

RESOLUTION 23-10

A RESOLUTION OF THE SOUTH WEBER CITY COUNCIL ADOPTING THE SOUTH WEBER MODEL RAILROAD CLUB AGREEMENT

WHEREAS, the South Weber Model Railroad Club was organized in 2009 with a substantial contribution from the city of South Weber; and

WHEREAS, South Weber approved a conceptual phased master plan in 2014; and

WHEREAS, South Weber entered into an agreement with the Club in 2018 outlining mutual covenants and conditions; and

WHEREAS, the Parks Committee brought forward potential updates in early 2020 and the negotiation process has been lengthy due to the pandemic and change in club leadership; and

WHEREAS, the contract came before the Council on April 11, 2023 and was tabled for further negotiations; and

WHEREAS, a meeting was held on April 28th to finalize the details before presentation tonight;

NOW THEREFORE BE IT RESOLVED by the Council of South Weber City, Davis County, State of Utah, as follows:

Section 1. Approval: The South Weber Model Railroad Club Agreement is hereby approved as attached in Exhibit 1.

Section 2: Repealer Clause: All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

PASSED AND ADOPTED by the City Council of South Weber, Davis County, on the 9th day of May 2023.

Roll call vote is as follows:

Council Member Halverson	FOR	AGAINST
Council Member Petty	FOR	AGAINST
Council Member Soderquist	FOR	AGAINST
Council Member Alberts	FOR	AGAINST
Council Member Dills	FOR	AGAINST


Rod Westbroek, Mayor


Attest: Lisa Smith, Recorder

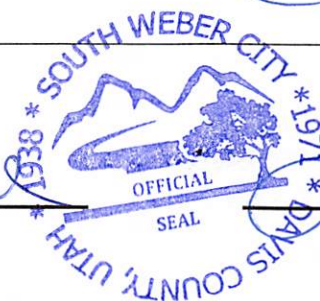


EXHIBIT 1

SOUTH WEBER MODEL RAILROAD CLUB AGREEMENT

**AGREEMENT BETWEEN SOUTH WEBER CITY AND
THE SOUTH WEBER MODEL RAILROAD CLUB**

This Agreement is made this 27th day of Sept, 2023, by and between South Weber City (“City”) and the South Weber Model Railroad Club (“Club”). City and Club are hereinafter referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

Whereas, the Club, a 501(c)(3) non-profit corporation, proposes to render advantageous and desirable services by and through its model railroad activities; and

Whereas, it is the desire of the City to increase the use of the City’s Canyon Meadows Park and to aid and assist the Club in the development of its program, the same being consistent with Resolution 14-07, Phased Master Plan dated January 28, 2014, it being noted that Resolution 14-07 approved a conceptual Master Plan; and

Whereas, the City Council updated the Canyon Meadows Park Master Plan for the West side of the park in December 2020; and

Whereas the Parties entered into an Agreement in 2018 documenting their positions and obligations, and now they desire to amend that Agreement to read as stated herein.

AGREEMENT

Now therefore, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1.0 General Provisions

The City agrees to allow the Club to use a limited portion of Canyon Meadows Park for the operation of their model railroad activities. The City’s programs and activities shall, in all cases and at all times, take precedence over the Club’s programs and activities unless specifically authorized by this Agreement. The Club may use the Canyon Meadows Park railroad facilities during such periods and for such purposes as are prescribed herein and for other periods as the City may make available. The Club shall maintain the railroad facilities and features to include tracks, gravel bedding, railroad yard, bridges, signals, and signs.

1.1 Construction

The Club shall build the track panels, design appropriate bridges, and their installation per national 1/8 scale standards. The Club will build all track facilities and features, to include site prep and road base installation with funds donated by club members and benefactors, and with donated labor. No “out-of-phase” track will be laid down. “In-phase” construction will be completed as part of the approved City’s “Canyon Meadows Park Master Plan” (see Resolution 14-07, Phase 3, Appendix A). The City has allowed the track to be installed in Phase 2 during the initial construction of the Park. All changes and additions

shall be approved by the City prior to construction. Construction of the track shall be limited to what is currently installed. No additional track shall be constructed beyond that without the City's written approval.

