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**MEMORANDUM**

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**DATE:** May 2, 2008

**TO:** Council Members

**FROM:** Janice Jardine  
Land Use and Policy Analyst

**SUBJECT:** Resolution extending the time period for satisfying the conditions set forth in Ordinance No. 24 of 2006 relating to the Romney Lumber/Carson annexation and settlement agreement annexing property located at approximately 2982 East Benchmark Drive and 2100 South to 2600 South

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**OPTIONS AND MOTIONS:**

1. ["I move that the Council"] Adopt a Resolution extending the time period for satisfying the conditions set forth in Ordinance No. 24 of 2006 relating to the Romney Lumber/Carson annexation and settlement agreement.
  2. ["I move that the Council"] Not adopt a Resolution extending the time period for satisfying the conditions set forth in Ordinance No. 24 of 2006 relating to the Romney Lumber/Carson annexation and settlement agreement.
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**KEY ELEMENTS:**

- A. This is a request to extend the time period for satisfying the conditions set forth in Ordinance No. 24 of 2006 relating to the Romney Lumber/Carson annexation and settlement agreement. A resolution has been prepared for Council consideration that would extend the time period for 2 years to May 10, 2010. (The 2 year extension was requested by the Romney property owners in a recent meeting with Council Member Simonsen.) *Council Member Simonsen has suggested that the Council may wish to consider a longer time extension possibly for 3 or 4 years. This would be intended to allow substantial time to complete the required conditions and not require Council action on an additional time extension.*
- B. The representative for the parties involved has indicated that the time extension is needed due to engineering issues relating to the proposed subdivision that proved to be more complex than anticipated thus delaying the required subdivision approval through Salt Lake County. In addition, details relating to the donation of approximately 260 acres of open space are still being determined between property owner's representative, Salt Lake City and Salt Lake County. Final paperwork will not be completed by the current May 10, 2008 deadline.

- C. The Romney/Carson property is being annexed as a result of a settlement agreement relating to a longstanding lawsuit between the property owners and Salt Lake City. The settlement agreement outlines specific terms under which the Romney/Carson property should be annexed into the corporate limits of Salt Lake City.
- D. The annexation includes approximately 406 acres of property located at approximately 2982 East Benchmark Drive and 2100 South to 2600 South.
  - 1. Approximately 31.48 acres of the Romney/Carson property will be used for the development of 17 single-family home sites, with lot sizes ranging from approximately 0.43 to 1.51 acres in size.
  - 2. The remainder of the Romney/Carson property (approximately 260 acres) will be conveyed subject to a restrictive covenant requiring the preservation of the properties as perpetual open space to either Salt Lake City, Salt Lake County or a non-profit land conservation organization
  - 3. Seven other parcels of land will also be annexed with the Romney/Carson property. Exclusion of the properties would result in an island or peninsula. State law does not allow islands or peninsulas of unincorporated land to be created when an annexation occurs.

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The following attachments are included for additional background purposes.

- A. Letter requesting a time extension and support documentation.
- B. Ordinance 24 of 2006
- C. Settlement and Annexation Agreement and Amendments
- D. Council staff report dated April 28, 2006

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cc: David Everitt, Esther Hunter, Karen Hale, Lyn Creswell, Ed Rutan, Lynn Pace, Paul Nielson, Melanie Reif, Mary De La Mare-Schafer, Chris Shoop, Joel Paterson, Jeff Neirmeyer, Brad Stewart, Orion Goff, Larry Butcher, Rick Graham, Vicki Bennett, Emy Storheim, City Council Liaisons, Community Affairs Specialists

File Location: Community and Economic Development Dept., Planning Division, Annexations-Romney/Carson Parley's Pointe, 2982 East Benchmark Drive and 2100 South to 2600 South

ROMNEY LUMBER COMPANY

660 South 200 East, Suite 300  
SALT LAKE CITY, UTAH 84111

Telephone (801) 328-3200  
Facsimile (801) 328-1123

Mromney3@gmail.com

April 30, 2008

*via email - SLC Council Office - c/o Cindy Harris*

Salt Lake City Council  
SALT LAKE CITY COUNCIL MEMBER  
P.O. Box 145476  
Salt Lake City, UT 84114-5476

**RE: Foothill 324 Acres Project –Annexation Extension Request - Romney/Carson**

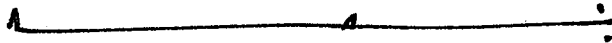
Dear Salt Lake City Council Member:

Romney Lumber Company and Robert Carson are requesting at least a two-year extension to the two-year time limit contained in the Annexation Ordinance of May 10, 2006. We have included a briefing document giving project background, positive outcomes completed, and tasks to be done during the two-year extension period. Working with the two municipalities in the foothills has taken much longer than everyone expected. With your help, we will consistently move this project along and make it one of the better developments in Salt Lake City. During the process, we will also make sizable donation of hillside open space for the enjoyment of the Salt Lake citizens.

We look forward working with Salt Lake City and appreciate the Council and Mayor for the cooperation and assistance with the process.

Sincerely,

ROMNEY LUMBER COMPANY  
a Utah corporation

  
Melbourne Romney III "Tres", president

Attachments

cc: Robert Carson  
Tony Romney  
Paula R. Farr  
Dale Gardiner

**PARLEY’S POINTE ANNEXATION ORDINANCE  
TIME EXTENSION REQUEST**

Petitioners/owners: Romney Lumber Company (Mel “Tres” and Tony Romney) with Robert and Honora Carson

**REQUEST:** The property owners are requesting a **two** (2) year extension to the two (2) year time limit contained in the Annexation Ordinance passed by the City Council on May 10, 2006

**BACKGROUND:** The property owners have owned the approximately 324 acres of undeveloped foothill property since about 1966. Since the early 1990’s, the owners have been seeking annexation and foothill residential subdivision approvals from Salt Lake City. These efforts resulted in an annexation denial from the City which occurred September 7, 1999, followed by a subsequent annexation approval, which was then challenged by the owners in Federal Court, and heard in October, 2002. The owners then sought subdivision approvals from Salt Lake County. The Federal Court proceedings resulted in a partial summary judgment denying the annexation and a court ordered mediation to settle other issues, including damages and “takings” claims, which mediation occurred on April 20, 2004. The mediation effort produced a settlement agreement between the City and the owners which was finalized and signed by both parties on October 21, 2005.

The settlement agreement provisions required that a new annexation petition be filed by the property owners, which occurred in January, 2006 and which was subsequently processed by the Salt Lake City staff and approval bodies. The result of these efforts produced the conditional annexation ordinance passed by the Salt Lake City Council in May 2006 and which ordinance included a two-year limit for the conditions contained in the ordinance to be met or the ordinance would be void. The principal triggering condition contained in the annexation ordinance is that the Phase One subdivision must be approved by Salt Lake County and recorded prior to the annexation becoming effective.

Since May of 2006, the owners have been diligently seeking the required Phase One subdivision approval from Salt Lake County officials under Salt Lake County development regulations and processes. Unfortunately, this process has taken much longer than any of the settlement agreement partners anticipated. To date, the Phase One subdivision has received preliminary approval from the County Planning Commission and is currently in a fourth round of final plat review with County staff. Performance bonding and subdivision improvement contracts are being finalized also. The agreement provides that 260 acres of open space land be donated to either the City, Salt Lake

County or an environmental organization. The landowners are meeting with the City and the County Mayors to finalize the donation details.

**POSITIVE OUTCOMES:** The following potentially positive outcomes will occur if the ordinance is extended to allow completion of the conditions:

- Final resolution to the longstanding legal dispute without further financial cost to Salt Lake City.
- Single family residential foothill lot development limited to 17 new lots on approximately 31.5 acres.
- Permanent termination of two existing street stubs with public cul-de-sacs.
- The use of septic tanks (the basis of subdivision approval by Salt Lake County if the City sewer service were not available through the agreement) will be eliminated. The potential septic tanks would have jeopardized Salt Lake City drinking water and would have been detrimental to existing down slope residential lot owners.
- Public trail access will be maintained and expanded through the granting of permanent easements.
- Approximately 260 acres of open foothill land will be dedicated for perpetual open space and preserved through public ownership and zoning.
- Increased protection against future foothill development provided by one foot holding strip and open space easements, granted by the subdivision plat recording.
- Salt Lake City's zoning regulations, which include special foothill design regulations, will apply to all building permits and to all dwellings within the subdivisions, and will help to reduce the off site visibility of this additional development.
- Salt Lake City Water Department utilities final approval of water and drainage for Phase I final plat

**REMAINING TASKS TO BE ACCOMPLISHED:** The following remaining tasks will occur within the two-year time limit extension, if granted by Salt Lake City Corporation:

- Application to Salt Lake City Planning for the proposed four lot Phase Two subdivision approval at the end of Scenic Drive under Salt Lake City development regulations, including Planned Development to address necessary modifications to zoning regulations to be consistent with the terms of the Settlement agreement.
- Bonding with and payment of required fees to Salt Lake County to finalize Phase One subdivision plat. (approximately \$1,200,000 for the County bond)
- Recording of Phase One subdivision plat with County Recorder
- Recording of Annexation Ordinance and Plat within 30 days of recording date of Phase One subdivision Plat.
- Dismissal of Law Suit in Federal Court.

- Final subdivision plat approval for Phase Two plat under Salt Lake City Jurisdiction.
- Recording of Phase Two subdivision plat and subsequent infrastructure construction supervision and inspection by Salt Lake City Engineering and Public Utilities Departments, through completion.
- Construction supervision and inspection of Phase One subdivision street infrastructure installation by Salt Lake County Engineering and construction supervision and inspection of utility infrastructure by Salt Lake City Public Utilities, through completion.
- Future building permit applications and fees paid to Salt Lake City Corporation on individual lots created by both Phase One and Phase Two subdivisions.

