



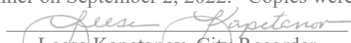
NOTICE AND AGENDA
SOUTH OGDEN CITY COUNCIL
WORK SESSION
TUESDAY, SEPTEMBER 6, 2022, 5PM

Notice is hereby given that the South Ogden City Council will hold their regularly scheduled work session at 5 pm Tuesday, September 6, 2022. The meeting will be located at City Hall, 3950 Adams Ave., South Ogden, Utah, 84403, in the EOC. The meeting is open to the public; anyone interested is welcome to attend. No action will be taken on any items discussed during the pre-council work session. Discussion of agenda items is for clarification only. Some members of the council may be attending the meeting electronically.

WORK SESSION AGENDA

- I. CALL TO ORDER** – Mayor Russell Porter
- II. REVIEW OF AGENDA**
- III. DISCUSSION ITEMS**
 - A. Review and Update of Strategic Plan
 - B. Heritage Trail
- IV. ADJOURN**

The undersigned, duly appointed City Recorder, does hereby certify that a copy of the above notice and agenda was posted to the State of Utah Public Notice Website, on the City's website (southogdencity.gov) and emailed to the Standard Examiner on September 2, 2022. Copies were also delivered to each member of the governing body.


Leesa Kapetanov, City Recorder

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the meeting should notify the City Recorder at 801-622-2709 at least 48 hours in advance.



STRATEGIC PLAN

STATUS	WBS	DESCRIPTION	OWNER	DUE DATE	RESOURCES	%	COMMENTS
	1.0	FISCAL SUSTAINABILITY: Ensure the ability of the City to provide quality public services through careful, long-range planning and evaluation of current decisions in context of future fiscal impacts.					
Completed	1.1	Complete Sewer Capital Facilities Master Plan update	Jon Andersen	1/31/2022	Brad Jensen, Shane Douglas, Josh Sully	50	MattDixon : Matt, The Storm Drain Capital plan should be done around the end of August. The
On Track	1.2	Hold quarterly work sessions to review and update the City's Sustainability Models	Steve Liebersbach	2/1/2022			MattDixon : Next meeting scheduled for Oct. 05 MattDixon : Fred came and presented a CFSP 101 overview for the council on Oct.
On Track	1.3	Expand the City's fleet lease program when doing so results in cost savings and benefits to the City	Steve Liebersbach	6/30/2022	Jon & Garth		MattDixon : Talked with Young Automotive Group and they referred me to their fleet sales person, Rick Bailey, at 801.710.4401, (rbailey@youngauto.net)
Attention	1.4	Analyze the effects of increased use of solar on City power utility revenues.	Steve Liebersbach	6/30/2022	FA consultant(s)		SteveLiebersbach : I've met with Kirk Nigro with Rocky Mountain Power and have info to share for Oct. or Nov. meetings.
On Track	1.5	Update Sustainability Model to address inflation and population growth	Steve Liebersbach	12/31/2022			
On Track	1.6	Prepare an Accountability and Spending Plans for CARES, ARPA, and Impact Fees	Steve Liebersbach	12/31/2022		33.33	SteveLiebersbach : CARES can be removed - that is completed. ARPA - waiting on departments for "real" bid information - I think an 11/01/2022 deadline should be
	2.0	EMPLOYEES: Recruit, develop and retain quality employees by maintaining competitiveness in pay and benefits and demonstrating a commitment to every employee's growth and development.					
Completed	2.1	Increase Employee Satisfaction	Doug Gailey	1/2/2023		100	
Completed	2.2	Evaluate and make recommendations for Benefit changes that may be necessary to remain competitive	Doug Gailey	6/30/2023		100	
On Track	2.3	Improve access and quality of Mental Health Resources for employees	Doug Gailey	6/30/2023	Chief Parke, Chief West		

On Track	2.4	Identify areas for improvement with the City's Employee Wellness program	Doug Gailey	6/30/2022		50	
On Track	2.5	Prepare Succession Plans for departments	Doug Gailey	6/30/2023			
	3.0	INFRASTRUCTURE: Invest in the maintenance of existing City infrastructure (i.e. utilities, parks, roads, etc.) and plan for new infrastructure needs necessary to support new growth and development within the City.					
Completed	3.1	Evaluate and determine interest in providing fiber connectivity for residents and businesses	Matt Dixon	6/30/2022		100	Matt Dixon : Council met in work session and decided, after learning about the different options, the best approach will be to be franchise city. The Council
On Track	3.2	Increase resident satisfaction rating of the City parks by 10 percent	Jon Andersen	6/30/2022		79.04	
On Track	3.3	Increase resident satisfaction with the quality of the City's streets by 10 percent	Jon Andersen	6/30/2025		33.33	
On Track	3.4	Complete design and project plans for a Skate Park.	Matt Dixon	12/31/2022	Mayor Porter, Mark Vlasic (Planner), City Council, Grants	58.33	
On Track	3.5	Ensure adequate staffing and funding to maintain current and new parks.	Shane Douglas	9/15/2021	Doug Gailey, City Council, Budget	33.33	
Attention	3.6	Increase opportunities for resident utilization of sidewalks and trails by identifying gaps and making improvements in areas such as School Safe Routes.	Jon Andersen	6/30/2022		22.22	
Attention	3.7	Complete a plan for the remodel/relocation of the Public Works yard and facilities.	Jon Andersen	6/30/2022		25	
Attention	3.8	Increase resident access to public transit through construction of Ogden BRT Phase II and coordination and planning with UTA	Matt Dixon	6/30/2026	City Council, Mark Vlasic	20	
Attention	3.9	Work with Weber Basin Water to improve resiliency of the City's water service	Jon Andersen		Brad Jensen, Jason Brennan, WBWCD	16.66	
Attention	3.10	Prepare Phase II of Security Camera Program	Jon Andersen	6/30/2022	David, Curtis (DSI)	25	

	4.0	ECONOMIC DEVELOPMENT: Foster quality economic development by focusing on new development (i.e. businesses, housing, etc.) opportunities, zoning options, code enforcement, increased leveraging of development resources and effective branding.					
Completed	4.1	Develop an Economic Development Strategy for South Ogden.	Matt Dixon	12/31/2021	CDRA Board, Consultants	100	Matt Dixon : Talked with Benj Becker (Zions Bank and CDRA Consultant) about this project. We talked about finding out what the city's focus should be, based on
Attention	4.2	Increase availability of affordable housing in South Ogden.	Matt Dixon	6/30/2025	City Council	20	Matt Dixon : Weber County Housing Affordability and Access Plan Initiative held a kick off meeting. Attached are the notes and the slides from the meeting. Melissa
Attention	4.3	Complete a public project(s) within the City Center CRA that will increase the likelihood of drawing redevelopment attention from investors.	Matt Dixon	9/30/2022			
On Track	4.4	Complete project with private investment that will drive interest and new investment in the City Center CRA	Matt Dixon	6/30/2023			
On Track	4.5	Strengthen the City's brand.	Jamie Healy		City Council	4.68	
Attention	4.6	Strengthen the City's relationship with our business community.	Jamie Healy	6/30/2023	Mayor and City Council,		
NEW	4.7	[new] Pursue redevelopment of deteriorating commercial properties with low property values at key sites.	Matt Dixon				
	4.7.1	Provide appropriate public assistance for demolition of key properties and improved infrastructure at key sites, particularly along the northern end of Highway 89. These sites have good access and visibility but present a poor					
	4.7.2	Consider public assistance to create a public gathering place at an appropriate site that will attract the public through amenities such as plazas, fountains, pavilions, eating areas, etc.					
	4.7.3	Create and implement long-term plans to maximize highest-and-best use development at key intersections along Highway 89 extending between the northern and southern clusters in the City.					
NEW	4.8	[new] Retain and strengthen existing businesses.	Matt Dixon				
	4.8.1	Provide sales tax leakage information to specific businesses which show the potential for business expansion opportunities within related industries.					

	4.8.2	Work with existing businesses to adapt to changing retail trends including the need for drive-thru/pickup space, assistance with online retailing, etc.					
	4.8.3	Continue to promote and highlight "Shop South Ogden" to encourage local residents to support the businesses located throughout South Ogden.					
NEW	4.9	[new] Recruit additional businesses to South Ogden	Matt Dixon				
	4.9.1	Approach property owners of key sites, especially those providing connectivity with other retail sites in the northern business cluster, regarding retail opportunities (such as those identified in the sales leakage analysis).					
	4.9.2	Approach businesses desired by the City, that are lacking in the surrounding area, (including Riverdale & Ogden) through avenues such as ICSC, local brokers and drop in visits.					
NEW	4.10	[new] Develop a community gathering place that will add to the image and reputation of the City and provide increased quality of life for residents.	Matt Dixon				
	4.10.1	Identify potential key sites, properties and property owners that would provide an ideal site for a community gathering destination.					
	4.10.2	Create a Small Area Master Plan for the site.					
	4.10.3	Consider the use of all available economic tools to assist with this project.					
NEW	4.11	[new] Recognize that residential redevelopment with increased density, in key locations, can provide fiscal benefits to the City through increased property, sales and municipal energy revenues.	Matt Dixon			33.33	
	4.11.1	Consider assistance with podium parking needs for higher-density development.					
	5.0	COMMUNITY ENGAGEMENT: Create opportunities for residents and businesses throughout the City to work and serve together while being connected to and valued by the City.					
On Track	5.1	Increase utilization of City facilities (i.e. amphitheater, parks, etc.).	Jamie Healy	4/1/2022	City Council, Grants,	50	MattDixon : 11/05/20 - Received grant money from both Walmart and RAMP for amphitheater MattDixon : 04/17/20 - Filed EZ Grant on

Attention	5.2	Strengthen inclusion through improved communication and engagement with diverse groups (e.g. youth, ethnic groups).	Doug Gailey	6/30/2023	City Council, Minority groups, Churches	66.66	
On Track	5.3	Strengthen engagement and sense of Community through Special Events.	Jamie Healy	6/30/2023			
Attention	5.4	Improve communications with residents & businesses.	Jamie Healy	6/30/2023		10.41	MattDixon : 11/05/20 - Discussed ideas with Doug after 2020 Wind Event about coming up with a communication tree for the community.
	6.0	COMMUNITY BEAUTIFICATION: Improve the visual appearance of the City.					
On Track	6.1	Increase community engagement through service opportunities	Jamie Healy	6/30/2022	Jon Andersen	66.66	MattDixon : 10/16/19 - Council discussed this goal on 10/15 and decided to do it in the spring, possibly in conjunction with the National Day of Service. Mayor Porter
On Track	6.2	Improve visual appeal of the City by creating a tracking/maintenance system for all City-owned properties and right of-ways	Shane Douglas, Josh Sully	12/31/2022		66	
Overdue	6.3	Evaluate Code Enforcement Progress/Improvements	Darin Parke	7/1/2022	Code Officer, City Council		



NOTICE AND AGENDA SOUTH OGDEN CITY COUNCIL MEETING

TUESDAY, SEPTEMBER 6, 2022, 6 PM

Notice is hereby given that the South Ogden City Council will hold their regularly scheduled council meeting at 6 pm Tuesday, September 6, 2022. The meeting will be located at City Hall, 3950 Adams Ave., South Ogden, Utah, 84403, in the city council chambers. The meeting is open to the public; anyone interested is welcome to attend. Some members of the council may be attending the meeting electronically. The meeting will also be streamed live over www.facebook.com/southogdencity.

CITY COUNCIL MEETING AGENDA

I. OPENING CEREMONY

- A. **Call to Order** – Mayor Russell Porter
- B. **Prayer/Moment of Silence** -
- C. **Pledge of Allegiance** – Council Member Smyth

- II. **PUBLIC COMMENTS** – This is an opportunity to address the mayor and council with any concerns, suggestions, or praise. No action can or will be taken at this meeting on comments made.
Please limit your comments to three minutes.

III. RESPONSE TO PUBLIC COMMENT

IV. CONSENT AGENDA

- A. Approval of August 16, 2022 Council Minutes
- B. Set Date For Public Hearing (September 20, 2022 at 6 pm or as soon as the agenda permits) To Receive and Consider Comments on the 2022 Water Conservation Plan

V. DISCUSSION / ACTION ITEMS

- A. Consideration of **Resolution 22-33** – Approving an Amendment to Interlocal Agreement with Weber County for Ballot Box Camera
- B. Consideration of **Resolution 22-34** – Approving a Franchise Agreement with XO Communications
- C. Consideration of **Resolution 22-35** – Amending the Employee Policy Manual by Adding an Employee Sick Leave Buy Back Program
- D. Consideration of **Resolution 22-36** – Approving an Agreement With Granite Construction For 2022 Road Maintenance Projects
- E. Consideration of **Ordinance 22-14** – Amending SOC 5.1A and 5.1B Concerning Drive-Throughs

VI. DISCUSSION ITEMS

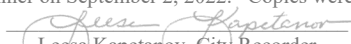
- A. Discussion on Amendments to the City's Sign Code

VII. REPORTS/DIRECTION TO CITY MANAGER

- A. City Council Members
- B. City Manager
- C. Mayor

VIII. ADJOURN

The undersigned, duly appointed City Recorder, does hereby certify that a copy of the above notice and agenda was posted to the State of Utah Public Notice Website, on the City's website (southogdencity.gov) and emailed to the Standard Examiner on September 2, 2022. Copies were also delivered to each member of the governing body.


Leesa Kapetanov, City Recorder

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MINUTES OF THE SOUTH OGDEN CITY COUNCIL WORK SESSION AND CITY COUNCIL MEETING

TUESDAY, AUGUST 16, 2022

WORK SESSION – 5 PM IN EOC

COUNCIL MEETING – 6 PM IN COUNCIL ROOM

WORK SESSION MINUTES

COUNCIL MEMBERS PRESENT

Mayor Russell Porter, Council Members Sallee Orr, Brent Strate, Susan Stewart, Mike Howard, and Jeanette Smyth

STAFF MEMBERS PRESENT

City Manager Matt Dixon, Assistant City Manager Doug Gailey, Parks and Public Works Director Jon Andersen, Deputy Fire Chief Clinton Minor, Communications and Events Specialist Jamie Healey, and Recorder Leesa Kapetanov

MEMBERS OF THE PUBLIC PRESENT

No one else attended this meeting

Note: The time stamps indicated in blue correspond to the audio recording of this meeting, which can be found by clicking the link:

https://files4.1.revize.com/southogden/document_center/Sound%20Files/2022/CC220816_1701.mp3

or by requesting a copy from the office of the South Ogden City Recorder.