Prior to any new construction, additions, or improvements not related to maintenance or repair and other than those on the approved 5 year plan, the Club will submit to the City Council for formal approval (1) a detailed description of the requested improvements, (2) a projected timeline for completion, (3) a list of construction materials, and (3) detailed plans for the construction, additions, or improvements sufficient that City staff can confirm the train system is built to standards and specs outlined in the plans. The plans shall be drawn to scale and provided to the City in electronic form. These plans will be dated and kept on file at the City offices. No work including demolition can begin until the plans have been approved by the City Council and the City has provided the Club with a notice or permit of approval. To help in the approval process and coordination with City projects, the Club will present a tentative five-year plan at the Spring Coordination Meeting with the City.

1.2 Operation

Weather permitting, the Club shall operate trains for public rides (hereinafter referred to as "Public Ride Days") at least one (1) Saturday of each month from March through October.

The Club may also participate in public City events including Country Fair Days, the Easter Egg Hunt, and others. Hours may vary as established by the Club's Board of Directors. The Club shall operate its trains as set forth in the Club's adopted Operating Rules (see Appendix B) as established by the Club's insurance carrier. In the event of an incident or accident, the Club will provide a complete report to both the City and the Club's insurance agency within forty-eight (48) hours. The City Manager will determine if a review board should convene to discuss cause and prevention.

1.3 Term of Agreement

The term of this Agreement shall be until December 31, 2033, unless the Termination of Agreement paragraph below is exercised.

1.4 Lease Payment

The Club shall pay the City two-hundred dollars (\$200.00) each year to lease the ground the track and rail yard building is on. Such Payment shall be made on or before the first day of January of each year.

1.5 Funding and Construction Maintenance

The initial funding of the railroad was a cooperative effort between the City and Club. The City's original contribution is considered a donation to the Club. The Club shall have ownership of all features and facilities, including the track.

*Agreement Between South Weber City and
The South Weber Model Railroad Club - 2023*

The Club is self-funded and may request donations from private individuals, businesses, corporations, and entities.

1.5.1 The Club's responsibilities include but are not limited to:

- a) Construction and maintenance of the Club-owned riding cars;
- b) Construction and maintenance of the Club-owned locomotives;
- c) Construction and maintenance of all track, ties, road base, the train yard building, ballast, and weed control along the track right-of-way, with track clearance determined by the width of the road base on either side of the track but not less than two (2) feet from the outside rail or to the mow strip once installed, and the loading and unloading areas.
- d) Construction and maintenance of railroad signs, crossing gates, warning signs along track right of way, including path crossing signs, passenger riding rules, private party notices, and price/donation signs posted at loading sites.
- e) All railyard maintenance, including but not limited to weed control, ballast coverage, fencing, security of shed, appropriate management and storage of supplies and tracks, and short-term storage of ballast, and signage.
- f) As depicted in Exhibit A, a copy of which is attached hereto and incorporated herein by reference, maintenance and weed control in all areas inaccessible to the City because of track, including all small areas between the track and the property or fence lines, areas where the Club has placed gravel, and including the property on the north and the east side of the tracks.

The City will maintain the weed barrier and mulch depicted in Exhibit A.

1.5.2 The Club shall keep the grass and weeds removed from the track area with chemical or mechanical means. When the weeds are growing and not maintained by chemical means the Club will need to remove them by mechanical means (string trimmer) weekly. The track area is considered the width of the road base on either side of the track but not less than two (2) feet from the outside rail or to the edge of the mow strip.

1.5.3 The Club shall inspect equipment monthly. The Club shall repair, replace, or remove equipment as needed to maintain safety compliance. All equipment and materials must be maintained and stored in a safe, neat, and orderly manner. Supplies other than gravel

must be stored inside or off sight. Any track, ballast, and road base that is not being used needs to be removed. Any action items identified in safety audits performed from time to time directly related to the Club's equipment and maintenance responsibilities must be addressed within 30 days of receipt of the audit report.