**Attachments:**

- 11 by 17 inch annexation map
- 8.5 by 11 inch air photo with annexation area delineated

Date: April 30, 2008

THANK YOU,

Antoine M. Romney  
Melbourne Romney III “Tres”  
Robert & Honora Carson



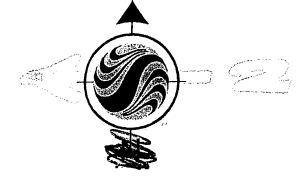
FOOTHILL DR

I-80

I-215

# PARLEY'S POINTE ANNEXATION PLAT

LOCATED IN SECTION 23,  
TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN  
SALT LAKE CITY, SALT LAKE COUNTY, UTAH

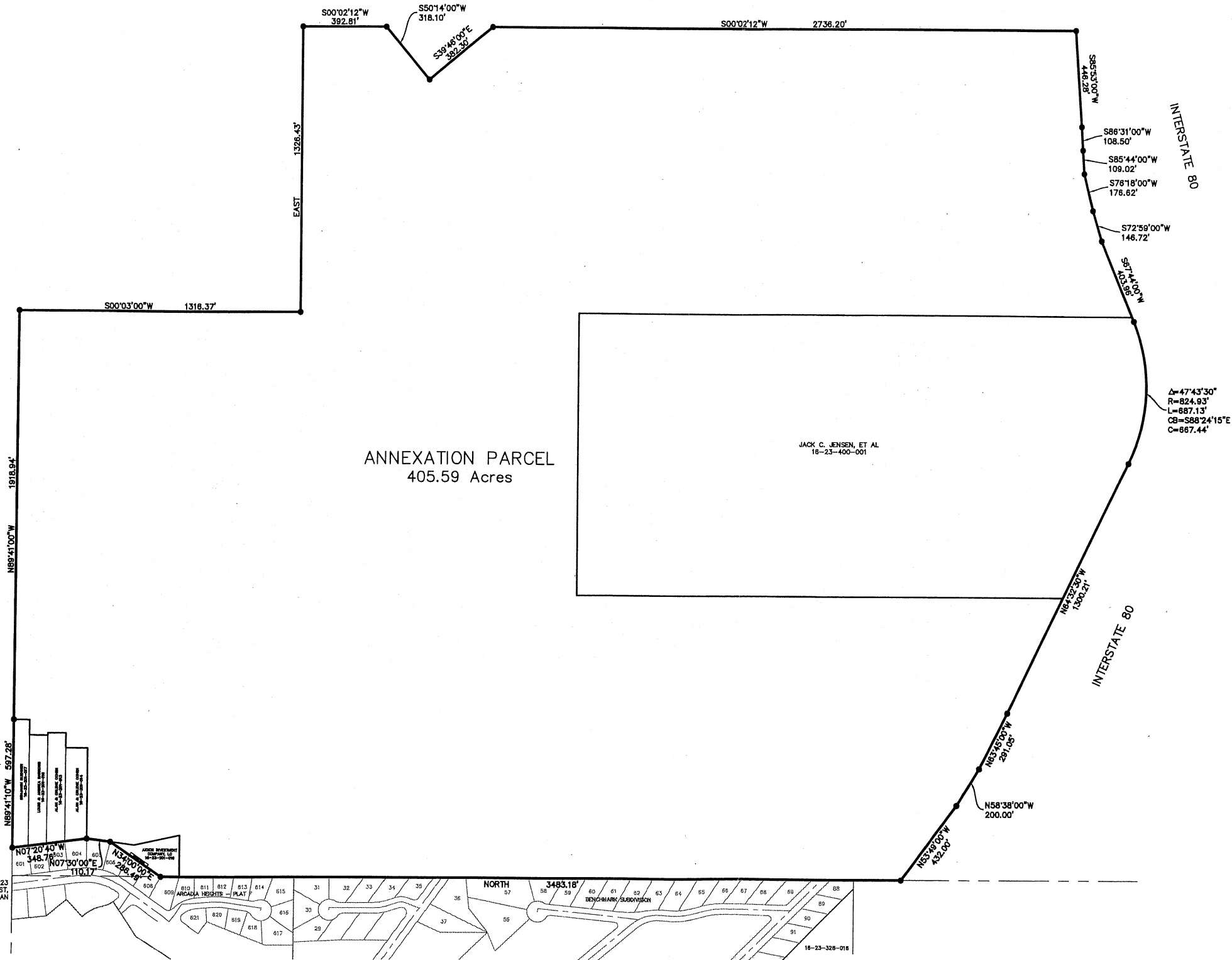


GRAPHIC SCALE

( IN FEET )  
1 Inch = 200 ft.

**LEGEND**

- BOUNDARY LINE
- SECTION LINE
- SECTION CORNER FOUND



ANNEXATION PARCEL  
405.59 Acres

JACK C. JENSEN, ET AL  
18-23-400-001

$\Delta = 47^{\circ}43'30''$   
 $R = 824.93'$   
 $L = 687.13'$   
 $CB = S88^{\circ}24'15''E$   
 $C = 667.44'$

**SURVEYOR'S CERTIFICATE**

I Evan J. Wood, a Professional Land Surveyor, licensed by the State of Utah, do certify that this plat of annexation is drawn to the designated scale and is a true and correct representation of data compiled from the best available records. This data has not been field verified.

Date \_\_\_\_\_  
Evan J. Wood  
P.L.S. No. 163395

**BOUNDARY DESCRIPTION**

Beginning at a point S89°41'10"E 130.00 along the North Section Line from the North Quarter Corner of Section 23, Township 1 South, Range 1 East, Salt Lake Base and Meridian; and running thence S89°41'10"E 597.28 feet along said North Section Line; thence S89°41'00"E 1918.94 feet to the Northwest Corner of Section 24, Township 1 South, Range 1 East, Salt Lake Base and Meridian; thence S00°03'00"W 1316.37 feet along the West Line to the Northwest Corner of the Southwest Quarter of the Northwest Quarter of said Section 24; thence East 1326.43 feet to the Northeast Corner of the Southwest Quarter of the Northwest Quarter of said Section 24; thence S00°02'12"W 392.81 feet along the East Line of the West Half of said Section 24 to the Northerly Line of the Gwennie Lode Mining No. 5048 Claim; thence S50°14'00"W 318.10 feet along said claim; thence S39°48'00"E 382.30 feet along said claim to said East Line; thence S00°02'12"W 2736.20 feet to the Northerly Right-of-Way Line of Interstate 80; thence the following eleven courses along said Northerly Right-of-Way Line: S85°33'00"W 448.28 feet; thence S86°31'00"W 108.50 feet; thence S85°44'00"W 109.02 feet; thence S76°18'00"W 176.62 feet; thence S72°59'00"W 146.72 feet; thence S67°44'00"W 403.96 feet; thence Westerly 687.13 feet along the arc a 824.93 feet radius curve to the right, chord bears N88°24'15"W 687.13 feet; thence N64°32'30"W 1300.21 feet; thence N63°45'00"W 291.05 feet; thence N58°38'00"W 200.00 feet; thence N53°49'00"W 432.00 feet to the East Line of the Southwest Quarter; thence North 3483.18 feet along said East Line to Northeast Corner of Lot 609 of Arcadia Heights Plat F Subdivision, recorded as Entry No. 1840440 in Book Y at Page 39 in the Office of the Salt Lake County Recorder; thence the following three courses along the Easterly Boundary Line of said Arcadia Heights Plat F: N34°00'00"E 226.49 feet; thence N07°30'00"E 110.17 feet; thence N07°20'40"W 348.76 feet to the point of beginning. Contains 405.598 Acres.

Excepting therefrom:  
Any part of the above described property lying within the Right-of-Way Limits of the Interstate 80.

**PARLEY'S POINTE ANNEXATION PLAT**

LOCATED IN SECTION 23,  
TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN  
SALT LAKE CITY, SALT LAKE COUNTY, UTAH

PROPERTY OWNER/AGENT  
ROMNEY LUMBER COMPANY  
430 EAST 400 SOUTH  
SALT LAKE CITY, UTAH 84111

**Stantec**  
Stantec Consulting Inc.  
3095 S 700 E Ste. 300  
Salt Lake City, UT  
84107-2540  
Tel. 801.281.0090  
Fax. 801.286.1671  
www.stantec.com

Project Number 86301271	PM RCE				
Filename 01271-01	Drawn By KFW				
Designed By RCE	Checked By EJW	Date	No.	Revisions	By

**CITY PLANNING COMMISSION**

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_  
A.D., 20\_\_\_\_ BY THE SALT LAKE CITY PLANNING COMMISSION.

SALT LAKE CITY PLANNING DIRECTOR      DATE

**COUNTY PLANNING & DEVELOPMENT SERVICES DIVISION**

I HEREBY CERTIFY THAT I HAVE HAD THIS PLAT EXAMINED BY THIS OFFICE AND IT IS CORRECT IN ACCORDANCE WITH INFORMATION ON FILE AND HEREBY APPROVED.

CITY ENGINEER      DATE      CITY SURVEYOR      DATE

**CITY PUBLIC UTILITIES DEPARTMENT**

APPROVED AS TO SANITARY SEWER AND WATER UTILITY DETAIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_  
A.D., 20\_\_\_\_.

SALT LAKE CITY PUBLIC UTILITIES DIRECTOR

**CITY ATTORNEY**

APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_  
A.D., 20\_\_\_\_.

SALT LAKE CITY ATTORNEY

**CITY APPROVAL**

PRESENTED TO THE SALT LAKE COUNTY THIS \_\_\_\_\_ DAY OF \_\_\_\_\_  
A.D., 20\_\_\_\_, AND IS HEREBY APPROVED.

SALT LAKE CITY MAYOR      SALT LAKE COUNTY RECORDER

**RECORDED #**

STATE OF UTAH, COUNTY OF SALT LAKE, RECORDED AND FILED AT THE REQUEST OF: \_\_\_\_\_

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ BOOK: \_\_\_\_\_ PAGE: \_\_\_\_\_

FEE\$ \_\_\_\_\_ SALT LAKE COUNTY RECORDER

\\utah1210-0133\shared\stcrmap\20863\civil\dwg\66301271.dwg (1/27/11) - ewj



SALT LAKE CITY ORDINANCE

No. 24 of 2006

(Annexing the Property Included within the Parley's Pointe Annexation Petition, Amending the Applicable Master Plans, and Rezoning the Area upon its Annexation into the City)

AN ORDINANCE EXTENDING THE CORPORATE LIMITS OF SALT LAKE CITY TO INCLUDE APPROXIMATELY 405.59 ACRES OF UNINCORPORATED TERRITORY INCLUDED WITHIN THE PARLEY'S POINTE ANNEXATION PETITION, LOCATED IN THE VICINITY OF 2982 EAST BENCHMARK DRIVE (EAST OF APPROXIMATELY 3000 EAST AND FROM APPROXIMATELY 2100 SOUTH TO 2600 SOUTH), PURSUANT TO PETITION NO. 400-05-41, AMENDING THE EAST BENCH COMMUNITY MASTER PLAN, THE ARCADIA HEIGHTS, BENCHMARK AND H-ROCK SMALL AREA MASTER PLAN, AND AMENDING THE SALT LAKE CITY ZONING MAP TO ZONE AND DESIGNATE THIS AREA AS FOOTHILL RESIDENTIAL (FR-2), OPEN SPACE (OS) AND NATURAL OPEN SPACE (NOS) UPON ITS ANNEXATION INTO THE CITY.

WHEREAS, Salt Lake City has received Petition No. 400-05-41 (the "Petition"), Parley's Pointe Annexation, filed by the Romney Lumber Company and Robert and Honora Carson requesting the annexation of approximately 405.59 acres of unincorporated territory in Salt Lake County, which would extend the existing corporate limits of Salt Lake City; and

WHEREAS, the Petition is signed by the owners of a majority of the real property and the owners of more than one-third in value of all real property within the territory to be annexed as shown by the last assessment roles of Salt Lake County; and

WHEREAS, the Petitioner has submitted to the City a plat for the territory proposed for the annexation; and

WHEREAS, the territory described in the Petition lies contiguous to the corporate limits of Salt Lake City and within an area projected for Salt Lake's municipal expansion, and otherwise satisfies the standards and the criteria applicable to annexations; and

WHEREAS, Salt Lake City and the Petitioner have executed a Settlement and Annexation Agreement, dated October 24, 2005, which addresses the annexation and future development of this property; and

WHEREAS, no objection or protest to such annexation has been filed with the Salt Lake County Boundary Commission; and

WHEREAS, after properly advertised and noticed public hearings before the Salt Lake City Planning Commission and the Salt Lake City Council, the City Council has determined that this annexation is in the best interest of the City;

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Annexation. The Salt Lake City limits are hereby enlarged and extended so as to include the properties identified within the Parley's Pointe Annexation Petition, containing approximately 405.59 acres of unincorporated territory in Salt Lake County, State of Utah. Said properties are more particularly described as set forth on Exhibit A attached hereto.

