

**MISSION STATEMENT: TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT,
PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE**



**COUNCIL MEETING AGENDA
CITY COUNCIL – CITY OF ONTARIO OREGON
TUESDAY, FEBRUARY 19, 2019, 7:00 PM, MT**

Pursuant to the Public Meetings Laws and Rules within the Oregon Revised Statutes, the City Council has the authority, ability, and standing to take action on any items on the Agenda, or add items to the Agenda, during the Study Session or Regular Meeting, as long as all public meeting notice requirements have been met.

1) CALL TO ORDER

Roll Call: Freddy Rodriguez ____ Marty Justus ____ Ramon Palomo ____ Dan Capron ____
Michael Braden ____ Norm Crume ____ Mayor Riley Hill ____

2) PLEDGE OF ALLEGIANCE

This Agenda was posted on February 15, 2019. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) MOTION TO ADOPT THE AGENDA

4) PUBLIC COMMENTS Citizens may address the Council; however, Council may not be able to provide an immediate answer or response. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

5) PRESENTATION

A) Presentation of Donation from St. Alphonsus Medical Center for Warming Shelter: Ken Hart

6) CONSENT AGENDA

- A) Adoption of Minutes:
Council Work Session - January 3, 2019
Council Meeting - January 15, 2019
- B) Resolution #2019-108: A Resolution Amending Resolution #2018-115 which Requires Good Financial Standing with the City to be Appointed to a City Board or Committee and Cause for Removal from a City Board or Committee

7) OLD BUSINESS

- A) Engineering Design Task Order for South Oregon Improvement Project
- B) Business Registrations
- C) Water and Sewer Exceptions for Federal Furloughed Employees

8) NEW BUSINESS

- A) Lease Renewal and Amendment for Property Between The City of Ontario and Dennis Montgomery
- B) Resolution 2019-109: A Resolution Appropriating Expenditures for SE 2nd Water and Sewer Extension Design
- C) Resolution #2019-110: A Resolution in Support of HB 2456 Allowing for Residential Rural Housing Development in Eastern Oregon

9) PUBLIC HEARING

- A) Ordinance #2749-2019: An Ordinance Proclaiming the Annexation and Rezoning of Certain Territory to the City Of Ontario, Being a Parcel Within the SW1/4SW1/4 Section 5, Township 18 South Range 47 East, W.M. Known as Tax Lot 3800 Map 18S4705C; and Withdrawing Said Territory from the Rural Road Assessment District No. 3 and the Ontario Rural Fire Protection District 7-302, on First Ready by Title Only

- B) Ordinance #2750-2019: An Ordinance Proclaiming the Annexation and Rezoning of Certain Territory to the City of Ontario, Being a Parcel within the NW/4SW1/4SW1/4NW1/4 Section 11, Township 18 South Range 47 East, W.M. known as Tax Lot 1101 Map 18S4711BC; and Withdrawing Said Territory from the Ontario Rural Fire Protection District 7-302, on First Reading by Title Only
- C) Ordinance #2751-2019: An Ordinance Proclaiming the Annexation and Rezoning of Certain Territory to the City of Ontario, Being a Parcel Within the SW1/4 Section 33, Township 17 South Range 47 East, W.M. known as Tax Lot 3001 Map 17S4733C, on First Reading by Title Only
- D) Ordinance #2752-2019: An Ordinance Proclaiming the Annexation and Rezoning of Certain Territory to the City Of Ontario, Being a Parcel Within The NW1/4NE1/4 Section 10, Township 18 South Range 47 East, W.M. known as Tax Lots 1200, 1300, 1301, 1302, 1303, 1305, and 1310 On Map 18S4710 D1, on First Reading by Title Only

10) HAND-OUTS/DISCUSSION ITEMS

- A) Check Register January 1 to February 14, 2019
- B) Agenda Prep Calendar - 3rd Councilor
- C) Land Lease - Museum
- D) Grass Runway Irrigation System - Verbal Update

11) CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS

12) ADJOURN



CITY COUNCIL WORK SESSION MINUTES January 3, 2019

The scheduled Work Session of the Ontario City Council was called to order by Council President Norm Crume at 12:00 p.m. on Thursday, January 3, 2019, in the Council Chambers of City Hall. Council members present were Norm Crume, Dan Capron, Marty Justus, and Ramon Palomo, along with Mayor-Elect Riley Hill, and Councilors-Elect Michael Braden, and Freddy Rodriguez.

Members of staff present were Adam Brown, Tori Barnett, Larry Sullivan, Cal Kunz, Kari Ott, Terry Leighton, Dan Cummings, Cliff Leeper, Peter Hall, Debbie Jeffries, and Corinna Hysell.

The meeting was recorded and copies are available at City Hall.

SPECIAL ACTION

Swearing in Mayor and Councilors

Tori Barnett, MMC, City Recorder, swore into office Mayor Riley J. Hill, and Councilors Freddy Rodriguez, Dan Capron, and Michael Braden.

Campbell Currey, a guest of Mayor Hill, officially opened the meeting, and led everyone in the Pledge of Allegiance.

SPECIAL ACTION

Election of Council President

JUSTUS moved, CRUME seconded, that Dan Capron be elected Council President. Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion carried 7/0/0.

AGENDA

This Agenda was posted on January 2, 2019. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

CRUME moved, JUSTUS seconded, **to ADOPT THE AGENDA AS PRESENTED**. Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion carried 7/0/0.

PUBLIC COMMENT

Charlotte Fugate, Ontario, voiced some concerns about the reporting of crimes process through the city.

Steve Meland, Ontario, voiced his opinion on the proposed increase in tax on marijuana in the city.

PRESENTATIONS

Rent Control Legislative Conversations/Single Family Zoning Proposed Legislation

Cloud Miller, Miller Properties and Rentals, provided comments on the upcoming legislation.

Council direction to have the City Manager compose a letter to the state.



OLD BUSINESSMarijuana Tax Collection

Adam Brown, City Manager, presented.

CRUME moved, JUSTUS seconded, **THAT THE COUNCIL ALLOW THE STATE OF OREGON TO COLLECT THE MARIJUANA TAX REVENUE FOR THE CITY OF ONTARIO AND AUTHORIZE THE MAYOR AND CITY MANAGER TO EXECUTE SUCH DOCUMENTS TO FORMALIZE THE AGREEMENT BETWEEN THE STATE AND THE CITY.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion carried 7/0/0.

Treasure Valley Community College Connect Path – Right of Way Change Order

Adam Brown, City Manager, presented.

CRUME moved, CAPRON seconded, **THAT THE COUNCIL APPROVE THE CHANGE ORDER TO THE TVCC CONNECTOR PATH PROJECT TO COVER ADDITIONAL COSTS FOR RIGHT OF WAY VERIFICATION, AT \$2,500.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion carried 7/0/0.

NEW BUSINESSResolution #2019-101: Support for Legislation Allowing Ontario to Increase the Marijuana Tax Above the State Limited Amount of 3%

Mayor Hill presented.

CAPRON moved, PALOMO seconded, **THAT THE COUNCIL DIRECT STAFF TO CONVENE THE MARIJUANA AD HOC COMMITTEE TO CONSIDER THE MOTION AND FOR STAFF TO PUT TOGETHER A WHITE PAPER TO BE PRESENTED TO THE MARIJUANA AD HOC COMMITTEE AND COUNCIL AND FOR THE CITY COUNCIL TO ACT ON THIS RESOLUTION NO LATER THAN JANUARY 15, 2019, TO APPROVE A LETTER OF SUPPORT FOR SPECIAL LEGISLATION ALLOWING ONTARIO TO COLLECT MORE THAN THE 3% CAPPED LOCAL MARIJUANA TAX AUTHORIZED BY THE STATE OF OREGON.** Roll call vote: Braden-yes; Justus-no; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion carried 6/1/0.

Resolution #2019-102: Recognize a DPSST Grant Received and Expenditure for Crisis Intervention Team Training

Kari Ott, Finance Director, presented.

CRUME moved, CAPRON seconded, **THAT THE COUNCIL ADOPT RESOLUTION #2019-102, A RESOLUTION TO RECOGNIZE DPSST FUNDING RECEIVED FOR CRISIS INTERVENTION TEAM TRAINING.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion carried 7/0/0.

Appointment to Boards, Committees, and Planning Commission

Tori Barnett, City Recorder, presented.

Mayor Hill recommended Darin Bell, LeRoy Cammack, Kenneth Hart, and Mary Jo Evers to the Budget Committee, and opened it up for Council discussion.

Councilor Crume agreed with the first three names, but would like Thomas Jost to replace Mary Jo Evers. He believed there were already several CPAs on the Committee, and Thomas brought experience to the table, having served on the Committee as a City Councilor.

Councilor Rodriguez agreed with Darin, Ken, and Mary Jo, but would like to replace LeRoy Cammack with Tess Winebarger. He believed they needed to bring in a younger view, and Tess also had experience as a past Councilor.

Councilor Justus agreed with the first three names, but did not support the appointment of Mary Jo Evers.

Mayor Hill **RECOMMENDED DARIN BELL, LEROY CAMMACK, KENNETH HART, AND MARY JO EVERS TO THE BUDGET COMMITTEE.** Roll call vote: Braden-yes; Justus-no; Palomo-yes; Crume-no; Rodriguez-no; Capron-yes; Hill-yes. Motion passed 4/3/0.

Mayor Hill recommended Larry Tuttle and Jackson Fox to the Public Works Committee, and opened it up for Council discussion.

Councilor Capron agreed with the appointment of Larry Tuttle, but asked that Bruce Hunter replace Jackson Fox.

Councilor Crume agreed with the appointment of Larry Tuttle, but asked that Bruce Hunter replace Jackson Fox.

Councilor Rodriguez agreed with the appointment of Larry Tuttle, but asked that Jerry Elliott replace Jackson Fox. Mr. Elliott had extensive experience in public works.

Mayor Hill recommended the appointment of Larry Tuttle and Jackson Fox to the Public Works Committee. Roll call vote: Braden-no; Justus-yes; Palomo-no; Crume-no; Rodriguez-no; Capron-yes; Hill-yes. Motion failed 3/4/0.

CRUME moved, BRADEN seconded, **TO APPOINT JOHN HALL AND MAX TWOMBLY TO THE PLANNING COMMISSION, WITH TERMS OF OFFICE COINCIDING WITH THE ESTABLISHING ORDINANCE.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion carried 7/0/0.

CRUME moved, JUSTUS seconded, **TO APPOINT SHAWN COLEMAN TO THE AIRPORT COMMITTEE, AND JOHN FREEBURG FROM THE ALTERNATE POSITION INTO A REGULAR POSITION, WITH TERM OF OFFICE COINCIDING WITH THE STABLISHING ORDINANCE.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion carried 7/0/0.

CRUME moved, CAPRON seconded, **TO APPOINT ROBERT QUINN TO THE VISITORS AND CONVENTIONS BUREAU BOARD, REPRESENTING THE HOTEL/MOTEL INDUSTRY, WITH TERM OF OFFICE COINCIDING WITH THE ESTABLISHING ORDINANCE.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion carried 7/0/0.

PALOMO moved, CAPRON seconded, **TO APPOINT JEANETH MENDOZA AND MARIA ROMERO TO THE DIVERSITY ADVISORY COMMITTEE, WITH TERMS OF OFFICE COINCIDING WITH THE ESTABLISHING ORDINANCE.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion carried 7/0/0.

BRADEN moved, HILL seconded, **TO RECONSIDER THE PREVIOUS MOTION REGARDING THE PUBLIC WORKS APPOINTMENTS, AND TO APPOINT LARRY TUTTLE AND JACKSON FOX TO THE PUBLIC WORKS COMMITTEE, WITH TERMS OF OFFICE COINCIDING WITH THE ESTABLISHING ORDINANCE.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-no; Rodriguez-no; Capron-yes; Hill-yes. Motion failed 6/2/0.

PALOMO moved, CRUME seconded, **TO APPOINT COUNCILOR DAN CAPRON AS THE COUNCIL REPRESENTATIVE ON THE VISITORS & CONVENTIONS BUREAU; COUNCILOR MICHAEL BRADEN TO THE BUSINESS LOAN FUND AND THE AUDIT COMMITTEE; COUNCILOR FREDDY RODRIGUEZ TO THE AUDIT COMMITTEE; AND COUNCILOR MARTY JUSTUS TO THE BUSINESS LOAN FUND.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion carried 7/0/0.

Appointments to Historical Preservation/certified local government program and Execution of Certification Agreement between the City of Ontario and Oregon State Historic preservation Office

Dan Cummings, Economic Development Director, presented.

CRUME moved, RODRIGUEZ seconded, **TO APPOINT MARTY JUSTUS, GARY FUGATE, CHARLOTTE FUGATE, AND STU EDWARDS TO SERVE ON THE OREGON STATE HISTORIC PRESERVATION COMMITTEE. INITIAL TERMS SHALL BE MARTY JUSTUS AND GARY FUGATE FOR ONE YEAR TERMS; CHARLOTTE FUGATE AND STU EDWARDS FOR TWO YEAR TERMS. FURTHER, THE COUNCIL APPOINTS THE PLANNING DIRECTOR TO THE COMMITTEE AS A PERMANENT APPOINTMENT, AS DIRECTYED BY ESTABLISHING ORDINANCE.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion passed 7/0/0.

CRUME moved, JUSTUS seconded, **THE CITY COUNCIL APPROVE THE AGREEMENT BETWEEN THE CITY OF ONTARIO AND OREGON STATE HISTORIC PRESERVATION OFFICE AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion passed 7/0/0.

Lease Cancellation and Promissory Note from Golf Course Cart Barn Lease

Adam Brown, City Manager, presented.

Consensus to have the promissory note amended to reflect the correct interest rate and have the City Manager negotiate the payments for approval at the next meeting.

Compensation Study and Recommendation for Building Official

Adam Brown, City Manager, presented.

CRUME moved, BRADEN seconded, **THAT THE COUNCIL APPROVE THE BUILDING OFFICIAL SALARY RECOMMENDATION AND INCREMENTAL STEPS.** Roll call vote: Braden-yes; Justus-yes; Palomo-yes; Crume-yes; Rodriguez-yes; Capron-yes; Hill-yes. Motion passed 7/0/0.

DEPARTMENT HEAD UPDATES

Financial Report: July

Kari Ott, Finance Director, presented. (Report attached)

HAND-OUTS/DISCUSSION ITEMS

Minutes

County Court: Oct 31, Nov 28, Dec 5, Dec 19, 2018 (Attached)

SREDA: Dec 5, 2018; Jan 2, 2019 (Attached)

Misc.

SREDA – 2019 Budget (Attached)

SREDA – 2018 Report Card (Attached)

SREDA – 2019 Meetings Calendar (Attached)

Department Stats:

Ontario Fire & Rescue: Dec, 2018 (Attached)

Ontario Police: Nov, 2018 (Attached)

Public Works: Nov 22-Dec 18, 2018 (Attached)

Code Enforcement: Nov, 2018 (Attached)

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

Councilor Capron thanked Chief Kunz for his service, and let him know he'd be missed.

Councilor Capron asked that the Agenda Prep meetings be changed to noon, and that a calendar be created with a list of the third Councilor who would be attending. Then they'd all know who was going when.

ADJOURN

CRUME moved, JUSTUS seconded, **THAT THE MEETING BE ADJOURNED.** Unanimous voice agreement to adjourn.

ACCEPTED:

ATTEST

Riley J. Hill, Mayor

Tori Barnett, MMC, City Recorder





CITY COUNCIL MEETING MINUTES January 15, 2019

The scheduled meeting of the Ontario City Council was called to order by Mayor Riley Hill at 7:00 p.m. on Tuesday, January 15, 2019, in the Council Chambers of City Hall. Council members present were Riley Hill, Norm Crume, Dan Capron, Freddy Rodriguez, and Michael Braden. Marty Justus and Ramon Palomo were excused.

Members of staff present were Adam Brown, Tori Barnett, Jason Cooper, Terry Leighton, Kari Ott, Larry Sullivan, Cliff Leeper, Betsy Roberts, and Peter Hall.

The meeting was recorded and copies are available at City Hall.

Guest Carmela Rodriguez opened the meeting and led everyone in the Pledge of Allegiance.

AGENDA

This Agenda was posted on January 11, 2019. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website www.ontariooregon.org.

CRUME moved, BRADEN seconded, **TO ADOPT THE AGENDA AS PRESENTED**. Roll call vote: Crume-yes; Rodriguez-yes; Palomo-out; Justus-out; Capron-yes; Braden-yes; Hill-yes. Motion carried 5/0/2.

CONSENT AGENDA

CAPRON moved, BRADEN seconded, **TO ADOPT THE CONSENT AGENDA, WHICH INCLUDED OCTOBER 23, 2018, COUNCIL MEETING MINUTES; NOVEMBER 8, 2018, WORK SESSION MINUTES; NOVEMBER 20, 2018, COUNCIL MEETING MINUTES; AND DECEMBER 18, 2018, COUNCIL MEETING MINUTES**. Roll call vote: Crume-yes; Rodriguez-yes; Palomo-out; Justus-out; Capron-yes; Braden-yes; Hill-yes. Motion carried 5/0/2.

OLD BUSINESS

Approval of Right-of-Way Agreement with Oregon Department of Transportation for SE 2nd Street Project

Betsy Roberts, City Engineer, presented.

CRUME moved, BRADEN seconded, **THAT THE CITY COUNCIL APPROVE THE AGREEMENT WITH THE OREGON DEPARTMENT OF TRANSPORTATION (ODOT) ALLOWING ODOT TO WORK ON THE CITY'S BEHALF TO SECURE RIGHT-OF-WAY FOR THE SE 2ND STREET PROJECT FOR UP TO \$75,000**. Roll call vote: Crume-yes; Rodriguez-yes; Palomo-out; Justus-out; Capron-yes; Braden-yes; Hill-yes. Motion carried 5/0/2.

Council asked that Ms. Roberts create an outline and present it to the Council.

Resolution #2019-101: Support for Legislation Allowing Ontario to Increase the Marijuana Tax above the State Limited Amount of 3%

Adam Brown, City Manager, presented.

Jim Forester, Ben Fortner, Judith Kirby, Steven Meland, Lori Duckworth, and John Kirby commented on the proposed resolution. Allison Thayer submitted a letter for inclusion in the record.

RODRIGUEZ moved, CAPRON seconded, **TO MAKE A FRIENDLY AMENDMENT FOR AN ADDITIONAL WHEREAS TO THE RESOLUTION; WHEREAS VETERANS AND PEOPLE LIVING BELOW THE POVERTY LEVEL COULD BE EXEMPT FROM ANY ADDITIONAL LOCAL TAX OVER 3% AS CAN BE PROVEN BY SNAP BENEFITS OR OTHER DOCUMENTATION TO BE DETERMINED BY THE CITY**. Roll call vote: Crume-no; Rodriguez-yes; Palomo-out; Justus-out; Capron-no; Braden-no; Hill-no. Motion failed 1/4/2.



CAPRON moved, CRUME seconded, **THAT THE CITY COUNCIL APPROVE RESOLUTION #2018-101, A RESOLUTION REQUESTING SPECIAL LEGISLATION ALLOWING ONTARIO TO COLLECT UP TO 18% IN A LOCAL OPTION TAX ON MARIJUANA OR 15% MORE THAN THE 3% CAPPED LOCAL MARIJUANA TAX AUTHORIZED BY THE STATE OF OREGON.** Roll call vote: Crume-yes; Rodriguez-yes; Palomo-out; Justus-out; Capron-yes; Braden-yes; Hill-yes. Motion carried 5/0/2.

Resolution #2019-103 and Resolution #2019-104: Legislative Positions

Adam Brown, City Manager, presented.

CRUME moved, RODRIGUEZ seconded, **TO APPROVE RESOLUTION #2019-103, A RESOLUTION OPPOSING STATE REGULATED RENT CONTROL; AND RESOLUTION #2019-104, A RESOLUTION REQUESTING OPPOSITION TO SPEAKER TINA KOTEK'S PROPOSAL TO ELIMINATE SINGLE FAMILY RESIDENTIAL ZONING IN CITIES WITH POPULATIONS GREATER THAN 10,000.** Roll call vote: Crume-yes; Rodriguez-yes; Palomo-out; Justus-out; Capron-yes; Braden-yes; Hill-yes. Motion carried 5/0/2.

Lease Cancellation and Promissory Note from Golf Course Cart Barn Lease

Adam Brown, City Manager, presented.

CRUME moved, BRADEN seconded, **TO APPROVE THE REVISED LEASE AGREEMENT AND PROMISSORY NOTE WITH MERVE AND PATSY LEAVITT.** Roll call vote: Crume-yes; Rodriguez-yes; Palomo-out; Justus-out; Capron-yes; Braden-yes; Hill-yes. Motion carried 5/0/2.

NEW BUSINESS

Appointment of Council Members as Committee Liaisons

Norm Crume was reappointed as Liaison to the Airport Committee; Freddy Rodriguez was appointed as Liaison to the Diversity Advisory Committee; Ramon Palomo was reappointed as Liaison to the Parks & Recreation Committee; Ramon Palomo was appointed as Liaison to the Planning Commission; Dan Capron was reappointed as Liaison to the Marijuana Ad-Hoc Committee; and Marty Justus was reappointed as Liaison to the Public Works Committee.

Letter of Support for LIFT Grant Application

Adam Brown, City Manager, presented.

CAPRON moved, BRADEN seconded, **THAT THE CITY COUNCIL AUTHORIZE THE MAYOR TO SIGN A LETTER OF SUPPORT FOR AN APPLICATION FOR THE STATE LIFT GRANT.** Roll call vote: Crume-yes; Rodriguez-yes; Palomo-out; Justus-out; Capron-yes; Braden-yes; Hill-yes. Motion carried 5/0/2.

HAND-OUTS/DISCUSSION ITEMS

Firefighter SCBA Packs – Joint Purchase: Chief Terry Leighton stated the firefighter breathing apparatus were only good for fifteen years, and the city's would be expiring in May, 2020. Staff submitted a grant application to FEMA to assist in the cost of replacing the SCBA gear, and the city was awarded the grant, but the city would be responsible for a portion of the funding. Grant. The city needed 40 packs, at \$6,800 a pack, for a total of \$272,000. The city would be required to submit 10% of that number, with FEMA covering 90%. Based on those figures, the city would need to pay \$27,200. The 40 packs would cover the Ontario Rural Fire Protection District of 12, and the city crew of 28, so the true 10% cost would be \$19,040. Over the past several budget cycles, the department had been setting funds aside in their equipment line, and now had a \$27,400 balance. He needed to sign the MOU to move forward on this action.

Check Register: November 1, 2018 to January 7, 2019 (Attached)

Proposed 2019-2020 Budget Calendar (Attached)

CORRESPONDENCE/COMMENTS

Councilor Capron urged everyone to review Governor Brown's proposed budget. Also, there were some heavy gun regulations coming forward, so please review that, too.

Mayor Hill stated he met with Malheur Council on Aging and they had received approximately \$180K, and they were going to expend around \$80K to settle a property line dispute, and they wanted to discuss what to do with the remaining funds. Some ideas were to purchase another bus, add more routes, or change the routes. They had asked him to make that know to the community because they were seeking input on what to do with the money.

Mayor Hill stated he received a flyer from the Oregon Mayor's Association about the "If I Were Mayor" contest for students, one per school level. That was one way to interact with the schools, and he'd like Council support to pursue this.

Council consensus to participate.

Mayor Hill stated last week, for the schools, there had been robotics, and it was clear that Ontario was behind the curve. They didn't have some basic necessities to teach the classes. He'd like the Council to think about purchasing the needed items, which would likely run between \$1,200-1,500. He'd like that discussed at the next meeting.

ADJOURN

CAPRON moved, RODRIGUEZ seconded, **THAT THE MEETING BE ADJOURNED**. Unanimous voice vote to adjourn.

ACCEPTED:

ATTEST

Riley J. Hill, Mayor

Tori Barnett, MMC, City Recorder





**AGENDA REPORT
CONSENT AGENDA
February 19, 2019**

To: Mayor and City Council

FROM: Adam J. Brown, City Manager

THROUGH: Adam J. Brown, City Manager

SUBJECT: RESOLUTION #2019-108: A RESOLUTION AMENDING RESOLUTION #2018-115 WHICH REQUIRES GOOD FINANCIAL STANDING WITH THE CITY TO BE APPOINTED TO A CITY BOARD OR COMMITTEE AND CAUSE FOR REMOVAL FROM A CITY BOARD OR COMMITTEE

DATE: February 14, 2019

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE RESOLUTION #2019-108, A RESOLUTION REQUIRING COMMUNITY MEMBERS SERVING ON BOARDS AND COMMITTEE BE IN GOOD FINANCIAL STANDING WITH THE CITY AND HOLD NO UNPAID DEBTS TO THE CITY.

SUMMARY:

City Council requested an amendment to Resolution #2018-115, which requires community members serving on boards and committees to be in good financial standing with the City of Ontario to continue service with that committee.

BACKGROUND:

The first resolution done in 2018 required that individuals who are behind on payments to loans, fees, or utility payments should not be allowed to continue serving in positions that recommend policy to the City Council.

The City Council requested the City Manager to work with the City Attorney to amend the resolution requiring community members to be in good financial standing to serve on boards and committees to include LLC's and corporations. The City Attorney prepared an amended resolution.

CURRENT SITUATION:

A resolution has been prepared for discussion and consideration by the Ontario City Council. This resolution includes LLC's and corporations operating within the City of Ontario.

ANALYSIS:

- A. **FINANCIAL** This has no immediate financial impact. This may promote community members serving on boards and committees to become current on their obligations with the city; however, the financial impact is minimal. To the best of our knowledge, all committee members are current with their financial commitments to the City of Ontario.
- B. **TIMING** This omission was discovered during the appointment process for 2019 committees. It can be passed whenever the Council sees fit to pass the resolution. Appointment vacancies come up during the year, several will be discussed at the current meeting.
- C. **POLICY/LEGAL** This is a policy decision that can only be made by the Ontario City Council.

ALTERNATIVES:

Take no action - We have had members in the past, serving on committees and boards, who have not been current with payments owed to the city. Taking no action, would allow those individuals to continue to make policy recommendations to the City Council.

RECOMMENDATION:

Staff recommends approval of Resolution #2019-108.

ATTACHMENTS:

1. Reso #2019-108 Amend Reso #2018-115 re Financial Standing



RESOLUTION # 2019-108

A RESOLUTION AMENDING RESOLUTION #2018-115 TO IMPOSE ADDITIONAL REQUIREMENTS ON COMMITTEE APPOINTEES AND THEIR BUSINESSES

WHEREAS, On April 5, 2018, the City Council approved Resolution #2018-115, obligating Committee appointees to be in good financial standing with the City in order to serve initially, or to continue to serve, on committees; and

WHEREAS, The City attorney subsequently concluded that the Resolution didn't specifically address Committee appointees who had business interests in Ontario that involved separate legal entities such as limited liability companies and corporations; and

WHEREAS, It is the Council's intent to have the rules in Resolution #2018-115 apply equally to appointees who are not sole proprietors but are partners, members or shareholders of Ontario businesses; and

WHEREAS, It is also The Council's intent to require Committee appointees to be responsible for complying with the requirements of Chapter 4 of Title 3 of the Municipal Code, dealing with the registration of Ontario businesses; and

WHEREAS, Resolution #2018-115 should be amended to carry out the Council's intent.

NOW, THEREFORE BE IT RESOLVED, by the Ontario City Council that Resolution #2018-115 is amended by adding the following additional resolutions to Resolution #2018-115:

BE IT FURTHER RESOLVED, that, for the purpose of complying with Resolution #2018-115, as Amended by this Resolution #2019-108, a committee member owns a business in Ontario if that member is a sole proprietor of an Ontario business, or is a general partner, corporate shareholder or limited liability member of an Ontario business.

BE IT FURTHER RESOLVED, that in order to act as a committee member in good standing with the City, the committee member must not only be current in that member's personal financial obligations to the City, but shall also establish that any Ontario business owned by the committee member is also current in its financial obligations to the City.

BE IT FURTHER RESOLVED, that in order to act as a committee member in good standing with the City, a committee member who owns an Ontario business shall continuously maintain a current registration for that business in compliance with Municipal Code Chapter 4, Title 3, "General Business Registration".

