



**NOTICE AND AGENDA
SOUTH OGDEN CITY COUNCIL
WORK SESSION**

TUESDAY, NOVEMBER 7, 2023, 5PM

Notice is hereby given that the South Ogden City Council will hold their regularly scheduled work session at 5 pm Tuesday, November 7, 2023. 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

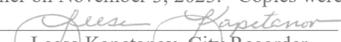
II. REVIEW OF AGENDA

III. DISCUSSION ITEMS

- A. Review of ADU Ordinance
- B. Dog Park

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 November 3, 2023. 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 24 hours in advance.



**SOUTH OGDEN
ACCESSORY
DWELLING UNIT
ORDINANCE
REVISIONS**

**City Council Work Session
7 November 2023**

ACCESSORY DWELLING UNITS (ADU)

For many Utahns, finding an affordable home is harder than ever. As a result, state policymakers have become increasingly involved in the search for solutions for improving access and supply of affordable housing.

ACCESSORY DWELLING UNITS (ADU)

Accessory dwelling units (ADUs) are small residential units that can be added to existing properties. The small size and location on existing properties make ADUs an attractive affordable housing

ADUs typically rent for hundreds of dollars less than apartments, and can be a good fit in lower-density residential neighborhoods with only limited impacts.

THE 3 TYPES OF ADUs

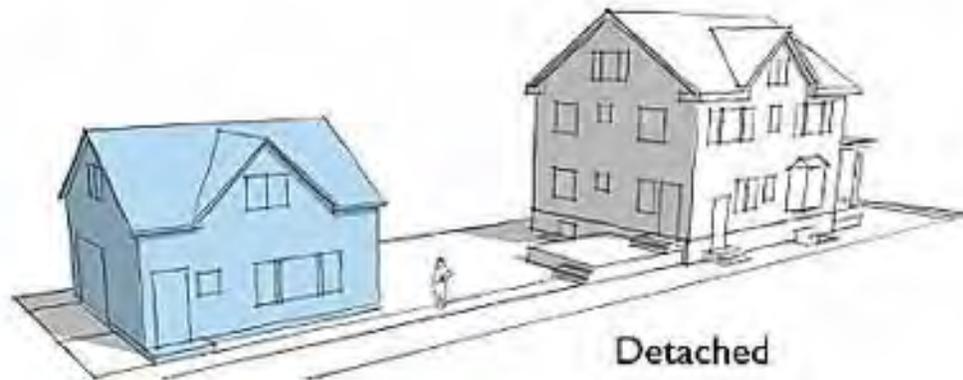
**ONLY INTERNAL ADUs
(IADUs) ARE CURRENTLY
PERMITTED IN SOUTH
OGDEN**



Internal



Attached



Detached

ADU EXAMPLES



- A** External ADU – Detached / Located in Rear Yard (New)
- B** External ADU – Detached / Located in Rear Yard (Converted Garage)
- C** External ADU – Detached / Located Above Side Yard Garage (Replaces Existing Garage)
- D** External ADU – Detached / Located Above Rear Yard Garage (New / Alley Access)



E External ADU – Detached / Located in Rear Yard (Converted Garage)

F External ADU – Attached to Primary Residence / Side Yard Addition

G External ADU – Detached / Located in Rear Yard



- H** Detached/Located in Rear Yard (Converted Garage)
- J** External ADU – Attached to Primary Residence / Rear Yard Addition
- K** Internal ADU – In Basement (Converted Attached Garage)
- L** Internal ADU – In Basement AND Detached/Located in Rear Yard (Converted Garage)

NOTE: Proposed code changes permit only one ADU on a single residential lot

PROS & CONS OF ADUS

PROS

Versatile Space & Form

ADUs may be located internally within the primary residence, attached to it, or detached as a stand-alone unit on the same lot

Value

Many studies indicate that having an ADU on your property adds value to the home

Income

A popular reason for building an ADU is the opportunity to generate rental income

PROS & CONS OF ADUS

CONS

Loss of Space

When using an existing space such as a garage or backyard area, you ultimately suffer the loss of that space

Cost

Building an ADU can be a considerable cost

Disruption

An ADU will affect the homeowners' daily life

UTAH ADU REGULATIONS

- Recent state legislation (2023) mandates that all Internal ADUs shall be permitted uses in all municipalities and counties
- The legislation removes IADU restrictions on unit size, lot size, street frontage requirements and internal
- Municipalities maintain some control regarding design, parking requirements, utilities, safety and occupancy requirements of IADUs

HOW OTHER MUNICIPALITIES ARE DEALING WITH ADUS

- **Staff previously reviewed ADU ordinances from 25 other Utah communities. A more detailed assessment of ADU trends has since been undertaken, with the following findings:**
 - Many communities consider ADUs low-impact opportunities that can help meet affordable housing targets
 - The general trend is to “go beyond” state statutes to include attached and detached ADUS
 - Most communities have removed all ADUs as a conditional use
 - A common concern is the maximum size of detached ADUs
 - Dealing with “grandfathered” ADUs and building code compliance are also concerns
 - Some communities with good transit and bus service have eliminated or reduced ADU parking requirements, floor area limits, and others are considering eliminating owner-occupancy mandates to encourage more ADUs

4 EXAMPLES

- **Recent and on-going ADU code modifications for four communities of comparable size have been specifically reviewed, each of which have also considered allowing attached and detached ADUs:**
 - **West Point**
 - **North Logan**
 - **Heber**
 - **Tremonton**

1-WEST POINT ADU ORDINANCE

- **Comprehensive revision of IADU ordinance allows all types of ADUs**
 - Internal
 - Attached
 - Detached
- **All are permitted (no conditional use requirements)**
- **Each type has slightly different site requirements**
 - IADU requirements are the least onerous, followed by attached ADUs

2- NORTH LOGAN ADU ORDINANCE

- **Comprehensive revision of IADU ordinance that allows Internal and Detached ADUs**
 - Attached ADU is not specified
- **IADUs are permitted according to state requirements**
- **Detached ADUs are permitted as a conditional use**
 - Detached accessory dwelling unit shall not exceed 50% of the building of the single-family dwelling, up to a maximum Gross Area of 1,000 square feet.
 - If the Accessory Dwelling Unit is built entirely over a garage for the primary structure, the entire structure shall not exceed a maximum Gross Area of 1,500 square feet.

3-HEBER ADU ORDINANCE

- **Does not specify the type of ADU that is permitted**
 - **internal, attached and detached ADUs are treated equally**
- **Requirements are simple and easy to understand**
- **Permit the largest ADUs of those investigated (up to 1,500 SF), as long as planning and building code requirements are met**

4-TREMONTON ADU ORDINANCE

- **Similar to North Logan Ordinance**
- **IADUs are permitted according to state requirements**
- **Detached are permitted as a conditional use**
 - Attached ADU is not specified
 - Detached accessory dwelling unit shall not exceed 50% of the primary residence, up to a maximum gross floor area of 1,000 square feet.
 - If the Accessory Dwelling Unit is built entirely over a garage for the primary structure, the entire structure shall not exceed a maximum gross area of 1,500 square feet.

COMPARISON OF EXISTING AND PROPOSED SOUTH OGDEN ADU ORDINANCE

CURRENT ADU CODE

Permits Internal Accessory Dwelling Units (ADUs)

- Not permitted on lots under 6,000 square feet.
- Limits the IADU to the footprint of the primary residence at the time of application.
 - Additions to accommodate an IADU are not allowed

PROPOSED REVISIONS

Permits Internal Accessory Dwelling Units (ADUs)

- No minimum lot size for internal ADUs if all applicable zoning and permitting requirements are met.
- No maximum size for internal ADUs if all applicable planning, zoning and permitting requirements are met.
- Internal ADU additions must meet the setback and height requirements of the primary building.

COMPARISON OF EXISTING AND PROPOSED SOUTH OGDEN ADU ORDINANCE

CURRENT ADU CODE

Attached ADUs not permitted



PROPOSED ADU CODE REVISIONS

Permits Attached ADUs

- No minimum lot size if all applicable zoning and permitting requirements are met.
- No maximum size for attached ADUs if all applicable planning, zoning and permitting requirements are met.
- Must meet setback and height requirements of the primary building.

COMPARISON OF EXISTING AND PROPOSED SOUTH OGDEN ADU ORDINANCE

CURRENT ADU CODE

Detached ADUs not permitted



PROPOSED ADU CODE REVISIONS

Permits Detached ADUs

- Residential lots greater than 10,000 square feet.
- Unit may not exceed 1,200 square feet.
- Must meet setback and height requirements of garages and other accessory buildings permitted in the specific zone.

COMPARISON OF EXISTING AND PROPOSED SOUTH OGDEN ADU ORDINANCE

CURRENT ADU CODE

- Only permitted in residential areas
- **Only one ADU within each single-family dwelling**
- Must be occupied by the owner of the property except for temporary bona-fide absences
- Must be clearly incidental to the primary dwelling
- Must have the same address as the main structure. **No allowance for a unit number indicated.**
- May not be used as a short-term rental.
- Must provide at least one off-street parking space in addition to required parking for the primary residence.

PROPOSED ADU CODE REVISIONS

- Only in residential areas of the city
- **Only one ADU on a single lot**
- Must be occupied by the owner of the property except for temporary bona-fide absences
- Must be clearly incidental to the primary dwelling
- Must have the same address as the main structure. **May designate ADU with a unit number.**
- May not be used as a short-term rental.
- Must provide at least one off-street parking space in addition to required parking for the primary residence.

COMPARISON OF EXISTING AND PROPOSED SOUTH OGDEN ADU ORDINANCE

CURRENT ADU CODE

- Only one meter per utility service under property owner's name.
- Constructed according to applicable building codes.
- Must include a kitchen and bathroom separate from those of the main dwelling.
- Building permit per code requirements.
- Rental Dwelling Business License required when renting unit for monetary compensation.
- May be inspected when building, fire, and health complaints are lodged.
- **Inspections and approvals by the City Building Inspector are not specified.**
- Must secure a Certificate of Occupancy.

PROPOSED ADU CODE REVISIONS

- Only one meter per utility service under property owner's name.
- Constructed according to applicable building codes.
- Must include a kitchen and bathroom separate from those of the main dwelling.
- Building permit per code requirements.
- Rental Dwelling Business License required when renting unit for monetary compensation.
- May be inspected when building, fire, and health complaints are lodged.
- **Requires inspections and approvals by the City Building Inspector.**
- Must secure a Certificate of Occupancy.

COMPARISON OF EXISTING AND PROPOSED SOUTH OGDEN ADU ORDINANCE

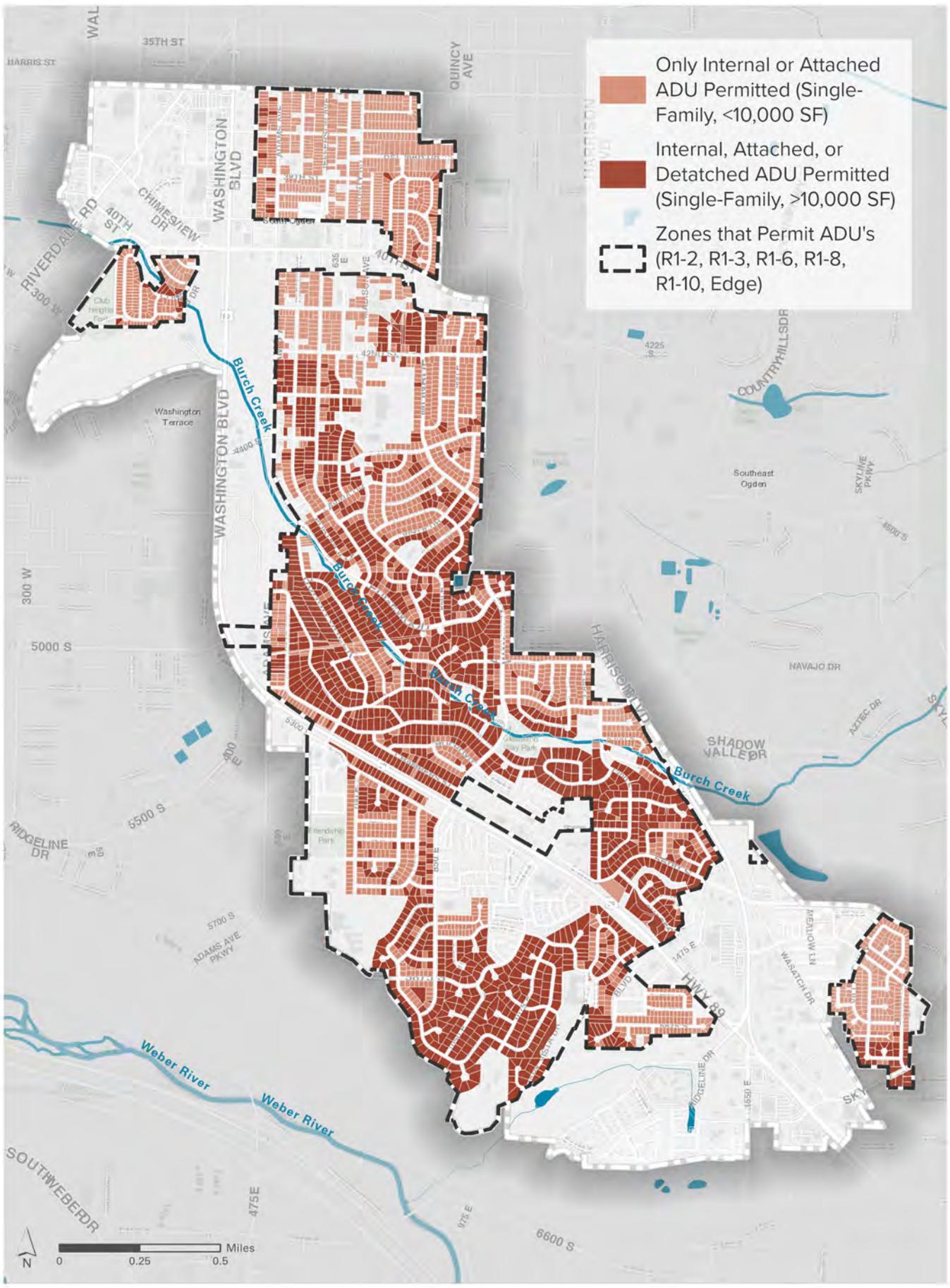
CURRENT ADU CODE

- No ADU existing prior to adoption of the ordinance may be "grandfathered" or considered legal solely because they were previously used as such.
- ADU ownership shall not be separated from the principal dwelling.
- Decision can be appealed to the Appeal Authority.
- Record of ADU is not required to be filed with Weber County

PROPOSED ADU CODE REVISIONS

- No ADU existing prior to adoption of the ordinance may be "grandfathered" or considered legal solely because they were previously used as such
- ADU ownership shall not be separated from the principal dwelling.
- Decision can be appealed to the Appeal Authority.
- ADU must be recorded with Weber County.