SECTION 2. Amendment of Applicable Master Plans. The East Bench Community Master Plan and the Arcadia Heights, Benchmark and H-Rock Small Area Master Plan, which were previously adopted by the City Council, shall be and hereby are amended to allow limited, very low density, single family residential development in the area consisting of not more than 15 new lots all but one of which shall be located on a private street extending off the current

terminus of Benchmark Drive, and not more than 4 new lots located on a public cul-de-sac extending from the current terminus of Scenic Drive.

SECTION 3. Zoning. Portions of the property annexed, as more particularly described on Exhibit B(1), B(2) and B(3) attached hereto, shall be and hereby are designated and zoned as Natural Open Space (NOS). Portions of the property annexed, as more particularly described on Exhibit B(4), B(5), and B(6) attached hereto, shall be and hereby are designated and zoned Foothill Residential (FR-2). Portions of the property annexed, more particularly described on Exhibit C attached hereto, shall be and hereby are designated and zoned Open Space (OS). Zoning for portions of the property annexed, more particularly described on Exhibit D attached hereto, has been deferred for final decision to a future date. The Salt Lake City Zoning Map, as previously adopted by the Salt Lake City Council, shall be and hereby is amended consistent with this Ordinance.

SECTION 4. General Jurisdiction. All ordinances, jurisdictions, rules and obligations of, or pertaining to, Salt Lake City are hereby extended over, and made applicable and pertinent to the above annexed property; and the property shall hereafter be controlled and governed by the ordinances, rules, and regulations of Salt Lake City.

SECTION 5. Filings and Notices. Upon the effective date of this Ordinance, the City Recorder of Salt Lake City is hereby directed to file with the Salt Lake County Recorder, after approval by the City Engineer, a copy of the annexation plat duly certified and acknowledged together with a copy of this ordinance. The City Recorder is further directed to provide notice to the State Tax Commission under the provisions of Utah Code Annotated section 11-12-1, as amended.

SECTION 6. Compliance with Settlement and Annexation Agreement. The effectiveness of this Ordinance shall be and hereby is expressly conditioned upon fulfillment of all of the applicable procedures, terms and conditions set forth in the Settlement and Annexation Agreement, dated October 24, 2005, a copy of which is on file with the Salt Lake City Recorder, including, but not limited to, the following items:

(a) Approval by Salt Lake County of the Phase I Subdivision, consisting of not more than 15 lots located off Benchmark Drive; and

(b) Construction of the public and private portions of the Phase I roadway and corresponding utility lines, or obtaining and filing a bond with Salt Lake City, in an amount and form reasonably acceptable to the City, for the roadway and corresponding utility lines.

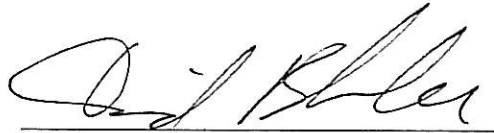
Upon satisfaction of all of the applicable procedures, terms, and conditions set forth in the Settlement and Annexation Agreement, this Ordinance shall become effective without the need for any further approval from the Salt Lake City Council.

SECTION 7. Effective Date. This Ordinance shall not become effective until the terms and conditions set forth herein, as well as those terms and conditions set forth in the Settlement and Annexation Agreement, have been satisfied, as certified by the Director of the Salt Lake City Community Development Department and the Director of the Salt Lake City Public Utilities Department. The City Recorder is instructed not to record or publish this Ordinance until the above-mentioned certifications have been received.

SECTION 8. TIME. If the conditions set forth above have not been satisfied within two years following the date of this Ordinance, this Ordinance shall become null and void. The City

Council may, by resolution, for good cause shown, extend the time period for satisfying the conditions set forth herein.

Passed and adopted by the City Council of Salt Lake City, Utah this 2nd day of May, 2006.


  
CHAIRPERSON

ATTEST:

  
CHIEF DEPUTY CITY RECORDER

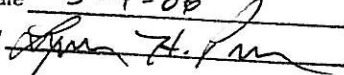
Transmitted to Mayor on <sup>Deputy</sup> 5/10/06.

Mayor's Action:  Approved.  Vetoed.

  
Acting MAYOR

  
CHIEF DEPUTY CITY RECORDER



APPROVED AS TO FORM  
Salt Lake City Attorney's Office  
Date 5-4-06  
By 

(SEAL)

Bill No. 24 of 2006.  
Published: \_\_\_\_\_

**Exhibit "A"**  
**Annexation Boundary**

**Annexation Boundary Description:**

Beginning at a point S89°41'10"E 130.00 along the North Section Line from the North Quarter Corner of Section 23, Township 1 South, Range 1 East, Salt Lake Base and Meridian; and running thence S89°41'10"E 597.28 feet along said North Section Line; thence S89°41'00"E 1918.94 feet to the Northwest Corner of Section 24, Township 1 South, Range 1 East, Salt Lake Base and Meridian; thence S00°03'00"W 1316.37 feet along the West Line to the Northwest Corner of the Southwest Quarter of the Northwest Quarter of said Section 24; thence East 1326.43 feet to the Northeast Corner of the Southwest Quarter of the Northwest Quarter of said Section 24; thence S00°02'12"W 392.81 feet along the East Line of the West Half of said Section 24 to the Northwesterly Line of the Gwennie Lode Mining No. 5048 Claim; thence S50°14'00"W 318.10 feet along said claim; thence S39°46'00"E 382.30 feet along said claim to said East Line; thence S00°02'12"W 2736.20 feet to the Northerly Right-of-Way Line of Interstate 80; thence the following eleven courses along said Northerly Right-of-Way Line: S85°53'00"W 446.28 feet; thence S86°31'00"W 108.50 feet; thence S85°44'00"W 109.02 feet; thence S76°18'00"W 176.62 feet; thence S72°59'00"W 146.72 feet; thence 67°44'00"W 403.96 feet; thence Westerly 687.13 feet along the arc a 824.93 feet radius curve to the right, cord bears N88°24'15"W 687.13 feet; thence N64°32'30"W 1300.21 feet; thence N63°45'00"W 291.05 feet; thence N58°38'00"W 200.00 feet; thence N53°49'00"W 432.00 feet to the East Line of the Southwest Quarter; thence North 3483.18 feet along said East Line to Northeast Corner of Lot 609 of Arcadia Heights Plat F Subdivision, recorded as Entry No. 1840440 in Book Y at Page 39 in the Office of the Salt Lake County Recorder; thence the following three courses along the Easterly Boundary Line of said Arcadia Heights Plat F: N34°00'00"E 286.49 feet; thence N07°30'00"E 110.17 feet; thence N07°20'40"W 348.76 feet to the point of beginning, Contains 405.598 Acres.

Excepting therefrom:

Any part of the above described property lying within the Right-of-Way Limits of the Interstate 80.

SC  
5/4/06

**Exhibit "B"**  
**Romney/Carson Property**

**Parcels 16-23-226-004-4001 and 16-23-226-004-4002 owned by Romney/Carson:**

The Romney/Carson property will be divided into separate parcels when the final plat of the proposed subdivision is recorded by the County. The legal descriptions for each of the recommended zones for the Romney/Carson property are identified below:

**1) Perpetual Open Space, Parcel "A" as identified in the Settlement Agreement:**

Zoning: NOS

Parcel Description:

Beginning at a point which is S89°41'00"E 727.28 feet along the North Section Line from the North Quarter Corner of Section 23, Township 1 South, Range 1 East, Salt Lake Base and Meridian and running thence S89°41'00"E 1918.93 feet along said North Line to the Northwester Corner of Section 24, Township 1 South, Range 1 East, Salt Lake Base and Meridian; thence S00°03'00"W 1316.24 feet along the West Line to the Northwest Corner of the Southwest Quarter of the Northwest Quarter of said Section 24; thence East 1326.43 feet to the Northeast Corner of the Southwest Quarter of the Northwest Quarter of said Section 24; thence S00°02'12"W 392.81 feet along the East Line of the West Half of said Section 24 to the Northwesterly Line of the Gwennie Lode Mining No. 5048 Claim; thence S50°14'00"W 318.10 feet along said claim; thence S39°46'00"E 382.30 feet along said claim to said East Line; thence S00°02'12"W 2736.20 feet along said East Line to the Northerly Right-of-Way Line of Interstate Highway 80; thence the following six courses along said Northerly Right-of-Way Line: S85°53'00"W 446.28 feet; thence S86°31'00"W 108.50 feet; thence S85°44'00"W 109.02 feet; thence S76°18'00"W 176.62 feet; thence S72°59'00"W 146.72 feet; thence S67°44'00"W 381.82 feet to the East Line of said Section 23; thence N00°03'00"E 2593.48 feet along said East Line to the East Quarter Corner of said Section 23; thence West 1322.12 feet to the West Line of the East Half of the Southeast Quarter of said Section 23; thence S00°01'30"W 995.43 feet; thence N45°28'41"W 258.83 feet; thence N57°08'44"W 256.20 feet; thence N89°17'51"W 363.54 feet; thence N48°37'21"W 102.28 feet; thence N24°52'02"W 191.04 feet; thence North 231.04 feet; thence N09°04'08"W 256.87 feet; thence N11°59'24"E 398.95 feet; thence N52°25'01"W 153.19 feet; thence N53°41'29"W 113.67 feet; thence N36°18'31"E 85.64 feet; thence N52°58'57"W 352.64 feet to the Easterly Boundary Line of Benchmark Subdivision, recorded as Entry No. 3379920 in Book 79-12 at Page 365 in the Office of the Salt Lake County Recorder; thence North 969.96 feet along said Easterly Boundary Line and the Easterly Boundary Line of Arcadia Heights Plat F Subdivision, recorded as Entry No. 1840440 in Book Y at Page 39 in the Office of the Salt Lake County Recorder to the Northeast Corner of Lot 610 of said Arcadia Heights Plat F Subdivision; thence East 193.35 feet; thence N12°30'00"W 220.80 feet; thence N07°30'00"E 222.34 feet; thence S89°41'10"E 421.15 feet; thence N00°18'50"E 101.59 feet; thence S89°41'10"E 70.16 feet; thence N00°18'50"E 85.23 feet; thence N89°41'10"W 11.46 feet; thence N00°18'50"E 85.23 feet; thence S89°41'10"E 70.97 feet; thence N00°18'50"E 73.46 feet to the point of beginning.

Contains 273.63 Acres

**2) Perpetual Open Space, Parcel "B" as identified in the Settlement Agreement:**

Zoning: NOS

Boundary Description:

Beginning at a point which is South 3797.25 feet along Section Line and East 642.46 feet from the North Quarter Corner of Section 23, Township 1 South, Range 1 East, Salt Lake Base and Meridian; and running thence N54°37'14"E 343.39 feet; thence Southeasterly 46.26 feet along the arc a 368.00 foot radius curve to the right, chord bears S49°16'30"E 46.23 feet; thence S46°13'51"W 106.10 feet; thence S08°36'36"E 164.32 feet; thence N57°49'39"E 118.56 feet; thence South 288.71 feet; thence S89°58'30"E 315.81 feet to the West Line of the East Half of the Southeast Quarter of said Section 23; thence S00°01'30"W 18.91 feet; thence N89°58'30"W 382.62 feet; thence N43°34'31"W 430.20 feet; to the point of beginning.

