

Midway City Council
6 October 2020
Regular Meeting

Kinsey Property /
Culinary Water Will Serve Letter

Memo



Midway

Date: October 6, 2020
To: Midway City Council
From: Michael Henke
Re: Kinsey culinary water connection petition

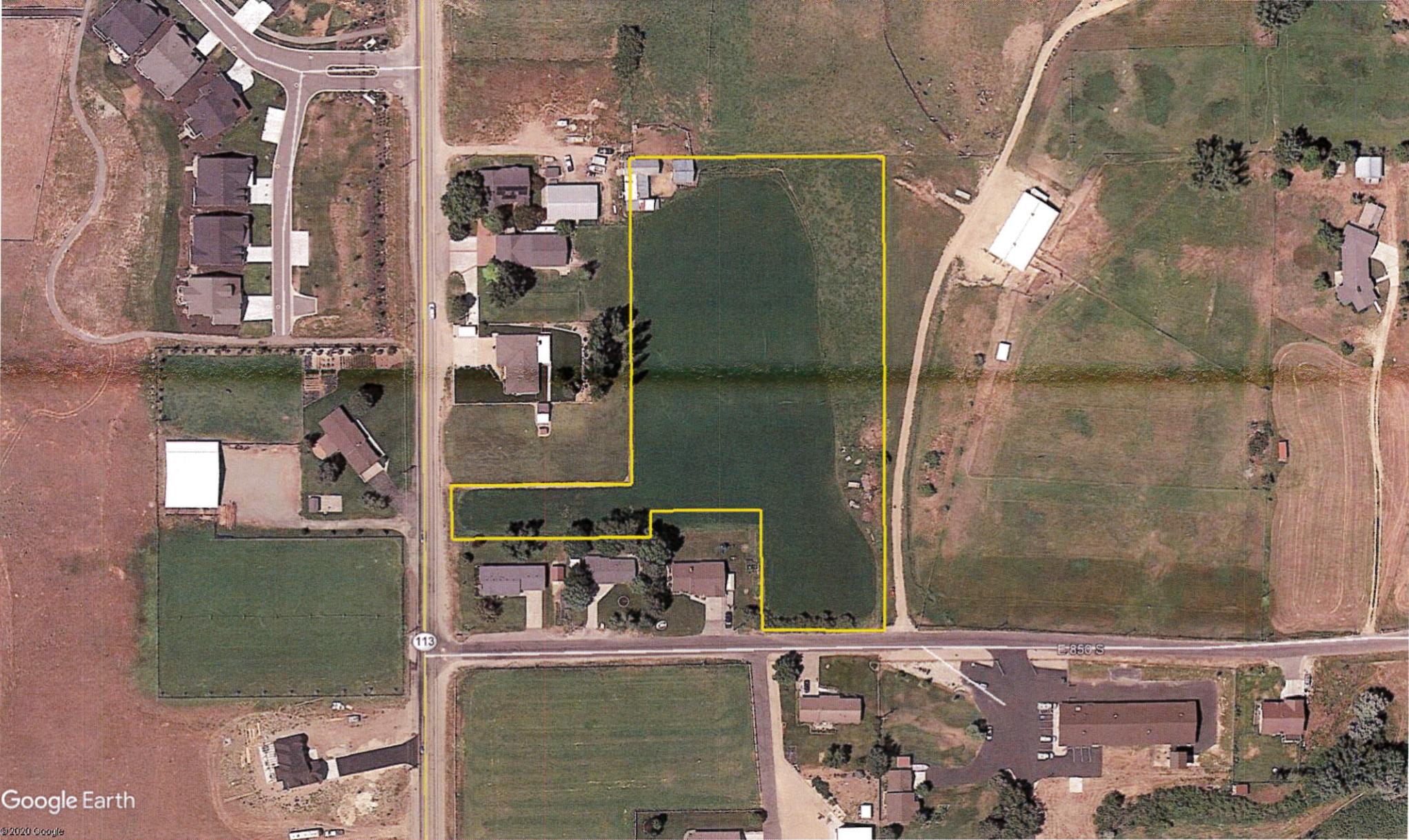
Nick Patterson, agent for Allan and Myrna Kinsey, have requested three culinary connections to the City's water system. The property is not located in the city limits, but it is within the City's growth boundary. The 3.79-acre parcel is located near the corner of Center Street and 850 South. The Kinsey parcel is in Wasatch County's jurisdiction and it is currently undeveloped and is in agricultural production. The owners would like to subdivide the property into three lots as shown on the attached document.

