



## SYRACUSE CITY

### Syracuse City Council Work Session Notice

August 28, 2012 – 6:00 p.m.

Large Conference Room

Municipal Building, 1979 W. 1900 S.

Notice is hereby given that the Syracuse City Council will meet in a work session on Tuesday, August 28, 2012, at 6:00 p.m. in the large conference room of the Municipal Building, 1979 W. 1900 S., Syracuse City, Davis County, Utah. The purpose of the work session is to discuss/review the following items:

- a. Discussion regarding Robinson Waste. (10 min.)
- b. Discussion regarding Joint Development Agreement for Syracuse Family Fun Center expansion. (30 min.)
- c. Discussion regarding the Syracuse Business Guide. (10 min.)
- d. Discussion regarding City Council Electronic Meetings Policy. (10 min.)
- e. Council business. (5 min.)

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In compliance with the Americans Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the City Offices at 801-825-1477 at least 48 hours in advance of the meeting.

#### CERTIFICATE OF POSTING

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted within the Syracuse City limits on this 17<sup>th</sup> day of August, 2012 at Syracuse City Hall on the City Hall Notice Board and at <http://www.syracuseut.com/>. A copy was also provided to the Standard-Examiner on August 17, 2012.

CASSIE Z. BROWN, CMC  
SYRACUSE CITY RECORDER



# COUNCIL AGENDA

August 28, 2012

Agenda Item #A                      Discussion regarding Robinson Waste. (10 min.)

***Factual Summation***

- Please see the attached memo and renewal addendum provided by City Attorney William Carlson. Any questions regarding this item can be directed at William Carlson.



**Mayor**  
Jamie Nagle

**City Council**  
Brian Duncan  
Craig Johnson  
Karianne Lisonbee  
Douglas Peterson  
Larry D. Shingleton

## MEMORANDUM

**To:** Mayor and City Council  
**From:** City Attorney, William J. Carlson  
**Date:** August 28, 2012  
**Subject:** Contract with Robinson Waste Management

### Background

Robinson Waste Management and the City entered into a Garbage Collection Contract (“Contract”) dated April 1, 2009. In the contract, Robinson had a unilateral right to renew the contract and the City agreed to pay Robinson a fuel allowance per household per month of .33% of the price of the price of diesel over \$3.00 per gallon (“Fuel Surcharge”). On June 26, 2012 Robinson offered the City a new contract with a term of three years. The City Council counter-offered with a term of one year. Robinson has now provided a counter-offer with a term of two years.

Based on services for waste collection outlined in Robinson’s July 31 invoice, following is an estimate of the annual expenses to the city under the current and proposed contract as well as the estimated costs of an alternative provider:

| Collector Contract                  | Annual Cost Estimate | Fuel Surcharge             |
|-------------------------------------|----------------------|----------------------------|
| Robinson Current                    | \$435,340.32         | 0.33% per house if >\$3.00 |
| Robinson Proposed Trad. Collection  | \$407,352.00         | 33% per service if >\$3.50 |
| Robinson Proposed 1-side collection | \$394,272.00         | 33% per service if >\$3.50 |
| Best Alternative Trad. Collection   | \$437,918.40         | 30% per can if >\$4.00     |
| Best Alternative 1-side collection  | \$379,070.40         | 30% per can if >\$4.00     |

## Summary

Robinson's proposed rates for traditional collection are an improvement from the current rates. The fuel surcharge will increase from 0.33% to 33% and from a per house rate to a per service rate, but it will not initiate until diesel prices surpass \$3.50 per gallon. Collecting on one side of the street will save the city money, and the greatest monetary savings would be achieved by selecting an alternative provider to implement this collection method.

#####

**ADDENDUM NO. 1  
TO  
GARBAGE COLLECTION CONTRACT**

**THIS IS AN ADDENDUM** to that GARBAGE COLLECTION CONTRACT (the “GCC”) with an Effective Date of April 1, 2009 including all prior addenda and counteroffers, between Syracuse City Corporation (“City”) and Robinson Waste Collection Services, Inc. (“Collector”). The following terms are hereby incorporated as part of the GCC:

1. **“1. GARBAGE COLLECTION** subsection A” shall be amended to the following.  
“A. Collector agrees to pick up garbage from curbside at each residential unit, including apartments, duplexes, and all other types of residential units and small commercial units, presently being served by the City, and each new residential unit when constructed on an improved street within garbage collection area. Collector further agrees to pick up garbage at each property and building owned and operated by City.”
2. **“1. GARBAGE COLLECTION** subsection E” shall be amended to the following.  
“E. During the term of this contract, the Collector is granted an exclusive right to collect all residential solid waste and Green Waste covered by this contract and generated within the City. Should the City determine in the future to offer recycling collection and disposal services to its residents, Collector shall provide such services. Payment for such services shall be in accordance with section **6. PAYMENT.**”
3. The following new subsection F shall be inserted and added into the GCC under section **“1. GARBAGE COLLECTION”**  
“F. Collector shall track the weight of garbage collected from the inhabitants of the City each month and the percentage of collection vehicles that were fueled by natural gas each month and, to the best of Collector’s ability, shall report those quantities to the City each month.”
4. The following new subsection G shall be inserted and added into the GCC under section **“1. GARBAGE COLLECTION”**  
“G. Collector agrees to pick up Green Waste weekly from each location identified in subsection A that has Green Waste containers, including locations that add green waste containers within garbage collection area. For the period that Green Waste continues as an opt-in program, Green Waste collection shall occur from April through November on the same day each week across the garbage collection area.”
5. The following new subsection H shall be inserted and added into the GCC under section **“1. GARBAGE COLLECTION”**  
“I. Should City vote to implement a recycling program, Collector agrees to pick up recycling biweekly from each location identified in subsection A that has recycling containers, including locations that add recycling containers across the garbage collection area.

6. "5. TERMS" shall be deleted and replaced with the following:

**"5. TERMS"**

- A. The term of this contract shall be for a period commencing April 1, 2012 and ending March 31, 2014, inclusive.
- B. The Contract may be extended for a subsequent term(s) of one, two, or more years upon mutual agreement of both the City and the Contractor. It shall be the duty of the Contractor to notify the City within three months prior to the expiration of the Contract that such Contract is approaching its termination date. Upon receiving such notice, the City and Contractor shall negotiate any extensions to the Contract upon such terms as the parties may deem appropriate. Either party may independently decline to extend the contract for an additional term(s). Any amendments to the Contract shall be valid only if set forth in writing and signed by the parties hereto.

7. "6. PAYMENT" shall be deleted and replaced with the following:

**"6. PAYMENT"**

- A. The current service rates are hereby guaranteed for the term, April 1, 2012 through March 31, 2014. The rates are as follows:

First Garbage Container: \$3.75 per month per residence

Each Additional Garbage Container: \$1.50 per month per residence

Green Waste Container \$3.50 per month per residence

- B. In the event that City implements recycling, the rates shall be implemented based on the participation rate approved by the City Council. The following service rates are hereby guaranteed for the term, April 1, 2012 through March 31, 2014. The rates are as follows:

Mandatory Recycling (95-100% participation) \$2.10 per month per residence

Opt-Out Recycling (60-94.9% participation) \$2.25 per month per residence

Opt-In Recycling (25-59.9% participation) \$3.50 per month per residence

- C. Residents on many low traffic streets in the garbage collection area could feasibly place all containers on the same side of the road for collection. In the event that the City Council approves adjusting collection to same side of the street collection for all feasible streets, the service rate will be adjusted. The feasibility of same side collection for each street will be determined by mutual agreement of the City Manager or a designee of the manager and Steve Robinson or a designee of Steve Robinson. Although not all streets will be feasible for same side collection, upon implementation of same-side collection to all feasible streets, the following rates shall apply to all containers in the city, regardless of collection method:

First Garbage Container: \$3.00 per month per residence

Each Additional Garbage Container: \$3.00 per month per residence

|                       |                                                       |
|-----------------------|-------------------------------------------------------|
| Green Waste Container | \$3.00 per month per residence                        |
| Recycling             | \$1.95 per month per residence (Mandatory or Opt Out) |

D. City agrees to pay Collector a fuel allowance per household per month, of 33% of the price of diesel over \$3.50 per gallon for Garbage Collection. City agrees to pay Collector a fuel allowance per household per month, of 16.5% of the price of diesel over \$3.50 per gallon for Recycling. City agrees to pay Collector a fuel allowance per household per month, of 22% of the price of diesel over \$3.50 per gallon for Green Waste. Diesel fuel prices used for this calculation are the monthly average of the published Department of Energy, Rocky Mountain region prices. If Collector reports the regular use of natural gas vehicles, the total fuel allowance shall be decreased by the percentage of natural gas vehicles reported. If City determines that Collector has failed to report the regular use of natural gas vehicles, or if City determines that Collector has underreported regular use of natural gas vehicles, there shall be no fuel allowance for the remainder of the contract term.

E. If the option for additional terms is exercised, the payment amount referred to above for such additional terms shall be negotiated by the Collector and the City. Such adjustments shall be made by written addendum to this contract.

F. Payment for services provided for herein shall be made by the City on or before the 15th day of each month for services rendered during the prior calendar month.

G. Collector may request in writing a modification of payment rates during the term of this contract if there has been a noticeable increase in operating expenses to the Collector and sufficient documentation is presented to substantiate the need for the increase. The City and the Collector shall negotiate disposition of the request.”

8. **“11. SUPERVISION BY CITY ADMINISTRATOR”** shall be amended to the following:  
**“11. SUPERVISION BY CITY MANAGER** All work, including points of collection, shall be carried out in accordance with the general directions of the City Manager or a designee of the City Manager; however, it is specifically understood and agreed that Collector is performing all work as an independent contractor, as herein stated, and that the City is not entitled to specify in detail the manner or method by which Collector shall perform the work provided for in connection with this Contract, except to the extent stated herein.”

9. **“20. EFFECTIVE DATE”** shall be amended to the following:  
**“20. EFFECTIVE DATE**  
The effective date of this Contract shall be April 1, 2012 notwithstanding the date of actual signing by the parties.

10. The following new Section 22 shall be inserted and added into the GCC as **“22. ACCEPTANCE”**

**“21. ACCEPTANCE** “Acceptance” occurs only when all of the following have occurred: (a) Collector and City has signed the offer or counteroffer where noted to indicate acceptance; and (b) Collector and City has communicated to the other party or to the other party’s agent that the offer or counteroffer has been signed as required.”

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the GCC, including all prior addenda and counteroffers, these terms shall control. All other terms of the GCC including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year recited above.

COLLECTOR:  
ROBINSON WASTE MANAGEMENT, LLC, a Utah  
limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF UTAH            )  
                                          ) ss.  
COUNTY OF DAVIS        )

On \_\_\_\_\_, 2012, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of ROBIONSON WASTE MANAGEMENT, LLC, and that said instrument was signed on behalf of said limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC

CITY:

SYRACUSE, A MUNICIPAL CORPORATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_

STATE OF UTAH            )  
                                          ) ss.  
COUNTY OF DAVIS        )

On \_\_\_\_\_, 2012, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of SYRACUSE, A municipal corporation, and that said instrument was signed on behalf of the Syracuse, by authority of law.

\_\_\_\_\_  
NOTARY PUBLIC



# COUNCIL AGENDA

August 28, 2012

Agenda Item #B                      Discussion regarding Joint Development Agreement for the Fun Center expansion.

## *Factual Summation*

- Any question regarding this agenda item may be directed at Finance Director Stephen Marshall or City Attorney William Carlson.
- Ed Gertge, owner of Syracuse City Fun Center, is considering expanding the Syracuse City Fun Center site. As part of this expansion, he is looking at adding a pool, go-carts, and other attractions. He is requesting that the Redevelopment Agency (RDA) help with this expansion. See the power point presentation for a more detailed analysis.
- If the council approves moving forward with the RDA funds to be appropriated to the Fun Center expansion, the council will want to finalize a joint development agreement with the Fun Center outlining in detail the proposed repayments and length of time.
- Please see the attached proposed Joint Development Agreement.

## *Staff Recommendation*

- *If approval is made for the city to allocate monies from the RDA to help the fun center expansion, staff recommends that those terms be finalized in a joint developer's agreement and approved in this meeting.*

AGREEMENT FOR THE EXPANSION OF THE SYRACUSE FAMILY  
FUN CENTER

This Agreement for the Development of the Syracuse Family Fun Center Area-site (this “Agreement”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2012 (the “Effective Date”), by and among SYRACUSE FAMILY FUN CENTER, a limited liability company (the “Developer”), and the REDEVELOPMENT AGENCY OF SYRACUSE CITY, a body corporate and politic of the State of Utah (the “Agency”).

The Developer and the Agency are sometimes referred to individually in this Agreement as a “Party” and collectively as the “Parties.”

RECITALS

- A. In furtherance of the objectives of the Community Development and Renewal Agencies Act, Utah Code Ann. § 17C-3-101, et. seq. (the “Act”), the Agency has undertaken the creation of a redevelopment project area for the development of a certain geographic area known as the “Town Center Project Area” (the “Project Area”), located in Syracuse, Utah; and
- B. The Agency has approved and the City Council of the City has adopted a redevelopment plan which is attached hereto as Exhibit A (the “Redevelopment Plan”) providing for the development of real property located in the Project Area and the future use of such land; and
- C. The Developer desires to expand the Syracuse Family Fun Center (“Expansion”) by adding 72,00080,000 square feet (“sf”) of recreational space as follows:
  - 1. 24,000 sf aquatic center; and
  - 2. 48,00056,000 sf of additional activities, including:
    - a. 2428,000 sf of Go-Karts and race track (adult and kiddie-kart size); and
    - b. 2428,000 sf with a combination of activities such as:
      - i. Bounce toys;
      - ii. Roller skating;
      - iii. ii. Bowling;

- ~~iv.iii.~~ Batting cages; and
- ~~v.iv.~~ Locker rooms; and

- D. The Agency believes that the expansion of the Syracuse Family Fun Center is in the vital and best interests of the Agency, and in the best interests of the health, safety, and welfare of community residents, and in accord with the public purposes and provisions of the applicable laws of the State of Utah (the “State”) and requirements under which the Project Area and its development is undertaken and is being assisted by the Agency; and
- E. On the basis of the foregoing and the undertakings of the Developer pursuant to this Agreement, and to enable the Agency to achieve the objectives of the Redevelopment Plan, the Agency is willing, in the manner set forth herein, to assist the Developer in the expansion of the Syracuse Family Fun Center for the purpose of accomplishing the provisions of the Redevelopment Plan, and the provisions of this Agreement;

NOW THEREFORE, in consideration of the covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

#### ARTICLE I: DEVELOPER’S OBLIGATIONS

Section 1.1 The Developer hereby agrees to the following:

- A. Development of Facilities. The Developer shall construct, and maintain the following facilities for a minimum useful life of twenty [5020] years on at the Family Fun Center Property Syracuse Family Fun Center:
  - i. *Aquatic Center.* A 24,000 square foot Aquatic Center will be constructed substantially in accordance with the zoning, subdivision, development, growth management, transportation, environmental, open space, and other land use plans, policies, processes, ordinances, and regulations in existence and effective on the date of final approval of this Agreement, and applying the terms and conditions of

this Agreement.

ii. *Additional Facilities.* An additional 4856,000 square feet of space for additional recreational activities, to include but not be limited to: A go-kart race track 2428,000 sf in size/length; bounce toys; ~~a roller skating rink~~; bowling alley; batting cages; and locker room facilities for the aquatic center. Such expansion shall be constructed substantially in accordance with the zoning, subdivision, development, growth management, transportation, environmental, open space, and other land use plans, policies, processes, ordinances, and regulations in existence and effective on the date of final approval of this Agreement, and applying the terms and conditions of this Agreement.

iii. *Development Infrastructure/On-site Improvements.* The Developer shall construct and develop, in accordance with all applicable city standards, all on-site improvements, including but not limited to, storm water detention facilities, drainage facilities, sidewalks, curb and gutter, roads both ingress and egress as required to access the Syracuse Family Fun Center, landscaping, trails, water systems, sanitary sewer, street lighting, fencing and/or walls, flood control and other improvements required by Syracuse as part of the Site Plan and subdivision approval process. All required onsite improvements shall be completed prior to the date the City issues an occupancy permit (the "Operational Date").

B. *Increase Assessed Value.* The Developer agrees to construct expansions of not less than six million dollars (\$6,000,000) of incremental assessed value related to the Syracuse Family Fun Center on or before May 31, 2013.

C. *Payment of Fees.* The Developer shall, on or before \_\_\_\_\_, pay all required building permit fees, site plan review fees, impact fees, development fees, and other fees required by Syracuse or other governmental agencies and

organizations. In the event the fees are not paid prior to settlement of the Property Tax Rebate (as defined herein), the Agency shall be able to deduct the payment of said fees from the Property Tax Rebate.

