

## RESOLUTION 21-02

### **A RESOLUTION OF THE SOUTH WEBER CITY COUNCIL APPROVING THE PURCHASE OF REAL PROPERTY FOR A FUTURE PUBLIC WORKS FACILITY**

**WHEREAS**, the current public work's shop is inadequate for required functions; and

**WHEREAS**, Council budgeted for the purchase of vacant property to build a future facility; and

**WHEREAS**, City Manager David Larson, Public Works Director Mark Larsen, and Engineer Brandon Jones evaluated multiple properties within the city and rated them on several factors; and

**WHEREAS**, staff approached individual owners starting with the highest scoring property until an agreeable party was found; and

**WHEREAS**, negotiations were entered with limitations given by the Council; and

**WHEREAS**, an equitable agreement has been reached with owner Elite Training Centers representative Kelly Parke;

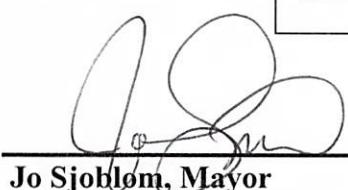
**NOW THEREFORE BE IT RESOLVED** by the Council of South Weber City, Davis County, State of Utah, as follows:

**Section 1. Approval:** The real estate purchase and sale agreement attached as Exhibit 1 is hereby approved.

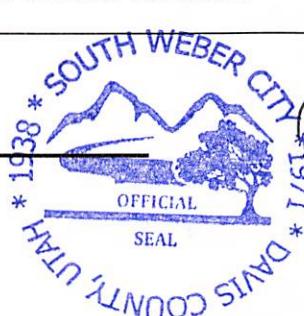
**Section 2: Repealer Clause:** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

**PASSED AND ADOPTED** by the City Council of South Weber, Davis County, on the 12<sup>th</sup> day of January 2021.

Roll call vote is as follows:		
Council Member Winsor	<input checked="" type="radio"/> FOR	AGAINST
Council Member Petty	<input checked="" type="radio"/> FOR	AGAINST
Council Member Soderquist	<input checked="" type="radio"/> FOR	AGAINST
Council Member Alberts	<input checked="" type="radio"/> FOR	AGAINST
Council Member Halverson	<input checked="" type="radio"/> FOR	AGAINST



Jo Sjoblom, Mayor



Attest: Lisa Smith, Recorder

**EXHIBIT 1**

**REAL ESTATE PURCHASE  
AND SALE AGREEMENT**

## **REAL ESTATE PURCHASE AND SALE AGREEMENT**

**THIS PURCHASE AND SALE AGREEMENT** (“Agreement”) is made and entered into as of the 12th day of January 2021, by and between **ELITE TRAINING CENTERS, LLC**, hereinafter referred to as “Seller,” and **SOUTH WEBER CITY**, a Utah municipal corporation, hereinafter referred to as “Buyer.”

### **RECITALS:**

A. Seller is the owner of approximately 12.15 acres of real property consisting of vacant land, located in South Weber City, Utah, which real property is depicted in Exhibit “A” attached hereto and by this reference made a part hereof (the “Property”).

B. Seller is desirous of selling the Property to Buyer and Buyer desires to purchase the Property from Seller, all upon the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Sale and Purchase Price.** Seller does hereby agree to sell, transfer, assign and convey, and Buyer does hereby agree to purchase the Property at the purchase price of fifty thousand dollars (\$50,000) per acre, payable by Buyer to Seller in lawful money of the United States in accordance with all the provisions of this Agreement. The exact acreage and legal description of the Property shall be determined by survey conducted by a duly licensed surveyor jointly retained by Seller and Buyer.

a. The parties recognize and agree that the Property may need to be subdivided before the purchase contemplated by this Agreement may occur.

b. The parties recognize and agree that Buyer’s inspection of the Property in accordance with paragraph seven (7), below, may reveal the need to construct a stormwater detention basin. If the condition of the Property necessitates construction of a stormwater detention basin, the Buyer will bear all costs of designing and constructing the detention basin, including the required piping.

