

River Heights City

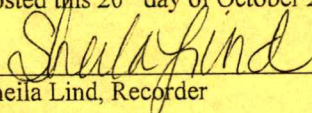
COUNCIL MEETING AGENDA

Tuesday, October 25, 2016

Notice is hereby given that the River Heights City Council will hold its regular council meeting beginning at 6:30 p.m. in the River Heights City Office Building at 520 S 500 E.

- 6:30 p.m. Opening Remarks and Pledge of Allegiance
- 6:35 p.m. Adoption of Previous Minutes and Agenda
Pay Bills
Finance Director Report
Purchase Requisitions
Public Works Report
Administrative Report
Public Comment
- 6:45 p.m. Review Utah Festival Opera Company Contract
- 7:00 p.m. Discuss Storm Drainage Problem on Lamplighter
- 7:15 p.m. Mayor and Council Reports
- 7:30 p.m. Adjourn

Posted this 20th day of October 2016



Sheila Lind, Recorder

In compliance with the American Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Sheila Lind, (435) 770-2061 at least 24 hours before the meeting.

River Heights City

Council Meeting

October 25, 2016

Present were: Mayor James Brackner
Council members: Doug Clausen
Robert "K" Scott
Geoff Smith
Dixie Wilson
Blake Wright
Recorder Sheila Lind
Public Works Director Clayton Nelson
Finance Director Clifford Grover
Treasurer Wendy Wilker

Others Present: Gayle Brackner, Cindy Schaub, Steve and Lori
Weinberger, Joe Dabel, Keenan Ryan, Shawn Kramer,
Boy Scout

The following motions were made during the meeting:

Motion #1

Councilmember Scott moved to "adopt the minutes of the October 11, 2016 Council Meeting, and the evening's agenda." Councilmember Wright seconded the motion, which passed with Clausen, Scott, Smith, Wilson and Wright in favor. No one opposed.

Motion #2

Councilmember Smith moved to "pay the bills as listed." Councilmember Clausen seconded the motion, which passed with Clausen, Scott, Smith, Wilson and Wright in favor. No one opposed.

Motion #3

Councilmember Clausen moved that "the city will contribute up to \$3,500 towards fixing the curb and gutter and the north side of the Weinberger's driveway, up to the crown, with the design being approved by the city engineer and public works director and the bill (of not more than \$3,500) will be sent from the contractor who does the work to the city for payment." Councilmember Smith seconded the motion, which carried with Clausen, Scott, Smith and Wright in favor. Wilson voted against because she felt there were too many issues.

Motion #4

Councilmember Smith moved to "go into a closed session." Councilmember Clausen seconded the motion, which carried with Clausen, Scott, Smith and Wilson in favor. Wright was absent.

Proceedings of the Meeting:

The River Heights City Council met at 6:30 p.m. in the Ervin R. Crosbie Council Chambers in the River Heights City Building on Tuesday, October 25, 2016. Councilmember Clausen opened the meeting with a thought. Mayor Brackner led the group in the Pledge of Allegiance. Recorder Lind was asked to make a comment/pledge schedule that will show up on each agenda.

Adoption of Previous Minutes and Agenda: Minutes of the October 11, 2016 Council Meeting, were reviewed.

Councilmember Scott moved to “adopt the minutes of the October 11, 2016 Council Meeting, and the evening’s agenda.” Councilmember Wright seconded the motion, which passed with Clausen, Scott, Smith, Wilson and Wright in favor. No one opposed.

Pay Bills: The bills were presented and discussed. Councilmember Clausen noted the sewer charge from Logan is probably the highest it’s ever been. He also asked about the Foresight engineering bill for a French drain. It was determined that this was put in the wrong account. It was actually a charge for a sidewalk survey on 700 South. It will be taken out of capital projects.

Councilmember Smith moved to “pay the bills as listed.” Councilmember Clausen seconded the motion, which passed with Clausen, Scott, Smith, Wilson and Wright in favor. No one opposed.

Finance Director Report: FD Grover pointed out the decrease in cash because of recent large expenses. He discussed transferring about \$85,000 from the general fund to the capital projects fund to balance it out. The Council agreed. This will take place in January.