EFFECTIVE DATE: Immediately upon passage.

PASSED AND ADOPTED by the Ontario City Council this _____ day of _____, 2019, by the following vote:

AYES:

NAYS:

EXCUSED:

ABSENT:

Approved by the Mayor this _____ day of _____, 2019.

ATTEST:

Riley Hill, Mayor

Tori Barnett, MMC, City Recorder



**AGENDA REPORT
OLD BUSINESS
February 19, 2019**

To: Mayor and City Council

FROM: Betsy Roberts, City Engineer

THROUGH: Adam J. Brown, City Manager

SUBJECT: **ENGINEERING DESIGN TASK ORDER FOR SOUTH OREGON IMPROVEMENT PROJECT**

DATE: February 13, 2019

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE THE SUBTASK WORK AUTHORIZATION FOR CK3, LLC, TO COMPLETE THE DESIGN FOR THE SOUTH OREGON STREET IMPROVEMENT PROJECT, SPECIFICALLY FOR \$34,000 FOR SUBTASK 1, WITH ALLOWANCE TO SPEND UP TO \$44,500 IF ADEQUATE PROJECT FUNDS ARE AVAILABLE.

SUMMARY:

Public Works staff have secured a scope of work from CK3 to design the South Oregon Street Improvements Project. Staff would like to secure the Council's approval for the scope of work to complete the design.

BACKGROUND:

Currently, South Oregon Street between Idaho Avenue and SW 4th Avenue has been approved for a project consisting of: removal of the mid-block crosswalks, installation of ADA ramps and bulb-outs at the existing intersections, improvements to the existing storm water system and a pavement overlay for the street. The project was approved as part of the budget for the current fiscal year. A task order for survey of the area was approved by the Council and is currently underway. It is desired to complete design within the next couple months so that Public Works staff can get the project out for public bid this spring and complete construction this summer.

CURRENT SITUATION:

The South Oregon Street ADA Improvements design will support the pavement overlay of South Oregon Street, eliminate the mid-block cross walks, design bulb-out curb extensions and ADA ramps at the intersections, and design additional storm water improvements generally between Idaho Avenue and SW 4th Avenue. By approving this design task order with CK3, the

project can move forward.

ANALYSIS:

- A. **FINANCIAL** Subtask scope price is not to exceed \$34,000.00 without authorization. This covers the design aspect. CK3 has estimated an additional \$6,000 for Subtask 2, which includes Construction Administration and \$4,500 for Subtask 3 to prepare Record Drawings. The overall budget would be \$44,500, but Subtasks 2 and 3 would not be authorized if there were any budget constraints as the bid comes in.

Approved budget for current fiscal year is: \$230,000 for ADA Compliance, and \$36,000 that had been allocated for the mid-block crossings. As planned, the current fiscal year is requesting an additional \$55,000 for the ADA Compliance effort, and an additional \$15,000 as part of the annual concrete repair budget. Additionally, the storm water budget for the coming fiscal year is requesting \$50,000 for the storm water improvements. The total available budget would be approximately \$386,000 for survey, design, and construction.

- B. **TIMING** Staff would like to continue moving forward with this design as soon as possible. The design needs to be completed before the project can continue.
- C. **POLICY/LEGAL** Council approval of the Scope of Work and associated budget.

ALTERNATIVES:

1. Approve the Sub Task Work Authorization for CK3, LLC to complete the design work. This allows design to begin immediately.
2. Do not approve the Sub Task Work Authorization for CK3, LLC to complete the design work. If the scope and budget are not approved, design will not proceed forward.

RECOMMENDATION:

Staff recommends that the City Council approve the Sub Task Work Authorization for CK3, LLC to complete the design work for South Oregon Street, for \$34,000 with an overall budget of \$44,500 to be used as approved by City Manager if overall project funds are adequate.

ATTACHMENTS:

1. Sub Task Authorization - S Oregon Civil

City of Ontario Oregon

SUB TASK AUTHORIZATION (reference and made a part of "Master Service Agreement")

Exhibit 1 - Work Authorization

Consultant:	Master Services Subcontract Agreement Dated _____
CK3, LLC	Sub Task Authorization Date _____
368 SW 5th Ave	Sub Task Authorization No. _____
Ontario OR 97914	Project No. _____
	PO No. _____

Project Name SOUTH OREGON STREET IMPROVEMENTS

This Sub Task Authorization is in accordance with the Master Services Subcontract Agreement reference above. City of Ontario ("Owner") and CK3, LLC ("Consultant") agree to all terms and conditions within the Master Services Subcontract Agreement. This Sub Task Authorization, when signed by both parties, shall become effective and merged with the Master Services Subcontract Agreement.

Scope of Work

The Scope of Work is described in Exhibit 1 - Scope of Work attached hereto.

Compensation

Compensation will be on an hourly basis as follows:

Engineering Task 1	\$34,000.00
Engineering Task 2	\$ 6,000.00
Engineering Task 3	\$ 4,500.00

The maximum compensation for the Work as defined with Exhibit "1" scope of work shall not exceed \$34,000.00 for Engineering Task 1, \$6,000.00 for Engineering Task 2, and \$4,500.00 for Engineering Task 3 without prior written authorization.

Schedule

The Work shall be performed within _____ calendar days following Notice to Proceed. Time is of the essence in this Agreement.

Special Instructions

None

Accepted:
CK3, LLC

City of Ontario
Task 1 Approval

By _____
Printed Name _____
Title _____
Date _____

By _____
Printed Name _____
Title _____
Date _____

City of Ontario
Task 2 Approval

City of Ontario
Task 3 Approval

By _____
Printed Name _____
Title _____
Date _____

By _____
Printed Name _____
Title _____
Date _____

EXHIBIT "1" Scope of Work

- 1. BASIC CONSULTANT SERVICES.** The CONSULTANT will perform the following Civil Engineering services for the project: Civil Engineering Plans and Specification to support the mill/overlay, elimination of the mid-block cross walks, and design bulb-out curb extensions at the intersection for the project on South Oregon, within the area between Idaho Avenue and SW 4th Ave.

Engineering Task 1:

- a. Perform one pre-engineering site visit to examine the existing facilities and site conditions.
- b. Provide alternative draft design of bulb-out curb extensions and provide Plan review when construction plan and Specification are 75% complete for City of Ontario approval.
- c. Prepare and stamp Construction drawings showing elimination of all midblock cross walks in the project area.
- d. Prepare and stamp Construction drawings showing bulb-out curb extensions, with ADA curb ramps at all intersection in the project area.
- e. Prepare and stamp Construction drawings showing additional storm water improvements for the bulb-out curb extensions in the project area.
- f. Prepare and stamp Construction drawings showing project limits of the mill/overlay in the project area.
- g. Prepare and stamp Specification and Bid Document to accompany construction drawings in accordance with Idaho Standards for Public Works Construction.
- h. Perform site visit for final inspection and provide a punch list of item to be completed for application of final payment.

Engineering Task 2:

- a. Contract administration (Would only include: Request for Information, Change Orders, and Approval of Submittals).

Engineering Task 3:

- a. Prepare As-Built drawing base on design and Contractor's documentation keep during construction.



**AGENDA REPORT
OLD BUSINESS
February 19, 2019**

To: Mayor and City Council

FROM: Adam J. Brown, City Manager

THROUGH: Adam J. Brown, City Manager

SUBJECT: BUSINESS REGISTRATIONS

DATE: February 14, 2019

PROPOSED MOTION:

I MOVE THE CITY COUNCIL REAFFIRM THEIR REQUEST TO HAVE STAFF COME BACK WITH A MODIFIED SCHEDULE THAT MAKES THE FEE PROPORTIONAL TO THE SIZE OF THE BUSINESS.

SUMMARY:

On February 7, 2019, the City Council asked the City Manager to put Business Registrations on the agenda to be discussed with a brief history and purpose of the registrations ordinance.

BACKGROUND:

Ordinance No. 2702-2015 was approved on June 22, 2015, which required business registrations for all businesses. Ordinance No. 2711-2015 was approved on November 20, 2015, to limit business registrations to businesses with a fixed location in the City of Ontario.

One of the primary reasons the City Council imposed a business registration requirement on businesses was to establish an inventory of local businesses for fire protection purposes.

CURRENT SITUATION:

Business registrations or licenses are a common practice in Oregon local government. As of 2001, there were 92 cities with business license programs. From a policy perspective they are intended to protect the health, safety, and welfare of the general public. Fees can be used to pay for public safety costs. This allows the city to ensure that business activities comply with local ordinances, state laws, and federal laws.

The League of Oregon Cities describes the differences in business license/registrations to include: requiring all businesses to have a general business license; requiring certain types of businesses to have specialized licenses in addition to a general license; requiring only specific types of businesses to have a license; and requiring any business not otherwise licensed to

obtain a general business license.

ANALYSIS:

- A. **FINANCIAL** On average over the last four years, the city has taken in approximately \$1,800 a year. Up until this year we have not conducted any serious enforcement. The goal this year was to go out and make good contacts with businesses who have not registered and request they register voluntarily.

There are various models for setting the fee associated with a business registration and license. Many use a flat fee as the City of Ontario. Beaverton charges a license tax based on the number of employees while Portland uses a net income tax.

Fee schedules from other cities are attached just to show the different types of structures available to local governments.

- B. **TIMING** The City Manager recommended doubling the business registration fee in the FY 2018-2019 budget. After approval of the 2018-2019 Fiscal Year Budget, the City Council requested staff to come back with a plan to revise the business registration that increased the cost of a business registration by the size of the business, whether by revenue or employees.

Most recently, Council members requested that the City Manager bring it back for review of the City Council to see if it was still needed.

- C. **POLICY/LEGAL** The Oregon Supreme Court has backed up local governments ability to impose business registrations/licenses as a mechanism for promoting public safety and to generate revenue to promote the common welfare.

The current ordinance has adequate teeth to enforce the ordinance, but we have not enforced it aggressively until the past year when the Council directed us not to do business with those who are not in good financial standing with the city, which included business registrations.

ALTERNATIVES:

1. Change the Fee Schedule to make a more progressive fee based on size or receipts.
2. Eliminate the business registration fee.

RECOMMENDATION:

Staff recommends that the City Council reaffirm their request to come back with a modified schedule that makes the fee proportional to the size of the business.

ATTACHMENTS:

1. 2711-2015 OMC 3-4 Business Registration for Fixed Locations 11-02-2015
2. 2702-2015 OMC 4-3 re Business Registration Requirement
3. Business License Tigard
4. BusinessLicensePt.1-2011 Beaverton
5. Getting a Business License _ City of Lake Oswego

FILED
11:15 AM

NOV 20 2015

DEBORAH R. DELONG, County Clerk
By  Deputy

ORDINANCE NO. 2711-2015

**AN ORDINANCE AMENDING CHAPTER 4 OF TITLE 3 OF THE ONTARIO CITY CODE
TO LIMIT THE CITY'S BUSINESS REGISTRATION REQUIREMENTS TO
BUSINESSES WITH A FIXED LOCATION IN THE CITY**

- WHEREAS,** Chapter 4 of Title 3 imposes an obligation on certain businesses to register with the City; and
- WHEREAS,** One of the primary reasons that the City Council imposed a business registration requirement on businesses was to establish an inventory of local businesses for fire protection purposes; and
- WHEREAS,** Among the businesses required to register are businesses that do not have a fixed location in the City; and
- WHEREAS,** Businesses without a fixed location in the City do not raise any fire protection concerns; and
- WHEREAS,** It is difficult to uniformly enforce the City's business registration requirement on businesses that do not have a fixed location in the City; and
- WHEREAS,** Allowing businesses with no fixed location in the City to claim an exemption from the business registration requirements will continue to accomplish the City's main goals in establishing a business registration system.

NOW THEREFORE, The Common Council for the City Of Ontario Ordains as follows:

Section 1. Section 3-4-2 of Chapter 4 of Title 3 is amended by adding those portions that are underlined and deleting those portions that are stricken, as follows:

3-4-2 REGISTRATION REQUIREMENT

- (A) Except as exempted under Section 3-4-3, businesses engaging in activity in the City must register with the City.
- (B) The following provisions apply to the registration requirement:
- ~~1. Any business that conducts business activities in the City, whether or not the business operates from a physical location in the City, is subject to this chapter.~~
 - 2.1. Electronic businesses, including Internet businesses, with a physical fixed location in the City, are required to register.
 - ~~3.2.~~ If more than one business is conducted on the same premises, each business must register separately.
 - 4.3. A single business operation that occupies more than one building must complete only one registration application. The application shall list all buildings and activities carried on in each building.

Section 2. Section 3-4-3(A) of Chapter 4 of Title 3 is amended by adding those portions that are underlined and deleting those portions that are stricken, as follows:

3-4-3 EXEMPTIONS

(A) The following are ~~exempt from the requirement~~ not required to obtain a business registration if they currently qualify for one or more of the following exemptions:

1. A service business operated by a person under the age of 18, such as a lawn mowing business, a newspaper delivery business, a lemonade stand, and the like.
2. Individuals who work only on the premises of, and as part of, a registered business that includes the activity of the individual. Examples include barbers, beauticians, and others who perform services as part of the overall registered business. This exemption does not apply if the overall business operation has not submitted an approved registration application to the City.
3. Persons selling goods or services exclusively during a permitted special event activity where the sponsor of the event has obtained a City permit for the event and has an approved City business registration.
4. Activities that qualify as hobbies or passive holding of property for investment purposes under the U.S. Internal Revenue Code.
5. ~~Any person~~ A business whose business activities in the City, including the activities of all employees, total less than 32 hours per year for all employees, or whose gross annual revenue from business activities in the City is less than \$3,000 for a full year for all employees. ~~This exemption is intended to apply to businesses based outside the City that may do minimal work inside the City and to individuals who engage only in minimal business.~~
6. ~~A person who sends goods to a customer in the City is not considered to be doing business in the City based solely on the sending or delivering of the goods into the City. A person or organization that does not operate a business from a fixed location in the City is exempt from registering with the City.~~

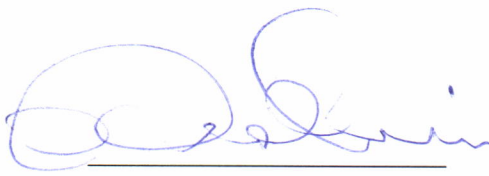
PASSED AND ADOPTED by the Common Council of the City of Ontario this 2nd day of November, 2015, by the following vote:

AYES: Fugate, Winebarger, Crume, Verini, Jost, Carter

NAYS: None

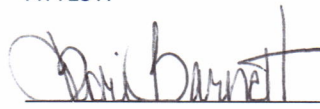
ABSENT: Tuttle

APPROVED by the Mayor this 2nd day of November, 2015.



Ronald Verini, Mayor

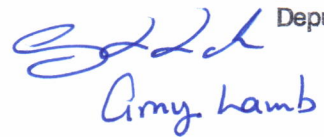
ATTEST:



Tori Barnett, MMC, City Recorder

FILED
11:30 AM

JUN 22 2015

DEBORAH R. DELONG, County Clerk
By  Deputy

ORDINANCE NO. 2702-2015

**AN ORDINANCE ADDING CHAPTER 4 TO TITLE 3
OF THE ONTARIO CITY CODE
TO REQUIRE BUSINESS REGISTRATIONS
FOR ALL BUSINESSES**

- WHEREAS,** The City of Ontario lacks a central registry of businesses located within the City limits; and
- WHEREAS,** The advantage to the City of having a central business registry is to allow the City to provide services more efficiently to businesses; to protect the health and safety of residents; to establish a convenient means for consumers and others to identify the nature of the businesses located within the City; and to provide useful economic development information; and
- WHEREAS,** The most efficient means for the City to establish such a central business registry is to require all businesses in the City to submit business registration applications annually to the City, which will be used to establish a business database; and
- WHEREAS,** The only effective way to insure that businesses will cooperate in establishing a central business registry is to impose a penalty on businesses that fail to comply with the provisions of this Ordinance.

NOW THEREFORE, The Common Council For The City Of Ontario Ordains As Follows:

Section 1. The following Chapter 4 is hereby added to Title 3 of the Ontario City Code and is entitled "General Business Registration":

CHAPTER 4 GENERAL BUSINESS REGISTRATION

3-4-1 DEFINITIONS

(A) Business means:

1. An organization engaged in commercial, industrial, or professional activities.
2. An individual engaged in commercial, industrial or professional activities, other than as an employee.

(B) Commercial means providing goods, services or a combination of goods and services for payment.

3-4-2 REGISTRATION REQUIREMENT

- (A) Except as exempted under Section 3-4-3, businesses engaging in activity in the City must register with the City.

(B) The following provisions apply to the registration requirement:

1. Any business that conducts business activities in the City, whether or not the business operates from a physical location in the City, is subject to this chapter.
2. Electronic businesses, including Internet businesses, with a physical location in the City, are required to register.
3. If more than one business is conducted on the same premises, each business must register separately in order for them to be listed on the city's website.
4. A single business operation that occupies more than one building must complete only one registration application. The application shall list all buildings and activities carried on in each building.

3-4-3 EXEMPTIONS

(A) The following are exempt from the requirement to obtain a business registration:

1. A service business operated by a person under the age of 18, such as a lawn mowing business, a newspaper delivery business, a lemonade stand, and the like.
2. Individuals who work only on the premises of, and as part of, a registered business that includes the activity of the individual. Examples include barbers, beauticians, and others who perform services as part of the overall registered business. This exemption does not apply if the overall business operation has not submitted an approved registration application to the City.
3. Persons selling goods or services exclusively during a permitted special event activity where the sponsor of the event has obtained a City permit for the event and has an approved City business registration.
4. Activities that qualify as hobbies or passive holding of property for investment purposes under the U.S. Internal Revenue Code.
5. Any person whose business activities, including the activities of all employees, total less than 32 hours per year or whose gross annual revenue is less than \$3,000 for a full year. This exemption is intended to apply to businesses based outside the City that may do minimal work inside the City and to individuals who engage only in minimal business.
6. A person who sends goods to a customer in the City is not considered to be doing business in the City based solely on the sending or delivering of the goods into the City. However, a company in the business of delivering goods is subject to the requirements of this chapter if the company, including the activities of all employees, is engaged in business (picking up or delivering goods) within the City in excess of 32 hours per year.

(B) The following must register but are exempt from payment of the registration fee:

1. Any business exempted from paying local business license fees or taxes by Federal or State constitution or law.
2. Any business exempt from paying property tax.

3. Any entity registered with the Oregon Secretary of State as a not for profit corporation.

3-4-4 DURATION OF REGISTRATION; CHANGE OF REGISTRATION

- (A) New registrations shall be valid from the date of issuance to the end of the calendar year, and will be prorated accordingly. Renewals will be due by the 15th of January of each year.
- (B) If ownership of a business is transferred during the year, the new owner shall update the registration information for the business.
- (C) Businesses that change physical location or business name shall submit a change of registration form.

3-4-5 REGISTRATION SUBMITTAL AND REGISTRATION FEE

- (A) Each organization or individual wishing to engage in business shall submit a business registration form to the City accompanied by payment of the registration fee of \$25, or in an amount set by Council resolution. The City shall treat information other than the name, type and location of the business as confidential to the extent permitted by state public records law, but may use the information in connection with the provision of City services. The registration shall contain:

1. A description of the nature of the business, non-profit activity or public utility to be engaged in;
2. The date that business operations in the City limits began or will begin;
3. The name and address of the applicant, including email address; if a partnership, the names and addresses of all partners; if a corporation, its name and the address of the home office, the name and address of the designated agent in the state if a foreign corporation, and the name and address of the local agent or representative who will be in charge of the business in the city;
4. The addresses where the business will be located or have its office and all branch, storefront, warehouse and other associated locations within the city limits of Ontario;
5. The date of application;
6. Emergency contact information;
7. Any other information relevant to the type and location of the business the City determines that the application should contain;
8. Other information intended to assist the police and fire departments provide assistance to the business.
9. The signature of an authorized representative.

- (B) One purpose of this Chapter is to increase the effectiveness of the City's response to fires. As part of the registration application, each business shall sign a consent authorizing a pre-fire inspection of the business premises to allow the fire department to diagram the interior of the building and identify features relevant to fire suppression. The fire department will reasonably

cooperate with the business to attempt to schedule the inspection at a mutually convenient time. The information gathered will be kept confidential, to the extent permitted under the state public records laws.

3-4-6 ADDITIONAL FEE

Any business required to file a business registration has up to six months to comply following the enactment of this ordinance, or shall pay an additional registration fee of \$25. The Council may change the additional registration fee from time to time by resolution.

3-4-7 COMPLIANCE WITH LAW

The registration of a business does not signify that the business is acting in compliance with law, and does not authorize a business to operate in violation of any laws.

3-4-8 VIOLATIONS AND CIVIL PENALTIES

The fine for knowingly failing to register a business with the City is \$100 plus \$10 per each day that the business fails to register. A knowing violation of any other provision of this Chapter or knowing submission of false information in a business registration is punishable by a fine of \$100. The fines set forth herein may be changed by resolution of the Council.

3-4-9 RENEWAL

Registrations shall be renewed prior to the expiration of the previous registration.

Section 2. Severability. The sections, subsections, paragraphs, and clauses of this Ordinance are severable. The invalidity of one section, subsection, paragraph, or clause does not affect the validity of the remaining sections, subsections, paragraphs, and clauses.

Section 3. This ordinance shall become effective 30 days after passage.

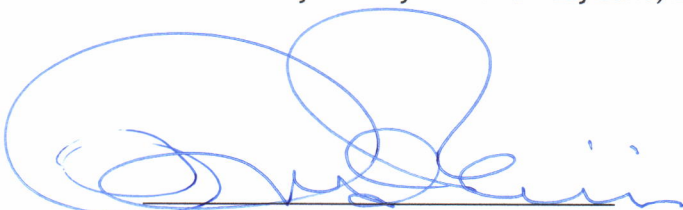
PASSED AND ADOPTED by the Common Council of the City of Ontario this 15th day of June, 2015, by the following vote:

AYES: Fugate, Winebarger, Verini, Jost, Carter

NAYS: Crume, Tuttle

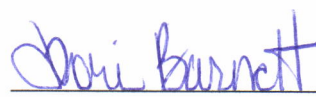
ABSENT: None

APPROVED by the Mayor this 15th day June, 2015.



Ronald Verini, Mayor

ATTEST:



Tori Barnett, MMC, City Recorder

City of Tigard, Oregon



Search...

Home » Business » Doing Business » Business Licenses

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Business

Police

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Help Me To...

DOING BUSINESS IN TIGARD Business License

The City of Tigard has a Business License Program regulated by the [Tigard Municipal Code](#) that requires anyone engaging in any business within the city limits to pay a business license fee unless specifically exempt by State or Federal statute. The city does not regulate businesses. Upon payment of your Business License, a Business License Receipt will be issued and must be posted in a conspicuous location at your business. A Business License Receipt **does not** imply city approval or endorsement of the business or its location.

The Tigard Business License is based on a calendar year with a December 31st expiration date. New businesses operating in Tigard after June 30th of the current year will pay a pro-rated fee through December 31st. (Please see the License Fee below for pro-rated amounts). Thereafter, the annual business license fee shall be due in full by January 1st each year.

Business License Contact

Liz Lutz

503-718-2487 | [Email](#)

Application

» [Business License Application](#)

Permits, Signs & Land Use

- Rules regarding [business signs](#)
- Where are [businesses permitted](#) to operate
- [Certificate of Occupancy](#)
- [Other land-use applications](#)
- For more info, contact our [Planner on Duty](#) at 503-718-2421
- **Other permits that may be required**
 - » [Home Occupation Permit](#)
 - » [Alarm Permit application](#)

New Businesses in Tigard

A [list of new businesses](#) is published

ANNUAL BUSINESS LICENSE FEE

(Effective July 1, 2018)

# of Employees	Business License
0-2	\$94.00 per year
3-5	\$125.00 per year
6-10	\$440.00 per year
11-20	\$722.00 per year
21-50	\$828.00 per year
51-75	\$902.00 per year
76 or more	\$1,220.00 per year
Temporary Business License	\$25.00 per event
Duplicate License/Change of Ownership	\$10.00
Copy/Replacement License	\$10.00

Note: Tigard Business License fee is based on the number of people employed by the company and who are working in Tigard. For the purpose of computing the business license fee, the term "employee" includes the owner as well as his/her spouse if also engaged in the business. To compute the number of full-time equivalent employees, estimate the total number of hours worked by all employees (per year) and divide by 2,080.

Pro-Rated Fee Schedule:

Issued January 1 - June 30: See Annual Business License Fee Schedule above

Issued July 1 - December 31: 1/2 the annual fee

METRO LICENSE

OTHER PERMITS MAY BE REQUIRED

each month.

Licensed Businesses Search Tool



View an [interactive search tool](#) showing licensed businesses in Tigard.

Where Does Business License Revenue Go?

The City of Tigard business license fees support the Tigard Police Commercial Crimes Unit. This unit was established in 2008 with one sergeant and two detectives to mitigate crime issues associated with businesses in our community.

With over 40 years of investigative experience, these officers are committed to:

- Developing partnerships with Tigard business owners to reduce crime.
- Solving chronic business related crimes in Tigard.
- Proactively reviewing crime prevention techniques at Tigard

SOCIAL GAMING LICENSE APPLICATION

SMALL BUSINESS RESOURCES

businesses.

Contact [Sgt. Leigh Erickson](#) if you have any questions about the Commercial Crimes Unit.

Other Agency Contact Info

- ▶ Better Business Bureau (Portland)
503-226-3981
- ▶ City of Portland Bureau of Licenses
503-823-5157
- ▶ Metro Licensing
503-797-1620
- ▶ [State Business Information Center](#)
503-986-2200
- ▶ [State Business Registry](#) (Salem)
503-986-2200
- ▶ Washington County General Info
503-846-8611

 [Email Me](#)



FEEDBACK

ONLINE SERVICES

Library Catalog-WCCLS
Mapping Services
Park Shelter Rentals
Permits and Inspections
Ticket Payments

MAJOR PROJECTS

Economic Development
Hunziker Core/Wall St
River Terrace
SW Corridor Light Rail
Strategic Plan

DON'T MISS THIS

This Week in Tigard
Community Events
Why Wednesday?
Tigard Walks!

Utility Payments

Tigard Triangle

| 13125 SW HALL BLVD., TIGARD, OR 97223 | 503-639-4171

CITY DEPARTMENTS | DIRECTIONS | LOCATION AND HOURS OF OPERATION

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LEAGUE OF OREGON CITIES

BUSINESS LICENSE ORDINANCES

**POLICY CONSIDERATIONS
AND EXAMPLES FROM
OREGON CITIES**

DECEMBER 2001



Published by the League of
Oregon Cities

Business License Ordinances
Policy Considerations and Examples
From Oregon Cities

League of Oregon Cities
December 2001
Researchers: Sadie Lowe and Stephanie Nixon

Contents (printed page numbering)	
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Policy Considerations	2
Issues and Questions to Consider	2
Legal Challenges	21
Administrative Concerns	25

Introduction

Cities have traditionally used business license programs to identify and regulate those conducting commerce within the city limits. Often, the programs result in revenue-raising for the city. There are many variations in approaches to business license programs; this report attempts to outline the choices available to cities wishing to develop or revamp a business license ordinance, and to provide comparative data on license fees.

In preparing the report, League staff reviewed 92 ordinances from cities across the state, selecting nine for inclusion as representative of differently-sized cities that adopted various policy choices in their business license ordinances. The League thanks city officials in Ashland, Athena, Aurora, Canby, Cornelius, Durham, Hillsboro, Troutdale, and Winston for their cooperation. Thanks are also extended to Attorney Ben Walters of the City of Portland, who reviewed the materials.

Policy Considerations

Business license ordinances are established either to raise revenue, to regulate business, or both. Additionally, cities with these ordinances may intend to protect the health, safety, and welfare of the general public. By raising revenue from business licenses – usually through an annual licensing fee – cities can more easily pay for services such as police and fire protection. Cities also use business licenses to maintain a list of existing businesses operating in the city. This allows the city to ensure that business activities comply with applicable city ordinances, state laws, and federal laws. It can provide business contact information for city public safety officials in the event of local emergencies.

