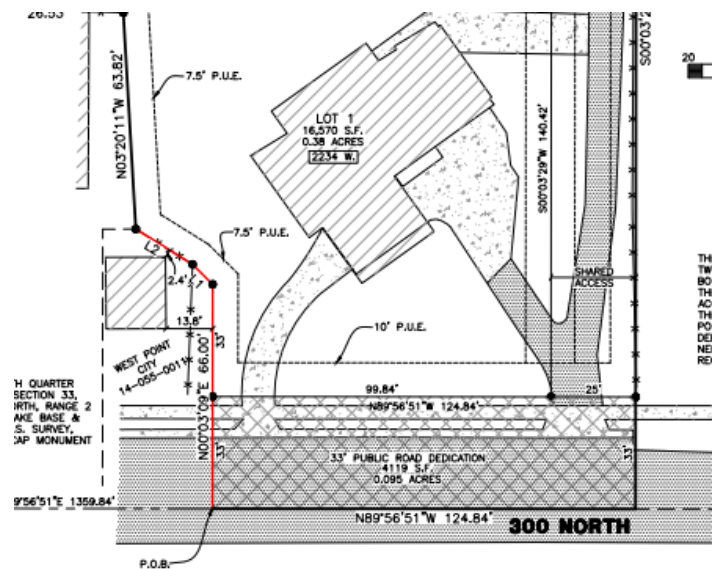
Background

Shane Turner owns the property located at 2234 W 300 N. He recently divided the property into two parcels and created a flag lot on the back of the property. As he did his survey, it was discovered that a portion of the City's wellhouse was located on his property. He deeded that property to the City, however he ran into another problem when he tried to record his plat. The County Recorder informed him that there is a small gap of about 6" between the two properties. He must record a boundary line agreement to eliminate the gap before he can record his plat.

Analysis

Shane has already prepared a boundary line agreement, but it must be accepted by the City Council before it can be recorded. Attached to this report is the boundary line agreement that must be signed by the Mayor before recording.

The boundary line agreement does not add to or take away from the property owned by the City. It simply states that the two parties agree to the boundary that is already shown on the plat that has been approved by the City Council. Staff has reviewed the agreement and the surveyed description and finds it to be acceptable.



Recommendation

Staff recommends approval of Resolution 11-01-2022A, accepting the deed and authorizing the Mayor to sign the document.

Significant Impacts

None

Attachments

Resolution 11-01-2022C

Boundary Line Agreement

RESOLUTION NO. 11-01-2022C

**A RESOLUTION ACCEPTING A BOUNDARY LINE AGREEMENT
BETWEEN WEST POINT CITY AND ROSS ADAMS**

WHEREAS, WEST POINT CITY is the owner of real property identified as Davis County parcel ID 140550011; and

WHEREAS, ROSS ADAMS is the owner of real property identified as Davis County parcel 140550279; and

WHEREAS, the two properties are adjacent to each other and have agreed to a surveyed line separating the two; and

WHEREAS, the owners are desirous to make said line the property line; and

WHEREAS, a survey of the property has been done and a boundary line agreement document has been prepared; and

WHEREAS, the West Point City Council has reviewed said boundary line agreement and finds it acceptable to the City.

NOW, THEREFORE, BE IT RESOLVED, FOUND AND ORDERED, by the City Council of West Point City as follows:

1. West Point City hereby accepts the boundary line agreement.
2. The Mayor is hereby authorized to sign said boundary line agreement.

PASSED AND ADOPTED this 1st day of November, 2022.