Purchase Requisition: Treasurer Wilker is still holding the street light purchase requisition until Dan Hogan pays his share. PWD Nelson said Mr. Hogan knows he needs to bring a check in.

Public Works Report and Discussion: PWD Nelson reported on the following:

- He is in the process of checking and reporting the city street lights that aren’t working properly. He’d like to make sure all of them are fixed before RMP is notified that the city plans to purchase them.
- He has had a number of people contact him about ground water flooding; mainly in the 800 South area. There is also water being pumped onto 600 South. He guesses there are homes that are pumping into the sewer system, which is why the bill was so high. The city needs to figure out how to handle these situations. State law prohibits pumping into the sewer. He wishes it was allowed so the city could charge these people extra and have a solution. When water is pumped into the gutters it can end up causing problems for others. He suggested when someone has a flooding problem, they could turn in a plan for pumping elsewhere. The city would consider and possibly grant their request. But, the person would need to know that if it becomes or causes another problem, it is their responsibility to fix it.

FD Grover cautioned about allowing others to pump into the city’s stormwater system. PWD Nelson said it would be convenient for some who are near a box, but others don’t live by one. If a problem comes up who would pay for it?

Stone Creek Subdivision (800 South area) was designed to have a swale on each property, which would take care of storm water. Many of these swales have been filled in. Mayor Brackner suggested installing a pump in the area, which they would each have to pay for. Mr. Nelson pointed out that the city has no way of knowing who is pumping into the sewer. He asked the Council to think about how they feel the city should help/or not help. He suggested having it on a future agenda so residents can come give their input. Councilmember Smith suggested having an engineer look at the situation and make a recommendation.

93 Treasurer Wilker informed that Providence had a flooding situation a few years back
94 that they were involved in. She can't remember what was done. PWD Nelson only
95 remembered residents were allowed to pump into the street until the problem was solved. He is
96 finding that most cities are trying to ignore the problem.

97 PWD Nelson asked Treasurer Wilker for copies of the past 6 month's sewer bills so he
98 can make some comparisons.

99 Administrative Report: Recorder Lind informed that the City Christmas Party has been
100 scheduled for Tuesday, December 13 at 6:30 at the Bluebird.

101 Public Comment: There was none.

102 Review Utah Festival Opera Company Contract: Mayor Brackner explained that Gary Griffin
103 (of the UFOC) was going to be in attendance but wasn't. He reported that he and Councilmember
104 Wilson met with Michael Ballam last week, who reported that he has had a contractor look at the roof,
105 who said it needs some framing and shingles on the south. The north side only needs shingles. The
106 mortar is not a serious matter. They painted the windows and there weren't broken ones. Mayor
107 Brackner and Councilmember Clausen have looked at the windows and found them to be sub-par. The
108 part of the roof they have done, looks good. He proposed letting them finish the roof and get back to
109 them on the window painting.

110 Councilmember Clausen asked if finishing the roof was open ended. Mayor Brackner said Mr.
111 Griffin had planned to address the council at this meeting to state when it would be done. Mr. Clausen
112 asked about the fire code violation. Mayor Brackner responded that Mr. Ballam said they will comply.
113 PWD Nelson checked the fire extinguishers last week and found they haven't been updated since 2004.

114 Councilmember Wright reviewed the contract and the items that haven't been done. He feels
115 the Opera Company is giving them the same story they've told for the last 10 years and he guesses it
116 will continue to be like this. He reminded that the contract is very specific and he recommended the
117 city stick to it. Councilmember Clausen wondered if it came right down to it, if the Council would
118 agree to kick them out and then decide on the fate of the building. Councilmember Wilson was hoping
119 Michael Ballam would bring a plan tonight showing how they would finish the items outlined in the
120 contract.

121 By November 16, all the improvements should be finished, per the contract. Mayor Brackner
122 plans to have a review on the November 23rd agenda. They will decide what to do at that point.

123 Discussion was held on the eviction procedure. Councilmember Clausen suggested asking the
124 city attorney to clarify the contract regarding termination notification.