Issues and Questions to Consider

Cities have used various methods of licensing businesses within the city limits. These methods include: requiring all businesses to have a general business license; requiring certain types of businesses to have specialized licenses in addition to a general license; requiring only specific types of businesses to have a license; and requiring any business not otherwise licensed to obtain a general business license. This report focuses on general business license ordinances unless otherwise noted.

Several questions should be addressed when considering the creation of a business license ordinance. Following are some of the questions and concerns addressed by the various cities' ordinances that we reviewed:

1. What is the purpose of the ordinance?

P Is the main concern to raise revenue?

P Is the main concern to regulate businesses?

P Is the concern to both regulate businesses and raise revenue?

R Many cities have created business license ordinances for regulatory purposes.

R Other cities use business license ordinances to raise revenue to defray the costs of fire, police and other city services that are made available to these businesses.

R Many cities have business license ordinances that are intended both to regulate business and to raise revenue.

R Several cities use business licenses to protect the general health, safety, and welfare of the public.

- R Some cities choose to regulate businesses to ensure that businesses are complying with applicable city ordinances, state and federal laws.

2. How do cities issue licenses?

- P Cities have used various methods to issue business licenses. These include:

- Requiring all businesses to have a general business license.
- Requiring certain types of businesses to have specialized licenses in addition to a general business license.
- Requiring only specific types of businesses to have a license.
- Requiring a business that is not otherwise licensed to obtain a general business license.

3. How do cities determine that someone is “doing business” for purposes of needing a license?

- R Several cities indicate that evidence of advertisements in newspapers, television, signs, etc. stating that such business was being conducted expressly or impliedly offering to sell goods or services to the public or any segment thereof. One city considers this to constitute prima facie evidence that the defendant was transacting business within the city on the day or date during which such representations were made.
- R One city considers one business action - such as selling products, solicitation, advertising, or displaying signs – as doing business in the city for purposes of the ordinance
- R One city considers activities such as advertising, delivering goods, providing services, owning, leasing or renting property used in business, involvement in production of income within the city as a presumption of doing business.
- R Some cities also require home based businesses to obtain a business license.

4. What does a general business license allow a person to do?

- R General business licenses allow that person to conduct business within the city limits.
- R Many cities specify that general business licenses are not intended to be in lieu of other specific business licenses that other city ordinances or state laws require.

- R Many cities specify that the collection of a license fee shall not be construed as a license or permit to the person or business to engage in activity or business to the extent it is deemed to be unlawful, by the laws of the State of Oregon, the United States or the city.

5. Who will administer the ordinance?

- P Which city official(s) will administer the city ordinance?

- R Cities have assigned various city officials to administer the business license ordinances. These include: City Recorder, City Manager, Finance Director, City Administrator, a License Clerk, the Chief of Police, City Auditor, Bureau of Licenses, or the City Council.

- P Will the City Council be involved in administering the ordinance?

- R Many cities that assign administrative duties to an individual other than the City Council require the City Council to be involved in appeals relating to the business licenses.

6. What are the duties of the ordinance administrator?

- P What are the responsibilities of the ordinance administrator?

- P May the administrator approve or deny license applications?

- P May the administrator revoke or suspend business licenses?

- R Most cities allow the administrator to approve or deny all license applications that are submitted.

- R Many cities allow the administrator to develop the business license applications to be submitted by the businesses.

- R One city allows the administrator to issue licenses, however any applications for a new type of business must be reviewed by the City Council.

- R Many cities allow the administrator to revoke or suspend a license of any business which has violated a city ordinance.

- R A few cities require the administrator to have various city officials review the license application before a decision is made in order to ensure that the business is in compliance with other city ordinances and regulations.

7. What information must the applicant submit with the application?

P Information that cities have required to be submitted in the license application includes (but is not limited to):

- Name of business
- Name of business owner
- Address and phone number of business
- Name of property owner where business is located
- Emergency contact person
- Number of employees/average number of employees
- Description of business activity
- Date of application
- Signature of the applicant
- Names of individuals with an interest in the business (such as proprietors and owners)
- Proof of other licenses/certifications required by state or federal law to conduct a particular type of business
- Any additional information available to help the city determine the appropriate fee and enable the city to review the application
- Amount of fee paid.

8. Who must file a business license application?

- R** Many cities specify that individuals whose income is based on hourly, weekly, monthly, or annual salaries are deemed not to be a person transacting business in the city.
- R** Several cities intend that business license fees are to be borne by the employer for the privilege of doing business in the city rather than the employee as a cost of employment.

- R** One city requires every principal in the business to submit an application for a license or a renewal for a license. This city considers a principal to include all: owners, shareholders, partners, directors, officers, and managers. The city manager may exempt certain principals from completing an application if they determine that granting such an exemption is consistent with the objectives of this code, and where the business demonstrates that those principals play no role in the operation of the company.

9. What information must be listed on the license that is issued?

- P** Cities make their own determination about the information required. Cities require different pieces of information to be listed on a business license. These include (but are not limited to):

- Nature of business
- Address of business
- Date of license issuance
- Name of licensee
- Expiration date
- Signature of the administrator
- Corporate seal of the city.

10. Is an individual required to display a business license?

- P** Should a business license be displayed?

R Many cities require conspicuous display of business licenses at all times.

R A few cities require a business owner to show a license only upon request.

- P** What if an individual does not have an established place of business?

R Several cities require individuals without an established place of business to continually carry the license with them.

11. What fees are charged?

- P** How are fees determined?

- P** Who sets the fees?

P May the fees be changed?

R Cities have chosen various methods for determining license fees. These include:

- Charging a flat fee for all businesses in the city.
- Charging a flat fee for each business classification.
- Charging a fee based on the number of employees.
- Charging a fee based on whether or not the business is located in or outside city limits.
- Charging a fee based on the duration of the particular business.

R Most cities allow the City Council to establish or change the fees by passing a resolution.

R Cities which charge a fee based on the number of employees generally create an equation to determine the number of full-time employees. This number is adjusted to account for temporary, part-time, or seasonal employees.

R Cities that base the fee on the number of employees have either set a flat fee to be charged for each employee (for example \$5.00 per employee) or charge a flat fee based on the total number of employees (for example 1-25 employees equals \$75.00, 25-50 employee's equals \$100.00).

R Some cities do not include employees who work full-time outside of city limits as part of the calculation for fees based on the number of employees.

R One city bases the license fee on the net income of the business.

R One city charges businesses (except motels) a "parking management fee" for off-street parking spaces not provided by the business.

R One city specifies that application fees are non-refundable.

12. Are there exemptions, either from the fee or the licensing requirements?

P Are certain businesses exempt from the license fee?

P Must these businesses obtain a license?

- R Many cities exempt non-profit organizations from license fees.
- R A few cities exempt individuals under the age of 16 who make less than a certain amount of money.
- R Many cities exempt federally tax-exempt businesses or organizations from license fees.
- R Most cities do not require individuals holding garage sales to obtain a license if the sale is less than a certain number of days and does not occur more than a certain number of times during the year. For example, a sale may not last longer than three days and may not occur more than four times per year.
- R Some cities do not require a business to obtain a general business license if the business is required to obtain a license under a different city ordinance or regulation.
- R One city does not charge a business during its first year of operation. However, the business must obtain a license. The city requires that for a business to qualify, it must not have operated during the previous calendar year and does not allow a change of ownership to qualify for the exemption.
- R One city exempts businesses whose gross receipts from all business within and outside of the city is under \$25,000 during the tax year.
- R Many cities in the Portland metro area do not require construction or landscape contractors to obtain a separate business license if they are licensed under Metro's contractor's business license program .
- R A few cities exempt contractors if they do not earn more than a specified amount (for example, as long as income was less than \$150,000).
- R Several cities require exempt businesses to obtain an exemption certificate or a license. These businesses are generally required to complete and file initial and renewal exemption applications.
- R One city exempts non-resident wholesalers delivering goods to businesses within the city.
- R Several cities exempt individuals whose primary activity consists of delivering goods inside the city for a business located outside the city.
- R Many cities do not require a warehouse that is part of another licensed

business to obtain a separate license if the main business is licensed.

R One city exempts a municipality.

R One city exempts one time annual events from obtaining a license.

13. How are the fees collected?

R Most cities require an application and fee to be submitted to and approved by the license administrator before a license will be issued.

R Most cities establish one day (for example, January 1st or July 1st) on which all business licenses must be renewed and fees must be paid.

R One city allows the administrator to authorize payments by the liable individuals to be made on a quarterly, prorated basis.

14. How often must a license be renewed?

R Most cities issue business licenses for one year.

R Most cities issuing a license for one year prorate the cost of a business license that is issued after the first day of the taxing year, so that the license must be renewed on the first day of the next licensing year.

R Many cities require obtainment of renewal licenses within a certain time period of the old license expiring. For example, many cities give businesses 30 days to renew a license.

R One city requires business licenses to be renewed every twelve months from the original date of issuance.

R One city treats a renewal application submitted less than 30 days before the license expires, as an application for a new license.

15. What does the city do with the funds that are collected from the license fee?

R Many cities use the money collected to defray the costs of general business regulation or costs of municipal services such as police and fire protection.

R One city divides the money received 50-50 between the off-street parking fund and the city general fund.

R One city distributes funds so that 86% of the funds go to a Community Development fund, and 14% of the money is used for seasonal events to

promote the city and benefit the businesses.

16. May a business be charged a reduced fee?

- R Many cities charge a business a reduced fee if the business starts after a certain time during the licensing year.
- R Many cities allow a business to pay a reduced fee such as one-quarter or one-half depending on how far into the licensing year the application is submitted.
- R One city will not reduce a license fee below the equivalent of a six-month fee.
- R One city allows a business that goes out of business during the year to obtain a pro-rated refund of the fee.
- R One city specifies that no pro-rated fees will be allowed for partially utilized licenses.
- R One city allows a reduced fee if a business begins after the middle of the licensing year, so long as the applicant was not involved in the same or a similar business during the previous year.

17. Will the city issue temporary licenses?

- R Several cities issue temporary licenses. These cities generally set a specific limit to the number of days for the license. For example, one city issues temporary vendor licenses for up to 45 days.
- R One city allows temporary licenses to be extended for up to two additional temporary periods.
- R One city allows for “quarterly” business licenses.
- R One city states that other than the fee and the duration, temporary business licenses are subject to all other ordinance requirements.

18. Is a license transferable?

- P May an owner transfer a business license?
- P What if the business is sold?
- P What if the business relocates?

- R Several cities do not allow business licenses to be transferred.
- R Some cities allow a business license to be transferred if a business is sold during the licensed year. These cities generally require the new owner to submit an application so that city records are updated, but allow the current license to be transferred.
- R Some cities require a nominal fee (such as \$1-2) to be charged for processing a transfer application.
- R Some cities require an individual to re-apply for a license if a business relocates.
- R Some cities require a new license fee if a business relocates or a license is transferred.
- R One city allows a license to be transferred as long as the transfer does not change the substance of the licensed business.

19. What if an individual has more than one business?

- P What if a person owns/runs more than one type of business?
- P What if a person owns multiple locations of the same business?
 - R Several cities require business owners who own more than one type of business to pay the license fee for each type of business.
 - R Most cities charge separate license fees for each business location, even if it is the "same" business.
 - R Most cities exempt business warehouses from needing a license if they relate to a licensed business.

20. What about multiple businesses on the same property?

- P If multiple businesses operate on the same property, are multiple licenses required?
- P What if the businesses are owned by the same person?
- P What if the businesses are owned by different people?
 - R Most cities require businesses owned by different people operated on the same property to obtain separate licenses.

- R Some cities allow a person who owns several businesses that are similar and located on the same property to obtain only one license.
- R Some cities require a person to obtain a separate license for each business on the property even if they are run or owned by the same person.
- R One city considers one license to be sufficient if the same owner carries on two businesses on the same premises if the license is issued for the primary business.

21. What if a business is not located in the city?

- P What if a business is not located within the city limits?
 - R A few cities charge higher fees for businesses located outside city limits.
 - R Several cities require businesses located outside the city limits to provide information about the number of employees who will work in the city as part of the business license application.
 - R A few cities require that no more than the specified number of employees who work for a business outside the city may work in the city. For example, if the license application states that 5 employees will work in the city, then no more than 5 employees may do business inside the city limits.
 - R One city charges businesses with no fixed operating site in the city will be charged 150% of the prescribed license fee.
 - R One city considers businesses without a place of business in the city as a "foreign" business and thus charges a different license fee.
 - R Additionally, charging a different fee to non-local businesses may raise issues about Interstate Commerce challenges. See Legal Issues for additional information.

22. How long does the city have to review a license application?

- P Is the city required to make a decision about a license application within a certain time period?
 - R Some cities require a decision regarding a license application to be issued within a certain time period. For example, a decision must be made within 30 days of a completed application being submitted.

23. For what reasons may an application be denied?

- P** Are there specific reasons for denial?
- P** Are there limitations to a person's ability to submit a license application?
- R** Cities have specified various reasons why an application may be denied. These include (but are not limited to):
- Prior fraudulent activity by the applicant.
 - If the business activity does not comply with city ordinances, state laws, or federal laws.
 - If the business activity would endanger property or public health and safety.
 - If an applicant has violated a law or an ordinance that presents reasonable doubt in their ability to perform the business activity without endangering property or public health and safety.
 - If an applicant fails to supply required information or submits false or misleading information.
 - If an applicant has submitted false or misleading information on a previous license application.
 - If the premises to be used by the business do not fully comply with all city ordinances and requirements.
- R** A few cities prohibit an individual who has had a business license revoked, suspended, or denied from applying for another business license for a specific period of time.
- R** One city allows a business license to be denied if the business owner has a criminal conviction relating to the subject matter for which the license application is submitted.
- R** One city will not issue a license to a business if it conducted business in the city without a license unless an additional fee is paid in addition to the current fee.
- R** If a business fails to apply for and pay the fee for a renewal license by a specific date, then a renewal license may be withheld until the license fee and accrued interest are paid.
- R** One city disqualifies an individual from applying for a license for two years if a license is denied or revoked two times within one year.

24. How is the licensed enforced?

- R Most cities state that it is unlawful for any person to transact and carry on any business, trade, profession, or occupation without a current valid license.
- R Many cities allow city police or other officials to inspect business premises to ensure that businesses are complying with city ordinances.
- R One city requires that an official seeking to inspect business premises either to obtain permission from the occupant or obtain a warrant from the court. However, the official may inspect a premises without permission or a warrant in emergency situations.
- R Some cities require any business license holder to allow inspections at reasonable times as a requirement for obtaining a business license.

25. What penalties may be imposed for violating the city ordinance?

- P May the city charge fines?
- P May late fees be applied?
- P May a license be revoked?
- P Requirements of the city if a license is revoked?
- P May a license be suspended?
- P Requirements of the city if a license is suspended?
- R Many cities charge delinquency fees if a license is not renewed within a certain time of the renewal date. For example, several cities charge delinquency fees if the license is not renewed within 30 days of the renewal date.
- R A few cities cap the amount of delinquent charges. For example they may be capped at 150% or 200% of the original fee.
- R A couple of cities revoke a license if the owner is substantially delinquent in paying the licensing fees. For example, one city allows a renewal license to be denied or revoked if a licensee is over two months delinquent.
- R Several cities allow the municipal court to issue fines to individuals who violate the ordinance.

- R A few cities allow an individual to be imprisoned if he/she violates the ordinance.
- R Many cities allow a license to be revoked if a licensee violates a city ordinance.
- R These cities generally require the administrator to issue written notice to the individual a certain period of time prior to the revocation, including information regarding why the license is revoked.
- R Several cities allow the city administrator to halt a revocation process if the individual remedies the problem leading to the revocation before the specified date of revocation.
- R Many cities allow an administrator to suspend a license if the business presents an immediate danger to persons or property.
- R Most cities that allow a license to be suspended make the suspension effective immediately.
- R One city allows the city to seek an injunction prohibiting an individual from engaging in an unlicensed business.

26. What appeals are available to business owners?

- P What grievances may a business owner appeal?
- P Who oversees the appeal process?
- P Is there a time limit for the business owner to bring an appeal?
- P What information must be provided by a business owner in an appeal?
- P What are the duties of the city regarding an appeal?
- P May an individual request a rehearing?
- R Business owners are generally allowed to appeal decisions regarding a license application denial, a license revocation, a license suspension, or a particular license fee.
- R Some cities allow the administrator to make a decision regarding any appeals that come in regarding a license denial, revocation or suspension.
- R Many cities require the City Council to hear any appeals that are submitted by aggrieved business owners.

- R Some cities allow the administrator to hear an initial appeal, but allow the City Council to review this decision either on their own motion or by request of the business owner.
- R Some cities consider a right to appeal waived if an individual does not submit an appeal within a certain number of days. For example, one city requires a business owner to submit an appeal within 15 days of a license revocation.
- R Many cities specify what information must be included in a written appeal request. This includes (but is not limited to):
- Name & address of the appellant.
 - Name and address of the business owner (if different from the appellant).
 - Nature of the determination which is being appealed.
 - A copy of the determination.
 - Reasons why appellant feels the determination is incorrect.
 - What the appellant feels the correct determination should be.
 - Submission of an appeal fee.
- R A few cities require appeal hearings to be public.
- R Some cities consider appeal hearings to be quasi-judicial proceedings.
- R One city requires the mayor to appoint a “board of appeal” consisting of 3 City Council members, and 3 people subject to the city’s license fee (2 of which must be city residents).
- R One city created an appeal board consisting of a representative of the City Auditor, a representative of the Bureau of Licenses, and three members of the public.
- R One city allows a rehearing before the City Commission for reconsideration of a denial, revocation, or suspended license if substantial new evidence, relevant to the prior refusal, becomes available.
- R Many cities require that the individual making an appeal be given written notice of the appeal hearing at least a certain number of days in advance (for example one city requires notice at least 7 days in advance).
- R A few cities specify the amount of time allowed for a decision regarding an appeal to be issued.

27. What about licenses for specific types of business?

P What types of specific businesses must obtain a license?

P What is the purpose of these specific licenses?

P What fees are charged for these licenses?

R Businesses that frequently require specific licenses include (but are not limited to):

- Peddlers or solicitors.
- Carnivals or circuses.
- Taxicabs or limousines.
- Sidewalk cafes.
- Second hand dealers.
- Pawn brokers.
- Dances or dance halls.
- Amusement devices.
- Transient merchants or vendors.
- Massage parlors.
- Adult businesses.
- Entertainment clubs.
- Security services.

R Cities use specific business licenses for different purposes including to raise revenue and to regulate.

R Fees for specific businesses are generally charged using a flat fee that the city establishes for each type of business.

R Some licenses for specific businesses are based on the time period that they will be in business. For example many cities charge carnivals or circuses a fee based on their duration (such as 1 week or 1 month).

- R One concern to consider when using a classification system is how the city will determine if a business falls within a specific category. For example, what if a business has multiple lines of business activity? Is Fred Meyer a hardware store or a grocery store? Is AT&T a cable company or a telephone company?

28. Additional concerns.

- P What about violations that occurred under previous ordinances?

- R Several cities include a "saving" clause in the ordinance to protect the city from violations that occurred prior to the current ordinance. This clause is intended so that licenses and fees assessed under previous ordinances are still valid and that the current ordinance does not preclude any action or prosecution against any person who violated the previous ordinance prior to the effective date of the new ordinance.

- P What happens if a court finds that a portion of the ordinance is invalid?

- R Some cities include a "severability" clause in the ordinance. This provides that if one portion of the law is deemed invalid, then the remaining portions are deemed to remain valid while that particular portion is dropped from the ordinance.

- P May the city charge additional fees?

- R Many cities specify that general business license fees are not in lieu of ad valorem taxes or license fees required by other city ordinances.

- P What about placing conditions on a license approval?

- R One city allows issuance of "conditional approval" licenses. If this is given, the business owner must be given written notice of the reasons for the conditional approval.

- P May an agent be held liable for violations of the business?

- R Several cities deem that employees, agents, or representatives of a person with no regular place of business within the city, shall be personally responsible for compliance of principals and the business.
- R One city holds the agents of a non-resident proprietor engaging in any business for which a license is required liable for the payment of fees and for penalties for failure to pay the fees or comply with the ordinance provisions as if the agent were themselves proprietors.

P What if application information changes?

R One city requires a business owner to inform the city within 10 days of any changes occurring to the information submitted in the application.

P What are the characteristics of the business license?

R A couple of cities include lists of the characteristics of the license. These include (but are not limited to):

- The license is a purely personal privilege.
- The license is valid only for the term specified by the city code.
- The license is renewable according to the city code.
- The license is revocable or suspendable as provided by the city code.
- The license ceases upon death or dissolution of the licensee.
- The license does not constitute property.
- The license is not alienable or transferable.
- The license is not subject to attachment or execution.
- The license is not subject to descend or escheat by the laws of testate or intestate devolution.

P What type of company records must a business keep?

R Some cities require businesses to maintain business records of the number of employees for a certain period of time. For example one city requires records to be maintained for 3 years.

P May an individual obtain a duplicate license?

R A couple of cities allow a duplicate license to be issued if the original license is lost or destroyed. These cities, however charge a \$10 duplication fee.

P Is a city required to keep application information confidential?

R A couple of cities require information submitted as part of license to be kept confidential except as otherwise required by law.

- R** These cities have determined that general statistics may be disclosed (so long as they do not provide identification of the licensee) and disclosure of names and addresses of individuals to whom licenses are issued, and presentation of evidence to the court in the prosecution of a city claim.
- P** How long before a business commences must an application be filed?
- R** Some cities require an individual to submit an application a specific period of time prior to commencing doing business. For example, one city requires an application to be submitted at least 30 days prior to conducting business in the city if the business commences operation after the first day of the city's licensing year.

Legal Challenges

1. What authority do cities have to regulate businesses?

- R Municipalities have no inherent licensing power. The authority to license must either be expressly granted by charter or statute, or exist by necessary implication. *Lent v. City of Portland*, 42 Or. 488 (1903). But see *Davidson Baking Company v. Jenkins*, 216 Or. 51 (1959) (general incorporation statute construed as granting authority to license a business).
- R In *City of Idanha v. Consumers Power*, 8 Or. App. 551 (1972), the Oregon Court of Appeals noted that a city's power is derived from the home rule charter granted by the Oregon Constitution Article XI, section 2. The court said that the grant under Article XI, section 2 is construed by the courts such that cities have all the powers which the legislature can validly confer upon them. Additionally, the court said that a city with proper charter authority may levy a business or occupation tax based on its taxing power. Furthermore, the city may impose a business or occupation license fee based on its police power alone or in combination with its taxing power.
- R Although the power to license may include the power to prohibit activities that may be harmful to the public welfare, health, or safety, there are certain limits on this power. In *City of Portland v. Western Union Tel. Co.*, 75 Or. 37 (1915), the Oregon Supreme Court held that the power to regulate does not authorize an absolute prohibition of any legitimate business. As a means of enforcing a reasonable regulation, however, power may be exercised to require a license to follow a particular occupation, along with an accompanying prohibition that, in the failure to pay the stipulated fee and to procure the requisite evidence of authority to conduct business, pursuit of that business will be unlawful.
- R A frequent claim raised by businesses is that a city's license fee violates either the Equal Protection or Due Process clauses of the constitutions. These claims typically arise when cities charge different fees to different types of businesses. In *City of Idanha v. Consumers Power*, 8 Or. App. 551 (1972), the court noted that the constitutionality of an ordinance must be sustained against either Equal Protection or Due Process claims unless it is impossible to discern any substantial difference between the separate occupation classifications.
- R An additional concern has arisen when a business is required to obtain a license from both the city and the state. In *A.G. Lyons v. City of Portland*, 115 Or. 533 (1925), the Oregon Supreme Court held that where a city has been granted by general law or by legislative charter the authority to license a particular business, that authority is not taken away by the fact that the state has also imposed a licensing requirement for carrying on the same business. As long as compliance with both the city ordinance and state statute does not create direct conflict, a business may be subject to licensing requirements by both entities.

However, the city must remember that the legislature may create a general law that will take away from the municipality the power to license a particular business.

- R In *Covey Drive Yourself and Garage v. City of Portland*, 157 Or. 117 (1937) the Oregon Supreme Court held that so long as the enactment of the city ordinance was in furtherance of the city's police powers and was not repugnant to the state statute, then it was an ordinance that the city could pass.

2. How much may a city charge for a license?

- R When reviewing the fees imposed under licensing requirements, the courts have looked to whether the license is imposed for revenue or regulatory purposes. In setting the amount of the license fee, it is important to determine whether the municipality is exercising its taxing authority or its police power. In *Ex Parte Fine*, 124 Or. 175 (1928), the Oregon Supreme Court held that the Oregon City license fee of \$120 per vehicle for "wholesale trade vehicles" exceeded the cost of the slight amount of city regulation which the city proposed to give to the vehicles. Therefore, the fee was void as a tax for other than revenue purposes.
- R The power to regulate implies the power to impose a fee sufficient to cover the cost of regulation. *Fenwick v. City of Klamath Falls*, 135 Or. 571 (1931). Where a license fee is imposed under the police power, the fee charged may not exceed the reasonable costs of granting the license and investigating, inspecting, and other functions necessary for exercising proper police powers. In *In re Wan Yin*, 22 F. 701 (D. Or. 1885), the district court of Oregon held that the quarterly license fee of \$5 was "far beyond" the city's special expenses incurred in regulating laundries. However, in *Hickey v. Riley*, 177 Or. 321 (1945), the Oregon Supreme Court held that an ordinance charging a traffic meter fee of 5 cents and limiting parking time to one hour was a valid traffic regulation, not a revenue tax. License fees imposed for regulatory purposes may be reviewed to determine if the charges are so excessive as to be prohibitory. *Eugene Theatre v. City of Eugene*, 194 Or. 603 (1952).
- R In *Safeway Stores v. City of Portland*, 149 Or. 581 (1935), the Oregon Supreme Court held that the amount of a license fee imposed for revenue purposes may be based upon any fair and equitable measurement, such as the amount of business done or sales made, so long as the rates are not arbitrary or confiscatory.

3. Authority of a city to regulate businesses not located in the city.

An additional concern, relates to the authority of the city to require a business without a permanent place of business in the city to obtain a license under the city's business license ordinance.

- R In *Wittenberg v. Mutton*, 203 Or. 438 (1955), a city ordinance which charged a flat license fee to businesses operating from a regular place of business and charged an increased license fee to businesses not operating from a regular place of business was challenged. In this case, the purpose of the city ordinance was to raise revenue based on the privilege of doing business within the city. The court held that the repeated act of “doing business” within the city was sufficient to require a business to obtain a license even though the regular place of business was located outside the city. The court held that it was constitutional for the city to charge a different licensing rate to the businesses conducting business without a regular place of business.
- R In *City of Portland v. Cook*, 170 Or. App. 245 (2000), a city ordinance requiring all individuals conducting business within the city limits to obtain a license even if their regular place of business was located outside the city limits, was once again challenged. The Oregon Court of Appeals noted that the city ordinance defined “doing business” as engaging in any activity in pursuit of property or gain, including...rendering services. Therefore, the ordinance would apply to Cook despite the fact that his office was located outside of the city since he repeatedly entered the city to conduct aspects of his business.
- R In *City of Portland v. Cook*, 170 Or. App. 245 (2000), the city ordinance was also challenged as violating the Due Process clause of the constitution. The court held that the ordinance satisfied both prongs of the due process test and therefore did not violate Cook’s due process rights. The ordinance satisfied the test because (1) the ordinance reasonably limits the amount of taxable income to the income that Cook earned within the city limits; and (2) there was sufficient evidence that Cook had voluntarily chosen to conduct his business duties within the city limits.
- R In the case of *Dennis v. Higgins*, 498 U.S. 439 (1991), the US Supreme Court held that state regulations on commerce exceeding the substantive limitations under the Commerce Clause may give rise to § 1983 claims. The Commerce Clause does not merely allocate power between the federal and state governments, but protects “rights, privileges, or immunities” within the meaning of § 1983. In this case, Nebraska assessed fees and taxes on motor vehicles registered out-of-state, while imposing no comparable fees or taxes on Nebraska registered vehicles. A motor carrier operated Ohio registered trucks and trailers in Nebraska and sued under 42 U.S.C. § 1983, alleging that the Nebraska taxes and fees were “retaliatory.”