I. CALL TO ORDER

- Mayor Porter called the work session to order at 5:03 pm and entertained a motion to open the meeting 00:00:00

Council Member Smyth so moved, followed by a second from Council Member Stewart. Council Members Strate, Stewart, and Smyth all voted aye.

Note: Council Members Orr and Howard were not present during this vote.

II. REVIEW OF AGENDA

- Council Member Stewart requested that the consent agenda be split up when calling for approval 00:00:27

36 **III. DISCUSSION ITEMS**

37 **A. FY2023 Budget**

- 38 • Finance Director Steve Liebersbach reviewed the changes that had been made to the
39 budget since the last meeting
40 00:00:47
- 41 • Council Member Strate requested that water rates and the transportation fees be looked at
42 and possible changes be implemented before January
43 00:05:06
- 44 • Further discussion on the budget
45 00:06:16

46
47 Note: Council Member Orr and Council Member Howard arrived at 5:11 and 5:12 pm,
48 respectively
49
50

51 **B. Dogs In Parks**

- 52 • Mayor Porter led this discussion. Parks and Public Works Director Jon Andersen gave
53 members of the Council a handout. See Attachment A.
54 00:16:15
- 55
56 • Council Member Orr asked questions about drive-throughs as well as some of the projects
57 being built 00:40:53
58
59
60

61 **IV. ADJOURN**

- 62 • At 6:00 pm, the mayor called for a motion to adjourn the work session
63 00:56:04
64

65 **Council Member Smyth so moved, followed by a second from Council Member Howard. All**
66 **present voted aye.**

COUNCIL MEETING MINUTES

COUNCIL MEMBERS PRESENT

Mayor Russell Porter, Council Members Sallee Orr, Brent Strate, Susan Stewart, Mike Howard, and Jeanette Smyth

STAFF MEMBERS PRESENT

City Manager Matt Dixon, Assistant City Manager Doug Gailey, Parks and Public Works Director Jon Andersen, Deputy Fire Chief Clinton Minor, Communications and Events Specialist Jamie Healy, and Recorder Leesa Kapetanov

MEMBERS OF THE PUBLIC PRESENT

Mark Walker, Cheryl Walker, Wesley Stewart, Joyce & Bruce Hartman, Curt & Elizabeth Panter, Kyle Bosgieter

Note: The time stamps indicated in blue correspond to the audio recording of this meeting, which can be found by clicking this link:

https://files4.1.revize.com/southogden/document_center/Sound%20Files/2022/CC220816_1803.mp3

or by requesting a copy from the office of the South Ogden City Recorder.

I. OPENING CEREMONY

A. Call To Order

- At 6:06 pm, Mayor Porter called the meeting to order and entertained a motion to begin
00:00:00

Council Member Strate so moved. The motion was seconded by Council Member Howard. In a voice vote Council Members Orr, Strate, Stewart, Howard, and Smyth all voted aye.

B. Prayer/Moment of Silence

The mayor led those present in a moment of silence

C. Pledge Of Allegiance

Council Member Howard led everyone in the Pledge of Allegiance.

II. PUBLIC COMMENTS

- Wesley Stewart 00:01:13

109 **III. RESPONSE TO PUBLIC COMMENT**

- Council Member Howard and the mayor responded to Mr. Stewart's comments

00:07:56

115 **IV. CONSENT AGENDA**

116 **A. Approval of August 2, 2022 Special City Council Meeting and Regular City Council Meeting**
117 **Minutes**

- Council Member Stewart requested some wording be changed in the regular city council meeting minutes 00:13:51
- Mayor Porter called for a motion to approve the minutes with the changes

00:15:15

123 **Council Member Smyth so moved. The motion was seconded by Council Member**
124 **Strate. All present voted aye.**

126 **B. Declaring Certain Items as Surplus to the City's Needs**

- Mayor Porter asked if there were any questions or comments about the surplus items; seeing none, he called for a motion to approve the surplus items.

00:16:46

131 **Council Member Howard so moved. Council Member Smyth seconded the motion.**
132 **There were four ayes and one nay. The motion stood.**

- City Manager Dixon informed the mayor an online comment had been submitted. Information and Events Specialist Jamie Healy read the comment.

138 **George Garwood Jr.** 00:17:28

142 **V. PUBLIC HEARING**

143 **To Receive and Consider Comments on a Proposed Boundary Adjustment with Weber County**

- Staff overview 00:18:15
- Mayor Porter called for a motion to enter into a public hearing on a proposed boundary adjustment with Weber County

149 **Council Member Strate so moved. The motion was seconded by Council Member Howard. All**
150 **present voted aye.**

- The mayor invited anyone who wished to speak to this item to come forward
 - Kyle Bosgieter- 00:20:01 Spoke in favor of the boundary adjustment
 - Kurt Panter- 00:21:57 Asked about combining his two properties
 - Mark Walker- 00:26:27 Asked that improvements to properties be grandfathered and still allowed
- City Manager Dixon explained how the properties will be impacted by the boundary adjustment 00:29:26
 - Kurt Panter- 00:32:15 Asked about existing subdivision covenants
- There were no further comments. The mayor called for a motion to close the public hearing 00:33:23

Council Member Strate so moved. Council Member Howard seconded the motion. The voice vote was unanimous in favor of the motion.

- There were no online comments for the public hearing
- Mayor Porter announced he would go to item VI.B first 00:33:37

VI. DISCUSSION /ACTION ITEMS

B. Consideration of Ordinance 22-13 – Approving a Boundary Adjustment with Weber County

- Council Discussion 00:33:49
 - Council Member Strate asked the mayor if he would accept a motion. The mayor indicated he would. 00:39:19

Council Member Strate moved to approve Ordinance 22-13, approving a boundary adjustment with Weber County. The motion was seconded by Council Member Howard. There was no discussion on the motion. The mayor made a roll call vote:

Council Member Orr-	Yes
Council Member Strate-	Yes
Council Member Stewart-	Yes
Council Member Howard-	Yes
Council Member Smyth-	Yes

The boundary adjustment was approved.

194
195 A. Consideration of **Ordinance 22-12** – Amending the Consolidated Fee Schedule for Police
196 Records Requests

- 197
 - Staff overview 00:39:47
 - There was no discussion on this item
 - Mayor Porter called for a motion to adopt Ordinance 22-1200:40:45

201
202 **Council Member Howard so moved, followed by a second from Council Member Smyth.**
203 **After determining there was no further discussion, he called the vote:**

204
205 Council Member Smyth - Yes
206 Council Member Howard - Yes
207 Council Member Stewart - Yes
208 Council Member Strate - Yes
209 Council Member Orr - Yes

210
211 **Ordinance 21-12 was adopted.**

212
213
214 C. Consideration of **Resolution 22-28** – Adopting the FY2023 Budget

- 215
 - Staff overview 00:41:01
 - Council discussion 00:49:12
 - Mayor Porter called for a motion to adopt Resolution 22-2800:50:21

219
220 **Council Member Strate so moved. Council Member Howard seconded the motion. The**
221 **mayor asked if there was further discussion.** Council Member Orr stated that she was
222 opposed to this high of a tax increase. She thought it would have a greater impact to residents
223 than the Council would know, especially with the current economy. There was further
224 discussion by the Council on the tax increase. After discussion, Council Member Strate said
225 he was in favor of the budget as it was. He called the question (01:01:58). **The mayor**
226 **called the vote:**

227
228 Council Member Orr - No
229 Council Member Strate - Yes
230 Council Member Stewart - Stated she appreciated that
231 members of the Council were
232 able to give their input, but her
233 vote was
234 No
235 Council Member Howard - Yes
236 Council Member Smyth - Yes
237

The motion stood. The FY2023 budget was adopted.

- City Manager Dixon thanked Finance Director Liebersbach and the other department heads for their work on the budget and made further comments about how the City was strategically planning for future needs

01:02:34

**D. Consideration of Resolution 22-29 – Approving an Agreement With Siddons-Martin
Emergency Group for Commitment to Purchase Fire Truck**

- Staff overview 01:06:41
- Council Questions/Discussion 01:07:51
- Mayor Porter called for a motion to adopt Resolution 22-29 01:10:15

Council Member Howard so moved. The motion was followed by a second from Council Member Orr. The mayor asked if there was further discussion. Council Member Orr asked if ARPA money would be used to purchase the fire truck. City Manager Dixon said it was possible and the Council could discuss it. **Mayor Porter made a roll call vote:**

Council Member Howard-	Yes
Council Member Strate-	Yes
Council Member Stewart-	Yes
Council Member Orr-	Yes
Council Member Smyth-	Yes

Resolution 22-29 was approved.

**E. Consideration of Resolution 22-30 – Approving an Agreement With Professional Sales and
Service for Commitment to Purchase Ambulance**

- Staff overview 01:11:11
- Council Questions/Discussion 01:12:36
- The mayor called for a motion to adopt Resolution 22-30 01:13:37

Council Member Strate so moved, followed by a second from Council Member Smyth. There was no further discussion. Mayor Porter called the vote:

Council Member Smyth-	Yes
Council Member Stewart-	Yes
Council Member Orr-	Yes

Council Member Howard- Yes
Council Member Strate- Yes

The agreement with Professional Sales and Service was approved.

F. Consideration of Resolution 22-31 – Approving a Contract With Bizmuni for Business Licensing Services

- Staff overview 01:13:56
- Council Discussion 01:12:36
- The mayor entertained a motion to adopt Resolution 22-31 01:16:57

Council Member Smyth so moved. Council Member Strate seconded the motion. Mayor Porter asked if there was further discussion. Council Member Orr said at first she was upset at the price increase, but then realized the City had been getting a good deal before. She was also very pleased with the company's customer service. **The vote was then called:**

Council Member Strate- Yes
Council Member Stewart- Yes
Council Member Smyth- Yes
Council Member Howard- Yes
Council Member Orr- Yes

Resolution 22-31 was adopted.

G. Consideration of Resolution 22-32 – Approving a Contract With Wasatch Front Football League

- Staff overview 01:17:46
- Council Discussion 01:19:28
- The mayor called for a motion to adopt Resolution 22-32 01:20:08

Council Member Howard so moved. The motion was seconded by Council Member Strate. There was no further discussion on the motion. Mayor Porter made a roll call vote:

Council Member Orr- Yes
Council Member Strate- Yes
Council Member Stewart- Yes
Council Member Howard- Yes
Council Member Smyth- Yes

The agreement with the WFFL was approved.

326 **VII. DISCUSSION ITEMS**

327 **A. Discussion on Code Amendments Concerning Drive-Throughs**

- 328 • Staff overview 01:20:40
- 329 • Council Discussion 01:23:13
- 330 • Staff was instructed to prepare the amendments for a vote at the next meeting
- 331 01:34:20

332

333 **B. Discussion on Sick Leave Buy Back Policy**

- 334 • Staff overview 01:34:42
- 335 • Council Discussion 01:36:39
- 336
- 337
- 338

339 **VIII. REPORTS/DIRECTION TO CITY MANAGER**

340 **A. City Council Members**

- 341 • Council Member Howard- 01:37:16
- 342 • Council Member Orr- 01:37:56
- 343 • Council Member Stewart- nothing to report
- 344 • Council Member Smyth - 01:40:13
- 345 • Council Member Strate - nothing to report

346 **B. City Manager** 01:42:06

347 **C. Mayor** 01:45:15

348

349

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351 **VI. ADJOURN**

- 352 • Mayor Porter called for a motion to adjourn the meeting
- 353 01:47:41
- 354

355 **Council Member Orr so moved, followed by a second from Council Member Strate. The voice**

356 **vote was unanimous in favor of the motion.**

357

358 The meeting ended at 7:53 pm.

359

360

361

362

363 I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Pre-Council

364 Work Session and Council Meeting held Tuesday, August 16, 2022.

365

366 
367 Leesa Kapetanov, City Recorder

Date Approved by the City Council

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ATTACHMENT A

Handout from Mr. Andersen

South Ogden
Dogs in Parks
5-17-22

South Ogden City Staff is following the direction/discussion from the March 16, 2021 City Council Meeting.

Club Heights Dog Area

- Keep as is
 Bark & Rock \$2283.76

40th Street

- Dogs on Leash
- 4 permanent garbage cans
- 4 Dog pots
 - 2 installed

Glassman

- Dogs on leash
- 4 permanent garbage cans
- 4 Dog pots
 - 2 installed
- 4 signs

Burch Creek, Club Heights (New & Old), Madison, Friendship, Farrell, & Meadows

- No dogs allowed

Nature Park

- Dogs on leash

Cost Break Down

- Signs & pole 41@\$50ea=\$2050.00
 - 15 signs \$637.05
 - Garbage Cans 8@\$1400ea=\$11200.00
 - Not purchased
 - Dog Pots 8@\$250ea=\$2000.00
 - 4 - purchased and installed \$1805.00
 - Dog bags \$1000.00
 - 2 - cases purchased \$1079.00
 - New Park rule sign 11@\$200ea=\$2200.00
- Total Cost \$18,450.00**
Spent \$3,521.05 Dog Area \$2,283.76
 \$3,595.00 in budget



STAFF REPORT



SUBJECT: Resolution 22-33 - Interlocal With Weber County
For Ballot Box Camera
AUTHOR: Leesa Kapetanov
DEPARTMENT: Administration
DATE: September 6, 2022

RECOMMENDATION

Staff recommends approval of Resolution 22-33.

BACKGROUND

Seeing this resolution may be, in the words of Yogi Berra, "déjà vu all over again". You did approve a resolution almost exactly the same back in June.

