



Location: City Hall – Council Chambers  
Date: June 08, 2021  
Time: 6:30 PM

## City Council Meeting Agenda

Mayor Jason Beebe, Council Members Steve Uffelman, Janet Hutchison, Patricia Jungmann, Gail Merritt, Jeff Papke, Raymond Law and City Manager Steve Forrester  
**This meeting will be open to the public by telephonic communications due to commitment to eliminate the exposure and spread of COVID-19. This meeting can be attended by calling 346-248-7799 Meeting ID 947 5839 2608. Please visit our website for additional meeting information.**

### Call to Order

### Flag Salute

### Additions to Agenda

### Consent Agenda

- [1.](#) Regular Meeting Brief 5-25-2021
- [2.](#) Sayulita Mexican Cuisine Liquor License Application

### Visitors, Appearances and Requests

3. If I Were Mayor Contest Winner - Brandi Ebner / Cecily Cooper
4. Pride Month - Robyn Loxley
5. Humane Society of the Ochoco's Update - Heather O'Daniels

### Council Business

6. City Facility Re-Opening Plan - Steve Forrester / Jered Reid
- [7.](#) Upcoming Ordinance No. 1265 - ADA Code Updates (**PUBLIC HEARING ONLY**)

### Staff Reports and Requests

8. City Manager's Report - Steve Forrester

### Committee Reports

### Ordinances

- [9.](#) Ordinance No. 1264 - Partial Vacation of NW Beaver (**SECOND PRESENTATION**) - Josh Smith



## Resolutions

- [10.](#) Resolution No 1489 - Authorizing the City to Enter Into an IGA with Oregon Department of Forestry - Kelly Coffelt - Kelly Coffelt
- [11.](#) Resolution No. 1490 - Vacating Resolution No. 1482 & Resolution No. 1453 Regarding Meeting Guidelines - Jered Reid

## Visitors, Appearances and Requests

*12. Due to COVID-19 and in an effort to eliminate the exposure and spread of COVID-19, anyone wishing to submit public comment or comments, either to a specific agenda item or otherwise may do so in written format via email at [cityhall@cityofprineville.com](mailto:cityhall@cityofprineville.com) or by mail to 387 NE Third Street, Prineville, OR 97754. Any written submission must include the sender's name, address and be received no later than 4:00 p.m. the day of the meeting. Any comments received prior to the meeting will be shared with the City Council, posted on our City website and become part of the meeting record.*

## Adjourn

***Agenda items maybe added or removed as necessary after publication deadline***



**CITY OF PRINEVILLE**  
**Regular Meeting Brief**  
387 NE Third Street – Prineville, OR 97754  
541.447.5627 ph 541-447-5628 fax

Full Meeting Recordings Available at:  
<http://cityofprineville.com/meetings/>

**City Council Meeting Brief**  
**May 25, 2021**

**Council Members Present:**

Janet Hutchison  
Jason Beebe  
Patricia Jungmann  
Gail Merritt

Ray Law  
Steve Uffelman

**Council Members Absent**

Jeff Papke

**Additions to the Agenda**

None.

**Consent Agenda**

1. Regular Meeting Brief 5-11-2021

**Councilor Hutchison made a motion to approve consent agenda as presented. Motion seconded. No discussion on motion. Motion carried.**

**Visitors, Appearances and Requests:**

**Public Appearances**

No written comments were received.

**Council Business**

2. **Judicial Validation of Resolution No. 1474 – Jered Reid**

Jered Reid, City Attorney explained that the resolution was validated by a Circuit Court (Crook County) on May 13<sup>th</sup>. The resolution now has legal affect. Mr. Reid said first thing to note is that entities within the city of Prineville may use this in an administrative law hearing. For example, if a business were imposed a fine from an administrative agency, when people are following the protocols to minimize exposure to COVID.

Mr. Reid referred to a table as to how fines are imposed.

Mayor Beebe asked about Governor's authority to declare an emergency without 2/3 majority vote. Mr. Reid referred to the various chapters in Oregon Revised Statute (ORS) and how the Governor utilized ORS, and there was also a review of the state of emergency in courts.

Mayor Beebe asked about the possible implementation of vaccine passport and if this is a violation of our 4<sup>th</sup> Amendment Right. Mr. Reid said the short answer is no. It only applies to a state actor, such as a police officer not to a private individual. This is directed more to employers and the right to protect your employees and this is an unfair burden to put this on an employer.

Mayor Beebe asked about HIPA law and how that plays into this. Mr. Reid replied that HIPA itself applies to entities that are the custodians of those health records.

Councilor Hutchison asked whether the resolution was validated in whole or in part. Mr. Reid explained that it was validated in whole with caveats.

Councilor Law had questions regarding if this still comes down to a business owner's choice or not, and if there are any tracking mechanisms to see if we would be able to measure the results should the resolution be used. Mr. Reid explained the scenario and that it could be possible to obtain court records to see if the resolution had been used, however would be very time consuming to do so.

Councilor Jungmann talked about an employee possibly getting injured by asking these vaccine questions and it is a catch 22 when you think about it. People are getting hostile and employees are getting yelled at by following the guidelines.

Councilor Law talked about the need of being understanding of businesses and the hard place they are in, and the possible fines they can get.

There were discussions regarding possible resolutions like another city did.

Mr. Reid discussed the purpose and spirit of Resolution No. 1474. Resolutions that other cities have passed are opinions as a resolution and it is just that. They do not offer any kind of possible protection.

### **3. Ochoco Forest Collaboration (OFRC) Contribution Consideration – Councilor Hutchison**

Councilor Hutchison referred to staff report and the importance of this group and their background.

Steve Forrester, City Manager provided additional background and the great points that have been brought up, the work they do with a lot of stakeholders and drew a connection to the bio-

mass project. Mr. Forrester talked about the health of the forest, water quality, wildlife, air quality, wildfire mitigation and how OFRC is strategic in making this happen.

Councilor Uffelman asked about the budget for the organization for the year. Councilor Hutchison said they have funding to the end of June, however there have been talks of meetings being cutting back.

Mayor Beebe asked if any other organizations such as the county are contributing. Councilor Hutchison talked with the County, however they have not heard back yet.

**Councilor Uffelman made motion to approve a \$5,000 contribution to Ochoco Forest Regional Collaboration. Motion seconded. Discussion on motion. All in favor, motion carried.**

#### **Staff Reports and Requests:**

##### **4. Manager's Report – Steve Forrester**

Mr. Forrester reported: he participated in Bend City Club City Manager's Forum and all city managers were there. The Forum discussed the effects of COVID on our businesses in our communities and homelessness situations. Redmond city staff has been here visiting wetlands for ideas on their own wetland system. Railroad track repairs have been completed and ready to go. Airport still doing project work on changing runway approach and putting some paths in for accessing. Budget had its first presentation and the next budget meeting is on June 1<sup>st</sup>. Please reach out to Liz, Lori or myself with any questions regarding the budget. CDC changing guidance and we are looking at opening up city hall and have council meetings in person. He was able to spend time with staff at the new PD facility and other agencies are interested in working with us on public safety opportunities there.

No comments or questions.

##### **5. Drought Declaration Update – Eric Klann**

Eric Klann, City Engineer said this is just for information and not expecting a decision. Mr. Klann explained that we are in a serious drought condition. There is no water for agriculture. We are hopeful that our farmers can pull through this. The city will be talking to customers about how they can help conserve, the incentives for conserving as well as tools such as leak detection tablets and shower heads. Water is precious.

#### **Committee Reports**

Councilor Uffelman provided a Community Renewable Energy Association (CREA) committee update. Bio-economics and bio-mass potential for Prineville were discussed.

Councilor Hutchison provided an OFCR update. They went on a field trip up Mill Creek and additional rock base is being laid. Then they went to Harvey Gap and looked at streams and into

Prineville on other roads that had a lot of pot holes. It was great communication among the forest service and committee members.

**Ordinances:**

**6. Ordinance No. 1264 – Partial Vacation of NW Beaver Street (FIRST PRESENTATION) – Josh Smith**

Josh Smith, Planning Director presented background information. Mr. Reid provided clarification and referred to the correct date for public hearing and that it would be corrected for second presentation.

**Councilor Law made motion to approve Ordinance No 1264 for its first presentation. Motion seconded. No discussion on motion. All in favor, motion carried.**

**Resolutions:**

**7. Resolution No. 1487 – To Allow Temporary Parklets in the Right of Way for Temporary Outdoor Dining – Casey Kaiser**

Casey Kaiser, Associate Planner provided the staff report and explained a parklet is for temporary outdoor seating capacity for restaurants and went through a power point presentation.

