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

City Council Chambers
55 South State Street
Third Floor
Clearfield, Utah

7:00 P.M. POLICY SESSION
CALL TO ORDER: Mayor Pro Tem Peterson
OPENING CEREMONY: Councilmember Roper
APPROVAL OF MINUTES: May 22, 2018 – Policy Session June 14, 2018 – Neighborhood Party

PUBLIC HEARINGS:
1. PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE FISCAL YEAR 2017/2018 BUDGET

BACKGROUND: Staff has identified expenditures necessary for City operations which were not included in its current budget. Rich Knapp, Finance Manager, has prepared some proposed amendments for the 2017/2018 fiscal year budget. State law requires a public hearing before the City Council approves amendments to the City budget.

RECOMMENDATION: Receive public comment.

SCHEDULED ITEMS:
2. OPEN COMMENT PERIOD

The Open Comment Period provides an opportunity to address the Mayor and City Council regarding concerns or ideas on any topic. To be considerate of everyone at this meeting, public comment will be limited to three minutes per person. Participants are to state their names for the record. Comments, which cannot be made within these limits, should be submitted in writing to the City Recorder at nancy.dean@clearfieldcity.org.

The Mayor and City Council encourage civil discourse for everyone who participates in the meeting.

Comments pertaining to an agenda item that includes a public hearing or public input should be given as that item is being discussed during the meeting.
3. CONSIDER APPROVAL OF RESOLUTION 2018R-09 AUTHORIZING AMENDMENTS TO THE FISCAL YEAR 2017/2018 BUDGET

RECOMMENDATION: Approve Resolution 2018R-09 authorizing amendments to the fiscal year 2017/2018 budget and authorize the Mayor’s signature to any necessary documents.

4. CONSIDER APPROVAL OF RESOLUTION 2018R-10 CORRECTING THE PREVIOUSLY SET REAL AND PERSONAL PROPERTY TAX RATE FOR FISCAL YEAR 2018/2019 TO THE ACTUAL TAX RATE OF 0.001607

BACKGROUND: On June 12, 2018, the City Council adopted Resolution 2018R-7 which set the tax rate of 0.001547 for all real and personal property located within Clearfield for fiscal year 2019, as was recommended for the certified tax rate by Davis County and the Utah State Tax Commission. On June 21, 2018, staff was notified by the Utah State Tax Commission it had provided an incorrect rate for the City’s consideration. The corrected certified tax rate for fiscal year 2019 is 0.001607. Resolution 2018R-10 accurately reflects the corrected tax rate.

RECOMMENDATION: Approve Resolution 2018R-10 correcting the previously set real and personal property tax rate for Fiscal Year 2018/2019 to the actual tax rate of 0.001607, and authorize the Mayor’s signature to any necessary documents.

5. CONSIDER APPROVAL OF GROUND LESSOR’S CONSENT, NONDISTURBANCE, ATTORNMENT AND ESTOPPEL AGREEMENT BETWEEN CLEARFIELD CITY, CLEARFIELD 888, LLC, AND KEYBANK NATIONAL ASSOCIATION RELATING TO THE PROPERTY LOCATED AT 888 SOUTH UNIVERSITY PARK BOULEVARD

BACKGROUND: 888 Associates, LLC owner of the office building at 888 South University Park Boulevard is in the process of selling the property. Because it leases property from the City and CDRA to provide additional parking for the building, KeyBank is requiring the City and CDRA to give assurances that the lease hold interest currently held by 888 is in effect and free from default, and that the ground lease landlord (the City and CDRA) will accept that KeyBank will have the right and ability to keep the ground lease in effect.

RECOMMENDATION: Approve the Ground Lessor’s Consent, Nondisturbance, Attornment and Estoppel agreement between Clearfield City, Clearfield 888, LLC, and KeyBank National Association relating to the property located at 888 South University Park Boulevard, and authorize the Mayor’s signature to any necessary documents.

COMMUNICATION ITEMS:
Mayor’s Report
City Council Reports
City Manager’s Report
Staff Reports

**ADJOURN AS THE CITY COUNCIL AND RECONVENE AS THE COMMUNITY DEVELOPMENT AND RENEWAL AGENCY (CDRA)**
COMMUNITY DEVELOPMENT AND RENEWAL AGENCY (CDRA) AGENDA

1. CONSIDER APPROVAL OF THE MINUTES FROM JUNE 12, 2018 POLICY SESSION

PUBLIC HEARING:

2. PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE FISCAL YEAR 2017/2018 BUDGET

BACKGROUND: Staff has identified expenditures necessary for CDRA operations which were not included in its current budget. Rich Knapp, Finance Manager, has prepared the proposed amendment for the 2017/2018 fiscal year budget. State law requires a public hearing before the City Council approves amendment to the City budget.

RECOMMENDATION: Receive public comment.

SCHEDULED ITEMS:

3. CONSIDER APPROVAL OF RESOLUTION 2018R-02 AUTHORIZING AN AMENDMENT TO THE FISCAL YEAR 2017/2018 BUDGET

RECOMMENDATION: Approve Resolution 2018R-02 authorizing an amendment to the fiscal year 2017/2018 budget and authorize the Chair’s signature to any necessary documents.

4. CONSIDER APPROVAL OF THE GROUND LESSOR’S CONSENT, NONDISTURBANCE, ATTORNMENT AND ESTOPPEL AGREEMENT BETWEEN THE COMMUNITY DEVELOPMENT AND RENEWAL AGENCY (CDRA), CLEARFIELD 888, LLC, AND KEYBANK NATIONAL ASSOCIATION RELATING TO THE PROPERTY LOCATED AT 888 SOUTH UNIVERSITY PARK BOULEVARD

BACKGROUND: 888 Associates, LLC owner of the office building at 888 South University Park Boulevard is in the process of selling the property. Because it leases property from the City and CDRA to provide additional parking for the building, KeyBank is requiring the City and CDRA to give assurances that the lease hold interest currently held by 888 is in effect and free from default, and that the ground lease landlord (the City and CDRA) will accept that KeyBank will have the right and ability to keep the ground lease in effect.

RECOMMENDATION: Approve the Ground Lessor’s Consent, Nondisturbance, Attornment and Estoppel agreement between CDRA, Clearfield 888, LLC, and KeyBank National Association relating to the property located at 888 South University Park Boulevard, and authorize the Mayor’s signature to any necessary documents.

**ADJOURN AS THE CDRA**

Dated this 25th day of June, 2018.

/s/Wendy Page, Deputy Recorder
The City of Clearfield, in accordance with the ‘Americans with Disabilities Act’ provides accommodations and auxiliary communicative aids and services for all those citizens needing assistance. Persons requesting these accommodations for City sponsored public meetings, service programs or events should call Nancy Dean at 525-2714, giving her 48-hour notice.
PRESIDING:       Mark Shepherd  Mayor

PRESENT:          Nike Peterson  Councilmember
                 Kent Bush        Councilmember
                 Vern Phipps      Councilmember
                 Tim Roper        Councilmember
                 Karece Thompson Councilmember

STAFF PRESENT:    Summer Palmer  Assistant City Manager
                 Stuart Williams  City Attorney
                 Scott Hodge     Public Works Director
                 Greg Krusi      Police Chief
                 Eric Howes      Community Services Director
                 Spencer Brimley Community Development Director
                 Rich Knapp      Finance Manager
                 Trevor Cahoon  Communications Coordinator
                 Nancy Dean      City Recorder
                 Wendy Page      Deputy Recorder

EXCUSED:          JJ Allen       City Manager

VISITORS: Don Gilliland – DG Construction, Matthew Gyte, Jake Young – Civil Solutions Group, John Janson – Civil Solutions Group, Michael Roland, Bobi Merritt, Eric Lindquist, Craig Winder, Jeremy Sattler, Aaron Sattler, Walker Whiter, Melissa Evans, Michele Atwood, Steele Naisbitt

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

Mayor Shepherd informed the audience that if they would like to comment during the Public Hearing or Open Comment Period there were forms to fill out by the door.

Councilmember Peterson led the opening ceremonies.


Councilmember Bush moved to approve the minutes from the April 3, 2018 work session, the April 10, 2018 work session, and the May 8, 2018 policy session, as written, seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.
Spencer Brimley, Community Development Director, stated the zoning text amendment for City Code, Title 11 – Land Use was being considered by the Council for the adoption of Form Based Code (FBC). He explained FBC was a zoning designation which was different than traditional zoning. He continued it was zoning which looked more at the form and the function of how a community was built creating a community with places where people would want to live, work, and play.

Mr. Brimley acknowledged the City began the process of creating and drafting the FBC based on a recommendation from the Downtown Small Area Plan (SAP) which was adopted by the Council in spring of 2017. He indicated the area specific to the downtown which was being considered for the FBC adoption was the corridor along State Route 126 (State and Main Street) from 300 North to 1000 South and on 700 South between State Street and I-15. He noted the document being considered had been through several iterations and discussions. Mr. Brimley explained a steering committee comprised of members of the City Council, Planning Commission, private business owners and the public discussed it at length, provided input and feedback which aided in the formulation of the document. He mentioned the framework for the document was created from a template by Wasatch Front Regional Council (WFRC). He recognized the consultants, John Jansen and Jake Young from Civil Solutions Group in attendance. Mr. Brimley acknowledged they had been working with staff to formalize the Form Based Code and were prepared with a presentation then afterwards would be available to answer any questions.

Mr. Jansen stated the drafted Form Based Code document was the culmination of about eight months of work trying to implement the Downtown Small Area Plan. He reviewed the basic FBC principles, the process of creating the document, and its layout. Mr. Young reviewed places and districts which included three nodes known as the Civic Center (Civic – CV), Mabey Place (Urban Commercial – UC), and Access Point (Town Commercial – TC). Mr. Jansen explained broad categories listed and what would be general uses for an area; however, there were also very specific use prohibitions listed for the uses not permitted within a category. Mr. Young and Mr. Jansen reviewed several of the street types; building types and uses allowed in each district; open spaces, landscaping, parking, sign requirements, and the administrative process.

Mr. Jansen acknowledged the townhouse type buildings were designed requiring the garages to be at the rear of the building so it would not be just a garage oriented building. Mr. Young identified some of the new concepts to the document regarding parking which included parking options for compact spaces, low impact development (LID) techniques for storm water, on street parking credits, the idea of parking once in a development because of its connectivity, and the option to back in so the vehicle was ready to head out.

Mr. Jansen expressed appreciation to Councilmember Phipps for his comments about the drafted FBC. He stated those comments were used to clarify some definitions and for other minor edits throughout the document. He mentioned Councilmember Bush had spoken to him prior to policy
Mayor Shepherd opened the public hearing at 7:21 p.m.

Mayor Shepherd asked for public comments.

There were no public comments.

**Councilmember Roper moved to close the public hearing at 7:22 p.m. seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.**

PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON AN AMENDMENT TO THE FINAL SUBDIVISION PLAT FOR WEST SQUARE SUBDIVISION LOCATED AT APPROXIMATELY 875 SOUTH DEPOT STREET

Spencer Brimley, Community Development Director, stated the request by West Square, LLC was to amend the Final Subdivision Plat (FSP) for the West Square Subdivision creating residential condominium units in Building A of the multi-family development. He noted there was a development agreement in place originally executed in 2016; however, the developer was now proposing to change the development from apartments to condominiums. He stated the location was at approximately 875 South Depot Street. Mr. Brimley indicated it was surrounded by multi-family development and the railroad to the west.

He acknowledged the proposal would update the first building into condominiums and have each unit be for sale, with the potential of converting each of the remaining buildings from apartments to condos in the future. He noted the property was zoned R-3 (Multi-family Residential) which was consistent with the area. Mr. Brimley reviewed the layout of the building, the breakdown of the proposed units, and the parking. He indicated the proposed change would also require an update to the development agreement. He explained the Planning Commission held a public hearing on May 2, 2018 and recommended approval of FSP 1803-0003 based on conditions listed in the staff report.

Mayor Shepherd opened the public hearing at 7:25 p.m.

Mayor Shepherd asked for public comments.

There were no public comments.

**Councilmember Thompson moved to close the public hearing at 7:26 p.m. seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.**
PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON AN AMENDMENT TO THE FINAL SUBDIVISION PLAT FOR THE PROPERTY LOCATED AT APPROXIMATELY 572 WEST 300 NORTH

Mayor Shepherd indicated the City had been discussing the Final Subdivision Plat amendment with the developer and there were outstanding issues that still needed to be resolved. He stated it was recommended to table the public hearing and asked if there was a date available to revisit the public hearing. Nancy Dean, City Recorder, confirmed with the Stuart Williams, City Attorney, the item could be rescheduled for June, 12, 2018 at 7:00 p.m.