ANALYSIS

The County was told back in May they would receive \$1,200 to reimburse each city for a security camera for their ballot box. They sent out interlocal agreements stating that amount for each city to adopt. When the County actually returned to the state with the required paper work (estimates, invoices, etc.) the state came back and said they would reimburse us for the full amount of \$1,624.79. That is the only thing that changed on the resolution.

SIGNIFICANT IMPACTS

We will now have \$424.79 more in the budget!

ATTACHMENTS

None

Resolution 22-33

APPROVING AN AMENDED INTERLOCAL AGREEMENT BETWEEN WEBER COUNTY AND SOUTH OGDEN CITY FOR THE USE OF SECURITY CAMERAS

This Amended Interlocal Cooperation Agreement, hereinafter “Agreement”, is made and entered in accordance with Utah Code Annotated §11-13-101 et seq., 1953 as amended, commonly referred to as the Interlocal Cooperation Act, by and between Weber County, a body politic, corporate and political subdivision of the State of Utah, hereinafter “County”, with its main offices located at 2380 Washington Blvd., Ogden, Utah 84401, and South Ogden City, a municipal corporation, hereinafter “City” with its main office at 3950 South Adams Ave, South Ogden, UT 84403.

SECTION 1- RECITALS

WHEREAS, pursuant to Utah Code Ann. § 20A-5-403.5(1), the County’s election officer is required to provide 24-hour video surveillance of each unattended ballot drop box within Weber County; and

WHEREAS, the City owns and maintains a security camera installed at 3950 South Adams Ave, South Ogden, UT 84403 (“Security Camera”); and

WHEREAS, the County has an election ballot drop box installed at 3950 South Adams Ave, South Ogden, UT 84403, which is located within the Security Camera’s scope of view;

WHEREAS, the County desires to use the City’s Security Camera to provide 24-hour video surveillance of the election ballot drop box.

NOW THEREFORE, County and City enter this agreement with the following terms and conditions;

SECTION 2- SERVICES PROVIDED AND CONSIDERATION

- 2.01 The City will maintain the position of the Security Camera so that the County’s ballot drop box is under 24-hour video surveillance.
- 2.02 All Security Camera recordings are considered records of The City for purposes of Utah Code Annotated, Title 63G, Chapter 2, Government Records and Access Management Act (“Act”). The City will grant the County access to the Security Camera recordings upon the County’s request. Any Security Camera recording provided to the County shall be considered a shared record under Section 63G-2-206 of the Act, unless the City notifies the County in writing that such record is a public record.
- 2.03 The City will maintain ownership and control of the Security Camera and is responsible for the installation, supplies, and maintenance of the Security Camera, as well as the associated costs.

- 2.04 The City will retain the Security Camera video recordings in accordance with applicable Utah State Law and the City's own record retention policies.
- 2.05 In Consideration for the services provided by the City to the County, as described in this Agreement, the County shall provide a one-time reimbursement to the City up to \$1,624.79 for a new camera, installation of a camera, moving of a camera or other applicable costs. To qualify for reimbursement, such costs must be necessary for the City to fulfill its obligations under this Agreement. The City must submit a reimbursement request to the County Clerk/Auditor by June 1st, 2022, and must include a receipt or invoice for the equipment or services that comply with this agreement.

SECTION 3- MISCELLANEOUS PROVISIONS

- 3.01 Governing Law. The provisions of this Agreement shall be governed by the laws of the State of Utah.
- 3.03 Indemnification. Both parties are governmental entities under the Governmental Immunity Act of Utah, §§ 630-7-101 to -904, as amended (the "Act"). There are no indemnity obligations between these parties. Subject to and consistent with the terms of the Act, the parties shall be liable for their own negligent acts or omissions, or those of their authorized employees, officers, and agents while engaged in the performance of the obligations under this Agreement, and neither party shall have any liability whatsoever for any negligent act or omission of the other party, its employees, officers, or agents. Neither party waives any defenses or limits of liability available under the Act and other applicable law. Both parties maintain all privileges, immunities, and other rights granted by the Act and all other applicable law.
- 3.04 Severability. The declaration by any court or any other binding legal source, that any provision of this Agreement is illegal or void, shall not affect the legality and enforceability of any other provision of this Agreement, unless the provisions are mutually dependent.
- 3.05 Term/Termination. This Agreement shall be effective upon execution of the last party to sign this Agreement. The term of this Agreement shall not exceed fifty (50) years pursuant to §11-13- 216 of the Interlocal Cooperation Act. The parties reserve the right to terminate this Agreement, in whole or in part, at any time during the term or any additional terms whenever the terminating party determines, in its sole discretion that it is in the terminating party's interest to do so. If a party elects to exercise this right, the terminating party shall provide written notice to the other party at least 30 (thirty) days prior to the date of termination for convenience. The parties agree that termination for convenience will not be deemed a termination for default nor will it entitle either party to any rights or remedies provided by law or this Agreement for breach of contract or any other claim or cause of action.

3.06 Entirety. This Agreement constitutes the entire integrated understanding between the parties, and that there are no other terms, conditions, representations or understanding, whether written or oral, concerning the rights and obligations of the parties to this Agreement except as set forth in this Agreement. This Agreement may not be enlarged, modified or altered, except in writing, signed by the parties.

IN WITNESS WHEREOF, the County and the City have executed this Agreement to be effective upon proper execution by both parties.

DATED this ____ day of _____, 2022.

BOARD OF COUNTY COMMISSIONERS
OF WEBER COUNTY

By _____
Scott K. Jenkins, Chair

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

ATTEST:

Ricky Hatch, CPA
Weber County Clerk/Auditor

SOUTH OGDEN CITY

By _____

Name: _____

Title: _____

ATTEST:

Leesa Kapetanov, CMC
South Ogden City Recorder

Resolution No. 22-34

**RESOLUTION OF SOUTH OGDEN CITY AUTHORIZING AND
APPROVING A FRANCHISE AGREEMENT WITH XO
COMMUNICATIONS FOR WORK IN THE CITY'S RIGHTS-OF-WAY,
AND PROVIDING THAT THIS RESOLUTION SHALL BECOME
EFFECTIVE IMMEDIATELY UPON POSTING AND FINAL PASSAGE.**

WHEREAS, the City Council finds that the City of South Ogden ("City") is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code (" UC") § 10-3-717 the governing body of the city may exercise all administrative powers by resolution including, but not limited to regulating the use and operation of municipal property and programs; and,

WHEREAS, the City Council finds it necessary to address additional communications services needs within the city; and,

WHEREAS, the City Council finds that the city staff has reviewed and studied this matter and recommends that to best address these additional communications service needs within the city, the city council authorize and approve a Franchise Agreement with XO Communications for work in the City's rights-of-way, including not limited to installation of service lines, and additional communications services; and,

WHEREAS, the City Council finds that XO Communications has demonstrated the professional ability to provide for these services to meet the additional communications services needs of the city and its residents while preserving the infrastructure of the city; and,

WHEREAS, the City Council finds that City now desires to achieve these ends by authorizing and approving a franchise agreement with XO Communications for work in the City's rights-of-way; and,

WHEREAS, the City Council finds that the public convenience and necessity requires the actions contemplated,

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF
SOUTH OGDEN AS FOLLOWS:**

SECTION 2 - CONTRACT AUTHORIZED

The **"Franchise Agreement"** Between South Ogden City And XO Communications, Attached Hereto As **Attachment "A"** and by This Reference Fully Incorporated Herein, Is Approved And Adopted With The Condition That The City Manager, With The Concurrence Of The City Attorney, Is Authorized To More Fully Negotiate And Resolve Any Remaining Details, Or Changes, Under The Agreement On Behalf Of The City And Then To Sign, And The City Recorder Is Authorized To Attest, Any And All Documents Necessary To Effect This Authorization And Approval. If The City Manager Is Unable To Successfully Resolve Any Remaining Details, Or Changes, This Authorization And Approval Shall Be Void And The City Manager Shall So Notify The Council.

That the foregoing recitals are incorporated herein.

SECTION 3 - PRIOR ORDINANCES AND RESOLUTIONS

The body and substance of all prior Resolutions, with their provisions, where not otherwise in conflict with this Resolution, are reaffirmed and readopted.

SECTION 4 - REPEALER OF CONFLICTING ENACTMENTS

All orders, and Resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Resolution, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part repealed.

SECTION 5 - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall render no other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION 6 - DATE OF EFFECT

This Resolution shall be effective on the 6th day of September, 2022, and after publication or posting as required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, STATE OF UTAH, on this 6th day of September, 2022.

SOUTH OGDEN CITY

Russell Porter, Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

Resolution No. 22-34

Resolution Of South Ogden City Authorizing And Approving A Franchise Agreement With Xo Communications For Work In The City's Rights-Of-Way, And Providing That This Resolution Shall Become Effective Immediately Upon Posting And Final Passage.

06 Sept 22

FRANCHISE AGREEMENT
SOUTH OGDEN CITY, UTAH

THIS FRANCHISE AGREEMENT (hereinafter "Agreement") is entered into by and between SOUTH OGDEN CITY, Utah (hereinafter "CITY"), a municipal corporation and political subdivision of the State of Utah, with principal offices at 3950 Adams Ave., South Ogden, Utah, 84403, and XO Communications Services, LLC_ (hereinafter "Franchisee"), a Limited Liability Company with its principal offices at One Verizon Way, Basking Ridge, NJ 07930.

WITNESSETH:

WHEREAS, FRANCHISEE desires to provide telecommunications services, as more particularly defined in the "Municipal Telecommunications License Tax Act," (the "Act"), Utah Code Ann. §§10-1-401, et seq., as amended, and establish a telecommunications network, system and/or facilities in, under, along, over and across present and future rights-of-way of the CITY; and

WHEREAS, the CITY has enacted Title 11 of the Revised Ordinances of South Ogden City (hereinafter the "Telecommunications Ordinance" or "ordinance") which governs the application and review process for Telecommunication Franchises in the CITY; and

WHEREAS, the CITY, in the exercise of its management of public Rights-of-Way, believes that it is in the best interest of the public to provide FRANCHISEE a nonexclusive franchise to operate a telecommunications network in the CITY.

NOW, THEREFORE, In consideration of the mutual covenants and agreements of the parties contained herein, and for other good and valuable consideration, the CITY and FRANCHISEE agree as follows:

AGREEMENT

ARTICLE 1. FRANCHISE AGREEMENT AND ORDINANCE

1.1 Agreement. Upon execution by the parties, this Agreement shall be deemed to constitute a contract by and between CITY and FRANCHISEE.

1.2 Ordinance. The CITY has adopted the Telecommunications Ordinance which is attached to this Agreement as Exhibit "A" and incorporated herein by reference. FRANCHISEE acknowledges that it has had an opportunity to read and become familiar with the Telecommunications Ordinance. The parties agree that the provisions and requirements of the Ordinance are material terms of this Agreement, and that each party hereby agrees to be contractually bound to comply with the terms of the Ordinance. The definitions in the Ordinance shall apply herein unless a different meaning is set forth in the Act or is otherwise indicated. Nothing in this Section shall be deemed to require FRANCHISEE to comply with any provision

of the Telecommunications Ordinance which is determined to be unlawful or beyond the CITY's authority.

1.3 Ordinance Amendments. The CITY reserves the right to amend the Ordinance at any time. Provided, however, CITY shall not enact any amendments to the Ordinance that will adversely impact FRANCHISEE without allowing FRANCHISEE 30 days, or such longer time as is necessary if 30 days is insufficient, in which to comply with the amendment. The CITY shall give FRANCHISEE notice and an opportunity to be heard concerning any proposed amendment. If there is any Inconsistency between FRANCHISEE's rights and obligations under the Ordinance as amended and this Agreement, the provisions of this Agreement shall govern during its term. Otherwise, FRANCHISEE agrees to comply with any such amendments.

1.4 Franchise Description. The Telecommunications Franchise provided hereby shall confer upon FRANCHISEE the nonexclusive right, privilege, and franchise to construct and maintain a telecommunications network in, under, above and across the present and future public Rights-of-Way in the City. The franchise does not grant to FRANCHISEE the right, privilege or authority to engage in community antenna (or cable) television business; although, nothing contained herein shall preclude FRANCHISEE from: (1) permitting those with a cable franchise who are lawfully engaged in such business to utilize FRANCHISEE's System within the CITY for such purposes; or (2) from providing such service in the future if an appropriate franchise is obtained from the City and all other legal requirements have been satisfied.

1.5 Licenses. FRANCHISEE acknowledges that it has obtained the necessary approvals, licenses or permits required by federal and state law to provide telecommunication services consistent with the provisions of this Agreement and with the Ordinance.

1.6 Relationship. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party act toward third persons or the public in any manner that would indicate any such relationship with each other.

ARTICLE 2, FRANCHISE FEE

2.1 Franchise Fee. For the Franchise granted herein, FRANCHISEE shall pay to the CITY a tax in accordance with the Municipal Telecommunications License Tax Act (Utah Code Ann. 10-1-401 to 10-1- 410 as amended from time to time), less any business license fee or business license tax enacted by the CITY. All payments shall be made to the Utah State Tax Commission, and sent as follows:

Utah State Tax Commission
210 North 1950 West
Salt Lake City, Utah 84134

2.2 Equal Treatment. CITY agrees any fees or taxes charged to FRANCHISEE under this Agreement shall be of the same nature and calculation of fees or tax currently charged or charged in the future to other similarly situated entities.

ARTICLE 3. TERM AND RENEWAL

3.1 Term and Renewal. The franchise granted to FRANCHISEE shall be for a period of ten (10) years commencing on the first day of the month following this Agreement, unless this Franchise be sooner terminated as herein provided. At the end of the initial ten (10) year term of this Agreement, the franchise granted herein may be renewed by FRANCHISEE upon the same terms and conditions as contained in this Agreement for an additional five (5) year term, by providing to the CITY's representative designated herein written notice of FRANCHISEE's intent to renew not less than ninety (90) calendar days before the expiration of the initial franchise term.

3.2 Rights of FRANCHISEE upon Expiration or Revocation. Upon expiration of the franchise granted herein, whether by lapse of time, by agreement between FRANCHISEE and the CITY, or by revocation or forfeiture, FRANCHISEE shall have the right to remove from the Rights-of-Way any and all of its System, but in such event, it shall be the duty of FRANCHISEE, Immediately upon such removal, to restore the Rights-of-Way from which such System is removed to as good condition as the same was before the removal was effected.