There were discussions if this would be allowed in front of another business, criteria that has to be met, street sweeping, having a sunset on the resolution to expire and safety.

**Councilor Uffelman made motion to amend the resolution to add that this is for year 2021 only. Motion seconded. Discussion on motion. All in favor, motion carried.**

**Councilor Uffelman made motion to approve Resolution No. 1487 as amended. Motion seconded. No discussion on motion. All in favor, motion carried.**

**8. Resolution No 1488 – Authorization to Efficiently Minimize or Mitigate the Effects of the COVID-19 Pandemic – Jered Reid**

Mr. Reid explained that it doesn't seem to have a necessity at this point and advised not to renew it.

**No motion made to approve. Resolution failed.**

**Visitors Appearances and Requests:**

No written comments were received.

**Adjourn**

**Councilor Law made a motion to adjourn the meeting. Motion seconded. No discussion on motion. All in favor, motion carried.**

Meeting adjourned at 8:03 P.M.

**Motions and Outcomes:**

Motion:	Outcome	Beebe	Hutchison	Jungmann	Law	Merritt	Papke	Uffelman
Consent Agenda	PASSED	Y	Y	Y	-	Y	-	-
Motion to Approve a \$5,000 Contribution to Ochoco Forest Regional Collaboration	PASSED	Y	Y	Y	Y	Y	-	Y
Ordinance No. 1264 – Partial Vacation of NW Beaver Street ( <b>FIRST PRESENTATION</b> )	PASSED	Y	Y	Y	Y	Y	-	Y
Motion to amend Resolution No. 1487 to add that this is for the year 2021 only	PASSED	Y	Y	Y	Y	Y	-	Y
Resolution No. 1487 – To Allow Temporary Parklets in the Right of Way for Temporary Outdoor Dining - <b>AS AMENDED</b>	PASSED	Y	Y	Y	Y	Y	-	Y
Resolution No 1488 – Authorization to Efficiently Minimize or Mitigate the Effects of the COVID-19 Pandemic	FAILED – NO MOTION	-	-	-	-	-	-	-
Adjourn Meeting	PASSED	Y	Y	Y	Y	Y	-	Y

Public Records Disclosure

Under the Oregon public records law, all documents referred to in this session are available at the City’s website. [www.cityofprineville.com](http://www.cityofprineville.com). An electronic copy of the meeting packet is available for download at [www.cityofprineville.com/packets](http://www.cityofprineville.com/packets). A full recording of this meeting is available at [www.cityofprineville.com/meetings](http://www.cityofprineville.com/meetings)



# LIQUOR LICENSE APPLICATION

PRINT FORM

RESET FORM

1. Application. **Do not include** any OLCC fees with your application packet (the license fee will be collected at a later time). Application is being made for:

License Applied For:	CITY AND COUNTY USE ONLY
<input type="checkbox"/> Brewery 1 <sup>st</sup> Location	Date application received and/or date stamp: <b>May 20, 2021</b>
<input type="checkbox"/> Brewery Additional location (2 <sup>nd</sup> ) <input type="checkbox"/> (3 <sup>rd</sup> ) <input type="checkbox"/>	Name of City or County: <b>City of Prineville</b>
<input type="checkbox"/> Brewery-Public House (BPH) 1 <sup>st</sup> location	Recommends this license be: <input type="checkbox"/> Granted <input type="checkbox"/> Denied
<input type="checkbox"/> BPH Additional location (2 <sup>nd</sup> ) <input type="checkbox"/> (3 <sup>rd</sup> ) <input type="checkbox"/>	By: _____
<input type="checkbox"/> Distillery	Date: _____
<input type="checkbox"/> Full On-Premises, Commercial	<b>OLCC USE ONLY</b>
<input type="checkbox"/> Full On-Premises, Caterer	Date application received: <b>4/12/21</b>
<input type="checkbox"/> Full On-Premises, Passenger Carrier	Date application accepted: <b>4/19/21</b>
<input type="checkbox"/> Full On-Premises, Other Public Location	License Action(s): <b>N/O</b>
<input type="checkbox"/> Full On-Premises, For Profit Private Club	
<input type="checkbox"/> Full On-Premises, Nonprofit Private Club	
<input type="checkbox"/> Grower Sales Privilege (GSP) 1 <sup>st</sup> location	
<input type="checkbox"/> GSP Additional location (2 <sup>nd</sup> ) <input type="checkbox"/> (3 <sup>rd</sup> ) <input type="checkbox"/>	
<input type="checkbox"/> Limited On-Premises	
<input checked="" type="checkbox"/> Off-Premises	
<input type="checkbox"/> Warehouse	
<input type="checkbox"/> Wholesale Malt Beverage & Wine	
<input type="checkbox"/> Winery 1 <sup>st</sup> Location	
<input type="checkbox"/> Winery Additional location (2 <sup>nd</sup> ) <input type="checkbox"/> (3 <sup>rd</sup> ) <input type="checkbox"/> (4 <sup>th</sup> ) <input type="checkbox"/> (5 <sup>th</sup> ) <input type="checkbox"/>	

2. Identify the applicant(s) applying for the license(s). **ENTITY (example: corporation or LLC) or INDIVIDUAL(S)<sup>1</sup>** applying for the license(s):

Sayulita Mexican Cuisine Inc

App #1: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #2: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #3: NAME OF ENTITY OR INDIVIDUAL APPLICANT

App #4: NAME OF ENTITY OR INDIVIDUAL APPLICANT

<b>3. Trade Name of the Business (Name Customers Will See)</b> Sayulita Mexican Cuisine		
<b>4. Business Address (Number and Street Address of the Location that will have the liquor license)</b> 555 N Main st		
City Prineville	County Crook	Zip Code 97754

<sup>1</sup> Read the instructions on page 1 carefully. If an entity is applying for the license, list the name of the entity as an applicant. If an individual is applying as a sole proprietor (no entity), list the individual as an applicant.





OREGON LIQUOR CONTROL COMMISSION

LIQUOR LICENSE APPLICATION

5. Trade Name of the Business (Name Customers Will See)  
Sayulita Mexican Cuisine

6. Does the business address currently have an OLCC liquor license?  YES  NO

7. Does the business address currently have an OLCC marijuana license?  YES  NO

8. Mailing Address/PO Box, Number, Street, Rural Route (where the OLCC will send your license certificate, renewal application and other mailings as described in OAR 845-004-0065[1].)  
PO Box 1668

City Redmond	State OR	Zip Code 97756
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9. Phone Number of the Business Location

10. Email Contact for this Application and for the Business  
mazatlanrestmex@gmail.com

11. Contact Person for this Application  
Laura Garcia

Phone Number  
[REDACTED]

Contact Person's Mailing Address (if different)	City	State	Zip Code
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Please note that liquor license applications are public records. A copy of the application will be posted on the OLCC website for a period of several weeks.

**ATTESTATION: \*\*READ CAREFULLY AND MAKE SURE YOU UNDERSTAND BEFORE SIGNING THIS FORM\*\***

I understand that marijuana is **prohibited** on the licensed premises. This includes marijuana use, consumption, ingestion, inhalation, samples, give-away, sale, etc. I attest that all answers on all forms and documents, and all information provided to the OLCC as a part of this application are true and complete.

I affirm that I have read OAR 845-005-0311 and all individuals (sole proprietors) or entities with an ownership interest (other than waivable ownership interest per OAR 845-005-0311[6]) are listed as license applicants in #2 above. I understand that failure to list an individual or entity who has an unwaivable ownership interest in the business may result in denial of my license or the OLCC taking action against my license in the event that an undisclosed ownership interest is discovered after license issuance.