Councilmember Phipps asked if the public hearing would need to be re-noticed. Ms. Dean responded if the public hearing were tabled until a specific date and time it would not need to be noticed again.

Mayor Shepherd recommended the public hearing be tabled until June 12, 2018 at 7:00 p.m.

Councilmember Phipps moved to table the public hearing until June 12, 2018 at 7:00 p.m. seconded by Councilmember Thompson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.

OPEN COMMENT PERIOD

Steele Naisbitt, non-resident, stated he was an investor in the area and owned apartment units on 250 North which he had been maintaining for the last three years. He expressed his concern with code enforcement because he had spent a significant amount of money maintaining his property; however, felt the neighboring properties were not providing proper upkeep. He stated he went by the property earlier in the day, photographed the neighboring areas of concern, and offered to share the photos with anyone interested. He explained his frustration with the way code enforcement was happening in the area and thought he could save money if he made some cuts to his maintenance efforts.

Mayor Shepherd acknowledged the City had just shifted code enforcement to a civil process. Spencer Brimley, Community Development Director, stated he could meet with Mr. Naisbitt and then coordinate any needed efforts with the code compliance division. He mentioned there was an ordinance being considered later in the meeting which would help provide better defined regulations and the measures to enforce each through a civil process which could achieve the desired code compliance. Mr. Naisbitt expressed his appreciation for what the City was trying to accomplish.

Michelle Atwood, resident, expressed her opinion developing properties with garages on the backside of the units would force the kids to play on the grass in the front which would be closer to the busy streets. She acknowledged the appearance of a development might look better from the street if there were no garages; however, it would likely impact safety. Ms. Atwood voiced her concern with the level of drugs and crime within her apartment complex. She stated she and neighbors had contacted the police on numerous occasions about the smells of marijuana; yet,
indicated it appeared no one was taking the concern seriously because there were no arrests or evictions for the reported criminal behaviors. She mentioned there were good families living in the low income apartments and suggested the Council could pressure the police to take action and perhaps use the abatement vehicle in the area to help as a preventative measure.

Mayor Shepherd thanked Ms. Atwood for her comments and advised her to discuss the matter with Chief Krusi following the meeting.

CONSIDERATION OF AN AMENDMENT TO THE FINAL SUBDIVISION PLAT FOR THE PROPERTY LOCATED AT APPROXIMATELY 572 WEST 300 NORTH - TABLED

The item was tabled specific to Tuesday, June 12, 2018 at 7:00 p.m. for a public hearing and consideration.

APPROVAL OF ORDINANCE 2018-06 ENACTING TITLE 11, CHAPTER 19 TO THE CLEARFIELD CITY CODE ADOPTING A FORM BASED CODE TO REGULATE THE DEVELOPMENT OF THE DOWNTOWN CORRIDOR

Mayor Shepherd acknowledged this item was presented during the public hearing and asked if there were any additional questions for John Jansen, Jake Young or Spencer Brimley.

Councilmember Phipps stated he did not have questions but did want to share how he felt about form based code. He expressed his opinion municipal government had an vested need to look at land use. He recognized the drafted document had a blend of uses and was not pure form based code; however, he voiced his concern with removing elected officials from the decision process. Councilmember Phipps noted specifically there would be no involvement from elected officials regarding the ultimate uses in development. He expressed appreciation about the planning efforts given to the design constraints which would help reach the goals for standardization, commonality and retaining a level of quality; though, he was uneasy because there were no constraints on density, categories of use, or approval by elected officials. He feared the City would be at the mercy of the developer rather than the residents and the community.

Councilmember Phipps expressed appreciation for the remarks made by the consultants about the comments he had provided which were utilized to edit the document. He stated he felt that some of his comments had not been addressed, but were also valid and requested the list of concerns be part of the permanent record. Councilmember Phipps’ comments and concerns regarding Form Based Code have been made a permanent part of the record and can be viewed on page 122 of the May 22, 2018 Agenda Packet located at www.clearfieldcity.org and as a separate attachment to the May 22, 2018 Agenda Packet located at https://utah.gov/pmn/index.html. He expressed his worry the document would be rigorously reviewed and some would be looking for ways to exploit it. Councilmember Phipps expressed his opinion that even though the document was well intended, there were gaps in the wording and its approach which could open the City up to something not intended. He mentioned one of the visions he had for the City was being supportive of Hill Air Force Base (HAFB). He expressed his desire to have buildings located in the City to attract those affiliated with the HAFB providing the needed office space in Clearfield rather than neighboring cities.
Mayor Shepherd indicated much of the development in the City was market driven. He acknowledged Falcon Hill was the result of trying to accommodate for needed office space for HAFB contractors. He noted some of that development was even outside of the fence and in the Clearfield boundaries. He mentioned Legend Hills had office buildings which were 95 percent full and perhaps Mabey Place and Clearfield Station would be locations to attract developers to build office buildings and food establishments. There was a discussion about development in the City and the best uses. Mayor Shepherd stated he understood the concerns about high density; yet, he expressed his opinion having high density, office space, retail and a boutique hotel in Mabey Place would support the idea of Clearfield as a community where individuals could live, work, and play.

Councilmember Phipps indicated he tried to review the form based code document with an independent perspective. He expressed his fear others would have the same impression he had that the City was trying to add density or more housing rather than having an emphasis to increase commercial office or retail space. He stated his comments to the consultants reflected his concern about office use which he expressed was lacking and not well defined. Mayor Shepherd explained the development along the corridor and specifically the nodes identified in the Downtown Small Area Plan would likely not be possible without form based code because it allowed the developer to put a concept together to develop a place not an individual parcel. He added form based code had been successful in other communities.

Councilmember Phipps stated he wished to merely highlight some of the concerns he had expressed to staff and the consultants regarding form based code rather than review each comment in depth in the meeting. He expressed his concern with the specific encouragement of using storm water management systems as open space. He stated he was concerned a retention pond covered in sod would constitute a park which was not what he envisioned for places along the corridor and its redevelopment. Mr. Young pointed out a percentage of the landscaping could be used for storm water management systems, but it would not meet the open space requirement for use. He acknowledged in regards to office space, it was a building type permitted in all zones other than civic.

Councilmember Phipps indicated there were concerns regarding ancillary impacts on schools and traffic which would transform the City once development was completed. He suggested many could question the mindset of elected officials at the planning stages if regards were not given to those impacts on the City. Councilmember Peterson responded she was pleased the drafted form based code showed recognition of the increased traffic in the planning of street widths, parking management, and bicycle designations. She continued those items were called out in a manner not included in code previously and the form based code called for multi-formula transportation as well as parking which was space conscious. She added the current street configurations allowed traffic to get from one end of the City to the other quickly, rather than providing a reason to stop and stay. She commented she would love to see a reduction in speeds along the corridor or even more intersections added because of an uptick in traffic so it would entice people to stay here instead of visiting restaurants or retail shops in neighboring cities. She recognized faster roads were potentially a detriment to local businesses and residents.
Councilmember Peterson spoke to Councilmember Phipps concern of not removing elected officials from the land use process. She stated the concern was valid because elected officials had a job to do in protecting the residents; however, she indicated there were two protections in the drafted form based code. She pointed out adopting form based code was not citywide and was only referring to a narrow area within the City. She stated elected officials were involved in the process of its creations and had the opportunity to weigh in, vet, and be involved in the drafting of code and would continue to have oversight of it. She acknowledged if the form based code were adopted it would outline the standards and prevent developers from having to come to the Council each time there was an adjustment if it fit within the purview of the Code. She explained on rare occasions, when a proposal was desired which was an exception, the elected body would continue to review those requests to make sure it was a good fit. She insisted the drafted form base code was careful not to be pure because it still allowed for development agreements. She stated the Planning Commission which was a body appointed by the Mayor with the consent of the Council would be the body reviewing development plans and determine if each request was meeting the code requirements. She said the development agreements provided a fail-safe system which allowed for the elected officials to review any proposals which were questionable and discuss, vet, and reach a level of comfort through approval or denial. She commented form based code may have as big of an impact on the City as the Naval Depot did which transformed the City, so there was a level of discomfort and risk; however, to allow the corridor to continue to decay and never progress was equally problematic. She reported form based code allowed elected officials to set the terms by which the corridor could be developed and was a forward thinking approach to development. She expressed her opinion elected officials were not surrendering the protection of residents and oversight was still in place. Mayor Shepherd acknowledged there were other cities that would likely follow suit and were very interested in the process the City had gone through to develop form based code. Councilmember Peterson recognized the differences in downtown Ogden and Salt Lake City, as well as other areas which had transformed into gathering places. She identified society was changing the way it shopped and commuted; additionally, its population was skyrocketing with an influx of people. She stated we now live in a time when the City’s zoning could represent those changes as well. She concluded form based code was a document like every other part of the City’s Code which was living and could be reviewed and updated as needed over time.

Councilmember Bush commented the Planning Commission currently approved site plans and whatever type of zoning the City designated would still be reviewed by that body. He expressed his opinion that if form based code were adopted, the Council would not be giving up its rights or responsibility for having oversight on the legislative part of zoning.

Mr. Young clarified the drafted form based code indicated the maximum water storage retention allowed in the open space was up to ten percent. Mayor Shepherd acknowledged with the amount of density being considered there would be a need for water storage retention; however, the space planned for the corridor would not be similar to residential areas if there were excess runoff.

Councilmember Phipps expressed his appreciation for the discussion. He indicated it was hard to disagree with those whom he adherently respected. Councilmember Roper commented he appreciated Councilmember Phipps thorough review of the document and the concerns he
identified which had encouraged him to review it more carefully as well. Mayor Shepherd reported he was pleased there had been a detailed review and the evidence was supported by the comments provided by Councilmember Phipps. He reported he personally had been able to go through the process and was very involved in the details, but expressed his hope others would be as interested in the details. Councilmember Phipps agreed with Councilmember Peterson’s comments claiming the adoption of form based code would be a significant event for the City and whether it was the right or wrong thing to do; it would impact the City’s future. Councilmember Roper expressed he felt this would be the one big thing to help change the City for the better. Councilmember Phipps expressed his worry and reason for loss of sleep was that he did not want to be involved in making a decision which would end up being a huge mistake. Mayor Shepherd reported he hoped to be involved with the decisions which helped to revitalize the downtown and transformed the image of Clearfield. Councilmember Phipps agreed that was his hope as well.

Councilmember Roper moved to approve Ordinance 2018-06 enacting Title 11, Chapter 19 to the Clearfield City Code adopting a Form Based Code to regulate the development of the downtown corridor and authorize the Mayor’s signature to any necessary documents, seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.

Councilmember Phipps stated he voted aye based upon his trust and respect for the other members of the City Council.

APPROVAL OF AN AMENDMENT TO THE FINAL SUBDIVISION PLAT FOR WEST SQUARE SUBDIVISION LOCATED AT APPROXIMATELY 875 SOUTH DEPOT STREET

Mayor Shepherd commented prior meetings had been spent discussing affordable housing but the one thing that seemed to be lacking was housing affordability which had been a top concern locally and statewide. He expressed his opinion having an amendment to change the West Square development from apartments to condominiums would help create housing affordability and he applauded the developer for being willing to contribute to what was lacking in the City as well as throughout the County and State.

Councilmember Peterson requested to hear from the developer who was present. Craig Winder, Ironwood Development Group, shared with the Council the decision process moving the development from apartments to condominiums. He indicated there was a need all along the Wasatch Front for housing and even the starter townhomes were getting to a higher price point around $300,000. He acknowledged developers and builders were desperately trying to provide a product for ownership knowing the advantages to communities in having residents who were making an investment. He reported all the necessary documents were prepared for the Home Owners Association (HOA) and stated it would be a fantastic site with amenities including club house, weight room, pool, and grass to play on.

Mayor Shepherd asked if he knew what the price point would be for the condominiums. Mr. Winder recalled it should be under $200,000 but there were one, two or three bedroom units available at various starting points.
Councilmember Peterson moved to approve an amendment to the Final Subdivision Plat for West Square Subdivision located at approximately 875 South Depot Street and authorize the Mayor’s signature to any necessary documents, seconded by Councilmember Bush. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.