ARTICLE 4. POLICE POWERS

The CITY expressly reserves, and FRANCHISEE expressly recognizes, the CITY's right and duty to adopt, from time to time, in addition to provisions herein contained, such ordinances and rules and regulations as the CITY may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties. The powers described in this Article 4 shall control in the event there is any conflict with Section 1.3 hereof.

ARTICLE 5. CHANGING CONDITIONS AND SEVERABILITY

5.1 Meet to Confer. FRANCHISEE and the CITY recognize that many aspects of the telecommunication business are currently the subject of discussion, examination and inquiry by different segments of the industry and affected regulatory authorities and that these activities may ultimately result in fundamental changes in the way FRANCHISEE conducts its business and the way the CITY regulates the business. In recognition of the present state of uncertainty respecting these matters, FRANCHISEE and the CITY each agree, upon request of the other during the term of this Agreement, to meet with the other and discuss in good faith whether it would be appropriate, in view of developments of the kind referred to above during the term of this Agreement, to amend this Agreement or enter into separate, mutually satisfactory arrangements to effect a proper accommodation of any such developments.

5.2 Severability. If any section, sentence, paragraph, term or provision of this Agreement or the Ordinance is for any reason determined to be or rendered illegal, invalid, or superseded by other lawful authority, including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof, or is determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such determination shall have no effect on the validity of any other

section, sentence, paragraph, term or provision, all of which shall remain In full force and effect for the term of this Agreement or any renewal or renewals thereof. If the invalidated portion is considered a material consideration for entering into this Agreement, the parties will negotiate, in good faith, an amendment to this Agreement. As used herein, "material consideration" for the CITY is its ability to collect the Franchise Fee during the term of this Agreement and its ability to manage the Rights-of-Way in a manner similar to that provided in this Agreement, the Ordinance, and the City's Excavation Permit Policy. For FRANCHISEE, "material consideration" is its ability to use the Rights-of-Way for telecommunication purposes in a manner similar to that provided in this Agreement, the Ordinance, and the CITY's Excavation Permit Policy.

ARTICLE 6. EARLY TERMINATION, REVOCATION OF FRANCHISE AND OTHER REMEDIES

6.1 Grounds for Termination. The CITY may terminate or revoke this Agreement and all rights and privileges herein provided, upon ninety (90) days prior notice, for any of the following reasons:

(a) FRANCHISEE fails to make timely payments of the franchise fee as required under Article 2 of this Agreement and does not correct such failure within sixty (60) calendar days after written notice by the CITY of such failure;

(b) FRANCHISEE, by actor omission, materially violates a material duty herein set forth in any particular provision within FRANCHISEE's control, and with respect to which redress is not otherwise herein provided. In such event, the CITY, acting by or through its CITY Council, may determine, after hearing, that such failure is of a material nature, and thereupon, after written notice giving FRANCHISEE notice of such determination; FRANCHISEE, within sixty (60) calendar days of such notice, shall commence efforts to remedy the conditions identified in the notice and shall have ninety (90) calendar days from the date it receives notice to remedy the conditions. After the expiration of such 90-day period and failure to correct such conditions, the CITY may declare the franchise forfeited and this Agreement terminated, and thereupon, FRANCHISEE shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further, that in the event such failure is of such nature that it cannot be reasonably corrected within the 90-day time period provided above, the CITY shall provide additional time for the reasonable correction of such alleged failure if the reason for the noncompliance was not the intentional or negligent act or omission of FRANCHISEE; or

(c) FRANCHISEE becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt, or all or part of its facilities should be sold under an instrument to secure a debt and is not redeemed by FRANCHISEE within sixty (60) days.

6.2 Reserved Rights. Nothing contained herein shall be deemed to preclude FRANCHISEE from pursuing any legal or equitable rights or remedies it may have to challenge the action of the CITY.

6.3 Remedies at Law. In the event FRANCHISEE or the CITY fails to fulfill any of its respective obligations under this Agreement, the CITY or FRANCHISEE, whichever the case may be, may assert a breach of contract claim and remedy against the other, in addition to any other remedy provided herein or by law; provided, however, that no remedy that would have the effect of amending the specific provisions of this Agreement shall become effective without such action that would be necessary to formally amend the Agreement. In the event of any controversy, claim or action being filed or instituted between the CITY and FRANCHISEE relating to or arising out of this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees and costs through all levels of action incurred by the prevailing party.

6.4 Third Party Beneficiaries. The benefits and protection provided by this Agreement shall inure solely to the benefit of the CITY and FRANCHISEE. This Agreement shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

6.5 Assignment. This Agreement may not be assigned by FRANCHISEE except to a wholly owned subsidiary of FRANCHISEE without the prior written consent of the CITY, which consent shall not be unreasonably withheld.

ARTICLE 7. PARTIES' DESIGNEES

7.1 CITY Designee and Address. The City Manager or his or her designee(s) shall serve as the CITY's representative regarding administration of this Agreement. Unless otherwise specified herein or in the Ordinance, all notices from FRANCHISEE to the CITY pursuant to or concerning this Agreement, shall be delivered to the CITY's representative at:

South Ogden City
Attn: City Manager
3950 Adams Ave.
South Ogden, Utah 84403

or such other officer and address as the CITY may designate by written notice to FRANCHISEE.

7.2 FRANCHISEE Designee and Address. FRANCHISEE's Executive Director or his or her designee(s) shall serve as FRANCHISEE's representative regarding administration of this Agreement. Unless otherwise specified herein or in the Telecommunications Ordinance, all notices from the CITY to FRANCHISEE pursuant to or concerning this Agreement, shall be delivered to FRANCHISEE's offices at:

XO Communications Services, LLC
Attn: Franchise Manager
600 Hidden Ridge
Irving, TX 75019

With a copy to:
Verizon Legal Department
Attn: Network Legal Team
1300 I Street, NW 5th Floor
Washington, DC 20005

or such other officer and address as FRANCHISEE may designate by written notice to the CITY.

7.3 Failure of Designee. The failure or omission of the CITY's or FRANCHISEE's representative to act shall not constitute any waiver or estoppels by the CITY or FRANCHISEE.

ARTICLE 8. INSURANCE AND INDEMNIFICATION

8.1 Insurance. Prior to commencing operations in the CITY pursuant to this Agreement, FRANCHISEE shall furnish to the CITY evidence that it has adequate general liability and property damage insurance. The evidence may consist of a statement that FRANCHISEE is effectively self-insured if FRANCHISEE has substantial financial resources, as evidenced by its current certified financial statements and established credit rating, or substantial assets located in the State of Utah. Any and all insurance, whether purchased by FRANCHISEE from a commercial carrier, whether provided through a self-insured program, or whether provided in some other form or other program, shall be in a form, in an amount and of a scope of coverage acceptable to the CITY.

8.2 Indemnification. FRANCHISEE agrees to indemnify, defend and hold the CITY harmless from and against any and all claims, demands, liens, and all liability or damage of whatsoever kind on account of or arising from FRANCHISEE's acts or omissions pursuant to or related to this Agreement, and to pay any and all costs, including reasonable attorneys' fees, incurred by the CITY in defense of such claims. The CITY shall promptly give written notice to FRANCHISEE of any claim, demand, lien, liability, or damage, with respect to which the CITY seeks indemnification and, unless in the CITY's judgment a conflict of interest may exist between the parties with respect to the claim, demand, lien, liability, or damage, the CITY shall permit FRANCHISEE to assume the defense of such with counsel of FRANCHISEE'S choosing, unless the CITY reasonably objects to such counsel. Notwithstanding any provision of this Section to the contrary, FRANCHISEE shall not be obligated to indemnify, defend or hold the CITY harmless to the extent any claim, demand, lien, damage, or liability arises out of or in connection with negligent acts or omissions of the CITY.

ARTICLE 9. INSTALLATION

9.1 Coordinated Installation. In order to prevent and/or minimize the number of cuts to and excavations within the CITY Rights-of-Way, FRANCHISEE shall coordinate with the CITY and other providers or users of the CITY Rights-of-Way, when such cuts and excavations will be made. Unless otherwise permitted, installation, repairs, or maintenance of lines and facilities within the CITY Rights-of-Way shall be made at the same time other installations, repairs or maintenance of facilities are conducted within the CITY Rights-of-Way.

9.2 Underground Installation. Notwithstanding the provisions of Article 1.3 of this Agreement, FRANCHISEE expressly agrees to install and maintain all of its underground facilities in accordance with CITY Ordinances regarding the undergrounding of utility lines, in effect at the time this Agreement Is entered into and as subsequently amended during the term of this Agreement.

9.3 Aerial Installation: Notwithstanding the provisions of Article 1.3 of this Agreement, FRANCHISEE expressly agrees to install and maintain all of its aerial facilities in accordance with CITY Ordinances regarding the installation of aerial utility lines and pole attachment agreement terms, In effect at the time this Agreement is entered into and as subsequently amended during the term of this Agreement. Nothing herein shall require FRANCHISEE to convert existing overhead facilities to underground facilities until and unless other similarly situated providers in the same location are required to do so.

9.4 Prior Approval. FRANCHISEE shall not perform any work within CITY Rights-of-Way without having first obtained a written permit from the CITY authorizing such work.

ARTICLE 10. GENERAL PROVISIONS

10.1 Binding Agreement. The parties represent that: (a) when executed by their respective representatives, this Agreement shall constitute legal and binding obligations of the parties; and (b) each party has complied with all relevant statutes, ordinances, resolutions, by-laws and other legal requirements applicable to its operation in entering into this Agreement. This Agreement shall be binding upon the heirs, successors, administrators and assigns of each of the parties.

10.2 Governing Law. This Agreement shall be interpreted pursuant to Utah law and jurisdiction and venue for any legal action pertaining to this Agreement shall be in the District Court of Weber County State of Utah.

10.3 Time of Essence. Time shall be of the essence of this Agreement.

10.4 Interpretation of Agreement. The invalidity of any portion of this Agreement shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held in include the plural number and vice versa, and the use of any gender shall include the other gender. The paragraphs and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

10.5 No Presumption. Both parties have participated in preparing this Agreement. Therefore, the parties stipulate that any court interpreting or construing this Agreement shall not apply the rule of construction that the Agreement should be more strictly construed against the drafting party.

10.6 Entire Agreement and Amendments. This Agreement and all attachments hereto constitute the entire agreement and understanding between the parties and replaces any previous agreement, understanding or negotiation between the parties with respect to its subject matter,

and may be modified or amended, supplemented, or changed only by the written agreement of the parties, including the formal approval of the City Council. No oral modifications or amendments shall be effective.

SIGNED AND ENTERED INTO On the _____ day of _____, 20__.

"CITY"

SOUTH OGDEN CITY

By _____

Matthew J. Dixon,

City Manager

ATTEST

Leesa Kapetanov,

City Recorder

STATE OF UTAH)
 : ss,

COUNTY OF WEBER)

On the _____ day of _____, 2022, personally appeared before me MATTHEW J. DIXON, and LEESA KAPETANOV, who being by me duly sworn did say, each for himself that he, the said MATTHEW J. DIXON, is the City Manager of South Ogden City, Weber County, State of Utah and that she, the said LEESA KAPETANOV, is the City Recorder of South Ogden City, and that the within and foregoing instrument was signed on behalf of the said South Ogden City by authority of the City Council of South Ogden City and said MATTHEW J. DIXON, and LEESA KAPETANOV, each duly acknowledged to me that the said South Ogden City executed the same and that the seal affixed is the seal of the said South Ogden City.

NOTARY PUBLIC

FRANCHISEE

XO Communications Services, LLC

Signature

Dina Dye
Printed Name

Senior Manager – Network Regulatory/Real Estate
Title

STATE OF Texas

:ss
COUNTY OF _____)

On this ____ day of _____, 2022, Dina Dye personally appeared before me _____ who being by me duly sworn did say that he/she is the Senior Manager – Network Regulatory/Real Estate of XO Communications Services, LLC, a limited liability company, and that XO Communications Services, LLC is the legal property owner of record of the property subject to this Agreement and that the foregoing Agreement was signed in behalf of said company by authority of its Board of Directors/by-laws, and he/she acknowledged to me that said company executed the same.

NOTARY PUBLIC

Resolution No. 22-35

RESOLUTION OF SOUTH OGDEN CITY APPROVING AMENDMENTS TO THE SOUTH OGDEN CITY EMPLOYEE POLICY MANUAL; AND, PROVIDING AN EFFECTIVE DATE.

SECTION 1 - RECITALS

WHEREAS, the City Council finds that the City of South Ogden ("City") is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code ("UC") § 10-3-717 the governing body of the city may exercise all administrative powers by resolution including, but not limited to adopting and amending a citywide employee policy manual; and,

WHEREAS, the City Council finds that the public convenience and necessity requires the actions herein contemplated,

WHEREAS, the City Council finds that the City should amend the current citywide employee policy manual to more effectively meet employee hiring, retention, and other vital City needs; and,

THEREFORE, BE IT RESOLVED by the City of South Ogden,

SECTION 2 - EMPLOYEE POLICY AMENDED

The South Ogden Employee Policy Manual As Attached Hereto As **Attachment"A"**, And As Otherwise Described In The Forgoing Sections Of This Resolution Are Readopted And Ratified.

The foregoing recitals are incorporated herein.

SECTION 3 - PRIOR ORDINANCES AND RESOLUTIONS

The body and substance of all prior Resolutions, with their provisions, where not otherwise in conflict with this Resolution, are reaffirmed and readopted.

SECTION 4 - REPEALER OF CONFLICTING ENACTMENTS

All orders, and Resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Resolution, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part repealed.

SECTION 5 - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall render no other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION 6 - DATE OF EFFECT

This Resolution shall be effective on the 6th day of September, 2022, and after publication or posting as required by law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY,
STATE OF UTAH, on this 6th day of September, 2022.**

SOUTH OGDEN CITY

Russell Porter, Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

RESOLUTION NO. 22-35

Resolution Of South Ogden City Approving Amendments To The South Ogden
City Employee Policy Manual; And, Providing An Effective Date.

