



**MAGNA METRO TOWNSHIP COUNCIL
WORKSHOP MEETING AGENDA
January 9, 2024**

Webster Center
8952 West Magna Main Street
Magna, Utah 84044

PUBLIC NOTICE IS HEREBY GIVEN that the Magna Metro Township Council will hold a workshop meeting on the **9th day of January 2024** at the Webster Center, 8952 West Magna Main Street Magna, Utah as follows:

**** Portions of the meetings may be closed for reasons allowed by statute. Motions relating to any of the items listed below, including final action, may be taken.**

**5:30 PM - SWEARING-IN CEREMONY OF NEWLY ELECTED COUNCIL MEMBERS –
Officiated by Lannie Chapman, Salt Lake County Clerk**

**5:45 PM - RECOGNITION AND APPRECIATION OF MAYOR DAN PEAY FOR HIS
DEDICATED SERVICE TO THE MAGNA COMMUNITY**

6:00 PM – PUBLIC MEETING

1. CALL TO ORDER
2. Determine Quorum
3. Pledge of Allegiance
4. **PUBLIC COMMENTS** (*Limited to 3 minutes per person*)
Any person wishing to comment on any item not otherwise scheduled for a public hearing on the agenda may address the Council at this point by stepping to the microphone and giving their name for the record. ***Comments should be limited to not more than three (3) minutes unless additional time is authorized by the Governing Body.***
5. **CONSENT AGENDA**
 - A. Approve minutes of October 24, 2023 [*Nichole Watt, Clerk*]
6. **DISCUSSION/ACTION ITEMS**
 - A. Discussion and Election of Magna Metro Township Mayor [*David Brickey, City Manager*]
 - B. Discussion and Selection of Magna Mayor Pro-Tempore [*David Brickey, City Manager*]
 - C. Consider ***Resolution No. 2024-01-01*** Appointing Mayor _____ to Serve as Magna’s Member on the Board of Trustees of the Greater Salt Lake Municipal Services District, and Mayor Pro-Tempore _____ to Serve as the Trustee-Alternate [*David Brickey, City Manager*]
 - D. Discussion and Possible Action regarding ***Resolution No. 2024-01-02*** Appointing members to serve on Various Boards of Trustees and Districts as Representatives for the Magna Metro Township [*David Brickey, City Manager*]

- E. Discussion of Subdivision Revisions under State Statute *[Jay Springer, Smith Hartvigsen]*
- F. Discussion and Possible Action **EXP2023-001032** – Ben Hansen is requesting an exception from roadway development standards. **Project:** Gabler’s Grove Subdivision Phase 5 and 6. **Acreage:** 4.43 acres. **Zone:** A-1/zc **Location:** 7796 West Blawn Wash Lane *[Shad Cook, Planner]*
- G. Review of Google Fiber Utah LLC Franchise Agreement of May 27, 2022 *[David Brickey, City Manager]*

7. **LEGISLATIVE UPDATE** *[Paul Ashton, Attorney]*

8. **MANAGER UPDATES**

9. **CLOSED SESSIONS IF NEEDED AS ALLOWED UNDER UTAH CODE ANN. 52-4-205)**

- A. Discussion of the Character, Professional Competence or Physical or Mental Health of an Individual.
- B. Strategy sessions to discuss pending or reasonably imminent litigation.
- C. Strategy sessions to discuss the purchase, exchange, or lease of real property.
- D. Discussion regarding deployment of security personnel, devices, or systems; and
- E. Other lawful purposes as listing in Utah Code 52-4-205

10. **ADJOURN**

ZOOM MEETING:

Magna Metro Township Meeting

When: Jan 9, 2024 05:30 PM Mountain Time (US and Canada)

Topic: Magna Metro Township Meeting

Register in advance for this webinar:

https://zoom.us/webinar/register/WN_3iYenjfLRQO7xNKkoqaDew

After registering, you will receive a confirmation email containing information about joining the webinar.

Upon request with three (3) working days’ notice, the Greater Salt Lake Municipal Services District, in support of the Magna Metro Township, will make reasonable accommodations for participation in the meeting. To request assistance, please call (385) 468-6703 – TTY 711.

A copy of the foregoing agenda was posted at the following locations on the date posted below: Magna Metro Township website at www.magnametrotownship.org and the State Public Notice Website at <http://pmn.utah.gov>. Pursuant to State Law and Magna Ordinance, Councilmembers may participate electronically. Pursuant to Utah Code Ann. § 52-4-205, Parts of Meetings may be Closed for Reasons Allowed by Statute.

POSTED: *January 5, 2024*

DATE TUESDAY OCTOBER 24, 2023

THE MAGNA METRO TOWNSHIP COUNCIL, STATE OF UTAH, MET ON TUESDAY, OCTOBER 24, 2023, PURSUANT TO ADJOURNMENT ON TUESDAY, OCTOBER 10, 2023, AT THE HOUR OF 6:00 P.M. AT THE WEBSTER CENTER AT 8952 WEST MAGNA MAIN STREET (2700 SOUTH), MAGNA, UT 84044.

COUNCIL MEMBERS PRESENT: TRISH HULL¹
ERIC BARNEY
STEVE PROKOPIS
AUDREY PIERCE
DAN PEAY, Mayor

OTHERS IN ATTENDANCE: PAUL ASHTON, LEGAL COUNSEL
DAVID BRICKEY, ADMINISTRATOR

◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆

Mayor Peay, Chair, presided.

◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆

Business Meeting

Pledge of Allegiance

The Pledge of Allegiance to the Flag of the United States of America was recited.

◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆

Public Comments

There was no public comment.

◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆

Unified Police Department (UPD)

Chief Del Craig stated he distributed the September statistics to the Council and noted that there is an increase of approximately 100 calls for service from September 2022. The increase in call volume has been for public order, public peace, and traffic. UPD is trying to keep up with those houses that are continually involved in nuisance complaints and noted that there has been some improvement.

Detective Russ Buhler stated UPD is getting a list of families that could benefit from Sub for Santa together. If the Council has any families it would like to recommend for the

¹ Participated Electronically

DATE TUESDAY OCTOBER 24, 2023

program, it can contact Detective Buhler. UPD also holds a Shop with a Shield event every year. The families chosen are provided breakfast and funds to use at Walmart. The children receive \$200 and get to shop with an officer and the family is provided \$200 to spend. Drug Take Back Day will be held on Saturday in the Reams parking lot. UPD will be handing out candy to kids during the Trick or Treat event on Main Street. The UPD Youth Academy will begin after Christmas.

Sergeant Rich Wilson introduced himself stating he would oversee the Community Oriented Policing (COP) program, school resource officers, and the traffic unit.



Magna Financial Report

Dave Sanderson, Financial Manager, reviewed Magna Metro Township's financial report to date.



Community Stakeholder Reports

4th of July

There was no report given.



Magna Chamber of Commerce

Mayor Peay stated the Chamber Executive Board meets on the 1st Thursday of the month and the regular meeting is on the 3rd Thursday of the month at 12:00 PM.



Pleasant Green Cemetery

Sharon Nichols stated Daughters of the Utah Pioneers will have the plaque ready on May 6, 2024. For the month, there were four burials, four non-resident plots sold, two headstones set, three family areas marked, and fall cleanup was completed.



Code Enforcement Report

DATE TUESDAY OCTOBER 24, 2023

RJ Mauldin, Greater Salt Lake Municipal Services District (MSD), reviewed monthly statistics, noting that there were 91 closed cases and 131 cases opened. The cases most reported are for junk, weeds, unregistered businesses, and unlicensed builds.

Council Member Pierce stated she had a citizen reach out to her regarding reporting code violations. This person has access and functional needs and cannot use the website without assistance. How would code enforcement like to handle those types of needs in the future?

Mr. Mauldin stated his number can be given to the resident or he can call them back or visit them at their home.

Magna Town Council

There was no report given.

◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆

Consent Agenda

Minutes

Council Member Barney, seconded by Council Member Prokopis, moved to approve the minutes of the Magna Metro Township Council meetings held on September 12, 2023. The motion passed unanimously.

◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆

Action / Discussion Items

Consider Resolution 2023-10-01

David Brickey stated the following resolution was correct to reflect seven percent.

Council Member Prokopis stated Salt Lake Valley Law Enforcement Service Area's (SLVLESA) primary purpose is to fund law enforcement, and previous projections indicated financial stability until 2024. Projections after 2024 will no longer pay the bill. SLVLESA is now bumping up against the cap set by the legislature. Once the money is gone, SLVLESA will have to find other sources of funding. There have been many costs absorbed and now the fund balance is going below the statutory minimum. The increase comes out to be approximately \$3.00 a month for the average household.

RESOLUTION NO. 2023-10-01

Date: October 24, 2023

DATE TUESDAY OCTOBER 24, 2023

A RESOLUTION OF THE MAGNA METRO TOWNSHIP COUNCIL APPROVING
A 2024 TAX RATE IN EXCESS OF THE CERTIFIED TAX RATE BY THE SALT
LAKE VALLEY LAW ENFORCEMENT SERVICE AREA

WHEREAS, the Salt Lake Valley Law Enforcement Service Area ("SLVLESA") was created by Resolution of the Salt Lake County Council dated August 18, 2009; and

WHEREAS, the area of the Magna Metro Township is included in the boundaries of SLVLESA for the funding and provision of law enforcement services to the areas within the boundaries of SLVLESA; and

WHEREAS, SLVLESA has proposed to budget a 7 percent increase in the tax rate in excess of the certified rate as defined in Section 59-2-024 of the Utah Code in 2024 to fund the increased costs of providing local law enforcement services and has proposed to increase property taxes solely for the purposes on maintaining its fund balance, paying increases in the costs assessed to SLVLESA by the Unified Police Department and, as needed, to other providers such as a newly reinstated Salt Lake County Sherriff's Bureau, and allowing new growth in its tax base to be used for the provision of required new services; and

WHEREAS, pursuant to Section 17B-1-1003 of the Utah Code, SLVLESA submitted a report on the proposed tax increase to the Magna Metro Township Council ("Council") at a duly noticed meeting on October 24, 2023; and

WHEREAS, the Council allowed time during the duly noted meeting on October 24, 2023 for comment on the proposed tax increase from members of the Council and the public; and

WHEREAS, Section 17B-2a-903 of the Utah Code requires the prior approval on an increase in the certified rate by SLVLESA from the legislative bodies of any municipality and county whose territory is located within the SLVLESA, or approval of a majority of the municipalities and two-thirds (2/3) of the County legislative body; and

WHEREAS, before the SLVLESA Board of Trustees considers to levy a tax rate that exceeds the certified tax rate, the SLVLESA Board of Trustees shall hold a public hearing to provide to all interested parties the opportunity to be heard regarding the proposed tax rate increase; and

WHEREAS, SLVLESA shall provide notices of the public hearing as required by Section 59-2-919 of the Utah Code; and

WHEREAS, after considering all public input from the public hearing and all other information available to them, the SLVLESA Board of Trustees will vote on whether to levy a tax rate that exceeds the certified tax rate.

NOW, THEREFORE, IT IS RESOLVED BY THE MAGNA METRO TOWNSHIP COUNCIL as follows:

DATE TUESDAY OCTOBER 24, 2023

1. The Magna Metro Township Council hereby approves for 2024 the budgeting of a 7 percent increase in property tax revenues in excess of revenues budgeted in the prior year and the imposition of property taxes in excess of the certified tax rate to generate the increase in budgeted property tax revenues as defined in Section 59-2-924 of the Utah Code.