**Applicant(s) Signature**

- Each individual (sole proprietor) listed as an applicant must sign the application below.
- If an applicant is an entity, such as a corporation or LLC, at least one **INDIVIDUAL who is authorized to sign for the entity** must sign the application.
- An individual with the authority to sign on behalf of the applicant (such as the applicant's attorney or an individual with power of attorney) may sign the application. If an individual other than an applicant signs the application, please provide written proof of signature authority. Attorneys signing on behalf of applicants may list the state of bar licensure and bar number in lieu of written proof of authority from an applicant. **Applicants are still responsible for all information on this form.**

Isaias Gradilla		03/29/2021	
App. #1: (PRINT NAME)	App #1: (SIGNATURE)	App #1: Signature Date	Atty. Bar Information (if applicable)
App. #2: (PRINT NAME)	App #2: (SIGNATURE)	App #2: Signature Date	Atty. Bar Information (if applicable)
App. #3: (PRINT NAME)	App #3: (SIGNATURE)	App #3: Signature Date	Atty. Bar Information (if applicable)
App. #4: (PRINT NAME)	App #4: (SIGNATURE)	App #4: Signature Date	Atty. Bar Information (if applicable)



# OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

PRINT FORM

RESET FORM

1. Name (Print):	Gradilla	Isaias	
	Last	First	Middle

2. Other names used (maiden, other):

3. Do you have a Social Security Number (SSN) issued by the United States Social Security Administration? Yes  No   
 If yes, you must list your SSN: [REDACTED]

**SOCIAL SECURITY NUMBER DISCLOSURE:** As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). If you are an applicant or licensee and fail to provide your SSN, the OLCC may refuse to process your application. Your SSN will be used only for child support enforcement purposes unless you indicate below.

Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)).

4. Do you consent to the OLCC's use of my SSN as described above? Check this box:

5. Date of Birth (DOB):	07	07	[REDACTED]
	(mm)	(dd)	(yyyy)

6. Driver License or State ID #: [REDACTED]	7. State OR
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8. Contact Phone: 541-[REDACTED]

9. E-mail Address: mazatlanrestmex@gamil.com

10. Mailing Address:	Redmond	OR	97756
	(Number and Street)	(City)	(State) (Zip Code)

11. In the past 10 years, have you been convicted of a felony or a misdemeanor in a U.S. state outside of Oregon?

No  Yes  (If yes, explain in the space provided, below) Unsure  Choose this option and provide an explanation if, for example: you were arrested or went to court, but are unsure of whether there was a conviction; you paid a fine or served probation or parole, but are unsure of whether there was a conviction; or if you know you had a conviction, but you are unsure of whether the conviction has been removed from your record, etc.



# OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY FORM

12. Do you, or any entity that you are a part of, **currently hold** or **have you previously held** a recreational marijuana license in Oregon? (Note: marijuana worker permits are not marijuana licenses.)

No  Yes  Please list licenses (and year(s) licensed) below    Unsure  Please include an explanation:

13. Do you, or any entity that you are a part of, hold an alcohol license in a U.S. state outside of Oregon?

No  Yes  Please list licenses (and year(s) licensed) below    Unsure  Please include an explanation:

14. Do you or any entity that you are a part of, have any other liquor license applications pending with the OLCC?

No  Yes  Please list applications below    Unsure  Please include an explanation:

You must sign your own form (electronic signature acceptable). Another individual, such as your attorney or an individual with power of attorney, **may not** sign your form.

**Affirmation**

Even if I receive assistance in completing this form, I affirm by my signature below, that my answers on this form are true and complete. I understand the OLCC will use the above information to check my records, including but not limited to my criminal history. I understand that if my answers are not true and complete, the OLCC may deny my license application.

Name (Print):	Gradilla	Isaias	
	Last	First	Middle
Signature:			Date: 04/19/2021

**This box for OLCC use ONLY**

\_\_\_\_\_ Does the individual currently hold, or has the individual previously held, an OLCC- issued liquor license?



# OREGON LIQUOR CONTROL COMMISSION BUSINESS INFORMATION

Please Print or Type

Applicant Name: Sayulita Mexican Cuisine Inc Phone: \_\_\_\_\_

Trade Name (dba): Sayulita Mexican Cuisine

Business Location Address: 555 N Main St

City: Prineville ZIP Code: 97754

### DAYS AND HOURS OF OPERATION

#### Business Hours:

Sunday	<u>11:00 am</u>	to	<u>10:00 pm</u>
Monday	<u>11:00 am</u>	to	<u>10:00 pm</u>
Tuesday	<u>11:00 am</u>	to	<u>10:00 pm</u>
Wednesday	<u>11:00 am</u>	to	<u>10:00 pm</u>
Thursday	<u>11:00 am</u>	to	<u>10:00 pm</u>
Friday	<u>11:00 am</u>	to	<u>10:00 pm</u>
Saturday	<u>11:00 am</u>	to	<u>10:00 pm</u>

#### Outdoor Area Hours:

Sunday	_____	to	_____
Monday	_____	to	_____
Tuesday	_____	to	_____
Wednesday	_____	to	_____
Thursday	_____	to	_____
Friday	_____	to	_____
Saturday	_____	to	_____

The outdoor area is used for:

- Food service Hours: \_\_\_\_\_ to \_\_\_\_\_
- Alcohol service Hours: \_\_\_\_\_ to \_\_\_\_\_
- Enclosed, how \_\_\_\_\_

The exterior area is adequately viewed and/or supervised by Service Permittees.

\_\_\_\_\_ (Investigator's Initials)

Seasonal Variations:  Yes  No If yes, explain: \_\_\_\_\_

### ENTERTAINMENT

Check all that apply:

- Live Music
- Recorded Music
- DJ Music
- Dancing
- Nude Entertainers
- Karaoke
- Coin-operated Games
- Video Lottery Machines
- Social Gaming
- Pool Tables
- Other: \_\_\_\_\_

### DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday	_____	to	_____
Monday	_____	to	_____
Tuesday	_____	to	_____
Wednesday	_____	to	_____
Thursday	_____	to	_____
Friday	_____	to	_____
Saturday	_____	to	_____

### SEATING COUNT

Restaurant: 200 Outdoor: \_\_\_\_\_

Lounge: \_\_\_\_\_ Other (explain): \_\_\_\_\_

Banquet: \_\_\_\_\_ Total Seating: 200

#### OLCC USE ONLY

Investigator Verified Seating: \_\_\_\_ (Y) \_\_\_\_ (N)

Investigator Initials: \_\_\_\_\_

Date: \_\_\_\_\_

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: [Signature] Date: 03/29/2021

1-800-452-OLCC (6522)

www.oregon.gov/olcc

(rev. 12/07)



**OREGON LIQUOR CONTROL COMMISSION**

**PUBLIC NOTICE**

**Sayulita Mexican Cuisine Inc.**

Applicant

Has applied for a **Off-Premises**

License type

At **555 N Main St, Prineville 97754**

Premises street address, city, zip code

If you have questions for the applicant you may contact:

**Laura Garcia**

Name of contact person

**PO BOX 1668 Redmond, OR. 97756**

Contact person's mailing address (at an address other than the premises address)

If you would like to contact the OLCC regarding this application:

**PO BOX 22297 Milwaukie, OR. 97269**

Mailing address of the local OLCC office



## STAFF REPORT

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<b>MEETING DATE:</b>	6/8/2021	<b>PREPARED BY:</b>	Joshua Smith
<b>SECTION:</b>	Ordinance (Public Hearing)	<b>DEPARTMENT:</b>	Planning
<b>CITY GOAL:</b>	Position the City of the future		
<b>SUBJECT:</b>	Text amendments to the City code Chapters 30, 90 and 153.		

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**REASON FOR CONSIDERATION:** The City of Prineville is completing an ADA transition plan that identified terminology within City code that should be updated to use common terms practices. The City is also updating criteria for ADUs and partitions to ease the approval process and remove contradictory language.

### DOCUMENT OVERVIEW:

Planning Commission Recommendation: This document provides background information with findings and recommendation from the Planning Commission.

Exhibit A “track changes”: This document is part of the Planning Commission recommendation. It shows the recommended updates in “track changes” with purpose statements at the end of each section explaining the changes.



**City of Prineville**  
**DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT**  
**PLANNING COMMISSION RECOMMENDATION**

**File No.:** AM-2021-100  
**Applicant/Owner:** City of Prineville  
**Notice to DLCD:** 4/21/2021  
**PC Review:** 4/20/2021  
**Newspaper Notice:** Planning Commission Notice – 5/04/2021  
**Public Hearing:** Planning Commission – 5/18/2021  
**Staff:** Joshua Smith,  
 Planning Director

**Proposal:** Legislative Text Amendment, for specific sections of the land use code. These amendments will update ADA related code and terminology and how Accessory Dwelling Units (ADUs) and Partitions are processed.

