



CITY OF NORTH SALT LAKE

CITY COUNCIL-SPECIAL SESSION
NOTICE & AGENDA
December 13, 2016
5:30 PM

Posted December 8, 2016

Notice is given that the North Salt Lake City Council will hold a special meeting on TUESDAY, DECEMBER 13, 2016 at 5:30 p.m. Some council members may participate electronically. The following items of business will be discussed; the order of business may be changed as time permits.

SPECIAL SESSION - 5:30 p.m.

- 5:30 Introduction by Mayor Len Arave
- 5:32 Consideration of Ordinance No. 2016-14: An ordinance amending the City of North Salt Lake Zoning Map for property located generally at 1370 West Center Street from Natural Open Space (NOS) to General Industrial (MG)
- 5:50 Consideration of Agreement No. 2016-55A: A development agreement between the City of North Salt Lake and the South Davis Sewer District
- 6:00 Adjourn

The public is invited to attend all City Council meetings. If you need special accommodations to participate in the City Council meeting, please call the City office at 801-335-8709. Please provide at least 24 hours' notice for adequate arrangements to be made.

Notice of Posting:

I, the duly appointed City Recorder for the City of North Salt Lake, hereby certify that the foregoing agenda was posted on the Utah Public Notice website, at city hall, and sent to the required newspapers this 8 day of Dec., 2016.

Dated this 8 day of Dec., 2016.





NORTH SALT LAKE COMMUNITY AND ECONOMIC DEVELOPMENT

10 East Center Street
North Salt Lake, Utah 84054
(801) 335-8700
(801) 335-8719 Fax

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Ken Leetham, Assistant City Manager

DATE: December 13, 2016

SUBJECT: Consideration of Ordinance No. 2016-14: Rezoning of South Davis Sewer District property located at 1370 West Center Street

The attached ordinance is subject to the condition that the City and the applicant enter into a development agreement which sets out the terms of the new development, particularly the idea that the property is limited in its use to the resource recovery activities described in the application. The proposed agreement is the next item on the agenda.

The backup materials for this item was included in your November 1, 2016 Council packet.

ORDINANCE NO. 2016-14

AN ORDINANCE AMENDING THE CITY OF NORTH SALT LAKE ZONING MAP BY CHANGING THE ZONING OF PROPERTY LOCATED GENERALLY AT 1370 WEST CENTER STREET WITHIN THE CITY OF NORTH SALT LAKE, STATE OF UTAH, FROM NATURAL OPEN SPACE, NOS TO THE GENERAL INDUSTRIAL, MG DISTRICT AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of North Salt Lake has received an application from the South Davis Sewer District to amend the zoning for property located generally at 1370 West Center Street from Natural Open Space (NOS) to General Industrial (MG) District; and

WHEREAS, the proposed zoning change set forth herein has been reviewed by the Planning Commission and the City Council, and all appropriate public hearings have been held in accordance with Utah law and the City of North Salt Lake's ordinances to obtain public input regarding the proposed revisions to the Zoning Map; and

WHEREAS, the Planning Commission has made a recommendation to the City Council concerning the proposed zoning change as required by City Code and Utah Code; and

WHEREAS, the City Council has reviewed this application and finds that it is in accord with the comprehensive general plan, goals and policies of the City and that changed conditions make the proposed amendment reasonably necessary to carry out the purposes stated in Title 10 of the Land Use Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH SALT LAKE, STATE OF UTAH, AS FOLLOWS:

Section 1. Zoning Map Amendment. The City of North Salt Lake Zoning Map is hereby amended to change the zoning of property generally located at 1370 West Center Street within the city limits of the City of North Salt Lake, and more particularly described in Exhibit "A", from Natural Open Space (NOS) to General Industrial (MG) District.

Section 2. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

Section 3. Effective Date. This Ordinance shall become effective upon publication or posting and only after approval by the City Council of a development agreement for the subject property.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH SALT LAKE, STATE OF UTAH, THIS 13TH DAY OF DECEMBER, 2016.

