

Thursday, April 13, 2023
PERRY CITY COUNCIL MEETING AMENDED AGENDA
(Adding Item 5E)

This is an “Electronic Meeting” Web/Teleconferencing will be used to participate
Go to www.perrycity.org for meeting access instructions

The Perry City Council will hold an electronic meeting at 3005 South 1200 West in Perry and via web/teleconference on the Thursday identified above, starting at approximately 7:00 PM, following a 6:00 PM work session. Members of the public may attend the meeting in person or may view the meeting via Zoom using a link and instructions on the web page at: <https://www.perrycity.org/whats-new.htm.htm>. Agenda items may vary depending on length of discussion, cancellation of scheduled items, or agenda alteration. Numbers and/or times are estimates of when agenda items will be discussed. Action on public hearings will always be later in the same meeting or at a subsequent meeting. Every agenda item shall be a discussion and/or action item, unless otherwise indicated.

Approx. 6:00 PM – Work Session

1. Fiscal Year 2023-2024 Budget Planning

Approx. 7:00 PM – Regular City Council Meeting

1. Call to Order

2. Procedural Issues

- A.** Conflicts of Interest Declaration(s), If Any

3. Presentation

- A.** Fiscal Year 2023-2024 Tentative Budget

4. Public Hearing (No Vote Needed)

Rules: (1) Please Speak Only Once (Maximum of 3 Minutes) per Agenda Item; (2) Please Speak in a Courteous and Professional Manner; (3) Do Not Speak to Specific Member(s) of the City Council, Staff, or Public (Please Speak to the Mayor or to the Council as a Group); (4) Please Present Possible Solutions for All Problems Identified; (5) No Decision May Be Made During this Meeting if the Item Is Not Specifically on the Agenda (with Action on Public Hearings, if any, later in the Meeting); and (6) Comments must be made in person or in writing (with your name being stated for the record).

- A.** Public Hearing Regarding Resolution 2023-08 Adopting a Fiscal Year 2022-2023 Budget Amendment

5. Action Items (Roll Call Vote)

- A.** Motion Accepting Receipt of the Fiscal Year 2023-2024 Tentative Budget
B. Resolution 2023-08 Adopting a Fiscal Year 2022-2023 Budget Amendment
C. Resolution 2023-09 Awarding a Contract for Solid Waste Disposal
D. Resolution 2023-10 Authorizing an Amended Prosecution Legal Services Contract
E. Resolution 2023-11 Ballot Question to Repeal Public Transit Tax

6. Minutes & Council/Mayor Reports (Including Council Assignments)

No Council Action May be Taken if an Item is not specifically on the Agenda

- A.** Approval of Consent Items
 ▪ March 23, 2023 Council Meeting Minutes
B. Mayor’s Report
C. Council Reports
D. Staff Comments
E. Planning Commission Report

7. Executive Session (if needed)

- A.** Discussion of the purchase, exchange, lease, or sale of real property, when public discussion would disclose the value of the property or prevent the authority from completing the transaction of the best possible terms.

- B. Strategy session to discuss the character, professional competence, or physical or mental health of an individual.
- C. Strategy session to discuss collective bargaining.
- D. Strategy session regarding pending, or reasonably imminent litigation.
- E. Strategy session to discuss the deployment of security personnel, devices, or systems.
- F. Discussion of investigative proceedings regarding allegations of criminal misconduct.

8. Approx. 8:30 PM - Adjournment

Certificate of Posting

The undersigned duly appointed official hereby certifies that a copy of the foregoing agenda was sent to each member of the City Council and was posted in three locations: the Perry City Offices, Centennial Park, Perry City Park; and was emailed to the Ogden Standard-Examiner, Box Elder News Journal; and posted on the State Public Meeting Notice Website on this 12th day of April, 2023. Any individual requiring auxiliary services should contact the City Offices at least 3 days in advance at (435-723-6461).

Shanna S. Johnson, City Recorder

**PERRY CITY
RESOLUTION 2023-08**

**A RESOLUTION OF PERRY CITY, UTAH, ADOPTING AN AMENDMENT TO
THE FISCAL YEAR 2022-2023 BUDGET FOR PERRY CITY, UTAH, FISCAL
YEAR ENDING: JUNE 30, 2023.**

WHEREAS, Perry City (“City”) is a municipal corporation duly existing under the laws of the state of Utah;

WHEREAS, Title 10, Chapter 6 of the *Utah Code Annotated* establishes the “Uniform Fiscal Procedures Act for Utah Cities” and requires a public hearing before the adoption of the final budget for the upcoming Fiscal Year or amendment of the current Fiscal Year budget;

WHEREAS, the City adopted its Fiscal Year budget previously and desires to amend that budget according to the terms of the amended budget presented herein, with the referenced changes;

WHEREAS, the City has provided the required notice for the proposed amendment, and a public hearing was scheduled on April 13, 2023, as required by state law;

WHEREAS, the Perry City Council finds that this amendment to the Fiscal Year 2022-2023 Budget is in the best interest of the health, safety, and welfare of the City;

NOW, THEREFORE, be it resolved by the City Council as follows:

Section 1. Budget Amendment.

That the City Council amends the Budget for FY 2022-2023 in accordance with the attached budgetary forms attached hereto and incorporated herein by this reference, with the changes noted therein.

Section 2. Compliance and Submission.

That staff is authorized to make any modification to said Amended Budget to conform with the submission requirements of state law, and file a copy with the State Auditor.

Section 3. Effective Date.

This Resolution shall be effective immediately upon passage and approval.

PASSED AND ADOPTED by the City Council on this ____ day of April ____ .

KEVIN JEPPSEN, Mayor

ATTEST:

City Recorder

EXHIBIT A
BUDGET AMENDMENT 3 TO 2022-2023 BUDGET

	Additional	Original Budget	Amended Budget
GENERAL FUND REVENUES			
MINOR GRANTS	\$45,000	\$7,000	\$52,000
TOTAL BUDGETED REVENUES	\$ 45,000	\$5,371,972	\$5,416,972
GENERAL FUND EXPENSES			
ADMINISTRATION – BUILDING BOND PAYMENT	- \$ 251,368	\$ 251,368	0
TRANSFER TO DEBT SERVICE FUND	\$ 251,368	0	\$ 251,368
PARKS – PERRY PARK (SWINGS)	\$ 45,000	\$ 8,500	\$ 53,500
TOTAL BUDGETED EXPENSES	\$ 45,000	\$5,371,972	\$5,416,972
CAPITAL PROJECT FUND: PARKS EQUIPMENT & IMPROVEMENTS			
BEGINNING FUND BALANCE	-\$308,227	\$ 436,492	\$ 128,265
TRANSFER FROM IMPACT FEES	\$306,492	\$ 0	\$ 306,492
TOTAL BUDGETED REVENUES	-\$1,735	\$ 476,492	\$ 474,757
PARK EQUIPMENT EXPENSE (MT. VIEW)	\$ 189,179	\$ 280,000	\$ 469,179
PARK IMPROVEMENT EXPENSE (TRAILHEAD PARK)	-\$45,000	\$ 45,000	0
TOTAL BUDGETED EXPENSES	\$ 144,179	\$ 325,000	\$ 469,179
ENDING FUND BALANCE	-\$145,914	\$ 151,492	\$ 5,578
CAPITAL PROJECT FUND: CITY HALL & PUBLIC SAFETY REVENUES			
BEGINNING FUND BALANCE	\$182,088	\$1,718,168	\$1,900,256
OTHER ADDITIONS (TOURISM GRANT)	\$ 20,000	0	\$20,000
TOTAL BUDGETED REVENUES	\$202,088	\$2,018,000	\$2,220,088
CAPITAL PROJECT FUND: CITY HALL & PUBLIC SAFETY FACILITY EXPENSES			
NEW CITY HALL RENOVATIONS	20,000	\$2,018,000	\$2,038,000
TOTAL BUDGETED EXPENSES	20,000	\$2,018,000	\$2,038,000
ENDING FUND BALANCE	0	\$ 182,088	\$ 182,088
ENTERPRISE - UTILITY FUND REVENUES			
USE OF AVAILABLE CASH	\$72,022	\$859,069	\$931,091
TOTAL BUDGETED REVENUE (OPERATIONS, NON OPERATIONS & CASH)	0	\$3,250,255	\$3,250,255
ENTERPRISE - UTILITY FUND EXPENSES			
GARBAGE – GARBAGE PAYMENTS	\$12,022	\$ 283,928	\$ 295,950
MAJOR IMPROVEMENTS & CAPITAL OUTLAY (PURCHASE OF GARBAGE/RECYCLE CANS)	\$60,000	\$1,134,935	\$1,194,935
TOTAL BUDGETED EXPENSE (OPERATIONS & CAPITAL)	\$72,022	\$2,145,314	\$2,217,336
CASH BALANCE (INCL. ADJ. FOR DEPRECIATION \$144,450)	-\$60,000	\$1,249,391	\$1,177,369