2. **Additional Consideration.** In addition to the monetary consideration for the sale of the Property, the Buyer and Seller hereby agree, upon satisfaction of all contingencies set forth in this Agreement, to proceed in good faith to complete all improvements to the Property necessary to construct a stormwater detention basin and a fence along the boundary of the Property. Buyer agrees to fence the Property within six months of closing, in good faith, and to bear all costs associated with designing, installing, and maintaining the fence. The design and construction of all improvements to the Property shall be conducted by Buyer. The provisions of this Paragraph shall not be abrogated by the recording of a deed for the Real Property and shall survive the Closing of this transaction.

**3. Settlement and Closing.** Closing shall take place on or before March 31, 2021, or at such other date which Buyer and Seller shall agree in writing. "Settlement" shall occur only when all of the following have been completed: (a) a survey of the Property has been conducted in accordance with the provisions of paragraph one (1) above; (b) Buyer and Seller have signed and delivered to each other or to Backman Title Company, (the "Closing Office"), all documents required by this Contract, by written escrow instructions or by applicable law; (c) any monies required to be paid by Buyer under these documents have been delivered by Buyer to Seller or to the Closing Office in the form of collected or cleared funds; (d) any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the Closing Office in the form of collected or cleared funds; and (e) all contingencies set forth in paragraph 7, below, have been satisfied. At Settlement Seller shall deliver to Buyer a duly executed and acknowledged Special Warranty Deed for the real property. The transaction will be considered "Closed" when Settlement has been completed, and when the applicable closing documents have been recorded in the office of the Davis County Recorder. The transaction shall be Closed within four calendar days of Settlement.

**4. Title Insurance.** Seller agrees to furnish good and marketable title to the Property free and clear of all encumbrances, except those specifically accepted by Buyer in writing, evidenced by a current ALTA standard-coverage owner's policy of title insurance in the amount of the Purchase Price. Buyer shall order a preliminary commitment for a policy of title insurance to be issued by such title insurance company as Buyer shall designate. A copy of the preliminary commitment shall be delivered by Buyer to Seller within ten (10) days of the execution of this Agreement. Buyer shall give written notice to Seller specifying reasonable objections to title within three business days of delivery of the preliminary commitment. Thereafter, Seller shall be required, through escrow at closing to cure the defects to which Buyer has objected. The Title Policy to be issued shall contain no exceptions other than those provided for in said standard form. If title cannot be made so insurable through an escrow agreement at closing, the escrowed purchase price shall, unless Buyer elects to waive such defects or encumbrances, be refunded to Buyer, and this Agreement shall thereupon be terminated. Seller agrees to pay any cancellation charge.

**5. Warranties of Seller.** Seller warrants that he has no knowledge or has received no claim nor notice of any environmentally hazardous condition concerning the property which has not or will not be remedied prior to Closing. At least ninety (90) days after signing this Agreement, Seller will disclose to Buyer all known environmentally hazardous conditions, even if Seller has remedied or intends to remedy such conditions. Seller warrants that all obligations against the Property including taxes, assessments, mortgages, liens or other encumbrances of any nature shall be brought current on or before Closing. No other representations have been made by Seller to Buyer.

**6. Prorations.** Seller and Buyer shall each pay one-half (1/2) of the escrow closing fee. Costs of providing title insurance shall be paid by Seller. Taxes and assessments shall be paid by Seller for the years 2020 and 2021, on a pro-rated basis, to the date of closing. Buyer shall be responsible for recording costs for the special warranty deed. To the extent any roll-back or greenbelt taxes become due by virtue at the sale of this property to the City, Seller shall be responsible to pay such taxes.

7. **Contingencies.** This Purchase Agreement is contingent on the following, at the Buyer's discretion:

- a. Subdivision of the Property as may be necessary or convenient to Buyer;
- b. Appraisal that determines the value of the Property at not less than \$50,000 per acre;
- c. Preliminary approval of an access permit from the Utah Department of Transportation;
- d. Buyer's physical inspection of the Property and acceptance of the same, including but not limited to the assessment of wetlands, environmental conditions, and geotechnical study; and
- e. Formal approval of the terms of this Agreement by the South Weber City Council.