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Administrative Concerns

1. How is the ordinance created?

- R It is recommended that prior to creating a new business license ordinance, the city should consult and work with individuals in the business community who will specifically be affected by the new ordinance. It is hoped that by working along side one another, the city will be able to avoid at least some of the potential problems or complaints that are likely to happen when businesses are suddenly forced to pay additional fees in order to maintain their business in the city and to perform their business duties in the city.

2. How many licenses are issued annually?

- R One city (pop. 4,885) said that it issues approximately 200 licenses annually.
- R One city (pop. 1,570) indicated that it issues approximately 75 licenses per year.
- R One city (pop. 8,715) issues between 400-550 business licenses per year. This number also includes the temporary and seasonal licenses that are issued annually to fruit/vegetable vendors.
- R One city (pop. 1,300) issues approximately 49 business licenses per year.
- R One city (pop. 20,085) issues between 1,700-2,000 business licenses annually.
- R One city (pop. 14,300) issues approximately 700 licenses annually.
- R One city (pop. 72,638) issues approximately 3000 business licenses annually.
- R One city (pop. 13,170) issues approximately 845 licenses per year.

3. How much revenue is generated by the issuance of business licenses annually?

- R One city (pop. 4,785) indicated that it charges a flat \$25.00 fee for each license that is issued by the city. Therefore, the city raised approximately \$5,000 per year.
- R One city (pop. 1,570) generates approximately \$6,000 per year in revenue from issuing business licenses. The cost of these licenses ranges from \$50-200 per license.
- R One city (pop. 8,715) indicated that it generates approximately \$26,000 in revenue from their business licenses annually. The revenue that is generated by

the licenses is put into the city general fund.

- R One city (pop. 1,300) raises approximately \$1,190 in revenue from business licenses annually.
- R One city (pop. 14,300) raises approximately \$35,000 annually from business licenses.
- R One city (pop. 72,638) raised approximately \$246,343 annually from business licenses.

4. How much time does it take to process each business license?

- R One city indicated that it takes approximately five hours to process a single license. This includes time to initially process the application, create a packet of information for the City Council to vote on for approval, and also have the police department verify that license requirements are being met.
- R Several cities indicated that it takes approximately ½ hour of administrative time to issue each license.
- R One city indicated that staff spends between 60-70 hours per year to process all of the new and renewal licenses.
- R One city indicated that it takes about 10-14 days to issue a license from the time the completed application is submitted. However, in some instances it may take a little more time if an inspection needs to be made.

5. How is the ordinance enforced?

- R A few cities have a Code Enforcement officer who is in charge of verifying that businesses have valid licenses.
- R In several cities, the city administrators are involved in enforcing the ordinance and verifying that businesses have a valid license.
- R One city has a Community Development Director in charge of verifying whether or not businesses are properly licensed.
- R One city indicated that they also act to enforce the ordinance when complaints come in from citizens. These complaints typically concern individuals going door-to-door selling items.
- R One city indicated that either the City Recorder or the Code Enforcement officer tries to get to each business in the city at least once during the renewal period in order to make certain that the business licenses are current.

6. Problems with enforcement?

- R One city indicated that it has some problems with businesses that are run out of someone's home not obtaining a proper license. That city has insufficient staff to have someone go door-to-door to verify whether or not there is a valid business license.
- R A general problem with enforcement is that many businesses are delinquent in renewing their business licenses each year.
- R One city indicated that there is insufficient staff to be able to verify that all businesses are current in their licenses.
- R One city indicated that it does not have time to actively enforce its ordinance, therefore the city relies on complaints that are filed by citizens, at which time the city will follow-up to determine whether or not the business is a legitimate business and properly licensed.
- R One problem that arises is that some businesses may frequently change names which can make tracking the businesses difficult.

7. Changes they would like to see?

Some city officials pointed to changes that could enhance their city's business license ordinance. Examples are:

- R One city indicated that there is some concern about whether or not background checks should be done on business owners prior to issuing a license.
- R One city indicated that the current ordinance does not require the city to ensure that contractors coming into the city are licensed or bonded by the state. Although city officials try to check for this, they are not required to so the city is considering making this a requirement for obtaining a license in the city.
- R One city would like to see changes that will clarify the requirements of whether or not certain individuals (such as contractors and home businesses) are required to obtain a business license.
- R One city indicated that changes should be made to the penalties that may be imposed on individuals who fail to obtain a proper business license.
- R One city would like to see changes made that will make enforcement of the ordinance easier, however this is more a concern of obtaining additional manpower to enforce the ordinance.

- R One city indicated that it has some problems with businesses not wanting to provide the city officials with all of the information that is requested on the license application.
- R One city indicated that the license fees should probably be changed since the current fees have been in place for about 10 years.
- R One city indicated that it is considering changing the manner in which license fees are determined. The city is considering basing the license fee on the number of employees since the current flat fee requires that all businesses, whether large or small, pay the same price.

8. Recent changes that have been made?

- R One city indicated that it recently changed their ordinance so that fees are based on number of employees rather than on type of business. The city finds this much easier to enforce since many of the business classifications of the prior ordinance were irrelevant to the city needs.

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Getting a Business License

Welcome to Lake Oswego and thank you for choosing Lake Oswego for your business! One of the requirements of operating a business within the city limits is to acquire a Lake Oswego Business License, **prior to the operation of the business.**

City of Lake Oswego Ordinance 20.02.025 requires that anyone conducting business within the City of Lake Oswego must obtain a business license unless specifically exempted by state law (Real Estate Agents, Insurance Agents). This requirement includes working out of your home and those doing door to door solicitation in Lake Oswego. See [Business License Frequently Asked Questions](#) for additional information.

To Apply for a Business License

The business license application for a new business should be received thirty (30) days before the business opens. If compliance with these time frames is not met, the business may be assessed a late fee.

You may apply for a Business License by one of the following options:

- 1) Create a CAP account and apply online by going [here](#) (the Government Connected Online Services webpage), then click on the pdf instructions needed in the middle of that page; or
- 2) Download the attached Business License Application to fill in and print. Then mail the completed application to the address on the application or hand deliver it to the Finance Department with a check payable to "The City of Lake Oswego"; or
- 3) Pick up an application at the Finance Department on the first floor of City Hall 380 A Avenue; or
- 4) Call Finance at 503-635-0279 to request that an application be mailed.

New business licenses are in effect for the full twelve months after the month of initial issuance, then they are renewed annually thereafter.

The Cost of a Business License

Certain businesses demonstrating less than \$1,000 gross revenue on a calendar year basis are exempt from the following annual business license fees.

**Fees for the Initial Business License
Application** (non-refundable)

Employees (including owners)	Fee
1 - 3	\$80
4-10	\$110
11+	\$150

Business License Renewals

Business Licenses must be renewed by the indicated expiration date on the license. A renewal form indicating the renewal fee will be mailed to current business license holders. Renewals can be paid for by mail, in person at City Hall, or [online](#).

**Renewal Fees for Business
Licenses** (Received on or before the
expiration date)

Employees (including owners)	Fee
1 - 3	\$64
4 - 10	\$84
11+	\$110

**Renewal Fees for Business
Licenses** (Received after the
expiration date)

Employees (including owners)	Fee
1 - 3	\$80
4 - 10	\$110
11+	\$150



Related Links

[Paying Business License Renewals Online](#)



[Business License Frequently Asked Questions](#)



Attachments

Other Materials:

[Business License Brochure](#)
[How to Create an online CAP Account](#)
[How to apply for a New Business License Online](#)
[Business Licenses - New 4th Quarter](#)
[All Business Licenses - as of 2-13-19](#)
[Business License Fillable Application](#)

City of Lake Oswego

P.O. Box 369
380 A Avenue
Lake Oswego, OR 97034 

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**AGENDA REPORT
OLD BUSINESS
February 19, 2019**

To: Mayor and City Council

FROM: Adam J. Brown, City Manager

THROUGH: Adam J. Brown, City Manager

SUBJECT: WATER AND SEWER EXCEPTIONS FOR FEDERAL FURLOUGHED EMPLOYEES

DATE: February 14, 2019

PROPOSED MOTION:

I MOVE THAT THE ONTARIO CITY COUNCIL WAIVE SHUT-OFFS AND ASSOCIATED LATE FEES FOR PERSONS WHO CAN PROVE EMPLOYMENT WITH THE FEDERAL GOVERNMENT AND ALLOW THEM A GRACE PERIOD THROUGH MARCH 1, 2019 TO GET CAUGHT UP.

SUMMARY:

Several Council members requested that the Council as a whole consider relief of water and sewer bills for federal furloughed employees.

BACKGROUND:

Over 800,000 federal employees were furloughed for 35 days, the longest government shutdown in the history of the United States.

CURRENT SITUATION:

The government is back to work and the Office of Personnel Management has indicated that workers will receive back pay. Still, there is undoubtedly some hardship associated with missing two pay periods and getting caught up.

To assess the magnitude of the problem experienced by federal employees living in Ontario, we put out a request on Facebook and also a note in the water bill to notify our Utility Billing Clerk if you are a federal employee who has been furloughed. To date we have not received any notifications; however, water bills just went out. They will be tracked up until the Council meeting.

Potential federal employees living in the city might be from the Social Security Administration Office, the Bureau of Land Management, the Bureau of Reclamation, Forestry Service, or National Park System.

There are several options available to the Council. One option is to forgive the January water bill. Another option would be to agree not to shut off persons who can prove they are federal employees who are not able to make their payment in January or February.

ANALYSIS:

- A. **FINANCIAL** The average household water and sewer bill for January is \$73.84
- Staff will provide an update of how many persons are impacted at the Council meeting so the Council will have an order of magnitude to calculate the financial impact.
- B. **TIMING** Federal employees should have received full back pay already or in the very near future. It can be hardship though to climb out of a hole after missing multiple pay periods.
- C. **POLICY/LEGAL** The City Manager has some discretion in waiving fees or delaying shut-offs, but a decision that would impact a class of workers such as this should be made by the whole City Council.

In terms of a policy decision, there are many private sector employees who experience temporary loss of work for no fault of their own. We generally work with people in hardship cases that come to us before the payment is due and who are willing to work out a payment plan. That is done on an individual basis though.

ALTERNATIVES:

1. Take No Action
2. Dismiss the January water bill for employees that can prove federal employment.
3. Waive shut-offs for the month of January and February for Federal employees giving them an opportunity to catch up.

RECOMMENDATION:

The City Manager recommends that the City Council take no action.

ATTACHMENTS:

None



**AGENDA REPORT
NEW BUSINESS
February 19, 2019**

To: Mayor and City Council

FROM: Adam J. Brown, City Manager

THROUGH: Adam J. Brown, City Manager

SUBJECT: **LEASE RENEWAL AND AMENDMENT FOR PROPERTY BETWEEN THE CITY OF ONTARIO AND DENNIS MONTGOMERY**

DATE: February 15, 2019

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE A LEASE RENEWAL BETWEEN THE CITY OF ONTARIO AND DENNIS MONTGOMERY.

SUMMARY:

The city's most recent lease with Dennis Montgomery for property was agreed upon in 2014 and expired this month. A new lease proposal is requested.

BACKGROUND:

The property is used for both crops and graze land for livestock due to the varying pitch of the land.

CURRENT SITUATION:

Due to more sustainable agricultural practices there is less runoff from other properties and the property must irrigate out of current water rights. The Lessee proposes to install a pump at his own expense to irrigate the land for crops. The pump will be retained by the lessee at the end of the lease.

ANALYSIS:

- A. **FINANCIAL** Staff negotiated an increase in the lease price from \$1,500 to \$2,000 per year. The City will continue to pay the taxes, but the lessee will cover any increase in taxes from year to year. The taxes have been estimated by the assessor at around \$170 a year.
- B. **TIMING** The lease has expired and Mr. Montgomery would like to install the pump for irrigation this planting year.

C. **POLICY/LEGAL** The Council must approve this lease.

ALTERNATIVES:

Do Not Approve: The City will forgo revenue from this land.

RECOMMENDATION:

Staff recommends approval of the lease between the City of Ontario and Dennis Montgomery.

ATTACHMENTS:

1. Montgomery Property Lease
2. Attachment_Dennis Montgomery Farm Lease 02-2019

FARM LEASE

THIS AGREEMENT, effective as of _____, 20____, by and between the CITY OF ONTARIO, a municipal corporation in Malheur County. Oregon, hereinafter called Lessor, and DENNIS MONTGOMERY. hereinafter called Lessee,

WITNESSETH:

In consideration of the covenants and agreements herein contained, the mutual benefits to be derived by the parties and the payment of rental, Lessor does hereby lease and let unto the Lessee approximately 40 acres of agricultural real property on the terms and conditions hereinafter in this Agreement set forth and described as follows:

See Exhibit "1"

TERM OF LEASE. The term of this Lease is ten years. It shall begin on February 1, 2019, and will expire on January 30, 2029.

VOLLINTARY TERMINATION. Either party may voluntarily terminate this lease on or after April 1, 2024, upon giving to the other party not less than 180 days written notice of termination.

RENTAL. The rental for the above described real property, which the Lessee agrees to pay and the Lessor agrees to accept, shall be the sum of \$2,000 per year, payable in two installments of \$1,000 on May 15th and \$1,000 on November 15th of each year, from 2019 through and including 2029. The City will continue to pay the taxes, but any increase in taxes from the current year will be added to the annual lease cost.

USE OF THE PREMISES. The demised premises are to be prepared by the Lessee for an agricultural use for pasturing cattle and/or the raising of crops and Lessee will exercise the art of good husbandry in the care of the land and in the planting, cultivation, irrigation, harvesting, and delivery of crops, and will not commit or permit strip or waste of the premises. The Lessee, in his use of the leased premises, shall not in any way interfere with the use and operation of the remainder of the land belonging to Lessor of which the leased premises is a small part, the remainder of the premises being used as a municipal airport.

LESSOR'S INSPECTION. The Lessor or its representative, agents, or employees, may at all times reasonable enter upon said premises to view and inspect the same without doing damage to any growing crops.

LESSEE'S EXPENSE. Lessee will furnish, provide, and pay for when payable, all costs and expenses of clearing, leveling, and making the premises ready for an agricultural use-and pay all costs and expenses of labor and services and will furnish all seed, power, fertilizer, and equipment as may be necessary for the cultivation of said lands, the production, harvesting, and delivery of crops, and shall pay for any and all charges for water that said premises carry or may hereafter be granted.

LIENS PROHIBITED. Lessee will promptly pay all charges for work or improvement that he causes to be done upon the premises so that at no time shall there be any lien or claim of lien against the property as the result of the operation, fault, or default of the Lessee.

IMPROVEMENTS, ALTERATIONS. All improvements and alterations placed upon or performed on the leased premises shall be at the sole cost and expense of the Lessee, and such alterations and improvements shall be the property of the Lessor and shall remain upon the premises on the termination of this agreement.

Lessee desires to have installed a motor for water service, to be powered by the installation of a power box by Idaho Power. Lessee will bear the cost of all installation. Lessee will retain ownership of the motor and pump upon termination of this Lease.

LIEN ON CROPS. The Lessor shall have a lien, and this Lease shall be deemed to grant a lien to the Lessor upon all of the crops produced upon all of the leased premises so as to secure the rental hereinbefore provided.

NON-WAIVER. Time and specific performance are each of the essence of this Lease, and this Lease is binding upon the parties, their heirs, administrators, and assigns, and waiver by either party of strict performance of any provision of this Lease shall not be a waiver of, or prejudice the parties' right to require strict performance of the same provisions in the future or of any other provision.

PAYMENT OF RENTAL. Lessee covenants that he will pay the rental as hereinbefore provided at such times and in the manner provided. Lessor shall pay water and taxes on property.

DAMAGE OR DESTRUCTION. Lessee shall be liable to the Lessor for the payment of any loss, damage, or destruction to the premises caused by the fault or neglect of the Lessee, his agents, or employees.

LIABILITY INSURANCE. Lessee shall maintain liability insurance upon the property, naming Lessor as an additional insured party, for liability of not less than \$300,000 personal injury and \$100,000 property damage, for any one incident or accident. The policy shall provide that it will not be canceled without the insurance company giving Landlord 15 days prior written notice of such cancellation.

LIABILITY TO THIRD PARTIES. Lessee shall hold the Lessor harmless from the payment of any claim for injury or damage to any third person or the property of a third person and shall indemnify and defend lessor from any such claim, loss, or liability arising out of or related to any activity of the Lessee on the leased premises or any condition of the leased premises in the possession or under the control of the Lessee. Lessee's duty to indemnify shall not apply to or prevent any claim by the Lessee against Lessor for injury or damage to Lessee or Lessee's property for which Lessor may be liable.

USE OF HAZARDOUS SUBSTANCES. The Lessee shall not cause or permit any hazardous substance or material to be brought upon, kept, or used in or about the premises by the Lessee, Lessee's agents, employees, contractors, or invitees without the prior written consent of Lessor, which written consent shall not be unreasonably withheld so long as Lessee demonstrates to Lessor's reasonable satisfaction that such hazardous substance or material is necessary or useful to Lessee's business and will be used, kept, and stored in a manner that complies with all laws regulating such hazardous material or substance so brought upon or used or kept in or about the property. Lessor has the option of refusing to consent to such use, storage, or disposal; Lessee's failure to comply with such a decision or with federal and state laws and regulations pertaining to the use, storage, or disposal of the same shall constitute an event of default by Lessee.

Lessor hereby consents to Lessee's use of chemicals and fertilizers customarily used in farming operations in this area, on the condition that such chemicals and fertilizers are used and stored properly and in accordance with law. Lessor has the right to inspect the property, after adequate notice to Lessee, to determine if Lessee is properly using, storing, and disposing of chemicals and other hazardous wastes.

As used herein, the term "hazardous material" includes any hazardous or toxic substance, material, or waste including, but not limited to, those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the United States Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, petroleum products, or such other substances, materials, and wastes that are or become regulated under any applicable local, state, or federal law, including but not limited to Chapter 453 of the Oregon Revised Statutes, including subsequent legislative and administrative modifications, deletions, and additions thereto.

Lessee shall indemnify, defend, and hold Lessor harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of the real property, damages for the loss or restriction on use of usable space or of any amenity of the real property, damages arising from any adverse impact, and sums paid in settlement of claims, attorney's fees, consultant fees, and expert fees) which arise during or after the term of this lease or previous Lease between the parties, as a result of contamination by hazardous material or hazardous substances as a result of Lessee's use or activities, or of Lessee's agents or contractors or invitees. This indemnification includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal, or restoration work required by federal, state, or local government agency or political subdivision because of hazardous material or hazardous substances present in the soil or ground water on or under the real property. Without limiting the foregoing, if the presence of any hazardous material on the real property caused or permitted by the Lessee or Lessee's agents or contractors or invitees results in any contamination of the real property, Lessee shall promptly take all action at its sole expense as is necessary to return the real property to the condition existing prior to the release of any such hazardous material or substance to the real property, provided that Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the real property.

THE FOREGOING INDEMNITY SHALL SURVIVE THE SATISFACTION, EXPIRATION, OR EARLY TERMINATION OF THIS LEASE. Excepting only containers, vessels, pipes, and equipment appurtenant thereto which are used solely for irrigation, Lessee shall not, without obtaining the prior written consent of Lessor, construct or install any vessel or container of whatsoever description pipes or equipment appurtenant thereto, for the storage, disposal, use, or transportation of any fluid, gas, or solid when any part of said container, vessel, pipe, or equipment is installed wholly or partially below the surface of the real property subject hereto.

DEFAULT. The following shall be deemed events of default:

1. Failure of Lessee to pay any rent or other charge within 10 days after it is due.
2. Violation of any of the terms of this Lease concerning hazardous substances.
3. Failure of Lessee to comply with any other term or condition or fulfill any other obligation of this Lease within 10 days after written notice by Lessor specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 10 day period, this provision shall be complied with if Lessee begins correction of the default within a 10 day time period and thereafter proceeds with reasonable diligence and good faith to effect the remedy as soon as practicable.
4. Failure of the Lessee for 15 days or more to occupy the property for the purposes permitted under this Lease.

REMEDIES ON DEFAULT. In the event of a default by the Lessee, as hereinbefore provided, the Lessor may, by giving a written notice to the Lessee, immediately cancel this Lease and all rights of Lessee shall immediately cease, and the Lessor shall be entitled to immediate possession of the premises, and the crops then growing upon the same to the absolute exclusion of the Lessee and all monies paid by the Lessee shall be retained by the Lessor as rent, and Lessor may repossess the leased premises, using force, if necessary, without liability to the Lessee, and the Lessor shall have the right to invoke any remedy in law or in equity for such breach as may be available to it under the laws of the State of Oregon. Notice which may otherwise be required by any statute of the State of Oregon is expressly waived by the parties. In the event of a default by Lessor, Lessee shall have the right to invoke any remedy in law or in equity for such breach as may be available to him under the laws of the State of Oregon.

SURRENDER AT EXPIRATION. Upon expiration of the Lease term or earlier termination on account of default, Lessee shall peacefully surrender the leased premises to the Lessor in good condition.

INTEREST ON OVERDUE PAYMENTS. All rental payments due from Lessee to Lessor shall bear interest at the rate of 10 percent per annum from and after the due date until such payment is made.

LESSOR'S PRIVILEGE TO PAY AMOUNTS REQUIRED OF LESSEE. In the event the Lessee fails to pay, when due, any amount required of it to be paid, Lessor may pay any or all of such amounts and if Lessor makes any such payments, the amount thereof shall immediately become due and owing to the Lessor and the same shall bear interest at the rate of 10 percent per annum from the date such payment is made by the Lessor.

ASSIGNMENT AND SUB-LEASE. No part of the lease property may be assigned, mortgaged, or sub-leased, nor may a right of use of any portion of the property be conferred on any third person by any other means, without the prior written consent of the Lessor. Lessor hereby consents to Lessee's sublease of a portion of the property to Rick Navarrete and Hector Navarrete. This paragraph shall apply to all transfers by operation of law and transfers to or by trustees in bankruptcy, receivers, administrators, executors, and legatees. No consent in one instance shall prevent the provision from applying to a subsequent instance. The Lessor shall consent to a transaction covered by this provision when withholding such consent would be unreasonable under the circumstances.

ENFORCEMENT EXPENSE. In case either party places this Lease in the hands of an attorney for enforcement of the agreements herein contained, as the result of the default of the other party, such defaulting party shall pay a reasonable attorney's fee for such service and expenses to the non-defaulting party, and this provision shall apply in cases whether suit, action, or other proceeding are filed or not. In the event of litigation or arbitration, reasonable attorney fees shall be set by the arbitrator(s) or court(s) in which the litigation, including any appeal therein, is tried, heard, or decided.

PREPARATION FOR FOLLOWING YEAR. Lessor, its representatives, agents, employees, or Lessees have the right to enter upon each of the fields upon said premises in the final year of the Lease as the marketable crops have been harvested from each field, to do such work as may be usual and necessary in each field in preparation for the new crop year doing no damage or injury to a crop thereon and interfering as little as possible with Lessee's operation.

INTERPRETATION. The underlined paragraph HEADINGS are only intended as a handy reference index, and shall not control the interpretation or limit the meaning of any term of this Lease.

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IT WITNESS WHEREOF, the parties have hereunto set their hands and seals to this and one like instrument of even date and equal tenor the date and year first above written.

CITY OF ONTARIO/LESSOR

Riley J. Hill, Mayor

STATE OF OREGON)
) ss.
County of Malheur)

Personally appeared the above named RILEY J. HILL, who, being duly sworn did say that he is the Mayor of the CITY OF ONTARIO, and that the foregoing Lease was signed in behalf of said CITY by authority of its CITY COUNCIL, and they acknowledged said instrument to be its voluntary act and deed.

BEFORE ME:

Notary Public for Oregon
My Commission Expires: _____

LESSEE:

Dennis Montgomery

STATE OF OREGON)
) ss.
County of Malheur)

Personally appeared DENNIS MONTGOMERY, and acknowledged the foregoing instrument to be his voluntary act and deed.

BEFORE ME:

Notary Public for Oregon
My Commission Expires: _____

Land in the City of Ontario, Malheur County, Oregon, as follows:

In Twp. 18 S., R. 47 E., W.M.:

Sec. 7: S1/2 NE1/4 NE1/4, W1/2 NE1/4, SW1/4 SE1/4 NE1/4,
S1/2 NW1/4 SE1/4 NE1/4, E1/2 NW1/4, NE1/4 SW1/4,
NW1/4 SE1/4, W1/2 NE1/4 SE1/4, N1/2 NW1/4 SE1/4 NE1/4,
and the S1/2 N1/2 NE1/4 NE1/4.

EXCEPTING THEREFROM the following three parcels in the NE1/4 NE1/4
of said Sec. 7:

Parcel No. 1: Commencing at the Northeast corner of said NE1/4 NE1/4;
thence S. 0° 08' 52" E., coincident with the East boundary thereof,
329.44 feet to the Northeast corner of the S1/2 N1/2 NE1/4 NE1/4;
thence N. 89° 46' 51" W., 40.0 feet to the POINT OF BEGINNING;
thence N. 89° 46' 51" W., coincident with the North boundary of said
S1/2 N1/2 NE1/4 NE1/4, 300 feet;
thence S. 0° 08' 52" E., 287.56 feet;
thence S. 89° 46' 51" E., 289.94 feet;
thence along a curve to the left, having a long chord of N. 45° 02' 08" E.,
14.19 feet;
thence N. 0° 08' 52" W., coincident with the West boundary of State
Highway No. 201 right of way, 277.50 feet to the POINT OF
BEGINNING.

Parcel No. 2: A portion of Parcel No. 2 of Partition Plat No. P-17, in the
NE1/4 NE1/4 of said Sec. 7, more particularly described as follows:
Beginning at the SE corner of said Parcel No. 2;
thence N. 89° 48' 45" W., along the South line of said Parcel No. 2,
700.00 feet;
thence N. 0° 08' 52" W., 160.00 feet;
thence S. 89° 48' 45" E., 200.00 feet;
thence N. 0° 08' 52" W., 410.99 feet to a point on the North line of
said Parcel No. 2;
thence S. 89° 46' 51" E., along said North line, 200.00 feet to the
Northwest corner of Parcel No. 1 of said partition Plat No. P-17;
thence S. 0° 08' 52" E., along the West line of said Parcel No. 1,
287.56 feet to the SW corner of said Parcel No. 1;
thence S. 89° 46' 51" E., along the South line of said Parcel No. 1,
289.94 feet
thence on a curve to the left 15.77 feet, whose radius is 10.00 feet,
with a central angle of 90° 22' 01" and a long cord that bears
N. 45° 02' 08" E., 14.19 feet;
thence S. 0° 08' 52" E., along the East line of said Parcel No. 2,
293.22 feet to the Point of Beginning.

-Legal Continued -

Parcel No. 3: A strip of land variable in width, lying on the Westerly side of the center line of the relocated Olds Ferry-Ontario Highway as conveyed to the State of Oregon, by and through its Department of Transportation in deed recorded May 24, 2002, as Inst. No. 2002-4002, official records.

Land in Malheur County, Oregon, partially located within the City of Ontario, more particularly described as follows:

In Twp. 18 S., R. 47 E., W.M.:

Sec. 6: SE1/4 SW1/4, SW1/4 SE1/4, and that portion of the NE1/4 SW1/4 lying East of the Union Drain right of way. SUBJECT to Union Drain right of way.

ALSO Parcel No. 3 in Partiton Plat 2006-22 filed Sept. 29, 2006,

Inst. 2006-7210, official records as located in the NE1/4 SW1/4 of said Sec. 6 formerly a portion of Unsurveyed Parcel No. 2 of Partition Plat No. 00-8 filed June 19, 2000, Inst. 2000-4324, official records

EXCEPTING THEREFROM that portion of said SW1/4 SE1/4 described as follows:

Parcel No. 2 of Partition Plat No. 04-12 filed December 10, 2004,
Inst. No. 2004-8688, official records.