APPROVAL OF AMENDMENTS TO THE DEVELOPMENT AGREEMENT WITH IRONWOOD DEVELOPMENT GROUP FOR THE WEST SQUARE SUBDIVISION LOCATED AT APPROXIMATELY 875 SOUTH DEPOT STREET

Spencer Brimley, Community Development Director, stated the Development Agreement was previously approved in February 2016 with specific language addressing the design of the buildings as well as the use being defined as apartments. He indicated the developer wanted to change from apartments to condominiums as well as make some changes to the façade. He noted the changes with façade design materials were discussed during work session on June 15, 2018. He explained originally the developer had proposed design material percentages; however, after the work session discussion staff added language to the development agreement allowing approval for what was presented to Council during work session rather than the initial proposals. He acknowledged there was also a reduction to the building height allowance from 40 feet down to 35 feet which would be more consistent with heights in the surrounding area and current code.

Councilmember Bush moved to approve amendments to the development agreement with Ironwood Development Group for the West Square Subdivision located at approximately 875 South Depot Street, and authorize the Mayor’s signature to any necessary documents, seconded by Councilmember Roper. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.

APPROVAL OF THE DEVELOPMENT AGREEMENT WITH DG CONSTRUCTION FOR CLEARFIELD JUNCTION LOCATED AT APPROXIMATELY 17, 51, AND 101 NORTH MAIN STREET

Summer Palmer, Assistant City Manager, stated the City received a proposal for a mixed use development and it was discussed in a work session on April 10, 2018. She indicated the proposal included property owned by the City at 17 and 51 North Main, as well as the property adjacent to it located at 101 North Main Street which DG Construction was attempting to purchase. She acknowledged staff was directed to work on drafting a development agreement which could be considered for the proposed Clearfield Junction. Ms. Palmer continued the Development Agreement had been reviewed and discussed during the work session earlier and last week on May 15, 2018. She reported staff was recommending approval of the Development Agreement and asked if there were any additional questions or if all the concerns had been vetted.

Councilmember Phipps expressed appreciation for the work session discussion which addressed his concern about the library.
Ms. Palmer noted Donovan Gilliland with DG Construction had proposed a project which, if approved, would include the City selling a portion of its land to the developer for a mixed use development. She explained some of the property would be reserved for continued negotiations with Davis County to move the library from its current location to the corner portion of land adjacent to Center and Main Street. She indicated conceptual drawings had been presented to the Council which included approximately 244 residential units and 20,000 square feet of commercial/retail space on the lower level of the building facing Main Street. She asked if Mr. Gilliland would like to share his vision for the development.

Mr. Gilliland expressed his excitement for the project. He stated he was hopeful the Development Agreement would be approved so he could finalize the purchase of the Albion property and begin the project. He reviewed the conceptual plans which included commercial or retail on the lower level with apartments or housing on the additional three levels. He mentioned the library, along with the other amenities, would benefit the project and he anticipated moving it forward with architectural drawings as soon as possible.

Councillor Bush moved to approve the Development Agreement with DG Construction for Clearfield Junction located at approximately 17, 51, and 101 North Main Street, and authorize the Mayor’s signature to any necessary documents, seconded by Councillor Peterson. The motion carried upon the following vote: Voting AYE – Councillors Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.

APPROVAL OF ORDINANCE 2018-07 AMENDING CITY CODE TITLE 5, CHAPTER 1 - NUISANCE

Spencer Brimley, Community Development Director, stated the City recently changed its code enforcement process from a criminal process to a civil administrative process. He mentioned as a result of the changes code compliance was moved from Police to Community Development for its administrative process. He indicated staff reviewed the City Code and proposed some changes which would provide the increased ability to enforce nuisance violations. Mr. Brimley explained the language was adjusted with some minor changes which clarified definitions and would allow for noticing the property as well as implementing the civil process for code compliance.

He acknowledged the changes to the code were discussed during work session on May 15, 2018 and staff had worked to incorporate the feedback from Council and included it with the drafted Ordinance 2018-07. He asked if there were any additional questions.

Councillor Bush stated he had reviewed the ordinance and saw the references to construction equipment or machinery and vehicles. He wondered if adding farm equipment would help to avoid having old dilapidated farm equipment from being a nuisance in the community. There was a discussion about whether or not farm equipment should be called out specifically in the Ordinance, the zones where it would be allowed, the ability to enforce equipment which was not required to be licensed or registered, and the differences between vehicles and equipment or machinery.
Councilmember Peterson asked if there was anything in the drafted Code which restricted enforcement of farm vehicles if it were inoperative, dismantled or considered a junk vehicle. Stuart Williams, City Attorney, stated vehicles no matter the type would be enforceable; however, it would be difficult to define what constituted nuisance farm equipment. He advised any nuisance concern could be evaluated to determine if there would be other elements of the Code which validated it. Mayor Shepherd commented regardless of the type of vehicle it would need to be parked appropriately and not displayed on the front lawn. Mr. Brimley indicated there were other aspects of the City’s Code which addressed vehicle parking.

Councilmember Thompson moved to approve Ordinance 2018-07 Amending City Code Title 5, Chapter 1 – Nuisance and authorize the Mayor’s signature to any necessary documents, seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.

AWARD THE BID FOR THE FREEPORT G STREET SANITARY SEWER IMPROVEMENT PROJECT

Scott Hodge, Public Works Director, stated the City advertised and received bids for a capital improvement project to replace a sewer line on G Street in the Freeport Center. He indicated the first of four phases would be to install a new 12-inch sanitary sewer line on G Street in the Freeport Center from 3rd Street to 5th Street. Mr. Hodge explained the project would require a directional bore underneath the railroad tracks. He acknowledged six contractors bid the project and the lowest responsible bidder was Brinkerhoff Excavating and Construction with a bid amount of $297,210. He reported the City engineers had reviewed and recommended awarding the bid to Brinkerhoff Excavating and Construction.

Councilmember Phipps asked what the schedule would be for the project. Mr. Hodge answered the City would like to get started as soon as possible; however, the contractor would need to fit the project into its work schedule. He added it should be a 90 day project and piping construction was best during the summer months; thus, anticipated it would be scheduled and completed during the summer. He concluded a pre-construction meeting with the contractor would be held but until that time the start date was unknown.

Councilmember Phipps moved to award the bid for the Freeport G Street Sanitary Sewer Improvement Project to Brinkerhoff Excavating and Construction for the bid amount of $297,210; approve funding for the bid amount with contingency and engineering costs of $52,790 for a total project cost of $350,000; and authorize the Mayor’s signature to any necessary documents, seconded by Councilmember Roper. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper and Thompson. Voting NO – None.

COMMUNICATION ITEMS

Mayor Shepherd
1. Reported attending the groundbreaking ceremony earlier in the day for the Have a Heart Home in Clearfield which the City had donated the land for the project. He indicated it would allow a family to
purchase a home that otherwise may not have been possible. He stated Nilson Homes was the builder and announced it would review the option for xeriscaping the front yard of the property to help reduce the watering costs associated with maintaining a half-acre property using culinary water.

2. Participated in the employee golf activity on May 10, 2018. He thanked staff for its efforts in planning the activity.

3. Reported being contacted by the President of Utah Defense Alliance about attending the Alliance Defense Committee (ADC) meetings during June of 2018. He reported the ADC would be paying for his attendance at its meeting in June since it was not in the City’s budget.

4. Announced he would be out of town for the City Council meetings held on June 19, 2018 and June 26, 2018 in order to attend the National League of Cities (NLC) and ADC meetings on those dates.

**Councilmember Bush** – thanked Stuart Williams, Spencer Brimley, and all staff members for the work involved with preparing the ordinances. He expressed gratitude for the hard work of all staff and acknowledged the City parks looked good. He complimented Eric Howes and staff for all the efforts involved with parks maintenance.

**Councilmember Phipps** – nothing to report.

**Councilmember Peterson** – expressed appreciation to staff for its time and vetting which went into drafting substantive ordinances which allowed the Council to make informed decisions.

**Councilmember Roper**

1. Expressed his excitement about things moving forward with Form Based Code and anticipated it would do so much to help the community.

2. Thanked Mayor Shepherd, Councilmembers Bush, and Councilmember Phipps for supporting and attending the Youth Commission’s activity on May 19, 2018 at Fisher Park.

**Councilmember Thompson**

1. Reported drones would be used as a first step in combating mosquito abatement especially in harder to reach areas. He mentioned if a resident desired to have an area sprayed for an event it may be sprayed a few nights before the event because there was such a high demand for the abatement services. He acknowledged Clearfield had six sprayed events during the past month which was fewer than the other cities in the district.

2. Thanked staff for all the work involved with the ordinances which just made sense to him.

**STAFF REPORTS**

**Summer Palmer, Assistant City Manager**

1. Reported JJ Allen, City Manager, was out of town celebrating a milestone anniversary in the Bahamas.

2. Announced the week of May 13 to 19, 2018 was National Police Week. She mentioned the officers in the City serve with professionalism and expressed her opinion Clearfield had the best police department in the State.

3. Reported the Community Leader Luncheon was held May 15, 2018 and the next meeting would be June 19, 2018 at noon in the multi-purpose room. She indicated those meetings were for anyone in the community who had the ability to reach out to groups of people whether they were in neighborhoods, schools, or ecclesiastical groups. She acknowledged the meetings were a chance to be informed about what was happening in the City and help prepare groups for it or even bring concerns and issues to staff which could be instrumental in being addressed.

4. Announced Memorial Day the City offices would be closed; however, there would be a flag raising ceremony at the City cemetery on Monday, May 28, 2018 at 9:00 a.m.
Stuart Williams, City Attorney – reported during the many meetings regarding Form Based Code there was civility throughout the process. He expressed his opinion it was nice to be part of the group that handled these complex issues in a professional manner and was resolved to make changes when necessary.

Spencer Brimley, Community Development Director – updated the Council on the progress of the Station Area Plan process which was underway. He stated a committee was being formed and there was a meeting with the consultant scheduled for May 23, 2018 to discuss dates for an open house. He reported Trevor Cahoon, Communications Coordinator, was working to get a website prepared for public comment.

Trevor Cahoon, Communication Coordinator – indicated the City was beginning its big promotional push with advertising for the Fourth of July event. He stated there was an integrated marketing approach with print media, billboards, newsletters, multiple channels, emails, and posters. He mentioned the City also had a Uniform Resource Locator (URL) which was ccjuly4.com and it would allow direct access to the Fourth of July information.

Nancy Dean, City Recorder – reviewed the Council’s schedule:
- No meeting planned at this time for May 29, 2018
- Work Session June 5, 2018
- Work and Policy Session on June 12, 2018
- Work Session June 19, 2018
- Work and Policy Session on June 26, 2018

There being no further business to come before the Council, Councilmember Thompson moved to adjourn as the City Council and reconvene as the CDRA in policy session at 8:44 p.m., seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

**The minutes for the CDRA are in a separate location**
CLEARFIELD CITY COUNCIL MEETING MINUTES
6:00 P.M. NEIGHBORHOOD PARTY
JUNE 14, 2018

PRESENT:
Kent Bush                Councilmember
Nike Peterson            Councilmember
Tim Roper                Councilmember

EXCUSED:
Mark Shepherd            Mayor
Vern Phipps              Councilmember
Karece Thompson          Councilmember

STAFF PRESENT:
JJ Allen                  City Manager
Summer Palmer            Assistant City Manager
Scott Hodge              Public Works Director
Brad Wheeler             Street Superintendent
Greg Krusi               Police Chief
Kelly Bennett            Police Assistant Chief
Eric Howes               Community Services Director
Trevor Cahoon            Communications Coordinator
Tyler Hill               City Arborist

NEIGHBORHOOD POP UP PARTY HELD AT CENTRAL PARK LOCATED AT 300 EAST CENTER STREET

As a means of community outreach, members of the City Council and staff participated with neighborhood residents at a pop up neighborhood party held at Central Park. Residents were able to play on the City’s newly installed playground equipment in addition to mingling with neighbors and various representatives of the City while exploring some of the vehicles on scene from Police, Parks, and Public Works.

The neighborhood party adjourned at 7:00 p.m.
To: Mayor Shepherd and City Council Members
From: Rich Knapp, Finance Manager
Meeting Date: June 26, 2018
Subject: Fiscal Year 2018 Proposed Budget Amendments

Recommended Action

Staff recommends the City Council consider the FY 2018 proposed budget amendments.