WHERE WILL ADUS BE ALLOWED?



- Only Internal or Attached ADU Permitted (Single-Family, <10,000 SF)
- Internal, Attached, or Detached ADU Permitted (Single-Family, >10,000 SF)
- Zones that Permit ADU's (R1-2, R1-3, R1-6, R1-8, R1-10, Edge)

0 0.25 0.5 Miles





NOTICE AND AGENDA SOUTH OGDEN CITY COUNCIL MEETING

TUESDAY, NOVEMBER 7, 2023, 6 PM

Notice is hereby given that the South Ogden City Council will hold their regularly scheduled council meeting at 6 pm Tuesday, November 7, 2023. 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 Howard

II. PRESENTATION

Jamie Healy – Spirit of South Ogden Awards

- III. **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.

IV. RESPONSE TO PUBLIC COMMENT

V. CONSENT AGENDA

- A. Approval of October 17, 2023 Council Minutes

VI. DISCUSSION / ACTION ITEMS

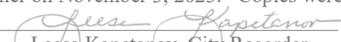
- A. Consideration of **Ordinance 23-20** – Amending South Ogden City Code Title 8 Chapter 5 Concerning Flood Damage Prevention to Bring It In Compliance With FEMA Requirements
- B. Consideration of **Resolution 23-42** – Approving an Agreement with Compass Minerals for Road Salt
- C. Consideration of **Resolution 23-43** – Ratifying Completed Work and Approving an Agreement with Royal Plumbing and Heat for HVAC Replacement at Station 82
- D. Consideration of Cancelling November 21, 2023 Council Meeting Due to Thanksgiving Holiday

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 November 3, 2023. 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 24 hours in advance.



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

TUESDAY, OCTOBER 17, 2023

WORK SESSION – 5 PM IN EOC ROOM

COUNCIL MEETING – 6 PM IN COUNCIL ROOM

WORK SESSION MINUTES

COUNCIL MEMBERS PRESENT

Mayor Russell Porter, Council Members Susan Stewart, Mike Howard, and Jeanette Smyth

COUNCIL MEMBERS EXCUSED

Brent Strate and Sallee Orr

STAFF MEMBERS PRESENT

City Manager Matt Dixon, Assistant City Manager Doug Gailey, Parks and Public Works Director Jon Andersen, Police Chief Darin Parke, Fire Chief Cameron West, Communications and Events Specialist Jamie Healy, and Recorder Leesa Kapetanov

OTHERS PRESENT

Eric Lee

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

https://cms7files.revize.com/southogden/document_center/Sound%20Files/2023/CC231017_1702.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 5:04 pm and entertained a motion to begin
00:00:00

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

35 **II. REVIEW OF AGENDA**

- 36 • No one requested review of agenda items

37
38
39

40 **III. DISCUSSION ITEMS**

41 **A. Strategic Plan Review**

- 42 • City Manager Matthew Dixon reviewed the strategic plan and gave the Council updates
43 on which items were being worked on

44 00:00:45

45 **B. Bird Scooters**

46 Mr. Dixon explained the trial contract with Bird Scooters had ended and it was now renewing
47 automatically. He asked if they wanted to continue allowing Bird Scooters to operate in the
48 city.

49 00:32:51

50
51

52 **IV. ADJOURN**

- 53 • At 5:44 pm, Mayor Porter called for a motion to adjourn the work session

54
55
56
57

Council Member Smyth so moved, followed by a second from Council Member Stewart. All present voted aye. 00:41:12

COUNCIL MEETING MINUTES

58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98

COUNCIL MEMBERS PRESENT

Mayor Russell L. Porter, Council Members Susan Stewart, Mike Howard, and Jeanette Smyth

COUNCIL MEMBERS EXCUSED

Brent Strate and Sallee Orr

STAFF MEMBERS PRESENT

City Manager Matthew Dixon, Assistant City Manager Doug Gailey, Finance Director Steve Liebersbach, Parks and Public Works Director Jon Andersen, Police Chief Darin Parke, and Recorder Leesa Kapetanov

MEMBERS OF THE PUBLIC PRESENT

Lauren Shafer, Ricky Hatch, Doug Stephens, Bryanna Collard, Dawn Parent, Kathryn Ruth

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

https://cms7files.revize.com/southogden/document_center/Sound%20Files/CC231017_1759.mp3

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

I. OPENING CEREMONY

A. Call To Order

- Mayor Porter called the meeting to order at 6:00 pm and asked for a motion to begin
00:00:00

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

- The mayor excused Council Members Orr and Strate who were attending to family matters
00:00:06

B. Prayer/Moment of Silence

- The mayor led those present in a moment of silence

C. Pledge Of Allegiance

- Council Member Stewart led everyone in the Pledge of Allegiance

99 **II. PRESENTATION**

- 100 • Weber County Clerk/Auditor Ricky Hatch and Lauren Shafer from the Weber County Elections
101 Office gave a presentation on the security of ballots during an election. See Attachment A.

102 00:00:56
103
104

105 **III. PUBLIC COMMENT**

- 106 • Doug Stephens 00:35:37 Commented on election security
- 107 • Kathryn Ruth 00:37:15 Requested the dog park be left open
- 108 • Dawn Parent 00:38:48 Requested the dog park be left open
- 109 • Breanna Collard 00:40:37 Asked if roadwork on Monroe was completed,
110 because there was still a lot of rocks remaining
111
112

113 **IV. RESPONSE TO PUBLIC COMMENT**

- 114 • Mayor Porter and staff responded to some of the public comments
115 00:41:23
116
- 117 • The mayor asked and was told there had been no online public comments
118 00:42:46
119
120
121

122 **V. CONSENT AGENDA**

- 123 A. Approval of October 3, 2023 Council Minutes
124 • The mayor asked if there were any corrections or comments for the minutes. No one
125 responded. He then called for a motion to approve the consent agenda.

126 00:42:50
127

128 **Council Member Smyth so moved. The motion was seconded by Council Member Howard.**
129 **The voice vote was unanimous in favor of the motion.**
130
131

132 **VI. PUBLIC HEARING**

133 To Receive and Consider Comments on Proposed Water Utility Rate Increase

- 134 • Mayor Porter invited Finance Director Steve Liebersbach to give an overview of the proposed
135 utility rate increase. Mr. Liebersbach used some spreadsheets as part of his presentation. See
136 Attachment B. 00:43:12
- 137 • The mayor called for a motion to enter into a public hearing to receive and consider comments
138 on the proposed water utility rate increase
139 00:58:49
140

141 Council Member Smyth so moved, followed by a second from Council Member Stewart. All
142 present voted aye.

143
144 • Mayor Porter informed those present that public comments had been received via email
145 concerning the rate increase. He shared some of the comments.

146 00:59:09

147 • Doug Stephens 01:02:07

148 • Online comment by JJ Payne, read by Assistant City Manager Doug Gailey

149 01:04:34

150 • After determining there were no more comments, the mayor called for a motion to close the
151 public hearing 01:08:39

152
153 Council Member Smyth so moved. Council Member Howard seconded the motion. The voice
154 vote was unanimous in favor of the motion.

155
156

157 **VII. DISCUSSION/ACTION ITEMS**

158 **A. Consideration of Ordinance 23-18 – Increasing Water Utility Rates**

159 • The mayor answered questions raised during the public hearing

160 01:08:50

161 • Questions/Discussion There was no discussion on this item.

162 • Comments by City Manager Matthew Dixon

163 01:11:11

164 • Mayor Porter called for a motion to adopt Ordinance 23-18

165 01:15:30

166
167 Council Member Howard so moved. The motion was seconded by Council Member
168 Smyth. The mayor asked if there was further discussion and seeing none, he made a roll
169 call vote:

170 Council Member Stewart - Yes

171 Council Member Smyth - Yes

172 Council Member Howard - Yes

173
174 Ordinance 32-18 was adopted.

175
176 **B. Consideration of Ordinance 23-19 – Amending South Ogden City Code to Allow Second**
177 **Driveways for Additional Off-Street Parking**

178 • Staff overview 01:15:48

179 • Questions/Discussion 01:16:29

180 • Mayor Porter called for a motion to approve Ordinance 23-19

181 01:20:16

182

183 Council Member Howard so moved. Council Member Smyth seconded the motion. After
184 determining there was no further discussion, the mayor called the vote:

185
186 Council Member Howard - Yes
187 Council Member Smyth - Yes
188 Council Member Stewart - Yes
189

190 The code amendments were approved.
191
192

193 **III. DISCUSSION ITEMS**

194 City Council Strategic Initiative 6.3- Create or Allow For, And Reduce Regulations Related To,
195 Internal or Detached Accessory Dwelling Units in Residential Zones

- 196 • Staff overview 01:20:36
197 • Discussion 01:24:53
198 • Council Member Howard requested this be put on a work session agenda so they could learn
199 more about it 01:26:39
200
201

202 **IX. REPORTS/DIRECTION TO CITY MANAGER**

- 203 A. City Council Members
204 • Council Member Stewart- 01:27:36
205 • Council Member Smyth- 01:28:00
206 • Council Member Howard- 01:28:20
207 B. City Manager- 01:29:26
208 C. Mayor- 01:32:48
209
210
211

212 **VI. ADJOURN**

- 213 • At 7:37 pm, the mayor called for a motion to adjourn.
214 01:36:50
215

216 Council Member Howard so moved, followed by a second from Council Member Stewart. All
217 present voted aye.
218
219

220 I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Work Session
221 and Council Meeting held Tuesday, October 17, 2023.
222

223 
224 Leesa Kapetanov, City Recorder

Date Approved by the City Council

225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267

Attachment A

Visual Presentation by Weber County Elections Office



WEBER ELECTIONS



Election Integrity

- Voter Registration
- Ballot Verification and Chain of Custody
- Scanning, Tabulation, and Equipment Security
- Voter Responsibility

AUDITED



Voter Records

Voter Database - Separation of duties



Clerks enter and manage data



Lt. Gov's office oversees and audits



Voter Verification



REQUIRED

- UT Drivers License/State ID # **OR** SSN #
 - **Verified** with the DLD and/or SSA
 - Unverifiable registrations are rejected
- Signature – up to **5 on file**

Records - Maintenance



- Check for Duplicate Registration
 - Within UT & in 28 other states
- Check for Deceased Voters
 - Notices from State, SSA, obituaries
- Automatic Updates from USPS
- National Change of Address
- Vote by Mail

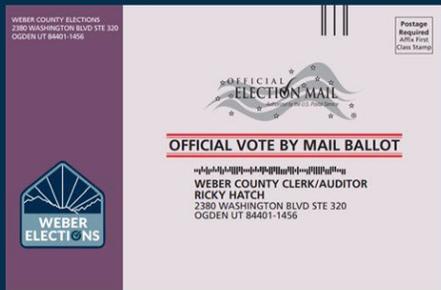


AUDITED

Ballot Undeliverable Rate	
<u>2013</u>	<u>2022</u>
20.0%	1.5%



Ballot Envelope – Security



Ballot Envelope - **Security**



- Remains **SEALED** during the entire verification process
- No personal or party information



Ballot Envelope – Security



Each ballot is assigned a **UNIQUE CONTROL NUMBER**

- Auto generated
- Specific to the voter, the election, & the ballot



**Lost
Soiled
Moved
Not received**



Ballot Envelope – Security



Replacement Ballots

- Original control number must be **DEACTIVATED**
- New control number generated
 - Won't generate if original is not deactivated

Envelope Sorter



BARCODE SCAN

Valid control number

Picture taken of voter's signature

Signature Verification



SIGNATURE REVIEW

- Envelope signature **compared** to up to 5 signatures on file
- Status assigned
 - **GOOD** = signatures match
 - **CHALLENGED** = no match or unsigned
- Challenged go through a **2nd and 3rd review** by Elections Staff

AUDITED



Signatures - Challenged

- **VOTERS NOTIFIED** (mail, text and email)
- Provided with a **cure letter and instructions**
 - Must sign and provide SSN or DL number
- If cure letter is returned & verified, **ballot is counted**.
 - **1.2%** of envelopes are Challenged. **60%** of these are returned

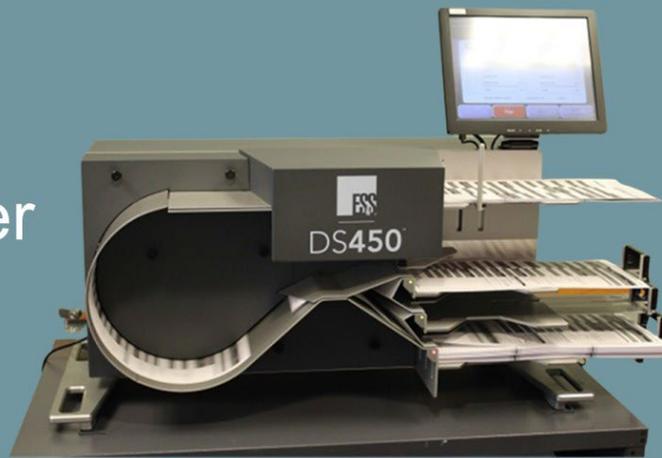
Ballot Processing – **Chain of Custody**