D. Payment of Ad Valorem Taxes and Supplemental Payments.

The Developer shall pay all real and personal property taxes (the “ad valorem taxes”) for the Syracuse Family Fun Center Property-site based on the taxable value of the Syracuse Family Fun Center Property-site (the “Assessed Taxable Value”) for the 2013 year time period. Subject to the Developer’s right to protest or appeal as provided below, for each tax increment year, all ad valorem taxes and assessments levied or imposed on the Syracuse Family Fun Center, any of the improvements, and any personal property on site shall be paid annually by the Developer or current owner on or before the due date which is currently set by law as November 30th. The Developer shall have the right to protest or appeal the amount of Assessed Taxable Value and taxes levied against the Syracuse Family Fun Center Property by the County Assessor, State Tax Commission or any lawful entity authorized by law to determine the ad valorem taxes against the Syracuse Family Fun Center Property-site, the improvements, personal property on the Syracuse Family Fun Center Property-site, or any portion thereof in the same manner as any other taxpayer as provided by law. The Developer shall, however, notify the Agency in writing within ten (10) calendar days of the Developer’s or then current property owner’s filing of any protest or appeal of such assessment determination or taxes and provide a copy to the Agency of any protest or appeal of such assessment and information submitted as part of the protest or appeal. In addition, the Developer shall give to the Agency written notice at least fifteen (15) calendar days prior to the time and date of such protest or appeal is to be heard. The Agency shall have the right, without objection by the Developer, to appear at the time and date of such protest or appeal and to present oral or written information or evidence in support of, or objection to the amount of assessment or taxes which should or should not be assessed against the real or personal property of the Syracuse

Family Fun Center Property site.

E. Developer hereby agrees to fully reasonably cooperate with Syracuse Parks and Recreation Department, Syracuse High School, and the Davis County School District to seek out and provide opportunities to residents and students for opportunities programs uniquely available to communities with swimming pools.

ARTICLE II

AGENCY OBLIGATIONS AND UNDERTAKINGS

Section 2.1 Agency Rebate to Developer. The Agency has created the Project Area for improvements related to the Syracuse Town Center. In consideration of the Developer’s performance of its obligations under this Agreement, and subject to the conditions, terms and limitations set forth in this Agreement, including those set forth in Article I, the Agency agrees to rebate to the Developer no more than two million one hundred thirty thousand dollars (\$2,130,000) of the ad valorem taxes received by the Agency paid on the real property within the Tax Increment Collection Area (as defined in the Redevelopment Plan) (the “Property Tax Rebate”), to be distributed as indicated in the table below:

| Fiscal Year<br>July 1 – Jun<br>30 | Projected taxes<br>received by<br>Agency | % of tax<br>increment<br>received by<br>Agency | Rebate<br>amount to<br>Developer |
|-----------------------------------|------------------------------------------|------------------------------------------------|----------------------------------|
| FY 2013                           | \$358,883.57                             | 100%                                           | \$300,000.00                     |
| FY 2014                           | \$430,117.39                             | 100%                                           | \$168,000.00                     |
| FY 2015                           | \$408,668.52                             | 100%                                           | \$168,000.00                     |
| FY 2016                           | \$388,235.10                             | 100%                                           | \$168,000.00                     |
| FY 2017                           | \$368,823.34                             | 100%                                           | \$168,000.00                     |
| FY 2018                           | \$280,305.74                             | 80%                                            | \$168,000.00                     |
| FY 2019                           | \$266,290.45                             | 80%                                            | \$96,000.00                      |
| FY 2020                           | \$252,975.93                             | 80%                                            | \$96,000.00                      |
| FY 2021                           | \$225,306.69                             | 75%                                            | \$90,000.00                      |
| FY 2022                           | \$214,041.35                             | 75%                                            | \$90,000.00                      |
| FY 2023                           | \$189,783.33                             | 70%                                            | \$84,000.00                      |

|         |                |     |                |
|---------|----------------|-----|----------------|
| FY 2024 | \$180,294.17   | 70% | \$84,000.00    |
| FY 2025 | \$146,810.96   | 60% | \$72,000.00    |
| FY 2026 | \$139,470.42   | 60% | \$72,000.00    |
| FY 2027 | \$110,414.08   | 50% | \$60,000.00    |
| FY 2028 | \$104,893.38   | 50% | \$60,000.00    |
| FY 2029 | \$99,648.71    | 50% | \$60,000.00    |
| FY 2030 | \$75,733.02    | 40% | \$48,000.00    |
| FY 2031 | \$71,946.37    | 40% | \$48,000.00    |
| FY 2032 | \$63,222.87    | 37% | \$30,000.00    |
| TOTAL   | \$4,375,875.39 | N/A | \$2,130,000.00 |

A. Projected taxes received is an estimate. The projected taxes received is an estimate based on several assumptions, including but not limited to the following: Davis County will assess an increased value to the Syracuse Family Fun Center site of at least six million dollars (\$6,000,000.00) the tax rates will stay the same over the next twenty years; and property values will depreciate at a rate of 5 percent per year. Several variables will affect the tax amount received by the agency and in no case shall the Agency provide a rebate to Developer greater than the amount the Agency receives for the project area in any given fiscal year.

B. Rebate to Developer. In no case shall the rebate payments to Developer exceed the annual or total Syracuse Family Fun Center portions identified above, a maximum total sum of two million one hundred thirty thousand dollars (\$2,130,000), regardless of the amount of taxes received by the Agency. In the event the increased assessment of the Syracuse Family Fun Center is less than six million dollars between tax years 2012 and 2014, the rebated funds to Developer shall be decreased. In the event the Agency receives less than the projected taxes for the project area as identified herein, the rebated funds to Developer shall be decreased. The decreased rebate amount shall be determined by the following equations.

a. In case of an assessed increased value of less than six million dollars, the proportion of the identified rebate amount shall be determined by dividing the product of three hundred fifty five thousandths and the increase in assessed value between tax years 2012 and 2014 by two million one hundred thirty

thousand, or  $(\text{increase assessed value} \times .355) / 2,130,000 =$   
proportion of identified rebate which Developer shall receive.

b. In case of the Agency receiving less than the projected taxes for the project area in any given year, the proportion of the identified rebate amount shall be determined by dividing the actual received taxes for the project area by the projected received taxes for the project area, or  $\text{actual taxes received} / \text{projected taxes received} =$  proportion of identified rebate which Developer shall receive.

C. Public Financing. The Agency, as an inducement to the Developer to expand the Syracuse Family Fun Center in accordance with this Agreement, shall provide the Property Tax Rebate as described above. The Agency has determined that without public participation, land acquisition and public infrastructure costs create a significant barrier to attracting private capital and investment. Beginning in fiscal year 2014, the dollar amount rebated to Developer by the agency will be exclusively dependent upon the available tax increment provided to the Agency by the Project Area. At the time that the Developer has been rebated a total value of two million one hundred thirty thousand dollars (\$2,130,000), all further rebates to Developer shall cease under this agreement.

D. Payments of Rebate. The total costs related to the Syracuse Family Fun Center are estimated at \_\_\_\_\_ dollars (\$\_\_\_\_\_). The Developer shall provide verification that \_\_\_\_\_ dollars (\$\_\_\_\_\_ ) of private financing has been secured, which shall be made available, from time to time, upon fulfillment of certain customary construction funding conditions. Upon receiving evidence of private financing, the Agency shall provide the rebate for Fiscal Year 2013. For each subsequent fiscal year, the Agency shall provide the rebate on or before April 1.

E. Issuance of Permits/Approval of Site Plan. The Agency will cooperate with the Developer, as requested in obtaining necessary approval of the Site Plan, zoning approval, and the issuance of building permits, and other planning requirements necessary for the Developer to construct the improvements outlined in this Agreement. The Agency reserves the right to review and approve the conceptual and final plan

and drawings for the Syracuse Family Fun Center. The Agency agrees any approval required by the Agency shall not be unreasonably withheld, conditioned or delayed.

F. Sole Source of Agency's Funding. The Developer understands and agrees that the only source of monies available to the Agency to pay its obligations hereunder are tax increment monies actually received by the Agency from the Town Center Project Area based upon the value of the improvements to be constructed by the Developer. Only available tax increment monies from the Project Area, less any negative tax increment from the Project Area deducted by the County Assessor's office, will be available to the Agency to meet said obligations. In the event the Agency does not have funds to make the rebate payment through no fault of the Developer, the Agency will make up the deficiency in later years, until the deficiency has been paid in full.

### ARTICLE III: CONSTRUCTION REQUIREMENTS

Section 3.1 Issuance of Permits. The Developer shall have the sole responsibility of obtaining all necessary permits and approvals to construct the improvements and shall make application for such permits and approvals directly to Syracuse and other appropriate agencies and departments.

Section 3.2 Times for Construction. The Developer agrees that it shall promptly begin and diligently prosecute to completion the expansion of the Syracuse Family Fun Center and that such construction shall be completed no later than May 31, 2013 unless such date is extended by the Agency, or the Developer is unable to timely undertake or complete the Improvements because of any of the reasons set forth in the Agreement herein. The Developer understands and agrees that time is of the essence of this Agreement. Developer acknowledges and agrees that unless the Project is timely constructed and completed and becomes part of Davis County's final assessment tax roll, the available tax increment necessary to pay the Agency obligations will not materialize, and the Agency would be unable to receive and pay its obligations.

Section 3.3 Access to Site. The completion of the Project and the work of the Developer shall be subject to inspection by representatives of the Agency. The Developer shall permit access to the Site by the Agency for purposes of inspection, and, to the extent necessary, to carry out the

purposes of this and other sections or provisions of this Agreement. Inspections shall be made during reasonable business hours upon three business days notice and shall be made in accordance with standard project safety guidelines.

## ARTICLE IV: REMEDIES

Section 4.1 Default by Developer; No Construction. If the Developer defaults or breaches any of its obligations contained in this Agreement and does not timely cure such default or breach as provided in this Agreement after the expiration of all applicable notice and cure periods, then the Agency may terminate this Agreement. The Agency may also seek repayment of any paid portion of the tax increment identified herein by all means available.

Section 4.2 General Remedies; Agency and Developer. Subject to the other provisions of this Article V, in the event of any default or breach of this Agreement or any of its terms, covenants or conditions by any Party hereto, such Party shall, upon written notice from the other Party(ies), proceed immediately to cure or remedy such default or breach, and in any event, do so within thirty (30) calendar days after receipt of such notice or if such default or failure is of a type that cannot reasonably be cured within such thirty (30) day period, within sixty (60) days provided that such cure is commenced within a thirty (30) day period and diligently pursue to completion, unless a longer period of time is agreed to by the Parties in writing. In case such action is not taken, or diligently pursued, or the default or breach shall not be cured or remedied within the time periods provided above, the aggrieved Party may institute such proceedings as may be necessary or desirable, at its option, to cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the Party in default which is not cured within the time limits contained in this Agreement, the non-defaulting Party may, at its option, take such action as allowed by law, in equity and/or provided for in this Agreement. Any delay by a Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article shall not operate as a waiver of such rights.

Section 4.3 Extensions by Agency. The Agency may in writing extend the time for the Developer's performance of any term, covenant or condition of this Agreement or permit the curing of any default upon such terms and conditions as may be mutually agreeable to the parties provided, however, that any such extension or permissive curing of any particular default shall not operate to release any of the Developer's obligations nor constitute a waiver of the Agency's rights with respect to any other term,

covenant or condition of this Agreement or any other default in, or breach of, this Agreement.

Section 4.4 Remedies Cumulative/Non-Waiver. The rights and remedies of the Parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise by any party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other Party, except as otherwise provided in ~~Section 4.1~~Section 5.1. No waiver made by any Party with respect to the performance, or manner or time thereof, or any obligation of the other Party or any condition to its own obligation under this Agreement shall be considered a waiver of any rights of the Party making the waiver with respect to the particular obligation of the other Party or condition to its own obligation beyond those expressly waived and to the extent thereof, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of the other Party.

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#### ARTICLE V: MISCELLANEOUS PROVISIONS

Section 4.5 Government Records Access and Management Act. This Agreement and all documents referenced in this Agreement or made a part of hereof, including without limitation, all documents, evaluations or assessments provided by the Developer and/or relied upon by the Agency in entering into or performing this Agreement, shall be subject to the provisions of the Utah Government Records Access and Management Act (“GRAMA”).

#### Section 4.6 Party Representatives.

(a) The Agency hereby appoints \_\_\_\_\_ as the Agency representative to assist in the administrative management of this Agreement and to coordinate performance of obligations by the Developer and the Agency under this Agreement.

(b) The Developer hereby appoints \_\_\_\_\_ to act as its representative in connection with its performance of this Agreement unless and until another representative is designated by written notice to the Agency. Said designated representative shall

have the responsibility of working with the Agency to coordinate the performance of the Developer and obligations under this Agreement.

Section 4.7 Standard of Performance/Professionalism. The Developer acknowledges the standard of performance and professionalism required in the performance of its obligations under this Agreement. The Developer agrees to perform its obligations under this Agreement with the level of respect and deference to the community and its financial contribution. The Developer further agrees that it will not accept any fee or financial remuneration from any person or entity other than the Agency for its performance under this Agreement.

Section 4.8 Governmental Immunity. The Developer acknowledges that the Agency is a body Corporate and politic of the State of Utah, subject to the Utah Governmental Immunity Act, Utah Code Ann. Sections 63-30d-101, et. seq. (the “Act”). The Developer further acknowledges and agrees that nothing contained in this Agreement shall be construed in any way, to modify (whether to increase or decrease), the limits of liability set forth in that Act or the basis for liability as established in the Act.

Section 4.9 Indemnity. The Developer agrees to indemnify, hold harmless and defend the Agency, its officers, agents and employees from and against any and all losses, damages, injuries, liabilities, and claims, including claims for personal injury, death, or damage to personal property or profits and liens of workmen and material men (suppliers), however allegedly caused, resulting directly or indirectly from, or arising out of, the construction, development, operation or use of the Subject Property, breach of this Agreement on the part of the Developer, or the negligent acts or omissions by the Developer or their agents, representatives, officers, employees or subcontractors in the performance of this Agreement; provided, there is excluded from this Paragraph, and the Developer shall not be obligated to indemnify, hold harmless or defend the Agency against any losses, damages, injuries, liabilities, and claims arising from the ~~gross~~ negligence or willful misconduct of the Agency, or its officers, agents and employees.

Section 4.10 No Agency. No agent, employee or servant of the Developer or the Agency is or shall be deemed to be an employee, agent or servant of the other Party. None of the benefits provided by any Party or by the Developer to its employees, including but not limited to worker’s compensation insurance, health insurance and unemployment insurance, are

available to the employees, agents, contractors or servants of the other Party or the Developer. The Parties shall each be solely and entirely responsible for their respective acts and for the acts of their respective agents, employees, contractors and servants throughout the term of this Agreement. The Parties shall each make all commercially reasonable efforts to inform all persons and entities with whom they are involved in connection with this Agreement to be aware that the Developer is an independent contractor.

Section 4.11 Ethical Standards. The Developer represents that they have not: (a) provided an illegal gift or payoff to any officer or employee of the ~~the~~ Agency, or former officer or employee of the Agency, or to any relative or business entity of a officer or employee of the Agency, or relative or business entity of a former officer or employee of the Agency; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in State statute; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any officer or employee of the Agency or former officer or employee of the Agency to breach any of the ethical standards set forth in State statute or the City ordinances.

Section 4.12 No Officer or Employee Interest. It is understood and agreed that no officer or employee of the Agency has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer, manager, employee or member of the Developer or any member of any of such persons' families shall serve on any City board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises the Developer's operations, or authorizes funding or payments to the Developer. If they currently hold such positions, they will disclose their affiliation with the developer, and will abstain from making any input, recommendation, or decision regarding the Developer.

Section 4.13 Public Funds and Public Monies.

(a) For purposes hereof, "Public Funds" and "Public Monies" mean monies, funds, and accounts, regardless of the source from which they are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments,

divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body. The terms also include monies, funds or accounts that have been transferred by any of the aforementioned public entities to a private contract provider for public programs or services. The Developer understands, acknowledges and agrees that said funds shall maintain the nature of Public Funds while in the Developer's possession.

(b) Notwithstanding any term or provision of this Agreement to the contrary, the Developer, as a potential recipient of Public Funds and Public Monies pursuant to this Agreement and the other agreements related hereto, expressly understands that it and its officers, managers, members and employees are obligated to receive, keep safe, transfer, disburse and use these Public Funds and Public Monies solely as authorized by law and this Agreement. The Developer understands that its officers, managers, members and employees may be criminally liable under Utah Code Ann. § 76-8-402, for misuse of Public Funds or Public Monies. The Developer expressly understands that the Agency shall monitor any expenditure by the Developer of Public Funds contemplated by this Agreement and shall impose and enforce any and all such requirements in connection therewith as may be required by applicable law. The Developer further expressly understands that the Agency may withhold Public Funds or require repayment of Public Funds from the Developer for contract noncompliance, failure to comply with directives regarding the use of Public Funds, or for misuse of Public Funds or Public Monies.

Section 4.14 Compliance with Laws. Each Party agrees to comply with all federal, state and local laws, rules and regulations in the performance of its duties and obligations under this Agreement. Any violation by any Party of applicable law shall constitute an event of default under this Agreement and such defaulting Party shall be liable for and indemnify, hold harmless and defend the other Party from and against any and all liability arising out of or connected with the violation. The Developer is solely responsible, at its expense and cost, to acquire, maintain and renew during the term of this Agreement, all necessary permits and licenses required for its lawful performance of its duties and obligations under this Agreement. For purposes of this Agreement, the term "applicable

law” or any similar term shall not include an ordinance, resolution, regulation, rule or procedure adopted or enacted by the Agency after the satisfaction of the conditions set forth in Article III, above, which would prevent the Agency’s performance of its obligations under this Agreement.