Current City policy (Resolution 2020-01) requires annexation to connect to the City's water system unless annexation is not possible. Staff has determined that without neighboring properties joining the petition, annexation is not possible because the annexation would create an unincorporated county peninsula. There are two neighboring properties that would need to sign the petition (Hoover – OWC-1113-2 and Lefler – OWC-1113-3) to avoid creating the unincorporated county peninsula and both have stated they do not want to participate in the petition. The two properties cannot be forced into the City unless two criteria are met according to Utah State Code. The first can be met which is the requirement that the petitioner owns at least half of the land. The second is that the petitioner also owns at least 1/3 of the market tax value which the petitioner does not meet, therefore, annexation is not possible. (Property values: Hoover \$595,061, Lefler \$410,407, and Kinsey \$198,308)

If annexation is not possible, the property owner may petition the City Council for water connections. Granting access to the City's culinary system is a discretionary item that the City Council may consider. If approved, the Kinseys would need dedicate water rights, pay water impacts fees, connection and inspection fees to the City. Also, the City requires a rate payer, with property in the County, to pay one and a half times the rate of a rate payer in the City limits. They would also have to comply with any other requirements that the City Council requires.

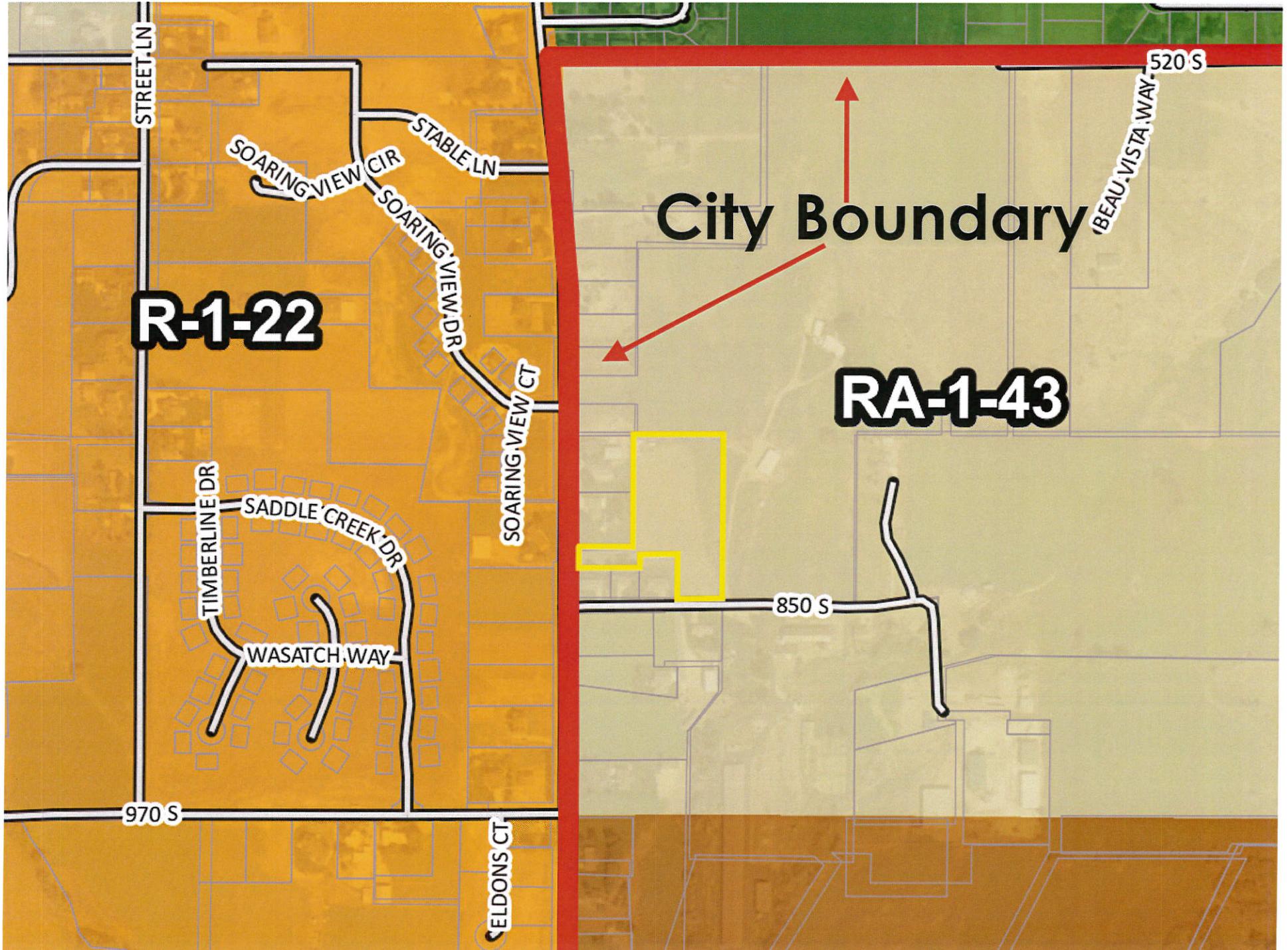
Please let me know if you have any questions.