1.6 Donations Collection and Usage

- 1.6.1** On Public Ride Days pursuant to Section 1.2, rides for the public shall be free of charge without the obligation to pay a fee or donation. On any additional days when rides are available to the public, the Club may charge a fee of not more than two dollars (\$2.00) per ride. The Club shall not increase the fee without first obtaining approval from the City Council.
- 1.6.2** The Club shall not use ride fees for any purpose other than the cost of operating the train. Operating costs shall include but not be limited to fuel, materials to construct passenger cars and locomotives, track maintenance, lease payments, and insurance costs. In addition to the fee described above, the Club may invite patrons to make voluntary donations.
- 1.6.3** Under no circumstances shall the Club require a donation for Public Ride Days pursuant to Section 1.2.
- 1.6.4** As an incentive to make donations, the Club may allow a donor to advertise on the riding cars and locomotives so long as the donor complies with City's advertising policies and sign codes.

1.7 Use of Track

The track, trains, and equipment shall only be used by trained members of the Club in good standing. Visitors may use the track and equipment if a member of the Club is on site. Visiting operators shall sign a release form (Appendix C) with the Club and abide by the Club's Rules of Operation. If the Club fails to obtain a release form before providing the ride, the Club shall assume all liability for any accidents and injuries and shall defend and release the City from all liability,

1.8 Rider Rules of Operation

The Rider Rules of Operation (Appendix D) may be modified by the Club or the City depending on both agencies' insurance policies. Each entity will notify the other in writing of the changes.

2.0 Special Provisions

2.1 General Public

Participation in public rides shall be dependent upon full compliance with the Club's Rules of Operation. Participation in all train-related events shall be without regard to race, color, religion, gender, sexual orientation, national origin,

*Agreement Between South Weber City and
The South Weber Model Railroad Club - 2023*

age, marital status, familial status, disability, status as a disabled veteran or veteran of the Vietnam era, or any other legally protected status.

2.2 Rides

Club members shall not be obligated to furnish rides to the general public on their personally owned equipment. Members may offer rides as long as full compliance with Club safety rules and regulations are followed. The Club agrees to provide at least one locomotive and riding cars on scheduled ride days, weather permitting.

When Club members operate trains for private use, maintenance, or private parties, members shall display signs in the park indicating it is a private event and a schedule of Public Ride Days.

Appropriate railroad signs will be purchased and installed by the Club (e.g., passenger loading, crossing signs, warning points, stay off of the track, private party, and passenger area(s)).

2.3 Financial Report

Upon request by the City, the Club shall allow City officials to inspect the Club's financial records as to the Canyon Meadows Park revenues, expenditures, and ridership. The Club agrees to provide access to such records within ten (10) business days following receipt of a written request from the City.

2.4 Ownership

The Club shall own and maintain the locomotives, riding cars, tracks, signs, and fixtures. Upon termination of this Agreement, the Club shall grant the City the first right to purchase any track or structures owned by the Club. If the City does not want the track, the City shall allow the Club ninety (90) days, weather permitting, to remove the items.

2.5 Coordination Meetings

The Club, City Manager, Mayor, and City Parks Committee representatives shall meet at least twice a year in coordination and evaluation meetings. It is anticipated that meetings will take place each year in preparation for the run season and following the run season. At least once every three years as part of the coordination meetings, this Agreement shall be reviewed.

3.0 Indemnity Clause

- 3.1** For purposes of tort liability, the Club shall be considered the sole owner of the railroad, including but not limited to the tracks, locomotives, riding cars, signs, fixtures, and structures.