Section 4.15 Non-Discrimination. The Developer, and all persons acting on its behalf, agree that they shall comply with all federal, state and City laws, rules and regulations governing discrimination and they shall not discriminate in the engagement or employment of any professional person or any other person qualified to perform the services required under this Agreement.

Section 4.16 Labor Regulations and Requirements. The Developer agrees to comply with all applicable provisions of Title 34 of the Utah Code, and with all applicable federal, state and local labor laws. The Developer shall indemnify and hold the Agency harmless from and against any and all claims for liability arising out of any violation of this Paragraph or the laws referenced by the Developer, its agents or employees.

Section 4.17 Assignment. The Developer shall not assign or transfer its duties of performance nor its rights to compensation under this Agreement, without the prior written approval of the Agency, which shall not be unreasonably withheld, conditioned or delayed. In addition, if the assignment or transfer of the rights under this Agreement is to a person or entity which acquires substantially all of the assets of the Developer, the burden of proof shall be on the Agency to establish that its disapproval is reasonable. If the Agency withholds such approval, it shall specify in reasonable written detail the basis for the disapproval. The Agency reserves the right to assert any claim or defense it may have against the Developer and against any assignee or successor-in-interest of the Developer. Notwithstanding the foregoing, the surviving entity in any merger, consolidation or reorganization in which the Developer is a participant shall constitute a permitted assignment (“Permitted Assignment”) and shall not require prior approval of the Agency. The Developer shall provide written notice of a Permitted Assignment promptly after the same occurs.

Section 4.18 Notices. All notices to be given under this Agreement shall be made in writing and shall be deemed given upon personal or hand delivery, by confirmed facsimile transmission, by email, upon the next business day immediately following the day sent if sent by overnight express carrier, or upon the third business day following the day sent if sent postage

prepaid by certified or registered mail, return receipt requested, to the Parties at the following addresses (or to such other address or addresses as shall be specified in any notice given):

AGENCY:                      Redevelopment Agency of Syracuse City  
                                         1979 West 1900 South  
                                         Syracuse, Utah 84075  
                                         Attention: \_\_\_\_\_  
                                         Fax: (801) \_\_\_\_\_

DEVELOPER:                      Syracuse Family Fun Center, LLC.  
                                         \_\_\_\_\_  
                                         \_\_\_\_\_  
                                         Attention: \_\_\_\_\_  
                                         Fax:

with a simultaneous copy to: \_\_\_\_\_

[Attorney for Developer]

Section 4.19 Time. The Parties agree that time is of the essence in the performance of this Agreement and each and every term and provision hereof.

Section 4.20 Entire Agreement. The Agency and the Developer acknowledge and agree that this Agreement, and each of the other agreements referred to in this Agreement, constitutes the entire integrated understanding between the Agency and the Developer, and that there are no

other terms, conditions, representations or understanding, whether written or oral, concerning the rights and obligations of the Parties to this Agreement, except as set forth in this Agreement. This Agreement may not be enlarged, modified or altered, except in writing, signed by the parties.

Section 4.21 Governing Law. It is understood and agreed by the Parties hereto that this Agreement shall be governed by the laws of the State of Utah and the Ordinances of the City, both as to interpretation and performance. All actions, including but not limited to court proceedings, administrative proceedings, arbitration and mediation proceedings, shall be commenced, maintained, adjudicated and resolved within the jurisdiction of the State of Utah.

~~Section 4.22 Obligations Joint/Several. The Developer shall be and remain jointly and severally liable for the performance of the obligations of the Developer under this Agreement.~~

~~Section 4.23~~Section 4.22 Estoppel Certificate. Within ten (10) business days after written request of Developer or its lender Agency shall provide an estoppel certificate to Developer, a prospective purchaser or an existing prospective lender certifying that this Agreement is in full force and effect, that no defaults exist (or specifying any defaults which do exist) and providing such other factual information pertaining to this Agreement as Developer, such lender or a prospective purchaser of part or all of the Project may reasonably request. The Developer shall pay any actual, out-of-pocket reasonable attorney's fees incurred by the Agency in connection with the foregoing.

~~Section 4.24~~Section 4.23 Miscellaneous. In addition to the foregoing, the parties to this Agreement agree as follows:

(a) No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed, in writing, by the party making the waiver.

(b) The recitals and the exhibits attached to this Agreement shall be and hereby are incorporated in and an integral part of this Agreement by this reference.

(c) This Agreement shall be binding upon, and shall inure to the benefit of the parties to it and their respective successors and assigns.

(d) In the event that any provision of this Agreement shall be held invalid and unenforceable, such provision shall be severable from, and such invalidity and unenforceability shall not be construed to have any effect on, the remaining provisions of this Agreement.

(e) The Parties agree to use reasonable diligence to fulfill their respective obligations under this Agreement at all times that this Agreement is in effect.

(f) Nothing in this Agreement is or shall be intended to provide or convey any actionable right or benefit to or upon any person or persons other than the Developer and the Agency. Except as otherwise specifically provided in this Agreement, each party shall bear its own costs and expenses (including legal and consulting fees) in connection with this Agreement and the negotiation of all agreements, including without limitation the Agreement, and preparation of documents contemplated by this Agreement.

(g) All obligations of the Parties set forth in this Agreement which are contemplated to be performed or satisfied after the Closing in accordance herewith shall survive the Closing and the delivery of any instrument of conveyance made in connection therewith.

(h) Except as otherwise provided in this Agreement, whenever a period of time is in this Agreement prescribed for action to be taken by a Party, said Party shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to a Force Majeure Event; for purposes of this Agreement, "Force Majeure Event" means any act or event, whether foreseen or unforeseen, that meets all three of the following tests:

(i) The act or event prevents a Party, in whole or in part, from:

(A) performing its obligations under this Agreement or another specified agreement; or

(B) satisfying any conditions to the obligations under this Agreement.

(ii) The act or event is beyond the reasonable control of and not primarily the fault of a Party.

(iii) A Party has been unable to avoid or overcome the act or event by the exercise of commercially reasonable due diligence.

(iv) In furtherance of such definition, and not in limitation of such definition, each of the following acts and events is deemed to be a Force Majeure Event: war, flood, lightning, drought, earthquake, fire, volcanic eruption, landslide, hurricane, cyclone, typhoon, tornado, explosion, civil disturbance, act of God or the public enemy, terrorist acts, military action, epidemic, famine or plague, shipwreck, action of a court or public authority, or strike, work-to-rule action, go-slow or similar labor difficulty, and such failure, standing alone, prevents Developer from fulfilling one or more of its obligations under this Agreement. The foregoing list of Force Majeure Events is not exhaustive, and the principle of ejusdem generis is not to be applied in determining whether a particular act or event qualifies as a Force Majeure Event. Notwithstanding the foregoing, a Force Majeure Event shall not mean or include economic hardship, changes in market conditions, insufficiency of revenues or funds, or the financial condition of a Party, or the sale, transfer, liquidation, insolvency, failure, secession, disbandment, dissolution or termination of any person owning any interest in a Party.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year recited above.

DEVELOPER:

SYRACUSE FAMILY FUN CENTER  
LLC, a Utah limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF UTAH        )

) ss.

COUNTY OF DAVIS    )

On \_\_\_\_\_, 2012, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of SYRACUSE FAMILY FUN CENTER LLC, and that said instrument was signed on behalf of said limited liability company.

\_\_\_\_\_

NOTARY PUBLIC

AGENCY:

REDEVELOPMENT AGENCY OF  
SYRACUSE CITY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_

STATE OF UTAH        )

) ss.

COUNTY OF DAVIS    )

On \_\_\_\_\_, 2012, personally appeared before me \_\_\_\_\_,  
who being by me duly sworn did say that he is the \_\_\_\_\_ of the  
REDEVELOPMENT AGENCY OF SYRACUSE CITY, and that said instrument  
was signed on behalf of the Redevelopment Agency of Syracuse City, by authority  
of law.

\_\_\_\_\_

NOTARY PUBLIC



# COUNCIL AGENDA

August 28, 2012

Agenda Item #C                      Discussion regarding the Syracuse Business Guide. (10 min.)

## ***Factual Summation***

- Please see the following memo from the Community and Economic Development Department. Any questions regarding this item can be directed at City Manager Bob Rice or Planner Noah Steele.

## ***Background***

- A Syracuse City Business Directory has been developed by the Community and Economic Development Department. The directory contains information about every licensed business within the city's boundaries. It features the business name, type of business, and phone number for each business. The Community and Economic Development Department would like to print and mail a copy of the directory to each home and business in the city. We feel that this would boost our local economy and make residents aware of the services that are provided here within the city's boundaries, thus continuing the department's efforts to encourage local shopping.
- We would like to print and distribute 7,000 copies of the directory. An estimate was acquired from Accucolor Digital Printing on 8/21/2012. They quoted that they could print each directory for .70 cents each. The print would include a full color glossy cover and a staple bind. The total printing cost estimate is \$4,900.
- We plan on enlisting local Boy Scout troops to help distribute the directories.
- After the initial mass mailing, business directories will be available for sale at city hall for \$1 each to recover printing and staff time costs.

## ***Recommendation***

The Community and Economic Development Department hereby recommends that the City Council approve city resources and staff time for directory printing and delivery.



# COUNCIL AGENDA

August 28, 2012

Agenda Item #D Discussion regarding City Council Electronic Meetings Policy. (10 min.)

***Factual Summation***

- This item has been placed on the agenda as requested by Councilmembers Shingleton and Lisonbee. This discussion will be led by the Council and staff will be happy to answer questions if necessary.
- Please see the following email request for any additional information.

**From:** Karianne Lisonbee <[klisonbee@syracuseut.com](mailto:klisonbee@syracuseut.com)>

**Date:** August 20, 2012 4:33:01 PM MDT

**To:** Robert Rice <[rrice@syracuseut.com](mailto:rrice@syracuseut.com)>

**Cc:** Cassie Brown <[cassieb@syracuseut.com](mailto:cassieb@syracuseut.com)>, Jamie Nagle <[jnagle@syracuseut.com](mailto:jnagle@syracuseut.com)>, Larry Shingleton <[lshingleton@syracuseut.com](mailto:lshingleton@syracuseut.com)>

**Subject:** Agenda item

Hello,

Councilman Shingleton and I place an item on the August 28th agenda concerning a resolution allowing council members to participate and vote in 2 meetings per year remotely.

Thank you,  
Karianne



## SYRACUSE CITY

**Syracuse City Special RDA Agenda**  
**August 28, 2012 – Immediately following the Council Work**  
**Session meeting, which begins at 6:00 p.m.**  
City Council Chambers  
Municipal Building, 1979 W. 1900 S.