- Ballots grouped in batches w/audit card
- Workers initial card when processing
- Reconciliations throughout process
 - If discrepancy: stop process & rectify



Ballot Scanner ES&S DS450



Security Measures



Certified by EAC (United States Election Assistance Commission)



Never networked or **connected** to the Internet



No modem, Wi-Fi or Bluetooth capabilities



All software **updates** are done manually

Security seals – logged

Hash audits before and after use

Any activity by vendor must be scheduled, supervised, & logged

Voter Responsibility

- Update address
 - vote.utah.gov
 - dld.utah.gov
- Notify Election Office
 - Receive a ballot for someone that no longer lives at your address?
- Track your ballot status
 - USPS Informed Delivery
 - ballottrax.utah.gov

AUDITS



Standard element in election administration

Always performed:

- **Before** – in a publicly noticed meeting
- **During** – in full view of poll watchers
- **After** – in a publicly noticed meeting

RELIABLE INFORMATION



weberelections.gov

vote.utah.gov

Weber Elections



weberelections.gov

elections@weberelections.gov

801-399-8034



269

270

271

272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315

Attachment B

Spreadsheets Presented by Finance Director Steve Liebersbach

316
317
318

SOUTH OGDEN CITY FY 2024 UTILITY RATES

WATER USAGE LEVELS	WATER USAGE PRICE RATE PER LEVEL	SEWER USAGE LEVELS	SEWER USAGE PRICE RATE PER LEVEL	WATER BASE FEE	SEWER BASE FEE	GARBAGE RATE PER CAN	RECYCLIN G RATE PER CAN	RESIDENTIAL STORM DRAIN FEE
WATER USAGE LEVELS	Rate per 1000 Gallons	SEWER USAGE LEVELS	Rate per 1000 Gallonos	\$11.47	\$16.05	\$11.56	\$4.09	\$11.93
0- 3,999 GALLONS	\$1.43	0- 3,999 GALLONS	\$1.14					
4,000 - 7,999 GALLONS	\$3.15	4,000 - + GALLONS	\$4.77					
8,000 - 10,999 GALLONS	\$3.73							
11,000 - 15,999 GALLONS	\$4.29							
16,000 - + GALLONS	\$4.59							

No rate currently calculated

FY 2023 garbage went up 3 1/2%

DUPLEX STORM DRAIN FEE	4- PLEX STORM DRAIN FEE	COMMERCIAL STORM DRAIN PER ERU
\$17.88	\$23.83	\$11.93

Water Capital Projects

May 31, 2023 F/S Cash on Hand Balance:

\$2,712,579

Y-T-D **(\$458,645)**

		FY 2024 Budgeted	FY 2023 budget \$0.00 used
		\$0	\$50,000
51-40-707	PRV Scada install - 40th & 900 E		
51-40-709	Ben Lomond & Sunset	\$1,200,000	
51-40-711	Brier Point Loop	\$1,120,000	
51-40-712	38th Grant & Kiesel Loop	\$346,610	
			\$2,666,610
	FY 2025		
CAP PLAN	40th below Washington Blvd	\$514,329	
CAP PLAN	Chimes View below Washington Blvd	\$514,329	
			\$1,028,658
	FY 2026		
CAP PLAN	Porter Ave PRV (regular pit)	\$750,000	
CAP PLAN	Ben Lomond & Sunset	\$209,728	
CAP PLAN	Future planning studies	\$20,000	
			\$979,728
	FY 2027		
CAP PLAN	Replace 4" line w/8" Adams (3800 S & Sylvia)	\$85,140	
CAP PLAN	Replace 4" line w/8" Del Mar (Madison & 775 E)	\$89,700	
CAP PLAN	Replace 4" line w/8" Maple St 7 Madison Ave	\$214,260	
CAP PLAN	Replace 4" line w/8" Adams (Leona & 3700 S)	\$143,256	
	42nd Reconnect - WBWCD	\$813,000	
	Service Line Disconnect/Reconnect	\$50,000	
			\$1,395,356
	FY 2028		
CAP PLAN	Replace 4" w/8" on Leona (Adams & 3800 S)	\$168,318	
CAP PLAN	5800 S (1125 E to 5850 S)	\$180,942	
CAP PLAN	PRV (40th & Adams)	\$100,000	
CAP PLAN	Replace 6" w/8" on 900 E 5375 S	\$181,140	
CAP PLAN	Construct new PRV station 3850 S on Orchard	\$89,676	
CAP PLAN	Replace 14" w/14"D.1 on Country Hills Dr	\$439,320	
	900 E. (4200 S. to 4400 S.)	\$504,808	
	800 E. (5300 to 5600)	\$433,850	
	Briar Pointe (east and west roads)	\$489,000	
			\$2,587,054
	5 year requirements		\$8,657,406

10/17/2023

Base fee = \$14.33 no change tier I & includes 11% increase on other tiers

#1	Resident - current bill		New base fee w/usage		
A.	2,000 gallons of water used:	Current		Proposed	
	2 x \$1.43	\$2.86	1 x \$1.43	\$2.86	
	Base fee	\$11.47	Base fee	\$14.33	
	Total fee	\$14.33		\$17.19	
B.	1,500 gallons of sewer used:				
	2 x \$1.14	\$2.28	2 x \$1.14	\$2.28	
	Base fee	\$16.05	Base fee	\$16.05	
		\$18.33		\$18.33	
C.	Storm drain fee:	\$11.93		\$11.93	
D.	Road Improvement Fee:	\$5.52		\$5.52	
E.	Garbage	\$11.56		\$11.56	\$2.86
	Recycling	\$4.09		\$4.09	
		\$65.76		\$68.62	4.35%

#2	Resident - current bill		New base fee w/usage		
A.	8,000 gallons of water used:	Current		Proposed	
	3 x \$1.43	\$4.29	3 x \$1.43	\$4.29	
	4 x \$3.15	\$12.60	4 x \$3.50	\$14.00	
	1 x \$3.73	\$3.73	1 x \$4.14	\$4.14	
	0 x \$4.29	\$0.00	0 x \$4.76	\$0.00	
	0 x \$4.59	\$0.00	0 x \$5.09	\$0.00	
	Base fee	\$11.47	Base fee	\$14.33	
	Total fee	\$32.09		\$36.76	
B.	8,000 gallons of sewer used:				
	3 x \$1.14	\$3.42	3 x \$1.14	\$3.42	
	5 x \$4.77	\$23.85	5 x \$4.77	\$23.85	
		\$0.00		\$0.00	
	Base fee	\$16.05	Base fee	\$16.05	
		\$43.32		\$43.32	
C.	Storm drain fee:	\$11.93		\$11.93	
D.	Road Improvement Fee:	\$5.52		\$5.52	
E.	Garbage	\$11.56		\$11.56	\$4.67
	Recycling	\$4.09		\$4.09	
		\$108.51		\$113.18	4.30%

#3	Resident - current bill		New base fee w/usage		
A.	16,000 gallons of water used:	Current		Proposed	
	3 x \$1.43	\$4.29	3 x \$1.43	\$4.29	
	4 x \$3.15	\$12.60	4 x \$3.50	\$14.00	
	3 x \$3.73	\$11.19	3 x \$4.14	\$12.42	
	5 x \$4.29	\$21.45	5 x \$4.76	\$23.80	
	1 x \$4.59	\$4.59	1 x \$5.09	\$5.09	
	Base fee	\$11.47	Base fee	\$14.33	
	Total fee	\$65.59		\$73.93	
B.	16,000 gallons of sewer used:				
	3 x \$1.14	\$3.42	3 x \$1.14	\$3.42	

	13 x \$4.77	\$62.01			
		\$0.00			
	Base fee	\$16.05			
		<u>\$81.48</u>			
C. Storm drain fee:		\$11.93			
D. Road Improvement Fee:		\$5.52			
E. Garbage		\$11.56		\$8.34	4.61%
Recycling		\$4.90			
				<u>\$189.32</u>	

#4	Commercial - current bill		New base fee w/usage		
A. 146,000 gallons of water used:	Current		Proposed		
	3 x \$1.43	\$4.29	3 x \$1.43	\$4.29	
	4 x \$3.15	\$12.60	4 x \$3.50	\$14.00	
	3 x \$3.73	\$11.19	3 x \$4.14	\$12.42	
	5 x \$4.29	\$21.45	5 x \$4.76	\$23.80	
	131 x \$4.59	\$601.29	131 x \$5.09	\$666.79	
	Base fee	\$11.47	Base fee	\$14.33	
	Total fee	<u>\$662.29</u>		<u>\$735.63</u>	
B. 146,000 gallons of sewer used:					
	3 x \$1.14	\$3.42	3 x \$1.14	\$3.42	
	143 x \$4.77	\$682.11	143 x \$4.77	\$682.11	
		\$0.00		\$0.00	
	Base fee	\$16.05	Base fee	\$16.05	
		<u>\$701.58</u>		<u>\$701.58</u>	
C. Storm drain fee: 20.82 ERU		\$248.38		\$248.38	
D. Road Improvement Fee:		\$30.48		\$30.48	
E. Garbage		\$0.00		\$0.00	
Recycling		\$0.00		\$0.00	
				<u>\$73.34</u>	4.46%
		<u>\$1,642.73</u>		<u>\$1,716.07</u>	

SOUTH OGDEN CITY FY 2024 UTILITY RATES

	WATER USAGE PRICE RATE PER LEVEL	NEW USAGE RATES		SEWER USAGE PRICE RATE PER LEVEL	WATER BASE FEE	NEW WATER BASE FEE	SEWER BASE FEE	GARBAGE RATE PER CAN	RECYCLING RATE PER CAN	RESIDENTIAL STORM DRAIN FEE
	Rate per 1000 Gallons	Rate per 1000 Gallons	SEWER USAGE LEVELS	Rate per 1000 Gallons	\$11.47	\$14.33	\$16.05	\$11.56	\$4.09	\$11.93
1	0- 3,999 GALLONS	\$1.43	0- 3,999 GALLONS	\$1.14						
2	4,000 - 7,999 GALLONS	\$3.15	4,000 - + GALLONS	\$4.77						
3	8,000 - 10,999 GALLONS	\$3.73								
4	11,000 - 15,999 GALLONS	\$4.29								
5	16,000 - + GALLONS	\$4.59								

Water increase =

Base fee from \$11.47 to \$14.33
Tiers 2 - 5 have 11% increase

DUPLEX STORM DRAIN FEE	4- PLEX STORM DRAIN FEE	COMMERCIAL STORM DRAIN PER ERU
\$17.88	\$23.83	\$11.93

ORDINANCE NO. 23-20

AN ORDINANCE OF SOUTH OGDEN CITY, UTAH, REVISING AND AMENDING TITLE 8, CHAPTER 5 TO PROVIDE FOR COMPLIANCE WITH FEMA FLOOD PLAIN MANAGEMENT REQUIREMENTS; 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, the City Council finds that in conformance with UC §10-3-717, and UC §10-3-701, the governing body of the City has previously adopted a City Code which deals with water, sewer, and storm water matters and related issues; and

WHEREAS, the City Council finds that South Ogden City Code, at Title 8, and its various sections deal with water, sewer, and storm water matters within the City and is based on and adopted in conformance with the authority granted to the City by UC Title 10; and

WHEREAS, the City Council finds that it is in the public interest to manage and regulate the procedures governing water-related issues; and

WHEREAS, the City Council finds that South Ogden City Code, at Title 8, should be amended by adding new language to various sections as outlined below; and

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

WHEREAS, the City Council finds that the public safety, health and welfare is at issue and requires action by the City as noted above;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, UTAH THAT

City Code, Title 8, Be Changed And Amended To Add the Language As Set Out Below in the Following Code Sections. Any minor formatting adjustments may be applied to better conform with the general code without changing the text or meaning of this ordinance amendment.

8-5-2: Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

ALLUVIAL FAN FLOODING: Flooding on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX: A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREA OF SHALLOW FLOODING: A designated AO, AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent (1%) chance or greater annual chance of flooding to an average depth of one to three feet (3') where a defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed ratemaking has been completed to prepare for publication of the FIRM, zone A usually is refined into zone A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any year.

[BASE FLOOD ELEVATION \(BFE\): is the water surface elevation of the 1-percent-annual-chance flood event. It is the height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas. It is also the elevation shown on the FIRM and found in the accompanying Flood Insurance Study \(FIS\) for Zones A, AE, AH, A1-A30, AR V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1-percent chance of equaling or exceeding that level in any given year.](#)

BASEMENT: Any area of the building having its floor subgrade (below ground level) on all sides.

CRITICAL FEATURE: An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT: Any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING: A nonbasement building: a) built for buildings in zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or for a building in zone V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and b) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. For

zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated with fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. For zone V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed with breakaway walls if the breakaway walls met the standards of section 60.3(e)(5) of the national flood insurance program regulations.

EXISTING CONSTRUCTION: To determine rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, constructing streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by constructing facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, constructing streets, and either final site grading or the pouring of concrete pads).

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the federal emergency management agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: The official report provided by the federal emergency management agency. The report contains flood profiles, water surface elevation of the base flood, and the flood boundary-floodway map.

FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD PROTECTION SYSTEM: Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODPLAIN MANAGEMENT: The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain

ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for flood damage prevention and reduction.

FLOODPLAIN OR FLOOD PRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of Flood Or Flooding).

FLOODPROOFING: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY): The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FUNCTIONALLY DEPENDENT USE: A use which cannot perform its intended purpose unless it is located or carried out near water. The term includes only docking facilities, port facilities necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE: Any structure that is:

- A. Listed individually in the national register of historic places (a listing maintained by the department of the interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
- B. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the secretary of the interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs certified either:
 - 1. By an approved state program as determined by the secretary of the interior; or
 - 2. Directly by the secretary of the interior in states without approved programs.