WEST POINT CITY,
A Municipal Corporation

By: _____
Brian Vincent, Mayor

ATTEST:

Casey Arnold, City Recorder



SHANE TURNER
WEST POINT, UTAH
JOB NO. 5102-03
6-2-2022

**BOUNDARY LINE AGREEMENT BETWEEN PARCEL # 14-055-0244 AND
PARCEL # 14-055-0011**

PART OF THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION 33, SAID POINT BEING S89°56'51"E 1359.84 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 33 (THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS N89°56'51"W BETWEEN THE SOUTH QUARTER CORNER AND THE SOUTHWEST CORNER OF SAID SECTION 33, THE NAD83 BEARING FOR THIS LINE IS N89°36'09"W); THENCE N00°03'09"E 66.00 FEET; THENCE N45°06'57"W 8.43 FEET TO A POINT IN AN EXISTING FENCE LINE; THENCE N58°09'22"W ALONG SAID FENCE LINE 19.68 FEET TO THE POINT OF TERMINUS.

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ogden@reeve-assoc.com • reeve-assoc.com

CITY COUNCIL STAFF REPORT

Subject: Warranty – West Lake Estates Phase 2
Author: Boyd Davis
Department: Engineering
Meeting Date: November 1, 2022



Background

The Westlake Estates Subdivision Phase 2 is located at 1000 N 5000 W. The developer has completed all the required improvements, with exception of the sidewalk and slurry seal, and is now asking that the subdivision be placed on a one-year warranty.

Analysis

The subdivision has been inspected to ensure all the required improvements have been completed and are in good condition prior to beginning the warranty period. The subdivision will be placed on a one-year warranty as required by the State Code. The required guarantee amount will be retained in escrow for the duration of the warranty period.

Recommendation

It is recommended that the City Council place the Westlake Estates Subdivision Phase 2 on a one-year warranty.

Significant Impacts

None

Attachments

None

CITY COUNCIL STAFF REPORT



Subject: Bid Award – Crack Sealing
Author: Boyd Davis
Department: Engineering
Meeting Date: November 1, 2022

Background

As part of our regular road maintenance we plan to crack seal several streets. Staff has solicited bids from several contractors and received two bids. City Council approval is required for this contract prior to beginning work. Staff would like to present the two bids for your review and consideration.

Analysis

The optimal time to do crack seals is in the fall when the temperatures are cool causing asphalt pavement to shrink and opening cracks to their widest state. This allows the maximum amount of crack seal material to be placed in the cracks and prevents the material from splitting.

This year we contacted about 10 companies and received bids from two qualified contractors. The bids are summarized below:

<u>Contractor</u>	<u>Bid</u>
Andersen Asphalt	\$117,000
Precision Asphalt	\$147,720

We have done work with Andersen Asphalt in the past and they have done excellent work. We were happy to see they had the lowest bid, and we recommend that the Council selects them for this work.

Each year the Council budgets \$250,000 for street maintenance. This bid fits within that budget and leaves funds for other maintenance work that will be done.

The attached map shows the streets that are planned to be crack sealed and are prioritized based on their condition. We plan to do as many of the streets as possible started with those in red.

Recommendation

Staff recommends that the bid for the crack sealing be awarded to Andersen Asphalt for \$117,000.

Significant Impacts

None.

Attachments

Bids; Crack Seal Map

Andersen Asphalt

801-675-1555
admin@andersenam.com



Prepared For:
West Point City
3200 W 300 N
West Point, UT 84015

Attention:
West Point City

Project Address:
Crack Seal Project 2022
3200 W 300 N
West Point, UT 84015

Thank you for the opportunity to provide you with a proposal. Please review the proposal and feel free to call with any questions.

CRACK SEAL PAVEMENT & PERIMETER JOINTS

\$3,900.00

Crack Seal 1 ton transverse and lateral asphalt pavement cracking including perimeter joints

- This work is performed by cleaning debris and vegetation from transverse and lateral pavement cracks 1/4" to 1 1/2" with the use of wire wheels and heat lances.
- Cracks will be sealed with Crafcoc/Deery Superstetch next generation hot applied, polymer modified crack and joint sealant. (Meets ASTM Specifications)
- Price per ton includes: Labor, Equipment, Materials, Traffic Control, Street Sweeping furnished complete.
- **Estimated 30 ton of material. Estimate varies depending actual depth of cracks. Price \$117,000 for 30 tons.**

PREPARED BY: Andersen Asphalt

PROPOSAL TOTAL: \$3,900.00

Notes:

- Additional quantities to be billed at the same rate.