**Criteria:** Chapter 153 sections 153.230 – 153.236, 153.252

**Background**

First, the City of Prineville is completing an ADA transition plan that identified terminology within City code that is out of date and should be amended. Second, the City updated its land use code through Ordinance 1262 to adhere to requirements of HB2001 regarding housing. That Ordinance should have changed the approval process of ADUs from a conditional use to an outright use. This allows them to be approved similar to a single family home without a lengthy notice process. Finally, the city’s partition processes are slightly out of date and contradictory with other portions of the code that have previously been updated.

**Consistent with Statewide Planning Goal 2 & 10**

Oregon Statewide Planning Goal 2 requires Cities to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions. The proposed amendments specifically address Goal 2 by providing a clear process for ADUs and partitions. Oregon Statewide Planning Goal 10 requires Cities to provide for the housing needs of the state. The proposed amendments specifically address Goal 10 by correcting an omission in Ordinance 1262 when updating the land use code for HB 2001.

**Planning Commission Conclusions and Recommendation**

The proposed amendments will provide consistency in ADA terminology and changes to the land use code, that provide more clear and less time consuming processes for ADU and Partition applications.

At the Planning Commissions May 18<sup>th</sup>, 2021 hearing, the Planning Commission voted 5 in favor and none opposed to recommend adoption of the code amendments shown in track changes on Exhibit ‘A’

**EXHIBITS**

Exhibit A - Recommended changes

Marty Bailey: W. Martin Bailey Date: 5-18-21  
 Planning Commission Chair

**CHAPTER 30: CITY COUNCIL, CHAPTER 90: PROHIBITIONS,  
CHAPTER 153: LAND DEVELOPMENT CODE**

**Updating sections for compliance with ADA language.**

The three dots “...” represent text that is not being changed.

**Section 30.10(A) & (B) shall be amended as follows:**

**30.10 PUBLIC MEMBERS ADDRESSING COUNCIL**

(A) Any public member desiring to address the Council shall ~~stand and~~ wait to be recognized by the presiding officer. After recognition, the person’s name and address shall be stated for the record and the remarks shall be limited to the question under discussion. All remarks and questions shall be addressed to the presiding officer and not to any individual Council member, staff member or other person. No person shall enter into any discussion without being recognized by the presiding officer.

(B) Any public member addressing the Council shall be limited to five minutes unless further time is granted by the presiding officer or an exception is made for persons with disabilities. No public member shall be allowed to speak more than once upon any one subject until every other public member choosing to speak thereon has spoken.

**Section 90.02(B) shall be amended as follows:**

**90.02 PROHIBITIONS.**

No person, while on property owned by, leased to, or controlled by the City of Prineville, shall possess or be in control of a dog that meets any of the following conditions:

(B) Is not controlled by a leash adequate for the dog; of less than ~~ten~~ 10 feet in length. Exceptions include service animals and ~~and adequate for the dog unless on the real property of the owner, possessor or controller or in a~~ designated off-leash areas.

**153.083 STANDARDS FOR SPECIFIC USES.**

(A) Residential care facility or residential care home. When permitted as a conditional use, the facilities shall be subject to the following conditions and limitations:

(5) Appropriate ~~handicapped~~ facilities and access for people with disabilities shall be provided and/or installed as recommended by the appropriate local, county or state officials.



**Section 153.093 (B), (C) & (E)(1) shall be amended as follows:****153.093 OUTDOOR MERCHANDISING.**

(B) Prohibition. Except as otherwise approved by the ~~city~~reviewing authority, all commercial uses ~~in the commercial zones~~ shall be conducted entirely within a completely enclosed building, except that the outdoor storage display, sale or rental of merchandise or services may be permitted where the standards of division (D) of this section are met.

(C) The following uses and activities, subject to applicable conditions and division (E) of this section, are exempt from the prohibition set forth in division (B) of this section.

(1) The sale of living plants and plant materials.

(2) Outdoor seating common to a use permitted within the applicable zone.  
~~in conjunction with a restaurant.~~

(3) Christmas tree sales lot.

(4) Vehicle charging stations and/or ~~The dispensing of gasoline fuel and other automotive supplies~~ at a service stations.

(5) Newspaper vending ~~machines subject to division (E) of this section.~~

(6) Sales of food items, arts and handicrafts by a nonprofit organization.  
~~subject to division (E)(2).~~

(7) Automatic teller machines, subject to the design review requirements set forth in this subchapter.

~~(8) Telephone booths, subject to the design review requirements set forth in this subchapter.~~

~~(89)~~ Outdoor displays of merchandise common to a use permitted within the applicable zone such as retail store fronts, automobile sales, boat sales, building materials, farm and other heavy equipment, hardware and the like, when such is approved as an integral component of an approved use within the applicable zone.

~~(910)~~ Outdoor sales of goods and materials as a part of a business community sidewalk, patio or other promotional sales event.

~~(1011)~~ Community outdoor sales events and activities in association with a community event such as a 4th of July celebration, fair, rodeo, centennial and the like.

~~(1112)~~ Garage, patio and yard sales on an individual or group basis, including community sponsored flea or farmers markets.

~~(1213)~~ Outdoor sales or goods and materials authorized pursuant to Ch. 110.

(E) The following additional requirements are applicable to certain types of outdoor merchandising.

(1) ~~Newspaper vending machines.~~ Newspaper vending machines, Displays or merchandise placed on a public or private sidewalk, walkway or path shall be located so that the use of the sidewalk area by handicapped people with disabilities ~~persons~~ is not impeded. This standard shall be met by maintaining the a minimum requirements of the Adults with Disabilities Act (ADA) as amended. ~~unobstructed sidewalk width of 4 feet.~~

**Section 153.095(F)(4)(a) & (5) shall be amended as follows:**

**153.095 MANUFACTURED HOMES; MOBILE HOMES; RV'S.**

(F) Recreational vehicles and Manufactured homes: temporary residence for care of ~~an elderly or infirm person; or person with disabilities~~ ~~relative~~.

(4) As a temporary special use permit in every zone in which residential uses are permitted, the City Planning Official, as a type I conditional use permit, may approve 1 manufactured home or RV in conjunction with a primary dwelling unit with the following findings and limitations.

(a) That the unit is necessary to give care for or provide custody of an elderly, ~~handicapped~~ or infirm person; or person with disabilities, ~~relative~~ who a medical doctor certifies is in need of this special kind of care or custody.

(b) The applicant and permit holder is the owner and resident of the primary dwelling and is the care provider for the ~~infirm relative~~ person for which the special use permit is granted.

(5) A temporary special use permit granted under this subsection shall be null and void when the elderly, ~~handicapped~~ or infirm person; or person with disabilities ~~relative~~ who is the subject of the permit moves to another residence or is absent from the residence for more than 120 days, or leaves the residence with no likelihood of returning. Exception to the 120-day limit may be approved because of extraordinary circumstances such as extended hospitalization, but in any case, the subject unit shall not be occupied by any other person(s) other than originally intended and approved for.

*Purpose: The primary purpose of these code revisions is to update terms to meet current Federal ADA language.*

*When reviewing the land use sections it was found that other aspects of these sections should also be updated to reflect current realities.*

*Outdoor merchandising language was modified to require all outdoor displays on public and private areas to meet clear path of travel requirements. Items in section (C) were added and removed.*

*Temporary residence language was modified to remove the requirement of a caregiver to be a relative.*

**Updating review process for ADUs & Partitions.**

**Section 153.035 shall be amended as follows:**

**153.035 RESIDENTIAL USE TABLE**

**RESIDENTIAL / ACCESSORY USES**

Accessory Dwelling	<del>T10</del>	<del>T10</del>	<del>T10</del>	<del>T10</del>	0	153.080
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*Purpose:* State law requires Accessory Dwellings (ADUs) to be allowed per single family home. We currently process ADUs as Type 1 conditional uses that require notice like any other land use action. However based on the requirement and new requirements for duplexes they should be approved without notice, as a development action, just like any other single family home, duplex or accessory structure.

**Section 153.160(D), (E) & (I) shall be amended as follows:**

**153.160 LAND PARTITIONING**

(D) Exemption. Partitions resulting in the following are not subject to the land partitioning requirements or applicable zoning regulations set forth by this chapter. However a final plat map shall be required in accordance with State law.

(1) The partitioning of property for the purpose a tract of land in which not more than 1 parcel is created and the parcel is being transferred of transferring property or properties to a public or semi-public agency for ~~the purpose of~~ a public road, street, railroad, electric substation, canal, utility right-of-way, public park, school, recreation facility, trail, bikeway, natural area or other similar public purpose.