LEVEE: A manmade structure, usually an earthen embankment, designed and constructed under sound engineering practices to contain, control, or divert the flow of water to provide protection from temporary flooding.

LEVEE SYSTEM: A flood protection system which comprises a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated under sound engineering practices.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided

that such enclosure is not built to render the structure in violation of the applicable nonelevation design requirement of section 60.3 of the national flood insurance program regulations.

MANUFACTURED HOME: A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

MEAN SEA LEVEL: Means, for the national flood insurance program, the national geodetic vertical datum (NGVD) of 1929 or other datum, to which base flood elevations on a community's flood insurance rate map are referenced.

NEW CONSTRUCTION: Means, to determine insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, constructing streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE: A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred (400) square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION: For other than new construction or substantial improvements under the coastal barrier resources act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, constructing columns, or any work beyond the stage of excavation; or placing a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration

of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE: A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, and a manufactured home.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications identified by the local code enforcement official and which are the minimum necessary conditions, or
- B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE: A grant of relief to a person from the requirement of this chapter when enforcement would cause unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements see section 60.6 of the national flood insurance program regulations.)

VIOLATION: The failure of a structure or other development to fully comply with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until that documentation is provided.

WATER SURFACE ELEVATION: The height, in relation to the national geodetic vertical datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 15-14, 6-2-2015, eff. 6-2-2015)

8-5-5 Specific Standards

- B. In all areas of special flood hazards where base flood elevation data has been provided as set forth in: 1) subsection 8-5-3B of this chapter, 2) subsection 8-5-4B8 of this chapter, or 3) subsection C3 of this section, the following provisions are required:
 - 1. Residential Construction: New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to

or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in subsection 8-5-4C1a of this chapter, is satisfied.

2. Nonresidential Construction: New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) ~~elevated 1 foot~~ ~~elevated to or~~ above the base flood ~~elevation level~~ or with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.
3. Enclosures: New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b) The bottom of all openings shall be no higher than one foot (1') above grade.
 - c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. ~~3.~~ Manufactured Homes:
 - a) Require that all manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is besides applicable state and local anchoring requirements for resisting wind forces.
 - b) Require that manufactured homes placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM on sites: 1) outside of a manufactured home park or subdivision, 2) in a new manufactured home park or subdivision, 3) in an expansion to an existing manufactured home park or subdivision, or 4) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" because of a flood, be elevated on a permanent foundation such that

the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with zones A1-30, AH and AE on the community's FIRM not subject to this subsection B4 be elevated so that either:
 - 1) The lowest floor of the manufactured home is at or above the base flood elevation, or
 - 2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty six inches (36") in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 5. Recreational Vehicles: Require that recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's FIRM either:
 - a) Be on the site for fewer than one hundred eighty (180) consecutive days,
 - b) Be fully licensed and ready for highway use, or
 - c) Meet the permit requirements of subsection 8-5-4C1 of this chapter, and the elevation and anchoring requirements for "manufactured homes" in subsection B4 of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

8-5-5 Floodways

E. Floodways within areas of special flood hazard established in subsection 8-5-3B of this chapter, are areas designated as floodways. Since the floodway is a hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

~~B.1.~~ South Ogden City shall designate a regulatory floodway that will not increase the base flood elevation more than 1 foot.

~~1.2.~~ Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed under standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.

~~2.3.~~ If subsection E1 of this section is satisfied, all new construction and substantial improvements shall comply with all flood hazard reduction provisions of this section.

~~3.4.~~ Under 44 CFR chapter 1, section 65.12, of the national flood insurance regulations, a community may permit encroachments within the adopted regulatory floodway that would cause an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

F. Automatic Adoption: South Ogden City automatically adopts all FEMA flood insurance rate maps (FIRMS), and automatically adopts all FEMA flood insurance studies (FIS). (Ord. 15-14, 6-2-2015, eff. 6-2-2015)

8-5-7: Severability

1. If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

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 are in conflict with this Ordinance, are, to the extent of 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 and all 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 have the effect of rendering 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 signing and publication or posting as required by law.

DATED this 7th day of November, 2023.

SOUTH OGDEN CITY, a municipal corporation

by: _____
Mayor Russell Porter

Attested and recorded

Leesa Kapetanov, MMC
City Recorder

STAFF REPORT



SUBJECT: Agreement With Compass Minerals
AUTHOR: Jon Andersen
DEPARTMENT: Public Works
DATE: 11-7-23

RECOMMENDATION

South Ogden City staff recommends the approval of the agreement with Compass Minerals for the purchase and delivery of Type C road salt.

BACKGROUND

The award of this bid will allow South Ogden City Public Works to have Type C road salt delivered to the shop within 48 hours of a request. The Type C road salt is used during the winter months to de-ice the roads and make them safe for travel. This contract will allow South Ogden City to purchase up to 2000 tons of Type C road salt through October 31, 2024. Over the last few years South Ogden City has purchased on average between 1200-1500 tons of Type C road salt. 2023 was an exception due to the fact that South Ogden ordered approximately 2600 tons. This is the most cost effective way for South Ogden City to maintain a good level of road salt for use during the winter months. This is the third year to purchase salt through the cooperative state contract. Compass Minerals has been the vendor for South Ogden City for the past several years. This contract is a State of Utah contract and is very competitively priced. This contract can be extended yearly through August 31, 2026.

ANALYSIS

The State of Utah has completed the competitive bid process, this contract allows South Ogden City to participate and receive goods according to the contract. Please see the attached State Contract information.

SIGNIFICANT IMPACTS

Money has been budgeted for this agreement in the Streets budget.

ATTACHMENTS

Resolution No. 23-42

A RESOLUTION APPROVING AN AGREEMENT WITH COMPASS MINERALS FOR PURCHASE OF ROAD SALT; AUTHORIZING THE CITY MANAGER TO SIGN ANY AND ALL NECESSARY DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE

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

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

WHEREAS, the City Council finds that purchase of road salt for winter is an ongoing necessity within the city; and,

WHEREAS, the City Council finds that to ensure the effective and efficient utilization of city resources and to provide for safe utilization of city roadways during winter storms, that purchase of road salt is necessary and these actions are in the best interest of the city; and,

WHEREAS, the City Council finds that the state of Utah has solicited bids for road salt and the successful low bidder, and the purchase conditions, are set out in Attachment “A”; and,

WHEREAS, the City Council finds that the City is authorized under state law to “piggyback” this final state bid award, and execution of any required agreement between the city and the successful bidder in furtherance of these ends requires an authorized signature from the city; and,

WHEREAS, the City Council finds the City Manager is the chief administrative officer of the City and should be authorized to enter into such an agreement on behalf of the city; and,

WHEREAS, the City Council finds it is in the best interest of the city and its residents to enter into such an agreement with Compass Mineral for the purchase of this needed road salt,

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

SECTION 2 - CONTRACT AUTHORIZED

The City Council Of South Ogden City, State Of Utah, Authorizes And Approves The Entry Into A Purchase Agreement For Road Salt For The City’s Road Surface Winter Maintenance Program With Compass Minerals In As Much As They Were The Successful Bidder Under The State Of Utah’s Procurement

Policies, As Set Out In **Attachment "A"**, And Since The City Is Authorized To “Piggyback” On This State Contract, And Authorizes The City Manager To Negotiate And Resolve Any Additional Terms To Any Agreement That May Be Necessary To Give Effect To The Intent Of This Resolution, And To Sign Said Agreements; And Authorizes The City Recorder To Attest All Documents Necessary To Confirm That The City Manager Has Been Duly Authorized To Execute Those Documents.

The foregoing recitals are fully incorporated.

BE IT FURTHER RESOLVED this Resolution shall become effective immediately upon its passage.

SECTION 3 - REPEALER OF CONFLICTING ENACTMENTS:

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

SECTION 4 - PRIOR 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 5 - SAVINGS CLAUSE:

If any provision of this Resolution shall be held or deemed to be or shall be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution being deemed to be 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 7th day of November, 2023, 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 7th day of November, 2023.

SOUTH OGDEN CITY

Russell Porter, Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT “A”

Resolution No. 23-42

A Resolution Approving An Agreement With Compass Minerals For Purchase Of Road Salt; Authorizing The City Manager To Sign Any And All Necessary Documents; And Providing For An Effective Date

07 Nov 23



STATE OF UTAH COOPERATIVE CONTRACT

1. **CONTRACTING PARTIES:** This contract is between the Utah Division of Purchasing and the following Contractor:
Compass Minerals America Inc.

Name

PO Box 277043

Street Address

Atlanta

Georgia

30384

City

State

Zip

Vendor # 47263I Commodity Code #: 46160 Legal Status of Contractor: For-Profit Corporation

Contact Name: Teresa Wilde Phone Number: +1 800-323-1641 Email: highwaygroup@compassminerals.com

2. **CONTRACT PORTFOLIO NAME:** Road Salt.

3. **GENERAL PURPOSE OF CONTRACT:** Snow Removal.

4. **PROCUREMENT:** This contract is entered into as a result of the procurement process on FY21. Solicitation# RS21-102

5. **CONTRACT PERIOD:** Effective Date: Wednesday, September 01, 2021. Termination Date: Monday, August 31, 2026 unless terminated early or extended in accordance with the terms and conditions of this contract.

6. **Administrative Fee (if any):** One Half of One Percent (or 0.50%).

7. **Prompt Payment Discount Details (if any):** N/A.

8. **ATTACHMENT A:** Standard Terms and Conditions for Goods
ATTACHMENT B: Scope of Work
ATTACHMENT C: Pricing
ATTACHMENT D: N/A

Any conflicts between Attachment A and the other Attachments will be resolved in favor of Attachment A.

9. **DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:**

- a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
- b. Utah Procurement Code, Procurement Rules, and Contractor's response to solicitation #RS21-102.

10. Each person signing this Agreement represents and warrants that he/she is duly authorized and has legal capacity to execute and deliver this Agreement and bind the parties hereto. Each signatory represents and warrants to the other that the execution and delivery of the Agreement and the performance of each party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on the parties and enforceable in accordance with its terms.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided within Section 5 above.

CONTRACTOR

DIVISION OF PURCHASING

9/7/21
Date

09/08/2021
Date

Contractor's signature

Director, Division of Purchasing

Date

Teresa Wilde - Sales Manager
Type or Print Name and Title

**ATTACHMENT A: STANDARD TERMS AND CONDITIONS FOR GOODS
STATE OF UTAH COOPERATIVE CONTRACTS**

This is a State of Utah Cooperative Contract ("State Cooperative Contract") for goods meaning all things (including specially manufactured goods) which are tangible and usually movable. This State Cooperative Contract is the result of a cooperative procurement for the benefit of Eligible Users and may be used by Eligible Users.

- 1. DEFINITIONS:** The following terms shall have the meanings set forth below:
- a) "**Confidential Information**" means information that is deemed as confidential under applicable state and federal laws, including personal information. The Eligible Users shall have the right to identify, during and after this Contract, additional types of categories of information that must be kept confidential under federal and state laws by Contractor.
 - b) "**Contract**" means either: (i) the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference, or (ii) the Solicitation and the Proposal when accepted and signed by the Division. The format of the Contract, as described in the prior sentence, will be at the sole option of the Division. Additionally, the term "Contract" may include any purchase orders issued by the Division that result from this Contract.
 - c) "**Contract Signature Page(s)**" means the State of Utah cover page(s) that the Division and Contractor sign.
 - d) "**Contractor**" means the individual or entity delivering the Goods identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, and partners.
 - e) "**Custom Deliverable**" means the Work Product that Contractor is required to deliver to the Eligible User under this Contract.
 - f) "**Division**" means the State of Utah Division of Purchasing.
 - g) "**Eligible User(s)**" means those authorized to use State Cooperative Contracts and includes the State of Utah's government departments, institutions, agencies, political subdivisions (e.g., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts.
 - h) "**End User Agreement**" means any agreement that Eligible Users are required to sign in order to participate in this Contract, including an end user agreement, customer agreement, memorandum of understanding, statement of work, lease agreement, service level agreement, or any other named separate agreement.
 - i) "**Goods**" means all types of tangible personal property (commodities), including but not limited to materials, supplies, Custom Deliverable, and equipment that Contractor is required to deliver to the State Entity under this Contract. To the extent this Contract entails delivery or performance of services (including maintenance, installation, or product support), such services will be deemed "Goods" within the meaning of the Utah Uniform Commercial Code when reasonable to do so.
 - j) "**Proposal**" means Contractor's response to the Division's Solicitation.
 - k) "**Solicitation**" means the documents used by the Division to obtain Contractor's Proposal.
 - l) "**State of Utah**" means the State of Utah, in its entirety, including its departments, institutions, agencies, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
 - m) "**Subcontractors**" means subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Contractor, and includes all independent contractors, agents, employees, authorized resellers, or anyone else for whom the Contractor may be liable at any tier, including a person or entity that is, or will be, providing or performing an essential aspect of this Contract, including Contractor's manufacturers, distributors, and suppliers.
 - n) "**Work Product**" means every invention, modification, discovery, design, development, customization, configuration, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by Contractor or Contractor's Subcontractors (either alone or with others) pursuant to this Contract. Work Product shall be considered a work made for hire under federal, state, and local laws; and all interest and title shall be transferred to and owned by the Eligible User. Notwithstanding anything in the immediately preceding sentence to the contrary, Work Product does not include any Eligible User intellectual property, Contractor's intellectual property (that it owned or licensed prior to this Contract) or Third Party intellectual property.
- 2. GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- 3. LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Procurement Items delivered and/or performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. If this Contract is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding, including CFR Appendix II to Part 200, will supersede this Attachment A.
- 4. RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by Eligible Users to Contractor under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, State of Utah auditors, federal auditors, Eligible Users or any firm identified by the Division, access to all such records. Contractor must refund to the Division any overcharges brought to Contractor's attention by the Division or the Division's auditor and Contractor is not permitted to offset identified overcharges by alleged undercharges to Eligible Users.