1. Meeting called to order
2. Consideration of Joint Development Agreement for Syracuse Family Fun Center expansion
3. Adjourn

~~~~~

In compliance with the Americans Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the City Offices at 801-825-1477 at least 48 hours in advance of the meeting.

### **CERTIFICATE OF POSTING**

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted within the Syracuse City limits on this 24<sup>th</sup> day of August, 2012 at Syracuse City Hall on the City Hall Notice Board and at <http://www.syracuseut.com/>. A copy was also provided to the Standard-Examiner on August 24, 2012.

CASSIE Z. BROWN, CMC  
SYRACUSE CITY RECORDER

\*\*Members of the public who desire to offer a thought or invocation at Syracuse City Council Meetings shall contact the City Administrator at least two (2) weeks in advance of the meeting. Request will be honored on a first come, first serve basis. In the event there are no requests to offer a comment or prayer, the Mayor may seek opening comment or prayer from those members of the public attending the meeting or from City Staff or City Council.



# COUNCIL AGENDA

August 28, 2012

Agenda Item #2                      Consideration of Joint Development Agreement  
for Syracuse Family Fun Center expansion.

## *Factual Summation*

- Any question regarding this agenda item may be directed at Finance Director Stephen Marshall or City Attorney William Carlson.
- Ed Gertge, owner of Syracuse City Fun Center, is considering expanding the Syracuse City Fun Center site. As part of this expansion, he is looking at adding a pool, go-carts, and other attractions. He is requesting that the Redevelopment Agency (RDA) help with this expansion. See the power point presentation for a more detailed analysis.
- If the council approves moving forward with the RDA funds to be appropriated to the Fun Center expansion, the council will want to finalize a joint development agreement with the Fun Center outlining in detail the proposed repayments and length of time.
- Please see the attached proposed Joint Development Agreement.

## *Staff Recommendation*

- *If approval is made for the city to allocate monies from the RDA to help the fun center expansion, staff recommends that those terms be finalized in a joint developer's agreement and approved in this meeting.*

AGREEMENT FOR THE EXPANSION OF THE SYRACUSE FAMILY  
FUN CENTER

This Agreement for the Development of the Syracuse Family Fun Center Area-site (this “Agreement”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2012 (the “Effective Date”), by and among SYRACUSE FAMILY FUN CENTER, a limited liability company (the “Developer”), and the REDEVELOPMENT AGENCY OF SYRACUSE CITY, a body corporate and politic of the State of Utah (the “Agency”).

The Developer and the Agency are sometimes referred to individually in this Agreement as a “Party” and collectively as the “Parties.”

RECITALS

- A. In furtherance of the objectives of the Community Development and Renewal Agencies Act, Utah Code Ann. § 17C-3-101, et. seq. (the “Act”), the Agency has undertaken the creation of a redevelopment project area for the development of a certain geographic area known as the “Town Center Project Area” (the “Project Area”), located in Syracuse, Utah; and
- B. The Agency has approved and the City Council of the City has adopted a redevelopment plan which is attached hereto as Exhibit A (the “Redevelopment Plan”) providing for the development of real property located in the Project Area and the future use of such land; and
- C. The Developer desires to expand the Syracuse Family Fun Center (“Expansion”) by adding 72,00080,000 square feet (“sf”) of recreational space as follows:
  - 1. 24,000 sf aquatic center; and
  - 2. 48,00056,000 sf of additional activities, including:
    - a. 2428,000 sf of Go-Karts and race track (adult and kiddie-kart size); and
    - b. 2428,000 sf with a combination of activities such as:
      - i. Bounce toys;
      - ii. Roller skating;
      - iii. ii. Bowling;

- ~~iv.iii.~~ Batting cages; and
- ~~v.iv.~~ Locker rooms; and

- D. The Agency believes that the expansion of the Syracuse Family Fun Center is in the vital and best interests of the Agency, and in the best interests of the health, safety, and welfare of community residents, and in accord with the public purposes and provisions of the applicable laws of the State of Utah (the “State”) and requirements under which the Project Area and its development is undertaken and is being assisted by the Agency; and
- E. On the basis of the foregoing and the undertakings of the Developer pursuant to this Agreement, and to enable the Agency to achieve the objectives of the Redevelopment Plan, the Agency is willing, in the manner set forth herein, to assist the Developer in the expansion of the Syracuse Family Fun Center for the purpose of accomplishing the provisions of the Redevelopment Plan, and the provisions of this Agreement;

NOW THEREFORE, in consideration of the covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

#### ARTICLE I: DEVELOPER’S OBLIGATIONS

Section 1.1 The Developer hereby agrees to the following:

- A. Development of Facilities. The Developer shall construct, and maintain the following facilities for a minimum useful life of twenty [5020] years on at the Family Fun Center Property Syracuse Family Fun Center:
  - i. *Aquatic Center.* A 24,000 square foot Aquatic Center will be constructed substantially in accordance with the zoning, subdivision, development, growth management, transportation, environmental, open space, and other land use plans, policies, processes, ordinances, and regulations in existence and effective on the date of final approval of this Agreement, and applying the terms and conditions of

this Agreement.

ii. *Additional Facilities.* An additional 4856,000 square feet of space for additional recreational activities, to include but not be limited to: A go-kart race track 2428,000 sf in size/length; bounce toys; ~~a roller skating rink~~; bowling alley; batting cages; and locker room facilities for the aquatic center. Such expansion shall be constructed substantially in accordance with the zoning, subdivision, development, growth management, transportation, environmental, open space, and other land use plans, policies, processes, ordinances, and regulations in existence and effective on the date of final approval of this Agreement, and applying the terms and conditions of this Agreement.

iii. *Development Infrastructure/On-site Improvements.* The Developer shall construct and develop, in accordance with all applicable city standards, all on-site improvements, including but not limited to, storm water detention facilities, drainage facilities, sidewalks, curb and gutter, roads both ingress and egress as required to access the Syracuse Family Fun Center, landscaping, trails, water systems, sanitary sewer, street lighting, fencing and/or walls, flood control and other improvements required by Syracuse as part of the Site Plan and subdivision approval process. All required onsite improvements shall be completed prior to the date the City issues an occupancy permit (the "Operational Date").

B. *Increase Assessed Value.* The Developer agrees to construct expansions of not less than six million dollars (\$6,000,000) of incremental assessed value related to the Syracuse Family Fun Center on or before May 31, 2013.

C. *Payment of Fees.* The Developer shall, on or before \_\_\_\_\_, pay all required building permit fees, site plan review fees, impact fees, development fees, and other fees required by Syracuse or other governmental agencies and

organizations. In the event the fees are not paid prior to settlement of the Property Tax Rebate (as defined herein), the Agency shall be able to deduct the payment of said fees from the Property Tax Rebate.

D. Payment of Ad Valorem Taxes and Supplemental Payments.

The Developer shall pay all real and personal property taxes (the “ad valorem taxes”) for the Syracuse Family Fun Center Property-site based on the taxable value of the Syracuse Family Fun Center Property-site (the “Assessed Taxable Value”) for the 2013 year time period. Subject to the Developer’s right to protest or appeal as provided below, for each tax increment year, all ad valorem taxes and assessments levied or imposed on the Syracuse Family Fun Center, any of the improvements, and any personal property on site shall be paid annually by the Developer or current owner on or before the due date which is currently set by law as November 30th. The Developer shall have the right to protest or appeal the amount of Assessed Taxable Value and taxes levied against the Syracuse Family Fun Center Property by the County Assessor, State Tax Commission or any lawful entity authorized by law to determine the ad valorem taxes against the Syracuse Family Fun Center Property-site, the improvements, personal property on the Syracuse Family Fun Center Property-site, or any portion thereof in the same manner as any other taxpayer as provided by law. The Developer shall, however, notify the Agency in writing within ten (10) calendar days of the Developer’s or then current property owner’s filing of any protest or appeal of such assessment determination or taxes and provide a copy to the Agency of any protest or appeal of such assessment and information submitted as part of the protest or appeal. In addition, the Developer shall give to the Agency written notice at least fifteen (15) calendar days prior to the time and date of such protest or appeal is to be heard. The Agency shall have the right, without objection by the Developer, to appear at the time and date of such protest or appeal and to present oral or written information or evidence in support of, or objection to the amount of assessment or taxes which should or should not be assessed against the real or personal property of the Syracuse

Family Fun Center Property site.

E. Developer hereby agrees to fully reasonably cooperate with Syracuse Parks and Recreation Department, Syracuse High School, and the Davis County School District to seek out and provide opportunities to residents and students for opportunities programs uniquely available to communities with swimming pools.

ARTICLE II

AGENCY OBLIGATIONS AND UNDERTAKINGS

Section 2.1 Agency Rebate to Developer. The Agency has created the Project Area for improvements related to the Syracuse Town Center. In consideration of the Developer’s performance of its obligations under this Agreement, and subject to the conditions, terms and limitations set forth in this Agreement, including those set forth in Article I, the Agency agrees to rebate to the Developer no more than two million one hundred thirty thousand dollars (\$2,130,000) of the ad valorem taxes received by the Agency paid on the real property within the Tax Increment Collection Area (as defined in the Redevelopment Plan) (the “Property Tax Rebate”), to be distributed as indicated in the table below:

Fiscal Year July 1 – Jun 30	Projected taxes received by Agency	% of tax increment received by Agency	Rebate amount to Developer
FY 2013	\$358,883.57	100%	\$300,000.00
FY 2014	\$430,117.39	100%	\$168,000.00
FY 2015	\$408,668.52	100%	\$168,000.00
FY 2016	\$388,235.10	100%	\$168,000.00
FY 2017	\$368,823.34	100%	\$168,000.00
FY 2018	\$280,305.74	80%	\$168,000.00
FY 2019	\$266,290.45	80%	\$96,000.00
FY 2020	\$252,975.93	80%	\$96,000.00
FY 2021	\$225,306.69	75%	\$90,000.00
FY 2022	\$214,041.35	75%	\$90,000.00
FY 2023	\$189,783.33	70%	\$84,000.00

FY 2024	\$180,294.17	70%	\$84,000.00
FY 2025	\$146,810.96	60%	\$72,000.00
FY 2026	\$139,470.42	60%	\$72,000.00
FY 2027	\$110,414.08	50%	\$60,000.00
FY 2028	\$104,893.38	50%	\$60,000.00
FY 2029	\$99,648.71	50%	\$60,000.00
FY 2030	\$75,733.02	40%	\$48,000.00
FY 2031	\$71,946.37	40%	\$48,000.00
FY 2032	\$63,222.87	37%	\$30,000.00
TOTAL	\$4,375,875.39	N/A	\$2,130,000.00

A. Projected taxes received is an estimate. The projected taxes received is an estimate based on several assumptions, including but not limited to the following: Davis County will assess an increased value to the Syracuse Family Fun Center site of at least six million dollars (\$6,000,000.00) the tax rates will stay the same over the next twenty years; and property values will depreciate at a rate of 5 percent per year. Several variables will affect the tax amount received by the agency and in no case shall the Agency provide a rebate to Developer greater than the amount the Agency receives for the project area in any given fiscal year.

B. Rebate to Developer. In no case shall the rebate payments to Developer exceed the annual or total Syracuse Family Fun Center portions identified above, a maximum total sum of two million one hundred thirty thousand dollars (\$2,130,000), regardless of the amount of taxes received by the Agency. In the event the increased assessment of the Syracuse Family Fun Center is less than six million dollars between tax years 2012 and 2014, the rebated funds to Developer shall be decreased. In the event the Agency receives less than the projected taxes for the project area as identified herein, the rebated funds to Developer shall be decreased. The decreased rebate amount shall be determined by the following equations.

a. In case of an assessed increased value of less than six million dollars, the proportion of the identified rebate amount shall be determined by dividing the product of three hundred fifty five thousandths and the increase in assessed value between tax years 2012 and 2014 by two million one hundred thirty

thousand, or (increase assessed value x .355)/2,130,000= proportion of identified rebate which Developer shall receive.

b. In case of the Agency receiving less than the projected taxes for the project area in any given year, the proportion of the identified rebate amount shall be determined by dividing the actual received taxes for the project area by the projected received taxes for the project area, or actual taxes received / projected taxes received = proportion of identified rebate which Developer shall receive.

C. Public Financing. The Agency, as an inducement to the Developer to expand the Syracuse Family Fun Center in accordance with this Agreement, shall provide the Property Tax Rebate as described above. The Agency has determined that without public participation, land acquisition and public infrastructure costs create a significant barrier to attracting private capital and investment. Beginning in fiscal year 2014, the dollar amount rebated to Developer by the agency will be exclusively dependent upon the available tax increment provided to the Agency by the Project Area. At the time that the Developer has been rebated a total value of two million one hundred thirty thousand dollars (\$2,130,000), all further rebates to Developer shall cease under this agreement.

D. Payments of Rebate. The total costs related to the Syracuse Family Fun Center are estimated at \_\_\_\_\_ dollars (\$\_\_\_\_\_). The Developer shall provide verification that \_\_\_\_\_ dollars (\$\_\_\_\_\_ ) of private financing has been secured, which shall be made available, from time to time, upon fulfillment of certain customary construction funding conditions. Upon receiving evidence of private financing, the Agency shall provide the rebate for Fiscal Year 2013. For each subsequent fiscal year, the Agency shall provide the rebate on or before April 1.

E. Issuance of Permits/Approval of Site Plan. The Agency will cooperate with the Developer, as requested in obtaining necessary approval of the Site Plan, zoning approval, and the issuance of building permits, and other planning requirements necessary for the Developer to construct the improvements outlined in this Agreement. The Agency reserves the right to review and approve the conceptual and final plan

and drawings for the Syracuse Family Fun Center. The Agency agrees any approval required by the Agency shall not be unreasonably withheld, conditioned or delayed.

F. Sole Source of Agency's Funding. The Developer understands and agrees that the only source of monies available to the Agency to pay its obligations hereunder are tax increment monies actually received by the Agency from the Town Center Project Area based upon the value of the improvements to be constructed by the Developer. Only available tax increment monies from the Project Area, less any negative tax increment from the Project Area deducted by the County Assessor's office, will be available to the Agency to meet said obligations. In the event the Agency does not have funds to make the rebate payment through no fault of the Developer, the Agency will make up the deficiency in later years, until the deficiency has been paid in full.

### ARTICLE III: CONSTRUCTION REQUIREMENTS

Section 3.1 Issuance of Permits. The Developer shall have the sole responsibility of obtaining all necessary permits and approvals to construct the improvements and shall make application for such permits and approvals directly to Syracuse and other appropriate agencies and departments.

Section 3.2 Times for Construction. The Developer agrees that it shall promptly begin and diligently prosecute to completion the expansion of the Syracuse Family Fun Center and that such construction shall be completed no later than May 31, 2013 unless such date is extended by the Agency, or the Developer is unable to timely undertake or complete the Improvements because of any of the reasons set forth in the Agreement herein. The Developer understands and agrees that time is of the essence of this Agreement. Developer acknowledges and agrees that unless the Project is timely constructed and completed and becomes part of Davis County's final assessment tax roll, the available tax increment necessary to pay the Agency obligations will not materialize, and the Agency would be unable to receive and pay its obligations.

Section 3.3 Access to Site. The completion of the Project and the work of the Developer shall be subject to inspection by representatives of the Agency. The Developer shall permit access to the Site by the Agency for purposes of inspection, and, to the extent necessary, to carry out the

purposes of this and other sections or provisions of this Agreement. Inspections shall be made during reasonable business hours upon three business days notice and shall be made in accordance with standard project safety guidelines.

## ARTICLE IV: REMEDIES

Section 4.1 Default by Developer; No Construction. If the Developer defaults or breaches any of its obligations contained in this Agreement and does not timely cure such default or breach as provided in this Agreement after the expiration of all applicable notice and cure periods, then the Agency may terminate this Agreement. The Agency may also seek repayment of any paid portion of the tax increment identified herein by all means available.

Section 4.2 General Remedies; Agency and Developer. Subject to the other provisions of this Article V, in the event of any default or breach of this Agreement or any of its terms, covenants or conditions by any Party hereto, such Party shall, upon written notice from the other Party(ies), proceed immediately to cure or remedy such default or breach, and in any event, do so within thirty (30) calendar days after receipt of such notice or if such default or failure is of a type that cannot reasonably be cured within such thirty (30) day period, within sixty (60) days provided that such cure is commenced within a thirty (30) day period and diligently pursue to completion, unless a longer period of time is agreed to by the Parties in writing. In case such action is not taken, or diligently pursued, or the default or breach shall not be cured or remedied within the time periods provided above, the aggrieved Party may institute such proceedings as may be necessary or desirable, at its option, to cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the Party in default which is not cured within the time limits contained in this Agreement, the non-defaulting Party may, at its option, take such action as allowed by law, in equity and/or provided for in this Agreement. Any delay by a Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article shall not operate as a waiver of such rights.

Section 4.3 Extensions by Agency. The Agency may in writing extend the time for the Developer's performance of any term, covenant or condition of this Agreement or permit the curing of any default upon such terms and conditions as may be mutually agreeable to the parties provided, however, that any such extension or permissive curing of any particular default shall not operate to release any of the Developer's obligations nor constitute a waiver of the Agency's rights with respect to any other term,

covenant or condition of this Agreement or any other default in, or breach of, this Agreement.

Section 4.4 Remedies Cumulative/Non-Waiver. The rights and remedies of the Parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative, and the exercise by any party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other Party, except as otherwise provided in ~~Section 4.1~~Section 5.1. No waiver made by any Party with respect to the performance, or manner or time thereof, or any obligation of the other Party or any condition to its own obligation under this Agreement shall be considered a waiver of any rights of the Party making the waiver with respect to the particular obligation of the other Party or condition to its own obligation beyond those expressly waived and to the extent thereof, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of the other Party.

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#### ARTICLE V: MISCELLANEOUS PROVISIONS

Section 4.5 Government Records Access and Management Act. This Agreement and all documents referenced in this Agreement or made a part of hereof, including without limitation, all documents, evaluations or assessments provided by the Developer and/or relied upon by the Agency in entering into or performing this Agreement, shall be subject to the provisions of the Utah Government Records Access and Management Act (“GRAMA”).

#### Section 4.6 Party Representatives.

(a) The Agency hereby appoints \_\_\_\_\_ as the Agency representative to assist in the administrative management of this Agreement and to coordinate performance of obligations by the Developer and the Agency under this Agreement.

(b) The Developer hereby appoints \_\_\_\_\_ to act as its representative in connection with its performance of this Agreement unless and until another representative is designated by written notice to the Agency. Said designated representative shall

have the responsibility of working with the Agency to coordinate the performance of the Developer and obligations under this Agreement.

Section 4.7 Standard of Performance/Professionalism. The Developer acknowledges the standard of performance and professionalism required in the performance of its obligations under this Agreement. The Developer agrees to perform its obligations under this Agreement with the level of respect and deference to the community and its financial contribution. The Developer further agrees that it will not accept any fee or financial remuneration from any person or entity other than the Agency for its performance under this Agreement.

Section 4.8 Governmental Immunity. The Developer acknowledges that the Agency is a body Corporate and politic of the State of Utah, subject to the Utah Governmental Immunity Act, Utah Code Ann. Sections 63-30d-101, et. seq. (the "Act"). The Developer further acknowledges and agrees that nothing contained in this Agreement shall be construed in any way, to modify (whether to increase or decrease), the limits of liability set forth in that Act or the basis for liability as established in the Act.

Section 4.9 Indemnity. The Developer agrees to indemnify, hold harmless and defend the Agency, its officers, agents and employees from and against any and all losses, damages, injuries, liabilities, and claims, including claims for personal injury, death, or damage to personal property or profits and liens of workmen and material men (suppliers), however allegedly caused, resulting directly or indirectly from, or arising out of, the construction, development, operation or use of the Subject Property, breach of this Agreement on the part of the Developer, or the negligent acts or omissions by the Developer or their agents, representatives, officers, employees or subcontractors in the performance of this Agreement; provided, there is excluded from this Paragraph, and the Developer shall not be obligated to indemnify, hold harmless or defend the Agency against any losses, damages, injuries, liabilities, and claims arising from the ~~gross~~ negligence or willful misconduct of the Agency, or its officers, agents and employees.

Section 4.10 No Agency. No agent, employee or servant of the Developer or the Agency is or shall be deemed to be an employee, agent or servant of the other Party. None of the benefits provided by any Party or by the Developer to its employees, including but not limited to worker's compensation insurance, health insurance and unemployment insurance, are

available to the employees, agents, contractors or servants of the other Party or the Developer. The Parties shall each be solely and entirely responsible for their respective acts and for the acts of their respective agents, employees, contractors and servants throughout the term of this Agreement. The Parties shall each make all commercially reasonable efforts to inform all persons and entities with whom they are involved in connection with this Agreement to be aware that the Developer is an independent contractor.

Section 4.11 Ethical Standards. The Developer represents that they have not: (a) provided an illegal gift or payoff to any officer or employee of the ~~the~~ Agency, or former officer or employee of the Agency, or to any relative or business entity of a officer or employee of the Agency, or relative or business entity of a former officer or employee of the Agency; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in State statute; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any officer or employee of the Agency or former officer or employee of the Agency to breach any of the ethical standards set forth in State statute or the City ordinances.

Section 4.12 No Officer or Employee Interest. It is understood and agreed that no officer or employee of the Agency has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer, manager, employee or member of the Developer or any member of any of such persons' families shall serve on any City board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises the Developer's operations, or authorizes funding or payments to the Developer. If they currently hold such positions, they will disclose their affiliation with the developer, and will abstain from making any input, recommendation, or decision regarding the Developer.

Section 4.13 Public Funds and Public Monies.

(a) For purposes hereof, "Public Funds" and "Public Monies" mean monies, funds, and accounts, regardless of the source from which they are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments,

divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body. The terms also include monies, funds or accounts that have been transferred by any of the aforementioned public entities to a private contract provider for public programs or services. The Developer understands, acknowledges and agrees that said funds shall maintain the nature of Public Funds while in the Developer's possession.

(b) Notwithstanding any term or provision of this Agreement to the contrary, the Developer, as a potential recipient of Public Funds and Public Monies pursuant to this Agreement and the other agreements related hereto, expressly understands that it and its officers, managers, members and employees are obligated to receive, keep safe, transfer, disburse and use these Public Funds and Public Monies solely as authorized by law and this Agreement. The Developer understands that its officers, managers, members and employees may be criminally liable under Utah Code Ann. § 76-8-402, for misuse of Public Funds or Public Monies. The Developer expressly understands that the Agency shall monitor any expenditure by the Developer of Public Funds contemplated by this Agreement and shall impose and enforce any and all such requirements in connection therewith as may be required by applicable law. The Developer further expressly understands that the Agency may withhold Public Funds or require repayment of Public Funds from the Developer for contract noncompliance, failure to comply with directives regarding the use of Public Funds, or for misuse of Public Funds or Public Monies.

Section 4.14 Compliance with Laws. Each Party agrees to comply with all federal, state and local laws, rules and regulations in the performance of its duties and obligations under this Agreement. Any violation by any Party of applicable law shall constitute an event of default under this Agreement and such defaulting Party shall be liable for and indemnify, hold harmless and defend the other Party from and against any and all liability arising out of or connected with the violation. The Developer is solely responsible, at its expense and cost, to acquire, maintain and renew during the term of this Agreement, all necessary permits and licenses required for its lawful performance of its duties and obligations under this Agreement. For purposes of this Agreement, the term "applicable

law” or any similar term shall not include an ordinance, resolution, regulation, rule or procedure adopted or enacted by the Agency after the satisfaction of the conditions set forth in Article III, above, which would prevent the Agency’s performance of its obligations under this Agreement.

Section 4.15 Non-Discrimination. The Developer, and all persons acting on its behalf, agree that they shall comply with all federal, state and City laws, rules and regulations governing discrimination and they shall not discriminate in the engagement or employment of any professional person or any other person qualified to perform the services required under this Agreement.

Section 4.16 Labor Regulations and Requirements. The Developer agrees to comply with all applicable provisions of Title 34 of the Utah Code, and with all applicable federal, state and local labor laws. The Developer shall indemnify and hold the Agency harmless from and against any and all claims for liability arising out of any violation of this Paragraph or the laws referenced by the Developer, its agents or employees.

Section 4.17 Assignment. The Developer shall not assign or transfer its duties of performance nor its rights to compensation under this Agreement, without the prior written approval of the Agency, which shall not be unreasonably withheld, conditioned or delayed. In addition, if the assignment or transfer of the rights under this Agreement is to a person or entity which acquires substantially all of the assets of the Developer, the burden of proof shall be on the Agency to establish that its disapproval is reasonable. If the Agency withholds such approval, it shall specify in reasonable written detail the basis for the disapproval. The Agency reserves the right to assert any claim or defense it may have against the Developer and against any assignee or successor-in-interest of the Developer. Notwithstanding the foregoing, the surviving entity in any merger, consolidation or reorganization in which the Developer is a participant shall constitute a permitted assignment (“Permitted Assignment”) and shall not require prior approval of the Agency. The Developer shall provide written notice of a Permitted Assignment promptly after the same occurs.

Section 4.18 Notices. All notices to be given under this Agreement shall be made in writing and shall be deemed given upon personal or hand delivery, by confirmed facsimile transmission, by email, upon the next business day immediately following the day sent if sent by overnight express carrier, or upon the third business day following the day sent if sent postage

prepaid by certified or registered mail, return receipt requested, to the Parties at the following addresses (or to such other address or addresses as shall be specified in any notice given):

AGENCY:                      Redevelopment Agency of Syracuse City  
   1979 West 1900 South  
   Syracuse, Utah 84075  
   Attention: \_\_\_\_\_  
   Fax: (801) \_\_\_\_\_

DEVELOPER:                      Syracuse Family Fun Center, LLC.  
   \_\_\_\_\_  
   \_\_\_\_\_  
   Attention: \_\_\_\_\_  
   Fax:

with a simultaneous copy to: \_\_\_\_\_

[Attorney for Developer]

Section 4.19 Time. The Parties agree that time is of the essence in the performance of this Agreement and each and every term and provision hereof.

Section 4.20 Entire Agreement. The Agency and the Developer acknowledge and agree that this Agreement, and each of the other agreements referred to in this Agreement, constitutes the entire integrated understanding between the Agency and the Developer, and that there are no

other terms, conditions, representations or understanding, whether written or oral, concerning the rights and obligations of the Parties to this Agreement, except as set forth in this Agreement. This Agreement may not be enlarged, modified or altered, except in writing, signed by the parties.

Section 4.21 Governing Law. It is understood and agreed by the Parties hereto that this Agreement shall be governed by the laws of the State of Utah and the Ordinances of the City, both as to interpretation and performance. All actions, including but not limited to court proceedings, administrative proceedings, arbitration and mediation proceedings, shall be commenced, maintained, adjudicated and resolved within the jurisdiction of the State of Utah.

~~Section 4.22 Obligations Joint/Several. The Developer shall be and remain jointly and severally liable for the performance of the obligations of the Developer under this Agreement.~~

~~Section 4.23~~Section 4.22 Estoppel Certificate. Within ten (10) business days after written request of Developer or its lender Agency shall provide an estoppel certificate to Developer, a prospective purchaser or an existing prospective lender certifying that this Agreement is in full force and effect, that no defaults exist (or specifying any defaults which do exist) and providing such other factual information pertaining to this Agreement as Developer, such lender or a prospective purchaser of part or all of the Project may reasonably request. The Developer shall pay any actual, out-of-pocket reasonable attorney's fees incurred by the Agency in connection with the foregoing.

~~Section 4.24~~Section 4.23 Miscellaneous. In addition to the foregoing, the parties to this Agreement agree as follows:

(a) No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed, in writing, by the party making the waiver.

(b) The recitals and the exhibits attached to this Agreement shall be and hereby are incorporated in and an integral part of this Agreement by this reference.

(c) This Agreement shall be binding upon, and shall inure to the benefit of the parties to it and their respective successors and assigns.

(d) In the event that any provision of this Agreement shall be held invalid and unenforceable, such provision shall be severable from, and such invalidity and unenforceability shall not be construed to have any effect on, the remaining provisions of this Agreement.

(e) The Parties agree to use reasonable diligence to fulfill their respective obligations under this Agreement at all times that this Agreement is in effect.

(f) Nothing in this Agreement is or shall be intended to provide or convey any actionable right or benefit to or upon any person or persons other than the Developer and the Agency. Except as otherwise specifically provided in this Agreement, each party shall bear its own costs and expenses (including legal and consulting fees) in connection with this Agreement and the negotiation of all agreements, including without limitation the Agreement, and preparation of documents contemplated by this Agreement.

(g) All obligations of the Parties set forth in this Agreement which are contemplated to be performed or satisfied after the Closing in accordance herewith shall survive the Closing and the delivery of any instrument of conveyance made in connection therewith.

(h) Except as otherwise provided in this Agreement, whenever a period of time is in this Agreement prescribed for action to be taken by a Party, said Party shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to a Force Majeure Event; for purposes of this Agreement, "Force Majeure Event" means any act or event, whether foreseen or unforeseen, that meets all three of the following tests:

(i) The act or event prevents a Party, in whole or in part, from:

(A) performing its obligations under this Agreement or another specified agreement; or

(B) satisfying any conditions to the obligations under this Agreement.

(ii) The act or event is beyond the reasonable control of and not primarily the fault of a Party.

(iii) A Party has been unable to avoid or overcome the act or event by the exercise of commercially reasonable due diligence.

(iv) In furtherance of such definition, and not in limitation of such definition, each of the following acts and events is deemed to be a Force Majeure Event: war, flood, lightning, drought, earthquake, fire, volcanic eruption, landslide, hurricane, cyclone, typhoon, tornado, explosion, civil disturbance, act of God or the public enemy, terrorist acts, military action, epidemic, famine or plague, shipwreck, action of a court or public authority, or strike, work-to-rule action, go-slow or similar labor difficulty, and such failure, standing alone, prevents Developer from fulfilling one or more of its obligations under this Agreement. The foregoing list of Force Majeure Events is not exhaustive, and the principle of ejusdem generis is not to be applied in determining whether a particular act or event qualifies as a Force Majeure Event. Notwithstanding the foregoing, a Force Majeure Event shall not mean or include economic hardship, changes in market conditions, insufficiency of revenues or funds, or the financial condition of a Party, or the sale, transfer, liquidation, insolvency, failure, secession, disbandment, dissolution or termination of any person owning any interest in a Party.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year recited above.

DEVELOPER:

SYRACUSE FAMILY FUN CENTER  
LLC, a Utah limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF UTAH        )

) ss.

COUNTY OF DAVIS    )

On \_\_\_\_\_, 2012, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of SYRACUSE FAMILY FUN CENTER LLC, and that said instrument was signed on behalf of said limited liability company.

\_\_\_\_\_

NOTARY PUBLIC

AGENCY:

REDEVELOPMENT AGENCY OF  
SYRACUSE CITY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_

STATE OF UTAH        )

) ss.

COUNTY OF DAVIS    )

On \_\_\_\_\_, 2012, personally appeared before me \_\_\_\_\_,  
who being by me duly sworn did say that he is the \_\_\_\_\_ of the  
REDEVELOPMENT AGENCY OF SYRACUSE CITY, and that said instrument  
was signed on behalf of the Redevelopment Agency of Syracuse City, by authority  
of law.

\_\_\_\_\_

NOTARY PUBLIC



# SYRACUSE CITY

## Syracuse City Council Agenda

August 28, 2012 – Immediately following the RDA meeting

City Council Chambers

Municipal Building, 1979 W. 1900 S.

1. Meeting called to order  
Invocation or thought\*\*  
Pledge of Allegiance
2. Approval of Minutes:
  - a. Regular Meeting of July 10, 2012
3. Public Comment: This is an opportunity to address the Council regarding your concerns or ideas. Please limit your comments to three minutes.
4. Public Hearing- Authorize Administration to dispose of surplus property
5. Authorize Administration to execute the contract with Robinson Waste Management
6. Adjourn