**PERRY CITY
RESOLUTION 2023-09**

RESIDENTIAL SOLID WASTE AGREEMENT

**A RESOLUTION OF PERRY CITY, UTAH, ENTERING AN
AGREEMENT WITH REPUBLIC SERVICES FOR RESIDENTIAL
SOLID WASTE COLLECTION AND DISPOSAL**

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

WHEREAS, the City (“City”) issued a Request for Proposals (“RFP”) for residential solid waste collection and disposal services;

WHEREAS, the City finds that Republic Services is the lowest qualified bidder to the RFP issued by the City;

WHEREAS, the City and Republic Services have negotiated the Municipal Materials Management Agreement (“Agreement”) attached hereto and incorporated herein by this reference;

WHEREAS, the City desires to adopt the Agreement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Perry City, Utah, that the Agreement attached hereto as Exhibit “A” and incorporated herein by this reference is approved and adopted for the purposes contained therein. The City Council hereby authorizes and directs the Mayor to execute said Amendment along with any documents relating thereto for and on behalf of the City. This Resolution is effective immediately upon passage and approval.

PASSED AND APPROVED by the Perry City Council this ____ day of _____, 2023.

Mayor

ATTEST:

City Recorder

MUNICIPAL MATERIALS MANAGEMENT AGREEMENT

This Municipal Materials Management Agreement (the “**Agreement**”) is made and entered into this ____ day of _____, 20__ (“**Effective Date**”), by and between Perry City, a municipality of the State of Utah, (“**City**”), and _____, a _____ corporation” or “_____ limited liability company”, qualified to do and actually doing business in the State of Utah (“**Company**”).

RECITALS

WHEREAS, City desires that Company provide Services as defined herein for the Location Types as set forth in this Agreement and Company desires to do so, all in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Agreement, the parties agree as follows:

TERMS AND CONDITIONS

1. Sole and Exclusive Franchise. Company is hereby granted the sole and exclusive franchise, license, and privilege to provide for residential collection and disposal, and recycling, if applicable, of all conforming Waste Material (as defined in Exhibit A) for the following types of locations (“**Location Types**”) within the territorial jurisdiction of the City (the “**Services**”): Residential Units, except multifamily residential units where there is on-site dumpster; and Municipal Facilities
2. New Areas. If the City annexes or develops new areas (of the same Location Types as designated above) within the City’s territorial jurisdiction during the Term of this Agreement, such areas shall automatically be subject to this Agreement.
3. Scope of Services. Company shall furnish all equipment, trucks, personnel, labor, and all other items necessary to perform the Services. The Services shall not include the collection, disposal, or recycling of any Excluded Waste or Waste Material located at any Location Type not designated above, or any Waste Material/Service Types not designated in any exhibit attached hereto. The City shall provide, deliver, and repair the individual waste containers for collection. The Company shall provide the required dumpsters at City facilities.
4. Out of Scope Services May Be Contracted for Directly with Customers. Company may provide collection and disposal or recycling service within the territorial jurisdiction of the City for any Waste Material and/or Location Types that are outside the scope of this Agreement pursuant such terms and conditions as may be mutually agreed upon by Company and such Customers. Such services and agreements are outside the scope of this Agreement, and this Agreement does not require such Customers to use Company for such services, but they may do so at their discretion. The City agrees that Company may use any information received from the City in marketing all of its available services to the Customers located within the City, whether included in the scope of this Agreement or not.
5. Exhibits. All Exhibits attached this Agreement are an integral part of the Agreement and are incorporated herein.

Exhibit A Specifications for Municipal Solid Waste Services

Exhibit A-1 Municipal Solid Waste Pricing

Exhibit B Specifications & Pricing for Recycling Services

Exhibit B-1 Recycling Facility Average Commodity Mix

Exhibit C Company's Performance Bond

Exhibit D Original Request for Proposals

6. Term. This Agreement begins on the Effective Date and expires five (5) years thereafter but shall automatically renew for successive two-year periods (the "**Term**") unless either party provides written notice of non-renewal at least ninety (90) days prior to the expiration of the then current Term, or unless otherwise terminated in accordance with the terms of this Agreement.
7. Rates for Services; Rate Adjustments; Additional Fees and Costs.
- 7.1 Rates for Services. The rates for all Services shall be as shown on Exhibits A-1 and B, subject to the rate adjustments and additional fees and costs as set forth herein.
- 7.2 Annual Rate Adjustments. Company shall increase the rates for all Services effective on each anniversary of the Effective Date of this Agreement in the amount of 5%.
- 7.3 Change in Law Adjustments. Company may increase the rates for Services as a result of increases in costs incurred by Company due to (a) any third party or municipal hauling company or disposal or recycling facility being used; (b) changes in local, state, federal or international rules, ordinances or regulations; (c) changes in taxes, fees or other governmental charges (other than income or real property taxes); (d) uncontrollable prolonged operational changes (i.e., a major bridge closure); (f) and changes in costs due to a Force Majeure Event. Any of the foregoing cost adjustments shall be retroactive to the effective date of such increase or change in cost.
8. Invoicing; Payment; Service Suspension; Audits.
- 8.1 Invoicing the City. The City shall invoice and collect from all Residential Units and Municipal Facilities Customers for Services provided by Company pursuant to this Agreement. The City shall report to Company (a) by the 5th of each month the total number of addresses subject to this Agreement and that have been billed for Services by the City and (b) on a quarterly basis, parcel data and a list of addresses billed for the Services by the City. Company shall invoice the City for the number of addresses that were billed by the City within fifteen (15) days of receiving the City's address count each month, and the City shall pay Company's invoices.
- 8.2 Invoicing the Customer Directly. Company shall invoice each individual Customer for all [Small Commercial Units, Large Commercial Units, Industrial Permanent Units, and Industrial Temporary Units] Services rendered to such Customer under this Agreement within _____ (_____) days following the end of the month, and the Customer shall pay Company's invoices.
- 8.3 Payment. The City or Customer, as applicable, shall pay each of Company's invoices without offset within twenty (20) days of receipt Company's invoice. Payments may be made by check or ACH only; no purchasing cards or credit cards will be accepted. If Company is invoicing the City, City shall pay Company's invoices in full irrespective of whether or not the City collects from the Customers for such Service. Payments not made on or before their due date may be subject to late fees of one and one-half percent (1.5%) per month (or the maximum allowed by law, if less). If the City or Customer, as applicable, withholds payment of a portion or entire invoice and it is later determined that a portion or all of such withheld amount is owed to Company, such amount shall be subject to the late fees provided herein from the original due date until paid.

8.4 Service Suspension.

8.4.1 Unpaid Invoices. If any amount due from the City is not paid within sixty (60) days after the date of Company's invoice, Company may suspend Services until the City has paid its outstanding balance in full and/or terminate this Agreement. If Company suspends Service, the City shall pay a service interruption fee in an amount determined by Company in its discretion up to the maximum amount allowed by Applicable Law. If any amount due to Company from an individual Customer is not paid within sixty (60) days after the date of Company's invoice, Company may suspend that Customer's Services until the Customer has paid its outstanding balance in full. If Company suspends Service, the Customer shall pay a service interruption fee in an amount determined by Company in its discretion up to the maximum amount allowed by Applicable Law.

8.4.2 Suspension at Direction of City. If the City wishes to suspend or discontinue Services to a Customer for any reason, the City shall send Company a written notice (email is acceptable as long as its receipt is acknowledged by Company) identifying the Customer's address and the date the Services should be suspended or discontinued. In the event of Service suspension, the City shall provide additional email notification to Company if/when it wishes to reactivate the suspended Services. Upon receipt of a notice of reactivation, Company shall resume the Services on the next regularly scheduled collection day. The City shall indemnify, defend, and hold Company harmless from any claims, suits, damages, liabilities or expenses (including but not limited to expenses of investigation and attorneys' fees) resulting from the suspension of discontinuation of any Services at the direction of the City.