CITY OF NORTH SALT LAKE

By: _____
Len Arave, Mayor

ATTEST:

City Recorder

City Council Vote as Recorded:

<u>Name</u>	<u>Vote</u>
Council Member Hood	_____
Council Member Horrocks	_____
Council Member Jensen	_____
Council Member Mumford	_____
Council Member Porter	_____

EXHIBIT "A"
LEGAL DESCRIPTION

Rezone/General Plan Map Amendment

Legal Description of subject property:

Parcel 010900010

BEG ON THE N LINE OF A 4 ROD STR AT A PT WH IS N 0°34'07" W 66.01 FT ALG THE W SEC LINE & S 89°43'27" E 33.01 FT PARALLEL TO THE S SEC LINE FR THE STONE MARKER MARKING THE SW COR OF SEC 3-T1N-R1W, SLM, & RUN TH S 89°43'27" E 0.56 FT ALG THE N LINE OF SD STR, TH DUE N 700.04 FT; TH S 89°24'06" E 737.33 FT; TH N 0°36' E 634.25 FT; TH N 89°24'06" W 757.78 FT TO A PT WH IS 33.0 FT E OF THE W LINE OF SD SEC 3; TH S 0°34'07" E 1334.53 FT PARALLEL TO SD W LINE TO THE POB. CONT. 11.004 ACRES

Parcel 010900011

BEG ON N LINE OF A 4 ROD STR AT A PT N 89°08'08" W 203.45 FT & N 89°24'06" W 5049.04 FT & DUE N 31.20 FT FR SE COR OF SEC 3-T1N-R1W, SLM, WH PT IS FURTHER DESC AS N 0°36' E 34.8 FT & S 89°24'06" E 33.20 FT & DUE N 31.20 FT FR SAND STONE MONU BURIED IN S FENCE LINE OF SD STR; SD STONE BEARING N 89°43'27" W 5285.06 FT FR SE COR OF SEC 3; TH DUE N 700.04 FT; TH S 89°24'06" E 737.33 FT; TH S 0°36' W 700 FT TO N LINE OF STR; TH N 89°24'06" W 730.0 FT ALG SD STR TO THE POB. CONT. 11.84 ACRES



NORTH SALT LAKE COMMUNITY AND ECONOMIC DEVELOPMENT

10 East Center Street
North Salt Lake, Utah 84054
(801) 335-8700
(801) 335-8719 Fax

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Ken Leetham, Assistant City Manager

DATE: December 13, 2016

SUBJECT: Consideration of a development agreement between the City of North Salt Lake and the South Davis Sewer District

The attached development agreement is the same agreement that was proposed in your meeting of November 29, 2016 with one exception. City and District staff have entered into discussion about how to utilize the secondary water by-product that will be produced by virtue of this new operation. The District may have up to 4,000 acre feet of water available for the City's use. In addition, they have a water piping system that they have agreed to donate to the City for our use in connection with this water source that potentially allows us to get the water to the east side of the Legacy Highway.

I view this potential water source as an extremely valuable asset and resource for the City's future water operations. Further permitting through the State of Utah will likely be required for the reuse of this water, but it could potentially save the City and its residents hundreds of thousands of dollars in the future and greatly extend our water supplies. With these considerations in mind, I have added new language in the agreement (new Section F) that formalizes the City's ability to obtain the water and the infrastructure system. David Church has also reviewed and approved the new language.

Agreement No. 2016-55A

DEVELOPMENT AGREEMENT

The City of North Salt Lake, a Utah municipal corporation (the “City”), and South Davis Sewer District, a political subdivision of the state of Utah, (“the District”), enter into this Development Agreement (this “Agreement”) this _____ day of _____, 2016 (“the Effective Date”), and agree as set forth below. The City and the District are jointly referred to as the “Parties”.

RECITALS

WHEREAS, the District is the owner of certain real property identified as Assessor’s Parcel Numbers 01-090-0010 and 01-090-0011 specifically described in attached Exhibit A (the “Property”) and intends to develop the Property consistent with the Concept Description attached as Exhibit B (the “Project”); and

WHEREAS, acting pursuant to (1) its authority under the Municipal Land Use, Development and Management Act, Utah Code Annotated 10-9a-101 *et seq.*, as amended, and (2) the North Salt Lake City Municipal Code (the “City Code”), and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations, the City has made certain determinations with respect to the proposed development of the Property and, in exercise of its legislative discretion, has elected to enter into this Agreement; and

WHEREAS, the Property currently is subject to the Planning and Land Use Ordinance of North Salt Lake City and is within the Natural Open Space (NOS) Zone (the “NOS Zone”) as provided in Title 10 Chapter 18 of the City Code, which is incorporated by reference into this Agreement; and

WHEREAS, the District owns and operates a sanitary sewage (wastewater) treatment plant located on the Property which serves part of Davis County, including residents and businesses located within the City; and

WHEREAS, the District desires to make improvements to the Property in conformity with this Agreement and desires a zone change on the Property from the NOS Zone to the General Industrial (M-G) Zone (the “M-G Zone”) as provided in Title 10 Chapter 11 of the City Code, which is incorporated by reference into this Agreement for the purpose of constructing the Project; and