5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** This "Status Verification System" requirement, also referred to as "E-Verify", only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.
 1. Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 2. Contractor shall require that each of its Subcontractors certify by affidavit, as to their own entity, under penalty of perjury, that each Subcontractor has registered and is participating in the Status Verification System to verify the work eligibility status of Subcontractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 3. Contractor's failure to comply with this section will be considered a material breach of this Contract.
6. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the Division or of the State of Utah, unless disclosure has been made to the Division.
7. **INDEPENDENT CONTRACTOR:** Contractor and Subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers, employees, or agents of the State Entity or the State of Utah.
8. **INDEMNITY:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless the Division, the Eligible Users, and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract to the extent caused by any intentional wrongful act or negligence of Contractor, its agents, employees, officers, partners, or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the fault of the Division, Eligible Users, or the State of Utah. The parties agree that if there are any limitations of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property.
9. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by the following employment laws: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90, which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order 2019-1, dated February 5, 2019, which prohibits unlawful harassment in the workplace. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees.
10. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, provided that the amendment is within the Scope of Work of this Contract and is within the scope/purpose of the original solicitation for which this Contract was derived. The amendment will be attached and made part of this Contract. Automatic renewals will not apply to this Contract, even if listed elsewhere in this Contract.
11. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, or declared ineligible by any governmental department or agency, whether international, national, state, or local. Contractor must notify the State Entity within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.
12. **TERMINATION:** This Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and subject to the remedies below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by the Division, upon thirty (30) days written termination notice being given to the Contractor. The Division and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing.

On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved and conforming Goods ordered prior to date of termination. In no event shall the Division or Eligible Users be liable to the Contractor for compensation for any Good neither requested nor accepted by the Eligible Users. In no event shall the Division's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the Division or the Eligible Users for any damages or claims arising under this Contract.
13. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the Division, if the Division reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects the Divisions or the Eligible User's ability to pay Contractor. A change of available funds as used in this paragraph includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.

If a written notice is delivered, the Eligible User will reimburse Contractor for the Goods properly ordered until the effective date of said notice. The Division, the Eligible User, and the State of Utah will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.
14. **SALES TAX EXEMPTION:** The Goods under this Contract will be paid for from the Eligible User's funds and may be used in the exercise of the Eligible User's essential functions. Upon request, the Eligible User will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request the Eligible User's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Contract.

15. **WARRANTY:** Contractor warrants, represents and conveys full ownership, and clear title, free of all liens and encumbrances to the Goods delivered to the Eligible Users under this Contract. Contractor warrants for a period of one (1) year that: (i) the Goods perform according to all specific claims that Contractor made in its Proposal to the Solicitation; (ii) the Goods are suitable for the ordinary purposes for which such Goods are used; (iii) the Goods are suitable for any special purposes identified in the Proposal and the Solicitation; (iv) the Goods are designed and manufactured in a commercially reasonable manner; (v) the Goods are manufactured and in all other respects create no harm to persons or property; and (vi) the Goods are free of defects. Unless otherwise specified in the Contract, all Goods provided shall be new and unused of the latest model or design.

Remedies available to Eligible Users under this section include, but are not limited to, the following: Contractor will repair or replace Goods (at no charge to the Eligible User) within ten (10) days of any written notification informing Contractor of the Goods not performing as required under this Contract. If the repaired and/or replaced Goods prove to be inadequate, or fail its essential purpose, Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the Eligible User may otherwise have under this Contract.

16. **CONTRACTOR'S INSURANCE RESPONSIBILITY.** The Contractor shall maintain the following insurance coverage:
- Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
 - Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and three million dollars (\$3,000,000.00) aggregate.
 - Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.
 - Other insurance policies required in the Solicitation.

Certificate of Insurance, showing up-to-date coverage, shall be on file with the State before the Contract may commence.

The State reserves the right to require higher or lower insurance limits where warranted. Failure to provide proof of insurance as required will be deemed a material breach of this Contract. Contractor's failure to maintain this insurance requirement for the term of this Contract will be grounds for immediate termination of this Contract.

17. **LARGE VOLUME DISCOUNT PRICING:** Eligible Users may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible User for large volume purchases.
18. **ELIGIBLE USER PARTICIPATION:** Participation under this Contract by Eligible Users is voluntarily determined by each Eligible User. Contractor agrees to supply each Eligible User with Goods based upon the same terms, conditions, and prices of this Contract.
19. **INDIVIDUAL CUSTOMERS:** Each Eligible User that purchases Goods from this Contract will be treated as if they were individual customers. Each Eligible User will be responsible to follow the terms and conditions of this Contract. Contractor agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.
20. **QUANTITY ESTIMATES:** The Division does not guarantee any purchase amount under this Contract. Estimated quantities are for Solicitation purposes only and are not to be construed as a guarantee.
21. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents, and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the State Entity and the State of Utah express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the State of Utah Division of Purchasing and General Services, Contractor also agrees that the Contractor's Proposal to the Solicitation will be a public document, and copies may be given to the public as permitted under GRAMA. The State Entity and the State of Utah are not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.
22. **DELIVERY:** Time is of the essence for all deliveries made under this Contract. All deliveries under this Contract will be F.O.B. destination with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance, when responsibility will pass to the Eligible User, except as to latent defects, fraud, or Contractor's warranty obligations. Contractor's failure to provide the Goods by the required delivery date is deemed a material breach of this Contract. Contractor shall be responsible for the customary industry standard in packing and shipping the Goods.
23. **REPORTS AND FEES:**
- Administrative Fee:** Contractor agrees to provide a quarterly administrative fee to the State in the form of a check, EFT or online payment through the Division's Automated Vendor Usage Management System. Checks will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, Attn: Cooperative Contracts, PO Box 141061, Salt Lake City, UT 84114-1061. The Administrative Fee will be the amount listed in the Solicitation and will

apply to all purchases (net of any returns, credits, or adjustments) made under this Contract.

2. **Quarterly Reports:** Contractor agrees to provide a quarterly utilization report, reflecting net sales to the State during the associated fee period. The report will show the dollar volume of purchases by each Eligible User. The quarterly report will be provided in secure electronic format through the Division's Automated Vendor Usage Management System found at: <https://statecontracts.utah.gov/Vendor>.
3. **Report Schedule:** Quarterly utilization reports shall be made in accordance with the following schedule:

<u>Period End</u>	<u>Reports Due</u>
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31
4. **Fee Payment:** After the Division receives the quarterly utilization report, it will send Contractor an invoice for the total quarterly administrative fee owed to the Division. Contractor shall pay the quarterly administrative fee within thirty (30) days from receipt of invoice.
5. **Timely Reports and Fees:** If the quarterly administrative fee is not paid by thirty (30) days of receipt of invoice or quarterly utilization reports are not received by the report due date, then Contractor will be in material breach of this Contract.
24. **ORDERING:** Orders will be placed by the using Eligible User directly with Contractor. All orders will be shipped promptly in accordance with the terms of this Contract.
25. **ACCEPTANCE AND REJECTION:** The Eligible User shall have thirty (30) days after delivery of the Goods to perform an inspection of the Goods to determine whether the Goods conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Goods by the Eligible User.

If Contractor delivers nonconforming Goods, the Eligible User may, at its option and at Contractor's expense: (i) return the Goods for a full refund; (ii) require Contractor to promptly correct or replace the nonconforming Goods; or (iii) obtain replacement Goods from another source, subject to Contractor being responsible for any cover costs. Contractor shall not redeliver corrected or rejected Goods without: first, disclosing the former rejection or requirement for correction; and second, obtaining written consent of the Eligible User to redeliver the corrected Goods. Repair, replacement, and other correction and redelivery shall be subject to the terms of this Contract.
26. **INVOICING:** Contractor will submit invoices within thirty (30) days after the delivery date of the Goods to the Eligible User. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to this Contract. The prices paid by the Eligible User will be those prices listed in this Contract, unless Contractor offers a discount at the time of the invoice. It is Contractor's obligation to provide correct and accurate invoicing. The Eligible User has the right to adjust or return any invoice reflecting incorrect pricing.
27. **PAYMENT:** Payments are to be made within thirty (30) days after a correct invoice is received. All payments to Contractor will be remitted by mail, electronic funds transfer, or by a Purchasing Card (major credit card). If payment has not been made after sixty (60) days from the date a correct invoice is received by the Eligible User, then interest may be added by Contractor as prescribed in the Utah Prompt Payment Act. The acceptance by Contractor of final payment, without a written protest filed with the Eligible User within ten (10) business days of receipt of final payment, shall release the Division, the Eligible User, and the State of Utah from all claims and all liability to the Contractor. The Eligible User's payment for the Goods shall not be deemed an acceptance of the Goods and is without prejudice to any and all claims that the Division, Eligible User, or the State of Utah may have against Contractor. The State of Utah, the Division, and the Eligible User will not allow the Contractor to charge end users electronic payment fees of any kind.
28. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold the Division, the Eligible User, and the State of Utah harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the Division, the Eligible User, or the State of Utah for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability such limitations of liability will not apply to this section.
29. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The Division, the Eligible User, and Contractor agree that each has no right, title, interest, proprietary or otherwise in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All Goods, documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Contract, but specifically manufactured under this Contract, shall be considered work made for hire, and Contractor shall transfer any ownership claim to the Eligible User.
30. **OWNERSHIP IN CUSTOM DELIVERABLES:** In the event that Contractor provides Custom Deliverables to the Eligible User, pursuant to this Contract, Contractor grants the ownership in Custom Deliverables, which have been developed and delivered by Contractor exclusively for the Eligible User and are specifically within the framework of fulfilling Contractor's contractual obligations under this contract. Custom Deliverables shall be deemed work made for hire, such that all intellectual property rights, title and interest in the Custom Deliverables shall pass to the Eligible User, to the extent that the Custom Deliverables are not recognized as work made for hire, Contractor hereby assigns to the Eligible User any and all copyrights in and to the Custom Deliverables, subject to the following:
 1. Contractor has received payment for the Custom Deliverables,
 2. Each party will retain all rights to patents, utility models, mask works, copyrights, trademarks, trade secrets, and any other form of protection afforded by law to inventions, models, designs, technical information, and applications ("Intellectual Property

Rights”) that it owned or controlled prior to the effective date of this contract or that it develops or acquires from activities independent of the services performed under this contract (“Background IP”), and

3. Contractor will retain all right, title, and interest in and to all Intellectual Property Rights in or related to the services, or tangible components thereof, including but not limited to (a) all know-how, intellectual property, methodologies, processes, technologies, algorithms, software, or development tools used in performing the Services (collectively, the “Utilities”), and (b) such ideas, concepts, know-how, processes and reusable reports, designs, charts, plans, specifications, documentation, forms, templates, or output which are supplied or otherwise used by or on behalf of Contractor in the course of performing the Services or creating the Custom Deliverables, other than portions that specifically incorporate proprietary or Confidential Information or Custom Deliverables of the Eligible User (collectively, the “Residual IP”), even if embedded in the Custom Deliverables.
4. Custom Deliverables, not including Contractor’s Intellectual Property Rights, Background IP, and Residual IP, may not be marketed or distributed without written approval by the Eligible User.

Contractor agrees to grant to the Eligible User a perpetual, irrevocable, royalty-free license to use Contractor’s Background IP, Utilities, and Residual IP, as defined above, solely for the Eligible User and the State of Utah to use the Custom Deliverables. The Eligible User reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for the Eligible User’s and the State of Utah’s internal purposes, such Custom Deliverables. For the Goods delivered that consist of Contractor’s scripts and code and are not considered Custom Deliverables or Work Product, for any reason whatsoever, Contractor grants the Eligible User a non-exclusive, non-transferable, irrevocable, perpetual right to use, copy, and create derivative works from such, without the right to sublicense, for the Eligible User’s and the State of Utah’s internal business operation under this Contract. The Eligible User and the State of Utah may not participate in the transfer or sale of, create derivative works from, or in any way exploit Contractor’s Intellectual Property Rights, in whole or in part.

31. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the Division.
32. **REMEDIES:** Any of the following events will constitute cause for the Division to declare Contractor in default of this Contract: (i) Contractor’s non-performance of its contractual requirements and obligations under this Contract; or (ii) Contractor’s material breach of any term or condition of this Contract. The Division may issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor’s liability for damages. If the default remains after Contractor has been provided the opportunity to cure, the Division may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) terminate this Contract; (iii) impose liquidated damages, if liquidated damages are listed in this Contract; (iv) debar/suspend Contractor from receiving future contracts from the Division or the State of Utah; or (v) demand a full refund of any payment that an Eligible User has made to Contractor under this Contract for Goods that do not conform to this Contract.
33. **FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, act of God, and/or war which is beyond that party’s reasonable control. The Division may terminate this Contract after determining such delay will prevent successful performance of this Contract.
34. **CONFIDENTIALITY:** If Confidential Information is disclosed to Contractor, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential; and (iii) not disclose any Confidential Information received by it to any third parties. Contractor will promptly notify the Division and the relevant Eligible User of any potential or actual misuse or misappropriation of Confidential Information.

Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the Division, the Eligible User, and the State of Utah, including anyone for whom the Division, the Eligible User, or the State of Utah is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.

Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the Eligible User or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.
35. **PUBLICITY:** Contractor shall submit to the Division for written approval all advertising and publicity matters relating to this Contract. It is within the Division’s sole discretion whether to provide approval, which approval must be done in writing.
36. **CONTRACT INFORMATION:** During the duration of this Contract, the State of Utah Division of Purchasing is required to make available contact information of Contractor to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may contact Contractor during the duration of this Contract to inquire about Contractor’s job vacancies.
37. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or to any person in any official capacity who participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
38. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
39. **ATTORNEY’S FEES:** In the event of any judicial action to enforce rights under this Contract, the prevailing party shall be entitled its costs and expenses, including reasonable attorney’s fees, incurred in connection with such action.
40. **LOCAL WAREHOUSE AND DISTRIBUTION:** If required under the Solicitation, Contractor will maintain a reasonable amount of

stock warehoused in the State of Utah for immediate or emergency shipments. Shipments are to be made in the quantities as required by the various ordering agencies. Orders for less than the minimum specified amount will have transportation charges prepaid by the Contractor and added as a separate item on the invoice.