APPROVED BY THE COUNCIL in Magna, Salt Lake County, Utah this 24th day of October 2023.

MAGNA METRO TOWNSHIP:

/s/ DAN W. PEAY
Mayor

ATTEST

/s/ LANNIE CHAPMAN
Salt Lake County Clerk
Metro Township Clerk/Recorder

Council Member Prokopis, seconded by Council Member Pierce, moved to approve Resolution 2023-10-01. The motion passed unanimously.

Magna Main Street Project Updates

Adrian West, Municipal Economic Development Manager, Salt Lake County Regional Transportation Housing and Economic Development, updated the Council on the following 2022-2023 Magna Main Street projects:

- Façade improvement grant
- Supplemental façade lighting grant
- Magna Main Street building murals
- Mantle Park redevelopment project
- Streetlighting and banners

Resolution 2023-10-02

David Brickey stated an amendment to the wall plan legend under the six and three-foot paragraphs needs to reflect the addition of language that identifies precast, slate, and stone fencing to capture what is depicted in the images. He would also like to change the date on page 19 from October 16, 2023, to October 24, 2023.

RESOLUTION NO. 2023-10-02

Date: October 24, 2023

DATE TUESDAY OCTOBER 24, 2023

A RESOLUTION OF MAGNA METRO TOWNSHIP COUNCIL ADOPTING AN AMENDMENT TO THE MASTER DEVELOPMENT AGREEMENT FOR MAHOGANY RIDGE PLANNED COMMUNITY LOCATED AT 8230 WEST 4100 SOUTH, MAGNA UTAH

WHEREAS, the Magna Metro Township (“Magna”) is a Municipality pursuant to Utah Code §§ 10-2a-401 et seq; and

WHEREAS, Magna is governed by a five-member elected Council under Utah Code Ann. § 10-3-205.5, which Council elects from its members a Mayor, and

WHEREAS, the Mahogany Ridge Planned Community Master Development Agreement was originally approved by the Magna Metro Township Council on October 5, 2021; and

WHEREAS, Ivory Homes has been working with planning staff, Magna Metro Township Council, and the Utah Department of Transportation to provide wider streets, a signalized intersection at Cordero Drive, which would also provide for additional parking areas within the development, and changes to proposed housing types; and

WHEREAS, the Magna Metro Township Council finds it’s in the best interest of the citizens of Magna Metro township to approve the Amendment to the Master Development Agreement for Mahogany Ridge Planned Community located at 8230 West 4100 South, Magna, Utah,

NOW THEREFORE IT IS RESOLVED, by the Magna Metro Township Council, Magna, Utah:

Section 1. The Magna Metro Township Council hereby authorizes the Mayor to enter into an Amendment to the Master Development Agreement for the Mahogany Ridge Planned Community located at 8230 West 4100 South, Magna, Utah as set forth in Attachment A.

APPROVED AND ADOPTED by the Magna Metro Township Council, in Magna, Salt Lake County, Utah this 24th day of October 2023.

MAGNA METRO TOWNSHIP:

/s/ DAN W. PEAY
Mayor

ATTEST

/s/ LANNIE CHAPMAN
Salt Lake County Clerk
Metro Township Clerk/Recorder

Council Member Prokopis, seconded by Council Member Barney, moved to approve Resolution 2023-10-02 with amendments to the wall plan legend and the date on page 19 as previously discussed. The motion passed unanimously.

DATE TUESDAY OCTOBER 24, 2023

Streetlamp Post Cross-Poles

David Brickey stated there is a discrepancy of 40 arms for the poles. That is a difference of roughly \$16,000. He will verify the number and what the request is.

Council Member Prokopis stated he would like to know how much it would cost to replace all the poles to be consistent throughout.

◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆

Manager Updates

David Brickey stated election day was moved from November 7, 2023, to November 21, 2023. The Council is scheduled to meet on November 21, 2023; however, the Council should not meet on the night of an election. He suggested either holding one meeting in November or moving the meeting to November 28, 2023. There may be a need to meet at the beginning of December to canvass the election. He is verifying with the Clerk's office on how it wants to handle the canvass with Magna's election being canceled due to uncontested candidates.

The Council agreed to reschedule the November 21, 2023, meeting to November 28, 2023.

◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆

Closed Session

Council Member Barney, seconded by Council Member Prokopis, moved to close the public meeting to discuss personnel matters and real property. The motion passed unanimously.

◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆

THERE BEING NO FURTHER BUSINESS to come before the Council at this time, the meeting was adjourned.

LANNIE CHAPMAN
METRO TOWNSHIP CLERK

By _____
Deputy Clerk

DATE TUESDAY OCTOBER 24, 2023

CHAIR, MAGNA METRO TOWNSHIP COUNCIL

◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆
◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆
◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆ ◆◆◆

THE MAGNA METRO TOWNSHIP

RESOLUTION NO.: 2024-01-01

DATE: January 4, 2024

**A RESOLUTION OF THE MAGNA METRO TOWNSHIP COUNCIL
APPOINTING MAYOR _____ TO SERVE AS MAGNA’S
MEMBER ON THE BOARD OF TRUSTEES OF THE GREATER SALT LAKE
MUNICIPAL SERVICES DISTRICT, AND MAYOR PRO-TEMPORE
_____ TO SERVE AS THE TRUSTEE-ALTERNATE**

Whereas, the Magna Metro Township ("Magna") is a Municipality pursuant to Utah Code §10-2a-401 *et seq*; and

Whereas, Magna is part of the Greater Salt Lake Municipal Services District (“MSD”) pursuant to Utah Code §17B-2a-1101 *et seq*; and

Whereas, the Board of Trustees of the MSD includes the Mayors of each Metro Township that are a part of the MSD, or during a period of time when a Mayor is absent, unable or refuses to act, the Mayor Pro-Tempore, of the Metro Townships; and

Whereas, on this date, the Magna Metro Township Council, the legislative body of Magna elected by the voters of Magna, elected _____ as Mayor of Magna and _____ as Mayor Pro-Tempore of Magna,

THEREFORE, BE IT RESOLVED by the Magna Metro Township Council, the Council formally appoints _____ to serve as Magna’s member of the Board of Trustees of the Greater Salt Lake Municipal Services District and Mayor Pro-Tempore _____ as Magna’s Trustee-Alternate; and

BE IT FURTHER RESOLVED the Council hereby directs staff to provide a copy of this Resolution to the Greater Salt Lake Municipal Services District to inform it of the appointments.

APPROVED AND ADOPTED in the Magna Metro Township, Salt Lake County, Utah this 9th day of January 2024.

BY: _____
_____, Mayor

ATTEST:

Lannie Chapman, Salt Lake County Clerk
Metro Township Clerk/Recorder

VOTING:

Mick Sudbury _____
Trish Hull _____
Steve Prokopis _____
Eric Barney _____
Audrey Pierce _____

APPROVED AS TO FORM:

Paul H. Ashton
Metro Township Attorney

MAGNA METRO TOWNSHIP

RESOLUTION NO.: 2024-01-02

DATE: January 9, 2024

**A RESOLUTION OF THE MAGNA METRO TOWNSHIP
COUNCIL APPOINTING MEMBERS TO SERVE ON VARIOUS
BOARDS OF TRUSTEES AND DISTRICTS AS
REPRESENTATIVES FOR THE MAGNA METRO TOWNSHIP**

WHEREAS, the Magna Metro Township ("Magna") is a Municipality pursuant to Utah Code §§ 10-2a-401 *et seq*; and

WHEREAS, Magna is governed by a five-member elected Council under Utah Code Ann. § 10-3-205.5, which Council elects from its members a Mayor, and

WHEREAS, Magna Metro Township designates representatives to serve on various Boards of Trustees and Districts, that serve the Magna community; and

WHEREAS, following the recent municipal election and election of a Mayor for the Magna Metro Township, vacancies in representative positions have arisen across multiple Boards of Trustees and Districts that serve the needs of the Magna community;

THEREFOR BE IT RESOLVED by the Magna Metro Township Council, as of January 9, 2024, the following individuals are hereby appointed as Magna Metro Township Representatives to serve on the listed Boards of Trustees and Districts:

All other appointments to remain as currently constituted.

APPROVED AND ADOPTED in Magna, Utah this 9th day of January 2024.

MAGNA METRO TOWNSHIP:

_____, MAYOR

ATTEST

LANNIE CHAPMAN
SALT LAKE COUNTY CLERK
METRO TOWNSHIP CLERK/RECORDER

APPROVED AS TO FORM:

PAUL H. ASHTON
METRO TOWNSHIP ATTORNEY

VOTING BY COUNCIL:

MICK SUDBURY voting

TRISH HULL voting

ERIC BARNEY voting

STEVE PROKOPIS voting

AUDREY PIERCE voting



Planning and Development Services
2001 S. State Street N3-600 • Salt Lake City, UT 84190-4050
Phone: (385) 468-6700 - msd.utah.gov

#EXP2023-001032

Exception Summary and Recommendation

Public Body: Magna Metro Council
Meeting Date: January 9th, 2024
Parcel ID: 14-21-376-065-0000
Current Zone: A-1/zc
Property Address: 7796 W BLAWN WASH LN
Request: Roadway Development Exception

Planner: Shad Cook
Planning Staff Recommendation: Approval with conditions
Applicant Name: Ben Hansen

PROJECT DESCRIPTION

The applicant, Ben Hansen, is requesting an exception to driveway standards for the Gabler's Grove Phase 5 and 6 Subdivision Plats. The current plan shows townhomes with a rear-load design. The units will be accessed from Trout Creek Lane, which is a proposed private road in the subdivision. The units on the north side of the road will have single-car garages and the units on the south will have two-car garages. Due to the nature of rear-load townhomes, the driveways of each unit will be between three-and-a-half and four-and-a-half feet apart.

SITE & VICINITY DESCRIPTION

The parcel associated with this project is on the northwestern border of the Gabler's Grove development. This phase of the project fronts on Blawn Wash Lane, which is approximately 2500 South. The project area is surrounded by single-family and multi-family units. The northern portion of this parcel fronts on the Riter Canal. This parcel is adjacent to Phase 5 Townhomes of the Gabler's Grove development. Phase 5 Townhomes has a similar driveway design and also went through an exception process. The exception for Phase 5 was approved by the Council in September 2023.



ISSUES OF CONCERN/PROPOSED MITIGATION

Potential issues related to parking and snow removal have been identified previously for phases/projects with similar design proposals.

Parking and yard standards for the Gabler's Grove development can be found in the Magna Township Code of Ordinances (2018) as well as a Master Development Agreement (MDA) specific to this project. The Gabler's Grove MDA was approved and adopted by the Magna Township Council in November 2017 and amended in February 2018.

19.80.035 – Parking in R-1 and R-2 Residential Zones (2018).

A. Driveways. A driveway shall be provided for vehicular access from the street or right-of-way to the required parking spaces of any dwelling in an R-1 or R-2 zone... The number, location, and width of driveways shall comply with the specifications set forth in sections 14.12.110 and 14.36.030...

19.80.040 – Number of spaces required (2018).