WHEREAS, The Project, as defined in attached Exhibit B, is expected to divert waste from landfills and/or burn plants and to process the waste through an integrated system for the resource recovery of energy, nutrients and other useable materials for the benefit of the environment and the public; and

WHEREAS, the Project is expected to increase the efficiency of the District in providing sanitary sewer (wastewater) treatment and disposal services for residents and businesses located within the City and other areas served by the District; and

WHEREAS, the City has determined that the proposed development contains features which advance the policies, goals and objectives of the City's General Plan and will result in benefits to the City and its citizens; and

WHEREAS, this Agreement shall be valid only upon its approval by the North Salt Lake City Council; and

WHEREAS, The District has acknowledged that the sole purpose of the zone change for the property is to allow the construction of the Project and not for any other uses that are allowed under the M-G Zone; and

WHEREAS, the City and the District acknowledge that the terms of this Agreement shall be enforceable and the rights of the District relative to the Property shall vest only if the City Council, in its sole legislative discretion, approves a zone change for the Property from the NOS Zone to the M-G Zone.

NOW THEREFORE, based upon the foregoing recitals and in consideration of the mutual covenants and promises set forth herein, the Parties agree as follows:

TERMS

A. Recitals; Definitions. The recitals set forth above are incorporated herein by this reference. Any capitalized term used but not otherwise defined in this Agreement shall have the meaning ascribed to such term in the Land Use and Subdivision Ordinances of the City which are found in Title 10 of the City Code.

B. Enforceability: The City and the District acknowledge that the terms of this Agreement shall be enforceable, and the rights of the District relative to the Property shall vest, only if the City Council, in its sole legislative discretion, approves a zone change for the Property from the current NOS Zone to the M-G Zone.

C. Conflicting Terms. The Property shall be developed in accordance with the requirements and benefits provided under a M-G Zone pursuant to the City Code as of the Effective Date. In the event of a discrepancy between applicable requirements of Title 10 of the City Code and this Agreement, this Agreement shall control

D. District Obligations:

1. Concept Description. The District agrees to cause the Project described in attached Exhibit B to be constructed and operated as set forth in this Agreement and the City Code, as allowed in the M-G Zone.

2. Use. The Property shall be the site of one or more sewage treatment plants and resource recovery facilities and related and ancillary facilities and activities as allowed within the M-G Zone.

3. Access. The Project shall be accessed using the streets and roads that

currently serve the District's wastewater treatment plant.

4. Architecture/Engineering. The District shall see to it that plans and specifications for the Project are provided to the City's Planning Commission for review and approval.

5. Covenant against Other Uses. The District agrees that it will limit its uses of the Property to the existing use as a wastewater treatment plant and the Project; and that it does specifically waive and disclaim any right to use the Property for any other uses or purposes allowed under the M-G Zone without specific City approval to do so.

E. City Obligations.

1. Re-Zone. The City Council will process the District's request that the Property be re-zoned from the NOS Zone to the M-G Zone to enable the construction and operation of the Project as a conditional use within the M-G Zone.

2. Development Review. The City shall review development of the Property in a timely manner, consistent with the City's routine development review practices and in accordance with all applicable laws and regulations and this Agreement.

F. Use of Excess Water, Water Facilities and Easements.

1. Excess Water. The District acknowledges that a by-product of the Project will be tertiary treated water that is suitable for public and private irrigation and industrial purposes. It is estimated that the amount of water that could be generated annually by the Project is 4,500 acre feet. The District hereby grants to the City, without conditions, the right to use this excess water within the City's public irrigation systems and for whatever lawful purpose the City may choose.

2. Water Facilities and Easements. The District owns and has a right to use a water pipeline and telemetering conduit that runs under the Legacy Highway. The District hereby agrees to donate to the City this water pipeline telemetering conduit for the purpose of transporting tertiary treated water. The District retains the right to share in the use of the telemetering line to the extent that this can be done without impairing its primary use to support reuse of tertiary water from the District's South Plant. The District further agrees to grant, or transfer, to the City any easements, rights or other instruments that are necessary for the City to utilize the water pipeline.

G. Vested Rights and Reserved Legislative Powers.

1. Vested Rights. Consistent with the terms and conditions of this Agreement, the City agrees that the District has the vested right to (i) continue its current use of the Property as a wastewater treatment plant; and (ii) develop and construct improvements on the Property in accordance with the Project as described in Exhibit B hereto; and (iii) the terms of this Agreement.