8.5 Audits.

8.5.1 Audit of City Billings. With respect to any Services in which the Company's billing is dependent upon the City's reporting of the number of addresses subject to this Agreement, the City shall perform an audit at least once each year to confirm that all addresses receiving Services under this Agreement are actually being billed by the City and that the City's reporting on such addresses is accurate. The City shall share all findings and documentation with respect to such audits with Company. In addition to the foregoing, Company shall be permitted to conduct its own address counts using manual counts and/or official parcel maps. If at any time Company presents to City data to support that the number of addresses serviced exceeds the number provided by the City, the parties agree to re-negotiate in good faith the number of addresses receiving and paying for services under this Agreement.

8.5.2 Audit of Company Records. The City may request and be provided with an opportunity to audit any relevant and non-confidential records of Company that support the calculations of charges invoiced to the City under this Agreement within the ninety (90) day period before the audit request. Such audits shall be paid for by the City and shall be conducted under mutually acceptable terms at Company's premises in a manner that minimizes any interruption in the daily activities at such premises.

9. Termination. If either party breaches any material provision of this Agreement and such breach is not substantially cured within thirty (30) days after receipt of written notice from the non-breaching party specifying such breach in reasonable detail, the non-breaching party may terminate this Agreement by giving thirty (30) days' written notice of termination to the breaching party. However, if the breach cannot be substantially cured within thirty (30) days, the Agreement may not be terminated if a cure is commenced within the cure period and for as long thereafter as a cure is diligently pursued. Upon

termination, the City shall pay Company only such charges and fees for the Services performed on or before the termination effective date and Company shall collect its equipment, and Company shall have no further obligation to perform any Services under this Agreement.

10. Compliance with Laws. Company warrants that the Services will be performed in a good, safe and workmanlike manner, and in compliance with all applicable federal, state, provincial and local laws, rules, regulations, and permit conditions relating to the Services, including without limitation any applicable requirements relating to protection of human health, safety, or the environment (“**Applicable Law**”). In the event any provision of this Agreement conflicts with an existing ordinance of the City, this Agreement shall control and Company shall not be fined, punished, or otherwise sanctioned under such ordinance. Company reserves the right to decline to perform Services, which, in its judgment, it cannot perform in a lawful manner or without risk of harm to human health, safety or the environment.
11. Title. Title to Waste Material shall pass to Company when loaded into Company’s collection vehicle or otherwise received by Company. Title to and liability for any Excluded Waste shall at no time pass to Company.
12. Excluded Waste. If Excluded Waste is discovered before it is collected by Company, Company may refuse to collect the entire waste container that contains the Excluded Waste. In such situations, Company shall contact the City and the City shall promptly undertake appropriate action to ensure that such Excluded Waste is removed and properly disposed of by the depositor or generator of the Excluded Waste. In the event Excluded Waste is present but not discovered until after it has been collected by Company, Company may, in its sole discretion, remove, transport, and dispose of such Excluded Waste at a facility authorized to accept such Excluded Waste in accordance with Applicable Law and, in Company’s sole discretion, charge the City, depositor or generator of such Excluded Waste for all direct and indirect costs incurred due to the removal, remediation, handling, transportation, delivery, and disposal of such Excluded Waste. The City shall provide all reasonable assistance to Company to conduct an investigation to determine the identity of the depositor or generator of the Excluded Waste and to collect the costs incurred by Company in connection with such Excluded Waste. Subject to the City’s providing all such reasonable assistance to Company, Company shall release City from any liability for any such costs incurred by Company in connection with such Excluded Waste, except to the extent that such Excluded Waste is determined to be attributed to the City.
13. Equipment; Access. Any equipment that Company furnishes or uses to perform the Services under this Agreement shall remain Company’s property. The City shall be liable for all loss or damage to such equipment, except for normal wear and tear, or loss or damage resulting from Company’s handling of the equipment. City and Customers shall use the equipment only for its proper and intended purpose and shall not overload (by weight or volume), move, or alter the equipment. The City shall fully reimburse Company for any and all claims resulting from personal injuries or death, or the loss of or damage to property (including the equipment) arising out of the use, operation, or possession of the equipment by the City or the Customers. If the equipment and/or Waste Material is not accessible so that the regularly scheduled pick-up cannot be made, such Waste Material will not be collected until the next regularly scheduled pick-up, unless the Customer calls Company and requests an extra pick-up, in which case an extra service charge will apply. Company shall not be responsible for any damages to any property or equipment located adjacent to the collection receptacles, nor to any pavement, curbing, or other driving surfaces is resulting from Company providing the Services under this Agreement.
14. Risk Allocation. Except as otherwise specifically set forth herein, each party shall be responsible for any and all claims for personal injuries or death, or the loss of or damage to property, only to the extent caused by that party’s negligence or acts of willful misconduct or those of its employees, contractors, subcontractors, or agents.

15. Insurance. During the Term of this Agreement, Company shall maintain in force, at its expense, insurance coverage with minimum limits as follows:

Workers' Compensation

Coverage A	Statutory
Coverage B - Employers Liability	\$1,000,000 each Bodily Injury by Accident \$1,000,000 policy limit Bodily Injury by Disease \$1,000,000 each occurrence Bodily Injury by Disease

Automobile Liability

Bodily Injury/Property Damage Combined – Single Limit	\$3,000,000 Coverage is to apply to all owned, non-owned, hired and leased vehicles (including trailers).
Pollution Liability Endorsement	MCS-90 endorsement for pollution liability coverage

Commercial General Liability

Bodily Injury/Property Damage Combined – Single Limit	\$2,500,000 each occurrence \$5,000,000 general aggregate
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All such insurance policies will be primary without the right of contribution from any other insurance coverage maintained by City. All policies required herein shall be written by insurance carriers with a rating of A.M. Bests of at least “A-” and a financial size category of at least VII. Upon City’s request, Company shall furnish City with a certificate of insurance evidencing that such coverage is in effect. Such certificate will also provide for thirty (30) days prior written notice of cancellation to the City, show the City as an additional insured under the Automobile and General Liability policies, and contain waivers of subrogation in favor of the City (excluding Worker’s Compensation policy) except with respect to the sole negligence or willful misconduct of City.

16. Force Majeure. Except for City’s obligation to pay amounts due to Company, any failure or delay in performance under this Agreement due to contingencies beyond a party’s reasonable control, including, but not limited to, strikes, riots, terrorist acts, epidemic or pandemic, compliance with Applicable Laws or governmental orders, fires, bad weather and acts of God, shall not constitute a breach of this Agreement, but shall entitle the affected party to be relieved of performance at the current pricing levels under this Agreement during the term of such event and for a reasonable time thereafter. The collection or disposal of any increased volume resulting from a flood, hurricane or similar or different Act of God over which Company has no control, shall not be included as part of Company’s service under this Agreement. In the event of increased volume due to a Force Majeure event, Company and the City shall negotiate the additional payment to be made to Company. Further, the City shall grant Company variances in routes and schedules as deemed necessary by Company to accommodate collection of the increased volume of Waste Materials.
17. Non-Discrimination. Company in its performance of Services under this Agreement shall not discriminate against any person designated a protected class under state or federal law, and specifically: race, sex, sexual orientation, age, creed, color, religion, national origin, or disability.
18. Licenses and Taxes. Company shall obtain all licenses and permits (other than the license and permit granted by this Agreement) and promptly pay all taxes required by the City and by the State.
19. No Guarantees or Liquidated Damages. Except as provided in this Agreement, Company provides no guarantees or warranties. No liquidated damages or penalties may be assessed against Company by City.