9. Dwellings, multiple, two spaces for each dwelling unit.

Section 12 of the MDA covers setbacks for the different zones and product types within the Gabler's Grove development. For townhomes, the minimum front setback is ten feet. The townhomes along the south side of this development are at that ten-foot setback. The townhomes on the north side of the road are set back eighteen feet to provide additional parking spaces. Other than setback requirements, there is no minimum driveway depth requirement for this development.

The recorded CC&Rs for the Gabler's Grove Homeowner's Association restrict parking outside of any garage, driveway, or designated parking area. The association can and should act against any vehicle that is partially parked in the private right-of-way.

10.5 Parking. No automobiles or other vehicles... shall be parked, stored, or located within any portion of the Project except in the Unit's driveway or garage.

Regarding snow removal, the Gabler's Grove Association is tasked with removing snow from the private streets. The Association designates certain areas within the project to be used for temporary snow storage during winter months. The area may change based on specific needs year-to-year, but snow is typically stored in common space areas. In extreme cases where the area between driveways is not adequate for a unit's individual on-site snow storage, excess snow can be moved by Association-contracted snowplows to such snow storage areas.

NEIGHBORHOOD RESPONSE

None received as of the writing of this report.

PLANNING STAFF ANALYSIS

Title 14 of the Magna Township Code of Ordinances includes procedures, standards, and requirements for developing roadways within the Township. This includes driveway connections on public or private streets. Developers are generally responsible for installing these improvements based on approved plans.

14.12.110 - Driveways

C. There shall be a minimum ten feet distance between all approved driveways.

The ordinance allows for exceptions to this requirement in cases where unusual topographic, aesthetic, or other exceptional conditions exist. The exception must be approved by the council after receiving recommendations from the Planning Commission and Public Works Engineering.

14.12.150 - Exceptions

In cases where unusual topographical, aesthetic, or other exceptional conditions or circumstances exist, variations or exceptions to the requirements of this chapter may be approved by the mayor after receiving recommendations from the planning commission and the public works engineer; provided, that the variations or exceptions are not detrimental to the public safety or welfare.

It should be noted that while the ordinance refers to approval by the mayor, this is simply a remnant of the Salt Lake County Code. The Magna Township Council, as the elected legislative body in Magna, has the authority to grant this exception.

This project falls under a Master Development Agreement, which was approved by the Magna Township Council in 2017. The agreement includes density allowances and design standards for the Gabler’s Grove development. The agreement does not have specific parking standards for townhome units. The agreement does include a street setback, which may impact driveway length. The setback standard for townhome units is ten feet from the street and ten feet between buildings. The proposed design is consistent with relevant parking and setback standards.

Planning staff has coordinated with Salt Lake County Public Works Engineering and other reviewing agencies to ensure that there will be no detriment to the public good.

PLANNING COMMISSION RESPONSE

This item was heard by the Magna Metro Planning Commission on December 14th, 2023. The commission unanimously voted to forward a recommendation of approval to the Council.

REVIEWING AGENCIES RESPONSE

Salt Lake County Public Works Engineering has reviewed the proposed driveway layout and has found that an exception would not be detrimental to the public safety or welfare. They have provided a letter (attached below) recommending approval of the exception.

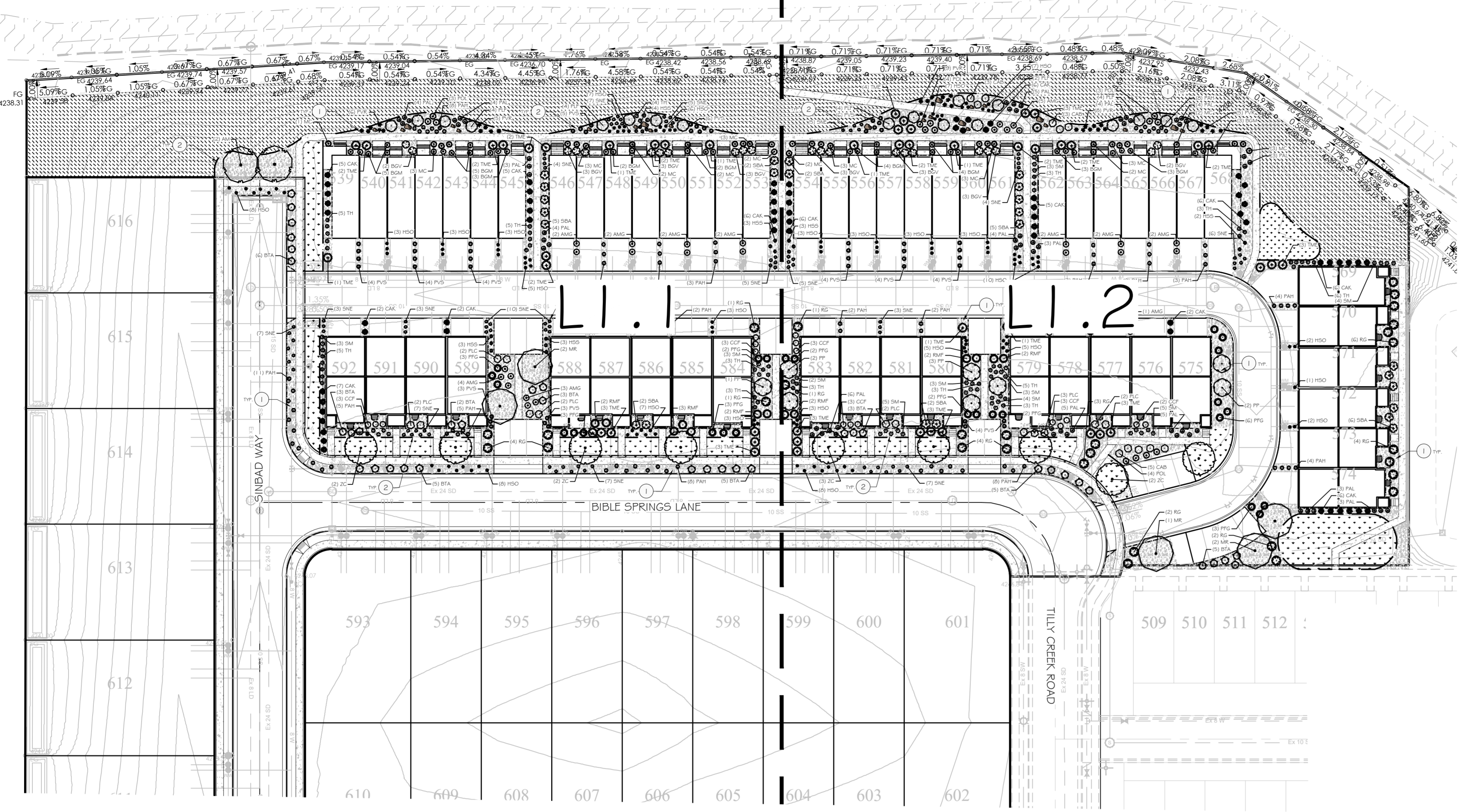
PLANNING STAFF RECOMMENDATION

The MSD Planning Staff recommends that the Magna Township Council approve the proposed driveway layout with the following condition:

1. That the applicant works with MSD staff and outside review agencies to comply with final plat procedures prior to plat recordation of the associated Gabler’s Grove subdivision.

Attachments:

1. Site/Landscape Plan
2. Engineering Recommendation Letter



PLANT SCHEDULE

TREES	BOTANICAL NAME	COMMON NAME	SIZE	QTY
AM	Acer x 'Pacific Sunset'	Pacific Sunset Maple	2" Cal.	2
MR	Malus x 'Royal Raindrops'	Royal Raindrops Crabapple	1.5" Cal.	5
PLF	Pinus longaeva 'Formal Form'	Formal Form Bristlecone Pine	6" Ht.	18
PP	Pyrus calleryana 'Capital'	Capital Flowering Pear	1.5" Cal.	8
ZC	Zelkova serrata 'JFS-KW 1'	City Sprite® Japanese Zelkova	2" Cal.	9

SHRUBS	BOTANICAL NAME	COMMON NAME	SIZE	QTY
ATM	Aronia melanocarpa 'UNCONNAMO 12'™	Ground Hug Black Chokeberry	5 gal.	29
BTA	Berberis thunbergii 'Aurea Nana'	Golden Dwarf Japanese Barberry	5 gal.	37
BGM	Buxus x 'Green Mountain'	Green Mountain Boxwood	2 gal.	34
BGV	Buxus x 'Green Velvet'	Green Velvet Boxwood	3 gal.	22
CCF	Caryopteris x clandonensis 'First Choice'	First Choice Bluebeard	2 gal.	17
CAB	Cornus alba 'Bailhali'™	Ivory Halo Dogwood	5 gal.	11
MC	Mahonia aquifolium 'Compacta'	Compact Oregon Grape	5 gal.	34
POL	Physocarpus opulifolius 'Donna May'™	Little Devil Ninebark	5 gal.	14
PPF	Potentilla fruticosa 'Goldfinger'	Goldfinger Bush Cinquefoil	5 gal.	26
PLC	Prunus laurocerasus 'Chestnut Hill'	Chestnut Hill English Laurel	5 gal.	13
RG	Rhus aromatica 'Gro-Low'	Gro-Low Fragrant Sumac	5 gal.	29
RMF	Rosa x 'Meipsidue' Fire Meidiland	Fire Red Meidiland Rose	5 gal.	13
SM	Spiraea japonica 'Walburna'	Magic Carpet Japanese Spirea	5 gal.	35
SBA	Spiraea x bumalda 'Anthony Waterer'	Anthony Waterer Bumald Spirea	5 gal.	24
TME	Taxus x media 'Everlow'	Everlow Yew	5 gal.	50
TH	Taxus x media 'Huber's Tawny Gold'	Huber's Tawny Gold Anjojap Yew	5 gal.	51

ORNAMENTAL GRASSES	BOTANICAL NAME	COMMON NAME	SIZE	QTY
CAK	Calamagrostis x acutiflora 'Karl Foerster'	Karl Foerster Feather Reed Grass	1 gal.	66
HSS	Helictotrichon sempervirens 'Sapphire'	Sapphire Blue Oat Grass	1 gal.	18
PVR	Panicum virgatum 'Rotstrahlbusch'	Rotstrahlbusch Red Switch Grass	1 gal.	33
PVS	Panicum virgatum 'Shenandoah'	Shenandoah Switch Grass	1 gal.	51
FAH	Fanicetum alopecuroides 'Hameln'	Hameln Fountain Grass	1 gal.	87

PERENNIALS	BOTANICAL NAME	COMMON NAME	SIZE	QTY
HGO	Hemerocallis x 'Stella de Oro'	Stella de Oro Daylily	1 gal.	121
PAL	Perovskia atriplicifolia 'Little Spire'	Little Spire Russian Sage	1 gal.	60
SNE	Salvia nemorosa 'East Friesland'	East Friesland Meadow Sage	1 gal.	88

GROUND COVERS	CODE	BOTANICAL NAME	COMMON NAME	SIZE	QTY
	NR		NATIVE CABIN BLEND		HYDROMULCH 22,949 sf
	PP2	Poa pratensis	Kentucky Bluegrass	sod	7,542 sf