*Purpose:* Remove the limitation of “not more than one parcel” Partitions can result in at least 3 parcels that may transfer to different public entities.

(E) Filing procedures and requirements. Any person proposing a land partitioning, or the authorized agent or representative thereof, shall prepare and submit ~~a 10~~ copies of the tentative plan as specified under (E)(4) of this section for a major partitioning requiring a hearing and 3 copies for a minor partitioning, together with a digital copy and the prescribed application form and required filing fee, to the City Planning Official.

(1) Minor partitioning. The ~~Planning Official~~ reviewing authority shall take action to either approve the application as submitted, approve with modifications or conditions, ~~or deny the application,~~ or, ~~the Planning Official may~~ refer the subject application to the Planning Commission for review and action thereon. Review of a minor partition shall follow the procedures and policies for a land use action applications, hearings and decisions set forth in sections 153.2504 through 153.256 et seq.

(2) Major partitioning. With an application and tentative plan for a major partitioning, the application shall be referred to the Planning Commission for ~~the initial hearing for~~ review and action if 1 or more objections are received in writing during the required ~~10-14~~ day notice period for a land use action. The Planning Commission may

approve the application as submitted, approve with modifications or conditions or deny the application.

(3) Series partitioning. Any division of land resulting in a series partitioning ~~shall~~ may be ~~subject~~ referred to ~~review and approval by~~ the Planning Commission for review and approval. Applications for any series partitioning shall be made and processed in the same manner as a ~~major~~ minor partitioning. Approval requirements shall be the same as for any partitioning, however, the ~~Commission~~ reviewing authority shall deny any such series partitioning when it is determined that the partitioning ~~is~~ are done for the purpose of circumventing applicable subdivision regulations.

*Purpose: These sections are out of date and do not reflect language or some of the processes the City currently uses. The language in the first two sentences of the series partition section are specifically contradictory. Most partitions are series partitions, as most properties have been partitioned or subdivided in the City. Series partitions should be processed as a minor partition unless it qualifies as a major partition or is clearly trying to subvert subdivision requirements or platting procedures. However, partition and subdivision requirements are virtually the same. Requesting partitions in consecutive years would be a red flag.*

~~(I) — Partitioning for financial purposes.~~

~~(1) — Upon application to the City Planning Director, the person may grant a special permit authorizing creation of a security interest or leasehold in a parcel of land. A filing fee as may be established by the City Council shall be required.~~

~~(2) — Permits issued under the authority of this division (H) shall be subject to the following limitations and restrictions.~~

~~(a) — A parcel possessed by a person under the terms of a lease or a security interest, and the remaining parcels, must remain in the legal use(s) that the parcels were at the time the interest become possessory; except as may be the basis of the security interest, no additional structure or improvement may be added to any parcel by the authority of the permit authorized pursuant to this division (H).~~

~~(b) — A permit authorized by this division (H) shall only be valid for the time of the lease or the life of the security interest; except when there is a default and foreclosure upon a security interest.~~

~~(c) — At the end of the life of the security interest, if there is no default or foreclosure, or in the case of leaseholds at the end of the lease, the parcels shall be rejoined into a contiguous unit of land under one ownership and, if possible, shall be reunited or combined into a single tax lot. The owner of the property shall be in violation of this chapter if he has not, within 30 days of the permit becoming void, made written application to the County Assessor for the combination of the parcels into a single tax lot.~~

~~(3) — A permit issued pursuant to the provisions of this division (H) shall be immediately void if the owner of the property attempts any transfer of the subject parcels, except as provided by the terms of the permit.~~

*Purpose: To my knowledge this section has never been used and may not be legal anymore. It would also be difficult to manage if it was. Interest in property can be done through lease agreement or by deed without City involvement. Tax lots can also be created by the assessor outside of the land use process. This allows for separate tax bills but does not create a legal lot.*

**ORDINANCE NO. 1264**

**AN ORDINANCE VACATING A PORTION OF NW BEAVER STREET AND PORTION OF ALLEY OFF NW 7<sup>th</sup> STREET BETWEEN NW BEAVER AND NORTH MAIN STREET.**

**WHEREAS**, pursuant to provisions of ORS Chapter 271, on the City Council’s own motion, the City of Prineville intends to vacate a portion of NW Beaver Street and portion of alley between NW Beaver and North Main Street; which portions are specifically described and shown in Exhibit A & B, attached hereto and hereby adopted by reference; and

**WHEREAS**, the adjacent property owner “Parr Lumber” requested the proposed street and alley vacation; and

**WHEREAS**, city staff reviewed the proposal and determined that there is no current or future need for these portions of right-of-way and determined that the vacation will ultimately reduce the City’s maintenance cost.

**WHEREAS**, the remaining portion of right-of-way will remain to serve adjacent properties and be maintained by the City; and

**WHEREAS**, notice of the proposed vacation and hearing was published in the Central Oregonian newspaper once each week for two consecutive weeks prior to May 11, 2021; and

**WHEREAS**, a public hearing considering the vacation was held by the City of Prineville on May 11, 2021 to allow an opportunity for any interested person to appear and present comment.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF PRINEVILLE ORDAIN AS FOLLOWS:**

1. A portion of NW Beaver Street right-of-way and portion of alley between NW Beaver Street and N. Main Street described in Exhibit A is hereby vacated with equal portions of property being conveyed to the adjacent land owners.
2. It is the applicant’s (Parr Lumber) responsibility to relocate or provide easements for any existing utilities entitled to use said portions of right-of-way or demonstrate that such utilities are not present, prior to this vacation becoming final.
3. That the City shall not have any further obligation to maintain the vacated area or provide fencing of the vacated area.

Presented for the first time at a regular meeting of the City Council held on May 25, 2021 and the City Council finally enacted the foregoing ordinance this \_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Rodney J. Beebe  
Mayor

ATTEST:

\_\_\_\_\_  
Lisa Morgan, City Recorder

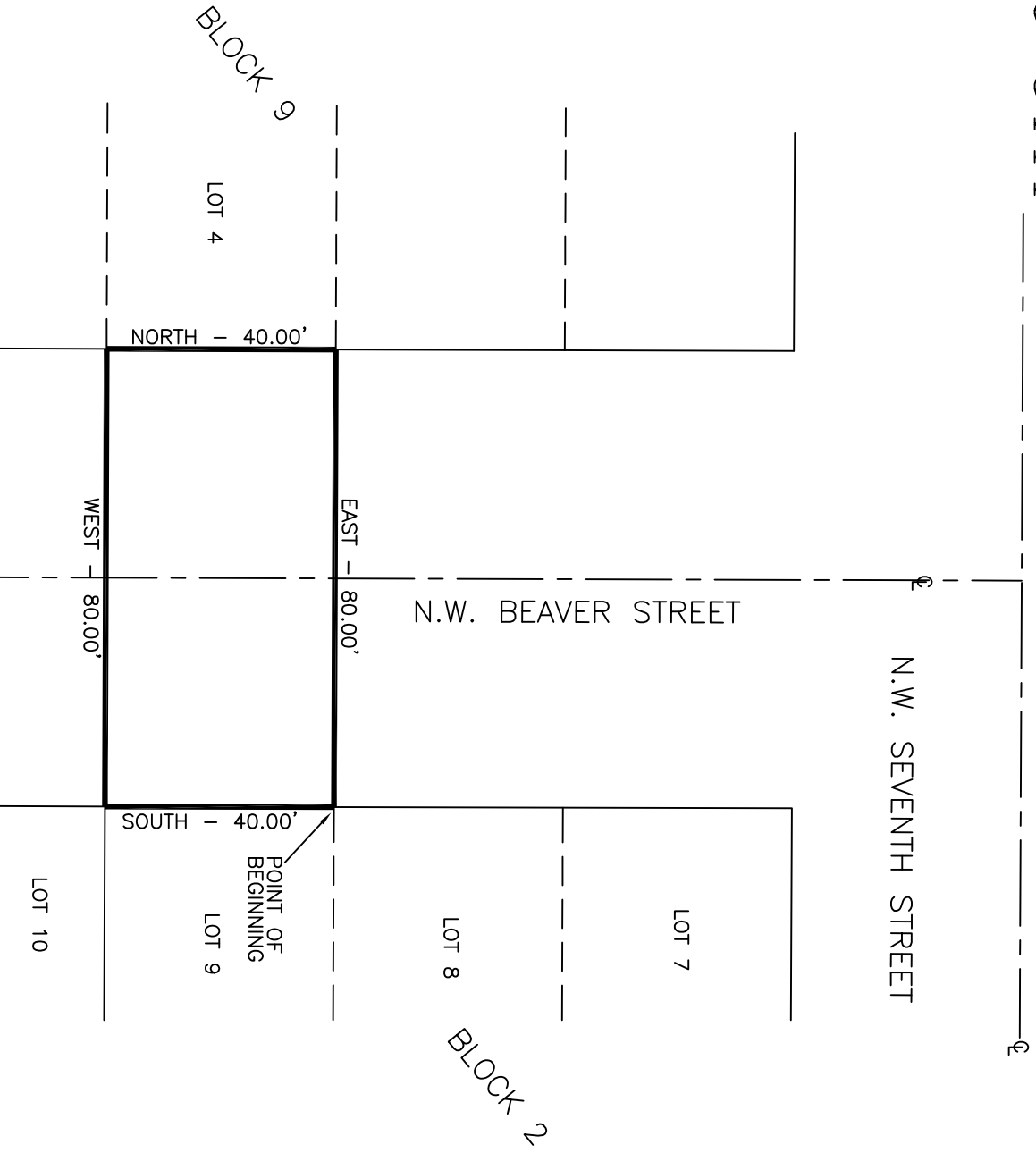
# Exhibit A

LEGAL DESCRIPTION FOR A ROAD VACATION OF A PORTION OF N.W. BEAVER STREET IN THE SECOND ADDITION TO PRINEVILLE, LOCATED IN THE SE1/4 OF THE SE1/4 OF SECTION 31, T.14S., R.16E., W.M., CITY OF PRINEVILLE, CROOK COUNTY, OREGON  
W.O. 20-5444

## LEGAL DESCRIPTION

Legal description for a partial road vacation of N.W. Beaver Street, located in the Second Addition to Prineville, in the Southeast one-quarter of the Southeast one-quarter (SE1/4 SE1/4) of Section 31, Township 14 South, Range 16 East, W.M., City of Prineville, Crook County, Oregon, more particularly described as follows: Beginning at the Northwest corner of Lot 9, Block 2 of said Second Addition to Prineville, thence South along the West line of said Lot 9 a distance of 40.00 feet to the Southwest corner of said Lot 9; thence West a distance of 80.00 feet to the to the Southeast corner of Lot 4, Block 9, Second Addition to Prineville; thence North along the East line of said Lot 4 a distance of 40.00 feet to the Northeast corner of said Lot 4; thence East a distance of 80.00 feet to the Point of Beginning.

EXHIBIT MAP FOR A ROAD VACATION LEGAL DESCRIPTION OF A PORTION OF N.W. BEAVER STREET IN THE SECOND ADDITION TO PRINEVILLE, LOCATED IN THE SE1/4 OF THE SE1/4 OF SECTION 31, T.14S., R.16E., W.M., CITY OF PRINEVILLE, CROOK COUNTY, OREGON  
W. O. 20-5444



# Exhibit B

LEGAL DESCRIPTION FOR AN ALLEY VACATION IN BLOCK 2 OF THE SECOND ADDITION TO PRINEVILLE, LOCATED IN THE SE1/4 OF THE SE1/4 OF SECTION 31, T.14S., R.16E., W.M., CITY OF PRINEVILLE, CROOK COUNTY, OREGON  
W.O. 20-5444

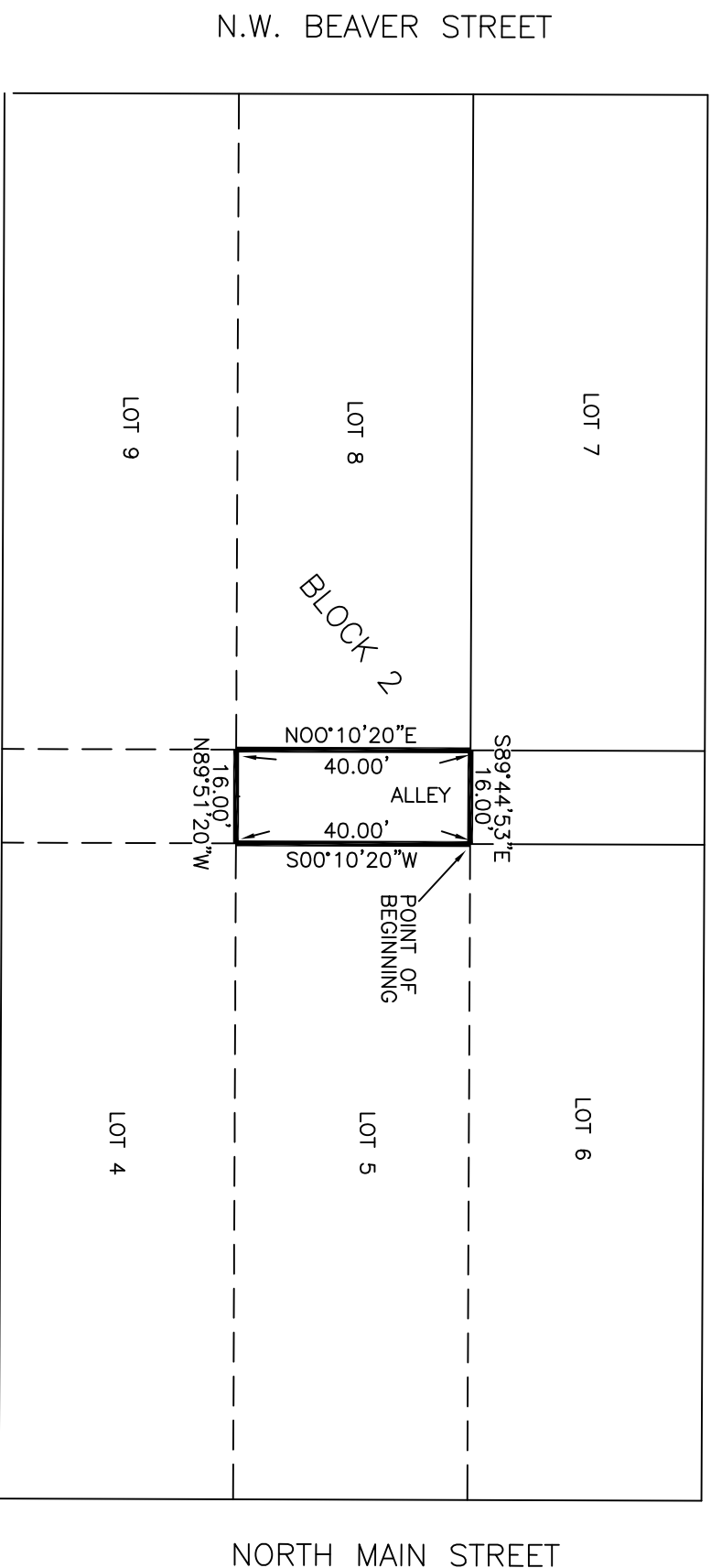
## LEGAL DESCRIPTION

Legal description for an alley vacation, located in Block 2 of the Second Addition to Prineville, in the Southeast one-quarter of the Southeast one-quarter (SE1/4 SE1/4) of Section 31, Township 14 South, Range 16 East, W.M., City of Prineville, Crook County, Oregon, more particularly described as follows: Beginning at the Northwest corner of Lot 5 of said Block 2, thence South 00°10'20" West along the West lines of Lot 5 of said Block 2 a distance of 40.00 feet to the Southwest corner of said Lot 5; thence North 89°51'20" West a distance of 16.00 feet to the Southeast corner of Lot 8 of said Block 2; thence North 00°10'20" East along the East line of Lots 8 of said Block 2 a distance of 40.00 feet to the Northeast corner of said Lot 8; thence South 89°44'53" East a distance of 16.00 feet to the Point of Beginning.