41. **DISPUTE RESOLUTION:** Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. The Division, after consultation with the Eligible User and Contractor, may appoint an expert or panel of experts to assist in the resolution of a dispute. If the Division appoints such an expert or panel, the Eligible User and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.
42. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State of Utah's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); (v) Contractor's terms and conditions that are attached to this Contract, if any; and (vi) Contractor's attachments, if any. Any provision attempting to limit the liability of Contractor or limit the rights of the Division, Eligible Users, or the State of Utah must be in writing and attached to this Contract or it is rendered null and void. Contractor's terms and conditions on its Sales Orders, Invoices, website, etc., will not apply to this Contract.
43. **END USER AGREEMENTS:** If Eligible Users are required by Contractor to sign an End User Agreement before participating in this Contract, then a copy of the End User Agreement must be attached to this Contract as an attachment. The term of the End User Agreement shall not exceed the term of this Contract, and the End User Agreement will automatically terminate upon the completion of termination of this Contract. An End User Agreement must reference this Contract, and may not be amended or changed unless approved in writing by the Division. Eligible Users will not be responsible or obligated for any early termination fees if the End User Agreement terminates as a result of completion or termination of this Contract.
44. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice the Division's or the Eligible User's right to enforce this Contract with respect to any default of this Contract or defect in the Goods.
45. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this **Contract**, which shall remain in full force and effect.
46. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.
47. **ANTI-BOYCOTT ISRAEL:** In accordance with Utah Statute 63G-27-101, Contractor certifies that it is not currently engaged in a boycott of the State of Israel and agrees not to engage in a boycott of the State of Israel for the duration of the contract.

(Revision Date: 15 April 2021)

Attachment B Scope of Work

Eligible users will place orders using a best value determination. Quotes are not required but can be obtained if necessary. Developing a scope of work and getting a price for a project, season, or year is also allowable. As with all Statewide Cooperative Contracts, there is no guarantee of usage.

Awarded vendors must submit any annual price changes by June 15th each year.

Categories

All salt categories must be on the Clear Roads Qualified Product List found at

<https://clearroads.org/qualified-product-list/>.

Category 8B: Insoluble Material less than 10%, and Moisture less than 5%.

Category 4B: Corrosion Inhibited Solid Sodium Chloride – Modified Gradation (Corrosion Percent Effectiveness 31% to 85%)

Category 4C: Corrosion Inhibited Solid Sodium Chloride – Standard Gradation (Corrosion Percent Effectiveness 31% to 85%)

Category 8A-R: Standard Gradation, Road Salt, Insoluble Material less than 10%, and Moisture less than 0.5%.

Gradation: Meets the gradation located in the Clear Roads Guidance Document and Qualified Products List and/or the below gradation:

Table 1 Salt Gradation	
Sieve Size	Percent Passing
1/2"	100
3/8"	90-100
#4	75-100
#8	40-80
#16	15-45
#SO	0-10

Chemical Constituents:

- A. Do not supply products containing constituents exceeding total concentration limits listed in table 2. Test according to methodology listed below. Measure base product concentration levels prior to anti-freeze or chemical adulterant addition all per the Clear Roads Guidance document.
- B. Chemical contaminant limit stated as parts per million (ppm) as listed in the Clear Roads testing standards.

Table 2 Allowable Chemical Contaminants	
Chemical	Concentration (ppm)
Arsenic	5
Barium	100
Cadmium	.20
Chromium	1

Copper	1
Lead	1
Mercury	.05
Selenium	5
Zinc	10
Phosphorus	2500
Cyanide	.20

Test methods

Test methods to be conducted in accordance with the standards set forth in the Clear Roads Guidance Document.

Submittals

Submitted with product delivery, for each shipment, supply bill of lading showing:

- A. Type and grade of material
- B. Destination
- C. Consignee's name
- D. Date of Shipment
- E. Truck identification
- F. Net weight in English units
- G. Bill of Lading number
- H. Manufacturer

Quality Assurance

Quality Assurance Testing, and Price Adjustments. For quality assurance purposes and for price adjustment purposes, the following steps may be used by Eligible Users to determine out of compliance product and penalties:

- A. Upon delivery, station supervisor will inspect delivery for obvious out of compliance issues (e.g.; puddling or running water). If the product is in question, the station supervisor will contact vendor to cure the problem prior to next delivery.
- B. Second occurrence of obvious out of compliance issues will result in third party testing at vendor's site, which may result in price penalties if the test results show non-compliance.
- C. Third occurrence of obvious out of compliance issues will result in a cure or quit notification letter and possible termination of the entire contract.
- D. For the purpose of monitoring non-compliance, each delivery within a 7 day window, that is out of compliance will count as one occurrence.
- E. Testing will be performed by an independent third party laboratory. If the testing shows that the product was out of compliance, the cost of testing will be billed back to the supplier. If the testing shows that the product was in compliance, the State will absorb the cost of testing.

- F. The third party laboratory will test the Supplier's product. Tests may be performed for any or all of: Gradation, Moisture Content, or any other material property required by the specification suspected to be out of compliance.
- G. If any properties are found to not meet the requirements of the contract, the State may assess a payment penalty that will remain in effect until the date of the next test for those properties.
- H. Do not supply shipments contaminated with other materials; this may result in the rejection of the shipment, or a price reduction.

Testing Process

- A. If deemed necessary or after a second non-compliance event, testing will be scheduled by the State with an independent third party Testing Contractor.
- B. The Testing Contractor takes samples taken at Vendor's production facility (i.e. same location as for FOB purchases), and conducts tests on those samples.
- C. Tests to be conducted may be any or all of:
 - 1. Gradation
 - 2. Moisture Content
 - 3. Tests for any other material properties required by the contract, as deemed necessary.
- D. The Testing Contractor will send the results to the State entity requesting the test, as well as the vendor.
- E. The State entity calculates any price reduction based on the test results. If imposed, price penalties will be effective until the vendor can prove the product in question is in compliance.
- F. Vendor may request, in writing, subsequent sampling and testing of any or all items that were reported by the independent test. Vendor will bear full cost of such subsequent tests.
- G. The State will not automatically resample or retest product at any prescribed interval or frequency.

Price Adjustments

- A. Price Adjustment, Gradation: Downward 5% price adjustment assessed for materials outside the specified gradation.
- B. Price Adjustment, Moisture Content: 1 % downward price adjustment assessed for each full 1% moisture content over 4%. Round to the nearest full percentage. Example:
 - 1. 2.1% moisture delivered would not be reduced.
 - 2. 4.3% moisture delivered would not be reduced.
 - 3. 4.8% moisture delivered would be reduced by 1%.
- C. The Net Price Reduction will be applied per ton to all product delivered until a subsequent test shows a different result.
- D. Price Adjustment, General: products failing to meet any other specification requirements with an assessed 5% downward price adjustment. Price

adjustments will be computed based on the largest adjustment computed. Price adjustments for gradation, moisture content, and other material properties will not be cumulatively summed; the largest value will be used.

EXAMPLE:

A delivery lot meets the specification requirements for gradation and moisture content, but contains lead in excess of the allowable value indicated in the specification. The Net Price Reduction would be 5%.

Price Adjustment, Performance: Downward price adjustment in dollars per ton for supplying material failing to meet vendor-specified melting power, ice penetration, or corrosiveness values is computed by the following formulae:

Equation 1

For **melting power** performance below vendor-specified value,

Where $M_{proposed} > M_{actual}$

Price Reduction (Rmeit), percentage = $100\% \left(\frac{M_{proposed} - M_{actual}}{M_{proposed}} \right)$

Equation 2

For **ice penetration** performance below vendor-specified value,

Where $I_{proposed} > I_{actual}$

Price Reduction (Rice), percentage = $100\% \left[\frac{I_{proposed} - I_{actual}}{I_{proposed}} \right]$

Equation 3

For **corrosiveness** performance below vendor-specified value,

Where $C_{proposed} > C_{actual}$

Price Reduction (Rcorr) , percentage = $100\% \left[\frac{C_{proposed} - C_{actual}}{C_{proposed}} \right]$

In each case, if the delivered product meets or exceeds the vendor-specified performance value, then the price reduction for that performance parameter is \$0.00.

For the Equations above, terms are defined as:

- A. $M_{proposed}$ = MELTING POWER PROPOSED: the total volume melt of vendor's product using SHRP H-205.1 at 5°F after one hour specified by the vendor at the time of bidding.
- B. M_{actual} = MELTING POWER ACTUAL: the actual total volume melt of vendor's product using SHRP H-205.1 at 5°F after one hour.
- C. $I_{proposed}$ = ICE PENETRATION PROPOSED: ice penetration of vendor's product in one hour using SHRP 205.3 at 20°F as specified by the vendor at the time of bidding.
- D. I_{actual} = ICE PENETRATION ACTUAL: the actual ice penetration of vendor's product in one hour using SHRP 205.3 at 20°F.
- E. $C_{proposed}$ = CORROSIVENESS INDEX PROPOSED: Corrosiveness Index, as defined herein, of the vendor's product, as specified by the vendor at the time of bidding.
- F. C_{actual} = CORROSIVENESS INDEX ACTUAL: The actual Corrosiveness Index, as

defined herein, of vendor's product.

- G. R = Percent reduction in price for not meeting vendor's proposed value.

The Net Price Reduction will be computed based on the largest adjustment computed. Price adjustments for gradation, moisture content, melting power (Rmelt), ice penetration (Rice), and corrosion (Rcorr) will not be cumulatively summed. Instead, the largest value of the five price adjustment components will be used, with a maximum total price adjustment of 20%.

EXAMPLE:

If Rcorr = \$0.72

Rmelt = \$0.00

Rice = \$1.32

Gradation Reduction = \$0.00

Moisture Content Reduction = \$0.33

Then Net Price Reduction = \$1.32

The Net Price Reduction will be applied per ton to all product delivered until the next test showing a different result.

Price Adjustment, General: the State may accept products failing to meet any other specification requirements with an assessed 5% downward price adjustment, in addition to any price adjustment imposed for gradation, moisture content, melting power, ice penetration, or corrosiveness. However, in no case will the total price adjustment exceed 20%.

Rejection

Any product may be rejected if it fails to conform to the specifications. If the product fails to meet specifications the State may, at its option, impose a price adjustment as described in paragraph 8, allow the contractor to replace the defective product, or cancel the contract. In no instance will the State pay any cost associated with the remedy for the defective product. The return shipment of refused product will be at the Contractor's expense at no additional cost to the State.

Delivery

Notify supervisor by telephone twenty-four hours prior to delivery. Unload material where directed. Butt loads against each other in such a manner as to occupy as small a total stockpile area as possible.

- A. End-users may pick up the salt by use of State/local government trucks or, by the use of a third party. Pick up schedules will have to be coordinated with the vendor.
- B. Delivery Methods:
 - 1. Delivery Method One: Deliver using end-dump trucks only. No Trailers.
 - 2. Delivery Method Two: Deliver using end-dump trucks, end-dump trucks with pups, or end-dump trailers.
 - 3. Delivery Method Three: Deliver using end-dumps, end-dumps with pups, end-dump trailers, walking trailers, belt dump trailers, or side dumps.
 - 4. Delivery Method Four: Deliver using end-dumps, end-dumps with pups, end-dump trailers, walking trailers, belt dump trailers, side dumps, or belly dumps.
 - 5. Delivery Method Five: Load state trucks F.O.B. at supplier's production facility, stockpile, railhead, or other designated location. Supplier specifies point of delivery in writing if other than normal place of business.
- C. Stockpiles: The method for stockpiling sodium chloride will be one of the following:
 - 1. Method I: Stockpile by butting loads - Build stockpiles at designated locations. Butt loads one against the other in such a manner as to occupy as small a total

stockpile area as possible. If equipment to keep the stockpile pushed up to cover an area no larger than a stockpile area produced by an end-dump. If Engineer is not satisfied with the stockpiling, supplier reshapes the stockpile to an acceptable configuration. If purchasing entity personnel reshape the stockpile, the cost of reshaping is deducted from the contract.

2. Method 2: Stockpile by supplier furnished loader - Build stockpiles at designated locations. Supplier places each load and load is "bucked up" using a supplier-furnished loader and operator. Stockpiles occupy as little space as possible and are bucked up to a uniform 10-foot height. If Engineer is not satisfied with the stockpiling, supplier reshapes the stockpile to an acceptable configuration. If purchasing entity personnel reshape stockpile, reshaping cost is deducted from the contract.
 3. Method 3: Stockpile by purchasing entity shaping pile- Build stockpile at designated locations. Purchasing entity shapes stockpile.
- D. Complete delivery of each order according to the following schedule for orders placed on or after October 31st:
1. Order size 400 tons or less: Complete delivery within two calendar days of order placement. **Example:** Order placed on December 1 is to be delivered by December 3.
 2. Order size 401 tons to 1000 tons: Begin delivery within two calendar days. Complete Delivery within four calendar days of order placement. **Example:** Order placed on December 1st Delivery to begin by December 3rd and completed by December 5th.
- E. Order size 1001tons or more: Begin delivery within two calendar days of order placement. Continue delivery at a rate of not less than 400 tons per day until complete. **Example:** Order placed on December. Delivery to begin by December 3 and to continue at a rate of 400 tons or more per day until complete.
- F. Complete delivery of each order according to the following schedule for orders placed prior to September 15th:
1. For any order placed prior to September 15, the Supplier has up to 14 days to complete delivery. **Example:** Order placed on August 1 Delivery should be completed by August 15.
 2. Ordering and Delivery Process:
 - a. Purchasing entity places order.
 - b. Minimum order size is one (1) truckload.
 - c. **Vendor maintains order-taking capability within the State of Utah.**
 - d. Vendor has twenty-four hour per day order taking.