~~~~~

In compliance with the Americans Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the City Offices at 801-825-1477 at least 48 hours in advance of the meeting.

### CERTIFICATE OF POSTING

The undersigned, duly appointed City Recorder, does hereby certify that the above notice and agenda was posted within the Syracuse City limits on this 24<sup>th</sup> day of August, 2012 at Syracuse City Hall on the City Hall Notice Board and at <http://www.syracuseut.com/>. A copy was also provided to the Standard-Examiner on August 24, 2012.

CASSIE Z. BROWN, CMC  
SYRACUSE CITY RECORDER

\*\*Members of the public who desire to offer a thought or invocation at Syracuse City Council Meetings shall contact the City Administrator at least two (2) weeks in advance of the meeting. Request will be honored on a first come, first serve basis. In the event there are no requests to offer a comment or prayer, the Mayor may seek opening comment or prayer from those members of the public attending the meeting or from City Staff or City Council.



# COUNCIL AGENDA

August 28, 2012

Agenda Item #2

Approval of Minutes.

***Factual Summation***

- Please see the attached draft minutes of the following meetings:
  - Regular business meeting of July 10, 2012.
- Any question regarding this agenda item may be directed at Cassie Brown, City Recorder.

***Staff Recommendation***

***Approve the draft minutes of the July 10, 2012 Regular Business Meeting.***

Minutes of the Syracuse City Council Regular Meeting, July 10, 2012.

Minutes of the Regular Meeting of the Syracuse City Council held on July 10, 2012, at 7:00 p.m., in the Council Chambers, 1979 West 1900 South, Syracuse City, Davis County, Utah.

Present: Councilmembers: Brian Duncan  
Craig A. Johnson  
Karianne Lisonbee  
Larry D. Shingleton

Councilmember Peterson was excused from the meeting.

Mayor Jamie Nagle  
City Manager Robert D. Rice  
City Recorder Cassie Z. Brown

City Employees Present:

Police Chief Brian Wallace  
Fire Chief Eric Froerer  
Community Development Director Michael Eggett  
City Attorney Will Carlson  
Information Technologies Director TJ Peace  
City Planner Kent Andersen

Visitors Present:

|                    |                       |                  |
|--------------------|-----------------------|------------------|
| Carie Valentine    | Julie Bachman         | Sandra Williams  |
| Travis Ashdown     | Bryan Beckstrom       | John Lewis       |
| Val Cook           | Jason Steed           | Kathy Allred     |
| Jim Kinkade        | Tim Ridell            | Dan Pessetto     |
| Nathan Miller      | Kyle Hemsley          | Michael Knudsen  |
| Keaton Segich      | David Rampton         | Jerrad Pullum    |
| Judy Nixon         | Gary Pratt            | Jim Frost        |
| Terry Palmer       | Dean Rasband          | Holly Rasband    |
| Bob VanVelkinburgh | Jeanne VanVelkinburgh | Ray Zaugg        |
| Pat Zaugg          | Ann Anderton          | Barbara Casey    |
| Dalaina Collen     | Jeremiah Zohner       | Ben Gerlach      |
| Brandyn Bodily     | John Linder           | Lois Linder      |
| Bruce Baird        | Heidi Brophy          | Ethan Kennedy    |
| David Holland      | Dan Merkling          | Marlene Merkling |
| Stan Hamblin       | Jerry Guffey          | Tom Freeman      |
| Con Wilcox         | Kenneth Hellewell     | Holly Zohner     |
| Braxton Schenk     | J. Francis            | Charles Black    |
| Doug Daniels       | Alan Whitman          | Kristy Whitman   |
| Darin Porter       | Sean Brophy           | Ed Gertge        |

1. Meeting Called to Order/Adopt Agenda

7:16:04 PM

Mayor Nagle called the meeting to order at 7:00 p.m. as a regularly scheduled meeting, with notice of time, place, and agenda provided 24 hours in advance to the newspaper and each Councilmember. She asked all visitors present if any wished to provide an invocation or thought; Councilmember Duncan provided an invocation. Boy Scout Chandler Daniels then led all present in the Pledge of Allegiance.

1 2. Presentation of the Syracuse City and Wendy's "Award for Excellence"

2 to Wyatt Christensen and Savannah Holland.

3 7:18:30 PM

4 The City wishes to recognize citizens who strive for excellence in athletics, academics, arts and/or community  
5 service. To that end, in an effort to recognize students and individuals residing in the City, the Community and Economic  
6 Development, in conjunction with Jeff Gibson, present the recipients for the "Syracuse City & Wendy's Award for  
7 Excellence". This monthly award recognizes the outstanding performance of a male and female who excel in athletics,  
8 academics, arts, and/or community service. The monthly award recipients will each receive a certificate and be recognized at  
9 a City Council meeting; have their photograph placed at City Hall and the Community Center; be written about in the City  
10 Newsletter, City's Facebook and Twitter Feed, and City's website; be featured on the Wendy's product television; and  
11 receive a \$10 gift certificate to Wendy's.

12 Mayor Nagle stated that this month the nominees are Wyatt Christensen and Savannah Holland. She asked all those  
13 present to give Mr. Christensen a round of applause and she explained Wyatt was nominated because of his athleticism; he  
14 has had an amazing season and while participating in the 2012 Minor League Baseball Program he continually displayed  
15 outstanding leadership and sportsmanship. She noted he was also selected to the 2012 East Minor League All-Star Team and  
16 he led them to a 7-1 victory over the West All-Star Team. She stated she wanted to thank Mr. Christensen because she  
17 knows it takes a lot of time and effort to attend practices and she loved that people have said of him that he is a true person on  
18 and off the field, which speaks to his character. She thanked him for his commitment to sports and his commitment to the  
19 community. She asked the Council to present Mr. Christensen with his certificate.

20 Mayor Nagle then asked all those present to give Ms. Holland a round of applause and she explained Ms. Holland is  
21 a great athlete and her nomination communicates that she is a well-rounded athlete and she has participated in several  
22 Syracuse recreation programs, but most recently she was involved in the softball and tennis programs. She noted Ms.  
23 Holland is an incredibly quick learner and is always competing at an extremely high level; she continually carries a positive  
24 attitude and constantly has a big smile on her face. Mayor Nagle stated she thinks it is great that Ms. Holland has so much  
25 dedication to not just one, but two sports; that kind of perseverance will take Ms. Holland far in life. She applauded Ms.  
26 Holland for her character and stated the community is lucky to have her. She then asked the Council to present Ms. Holland  
27 with her certificate.

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3. Approval of minutes.

[7:22:23 PM](#)

The minutes of the Regular Meeting of February 14 and the Special Meeting of March 14, 2012 were reviewed.

COUNCILMEMBER LISONBEE MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 14 AND SPECIAL MEETING OF MARCH 14, 2012 AS AMENDED. COUNCILMEMBER DUNCAN SECONDED THE MOTION.

Councilmember Lisonbee stated page 17 of the March 14 minutes included a motion by Councilmember Peterson to appoint someone to the Taxing Entity Committee (TEC), but it does not say who he moved to appoint. *\*\*UPON FURTHER REVIEW BY THE CITY RECORDER, THE MINUTES STATED COUNCILMEMBER PETERSON MADE A MOTION TO ADOPT PROPOSED RESOLUTION R12-09, APPOINTING A REPRESENTATIVE TO THE TAXING ENTITY COMMITTEE. IT WAS NOT NECESSARY FOR COUNCILMEMBER PETERSON TO COMMUNICATE WHO HE WAS MOVING TO APPOINT BECAUSE THE POTENTIAL APPOINTEE'S NAME WAS INCLUDED AS PART OF THE RESOLUTION.\*\**

Mayor Nagle stated there has been a motion and a second to adopt the motion and she called for a vote. ALL VOTED IN FAVOR. Councilmember Peterson was not present when this vote was taken.

4. Public comment.

[7:24:03 PM](#)

Jim Kinkade, stated he wanted to express a strong support for the approach advocated by the Mayor, City Council, and Randy Jeffries of the Utah Department of Transportation (UDOT) to work together to minimize impacts on the City and its residents. He noted the Mayor has said a number of times that there will be no winners in this process; however, he would say each corridor option produces a different number of losers. He referred to the impacts to livelihoods, homes, health, etc. that could be produced by the various options and noted option A produces the smallest number of impacts. He stated one thing “we” do know as a result of a careful study of maps provided by UDOT is the number of families that would have the road in their front or backyard depending on which option is selected. He stated option A will impact 15 families in that manner while option B impacts 119. He noted if the impacts zone is expanded to 660 feet total, the option to the west would

1 affect 88 families and the one closer to option B would affect 335 families. He stated that is a four-fold impact. He  
2 explained he noted earlier this evening during the discussion of the potential Ninigret development, there were a number of  
3 folks that were interested in the idea of mitigation or buffering and he agrees with that and that is something residents should  
4 always be thinking about. He stated his thought is that same approach could be used relative to the West Davis Corridor  
5 (WDC) if the City is willing to open the dialogue again. He stated one option requires the City to consider how to mitigate  
6 impacts on more than 300 homes and families while the other requires that analysis for 80 homes or families.