Description / Background

The attached table lists proposed expenditures that do not have or exceed FY 2018 budget authority and require budget amendments as allowed by Utah Code Title 10 Chapter 6 Section 124 to 129.

The proposed General Fund amendments net use of unrestricted fund balance total $50,591. This is the total of Rocky Mountain Power rebates receipted last year, which was used for the energy efficiency project. This would bring the total budgeted use of reserves/available cash for FY18 to $1,949,759.

The first CDRA Fund amendment is a result of receiving $217k in increment in EDA #3. If ATK qualifies, the CDRA needs to pay 82% of the increment received.

For the second CDRA amendment, the CDRA borrowed about a million from the enterprise funds about 15 years ago. The CDRA interest rate paid for the loan is tied to the rate of return of the State investment fund, or PTIF. As this rate increases, the CDRA pays more in interest.

Impact

a. Fiscal

The proposed General Fund amendments net use of unrestricted fund balance total $50,591. This would bring the total budgeted use of reserves/available cash for FY18 to $1,949,759

Alternatives

Do not pass any or all budget amendments.

List of Attachments

- FY2018 Budget Amendment Items Worksheet
#### FY2018 Budget Amendment Items

<table>
<thead>
<tr>
<th>Fund Division</th>
<th>Division #</th>
<th>Account</th>
<th>Expense Account Title</th>
<th>Expense Adjust</th>
<th>Description</th>
<th>Source Account Title</th>
<th>Source Adjustment</th>
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<tbody>
<tr>
<td>General Fund</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Misc Revenue</td>
<td>10</td>
<td>367001</td>
<td>Bond Proceeds</td>
<td>6,555,184</td>
<td>Construction funds plus cost of issuance</td>
<td>Bond Proceeds</td>
<td></td>
</tr>
<tr>
<td>CED Admin</td>
<td>104611</td>
<td>631006</td>
<td>Contracted Services</td>
<td>112,000</td>
<td>Mabey Place Redevelopment</td>
<td>Bond Proceeds</td>
<td>112,000</td>
</tr>
<tr>
<td>CED Admin</td>
<td>104611</td>
<td>631006</td>
<td>Contracted Services</td>
<td>55,000</td>
<td>Bond Issuance</td>
<td>Bond Proceeds</td>
<td>55,000</td>
</tr>
<tr>
<td>CED Admin</td>
<td>104611</td>
<td>645001</td>
<td>Special Department Allow;</td>
<td>100,000</td>
<td>Mabey Place Redevelopment-Relocation Assist</td>
<td>Bond Proceeds</td>
<td>100,000</td>
</tr>
<tr>
<td>CED Admin</td>
<td>104611</td>
<td>673006</td>
<td>Capital-Misc</td>
<td>4,750,000</td>
<td>Mabey Place Redevelopment-Land Purchase</td>
<td>Bond Proceeds</td>
<td>4,750,000</td>
</tr>
<tr>
<td>Interdepartmental</td>
<td>104151</td>
<td>673001</td>
<td>Capital Project</td>
<td>155,544</td>
<td>Energy Project Completion</td>
<td>$69k RMP Rebate</td>
<td>155,544</td>
</tr>
<tr>
<td>CDRA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EDA #3</td>
<td>204623</td>
<td>645004</td>
<td>Developer Increments</td>
<td>180,000</td>
<td>82% of increment received FY18</td>
<td>Tax Increment Received</td>
<td>180,000</td>
</tr>
<tr>
<td>CED Admin</td>
<td>204611</td>
<td>681002</td>
<td>Debt Service-Interest</td>
<td>14,000</td>
<td>Loan from Enterprise Fund-tied to increasing PTIF</td>
<td>Fund Balance</td>
<td>14,000</td>
</tr>
</tbody>
</table>
A RESOLUTION APPROVING AND ADOPTING AMENDMENTS TO THE 2017/2018 BUDGET AND APPROPRIATING FUNDS FOR THE PURPOSES SET FORTH THEREIN

WHEREAS, Clearfield City has identified some expenditures that are necessary for City operations which were not included in its current budget; and

WHEREAS, the Utah State Code allows the City Council to make adjustments to the budget; and

WHEREAS, after providing proper notice, a public hearing concerning this matter was held and the public was given an opportunity to be heard; and

WHEREAS, the City Council has carefully evaluated and considered the proposed budget amendments and finds them to be prudent and necessary for the good of the City;

NOW THEREFORE BE IT RESOLVED by the Clearfield City Council that the amendments to the Clearfield City budget beginning July 1, 2017 and ending June 30, 2018 (FY 2018) as set forth in Exhibit “A”, which is attached hereto and incorporated herein by this reference, are hereby authorized and approved.

The Mayor is further authorized to sign any documents reflecting those amendments.

Passed and adopted at the Clearfield City Council meeting held on Tuesday, June 26, 2018.

VOTE OF THE COUNCIL

AYE:

NAY:
TO: Mayor Shepherd and City Council Members  
FROM: Rich Knapp, Finance Manager  
MEETING DATE: June 26, 2018  
SUBJECT: Corrected Certified Tax Rate

RECOMMENDED ACTION

Staff recommends adopting the corrected certified tax rate.

DESCRIPTION / BACKGROUND

On June 12, 2018 during policy session the City Council adopted Resolution 2018R-7 which set the tax rate of 0.001547 for all real and personal property located within Clearfield for fiscal year 2019 as was recommended for the certified tax rate by Davis County and the Utah State Tax Commission. On June 21, 2018, staff was notified by the Utah State Tax Commission it had provided an incorrect rate for the City’s consideration. The corrected certified tax rate for fiscal year 2019 is 0.001607.

The following table summarizes the changes:

<table>
<thead>
<tr>
<th></th>
<th>Old Numbers</th>
<th>New Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Value</td>
<td>$1,941,358,486</td>
<td>$1,941,358,486</td>
</tr>
<tr>
<td>Total Adjusted Value (minus CDRA Values)</td>
<td>$1,658,688,734</td>
<td>$1,597,255,444</td>
</tr>
<tr>
<td>Change in Adj Value from Last Yr</td>
<td>14%</td>
<td>10%</td>
</tr>
<tr>
<td>New Growth Revenue</td>
<td>$22,788</td>
<td>$23,754</td>
</tr>
<tr>
<td>Tax Rate</td>
<td>0.001547</td>
<td>0.001607</td>
</tr>
<tr>
<td>% Rate Decrease from Last Yr</td>
<td>-11.3%</td>
<td>-7.9%</td>
</tr>
<tr>
<td>Avg per Household Change Last Yr</td>
<td>$ (17.18)</td>
<td>$ (10.81)</td>
</tr>
</tbody>
</table>

In an effort of transparency, the agenda for June 26, 2018 policy session was revised to include a new resolution that accurately reflects the actual tax rate for the City to be considered.

LIST OF ATTACHMENTS

- Resolution 2018R-10
CLEARFIELD CITY RESOLUTION 2018R-10

A RESOLUTION CORRECTING THE PREVIOUSLY SET REAL AND PERSONAL PROPERTY TAX RATE FOR FISCAL YEAR 2018/2019

WHEREAS, pursuant to Utah Code Ann. § 59-2-919, following an appropriately noticed public hearing, the City Council determined to set the tax rate of 0.001547 for all real and personal property located within Clearfield for fiscal year 2019 as was recommended for the certified tax rate by Davis County and the Utah State Tax Commission; and

WHEREAS, on June 21, 2018, the Utah State Tax Commission indicated it had provided an incorrect rate for the City’s consideration; and

WHEREAS, the Utah State Tax Commission corrected its calculation for the City’s certified tax rate for all real and personal property located within Clearfield for fiscal year 2019 to 0.001607;

Be it resolved by the City Council of Clearfield City Corporation;

There is hereby adopted and levied a final tax rate on all real property and personal property located within the municipality, which is not otherwise exempted by law, as follows:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Purpose Fund</td>
<td>.001112</td>
</tr>
<tr>
<td>Interest &amp; Bond Fund</td>
<td>.000495</td>
</tr>
<tr>
<td>Total Tax Rate</td>
<td>.001607</td>
</tr>
</tbody>
</table>

Dated this 26th day of June, 2018.

CLEARFIELD CITY CORPORATION

__________________________
Mark R. Shepherd, Mayor

ATTEST

__________________________
Nancy R. Dean, City Recorder
VOTE OF THE COUNCIL

AYE:

NAY:

EXCUSED:
TO: Mayor Shepherd and City Council Members
    CDRA Board of Directors
FROM: Summer Palmer, Assistant City Manager
MEETING DATE: June 26, 2018
SUBJECT: Estoppel Certificate and Consent – 888 South University Park Boulevard

RECOMMENDED ACTION

City Council – Approve the Estoppel Certificate and Consent for property located at 888 South University Park Boulevard and authorize the Mayor’s signature to any necessary documents.

CDRA – Approve the Estoppel Certificate and Consent for property located at 888 South University Park Boulevard and authorize the Chair’s signature to any necessary documents.

DESCRIPTION / BACKGROUND

The owner of the office building at 888 South University Park Boulevard (888 Associates, LLC) is selling the property. This document is necessary for KeyBank to approve 888’s loan application since 888 holds its interest in the property under a ground lease. As such, 888 needs to obtain Estoppel Certificates and Nondisturbance and Attornment Agreements from its subtenants, and Estoppel Certificates and Consents and Agreements from its ground lease landlord (the City) before 888’s lender (KeyBank) will be willing to go forward with the transaction. KeyBank is lending based on a transferable property interest. Therefore, the ground lease landlord (the City) must give KeyBank assurance that the leasehold interest held by the ground tenant (888) is in effect and free from defaults, and that the ground lease landlord (the City) will accept that 888’s lender (KeyBank) will have the right and ability to keep the ground lease in effect notwithstanding the default or bankruptcy of the ground tenant (888).

888’s lender (KeyBank) will insist that the ground lease landlord (the City) agree that, if KeyBank must foreclose to cure the 888’s defaults, the ground lease landlord (the City) will not terminate the ground lease as long as the outlined proceedings are moving forward. KeyBank will insist on written assurances that, if the ground lease is terminated by reason of 888’s defaults or is rejected in a bankruptcy, the ground lease landlord (the City) will enter into a new ground lease with the KeyBank or its designee on the same terms as the original ground lease, and the improvements on the property will not become the City’s property but rather will be the property of KeyBank or the new tenant under the new lease.
In a ground lease transaction, it is crucial to the marketability of the ground lease interest that the ground lease landlord (the City) agrees in the lease that the lease is freely transferable and that it will enter into the estoppels, consents, and other agreements that will be required by buyers and their lenders in a timely manner.

Section 4 of the original January 2014 Lease Agreement for this property allows for the City to perform as requested by 888, and in fact states that such approval shall not be unreasonably withheld.

The City Attorney has reviewed and approved the Estoppel Certificate and Consent.

**LIST OF ATTACHMENTS**

- Estoppel Certificates and Consent
This GROUND LESSOR’S CONSENT, NONDISTURBANCE, ATTORNMENT AND ESTOPPEL AGREEMENT (“Agreement”) is entered into as of July ___, 2018, by and among CLEARFIELD CITY CORPORATION (“Ground Lessor”), CLEARFIELD 888, LLC, a Delaware limited liability company (“Borrower”), and KEYBANK NATIONAL ASSOCIATION, a national banking association (“Lender”).

FACTUAL BACKGROUND:

A. Ground Lessor owns fee simple title to the real property described in Exhibit A hereto (the “Property”). Ground Lessor has ground leased the Property to Borrower (as successor-in-interest to 888 ASSOCIATES, LLC, a Utah limited liability company, the successor-in-interest to CMLT 2008-LS1 BG OFFICE PROPERTIES UTAH SPE, LLC, a Utah limited liability company), as ground lessee, pursuant to that certain Lease Agreement dated January 14, 2014 (as amended and/or assigned and as further amended and/or assigned from time to time, the “Lease”).

B. Lender is making or has made a term loan to Borrower (the “Loan”) in the maximum principal amount of SIXTEEN MILLION AND NO/100 DOLLARS ($16,000,000.00) pursuant to that certain Interim Loan Agreement dated July ___, 2018 (“Loan Agreement”). Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Loan Agreement.

C. As security for repayment of the Loan and performance of Borrower’s obligations to Lender, Borrower, as trustor, will execute and deliver to Lender that certain Fee and Leasehold Deed of Trust, Assignment of Leases and Rents, Assignment of Contracts, Security Agreement, and Fixture Filing, dated July ___, 2018, to be recorded in the official records of Davis County, Utah (the “Deed of Trust”), wherein Lender is beneficiary, granting to Lender a lien on, inter alia, Borrower’s leasehold interest in the Property.