Google Earth

© 2020 Google



R-1-22

City Boundary

RA-1-43

STREET LN

SOARING VIEW CIR

STABLE LN

SOARING VIEW DR

SOARING VIEW CT

TIMBERLINE DR

SADDLE CREEK DR

WASATCH WAY

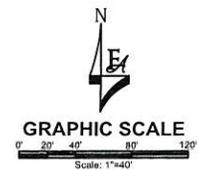
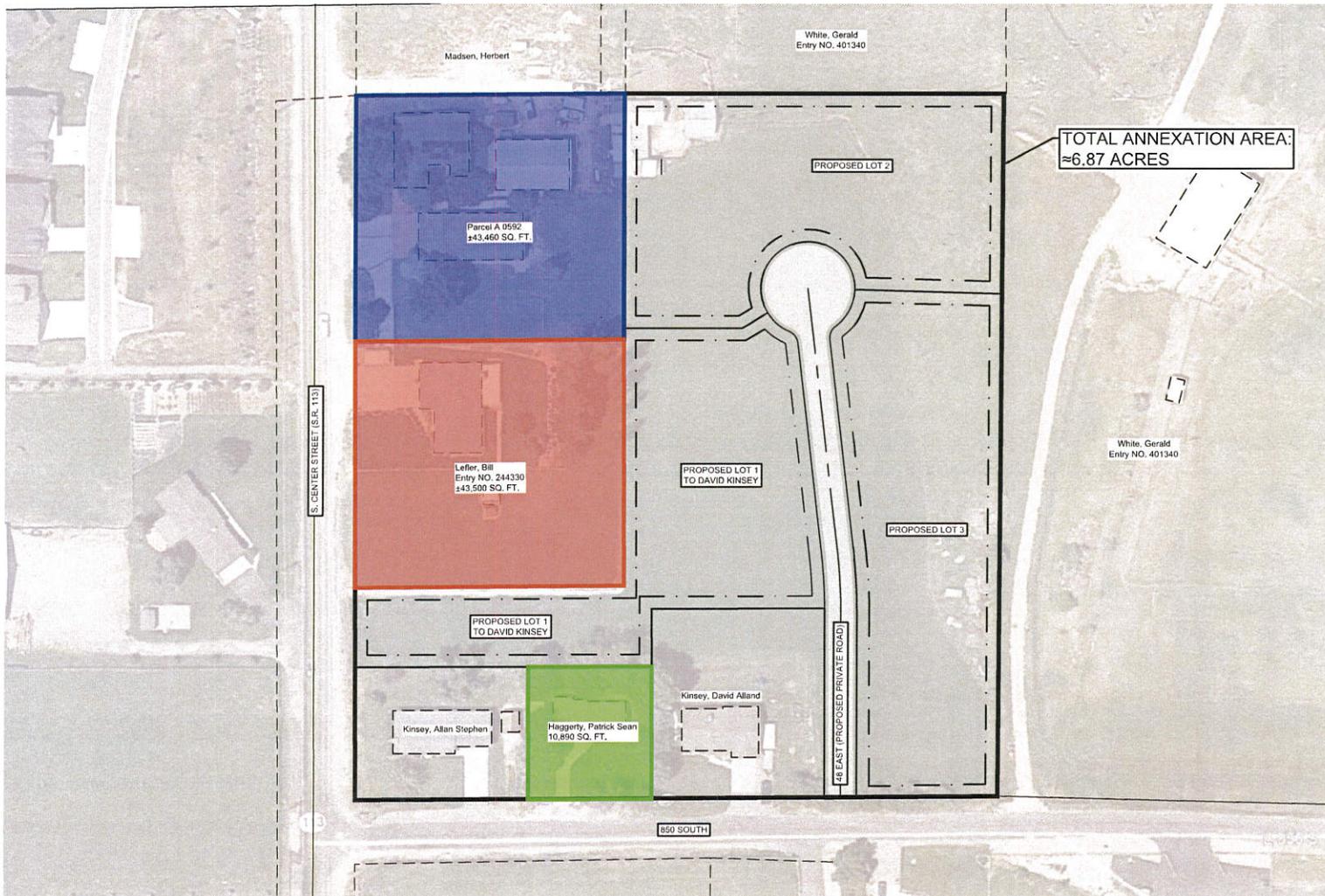
970 S

ELDONS CT

520 S

BEAU VISTA WAY

850 S



50% DESIGN

NO.	REVISIONS	BY	DATE

DRAWN	S. COZZENS
DESIGNED	M. PATTERSON
APPROVED	M. PATTERSON
QA	J. BURCH

**PRELIMINARY
DRAWING
NOT FOR
CONSTRUCTION**

JASON MORRIS
SUBDIVISION

FORSGREN
Associates Inc.
370 EAST 500 SOUTH, STE. 200, SALT LAKE CITY, UT 84111
PH: 801.364.4785 FAX: 801.364.4922