Contains 93959 square feet or 2.157 acres.

**3) Perpetual Open Space, Parcel "C" as identified in the Settlement Agreement:**

Zoning: NOS

Boundary Description:

Beginning at a point which is South 3757.84 feet along Section Line and East 591.69 feet from the North Quarter Corner of Section 23, Township 1 South, Range 1 East, Salt Lake Base and Meridian; and running thence S52°10'55"E 64.27 feet; thence S43°34'31"E 430.20 feet; thence S89°58'30"E 382.62 feet to the West Line of the East Half of the Southeast Quarter of said Section 23; thence S00°01'30"W 812.66 feet to the Northerly Right-of-Way Line of Interstate 80; thence the following four courses along said Northerly Right-of-Way Line: (1) N64°32'30"W 598.93 feet; (2) thence N63°45'00"W 291.05 feet; (3) thence N58°38'00"W 200.00 feet; (4) thence N53°49'00"W 268.20 feet; thence N41°43'24"E 690.39 feet to the point of beginning.

Contains 16.55 Acres

**4) Proposed Subdivision, Phase I, lots 1-13 as identified in the Settlement Agreement:**

Zoning: FR-2

Boundary Description:

Beginning at a point which is South 1752.48 feet along Section Line from the North Quarter Corner of Section 23, Township 1 South, Range 1 East, Salt Lake Base and Meridian; and running thence S52°58'57"E 352.64 feet; thence S36°18'31"W 85.64 feet; thence S53°41'29"E 113.67 feet; thence S52°25'01"E 153.19 feet; thence S11°59'24"W 398.95 feet; thence S09°04'08"E 256.87 feet; thence South 231.04 feet; thence S24°52'02"E 191.04 feet; thence S48°37'21"E 102.28 feet; thence S89°17'51"E 363.54 feet; thence S57°08'44"E 256.20 feet; thence S49°50'12"W 252.23 feet; thence



Northwesterly 28.58 feet along the arc a 368.00 foot radius curve to the left, chord bears N50°39'06"W 28.57 feet; thence S54°37'14"W 343.39 feet; thence N52°10'55"W 64.27 feet; thence N52°10'55"W 130.67 feet; thence N53°00'55"W 611.50 feet to the Easterly Boundary Line of Benchmark Subdivision, recorded as Entry No. 3379920 in Book 79-12 at Page 365 in the Office of the Salt Lake County Recorder; thence North 1557.37 feet along said Easterly Boundary Line to the point of beginning.  
Contains 19.68 Acres

5) **Proposed Subdivision, Phase I, lots 14a, 14b and 15 as identified in the Settlement Agreement:**

Zoning: FR-2

Boundary Description:

Beginning at a point which is South 3453.86 feet along Section Line and East 1137.28 feet from the North Quarter Corner of Section 23, Township 1 South, Range 1 East, Salt Lake Base and Meridian; and running thence S45°28'41"E 258.83 feet to the West Line of the East Half of the Southeast Quarter of said Section 23; thence S00°01'30"W 454.83 feet; thence N89°58'30"W 315.81 feet; thence North 288.71 feet; thence S57°49'39"W 118.56 feet; thence N08°36'36"W 164.32 feet; thence N46°13'51"E 106.10 feet; thence Northwesterly 17.69 feet along the arc a 368.00 foot radius curve to the left, chord bears N47°03'02"W 17.68 feet; thence N49°50'12"E 252.23 feet to the point of beginning.  
Contains 4.61 Acres

6) **Proposed Subdivision, Phase II, lots 1-4, as identified in the Settlement Agreement:**

Zoning: FR-2

Boundary Description:

Beginning at a point which is South 3309.84 feet along Section Line from the North Quarter Corner of Section 23, Township 1 South, Range 1 East, Salt Lake Base and Meridian; and running thence S53°00'55"E 611.50 feet; thence S52°10'55"E 130.67 feet; thence S41°43'24"W 690.39 feet; thence N53°49'00"W 163.80 feet to the Section Line and the extension of the Easterly Boundary Line of Benchmark Subdivision, recorded as Entry No. 3379920 in Book 79-12 at Page 365 in the Office of the Salt Lake County Recorder; thence North 866.58 feet along Section Line to the point of beginning.  
Contains 7.19 Acres

SC  
5/4/06

**Exhibit "C"**  
**Properties to be zoned OS**

The following parcels will be incorporated into the corporate limits of Salt Lake City and zoned as follows:

- 1) 16-23-400-001, owned by Jack Jensen and Intermountain Holding Company,  
to be zoned OS

Zoning: OS

**Legal Description:**

16-23-400-001, owned by Jack Jensen and Intermountain Holding Company  
EAST 1/2 OF SOUTHEAST 1/4 SECTION 23 TOWNSHIP 1 SOUTH RANGE 1 EAST  
SALT LAKE BASE AND MERIDIAN LESS STATE ROAD COMMISSION TRACT.  
73 ACRES.

SC  
5/4/06

**Exhibit "D"**  
**Zoning Deferred to a Future Date**

The following parcels will be incorporated into the corporate limits of Salt Lake City and zoned as follows:

- 1) 16-23-201-016, owned by Andrea & Louis Barrows
- 2) 16-23-201-017, owned by Benjamin Buehner
- 3) 16-23-201-018 (partial), owned by Lynn Mabey
- 4) 16-23-201-019, owned by Axxon Investment Company
- 5) 16-23-201-013, owned by Alan & Orlene Cohen
- 6) 16-23-201-014, owned by Alan & Orlene Cohen

All 6 parcels:

Zoning: On May 2, 2006 the City Council deferred the zoning of these properties to a future date.

**Legal Descriptions for each parcel:**

16-23-201-016, owned by Andrea & Louis Barrows

BEGINNING AT THE NORTHEAST CORNER OF LOT 602, ARCADIA HEIGHTS SUBDIVISION PLAT F, SALT LAKE CITY SURVEY; SOUTH 89°41'10" EAST 516.82 FEET; SOUTH 00°18'50" WEST 85.23 FEET; NORTH 89°41'10" WEST 505.36 FEET; NORTH 07°20'40" WEST 86 FEET TO BEGINNING. 1 ACRE.

16-23-201-017, owned by Benjamin Buehner

BEGINNING AT NORTHEAST CORNER OF LOT 601, ARCADIA HEIGHTS SUBDIVISION PLAT F SALT LAKE CITY SURVEY; SOUTH 89°41'10" EAST 597.67 FEET; SOUTH 00°18'50" WEST 73.49 FEET; NORTH 89°41'10" WEST 587.79 FEET; NORTH 07°20'40" WEST 74.148 FEET TO BEGINNING. 1 ACRE.

16-23-201-018 (partial), owned by Lynn Mabey

LOT 607, ARCADIA HEIGHTS PLAT F. ALSO BEGINNING AT MOST EASTERLY CORNER OF SAID LOT 607; SOUTH 62° EAST 15.08 FEET; SOUTH 34° WEST 98.76 FEET; NORTH 54°45' WEST 15 FEET; NORTH 34° EAST 96.86 FEET TO BEGINNING.

16-23-201-019, owned by Axxon Investment Company

BEGINNING SOUTH 89°41'10" EAST 130 FEET & SOUTH 7°20'40" EAST 348.755 FEET & SOUTH 7°30' WEST 110.172 FEET FROM NORTH 1/4 CORNER OF SECTION 23, TOWNSHIP 1 SOUTH RANGE 1 EAST SALT LAKE BASE AND MERIDIAN; SOUTH 7°30' WEST 112.166 FEET; SOUTH 12°30' EAST 220.793 FEET; WEST 193.348 FEET TO WEST LINE OF EAST 1/2 OF SD SECTION 23; NORTH 89.26 FEET; NORTH 34° EAST 79.794 FEET; SOUTH 54°45' EAST 15 FEET; NORTH 34° EAST 98.76 FEET; NORTH 62° WEST 15.08 FEET; NORTH 34° EAST 109.831 FEET TO BEGINNING. 0.71 ACRES

16-23-201-013. owned by Alan & Orlene Cohen:

BEGINNING AT THE NORTHEAST COR OF LOT 603, ARCADIA HEIGHTS  
SUBDIVISION, PLAT F, SALT LAKE CITY SURVEY; S 89°41'10" EAST 516.82  
FEET; SOUTH 00°8'50" WEST 85.23 FEET NORTH 89°41'10" WEST 505.36 FEET;  
NORTH 07°20'40" WEST 86 FEET TO BEGINNING. 1 ACRE.

16-23-201-014. owned by Alan & Orlene Cohen

BEGINNING AT THE NORTHEAST CORNER OF LOT 604, ARCADIA HEIGHTS  
SUBDIVISION, PLAT F, SALT LAKE CITY SURVEY; SOUTH 89°41'10" EAST  
435.20 FEET; S 00°EST8'50" W 101.69 FEET; NORTH 89°41'10" WEST 421.53 FEET;  
NORTH 07°20'40" WEST 102.61 FEET TO BEGINNING. 1 ACRE.

SC  
5/4/06



C' 05-131  
RECORDED

MAR 23 2006

SETTLEMENT AND ANNEXATION AGREEMENT

CITY RECORDER

THIS SETTLEMENT AND ANNEXATION AGREEMENT ("Agreement") is between Salt Lake City Corporation ("City"), a Utah municipality, whose principal business address is 451 South State Street, Salt Lake City, Utah 84111, the Romney Lumber Company, a Utah corporation with its principal place of business at 555 East 200 South, #250, Salt Lake City, Utah 84102, and Mr. Robert W. Carson and Mrs. Honora M. Carson, husband and wife, of 558 Eleanor Drive, Woodside, California 94062. The Romney Lumber Company and Mr. and Mrs. Carson are hereinafter jointly referred to as "Romney/Carson".

RECITALS

WHEREAS, Romney/Carson are the owners of approximately 324 acres of undeveloped real property located in the foothills adjacent to Salt Lake City ("the Subject Property");

WHEREAS, Romney/Carson, as Plaintiffs, filed an amended petition for judicial review and complaint in the United States District Court for the District of Utah, Central Division, concerning the Subject Property, styled "ROMNEY LUMBER CO., Inc., a Utah corporation, ROBERT W. CARSON, an individual; and HONORA M. CARSON, an individual, Plaintiffs, v. SALT LAKE CITY CORPORATION and William T. Wright", Defendants, Case No. 2:00 CV 695 PGC, alleging 14 claims for relief (the "Litigation");

WHEREAS, the Defendants Salt Lake City Corporation and William T. Wright subsequently filed an answer to the amended petition for judicial review and complaint denying liability and alleging six affirmative defenses;

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WHEREAS, subsequently on or about October 31, 2002, the Court entered its Memorandum Decision and Order dismissing Mr. Wright from the lawsuit with prejudice and granting the Plaintiffs' Motion for Summary Judgment on their fourth claim for relief;

WHEREAS, on April 20, 2004, the City and Romney/Carson participated in mediation presided over by Federal Magistrate Judge David Nuffer; and

WHEREAS, the parties reached an agreement which they mutually agreed to memorialize in a written settlement agreement.

NOW THEREFORE, in consideration of the promises, and the mutual covenants and undertakings of the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Petition for Annexation. Within 30 days following the execution of this Agreement, Romney/Carson shall file a renewed petition for annexation requesting the annexation of the Subject Property into the corporate limits of the City, subject to the terms and conditions set forth in this Agreement. The annexation petition shall comply with all the State and City Requirements for such petition except that no filing or processing fees shall be charged to Romney/Carson.

