

AGREEMENT WITH WASATCH WIGEONS ASSOCIATION
TO PROVIDE WATERFOWL NEST STRUCTURES,
PREDATOR MANAGEMENT,
AND REMOVAL OF INVASIVE SPECIES
AT THE KINGFISHER WETLANDS AREA OF
OBSERVATORY PARK

Contract No. _____

WHEREAS, Weber County Corporation (“County”) owns and operates Observatory Park (“Park”), which is beneficially used by Weber County residents for recreational activities, wetlands preservation, and wildlife observation; and

WHEREAS, Wasatch Wigeons Association (a Utah not-for-profit, hereafter referred to as “Wasatch Wigeons”) desires to promote conservation efforts for the benefit of waterfowl and local wildlife in the Park’s Kingfisher Wetlands area (“Kingfisher Wetlands”); and

WHEREAS, the County desires to enter a stewardship agreement with Wasatch Wigeons to promote these conservation efforts;

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

1. Artificial Waterfowl Nest Structures. Wasatch Wigeons will construct and place wood duck, mallard, and geese artificial nest structures throughout the Kingfisher Wetlands. The structures will be used as a nesting habitat for laying hens where natural nesting habitats are unavailable or unsuitable. The nest structures are designed to help protect nesting hens and eggs from predators and flooding. Wasatch Wigeons as subject matter experts will determine suitable locations for all nest structures within the Kingfisher Wetlands and provide the County’s Parks and Recreation Division (“Division”) with a listing of GPS locations of said structures. Wasatch Wigeons will maintain and monitor the nest structures during the duration of this Agreement at its own expense. Wasatch Wigeons will collect and utilize data about the nest structures to determine use by targeted species, assess possible relocation/removal of the structures, and to educate the local community about waterfowl and nesting habits.
2. Existing Structures. The County deems all existing nest structures in the Kingfisher Wetlands abandoned and grants Wasatch Wigeons the right to remove or utilize these structures as Wasatch Wigeons sees fit.
3. Predator Management. The Parties recognize that predator management is important in maintaining a successful artificial nest structure program. Predators

that are known to prey upon nesting birds include: raccoons, skunks, foxes, and feral cats. Wasatch Wigeons will conduct trapping activities in order to control these predator populations. Trapping activities require traps be left unattended for long periods of time. The checking of such traps will, for the most part, be conducted, but not limited to, the morning and evening hours of the winter months. Wasatch Wigeons will ensure that the Division is aware of the number of traps and general location of all trapping activities. Wasatch Wigeons and the Division will work together to ensure that all trapping activities are conducted in accordance with local, state, and federal laws.

4. Removal of Domestic Animals. Domesticated animals that are set free in wildlife preserves interfere with natural species and habitats. Wasatch Wigeons will remove domestic animals that are found in the Kingfisher Wetlands if it is within its capabilities to do so. In other situations, Wasatch Wigeons will work with the Division to assist in removal of others domestic animals. The county's animal control Division will be a point of drop off at no cost to Wasatch Wigeons.
5. Release of Rehabilitated Waterfowl. Wasatch Wigeons will facilitate the release of waterfowl in the Kingfisher Wetlands that have been successfully rehabilitated by local wildlife rescue organizations.
6. Removal and Control of Invasive Species. Invasive species can be any plant, animal, insect, or fungus that is not native to a particular area. Invasive species often spread rapidly and cause harm to the surrounding environment. Wasatch Wigeons will work with the Division to remove invasive species (including dead trees and shrubs) from the Kingfisher Wetlands. Wasatch Wigeons and the Division will work together to ensure that all removal activities are done in accordance with local, state, and federal laws. Wasatch Wigeons will also work with the Division to plant native species in an effort to promote and sustain a native wetland ecosystem.
7. Education. The educational portion of Wasatch Wigeons' programs are based on hands-on work with volunteers. This allows volunteers the opportunity to learn about wetlands/waterfowl based on specific activities. Wasatch Wigeons will coordinate with the Division to provide other educational opportunities for residents to learn about waterfowl conservation. These activities include, but are not limited to, teaching school and youth groups, working with non-profit organizations, and providing internship opportunities.
8. Park Access. Wasatch Wigeons shall have access to the Kingfisher Wetlands during designated park hours in order to setup, maintain, and monitor the nest structures, and for conducting additional activities as outlined in this Agreement.

In the event that Wasatch Wigeons needs to access the area after hours, it shall coordinate with the Division to make alternative access arrangements.

