

Resolution No. 17-15

RESOLUTION OF SOUTH OGDEN CITY APPROVING AN AGREEMENT WITH PEREZ COMPANY, LLC FOR DEMOLITION SERVICES IN CONJUNCTION WITH THE 40th STREET REBUILD PROJECT, AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AND FINAL PASSAGE.

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

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

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

WHEREAS, the City Council finds that the city staff recommends that the city contract with Perez Company, LLC for the completion of Demolition Services related to the 40th street rebuild Project; and,

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

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

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

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

SECTION II - CONTRACT AUTHORIZED

That The "Contract Agreement" For Demolition Services Related To The 40th Street Rebuild Project, Attached Hereto As Attachment "A" And By This Reference Fully Incorporated Herein, Is Hereby Approved And Adopted; And That The City Manager Is Authorized To More Fully Negotiate Any Remaining Details Under The Agreement On Behalf Of The City And Then To Sign, And The City Recorder Authorized To Attest, Any And All Documents Necessary To Effect This Authorization And Approval.

SECTION III - PRIOR ORDINANCES AND RESOLUTIONS

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

SECTION IV - REPEALER OF CONFLICTING ENACTMENTS

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and adopted which have been adopted by the City, or parts, which conflict with this Resolution, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part repealed.

SECTION V - SAVINGS CLAUSE

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

SECTION VI - DATE OF EFFECT

This Resolution shall be effective on the 16th day of May, 2017, and after publication or posting as required by law.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY,
STATE OF UTAH, on this 16th day of May, 2017.**

SOUTH OGDEN CITY

James F. Minster
Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT “A”

Resolution No. 17-15

Resolution Of South Ogden City Approving An Agreement With Perez Company, LLC For Demolition Services In Conjunction With The 40th Street Rebuild Project, And Providing That This Resolution Shall Become Effective Immediately Upon Posting And Final Passage.

16 May 17

[Attachment to be provided by the Public Works Department]

CONTRACT AGREEMENT

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

And **Perez Company LLC** (hereinafter called CONTRACTOR).

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

ARTICLE 1- WORK

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

DESCRIPTION OF WORK: The work consists of demolition of existing structures located on four parcels along 40th Street between Adams Avenue and Evelyn Drive in South Ogden City. The demolition work includes haul off of concrete, wood framing, steel trusses, roofing, siding and all other associated materials, legal disposal, dust control, backfill, compaction, cleanup, and other requirements to complete the work. The work also includes: removal of the contents of each of the buildings; location and protection of utilities, adjacent properties, and public rights-of-way; coordination with utility owners for disconnection and/or abandonment of utilities; backfill and compaction of basement area with clean fill material; removal of vegetation and debris; permits and associated disposal fees; safety fences and/or barricades; repair of all damage to existing utilities and facilities not designated for demolition; finish grading; cleanup; traffic control and all other appurtenances and activities as required to complete the work. All work must be in accordance with established permit procedures with inspections as required.

ARTICLE 2-THE PROJECT

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

40th Demolition Project.

ARTICLE 3- CONTRACT TIMES

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

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

3.03 *Liquidated Damages:* CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.02 above, plus any extensions thereof allowed. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof,

OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$200.00 for each day that expires after the time specified in paragraph 3.02 for Completion until the Work is accepted.

ARTICLE 4- CONTRACT PRICE

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

<u>No.</u>	<u>Item</u>	<u>Amount</u>
1	651 40 th St	\$10,000
2	655 40 th St	\$8,450
3	675 40 th St	\$8,450
4	3999 Evelyn Drive	\$12,000
5	Asbestos Abatement	\$6,300
Total		\$45,200

TOTAL OF ALL UNITS **Forty-five thousand two hundred dollars and no cents**

ARTICLE 5- PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments:* CONTRACTOR shall submit Applications for Payment to OWNER after project completion.

5.02 *Retainage:* OWNER shall make payments on account of the Contract Price on the basis of CONTRACTOR's Bid.

1. OWNER may withhold, in accordance with the Following:
 - a. A 5% retainage may be withheld. If the Work has been completed as determined by the OWNER, and if the character and progress of the Work have been satisfactory, OWNER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed less the aggregate of payments previously made; and
2. Upon Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 100% of the Work completed.

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

ARTICLE 6- INTEREST

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

ARTICLE 7- CONTRACTOR'S REPRESENTATIONS

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

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

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

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

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

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

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

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

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

ARTICLE 8- CONTRACT DOCUMENTS

8.01 *Contents:*

A. The Contract Documents consist of the following:

1. This Agreement;

2. Performance Bond;
3. Payment Bond;
4. Addendum;
5. Exhibits this Agreements;
 1. Notice to Proceed;
 2. CONTRACTOR's Bid;
 3. Documentation submitted by CONTRACTOR prior to Notice of Award;

11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

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

- B. The documents listed in paragraph 8.01 A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 8.
- D. The Contract Documents may only be amended, modified, or supplemented by OWNER through work change orders or quantity modifications.

ARTICLE 9- MISCELLANEOUS

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

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

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

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

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

OWNER:

CONTRACTOR:

SOUTH OGDEN CITY CORPORATION

Keith Kap and Sons Excavating.

By: _____

By: _____

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

Attest _____

Address for giving notices:

Address for giving notices:

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

Designated Representative:

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____

Phone: _____

Phone: _____