8. **Notices.** Any notice required or desired to be given pursuant to this Agreement shall be delivered personally or mailed by certified mail, return receipt requested, postage prepaid, to the parties as follows:

Seller:                    Elite Training Centers, LLC  
                              Attn: Kelly Parke  
                              128 East South Weber Drive  
                              South Weber, Utah 84405

Buyer:                    South Weber City  
                              Attn: City Manager  
                              1600 East South Weber Drive  
                              South Weber, Utah 84405

The Buyer and Seller may change their addresses by notice given as required above.

9. **Default.** If Buyer defaults, Seller may proceed to exercise any remedies at law it may have. If Seller defaults, Buyer may elect to sue Seller for specific performance and/or damages. Under no circumstance shall the escrowed funds be deemed an earnest money deposit or liquidated damages.

10. **Abrogation.** Except for those paragraphs in this Agreement expressly surviving the Closing, and the express warranties contained in this Agreement, execution and delivery of the final closing documents shall abrogate this Agreement.

11. **Successors and Assigns.** This Agreement shall bind each of the parties hereto and their respective heirs, personal representatives, successors and assigns.

**12. Entire Agreement.** This Agreement, with any exhibits incorporated by reference, constitutes the final expression of the parties' agreement and is a complete and exclusive statement of the terms of that agreement. This Agreement supersedes all prior or contemporaneous negotiations, discussions and understandings, whether oral or written or otherwise, all of which are of no further effect. This Agreement may not be changed, modified or supplemented except in writing signed by the parties hereto.

**13. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

**14. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one single agreement. Facsimile transmission of any signed original document, and the retransmission of any signed facsimile shall be the same as delivery of an original.

**15. Conditional Use Permit.** Portions of the Property and adjoining property are subject to Conditional Use Permit #16-05 (“CUP”), which was amended by the South Weber City Council on December 15, 2020. Nothing in this agreement shall be read to relieve Seller from its obligations under the CUP. If Closing occurs before Seller can complete its obligations under the CUP, Seller agrees to complete such obligations after Closing according to the timeline and description of such obligations in the CUP.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement individually or by and through their respective, duly authorized representatives as of the day and year first above written.

### **“BUYER”**

## SOUTH WEBER CITY

ATTEST:

   
By:   
City Recorder Lisa Smith      City Manager David Larson

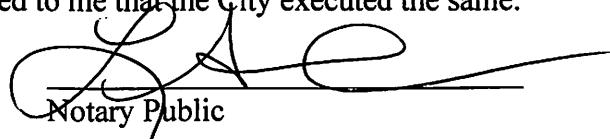
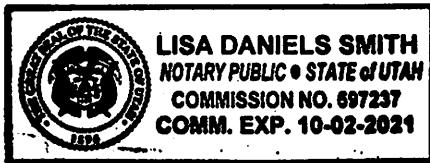
### **“SELLER”**

By: Kelly Parke

## **BUYER ACKNOWLEDGMENT**

STATE OF UTAH )  
                      :SS.  
COUNTY OF DAVIS   )

On the 12<sup>th</sup> day of Jan, 2021, personally appeared before me David Larson, who being duly sworn, did say that he is the City Manager of **SOUTH WEBER CITY**, a municipal corporation of the State of Utah, and that the foregoing instrument was signed on behalf of the City by authority of its governing body and acknowledged to me that the City executed the same.



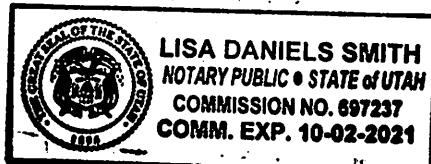
A handwritten signature of "Lisa" followed by a long, stylized surname.

Notary Public

## **SELLER ACKNOWLEDGMENT**

STATE OF UTAH              )  
                      :SS.  
COUNTY OF SALT LAKE   )

On the 6<sup>th</sup> day of Jan, 2021, personally appeared before me  
Kelly Parke who being duly sworn, did say that he is the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.



A handwritten signature of "Lisa" followed by a long, stylized surname.

Notary Public

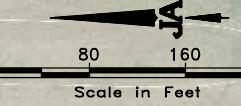


EXHIBIT "A"