7  
8 [7:27:07 PM](#)

9 Dan Pessetto stated he wanted to follow-up to Mr. Kinkade's comments. He stated he wanted to make sure that  
10 everyone understands that the citizens group he belongs to understands there are no clear winners in this process; their group  
11 has agreed to hope the WDC will never be built and the City will remain as it is now. He stated the State has determined, due  
12 to traffic needs, that the road is needed. He stated his citizens group does believe that wetlands and farmlands should be  
13 protected. He reported that in 1956 State Highway Six was built through the center of his grandfather's farm and it had a  
14 direct impact on his entire family, so he is very sensitive to protecting farmland, but he asked at what cost. He stated the  
15 costs to the residents, regardless of whether the corridor has been protected, is too high and there are too many residents that  
16 will be losing out. He asked the City to be sure to consider this issue very carefully, especially now that there are new  
17 members of the City Council and there is much more data available. He noted the impact to the school and surrounding  
18 residents is too high and the citizens group would ask that the City do something different than has been done in the past.

19  
20 [7:29:32 PM](#)

21 Ed Gertge stated he wanted to speak regarding the proposed rezoning of the property behind the Intermountain  
22 Health Care (IHC) Clinic. He explained he is the trustee for the Neil Gailey Trust and he was just made aware of this  
23 prospect in the past few days. He was told the proposal is to rezone the property from Commercial (C2). He stated that when  
24 the City acquired the property to widen the intersection they assured him that the property would continue to be zoned C2.  
25 He stated he is present this evening to express his concern about this issue and to ensure that the zoning of the property does  
26 not change; they like the C2 zoning because it gives them the option of developing the property with residential and some  
27 mixed commercial uses. He stated he is not in support of the change in zoning until he has more information and input.

1 Councilmember Johnson inquired as to the address of the property. Mr. Gertge stated it is located at 700 S. 2000 W. He  
2 added he wants the option to rezone the property for full residential use if necessary.

3

4 [7:32:25 PM](#)

5 Kristy Whitman stated she wants to thank the Council for their service and time and for hearing her thoughts. She  
6 stated he heard Mayor Nagle mention that the City Council needs to take a vote fairly soon on the Ninigret project, but her  
7 understanding was that a vote has already been taken and the project was voted down. She stated she may have had the  
8 wrong impression, though she attended the meeting where the vote happened and she heard it. She then stated she is a mom  
9 that lives near the proposed Ninigret site and her children will go to Syracuse High School. She stated they live close enough  
10 that they will walk to school and she has some serious concerns about their safety. She noted the City has heard a lot of  
11 opposition, but she would like the Council to consider the buffering options; serious buffering between the High School and  
12 development is needed and her opinion there is not room for the buffering that is needed in order for the area to be safe.

13

14 [7:34:22 PM](#)

15 Jarad Pullam stated he is representing the Board of Directors of the Syracuse Arts Academy and he noted that on  
16 March 16 the Board of Directors sent a letter to the City stating they were strongly in favor of a West Davis Corridor (WDC)  
17 route that is located as far as possible from the Academy. He noted the justification for that statement is that many parents of  
18 students attending the school have expressed they will withdraw their students from the school, which is currently at full  
19 capacity, if the WDC is located next to it. He stated the Board of Directors has major concerns about the environment in and  
20 around the school during construction of the project; they are worried about noise, physical vibrations, the air quality, safety,  
21 and ease of access to the school by vehicle and by foot. He noted that they are worried about the air quality during the  
22 construction and after the completion of the project and they have serious concerns about the major traffic changes that will  
23 take place. He noted the Academy is responsible for safe and efficient traffic flow and that is extremely important to them.  
24 He added the Academy provided substantial funding to develop the City park located south of the school and they entered  
25 into a joint use agreement to develop the property with the intent that the City would continue to develop the land around the  
26 park and expand it. He stated that has not happened. He then noted the main priority of the Arts Academy during this  
27 process is to ensure that the integrity of the learning environment is preserved for all 1,025 of their students so they can

1 provide a high quality education in a safe environment. He stated there are no winners in this decision, but there are many  
2 factors that need to be considered and he wanted to make sure the Board of Directors go on record to present their opinion.

3  
4 [7:37:24 PM](#)

5 Charles Black stated it is pretty obvious that no one wants the WDC travelling through their neighborhood, by their  
6 schools, through their farms, or through wetlands, but he noted that farms are the only thing that cannot be replaced if they  
7 are eliminated by the road. He stated that once farmland is developed it is forever gone. He noted there is a natural resource  
8 in this area along the Great Salt Lake stretching from west Syracuse to Plain City; it is an area of prime agricultural soils that  
9 are developed in farms and they have an adequate supply of water with level ground. He added the farmers that farm that  
10 ground have added outbuildings and they are in business and operating. He added the nature conservancy has 4,500 acres in  
11 their shore land preserve and a 40 acre portion of his farm is included in a permanent conservation easement next to the  
12 nature conservancy. He stated that when agricultural open space and preserved wetlands are put together they are more  
13 productive; since the nature conservancy has preserved the ground there is much more wildlife in the area and the two uses  
14 work well together as a natural resource for the City. He stated the shore land preserve area is becoming a world class  
15 wetland that is well known. He stated he would request that the road not be constructed through the farms and he noted that  
16 in his situation he has tried to diversify into different things; they have a corn maze, they host field trips, and they had a bird  
17 hunting club last year. He stated they are using all of their assets to make their business work. He stated the road coming  
18 through their property would make it impossible for them to continue and they would be forced to sell their ground. He  
19 added that when agricultural ground is sold for development, the water rights associated with the ground are lost. He noted  
20 their irrigation system is about 70 percent efficient and 30 percent nourishes the wetlands in the late spring, summer, and fall  
21 when there is not much other water feeding them.

22  
23 [7:40:43 PM](#)

24 Stan Hamblin stated his views regarding the WDC are well documented. He noted the WDC has been planned for  
25 the Bluff Road corridor for over 50 years and anyone that has lived in Syracuse for any length of time and tells the City that  
26 they did not know about that fact is lying to themselves and the City. He reiterated the corridor has been in place for over 50  
27 years and it is important the Council consider that fact when making their decision regarding which route to support. He

1 stated the bottom line is that if the WDC is pushed to the west through farmlands, a lot of farms and farmers will be out of  
2 business and the farmlands will be lost forever.

3

4 [7:42:01 PM](#)

5 Bruce Baird stated he is legal counsel for Ninigret. He asked if public comments will be allowed during  
6 consideration of item 10 on the agenda. Mayor Nagle answered no. Mr. Baird stated he wants to talk about two issues; first  
7 is the ad-hoc committee that was assembled to study the Ninigret project. He noted he had not been retained by Ninigret  
8 until after the meetings of the ad-hoc committee had concluded, but he did appreciate the frank and candid statements that he  
9 heard from the committee members. He noted Ninigret was and is willing to discuss reasonable physical mitigation of any  
10 legitimate concerns within the scope of an industrial park use; that does not include transitional zoning, but it does include  
11 discussions about how to deal with light, noise, and visual impacts. He stated he was saddened those discussions did not  
12 happen since much of the discussion was centered on whether the committee members liked the use. He stated his client is  
13 still willing to discuss those issues in the context of industrial park zoning. He then stated he wants to dispel one rumor; there  
14 seems to be a rumor that there may have been a possibility of using park land on the property as one of the buffers and that is  
15 not correct. He stated there is no offer for a dedicated park as an exaction for the subdivision. He then noted on item 10  
16 dealing with the General Plan amendment, Ninigret and Property Reserve Inc. (PRI) did not notice the item was on the  
17 agenda this evening and since the issue directly impacts PRI and Ninigret he asked that the matter be tabled and that a public  
18 hearing be held in conjunction with the matter so that the City Council can hear directly from the impacted parties about how  
19 they feel the General Plan should be amended. He stated he heard some discussions among the Councilmembers about how  
20 public input regarding the General Plan is needed and he thinks it would be a travesty if the Council were to adopt a General  
21 Plan amendment tonight without hearing directly from the parties that are primarily interested in the area. He stated both PRI  
22 and Ninigret are adamantly opposed to the General Plan amendment and they would like and welcome the opportunity to talk  
23 with the Council and explain their concerns directly. He stated they should be entitled to that courtesy out of common  
24 decency and fairness.

25

26 [7:45:05 PM](#)

1 TJ Jensen stated he is the Vice Chair of the Planning Commission and he wanted to discuss the comments made  
2 earlier about the property next to the IHC Clinic. He stated he would suggest the gentleman with those concerns talk to the  
3 Planning Commission because they did discuss the possibility of amending the zoning of that property at a later day to  
4 include residential uses because they were not clear as to how the lot would be built-out and what the property owner would  
5 like. He noted that does tie into item 10 on tonight's agenda. He then stated he wanted to make a correction to the  
6 presentation the Council received earlier from the Syracuse Arts Academy and the Citizens for a Better Syracuse group; he  
7 noted they mentioned that farmland would be impacted by WDC route A. He stated that is true for the Flint property near the  
8 trail; they would lose some property. He noted, however, if route A or B is chosen his family's 40 acres of farmland will be  
9 lost to the road. He noted the property owners to the west of him will be impacted by the road as it will continue through the  
10 middle of their property. He stated once the road crosses 3000 West it will impact the nature conservancy and other farmland  
11 that has positive impacts on the wildlife in the area. He stated a lot of the land that will be destroyed by route A supports  
12 wildlife in the area. He stated his final point about route A is that the residents that live in that area had no notice of the  
13 potential of the road until UDOT started its process to determine the route for the route, whereas, the Syracuse City Master  
14 Plan that has been in existence for decades has stated there will eventually be a highway constructed along the Bluff Road  
15 corridor so it is not like that is new information for the residents living near the potential route B. He pointed out UDOT  
16 purchased 82 acres along Bluff Road with preservation intents and the City has set aside land for the route as well.

17

18 [7:48:32 PM](#)

19 Marlene Merklings stated she is happy to be here and to live in a country where people have the right to express their  
20 feelings. She stated she is a little concerned about sounding selfish with her comments, but she has not had an opportunity to  
21 attend many of the City Council meetings and the thing she has not heard discussed is what impact the change in zoning to  
22 the property by the high school will have on the property values of the people that live in that area. She stated she is very  
23 concerned about that; in the time since this potential project has been announced there have been five families in the area that  
24 have sold their houses and moved. She stated that has not been solely because of the Ninigret development, but factored into  
25 their decisions was what would happen to their home values. She stated she wondered if any studies have been done to  
26 determine those impacts.

27

1 [7:49:51 PM](#)

2 Ryan Chandler stated his comments are concerning a recent publication in the Standard-Examiner and he is  
3 concerned about the City's reputation and it is fast approaching embarrassing. He stated he has family that reads the  
4 newspaper so they can get their fix of drama that is going on in Davis County and that is embarrassing to him. He stated he  
5 is concerned for the Rentmeister family and their concerns about wanting to expand their business and he loves seeing local  
6 businesses be healthy and grow; he would love to see them become very busy and stay that way. He stated what he does find  
7 preposterous is someone trying to point out any correlation between the opposition to the Ninigret proposal and any  
8 limitations to the Rentmeister business being profitable in Syracuse. He stated finding other developers more suitable for the  
9 land owned by PRI will bring many opportunities for the businesses in the City; the livelihood of the Rentmeister business is  
10 not tied to the Ninigret proposal. He noted that PRI has expressed a want for industrial zoning and that is because they have  
11 been given some misinformation; recent correspondence has also told him that PRI understand the residents opposing the  
12 proposal want nothing but farmland on the property and that their oppositions are a veiled scheme to keep the property that  
13 way. He stated he has stood before the Council on many occasions and communicated otherwise so whoever is telling PRI  
14 that information he would ask them to stop and please represent fairly and accurately. He stated every time he has stood  
15 before the Council he has not asked that the property stay agricultural in use; that is not realistic and he understands that. He  
16 stated he lives directly across the street from the property and it is beautiful, but it is necessary to grow and he understands  
17 that; he is only asking for responsible development and at no time has he asked for no development. He stated many have  
18 said that it would nice to maintain the agriculture use, but they understand something more is needed. He stated it is his  
19 intention to make sure correspondence to PRI is done in an accurate manner and they understand how the residents opposing  
20 the project feel; they are not opposed to development. He then noted he is concerned about certain opinions that have been  
21 expressed to the media. He stated that because the Planning Commission and City Council may say no to Ninigret does not  
22 mean the City is anti-business; at some point Syracuse will say yes to the right developer, but it should not be Ninigret and he  
23 asks that the opinions of those standing against Ninigret not be considered as rhetoric, but rather be respected as they are  
24 sound and well substantiated concerns.

25  
26 [7:52:56 PM](#)

1 Darrin Porter, stated that he also wanted to address the Ninigret development; he is able Mr. Chandler was able to  
2 speak before him as he represents a lot of the opinions that he has. He stated he stands here tonight as a father and a citizen  
3 that is concerned about the values that will be coming into his neighborhood. He stated he stands for family values and he  
4 wants to keep that going. He stated he recognizes that the City needs business and that growth is needed, but the type of  
5 business that Ninigret will bring to the City are not the type of things “we” want near “our” school or homes. He stated he  
6 grew up near an industrial park and there were problems associated with it. He stated that he has also worked for an  
7 industrial park and he does not see that as a suitable place for school aged children and it should not be located next to a  
8 residential area. He stated that he feels it is a bad idea for the City and he hopes the Council will keep in mind who they  
9 represent because he feels like the opinions of the majority of the City have been well spoken.

10  
11 [7:55:10 PM](#)

12 Brandon Bodily stated that he spoke during the work session, but he also wanted to speak specifically about the  
13 letter he has seen from PRI that was addressed to the City. He stated he thinks the message was shared and he completely  
14 disagrees with the letter and the statement that was made about the residents in that they have a veiled scheme to protect the  
15 agricultural use. He stated that he has talked with a large number of citizens and very few, if any, have stated that they do not  
16 want to see any development at all because they want the land to remain agriculture land. He stated he thinks that is a  
17 completely false statement and he agrees with the recommendation the Planning Commission made to the City Council  
18 regarding what they feel is proper zoning for the area. He stated he also agrees with much of the language that is already in  
19 the General Plan; this is not anti-development. He stated he is very pro development and there are some wonderful  
20 commercial uses in professional offices and other uses that could be located on the property while allowing PRI to  
21 accomplish their financial objectives. He stated he thinks it is the City’s responsibility to protect the property rights of the  
22 person selling the property, but also of the people that currently own properties neighboring the property. He stated that is  
23 not what he often hears. He stated that the citizens cannot get past the inherent risks that will come from allowing two zones  
24 to abut that should never abut. He reiterated the PRI letter misrepresents the views of the citizens; he added he reviewed the  
25 survey done by MB&A and he thinks their option A includes some very good transitional zoning that could be an appropriate  
26 use for the property and would still give PRI a financial benefit.

1 [7:57:39 PM](#)

2 5. Public Hearing – Proposed Resolution R12-19 updating and amending the Syracuse City Consolidated Fee  
3 Schedule.

4 Staff has found and recommended several changes to the fee schedule that are considered necessary. Most changes  
5 are minor while some are more significant

6 [7:57:50 PM](#)

7 Finance Director Marshall provided a summary of the changes being recommended.

8 [7:58:45 PM](#)

9 Mayor Nagle convened the public hearing; there being no residents appearing to be heard, the public hearing was  
10 closed.

11 [7:59:03 PM](#)

12 COUNCILMEMBER SHINGLETON MADE A MOTION TO ADOPT PROPOSED RESOLUTION R12-19  
13 UPDATING AND AMENDING THE SYRACUSE CITY CONSOLIDATED FEE SCHEDULE. COUNCILMEMBER  
14 LISONBEE SECONDED THE MOTION.

15 [7:59:25 PM](#)

16 The City Council then briefly discussed the Resolution.

17 [8:02:18 PM](#)

18 Mayor Nagle stated there has been a motion and a second regarding the Proposed Resolution and she called for a  
19 motion; ALL VOTED IN FAVOR. Councilmember Peterson was not present when this vote was taken.

20 [8:02:23 PM](#)

21 COUNCILMEMBER SHINGLETON MADE A MOTION TO AMEND THE TYPOGRAPHICAL ERROR IN  
22 THE FEE SCHEDULE REFERENCED BY MR. MARSHALL. COUNCILMEMBER JOHNSON SECONDED THE  
23 MOTION; ALL VOTED IN FAVOR. Councilmember Peterson was not present when this vote was taken.

24 [8:02:55 PM](#)

25 6. Authorize Mayor Nagle to execute the Interlocal Agreement for Metro S.W.A.T.