EXHIBIT MAP FOR AN ALLEY VACATION LEGAL DESCRIPTION  
 IN BLOCK 2 OF THE SECOND ADDITION TO PRINEVILLE,  
 LOCATED IN THE SE1/4 OF THE SE1/4 OF SECTION 31,  
 T.14S., R.16E., W.M., CITY OF PRINEVILLE, CROOK COUNTY,  
 OREGON  
 W.O. 20-5444

N.W. SEVENTH STREET



**RESOLUTION NO. 1489  
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION AUTHORIZING THE CITY OF PRINEVILLE TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON, ACTING BY AND THROUGH ITS DEPARTMENT OF FORESTRY**

**Whereas**, City of Prineville (“City”) is the manager of the Prineville/Crook County Airport (“Airport”); and

**Whereas**, State of Oregon, acting by and through its Department of Forestry (ODF) desires to locate two single engine air tankers, service trailer with truck, and office trailer (“Equipment”) and conduct air tanker operations at the Airport for the 2021 fire season; and

**Whereas**, the Parties have agreed on terms of ODF locating its Equipment and conducting air tanking operations; and

**Whereas**, ODF has prepared an Intergovernmental Agreement (“Agreement”) for City’s consideration; and

**Whereas**, Agreement is authorized by ORS 190.100; and

**Whereas**, City staff believes it is in the best interest of the City to approve and execute the Agreement;

**Now, Therefore**, the City of Prineville resolves that the Intergovernmental Agreement attached to this Resolution between the City and ODF is hereby approved and that the Mayor is authorized and instructed to sign such Agreement on behalf of the City.

Approved by the City Council this \_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Rodney J. Beebe, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Morgan, City Recorder



## Oregon Department of Forestry INTERGOVERNMENTAL AGREEMENT

This agreement is between the **STATE of OREGON**, acting by and through its **DEPARTMENT OF FORESTRY**, hereafter called **Agency**, and the **City of Prineville**, hereafter called **City**.

**Administrators of this agreement are:**

<b>City</b>	<b>Agency</b>
Administrator: Kelly Coffelt Title: Airport Manager Organization: Prineville Airport Address: 4585 SW Airport Road Prineville, OR 97754  Phone: 541-416-0805 Fax: 541-416-0809 Email: kcoffelt@cityofprineville.com Federal ID #:	Administrator: Neal Laugle Title: State Aviation Manager State of Oregon, Oregon Department of Forestry Address: 2600 State Street Salem, OR 97310  Phone: 503-945-7508 Fax: 503-945-7430 Email: Neal.d.laugle@oregon.gov

**RECITALS**

By the authority granted in Oregon Revised Statutes (ORS) 190.110 and 526.046, Agency may enter into cooperative agreements with counties, cities, and units of local government.

**1. AUTHORITY**

This Agreement is authorized by ORS 190.110.

**2. PURPOSE**

*The Prineville/Crook County Airport (“Airport”) is owned by Crook County and managed by the City. ODF desires to locate two single engine air tankers, service trailer with truck, and office trailer (the “Equipment”) and conduct air tanker operations at the Airport for the 2021 fire season. “Air Tanker Operations” include mixing FireIce (water enhancing gel), loading FireIce into the air tankers, maintaining the air tankers, and conducting administrative duties.*

*City shall allow ODF to use an area of the Airport upon which to locate the Equipment and to conduct air tanker operations.*

*The parties have agreed on the terms of ODF locating its Equipment and conducting its Air Tanker Operations at the Airport and desire to memorialize such agreement.*

*ODF will locate equipment on a 10,890 square foot area at the Airport designated by City (“Ramp Area”). ODF will conduct all its Air Tanker Operations using the Ramp Area and will be authorized to*

*use other appropriate areas of the Airport for fueling, taxiing, take offs, and landing the Air Tankers. City shall also provide to the Ramp Area the following:*

*Electricity for ODF's office trailer;*

*Two porta-potties and wash station to be serviced on a regular schedule;*

*Water for mixing BlazeTamer, washing aircraft, and washing the Ramp Area;*

*Garbage service, including receptacle of a size needed and approved by ODF, together with regular removal of garbage; and*

*The electricity and water shall be metered. At the end of this Agreement, City shall provide to ODF the beginning and ending readings for the electricity and water.*

### **3. EFFECTIVE DATE AND DURATION**

This Agreement is effective on May 15, 2021 or the date of the last signature, whichever occurs last ("Effective Date"), and terminates on September 30, 2021; or if the 2021 wildfire season extends past September 30, 2021, the date when ODF moves all the Equipment from the Airport, unless terminated earlier in accordance with Section 16.

### **4. AUTHORIZED REPRESENTATIVES**

4.1 Agency's Authorized Representative is:

Neal Laugle  
2600 State Street, Salem, OR 97310  
503-945-7508  
503-945-7430  
Neal.d.laugle@oregon.gov

4.2 City's Authorized Representative is:

Kelly Coffelt  
4585 SW Airport Road, Prineville, OR 97754  
541-416-0805  
kcoffelt@cityofprineville.com

4.3 A Party may designate a new Authorized Representative by written notice to the other Party.

### **5. RESPONSIBILITIES OF EACH PARTY**

5.1 City shall perform the work set forth on Exhibit A, attached hereto and incorporated herein by this reference.

5.2 Agency shall pay City as described in Section 6.

### **6. COMPENSATION AND PAYMENT TERMS**

*Agency shall pay the rate of \$1,400/month for usage and the final billing will include actual costs incurred by the City for water and electricity used by the Agency over the term of the Agreement used by ODF and their Vendors in this operation. City will also provide two porta-potties and a handwash station, to be serviced on a regular schedule. Also included is garbage service to include a receptacle of a size approved by ODF and regular removal of garbage.*

*This Agreement is effective on May 15, 2021 or the date of the last signature, whichever occurs last ("Effective Date"), and terminates on September 30, 2021; or if the 2021 wildfire season extends past September 30, 2021, the date when ODF moves all the Equipment from the Airport, unless terminated earlier in accordance with Section 16. If ODF is still present on site beyond September 30, 2021, the Agency will pay \$40 per day for each additional day ODF uses the Ramp Area After September 30, 2021.*

## **7. REPRESENTATIONS AND WARRANTIES**

City represents and warrants to Agency that:

- 7.1 City is an Airport duly organized and validly existing. City has the power and authority to enter into and perform this Agreement.
- 7.2 The making and performance by City of this Agreement (a) have been duly authorized by City, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of City's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which City is party or by which City may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by City of this Agreement, other than those that have already been obtained.
- 7.3 This Agreement has been duly executed and delivered by City and constitutes a legal, valid and binding obligation of City enforceable in accordance with its terms.
- 7.4 City has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and City will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and
- 7.5 City shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.  
The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided by City.

## **8. GOVERNING LAW, CONSENT TO JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Agency or any other agency or department of the State of Oregon, or both, and City that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. CITY, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

**9. OWNERSHIP OF WORK PRODUCT**

9.1 As used in this Section 9 and elsewhere in this Agreement, the following terms have the meanings set forth below:

9.1.1 "City Intellectual Property" means any intellectual property owned by City and developed independently from the work under this Agreement.

9.1.2 "Third Party Intellectual Property" means any intellectual property owned by parties other than City or Agency.

9.1.3 "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item that City is required to deliver to Agency under this Agreement, and all intellectual property rights therein.

9.2 All Work Product created by City under this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a "work made for hire," shall be the exclusive property of Agency. Agency and City agree that all Work Product created by City under this Agreement is "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the Work Product created by City under this Agreement is not "work made for hire," City hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all Work Product created by City under this Agreement, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, City shall execute such further documents and instruments necessary to fully vest such rights in Agency. City forever waives any and all rights relating to Work Product created by City under this Agreement, including without limitation, any and all rights arising under 17 U.S.C. §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

9.3 If Work Product is City Intellectual Property, a derivative work based on City Intellectual Property or a compilation that includes City Intellectual Property, City hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the City Intellectual Property and the pre-existing elements of the City Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

9.4 If Work Product is Third Party Intellectual Property, a derivative work based on Third Party Intellectual Property or a compilation that includes Third Party Intellectual Property, City shall secure on Agency's behalf and in the name of Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property and the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

9.5 If state or federal law requires that Agency or City grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires that Agency or the United States own the intellectual property in the Work Product, then City shall execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

**10. CONTRIBUTION**

- 10.1 If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section 10 with respect to the Third Party Claim.
- 10.2 With respect to a Third Party Claim for which Agency is jointly liable with City (or would be if joined in the Third Party Claim ), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by City in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of City on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of City on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
- 10.3 With respect to a Third Party Claim for which City is jointly liable with Agency (or would be if joined in the Third Party Claim), City shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of City on the one hand and of Agency on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of City on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. City's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

## **11. CITY DEFAULT**

City will be in default under this Agreement upon the occurrence of any of the following events:

- 11.1 City fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement.
- 11.2 Any representation, warranty or statement made by City in this Agreement or in any documents or reports relied upon by Agency to measure the delivery of services, the expenditure of funds or the performance by City is untrue in any material respect when made.