125 Discuss Storm Drainage Problem on Lamplighter: Mayor Brackner asked PWD Nelson to
126 report on what he had found out. Mr. Nelson said he's had three contractors look at the job to replace
127 the curb, gutter and approach in front of the Weinberger's driveway and none have gotten back to him
128 with a bid. They are extremely busy and doubt they could get to it this fall. Lori Weinberger said her
129 contractor is available. Mayor Brackner suggested postponing it until they could get more bids. Mr.
130 Weinberger was worried that time was running out before winter. They are anxious to get it taken care
131 of, but want to do it right. Mr. Nelson guesses the approach would cost between \$3,000 and \$4,000.
132 Ms. Weinberger asked if her contractor could just do it quickly. Councilmember Clausen suggested
133 the Weinbergers could get it done in the next couple days and the city would give them \$3,500 towards
134 the curb and gutter.

135 Mayor Brackner didn't feel good about the city setting a precedence by helping fund this
136 project. He would at least like the contractor to bill the city separately, so it didn't look like the city
137 was just giving money to them. The Weinbergers felt happy about that.

138 Steve Weinberger drew a diagram on the board to make sure they all had the same
139 understanding.

140 Councilmember Wilson asked for clarification that their contractor would install the approach
141 the way the city wanted to have it done.

142 FD Grover suggested the city have the Weinbergers sign a release form so they couldn't come
143 back on the city if they felt the curb and gutter didn't work to their satisfaction. Mr. Weinberger
144 agreed, but reminded that his driveway isn't the only storm water problem on Lamplighter.

145 Councilmember Wilson asked how much repair they were planning to do now. Mr.
146 Weinberger said the curb, gutter and a French drain in their driveway, as a safety measure. Their
147 contractor told them it was unnecessary to redo the whole driveway.

148 PWD Nelson expressed his desire for at least one more bid. Ms. Weinberger said their
149 contractor promised them a really good deal. She left the room to call him. When she returned, she
150 reported that he is available to do it now. He doesn't want to do the curb and gutter for the city
151 because he doesn't think it will fix the problem on Lamplighter. If he did do the curb and gutter he
152 would charge \$5,000 for the city's portion (the incline only). Mayor Brackner questioned whether the
153 city should pay at all because the previous homeowner cut the driveway, curb and gutter.

154 Joe Dabel said the city is responsible for the drainage on Lamplighter. Mayor Brackner said he
155 doesn't believe the city is responsible for the Weinbergers problem. PWD Nelson agreed the street
156 doesn't drain real well, but the water eventually gets where it needs to go.

157 Mr. Weinberger said they are willing to get their curb fixed and if there are further problems
158 they can bring it up at that time.

159 More discussion was held on how the water runs down the street and which direction it goes
160 when it hits the bottom. PWD reiterated that if the driveway isn't fixed, all the drains in the world
161 won't fix the problem.

162 Ms. Weinberger said a storm drain that ties into the sewer would solve the whole problem.

163 Councilmember Clausen said Steve and Lori Weinberger are asking for two different things.
164 She wants a storm drain and he wants the city to help offset their costs. Mr. Clausen said their
165 driveway is not the city's fault. He reminded he was going to offer the city pay \$3,500 with the
166 signing of a release. Ms. Weinberger stated she will not sign a release form for the city's storm water.

167 Councilmember Wright suggested, if the city is willing to contribute some money, they should
168 get the city engineer and PWD Nelson to agree on the design, which could negate the signing of a
169 waiver. Mr. Nelson agreed to this.

170 **Councilmember Clausen moved that "the city will contribute up to \$3,500 towards fixing**
171 **the curb and gutter and the north side of the Weinberger's driveway, up to the crown, with the**
172 **design being approved by the city engineer and public works director and the bill (of not more**
173 **than \$3,500) will be sent from the contractor who does the work to the city for payment."**
174 **Councilmember Smith seconded the motion, which carried with Clausen, Scott, Smith and**
175 **Wright in favor. Wilson voted against because she felt there were too many issues.**

176 Councilmember Wilson expressed concern with the city paying for part of this project because
177 there could be more situations come up just like this one. Councilmember Clausen felt part of this
178 situation was the city's problem so the city should help resolve it.

179 Joe Dabel said each year Lamplighter gets chipped, which changes the curvature of the road
180 and affects the way the water runs. Mayor Brackner explained that no matter what level the road is,
181 the water will still run across it into the gutters. PWD Nelson pointed out there are some storms that
182 will cause flooding no matter what kind of system is in place.