D. Lender has extended the Loan to Borrower, on the condition that Ground Lessor executes this Agreement.
AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, Borrower and Ground Lessor agree as follows:

1. Consent of Ground Lessor; Estoppel Regarding Contingencies; Notice to Ground Lessor. Ground Lessor hereby consents to the lien of the Deed of Trust upon Borrower’s interest under the Lease and agrees that the execution, delivery, performance and recordation of the Deed of Trust and any related documents (including UCC financing statements) will not constitute a breach of or default under the Lease. Ground Lessor hereby consents to the assignment of Borrower’s leasehold interest under the Lease pursuant to the terms of the Deed of Trust and any other assignment of leases that may be executed by Borrower for the benefit of Lender in connection with the Loan. Ground Lessor acknowledges and agrees that any limitations set forth in the Lease regarding the Transfer of the Property shall be inapplicable to any Transfer of the Property which may be effected in connection with any judicial or non-judicial foreclosure of the Deed of Trust. The Lease may be assigned by a Purchaser without Ground Lessor’s further consent to Lender, or to any other person or entity, pursuant to a foreclosure of or trustee’s sale under the Deed of Trust, or pursuant to an assignment of Borrower’s interest in the Lease in lieu of foreclosure.

2. Definitions of “Transfer of the Property” and “Purchaser”. As used herein, the term “Transfer of the Property” means any transfer of Borrower’s interest in the Property, including, but not limited to, Borrower’s right, title and interest under the Lease, by foreclosure, trustee’s sale or other action or proceeding for the enforcement of the Deed of Trust or by deed or assignment in lieu thereof. The term “Purchaser,” as used herein, means any transferee, including Lender, of the interest of Borrower as a result of any such Transfer of the Property and also includes any and all successors and assigns, including Lender, of such transferee.

3. Nondisturbance. Ground Lessor agrees that the enforcement of the Deed of Trust shall not terminate the Lease or prevent any Purchaser, including Lender if it should be the Purchaser, from obtaining the right of, and continuing as, the lessee (as successor-in-interest to Borrower) in the possession and use of the Property, unless, after such foreclosure, such Purchaser fails to cure any default under the Lease, in accordance with the terms of this Agreement. This nondisturbance applies to any option to extend or renew the Lease term that is set forth in the Lease as of the date of this Agreement, or that is later entered into between Ground Lessor and Borrower with the consent of Lender. This nondisturbance shall be effective and self-operative without the execution of any further instruments upon Purchaser’s succeeding to the interest of the lessee under the Lease. Upon completion of any foreclosure or trustee’s sale proceedings by Lender under the Deed of Trust (or completion of an assignment of the Lease in lieu of foreclosure), Ground Lessor will recognize Lender, or any other successor thereby to the lessee’s interest in the Lease, as the lessee under the terms of the Lease for all purposes thereunder, for the remaining term thereof and subject to and upon the terms and conditions thereof.

4. Attornment. Subject to Section 3 above, if any Transfer of the Property should occur, any Purchaser, including Lender if it should be the Purchaser, shall, and hereby does, attorn to Ground Lessor as the landlord under the Lease, and the Purchaser shall be bound to Ground Lessor under all of the terms, covenants and conditions of the Lease for the balance of the Lease term and any extensions or renewals thereof which may then or later be in effect under any validly exercised extension or renewal option contained in the Lease, all with the same force and effect as if the Purchaser had been the original lessee under the Lease, subject to the terms and provisions of the Lease and applicable provisions of this Agreement.
5. Notices of Default; Material Notices; Lender’s Rights to Cure Default. Ground Lessor shall send a copy of any notice of default or similar statement with respect to the Lease to Lender at the same time such notice or statement is sent to Borrower. In the event of any act or omission by Borrower which would give Ground Lessor the right to terminate the Lease, Ground Lessor shall not exercise any such right or make any such claim until it has given Lender written notice of such act or omission and has given Lender either thirty (30) days to cure the default, if the default is monetary, or a reasonable time for Lender to cure the default, if the default is non-monetary, including a reasonable time to gain possession of the Property to effectuate such cure, if necessary. Nothing in this Agreement, however, shall be construed as a promise or undertaking by Lender to cure any default of Borrower. If Lender is prohibited by any process or injunction issued by any court or by any bankruptcy or insolvency proceeding involving Borrower from obtaining possession of the Property in order to cure a non-monetary default by Borrower under the Lease which requires possession to cure, Ground Lessor agrees that Ground Lessor will not terminate the Lease during such prohibition so long as Lender timely cures any monetary defaults of Borrower under the Lease, and diligently and continuously pursues all steps necessary to secure the removal or lifting of such prohibition at the earliest feasible date. The cure rights and other protections granted to Lender in this Section 5 and in any other Sections hereof are in addition to, and not in limitation of, any such rights and protections granted to Lender in the Lease.

6. Limitation on Lender’s Performance. Nothing in this Agreement shall be deemed or construed to be an agreement by Lender to perform any covenant of Borrower as the lessee under the Lease unless and until Lender becomes a Purchaser and succeeds to the rights and obligations of the lessee under the Lease. Ground Lessor agrees that, if Lender becomes a Purchaser, then, upon subsequent transfer of the Property by such parties to a new Purchaser, Lender shall have no further liability under the Lease after said transfer. Notwithstanding anything to the contrary in the Lease or in this Agreement, neither a Purchaser nor Lender as the lessee under the Lease shall be liable or responsible for any of the following:

(a) any act or omission of any prior tenant under the Lease (including Borrower);

(b) any offsets or defenses that Ground Lessor might have had against any prior tenant under the Lease (including Borrower);

(c) any material amendment or modification of the Lease made without Lender’s prior written consent. For purposes of this Section 6(c), the term "material" is defined to include reductions in rent, the term of the Lease, the size of the Property leased or Borrower's obligation to pay operating expenses or expense reimbursements, or other modifications that materially increase Borrower's obligations or materially reduce Borrower's obligations under the Lease;

(d) any term or provision of the Lease, or any amendment thereto, or any other agreement or instrument pertaining or related to the Lease that is personal to Borrower and that may not reasonably be performed by a Purchaser or its successors and assigns in the ordinary course of business; or

(e) liable for any damages or other relief attributable to any latent or patent defects in construction with respect to any portion of the Property and Improvements except for such defects arising or occurring after the transfer of the Property to Purchaser or Lender.

7. Limitation on Liability. Upon any sale or transfer of its interest in the Property in accordance with the Lease, Purchaser shall have no further obligation under this Agreement or the Lease with respect to matters occurring after such sale or transfer, notwithstanding anything to the contrary in the Lease.
8. **Ground Lessor’s Covenants.**

(a) **Temporary Covenants.** During the term of the Lease or until Lender’s rights in the Deed of Trust have been fully satisfied (whichever occurs first), Ground Lessor agrees that, without Lender’s prior written consent, Ground Lessor:

(i) shall not enter into any amendment, modification or other agreement relating to the Lease; or

(ii) shall not consent to any sale, assignment or transfer of any interest in the Lease by Borrower; or

(iii) shall not sell or transfer the Property or Ground Lessor’s interest in the Lease except subject to the existence and effect of the Lease and this Agreement; or

(iv) shall not further encumber the Property in any manner that would constitute a priority interest over Lender’s interest in the Property arising through or under the Deed of Trust unless Ground Lessor delivers to Lender a copy thereof and a subordination agreement in recordable form and otherwise in form and substance reasonably acceptable to Lender which subordinates said encumbrance to the Lease and the Deed of Trust.

9. **Right to New Lease.** In the event that the Lease or any New Lease (as defined below) is ever terminated for any reason (including any rejection of the Lease in a bankruptcy proceeding of Borrower), Ground Lessor shall, upon request of Borrower or Purchaser (or its nominee) enter into a new lease (“New Lease”) of the Property with Borrower or Purchaser (as applicable) for the remainder of the term of the of the Lease, effective as of the date of such termination, at the rent and upon the same terms, provisions, covenants and agreements as contained in the Lease (including, without limitation, all renewal options, and rights of first refusal), and subject only to the same conditions of title as the Lease is subject to on the date of the execution thereof, provided:

(a) Borrower or Purchaser (or its nominee) shall pay to Ground Lessor at the time of the request for the New Lease all sums which would at that time be due pursuant to the Lease but for such termination, less the net income collected by Ground Lessor subsequent to the date of termination of the Lease and prior to the execution and delivery of the New Lease. The New Lease shall be executed by all parties within thirty (30) days of preparation by Ground Lessor.

(b) Upon the execution and delivery of the New Lease, all subleases which theretofore may have been assigned and transferred to Ground Lessor shall thereupon be assigned and transferred (without recourse) by Ground Lessor to the lessee under the New Lease; and the lessee under the New Lease shall have the benefit of all of the right, title, interest, powers and privileges of Borrower under the Lease in and to the Property, including specifically assignment of Ground Lessor’s interest in and to any then existing sublease where the sublessee may have attorned to Ground Lessor. Ground Lessor hereby agrees that, with respect to any such sublease so assigned, Ground Lessor will not modify or amend any of the terms or provisions thereof, during the period between the expiration or termination of the Lease and the execution and delivery of the New Lease.

In the event that such New Lease is entered into between Ground Lessor and Borrower (or in the event that a new lease is similarly entered into between Ground Lessor and any mortgagee of Ground Lessor’s fee interest in the Property), Ground Lessor and Borrower shall take such acts and shall deliver such
agreements as may be reasonably necessary to grant to Lender a first priority deed of trust lien (upon the same terms and conditions as the Deed of Trust and other Loan Documents) and assignment of leases and rents on Borrower’s interest in the Lease and all subleases thereunder. Lender shall also obtain a mortgagee’s title insurance policy, in form and content acceptable to Lender and subject to such exceptions and with such endorsements as appear or are issued on Lender’s title insurance policy insuring the lien of the Deed of Trust. Borrower shall reimburse Lender for all legal expenses, title insurance premiums and other costs and expenses of Lender reasonably incurred in connection with the New Lease, any new security documents and Lender’s new title insurance policy.

10. **Termination of Lease or New Lease.** Following the termination of the Lease or any New Lease and until the right of Borrower and Purchaser (or its nominee) to enter into a New Lease shall have expired without any New Lease having been executed, Ground Lessor, as successor in interest to Lessor under the Lease:

   (a) shall not alter or in any way demolish the buildings or other improvements situated on the Property; and, during said period, Ground Lessor shall not remove, replace or change any furniture, furnishing, fixtures or equipment located on the Property; and

   (b) shall not terminate any sublease or the rights of any subtenant under such sublease unless such subtenant shall be in default under such sublease.

11. **Mortgagee Protection Provisions.** Lender shall be deemed to be a third party beneficiary of the Lease with respect to any and all provisions of the Lease that are intended to benefit a lender or mortgagee in that capacity (“Mortgagee Protection Provisions”). Upon Lender’s succession to the interest of the lessee under the Lease, all of Ground Lessor’s representations and warranties under the Lease shall be deemed remade by Ground Lessor to Lender as of the applicable date, except as they may be modified at that time to reflect any change in factual circumstances. This Section 11 is intended to supplement and not to limit any Mortgagee Protection Provisions in the Lease.

12. **Insurance and Condemnation Provisions.** Notwithstanding anything to the contrary in the Lease, in the event of any damage to or destruction of the Property or any portion thereof or interest therein, upon the request of Lender, the proceeds of Borrower’s insurance shall be deposited with Lender and shall be applied in accordance with the applicable provisions of the Deed of Trust. It is understood and acknowledged that the failure to apply the insurance proceeds to the repair and reconstruction of the Property shall not limit, restrict or in any way waive Borrower’s obligation to repair and reconstruct the Property following an event of damage and destruction as more specifically provided in the Lease. Notwithstanding anything to the contrary in the Lease, in the event of any condemnation of the Property, or any portion thereof or any interest therein, upon the request of Lender, the proceeds of the condemnation award shall be deposited with Lender, who shall act as the disbursing agent and apply the condemnation proceeds in accordance with the terms of the Lease. Ground Lessor acknowledges that, except as otherwise provided in the Lease, Borrower’s interest in its portion of any condemnation proceeds to which it is entitled under the Lease shall be applied in accordance with the applicable provisions of the Deed of Trust and the Loan Documents (as defined in the Loan Agreement). Nothing herein shall be construed to effect, in any way, any separate insurance or condemnation proceeds payable to Ground Lessor based upon Ground Lessor’s fee interest in the Property, or otherwise separate insurance or condemnation proceeds from those proceeds attributable to Borrower’s leasehold estate in the Property and interest in the Improvements.
13. **Ground Lessor’s Estoppel Certificate.**

   (a) **True and Complete Lease.** Ground Lessor represents and warrants to Lender that it has delivered to Lender a copy of the Ground Lease which accurately identifies the Lease and all amendments, supplements, side letters and other agreements and memoranda pertaining to the Lease, the leasehold estate and/or the Property.