REFERENCE NOTES SCHEDULE

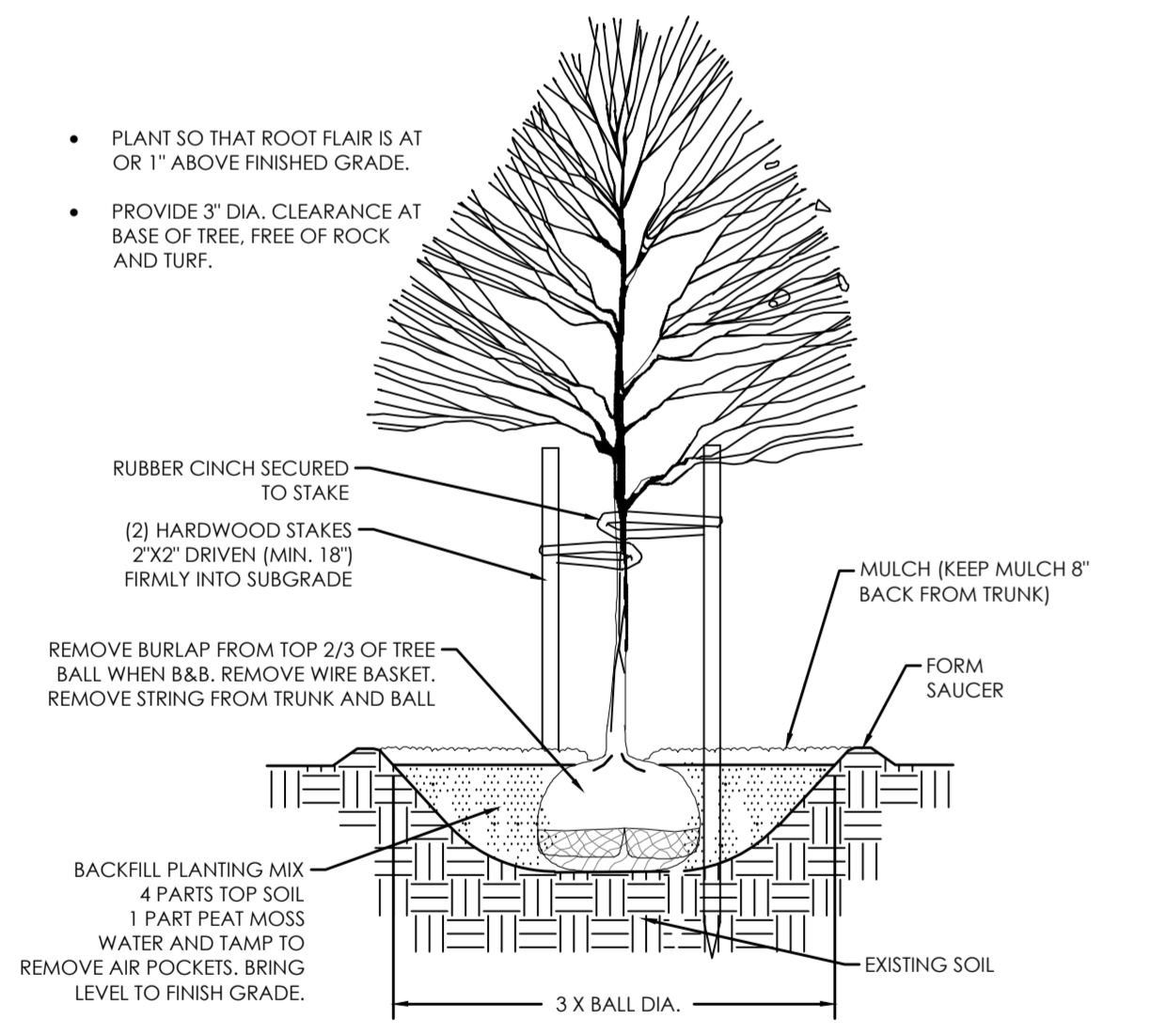
SYMBOL	DESCRIPTION	QTY
①	Crushed Rock, Size: 1"-2", Soma Crushed Rock, From Utah Landscaping Rock in Nephi, Utah	26,202 sf
②	Steel Edging, 3/16" x 4" Height	

NATIVE CABIN GRASS BLEND

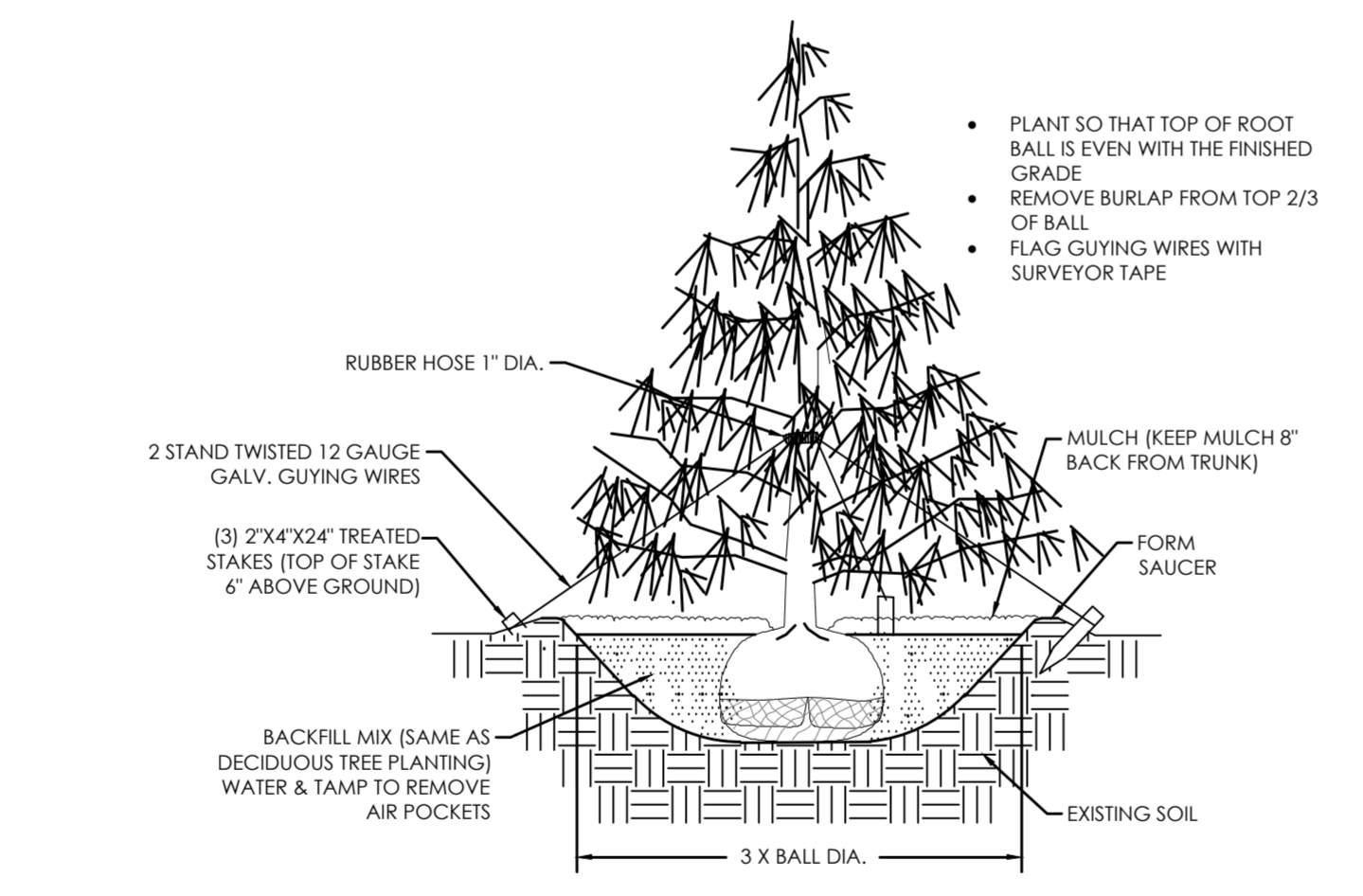
SPECIES	PLS/ACRE
MOUNTAIN BROME (BROMUS MARGINATUS)	7.50
SLENDER WHEATGRASS (ELYMUS TRACHYCAULUS S5P. TRACHYCAULUS)	6.25
SANDBERG BLUEGRASS (POA SECUNDA S5P. SANDBERGII)	1.25
BIG BLUEGRASS (POA SECUNDA S5P. AMPLA)	1.25
SHEEP FESCUE (FESTUCA OVINA)	1.25
WESTERN WHEATGRASS (FASCOPYRUM SMITHII)	5.00
BEARDLESS BLUEBUNCH WHEATGRASS (PSEUDOROERIA SPICATA S5P. INERMIS)	2.50
TOTAL	25.00 LBS.

- APPLICATION:
- APPLY 4 TO 6 INCHES OF NATIVE TOP SOIL TO DISTURBED AREAS. TOPSOIL SHALL COME FROM THE LOCAL AREA OR STOCKPILED TOPSOIL FROM AREAS BEING DISTURBED. NO SUBSURFACE SOIL SHALL BE USED. IT IS IMPORTANT TO USE SOIL THAT HAS MINIMAL AMOUNT OF WEED SEED.
 - APPLY SEED MIX AT A RATE OF TWENTY FIVE POUNDS PER ACRE (25 LBS./AC.). APPLY SEED MIX BY DRILLING OR LIGHTLY RAKE INTO 1/4" OF SOIL.
 - AFTERWARDS, APPLY HYDROMULCH OVER DRILL SEEDED AREAS USING SILVA FIBRE MULCH AT 1400 LBS. PER ACRE.
 - SEED MIX APPLICATION TO BE FROM OCTOBER 15 TO DECEMBER 15 AND WHEN SOIL TEMPERATURE IS CONSISTENTLY BELOW 50 DEGREES F. (SEED MIX PROVIDED BY GRANITE SEED, LEHI, UTAH)

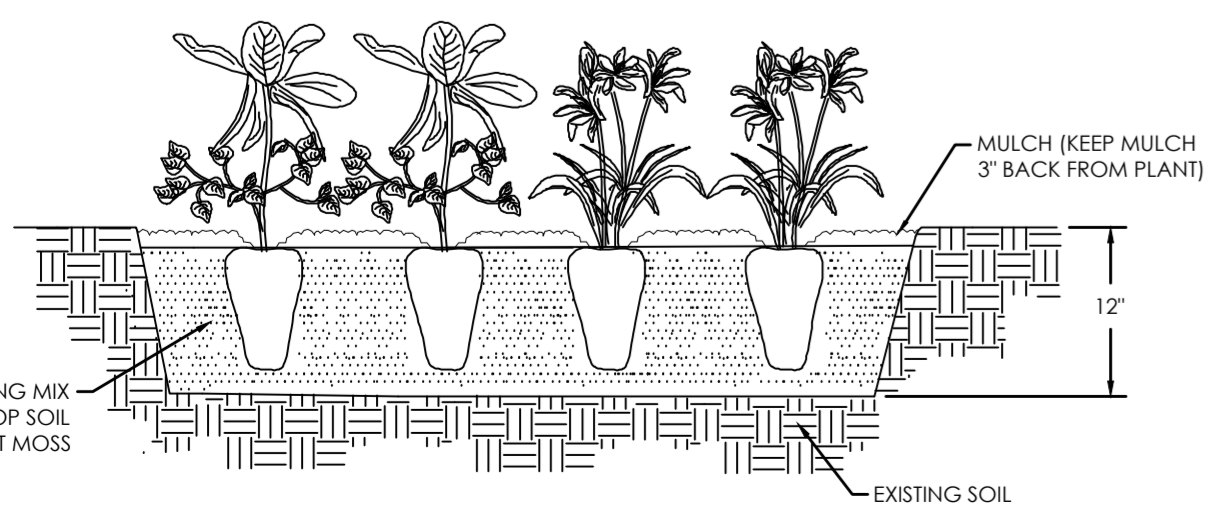
- BOULDER NOTES:
- INSTALLER IS TO BE RESPONSIBLE TO PREVENT ANY SEVERE CHIPPING OR DAMAGE TO BOULDERS DURING THE PLACEMENT PROCESS.
 - BOULDERS ARE TO BE PLACED USING CABLES FROM A LOADER BOOM OR A BOULDER PLACEMENT BOOM.
 - BOULDER IS TO ULTIMATELY BE SET TO A MINIMUM OF 1/3 BURIED (SEE DETAIL).
 - ALL CAVITIES AND VOIDS NEAR THE BOTTOM OF THE BOULDER ARE TO BE SET BELOW FINISH GRADE.