811
Know what's below.
Call before you dig.

KINSEY - MIDWAY SUBDIVISION

ANNEXATION PLAN

PROJECT NO.	05-20-0065
SHEET NO.	C-01
DATE	JUL 2020
PRG. NO.	X OF XX

P:\2020\05-20-0065 Jason Morris Subdivision\CAD\Sheet\CON\SITE PLAN - ANNEX.Plot - 8/30/2020 3:50 PM



75 North 100 West
 P.O. Box 277
 Midway, Utah 84049
 Phone: 435-654-3223
 Fax: 435-654-4120
 midwaycityut.org

Request to be on a City Council Agenda

Name: Nick Patterson Organization: Forsgren Associates, Inc.

Phone: (801) 592-4479 Email: npatterson@forsgren.com

Mailing Address: 370 E. 500 S. Ste. 200 City: Salt Lake City

State: UT Zip: 84111

Reason for Request:

~~Mr. Kinsey, a long time resident of the Midway City area, is subdividing his property to allow his daughters to move back to where they grew up and build future homes. Their property is located outside the Midway City boundary in Wasatch County, but within the currently designated Annexation Declaration boundary.~~

City code requires that these properties annex into Midway City in order to receive a Will Serve letter, which the property owners are willing to do. We have discussed the annexation option with neighboring property owners to get their support, as they would need to be included in the annexation to not create a property island. Both neighboring property owners who would need to be included are NOT in favor of the petition to annex.

Please Note:

1. This is a general application. Specific applications are required for land use approvals, conditional use permits, etc.
2. Return this completed application to the city recorder's office or email to bwilson@midwaycityut.org.
3. You will be notified within 2 weeks if your request to be on the agenda is approved or declined.
4. City council regular meetings are held on the 2nd and 4th Wednesdays of each month at 6:00 p.m. in the Midway Community Center (160 West Main Street). City council work meetings are held the same days at 10:00 a.m. in the Midway City Office Building (75 North 100 West). Your item will be considered at both meetings.
5. Please provide supplemental information for your item no later than the Thursday before the meeting. This information will be provided to the Council prior to the meeting.

For Office Use Only

Date Received: _____ Date Approved: _____ Meeting Date: _____

WILL SERVE LETTER

This WILL SERVE LETTER (the "Agreement") is entered into as of this ___ day of _____, 2020, by and between ALLAN AND MYRNA KINSEY (hereinafter "Kinsey") and MIDWAY CITY, UTAH, a political subdivision of the State of Utah (hereinafter called the "City"). Kinsey and the City are, from time to time, hereinafter referred to individually as a "Party" and collectively as the "Parties." Unless otherwise noted herein, this Agreement supersedes and replaces any previous agreements entered into by and between Kinsey and the City involving the same Property (defined below) and is the entire, complete Agreement between the Parties.

RECITALS

- A. The City, acting pursuant to its authority under Utah Code Ann. §10-9a-101, *et. seq.*, in compliance with the Midway City Land Use Ordinance, and in furtherance of its land use policies, goals, objectives, ordinances and regulations, has made certain determinations with respect to providing culinary water service to property owned by Kinsey (hereinafter called the "Project") that is currently outside of city limits, and therefore has elected to approve and enter into this Agreement in order to advance the policies, goals and objectives of the City, and to promote the health, safety and general welfare of the public.
- B. Kinsey has a legal interest in a 3.79 acre piece of real property that is not located in the City, (hereinafter the "Property") described in Exhibit "A" and attached hereto and incorporated herein by this reference.
- C. Kinsey intends to develop the Property in accordance with Wasatch County standards, into a three lot subdivision and obtain all necessary approvals from the County (where the Property is located).
- D. In order to receive culinary water service, Kinsey will extend the existing culinary water to Kinsey's Property (the "Project"), including a water meter for the Property and fire hydrants in a number and location as required by current code.
- E. Each Party acknowledges that it is entering into this Agreement voluntarily. Kinsey consents to all the terms and conditions of this Agreement and acknowledges that they are valid conditions of the development. Unless otherwise specifically agreed to herein, the terms and conditions contained herein are in addition to any conditions or requirements of any other legally adopted ordinances, rules, or regulations governing the development of real property in Midway City.

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties agree as follows:

AGREEMENT

Section 1. Effective Date and Term. The term of this Agreement shall commence upon the signing of this Agreement (the "Effective Date") by both Parties, and shall continue indefinitely.