20. Miscellaneous. (a) This Agreement represents the entire agreement between the Parties and supersedes all prior agreements, whether written or verbal, that may exist for the same Services. (b) Company shall have no confidentiality obligation with respect to any Waste Materials. (c) Neither party shall assign this Agreement in its entirety without the other party's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Company may assign this Agreement without the City's consent to its parent company or any of its subsidiaries, to any person or entity that purchases any operations from Company or as a collateral assignment to any lender to Company. This Agreement shall be binding upon and inure solely to the benefit of the Parties and their permitted successors and assigns. (d) Company may provide any of the Services covered by this Agreement through any of its affiliates or subcontractors, provided that Company shall remain responsible for the performance of all such services and obligations in accordance with this Agreement. (e) No intellectual property rights in any of Company's IP are granted to City under this Agreement. (f) All provisions of the Agreement shall be strictly complied with and conformed to by the Parties, and this Agreement shall not be modified or amended except by written agreement duly executed by the undersigned parties. (g) If any provision of this Agreement is declared invalid or unenforceable, it shall be modified so as to be valid and enforceable but so as most nearly to retain the intent of the Parties. If such modification is not possible, such provision shall be severed from this Agreement. In either case, the validity and enforceability of the remaining provisions of this Agreement shall not in any way be affected thereby. (h) Failure or delay by either party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. (i) If any litigation is commenced under this Agreement, the successful party shall be entitled to recover, in addition to such other relief as the court may award, its reasonable attorneys' fees, expert witness fees, litigation related expenses, and court or other costs incurred in such litigation or proceeding. (j) This Agreement shall be interpreted and governed by the laws of the State where the Services are performed. (k) Customer and Company agree that electronic signatures are valid and effective, and that an electronically stored copy of this Agreement constitutes proof of the signature and contents of this Agreement, as though it were an original.

IN WITNESS HEREOF, the parties have entered into this Agreement as of the date first written above.

FOR PERRY CITY:

FOR SERVICING DIVISION:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attest: _____

EXHIBIT A

SPECIFICATIONS FOR MUNICIPAL SOLID WASTE SERVICES

1. Waste Material. The following Waste Material shall be considered in scope during the Term of this Agreement:

_____ Municipal Solid Waste (MSW)	_____ Bulky Waste
_____ Yard Waste	_____ Construction Debris

2. Definitions.

2.1 Bulky Waste – Stoves, refrigerators (with all CFC and other refrigerants removed), water tanks, washing machines, furniture and other similar items with weights and/or volumes greater than those allowed for the waste container supplied.

2.2 Bundle – Tree, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four (4) feet in length or thirty-five (35) lbs. in weight.

2.3 Construction Debris – Excess building materials resulting from construction, remodeling, repair or demolition operations.

2.4 Customer – An occupant or operator of any type of premise within the City that is covered by this Agreement and who generates Municipal Solid Waste and/or Recyclable Material, if applicable.

2.5 Disposal Site – A Waste Material depository including, but not limited to, sanitary landfills, transfer stations, incinerators, recycling facilities and waste processing/separation centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals to receive for processing or final disposal of Waste Material.

2.6 Excluded Waste – Excluded Waste consists of Special Waste, Hazardous Waste, and any other material not expressly included within the scope of this Agreement including, but not limited to, any material that is hazardous, radioactive, volatile, corrosive, highly flammable, explosive, biomedical, infectious, biohazardous, toxic or listed or characteristic hazardous waste as defined by Applicable Law or any otherwise regulated waste.

2.7 Hazardous Waste – Any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, and including future amendments thereto, and any other Applicable Law.

2.8 Industrial Permanent Unit – An industrial premise requiring use of a large container for the collection of its MSW for a continuous term.

2.9 Industrial Temporary Unit – An industrial premise requiring use of a large container for the collection of its Solid Waste on only a temporary basis. Solid Waste collection is generally limited to a specific event or a short-term project.

2.10 Large Commercial Unit – A commercial premise that is not classified as a Residential Unit or Municipal Facility that requires a waste container that is two (2) yards or larger per collection day for the collection of its Solid Waste.

2.11 Municipal Facilities – Those specific municipal premises as set forth on Exhibit A-1 of this Agreement, if any.

2.12 Municipal Solid Waste (or “MSW”) – Useless, unwanted or discarded nonhazardous materials (trash or garbage) with insufficient liquid content to be free-flowing that result from residential, commercial, governmental and community operations. Municipal Solid Waste does not include any Excluded Waste.

2.13 Residential Unit – A dwelling where a person or group of people live. For purposes of this Agreement, each unit in a multi-family dwelling (condominium, apartment or other grouped housing structure) shall be treated as a separate Residential Unit and a Residential Unit shall be deemed occupied when either water or power services are being supplied thereto.

2.14 Small Commercial Unit – A commercial premise that is not classified as a Residential Unit or Municipal Facility that requires no more than three (3) thirty-two (32) gallon containers per collection day for the collection of its Solid Waste. Examples of Small Commercial Units include offices, stores, service stations, restaurants, amusement centers, schools, and churches.

2.15 Special Waste – Any nonhazardous solid waste which, because of its physical characteristics, chemical make-up, or biological nature requires either special handling, disposal procedures including liquids for solidification at the landfill, documentation, and/or regulatory authorization, or poses an unusual threat to human health, equipment, property, or the environment. Special Waste includes, but is not limited to (a) waste generated by an industrial process or a pollution control process; (b) waste which may contain residue and debris from the cleanup of spilled petroleum, chemical or commercial products or wastes, or contaminated residuals; (c) waste which is nonhazardous as a result of proper treatment pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (“RCRA”); (d) waste from the cleanup of a facility which generates, stores, treats, recycles or disposes of chemical substances, commercial products or wastes; (e) waste which may contain free liquids and requires liquid waste solidification; (f) containers that once contained hazardous substances, chemicals, or insecticides so long as such containers are “empty” as defined by RCRA; (g) asbestos containing or asbestos bearing material that has been properly secured under existing Applicable Law; (h) waste containing regulated polychlorinated biphenyls (PCBs) as defined in the Toxic Substances Control Act (TSCA); (i) waste containing naturally occurring radioactive material (NORM) and/or technologically-enhanced NORM (TENORM); and (j) Municipal Solid Waste that may have come into contact with any of the foregoing.

2.16 Waste Material – All nonhazardous Municipal Solid Waste and, as applicable, Recyclable Material, Yard Waste, Bulky Waste and Construction Debris generated at the Location Types covered by this Agreement. Waste Material does not include any Excluded Waste.

2.17 Yard Waste – Grass, leaves, flowers, stalks, stems, tree trimmings, branches, and tree trunks. For yard waste collection services, grass, pine needles, leaves, flowers, stalks, stems, and small tree trimmings (less than two (2) feet in length and less than two (2) inches in diameter) shall be in a container, bag or box the weight of which shall not exceed thirty-five (35) pounds. Larger tree trimmings shall be laid neatly in piles at curbside. The maximum weight of any item placed out for yard waste collection shall be thirty-five (35) pounds. Branches in excess of two (2) feet in length are not required to be in a container, bag or box.

3. Collection Operations.

3.1 Location of Containers, Bags and Bundles for Collection. Each container, bag and bundle containing Waste Material shall be placed at curbside for collection. Curbside refers to that portion of right-of-way adjacent to paved or traveled City roadways. Containers, bags and bundles shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians.

When construction work is being performed in the right-of-way, containers, bags and bundles shall be placed as close as practicable to an access point for the collection vehicle. Company may decline to collect any container, bag or bundle not so placed or any Waste Material not in a container, bag or bundle.

3.2 Hours of Collection Operations. Collection of Waste Material shall not start before 5:00 A.M. or continue after 8:00 P.M. Exceptions to collection hours shall be affected only upon the mutual agreement of the City and Company, or when Company reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

3.3 Routes of Collection. Collection routes shall be established by the Company. Company shall submit the Residential Unit and Municipal Facility collection routes to the City at least two (2) weeks in advance of the commencement date for such route collection activity. The Company may from time to time make changes in routes or days of collection affecting Residential Units or Municipal Facilities, provided such changes in routes or days of collection are submitted to the City at least two (2) weeks in advance of the commencement date for such changes. City may post or publish on social media, newsletter, or website routes or changes in routes.

3.4 Residential Collection. Company shall be obligated to collect no more than 4 containers (or their equivalent) per week from each Residential Unit. Any collections needed by a Residential Unit in excess of such amount must be individually contracted by the Residential Unit Customer with Company under terms, prices and documents acceptable to both the Residential Unit Customer and Company.

3.5 Holidays. The following shall be holidays for purposes of this Agreement: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Company may suspend collection service on any of these holidays, but such decision in no manner relieves Company of its obligation to provide collection service at least once per week.

3.6 Complaints. All service-related complaints must be made directly to the Company and shall be given prompt and courteous attention. In the case of alleged missed scheduled collections, the Company shall investigate and, if such allegations are reasonably substantiated, shall arrange for the collection of Waste Material not collected within one business day after the complaint is received.

3.7 Collection Equipment. The Company shall provide an adequate number of vehicles meeting standards and inspection requirements as set forth by the laws of the State for regular municipal waste collection services. For Waste Material collection, all vehicles and other equipment shall be kept in good repair and appearance at all times. Each vehicle shall have clearly visible on each side the identity of the Company.