183 PWD Nelson will run the idea past Engineer Rasmussen quickly, so it shouldn't cost too much
184 in fees.

185 Mayor Brackner asked if the city's contracted amount could be billed separately. PWD Nelson
186 said he would like to get another bid. The Weinbergers will hold off until the first of next week, when
187 they will probably go ahead with their contractor.

188 Mayor and Council Reports: Councilmember Wright took leave of the meeting at 7:50 p.m.

189 Councilmember Smith stated the Tree Lighting Ceremony is scheduled for November 28. He
190 asked about the 'no dogs in the park' rule and if this has solved the intended problem. PWD Nelson
191 said the problem has decreased but it isn't totally solved. Mr. Smith said he had a citizen ask about it
192 and mentioned, if the problem isn't solved, why have the rule. Councilmember Wilson said the school
193 was grateful when the city adopted the 'no dogs rule.' She feels the health and safety issue has been
194 better. Mr. Nelson said he's had dog owners say they are grateful for the rule.

195 Mayor Brackner asked Councilmember Wilson to submit a pickle ball court estimated cost to
196 add to the capital projects list they will review in January, so it can be ranked with the other projects.

197 Mayor Brackner informed, a new mailbox is needed and they are considering a brick one at the
198 end of the walk to the front door. PWD Nelson is checking into a brick box, which may cost between
199 \$600 and \$700. A box will be included for mail and another one for utility payments. All total, the
200 whole thing may exceed the \$1,000 purchase order limit. Mayor Brackner asked if the Council would
201 be okay with them going ahead with the project since there won't be an individual aspect of it that will
202 go over the limit. The Council was fine with this.

203 Mayor Brackner read an auditor alert from the state regarding the use of municipal funds for
204 personal use. He asked that city employees abide by this rule.

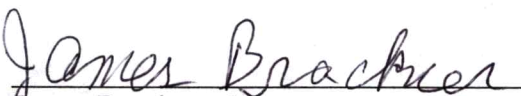
205 Mayor Brackner discussed the Conservice light situation. There have been complaints from
206 four property owners north of the building. The city doesn't have an ordinance that addresses indoor
207 lights. It only regulates outdoor lights, which has been complained about as well. He guesses shields
208 can be added to the higher outdoor lights. He proposed a meeting with himself, Councilmember
209 Wright, PWD Nelson and a representative from Conservice to see what they are willing to do for the
210 neighborhood, regarding the lighting. The council agreed.

211 Mayor Brackner reported that Helikers believe the Kraus' have an unlawful home business.
212 Their attorney has asked the city to check into it. Mr. Kraus believes his business is grandfathered in.
213 The city has asked him to prove when his business started. He has turned the matter over to his
214 attorney. The city's attorney is also getting involved.

215 **Councilmember Smith moved to "go into a closed session." Councilmember Clausen**
216 **seconded the motion, which carried with Clausen, Scott, Smith and Wilson in favor. Wright was**
217 **absent.**

218 The Mayor and Council moved into a closed session at 8:05pm to discuss the purchase of an
219 easement or real property, pursuant to the provision of Section 52-4-5 of the Open and Public Meeting
220 Law. They moved back into the open meeting at 8:25pm.

221 The meeting adjourned at 8:25pm.

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226 
227 James Brackner, Mayor