Section 2. Definitions. Unless the context requires a different meaning, any term or phrase used in this Agreement that has its first letter capitalized shall have that meaning given to it by this Agreement. Certain terms and phrases are referenced below; others are defined where they appear in the text of this Agreement, including the Exhibits.

“Applicable Law” shall have that meaning set forth in Section 4.2 of this Agreement.

“Governing Body” shall mean the Midway City Council.

“City” shall mean Midway City, and shall include, unless otherwise provided, any and all of the City’s agencies, departments, officials, employees or agents.

Section 3. Obligations of Kinsey and the City.

A. Obligations of Kinsey:

- i. General Obligations: The Parties acknowledge and agree that the City’s agreement to perform and abide by the covenants and obligations of the City set forth herein is material consideration for Kinsey’s agreement to perform and abide by the covenants and obligations of Kinsey set forth herein.
- ii. Conditions for Culinary Water Service. The City agrees to provide culinary water service to the Property, subject to the following requirements:
 - a) Kinsey shall extend at their own expense the culinary water line to Kinsey’s Property, including water meters for the Property and fire hydrants in a number and location as required by current code. Kinsey shall submit all plans to extend the line to the City engineer for approval before starting construction.
 - b) The size, type, and location of the culinary water meters shall be determined and approved by the City Engineer before installation.
 - c) Kinsey agrees that for so long as the Property remains in the unincorporated area of the County, the Property owner shall be charged one and one-half times (1.5) the rate that Midway residents pay for culinary service.
 - d) Kinsey agrees to allow Midway City to require the following as part of the plat approval process in Wasatch County:
 1. In accordance with standards set by Midway City, sufficient water to meet the culinary and irrigation needs of the development shall be deeded to Midway City prior to the plat being recorded.
 2. Meters that meet the specifications of Midway Irrigation Company shall be installed on all irrigation line connections within the subdivision at the time the infrastructure is installed.
 3. Kinsey agrees to install infrastructure to the standards required by Midway City, even if these standards exceed those required by Wasatch County.
 - e) Kinsey shall allow Midway City to review and approve the plat before it is recorded. At the time of signing this Agreement, Kinsey shall submit to Midway City an amount established by the City Planner sufficient to cover all expenses incurred by the City in reviewing the Project (i.e. engineering,

legal, etc.). Kinsey agrees to pay all applicable Midway City fees incurred in installing the Culinary Water Line and other infrastructure, including all engineering and attorney fees and other outside consultant fees incurred by the City in relation to the Property. All fees shall be paid current prior to any culinary water service being provided.

- f) Installation of the Culinary Water Line and other infrastructure:
 - 1. Construction and/or Dedication of Culinary Line: Kinsey agrees to construct the Culinary Line as directed and approved by the City, in accordance with current City standards, and upon completion to dedicate the line to the City.
 - 2. Construction Traffic: All construction traffic for the Culinary Line improvements will meet the requirements imposed by the Midway City Planning and Engineering Departments.
 - 3. Warranty: Consistent with City standards, Kinsey will provide a one-year warranty for the operation of all improvements.
 - 4. Bonding: Kinsey agrees to post performance and other bonds in amounts and types established by the City related to the performance of Kinsey's construction obligations for installing the Culinary Line, pursuant to current City Ordinances and Regulations.
 - 5. Kinsey shall remain bound by all legally adopted Ordinances, Resolutions and policies of the City involving culinary water service unless specifically agreed to otherwise herein.
- g) Kinsey agrees to allow Midway City to inspect all infrastructure as it is installed and shall have a duty to provide timely notice to the Midway City engineer of needed inspections.
- h) A material part of the City's willingness to provide culinary service to properties outside of City limits is Kinsey's agreement that should any parcel of land touching the designated properties in Exhibit B ever apply for annexation in the future, all of the designated properties on Exhibit B shall be legally bound to join the annexation petition as co-applicants, and waive all rights to object to the same. In conjunction with this Agreement, the document attached as Exhibit C will be recorded against all designated Properties in Exhibit B.

B. Obligations of the City:

- i. General Obligations: The Parties acknowledge and agree that Kinsey's agreement to perform and abide by the covenants and obligations of Kinsey set forth herein is material consideration for the City's agreement to perform and abide by the covenants and obligations of the City set forth herein.
- ii. Conditions of Approval: The City agrees that it shall provide culinary water service to the Property subject to the conditions detailed in this Agreement.
- iii. Acceptance of Improvements: The City agrees to accept all Project improvements constructed by Kinsey, or Kinsey's contractors, subcontractors, agents or employees, provided that 1) the Midway City Planning and Engineering Departments review and approve the plans for any Project improvements prior to construction; 2) Kinsey permits Midway City Planning and Engineering representatives to inspect upon request any and all of said

Project improvements during the course of construction; 3) the Project improvements have been constructed in accordance with the approved plans and specifications; 4) Kinsey has warranted the Project improvements as required by the Midway City Planning and Engineering Departments; and 5) the Project improvements pass a final inspection by the Midway City Planning and Engineering Departments.