*Agreement Between South Weber City and
The South Weber Model Railroad Club - 2023*

- 3.2 The Club shall indemnify, defend and save and hold the City harmless from any and all claims, demands, suits, fines, fees of causes of action for death or injury to a person, or damage to property resulting from or in any way connected to the railroad and/or the Club's use of the Canyon Meadows Park, or anyone associated with the Club.
- 3.3 The City shall save and hold the Club harmless from any or all claims or causes of action for death or injury to persons, or damage to property resulting from or which may arise by reason of dangerous or defective conditions of City property, except for property to be maintained by the Club under this Agreement, or by reason of a failure to maintain Canyon Meadows Park in a safe condition.

4.0 Club Insurance

The Club agrees to maintain, at its expense, public liability insurance in the amount of \$1,000,000 with an insurance carrier satisfactory to the City. The carrier shall provide the City Recorder with a certificate each year upon policy renewal.

5.0 Closure of Park Facilities

The City, after giving reasonable notice to the Club, shall reserve the right to temporarily close any and all Canyon Meadows Park facilities, including all related Club facilities within the park for reasons of health, safety, or necessary repairs.

6.0 Abatement & Termination

- 6.1 If the Club neglects its responsibilities outlined in Section 1.5 of this Agreement, the City reserves the right to take necessary actions to fine or abate the neglect.

Prior to issuing a fine or enforcing through abatement, the City shall provide written notice to the Club specifying the nature of the neglect and the required corrective actions.

If the Club fails to remedy the neglect within fifteen (15) days of receiving such notice, then City may, at the City's discretion, assess a fine of \$100/day or undertake the necessary abatement measures at the Club's expense.

The City shall assess the costs incurred for abatement, including labor, materials, and administrative expenses, to the Club.

- 6.2 The City or the Club may terminate any provision within the Agreement or the Agreement in its entirety, at any time upon sixty (60) days written notice. Upon total termination, the Club shall remove all Club-owned equipment and fixtures from the park within ninety (90) days, weather permitting, following the official termination date.

7.0 Arrangements for use of Facilities

The Club's President or designee shall submit to the City, in writing, by January 30, of each year, their intended schedule of run days and any special events. Any future changes shall be submitted to the City in writing. Club members may use the track any time the park is open to the public, as long as it is deemed safe by the Club.

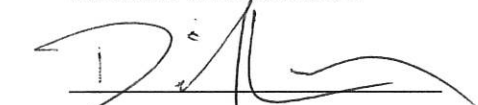
8.0 Force Majeure

If either the City or the Club shall be delayed or prevented from the performance of any act required by this Agreement by reason of acts of God, weather, earth movement, lockout or labor trouble, unforeseen restrictive governmental laws, regulation, acts or omissions, or acts of war or terrorism which directly affects Canyon Meadows Park, the City, or the Club, riot or other similar causes, without fault and beyond the reasonable control of the party obligated, the performance of such act, including payment of all monies due, shall be permanently excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay, at which time all payments due shall be resumed.

9.0 The Club shall operate and maintain the railroad in compliance with all federal, state, and local laws, and in accordance with the terms of this Agreement, the Club's insurance, and all legal requirements and obligations.

IN WITNESS WHEREOF, these parties hereto have caused this Agreement to be executed by their respective authorized representatives to be effective as of the date first above written.