3.8 Disposal. All Waste Material, other than processed Recyclable Material that is marketable, collected within the City under this Agreement shall be deposited at the Box Elder County Landfill.

3.9 Customer Education. The City shall notify all Customers at Residential Units about set-up, service-related inquiries, complaint procedures, rates, regulations, and day(s) for scheduled Waste Material collections.

3.10 Litter or Spillage. The Company shall not litter premises in the process of making collections, but Company shall not be required to collect any Waste Material that has not been placed in approved containers. During hauling, all Waste Material shall be contained, tied or enclosed so that leaking, spillage or blowing is minimized. In the event of spillage by the Company, the Company shall be required to clean up the litter caused by the spillage.

EXHIBIT A-1

SOLID WASTE PRICING

Add your division's formats used frequently in municipal bids – include both residential and municipal facilities sections.

*Include a Rate Table, Container sizes; number of pickups per week

*Be sure to note any limitations on materials outside of containers; for example – will we collect bags, bundles not in a container?

Add an asterisk beside each pricing table and below them all add the asterisk explanation as indicating that “the prices are all subject to price adjustments as provided in the Agreement terms, and, are all exclusive of taxes, host fees, FRF, ERF and administrative fees which will be invoiced as separate line items”.

[This exhibit should also include separate pricing for the small commercial units, if different than the normal residential unit pricing.]

EXHIBIT B

SPECIFICATIONS & PRICING FOR RECYCLING SERVICES

1. Recycling Services Definitions.

1.1 “**Recyclable Materials**” are used and/or discarded materials that are capable of successful processing and sale on the commodity market.

1.2 “**Acceptable Material**” means the materials listed in Section 8 below.

1.3 “**Unacceptable Material**” means the materials listed in Section 9 below. All Recyclable Materials collected for delivery and sale by Company shall be hauled to a processing facility selected by Company for processing (“Recycling Services”).

2. City’s Duty. City shall make a commercially reasonable effort to educate its Customers regarding Acceptable and Unacceptable Materials and to encourage its Customers to place only Acceptable Materials in their recycling containers.

3. Collection and Processing. City shall pay Company a rate of \$_____ per Unit for the collection and processing of Recyclable Materials from applicable Residential Units and Municipal Facilities. City’s Collection and Processing rate assumes that, on average, City’s Recyclable Material consists of no more than 20% Unacceptable Material (the “**Unacceptable Material Threshold**”). The Collection and Processing rate is subject to Rate Adjustments as set forth in Section 7 of the Agreement.

4. Right to Inspect/Audit. Company may visually inspect the collected Recyclable Materials to ensure loads are at or below the Unacceptable Material Threshold. If Company’s visual inspector determines that loads of Recyclable Material are consistently above the Unacceptable Material Threshold, Company will notify City of the issue and the parties agree to promptly negotiate in good faith (a) an agreed upon procedure to audit a representative sample of City’s Recyclable Material to determine its actual composition of Unacceptable Material; and (b) an updated Collection and Processing rate commensurate with the composition of Unacceptable Material.

5. Recycling Commodity Credit. Company shall return 100% of City’s recycling commodity value to City each month. City’s “**Recycling Commodity Credit**” shall be determined by multiplying the per-ton market value of the processing facility’s Average Commodity Mix by the number of tons of Recyclable Material collected from City and processed each month. The processing facility’s “**Average Commodity Mix**” means the relative mix of outbound commodities (including Residue), established pursuant to either (i) a minimum rolling 3-month facility average composition (subject to adjustment as necessary by Company) or (ii) a composition audit or an average of audits over a 12-month period (if any). The processing facility’s Average Facility Commodity Mix is set forth in the attached Exhibit B-1. The per-ton value of the processing facility’s Average Commodity Mix shall be determined each month by applying the most recently-available indices or actual values (as set forth in Exhibit B-1) to the facility’s Average Commodity Mix including any negative commodity market values and Company’s charges for hauling and disposing of contaminated, unmarketable and/or Unacceptable Material (“**Residue**”).

6. Reporting and Credit. Company will provide City with a monthly report detailing the total tons of Recyclable Material received from the City during the previous month and the calculation of City’s Recycling Commodity Credit for that month. If the City’s account is billed in the aggregate to the City, the previous month’s Recycling Commodity Credit will be issued as a credit on the next month’s invoice to the City (if the Recycling Commodity Credit exceeds the City’s invoice amount, then Company will issue a check to City for

the balance of its Recycling Commodity Credit). If the City's account is Customer-billed, then Company will issue a check to City for its full Recycling Commodity Credit each month (in arrears).

7. Changes in Market Conditions. If market conditions develop that limit or inhibit Company from selling some or all of the Acceptable Material, Company may at its option and upon notice to Supplier (i) redefine Acceptable and Unacceptable Materials, (ii) update the processing facility's Average Commodity Mix; (iii) suspend or discontinue any or all Services, or (iv) dispose of the Acceptable Material (as currently defined) in a landfill and update the pricing to City accordingly. Any such actions, if taken, may be reversed or further changed as market conditions dictate.

8. Acceptable Material. All material must be empty, clean and dry. Company may modify the following list of Acceptable Materials in its sole and absolute discretion but will provide City with at least thirty (30) days' prior written notice of any such modifications.

- Aluminum food and beverage containers - aluminum soda and beer cans, cat food cans, etc.
- Ferrous Cans - soup, coffee cans, etc.
- P.E.T. plastic containers with the symbol #1 – no microwave trays
- H.D.P.E. natural plastic containers with the symbol #2 – milk jugs and water jugs containers only (narrow neck containers)
- H.D.P.E. pigmented plastic containers with the symbol #2 – detergent, shampoo, bleach bottles without caps (narrow neck containers); butter and margarine tubs
- Polypropylene plastic food and beverage containers symbol #5 - yogurt containers
- Mixed Paper (54), as defined in the most recent ISRI Scrap Specifications Circular
- Sorted Residential Paper and News (56), as defined in the most recent ISRI Scrap Specifications Circular
- Kraft Paper Bags
- Old Corrugated Containers (OCC) – no wax coated
- Magazines (OMG) - Coated magazines, catalogues and similar printed materials, junk mail, and soft cover books
- Aseptic Cartons - Juice boxes, gable top milk and juice containers, soy milk and soup cartons
- Glass food and beverage containers – Flint (clear), Amber (brown), Emerald (green)

9. Unacceptable Material. Company may modify the following list of Unacceptable Materials in its sole and absolute discretion but will provide City with at least thirty (30) days' prior written notice of any such modifications.

- Yard Waste
- Styrofoam
- Pizza Boxes, unless free of *any* food or grease residue
- Food
- Any liquids
- Diapers
- Clothing/textiles
- Plastic Bags or bagged material (newsprint may be placed in a Kraft bag)
- Plastic containers with #3, #4, #6, or #7 on them or no # at all
- Mirrors, window or auto glass, light bulbs, ceramics
- Oil or antifreeze containers
- Coat hangers
- Paint cans

- Medical Waste/Sharps
- Any Acceptable Material that is no longer acceptable due to its coming into contact with or being contaminated by Unacceptable Material.

EXHIBIT B-1

RECYCLING FACILITY AVERAGE COMMODITY MIX

[Insert table of Recyclable Commodities, tons collected, and average Commodity revenues at start of contract]

EXHIBIT C

COMPANY'S PERFORMANCE BOND

[To be provided by Company]

**PERRY CITY
RESOLUTION 2023-10**

PROSECUTION AGREEMENT

**A RESOLUTION OF PERRY CITY, UTAH, ENTERING A CONTRACT
FOR LEGAL SERVICES FOR PROSECUTION WITH BLAIR WARDLE
AND PROVIDING AN EFFECTIVE DATE.**

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

WHEREAS, the City (“City”) previously retained the legal services of Blair Wardle for prosecution services and now desires to update the same;

WHEREAS, the City and Blair Wardle have negotiated the Contract for Legal Service for Perry Prosecution (“Agreement”) attached hereto and incorporated herein by this reference;

WHEREAS, the City desires to adopt the Agreement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Perry City, Utah, that the Agreement attached hereto as Exhibit “A” and incorporated herein by this reference is approved and adopted for the purposes contained therein. The City Council hereby authorizes and directs the Mayor to execute said Amendment along with any documents relating thereto for and on behalf of the City. This Resolution is effective immediately upon passage and approval.