Section 4. Vested Rights and Applicable Law.

- A. Applicable Law. The rules, regulations, official policies, standards and specifications applicable to the development of the Property (the "Applicable Law") shall be in accordance with those set forth in this Agreement, and those rules, regulations, official policies, standards and specifications, including City Ordinances and Resolutions, in force and effect on the date the City Council granted preliminary approval to Kinsey for the Project. Kinsey expressly acknowledges and agrees that nothing in this Agreement shall be deemed to relieve Kinsey from the obligation to comply with all applicable requirements of the City necessary for approval and recordation of subdivision plats, including the payment of fees and compliance with all other applicable Ordinances, Resolutions, regulations, policies and procedures of the City.
- B. State and Federal Law. Notwithstanding any other provision of this Agreement, this Agreement shall not preclude the application of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in State or Federal laws or regulations ("Changes in the Law") applicable to the Property. In the event the Changes in the Law prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary, to comply with the Changes in the Law.

Section 5. Amendment.

Unless otherwise stated in this Agreement, the Parties may amend this Agreement from time to time, in whole or in part, by mutual written consent. No amendment or modification to this Agreement shall require the consent or approval of any person or entity having any interest in any specific lot, unit or other portion of the Project. Each person or entity (other than the City and Kinsey) that holds any beneficial, equitable, or other interests or encumbrances in all or any portion of the Project at any time hereby automatically, and without the need for any further documentation or consent, subjects and subordinates such interests and encumbrances to this Agreement and all amendments thereof that otherwise comply with this Section 5. Each such person or entity agrees to provide written evidence of that subjection and subordination within fifteen (15) days following a written request for the same from, and in a form reasonably satisfactory to, the City and/or Kinsey.

Section 6. Cooperation and Implementation.

- A. Processing of Subsequent Approvals. Upon submission by Kinsey of all appropriate applications and processing fees for any Subsequent Approval to be granted by the City, the City shall promptly and diligently commence and complete all steps necessary to act on the Subsequent Approval application including, without limitation, 1) the notice and holding of all required public hearings, and 2) the granting of the Subsequent Approval as set forth herein.

The City's obligations under this Section 6 are conditioned on Kinsey's provision to the City, in a timely manner, of all documents, applications, plans and other information necessary for the City to meet such obligations. It is the express intent of Kinsey and the City to cooperate and work diligently and in good faith to obtain any and all Subsequent Approvals. The City may deny an application for a Subsequent Approval by Kinsey only if the application is incomplete, does not comply with existing law, or violates a City Ordinance or Resolution. If the City denies an application for a Subsequent Approval by Kinsey, the City must specify the modifications required to obtain such approval.

- B. Other Governmental Permits.
1. Kinsey shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental agencies in connection with the development of, or the provision of services to the Project.
 2. The City shall cooperate with Kinsey in its efforts to obtain such permits and approvals, provided that such cooperation complies with Section 4.B of this Agreement. However, the City shall not be required by this Agreement to join, or become a party to any manner of litigation or administrative proceeding instituted to obtain a permit or approval from, or otherwise involving any other governmental or quasi-governmental agency.

Section 7. Default and Termination.

- A. General Provisions.
1. Defaults by Kinsey. Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, unless such period is extended by written mutual agreement, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure may be satisfactorily cured. If

the nature of the alleged failure is such that it cannot reasonably be cured within such thirty (30) day time period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such thirty (30) day period. Upon the occurrence of an uncured default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured, then no default shall exist and the noticing Party shall take no further action.

2. Termination. If the City elects to consider terminating this Agreement due to a material default of Kinsey, then the City shall give to Kinsey a written notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the City Council at a duly noticed public meeting. Kinsey shall have the right to offer written and oral evidence prior to or at the time of said public meeting. If the City Council determines that a material default has occurred and is continuing and elects to terminate this Agreement, the City Council shall send written notice of termination of this Agreement to Kinsey by certified mail and this Agreement shall thereby be terminated thirty (30) days thereafter. In addition, the City may thereafter pursue any and all remedies at law or equity. By presenting evidence at such public meeting, Kinsey does not waive any and all remedies available to Kinsey at law or in equity.
 3. Review by the City. The City may, at any time and in its sole discretion, request that Kinsey demonstrate that Kinsey is in full compliance with the terms and conditions of this Agreement. Kinsey shall provide any and all information reasonably requested by the City within thirty (30) days of the request, or at a later date as agreed between the Parties.
 4. Determination of Non-Compliance. If the City Council finds and determines that Kinsey has not complied with the terms of this Agreement, and non-compliance may amount to a default if not cured, then the City may deliver a Default Notice pursuant to Section 7.A of this Agreement. If the default is not cured in a timely manner by Kinsey, the City may terminate this Agreement as provided in Section 7 as provided under Applicable Law.
- B. Default by the City. In the event the City defaults under the terms of this Agreement, Kinsey shall have all rights and remedies provided in Section 7 of this Agreement, and as provided under Applicable Law.
- C. Enforced Delay: Extension of Time of Performance. Notwithstanding anything to the contrary contained herein, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods,

earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environmental regulations, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Upon the request of either Party hereto, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

Section 8. Notice of Compliance.

