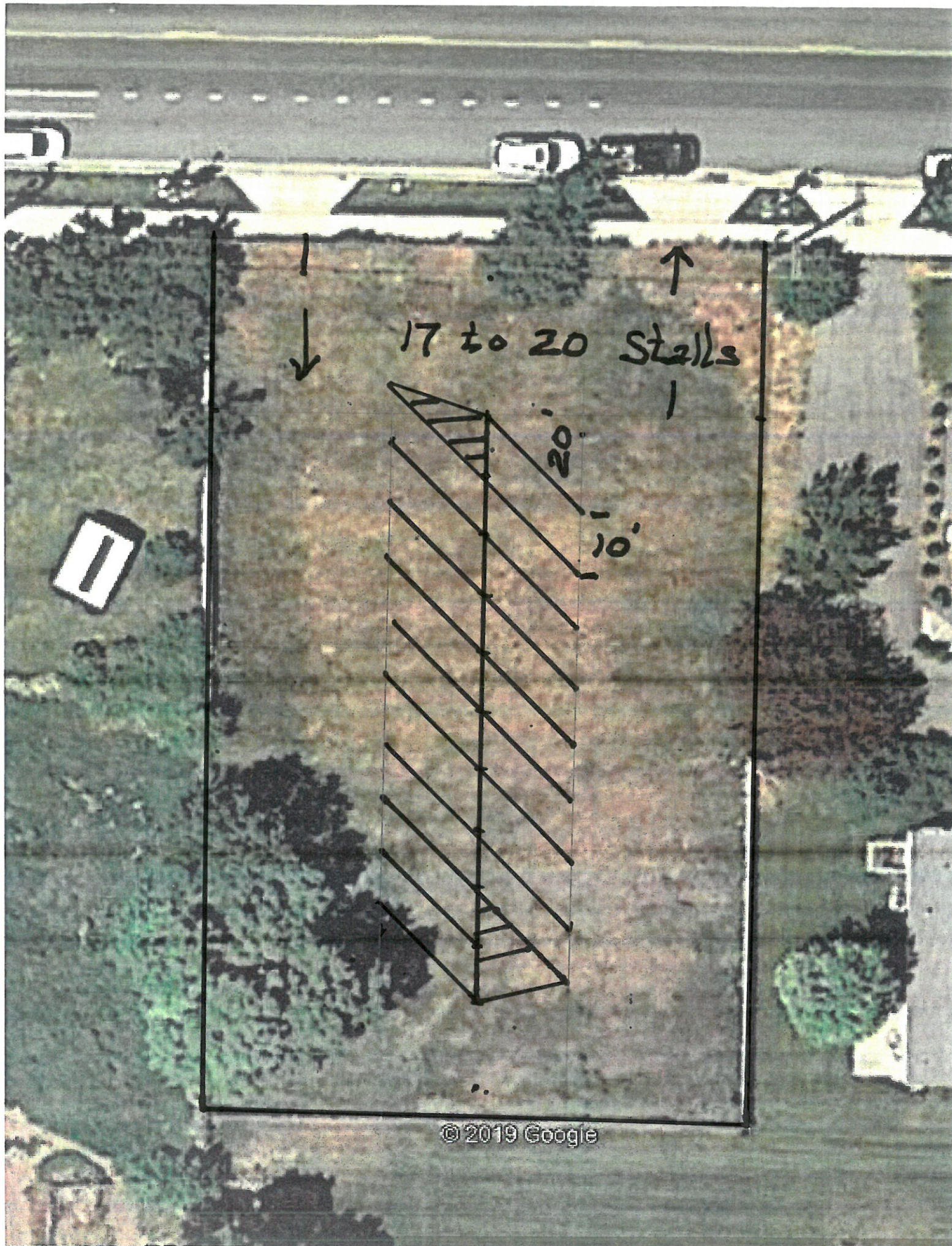


Midway City Council
7 April 2020
Regular Meeting

Parking Agreement /
70 East Main Street





Memo

Date: 31 January 2020
To: Mayor, City Council and Staff
Cc: File
From: Brad Wilson, City Recorder/Financial Officer
RE: Parking Lot at 70 East Main Street

Midway City wants to lease a parcel of property at 70 East Main Street for public parking. I spoke with the Wasatch County Assessor's office and the property taxes cannot be waived because the parcel will remain privately owned.

Please contact me if you have any questions.

PROPERTY LEASE

This Property Lease (the "Agreement") is made effective as of the 31 day of December, 2019 ("Effective Date"), by and between Monty John Miller and Sharon Miller as joint tenants, of 2305 W. Bonanza Dr., South Jordan, Utah 84095 (collectively the "Lessor") and Midway City, a municipal subdivision of the State of Utah ("Lessee" or "City"). Lessor and Lessee are each sometimes referred to herein as a "Party", and collectively as the "Parties."