2. Annexation Ordinance. Within 120 days following the filing of the renewed annexation petition, the City shall adopt an ordinance approving the annexation of the Subject Property into the corporate limits of the City, subject to the terms and conditions set forth in this Agreement. The City ordinance annexing the Subject Property shall state that the annexation of the Subject Property shall become effective in accordance with the procedures, terms, and conditions in the Agreement without the need for any further approval from the City Council.

3. Costs. The parties acknowledge that Romney/Carson has paid \$10,000.00 in planning and processing fees. Consequently, the City shall annex the Subject Property without additional charges to Romney/Carson. Notwithstanding the foregoing, the City may charge its customary impact and utility connection fees to those who build on subdivision lots within the Subject Property.

4. Subdivision Approvals. As a condition of annexation, Romney/Carson shall file an application for and shall obtain final plat approval from Salt Lake County for a 15 lot subdivision generally described as the Parley's Pointe Subdivision Phase I ("Phase I") substantially in the form shown on Exhibit 1 attached hereto. The Phase I Plat shall contain a "Notice to Lot Purchasers" explaining that lot purchasers will be responsible for paying any lawfully required impact fees and utility connection fees. The notice shall also explain that City sewer and storm water services will not be available until the subdivision is annexed into the City. Romney/Carson shall also file an application for and shall obtain final plat approval from Salt Lake County for a 4-lot subdivision generally described as Parley's Pointe Subdivision Phase II ("Phase II") substantially in the form shown on Exhibit 2 attached hereto. If the County refuses to grant approval for the Phase I subdivision and the private roadway substantially in the form proposed on Exhibit 1, the Litigation shall continue.

5. Alternative Phase II Subdivision Approval and Annexation. In the event that the County denies approval of the Phase II subdivision as proposed, Romney/Carson may apply to the City for approval and annexation of the Phase II subdivision. In such event, the City shall approve and annex the Phase II subdivision substantially in the form as shown on Exhibit 2 without additional charges or changes not approved by Romney/Carson.

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6. Roadways and Trails. The road accessing Phase I lots 2-15 of the Parley's Pointe Subdivision shall be a private road with a gated access. However, pedestrian and bicycle access and access to trail heads shall be provided for as shown on Exhibits 1, 2 and 5. A public 80-foot-diameter cul-de-sac will be constructed at the end of Benchmark Drive. A gated private road stemming from the cul-de-sac will provide access to Parley's Pointe Subdivision Phase I lots 2-15. Bicycle access shall be limited to trails located on and below the public and private portions of Benchmark Drive as shown on Exhibits 1 and 2. The access shall also be shown on the applicable recorded subdivision plat(s). Romney/Carson shall not be required to grant any other access through the Phase I or Phase II subdivisions to the open space parcels, described in Paragraph 9.

7. Waterline Easement - Relocation. The parties knowlege that in 1979 Romney/Carson and/or their predecessors granted the City a waterline easement ("Easement") for a 16 inch diameter water pipeline. However, as shown on Exhibit 3, portions of the City's subsequently constructed waterline lie outside of the Easement. Consequently, the parties agree that following the execution of this agreement:

A. A portion of the City's 16" waterline will be relocated by Romney/Carson from the back of lots 5 and 6 and the front of lot 9 into the proposed private roadway within Phase I, as shown on Exhibit 4.

B. Prior to construction, Romney/Carson shall consult with the City to review the proposed construction drawings and specifications to assure that the relocation construction will be in accordance with mutually agreed to design standards and shall obtain the written approval of the City as to the proposed waterline.

C. Upon completion of the consultation and review, and after Romney/Carson has obtained all necessary approvals or permits, and upon receipt of written request from Romney/Carson, the City shall pay to Romney/Carson fifty thousand dollars (\$50,000.00) as its fair share of the relocation costs. However, if the replacement waterline has not been constructed and connected within one year following the date of payment from the City, Romney/Carson shall repay to the City the \$50,000 paid.

D. During relocation construction, the existing waterline as presently located shall continue in service until Romney/Carson's contractor is ready to connect the waterline to the relocated portion. The connection to the relocated portion of the waterline, shall only occur between October 1 and April 30, and at a specific time and date reasonably and mutually acceptable to the parties.

E. After the City's waterline is relocated, Romney/Carson shall promptly convey to the City an easement, for the full width of the private roadway, for the new waterline, and the City shall reconvey back to Romney/Carson those portions of the existing Easement not used by the City for its new waterline.

8. Utilities. As part of Romney/Carson's subdivision application, the City has submitted a letter, attached hereto as Exhibit 6, addressed to the Salt Lake County Board of Health and County Council committing the City to provide water, sewer and storm drain services in accordance with plans approved by the City's Department of Public Utilities to the Phase I and Phase II subdivisions upon final approval of the subdivision plats and annexation into the City. Annexation of the Subject Property is conditioned upon: (a) receiving final County approval of the Phase I subdivision; and either (b) construction of the public and private portions of the Phase

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I Roadway and corresponding utility lines, or (c) obtaining and filing a bond with the City, in an amount and form reasonably acceptable to the City, for the roadway and corresponding utility lines. The parties acknowledge that City sewer and storm water facilities will not be made available to service the Subject Property until all applicable conditions of this Agreement have been satisfied and the annexation of the Subject Property has become effective.

9. Romnev/Carson Open Space Donation. The parties acknowledge that Romney/Carson has always intended to donate or convey a substantial portion of their property for committed use as undeveloped open space. As a condition of annexation, Romney/Carson confirms that they will donate or sell at a discount from fair market value for use as perpetual open space lots 14a, 14b and 15 of the Parley's Point Subdivision Phase I together with approximately 260 acres of land located adjacent to and running from the proposed Phase I and Phase II Subdivisions to the border of adjacent United States Forest Service property, including all of the remainder of the Subject Property beyond what is designated as building lots, common areas, roadway and related roadway improvements in the Phase I and Phase II subdivision plats shown on Exhibits 1 and 2. The properties to be donated and dedicated as perpetual open space are identified on Exhibits 1 and 2 as lots 14a, 14b, and 15 and as Perpetual Open Space Parcels A, B and C. The donation or conveyance of these open space properties shall occur within twelve (12) months after final approval of each subdivision plat, unless the time for doing so is mutually extended by the parties. The contemplated conveyances will be made subject to a restrictive covenant requiring the preservation of the properties as perpetual open space to either the City, Salt Lake County, or a non-profit organization formed for the charitable purpose of promoting the environment and conserving undeveloped open space and which has been

organized as a public charity pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 and the regulations promulgated thereunder. All parties further acknowledge that development of a substantial portion of the property to be donated or conveyed as described above may be problematic, that the City or Salt Lake County possesses the power to obtain such land by purchase or eminent domain in any event, and that the Agreement herein by Romney/Carson to make such a donation or bargain purchase for the purposes of preserving open space does not represent a concession or modification from their pre-existing intent and commitment to make such a conveyance for the benefit of the public. Under no condition may the conveyed open space be used for any type of residential, commercial or manufacturing uses by the City, County or other designated entity. The conveying document shall contain a reversionary clause providing that title to the property shall revert back to Romney/Carson, in accordance with their interest in the property prior to the conveyance for open space, if the land is ever used for a prohibited purpose.

10. Protection Against Further Foothills Development. In addition to the foregoing donation of open space, and as a condition of annexation and as a protection against further foothill development, Romney/Carson agrees to designate and donate to the City on the subdivision plats, a one-foot strip of property as shown on Exhibit 5.

11. Common Area Open Space Parcels. In addition to the Open Space Parcels described above, certain additional properties shall be designated as common area parcels to be owned by the Homeowners' Association and maintained as common area open space. Upon recordation of each of the subdivision plats, Romney/Carson shall grant to the City a conservation easement over the common area open space parcels, requiring that those common

area open space parcels be maintained as perpetual open space.

12. Dismissal of the Litigation. Within 30 days following the recording of the Phase I and Phase II subdivision plats and the City Council vote to annex the Subject Property, Romney/Carson shall file a Stipulation for Dismissal of the Litigation, with prejudice, in the form attached hereto as Exhibit 7. In the event that Salt Lake County does not grant final approval of the Phase I subdivision as set forth above in paragraph 4 within 4 months following the execution of this Agreement, (unless this deadline is mutually extended by a written amendment to this Agreement) the Litigation shall continue and the Romney/Carson property will not be annexed under the petition for annexation called for in paragraph 1 of this Agreement.

13. Joint Cooperation. Romney/Carson agrees to diligently pursue and use its best efforts to obtain the required approvals. The City agrees to cooperate and reasonably assist Romney/Carson in obtaining the required approvals. The City shall support Romney/Carson's Parley's Pointe Phase I and Phase II subdivision applications before Salt Lake County described in this Agreement and shall reasonably cooperate with Romney/Carson in securing the required County subdivision approvals.

14. Notice to Be Recorded. Contemporaneous with the execution of this Agreement, the parties shall also execute a Notice of Settlement and Annexation Agreement, in the form attached hereto as Exhibit 8. That notice shall be recorded against the Subject Property in the office of the Salt Lake County Recorder.

15. Agreement Not to Be Used as Evidence. In the event the settlement is not completed, this Settlement Agreement shall not be used as evidence in the Litigation or for any other purpose in the Litigation.

16. Remedies. In the event that the City fails to adopt an ordinance approving the annexation of the Subject Property as set forth herein, or if the County fails to approve the Phase I subdivision and roadway, the Litigation shall continue. Following the dismissal of the Litigation, the remedy for failure to perform as required in the terms of this Agreement shall be an action to enforce the terms of this Agreement including the right to specific performance. The parties agree that damages can only be awarded if a court of competent jurisdiction determines that remedy of specific performance is not feasible.

17. General Provisions. The following provisions are also integral parts of this Settlement Agreement:

A. Binding Agreement. This Agreement shall be binding and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

B. Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original. A facsimile transmittal bearing a photocopied signature shall be deemed an original.

C. Amendment. This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

D. Time of Essence. Time is the essence of this Agreement and every provision hereof.

E. Interpretation. This Agreement shall be interpreted, construed and enforced according to the substantive laws of the state of Utah.

F. Attorneys' Fees. If any action or proceeding is brought by any party to

enforce this Agreement, the prevailing party(s) shall be entitled to recover its related costs and reasonable attorneys' fees, whether such sums are expended with or without suit, at trial, on appeal or in any bankruptcy proceeding.

G. Notice. Any notice or other communication required or permitted to be given hereunder shall be deemed to have been received (a) upon personal delivery or actual receipt thereof or (b) within three (3) days after such notice is deposited in the United States mail, postage prepaid and certified and addressed to the parties at their respective addresses set forth above.

H. Additional Acts. The parties shall do such further acts and things and shall execute and deliver such additional documents and instruments as may be necessary or reasonably requested by a party or its counsel to obtain the subdivision approvals, annexations, donation of open space, and dismissal of the Litigation described in this Agreement.

I. Assignment. Any party may assign or delegate its rights and obligations hereunder with the prior written consent of the other party, which consent shall not be unreasonably withheld.

J. Authorization. Each individual executing this Agreement does thereby represent and warrant to the other signers that the individual has been duly authorized to execute and deliver this Agreement in the capacity and for the entity specified.