SOUTH WEBER CITY



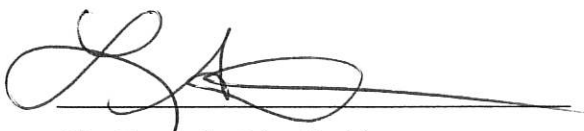
City Manager David Larson

SOUTH WEBER MODEL RAILROAD CLUB

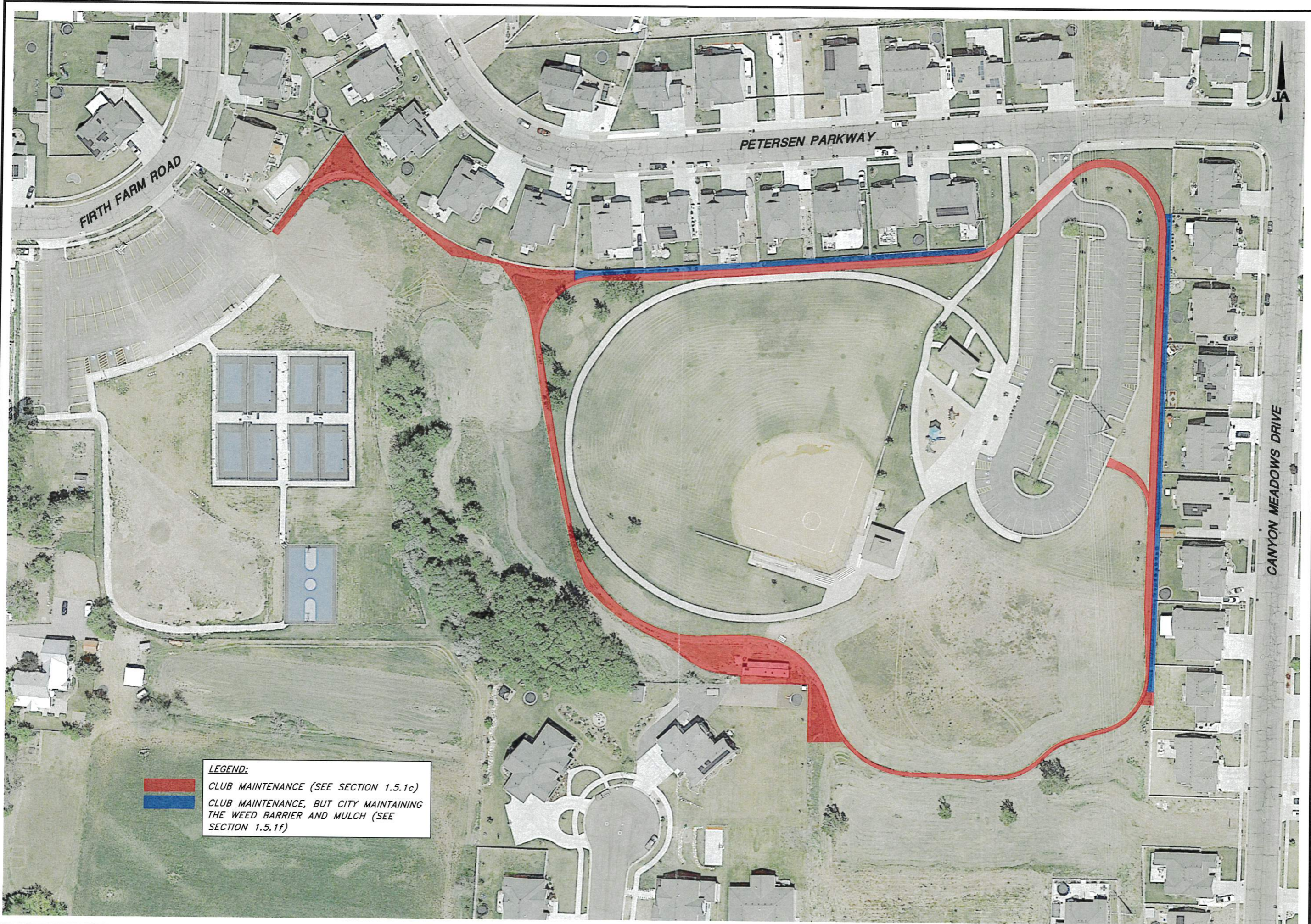


President

Attest:



City Recorder Lisa Smith



LEGEND:
 CLUB MAINTENANCE (SEE SECTION 1.5.1c)
 CLUB MAINTENANCE, BUT CITY MAINTAINING THE WEED BARRIER AND MULCH (SEE SECTION 1.5.1f)

SOUTH WEBER CITY
 CANYON MEADOWS PARK
**TRAIN CLUB AGREEMENT
 EXHIBIT A**

REV.	DATE	APPR.

SCALE:	BKJ DESIGNED	TWE DRAWN	BKJ CHECKED
24"x36"			
H:1"=50'			
11"x17"			
H:1"=100'			