The Unit Rates applicable to the categories of work to be performed pursuant to this Agreement are based on the following material costs and published indexes:

Any adjustments to the original scope of work shall be committed and paid by purchaser as though a written change order were approved and signed by both parties.

Purchaser: _____ Title: _____

Printed Name: _____ Date: _____





897 McCormick Way #2
Layton, UT 84041
Phone: 801-991-0158
www.ipaveutah.com

To: West Point City	Contact: Anthony Stone
Address: 3200 W 300 N West Point, UT 84015 US	Phone: (801) 928-6307
Project Name: West Point City Crack Seal	Bid Number: 22-2277
Project Location: 3200 W 300 N, West Point, UT	Bid Date: 10/18/2022

Item Description	Estimated Quantity	Unit	Total Price
MOBILIZATION: THIS INCLUDES FLAGGERS AND MOBILIZATION	1.00	EACH	\$3,000.00
CRACK SEAL:	30.00	TON	\$144,720.00

*-Clean All Cracks On Asphalt Surface. **DOES INCLUDE** Cement To Asphalt Joints.
 -Applying Elastoflex 65 Hot Tar To Cracks On Asphalt Surface.*

Total Bid Price: \$147,720.00

Notes:

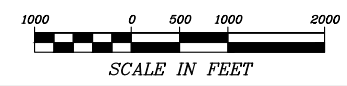
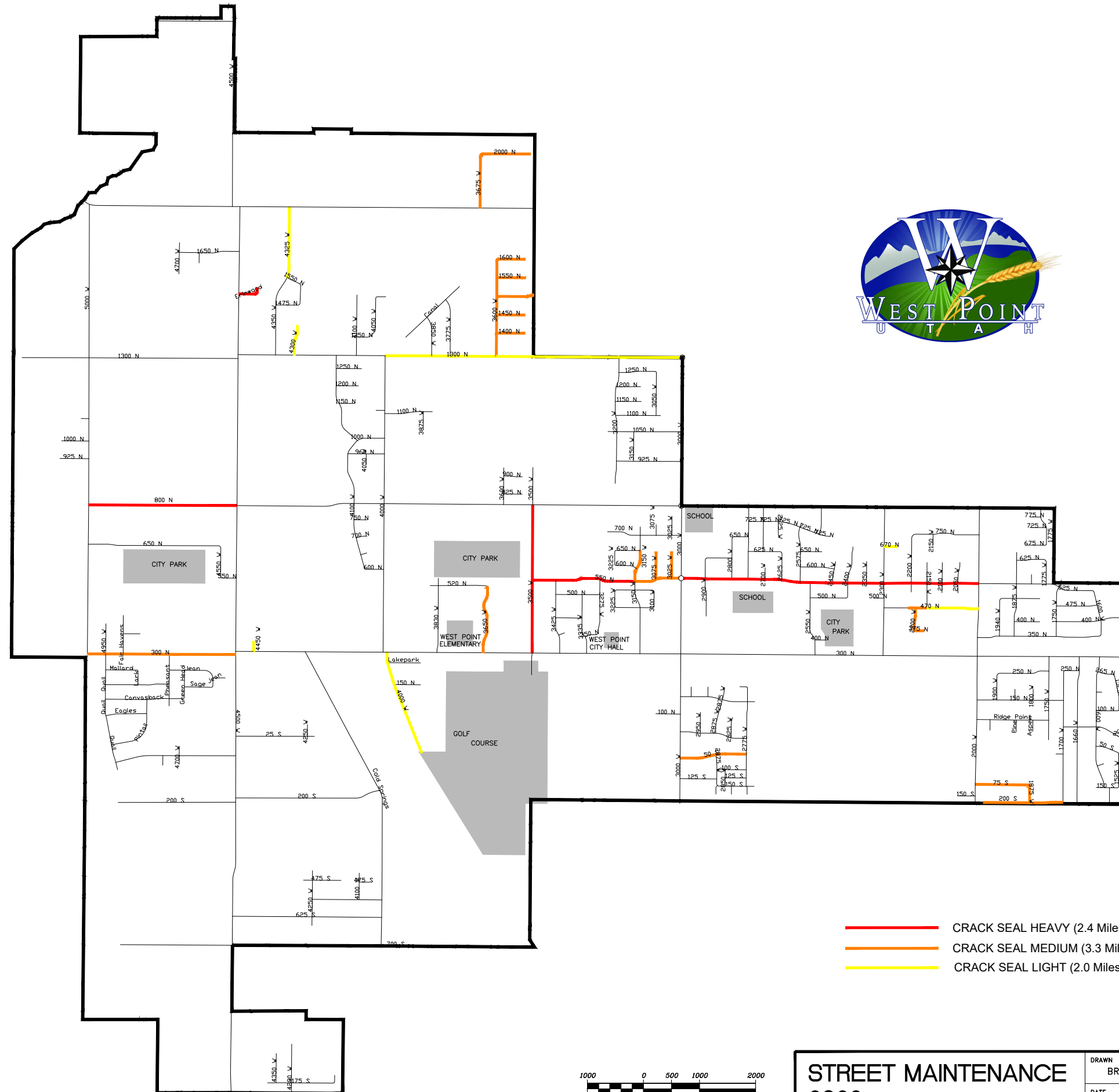
- In order to ensure positive drainage, all paving surfaces need to have a minimum of 1.5% slope. Precision Asphalt Inc. cannot guarantee drainage with less than 1.5% slope. We will do our best to minimize standing water in areas less than 1.5%.
- Additional work and work in excess of that specified and described above will be handled as a change order. Additional work must be approved by owner and contractor prior to construction.
- Proposal does not include engineering, layout, or testing unless otherwise stated.
- Fine grade +/- 1/10' means that the grade is within 1/10' from being finished(Generally one pass with a grader). Our price does not include furnishing additional material or the removal of excess material.
- Price shown does not include performance and payment bond.
- If asphalt saw cutting and test of road base are to be completed by Precision Asphalt Inc., a minimum of \$250.00 plus \$.20 per inch foot for saw cut and a minimum of \$200.00 plus \$25 per each density test will be charged.