   (b) **No Default.** As of the date of this Agreement, Ground Lessor represents and warrants that, to the best of Ground Lessor’s knowledge, there exist no events of default or events that, with notice or the passage of time or both, would be events of default under the Lease on either Ground Lessor’s part or Borrower’s. Ground Lessor represents and warrants that the Lease is in full force and effect as of the date of this Agreement.

   (c) **No Other Leases.** To the best of Ground Lessor’s knowledge and belief, as of the date of this Agreement, there are no leases, options or other agreements regarding transfer of any interest in, or otherwise materially affecting the Property other than the Lease.

   (d) **No Advance Payments.** No rent or other sums payable under the Lease have been paid in advance. No further adjustment or credit is allowed or contemplated.

   (e) **No Prior Assignments.** Ground Lessor has not received notice of any prior assignment, hypothecation or pledge of Borrower’s interest in the Lease.

   (f) **No Pending Litigation/Violations.** Ground Lessor has not received notice of any litigation pending, proposed or threatened against or in connection with the Property or the Lease. Ground Lessor has not sent or, to the best of Ground Lessor’s knowledge and belief, received any written notice that the Property, or any part thereof, is in violation of any laws, ordinances or regulations which could materially affect any of Borrower’s rights or materially increase any of Borrower’s obligations under the Lease.

   (g) **Hazardous Substances.** Ground Lessor represents and warrants that it has not used, generated, released, discharged, stored or disposed of any Hazardous Substances on, under, in or about the Property other than Hazardous Substances used in the ordinary and commercially reasonable course of Ground Lessor’s business in compliance with all applicable laws. Except for such legal and commercially reasonable use by Ground Lessor, Ground Lessor has no actual knowledge that any Hazardous Substance is present or has been used, generated, released, discharged, stored or disposed of by any party on, under, in or about the Property. As used herein, “Hazardous Substance” means any substance, material or waste (including petroleum and petroleum products), which is designated, classified or regulated as being “toxic” or “hazardous” or a “pollutant” or which is similarly designated, classified or regulated under any federal, state or local law, regulation or ordinance.

14. **Amendments.** This Agreement may not be modified or amended except by a written agreement signed by the parties or their respective successors-in-interest.

15. **Notices.** All notices given under this Agreement shall be in writing and shall be given by personal delivery, overnight receipted courier or by registered or certified United States mail, postage prepaid, sent to the party at its address appearing below. Notices shall be effective upon receipt (or on the date when proper delivery is refused). Addresses for notices may be changed by any party by notice to all other parties in accordance with this Section. Service of any notice on any one Borrower shall be effective service on Borrower for all purposes.
If to Borrower:  Clearfield 888, LLC  
1528 6th Street, Suite 100  
Santa Monica, CA 90401  
Attention: Raju L. Shah  

With a copy to:  Fabian VanCott  
215 South State Street, Suite 1200  
Salt Lake City, Utah 84111-2323  
Attention: Diane H. Banks  

If to Lender:  KeyBank National Association  
1675 Broadway, Suite 400  
Mail Code: CO-02-WT-0401  
Denver, Colorado 80202  
Attn: Real Estate Capital Servicing  
Reference: Clearfield 888, LLC & Loan No. _______  

With a copy to:  Snell & Wilmer L.L.P.  
15 West South Temple, Suite 1200  
Salt Lake City, Utah 84101  
Attention: Brian D. Cunningham, Esq.  

To Ground Lessor:  Clearfield City Corporation  
Attn: JJ Allen  
55 South State St.  
Clearfield, UT 84010  

16. Attorneys’ Fees. If any lawsuit or arbitration is commenced that arises out of or relates to this Agreement, the prevailing party shall be entitled to recover from each other non-prevailing party such sums as the court or arbitrator may adjudge to be reasonable attorneys’ fees, including the costs for any legal services by in-house counsel, in addition to costs and expenses otherwise allowed by law.  

17. Miscellaneous Provisions. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. This Agreement satisfies any condition or requirement in the Lease relating to the consent required from Ground Lessor to the Loan or Deed of Trust. As used herein, the word “include(s)” means “include(s), without limitation,” and the word “including” means “including, but not limited to.” Lender, at its sole discretion, may, but shall not be obligated to, record this Agreement.  

18. Jury Waiver. BORROWER AND LENDER HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN BORROWER AND LENDER ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR ANY RELATIONSHIP BETWEEN BORROWER AND LENDER. THIS PROVISION IS A MATERIAL INDUCEMENT TO LENDER TO PROVIDE THE FINANCING DESCRIBED HEREIN OR IN THE LOAN AGREEMENT.  

19. No Merger. The undersigned agree that, while the Deed of Trust is outstanding and unless Lender shall otherwise consent in writing, Ground Lessor’s estate in and to the Property and the
leasehold estate created by the Lease shall not merge, but shall remain separate and distinct, notwithstanding the union of such estates either in Ground Lessor or Borrower or any third party by purchase, assignment or otherwise.

20. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES (REGARDLESS OF THE PLACE OF BUSINESS, RESIDENCE, LOCATION OR DOMICILE OF BORROWER, GROUND LESSOR OR LENDER OR ANY PRINCIPAL THEREOF).

21. Counterpart. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

22. Reliance. Ground Lessor acknowledges that the representations and agreements made by Ground Lessor to and with Lender herein constitute a material inducement to Lender to make the Loan, and that Lender would not make the Loan in the absence of this Agreement.

[Remainder of Page Intentionally Left Blank]
Dated the date first written above.

CLEARFIELD 888, LLC
a Delaware limited liability company

By: ____________________________________
Name: Victor F. Keen
Title: Manager

“Borrower”

STATE OF ___________ )
COUNTY OF ___________ )

The foregoing instrument was acknowledged before me this ___ day of July, 2018, by Victor F. Keen, manager of CLEARFIELD 888, LLC, a Delaware limited liability company, on behalf of such limited liability company.

______________________________
Notary Public

[Signatures Continue On Following Page]
KEYBANK NATIONAL ASSOCIATION
a national banking association

By: ________________________________
Name: ______________________________
Title: ________________________________

“Lender”

STATE OF ___________ ) ss.
COUNTY OF ___________ ) ss.

The foregoing instrument was acknowledged before me this ___ day of July ___, 2018, by _____________________, __________________________ of KEYBANK NATIONAL ASSOCIATION, a national banking association, on behalf of such association.

______________________________
Notary Public

[Signatures Continue On Following Page]
CLEARFIELD CITY CORPORATION

By: ____________________________
Name: __________________________
Title: __________________________

“Ground Lessor”

STATE OF ___________ )
COUNTY OF ___________ ) ss.

The foregoing instrument was acknowledged before me this ___ day of July ___, 2018, by
__________________, __________________of CLEARFIELD CITY CORPORATION, on behalf of
such corporation.

________________________________
Notary Public
EXHIBIT A

PROPERTY DESCRIPTION

That certain real property located in Davis County, State of Utah, and more particularly described as follows:

CITY PARK PARCEL, HILLSIDE PARK SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED APRIL 07, 2000 AS ENTRY NO. 1585430 IN BOOK 2635 AT PAGE 171 OF OFFICIAL DAVIS COUNTY, UTAH RECORDS.
GROUND LESSOR'S CONSENT, NONDISTURBANCE, ATTORNMENT AND ESTOPPEL AGREEMENT

This GROUND LESSOR’S CONSENT, NONDISTURBANCE, ATTORNMENT AND ESTOPPEL AGREEMENT (“Agreement”) is entered into as of July ___, 2018, by and among CLEARFIELD COMMUNITY DEVELOPMENT AND RENEWAL AGENCY (“Ground Lessor”), CLEARFIELD 888, LLC, a Delaware limited liability company (“Borrower”), and KEYBANK NATIONAL ASSOCIATION, a national banking association (“Lender”).

FACTUAL BACKGROUND:

A. Ground Lessor owns fee simple title to the real property described in Exhibit A hereto (the “Property”). Ground Lessor has ground leased the Property to Borrower (as successor-in-interest to 888 ASSOCIATES, LLC, a Utah limited liability company, the successor-in-interest to CMLT 2008-LS1 BG OFFICE PROPERTIES UTAH SPE, LLC, a Utah limited liability company), as ground lessee, pursuant to that certain Lease Agreement dated January 14, 2014 (as amended and/or assigned and as further amended and/or assigned from time to time, the “Lease”).

B. Lender is making or has made a term loan to Borrower (the “Loan”) in the maximum principal amount of SIXTEEN MILLION AND NO/100 DOLLARS ($16,000,000.00) pursuant to that certain Interim Loan Agreement dated July ___, 2018 (“Loan Agreement”). Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Loan Agreement.

C. As security for repayment of the Loan and performance of Borrower’s obligations to Lender, Borrower, as trustor, will execute and deliver to Lender that certain Fee and Leasehold Deed of Trust, Assignment of Leases and Rents, Assignment of Contracts, Security Agreement, and Fixture Filing, dated July ___, 2018, to be recorded in the official records of Davis County, Utah (the “Deed of Trust”), wherein Lender is beneficiary, granting to Lender a lien on, inter alia, Borrower’s leasehold interest in the Property.

D. Lender has extended the Loan to Borrower, on the condition that Ground Lessor executes this Agreement.
AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, Borrower and Ground Lessor agree as follows:

1. Consent of Ground Lessor; Estoppel Regarding Contingencies; Notice to Ground Lessor. Ground Lessor hereby consents to the lien of the Deed of Trust upon Borrower’s interest under the Lease and agrees that the execution, delivery, performance and recordation of the Deed of Trust and any related documents (including UCC financing statements) will not constitute a breach of or default under the Lease. Ground Lessor hereby consents to the assignment of Borrower’s leasehold interest under the Lease pursuant to the terms of the Deed of Trust and any other assignment of leases that may be executed by Borrower for the benefit of Lender in connection with the Loan. Ground Lessor acknowledges and agrees that any limitations set forth in the Lease regarding the Transfer of the Property shall be inapplicable to any Transfer of the Property which may be effected in connection with any judicial or non-judicial foreclosure of the Deed of Trust. The Lease may be assigned by a Purchaser without Ground Lessor’s further consent to Lender, or to any other person or entity, pursuant to a foreclosure of or trustee’s sale under the Deed of Trust, or pursuant to an assignment of Borrower’s interest in the Lease in lieu of foreclosure.

2. Definitions of “Transfer of the Property” and “Purchaser”. As used herein, the term “Transfer of the Property” means any transfer of Borrower’s interest in the Property, including, but not limited to, Borrower’s right, title and interest under the Lease, by foreclosure, trustee’s sale or other action or proceeding for the enforcement of the Deed of Trust or by deed or assignment in lieu thereof. The term “Purchaser,” as used herein, means any transferee, including Lender, of the interest of Borrower as a result of any such Transfer of the Property and also includes any and all successors and assigns, including Lender, of such transferee.

3. Nondisturbance. Ground Lessor agrees that the enforcement of the Deed of Trust shall not terminate the Lease or prevent any Purchaser, including Lender if it should be the Purchaser, from obtaining the right of, and continuing as, the lessee (as successor-in-interest to Borrower) in the possession and use of the Property, unless, after such foreclosure, such Purchaser fails to cure any default under the Lease, in accordance with the terms of this Agreement. This nondisturbance applies to any option to extend or renew the Lease term that is set forth in the Lease as of the date of this Agreement, or that is later entered into between Ground Lessor and Borrower with the consent of Lender. This nondisturbance shall be effective and self-operative without the execution of any further instruments upon Purchaser’s succeeding to the interest of the lessee under the Lease. Upon completion of any foreclosure or trustee’s sale proceedings by Lender under the Deed of Trust (or completion of an assignment of the Lease in lieu of foreclosure), Ground Lessor will recognize Lender, or any other successor thereby to the lessee’s interest in the Lease, as the lessee under the terms of the Lease for all purposes thereunder, for the remaining term thereof and subject to and upon the terms and conditions thereof.