K. Mutual Participation in Document Preparation. Each party has participated materially in the negotiation and preparation of this Agreement and any related items; in the event of a dispute concerning the interpretation of any provision of this Agreement or any related item, the rule of construction to the effect that certain ambiguities are to be

construed against the party drafting a document will not apply.

L. No Third-Party Beneficiary Interests. Nothing contained in this Agreement is intended to benefit any person or entity other than the parties to this Agreement; and no representation or warranty is intended for the benefit of, or to be relied upon by, any person or entity which is not a party to this Agreement.

M. Exhibits Incorporated by Reference. Each exhibit identified in this Agreement is incorporated hereby by reference.

N. Representation regarding ethical standards for City officers and employees and former City officers and employees. Romney/Carson represent that they have not; (1) provided an illegal gift of payoff to the City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, other than bonafide employees or bonafide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in City conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promise that they will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in City conflict of interest ordinance, Chapter 2.44, Salt Lake City Code. Romney/Carson discloses that at one time it hired a former City employee, Alan Johnson as a consultant. At the time of the consultation Mr. Johnson was not a City employee.

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O. Effective date. This Agreement shall become binding and effective upon execution by all parties.

ROMNEY LUMBER CO.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
President

\_\_\_\_\_ Date: \_\_\_\_\_  
Mr. Robert W. Carson

\_\_\_\_\_ Date: \_\_\_\_\_  
Mrs. Honora M. Carson

SALT LAKE CITY

By: [Signature] Date: 11/13/06  
Mayor

ATTEST:



RECORDED

MAR 23 2006

Date: \_\_\_\_\_  
CITY RECORDER

Salt Lake City Recorder **CHIEF DEPUTY**

LITIGATION Romney Lumber Company, Inc Settlement Agreement 2005-10-07 Final

APPROVED AS TO FORM  
Salt Lake City Attorney's Office  
Date 11-22-05  
By [Signature]

ORIGINAL DOCUMENT  
PROPERTY OF SALT LAKE  
CITY RECORDER'S OFFICE  
451 SO. STATE, RM. 415  
SALT LAKE CITY, UTAH 84111

C 05-731

**SALT LAKE CITY CORPORATION**

LAW DEPARTMENT

ROSS C. ANDERSON  
MAYOR  
EDWIN P. RUTAN, II  
CITY ATTORNEY

LYNN H. PACE  
DEPUTY CITY ATTORNEY

October 20, 2005

Mayor Ross C. Anderson  
Salt Lake City Corp.  
451 South State St., Room 306  
Salt Lake City, UT 84111

Re: *Romney Lumber Company Settlement Agreement*

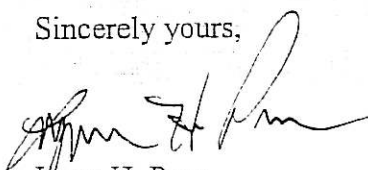
Dear Mayor:

As you aware, the City has been conducting on-going settlement discussions with the plaintiffs in the lawsuit entitled Romney Lumber Company, Inc., Robert W. Carson and Honora M. Carson v. Salt Lake City Corp., which involved disputes concerning the City's decisions and actions with respect to approximately 350 acres of real property located in the foothills east of Salt Lake City at the mouth of Parley's Canyon.

I am pleased to report that the parties have now finalized a settlement agreement which resolves all matters in dispute in this case. You have previously reviewed this Settlement Agreement, as has the City Council. This Settlement Agreement, which will be maintained in the City Recorder's files, will also be accompanied by a Notice of Settlement and Annexation Agreement, which will be recorded against the property in the office of the Salt Lake City Recorder. Attached please find two copies of the "Settlement and Annexation Agreement" and two copies of the "Notice of Settlement and Annexation Agreement" for your signature.

Thank you for your assistance in this matter.

Sincerely yours,



Lynn H. Pace

LHP:ss  
Encl.



C 05-731

**SALT LAKE CITY CORPORATION**

LAW DEPARTMENT

LYNN H. PACE  
DEPUTY CITY ATTORNEY

ROSS C. ANDERSON  
MAYOR  
EDWIN P. RUTAN, II  
CITY ATTORNEY

November 22, 2005

RECORDED

MAR 23 2006

CITY RECORDER

Mayor Ross C. Anderson  
Salt Lake City Corporation  
451 South State Street, Room 306  
Salt Lake City, Utah 84111

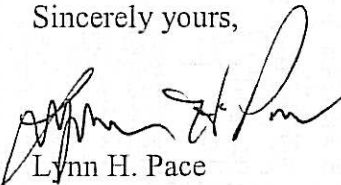
Re: Romney Lumber Co. Settlement Agreement

Dear Mayor:

On or about October 24, 2005 we (the City) executed a Settlement and Annexation Agreement in the Romney Lumber Co. lawsuit. Although that Settlement Agreement has now been fully executed and recorded, counsel for the Romney Lumber Co. has asked if we could provide him with a duplicate original for their files. Accordingly, please sign the attached duplicate copy of the Settlement and Annexation Agreement and return it to me.

If you have any questions concerning this matter, please let me know. Thank you for your assistance.

Sincerely yours,



Lynn H. Pace

LHP/ns

Enclosure

RECORDED  
C 05-731  
FEB 08 2007

AMENDMENT NO. 3 TO THE SETTLEMENT AND ANNEXATION AGREEMENT CITY RECORDER

THIS AMENDMENT NO. 3 TO THE SETTLEMENT AND ANNEXATION AGREEMENT ("Agreement") is entered into between Salt Lake City Corporation, a Utah Municipality, Romney Lumber Company, a Utah Corporation, and Mr. Robert W. Carson and Mrs. Honora M. Carson, husband and wife, of Woodside California.

Paragraph 12 of the parties Settlement and Annexation Agreement is amended to read as follows:

"Paragraph 12. Dismissal of the Litigation. Within 30 days following the recording of the Phase I and Phase II subdivision plats and the City Council vote to annex the Subject Property, Romney/Carson shall file a Stipulation for Dismissal of the Litigation, with prejudice, in the form attached hereto as Exhibit 7. In the event that Salt Lake County does not grant final approval of the Phase I subdivision as set forth above in paragraph 4 by March 26, 2007, (unless this deadline is mutually extended by a written amendment to this Agreement) the Litigation shall continue and the Romney/Carson property will not be annexed under the petition for annexation called for in paragraph 1 of this Agreement."

All other provisions of the parties Settlement and Annexation Agreement are not amended and shall continue as binding and in effect. This Amendment No. 3 shall be attached to the parties Settlement and Annexation Agreement and become binding and effective upon execution by the parties.

ROMNEY LUMBER CO.

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

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

\_\_\_\_\_  
Mr. Robert W. Carson

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

\_\_\_\_\_  
Mrs. Honora M. Carson

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

PROPERTY OF SALT LAKE  
CITY RECORDER'S OFFICE  
451 SO. STATE, RM 415  
SALT LAKE CITY, UTAH 84111

SALT LAKE CITY

By: *[Signature]*  
Mayor

ATTEST:

*[Signature]*  
Salt Lake City Recorder

CHIEF DEPUTY

APPROVED AS TO FORM  
Salt Lake City Attorney's Office  
Date 1-24-07  
By *[Signature]*

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



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

RECORDED

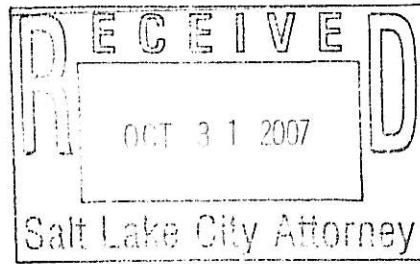
FEB 08 2007

CITY RECORDER

PROPERTY OF SALT LAKE  
CITY RECORDER'S OFFICE  
451 SO. STATE, RM 415  
SALT LAKE CITY, UTAH 84111



NOV 01 2007



DALE GARDINER  
Direct Dial: 801.237.0367  
email: dgardiner@vancott.com

October 29, 2007

Lynn Pace  
Salt Lake City Attorneys Office  
451 South State Street, Rm 505a  
Salt Lake City, Utah 84144

VANCOTT, BAGLEY,  
CORNWALL &  
MCCARTHY, P.C.  
ESTABLISHED 1874

**Re: Romney Lumber et al/Salt Lake City Settlement  
Agreement - Amendment 4**

Dear Lynn,

For your files, enclosed is an original of Amendment 4 to the Settlement and Annexation Agreement recently signed by the parties.

Very truly yours,

  
Dale Gardiner

DFG:md  
Enclosures

Cc: Romney Lumber Company w/o encl  
Dr. and Mrs. Carson w/o encl

36 S. STATE STREET  
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LAW OFFICES  
SALT LAKE CITY  
OGDEN  
PARK CITY  
LAS VEGAS



RECORDED

SEP 26 2007

AMENDMENT NO. 4 TO THE SETTLEMENT AND ANNEXATION AGREEMENT

CITY RECORDER

THIS AMENDMENT NO. 4 TO THE SETTLEMENT AND ANNEXATION AGREEMENT ("Agreement") is entered into between Salt Lake City Corporation, a Utah Municipality, Romney Lumber Company, a Utah Corporation, and Mr. Robert W. Carson and Mrs. Honora M. Carson, husband and wife, of Woodside California.

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All other provisions of the parties Settlement and Annexation Agreement are not amended and shall continue as binding and in effect. This Amendment No. 4 shall be attached to the parties Settlement and Annexation Agreement and become binding and effective upon execution by the parties.

ROMNEY LUMBER CO.

By: \_\_\_\_\_ Date: 10.25.07  
President

\_\_\_\_\_  
Mr. Robert W. Carson Date: 10-19-07

Honora M. Carson  
Mrs. Honora M. Carson Date: 10/19/07

SALT LAKE CITY

By: *[Signature]* Date: 9/9/07  
Mayor

ATTEST:

RECORDED

SEP 26 2007

*Christine Neek*  
ACTING Salt Lake City Recorder

Date: CITY RECORDER



APPROVED AS TO FORM  
Salt Lake City Attorney's Office

Date 9-6-07

By *[Signature]*



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# SALT LAKE CITY COUNCIL STAFF REPORT

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**DATE:** April 28, 2006

**SUBJECT:** Petition 400-05-41 – Romney/Carson – Parley’s Pointe Annexation - request to annex property at approximately 2982 East Benchmark Drive and 2100 South to 2600 South (This action includes establishing zoning classifications on the property and amending applicable Master Plans.)