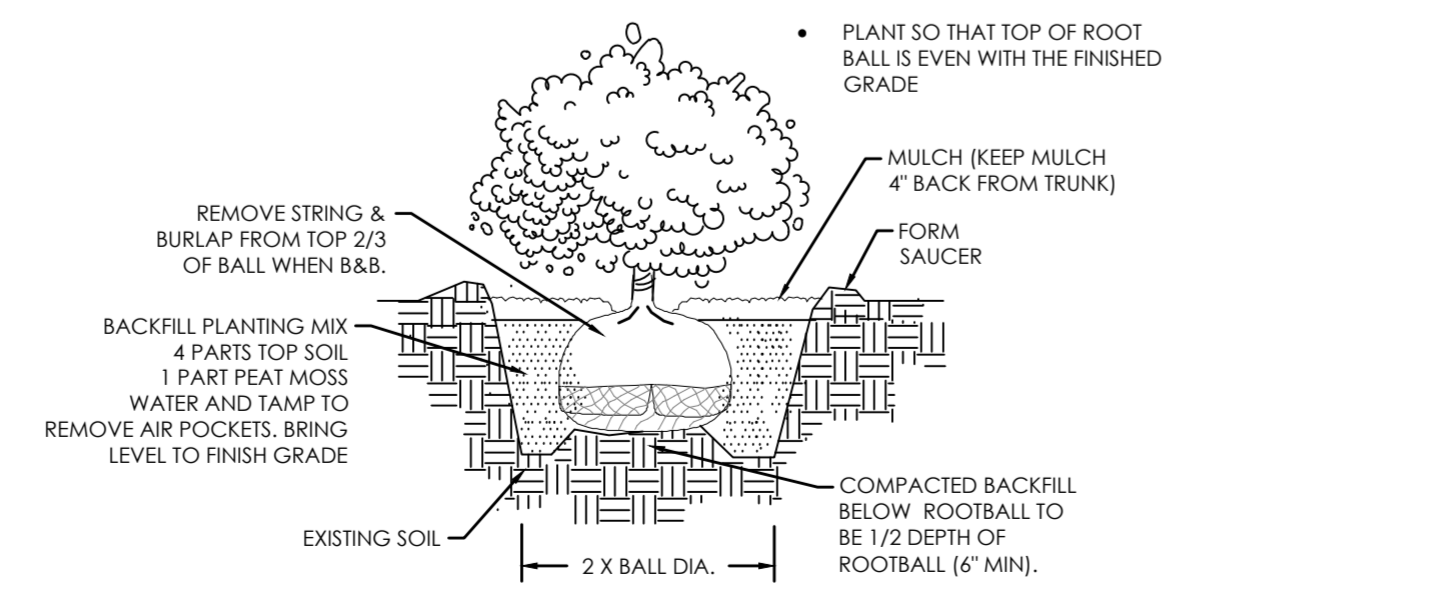
A TREE PLANTING & STAKING
NOT TO SCALE



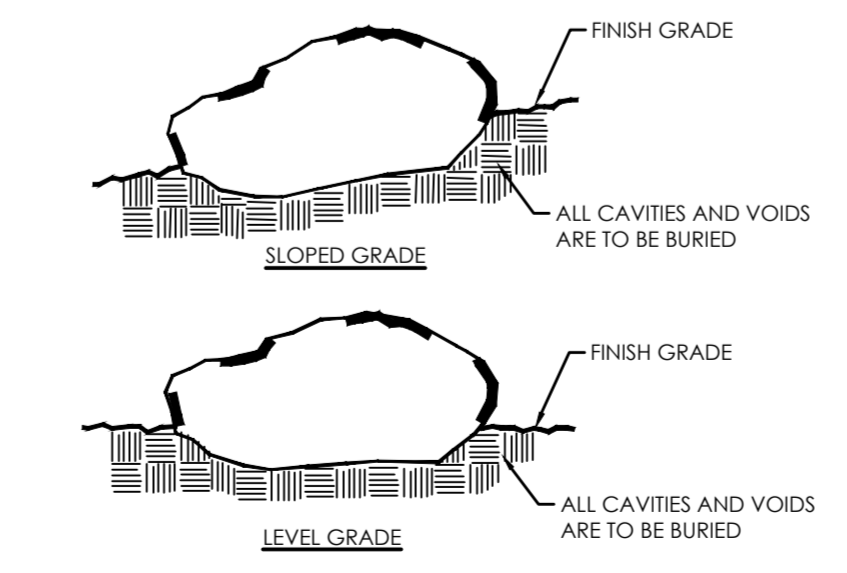
B EVERGREEN PLANTING & GUYING
NOT TO SCALE



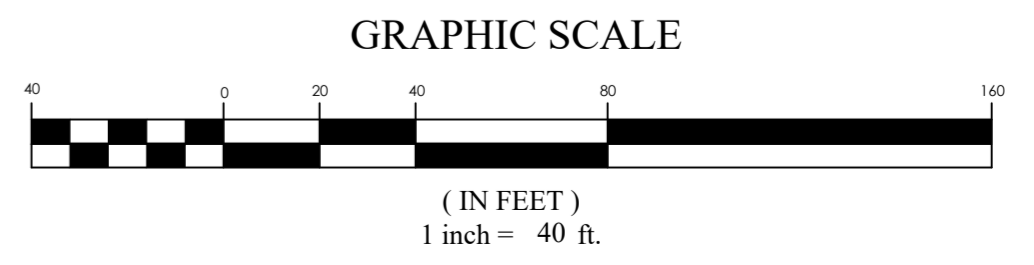
D PERENNIAL PLANTING
NOT TO SCALE



C SHRUB PLANTING
NOT TO SCALE



E BOULDER DETAIL
NOT TO SCALE





November 30, 2023

Jenny Wilson
Mayor

Catherine Kanter
Deputy Mayor of Regional
Operations

Scott R. Baird, P.E.
Director, Public Works
and Municipal Services

Kade D. Moncur, P.E., CFM
Director, Public Works
Engineering Division

**PUBLIC WORKS
ENGINEERING DIVISION**

Government Center
2001 South State Street
Suite N3-120
Salt Lake City, Utah 84190

T 385-468-6600
F 385-468-6603

To Whom It May Concern,

This recommendation letter is in consideration of the following proposed development:

Application: 000965 – Gabler’s Grove Phases 6 (Townhomes)

Location: 7774 W 2820 S Magna, Utah 84044

Similar to other private roadways within previous phases of this development, Trout Creek Lane (a private roadway) is proposed to be bounded by mountable curb and gutter, therefore no driveway flares are required for the fronting driveways. And since the proposed phase currently appears to meet all other applicable roadway standards, it is the recommendation of Salt Lake County Public Works Engineering that an exception be granted for the 10’ driveway offset distance requirement along the Trout Creek Lane frontage of this project.

Regards,

Jefferson Thomson, PE
Salt Lake County
Public Works Engineering

**NON-EXCLUSIVE LICENSE AGREEMENT BETWEEN
MAGNA METRO TOWNSHIP AND GOOGLE FIBER UTAH, LLC
FOR THE INSTALLATION OF NETWORK FACILITIES
IN THE CITY PUBLIC RIGHT-OF-WAY**

This Non-Exclusive License Agreement (“**Agreement**”) is made as of the Effective Date by and between **Magna Metro Township**, a Utah municipality (“**City**”), and **Google Fiber Utah, LLC**, a Utah limited liability company, and its subsidiaries, successors, or assigns (“**Licensee**”).

RECITALS

- A. City has jurisdiction over the use of the public rights-of-way in City in which it now or hereafter holds any property interest (“**Public ROW**”).
- B. Licensee desires, and City desires to permit Licensee, to install, maintain, operate, and/or control a fiber optic infrastructure network in the Public ROW (“**Network**”) for the purpose of offering communications services (“**Services**”), including broadband Internet access service as defined in 47 C.F.R. § 8.1(b) (“**Broadband Internet Services**”), but excluding multichannel video programming services that would be subject to a video services franchise, to residents and businesses in City (“**Customers**”).
- C. The Network may consist of equipment and facilities that may include aerial strand; aerial or underground fiber optic cables, lines, or strands; underground conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; and other similar facilities reasonably needed to provide the Services (“**Network Facilities**”).
- D. City is a member of the **Greater Salt Lake Municipal Services District (“MSD”)**, an independent local district. The MSD provides a number of services to the City including engineering and public works. Some of those services, by interlocal agreement are provided through **Salt Lake County**. By way of examples, references in this Agreement to the City Engineer, therefore, refer to the Engineer retained by the MSD, whether in-house or by contract, to serve the City, and City notices to Licensor may come from its representatives in the MSD or Salt Lake County.

AGREEMENT

In consideration of the mutual promises made below, City and Licensee agree as follows:

1. Permission to Encroach and Occupy.

- 1.1 Permission to Encroach on and Occupy Public ROW. Subject to the conditions set forth in this Agreement, City grants Licensee permission to encroach on and occupy the Public ROW (the “**License**”) for the purpose of constructing, installing, repairing, maintaining, operating, and if necessary removing the Network and the related Network Facilities (the “**Work**”). This Agreement and the License do not authorize Licensee to use any property other than the Public ROW. Licensee’s use of any other City property, including parks, poles and conduits, will be governed under a separate Agreement regarding that use.