4. Attornment. Subject to Section 3 above, if any Transfer of the Property should occur, any Purchaser, including Lender if it should be the Purchaser, shall, and hereby does, attorn to Ground Lessor as the landlord under the Lease, and the Purchaser shall be bound to Ground Lessor under all of the terms, covenants and conditions of the Lease for the balance of the Lease term and any extensions or renewals thereof which may then or later be in effect under any validly exercised extension or renewal option contained in the Lease, all with the same force and effect as if the Purchaser had been the original lessee under the Lease, subject to the terms and provisions of the Lease and applicable provisions of this Agreement.
5. **Notices of Default; Material Notices; Lender’s Rights to Cure Default.** Ground Lessor shall send a copy of any notice of default or similar statement with respect to the Lease to Lender at the same time such notice or statement is sent to Borrower. In the event of any act or omission by Borrower which would give Ground Lessor the right to terminate the Lease, Ground Lessor shall not exercise any such right or make any such claim until it has given Lender written notice of such act or omission and has given Lender either thirty (30) days to cure the default, if the default is monetary, or a reasonable time for Lender to cure the default, if the default is non-monetary, including a reasonable time to gain possession of the Property to effectuate such cure, if necessary. Nothing in this Agreement, however, shall be construed as a promise or undertaking by Lender to cure any default of Borrower. If Lender is prohibited by any process or injunction issued by any court or by any bankruptcy or insolvency proceeding involving Borrower from obtaining possession of the Property in order to cure a non-monetary default by Borrower under the Lease which requires possession to cure, Ground Lessor agrees that Ground Lessor will not terminate the Lease during such prohibition so long as Lender timely cures any monetary defaults of Borrower under the Lease, and diligently and continuously pursues all steps necessary to secure the removal or lifting of such prohibition at the earliest feasible date. The cure rights and other protections granted to Lender in this Section 5 and in any other Sections hereof are in addition to, and not in limitation of, any such rights and protections granted to Lender in the Lease.

6. **Limitation on Lender’s Performance.** Nothing in this Agreement shall be deemed or construed to be an agreement by Lender to perform any covenant of Borrower as the lessee under the Lease unless and until Lender becomes a Purchaser and succeeds to the rights and obligations of the lessee under the Lease. Ground Lessor agrees that, if Lender becomes a Purchaser, then, upon subsequent transfer of the Property by such parties to a new Purchaser, Lender shall have no further liability under the Lease after said transfer. Notwithstanding anything to the contrary in the Lease or in this Agreement, neither a Purchaser nor Lender as the lessee under the Lease shall be liable or responsible for any of the following:

   (a) any act or omission of any prior tenant under the Lease (including Borrower);

   (b) any offsets or defenses that Ground Lessor might have had against any prior tenant under the Lease (including Borrower);

   (c) any material amendment or modification of the Lease made without Lender’s prior written consent. For purposes of this Section 6(c), the term "material" is defined to include reductions in rent, the term of the Lease, the size of the Property leased or Borrower's obligation to pay operating expenses or expense reimbursements, or other modifications that materially increase Borrower's obligations or materially reduce Borrower's obligations under the Lease;

   (d) any term or provision of the Lease, or any amendment thereto, or any other agreement or instrument pertaining or related to the Lease that is personal to Borrower and that may not reasonably be performed by a Purchaser or its successors and assigns in the ordinary course of business; or

   (e) liable for any damages or other relief attributable to any latent or patent defects in construction with respect to any portion of the Property and Improvements except for such defects arising or occurring after the transfer of the Property to Purchaser or Lender.

7. **Limitation on Liability.** Upon any sale or transfer of its interest in the Property in accordance with the Lease, Purchaser shall have no further obligation under this Agreement or the Lease with respect to matters occurring after such sale or transfer, notwithstanding anything to the contrary in the Lease.
8. **Ground Lessor’s Covenants.**

   (a) **Temporary Covenants.** During the term of the Lease or until Lender’s rights in the Deed of Trust have been fully satisfied (whichever occurs first), Ground Lessor agrees that, without Lender’s prior written consent, Ground Lessor:

   (i) shall not enter into any amendment, modification or other agreement relating to the Lease; or

   (ii) shall not consent to any sale, assignment or transfer of any interest in the Lease by Borrower; or

   (iii) shall not sell or transfer the Property or Ground Lessor’s interest in the Lease except subject to the existence and effect of the Lease and this Agreement; or

   (iv) shall not further encumber the Property in any manner that would constitute a priority interest over Lender’s interest in the Property arising through or under the Deed of Trust unless Ground Lessor delivers to Lender a copy thereof and a subordination agreement in recordable form and otherwise in form and substance reasonably acceptable to Lender which subordinates said encumbrance to the Lease and the Deed of Trust.

9. **Right to New Lease.** In the event that the Lease or any New Lease (as defined below) is ever terminated for any reason (including any rejection of the Lease in a bankruptcy proceeding of Borrower), Ground Lessor shall, upon request of Borrower or Purchaser (or its nominee) enter into a new lease (“New Lease”) of the Property with Borrower or Purchaser (as applicable) for the remainder of the term of the Lease, effective as of the date of such termination, at the rent and upon the same terms, provisions, covenants and agreements as contained in the Lease (including, without limitation, all renewal options, and rights of first refusal), and subject only to the same conditions of title as the Lease is subject to on the date of the execution thereof, provided:

   (a) Borrower or Purchaser (or its nominee) shall pay to Ground Lessor at the time of the request for the New Lease all sums which would at that time be due pursuant to the Lease but for such termination, less the net income collected by Ground Lessor subsequent to the date of termination of the Lease and prior to the execution and delivery of the New Lease. The New Lease shall be executed by all parties within thirty (30) days of preparation by Ground Lessor.

   (b) Upon the execution and delivery of the New Lease, all subleases which theretofore may have been assigned and transferred to Ground Lessor shall thereupon be assigned and transferred (without recourse) by Ground Lessor to the lessee under the New Lease; and the lessee under the New Lease shall have the benefit of all of the right, title, interest, powers and privileges of Borrower under the Lease in and to the Property, including specifically assignment of Ground Lessor’s interest in and to any then existing sublease where the sublessee may have attorned to Ground Lessor. Ground Lessor hereby agrees that, with respect to any such sublease so assigned, Ground Lessor will not modify or amend any of the terms or provisions thereof, during the period between the expiration or termination of the Lease and the execution and delivery of the New Lease.

In the event that such New Lease is entered into between Ground Lessor and Borrower (or in the event that a new lease is similarly entered into between Ground Lessor and any mortgagee of Ground Lessor’s fee interest in the Property), Ground Lessor and Borrower shall take such acts and shall deliver such
agreements as may be reasonably necessary to grant to Lender a first priority deed of trust lien (upon the same terms and conditions as the Deed of Trust and other Loan Documents) and assignment of leases and rents on Borrower’s interest in the Lease and all subleases thereunder. Lender shall also obtain a mortgagee’s title insurance policy, in form and content acceptable to Lender and subject to such exceptions and with such endorsements as appear or are issued on Lender’s title insurance policy insuring the lien of the Deed of Trust. Borrower shall reimburse Lender for all legal expenses, title insurance premiums and other costs and expenses of Lender reasonably incurred in connection with the New Lease, any new security documents and Lender’s new title insurance policy.

10. **Termination of Lease or New Lease.** Following the termination of the Lease or any New Lease and until the right of Borrower and Purchaser (or its nominee) to enter into a New Lease shall have expired without any New Lease having been executed, Ground Lessor, as successor in interest to Lessor under the Lease:

   (a) shall not alter or in any way demolish the buildings or other improvements situated on the Property; and, during said period, Ground Lessor shall not remove, replace or change any furniture, furnishing, fixtures or equipment located on the Property; and

   (b) shall not terminate any sublease or the rights of any subtenant under such sublease unless such subtenant shall be in default under such sublease.

11. **Mortgagee Protection Provisions.** Lender shall be deemed to be a third party beneficiary of the Lease with respect to any and all provisions of the Lease that are intended to benefit a lender or mortgagee in that capacity (“Mortgagee Protection Provisions”). Upon Lender’s succession to the interest of the lessee under the Lease, all of Ground Lessor’s representations and warranties under the Lease shall be deemed remade by Ground Lessor to Lender as of the applicable date, except as they may be modified at that time to reflect any change in factual circumstances. This **Section 11** is intended to supplement and not to limit any Mortgagee Protection Provisions in the Lease.

12. **Insurance and Condemnation Provisions.** Notwithstanding anything to the contrary in the Lease, in the event of any damage to or destruction of the Property or any portion thereof or interest therein, upon the request of Lender, the proceeds of Borrower’s insurance shall be deposited with Lender and shall be applied in accordance with the applicable provisions of the Deed of Trust. It is understood and acknowledged that the failure to apply the insurance proceeds to the repair and reconstruction of the Property shall not limit, restrict or in any way waive Borrower’s obligation to repair and reconstruct the Property following an event of damage and destruction as more specifically provided in the Lease. Notwithstanding anything to the contrary in the Lease, in the event of any condemnation of the Property, or any portion thereof or any interest therein, upon the request of Lender, the proceeds of the condemnation award shall be deposited with Lender, who shall act as the disbursing agent and apply the condemnation proceeds in accordance with the terms of the Lease. Ground Lessor acknowledges that, except as otherwise provided in the Lease, Borrower’s interest in its portion of any condemnation proceeds to which it is entitled under the Lease shall be applied in accordance with the applicable provisions of the Deed of Trust and the Loan Documents (as defined in the Loan Agreement). Nothing herein shall be construed to effect, in any way, any separate insurance or condemnation proceeds payable to Ground Lessor based upon Ground Lessor’s fee interest in the Property, or otherwise separate insurance or condemnation proceeds from those proceeds attributable to Borrower’s leasehold estate in the Property and interest in the Improvements.
13. **Ground Lessor’s Estoppel Certificate.**

(a) **True and Complete Lease.** Ground Lessor represents and warrants to Lender that it has delivered to Lender a copy of the Ground Lease which accurately identifies the Lease and all amendments, supplements, side letters and other agreements and memoranda pertaining to the Lease, the leasehold estate and/or the Property.

(b) **No Default.** As of the date of this Agreement, Ground Lessor represents and warrants that, to the best of Ground Lessor’s knowledge, there exist no events of default or events that, with notice or the passage of time or both, would be events of default under the Lease on either Ground Lessor’s part or Borrower’s. Ground Lessor represents and warrants that the Lease is in full force and effect as of the date of this Agreement.

(c) **No Other Leases.** To the best of Ground Lessor’s knowledge and belief, as of the date of this Agreement, there are no leases, options or other agreements regarding transfer of any interest in, or otherwise materially affecting the Property other than the Lease.

(d) **No Advance Payments.** No rent or other sums payable under the Lease have been paid in advance. No further adjustment or credit is allowed or contemplated.

(e) **No Prior Assignments.** Ground Lessor has not received notice of any prior assignment, hypothecation or pledge of Borrower’s interest in the Lease.

(f) **No Pending Litigation/Violations.** Ground Lessor has not received notice of any litigation pending, proposed or threatened against or in connection with the Property or the Lease. Ground Lessor has not sent or, to the best of Ground Lessor’s knowledge and belief, received any written notice that the Property, or any part thereof, is in violation of any laws, ordinances or regulations which could materially affect any of Borrower’s rights or materially increase any of Borrower’s obligations under the Lease.

(g) **Hazardous Substances.** Ground Lessor represents and warrants that it has not used, generated, released, discharged, stored or disposed of any Hazardous Substances on, under, in or about the Property other than Hazardous Substances used in the ordinary and commercially reasonable course of Ground Lessor’s business in compliance with all applicable laws. Except for such legal and commercially reasonable use by Ground Lessor, Ground Lessor has no actual knowledge that any Hazardous Substance is present or has been used, generated, released, discharged, stored or disposed of by any party on, under, in or about the Property. As used herein, “Hazardous Substance” means any substance, material or waste (including petroleum and petroleum products), which is designated, classified or regulated as being “toxic” or “hazardous” or a “pollutant” or which is similarly designated, classified or regulated under any federal, state or local law, regulation or ordinance.

14. **Amendments.** This Agreement may not be modified or amended except by a written agreement signed by the parties or their respective successors-in-interest.