**AFFECTED COUNCIL DISTRICTS:** If the ordinance is adopted the annexation, zoning and master plan amendments will affect Council District 7

**STAFF REPORT BY:** Janice Jardine, Land Use Policy Analyst

**ADMINISTRATIVE DEPT. AND CONTACT PERSON:** Community Development Department, Planning Division  
Sarah Carroll, Principal Planner

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## POTENTIAL MOTIONS:

1. [“I move that the Council”] **Adopt an ordinance:**
  - a. Annexing approximately 406 acres of property at approximately 2982 East Benchmark Drive and 2100 South to 2600 South.
  - b. Amending the East Bench Community Master Plan and the Arcadia Heights, Benchmark and H Rock Small Area Plan.
  - c. Zoning the properties within the annexation area Open Space OS, Natural Open Space NOS, Foothill Residential FR-2 (Romney/Carson proposed subdivision), and Foothill Residential FR-3.  
*(This option would address the issue discussed by the Council relating to application of the Open Space zoning classification to individually-owned properties on Lakeline Drive that are not part of the settlement agreement.)*
  
2. [“I move that the Council”] **Adopt an ordinance:**
  - a. Annexing approximately 406 acres of property at approximately 2982 East Benchmark Drive and 2100 South to 2600 South.
  - b. Amending the East Bench Community Master Plan and the Arcadia Heights, Benchmark and H Rock Small Area Plan.
  - c. Zoning the properties Foothill Residential FR-2, Open Space OS and Natural Open Space NOS.  
*(This option would implement the Planning Commission recommendation.)*
  
3. [“I move that the Council”] **Not adopt an ordinance:**
  - a. Annexing approximately 406 acres of property at approximately 2982 East Benchmark Drive and 2100 South to 2600 South,
  - b. Amending the East Bench Community Master Plan and the Arcadia Heights, Benchmark and H Rock Small Area Plan, and
  - c. Zoning the properties within the annexation area.

## WORK SESSION SUMMARY/NEW INFORMATION:

### New Information

The Administration has provided additional information and a new ordinance that addresses application of the Open Space zoning classification to individually-owned properties on Lakeline Drive that are not part of the settlement agreement. This issue was discussed by the Council at the April 4, 2006 Work Session. Key points are noted below. Please see the Work Session summary below and the Administration's supplemental transmittal dated April 24, 2006 for details.

- A. The Council requested that Planning staff contact the property owners to determine which zoning designation they would prefer for their properties.
- B. A letter was sent to each property owner and Planning staff also telephoned each property owner.
  - a. One property owner requested the Open Space zoning classification. (Alan and Orlene Cohen, 2133 South Lakeline Drive)
  - b. Two property owners requested the Foothill Residential FR-3 zoning classification. (Andrea and Louis Barrow, 2119 South Lakeline Drive and Lynn Mabey/Axxon Investment Company, 2155 South Lakeline Drive)
  - c. One property owner indicated that he would research the information further and either contact Planning staff or attend the hearing to state his preference. (Benjamin Buehner, 2111 South Lakeline Drive)
- C. A new ordinance has been prepared for Council consideration that would zone the properties as requested by the property owners (Open Space OS and Foothill Residential FR-3). The Administration's transmittal notes that a decision has not been received from Mr. Buehner regarding his preference. The ordinance has been prepared to apply the Foothill Residential FR-3 zoning classification to his property in order to create a more unified zoning pattern.

### Work Session Summary

At the Council Work Session on April 4, 2006, the Council discussed this issue with the Administration. Key elements are summarized below.

- A. Certain aspects of the settlement and annexation agreement and conditions in the ordinance relating to completion time frames.
  1. Conditions specifically noted in the ordinance include subdivision approval from Salt Lake County and construction or bonding for the public and private portions of the roadway and corresponding utility lines.
  2. The ordinance shall not become effective and the City Recorder is instructed not to record or publish the ordinance until the terms and conditions have been satisfied and certified by the Community Development and Public Utilities Directors.
  3. The ordinance will become null and void if the conditions have not been satisfied with 2 years.
- B. Proposed application of the Open Space zoning classification to individually-owned properties on Lakeline Drive that are not part of the settlement agreement. The Council asked Planning staff to provide additional information to assist the Council in determining if it would be more reasonable to apply the Foothill Residential FR-3 zoning classification to the properties rather than the Open Space zoning classification. Issues discussed included:
  1. Use of the Open Space zone has the potential to establish the expectation that this property will always be kept as open space.
  2. Planning staff believes that the slopes on the properties exceed 30% which would prohibit development.
  3. One property owner formally requested the FR-3 zoning rather than OS in order to combine the parcels indicating that the property is currently their backyard.

4. Planning staff recommended that the property owner apply for a subdivision amendment and FR-3 zoning at a future date and that they submit slope analysis data at that time.
  5. Council staff noted that rezoning the properties Foothill Residential FR-3 as part of the annexation request would eliminate a time consuming and costly process in the future for both the property owners and the City.
- C. On April 10, 2006, the Planning Division sent a letter to the property owners. Key elements from the letter are listed below. (please see the attached letter for details)
1. Planning staff has recommended the Open Space zoning classification for the properties:
    - a. (based on) consideration of the perceived slopes on the properties, and
    - b. to hinder the possibility of development as it is believed the slope may exceed 30%
  2. One property owner has requested the Foothill Residential FR-3 zoning classification be applied to the affected property instead of the Open Space zoning. They anticipate trying to extend the buildable area to create an addition to the rear of the home.
  3. Zoning the accessory parcels to FR-3 will likely cause the properties to be re-assessed by the County Assessor and may significantly increase the total property taxes (for the properties).
  4. Requests a response from the property owners by April 20<sup>th</sup> indicating which zoning classification they prefer. (Open Space OS or Foothill Residential FR-3)

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The following information was provided previously for the Council Work Session on April 4, 2006.

It is provided again for your reference.

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## KEY ELEMENTS:

- A. An ordinance has been prepared for Council consideration. Action required by the Council includes:
1. Annexation of approximately 406 acres of property at approximately 2982 East Benchmark Drive and 2100 South to 2600 South.
    - State law does not allow islands or peninsulas of unincorporated land to be created when an annexation occurs. Seven other parcels of land will also be annexed with this proposal. The exclusion of the properties would result in an island or peninsula. (Please see the Administration's transmittal letter for a list of the properties and owners and Annexation Plat, Exhibit 2 in the Planning staff report.)
    - The Romney/Carson property is being annexed as a result of a settlement agreement relating to a longstanding lawsuit between the property owners and Salt Lake City. The settlement agreement outlines specific terms under which the Romney/Carson property should be annexed into the corporate limits of Salt Lake City. (Please see item C below and the settlement agreement, Exhibit 1 in the Planning staff report for details.)
  2. Amending the East Bench Community Master Plan and the Arcadia Heights, Benchmark and H Rock Small Area Plan.
    - The ordinance states "The East Bench Community Master Plan, the Arcadia Heights, Benchmark and H Rock Small Area Plan, which were previously adopted by the City Council, shall be and hereby are amended to allow limited, very low density, single family residential development in the area consisting of not more than 15 new lots all but one of which shall be located on a private street extending off the current terminus of Benchmark Drive, and not more than 4 new lots located on a public cul-de-sac extending from the current terminus of Scenic Drive."
  3. Zoning the properties Foothill Residential (FR-2), Open Space (OS) and Natural Open Space (NOS).

- The Planning staff report notes: “Approximately 31.48 acres of the Romney/Carson property will be used for the development of 17 single-family home sites, with lot sizes ranging from approximately 0.43 to 1.51 acres in size. Planning staff recommends that the area proposed for subdivisions be zoned Foothill Residential (FR-2) zoning which is compatible with the abutting FR-3 zoned Benchmark Subdivision. The remainder of the Romney/Carson property is to be conveyed to an acceptable open space preservation entity for perpetual open space protection and planning staff is recommending Natural Open Space (NOS) zoning for this area. There are other privately owned properties that are included in this request for annexation and planning staff is recommending Open Space (OS) zoning for those properties.”
4. The City Recorder is instructed not to record or publish the ordinance until the terms and conditions in the ordinance and the settlement agreement have been satisfied and certified by the Directors of the Community Development and Public Utilities Departments. The ordinance shall become null and void if the conditions have not been satisfied with two years of the date of the ordinance.
- B. The Administration’s transmittal and Planning staff report note that there are many positive gains for the community that will be realized following the completion of the requested annexation and zoning of this property including:
1. Final resolution to the legal dispute without cost damage to Salt Lake City.
  2. Limited development.
  3. The use of septic tanks will be eliminated because the City will provide sewer services. Septic tanks would jeopardize Salt Lake City drinking water and be damaging to down slope lot owners.
  4. Trail access will be maintained through public easements.
  5. Approximately 260 acres of land will be dedicated to perpetual open space and preserved through public ownership.
  6. Increased protection against future development provided by the one foot holding strip and open space easements.
  7. Salt Lake City’s zoning, which includes special foothill regulations, will apply to all building permits and to all dwellings and will help reduce the off site visibility of additional development.
- C. The Planning staff report notes the following key elements from the settlement agreement:
1. Petition for Annexation: Romney/Carson shall file a renewed petition for annexation.
  2. Annexation Ordinance: The City shall annex the Romney/Carson property, subject to the terms of the Agreement, within 120 days of receipt of a renewed annexation petition.
  3. Costs: Romney/Carson have previously paid substantial planning and processing fees. Therefore, the City shall annex the property without additional charges.
  4. Subdivision Approvals: Final plat approval of the Phase I subdivision (Extension off Benchmark Drive) shall be obtained from the County. The City sewer and storm water services shall not be available until the subdivision is annexed into the City. If the County refuses to grant approval of Phase I the litigation will continue.
  5. Phase II Subdivision Approval and Annexation: Final plat approval of the Phase II subdivision (extension off Scenic Drive) approval may be obtained from the County or the City.
  6. Roadways and Trails: A public cul-de-sac will be constructed at the end of Benchmark Drive and at the end of Scenic Drive. Lots 2-15 of Phase I will be accessed by a private road. A twenty foot public trail easement will be recorded with the final plat to allow pedestrian traffic access to the trails delineated in the settlement agreement.
  7. Waterline Easement – Relocation: A waterline was constructed by the City in 1979. A portion of the waterline will be relocated to lie within the waterline easement.
  8. Utilities: The City commits to provide water, sewer and storm drain services upon the completion of all applicable conditions of the Agreement.

9. Romney/Carson Open Space Donation: As a condition of annexation, Romney/Carson will sell or donate lots 14a, 14b, and 15 as well as Perpetual Open Space parcels A, B and C for preservation as undeveloped open space.
  10. Protection against Further Foothills Development: As a condition of annexation, Romney/Carson agrees to donate a one-foot strip of property around the perimeter of the property to Salt Lake City.
  11. Common Area Open Space Parcels: There are common area open space parcels throughout the Phase I and Phase II subdivisions that will be part of the Home Owners Association. When the final plat is recorded Romney/Carson will grant a conservation easement to the City which requires the common areas to be maintained as perpetual open space.
  12. Dismissal of the Litigation: Within 30 days following the recording of the subdivision plats and the City Council vote to annex, Romney/Carson shall file a stipulation for Dismissal of the Litigation. If the County does not grant final approval of the Phase I subdivision within 4 months of the execution of the Settlement Agreement, the Litigation shall continue and the Romney/Carson property will not be annexed.
  13. Joint Cooperation: The City shall support the subdivision applications before the County and shall cooperate with the County in securing the required approvals.
  14. Notice Recorded: The parties have executed a Notice of Settlement and Annexation Agreement which has been recorded against the Subject Property.
  15. Agreement not to be used as Evidence: If this Agreement is not completed, it shall not be used for evidence for any other purposes in the Litigation.
  16. Remedies: If the City fails to adopt an ordinance approving the annexation or the County fails to approve the Phase I subdivision and roadway, the Litigation shall continue.
- D. The public process included an open house and presentation to a joint meeting of the Arcadia Heights, Benchmark and H Rock Community Councils.
1. The Administration notes the Arcadia Heights/Benchmark Community Council did not take a position on the proposed annexation.
  2. The Planning staff report notes: "Andrea and Louis Barrows own property that is included in the annexation area and have requested that their property be zoned FR-3, rather than OS, in order to combine parcels and create a rear addition to their home (Exhibit 8). Staff believes that the slopes on the one acre parcel that is owned by the Barrows mostly exceed 30% which would prohibit development. Staff recommends that the Barrows apply for a subdivision amendment and FR-3 zoning at a future date and that they submit slope analysis data at that time."
- E. The City's Fire, Police, and Public Utilities Departments and Transportation, Engineering, Building Services and Zoning Divisions have reviewed the proposed annexation and expressed support or no objections to the proposal.
- F. On November 9, 2005, the Planning Commission voted to forward a positive recommendation to the City Council to adopt the proposed annexation and master plan and zoning map amendments.