Sheila Lind, Recorder

River Heights City Bills To Be Paid

October 25, 2016

	Payee	Description	Admin.	P&Z	Parks/Rec	Pub. Safety	Com. Aff.	Roads	Water	Sewer	Total
1	Al's Trophies & Frames	Royalty Photo Framing					\$47.00				\$47.00
2	City of Logan	Sewer, 911, Garbage, Recycle	\$11,063.50			\$1,881.00				\$7,864.71	\$20,809.21
3	Comcast	High speed internet	\$21.97						\$21.96	\$21.96	\$65.89
4	Denny's Stationery	Office Supplies/Envelopes	\$56.10								\$56.10
5	Ferguson Enterprises, Inc.	Valve on 700 South							\$1,054.18		\$1,054.18
6	Foresight Survery	French Drain Capital							\$4,005.00		\$4,005.00
7	Four Seasons Htg. & A/C	Well House Gas Line							\$312.50		\$312.50
8	James Brackner	Cache Summit Training	\$25.00								\$25.00
9	LeGrand Johnson	Steward Hill Court Cement						\$133.00			\$133.00
10	Logan City	Water Consumption							\$351.57		\$351.57
11	Questar	Gas	\$13.37		\$12.99			\$3.33	\$20.66	\$3.33	\$53.68
12	Ramos, Irma	Utility Water Refund							\$65.94		\$65.94
13	Roto Rooter	Soccer Porta Potty			\$100.00						\$100.00
14	Thomas Petroleum	Fuel for City Vehicles			\$16.42			\$16.41	\$16.41	\$16.41	\$65.65
15	ULGT	Workers Comp. (2 Months, Oct & Nov)	\$25.40		\$38.98			\$119.02	\$150.76	\$158.70	\$492.86
16	Watkins Printing	Envelopes & Postage	\$486.82						\$220.22	\$220.22	\$927.26
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27	Zions Visa Paid on 10/20/2016										
28	Code 42	Cloud Storage	\$9.99								\$9.99
29	Adobe	AcroPro Subscription	\$15.98								\$15.98
30	Google	E-mail Domains	\$41.66								\$41.66
31	Nextiva	Office Phone/Fax	\$42.74						42.74	\$42.74	\$128.22
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Page 1 SubTotals			\$11,802.53		\$168.39	\$1,881.00	\$47.00	\$271.76	\$6,261.94	\$8,328.07	\$28,760.69

River Heights City
 Financial Summary
 October 25, 2016

	<u>Cash Balance By Fund</u>		Net Change	% of Total
	09/30/16	10/11/16		
General Fund	307,250.05	314,434.69	7,184.64	26.53%
Capital Projects Fund	(74,315.20)	(142,723.70)	(68,408.50)	-12.04%
Water Fund	176,452.45	196,633.83	20,181.38	16.59%
Sewer Fund	809,265.37	816,860.78	7,595.41	68.92%
Total Cash Balance	<u>1,218,652.67</u>	<u>1,185,205.60</u>	<u>(33,447.07)</u>	100.00%

Budget Summary - June 30, 2017

		YTD Actual	Annual Budget	Unexpended Budget	% Of Budget Incurred	% Of Time Incurred
General Fund						
Revenue		154,126.46	633,970.00	479,843.54	24.31%	28.22%
Expenditures						
	Administrative	24,990.19	154,214.00	129,223.81	16.20%	28.22%
	Office	4,060.04	14,525.00	10,464.96	27.95%	28.22%
	Community Affairs	9,214.31	18,300.00	9,085.69	50.35%	28.22%
	Planning & Zoning	1,350.29	11,100.00	9,749.71	12.16%	28.22%
	Public Safety	5,720.04	99,480.00	93,759.96	5.75%	28.22%
	Roads	25,991.42	104,843.00	78,851.58	24.79%	28.22%
	Parks & Recreation	16,732.76	71,446.00	54,713.24	23.42%	28.22%
	Sanitation	21,395.30	124,000.00	102,604.70	17.25%	28.22%
	Transfer To CP Fund	-	-	-		
Total Expenditures		<u>109,454.35</u>	<u>597,908.00</u>	<u>488,453.65</u>	18.31%	28.22%
Net Revenue Over Expenditures		<u>44,672.11</u>	<u>36,062.00</u>	<u>(8,610.11)</u>		
Capital Projects Fund						
Revenue		18.55	100.00	81.45		28.22%
Expenditures						
	Administrative		28,000.00	28,000.00		28.22%
	Water	64,721.00		(64,721.00)		28.22%
	Roads	75,868.34	423,000.00	347,131.66		28.22%
	Parks & Recreation	-	-	-		28.22%
Total Expenditures		<u>140,589.34</u>	<u>451,000.00</u>	<u>310,410.66</u>		28.22%
Net Revenue Over Expenditures		<u>(140,570.79)</u>	<u>(450,900.00)</u>	<u>(310,329.21)</u>		
Water Fund						
Revenue		153,798.57	333,600.00	179,801.43	46.10%	28.22%
Expenditures		<u>65,164.33</u>	<u>219,213.00</u>	<u>154,048.67</u>	29.73%	28.22%
Net Revenue Over Expenditures		<u>88,634.24</u>	<u>114,387.00</u>	<u>25,752.76</u>		
Sewer Fund						
Revenue		57,647.31	176,312.00	118,664.69	32.70%	28.22%
Expenditures		<u>45,778.50</u>	<u>169,143.00</u>	<u>123,364.50</u>	27.06%	28.22%
Net Revenue Over Expenditures		<u>11,868.81</u>	<u>7,169.00</u>	<u>(4,699.81)</u>		