Land in Malheur County, Oregon, as follows:

In Twp. 18 S., R. 47 E., W.M.:

Sec. 7: Two parcels of land lying in the SW1/4 SE1/4 more particularly described as follows:

Parcel Nos. 1 and 2 of Partition Plat No. 92-8, filed April 23, 1992, as
Instrument No. 92-2910, Malheur County deed records.

ALSO a parcel of land in said SW1/4 SE1/4 of Sec. 7, described as follows:

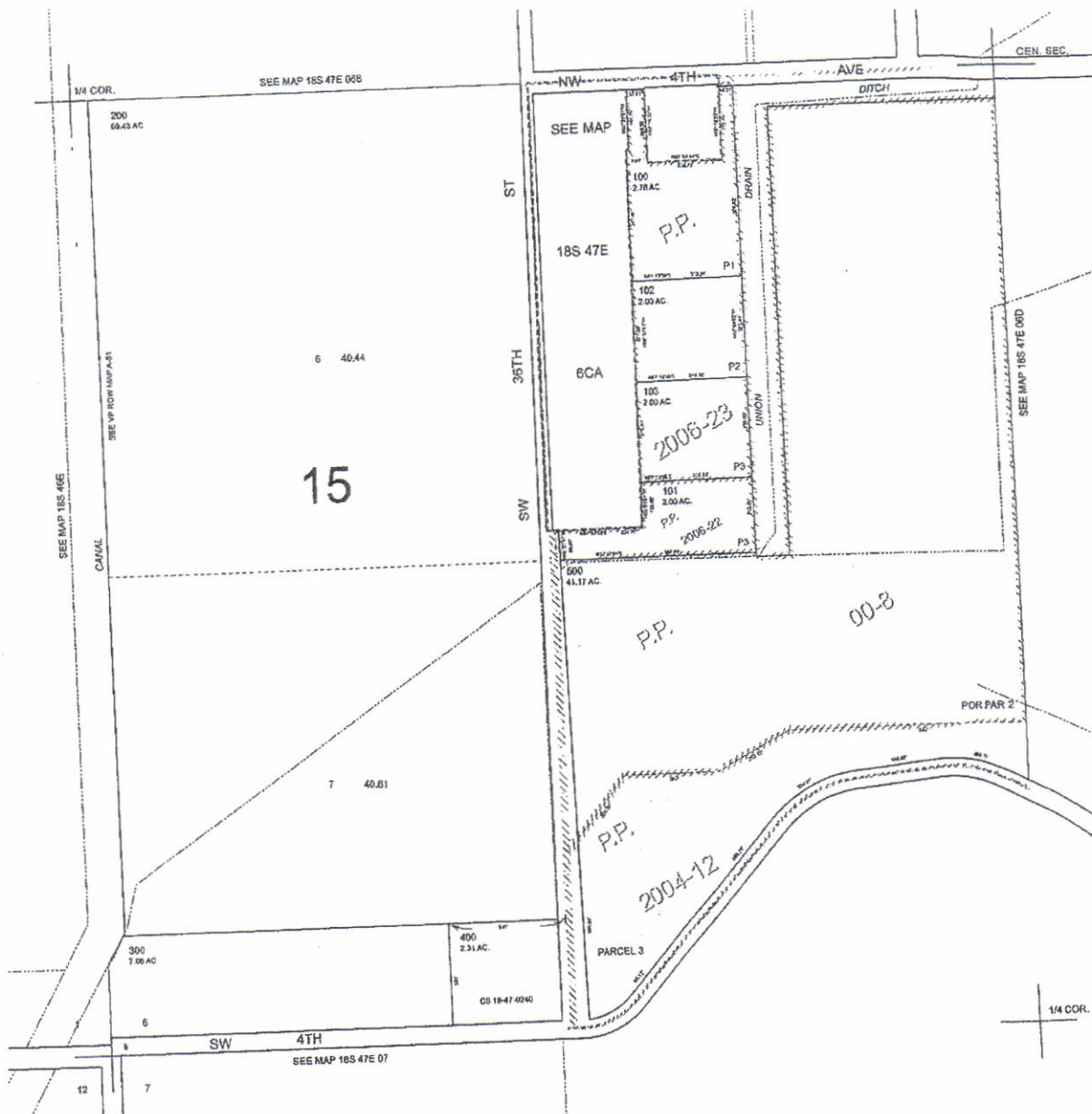
Beginning at the Northeast corner of the SW1/4 SE1/4 of said Sec. 7;
thence South along the 1/16 line of the above section a distance of
641.7 feet;
thence N. 21° 25' W., a distance of 689.8 feet;
thence East along the 1/16 line a distance of 251.9 feet to the Point of
Beginning.

AND ALSO the West 543.15 feet of the SE1/4 SE1/4 of said Sec. 7,

EXCEPTING THEREFROM the following described parcel:

Commencing at the Southeast corner of said SE1/4 SE1/4;
thence S. 89° 46' W., 1095.6 feet to the Point of Beginning;
thence N. 0° 24' W., 393 feet;
thence S. 89° 46' W., to the West line of the SW1/4 SE1/4 SE1/4;
thence South, along said West line to the Southwest corner of said
SW1/4 SE1/4 SE1/4;
thence N. 89° 46' E., along the South Section line to the Point of
Beginning.

FURTHER EXCEPTING County Road right of way (SW 18th Ave.) South
of said parcel.



↑
NORTH
 Compliments of
FIRST AMERICAN TITLE
 Map No. 18476C
 Tax Lot 101, 500
 This sketch is furnished
 to assist in property
 location and the com-
 pany assumes no liab-
 ility for inaccuracies.



Notice: The information provided here is for convenience ONLY. The records located at Malheur County Assessor's office are the one and only legal instruments for assessment purposes. Although reasonable attempts are made to maintain this information as accurate as possible, these documents are being provided as an informational convenience ONLY. Malheur County is not, in any way, liable for any inaccuracies, inconsistencies, errors, omissions, or other deviations in these documents from the original copies maintained and filed at the Malheur County Assessor's Office, Vale, Oregon.

Date Web Site was last updated 2/15/2019

Value and tax information for tax year 2018

Ref#:20140 Type of Property : REAL PROPERTY

MAP#	TAX LOT#	A NUM	CODE	PROPERTY CLASS/DESC	ZONE
18S4706C	101	0	15	940 EXEMPT/CITY/VACANT	C-RR

OWNER:	ONTARIO, CITY OF
CONTRACT:	
ETAL(s):	
MAILING ADDRESS:	
	444 SW 4TH ST
CITY/ST:	ONTARIO, OR ,97914

PROPERTY ADDRESS: 0

NOTES:

PHOTO# 378-279L

	REAL MKT VALUE	ASSESSED(TAXABLE) VALUE
LAND	\$31,620	

STRUCTURES	\$0	
SUBTOT	\$31,620	\$0
TOTAL	\$31,620	\$0

LAND DESCRIPTIONS

LINE #	ACRES	LAND CODE	DESCRIPTION	DIMENSIONS	MARKET VALUE
1	2.00	TR01	TRACT VALUE	-	\$31,620
TOTAL	2.00				

[NEW SEARCH](#)

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Date Web Site was last updated 2/15/2019

Value and tax information for tax year 2018

Ref#:20044 Type of Property : REAL PROPERTY

MAP#	TAX LOT#	A NUM	CODE	PROPERTY CLASS/DESC	ZONE
18S4706C	500	0	15	940 EXEMPT/CITY/VACANT	C-A1

OWNER:	ONTARIO, CITY OF
CONTRACT:	
ETAL(s):	
MAILING ADDRESS:	
	444 SW 4TH ST
CITY/ST:	ONTARIO, OR ,97914

PROPERTY ADDRESS: 0

NOTES:

PHOTO# 378-280L

	REAL MKT VALUE	ASSESSED(TAXABLE) VALUE
LAND	\$179,830	

STRUCTURES	\$0	
SUBTOT	\$179,830	\$0
TOTAL	\$179,830	\$0

LAND DESCRIPTIONS

LINE #	ACRES	LAND CODE	DESCRIPTION	DIMENSIONS	MARKET VALUE
1	41.17	TR01	TRACT VALUE	-	\$179,830
TOTAL	41.17				

[NEW SEARCH](#)



**AGENDA REPORT
NEW BUSINESS
February 19, 2019**

To: Mayor and City Council

FROM: Betsy Roberts, City Engineer

THROUGH: Adam J. Brown, City Manager

SUBJECT: RESOLUTION 2019-109: A RESOLUTION APPROPRIATING EXPENDITURES FOR SE 2ND WATER AND SEWER EXTENSION DESIGN

DATE: February 14, 2019

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE RESOLUTION #2019-109, A RESOLUTION APPROPRIATING EXPENDITURES FOR SE 2ND WATER AND SEWER EXTENSION DESIGN.

SUMMARY:

Public Works staff have confirmed with the Oregon Department of Transportation (ODOT) that the City is responsible for the cost of extending water and sewer line in the SE 2nd Street project and would like to request funds to begin design on that effort this current fiscal year with construction occurring, if approved, in the next fiscal year.

BACKGROUND:

The City received a grant for the SE 2nd Street Improvements from ODOT. The Council saw a presentation on this grant during the January council meeting. At the time of the presentation, the bid opening date was June, 2019. The ODOT team met with the City of Ontario review team on February 5th to discuss the details of the project. At that time, it became clear to the City of Ontario that the City would be responsible for 100% of the cost of the water and sewer line extension proposed in the drawings. The team agrees with the extension work, but had not known that the City would be held responsible so the current budget does not include funding for this effort.

At the conclusion of the meeting, the Ontario team requested that the bid opening be moved out to accommodate the following:

1. Allow for budget to be secured for design during this current fiscal year through the council for the water and sewer extension
2. Include the cost of the actual construction of the sewer and water extension to be included

in the Capital Improvement Plan for the coming fiscal year

3. Increase chances for a more favorable bid (late fall for work in spring 2020 or early spring bid)
4. Allow for better coordination between ODOT and the Ontario team regarding potential scope reduction and value engineering opportunities

On February 12, the City Engineer had a conference call with ODOT. ODOT had reviewed the request to extend the Bid Opening and agreed that it was prudent given the circumstances. The bid date was moved to September 19, 2019.

CURRENT SITUATION:

With the Bid Opening moved to September of 2019, Public Works staff has time to develop a design either in-house or through on-call consulting support and to construct the project in the coming fiscal year, to be completed at or near the Bid Opening of the SE 2nd Street Project.

Because this effort has not been budgeted, Public Works staff is requesting approval through the attached resolution to secure funding so that they can move forward with securing a design for the effort. The construction project itself will be added to the Capital Improvements Plan (CIP).

ANALYSIS:

- A. **FINANCIAL** Public Works staff has estimated the cost of construction to be approximately \$107,000. This amount will be requested in the 2019-2020 budget. The amount needed now is for design, which is estimated to be a maximum of \$12,000, which includes a 20% contingency. The entire amount may not be necessary, but an actual scope of work and level of effort is not yet available, as the process has progressed rapidly.
- B. **TIMING** The extended Bid Opening date provides an opportunity for the City to quickly get in front of the SE 2nd Street project and construct the needed water and sewer extension. However, timing is tight and the design process needs to start as quickly as possible to be prepared for construction in July.
- C. **POLICY/LEGAL** A resolution approved by the City Council is required to expend the funds as per ORS 294.

ALTERNATIVES:

Take No Action: The Council could take no action on this matter; this would cause the design of the water and sewer extension to be delayed.

RECOMMENDATION:

Staff recommends that the City Council approve Resolution 2019-109.

ATTACHMENTS:

1. RES 2019-109_SE 2nd Water & Sewer Extension_02 2019



RESOLUTION 2019-109

A RESOLUTION APPROPRIATING EXPENDITURES FOR SE 2ND WATER AND SEWER EXTENSION DESIGN

- WHEREAS,** The City of Ontario received an Oregon Department of Transportation grant for SE 2nd Street Improvements; and
- WHEREAS,** The public works department recently became aware that the City of Ontario will be responsible for the entire cost of the water and sewer line extension proposed; and
- WHEREAS,** The City of Ontario would like to get design finished in the current fiscal year in order to bid out the project in the 2019-2020 budget; and
- WHEREAS,** The City desires to modify the 2018-2019 utility capitalization fee department budget to expend the funds.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Ontario City Council to approve the following adjustments to the fiscal year 2018-2019 budget:

Line Item	Item Description	FY 18-19 Budget	Amount of Change	Adjusted Budget
CAPITAL PROJECTS FUND – UTILITY CAPITALIZATION FEE DEPARTMENT				
030-087-871000	UCF Dept Contingency	\$1,844,868	(\$12,000)	\$1,832,868
030-087-719315	SE 2 nd Water and Sewer Line Extension	\$ -	\$19,040	\$19,040

EFFECTIVE DATE: Effective immediately upon passage.

PASSED AND ADOPTED by the Common Council City Council of the City of Ontario this ____ day of _____, 2019, by the following vote:

AYES:

NAYES:

ABSENT:

APPROVED by the Mayor this ____ day of _____, 20__.

Riley Hill, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder



**AGENDA REPORT
NEW BUSINESS
February 19, 2019**

To: Mayor and City Council

FROM: Adam J. Brown, City Manager

THROUGH: Adam J. Brown, City Manager

SUBJECT: **RESOLUTION #2019-110: A RESOLUTION IN SUPPORT OF HB 2456 ALLOWING FOR RESIDENTIAL RURAL HOUSING DEVELOPMENT IN EASTERN OREGON**

DATE: February 14, 2019

PROPOSED MOTION:

I MOVE THE CITY COUNCIL APPROVE RESOLUTION 2019-110, A RESOLUTION IN SUPPORT OF HOUSE BILL 2456 ALLOWING FOR RESIDENTIAL RURAL HOUSING DEVELOPMENT IN EASTERN OREGON.

SUMMARY:

The Eastern Oregon Border Economic Development Board has worked with legislators to draft HB 2456 which allows for residential rural housing development in Eastern Oregon. They have requested the support of the Ontario City Council.

BACKGROUND:

The Eastern Oregon Border Economic Development Board ("Border Board") was created by the Oregon Legislature to identify and advance policies and programs to promote economic and workforce development in the Border Region. The Border Board has determined that limited rural residential housing opportunities inhibits economic and workforce housing options in the Border Region.

CURRENT SITUATION:

The Border Board participated in drafting and is supporting HB 2456 in the Oregon Legislature, which would permit the rezoning of non-viable, non-high value agricultural property currently zoned for Exclusive Farm Use to permit rural residential development. This is land that is not tillable and has no value to the agriculture community.

It is the intent of the Ontario City Council to support economic and workforce housing opportunities as promoted by the Border Board. The greater Ontario community is losing residents, taxpayers, community leaders, and persons who could contribute to the social fabric

of the community, because only Idaho offers this type of rural residential development. A variety of housing options provides for a more balanced community.

ANALYSIS:

- A. **FINANCIAL** There is no direct cost to the city to support this message.
- B. **TIMING** The legislation is under review at this time. The sooner the Council approves this support, the better chances exist for the legislature to see our support.
- C. **POLICY/LEGAL** Only the Council takes legislative positions.

ALTERNATIVES:

Take No Action: Taking no action could have a significant impact on the approval of this legislation. The legislature needs to see overwhelming support of this community.

RECOMMENDATION:

City Manager supports this resolution and encourages the City Council to support this resolution.

ATTACHMENTS:

1. Res 2019-110_Support for HB 2456 Resolution Ontario_2 15 2019



RESOLUTION #2019-110

A RESOLUTION IN SUPPORT OF HB 2456 ALLOWING FOR RESIDENTIAL RURAL HOUSING DEVELOPMENT IN EASTERN OREGON

- WHEREAS,** the Oregon Legislature created the Border Region, described in ORS 284.771(1), which includes the City of Ontario; and
- WHEREAS,** the Eastern Oregon Border Economic Development Board (“Border Board”) was created by the Oregon Legislature to identify and advance policies and programs to promote economic and workforce development in the Border Region; and
- WHEREAS,** the Border Board has determined that limited rural residential housing opportunities inhibits economic and workforce housing options in the Border Region; and
- WHEREAS,** the Border Board participated in drafting and is supporting HB 2456 in the Oregon Legislature, which would permit the rezoning of non-viable, non-high value agricultural property currently zoned for Exclusive Farm Use to permit rural residential development; and
- WHEREAS,** HB 2456 imposes limitations on qualifying land to ensure the preservation of the Border Region’s rich agricultural resources; and
- WHEREAS,** it is the intent of the Ontario City Council to support economic and workforce housing opportunities as promoted by the Border Board; and
- WHEREAS,** the greater Ontario community is losing residents, taxpayers, community leaders, and persons who could contribute to the social fabric of the community, because only Idaho offers this type of rural residential development.
- NOW,** THEREFORE, BE IT RESOLVED by the Ontario City Council as follows that the City implores Governor Kate Brown and the Oregon State Legislature to increase opportunities for rural residential development in the Border Region defined by ORS 284.771(1) by adopting HB 2456.

EFFECTIVE DATE: Immediately upon passage.

PASSED AND ADOPTED by the Ontario City Council this 16th day of January, 2019, by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this ____ day of _____, 2019.

ATTESTED:

Riley J. Hill, Mayor

Tori Barnett, MMC, City Recorder



**AGENDA REPORT
PUBLIC HEARING
February 19, 2019**

To: Mayor and City Council

FROM: Dan Cummings, Community Development Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: **ORDINANCE #2749-2019: AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONING OF CERTAIN TERRITORY TO THE CITY OF ONTARIO, BEING A PARCEL WITHIN THE SW1/4SW1/4 SECTION 5, TOWNSHIP 18 SOUTH RANGE 47 EAST, W.M. KNOWN AS TAX LOT 3800 MAP 18S4705C; AND WITHDRAWING SAID TERRITORY FROM THE RURAL ROAD ASSESSMENT DISTRICT NO. 3 AND THE ONTARIO RURAL FIRE PROTECTION DISTRICT 7-302, ON FIRST READY BY TITLE ONLY**

DATE: February 13, 2019

PROPOSED MOTION:

TWO MOTIONS ARE REQUIRED FOR APPROVAL AND ONE FOR DENIAL ON THIS ACTION. RECOMMENDED MOTIONS ARE STATED BELOW:

1. I MOVE THAT THE REQUEST FOR ANNEXATION OF THE SUBJECT PROPERTIES INTO THE CITY OF ONTARIO, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM UGA COMMERCIAL (UGA-C) TO CITY GENERAL COMMERCIAL (C-2), AS SET FORTH IN ACTION 2018-10-17AZ AND REMOVING THE LANDS FROM THE RURAL ROAD DISTRICT AND THE RURAL FIRE DISTRICT BE APPROVED BY THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS IN THIS REPORT AND THIS MEETING.

2. I MOVE THAT THE CITY COUNCIL ADOPT ORDINANCE #2749-2019, AN ORDINANCE ANNEXING INTO THE CITY AND REZONING OF A PARCEL OF LAND BEING LOCATED AT 2819 SW 4TH AVENUE, FROM UGA COMMERCIAL (UGA C) TO CITY GENERAL COMMERCIAL (C-2), ON FIRST READING BY TITLE ONLY.

OR

3. I MOVE THAT THE REQUEST FOR ANNEXATION OF THE SUBJECT PROPERTIES INTO THE CITY OF ONTARIO, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM UGA COMMERCIAL (UGA C) TO CITY GENERAL COMMERCIAL (C-2), BE DENIAL BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH BELOW:
(STATE FINDING AND REASONING FOR DENIAL):

SUMMARY:

The applicant owns a parcel of land, known as 18S4705C, Tax Lot 3800. The applicants wish to annex and rezone the property into the city to connect to city sanitary sewer and water to further develop the property to its fullest potential. This application, if approved, will result in the annexation of 0.46 acres, plus the right of way for SW 4th Avenue, adjacent to the lands,

into the city and a rezone of the property from Urban Growth Area Commercial (UGA-C2) to City General Commercial (C-2).

BACKGROUND:

This request for annexation and rezone needs a recommendation for approval or rejection from the Planning Commission to the City Council. The Ontario Municipal Code (OMC) designates the Planning Commission as the decision making body for a request for rezone, without City Council participation. The OMC designates the City Council as the decision making body for a request for annexation, without Planning Commission participation. State Law requires an ordinance be adopted by the local governing body to accomplish a rezone. The city's governing body is the City Council, and they are the only body that may adopt an ordinance; therefore, a request for rezone should go before the Council for a final decision. Staff feels the best procedure is consistency with state law; therefore, this matter needs a recommendation from the Planning Commission, and then will be forwarded to the City Council for their decision.

The Planning Commission held a Public Hearing on February 11, 2019, and forwarded a favorable recommendation to the City Council as noted in the Recommendation portion of this report.

CURRENT SITUATION:

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

A. Rezone

1. *Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi-judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required findings clearly does not apply to the current action:*

a. *The zoning map amendment is in conformance with statewide planning goals and guidelines.*

b. *The zoning map amendment is in conformity with the acknowledged comprehensive plan.*

c. *The applicant has demonstrated a mistake or error in the original zone designation or the applicant has demonstrated a change in physical, social or market conditions generally affecting the area which make the proposed change appropriate.*

d. *A public need is demonstrated for this zoning at this location and*

is not the granting of a special privilege for a single property or small group of properties.

e. The property effected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.

f. The property effected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.

g. The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

Findings of fact based on the answers and information given in the application made a part hereof:

a. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. The existing property is zoned UGA Commercial and is proposed to be rezoned to City C-2 General Commercial.

b. The subject properties are currently zoned UGA Commercial and the request is to rezone to the companion City C-2(General Commercial) Zone that is the same zone as adjacent and nearby properties. The requested zone allows basically the same use as the UGA zone, and is reflected in the Comprehensive Plan. No Comprehensive Plan amendment is necessary for this rezone; therefore, the proposal is consistent with, and conforms to, the Comprehensive Plan.

c. The applicants have requested annexation into the City of Ontario concurrent with the request for rezone; a City Zone must be applied to the property once within City Limits. The existing zone is not a mistake, and there is no need to demonstrate a change in conditions in the surrounding area; the change in zone is necessary and appropriate.

d. This request is legally necessary due to the annexation of the property; granting of this request is not a special privilege and no public need has to be demonstrated. The property is commercially designated under the Comprehensive Plan so a commercial zone is the most appropriate for the property.

e. The property exceeds the size requirements for commercial property, and is rectangular in shape. The property is a residentially developed and meets setback and other size requirements and the proposed future use of Multifamily development meets the zoning use.

f. The property owner is requesting annexation and rezoning to connect to City Sanitary Sewer and water, which said city systems are available in SW 4th Avenue. All City main line exists in SW 4th Avenue. City fire and police services will be available upon annexation for the property.

City streets, including curb, gutter, sidewalks are already developed and no addition right of way is required at this time.

g. Uses allowed by the current zone are basically identical to the proposed zone. No significant difference in allowed uses will occur as a result of the rezone. Allowed uses under city commercial zone designations are no more likely to produce dust, noise, ect. than those under the UGA commercial zone.

Conclusion: The proposed rezone is consistent with all applicable criteria and standards.

B. Annexation:

1. *10B-45-10 INITIATION OF ACTION. When a person, authorized by statute, wishes to extend the city's boundaries, an application on forms supplied by the city shall be filed with the Planning Director and which include: annexation consent forms, by the property owners, and by tenants if required by law or court decision; request for a change in zoning map designation, or plan change if required; request for other quasi-judicial action if required; fees, and other exhibits and requirements for a quasi-judicial action as set forth in this Title. All land use actions associated with the annexation shall be consolidated, as feasible, and one fee paid.*

2. *Oregon Revised Statute 222.125: Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or*

ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

Findings based on the answers and information given in the application made a part hereof:

1. The applicants have paid the fees and provided the proper application with signatures.
2. The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with current city limits.
3. The property is currently zoned for Commercial use in the Urban Growth Area; the requested zone, City General Commercial (C-2), is consistent with contiguous property.
4. Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan map or text is not necessary to annex the property; however, the annexation of the property must be consistent with all applicable Comprehensive Plan Policies.
5. Annexation would benefit the city by increasing tax revenue, and, by providing more Multi- Family residential lands in a highly developable area.

Conclusion: All criteria and standards applicable to a request for annexation have been met. The property may be annexed.

ANALYSIS:

- A. **FINANCIAL** Annexation will benefit the city by increased tax revenue and utility services from a piece of property that has already had the benefits of city services due to its location adjacent to the city.
- B. **TIMING** The applicant is in the process of wanting to remodel the existing structure and improve the site to city standards, and have started the demolition process in the building. Once the City Council approves this action they can pull their structural building permit from the city and not have to pull a county permit.
- C. **POLICY/LEGAL** The quasi-judicial Zoning Map amendment procedures are designed and authorized to adjust zone boundaries and create new zoning classifications on the official Zoning Map within areas on the land use plan indicated for the uses allowed by the map change. Such changes shall be in conformity with the land use goals of the state. The decision of the Planning Commission shall be the final decision of the city unless an appeal is filed as authorized by this Title. (LANGUAGE IN 10B-10-05 SUPERSEDES THIS LANGUAGE) WHICH IS: The ultimate decision-making authority for legislative actions and zone changes brought under the provisions of this Title shall rest with the City Council. Certain actions of the Planning Commission are in the form of a recommendation to the City Council. The land use actions for which the

Commission provides only a recommendation to the Council are amendments of the comprehensive plan and zoning ordinances or Zoning Map.

ALTERNATIVES:

1. The Council could, by motion, based on public testimony or need for more clarification, refer this matter back to the Planning Commission.
2. Table and continue this item to a future date certain meeting, to obtain clarification on issues raised at this Public Hearing.

RECOMMENDATION:

On February 11, 2019, the Planning Commission made a motion to recommend to the City County they approve this request for Annexation and Rezone with the following conditions:

1. The approval of the annexation and rezone granted herein is valid for a period of one year from the date the decision of the Council is final; that final decision date shall be the date of expiration of the 21-day period for appeal to LUBA as required by Oregon Revised Statute and as noted in the Notice of Decision for this request.
2. The existing home will be connected to city sewer and water.
3. The owner will sign a lien causing any unpaid utility bill to be a lien against the property.

Staff recommends that the City Council approve the Annexation and Rezone with the above conditions of approval.

ATTACHMENTS:

1. Ord #2749-2019



ORDINANCE #2749-2019

AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONING OF CERTAIN TERRITORY TO THE CITY OF ONTARIO, BEING A PARCEL WITHIN THE SW1/4SW1/4 SECTION 5, TOWNSHIP 18 SOUTH RANGE 47 EAST, W.M.; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT 7-302 AND THE ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3

- WHEREAS,** There has been submitted to the City of Ontario a written request for annexation and rezoning to the City signed by 100% of the owners of land within the affected territory to be annexed; and
- WHEREAS,** All of the owners of land in that territory have consented in writing to the annexation of their land in the territory and have filed a statement of their consent with the legislative body of the City; and
- WHEREAS,** The City Charter does not expressly require the City to submit a proposal of annexation of territory to the electors of the City; and
- WHEREAS,** All the owners have requested the lands to be rezoned from UGA Commercial to City General Commercial (C-2); and
- WHEREAS,** The City desires to withdraw the land to be annexed from the ONTARIO RURAL FIRE PROTECTION DISTRICT 7-302, pursuant to ORS 222.120(5) and has received assent from the Districts to do so;
- WHEREAS,** The City desires to withdraw the land to be annexed from the ONTARIO RURAL ROAD ASSESSMENT DISTRICT No. 3, pursuant to ORS 222.120(5) and has received assent from the Districts to do so;

NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

1. Annexation Area. The following contiguous territory be and the same is hereby annexed: The property legally described and mapped in the attached Exhibits "A" and "B" respectively.
2. Rezoning. That based on the Planning Commission findings and recommendation the lands as shown and described in the attached Exhibits "A" and "B" be rezoned from UGA Commercial to City General Commercial (C-2).
3. Withdrawing above described area from Ontario Rural Fire Protection District 7-302. The Common Council of the City of Ontario deems it in the best interest of the public of the City of Ontario and hereby declares that the real property described hereinabove is withdrawn from the Ontario Rural fire Protection District No. 7-302 on the effective date of this annexation pursuant to ORS 222.120(5).