2. Limitations. The District hereby agrees that the City's approval of an amendment to the City's zoning map for the District's property to the M-G zone is made to allow for the construction of the Project only and does not allow for the development of any other land uses which may generally be allowed in the M-G zoning district.

3. Reserved Legislative Powers. District acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact legislation under its police powers, such legislation shall only be applied to modify the vested rights of District under this Agreement, and with respect to use of the Property under the M-G Zone designation under the terms of this Agreement, based upon policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine applicable in the state of Utah. Any such proposed change affecting vested rights applicable to the Property shall be of general application to all development activity in the City and, unless the City in good faith declares an emergency, the District shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Property under the compelling, countervailing public interest exception to the vested rights doctrine. The notice required by this paragraph shall be the public notice published by the City as required by Utah statutory law.

H. Term. This Agreement shall be effective as of the date of recordation, shall run with the land (the Property) and shall continue in full force and effect until all obligations hereunder have been fully performed and all rights hereunder have been fully exercised; provided, however, that this Agreement shall not extend further than a period of 10 years from and after its date of recordation in the official records of the Davis County Recorder unless the Parties mutually agree to extend the term. If construction of a significant portion of the Project, as defined in attached Exhibit B, has not been completed and placed into service within the stated term, the District, by signing this agreement, hereby authorizes the City to rezone the Property from the M-G Zone back to the NOS Zone in the City's sole and absolute discretion.

I. General Provisions.

1. Notices. All Notices, filings, consents, approvals, and other communication provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally or sent by registered or certified U.S. Postal Service mail, return receipt requested, postage prepaid to the following addresses or to such other addresses as either party may from time to time designate in writing and deliver in like manner. Any such change of address shall be given at least 10 days before the date on which the change is to become effective:

If to City:

City of North Salt Lake
10 East Center Street
North Salt Lake City, UT 84054

Attention: City Recorder

If to District:

South Davis Sewer District
1800 West 1200 North
West Bountiful, UT 84087
P.O. Box 140111
Salt Lake City, UT 84114-0111
Attention: General Manager

2. Mailing Effective. Notices given by mail shall be deemed delivered 72 hours following deposit with the U.S. Postal Service in the manner set forth above.

3. No Waiver. Any Party's failure to enforce any provision of this Agreement shall not constitute a waiver of the right to enforce such provision. A provision may be waived only in writing by the Party intended to be benefited by the provision, and a waiver by a Party of a breach hereunder by the other Party shall not be construed as a waiver of any succeeding breach of the same or any other provision.

4. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

5. Authority. The parties to this Agreement represent to each other that they each have full power and authority to enter into this Agreement and that all necessary actions have been taken to give full force and effect to this Agreement. The District represents and warrants that it is a fully formed and validly existing improvement district under the laws of the state of Utah and is in good standing under applicable Utah laws. The District and the City warrant to each other that the individuals executing this Agreement on behalf of the respective Parties are authorized and empowered to bind the Party on whose behalf each individual is signing. The District represents to the City that, by entering into this Agreement, the District has bound all persons and entities having a legal or equitable interest in the Property as of the Effective Date.

6. Entire Agreement. This Agreement, together with the Exhibits attached hereto, documents referenced herein and all regulatory approvals given by the City for the Property, contain the entire agreement of the parties with respect to the subject matter hereof and supersede any prior promises, representations, warranties, inducements or understandings between the Parties which are not contained in such agreements, regulatory approvals and related conditions.

7. Amendment. This Agreement may be amended in whole or in part with respect to all or any portion of the Property by the mutual written consent of the parties to this Agreement or by their successors-in-interest or assigns. Any such amendment of this Agreement shall be recorded in the official records of the Davis County Recorder.

8. Severability. If any provision of this Agreement is declared to be void or unenforceable, such provision shall be severed from this Agreement. This Agreement shall otherwise remain in full force and effect, provided the fundamental purpose of this Agreement and the District's ability to complete the development of the Property as set forth in the Concept Plan is not defeated by such severance.

9. Governing Law. The laws of the state of Utah shall govern the interpretation and enforcement of this Agreement. The Parties agree that the venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction located in Davis or Salt Lake County, Utah. The Parties hereby expressly waive any right to object to such choice of law or venue.

10. Remedies. If any Party to this Agreement breaches any provision of this Agreement, the non-defaulting Party shall be limited to the remedy of specific performance or other remedies in equity only. No remedy of damages, whether general or special, shall be available for a breach of this Agreement.