06 Sept 22

SICK LEAVE BUY-BACK

Purpose: The purpose of the sick leave buy-back is to create a program that discourages sick leave abuse and rewards employees who effectively manage their overall health and sick leave use.

Procedure: Annually, the Finance Director, or designee, will review the sick leave balances of employees, as of November 1 of that year and check the sick leave usage from the previous 12 months (ending October 31). Employees who meet the requirements established herein, will be eligible for a sick leave buy-back. The buy-back is converted at the employee's current rate of pay as of the second pay period in November. After the employee submits an approved request, the sick leave buy-back will be included in the employee's paycheck, which is issued the second pay period in November. Additionally, employees have the option to have an employer contribution of the same gross amount into the employee's Health Savings Account, 401 K or a combination thereof during the same pay period in November. Employees can sellback less hours than the maximum allowed. *Note: After conversion, the employee's sick leave balance cannot drop below 200 hours (240 for firefighters).*

Requirements:

The payout is based on the employee's sick leave balance as well as sick leave hours the employee used since November 1 of the previous year. Eligible hours are based on the annual accrual less any sick leave hours used during the 12-month period under review based on the following ladder:

- Employees who have a sick leave balance of 200 (240 for firefighters) hours or less are not eligible to participate in the program.
- Employees who have a sick leave balance between 200 and 224.05 (264.05 for firefighters) are eligible to participate in the program at a rate that does not deplete their sick leave bank below 200 hours.
- Employees who have a balance that is over 224.05 hours (264.05 for firefighters) but less than 400 hours can receive a sick leave buy-back of 25% of the equivalent amount of unused sick leave accrued during the year.
- All Employees who have a sick leave balance over 400 hours but less than 600 hours can receive a sick leave buy-back of 50% of unused sick leave accrued during the year.
- All Employees who have a sick leave balance over 600 hours can receive a sick leave buy-back of 75% of unused sick leave accrued during the year.

Below are different scenarios to illustrate how the program works:

Every employee earns 96.2 hours of sick leave each year. In Example #1, an employee used 48 hours of sick leave during the previous 12 months. In the Example #2, the employee did not use any sick leave during the previous 12 months. In Example #3 a firefighter did not use any sick leave during the previous 12 months.

NOTE: Employees cannot have a balance of less than 200 sick leave hours after the conversion (240 for firefighters). The rationale is that employees will maintain a minimum sick leave balance of 2.5 pay periods. This policy does not alter or affect the sick leave conversion policy.

Sick hours earned	Sick hours used	Difference of sick leave used from accrued	Employee sick leave bank balance		Maximum sellback hours	Sample Employee Wage	Maximum sick leave buy back pay out
EXAMPLE 1							
96.2	48	48.2	< 200		0	\$ 25.00	\$0.00
			≥200 <224.05	25%	Up to 12.05		Up to \$301.25
			≥ 224.05 < 400	25%	12.05		\$ 301.25
			≥ 400 < 600	50%	24.10		\$ 602.50
			≥ 600	75%	36.15		\$ 903.75
EXAMPLE 2							
96.2	0	96.2	< 200		0	\$ 25.00	\$0.00
			≥200 <224.05	25%	Up to 24.05		Up to \$601.25
			≥224.05 < 400	25%	24.05		\$ 601.25
			≥ 400 < 600	50%	48.10		\$ 1,202.50
			≥ 600	75%	72.15		\$ 1,803.75
EXAMPLE 3 (Firefighter)							
96.2	0	96.2	< 240		0	\$ 25.00	\$0.00
			≥240 <264.05	25%	Up to 24.05		Up to \$601.25
			≥264.05 < 400	25%	24.05		\$ 601.25
			≥ 400 < 600	50%	48.10		\$ 1,202.50
			≥ 600	75%	72.15		\$ 1,803.75

STAFF REPORT



SUBJECT: Street Maintenance Project 2022
AUTHOR: Jon Andersen
DEPARTMENT: Public Works
DATE: September 6, 2022

RECOMMENDATION

City staff recommends an agreement for 2022 Street Maintenance Project be approved with Granite Construction Compaines. Granite Construction has completed many projects for the City in past years at a very high quality of work.

BACKGROUND

The Mayor & City Council's strategic plan for the current year has a goal 3.1.1 to complete \$1,300,000.00 of road maintenance and improvement projects. The 2022 Street Maintenance project will accomplish some of that goal. This project will restore six different sections of roadway, covering approximately 29,700 square yards of road surface. This includes edgemilling and installing a 2" asphalt overlay with fabric. This type of treatment will significantly improve these roads as well as extend the life of these roads. The work will be completed during the summer of 2022.

ANALYSIS

Bids were requested for a 2021 Street Maintenance project for South Ogden City. During the bid process four qualified contractors submittd bids to South Ogden City. the results are as follows:

1- Granite Construction	\$732,037.00
2- Staker & Parsons Companies	\$780,291.50

SIGNIFICANT IMPACTS

Impact of \$732,037.00 to the 2022/2023 Road/Sidewalk project. It has been included in the budget.

ATTACHMENTS

Recommendation Letter



2022 Street Maintenance Project

South Ogden City Corporation

Bid Opening Date: August 31, 2022 Time: 2:00 p.m. Place: South Ogden City, 3950 South Adams Ave.

				Engineer's Estimate		Staker & Parson Companies		Granite	
	Description	Quantity	Units	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	Mobilization, Traffic Control, Paint:	1	L.S.	\$30,000.00	\$ 30,000.00	\$56,050.00	\$ 56,050.00	\$70,458.00	\$ 70,458.00
2	Edge Mill a 10-foot Width (min.) Along Existing Curb. Taper from 0" Depth to 1-1/2" Depth. Remove and Dispose of Cutting:	18730	S.Y.	\$2.60	\$ 48,698.00	\$2.80	\$ 52,444.00	\$2.80	\$ 52,444.00
3	Mill 26-foot Width Road Curb to Curb. 2" Depth:	2100	S.Y.	\$5.00	\$ 10,500.00	\$4.55	\$ 9,555.00	\$3.70	\$ 7,770.00
4	Pre-Lower Existing Manhole and Cover:	17	Each	\$450.00	\$ 7,650.00	\$395.00	\$ 6,715.00	\$405.00	\$ 6,885.00
5	Pre-lower Existing Valve and Box:	31	Each	\$300.00	\$ 9,300.00	\$255.00	\$ 7,905.00	\$240.00	\$ 7,440.00
6	Pre-Lower Storm Drain Box:	11	Each	\$800.00	\$ 8,800.00	\$790.00	\$ 8,690.00	\$750.00	\$ 8,250.00
7	Raise Existing Manhole Ring and Cover and Construct Collar:	33	Each	\$550.00	\$ 18,150.00	\$635.00	\$ 20,955.00	\$605.00	\$ 19,965.00
8	Raise Existing Valve Box and Construct Concrete Collar:	45	Each	\$450.00	\$ 20,250.00	\$426.00	\$ 19,170.00	\$405.00	\$ 18,225.00
9	Raise Existing Storm Drain Box:	12	Each	\$1,400.00	\$ 16,800.00	\$1,365.00	\$ 16,380.00	\$1,300.00	\$ 15,600.00
10	Construct a 2" Thickness Bituminous Surface Course Overlay w/ Fabric:	3950	Tons	\$105.00	\$ 414,750.00	\$97.95	\$ 386,902.50	\$100.00	\$ 395,000.00
11	Asphalt Leveling Course:	400	Tons	\$110.00	\$ 44,000.00	\$121.00	\$ 48,400.00	\$100.00	\$ 40,000.00
12	Repair "Break Through" Areas (4"HMA / 8" UTBC):	2000	S.Y.	\$50.00	\$ 100,000.00	\$55.00	\$ 110,000.00	\$25.00	\$ 50,000.00
13	Asphalt Removal and Replacement (4" H.M.A.):	1250	S.Y.	\$40.00	\$ 50,000.00	\$29.70	\$ 37,125.00	\$32.00	\$ 40,000.00
Total					\$ 778,898.00		\$ 780,291.50	*	\$ 732,037.00



Memorandum

To: Jon Anderson
South Ogden City

From: Jory Wahlen
Wasatch Civil Consulting Engineering

Date: September 1, 2022

Subject: **2022 Street Maintenance Project**

In response to our advertisement for 2022 Street Maintenance Project posted on August 10, 2022, we received two bids. Staker & Parson Companies bid \$780,291.50 and Granite Construction Company bid \$732,037.00. We recommend awarding the project to **Granite Construction Company** for a contract amount of **\$732,037.00**.

Note: There was a calculation error in the Granite Construction Company bid total. The submitted sheet read \$729,415.00, the correct total is \$732,037.00.



2022 Street Maintenance Project

South Ogden City Corporation

Bid Opening Date: August 31, 2022 Time: 2:00 p.m. Place: South Ogden City, 3950 South Adams Ave.

				Engineer's Estimate		Staker & Parson Companies		Granite	
	Description	Quantity	Units	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
Trails									
Alternative 1 (Pulverize)									
14	Pulverize, Mix, and Compact Existing (2" HMA and 4" Base Material):	8100	S.Y.	\$4.00	\$ 32,400.00	\$2.50	\$ 20,250.00	\$3.01	\$ 24,381.00
15	Pre-Lower and Raise Existing Manhole and Cover:	1	Each	\$1,000.00	\$ 1,000.00	\$1,050.00	\$ 1,050.00	\$1,117.00	\$ 1,117.00
16	Asphalt Pavement (3" HMA):	1370	Tons	\$115.00	\$ 157,550.00	\$114.00	\$ 156,180.00	\$95.00	\$ 130,150.00
17	Asphalt Pavement (3" HMA \ 6" UTBC):	400	S.Y.	\$50.00	\$ 20,000.00	\$37.05	\$ 14,820.00	\$38.40	\$ 15,360.00
Total					\$ 210,950.00		\$ 192,300.00		\$ 171,008.00

Alternative 2 (Crack Repair W/ Overlay)									
18	Asphalt Removal and Replacement (2" HMA):	500	S.Y.	\$75.00	\$37,500.00	\$61.45	\$30,725.00	\$20.00	\$ 10,000.00
19	Construct a 3" Thickness Bituminous Surface Course Overlay w/ Fabric:	1370	Tons	\$125.00	\$171,250.00	\$138.70	\$190,019.00	\$110.00	\$ 150,700.00
20	Shoulder Edge (Taper 4" Thick to 0" Thick, 1 Foot Wide UTBC):	165	Tons	\$40.00	\$6,600.00	\$122.40	\$20,196.00	\$57.00	\$ 9,405.00
21	Raise Existing Manhole Ring and Cover and Construct Collar:	1	Each	\$550.00	\$550.00	\$635.00	\$635.00	\$605.00	\$ 605.00
22	Asphalt Pavement (3" HMA \ 6" UTBC):	400	S.Y.	\$50.00	\$20,000.00	\$37.05	\$14,820.00	\$38.40	\$ 15,360.00
Total					\$235,900.00		\$256,395.00		\$ 186,070.00



2022 Street Maintenance Project

South Ogden City Corporation

Bid Opening Date: August 31, 2022 Time: 2:00 p.m. Place: South Ogden City, 3950 South Adams Ave.

				Engineer's Estimate		Staker & Parson Companies		Granite	
	Description	Quantity	Units	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
Alternative 3 (Overlay)									
23	Construct a 3" Thickness Bituminous Surface Course Overlay w/ Fabric:	1370	Tons	\$115.00	\$157,550.00	\$138.70	\$190,019.00	\$110.00	\$ 150,700.00
24	Shoulder Edge (Taper 4" Thick to 0" Thick, 1 Foot Wide UTBC):	165	Tons	\$40.00	\$6,600.00	\$122.40	\$20,196.00	\$57.00	\$ 9,405.00
25	Raise Existing Manhole Ring and Cover and Construct Collar:	1	Each	\$550.00	\$550.00	\$635.00	\$635.00	\$605.00	\$ 605.00
26	Asphalt Pavement (3" Thick HMA \ 6" Thick UTBC):	400	S.Y.	\$50.00	\$20,000.00	\$37.05	\$14,820.00	\$38.40	\$ 15,360.00
Total					\$184,700.00		\$225,670.00		\$ 176,070.00
Total (Roads + Least Cost Alternative)					\$ 963,598.00		\$ 972,591.50		\$ 903,045.00

Project Engineer _____
Jory Wahlen

* correction due to calculation error

Resolution No. 22-36

RESOLUTION OF SOUTH OGDEN CITY APPROVING AN AGREEMENT WITH GRANITE CONSTRUCTION FOR 2022 STREET MAINTENANCE PROJECT, AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AND FINAL PASSAGE.

SECTION 1 - RECITALS

WHEREAS, the City Council finds that the City of South Ogden ("City") is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code ("UC") § 10-3-717 the governing body of the city may exercise all administrative powers by resolution including, but not limited to regulating the use and operation of municipal property and programs; and,

WHEREAS, the City Council finds it necessary to address certain 2022 Street Maintenance Project needs within the city; and,

WHEREAS, the City Council finds that the city staff recommends that the city contract with Granite Construction for the installation and completion of 2022 Street Maintenance Project; and,

WHEREAS, the City Council finds that Granite Construction has the professional ability to provide for these services to meet the city's needs; and,

WHEREAS, the City Council finds that City now desires to further those ends by contracting with Granite Construction to provide such services; and,

WHEREAS, the City Council finds that the public convenience and necessity requires the actions contemplated,

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF SOUTH OGDEN AS FOLLOWS:

SECTION 2 - CONTRACT AUTHORIZED

That The "**Contract Agreement**" For The 2022 Street Maintenance Project, Attached Hereto As **Attachment "A"** And By This Reference Fully Incorporated Herein, Is Hereby Approved And Adopted; And That The City Manager Is Authorized To More Fully Negotiate Any Remaining Details Under The

Agreement On Behalf Of The City And Then To Sign, And The City Recorder Authorized To Attest, Any And All Documents Necessary To Effect This Authorization And Approval.