4. Withdrawing above described area from Ontario Rural Road Assessment District No. 3. The Common Council of the City of Ontario deems it in the best interest of the public of the City of Ontario and hereby declares that the real property described hereinabove is withdrawn from the Ontario Rural Road Assessment District No. 3 on the effective date of this annexation pursuant to ORS 222.120(5).
5. Record. The City Planner shall submit to the Oregon Secretary of State (1) a copy of this Ordinance, (2) a copy of the statement of consent of the landowner in the territory annexed; and (3) Shall send a description by metes and bounds, or legal subdivision, and a map depicting the new boundaries of the City within 10 days of the effective date of annexation to the Malheur County Assessor, Malheur County Clerk and the State Department of Revenue.

PASSED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2019 by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this _____ day of _____, 2019.

ATTEST:

Riley Hill, Mayor

Tori Barnett, MMC, City Recorder

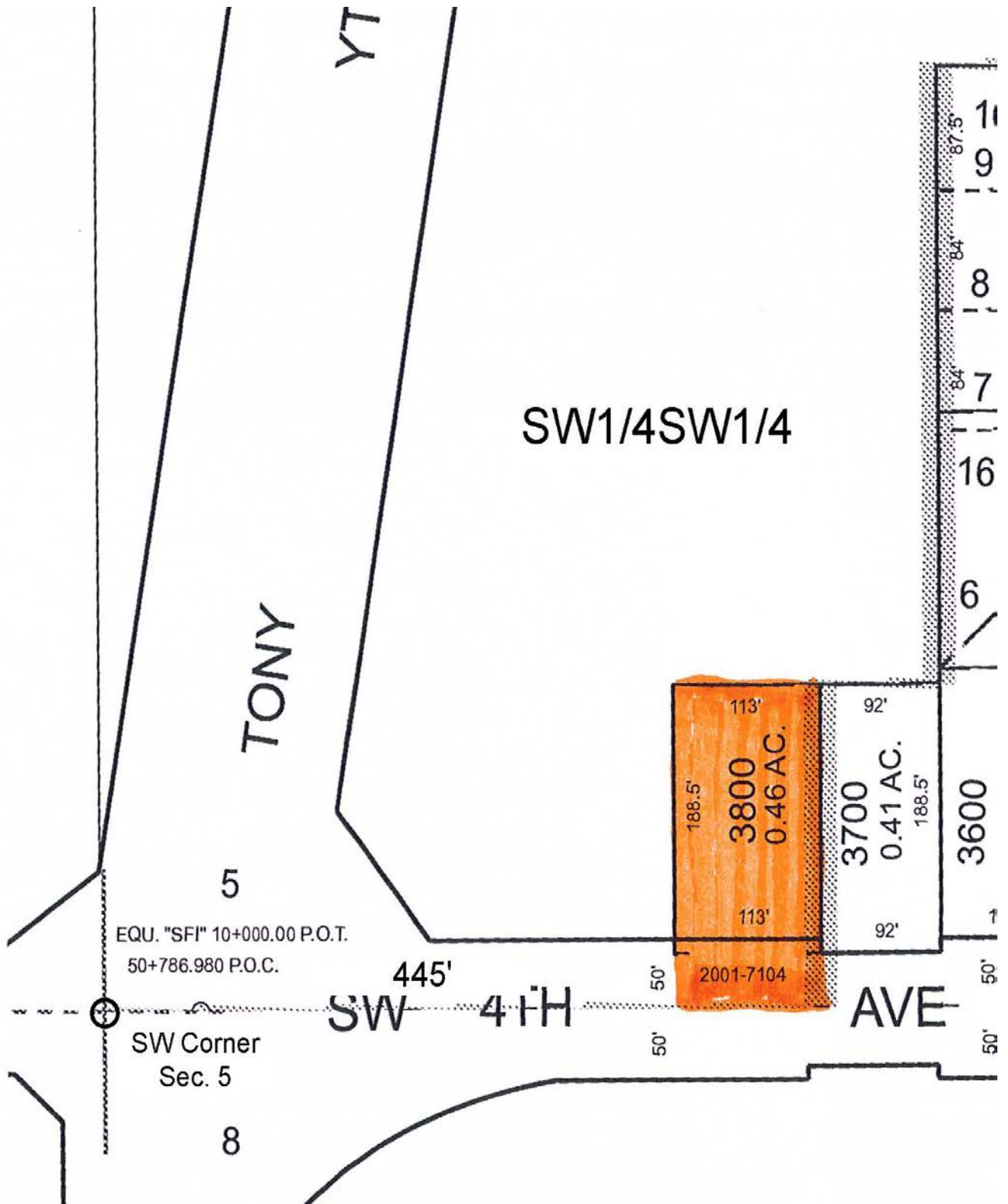
Exhibit “A”
Property Description for Annexation/Rezone
City Action No. 2018-10-17AZ

Land in Malheur County Oregon, within the SW1/4SW1/4, Section 5, Twp. 18 S., R. 47 E., W.M., identified as Tax Lot 3800 on Tax Map 18S4705C, more particularly described in Warranty Deed Instrument No. 2018-2215, described as follows:

Beginning at a point 445 feet east and 30 feet North of the Southwest corner of said Section 5;
thence North 198.5 feet;
thence East 113 feet;
thence South 198.5 feet;
thence West 113 feet to the POINT OF BEGINNING.

TOGETHER WITH all the Right of Way of SW 4th Avenue adjacent to the above described property.

Exhibit "B"
Subject property





**AGENDA REPORT
PUBLIC HEARING
February 19, 2019**

To: Mayor and City Council

FROM: Dan Cummings, Community Development Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: **ORDINANCE #2750-2019: AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONING OF CERTAIN TERRITORY TO THE CITY OF ONTARIO, BEING A PARCEL WITHIN THE NW/4SW1/4SW1/4NW1/4 SECTION 11, TOWNSHIP 18 SOUTH RANGE 47 EAST, W.M. KNOWN AS TAX LOT 1101 MAP 18S4711BC; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT 7-302, ON FIRST READING BY TITLE ONLY**

DATE: February 13, 2019

PROPOSED MOTION:

TWO MOTIONS ARE REQUIRED FOR APPROVAL AND ONE FOR DENIAL ON THIS ACTION. RECOMMENDED MOTIONS ARE STATED BELOW:

1. I MOVE THAT THE REQUEST FOR ANNEXATION OF THE SUBJECT PROPERTIES INTO THE CITY OF ONTARIO, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM UGA INDUSTRIAL (UGA-I-2) TO CITY HEAVY INDUSTRIAL (I-2), AS SET FORTH IN ACTION 2018-10-19AZ AND REMOVING THE LANDS FROM THE RURAL FIRE DISTRICT BE APPROVED BY THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS IN THIS REPORT AND THIS MEETING.

2. I MOVE THAT THE CITY COUNCIL ADOPT ORDINANCE #2750-2019, AN ORDINANCE ANNEXING INTO THE CITY AND REZONING OF A PARCEL OF LAND BEING LOCATED AT 716 SE 13TH STREET, FROM UGA INDUSTRIAL (UGA I-2) TO CITY HEAVY INDUSTRIAL (I-2), ON FIRST READING BY TITLE ONLY.

OR

3. I MOVE THAT THE REQUEST FOR ANNEXATION OF THE SUBJECT PROPERTIES INTO THE CITY OF ONTARIO, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM UGA INDUSTRIAL (UGA I-2) TO CITY HEAVY INDUSTRIAL (I-2), BE DENIED BASED ON THE

**INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH BELOW:
(STATE FINDING AND REASONING FOR DENIAL):**

SUMMARY:

The applicant owns a parcel of land, known as 18S4711BC, Tax Lot 1101. The applicants wish to annex and rezone the property into the city for further development of the property and connect to city services. This application, if approved, will result in the annexation of 0.54 plus the right of way for SE 13th Street of land into the city and a rezone of the property from Urban Growth Area Industrial (UGA I-2) to City Heavy Industrial (I-2).

BACKGROUND:

This request for annexation and rezone needs a recommendation for approval or rejection from the Planning Commission to the City Council. The Ontario Municipal Code (OMC) designates the Planning Commission as the decision making body for a request for rezone, without City Council participation. The OMC designates the City Council as the decision making body for a request for annexation, without Planning Commission participation. State Law requires an ordinance be adopted by the local governing body to accomplish a rezone. The city's governing body is the City Council, and they are the only body that may adopt an ordinance; therefore, a request for rezone should go before the Council for a final decision. Staff feels that the best procedure is consistency with state law; therefore, this matter needs a recommendation from the Planning Commission, and then will be forwarded to the City Council for their decision.

CURRENT SITUATION:

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

A. Rezone

1. Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi-judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required findings clearly does not apply to the current action:

a. The zoning map amendment is in conformance with statewide planning goals and guidelines.

b. The zoning map amendment is in conformity with the acknowledged comprehensive plan.

- c. *The applicant has demonstrated a mistake or error in the original zone designation or the applicant has demonstrated a change in physical, social or market conditions generally affecting the area which make the proposed change appropriate.*
- d. *A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.*
- e. *The property effected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.*
- f. *The property effected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.*
- g. *The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.*

Findings of fact based on the answers and information given in the application (see applicant's narrative) made a part hereof:

- a. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals.
- b. The subject properties are currently zoned UGA Industrial (I-2) and the request is to rezone to the companion City I-2 (Heavy Industrial) Zone that is the same zone as adjacent and nearby properties. The requested zone allows basically the same use as the UGA zone, and is reflected in the Comprehensive Plan. No Comprehensive Plan amendment is necessary for this rezone; therefore, the proposal is consistent with, and conforms to, the Comprehensive Plan.
- c. The applicants have requested annexation into the City of Ontario concurrent with the request for rezone; a City Zone must be applied to the property once within City Limits. The existing zone is not a mistake, and there is no need to demonstrate a change in conditions in the surrounding area; the change in zone is necessary and appropriate.
- d. This request is legally necessary due to the annexation of the property; granting

of this request is not a special privilege and no public need has to be demonstrated. That being said, the applicant is wanting to improve the property and there is a need for improving and redeveloping this area as the applicant wishes to do.

e. The subject property is adequate in size and shape for the proposed use to be rezoned from UGA Industrial to City I-2 Heavy Industrial.

f. The property owner of tax lot 1101 proposes future development and is requesting annexation and rezoning for timely redevelopment of the property in the near future. City Water and Sewer is available adjacent to the property on the west in SE 13th Street and sewer and water services are extended to this property. Applicant will connect existing building to these services. City fire and police services will be available upon annexation for the property. Additional right of way for SE 13th Street will be a requirement of this annexation process and will be granted to the City prior to final approval of the Annexation order. City streets, including curb, gutter, sidewalks and public utilities will be deferred under a Deferred Improvement Agreement (DIA) being recorded prior to or concurrent with final approval of this action **for a term not to exceed 4 years**. This will give the applicant time to work with other property owners north of these lands to get a street design done that will work with all the properties.

g. Uses allowed by the current zone are basically identical to the proposed zone. No significant difference in allowed uses will occur as a result of the rezone. Requirements in the OMC applicable to uses in the commercial zone will ensure that impacts from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land are minimized.

Conclusion: The proposed rezone is consistent with all applicable criteria and standards.

B. Annexation:

1. *10B-45-10 INITIATION OF ACTION. When a person, authorized by statute, wishes to extend the city's boundaries, an application on forms supplied by the city shall be filed with the Planning Director and which include: annexation consent forms, by the property owners, and by tenants if required by law or court decision; request for a change in zoning map designation, or plan change if required; request for other quasi-judicial action if required; fees, and other exhibits and requirements for a quasi-judicial action as set forth in this Title. All land use actions associated with the annexation shall be consolidated, as feasible, and one fee paid.*

2. *Oregon Revised Statute 222.125: Annexation by consent of all owners of*

land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

Findings based on the answers and information given in the application made a part hereof:

1. The applicants have paid the fees and provided the proper application with signatures.
2. The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with current city limits by annexing the right of way of SE 13th Street along the Industrial lands to City Industrial lands.
3. The property is currently zoned for Industrial use in the Urban Growth Area; the requested zone, City Heavy Industrial (I-2), is consistent with contiguous property.
4. Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan map or text is not necessary to annex the property; however, the annexation of the property must be consistent with all applicable Comprehensive Plan Policies.
5. Annexation would benefit the city by increasing tax revenue, and, by providing more potentially developable industrial lands in a highly developable area.

Conclusion: All criteria and standards applicable to a request for annexation have been met. The property may be annexed.

ANALYSIS:

- A. **FINANCIAL** Annexation will benefit the city by increased tax revenue and utility services from a piece of property that has already had the benefits of city services due to its location adjacent to the city.
- B. **TIMING** The applicant is in the process of wanting to remodel the existing structure and improve the site to city standards, and have started the demolition process in the building. Once the City Council approves this action they can pull their structural building permit from the city and not have to pull a county permit.
- C. **POLICY/LEGAL** The quasi-judicial Zoning Map amendment procedures are designed and authorized to adjust zone boundaries and create new zoning classifications on the official Zoning Map within areas on the land use plan indicated for the uses allowed

by the map change. Such changes shall be in conformity with the land use goals of the state. The decision of the Planning Commission shall be the final decision of the city unless an appeal is filed as authorized by this Title. (LANGUAGE IN 10B-10-05 SUPERSEDES THIS LANGUAGE) WHICH IS: The ultimate decision-making authority for legislative actions and zone changes brought under the provisions of this Title shall rest with the City Council. Certain actions of the Planning Commission are in the form of a recommendation to the City Council. The land use actions for which the Commission provides only a recommendation to the Council are amendments of the comprehensive plan and zoning ordinances or Zoning Map.

ALTERNATIVES:

1. The Council could, by motion, based on public testimony or need for more clarification, refer this matter back to the Planning Commission.
2. Table and continue this item to a future date certain meeting, to obtain clarification on issues raised at this Public Hearing.

RECOMMENDATION:

On February 11, 2019, the Planning Commission made a motion to recommend to the City County they approve this request for Annexation and Rezone with the following conditions:

1. The approval of the annexation and rezone granted herein is valid for a period of one year from the date the decision of the Council is final; that final decision date shall be the date of expiration of the 21-day period for appeal to LUBA as required by Oregon Revised Statute and as noted in the Notice of Decision for this request.
2. The owner of the property dedicated to the City of Ontario the required additional 10 feet of right of way along SE 13th Street for 30 feet of right of way adjacent to the west of this property as measured from the sectional line/centerline of the street.
3. The owner shall sign a Deferred Improvement Agreement (DIA) to defer street improvements to **not exceed 4 years** and cause it to be recorded prior to the final recording of the Ordinance authorizing the Annexation and rezoning.
4. The existing buildings shall be connected to City sewer and water service.
5. The owner will sign a lien causing any unpaid Utility bill to be a lien against the property

ATTACHMENTS:

1. Ord #2750-2019



ORDINANCE #2750-2019

AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONING OF CERTAIN TERRITORY TO THE CITY OF ONTARIO, BEING A PARCEL WITHIN THE NW1/4SW1/4SW1/4NW1/4 SECTION 11, TOWNSHIP 18 SOUTH RANGE 47 EAST, W.M.; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT 7-302.

- WHEREAS,** There has been submitted to the City of Ontario a written request for annexation and rezoning to the City signed by 100% of the owners of land within the affected territory to be annexed; and
- WHEREAS,** All of the owners of land in that territory have consented in writing to the annexation of their land in the territory and have filed a statement of their consent with the legislative body of the City; and
- WHEREAS,** The City Charter does not expressly require the City to submit a proposal of annexation of territory to the electors of the City; and
- WHEREAS,** All the owners have requested the lands to be rezoned from UGA Industrial (UGA I-2) to City Heavy Industrial (I-2); and
- WHEREAS,** The City desires to withdraw the land to be annexed from the ONTARIO RURAL FIRE PROTECTION DISTRICT 7-302, pursuant to ORS 222.120(5) and has received assent from the Districts to do so;

NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

1. Annexation Area. The following contiguous territory be and the same is hereby annexed: The property legally described and mapped in the attached Exhibits "A" and "B" respectively.
2. Rezoning. That based on the Planning Commission findings and recommendation the lands as shown and described in the attached Exhibits "A" and "B" be rezoned from UGA Industrial (UGA I-2) to City Heavy Industrial (I-2).
3. Withdrawing above described area from Ontario Rural Fire Protection District 7-302. The Common Council of the City of Ontario deems it in the best interest of the public of the City of Ontario and hereby declares that the real property described hereinabove is withdrawn from the Ontario Rural fire Protection District No. 7-302 on the effective date of this annexation pursuant to ORS 222.120(5).
4. Record. The City Planner shall submit to the Oregon Secretary of State (1) a copy of this Ordinance, (2) a copy of the statement of consent of the landowner in the territory annexed; and (3) Shall send a description by metes and bounds, or legal subdivision, and a map depicting the new boundaries of the City within 10 days of the effective date of annexation to the Malheur County Assessor, Malheur County Clerk and the State Department of Revenue.

PASSED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2019 by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this _____ day of _____, 2019.

ATTEST:

Riley Hill, Mayor

Tori Barnett, MMC, City Recorder

Exhibit "A"
Property Description for Annexation/Rezone
City Action No. 2018-10-19AZ

Land in Malheur County, Oregon:

In Twp. 18 S., R. 47 E., W.M.:

Sec. 11: A parcel of land in the NW1/4SW1/4SW1/4NW1/4 described as follows:

Beginning at the Northwest corner of the NW1/4SW1/4SW1/4NW1/4;

thence South, along the West boundary thereof, 110;

thence East 230 feet;

thence North, parallel with the West boundary, 110 feet, to the North line of the NW1/4SW1/4SW1/4NW1/4;

thence West along the North line, 230 feet to the Point of Beginning.

TOGETHER WITH The westerly right of way of SE 13th Street more particularly described as follows:.

Beginning at the Northwest corner of the NW1/4SW1/4SW1/4NW1/4;

thence South, along the West boundary thereof, 110;

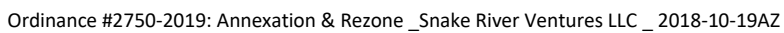
thence West 20 feet;

thence North, 501.23 feet, more or less, to a point on the existing City limits;

thence East along the existing City limits, 20 feet to the centerline of SE 13th Street;

thence South along said centerline 391.23 feet, more or less, to the Point of Beginning.

Subject property





**AGENDA REPORT
PUBLIC HEARING
February 19, 2019**

To: Mayor and City Council

FROM: Dan Cummings, Community Development Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: **ORDINANCE #2751-2019: AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONING OF CERTAIN TERRITORY TO THE CITY OF ONTARIO, BEING A PARCEL WITHIN THE SW1/4 SECTION 33, TOWNSHIP 17 SOUTH RANGE 47 EAST, W.M. KNOWN AS TAX LOT 3001 MAP 17S4733C, ON FIRST READING BY TITLE ONLY**

DATE: February 13, 2019

PROPOSED MOTION:

TWO MOTIONS ARE REQUIRED FOR APPROVAL AND ONE FOR DENIAL ON THIS ACTION. RECOMMENDED MOTIONS ARE STATED BELOW:

1. I MOVE THAT THE REQUEST FOR ANNEXATION OF THE SUBJECT PROPERTIES INTO THE CITY OF ONTARIO, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM UGA INDUSTRIAL (UGA-I) TO CITY LIGHT INDUSTRIAL (I-1), AS SET FORTH IN ACTION 2018-11-20AZ, BE APPROVED BY THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS IN THIS REPORT AND THIS MEETING.

2. I MOVE THAT THE CITY COUNCIL ADOPT ORDINANCE #2751-2019, AN ORDINANCE ANNEXING INTO THE CITY AND REZONING OF A PARCEL OF LAND BEING LOCATED AT 1987 NW 11TH STREET, FROM UGA INDUSTRIAL (UGA I) TO CITY LIGHT INDUSTRIAL (I-1), ON FIRST READING BY TITLE ONLY.

OR

3. I MOVE THAT THE REQUEST FOR ANNEXATION OF THE SUBJECT PROPERTIES INTO THE CITY OF ONTARIO, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM UGA INDUSTRIAL (UGA I) TO CITY LIGHT INDUSTRIAL (I-1), BE DENIED BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH BELOW:

(STATE FINDING AND REASONING FOR DENIAL):

SUMMARY:

The applicant owns a parcel of land, known as 17S4733C, Tax Lot 3001. The applicants wish to annex and rezone the property into the city for further development of the property and to connect to city Sanitary Sewer and Water as they further develop the property to its fullest potential. This application, if approved, will result in the annexation of 1.01 acres plus the right of way for NW 20th Avenue, into the city and a rezone of the property from Urban Growth Area Industrial (UGA I-1) to City Light Industrial (I-1).

BACKGROUND:

This request for annexation and rezone needs a recommendation for approval or rejection from the Planning Commission to the City Council. The Ontario Municipal Code (OMC) designates the Planning Commission as the decision making body for a request for rezone, without City Council participation. The OMC designates the City Council as the decision making body for a request for annexation, without Planning Commission participation. State Law requires an ordinance be adopted by the local governing body to accomplish a rezone. The City's governing body is the City Council, and they are the only body that may adopt an ordinance; therefore, a request for rezone should go before the Council for a final decision. Staff feels that the best procedure is consistency with state law; therefore, this matter needs a recommendation from the Planning Commission, and then will be forwarded to the City Council for their decision.

CURRENT SITUATION:

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

A. *Rezone*

1. Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi- judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required findings clearly does not apply to the current action:

a. The zoning map amendment is in conformance with statewide planning goals and guidelines.

b. The zoning map amendment is in conformity with the acknowledged comprehensive plan.

c. The applicant has demonstrated a mistake or error in the original zone designation or the applicant has demonstrated a change in

physical, social or market conditions generally affecting the area which make the proposed change appropriate.

d. A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.

e. The property effected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.

f. The property effected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.

g. The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

Findings of fact based on the answers and information given in the application (see applicant's narrative) made a part hereof:

a. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals.

b. The subject properties are currently zoned UGA Industrial (I-1) and the request is to rezone to the companion City I-1 (Light Industrial) Zone that is the same zone as adjacent and nearby properties. The requested zone allows basically the same use as the UGA zone, and is reflected in the Comprehensive Plan. No Comprehensive Plan amendment is necessary for this rezone; therefore, the proposal is consistent with, and conforms to, the Comprehensive Plan.

c. The applicants have requested annexation into the City of Ontario concurrent with the request for rezone; a City Zone must be applied to the property once within City Limits. The existing zone is not a mistake, and there is no need to demonstrate a change in conditions in the surrounding area; the change in zone is necessary and appropriate.

d. This request is legally necessary due to the annexation of the property; granting of this request is not a special privilege and no public need has to be demonstrated. That being said, the applicant wants to improve the property and there is a need for improving and redeveloping this area as the applicant wishes to do. Also in this area the majority of the lands within the City limits zoned Light Industrial is already developed

therefor creating a need for more Light Industrial lands with the City limits

e. The subject property is adequate in size and shape for the proposed use to be rezoned from UGA Industrial to City I-2 Heavy Industrial.

f. The property owner of tax lot 3001 proposes future development and is requesting annexation and rezoning for timely redevelopment of the property in the near future. City Water is within 150 feet of the site and Sewer is available 400 feet from the site and the main lines will be extended at time of building permits and development of the property other than agricultural use with no buildings. Applicant will connect existing building to these services or remove the existing structure if the main lines are not extended. City fire and police services will be available upon annexation for the property. Additional right of way for NW 20th Avenue will be a requirement of this annexation process and will be granted to the City prior to final approval of the Annexation order. City streets, including curb, gutter, sidewalks and public utilities will be constructed at time of building permits being issued. Agricultural use with no buildings will not require the construction of the City services.

g. Uses allowed by the current zone are basically identical to the proposed zone. No significant difference in allowed uses will occur as a result of the rezone. Requirements in the OMC applicable to uses in the commercial zone will ensure that impacts from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land are minimized.

Conclusion: The proposed rezone is consistent with all applicable criteria and standards.

B. Annexation:

1. *10B-45-10 INITIATION OF ACTION. When a person, authorized by statute, wishes to extend the city's boundaries, an application on forms supplied by the city shall be filed with the Planning Director and which include: annexation consent forms, by the property owners, and by tenants if required by law or court decision; request for a change in zoning map designation, or plan change if required; request for other quasi-judicial action if required; fees, and other exhibits and requirements for a quasi-judicial action as set forth in this Title. All land use actions associated with the annexation shall be consolidated, as feasible, and one fee paid.*

2. *Oregon Revised Statute 222.125: Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50*

percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

Findings based on the answers and information given in the application made a part hereof:

1. The applicants have paid the fees and provided the proper application with signatures.
2. The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with current city limits along its east boundary.
3. The property is currently zoned for Industrial use in the Urban Growth Area; the requested zone, City Light Industrial (I-1), is consistent with contiguous property.
4. Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan map or text is not necessary to annex the property; however, the annexation of the property must be consistent with all applicable Comprehensive Plan Policies.
5. Annexation would benefit the city by increasing tax revenue, and, by providing more potentially developable industrial lands in a highly developable area.

Conclusion: All criteria and standards applicable to a request for annexation have been met. The property may be annexed.

ANALYSIS:

- A. **FINANCIAL** Annexation will benefit the city by increased tax revenue and utility services.
- B. **TIMING** The Applicant is in the process of cleaning up the property and needs the annexation to be able to develop the property to its best and highest use. Applicant needs the annexation done in a timely manner.
- C. **POLICY/LEGAL** The quasi-judicial Zoning Map amendment procedures are designed and authorized to adjust zone boundaries and create new zoning classifications on the official Zoning Map within areas on the land use plan indicated for the uses allowed by the map change. Such changes shall be in conformity with the land use goals of the state. The decision of the Planning Commission shall be the final decision of the city unless an appeal is filed as authorized by this Title. (LANGUAGE IN10B-10-05 SUPERSEDES THIS LANGUAGE) WHICH IS: The ultimate decision-making authority for legislative actions and zone changes brought under the provisions of this Title shall rest with the City Council. Certain actions of the Planning Commission are in the form of a recommendation to the City Council. The land use actions for which the

Commission provides only a recommendation to the Council are amendments of the comprehensive plan and zoning ordinances or Zoning Map.

ALTERNATIVES:

1. The Council could, by motion, based on public testimony or need for more clarification, refer this matter back to the Planning Commission.
2. Table and continue this item to a future date certain meeting, to obtain clarification on issues raised at this Public Hearing.

RECOMMENDATION:

On February 11, 2019 the Planning Commission made a motion to recommend to the City County they approve this request for Annexation and rezone with the following conditions:

1. The approval of the annexation and rezone granted herein is valid for a period of one year from the date the decision of the Council is final; that final decision date shall be the date of expiration of the 21-day period for appeal to LUBA as required by Oregon Revised Statute and as noted in the Notice of Decision for this request.
2. The owner of the property dedicated to the City of Ontario the required additional 17.50 feet of right of way along NW 20th Avenue for 30 feet of right of way (60 feet both sides) adjacent to the north of this property, as well as right of way for NW 12th Street to be determined.
3. The owner shall extend all city services and construction NW 20th Avenue to city standards upon any building permit requested or continuing use of existing buildings.
4. The existing buildings shall be connected to city sewer and water service or removed from the property prior to recording of the final ordinance approving annexation.
5. The owner will sign a lien causing any unpaid utility bill to be a lien against the property

ATTACHMENTS:

1. Ord #2751-2019



ORDINANCE #2751-2019

AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONING OF CERTAIN TERRITORY TO THE CITY OF ONTARIO, BEING A PARCEL WITHIN THE SW1/4 SECTION 33, TOWNSHIP 17 SOUTH RANGE 47 EAST, W.M.

- WHEREAS,** There has been submitted to the City of Ontario a written request for annexation and rezoning to the City signed by 100% of the owners of land within the affected territory to be annexed; and
- WHEREAS,** All of the owners of land in that territory have consented in writing to the annexation of their land in the territory and have filed a statement of their consent with the legislative body of the City; and
- WHEREAS,** The City Charter does not expressly require the City to submit a proposal of annexation of territory to the electors of the City; and
- WHEREAS,** All the owners have requested the lands to be rezoned from UGA Industrial (UGA I-1) to City Light Industrial (I-1); and

NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

1. Annexation Area. The following contiguous territory be and the same is hereby annexed: The property legally described and mapped in the attached Exhibits "A" and "B" respectively.
2. Rezoning. That based on the Planning Commission findings and recommendation the lands as shown and described in the attached Exhibits "A" and "B" be rezoned from UGA Industrial (UGA I-1) to City Light Industrial (I-1).
3. Record. The City Planner shall submit to the Oregon Secretary of State (1) a copy of this Ordinance, (2) a copy of the statement of consent of the landowner in the territory annexed; and (3) Shall send a description by metes and bounds, or legal subdivision, and a map depicting the new boundaries of the City within 10 days of the effective date of annexation to the Malheur County Assessor, Malheur County Clerk and the State Department of Revenue.