- 1.2 Subject to State and Local Law. This Agreement and the License are subject to City's valid authority under State and local laws as they exist now or may be amended from time-to-time, and subject to the conditions set forth in this Agreement. City expressly reserves the right to adopt, from time to time, in addition to provisions herein contained, such ordinances and rules and regulations as City may deem necessary in the lawful exercise of its police power for the protection of City's property, the Public ROW, and the health, safety and welfare of its citizens and their properties. Licensee agrees to comply with all such applicable ordinances, rules, and regulations presently in effect, and with all such lawful, nondiscriminatory, competitively neutral ordinances rules and regulations City may subsequently enact.
- 1.3 Subject to City's Right to Use Public ROW. This Agreement and the License are subject and subordinate to City's prior and future and continuing right to use the Public ROW, including but not limited to constructing, installing, operating, maintaining, repairing, or removing sewers, water pipes, storm drains, gas pipes, utility poles, overhead and underground electric lines and related facilities, and other public utility and municipal uses.
- 1.4 Subject to Pre-Existing Property Interests. City's grant of the License is subject to all valid pre-existing easements, restrictions, conditions, covenants, encumbrances, claims of title or other property interests that may affect the Public ROW. Licensee will obtain at its own cost and expense any permission or rights as may be necessary to accommodate such pre-existing property interests.
- 1.5 No Grant of Property Interest. The License does not grant or convey any property interest.
- 1.6 Non-Exclusive. The License is not exclusive. City expressly reserves the right to grant licenses, permits, franchises, privileges or other rights to any other individual, corporation, partnership, limited liability company, trust, joint stock company, business trust, unincorporated association, joint venture, governmental authority or other entity of any nature whatsoever ("**Person**"), as well as the right in its own name as a municipality to use the Public ROW for similar or different purposes allowed Licensee under this Agreement.
- 1.7 Limitations. Licensee will not knowingly permit another Person to use its Network Facilities in any manner which is solely intended to avoid the need for a franchise from the City. Nothing in this Section prohibits Licensee from offering Services to another Person who has authority to use and occupy the Public ROW. Licensee shall not provide services directly regulated by the Utah Public Service Commission (PSC) unless authorized by the PSC.
- 1.8 Cable System. Licensee shall not operate a cable system as defined in the Cable Communications Policy Act of 1984 (47 USCA §521, et seq., as amended) without first having obtained a separate cable agreement from the City.
- 1.9 Wireless Facilities. The Network Facilities will not include any wireless facilities and will not be deployed by Licensee to provide "wireless services" or act as a "wireless service provider" by way of the placement of wireless facilities in the Public ROW for purposes of the Small Wireless Facilities Deployment Act, codified as Utah Code Ann. 54-21-101, et seq. effective 1 September 2018, as the same hereafter may be

amended (the “**Small Cell Act**”), except pursuant to a separate agreement with City. The terms “wireless facilities,” “wireless services,” “wireless service provider,” as used above are all as defined in the Small Cell Act.

- 1.10 Non-Discrimination. City’s grant of the License will be open, comparable, nondiscriminatory, and competitively neutral, and City will at all times treat Licensee in a lawful non-discriminatory manner as compared to other non-incumbent providers offering facilities-based Broadband Internet Services.
- 1.11 Relationship. Nothing herein shall be deemed to create a partnership, joint venture, or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in a manner that would indicate any such relationship with the other.

2. Licensee’s Obligations.

- 2.1 Licensee shall comply with and follow all applicable City ordinances, in all work it performs in the Public ROW. Licensee may only deviate from obligations in this Subsection 2.1 and its subsections to the extent approved by the City Engineer, City Mayor, or their delegates.

2.1.1 Licensee shall obtain all required permits or approvals for construction, maintenance and operations, and shall at all times be subject to and comply with all applicable laws, statutes, codes, rules, regulations, standards, fee schedules, and procedures regarding the construction, operation and maintenance of the Network Facilities in the Public ROW, now in force or which, hereafter, may be promulgated (including but not limited to applicable zoning, land use, historic preservation ordinances, safety standards, and other applicable requirements) and good industry practices. City may inspect the manner of such work and require remedies as may be necessary to assure compliance. In the event Licensee should fail to comply with the terms of any City ordinance, regulation or requirement, City shall give Licensee written notice of such non-compliance and the time for correction provided by ordinance or as provided herein.

2.1.2 All work in the Public ROW shall be done in a timely, expeditious and safe manner, and in a manner which minimizes the inconvenience to the public or individuals, and shall follow applicable law.

2.1.3 Licensee will place its Network Facilities in conformance with the permits, plans, and drawings approved by City. All Facilities constructed by Licensee shall be located so as to cause minimum interference with and injury to (i) public use of the Public ROW; (ii) public water mains, storm water infrastructure, street lights, or any public use of the Public ROW; (iii) trees and other natural features.

2.1.4 All public and private property in or adjacent to dedicated easements disturbed by Licensee’s construction or excavation activities shall be restored promptly by Licensee, at its expense, to substantially its former condition, subject to inspection by City and compliance by Licensee with remedial action required by the City Engineer or his representative pursuant to said inspection.

- 2.1.5 Licensee will promptly repair any damage to the Public ROW, City property, or private property if such damage is caused by the Work of Licensee, its contractors, subcontractors, employees, agents or assigns, and no other person is solely responsible for the damage (e.g., where a person other than Licensee fails to accurately or timely locate its underground facilities as required by State law). Licensee shall promptly notify the affected owner of the damaged property, and shall promptly repair the damaged property to substantially its former condition, and in accordance with applicable law. Licensee's restoration work will start promptly but not later than (i) twenty-four (24) hours from City notifying Licensee of damage that poses an imminent threat to public health or safety, (ii) seventy-two (72) hours from City notifying Licensee of damage that affects roads or highways, or (iii) fourteen (14) days from City notifying Licensee of all other types of damage. City must notify Licensee of damage under clauses 2.1.4(ii) and (iii) in writing, but may notify the Licensee by any means of its choice in respect to 2.4(i). Notwithstanding anything to the contrary, if sent by electronic mail, the City's written notice will be effective upon transmittal. Licensee's repair and restoration obligations under this Subsection 2.1 and its subsections shall be limited by, and consistent with, any applicable seasonal or other restrictions on construction or restoration work.
- 2.2 Licensee's Sole Cost and Expense. Licensee will perform the Work at its sole cost and expense.
- 2.3 Compliance with Laws. Licensee will comply with all applicable laws and regulations when performing the Work and in operating the Network Facilities. Licensee has obtained or will obtain any necessary approvals, licenses or permits required by federal and State law to provide Broadband Internet Services consistent with the provisions of this Agreement.
- 2.4 Undergrounding. Licensee will use its best efforts to install or relocate its Network Facilities underground. If after utilizing such best efforts and if any third-party electricity or communications transmission or distribution facilities remain above ground, Licensee may, with reasonable prior written notice to City, install or keep and retain its Network Facilities above ground, but only to the same extent that such third-party electricity or communications transmission or distribution facilities remain above ground.
- 2.5 Reasonable Care, Safety, Workmanlike Manner. Licensee will exercise reasonable care and shall act in a safe manner when performing the Work and will use commonly accepted practices and equipment to minimize the risks of personal injury, property damage, soil erosion, and pollution of surface or groundwater. The installation, maintenance, renovation, and replacement of Licensee's facilities in the Public ROW shall be performed in a good and workmanlike manner.
- 2.6 Prohibitions. Except as otherwise provided herein, Network Facilities maintained or installed by Licensee within the City will be so located and constructed as **not to do any of the following acts**, unless permitted in writing by the City Engineer, City Mayor, or their delegates:
- 2.6.1 Interfere with access to or use of any fire hydrant; obscure the vision of or interfere with the installation of any traffic-control device or traffic or information sign or signal;

- 2.6.2 Interfere with, block or obscure motor vehicle driver sight distance lines or views established by any ordinance or law, including within intersection and driveway sight triangles;
- 2.6.3 Obscure the light from any street light;
- 2.6.4 Cross any water or sewer line except at a 90-degree angle, except in accordance with a specific permit for such crossing issued by the agency which operates the utility;
- 2.6.5 Damage irrigation, landscaping or trees owned or maintained by the City;
- 2.6.6 Damage any communications lines owned or maintained by the City, subject to City's compliance with applicable law (including requirements to accurately and timely locate City's underground facilities); and
- 2.6.7 Install Network Facilities in the paved sidewalk area unless authorized in advance by the City.
- 2.7 No Nuisance/Graffiti. Licensee will maintain its Network Facilities in good and safe condition and shall not allow its Network Facilities to cause a public nuisance. Licensee will remove all graffiti from the identified Network Facilities in accordance with requirements under City code.
- 2.8 Removal and Protection of City Property. Except as required in an emergency event, no City property shall be removed from the Public ROW, including signage on utility poles, without prior permission from an authorized representative of the City.
- 2.9 Emergency Repairs. In any emergency event in which Licensee needs to cut or excavate a Public ROW, and in which Licensee must act immediately and is unable to obtain a permit for excavating in the Public ROW from the City beforehand, Licensee shall provide the City with notification of such work as soon as practicable by calling the City Engineer at (385) 468-6600, or if after the Department's business hours, by calling such other emergency telephone number provided to Licensee by the City, and shall report the emergency and all related information requested by the City representative on call. Licensee shall give the City the telephone number of Licensee's representative(s) for contact about work in the Public ROW or in an emergency. Licensee shall have a representative available by telephone at all times when work is being done in the Public ROW,
- 2.10 Identification of Network Facilities. Licensee will identify its Network Facilities using an identification method mutually agreed-upon by the parties, or as established by standard industry practices and reasonably directed by City if the parties cannot mutually agree on an identification method. For underground facilities, the identification will be detectable without opening the street or sidewalk.
- 2.11 Cooperation in Joint Trench Opportunities. Licensee will cooperate with City in identifying ways to minimize the amount of construction in the Public ROW through joint trenching, sharing duct banks, and cost sharing with City and third parties undertaking similar construction projects involving the installation of underground

- communications facilities. Licensee's cooperation obligation is subject to any such proposed joint trenching, duct sharing, and cost-sharing opportunities being sufficiently compatible with Licensee's plans, as reasonably determined by the Licensee. Without limiting the foregoing, (i) the cooperation opportunity would not be deemed sufficiently compatible with Licensee's plan where the opportunity involves different areas of the Public ROW than Licensee has permission to occupy under this Agreement, or would unreasonably delay or otherwise hinder Licensee's construction plans, and (ii) Licensee is not obligated to cooperate if Licensee enters into a commercial cooperation agreement reasonably satisfactory to the Licensee with respect to such joint trenching or other cooperation with City or the third-party, as applicable. Licensee will make good-faith efforts to enter into any such commercial cooperation agreement in connection with fulfilling the foregoing cooperation obligation.
- 2.12 As-Built Drawings and Maps. Licensee will maintain accurate as-built drawings and maps of its Network Facilities located in City and will provide them as shapefiles to the City subject to applicable confidentiality protections claimed by Licensee under the Government Records and Management Act, Chapter 2, Title 63, Utah Code Ann., or its successor ("GRAMA").
- 2.13 Utility Notification Program. Licensee shall participate in and be a member of the State's utility notification program, whether provided for by statute or otherwise.
- 2.14 Hazardous Materials. If contaminated or hazardous material is discovered within or adjacent to the Public ROW, Licensee must stop work in that affected area, immediately notify City of the hazardous material, and report accurately and in writing the facts of the encounter to City. Work in the affected area will not thereafter be resumed except by written order of City or until the material is determined not to be hazardous material or the hazardous material is remediated in compliance with all applicable laws.
- 2.15 Network Design and Scope. Nothing in this Agreement requires Licensee to build to all areas of City, and Licensee retains the discretion to determine the scope, location, and timing of the design and construction of the Network. Licensee, at its sole discretion, may determine separately defined geographic areas with City where its Network Facilities will be deployed, and City will be available to consult with Licensee regarding the boundaries of City's recognized neighborhood associations and City's goals of equity and inclusion.
- 2.16 Access to Services. Licensee shall not deny service or access, or otherwise discriminate on the availability, rates, terms, or conditions of Broadband Internet Services provided to residential subscribers on the basis of race, color, creed, religion, ancestry, national origin, gender, sexual orientation, disability, age, familial status, marital status, or status with regard to public assistance. Licensee shall comply at all times with all applicable Federal, state, and local laws and regulations relating to nondiscrimination. Licensee shall not deny or discriminate against any group of actual or potential residential subscribers in City on access to or the rates, terms, and conditions of Broadband Internet Services because of the income level or other demographics of the local area in which such group may be located.