- Bid includes only the items as specified and described above.
- Please review additional terms and conditions attached to or on back of proposal. Upon signature of proposal, purchasers are bound to all terms and conditions of agreement. Original copy of proposal must be signed and on file prior to commencement of work.
- Unless otherwise stated bid does not include, raising manholes or installing new concrete collars on manholes, water valves or monuments.
- General contractor, owner or developer is responsible for storm water prevention program. Precision Asphalt will be responsible for storm water prevention for our portion of work only, unless other arrangements are made.
- **SOFT GRADE CANNOT BE DETECTED UNTIL EXCAVATION HAS COMMENCED. UPON FINDING SOFT GRADE DURING ANY POINT OF THIS PROJECT, WORK WILL STOP AND AN ASSESSMENT WILL TAKE PLACE TO DETERMINE THE NEEDED COURSE OF ACTION. PRECISION ASPHALT WILL PROVIDE A RECOMMENDED FIX TO CORRECT THE AFFECTED AREA(S). WITH APPROVAL FROM THE CUSTOMER, A WRITTEN CHANGE ORDER WILL BE CREATED FOR THE NEEDED FIX AND SIGNED BY BOTH CUSTOMER AND PRECISION ASPHALT. SHOULD THE CUSTOMER DECIDE TO DECLINE THE RECOMMENDED COURSE OF ACTION AND INSIST THAT THE ORIGINAL SCOPE OF WORK BE PERFORMED, A WRITTEN WAIVER OF LIABILITY WILL BE CREATED AND SIGNED BY BOTH CUSTOMER AND PRECISION ASPHALT. SIGNING THIS WAIVER WILL VOID ANY AND ALL WARRANTY FOR THIS PROJECT.**
- **WORK MAY STOP AT ANY POINT WHEN SOFT GRADE OR ANY OTHER UNFORSEEABLE CIRCUMSTANCES ARISE OUTSIDE THE ORIGINAL SCOPE OF WORK. IN CASES WHERE THE CUSTOMER NEEDS TO GIVE APPROVAL FOR ADDITIONAL WORK TO BE DONE AND/OR IN ORDER TO CONTINUE THE PROJECT, AND CANNOT FURNISH A TIMELY DECISION, PRECISION ASPHALT RESERVES THE RIGHT TO PULL LABORERS AND EQUIPMENT OFF THE PROJECT COMPLETELY UNTIL A DECISION(S) CAN BE MADE. THIS MAY RESULT IN AN INDETERMINATE DELAY IN PROJECT COMPLETION AND IS SUBJECT TO ADDITIONAL LABOR CHARGES.(FOR DELAYS OVER 1 HOUR)**