Lease Agreement

This Lease Agreement (“Lease” or “Agreement”) is entered into by the UTAH FESTIVAL OPERA & MUSICAL THEATER, a Utah non-profit corporation (“Tenant”) and RIVER HEIGHTS CITY a Utah Municipal Corporation (“Landlord”).

- Agreement to Lease. Landlord agrees to lease to Tenant, and Tenant agrees to lease from Landlord, the Premises described below on the terms and conditions stated in this Lease. Tenant agrees to comply with the requirements found in the Fire Marshal’s Inspection Report, dated February 5, 2016 and attached hereto as Exhibit “A” and incorporated as a material term of this Agreement.
- Premises. The leased premises (“Premises”) are located at 500 East 443 South, River Heights Utah.
- Term. The term of this lease begins on the date listed herein and shall run for a term of eighty-four (84) months. (“Term”) Thereafter, this Agreement shall operate on a year-to-year basis unless otherwise renewed in writing upon mutual consent of both parties.
- Rent. Tenant will pay Landlord, without demand, rent in the amount of \$1.00 per year.
- Operating Expenses. Tenant is responsible for all costs, charges, operating expenses and utilities.
- Condition of the Premises. Tenant is familiar with the Premises and accepts them, “as is”.
- Use. The use of the building shall be limited to storage of props and costumes, a caretaker’s apartment, and maintenance and use of an archive/library. Nothing in this Lease shall eliminate Tenant’s obligations to obtain proper approvals from River Heights City for any permitted uses, occupancy requirements, or other applicable licensing requirements.
- Alterations. Tenant may not alter the Premises without the prior written consent of Landlord in each instance. All alterations made by Tenant shall, unless Landlord requests removal, become Landlord’s property and remain on the Premises at the termination of this Lease without any compensation to Tenant. If Landlord demands or permits removal, Tenant will put that part of the Premises into the same condition as existed prior to the alteration.
- Responsibility. The Tenant shall comply with all municipal, state and federal laws and regulations respecting said Premises and shall not use said Premises for public

gatherings or hazardous purposes. The Landlord shall not be liable for any loss of property by theft or burglary from said Premises or Building; nor for any accidental damage to person or property in or about said Premises or Building resulting from, electric lighting or wiring, plumbing, from either city water or other water, rain, snow, steam, gas, or electricity which may come into, leak or issue or flow from any part of said Premises or Building, of which the Premises hereby leased are part, or from the pipes, plumbing, wiring, gas or sprinklers thereof, or that may be caused by the Landlord's employees or any other cause whatever, (except damage to person or property as aforesaid, which has been caused by the willful misconduct of the Landlord or the Landlord's agents or employees); and the Tenant hereby covenants and agrees to make no claim for any such loss or damage at any time, except a claim for damage to person or property as aforesaid, which has been caused by the willful misconduct of the Landlord or the Landlord's agents or employees.

- Fire and Casualty. In the event of fire or other damage to the Premises, Tenant will immediately notify the Landlord. If the Premises are rendered uninhabitable, continued occupancy would be illegal and if Landlord cannot or chooses not to repair within ninety (90) days, Tenant may immediately vacate the Premises and notify Landlord in writing within ten (10) days after vacating of Tenant's intent to terminate, in which case this Lease shall terminate as of the date of vacating and all prepaid rent shall be returned to Tenant.