- 2.17 Public Benefits. Licensee agrees to use good-faith efforts to consult with City on developing initiatives designed to benefit the public, which may include increasing access to Broadband Internet Services, improving digital literacy, and bridging the digital divide.
- 2.18 City Uses of Poles and Overhead Structures. City will have the right, without cost, to use all above-ground poles owned solely by Licensee within the City for fire alarms, police signal systems, or any lawful public use; provided, however, any said uses by City shall be for activities owned, operated or used by City for any public purposes, and shall not include the provision of communications service to non-governmental third parties or otherwise in a manner which would commercially compete with Licensee's operations and services and provided that such City use does not substantially interfere with Licensee's operations and services.
- 2.19 Limitations on Use Rights. Nothing in this Agreement will be construed to require Licensee to increase pole capacity, alter the manner in which Licensee attaches equipment to the poles, or alter the manner in which Licensee operates and maintains its equipment. Such City attachments shall be installed and maintained in accordance with the reasonable requirements of Licensee and the then-current National Electrical Safety Code. City attachments shall be attached or installed only after written approval by Licensee, which approval will be processed in a timely manner and will not be unreasonably withheld, conditioned or delayed.
- 2.20 Maintenance of City Facilities. City's use rights shall also be subject to the parties reaching a written agreement regarding the maintenance of the City attachments.

3. Relocation, Removal, Expiration, Revocation, and Inspection.

- 3.1 Emergency Removal or Relocation by City. In the event of a public emergency that creates an imminent threat to the health, safety, or property of City its residents or businesses, City may remove or relocate the applicable portions of the Network Facilities without prior notice to Licensee. City will, however, make best efforts to provide prior notice to Licensee before making an emergency removal or relocation. In any event, City will promptly provide to Licensee a written description of any emergency removals or relocations of Licensee's Network Facilities. Licensee will reimburse City for its actual, reasonable, and documented costs or expenses incurred for any such work performed by City. Licensee's obligation to reimburse City under this subsection is separate from Licensee's obligation to pay the License Fee (as defined below).
- 3.2 Removal of Abandoned Network Facilities. If Licensee abandons or fails to use any portions of its Network Facilities for one year or more ("**Abandoned Network Facilities**"), Licensee will notify City and will remove any above-ground facilities at its own expense at City's request within a commercially reasonable period of time. City and Licensee will discuss whether underground facilities should be abandoned in place or transferred to City, at City's option. Abandoned Network Facilities do not include Network Facilities intended for emergency use, redundant Network Facilities, or Network Facilities intended to meet future demand or capacity needs.
- 3.3 Relocation to Accommodate Governmental Purposes. If Licensee's existing Network Facilities would interfere with City's planned use of the Public ROW or other City

property for a legitimate governmental purpose, such as construction, (including widening or relocation of all or part of a Public ROW), installation, repair, maintenance, or operation of water, sewer, or storm drain line/facilities, public roads or curb, gutter and sidewalk, parks, and recreational facilities, Licensee will, upon written notice from City, relocate its Network Facilities at Licensee's sole cost and expense to such other location or locations in the Public ROW as may be mutually agreed by the parties, taking into account the needs of the City's governmental purpose and Licensee's interest in maintaining the integrity and stability of its Network. Licensee will relocate its Network Facilities within a commercially reasonable period of time agreed to by the parties, taking into account the urgency of the need for relocation, the difficulty of the relocation, and other relevant facts and circumstances, except that City may not require Licensee to relocate or remove its Network Facilities with less than one hundred and eighty (180) days' notice.

- 3.4 Relocation to Accommodate Commercial Purposes. If Licensee's existing Network Facilities would interfere with City's planned use of the Public ROW or City property for a commercial purpose, or with a third-party's use of the Public ROW, Licensee will not be required to relocate its Network Facilities unless City or the third party enters into an agreement with Licensee under which City or the third party would, at a minimum: (a) identify and arrange for a new location for Licensee's Network Facilities that is acceptable to Licensee, (b) agree to a commercially reasonable period of time for the relocation, which in no event will be less than one hundred and eighty (180) days; and (c) agree to reimburse all of Licensee's reasonable direct costs, expenses, and losses associated with the requested relocation.
- 3.5 Post-Removal Restoration of Public ROW. When removal or relocation is required under this Agreement, Licensee will, after the removal or relocation of the Network Facilities, at its own cost (except to the extent subject to reimbursement pursuant to Subsection 3.4 hereof), repair and return the Public ROW in which the facilities were located to a safe and satisfactory condition in accordance with applicable law. Before proceeding with removal or relocation work, Licensee will obtain from the City a street excavation permit and follow the City's ordinances and other applicable law.
- 3.6 Rights and Duties of Licensee Upon Expiration or Revocation. Upon expiration of the license granted under this Agreement, whether by lapse of time, by agreement between Licensee and City, or by revocation or forfeiture as provided herein, Licensee shall remove from the Public ROW any and all of its Network Facilities and restore the Public ROW to as good condition as the same was before the removal was effected, ordinary wear and tear and damages not caused by Licensee excepted. In the alternative, Licensee may, with the written approval of the City Engineer or City Mayor, abandon some or all of the Network Facilities in place.
- 3.7 Inspection by City. Installation of the Network Facilities shall be subject to inspection by City as provided in the City's municipal code.

4. Contractors and Subcontractors.

- 4.1 Use of Contractors and Subcontractors. Licensee may retain contractors and subcontractors to perform the Work on Licensee's behalf.

- 4.2 Contractors to be Licensed. Licensee's contractors and subcontractors used for the Work will be properly licensed under applicable law.
- 4.3 Authorized Individuals. Licensee's contractors and subcontractors may submit individual permit applications to City on Licensee's behalf, so long as the permit applications are signed by individuals that Licensee has authorized to act on its behalf via a letter of authorization provided to City in the form attached as **Exhibit "A"** ("**Authorized Individuals**"). City will accept permit applications under this Agreement submitted and signed by Authorized Individuals, and will treat those applications as if they had been submitted by Licensee under this Agreement.

5. Compensation for Use of Public ROW.

- 5.1 Licensee is not subject to the collection and proper deposit of the Municipal Telecommunications License Tax with the Utah State Tax Commission pursuant to the Municipal Telecommunications License Tax Act (Utah Code Ann. 10-1-401 to 10-1-410), except with respect to any voice-over-internet-protocol ("VoIP") services it offers.
- 5.2 Licensee will pay City a fee ("**License Fee**") to compensate City for Licensee's use and occupancy of Public ROW pursuant to the License. Licensee and City acknowledge and agree that the License Fee provides fair and reasonable compensation for Licensee's use and occupancy of Public ROW and other City property as authorized. The License Fee will begin accruing on the Effective Date (as defined below) and will be calculated as follows:
- 5.3 License Fee. Licensee will pay City two percent (2%) (the "**Revenue Percentage**") of Gross Revenues for a calendar quarter, remitted on a quarterly basis, commencing upon the first date on which Licensee receives any Gross Revenues (as defined below). Such payments are due forty-five (45) days after the end of the calendar quarter. Following each quarterly payment, Licensee will deliver a report to the City summarizing the basis of the payment.
- 5.3.1 As used herein, "**Gross Revenues**" means all consideration of any kind or nature, including without limitation, cash, credits, property, and in-kind contributions (services or goods) received by Licensee from Customers for Broadband Internet Services that are provided to Customers through Network Facilities located at least in part in Public ROW.
- 5.3.2 Gross Revenues do not include:
- (i) any revenue not actually received, even if billed, such as bad debt;
 - (ii) refunds, rebates, or discounts made to Customers or City;
 - (iii) revenue received from the sale of Broadband Internet Services for resale in which the purchaser is required to collect and remit similar fees from the purchaser's customer;
 - (iv) any forgone revenue from Licensee's provision of Broadband Internet Services to Customers at no charge if required by state law;

- (v) any tax of general applicability imposed upon Licensee or its Customers by City or by any state, federal, or any other governmental entity, and required to be collected by Licensee and remitted to the taxing entity (including but not limited to sales and use tax, gross receipts tax, excise tax, utility users tax, public service tax, communications taxes, and fees not imposed by this Agreement); and
 - (vi) any forgone revenue from Licensee's provision, in Licensee's discretion or otherwise, of free or reduced cost Broadband Internet Services to any Person; provided, however, that any forgone revenue which Licensee chooses not to receive in exchange for trades, barter, services, or other items of value will be included in Gross Revenues.
- 5.4 Pass Through. Licensee may identify and collect, as a separate item on the regular bill of any customer whose Broadband Internet Services are provided by Network Facilities located at least in part in the Public ROW, the License Fee due from that customer.
- 5.5 Audit. During the term of this Agreement and in the two-year period following its termination, City may examine the business records of Licensee as permitted under state or local law, but in any event only during business hours and following not less than thirty (30) days' notice, to the extent reasonably necessary to ensure compliance with the payment terms of this Agreement ("**Business Records**"). Licensee shall also produce Business Records to the City upon 30 days' written notice from the City in a form reasonably requested by it, the reasonable cost of which the City shall bear, subject to the provisions of this Subsection. Licensee will keep all business records of invoices, Gross Revenues, and payments of gross receipts for at least two (2) years. City may, in the event of a dispute concerning compensation under this Section 5 and its subsections, bring an action in a court of competent jurisdiction. Unless otherwise agreed in writing by Licensee, the fees and expenses of performing such examination and verification, and the reasonable costs of providing records to the City, shall be borne by the City.
- 5.6 Government Records Access and Management Act. City is subject to the requirements of GRAMA. All materials submitted to City by Licensee pursuant to this Agreement are subject to disclosure unless such materials are exempt from disclosure under GRAMA. The burden of claiming an exemption from disclosure shall rest solely with Licensee, and Licensee shall comply with the requirements of GRAMA in asserting any such exemption. Such materials may be classified as "protected" by City under GRAMA. City shall make reasonable efforts to notify Licensee of any requests made for disclosure of documents submitted under a claim of confidentiality. Licensee may, at Licensee's sole expense, take any appropriate actions to prevent disclosure of such material.
- 5.7 Interest on Late Payments. Any payments that are due and payable under this Agreement that are not received within fifteen (15) days from the due date will be assessed interest compounded at the rate of 18% per annum from the due date. All sums paid with interest within thirty (30) days of the due date shall not constitute a material breach under Subsection 10.1.

5.8 Change in Law.

- 5.8.1 Notwithstanding anything to the contrary herein, in the event of a change in local, state, or federal law that (i) prohibits collection of any right-of-way-access fee from any provider of Broadband Internet Services or (ii) reduces the percentage of revenue on which the right-of-way-access fee paid by any provider of Broadband Internet Services is based to a percentage that is lower than the Revenue Percentage, then Licensee will have no obligation to pay the License Fee or to pay a Licensee Fee based on the Revenue Percentage, as the case may be. In the case of a reduction in the percentage of revenue on which a right-of-way-access fee may be based, the Revenue Percentage will be commensurately reduced.
- 5.8.2 Notwithstanding anything to the contrary herein, in the event of a change in law that preempts this Agreement and requires or allows an increase to the percentage of Gross Revenue above the Revenue Percentage which the City may charge a provider of communications services as a license fee for use of the Public ROW, then upon the legally required act by the City's governing body, Licensee shall upon 60 days' prior written notice from the City pay the City such license fee determined by the governing body to apply to all providers of Broadband Internet Services in the City, not to exceed the maximum allowed by law.