- 11.3 City (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or
- 11.4 A proceeding or case is commenced, without the application or consent of City, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of City, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of City or of all or any substantial part of its assets, or (c) similar relief in respect to City under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against City is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

## **12. AGENCY DEFAULT**

Agency will be in default under this Agreement if Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement.

## **13. REMEDIES**

- 13.1 In the event City is in default under Section 11, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, (b) reducing or withholding payment for work or Work Product that City has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring City to perform, at City's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 14 of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- 13.2 In the event Agency is in default under Section 12 and whether or not City elects to exercise its right to terminate this Agreement under Section 16.3.3, or in the event Agency terminates this Agreement under Sections 16.2.1, 16.2.2, 16.2.3, or 16.2.5, City's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by Agency, for work completed and accepted by Agency within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims Agency has against City, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by Agency, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that Agency has against City. In no event will Agency be liable to City for any expenses related to



termination of this Agreement or for anticipated profits. If previous amounts paid to City exceed the amount due to City under this Section 13.2, City shall promptly pay any excess to Agency.

#### **14. RECOVERY OF OVERPAYMENTS**

If payments to City under this Agreement, or any other agreement between Agency and City, exceed the amount to which City is entitled, Agency may, after notifying City in writing, withhold from payments due City under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

#### **15. LIMITATION OF LIABILITY**

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 10, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

#### **16. TERMINATION**

16.1 This Agreement may be terminated at any time by mutual written consent of the Parties.

16.2 Agency may terminate this Agreement as follows:

16.2.1 Upon 30 days advance written notice to City;

16.2.2 Immediately upon written notice to City, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;

16.2.3 Immediately upon written notice to City, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for such performance from the planned funding source;

16.2.4 Immediately upon written notice to City, if City is in default under this Agreement and such default remains uncured 15 days after written notice thereof to City; or

16.2.5 As otherwise expressly provided in this Agreement.

16.3 City may terminate this Agreement as follows:

16.3.1 Immediately upon written notice to Agency, if City fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in City's reasonable administrative discretion, to perform its obligations under this Agreement;

16.3.2 Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that City's performance

under this Agreement is prohibited or City is prohibited from paying for such performance from the planned funding source;

16.3.3 Immediately upon written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Agency; or

16.3.4 As otherwise expressly provided in this Agreement.

16.4 Upon receiving a notice of termination of this Agreement, City will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice. Upon termination, City will deliver to Agency all documents, information, works-in-progress, Work Product and other property that are or would be deliverables under the Agreement. And upon Agency's reasonable request, City will surrender all documents, research or objects or other tangible things needed to complete the work that was to have been performed by City under this Agreement.

## **17. INSURANCE**

City shall maintain insurance as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

## **18. NONAPPROPRIATION**

Agency's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.

## **19. AMENDMENTS**

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

## **20. NOTICE**

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 20. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

## **21. SURVIVAL**

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 8, 9, 10, 14, 15 and 21 hereof and those rights and obligations that by their express terms survive termination of this Agreement;

provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

## **22. SEVERABILITY**

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

## **23. COUNTERPARTS**

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

## **24. COMPLIANCE WITH LAW**

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law.

## **25. INDEPENDENT CONTRACTORS**

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that City is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

## **26. INTENDED BENEFICIARIES**

Agency and City are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

## **27. FORCE MAJEURE**

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Agency may terminate this Agreement upon written notice to City after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

## **28. ASSIGNMENT AND SUCCESSORS IN INTEREST**

City may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by City to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to City's assignment or transfer of its interest in this Agreement will not relieve City of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

## **29. SUBCONTRACTS**

City shall not, without Agency's prior written consent, enter into any subcontracts for any of the work required of City under this Agreement. Agency's consent to any subcontract will not relieve City of any of its duties or obligations under this Agreement.

## **30. TIME IS OF THE ESSENCE**

Time is of the essence in City's performance of its obligations under this Agreement.

## **31. MERGER, WAIVER**

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

## **32. RECORDS MAINTENANCE AND ACCESS**

City shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, City shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of City, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document City's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of City, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." City acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. City shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, City shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

## **33. HEADINGS**

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

## **34. ADDITIONAL REQUIREMENTS**

There are no additional requirements that the City shall be required to comply with.

## **35. AGREEMENT DOCUMENTS**

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, attached Exhibit A (the Statement of Work), Exhibit B (Insurance), and Exhibit C (Additional Requirements).

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

**STATE OF OREGON acting by and through its  
Oregon Department of Forestry**

**City of Prineville**

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**EXHIBIT A  
STATEMENT OF WORK**

**Overview:** *This is a land-use agreement with City of Prineville for Ramp Space for two Single-Engine Air Tankers to conduct Air Tanker Operations for fire season 2021. This area includes space for a service trailer with truck and office trailer, as well as access for take-offs, landings, and taxiing.*

*Prineville Airport is owned by City of Prineville, Oregon. The Airport is located at 4585 SW Airport Road, Prineville, Oregon. The agreed upon area is 14,000 square feet of ramp space.*

*This agreement is necessary to provide the above listed amenities and access for an aviation contract for Two Single-Engine Air Tankers to be located at or near Prineville, Oregon for wildfire response. Prineville, Oregon provides a central location for operations of these assets.*

*Included in the Land Use Agreement is access to metered electricity and water. ODF will pay the Airport for these amenities at the end of the agreement for the metered amount consumed. City will also provide two porta-potties and a handwash station, to be serviced on a regular schedule. Also included is garbage service to include a receptacle of a size approved by ODF and regular removal of garbage.*

**Scope of Work:** *This agreement is for the forementioned Ramp Space and access to Airport facilities, such as taxiways and runways for aerial firefighting equipment. The Airport will also provide access to metered water to support all aspects of the operation, as well as metered electricity for support of operations.*

**RESOLUTION NO. 1490  
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION VACATING RESOLUTION 1482 AND RESOLUTION 1453 AND  
ESTABLISHING COUNCIL MEETING GUIDELINES DURING THE COVID-19  
PANDEMIC**

**Whereas**, COVID-19 was declared a pandemic by the World Health Organization on March 11, 2020; and

**Whereas**, on March 8, 2020, Oregon Governor Kate Brown declared a state of emergency due to the COVID-19 outbreak in Oregon (Executive Order 20-03), finding that COVID-19 has created a threat to public health and safety, and constitutes a statewide emergency under ORS 401.025(1), which was extended by Executive Order 21-05 on February 24, 2021; and

**Whereas**, on April 27, 2021, per Resolution 1482, the City Council adopted and amended City policies and responses to the COVID-19 pandemic; and

**Whereas**, April 27, 2021, per Resolution 1482, the City Council amended Resolution 1453 regarding public comment during the COVID-19 pandemic; and

**Whereas**, rules and regulations regarding the COVID-19 virus have lessened that allows the opportunity for the City Council to return to in-person meetings and for City Hall and the Prineville Police Department to return to being open to the public with the appropriate safety precautions.

**NOW, THEREFORE**, the City of Prineville resolves and declares the following:

1. Resolution 1482 is hereby vacated.
2. Resolution 1453 is hereby vacated.
3. City Council meetings shall return to in-person while adhering to federal and state guidelines, including maintaining appropriate capacity restrictions to permit appropriate social distancing requirements.
4. City Councilors shall be allowed to attend any meeting through telephonic means.
5. A telephone line shall be provided to the public to allow any person that does not wish or is unable to attend in person, the opportunity to listen to any Council Meeting.

6. Public comment shall be limited to in-person participants or through written submissions provided to City Council by mail at City of Prineville, ATTN: Lisa Morgan, 387 NE Third Street, Prineville, Oregon 97754, or by email at cityhall@cityofprineville.com. Any written comments must be received no later than 4:00 p.m. on the date of the scheduled Council meeting and must include the sender's name and address. Any written comments received prior to the meeting will be shared with the City Council, posted on our City website, and will become part of the meeting record; however, published comments will have the address redacted.

7. Public hearings will continue to be governed by HB 4212.

Approved by the City Council this \_\_\_\_ day of June, 2021.

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Rodney J. Beebe, Mayor

ATTEST:

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Lisa Morgan, City Recorder