- A. Timing and Content. Within fifteen (15) days following any written request which Kinsey may make from time to time, and to the extent that it is true, the City shall execute and deliver to Kinsey a written "Notice of Compliance," in recordable form, duly executed and acknowledged by the City, certifying that 1) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modification; 2) there are no current uncured defaults under this Agreement or specifying the dates and nature of any such default; and 3) any other reasonable information requested by Kinsey. Kinsey shall be permitted to record the Notice of Compliance.
- B. Failure to Deliver. Failure to deliver a Notice of Compliance, or a written refusal to deliver a Notice of Compliance if Kinsey is not in compliance, within the time set forth in Section 8.A shall constitute a presumption that as of fifteen (15) days from the date of Kinsey's written request: 1) this Agreement was in full force and effect without modification except as represented by Kinsey; and 2) there were no uncured defaults in the performance of Kinsey. Nothing in this Section, however, shall preclude the City from conducting a review under Section 7, or issuing a notice of default, notice of intent to terminate or notice of termination under Section 7 for defaults which commence prior to the presumption created under this Section 8, and which have continued uncured.

Section 9. Change in Developer, Assignment, Transfer and Required Notice.

The rights of Kinsey under this Agreement may be transferred or assigned, in whole or in part, with the written consent of the City, which shall not be unreasonably withheld. Kinsey shall give notice to the City of any proposed transfer or assignment at least thirty (30) days prior to the proposed date of the transfer or assignment.

Section 10. Miscellaneous Terms.

- A. Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.
- B. Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual written consent of the Parties. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable by the final order of a court of competent jurisdiction, either Party to this Agreement may, in its sole and absolute discretion, terminate this Agreement by providing written notice of such termination to the other Party.
- C. Other Necessary Acts. Each Party shall execute and deliver to the other Party any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement, the Conditions of Current Approvals, and Subsequent Approvals and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.
- D. Other Miscellaneous Terms. The singular shall be made plural; the masculine gender shall include the feminine; “shall” is mandatory; “may” is permissive.
- E. Covenants Running With the Land and Manner of Enforcement. The provisions of this Agreement shall constitute real covenants, contract and property rights and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns and transferees. The City may, but is not required to, perform any obligation of Kinsey that Kinsey fails adequately to perform. Any cost incurred by the City to perform or secure performance of the provisions of this Agreement shall constitute a valid lien on the Property. The parties agree that this Agreement shall be filed with the County Recorder and be binding on title of the Property.
- F. Waiver. No action taken by any Party shall be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement. Any waiver by any Party of a breach or default of any condition of this Agreement shall not operate or be construed as a waiver by such Party of any subsequent breach or default.
- G. Remedies. Either Party may institute an equitable action to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or

attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement; provided, however, that no action for monetary damages may be maintained by either Party against the other Party for any act or failure to act relating to any subject covered by this Agreement (with the exception of actions secured by liens against real property), notwithstanding any other language contained elsewhere in this Agreement. In no event shall either Party be entitled to recover from the other Party either directly or indirectly, legal costs or attorney's fees in any action instituted to enforce the terms of this Agreement (with the exception of actions secured by liens against real property).

- H. Utah Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah.
- I. Attorney's Fees. In the event of litigation or arbitration between the Parties regarding an alleged breach of this Agreement, neither Party shall be entitled to any award of attorney's fees.
- J. Covenant of Good Faith and Fair Dealing. Each Party shall use its best efforts and take and employ all necessary actions in good faith consistent with this Agreement and Applicable Law to ensure that the rights secured to the other Party through this Agreement can be enjoyed.
- K. Representations. Each Party hereby represents and warrants to each other that the following statements are true, complete and not misleading as regards the representing and warranting Party:
 - 1. Such Party is duly organized, validly existing and in good standing under the laws of the state of its organization.
 - 2. Such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder. The individual(s) executing this Agreement on behalf of such Party do so with the full authority of the Party that those individuals represent.
 - 3. This Agreement constitutes the legal, valid and binding obligation of such Party, enforceable in accordance with its terms, subject to the rules of bankruptcy, moratorium, and equitable principles.
- L. No Third-Party Beneficiaries. This Agreement is between the City and Kinsey. No other party shall be deemed a third-party beneficiary or have any rights under this Agreement.