SHOULD THE STOPPAGE CAUSE PRECISION ASPHALT TO RETURN ANOTHER DAY(S) TO COMPLETE THE PROJECT, MOBILIZATION AND ADDITIONAL LABOR CHARGES WILL BE ADDED TO THE FINAL BILL AS THEY APPLY.

Payment Terms:

Payment Terms (Please Select One)

>100% Up Front (Inquire for possible discount)



STREET MAINTENANCE 2022

DRAWN BRD	CHECKED	DRAWING NUMBER
DATE OCT 2022	APPROVED	FILE NUMBER

CITY COUNCIL STAFF REPORT

Subject: Discussion of Chickens in Residential Zones
Author: Bryn MacDonald
Department: Community Development
Date: November 1, 2022



Background

Over the past several weeks, the Planning Commission has discussed changes to farm animal regulations, specifically the allowance of chickens in R-4 multi-family zones. It was discussed that chickens could be allowed based on the size of the lot. There has also been discussion of increasing the base number of chickens from four to six.

Process

West Point City Land Use and Development code 17.00.090 allows amendments to land use regulations. The Planning Commission must hold a public hearing and make a recommendation. The City Council then holds public hearing and makes a final decision.

The Planning Commission held a public hearing on October 13, 2022, and recommended approval of the proposed change. The City Council must now hold a public hearing and either approve, modify, or deny the request.

Analysis

City Code currently allows residents in the R-1, R-2, and R-3 code to have chickens. Every lot can have 4 chickens, regardless of lot size. Additional chickens are allowed based on the size of the lot and the point system, as outlined in the code. Although the R-4 zone is typically a multi-family zone, there are lots in the city within the R-4 zone that are single family lots with adequate size for chickens. The proposed code allows chickens in all of the residential zones, as long as they have a minimum lot size of 5,000 square feet. The proposal also increases the base number of chicken from four to six.

Proposed Code

(The proposed text is in red)

17.70.100 Farm Animal Regulations

- A. *Purpose and Intent.* To establish the standards and criteria by which farm animals may be kept within West Point City. The city recognizes that farm animals are inextricably associated with certain noise, sight, and smell nuisances that are generally unacceptable in urban areas. However, the city also recognizes the importance of maintaining its farming heritage and the traditional values associated with that heritage. It is with this purpose, to preserve the farming heritage of the community, that this chapter is enacted.
- B. *Animal Allowance.* Farm animals held for noncommercial purposes are permitted solely in the agricultural A-5 and A-40, R-1, and R-2 zones as a permitted use and shall be an administrative conditional use in the R-3 zone for all animals except small animals which may include chickens, ducks, geese, pigeons, and rabbits, unless restricted by private development agreements, covenants, or other legally binding contracts. Roosters shall not be kept in any residential zone. Residents in the R-1, R-2, ~~and R-3~~ **and R-4 zones with property not less than 5,000 square feet**