- e. Vendor confirms order by email to purchasing entity placing order within eight (8) hours.
3. Vendor's confirmation contains:
 - a. Confirmation of total order quantity and destination
 - b. Estimated first load dispatch time and date
 - c. Type of delivery trucks (Dump truck, Dump truck with pup, etc.)
 - d. Scheduled order completion date and time
 - e. Delivery coordinator name and Utah telephone number

G. Order Details

- Orders placed before noon Mountain Time are considered to be placed the date of the order.
- Orders placed after noon Mountain Time are considered placed 8:00 AM the next calendar day.
- Delivery is deemed to start when the first load is dispatched AND the station supervisor is notified.
- Delivery is complete when the last load is dumped at the delivery location.
- Vendor calls station one hour or more prior to delivery.
- Vendor confirms end of delivery with email.

Attachment C Cost Sheet

All products refer to Clear Roads Qualified Products List.

The per mile charge is set at the state reimbursement rate of \$0.56 per mile. This rate is subject to change Per State Travel. It is allowable for a vendor to charge a lesser rate.

Vendor:		Compass Minerals America Inc.	
Contact:		Teresa Wilde	
Phone:		800-323-1641	
Region 1			
Category	Brand Name	Cost per Ton	Allowable state travel charge per mile
Category 8B	QwikSalt	\$20.27	\$0.56 Per Mile
Category 4B			\$0.56 Per Mile
Category 4C			\$0.56 Per Mile
Category 8A-R	DriRox	\$50.57	\$0.56 Per Mile
Region 2			
Category	Brand Name	Cost per Ton	Allowable state travel charge per mile
Category 8B	QwikSalt	\$20.27	\$0.56 Per Mile
Category 4B			\$0.56 Per Mile
Category 4C			\$0.56 Per Mile
Category 8A-R	DriRox	\$50.57	\$0.56 Per Mile
Region 3			
Category	Brand Name	Cost per Ton	Allowable state travel charge per mile
Category 8B	QwikSalt	\$20.27	\$0.56 Per Mile
Category 4B			\$0.56 Per Mile
Category 4C			\$0.56 Per Mile
Category 8A-R	DriRox	\$50.57	\$0.56 Per Mile
Region 4			

Category	Brand Name	Cost per Ton	Allowable state travel charge per mile
Category 8B	QwikSalt	\$20.27	\$0.56 Per Mile
Category 4B			\$0.56 Per Mile
Category 4C			\$0.56 Per Mile
Category 8A-R	DriRox	\$50.57	\$0.56 Per Mile

Region 5			
Category	Brand Name	Cost per Ton	Allowable state travel charge per mile
Category 8B	QwikSalt	\$20.27	\$0.56 Per Mile
Category 4B			\$0.56 Per Mile
Category 4C			\$0.56 Per Mile
Category 8A-R	DriRox	\$50.57	\$0.56 Per Mile
Cost per Ton by region and by category will be used to evaluate			
To be included in the contract but not considered in the cost calculation:			
Indicate if your firm will offer a discount for early pick up? (Pick up in the months of July - September). Indicate a Percent off Price per ton.	_____ 0% OFF early pick up per ton		
Include a percent off catalog price for items not listed above.	_____ 0% OFF catalog items per ton		



Sold-To ("Buyer"):

Josh Sully
South Ogden City
5590 S 600 E
Ogden, UT 84405

Date: October 06, 2023
Document: 201002
Tel: 801-622-2905
Fax: (801) 622-2902
Email: jsully@southogdencity.gov
Customer #: H12426
Preferred: Email

Compass Minerals America Inc. ("Seller") / Quotation for bulk de-icing salt (the "Product")

Quantity (TN)	Delivery Location	Price Per Ton (USD)	
2,000	City of South Ogden 5590 S 600 E Ogden, UT 84405 Destination #: H12427 Delivery Lead Time: 3 days	28.13	Deliver w/o/Equipment Depot: Ogden Product: BULK QWIKSALT (85051) Mode of Transport: DUMP (END OR BOTTOM) Distance: 8.1 Miles

Seller and Buyer agree to use the terms of MA 3773 for the duration of this agreement.

Buyer commits to purchasing 0% of the total Quantity listed above and to commence receiving deliveries of the Product no later than December 31. Seller may decline any orders for any reason impacting its ability to ship the Product, including (but not limited to) the availability of the Product, conditions at the terminal or production facilities, or weather conditions. The Buyer will be invoiced for any tons not taken up to the 0% (unless Seller has declined to deliver those tons).

Price(s) effective through Tuesday, 01 Oct 2024

Buyer agrees to pay Seller for the Product in accordance with the price and payment terms stated above and on the reverse side of this Quotation. In the event of any direct conflict between the terms stated above and the terms on the reverse side of this Quotation, the terms stated above will control.

Terms are NET 30 days from shipment with approved credit.

- * This Quotation is open for acceptance for 30 days following date of issue, and supersedes any and all previous proposals and contracts. This Quotation must be signed indicating acceptance to be valid.
- * Delivered price(s) via dump and based on full truck load quantities.
- * Seller does not commit to a specific delivery lead time. Any lead time or amount specified above is an estimated target only. Product availability is at Seller's discretion and may take into account the delivery dates, pick-up dates and quantities of past purchases.
- * Product is for bulk end use only and is not intended for blending or packaging without prior consent.
- * Applicable taxes extra
- * Compass Minerals America Inc. has no obligation to store the Product after 01 Oct 2024, but if it chooses to make storage available it will be for a fee of \$5 per month per ton.

Thank you for the opportunity to quote on your bulk de-icing salt needs.

Accepted By;

Austin Hilbrands
Sales Manager 800-323-1641 x2
Compass Minerals America Inc.

Signature: _____
Title: _____
Name: _____
Date: _____

Please sign and return by fax to 913-338-7945 or e-mail highwaygroup@compassminerals.com or by mail
Order placement and inquiries Monday through Friday - 7:00 am to 5:00 pm.

Terms and Conditions of Sale

1. **PARTIES.** "Seller" is identified in the "Remit To", "From", or similar section of the invoice, quotation, order or similar document issued by Seller to which these Terms and Conditions of Sale relate or are attached, or "Seller" is as otherwise defined in such document. "Buyer" is identified in the "Sold To" or similar section of the invoice, quotation, order or similar document issued by Seller to which these Terms and Conditions of Sale relate or are attached. "Product" is described and identified in the invoice, quotation, order or similar document issued by Seller to which these Terms and Conditions of Sale relate or are attached. All applicable invoices, orders, quotations and these Terms and Conditions of Sale are referred to collectively as this "Agreement".
2. **OFFER.** No terms in Buyer's bid, purchase order or other form shall be binding upon Seller. Seller rejects additional/different terms in such Buyer's documents. SELLER'S OFFER IS EXPRESSLY LIMITED TO AND CONDITIONED UPON BUYER'S ACCEPTANCE OF THIS AGREEMENT.
3. **PRICES; TAXES. EXCEPT AS OTHERWISE SPECIFIED IN THIS AGREEMENT, PRICES ARE SUBJECT TO CHANGE WITHOUT NOTICE. AMOUNTS DUE WILL BE INVOICED, UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, AT SELLER'S PRICE IN EFFECT ON THE SCHEDULED DATE OF SHIPMENT.** Prices on the invoicing document are net of all applicable discounts and promotional allowances. References to "tons" mean short tons (2000 lbs.) unless otherwise specified. Any tax or other governmental charges now or hereafter levied upon production, severance, manufacture, delivery, storage, consumption, sale, use or shipment of the Product are not included in Seller's price and Buyer is solely responsible for all such taxes and charges.
4. **CANCELLATION.** Orders, deliveries and pick-ups may be canceled by Buyer only upon: (a) written or oral notice to Seller and accepted in writing by Seller, and (b) payment to Seller of reasonable cancellation charges to be solely determined by Seller.
5. **PAYMENT; CREDIT; PAST DUE ACCOUNTS.** Buyer will make payment to Seller at the time and in the currency specified on Seller's quotation or invoicing document. Seller may, in its sole judgment, require such other payment terms as Seller deems appropriate, including full or partial payment in advance of shipment or by letter of credit. Credit payment terms must have the prior approval of Seller's Credit Department and must be specified in writing on Seller's invoicing document. Whenever reasonable grounds for insecurity arise with respect to due payment from Buyer or with respect to Buyer's financial condition generally, Seller reserves the right to stop shipment on notification to Buyer and to demand payment in advance or at the time of delivery or pick-up or require reasonable assurance of payment, and in the absence thereof, to cancel, without liability, further deliveries of the Product. A finance charge of the lesser of 1.5% per month (18% - APR) or the highest rate permitted by law will be assessed on all past due accounts. Interest charged on a past due invoice will be assessed from the date of the invoice. Amounts owed by Buyer for which there is no dispute will be paid without set-off for any amounts that Buyer may claim are owed by Seller. Buyer agrees to reimburse Seller for all attorney fees and court costs in connection with default of these payment terms by Buyer.
6. **DELAYS.** All orders, deliveries and pick-ups are subject to Seller's ability to make the Product available at the time and in the quantities specified, and Seller shall not be liable for damages for failure to make the Product available in whole or in part or at any specific time. Seller shall not be liable for delays or defaults in delivery or making the Product available for pick-up caused by forces or events not reasonably within Seller's control (such forces and events include, without limitation, delays or defaults by carriers; extreme cold weather; partial or total failure of Seller's intended production; transportation or delivery facilities; floods, fires, storms, or other acts of God; war, an act of public enemy, or civil disturbance; strikes; lock-outs; shortages of labor or raw materials and supplies (including fuel); acts or omissions of Buyer; action of any governmental authority; or any other force majeure event). Buyer shall be liable for any added expenses incurred by Seller because of Buyer's delay in furnishing requested information to Seller, delays resulting from changes requested by Buyer, or delay in unloading shipments at the delivery point that are the fault of Buyer.
7. **SHIPMENT COSTS/TRANSPORTATION MATTERS.** Unless otherwise specified on Seller's invoicing document, all transportation charges, including, without limitation, Seller's and carrier's charges for notification prior to delivery, demurrage, switching, detention, delay in unloading, diversion, or reassignment shall be the sole responsibility of Buyer. Buyer will assume title and risk of loss concurrently in accordance with Seller's invoicing document. ON PASSAGE OF TITLE, BUYER IS THEN RESPONSIBLE FOR PROPER PROTECTION OF THE PRODUCT AND COMPLIANCE WITH ALL LAWS, RULES AND REGULATIONS APPLICABLE TO THE STORAGE, USE, AND HANDLING OF THE PRODUCT AND WILL INDEMNIFY SELLER AGAINST ALL CLAIMS FOR PERSONAL INJURIES OR PROPERTY DAMAGE ARISING FROM THE STORAGE, USE OR HANDLING OF THE PRODUCT. Claims for damage or shortage in transit must be made by Buyer against the carrier. Buyer has the responsibility to inspect shipments before or during unloading to identify any such damage or shortage and see that appropriate notation is made on the delivery tickets or an inspection report furnished by the local agent of the carrier in order to support a claim. If railcars are used to deliver the Products, upon transfer of the Product's risk of loss to Buyer, Buyer is solely responsible for the care, condition, damage or loss of railcars until the railcars are released empty by Buyer to the rail carrier. Without Seller's prior written approval, neither Buyer nor any of its employees or agents will divert or export any such railcar to anywhere outside the continental U.S. Even with such approval, Buyer remains fully responsible for and shall promptly reimburse Seller for all claims, losses, costs, expenses, liabilities, penalties, demands and taxes directly caused by or incidental to such use of the railcars by Buyer.
8. **WARRANTY/TIME FOR MAKING CLAIMS.** Seller warrants only that it will convey good title to the Product Buyer receives and that, at the time of shipment, the Product will conform to the published specifications of Seller. Seller's specifications are subject to change at any time without notice to Buyer. NO OTHER WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, IS MADE BY SELLER AND SELLER HEREBY DISCLAIMS ALL SUCH OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. Buyer must notify Seller of any claim with respect to the Product, the warranty, or any other claim under this Agreement within thirty (30) days of receipt of the Product or such claim is waived. In the event of an alleged breach hereof by Seller, the sole remedy available to Buyer on account of any defect in the Product shall be limited to the replacement of such defective Product by Seller. In the event the remedy provided herein shall be deemed to have failed its essential purpose, then Buyer shall be entitled only to a refund of the amounts paid to Seller attributable to such defective Product that Buyer receives. Subject to the notification of claim provision above, no action for breach of the contract for sale or otherwise with respect to the Product will be commenced more than one (1) year after such cause of action accrues.
9. **LIMITATION OF LIABILITY. TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER'S LIABILITY FOR ANY CLAIM ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE NET PURCHASE PRICE ACTUALLY PAID TO SELLER ATTRIBUTABLE TO THE PRODUCT INVOLVED. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES FOR ANY CLAIM, EVEN IF SUCH CLAIM IS THE RESULT OF SELLER'S OWN NEGLIGENCE.** Buyer assumes all risks and liability for any damage, loss, or penalty resulting from the use of the Product delivered hereunder in manufacturing processes of Buyer or in combination with other substances or otherwise.
10. **INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY LAW, BUYER SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND SELLER AND ITS AFFILIATES AND THEIR RESPECTIVE PRESENT OR FUTURE EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, INSURERS, AGENTS AND REPRESENTATIVES (COLLECTIVELY, "INDEMNIFIED PARTIES"), FROM ALL CLAIMS, LIABILITIES, DAMAGES, DEATH (INCLUDING, WITHOUT LIMITATION, DEATH OF SELLER'S EMPLOYEES), SUITS, PROCEEDINGS, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES), FINES, AND PENALTIES (COLLECTIVELY, "LOSSES"), IN CONNECTION WITH THIS AGREEMENT REGARDLESS OF CAUSE ("BUYER'S INDEMNIFICATION OBLIGATION"). TO THE FULLEST EXTENT PERMISSIBLE BY LAW, BUYER'S INDEMNIFICATION OBLIGATION APPLIES EVEN IF LOSSES ARE THE RESULT OR ALLEGED RESULT OF THE NEGLIGENCE, ACTIVE OR OTHERWISE, OF THE INDEMNIFIED PARTIES.**
11. **SECURITY INTEREST.** Buyer grants to Seller, and Seller retains, a security interest in the Product and the proceeds thereof, until the purchase price therefor is fully paid. Seller may file any financing statements and give notice of such security interest to third parties as Seller may determine to be necessary to perfect such security interest.
12. **VALID CONTRACT.** Buyer warrants and represents that (a) this Agreement is a valid and enforceable contract, (b) proper authorization has been obtained for Buyer to enter into this Agreement, and (c) each individual executing this Agreement on behalf of Buyer is properly authorized to bind Buyer to the terms of this Agreement. Buyer agrees that Seller negotiated and dealt with Buyer in good faith in entering into this Agreement, and that the Product price determined by this Agreement is fair and reasonable. Payment for Products received through the notice date will not limit, in any respect, Seller's ability to recover additional amounts from Buyer for damages incurred as a result of Buyer's breach of this Agreement or the warranties and representations made by Buyer in this Agreement.
13. **PROCUREMENT AND BIDDING.** Buyer warrants and represents that Buyer has fully complied with all procurement and bidding laws, rules, regulations and procedures, if applicable. In the event Buyer claims that this Agreement, the underlying transaction or any provision thereof is invalid or void due to Buyer's failure to comply with any applicable requirements under state or local laws related to procurement or bidding, or in the event Buyer fails to obtain any authorization required to enter into this Agreement, Buyer agrees that it will timely submit payment, at the price stated in this Agreement, for all Products received through and including the date that it provides written notice to Seller of such failure. In the event that Buyer provides written notice to Seller of failure to comply with applicable laws related to procurement or bidding, or in the event Buyer fails to obtain any authorization required to enter into this Agreement, the parties agree that Seller will immediately cease performing under this Agreement and will provide Buyer with no further Products unless and until both parties agree in a writing separate from this Agreement.
14. **EXPORT CONTROLS AND REGULATION:** With regard to any Product that is of U.S. origin, Buyer acknowledges that export or reexport of any product provided by Seller is subject to U.S. export regulations. Buyer represents and warrants that it is not on, or associated with any organization on the U.S. Department of Commerce's Bureau of Industry and Security's Denied Persons List or Unverified List; or any prohibited party list maintained by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of Commerce, or the U.S. Department of State. Buyer shall not export or reexport any Compass Minerals products to any prohibited party or to any restricted country.
15. **LEGAL COMPLIANCE.** Buyer and its employees, representatives, and agents will: (a) comply with all applicable federal, state, provincial, local and foreign laws and regulations of any governments, governmental bodies or regulatory agencies including, without limitation, export control laws, the U.S. Foreign Corrupt Practices Act and the U.S. Patriot Act, as amended from time to time (collectively, the "Laws"); (b) will not subject Seller to any claim, penalty or loss of benefits under the Laws; and (c) will cooperate with Seller in any audit or inspection relating to the Laws. Upon Seller's request, Buyer will deliver a certificate to Seller in a form provided by Seller, certifying such matters as requested by Seller, as required by the Laws, or pertaining to Buyer's intended use of the Product as represented to Seller.
16. **MISCELLANEOUS.** Matters arising out of or in connection with this Agreement or a sale contemplated in connection with this Agreement will be governed by the laws of the state of Kansas, USA without regard to conflicts of law rules, and Buyer and Seller consent to the jurisdiction of Johnson County, Kansas courts. The United Nations Convention on the International Sale of Goods shall not apply to the transactions under this Agreement. The parties have expressly required that this Agreement and all documents and notices relating hereto be drafted in English. Buyer shall not assign this Agreement without Seller's prior written consent. This Agreement constitutes the entire agreement regarding the subject matter hereof; no modification may be made, unless in writing and signed by the parties; and no acknowledgment or acceptance of Buyer's purchase order or other forms containing different, additional, or conflicting terms shall have force or effect. Seller's failure to enforce any provision of this Agreement will not be a waiver of its right to enforce such provision or any other provision then or thereafter. Any provision intended to survive including, without limitation, Sections 7 through 15 (inclusive), shall survive this Agreement's termination or expiration and the consummation of the transactions contemplated hereunder. In the event any provision or part of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, only that particular provision or part so found, and not the entire Agreement, will be inoperative.