Section 11. Notices.

Any notice or communication required hereunder between the City and Kinsey must be in writing and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be

deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United State mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses as set forth below:

If to Midway City:

Director
Planning Department
Midway City
P.O. Box 277
Midway, UT 84049

With Copies to:

Corbin B. Gordon
Midway City Attorney
322 E. Gateway Dr. Suite 201
Heber City, UT 84032

If to Kinsey:

Allan and Myrna Kinsey
15 E. 850 S.
Midway, UT 84049

Section 12. Entire Agreement, Counterparts and Exhibits.

Unless otherwise noted herein, this Agreement, including its Exhibits, is the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing, and signed by the appropriate authorities of the City and of Kinsey.

Section 13. Signing and Recordation of Agreement.

Unless the City and Kinsey mutually agree otherwise, this Agreement must be signed by both Kinsey and the City no later than ninety (90) days after the Agreement is approved by a vote of the Midway City Council, or else the City's approval of the Project will be rescinded. The City Recorder shall cause to be recorded, at Kinsey's expense, a fully executed copy of this Agreement in the Official Records of Wasatch County no later than the date on which culinary service is first received.

///

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[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS HEREOF, this Agreement has been entered into by and between Kinsey and the City as of the date and year first above written.

MIDWAY CITY

Attest:

Celeste Johnson, Mayor

Brad Wilson, City Recorder

STATE OF UTAH)
 :ss
COUNTY OF WASATCH)

The foregoing instrument was acknowledged before me this ___ day of _____, 2020, by Celeste Johnson, who executed the foregoing instrument in her capacity as the Mayor of Midway City, Utah, and by Brad Wilson, who executed the foregoing instrument in his capacity as Midway City Recorder.

NOTARY PUBLIC

Allan Kinsey, Individually

Myrna Kinsey, Individually

STATE OF UTAH)
 :ss
COUNTY OF WASATCH)

The foregoing instrument was acknowledged before me this ___ day of _____, 2020, by Allan and Myrna Kinsey.

NOTARY PUBLIC

Exhibit A

(Legal Description of the Property)

A part of the Southwest quarter of Section 2, Township 4 South, Range 4 East, Salt Lake Base and Meridian, U.S. Survey.

BEGINNING at a point which bears South $0^{\circ}01'19''$ East 2699.83 feet from the Northwest corner of said Section 2, Township 4 South, Range 4 East, Salt Lake Base and Meridian; said point of beginning also given as the West quarter corner of Section 2; thence North $89^{\circ}32'51''$ East 217.80 feet to the true point of beginning; running thence North $89^{\circ}32'51''$ East 310.20 feet; thence South $0^{\circ}16'42''$ West 569.25 feet; thence South $89^{\circ}32'51''$ West 148.00 feet; thence North $0^{\circ}16'42''$ East 156.00 feet; thence South $89^{\circ}32'51''$ West 140.00 feet; thence South $0^{\circ}16'42''$ West 47.10 feet; thence South $89^{\circ}32'51''$ West 237.59 feet; thence North $0^{\circ}01'19''$ West 60.33 feet; thence North $89^{\circ}32'51''$ East 217.80 feet; thence North $0^{\circ}01'19''$ West 400.00 feet to the point of beginning.



The boundary lines shown here have been generated for the internal use of Wasatch County and should only be used for general reference purposes.

Questions concerning ownership boundary locations should be directed to a title company, attorney, or licensed land surveyor. Wasatch County makes no warranty as to the accuracy or usefulness of this information. The end user of this information assumes all responsibility concerning this information's appropriate use.



When Recorded Mail To:
XXXXXXX
XXXXXXX
XXXXXXX
XXXXXXX

Parcel ID.: XXXXXXXX
Serial No: XXXXXXXX

**NOTICE OF WILL SERVE AGREEMENT
AND ASSOCIATED OBLIGATIONS**

On _____, ALLAN AND MYRNA KINSEY entered into a Will Serve Agreement, recorded at Entry No. _____, Book _____, and Page _____, in the Wasatch County Recorder's Office. As part of the Will Serve Letter, it was agreed that should any property with a common boundary to those set forth in Exhibit B file for annexation into Midway City, the lot owners of the designated lots in Exhibit B will be obligated to join in the petition as co-applicants.

XXXX is an owner of one of the designated lots and agrees that the requirement to join in on a future application to annex into Midway City, as set forth above, is binding on the lot set forth below:

Witness the hand of said owner this _____ day of _____, 2020.

XXXXXXX

STATE OF UTAH)
) ss.
COUNTY OF WASATCH)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020 by XXXXXXXX who personally appeared before me and duly acknowledged to me that he/she had executed the instrument.

Notary Public