PASSED AND APPROVED by the Perry City Council this ____ day of _____, 2023.

Mayor

ATTEST:

City Recorder

CONTRACT FOR LEGAL SERVICES

PERRY CITY PROSECUTION

Section 1. Definitions

- A. This agreement is made and entered into by and between Perry City and Blair T. Wardle Attorney at Law in consideration of the mutual promises contained herein.
- B. Unless this contract expressly provides otherwise, the following definitions shall apply herein:
 - i. "City" means Perry City
 - ii. "Contractor" means Blair T. Wardle
 - iii. "Administrator" means the Perry City Mayor or his designated representatives.

Section 2. Services

- A. The Contractor shall represent the City in all criminal proceedings except those matters which may be assigned by the City to independent counsel. Additionally, at the request of the City Council or such other persons as the Council may designate in writing, the Contractor shall provide advice, document preparation and other professional legal services pertaining to criminal prosecution of city ordinances and code to the City Council and administrative departments of the City as required.
- B. All services furnished hereunder by the Contractor shall be performed by, or under, the direction Blair Wardle, Attorney at Law.

Section 3. Access to City Personnel

- A. The City shall provide the Contractor with access to qualified municipal personnel, as well as any municipal records necessary for the performance of the Contractor's duties hereunder.

Section 4. Contract Administrator

- A. The Administrator shall perform at least the following duties:
 - i. Designate the work to be performed under this agreement.
 - ii. Receive all information and notices the Contractor is required to communicate to the City pursuant to this agreement.

Section 5. Term & Expenses

- A. The term of this Agreement shall be for one year.
 - a. The Agreement shall be automatically renewed for additional one year increments on the same terms and conditions unless terminated in writing by either party at least 30 days prior to the expiration of the Agreement; provided, however, that the Agreement shall not be extended more than two additional terms without additional approval of the City Council.

- B. The City shall pay the Contractor for professional services rendered under this contract at the rate of \$1,500.00 **monthly**.
 - a. In the event of a bench or jury trial which lasts more than two hours, the City agrees to pay the Contractor an additional rate of \$100.00 **per hour** after the first two hours until a verdict or plea agreement is reached.
 - i. Payment is to be calculated in thirty minute prorated increments to be rounded up to nearest thirty-minute increment.
 - ii. Prior to receiving payment under provision (B)(a), Contractor will provide the City an invoice of services rendered.
 - b. In the event that any other required hearing or requested legal assistance requires two hours or more of work, the City agrees to pay the Contractor an additional rate of \$100.00 **per hour**, to be charged in thirty minute prorated increments after the first two hours of work provided.

- C. The City shall reimburse the Contractor for the following expenses reasonably incurred in performing professional services under Section 2:
 - a. Travel, provided that the Contractor has incurred travel expenses at the request of the City.
 - b. Telephone, telegraph, transcripts and similar items ordinarily charged to a client by an attorney.

- D. The City shall reimburse the Contractor for the following expenses reasonably incurred in performing professional services under Section 2:
 - a. Travel, provided that the Contractor has incurred travel expenses at the request of the City.
 - b. Telephone, telegraph, transcripts and similar items ordinarily charged to a client by an attorney.

- E. Charges under section, 5, paragraph B shall not include items of the Contractor's overhead, such as secretarial time, office overhead, library expenses, office supplies, and similar expenses incurred by the Contractor in the general course of its business as a law firm.
- F. The Contractor shall be entitled to no compensation under this contract beyond the scope of the City's express obligations under section 5.

Section 6. Itemized Payment Reporting

- A. Prior to reimbursement under section 5, paragraph B, subsection a and/or b, Contractor shall submit an itemized billing to City.

Section 7. Relationship of Parties

- A. The Contractor shall perform its obligations hereunder as independent Contractor of the City. The City may administer the contract and monitor the Contractor's compliance with its obligations hereunder in the following manner:
 - a. The Administrator may assign individual projects to the Contractor by written letter or memorandum. In the event verbal requests must be made due to time constraints. Written confirmation will follow.
 - b. The City shall have access to the Contractor's entire file on any matter assigned to the Contractor.

Section 8. Nondiscrimination

- A. The Contractor shall comply with all applicable federal, state and municipal laws concerning the prohibition of discrimination.

Section 9. Permits, Laws, and Taxes

- A. The Contractor shall comply with all applicable federal, state and municipal laws concerning permits, laws, and taxes.

Section 10. Conflict of Interest

- A. The contract shall comply with all provisions of the Utah Rules of Professional Conduct specifically concerning prohibition of conflicts of interest among clients. For purposes of applying these standards, the City shall be regarded as though it were a private corporate client. The Contractor shall not accept any employment and shall not render any professional services to other parties if such action might

be inconsistent with the above-referenced standards unless the prior written approval of the City Council has been obtained.

Section 11. Nonwaiver

- A. The failure at any time to enforce a provision of this contract shall in no way constitute a waiver of the provision, nor in any way affect the validity of this contract or any part hereof, or the rights of the Parties thereafter to enforce each and every provision hereof.

Section 12. Assignments

- A. Except insofar as this contract specifically permits assignments, any assignment by the Contractor of its interest in any part of this contract or any delegation of duties under this contract without the express written consent of the Administrator shall be void, and any attempt by the Contractor to assign any part of its interest or delegate duties under this contract shall give the City the right immediately to terminate this contract without any liability for work performed.
- B. Notwithstanding section 12, paragraph A, the Contractor may assign duties required by this contract on a temporary basis as necessary to resolve any scheduling issues or conflicts of interest that may arise with the Contractor without obtaining prior written consent of the Administrator. Making a temporary assignment does not provide grounds for the Administrator to void the temporary assignment nor does it give the City the right to terminate the contract.

Section 13. Termination

- A. This contract may be terminated by either party for any reason, if such termination is accomplished as required by section 13, paragraph B and in accordance with the terms of this contract.
- B. In the event that either party desires to terminate this contract, such party shall provide written notice at least thirty (30) days prior to the expiration date contained in section 5, paragraph A.

Section 14. Amendment

- A. The parties may amend this contract only by written agreement which shall be attached as an appendix hereto.

Section 15. Severability

A. Any provision of this contract decreed invalid by a court of competent jurisdiction shall be in effect to the extent of such validity without invalidating the remaining provisions of the contract.

Section 16. Integration

A. This instrument and any writings incorporated by reference herein embody the entire agreement of the parties. This contract shall supersede all previous communications, representations or agreements, whether oral or written, between the parties hereto. The contract contemplated, but is not limited to, addenda that add or delete cases from the Contractor's authority.

Section 17. Effective Date

A. This contract is effective beginning May 1, 2023.



BLAIR T. WARDLE
Attorney at Law

4/2/23
Date

KEVIN JEPPESEN
Perry City Mayor

Date

**PERRY CITY
ORDINANCE 2023-___**

REPEAL OPTION TRANSIT SALES AND USE TAX

**AN ORDINANCE OF PERRY CITY, UTAH, REPEALING THE OPTION SALES
AND USE TAX FUNDING PUBLIC TRANSPORTATION; SEVERABILITY;
AND EFFECTIVE DATE.**

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

WHEREAS, the Utah State Legislature previously adopted Utah Code §59-12-1001, which was transitioned under Utah Code §59-12-2212.1;

WHEREAS, the current State Law provides Utah Code §59-12-2215, and the City desires to impose a “option sales and use tax” to add .30% tax to transactions described in Utah Code §59-12-103(1) as provided by law;

WHEREAS, the City Council has the power to establish and repeal a sales tax on retail sales for the purpose of funding public transportation;

WHEREAS, the City previously adopted Ordinance 07-HH funding .30% public transit or transportation via sales and use tax and now desires to repeal the same;

WHEREAS, notwithstanding Utah Code §59-12-2208, the City’s Legislative Body is not required to submit this repeal to the City’s registered voters;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Perry City, Utah, as follows:

Section 1. Repeal. Ordinance 07-HH is hereby repealed in its entirety along with any other Ordinance that conflicts with this Section.

Section 2: Severability.

If a court of competent jurisdiction determines that any part of this Ordinance is unconstitutional or invalid, then such portion of this Ordinance, or specific application of this Ordinance, shall be severed from the remainder, which remainder shall continue in full force and effect.

Section 3. Effective Date.

This Ordinance is effective immediately upon passage and approval or in accordance with the applicable State Law.