The foregoing Recitals are incorporated herein.

SECTION 3 - PRIOR ORDINANCES AND RESOLUTIONS

The body and substance of all prior Resolutions, with their provisions, where not otherwise in conflict with this Resolution, are reaffirmed and readopted.

SECTION 4 - REPEALER OF CONFLICTING ENACTMENTS

All orders, and Resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Resolution, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part repealed.

SECTION 5 - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall not render any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION 6 - DATE OF EFFECT

This Resolution shall be effective on the 6th day of September, 2022, and after publication or posting as required by law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY,
STATE OF UTAH, on this 6th day of September, 2022.**

SOUTH OGDEN CITY

Russell Porter
Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

Resolution No. 22-36

Resolution Of South Ogden City Approving An Agreement With Granite Construction For 2022 Street Maintenance Project, And Providing That This Resolution Shall Become Effective Immediately Upon Posting And Final Passage.

06 Sept 22

CONTRACT AGREEMENT

THIS AGREEMENT is by and between **SOUTH OGDEN CITY CORPORATION** (hereinafter called OWNER) and **GRANITE CONSTRUCTION COMPANY** (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The work consists of the following work in existing City Streets: Asphalt overlay and leveling course for 35,000 S.Y. of the existing pavement. The work also includes edge milling, pre-lowering, and raising existing manholes and valves and all other related appurtenances and associated work as indicated in the Contract Document.

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

2022 STREET MAINTENANCE PROJECT

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by Wasatch Civil Consulting Engineering, who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 *Time of the Essence:* All time limits for completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Dates for Completion and Final Payment:* The Work specified in the Contract Documents shall be completed prior to November 1st, 2022.

4.03 *Liquidated Damages:* CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof,

OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$200.00 for each day that expires after the time specified in paragraph 4.02 for completion until the Work is accepted.

ARTICLE 5 - CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to the paragraph below:

For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item as measured in the field.

UNIT PRICE WORK

<u>No.</u>	<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Amount</u>
1	Mobilization, Traffic Control, Paint:	1	L.S.	\$70,458.00	\$70,458.00
2	Edge Mill a 10-foot Width (min.) Along Existing Curb. Taper from 0" Depth to 1-1/2" Depth. Remove and Dispose of Cutting:	18,730	S.Y.	\$2.80	\$52,444.00
3	Mill 26-foot Width Road Curb to Curb. 2" Depth:	2,100	S.Y.	\$3.70	\$7,770.00
4	Pre-Lower Existing Manhole and Cover:	17	Each	\$405.00	\$6,885.00
5	Pre-lower Existing Valve and Box:	31	Each	\$240.00	\$7,440.00
6	Pre-Lower Storm Drain Box:	11	Each	\$750.00	\$8,250.00
7	Raise Existing Manhole Ring and Cover and Construct Collar:	33	Each	\$605.00	\$19,965.00
8	Raise Existing Valve Box and Construct Concrete Collar:	45	Each	\$405.00	\$18,225.00
9	Raise Existing Storm Drain Box:	12	Each	\$1,300.00	\$15,600.00
10	Construct a 2" Thickness Bituminous Surface Course Overlay w/ Fabric:	3,950	Tons	\$100.00	\$395,000.00
11	Asphalt Leveling Course:	400	Tons	\$100.00	\$40,000.00
12	Repair "Break Through" Areas (4"HMA / 8" UTBC):	2,000	S.Y.	\$25.00	\$50,000.00
13	Asphalt Removal and Replacement (4" H.M.A.):	1,250	S.Y.	\$32.00	\$40,000.00

TOTAL OF ALL UNIT PRICES Seven Hundred Thirty-Two Thousand Thirty-Seven Dollars 00/100 (\$732,037.00).

As provided in paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03 of the General Conditions.

ARTICLE 6 - PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments:* CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

6.02 *Progress Payments; Retainage:* OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment on or about the 15th day of each month during performance of the Work as provided in paragraphs 6.02.A. 1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work, based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions:

A. 95% of Work completed (with the balance being retained). If the Work has been 50% completed as

determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER, on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed less the aggregate of payments previously made; and

B. 25% of cost of materials and equipment not incorporated in the Work (with the balance being retained).

2. Upon Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 100% of the Work completed, less such amounts as ENGINEER shall determine in accordance with paragraph 14.02.B.5 of the General Conditions.

6.03 *Final Payment:* Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

ARTICLE 7 - INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 1% per annum.

ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. CONTRACTOR has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in paragraph 4.06 of the General Conditions.

E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto

F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.

H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 *Contents:*

A. The Contract Documents consist of the following:

1. This Agreement;
2. Performance Bond;
3. Payment Bond;
4. Bid Bonds;
5. Engineering General Conditions noted as EJCDC No. 1910-8;
6. Supplementary Conditions;
7. Specifications as listed in the table of contents of the Project Manual;
8. Bid Form;
9. Drawings as listed in the table of contents of the Project Manual;
10. Addenda No. 1;
11. Exhibits this Agreements;
 1. Notice to Proceed;
 2. CONTRACTOR's Bid;
 3. Documentation submitted by the CONTRACTOR prior to the Notice of Award;
12. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

Written Amendments;
Work Change Directives;
Change Order(s).

B. The documents listed in paragraph 9.01 A are attached to this Agreement (except as expressly noted otherwise above).

- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 3.05 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 *Terms:* Terms used in this Agreement will have the meanings defined by Engineers Joint Contract Documents Committee STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT.

10.02 *Assignment of Contract:* No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns:* OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability:* Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

This Agreement will be effective on _____, 2022 (which is the Effective Date of the Agreement).

OWNER:

SOUTH OGDEN CITY CORPORATION

CONTRACTOR:

GRANITE CONSTRUCTION COMPANY

By: _____

By: _____

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

Attest _____

Address for giving notices:

Address for giving notices:

(If CONTRACTOR is a corporation or a partnership, attach evidence of authority to sign)

Designated Representative:

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

ORDINANCE NO. 22-14

AN ORDINANCE OF SOUTH OGDEN CITY, UTAH, REVISING AND AMENDING SOUTH OGDEN CITY CODE 10-5.1A AND 10-5.1B, DEFINING DRIVE-THROUGHS AND WHERE THEY ARE LOCATED; MAKING NECESSARY LANGUAGE CHANGES TO THE CITY CODE TO EFFECT THOSE CHANGES; AND ESTABLISHING AN EFFECTIVE DATE FOR THOSE CHANGES.

SECTION I - RECITALS:

WHEREAS, South Ogden City (“City”) is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code (“UC”) §10-3-717, and UC §10-3-701, the governing body of the city may exercise all administrative and legislative powers by resolution or ordinance; and,

WHEREAS, in conformance with the provisions of UCA §10-9a-501 the governing body of the city may enact a zoning ordinance establishing regulations for land use and development within the city; and,

WHEREAS, South Ogden City has previously adopted and promulgated a city zoning ordinance; and,

WHEREAS, the City Council finds that the Planning Commission has recommended certain changes to the city zoning ordinance as it pertains to Drive-Throughs; and,

WHEREAS, the City Council finds that South Ogden City Code, Title 10 and various of its subsections should be amended by adding new language governing these changes and related regulations for the city; and,

WHEREAS, the City Council finds that the requirements should be effective upon passage of this Ordinance; and,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, UTAH that the City Code be changed and amended:

Amended Section:

Upon the adoption of this Ordinance, Title 10 of the South Ogden City Code is readopted with the changes set out in **Attachment "A"**, which is incorporated herein, to read as indicated.

The foregoing recitals are incorporated herein.

SECTION II - REPEALER OF CONFLICTING ENACTMENTS:

All orders, ordinances and resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Ordinance, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part, repealed.

SECTION III - PRIOR ORDINANCES AND RESOLUTIONS:

The body and substance of any prior Ordinances and Resolutions, with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

SECTION IV - SAVINGS CLAUSE:

If any provision of this Ordinance shall be held or deemed or shall be invalid, inoperative or unenforceable such reason shall not render any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION V - DATE OF EFFECT

This Ordinance shall be effective on the 6th day of September, 2022, and after publication or posting as required by law.

DATED this 6th day of September, 2022.

SOUTH OGDEN CITY

Russell L. Porter, Mayor

ATTEST:

Leesa Kapetanov, CMC City Recorder

ATTACHMENT "A"

ORDINANCE NO. 22-14

An Ordinance Of South Ogden City, Utah, Revising And Amending South Ogden City Code 10-5.1a And 10-5.1b, Defining Drive-Throughs And Where They Are Located; Making Necessary Language Changes To The City Code To Effect Those Changes; And Establishing An Effective Date For Those Changes.

06 Sept 22

10-5.1A-3-1: Introduction

A. The following subdistricts are hereby created to regulate the location of distinct mixes of building forms and uses permitted within the City Center and 40th Street Corridor Districts. Refer to section 10-5.1A-4, "Uses," of this article for uses and section 10-5.1A-5, "Building Types," of this article for building types permitted within each subdistrict.

The following subdistricts have been created, and each consists of a series of uses and building types that have been specifically calibrated for the subdistrict.

1. City Center "Core": The City Center "Core" constitutes the center of the community and heart of the new City center, and includes the majority of the shops and workplaces within the City center. The storefront building type that comprises this subdistrict defines a street wall along the primary streets of the area with storefront glass windows. Upper stories of the storefront building may be utilized for living and working.
2. City Center "General": The City Center "General" Subdistrict serves as the interstitial fabric of the City, separate from the defined center or core and the edges. This area is primarily comprised by both the storefront building, and the more generic stoop building which have lower minimum transparency levels, and is mainly occupied by office, retail and residential uses at a variety of scales. [This subdistrict also permits drive-through facilities to allow more flexibility for auto oriented uses as described in 10-5.1A-5-11 F\).](#)
3. Riverdale Road "General": The Riverdale Road "General" Subdistrict serves as the interstitial fabric of the City, separate from the defined center or core and the edges.

This subdistrict also encourages and promotes outdoor sales lots. Adjustments to the general requirements should be made to ensure such uses remain viable. This area is primarily comprised by both the storefront building, and the more generic stoop building which have lower minimum transparency levels, and is mainly occupied by office, retail and residential uses at a variety of scales. This subdistrict also permits drive-through ~~facilities~~ ~~structures~~ and the limited bay building type to allow more flexibility for auto oriented uses.

4. 40th Street "General": The 40th Street "General" Subdistrict combines the storefront building and stoop building to create a corridor that supports a future transit line along 40th Street. Development along this corridor will be at a smaller scale and finer grain, in relation to the City center.
5. Edge Subdistricts: The Edge Subdistricts are made up of smaller scale residential buildings, which provide a buffer between existing single-family residential neighborhoods and the "Core" and "General" Subdistricts. (Ord. 17-12, 5-4-2017, eff. 5-4-2017)

10-5.1A-4-4: Definition Of Uses

TABLE 4.1(1)

USES BY SUBDISTRICT

Key:	
P	Permitted
P ²	Permitted with development standards
C	Requires a conditional use permit
Blank	Not permitted

Uses	Subdistricts				
	City Center "Core"	City Center "General"	Riverdale Road "General"	40th Street "General"	Edge
Residential and lodging:					
Residential	P	P	P	P	P

Hotel and inn	P	P	P	P	P ²
Group living arrangements	C	C	C	C	
Civic:					
Assembly	C	C	C	C	P ²
Transit station	P	P	P	P	P ²
Hospital and clinic	P	P	P	P	
Library/museum/Post Office (no distribution)	P	P	P	P	C
Police and fire	C	C	C	C	C
School	P	P	P	P	P
Retail:					
Neighborhood retail	P	P	P	P	
General retail	P	C	P		
Outdoor sales lot			C		
Medical cannabis pharmacy	P ²		P ²		
Service:					
Neighborhood service	P	P	P	P	
General service	P	C	C		
Vehicle service		C	P ²		
Office and industrial:					
Office	P	P	P	P	P ²
Craftsman industrial	P ²	P ²	P		
Non-retail industrial			P ²		
Infrastructure:					

Parking lot	P ²	P ²	P ²	P ²	
Parking structure	P ²	P ²	P ²	P ²	
Utility and infrastructure	C	C	C	C	
Open space	P ²	P ²	P ²	P ²	P ²
Accessory uses:					
Drive- thru through		P ²	P ²		
Home occupation	P	P	P	P	P
Parking lot	P	P	P	P	
Parking structure	P ²	P ²	P ²	P ²	
Outdoor storage of goods		P ²	P ²		
Temporary outdoor sales lot	P	P	P	P	
Beer and liquor:					
Class A license ¹	P		P		
Class B license ²	P	P	P	P	
Class C license ³	P	P	P	C	

Notes:

¹Class A: Beer and/or liquor served and consumed on or off premises (bar, tavern, microbrewery).

²Class B: Beer and/or liquor sold on premises, but on premises consumption is prohibited (convenience and grocery stores, State liquor stores).

³Class C: Beer and/or liquor may be served with a meal in a restaurant.

10-5.1A-4-2: Definition Of Uses

L. Accessory Uses: A category of uses that are not permitted to serve as the principal use on a zoning lot.

1. Drive-~~Thru~~Through: A use that allows customers to receive services or goods through a window while remaining stationary in their motor vehicles. A drive-thru does not include pumps at a gas station, or any other type of pick-up service (e.g., groceries or lumber) where the driver is required to leave the vehicle or where the

services and goods are delivered by other means than through a window. Refer to section 10-5.1A-5-11 of this article, for required drive-thru development standards.