1 A staff memo from the Police Chief explained that approximately one year ago the City Police Departments in the  
2 northern end of Davis County started talking about forming a Metro S.W.A.T. Team; at the time Bountiful, Davis County,  
3 and Layton each had their own Team. The Syracuse Police Department had one or two members on the Davis County Team.  
4 Bountiful and Layton trained together and followed one discipline and Davis County Sheriff's Office trained with Salt Lake  
5 City and followed another discipline. There are so few call-outs for S.W.A.T., we felt two teams were adequate. Bountiful  
6 took south end cities and Layton took north end cities. Bountiful and Metro S.W.A.T. will serve as back-up to each other in  
7 case of a protracted incident. The City's cost will not change as the City has now been involved in S.W.A.T. for over 10  
8 years; the citizens will be protected by a team on the north end of Davis County; and in the future it may be necessary to  
9 increase the number of Syracuse Police Officers participation in S.W.A.T. to two, which is the number provided by Clinton  
10 and Clearfield.

11 [8:03:01 PM](#)

12 Police Chief Brian Wallace summarized his staff memo.

13 [8:05:26 PM](#)

14 COUNCILMEMBER DUNCAN MADE A MOTION TO AUTHORIZE MAYOR NAGLE TO EXECUTE  
15 INTERLOCAL AGREEMENT FOR METRO S.W.A.T. COUNCILMEMBER SHINGLETON SECONDED THE  
16 MOTION;

17 [8:05:36 PM](#)

18 Councilmember Lisonbee asked a few questions about the costs associated with participating in S.W.A.T. The  
19 questions were answered by Chief Wallace.

20 [8:10:10 PM](#)

21 Mayor Nagle stated there has been a motion and a second regarding the agreement and she called for a vote. ALL  
22 VOTED IN FAVOR. Councilmember Peterson was not present when this vote was taken.

23  
24 [8:10:17 PM](#)

25 7. Proposed Ordinance 12-19 granting the local Fire Official the authority to prohibit the use of any ignition  
26 source, including fireworks, lighters, matches, and smoking materials within the City – and penalty.

1 A staff memo from the Fire Chief explained that in the event that the City continues to experience hot and dry  
2 weather that results in extreme hazardous fire conditions, this proposed ordinance will give our jurisdiction the authority to  
3 take appropriate measures to restrict or ban fireworks in Syracuse City. This is a proactive step if restrictions become  
4 necessary for the July 21-27 fireworks holiday.

5 [8:10:27 PM](#)

6 Fire Chief Froerer then summarized his staff memo, with assistance from City Attorney Will Carlson.

7 [8:14:44 PM](#)

8 COUNCILMEMBER LISONBEE MOVED TO ADOPT PROPOSED ORDINANCE 12-19 GRANTING THE  
9 LOCAL FIRE OFFICIAL THE AUTHORITY TO PROHIBIT THE USE OF ANY IGNITION SOURCE, INCLUDING  
10 FIREWORKS, LIGHTERS, MATCHES, AND SMOKING MATERIALS WITHIN THE CITY – AND PENALTY.

11 COUNCILMEMBER DUNCAN SECONDED THE MOTION.

12 [8:15:08 PM](#)

13 Mayor Nagle then led the Council discussion about the proposed ordinance. Questions were answered by Chief  
14 Froerer and Mr. Carlson.

15 [8:41:26 PM](#)

16 COUNCILMEMBER LISONBEE MADE AN AMENDED MOTION TO ADOPT PROPOSED ORDINANCE 12-  
17 19 GRANTING THE LOCAL FIRE OFFICIAL THE AUTHORITY TO PROHIBIT THE USE OF ANY IGNITION  
18 SOURCE, INCLUDING FIREWORKS, LIGHTERS, MATCHES, AND SMOKING MATERIALS WITHIN THE CITY –  
19 AND PENALTY, WITH THE FOLLOWING AMENDMENTS:

20 THE ORDINANCE WILL BE ENACTED FROM JULY 11, 2012 TO AUGUST 3, 2012.

21 COUNCILMEMBER SHINGLETON SECONDED THE MOTION; ALL VOTED IN FAVOR. Councilmember  
22 Peterson was not present when this motion was taken.

23  
24 [8:42:03 PM](#)

25 8. Proposed Resolution R12-20 dictating the format of the Syracuse City Council meeting minutes.

26 A staff memo from the City Recorder explained that at the June 26, 2012 work session meeting she discussed with  
27 the Council the growing trend in Utah in which municipalities are getting away from overly detailed Council meeting

1 minutes in favor of a summary document that includes time links to the digital meeting recording when any given item was  
2 discussed. The City Recorder proposed that the Council consider following that trend and allow her to provide an  
3 action/summary document immediately following a Council meeting. That document could also serve as the minutes of  
4 record if time links are included. Utah Law previously dictated that audio recordings of meetings were only to be kept for  
5 one year after approval of the written minutes. The same law was recently changed to dictate that audio recordings must be  
6 kept for three years after minutes are approved. Several cities have adopted a policy that is stricter than State Law whereby  
7 they will retain the digital recordings permanently so that they can be included in the minutes of record. At the conclusion of  
8 the June 26 discussion several comments were made by the Council in favor of the proposal. The City Recorder was directed  
9 to prepare a resolution for the Council to consider that would communicate the direction that the City will be taking relative  
10 to transcription of minutes of Council meetings. That resolution has been prepared and included in the Council packet for  
11 review and consideration.

12 [8:42:14 PM](#)

13 City Recorder Brown summarized her staff memo.

14 [8:42:59 PM](#)

15 Mayor Nagle inquired about the necessary change to dictate that digital recordings of meetings shall be retained  
16 permanently. Ms. Brown explained the Council can make that change to Title Two this evening if they choose to adopt the  
17 ordinance regarding that document.

18 [8:44:22 PM](#)

19 COUNCILMEMBER JOHNSON MADE A MOTION TO ADOPT PROPOSED RESOLUTION R12-20  
20 DICTATING THE FORMAT OF SYRACUSE CITY COUNCIL MEETING MINUTES. COUNCILMEMBER  
21 SHINGLETON SECONDED THE MOTION.

22 [8:44:37 PM](#)

23 Councilmember Lisonbee asked a question about the reliability of the digital recording of the meetings. Ms. Brown  
24 responded.

25 [8:46:06 PM](#)

26 Mayor Nagle stated there has been a motion and a second regarding the proposed resolution and she called for a  
27 vote. ALL VOTED IN FAVOR. Councilmember Peterson was not present when this vote was taken.

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[8:46:12 PM](#)

9. Proposed Resolution R12-21 rescinding Resolution R08-23, which set forth rules for conducting public meetings of the City Council and Planning Commission using electronic means.

A brief staff memo from the City Recorder explained this item was added to the agenda as a result of a discussion during a recent review of the administrative title of the City Code.

[8:46:33 PM](#)

City Attorney Carlson provided an introduction to the resolution, explaining that after the resolution was reviewed staff determined that it applies to meetings of both the City Council and the Planning Commission and therefore, it is not the recommendation of staff that the resolution be rescinded at this time.

[8:47:02 PM](#)

COUNCILMEMBER JOHNSON MADE A MOTION TO DENY PROPOSED RESOLUTION R12-21 RESCINDING RESOLUTION R08-23, WHICH SET FORTH RULES FOR CONDUCTING PUBLIC MEETINGS OF THE CITY COUNCIL AND PLANNING COMMISSION USING ELECTRONIC MEANS. COUNCILMEMBER LISONBEE SECONDED THE MOTION; ALL VOTED IN FAVOR. Councilmember Peterson was not present when this vote was taken.

[8:47:32 PM](#)

10. Proposed Ordinance 12-18 amending the Syracuse City General Plan adopted in 1976, as amended.

A staff memo from the Community Development Department explained that district one of the General Plan has been open for quite some time at the Planning Commission level for the purposes of debate and discussion. Many meetings have been held by the Planning Commission to discuss this matter. Further, there have been three public hearings regarding General Plan District One wherein the public has been invited to participate and share their comments regarding the General Plan opening.

The Syracuse City Planning Commission has held three public hearings on this matter on the following dates: June 7, 2011; December 6, 2011; and December 20, 2011. Comments from the public were received by the Planning Commission at that time as it relates to this General Plan district. On June 19, 2012, the Planning Commission held a work session to

1 discuss in specificity district one of the General Plan. The majority of items discussed in the work session are reflected on the  
2 attached proposed General Plan update map. However, during the regular session of the Planning Commission a motion was  
3 forwarded and additional discussion was made regarding updates discussed during the work session, as well as a new  
4 discussion regarding the PRI properties located between 1000 West and 2000 West and 200 South and 700 South. After a  
5 period of debate amongst the Planning Commissioners, a motion was approved to recommend a proposed General Plan  
6 District One update to the City Council for approval. This proposed General Plan District One map update and  
7 supplementary language are included for your use and discussion.

8 The Syracuse City Planning Commission hereby recommends that the Mayor and City Council review the  
9 information provided with this memorandum and discuss the contents of the documentation. Further, the Syracuse City  
10 Planning Commission recommends that the City Council approve proposed Ordinance 12-18 General Plan Changes for  
11 district one.

12 [8:47:41 PM](#)

13 Community Development Director Eggett summarized the staff memo.

14 [8:50:58 PM](#)

15 COUNCILMEMBER JOHNSON MADE A MOTION TO ADOPT PROPOSED ORDINANCE 12-18  
16 AMENDING THE SYRACUSE CITY GENERAL PLAN ADOPTED IN 1976, AS AMENDED, WITH THE  
17 FOLLOWING CHANGES:

- 18 • ADOPT THE AMENDMENT TO CHANGE ONLY THE GENERAL PLAN FOR THE AREAS  
19 LOCATED ON 2000 WEST (CALLED OUT AS NEIGHBORHOOD SERVICES) AND THE AREA ON  
20 1700 SOUTH (CALLED OUT AS NEIGHBORHOOD SERVICES.)
- 21 • LEAVE UNCHANGED IN THE GENERAL PLAN THE AREA LOCATED BETWEEN 1000 WEST TO  
22 2000 WEST AND 700 SOUTH TO 200 SOUTH.
- 23 • LEAVE UNCHANGED THE PROPERTY REFERENCED BY ED GERTGE.

24 COUNCILMEMBER LISONBEE SECONDED THE MOTION.

25 [8:53:33 PM](#)

26 The City Council discussed the proposal and the motion to amend the ordinance.

27 [9:10:51 PM](#)

1 COUNCILMEMBER SHINGLETON MADE AN AMENDED MOTION TO TABLE CONSIDERATION OF  
2 PROPOSED ORDINANCE 12-18 UNTIL JULY 31 TO GIVE THE COUNCIL THE OPPORTUNITY TO TALK ABOUT  
3 THE PROPOSAL IN AN EXTENDED WORK SESSION.

4 [9:11:20 PM](#)

5 The Council discussed Councilmember Shingleton's amended motion.

6 [9:16:19 PM](#)

7 Mayor Nagle reiterated Councilmember Shingleton made a motion to table consideration of the proposed ordinance.  
8 She called for a second to the motion. COUNCILMEMBER DUNCAN SECONDED THE MOTION.

9 [9:16:36 PM](#)

10 Council discussion of the item continued.

11 [9:25:27 PM](#)

12 Mayor Nagle stated there has been a motion and a second to table consideration of the proposed ordinance and she  
13 called for a vote. VOTING "AYE" COUNCILMEMBER DUNCAN, LISONBEE, AND SHINGLETON. VOTING "NO"  
14 COUNCILMEMBER JOHNSON. Councilmember Peterson was not present when this vote was taken.

15

16 [9:25:41 PM](#)

17 11. Public Hearing – Proposed Ordinance 12-20 adopting Title Two rewrites of the Syracuse City Municipal Code  
18 pertaining to administration.

19 A memo from the City Attorney explained that on April 24, 2012 he reported to the City Council that the Council's  
20 majority vote to recodify Title II was in error because some minor adjustments to mayoral power in the recodification  
21 required either a unanimous vote of the Council without the Mayor or a majority vote with the Mayor.

22 In the months since, there has been discussion as to whether to attempt to pass a new version of the title or to simply revert to  
23 the prior version. On June 26, 2012 the City Council made recommendations to change various sections of Title II. Those  
24 revisions are identified and outlined in the attached Title II (Version A). Because the revised title includes many of the  
25 earlier changes to mayoral power, it requires the mayor's vote with a majority of the Council, or a unanimous vote of the  
26 Council except for the mayor. At the end of the discussion on June 26, the City Council asked whether the Mayor would be  
27 willing to vote for Version A. Due to a desire for further clarification of the mayor's duty of conducting Council Meetings,

1 the Mayor stated she did not support Version A. At that point, the Council directed the City Attorney to draft a version of the  
2 administrative title which would not require a vote from the Mayor. That draft is attached as Title II (Version B). Version B  
3 starts with the adoption of all drafted changes in Version A. From there, every mayoral power enumerated by Utah Code §10-  
4 3b-104 is added or removed based on whether it existed under the city's prior version of the Administrative Title. The table  
5 below summarizes the enumerated powers, whether they existed in the original title, and whether it exists in Version A  
6 and/or B. The City Attorney recommends passing Version A of Title II with any additional changes the Mayor and City  
7 Council feel are necessary. This would require a vote of a Council majority plus the Mayor, or a unanimous Council without  
8 the Mayor. If the Mayor and Council are unable to come to sufficient agreement to pass Version A, a Council majority  
9 without the Mayor could pass Version B as drafted. Any changes to Version B which affect the statutorily enumerated  
10 powers of the mayor would also affect who must vote for Version B to pass.

11 [9:25:51 PM](#)

12 Mr. Carlson then provided a basic overview of his staff memo and of Versions A and B of the Title Two rewrite.

13 [9:27:25 PM](#)

14 Mayor Nagle convened the public hearing.

15 [9:27:30 PM](#)

16 TJ Jensen stated he attended the last meeting and there was a long discussion about how items are being added to the  
17 agenda and currently the Mayor or two Councilmembers are allowed to add an item to the agenda; there are different  
18 opinions about how to do that. He stated his suggestion for moving forward on that issue the same language could be  
19 included in Title Two, but in the rules of order and procedure language could be added that dictates that during the Council  
20 business section of the meeting two Councilmembers or the Mayor can ask for an item to be added to a future agenda and it  
21 will be so; any requests that arrive between meetings will be handled in the order of arrival meaning that any items that  
22 cannot be added to an agenda due to time constraints will be added to the next agenda.

23 [9:30:09 PM](#)

24 There were no additional persons appearing to be heard and Mayor Nagle then closed the public hearing.

25 [9:30:17 PM](#)

1 COUNCILMEMBER JOHNSON MADE A MOTION TO ADOPT PROPOSED ORDINANCE 12-20 ADOPTING  
2 THE VERSION B REWRITE OF TITLE TWO OF THE SYRACUSE CITY MUNICIPAL CODE PERTAINING TO  
3 ADMINISTRATION. COUNCILMEMBER DUNCAN SECONDED THE MOTION.

4 9:31:04 PM

5 Councilmember Lisonbee then stated she has some amendments she wanted to propose. There was a discussion  
6 about language regarding special and emergency meetings of the Council. Councilmember Lisonbee asked that language be  
7 added to ordinance allowing two Councilmembers to call a special meeting. She then asked where the language in Section  
8 2.02.030(2)(a) came from. Mr. Carlson stated the language came from State Code. There was then a brief discussion about  
9 the section. Councilmember Lisonbee stated she wanted to add language to the section stating that “in addition the City  
10 Recorder shall provide public notice as required by law”. She then referred to 2.02.030(3) and stated that the Mayor is not  
11 authorized to vote for the closure of a meeting so the reference in that section should be changed from Governing Body to  
12 City Council. Mr. Carlson provided an explanation for why the section referenced Governing Body and he explained that the  
13 reference does not give the Mayor the authority to vote to close a meeting. Councilmember Lisonbee then referred to  
14 2.02.050 regarding notice of meetings and she asked to add language stating “the City Recorder shall give notice of meetings  
15 duly called in accordance with this Title and Utah Code”. She then referred to 2.02.120 regarding rules of procedure and  
16 asked that language be added to state that the “in accordance with State Law the City Council may determine and shall  
17 publish rules of procedure or the proper conduct of meetings”. She then referred to Section 2.02.150 dealing with disorderly  
18 conduct and she wanted to clarify that section deals with members of the Governing Body. She then stated she had a  
19 question regarding 2.05.020 about whether the language restricts the City in any way with regards to the State Law  
20 provisions regarding appointments by the Legislative Body as opposed to appointments by the Mayor. She stated there is  
21 nothing that says the City Council may appoint to committees or appointive bodies and she is wondering if that type of  
22 language should be included. There was then a discussion between Mr. Carlson and Councilmember Lisonbee about the  
23 issue and Mr. Carlson explained that if that section is changed it will require a vote of the Mayor for adoption.  
24 Councilmember Duncan suggested that the document simply refer to State Law. Councilmember Lisonbee stated that the  
25 Council has the authority to make appointments to certain committees and she wondered if language to that affect should be  
26 included in the Chapter regarding City Council duties. After continued discussion Councilmember Lisonbee asked to add  
27 language about the Council making appointments to special districts. Councilmember Duncan suggested leaving the

1 language out of the Code because he feels it would create more ambiguity. Councilmember Lisonbee agreed. She then  
2 referenced section 2.05.070(10) and she asked to add the words “or directive” at the end of the paragraph. She also referred  
3 to section 2.06.040 and she asked if language should be added saying the City Attorney shall act as legal advisor to the City  
4 Council as well as the City. Mr. Carlson stated that he interprets the current language to allow him to give counsel to the City  
5 Council, Planning Commission, or any employee of the City. The Council reached the consensus to leave the language as it  
6 currently reads. Councilmember Lisonbee stated the last amendment she would like to make is to section 2.01.040(2)  
7 regarding interference by the Council. She stated that she feels the language should be added to the norms document or it  
8 should be left out of the Code entirely. She stated she would like to remove subsection two and add it to the norms  
9 document.