PASSED AND APPROVED by the Perry City Council this ____ day of _____, 2023.

Mayor

ATTEST:

City Recorder

1 PERRY CITY COUNCIL
2 MEETING PERRY CITY OFFICES
3 March 23, 2023

7:00 PM

4
5
6 OFFICIALS PRESENT: Mayor Kevin Jeppsen presided and conducted the meeting. Council
7 Member Nathan Tueller, Council Member Blake Ostler (arrived at
8 7:03 PM), Council Member Dave Walker, Council Member Toby
9 Wright (on-line), and Council Member Ashley Young.

10 OFFICIALS ABSENT:

11
12 CITY STAFF PRESENT: Robert Barnhill, City Administrator
13 Zach Allen, Public Works Director
14 Destry Roskelley, Public Works Maintenance (on-line)
15 Scott Hancey, Chief of Police
16 Bill Morris, City Attorney (on-line)
17 Shanna Johnson, City Recorder
18

19 OTHERS PRESENT: Marsha Frances, Austin Jenkins (Republic Services), Rich Allen, Lorri
20 Allen, Abbie Holbrook, David Holbrook, Clint Nelson, and Riley
21 Yeates
22

23 ON-LINE: Nelson Phillips (BENJ), Anna Ostler, Mallary, and Melanie Barnhill
24

25 **ITEM 1: CALL TO ORDER**

26 Mayor Jeppsen welcomed everyone and called the City Council meeting to order.
27

28 **ITEM 2: PROCEDURAL ISSUES**

29 **A. Conflict of Interest Declaration**

30 None
31

32 **ITEM 3: PRESENTATION**

33 **A. Stotz Equipment Grant Award**

34 Riley Yeates from Stotz Equipment said their company mission statement is “creating a better life
35 for our families, communities, and those connected to the land.” He said they care a lot about their
36 employees and customers along with the communities they live in. He reported that this year the
37 company was able to take a portion of their profit to donate into these communities. He explained
38 that Lorri Allen was a resident of Perry City and an employee at Stotz Equipment. He further
39 expounded that she gathered information and submitted a proposal to Stotz Equipment for grant
40 money to improve the playground equipment at Perry Park. He said management voted on the
41 proposal and Perry City won the vote so he wanted to present a \$45,000 check to upgrade the
42 swings in this park.
43

44 Mr. Barnhill thanked Perry City employees Zach Allen and Destry Roskelley for their work to
45 connect with Ms. Allen on this process. He said it's great what they are doing at Perry Park and the
46 community. Then Mayor Jeppsen thanked everyone for this community award.

47

48 **ITEM 4: ACTION ITEMS (Roll Call Vote)**

49 **A. Ordinance 23-B Zone Change for RM Mills Construction from NC to R1, located at 615**
50 **W 2200 S, Parcel # 03-278-0034**

51 Mr. Barnhill said this property was in the Davis Creek Subdivision and across the street from the
52 Maverik Store on Highway 89. This lot presently has two zones and he said the applicant was asking
53 for the property to be changed to just the R1 zone. He mentioned recently a property to the south
54 had a similar situation and was granted the residential zone change. He said the Planning
55 Commission had a Public Hearing and there was not any opposing comments and that they
56 recommended the resident zone change. Council Members discussed the peculiar lot size,
57 residential uses for it, and access or outlets for it. Council Member Tueller commented that in the
58 past and when it made sense to accommodate these lots the council has approved these types of
59 zone changes. Council Member Walker said because of the access point it makes more sense for
60 this lot to be residential. Council Member Young inquired if the developer would be installing
61 streetlights. Mr. Barnhill responded because the development was approved in 2007 the city might
62 need to install the lights.

63

64 **MOTION:** Council Member Tueller made a motion to approve Ordinance 23-B Zone Change
65 for RM Mills Construction from NC to R1. Council Member Walker seconded the motion.

66

67 **ROLL CALL:** Council Member Young, Yes
68 Council Member Walker, Yes
69 Council Member Ostler, Yes
70 Council Member Wright, Yes
71 Council Member Tueller, Yes

72

73 **Motion Approved. 5 Yes, 0 No**

74

75 **B. Ordinance 23-C Zone Change for Shane Francis from NC2 & R1 to NC2, located at 2544**
76 **S Highway 89, Parcel # 02-028-0031**

77 Mr. Barnhill said this applicant was similar to the previous action item. He explained the property
78 was along Highway 89, 2540 South, and 900 West and consists of neighborhood commercial in the
79 front and residential in the back. The lot was approximately 3 acres and the applicant was asking
80 for the whole property to be zoned commercial. He mentioned that there were several public
81 comments in the public hearing, which were presented in the Staff Report. Also in the Staff Report
82 was the recommendation from the Planning Commission to keep the R1 zone in place for 130' of
83 the west side of the property and the remaining R1 zone changed to NC2 (see exhibit A of the
84 ordinance). He said the key thing here was to keep in mind the capability and transition to the
85 existing uses around the property. For record he noted that Perry City was part owner of the
86 property but was not part of the application being submitted or privy to any of the information
87 about it. The city ownership shouldn't override those important policies and guiding principles.

88

89 Council Member Tueller asked for the length on the west side of the lot and Mr. Barnhill responded
90 that it was approximately 310', which in the future could accommodate about four quarter-acre

91 lots. Mr. Barnhill pointed out that the density map currently shows 20 multi-family units are
92 available in this (district) area. Council Member Wright remarked that they should keep 900 W
93 (Park Drive) a residential road; however, they'll need to have a commercial access. He said for this
94 request the Planning Commissioners have given a reasonable recommendation to square it off, but
95 eventually the parcels (along the highway) will have issues. Mayor Jeppsen indicated that because
96 of the diagonal highway on the south end of the city one of the problems was the commercial zoned
97 properties are going into residential areas.

98
99 Mayor Jeppsen allowed a brief public comment from David Holbrook who represented the
100 neighboring property owners. Mr. Holbrook said he lives at 2536 S 900 W and have spoken to the
101 families living in the area who all feel that they don't want commercial across the street from them.
102 He mentioned that several years ago there were five lots on north side of 900 W owned by the city
103 and he with the others purchased and built on them. He said they are opposed to this because they
104 still want to have the small town feel and not the back of the business across from their home.

105
106 **MOTION:** Council Member Tueller made a motion to approve Ordinance 23-C Zone Change
107 for Shane Francis from NC2 & R1 located at the stated parcel. Council Member Walker
108 seconded the motion with a suggested amendment to adopt the Planning Commission's
109 recommendation of creating a 130' residential section. Council Member Tueller did not
110 stand on Council Member Walker's added amendment. Council Member Young second the
111 motion that was on the floor and as originally stated by Council Member Tueller.

112
113 **ROLL CALL:** Council Member Young, No
114 Council Member Walker, No
115 Council Member Ostler, No
116 Council Member Wright, No
117 Council Member Tueller, No

118
119 **Motion Failed. 0 Yes, 5 No**

120
121 **C. Resolution 2023-06 Adopting a Ballot Measure to Repeal Mass Transit Tax**

122 Mayor Jeppsen said there had been a lot of discussion with the Commissioners, City Council,
123 Attorneys, and from all concerned about the repeal of the Mass Transit Tax. He mentioned that
124 there was a lot involved with this but there was only one decision to be made today for it to be put
125 on the ballot in November. He said they will discuss this process in the future but need the
126 resolution to go forward.

127
128 Council Member Tueller summarized that this repeal was for the one-quarter of one percent sales
129 tax sent to UTA, for the promised purchase of land for the frontrunner project. Those funds can then
130 go to the city and not UTA for use of transportation and roads infrastructure within our city. He said
131 for years the council has tried to get that tax back and now since they didn't bring the frontrunner
132 project to Perry City they have a reason to repeal the tax. Mr. Barnhill noted for the public that this
133 resolution is in collaboration with Brigham City, Box Elder County and UTA. Mr. Morris said that he
134 has been in coordination with the UTA attorneys and everyone was in agreement.

135
136 Council Member Ostler asked for clarification of the wording in the third whereas clause that the
137 "county may impose a tax to assist with public transit." Mr. Morris responded that this was put in to

138 show collaboration but ultimately the county may or may not impose the tax. Mayor Jeppsen said
139 the intent was to give the acknowledgement that the county was the legislative authority on this.