10-5.1A-5-11: Additional Design Requirements

F. Drive-Through ~~Structures~~Facilities: Refer to figure 5.11(8) of this section for one illustration of the following requirements:

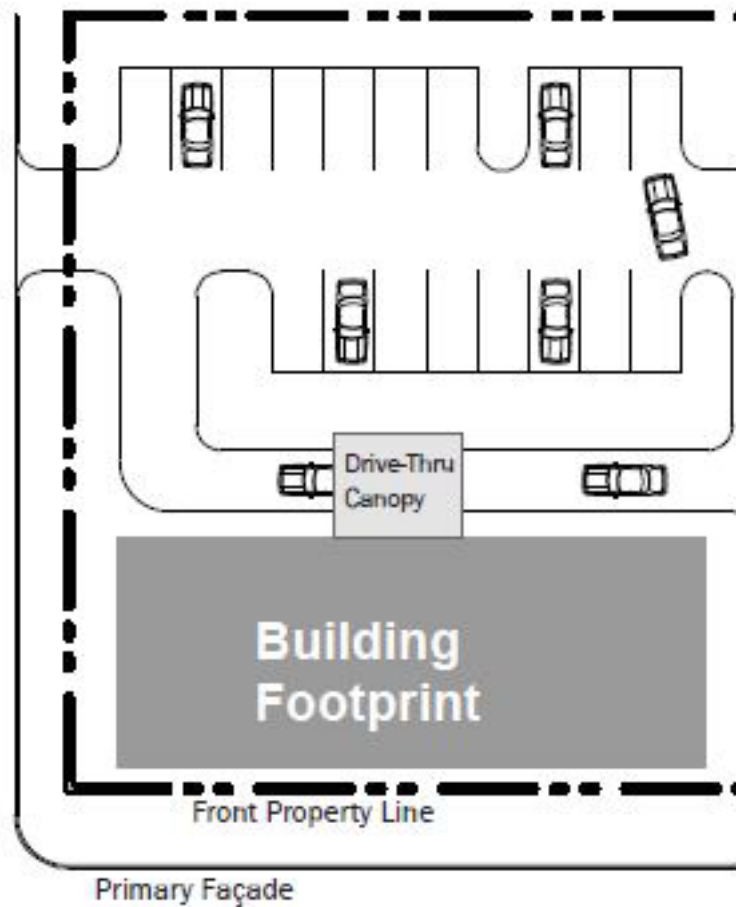
1. Application: Drive-through ~~structures~~facilities are only allowed in the Riverdale Road “General” Subdistrict.
2. ~~Structure/Canopy~~Drive-Through Facilities Description: Drive-through ~~structures or canopies~~facilities include any window as described in 10-5.1A-4-2(L)(1), whether it has a canopy or is located in a separate structure from the main building. Drive-through facilities shall be located on the rear facade of the building or in the rear of the lot behind the building, where permitted by use. The ~~structure~~facility shall not be visible from ~~any~~the primary street.
3. Stacking Lanes: Stacking lanes shall be located perpendicular to the primary facade or behind the building.
4. Canopy and Structure Material: The canopy and structure shall be constructed of the same materials utilized on the building.
5. For uses and lots that directly front any major street or gateway street (Riverdale Road, US-89/ Washington Boulevard, and Chimes View Drive), requirement 2 above does not apply, thereby permitting drive-through facilities to be located on one side façade or to the rear of a structure in zones where permitted by use.

~~4.6.~~Drive-through facilities are expressly prohibited on the front façade of any building.

7. City Center Core Subdistrict drive-through facilities located on the east side of Washington Boulevard from the north city boundary south to 3700 South shall be located on the rear facade of the building or in the rear of the lot behind the building.

FIGURE 5.11(8)

RECOMMENDED DRIVE-THROUGH FACILITY LAYOUT



[Note that Drive-through facilities may be permitted on the sides of buildings in some subdistricts – see 10-5.1A-5-11 F](#)

10-5.1A-11-2: City Center "General" Subdistrict

The city center "general" subdistrict serves as the interstitial fabric of the city, separate from the defined center or core and the edges. This area is primarily comprised by both the storefront building, and the more generic stoop building which have lower minimum transparency levels, and is mainly occupied by office, retail and residential uses at a variety of scales. Building heights range from one to five (5) stories. [This subdistrict also permits drive-through facilities to allow more flexibility for auto-oriented uses under special circumstances.](#)

10-5.1A-11-3: Riverdale Road "General" Subdistrict

The Riverdale Road "general" subdistrict serves as the interstitial fabric of the city, separate from the defined center or core and the edges. This area is primarily comprised by both the storefront building, and the more generic stoop building which have lower minimum transparency levels, and is mainly occupied by office, retail and residential uses at a variety of scales. This subdistrict also permits drive-through ~~structures~~ [facilities](#) and the limited bay building type to allow more flexibility for auto-oriented uses. Building heights range from one to four (4) stories.

10-5.1B-4-1: General Requirements

TABLE 4.1(1)

USES BY SUBDISTRICT

Key:	
P	Permitted
P ²	Permitted with development standards
C	Requires a conditional use permit
Blank	Not permitted

Uses	Gateway Core	Gateway General	Neighborhood Commercial	Gateway Edge
Residential and lodging:				
Residential	P	P	P	P
Hotel and inn	P	P	P	
Group living arrangement	C	C	C	
Civic:				
Assembly	P ²	P ²	P ²	P ²
Transit station	P	P	P	P ²
Hospital and clinic	P	P	P	C
Library/museum/Post Office (no distribution)	P	P	P	C
Police and fire	C	C	C	C
School	P	P	P	P
Retail:				
Neighborhood retail	P	P	P	
General retail	P	P	P ²	
Outdoor sales lot				
Sexually oriented business			P ²	
Medical cannabis pharmacy	P ²	P ²		
Service:				
Neighborhood service	P	P	P	
General service	P ²	C	C	
Vehicle service	P ²	C		
Office and industrial:				
Office	P	P	P ²	
Craftsman industrial	P	P	P	
Infrastructure:				
Parking lot	P ²	P ²	P ²	
Parking structure	P ²	P ²	P ²	
Utility and infrastructure	C	C	C	C
Open space	P ²	P ²	P ²	P ²
Accessory uses:				
Drive-through	P ²	P ²	P ²	
Home occupation	P	P	P	C
Parking lot	P	P	P	P
Parking structure	P ²	P ²	P ²	
Outdoor storage of goods	P ²	P ²	P ²	
Temporary outdoor sales lot	P	P	P	

Beer and liquor:				
Class A license ¹	P			
Class B license ²	P	P	P	
Class C license ³	P	P	P	

Notes:

¹Class A - Beer and/or liquor served and consumed on premises (bar, tavern, microbrewery).

²Class B - Beer and/or liquor sold on premises, but on-premises consumption is prohibited (convenience and grocery stores, State liquor stores).

³Class C - Beer and/or liquor may be served with a meal in a restaurant.

Refer to subsections 10-5.1B-4-2C1 and C2 of this section 10-5.1B-4 to determine which beer and liquor uses are allowed in neighborhood retail and general retail.

10-5.1B-4-2: Definition Of Uses

- L. Accessory Uses: A category of uses that are not permitted to serve as the principal use on a zoning lot.
 - 1. Drive-~~Thru~~Through: A use that allows customers to receive services or goods through a window while remaining stationary in their motor vehicles. A drive-thru does not include pumps at a gas station, or any other type of pick-up service (e.g., groceries or lumber) where the driver is required to leave the vehicle or where the services and goods are delivered by other means than through a window. Refer to section 10-5.1B-5-11 of this article, for required drive-thru development standards.

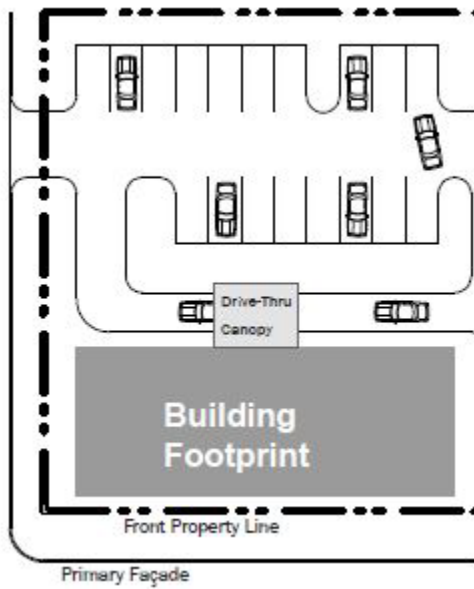
10-5.1B-5-11: Additional Design Requirements

- F. Drive-Through Structures: Refer to figure 5.11(8) of this section for one illustration of the following requirements.
 - 1. Application: Drive-through structures are only allowed in the Gateway Core, Gateway General, and Neighborhood Commercial Subdistricts.
 - 2. ~~Structure/Canopy~~Drive-Through Facilities Definition: Drive-through facilities ~~structures or canopies~~ include any window as described in 10-5.1A-4-2(L)(1), whether it has a canopy or is located in a separate structure from the main building. Drive-Through facilities shall be located on the rear facade of the building or in the rear of the lot behind the building, or side facades where permitted by use. ~~The structure shall not be visible from any primary street.~~
 - 3. Stacking Lanes: Stacking lanes shall be located perpendicular to the primary facade or behind the building.
 - 4. Canopy And Structure: The canopy and structure shall be constructed of the same materials utilized on the building.

4. [Drive-through facilities are expressly prohibited on the front façade of any building.](#)

FIGURE 5.11(8)

RECOMMENDED DRIVE-THROUGH FACILITY LAYOUT



[Note that Drive-through facilities may be permitted on the sides of buildings where permitted by use – see 10-5.1B-5-11 F](#)

STAFF REPORT



SUBJECT: Sign Code Amendments
AUTHOR: Leesa Kapetanov
DEPARTMENT: Administration
DATE: September 6, 2022

RECOMMENDATION

The Planning Commission recommends approval of the sign ordinance amendments.

BACKGROUND

Since implementation of the sign code in the Form Based Code, a few sign applications denied by staff have been appealed to the Hearing Officer. All the appeals had to do with allowing existing signs to remain even though the use of the building had changed and/or the existing sign type was no longer allowed in the zone. In all cases, the Hearing Officer ruled in favor of the applicant.

ANALYSIS

After the latest ruling by the Hearing Officer, staff determined that the sign code should be changed to better align with case law so that the time and money spent on appeals would be eliminated. The sign code was sent to the city attorney, who then forwarded it to a partner in his law firm who was very knowledgeable about signs and the laws governing them. The proposed changes were suggested by him. You will see that he reviewed the entire sign code, including what were once known as political and/or campaign signs, to which he made changes as well. They have now been placed under a category of sign known as "Expressive Signs", which are not as restrictive as previous campaign sign rules.

SIGNIFICANT IMPACTS

The changes should minimize appeals as well as any litigation having to do with signs.

ATTACHMENTS

Proposed Sign Code Changes

10-5.1A-10-4

D. Nonconforming Site Characteristics:

1. Intent: To establish regulations for the continuation of site characteristics, such as curb cut quantity, signage, parking, landscaping, or other nonstructural, physical characteristics of a site, that was legally constructed or installed prior to the approval or amendment of this article, but that cannot be created under the provisions of this article.
2. Restrictions To Continuation: A nonconforming site characteristic may continue based upon the following conditions:
 - a. Ten Percent Exception: A site characteristic is not considered nonconforming if the size of the nonconformance is ten percent (10%) or less of this article's requirement.
 - b. Change In Associated Use: The right to continue shall be terminated if the associated use changes or changes in intensity through such additions as an increase in the dwelling units, gross floor area, or capacity by fifteen percent (15%) or more.

Signs

1) Single or individual business signs within a multiple business center are exempt from this standard. A new tenant within a multiple business center is permitted to install an individual business sign even if the signage on the lot as a whole is nonconforming, provided that the new sign or signs does not ~~increase the~~ exceed forty (40) square feet and otherwise complies with all other sign requirements. ~~lot's nonconformance.~~

~~1)2)~~ Nonconforming signs may be continued through changes in associated use if the only changes to the sign are changes in sign copy, typography, symbols, and lettering, and the supporting structure of the sign remains unchanged. Nonconforming signs consisting of individual letters and symbols, with individual supporting structures or connections, may be continued through a change in associated use, and the letters and symbols and supporting structures may be changed or modified so long as the overall area and location occupied by the sign remains the same. To the extent possible, nonconforming signs and supporting structures that are changed shall comply with current sign and construction requirements.

~~2)3)~~ Signs with EMBs must be brought into conformance with section 10-5.1A-9-2 of this article by September 30, 2018, regardless of when the EMB sign was installed.

- c. Change In Associated Structure: The right to continue shall be terminated if the associated structure is altered to increase its gross floor area by fifteen percent (15%) or more.

- d. Abandonment: The right to continue shall be terminated if the associated use or structure, conforming or not, is abandoned for a period of twelve (12) consecutive months. [This also applies to signs.](#)

10-5.1B-10-4

D. Nonconforming Site Characteristics:

1. Intent: To establish regulations for the continuation of site characteristics, such as curb cut quantity, signage, parking, landscaping, or other nonstructural, physical characteristics of a site, that was legally constructed or installed prior to the approval or amendment of this article, but that cannot be created under the provisions of this article.
2. Restrictions To Continuation: A nonconforming site characteristic may continue based upon the following conditions:
 - a. Ten Percent Exception: A site characteristic is not considered nonconforming if the size of the nonconformance is ten percent (10%) or less of this article's requirement.
 - b. Change In Associated Use: The right to continue shall be terminated if the associated use changes or changes in intensity through such additions as an increase in the dwelling units, gross floor area, or capacity by fifteen percent (15%) or more.

Signs

- 1) Single or individual business signs within a multiple business center are exempt from this standard. A new tenant [within a multiple business center](#) is permitted to install an individual business sign even if the signage on the lot as a whole is nonconforming, provided that the new sign [or signs](#) does not ~~increase the~~ [exceed forty \(40\) square feet and otherwise complies with all other sign requirements.](#) ~~lot's nonconformance.~~

- ~~1)~~2) [Nonconforming signs may be continued through changes in associated use if the only changes to the sign are changes in sign copy, typography, symbols, and lettering, and the supporting structure of the sign remains unchanged. Nonconforming signs consisting of individual letters and symbols, with individual supporting structures or connections, may be continued through a change in associated use, and the letters and symbols and supporting structures may be changed or modified so long as the overall area and location occupied by the sign remains the same. To](#)

the extent possible, nonconforming signs and supporting structures that are changed shall comply with current sign and construction requirements.

~~2)~~3) Signs with EMBs must be brought into conformance with section 10-5.1A-9-2 of this article by September 30, 2018, regardless of when the EMB sign was installed.