## **MATTERS AT ISSUE /POTENTIAL QUESTIONS FOR THE ADMINISTRATION:**

### **BUDGET RELATED FACTS**

The proposed annexation may have a budget impact. The Council may wish to request information from the Administration regarding revenues and costs associated with this area and the net fiscal impact to the City if this property is to be annexed. This would maintain consistency with past practices and policy direction established by the Council in considering annexation requests. (The Council could request that the Administration provide the information by the Council's public hearing tentatively scheduled for Tuesday, May 2, 2006.)

## **MASTER PLAN AND POLICY CONSIDERATIONS:**

- A. The Administration's transmittal notes that there are several City master plans that apply to the proposed annexation area – the East Bench Community Master Plan, the Arcadia Heights, Benchmark and H Rock Small Area Plan, the Open Space Master Plan and the City's Master Annexation Policy Declaration. *(As previously noted, amending the East Bench Community Master Plan and the Arcadia Heights, Benchmark and H Rock Small Area Plan is part of this petition.)*
- B. Key references in the plans are noted below.
1. Arcadia Heights/Benchmark/H Rock Small Area Plan
    - a. The boundaries of the Arcadia Heights, Benchmark & H Rock Small Area Plan (the "Arcadia Plan") are I-80 on the south, Foothill Drive on the west, 1700 South on the north, and the Wasatch National Forest on the east.
    - b. Pages 3-4 New Foothill Development
      - Development restrictions on slopes equal to or greater than 30% - Recommendations include strict application of the City's Site Development Ordinance relating to interpretation of 30% slopes as well as all other foothill development standards.
      - Undevelopable land – Recommendations include acquisition, donation to a land trust, establishment of conservation or access easements, and not permitting undevelopable land to be included in calculating density or incorporated into individual building lots.
    - c. Pages 5-6 Residential Density/Zoning Classification for Annexed Land
      - If additional development is considered, it should be very low density that does not impair the natural qualities of the area and preserves the maximum amount of open space.
      - Restrictions on development affecting slopes equal to or greater than 30% should be strictly enforced and interpreted according to written administrative policies established by the City.
      - Gated developments should be strongly discouraged.
      - The following policies should be taken into consideration when determining the zoning classification for properties which may be annexed in the future:
        1. Lots should be a minimum of one half acre in size.
        2. Not more than four additional lots should be permitted at the south end of Scenic Drive and not more than four additional lots should be permitted at the north end of Lakeline Drive.
        3. New lots should be oriented to a new cul-de-sac or other terminus at the south end of Scenic Drive and to the existing cul-de-sac at the north end of Lakeline Drive.
        4. All new lots should conform to the dimensional and height standards of the FR-2 Zone and to all established Foothill Development Standards.
    - d. Pages 6-7 Utility Service – water, sewer and storm drainage
      - The developer should pay costs relating to increased impacts created by new development.
      - Water Service – Romney Property – This subdivision is located on the upper edge of the distribution zone. Water service can be provided to the second floor of a dwelling to a maximum elevation of 5190 (USGS datum). Each lot will need to be evaluated on a case by case basis. New distribution water lines will need to be installed as part of the subdivision development. Any habitable areas above elevation 5190 will require new pumping and reservoir facilities. (For planning and mapping purposes a ground or main floor elevation of 5175 (USGS datum) should be assumed.)
      - Sewer Service – Romney Property – Sewer lines from this development would be connected to existing sewer lines in Benchmark Subdivision. Downstream facilities appear to be adequate to handle this additional flow.
      - Storm Drainage – Drainage system design for proposed subdivisions will need to comply with the City's Restricted Discharge Policy. This policy restricts discharge from a site to .2 cubic feet per second per acre for the 24-hour 100-year storm.
    - e. Pages 7-8 Annexation
      - It should continue to be the City's policy that municipal water and sewer service will not be provided to new developments unless they are located with the City.

f. Pages 11-12 Open Space & Recreation

- Bonneville Shoreline Trail – continuation of the Bonneville Shoreline Trail from the top of Benchmark Drive south along the Lake Bonneville Bench to connect other foothill trail access points and the Parley’s Crossing Project North Bridge.
- Other trails – Recommendations include additional trail developments in this area from Benchmark Drive and Scenic Drive to provide foothill access points.
- Open Space Preservation Strategies emphasize designating undevelopable land as open space, acquisition and preservation of critical areas, establishing conservation easements, donations or sales to a land trust or other public or non-profit organizations.

g. Page 16 Public versus Private Streets

- Require dedicated public streets in order to better integrate new developments into existing neighborhoods and preserve public access to public lands.
- Streets should be designed recognizing specific soil and geologic conditions and constructed to mitigate any potential adverse conditions.

2. Open Space Master Plan – The Open Space Master Plan established four goals: conserve the natural environment; enhance open space amenities for all citizens; connect the various parts of the City to natural environments, and educate the citizens on proper use of open space. A section of the master plan relates to the Foothill Transitional Area, which it identifies as “the steeper slopes generally below the 5200 ft. elevation at the eastern and northern edges of the urbanized area.” The master plan states that, “A major issue is the conservation of the natural environment for animal habitat, watershed and views.” An implementation action identified by the master plan is that Salt Lake City, “establish the Open Space trust to receive and manage real property within the foothill transitional area.”

3. East Bench Master Plan – The approximate boundaries of the East Bench Master Plan are the northern City limits on the north, 1700 South and Parleys Way on the south, the eastern City limits on the east and 1300 East on the west. The East Bench Master Plan section on Annexation and Foothill development states the planning goal to preserve the present unique beauty, environmental habitat, recreational use, and accessibility of the Wasatch foothills, and ensure city control over foothill development in the East Bench Community. Additional statements note:

1. Most undeveloped foothill property east of the City is under the jurisdiction of Salt Lake County. Development under County jurisdiction is possible but not likely.
2. Salt Lake City is the only government jurisdiction with the ability to provide urban services, and annexation is a vital first step in the development process.
3. The City should refuse to provide water or sewer services to accommodate development of property outside of City boundaries.
4. Areas that are undevelopable, from a geological standpoint, should be preserved as natural foothill open space. The City should work with the State and Federal governments to acquire privately-owned property for public open space and recreation purposes.
5. Slope is one of the most important factors in determining development potential.
6. The three areas that have development potential should be limited to a maximum density of 4 units per gross acre or less as physical conditions indicate. Single-family homes or planned-unit developments are recommended.
7. The City should plan to eventually accommodate development, expand regulations to encompass aesthetic considerations as the means of precluding development, or acquire the properties for public open space.
8. If property owners can document compliance with the site development and other applicable City ordinances, the community and City should expect to accommodate development proposals.

C. State Code 10-2-403 regarding annexation requires that boundaries for annexation be drawn in the following manner:

1. To eliminate islands and peninsulas of territory that is not receiving municipal-type services;

2. To facilitate the consolidation of overlapping functions of local government;
  3. To promote the efficient delivery of services; and
  4. To encourage the equitable distribution of community resources and obligations.
- D. The Council's adopted growth policy states: It is the policy of the Salt Lake City Council that growth in Salt Lake City will be deemed the most desirable if it meets the following criteria:
1. Is aesthetically pleasing;
  2. Contributes to a livable community environment;
  3. Yields no negative net fiscal impact unless an overriding public purpose is served; and
  4. Forestalls negative impacts associated with inactivity.
- E. In the past, the Administration has provided the following information relating to the City's annexation policies:
1. The City does not have a citywide annexation policy.
  2. Annexation policies have been developed based primarily on geographic locations and existing land uses.
  3. Annexation policies are identified in the applicable master plans prepared for affected planning communities (i.e. East Bench, Sugar House, Northwest Community, Jordan River/Airport area, City Creek, etc.).
  4. Annexation policies in the Sugar House Master Plan are significantly different from policies identified in the East Bench Master Plan. The Sugar House area is part of the older, fully developed portion of the City. The East Bench area contains underdeveloped areas of the foothills that are limited in development potential due to slope restriction and the cost of providing municipal services.
- F. Council staff has attached a synopsis of City annexation policies prepared for the Council's Annexation Subcommittee. The Synopsis includes a summary of:
1. The City's 1979 Annexation Policy Declaration
  2. City Resolution No. 34 of 2000 – Reaffirmation of 1979 Master Annexation Policy Declaration, and Declaration of Intent to annex areas served by the City's water system in the unincorporated Salt Lake County
  3. Resolution 20 of 1982 – Water Service provided outside the City limits
  4. Existing Community Master Plans Annexation Policies
  5. The 1999 Salt Lake County Feasibility Scenarios Reports
  6. 1999 Salt Lake City Wall to Wall Cities Study
  7. 2000 Salt Lake City Wall to Wall Cities Annexation Study
- G. The City's Comprehensive Housing Plan policy statements address a variety of housing issues including quality design, architectural designs compatible with neighborhoods, public and neighborhood participation and interaction, accommodating different types and intensities of residential developments, transit-oriented development, encouraging mixed-use developments, housing preservation, rehabilitation and replacement, zoning policies and programs that preserve housing opportunities as well as business opportunities.
- H. The City's Strategic Plan and the Futures Commission Report express concepts such as maintaining a prominent sustainable city, ensuring the City is designed to the highest aesthetic standards and is pedestrian friendly, convenient, and inviting, but not at the expense of minimizing environmental stewardship or neighborhood vitality. The documents emphasize placing a high priority on maintaining and developing new affordable residential housing in attractive, friendly, safe environments.
- I. The City's 1990 Urban Design Element includes statements that emphasize preserving the City's image, neighborhood character and maintaining livability while being sensitive to social and economic realities.



## CHRONOLOGY:

The Administration's transmittal provides a chronology of events relating to the proposed annexation. Key dates are listed below. Please refer to the Administration's chronology for details.

- December 15, 2005 Planning Open House
- January 12, 2006 Joint Arcadia Heights, Benchmark and H Rock Community Council meeting
- January 17, 2006 Annexation petition accepted by City Council
- February 22, 2006 Planning Commission hearing
- March 7, 2006 Ordinance requested from City Attorney's office
- March 21, 2006 Ordinance received from City Attorney's office

cc: Sam Guevara, Rocky Fluhart, DJ Baxter, Ed Rutan, Lynn Pace, Louis Zunguze, Brent Wilde, Alex Ikefuna, Doug Wheelwright, Cheri Coffey, Everett Joyce, Sarah Carroll, Jan Aramaki, Marge Harvey, , Jennifer Bruno, Barry Esham, Annette Daley, Gwen Springmeyer

File Location: Community Development Dept., Planning Division, Annexation, Romney/Carson, approximately 2982 East Benchmark Drive and 2100 South to 2600 South