140
141 **MOTION:** Council Member Walker made a motion to approve Resolution 2023-06 Adopting
142 a Ballot Measure to Repeal Mass Transit Tax. Council Member Tueller seconded the motion.

143
144 **ROLL CALL:** Council Member Young, Yes
145 Council Member Walker, Yes
146 Council Member Ostler, Yes
147 Council Member Wright, Yes
148 Council Member Tueller, Yes

149
150 **Motion Approved. 5 Yes, 0 No**

151
152 **D. Resolution 2023-07 Adopting a Municipal Wastewater Planning Program for the**
153 **Wastewater Treatment System**

154 Ms. Johnson explained that this resolution was an annual reporting requirement by the Department
155 of Environmental Quality. It requires the cities to review a municipal wastewater planning program
156 for their system. She said the city analyzed the prior year to make sure the city wastewater system
157 was in good health. She explained that our city Wastewater Treatment Plant Lead Operator, Jeff
158 Hollingsworth, completed the operations section of the report and noted that the city was in
159 compliance and there were not any violations. She showed and summarized the financial evaluation
160 section of the report, noting that she worked with Willard City and Jeff Hollingsworth on the report
161 data such as average annual user rates, average impact fees and planned capital improvements, of
162 which no new planned capital projects were indicated. She mentioned that it is recommended that
163 every 5 years you have an Impact Fee Analysis done and the city has not done this since 2007, at the
164 beginning of the plant. Discussion took place regarding the equipment budget for the wastewater
165 plant. Shanna pointed out that the funds used in the account are more for maintenance of parts,
166 service repairs, and replacement parts, not capital improvement purchases on the plant. Council
167 Member Tueller explained some of the Wastewater Boards' future plans regarding plant equipment
168 including a needed transfer switch. Mayor Jeppsen commented that there are specific laws that
169 require this equipment be in certain running condition. Ms. Johnson reminded them that there were
170 also emergency reserve funds held for emergency repairs and an expansion fund that is funded by
171 budget dollars that are unspent. In addition, she mentioned the wastewater bond requires an Asset
172 Management Plan. Mayor Jeppsen noted that the board oversees the asset management plan.

173
174 Council Member Ostler suggested that it might be good to get the Impact Fee Analysis done at this
175 time. Mr. Barnhill mentioned that water, parks, storms, public safety and fire have studies currently
176 being done. Council Member Ostler said he was concerned with the need for a major re-haul
177 because of recent governmental phosphorus requirement. Ms. Johnson said the Perry-Willard
178 Wastewater Treatment Plant had already gone through the phosphorus treatment study and the
179 state determined that the plant did not require phosphorus treatment. Council Member Tueller
180 confirmed this.

181
182 **MOTION:** Council Member Tueller made a motion to approve Resolution 2023-07 Adopting
183 a Municipal Wastewater Planning Program for the Wastewater Treatment System. Council
184 Member Walker seconded the motion.

185

186 **ROLL CALL:** Council Member Young, Yes
187 Council Member Walker, Yes
188 Council Member Ostler, Yes
189 Council Member Wright, Yes
190 Council Member Tueller, Yes

191

192 **Motion Approved. 5 Yes, 0 No**

193

194 **E. Discussion and/or Action Regarding Solid Waste Disposal Bids and Authorizing the**
195 **Mayor to Negotiate a Contract for Solid Waste Disposal**

196 Mr. Barnhill explained that they had put out a solid waste disposal service bid and spoke directly to
197 five different garbage providers but had only received one bid back. Republic Services was the
198 company that submitted the bid and that their representative, Austin Jenkins, the operation
199 manager for the Ogden and Salt Lake areas was present. Mr. Barnhill said Republic Services gave
200 Perry City several types of service options and the council will need to review the options, give
201 input, and then authorized the Mayor to negotiate the contract. He mentioned that if the council
202 decides to purchase the current garbage cans being used, there would be some administration and
203 maintenance costs that will go along with it. He said Republic Services wanted a five-year term
204 contract and an annual 3.5% -7.5% increase based on the garbage specific consumer price index
205 with Monday recycle pick-up and Tuesday garbage pick-up days.

206

207 Mr. Jenkins commented that Republic would be purchasing a new truck and hiring a new driver to
208 accommodate this contract. He then asked if they had questions. Council Member Ostler asked Mr.
209 Jenkins for the past three year's average garbage index. Mr. Barnhill said that he heard it was
210 around 4.25% which included two high years and a few low years. Mr. Jenkins then highlighted
211 some of the things Republic Services offer and some options Perry City may select. Council Member
212 Walker asked if they should get another bid for comparison and Mr. Barnhill said he already
213 reached out to all the garbage services he knew of, but Republic Services was the only that wanted
214 to give Perry City a bid.

215

216 **MOTION:** Council Member Tueller made a motion to approve authorization for the Mayor
217 to negotiate a contract with Republic Services solid waste disposal. Council Member Wright
218 seconded the motion.

219

220 **ROLL CALL:** Council Member Young, Yes
221 Council Member Walker, Yes
222 Council Member Ostler, Yes
223 Council Member Wright, Yes
224 Council Member Tueller, Yes

225

226 **Motion Approved. 5 Yes, 0 No**

227

228 **F. Ordinance 23-F Adopting an Option Transportation Sales & Use Tax**

229 Mayor Jeppsen tabled this action item. He said at some point when they have a strategic plan and
230 the timing worked out they will be ready to discuss it in a public forum.

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232 **There was not any objections from the council.**

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Motion Tabled.

ITEM 5: MINUTES & COUNCIL/MAYOR REPORTS (INCLUDING COUNCIL ASSIGNMENTS)

A. Approval of Consent Items

- March 09, 2023 City Council Meeting Minutes

MOTION: Council Member Walker made a motion to approve the consent items as stated.

Motion Approved. All Council Members were in favor.

A. Mayor's Reports

Mayor Jeppsen said he and Mr. Barnhill had met and reached a tentative interlocal fire protection agreement with the leaders at Brigham City. He said it will be discussed in greater detail in the budget process, but will be similar to what has been done the last couple of years. He then mentioned Brigham City had requested bids for a fire study and should be making a decision soon regarding who will be conducting the study. He said each entity involved in this agreement will be responsible to share the cost of fire study. The study will be to determine if it would be better to have a fire district or to continue with the interlocal agreements.

B. Council Reports

Council Member Young said she was happy to hear about the donated money for the purchase of a swing set for Perry Park. Council Member Walker mentioned that he was getting with the Public Works Department to discuss possible projects for the upcoming public spring-cleaning service project. Council Member Ostler, Wright, and Tueller stated that they didn't have anything to report.

Staff Comments

Mr. Barnhill said the contract work for The Lodge (new city hall) will be underway this week. He recognized that Perry City was awarded a grant for Highway 89 from Wasatch Front Regional Council. He explained they were working with the Utah Department of Transportation (UDOT) on a master plan for the highway, sign the paperwork, and verify the scope of work. He expressed there will be an open house to get ideas for this general plan and Wasatch Front Regional Council will oversee the bids. This general plan will be a process that might take about a year to develop. Mr. Barnhill then gave the council a heads up that the bids for the site prep of Mountain View Park came back high so administration will present a budget amendment and a recommendation to hold back on some equipment purchases. In conclusion, Mr. Barnhill said they should be receiving an email asking them to select apparel to have the Perry City logo put on it for them to wear.

Mr. Allen wanted to thank the public for their cooperation during the busy snow season. He said they are excited for the new park projects with the grant money the city has received. He mentioned this month with their new hire Public Works was now up to full staff capacity.

Ms. Johnson said she had worked with department heads and the mayor to obtain budget proposals for Fiscal Year 2024. She noted that next council meeting they will have a budget work session and a tentative budget will be presented to the council as required by Perry City Code. Mayor

278 commented that the intent of the city code to have the budget presented in the beginning of April
279 was so the council could review and avoid the need for additional meetings. Ms. Johnson said it is
280 state law to have it presented by the first council meeting in May.

281

282 **Planning Commission Report**

283 None.

284

285 **ITEM 6: EXECUTIVE SESSION**

286 None needed.

287

288 **ITEM 7: ADJOURNMENT**

289 **MOTION:** Council Member Walker proposed to adjourn the meeting.

290

291 **Motion Approved. All Council Members were in favor.**

292

293 The meeting adjourned at 8:21 p.m.

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296 _____
Shanna Johnson, City Recorder

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Anita Nicholas, Deputy Recorder

Kevin Jeppsen, Mayor