PASSED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2019 by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this _____ day of _____, 2019.

ATTEST:

Riley Hill, Mayor

Tori Barnett, MMC, City Recorder

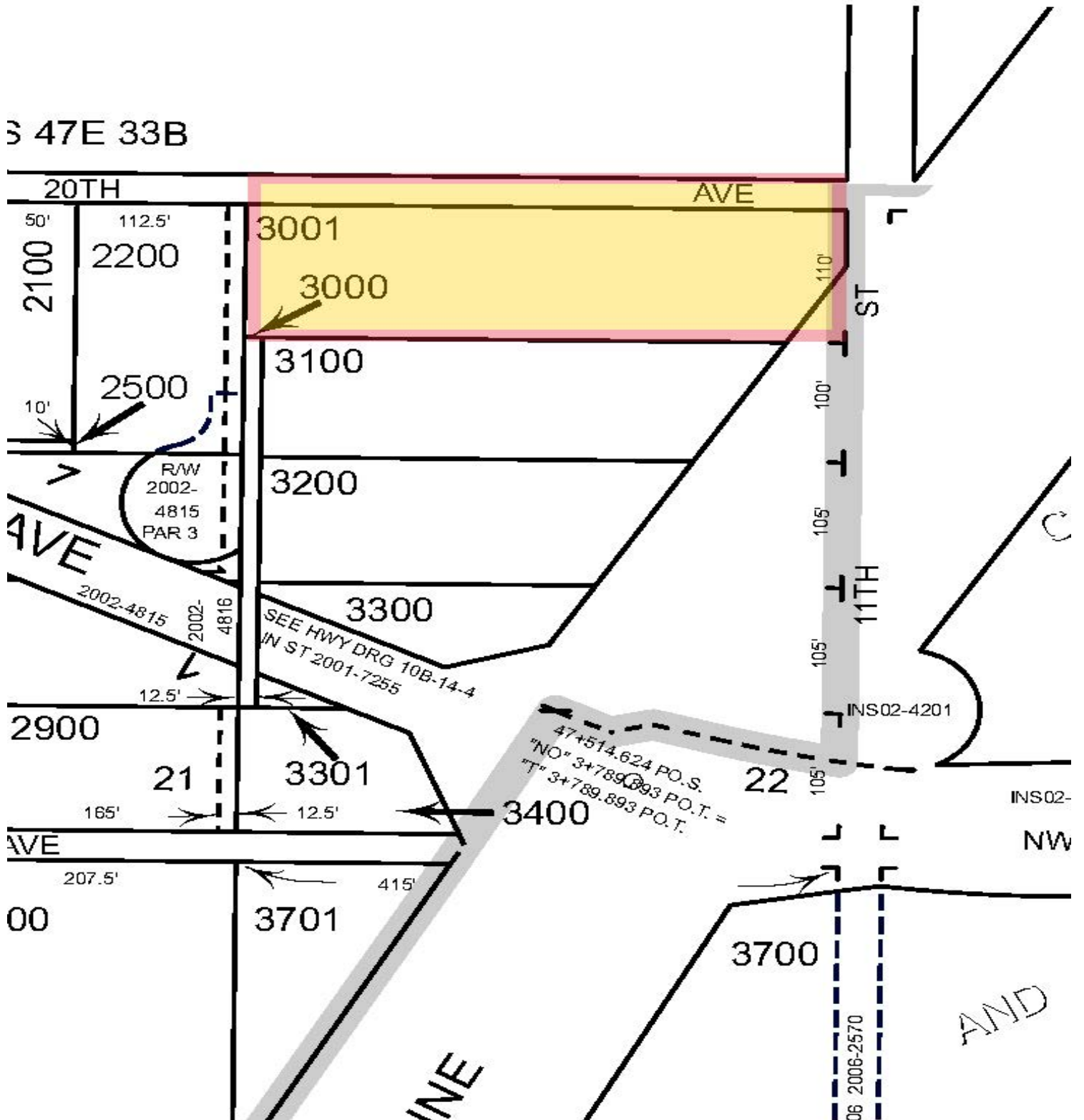
Exhibit “A”
Property Description for Annexation/Rezone
City Action No. 2018-11-20AZ

Land in Oregon and Western Colonization Subdivision Second Addition in Section 33, Township 17 South Plat Range 47 East of the Willamette Meridian, Malheur County, Oregon, according to the Corrected Plat thereof, as follows:

In Block 5 : Lot 22,
EXCEPTING THEREFROM the South 415 feet.

TOGETHER WITH all that portion of the 25 feet wide Right of Way of NW 20th Avenue adjacent to the north line of said Lot 22 lying between Lot 16 and Lot 22 of said Block 5.

Exhibit "B"
Subject property





**AGENDA REPORT
PUBLIC HEARING
February 19, 2019**

TO: Mayor and City Council

FROM: Dan Cummings, Community Development Director

THROUGH: Adam J. Brown, City Manager

SUBJECT: **ORDINANCE #2752-2019: AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONING OF CERTAIN TERRITORY TO THE CITY OF ONTARIO, BEING A PARCEL WITHIN THE NW1/4NE1/4 SECTION 10, TOWNSHIP 18 SOUTH RANGE 47 EAST, W.M. KNOWN AS TAX LOTS 1200, 1300, 1301, 1302, 1303, 1305, AND 1310 ON MAP 18S4710 D1, ON FIRST READING BY TITLE ONLY**

DATE: February 13, 2019

PROPOSED MOTION:

TWO MOTIONS ARE REQUIRED FOR APPROVAL AND ONE FOR DENIAL ON THIS ACTION. RECOMMENDED MOTIONS ARE STATED BELOW:

1. I MOVE THAT THE REQUEST FOR ANNEXATION OF THE SUBJECT PROPERTIES INTO THE CITY OF ONTARIO, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM UGA GENERAL COMMERCIAL (UGA-C2) TO CITY GENERAL HEAVY COMMERCIAL (C-2H), AS SET FORTH IN ACTION 2018-12-21AZ BE APPROVED BY THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS IN THIS REPORT AND THIS MEETING.

2. I MOVE THAT THE CITY COUNCIL ADOPT ORDINANCE #2752-2019, AN ORDINANCE ANNEXING INTO THE CITY AND REZONING OF A PARCEL OF LAND BEING LOCATED AT THE NW CORNER OF SE 5TH AVENUE AND SE 10TH STREET, FROM UGA GENERAL COMMERCIAL (UGA C-2) TO CITY GENERAL HEAVY COMMERCIAL (C-2H), ON FIRST READING BY TITLE ONLY.

OR

3. I MOVE THAT THE REQUEST FOR ANNEXATION OF THE SUBJECT PROPERTIES INTO THE CITY OF ONTARIO, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM UGA GENERAL COMMERCIAL (UGA C-2) TO CITY GENERAL HEAVY COMMERCIAL (C-2H), BE DENIED BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH BELOW: (STATE FINDING AND REASONING FOR DENIAL):

SUMMARY:

The applicant owns a parcel of land, known as 18S4710D1, Tax Lots 1200,1300,1301,1302,1303,1305 and 1310. The applicants wish to annex and rezone the property into the city to have the property ready for further development of the property to its fullest potential. This application, if approved, will result in the annexation of 16.1 acres, with right of way adjacent to the lands, into the city and a rezone of the property from Urban Growth Area Commercial (UGA-C2) to City General Heavy Commercial (C-2H).

BACKGROUND:

This request for annexation and rezone needs a recommendation for approval or rejection from the Planning Commission to the City Council. The Ontario Municipal Code (OMC) designates the Planning Commission as the decision making body for a request for rezone, without City Council participation. The OMC designates the City Council as the decision making body for a request for annexation, without Planning Commission participation. State law requires an ordinance be adopted by the local governing body to accomplish a rezone. The city's governing body is the City Council, and they are the only body that may adopt an ordinance; therefore, a request for rezone should go before the Council for a final decision. Staff feels that the best procedure is consistency with state law; therefore, this matter needs a recommendation from the Planning Commission, and then will be forwarded to the City Council for their decision.

CURRENT SITUATION:

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

A. *Rezone*

1. Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi- judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required findings clearly does not apply to the current action:

a. The zoning map amendment is in conformance with statewide planning goals and guidelines.

b. The zoning map amendment is in conformity with the acknowledged comprehensive plan.

c. The applicant has demonstrated a mistake or error in the original zone designation or the applicant has demonstrated a change in physical, social or market conditions generally affecting the area which make the proposed change appropriate.

- d. A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.*
- e. The property effected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.*
- f. The property effected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.*
- g. The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.*

Findings of fact based on the answers and information given in the application made a part hereof:

- a. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. The existing property is zoned UGA Commercial and is proposed to be rezoned to City C-2H General Heavy Commercial.
- b. The subject properties are currently zoned UGA Commercial and the request is to rezone to the companion City C-2H (General Heavy Commercial) Zone that is the same zone as adjacent to the South and nearby properties. The requested zone allows basically the same use as the UGA zone, and is reflected in the Comprehensive Plan. No Comprehensive Plan amendment is necessary for this rezone; therefore, the proposal is consistent with, and conforms to, the Comprehensive Plan.
- c. The applicants have requested annexation into the City of Ontario concurrent with the request for rezone; a City Zone must be applied to the property once within City Limits. The existing zone is not a mistake, and there is no need to demonstrate a change in conditions in the surrounding area; the change in zone is necessary and appropriate.
- d. This request is legally necessary due to the annexation of the property; granting of this request is not a special privilege and no public need has to be demonstrated. The property is commercially designated under the Comprehensive Plan so a commercial zone is the most appropriate for the property.
- e. The property exceeds the size requirements for commercial property, and is

rectangular in shape and can easily meet any development large or small.

f. The property owner is requesting annexation and rezoning to have the property ready for future development. All City main line exists in SE 5th Avenue and SE 10th Street. City fire and police services will be available upon annexation for the property. City streets, including curb, gutter are already developed along SE 10th Street and sidewalk will be developed along the portions being developed with a building permit and no addition right of way is required at this time. Paving exists along SE 5th Avenue and Curb, Gutter and sidewalk will be developed under a deferred development agreement.

g. Uses allowed by the current zone are basically identical to the proposed zone. No significant difference in allowed uses will occur as a result of the rezone. Allowed uses under city commercial zone designations are no more likely to produce dust, noise, ect. than those under the UGA commercial zone.

Conclusion: The proposed rezone is consistent with all applicable criteria and standards.

B. Annexation:

1. *10B-45-10 INITIATION OF ACTION. When a person, authorized by statute, wishes to extend the city's boundaries, an application on forms supplied by the city shall be filed with the Planning Director and which include: annexation consent forms, by the property owners, and by tenants if required by law or court decision; request for a change in zoning map designation, or plan change if required; request for other quasi-judicial action if required; fees, and other exhibits and requirements for a quasi- judicial action as set forth in this Title. All land use actions associated with the annexation shall be consolidated, as feasible, and one fee paid.*

2. *Oregon Revised Statute 222.125: Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.*

Findings based on the answers and information given in the application made a part hereof:

1. The applicants have paid the fees and provided the proper application with signatures.
2. The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with current city limits.
3. The property is currently zoned for Commercial use in the Urban Growth Area; the requested zone, City General Heavy Commercial (C-2H), is consistent with contiguous property.
4. Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan map or text is not necessary to annex the property; however, the annexation of the property must be consistent with all applicable Comprehensive Plan Policies.
5. Annexation would benefit the city by increasing tax revenue, and, by providing more Heavy Commercial lands in a highly developable area.

Conclusion: All criteria and standards applicable to a request for annexation have been met. The property may be annexed.

ANALYSIS:

- A. **FINANCIAL** Annexation will benefit the city by increased tax revenue and utility services from a piece of property that has already had the benefits of city services due to its location adjacent to the city.
- B. **TIMING** The applicant is in the process of wanting to perform two partitions and a Conditional Use Permit and the annexation is key to getting these actions done in a timely manner.
- C. **POLICY/LEGAL** The quasi-judicial Zoning Map amendment procedures are designed and authorized to adjust zone boundaries and create new zoning classifications on the official Zoning Map within areas on the land use plan indicated for the uses allowed by the map change. Such changes shall be in conformity with the land use goals of the state. The decision of the Planning Commission shall be the final decision of the city unless an appeal is filed as authorized by this Title. (LANGUAGE IN 10B-10-05 SUPERSEDES THIS LANGUAGE) WHICH IS: The ultimate decision-making authority for legislative actions and zone changes brought under the provisions of this Title shall rest with the City Council. Certain actions of the Planning Commission are in the form of a recommendation to the City Council. The land use actions for which the Commission provides only a recommendation to the Council are amendments of the comprehensive plan and zoning ordinances or Zoning Map.

ALTERNATIVES:

1. The Council could, by motion, based on public testimony or need for more clarification,

refer this matter back to the Planning Commission.

2. Table and continue this item to a future date certain meeting, to obtain clarification on issues raised at this Public Hearing.

RECOMMENDATION:

On February 11, 2019, the Planning Commission made a motion to recommend to the City County they approve this request for Annexation and Rezone with the following conditions:

1. The approval of the annexation and rezone granted herein is valid for a period of one year from the date the decision of the Council is final; that final decision date shall be the date of expiration of the 21-day period for appeal to LUBA as required by Oregon Revised Statute and as noted in the Notice of Decision for this request.
2. Any new development shall be connected to city sewer and water, along with any street improvements not in place along the development envelope established on the building site plan at the time of building permit.
3. The owner will sign a lien causing any unpaid Utility bill to be a lien against the property.

ATTACHMENTS:

1. Ord #2752-2019



ORDINANCE #2752-2019

AN ORDINANCE PROCLAIMING THE ANNEXATION AND REZONING OF CERTAIN TERRITORY TO THE CITY OF ONTARIO, BEING A PARCEL WITHIN THE NW1/4NE1/4 SECTION 10, TOWNSHIP 18 SOUTH RANGE 47 EAST, W.M.

- WHEREAS,** There has been submitted to the City of Ontario a written request for annexation and rezoning to the City signed by 100% of the owners of land within the affected territory to be annexed; and
- WHEREAS,** All of the owners of land in that territory have consented in writing to the annexation of their land in the territory and have filed a statement of their consent with the legislative body of the City; and
- WHEREAS,** The City Charter does not expressly require the City to submit a proposal of annexation of territory to the electors of the City; and
- WHEREAS,** All the owners have requested the lands to be rezoned from UGA General Commercial (UGA C-2) to City General Heavy Commercial (C-2H); and

NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

1. Annexation Area. The following contiguous territory be and the same is hereby annexed: The property legally described and mapped in the attached Exhibits "A" and "B" respectively.
2. Rezoning. That based on the Planning Commission findings and recommendation the lands as shown and described in the attached Exhibits "A" and "B" be rezoned from UGA General Commercial (UGA C-2) to City General Heavy Commercial (C-2H).
3. Record. The City Planner shall submit to the Oregon Secretary of State (1) a copy of this Ordinance, (2) a copy of the statement of consent of the landowner in the territory annexed; and (3) Shall send a description by metes and bounds, or legal subdivision, and a map depicting the new boundaries of the City within 10 days of the effective date of annexation to the Malheur County Assessor, Malheur County Clerk and the State Department of Revenue.

PASSED AND ADOPTED by the Common Council of the City of Ontario this _____ day of _____, 2019 by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this _____ day of _____, 2019.

ATTEST:

Riley Hill, Mayor

Tori Barnett, MMC, City Recorder

Exhibit "A"
Property Description for Annexation/Rezone
City Action No. 2018-12-21AZ

Land in Malheur County, Oregon, as follows:

In the Northwest Quarter, Northeast Quarter of Section 10, Township 18 South, Range 47 East W.M.

BEGINNING at the Southeast corner of the NW1/4NE1/4 of Section 10, T.18S., R47E., W.M.; thence along the east line of said NW1/4NE1/4, N00°11'15"W a distance of 953.13 feet, to a point on the existing City of Ontario, city limits boundary; thence along said city limits boundary N55°08'31"W a distance of 60.91 feet; thence leaving said city limits boundary N89°55'43"W a distance of 104.84 feet; thence N55°10'47"W a distance of 5.43 to a point on said city limits boundary; thence along said city limits boundary the following four calls
S00°13'20"E a distance of 207.22 feet;
thence S89°46'40"W a distance of 165.00 feet;
thence N00°13'20"W a distance of 204.97 feet;
thence N89°55'43"W a distance of 59.78 feet;
thence leaving said city limits boundary S00°12'06"E a distance of 88.54 feet;
thence S89°48'18"W a distance of 166.08 feet to a point on said city limits boundary; thence along said city limits boundary the following six calls
S00°11'15"E a distance of 239.78 feet;
thence N89°54'24"W a distance of 130.36 feet;
thence S00°07'48"E a distance of 222.06 feet;
thence S81°45'52"W a distance of 69.61 feet;
thence S00°07'48"E a distance of 67.38 feet;
thence N76°59'10"W a distance of 200.55 feet;
thence leaving said city limits boundary S13°00'10"W a distance of 382.79 feet; thence S00°08'12"W a distance of 30.00 feet more or less to a point on the south boundary of the NW1/4NE1/4; thence along said south boundary line of the NW1/4NE1/4, S89°51'48"E a distance of 1032.35 feet more or less to the **POINT OF BEGINNING**.

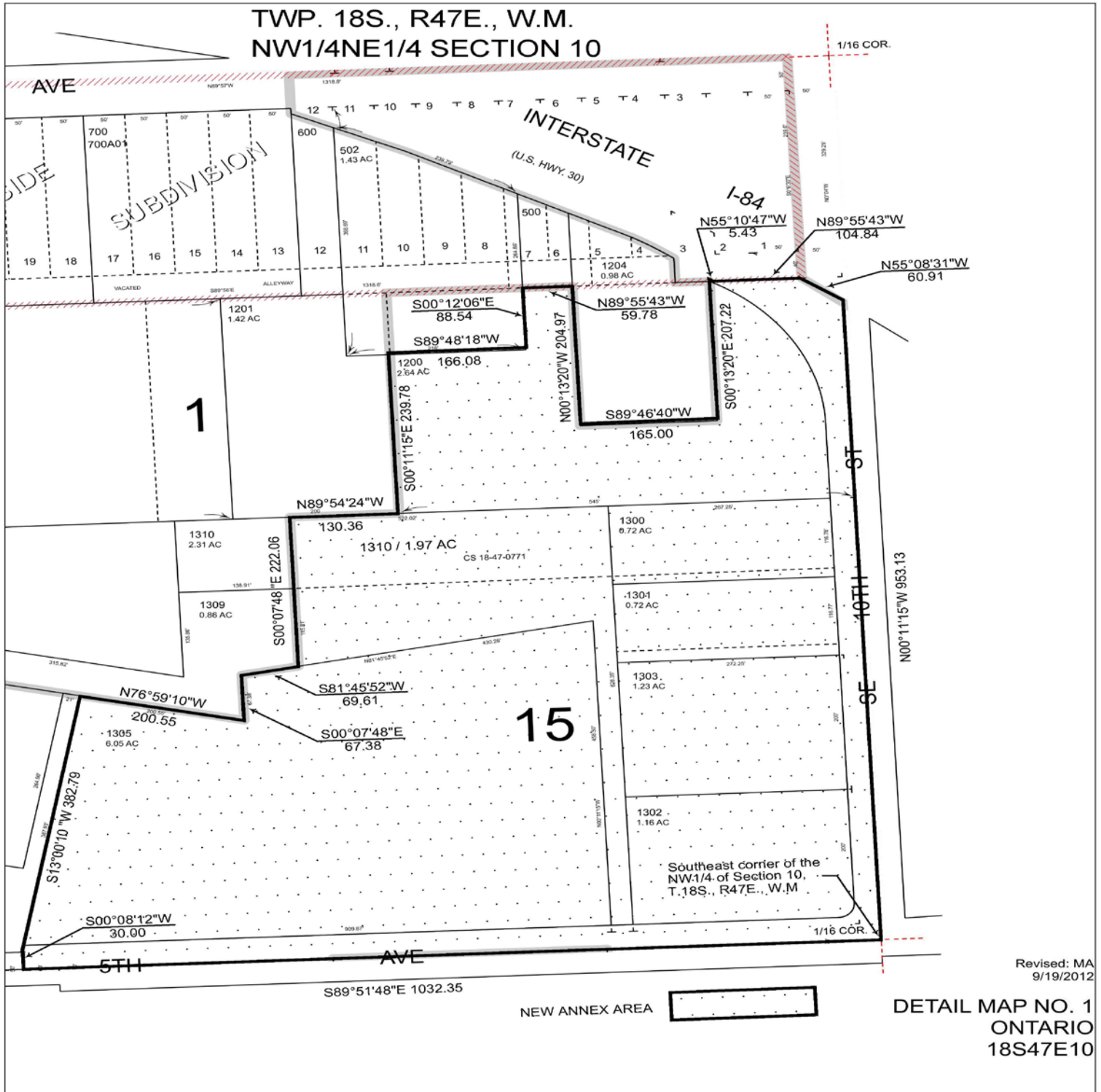
The above description is to include all property as described in deeds of records Instrument No's. 2005-6497, 2005-5948, 2005-6493, 2005-9444, 2006-2226 and all adjacent street right of way and easements associated with and connected to said parcels. Additionally it is to leave no gap or create no overlap were it runs with the existing city limits boundary. This annex description shall not prevent the minor adjusting of property lines to resolve a property boundary dispute, property line adjustments for land use purposes shall be made per land use regulations, which would also adjust the annexation line, leaving no gap or overlap.

Containing 16.1+/- Acres more or less

END OF DESCRIPTION

Exhibit "B"

Subject property



Accounts Payable

Checks by Date - Summary by Check Date

User: kari.ott
Printed: 2/14/2019 9:10 AM



Check No	Vendor No	Vendor Name	Check Date	Check Amount
124082	879332	Ag Equipment Southwest Corp	01/04/2019	4,000.00
124083	&525	American Staffing, Inc.	01/04/2019	592.90
124084	033300	Argus Observer	01/04/2019	192.40
124085	130624	B & W Car Wash	01/04/2019	6.00
124086	626400	Campo & Poole Distributing, LLC	01/04/2019	2,462.10
124087	879191	Krisy Lynn Janti	01/04/2019	66.00
124088	879225	Malheur Media, LLC	01/04/2019	505.98
124089	&509	Matsy's Restaurant & Catering	01/04/2019	849.60
124090	602320	NAPA Auto Parts	01/04/2019	150.85
124091	572000	Ontario Sanitary Service, Inc.	01/04/2019	306.94
124092	572210	Ontario School District 8C	01/04/2019	115.00
124093	626654	The Police and Sheriffs Press, Inc.	01/04/2019	32.50
124094	642093	Red's Automotive Repair, Inc.	01/04/2019	516.60
124095	702008	Staples Business Credit	01/04/2019	447.42
124096	788402	TransUnion Risk & Alternative Data Soluti	01/04/2019	140.50
124097	774001	Wtechlink	01/04/2019	300.00
Total for 1/4/2019:				10,684.79
124098	005800	Action Medical, Inc.	01/11/2019	136.95
124099	&525	American Staffing, Inc.	01/11/2019	251.09
124100	130950	Cable One	01/11/2019	298.94
124101	878979	Toni Evans	01/11/2019	96.00
124102	634311	Frazier Aviation, LLC	01/11/2019	425.00
124103	382005	Interpath Laboratory, Inc.	01/11/2019	32.25
124104	412500	Keller Associates, Inc.	01/11/2019	690.00
124105	440000	L.N. Curtis and Sons	01/11/2019	315.00
124106	436000	Lindsay Eco Water	01/11/2019	7.00
124107	879343	Milliman, Inc.	01/11/2019	1,000.00
124108	879301	Net Assets Corporation	01/11/2019	156.00
124109	528405	Oster Professional Group, LLC	01/11/2019	23,812.00
124110	618100	Physicians Primary Care Center, Inc.	01/11/2019	261.00
124111	642093	Red's Automotive Repair, Inc.	01/11/2019	3,887.30
124112	879342	Redwood Lumber & Supply, LLC	01/11/2019	7,160.00
124113	666190	Sassy Software Solutions, LLC	01/11/2019	468.00
124114	682495	SBE Oregon, LLC	01/11/2019	1,611.40
124115	879145	Silver Signet, LLC	01/11/2019	203.00
124116	&357	Larry A. Sullivan	01/11/2019	3,080.00
124117	878931	Tire Factory of Ontario	01/11/2019	564.00
124118	879146	Toshiba Financial Services	01/11/2019	1,837.37
124119	879151	Waste-Pro	01/11/2019	30.00
124120	UB*11549	RAAD AZEEZ	01/11/2019	22.77
124121	UB*11551	BRIAN \ SHEREE BEHM \ JORDAN	01/11/2019	103.62
124122	UB*11552	HOMELAND FIREWORKS INC	01/11/2019	144.89
124123	UB*11548	CHASTITY\JEREMY MCAVOY\ROBER	01/11/2019	110.81
124124	UB*11553	DUSTIN NICHOLSON	01/11/2019	110.41
124125	UB*11550	NANCY SITZ	01/11/2019	48.85

Check No	Vendor No	Vendor Name	Check Date	Check Amount
124126	UB*11554	SUN GUARD WINDOW TINTING	01/11/2019	244.95
Total for 1/11/2019:				47,108.60
ACH	PRFED	PAYROLL TAXES	01/14/2019	1,289.97
ACH	PRORTAX2	OREGON DEPARTMENT OF REVENUE	01/14/2019	5.54
ACH	PRORTAXE	OREGON DEPARTMENT OF REVENUE	01/14/2019	352.57
ACH	PROSGP	OREGON SAVINGS & GROWTH PLAN	01/14/2019	150.00
ACH	PRPERS	OREGON PERS	01/14/2019	1,610.32
124127	PRUTCH	UTAH, OFFICE OF RECOVERY SERVIC	01/14/2019	716.00
Total for 1/14/2019:				4,124.40
124128	005000	A-1 Key & Lock	01/18/2019	68.50
124129	&525	American Staffing, Inc.	01/18/2019	549.93
124130	879130	Ani-Care Animal Shelter, Inc.	01/18/2019	1,370.08
124131	033300	Argus Observer	01/18/2019	1,008.15
124132	037600	AT&T	01/18/2019	21.51
124133	130950	Cable One	01/18/2019	63.75
124134	626400	Campo & Poole Distributing, LLC	01/18/2019	2,445.99
124135	144000	Cascade Natural Gas Corporation	01/18/2019	2,799.34
124136	637830	Century Link	01/18/2019	475.86
124137	637828	Century Link Communications, LLC	01/18/2019	94.31
124138	879268	Civic Plus	01/18/2019	7,788.00
124139	879445	Connected Professional Accountants, LLC	01/18/2019	22,200.00
124140	270285	Enhanced Telecommunications & Data, Inc	01/18/2019	184.00
124141	303800	Frank's Extinguisher Service	01/18/2019	151.91
124142	333852	Graphic Impressions	01/18/2019	430.00
124143	&597	Gresham Ford	01/18/2019	25,786.29
124144	879345	Harden Psychological Associates, P.C.	01/18/2019	225.00
124145	376910	Industrial Hygiene Resources, Ltd.	01/18/2019	4,473.00
124146	428200	League of Oregon Cities	01/18/2019	20.00
124147	441140	Looks Nu, Inc.	01/18/2019	160.00
124148	879328	Malheur County GIS	01/18/2019	380.00
124149	151001	City of Ontario	01/18/2019	10.00
124150	879269	Open Gov, Inc.	01/18/2019	9,000.00
124151	516780	Oregon Building Officials Association	01/18/2019	395.00
124152	516494	State of Oregon Department of Transportati	01/18/2019	286.42
124153	242083	State of Oregon Driver and Motor Vehicle S	01/18/2019	3.00
124154	626654	The Police and Sheriffs Press, Inc.	01/18/2019	17.50
124155	879145	Silver Signet, LLC	01/18/2019	35.00
124156	516825	Smith's Pack & Ship, LLC	01/18/2019	28.23
124157	879138	Stantec Consulting Services, Inc.	01/18/2019	25,376.75
124158	878957	Valli Information Systems, Inc.	01/18/2019	1,955.61
124159	UB*11560	BRIAN/DONYA BABCOCK	01/18/2019	39.11
124160	UB*11569	CLARK/MARY BENDER	01/18/2019	53.63
124161	UB*11561	BETHANY PRES CHURCH	01/18/2019	187.27
124162	UB*11594	CARL'S JR	01/18/2019	274.23
124163	879344	Ann Walker Glass	01/18/2019	5,000.00
124164	UB*10953	LORI & TERRY HENDERSON	01/18/2019	46.29
124165	UB*11559	CASSANDRA MCELRAVY	01/18/2019	43.42
124166	UB*11568	CAROL RAE	01/18/2019	69.20
124167	UB*11590	SCHOOL DIST 8C BB	01/18/2019	68.19
124168	UB*11589	SCHOOL DIST 8-C BB	01/18/2019	52.19
124169	UB*11593	SLEEP INN - PATEL	01/18/2019	0.05
124170	UB*11555	SUNSHINE ESTATES L.P	01/18/2019	122.25
124171	UB*11557	SUNSHINE ESTATES L.P	01/18/2019	134.22