- Liability. Landlord is not liable for any loss of property, damage or expense of any kind suffered by any person on or about the Premises, except that which is caused by Landlord's or the Landlord's agents' or employees' willful misconduct. If Landlord incurs any damage or expense due to any such claim, other than a claim arising from Landlord's or Landlord's agents' or employees' willful misconduct, Tenant will reimburse Landlord for such damage or expense. Tenant hereby agrees to defend, indemnify and hold Landlord harmless from any and all claims, liabilities and suits relating to Tenant's use or occupancy of the Premises, except that which is caused by Landlord's or the Landlord's agents' or employees' willful misconduct.

- Assignment and Subleasing. Tenant may not assign this Lease or sublet all or any part of the Premises without Landlord's prior written consent.

- Insurance Requirements. Tenant agrees to obtain, pay for and carry during the Term of this Lease "renters insurance" covering the reasonable value of the Tenant's personal property in the Premises plus commercial general public liability insurance covering all usual risks in an amount of at least One Million Dollars (\$1,000,000). Tenant shall name Landlord as an additional insured as its interest may appear, and provide Landlord with a certificate of insurance evidencing such coverage or copies of all such policies.

- Right of Entry. Landlord may enter the Premises at reasonable times in order to examine the Premises. In the event of any actual or apparent emergency, Landlord may

enter the Premises at any time without notice.

- Subordination. The Lease and Tenant's rights under it are subject and subordinate to all existing and future mortgages on the Premises. Tenant will execute and deliver within a reasonable amount of time after demand any certificate(s) Landlord's lender may require to evidence such subordination.

- Notices. All notices under this Lease must be in writing and either e-mailed or mailed to the address of Landlord or Tenant.

- Tenant Improvement: As a material condition of this Agreement, Tenant agrees to make the following improvements which shall be performed in a workman like manner and completed within 180 days of this agreement:

- Install a new asphalt shingle roof (min. 20-year shingle rating) over the entire building structure including stripping old shingles, replacing any rotted sub-layer beneath existing shingles, and installation of proper flashing. Tenant shall obtain written approval from Landlord concerning the type and color of shingle prior to installation. Tenant shall employ a licensed and insured roofing contractor to perform said installation.
- Repair or replace all broken or otherwise worn windows with windows that tend to match the existing windows. Tenant shall obtain written approval from Landlord concerning the style and function of the replacement windows.
- Repaint window trim of existing windows. Tenant shall obtain written approval from Landlord concerning color of window paint to ensure that it matches existing windows.
- Remove and replace all worn or missing mortar on Building's brick veneer and chimney. The new mortar shall match the existing mortar and shall be installed by a professional experienced in repointing brick. Tenant shall obtain written approval from Landlord concerning color of mortar to ensure that it matches the existing mortar.

- General Rules and Regulations. The Tenant covenants that the following rules, regulations and stipulation shall be faithfully observed and performed by the Tenant and agents, and invitees, to-wit:

- Tenant shall not store vehicles, except for two vehicles permitted for the building caretaker, or other equipment in the parking premises, including, but not limited to, any overnight parking in the parking areas and lots.
- The lawns adjacent to Building shall be watered, mowed and the landscaping shall be kept in neat order all at Tenant's expense.
- The parking lots adjacent to the Building shall be kept in good condition and repair.
- The sidewalk, entry, corridors, passages, and staircases shall not be obstructed, or used for any other purpose than for ingress and egress to and from the Building, nor shall the Tenant place or allow to remain in any public corridor,

stairway, landing or other public area of the Building, any boxes, cartons, stocks of materials or other things.

- No sign, advertisements or notice shall be inscribed, painted or affixed on any part of the outside or inside of the Building, except with written permission of Landlord.
- Tenant shall not do or permit anything to be done in said Premises, or bring or keep anything therein, or in any way increase the rate of hazard on said building, or on the property kept therein, or conflict with the regulations of the Fire Department, or the fire laws or with any insurance policy upon said Building or any part thereof, or with any rules and ordinances established by the Board of Health.
- Tenant shall maintain the Building in good order and cleanliness. It is further agreed that the Landlord shall not be responsible to any Tenant for any loss of property in or from said leased Premises, or for any damage done in the demised Premises to furniture or effects, however occurring. The Landlord shall not be liable to furnish Janitor service inside the tenant's Premises.
- No additional locks shall be placed upon any doors of the Premises, and Tenants will not permit any duplicate keys to be made (all necessary keys will be furnished by the Landlord), but if more than two keys for any door-lock are desired, the additional number must be paid for by the Tenants. Upon the termination of this Lease the Tenant shall surrender all keys of the Premises and of the Building and give to the Landlord the explanation of the combination of all locks on vault doors in the Premises.
- The Landlord reserves the right to make such other and further rules and regulations as in its judgment may from time to time be needed for the safety, care and cleanliness of the Premises and for the preservation of good order therein.
- Default and Remedies
 - Notice of Default. Landlord agrees to provide five (5) days' written notice to Tenant to correct any default under this Lease, other than a failure to pay rent.
 - Termination of Lease. If Tenant fails to correct any default, other than a failure to pay rent, within such thirty (30) day period or if Tenant fails to pay rent provided for in this Lease on its due date plus a grace period of five (5) days, then Landlord may cancel this lease. In the case of failure to pay rent, a "three (3) day's notice to pay or quit" or as required under Utah law shall be sufficient notice. For all other defaults, Tenant shall be given at least thirty (30) day notice prior to termination. Tenant remains liable, after such termination, for rent, additional rent, costs, attorney's fees and damages. In case the lease is terminated, Tenant has 60 days to vacate the premises.
 - Rent for Unexpired Term. If this Lease is terminated due to Tenant's default,

Tenant shall continue to be liable for all rent during the entire Term as provided in this Lease. Landlord may thereafter lease the Premises to another tenant for any term and at any rent. Tenant is responsible for all costs incurred by Landlord in re-letting the Premises. Any rent received by Landlord from a new tenant will reduce the amount for which Tenant is liable to pay Landlord.

- Other Remedies. If this Lease is terminated due to Tenant's default, Landlord may, in addition to any other rights and remedies available to them, (i) enter the Premises and have Tenant and Tenant's property removed and (ii) use any dispossession, eviction and similar legal proceedings available.
- Landlord Default. If prior to the expiration of the Term of this Lease, the Premises becomes unusable whether by reason of fire, structural damage, force majeure, wiring failure, plumbing failure or any other reason incident to age and condition of the building, Landlord's shall have no liability to Tenant. In no event shall Landlord be liable to Tenant for damages to Tenant's property, business, or for payment of costs to lease an alternate building or other structure.
- Attorney's Fees. In the event of any default under this Lease by Tenant, Tenant shall be obligated to pay and reimburse all of Landlord's reasonable attorney's fees, collection agency fees, prejudgment interest at the rate of ten (10%) percent and costs.
- Curing Defaults. If Tenant does not correct a default within thirty (30) days after written notice by Landlord, Landlord may, but shall not be obligated to remedy such default on behalf of Tenant, and any costs incurred by Landlord will be payable by Tenant as additional rent under this Lease which will be due and payable to the Landlord within 10 days from the date of notification by Landlord.
- Surrender. At the end of the Term or earlier termination of this Lease, Tenant will quit and surrender the Premises in as good order and condition as on the Commencement date of this Lease.
- No Waiver. If Landlord fails to enforce any provision of this Lease, it is not deemed to waive such provision and is not prevented from enforcing such provision thereafter.
- Severability. If any part of this Lease is invalid or unenforceable, the balance of this Lease shall remain effective, absent such provision.
- Merger. This Lease represents the entire agreement between Landlord and Tenant. Landlord has made no representations other than what is contained in this Lease.
- Amendments. No change in this Lease shall be effective unless it is in writing

and signed by both Landlord and Tenant.

- Attorney's Fees. In the event of any dispute or controversy between the parties concerning the enforcement or interpretation of this Lease, the rights, duties or obligations of the parties hereunder, or otherwise relating to or arising out of this Lease, the prevailing party in such dispute or controversy shall be entitled to recover reasonable costs and expenses incurred, including attorney's fees, in addition to any other remedies which they may be entitled to at law or in equity.

DATED this 16TH day of May, 2016

RIVER HEIGHTS CITY:

James Brackner
James Brackner

Mayor

Attest:

Sheila Lind
Sheila Lind

City Recorder

UTAH FESTIVAL OPERA & FESTIVAL THEATER

By: *Michael Ballam* (Michael Ballam)
Its: *General Director*