10 COUNCILMEMBER LISONBEE MOVED TO AMEND VERSION B OF TITLE TWO INCLUDING THE  
11 AMENDMENTS REFERENCED IN THE PARAGRAPH ABOVE. COUNCILMEMBER DUNCAN SECONDED THE  
12 MOTION; ALL VOTED IN FAVOR. Councilmember Peterson was not present when this vote was taken.

13 [9:59:10 PM](#)

14 City Attorney Carlson provided a few clarifications recommended by staff. He noted Title Two includes a reference  
15 to Recreation Director, but that title needs to be changed to Parks and Recreation Director. He stated the second clarification  
16 is in Chapter Three dealing with functions and duties of the Mayor; change subsections E and F to include the appropriate  
17 code reference.

18 [10:00:15 PM](#)

19 COUNCILMEMBER DUNCAN MOVED TO AMEND VERSION B OF TITLE TWO AS FOLLOWS:

- 20 • CHANGE THE TITLE OF RECREATION DIRECTOR TO PARKS AND RECREATION DIRECTION;
- 21 • CORRECT SECTION 2.03.010(1)(e)&(f) BY INCLUDING THE CORRECT CODE CITATIONS.

22 COUNCILMEMBER JOHNSON SECONDED THE MOTION. ALL VOTED IN FAVOR. Councilmember  
23 Peterson was not present when this vote was taken.

24 [10:01:23 PM](#)

25 COUNCILMEMBER DUNCAN MOVED TO AMEND VERSION B OF TITLE TWO AS FOLLOWS:

- 26 • REMOVE THE WORDS REASONABLE AND REASONABLY IN 2.01.040.

- 1                   • AMEND SECTION 2.02.170 RECORDS OPEN TO INSPECTION BY REMOVING THE WORD  
2                   REASONABLE, WHICH APPEARS TWICE.

3                   COUNCILMEMBER JOHNSON SECONDED THE MOTION. ALL VOTED IN FAVOR. Councilmember  
4 Peterson was not present when this vote was taken.

5 [10:03:05 PM](#)

6                   Councilmember Johnson asked a question about the electronic meetings policy. Mr. Carlson responded.

7 [10:06:50 PM](#)

8                   COUNCILMEMBER JOHNSON MADE A MOTION TO AMEND VERSION B OF TITLE TWO AS  
9 FOLLOWS:

- 10                   • AMEND CHAPTER EIGHT, GOVERNMENT RECORDS, BY ADDING LANGUAGE TO 2.08.020 TO  
11                   CALL OUT THAT DIGITAL RECORDINGS OF COUNCIL MEETINGS WILL BE RETAINED  
12                   PERMANENTLY.

13                   COUNCILMEMBER SHINGLETON SECONDED THE MOTION. ALL VOTED IN FAVOR. Councilmember  
14 Peterson was not present when this vote was taken.

15 [10:07:56 PM](#)

16                   Mayor Nagle stated there has been a motion and a second regarding adopting Version B of Title Two and she called  
17 for a vote. ALL VOTED IN FAVOR. Councilmember Peterson was not present when this vote was taken.

18

19 [10:08:28 PM](#)

20 12. Councilmember reports.

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22                   Each Councilmember provided a brief report.

23

24 [10:16:55 PM](#)

25 13. Mayor report.

26                   Mayor Nagle provided her report.

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[10:20:35 PM](#)

14. City Manager report.

City Manager Rice provided his report.

[10:21:57 PM](#)

15. Consideration of adjourning into Closed Executive Session pursuant to the provisions of Section 52-4-205 of the Open and Public Meetings Law for the purpose of discussing the character, professional competence, or physical or mental health of an individual; pending or reasonably imminent litigation; or the purchase, exchange, or lease of real property.

COUNCILMEMBER SHINGLETON MOVED THE COUNCIL ADJOURN INTO A CLOSED EXECUTIVE SESSION PURSUANT TO THE PROVISIONS OF SECTION 52-4-205 OF THE OPEN AND PUBLIC MEETINGS LAW FOR THE PURPOSE OF DISCUSSING THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL; PENDING OR REASONABLY IMMINENT LITIGATION; OR THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY. COUNCILMEMBER DUNCAN SECONDED THE MOTION, WITH THE FOLLOWING ROLL CALL VOTE: VOTING “AYE” – COUNCILMEMBERS DUNCAN, JOHNSON, LISONBEE, AND SHINGLETON. VOTING “NO” – NONE. Councilmember Peterson was not present when this vote was taken.

The meeting adjourned into Closed Executive Session at 10:22 p.m.

The meeting reconvened at 11:25 p.m.

At 11:26 p.m. COUNCILMEMBER SHINGLETON MADE A MOTION TO ADJOURN. COUNCILMEMBER DUNCAN SECONDED THE MOTION; ALL VOTED IN FAVOR. Councilmember Peterson was not present when this vote was taken.

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3 \_\_\_\_\_  
4 Jamie Nagle

5 Mayor

6

Date approved: \_\_\_\_\_

\_\_\_\_\_

Cassie Z. Brown, CMC  
City Recorder



# COUNCIL AGENDA

August 28, 2012

Agenda Item #4                      Public Hearing- Authorize Administration to dispose of surplus property.

## ***Factual Summation***

- Any question regarding this agenda item may be directed at City Manager Bob Rice.
- Please see below for the list of items that the City would like to dispose of. Staff will be present to review the list of items with the Governing Body as well as answer any question regarding this action.

## **Surplus Property List**

### **Fire Department**

We allocated funds in our budget for this compressor to be replaced because it cannot provide adequate pressure required for the large apparatus tires. The new compressor has been purchased and installed.

- 1997 Campbell Hausfeld 6.5 HP 60 Gallon 125 PSI Air Compressor  
240V/15A/60HZ/1PH                      Model VT627503AJ

### **IT Department**

This equipment was used to print and process our postcard style of utility billing. Since we have moved to an envelope style of printing and mailing our utility bills, this equipment is no longer necessary. The Betco auto scrubber has been used on the cement floors a total of five hours in three years, which we feel makes it unnecessary as well.

- OKI Pacemark 4410 Workgroup Dot Matrix Printer
- HASLER WJ60/90AF MAILING MACHINE AUTO FEED
- Martin Yale Tabletop Burster
- Betco 26" auto scrubber

### **Parks & Recreation Department**

We purchased the bags when we first opened the Community Center. Since that time, there has not been an interest in having a kickboxing class. Because of the lack of use and considering that the bags scrape the gym floor, we feel it best to dispose of them.

- (10) Wave Master XXXL Kickboxing bags.



# COUNCIL AGENDA

August 28, 2012

Agenda Item #5

Authorize Administration to execute the contract with Robinson Waste Management.

***Factual Summation***

- Please see the attached memo and renewal addendum provided by City Attorney William Carlson. Any questions regarding this item can be directed at William Carlson.



**Mayor**  
Jamie Nagle

**City Council**  
Brian Duncan  
Craig Johnson  
Karianne Lisonbee  
Douglas Peterson  
Larry D. Shingleton

## MEMORANDUM

**To:** Mayor and City Council  
**From:** City Attorney, William J. Carlson  
**Date:** August 28, 2012  
**Subject:** Contract with Robinson Waste Management

### Background

Robinson Waste Management and the City entered into a Garbage Collection Contract (“Contract”) dated April 1, 2009. In the contract, Robinson had a unilateral right to renew the contract and the City agreed to pay Robinson a fuel allowance per household per month of .33% of the price of the price of diesel over \$3.00 per gallon (“Fuel Surcharge”). On June 26, 2012 Robinson offered the City a new contract with a term of three years. The City Council counter-offered with a term of one year. Robinson has now provided a counter-offer with a term of two years.

Based on services for waste collection outlined in Robinson’s July 31 invoice, following is an estimate of the annual expenses to the city under the current and proposed contract as well as the estimated costs of an alternative provider:

| Collector Contract                  | Annual Cost Estimate | Fuel Surcharge             |
|-------------------------------------|----------------------|----------------------------|
| Robinson Current                    | \$435,340.32         | 0.33% per house if >\$3.00 |
| Robinson Proposed Trad. Collection  | \$407,352.00         | 33% per service if >\$3.50 |
| Robinson Proposed 1-side collection | \$394,272.00         | 33% per service if >\$3.50 |
| Best Alternative Trad. Collection   | \$437,918.40         | 30% per can if >\$4.00     |
| Best Alternative 1-side collection  | \$379,070.40         | 30% per can if >\$4.00     |

## Summary

Robinson's proposed rates for traditional collection are an improvement from the current rates. The fuel surcharge will increase from 0.33% to 33% and from a per house rate to a per service rate, but it will not initiate until diesel prices surpass \$3.50 per gallon. Collecting on one side of the street will save the city money, and the greatest monetary savings would be achieved by selecting an alternative provider to implement this collection method.

#####

**ADDENDUM NO. 1  
TO  
GARBAGE COLLECTION CONTRACT**

**THIS IS AN ADDENDUM** to that GARBAGE COLLECTION CONTRACT (the “GCC”) with an Effective Date of April 1, 2009 including all prior addenda and counteroffers, between Syracuse City Corporation (“City”) and Robinson Waste Collection Services, Inc. (“Collector”). The following terms are hereby incorporated as part of the GCC:

1. **“1. GARBAGE COLLECTION** subsection A” shall be amended to the following.  
“A. Collector agrees to pick up garbage from curbside at each residential unit, including apartments, duplexes, and all other types of residential units and small commercial units, presently being served by the City, and each new residential unit when constructed on an improved street within garbage collection area. Collector further agrees to pick up garbage at each property and building owned and operated by City.”
2. **“1. GARBAGE COLLECTION** subsection E” shall be amended to the following.  
“E. During the term of this contract, the Collector is granted an exclusive right to collect all residential solid waste and Green Waste covered by this contract and generated within the City. Should the City determine in the future to offer recycling collection and disposal services to its residents, Collector shall provide such services. Payment for such services shall be in accordance with section **6. PAYMENT.**”
3. The following new subsection F shall be inserted and added into the GCC under section **“1. GARBAGE COLLECTION”**  
“F. Collector shall track the weight of garbage collected from the inhabitants of the City each month and the percentage of collection vehicles that were fueled by natural gas each month and, to the best of Collector’s ability, shall report those quantities to the City each month.”
4. The following new subsection G shall be inserted and added into the GCC under section **“1. GARBAGE COLLECTION”**  
“G. Collector agrees to pick up Green Waste weekly from each location identified in subsection A that has Green Waste containers, including locations that add green waste containers within garbage collection area. For the period that Green Waste continues as an opt-in program, Green Waste collection shall occur from April through November on the same day each week across the garbage collection area.”
5. The following new subsection H shall be inserted and added into the GCC under section **“1. GARBAGE COLLECTION”**  
“I. Should City vote to implement a recycling program, Collector agrees to pick up recycling biweekly from each location identified in subsection A that has recycling containers, including locations that add recycling containers across the garbage collection area.

6. "5. TERMS" shall be deleted and replaced with the following:

**"5. TERMS"**

- A. The term of this contract shall be for a period commencing April 1, 2012 and ending March 31, 2014, inclusive.
- B. The Contract may be extended for a subsequent term(s) of one, two, or more years upon mutual agreement of both the City and the Contractor. It shall be the duty of the Contractor to notify the City within three months prior to the expiration of the Contract that such Contract is approaching its termination date. Upon receiving such notice, the City and Contractor shall negotiate any extensions to the Contract upon such terms as the parties may deem appropriate. Either party may independently decline to extend the contract for an additional term(s). Any amendments to the Contract shall be valid only if set forth in writing and signed by the parties hereto.

7. "6. PAYMENT" shall be deleted and replaced with the following:

**"6. PAYMENT"**

- A. The current service rates are hereby guaranteed for the term, April 1, 2012 through March 31, 2014. The rates are as follows:

First Garbage Container: \$3.75 per month per residence

Each Additional Garbage Container: \$1.50 per month per residence

Green Waste Container \$3.50 per month per residence

- B. In the event that City implements recycling, the rates shall be implemented based on the participation rate approved by the City Council. The following service rates are hereby guaranteed for the term, April 1, 2012 through March 31, 2014. The rates are as follows:

Mandatory Recycling (95-100% participation) \$2.10 per month per residence

Opt-Out Recycling (60-94.9% participation) \$2.25 per month per residence

Opt-In Recycling (25-59.9% participation) \$3.50 per month per residence

- C. Residents on many low traffic streets in the garbage collection area could feasibly place all containers on the same side of the road for collection. In the event that the City Council approves adjusting collection to same side of the street collection for all feasible streets, the service rate will be adjusted. The feasibility of same side collection for each street will be determined by mutual agreement of the City Manager or a designee of the manager and Steve Robinson or a designee of Steve Robinson. Although not all streets will be feasible for same side collection, upon implementation of same-side collection to all feasible streets, the following rates shall apply to all containers in the city, regardless of collection method:

First Garbage Container: \$3.00 per month per residence

Each Additional Garbage Container: \$3.00 per month per residence

|                       |                                                       |
|-----------------------|-------------------------------------------------------|
| Green Waste Container | \$3.00 per month per residence                        |
| Recycling             | \$1.95 per month per residence (Mandatory or Opt Out) |

D. City agrees to pay Collector a fuel allowance per household per month, of 33% of the price of diesel over \$3.50 per gallon for Garbage Collection. City agrees to pay Collector a fuel allowance per household per month, of 16.5% of the price of diesel over \$3.50 per gallon for Recycling. City agrees to pay Collector a fuel allowance per household per month, of 22% of the price of diesel over \$3.50 per gallon for Green Waste. Diesel fuel prices used for this calculation are the monthly average of the published Department of Energy, Rocky Mountain region prices. If Collector reports the regular use of natural gas vehicles, the total fuel allowance shall be decreased by the percentage of natural gas vehicles reported. If City determines that Collector has failed to report the regular use of natural gas vehicles, or if City determines that Collector has underreported regular use of natural gas vehicles, there shall be no fuel allowance for the remainder of the contract term.

E. If the option for additional terms is exercised, the payment amount referred to above for such additional terms shall be negotiated by the Collector and the City. Such adjustments shall be made by written addendum to this contract.

F. Payment for services provided for herein shall be made by the City on or before the 15th day of each month for services rendered during the prior calendar month.

G. Collector may request in writing a modification of payment rates during the term of this contract if there has been a noticeable increase in operating expenses to the Collector and sufficient documentation is presented to substantiate the need for the increase. The City and the Collector shall negotiate disposition of the request.”

8. **“11. SUPERVISION BY CITY ADMINISTRATOR”** shall be amended to the following:  
**“11. SUPERVISION BY CITY MANAGER** All work, including points of collection, shall be carried out in accordance with the general directions of the City Manager or a designee of the City Manager; however, it is specifically understood and agreed that Collector is performing all work as an independent contractor, as herein stated, and that the City is not entitled to specify in detail the manner or method by which Collector shall perform the work provided for in connection with this Contract, except to the extent stated herein.”

9. **“20. EFFECTIVE DATE”** shall be amended to the following:  
**“20. EFFECTIVE DATE**  
The effective date of this Contract shall be April 1, 2012 notwithstanding the date of actual signing by the parties.

10. The following new Section 22 shall be inserted and added into the GCC as **“22. ACCEPTANCE”**

**“21. ACCEPTANCE** “Acceptance” occurs only when all of the following have occurred: (a) Collector and City has signed the offer or counteroffer where noted to indicate acceptance; and (b) Collector and City has communicated to the other party or to the other party’s agent that the offer or counteroffer has been signed as required.”

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the GCC, including all prior addenda and counteroffers, these terms shall control. All other terms of the GCC including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year recited above.

COLLECTOR:  
ROBINSON WASTE MANAGEMENT, LLC, a Utah  
limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF UTAH            )  
                                          ) ss.  
COUNTY OF DAVIS        )

On \_\_\_\_\_, 2012, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of ROBIONSON WASTE MANAGEMENT, LLC, and that said instrument was signed on behalf of said limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC

CITY:

SYRACUSE, A MUNICIPAL CORPORATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_

STATE OF UTAH            )  
                                          ) ss.  
COUNTY OF DAVIS        )

On \_\_\_\_\_, 2012, personally appeared before me \_\_\_\_\_, who being by me duly sworn did say that he is the \_\_\_\_\_ of SYRACUSE, A municipal corporation, and that said instrument was signed on behalf of the Syracuse, by authority of law.

\_\_\_\_\_  
NOTARY PUBLIC