9. Signage. Wasatch Wigeons will place a number of information kiosks throughout the Kingfisher Wetlands. The number of kiosks to be placed will be determined by the parties. Kiosks and other signs must be approved, in writing, by the Division prior to placement. Upon the termination of this Agreement, Wasatch Wigeons will remove its information kiosks and signs. The County will retain ownership and control over any permanent signs.
10. Alterations to Park. Under no circumstances will Wasatch Wigeons, or any of its members, be allowed to make alterations to the Kingfisher Wetlands without written permission from the Division, or as provided in this Agreement. This includes, but is not limited to, fences, parking lots, gates, roadways, or other natural traffic flows. Violation of this provision is cause to terminate this Agreement. If Wasatch Wigeons desires to install water control devices in the King Fisher Wetlands it shall coordinate and receive approval from the Division prior to any installation.
11. Damage/Replacement. Wasatch Wigeons will be responsible to repair, or replace if necessary, any and all structures, tables, signs, receptacles, fencing/gates, etc., that are damaged by Wasatch Wigeons and/or its volunteers while participating in official activities, during the term of this Agreement.
12. Amendments to Agreement. This Agreement may be modified only by a written amendment signed by authorized representatives of the parties.
13. Duration. The duration of the Agreement will be for a term of three years and shall expire on June 30th, 2023.
14. Insurance.
 - A. Wasatch Wigeons shall maintain commercial general liability insurance with a limit of not less than \$1,000,000 per occurrence properly endorsed to name the County as an additional insured, or provide contractual liability coverage which will cover the indemnification and defense obligations agreed to in Section 15.
 - B. Wasatch Wigeons shall obtain and provide a worker's compensation waiver certificate from the Utah Industrial Labor Commission certifying that Wasatch Wigeons has no employees and has provided evidence that it is an independently established business. UTAH CODE ANN. § 34A-2-1003. The County reserves the right to terminate this Agreement without penalty

if it determines that Wasatch Wigeons is in violation of this provision. In any event, Wasatch Wigeons agrees to defend, indemnify, and hold harmless the County from and against any and all worker's compensation claims.

C. Wasatch Wigeons shall provide the County with a certificate of insurance verifying coverage at the time this Agreement is returned. Wasatch Wigeons shall provide current certificates of insurance upon the County's request at any time such insurance is required under this section. Wasatch Wigeons shall maintain the insurance policies during the term of the Agreement and for a minimum of one year after the termination of the Agreement.

15. Indemnification. Wasatch Wigeons shall indemnify, and hold the County, its agents, and employees, harmless from and against all claims, liabilities, loss and expense, including reasonable costs expenses and attorney's fees incurred, which arise by reason of the acts or omissions of Wasatch Wigeons, its officers, agents, volunteers and employees, resulting directly or indirectly from the performance of this Agreement, unless said loss, liability, or claim is caused solely by the County's negligence.
16. Independent Contractor. In the performance of this Agreement, Wasatch Wigeons shall at all times operate as an independent contractor and not as an employee of the County. All persons employed or volunteering for Wasatch Wigeons in the performance of services hereunder shall be under the sole and exclusive direction and control of Wasatch Wigeons and shall not be considered employees of the County.
17. Termination. The County or Wasatch Wigeons may terminate this Agreement at any time by providing a 90 day written notice to the other party. Wasatch Wigeons shall retain ownership of the nest structures and will be responsible for removing them at its own expense upon termination of this Agreement. In the event Wasatch Wigeons dissolves as a legal entity prior to termination of this Agreement, the nest structures will fall under the ownership and control of the County.
18. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of Utah. All disputes or litigations arising from or in connection with this Agreement shall be heard in the courts of the State of Utah, with venue in Weber County.
19. Assignment. The rights and obligations of Wasatch Wigeons shall not be assigned to a third party without prior written consent of the County. Otherwise,

this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

20. Severability: It is understood and agreed by the parties that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the state where made, the remaining provisions will be valid and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
21. Authority: The individuals executing this Agreement represent and warrant that they have full legal power and authority to enter into this Agreement described herein.
22. Waiver: No Failure to enforce any provision of this Agreement on account of any breach thereof, shall be considered as a waiver of any right to enforce provisions of this Agreement concerning any subsequent or continuing breach.
23. Notices: Any notice or certification required or permitted to be delivered under this Agreement shall be deemed to have been given when personally delivered, or if mailed, three business days after deposit of the same in the United States Mail, postage prepaid, certified, or registered, return receipt requested, properly addressed to the following respective addresses:

Board of Weber County Commissioners, 2380 Washington Blvd., Ste.
320, Ogden, UT 84401

Wasatch Wigeons Associations, [Address]
24. No Thirds Party Beneficiaries: This Agreement is not intended to benefit any party or person not named as a party specifically herein, or which does not later become signatory hereto as provided herein.
25. Dispute Resolution: If a dispute arises regarding this Agreement, the Parties shall first attempt informal negotiations to resolve the dispute before taking legal action. If that fails, then the Parties may, but are not required to, pursue other means of alternative dispute resolution before taking legal action. In any legal dispute, each Party shall be responsible for paying its own costs, including attorney's fees, regardless of the outcome of the dispute.

26. Default: In the event of default by either Party in the performance of any of the terms and conditions of this Agreement, the other Party may give written notice of such default to the defaulting party. If the default is not resolved within ten days of receipt of notice, this Agreement may be terminated immediately by the Party not in default, and the Party in default shall be liable for all costs, damages, and expenses resulting from such termination.

Dated this _____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS
OF WEBER COUNTY

By _____
Gage Froerer, Chair

Commissioner Froerer voted _____
Commissioner Jenkins voted _____
Commissioner Harvey voted _____



Todd Ferrario
Parks and Recreation Division Director

ATTEST:

Ricky Hatch, CPA
Weber County Clerk/Auditor

Wasatch Wigeons Association

By 

Name: Troy Allen Burgess