15. **Notices.** All notices given under this Agreement shall be in writing and shall be given by personal delivery, overnight receipted courier or by registered or certified United States mail, postage prepaid, sent to the party at its address appearing below. Notices shall be effective upon receipt (or on the date when proper delivery is refused). Addresses for notices may be changed by any party by notice to all other parties in accordance with this Section. Service of any notice on any one Borrower shall be effective service on Borrower for all purposes.
If to Borrower: Clearfield 888, LLC
1528 6th Street, Suite 100
Santa Monica, CA 90401
Attention: Raju L. Shah

With a copy to: Fabian VanCott
215 South State Street, Suite 1200
Salt Lake City, Utah 84111-2323
Attention: Diane H. Banks

If to Lender: KeyBank National Association
1675 Broadway, Suite 400
Mail Code: CO-02-WT-0401
Denver, Colorado 80202
Attn: Real Estate Capital Servicing
Reference: Clearfield 888, LLC & Loan No. _______

With a copy to: Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101
Attention: Brian D. Cunningham, Esq.

To Ground Lessor: Clearfield Community Development and Renewal Agency
Attn: JJ Allen
55 South State St.
Clearfield, UT 84010

16. **Attorneys’ Fees.** If any lawsuit or arbitration is commenced that arises out of or relates to this Agreement, the prevailing party shall be entitled to recover from each other non-prevailing party such sums as the court or arbitrator may adjudge to be reasonable attorneys’ fees, including the costs for any legal services by in-house counsel, in addition to costs and expenses otherwise allowed by law.

17. **Miscellaneous Provisions.** This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns. This Agreement satisfies any condition or requirement in the Lease relating to the consent required from Ground Lessor to the Loan or Deed of Trust. As used herein, the word “include(s)” means “include(s), without limitation,” and the word “including” means “including, but not limited to.” Lender, at its sole discretion, may, but shall not be obligated to, record this Agreement.

18. **Jury Waiver.** BORROWER AND LENDER HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN BORROWER AND LENDER ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR ANY RELATIONSHIP BETWEEN BORROWER AND LENDER. THIS PROVISION IS A MATERIAL INDUCEMENT TO LENDER TO PROVIDE THE FINANCING DESCRIBED HEREIN OR IN THE LOAN AGREEMENT.

19. **No Merger.** The undersigned agree that, while the Deed of Trust is outstanding and unless Lender shall otherwise consent in writing, Ground Lessor’s estate in and to the Property and the
leasehold estate created by the Lease shall not merge, but shall remain separate and distinct, notwithstanding the union of such estates either in Ground Lessor or Borrower or any third party by purchase, assignment or otherwise.

20. **Governing Law.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF UTAH WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES (REGARDLESS OF THE PLACE OF BUSINESS, RESIDENCE, LOCATION OR DOMICILE OF BORROWER, GROUND LESSOR OR LENDER OR ANY PRINCIPAL THEREOF).

21. **Counterpart.** This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

22. **Reliance.** Ground Lessor acknowledges that the representations and agreements made by Ground Lessor to and with Lender herein constitute a material inducement to Lender to make the Loan, and that Lender would not make the Loan in the absence of this Agreement.

[Remainder of Page Intentionally Left Blank]
Dated the date first written above.

CLEARFIELD 888, LLC
a Delaware limited liability company

By: ____________________________
Name: Victor F. Keen
Title: Manager

“Borrower”

STATE OF ___________ )
COUNTY OF ___________ )

The foregoing instrument was acknowledged before me this ___ day of July, 2018, by Victor F. Keen, manager of CLEARFIELD 888, LLC, a Delaware limited liability company, on behalf of such limited liability company.

______________
Notary Public

[Signatures Continue On Following Page]
KEYBANK NATIONAL ASSOCIATION
a national banking association

By: ________________________________
Name: ______________________________
Title: ______________________________

“Lender”

STATE OF ___________ )
COUNTY OF ___________ ) ss.

The foregoing instrument was acknowledged before me this ___ day of July ___, 2018, by _______________________, ____________________ of KEYBANK NATIONAL ASSOCIATION, a national banking association, on behalf of such association.

______________________________
Notary Public

[Signatures Continue On Following Page]
CLEARFIELD COMMUNITY DEVELOPMENT
AND RENEWAL AGENCY

By: ________________________________
Name: ______________________________
Title: ________________________________

“Ground Lessor”

STATE OF ___________  )
 ) ss.
COUNTY OF ___________  )

The foregoing instrument was acknowledged before me this ___ day of July ___, 2018, by
__________________, __________________of CLEARFIELD COMMUNITY DEVELOPMENT AND
RENEWAL AGENCY, on behalf of such agency.

__________________________
Notary Public
EXHIBIT A

PROPERTY DESCRIPTION

That certain real property located in Davis County, State of Utah, and more particularly described as follows:

A PART OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF THE DAVIS AND WEBER COUNTIES CANAL COMPANY PROPERTY; WHICH IS 15.24 FEET SOUTH 0°10’30” WEST ALONG THE EAST LINE OF SAID SECTION TO SAID NORTHERLY LINE; THENCE NORTHWESTERLY THREE (3) COURSES ALONG SAID NORTHERLY LINE AS FOLLOWS: 289.12 FEET NORTH 63°36’42” WEST; 847.81 FEET NORTH 53°45’03” WEST AND 363.01 FEET NORTH 53°11’11” WEST FROM THE EAST QUARTER CORNER OF SAID SECTION 7; RUNNING THENCE NORTH 53°11’33” WEST 109.04 FEET ALONG SAID NORTHERLY LINE; THENCE NORTH 0°06’27” EAST 659.80 FEET; THENCE SOUTH 53°45’03” EAST 449.04 FEET; THENCE SOUTH 36°14’57” WEST 275.00 FEET; THENCE SOUTH 5°20’26” WEST 98.95 FEET; THENCE SOUTH 36°48’26” WEST 174.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING FROM PARCEL 3 THAT PORTION CONVEYED TO SUNDOWNER CONDOMINIUMS BY THAT CERTAIN QUIT CLAIM DEED RECORDED APRIL 27, 1998 AS ENTRY NO. 1400080 IN BOOK 2281 AT PAGE 617 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PART OF THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY:

BEGINNING AT A POINT ON THE MOST EASTERLY LINE OF THE SUNDOWNER CONDOMINIUM PHASE 4, CLEARFIELD CITY, DAVIS COUNTY, UTAH, WHICH IS 1,328.31 FEET WEST; 261.97 FEET SOUTH; AND 929.00 FEET SOUTH 0°08’33” WEST FROM THE NORTHEAST CORNER OF SAID SECTION; AND RUNNING THENCE SOUTH 57°24’35” EAST 31.02 FEET; THENCE SOUTH 0°08’33” WEST 158.45 FEET; THENCE NORTH 89°51’27” WEST 26.18 FEET; THENCE NORTH 0°08’33” EAST 175.09 FEET TO THE POINT OF BEGINNING.

THE ABOVE PARCEL 3 IS ALSO DESCRIBED OF RECORD AS FOLLOWS:

PART OF THE EAST HALF OF SECTION 7, T4N-R1W; SLM; BEGINNING AT A POINT NORTH 0°10’10” EAST 588.47 FEET ALONG THE EAST LINE OF SAID SECTION NORTH 53°45’03” WEST 1189.26 FEET FROM THE EAST QUARTER CORNER OF SAID SECTION 7 AND RUNNING THENCE NORTH 53°45’03” WEST 449.04 FEET TO THE WEST LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 7, THENCE SOUTH 0°06’27” WEST 107.18 FEET ALONG SAID WEST LINE OF THE EAST HALF OF THE EAST QUARTER OF SAID SECTION 7, THENCE SOUTH 57°24’35” EAST 31.02 FEET; THENCE SOUTH 0°08’33” WEST 158.45 FEET; THENCE NORTH 89°51’27” WEST 26.18 FEET; THENCE SOUTH 0°06’27” WEST 377.53 FEET TO THE NORTH LINE OF THE DAVIS AND WEBER COUNTIES CANAL CO. PROPERTY; THENCE ALONG SAID NORTH LINE OF THE CANAL CO. PROPERTY, SOUTH 53°11’33” EAST 109.04 FEET, THENCE NORTH 36°48’26” EAST 174.00 FEET; THENCE NORTH 0°52’06” EAST 98.95 FEET; THENCE NORTH 36°14’57” EAST 275.00 FEET TO THE POINT OF BEGINNING.
CLEARFIELD CITY COMMUNITY DEVELOPMENT AND RENEWAL AGENCY
MEETING MINUTES
7:00 P.M. POLICY SESSION
June 12, 2018
(This meeting was held during the regularly scheduled City Council Meeting.)

PRESIDING: Kent Bush        Chair

PRESENT: Nike Peterson  Director
Vern Phipps            Director
Tim Roper             Director
Mark Shepherd         Director

EXCUSED: Karece Thompson  Director

STAFF PRESENT: JJ Allen    City Manager
Summer Palmer         Assistant City Manager
Stuart Williams       City Attorney
Scott Hodge           Public Works Director
Greg Krusi            Police Chief
Eric Howes            Community Services Director
Curtis Dickson        Community Services Deputy Dir.
Spencer Brimley       Community Development Director
Brad McIlrath         Senior Planner
Rich Knapp            Finance Manager
Trevor Cahoon         Communications Coordinator
Nancy Dean            City Recorder
Wendy Page            Deputy Recorder


Chair Bush called the meeting to order at 8:49 p.m.

APPROVAL OF THE MINUTES FROM THE MAY 22, 2018 POLICY SESSION

Director Shepherd moved to approve the minutes from the May 22, 2018 policy session, as written, seconded by Director Peterson. The motion carried upon the following vote: Voting AYE – Directors Peterson, Phipps, Roper, and Shepherd. Voting NO – None. Director Thompson was not present for the vote.
PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON THE PROPOSED 2018/2019 FISCAL YEAR BUDGET

Rich Knapp, Finance Manager, reported the revenues and transfers were approximately $2.2 million and expenditures were $1.87 million; consequently, there was a surplus increase in the fund balance.

Chair Bush opened the public hearing at 8:51 p.m.

Chair Bush asked if there were any public comments.

There were no public comments.

Director Roper moved to close the public hearing at 8:52 p.m., seconded by Director Peterson. The motion carried upon the following vote: Voting AYE – Directors Peterson, Phipps, Roper, and Shepherd. Voting NO – None. Director Thompson was not present for the vote.

APPROVAL OF RESOLUTION 2018R-01 ADOPTING THE 2018/2019 FISCAL YEAR BUDGET

Director Shepherd moved to approve Resolution 2018R-01 adopting the 2018/2019 fiscal year budget and authorize the Chair’s signature to any necessary documents, seconded by Director Peterson. The motion carried upon the following vote: Voting AYE – Directors Peterson, Phipps, Roper, and Shepherd. Voting NO – None. Director Thompson was not present for the vote.

There being no further business to come before the Board, Director Phipps moved to adjourn at 8:53 p.m., seconded by Director Peterson. The motion carried upon the following vote: Voting AYE: Directors Peterson, Phipps, Roper, and Shepherd. Voting NO – None. Director Thompson was not present for the vote.

**The City Council policy session minutes are in a separate location.**
RESOLUTION 2018R-02

A RESOLUTION APPROVING AND ADOPTING
AMENDMENTS TO THE 2017/2018 BUDGET AND
APPROPRIATING FUNDS FOR THE PURPOSES SET FORTH
THEREIN

WHEREAS, Clearfield Community Development and Renewal Agency (CDRA) has identified an expenditures that is necessary for CDRA operations, which were not included in its current budget; and

WHEREAS, Utah state code allows the Board to make adjustments to the budget; and

WHEREAS, proper notice of the public hearing for this matter was given; and

WHEREAS, Clearfield Community Development and Renewal Agency has considered and approved the amendment.

NOW, THEREFORE, be it resolved by the Clearfield Community Development and Renewal Agency that the amendments to the Clearfield Community Development and Renewal Agency budget beginning July 1, 2017 and ending June 30, 2018 as set forth in Exhibit “A” which is attached hereto and incorporated herein by this reference are authorized and approved.

The Chair is authorized to sign any documents reflecting those amendments.

Passed and adopted at the Community Development and Renewal Agency Board meeting held on June 26, 2018.

VOTE OF THE BOARD

AYE:

NAY:

EXCUSED: