

CANAL INDEMNIFICATION AGREEMENT

THIS CANAL INDEMNIFICATION AGREEMENT (this “**Agreement**”) is made and entered into as of this 22nd day of October (the “Effective Date”), by and among SOUTH WEBER CITY, a Utah municipal corporation (the “**City**”), and SOUTH WEBER, LLC, a Michigan limited liability company (“**SWLLC**”). The City and SWLLC are sometimes referred to herein individually as “**Party**” and collectively as “**Parties.**”

RECITALS

A. Pursuant to that certain Offer to Purchase Real Estate with a date of acceptance of September 26, 2023, as amended from time to time (the “**Purchase Agreement**”), the City is under contract to sell certain real property to SWLLC (the “**Property**”), as more particularly described on Exhibit A – Legal Description, attached hereto and incorporated herein by this reference.

B. The City has allowed the developer, Nilson Homes, owner of the adjacent property commonly known as the Riverwood Subdivision Development, to utilize a portion of the Property to relocate and pipe a portion of the Riverdale Bench Canal (the “**Canal**”), with the understanding they were responsible for any required permitting from the United State Army Corps of Engineers (“**USACE**”). Nilson Homes installed the piping and backfilled with compacted material. At the request of SWLLC, the City backfilled the remaining abandoned portion of the canal with compacted backfill material. A portion of the Riverdale Bench Canal remains in its original native state. The relocation of the canal and the portion left in its native state are shown in Exhibit B – Canal Relocation, a copy of which is attached hereto and incorporated herein by reference. The relocated portion of the Canal is referred to hereafter as the “**Relocated Canal**”. Any work performed by Nilson Homes and the City with respect to relocating the Canal and backfilling the abandoned portion is collectively referred to herein as the “**Canal Work**”.

C. As consideration for the completing the transaction set forth in the Purchase Agreement, the City has agreed to indemnify SWLLC for risks related to the Canal Work pursuant to the terms and condition set forth below.

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Recital Incorporation. The Recitals to this Agreement are hereby incorporated by the Parties and each Party acknowledges they are correct.
2. Indemnification. The City and its successors and assigns agrees to indemnify, defend with counsel of SWLLC’s choice, and hold SWLLC and its employees, officers,

divisions, subsidiaries, partners, members, parent companies, and affiliated companies and entities and its and their employees, officers, shareholders, members, directors, agents, representatives, and professional consultants and its and their respective successors and assigns (collectively, the “Indemnitees”) harmless from and against any loss, liability, claim, cause of action, penalty, cost, charge, fee, amount or other expense (including, but not limited to, attorneys’ fees and any other legal costs) of any kind or character (collectively, the “Claims” or a “Claim”) arising from or relating to the Canal Work, including but not limited to any liens claims related to the Canal Work or any mitigation required by USACE for the Relocated Canal. The indemnity provided by the City in favor of the Indemnitees in this Agreement shall not require payment as a condition precedent. This indemnity shall be limited to claims arising from work performed prior to the transfer of the Property to SWLLC, and shall not extend to any actions, omissions, or work performed by SWLLC, its contractors, or agents after the transfer of the Property. The terms and conditions of this provision shall remain effective notwithstanding the closing of the Purchase Agreement and the transfer of the Property from the City to SWLLCs.

3. No Third-Party Beneficiary. No term or provision of this Agreement or the Exhibits attached hereto is intended to be, nor shall any such term or provision be construed to be, for the benefit of any person, firm, corporation, or other entity not a Party hereto, and no such other person, firm, corporation, or entity shall have any right or cause of action hereunder.

4. Notices. Any notice required or permitted to be given or transmitted between the Parties pursuant to this Agreement shall be: (i) personally delivered; (ii) mailed, postage prepaid by certified mail, return receipt requested; (iii) sent for next Business Day delivery by a recognized overnight carrier; or (iv) sent by email, addressed as follows:

CITY: South Weber City
Attn: City Manager
1600 E. South Weber Drive
South Weber, UT 84405
dlarson@southwebercity.com

SWLLC: South Weber, LLC
Attn: Chris Davis
25000 Assembly Park Drive
Wixom, MI 48393
cdavis@generalrv.com

With a Copy To:

Kirton McConkie
50 East South Temple
Salt Lake City, Utah 84111
Attn: Xanna DeGooyer
Email: xdegooyer@kmclaw.com

Either Party may designate a different address for itself by giving written notice in the

manner required by this Paragraph.

5. Miscellaneous.

5.1. Successors and Assigns. Subject to the terms and conditions of this Agreement, the provisions of this Agreement shall not be considered a covenant that runs with the land described herein. Accordingly, the terms, conditions, and provisions hereof shall not extend to or bind the heirs, executors, administrators, personal representatives, successors, or assigns of the Parties hereto, unless expressly agreed to in writing by all Parties.

5.2. Interpretation. This Agreement shall be interpreted and construed only by the contents hereof, and there shall be no presumption or standard of construction in favor of or against either Party.

5.3. Captions. The captions in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

5.4. Construction. As used herein, all words in any gender shall be deemed to include the masculine, feminine, and neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

5.5. Severability. If any provision of this Agreement or any portion of any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable from all other provisions hereof so long as removing the severed portion does not materially alter the overall intent of this Agreement.

5.6. Applicable Law. This Agreement, and the interpretation, validity, effect, and performance hereof, shall be governed by the laws of Utah.

5.7. Attorneys' Fees and Costs. If any action at law or in equity, or any special proceeding (including bankruptcy proceedings and appeals from lower court rulings), be instituted by either party against the other party to enforce this Agreement or any rights arising hereunder, or in connection with the subject matter hereof, the prevailing party shall be entitled to recover all costs of suit and reasonable attorneys' fees. For purposes of this Paragraph, the term "prevailing party" shall, in the case of a claimant, be the party who is successful in obtaining substantially all of the relief sought, and in the case of the defendant or respondent, the party who is successful in denying substantially all of the relief sought by the claimant.

5.8. Time is of the Essence. Except for *force majeure*, time is expressly made of the essence of each and every provision of this Agreement.

5.9. Authority. The individuals executing this Agreement represent and warrant that they have the power and authority to do so and to bind the entities for which they are executing

this Agreement.

5.10. Non-Fiduciary or Agency Relationship. The Parties hereto expressly disclaim and disavow any partnership, joint venture, fiduciary, agency or employment status or relationship between them and expressly affirm that they have entered into this Agreement as part of an “arms-length” transaction. No Party hereto has the authority to make any representation or warranty or incur any obligation or liability on behalf of any other party hereto, nor shall they make any representation to any third party inconsistent with this Paragraph.

5.11. Survive Closing. All terms and conditions set forth in this Agreement shall survive the closing of the Purchase Agreement.

5.12. Mortgagee Protection. Breach of any of the covenants or restrictions contained in this Agreement shall not defeat, render invalid or prime the lien of any first mortgage or deed of trust made in good faith and for value as to any parcel or any part of a parcel, but all of the foregoing provisions, restrictions and covenants shall be binding upon and effective against any owner whose title to a parcel is acquired by foreclosure, trustee sale, deed in lieu of foreclosure or otherwise.

5.13. Counterparts. The Parties may sign this Agreement in multiple identical counterparts, all of which taken together shall constitute one and the same agreement. Further, the Parties shall treat a copy of an original signature to this Agreement for all purposes as an original signature. The Parties shall consider a copy of the signed Agreement for all purposes as an original of the Agreement to the maximum extent permitted by law, and no party to this Agreement shall have any obligation to retain a version of this Agreement that contains original signatures in order to enforce this Agreement, or for any other purpose.

(signatures to follow)

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY:

SOUTH WEBER CITY,
A municipal corporation of the State of Utah

By: _____
Name (Print): David Larson
Its: City Manager

SWLLC :

SOUTH WEBER, LLC,
a Michigan limited liability company

By: _____
Name (Print): _____
Its: _____

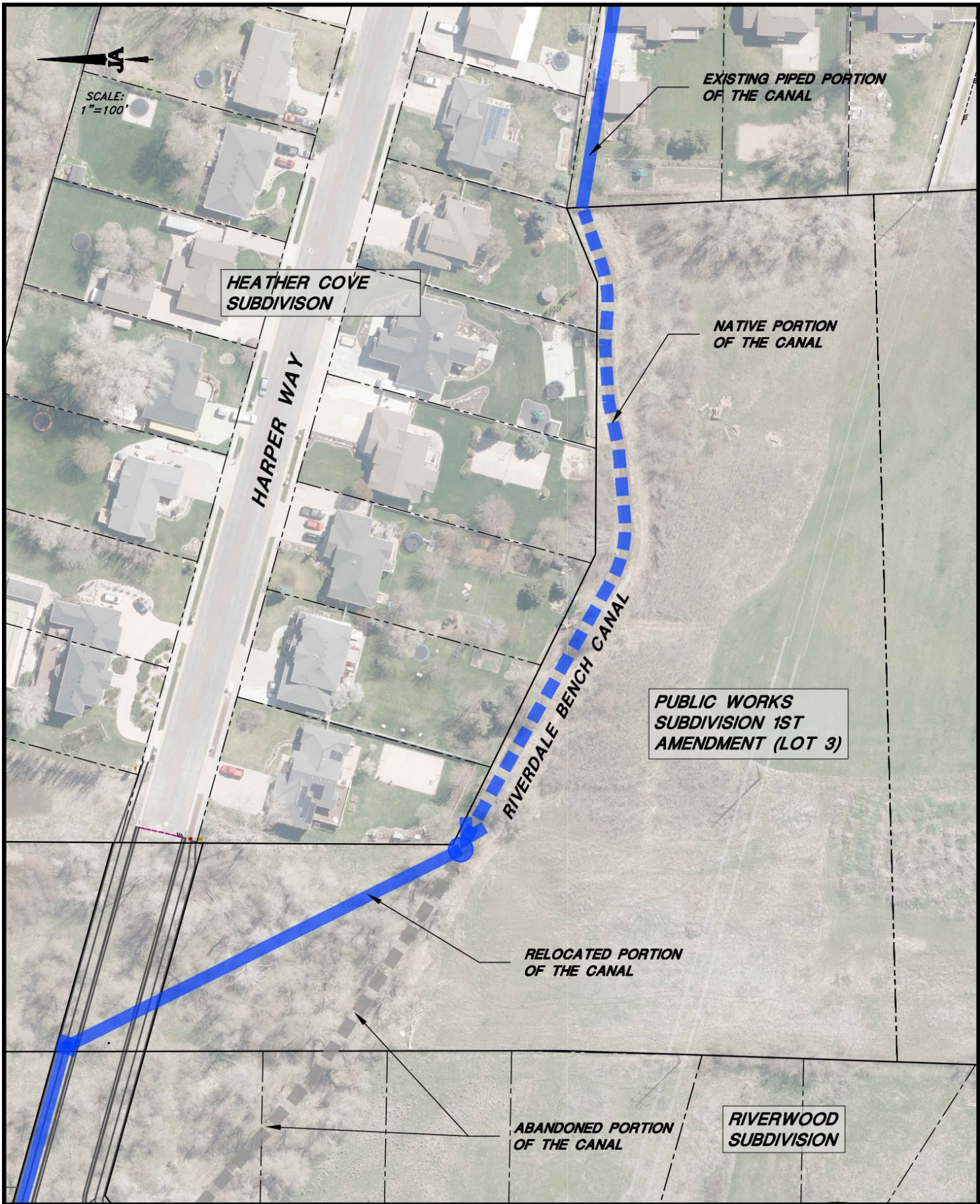
Exhibit A

Legal Description

All of Lot 3, Public Works Subdivision 1st Amendment. Containing 5.31 Acres.

Exhibit B

Canal Relocation



GENERAL RV INVENTORY LOT

CANAL RELOCATION AGREEMENT

EXHIBIT B