Check No	Vendor No	Vendor Name	Check Date	Check Amount
124172	UB*11558	SUNSHINE ESTATES L.P	01/18/2019	127.58
124173	UB*11562	SUNSHINE ESTATES L.P	01/18/2019	107.92
124174	UB*11563	SUNSHINE ESTATES L.P	01/18/2019	116.38
124175	UB*11564	SUNSHINE ESTATES L.P	01/18/2019	110.95
124176	UB*11565	SUNSHINE ESTATES L.P	01/18/2019	112.47
124177	UB*11566	SUNSHINE ESTATES L.P	01/18/2019	117.29
124178	UB*11567	SUNSHINE ESTATES L.P	01/18/2019	116.42
124179	UB*11570	SUNSHINE ESTATES L.P	01/18/2019	110.26
124180	UB*11571	SUNSHINE ESTATES L.P	01/18/2019	148.72
124181	UB*11572	SUNSHINE ESTATES L.P	01/18/2019	115.57
124182	UB*11573	SUNSHINE ESTATES L.P	01/18/2019	126.83
124183	UB*11574	SUNSHINE ESTATES L.P	01/18/2019	115.06
124184	UB*11575	SUNSHINE ESTATES L.P	01/18/2019	122.51
124185	UB*11576	SUNSHINE ESTATES L.P	01/18/2019	110.78
124186	UB*11577	SUNSHINE ESTATES L.P	01/18/2019	120.48
124187	UB*11578	SUNSHINE ESTATES L.P	01/18/2019	118.62
124188	UB*11579	SUNSHINE ESTATES L.P	01/18/2019	117.13
124189	UB*11580	SUNSHINE ESTATES L.P	01/18/2019	104.68
124190	UB*11581	SUNSHINE ESTATES L.P	01/18/2019	120.13
124191	UB*11582	SUNSHINE ESTATES L.P	01/18/2019	113.49
124192	UB*11583	SUNSHINE ESTATES L.P	01/18/2019	111.26
124193	UB*11584	SUNSHINE ESTATES L.P	01/18/2019	119.78
124194	UB*11585	SUNSHINE ESTATES L.P	01/18/2019	111.87
124195	UB*11586	SUNSHINE ESTATES L.P	01/18/2019	119.06
124196	UB*11587	SUNSHINE ESTATES L.P	01/18/2019	109.34
124197	UB*11588	SUNSHINE ESTATES L.P	01/18/2019	116.19
124198	UB*11591	SUNSHINE ESTATES L.P	01/18/2019	134.93
124199	UB*11592	SUNSHINE ESTATES L.P	01/18/2019	113.33
124200	UB*11595	SUNSHINE ESTATES L.P	01/18/2019	114.26
124201	738001	James Swank	01/18/2019	48.99
124202	UB*11556	mitsuyo TANAKA	01/18/2019	39.73
Total for 1/18/2019:				117,385.19
124203	879128	Life Flight Network	01/23/2019	300.00
124204	832852	Wells Fargo Business Elite Card	01/23/2019	8,829.65
Total for 1/23/2019:				9,129.65
124205	879276	The Anderson Group, Inc.	01/25/2019	110,232.52
124206	&525	American Staffing, Inc.	01/25/2019	766.48
124207	144000	Cascade Natural Gas Corporation	01/25/2019	329.06
124208	637830	Century Link	01/25/2019	758.56
124209	878915	CH2M Hill OMI	01/25/2019	430,819.59
124210	376000	Idaho Power	01/25/2019	5,852.13
124211	589200	Oregon Mayors Association	01/25/2019	139.00
124212	879339	PSI Water Technologies, Inc.	01/25/2019	6,127.59
124213	879342	Redwood Lumber & Supply, LLC	01/25/2019	7,251.60
124214	686822	Sprint	01/25/2019	52.31
124215	878957	Valli Information Systems, Inc.	01/25/2019	209.53
124216	288897	Verizon	01/25/2019	1,551.77
124217	878992	Wolfcom Enterprises	01/25/2019	1,079.00
124218	UB*11597	ALAUNDRAH/JUSTEN AMAYA/DE LA	01/25/2019	45.41
124219	UB*11596	JOEL BROAVO M/R	01/25/2019	17.20
124220	879133	Community in Action	01/25/2019	41,100.80
124221	UB*11598	MIKE FRANK	01/25/2019	45.04

Check No	Vendor No	Vendor Name	Check Date	Check Amount
Total for 1/25/2019:				606,377.59
ACH	PRAFLAC	AMERICAN FAMILY LIFE ASSURANCE	01/31/2019	774.22
ACH	PRAMERF	AMERICAN FUNDS GROUP	01/31/2019	400.00
ACH	PRCCIS	E B S TRUST	01/31/2019	65,321.43
ACH	PRFED	PAYROLL TAXES	01/31/2019	62,264.83
ACH	PRNATW	NATIONWIDE RETIREMENT SOLUTION	01/31/2019	250.00
ACH	PRORJU	OREGON DEPARTMENT OF JUSTICE	01/31/2019	947.00
ACH	PRORTAX2	OREGON DEPARTMENT OF REVENUE	01/31/2019	251.03
ACH	PRORTAXE	OREGON DEPARTMENT OF REVENUE	01/31/2019	17,181.48
ACH	PROSGP	OREGON SAVINGS & GROWTH PLAN	01/31/2019	2,950.00
ACH	PRPERS	OREGON PERS	01/31/2019	77,847.77
124252	PRCOLONI	COLONIAL LIFE	01/31/2019	1,005.62
124253	PRICMA	I C M A RETIREMENT TRUST 457	01/31/2019	150.00
124254	PRIDCHIL	IDAHO CHILD SUPPORT RECEIPTING	01/31/2019	411.00
124255	PRLINC	LINCOLN NATIONAL LIFE INS CO	01/31/2019	350.00
124256	PRSFIRE	UMPQUA BANK	01/31/2019	360.00
Total for 1/31/2019:				230,464.38
124222	&525	American Staffing, Inc.	02/01/2019	678.11
124223	364000	Clarion Inn	02/01/2019	51.00
124224	879247	Idaho Communications, LLC	02/01/2019	470.00
124225	408200	J-U-B Engineers, Inc.	02/01/2019	10,224.16
124227	879145	Silver Signet, LLC	02/01/2019	400.00
124228	879212	Uniforms 2 Gear	02/01/2019	1,001.16
124229	130624	B & W Car Wash	02/01/2019	12.00
124230	878960	B.P.O.E. Ontario Lodge No. 1690	02/01/2019	850.00
124231	660908	BAE Systems, Inc.	02/01/2019	895.00
124232	206557	Creative Product Source, Inc.	02/01/2019	204.51
124233	253897	Dustbusters, Inc.	02/01/2019	5,113.47
124234	408200	J-U-B Engineers, Inc.	02/01/2019	10,062.16
124235	413204	Kenworth Sales Company, Inc.	02/01/2019	103.25
124236	451750	Malheur County Sheriff's Office	02/01/2019	56,707.50
124237	456002	Malheur Utility Coordinating Council	02/01/2019	35.00
124238	582200	Oregon Association Chiefs of Police	02/01/2019	67.00
124239	&690	Oregon City/County Management Association	02/01/2019	283.54
124240	582152	State of Oregon Department of Aviation	02/01/2019	75.00
124241	718000	State of Oregon Employment Department	02/01/2019	284.00
124242	618100	Physicians Primary Care Center, Inc.	02/01/2019	261.00
124243	626654	The Police and Sheriff's Press, Inc.	02/01/2019	32.50
124244	642093	Red's Automotive Repair, Inc.	02/01/2019	108.96
124245	689005	Chad Sombke, Ph.D., PC	02/01/2019	400.00
124246	738002	Symbol Arts, LLC	02/01/2019	268.00
124247	879212	Uniforms 2 Gear	02/01/2019	820.80
124248	774001	Wtechlink	02/01/2019	300.00
124249	&260	Four Rivers Cultural Center	02/01/2019	7,218.62
124250	539200	Ontario Area Chamber of Commerce	02/01/2019	4,039.01
124251	642080	Petty Cash	02/01/2019	221.61
Total for 2/1/2019:				101,187.36
124257	516494	State of Oregon Department of Transportation	02/04/2019	11,894.69
Total for 2/4/2019:				11,894.69

Check No	Vendor No	Vendor Name	Check Date	Check Amount
ACH	PRFED	PAYROLL TAXES	02/05/2019	1,787.94
ACH	PRORTAX2	OREGON DEPARTMENT OF REVENUE	02/05/2019	10.21
ACH	PRORTAXE	OREGON DEPARTMENT OF REVENUE	02/05/2019	220.99
ACH	PRPERS	OREGON PERS	02/05/2019	3,361.41
Total for 2/5/2019:				5,380.55
ACH	PRCCIS	E B S TRUST	02/08/2019	0.67
ACH	PRFED	PAYROLL TAXES	02/08/2019	10.34
ACH	PRORTAX2	OREGON DEPARTMENT OF REVENUE	02/08/2019	0.07
ACH	PRORTAXE	OREGON DEPARTMENT OF REVENUE	02/08/2019	0.12
124258	&525	American Staffing, Inc.	02/08/2019	1,011.93
124259	028000	Anderson Perry & Associates, Inc.	02/08/2019	15,000.00
124260	033300	Argus Observer	02/08/2019	123.84
124261	037600	AT&T	02/08/2019	21.50
124262	626400	Campo & Poole Distributing, LLC	02/08/2019	2,673.92
124263	637828	Century Link Communications, LLC	02/08/2019	66.29
124264	878915	CH2M Hill OMI	02/08/2019	23,372.24
124265	520400	Dorman's, Inc.	02/08/2019	39.35
124266	360015	Home Depot Credit Services	02/08/2019	42.94
124267	879346	Hughey & Phillips	02/08/2019	157.85
124268	879191	Krisy Lynn Janti	02/08/2019	30.00
124269	440000	L.N. Curtis and Sons	02/08/2019	57.50
124270	436000	Lindsay Eco Water	02/08/2019	12.00
124271	461829	Minert & Associates, Inc.	02/08/2019	50.00
124272	879301	Net Assets Corporation	02/08/2019	204.00
124273	500400	Norco, Inc.	02/08/2019	211.65
124274	572000	Ontario Sanitary Service, Inc.	02/08/2019	306.94
124275	626654	The Police and Sheriffs Press, Inc.	02/08/2019	17.55
124276	642093	Red's Automotive Repair, Inc.	02/08/2019	53.57
124277	368050	Robb Enterprises	02/08/2019	41.43
124278	702008	Staples Business Credit	02/08/2019	84.62
124279	702100	Staples Credit Plan	02/08/2019	111.57
124280	&357	Larry A. Sullivan	02/08/2019	1,704.05
124281	788402	TransUnion Risk & Alternative Data Soluti	02/08/2019	140.00
124282	824690	Viking Automatic Sprinkler Company	02/08/2019	1,082.22
124283	879151	Waste-Pro	02/08/2019	30.00
124284	UB*11599	CITLALLI RAMIREZ	02/08/2019	79.92
124285	UB*11600	CONSTANCE REISE	02/08/2019	126.80
124286	072400	Dave Walters	02/08/2019	101.70
124287	UB*11601	CAMERON WHARTON	02/08/2019	113.31
Total for 2/8/2019:				47,079.89
124288	879135	Jonathan Rico	02/13/2019	151.25
Total for 2/13/2019:				151.25
Report Total (229 checks):				1,190,968.34

Third Councilor at Agenda Prep Meetings	
January 2, 2019	Norm Crume
February 5, 2019	Freddy Rodriguez
March 5, 2019	Michael Braden
April 2, 2019	Marty Justus
May 7, 2019	Ramon Palomo
June 4, 2019	Norm Crume
July 2, 2019	Freddy Rodriguez
August 6, 2019	Michael Braden
September 3, 2019	Marty Justus
October 1, 2019	Ramon Palomo
November 5, 2019	Norm Crume
December 3, 2019	Freddy Rodriguez



**AGENDA REPORT
HAND-OUTS/DISCUSSION ITEMS
February 19, 2019**

To: Mayor and City Council

FROM: Daniel Beaubien, Airport Manager

THROUGH: Adam J. Brown, City Manager

SUBJECT: LAND LEASE - MUSEUM

DATE: February 14, 2019

PROPOSED MOTION:

NO MOTION IS REQUESTED.

SUMMARY:

Mike McDougall from Tuscon, Arizona has moved to Idaho and would like to bring his historical airplanes to Ontario with the idea of building a museum one day.

BACKGROUND:

Mr. McDougall is currently renting hanger space from the EAA and would like to build or buy a hanger for restoration of fighting classic aircraft. He asked if he could lease .5 acres of land with which to begin the transition from Arizona to Oregon.

CURRENT SITUATION:

One half acre was selected with a location that will be near the EAA hanger on the east side of the field. A land lease was put together using the standard lease for ground at the airport. This lease is unique in the sense that there are no other land leases on the field that are not associated with a spray plane business. There will be a number assigned to the land as an address and it will be on the final lease agreement.

ANALYSIS:

- A. **FINANCIAL** This lease will bring additional revenue to the airport initially and has the potential to bring a greater and steady source of income in the future.
- B. **TIMING** The relocation of aircraft is tentatively scheduled for March, 2019.
- C. **POLICY/LEGAL** It is the duty of the City Council as the airport authority to approve all leases at the Ontario Municipal airport.

ALTERNATIVES:

Since this is just a first view for discussion purposes there is no vote necessary.

RECOMMENDATION:

Staff makes no recommendation at this time.

ATTACHMENTS:

1. Museum lease .5 acre 2019
2. Museum map 2019



LEASE AGREEMENT

THIS AGREEMENT made and entered into this **7th day of March , 2019**, by and between the **City of Ontario, Oregon, a municipal corporation**, hereinafter referred to as "Landlord" and **Fighting Classics Aircraft Restoration** hereinafter referred to as "Tenant."

WITNESSETH:

WHEREAS, Landlord is the owner of certain real property known and operated as the Ontario Municipal Airport; and

WHEREAS, Tenant desires to lease certain real property for airplane storage ~~and hangar use~~.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein it is agreed as follows:

- 1) Landlord lease to Tenant and Tenant leases from Landlord the real property described in Exhibit "A," attached hereto and by this reference incorporated herein, for a period of **TWO (2) years**, commencing on the **7th day of March , 2019** . If the lease is not in default, unless either party shall give written notice prior to each anniversary date of this lease, and subject to Landlord's receipt from Tenant of the annual lease payment, the lease term will automatically renew for a successive ten-year term. A decision by Landlord to give Tenant written notice that Landlord does not intend to extend the two year term of this lease shall be based upon Landlord's need to utilize the subject property for other airport or aircraft purposes.
- 2) Tenant shall pay to the Landlord as yearly rent the sum of **fourteen cent (14.0) cents** per square foot of the property described in Exhibit "A", subject to the rights of Landlord to escalate said rental amount as more specifically provided for hereinafter. The parties hereto covenant and agree that the total area of the property described in Exhibit "A" is **(21,780) square feet** for the purposes of determining the annual rent herein. The annual rental amount shall be paid on or before the **15th day of August each year and is payable each year in advance**.
- 3) It is mutually understood and agreed between the parties hereto that the rental amount may be adjusted upward or downward annually in the sole discretion of the Common Council of the City of Ontario. Such adjustment may be made in any year and shall be effective for the balance of the lease term or until further adjustment, if any. Any increase in rent shall not exceed the percentage increase in the Consumer Price Index for Oregon for the previous year. Adjustments to the rent shall not be made more frequently than one adjustment per year and each yearly adjustment shall not be an amount greater than 6% of the then existing rent.
- 4) The property shall be used primarily as storage of one or more airplanes. Any such construction shall be completed solely with Tenant's labor and at Tenant's expense.

- 5) Any new construction or improvements made on the property are to be approved in writing prior to commencement of either, and the same to be constructed and operated in conformity with all ordinances and regulations of the City.
- 6) The Tenant will keep and maintain the leased property in a constant state of good repair, and will refrain from storing any airplane parts, equipment, or debris outside the land leased and will keep the premises in a clean, sightly condition. It is mutually understood and agreed between the parties hereto that the airport manager, airport authority or building inspector of the City of Ontario shall have the right to inspect the premises periodically. In the event the airport manager, airport authority or building inspector of the City of Ontario deems the leased premises not to be in compliance with any applicable statute, ordinance, rules or regulation or this agreement the Tenant agrees to correct such non-complying item at the Tenant's sole expense.
- 7) The Landlord covenants and agrees to spray or otherwise control weeds located on and around the leased premises.
- 8) Any and all upgrades to the leases land will be brought before the airport manager for approval prior to implementation.
- 9) The Tenant shall not use leased land for any purposes other than those authorized herein without the written consent of the Landlord.
- 10) The Landlord reserves the right to further develop the airport or landing area of the airport as it sees fit.
- 11) The Landlord reserves the right, but not the obligation to maintain and keep in repair the landing area of the airport and all public facilities of the airport.
- 12) This lease shall be subordinate to the provisions of any existing or future agreement between the Landlord and the United States relative to the operation or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.
- 13) During the time of war or national emergency, the Landlord shall have the right to lease the landing area or any part thereof to the United States government for military or naval use, and if such lease is executed, the provisions of this instrument insofar as they are inconsistent with the provisions of the lease to the government shall be suspended.
- 14) Except with respect to activities for which the Landlord is responsible, the Tenant shall pay as due all claims for work done on and for services rendered or material furnished to the leased premises and shall keep the premises free from any liens. If Tenant fails to pay such claims or to discharge any lien, Landlord may do so and collect the cost as additional rent. Any amount so added shall bear interest at the rate of 12% per annum from the date expended by Landlord and shall be payable on demand. Such action by Landlord shall not constitute a waiver of any right or remedy which Landlord may have on account of Tenant's default.

Tenant may withhold payment of any claim in connection with a good-faith dispute over the obligation to pay, so long as Landlord's property interests are not jeopardized. If a lien is filed as a result of non-payment, Tenant shall, within ten days after knowledge of the filing, secure the discharge of the lien or deposit with Landlord cash or a sufficient corporate surety bond or other security satisfactory to Landlord in an amount sufficient to discharge the lien plus any costs, attorney fees and other charges that could accrue as a result of a foreclosure or sale under the lien.

15) The Tenant shall obtain Commercial General Liability Insurance in a responsible company, with limits of \$1,000,000 each occurrence with a \$2,000,000 General Aggregate. Such insurance shall cover all risks arising directly or indirectly out of Tenant's activities on or any condition of the leased premises whether or not related to an occurrence caused or contributed to by Landlord's negligence, shall protect Tenant against the claims of Landlord on account of the obligations assumed by Tenant under the provisions of the indemnification paragraph contained herein, and shall protect Landlord and Tenant against any and all claims of third persons. **Tenant is required to provide a copy of current insurance coverage to the city.**

For purposes of compliance with this section, the landlord may provide sufficient insurance, naming the tenant as an additional insured. Should the landlord be unable to obtain liability and property damage insurance which provides adequate coverage, the tenant shall be responsible for such coverage as specified above. In the event the landlord provides said insurance, landlord makes no representations, warranties or assurances that said coverage is adequate for the purposes of protecting tenant. The purpose of said insurance is solely for the protection of landlord and nothing in this paragraph is intended to waive the limits as established in the Oregon Tort Claims Act, ORS 30.260 et seq., as it applies to landlord.

Should the landlord be required to pay additional or increased rates, the City shall have a right to surcharge the tenants in an amount in excess of the annual rental rate as defined in Section 3 of this agreement sufficient to reimburse the City.

16) No part of the leased property may be assigned to any third person without the prior written consent of the Landlord. This provision shall apply to all transfers by operation of law and to transfers to and by trustees in bankruptcy, receivers, administrators, executors and legatees. No consent in one instance shall prevent the provision from applying to a subsequent instance. The Landlord shall consent to a transaction covered by this provision when withholding such consent would be unreasonable in the circumstances.

17) The following shall be events of default:

- a) Failure of Tenant to pay any rent or other charge within thirty (30) days after it is due.
- b) Failure of Tenant to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within fifteen (15) days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied with the fifteen (15) day period, this provision shall be complied with if Tenant begins correction of the default within the fifteen (15) day period and thereafter proceeds

with reasonable diligence and in good-faith to effect the remedy as soon as practicable.

c) Insolvency of Tenant; an assignment by Tenant for the benefit of creditors; the filing by Tenant of a voluntary petition in bankruptcy; and adjudication that Tenant is bankrupt or the appointment of a receiver of the properties of Tenant; the filing of an involuntary petition of bankruptcy and failure of the Tenant to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levy of execution on the leasehold interest and failure of the Tenant to secure discharge of the attachment or release of the levy of execution within thirty (30) days. If Tenant consists of two (2) or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to Landlord that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of Tenant under the lease.

18) In the event of a default, the lease may be terminated at the option of the Landlord by notice in writing to Tenant. The notice may be given before or within thirty (30) days after the running of the grace period for default and may be included in a notice of failure of compliance given under the provisions of paragraph 17(b) above set forth. If the property is abandoned by Tenant in connection with a default, termination shall be automatic and without notice.

19) If the lease is not terminated by election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant for the default.

20) If the lease is terminated for any reason, Tenant's liability for damages shall survive such termination, and Tenant shall vacate the property immediately and shall remove all improvements and buildings constructed on the leased premises and shall perform any necessary clean-up or other work required to lease the property in its original condition. Any improvements not removed within ninety (90) days after the termination of this agreement shall become the property of the Landlord. Landlord may re-enter, take possession of the premises and remove any persons or property by legal action or by self-help with the use of reasonable force and without the liability for damages.

21) The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Landlord under applicable law.

22) Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

23) If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to the costs such sum as the court may adjudge reasonable as attorney fees, including attorney fees upon appeal.

24) Any notice required or permitted under this lease shall be given when actually delivered or when deposited in the United States mail as certified mail, addressed as follows:

To Landlord: City of Ontario
444 SW 4th Street
Ontario, Oregon 97914

To Tenant: Mike McDougall
13037 Greenwell Lane,
Caldwell, Idaho 83607

or to such other address as may be specified from time to time by either of the parties in writing.

25) Subject to the above-stated limitation on transfer of Tenant's interest, this lease shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

26) If the Tenant fails to perform any obligation under this lease, the Landlord shall have the option to do so after fifteen (15) day's written notice to the Tenant. All of the Landlord's expenditures to correct the default shall be reimbursed by the Tenant on demand with interest at the rate of 12% per annum from the date of expenditure by the Landlord.

27) In construing this lease, it is understood that the Landlord or Tenant may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed as of the date and year first above written.

CITY OF ONTARIO, OREGON

ATTEST

Riley Hill, Mayor

Tori Barnett, MMC, City Recorder

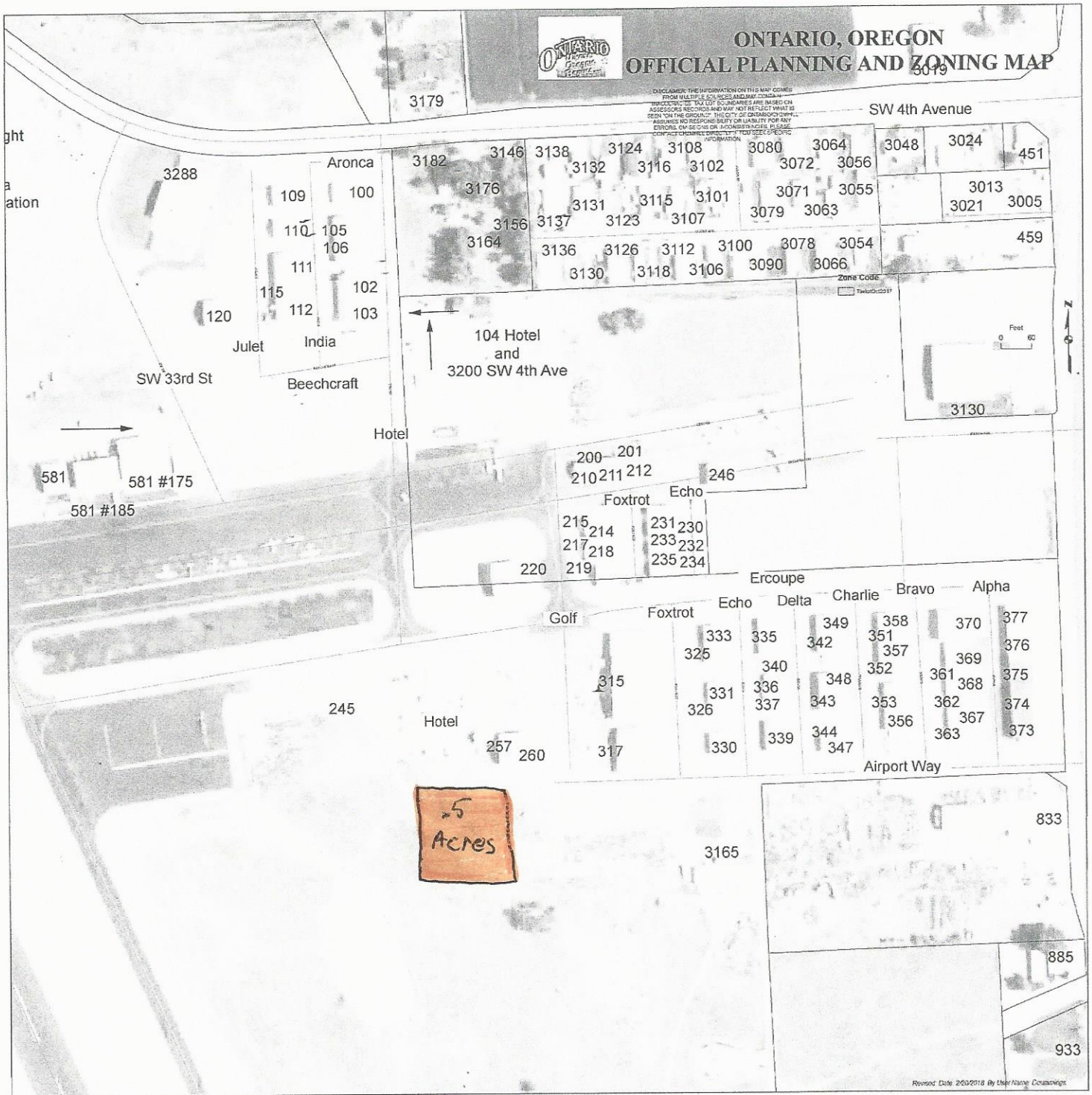
TENANT

TENANT

Mike McDougall

Exhibit "A"

Hanger Lease



City of Ontario
Municipal Airport,
Malheur County,
Oregon