RECITALS

- A. Lessor owns a parcel of property in Midway City, Utah, as shown on the attached Exhibit (the "Property").
- B. Lessor desires allow Lessee to use the Property for temporary parking and other related purposes.
- C. The Parties desire to enter into this Agreement defining their rights, duties, and liabilities relating to the foregoing recitals.

THE PARTIES AGREE AS FOLLOWS:

- 1. Term; Right to Use.
 - 1.1 Lessor hereby grants to Lessee an exclusive right to lease the Property for parking and related purposes during the term of this Agreement commencing on the Effective Date, in accordance with and subject to the provisions of this Agreement. This Agreement shall commence on the Effective Date and shall terminate four (4) years from the Effective Date. This Agreement may be extended, in writing, by mutual agreement of the Parties, for one additional four (4) year term.
 - 1.2 Lessee shall be responsible to improve the property by adding gravel or other hard surface, drainage improvements, if necessary, and other improvements required to use the Property as a temporary parking lot.
 - 1.3 Lessee shall have the unilateral right to impose rules and regulations on the use of the Property for parking purposes during the term of the Lease.
- 2. Rent.
 - 2.1 Lessee shall not pay to Lessor any rent for use of the Property but shall be responsible for improving the property as set forth in Section 1 and shall pay the annual property taxes on the Property during the term of the lease.
- 3. As Is. Lessee accepts the Property "as is" without representation or warranty whatsoever from Lessor and undertakes and assumes all risk that the Property is in good condition and suitable for its intended purpose and agrees that Lessor shall not be responsible for

any defects with respect to the Property. Notwithstanding the foregoing, Lessor warrants and represents that, as of the Effective Date, there are no encumbrances on the Property except the non-financial encumbrances of record as of the date Lessor acquired the Property and other matters reasonably approved by Lessee. Moreover, during the Option Period, Lessor shall not do anything to encumber fee title to the Property, or cause the Property to be encumbered, in any manner.

4. Taxes. Lessee shall pay or cause to be paid, prior to delinquency, all taxes assessed against and levied on the Property. Lessee may, at its sole cost and expense, contest the amount of any such taxes, through appropriate proceedings. Lessor shall reasonably cooperate (without cost or expense) with Lessee in connection with such contest. Lessee shall be entitled to receive any taxes refunded as a result of such contest to the extent that such amount was previously reimbursed by Lessee and to enjoy all tax benefits associated with the payment of taxes.

5. Insurance; Indemnity. Lessee shall be responsible for providing insurance for the use of the Property during the term of this Lease. Lessee hereby agrees, for itself, its officers, employees and agents, that it shall, at its sole cost and expense, protect, indemnify, pay on behalf of, defend and hold harmless, the Lessor, from all claims, demands, judgments, expenses, and all other damages of every kind and nature, made, rendered, or incurred by or in behalf of any person or persons whomsoever, including the Parties hereto and their employees, which may arise out of any act or failure to act, work or other activity relating in any way to this Agreement, by City, its agents, employees, subcontractors or suppliers in the performance and execution of this Contract.

6. Restoration of Property at Termination of Agreement.

6.1 Lessee agrees that, prior to the expiration of the Lease term, or any extension thereof, Lessee shall, at its sole cost and expense, restore the Property to the same condition it was in at the time of the Effective Date of this Agreement. City agrees to pay and/or reimburse Lessor for any damage done to the Property by City's acts, or failures to act, in the performance and execution of this Agreement.

7. Opportunity to Purchase. The parties agree that should the Lessor ever decide to sell the property to a third party (which is expressly defined to not include transfers to family members, family trusts, or businesses co-owned by family members) the Lessor shall give notice to the City so that the City has an opportunity to make an offer to purchase the property should it so choose.

8. Miscellaneous Terms.

8.1 Jurisdiction; Venue. This Agreement is governed by the laws of the State of Utah. Venue for any action related thereto shall be in Wasatch County, Utah.

8.2 Termination. This Agreement may be terminated by Lessor if any of the following occurs:

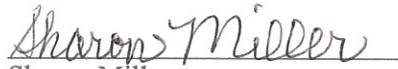
- A. The Lessee fails to pay the property taxes as required by this Agreement.
- B. The Lessee discontinues the use of the Property for a parking facility or related uses.

8.3 Counterparts. This Agreement may be executed in counterparts (including scanned, DocuSign and facsimile signatures), and all such counterparts shall constitute a single form of this Agreement.

LESSOR


Monty John Miller

LESSOR


Sharon Miller

LESSEE

Midway City
By: Celeste Johnson, Mayor

ATTEST:

Midway City Clerk

APPROVED AS TO FORM:



Midway City Attorney