- c. Change In Associated Structure: The right to continue shall be terminated if the associated structure is altered to increase its gross floor area by fifteen percent (15%) or more.
- d. Abandonment: The right to continue shall be terminated if the associated use or structure, conforming or not, is abandoned for a period of twelve (12) consecutive months. This also applies to signs.

10-21A-3: Applicability; Exemptions

This chapter shall apply to all signs erected in the City, except for the following signs, which shall be exempt from permit requirements:

- A. Traffic and other Municipal signs, house numbers, legal notices, railroad crossing signs, and danger and warning signs.
- B. Memorial tablets or tablets containing the name, date, erection and use of the buildings, when built into the walls of the buildings and constructed of bronze, brass, marble, stone or other incombustible materials.
- C. Non-Commercial Expressive Signs. This may include for-political, campaign, civic, philanthropic or service club, religious, charitable, educational, and any other non-commercial, expressive sign purposes or promotions not otherwise defined herein.
- D. Non-illuminated and non-floodlighted signs having an area not in excess of six (6) square feet on private property.
- E. Nonilluminated and nonfloodlighted commercial signs having an area not over thirty six (36) square feet announcing the destruction or construction or remodeling of a building or announcing the enterprise to be located in a building under construction or announcing the name and address of the architect or contractor of the building, or the owner thereof; provided, that not more than one such sign shall be erected on each street frontage; and also provided, that signs are erected not more than thirty (30) days prior to construction and are removed not more than thirty (30) days after completion.

~~Nonilluminated and nonfloodlighted religious, charitable and educational ground signs having an area not over twelve (12) square feet.~~

- F. Residential Rreal estate for sale signs with a maximum of six (6) square feet or for sale or lease signs for commercial properties no larger than thirty-six (36) square feet.

10-21C-20: Non-Commercial, Expressive~~Political Or Campaign~~ Signs

Non-Commercial, expressive signs may include Ppolitical, -or-campaign civic, philanthropic, service club, religious, charitable, educational, and other non-commercial expressive signs not otherwise defined herein. Non-Commercial, expressive signs are permitted under the following provisions: ~~provided that no such sign will be erected earlier than forty five (45) days prior to the election where the candidates or measure will be voted upon and shall be removed within five (5) days after such election, campaign or event, unless the election is a primary election, in which case candidates who stand through the primary election may leave their signs in place until five (5) days after the general election. The candidate or, in the case of a measure or proposition, the sponsoring entity or group, is responsible for removal of all signage and related materials.~~

A. In any zone where signs are permitted, non-commercial, expressive signs are permitted to the same extent and under the same conditions, including size, location, materials, and maximum signage area calculations, as any commercial sign allowed in that zone, with the following exceptions/requirements:

1. Non-commercial expressive signs are exempt from the requirement to obtain a sign permit.
2. Non-commercial, expressive signs may not exceed six feet (6') in height, twelve feet (12') in width, and the total signage allowed shall not exceed thirty six (36) square feet.

B. In any zone where signs are not otherwise permitted, stationary, unlighted, non-commercial, expressive signs are permitted, provided, that any such sign or signs shall not exceed six feet (6') in height, twelve (12) feet in width, and shall not exceed thirty six (36) square feet in area. The following rules will also apply:

1. Non-commercial, expressive political or campaign sign may not be placed in any clear view area or in such a manner as to create a safety hazard, block or obstruct any sidewalk, trail, road, or other right of way, or constitute a public nuisance.
2. Non-commercial, expressive signs shall not be placed on private property, or in the park strip area between the sidewalk and curb fronting on the private property, without the permission of the owner or full-time resident of the property.
3. No non-commercial, expressive sign may be placed in any clear view area or in such a manner as to create a safety hazard, block or obstruct any sidewalk, trail, road, or other right of way, or constitute a public nuisance.
4. No political or campaign sign shall be placed within one hundred fifty feet (150') from a polling place.

~~1. In any zone, no more than one stationary, unlighted, temporary sign per candidate is permitted on any lot or contiguous parcels of land under one ownership on behalf of candidates for public office or measures on the ballot; provided, that any such sign shall not exceed ten feet (10') in height and shall not exceed sixteen (16) square feet in area.~~

~~2.1. No political or campaign sign shall be placed within one hundred fifty feet (150') from a polling place.~~

~~3. No political or campaign sign may be placed in any clear view area or in such a manner as to create a safety hazard or constitute a public nuisance.~~

~~4. Political signs shall not be placed on private property without the property owner's permission. (Ord. 18-04, 5-15-2018, eff. 5-15-2018)~~

STAFF REPORT



SUBJECT: Sign Code Amendments
AUTHOR: Leesa Kapetanov
DEPARTMENT: Administration
DATE: September 6, 2022

RECOMMENDATION

The Planning Commission recommends approval of the sign ordinance amendments.

BACKGROUND

Since implementation of the sign code in the Form Based Code, a few sign applications denied by staff have been appealed to the Hearing Officer. All the appeals had to do with allowing existing signs to remain even though the use of the building had changed and/or the existing sign type was no longer allowed in the zone. In all cases, the Hearing Officer ruled in favor of the applicant.

ANALYSIS

After the latest ruling by the Hearing Officer, staff determined that the sign code should be changed to better align with case law so that the time and money spent on appeals would be eliminated. The sign code was sent to the city attorney, who then forwarded it to a partner in his law firm who was very knowledgeable about signs and the laws governing them. The proposed changes were suggested by him. You will see that he reviewed the entire sign code, including what were once known as political and/or campaign signs, to which he made changes as well. They have now been placed under a category of sign known as "Expressive Signs", which are not as restrictive as previous campaign sign rules.

SIGNIFICANT IMPACTS

The changes should minimize appeals as well as any litigation having to do with signs.

ATTACHMENTS

Proposed Sign Code Changes

10-5.1A-10-4

D. Nonconforming Site Characteristics:

1. Intent: To establish regulations for the continuation of site characteristics, such as curb cut quantity, signage, parking, landscaping, or other nonstructural, physical characteristics of a site, that was legally constructed or installed prior to the approval or amendment of this article, but that cannot be created under the provisions of this article.
2. Restrictions To Continuation: A nonconforming site characteristic may continue based upon the following conditions:
 - a. Ten Percent Exception: A site characteristic is not considered nonconforming if the size of the nonconformance is ten percent (10%) or less of this article's requirement.
 - b. Change In Associated Use: The right to continue shall be terminated if the associated use changes or changes in intensity through such additions as an increase in the dwelling units, gross floor area, or capacity by fifteen percent (15%) or more.

Signs

1) Single or individual business signs within a multiple business center are exempt from this standard. A new tenant within a multiple business center is permitted to install an individual business sign even if the signage on the lot as a whole is nonconforming, provided that the new sign or signs does not ~~increase the~~ exceed forty (40) square feet and otherwise complies with all other sign requirements. ~~lot's nonconformance.~~

~~1)2)~~ Nonconforming signs may be continued through changes in associated use if the only changes to the sign are changes in sign copy, typography, symbols, and lettering, and the supporting structure of the sign remains unchanged. Nonconforming signs consisting of individual letters and symbols, with individual supporting structures or connections, may be continued through a change in associated use, and the letters and symbols and supporting structures may be changed or modified so long as the overall area and location occupied by the sign remains the same. To the extent possible, nonconforming signs and supporting structures that are changed shall comply with current sign and construction requirements.

~~2)3)~~ Signs with EMBs must be brought into conformance with section 10-5.1A-9-2 of this article by September 30, 2018, regardless of when the EMB sign was installed.

- c. Change In Associated Structure: The right to continue shall be terminated if the associated structure is altered to increase its gross floor area by fifteen percent (15%) or more.

- d. Abandonment: The right to continue shall be terminated if the associated use or structure, conforming or not, is abandoned for a period of twelve (12) consecutive months. [This also applies to signs.](#)

10-5.1B-10-4

D. Nonconforming Site Characteristics:

1. Intent: To establish regulations for the continuation of site characteristics, such as curb cut quantity, signage, parking, landscaping, or other nonstructural, physical characteristics of a site, that was legally constructed or installed prior to the approval or amendment of this article, but that cannot be created under the provisions of this article.
2. Restrictions To Continuation: A nonconforming site characteristic may continue based upon the following conditions:
 - a. Ten Percent Exception: A site characteristic is not considered nonconforming if the size of the nonconformance is ten percent (10%) or less of this article's requirement.
 - b. Change In Associated Use: The right to continue shall be terminated if the associated use changes or changes in intensity through such additions as an increase in the dwelling units, gross floor area, or capacity by fifteen percent (15%) or more.

[Signs](#)

- 1) Single or individual business signs within a multiple business center are exempt from this standard. A new tenant [within a multiple business center](#) is permitted to install an individual business sign even if the signage on the lot as a whole is nonconforming, provided that the new sign [or signs](#) does not ~~increase the~~ [exceed forty \(40\) square feet and otherwise complies with all other sign requirements.](#) ~~lot's nonconformance.~~

- ~~1)~~2) [Nonconforming signs may be continued through changes in associated use if the only changes to the sign are changes in sign copy, typography, symbols, and lettering, and the supporting structure of the sign remains unchanged. Nonconforming signs consisting of individual letters and symbols, with individual supporting structures or connections, may be continued through a change in associated use, and the letters and symbols and supporting structures may be changed or modified so long as the overall area and location occupied by the sign remains the same. To](#)

the extent possible, nonconforming signs and supporting structures that are changed shall comply with current sign and construction requirements.

~~2)~~3) Signs with EMBs must be brought into conformance with section 10-5.1A-9-2 of this article by September 30, 2018, regardless of when the EMB sign was installed.

- c. Change In Associated Structure: The right to continue shall be terminated if the associated structure is altered to increase its gross floor area by fifteen percent (15%) or more.
- d. Abandonment: The right to continue shall be terminated if the associated use or structure, conforming or not, is abandoned for a period of twelve (12) consecutive months. This also applies to signs.

10-21A-3: Applicability; Exemptions

This chapter shall apply to all signs erected in the City, except for the following signs, which shall be exempt from permit requirements:

- A. Traffic and other Municipal signs, house numbers, legal notices, railroad crossing signs, and danger and warning signs.
- B. Memorial tablets or tablets containing the name, date, erection and use of the buildings, when built into the walls of the buildings and constructed of bronze, brass, marble, stone or other incombustible materials.
- C. Non-Commercial Expressive Signs. This may include for-political, campaign, civic, philanthropic or service club, religious, charitable, educational, and any other non-commercial, expressive sign purposes or promotions not otherwise defined herein.
- D. Non-illuminated and non-floodlighted signs having an area not in excess of six (6) square feet on private property.
- E. Nonilluminated and nonfloodlighted commercial signs having an area not over thirty six (36) square feet announcing the destruction or construction or remodeling of a building or announcing the enterprise to be located in a building under construction or announcing the name and address of the architect or contractor of the building, or the owner thereof; provided, that not more than one such sign shall be erected on each street frontage; and also provided, that signs are erected not more than thirty (30) days prior to construction and are removed not more than thirty (30) days after completion.

~~Nonilluminated and nonfloodlighted religious, charitable and educational ground signs having an area not over twelve (12) square feet.~~

- F. Residential Real estate for sale signs with a maximum of six (6) square feet or for sale or lease signs for commercial properties no larger than thirty-six (36) square feet.

10-21C-20: Non-Commercial, Expressive~~Political Or Campaign~~ Signs

Non-Commercial, expressive signs may include Ppolitical, -or-campaign civic, philanthropic, service club, religious, charitable, educational, and other non-commercial expressive signs not otherwise defined herein. Non-Commercial, expressive signs are permitted under the following provisions: ~~provided that no such sign will be erected earlier than forty five (45) days prior to the election where the candidates or measure will be voted upon and shall be removed within five (5) days after such election, campaign or event, unless the election is a primary election, in which case candidates who stand through the primary election may leave their signs in place until five (5) days after the general election. The candidate or, in the case of a measure or proposition, the sponsoring entity or group, is responsible for removal of all signage and related materials.~~

A. In any zone where signs are permitted, non-commercial, expressive signs are permitted to the same extent and under the same conditions, including size, location, materials, and maximum signage area calculations, as any commercial sign allowed in that zone, with the following exceptions/requirements:

1. Non-commercial expressive signs are exempt from the requirement to obtain a sign permit.
2. Non-commercial, expressive signs may not exceed six feet (6') in height, twelve feet (12') in width, and the total signage allowed shall not exceed thirty six (36) square feet.

B. In any zone where signs are not otherwise permitted, stationary, unlighted, non-commercial, expressive signs are permitted, provided, that any such sign or signs shall not exceed six feet (6') in height, twelve (12) feet in width, and shall not exceed thirty six (36) square feet in area. The following rules will also apply:

1. Non-commercial, expressive political or campaign sign may not be placed in any clear view area or in such a manner as to create a safety hazard, block or obstruct any sidewalk, trail, road, or other right of way, or constitute a public nuisance.
2. Non-commercial, expressive signs shall not be placed on private property, or in the park strip area between the sidewalk and curb fronting on the private property, without the permission of the owner or full-time resident of the property.
3. No non-commercial, expressive sign may be placed in any clear view area or in such a manner as to create a safety hazard, block or obstruct any sidewalk, trail, road, or other right of way, or constitute a public nuisance.
4. No political or campaign sign shall be placed within one hundred fifty feet (150') from a polling place.

~~1. In any zone, no more than one stationary, unlighted, temporary sign per candidate is permitted on any lot or contiguous parcels of land under one ownership on behalf of candidates for public office or measures on the ballot; provided, that any such sign shall not exceed ten feet (10') in height and shall not exceed sixteen (16) square feet in area.~~

~~2.1. No political or campaign sign shall be placed within one hundred fifty feet (150') from a polling place.~~

~~3. No political or campaign sign may be placed in any clear view area or in such a manner as to create a safety hazard or constitute a public nuisance.~~

~~4. Political signs shall not be placed on private property without the property owner's permission. (Ord. 18-04, 5-15-2018, eff. 5-15-2018)~~