11. Attorney's Fees and Costs. If any party brings a legal action either because of a claimed breach of the Agreement or to enforce a provision of the Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs in addition to other available relief.

12. Binding Effect. The benefits and burdens of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, successors in interest and assigns. From and after its recordation in the official records of the Davis County Recorder, this Agreement shall be incorporated by reference in any instrument purporting to convey an interest in the Property.

13. No Third Party Rights. The obligations of the District and the City set forth in this Agreement shall not create any rights in or obligations to any other persons or parties except to the extent otherwise provided herein.

14. Assignment. The District may freely assign this Agreement in whole or in part, in which case the assignor or successor-in-interest shall be fully liable under this Agreement and District shall be deemed released of its obligations in connection with this Agreement to the extent of such assignment; provided, however, that the District shall provide to the City a notice of the full or partial assignment of this Agreement within a reasonable time after the occurrence of such assignment.

15. No Agency Created. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the Parties.

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

{Signatures follow on next page}

EXHIBIT "A"
Property Description

TAX PARCEL 01-090-0010

BEGINNING ON THE NORTH LINE OF A 4-ROD STREET AT A POINT WHICH IS NORTH 00°34'07" WEST 66.01 FEET ALONG THE WEST SECTION LINE AND SOUTH 89°43'27" EAST 33.01 FEET PARALLEL TO THE SOUTH SECTION LINE FROM THE STONE MARKER MARKING THE SOUTHWEST CORNER OF SECTION 3, TOWNSHIP 1 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN, AND RUNNING THENCE SOUTH 89°43'27" EAST 0.56 FEET ALONG THE NORTH LINE OF SAID STREET; THENCE DUE NORTH 700.04 FEET; THENCE SOUTH 89°24'06" EAST 737.33 FEET; THENCE NORTH 00°36' EAST 634.25 FEET; THENCE NORTH 89°24'06" WEST 757.78 FEET TO A POINT WHICH IS 33.0 FEET EAST OF THE WEST LINE OF SAID SECTION 3; THENCE SOUTH 00°34'07" EAST 1334.53 FEET PARALLEL TO SAID WEST LINE TO THE POINT OF BEGINNING.

TAX PARCEL 01-090-0011

BEGINNING ON THE NORTH LINE OF A 4-ROD STREET AT A POINT NORTH 89°08'08" WEST 203.45 FEET AND NORTH 89°24'06" WEST 5049.04 FEET AND DUE NORTH 31.20 FEET FROM THE SOUTHEAST CORNER OF SECTION 3, TOWNSHIP 1 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN, WHICH POINT IS FURTHER DESCRIBED AS NORTH 00°36' EAST 34.8 FEET AND SOUTH 89°24'06" EAST 33.20 FEET AND DUE NORTH 31.20 FEET FROM A SANDSTONE MONUMENT BURIED IN THE SOUTH FENCE LINE OF SAID STREET, SAID SANDSTONE BEARING NORTH 89°43'27" WEST 5385.06 FEET FROM THE SOUTHEAST CORNER OF SECTION 3; THENCE DUE NORTH 700.04 FEET; THENCE SOUTH 89°24'06" EAST 737.33 FEET; THENCE SOUTH 00°36' WEST 700.0 FEET TO THE NORTH LINE OF A STREET; THENCE NORTH 89°24'06" WEST 730.0 FEET ALONG SAID STREET TO THE POINT OF BEGINNING.

EXHIBIT “B”
Concept Description

The District currently owns and operates a sanitary sewage (wastewater) treatment plant on a portion of the Property and intends to expand the facilities and activities within the Property which may include an anaerobic digester system, a solids receiving station, gas conditioning and compression equipment, facilities and equipment to generate electricity, facilities to process byproducts such as commercial fertilizer, and/or any and all other facilities and equipment necessary or appropriate for an integrated system for the resource recovery of energy, nutrients and other useable materials from organic wastes (the “Project” or the “Facility”). The Facility may process any of the following feedstocks: liquid waste from food processing plants; fats oils and greases (“FOG”) from grease traps and other sources; expired canned and bottled drinks from beverage producers and bottling companies; and other organic wastes that otherwise might be disposed of at a landfill or a burn plant. The Project might be undertaken by the District acting alone or acting in concert with one or more private or governmental entities. The Project is anticipated to produce pipeline-quality biogas which may be utilized on-site, delivered into a natural gas pipeline for sale to third parties, and/or used to generate electricity which may be consumed on-site or sold to third parties.

4824-5770-2711