STAFF REPORT



SUBJECT: Approve Agreement with Royal Heating, Plumbing & Air Conditioning
AUTHOR: Jon Andersen
DEPARTMENT: Building Maintenance
DATE: 10-3-23

RECOMMENDATION

City staff recommend the ratification of the agreement with Royal Heating, Plumbing & Air Conditioning.

BACKGROUND

Fire Station 82 was remodeled in 2005- 2006 when South Ogden City built City Hall and had a few other building improvements throughout the city. The current furnaces in that location had been there for several years. When Station 82 was remodeled the decision to install two new furnace's to accommodate the dorms, living area, and the offices was made. In August of this year one of those two furnaces failed. In order to keep the condition of the building useable it was determined to replace the failed furnace as an emergency. During the install process tests were performed on the remaining furnace and it was determined that it was not in the best of shape, therefore both furnaces were replaced to keep the building functional.

ANALYSIS

Due to past experiences with HVAC issues and in order to keep the building functional and maintain proper temperatures staff determined it was in the best interest of the City to replace both furnaces at the same time. Having used Royal Heating, Plumbing & Air Conditioning in the past for similar type jobs with a very satisfactory completion of contracts it was decided to use them in this urgent situation.

SIGNIFICANT IMPACTS

\$11,219.39

ATTACHMENTS

Bid/Invoice



Royal Plumbing, Heating and Air Conditioning, Inc.
 820 Exchange Road, Ogden, Utah 84401-1203
 United States
 (801) 888-2709

Estimate 19418109
 Project 19406673
 Estimate Date 8/29/2023
 Customer PO

Billing Address
 South Ogden City Fire Station #82
 5635 Wasatch Drive
 South Ogden, UT 84403 USA

Job Address
 South Ogden City Fire Station
 #82
 5635 Wasatch Drive
 South Ogden, UT 84403 USA

Estimate Details

2-ac units and lifting furnace

Task #	Description	Quantity	Your Price	Your Total
DuctFB95	Furnace Base for 95% or higher	1.00	\$1,200.00	\$1,200.00
GSXN3N2410	Energy-Efficient Compressor;Copper tube/ enhanced aluminum fin coil-5mm diameter;Factory-installed filter drier;Fully charged for 15' of tubing length;Service valves with sweat connections and easy-to-access gauge ports;Contactor with lug connection;Ground lug connection;AHRI Certified;ETL Listed	1.00	\$4,978.69	\$4,978.69
Goodman GSXN3N2410				
GSXN3N4810	Energy-Efficient Compressor;Copper tube/ enhanced aluminum fin coil-5mm diameter;Factory-installed filter drier;Fully charged for 15' of tubing length;Service valves with sweat connections and easy-to-access gauge ports;Contactor with lug connection;Ground lug connection;AHRI Certified;ETL Listed	1.00	\$6,040.70	\$6,040.70
Goodman GSXN3N4810				

#	Description	Total
RD1000	Royal Discount	\$-1,000.00

Potential Savings	\$0.00
Sub-Total	\$11,219.39
Tax	\$0.00
Total	\$11,219.39

Thank you for choosing Royal Plumbing, Heating and Air Conditioning, Inc.

THIS IS AN ESTIMATE, NOT A CONTRACT FOR SERVICES. The summary above is furnished by Royal Plumbing, Heating and Air Conditioning, Inc. as a good faith estimate of work to be performed at the location described above and is based on our evaluation and does not include material price increases or additional labor and materials which may be required should unforeseen problems arise after the work has started. I understand that the final cost of the work may differ from the estimate, perhaps materially. THIS IS NOT A GUARANTEE OF THE FINAL PRICE OF WORK TO BE PERFORMED. I agree and authorize the work as summarized on these estimated terms, and I agree to pay the full amount for all work performed.

Resolution No. 23-43

A RESOLUTION RATIFYING THE COMPLETED REPLACEMENT OF THE HVAC SYSTEM AT FIRE STATION 82 AND APPROVING AN AGREEMENT WITH ROYAL PLUMBING AND HEATING FOR THE COMPLETED WORK; AUTHORIZING THE CITY MANAGER TO SIGN ANY AND ALL NECESSARY DOCUMENTS; AND, PROVIDING FOR AN EFFECTIVE DATE

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

WHEREAS, the City Council finds that in conformance with Utah Code ("LTC") §10-3- 717, the City Council as the governing body of the City may exercise all administrative powers by Resolution; and,

WHEREAS, the City Council finds that the HVAC System at Fire Station 82 suddenly stopped working; and,

WHEREAS, the health and safety of the City's firefighters assigned to Fire Station 82 was at risk; and,

WHEREAS, Section 7.14(G) of the South Ogden City Purchasing Policy allows staff to forego normal purchasing requirements when the "exigency will not tolerate the delay incident to the advertising for, or the solicitation of bids"; and,

WHEREAS, Royal Plumbing Heating and Air had previously done work on other City HVAC systems and been found professionally capable and reliable in their work; and,

WHEREAS, Royal Plumbing Heating and Air gave the City a fair bid for replacement of the HVAC system at Fire Station 82, was immediately available, and had the parts and equipment to expedite the work that needed to be done;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH OGDEN UTAH THAT:

The City Council of South Ogden City, State Of Utah, Ratifies the Decision of the City Manager to Allow Royal Plumbing Heating and Air to Replace the HVAC System at Fire Station 82, And Now Authorizes The City Manager To Negotiate And Resolve Any Additional Terms To The Agreement That May Be Necessary To Give Effect To The Intent Of This Resolution, And To Sign Said "**Contract Agreement**" (Attached Hereto As **Attachment "A"**) And By This Reference Fully Incorporated Herein; And Authorizes The City Recorder To

Attest All Documents Necessary To Confirm That The City Manager Has Been Duly Authorized To Execute Those Documents.

SECTION 2 - REPEALER OF CONFLICTING ENACTMENTS:

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

SECTION 3 - PRIOR 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- SAVINGS CLAUSE:

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

SECTION 5 - DATE OF EFFECT

This Resolution shall be effective on the 7th day of November, 2023, 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 7th day of November, 2023.

SOUTH OGDEN CITY

Russell Porter
Mayor

ATTEST:

Leesa Kapetanov, MMC
City Recorder

ATTACHMENT "A"

Resolution No. 23-43

A Resolution Ratifying The Completed Replacement Of The HVAC System At Fire Station 82 And Approving An Agreement With Royal Plumbing And Heating For The Completed Work; Authorizing The City Manager To Sign Any And All Necessary Documents; And, Providing For An Effective Date

07 Nov 23

CONTRACT AGREEMENT

THIS AGREEMENT is by and between SOUTH OGDEN CITY CORPORATION (hereinafter called OWNER)

And Royal Plumbing, Heating & Air Conditioning, Inc. (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:

DESCRIPTION OF WORK:

Install two Energy-Efficient Compressors; Copper tube/ enhanced aluminum fin coil-5mm diameter; Factory-installed filter drier; Fully charged for 15' of tubing length; Service valves with sweat connections and easy-to-access gauge ports; Contactor with lug connection; Ground lug confectionary Certified Listed at Fire Station 82

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:

Install two Energy-Efficient Compressors at Fire 82

ARTICLE 3- CONTRACT TIMES

3.01 *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.

3.02 *Dates for Completion and Final Payment:* The Work will be completed within **30** working days following Notice to Proceed.

3.03 *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 3.02 above, plus any extensions thereof allowed. 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 3.02 for Completion until the Work is accepted.

ARTICLE 4- CONTRACT PRICE

4.01 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>
	High-efficiency compressor	1		\$6,178.00	\$6,178.69
	High-efficiency compressor	1		\$6,040.70	<u>\$6,040.70</u>
					\$12,219.39
					Less Discount
					<u>-\$1,000.00</u>
					Total \$11,219.39

TOTAL OF ALL UNIT PRICES **Eleven Thousand Two Hundred Nineteen Dollars and Thirty Nine Cents**

ARTICLE 5- PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments:* CONTRACTOR shall submit Applications for Payment to OWNER no more than one time per each month.

5.02 *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 5.02(1)(A) and 5.02(1)(B). All such payments will be measured by the schedule of values indicated:

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 OWNER may determine or OWNER may withhold, in accordance with the following:

A. 95% of Work completed (with the balance being retained). If the Work has been 50% completed as determined by the OWNER, and if the character and progress of the Work have been satisfactory, OWNER, 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.

5.03 *Final Payment:* Upon final completion and acceptance of the Work, OWNER shall pay the remainder of the Contract Price.

ARTICLE 6- INTEREST

6.01 All moneys not paid when due shall bear interest at the rate of 1% per annum.

ARTICLE 7- CONTRACTOR'S REPRESENTATIONS

7.01 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 obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions 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. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 8- CONTRACT DOCUMENTS

8.01 *Contents:*

1. CONTRACTOR's Bid;
2. Documentation submitted by CONTRACTOR prior to Notice of Award;

11. 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 8.01 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 8.
- D. The Contract Documents may only be amended, modified, or supplemented by OWNER through work change orders or quantity modifications.

ARTICLE 9- MISCELLANEOUS

9.02 *Assignment of Contract:* Assignment by a party hereto of any rights under or interests in the Contract will not 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.

9.03 *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.

9.04 *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 _____ (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR:

SOUTH OGDEN CITY CORPORATION

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: _____