~~zones~~ may, at any time, keep and maintain a base number of no greater than ~~six~~ ~~four~~ chickens, regardless of the size of their property, subject to the requirements of this section and any other applicable provisions of this code. The number of additional chickens shall be based on the same formula as other animals as follows:

1. The quantity of animals permitted on a property shall be determined on the basis of 100 animal points per vacant acre (e.g., 0.50 acres x 100 = 50 animal points; 1.45 acres x 100 = 145 animal points).
2. Vacant acreage on properties with nonagricultural uses is determined by the following: Residential properties shall deduct 0.20 acres (approximately 8,700 square feet) per unit from the total acreage before calculating the animal allowance (e.g., (0.50 acres – 0.20 acres) x 100 = 30 animal points; (1.45 acres – 0.20 acres) x 100 = 125 points). All other properties shall deduct the exact amount of acreage not being used for animal production before calculating the animal allowance.

Type of Animal	Number of Points per Animal
Pigs	50
Horses and cattle	25
Sheep and goats	10
Chickens, ducks, geese, pigeons, rabbits, and other small animals	5

3. Commercial agricultural operations shall only be permitted in A-40 and A-5 zones. Intensive commercial agricultural operations, such as feed lots, shall only be permitted by an administrative conditional use with a minimum lot size of five acres.

Recommendation

The Planning Commission recommended approval of the proposed text change.

Attachments

Ordinance No. 11-01-2022A

ORDINANCE NO. 11-01-2022A

**AN ORDINANCE AMENDING WEST POINT CITY CODE
TITLE 17 LAND USE AND DEVELOPMENT CODE
SECTION 17.70.100 ALLOWING CHICKENS IN THE R-4
ZONE**

WHEREAS, the West Point City Council for and on behalf of West Point City, State of Utah (hereinafter referred to as the “City”) desires to amend Title 17 Land Use and Development Code sections 17.70.100 of the West Point City Code; and

WHEREAS, a public hearing was duly held and the interested parties were given an opportunity to be heard; and

WHEREAS, the City Council has duly considered said amendments; and,

WHEREAS, the City Council, after due consideration of said amendments, has concluded that it is in the best interest of the City and the inhabitants thereof that said amendments be adopted;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF WEST POINT CITY, UTAH as follows:

Section One: Adoption of New Provisions

The following section of the West Point City Code is adopted to read as follows: (Strike through text indicates text being removed from the code, and underlined text indicates new additions).

17.70.100 Farm Animal Regulations

- B. *Animal Allowance.* Farm animals held for noncommercial purposes are permitted solely in the agricultural A-5 and A-40, R-1, and R-2 zones as a permitted use and shall be an administrative conditional use in the R-3 zone for all animals except small animals which may include chickens, ducks, geese, pigeons, and rabbits, unless restricted by private development agreements, covenants, or other legally binding contracts. Roosters shall not be kept in any residential zone. Residents in the R-1, R-2, ~~and R-3~~ and R-4 zones with property not less than 5,000 square feet zones may, at any time, keep and maintain a base number of no greater than six ~~four~~ chickens, regardless of the size of their property, subject to the requirements of this section and any other applicable provisions of this code. The number of additional chickens shall be based on the same formula as other animals as follows:

Section Two: ORDINANCES TO CONFORM WITH AMENDMENTS

The West Point City Director of Community Development is hereby authorized and directed to make all necessary changes to the West Point City Code to bring the text into conformity with the changes adopted by this Ordinance.

Section Three: **Severability**

In the event that any provision of this Ordinance is declared invalid for any reason, the remaining provisions shall remain in effect.

Section Four: **Effective Date**

This Ordinance shall take effect immediately upon passage and adoption and publication of a summary as required by law.

DATED this 1st day of November, 2022

WEST POINT CITY, a Municipal Corporation

By: _____
 Brian Vincent
 Mayor

ATTEST:

Casey Arnold
City Recorder