6. Indemnification.

6.1 Indemnification. Licensee hereby agrees to indemnify, defend and hold harmless the City, its officials, officers, employees and insurance carriers, individually and collectively from all losses, claims, suits, judgments, demands, expenses, subrogation, reasonable attorney's fees, costs or actions of any kind and nature resulting from personal or bodily injury to any person, including employees of Licensee or of any contractor or subcontractor employed by Licensee (including bodily injury and death) or damages to any property, arising directly out of the negligent acts or omissions of Licensee, its contractors, subcontractors, officers, agents and employees while exercising any of the rights or privileges granted by this Agreement, except for any loss, injury, or personal or property damage caused by the negligence or willful misconduct of the City, its officers, agents, and employees and except for any losses, claims, suits, judgments, demands, expenses, subrogation, attorney's fees, costs, or actions arising out of any claim made by City's employees that are covered under applicable workers' compensation laws. This Subsection 6.1 shall survive the termination of this Agreement.

6.2 City Participation in Litigation. The Licensee shall immediately notify the City of any litigation which would affect the City's rights under this Agreement. City shall promptly notify Licensee in writing of any claim or suit for which City seeks indemnification and defense by Licensee and request that Licensee indemnify the City. Licensee will give written notice to City of its acceptance of the defense and shall be entitled to engage legal counsel of its own choosing. City's failure to so notify and request indemnification shall not relieve Licensee of any liability that Licensee might have, except to the extent that such failure prejudices Licensee's ability to defend such claim or suit. In the event that Licensee refuses the tender of defense in any suit or any claim, as required under the indemnification provisions contained herein, and that refusal is subsequently determined by a court having

appropriate jurisdiction (or such other tribunal that the Parties agree to decide the matter), to have been a wrongful refusal on the part of Licensee, Licensee shall pay all of City's reasonable costs for defense of the action, including all reasonable expert witness fees, costs, and attorneys' fees, and including costs and fees incurred in recovering under this indemnification provision. City shall have the right, at City's sole cost and expense, to employ separate counsel on behalf of City for City to bring or pursue any counterclaims or interpleader action, equitable relief, restraining order, or injunction. Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such claim, and the relevant records of each Party shall be available to the other party with respect to any such defense. No compromise or settlement shall be approved or executed without the prior written consent of City and Licensee, if the compromise or settlement involves the rights of the other party. If the City refuses a compromise or settlement that has been approved by Licensee, City shall, at its sole cost and expense, take over the defense and Licensee shall not be responsible for, nor obligated to indemnify City, against any cost or liability in excess of such refused compromise or settlement.

7. **Limitation of Liability**

NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION WILL BE SUBJECT TO AND MAY BE LIMITED BY APPLICABLE STATE LAW.

8. **Performance Bond.**

Licensee will, promptly after the Effective Date, provide City with a performance bond in the amount of Fifty Thousand Dollars (\$50,000) naming City and MSD as obligees and guaranteeing Licensee's faithful performance of its obligations under this Agreement. The performance bond will remain in full force during the Term of this Agreement. The requirement of a performance bond will not prevent the City from other legal remedies it may have against the Licensee if it defaults in any of its obligations under this Agreement, including filing a lawsuit.

9. **Insurance.**

Licensee will carry and maintain Commercial General Liability (CGL) insurance, with policy limits not less than \$2,000,000 in aggregate and \$2,000,000 for each occurrence covering bodily injury and property damage with the following features: (a) CGL primary insurance endorsement; and (b) CGL policy will include an endorsement which names City, the MSD, their employees, and officers as additional insureds. Licensee shall increase the commercial general liability limits contained herein to cover any increase in the City's and MSD's potential liability under the Utah Governmental Immunity Act (Utah Code Ann. § 63G-7-101, et. seq.) or successor provision. Upon written request, the Licensee will provide a Certificate of Insurance showing evidence of the coverage required by this subsection.

10. **Effective Date and Term.**

This Agreement is effective for fifteen (15) years beginning on the date the last party to sign executes this Agreement ("**Effective Date**"). The License will expire automatically

on the fifteenth anniversary of the Effective Date ("**Original Term**"), unless Licensee provides written notice of its intent to renew to City at least six (6) months prior to expiration and City does not object after thirty (30) days. The renewal term will be for five (5) years, and the same renewal process may be used for successive 5-year terms.

11. **Termination.**

11.1 **Termination by City.** City may terminate this Agreement if Licensee is in material breach of the Agreement, provided that City must first provide Licensee written notice of the breach and thirty (30) days to cure, unless the cure cannot reasonably be accomplished in that time period, in which case Licensee must commence its efforts to cure within that time period and the cure period shall continue as long as such diligent efforts continue. No termination under this paragraph will be effective until the relevant cure period has expired.

11.2 **Termination by Licensee.** Licensee may terminate this Agreement for convenience upon one hundred eighty (180) days' written notice to City.

12 Assignment. Except as set forth below, neither party may assign or transfer its rights or obligations under this Agreement, in whole or part, to a third party, without the written consent of the other party. Any agreed-upon assignee will take the place of the assigning party, and the assigning party will be released from all of its rights and obligations upon such assignment.

12.1 Notwithstanding the foregoing, Licensee may at any time, on written notice to City, assign this Agreement and/or any or all of its rights and obligations under this Agreement:

12.1.1 to any Affiliate (as defined below) of Licensee;

12.1.2 to any purchaser of all or substantially all of Licensee's Network Facilities in City if Licensee determines after a reasonable investigation that the purchaser has the resources and ability to fulfill the obligations of this Agreement;

12.1.3 subject to City's consent, which will not be unreasonably withheld, conditioned, or delayed, Licensee may assign to any successor in interest of Licensee's business operations in City in connection with any merger, acquisition, or similar transaction if Licensee determines after a reasonable investigation that the successor in interest has the resources and ability to fulfill the obligations of this Agreement.

12.2 Following any assignment of this Agreement to an Affiliate, Licensee will remain responsible for such Affiliate's performance under the terms of this Agreement. For purposes of this Agreement, (i) "Affiliate" means any Person that now or in the future, directly or indirectly controls, is controlled with or by, or is under common control with Licensee; and (ii) "control" means, with respect to: (a) a U.S. corporation, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof, or (b) a non-U.S. corporation, if the voting power to elect directors thereof is less than fifty percent (50%), the maximum amount allowed by applicable law; and (c) any other Person, fifty percent (50%) or more ownership interest in said Person, or the power to direct the management of such Person.

13. **Notice.**

All notices related to this Agreement will be in writing and sent, if to Licensee to the email addresses set forth below, and if to City to the following address: 8952 West Magna Main Street, Magna, UT 84044. Notices are effective (a) when delivered in person, (b) upon confirmation of a receipt when transmitted by facsimile transmission or by electronic mail, (c) on the next business day if transmitted by registered or certified mail, postage prepaid (with confirmation of delivery), (d) on the next business day if transmitted by overnight courier (with confirmation of delivery), or (e) three (3) days after the date of mailing, whichever is earlier.

Licensee's e-mail address for notice is googlefibernotices@google.com, with a copy to legal-notices@google.com.

14. Meet and Discuss. Notwithstanding any other provision contained herein, before City or Licensee brings an action or claim before any court or regulatory body arising out of a duty or right arising under this Agreement, Licensee and City shall first make a good-faith effort to resolve their dispute by discussion.

15. General Provisions. This Agreement is governed by the laws of the State of Utah without regard to conflicts of laws principles. Any claim or lawsuit arising out of this Agreement must be brought in the Third District Court pursuant to the laws of the State of Utah, or in the U.S. District Court for the State of Utah located in Salt Lake County, Utah. Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control. The parties agree to meet at reasonable times on reasonable notice to discuss this Agreement or Licensee's provision of Broadband Internet Services during the term of the Agreement. This Agreement sets out all terms agreed between the parties and supersedes all previous or contemporaneous agreements between the parties relating to its subject matter. The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion will not be considered a waiver of such party's rights or deprive such party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement. This Agreement, including any exhibits, constitutes the entire agreement between the parties related to this subject matter, and any change to its terms must be in writing and signed by the parties. This Agreement is not intended to and will not be construed to give any third party any interest or rights (including, without limitation, any third party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby. The parties may execute this Agreement in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument. Each party to this Agreement agrees that Licensee may use electronic signatures.

16. Warranty of Authorization; Binding on Successors and Assigns. The person signing for and on behalf of Licensee warrants and represents that he or she is duly authorized and empowered to enter into this agreement for and on behalf of Licensee, and that Licensee is duly organized and validly existing under the laws of the State of Utah, and that by his or her signature, he or she does bind Licensee to the terms of this Agreement. The person signing below for Licensee warrants to the City that all necessary company approvals, authorizations and consents have been obtained, and all company procedures required to be taken have been followed to enable Licensee to enter into this Agreement and to perform its duties hereunder. This Agreement is binding upon the successors and assigns of each of the parties.

17. Governmental Immunity. City is a body corporate and politic of the State of Utah, subject to the Governmental Immunity Act of Utah (the "Act"), Utah Code Ann. §§ 63G-7-101 to - 904, as amended. The parties agree that City will only be liable within the parameters of the

Act. Nothing contained in this Agreement shall be construed in any way, to modify the limits of liability set forth in that Act or the basis for liability as established in the Act.

Signed by authorized representatives of the parties on the dates written below.

Google Fiber Utah, LLC

Magna Metro Township

(Authorized Signature)

Dan W. Peay

(Authorized Signature)

(Name)

DAN W. PEAY

(Name)

(Title)

MAYOR

(Title)

Address:
1600 Amphitheatre Parkway
Mountain View, CA 94043

Address:

Date:

Date: *5-26-22*

APPROVED TO FORM:

[Signature]

City Attorney



EXHIBIT "A"

FORM OF LETTER OF AUTHORIZATION

[LICENSEE LETTERHEAD]

[Date]

Via Email ([Email Address])

Magna Metro Township

[Addressee]

[Address]

Re: [Amended] Letter of Authorization

Dear [Name],

In accordance with Section 4.3 of the License Agreement dated [redacted] between Magna Metro Township and Google Fiber Utah, LLC ("**Google Fiber**"), Google Fiber hereby designates the following Authorized Individuals (as that term is defined in the Agreement), who may submit and sign permit applications and other submissions to the City on behalf of Google Fiber.

{Insert name and title for each Authorized Individual, including any Authorized Individual previously named and whose authority continues. Strike through the names of any individuals who are no longer authorized, if any.}

1. Name, Title
2. Name, Title
3. Name, Title (previously authorized, authorization continues)
4. ~~Name, Title~~ (authorization withdrawn)

This authorization may be withdrawn or amended and superseded by a written amendment to this Letter of Authorization, which will be effective 24 hours after receipt by the City.

Kind regards,

[Name]

Manager, Google Fiber Utah, LLC

